WHOIS and Data Protection Policy

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ICANN80
11 June 2024

ICANN | GAC
Governmental Advisory Committee

Agenda

1. Background on WHOIS and Data Protection
2. Urgent Requests for Disclosure of Registration Data
3. Registration Data Request Service (RDRS) and Impact of Privacy/Proxy Services
4. Considerations for ICANN80 Kigali Communiqué

WHOIS and Data Protection: Importance to the GAC

Why this is important for the GAC

Per the GAC Principles Regarding gTLD WHOIS Services (28 March 2007), recalled in the GAC Abu Dhabi Communiqué (1 Nov. 2017), the GAC noted they "*continue to reflect the important public policy issues associated with WHOIS services*" including that "*WHOIS data [...] is used for a number of legitimate activities, including:*

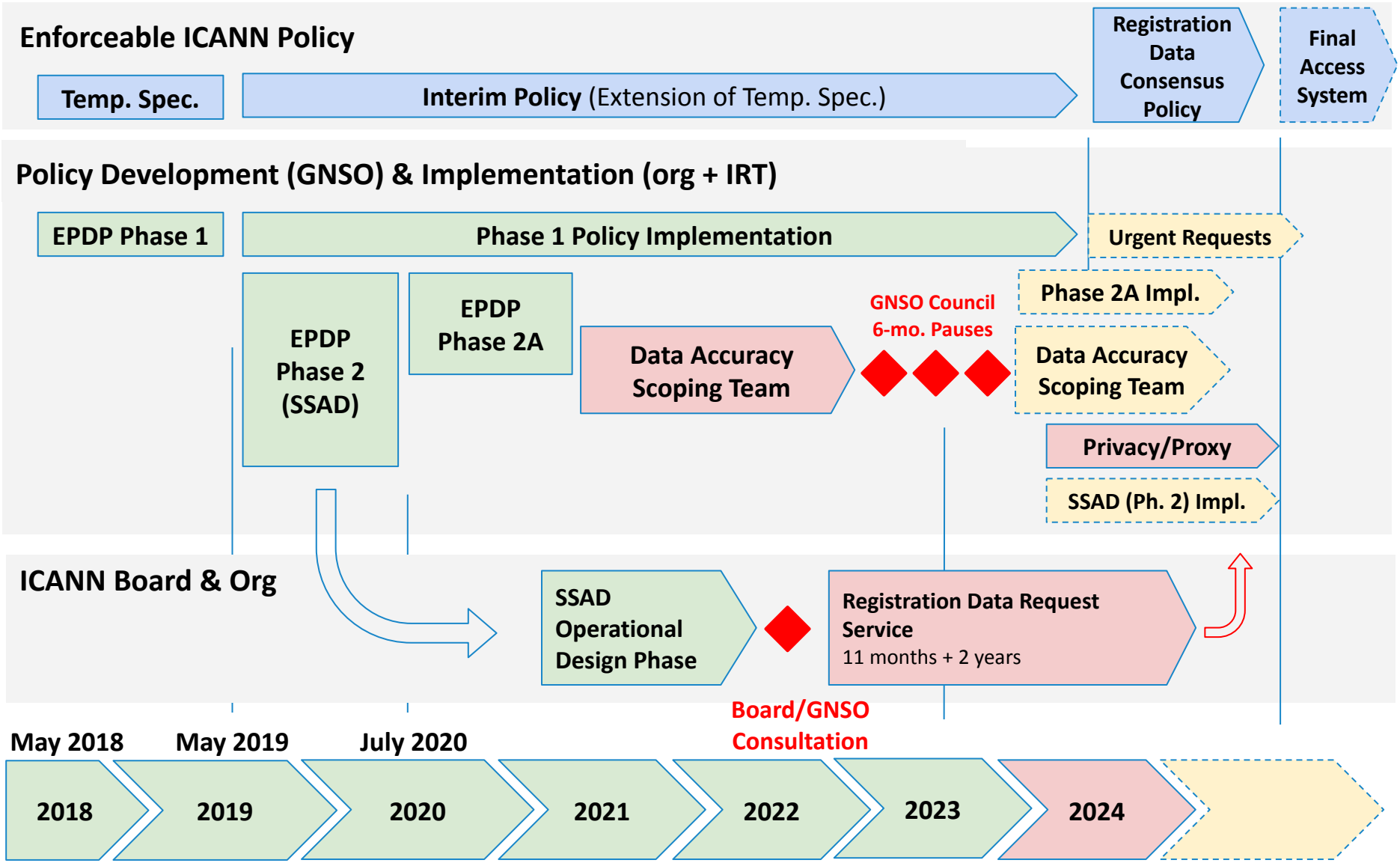
1. *Assisting law enforcement authorities in **investigations and in enforcing national and international laws**, assisting in **combating against abusive use** of internet communication technologies;*
2. *Assisting businesses, other organizations, and users in **combating fraud, complying with relevant laws, and safeguarding the interests of the public**;*
3. *Combatting **infringement and misuse of intellectual property**; and*
4. ***Contributing to user confidence in the Internet** as a reliable and efficient means of information and communication by helping users identify persons or entities responsible for content and services online."*

And still relevant when considering compliance with Data Protection Law

The GAC advised the ICANN Board "*it should use its best efforts to create a system that continues to facilitate the legitimate activities recognized in the 2007 Principles, including by:*

1. ***Keeping WHOIS quickly accessible for security and stability purposes**, for consumer protection and law enforcement investigations, and for crime prevention efforts, through user-friendly and easy access to comprehensive information to facilitate timely action.*
2. ***Keeping WHOIS quickly accessible to the public** (including businesses and other organizations) for legitimate purposes, including to combat fraud and deceptive conduct, to combat infringement and misuse of intellectual property, and to engage in due diligence for online transactions and communications"*

WHOIS and Data Protection: Timeline to New Framework



Urgent Requests for Disclosure of Registration Data

Part of the Board-approved EPDP Phase 1 Policy Recommendations (Recommendation 18), removed from the resulting Registration Data Consensus Policy (EPDP Phase 1 Implementation)

- **The GAC provided input** at several stages of the developments leading to the adoption of this policy (in particular GAC public comments in Nov. 2022), and last in a letter to the ICANN Board (23 Aug. 2023) requesting a careful review of the proposed timeline for response to Urgent Requests.
- The Registration Data Consensus Policy, **is now published (with the exception of provisions related to the timeline for response to Urgent Requests)** and must be implemented by 21 August 2025**.**

Timeline for response to Urgent Requests

- **Agreeing on a timeline for response to Urgent Requests for disclosure of registration data** in *"circumstances that pose an imminent threat to life, serious bodily injury, critical infrastructure, or child exploitation"* **proved unattainable** in the policy implementation process.
- In a letter to the GAC (11 Feb. 2024) **the ICANN Board** "***concluded that it is necessary to revisit Policy Recommendation 18 concerning urgent requests*** *[...] and the manner in which such emergencies are currently handled",* indicating that "*[f]or this, we believe that consultation with the GNSO Council is required*".
- In the ICANN79 GAC San Juan Communiqué (11 March 2024), the GAC Advised the ICANN Board "*To* ***act expeditiously to establish a clear process and a timeline for the delivery of a policy on Urgent Requests*** *for domain name registration data, to respond to the vital public safety interests related to such requests. Such a process must ensure appropriate participation of the community, including the GAC*."

Urgent Requests for Disclosure of Registration Data

The ICANN Board seeks GNSO Council on Next Steps

- In its response to the GAC San Juan Advice (5 May 2024) **the ICANN Board determined to "*defer[s] action on this advice*,** *noting that it plans to discuss the way forward on this issue with the GNSO Council.*"
- In a letter to the GNSO Council (3 June 2024), **the ICANN Board welcomed "*the GNSO Council's input on next steps*"** noting that "*neither the Bylaws nor existing procedures account for the situation in which [...] the Board concludes that a policy recommendation that it has previously approved should be revisited prior to implementation*". Among its concerns, the ICANN Board noted:
  - *[...] To respond to truly imminent threats, a much shorter response timeline, i.e., minutes or hours rather than days, would seem to be more appropriate.*
  - *Applicable law, regulation, and reasonable registrar policies will often require registrars to authenticate self-identified emergency responders and confirm the purpose(s) for which registrant data is sought prior to disclosing personal data [...]*
  - *[...] an authoritative, legally sufficient cross-border system for authenticating emergency responders/law enforcement globally is not available to ICANN [...]*
  - *[...] such a mechanism cannot be created, operated, and/or maintained without the material, ongoing assistance of law enforcement, first responders, and governments.*

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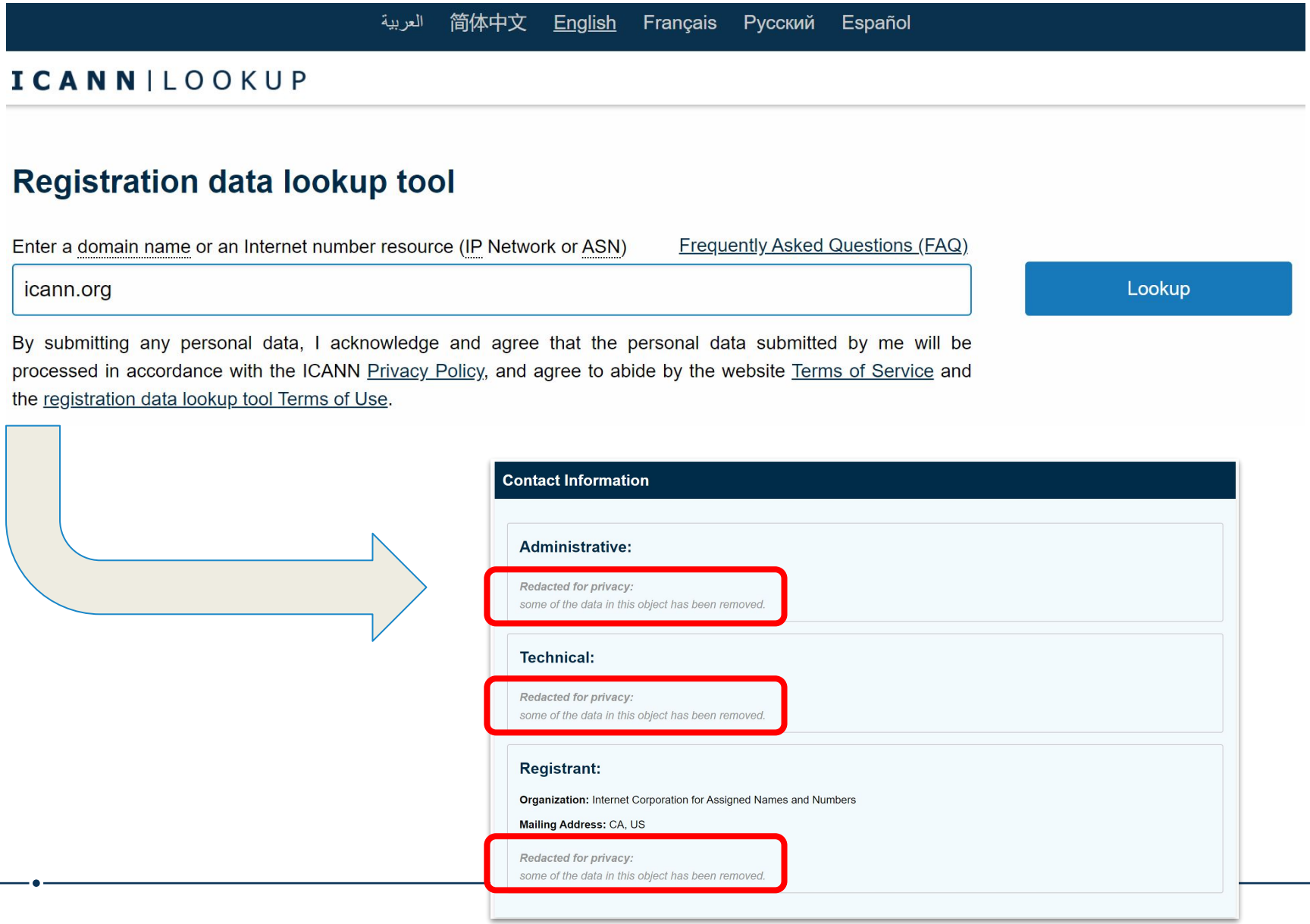
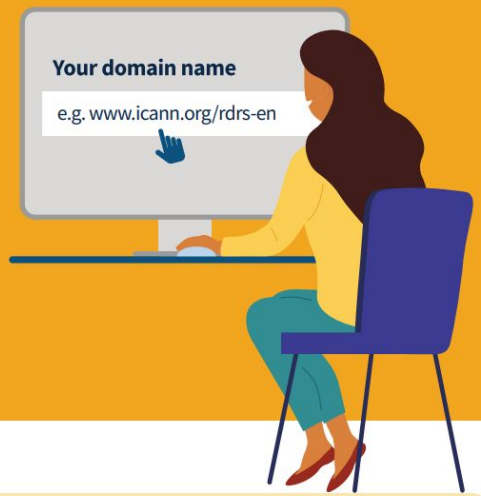


Registration Data Request System (RDRS)

<< https://rdrs.icann.org >>

NOW AVAILABLE

New Service to Request Access to Nonpublic gTLD Registration Data



About the Registration Data Request Service

The Registration Data Request Service is a free service designed to handle requests for access to nonpublic registration data related to generic top-level domains (gTLDs).

Due to personal data protection laws, many ICANN-accredited registrars are now required to redact personal data from public records. The Registration Data Request Service connects individuals or organizations (requestors) who need access to nonpublic registration data with the relevant ICANN-accredited registrars for gTLD domain names that are participating in the service.

Making Nonpublic gTLD Registration Data Requests Easier

- Free, global, one-stop shop to submit registration data requests to participating registrars worldwide.
- Submit important information, such as evidence of credentials, court orders, legal affidavits, and subpoenas, which a registrar will require in its review, in one central location.
- Flag requests that need to be prioritized by registrars.

RDRS Standing Committee

<< https://rdrs.icann.org >>

The Standing Committee is tasked to review the data that will be produced by ICANN org on a monthly basis following the launch of the RDRS. The Scoping Team is expected to analyze the data and consider:

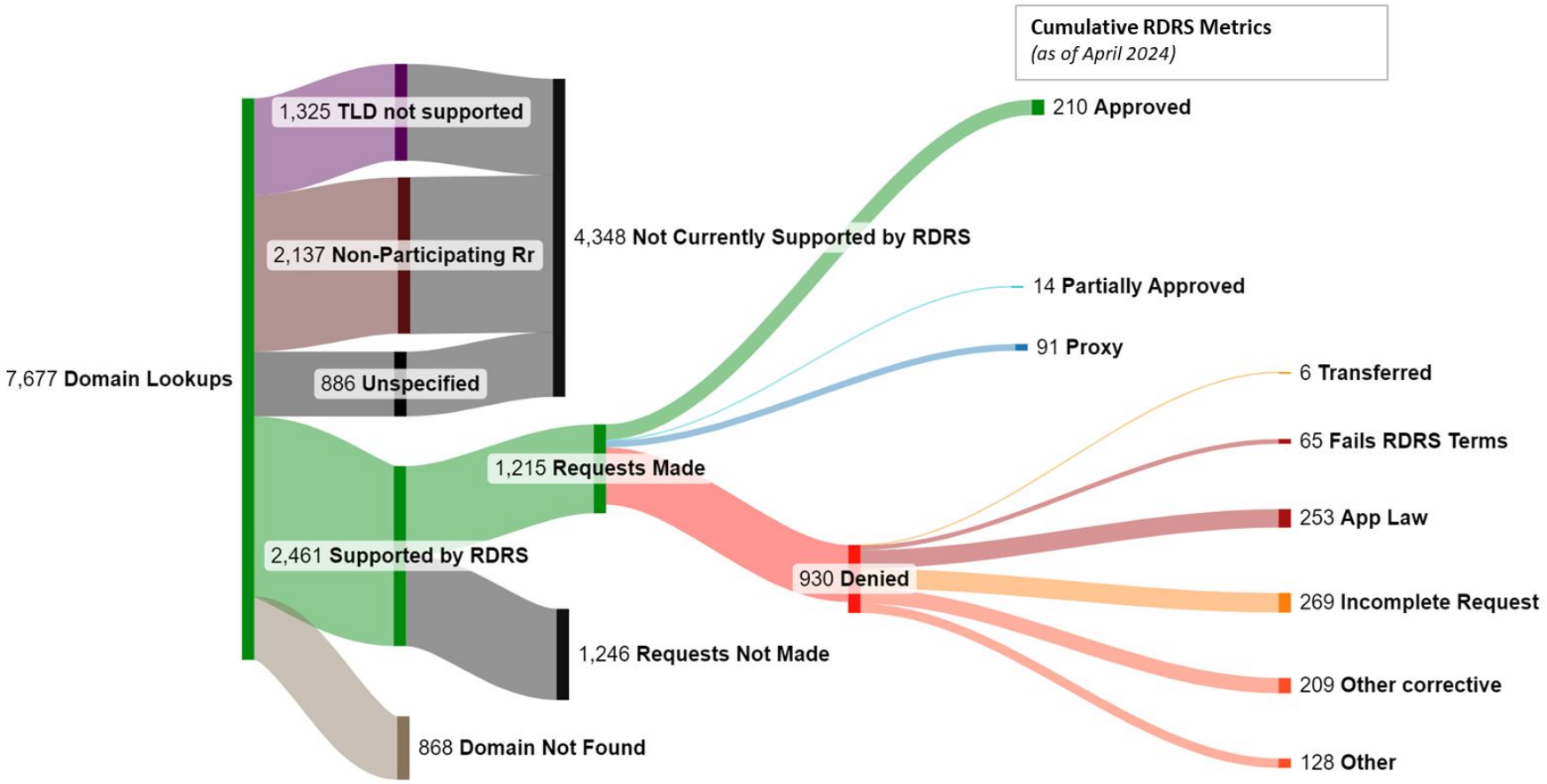
Assignment #1: Trends that can be identified over a month-by-month period;

Assignment #2: Possible technical updates that should be considered to RDRS and/or related messaging and promotion (recognizing that the RDRS will only be running for a two-year period and limited resources may be available to implement such updates);

Assignment #3: Specific lessons learned that should be factored into the consideration of how to proceed with the SSAD recommendations;

Assignment #4: Suggestions to the Council for a proposed recommendation(s) to the ICANN Board in relation to the consideration of the SSAD recommendations.

RDRS - Usage Metrics Since Launch



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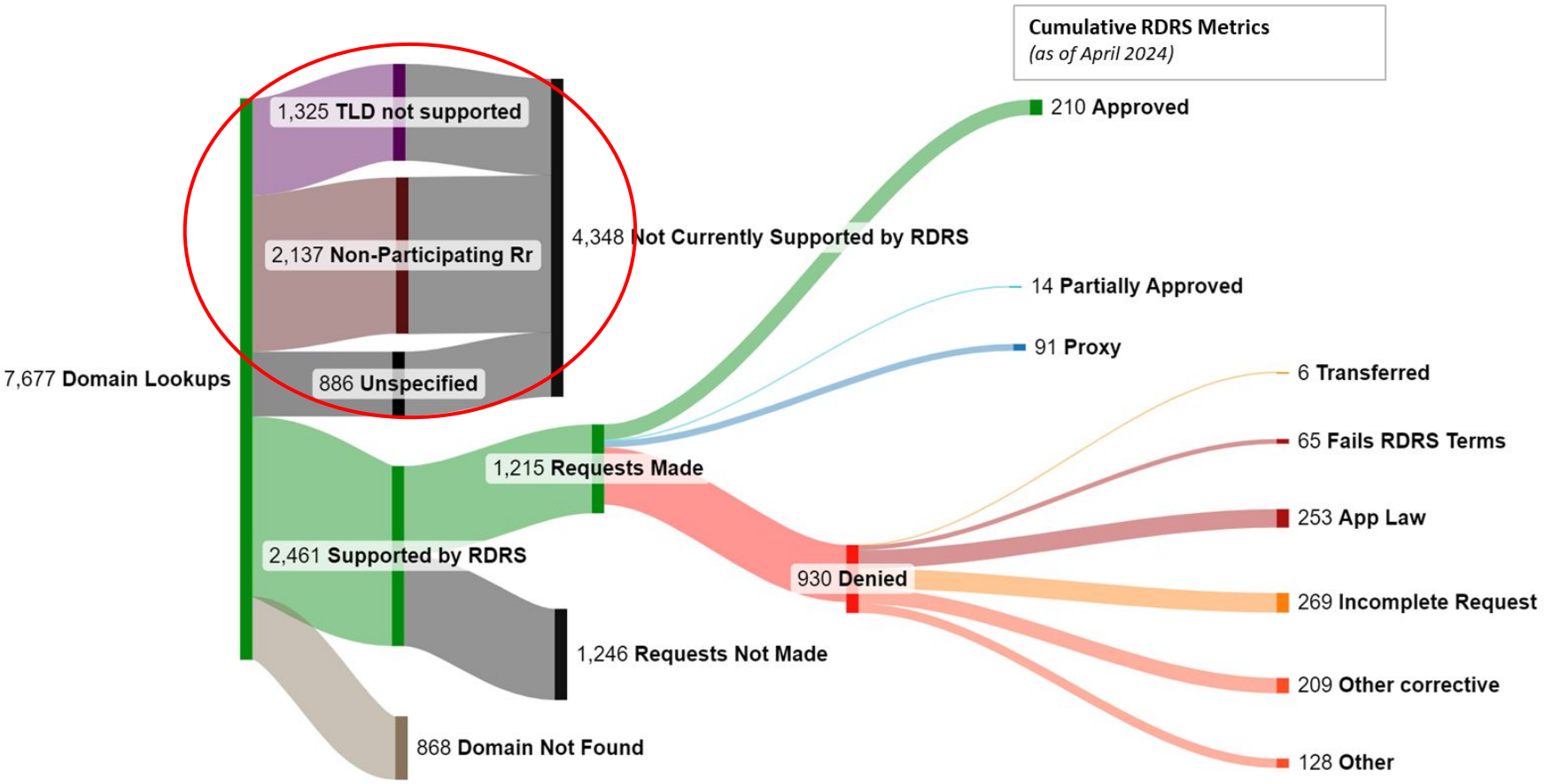
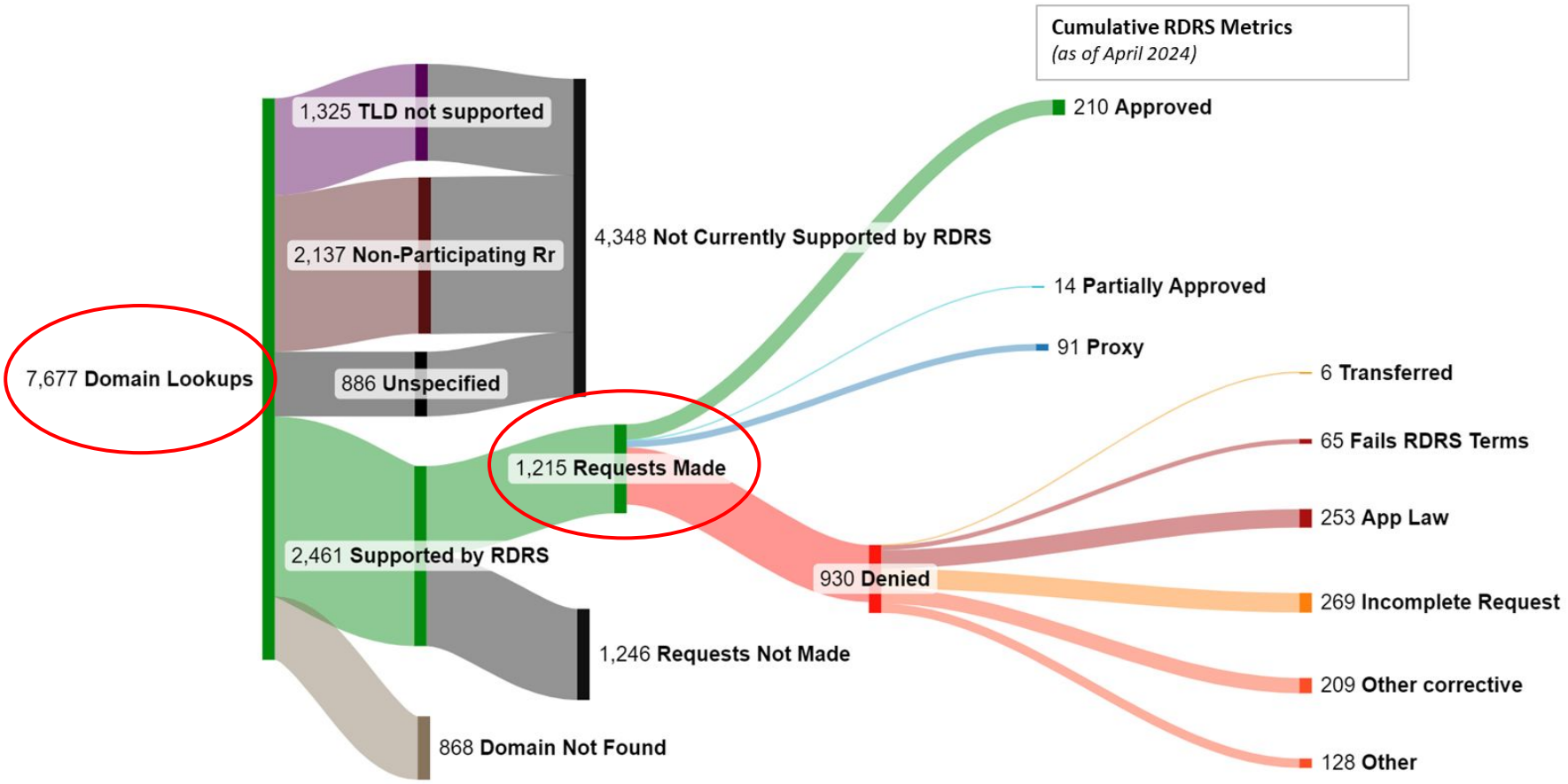


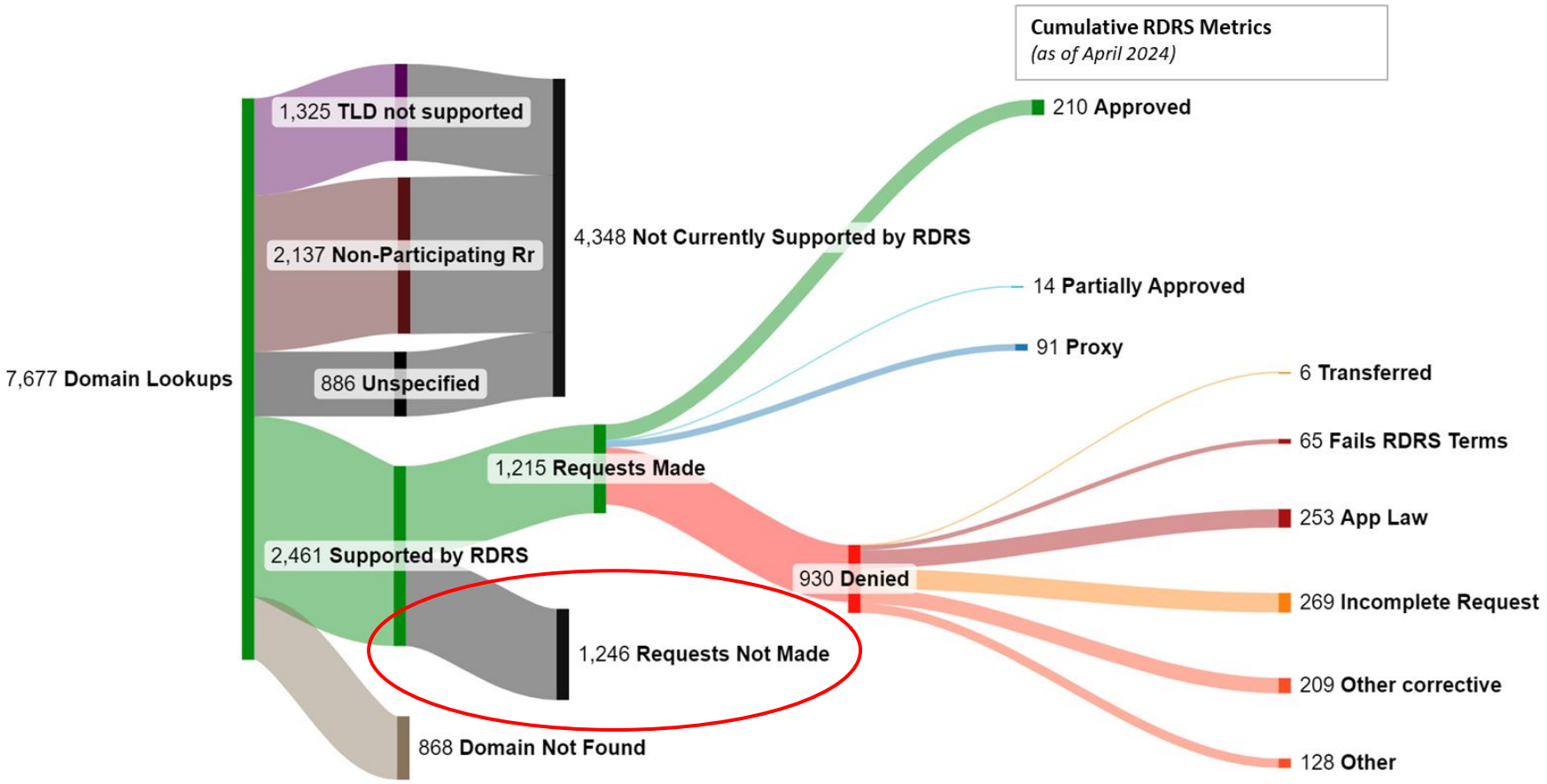
There is strong user demand for domains in TLDs not included in RDRS (ccTLDs, gTLD domains associated with non-participating registrars). More than 45% of lookups.

RDRS - Usage Metrics Since Launch



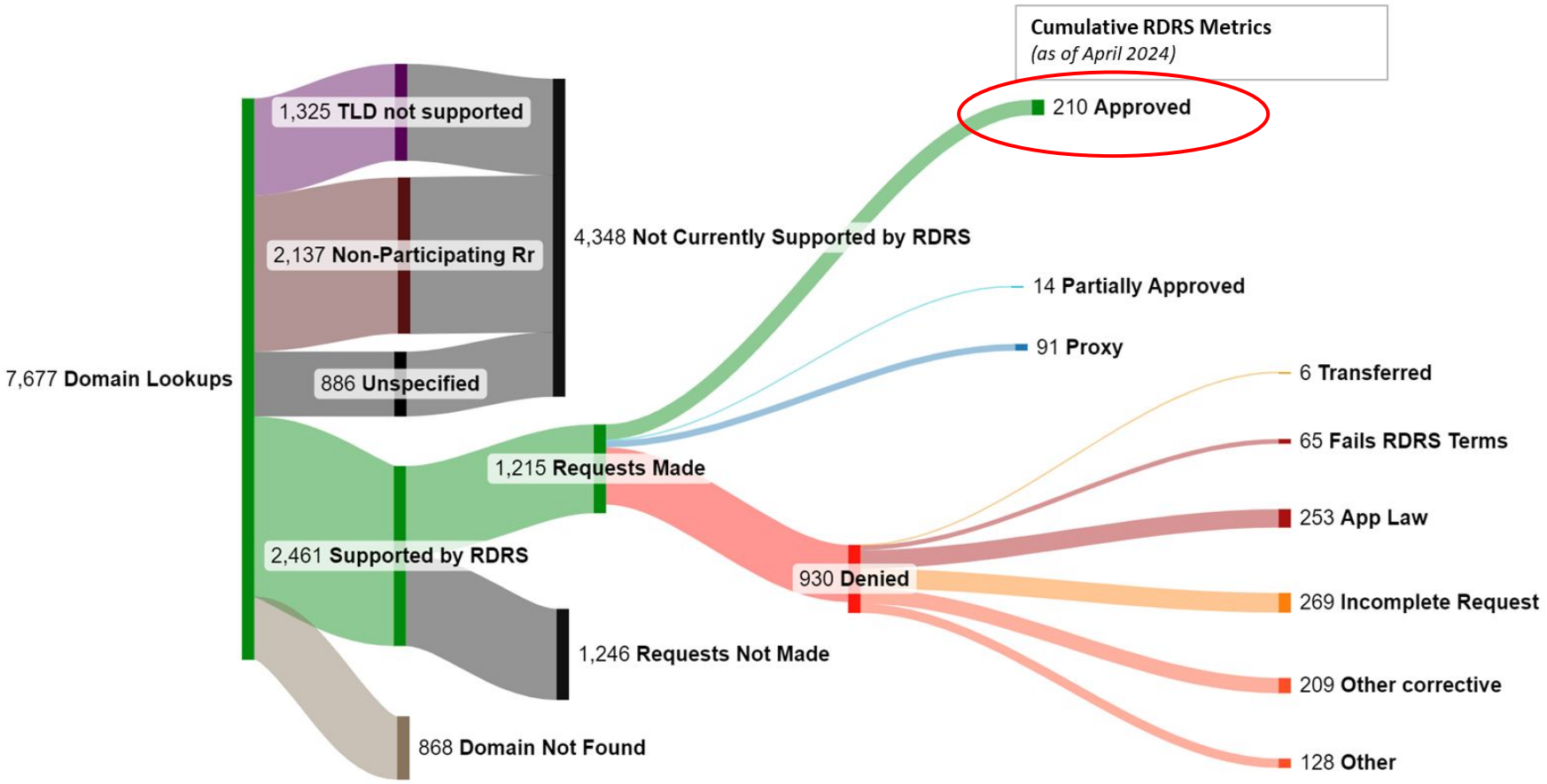
There are now 4,018 requestors registered in RDRS, responsible for 7,677 domain lookups, and 1,215 actual disclosure requests.

RDRS - Usage Metrics Since Launch



Requestors were allowed to proceed to submit a disclosure request in 32% of cases (2,461 domains supported out of 7,677 domain lookups), but in 50% of theses cases, no disclosure request is made

RDRS - Usage Metrics Since Launch



Of the domains 7,677 Domains Input entered into RDRS: ~3% return were Approved (210) or Partially Approved (14).

RDRS - Assignment #2: Messaging & Promotion

العربية 简体中文 English Français Русский Español

ICANN | LOOKUP

Registration data lookup tool

Enter a domain name or an Internet number resource (IP Network or ASN) Frequently Asked Questions (FAQ)

icann.org

Lookup

By submitting any personal data, I acknowledge and agree that the personal data submitted by me will be processed in accordance with the ICANN Privacy Policy, and agree to abide by the website Terms of Service and the registration data lookup tool Terms of Use.

The way things are

Contact Information

Administrative:

Redacted for privacy:
some of the data in this object has been removed.

Technical:

Redacted for privacy:
some of the data in this object has been removed.

Registrant:

Organization: Internet Corporation for Assigned Names and Numbers

Mailing Address: CA, US

Redacted for privacy:
some of the data in this object has been removed.

“REDACTED FOR PRIVACY … and here is RDRS”

العربية 简体中文 English Français Русский Español

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The way things could be

Contact Information

Administrative:

Redacted for privacy:
If you have lawful need of this data,visit rdrs.icann.org .

Technical:

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Registrant:

Organization: Internet Corporation for Assigned Names and Numbers

Mailing Address: CA, US

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RDRS - Awareness (Messaging & Promotion)

ICANN79 San Juan Communique

| Official Date: 11 March 2024

4. Registration Data

Registration Data Request Service (RDRS)

The GAC continues to support efforts to maximize participation in the Registration Data Request Service (RDRS) and reiterates that widespread use of the pilot by both registrars and requesters will help the RDRS meet its intended purpose of generating data to inform the ICANN Board's consideration of the policy recommendations related to a future System for Standardized Access and Disclosure (SSAD). The GAC believes all contracted registrars should participate.

[…]

participation by ccTLDs. In light of the feedback received from various stakeholders, the GAC encourages further review to take place to eliminate unnecessary and confusing elements of the current requester interface, particularly with respect to requests from law enforcement and the applicability of various data protection frameworks. The GAC also strongly encourages to include information about the RDRS and a link to it within the WHOIS lookup/Registration Data Access Protocol (RDAP) with a view to increase its visibility.

RDRS - Awareness (Messaging & Promotion)

ICANN Board comments on Issues of Importance in the GAC San Juan Communiqué

(9 May 2024)

ICANN Board Comments
• The Board notes that information on the RDRS has been linked on ICANN's Registration Data Loop Up Tool in the section on non-public registration data to increase visibility. • Information and links to the RDRS can be added in the RDAP output of registries and registrars via the GNSO policy development process.The Board encourages the GAC to discuss this option with the GNSO Council. • ICANN's engagement and communications teams are both conducting outreach to various communities to increase usage of the system. The ICANN Board encourages the community to engage with potential requestor communities to present materials ICANN org has available on RDRS or to participate in discussions where the benefits and importance of utilizing the system can be shared with broader audiences. • ICANN org has downloadable user guides, flyers and FAQs (available in the 6 UN languages and Portuguese) published on the RDRS website. The website also contains links to announcements, blogs, webinar recordings and the monthly RDRS metric reports. RDRS content is also regularly promoted via ICANN's social media channels. ICANN org also provides a generic information presentation deck to share with constituencies. • The Board strongly encourages both requestors and registrars using the RDRS to respond to survey requests for feedback, to help guide and understand the challenges and opportunities as we move forward together. ICANN org will publish the Quarterly Requestor and Registrar Report at the end of May. • ICANN org will provide a six-month update on the RDRS pilot in an ICANN80 Prep Week session scheduled for 29 May at 16:30 UTC.

Proxy Services

ICANN | LOOKUP

Registration data lookup tool

Enter a domain name or an Internet number resource (IP Network or ASN) Frequently Asked Questions (FAQ)

exampleproxy.com

Lookup

By submitting any personal data, I acknowledge and agree that the personal data submitted by me will be processed in accordance with the ICANN Privacy Policy, and agree to abide by the website Terms of Service and the registration data lookup tool Terms of Use.

Registrant:

Handle: 1

Name: Registration Private

Organization: Domains By Proxy, LLC

Kind: individual

Mailing Address: DomainsByProxy.com 2155 E Warner Rd, Tempe, Arizona, 85284, US

Contact Uri: https://www.godaddy.com/whois/results.aspx?domain=exampleproxy.com

When Registrars turn on their affiliated Proxy services, they list themselves as the registrant.

Privacy/Proxy Services

Latest Developments on Privacy/Proxy Policy

- ICNAN Board approved (9 Aug **2016**) all recommendations of the Generic Names Supporting Organization's Privacy and Proxy Services Accreditation Issues (PPSAI) Policy Development Process (PDP).
- ICANN org reported (22 October 2023) to the GNSO Council that:
  - Privacy/Proxy Services Accreditation Issues (PPSAI) policy implementation paused since 2016
- During ICANN78 and ICANN79, ICANN Org staff met *informally* with members of the previous IRT and other interested parties
  - A **working draft** analysis of the policy recommendations in the PPSAI Final Report was shared, assessing whether each recommendation from the PPSAI would be high, medium, or low level of effort to try to implement today.
- ICANN issued a call for volunteers to join the PPSAI Implementation Review Team (20 May 2024)
- The reconvened PPSAI IRT will hold its first meeting during ICANN80, Thursday 13 June at 09:00 (UTC+2)

Considerations for ICANN80 Kigali Communiqué

Questions for GAC Consideration:

- Is GAC advice needed on the topics of RDRS and/or PPSAI?
- Which topics should the GAC highlight as Issues of Importance?