Comments on Interisle Consulting's WHOIS Proxy/Privacy Reveal & Relay Feasibility Survey

Business Constituency Submission

GNSO//CSG//BC

Background:

The GNSO council requested that a study be initiated to "analyze relay and reveal requests sent for Privacy and Proxy-registered domains to explore and document how they are processed". ICANN contracted with Interisle Consulting Group to assess the feasibility of doing such a study.

This Public Comment solicitation represents an opportunity for the community to consider the survey results detailed in this draft report, ask questions, request clarifications, and share perspectives about the feasibility of conducting a full study into WHOIS Proxy/Privacy Reveal & Relay handling for gTLD domain names.

Interisle will consider all comments submitted to this Public Comment forum during the comment period, incorporate any needed clarifications, and then publish a final version of this WHOIS Proxy/Privacy Reveal & Relay Survey report. Afterwards, the GNSO Council will use this report as a foundation to determine whether and how to launch a full study into WHOIS Proxy/Privacy Reveal & Relay handling for gTLD domain names.

The BC wishes to thank ICANN staff for formulating the study and moving forward with fact-based understanding of issues surrounding WHOIS.

Comments on the Interisle Survey Report:

The WHOIS Proxy/Privacy Reveal & Relay Feasibility Survey results provide interesting insight on how the study may be completed. Three major concerns were outlined in the report.

Disclosure of private information:
The Business Constituency agrees with the conclusion that it is impractical to track and correlate individually identifiable reveal/relay requests and responses. Tracking specific WHOIS information is not of prime importance and it may run afoul of privacy concerns.

It is more important to focus on how the reveal/relay process currently works for each Privacy/Proxy service and the responsiveness of the service providers. Our own anecdotal experience suggests that some providers are unresponsive to reveal/relay requests. This study would be helpful in understanding the extent of problems involved with the reveal and relay process. Aggregated information on how the process works would be very helpful to ICANN in developing an accredited standardized reveal/relay process.

Time consuming participation
The process involved in requesting a reveal of contact information of a privacy or proxy registration service can be difficult and hard to understand. Each privacy/proxy service has its own process, often with differing criteria required in the request and different delivery methods.

Initiating a request is time consuming and would require a commitment by the requestors to place a sufficient amount of requests to make the study useful. An agreed upon number of requests required to participate in the study could allay participants' fears of agreeing to an overwhelming time commitment.

Privacy/Proxy Providers would have a vested interest to participate in the study to illuminate the issues they face with requests that do not demonstrate sufficient rights to the contact information, requests lacking sufficient information to process, and burdensome requests in general.

Cost and Resources needed to participate

Both the requestors and providers/registrars must agree to provide resources to track and report the necessary information. Several members of the BC would participate since we believe the benefits of understanding the growing issue of Privacy/Proxy services is worth the cost incurred for those resources.

Specific BC Recommendations

1. The study should provide a list of all privacy/proxy service providers with a goal to have multiple participants request a reveal/relay for each identified provider.

2. The study should track details on how each service requires requests to be formatted, information required, delivery method, and timeline for from request to response.

3. The study should be constructed with the goal of informing best practices as well as supporting policy.

4. The study should ask requestors to follow a standard process in the event of nonresponsive service providers. For instance, quoting RAA section 3.7.7.3 is often helpful in prompting a response:

> 3.7.7.3 Any Registered Name Holder that intends to license use of a domain name to a third party is nonetheless the Registered Name Holder of record and is responsible for providing its own full contact information and for providing and updating accurate technical and administrative contact information adequate to facilitate timely resolution of any problems that arise in connection with the Registered Name. A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it promptly discloses the current contact information provided by the licensee and the identity of the licensee to a party providing the Registered Name Holder reasonable evidence of actionable harm.

The BC agrees with the interview comments that "all three constituencies described as favorable or feasible a study designed to identify and document current procedures and policies and the functional and dysfunctional relationships among those making, receiving, and processing relay/reveal requests."

We urge ICANN to move forward with constructing a well-designed study to illuminate all the issues for requestors and service providers offering Privacy/Proxy registrations.

These comments were drafted by Susan Kawaguchi, and edited by Fred Felman and Steve DelBianco. They were authorized by BC membership on 16-Jul-2012.