SSAD ODP Discussion with ALAC

SSAD ODP Project Team

16 February 2022

ICANN

Agenda

- Background and Assumptions

- Org's Analysis and Considerations

- Questions for Discussion

Cost & Fee Structures- Background

The key items to cover

- The projected **volumes** for:
  - Users
  - Requestor Declaration Verifications
  - Accreditations Identity Verifications
  - Disclosure Requests

- The estimated **costs** to:
  - Design and implement
  - Operate the system annually

- The estimated **fees** that ICANN will charge.

- The estimated **duration** of the implementation phase.

Assumptions on Costs

Design and Implementation Phase

- Duration of this phase impacts the costs of this phase.

- Relies heavily on outside vendors to develop the system.

- The projected timeline accounts for parallel work to the extent possible.

Ongoing Operations Phase

- The costs to operate the system are heavily impacted by the volume of requests and the number of users.

- Full outsourcing model contemplated for the operation of the SSAD.

- Full cost-recovery model of ICANN's development and operation fee.

All the assumptions and designs are based on the requirements set forth within the policy recommendations of the final report of the EPDP Phase 2.

Challenges in Determining SSAD Demand/Usage

Actual demand is *unknowable* until well after the launch of the SSAD.

- ◉ ICANN org contacted 11 reputable, well-known, research firms to assess the market demand.
  - ○ Many turned down the work due to the "unknowable" nature of the research.
  - ○ Others provided limited scope proposals with incomplete solutions.
  - ○ Negotiating contract with one vendor.

- ◉ ICANN's surveys to contracted parties and the ICANN community provided inconclusive and contradictory data.
  - ○ Participation from 101 CPs representing 160M+ DUMs:
    - • Majority reported receiving less than 10 requests/month
  - ○ Participation from 355 community respondents:
    - • 130 respondents reported sending less than 10 requests/month.
    - • 30 respondents sent 50-499 requests/month.
    - • 30 respondents reported sending over 2,000 requests/month.

- ◉ EPDP Phase 2 WG estimated 20,000 users.

Assumptions on SSAD Demand/Usage

For the purpose of ODP:

⦿ Project Team estimated for the SSAD
  ○ The # of users: 25,000 ~ 3 million
  ○ The # of requests: 100,000 ~ 12 million

⦿ Estimates based on a variety of inputs including, CP and community surveys, RDDS requests, abuse rates, etc.

⦿ Actual demand may be lower than team's estimate, but the team needed to develop an estimated range to design a solution that would scale over time.

⦿ ICANN Contractual Compliance receives an average of 3 complaints a month related to registration data access.
  ○ From September 2020 to August 2021, Compliance received 142 complaints indicating an issue with access to non-public Registration Data.
  ○ 104 of those were closed as out-of-scope.

Summary of Org's Assessment

3-4 Years to Develop SSAD

3-4 years of development
- Selection of vendors
- Vendor ramp-up
- System development
- Legal instrument development
- Communications plan and support

Unknown duration of IRT
- Potentially 2 yrs based on experience
- Development and confirmation of requirements
- Policy document development

System development and IRT work is conducted in parallel to the extent possible.

Complexity

- 8 types of Actors
- 8 Subsystems
- 60 Processes

Approx. $20M - $27M to Develop

- System development outsourced

Approx. $14M - $107M for Annual Ongoing Operations

- Ongoing operations outsourced
- User accreditation volume drives cost
- ICANN org oversees ongoing operations, vendors, etc.
- 7 functions to fill through RFPs

SSAD Fee Structure
Based on full cost recovery model

Accreditations/Identity Verifications:
$86 - $21 (low - high usage)

Requestor Declaration Verification:
$190- $160 (low - high usage)

Disclosure Requests:
$40 - $0.45 (low - high usage)

Fee structure based on the assumptions* of:
- 25,000 and 3 million users**
- 100,000 and 12 million requests

*Based on a variety of inputs incl. the CP and community surveys, RDDS requests, abuse rates, etc.

**Requestors may still directly go to the CP, bypassing SSAD entirely. This may impact request volumes, if potential Requestors see the SSAD as too onerous.

What will SSAD achieve?

SSAD will:

- Provide a "one stop shop" to Requestors for account setup and verification.
- Provide a repeatable request process for Requestors.
- Reduce or potentially eliminate the need for CPs to identify Requestors.
- Provide some predictability for response times (SLAs) to requests.
- Provide automated disclosures in limited circumstances (see next slide).

SSAD will NOT:

- Process requests for free.
- Guarantee data disclosure or provide predictability of disclosure
- Provide a "one stop shop" to CPs as Requestors can go directly to them outside the SSAD.
- Have comprehensive data for all registration data requests as the Requestors can still go directly to CPs.
- Guarantee participation from countries/territories to accredit governmental Requestors.
- Necessarily reduce costs for contracted parties.

Automated Disclosure in SSAD

EPDP Recommendation: Disclosure for these use cases MUST* be automated

9.4.1. Requests from Law Enforcement in local or otherwise applicable jurisdictions with either 1) a confirmed GDPR 6(1)e lawful basis or 2) processing is to be carried out under a GDPR, Article 2 exemption;

9.4.2. The investigation of an infringement of the data protection legislation allegedly committed by ICANN/Contracted Parties affecting the registrant;

9.4.3. Request for city field only, to evaluate whether to pursue a claim or for statistical purposes;

9.4.4. No personal data on registration record that has been previously disclosed by the Contracted Party.

*If a contracted party determines disclosure is not legally permissible or carries significant risk not identified by EPDP, it **may seek exemption***

Other considerations

- ◉ Complexity of envisioned SSAD:
  - ○ Higher-than-expected development costs and longer duration of implementation.
  - ○ Risk of new legislation impacting recommendations during and after implementation work.
  - ○ Potential negative impact on stability and security of the system (ex. more room for system bugs and errors with a more complex system and multiple subsystems).

- ◉ Financial Sustainability:
  - ○ SSAD fees changing often due to uncertain user and request volume.
  - ○ Declining users due to potentially high costs or dissatisfaction with disclosure request outcomes.
    - • Domains with Privacy/Proxy services not considered in SSAD Recommendations.

Will SSAD Impact Data Availability?

◉ SSAD will not circumvent the GDPR or any other applicable legal restrictions on registration data access and disclosure

  ○ SSAD will not change the responsibility of the contracted parties to determine whether or not disclosure is permissible under applicable law
  ○ SSAD will not eliminate burden on requestors to demonstrate a legitimate and lawful interest in data access, including a legal basis for this processing, where applicable
  ○ The SSAD is a recommended system to streamline the processing of requests for data access. It cannot, itself, increase access to data, as this is determined by applicable law

◉ Thus, the SSAD is expected to have little-to-no impact on the contracted parties' ultimate disclosure (or non-disclosure) in response to a request

Questions for Discussion

◉ Does SSAD serve the global public interest?

◉ Does the value of these recommendations when implemented outweigh the cost associated with SSAD?

◉ Does ICANN's investment in the system serve the global public interest if the system is perceived to be of little benefit?

What if we...
◉ Start by measuring the problem?
  ○ No comprehensive data available to determine what the "problem" is.
  ○ Is there really a problem when Compliance receives so few complaints?
  ○ Analyze collected data to determine the next step.

◉ Start with a simple centralized intake system?
  ○ For registration data disclosure requests.
  ○ No accreditation and no/minimal identity verification process.

Engage with ICANN

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