

|  |
| --- |
| Registration Directory Service (RDS-WHOIS2) Review |
|  |
| Draft Report  OBJECTIVE 6 REPORT - SECTION 8 ONLY COMPOSED OF TEXT MOVED FROM REC 4 SUBSECTION |
| RDS-WHOIS2 Review Team |
| 15 August 2018 |
|  |

# 8 Objective 6: ICANN Contractual Compliance Actions, Structure and Processes

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

## Topic

This review objective was examined by the WHOIS1 Rec 4 Subgroup:

Consistent with ICANN’s mission to ensure the stable and secure operation of the Internet's unique identifier systems by enforcing policies, procedures and principles associated with registry and registrar obligations to maintain and provide access to accurate and up-to-date information about registered names and name servers, the review team will (to the extent that this is not already covered in prior RT recommendations), (a) assess the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes, including consistency of enforcement actions and availability of related data, (b) identifying high-priority procedural or data gaps (if any), and (c) recommending specific measurable steps (if any) the team believes are important to fill gaps.

To assess this objective, this subgroup reviewed compliance reports initiated since 2012 on policies that existed prior to 2012 and after for the following:

* Effectiveness
* Transparency
* Any new compliance issues

## Summary of Relevant Research

To conducts its research, all members of this subgroup reviewed the following background materials, posted on the subgroup's wiki page:

* [WHOIS Review Team (WHOIS1) Final Report](https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf) (2012),   
  Section 1: The Effectiveness of ICANN’s WHOIS Compliance Effort
* [Documents relevant to WHOIS1 Recommendations 5-9 - Accuracy](https://community.icann.org/x/6plEB)
* [ICANN Contractual Compliance](https://www.icann.org/resources/pages/compliance-2012-02-25-en) web pages
* [Competition, Consumer Trust and Consumer Choice Review Team Draft Report](https://www.icann.org/en/system/files/files/cct-rt-draft-report-07mar17-en.pdf)
* [2 February Meeting with Compliance Management - Q&A](https://community.icann.org/download/attachments/79432988/RDS-WHOIS2%20Compliance%20Questions%20FINAL%20v2.pdf?version=1&modificationDate=1517534432000&api=v2), citing additional documents:
  + - * FY18 Operating Plan and Budget
      * [Contractual Compliance 2017 Annual Report](https://www.icann.org/en/system/files/files/annual-2017-30jan18-en.pdf)
      * [Contractual Compliance Audit Program](https://www.icann.org/resources/pages/audits-2012-02-25-en)
      * [Contractual Compliance Monthly Dashboards](https://features.icann.org/compliance/dashboard/report-list)
      * [WHOIS ARS Contractual Compliance Metrics](https://whois.icann.org/en/whoisars-contractual-compliance-metrics)
      * [ICANN's Contractual Compliance Approach and Processes](https://www.icann.org/resources/pages/approach-processes-2012-02-25-en)
      * [Notices of Breach, Suspension, Termination and Non-Renewal](https://www.icann.org/compliance/notices)
      * [Registrar Formal Notices (Enforcement)](https://features.icann.org/compliance/enforcement-notices)

In addition, the subgroup met with the Compliance team, Jamie Hedlund, Maguy Serad, Roger Lim and Andrea, twice each time providing a list of questions drafted by the subgroup prior to the meeting. The responses are provided above.

## Analysis & Findings

In the following subsections, we present the questions this subgroup asked to assess the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes, and our findings and analysis for each.

### WHOIS Accuracy Policy Enforcement

The [2013 Registrar Accreditation Agreement](https://www.icann.org/en/resources/registrars/raa/approved-with-specs-27jun13-en.htm) (RAA) requires ICANN-accredited registrars to comply with the [WHOIS Accuracy Program Specification](https://www.icann.org/en/resources/registrars/raa/approved-with-specs-27jun13-en.htm#whois-accuracy). There are several avenues in which the ICANN Compliance team receives reports of inaccurate data in the WHOIS.

WHOIS Accuracy Reporting System (ARS)

Single WHOIS Inaccuracy report tool

Bulk Submission WHOIS Inaccuracy complaint tool

Proactive Inaccuracy Trend Analysis

#### a) WHOIS ARS Background and Goals

The WHOIS ARS project was created both in response to recommendations compiled and delivered by the 2012 WHOIS Review Team, under the [Affirmation of Commitments](https://www.icann.org/resources/pages/aoc-2012-02-25-en) (AoC), as well as to address GAC concerns on WHOIS accuracy. ICANN committed to proactively identify potentially inaccurate gTLD WHOIS contact data and forward this information to gTLD Registrars for investigation and follow-up.

#### b) WHOIS ARS Phases

The ARS is divided into three phases based on the types of validation identified in [SAC058](https://www.icann.org/en/system/files/files/sac-058-en.pdf):

* [Phase 1](https://whois.icann.org/en/whois-ars-phase-1-reporting): Syntax Accuracy
* [Phase 2](https://whois.icann.org/en/whois-ars-phase-2-reporting): Syntax + Operability Accuracy
* Phase 3: Syntax + Operability + Identity (TBD; requires further consultation with the community as to if and how this phase would be implemented)

#### c) ARS Accuracy Testing Methods

Syntax and operability accuracy testing were designed to assess the contact information of a WHOIS record by comparing it to the applicable contractual requirements of the RAA.

* Syntax testing assessed the format of a record (e.g., does the email address contain an “@” symbol?)
* Operability testing assessed the functionality of the information in a record (e.g., did the email not get bounced back?).

The resulting data were analyzed to produce statistics of syntax and operability accuracy for WHOIS contact information across subgroups such as New gTLDs or Prior gTLDs, Region, and RAA type (i.e., 2009 RAA or [2013 RAA](https://www.icann.org/resources/pages/registrars/registrars-en))

#### d) ARS Sample Design

A two-stage sampling method is used on the WHOIS ARS project to provide a large enough sample to reliably estimate subgroups of interest, such as ICANN region, New gTLD or Prior gTLD, and RAA type. Two samples are prepared at the beginning of each report cycle:

* An initial sample of 100,000-200,000 WHOIS records
* A sub-sample of the initial sample of 10,000-12,000 WHOIS records, which is used for accuracy testing

ICANN Contractual Compliance’s participation in the WHOIS Accuracy Reporting System (ARS) is limited to providing guidance for RAA obligations regarding syntax and accuracy, and processing complaints generated by the WHOIS ARS. The WHOIS ARS is managed by ICANN’s GDD.

#### e) WHOIS ARS report cycle from April 2018

The WHOIS ARS sample of 12,000 domain names are reviewed for WHOIS accuracy and when an inaccuracy is found a ticket is created. The data is sent via a file directly to the compliance ticketing system and uploaded in batches of 200 a day. The WHOIS records are tagged with a reporter identifier WHOIS ARS for tracking and reporting purposes. Of the sample of the April 2018 ARS report cycle domain names, over one third (4,639) required a ticket to be created. More than one third of those tickets (1,711) were closed before a 1st notice was sent out.

Metrics for April 2018 can be found here:

<https://whois.icann.org/en/whoisars-contractual-compliance-metrics>

Analysis: These metric show that over 50% of the tickets created in this process are closed prior to any action. According to the chart provided 50.9% of the data in the WHOIS records changed between the time it was reviewed as part of the sample and reviewed a second time when the ticket was processed. It is approximately 4 months between when the ARS sampling begins and inaccurate records are provided to Compliance to research. This appears to be a high percentage of change in a WHOIS record that historically does not see much change. If you extrapolated this data to all the WHOIS records in gTLDs as a whole that could mean that almost 50% of WHOIS records are modified in a short period of time. Or WHOIS ARS criteria of possible inaccuracy is not the same as the Compliance team’s criteria

It is also interesting that 81.6% of tickets are closed after the 1st notice due to the registration being cancelled or suspended. This would seem to indicate that most inaccurate data entered into the WHOIS record is done so intentionally, otherwise the registrant would respond and update the information to accurate information to maintain the domain name registration. Only 10.9% of the tickets were closed after the 1st notice due to the registrant updating and correcting their registrant data.

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

* The WHOIS record still exists with suspended domain names and the registrar can choose to unsuspend at any moment. The inaccuracy issue remains and should be addressed.
* There are many reasons a domain name could be suspended that does not relate to an inaccuracy report most common for abusive activity. The inaccurate data still is visible in the WHOIS this can cause many issues for the individual or entity that have right to the data. If this data is displayed at a future date with only a suspended designation this does not accurately represent the history of the domain name.
* A suspended domain name should not be unsuspended by registrar without verification of registrant data.

To address these issues, the subgroup proposes the following recommendation (further detailed in Section 8.5, Recommendation CM.1):   
The ICANN Board should negotiate contractual terms or initiative a GNSO PDP to require that domain names suspended due to 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 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.

#### 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 obligated to meet only the WHOIS requirements of the 2009 RAA based on when the domain itself was registered; the report refers to these domain names as "Grandfathered domains". 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 name or organization 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. The decrease in percentage is also impacted by the number of new domain name registrations.

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 or 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.

Changes to this recommendation should be discussed in a plenary call before edits are accepted.

To address these issues, the subgroup proposes the following recommendation (further detailed in Section 8.5, Recommendation CM.2):

Agreed upon recommendation

The ICANN Board should direct ICANN Organization to assess grandfathered domain names to determine if information is missing from the WHOIS Registrant field. If 10% 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 names adhere to the same registration data collection requirements within 12 months.

Volker's edits to be discussed.

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.

EdNote: Any edits accepted in paragraph above must be mirrored in Section 8.5, CM.2

g) Regional WHOIS Inaccuracy Complaints

Data is provided by region for submitted inaccuracy complaints at the following link: <https://features.icann.org/compliance/prevention-stats>

In reviewing the information less than 1% of the complaints submitted are from the African region and less than 5% of the complaints submitted are from the Latin America/Caribbean region.

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

It appears that there are regions of the world in which few inaccuracy complaints are submitted. In the data provided the global south, Africa and Latin America, are underrepresented in the number of submissions.

To address this issue, the subgroup proposes the following recommendation (further detailed in Section 8.5, Recommendation CM.3):   
The ICANN Board should direct ICANN Organization to review the WHOIS records of gTLD domain names sampled by ARS for each region to determine whether lack of knowledge of WHOIS inaccuracy reporting tools or other critical factors are responsible for low WHOIS inaccuracy report submission rates in some regions.

### Single WHOIS Inaccuracy Report Tool

Anyone can report inaccurate WHOIS data to the compliance team by using the [compliance tool on the ICANN.org website](https://forms.icann.org/en/resources/compliance/complaints/whois/inaccuracy-form):

When ICANN receives complaints or otherwise has information that suggests these requirements are not being fulfilled by a registrar, ICANN Contractual Compliance will review the registrar’s compliance through a WHOIS Inaccuracy complaint. ICANN makes its compliance determination by conducting the following steps during its reviews:

1. Review the complaint to determine whether it is in scope of the requirements.
2. Review what WHOIS information the reporter claims to be inaccurate.

Follow up with  reporter if unclear on the inaccuracy reported and request additional information. Such information may include a request for evidence of the alleged inaccuracy (e.g., an email rejection notice or returned postal mail) or further explanation regarding why the data is invalid (e.g., explanation to support an allegation that the contact information does not belong to the listed contact in the WHOIS). Reporters are requested to respond within 5 business days. The complaint is closed absent receipt of adequate information for processing.

1. Confirm the WHOIS information is available from the registrar by querying the domain name(s).
2. Confirm the WHOIS format per Section 1.4.2 of the Registration Data Directory Service (WHOIS) Specification also known as RDDS.
3. Confirm that all required WHOIS fields have values present.
4. Confirm that the WHOIS information has no glaring inaccuracies on its face.
5. Review the reporter’s complaint history in the compliance ticketing system to avoid  processing of duplicative complaints and obtain additional information from other  complaints, as applicable.
6. Once above checks are complete, ICANN will commence the informal resolution process by sending a 1st notice to the sponsoring registrar. o WHOIS Inaccuracy complaints allow the registrar a 15-5-5 business day timeline  to respond during the Informal Resolution period for the 1st, 2nd and 3rd  notices, respectively.
7. To demonstrate compliance, a 2013 RAA registrar must
   1. Contact the Registered Name Holder (RNH) 1
   2. Verify the RNH email address with an affirmative response
   3. Provide the results of the registrar’s investigation
   4. Validate the format of the WHOIS information
   5. Suspend domain within 15 days if unable to verify
8. When the registrar demonstrates compliance:
9. ICANN assigns a resolution code to the complaint detailing the outcome of the review
10. ICANN sends a closure communication to the registrar and the reporter

ICANN Contractual Compliance recently began reporting on closure reasons by complaint type, including those for WHOIS Inaccuracy complaints. These metrics are reported on a quarterly basis and the first quarter of 2018’s report is found at <https://features.icann.org/compliance/dashboard/2018/q1/registrar-resolved-codes>.

These closure codes are very helpful in understanding the data provided.

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

In reviewing the additional information in the dashboard report it appears that many inaccuracy reports are not valid reports. We asked what would be helpful for the compliance team when reports are submitted.

Additional evidence in WHOIS Inaccuracy complaints that compliance might find useful if the reporter provides are listed below:

* Evidence of returned mail sent to the postal address listed in the WHOIS information
* Evidence of a bounce back or undeliverable email notification for email sent to the email address listed in the WHOIS information
* Evidence or explanation why the telephone number listed in the public WHOIS is not accurate
* Evidence or explanation why the person or entity listed in the public WHOIS does not exist or is not the registered name holder (RNH)

To address this issue, the subgroup proposes that ICANN conduct additional outreach and education on how to file a report and what information is critical to provide. This proposal is incorporated within Recommendation R3.2, further detailed in Section 3.4.6, Outreach Recommendations.

### Bulk Submission WHOIS Inaccuracy Complaint Tool

ICANN Contractual Compliance provides a mechanism for bulk WHOIS inaccuracy reporting, which allows a user to submit multiple complaints through a single file upload. Each user can submit up to 300 total complaints per week. The complaints are processed in the same method and queue for WHOIS inaccuracy complaints. Users of the bulk system must agree to mandatory terms of use, and their complaint quality is monitored by ICANN to ensure submission of complaints are within scope of the RAA and WHOIS requirements. There are currently approximately ten approved users for the bulk system, and within the past six months, three were active users.

Analysis: This tool did not exist until November 2013 and only 10 users are approved to use the tool. Last year only 3 users actually used the tool to report WHOIS records in bulk.

Entities or individuals must contact the compliance team to request access to this tool. After a brief review access is provided.

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

Users who might benefit from the Bulk Submission tool may not be aware of it.

To address this issue, the subgroup proposes the following recommendation (further detailed in Section 8.5, Recommendation CM.4):   
The ICANN Board should direct ICANN Organization to publicize and encourage use of the Bulk WHOIS inaccuracy reporting tool (or any successor tool).

### Across Field Validation of WHOIS information

In February 2018, ICANN completed a Request for Information (RFI) on Across Field Validation, defined as follows:

“The 2013 RAA requires registrars to perform across-field validation of Addresses (e.g., the house number exists on the street, street exists in the city, city exists in the province and the post code is correct); however, this requirement is not currently enforced and will only become effective 6 months after ICANN and a working group of registrar volunteers mutually agree that across-field validation is technically and commercially feasible.”

Nine (9) RFI responses were received. These responses contained updated information regarding current services available to complete across field address validation and verification.

* On 04 May 2018, the Registrar Stakeholder Group requested ICANN org to pause the IRT’s work, pending the creation of a permanent policy to be created, possibly via an expedited process, following the Board’s adoption of the Temporary Specification to comply with GDPR. The Coalition for Online Accountability opposed this request in an 11 May letter.
* ICANN org distributed a response on 18 June 2018, noting that there are no plans to pause the Across Field Validation work.
* The Registrar Working Group is reviewing the criteria from ICANN org that will be used to determine whether any solution exists in the marketplace that is technically and commercially viable. The working group is expected to respond by 31 July 2018.

Based on this analysis, the subgroup identified the following Problems/Issues: No new issues identified at this time. The community is continuing to work on resolving any outstanding issues.

To address this issue, the subgroup proposes the following:   
A recommendation may not be appropriate at this time.

### Policy Metrics for Monitoring and Enforcement

In the Anything new subgroup we reviewed all new policies created since the last WHOIS review team. At least one of these policies, The Registry Registration Data Directory Services Consistent Labeling and Display Policy, there were no statistics we could gather from the Compliance team. We specifically asked the compliance team about CLDP.

The Registry Registration Data Directory Services Consistent Labeling and Display Policy is a policy imposed on registry operators, with the exception of .com, .jobs and .net. The policy requires registry operators to include in the registry WHOIS output the Registrar Abuse Contact Email and Registrar Abuse Contact Phone fields, among other things. Compliance rate of registrars with this registry operator requirement is not something that ICANN has attempted to measure. Additionally, measuring the cause of a registry operator’s noncompliance with the requirement may be difficult, as it is not obvious from the registry operator’s WHOIS output. For example, the registry operator’s noncompliance may be entirely within its control (e.g., it has obtained the registrar’s abuse contact information but is not displaying it) or, in part, due to the registrar’s (in)action (e.g., the registrar has not yet provided the registry operator with its abuse contact information”

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

The Consistent Labelling and Display Policy is included in the 2013 RAA which requires compliance. There may be more policies that are implemented but not audited or tracked. If the community recognizes the need for a policy to be created, works on the issue through the Policy Development Process and then resources are allocated to implement the policy it is appropriate that some level of compliance should be required. Metrics collected in auditing and tracking will assist in a review of the effectiveness of an implemented policy.

To evaluate effectiveness of a policy the following criteria is essential to review:

1. Identify issue
2. Frame issue – determine goal of policy, ability to implement the policy and actual results of the policy
3. Audit outcomes and impacts - Measurable results short term, intermediate and long term impacts

a. Sampling

b. Metrics

c. Monitoring

d. Trend analysis

e. Determine information gaps

1. Determine whether changes in outcomes are a result of the policy
2. Develop recommendations and good practices

Each policy created and implemented should be evaluated with similar criteria.

To address this issue, the subgroup proposes the following recommendation (further detailed in Section 8.5, Recommendation CM.5):   
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.

## Problem/Issues

Problems and issues related to the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes are described in Section 8.3.

## Recommendations (if any)

Recommendations are provided here to address the problems/issues identified above.

Recommendation CM.1 EdNote: Formerly R4.3

The ICANN Board should negotiate contractual terms or initiate a GNSO PDP to require that gTLD domain names suspended due to 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 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.

Findings:   
As detailed in Section 8.3.1 (e), currently, when a domain name is suspended for inaccurate information the false information remains in the record. The information in the record may belong to another person or entity so the inaccurate information remaining in the record continues the act of identity theft. At the very least, this information remaining is misleading.

Rationale: Ensure that inaccurate information does not remain in the record and if identity theft has occurred the person or entity doesn’t continue to be impacted. Currently, the inaccurate information remains in the record which can cause confusion and harm if this was an act of identity theft. Inaccurate information is often used in the registration data in registration that are perpetuating DNS abuse. Eliminating the use of inaccurate data in any suspended domain name will add to the security and stability of the DNS. We would no longer find inaccurate data lingering in the registrant data. This would not be difficult to implement a new policy would be created that registrar’s would follow when suspending a domain name.

Impact of Recommendation:   
Successful implementation would result in new statuses in the domain name registration record that indicated the domain name was suspended due to inaccurate information. The inaccurate Information would be redacted and result in removal of data that did not have authorization to be included in the registration data. No related work is currently underway. This recommendation should result in a PDP created immediately upon approval by Board.

If this recommendation is not implemented registrant data will continue to be displayed that is not accurate, authorized for inclusion in registrant data and continue to contribute to identity theft. This recommendation is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

Feasibility of Recommendation:   
Agreed upon language could be added into the WHOIS record to clearly indicate status of the domain name.

Implementation:

This implementation would involve the community to create the policy, ICANN.org to implement and the compliance team to enforce.

Level of Consensus: No F2F3 objections

Recommendation CM.2 EdNote: Formerly R4.2

The ICANN Board should direct ICANN Organization to assess grandfathered domain names to determine if information is missing from the WHOIS Registrant field. If 10% 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 names adhere to the same registration data collection requirements within 12 months.[[1]](#footnote-1)

EdNote: Any edits made to CM.2 in Section 8.3.1 (f) must be mirrored above and then reapproved by the RT in a plenary call.

Findings:

As detailed in Section 8.3.1 (f), in the WHOIS Accuracy Reporting System (ARS) report categorize the domain name registrations that are obligated to meet only only WHOIS requirements of the 2009 RAA WHOIS requirements, the report refers to these domain names as grandfathered domains. These are treated separately from those that must adhere to the 2013 RAA.

“the only difference between 2013 and 2009 RAA operability requirements is that the 2009 RAA requirements do not require that information be present in the registrant email or telephone number fields, while 2013 RAA require the presence of information in those fields.”

The report estimates that of the 12000 domain names reviewed for compliance 30% (over 180,000,000 domain name registrations) were 2009 grandfathered domain names and do not have to meet the same requirements as domain names registered after the 2013 RAA was implemented. Considering that the only way these domain names would have to comply with the 2013 RAA is if they were deleted and registered again or transfer of registrant. This does not seem likely since early registrations are often the most valuable. They are often sold but not deleted.

Rationale: After 5 years of two existing policies domain name registrant data must comply based on when the domain name was registered a newly created policy with one standard requirement that all registrant data must adhere standardize the Registrant Data record and ease operability.

Currently, the sub group has not found information to determine how many domain name registrations do not contain Registrant email address or telephone number. It may not be an issue if the registrants have proactively provided the information without the requirement to do so. If the policy is updated requiring the same registrant data for all domain name registration this will no longer impact future changes to registrant data policies. This is aligned with the ICANN’s strategic plan and mission and It will add to the security and stability of the DNS.

Impact of Recommendation:

Registrars, Registries and registrants will be impacted by this recommendation. The Registrant would have to provide this information upon renewal of the domain name. Registrars will have to collect all the same information for all domain name registrations no matter when it was registered. This may require collecting registrant information from the existing grandfathered registrations that they manage. The registry would be required to collect this information from the registrar. The ICANN Contractual Compliance Team will be required to review and analyze compliance with this new policy. If this recommendation is implemented it will resolves the issue of two different standards for collection of registrant data depending on when the domain was registered. If it is not implemented two standards for registrant data will continue to exist. This recommendation is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

Feasibility of Recommendation:

This recommendation would require a review of domain name registered before 2013 and most likely a modification of registrar terms of service It would require the registrar to collect the information from the registrants. This could be done on renewal of the domain name.

Implementation:

This would require the Community to develop a new policy and ICANN.org to implement and the compliance team to enforce. Successful implementation would result in 100% of domain name registrations complying with the same policy on registrant data. There is no current work underway on a similar policy. This assessment and possible creation of a new policy should begin immediately upon approval by the ICANN Board.

Level of Consensus: Two (2) F2F3 objections

Recommendation CM.3 EdNote: Formerly R4.6

The ICANN Board should direct ICANN Organization to review the WHOIS records of gTLD domain names sampled by ARS for each region to determine whether lack of knowledge of WHOIS inaccuracy reporting tools or other critical factors are responsible for low WHOIS inaccuracy report submission rates in some regions.

Findings:

As detailed in Section 8.3.1 (g), In the WHOIS ARS report the number of reports of inaccurate data from users in South America and Africa where significantly lower than the other continents. This could be due to lack of knowledge of the ability to report these or other cultural influences.

Rationale: Ensure that users in South America and Africa or any developing countries are aware of the WHOIS record and that they can independently report inaccurate data.

This is critical to ensure that developing countries can address issues with inaccurate data in the WHOIS. Continuing to reach out to the Global south to increase awareness of ICANN policies and tools to remedy issues is critical for the security and stability of the internet.

This recommendation is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

Impact of Recommendation:   
This recommendation could result in an improvement in submission rates by region and may discover other cultural reasons that the inaccuracy reporting tool is not utilized. This recommendation would impact users in these geographic areas and the registrars who will respond to the Compliance team's request for review. This could increase the number of inaccuracy reports that the Compliance team works on.

No implementation will continue to disadvantage the global south.

Feasibility of Recommendation:   
ICANN currently has many outreach events targeting the Global South along with some of the stakeholder groups. Information about accuracy requirements and how to report inaccurate data could be added to these events and materials distributed.

Implementation:

Community and ICANN org would work together on this issue. We would know this recommendation was successful if the WHOIS ARS reports show similar reporting rates by users no matter what country they live in after implementation. Education and outreach is ongoing this could be added to and amplified in this work. This recommendation could be implemented immediately upon approval by Board.

Level of Consensus: No F2F3 objections

Recommendation CM.4 EdNote: Formerly R4.5

The ICANN Board should direct ICANN Organization to publicize and encourage use of the Bulk WHOIS inaccuracy reporting tool (or any successor tool).

Findings:

As detailed in Section 8.3.3, according to the information provided by the compliance team only 10 individuals/entities have been approved to use the Bulk WHOIS Inaccuracy Reporting tool. Of those 10, only 3 have reported inaccurate WHOIS records in the last year. If more people understood this tool was available, it would be easier for reporters of large number of inaccurate data in the WHOIS to report these to the Compliance team.

Rationale: This recommendation would enable ease of reporting large numbers of inaccurate WHOIS data records. A small number of users of the Bulk WHOIS Inaccuracy Reporting tool may be a result of lack of knowledge of its availability. If resources are used to create such a tool it is worth spending resources on outreach and education about the tool. The impact would not be drastic but it would lead to an improvement of accurate data in the WHOIS if more individuals/entities used the tool. It would also contribute to the reporting of detected systemic problems. Compliance team should develop a system to review, evaluate and enforce on a group of domain names reported through the bulk WHOIS Inaccuracy Reporting tool instead of treating each as an individual report.

Impact of recommendation:   
If this recommendation is implemented it would result in more inaccuracy reports and lessen the burden on reporters and ease the review of the report by the compliance team if all the registration data is the same. More efficient process.

If it is not implemented multiple domain names with the same inaccurate information will continue to be reported one by one which creates more work for the reporter and require the compliance team to review single reports. This recommendation would impact the users of the Bulk WHOIS Inaccuracy reporting tool by lessening the burden to submit reports. It would also impact the Compliance team in how they address inaccuracy reports.

This recommendation will add to the security and stability of the DNS, is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

Feasibility of Recommendation:   
ICANN already does quite a bit of outreach and could add this to their efforts. It is very feasible to implement this recommendation.

Implementation:

ICANN org, with consultation of the community, could provide more outreach about the Bulk WHOIS Inaccuracy Reporting tool. Outreach and education to those that use the inaccuracy single reporting tool would increase the use of the Bulk WHOIS Inaccuracy Reporting tool. Education and outreach to start immediately upon approval by Board.

Level of Consensus: No F2F3 objections

Recommendation CM.5 EdNote: Formerly R4.1

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.

Findings:

As detailed in Section 8.3.5, in reviewing all new policies created since the first WHOIS Review team at least one was identified as not being enforced by the Compliance team. :

The impact of a policy can be measured with good statistics. If policy cannot be measured it is not a good policy.

Rationale: This new policy would ensure that all policies are measured, audited, tracked, reported and enforced by the compliance team. The community while in the policy development process should ensure that the policy is developed with compliance in mind. One policy, the Consistent Labelling and Display Policy, was identified as not being monitored or enforced. Without statistics on this policy available it is impossible to understand the level of compliance with this policy. Policies not enforced risk being less effective. A risk based enforcement strategy is critical when voluntary compliance is not sufficient. A strategy would include a rigorous and systematic approach to identifying and responding to risk. It is necessary to identify and assess the risk associated with non-compliance with policies or contractual obligations, based on this risk assessment.

Impact of Recommendation:

Registrars and Registries will be impacted by this recommendation, they will have to review compliance of this policy and provide information to the compliance team and ensure that they are implementing the recommendation. The compliance team will have to collect, analyze and enforce each policy as required. This will add to security and transparency. The community should develop policies with enforcement in mind. Successful implementation of this policy would result in knowledge of compliance with all policies. The Review team requests this recommendation to be implemented immediately upon approval of Board.

If this recommendation is not implemented we will remain in the current state of not knowing if the policies created by the community are implemented and making the impact on the system as expected by the PDP process that created the policy. This recommendation is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

Feasibility of Recommendation: It is feasible to enforce on all policies as it could be included in any of the ongoing audits already performed by the Compliance team including but not limited to the registrar audit, Inaccuracy reports or WHOIS ARS study.

Implementation:

If implemented, all policies will be evaluated for impact and effectiveness. If not implemented the community will not know if a policy is effective or has had unexpected consequences.

The Community and ICANN.org would be responsible for this implementation. The Review team would expect a PDP to be created immediately upon approval by the Board.

Level of Consensus: No F2F3 objections

## Possible impact of GDPR and other applicable laws

[TO BE PROVIDED]

1. Community input is welcome on the appropriate percentage and time period. [↑](#footnote-ref-1)