

The following is the draft statement of the Registrar Constituency. It has not yet gone to a vote, nor does it have the consensus of the Constituency as certain parts of the statement remain under dispute among the registrars that have participated in the on-line discussion. The statement does, however, represent the broad outlines of the Constituency's thinking regarding TF 2 issues.

The recent data collection of Task Force (TF) 2 and the analysis of a sample of existing national privacy regulations and domain name registries' policies has shown that there is an increasing awareness of privacy rights in an increasing number of countries all around the world. Depending on the countries' cultural and historical perspectives, their views with respect to what is allowed or appropriate in terms of privacy vary. This variety of views does not allow to find a common denominator that would allow a "one size fits all" policy. Instead, it requires local and national rules in order to truly enable and promote international competition, per ICANN principles. As a consequence, the general rule should be that:

No Registrar should be forced to breach its local laws regarding the collection, display and distribution of personal data in order to be able to provide ICANN approved domain registrations, regardless of whether the WHOIS service is provided by such registrar or another party under agreement with such registrar.

Enabling and promoting competition - per the ICANN principles - would not allow the disadvantaging of any registrar. A registrar may be disadvantaged in this way if a customer were to transfer his domain names away to a registrar in a "better protected jurisdiction." Therefore a uniform low standard for the display of WHOIS data must be set, unless local legislation prohibits doing so. Both the data fields and the format must be standardized, although technical standardization for the formatting can be left to bodies like the IETF.

Another such disadvantage is the Bulk whois obligation. According to a recent presentation by George Papapavlou, Bulk whois is not acceptable under the EU Privacy Directive and in many other jurisdictions and can not be enforced in those countries. Therefore, TF 2 should recommend striking this obligation in order to establish a level playing field for all registrars world-wide.

The issue of which data elements should be published on the whois has been passionately discussed over the last several months, with many good reasons brought forth both by the parties claiming to need the data for various legitimate uses, as well as those advocating that personal data should not be displayed due to the potential misuse.

After much discussion, registrars have found a solution that balances these viewpoints. The ways the data is accessed and used makes it impossible to control. In fact the data subject does not know what happens to his data and is actually disadvantaged in comparison with the data user. Consequently, it would be a big step in the right direction if access to sensitive whois data would not be anonymous, but that the party requesting the data identify itself and its use of the data in a reliable and standardized manner before extensive personal data is revealed.

Following this reasoning WHOIS access can be divided into three levels:

- 1. Data displayed to an anonymous user*
- 2. Data displayed to a known user for a known use*
- 3. Data displayed to an administrative entity like a Registrar*

All of these levels have to be treaded in a different way to maintain the balance at one hand and allow administrative actions on the other.

1. Data displayed to an anonymous user

Data displayed to an anonymous user should consist out of the following elements unless the Registrant or Registrar decides to provide more data:

- 1.1 Name of the Registrant
- 1.2 Country of the Registrant
- 1.3 Name of the Admin-C
- 1.4 Country of the Admin-C
- 1.5 Name of the Technical Contact
- 1.6 Country of the Technical Contact
- 1.7 Point of contact of the Technical Contact i.e. a website.
- 1.8 Nameserver names
- 1.9 Registrar of Record
- 1.10 Creation date
- 1.11 The non-auto renewed expiration date
- 1.12 The date were the WHOIS information last changed
- 1.13 The domain name itself

Having in mind the different uses the whois data is subject to nowadays, it is the general view of the Registrar Constituency that the whois service was originally established solely to facilitate contacts for technical reasons. This "basic functionality" must be preserved, but can be accomplished by less privacy intrusive methods, such as website access.

2. Data displayed to a known user with known use

Data displayed to a known user with known use should consist out of the following elements, unless the Registrant or Registrar decides to provide more data:

- 2.1 Name of the Registrant
- 2.2 Postal Address of Registrant
- 2.3 Name of Admin-C
- 2.4 Postal Address of Admin-C
- 2.5 Name of the Technical Contact
- 2.6 Postal Address of the Technical Contact
- 2.7 Email Address of the Technical Contact
- 2.8 Telephone number of the Technical Contact
- 2.9 Nameserver information
- 2.10 Registrar of record
- 2.11 Creation date
- 2.12 The non-auto renewed expiration date
- 2.13 The date were the WHOIS information last changed
- 2.14 The domain name itself

It shall be mentioned that not all uses of the data as well as the system are permissible and can be ground for an exclusion of a user from the system. A list of such impermissible uses should be recommended by the Taskforce.

3. Data displayed to an administrative entity like a Registrar or Registry

This level should not be viewed as whois data, but as data necessary for administrative means like transfers. Potentially the data would not be displayed through the whois service, but made available to the administrative entity by other services or protocols like EPP. To ensure that all needed data is readily available, such a service must provide at least the following elements

- 3.1 Name of the Registrant
- 3.2 Postal Address of the Registrant
- 3.3 Email Address of the Registrant
- 3.4 Name of the Admin-C
- 3.5 Postal Address of Admin-C
- 3.6 Email Address of the Registrant
- 3.7 Name of the Technical Contact
- 3.8 Postal Address of the Technical Contact
- 3.9 Email Address of the Technical Contact
- 3.10 Telephone number of the Technical Contact
- 3.11 Nameserver information
- 3.12 Registrar of record
- 3.13 Creation date
- 3.14 The non-auto renewed expiration date
- 3.15 The date were the WHOIS information last changed
- 3.16 The domain name itself