

# Registration Directory Service (RDS-WHOIS2) Review

Draft Report including F2F#3 agreements and action items

REC4 SUBGROUP REPORT - SECTION 3.5 ONLY  
FOR SUSAN TO PROVIDE REDLINED UPDATES

RDS-WHOIS2 Review Team  
30 July 2018



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## 3 Objective 1: Assessment of WHOIS1 Recommendations Implementation

### 3.5 WHOIS1 Rec #4: Compliance

[SUBSECTION NUMBERS WILL BE ADJUSTED WHEN ADDED BACK TO MASTER DOC]

#### 1.1.1 Topic

Subgroup 1 - WHOIS1 Rec4 Compliance is tasked with investigating, analyzing, and drafting recommendations (if needed) to address the following Review objectives:

Consistent with ICANN's mission to ensure the stable and secure operation of the Internet's unique identifier systems by enforcing policies, procedures and principles associated with registry and registrar obligations to maintain and provide access to accurate and up-to-date information about registered names and name servers, the review team will (to the extent that this is not already covered in prior RT recommendations), (a) assess the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes, including consistency of enforcement actions and availability of related data, (b) identifying high-priority procedural or data gaps (if any), and (c) recommending specific measurable steps (if any) the team believes are important to fill gaps.

And

Consistent with ICANN's mission and Bylaws, Section 4.6(e)(iv), the Review Team will (a) evaluate the extent to which ICANN Org has implemented each prior Directory Service Review recommendation (noting differences if any between recommended and implemented steps), (b) assess to the degree practical the extent to which implementation of each recommendation was effective in addressing the issue identified by the prior RT or generated additional information useful to management and evolution of WHOIS (RDS), and (c) determine if any specific measurable steps should be recommended to enhance results achieved through the prior RT's recommendations. This includes developing a framework to measure and assess the effectiveness of recommendations, and applying that approach to all areas of WHOIS originally assessed by the prior RT (as applicable).

The specific [WHOIS1 Recommendation](#) assessed by this subgroup appears below:

***WHOIS Recommendation #4: Compliance***

ICANN should ensure that its compliance function is managed in accordance with best practice principles, including full transparency on resourcing and structure; provide annual reports; appoint a senior executive whose sole responsibility would be to oversee and manage ICANN's compliance function (reporting to Board Committee); provide all necessary resources to manage and scale compliance team's activities.

Questions the subgroup attempted to answer when assessing the first objective include:

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1) Review compliance reports initiated since 2012 on policies that existed prior to 2012 and after for the following:

- ⊙ Effectiveness
- ⊙ Transparency
- ⊙ Any issues arise
- ⊙ New compliance issues

Questions the subgroup attempted to answer when assessing the second objective include:

- a. Do the current reports provide the details described above? Are they transparent and complete?
- b. Is the current appointment of a senior executive appropriate? Who does this person report to?
- c. Does the compliance team have all necessary resources?

## 1.1.2 Summary of Relevant Research

To conduct its research, all members of this subgroup reviewed the following background materials, posted on the subgroup's wiki page:

- ⊙ [WHOIS Review Team \(WHOIS1\) Final Report](#) (2012) and [Action Plan](#)
- ⊙ [WHOIS Review Team \(WHOIS1\) Implementation Reports](#), including
  - Executive Summary of Implementation Report
  - Detailed implementation Report
- ⊙ WHOIS1 Implementation Briefings on Recommendations 4, 12, 13, 14: [PPT](#), [PDF](#)
- ⊙ [Answers to RDS-WHOIS2 Questions on Implementation Briefings](#)
- ⊙ Documents cited in briefing on Recommendation 4 Compliance include
  - [Contractual Compliance Outreach information and Metrics Reporting](#)
  - [Process and approach for enforcing the contract](#)
  - [Contractual Compliance staff information](#)
  - [Contractual Compliance annual reports and financials](#)
  - [Chief Compliance Officer 2017 announcement](#) and [2014 announcement](#)
  - [Consumer Safeguards Director announcement](#)
- ⊙ Additional documents relevant to Topic 7 Compliance include
  - [WHOIS Review Team \(WHOIS1\) Final Report](#) (2012), Section 1: The Effectiveness of ICANN's WHOIS Compliance Effort
  - [Documents relevant to WHOIS1 Recommendations 5-9 - Accuracy](#)
  - [ICANN Contractual Compliance web pages](#)
  - [Competition, Consumer Trust and Consumer Choice Review Team Draft Report](#)
- ⊙ [2 February Meeting with Compliance Management - Q&A](#), citing additional documents
  - FY18 Operating Plan and Budget
  - [Contractual Compliance 2017 Annual Report](#)
  - [Contractual Compliance Audit Program](#)
  - [Contractual Compliance Monthly Dashboards](#)
  - [WHOIS ARS Contractual Compliance Metrics](#)
  - [ICANN's Contractual Compliance Approach and Processes](#)
  - [Notices of Breach, Suspension, Termination and Non-Renewal](#)
  - [Registrar Formal Notices \(Enforcement\)](#)

In addition, the subgroup requested additional materials and briefings from the ICANN Compliance organization:

- ⊙ [Rec 4 Written Implementation Briefing](#)
- ⊙ [Meeting #3 - with Compliance Management \(1 February 2018\)](#)
  - [Written answers to 1 February 2018 questions](#)

[Written answers to 28 March 2018 meeting questions](#)

- ⦿ Brussels Meeting follow-up questions
  - [Written answers to compliance questions](#)
  - [Written answers to data accuracy questions](#)
- ⦿ Follow-up questions on the WHOIS ARS reports (May 2018)

The subgroup met with the Compliance team, Jamie Hedlund, Maguy Serad, Roger Lim and Andrea, twice each time providing a list of questions drafted by the subgroup prior to the meeting. The responses are provided above.

In addition, the subgroup considered the Accuracy Subgroup's findings with respect to compliance issues raised. Refer to the Accuracy Subgroup's report for a list of sources related to the Accuracy Reporting System (ARS).

Finally, the subgroup applied the RDS-WHOIS2 review team's [agreed framework](#) to measure and assess the effectiveness of recommendations,

## 1.1.3 Analysis & Findings

### 1.1.3.1 Implementation of Rec #4 - Analysis and Findings

This subgroup's objectives when analyzing its findings were to:

- ⦿ Identify the extent to which ICANN Org has implemented each prior Directory Service Review recommendation (noting differences if any between recommended and implemented steps);
- ⦿ Assess to the degree practical the extent to which implementation of each recommendation was effective in addressing the issue identified by the prior RT or generated additional information useful to management and evolution of WHOIS (RDS); and
- ⦿ Assess the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes, including consistency of enforcement actions and availability of related data.

In the following table, we present the specific compliance principles recommended by the prior RT, the questions this subgroup asked to assess implementation of those principles, and our findings and analysis for each.

WHOIS1-Recommended Principle	Question	Findings and Analysis
a. There should be full transparency regarding the resourcing and structure of its compliance function. To help achieve this ICANN should, at a minimum, publish annual reports that detail the following relevant to ICANN's compliance activities: staffing levels; budgeted funds; actual expenditure; performance against published targets; and	Do the current reports provide the details described above? Are they transparent and complete?	The Compliance team has made significant progress in reporting metrics and data in their annual report. They also allocate time during ICANN meetings to meet with the community and provide additional details on their work. The reports are very helpful and quite an improvement over reporting in 2012. In reading the reports it is hard to make an assessment of the issues that are still problematic. 66% of reports to the compliance team are WHOIS

<p>organizational structure (including the full lines of reporting and accountability).</p>		<p>inaccuracy reports which comprises the largest areas of the team workload. What is not evident in the data reported is what are the problem areas, what could be improved to assist the team with its work. ICANN Contractual Compliance has an ongoing continuous improvement cycle based on survey feedback, working group and review teams, lessons learned and internal reviews which also drive change. We appreciate that the Compliance team is working hard to receive input from the community. We have heard from users of the inaccuracy tool that there is an inconsistency in experience and results received when submitting a report.</p> <p>The Compliance team provided additional information to the subgroup. This information is reflected in the overall review of Compliance.</p>
<p>b. This senior executive should report directly and solely to a sub-committee of the ICANN Board. This sub-committee should include Board members with a range of relevant skills, and should include the CEO.</p>	<p>Is the current appointment of a senior executive appropriate? Who does this person report to?</p>	<p>The Compliance team provided an organizational chart for the reporting structure of the team. Although, the SVP Contractual Compliance &amp; Consumer Safeguards reports directly to the CEO the recommendation explicitly states “report directly and solely to a Board sub-committee.” There is no indication that the recommended reporting structure was implemented. The Board action on this recommendation indicates they thought the implemented reporting structure to be adequate. At this point in time we do not believe the recommendation was fully implemented. The intention of the first review team was to ensure this role had the independence needed to perform the compliance function without restriction from the rest of the organization. Additional review is needed to determine feasibility of adhering to the intentions of the RT1 recommendation.</p>
<p>c. ICANN should provide all necessary resources to ensure that the compliance</p>	<p>Does the compliance team have all</p>	<p>It appears that the Compliance team has all the necessary resources to manage compliance activities. They</p>

<p>team has the processes and technological tools it needs to efficiently and pro-actively manage and scale its compliance activities. The Review Team notes that this will be particularly important in light of the new gTLD program, and all relevant compliance processes and tools should be reviewed and improved, and new tools developed where necessary, in advance of any new gTLDs becoming operational.</p>	<p>necessary resources?</p>	<p>have improved technology over the years and implemented new systems. ICANN organization has provided the budget for the compliance team to grow. They currently have 25 employees compared to 6 during the first review. They have implemented a bulk WHOIS inaccuracy reporting tool and improved the single input WHOIS inaccuracy tool since the first review team report.</p> <p>It is the RT's opinion that the Compliance team has sufficient resources but does not utilize data for proactive assessment and enforcement.</p>
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(Should the following sections be moved to the other Compliance Subgroup ?)

## 1.1.3.2 Policy Enforcement - Analysis & Findings

In the following subsections, we present the questions this subgroup asked to assess the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes, and our findings and analysis for each.

### 1.1.3.2.1 WHOIS Accuracy Policy Enforcement

The 2013 Registrar Accreditation Agreement (RAA) requires ICANN-accredited registrars to comply with the WHOIS Accuracy Program Specification. There are several avenues in which the ICANN Compliance team receives reports of inaccurate data in the WHOIS.

- WHOIS Accuracy Reporting System
- Single WHOIS Inaccuracy report tool
- Bulk Submission WHOIS Inaccuracy complaint tool
- Proactive Inaccuracy Trend Analysis

## WHOIS ACCURACY REPORTING SYSTEM (ARS)

### a) WHOIS ARS Background and Goals

The WHOIS ARS project was created both in response to recommendations compiled and delivered by the 2012 WHOIS Review Team, under the Affirmation of Commitments (AoC), as well as to address GAC concerns on WHOIS accuracy. ICANN committed to proactively identify potentially inaccurate gTLD WHOIS contact data and forward this information to gTLD Registrars for investigation and follow-up.

### b) WHOIS ARS Phases

The ARS is divided into three phases based on the types of validation identified in SAC058:

- ⦿ Phase 1: Syntax Accuracy

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- ⦿ Phase 2: Syntax + Operability Accuracy
  - ⦿ Phase 3: Syntax + Operability + Identity (TBD; requires further consultation with the community as to if and how this phase would be implemented)

## c) ARS Accuracy Testing Methods

Syntax and operability accuracy testing were designed to assess the contact information of a WHOIS record by comparing it to the applicable contractual requirements of the RAA.

- ⦿ Syntax testing assessed the format of a record (e.g., does the email address contain an “@” symbol?)
- ⦿ Operability testing assessed the functionality of the information in a record (e.g., did the email not get bounced back?).

The resulting data were analyzed to produce statistics of syntax and operability accuracy for WHOIS contact information across subgroups such as New gTLDs or Prior gTLDs, Region, and RAA type (i.e., 2009 RAA or [2013 RAA](#))

## d) ARS Sample Design

A two-stage sampling method is used on the WHOIS ARS project to provide a large enough sample to reliably estimate subgroups of interest, such as ICANN region, New gTLD or Prior gTLD, and RAA type. Two samples are prepared at the beginning of each report cycle:

- ⦿ An initial sample of 100,000-200,000 WHOIS records
- ⦿ A sub-sample of the initial sample of 10,000-12,000 WHOIS records, which is used for accuracy testing

ICANN Contractual Compliance’s participation in the WHOIS Accuracy Reporting System (ARS) is limited to providing guidance for RAA obligations regarding syntax and accuracy, and processing complaints generated by the WHOIS ARS. The WHOIS ARS is managed by ICANN’s GDD.

## e) WHOIS ARS report cycle from April 2018

The WHOIS ARS sample of 12,000 domain names are reviewed for WHOIS accuracy and when an inaccuracy is found a ticket is created. The data is sent via a file directly to the compliance ticketing system and uploaded in batches of 200 a day. The WHOIS records are tagged with a reporter identifier WHOIS ARS for tracking and reporting purposes. Of the sample of the April 2018 ARS report cycle domain names, over one third (4,639) required a ticket to be created. More than one third of those tickets (1,711) were closed before a 1st notice was sent out.

**Metrics for April 2018 can be found here:** <https://whois.icann.org/en/whoisars-contractual-compliance-metrics>

**Analysis:** These metric show that over 50% of the tickets created in this process are closed prior to any action. According to the chart provided 50.9% of the data in the WHOIS records changed between the time it was reviewed as part of the sample and reviewed a second time when the ticket was processed. It is approximately 4 months between when the ARS sampling begins and inaccurate records are provided to Compliance to research. This appears to be a high percentage of change in a WHOIS record that historically does not see much change. If you extrapolated this data to all the WHOIS records in gTLDs as a whole that could mean that almost 50% of WHOIS records are modified in a short period of time.

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Or WHOIS ARS criteria of possible inaccuracy is not the same as the Compliance team's criteria

It is also interesting that 81.6% of tickets are closed after the 1st notice due to the registration being cancelled or suspended. This would seem to indicate that most inaccurate data entered into the WHOIS record is done so intentionally, otherwise the registrant would respond and update the information to accurate information to maintain the domain name registration. Only 10.9% of the tickets were closed after the 1st notice due to the registrant updating and correcting their registrant data.

**Based on this analysis, the subgroup identified the following Problems/Issues:**

- ⦿ The WHOIS record still exists with suspended domain names and the registrar can choose to unsuspend at any moment. The inaccuracy issue remains and should be addressed.
- ⦿ There are many reasons a domain name could be suspended that does not relate to an inaccuracy report most common for abusive activity. The inaccurate data still is visible in the WHOIS this can cause many issues for the individual or entity that have right to the data. If this data is displayed at a future date with only a suspended designation this does not accurately represent the history of the domain name.
- ⦿ A suspended domain name should not be unsuspended by registrar without verification of registrant data.

**To address these issues, the subgroup proposes the following recommendation (further detailed in the next section):** Domain names suspended due to inaccurate information and remain in that state until it is due for renewal the WHOIS record should be updated to a new status and the inaccurate data remove as further described below.

1. Policy or contracts should require that WHOIS indicate whether a domain is on hold due to inaccurate data
2. Domains on serverHold due to inaccurate data in WHOIS should not be unsuspended without inaccurate data being remedied

New data could be inserted to indicate this action. Replace the inaccurate registrant data with standard language such as "Data removed by a compliance action" or "Inaccurate Data removed".

## f) Grandfathered domain names

In 2013, there were 18 existing legacy TLDs and 146 new gTLDs added for a total of 164 gTLDs. 30% of the WHOIS ARS domain names that are sampled for this program are grandfathered domain names and are not required to adhere to the 2013 RAA. The 2009 RAA does not require the collection and display of Registrant email address, postal address or phone number it also does not require validation or verification of the data. Legacy gTLDs are defined as any domain names registered before 2013.

**Analysis:** If we assume the sample of ARS domain names of 30% grandfathered domain names then we can extrapolate this to 30% of all domain names registered before 2013 may not have this registrant data collected, displayed, verified or validated. According to GDD this is 180,000,000 domain name registrations. This number continues to shrink with deletions or transfers but it is still a substantial number of domain name registrations. GDD



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has provided additional clarification to our question about how many domain names actually do not include the 2013 RAA required information in the registrant field.

Their response is below:

It's important to note that if a Grandfathered record provides an email or telephone number, WHOIS ARS will assesses those fields for accuracy. While the WHOIS ARS doesn't include % of missing Registrant Email and Telephone numbers for grandfathered registrations vs. non-grandfathered registrations; the overall missing counts of Registrant email and telephone numbers based on our subsample seem fairly low.

**In the latest ARS report the number of missing registrant email addresses and phone numbers are very low. This does not completely address the concern of the review team that all domain name registrations must adhere to the same data collection requirements.**

**Based on this analysis, the subgroup identified the following Problems/Issues:**

All domain name registrations are not required to comply with the current WHOIS policies. A limited transition period is understandable but 5 years seems excessive. These Grandfathered domain name registrations still exist except for those that have been deleted, changed ownership or transferred to a new registrar. It is imaginable that the number of Grandfathered domain names will continue to stay in the 30% rate for many years to come unless we implement the 2013 RAA requirements and policies on all the domain name registrations ill respective of when they were registered.

**To address these issues, the subgroup proposes the following recommendation (further detailed in the next section):** The ICANN Board should direct ICANN Organization to assess grandfathered domain names to determine if information is missing from the WHOIS Registrant field. If 10% of domain names are found to lack data in the Registrant field, then the ICANN Board should initiate action intended to ensure that all gTLD domain names adhere to the same registration data collection requirements within 12 months.

## g) Regional WHOIS Inaccuracy Complaints

Data is provided by region for submitted inaccuracy complaints at the following link:

<https://features.icann.org/compliance/prevention-stats>

In reviewing the information less than 1% of the complaints submitted are from the African region and less than 5% of the complaints submitted are from the Latin America/Caribbean region.

**Based on this analysis, the subgroup identified the following Problems/Issues:**

It appears that there are regions of the world in which few inaccuracy complaints are submitted. In the data provided the global south, Africa and Latin America, are underrepresented in the number of submissions.

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** The ICANN Board should direct ICANN Organization to review the WHOIS records of gTLD domain names sampled by ARS for each region to determine whether lack of knowledge of WHOIS inaccuracy reporting tools or other critical factors are responsible for low WHOIS inaccuracy report submission rates in some regions.

### 1.1.3.2.2 Single WHOIS Inaccuracy Report Tool

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Anyone can report inaccurate WHOIS data to the compliance team by using the [compliance tool on the ICANN.org website](#):

When ICANN receives complaints or otherwise has information that suggests these requirements are not being fulfilled by a registrar, ICANN Contractual Compliance will review the registrar's compliance through a WHOIS Inaccuracy complaint. ICANN makes its compliance determination by conducting the following steps during its reviews:

1. Review the complaint to determine whether it is in scope of the requirements.
2. Review what WHOIS information the reporter claims to be inaccurate.  
Follow up with reporter if unclear on the inaccuracy reported and request additional information. Such information may include a request for evidence of the alleged inaccuracy (e.g., an email rejection notice or returned postal mail) or further explanation regarding why the data is invalid (e.g., explanation to support an allegation that the contact information does not belong to the listed contact in the WHOIS). Reporters are requested to respond within 5 business days. The complaint is closed absent receipt of adequate information for processing.
3. Confirm the WHOIS information is available from the registrar by querying the domain name(s).
4. Confirm the WHOIS format per Section 1.4.2 of the Registration Data Directory Service (WHOIS) Specification also known as RDDS.
5. Confirm that all required WHOIS fields have values present.
6. Confirm that the WHOIS information has no glaring inaccuracies on its face.
7. Review the reporter's complaint history in the compliance ticketing system to avoid processing of duplicative complaints and obtain additional information from other complaints, as applicable.
8. Once above checks are complete, ICANN will commence the informal resolution process by sending a 1st notice to the sponsoring registrar.
  - o WHOIS Inaccuracy complaints allow the registrar a 15-5-5 business day timeline to respond during the Informal Resolution period for the 1st, 2nd and 3rd notices, respectively.
9. To demonstrate compliance, a 2013 RAA registrar must
  - a. Contact the Registered Name Holder (RNH) 1
  - b. Verify the RNH email address with an affirmative response
  - c. Provide the results of the registrar's investigation
  - d. Validate the format of the WHOIS information
  - e. Suspend domain within 15 days if unable to verify
10. When the registrar demonstrates compliance:
  - a. ICANN assigns a resolution code to the complaint detailing the outcome of the review
  - b. ICANN sends a closure communication to the registrar and the reporter

ICANN Contractual Compliance recently began reporting on closure reasons by complaint type, including those for WHOIS Inaccuracy complaints. These metrics are reported on a quarterly basis and the first quarter of 2018's report is found at

<https://features.icann.org/compliance/dashboard/2018/q1/registrar-resolved-codes>.

These closure codes are very helpful in understanding the data provided.

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**Based on this analysis, the subgroup identified the following Problems/Issues:**

In reviewing the additional information in the dashboard report it appears that many inaccuracy reports are not valid reports. We asked what would be helpful for the compliance team when reports are submitted.

Additional evidence in WHOIS Inaccuracy complaints that compliance might find useful if the reporter provides are listed below:

Evidence of returned mail sent to the postal address listed in the WHOIS information

Evidence of a bounce back or undeliverable email notification for email sent to the email address listed in the WHOIS information

Evidence or explanation why the telephone number listed in the public WHOIS is not accurate

Evidence or explanation why the person or entity listed in the public WHOIS does not exist or is not the registered name holder (RNH)

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** Conduct additional outreach and education on how to file a report and what information is critical to provide.

### 1.1.3.2.3 Bulk Submission WHOIS Inaccuracy Complaint Tool

ICANN Contractual Compliance provides a mechanism for bulk WHOIS inaccuracy reporting, which allows a user to submit multiple complaints through a single file upload. Each user can submit up to 300 total complaints per week. The complaints are processed in the same method and queue for WHOIS inaccuracy complaints. Users of the bulk system must agree to mandatory terms of use, and their complaint quality is monitored by ICANN to ensure submission of complaints are within scope of the RAA and WHOIS requirements. There are currently approximately ten approved users for the bulk system, and within the past six months, three were active users.

**Analysis:** This tool did not exist until November 2013 and only 10 users are approved to use the tool. Last year only 3 users actually used the tool to report WHOIS records in bulk. Entities or individuals must contact the compliance team to request access to this tool. After a brief review access is provided.

**Based on this analysis, the subgroup identified the following Problems/Issues:**

Users who might benefit from the Bulk Submission tool may not be aware of it.

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** The ICANN Board should direct ICANN Organization to publicize and encourage use of the Bulk WHOIS inaccuracy reporting tool (or any successor tool).

### 1.1.3.2.4 Proactive Inaccuracy Trend Analysis

It appears that the Compliance team does little in proactive actions to discover and remediate issues with WHOIS data. When the subgroup asked the compliance team about this they responded that they performed proactive monitoring of the WHOIS verification review in the APAC region. Other than this, it appears that reactive enforcement is the norm. When a ticket is filed it is actioned and responded to. This is not optimal for the security and stability of the internet.

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The compliance team does have access to other sources of data through the DAAR reports. Although DAAR data is non-authoritative, it is used globally to add to the security and stability of the internet.

**Based on this analysis, the subgroup identified the following Problems/Issues:**

Proactive analysis and enforcement by the compliance team would contribute to the security and stability of the internet. By only reacting to reported compliance issues opportunities are missed to find systemic issues. Enforcement against single reports will miss the bigger picture of issues that require deeper analysis. If the Compliance team created a risk based enforcement strategy this would lead to more effective and measurable enforcement. A risk based enforcement strategy is critical when voluntary compliance is not sufficient. A strategy would include a rigorous and systematic approach to identifying and responding to risk. It is necessary to identify and assess the risk associated with non-compliance with policies or contractual obligations, based on this risk assessment, decisions regarding compliance and enforcement are based on the following:

the nature and intensity of compliance and enforcement action for each policy or contractual requirement

how compliance and enforcement resources should be deployed

what monitoring and information-gathering mechanisms are needed

the focus and timing of audit and inspection programs

public reporting on compliance and enforcement activity to encourage voluntary compliance.

Compliance and enforcement activities should be proportionate with the relevant risks. The

more escalated enforcement tools and severe enforcement responses should be used to

address situations where the risks associated with non-compliance are the highest.

Resources and actions should be focused where the risks are greatest.

Probability of non-compliance

Determine likelihood of whether or not one or more entities will not comply with the policy or contractual requirement.

Take into account past compliance action history.

Impact of non-compliance:

Determine the nature and types of impacts that may occur and how they will be measured.

Which risks become acceptable or intolerable.

It may also be worthwhile having the risk assessment reviewed by an independent, objective third party.

Implementation

The success of a compliance and enforcement strategy will depend in large part on the way in which it is implemented. The following criteria are critical:

Strategy should be applied in a consistent manner

Monitoring and data collection is necessary to detect instances of non-compliance and to provide evidence to support the enforcement action.

The data should be reviewed and analyzed by staff with appropriate skills and experience.

External and internal reporting of compliance actions is critical.

It may also be worthwhile having the risk assessment reviewed by an independent, objective third party.

This approach helps to ensure that risk is managed effectively, efficiently and properly by the enforcement body.

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** The ICANN Board should direct ICANN Contractual Compliance to proactively monitor and enforce WHOIS data accuracy requirements to look

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for and address systemic issues. A risk based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.

### 1.1.3.2.5 Across Field Validation of WHOIS information

In February 2018, ICANN completed a Request for Information (RFI) on Across Field Validation, defined as follows:

“The 2013 RAA requires registrars to perform across-field validation of Addresses (e.g., the house number exists on the street, street exists in the city, city exists in the province and the post code is correct); however, this requirement is not currently enforced and will only become effective 6 months after ICANN and a working group of registrar volunteers mutually agree that across-field validation is technically and commercially feasible.”

Nine (9) RFI responses were received. These responses contained updated information regarding current services available to complete across field address validation and verification.

- ⦿ On 04 May 2018, the Registrar Stakeholder Group requested ICANN org to pause the IRT’s work, pending the creation of a permanent policy to be created, possibly via an expedited process, following the Board’s adoption of the Temporary Specification to comply with GDPR. The Coalition for Online Accountability opposed this request in an 11 May letter.
- ⦿ ICANN org distributed a response on 18 June 2018, noting that there are no plans to pause the Across Field Validation work.
- ⦿ The Registrar Working Group is reviewing the criteria from ICANN org that will be used to determine whether any solution exists in the marketplace that is technically and commercially viable. The working group is expected to respond by 31 July 2018.

**Based on this analysis, the subgroup identified the following Problems/Issues:** No new issues identified at this time. The community is continuing to work on resolving any outstanding issues.

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** A recommendation may not be appropriate at this time.

### 1.1.3.3 Policy Metrics for Monitoring and Enforcement

In the Anything new subgroup we reviewed all new policies created since the last WHOIS review team. At least one of these policies, The Registry Registration Data Directory Services Consistent Labeling and Display Policy, there were no statistics we could gather from the Compliance team. We specifically asked the compliance team about CLDP.

The Registry Registration Data Directory Services Consistent Labeling and Display Policy is a policy imposed on registry operators, with the exception of .com, .jobs and .net. The policy requires registry operators to include in the registry WHOIS output the Registrar Abuse Contact Email and Registrar Abuse Contact Phone fields, among other things. Compliance rate of registrars with this registry operator requirement is not something that ICANN has attempted to measure. Additionally, measuring the cause of a registry operator’s noncompliance with the requirement may be difficult, as it is not obvious from the registry operator’s WHOIS output. For example, the registry operator’s noncompliance may be

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entirely within its control (e.g., it has obtained the registrar’s abuse contact information but is not displaying it) or, in part, due to the registrar’s (in)action (e.g., the registrar has not yet provided the registry operator with its abuse contact information”

**Based on this analysis, the subgroup identified the following Problems/Issues:**

The CLDP is included in the 2013 RAA which requires compliance. There may be more policies that are implemented but not audited or tracked. If the community recognizes the need for a policy to be created, works on the issue through the Policy Development Process and then resources are allocated to implement the policy it is appropriate that some level of compliance should be required. Metrics collected in auditing and tracking will assist in a review of the effectiveness of an implemented policy.

To evaluate effectiveness of a policy the following criteria is essential to review:

1. Identify issue
2. Frame issue – determine goal of policy, ability to implement the policy and actual results of the policy
3. Audit outcomes and impacts - Measurable results short term, intermediate and long term impacts
  - a. Sampling
  - b. Metrics
  - c. Monitoring
  - d. Trend analysis
  - e. Determine information gaps
4. Determine whether changes in outcomes are a result of the policy
5. Develop recommendations and good practices

Each policy created and implemented should be evaluated with a similar criteria.

**To address this issue, the subgroup proposes the following recommendation (further detailed in the next section):** The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies.

Problems and issues related to the effectiveness and transparency of ICANN enforcement of existing policy relating to WHOIS (RDS) through Contractual Compliance actions, structure and processes are described in Section 3.5.3.

## 1.1.4 Recommendations (if any)

Based on its analysis, members of this subgroup agree that this WHOIS1 recommendation has been partially-implemented. Further recommendations are provided here to address the problems/issues identified above.

**Recommendation R4.1:**

The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies..

**Findings:**

As detailed in Section 4.5.3.2.2, in reviewing all new policies created since the first WHOIS Review team at least one was identified as not being enforced by the Compliance team. :

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The impact of a policy can be measured with good statistics. If policy cannot be measured it is not a good policy.

**Rationale:** This new policy would ensure that all policies are measured, audited, tracked, reported and enforced by the compliance team. The community while in the policy development process should ensure that the policy is developed with compliance in mind. One policy the, CLDP, was identified as not being monitored or enforced. Without statistics on this policy available it is impossible to understand the level of compliance with this policy. Policies not enforced risk being less effective. A risk based enforcement strategy is critical when voluntary compliance is not sufficient. A strategy would include a rigorous and systematic approach to identifying and responding to risk. It is necessary to identify and assess the risk associated with non-compliance with policies or contractual obligations, based on this risk assessment.

**Impact of Recommendation:**

Registrars and Registries will be impacted by this recommendation, they will have to review compliance of this policy and provide information to the compliance team and ensure that they are implementing the recommendation. The compliance team will have to collect, analyze and enforce each policy as required. This will add to security and transparency. The community should develop policies with enforcement in mind. Successful implementation of this policy would result in knowledge of compliance with all policies. The Review team requests this recommendation to be implemented immediately upon approval of Board.

If this recommendation is not implemented we will remain in the current state of not knowing if the policies created by the community are implemented and making the impact on the system as expected by the PDP process that created the policy. This recommendation is aligned with ICANN's Strategic Plan and Mission and is within the scope of the review team.

**Feasibility of Recommendation:** It is feasible to enforce on all policies as it could be included in any of the ongoing audits already performed by the Compliance team including but not limited to the registrar audit, Inaccuracy reports or WHOIS ARS study.

**Implementation:**

If implemented all policies will be evaluated for impact and effectiveness. If not implemented the community will not know if a policy is effective or has had unexpected consequences. The Community and ICANN.org would be responsible for this implementation. The Review team would expect a PDP to be created immediately upon approval by the Board.

**Level of Consensus:** No F2F3 objections

**Recommendation R4.2:**

The ICANN Board should direct ICANN Organization to assess grandfathered domain names to determine if information is missing from the WHOIS Registrant field. If [10%] of domain names are found to lack data in the Registrant field, then the ICANN Board should initiate action intended to ensure that all gTLD domain names adhere to the same registration data collection requirements [within Y months].

**Findings:**

As detailed in Section 3.5.3.2.1,1 (f), in the WHOIS Accuracy Reporting System (ARS) report categorize the domain name registrations that only must adhere to the 2009 RAA WHOIS requirements separately from those that must adhere to the 2013 RAA.

“the only difference between 2013 and 2009 RAA operability requirements is that the 2009 RAA requirements do not require that information be present in the registrant email or

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telephone number fields, while 2013 RAA require the presence of information in those fields.”

The report estimates that of the 12000 domain names reviewed for compliance 30% (over 180,000,000 domain name registrations) were 2009 grandfathered domain names and do not have to meet the same requirements as domain names registered after the 2013 RAA was implemented. Considering that the only way these domain names would have to comply with the 2013 RAA is if they were deleted and registered again or transfer of registrant. This does not seem likely since early registrations are often the most valuable. They are often sold but not deleted.

**Rationale:** After 5 years of two existing policies domain name registrant data must comply based on when the domain name was registered a newly created policy with one standard requirement that all registrant data must adhere standardize the Registrant Data record and ease operability.

Currently, the sub group has not found information to determine how many domain name registrations do not contain Registrant email address or telephone number. It may not be an issue if the registrants have proactively provided the information without the requirement to do so. If the policy is updated requiring the same registrant data for all domain name registration this will no longer impact future changes to registrant data policies. This is aligned with the ICANN’s strategic plan and mission and It will add to the security and stability of the DNS.

**Impact of Recommendation:**

Registrars, Registries and registrants will be impacted by this recommendation. The Registrant would have to provide this information upon renewal of the domain name. Registrars will have to collect all the same information for all domain name registrations no matter when it was registered. This may require collecting registrant information from the existing grandfathered registrations that they manage. The registry would be required to collect this information from the registrar. The a compliance. Team will be required to review and analyze compliance with this new policy. If this recommendation is implemented it will resolves the issue of two different standards for collection of registrant data depending on when the domain was registered. If it is not implemented two standards for registrant data will continue to exist. This recommendation is aligned with ICANN’s Strategic Plan and Mission and is within the scope of the review team.

**Feasibility of Recommendation:**

This recommendation would require a review of domain name registered before 2013 and most likely a modification of registrar terms of service It would require the registrar to collect the information from the registrants. This could be done on renewal of the domain name.

**Implementation:**

This would require the Community to develop a new policy and ICANN.org to implement and the compliance team to enforce. Successful implementation would result in 100% of domain name registrations complying with the same policy on registrant data. There is no current work underway on a similar policy. This assessment and possible creation of a new policy should begin immediately upon approval by the ICANN Board.

**Level of Consensus:** Two (2) F2F3 objections

**Recommendation R4.3:**

The ICANN Board should negotiate contractual terms or initiate a GNSO PDP to require that gTLD



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domain names suspended due to WHOIS contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows. (1) The WHOIS record should include a notation that the domain name is suspended due to incorrect data; and (2) Domain names with this notation should not be unsuspended without correcting the data.

- (1) Policy or contracts should require that WHOIS indicate whether a domain is on hold due to inaccurate data
- (2) Domains on serverHold due to inaccurate data in WHOIS should not be unsuspended without inaccurate data being remedied

**Findings:** As detailed in Section 3.5.3.2.1.1 (e), currently, when a domain name is suspended for inaccurate information the false information remains in the record. The information in the record may belong to another person or entity so the inaccurate information remaining in the record continues the act of identity theft. At the very least, this information remaining is misleading.

**Rationale:** Ensure that inaccurate information does not remain in the record and if identity theft has occurred the person or entity doesn't continue to be impacted. Currently, the inaccurate information remains in the record which can cause confusion and harm if this was an act of identity theft. Inaccurate information is often used in the registration data in registration that are perpetuating DNS abuse. Eliminating the use of inaccurate data in any suspended domain name will add to the security and stability of the DNS. We would no longer find inaccurate data lingering in the registrant data. This would not be difficult to implement a new policy would be created that registrar's would follow when suspending a domain name.

**Impact of Recommendation:** Successful implementation would result in new statuses in the domain name registration record that indicated the domain name was suspended due to inaccurate information. The inaccurate information would be redacted and result in removal of data that did not have authorization to be included in the registration data. No related work is currently underway. This recommendation should result in a PDP created immediately upon approval by Board.

If this recommendation is not implemented registrant data will continue to be displayed that is not accurate, authorized for inclusion in registrant data and continue to contribute to identity theft. This recommendation is aligned with ICANN's Strategic Plan and Mission and is within the scope of the review team.

**Feasibility of Recommendation:** Agreed upon language could be added into the WHOIS record to clearly indicate status of the domain name.

**Implementation:**

This implementation would involve the community to create the policy, ICANN.org to implement and the compliance team to enforce.

**Level of Consensus:** No F2F3 objections

**Recommendation R4.4: Moved to Outreach**

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**Recommendation R4.5:**

The ICANN Board should direct ICANN Organization to publicize and encourage use of the Bulk WHOIS inaccuracy reporting tool (or any successor tool).

**Findings:**

As detailed in Section 3.5.3.2.2, according to the information provided by the compliance team only 10 individuals/entities have been approved to use the Bulk WHOIS Inaccuracy Reporting tool. Of those 10, only 3 have reported inaccurate WHOIS records in the last year. If more people understood this tool was available, it would be easier for reporters of large number of inaccurate data in the WHOIS to report these to the Compliance team.

**Rationale:** This recommendation would enable ease of reporting large numbers of inaccurate WHOIS data records. A small number of users of the Bulk WHOIS Inaccuracy Reporting tool may be a result of lack of knowledge of its availability. If resources are used to create such a tool it is worth spending resources on outreach and education about the tool. The impact would not be drastic but it would lead to an improvement of accurate data in the WHOIS if more individuals/entities used the tool. It would also contribute to the reporting of detected systemic problems. Compliance team should develop a system to review, evaluate and enforce on a group of domain names reported through the bulk WHOIS Inaccuracy Reporting tool instead of treating each as an individual report.

**Impact of recommendation:** If this recommendation is implemented it would result in more inaccuracy reports and lessen the burden on reporters and ease the review of the report by the compliance team if all the registration data is the same. More efficient process. If it is not implemented multiple domain names with the same inaccurate information will continue to be reported one by one which creates more work for the reporter and require the compliance team to review single reports. This recommendation would impact the users of the Bulk WHOIS Inaccuracy reporting tool by lessening the burden to submit reports. It would also impact the Compliance team in how they address inaccuracy reports.

This recommendation will add to the security and stability of the DNS, is aligned with ICANN's Strategic Plan and Mission and is within the scope of the review team.

**Feasibility of Recommendation:** ICANN already does quite a bit of outreach and could add this to their efforts. It is very feasible to implement this recommendation.

**Implementation:**

ICANN org, with consultation of the community, could provide more outreach about the Bulk WHOIS Inaccuracy Reporting tool. Outreach and education to those that use the inaccuracy single reporting tool would increase the use of the Bulk WHOIS Inaccuracy Reporting tool. Education and outreach to start Immediately upon approval by Board.

**Level of Consensus:** No F2F3 objections

**Recommendation R4.6:**

The ICANN Board should direct ICANN Organization to review the WHOIS records of gTLD domain names sampled by ARS for each region to determine whether lack of knowledge of WHOIS inaccuracy reporting tools or other critical factors are responsible for low WHOIS inaccuracy report submission rates in some regions.

**Findings:**

As detailed in Section 3.5.3.2.1.1 (g), In the WHOIS ARS report the number of reports of inaccurate data from users in South America and Africa where significantly lower than the

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other continents. This could be due to lack of knowledge of the ability to report these or other cultural influences.

**Rationale:** Ensure that users in South America and Africa or any developing countries are aware of the WHOIS record and that they can independently report inaccurate data. This is critical to ensure that developing countries can address issues with inaccurate data in the WHOIS. Continuing to reach out to the Global south to increase awareness of ICANN policies and tools to remedy issues is critical for the security and stability of the internet.

This recommendation is aligned with ICANN's Strategic Plan and Mission and is within the scope of the review team.

**Impact of Recommendation:** This recommendation could result in an improvement in submission rates by region and may discover other cultural reasons that the inaccuracy reporting tool is not utilized. This recommendation would impact users in these geographic areas and the registrars who will respond to the Compliance team's request for review. This could increase the number of inaccuracy reports that the Compliance team works on.

No implementation will continue to disadvantage the global south.

**Feasibility of Recommendation:** ICANN currently has many outreach events targeting the Global South along with some of the stakeholder groups. Information about accuracy requirements and how to report inaccurate data could be added to these events and materials distributed.

**Implementation:**

Community and ICANN org would work together on this issue. We would know this recommendation was successful if the WHOIS ARS reports show similar reporting rates by users no matter what country they live in after implementation. Education and outreach is ongoing this could be added to and amplified in this work. This recommendation could be implemented Immediately upon approval by Board.

**Level of Consensus:** No F2F3 objections

**Recommendation R4.7:**

The ICANN Board should direct ICANN Contractual Compliance to look for patterns of failure to validate and verify WHOIS data as required by the RAA. When such a pattern is detected, an audit should be initiated to check if the Registrar follows WHOIS contractual obligations and consensus policies. Sanctions should be applied if significant deficiencies in WHOIS data validation or verification are identified.

**Findings:**

As detailed in Section 3.5.3.2.1, all current compliance activities are separate and conducted individually. WHOIS ARS sampled WHOIS records to do accuracy test, the Audit program sampled registrars to conduct audit, no synergies have been gained through different action tracks.

**Rationale:** If a WHOIS record is not accurate due to the registrar not conducting validation and verification, it shouldn't be a standalone case. A follow up audit will help to mitigate all issues regarding the outstanding registrar.

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**Impact of Recommendation:**

Registrars that do not consistently adhere to the requirement to verify and validate the data in the WHOIS record will be impacted by this recommendation. If a pattern is detected for lack of adherence to this policy then the Registrar will be subjected to an audit of their verification and validation of WHOIS records by the Compliance team. This could result in education of the Registrar, understanding of the requirements required by ICANN policy and an improvement in accuracy. If this recommendation is not implemented systemic issues will not be detected and we will continue to see Registrars that are not complying. This recommendation is aligned with ICANN's Strategic Plan and Mission and is within the scope of the review team.

**Feasibility of Recommendation:**

This recommendation will make the Audit program more targeted. The compliance team may need further assessment of resources to implement this recommendation.

**Implementation:** Registrants, Registrars, Registries and ICANN Compliance will all be responsible for the implementation of this recommendation. Successful implementation will result in a reduction in percentage of inaccuracy reports for a specific registrar and improved accuracy of WHOIS records. There is no current work underway on this issue. This recommendation should be implemented immediately after approval by ICANN Board.

**Level of Consensus:** No F2F3 objections

**Recommendation R4.8:**

The ICANN Board should direct ICANN Contractual Compliance to proactively monitor and enforce WHOIS data accuracy requirements to look for and address systemic issues. A risk based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.

**Findings:**

As detailed in Section 3.5.3.2.2, currently, the Compliance team's responsibilities are mainly reactive in responding to WHOIS inaccuracy reports and working with GDD on the results of the WHOIS ARS reports. The team could be more proactive in their approach and when they see suspected systemic issues research, analyze and enforce against inaccuracy in the registration data. With the number of registered domain names growing daily it becomes more important to security and stability to ensure there is accurate information in the registrant data on record.

**Rationale:** The DAAR data is an additional resource that the compliance team has available and is not currently including in their research and analysis. The use of DAAR data as one of many input sources would provide a different perspective for the compliance team. Although DAAR data is non-authoritative, it is used globally to add to the security and stability of the internet. Bulk WHOIS Inaccuracy Reports may be helpful in addressing systemic issues. Reports through this tool may be indicative of wide spread problems and use of these reports could assist in enforcement.

**Impact of Recommendation:**

This recommendation could positively impact the accuracy of registrant data. The Compliance team could implement this, unless it requires a new policy, in which case a GNSO PDP may be required. If this recommendation is not implemented the effectiveness of compliance actions will be lessened. As systemic issues increase and sophistication of

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attacks are on the rise the compliance teams needs more effective tools and detection information to resolve issues.

This recommendation is aligned with ICANN's Mission and within scope of the Review Team.

**Feasibility of Recommendation:** This recommendation would not be difficult for the Compliance team to implement, unless it requires a new policy, in which case a PDP may be required.

**Implementation:**

The Community and ICANN org would work together on creating a framework/policy for this recommendation. We would know this recommendation was successful when the percentage of accurate registrant data records increase. There is currently no specific work underway on this issue except that the DAAR data is available and ready for evaluation. This recommendation could be implemented immediately upon approval by Board.

**Level of Consensus:** [No F2F3 objections

## 1.1.5 Possible impact of GDPR and other applicable laws

[TO BE PROVIDED]

