WHOIS OBLIGATIONS

For Registrars

WHOIS POLICY

- Registrar Accreditation Agreement (RAA)

- Registry / Registrar Agreement(s)

- ICANN Consensus Policies

  - Compliance Efforts

RAA

- Two versions: RAA 2001 and RAA 2009

  - Over 90% of gTLD Registrations under RAA 2009

- WHOIS provisions are mostly in Section 3 (Registrar Obligations)

RAA SECTION 3

- Section 3.3.1: Registrars must provide interactive web and Port 43 (ASCII) WHOIS systems, with defined data elements.

  - gTLDs may add elements (3.2.1.6)

- Sec. 3.3.2: Registrars must "promptly update" any changes to these data.

- Sec. 3.3.4: (Future Policy Development) Registrars must provide data to a "centralized" WHOIS system.

RAA SECTION 3
(CONT'D)

- Sec. 3.3.5: Terms & Conditions for submission of WHOIS queries and use of WHOIS Data

- Sample:

  The data contained in GoDaddy.com, Inc.'s WHOIS database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records.

  Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, Inc.

  By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

  Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, GoDaddy.com, Inc. is not the registrant of domain names listed in this database.

RAA SECTION 3

- Section 3.3.6: Under certain circumstances, registrars will provide third-party bulk access to WHOIS data.

    - Section 3.3.7: Conditions for removal of registrar obligations to provide third-party bulk access (repeal 3.3.6).

- Sec. 3.3.8: "Trapdoor?" ICANN can create new policies in response to changing legal environment. (Note to Applicable Law Subteam)

RAA SECTION 3

- Sec. 3.4.1 The Registration Database, and also require that Privacy/Proxy data is either retained, or Registrant is notified that it will not be escrowed.

- Sec. 3.4.2-4: Data Retention (3 years) and Inspection data elements from Sec. 3.3.1.

- Sec. 3.5: Rights in Data: Registrars as Data Processors, rather than Data Controllers.

RAA SECTION 3

- Sec. 3.6 Data Escrow Requirement

- Sec. 3.7: Business dealings, including Registrants

  - Sec. 3.7.7.1-2: Registrant must provide accurate information, including WHOIS contact data, or be in breach of the Registration Agreement.

RAA SECTION 3

- Sec. 3.7.7.4-8: Registrar Privacy Policy

  - See Go Daddy Privacy Policy

- Sec. 3.7.8: (Future Policy Development) Registrar verification of Registrant data.

- Sec. 3.12.2: Registrars agreement with Resellers

RAA SECTION 5

- Sec. 5.8: ICANN has rights to all Personal Data. (?)

REGISTRY / REGISTRAR AGREEMENTS (RRAS)

- Registrar must enter in to an RRA for each TLD in which they are accredited.

- gTLD Registry may add additional policies / requirements w.r.t. WHOIS data.

- Sponsored TLDs (sTLDs) often require Registrars to collect and submit Community Eligibility information.

- Example: .ASIA requires that the registrant submit a "Community Eligibility Administrative Contact (CAE)" which includes an address in a APNIC country or territory.

CONSENSUS POLICIES

- Registrars agree to be bound by ICANN Consensus Policies via the RAA.

- Many Consensus policies reference WHOIS data, for example:

  - UDRP uses WHOIS to determine Respondent.

  - Transfer Policy uses WHOIS to define Transfer Contact.

CONSENSUS POLICIES

- A few Consensus Policies are specific to WHOIS:

- The WHOIS Data Reminder Policy (WDRP) requires registrars to send an annual notice to every registrant.

- Registrant is required to review and (if necessary) update or correct their WHOIS data.

- This is more complicated than it sounds!

CONSENSUS POLICIES

- WHOIS Marketing Restriction Policy: Is this "baked in" to RAA 2009?

- WHOIS Conflicts with Privacy Law

- Restored Names Accuracy Policy

COMPLIANCE EFFORTS

- Compliance manages the WHOIS Data Problem Reporting System (WDPRS)

- Users can submit gTLD registrations for which they believe WHOIS contact information is invalid or incomplete.

- ICANN notifies the Registrar of Record for follow-up.

- Challenges with the WDPRS......

Q & A