



**Comments from the Internet Infrastructure Coalition (i2Coalition)
November 2, 2015**

The Internet Infrastructure Coalition (i2Coalition) appreciates the opportunity to comment on the **IAG's proposal to improve the current Whois Conflicts Procedure**. See public comment notice at <https://www.icann.org/public-comments/iag-whois-conflicts-privacy-2015-10-05-en>.

The i2Coalition's diverse membership represents both large and small Internet infrastructure providers such as web hosting companies, software services providers, data centers, registrars, and registries. The i2Coalition has several key goals with ICANN, but chief among them is continuing to build a voice for underrepresented parts of the Internet ecosystem – in particular web hosts, data centers, and cloud infrastructure providers – and ensuring that accountability and transparency remain paramount. i2Coalition brings unique representation to ICANN as it is made up of companies representing the whole broad ecosystem of Internet infrastructure companies.

In our brief comments, we would like to focus our attention on a key concern shared by i2Coalition members' roles as Internet intermediaries that are required to follow local disclosure laws.

While ICANN's work on developing a procedure for improving the facilitation of conflicts between local/national mandatory privacy laws or regulations and applicable provisions of the ICANN contract is laudable, concerns have long been expressed by both public authorities as well as Internet intermediaries regarding potential conflicts between Whois contractual obligations and local law. ICANN cannot supersede local jurisdictions, which have differing laws regarding when a law enforcement request must remain confidential. It is not always feasible for a provider to credibly demonstrate to ICANN that it is legally prevented by local/national privacy laws or regulations from fully complying with applicable provisions of its ICANN contract regarding the collection, display, and distribution of personally identifiable data via Whois.

Thus, a provider must be able to operate within the allowances of its local jurisdiction regarding disclosure to customers. ICANN must recognize that different global jurisdictions have differing laws that address the confidentiality of law enforcement requests.



The i2Coalition appreciates the IAG's efforts to address the numerous concerns that have arisen from contracted parties and the wider community. We look forward to continuing our engagement with the group as it moves toward finalizing the proposals.