Compliance – Gaps and Recommendations

**Gaps**

1. Communication
2. Locating information on the website is extremely difficult, compliance pages are hidden away, laden with jargon, and assume a level of knowledge by users which may not exist in practice. Documents referred to in the compliance team’s answers to the WRT as plain English guides should be front and centre to the user experience.

Poor or ineffective communication generates costs, inefficiency and support load. It also creates frustration for everyone.

1. Operating principles are generally good, but the use of jargon is out of place in high level principles.
2. Reporting of contractual compliance activities is far from timely (operating principle 8), eg “monthly” newsletters and “semi-annual” reports have not been published at all in 2011. If these have been replace by other forms of communication, this is not clear.
3. Key documents (eg the Privacy/Proxy study 2009) are missing, or only possible to locate with specific URLs.
4. Audits
5. The 2010-11 Registrar WHOIS Data Access Audit is an example of a successful compliance intervention. Areas for improvement include communication, sustaining the momentum and delivering performance measures/goals over time. A summary of the detailed report would be helpful to the new comer. This should also be linked to the operating principles, as a successful example of working in partnership with registrars to foster a culture of compliance.
6. The acronyms WDRP and WDPRS are confusingly similar, especially as they are two of the most significant ongoing compliance activities undertaken by the compliance team. The use of the acronyms without explanation gives ICANN an unnecessary communications challenge.
7. The WHOIS Data Reminder Policy is an example of a poorly thought through compliance effort. It involves both ICANN and its registrars engaging in significant economic activity and disruption. The effect on WHOIS data quality is unknown, and 83% of registrars are unable to track any changes resulting from WHOIS Data Reminder Notices. Therefore it is impossible to measure the impact of this flagship policy for improving data accuracy.
8. Investigating complaints of non-compliance
9. Given the prevalence of inaccurate WHOIS data, both the number of Whois Data Problem Reports, and the number of individual reporters (in 2007, 10 people were responsible for 87% of all WHOIS inaccuracy reports) are unacceptably low, indicating a low awareness level of this service amongst the target users of the system – consumers. It was striking that members of the WHOIS Review Team, whose daily job involves conducting hundreds of WHOIS queries, were unaware of the service or how to report inaccurate data to ICANN.
10. The system for WHOIS Data Problem Reporting generates a high level of duplicates. ICANN’s compliance staff have inadequate workflow systems or automation to enable them to keep on top of their existing workload – this provides a disincentive to ensuring that the system is better known and more widely used.
11. Other WHOIS Related work and efforts – Data Accuracy
12. Data accuracy – the low level of accurate WHOIS data is unacceptable, and decreases consumer trust in the WHOIS, in the industry of which ICANN is a quasi-regulator, and therefore in ICANN itself. The organisation’s priority in relation to WHOIS should be to improve WHOIS data accuracy and sustain improvement over time. It should publish performance targets, and develop incentives for registrars and registrants to improve data accuracy.
13. Just as there is no shared understanding, or statement of the purpose of WHOIS, key concepts, such as “data accuracy” mean different things to different stakeholders. Further work is required, involving all interested stakeholders, to develop a common understanding and statements of the purpose of WHOIS and key concepts within it.
14. The WHOIS Data Accuracy Study identified that a key cause of inaccuracy was confusion amongst registrants when completing WHOIS data. If the industry wants to improve accuracy of data, it is necessary to think through the core WHOIS data set from the perspective of a commonly understood WHOIS Purpose, and creating a streamlined, understandable data set for registrants to complete. A number of stakeholder groups, notably SSAC, have been thinking deeply about these issues for a number of years.
15. The WRT is aware that over the next 12-18 months, four independent studies on WHOIS will be published, representing an investment of [ $xxx,000,000]. It is hoped that these will improve understanding of key elements of the WHOIS environment, and provide an evidence base for the effectiveness of ICANN’s WHOIS policy and implementation. However, this effort and investment will be worthless if there is no follow-up. Regrettably, that is the impression given by the failure on ICANN’s part to publish an action plan and targets in response to Data Accuracy Study, 2010.

It is unclear what the response of the Compliance team to the Data Accuracy Study has been. This leads to the impression that expensive, time consuming studies are being undertaken, and then left to languish. An action plan should already have been published by now, including measurable targets, and key performance indicators. If this has happened, the WRT is unaware of it.

**Recommendations**

1. Communication
2. Review the compliance section of the ICANN website, to ensure that communicates to the newcomer. Aim to communicate the purpose of the compliance effort, its operating principles, and in relation to WHOIS the basics of the service, and the role and responsibilities of all the actors in the supply chain.
3. Use the operating principles as the benchmark for performance targets, and the first priority to eliminate gaps. For example, do not promise “monthly” newletters and “semi-annual” reports, if they are not going to be delivered.
4. Ensure that all key documents are readily accessible by ordinary users.
5. Audits
6. Use successful compliance interventions (such as the WHOIS Data Access Audit 2010) to develop key performance indicators. Create summaries of the detailed reports, aimed at the new comer, and expressly link the compliance activity back to the operating principles. Ensure that key documents are easy to locate on the website.
7. Eliminate jargon and acronyms, and address the use of two confusingly similar acronyms – WDRP and WDPRS – for two different WHOIS compliance activities.
8. Either abolish the WHOIS Data Reminder Policy, or develop (in partnership with registrars) metrics to track the impact of the annual data reminder notices to registrants. Use the metrics to develop and publish performance targets, to improve data accuracy over time. If this is impossible with the current system, develop a different one in consultation with registrars that achieves the objective of improving data quality, in a measurable way.
9. Investigating complaints of non-compliance
10. Improve consumer awareness of existing systems for reporting problems with WHOIS data. Develop performance targets based on consumer awareness, and increased use of the system.
11. Ensure that the compliance team has adequate workflow systems and automation to handle an increased workload.
12. Investigate the reasons why reporting of inaccurate WHOIS data has fallen, despite continuing high levels of inaccurate WHOIS data. Report on the findings.
13. Other WHOIS Related work and efforts
14. Data accuracy – identify easy wins from the 2010 Data Accuracy study. These include tardiness in keeping data up to date. Working in partnership with registrars, ICANN should plan effective communications plans or other interventions to address and improve registrant data accuracy.
15. Further policy development work is required to identify the Purpose of WHOIS, and a realistic understanding of “accuracy” (ie does it mean 100% accuracy, or “contactability”).
16. Further policy development work is required, involving all interested stakeholders together, to identify incentives for registrants to keep their data accurate, the adverse consequences for failure, and adequate communication aimed at consumers of WHOIS services, rather than industry insiders.
17. Fundamental work is required to agree a standardized, streamlined data set for WHOIS. The WRT recommends that SSAC undertake this work, in consultation with other stakeholders.
18. Within 3 months, of the publication of this report, ICANN should publish its response and action plan to the WHOIS Data Accuracy Study 2010, together with measurable, achievable targets for improvement over a 3-5 year period, together with budgetary implications. In response to future WHOIS studies, ICANN should publish its response and action plan within 6 months of the publication of the relevant study.