**I. Consensus Policies: Accuracy and Bulk Access of WHOIS Data**

Purpose: Data collected must be accurate and reliable, or else registrant’s site should be deleted. Illegitimate purpose: Use of bulk access WHOIS data for marketing should not be permitted.

**II. Recommendations to ICANN and Registrars: Accuracy of WHOIS Data and Review.**

Willful provision of inaccurate or unreliable information" is a material breach of the registration agreement. ICANN should encourage registrars to take steps to remind registrants of their obligations to submit and maintain complete and accurate contact data at appropriate points, including but not limited to the time of renewal of a registration.

**III. Discussion of the WHOIS Implementation Committee's Report**

"Registrants should be required to review and validate all WHOIS data upon renewal of a registration. "At least annually, a registrar must present to the Registrant the current WHOIS information, and remind the registrant that provision of false WHOIS information can be grounds for cancellation of their domain name registration. Registrants must review their WHOIS data, and make any corrections."

The Implementation Committee construed this as a recommendation that "registrars modify their bulk WHOIS access agreements to eliminate the use of data for marketing purposes."

The Implementation Committee concluded that "there is a need to clarify the definition of "marketing purposes".

**IV. Comments received in Response to the Policy Report**

Svensson: Further clarification needed of the proposed "functional definition" of "inaccurate or unreliable contact data", "e.g. whether a registrant must be reachable through all means of contact all the time."

Mr. Jones expresses a strong feeling that the WHOIS database "MUST be kept public and must be accurate." He quotes "research" which indicates that "people who provide false or misleading information for the WHOIS Registry should NOT be allowed to keep their domains."

"The need for express recognition that some inaccuracies in the WHOIS data protect privacy without limiting access to the domain name registrants for legitimate purposes." Ms. Kleiman notes that, while registrants will provide accurate information for registry and registrar communications (renewal notices, UDRP proceedings etc.), "not every small piece of data in the WHOIS registration needs to be accurate." She suggests that unlisted telephone numbers should be able to remain private "without fear of jeopardizing a well-known human rights website."

Distinction between purely commercial gTLDs and others: Ms. Kleiman also proposes that the Task Force's recommendations on WHOIS accuracy should be tested in a "clearly commercial gTLD" first, and that "special issues that apply to individuals and political organizations in other gTLDs" should be considered later.

Vittorio Bertola: While accuracy of data in the WHOIS database may be desirable, some degree of inaccuracy is unavoidable for a variety of reasons, including: burdensome procedures for updating data; the use of "minor or major alterations of contact data" as a tool to avoid spamming and personal harassment; special risks for political speakers; "the usual complexity of the world." Mr. Bertola concludes that "automatically connecting inaccurate data [...] with a fraudulent intent or unlawful behaviour is not per se acceptable." He also notes: "the WHOIS service as currently implemented by most registries is clearly illegal in a number of countries, including the European Union."

Distinction between query-based WHOIS and bulk WHOIS: Elana Broitman (register.com). Ms. Broitman points out that public, query-based WHOIS services are abused in an equal or worse manner as bulk WHOIS. She notes that "until we address this gap, there is little use in changing bulk WHOIS requirements ... as potential bulk WHOIS licensees move to abuse of public WHOIS."

Aaron Swartz notes that the WHOIS database provides invaluable information for the public, researchers, and archivists. He suggests that complete electronic copies of the data be made available for purposes of research and archival at cost.

Mr. Auerbach disagrees with the interim report in that it starts from "an irrebutable presumption, that whois data must be published for the convenience of intellectual property owners no matter how much social damage that may cause through destruction of personal privacy."

Stanley Krute of Soda Mountain, Co.,: Whois provides a minimal level of accountability. Without an accurate whois directory, the web will become a prime location for criminal activities."

**Contribution of the European Commission to the general discusison of the WHOIS database raised by the Reports produced by the ICANN WHOIS Task Force**

The European Commission (mid Januay 2003) describes the purpose of the WHOIS database as traditionally technical and operational in nature. The submission notes that the Task Force report did not define what uses are legitimate and compatible to the original purpose. The importance of limiting the amount of personal data to be collected and processed, under the European Data Privacy Directive is emphasized. Need for "differentiated" access to provide WHOIS data but without having all data available to everybody. There is support concerning accuracy of data and to limitation of bulk access, and observes that "bulk access, for any purpose (not only for direct marketing), is in principle unacceptable."

**Contribution of the International Working Group on Data Protection in Telecommunications**

The [International Working Group on Data Protection in Telecommunications](http://www.datenschutz-berlin.de/doc/int/iwgdpt/index.htm) has provided a [comment](http://www.dnso.org/clubpublic/nc-whois/Arc00/pdf00009.pdf) (dated January 15, 2003) in response to the Task Force's Interim Report. The Working Group reaffirms its [Common Position on Privacy and Data Protection aspects of the Registration of Domain Names on the Internet](http://www.datenschutz-berlin.de/doc/int/iwgdpt/dns_en.htm) originally adopted in May 2000. The Working Group is "especially critical of proposals contained in the Interim Report ... to extend the search capabilities of WHOIS databases to searches for the registrant name."

**Feedback Received by the Task Force in Response to the Final Report**

Privacy concerns are not addressed, therefore Taks Force Report does not represent consensus and is biaised in favor of IP constituency.

Danny Younger points to a first amendment right to anonymous speech recognized by the US Supreme Court. The failure of this Task Force to even consider US or European laws on anonymity and privacy is all the more reason to reject these ill-considered recommendations."

Tucows objects against any recommendations imposing obligations upon "resellers", and against the Task Force's recommendation [II.D.2](https://archive.icann.org/en/gnso/whois-tf/report-19feb03.htm#Acc-IB2), which is characterized as stating "that Registrars are wholly responsible for the accuracy of the database."

Dangers to freedom of expression and privacy posed by the disclosure of personal information, on possible abuse of that information to commit frauds such as identity theft, and on international views on privacy and data protection, such as the International Working Group on Data Protections in Telecommunications' [Common Position](http://www.datenschutz-berlin.de/doc/int/iwgdpt/dns_en.htm#TOP)published in March 2000.

**Minority Reports**

**Non-Commercial Users' Constituency**

The Task Force failed to recommend appropriate privacy safeguards for domain name registrants with reasonable and legitimate expectations of privacy and the Task Force failed to assess the misuses of WHOIS data. The very existence of inaccurate data suggests that there are domain name registrants who do care to safeguard their privacy and prevent the misuse of their personally identifiable information.