Comments on

Registration Data Access Protocol (RDAP) Operational Profile

and

Proposed Implementation of Thick Whois for All gTLDs

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Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter[1]:

> 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.

General Comment

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

> Proposed Implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All GTLDs, and;

> Registration Data Access Protocol (RDAP) Operation Profile for gTLD Registries and Registrars.

The BC is responding here to both of these Whois public comment documents, in order to address ICANN's parallel tracks of expanding access to the existing Whois while simultaneously designing a next-generation replacement for Whois.

We strongly support a comprehensive, phased, and synchronized approach to implementing Whois-related initiatives. We believe such an approach is necessary to ensure consistency, benefit the world's Internet users, and to avoid piecemeal or conflicting resolutions. Accordingly, we have combined our recommendations on the key components of Thick Whois, Authenticated Access, and Data Accuracy, as set forth below.

Thick Whois Implementation Phase 1

The BC supported the conclusions contained in the Initial Report of the Thick Whois Policy Development Process (PDP) Working Group in January 2013.[2] The BC further encouraged registries operating a 'thin' Whois to migrate to a 'thick' Whois as expediently as possible.[3] The BC also filed comment on Next-Generation gTLD Registration Directory Services to Replace Whois[4] and provided input on Whois conflicts with certain aspects of privacy law.[5]

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[1] Business Constituency Charter, at http://www.bizconst.org/charter.htm.

[2] Business Constituency Response to Stakeholder Group/Constituency/Input Template – 'thick' Whois PDP Working Group, January 2, 2013, at https://community.icann.org/pages/viewpage.action?pageId=39421016.

[3] BC comment on Thick Whois initial report, Aug-2013, at http://www.bizconst.org/wp-content/uploads/2014/06/BC-Comments-Thick-Whois-Initial-Report-FINAL1.pdf

[4] BC Comment on Next-Generation gTLD Registration Directory Services -- Prelim Issues Report, Sep-2015, at http://www.bizconst.org/wp-content/uploads/2015/09/BC-Comment-on-Directory-Services-Prelim-Issues-Report-final.pdf

[5] BC Comment on Proposed Revisions to Procedure for Whois Conflicts With Privacy Law, Nov-2015, at http://www.bizconst.org/wp-content/uploads/2015/12/BC-Comment-on-WHOIS-conflict-procedure.pdf

The BC has advocated migration to Thick Whois for the past several years and that position remains unchanged. The BC underscores that the provision of thick Whois services is a requirement for all gTLD registries, both existing and future, to enable centralized, reliable, consistent, and prompt access. This became a global gTLD policy on 7-Feb- 2014 when the Board approved the GNSO's, consensus Thick Whois policy. The BC is concerned that, over two years later, ICANN has failed to implement this policy by moving .com, .net, and .jobs to Thick Whois. Migration to Thick Whois would improve stability, provide a more level playing field for competition among Registries, and enhance consumer and user protection.

As posted by ICANN staff, this comment period asks whether the implementation plan in the Draft Thick RDDS (Whois) Consensus Policy meets the intent of the policy recommendation #1, for consistent labeling and display of Whois output for all gTLDs. The BC answers 'no' to that question, noting that Phase 1 proposes only limited implementation by 1-Aug-2016 for "reordering and/or renaming of fields in web-based RDDS output"[6].

This proposed approach was developed by the IRT and does not reflect the consensus GNSO Thick Whois policy. The BC is eager to see Thick Whois implemented for .com, .net and .jobs, and these registries should be addressed in the first phase of this implementation.

We acknowledge that migration to Thick Whois is a step towards the eventual implementation of RDAP, which will replace today's Whois protocol in supporting Registry Data Directory Services in gTLDs. However, full implementation of RDAP could be months or years away.

ICANN has not made a compelling case to defer Thick Whois until after RDAP has been implemented. Unless a strong case for deferral is presented, Thick Whois should be implemented first. As stated by the GNSO Council in its Jan-2014 Report to the Board on the Thick Whois PDP

> "…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."[7]

Moreover, total migration to Thick Whois would relieve registrars from having to implement any RDAP query capability.

The BC recognizes that there are challenges to consolidate 100 million .com and .net Whois records from over a thousand disparate registrars. But we would like to see a comparison of the relative development and migration burdens on both registrars and registries, showing *RDAP-first* versus *Thick Whois first.*

The proposed Phase 1 of Thick Whois also calls for gTLD registries to "implement RDAP in accordance with the RDAP Operational Profile for gTLD Registries and Registrars (p.5)." The BC supports aggressive implementation of RDAP, but we are concerned that the current RDAP profile lacks the authenticated access policy and specifications that are needed for implementation, as noted below.

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[6] p. 5, Draft Thick RDDS (Whois) Consensus Policy and Implementation Notes, 25-Nov-2015, at http://thick-rdds-consensus-policy-draft-25nov15-en-4.pdf

[7] p. 3, GNSO Council Report to the ICANN Board, Thick Whois PDP, Jan-2014, at gnso-council-board-thick-whois-15jan14-en.pdf

Importance of Authenticated Access

The BC notes increased support in the ICANN community for including features in the RDAP operational profile for gTLD registries and registrars that will support differentiated or "authenticated" access. We understand that differentiated or authenticated access refers to the exclusive provision of access to all registration data fields to authenticated users, while non-authenticated users would only see a subset of the fields.

The BC acknowledges that authenticated access is needed to safeguard registrants' interest in privacy and to minimize risks of misuse of Whois data. We should take the time to consider data privacy issues and think through the policy implications and the functionality needed in RDAP to address these issues now instead of delaying to sometime in the future.

An RDAP implementation that fails to address the most significant issues with WHOIS turns unsolved WHOIS problems into unsolved RDAP problems, and the history of failure to resolve WHOIS deficiencies will repeat itself.

Moreover, concerns over Whois conflicts with privacy law are driving registrars to seek waivers of WHOIS contractual requirements. As recently as Sep-2015, the BC underscored the need for further discussion on the parameters of authenticated access and the adequacy of any associated safeguards.

In Jan-2016, the Internet Architecture Board (IAB) advised:

> "gated access should be part of the first version of the RDAP Profile in order to significantly decrease the privacy concerns of registration data exposure.[8]"

IAB goes on to say,

> "failing to include authenticated access in the RDAP Profile now will result in a very large transition effort to implement authenticated access and differentiated responses once a policy that supports them is in place."

We agree with IAB. It is paramount that the community work together in developing a consensus policy regarding the parameters of authenticated access in the RDAP Profile. This development of policy and specifications for authenticated access should begin as soon as possible.

Internationalization and Localization of Data

RDAP also does not currently provide features for internationalization and localization of data. There are plans to develop a specification to manage internalization and localization of data in the future but the protocol is not fully functional without that work being completed

The current RDAP protocol does not address two significant issues with WHOIS data privacy and internalization. Instead of creating functionality to resolve two very 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.

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[8] Comments from the IAB on RDAP operational profile, 13-Jan-2016, at http://forum.icann.org/lists/comments-rdap-profile-03dec15/msg00001.html

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 BC is sympathetic to this consideration stated in the Thick Whois Policy Implementation draft:

> Additionally, when approaching this Policy Implementation, ICANN's objective has been to minimize the impact to contracted parties and the overall RDDS Systems by seeking to synchronize, where appropriate, the implementation of the Thick RDDS (Whois) Consensus Policy with other related initiatives such as the Registration Data Access Protocol (RDAP).[9]

However, this must be balanced with the benefits that result from use of Thick Whois by all gTLD registries, as outlined in the Thick Whois PDP Final Report. The future promise of RDAP and RDS should not forestall swift implementation of the global Thick Whois gTLD policy. Furthermore, the views of an IRT that represents a narrow subset of the community should not be substituted for gTLD policy developed by the GNSO, unanimously approved by GNSO Council, and approved by the ICANN Board.

We acknowledge an analysis developed by ICANN staff, included in the detailed assessment impact of the ICANN Thick Whois Implementation Project.[10] As that document notes, a synchronized approach would preserve efforts undertaken thus far to update the Whois system while new systems required by RDAP are being developed.

In pursuing this comprehensive approach, it is crucial that ICANN consider how the different initiatives relate, and avoid developing inconsistent or potentially conflicting rights and responsibilities. At the same time, ICANN should ensure that the benefits of having Thick Whois in .com, .net and .jobs are achieved expeditiously.

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This comment was drafted by Barbara Wanner, Cheryl Miller, Aparna Sridhar, Susan Kawaguchi, and Denise Michel. It was approved in accord with our charter.

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[9] p. 4, Draft Thick RDDS (Whois) Consensus Policy and Implementation Notes, 25-Nov-2015, at http://thick-rdds-consensus-policy-draft-25nov15-en-4.pdf

[10] ICANN Thick Whois Implementation Project Consistent Labeling & Display Outcome, Detailed Impact Assessment, Feb-2015, at https://community.icann.org/download/attachments/52889541/ThickWhois-CL%26D-Impact-v2.pdf?version=1&modificationDate=1448472412030&api=v2