

2012-05-06 - .CAT RSEP Request to Allow Whois Changes

- **Category:** gTLDs
- **Topic:** .CAT RSEP Request
- **Board meeting date:** 06 May 2012
- **Resolution number:** 2012.05.06.02
- **URL for Board minutes/resolution:** <http://www.icann.org/en/groups/board/documents/resolutions-06may12-en.htm#1.2>
- **Status:** Complete

Summary

Approved and directed RSEP request to allow Whois changes in .CAT Registry Agreement.

Text

Whereas, PuntCAT submitted a Request pursuant to ICANN's Registry Services Evaluation Policy to amend the .CAT Registry Agreement to allow for Whois changes to comply with Spanish and EU data protection legislation.

Whereas, ICANN evaluated the proposed amendment to the .CAT Registry Agreement as a new registry service pursuant to the Registry Services Evaluation Policy, did not identify any security, stability or competition issues, and posted an amendment for public comment and Board consideration (<http://www.icann.org/en/news/announcements/announcement-20jan12-en.htm>).

Whereas, the potential issues cited during the public comment period and by ICANN were addressed by PuntCAT's responses.

Whereas, approving the proposal would enable puntCAT domain registrants who are individuals to opt out of having their contact information appearing in the puntCAT Whois when their domains are queried. In contrast, registrants representing businesses are not supposed to have this option, i.e. they are obliged to publish their contact information in the Whois.

RESOLVED (2012.05.06.02), the amendment to allow Whois changes in .CAT is approved, and the President and CEO and the General Counsel are authorized to take such actions as appropriate to implement the amendment.

Implementation Actions

- Amend .CAT Registry Agreement
 - Responsible entity: President and CEO and General Counsel
 - Due date: None provided.
 - Completion date: 17 July 2012

Rationale

ICANN's stakeholder relations, legal, and technical teams reviewed the RSEP proposal for competition and DNS stability issues and found none.

According to the Registry, this service is endorsed by law enforcement and data protection agencies representatives from Catalonia, Spain and the EU, as indicated in the RSEP annexes.

puntCAT notes that the GAC communiqué issued on March the 28th, 2007 states the following:

"2.2 The GAC recognizes that there are also legitimate concerns about...conflicts with national laws and regulations, in particular, applicable privacy and data protection laws" (http://gac.icann.org/system/files/GAC_28_Lisbon_Communique.pdf)

ICANN held a public comment period from 20 January 2012 to 10 February 2012. During this time, the puntCAT proposal received four comments, three in support and one, from IPC, in opposition. The summary of the comments is available below.

Fundacio PuntCAT has conducted consultations with relevant data protection agencies representatives from Catalonia, Spain and the EU, as well as informal consultations with experts on the subject. The relevant authorities named by puntCAT are: the Art. 29 Working Group; the independent EU Advisory Body on Data Protection and Privacy; the Spanish Data protection Authority; and Catalan Data Protection Authority.

Per Fundació puntCAT, this request is the direct consequence of an increase in data protection concerns in the .cat community. The concerns have been directly addressed to Fundació puntCAT throughout many registrants' petitions to allow private whois, as well as a general trend in the data protection fora that have specifically dealt with the subject. In that regard, see the documents referred above.

Registrars were consulted and informed in a meeting held on April 14th, 2011, between puntCAT and its registrars. The meeting had the whois system change proposal as one of its main topics, and none of the registrars attending the meeting had any objections to the proposal.

The proposed amendment was submitted for public comment support and one in opposition from the IPC. In its reply to IPC concerns, the PuntCAT registry continues to affirm that the proposed changes are in alignment with how the data protection framework must be interpreted when addressing the challenges posed by the Whois system. It also states that "the language used by the Spanish data protection Agency is, in our understanding, clear enough to proceed with the changes as proposed. puntCAT believes it would be a severe irresponsibility not to allow us to proceed with the changes. Delaying or, even worse, preventing puntCAT from abiding by the data protection regulation would put the Registry in a very risky legal situation, from which serious economic liabilities could derive."

In the past, ICANN received and, after public comment, approved a similar request from Telnic Ltd, the .tel registry. See:<http://www.icann.org/en/registries/rsep/index.html#2007004>. Telnic is similarly situated, i.e., subject to European privacy law.

Other Related Resolutions

- Resolutions 2012.08.28.06 and 2012.08.28.07, addressing a reconsideration request (Request 12-2) brought regarding this decision, available at <http://www.icann.org/en/groups/board/documents/resolutions-28aug12-en.htm#2.a>.
- Other resolutions TBD

Additional Information

- Public comment regarding the proposed amendment is available at <http://www.icann.org/en/news/public-comment/cat-whois-changes-18jan12-en.htm>
- The .CAT TLD Sponsorship Agreement is available at <http://www.icann.org/en/tlds/agreements/cat/>, and the amendment requested is available at <http://www.icann.org/en/about/agreements/registries/cat/amendment-2-17jul12-en.htm>
- Information on Reconsideration Request 12-2 is available at <http://www.icann.org/en/groups/board/governance/reconsideration>
- Information on the RSEP Request is available at <http://www.icann.org/en/resources/registries/rsep>
- The resolution does not address funding for the items identified therein.

Explanatory text does not modify or override Resolutions. See [Board Resolutions Page](#) for more information.

Note: The "Add Comment" box below is for sharing information about implementation of this resolution. Off-topic comments will be removed.