



VERISIGN®

July 29, 2019

VIA EMAIL

Cyrus Namazi
Vice President, Domain Name Services & Industry Engagement, Global Domains Division
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Cyrus:

We are writing to request an extension of the current implementation deadlines under the Thick WHOIS Consensus Policy (“Thick WHOIS Policy”). Under the current implementation plan, the optional milestone deadline for registrars to begin voluntarily submitting thick registration data to Verisign is November 30, 2019, the deadline for registrars to submit all new domain name registrations to Verisign as thick is May 31, 2020, and the deadline to complete the migration for all existing .com and .net domain name registrations is November 30, 2020.¹ Although Verisign has completed all technical and operational work necessary to begin accepting thick data from registrars in November, we believe an extension of the current deadlines for one year is necessary for the reasons set forth below.

First, the ICANN Board of Directors recently approved 27 of the 29 recommendations contained within the Final Recommendations Report of the GNSO Expedited Policy Development Process (EPDP) Team on the Temporary Specification for gTLD Registration Data (the “Final Report”).² Among other items, the Board approved recommendations that, if adopted as an ICANN Consensus Policy, will modify what WHOIS data registrars are required to collect, what WHOIS data registrars are required to transfer to registry operators and for what legitimate purposes both registrars and registry operators may process WHOIS data. Given these modifications, the ICANN Board also approved a recommendation that a number of existing Consensus Policies, including the Thick WHOIS Policy, be updated to ensure consistency with the approved policy recommendations in the Final Report.³ It is our understanding that the Implementation Review Team responsible for implementing the approved recommendations in the Final Report has not yet considered this recommendation or consulted with the GNSO

¹ See ICANN Board, *Resolution 2019.03.14.03* (March 14, 2019).

² See ICANN Board, *Resolutions 2019.05.15.02 – 2019.05.15.12* (May 15, 2019).

³ See Final Report, EPDP Team Recommendation #27.

Council regarding how any impacted existing Consensus Policies may be updated consistent with ICANN’s multistakeholder process.

Second, the ICANN Board also approved recommendations that, once implemented, will supersede, or at least require substantial modifications to, the currently proposed amendments to the .com and .net registry-registrar agreements. For instance, the ICANN Board approved the recommendation that ICANN negotiate and enter into required data protection agreements with registries and registrars that, among other things, “specify the responsibilities of the respective parties for the processing activities as described therein.”⁴ Although we hesitate to speculate on the specific form and content of such data protection agreements at this early date, it is clear that such agreements are likely to have a direct impact on the roles and responsibilities with respect to the processing of WHOIS data set forth in registry-registrar agreements, including the terms currently set forth in our proposed amendments to the .com and .net registry-registrar agreements.

Third, we recognize that work in Phase 2 on a system for Standardized Access to Non-Public Registration Data and the ongoing important work on a RDAP-based technical solution for access to non-public data may further complement several of the recommendations in the Final Report. We also understand that ICANN staff is consulting with representatives from the European Commission and European Data Protection Authorities on fundamental aspects of such a system, including the roles and responsibilities of ICANN, registries and registrars within that system. While we fully support and are actively engaged in the efforts to address access to non-public registration data, they remain a work in progress and their potential impact, if any, on the roles and responsibilities of ICANN, registries and registrars within the larger context of processing WHOIS data remains uncertain.

The community and ICANN are currently in the midst of considering whether and how the approved recommendations in the Final Report will impact the requirements of the Thick WHOIS Policy and the other ICANN requirements regarding the collection, transfer and processing of WHOIS data once the approved recommendations are formalized into an ICANN Consensus Policy. We believe that adhering to the current implementation deadlines for the Thick WHOIS Policy and migrating massive amounts of WHOIS data associated with .com and .net during that ongoing work will create complexity, risk and confusion for the community and ICANN at a critical time in the efforts to address the current uncertainties and risks around the requirements for processing gTLD Registration Data. Accordingly, we believe the thick WHOIS transition for .com and .net should not occur until the finalized Consensus Policy for gTLD Registration Data takes effect, and both ICANN and the community have had the opportunity to duly consider the impacts that the finalized Consensus Policy may have on the Thick WHOIS

⁴ See Final Report, EPDP Team Recommendation #19. See also EPDP Team Recommendation #20 (recommending “the inclusion of the data processing activities and responsible parties . . . to be confirmed and documented in the relevant data protection agreements.”).

Policy. We are therefore requesting that ICANN extend all dates in the current implementation plan for the Thick WHOIS Policy by one year, to coincide with the time-frame for the community to implement the approved recommendations in the Final Report, finalize a permanent Consensus Policy for gTLD Registration Data and complete and implement any contractual modifications that may result from that Consensus Policy.

Thank you for your consideration of this important matter.

Sincerely,



Patrick S. Kane

CC: Russ Weinstein, ICANN

Karla Hakansson, ICANN