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RDS-WHOIS2-RT Plenary Call #48

4 February 2019



RDS/WHOIS2-RT Plenary Call Agenda

1. Welcome, roll-call, Sol
2. Review of Draft Report Updates
 1. WHOIS1 Rec #4: Compliance
 2. WHOIS1 Recs #5-9: Data Accuracy
 3. WHOIS1 Recs #15-16: Plan & Annual Reports
 4. Objective 2: Anything New
 5. Objective 4: Consumer Trust
 6. Objective 6: ICANN Contractual Compliance Actions, Structure and Processes
3. Prioritization
4. Final Report Timing and Deadlines
5. A.O.B.

Review of Draft Report Updates

Agenda Item #2

WHOIS1 Rec #4: Compliance

Possible Impact of GDPR and Other Applicable Laws

It is currently unclear to what extent Contractual Compliance will have access to RDS (WHOIS) information, nor what procedures it may have to follow to gain such access. Depending on the final GDPR implementation, the ability of Contractual Compliance to address issues that it did prior to GDPR may be affected and/or the amount of resources (time and staff) required may increase, perhaps substantially.

Whether Contractual Compliance will in fact be able to verify RDS (WHOIS) information at all is still not clear. If they must request the information from the registrar or registry, they have no guarantee that the information returned is what is actually in the database. It is only with direct access to the database (as was previously the case) that they have firm evidence of its contents.

WHOIS1 Recs #5-9: Data Accuracy

Review of Alan and Lili's submitted updates.

1.1.2.2 Implementation Review of Recommendation 6

To address Rec #6 (and Rec #7), ICANN initiated the [Accuracy Reporting System](#) (ARS) project, with the aim to *"proactively identify inaccurate gTLD registration data, explore the use of automated tools, forward potentially inaccurate records to registrars for action, and publicly report on the resulting actions to encourage improvement."*

The ARS was designed to be implemented through three Phases based on the types of validations described in the [SAC058 Report](#) (syntax, operability, and identity).

- (1) [Phase 1](#): Syntax Accuracy
- (2) [Phase 2](#): Syntax + Operability Accuracy
- (3) Phase 3: Syntax + Operability + Identity Accuracy

Phase 1 was completed in August 2015 and assessed the format of RDS (WHOIS) records (i.e., Is the record correctly formatted? Is there an "@" symbol in the email address? Is there a country code in the telephone number?)

WHOIS1 Recs #5-9: Data Accuracy

Looking at ARS Phase 2 and ICANN Contractual Compliance Metrics, the review team had several observations:

1. Even without an identity accuracy check, the ARS project is an effective way to motivate the related registrants and registrars to improve RDS (WHOIS) data quality. However, only the sampled (exposed) registrations will be affected.
2. For those tickets that went to 1st or further notice, more than 60% of the related domains were subsequently suspended or canceled, and around 20% of the tickets led to registrar change or update of RDS (WHOIS) data. Based on these facts, the confirmed RDS (WHOIS) data inaccuracy rate across the domain space is still high (30~40%). If identity accuracy checks were conducted at the same time, the inaccuracy rate could be even higher.
3. ~~Considering the ratio of suspended or canceled domains for tickets that went to 1st or further notice (above 60%), along with those domains that had updated RDS (WHOIS) data after tickets were issued (around 20%), the conclusion is that registrars normally don't validate and/or verify RDS (WHOIS) data in the first place, which is already a breach of contractual obligations. This has also been identified as the most common issue by ICANN Compliance in their Annual Reports for 2016 and 2017.~~
4. Throughout the cycles of WHOIS ARS project Phase 2, there has been a consistently high percentage (around 40%) of ARS-generated tickets closed with no action due to the WHOIS record has been changed in between. It's understood that the time window was

that these registrations predate the requirement to validate.



Lili SUN

6:04 AM Feb 1

we can simply delete this sentence, the point was already there even without this sentence.



Lili SUN

8:43 PM Dec 20



Add: "already"



Lili SUN

8:29 PM Dec 20



Add: "This has also been identified as the most common issue by ICANN Compliance in their Annual Reports f..."



Alan Greenberg

6:33 PM Yesterday



Replace: "4 to 5" with "up to six"

WHOIS1 Recs #15-16: Plan & Annual Reports

Feasibility of Recommendation:

~~Measuring recommendation implementation should not be easy, t~~ The challenging part will be the design of metrics for each recommendation to be tracked.

Implementation:

~~The ICANN Board should take the lead in developing the structure and metrics for the plan and implementation reports.~~ An overview of the recommendations generated by this review team will be the foundation for ~~that~~ the plan and implementation report design. The envisioned implementation timeline should be within 6 months. The organization should consider an impact evaluation to measure to what extent implementation is meeting the recommendation's intent and was effective.

Priority: Medium.

Level of Consensus: No objections

1.1.5 Possible Impact of GDPR and Other Applicable Laws



Alan Greenberg

4:14 PM Yesterday



Replace: "Measuring recommendation implementation should not be easy, t" with "T"



Alan Greenberg

4:16 PM Yesterday

Lili said that the "not" was not a typo but was intended. Given that, the first sentence really is stating the 2nd sentence in another way and I think can safely be eliminated.



Alan Greenberg

4:17 PM Yesterday

Resolve

This is not realistic - the Board does not work at that level. I think it can safely be taken out with the accompanying change.



Alan Greenberg

4:17 PM Yesterday



Delete: "The ICANN Board should take the lead in developing the structure and metrics for the plan and implem..."

Objective 2: Anything New

1.2 Analysis and Findings

New/Updated Policy or Procedure	Questions considered by this review	<u>Subgroup's Findings and Analysis</u>
New RDS (WHOIS) pages on website (whois.icann.org)	Have these been implemented properly? What challenges have staff faced in the implementation?	<ul style="list-style-type: none">● Subgroup 1 Rec #3 and #11 are covering this. Recommendations incorporated in the reports on Outreach and the Common Interface.
Inter-Registrar Transfer Policy (IRTP)	Will this work with Privacy/Proxy services? Have these been implemented properly?	<ul style="list-style-type: none">● No issues found.● May need changes due to GDPR.

Objective 2: Anything New

Policy, Procedure and Rules for URS Policy		<p>PDP.</p> <ul style="list-style-type: none"> No specific RDS (WHOIS) issues.
Expired Registration Recovery Policy (ERRP)	How are fees are being announced when registrar has no website?	<ul style="list-style-type: none"> We have no metrics on this policy. Subgroup 1 Rec #4 is covering this. Addressed by ERRP Section 4.1
Thick WHOIS PDP and Final Report (see section 7.1) Thick RDDS (WHOIS) Transition Policy for .COM, .NET and .JOBS		<ul style="list-style-type: none"> Stalled due to GDPR and RDAP implementation.

1.4 Recommendations


The review team concluded that no recommendations are needed at this time with respect to this objective **other than the ones associated with the implementation of WHOIS1 Recommendations on Outreach and the Common Interface.** ~~However:~~

- ~~Recommendations appropriate for each new or updated RDS (WHOIS) policy or procedure have been formulated by other subgroups.~~


~~The review team notes that, overall, the impact of GDPR has not yet been comprehensively addressed in this review.~~

1.5 Possible Impact of GDPR and Other Applicable Laws


There are GDPR implications to most of the policies and procedures described in this section. The vast majority will be dealt with as a result of the EPDP or other groups designated as being responsible for addressing GDPR-related issues as part of their policy

 **Alan Greenberg**
4:27 PM Yesterday

Replace: "We have no metrics on this policy. Subgroup 1 Rec #4 is covering this." with "Addressed by ERRP Section 4.1"

 **Alan Greenberg**
4:30 PM Yesterday

Replace: ". However: Recommendations appropriate for each new or updated RDS (WHOIS) policy or procedure have ..." with "other than the ones associated with the implementation of WHOIS1 Recommendations on Outreach and the..."

 **Alan Greenberg**
4:32 PM Yesterday

The statement on GDPR is restated in the next paragraph. The replacement restates the first bullet in more definitive language.

Objective 4: Consumer Trust

- Delete some of the quotes from the first Review (currently 4 pages).
- Report that first WHOIS RT found that to a large extent, users are not aware of WHOIS, and those that are generally do not find it useful. Moreover they often find it overly complex (with data stored variably at registrars and registries) and the frequent use of Proxy services and the presence of data inaccuracies minimize usefulness.
- Delete section on trust associated with trust of New gTLDs and not WHOIS-related. Similarly for the section on trust in resellers – a true issue, but not WHOIS.
- Add section on the use of WHOIS by third parties for the benefit of users.
- This section does not need to be large, but note that it such uses of WHOIS benefit virtually all of the worlds 4 billion users.
- Add statement that GDPR will be changing just about everything related to both end-users and registrant with respect to WHOIS.

Objective 6: ICANN Contractual Compliance Actions, Structure and Processes

Resource Implications of GDPR

Although not part of the initial project, the Review Team noted that under the GDPR Temporary Specification, Contractual Compliance no longer has direct access to RDS (WHOIS) data and must make explicit requests for such data from registrars or registries. That adds additional steps and thus workload to many of their tasks. If this continues with the policy ultimately recommended by the EPDP, it would have serious implications on the long term resourcing of Contractual Compliance.

Objective 6: ICANN Contractual Compliance Actions, Structure and Processes

Recommendation CC.3

The ICANN Board should take steps to ensure that ICANN Contractual Compliance is adequately resourced factoring in any increase in workload due to additional work required due to compliance with GDPR or other legislation/regulation.

Findings:

The GDPR Temporary Specification no longer allows Contractual Compliance to view the WHOIS (RDS) data and must request such data from contracted parties. This markedly increases the number of steps and staff resources needed to address many compliance issues. It is currently unknown if this will continue once the policy recommended by the EPDP is implemented.

Rationale:

If the final GDPR-driven policy continues to restrict Contractual Compliance access to RDS (WHOIS) data, to maintain their pre-Temporary Specification workload, additional staff resources may be needed.

Objective 6: ICANN Contractual Compliance Actions, Structure and Processes

Impact of Recommendation:

There may be budget implications if additional staff are required to maintain previous workload levels.

Feasibility of Recommendation:

There may be budget implications if additional staff are required to maintain previous workload levels.

Implementation:

If workload increases over pre-Temporary Specification levels and staffing is not addressed, Contractual Compliance may not be able to fulfil their mandate.

Priority: High.

Level of Consensus: No objections.

Prioritization

Agenda item #3

Prioritization

22 Recommendations

High Priority: 8

Medium Priority: 6

Low Priority: 5

TBD: 1

R1.1	R1.2	R1.3	R3.1	R3.2	R4.1	R4.2	R5.1	R10.1	R10.2	R11.1	R11.2
H		M	M	H	H	H	TBD	L	L	L	H

R12.1	R15.1	LE.1	LE.2	SG.1	CC.1	CC.2	CC.3	CC.4	BY.1
L	M		H	M	H	M	H	L	M

Draft Description of Priorities

- **High priority** – These recommendations will create the most impact and the review team found the actions recommended were critical to the WHOIS ecosystem. The actions required may be complex and could involve in depth analysis and action. Most involve community input which can be time consuming so the review team recommends the Board focus on these first.
- **Medium priority** – These recommendations are not quite complex as the high priority but could involve time consuming research and implementation. Most require actions only by ICANN org so they should be implementable with much community input.
- **Low priority** – some of these recommendations are dependent on other recommendations, call for limited actions or are deferred until other actions have been completed.

Measurement of Consensus

In the draft report, for each recommendation, RT reported "Level of Consensus" as "No objections".

Shouldn't that be reported as "**Full Consensus**"?

That states it in a positive instead of negative way, and is also what is specified in our Terms of Reference.

Agreement from Dmitry, Lili, Carlton.

Prioritization

Recommendation R1.1 : To ensure that RDS (WHOIS) is treated as a strategic priority, the ICANN Board should put into place a forward-looking mechanism to monitor possible impacts on the RDS (WHOIS) from legislative and policy developments around the world.

Recommendation R1.2: To support this mechanism, the ICANN Board should instruct the ICANN organization to assign responsibility for monitoring legislative and policy development around the world and to provide regular updates to the Board.

Priority: High

Recommendation R1.3: The ICANN Board, in drafting the Charter of a Board working group on RDS, should ensure the necessary transparency of the group's work, such as by providing for records of meetings and meeting minutes, to enable future review of its activities.

Priority: Medium

Prioritization

Recommendation R3.1: The ICANN Board should direct the ICANN organization to update all of the information related to RDS (WHOIS) and by implication other information related to the registration of second-level gTLDs domains. The content should be revised with the intent of making the information readily accessible and understandable, and it should provide details of when and how to interact with ICANN or contracted parties. Although not the sole focus of this recommendation, interactions with ICANN Contractual Compliance, such as when filing WHOIS Inaccuracy Reports, should be a particular focus. The revision of this web documentation and instructional material should not be undertaken as a purely internal operation but should include users and potentially focus groups to ensure that the final result fully meets the requirements. The resultant outward facing documentation of registrant and RDS (WHOIS) issues should be kept up to date as changes are made to associated policy or processes.

Priority: Medium

Prioritization

Recommendation R3.2 : With community input, the ICANN Board should instruct the ICANN organization to identify groups outside of those that routinely engage with ICANN, and these should be targeted through RDS (WHOIS) outreach. An RDS (WHOIS) outreach plan should then be developed, executed, and documented. There should be an ongoing commitment to ensure that as RDS (WHOIS) policy and processes change, the wider community is made aware of such changes. WHOIS inaccuracy reporting was identified as an issue requiring additional education and outreach and may require a particular focus. The need for and details of the outreach may vary depending on the ultimate General Data Protection Regulation (GDPR) implementation and cannot be detailed at this point.

Priority: High

Prioritization

Recommendation R4.1: The ICANN Board should initiate action to ensure ICANN Contractual Compliance is directed to proactively monitor and enforce registrar obligations with regard to RDS (WHOIS) data accuracy using data from incoming inaccuracy complaints and RDS accuracy studies or reviews to look for and address systemic issues. A risk-based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.

Priority: High

Prioritization

Recommendation R4.2: The ICANN Board should initiate action to ensure that ICANN Contractual Compliance is directed to cross-reference existing data from incoming complaints and studies such as the ARS to detect patterns of failure to validate and verify RDS (WHOIS) data as required by the RAA. When such a pattern is detected, compliance action or an audit should be initiated to review compliance of the Registrar with RDS (WHOIS) contractual obligations and consensus policies.

Priority: High

Prioritization

Recommendation R5.1: The Accuracy Reporting System, which was instituted to address concerns regarding RDS (WHOIS) contact data accuracy has demonstrated that there is still an accuracy concern and therefore such monitoring must continue. ICANN Org should continue to monitor accuracy and/or contactability through either the ARS or a comparable tool/methodology.

Priority: To be determined.

Prioritization

Recommendation R10:1 The Board should monitor the implementation of the PPSAI. If the PPSAI policy does not become operational by 31 December 2019, the ICANN Board should an amendment to the 2013 RAA (or successor documents) is proposed that ensures that the underlying registration data of domain name registrations using Privacy/Proxy providers affiliated with registrars shall be verified and validated in application of the verification and validation requirements under the RAA unless such verification or validation has already occurred at the registrar level for such domain name registrations. an amendment to the RAA

Priority: Low.

Prioritization

Recommendation R10.2: Reviewing the effectiveness of the implementation of WHOIS1 Recommendation #10 should be deferred. The ICANN Board should recommend that review be carried out by the next RDS (WHOIS) review team after PPSAI Policy is implemented.

Priority: Low.

Prioritization

Recommendation R11.1: The ICANN Board should direct the ICANN Organization to define metrics or SLAs to be tracked and evaluated to determine consistency of results of queries and use of any common interface (existing or future) used to provide one-stop access to registration data across all gTLDs and registrars/resellers. Specific metrics that should be tracked for any such common interface include:

- How often are RDS (WHOIS) fields returned blank?
- How often is data displayed inconsistently (for the same domain name), overall and per gTLD?
- How often does the tool not return any results, overall and per gTLD?
- What are the causes for the above results?

Priority: Low.

Prioritization

Recommendation R11.2: The ICANN Board should direct the ICANN Organization to ensure that the common interface displays all applicable output for each gTLD domain name registration as available from contracted parties, including multiple versions when the outputs from registry and registrar differs. The common interface should be updated to address any policy or contractual changes to maintain full functionality.

Priority: High.

Prioritization

Recommendation R12.1: Reviewing the effectiveness of the implementation of Recs #12-14 should be deferred. The ICANN Board should recommend that review to be carried out by the next RDS Review Team after RDAP is implemented, and the translation and transliteration of the registration data launches.

Priority: Low.

Prioritization

Recommendation R15.1: The ICANN Board should ensure that implementation of RDS-WHOIS2 Review Team recommendations is based on best practice project management methodology, ensuring that plans and implementation reports clearly address progress, and applicable metrics and tracking tools are used for effectiveness and impact evaluation.

Priority: Medium.

Prioritization

Recommendation LE.1: The ICANN Board should resolve that ICANN conducts regular data gathering through surveys and studies to inform a future assessment of the effectiveness of RDS (WHOIS) in meeting the needs of law enforcement. This will also aid future policy development (including the current Temporary Specification for gTLD Registration Data Expedited Policy Development Process and related efforts).

Recommendation LE.2: The ICANN Board should consider conducting comparable surveys and/or studies (as described in LE.1) with other RDS (WHOIS) users working with law enforcement on a regular basis.

Priority: High. These recommendations create an essential factual basis for further discussion and analysis.

Prioritization

Recommendation SG.1: The ICANN Board should require that the ICANN Organization, in consultation with data security and privacy expert(s), ensure that all contracts with contracted parties (to include Privacy/Proxy services when such contracts exist) include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in the event of any data breach. The data security expert(s) should also consider and advise on what level or magnitude of breach warrants such notification. In carrying out this review, the data security and privacy expert(s) should consider to what extent GDPR regulations, which many but not all ICANN contracted parties are subject to, could or should be used as a basis for ICANN requirements. The ICANN Board should initiate action intended to effect such changes. The ICANN Board should consider whether and to what extent notifications of breaches that it receives should be publicly disclosed.

Priority: Medium.

Prioritization

Recommendation CC.1: The ICANN Board should initiate action intended to ensure that gTLD domain names suspended due to RDS (WHOIS) contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows. (1) The RDS (WHOIS) record should include a notation that the domain name is suspended due to incorrect data; and (2) Domain names with this notation should not be unsuspended without correcting the data.

Priority: High.

Recommendation CC.2: The ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under 2013 RAA (or any subsequent version thereof) or applicable policies.

Priority: Medium.

Prioritization

Recommendation CC.3: The ICANN Board should take steps to ensure that ICANN Contractual Compliance is adequately resourced factoring in any increase in workload due to additional work required due to compliance with GDPR or other legislation/regulation.

Priority: High.

Recommendation CC.4: The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies.

Priority: Low.

Prioritization

Recommendation BY.1: The ICANN Board should take action to extend the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii) and replace section 4.6(e)(iii) of the ICANN Bylaws (which refers to the OECD Guidelines) with a more generic requirement for RDS (WHOIS) Review Teams to assess how well RDS (WHOIS) policy and practice addresses applicable data protection and cross border data transfer regulations, laws and best practices.

Priority: Medium.

Final Report Timing and Deadlines

Agenda item #4

Final Report Timing and Deadlines

Target:

- All team members should indicate whether they support these recommendations. Should there be any non-support of a recommendation please explain your objection. Please reply no later than **23:59 UTC on Thursday, 07 February 2019**. If you are NOT supporting any recommendation, early notice will be appreciated.
- Minority Statements sent no later than **13 February 2019 - 12:00 UTC**
- Final Report sent out to ICANN Board on **15 February 2019**

Outreach:

- ICANN64
- Webinars

A.O.B.

Agenda item #5

A.O.B.

Confirm Decisions Reached & Action Items