

Comments of the Noncommercial Users Constituency of ICANN Study on Whois Misuse

The Noncommercial Users Constituency of ICANN submits this document in response to the call for public comments on the *Study on Whois Misuse* (“Study”) posted on the ICANN website. We respectfully submit that this Study is a very important one for ICANN and for the GNSO policy work ahead.

We note that the study seems thorough and professionally done. Its named researchers were Dr. Nicolas Christin and Nektarios Leontiadis. Dr. Christin received his PhD in Computer Science from the University of Virginia, and is an Assistant Research Professor of Electrical and Computer Engineering at Carnegie Mellon University. Nektarios Leontiadis is a PhD candidate at Carnegie Mellon University, in the department of Engineering and Public Policy, with research focused on the economic modeling of online crime. Both are affiliated with CMU’s *CyLab* security lab.

This study stayed close and tight to the Terms of Reference set out for it -- terms set and designed by members of the GNSO and approved by the GNSO Council.

The key question of the study was: *Does public access to WHOIS-published data lead to a measurable degree of misuse?* The answer was an unequivocal yes:

The main finding of the descriptive study is that there is a **statistically significant occurrence of WHOIS misuse affecting Registrants’ email addresses, postal addresses, and phone numbers, published in WHOIS** when registering domains in these gTLDs. **Overall, we find that 44% of Registrants experience one or more of these types of WHOIS misuse.** [Emphasis added, WHOIS Misuse Study, p. 6]

We appreciate the extensive efforts the CMU team undertook to test the hypothesis it was given by ICANN and the GNSO. First, they conducted a descriptive study reaching out to Experts, Registrants and Registries/Registrars. Specifically, the team surveyed a “diverse group of experts in the fields of security and privacy affiliated with research institutes, academia, law enforcement agencies, Internet Service Providers (ISPs), and national data protection commissioners.” [Study, p. 13]

The team surveyed Registrants for a “better understanding of their direct experiences with Whois misuse” and found that 43.9% reported “some kind of misuse of their WHOIS information,” including *postal address misuse, email address misuse* and *phone number misuse* tied to the Whois data, as well as *Identity theft, unauthorized intrusion to servers* and *blackmail* to which publicly-published Whois data may have been a contributing factor.

Then the team surveyed Registrars and Registries about Whois harvesting attacks, and the deployment and effectiveness of WHOIS anti-harvesting techniques.

Second and perhaps most interestingly, the CMU team conducted its own experimental study in which they registered a set of domain names in the top five gTLDs through a representative set of Registrars, with unique Registrant identities. Over the course of six months, they tracked emails, voicemails and postal mail received by the registrants of these experimental domain names. The purpose of the study was to eliminate “any extraneous variables,” e.g. the publication of a postal address in both the Whois and an outside directory.

The conclusions of the study are Striking – and answer questions floating in the GNSO for over a decade. *Yes, there is abuse of publicly-published Whois data. Yes, that abuse is statistically significant.* We share again the main finding of the Study for additional review in this comment period:

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We thank CMU for the extensive efforts it devoted to this study, and the extra efforts made and extra time spent to expand studies to include more experts from Latin America and overall go above and beyond the requirements for a rounded and complete study.

Reply to Other Commenters:

ALAC Comments:

ALAC published the following comment in their comments: “We note the study has returned findings that align with individual experience of At-Large constituents plus the evidence of widespread occurrence has validated similar research undertaken by At-Large connected researchers.”

We note that NCUC, too, has directly experienced deeply concerning misuses of WHOIS data. In particular, attorneys in NCUC have directly experienced and directly worked with clients who have experienced:

- Stalking, for which the Whois was the only published source for the location of an online, home-based business by which an ex-spouse found his wife and stalked her.
- Political persecution, by which Whois data was used not only to track dissenters (some located in the US and protected by the First Amendment), but also their families located in the countries about whose corruption the websites were devoted (and who were not similarly protected);

- Chilling effects, by which Whois data was used to track down and intimidate or silence those who have a different political, religious or moral view;
- Anticompetitive activity – by which competitors used Whois data to track down entrepreneurs and small businesses owners and seek to intimidate them to set businesses plans and services aside.

We further share with ALAC the deep concern that “WHOIS misuse is factual and widespread, as the evidence from 44% of sampled registrants across the several domains attest.” We further agree that this poses a “continued threat” to the “security and confidence in the use of the Internet, [and] the public interest demands measures to address and abate its impact.” ALAC Comments, <http://forum.icann.org/lists/comments-whois-misuse-27nov13/msg00006.html>

We have the evidence, and measures must now be taken to protect Registrants, and the speech, work, expression, hobbies, research, business, education and communication they conduct using their domain names.

Respectfully submitted,

NONCOMMERCIAL USERS CONSTITUENCY*

** Comments circulated on NCUC List without opposition and with considerable support.