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RDS-WHOIS2-RT Plenary Call #47

21 January 2019



RDS/WHOIS2-RT Plenary Call Agenda

1. Welcome, roll-call, Sol
2. Review of Draft Report Updates
3. Recommendations Status
4. A.O.B.

Review of Draft Report Updates

Agenda Item #2

Draft Report Updates

- **WHOIS1 Rec #2 – Single WHOIS Policy – see Google doc**

1.1.5 Recommendations

There were no objections from the RDS-WHOIS2 Review Team to decisions reached by this subgroup and there are no further recommendations. However, the review team:

1. Accepts that the WHOIS1 Review Team's Recommendation 2 is fully implemented.
2. That the ICANN Board's motion¹ to initiate and provide a framework for GNSO RDS PDP[s], using the EWG Report as input, is intended to deliver a holistic next generation RDS (WHOIS) policy framework That would address current set of fragmented and decentralized RDS (WHOIS) policies.
3. Notwithstanding its temporary nature – to be sunsetted in one (1) year that the Temporary Specification for RDS (WHOIS) promoted by the ICANN Board in May 2018 constitutes for the first time the framework for a single RDS (WHOIS) policy.
4. That the EPDP raised by the GNSO to address the adoption or adaption of the Temporary Specification will, hopefully affirm a single RDS (WHOIS) policy at the end of its work.



Alan Greenberg

7:38 PM Jan 4

Resolve

Since points 2, 3, 4 do not follow "However, the Review Team:" is repetitive of earlier text and presupposes outcomes from the EPDP, How about just deleting the entire text and replace it with:

None.

Reply...

Draft Report Updates

- **WHOIS1 Rec #3 – Outreach – see Google doc**

Action item: Alan to clarify what specific improvements we are looking for.

Recommendation R3.1

The ICANN Board should direct the ICANN organization to update all of the information related to RDS (WHOIS) and by implication other information related to the registration of second-level gTLDs domains. The content should be revised with the intent of making the information readily accessible and understandable, and it should provide details of when and how to interact with ICANN or contracted parties. Although not the sole focus of this recommendation, interactions with ICANN Contractual Compliance, such as when filing WHOIS Inaccuracy Reports, should be a particular focus. The revision of this web documentation and instructional material should not be undertaken as a purely internal operation but should include users and potentially focus groups to ensure that the final result fully meets the requirements. The resultant outward facing documentation of registrant and RDS (WHOIS) issues should be kept up to date as changes are made to associated policy or processes.

Findings:

The recommendation to provide outreach was correctly interpreted in that significant RDS (WHOIS)-related documentation was required. Although the resultant Portal is somewhat lacking in navigation tools, it was generally very well done. **The current topic headings on the Portal main page are suited to those who are looking for information on specific issues (that is, they already understand the basics) but could benefit from groupings aimed at novices looking for an introduction, or targeted at specific groups (such as current registrants).** ~~However, it~~ **The Portal** was not well integrated with other registrant-related information or with earlier RDS (WHOIS)-related documentation and tutorial efforts. Documentation related to WHOIS Inaccuracy Reports was noted as needed a particular focus.

Draft Report Updates

- **WHOIS1 Rec #5-9 – Data Accuracy – see Google doc**

Suggestion of added text: But the intent of the ARS was not to de facto improve accuracy but to report on it.

- high rate of RDS (WHOIS) updating.
5. The ARS project has only checked a small fraction of RDS (WHOIS) records (70,000), as compared to the [342.4 million registered domain names in Q3 2018](#). The improvement of RDS (WHOIS) data quality across the whole gTLD domain space is therefore still very limited.

Draft Report Updates

- **WHOIS1 Rec #5-9 – Data Accuracy – see Google doc**

Action item: Findings section needs revision

Recommendation R5.1

The Accuracy Reporting System, which was instituted to address concerns regarding RDS (WHOIS) contact data accuracy has demonstrated that there is still an accuracy concern and therefore such monitoring must continue. ICANN Org should continue to monitor accuracy and/or contactability through either the ARS or a comparable tool/methodology.

Findings:

The ARS had been the only proactive measure to improve RDS (WHOIS) data quality. As analyzed in subsection 1.1.3.2, the current data quality issue disclosed by ARS was outstanding, and the confirmed RDS (WHOIS) data inaccuracy rate across the gTLD domain space is still high (30~40%) even without identity accuracy check. The most common underlying cause was that the registrars failed to validate and verify RDS (WHOIS) data in the first place.

Draft Report Updates

- WHOIS1 Rec #10 – Privacy/Proxy Services – see Google doc

The subgroup concludes that no new recommendations need to be proposed to the WHOIS1 Review Team's recommendation. However, as the IRT work has not concluded and seems delayed in its progress, the subgroup will track the PPSAI IRT's progress and will consider making one or more recommendation(s) if necessary. At this point, the subgroup has identified the following issues, based on the status of PPSAI policy implementation as of July 2018. These issues may be subject to updates as implementation continues.

Issue #1: The WHOIS1 Review Team's recommendation suggests as non-binding options using a mix of incentives and sanctions to encourage adoption by service providers and enforce this policy once implemented. ICANN and the IRT should be encouraged to discuss incentives, as the current focus of the program's envisioned implementation seems to solely rely on sanctions and fees. The RDS-WHOIS2 Review Team is concerned the current intent of ICANN is to fund the Privacy/Proxy service accreditation program solely by charging providers accreditation and annual fees comparable to the fees payable by ICANN accredited registrars. The RDS-WHOIS2 Review Team considers that such fees could be counterproductive to the overall goal of the program. The new policy requirements will create a cost barrier at a time when the use of such services is expected to decline due to the effects of GDPR and will likely cause low adoption of the accreditation program by providers.



Alan Greenberg

6:01 AM Jan 14

Resolve

I'm not sure if these changes alter the intent or not. But perhaps more important, "incentives" are implicitly non-binding and I do not understand the concept of a non-binding sanction. So is the non-binding phrase needed at all?

VOLKER??

Draft Report Updates

- **Objective 5: Safeguarding Registrant Data – see Google doc**

Action item: Alan to review supporting text for this recommendation, with an eye towards section 3.2 of the 2013 RAA and modify as needed.

Recommendation SG.1

The ICANN Board should require that the ICANN Organization, in consultation with data security and privacy expert(s), ensure that all contracts with contracted parties (to include Privacy/Proxy services when such contracts exist) include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in the event of any data breach. The data security expert(s) should also consider and advise on what level or magnitude of breach warrants such notification.

In carrying out this review, the data security and privacy expert(s) should consider to what extent GDPR regulations, which many but not all ICANN contracted parties are subject to, could or should be used as a basis for ICANN requirements. ~~The ICANN Board should initiate action intended to effect such changes.~~ The ICANN Board should initiate action intended to effect such changes.

The ICANN Board ~~should consider whether and to what extent notifications of breaches that it receives should be publicly disclosed. must either negotiate appropriate contractual changes or initiate a GNSO PDP to consider effecting such changes.~~ should consider whether and to what extent notifications of breaches that it receives should be publicly disclosed.

Draft Report Updates

- **Objective 6: ICANN Contractual Compliance Actions, Structure and Processes– see Google doc**

Action item: Alan to reword CM.1 so that it does not say “the Board should negotiate ...”. The goal is to ensure the recommendation is not dictating a PDP but suggesting a change somehow.

Recommendation CM.1

~~The ICANN Board should negotiate contractual terms or initiate a GNSO PDP to require that~~
The ICANN Board should initiate action intended to ensure that gTLD domain names suspended due to RDS (WHOIS) contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows.

- (1) The RDS (WHOIS) record should include a notation that the domain name is suspended due to incorrect data; and
- (2) Domain names with this notation should not be unsuspended without correcting the data.

Draft Report Updates

- **Objective 6: ICANN Contractual Compliance Actions, Structure and Processes– see Google doc**

Action item: Alan and Volker to add more details to CM.2 to clarify the registrant fields being addressed in the recommendation. Additionally, the whole recommendation should be reworded to better convey intent.

Recommendation CM.2

~~The ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under 2013 RAA (or any subsequent version thereof) or applicable policies. The ICANN Board should direct ICANN organization/ICANN Organization to assess grandfathered domain names to determine if information is missing from the RDS (WHOIS) Registrant field. If 10-15% of domain names are found to lack data in the Registrant field, then the ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under 2013 RAA (or any subsequent version thereof) or applicable policies.~~

Alan Greenberg

The ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under 2013 RAA (or any subsequent version thereof) or applicable policies.

Recommendations Status

Agenda item #3

Recommendations

Recommendation R1.1

To ensure that RDS (WHOIS) is treated as a strategic priority, the ICANN Board should put into place a forward-looking mechanism to monitor possible impacts on the RDS (WHOIS) from legislative and policy developments around the world.

Recommendation R1.2

To support this mechanism, the ICANN Board should instruct the ICANN organization to assign responsibility for monitoring legislative and policy development around the world and to provide regular updates to the Board.

Recommendation R1.3

The ICANN Board, in drafting the Charter of a Board working group on RDS, should ensure the necessary transparency of the group's work, such as by providing for records of meetings and meeting minutes, to enable future review of its activities.

Status: Suggested updates approved on plenary call #46. Recommendation needs cleaning.

Recommendations

Recommendation R3.1

The ICANN Board should direct the ICANN organization to update all of the information related to RDS (WHOIS) and by implication other information related to the registration of second-level gTLDs domains. The content should be revised with the intent of making the information readily accessible and understandable, and it should provide details of when and how to interact with ICANN or contracted parties. Although not the sole focus of this recommendation, interactions with ICANN Contractual Compliance, such as when filing WHOIS Inaccuracy Reports, should be a particular focus. The revision of this web documentation and instructional material should not be undertaken as a purely internal operation but should include users and potentially focus groups to ensure that the final result fully meets the requirements. The resultant outward facing documentation of registrant and RDS (WHOIS) issues should be kept up to date as changes are made to associated policy or processes.

Status: Recommendation findings needs cleaning.

Recommendations

Recommendation R3.2

With community input, the ICANN Board should instruct the ICANN organization to identify groups outside of those that routinely engage with ICANN, and these should be targeted through RDS (WHOIS) outreach. An RDS (WHOIS) outreach plan should then be developed, executed, and documented. There should be an ongoing commitment to ensure that as RDS (WHOIS) policy and processes change, the wider community is made aware of such changes. WHOIS inaccuracy reporting was identified as an issue requiring additional education and outreach and may require a particular focus. The need for and details of the outreach may vary depending on the ultimate General Data Protection Regulation (GDPR) implementation and cannot be detailed at this point.

Status: Approved.

Recommendations

Recommendation R4.1

The ICANN Board should initiate action to ensure ICANN Contractual Compliance is directed to proactively monitor and enforce registrar obligations with regard to RDS (WHOIS) data accuracy using data from incoming inaccuracy complaints and RDS accuracy studies or reviews to look for and address systemic issues. A risk-based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.

Status: Recommendation approved, Recommendation text and sections needs cleaning in gdoc.

Recommendations

Recommendation R4.2

The ICANN Board should initiate action to ensure that ICANN Contractual Compliance is directed to cross-reference existing data from incoming complaints and studies such as the ARS to detect for patterns of failure to validate and verify RDS (WHOIS) data as required by the RAA. When such a pattern is detected, compliance action or an audit should be initiated to review compliance of the Registrar with RDS (WHOIS) contractual obligations and consensus policies.

Status: Recommendation approved, Recommendation text and sections needs cleaning in gdoc.

Recommendations

Recommendation R5.1

The Accuracy Reporting System, which was instituted to address concerns regarding RDS (WHOIS) contact data accuracy has demonstrated that there is still an accuracy concern and therefore such monitoring must continue. ICANN Org should continue to monitor accuracy and/or contactability through either the ARS or a comparable tool/methodology.

Status: Recommendation approved, but section needs revision.

Recommendations

Recommendation R10.1

The Board should monitor the implementation of the PPSAI. In the event that the PPSAI policy does not become operational by 31 December 2019, the ICANN Board should ensure an amendment to the 2013 RAA (or successor documents) is proposed that ensures that the underlying registration data of domain name registrations using Privacy/Proxy providers affiliated with registrars shall be verified and validated in application of the verification and validation requirements under the RAA unless such verification or validation has already occurred at the registrar level for such domain name registrations.

Recommendation R10.2

Reviewing the effectiveness of the implementation of WHOIS1 Recommendation #10 should be deferred. The ICANN Board should recommend that review be carried out by the next RDS (WHOIS) Review Team after PPSAI Policy is implemented.

Status: Recommendations approved, but section needs updating.

Recommendations

Recommendation R11.1

The ICANN Board should direct the ICANN organization to define metrics or SLAs to be tracked and evaluated to determine consistency of results of queries and use of any common interface (existing or future) used to provide one-stop access to registration data across all gTLDs and registrars/resellers. Specific metrics that should be tracked for any such common interface include:

- How often are RDS (WHOIS) fields returned blank?
- How often is data displayed inconsistently (for the same domain name), overall and per gTLD?
- How often does the tool not return any results, overall and per gTLD?
- What are the causes for the above results?

Status: Recommendation approved

Recommendations

Recommendation R11.2

The ICANN Board should direct the ICANN organization to ensure that the common interface displays all applicable output for each gTLD domain name registration as available from contracted parties, including multiple versions when the outputs from registry and registrar differs. The common interface should be updated to address any policy or contractual changes to maintain full functionality.

Status: Recommendation approved, but gdoc needs cleaning.

Recommendations

Recommendation R12.1

Reviewing the effectiveness of the implementation of Recs #12-14 should be deferred. The ICANN Board should recommend that review to be carried out by the next RDS Review Team after RDAP is implemented, and the translation and transliteration of the registration data launches.

Status: Recommendation approved.

Recommendation R15.1

The ICANN Board should ensure that implementation of RDS-WHOIS2 Review Team recommendations is based on best practice project management methodology, ensuring that plans and implementation reports clearly address progress, and applicable metrics and tracking tools are used for effectiveness and impact evaluation.

Status: Recommendation approved

Recommendations

Recommendation LE.1

The ICANN Board should resolve that ICANN conducts regular data gathering through surveys and studies to inform a future assessment of the effectiveness of RDS (WHOIS) in meeting the needs of law enforcement. This will also aid future policy development (including the current Temporary Specification for gTLD Registration Data Expedited Policy Development Process and related efforts).

Recommendation LE.2

The ICANN Board should consider conducting comparable surveys and/or studies (as described in LE.1) with other RDS (WHOIS) users working with law enforcement on a regular basis.

Status: Recommendations approved.

Recommendations

Recommendation SG.1

The ICANN Board should require that the ICANN Organization, in consultation with data security and privacy expert(s), ensure that all contracts with contracted parties (to include Privacy/Proxy services when such contracts exist) include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in the event of any data breach. The data security expert(s) should also consider and advise on what level or magnitude of breach warrants such notification.

In carrying out this review, the data security and privacy expert(s) should consider to what extent GDPR regulations, which many but not all ICANN contracted parties are subject to, could or should be used as a basis for ICANN requirements. The ICANN Board should initiate action intended to effect such changes.

The ICANN Board should consider whether and to what extent notifications of breaches that it receives should be publicly disclosed.

Status: Recommendation updated, not approved.

Recommendations

Recommendation CM.1

The ICANN Board should initiate action intended to ensure that gTLD domain names suspended due to RDS (WHOIS) contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows.

- (1) The RDS (WHOIS) record should include a notation that the domain name is suspended due to incorrect data; and
- (2) Domain names with this notation should not be unsuspended without correcting the data.

Status: Recommendation updated, recommendation text needs further review from Susan.

Recommendation CM.2

The ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under 2013 RAA (or any subsequent version thereof) or applicable policies.

Status: Recommendation updated.

Recommendations

Recommendation CM.3

The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies.

Status: Recommendation approved.

Recommendation BY.1

The ICANN Board should take action to extend the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii) and replace section 4.6(e)(iii) of the ICANN Bylaws (which refers to the OECD Guidelines) with a more generic requirement for RDS (WHOIS) Review Teams to assess how well RDS (WHOIS) policy and practice addresses applicable data protection and cross border data transfer regulations, laws and best practices.

Status: Recommendation approved.

A.O.B.

Agenda item #3

A.O.B.

Confirm Decisions Reached & Action Items

Appendix

Open Action Items

Final Report Open Action Items

Level of priorities

Action item: Susan to evaluate each recommendation and Define priority level for each recommendation with some quick description. E.g. High, to be implemented by...

Action item: Susan to include brief statement that refers to timing envisioned for recommendations while highlighting some of the dependencies. Agreement to consider the six-month Bylaw window in assessments.

Report

Action item: Susan will listen to the meeting recording for conversation regarding language “The board should negotiate”, and update the wording through the report consistently.

Executive Summary

Action item: RT needs to evaluate recommendation numbering, potential explanation in ES.

Action item: History of WHOIS on ICANN’s website. Erika to provide Jackie with the right content/references link so introduction section can be properly updated.

Final Report Open Action Items

Background Section

Action item: Alan and Jackie review and modify the WHOIS Background section (in reference to the last bullet on slide # 40 of Day # 3 of F2F meeting)

WHOIS1 Rec #2: Single WHOIS Policy (Carlton)

Action item: Jackie to work with Alan to mention the problems of the policy development process regarding a single RDS (WHOIS), to be placed in the Executive Summary.

WHOIS1 Rec #3: Outreach (Alan)

R3.2:

Action item: Add implementation note, that the RT does not have any input on ICANN budget.

Final Report Open Action Items

WHOIS1 Rec #4: Compliance (Susan)

Action item: Susan to clarify that ICANN will not go on fact-finding missions, but use the information they currently have on hand (input received).

Susan to clarify that Compliance enforces Registrars to enforce data accuracy for registrants.

Action item: Alan to add a paragraph on current situation pointing out the paradox of goodwill vs doing it properly. Add sentence on whether contractual compliance can verify compliance if they can't look at the data.

R4.1

Action item: Volker to provide language to update recommendation 4.1 based on RrSG and NCSG comments.

Action item: Susan to delete the portion of the recommendation that refers to sanctions and make a reference to it in the report text.

R4.2

Action item: Volker and Alan work on rewording R4.2 and add some metrics in for measurability and success of implementation.

Final Report Open Action Items

WHOIS1 Recs #5-9: Data Accuracy (Lili/Cathrin)

R5.1:

Action item: ICANN org to double-check the recommendation numbering to ensure comment was in response to recommendation 5-9 and adjust as needed.

Action item: Findings section needs revision

WHOIS1 Rec #11: Common Interface (Susan/Volker)

Action item: Susan/Volker to clarify that this recommendation was not specifically aimed at compliance.

Objective 3: Law Enforcement Needs (Cathrin)

LE.1

Action item: MSSl to estimate number of hours spent on the LE survey in response to NCSG request for estimated cost associated with conducting the survey.

Action item: Cathrin to bring this recommendation to GAC's attention, Alan to EPDP's

Final Report Open Action Items

Objective 4: Consumer Trust (Alan/Erika)

Action item: Alan and Erika to update section.

Objective 6: ICANN Contractual Compliance: Actions, Structure and Processes (Susan, Cathrin, Alan)

Action item: Impact of GDPR section still needs to be completed

CM1:

Action item: Alan to reword CM.1 so that it does not say “the Board should negotiate ...”. The goal is to ensure the recommendation is not dictating a PDP but suggesting a change somehow.

Final Report Open Action Items

CM2:

Action item: Alan and Volker to add more details to CM.2 to clarify the registrant fields being addressed in the recommendation. Additionally, the whole recommendation should be reworded to better convey intent.

Update as of 11 December 2018: Based on the updated recommendation and rationale language Volker provided on 11 December (Day # 2), Susan is to take the pen and update the relevant sections of the report accordingly.

Jackie to add in introduction, to the extent that Alan and Volker deliberations so far impact areas in our review.

CM3:

Action item: Recommendation to be deleted. Add this as a more targeted outreach in the relevant recommendation.

Cathrin to clarify Board options in a footnote.

CM4:

Action item: Alan to write to ICANN org Compliance and negotiate language to be added to relevant page(s). If successful, recommendation will be deleted.