10 January, 2012

TO: the GNSO Council

FROM: the WHOIS Service Requirements Survey WG (WS WG)

The WHOIS Survey Working Group (WSWG) would like to thank the GNSO Council for reaching out to determine if the important issue of WHOIS Accessibility can be included within the survey being created as a major deliverable of the WSWG’s charter.  After careful review of the Registration Abuse Policies Working Group’s (RAPWG) recommendation and supporting information, the WSWG determined that the RAPWG focused on the policy and compliance aspects with respect to WHOIS Access.

Given the WSWG’s current charter to construct a survey around the technical & functional requirements of a WHOIS system and infrastructure, the WSWG determined inclusion of the RAPWG’s recommendation aligned more with policy and thus the WSWG considered it to be out of scope.  We believe it is important for the WSWG to present survey questions agnostically regarding WHOIS functionality. It is equally important to note the choice to actively use or not use various functionality within a WHOIS system and that it is typically a matter of policy or operational necessity. Whether or not that functionality is used in a given WHOIS deployment is not in the remit of the WSWG’s charter. While the WSWG considers the RAPWG recommendation beyond scope, the WSWG wanted to provide the Council with additional information so that it may make a better informed decision about the access recommendation:

* Since the RAP submitted its final recommendations to the GNSO Council, the ICANN Compliance team has expanded the monitoring of WHOIS access of ICANN Accredited Registrars.
  + ICANN uses an automated system (the “WHOIS Monitoring System”, or “WMS”) to collect a small sample of WHOIS data from each active registrar on a daily basis. The WMS uses a set of heuristic pattern matching rules, and scripts to analyze this data. The WMS highlights registrars that appear to exhibit problems providing access to WHOIS data and displays a summary of this analysis to ICANN staff members. The WMS also provides supporting detailed results for each registrar.
  + ICANN posts audit results at least once per year to the Compliance page <http://www.icann.org/en/compliance/updates/>.
* At the conclusion of the RAPWG, the WHOIS Policy Review Team did not exist. ICANN staff understands the topic of WHOIS accessibility has been reviewed and discussed by the Review Team, and it is possible that accessibility recommendations may be offered. However, it is unclear at this time how such recommendations about access, if any, will translate in to concrete policy changes. The Review Team submitted its draft initial report for public comment: <http://www.icann.org/en/reviews/affirmation/whois-rt-draft-final-report-05dec11-en.pdf>
* The ICANN Board recently resolved (2011.10.28.31) that ICANN and Registrars enter negotiations on proposed RAA amendments from earlier RAA Drafting Team & Law Enforcement proposed recommendations. If negotiations fail to incorporate the proposed amendments then one or a series of PDPs will be launched to address the remaining items. Proposed changes relevant to the RAPWG recommendation include:
  + Service Level Agreements on WHOIS availability
  + Several other issues identified with respect to accuracy. (RAP report mentions accuracy but only at a difference between output at Port 43 versus the Web interface and not necessarily as a function of WHOIS data accuracy)
  + Status of the RAA negotiations can be found at <https://community.icann.org/display/RAA>

For the Council’s convenience, the RAP Recommendation and Council’s Resolution are included below.

**RAP Recommendation on WHOIS Access**

The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion. The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN’s new Affirmation of Commitments.

Link to Final Report:  <http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf>

**GNSO Council Resolved:**

Included in a Resolution to Address Remaining Registration Abuse Policies Working Group Recommendations:  RESOLVED, in response to WHOIS Access recommendation #1, the GNSO Council requests the WHOIS Survey Drafting Team to consider including the issue of WHOIS Access as part of the survey it has been tasked to develop. If the WHOIS Survey Drafting Team is of the view that it is not appropriate or timely to include WHOIS Access as part of the survey, it should inform the GNSO Council accordingly so that the GNSO Council can determine what next steps, if any, might be appropriate at this stage in relation to this recommendation.

Link to Resolution Statements of 10/6 Council meeting:  <https://community.icann.org/display/gnsocouncilmeetings/Motions+22+September+2011>