



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Communications**  
**and Information**  
Washington, D.C. 20230

Dr. Stephen D. Crocker  
Chairman of the Board of Directors  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

MAR 21 2012

Dear Dr. Crocker:

I am pleased to share the comments of the U.S. Government on the WHOIS Review Team's Draft Final Report (Report). We commend the members of the Review Team for their dedication and time spent examining such an important issue. Review Teams, as specified in the Affirmation of Commitments (Affirmation), serve as an important accountability mechanism for the Internet Corporation for Assigned Names and Numbers (ICANN). As such, I trust the Board will carefully consider the team's recommendations and take appropriate action at ICANN's June 2012 meeting to ensure the needs of the global Internet community are being met.

The U.S. Government strongly supports the majority of the Report's recommendations and believes their implementation will improve ICANN's ability to enforce existing WHOIS policy, which requires ICANN to implement measures to maintain timely, unrestricted, and public access to accurate and complete WHOIS information. Although we welcome the WHOIS Review Team's recommendations that the provision of privacy and proxy services should be "standardized," with clear, consistent, and enforceable requirements applicable to such services, the U.S. Government remains concerned that such services have been, and can continue to be, misused too easily. From our perspective, the unrestrained provision of privacy and proxy services, which have not been clearly defined, delineated, or subject to clear, consistent, and enforceable requirements, by ICANN-accredited Registrars is also inconsistent with the legitimate uses of WHOIS data outlined in the 2007 GAC Principles regarding gTLD WHOIS Services, by limiting or constraining access to the underlying registrant data.

Adopting the recommendations of the WHOIS Review Team, updating the Registrar Accreditation Agreement, and improving ICANN's contract compliance collectively will enhance the tools available to law enforcement and consumer protection officials as the new generic top level domain name (gTLD) program unfolds. I urge the Board to assign a high priority to achieving progress on these issues. Doing so will demonstrate that ICANN seriously takes its commitment to mitigate any unexpected harms due to the introduction of new gTLDs.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence E. Strickling".

Lawrence E. Strickling

Enclosures (1)

## U.S. Comments on the WHOIS Review Team's Draft Report and Recommendations

The U.S. Government greatly appreciates the dedication and time devoted by the WHOIS Review Team to developing the consensus recommendations outlined in the WHOIS Review Team's Draft Final Report. The U.S. Government strongly supports the majority of the recommendations and considers them critical to ensuring that ICANN's WHOIS policy is effective, and its implementation meets the legitimate needs of law enforcement, and promotes consumer trust consistent with the provisions of the *Affirmation of Commitments*. Our comments on the individual recommendations outlined in the WHOIS Review Team's Draft Final Report follow:

- Recommendation 1: It is imperative that ICANN create a single, clear document defining WHOIS policy and reference it in subsequent versions of agreements with contracted parties.
- Recommendation 2: In addition to developing metrics to track the impact of the annual WHOIS Data Reminder Policy (WDRP), the U.S. Government believes that ICANN's Contract Compliance function should develop metrics to more effectively track Registrar compliance with all of the Registrar Accreditation Agreement provisions related to WHOIS accuracy and accessibility.
- Recommendation 3: It is critical that ICANN not only allocate sufficient resources to its contract compliance function and "encourage a culture of compliance," but also identify contract compliance as a strategic priority that warrants oversight by senior management and the ICANN Board.
- Recommendation 4: ICANN should develop and implement an outreach program to educate consumers and businesses about ICANN's WHOIS.
- Recommendation 5: While the U.S. Government shares the Review Team's objective of reducing the number of "unreachable" WHOIS registrations, we believe ICANN should reduce the number of inaccurate or incomplete registrations at a higher rate of speed than proposed by the Review Team, to ensure that there is a 50% reduction before new gTLDs are introduced in 2013.
- Recommendation 6: The U.S. Government concurs that ICANN should publish an accuracy report focused on measured reductions in "unreachable WHOIS registrations" on an annual basis.
- Recommendation 7: ICANN should commit to publishing annual reports on the implementation of the WHOIS Review Team's recommendations.
- Recommendation 8: ICANN must create a clear, unambiguous, and enforceable chain of contractual agreements to require the provision and maintenance of accurate WHOIS data that includes pass through requirements for WHOIS provisions for subcontractors, vendors, partners, and any other entity that handles WHOIS data for the contracted party. The agreements should also ensure that clear, enforceable, and graduated sanctions apply to registries, registrars, and registrants that do not comply with WHOIS policy requirements.
- Recommendation 9: WHOIS accuracy requirements should be communicated to current and prospective registrants, to ensure a better understanding of registrant rights and responsibilities.

- Recommendation 10: Consistent with the U.S. Government's commitment to maintain a current, complete, and accessible WHOIS database, the U.S. Government supports the creation of clear, consistent, and enforceable requirements for all privacy services in gTLDs. Such requirements should clarify that privacy service should be limited to non-commercial registrants and should be included in a definition of privacy services, comparable to the definition for proxy services proposed in Recommendation 16.
- Recommendation 11: The U.S. Government concurs that ICANN should develop a series of graduated and enforceable penalties for privacy service providers, with a clear path to de-accreditation for repeat, serial, or otherwise serious breaches.
- Recommendations 12, 13, 14, 15, and 16: The U.S. Government supports the recommendations regarding proxy services, including standardizing the reveal process and time frames, conducting due diligence checks, and providing abuse points of contact. However, we strongly believe that the "guidelines" should be incorporated as requirements in the revisions to the Registrar Accreditation Agreement, rather than adopted as voluntary best practices.
- Recommendation 17: The provision of a "thick" WHOIS service for the .com and .net gTLDs will improve access to the WHOIS data for these gTLDs.
- Recommendations 18 and 19: The development of technical capabilities and modifications to give global access to gather, store, and make available in fully searchable online databases all internationalized registration data should be encouraged, which includes translation of the data, and the results incorporated into Registrar and Registry agreements within six months of adoption of the results by the ICANN Board.
- Recommendation 20: As a related measure, ICANN should develop metrics for measuring the accuracy of internationalized registration data and corresponding ASCII data, with clearly defined compliance methods and targets.

Consistent with the provisions of the GAC/LEA Recommendations for amendments to the Registrar Accreditation Agreement, which is the subject of ongoing negotiations between ICANN and the Registrar Stakeholder Group, the U.S. Government believes that the WHOIS Review Team should incorporate as an additional recommendation in its Final Report a requirement for registrars to validate registrant data at the time of registration, upon renewal of a domain name, and upon receiving updated contact information in response to a notice of inaccurate data. From our perspective, such a validation requirement would significantly reduce the incidence of inaccurate WHOIS data.