WHOIS Review Team Final Report (Draft) Discussion

Interaction with the Community
Costa Rica
12 March 2012

Final Report (Draft) – Key Features

- Published December 5, 2011

- Comments due by 18 March 2012 (but appreciated as soon as possible)

- Eight Chapters

- Detailed appendices

- Final Report target date: 30 April 2012

Our Mandate

- Affirmation of Commitments (AoC) review

- Work began in October 2010

- Our Team has cross-community composition, law enforcement (LE) representative & independent experts.

- Our Goals:
- to provide detailed recommendations to help move Community forward on these difficult issues, &
- to help ICANN Community communicate more effectively with communities outside of ICANN

All recommendations are unanimous – full consensus

Overview of the Report

- Today we share our findings, and the recommendations that follow them

- Full discussion in the WHOIS Review Team Final Report (draft) – a 92-page document – and its detailed appendices (a separate document)

- Twenty (20) Recommendations in Nine (9) Categories

Findings
&
Recommendations

Finding 1: No Clear WHOIS Policy & Pieces are Scattered

Registrar Contracts	Registry Contracts
GNSO Consensus Policies	GNSO Consensus Procedures
The RFCs	DNS History

Recommendation 1.
Single WHOIS Policy

ICANN's WHOIS policy is poorly defined and decentralized The ICANN Board should oversee the creation of a single WHOIS policy document, and reference it in subsequent versions of agreements with Contracted Parties. In doing so, ICANN should clearly document the current gTLD WHOIS policy as set out in the gTLD Registry and Registrar contracts and GNSO Consensus Policies and Procedure.

Finding 2: The WHOIS Data Reminder Policy (WDRP) needs to prove it is worth the effort/cost or be replaced

Who tracks the notices and the responses?	*Where are the metrics for its success?*
Where are the targets for improvement?	*If not feasible under current system, how do we develop an alternative to improve data quality?*

Recommendation 2.
WHOIS Data Reminder

The ICANN Board should ensure that the Compliance Team develop, in consultation with relevant contracted parties, metrics to track the impact of the annual WHOIS Data Reminder Policy (WDRP) notices to registrants. Such metrics should be used to develop and publish performance targets, to improve data accuracy over time. If this is unfeasible with the current system, the Board should ensure that an alternative, effective policy is developed and implemented in consultation with registrars that achieves the objective of improving data quality, in a measurable way.

Finding 3: WHOIS should be a Strategic Priority of ICANN

Allocate sufficient resources

ICANN Compliance Staff should be fully resourced

Proactive regulatory role

Encourage a culture of compliance

Board should ensure that a Senior Executive is responsible for overseeing WHOIS compliance

Recommendation 3.
Strategic Priority

ICANN should make WHOIS a strategic priority. This should involve allocating sufficient resources, through the budget process, to ensure that ICANN compliance staff is fully resourced to take a proactive regulatory role and encourage a culture of compliance. The Board should ensure that a senior member of the executive team is responsible for overseeing WHOIS compliance.

Finding 4: Outreach should be expanded on WHOIS Policy Issues

Cross-community outreach

Active contact to relevant stakeholders outside of ICANN (e.g., Law Enforcement & Data Protection Commissioners)

An ongoing program for consumer awareness

Recommendation 4.
Outreach

ICANN should ensure that WHOIS policy issues are accompanied by cross-community outreach, including outreach to the communities outside of ICANN with a specific interest in the issues and an ongoing program for consumer awareness.

Findings 5-9: Data Accuracy, including "Contactibility," needs to be improved

5. Appropriate measures to reduce the number of "unreachable" WHOIS domain name registrations

- by 50% within 12 months

- by 50% again over the following 12 months.

6. On an annual basis, a report should be created to measure the reduction in "unreachable" domain names

Note: "Unreachable" Domain Names are the "low hanging fruit"

Recommendation 5
Data Accuracy

ICANN should take appropriate measures to reduce the number of unreachable WHOIS registrations (as defined by the NORC Data Accuracy Study, 2009/10) by 50% within 12 months and by 50% again over the following 12 months.

Recommendation 6
Data Accuracy

ICANN shall produce and publish an accuracy report focused on measured reduction in "unreachable WHOIS registrations", on an annual basis.

Recommendation 7
Data Accuracy

ICANN should provide at least annual status reports on its progress towards achieving the goals set out by this WHOIS Review Team, published by the time the next WHOIS Review Team starts. This report should include tangible, reliable figures needed.

Recommendation 8
Data Accuracy

ICANN should ensure that there is a clear, unambiguous and enforceable chain of contractual agreements with registries, registrars, and registrants to require the provision and maintenance of accurate WHOIS data.

As part of these agreements, ICANN should ensure that clear, enforceable and graduated sanctions apply to registries, registrars and registrants that do not comply with its WHOIS policies. These sanctions should include de-registration and/or de-accreditation as appropriate in cases of serious or serial non-compliance.

Recommendation 9
Data Accuracy

ICANN should ensure that the requirements for accurate WHOIS data are widely and pro-actively communicated to current and prospective Registrants. As part of this effort, ICANN should ensure that its Registrant Rights and Responsibilities document is pro-actively and prominently circulated to all new and renewing registrants.

Findings 10-14: Privacy and Proxy Services Need to be Clarified & Subject to Rules

Key Definitions (as we understood them from the Community and current use):

PROXY SERVICE – a relationship in which the registrant is acting on behalf of another. The WHOIS data is that of the agent and the agent alone obtains all rights and assumes all responsibility for the domain name and its manner of use.

PRIVACY SERVICE - Privacy Service a service that provides the Registrant Name and a subset of other information (possibly null set) but consistent across ICANN.

Findings 10-14: Privacy and Proxy Services, continued...

Companies, organizations and individuals need and use Proxy and Privacy services. For example,

Companies - for upcoming mergers, new product or service names, new movie names, or other new product launches

Organizations – as religious, political or ethnic minority, or sharing controversial moral or sexual information.

Individuals – who prefer not to have their personal data published on the Internet as part of a WHOIS record.

Findings 10-14: Privacy and Proxy Services, continued…

Yet, the current environment:

• Impedes investigations and makes determination of the competent jurisdiction difficult.

• Increases risk for law enforcement agencies by exposing investigative activities to unknown and untrusted parties.

• Responsiveness of Proxy or Privacy Service providers varies widely, with no current recourse for failure to disclose data.

Recommendation 10
Data Access – Privacy Services

ICANN should develop and manage a system of clear, consistent and enforceable requirements for all privacy services consistent with national laws. This should strike an appropriate balance between stakeholders with competing but legitimate interests. At a minimum this would include privacy, law enforcement and the industry around law enforcement.

Recommendation 10 continued...

-	WHOIS entry must clearly label that this is a private registration

-	Privacy services must provide full contact details as required by the WHOIS which are available and responsive as required by the framework mentioned above.

-	Standardized relay and reveal processes and timeframes.

-	Rules for the appropriate level of publicly available information on the registrant

-	Maintenance of a dedicated abuse point of contact for the privacy service provider

-	Privacy service provider shall conduct periodic due diligence checks on registrant contact information

Recommendation 11
Data Access – Privacy Services

ICANN should develop a graduated and enforceable series of penalties for privacy service providers who violate the requirements with a clear path to de-accreditation for repeat, serial or otherwise serious breaches.

Recommendation 12
Data Access- Proxy Service

ICANN should facilitate the review of existing practices by reaching out to proxy providers to create a discussion that sets out current processes followed by proxy service providers.

Recommendation 13
Data Access- Proxy Service

Registrars should be required to disclosure their relationship with any Affiliated Retail proxy service provider to ICANN.

Recommendation 14
Data Access- Proxy Service

ICANN should develop and manage a set of voluntary best practice guidelines for appropriate proxy services consistent with national laws. These voluntary guidelines should strike an appropriate balance between stakeholders with competing but legitimate interests. At a minimum this would include privacy, law enforcement and the industry around law enforcement.

Continued...

Recommendation 14 continued...

Such voluntary guidelines may include:

• Proxy services provide full contact details as required by the Whois

• Publication by the proxy service of its process for revealing and relaying information

• Standardization of reveal and relay processes and timeframes, consistent with national laws

• Maintenance of a dedicated abuse point of contact for the proxy service provider

• Due diligence checks on licensee contact information.

Recommendation 15 & 16
Data Access- Proxy Service

15. ICANN should encourage and incentivize registrars to interact with the retail service providers that adopt the best practices.

16. For the avoidance of doubt, the WHOIS Policy, referred to in Recommendation 1 above, should include an affirmative statement that clarifies that a proxy means a relationship in which the Registrant is acting on behalf of another. The WHOIS data is that of the agent, and the agent alone obtains all rights and assumes all responsibility for the domain name and its manner of use.

Finding 17: WHOIS data is difficult to find

Awareness of WHOIS among consumers is low

When asked to find the owner of a specified domain name, most users did not think to utilize the WHOIS look-up service

Finding WHOIS data for the best-known gTLD, .COM, is difficult due to the "thin" nature of the databases

Recommendation 17
*Data Access – Common Interface – **Choice Presented***

To improve access to the Whois data of .COM and .NET gTLDs, the only remaining Thin Registries, ICANN should set up a dedicated, multilingual interface website to provide thick WHOIS data for them.

ALTERNATIVE for public comment:
To make WHOIS data more accessible for consumers, ICANN should set up a dedicated, multilingual interface website to allow "unrestricted and public access to accurate and complete WHOIS information". Such interface should provide thick WHOIS data for all gTLD domain names.

Finding 18-20: IDNs pose new problems for WHOIS

Lack of support for non-ASCII characters within the registration data has triggered inaccuracies in the data.

Where there is lack of local script support, some ccTLD registries and registrars implement ad hoc solutions and arbitrary mappings of local script onto ASCII code points.

As a result, IDN WHOIS data can appear as a nonsense sequence of ASCII characters.

Recommendation 18
Internationalized Domain Names

ICANN Community should task a working group within 6 months of publication to finalize (i) encoding, (ii) modifications to data model, and (iii) internationalized services, to give global access to gather, store and make available internationalized registration data. Such working group should report no later than one year from formation, using existing IDN encoding. The working group should aim for consistency of approach across the gTLD and – on a voluntary basis – the ccTLD space.

Recommendation 19
Internationalized Domain Names

The final data model and services should be incorporated and reflected in Registrar and Registry agreements within 6 months of adoption of the working group's recommendations by the ICANN board. If these recommendations are not finalized in time for the next revision of such agreements, explicit placeholders for this purpose should be put in place in the agreements for the new gTLD program at this time, and in the existing agreements when they come up for renewal (as is the case for adoption of consensus policies).

Recommendation 20
Internationalized Domain Names

Requirements for registration data accuracy and availability in local languages should be finalized (following initial work by IRD-WG and other similar efforts, especially if translation or transliteration of data is stipulated) along with the efforts on internationalization of registration data. Metrics should be defined to measure accuracy and availability of data in local languages and (if needed) corresponding data in ASCII, and compliance methods and targets should be explicitly defined accordingly.

Specific feedback requested:

- What are good timeframes for implementation?

- Who should we designate be tasked with implementation within ICANN Community?

- Do you have input on all recommendations, especially 17 (with alternatives as forward for comment)

- How should we monitor progress between now and the next WHOIS Review Team being constituted?

Links and dates

Link to Notice of Whois Review Team Final Report (draft), appendices, and comments:
http://www.icann.org/en/news/public-comment/whois-rt-draft-final-report-05dec11-en.htm

Public comment email address:
whois-rt-draft-final-report@icann.org

Comment period closes date: **18 March 2012 – 23:59 UTC**