



**Comments on:
Implementation of Thick
Whois consensus policy for
consistent labeling and
display; and
Proposed Thick Whois
transition policy for .COM,
.NET and .JOBS**

Status: FINAL

Version: 2

15-Dec-2016

Business Constituency Submission

GNSO//CSG//BC

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter. The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

- Promotes end-user confidence because it is a safe place to conduct business
- Is competitive in the supply of registry and registrar and related services
- Is technically stable, secure, and reliable.

ICANN has opened simultaneous public comment on two aspects of Whois:

**Implementation of Thick Whois consensus policy for consistent labeling and display,
Proposed Thick Whois transition policy for COM, .NET, and .JOBS**

The BC is responding here to both of these Thick Whois implementation public comment documents, in order to address ICANN's parallel and interrelated tracks.

As we stated previously, we strongly support a comprehensive, phased, and synchronized approach to implementing Whois-related initiatives. We believe such an approach is necessary to ensure consistency, to benefit the world's Internet users, and to avoid piecemeal or conflicting solutions.

The Registry Stakeholder Group filed a reconsideration request asking that the inclusion of RDAP (be removed from the Registry Registration Data Directory Services Consistent Labeling and Display Policy.

"The introduction of RDAP represents an additive requirement for Registries to operate a new (additive) service. As there are no provisions for the sunset of the legacy Whois service, it's unclear how this additional requirement can be considered commercially feasible."

ICANN complied with this request and has removed the requirement to implement RDAP at this time. (RDAP is the Registry Data Access Protocol, a standardized replacement for Whois) To move forward with implementation of Thick Whois for .com, .net and .jobs, the registries and registrars will continue to rely on EPP.

The Business Constituency urges registries and registrars to continue to work on issues surrounding RDAP, as we identified in our March comments below, so that it can be implemented in the near future.

"The current RDAP protocol does not address two significant issues with Whois data privacy and internalization. Instead of creating functionality to resolve two well known issues that have been debated in the community for many years by adopting and incomplete RDAP, we are pushing these issues into the future and we will eventually

have to resolve them. The BC supports a fully functional RDAP that addresses all the known issues.”

We are very pleased that ICANN has agreed to not delay the Thick Whois implementation and will move forward using the EPP protocol. This will provide internet users with the benefits of availability of Thick Whois in .com, .net and .jobs within a reasonable timeline.

In previous comments the Business Constituency has advocated for authenticated access, data accuracy, and improved centralized access through Thick Whois. In our comments of March 2016 we stressed the following:

Importance of Registrant Data Accuracy

Data accuracy is fundamental to Whois or its successor RDS, and to date has been sorely lacking. Without it, the service has little value. The BC believes this issue is of primary importance and encourages consideration of the appropriate processes to achieve greater data accuracy.

BC Support for a Phased, “Synchronized” Approach

The BC proposes that the most efficient and effective way to develop an approach on authenticated access, data accuracy, and improved centralized access through Thick Whois is by pursuing a phased, synchronized approach to implementing Whois-related initiatives. These initiatives include Thick Whois, RDAP Implementation, and the new GNSO RDS PDP that has been convened to establish a Policy Framework for a Registry Directory Services to replace the Whois “

The Business Constituency is pleased that ICANN has taken our comments in to consideration along with the Registry’s reconsideration request and removed implementation of RDAP as an obstacle to swift implementation of Thick Whois.

Proposed Thick Whois transition policy for COM, .NET, and .JOBS

The Business Constituency supports the proposed policy and urges ICANN staff to ensure that the timeline for implementation stays on track. The community has been expecting this implementation since it became global gTLD policy on 7-Feb- 2014. We would be very concerned to see any additional delay.

While we recognize the potential challenges of transferring registrant data across multiple jurisdictions, we also note that ICANN has an existing procedure for handling Whois conflicts with privacy laws. Thus, it is imperative for ICANN staff to remember that Thick Whois for all gTLDs has been adopted by the ICANN Board as a consensus policy.

ICANN should resist attempts from stakeholders who wish re-litigate privacy and jurisdictional issues as part of the Thick Whois implementation. We do not want to diminish these concerns, but ICANN must move forward with the important work of moving to Thick Whois functionality for all gTLDs.

Currently over 1000 new gTLDs operate using a Thick Whois model, and in a June 2015 memo from ICANN staff to the Thick Whois IRT, ICANN noted that “there has been no definitive challenge to the existence of Thick Whois as a viable global model.”

Even so, we encourage an implementation of Thick Whois that is innovative and allows for registries to provide real-time retrieval of current data from jurisdictions that restrict cross-border transfer of data sets.

From our perspective, it is preferable to have a Thick Whois system that includes a real-time query system that provides an accurate Whois response from a single query vs. a true Thick Whois implementation that results in many registrars simply turning on privacy and proxy services to mitigate potential liability under their own national data protection laws. In the latter case, potentially tens of millions of Whois records would be obscured, preventing legitimate uses of Whois data.

The BC would also like to point out, again, that the GNSO council stated in its Jan 2014 report to the Board that “virtually all registrars already deal with thick TLDs and the only registry currently operating thin gTLDs also operates thick gTLDs, it is the expectation that there is hardly [any] learning curve or software development needed.”

The proposed timeline of February 1, 2019 is disappointing, considering that registry operators have the technical capabilities to support Thick Whois and have had almost three years to contemplate the legal and privacy issues surrounding a migration to Thick Whois. The BC looks forward to the migration to Thick Whois, which will improve stability, provide a more level playing field for competition among Registrars, and enhance consumer and user protection.

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These comments were drafted by Susan Kawaguchi, Claudia Martinuzzi, Jay Sudowski, and Steve DelBianco. They were approved in accord with our charter.