

*GNSO gTLD Registries Stakeholder Group Comments on the Proposed Implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All gTLDs.*

## **GNSO gTLD Registries Stakeholder Group Comments**

**Issue:** Proposed Implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All gTLDs

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The Registries Stakeholder Group (RySG) appreciates the opportunity to comment on ICANN's Proposed Implementation of GNSO [Thick WHOIS Consensus Policy Requiring Consistent Labeling and Display of RDDS \(Whois\) Output for All gTLDs](#) ("Thick WHOIS Implementation Framework"). We write to express several concerns with ICANN's proposed Thick WHOIS Implementation Framework including:

- That Registries format their WHOIS outputs in accordance with Specification 3 of the 2013 Registrar Accreditation Agreement (RAA);
- The incorporation of informal advisories into the implementation of a binding consensus policy;
- The requirement to implement additional fields not explicitly referenced in the consensus policy;
- The recommendation to commence implementation before transition planning and technical standards work has been completed; and
- The creation of additional work and implementation burden for registries and registrars without clear benefit.

We describe these and other concerns with the proposed Thick WHOIS Implementation Framework below.

**The Thick WHOIS Implementation Framework proposes to require registries to standardize their WHOIS outputs in accordance with the formatting set forth in Specification 3 of the 2013 RAA.**

We are concerned with this requirement on three grounds. First, the proposed implementation reflects an overly stringent interpretation of the policy recommendation that calls to standardize registries WHOIS outputs. The Final Report on the Thick Whois Policy Development Process (PDP) ("Thick WHOIS Final Report") does describe some high-level benefits to standardizing WHOIS outputs related to response consistency and ease of parsing; however, the report does not suggest that the Working Group considered the relative benefits of one existing format versus another (i.e. the benefit of the model proposed in Specification 4 of the New gTLD Registry Agreement (RA) versus that in Specification 3 of

the RAA). As such, the recommendation should be treated as a general requirement to standardize and not bind the output format to one particular model (e.g. that in the 2013 RAA). Second, registries and registrars have, very recently, been required to undertake standardization work on their WHOIS outputs by way of the 2015 WHOIS Clarifications required by ICANN. This effort should be deemed to meet the recommendations of the working group with respect to standardized output formats.

Finally, reliance on the 2013 RAA creates a problematic loop between registry and registrar contracts. Registries are not subject to the RAA and would lose the ability to negotiate their own requirements with respect to the provision of registration data if they were bound to requirements set forth in another contract, which is periodically revisited through a different process and on a different timeframe for the registries' own agreements. Currently, the process set forth in Article 7.7 provides that the WHOIS requirements for registries may be negotiated through a process initiated by the Chair of the RySG or the ICANN CEO. This right should be retained, and not sacrificed by tying registry requirements to a contract between ICANN and another set of stakeholders, with distinct negotiation provisions that the registries are not a party to.

**The Thick WHOIS Implementation Framework crystallizes informal advisories that are not currently legally binding for registries and registrars.**

The proposed Thick WHOIS Implementation Framework provides that "The labeling and display of all gTLD registries web-based RDDS output *must* be consistent with...Clarifications to the New gTLD RA, Specification 4; and the 2013 RAA, Registration Data Directory Service (WHOIS) Specification." These clarifications are currently informal advisories published by ICANN staff and not formal, legally-binding requirements for registries and registrars. Further, these advisories were not considered or discussed in the context of the Thick WHOIS PDP. To the extent that ICANN intends to make these clarifications formal requirements for registries and registrars, it should follow from a relevant PDP or through the formal negotiation procedures provided for in the RA and RAA, and not by injecting the requirement in the implementation framework for another consensus policy.

**The Thick WHOIS Implementation Framework makes reference to the Registration Data Access Protocol (RDAP) Operational Framework for Registries and Registrars ("RDAP Operational Profile"), which has not yet proceeded through the public review process.**

The reference to ICANN's RDAP Operational Framework is premature. The RDAP Operational Profile has not yet completed public comment and all phases of the GNSO approval process and is technically incomplete (see RySG comments on the RDAP). Further, it is outside the scope of the Thick WHOIS PDP. Similarly, addressing the implementation of the recommendations of the Thick WHOIS PDP and RDAP in parallel, rather than sequentially, has the potential to create unnecessary work for registries and registrars. The reference should be struck at current time and revisited as part of a separate implementation process once the RDAP Operational Profile is finalized, rather than binding registries and registrars to the profile with key variables remaining open. The forthcoming work on the RDAP may

have implications on the timeline and requirements for implementation and should not be predefined within a distinct policy process.

**The Thick WHOIS Operational Profile proposes to make mandatory new WHOIS fields that were not explicitly considered in the Thick WHOIS PDP.**

The Thick WHOIS Operational Profile proposes to make the fields “registrar abuse contact,” “registrar registration expiration date,” and “reseller” mandatory in both the registry and registrar WHOIS outputs. None of these fields are currently required in the registry WHOIS output; in the 2013 RAA the reseller field is explicitly designated as an optional field. Similarly, both the RAA and the RA reference a single expiration date field within a sample response and neither the RAA or RA describe the purpose of either the "Registrar Registration Expiration Date" (RAA) or the "Registry Expiry Date" (RA). Inclusion of both fields could create significant confusion for registrants and users.<sup>1</sup>

The Thick WHOIS Final Report does not include any mandate that these fields should be added to a baseline WHOIS output, nor does it include a requirement that registries collect the information, which their existing contracts do not provide for. The existence of the "Reseller" field in a sample response in the RAA should not imply that registries collect the reseller data for display in the RDDs. Absent clear policy statements that new data should be collected and displayed by registries as part of the policy, the implementation should not impose these new obligations on registry operators. Indeed, in the discussion included in the Thick WHOIS Operational Profile, a participant in both the Working Group and the Implementation Review Team flags these fields as areas that were not discussed by a working group and questions their inclusion in the Operational Profile. The justification provided by ICANN that the fields provide “valuable additions” is not a viable substitute for community-driven policy development. We object to their inclusion in the Thick WHOIS Operational Profile outside the consensus PDP process and believe that the call to initiate standards work to provide these fields is premature absent a community determination that these fields should be provided in registry and registrar WHOIS alike.

Even if these new fields appropriately followed from the recommendations of the Thick WHOIS PDP, the development of policy and establishment of timelines for implementing these new fields prior to the development of the relevant technical standards is problematic. These standards should be defined prior to approval of the policy, to allow for meaningful and robust input by the community and, in particular, directly affected parties.

We also note that recommendations of the Policy & Implementation WG, which have been approved by the GNSO Council and the Board, require that new policy issues that arise during implementation must be referred back to the GNSO.

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<sup>1</sup> The fact that the [gtld-tech@icann.org](mailto:gtld-tech@icann.org) list includes 51 postings on the mailing list in less than a week, debating the meaning and purpose of the registrar registration expiration date and the need for the registry to display it, demonstrates that there is clear confusion even among the domain industry experts over the meaning of the field and a lack of consensus that the field should be included in a registry's WHOIS output.

**Conclusion**

We thank ICANN for consideration of these comments and are willing to work with ICANN through the implementation of the recommendations of the Thick WHOIS PDP.