RDS-WHOIS2-RT Face-to-Face Meeting #4

DAY 2 – 11 December 2018
Brussels

ICANN

Welcome

Agenda Item #1

Presenters: Review Team Leadership & ICANN org

Time: 09:00 – 09:10

Welcome

- **Day 1 Takeaways**

- **Day 2 Objectives**
  - Continue review of public comments received
  - Reach consensus on recommendations and sections updates

Day 2 Agenda

08:30 - 09:00 - Breakfast

09:00 - 09:10 – Welcome
09:10 - 10:00 – WHOIS1 Rec #11: Common Interface
10:00 – 10:30 – WHOIS1 Rec #12-14: Internationalized Domain Names

10:30 - 10:45 – Break

10:45 - 11:45 – WHOIS1 Rec #15-16: Plan & Annual Reports
11:45 - 12:30 – Objective 2 – Anything New

12:30 - 13:30 – Lunch Break

13:30 - 15:30 – Objective 3 – Law Enforcement Needs

15:30 - 15:45 – Break

15:45 - 17:15 – Objective 4 – Consumer Trust
17:15 – 17:30 – Day 2 wrap-up

WHOIS1 Rec #11: Common Interface

Agenda Item #2

Presenters: Volker Greimann

Time: 09:10 – 10:00

Public Comments On Recommendation R11.1

R11.1	The ICANN Board should direct the ICANN Organization to define metrics or SLAs to be tracked and evaluated to determine consistency of results of queries and use of any common interface (existing or future) used to provide one-stop access to registration data across all gTLDs and registrars/resellers. Specific metrics that should be tracked for any such common interface include: - How often are RDS (WHOIS) fields returned blank? - How often is data displayed inconsistently (for the same domain name), overall and per gTLD? - How often does the tool not return any results, overall and per gTLD? - What are the causes for the above results?
(RrSG)	Supports
(RySG)	Supports.
(ALAC)	Supports recommendation, particularly when ICANN policies on registrant data are finalized.

Public Comments On Recommendation R11.1

R11.1	
(BC)	Whois portal cannot be counted as a reliable source of WHOIS. It seems that ICANN efforts with respect to GDPR have broken aspects of the agreed to functions /purpose of the portal. We again refer ICANN to the APWG and M3AAWG survey, where investigators, either in survey responses or through submitted comments, identify prominent "pain points" and emphasize the need to restore timely access to complete Whois data for legitimate purposes. We ask the Team to address this in their recommendations.
(NCSG)	Given the state of flux of the data returned in response to queries, perhaps defining metrics is a low priority at this moment. We recommend dropping this one.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation R11.2

R11.2	The ICANN Board should direct the ICANN Organization to continue to maintain the common interface to keep up to date with new policy developments or contractual changes for contracted parties to ensure that the common interface will display all publicly-available RDS (WHOIS) output for each gTLD domain name registration available from contracted parties, i.e., when they differ, both the registry and registrar RDS (WHOIS) output could be shown in parallel.
(RySG)	RySG believes that once the RDAP protocol is adopted by registries and registrars, ICANN should use RDAP as the underlying protocol to support the functionality of this interface, and eventually work towards retiring the WHOIS protocol for this feature.
(ALAC)	Supports recommendation, particularly when ICANN policies on registrant data are finalized.
(NCSG)	Supports.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation R11.2

R11.2	
(RrSG)	There seems to be more risk associated with this recommendation than any resulting benefit. However, if ICANN org plans to be the sole controller of this common interface and will be responsible/liable for pulling the data to create it (presuming the data is being correctly displayed in the first place (meaning not PII)), and they are comfortable with risk and their ability to comply with applicable laws, then RrSG agrees. RrSG appreciates the apparent intent of ensuring that the common interface provides both registry and registrar RDS outputs as these may currently differ under the Temp Spec, thereby reducing the potential of confusion with the users of the interface.
(BC)	Whois portal cannot be counted as a reliable source of WHOIS. It seems that ICANN efforts with respect to GDPR have broken aspects of the agreed to functions /purpose of the portal. We again refer ICANN to the APWG and M3AAWG survey, where investigators, either in survey responses or through submitted comments, identify prominent "pain points" and emphasize the need to restore timely access to complete Whois data for legitimate purposes. We ask the Team to address this in their recommendations.

Support | **Neutral** | **Disagreement**

WHOIS1 Rec #12-14: IDNs

Agenda Item #3

Presenters: Dmitry Belyavsky

Time: 10:00 – 10:30

Public Comments On Recommendation R12.1

R12.1	Reviewing the effectiveness of the implementation of Recs #12-14 should be deferred. The ICANN Board should recommend that review be carried out by the next RDS review team after RDAP is implemented, and the translation and transliteration of the registration data launches.
(RrSG)	Supports deferment.
(RySG)	Supports deferment.
(ALAC)	Support deferral of review of effectiveness until the program is fully implemented.
(NCSG)	NCSG agrees with deferring further work on this topic.
(BC)	A number of studies and a PDP were carried out, for which ICANN Org should be acknowledged. However, the resultant policy and practices are not yet in place because they depend on a new RDS/Whois system which is not yet implemented (using the Registration Data Access Protocol – RDAP). We recommend the Team reinforce this priority.

Support | **Neutral** | **Disagreement**

Break

Time: 10:30-10:45

What's Next?

10:45-11:45 – WHOIS1 Rec #15-16: Plan & Annual Reports
11:45-12:30 – Objective 2: Anything New

WHOIS1 Rec#15-16: Plan & Annual Reports

Agenda Item #4

Presenters: Lili Sun

Time: 10:45 – 11:45

Public Comments On Recommendation R15.1

R15.1	The ICANN Board should ensure that implementation of RDS-WHOIS2 Review Team recommendations is based on best practice project management methodology, ensuring that plans and implementation reports clearly address progress, and applicable metrics and tracking tools are used for effectiveness and impact evaluation.
(BC)	While plans and reports were issued, their utility was limited and they failed to provide transparency into areas where implementation fell short. The disconnect between ICANN Org's claim of full implementation for all recommendations, and the reality of what has transpired is substantial. Clearly changes are needed in future implementation plans and reports. We suggest the Team recommend planning and reporting activities in concert with their recommendations.
(ALAC)	Accepts recommendation.
(RySG)	RySG supports the sentiment of this recommendation, but cautions that the implementation of the recommendation should not create new reporting burdens on contracted parties.
(NCSG)	Will it prevent ICANN from continuing to drive the train into the brick wall at the end of the tunnel? A bit more discussion of risk scanning and ongoing risk management might improve this recommendation. We would, therefore, disagree with your comment on page 84 that the GDPR has no impact on this recommendation; if the WHOIS Review Teams are dictating the action plan for WHOIS improvement, then there must be flexibility to map projects to reality as time passes between reviews.

Support | **Neutral** | **Disagreement**

Objective 2 – Anything New

Agenda Item #5

Presenters: Stephanie Perrin

Time: 11:45 – 12:30

Public Comments On Section

Anything New
NCSG   The inventory of activities, policies, and procedures will be useful to help guide the GNSO when it determines priorities for subsequent PDPs after the Temporary Specification is either dealt with or disappears in May 2019.

Support | **Neutral** | **Disagreement**

Lunch

Time: 12:30-13:30

What's Next?

13:30 - 15:30 – Law Enforcement Needs

Law Enforcement Needs

Agenda Item #6

Presenters: Cathrin Bauer-Bulst

Time: 13:30 – 15:30

Public Comments On Section

Objective 3: Law Enforcement Needs	
(RrSG)	RrSG encourages the use of outside facilitators to draft and conduct surveys to ensure that results or questions are not biased towards the interests of any particular group. RrSG notes that only a select number of LEAs, ie those that had a direct relationship with the GAC and members of the Review Team, participated in the questionnaire and so the results do not necessarily reflect the views of a full cross-section of national and local LEAs around the world.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation LE.1

LE.1	The ICANN Board should resolve that regular data gathering through surveys and studies are to be conducted by ICANN to inform a future assessment of the effectiveness of RDS (WHOIS) in meeting the needs of law enforcement, as well as future policy development (including the current Temporary Specification for gTLD Registration Data Expedited Policy Development Process and related efforts).
(I2C)	Strongly supports initiatives to solicit feedback from a broader cross-section of LEAs.
(RySG)	RySG supports this recommendation, but cautions that ICANN should not conflate surveys with more rigorous studies. Surveys often result in a response bias, where only those parties interested in a certain topic take the time to respond to the survey.ICANN should seek out ways to ensure that it is gathering data from a broad and truly representative cross-section of law enforcement to understand how RDS data does or does not meet their needs. Furthermore, ICANN must ensure that any studies or surveys directed to contracted parties are either voluntary or based on an explicit requirement in the parties' agreements with ICANN.
(BC)	We found the law enforcement survey conducted by the Team to be useful, as it not only provided insight into law enforcement needs regarding RDS/Whois, but also gave us a preliminary understanding of whether GDPR was likely to have an impact on meeting those needs. We support the conduct of additional surveys and research in this vein.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation LE.1

LE.1	
(ALAC)	Support recommendation, particularly after finalization of registrant data policies. The ALAC can agree with the recommendation to continuously monitor the impact of WHOIS/RDS related developments, but it is unclear to the ALAC how surveys and data gathering are to lessen the potential negative consequences on law enforcement work.
(RrSG)	LEA needs in the past often seemed to go beyond the scope of RDS services provided by contracted parties and relied on the use of third party data mining/data scraping services, so surveys may not correctly reflect the effectiveness of RDS services alone.
(DNRC)	If this recommendation is kept, Domain Name Rights Coalition asks that it is expanded to include Data Protection Authorities, as ICANN must be in a position to receive comprehensive information about the full and complex situation, to learn how the laws are evolving, and what compromises are being reached domestically. However, they recommend to delete the recommendation considering ICANN's New Bylaws require only "periodic review" of the legitimate needs of law enforcement, not regular (meaning done or happening frequently) thus avoiding continuous or near-continuous cycle of expensive and time-consuming surveys. Any future surveys need to explore all sides of these complex issues -- from all law enforcement and related parties involved -- but only on a "periodic" basis.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation LE.1

LE.1	
(NCSG)	We fail to see why ICANN should conduct studies to determine whether third parties are achieving their desired results in accessing registrant data. By all means, this relatively well-funded area of Internet business (referring here to the security community that acts to safeguard the Internet for commerce) may present survey data to ICANN, the Compliance department, and the SSAC, but in a time of falling revenues and new compliance costs related to the GDPR, we think this recommendation should be withdrawn. In the interest of transparency the NCSG requests that the costs of the current survey be included in the report. Surveys are useful, but they are not cheap, if properly done.

Public Comments On Recommendation LE.2

LE.2	The ICANN Board should consider extending and conducting such surveys and/or studies (as described in LE.1) to other RDS (WHOIS) users working with law enforcement on a regular basis.
(BC)	We found the law enforcement survey conducted by the Team to be useful, as it not only provided insight into law enforcement needs regarding RDS/Whois, but also gave us a preliminary understanding of whether GDPR was likely to have an impact on meeting those needs. We support the conduct of additional surveys and research in this vein.
(ALAC)	Supports recommendation, particularly after finalization of registrant data policies. The ALAC can agree with the recommendation to continuously monitor the impact of WHOIS/RDS related developments, but it is unclear to the ALAC how surveys and data gathering are to lessen the potential negative consequences on law enforcement work.
(I2C)	Internet Infrastructure Coalition finds the language of this recommendation quite vague and invites the review team to clarify which "RDS" and what "regular basis" mean, and solicits additional input.
(NCSG)	If law enforcement bodies wish to conduct surveys, ICANN should within reason cooperate, however, this recommendation should be reworded to clarify who pays for the research. Given the current state of flux in GDPR compliance, no action on surveys of law enforcement satisfaction should be taken until the state of registrant data access is stabilized.

Support | **Neutral** | **Disagreement**

Public Comments On Recommendation LE.2

LE.2	
(DNRC)	This recommendation should be deleted as it is untimely and has the potential to run roughshod over the work of the EPDP. It is also unclear whether "other RDS (WHOIS) users working with law enforcement" can legally access personal and sensitive domain name registration data under the GDPR, Convention 108, and the over 100 national laws which govern data protection. Issues connected to law enforcement access to RDS data, including gatekeeping questions of how "law enforcement" should be defined, should only be determined by the EPDP.
(RrSG)	RrSG cautions against including parties who work with LEAs in any survey or attempting to equate the needs of those who work with LEA to the actual needs of LEAs. The expansion of such a survey to third parties that have not been empowered by regulation or statute with legal enforcement or investigatory powers and legal rights is highly dubious as the legitimacy of such parties is not equal to that of LEAs even though they may provide useful services.

Break

Time: 15:30-15:45

What's Next?

15:45 - 17:15 – Objective 4 – Consumer Trust
17:15 - 17:30 – Day 2 wrap-up

Objective 4 – Consumer Trust

Agenda Item #7

Presenters: Erika Mann

Time: 15:45 – 17:15

Public Comments Received On Section

Consumer Trust
BC   The BC supports the view that, for the purposes of these activities, "consumer trust" should not be restricted only to registrants, but must apply to all parties who "consume" domain names through registration and resolution services. This definition is better aligned with ICANN's domain name system remit, which spans domain name registration services and name resolution services. Limiting consumer trust to the registrant population of millions constrains the scope of consumer and trust, and we recommend that the Team address this in its report. Access to accurate Whois data for legitimate purposes of addressing threats to the integrity of domains is clearly within ICANN's mission. We also recommend that ICANN follow-through on its obligation to assess the level of consumer trust in the new regime of RDS, privacy/proxy services, GDPR-redacted data fields and limited or rejected access to registration data. The question ICANN should ask and answer is: do these changes to Whois enhance consumer trust?

Day 2 Wrap-Up

Agenda Item #8

Presenters: Review Team Leadership & ICANN org

Time: 17:15 – 17:30

Day 3 Agenda

08:30 - 09:00 - Breakfast

09:00 - 09:15 – Welcome
09:15 - 10:15 – Objective 5 – Safeguarding Registrant Data

10:15 - 10:30 – Break

10:30 - 11:15 – ICANN Bylaws
11:15 - 12:30 – Parking lot for any item that requires further discussion

12:30 - 13:30 – Lunch Break

13:30 - 14:30 – Executive Summary
14:30 – 15:30 - Adjust (as needed) structure of report (e.g. merge sections etc)

15:30 - 15:45 – Break

15:45 - 16:30 – Call for consensus on recommendations
16:30 – 17:30 – Face-to-Face Meeting #4 wrap-up