Summary of Dissent of Stephanie Perrin from EWG Report (24 June 2014)

Perrin dissented from the consensus of the EWG regarding its recommendations, citing three specific concerns:

1) Requirement to have a legal contact, address and phone number mandatory to provide, and published outside the gate, in the publically available data.

2) Default for simple registrants who don’t hire a lawyer or other actor to assume the role of legal contact is publishing registrant information, notably address and phone number in the RDS outside the gate.

3) The inclusion of a principle of consent (28), whereby a registrant may

consent to the use or processing of her gated information for the permissible purposes enumerated for accredited actors behind the gate. Constitutes coerced consent, unlikely to be able to understand likely implications of consent. Rights under law abrogated.

Accountability does not equal transparency of detailed personal or business information, it means responsiveness. If a registrant fails to respond to serious issues contact the registrar to take action.

Purpose of gated access is sheltering customer data; screen out bad actors from

harassing innocent registrants, deter identity theft, and ensure that only legitimate

complaints arrive directly at the door of the registrants. Protects ability of registrants to express themselves anonymously. Placing all contact data outside the gate defeats certain aspects of having a gate in the first place.

Proposed mitigations for privacy protection unlikely to work for various reasons:

1. Proxy services cost $$
2. rules engine unproven, difficult to build given lack of sound basis for jurisdictional differentiation

Right of privacy in directory services confirmed by recent court decisions: Supreme Court of Canada:

<http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14233/index.do>, comparable decision from the US Supreme Court: <http://www.law.cornell.edu/supct/html/93-986.ZO.htm>