



January 23, 2010

Kurt Pritz  
Senior Vice President, Service  
ICANN  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

Re: ICANN Determination under RAA Section 3.3.7

Dear Kurt,

On behalf of Network Solutions, I ask that ICANN exercise its authority under Section 3.3.7 of the Registrar Accreditation Agreement and determine “that no individual or entity is able to exercise market power with respect to registrations or with respect to registration data used for development of value-added products and services by third parties” (see <http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm#3>). Making such a determination will free accredited registrars of the Section 3.3.6 obligation to provide third-party bulk access to the data concerning all active Registered Names sponsored by Registrar for each TLD in which it is accredited (i.e. “bulk Whois”). We believe that the bulk Whois obligations are anachronistic and no longer serve a valid purpose in the competitive marketplace for domain name registrations.

As ICANN's Contractual Compliance webpage already asserts (see <http://www.icann.org/en/compliance/>), “ICANN has successfully established market competition [among registrars] for domain name registrations.” This has resulted in demonstrable consumer benefits in terms of a vast choice of available registrars, more competitive prices for registration services, and numerous registration service innovations. Of course, this vibrant competition among registrars means that none of the over 900 existing ICANN-accredited registrars has market power, which is typically defined as the ability of a company to raise the price of a good or service without losing all of its customers to competitors.

The existing bulk Whois provision is a carry-over from the original RAA that was drafted when the competitive registrar marketplace was still in its infancy. Over the past decade, the market has experienced significant growth, with the attendant consumer benefits noted above. For years now, the bulk Whois provision has served as an awkward reminder of the pre-competitive era. In fact, one could argue that Section 3.3.6 represents an unintended consequence in today's marketplace in that it compels registrars to enter in a data sharing arrangement that is inconsistent with the market value of the underlying data. Whereas the original intention may have been to encourage competition by making data more accessible, the current mandate subverts the free market by obliging registrars to offer their data at rates and terms far below their true value. Of course, registrars could continue to enter in data sharing arrangements with third parties at their discretion, but these terms should be determined by the interested parties and not by an outdated contractual mandate.

Therefore, we ask that ICANN officially conclude that no registrar has market power which ICANN may do as the economic experts already advising ICANN on the new gTLD program have already provided the necessary analysis to conclude that no registrar has market power. We do not believe that another time consuming analysis is needed or warranted in order for ICANN to exercise its authority under Section 3.3.7.

13861 Sunrise Valley Drive, Suite 300  
Herndon, Virginia 20171  
P 703-668-4600  
[networksolutions.com](http://networksolutions.com)



Please feel free to contact me with any questions or concerns. Network Solutions looks forward to working with ICANN and quickly removing the outdated bulk Whois requirement in Section 3.3.6.

Sincerely,

A handwritten signature in black ink, appearing to read 'Statton Hammock'.

Statton Hammock  
Senior Director, Law, Policy & Business Affairs  
Network Solutions, LLC

cc:

John Jeffrey, General Counsel  
Tim Cole, Registrar Liaison  
David Giza, Sr. Director, Contractual Compliance

13861 Sunrise Valley Drive, Suite 300  
Herndon, Virginia 20171  
P 703-668-4600  
[networksolutions.com](http://networksolutions.com)