

WHOIS Review Team Discussion Paper

Input from Nominet

Introduction

Nominet is the registry for the .uk country code top-level domain. With over nine million registered domains, we are the second largest country-code top-level domain.

As a ccTLD, Nominet has developed its own WHOIS policy and implementation in consultation with local stakeholders. This contribution to the discussion seeks to provide information about the UK environment in response to the WHOIS Review Team's request for input from ccTLDs. We have not responded to questions that specifically look at the gTLD WHOIS policy.

Question 3: What insight can country code TLDs (ccTLDs) offer on their response to domestic laws and how they have or have not modified their ccTLD WHOIS policies?

1. The .uk WHOIS policy was developed in consultation with UK stakeholders and in particular in discussion with the UK Information Commissioner's Office. It is designed to meet the requirements of UK law and good practice, including in protecting the privacy of personal information for non-trading individuals (see question 4).
2. The .uk WHOIS does not contain the same details as included in the requirements on gTLDs. It lists:
 - a. Domain name
 - b. Registrant
 - c. Registrant type
 - d. Registrant's address
 - e. Registrar (we also provide optional reseller information.)
 - f. Relevant dates
 - i. Registered on
 - ii. Renewal date
 - iii. Last updated
 - g. Registration status
 - h. Name servers
3. We provide a Public Register Search Service (PRSS), which allows searches of the register for domain names that contain searched-for strings and/or are registered to a particular legal entity and/or of a similar name. The PRSS is accessible via a web interface and allows searches using wildcards. It is available to anyone based in the EEA on a contract-only basis, subject to terms and conditions. The service is aimed at in-house counsel, law firms, brand protection agencies etc, although a number of UK-based law enforcement agencies and the Internet Watch Foundation have access. An annual fee is payable and there are monthly limits on queries.

Question 4: How can ICANN balance the privacy concerns of some registrants with its commitment to having accurate and complete WHOIS data publicly accessible without restriction?

1. In line with UK data protection law, a registrant who is a non-trading individual can opt to have their address omitted from the WHOIS service. Non-trading is interpreted strictly: the domain should not be used for **any** revenue-earning activities (business, trade, or professional transactions, and this includes the use of the domain name for monetisation purposes).
2. If we become aware that a domain name is incorrectly opted out, we will opt it back in to WHOIS and lock it to prevent the opt-out being reapplied. We can also suspend the domain name as it is in breach of our terms and conditions.

Question 5: How should ICANN address concerns about the use of privacy/proxy services and their impact on the accuracy and availability of the WHOIS data?

1. We do not recognise the use of privacy and proxy services. Our contract is with the party that is identified as the registrant. We do not have figures on the use of privacy services, but the provision of an opt-out for non-trading individuals and the fact that any email and contact telephone numbers are not contained on the public WHOIS should reduce the need for the use of such services.
2. We would expect a company to use its business trading address or registered office. A sole trader (for example) working from a private address might opt to use a third party (the company accountant or lawyer): we could probably not identify where this was being done.
3. As noted below, registrants risk losing their domain names, if they cannot be contacted through the listed WHOIS address.

Question 6: How effective are ICANN's current WHOIS related compliance activities?

It is not appropriate for us to reply on ICANN's compliance. For the case of .uk:

1. When we become aware of incorrect WHOIS data, we put the registrant under notice to correct them and will suspend the domain name should this not happen.
2. In specific circumstances – where a law enforcement agency has identified that it believes there is criminal activity under the domain name – we can use our terms and conditions to suspend the domain name. The registrant can appeal against this suspension.

Question 10: How can ICANN improve the accuracy of WHOIS data?

It is not appropriate for us to reply on ICANN's enforcement of WHOIS accuracy. For the case of .uk:

1. We have carried out assessments on the accuracy of .uk WHOIS. This has shown that accuracy of opted-out domain names is higher than average, with 92 % having traceable postal addresses.
2. We have been carrying out an overview of the .uk register by batches.

Question 11: What lessons can be learned from approaches taken by ccTLDs to the accuracy of WHOIS data?

1. The ccTLDs are mainly focussed on serving the needs of specific legal jurisdictions. This does allow them to tailor their approach to local (national) circumstances.
2. Privacy is clearly an issue and ignoring it will increase the probability that data will be incorrect, even from those without any malicious intent.
3. In the case of .uk, Nominet has a contract with the registrant and can use this contract to require that data are corrected. However, in many cases data are incorrect because of a misunderstanding of what is required, they are not updated when circumstances change, or information about changes is not passed on to our systems.
4. While we are continuing to work on improving data quality, both by proactive checks and in response to complaints, we recognise there is a clear requirement to work quickly when malicious activity is suspected. This remains our priority.

Question 12: Are there barriers, cost or otherwise, to compliance with WHOIS policy?

The main barrier is in the processes that link registrar and registry data systems. We are working with our registrars to improve these processes.

Question 13: What are the consequences or impacts of non-compliance with WHOIS policy?

A domain name can be suspended or cancelled in the case of registrant non-compliance or where a registrant does not correct data in response to a request.

Question 14: Are there any other relevant issues that the review team should be aware of? Please provide details.

1. We believe that there is a significant trust issue associated with provision of accurate contact information, in particular for domain names being used for trade (revenue-earning activities). This creates a question of trust for the TLD, in particular (in the case of ccTLDs) in relation to the law enforcement, regulatory and other public authorities in the country or territory concerned.
2. While this could impact consumer confidence, very few Internet users are aware of the WHOIS service.

3. The EU's e-Commerce Directive includes requirements for trading websites to include contact information for the trader so that third parties know who they are dealing with. For the consumer, this information is considerably more easily accessible than WHOIS.
4. Nominet has established a one-stop shop portal (Know The Net: www.knowthenet.org.uk/) for information and links to help services and we contribute to a number of education and awareness initiatives: we believe that work such as this is a major contribution to keeping people safe on line.
5. We are conscious that WHOIS data can be used to assist in perpetrating fraud and can be used for spam (and Nominet has been the victim of this kind of fraud). In the .uk WHOIS, we do not publish e-mail contacts. In general most of our communications with registrants are via e-mail.



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