

Ayden Férdeline: (3/15/2017 13:53) Hi. Is this the Adobe Connect room for the RDS PDP WG?

Marika Konings 2: (13:54) Yes, you are in the right place :-)

Fabricio Vayra: (13:54) Hi!

Stuart Clark: (13:54) hi

Marika Konings 2: (13:54) we are just setting up as the group before us went slightly over

Stuart Clark: (13:54) Stuart Clark

Lisa Phifer: (13:55) Welcome Stuart and Fab

Marika Konings 2: (13:55) For those of you participating remotely, if you have any comments or questions that you want to have read out in the room, please post those in the chat preceded by 'QUESTION' or 'COMMENT' and we'll do our best to get you in the queue.

Maxim Alzoba (FAITID): (13:56) Hello All

Lisa Phifer: (13:56) Adobe Connect <https://participate.icann.org/cph58-hallc14>

Carlton Samuels: (13:56) Howdy all

Lisa Phifer: (13:57) 1. Introductions Guest presenters were introduced to RDS PDP WG:• Joe Cannataci, UN Special Rapporteur on the right to privacy• Peter Kimpian, Data Protection Unit of the Council of Europe2. Data Protection Expert – Q&A session• Chuck Gomes briefly introduced our charter and current areas of deliberation• Guest presenters discussed the WG's list of questions (RDSPDP-QuestionsForDataCommissioners-7March2017.pdf)

andrew sullivan: (13:57) For the record, I noted some weeks ago that Oracle has purchased Dyn, but I haven't succeeded in logging into wiki and updating it.

Maxim Alzoba (FAITID): (13:58) could we have URL for the slidedeck?

Lisa Phifer: (13:59) <https://community.icann.org/download/attachments/64074269/ICANN58-RDS-PDP-WG-Slides-FinalRev2.pdf>

Marika Konings: (13:59) See <https://community.icann.org/x/HbLRAw> for all the materials related to this session

Lisa Phifer: (14:01) Questions for data commissioners start on slide 28

andrew sullivan: (14:19) Am I the only person who still doesn't understand the significance of "primary" or "secondary" purpose?

andrew sullivan: (14:19) Is the distinction important for our cases?

Fabricio Vayra: (14:20) B/c without it, arties can't confirm public records of ownership, for management, acquisitions, etc.

Rod Rasmussen: (14:20) @Andrew - I am still in the dark here as well. What is the litmus test to differentiate between primary and secondary?

Fabricio Vayra: (14:20) +1 Andrew and Rod.

Ayden Férdeline: (14:21) I also do not understand the distinction between a primary and secondary purpose.

Susan Prosser: (14:21) agree.

andrew sullivan: (14:21) Ok, I will ask whether it matters, unless someone else does :)

Fabricio Vayra: (14:21) Remind folks of my prior suggestions: Purpose of RDS is to support domain name registration and maintenance by providing appropriate access to registration data to enable a reliable mechanism for identifying, establishing and maintaining the ability to contact Registrants

Rod Rasmussen: (14:21) Lifecycle of domain contains a gazillion individual purposes. Sounds to me like we need to have these broader/generic purposes broken down to particulars.

andrew sullivan: (14:22) @Rod: I think that's right

Rod Rasmussen: (14:22) @Fab - to establish ownership/control and facilitate transfer (that's three!)

andrew sullivan: (14:23) This description sounds to me like the purpose here is "validation that the registry repository agrees with the registrar repository"

Fabricio Vayra: (14:23) +1 Rod. To Susan's point, every domain name acquisition agreement I have ever been privy to, contains a clause that ownership is established by publicly available whois. It's what escrow services use to verify, UDRP, URS, ACPA use.

andrew sullivan: (14:24) which is a good purpose: it's a narrowly-needed purpose due to the distributed management of the Net. Some of it does not need to be public, however

Fabricio Vayra: (14:24) NO, not a law enforcement purpose to see "who attacked me last" it's part of an owner's admin

andrew sullivan: (14:24) it could be available just to registrant, for example

Lisa Phifer: (14:25) All, we have just jumped to question 5 on thin data elements (slide 30)

andrew sullivan: (14:25) Of course, much of that PII data goes to the registry because we were unhappy with the access protocol (whois) which did not handle a distributed database very well

Rod Rasmussen: (14:26) I think in this area the analogy is to public records of property ownership - those purposes for public publication would be good analogies to examine here.

andrew sullivan: (14:26) the "thick whois" is a policy response to a technical problem

Fabricio Vayra: (14:26) +1 Rod

Susan Prosser: (14:26) good idea Rod

Alex Deacon: (14:29) a domain name is PII? wow...

andrew sullivan: (14:29) it could be PII which nevertheless must be published given its purpose

andrew sullivan: (14:30) anvilwalrusden.com contains an anagram, for instance

Rod Rasmussen: (14:30) Property could be real estate, a business, or even an automobile. None may be a "perfect fit" for what we need to define, but all have analogous registries with publication available to the public at different thresholds. Instead of making this stuff up ourselves, using established norms as a base would speed this work up immensely.

andrew sullivan: (14:30) it identifies me, but for its purposes it must be published.

Greg Aaron: (14:30) My observation is that every European ccTLD registry published that thin data. Because 1) it's not personal info, 2) it's a stretch to say it can be reasonably connected to an individual, and 3) there are legitimate reasons to publish those fields.

Brad Marden: (14:31) Does this mean we need to get rid of DNS

Fabricio Vayra: (14:31) @Rod see <https://secure.alexandriava.gov/ajis/index.php>

Jim Galvin (Afiliias): (14:31) it's not about whether or not it is PII. It is about whether or not the data needs to be published. The question applies to all data.

John McCormac - HosterStats.com: (14:31) Nominet (UK ccTLD reg) allows individuals to opt out of having their PII data published in Whois. The European ccTLD whois history is a very weird one with a lot of different jurisdictions and legal frameworks at work.

Stephanie Perrin: (14:32) +1 Jim. It is a complex, layered analysis that needs to take place...he is trying to explain this.

Fabricio Vayra: (14:32) So how do we balance PII and Accountability?

Michele Neylon: (14:32) OMG JMCC is here :)

John McCormac - HosterStats.com: (14:32) Yep Michele. :)

ANAND MOHANDAS: (14:32) JMCC is a big man?

andrew sullivan: (14:33) I thought the whole point here was that the `_purpose_` counted. Obviously since the purpose here is to connect with that individual, that's the purpose and so it must be published

John McCormac - HosterStats.com: (14:34) I run a little website with about 500 million webpages or so, Anand.

Ayden Férdeline: (14:34) @Andrew: The purpose might be to collect that data - but not necessarily to publish it.

ANAND MOHANDAS: (14:34) .. :) Great ..

andrew sullivan: (14:34) in the case of a domain name, the `_whole point_` is to publish it

ANAND MOHANDAS: (14:34) I run a little website with 10 pages

andrew sullivan: (14:34) that's what domain name registration is for

Alex Deacon: (14:34) +1 andrew

Rod Rasmussen: (14:35) Exactly @Andrew - same thing with name servers - don't collect that information and domains don't work, so the purpose for collection in that case is clear. Then you MUST publish those in the DNS for things to work. The more precise question is whether to publish it in whois or the analogy, but regardless, collection and publication within the ecosystem (think RDS in a broad sense) must occur for a domain to even operate.

Fabricio Vayra: (14:36) +1 Andrew

Jim Galvin (Afilias): (14:36) @fabricio - if accountability is purpose in the public interest - then it is published free for all. if accountability is a purpose of a limited set of people, then we figure out how to give them access to the data.

Fabricio Vayra: (14:36) +1 Rod

Rod Rasmussen: (14:36) @Jim - yup

Jim Galvin (Afilias): (14:37) @andrew - we do not have agreement that the purpose of registration data is in the public interest to allow for connection to the person. If it's not then no, do not publish.

Fabricio Vayra: (14:37) @jim, I think accountability is implicit in contactability purpose, but we can make it more explicit if need be

Stuart Clark: (14:37) But people don't find sites via the whois

ANAND MOHANDAS: (14:37) awesome site...JMCC

Alex Deacon: (14:38) Does the legitimate purpose required to publish personal data need to be primary or can it be secondary? Still unclear.

Stuart Clark: (14:38) Whois of a particular name requires you to know the name beforehand

andrew sullivan: (14:38) @Jim: anvilwalrusden.com is undeniably PII of me -- I am literally the only person who uses that domain name.

Stuart Clark: (14:38) Batch data would be different though - for example the DNS zone file

Rod Rasmussen: (14:38) The question becomes what is in the "public interest" vs. more limited but still valid interests for "gated" access, and then what is out of bounds entirely. This is still separate from collection of data though, as there are many items that your service provider needs that would never be published to anyone (except perhaps LE or a government) like credit card information for automated renewals.

andrew sullivan: (14:39) I do not believe that there is any reason to suppose there's controversy about the purpose of publishing the name "anvilwalrusden.com" in the whois

andrew sullivan: (14:39) right?

Kal Feher: (14:39) it should be noted that not all registrations are for the purpose of appearing in DNS. we can't always imply a desire to be public from a simple registration. I'd only make that leap if there were associated NS records

Jim Galvin (Afilias): (14:39) @fabricio - accountability is important but the question is if it is in the public interest? If it is then you publish for free to all. if it's not, then you find a different way to provide the data.

Fabricio Vayra: (14:39) @Jim, are we questioning whether accountability in the DNS is in the public interest?

Jim Galvin (Afilias): (14:40) @andrew - ah, sorry. Let us not confuse domain name with the "unfortunate" fact that you used your name as your domain name. The domain name can be shown and arguably has to be shown. the fact that it is your name is incidental and completely your problem.

Stuart Clark: (14:40) I'd say the difficulty for anvilwalrusden.com would be in the DNS zone file rather than whois

John McCormac - HosterStats.com: (14:40) Thanks Anand.

John McCormac - HosterStats.com: (14:41) Also unless there's a 403 or IP block in place, there's no such thing as a private website on the web.

Rod Rasmussen: (14:41) @Kal - <Null> is still valid for nameserver entries. However, as has already been discussed, knowing whether they are supposed to be <Null> or not is very useful for troubleshooting purposes.

John McCormac - HosterStats.com: (14:42) @Rod also IP addresses are listed as nameservers for some records and these IP addresses might also identify the registrant/user.

Kal Feher: (14:43) @rod I'm not sure you've understood the nuance. unless we have a "do you want to be in the DNS" flag, the only way to derive that is the presence or lack thereof of NS records. a technical mistake is incidental to the desire.

andrew sullivan: (14:43) IP addresses for a name server are in-zone glue data, note, which needs to be published for the same troubleshooting reasons

ANAND MOHANDAS: (14:44) I have assisted hundreds of people to register a domain..I insist that they use their email and address to register a domain...

John McCormac - HosterStats.com: (14:44) @Andrew, No. Sometimes registrants will specify IP addresses as their nameserver names and these will get into the zonefiles not as glue records but rather as nameserver names.

John McCormac - HosterStats.com: (14:45) @Andrew, it is a separate issue to glue records.

andrew sullivan: (14:45) Any DNS server that is serving IP addresses in the RDATA of an NS record is in violation of STD 13

John McCormac - HosterStats.com: (14:46) @Andrew, it would be nice if zonefiles had properly formatted and FQDNs with real TLDs. But sometimes registrants don't know what they are doing.

Jim Galvin (Afiliis): (14:46) @fabricio - what I think we are discussing is whether accountability is in the public interest (i.e., free open access to all data) or public interest to be used by accessible and used by a small group of people (e.g., law enforcement).

andrew sullivan: (14:47) BIND, NSD, and KnotDNS will all refuse to serve an NS record with RDATA that isn't a domain name.

andrew sullivan: (14:47) That's just not conforming to the RRTYPE

Ayden Férdeline: (14:48) +1. Creation date and expiration date are registrar-register contract data.

Fabricio Vayra: (14:49) Purpose: support domain name registration and maintenance by providing appropriate access to registration data to enable a reliable mechanism for identifying, establishing and maintaining the ability to contact Registrants and maintaining domains

Fabricio Vayra: (14:49) +1 Andrew. What's the 2nd purpose about?

ANAND MOHANDAS: (14:49) what is the new policy on domain backorders?

Marika Konings: (14:49) @Anand - please note that this is a meeting of the Next-Generation Registration Directory Services to replace WHOIS Policy Development Process Working Group

Susan Kawaguchi: (14:49) Netnames failed to renew Ebay.co.uk, Register.com failed to renew Ebaystores.com.tw even though both of the registrars were instructed multiple times to renew,

Susan Kawaguchi: (14:50) some registrars are better now

ANAND MOHANDAS: (14:50) Thanks ..Noted

Greg Aaron: (14:50) Chairs, it would be good for the tem to bring to the WG definitions of what primary and secondary purposes are.

Lisa Phifer: (14:52) @Greg, who?

Ayden Férdeline: (14:53) +1 Stephanie. We do not build the RDS for the purpose of law enforcement. But there are legal provisions in many jurisdictions which allow law enforcement to retrieve the data we have collected in certain circumstances.

andrew sullivan: (14:53) "somecrazynamethatidontwanttobotherwithmakingupatthemoment.com" is only just a legal domain name :)

Greg Aaron: (14:53) Privacy law defines "primary" and "secondary" purposes. As Andrew just said, many of us do not understand what those terms mean, and we need to in order to apply them to registration data.

Susan Kawaguchi: (14:53) but when you manage corporate domain name portfolios you cannot leave it in the hands of a registrar. Double checking to see that the renewal is recorded in the Whois record is a registrant's only proof

Susan Kawaguchi: (14:54) Contact data primary purpose is for domain name management

Fabricio Vayra: (14:54) +1 susan

andrew sullivan: (14:55) @chairs: in case you're trying to thread the discussion, my hand is up for an additional clarification here

Susan Kawaguchi: (14:55) We only collect data for domain name management. If it is helpful to LE or brand enforcement then it is the secondary purpose

Wolfgang 2: (14:55) @ Stephanie: This is the so-called "Rendezvous" issue in the Internet of Things debate, that is when the "object" meets the "subject" object-information are becoming personal information. This is very slippery territory and we do not have an answer. This goes far beyond DNS.

Greg Aaron: (14:55) It's time for this WG to retain some outside legal help, like the EWG and the Thick WHOIS PDP group did.

Maxim Alzoba (FAITID): (14:55) imagine someone who uses name server installed in his house and used geotagging to point the address :) ... then this data with it ... might be seen as containing personal data ...

Rod Rasmussen: (14:57) @Kal No, I don't miss the nuances - you can register a domain for defensive purposes only, and not provide nameservers - that's intentional, and ok. That's different than having your registrar screw things up and change the resolution in a TLD's zone vs. what is in the intended set of information then you need some way to figure that out. There are far more purposes here. I'm just citing a few examples. Replace "technical mistake" with "theft" or "unscrupulous registrar who commandeers domains" and we have yet more purposes. We can argue about whether or not those are sufficient purposes for fully open publication in an RDS, but they are certainly legitimate ones. Without publication of what is "supposed to be" figuring out WTH is going on when things disappear becomes nearly impossible.

Brad Marden: (14:58) From the Australian Privacy Act 1988: "Use or disclosure of personal information for a purpose other than the primary purpose of collection (being a 'secondary purpose') is permitted under specific exceptions where that secondary use or disclosure is ... in the conduct of surveillance activities, intelligence gathering activities or monitoring activities, by a law enforcement agency"

Fabricio Vayra: (14:58) +1 Rod

Maxim Alzoba (FAITID): (14:58) I think it is more about EU

Kal Feher: (14:58) @maxim, that personal address would be served by the name server, not the RDS. unless you were updating your NS records via your registrar in real time. We can't stop people from doing silly things ;)

Maxim Alzoba (FAITID): (14:59) you can always use your own DNS server as one of the records :)

Kal Feher: (15:01) @rod. I think you may have misunderstood my point. you can't assume that all registrations are for the purpose (that word again) of publishing in DNS. if you wanted a proxy for that choice, the presence of NS records might serve, although nothing stops us from adding explicit intention fields in the future. Troubleshooting really has nothing to do with a person's desire for publication or not.

Fabricio Vayra: (15:04) Purpose: support domain name registration and maintenance by providing appropriate access to registration data to enable a reliable mechanism for identifying, establishing and maintaining the ability to contact Registrants and for registrants to manage domains.

Rod Rasmussen: (15:04) @Kal - I agree that not all registrations are for publication - absolutely! I'm just saying that you need NS info published for when you *do* intend it to be in the DNS yet it isn't (or it's wrong). We're probably just talking about different sides of the same coin.

Kal Feher: (15:05) @rod, yes. I think so

Vicky Sheckler: (15:05) transparency as a principle is something we should discuss.

Susan Kawaguchi: (15:05) +1 Fab

Rod Rasmussen: (15:06) Would like to get back to the "original purpose" of whois from the 70's - allowing you to contact someone about their domain being broken - "resolution of technical issues" I think we're calling that now. That seems like a purpose that covers both collection and publication to me, not separate ones. Just sayin'

Fabricio Vayra: (15:06) @Vicky - Agree. See my suggested purpose statement above

Vicky Sheckler: (15:07) especially in the context here, where typically the DNS is used to operate websites or assets that are generally meant to be found

Fabricio Vayra: (15:08) Thanks, Lisa!