

The Registries Stakeholder Group (RySG) appreciates the opportunity to comment on the the Preliminary Issue Report for Next-Generation gTLD Registration Directory Services to Replace WHOIS ("Issue Report").

As evidenced in the Issue Report, efforts to study and develop policies for the provision of registrant contact information have consumed significant community attention and effort for over a decade. Despite this effort, attempts to deliver wholesale changes to the existing WHOIS system have failed to generate community consensus; policy development efforts have delivered only marginal improvements to WHOIS. Many of the current practices for the provision of WHOIS data do not reflect community-developed policy. Instead, requirements have been developed in fragmented fashion through evolving requirements in registry and registrar contracts and associated clarifications, which do not necessarily reflect the will of the community.

This context considered, a Policy Development Process on Next Generation gTLD Registration Directory Services ("Next Gen RDS") would benefit from adherence to the two following principles. First, the Policy Development Process (PDP) should weigh costs against benefits at each phase, to ensure that the time spent on policy development and the costs of implementation are justified by the outcomes. Second, the Generic Names Supporting Organization (GNSO) should treat this as an opportunity to develop a comprehensive policy and implementation framework for Next Gen RDS, and not be required to mirror elements of existing WHOIS practices that are not derived from community-developed policy.

Provide for assessments of the costs and benefits of a Next Gen RDS at all phases of the PDP and cease work if costs of a Next Gen WHOIS outweigh benefits.

We support the Issue Report's recommendation to initiate policy work on registration directory services with an assessment of the community's appetite for wholesale reforms to registration directory services. If the community determines that the benefits of a PDP are limited relative to other policy efforts being undertaken by ICANN or relative to the associated policy and implementation work required, then work should halt to avoid sunken expenditure of community resources. If, however, the community determines that policy work should go forward, this phase should also state the deficiencies of the existing WHOIS system relative to its stated purpose that the community believes can be resolved or improved through the PDP.¹ This exercise will help scope out the project and permit the community to assess the appropriateness of the reforms being proposed across all phases.

However, without knowing the policies and procedures that will apply to a Next Gen RDS, the Phase 1 cost/benefit assessment will invariably be limited. To account for these limitations we believe that a cost/benefit analysis of the proposed efforts on RDS should be carried out at all phases of the PDP. This assessment should take into account both the time and effort being expended by the community on the PDP and the appetite for future work; the technical feasibility and implementation costs associated with the reforms under consideration and

¹ As agreed by the GNSO on April 12, 2006: "The purpose of the gTLD Whois service is to provide information sufficient to contact a responsible party for a particular gTLD domain name who can resolve, or reliably pass on data to a party who can resolve, issues related to the configuration of the records associated with the domain name within a DNS nameserver."

associated implications for registries, registrars, and registrants; and whether the proposed framework meets the objectives described in Phase 1. As in the initial assessment, if following any of these phases the GNSO determines that the costs of a Next Gen RDS outweigh the benefits, then further policy work should be suspended.

Adopt a comprehensive approach in the development of WHOIS policies.

As the Final Report of the 2010 WHOIS Review established, “ICANN’s WHOIS policy is poorly defined and decentralized.” Most of today’s accepted practices for the provision of WHOIS are not the outcome of community-developed policy. Rather than reflecting consensus policies in registry and registrar agreements, these contracts themselves define how WHOIS should operate and drive community’s expectations for the provision of registrant contact information. In parallel, studies of WHOIS have typically focused on narrow and particular elements (e.g. accuracy, privacy, availability, etc.), instead of providing a comprehensive assessment of whether the system as a whole meets community expectations. As such, the prescriptions that follow from these studies may not reflect the best methods for improving the provision of registration directory services when taken en suite.

In response, the review team urged the development of a single policy document on WHOIS and advised that this document should be the basis for requirements in subsequent registry and registrar contracts. While the review team suggested that this exercise could begin with consolidating those requirements set forth in registry and registrar contracts, we recommend a different approach, wherein the Generic Names Supporting Organization develops policies from the ground up that best fit the purpose of a registration directory service.² This approach is especially fitting given the impending adoption of the Registration Data Access Protocol, which will bring changes in the protocol-level requirements and procedures for the dissemination of registration data. This would also provide for the consolidation of requirements for the provision of registration directory services in a single policy, that could then be reflected in registry and registrar contracts and elsewhere, as appropriate.

The opportunity to start from a clean slate in outlining policies, and practices for the provision of registration directory services was one of the unique features of the Expert Working Group on gTLD Directory Services (EWG). The EWG Report and other existing work on registration directory services should serve as important inputs to any future PDP on registration directory services, but should not be used to predefine outcomes. We specifically object to the suggestion that a PDP on Next Gen RDS would be confined to the implementation of the recommendations of the EWG. This assumption appears to supersede the GNSO’s singular role as the policy development body for the generic top-level domain (gTLD) namespace. The GNSO should be given full latitude to define objectives and policies in any future PDP on Next Gen RDS.

² On April 12, 2006, the GNSO established the following working definition of the the purpose of WHOIS: “The purpose of the gTLD Whois service is to provide information sufficient to contact a responsible party for a particular gTLD domain name who can resolve, or reliably pass on data to a party who can resolve, issues related to the configuration of the records associated with the domain name within a DNS nameserver.”

Account for related issues pertaining to registrant privacy, data protection requirements, and free speech.

Finally, in the event that policy work on Next Gen RDS goes forward, the work should consider in its design, how Next Gen RDS will improve upon topical concerns related to registrant privacy, data protection requirements, or free speech. The process should ensure that a new policy framework simultaneously enables registries and registrars to comply with applicable data protection, privacy, and free speech laws and addresses the overall privacy needs of registrants in their respective jurisdictions.

We believe that these reforms will help ensure that future work on registration directory services aligns with community objectives and that the benefits outweigh the costs, thereby making such efforts more likely to generate community consensus that previous work on WHOIS.