

I C A N N
POLICY FORUM

62

PANAMA CITY

25–28 June 2018



Update on RDS-WHOIS2 Review Team

- DRAFT- updated 26 June

28 June 2018 | 17:00 – 18:30



Session Agenda

- **RDS-WHOIS2-RT (40 min)**
 - Presentation
 - Objectives & methodology
 - Milestones
 - Summary of subgroups' findings and draft recommendations
- **Q&A and feedback (50 min)**

Registration Directory Services Review

Registration Directory Services Review

- Registration Directory Services (formerly known as "WHOIS") Review
- Mandated by [ICANN Bylaws](#) Section 4.6(e)
- 11 members

1	Alan Greenberg	M	ALAC	NA
2	Carlton Samuels	M	ALAC	LAC
3	Dmitry Belyavsky	M	ALAC	EUR
4	Cathrin Bauer-Bulst	F	GAC	EUR
5	Lili Sun	F	GAC	AP
6	Thomas L. Walden, Jr.	M	GAC	NA
7	Erika Mann	F	GNSO	EUR
8	Stephanie Perrin	F	GNSO	NA
9	Susan Kawaguchi	F	GNSO	NA
10	Volker Greimann	M	GNSO	EUR
11	Chris Disspain	M	ICANN Board	AP

Review Team Objectives & Methodology

Excerpted from Terms of Reference:
<https://community.icann.org/display/WHO/Terms+of+Reference>

RDS-WHOIS2 Review Team Objectives

Assess implementation of WHOIS1 recommendations

- **Evaluate** the extent to which ICANN Org has implemented each prior Directory Service Review (WHOIS1) recommendation (16 in total) and **whether implementation of each recommendation was effective**

Review changes since WHOIS1 to assess impact on RDS(WHOIS) effectiveness

Assess the extent to which the implementation of today's WHOIS:

- Meets legitimate **need of law enforcement** for swiftly accessible, accurate and complete data
- Promotes **consumer trust**
- **Safeguards registrant data**

Assess **effectiveness and transparency** of ICANN enforcement of existing policy relating to WHOIS through Contractual Compliance actions, structure and processes

Identify any portions of Bylaws Section 4.6(e), Registration Directory Service Review, which the team believes should be **changed, added or removed**

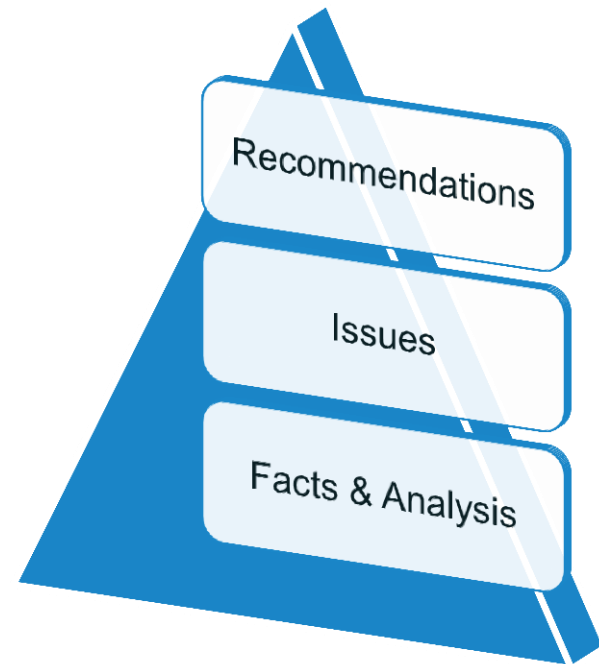
Review Team Non-Objectives

The objectives do **NOT** include:

- Further review of the OECD Guidelines
- Review of Registration Data Access Protocol (RDAP)
- Review of the WHOIS protocol
- Comprehensive review of GDPR impact on WHOIS landscape
- Review of GDPR implementation impact

Review Team Methodology

- Transparent, open to observers
- Consensus building
- Findings informed by ICANN org briefings
- Fact-based analysis to identify possible issues
- Formulate recommendations (if any) to address identified issues



Review Team Methodology

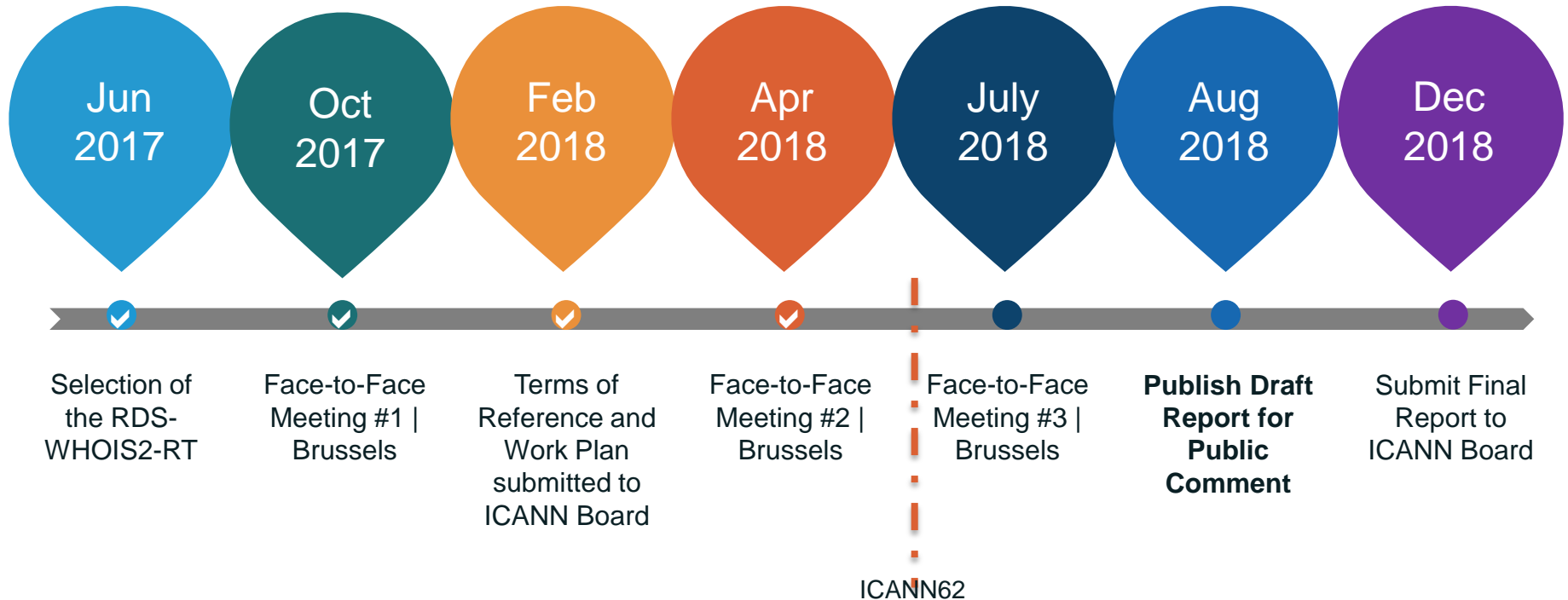
Obj	Subgroup
1	WHOIS1 Rec #1 - Strategic Priority
	WHOIS1 Rec #2: Single WHOIS Policy
	WHOIS1 Rec #3: Outreach
	WHOIS1 Rec #4: Compliance
	WHOIS Rec #5-9: Data Accuracy
	WHOIS Rec #10: Privacy/Proxy Services
	WHOIS Rec #11: Common Interface
	WHOIS Rec #12-14: Internationalized Domain Names
	WHOIS Rec #15-16: Plan & Annual Reports
2	Anything New
3	Law Enforcement Needs
4	Consumer Trust
5	Safeguard Registrant Data
6	Contractual Compliance Actions, Structure, & Policies <i>(this subgroup was combined with WHOIS1 Rec #4)</i>

- Each Objective, along with related review of today's RDS, was assigned to an associated Subgroup.
- Currently, Objectives are divided into 13 Subgroups.
- Each Subgroup consists of a rapporteur plus 2-4 team members.
- Most have now completed Subgroup reports (including any draft recommendations) for consideration by full review team.

Milestones

Excerpted from Work Plan:
<https://community.icann.org/display/WHO/Work+Plan>

Milestones



Subgroup Findings & Draft Recommendations

Note that all recommendations presented here are **drafts** agreed by subgroups (except as noted).

They do not yet reflect consensus of the full Review Team and are subject to further revision at the July F2F meeting.

Findings & Draft Recommendations

WHOIS1 Rec #1 - Strategic Priority

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/3pIEB>

Section awaiting input from Cathrin

WHOIS1 Rec #1 – Strategic Priority

The subgroup reviewed implementation of WHOIS1 recommendation #1:

- *Rec 1.a – It is recommended that WHOIS, in all its aspects, should be a strategic priority for ICANN the organization.*
- *Rec 1.b – It is recommended that WHOIS form the basis of staff incentivization (including the CEO's) and organizational objectives*
- *Rec 1.c – The Board should create a committee that includes the CEO to be responsible for priority and key actions*
 - *Implementation of this report's recommendations;*
 - *Fulfillment of data accuracy objectives over time;*
 - *Follow up on relevant reports (e.g. NORC data accuracy study);*
 - *Reporting on progress on all aspects of WHOIS (policy development, compliance, and advances in the protocol / liaison with SSAC and IETF);*
 - *Monitoring effectiveness of senior staff performance and the extent to which ICANN Compliance function is effective in delivering WHOIS outcomes, and taking appropriate action to remedy any gaps.*
- *Rec 1.d – ICANN should issue public updates on progress against targets for all aspects of WHOIS*

WHOIS1 Rec #1 – Strategic Priority

The subgroup finds that:

- The ICANN organization and Board have clearly taken a number of steps to work towards implementation of the recommendation.
- A key element - the creation of a dedicated Board committee including the CEO - was only put into place very late in the process but did eventually take place.
- The record of actions over the last year and in particular the challenging situation as concerns compliance with data protection requirements show that implementation of this recommendation is not yet sufficient.

WHOIS1 Rec #1 – Strategic Priority

- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **partially implemented**
 - The implementation failed to achieve the recommendation's original aim of instilling a culture of proactive monitoring and improvements on WHOIS
- The subgroup further identified the following issues:
 - From the mandate of the Board Working Group on RDS (BWG-RDS), feedback in response to questions, and documentation available, a clear picture emerges as to ICANN's understanding of the nature of the strategic priority
 - These actions were interpreted as making sure that the recommendation was implemented, and to launch the policy development process and support other Community actions related to the WHOIS.
 - While these actions went a long way towards achieving the intended aim, they could not replace a strategic outlook and advance planning for issues not yet explicitly addressed in specific community actions, as became evident in the issues surrounding compliance with GDPR.

WHOIS1 Rec #1 – Strategic Priority

- To address these issues, the subgroup drafted the following recommendation:
 - **Draft Recommendation (R1.1):** *The ICANN Board should update the Charter of its BWG-RDS to include forward-looking planning, based on a regular assessment of the RDS' fitness to meet legal requirements and legitimate user needs as outlined in the Bylaws.*
 - [Subgroup has yet to reach agreement on this recommendation.]

Findings & Draft Recommendations

WHOIS1 Rec #2: Single WHOIS Policy

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/4ZIEB>

WHOIS1 Rec #2 – Single WHOIS Policy

The subgroup reviewed implementation of WHOIS1 recommendation #2

- *The ICANN Board should oversee the creation of a single WHOIS policy document, and reference it in subsequent versions of agreements with Contracted Parties. In doing so, ICANN should clearly document the current gTLD WHOIS policy as set out in the gTLD Registry and Registrar contracts and GNSO Consensus Policies and Procedure.*

The subgroup finds that:

- A 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, hyperlinked to details of said policies and procedures
- The [web page](#) is a good and sufficient substitute for the single authoritative WHOIS policy document, but with navigational improvements and further organization of content, it could be better
- The Board-initiated GNSO PDP chartered to address the next generation RDS is in progress; the RT cannot now pronounce on the success of a single fit-for-purpose next generation WHOIS policy framework

WHOIS1 Rec # 2 – Single WHOIS Policy

- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **fully-implemented**
- The subgroup further identified the following issues:
 - Do the page contents and format further the WHOIS1 recommendation's objective of "*a clear, concise, well-communicated WHOIS Policy*"?
 - Will the board-initiated next generation RDS PDP and 3-phase framework result in an emergence of a single comprehensive WHOIS policy?
- To address these issues, the subgroup drafted the following recommendation:
 - [Subgroup is reviewing its draft recommendation in light of the recently-adopted Temporary Specification and proposed Expedited PDP on RDS.]

Findings & Draft Recommendations

WHOIS1 Rec #3: Outreach

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/5JIEB>

WHOIS1 Rec #3 – Outreach

The subgroup reviewed implementation of WHOIS1 recommendation #3

- *ICANN should ensure that WHOIS policy issues are accompanied by cross-community outreach, including outreach to the communities outside of ICANN with a specific interest in the issues, and an ongoing program for consumer awareness.*

The subgroup finds that:

- ICANN has implemented a wide variety of documents and resources designed to educate various communities on issues related to WHOIS.
- The WHOIS Portal is well organized and the level of information is reasonable, but it is less than clear how it should be used.
- The other material available on the ICANN website generally pre-dates the Portal, and no attempt was made to update this material, or integrate it.
- Registrant education videos are on a completely separate part of the ICANN site dedicated to Registrars (not Registrants).
- Significant outreach to communities within ICANN has been carried out, but there is little evidence of substantive outreach to non-ICANN groups.

WHOIS1 Rec #3 – Outreach

- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **fully-implemented**
 - The Recommendation to make information available was carried out, but it was not well integrated with other WHOIS-related information.
- The subgroup further identified the following issues:
 - A typical user or registrant will not be able to readily identify where they need to look for information.
 - The problem is exacerbated by the introduction of the terms RDS (and at times RDDS) to replace WHOIS.
 - There is little strong evidence that any outreach targeted at non-ICANN audiences was contemplated or carried out.

WHOIS1 Rec #3 – Outreach

- To address these issues, the subgroup drafted the following recommendations:
 - **Draft Recommendation (R3.1):** *All of the information related to WHOIS and by implication to other information related to the registration of 2nd level gTLD Domains needs to be revised with the intent of making the information readily accessible and understandable. This should be done post-GDPR implementation and consideration should be given to deferring this until we have a stable permanent GDPR implementation. 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.*
 - **Draft Recommendation (R3.2):** *With community input, ICANN should decide to what extent there is a need to carry out outreach to groups outside of the normal ICANN participant, and should such outreach be deemed necessary, a plan should be developed to carry this out and document it. The need for and details of the outreach may vary depending on the ultimate GDPR implementation and cannot be detailed at this point.*

Findings & Draft Recommendations

WHOIS1 Rec #4: Compliance

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/55IEB>

WHOIS1 Rec #4 – Compliance

The subgroup reviewed implementation of WHOIS1 recommendation #4:

- *ICANN should ensure that its compliance function is managed in accordance with best practice principles, including full transparency on resourcing and structure; provide annual reports; appoint a senior executive whose sole responsibility would be to oversee and manage ICANN's compliance function (reporting to Board Committee); provide all necessary resources to manage and scale compliance team's activities.*

Along with the Objective initially assigned to Subgroup 6:

- *Consistent with ICANN's mission and Bylaws, Section 4.6(e)(iv), the Review Team will (a) evaluate the extent to which ICANN Org has implemented each prior Directory Service Review recommendation (noting differences if any between recommended and implemented steps), (b) assess to the degree practical the extent to which implementation of each recommendation was effective in addressing the issue identified by the prior RT or generated additional information useful to management and evolution of WHOIS (RDS), and (c) determine if any specific measurable steps should be recommended to enhance results achieved through the prior RT's recommendations. This includes developing a framework to measure and assess the effectiveness of recommendations, and applying that approach to all areas of WHOIS originally assessed by the prior RT (as applicable).*

WHOIS1 Rec #4 – Compliance

With respect to WHOIS1 recommendation #4, the subgroup finds that:

- The Compliance team has made significant progress in reporting metrics and data in their annual report.
 - It appears that the Compliance team has all the necessary resources to manage compliance activities.
 - However, there is no indication that the WHOIS1-recommended reporting structure was implemented.
- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **partially-implemented**
 - The intention of the WHOIS1 recommendation was to ensure this role had the independence needed to perform the compliance function without restriction from the rest of the organization. We do not believe this intention was fulfilled.
 - The subgroup further identified the following issues:
 - Additional review is needed to determine whether or not it is feasible to adhere to the intentions of the WHOIS1-recommended reporting structure.
 - WHOIS inaccuracy report data provided by the Compliance team is not clear on several points.
 - The Compliance team does not utilize available information for proactive assessment and enforcement.

WHOIS1 Rec #4 – Compliance

With respect to its additional Objective, the subgroup finds that:

- Of the sample of the October 2017 Accuracy Reporting System (ARS) report cycle domain names, over one third (4,681) required a ticket to be created. Over half of those tickets (2,498) were closed before a 1st notice was sent out.
- 40% of the WHOIS ARS domain names that are sampled for this program are grandfathered domain names and are not required to adhere to the 2013 RAA.
- In reviewing the additional information in the dashboard report it appears that many inaccuracy reports are not valid reports.
- Only 10 users are approved to use the bulk submission tool for reporting inaccuracies; last year, only 3 actually used it.
- It appears that the Compliance team does little in proactive actions to discover and remediate issues with WHOIS data.
- For at least one new policy (RDS Consistent Labeling and Display Policy), there were no statistics we could gather from the Compliance team.

WHOIS1 Rec #4 – Compliance

- Based on these findings, the subgroup identified the following issues:
 - The WHOIS record still exists with suspended domain names and the registrar can choose to unsuspend at any moment, with inaccurate data remaining in WHOIS.
 - There are many reasons a domain name could be suspended that do not relate to inaccuracy. However, when inaccurate data is displayed with only a suspended designation, this does not accurately represent the history of the domain name.
 - If we can extrapolate from the ARS sample, 40% of all domain names registered before 2013 MAY not have all registrant data collected and displayed in WHOIS.
 - Africa and Latin America appear to be underrepresented in the number of inaccuracy submissions.
 - Users who might benefit from the Bulk Submission tool may not be aware of it.
 - By only reacting to reported compliance issues, opportunities are missed to find systemic issues.

WHOIS1 Rec #4 – Compliance

- To address these issues, the subgroup drafted the following recommendations:
 - **Draft Recommendation (R4.1):** *Require all new policies implemented to be measured, audited, tracked and enforced by the compliance team. Policy should integrate metrics, measurements, and reporting to ensure that the policy is effective in addressing the issue, and when metrics are defined, compliance would audit, track, report, and enforce as applicable for the policy.*
[Subgroup consensus]
 - **Draft Recommendation (R4.2):** *Require all domain name registrations to adhere to the WHOIS requirements in the 2013 RAA. Once a policy is implemented all gTLD registrations must adhere to the new rules within a 12 month period. Assess the grandfathered domain names to see if this is a problem if so a new policy should be created to ensure all gTLDs adhere to the requirements of registrant data collection in the 2013 RAA.*
[Subgroup consensus]

WHOIS1 Rec #4 – Compliance

- **Draft Recommendation (R4.3):** *Domain names suspended due to inaccurate information and remain in that state until it is due for renewal the WHOIS record should be updated to a new status and the inaccurate data removed. Policy or contracts should require that WHOIS indicate whether a domain is on hold due to inaccurate data. Domains on serverHold due to inaccurate data in WHOIS should not be unsuspending without inaccurate data being remedied.*
[Subgroup consensus]
- **Draft Recommendation (R4.4):** *Conduct additional outreach and education on how to file a WHOIS inaccuracy report and what information is critical to provide.* [Full consensus]
- **Draft Recommendation (R4.5):** *Publicize and encourage use of the Bulk WHOIS inaccuracy reporting tool.*
[Subgroup consensus]
- **Draft Recommendation (R4.6):** *Review the WHOIS ARS domain names sampled for each region to determine whether or not low submission rates to the WHOIS inaccuracy reporting tool are due to the lack of knowledge of the tool or other critical factors.*
[Subgroup consensus]

WHOIS1 Rec #4 – Compliance

- **Draft Recommendation (R4.7):** *Following a valid WHOIS ARS ticket, or WHOIS inaccuracy complaint, initiate a full audit targeting the relating registrar to check if the registrar follows the contractual obligations, the consensus policies, etc. Sanctions should be applied if deficiencies identified.*

[Subgroup has yet to reach agreement on the above recommendation.
Strong support but significant opposition]

- **Draft Recommendation (R4.8):** *Direct contractual compliance to proactively monitor and enforce to address systemic issues. A risk based approach should be executed to assess, and understand inaccuracy issues and then take the appropriate compliance actions to mitigate risk in systemic complaints. The DAAR data is an additional resource that the compliance team has is not currently including in their research and analysis. The use of DAAR data would provide a different perspective for the compliance team and that data is used globally to add to the security and stability of the internet.
(Subgroup Consensus)*

Findings & Draft Recommendations

WHOIS1 Rec #5-9: Data Accuracy

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/6pIEB>

WHOIS1 Recs #5-9 – Data Accuracy

The subgroup reviewed implementation of WHOIS1 recommendations #5-9

- *Rec 5 – ICANN should ensure that the requirements for accurate WHOIS data are widely and proactively communicated, including to current and prospective Registrants, and should use all means available to progress WHOIS accuracy, including any internationalized WHOIS data, as an organizational objective.*
- *Rec 6 – ICANN should take appropriate measures to reduce the number of WHOIS registrations that fall into the accuracy groups Substantial Failure and Full Failure (as defined by the NORC Data Accuracy Study, 2009/10) by 50% within 12 months and by 50% again over the following 12 months.*
- *Rec 7 – ICANN shall produce and publish an accuracy report focused on measured reduction in WHOIS registrations that fall into the accuracy groups Substantial Failure and Full Failure, on an annual basis.*
- *Rec 8 – ICANN should ensure that there is a clear, unambiguous and enforceable chain of contractual agreements with registries, registrars, and registrants to require the provision and maintenance of accurate WHOIS data. As part of these agreements, ICANN should ensure that clear, enforceable and graduated sanctions apply to registries, registrars and registrants that do not comply with its WHOIS policies. These sanctions should include de-registration and/or de-accreditation as appropriate in cases of serious or serial non-compliance.*
- *Rec 9 – Board should ensure that the Compliance Team develop metrics to track the impact of the annual WHOIS Data Reminder Policy (WDRP) notices to registrants; metrics should be used to As per (1) above, the Board will initiate a policy on the purpose of the gTLD WHOIS service, and this will help drive the principles behind privacy/proxy develop and publish performance targets, to improve data accuracy over time; if this is unfeasible, Board should ensure that an alternative, effective policy is developed and implemented that achieves the objective of improving data quality, in a measurable way.*

WHOIS1 Recs #5-9 – Data Accuracy

The subgroup finds that:

- A WHOIS Informational Website has been established as a policy document, to educate registrants on WHOIS, their rights and responsibilities, and to allow Internet users to submit complaints on WHOIS inaccuracy.
- The 2013 RAA introduced contractual obligations for registrars to validate and verify WHOIS data upon registration.
- ICANN is in the midst of developing an accuracy reporting system (the WHOIS ARS), proactively identify potentially inaccurate gTLD registration data; explore using automated tools, and forward potentially inaccurate records to gTLD registrars for action.

WHOIS1 Recs #5-9 – Data Accuracy

- Based on its analysis, members of this subgroup agree that:

WHOIS1	Has Been	Rationale
Rec # 5	Fully-implemented	However, effectiveness still needs to be assessed
Rec # 6	Partially-implemented	Because Accuracy Reporting System implementation is on-going
Rec # 7	Partially-implemented	Because Substantial Failure and Full Failure rates are missing from reports
Rec # 8	Fully-implemented	
Rec # 9	Not implemented	Because there has been no measurable assessment of WHOIS data quality improvement either through WDRP or other alternative policies

WHOIS1 Recs #5-9 – Data Accuracy

- The subgroup further identified the following issues:
 - The objective of reliable WHOIS data has not been achieved
 - WHOIS inaccuracy is believed to be largely under-reported
 - Contractual obligations for registrant to provide accurate WHOIS data and for registrars to validate and verify WHOIS data are not properly enforced
 - The WHOIS accuracy of domain names that utilize Privacy and Proxy Services is unknown
 - The Action Plan indicated that ICANN Board offered an alternative approach rather than WDRP to achieve the intended result of Rec #9, which referred back to the implementation of Rec #5-7. However, the analysis of implementation of Rec #5-7 showed no assessment of improving data quality in a measurable way.
 - The measures taken so far are not sufficient to reduce WHOIS inaccuracy.
- To address these issues, the subgroup drafted recommendations which can be found in Compliance and Privacy/Proxy subgroup reports.

Findings & Draft Recommendations

WHOIS1 Rec #10: Privacy/Proxy Services

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/7ZIEB>

WHOIS1 Rec #10 – Privacy/Proxy

The subgroup reviewed implementation of WHOIS1 recommendation #10

The Review Team recommends that ICANN should initiate processes to regulate and oversee privacy and proxy service providers.

- ICANN should develop these processes in consultation with all interested stakeholders.*
- This work should take note of the studies of existing practices used by proxy/privacy service providers now taking place within the GNSO.*
- The Review Team considers that one possible approach to achieving this would be to establish, through the appropriate means, an accreditation system for all proxy/privacy service providers. As part of this process, ICANN should consider the merits (if any) of establishing or maintaining a distinction between privacy and proxy services.*
- The goal of this process should be to provide clear, consistent and enforceable requirements for the operation of these services consistent with national laws, and to strike an appropriate balance between stakeholders with competing but legitimate interests. At a minimum, this would include privacy, data protection, law enforcement, the industry around law enforcement and the human rights community.*
- ICANN could, for example, use a mix of incentives and graduated sanctions to encourage proxy/privacy service providers to become accredited, and to ensure that registrars do not knowingly accept registrations from unaccredited providers.*
- ICANN could develop a graduated and enforceable series of penalties for proxy/privacy service providers who violate the requirements, with a clear path to de-accreditation for repeat, serial or otherwise serious breaches.*

WHOIS1 Rec #10 – Privacy/Proxy

The subgroup finds that:

- The 2013 RAA introduced a specification on privacy and proxy registrations requiring registrars to comply with certain requirements regarding such registrations through affiliated Privacy/Proxy Service Providers as a first step towards implementing this recommendation
- The Privacy/Proxy Services Accreditation Issues (PPSAI) Implementation Review Team (IRT) is currently working on an implementation of this recommendation that will also include unaffiliated providers of such services
- WHOIS1 Rec #10 advises that consideration be given to several specific objectives. The subgroup finds that these objectives are reflected in the Privacy/Proxy Services Accreditation Final Report.
- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **fully-implemented**
 - Between the RAA 2013 Spec and this policy, the original recommendation seems to have been addressed. Anything not addressed was clearly not deemed to be important for inclusion by the community, the GNSO and the board who all approved the PPSAI PDP Final Report.

WHOIS1 Rec #10 – Privacy/Proxy

- The subgroup identified the following issues:
 - The subgroup is unable to assess the exact impact of GDPR data redaction requirements on privacy services at this time. However, we note:
 - Creating a cost barrier next to the new policy requirements at a time that the use of such services is expected to decline due to GDPR is likely to cause low provider adoption.
 - We currently see no urgency or need to delay the implementation of the accreditation program due to the GDPR.
 - WHOIS1 Rec#10 suggests a mix of incentives and sanctions to encourage and enforce this policy once implemented. The IRT should be encouraged to also discuss incentives, as the current focus seems to solely rely on sanctions.
 - The subgroup addressed potential abuse of privacy and proxy services by registered name holders, but was unable to determine whether domain names using such services had a higher propensity for abusive registrations.
 - A future review of the impact of privacy/proxy on abuse may be beneficial.
 - Such a review should take into account PPSA program impact on abusive registrations.
 - Such a review would depend on the proper collection of data to track over time any trends of abusive use of domain names using privacy/proxy services.

WHOIS1 Rec #10 – Privacy/Proxy

- The subgroup proposes no new recommendations at this time specific to the prior RT's Recommendation #10.
- However, the subgroup intends to track PPSAI Implementation Review Team (IRT) progress and consider recommendation(s) if necessary.

Findings & Draft Recommendations

WHOIS1 Rec #11: Common Interface

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/8JIEB>

WHOIS1 Rec #11 – Common Interface

The subgroup reviewed implementation of WHOIS1 recommendation #11

- *It is recommended that the Internic Service is overhauled to provide enhanced usability for consumers, including the display of full registrant data for all gTLD domain names (whether those gTLDs operate thin or thick WHOIS services); operational improvements should include enhanced promotion of the service to increase user awareness.*

The subgroup finds that:

- The common interface recommendation was intended to ensure that anyone looking up a WHOIS record could do that easily and from one source. The InterNIC was not overhauled, but a common interface was provided.
- Over 4 million queries were made through the common interface - whois.icann.org - over a 6 month period in 2017.
- There has been a 99.9% up time for the common interface but other statistics on usage or failure rate are not tracked.
- Users are encouraged to file a contractual complaint ticket if they identify any issues with the WHOIS record. A link to file a ticket is provided on the page where results are displayed.

WHOIS1 Rec #11 – Common Interface

- Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been **fully-implemented**
- The subgroup further identified the following issues:
 - The common interface has no metrics that can be used to determine its effectiveness.
 - Metrics and SLAs could be used to address this and also to proactively spot non-compliance.
 - Service level agreements could be put in place to ensure the interface works reliably.

WHOIS1 Rec #11 – Common Interface

- To address these issues, the subgroup drafted the following recommendation:
 - **Draft Recommendation (R11.1):** *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 fields returned blank?*
- *How often is data displayed inconsistently overall and per gTLD?*
- *How overall and for specific often does the tool not return results gTLDs?*

[Subgroup has yet to reach agreement on this recommendation]

Findings & Draft Recommendations

WHOIS1 Rec #12-14: Internationalized Domain Names

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/85IEB>

WHOIS1 Recs #12-14 – Internationalization

The subgroup reviewed implementation of WHOIS1 recommendations #12-14

- *Rec 12 - The final data model, including (any) requirements for the translation or transliteration of the registration data, should be incorporated in the relevant Registrar and Registry agreements within 6 months of adoption of the working group's recommendations by the ICANN Board. If these recommendations are not finalized in time for the next revision of such agreements, explicit placeholders for this purpose should be put in place in the agreements for the new gTLD program at this time, and in the existing agreements when they come up for renewal.*
- *Rec 13 - The final data model, including (any) requirements for the translation or transliteration of the registration data, should be incorporated in the relevant Registrar and Registry agreements within 6 months of adoption of the working group's recommendations by the ICANN Board. If these recommendations are not finalized in time for the next revision of such agreements, explicit placeholders for this purpose should be put in place in the agreements for the new gTLD program at this time, and in the existing agreements when they come up for renewal.*
- *Rec 14 - Metrics should be developed to maintain and measure the accuracy of the internationalized registration data and corresponding data in ASCII, with clearly defined compliance methods and targets.*

WHOIS1 Recs #12-14 – Internationalization

The subgroup finds that:

- A set of related efforts implemented WHOIS1 Rec #12:
 - An expert working group to determine the requirements for the submission and display of internationalized registration data.
 - A commissioned study to evaluate available solutions for internationalized registration data.
 - A Policy Development Process (PDP) to determine whether translation or transliteration of contact information is needed. If so, specify who should bear the burden of the transformation.
- As requirements for the translation and transliteration of registration data were not finalized in time for the 2013 RAA, placeholders can be found both in Registry Agreement (RA) and Registrar Accreditation Agreement (RAA). However, implementation of WHOIS1 Rec #13 depends on RDAP progress.
- WHOIS1 Rec #14 is currently being performed as part of the Accuracy Reporting System (ARS). The metrics and measures developed by ARS are suitable when internationalized registration data become available for studying.

WHOIS1 Recs #12-14 – Internationalization

- Based on its analysis, members of this subgroup agree that these WHOIS1 recommendations have been **fully-implemented**
 - Work was done to the extent it can be done without an RDAP-based WHOIS system.
- The subgroup further identified the following issues:
 - The commercial feasibility loophole in the current contracts allows registrars and registries to not implement RDAP.
- To address this issue, the subgroup drafted the following recommendation:
 - **Draft Recommendation (R12.1):** *The implementation of Rec #12-14 should be reviewed again after RDAP is implemented, and the translation and transliteration of the registration data launches.*

Findings & Draft Recommendations

WHOIS1 Rec #15-16: Plan & Annual Reports

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/9pIEB>

WHOIS1 Recs #15-16 – Plans and Reports

The subgroup reviewed implementation of WHOIS1 recommendations #15-16

- *Rec 15 – ICANN should provide a detailed and comprehensive plan within 3 months after the submission of the Final WHOIS Review Team report that outlines how ICANN will move forward in implementing these recommendations.*
- *Rec 16 – ICANN should provide at least annual written status reports on its progress towards implementing the recommendations of this WHOIS Review Team. The first of these reports should be published one year, at the latest, after ICANN publishes the implementation plan mentioned in recommendation 15, above. Each of these reports should contain all relevant information, including all underlying facts, figures and analyses.*

The subgroup finds that:

- The Board agreed that gTLD WHOIS should be a strategic priority and directed the CEO to incorporate a work plan for the improvement of WHOIS into the operating plan. However, as there was no mapping between the budget and plan, it is not clear to what extent budget and resources were allocated to implement WHOIS1 recommendations.
- WHOIS Improvements Annual Reports provide an overview of WHOIS policy development, but are activity-based rather than outcome-based, and do not include figures and analyses as recommended by Rec #16.

WHOIS1 Recs #15-16 – Plans and Reports

- Based on its analysis, members of this subgroup agree that these WHOIS1 recommendations have been **partially-implemented**
 - Taking into account of Subgroup 1 findings, the plan and report of ICANN in implementing WHOIS1 Recs #15-16 was not organized in a methodical way
- The subgroup further identified the following issues:
 - Plans or reports do not include an effectiveness review and measurable outcomes of the implementation. As a result, to what extent WHOIS has been improved over the years is not clear.
- To address this issue, the subgroup drafted the following recommendation:
 - **Draft Recommendation (R15.1):** *The ICANN Board should develop guidelines for plans and reports. Feasibility study (budget, resources, etc.) and risk management should be introduced into planning stage. The Annual WHOIS Report should follow a well-designed template to reflect measurable outcomes, and give insight into the execution of the plan.*
 - [Concerns expressed about this recommendation are still under discussion]

Findings & Draft Recommendations

Anything New

Latest Subgroup Report on Wiki Page:
https://community.icann.org/x/_5IEB

Objective 2: Anything New

The subgroup considered this review objective

- *Consistent with ICANN's mission and Bylaws, Section 4.6(e)(ii), the review team will assess the effectiveness of today's WHOIS (the now current gTLD RDS, including cumulative changes made to the then-current RDS which was assessed by the prior RT) by (a) inventorying changes made to WHOIS policies and procedures since the prior RT completed its work, (b) using that inventory to identify significant new areas of today's WHOIS (if any) which the team believes should be reviewed, and (c) determining if any specific measurable steps should be recommended to enhance effectiveness in those new areas.*

The subgroup finds that

- Upon review of an inventory of new and changed WHOIS Policies and Procedures since the WHOIS1 completed its work in 2012, there are a lot of policies and procedures that have been worked on since 2012.
- There are not clear metrics for some of them.
- Several items are already covered by WHOIS1 Rec subgroups.
- Reseller lack of transparency to be covered by the Consumer Trust subgroup.
- There is community dissatisfaction with handling of conflicts with privacy law.
- The impact of GDPR cannot yet be addressed in this review.

Objective 2: Anything New

New/Updated Policy or Procedure	Subgroup's Findings and Analysis
New WHOIS pages on website (whois.icann.org) Inter-Registrar Transfer Policy (IRTP)	Subgroup 1 Rec #3 and #11 are covering. No issues found.
Additional WHOIS Information Policy (AWIP)	May need changes due to GDPR. No issues found.
New gTLD URS Policy, Procedure and Rules for URS Policy	Being discussed in RPM PDP. No specific WHOIS issues.
Expired Registration Recovery Policy (ERRP)	We have no metrics on this policy. Subgroup 1 Rec #4 is covering
Thick WHOIS PDP and Final Report (see section 7.1) Thick RDDS (WHOIS) Transition Policy for .COM, .NET and .JOBS	Stalled due to GDPR and RDAP implementation.
Registry RDDS Consistent Labeling and Display Policy	We have no metrics on this policy. Subgroup 1 Rec #4 is covering
Privacy & Proxy Services Accreditation Issues (PPSAI) Final Report	Subgroup 1 Rec #10 is covering.
Translation/Transliteration of Contact Information PDP and Final Report, and Final Report from the Expert Working Group on Internationalized Registration Data (2015)	Subgroup 1 Rec #12-14 is covering.
Review of the ICANN Procedure for Handling WHOIS Conflicts with Privacy Law (2014)	New IAG was created, New trigger recommended. May need changes due to GDPR . Multi-party dissatisfaction with results.
Final Report on the Implementation Advisory Group Review of Existing ICANN Procedure for Handling WHOIS Conflicts with Privacy Law (2016)	Final report voted through GNSO but new group being formed because of multi-party dissatisfaction with results. New trigger not seen as effective. May need changes due to GDPR.
RDS/WHOIS Data Retention Specification Waiver and Discussion Document	Data retention is an RDS issue. Waiver has been slow for uptake, but working. May need changes due to GDPR.

Objective 2: Anything New

- After analysis of facts, the subgroup has identified the following issues:
 - Given the current focus on compliance with GDPR which appears to have caught ICANN unawares, and the fact that the GDPR was initiated in 2012, the review team notes that more focus on compliance with existing data protection law earlier would have been beneficial and in keeping with ICANN's obligations to comply with national law.
 - With this in mind, the focus on having a strategic plan that addresses the need for sound consensus policy, compliant with law and in keeping with acceptable risk management practice must be stressed going forward.
- The subgroup concluded that no recommendations are needed at this time with respect to this objective. However:
 - Recommendations appropriate for each new or updated WHOIS policy or procedure have been formulated by other subgroups.
 - The review team's report will note that, overall, the impact of GDPR has not yet been comprehensively addressed in this review.

Findings & Draft Recommendations

Law Enforcement Needs

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/-pIEB>

Section awaiting input from Cathrin or Thomas

Objective 3: Law Enforcement Needs

The subgroup considered this review objective

- *Consistent with ICANN's mission and Bylaws, Section 4.6(e)(ii), the review team will assess the extent to which the implementation of today's WHOIS (the current gTLD RDS) meets legitimate needs of law enforcement for swiftly accessible, accurate and complete data by (a) establishing a working definition of "law enforcement" used in this review, (b) identifying an approach used to determine the extent to which these law enforcement needs are met by today's WHOIS policies and procedures, (c) identifying high-priority gaps (if any) in meeting those needs, and (d) recommending specific measurable steps (if any) the team believes are important to fill gaps. Note that determining which law enforcement requests are in fact valid will not be addressed by this review.*

The subgroup plans to conduct a survey of law enforcement agencies

- <insert purpose of survey>
- <insert target of survey>
- <insert plan for analysis of results>

[INPUT IS NEEDED FROM SUBGROUP TO COMPLETE THIS SLIDE]

Findings & Draft Recommendations

Consumer Trust

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/AZpEB>

Objective 4: Consumer Trust

The subgroup considered this review objective

- *Consistent with ICANN’s mission and Bylaws, Section 4.6(e)(ii), the review team will assess the extent to which the implementation of today’s WHOIS (the current gTLD RDS) promotes consumer trust in gTLD domain names by (a) agreeing upon a working definition of “consumer” and “consumer trust” used in this review, (b) identifying the approach used to determine the extent to which consumer trust needs are met, (c) identifying high-priority gaps (if any) in meeting those needs, and (d) recommending specific measurable steps (if any) the team believes are important to fill gaps.*

Using the 2012 report as a foundation, the subgroup plans to examine the findings and analysis of other subgroups assessing WHOIS1 Rec implementation:

- This examination will produce a gap analysis which identifies areas of WHOIS which may need to be further enhanced to promote consumer trust.
- The gap analysis will need to be repeated after WHOIS evolves to comply with GDPR – at least for access to data that impacts WHOIS data from European users.
- The definition of “consumer” to be addressed in this review must be broad and include Internet users. Users are potential domain name owners and insofar, it’s important to approach and address all users, whenever appropriate.

Objective 4: Consumer Trust

- Thus far, this subgroup has identified the following issues:
 - The basic idea is that WHOIS contributes to consumer trust, mostly indirectly. The subgroup notes that there are different opinions about whether the visibility of WHOIS data contributes to trust.
 - The subgroup reviewed websites from well-known and less well-known resellers. Based on this research, it is clear that many of the well-known resellers have little information for 'consumers' and, if they do, the information is often very hard to find.
 - The subgroup notes a lack of Reseller transparency in WHOIS as a potential gap, to be addressed through policy and/or contractual changes. Gaps include lack of easy identifiable information about data privacy/data protection practices and redress contact point.

Objective 4: Consumer Trust

- To address this issue, the subgroup drafted the following recommendation:
 - **Draft Recommendation (CT.1):** *ICANN should request from resellers more clear information, including the recommendation to include relevant information on their websites.*

A good location for ICANN to make such a recommendation would be RAA (e.g., Sections 3.7.10, 3.12.2, 3.12.15).

ICANN must ensure that RAA provides updated information concerning relevant topics relate to consumers and WHOIS Obligations.

ICANN should recommend general policy and website/communication guidelines for resellers.

- **[Subgroup has yet to reach agreement on this recommendation]**

Findings & Draft Recommendations

Safeguarding Registrant Data

Latest Subgroup Report on Wiki Page:
<https://community.icann.org/x/BJpEB>

Objective 5: Safeguarding Registrant Data

The subgroup considered this review objective

- *Consistent with ICANN's mission and Bylaws, Section 4.6(e)(ii), the review team will assess the extent to which the implementation of today's WHOIS (the current gTLD RDS) safeguards registrant data by (a) identifying the lifecycle of registrant data, (b) determining if/how data is safeguarded in each phase of that lifecycle, (c) identifying high-priority gaps (if any) in safeguarding registrant data, and (d) recommending specific measureable steps (if any) the team believes are important to fill gaps.*

The subgroup finds that:

- No effort is made to "protect" registrant-supplied WHOIS data from viewing. That may change as WHOIS policies adapt to GDPR and other legislation.
- "Safeguarded" includes ensuring that data is not lost in the case of a registrar/registry failure, and not unknowingly changed.
- Neither Registry Agreements nor the RAA makes any explicit demands on Registries and Registrars with regard to data protection or actions that must be taken in the case of a discovered data breach.
- Escrow provider agreements do require "commercially reasonable efforts and industry standard safeguards to protect the integrity and confidentiality of Deposits" but not timely breach notification.

Objective 5: Safeguarding Registrant Data

- After analysis of facts, the subgroup has identified the following issues:
 - Traditionally, all WHOIS data is public. Under GDPR and similar legislation, some or all of that data may no longer be collected or publicly available. Exactly what data may be subject to these new rules is under discussion elsewhere and will not be addressed by the RDS-WHOIS2-RT.
 - Registries and registrars are not explicitly required to use commercially reasonable and industry standard safeguards, nor are any parties (registries, registrars, or escrow providers) required to notify ICANN in the event that a breach is discovered.

Objective 5: Safeguarding Registrant Data

- To address these issues, the subgroup drafted the following recommendation:
 - **Draft Recommendation (SD.1):** *ICANN should consult with data security expert(s) to identify reasonable and justifiable requirements to place on registrars and in relation to how data is protected from unauthorized access or alteration while under their control. ICANN should similarly consider whether [or require?] any such breaches that are discovered must be reported to ICANN, and in the case of escrow providers, reported to the registrar/registry that provided the data.*

[ICANN should similarly consider whether contractual requirements are needed to require registrars, registries and escrow providers to notify registrants in the event of data breaches.]

In carrying out this review, the external consultants should consider whether requirements within the GDPR could be used as a model, as many ICANN contracted parties must already adhere to those.

If changes are deemed to be required based on the results of the above-recommended studies, ICANN must either negotiate appropriate contractual changes or initiate a GNSO PDP to consider effecting such changes.

Q&A

Thank you!



Stay tuned for our Draft Report



Meet with us at ICANN62 / Schedule a conference call



Follow our wiki at

<https://community.icann.org/display/WHO/RDS-WHOIS2+Review>