



July 2, 2015

The Intellectual Property Constituency of the GNSO (IPC) welcomes this opportunity to contribute to the 2013 RAA Whois Accuracy Program Specification Review. See <https://www.icann.org/public-comments/2013-whois-accuracy-spec-review-2015-05-14-en>.

IPC strongly supports the “ICANN staff input” summarized in the public comment notice. Specifically, IPC agrees that:

- “validation” and “verification” should be defined, and the definitions suggested by staff appear acceptable;
- “manual verification” should also be defined;
- It should be clarified that data can be validated and verified at the time of registration, or, under appropriate safeguards, prior to registration, and indeed registrars should be strongly encouraged to do so;
- Section 2 should explicitly state that suspension is required if changed fields cannot be validated;
- Verification as well as validation should be required in the circumstances described in section 5 (willful provision of inaccurate data, willful failure to update, and/or failure to respond).

IPC provides the following comments on the “Registrar Stakeholder Group input” as summarized in the public comment notice:

- Section 1, point 1: Validation and verification should continue to be required when a domain name is transferred, and especially when the Registered Name Holder is changed. Elimination of this requirement would provide a clear path for frustration of the goals of the entire Whois accuracy program;
- Section 1, point 4: IPC strongly opposes elimination of the cross-field validation requirement, since registrants could provide data that is valid for individual fields but useless for contactability purposes (e.g., 10 Downing Street, Los Angeles, Kansas, 12345, France);
- Section 1, points 5 and 6: IPC opposes eliminating explanation of how verification of e-mail and/or phone number must be carried out, but would consider inclusion of comparably robust alternative methods if registrars can specify these;

- Section 1, point 7: a 45-day period for registrant response to verification requests is far too long and would enable inaccurate data to reside in the system for excessive periods. A 5-day period for response should be adequate but in no case may it exceed 15 days;
- Section 1, point 8: as noted above, IPC agrees that “manual verification” should be defined;
- Section 1, point 9: IPC is not aware of any appropriate consequence for unverifiable contact data other than domain name suspension, but would consider comparably effective alternatives if proposed;
- Section 2, point 1: IPC opposes waiving the requirement to validate and verify changed fields if the changes are not “substantial,” absent a clear and comprehensive definition of that term that does not frustrate the purposes of the Whois accuracy program;
- Section 2, point 2: allowing 45 days before requiring suspension of registration where contact data cannot be verified is far too long, as noted above;
- Section 4, point 1: any requirement that information suggesting Whois data inaccuracy must be “substantiated” before registrars are required to act to verify or re-verify data is unacceptable, absent a clear and comprehensive definition of that term that does not frustrate the purposes of the Whois accuracy program;
- Section 4, point 2: IPC agrees that the section should be redrafted to require verification of the specific incorrect information, rather than the e-mail address in all cases;
- Section 5: any requirement that registrars not be required to act against registrations associated with incorrect data unless the inaccuracy is “substantiated” should be rejected, absent a clear and comprehensive definition of that term that does not frustrate the purposes of the Whois accuracy program;
- Section 6: IPC would not object to an annual review of the specification so long as the review is not conducted solely with the Registrar Stakeholder Group but is also open to meaningful participation by other parties, including IPC. This should not be an opaque and bilateral consultation between ICANN staff and the Registrar Stakeholder Group. Other stakeholders that rely on access to accurate Whois data, including but not limited to intellectual property interests, must have an opportunity to be meaningfully involved. IPC will also take this opportunity to note that a wide variety of stakeholders, including Internet users generally, rely on access to accurate Whois data, and that attempts to portray this as solely a concern of intellectual property interests are both unfair and inaccurate.

Finally, IPC urges that this review also consider the changes for which the IPC advocated at the time of adoption of the Whois Accuracy Program Specification. See



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<http://forum.icann.org/lists/comments-proposed-raa-07mar13/pdfyVOC4wSshg.pdf>, at pages 7-8. In particular:

- IPC strongly urges that the final word of 1(f)(i) be changed from “or” to “and.” The probability of identifying a bad actor increases significantly if both the e-mail address and phone number are checked. (In practice, we believe registrars employ method (i) the vast majority of the time, meaning that a dummy e-mail account is all that is needed for a bad actor to surmount the verification “hurdle.”).

Respectfully submitted,
GNSO Intellectual Property Constituency
By Steve Metalitz, Vice President