



**EUROPEAN COMMISSION**  
**DIRECTORATE-GENERAL HOME AFFAIRS**

Directorate A: Internal security  
**Director**

Brussels, **27 NOV. 2012**  
HOME/A2/GD/mk ARES(2012)

Mr David Cake  
Non-Commercial Users Constituency  
By email to: [dave@difference.com.au](mailto:dave@difference.com.au)

Ms Robin Gross  
Non-Commercial Stakeholders Group  
By email to: [robin@ipjustice.org](mailto:robin@ipjustice.org)

Dear Mr Cake and Ms Gross,

Commissioner Malmström has requested that I respond to your email on her behalf. Thank you for sharing your concerns on privacy with regard to ICANN's current Registrar Accreditation Agreement (RAA) negotiations.

As you know, the European Commission welcomed the adoption of the Law Enforcement Due Diligence Recommendations by the GAC. Insofar as they aim to aid the prevention and disruption of use of domain registration for criminal purposes, they highlight the need for accurate and complete data for domain name registration as a necessary element for the shared objective of a safe and reliable Internet.

The current negotiation on the RAA follows partly from the willingness in ICANN to put those recommendations into practice. We respect and are committed to the ICANN's multi-stakeholder governance model. For that reason we have abstained from intervening, as you requested, in the negotiations of the RAA. For the same reason, we will abstain from making a judgement of whether proposals on the table for the RAA are compatible with national legislation, in particular on data protection.

We of course fully agree that contracts with the Register must respect fundamental rights and privacy standards. This includes the requirement that data are collected for legitimate, specific and explicit purposes, and that the data be adequate, relevant and not excessive in relation to those purposes, and not further processed in a way incompatible with that purpose. It also includes the principle that personal data must be accurate.

Given the importance of the Internet in societies' life, we need to acknowledge that the attribution of domain names and the use of them by registrants to interact with the public on the Internet is a matter that goes beyond a purely private contract between parties.

It needs to serve broader public interests involved in creating a safe and reliable environment, including preventing and fighting crimes on the internet, securing the protection of personal data of Internet users or ensuring respect and enforcement of consumer rights. Those public interest purposes are paramount to assess the necessity and proportionality of collection of personal data and further processing, including the conditions under which access to Whois data should be possible.

We are confident that negotiations underway in ICANN will lead to a revised RAA which allow those public interests to be served in full respect of fundamental rights and privacy.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Reinhard Priebe', with a stylized, flowing script.

Reinhard PRIEBE