AN EXPANDED VIEW OF THE WRT QUESTIONS

(Responses to WRT Discussion Paper)

Introduction: While Olof did an outstanding job of summarizing the questions by sorting them according to their responses to our 14 questions, certain issues fell between the cracks – largely because groups and communities asked us to look at questions beyond those we had chosen to ask. This paper takes a short look at what others asked us to see – including overstretching the purpose of Whois, significant policy work in the limitations of Whois, and the importance of history and historical perspective in our work. Thanks for taking a fast look at these summaries—and feel free to return to the full comments (found at http://forum.icann.org/lists/whoisrt-discussion-paper/).

1. Christopher Wilkinson, former GAC & GAC Secretariat (EU) on purpose of Whois:

“I rather doubt that the initial purposes of the Whois protocol and database extended to their current utilisation. It would appear that rather more is expected of Whois than it is capable of delivering in view of the legacy of past practice and the current and prospective scale of the Internet.” (In Discussion Paper Comments)

1. At Large Advisory Committee on the need to view the issues differently:

“It is our view that this Team must treat with and declare (1) whether the WHOIS construct as originally devised and for the purpose intended is still necessary, (2) whether the WHOIS dataset as originally determined remains fit to its original purpose, and (3) whether the several identifiable uses made of both the WHOIS data and processes that have expanded the original intent are useful and in the public interest.”

At Large Advisory Committee on the need to consider types of use in our compliance schemes: “Neither is it rational for the same risk in class or kind to be ascribed to all domains; domains used primarily for support of business transactions on the Web have a higher risk of consequential fraudulent activities than do those used for more personal or informational pursuits. As such, certain adjustments in approach to compliance and our expectations of the impact from compliance might benefit from a change in the philosophical construct of compliance and the processes used to affect the assurance of compliance.”

At Large Advisory Committee on the need to consider cycles of registration in our compliance schemes:

“We believe that the all‐round public interest may be better served by recognizing that the risks from the fraudulent actions of bad actors are not the same throughout the WHOIS data cycle but tend to be cyclical – higher following the establishment of new domains and decreasing thereafter.”

(In Discussion Paper Comments)

1. Noncommercial Users Constituency on Why Privacy and Accuracy are Not at Odds:

“Privacy and accuracy go hand-in-hand. Rather than putting sensitive

information into public records, some registrants use "inaccurate" data

as a means of protecting their privacy. If registrants have other

channels to keep this information private, they may be more willing to

share accurate data with their registrar.”

“The problem for many registrants is indiscriminate public access to the

data. The lack of any restriction means that there is an unlimited

potential for bad actors to access and use the data, as well as

legitimate users and uses of these data.”

Noncommercial Users Constituency on Why the Operational Point of Contact Proceeding Marks a Critical Point of Agreement in the GNSO on a narrow purpose to Whois:

“ICANN stakeholders devoted a great deal of time and energy to this

question in GNSO Council-chartered WHOIS Task Forces. At the end of the

Task Force discussion in 2006, the group proposed that WHOIS be modified

to include an Operational Point of Contact (OPOC):

<<http://gnso.icann.org/issues/whois-privacy/prelim-tf-rpt-22nov06.htm>>”

“Under the OPOC proposal, "accredited registrars [would] publish three types of data:

1) Registered Name Holder

2) Country and state/province of the registered nameholder

3) Contact information of the OPoC, including name, address, telephone

number, email."

“Registrants with privacy concerns could name agents to serve as

OPoC,thereby keeping their personal address information out of the

public records.”

(In Discussion Paper Comments)

1. Why Registrars under Tucows leadership strongly sought a balance to simply Whois data, while improving it.

Slides of Ross Rader, of Registrars Constituency and registrar Tucows, discussing goals and advantages of Operational Point of Contact, endorsed and a multi-year GNSO team. These slides and ideas were reference by Elliot Noss, Pres of Tucows at the Registrars/WRT meeting in San Fran as well as by the NCUC in the recent comment period.

Powerpoint slide **Goals** **(Operational Point of Contact)**

**“• to simply Whois data output**

**• reduce facilitation of domain related scams, illegal data mining, phishing and identity theft**

**• maintain or increase the value of Whois for all stakeholders**

**• provide solid foundation for enhanced access to data by key stakeholders**

**• promote data accuracy”**

(Referenced in NCUC Discussion Paper Comments)

1. Dr. Mueller: Why technical History is important – because it shows us where we stopped thinking about purpose and goals.

Dr. Milton Mueller asks us to examine his academic paper on the Whois issues, and considers history to be a very important factor – before and during ICANN. Here are some highlights.

“This article examines how the Internet’s

Whois service has evolved into a surrogate

identity system. The Whois service allows any

Internet user to type a domain name into a Web

interface and be immediately returned the name

and contact details of whoever has registered

the domain. It is used by police to bring down

Web sites committing crimes; its information is

harvested by spammers and marketers seeking

to send their solicitations; it is used by people

curious to know who is behind a Web site or

e-mail address; above all, it is used by trademark

and copyright attorneys to keep an eye on

their brands in cyberspace…

“We recount the story of Whois because it

forces us to re-examine our understanding of

the relationship between technological systems

and global governance institutions. To understand

the importance of the Whois service, one

need only think of the license plate of an automobile

on the road, and imagine that anyone

who saw the license plate would be able to type

it into a computer and be returned the name of

the car owner and his or her street address, telephone

number, and e-mail address.

“That is what Whois does to domain name registrants. It

links the vehicle for navigating the complex

arena of cyberspace (domains) to a responsible

individual, a location, or a jurisdiction.

Of course in the real world, access to drivers’

license databases is restricted to law enforcement

authorities and motor vehicle departments. It is

not difficult to imagine both the benefits—and

the trouble—that might be caused by free,

anonymous, unrestricted public access to drivers’

license databases. No doubt some additional

crimes would be solved and perhaps some

amazing new information services could be

developed by a Google of the future. No doubt,

also, incidents of road rage and stalking would

be taken to new heights. The same concerns

apply to Whois. In addition to facilitating

accountability on the Internet, open access to

registrant contact data raises privacy issues and

concerns about abuse of sensitive personal data

by spammers, stalkers, and identity thieves.

“… Defaults tilt the playing

field toward one option by giving the

specified value the benefit of inertia…a Whois directory originated

as a feature of the Internet when it was a smallscale,

closed, scientific network. As the Internet

evolved into a large-scale, public, commercial

system, the Whois capability remained in place

by default.

(Historical evolution)

“The first RFCs make it clear that the Whois

protocol was intended to make available to

users a general directory of other ARPANET/

Internet users. At the time, ARPANET was

what we would now call an intranet that

linked a few hundred computer scientists and

researchers at less than a hundred geographically

distributed sites. A critical fact about this

directory, then, is that it was intended to serve a

closed, relatively homogeneous, and—compared

to today’s Internet—very small group of networked

computer users.8 The early standards

documents do not specify exactly what the purpose

of this directory was. One can infer from

context that it served a variety of purposes, and

was seen as a convenience to the community of

defense contractors involved in building the

early Internet. Another critical fact is that for

most users, participation in the directory was

encouraged, but was not operationally, legally,

or contractually required.9 It may be that the

request to register in the centralized Whois

database was made to facilitate technical coordination,

but this is not documented in the

RFC, and evidence supporting this has not

been found anywhere else. The RFC states

only that the purpose is to provide “a directory

service” (RFC 954, 1985, p. 1) to the network

users…

***“Phase 2: Internet Opened to the Public and to Commerce***

While the number of host computers connected

to it grew rapidly, the Internet was still a closed

community of specialized users throughout the

1980s. From 1991 to 1995, a critical change

occurred: The Internet was opened to commercial

users and to the general public. This change was

accelerated by the creation and deployment of the

World Wide Web (WWW) and user-friendly

Web browsers, which made the Internet usable

and interesting to ordinary members of the public.

The number of computers connected to the Internet

exceeded 1.3 million before the end of 1992,

and was somewhere between 6 and 8 million by

the middle of 1995.10 This was no longer a “community”

of computer scientists and researchers,

but a mass, heterogeneous public engaged in commerce

and in public and personal communication.

It was also an increasingly contentious and litigious

public… During this tornado of change, the Whois

service that was implemented between 1982

and 1985 remained in place. The user base of

the Internet was no longer closed, no longer

homogeneous, no longer situated within a noncommercial

community, and no longer relatively

small and manageable. But the technical

protocol and the practices supporting a directory

of Internet users remained the same. The

only significant change was that the burden of

supplying the Whois service shifted from

defense contractor Stanford Research Institute

to civilian National Science Foundation contractor

Network Solutions, Inc. As the Internet

moved from the small, noncommercial, and

closed world of the 1980s to the open, public,

and commercial world of the mid-1990s, no

one made a conscious decision to retain the

open-access Whois service of RFC 954; Whois

was an unnoticed default value*.*

(In Discussion Paper Comments)