

'thick' Whois PDP Working Group

PLEASE SUBMIT YOUR RESPONSE AT THE LATEST **BY 9 January 2013** TO THE GNSO SECRETARIAT (gns.secretariat@gnsso.icann.org), which will forward your statement to the Working Group. If additional time is needed by your SG / C to provide your feedback, please inform the secretariat accordingly, including the expected delivery date so that this can be factored in by the WG.

The GNSO Council has formed a Working Group of interested stakeholders and Stakeholder Group / Constituency representatives, to collaborate broadly with knowledgeable individuals and organizations, in order to consider recommendations in relation to 'thick' Whois.

Part of the working group's effort will be to incorporate ideas and suggestions gathered from Stakeholder Groups, Constituencies through this template Statement. Please note that the WG is currently in an information-gathering phase. Inserting your response in this form will make it much easier for the Working Group to summarize the responses. This information is helpful to the community in understanding the points of view of various stakeholders. However, you should feel free to add any information you deem important to inform the working group's deliberations, even if this does not fit into any of the questions listed below.

For further information, please visit the WG Workspace (<https://community.icann.org/display/PDP/Home>).

Process

- Please identify the member(s) of your ~~stakeholder group / constituency~~ **Advisory Committee** who is (are) participating in this working group
 - Alan Greenberg**
 - Carlton Samuels**
 - Evan Leibovitch**
 - Titi Akinsamni**
 - Salanieta T. Tamanikawaiwaimaro**

Bob Bruen (At-Large)

Ope Oodusan (At-Large)

- Please identify the members of your stakeholder group / constituency who participated in developing the perspective(s) set forth below

Drafted by Alan Greenberg, Comments/suggestions by ALAC members and At-Large participants including Evan Leibovitch, Holly Raiche, Patrick Vande Walle and Michele Neylon.

- Please describe the process by which your stakeholder group / constituency arrived at the perspective(s) set forth below

Drafted followed by comments and revision.

- If not indicated otherwise, the WG will consider your submission a SG / C position / contribution. Please note that this should not prevent the submission of individual and/or minority views as part of your submission, as long as these are clearly identified.

Topics:

The WG is tasked to provide the GNSO Council with a policy recommendation regarding the use of ‘thick’ Whois by all gTLD Registries, both existing and future. As part of its deliberations, the WG is expected to consider the topics listed below in the context of ‘thick’ Whois. Please provide your stakeholder group’s / constituency’s views, including quantitative and/or empirical information supporting ALAC Views, on these topics in relation to whether or not to require ‘thick’ Whois for all gTLDs and/or provide any information that you think will help the WG in its deliberations (for further information on each of these topics, please see the WG Charter <https://community.icann.org/x/vlg3Ag>):

- Response consistency - a ‘thick’ Registry can dictate the labeling and display of Whois information to be sure the information is easy to parse, and all Registrars/clients would have to display it accordingly. This could be considered a benefit but also a potential cost. This might also be a benefit in the context of internationalized registration data as even with the use of different scripts, uniform data collection and display standards could be applied.

ALAC View:

This would be a strong benefit, although not mandatory. To not adversely impact registrars, the WG should be guided by rules, if any, in place regarding display formats for existing thick registries.

- Stability - in the event of a Registrar business or technical failure, it could be beneficial to ICANN and registrants to have the full set of domain registration contact data stored by four organizations (the Registry, the Registry's escrow agent, the Registrar, and the Registrar's escrow agent), which would be the case in a 'thick' registry.

ALAC View:

This is certainly a benefit and as this is the norm for current thick registries, the ALAC sees no need to change this at this point.

- Accessibility - is the provision of Whois information at the registry level under the 'thick' Whois model more effective and cost-effective than a 'thin' model in protecting consumers and users of Whois data and intellectual property owners?

ALAC View:

Given the historic and current problems experienced with registrar-based Whois service, a registry-level thick Whois operated by those registries who are currently thin would definitely be an improvement with relation to accessibility.

- Impact on privacy and data protection - how would 'thick' Whois affect privacy and data protection, also taking into account the involvement of different jurisdictions with different laws and legislation with regard to data privacy as well as possible cross border transfers of registrant data?

ALAC View:

ICANN policies already address situations where a contracted party is in violation of local laws if they strictly followed ICANN rules, and exception processes can address these. The ALAC does believe that contracted parties should be able to address such violations prior to their being identified by local authorities rather than after the fact. In the general case however, there are few substantive issues.

The ALAC believes that some of the arguments heard to date are of little merit. All Whois data, regardless of where the registrar's repository resides, can be and is copied to databases in other jurisdictions (see <http://www.domaintools.com/> for just one example). Moreover, by ICANN policy, the information must be made publicly and freely available. If a privacy service is used, the information held by that privacy service would not be transferred to the registrar nor registry under a thick Whois, nor would the registry (or the government under which that registry operates) have the ability of accessing that information. Lastly, for the last major transition of this sort, when .org was acquired by PIR and ICANN required a transition from thin to thick Whois, there were no reported issues related to privacy.

Cost implications - what are the cost implications of a transition to 'thick' Whois for Registries, Registrars, registrants and other parties for all gTLDs? Conversely, what are the cost implications to Registries, Registrars, registrants and other parties if no transition is mandated?

ALAC View:

There will certainly be a cost of the transition to both the registries involved as well as registrars. Virtually all registrars already deal with thick TLDs and the only registry operating thin TLDs also operates thick TLDs, so there should be virtually no learning curve or software developments other than handling the actual cutover, and most of those registries already handled the .org conversion. The current situation with a thin Whois for the two largest TLDs increases the cost to rights holders and victimized Internet users due to the need to interact with multiple, at times unreliable, registrars.

- Synchronization/migration - what would be the impact on the registry and registrar WHOIS and EPP systems for those Registries currently operating a thin registry, both in the migration phase to 'thick' WHOIS as well as ongoing operations?

ALAC View:

As noted in the previous answer, there will be costs, but the ALAC believes they are both reasonable and justified.

- Authoritativeness - what are the implications of a 'thin' Registry possibly becoming authoritative for registrant Whois data following the transition from a thin-registry model to a thick-registry model. The Working Group should consider the term "authoritative" in both

the technical (the repository of the authoritative data) and policy (who has authority over the data) meanings of the word when considering this issue.

ALAC View:

The ALAC is not aware of specific policy regarding authoritativeness for all of the other thick registries other than the UDRP implying that the registrar is authoritative. If there is such policy, it should apply in this case as well. If there is not such policy then it is not clear that this PDP must address the situation.

- Competition in registry services - what would be the impact on competition in registry services should all Registries be required to provide Whois service using the 'thick' Whois model – would there be more, less or no difference with regard to competition in registry services?

ALAC View:

It would seem that the only issue regarding competition is that to preserve the current situation of two Whois models with the largest incumbents using one model and nearly all others using thick maintains a non-level playing field. The ALAC believes that diversity in WHOIS data models is inappropriate as a matter of competitive advantage among registries. In the interest of fairness to all gTLDs and particularly to of the new gTLD entrants, all gTLDs should be working under the same Whois regime providing a uniform and consistent standard upon which all can rely.

- Existing Whois Applications - What, if anything, are the potential impacts on the providers of third-party WHOIS-related applications if 'thick' WHOIS is required for all gtLDs?

ALAC View:

The transition to thick registries may have a small transitional impact on third-party providers, but in the long term requires them to support a simpler data-gathering model and not having to deal with the registrar Whois access issues that they must currently address with the thin model.

- Data escrow - 'thick' Whois might obviate the need for the registrar escrow program and attendant expenses to ICANN and registrars.

ALAC View:

The use of a thick model *might* obviate such a need, but it the current RAA required registrar escrow even for thick TLD registrations and there is no reason to change that under the scope of this PDP.

- Registrar Port 43 Whois requirements - 'thick' Whois could make the requirement for Registrars to maintain Port 43 Whois access redundant.

ALAC View:

It is unclear to what extent Port 43 Whois access would be required if all registries were thick, but as with other questions, it is currently required for even registrar that only deal with thick registries and there is no need to change that at this point.

Based on your assessment of these topics, you are also encouraged to indicate whether you think there should or there shouldn't be a requirement for 'thick' Whois by all gTLD Registries.

ALAC View:

ALAC believes very strongly that all gTLD registries should operate under the thick Whois model.

If there is any other information you think should be considered by the WG as part of its deliberations, please feel free to include that here.

Other information:

There are a number of questions where the ALAC believes that no action is required at this time if the decision were made to require all registries to operate under the thick model.

These issues include:

- Authoritativeness;
- Registrar escrow;
- Registrar Whois access (both web-based and Port 43).

All of these issues should be remanded to the general whois review that is currently starting, and that review will be all the easier if it needs to address only one mandated current whois model.