Registration Directory Service (RDS-WHOIS2) Review

Draft Report including F2F#3 agreements and action items

REC1 SUBGROUP REPORT - SECTION 3.2 ONLY
FOR CATHRIN TO PROVIDE REDLINED UPDATES

RDS-WHOIS2 Review Team
30 July 2018

ICANN

3 Objective 1: Assessment of WHOIS1 Recommendations Implementation

3.2 WHOIS1 Rec #1: Strategic Priority
<mark>[SUBSECTION NUMBERS WILL BE ADJUSTED WHEN ADDED BACK TO MASTER DOC]</mark>

1.1.1 Topic

Subgroup 1 - WHOIS1 Rec 1 Strategic Priority is tasked with investigating, analyzing, and drafting recommendations (if needed) to address the following Review objective:

> *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 #1: Strategic Priority

Recommendation 1.a – It is recommended that WHOIS, in all its aspects, should be a strategic priority for ICANN the organization.

Recommendation 1.b – It is recommended that WHOIS form the basis of staff incentivization (including the CEO's) and organizational objectives

Recommendation 1.c – The Board should create a committee that includes the CEO to be responsible for priority and key actions
* *Implementation of this report's recommendations;*
* *Fulfillment of data accuracy objectives over time;*
* *Follow up on relevant reports (e.g. NORC data accuracy study);*
* *Reporting on progress on all aspects of WHOIS (policy development, compliance, and advances in the protocol / liaison with SSAC and IETF);*
* *Monitoring effectiveness of senior staff performance and the extent to which ICANN Compliance function is effective in delivering WHOIS outcomes, and taking appropriate action to remedy any gaps.*

Recommendation 1.d – ICANN should issue public updates on progress against targets for all aspects of WHOIS

To support its recommendations, the previous WHOIS Review Team provided the following findings:

"WHOIS policy and its implementation are one of four central issues highlighted in the

Affirmation of Commitments, the others being Accountability and Transparency, Security and Stability, and Consumer Trust. That WHOIS placed alongside such issues shows that the authors of the Affirmation of Commitments, the US Government and ICANN's senior executive, viewed it as one of the four barometers of ICANN's effective performance and service to the Internet Community. One reason for this may be that, although WHOIS services are provided by ICANN's contracted parties, WHOIS look ups have now become detached from the domain name supply chain. Users of WHOIS tend not to be customers of registries and registrars, but are law enforcement, or those enforcing private law rights, and those seeking to get in touch with registrants for whatever reason. There are no income streams associated with providing WHOIS. It is viewed by many in the industry as a cost and is often difficult to locate on registrar websites. As a result, it is not a priority for many of ICANN's contracted parties - who provide funding for ICANN the corporation. It is, however, a high priority for many users who are outside the ICANN inner circle, but for whatever reason their needs have not found organizational priority to date."

To address this objective, the subgroup agreed to consider two over-arching questions:
- Has ICANN.Org made WHOIS a strategic priority from a **formal** perspective, by putting into place the appropriate resources and procedures?
- Has ICANN.Org made WHOIS a strategic priority from a **substantive** perspective?

In addition, the subgroup identified two check-in questions to guide its work:
- Has ICANN Org issued public updates on progress against targets for all aspects of WHOIS?
- Based on findings of other subgroups, how have the updated complaints and other compliance procedures impacted the accuracy and functionality of the WHOIS?

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 1, 2, 3, 6, 7, 9, 15, 16: PPT, PDF
- Answers to RDS-WHOIS2 Questions on Implementation Briefings
- Documents cited in briefing on Recommendation 1 include
  - ICANN Five Year Strategic Plan
  - ICANN FY 2017 Operating Plan and Budget
  - ICANN FY 2018 Operating Plan and Budget
  - ICANN FY 2019 Operating Plan and Budget
  - 2013 Registrar Accreditation Agreement (RAA), including RAA WHOIS requirements for Registrants
  - EWG on gTLD Registration Directory Services Final Report (2014)
  - WHOIS Information Portal and Consolidated WHOIS Lookup Tool
  - Roadmap of WHOIS/RDS Activities (as of June 2017)

In addition, this subgroup requested the following additional materials:
- Information on incentivization measures for ICANN Org staff including CEO ([standard] contract clauses, internal guidance, memos, meeting minutes etc.)

- ⊙ Records of Board/CEO Committee on WHOIS including Terms of Reference/Charter, minutes of meetings, work plan, objectives and outputs
- ⊙ Any other written materials that can provide responses to the subgroup's questions (detailed below).

To understand in more detail how the WHOIS as a strategic priority has been integrated into the organizational objectives and the impact that this integration has had in practice (as compared to the approach before 2012), the subgroup submitted a series of questions to ICANN, seeking facts to help answer the following:

- ⊙ Has ICANN Org made WHOIS a strategic priority from a formal perspective, by putting into place the appropriate resources and procedures?
- ⊙ Has ICANN Org made WHOIS a strategic priority from a substantive perspective?

ICANN provided detailed responses to the subgroup's questions, which are referred to in the analysis given in Section 4.2.3 below. The subgroup also agreed to review the output from the other subgroups in assessing the degree to which WHOIS has been made a strategic priority within the organization. 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

For ease of reference, the WHOIS1's recommendation is broken down into smaller parts, which are addressed in turn here below. The structure followed for each part is: 1) Part of the recommendation covered ("WHOIS1-Recommended Principle"), 2) Relevant questions asked of ICANN Subject Matter Experts (SMEs); 3) Analysis. At the conclusion of this section-by-section assessment, an overall analysis is provided.

4.2.3.1   WHOIS as Strategic Priority

"It is recommended that WHOIS, in all its aspects, should be a strategic priority for ICANN the organization. It should form the basis of staff incentivization and published organizational objectives."

1.1.3.1.1   Questions and Materials Requested

- ⊙ How has WHOIS been integrated into the organizational objectives? Did the ICANN 5-year Operating Plan contain any specific references to WHOIS and what year were they incorporated in that Plan? If it was and is no longer included in the ICANN operational plan, what year did it roll away? Were metrics developed that are connected to any WHOIS activity or outcomes? Are there specific measurable outcomes connected to contracted parties for WHOIS outcomes?
- ⊙ How has the CEO complied with the instruction from the Board to oversee improvements to the contractual conditions relating to gTLD WHOIS data in the gTLD Registry and Registrar agreements? What concrete actions has he taken himself, or staff at his direction, to facilitate improvements to the conditions (e.g. meetings, outreach, suggestions for improvement, facilitation of community dialogue aimed at improvements)? Are there any documents (meeting minutes, internal or external memos, etc.) that can demonstrate these actions?
- ⊙ How has the CEO complied with the instruction from the Board to create appropriate reporting of these improvements and to implement staff incentivisation? Are there standard clauses in relevant employee contracts reflecting such incentivisation, and how is the incentivisation structured? Have any other measures been taken to

incentivize staff to implement the strategic priority recommendation? How often does staff report to the CEO or the Board on WHOIS improvements and what form does that take? Are there any documents (internal reporting, meeting minutes, memos etc.) that can demonstrate compliance?
- ⊙ How was this priority reflected in the transition from the AoC to the Bylaws?
- ⊙ Is there evidence to show that the definition as a strategic priority has had a positive impact on the WHOIS in view of the objectives that it serves?

In addition, the RT requested the following materials:
- ⊙ Records of Board/CEO Committee on WHOIS including Terms of Reference/Charter, minutes of meetings, work plan, objectives and outputs
- ⊙ Any other written materials that can provide responses to the subgroup's questions (detailed below).

1.1.3.1.2   Analysis

On 8 November 2012, the ICANN Board adopted an Action Plan on WHOIS as a strategic priority:

"a) Board agrees that gTLD WHOIS is a strategic priority for ICANN

b) Consistent with advice from SSAC (SAC055), Board directs the CEO to create an expert working group to create material to launch GNSO policy work and inform contractual negotiations, as appropriate. Working group output is expected within 90 days and will ideally include a straw-man model for managing gTLD registration data.

c) The working group's output will form the basis for an Issues Report to accompany Board-initiated, expedited GNSO policy work that is expected to result in consensus policy that, at a minimum, addresses the purpose of collecting, maintaining and making available gTLD registration data, and related accuracy, data protection, and access issues.

d) The Board will also call upon the registrars, registries, and the staff to address the working group's output in contractual negotiations and registry contracts, as appropriate.

e) The CEO will oversee improvements to the enforcement of the contractual conditions relating to gTLD WHOIS in the gTLD registry and gTLD registrar agreements. Appropriate reporting of these improvements will be developed, and the CEO will be responsible for appropriate staff incentives.

f) The Board will incorporate performance of the WHOIS strategy into the incentive program for the CEO."

There is also a reflection of these changes in ICANN steering documents:

- ⊙ ICANN included the WHOIS in its 2016-2020 Strategic Plan as part of its objective 2.1 to foster and coordinate a healthy, secure, stable, and resilient identifier ecosystem. As one of the key outcomes/success factors, it lists "Globally accepted, reliable, secure, and trusted services to facilitate access to, and update of, identifier registration data." The strategic plan also recognizes an associated strategic risk, namely that of "Failure of the identifier registration data services to gain acceptance by, or meet the needs of, the users of the identifier ecosystem." ICANN furthermore sets the objective of acting as a steward of the public interest (5.1), of which the WHOIS is an important aspect but is not mentioned specifically here. The associated

risk that the "ICANN community does not reach consensus on best practices related to the public interest" is also listed.

In terms of resources specifically dedicated to this process, ICANN furthermore informed the RT that the ICANN Global Domain Division (GDD) had added an overall coordination, oversight, and management role for the RDS portfolio of activities. This role:

- ⊙ monitors both the RDS PDP and Review with an eye toward implementation of the recommendations.
- ⊙ identifies synergistic opportunities across initiatives and explore ways to leverage that synergy to achieve cost-saving, maximum benefit, and effective implementations.
- ⊙ coordinates activities to ensure alignment with overall direction and strategy.
- ⊙ manages interdependencies across activities to ensure streamlined and efficient execution.
- ⊙ provides holistic reporting of all RDS related activities to the community.

This role is reflected in ICANN's most recent FY 2017 Operating Plan and Budget under the WHOIS Core Function/Service and Improvements portfolio and is budgeted with a relatively low resource of 0.6 FTE. It is listed under "Proactively Plan for Changes in the Use of Unique Identifiers and Develop Technology Roadmaps to Help Guide ICANN Activities" rather than under the relevant strategic sub-objective 2.1 Foster and Coordinate a Healthy, Secure, Stable, and Resilient Identifier Ecosystem.

ICANN's proposed 2019 update to its five-year plan lists a number of planned and past activities related to WHOIS, such as the publication of accuracy reports and support for the RDS PDP and Review Team.[1] It does not reference assessment of the impact of compliance efforts on the quality of RDS.

However, ICANN's previous Operating Plans and Budgets did not include specific key performance indicators or measures for success in achieving strategic objective 2.1. To pick an example, the FY 2016 Operating Plan and Budget[2], like the 2017 one, lists the WHOIS portfolio under strategic objective 2.2 and includes a Technical Reputation Index tracking number of documents published, number of training sessions and other activities related to the CTO team's work on building technical capacity. While this is no doubt useful in tracking the success of technical competence building efforts, it does not seem to be able to reflect any achievements related to WHOIS.

The RT could not find evidence of metrics or other KPIs that would provide a reliable assessment of whether progress has been made on WHOIS as a strategic priority. Reference was made by ICANN to the Accountability Indicators and specifically to indicator 3.2 which refers to the overall availability of digital services provided by ICANN, which include the WHOIS portal and lookup tool.[3] ICANN furthermore referred to the contractual compliance reports, which provide an overview of the activities of the ICANN Compliance Team.[4]

As outlined above, the CEO was furthermore instructed by the Board to oversee improvements to the enforcement of the contractual conditions relating to gTLD WHOIS in the gTLD registry and gTLD registrar agreements. For an analysis of these aspects, please see the Compliance section of this report.

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[1] https://www.icann.org/en/system/files/files/proposed-opplan-2016-2020-fy19-19jan18-en.pdf, p. 18 and following.

[2] https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy16-25jun15-en.pdf, p. 40

[3] https://www.icann.org/accountability-indicators.

[4] Latest available report at time of writing: https://www.icann.org/en/system/files/files/compliance-update-mar18-en.pdf.

In terms of developments not specifically envisaged by this Board instruction, a detailed WHOIS policy has been set out in the 2013 Registrar Accreditation Agreement and in particular in its WHOIS specification.[5] This WHOIS policy sets out specific details such as the data fields to be provided, formats and access ports. Please also refer to the Single WHOIS Policy section of this report.

In response to the request for minutes, written records of decisions etc., no further information was available.

1.1.3.2   Creation of ICANN Board Committee

"To support WHOIS as a strategic priority, the ICANN board should create a committee that includes the CEO."

1.1.3.2.1   Questions and Materials Requested

⊙ Has the Board created a committee including the CEO that is responsible for the WHOIS and for key actions? If yes, has the committee met? And are the activities of the committee recorded and archived? Are the documents available for viewing or sharing?

In addition, the RT requested the following materials:
⊙ Records of Board/CEO Committee on WHOIS including Terms of Reference/Charter, minutes of meetings, work plan, objectives and outputs

1.1.3.2.2   Analysis

In July 2015 - more than two and a half years after the adoption of the Action Plan - the ICANN Board formed a Board Working Group on Registration Data Directory Services (BWG-RDS)[6] to (i) liaise with the GNSO on the policy development process to examine the EWG's recommended model and propose policies to support the creation of the next generation registration directory services, and (ii) oversee the implementation of the remaining projects arising from the Action Plan adopted by the Board in response to the first WHOIS Review Team's recommendations. The Board appointed the ICANN CEO as a member of the BWG.

The BWG-RDS was given a Charter outlining its responsibilities, which in addition to the two items outlined above also included any other issues related to WHOIS or Registration Data Directory Services that may be referred to it by the Board or the Board Governance Committee.[7]

No minutes or other records of specific activities of the BWG-RDS in relation to WHOIS as a strategic priority were available. ICANN pointed out that most Board Working Groups did not have minutes as they were not decisional bodies. Therefore, no archives were available, neither public nor restricted.

Prior to the creation of the BWG-RDS, the implementation of the Recommendations was overseen by the ICANN organization, on the basis of the 2012 Board resolution referred to above. In terms of specific meetings and activities of the BWG-RDS, ICANN referred to the regular Board meeting with the GNSO Council at ICANN meetings where, as relevant, the

[5] https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#whois
[6] https://www.icann.org/resources/board-material/minutes-2015-07-28-en#1.d.
[7] https://www.icann.org/en/system/files/files/charter-rds-28jul15-en.pdf.

GNSO PDP on registration data directory services is discussed. There are records of written communication between the chair of the Board and the GNSO Council leadership relating to organizational matters on the RDS PDP. Furthermore, from interventions at ICANN meetings it is clear that the Board, in particular individual members, took an active interest in the progress of the PDP.

The RT could not find evidence that strategic considerations on WHOIS and possible future developments beyond the EWG and RDS PDP took place at the Board or BWG-RDS level. This also would have been beyond the mandate of the BWG-RDS unless a question was specifically referred to it by the Board or the Board Governance Committee.

1.1.3.3   Committee Responsibilities: Implementation of Recommendations

"The committee should be responsible for advancing the strategic priorities required to ensure the following: Implementation of this report's recommendations;"

1.1.3.3.1   Questions

⊙ How often does staff report to the CEO or the Board on WHOIS improvements and what form does that take? Are there any documents (internal reporting, meeting minutes, memos etc.) that can demonstrate compliance?
⊙ Has ICANN Org taken any other actions reflecting the strategic priority given to the WHOIS, beyond those specifically recommended by the WHOIS RT in its final report? If yes, which actions has it taken? Are there any written traces of these actions?
⊙ How was this priority reflected in the transition from the AoC to the Bylaws?

1.1.3.3.2   Analysis

The Board receives CEO updates, on a trimester basis, on the status of ICANN's key organizational activities, including WHOIS improvements. Furthermore, ICANN provided public updates of the implementation of the recommendations, which are also available to the BWG-RDS.[8] There is no record of BWG-RDS or full Board discussions or decisions on the status of the implementation and on whether implementation has been completed satisfactorily.

1.1.3.4   Committee responsibilities: Data Accuracy

"The committee should be responsible for advancing the strategic priorities required to ensure the following:
[…]
• Fulfillment of data accuracy objectives over time;
• Follow up on relevant reports (e.g. NORC data accuracy study);"

There is no specific record of BWG-RDS follow-up on efforts to improve data accuracy. Please refer to the Data Accuracy section of this report for further details on those efforts.

1.1.3.5   Committee responsibilities: Progress Reporting

[8] https://community.icann.org/display/WHO/WHOIS+Review+Implementation+Home

"The committee should be responsible for advancing the strategic priorities required to ensure the following:
[…]
• Reporting on progress on all aspects of WHOIS (policy development, compliance, and advances in the protocol / liaison with SSAC and IETF);"

There is no specific record of BWG-RDS follow-up on efforts to improve reporting. Please refer to the <u>Annual Report</u> section of this report for further details on those efforts.

1.1.3.6   Committee responsibilities: Monitoring Effectiveness

"The committee should be responsible for advancing the strategic priorities required to ensure the following:
[…]
• Monitoring effectiveness of senior staff performance and the extent to which ICANN Compliance function is effective in delivering WHOIS outcomes, and taking appropriate action to remedy any gaps (see Recommendation 4 for more discussion of compliance)."

1.1.3.6.1   Questions

⊙ How often does staff report to the CEO or the Board on WHOIS improvements and what form does that take? Are there any documents (internal reporting, meeting minutes, memos etc.) that can demonstrate compliance?

1.1.3.6.2   Analysis

According to feedback from ICANN, the Board receives CEO updates, on a trimester basis, on the status of ICANN's key organizational activities, including WHOIS improvements. No documents were provided to demonstrate compliance.

1.1.3.7   Staff incentivization

"Advancement of the WHOIS strategic priority objectives should be a major factor in staff incentivization programs for ICANN staff participating in the committee, including the CEO."

1.1.3.7.1   Questions and materials requested

⊙ How has WHOIS been implemented in staff incentivization including for the CEO? Are there specific clauses in staff contracts, including the CEO's, that link compensation to WHOIS implementation or management outcomes?
⊙ Were KPIs adduced/developed? Were these part of the at-risk compensation portion or the general compensation? What percentage of the overall compensation, at-risk or otherwise, could be connected to WHOIS matters?
⊙ What aspects of the WHOIS are serving as incentive[s] or part of the organizational objectives? Is[are] this[these] aspect[s] amenable to measurement? And if so, what were the measurement criteria adopted? Can the outcomes be shared?

The following materials were requested:
⊙ Information on incentivization measures for ICANN Org staff including CEO ([standard] contract clauses, internal guidance, memos, meeting minutes etc.)

1.1.3.7.2   Analysis

ICANN responded that staff is incentivized through ICANN's compensation system, as WHOIS projects are identified in both WorkFront and the Halogen management system, which the RT understands are the systems that serve to organize staff management within the organization. Detailed examples were provided of the types of activities that form part of the annual planning, such as support for the review team and the policy development process.

ICANN also explained that the CEO's compensation was tied to performance against the strategic objectives of ICANN as laid out in the Strategic Plan, which includes references to WHOIS. The Board sets specific goals for the CEO as part of his annual performance process. The strategic goals of the organization are taken into account when setting the CEO goals. There was no detailed information available on the breakdown of incentivisation, e.g. as relates to the actual impact of the WHOIS performance on contractual compensation.

ICANN's Staff Remuneration Practices document does not address specific incentives for staff, and accordingly also does not cover relevant incentives related to the WHOIS as recommended by the WHOIS RT.[9] However, as outlined above, there is a link to the strategic objectives and the related activities in the planning. Again, there were no details available on the precise impacts of the incentivisation on staff compensation or other benefits.

Therefore, while WHOIS has clearly been integrated into compensation, a more precise assessment of any impact of the incentivisation cannot be provided. For example, it is unclear whether the lack of timely compliance with legal requirements would have any impact on the compensation of any individual within the organization.

1.1.3.8   Annual reporting

"Regular (at least annual) updates on progress against targets should be given to the Community within ICANN's regular reporting channels, and should cover all aspects of WHOIS including protocol, policy development, studies and their follow up."

⊙ Please refer to the Annual Report section of this report for further information.

1.1.4   Problem/Issue

The ICANN organization and board have clearly taken a number of steps to work towards implementation of the recommendation. A key element - the creation of a dedicated Board committee including the CEO - was only put into place very late in the process but did eventually take place.

However, from the mandate of the BWG-RDS and the feedback from ICANN in response to specific questions, as well as from the overall documentation available, a clear picture emerges as to ICANN's understanding of the nature of the strategic priority: it was interpreted as making sure that the recommendation was implemented, and to launch the policy development process and support other Community actions related to the WHOIS. While these actions went a long way towards achieving the intended aim, they could not replace a strategic outlook and advance planning for issues not yet explicitly addressed in specific community actions, as became evident in the issues surrounding compliance with GDPR:

⊙ ICANN's current focus on compliance with GDPR appears to indicate that the new regulation had caught ICANN unawares. Given the fact that the GDPR was initiated

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[9] https://www.icann.org/en/system/files/files/remuneration-practices-fy18-01jul17-en.pdf

in 2012, and most global corporations acted promptly to ensure compliance as soon as the regulation was approved, the review team notes that ICANN was not swift in ensuring its compliance with national law. A greater focus on compliance with existing data protection law earlier (e.g. EU national legislation that complied with Directive 95/46) would have been beneficial and in keeping with ICANN's obligations to comply with national law.

⊙ This failure to address the need to comply with data protection law is a risk to the organization and the community, and impacts the ability to develop a sound strategic plan for Registration Data. The lack of a strategic priority on a central WHOIS policy based on consensus policy, compliant with law and in keeping with acceptable risk management practice impacts several other policies. It also leads to disjointed development of policies and procedures, which produces a lack of congruity.

Therefore, the recommendation failed to achieve its original aim of instilling a culture of proactive monitoring and improvements on WHOIS.

1.1.5   Recommendations

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 R1.1:
The ICANN Board should put into place a forward-looking mechanism to monitor possible impacts on the RDS from legislative and policy developments around the world.

Recommendation R1.2:
To support this mechanism, the ICANN Board should instruct the ICANN Organization to assign responsibility for monitoring legislative and policy development around the world and to provide regular updates to the Board.

Findings: While a number of steps were taken towards making WHOIS a strategic priority for the organization, the record of actions over the last year and in particular the challenging situation as concerns compliance with data protection requirements show that implementation of this recommendation is not yet sufficient.

Rationale: The intent behind this recommendation is to ensure that ICANN as an organization is well placed to address future policy issues, such as may arise from legislation or from community concerns.

The issues identified could best be addressed by an improved implementation of the original recommendation. For these purposes, further elements are proposed in a re-shaped recommendation to provide concrete targets for the ICANN Board and Organization.

The potential impact of not addressing the recommendation could consist in further situations of lack of preparedness of the organization to assume its responsibilities and address them in due time. Given the challenging process ahead as compliance with data protection rules and obligations under the Bylaws will take signification additional time, improved implementation could help the organization to better address such issues in the future.

This recommendation is aligned with ICANN's Strategic Plan and Mission, which already seek to reflect the strategic priority given to WHOIS but focus on compliance and support for

Community processes, rather than providing a real advance planning and strategy function within the Board and Organization.

This recommendation is also within the scope of the RT's efforts.

Impact of Recommendation: This Recommendation would impact the work of the Board and ICANN leadership. It would contribute to the legitimacy and efficiency of the organization, by ensuring that it is better prepared to meet future challenges and to serve community needs, including RDS users and contracted parties.

Feasibility of Recommendation: Given that the ICANN Board has already resolved in the past to make WHOIS a strategic priority, this updated recommendation should also be feasible.

Implementation: The implementation has to be provided by the ICANN Board and leadership, with staff support. A successful implementation would consist in a revised Charter for the ICANN BWG-RDS, which should be implemented as soon as possible and at the latest within 6 months. This could dovetail with ongoing efforts to ensure swift and constructive cooperation between the Board and ICANN leadership on the one side and the GNSO on the other side for the EPDP to replace the Temporary Specifications on WHOIS.

Priority: This recommendation provides the backbone for ICANN's efforts on WHOIS, which should be driven by a strategic and coherent overall approach. It is therefore considered essential.

Level of Consensus: No F2F3 objections

Recommendation R1.3:
The ICANN Board should update the Charter of its Board Working Group on RDS to ensure the necessary transparency of the group's work, such as by providing for records of meetings and meeting minutes, to enable future review of its activities.

Findings: it is difficult to assess the forward-looking nature of the work done by the BWG-RDS in the absence of any record of its activities.

Rationale: Given the strategic importance of WHOIS and related activities, it is to be expected that the work of the relevant BWG-RDS or any successor entity would be of interest to future reviews. In order to allow for accountability and transparency of the work, a minimum of information on its activities needs to be created and made available to the ICANN Community.

Impact of Recommendation: This Recommendation impacts the ICANN Board members participating in the BWG-RDS and ICANN support staff to the Board. It increases the administrative burden incumbent on the Board and its support staff.

Feasibility of Recommendation: The Recommendation would create a new administrative burden on the Board and on relevant support staff. However, given the limited burden imposed by the keeping of meeting records and the creation of minutes, its implementation should not be overly burdensome and is therefore considered feasible.

Implementation: The implementation has to be provided by the ICANN Board, with staff support. A successful implementation would consist in a complete record of ICANN BWG-

RDS meetings and corresponding meeting minutes, which the Board should resolve to create as soon as possible and at the latest within 6 months.

Priority: This Recommendation is of less importance than the above recommendation; however, as it serves to create overall accountability and transparency of the Board's activities in a key field, it is nonetheless of strategic importance.

Level of Consensus: No F2F3 objections

1.1.6 Possible impact of GDPR and other applicable laws

The nature of the recommendation of the previous Review Team was shown to be of particular importance by the coming into effect of the GDPR. However, its principal nature - to inspire ICANN to make WHOIS a priority in spite of the lack of own commercial interest and to take a forward-looking approach - are valid in the face of many changing laws and policies. Therefore, there is no particular GDPR impact on this aspect; rather, the significant GDPR impact in other areas is a symptom of its lacking implementation.