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| SubGroup Report: Single WHOIS Policy |
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| Analysis of Implementation Outcomes of Recommendation 2: The Single WHOIS Policy |
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# Single WHOIS Policy Document

In reporting their findings, the previous Review Team (hereinafter referred as RDS-WHOIS1 RT) noted that guided by explicit language in the Affirmation of Commitments regarding the existence of a single document labeled “*WHOIS Policy*” and despite assurances of its existence, they could not, after diligent searching, find *" a clear, concise, well-communicated WHOIS Policy*."

The RT acknowledged that they were able to find elements of “*a WHOIS policy*” in several places; they listed Registrar and Registry contracts, GNSO Consensus Policies and a Consensus Procedure, the IETF Requests for Comments (RFCs) and domain name history as sources. This evinces their finding that WHOIS policy remained “*poorly defined and decentralized*”.

In its Recommendation 2, the RDS-WHOIS1 RT advised that the ICANN Board oversee the creation of a single WHOIS Policy document and in that document, clearly detail the extant WHOIS policies as are now contained in Registry and Registrar contracts and GNSO Consensus Policies and Procedure.

# Summary of Relevant Research

The Group followed the timeline from the release of RDS-WHOIS1 RT Final Report to current time. We examined the responses to the Final Report by ICANN Constituencies, record of the Board’s response, the Action Plan developed by ICANN org Staff on the Board’s direction, the subsequent published status reports of the Implementation Plan and the evidence of implementation. We also accounted and examined the list of WHOIS-related consensus policies and procedures that have emerged from the GNSO policy making activies between then and now.

The ALAC, GNSO Constituencies and the SSAC submitted positive endorsement of the Report. In its [response](https://www.icann.org/en/system/files/files/sac-055-en.pdf), the SSAC noted “"the foundational problem facing all 'WHOIS' discussions is understanding the purpose of domain name registration data", that *"there is a critical need for a policy defining the purpose of collecting and maintaining registration data*" and suggested that "*the formation of a properly authorized committee to drive solutions to these questions first, and to then derive a universal policy from the answers, is the appropriate sequence of steps to address the WHOIS Review Team's report* ."

The ICANN Board called a special meeting to consider the Report. After due consideration ot the Final Report and the comments from other interests. The Board [directed](https://www.icann.org/news/blog/single-source-of-whois-related-agreement-provisions-and-policies) the [ICANN] CEO to create and maintain a [*single public source*](https://www.icann.org/resources/pages/whois-policies-provisions-2013-04-15-en) that compiles current gTLD WHOIS requirements for gTLD registries, registrars and registrants (including consensus policies and contractual conditions). It also resolved that the CEO initiate a process to rethink the entire WHOIS framework from a fundamental place, taking due care to consider and establish the purpose for collecting and maintaining registration data.

# Analysis & Findings

In the Action Plan that emerged from consideration of the Single WHOIS policy recommendation, the Board reasoned that “… *there is not a comprehensive gTLD WHOIS policy that addresses all of the issues raised in the Review Team report”* but rather *“…..There is a set of existing contractual conditions that have been developed over time by negotiation between ICANN and registries and registrars, and a small set of consensus policies that address some aspects of the management of domain name registration data.*” All “*presently available conditions and policies*” these would be curated and made accessible from a single source.

They went on: “*The fundamental questions of the purpose of collecting and maintaining gTLD*

*registration data have not been addressed through a successful policy PDP*”. The report nevertheless acknowledged earlier attempts by the GNSO to effect such a policy prescription in footnotes.

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The implementation of that directive is the [web page](https://www.icann.org/resources/pages/whois-policies-provisions-2013-04-15-en) from whence all content pertaining WHOIS requirements and conditions via contractual obligations imposed on registries and registrars, inclusive of pertinent GNSO-developed gTLD consensus policies, can be accessed. That website can be accessed here:

<https://www.icann.org/resources/pages/whois-policies-provisions-2013-04-15-en>

At its special Board Meeting on 8th Nov 2012, the Boards accepted the essence of the SSAC’s response as outlined. It acknowledged that the RT’s report re-ignited concerns surrounding a fundamental policy prescription of the purpose for collecting and publishing registration data and is a catalyst for “*launching a new approach to long-standing directory services challenges.*” In its [Resolution 1](https://www.icann.org/resources/board-material/resolutions-2012-11-08-en), the Board then directs the CEO to “ *launch a new effort to redefine the purpose of collecting, maintaining and providing access to gTLD registration data, …..as a foundation for new gTLD policy and contractual negotiations…………as part of a Board-initiated GNSO policy development process*.” See the Board Resolution here:

<https://www.icann.org/resources/board-material/resolutions-2012-11-08-en>

Implementation of that directive resulted in the [establishment of the Expert Working Group on Next Generation Registration Data Services](https://www.icann.org/news/announcement-2-2012-12-14-en) (EWG). The EWG mandate was to “ *re-examine and define the purpose of collecting and maintaining gTLD registration data, consider how to safeguard the data, and propose a next-generation solution that will better serve the needs of the global Internet community.*” This was interpreted to also include consideration for providing access to gTLD registration (WHOIS) data. The EWG delivered its [Final Report](https://www.icann.org/en/system/files/files/final-report-06jun14-en.pdf) in June 2014. In April 2015 the Board adopted a series of resolutions that affirmed the EWG Repport was to be the foundation for development of a new gTLD WHOIS policy and outlined the [next steps](https://www.icann.org/resources/board-material/resolutions-2015-04-26-en#1.f) following on its acceptance of their Report. That action can be found here:

<https://www.icann.org/resources/board-material/resolutions-2015-04-26-en#1.f>

In its estimation, the complexity of the issues raised, the EWG’s recommended model and principles advised for framing the GNSO PDP and the general controversial nature of the WHOIS matter in and outside the community, the Board prudently raised a collaborative group of members and GNSO interests to seek common ground on a [3-phase framework](https://community.icann.org/download/attachments/49359634/EWG-Process%20Group%20Final%20Framework%202-4-15.pdf?version=1&modificationDate=1428939851000&api=v2) of action. That group agreed on a Preliminary Issues Report based on this framework that would guide the work of the PDP[s].

The [Issues Report](http://whois.icann.org/sites/default/files/files/final-issue-report-next-generation-rds-07oct15-en.pdf) was issued in October 2016 and the GNSO [set the first-phase PDP in motion](https://gnso.icann.org/en/council/resolutions#201511) as the Next Generation gTLD Registration Directory Services to Replace WHOIS PDP. The Working Group is now in operation. The charter for the PDP WG can be found here:

<https://gnso.icann.org/sites/default/files/filefield_48165/whois-ng-gtld-rds-charter-07oct15-en.pdf>

# Problem/Issue

On review, we can confirm the web page purposed to collect all WHOIS-related commitments contractually obliged by registries and registrars as well as GNSO developed consensus policies and procedures is available. We can also confim that it lists a slew of WHOIS-related compacts with registries and registrars plus GNSO consensus WHOIS-related policies and procedures. These are hyperlinked to details of said policies and procedures. On the preponderance of the evidence therefore, the Board’s response to the RT’s recommendation as outlined in the Action Plan was executed.

The primary question to answer in this regard is whether this web page is a good and sufficient substitute or facsimile for a ‘*single WHOIS policy document*’ and thusly conforms to the original WHOIS RT Recommendation 2?

Secondly, whether the contents and format of the web page furthers the objective of “*a clear, concise, well-communicated WHOIS Policy*."?

Furthermore, the decision to authorize the EWG and from the output request initiation of the GNSO PDP process to reboot green field WHOIS policy making which, hopefully, will see the emergence of a single comprehensive WHOIS policy.

The question is whether this action fulfils the commitment to fill out gaps in the WHOIS policy framework and holistically address current fragmented and decentralized WHOIS policy, itself a result of history and the structural framework for the ICANN policy development process.

# Recommendations

Recommendation:

1. Accept that WHOIS1 RT Recommendation 2 is fully implemented.
2. That the adoption of the EWG’s Final Report and development of the framework for the Board-initiated GNSO RDS PDP[s] is intended to deliver a holistic next generation WHOIS policy framework that would address current set of fragmented and decentralized WHOIS policies.

Findings:

1. That the [web page](https://www.icann.org/resources/pages/whois-policies-provisions-2013-04-15-en) is a good and sufficient substitute for the single authoritative WHOIS policy dcument but with navigational improvements and further organisation of content could be better
2. The Board-initiated GNSO PDP chartered to address the next generation Registration Data Directory Services is in progress and the team cannot now pronounce on the success of a single fit-for-purpose next generation WHOIS policy framework

Rationale:

In the ICANN environment we have accepted that a digital document is favoured above an analog one and its organization should be optimized for ease of use and clarity of content. Formatting details will impact ease of use and clarity of content and in this case, more effective formatting could be utilized to boost clarity and navigation. Different decisions on formatting may actually deliver these objectives but if this was not embraced, we cannot account any major negative impact.

We believe these recommendations are in scope and are aligned with ICANN’s Strategic Plan and Mission.

Impact of Recommendation:

All stakeholders will be impacted by these decisions. The areas of impact are security and stability of the DNS, transparency of the ICANN policy development process and the legitimacy of the policy development organisations and the ICANN bye-laws.

Feasibility of Recommendation:

Implementation:

The implementation of these recommendations will involve ICANN org, the ICANN Community especially the GNSO and a combination of the Community/ICANN org. The RDS PDP WG tasked to consider and deliver a holistic next generation WHOIS policy framework has got off to a rocky start but is in process. We cannot now estimate a target date for delivery of the final product.

Priority:

Coming on development in the legal frameworks surrounding privacy and treatment of PIIs, these recommendations are high priority and should be in the top 5 for delivery by the community

Consensus:

**RESOURCES**

Board Resolution Accepting WHOIS RT Recommendation 8 Nov 2012

<https://www.icann.org/resources/board-material/resolutions-2012-11-08-en>

Action Plan to Address WHOIS Review Team Report Recommendations

<https://www.icann.org/en/groups/board/documents/briefing-materials-1-08nov12-en.pdf>

Single Source All WHOIS Related Agreements and Provisions

<https://www.icann.org/news/blog/single-source-of-whois-related-agreement-provisions-and-policies>

Website Containing All Things WHOIS

<https://www.icann.org/resources/pages/whois-policies-provisions-2013-04-15-en>

SAC055: SSAC’s Response to the RDS-WHOIS1 Final Report

<https://www.icann.org/en/system/files/files/sac-055-en.pdf>

Announcement of the Expert Working Group on Next Generation Registration Data Services

<https://www.icann.org/news/announcement-2-2012-12-14-en>

EWG Final Report

<https://www.icann.org/en/system/files/files/final-report-06jun14-en.pdf>

Board Resolution on Steps to be taken on acceptance of the EWG Final Report

<https://www.icann.org/resources/board-material/resolutions-2015-04-26-en#1.f>

Framework to Address Next Generation gTLD Registration Directory Services to Replace WHOIS PDP

<https://community.icann.org/download/attachments/49359634/EWG-Process%20Group%20Final%20Framework%202-4-15.pdf?version=1&modificationDate=1428939851000&api=v2>

Issues Report for Next Generation gTLD Registration Directory Services to Replace WHOIS

<http://whois.icann.org/sites/default/files/files/final-issue-report-next-generation-rds-07oct15-en.pdf>

GNSO Resolution Establishing the RDS-WHOIS-PDP WG

<https://gnso.icann.org/en/council/resolutions#201511>

Charter for PDP WG Next Generation gTLD Registration Directory Services (RDS) to Replace WHIOIS

<https://gnso.icann.org/sites/default/files/filefield_48165/whois-ng-gtld-rds-charter-07oct15-en.pdf>

Some Evidence of the Work of the Next Generation gTLD RDS PDP WG

<https://community.icann.org/pages/viewpage.action?pageId=71602347>