



September 4, 2015

Via Electronic Mail

comments-rds-prelim-issue-13jul15@icann.org

Re: Public Comment on Next-Generation gTLD Registration Directory Services to Replace WHOIS Preliminary Issue Report by Google Inc.

Google appreciates the opportunity to comment on the Preliminary Issue Report for Next-Generation gTLD Registration Directory Services to Replace WHOIS ("Issue Report"). We acknowledge that ICANN staff and the multistakeholder community are still in the early phases of exploring whether a Next Generation Registry Directory Service ("Next Gen RDS") is needed to replace the existing WHOIS system.

The history of WHOIS policy development provided in the Issue Report evidences that the extensive work and time spent by the community on WHOIS policy have resulted in only narrow changes or improvements to the existing system, while exhausting significant community resources. To date, the conventions around the provision of WHOIS data have been developed in an ad hoc fashion and only a small subset reflect community-developed policy. We believe that a Policy Development Process (PDP) on Next Gen RDS could present a unique opportunity if it allowed the community to define, identify, and develop from the ground up the policies that it believed would best serve the limited purpose of WHOIS data.¹ We offer the following suggestions to guide any future policy development work on this matter, and to help avoid the creation of another time-consuming PDP that is unlikely to result in meaningful change to the current practices around the collection and publication of registration data.

Begin from a clean slate in determining how to implement a Next Gen WHOIS system.

The history of WHOIS provided in the Issue Report shows that today's WHOIS practices were developed in an incremental and ad hoc fashion. Only a small subset of the current practices for providing WHOIS reflect Generic Names Supporting Organization (GNSO) Consensus Policies²

¹ As agreed by the [GNSO's resolution](#) 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." Although this definition was adopted in relation to ongoing policy development efforts, we believe that it serves as a useful basis for policy development around next generation WHOIS as well.

² As identified by the [WHOIS Review](#), only the following policies or procedures reflect consensus outputs of the ICANN/GNSO Policy Development Process: the [WHOIS Data Reminder Policy](#) (requiring registrars to periodically remind registrants to review and update WHOIS information); the [Restored Name Accuracy](#)

or applicable RFCs³. Much of today's WHOIS system instead reflects common practices or requirements set forth by ICANN through registry and registrar contracts or subsequent clarifications and advisories.

With this context in mind, the [Expert Working Group on gTLD Directory Services](#) (EWG) represents a significant effort to study and redefine the purpose of gTLD directory services. One of the advantages of the EWG is that, in this effort, working group members were not bound by current WHOIS practice, but rather were permitted to reconceive the provision of WHOIS from the ground up, beginning with definitions of the purposes of WHOIS data.

We believe that the GNSO should be given a similarly clean slate in developing the framework for a Next Gen RDS, if it decides such policy efforts are warranted. The GNSO is the body responsible for developing policies for the Generic Top Level Domain (gTLD) namespace and the appropriate forum for policy development for a Next Gen RDS. The GNSO should retain ultimate discretion to determine whether development of a Next Gen RDS is warranted and what framework, policies, and implementation requirements should apply.

While the EWG Report will serve as an important input to such efforts, the report should not inordinately constrain the scope of a potential future PDP on this matter.⁴ Similarly, while a PDP on Next Gen RDS should consider as inputs the WHOIS Review and current requirements for the provision of registration data, it should not be required to replicate elements of the existing WHOIS system that are reflections of practice and not community-developed policy.

Reassess the appropriateness of developing a Next Generation RDS once a general implementation framework has been developed.

Currently, the Preliminary Issue Report proposes that the effort to develop a Next Gen RDS be divided into three phases: the first focused on determining whether a Next Gen RDS is required and identifying high-level requirements for such system; the second, on identifying relevant policies for a Next Gen RDS; and the third on developing implementation and coexistence guidance. While we agree that an initial assessment of the need for a Next Gen RDS is a necessary starting point, several of the cost/benefit analyses proposed before moving on to Phase 2 cannot adequately or completely be carried out without a clear policy and implementation framework. We believe that in any future policy effort the assessments proposed should be carried out in each of these identified phases to ensure that the scope of

[Policy](#) (requiring registrars to verify newly-provided contact information prior to re-activating a name put on hold due to inaccurate WHOIS data); the [WHOIS Marketing Restriction Policy](#) (restricting the use of WHOIS data for marketing purposes); and the [ICANN Procedure For Handling WHOIS Conflicts with Privacy Law](#) (providing a mechanism for registries or registrars to resolve conflicts between WHOIS requirements and local privacy laws). Importantly, none of these consensus policies establishes a requirements to either collect or display WHOIS contact data.

³ [RFC 3912](#), which defines the WHOIS protocol, does not provide any specification for what contact information should be collected or how it should be presented.

⁴ Specifically, we disagree with the recommendations in the Issue Report that "The PDP should be focused on analyzing these recommendations from the EWG, as directed by the ICANN Board." Likewise the Draft Charter depends heavily on material directly from the EWG Report. (See Preliminary Issue Report on A Next Generation gTLD RDS to Replace WHOIS, Page 55.)

work required to implement a Next Gen RDS justifies its proposed benefits. This analysis should also feature an assessment of the scope of community work required to develop policies for a Next Gen RDS. Given that previous efforts around WHOIS have failed to generate community consensus, this assessment should also consider whether the allocation of community resources to WHOIS reform would detract from other efforts more likely to generate community consensus.

Carefully consider how to balance a comprehensive effort on Next Gen RDS against incremental changes to the existing WHOIS system.

To date, changes to the WHOIS system have been made in an ad hoc and incremental fashion. If the community decides to undertake a full-scale effort to develop a Next Gen RDS, parallel, ad hoc efforts to update WHOIS requirements, whether by the community or by ICANN staff, should be limited to the extent possible. This will help to ensure the comprehensiveness and consistency of reforms developed for a Next Gen RDS and limit unnecessary expenditure of community effort.

Conclusion

The above recommendations will help the GNSO properly tailor the scope of any future policy work related to gTLD registration data, making it more likely that the reforms achieve the community's goals, while minimizing unnecessary or counter-productive expenditure of community resources. Google looks forward to continued discussion with all stakeholders on these issues.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Duchesneau".

Stephanie Duchesneau
Domains Policy and Compliance