

# Noncommercial Users Constituency

Presentation at  
ICANN's Whois Workshop

October 29, 2003

Kathryn A. Kleiman, Esq.

Co-Founder, Noncommercial Users Constituency (NCUC). With input from NCUC, Electronic Frontier Foundation, American Civil Liberties Union, and Electronic Privacy Information Center

# Whois Record: 21 Years Old

21 years ago, NSFNET connected large users:  
large research institutions, large universities and  
large U.S. defense contractors.

Today, the Internet is diverse and expanding and the  
majority of Internet users are small:

- Small Noncommercial Organizations
- Small & Home-based Businesses
- Individuals.

# Domains Names: Used by All

Large or small, we all use domain names for our expression.

Domain names are our street signs of our communication on the Internet.

# Montreal Established a Few Basic Principles

At the Montreal meeting, we learned that domain name owners are protected by national laws.

Their rights include:

- Personal Privacy &
- Freedom of Expression

... rights often in conflict with the complete exposure of personal information in the Whois record.

# Whois Records Today: Require Personal Data

Briefly, the Montreal meeting highlighted that the data elements of the registrant field (with name, home address, email and home phone number) conflict with the privacy laws of many countries.

The privacy concerns are also a matter of common sense:

*“Anyone with Internet access can now have access to WHOIS data, and that includes stalkers, governments that restrict dissidents' activities, law enforcement agents without legal authority, and spammers.”*

(Letter to Paul Twomey yesterday from Electronic Privacy Information Center and over 46 civil liberties organizations/ over 21 countries)

## Whois Records Today: Require Disclosure of Identity

Further, the domain name registration process requires as a “condition of entry” that we disclose our identities before we can share our personal and noncommercial websites, including:

- our family pictures,
- our hobbies, and
- our deeply held human rights concerns.

Such disclosure requirements also conflict with national law and world history.

*“Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind....the interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest in requiring disclosure as a condition of entry.”*

*McIntyre v. Ohio Elections Commission*, U.S. Supreme Court, 1995.

# No Quick Fixes: Proxy Services Don't Solve the Problem

Wendy Seltzer (Electronic Frontier Foundation) asked me to tell you:

*“Proxy or escrow services, proposed by many as a privacy solution, have not developed to fill the gap. They do not work in practice, giving up the names of their clients on a mere request; and even in theory they are a poor second-best for registrants seeking full control of their identities. The public deserves better.”*

**Thomas Keller (German registrar) said in Montreal:**

*“Privacy is a right, not a service.”*

What can we do now?

What data elements do we really need in  
a Whois Record?

# Technical Contact Still Needed

ICANN's Security and Stability Advisory Committee reported in February that technical contacts are needed for security and stability of the Net.

But the report also noted that Whois records "must also protect a registrant's privacy."

*Stability, security and privacy are not incompatible goals.*

How do we put all these ideas together?

What data elements do we need in a New  
WHOIS Record?

# Today's Whois Record

Domain Name

Creation Date, Registration Date, Expiration Date,

Domain Name Registrant: *[Personal Data for Small User]*  
Name, Address, Email, Phone

Administrative Contact: *[Same Personal Data for Small User]*  
Name, Address, Email, Phone, Fax

Technical Contact:  
Name, Address, Email, Phone, Fax

Name Servers

# New and Improved WHOIS Record

Domain Name

Technical Contact: *[Webhost, ISP, Registrar, Other]*  
Name, Address, Email, Phone, Fax

Registrar Contact: *[New Field]*  
Name, Address, Email, Phone, Fax

Registry Contact: *[New Field]*  
Name, Address, Email, Phone, Fax

Name Servers

## New Whois: Many Advantages

Multiple technical contacts to quickly resolve problems  
(Protects Internet Stability and Security)

Customer data for Registrars is confidential  
(Protects against invalid DNS renewal notices)

No global disclosure of personal data  
(Protects privacy, free expression & due process).