

Why is the Whois Broken?

We in the NCSG respectfully raise the question that the EWG asserts in its Executive Summary that the Whois is broken, but has not told us ***why*** the Whois is broken or ***what went wrong*** with it. Accordingly, the EWG process appears to be missing the diagnosis of the problem, ***leading to a proposed Interim solution that we respectfully submit is fundamentally flawed for making the basic underlying problems of the existing Whois worse, not better.***

From our perspective, as Registrants and the group that represents the millions of noncommercial and nonprofit organizations, small and large, in the ICANN process, the Whois problems clearly include:

- A) Over-Collection of information (address in particular is completely unnecessary when there are better and faster ways to contact the Registrants via email and phone)
- B) Over-Publication of information (publication of Whois data to anyone who wants it for any purpose – regardless of legal proof for disclosure)
- C) Collection of personal data about people in organizations, businesses, hobby groups, nonprofits and individuals that is personal in nature and protected by law including name, physical address, phone numbers (including otherwise unpublished cell phone numbers) and email addresses (also otherwise unpublished), all data protected by law in many countries, including all with data protection laws (countries now spanning Europe, Asia and North American, including the UK, Germany, France, Italy, S. Korea, Japan and Canada.
- D) Exposure of domain name Registrants, by virtue of the publication of this data to all (and its availability to law enforcement and hostile governments) to harassments, threats, intimidation and violence by virtue of their speech online, not their threat to the security and stability of the Internet and domain name system (DNS).
- E) Use of the Whois data outside of original scope and purpose. The original collection of Whois data was for technical reasons, e.g, to rapidly find a contact to help resolve a technical problem of the domain name. That's a purpose within the scope and mission of

ICANN. The expansion of the Whois (or any other name giving to the re-packaged data) to solve, resolves, threaten and exploit any type of Internet domain name speaker for any type of reason goes far beyond the technical mission and scope of ICANN into a worldwide content regulator and business licensor. That's not what we established ICANN in 1999 to do, and we urge the EWG to reevaluate accordingly.

The unlimited access to Whois data – and the newly defined and proposed dramatically expanded new gTLD directory services data – allows unlimited abuse of the Registrant data including for stalking, spamming, harassment, intimidation, browbeating and threats against Registrants having everything to do with content of the Registrant's communication or attractiveness of the Registrant's name.

Before the EWG embraces such a departure from the purpose of Whois, it must a) review and thoroughly understand the abuse of Whois data today (why the Whois is broken from a Registrants perspective), sort out and state precisely what its purposes for operating are, and what solutions must be taken to avoid making the matter worse.