Staff Report of Public Comment Proceeding

Proposed implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for all gTLDs

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Section I: General Overview and Next Steps

This public comment proceeding sought to obtain community input on the proposed implementation of the Generic Names Supporting Organization (GNSO) Thick Whois Policy Development Process (PDP) recommendations. The PDP recommendations, approved by the ICANN Board, require *"the provision of thick Whois services, with a consistent labelling and display as per the model outlined in specification 3 of the 2013 RAA, should become a requirement for all gTLD registries, both existing and future."*

ICANN Staff, in conjunction with the Thick Whois Policy Implementation Review Team (IRT), developed an implementation proposal addressing one of the two expected outcomes of Thick Whois PDP recommendations: the Consistent Labeling and Display (CL&D) of Whois output for all gTLDs.

In summary, the implementation proposal would result in the addition of the following requirements for RDDS output of all gTLDs:
- By 1 August 2016
    - Various reordering of fields and reformatting of data to be consistent with Specification 3 of the 2013 RAA
    - Addition of Registrar Abuse Contact Email and Phone
- Within 180 days following publication by the IETF of relevant EPP extensions
    - Addition of Registrar Registration Expiration Date
    - Addition of Reseller Information

ICANN staff will review the comments received in collaboration with the IRT to determine changes that may need to be made to the proposed implementation.

It should be noted that ICANN Staff and the IRT are still developing implementation of the second expected outcome of the Thick Whois PDP: the transition from thin to thick RDDS for .COM, .NET and .JOBS. Implementation of this part of the Thick Whois PDP recommendations will be addressed

when an implementation path is agreed upon with the IRT.

Section II: Contributors

At the time this report was prepared, a total of eighteen (18) community submissions had been posted to the comment forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
At-Large Advisory Committee	ICANN Supporting Staff	ALAC
Business Constituency	Steve DelBianco	BC
DiaMatrix CC	Wayne Diamond	DiaMatrix
DNS Belgium	Ronald Geens	DNS BE
Endurance International Group Inc.	Darcy Southwell	Endurance
INTA	Lori Schulman	INTA
Intellectual Property Constituency	Steve Metalitz	IPC
Google	Stephanie Duchesneau	Google
Key-Systems GmbH	Volker Greimann	Key Systems
Minds + Machines	Reg Levy	M+M
Registrar Stakeholder Group	John Berryhill	RrSG
Registry Stakeholder Group	Stephane Van Gelder	RySG
Rightside	Statton Hammock	Rightside
Tucows	Graeme Bunton	Tucows
Uniregistry	Luis Muñoz	Uniregistry
Web.com	Jennifer Gore Standiford	Web.com

Individuals:

Name	Affiliation (if provided)	Initials
Antoin Verschuren		AV

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

1) Alignment of proposed Consistent Labeling & Display (CL&D) implementation with intent of the Policy recommendation

A number of comments received argue that the proposal does not meet the intent of the Policy recommendations by either: introducing new requirements not stemming from Community consensus (Google, RrSG, RySG and supporters: DNS BE, Endurance, Key-Systems, M+M, Rightside, Tucows, Web.com, WD), interpreting the policy language too stringently (RySG), or proposing an incomplete implementation framework (BC). Moreover, several registry representatives note that consistency of RDDS output should be deemed to have been achieved with the Whois Clarification advisory (RySG, Google).

In terms of new requirements not envisioned by the Policy Development Process Working Group, various contributors see the proposed addition of fields to registries RDDS output as creating new data collection requirements on contracted parties (Google), specifically in relation to the Registrar Registration Expiration Date (Key-Systems) or the Reseller Information (RrSG).

The Registry Stakeholder Group expressly objects to inclusion of the proposed new fields in thick registries RDDS output unless it is the product of consensus PDP recommendation. It further states, "*new policy issues arising during implementation must be referred back to the GNSO*". For its part, the BC highlighted that the views of an Implementation Review Team cannot be substituted for Community consensus.

2) Comments on the approach of the Thick Whois Policy Implementation

- **Implementation Timeline**

In reaction to the implementation proposal only addressing the Consistent Labeling and Display outcome of the Policy recommendation, several groups expressed strong dissatisfaction (ALAC), frustration (IPC) or concerns (BC, INTA) with the absence of a set timeline for the transition from thin to thick of .COM, .NET and. JOBS.

Contributors on this topic perceive that the focus given to the Consistent Labeling and Display outcome is misguided and has delayed implementation of the primary goal of the policy recommendation: the transition from thin to thick. These contributors urge ICANN to set a firm date for the transition from thin to thick of .COM, .NET and .JOBS (IPC, INTA) or to proceed first with implementation of the transition (BC), while some believe such implementation is likely to become irrelevant by the time it is implemented in light of the ongoing Next Generation Registration

Directory Services PDP (RrSG).

- **Synchronization of Registration Data Directory Services related initiatives**

Community input on the synchronization of initiatives affecting Registration Data Directory Services is mixed: while some contributions underline the need to consolidate implementation efforts to minimize the burden of change on affected parties (Google) and commend the proposal for its efforts in this respect (BC), others point to the necessity of separating implementation of Thick Whois and RDAP to allow more time to consider the RDAP Operational Profile (RySG), or the necessity to balance the benefits of synchronization with the benefits of faster implementation (BC).

The BC further proposes analysis be conducted to compare the implementation burden on contracted parties of 2 scenarios: 1) transitioning from thin to thick before RDAP is implemented and 2) implementing RDAP before implementing the transition from thin to thick.

3) Concerns with specific impacts of the proposed CL&D Implementation

- **Registrar Registration Expiration Date and Reseller Information**

The display of Registrar Registration Expiration Date along with the Registry Expiration Date in registries RDDS output raises two concerns.

First, commenters expressed concern that displaying this information in the registries RDDS output could cause confusion for registrants and end-users due to a difference that may exist between these two dates for a given registration (AV, RySG, Uniregistry). It is noted that these dates obey different needs and distinct business rules that are specific to either the registry/registrar relationship or the registrar/registrant relationship (AV, Uniregisty), the former being not usually understood by registrants and end-users (RrSG).

Additionally, comments refer to the implementation burden being disproportionate compared to the expected benefits (Google, Uniregistry), which have not been satisfactorily established (Google).

Similar comments were submitted regarding the Reseller information (RrSG).

- **Registries contractual framework**

Registries representatives believe that the reference to Specification 3 of the 2013 RAA in the proposed Consensus Policy language will adversely impact their contractual framework by hindering their rights to negotiate the Registry Agreement (Google, RySG) and binding the registries to changes agreed upon between ICANN and registrars (Google).

In addition, the reference to the Whois Clarification in the Draft Consensus Policy language is seen as transforming informal guidance into binding requirements (RySG).

4) Alternative Implementation Proposal

In order to address some of the concerns summarized above, Google suggested an alternative proposal for Registries to:

- Display the Registrar Abuse contact information, readily available, in their RDDS Output (mandatory requirement)
- Display the Registry Expiration Date only (Registrar Registration Expiration Date would not be displayed)
- Display the Reseller Information on a voluntary basis

The rationale for this proposal also relates to the discussion of whether Registrars should be required to implement RDAP or not, as part of the [Public Comment period on the RDAP Operational Profile](#). This alternative proposal has received expression of support from 8 subsequent commenters representing both registries and registrars (DNS BE, Endurance, Key-Systems, M+M, Rightside, Tucows, Web.com, WD).

Section IV: Analysis of Comments

General Disclaimer: *This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.*

Prioritization and timeline of Thick Whois Implementation

Several commenters expressed concern that implementation of Consistent Labeling and Display (CL&D) has delayed the implementation of the transition from thin to thick RDDS for .COM, .NET and .JOBS.

It should be noted that Staff, in collaboration with the IRT, have worked in parallel on both CL&D and the transition to thick RDDS with the goal of delivering as soon as possible. In June 2015, ICANN published a [Memorandum Re: Legal Review of Law Applicable to the Transition of Data from a Thin to Thick Whois Model](#) per the GNSO Council's PDP recommendations. Since then, ICANN staff and affected parties have been engaging to determine an appropriate implementation path for the transition.

Due to the complexity and scale of the legal and operational challenges, defining a predictable and reliable implementation path for the transition is much more difficult and requires more time than CL&D. Based on current assumptions, and subject to change according to ongoing discussions with the IRT, the transition to thick RDDS for .COM, .NET, and .JOBS could begin in January 2017 and be completed by July 2018.

Alignment of proposed CL&D implementation with intent of the Policy recommendation

Input received in the public comment period indicates widespread views that the proposed implementation does not meet the intent of the Policy recommendations, mostly due to the perceived impact on affected parties as well as a perceived inappropriate prioritization of

implementation work. The rationale for the above views is discussed in analysis below.

On a general note, ICANN staff intends to discuss this feedback with the IRT and notes that, per GNSO Council Resolution 20131031-1[1], the IRT "*is expected to work with ICANN Staff to ensure that the resultant implementation fulfills the intentions of the approved policy recommendations. If the Implementation Review Team identifies any potential modifications to the policy recommendations or need for new policy recommendations, the Implementation Review Team shall refer these to the GNSO Council for its consideration and follow-up, as appropriate*".

Alternative Implementation Proposal of CL&D and Registrar Expiration Date

The implementation proposal submitted for public comment and the alternative implementation proposal that emerged during the public comments share the conclusion that Registries should display Registrar Abuse Contact information (since it is readily available to them).

Regarding the Reseller information, both proposals are also aligned: this field is optional in the 2013 RAA and the implementation proposal does not modify this requirement.

With respect to the display of the Registrar Registration Expiration Date in Registries RDDS output, ICANN notes that the community's concerns with 1) the confusion this may create, 2) the consequences this may have on registrar operations and 3) the implementation burden this would put on contracted parties.

In order to address these concerns, Staff will discuss the following proposal with the Thick Whois IRT:
- Allowing each registry to choose whether or not to display the Registrar Registration Expiration Date in their RDDS output
- in case of opt-in, adding measures to mitigate potential confusion (such as a links to a description of the two expiration dates)
- Referring the confusion issue for consideration under the Policy Development Process on Next-Generation gTLD Registration Directory Service (RDS)

Impact on Registries' contractual framework

As per Section I of the Policy Recommendations, the proposed language for implementation of the CL&D requirement includes a reference to Specification 3 of the 2013 RAA. ICANN notes the concerns of Registry representative with the impact this reference may have on the Registry Agreement. Staff will consider the input received with the Thick Whois IRT to determine whether such a concern is a matter of implementation or policy.

Regarding the Whois Clarifications Advisory, it should be noted that the CL&D implementation proposal did not intend to change the status of an advisory into required consensus policy. The [Whois Clarification Advisory](#) is a detailed specification of the registrar and registry RDDS output, based on the respective agreements. As described in section I of this report, several registry representatives note that consistency of RDDS output has improved with the implementation of this advisory (RySG,

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[1] http://gnso.icann.org/en/council/resolutions#20131031-1

Google). Staff will review the implementation proposal's language in this regard and consider whether edits are warranted.