



Thick Whois Policy Implementation Plan Transition from thin to thick

Draft Outline for Discussion with IRT and Experts from Affected Parties
Version 1.0 | 29 July 2015

***Notice:** This document is a draft outline proposal to initiate the discussion with relevant experts regarding the implementation of the transition from thin to thick Whois for the .COM, .NET and JOBS gTLDs. While this document takes into consideration the analysis and conclusions of the Legal Review Memo released by ICANN on 8 June 2015, it does not constitute a final proposal or plan for implementation. Additionally, references to the disclosure and transfer of data in this document refer to domain name registration data that is currently disclosed publicly through Registrars Whois services.*

1. Determine need for renewal of Registrant consent, registrar by registrar

***Note:** This procedural step relies on knowledge and experience of Registrars in handling their client's registration data, including for registrations in TLDs that may already be thick.*

- a. Where consent terms authorize disclosure of registration data to the Registry, transfer of that data to another country (as applicable), and relevant jurisdictions do not oppose such transfer: proceed with transitioning registration data and systems from thin to thick (see section 5)
- b. Where consent terms do not already authorize such disclosure of registration data to the Registry and/or transfer of that data to another country: require Registrant consent in order to proceed with data transfer (see section 2)
- c. Where applicable jurisdiction prevent such of registration data to the Registry and/or transfer of that data to another: implement possible available mechanisms to manage and mitigate conflict with relevant jurisdiction (see sections 3 & 4)

2. Manage Registrant consent to transition

- a. Implementation of new consent terms by Registrar:
 - i. Adapt consent language to context, including appropriate consideration of validity of consent as “freely given”

Note: The 2013 RAA provides guidelines that registrars may want to consider:

3.7.7.4 Registrar shall provide notice to each new or renewed Registered Name Holder stating:

3.7.7.4.1 The purposes for which any Personal Data collected from the applicant are intended;

3.7.7.4.2 The intended recipients or categories of recipients of the data (including the Registry Operator and others who will receive the data from Registry Operator);

3.7.7.4.3 Which data are obligatory and which data, if any, are voluntary; and

3.7.7.4.4 How the Registered Name Holder or data subject can access and, if necessary, rectify the data held about them.

3.7.7.5 The Registered Name Holder shall consent to the data processing referred to in Subsection 3.7.7.4.

- ii. Execute collection of consent at renewal of registration or under any other applicable circumstances

Note: Timing and triggers for collecting consent need to be further explored. Multi-year registration may pose a challenge in terms of timeliness for gathering consent. More information is needed on the ability of registrars to amend the terms of their registration agreements. One possibility to be explored is whether a Consensus Policy would be a legitimate trigger for Registrars to amend their Registration Agreement.

- b. Where Registrants do not consent to disclosure of registration data to the Registry and/or transfer of that data to another country, or upon later revocation of already given consent, as appropriate:
 - i. Registrars may provide the registrant the opportunity of using Privacy/proxy services
 - ii. Registrars may need to terminate registration

3. Manage Conflict with relevant Jurisdiction (case-by-case contractual implementation)

- a. Use of the ICANN Procedure for Handling WHOIS Conflict with Privacy Laws

Note: While the current Procedure is being reviewed by an Implementation Advisory Group (IAG), and until the Procedure is revised with appropriate consideration by the GNSO Council, it will remain applicable in its current form.

- b. Amendments to or waiver from specific contractual requirements
 - i. Contracted party identifies possibly conflicting requirements (this implementation plan could pre-identify a set of requirements likely to be conflicting in foreseeable circumstances)
 - ii. Contracted party request an amendment or waiver as per a process to be documented (or referred to) in this plan

4. Mitigate Conflict in relevant Jurisdiction (technical implementation applicable to all parties)

- a. Implement RDAP redirection to mitigate conflict

Note: This topic has been identified as needing formal consideration from the IRT as to whether such mitigation would be consistent with the intent of the Thick Whois Policy Recommendation #1

- b. Implement Regional Thick Whois Data Stores where relevant

Note: This is an option mentioned in the Legal Review Memo, to be further explored as part of the development of this implementation plan

5. Process for transitioning Registration data and systems from thin to thick

Note: This section would build on input from Registries regarding proposed implementation processes and timeline, and appropriate discussion of these among affected parties.

- a. Existing registrations
 - i. Channel and Requirements for transferring data
 - ii. Steps and timeline for transferring data

- b. Future registrations
 - i. Channel and Requirements for transferring data: EPP
 - ii. Steps and timeline for implementing changes in Registry and Registrars Systems
 - iii. Consideration of impact on Resellers

- c. Considerations regarding labeling and display of RDDS Output
 - i. Synchronization with Thick Whois Consistent Labeling and Display Implementation
 - ii. Synchronization with RDAP Implementation

6. Supporting measures to assist stakeholders with the transition

Note: This section would build on the discussion of implementation details through progressive identification of needs and relevant supporting measures.

- a. Proposed Measures to support Registries
 - i. *ICANN-led Registry Outreach Plan*
 - ii. ...

- b. Proposed Measures to support Registrars
 - i. *Registry-led Registrars Outreach Plan*
 - ii. *ICANN Online resources for Registrars*
 - iii. ...

- c. Proposed Measures to support Registrants
 - i. *Registrars-led Outreach Plan*
 - ii. *ICANN Online resources for Registrants*
 - iii. ...

-
- d. Proposed Measures to handle issues arising from implementation of the transition
 - i. *Unresponsive registrant*
 - ii. *Unresponsive registrar*
 - iii. *Whois Data transfer issues*
 - iv. *...*



One World, One Internet

ICANN.ORG