RDS REVIEW: GUIDANCE FOR DETERMINING THE SCOPE OF THE REVIEW

SUMMARY

This paper is intended to offer guidance on the scope of the review to the RDS Review Team. Once the RDS Review Team has been named, the members will be responsible for determining the Review's actual scope and work plan.

BACKGROUND

Under the Bylaws, Section 4.6(e),

> 'ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations and Advisory Committees to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.

> The Board shall cause a periodic review to assess the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data ("Directory Service Review").

> The review team for the Directory Service Review ("Directory Service Review Team") will consider the Organisation for Economic Co-operation and Development ("OECD") Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD in 1980 and amended in 2013 and as may be amended from time to time.

> The Directory Service Review Team shall assess the extent to which prior Directory Service Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.'

The Registration Directory Services (RDS) Review (formerly, the WHOIS Review) commenced in October 2016, as required by the Bylaws.

PURPOSE

In considering all the WHOIS related activities currently underway within the community, recent discussions among the Chairs of the ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) and the Board Working Group on Registration Directory Service (RDS) have highlighted several concerns that need to be raised. There is the potential for significant overlap with other RDS activities currently being addressed within the community such as the PDP on the GNSO Next-Generation gTLD Registration Directory Services to Replace WHOIS (PDP RDS) that may impact the work of the review team along with the community resources to support both efforts. The increased demand on community bandwidth is a critical concern. There is an additional issue with the need for expertise to support a full RDS Review. To address these concerns, and to ensure that the RDS Review is conducted efficiently and effectively, the SO/AC Chairs have considered a proposal to limit the scope and time commitment required for this review.

The RDS Limited Scope Proposal originated with the SO/AC leaders based on discussions on how to conduct the RDS Review more effectively as well as minimize the impact on the community.

The SOs and ACs have considered the RDS limited scope proposal and responded with their feedback.

The following summarizes the feedback received, and highlights key points that the Review Team should consider as it develops its charter, and determines the scope of the RDS Review.

SCOPE OF RDS REVIEW

The proposed limited scope suggests that:

- The scope be limited to "post mortem" of implementation results of the previous WHOIS review recommendations
- ICANN Org report on implementation of WHOIS review recommendations:
  - How well were the identified issues addressed?
  - How well were the recommendations implemented?
- Review scope exclude issues already covered by RDS PDP effort

The recent GAC feedback noted that many of its members have no objection to the proposal, but a few members expressed concerns regarding the exclusion of issues that are covered by the RDS PDP effort, due to the length of time PDP takes.

The GNSO feedback indicates their support for excluding issues already covered by the RDS PDP efforts, to avoid duplication of work, and the proposed limited scope. Additionally, GNSO suggests the scope to include and assess:

- Whether RDS efforts meet the "legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data."
- How RDS current & future recommendations might be improved and better coordinated
- Privacy and Proxy Services Accreditation Issues and Implementation
- The progress of WHOIS cross-departmental validation implementation
- Compliance enforcement actions, structure, and processes
- Availability of transparent enforcement of contractual obligations data
- The value and timing of RDAP as a replacement protocol
- The effectiveness of any other steps ICANN Org has taken to implement WHOIS Recommendations

ALAC & SSAC, have both indicated support of the proposed limited scope, and exclusion of issues covered by RDS PDP.

In summary, the majority of the SOs & ACs agree that the RDS Review scope should be determined in very close coordination with other ongoing community efforts to avoid duplication of work.

Moreover, given the concerns regarding the community bandwidth, sheer amount of work associated with a full Review scope, and the length of time it takes to conduct a full Review (12-18 months) compared to the proposed limited scope (approximately six (6) months), the proposed limited scope may be the most feasible approach and best use of community resources.