



**Comment on Next-  
Generation gTLD  
Registration Directory  
Services to Replace WHOIS,  
Preliminary Issue Report**

Status: FINAL

Version: 3

6-Sep-2015

**Business Constituency Submission**

**GNSO//CSG//BC**

## Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

## General Comment

The ICANN Business Constituency (BC) is pleased to offer these Comments to the Preliminary Issues Report (PIR) on a Next Generation gTLD RDS to Replace WHOIS, dated 13 July 2015.

The BC commends ICANN for presenting a robust and refined PIR highlighting the significant amount of research and discussion that remains in pursuit of this very complex and long-debated issue surrounding changes to the established WHOIS process and protocols.

As a process matter, the BC believes that privacy issues (Section 4.5) should be the first focus of consensus policy development, and only then move on to the other sections.

The BC offers these specific comments and questions for ICANN to consider as it matures the PIR. The BC comments are focused on Section 4 of the document:

### Section 4.0 (introductory paragraph)

The BC believes these two questions have been satisfactorily addressed: the purpose of a domain registration data service and why an alternative to the current WHOIS system can have merit. However, we would encourage further specificity and data regarding the issues within the current system that a PDP would seek to address, in order to properly focus and prioritize any future policy development work.

The BC does not believe the following two questions have been adequately addressed: how is the data secured and how will implementation and coexistence be enabled. The BC believes the eleven highlighted bulleted areas represent the most significant set of issues that must be researched, discussed and decided as part of any new and approved RDS.

### Section 4.1 Registration Data Users and their Purposes

The BC believes the many and varied purposes of WHOIS data have been accurately defined by the EWG Report and have certainly evolved since the original conception and use-cases for WHOIS were originally established more than 25 years ago. In this light, it would be unwise to assume that today's uses represent the full measure of future uses. Therefore we should focus on policy addressing disapproved use-cases.

The BC believes the **access** question is better addressed in subsequent Sections of this document.

#### **Section 4.2 Gated Access**

The BC supports further discussion regarding the parameters of gated access and the adequacy of any associated safeguards.

The BC notes current processes in place to deter WHOIS abuse, such as Captcha, IP rate limiting and Privacy/Proxy services. Implementing 'gated access' is one of the most significant changes to the current protocol currently proposed by the RDS conceived by the EWG, and should be given significant debate. It will be important for the PDP to consider the benefits of transparency regarding registrations as well registrants' interest in privacy and the risk of misuse of WHOIS data.

#### **Section 4.3 Data Accuracy**

Data accuracy is fundamental to WHOIS or RDS. Without it, the service has little value. Therefore the BC posits that this issue is of primary importance and encourages consideration of the appropriate processes to achieve greater data accuracy.

#### **Section 4.4 Data Elements**

The data elements for WHOIS were designed for registrant contact and DNS location. There has been very little change in how individuals prefer to be contacted (email, phone/text, mail) and no change in DNS since the original protocol was established, leaving the BC to question why the data elements need any radical overhaul.

The BC also notes the co-mingling of issues across these highlighted areas, as previously noted in our comment to Section 4.1. Text in this Section 4.4 refers to gated access for example, a topic specifically covered in Section 4.2. More importantly, this PIR asks the question here in Section 4.4 "What data should be collected, stored and disclosed"? The issue of what should be collected and stored is entirely different from the issue of disclosure, and does not belong in this Section as it is addressed in Section 4.2.

#### **Section 4.5 Privacy**

Privacy considerations are fundamental to discussions related to gated access, data elements and other components of a new system. The EWG heavily debated the issue but could not come to a consensus. Phase 2 should not be considered complete until a satisfactory overarching data protection policy is developed.

The BC also suggests that in addition to compliance with "applicable data protection, privacy, and free speech laws" and addressing the overall privacy needs of registrants, Phase 1 should also consider consumer protection requirements to assess whether a new policy framework is needed. In addition, the BC acknowledges the current work being undertaken by the Privacy/Proxy Accreditation PDP and supports that work (see BC comment<sup>1</sup>).

---

<sup>1</sup> 8-Jul-2015, BC comment on Privacy/Proxy Accreditation PDP initial report, at <http://www.bizconst.org/wp-content/uploads/2015/07/BC-comment-on-Privacy-Proxy-Accreditation-initial-report.pdf>

#### **Section 4.6 Coexistence**

The BC agrees that very little work has yet been done on the issue of implementation and coexistence, and notes the impact this may have on any risk/benefit analysis, and reserves comment until it can review recommendations in this regard.

#### **Section 4.7 Compliance**

The BC acknowledges the importance of compliance work in improving data accuracy and RDS effectiveness, and supports its funding and implementation. The BC looks forward to reviewing recommendations for effective compliance efforts.

#### **Section 4.8 System Model**

The BC remains highly concerned by the single point of risk/failure established by the centralized data model recommended by the EWG. The BC agrees that any System Model for RDS should leverage standardized protocols and strive for operational efficiency.

#### **Section 4.9 Cost Model**

The required cost/risk/benefit analysis remains an outstanding deliverable. Without that, it is difficult to comment on cost other than to acknowledge that RDS will incur costs and the BC generally supports investments to achieve the agreed upon goals of WHOIS/RDS. ICANN should be willing to offset some of the initial ramp up costs for the new system.

#### **Section 4.10 Benefit Analysis**

The BC highlights that the required cost/risk/benefit analysis remains an outstanding deliverable. Specifically the benefits analysis is critical to validate that RDS represents a material improvement over WHOIS on the agreed evaluation criteria.

#### **Section 4.11 Risks Assessment**

The required cost/risk/benefit analysis remains an outstanding deliverable.

The BC reiterates its belief that the single, centralized database of registrant contact data remains an enormous risk for breach and therefore for abuse and disclosure in bulk.

The BC is aware of the common refrain of ‘it is not if, but when’ and that no accomplished security expert would state that a bullet-proof system can be built. It is important that the PDP continue to study all of the potential security risks inherent in the centralized data model.

#### **Section 4.12 Potential impacts and concerns for GNSO Stakeholder Groups, Constituencies, and other relevant parties**

The BC comments that disagreement is not a reason to default to inactivity. However any resolution to implement new protocols has to be justified by the cost/benefit/risk assessment. Additionally, while this process is under way, in order to ensure consistency and to reduce any unnecessary or counter-productive expenditure of community resources, parallel ad hoc efforts to modify WHOIS requirements should be limited to the extent possible.

--

This comment was drafted by Tim Chen, with help from Andy Abrams, Aparna Sridhar, Susan Kawaguchi, Angie Graves, and Ellen Blackler.

It was approved in accordance with the BC charter.