3 Objective 1: Assessment of WHOIS1 Recommendations Implementation

3.5 WHOIS1 Rec #4: Compliance

[SUBSECTION NUMBERS WILL BE ADJUSTED WHEN ADDED BACK TO MASTER DOC]

#### f) Grandfathered domain names

In 2013, there were 18 existing legacy TLDs and 146 new gTLDs added for a total of 164 gTLDs. About 30% of the domain names sampled by the WHOIS ARS program in its 6th Cycle were determined to be so-called 'grandfathered domains' to which only the WHOIS requirements under the 2009 RAA, but not those of the 2013 RAA, apply as they were registered with registrars under the 2009 RAA. Under the 2009 RAA, the collection and display of Registrant email address, postal address or phone number and the validation or verification of certain data elements were not required. Grandfathered domain names cease to be considered as such upon transfer to a registrar under the 2013 RAA and/or upon making an update to the registrant information. As such, the WHOIS ARS study has recorded a steady decrease of such grandfathered domain names from cycle to cycle from 63.7% in June 2015 to 30.3% in January 2018.

Analysis: If we assume the current sample of domain names in the ARS study of 30% domain names falling under the definition of grandfathered domains, then we can extrapolate this to 30% of all domain names registered before 2013 MAY not have complete registrant data collected, displayed, verified or validated. According to GDD this could include up to 180,000,000 domain name registrations.

While the number of grandfathered domains continues to shrink with deletions, transfers, and updates, this still constitutes a substantial number of domain name registrations. While registrars are not required to apply the 2013 RAA requirements to grandfathered domain names, they may choose to do so for convenience sake. This may result in domain name registrations that would be considered grandfathered registrations by the ARS and the GDD but are in fact already fully compliant with the 2013 RAA requirements.

GDD has provided additional clarification to our question about how many domain names actually do not include the 2013 RAA required information in the registrant field.

Their response is below:

"It’s important to note that if a Grandfathered record provides an email or telephone number, WHOIS ARS will assesses those fields for accuracy. While the WHOIS ARS doesn’t include % of missing Registrant Email and Telephone numbers for grandfathered registrations vs. non-grandfathered registrations; the overall missing counts of Registrant email and telephone numbers based on our subsample seem fairly low.

In the latest ARS report the number of missing registrant email addresses and phone numbers are very low. This does not completely address the concern of the review team that all domain name registrations must adhere to the same data collection requirements."

Based on this analysis, the subgroup identified the following Problems/Issues:

Current WHOIS policies do not apply equally to all gTLD domain name registrations. A transition mechanism has been incorporated into the RAA through the requirements becoming applicable on transfers and updates, however it may be desirable to set an end date for the transition process to ensure equivalent data quality over all registrations. While current trends seem to suggest a steady continuation of the phasing-out process, it is conceivable that the number of Grandfathered domain names will continue to stay in the 30% rate for many years at least significantly slow down unless the 2013 RAA requirements and policies be made binding on all the domain name registrations irrespective of when they were registered.

To address these issues, the subgroup proposes the following recommendation (further detailed in the next section): The ICANN Board should direct ICANN Organization to review grandfathered domain names to determine the percentage of such domains where information is missing from the RDS Registrant field. If more than 15% of all gTLD domain name registrations are found to lack data in the Registrant field that is required under the 2013 RAA but not required under the 2009 RAA, then the ICANN Board should initiate action intended to ensure that all gTLD domain names adhere to the same registration data collection requirements within 12 months provided that such action does not unduly impact the rights of registrants in the use of their domain name and does not create an undue burden upon registrars who would have to enforce any such requirement.