**GREEN – AGREEMENT**

**YELLOW – FURTHER DISCUSSION NEEDED**

# Recommendations

**WHOIS Gap Analysis**

1. **ICANN should develop and manage an accreditation system to allow registries and ICANN-accredited registrars to become privacy service providers.** [the rationale for this limitation to already contracted parties needs to be developed, and centres on concerns that unknown parties with little or nothing to lose from de-accreditation pose a significant risk to the system] See James’ voluntary accreditation comment, and concern about reaching to non-contracted parties.
2. Once the accreditation system is operational, ICANN should take the necessary steps to ensure that registrars and resellers cannot accept registrations from unaccredited privacy service providers. See James’ concern with knowing when an attorney is acting as an agent for his/her client. James’ voluntary accreditation with incentives may work well here as well.
3. **The ICANN community should develop policies to restrict access to privacy services to [limited classes of?] natural persons. This should involve the explicit exclusion of any domain used in the sale or trading any goods or services, or otherwise accepting or soliciting funds. Again, commenters discuss an array of domain name registrants needed privacy protection, including organizations and institutions engaged in politically dissenting speech. Also the Intellectual Property Constituency supported the existing policy, of privacy/proxy, as a way of protecting commercial secrets, e.g., new corporate names, new names of goods and services, and new movie titles.**
4. **As a condition of accreditation, privacy service providers should be required to comply with best practice guidelines. These should provide for:**
   1. standardised relay and reveal processes and timeframes;
   2. guidance on the appropriate level of publicly available information on the registrant;
   3. **maintenance of a dedicated abuse point of contact;**
   4. **public disclosure of contact details and the physical address of the privacy service provider; and**
   5. privacy service providers to conduct due diligence checks on registrant contact information.

**Yes! This is a very constructive recommendation and one that runs to the nature of the Review Team as well as the data that is likely to be provided by the 3 important proxy/privacy Whois studies now being conducted by ICANN.**

1. The best practice guidelines should be developed in close consultation with the GAC, privacy advocates, law enforcement, and other interested stakeholders. Yes.
2. ICANN should develop a graduated and enforceable series of penalties for privacy service providers who violate the terms of their accreditation, with a clear path to de-accreditation for repeat, serial or otherwise serious breaches. Yes.

1. **ICANN should clarify that the full rights and responsibilities of a registrant accrue to the entity identified as the registrant. As such, ICANN should not acknowledge proxy registrations. No.**

**WHOIS Accuracy**

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| **PETER**   1. ICANN should ensure that the requirement for accurate WHOIS data is widely and pro-actively communicated. As part of this, ICANN should ensure that its ‘Registrant Rights and Responsibilities’ document is pro-actively and prominently circulated to all new and renewing registrants. Communication 2. 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 this, 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. Implementation Dispute language: any intermediary 3. ICANN should take necessary measures, and allocate sufficient resources, to be proactive in enforcing its WHOIS policies and contracts. 4. The ICANN community should develop a cost-effective and workable mechanism to pro-actively verify WHOIS data at the time of registration. This mechanism should be operational before the formation of the next WHOIS review team. 5. Building on the 2009 NORC study, ICANN should commission regular studies to measure WHOIS accuracy. These studies should provide time series data to enable definitive assessment of ICANN’s performance in improving WHOIS accuracy. 6. The results of the next ICANN-commissioned accuracy study should be available for consideration by the next WHOIS review team. 7. If a significant measurable improvement in WHOIS accuracy is not demonstrated from one accuracy study to the next, this should create a strong presumption that the ICANN Board will set aside additional and dedicated resources to increase its WHOIS education, auditing and compliance activities. 8. If a significant measurable improvement in WHOIS accuracy is not demonstrated across two consecutive accuracy studies, ICANN should initiate a discussion between AoC signatories to consider whether:  * ICANN has met its AoC obligations; and * an independent body, funded by ICANN, should be established to oversee and improve WHOIS compliance. | **EMILY**   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. |