You asked for some BC membership views on the Whois studies that will be discussed at your Council meeting tomorrow (1-Apr).  Hope this helps.

Your agenda shows potential actions on Whois studies:

3.4.1 Review and assess cost and feasibility estimates for the studies
3.4.2 Decide whether to pursue any of the studies and, if so, which ones
3.4.3 Provide input into the FY11 budget process
3.5 How should we accomplish the above?
•    Should we form a drafting team to develop recommendations for consideration in our next meeting?
•    Note that a final budget has to be finished by 17 May and there are currently no funds budgeted for Whois Studies

My recommendations:

**Let’s proceed with the Misuse and Registrant Identification studies.**

The Misuse and Registrant ID studies are likely to generate data that would affect policy decisions and compliance work.  These 2 studies are not going to stop the long-standing disagreements between passionate parties on either side, but that’s not the point of doing studies.   Remember the debate over domain tasting?  Fact-based data on the number of deletes with the AGP were astounding, and helped us enact a policy change.  The data did not make everyone agree on whether domain tasting was harmful.  But facts showed a hugely prevalent use of AGP that was outside its original purpose, and that moved us to a new consensus policy.

We’ll certainly use study data when setting policy and compliance standards, especially with so many new TLD operators coming online next year.

Moreover, the Affirmation of Commitments (9.3.1) requires ICANN to “organize a review of WHOIS policy and its implementation to assess the extent to which WHOIS policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust”. The Misuse and Registrant data studies will be essential for that review.

We will also want to have these study results on hand so they can be compared with study results after new TLDs are operating for one year, as required by the Affirmation of Commitments item 9.3

Let’s go right to the core issue of Money.  Consider this discussion that happened during Council meeting in Nairobi:

Liz Gasster described some study proposals as "expensive" and then Stefane and Wolf commented on the costs and budget constraints.

I intervened to say that the lack of fact-based studies has itself been very expensive over several years of time & travel on the part of dozens of community members.   Those costs will continue unless/until we have facts at hand to make policy decisions.

Marilyn made a similar point about need for fact-based analysis.

Bruce Tonkin recommended that Council budget a lump sum for studies, then decide how to spend it.  Don't budget each specific study, he said.

I believe Bruce Tonkin is right.  Council should ask for a budget of $XXX,XXX in FY 2011 for a general category of Whois studies.   Since we need a budget number now, I’d say $360,000, to cover the misuse and registrant studies ($150K each) plus a 20% contingency.

Next steps: I would ask staff to begin negotiating with the two ‘superior’ bidders on detailed workplan for their studies. Staff should start by asking bidders to review:

The 4-Mar-2009 Council resolution on Whois studies, including the original rationale for each hypothesis, etc.

The Affirmation of Commitments, items 9.3 and 9.3.1

Staff should also show the bidders any Whois-related items in the Draft Applicant Guidebook.

Superior Bidders can then prepare detailed study workplans that policy staff can analyze and present to Council later this year.

Note: The Staff report (page 7) mentions the Whois Accuray report, and asks whether “barriers to accuracy” provide useful insights to policy.

I would answer, “Accuracy is something we aspire to; whereas inaccuracy is a contract compliance problem.”

Let’s set high aspirations to require accurate Whois data for registrants, even if we know that lots of data is inaccurate today. After all, registrars manage to gather credit card information that’s sufficiently accurate to ensure they get paid.   Let’s find ways to ensure they apply the same diligence in collecting and validating public Whois data.

(Note: Susan Kawaguchi of Facebook volunteered to draft BC comments on Whois Accuracy report.  Those aren’t due until 15-Apr)

Whois Studies Reports and resources:

<https://st.icann.org/gnso-council/index.cgi?whois_discussion>#
<http://gnso.icann.org/issues/whois/whois-studies-report-for-gnso-23mar10-en.p>df
Presentation Slides: <http://gnso.icann.org/correspondence/whois-studies-presentation-01apr10-en>.pdf

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