

Preliminary Issue Report on ‘Thick’ Whois

Comments by Ray Fassett¹

Some Thoughts and Questions:

Today’s reality is that Whois requirements and specifications are governed by contract administration which varies amongst the individual incumbent gTLD registry operators and ICANN. The Issues Report supports this conclusion by stating: *“Currently no policy exists on the use of ‘thick’ Whois...”* For the GNSO to be successful in reaching consensus to create new policy, the benefits to the DNS market place, including consumers, must be quantifiable and real. Simply stated, legitimacy dictates there is a burden to achieve when new policy is about superseding what has historically been a matter of contract administration between parties.

The Report states the rationale to be about: *“Currently there is no standard means for the secure exchange of registrant details in a thin registry.”* To my knowledge it is accurate, under the current process of contract administration for Whois data, that ICANN has no contractual requirement with registry operators for a *“standard means for the secure exchange of registrant details”*.

Is it an objective of the PDP to reach consensus about a *“standard means for the secure exchange of registrant details”*? If so, then the result of the PDP must ensure this objective is quantifiable in order to reasonably justify moving the matter away from what has historically been governed by contract administration rather than policy.

What the Incumbents are Doing:

Incumbent registry operators publish Whois data based upon information provided by the sponsoring registrar. This includes incumbents publishing ‘thick’ Whois data (such as for .BIZ and .ORG cited in the Report). For me, an obvious question is: Is there now a *“standard means for the secure exchange of registrant details”* by incumbent registries operating in a ‘thick’ Whois environment? If so, what is it? If not, what is the reason? And how will this reason be remedied as a result of a new policy that requires all incumbents to operate in a ‘thick’ Whois environment?

For example, the report states: *“In this scenario, disputes between the registrant and admin contact could be reduced, as the registrant would become the ultimate approver of a transfer.”* I will note that in the CNN.org ‘thick’ registry Whois example provided, a field for “Admin Contact” does not exist.

Is the idea for the GNSO to reach consensus as to whether registry incumbents must publish an Admin Contact field? If so, how would such a policy assist, in practice and quantifiably, towards the *“secure exchange of registrant details”* when the incumbent would simply be relying upon the data supplied by the sponsoring registrar?

¹ .JOBS operates a ‘thin’ Whois with Verisign as the backend provider. These comments are submitted in my personal capacity.

Would not a solution of a “live link” Referral URL contained in the ‘thin’ Whois model be a more efficient substitute than a policy that, at the end of the day, is about republishing the same data located at the link?

Data Responsibilities:

In some ways, the rationale for the PDP seems to be about data responsibility, and who has this responsibility. The Report talks about it this way²:

- The two common models are often characterized as “thin” and “thick” Whois registries. This distinction is based on how two distinct sets of data are **managed**.
- Registrars **manage** the second set of data, which is the complete set of domain registration information as required by RAA 3.3 for those domains they sponsor.
- A thin registry only stores and **manages** the information associated with the domain name.
- Thick registries **maintain** both sets of data (domain name and registrant).

The distinction (manage vs. maintain) drives to the question of who has the customer relationship. For example, if you are the party with the customer relationship, then logically you are the one “managing” the data for the end-user/customer (likely in exchange for fees). If no customer relationship, then the best you can do is “maintain” data by relying upon the party that is the source. Regardless of what labels are used, ‘thick’ Whois registry incumbents are best equipped to only maintain both sets of data, as the Report describes. Does the PDP seek to change this and, if so, what are the issues involved?

One such issue is the rules regarding registry/registrar separation contained in registry operator agreements³. It is these rules that have determined who has the customer relationship in the domain name eco-system. For example, a primary premise for separation was for there to be a distinct line between wholesaler and retailer in COM/NET/ORG. As the wholesaler, .ORG operating a ‘thick’ Whois today does not alter the fact they rely upon retailers for the ‘thick’ Whois (customer) data they are republishing⁴. Would the same not be true for incumbent COM/NET? If so, is the PDP in part about deciding by policy whether or not .COM is allowed to choose one method, .ORG another, in the public display of the registrar’s customer data?

Competition in Registry Services:

Registry services are meant to be competitive in the DNS market. Competition amongst registry operators for services provided is fundamentally what is of most benefit to consumers. Creating new policy intended for registry operators to provide services in exactly the same way should be approached

² Footnote 5 in the Report seems nonsensical to me: “Each registrar, in turn, manages its set of sponsored names – but these are separate databases, each is a unique database and not part of a decentralized one.” My guess is that this is meant to mean “...and not part of a *centralized* one.”

³ Similar to Whois data publication, registry/registrar separation is not an ICANN policy but instead governed by contract administration.

⁴ It is relevant here that the question of Vertical Integration for incumbents remains an open point. The PDP for ‘thin’ vs. ‘thick’ Whois will have to carefully consider this interrelated issue to the status quo.

with extreme caution and must include quantifiable evidence of the benefits to consumers. This is particularly true in the event new policy renders existing registry services to be no longer distinguishable. Generally speaking, non-distinguishable products and services are not in the best interests of consumers and, as the Report states, Whois is a registry service. Meanwhile, ICANN's mission and purpose is to promote competition in the DNS, in registry services, and the Report does not discuss this issue at all.

The Report does, however, cite three gTLD's (footnotes 7, 8, and 9) today providing 'thick' Whois registry services in ways that are different and distinguishable. On its face, this is market evidence of 'thick' Whois registry services providing consumer choice, and doing so in competition not just amongst themselves, but also to those providing the 'thin' Whois registry service. ICANN has to be careful not to find itself, through its policy arm, as a regulator of registry products and services, whether commercial or non-commercial. The GNSO has to be careful not to place itself in this position as the maker of DNS policy. In its role, and particularly when matters of policy may potentially impact competitive DNS products and services, the GNSO must take extra care to ensure that quantifiable evidence of consumer benefit is what rules the day⁵.

'Thick' Whois and New gTLD's:

In the implementation of new gTLD's, ICANN originally stated "a least common denominator approach" of a 'thin' Whois requirement in order to afford new operators to decide how to differentiate and compete in the market for this registry service. ICANN moving away from this position was a concession in order to implement the new gTLD roll-out. Isolated, the requirement for new gTLD registry operators to provide a 'thick' Whois service is by no means to be confused as a result of stakeholder holder driven Consensus Policy process that concluded all new operators should provide a non-distinguishable registry service.

PDP Scope:

Framing this PDP to be "in the context of IRTP", as the Report does, lends itself to a PDP process that results in singling out a specific registry operator, in this case Verisign. As the Report notes, the Registry Stakeholder Group cited this possibility should the PDP proceed. At face value, the purpose of the PDP seem directed at .COM/.NET. As such, it is predictable that the policy process will have to deal with the complication of potentially singling out a registry operator in order to move from what is today a matter of contract administration to one of GNSO Consensus Policy.

Along these lines, the scope of the PDP clearly states to pertain to 'incumbents'⁶. Is the intent to mean that any resulting Consensus Policy would be applicable only to the 22 gTLD's in existence today? Under the rules governing Consensus Policy in registry operator agreements (including the new gTLD registry

⁵ Anyone familiar with ICANN is aware of the many special interests that tug and pull at the GNSO.

⁶ RESOLVED, the GNSO Council requests an Issue Report on the requirement of 'thick' WHOIS for all incumbent gTLDs.

operator agreement), I assume not but with the repeated use of the term “incumbent” throughout the Report, is an issue I think should be clarified.

Lastly, while the Report discusses at length the potential outcome of a Consensus Policy requiring ‘thick’ Whois, does the scope of the PDP permit a Consensus Policy result for “the least common denominator” approach - the ‘thin’ Whois model - what ICANN originally proposed in implementing new gTLD’s? If so, how would this outcome of the PDP effect the new gTLD registry agreement? This seems a potential issue to identify for the purpose of the PDP.