



Proposal for Renewal of the .NET Registry Agreement

Status: Draft
Version: 3.0
10 May 2011

**Commercial & Business Users
Constituency Submission**

GNSO//CSG//BC

Submission:

ICANN has posted for review a proposed draft renewal agreement for the operation of the .NET registry by Verisign. Currently, all gTLD registry agreements provide for presumptive renewal assuming that requirements are met.

The Business Constituency (BC) notes that the proposed renewal agreement from Verisign includes modifications to bring the .NET agreement into line with other comparable agreements (e.g. BIZ, COM, INFO, ORG), including terms such as traffic data, limitation of liability, indemnification, assignment, and notice provisions.

The BC also recognizes that Verisign has requested a change to give more flexibility for the registry to take action to prevent the registration of particular domain names when necessary to protect the security and stability of the DNS and the Internet. In addition, Verisign has requested more flexibility to offer training, technical support, marketing or incentive programs for the purpose of supporting the development of the Internet in underserved markets.

Additionally, the BC believes in the principle of equal treatment. As ICANN's contracts evolve to fit changing market conditions, the ICANN contract renewal process should be the opportunity to upgrade older contracts to the new standards. This is fair both from a public interest perspective and from a competition law perspective. Under the ICANN process the contract parties are in the room when the conditions for new market entrants are being set. Under these unusual circumstances the contract parties cannot expect their older contracts to be immune from the changes they themselves are imposing on their future competitors.

In the context of .NET therefore, ICANN should seek as a fundamental principle to amend this contract to minimally include requirements for Thick Whois.

Outlined below is the rationale for this request.

Collection, Maintenance and Dissemination of Thick Whois

To address issues of fraud, infringement and consumer safety; to determine ownership and registration status; and to enhance user confidence, business users rely on access to timely, unrestricted public access to a centralized source of Whois information, including registrant, technical, billing and administrative contact. The collection, maintenance and dissemination of this information by the .NET registry, as opposed to hundreds of registrars, will help to ensure that data is unrestricted and publicly available.

Several PDP working groups have concluded that consistent, standards-based thick Whois across all registries would address a number of operational issues as well. For example, the IRTP-B Working Group notes in their draft final report that “thin” registries make it more complicated for the gaining registrar to contact the registrant to confirm that they in fact want to transfer the domain away from the losing registrar. A “thick” registry (where contact information is stored at the registry rather than the registrars) would dramatically reduce this problem. The BC supports this view.

THE IRTP-B WG also notes that current Whois status messages vary considerably between registrars and registries which is confusing and causes operational problems for registrants, registrars and registries. The BC also supports this position.

And finally, the Registration Abuse Working Group found that “basic accessibility of Whois has an inherent relationship to domain registration process abuses, and is a key issue related to the malicious use of domain names. It appears that WHOIS data is not always accessible on a guaranteed or enforceable basis, is not always provided by registrars in a reliable, consistent, or predictable fashion, and that users sometimes receive different WHOIS results depending on where or how they perform the lookup. There may also be issues with the enforcement of existing obligations.

These issues interfere with registration processes, registrant decision-making, and with the ability of parties across the Internet to solve a variety of problems.” The BC believes that migrating the .NET registry to a thick Whois platform would mitigate many of the issues outlined in the Registration Abuse PDP report.

In conclusion, as the new gTLD program is set to be finalized on June 20th, 2011 and the .NET agreement does not expire until June 30th, 2011, the BC respectfully requests that the .NET registry operated by Verisign adhere to the requirements for “thick” Whois as described above.

Constituency Support:

Rapporteur for this Discussion Draft: Elisa Cooper

Level of Support of BC Members:

This document was posted to BC members for review and comment on 3-May-2011.

4-May-2011

Comments received by Philip Sheppard to strengthen the point about equal treatment in the opening paragraph. Both Mikey O'Connor and Elisa Cooper provided support for the amendment.

9-May-2011

Document revised to include language drafted by Philip Sheppard and to incorporate comments submitted by Philip Corwin.