

Staff Report of Public Comment Proceeding

Registration Directory Service (RDS-WHOIS2) Review Team Final Report																			
Publication Date:	Thursday, 6 February 2020																		
Prepared By:	Negar Farzinnia																		
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Section I: General Overview and Next Steps																			
<p>The Registration Directory Service Review is one of the four Specific Reviews anchored in Section 4.6 of the ICANN Bylaws. These specific reviews are conducted by community-led review teams which assess ICANN's performance in reaching its commitments. Reviews are critical to helping ICANN achieve its mission as detailed in Article 1 of the Bylaws.</p> <p>Formally convened in June 2017, the Registration Directory Service Review Team (RDS-WHOIS2-RT) assessed the extent to which prior Directory Service Review recommendations (WHOIS1) have been implemented and implementation has resulted in the intended effect. The review team also assessed the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promotes consumer trust and safeguards registrant data. Informed by ICANN organization briefings and available documentation, the RDS-WHOIS2 Review Team produced 22 final recommendations for Board consideration and released its Final Report on 3 September 2019.</p> <p>As required by ICANN Bylaws, the RDS WHOIS2 Review Team Final Report was posted for Public Comment on 08 October 2019 to inform Board action on the Final Recommendations. The initial close date of 18 November was extended to 23 December to provide the community with additional time to submit input.</p> <p>Next steps:</p> <p>ICANN Bylaws call for the ICANN Board to take action on the RDS-WHOIS2-RT Final Report within six months of receipt, i.e. by 3 March 2020. The Board's consideration around taking action will entail:</p> <ul style="list-style-type: none"> - Examining the feasibility analysis and impact assessment; - Considering initial cost and resource estimates as well as dependencies with other ongoing efforts within the community; - Examining the report of the Public Comment submissions received. <p>For any recommendation the Board may decide to not accept, there is a Bylaws requirement for the Board to provide rationale.</p>																			

Section II: Contributors

At the time this report was prepared, a total of 9 community submissions had been posted to the 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
Registrars Stakeholder Group	Zoe Bonython	RrSG
At-Large Advisory Committee	ICANN At-Large Staff	ALAC
Business Constituency	Steve DelBianco	BC
Registries Stakeholder Group	Demetriou, Samantha	RySG
Governmental Advisory Committee	Benedetta Rossi	GAC
Intellectual Property Constituency	Brian Scarpelli	IPC
Noncommercial Stakeholder Group	Rafik Dammak	NCSG

Individuals:

Name	Affiliation (if provided)	Initials
Syuzan Marukhyan	Independent Expert	SM
Jacob Odame-Baiden	Digital Watch Observatory & ICANN66 Fellow	JOB

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. Content provided within quotations has been extracted as is from submitted contributions. 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).

The Public Comment proceeding yielded a total of nine submissions including contributions from two (2) Advisory Committees (GAC, ALAC), five comments from Generic Names Supporting Organizations (GNSO) Constituencies and Stakeholder Groups (RrSG, BC, RySG, IPC, NCSG), and two individuals (SM, JOB).

Three responders indicated that their comments in response to the [Public Comment proceeding](#) on the RDS-WHOIS2 Draft Report still apply (RrSG,¹ RySG,² NCSG³). Where applicable, input from RrSG, RySG and NCSG comments made on the RDS-WHOIS2 Draft Report is reflected in the summary and analysis below.

It should be noted that the RySG expressed support for the comments the RrSG submitted on the RDS-WHOIS2 Draft Report Public Comment Proceeding, and the NCSG noted its support of RrSG input on the RDS-WHOIS2 Final Report Public Comment Proceeding. This was reflected, as appropriate, in the table that seeks to measure the level of support.

¹ RrSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

² RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

³ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

RrSG: The RrSG noted that their comments on the Final Report did not differ in any significant way from [comments provided](#) to the RDS-WHOIS2 RT Draft report published in September 2018, and that the extensive comments provided at that time still apply. The RrSG noted that the final review report is too late following the adoption of GDPR and other data protection laws. Comments on specific recommendations included:

R1.1: “The RrSG believes it is appropriate for there to be greater foresight and overview of RDS within ICANN and that this role and the responsibilities be properly assigned.” “If ICANN wants to indeed be viewed as a global organization then it is very important that they monitor and consider legislation and policy developments world-wide, and not be overly influenced by interests with a US-centric viewpoint.”⁴

R1.2: “The RrSG generally supports this recommendation, but also suggests that such updates also be provided to the GNSO Council to enable it to initiate timely policy development processes where necessary.”

R1.3: “More transparency is helpful.”⁵

On assessment of WHOIS Policy Review Team⁶ recommendation 2: The RrSG believes “...it is curious that the RDS-WHOIS2 RT has categorized this recommendation as fully implemented given their findings are very similar to that of the first RT. While there is a collection of any number of policies related to WHOIS, and those policies now reside in a more singular space, ICANN Board has NOT created a single WHOIS policy document. At best this recommendation is only partially implemented.”

On assessment of WHOIS Policy Review Team recommendation 3: The RrSG “agrees with the RT’s determination of partial implementation.”⁷

R3.1: The RrSG expresses support.⁸

R3.2: The RrSG supports this recommendation but feels “ the costs for such outreach should not increase the ICANN budget.”

R4.1 and R4.2: “The recommendations are not supported by corresponding data. The reviewed data does not seem to indicate the existence of ‘systemic issues.’”

R4.1: “Do not support (rec 4.1). Given the advent of numerous privacy laws, the RrSG views this recommendation as creating more risk by trying to place ICANN Compliance into a more investigative mode, digging through data without justification. Compliance action should be targeted at issues raised by reporters. RDS accuracy is an obligation of the registered name holder (RNH). It is not the role of compliance to enforce RNH obligations. This recommendation is not supported by any data that shows that such systemic issues actually exist, so without a problem, no solution is needed.”

⁴ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

⁵ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

⁶ WHOIS Review Team Final Report available at: <https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf>.

⁷ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

⁸ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

Rec 4.2: "Support Depends (rec 4.2). The RrSG would like to understand better how ICANN Compliance would be detecting "patterns of failure." As ICANN Compliance already conducts audits on registrars who have proven to have a track record of non-compliance, it is unclear how this recommendation differs from the current practice and what the RT is envisioning. The current language is very broad and interpretation could easily lead to increased, unnecessary audits of registrars. Given the complexity of the Audit program and the amount of time and effort required for both ICANN and the affected parties, additional Audits outside the Audit program should only be triggered upon discovery of actual evidence of non-compliance, not for fishing-expeditions to detect potential non-compliance."

On assessment of WHOIS Policy Review Team recommendations 5-9: The RrSG reminds "ICANN that data accuracy is achieved by providing customers the tools/rights to access, correct and/or update their information and by establishing internal processes and procedures that ensure the data provided by customers remains accurate and complete. Article 5(1)(d) of the GDPR does not require customers to be polled to ensure the data they have provided themselves as part of the underlying transaction was in-fact accurate. Any suggestion to the contrary is a misinterpretation of the GDPR. Furthermore, since the signing of the 2013 RAA, Sections 1(a-d) as well as 1(f) of the of the Whois Accuracy Program Specification have been implemented. Implementation of these five sections has resulted in near perfect address accuracy and contactability rates. As of January 2018, postal address operability is 99% and postal address syntax accuracy is 88% (up from 80% three years earlier). ICANN's own key findings include that 'nearly all WHOIS records contained information that could be used to establish immediate contact: In 98 percent of records, at least one email or phone number met all operability requirements of the 2009 RAA.'"

R5.1: The RrSG comments that "This recommendation begs the question, to what end? What purpose does this recommendation serve? If a ticket is created because the WHOIS is deemed inaccurate, and then the ticket is closed because the WHOIS changed, is that not the outcome sought? Additionally, the report notes that 81.6% of tickets are closed after the 1st notice due to the registration being cancelled or suspended and it is then inferred that this is because the data was intentionally entered incorrectly, because why else would you not update the info? This conclusion is simply wrong as there are any number of reasons why the data may not be updated. For example, one could purchase a domain with the intent to use it, but then a life change happens, be it a divorce, or family crisis, or change in job, and this change could result in a new address. You then receive a notice asking for the data to be updated, but you had already decided, based on the change in your circumstances, that you were going to allow the domain to drop, so you don't take any action and allow the domain to be suspended/canceled. This is a reasonable sequence of events and making assumptions that every instance of inaccurate data or unexplained data element is evidence of something nefarious is not supported by any data or facts. The RT seems to draw conclusions from thin air instead of accepting the most reasonable explanation that due to the time lag between the data query in the ARS program and eventual compliance review the cause is most likely simply the passage of time. The RrSG is of the opinion that recommendations should address actually existing issues that are evidenced by data instead of initiating fishing expeditions. We also note that we consider it highly doubtful that the ARS program can be resumed under the GDPR and other applicable privacy legislation as it requires ICANN accessing and processing non-public personal information for no valid purpose."

R10.1: The RrSG does not support this recommendation and believes "this recommendation seems to overlook that Privacy/Proxy is a SERVICE, same as email, and therefore the underlying customer information is already being verified and validated by the registrar. In essence this is requiring the customer info to be verified/validated twice, which adds no value. The RrSG also rejects the notion of a recommendation dictating contractual language. Contracts are the sole remit of ICANN and the contracted parties."

R10.2: The RrSG in support of this recommendation.⁹

R11.1: The RrSG in support of this recommendation.¹⁰

R11.2: “Support depends (rec 11.2.) At first look it feels to the RrSG like there is more risk associated with this recommendation than any resulting benefit. However, if ICANN org plans to be the sole controller of this common interface and will be responsible/liable for pulling the data to create it (presuming the data is being correctly displayed in the first place (meaning not PII)), and they are comfortable with risk and their ability to comply with applicable laws, then OK. That said, we appreciate the apparent intent of ensuring that the common interface provides both registry and registrar RDS outputs as these may currently differ under the Temp Spec, thereby reducing the potential of confusion with the users of the interface.”

R12.1: The RrSG in support of deferment.¹¹

R15.1: The RrSG in support of this recommendation.¹²

On assessing law enforcement needs: The RrSG encourages “the use of outside facilitators to draft and conduct surveys to ensure that results or questions are not biased towards the interests of any particular group.” The RrSG further notes “that only a select number of LEAs, ie those that had a direct relationship with the GAC and members of the Review Team, participated in the questionnaire and so the results do not necessarily reflect the views of a full cross-section of national and local LEAs around the world.”

LE.1: The RrSG comments: “...that LEA needs in the past often seemed to go beyond the scope of RDS services provided by contracted parties and relied on the use of third party data mining/data scraping services, so surveys may not correctly reflect the effectiveness of RDS services alone.”

LE.2: “Do not support (rec LE.2). The RrSG cautions against including parties who work with LEAs in any survey or attempting to equate the needs of those who work with LEA to the actual needs of LEAs. The expansion of such a survey to third parties that have not been empowered by regulation or statute with legal enforcement or investigatory powers and legal rights is highly dubious as the legitimacy of such parties is not equal to that of LEAs even though they may provide useful services. LEA only have powers within their territory/local jurisdiction and registrars/registries must follow the rules of law within their jurisdiction(s). While some LEAs may have mutual cross agreements between countries, these agreements and authority do not extend to third parties. There are no global LEAs, only local LEAs.”

On SG.1: The RrSG supports the recommendation¹³ and “has no issue with these requirements, with the assumption that any update of the contracts will not be extended to anything outside of them. Such requirements should be general, not specific and merely reference best practice legal regulations such as the GDPR. For example, a reference that under the GDPR, contracted parties would already be bound by appropriate requirements would be sufficient as implementations of applicable laws may vary and ICANN dictating one particular implementation model may be onerous.”

⁹ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

¹⁰ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

¹¹ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

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¹³ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

On CC.1: The RrSG repeats its comment on the RDS-WHOIS2 Draft Report CM.1,¹⁴ noting that it supports the recommendation but rejects “...the notion of the RT dictating contractual terms.”

On CC.2: The RrSG repeats its comments on the RDS-WHOIS2 Draft Report CM.2.¹⁵: The RrSG does not support this recommendation and considers it “...as very problematic. The ARS studies have shown that the number of grandfathered domains is already decreasing steadily on its own, illustrating that there is no strong need for a complete removal of grandfathering privileges for pre-2013 RAA domain names, which would create significant implementation issues for both registrars and registrants. The terms of the 2013 provisions were negotiated by ICANN and the RrSG under consideration of the realities of the domain business and difficulties in having to reach out to existing customers. The RT also does not demonstrate any reasonable fact-based need for removing the grandfathering rules. If an existing registration that predates the adoption of the 2013 RAA by the sponsoring registrar is not causing any issue, there needs to be a compelling reason to impose sanctions. The presumption that sufficient time has passed since the adoption of the 2013 RAA is erroneous as registrars have been adopting the new RAA over time, not at the time it was introduced by ICANN.”

The RrSG repeats its comments made on the Draft Report on CM.3 and CM.4. However, these recommendations were deleted.

CC4: The RrSG supports this recommendation.¹⁶

BY.1: “The RrSG takes no issue with the bylaws being updated, however, it should be ensured that the data safeguards remain part of the revised language.” The RrSG supports the recommendation.¹⁷

SM: The commenter suggests attention be paid to the Modernised Convention for the Protection of Individuals with regard to the Processing of Personal Data of the Council of Europe (CoE), which has itself been brought inline with the GDPR. The Recital N 105 (<https://gdpr-info.eu/recitals/no-105/>) also reflects on this CoE Convention. SM further notes that CoE is not a pure European but more a kind of International Organization, and the Modernized Convention is open for third countries.

BC: The BC offers the following suggestions on what ICANN org and the community should do now to improve RDS:

- “With the number of registered domain names growing daily, it becomes vital to the security and stability of the DNS to ensure that registrant data is accurate. Accordingly, the BC urges the ICANN Compliance team to implement a proactive, methodical approach to winnowing inaccuracies. The team historically has been reactive and episodic in responding to Whois inaccuracy reports and in working with ICANN’s GDD on the results of the Accuracy Reporting System (ARS). Compliance has the capabilities to research, analyze and enforce against inaccuracy in registration data when it sees suspected systemic issues, reported

¹⁴ CM.1 The ICANN Board should initiate action intended to ensure that gTLD domain names suspended due to RDS (WHOIS) contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows: (1) The RDS (WHOIS) record should include a notation that the domain name is suspended due to incorrect data; and (2) Domain names with this notation should not be unsuspended without correcting the data.

¹⁵ The ICANN Board should direct ICANN Organization to assess grandfathered domain names to determine if information is missing from the RDS (WHOIS) Registrant field. If 10-15% of domain names are found to lack data in the Registrant field, then the ICANN Board should initiate action intended to ensure that all gTLD domain names adhere to the same registration data collection requirements within 12 months.⁵

¹⁶ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

¹⁷ RrSG statement made on the RDS-WHOIS2 Draft Report - see <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000002.html>.

inaccuracy complaints, RDS accuracy studies, and DAAR reports and should be taking action without continual prompting.

- Further to the above, the community, regrettably, has witnessed failed or stalled accuracy initiatives. These community-driven initiatives, such as cross-field validation, must be implemented without delay.
- A record's inaccurate information can cause confusion and harm, especially if it is an act of identity theft. Inaccurate identity and contact information in the registration data go hand-in-hand with registrations that are perpetrating DNS abuse.
 - Eliminating the use of inaccurate data in any suspended domain name will add to the security and stability of the DNS. Inaccurate information would be excised from the registrant data.
 - In the light of the possibility that some contact fields may be eliminated or significantly reduced in scope, action should be undertaken to ensure that the registrant or the registrant's representative remain contactable and current.
- Synergies in the realm of Whois accuracy are available. The ARS sampled RDS records can be utilized for accuracy tests, while the Audit program samples registrars to conduct audits. No synergies appear to have been gained through separation of these action tracks.
- There are further opportunities to ensure Whois accuracy. The ARS appears to have been the only proactive measure to monitor existing Whois data quality. The data inaccuracy rate across the gTLD space, as confirmed by ARS, is still unacceptably high at 30-40%. The most common identifiable cause of inaccuracy is registrars' failure to validate and verify Whois data at the outset, which is easily remediable.
- Risk-based actions -- meaning that to the extent possible, risk assessment is performed before action is taken -- would be welcomed. This would ensure that all policies are assessed, audited, tracked, reported and enforced by the ICANN Compliance team.”

The BC believes the ICANN Board should move quickly to adopt all of the RDS Review Team's Recommendations and calls for immediate implementation of the first RT's recommendations.

R4.1: The BC believes that “ICANN Compliance indeed should adopt a more proactive stance in its review and assessment of inaccuracy complaints. When the RT interviewed the Compliance team, it was clear that the team -- while it reviewed every complaint and took action when appropriate -- did not look further to determine whether there existed similar inaccuracy issues, including general or systemic, with the associated registrar. Though the language in this recommendation may be somewhat weak, its risk-based approach is intended to broaden the Compliance team's investigatory capability in the process of receiving and reviewing an inaccuracy complaint. For example, Compliance could investigate the following:

- Are there other domain names registered with the same underlying information?
- Is there a history with this registrar of a high number of inaccuracy complaints, as compared to the number of registrations it manages?
- Is the inaccurate information obviously incomplete or false?”

R4.2: The BC notes that “discussions with the Compliance team make clear that it did not review all sources of information to investigate and mitigate systemic inaccuracy abuse. Each case is evaluated individually and separately based upon the complaint itself, and proactive investigation is not performed. Proactive investigation using all the data sources available to detect systemic abuse should be a routine function of the Compliance team.”

On assessment of WHOIS Policy Review Team recommendations 5-9: The BC notes that the RDS-WHOIS2 found that “...Recs. 6-8 are only partially implemented, and Rec. 9 was not implemented at all. The WHOIS1 RT final report was delivered in May 2012 and ICANN -- for 7½ years -- has not made sufficient changes to fully implement four of these five recommendations. With implementation of the Temp Spec and the present lack of visibility of registrant data, the accuracy issue is most likely worse than when the RT did its review. The Compliance team, outside of the ARS, does not collect

sufficient metrics to perform a proactive assessment that would result in improvement in data quality. This is an overarching problem with implementation of ICANN policies.”

R5.1: The BC notes that “although GDPR and the Temp Spec have impacted the ability to review accuracy and quality of registrant data, it remains a core ICANN responsibility to ensure the stability and security of the internet. ICANN must have access to the registrant data and play a central role in its availability, accuracy and integrity.”

R10.1: The BC comments that “at the time of the review, the PPSAI IRT was working toward policy implementation. Notwithstanding ICANN unilaterally pausing the IRT, this recommendation remains critical. When GDPR was implemented in 2018 it was believed that many registrants would no longer utilize proxy and privacy services. Now, eighteen months later, the available data establishes a dramatic increase in privacy/proxy registrations to more than 40% of all registrations. In fact, certain registrars have implemented privacy/proxy registrations for all registrations instead of redacting the registrant data to comply with the Temp Spec. Since the PPSAI policy has not been implemented, there is little recourse to gain access to this essential information beyond a formal legal proceeding. At the very least there are important pieces of the PPSAI that should be implemented immediately. The PPSAI final report recommends indicating a privacy/proxy registration in the RDS. Because of current registrar practices, there is difficulty in determining whether registrant data is redacted or is a privacy/proxy registration. If a third party requests the registrant data for what it believes is a redacted registration record, a registrar can claim that it is a privacy/proxy registration without any recourse for transparency.” To move forward the BC “...singles out Recommendation 10 of the report (privacy/proxy services) and signals its strong, unqualified agreement. It is preposterous to further delay implementation of community recommendations while cybercriminals benefit from ICANN’s stalling.”

SG.1: The BC notes that “with data breaches reported daily by internet websites, the RT asked how many data breaches of registrars had occurred. ICANN does not currently collect this information, and there is no current requirement for a registrar to report data breaches to ICANN. This reporting is critical for the protection of registrant data, and the BC recommends such a requirement.”

CC.1: The BC believes “this recommendation would prevent a domain name suspended for inaccurate data from being reinstated without updating the record with accurate data. The requirement of indicating in the RDS that the domain was suspended due to inaccuracy will be helpful in collecting metrics on inaccuracy.”

CC2: The BC comments that “domain names registered before the 2013 RAA must comply only with the 2009 RAA, which did not require the Registrant contact information to provide an email address or phone number. According to the ARS report, 30% of all gTLD domain names are “grandfathered” registrations, subject only to 2009 RAA requirements. According to EPDP discussions, registrant data may be the only information that will be required to collect in the near future. This could result in no email address or phone number in the registrant data record for 30% of the legacy TLDs, an unacceptable outcome.”

CC.3: The BC notes that “with the recent changes and staff departures on the Compliance team, this recommendation is more critical.”

CC.4: The BC observes that “the RT was surprised that regarding several of the policies that had been implemented since the last WHOIS RT report there were no statistics or metrics collected by ICANN. It is therefore difficult to assess the impact of and compliance with each policy. This recommendation would require every new policy to include rationale and best practices for measurement of the critical statistics of the policy once implemented, an outcome the BC supports.”

BC recommends the following;

- That the ICANN Board moves quickly to adopt all of the RDS Review Team's recommendations and the implementation of the first RT's recommendations.
- ICANN must fully implement community recommendations, update contracts where necessary, adequately staff its Compliance function (particularly after recent staffing changes) and establish measurable metrics for RDS policy.
- BC considers the Compliance team's work as too siloed, episodic and reactive. Compliance should proactively review and cross-reference all sources of information to investigate and mitigate systemic inaccuracy abuse.
- It believes that though GDPR and the Temp Spec impacted this capability, one of ICANN's core responsibilities is to ensure and protect accuracy and data quality and integrity in registrant data. ICANN must have access to the registrant data and play a central role in the availability of the data.
- BC calls for ICANN to resume publication of the Accuracy Reporting System's periodic reports on WHOIS accuracy.
- The BC agrees that a domain name suspended for inaccurate data must not be reinstated without updating the record with accurate data. Indicating in the RDS that the domain was suspended due to inaccuracy will be helpful in collecting metrics on inaccuracy.

RySG: The RySG notes that the majority of the RDS-WHOIS2's recommendations are substantially similar to those contained in the Draft Report and comments that [Public Comments](#) provided in response to the RDS-WHOIS2 Draft Report still apply.

The RySG understands that "WHOIS/RDS data plays a significant role in supporting the important work that many parties inside and outside of the ICANN community do" and supports "ICANN's continued treatment of WHOIS/RDS as a strategic priority, as long as all WHOIS/RDS activities and the corresponding requirements placed on contracted parties are compliance with all relevant data protection laws and are commercially reasonable and feasible to implement." The RySG advises that "future work around reviewing WHOIS/RDS and implementing the recommendations contained in this report be based on empirical and measurable data and metrics wherever possible."¹⁸

The RySG supports comments the RrSG submitted in the RDS-WHOIS2 Draft Report Public Comment proceeding.¹⁹

R1.2: The RySG "strongly endorses" the recommendation. "Monitoring should be comprehensive and all reports to the ICANN Board should be balanced, free of bias, and reflect the full spectrum of legislative and policy developments."²⁰

The RySG notes that "certain recommendations (namely, R10.1 and CC.2 and CC.4) have significant overlaps with community-developed policies that are in place or in the process of being implemented. By way of an example, recommendation CC.2 refers to a "full" set of registrant or admin contact details as required under the 2013 RAA. However, the EPDP on the Temporary Specification for gTLD Registration Data produced recommendations in its Phase 1 Final Report (which were subsequently adopted by the GNSO Council and approved by the ICANN Board) that will alter the requirements for what constitutes a "full" set of contact details. The RySG cautions the ICANN Board that the Review Team's recommendations cannot and should not create new policy or trump existing policies that have been developed through the bottom-up multistakeholder process."

¹⁸ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

¹⁹ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

²⁰ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

The RySG comments that “other recommendations (R5.1 and R11.2) similarly overlap with work that is being conducted elsewhere within the ICANN community. The WHOIS Accuracy Reporting System (R5.1) was recently the subject of correspondence between ICANN Org and the GNSO Council leadership, while ICANN Org recently updated the common RDS lookup interface to utilize RDAP. This overlap may reflect the extensive time it took for the RT to conduct its review, with over a year passing between the publication of the Draft Report and the Final Report. When considering the actions it will take on these recommendations, the RySG encourages the ICANN Board to take stock of similar work that is already taking place and refrain from duplicating efforts unnecessarily.”

R11.2: “Once the RDAP protocol is adopted by registries and registrars, ICANN should use RDAP as the underlying protocol to support the functionality of this interface, and eventually work towards retiring the WHOIS protocol for this feature.”²¹

R15.1: The RySG “supports the sentiment of this recommendation, but cautions that the implementation of the recommendations should not create new reporting burdens on contracted parties”²².

LE.1: “While the RySG generally supports the approach [...] to gather data around the effectiveness of RDS data in meeting the needs of law enforcement,” the RySG cautions “that ICANN should not conflate surveys with more rigorous studies. Surveys often result in a response bias, where only those parties interested in a certain topic take the time to respond to the survey. ICANN should seek out ways to ensure that it is gathering data from a broad and truly representative cross-section of law enforcement to understand how RDS data does or does not meet their needs. Furthermore, ICANN must ensure that any studies or surveys directed to contracted parties are either voluntary or based on an explicit requirement in the parties’ agreements with ICANN.”²³

The RySG has concerns with the following recommendations:

- SG1: “ recommends ICANN Org modify its contracts with registries and registrars to require registrant data protections and that ICANN be notified in the event of a data breach. While the RySG supports the principle of protecting registrant data, this recommendation appears to bleed into compliance with data protection laws. As such, this is a matter that should be handled between ICANN Org and the contracted parties directly.”
- R11.1: The RySG is “unclear on if or how the SLAs mentioned in R11.1 for the common RDS lookup interface would overlap with the SLAs registries and registrars must meet in responding to RDAP queries. Consideration should be given to this question before ICANN Org determines which metrics to measure around the interface.”
- CC.1: The RySG has concerns “about the feasibility of implementing this recommendation.”

The RySG believes the “RT should not be dictating contractual terms.”²⁴

The RySG acknowledges the vast amount of work already taking place within ICANN processes on various aspects of RDS/WHOIS. Understanding that time and resources are limited throughout the community, the RySG hopes these comments help the Board to prioritize its actions on the RT’s recommendations.

²¹ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

²² RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

²³ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

²⁴ RySG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000005.html>.

ALAC: “In light of the Temp. Spec and the new RDS policy being developed to comply with the GDPR, the ALAC acknowledges the challenges that might have faced the review team in the development of the report. It finds the report very useful information and supports the provided recommendations.”

R3.1: The ALAC noted that this recommendation “about documentation is important to end users and registrants. WHOIS is confusing to users and registrants and GDPR makes it more so. In addition, GDPR requires documenting what we are doing.”

R4.1, R4.2 and CC.3: The ALAC highlights the importance of these recommendations, which address contractual compliance methodology and resourcing notes that “compliance should be taking a more pro-active position and not just responding to individual complaints. hat this also aligns with recent discussions during ICANN66 on domain name abuse.”

R5.1: The ALAC highlights the importance of this recommendation “...which addresses the accuracy of the data and strongly advises its acceptance by the Board. Given the fact that the WHOIS Accuracy Reporting System (ARS) project has shown that there are many errors in existing registration data and taking into consideration the EPDP team phase one report on gTLD registration data which reduced the number of contact fields, ensuring accuracy is even more important than before. Entities that work to protect the Internet end users depend heavily on the accuracy of the data and the contact information provided through it. In addition, principle 5(1)d of the GDPR particularly requires that all reasonable steps are taken to ensure the personal data is not incorrect or misleading as to any matter of fact. Depending on the purpose of use of the data, it should be kept updated. To comply with GDPR, serve the purpose of collection (specifically to be able to contact the registrant), give the data subjects their rights and allow parties trying to protect end users to access useful data; implementation of this high priority recommendation is required.”

R11.1, R11.2: The ALAC commented on the importance of these recommendations that are focused on the WHOIS portal noting that “although GDPR has reduced the amount of information publicly available, the portal is not delivering all of the data that is available, maintaining full functionality is required. The portal must provide all available information in a clear and usable fashion.”

R12.1: The ALAC “would like to highlight the importance of the translation of the registration data. However, we understand that reviewing the effectiveness of the recommendations of the first review team in this regard is currently not possible and that such an evaluation will only be possible after the adoption of the new Registration Data Access Protocol (RDAP).”

LE.1, LE.2: “The ALAC regards the team's findings with regard to recommendations LE.1 and LE.2 in relation to the law enforcement needs as very important. 89% of the respondents deemed RDS as very important in their investigations. We note that 60% of the respondents to the law enforcement survey responded that they did not have alternatives that would fulfill the same investigative need as the former WHOIS. However, when respondents who said they had alternative options were asked to identify the tools (16%), the majority identified tools that also rely on RDS lookup. When asked about how investigation is affected if RDS information is not available on a public query basis, 79% indicated that investigations are either delayed or discontinued altogether. The ALAC welcomes the recommendations of the team and supports surveys and information gathering. In addition, we note too the importance of the surveys conducted by the review team to the EPDP team working on gTLD registration data policy development.”

“With regard to consumer trust the ALAC finds the definition of consumer trust in relation to the RDS provided by the WHOIS1 review final report which says “consumer trust can be narrowly construed to mean the level of trust users have in available WHOIS data; or more broadly as the level of trust consumers have in Internet information and transactions in general” as a very important guide when

looking at the benefits of the RDS to users. The report notes that although users do not directly use the system nevertheless the data stored does indirectly significantly impact users.”

JOB: The commenter believes this is a comprehensive report and believes that consideration and analysis be given to the possible impact of GDPR and other applicable laws to ensure legal risks are well covered.

GAC: The GAC believes that where gaps are identified, the consensus recommendations made by review teams should be given thorough and timely consideration by the ICANN Board and ICANN Community. The GAC stresses its expectation of a timely consideration and implementation of these recommendations, in line with the RDS-WHOIS2 Review Team’s own expectation that “Implementation of all recommendations identified as High Priority should begin as soon as possible once approved by the Board and once all preconditions are met. Recommendations assigned medium or low priority need to be considered with respect to overall ICANN priorities, but should not be deferred indefinitely.”

R1.1, R1.2: “In light of the challenges faced by the ICANN Community in adapting WHOIS policy with the requirements of applicable data protection law, the GAC fully supports the analysis and recommendations of the RDS-WHOIS2 Review Team to establish an effective foresight function to inform policy deliberations and decisions at ICANN.”

R4.1, 4.2, 5.1: “The GAC strongly supports these recommendations and urges the ICANN Board, ICANN org and Contracted parties to act decisively to address the wide-spread and long-standing issue of WHOIS data inaccuracy.”

The GAC further notes: “...this data and the associated understanding accumulated by the ICANN Community over the past decade regarding wide-spread WHOIS inaccuracy warrants concerns of a worsening systemic issue, and as a consequence, warrants decisive actions by all stakeholders responsible.”

The GAC believes that WHOIS Data Accuracy supports Security and Stability of the DNS and notes that “...Law enforcement experts in the GAC’s Public Safety Working Group have continuously stressed the importance of WHOIS, and accurate WHOIS data to mitigate DNS Abuse. Indeed, WHOIS has been a key investigative tool for law enforcement and their cybersecurity partners in generating investigative leads, attributing crime and identifying victims of cybercrime. Moreover, the validation of domain registration data is a proven factor in disincentivizing DNS Abuse by deterring criminals seeking anonymous domain registrations.”

The GAC is of the opinion that WHOIS Data Accuracy is not a sole responsibility of the Registrant.

“The GAC observes that inaccurate data cannot serve any purpose, and its lack of accuracy undermines the legitimate purposes for which it is collected and further processed. While the GAC notes that WHOIS Accuracy remains a matter for further deliberation as part of the ongoing Phase 2 of the EPDP on gTLD Registration Data, the GAC would like to stress ICANN’s responsibility to continue enforcing accuracy requirements as laid out in the 2013 RAA under the current Interim Registration Data Policy for gTLDs and any future policy.”

The GAC comments that proactive monitoring of WHOIS Accuracy must continue, at scale. It notes that as a consequence of the Temporary Specification, ICANN contractual compliance has lost ARS as a source for its enforcement of the WHOIS accuracy requirements. The GAC notes that while Phase 2 of the EPDP is due to deliberate on this topic as a matter of lesser priority, and while WHOIS accuracy monitoring under the ARS was not ICANN consensus policy, as highlighted by the GNSO Council Chair in a recent correspondence, the ICANN Board did direct in November 2012:

- the ICANN CEO to: “1) proactively identify potentially inaccurate gTLD data registration information in gTLD registry and registrar services, explore using automated tools, and forward potentially inaccurate records to gTLD registrars for action; and 2) publicly report on the resulting actions to encourage improved accuracy.”
- and the “preparation of an Issue Report on the purpose of collecting and maintaining gTLD registration data, and on solutions to improve accuracy and access to gTLD registration data, as part of a Board-initiated GNSO policy development process;”

“It is therefore incumbent upon the ICANN Board to take stock of the evidence and recommendations provided to it by the RDS-WHOIS2 Review Team and take the necessary urgent and decisive actions to not only ensure continued proactive identification of WHOIS inaccuracy, but also to scale these efforts by a significant order of magnitude, including considering the risk-based approach recommended by the Review Team.”

10.1 “The GAC believes that this recommendation, as well as the implementation of the PPSAI policy should be considered as a matter of urgency given the impact of unregulated and unaccountable privacy proxy services on the stability and security of the DNS.” The GAC noted the well established correlation between the use of privacy proxy services and DNS abuse and that the RDS-WHOIS2 Review Team found WHOIS verification requirements can be circumvented enabling use of affiliated privacy /proxy service providers enabling continued harm. The GAC referred to a KObé Communique (14 March 2019) requesting the Board “Consider re-starting implementation processes for relevant existing policies, such as the Privacy Proxy Services Accreditation Issues Policy” noting in its rationale that “The GAC is of the opinion that the Privacy Proxy Services Accreditation Issues Policy (PPSAI) remains highly relevant and implementation efforts should continue as appropriate, in parallel with the ongoing policy development work. The implementation of the PPSAI need not be deferred until the completion of the EPDP.”

LE.1, LE.2, R11.1: “The GAC supports the gathering of data recommended by the RDS-WHOIS Review Team. It should be noted that the ICANN Community is presented with a unique opportunity in the ongoing policy development regarding the System for Standardized Access/Disclosure of non-public registration data, to leverage the potential centralization of some processing of registration data to incorporate appropriate mechanisms for data quality reporting. The GAC is also supportive of surveying non-law enforcement cybersecurity practitioners to quantify or otherwise validate their use of RDS (WHOIS) to provide lawful assistance to law enforcement authorities, in many jurisdictions, in generating and enhancing cybercrime investigations conducted into all forms of security threats in the DNS, as well as the important role they play in the prevention of crime and cybersecurity incidents through alert systems, blacklists and other mechanisms.”

CC.3: “The GAC believes that the possibility for ICANN to enforce its contracts is not hampered by the GDPR, which provides an explicit legal basis for the processing of data for the purposes of a contract. Therefore, the contracted parties should provide contact information within WHOIS data when the data is not publicly available.”

In fact, ICANN’s Temporary Specification for gTLD Registration Data, currently still in force per ICANN’s Interim Data Policy for gTLDs²⁹ explicitly states:

5.7. ICANN Contractual Compliance. Registry Operator and Registrar MUST provide reasonable access to Registration Data to ICANN upon reasonable notice and request from ICANN for the purpose of investigating compliance-related inquiries and enforcement of the Registry Agreement, Registrar Accreditation Agreement, and ICANN Consensus Policies.

Furthermore, as the GAC has previously stated, it is important that failures to provide reasonable access for third parties are addressed, and that ICANN Compliance is well positioned to deal with complaints.”

The GAC calls for the ICANN Board to address “...the most recent GAC Advice along with the RDS-WHOIS2 Review recommendations in the coming weeks, the ICANN Board should ensure that the Interim Registration Data Policy for gTLD delivers reasonable access, effectively and efficiently, and that beneficiaries of such access include ICANN Contractual Compliance and any system it uses, such as the ARS, to proactively identify non-compliance with 2013 RAA WHOIS Accuracy requirements in line with its obligations. As indicated in the context of the EPDP Phase 1 Recommendation 2 regarding an additional legitimate purpose for ICANN’s processing of non-public gTLD registration data, the ‘GAC believes that the final version of this purpose should include ICANN’s purpose to process information associated with its registration data Accuracy Reporting System.”

“Finally, given the critical importance of accurate and accessible registration data for addressing DNS Abuse as discussed above, the expected audit of all registrars regarding DNS Abuse obligation should cover practices related to the requirements for verification, validation and accuracy of domain registration data.”

IPC: “...The IPC agrees with and supports the comments submitted by the BC in identifying actions ICANN Org and the community can take immediately to make improvements to the RDS.

Specifically:

- ICANN Compliance may implement proactive steps to winnowing inaccuracies in Registrant data.
- The community has observed failed and/or stalled accuracy initiatives. Community-driven initiatives like cross-field validation should be implemented immediately.
- According to the Accuracy Reporting System (ARS), inaccuracy rates remain unacceptably high (in the 30-40% range). Inaccuracies in the RDS continue to cause harm and confusion in the marketplace and facilitate DNS abuse. Simple validation at the outset of WHOIS entry is an easy remedy to help reduce inaccuracy rates.”

R4.1: “The IPC agrees that ICANN Compliance should be instructed to proactively monitor and enforce Registrar obligations to enforce WHOIS data accuracy stemming from inaccuracy complaints and information on inaccuracies coming other sources. Further, this recommendation is intended to broaden the Compliance team’s investigations capabilities in furtherance of identifying and addressing inaccuracy complaints.”

R4.2: “The IPC supports any recommendation to require Compliance to proactively investigate using all data sources available to detect systemic information failure.”

R5.1: The IPC notes that “ICANN remains responsible for the security and stability of the internet. In furtherance of this obligation, maintaining access to registrant data and ensuring the accuracy and quality of this data is paramount for ICANN to uphold its obligations.”

R10.1: “The IPC reiterates its earlier stated position that PPSAI implementation should be a HIGH priority. At the time the RDS-WHOIS2 Final Report was being considered, the PPSAI IRT was working toward its implementation, after having been unanimously approved by the GNSO Council on 21 January 2016 (<https://gns0.icann.org/en/council/resolutions#201601>). The IRT’s work was unilaterally stopped by ICANN Org, with no clear path forward.”

“Post-GDPR has seen an increase in usage of privacy/proxy registrations (contrary to expectations that privacy/proxy would decrease and be seen as unnecessary in the post-GDPR environment). Further, some registrars are moving large numbers of registrations into their privacy/proxy services in order to avoid the redaction obligations required by the Temporary Specification. The result is that access to important registrant information, even where a legitimate basis exists, results in the need for formal legal proceedings to obtain it. This is untenable, as it facilitates abuse in the DNS. For the

benefit of individuals who may be the subjects of abuse and those attempting to obtain relief from abuse, it is imperative that the underlying data be sound.”

IPC feels that “...Recommendation 10 of the Final Report (pertaining to PPSAI implementation) is singled-out as a high priority for the IPC and the global intellectual property community it represents, given the changed circumstances from the situation where the Final Report was being developed. Further delay in implementation of the PPSAI is unwarranted.”

“ICANN’s obligation to maintain the security, stability and reliability of the internet is predicated on ensuring and protecting the accuracy of its data quality and the integrity of registrant data. In order to do so, it must have access to this data and be in position to ensure this data is available to those with a legitimate interest.”

SG.1: “The IPC supports a requirement for ICANN Org to track data breaches in furtherance of protecting registrant data. Tracking minimal data on data breaches, in consultation with data security and privacy experts, is a simple but necessary step in assessing the number of breaches occurring (which, by third party accounts, are on the rise) and will assist in further protecting registrant data.”

CC.1: The IPC comments that “the simple inclusion of a notation that a domain name is suspended for incorrect data will serve to improve accuracy on any metrics maintained. Further, maintaining domains in suspension until inaccurate information is corrected is a simple and effective means for encouraging rapid correction of RDS information and/or keeping bad actor domains out of the system.”

CC.3: The IPC comments that “it remains critical for the Compliance team to be adequately staffed and resourced to fulfill its important function in furtherance of ICANN’s mission, including the added elements outlined in the Final Report and reinforced in these comments.”

“The IPC believes the ICANN Board should move forward with urgency in adopting all of the RDS Review Team’s recommendations.”

NCSG: The NCSG observes that the report does not differ in any significant way from the draft report, and that their [comments](#) still apply. The NCSG does not believe “the Review Team (RT) has gone far enough in this report to focus on the rights and expectations of registrants to data protection” and adds that “many of the detailed exercises the RT has gone through in this review are no longer relevant, given the Temporary Specification to replace the RAA WHOIS requirements.” The NCSG suggests that “it might have been preferable to put this review on hold until the Expedited Policy Development Process to replace the Temporary Specification (EPDP) (initiated to deal with this issue) had completed its work. Many of the assumptions of the first WHOIS Review team, on whose recommendations this report is based, appear to no longer be relevant.”²⁵

The NCSG believes the report should better reflect at least the view of this stakeholder group, and the long-overdue admission of registrant rights. Additionally, NCSG calls for the doodle poll which was offered to team members on how reviews might be improved, be reopened to a wider audience. NCSG comments that this review “...took a great deal of time, energy and ICANN resources at a time when we were also flat out working on the Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data. Given the recent about-face in terms of replacing the WHOIS with a data system that is compliant with data protection law as opposed to convenient and accurate for the benefit of third party users, a lot of the research and discussion that went on during the development of this Review Team report was essentially irrelevant.”

²⁵ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

The NCSG generally agrees with points raised in the RrSG submission.

On assessment of WHOIS Policy Review Team recommendation 1: “ICANN was making the availability and release of accurate information about domain name registrants its strategic priority, which is rather different than making WHOIS a strategic priority. The focus was unilinear: how to enhance the accuracy of data collected, include new concepts such as “identifiability,” and expedite the release of said data to third parties. Given the SSAC advice that WHOIS needed to be replaced by RDAP, the focus on WHOIS is also unfortunate.”²⁶

R1.1 - R1.2: The NCSG comments that “these recommendations hardly address the huge failure to address data protection that has taken place over the past five years, putting the organization at risk. [...] Risk management standard practice would suggest that failing to notice the drafting and adoption of the single-most edited piece of legislation in European history, a regulation adopted by 28 countries, the GDPR, was a failure in risk scanning, identification, prioritization, and mitigation.”²⁷

R1.3: The NCSG believes that “any Board group that is tasked with examining the RDS issues should be transparent about its operations, findings, consultations, and any recommendations or conclusions²⁸” and comments that “it would be particularly helpful if the Board RDS group could be more transparent as to what is happening with regards to the current EPDP.”

On assessment of WHOIS Policy Review Team recommendation 2: the NCSG consider this “a failure” but appreciates “all the research that went into the machinations ICANN initiated to come up with a policy.”²⁹

R3.1: The NCSG recommends that “ICANN hire a librarian and task them with assisting those who wish to find information on the website, as well as organizing the material properly, and preserving hyperlinks as a legacy, ensuring that the content remains available for the future.”³⁰

R3.2: The NCSG believes that it “it is not clear why this outreach needs to be done, and why it is a high priority, particularly given the lack of readiness of the data, and the current limbo situations with respect to any replacement for WHOIS or RDAP implementation” and notes that “there are much higher priorities than identifying a target audience for information as yet unprepared”³¹ [...] ‘particularly now, when we cannot even identify who is the controller of the Registrant’s personal information.’”

On assessment of WHOIS Policy Review Team recommendation 4: “it seems logical to defer work on determining what needs to happen with the compliance function until the dust has settled on the Temp Specification and the GDPR compliance requirements.”³²

R4.1: The NCSG feels that “the current EPDP continues to demonstrate the failure to understand accuracy obligations under data protection law. Recommend dropping this idea. “Proactively” could easily be construed as without sufficient cause.”

²⁶ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

²⁷ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

²⁸ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

²⁹ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁰ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³¹ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³² NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

R4.2: The NCSG notes that “Given the burden on the contracted parties to implement the outcome of the EPDP, including compliance with a potential SSAD, this is not appropriate as a recommendation.” “Given that the RAA will be under review because of GDPR,” the NCSG recommends “holding off on recommending new expenses (e.g. audits) until the new workload of the compliance team has been determined. Breach disclosures, for instance, are a new requirement for both controllers and processors; monitoring for unreported breaches might be a more worthy candidate for compliance action.”³³

On assessment of WHOIS Policy Review Team recommendations 5-9: The NCSG does “not see the merit in developing new accuracy recommendations when the entire data set for publication is about to change.”³⁴

R5.1: The NCSG “does not accept this recommendation” and believes “the understanding of “accuracy” is inconsistent with data protection law.”

On assessment of WHOIS Policy Review Team recommendation 10: the NCSG notes “with great concern that the costs of running this service appear to be very high. If legitimate, accredited PP services are priced out of the market, a great many end users may suffer a loss of privacy and may even be endangered.”³⁵

R10.1: The NCSG believes that “If registrars do not object to this requirement, we cannot see a reason to object” and suggests doing “a financial review to ensure that the results of the IRT have not forced the service out of the marketplace.”³⁶

R10.2: The NCSG notes “perhaps this is the point where it should be pointed out that if the next review team simply reviews the recommendations in this Review Report, most of which will not be relevant in the new system developed by the EPDP, it will be a tremendous waste of money. The NCSG recommends a fresh start on the RDS III review, whenever that shall take place.”

R11.1: The NCSG is of the opinion this “recommendation may be redundant after the SSAD is developed.”

R11.2: The NCSG supports this recommendation.³⁷

On assessment of WHOIS Policy Review Team recommendation 15-16: the NCSG notes the “plan and the annual reports failed to recognize and manage new risks, or vary the approaches to WHOIS policy development, or take on board criticism either internally from stakeholders such as the NCSG, or from the many letters from the data protection authorities addressing a number of different issues.”³⁸

R15.1: The NCSG notes that “discussion of risk scanning and ongoing risk management might improve this recommendation,” disagrees with RDS-WHOIS2 that “GDPR has no impact on this

³³ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁴ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁵ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁶ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁷ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

³⁸ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

recommendation,” and believes that “if the WHOIS Review Teams are dictating the action plan for WHOIS improvement, then there must be flexibility to map projects to reality as time passes between reviews.”³⁹ The NCSG believes this input was not well understood.

On anything new: The inventory of activities, policies, and procedures will be useful to help guide the GNSO when it determines priorities for subsequent PDPs.

LE.1: The NCSG reiterates that it sees no reason for ICANN to spend research money on this issue given the response burden expected following EPDP.

LE.2: The NCSG believes that “If law enforcement bodies wish to conduct surveys, ICANN should within reason cooperate,” and that it should be clarified “who pays for the research. Given the current state of flux in GDPR compliance, no action on surveys of law enforcement satisfaction should be taken until the state of registrant data access is stabilized.”⁴⁰

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.

ICANN org observes there are a variety of viewpoints on the RDS-WHOIS2 Final Report. While six contributors express no concerns with RDS-WHOIS2 recommendations (ALAC, IPC, BC, GAC, SM and JOB), three commenters (RrSG, RySG, NCSG) raise issues and, in some cases, object to recommendations. Concerns include, but are not limited to, overlap with ongoing community initiatives, impact of ongoing community work on feasibility and/or raison d'être of recommendation, incompatibility with model or requirements resulting from community work, appropriate allocation of resources, potential interfering with community prerogatives or policy processes, and overall feasibility.

The comments generally recognized that the RDS-WHOIS2 was faced with challenges given the ongoing changes to the RDS landscape. For instance: ALAC believes the report contains “very useful information” and acknowledges challenges the review team may have faced “in light of the Temp. Spec and the new RDS policy being developed to comply with the GDPR.” The RySG “acknowledges the vast amount of work already taking place within ICANN processes on various aspects of RDS/WHOIS” and hopes its comments will “help the Board to prioritize its actions on the RT’s recommendations,” recognizing that “that time and resources are limited throughout the community.” The RrSG, on the other hand, believes the RDS-WHOIS2 Final Report “is coming too late following the adoption of GDPR and other data protection laws.” The NCSG believes that “a lot of the research and discussion that went on during the development of this Review Team report was essentially irrelevant” and suggests that “it might have been preferable to put this review on hold until the Expedited Policy Development Process to replace the Temporary Specification (EPDP) (initiated to deal with this issue) had completed its work.”

Three contributors (BC, GAC, IPC) call for timely consideration of RDS-WHOIS2 recommendations. The IPC believes “the ICANN Board should move forward with urgency in adopting all of the RDS Review Team’s recommendations.” The BC echoes this and “calls for immediate implementation of the first RT’s recommendations.” The GAC, similarly, believes that “where gaps are identified, the consensus recommendations made by review teams should be given thorough and timely consideration by the ICANN Board and ICANN Community” and stresses its expectation of a timely

³⁹ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

⁴⁰ NCSG statement on the RDS-WHOIS2 Draft Report can be found at: <https://mm.icann.org/pipermail/comments-rds-whois2-review-04sep18/2018q4/000004.html>.

consideration and implementation of recommendations, in line with the RDS-WHOIS2 Review Team's own expectation. The BC, with support from IPC, further suggests a set of actions the ICANN organization and the community can take immediately to make improvements to the RDS.

With exception of the NCSG, which is concerned the recommendations may not adequately address the failure to address data protection efforts, there is broad support for a forward-looking mechanism/process that monitors legislative and policy developments (R1.1 and R1.2). The GAC makes a reference to the GNSO Council letter, which suggests improvements to the existing mechanism. In addition to updates to the Board, the RrSG (with support from NCSG) suggests that updates also be sent to the GNSO Council "to initiate more timely policy development when needed." The RySG suggests that "all reports to the ICANN Board should be balanced, free of bias, and reflect the full spectrum of legislative and policy developments."

Based on the comments, improving transparency of the Board working group on RDS activities (R1.3) is perceived as a welcomed initiative.

With respect to outreach: while there is broad support for updating all of the information related to WHOIS (R3.1), including a NCSG suggestion that ICANN hire a librarian to assist those who seek information, organize material and preserve legacy, concerns were raised on identifying groups outside of those that routinely engage with ICANN organization, for targeted outreach (R3.2). The RrSG supports the recommendation but cautions against costs and increase of the ICANN budget costs. The NCSG questions the need for this outreach and believes the level of priority (high) the RDS-WHOIS2 assigned to this recommendation is inappropriate "given the lack of readiness of the data, and the current limbo situations with respect to any replacement for WHOIS or RDAP implementation."

There are divergent opinions on the recommendation that ICANN Contractual Compliance be directed to proactively monitor and enforce registrar obligations with regard to RDS (4.1), recommendation R4.2 on detecting patterns of failure and recommendation R5.1 on the Accuracy Reporting System. The BC, IPC and ALAC stress the importance of a more proactive stance. For instance, the IPC comments: "The IPC supports any recommendation to require Compliance to proactively investigate using all data sources available to detect systemic information failure." The ALAC suggests that ICANN Compliance should not be just responding to individual complaints and that this "also aligns with recent discussions during ICANN66 on domain name abuse." The BC believes that "Compliance should proactively review and cross-reference all sources of information to investigate and mitigate systemic inaccuracy abuse" and adds that "proactive investigation using all the data sources available to detect systemic abuse should be a routine function of the Compliance team." The GAC stresses its strong support for this set of recommendations and "urges the ICANN Board, ICANN org and Contracted parties to act decisively to address the wide-spread and long-standing issue of WHOIS data inaccuracy."

Additionally, the GAC notes that a decade of data and analysis on WHOIS inaccuracy warrants concerns of a systemic issue, WHOIS data accuracy supports Security and Stability of the DNS, WHOIS Data Accuracy is not a sole responsibility of the Registrant, effective Contractual Compliance enforcement is critical, and proactive monitoring of WHOIS Accuracy must continue, at scale. The sentiment that WHOIS data accuracy is essential to the security and stability of the DNS is also shared by both the BC and IPC. For instance: the IPC believes that "ICANN remains responsible for the security and stability of the internet. In furtherance of this obligation, maintaining access to registrant data and ensuring the accuracy and quality of this data is paramount for ICANN to uphold its obligations." The BC echoes this: "although GDPR and the Temp Spec have impacted the ability to review accuracy and quality of registrant data, it remains a core ICANN responsibility to ensure the stability and security of the internet" and notes that "ICANN therefore must have access to the registrant data and play a central role in its availability, accuracy and integrity." In contrast, the

RrSG feels R4.1 and R4.2 are “not supported by corresponding data showing the existence of ‘systemic issues.’”

The RrSG does not support R4.1 as it views it as “creating more risk by trying to place ICANN Compliance into a more investigative role digging through data without justification” and adds that “RDS accuracy is an obligation of the registered name holder (RNH).” The NCSG believes “the current EPDP continues to demonstrate the failure to understand accuracy obligations under data protection law and recommends dropping this idea as “proactively” could easily be construed as without sufficient cause.” Additionally, the NCSG finds “no merit in ramping up monitoring” and adds that “routine sampling is expensive, at a time of falling revenues.”

The RrSG and NCSG also raise issues with R4.2. The NCSG feels that “given the burden on the contracted parties to implement the outcome of the EPDP, including compliance with a potential SSAD, this is not appropriate as a recommendation.” It also recommends deferring “work on determining what needs to happen with the compliance function until the dust has settled on the Temp Specification and the GDPR compliance requirements” and in the context of 4.2, suggests “holding off on recommending new expenses (e.g. audits) until the new workload of the compliance team has been determined” given that the RAA will be under review because of GDPR. The RrSG feels that R 4.2 could be interpreted broadly, triggering unnecessary and burdensome audits without actual evidence of non-compliance. With respect to the data accuracy (R5.1), the NCSG does not accept this recommendation: “it believes the understanding of ‘accuracy’ is inconsistent with data protection law” and that there is “no merit in developing new accuracy recommendations when the entire data set for publication is about to change.” Similarly, the RySG observes that R5.1 overlaps with work that is being conducted elsewhere within the ICANN community and advises the Board to take stock of similar work that is already taking place and “refrain from duplicating efforts unnecessarily.” The RrSG offers conditional support for R5.1 and sets a list of items to address.

On the Privacy Proxy services, three contributors (BC, IPC, GAC) raise concerns that relate to abuse and security, stability of the DNS. The BC believes there are important pieces of the Privacy Proxy Services Accreditation Issues Working Group (PPSAI) that “should be implemented immediately” and notes that since the implementation of GDPR “there is dramatic increase in privacy proxy registrations” and “little recourse to gain access to this essential information beyond a formal legal proceeding.” Similarly, the GAC recognizes a “correlation between the use of privacy and proxy services and DNS Abuse” and calls for “this recommendation, as well as the implementation of the PPSAI policy, to be considered as a matter of urgency.” The IPC adds that “some registrars are moving large numbers of registrations into their privacy/proxy services in order to avoid the redaction obligations required by the Temporary Specification” and that this “results in the need for formal legal proceedings to obtain it.” The IPC considers this to be “untenable, as it facilitates abuse in the DNS.” The IPC therefore believes this implementation should be a high priority.

However, these views are not shared by the RrSG, NCSG, and RySG. The RrSG, with support from NCSG, objects to this recommendation as it believes it will create a duplicative validation. Additionally, it rejects any recommendation attempting to dictate contractual language and clarifies that “contracts are the sole remit of ICANN and the contracted parties.” The NCSG expresses “great concern” with the costs of running this service and adds that the “first recommendation on Privacy Proxy Services would be to do a financial review to ensure that the results of the (Implementation Review Team) IRT have not forced the service out of the marketplace.” The RySG finds overlap with community-developed policies that are in place or in the process of being implemented for this recommendation and advises the ICANN Board” to not create new policy or trump existing policies that have been developed through the bottom-up multistakeholder process.”

While there is broad support for deferring (R10.2) assessment of the effectiveness of WHOIS Policy Review Team Recommendation#10 on privacy/proxy services, the NCSG advises a fresh start on

the subsequent review team as it believes most recommendations will not be relevant in the new system developed by the EPDP and is concerned that it would be a waste of money to do otherwise.

With respect to the recommendation on metrics and common interface displays (R11.1 and R11.2), the ICANN organization observes a diversity of viewpoints among the commenters. The GAC supports data-gathering and believes that the ICANN Community “is presented with a unique opportunity in the ongoing policy development regarding the System for Standardized Access/Disclosure of non-public registration data, to leverage the potential centralization of some processing of registration data to incorporate appropriate mechanisms for data quality reporting.” The RySG, on the other hand, is unclear on if or how the SLAs mentioned in R11.1 “for the common RDS lookup interface would overlap with the SLAs registries and registrars must meet in responding to RDAP queries” and calls for consideration before “ICANN Org determines which metrics to measure around the interface.” Furthermore, the NCSG observes that R11.1 may be redundant after the SSAD is developed” and suggests that it be dropped “given the state of flux of data returned in response to queries,” suggesting that “defining metrics is a low priority at the moment.” The ALAC is of the opinion that both recommendations are important and that “although GDPR has reduced the amount of information publicly available, [...] maintaining full functionality is required” and “the portal must provide all available information in a clear and usable fashion.” The RrSG, supported by NCSG, feels “there is more risk associated with this recommendation than any resulting benefit” but supports this recommendation “if ICANN plans to be the sole controller of the common interface and will be responsible/liable for pulling the data to create it” [...] and “is comfortable with risk and its ability to comply with applicable laws.”⁴¹ The RySG observes that this overlaps with work that is being conducted elsewhere within the ICANN community and advises the ICANN Board to take stock of similar work that is already taking place and refrain from duplicating efforts unnecessarily. It further notes that “once the RDAP protocol is adopted by registries and registrars, ICANN should use RDAP as the underlying protocol to support the functionality of this interface, and eventually work towards retiring the WHOIS protocol for this feature.”

There is general alignment in the comments that assessment of WHOIS Policy Review Team recommendations #12-14 on Internationalized Registration Data should be deferred. For instance, the ALAC recognizes that “such an evaluation will only be possible after the adoption of the new Registration Data Access Protocol (RDAP).”

No concerns were raised on R15.1 that suggests implementation of RDS-WHOIS2 Review Team recommendations be based on best practice project management methodology. It should be noted that the RySG cautions against reporting burdens on contracted parties.

With respect to data gathering initiatives pertaining to law enforcement, while ALAC supports surveys and information gathering and views the team’s findings with regards to law enforcement as very important, and GAC confirms its support for the use of surveys and information gathering including surveying non-law enforcement cyber security practitioners to help mitigate all forms of crime and of cybersecurity threats to the DNS, others raise disagreements. The NCSG opposes the recommendation LE.1 “given the response burden expected following EPDP” and reiterates that there is “no reason for ICANN to spend research money on this issue.” ICANN org also notes that the RySG cautions that “surveys often result in a response bias, where only those parties interested in a certain topic take the time to respond to the survey” and calls for ICANN to seek out ways to ensure that it is gathering data from a broad and truly representative cross-section of law enforcement.” Furthermore, the RySG suggests that “ICANN must ensure that any studies or surveys directed to contracted parties are either voluntary or based on an explicit requirement in the parties’ agreements with ICANN.” The RrSG, notes that “LEA needs in the past often seemed to go beyond the scope of RDS services provided by contracted parties and relied on the use of third-party

⁴¹ A team, which includes members from ICANN org and Contracted Parties has been meeting to discuss roles and responsibilities under the GDPR. The outcome of these discussions is still pending, and the status of ICANN’s controllership is still under review by this team.

data mining/data scraping services; so surveys may not correctly reflect the effectiveness of RDS services alone.” The RrSG does not support “including parties who work with LEAs in any survey or attempting to equate the needs of those who work with LEA to the actual needs of LEA,” and feels the “expansion of such a survey to third parties who have not been empowered by regulation or statute with legal enforcement or investigatory powers and legal rights is highly dubious.” The RrSG adds that “LEAs only have powers within their territory/local jurisdiction and registrars/registries must follow the rules of law within their jurisdiction(s).” The NCSG believes that “given the flux of GDPR compliance, no action on surveys of law enforcement satisfaction should be taken until the state of registrant data access is stabilized.” The NCSG also calls for clarity on “who pays for the research.”

ICANN org notes that one responder has a concern on the safeguarding registrant data related recommendation (SG.1). The RySG believes the recommendation bleeds into compliance with data protection laws and should be handled between ICANN Org and the contracted parties directly. The RrSG, with support from NCSG, has no issue with these requirements “with the assumption that any update of contracts will not be extended to anything outside of them” and adds that “such requirements should be general, not specific and merely reference best practice legal regulations such as the GDPR.” In contrast, the BC feels that data breach reporting is “critical for the protection of registrant data,” and recommends it to be a requirement; a sentiment echoed by IPC which considers tracking minimal data on data breaches to be a “simple but necessary step” in further protecting registrant data, others raise issued.

On the recommendation CC.1 pertaining to suspension: while the initiative is supported by a majority of commenters - for instance, the IPC views this as “a simple and effective means for encouraging rapid correction of RDS information and/or keeping bad actor domains out of the system - and is considered by the BC and IPC as helpful in collecting metrics on inaccuracy, the RySG expressed concerns about feasibility and the RrSG (with support from NCSG), while in support of the recommendation, cautions against “the notion of the Review Team dictating contractual terms.”

With respect to the contact details related recommendation CC.2, the BC notes that “according to EPDP discussions, registrant data may be the only information that will be required to collect in the near future and adds that “this could result in no email address or phone number in the registrant data record for 30% of the legacy TLDs, an unacceptable outcome.” The recommendation is considered by the RrSG, with support from NCSG, as “very problematic.” According to the RrSG statement, “ARS studies have shown that grandfathered domains are already decreasing steadily on its own, illustrating that there is no strong need for a complete removal of grandfathering privileges for pre-2013 RAA domain names, which would create significant implementation issues for both registrars and registrants.” The RrSG further adds that: “The RT also does not demonstrate any reasonable fact-based need for removing the grandfathering rules. If an existing registration that predates the adoption of the 2013 RAA by the sponsoring registrar is not causing any issue, there needs to be a compelling reason to impose sanctions.” The RySG finds overlaps with community-developed policies that are in place or in the process of being implemented for this recommendation and advises the ICANN Board to “not create new policy or trump existing policies that have been developed through the bottom-up multistakeholder process.”

There is general recommendation for recommendation CC.3 on ensuring that ICANN Contractual Compliance be adequately resourced. For instance, the IPC feels that it “remains critical for the Compliance team to be adequately staffed and resourced to fulfill its important function in furtherance of ICANN’s mission, including the added elements outlined in the Final Report and reinforced in these comments.” In the context of this recommendation, the GAC highlights the “importance of adequate access to non-public registration data for ICANN Contractual Compliance consistent with interim and future registration data policy for gTLDs.”

On recommending that the GNSO adopt a risk-based approach, there were no concerns expressed with recommendation CC.4, with the exception of the RySG, which finds overlap with community-

developed policies that are in place or in the process of being implemented. The RySG advises ICANN Board to “not create new policy or trump existing policies that have been developed through the bottom-up multistakeholder process.”

Finally, on the recommendation (BY.1) suggesting amendments to the Bylaws associated with the Registration Directory Service Review, there are no concerns to be noted.

Commenters did not comment nor were required to provide input on all recommendations. The information in the table below was assembled based on comments with a clear indication of support, objection or concern for specific recommendations and was designed to help readers visualize and navigate through level of support. The table is not meant to be a substitute for reviewing the full text of the comments.

S: contributor indicates support for recommendation NS: Does not support recommendation, or components of the recommendation, or has concerns /: No input provided CS: Conditional Support	RrSG	BC	RySG	ALAC	GAC	IPC	NCSG	SM	JOB	TOTAL			
										Yes	No	/	Total
Supports All Final Recommendations	No	Yes	No	Yes	Yes	Yes	No	/	/	4	3	2	9
	RrSG	BC	RySG * mirroring RrSG submission on RDS-WHOIS2 Draft Report, consistent with statement that agrees with comments	ALAC	GAC	IPC	NCSG * mirroring RrSG submission on RDS-WHOIS2 Final Report, consistent with statement that agrees with comments	SM	JOB	S	NS	/	CS
R1.1	S	S	S*	S	S	S	S*	/	/	7	0	2	0
R1.2	S	S	S	S	S	S	S*	/	/	7	0	2	0
R1.3	S	S	S*	S	S	S	S	/	/	7	0	2	0
R3.1	S	S	S*	S	S	S	S*	/	/	7	0	2	0
R3.2	S	S	S*	S	S	S	NS	/	/	6	1	2	0
R4.1	NS	S	NS*	S	S	S	NS	/	/	4	3	2	0
R4.2	CS	S	CS*	S	S	S	NS	/	/	4	1	2	2
R5.1	CS	S	NS	S	S	S	NS	/	/	4	2	2	1
R10.1	NS	S	NS	S	S	S	NS*	/	/	4	3	2	0

R10.2	S	S	S*	S	S	S	NS	/	/	6	1	2	0
R11.1	S	S	NS	S	S	S	NS	/	/	5	2	2	0
R11.2	CS	S	NS	S	S	S	S	/	/	5	1	2	1
R12.1	S	S	S*	S	S	S	S*	/	/	7	0	2	0
R15.1	S	S	CS	S	S	S	NS	/	/	5	1	2	1
LE.1	NS	S	CS	S	S	S	NS	/	/	4	2	2	1
LE.2	NS	S	NS*	S	S	S	NS	/	/	4	3	2	0
SG.1	CS	S	NS	S	S	S	CS*	/	/	4	1	2	2
CC.1	NS	S	NS	S	S	S	NS*	/	/	4	3	2	0
CC.2	NS	S	NS	S	S	S	NS*	/	/	4	3	2	0
CC.3	/	S	/	S	S	S	/	/	/	4	0	5	0
CC.4	S	S	NS	S	S	S	S*	/	/	6	1	2	0
BY. 1	CS	S	CS*	S	S	S	CS*	/	/	4	0	2	3

Reference: RDS-WHOIS2 RT recommendations from the 03 September 2019 Final Report

REC #	Recommendation	RT Priority
R1.1	To ensure that RDS (WHOIS) is treated as a strategic priority, the ICANN Board should put into place a forward-looking mechanism to monitor possible impacts on the RDS (WHOIS) from legislative and policy developments around the world.	High
R1.2	To support this mechanism, the ICANN Board should instruct the ICANN organization to assign responsibility for monitoring legislative and policy development around the world and to provide regular updates to the ICANN Board.	High
R1.3	The ICANN Board, in drafting the Charter of a Board working group on RDS, should ensure the necessary transparency of the group's work, such as by providing for records of meetings and meeting minutes, to enable future review of its activities.	Medium

R3.1	<p>The ICANN Board should direct the ICANN organization to update all of the information related to RDS (WHOIS) and by implication other information related to the registration of second-level gTLDs domains. The content should be revised to make the information readily accessible and understandable, and it should provide details of when and how to interact with ICANN organization or contracted parties. Although not the sole focus of this recommendation, interactions with ICANN organization Contractual Compliance, such as when filing WHOIS Inaccuracy Reports, should be a particular focus. The revision of this web documentation and instructional material should not be undertaken as a purely internal operation but should include users and potentially focus groups to ensure that the final result fully meets the requirements. The resultant outward facing documentation of registrant and RDS (WHOIS) issues should be kept up to date as changes are made to associated policy or processes.</p>	Medium
R3.2	<p>With community input, the ICANN Board should instruct the ICANN organization to identify groups outside of those that routinely engage with ICANN organization, and these should be targeted through RDS (WHOIS) outreach. An RDS (WHOIS) outreach plan should then be developed, executed, and documented. There should be an ongoing commitment to ensure that as RDS (WHOIS) policy and processes change, the wider community is made aware of such changes. WHOIS inaccuracy reporting was identified as an issue requiring additional education and outreach and may require a particular focus. RDS (WHOIS) outreach should be included when considering communications in underserved regions. The need for and details of the outreach may vary depending on the ultimate General Data Protection Regulation (GDPR) implementation and cannot be detailed at this point.</p>	High
R4.1	<p>The ICANN Board should initiate action to ensure ICANN Contractual Compliance is directed to proactively monitor and enforce registrar obligations with regard to RDS (WHOIS) data accuracy using data from incoming inaccuracy complaints and RDS accuracy studies or reviews to look for and address systemic issues. A risk-based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.</p>	High
R4.2	<p>The ICANN Board should initiate action to ensure that ICANN Contractual Compliance is directed to cross-reference existing data from incoming complaints and studies such as the ARS to detect patterns of failure to validate and verify RDS (WHOIS) data as required by the RAA. When such a pattern is detected, compliance action or an audit should be initiated to review compliance of the Registrar with RDS (WHOIS) contractual obligations and consensus policies.</p>	High

R5.1	The Accuracy Reporting System, which was instituted to address concerns regarding RDS (WHOIS) contact data accuracy, has demonstrated that there is still an accuracy concern and therefore such monitoring must continue. ICANN organization should continue to monitor accuracy and/or contactability through either the ARS or a comparable tool/methodology.	High
R10.1	The Board should monitor the implementation of the PPSAI. If the PPSAI policy does not become operational by 31 December 2019, the ICANN Board should ensure an amendment to the 2013 RAA (or successor documents) is proposed that ensures that the underlying registration data of domain name registrations using Privacy/Proxy providers affiliated with registrars shall be verified and validated in application of the verification and validation requirements under the RAA unless such verification or validation has already occurred at the registrar level for such domain name registrations.	Low
R10.2	Reviewing the effectiveness of the implementation of WHOIS1 Recommendation #10 should be deferred. The ICANN Board should recommend that review be carried out by the next RDS (WHOIS) Review Team after PPSAI Policy is implemented	Low
R11.1	The ICANN Board should direct the ICANN organization to define metrics or SLAs to be tracked and evaluated to determine consistency of results of queries and use of any common interface (existing or future) used to provide one-stop access to registration data across all gTLDs and registrars/resellers. Specific metrics that should be tracked for any such common interface include: <ul style="list-style-type: none"> ● How often are RDS (WHOIS) fields returned blank? ● How often is data displayed inconsistently (for the same domain name), overall and per gTLD? ● How often does the tool not return any results, overall and per gTLD? ● What are the causes for the above results? 	Low
R11.2	Reviewing the effectiveness of the implementation of Recs #12-14 should be deferred. The ICANN Board should recommend that review to be carried out by the next RDS Review Team after RDAP is implemented, and the translation and transliteration of the registration data launches	Low
R15.1	The ICANN Board should ensure that implementation of RDS-WHOIS2 Review Team recommendations is based on best practice project management methodology, ensuring that plans and implementation reports clearly address progress, and applicable metrics and tracking tools are used for effectiveness and impact evaluation.	Medium

LE.1	The ICANN Board should resolve that ICANN organization conduct regular data gathering through surveys and studies to inform a future assessment of the effectiveness of RDS (WHOIS) in meeting the needs of law enforcement. This will also aid future policy development (including the current Temporary Specification for gTLD Registration Data Expedited Policy Development Process and related efforts).	High
LE.2	The ICANN Board should consider conducting comparable surveys and/or studies (as described in LE.1) with other RDS (WHOIS) users working with law enforcement on a regular basis.	High
SG.1	The ICANN Board should require that the ICANN org, in consultation with data security and privacy expert(s), ensure that all contracts with contracted parties (to include Privacy/Proxy services when such contracts exist) include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in the event of any data breach. The data security expert(s) should also consider and advise on what level or magnitude of breach warrants such notification. In carrying out this review, the data security and privacy expert(s) should consider to what extent GDPR regulations, which many but not all ICANN contracted parties are subject to, could or should be used as a basis for ICANN requirements. The ICANN Board should initiate action intended to effect such changes. The ICANN Board should consider whether and to what extent notifications of breaches that it receives should be publicly disclosed.	Medium
CC.1	The ICANN Board should initiate action intended to ensure that gTLD domain names suspended due to RDS (WHOIS) contact data which the registrar knows to be incorrect, and that remains incorrect until the registration is due for deletion, should be treated as follows: (1) The RDS (WHOIS) record should include a notation that the domain name is suspended due to incorrect data; and (2) Domain names with this notation should not be unsuspended without correcting the data	High
CC.2	The ICANN Board should initiate action intended to ensure that all gTLD domain name registration directory entries contain at least one full set of either registrant or admin contact details comparable to those required for new registrations under the 2013 RAA (or any subsequent version thereof) or applicable policies.	Medium
CC.3	The ICANN Board should take steps to ensure that ICANN Contractual Compliance is adequately resourced factoring in any increase in workload due to additional work required due to compliance with GDPR or other legislation/regulation.	High
CC.4	The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies.	Low

BY.1	The ICANN Board should take action to extend the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii) and replace section 4.6(e)(iii) of the ICANN Bylaws (which refers to the OECD Guidelines) with a more generic requirement for RDS (WHOIS) Review Teams to assess how well RDS (WHOIS) policy and practice addresses applicable data protection and cross border data transfer regulations, laws and best practices.	Medium
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