



February 16, 2016

Via Electronic Mail

comments-rdds-output-03dec15@icann.org

Re: Proposed Implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All gTLDs

Google Inc. (“Google”) appreciates the opportunity to comment on the Proposed Implementation of the GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All gTLDs (“Thick Whois Implementation Framework”). Google is concerned that the proposed framework to implement the recommendations from the Thick Whois Policy Development Process (PDP) exceeds the scope of the working group recommendations by introducing new or duplicative requirements not contemplated by that group. We urge ICANN to revisit its proposed framework to reflect a more narrowly tailored implementation of the proposed policy.

ICANN should narrowly tailor the frameworks that it develops to implement PDP recommendations and consolidate parallel efforts that touch on a common system in its implementation efforts.

As a general rule, implementation frameworks should be narrowly tailored. Introducing new requirements or elements at the implementation stage undermines the multi-stakeholder nature of the PDP. Doing so creates the misimpression that the additional requirements devised by ICANN have benefitted from community-driven policy development and review where no such community process took place.

In situations in which a particular PDP recommendation may be interpreted in multiple ways,¹ ICANN should choose the interpretation most consistent with existing consensus policy, operational practice, or both, minimizing burdens on contracted parties and allowing competitors to differentiate their offerings in the marketplace. Adherence to this principle is critical to the multi-stakeholder nature of policy development within ICANN; unilateral introduction of

¹ For example, in the interpretation of the recommendation that thick Whois output use the format in the 2013 RAA, while it is possible to read the PDP recommendation as requiring that each field in the 2013 RAA be displayed (and therefore gathered) by both registry and registrar, an alternative and more limited reading would simply be to look to the 2013 RAA for general guidance on display formatting. See further discussion of this specific example below.

requirements by ICANN, whether through implementation frameworks or otherwise, is inconsistent with the multistakeholder model.

Finally, ICANN should consider parallel or recent changes in operational requirements for registries and registrars as part of its implementation frameworks. Where multiple efforts touch on a common system (in this case registry and registrar Whois output), ICANN should consolidate implementation efforts in order to minimize the number of individual and incremental changes required by registries and registrars.

The proposed Thick Whois Implementation Framework exceeds the scope of the Thick Whois PDP.

As described in its charter, the goal of the Thick Whois PDP was to develop a policy recommendation regarding the use of thick Whois by all generic top-level domain (gTLD) registries that took into account related issues of cost, accessibility, migration, and authoritativeness, among other variables. Accordingly, the working group produced three policy recommendations requiring the following:

- Provision of thick Whois services by all gTLD registries;
- Adoption of a consistent labeling schema for all registries and registrars;
- Initiation of a process to manage transition to a thick registry model, for those that are currently thin; and
- Consideration of potential privacy issues arising from transition as a component of that process.

Despite the narrow focus of the working group's recommendations on thick Whois and the associated transition process, ICANN's implementation framework proposes other changes to the provision of registration data directory services (RDDS) not covered within the scope of the working group's charter or recommendations. These superfluous proposals include:

- Implementation of RDAP in accordance with ICANN's published RDAP Operational Profile for Registries and Registrars; and
- Introduction of new fields not currently found in the registry Whois output (e.g., abuse contact and reseller), some of which are optional according to the 2013 Registrar Accreditation Agreement (RAA).

The transition to RDAP reflects a distinct RDDS-related initiative that falls outside of the scope of the Thick Whois PDP. If ICANN believes that the implementation of RDAP and the transition to thick Whois are interrelated, it should distinguish between the two processes in the implementation framework rather than conflate them as the consequence of a single proposed policy.

The proposed Thick Whois Implementation Framework requires registries and registrars to publish new fields that are not required under the existing contract, nor discussed in the context of the Thick Whois Policy Development Process.

We recommend that the requirement for registries to provide these additional fields be removed from the proposed implementation framework. In the impact assessment provided alongside the

Thick Whois Implementation Framework, Mark Anderson of Verisign notes that the requirement to provide the registrar abuse contact was not covered in working group discussion and is not considered a requirement for the provision of a thick Whois output. Indeed, most gTLD registries currently provide what is considered to be a thick Whois output, despite no registry currently including this field. Similar concerns apply to the requirement for registries and registrars to include reseller information in their Whois outputs. This information is not included in the registry requirements for the provision of Whois set forth in Specification 4 of the New gTLD Registry Agreement (RA). In most instances, this information is completely unknown to the registry and no technical process currently exists for how this information can be transmitted to the registry. Further, the RAA explicitly denotes that this field is optional. Because the PDP recommendations on Thick Whois make no mention of registries or registrars gathering additional information, it is more reasonable to assume that the implementation of the policy should make the display of those fields optional rather than expand the scope of the policy to include additional data collection requirements.

The response provided by the implementation review team does not provide satisfactory basis for the relevance of these additional fields to the Thick Whois PDP; instead, it justifies their inclusion on the basis of being “valuable additions” to a Whois output. It should be left to the community to determine what, if any, additional fields should be reflected in registration data. ICANN should not rely on the implementation process to introduce new requirements on the basis of its own assessment of value.

Contracted parties have already been required to standardize their Whois outputs as part of ICANN’s Whois Clarifications. Requiring a duplicative effort to standardize Whois formatting in accordance with a new model does not benefit the provision of RDDS.

Google shares the concerns cited in the impact assessment regarding ICANN’s interpretation of the policy recommendation regarding the provision of a consistent Whois output. Consistent outputs need not be identical: registries and registrars retain the ability to propose additional fields to their Whois output, provided that content and formatting requirements are met.²

Further, for thick gTLD registries, the recommendation to provide a consistent Whois output has largely been met already by way of the Whois Clarifications, which require that new gTLD registries’ Whois outputs conform with the example provided in Specification 4 of the RA. The requirement to transition to yet another model for the provision of Whois for the purpose of consistency is no longer substantiated by the benefits cited in ICANN’s impact assessment. Instead, it creates implementation burdens for contracted parties with little gain.

As described in Google’s previous public comments on the Preliminary Issue Report on Next-Generation gTLD Registration Directory Services to Replace Whois, ICANN should avoid

² See sections 6, 11, 22, and 33 of the [“Clarifications to the Registry Agreement, and the 2013 RAA regarding applicable Registration Data Directory Service \(Whois\) Specifications”](#) describing additional fields that may be included in registry or registrar Whois outputs.

making incremental and ad hoc updates to Whois requirements.³ Requiring registries to transition to a different model, shortly after the deadline to implement the Whois Clarifications directly contradicts this principle. To the extent that further work is required to make outputs by legacy gTLD registries consistent, ICANN should minimize burdens to registries by using this recent model, rather than requiring that all registries change to a new output format.

Further, it is problematic to require registries to implement Whois in accordance with a model set forth in the 2013 RAA, a contract to which registries are not a party. Currently, the registry Whois Specification, set forth in Specification 4 of the RA, can be negotiated in the process set forth in Article 7.7. To bind registries' Whois implementation frameworks to another agreement would void this right and, potentially, bind registries to implementing further changes to their Whois outputs that were agreed between registrars and ICANN, in a negotiation process in which they have no stake.

Conclusion

The implementation framework proposed by ICANN is both overly broad and an improper attempt to alter policy during the implementation. We urge ICANN to instead implement the policy that was developed through the multi-stakeholder policy development process.

Sincerely,



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³ See [Public Comment on Next Generation gTLD Registration Directory Services to Replace WHOIS Preliminary Issue Report](#) by Google Inc.