

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Final Outcomes Report of the WHOIS Working Group

STATUS OF THIS DOCUMENT

This is Version 1.8 of the Outcomes Report of the WHOIS Working Group.

26	TABLE OF CONTENTS	
27	EXECUTIVE SUMMARY	3
28	INTRODUCTION	8
29	SECTION 1 OBJECTIVE	11
30	SECTION 2 – WHAT IS THE OPERATIONAL POINT OF CONTACT (OPOC)?	13
31	2.1 Who may be an OPOC?.....	13
32	2.2 How does the OPOC relate to the Registrant?.....	14
33	2.3 Is there a need for some form of verification of the OPOC?	15
34	2.4 Consent to be an OPOC.....	17
35	2.5 Proxy Services	19
36	2.6 OPOC and the tech/admin contacts.....	20
37	SECTION 3 – THE ROLE AND RESPONSIBILITIES OF THE OPOC	22
38	3.1 RELAY.....	22
39	3.2 REVEAL	25
40	3.3 REMEDY	28
41	SECTION 4 – COMPLIANCE AND ENFORCEMENT	30
42	SECTION 5 – TYPE OF REGISTRANT AND DISPLAY IMPLICATIONS.....	32
43	5.1 Universality of OPOC	32
44	5.2 Distinction between natural and legal persons	32
45	SECTION 6 – ACCESS TO UNDISPLAYED DATA RECORDS.....	34
46	6.1 Access to the displayed WHOIS records.....	35
47	6.2 One-time access to a specified un-displayed data record	35
48	6.3 Regular query-based access to un-displayed data records.....	35
49	6.4 Full access to displayed and un-displayed records	36
50	6.5 Is there any need for Access?	37
51	6.6 Do those needing access require authentication?	38
52	6.7 Should any Access services be chargeable?	40
53	SECTION 7 – DISCUSSION OF REJECTED OPTIONS.....	41
54	7.1 OPOC accreditation by ICANN.....	41
55	7.2 Distinction between Commercial and Non-Commercial Registrants	41

56	SECTION 8 – FEASIBILITY STUDIES	42
57	ANNEX 1 – WHOIS DATA DISPLAY OPTIONS.....	43
58	ANNEX 2 – GLOSSARY OF WHOIS TERMINOLOGY	47
59	ANNEX 3 – RECORD OF ATTENDANCE	52
60	ANNEX 4 – STATEMENTS OF INTEREST	55

61 **EXECUTIVE SUMMARY**

62 **Background and introduction**

63 The WHOIS Working Group Outcomes Report (Report) was prepared in
64 response to the GNSO Resolution of 28 March 2007, which created a WHOIS
65 Working Group (WG) to examine three issues and to make recommendations
66 concerning how current policies may be improved to address these issues:

- 67 **#1.** to examine the roles, responsibilities, and requirements of the operational
68 point of contact, and what happens if they are not fulfilled;
69 **#2.** to examine how legitimate interests will access unpublished registration data;
70 **#3.** to examine whether publication of registration contact information should be
71 based on the type of registered name holder (legal vs. natural persons) or the
72 Registrant's use of a domain name.

73

74 The WG included 70 participants representing users, service providers and
75 interests such as public law enforcement. The WG did not conduct votes. The
76 Report includes statements of agreement, support and alternative views,
77 explained further in the report. The Report also identifies implementation options
78 (for ICANN staff or third parties) after completion of the WG's tasks. This
79 summary is no substitute for reading the Report nor is it intended to re-
80 characterize discussions or conclusions set forth in the Report.

81

82 **Working group objectives: The public interest: balancing privacy and harm**

83 In examining the OPOC proposal, the WG sought an outcome that would
84 improve the privacy aspects of WHOIS services for natural persons and the

85 ability of legitimate parties to respond in a timely manner against fraud and other
86 illegal acts by certain Registrants acting in bad faith. The Report notes that many
87 data privacy laws include exceptions that allow disclosure (including criminal, civil
88 and administrative procedures) to prevent harm or for other compelling public
89 interests. The WG sought to be consistent with typical exceptions provided by
90 privacy laws around the globe.

91

92 **#1 – Key responsibilities and requirements of the OPOC, and what happens**
93 **if they are not fulfilled**

94 The purpose of the OPOC is to provide a point of contact in lieu of the Registrant.
95 As a threshold matter, the Report notes that implementing an OPOC would
96 change the way certain data is collected, displayed and accessed, resulting in
97 increased costs for service providers and delays for Requesters, compared with
98 the status quo.

99

100 Examination of role and responsibilities of the OPOC

101 The WG Report identifies three roles the OPOC might perform. The OPOC must
102 have accurate contact information for the Registrant to perform these functions.
103 The first function would be to relay requests from a Requester to a Registrant.
104 The WG agreed that the OPOC must relay requests in a timely manner and meet
105 certain key implementation requirements. The second function would be to reveal
106 unpublished information about natural persons in a timely manner when there is
107 reasonable evidence of actionable harm; or reasonable evidence of inaccurate
108 WHOIS data; or when relay fails after a specified period of time. Concerns
109 include potential conflicts with national law, cost impact vis-à-vis direct access to
110 Registrars, and differing views about the specific conditions under which this
111 function should be performed. The third potential function is to have responsibility
112 for determining and implementing a remedy, but only when the Registrant
113 consents. Note alternative views, Sec. 3.2 and 3.3.

114

115 Examination of characteristics and requirements of the OPOC

116 The WG agreed on many characteristics and requirements of the OPOC. For
117 example, there may be up to two OPOCs, a Registrant, Registrar or third party
118 appointed by the Registrant, and all Registrants (legal and natural persons) must
119 appoint an OPOC. The OPOC would have a consensual relationship with the
120 Registrant and defined responsibilities. The WG also agreed that implementing
121 an OPOC may simplify contact information currently displayed in WHOIS.

122 The WG considered the need for verification to ensure functionality of the OPOC.
123 The Report rejects centralized accreditation of OPOCs as neither scalable or
124 practical given the potential number of OPOCs that might exist. The Report
125 identifies several concerns associated with verification, including the cost and
126 burden to Registrars and the timing of when verification should occur, if
127 implemented. Note supporting and alternative views, Sec. 2.3.

128

129 The WG also considered whether an OPOC needs to provide consent. The WG
130 agreed that the Registrant is ultimately responsible for naming a functional
131 OPOC and that a process to establish the consensual relationship between the
132 OPOC and the Registrant is required. There was support to require explicit
133 demonstration of OPOC consent and discussion about when and how consent
134 might be obtained. That said, the WG was concerned about the burdens that a
135 consent requirement might place on both Registrants and Registrars, if
136 implemented. Note supporting, alternative views, Sec. 2.4.

137

138 Examination of what happens if the OPOC's responsibilities are not fulfilled

139 The WG considered the compliance and enforcement aspects of the OPOC
140 proposal and the issues that arise when an OPOC fails to fulfil a designated role
141 or responsibility. The WG agreed that when an OPOC fails to act or to act within
142 a designated time to fulfil a relay or reveal request, the Requester may contact
143 the Registrar directly. The WG also discussed areas of concern, including who
144 should bear the cost when an OPOC fails to perform, whether web-site

145 suspension should be an option, and whether a mechanism should exist to
146 sanction OPOCs who repeatedly fail to perform. Note supporting and alternative
147 views, Sec. 4.

148

149 **#2 – How will legitimate interests access registration data no longer**
150 **published via WHOIS?**

151 If the OPOC proposal is implemented, the data records of certain Registrants
152 (natural persons) would no longer be published. Instead, Requesters of
153 information about natural persons would need to contact either the OPOC or the
154 Registrar. The responsibility of the OPOC for relaying requests and/or revealing
155 information is described above. The WG also considered the circumstances
156 under which WHOIS data might be accessed directly from a Registrar. The WG
157 discussed whether direct access to unpublished data via a Registrar should be
158 limited to certain entities, and whether various entities should be allowed different
159 types of access. The Report notes that private actors may need one-time access
160 to a specific, un-displayed record when there is “reasonable evidence of
161 actionable harm”, and may also need regular access to numerous, specific
162 records that are un-displayed. Access would need to be timely to be effective. In
163 addition to “record-specific” access needed by private actors, public law
164 enforcement entities may also need full access to the entire database. The WG
165 agreed there were circumstances where law enforcement entities must have both
166 record-specific and full access and where private actors must have record-
167 specific access as described above. Circumstances broadly include suspected
168 terrorism, fraud and other illegal activity, suspected consumer harm and
169 intellectual property infringement. The WG also discussed whether Registrars
170 may charge for direct access and concluded fees may be charged. Note
171 alternative views, Sec. 6.5.

172

173 The WG further considered whether Registrars should authenticate parties
174 requesting access. The Report notes concerns that authentication would

175 introduce delays and impose cost. The WG identified two potential authentication
176 mechanisms, self-declaration (accompanied by a challenge process and/or
177 penalties for misrepresentation), and third party authentication. The WG knew of
178 no globally scalable or cost-justifiable means of authentication and concluded
179 that the practicality and cost-effectiveness of authentication should be an area of
180 further study. Note areas of agreement, supporting views, alternative views and
181 implementation considerations, Sec. 6.6.

182

183 **#3 – Should publication of registration contact information depend on the**
184 **nature of the registered name holder (legal vs. natural persons) or its use of**
185 **a domain name?**

186 The WG agreed that the OPOC proposal would change WHOIS policy on
187 publication of data to distinguish between natural persons, where there would be
188 only limited public display of WHOIS records, and legal persons (company,
189 business, partnership, non-profit entity etc) for which there would be full display.
190 The WG felt that a distinction based on use was neither sufficiently timely at the
191 point of registration nor easily operational.

192

193 **Feasibility studies**

194 WG participants found it hard to resolve certain issues due to technical or legal
195 uncertainty. The Report suggests that certain studies be considered, including a
196 study of the costs that are likely to be incurred to implement aspects of the
197 OPOC proposal, a study of certain privacy implications of implementing an
198 OPOC, a study of possible authentication mechanisms, and a study on gTLD
199 registrants and registrations and the use and misuse of WHOIS data.

200 INTRODUCTION

201 Background

202 The GNSO Council voted on 28 March, 2007 to create a WHOIS working group
203 with a broad, balanced and representative membership, to take the output of the
204 WHOIS task force and carry out further work to address concerns raised by the
205 community and seek to reach greater consensus around improvements to the
206 WHOIS service. The group included members who were users as well as those
207 who provide them service (registrars, registries and ISPs). Moreover, the group
208 sought and achieved input from interests not previously engaged in GNSO
209 WHOIS groups: in particular the law enforcement public sector. The WHOIS
210 working group was expected to achieve a balance between providing contact
211 information adequate to facilitate timely resolution of any problems that arise in
212 connection with the Registered Name, and the need to take reasonable
213 precautions to protect data about any identified or identifiable natural person from
214 loss, misuse, unauthorized access or disclosure, alteration, or destruction.

215

216 Specifically, the WHOIS working group was asked to examine the issues raised
217 with respect to the policy recommendations of the task force and to make
218 recommendations concerning how those policies may be improved to address
219 these issues, namely:

- 220 a). "define the roles, responsibilities, and requirements of the operational point of
221 contact, and what happens if they are not fulfilled.
- 222 b). how legitimate interests will access registration data no longer published via
223 WHOIS, and
- 224 c). whether a distinction should be made between the registration contact
225 information published based on the nature of the registered name holder (for
226 example, legal vs. natural persons) or its use of the domain name."

227

228 The following WHOIS working group's Final Report is in response to the GNSO
229 Resolution of 28 March 2007. The report reflects a great deal of intelligent
230 collaboration by the working group: the Chair would like to thank the participants
231 for their significant efforts and important contributions.

232

233 **Status of statements and description of consensus-building conventions**

234 Unless otherwise stated, every statement in this report is an agreed description
235 or assertion of the WHOIS working group. The total number of group members
236 was large (70) representing a significantly broad set of opinion. Participants were
237 assumed to be speaking only for their organisations (or themselves) unless they
238 explicitly stated they spoke for a wider or constituency interest. Some statements
239 are preceded by the term AGREED. These statements are an agreed policy
240 recommendation of this group. Some statements are qualified by a
241 characterisation of SUPPORT or ALTERNATIVE VIEW. The group did not
242 conduct votes. Points of agreement are noted based on the majority outcome of
243 a series of issue-based discussions, held either by telephone conference or at
244 one physical meeting, subsequently subject to group review.

245

246 The working group used the following conventions:

247 **Agreed** – there is broad agreement expressed by the contributing members of
248 the working group though not necessarily unanimity. (This agreement is majority
249 based and no attempt has been made to categorise agreement by interest group
250 because participation had not been solicited nor organised by interest group);

251 **Support** – there is a gathering of positive opinion, but a range of alternative
252 views exist and broad agreement has not been reached;

253 **Alternative views** – differing opinions expressed in relation to the
254 characterisations of Support or Agreed, or opinions about other Alternative views.

255

256 Implementation options are shown in box. These are intended to be addressed
257 by ICANN staff or third parties after completion of the tasks of this working group.

258 The ultimate authority to determine the level of agreement was that of the
259 working group Chair, Philip Sheppard, assisted by the Vice Chair, Jon Bing. It
260 should be noted that in the context of such a large group this determination was
261 challenging because most of the participants spoke in an individual capacity.

262 SECTION 1 OBJECTIVE

263 The public interest: balancing privacy and harm

264 In discussing the OPOC proposal, the working group was broadly seeking an
265 outcome that would improve certain data privacy aspects of WHOIS services,
266 while simultaneously improving the ability of legitimate parties to act against fraud
267 and other illegal acts by certain Registrants.

268

269 The underlying debate takes place in an environment where there are existing
270 legal exceptions to data privacy (including criminal, civil and administrative
271 procedures) for certain activities necessary to prevent harm. In this pursuit it is
272 understood that these exceptions to data privacy laws also serve the public
273 interest in such a way as to over-ride any private interest of the Registrant or any
274 duty on Registrars not to disclose personal data. The group was keen to be
275 consistent with the typical exceptions provided by data privacy laws across the
276 globe.

277

278 This objective would seem to be consistent with the WHOIS principles of
279 ICANN's Government Advisory Committee (GAC). The group has taken note of
280 those principles, which were advanced with the intention of providing guidance to
281 the policy process.

282

283 (In the group's debate there were occasional alternative views expressed by
284 individuals who would prefer that the exceptions in national laws did not exist.
285 The consensus of the group was to recognise both the existence and the need
286 for such exceptions.)

287

288

289

290

291 **Balance or harmony?**

292 For certain users there was little conflict between the two goals (protection of
293 privacy and protection from crime). These users expressed a concern about
294 misuse of personal data primarily if that data fell into the hands of criminals. In
295 other words, data privacy for these users was a strategy with the same objective
296 (protection from crime).

297

298

299 **Proportionality of the cost of change**

300 The OPOC proposal requires a change in the way certain data would be
301 collected, displayed and accessed. It was understood that such changes have
302 cost implications in their implementation. The cost implications need to be
303 proportionate to the benefits of any proposed change. Costs must also reflect the
304 ability of cost-bearing service providers to absorb additional cost while any
305 related transition to cost recovery occurs. Thus, there was discussion as to where
306 these costs should fall. Outcomes of those discussions appear in the relevant
307 section and are also one of the subjects of section 8 (calls for further study).

308 **SECTION 2 – WHAT IS THE OPERATIONAL POINT OF CONTACT**
309 **(OPOC)?**

310 **2.1 Who may be an OPOC?**

311 There may be up to two OPOCs.

312

313 **AGREED:**

314 An OPOC must be one of the following:

- 315 ▪ the Registrant
- 316 ▪ the Registrar
- 317 ▪ any third party appointed by the Registrant.

318 **2.2 How does the OPOC relate to the Registrant?**

319 **AGREED:**

- 320 ▪ The OPOC should have a consensual relationship to the Registrant with
321 defined responsibilities.
- 322 ▪ There will need to be a change to both the Registrar Accreditation
323 Agreement (RAA) and subsequently Registrar-Registrant's agreements to
324 reflect this relationship.

325

326 **ALTERNATIVE VIEWS:**

327 There was one view that the OPOC need merely be a designee with no indication
328 of consent.

329 There was one view that consent should be a matter for determination between
330 the registrant and its OPOC, not ICANN-mandated: in this view also the OPOC
331 would be a designee.

332

333 **Implementation:**

- 334 ▪ It is not intended that the implementation of this need create any particular
335 legal relationship that may exist in national law other than an enforceable
336 contract.
- 337 ▪ There may be a need for changes to the fields of data in the public display
338 of WHOIS information in Registry agreements.

339

340 **2.3 Is there a need for some form of verification of the OPOC?**

341 The objective of the OPOC is to provide a certain point of contact in the absence
342 of the Registrant. This certainty implies a need for some form of verification and
343 is consistent with the existing obligation for data Accuracy within WHOIS
344 services.

345

346 **AGREED:**

347 A system of centralised accreditation of OPOCs by ICANN is neither scaleable
348 nor practical.

349

350 **SUPPORT:**

- 351 ▪ Verification of an active e-mail address at the time of registration must be
352 obtained by the Registrar. It would be up to each Registrar to implement
353 this in any way they choose.
- 354 ▪ Name registration may be completed before verification of the OPOC active
355 e-mail address.
- 356 ▪ In order to enhance certainty and accuracy, verification of an OPOC's active
357 e-mail address at the time of registration must be obtained before enabling
358 a web site to resolve based on the registered name.
- 359 ▪ Failure to obtain that verification in a given time period must result in a
360 failure of the registration.
- 361 ▪ Once verification is obtained, web-site resolution must be rapid.

362

363 **ALTERNATIVE VIEWS:**

364 Two registrar members opposed the need for verification believing the
365 implementation to be overly burdensome. Though one registrar member
366 believed implementation would be consistent with existing practise and one
367 registrar member commented that the existing registration process with certain
368 registries takes weeks.

369 Some user views opposed the need for verification believing the implementation
370 to be overly burdensome.
371 One user view was to not even enable registration until verification was complete.
372 One user viewed ICANN-mandated verification as inappropriate because the
373 OPOC's responsibilities should be matters for definition between the registrant
374 and its OPOC: external verification was seen as increasing cost without benefit.
375 One registry member disagreed with the recommendation.
376

377 Implementation options:

- 378 ▪ Verification could be done by requiring a reply to an auto-generated e-mail.
- 379 ▪ Verification may be obtained at the same time as consent (see below)
- 380 ▪ The name may be put on hold status by the Registrar pending verification
381 and then put on active status.
- 382 ▪ Registrars may engage with Registries with respect to hold status.
- 383 ▪ Where registration is not bound to subsequent web-site activation, no
384 process will be required.

385

386 **2.4 Consent to be an OPOC**

387 Is it necessary to have the OPOC give explicit consent to be the OPOC ?

388 AGREED:

- 389 ▪ The Registrant is responsible for having a functional OPOC.
- 390 ▪ A process to establish the consensual relationship between the OPOC and
- 391 the Registrant is required.

392

393 SUPPORT:

- 394 ▪ Given the OPOC should have a consensual relationship to the Registrant
- 395 with defined responsibilities, the OPOC must explicitly consent to being an
- 396 OPOC.
- 397 ▪ Name registration may be completed before consent is obtained.
- 398 ▪ In order to prevent fraud, consent must be obtained before enabling a web
- 399 site to resolve based on the registered name.
- 400 ▪ Failure to obtain that consent in a given time period must result in a failure
- 401 of the registration.
- 402 ▪ Once consent is obtained, web-site resolution must be rapid.

403

404 ALTERNATIVE VIEWS:

405 Two registrars members opposed the need for consent believing the

406 implementation to be overly burdensome. Though one registrar member believed

407 implementation would be consistent with existing practise and one registrar

408 member commented that the existing registration process with certain registries

409 takes weeks.

410 One user viewed ICANN-mandated consent as inappropriate because the

411 OPOC's responsibilities should be matters for definition between the registrant

412 and its OPOC: external verification was seen as increasing cost without benefit.

413 One registry member disagreed with the recommendation.

414

415

416

417 Who should obtain consent?

418 SUPPORT:

419 The Registrar must obtain consent but the way this is done need not be direct
420 (see implementation options).

421

422 ALTERNATIVE VIEWS:

423 One registrar member said that it may be possible for the Registrant to obtain
424 consent and during registration confirm to the Registrar that consent had been
425 obtained.

426 One user commented that this alternative view would be burdensome on
427 Registrants and posed challenges in tracing responsibility.

428

429

430 Implementation options:

- 431 ▪ Consent may be done by requiring a consenting reply to an auto-generated
432 e-mail (via e-mail or a web-based agree system) and obtained at the same
433 time as verification of the OPOC e-mail address.
- 434 ▪ The name may be put on hold status by the Registrar pending OPOC
435 acknowledgement and then put on active status.
- 436 ▪ Registrars may engage with Registries with respect to hold status.
- 437 ▪ Registrars may need to consider changes to billing functions.
- 438 ▪ If more practical, the responsibility for “the process of consent” could lie with
439 the Registrant and be regulated within the Registrar-Registrant agreement.

440

441 2.5 Proxy Services

442 Certain registrars offer a "proxy" service, to provide privacy protection for the
443 Registrant. In this case the proxy is a proxy for the Registrant. From the ICANN
444 point of view, the "proxy" is the Registered Name Holder. The proxy holds all the
445 legal responsibilities of the Registered Name Holder in the agreement between
446 the Registrar and the Registered Name Holder, as well as those described in the
447 Registrar Accreditation Agreement (RAA). Registrars also further define terms
448 and conditions of this service. The RAA provision relevant to proxy services is
449 clause 3.7.7.3:

450 *"Any Registered Name Holder that intends to license use of a domain*
451 *name to a third party is nonetheless the Registered Name Holder of record*
452 *and is responsible for providing its own full contact information and for*
453 *providing and updating accurate technical and administrative contact*
454 *information adequate to facilitate timely resolution of any problems that*
455 *arise in connection with the Registered Name."*

456 The proxy service is thus essentially irrelevant to the existence of an OPOC.

457

458

459 AGREED:

460 In order to avoid a third layer between the underlying Registrant and the OPOC,
461 where a proxy service exists, the proxy and the first designated OPOC must be
462 one and the same.

463

464 ALTERNATIVE VIEWS:

465 One registrar member saw no need for any restriction.

466 One user believed that a third layer was good for data privacy.

467

468 **2.6 OPOC and the tech/admin contacts**

469 AGREED

- 470 ▪ Simplification must be an objective should the OPOC proposal move
471 forward.
472 ▪ There are currently different display obligations between Registrars and
473 Registries.

474

475 While one Registrar and one large user claimed that the admin and/or tech
476 contacts will continue to be useful even after an the addition of one or more
477 OPOCs, other Registrars and most users prefer a merging of roles. (The support
478 from users for merging is conditional upon a presumption that no useful means of
479 contact would be lost).

480

481

482 a) The technical contact.

483 There is an intuitive functional distinction between the technical contact and the
484 OPOC although regrettably there is no formal definition of the role of the
485 technical contact.

486 AGREED:

- 487 ▪ The technical contact should continue to be displayed when the Registrant
488 contact details are displayed.
489 ▪ When the Registrant contact details are not displayed, then the technical
490 contact details will also not be displayed.

491

492

493 b) The administration contact.

494 AGREED

- 495 ▪ The role of the admin contact is currently poorly understood.

- 496 ▪ There seems to be no over-riding reason for the future display of both
497 admin and OPOC.

498

499 Implementation options:

- 500 ▪ Consideration should be given to the merging of the admin and OPOC.
501 ▪ Consideration could be given to reconciliation of different display obligations
502 between Registries and Registrars

503 **SECTION 3 – THE ROLE AND RESPONSIBILITIES OF THE OPOC**

504 Three distinct roles for the OPOC were discussed:

- 505 ▪ RELAY
- 506 ▪ REVEAL
- 507 ▪ REMEDY

508

509 **3.1 RELAY**

510 The first role of an OPOC is to RELAY information from a Requester to the
511 Registrant. It was recognised that the introduction of the OPOC system would
512 introduce delays for Requesters, compared to the status quo, in communicating
513 with and/or identifying the Registrant. Therefore there is a need to recommend
514 guidelines for timely actions by the OPOC.

515

516 **AGREED:**

- 517 ▪ The OPOC must have current contact information of the Registrant.
- 518 ▪ The OPOC must RELAY an information request to the Registrant in a timely
519 manner.
- 520 ▪ The OPOC must meet certain implementation requirements for relaying
521 messages from the Requester to the Registrant.

522

523 Implementation options (relevant when the OPOC is NOT the Registrant):

- 524 ▪ 24x7 responsiveness by the OPOC
- 525 ▪ automatic real-time forwarding of e-mail requests from Requester to
526 Registrant
- 527 ▪ automatic real-time forwarding of responses from Registrant to Requester
- 528 ▪ capability to forward requests and responses in other formats (e.g. fax or
529 post)

530

531 Implementation options on timing:

- 532 ▪ Immediate in all cases for first leg of RELAY (OPOC to Registrant). This
- 533 may be automated in the case of e-mail requests.
- 534 ▪ E-mail responses from Registrant to OPOC may also be forwarded to
- 535 Requester immediately.

536

537 The group discussed what would be the typical nature of requests. It was
538 recognised there may be good faith reasons and reasons relating to bad faith. In
539 the case of bad faith the group considered the likely rationale for a request to
540 include any communication that is made for the purpose of alleging a wrongful
541 registration or use of the domain name, or wrongful activity by the registrant.
542 Examples of such wrongful registration, use or activities include phishing,
543 pharming, cyber-squatting, copyright and trademark infringement, and other
544 illegal or fraudulent activities. Such a registration would be accompanied by
545 reasonable evidence of the wrongful act.

546

547 It is possible that Registrants might declare themselves as natural persons to
548 avoid having a full data set published in the WHOIS database.

549

550 It was recognised that a clear definition was required for implementation. The
551 intent here is to be compatible with the RAA and its reference to: “reasonable
552 evidence of actionable harm” (cf. the current RAA, section 3.7.7.3). Hence, the
553 following is used in the report to specify relevance to WHOIS of “reasonable
554 evidence of actionable harm” :

555 “such as suspected fraudulent activity, intellectual property infringement,
556 suspected false declaration as to being a natural person, or where other
557 criminal, civil or administrative laws may be infringed”.

558

559

560

561 Implementation options:

562 ▪ In making a request, the Requester may complete a checklist to inform the
563 OPOC the nature of the request. Such a checklist might have the following
564 form: Reason for Request is a reasonable suspicion of (check one):

565

566 ▪ fraudulent activity

567 ▪ intellectual property infringement

568 ▪ false declaration as a natural person

569 ▪ inaccurate WHOIS data

570 ▪ other legal infringement (specify)

571 ▪ other e.g. good faith (specify)

572

573 **3.2 REVEAL**

574 The second role of an OPOC is to REVEAL the unpublished contact information
575 of Registrants who are natural persons to a Requester in certain limited
576 circumstances. There was discussion as to whether REVEAL duplicates the
577 ACCESS function that is intended to be performed by a Registrar and is
578 described in Section 6 of this Report. The Access function described in Section 6
579 does NOT involve the OPOC but uniquely the Requester, referred to as the
580 “Accessor” in that context, and the Registrar.

581

582 **AGREED**

583 In defence of retaining both the REVEAL function and the ACCESS function, the
584 following was agreed:

- 585 ▪ Requesters may need to know the contact information of the Registrant in
586 order to serve legal notice.
- 587 ▪ If a Registrant originally provided inaccurate data, then direct Access to the
588 Registrar would be useless. It may be only the OPOC would have accurate
589 contact information for the Registrant.
- 590 ▪ Registrars inform that there is a significant cost issue if all requests go via
591 the Registrar.
- 592 ▪ Registrars inform that there is a scalability issue if all requests go via the
593 Registrar.

594

595 **SUPPORT:**

- 596 ▪ There is a concern that if the Access function were to be subject to an
597 authentication mechanism, then REVEAL may be needed in particular for
598 the pursuit of criminal activity.

599

600

601

602 ALTERNATE VIEWS:

603 There was one user view that REVEAL is duplication of the Access function.

604 There was one user view that REVEAL might contravene a national law.

605 There was one view in favour of authentication of the Requester.

606 There was one view in favour of a due legal process before an unwilling

607 REVEAL.

608

609

610 AGREED:

611 REVEAL must take place when there is ONE OF the following conditions:

- 612 ▪ “Reasonable evidence of actionable harm”
- 613 ▪ OR reasonable evidence of inaccurate WHOIS data
- 614 ▪ OR when RELAY had failed after a specified time period.

615

616 The REVEAL must be timely.

617

618 ALTERNATIVE VIEWS:

619 One view was that inaccurate WHOIS data should not be a condition.

620 One view was that failure of RELAY should not be a condition.

621 There were some views that the RELAY test should be cumulative (an “AND”
622 option).

623 One registry member disagreed with the recommendation.

624

625

626

627 Implementation options:

- 628 ▪ If no Registrant response is promptly received (perhaps 12 hours in the case
629 of an e-mail request that has been forwarded by e-mail), the OPOC may
630 retry using all available means of contacting the Registrant (e.g. telephone).

- 631
- 632
- 633
- 634
- 635
- 636
- 637
- If no Registrant response is received within say 72 hours, the OPOC may be obligated to REVEAL the Registrant contact data immediately to the Requester.
 - An agreed definition of “reasonable evidence” is needed.
 - Existing provisions in certain Registry agreements may provide an implementation solution.

638 **3.3 REMEDY**

639 The third role for the OPOC was whether the OPOC should be responsible for
640 both determining and implementing a REMEDY, and if so, how this might be
641 implemented. It was recognised that this is a narrow role that should only apply
642 under certain specific conditions, as described in bullet #2 below.

643

644 **AGREED:**

- 645 ▪ Because the OPOC would be either the Registrant or in a consensual
646 relationship with the Registrant, it would be inappropriate for the OPOC to
647 be the actor responsible for determining or implementing a REMEDY that
648 may not be in the interest of the Registrant or for which the Registrant does
649 not consent.
- 650 ▪ The OPOC should be responsible for REMEDY only when the Registrant
651 consents. Such a case may be when a web site is a large host site and a
652 Request is made to remove specific pages from the site placed there by a
653 third party. In these circumstances, the OPOC would be acting in the
654 interest of the Registrant.
- 655 ▪ In these circumstances REMEDY must be timely.

656

657 Note: The group recognised that this exceptional REMEDY function was
658 technically outside of the scope of the group's terms of reference as it relates to
659 an OPOC interaction with the hosting Internet Service Provider (ISP).
660 Nevertheless, it is worth recording here as it is a role of the OPOC and in scope
661 of the GNSO.

662

663 **ALTERNATIVE VIEWS:**

664 One registrar member disagreed with the recommendation.

665 One registry member disagreed with the recommendation.

666

667

Implementation options:

668

- Implementation is required outside of the scope of WHOIS services.

669

- Timely should be interpreted as a time line that is proportionate to the harm.

670

671 **SECTION 4 – COMPLIANCE AND ENFORCEMENT**

672 This section outlines the foreseen compliance and enforcement aspects of the
673 OPOC proposal and addresses issues that arise when the OPOC does not fulfil a
674 designated role or responsibility. Thus, a Registrar obligation occurs uniquely
675 when there is a failure of the OPOC to RELAY, REVEAL or REMEDY as
676 described above.

677

678 **AGREED:**

679 When there has been a failure by the OPOC to act or to act within a designated
680 time-limit to fulfil a RELAY or REVEAL request, the Requestor may contact the
681 Registrar and request one or more of the following (depending on the nature of
682 the failure):

- 683 ▪ REVEAL of the Registrant's full WHOIS data.
- 684 ▪ Immediate suspension of the name records for the subject domain and /or
685 suspension of website DNS.
- 686 ▪ Immediate locking of the registered domain so that it cannot be transferred
687 for a set period.

688

689 **SUPPORT:**

690 In contrast to the Access function (described in Section 6 of this Report), it was
691 felt that this service should be free of cost to the Requester as it relates to a
692 failure of the OPOC to perform. Thus, any additional costs for this service would
693 be factored into the fees charged by Registrars to all Registrants.

694

695 **ALTERNATIVE VIEWS:**

696 One registrar felt that actions related to web-site suspension were out of scope.

697 One view was that actions related to web-site suspension should be the only
698 ones in scope.

699 One registrar member felt that all services should be chargeable.

700 One registrar member disagreed with the recommendation.

701 One registry member disagreed with the recommendation.

702 One LEA member wanted a means to sanction OPOCs who consistently failed to
703 perform.

704 One user disagreed with any need for compliance.

705

706 Implementation options:

- 707 ▪ Registrars may require certain proof of the OPOC's failure from the
708 Requester.
- 709 ▪ The name may be available for resale after 90 days.
- 710 ▪ Registrars may establish appeals or dispute resolution mechanisms
711 whereby the Registrant may object in a timely manner to any of the above
712 actions.

713

714 **SECTION 5 – TYPE OF REGISTRANT AND DISPLAY**
715 **IMPLICATIONS**

716 **5.1 Universality of OPOC**

717 AGREED:

- 718 ▪ From an implementation perspective, it would make sense for all
719 Registrants (both legal and natural persons) to appoint an OPOC.

720 **5.2 Distinction between natural and legal persons**

721 Working definition:

- 722 ▪ a natural person is a real living individual.
723 ▪ a legal person is a company, business, partnership, non-profit entity,
724 association etc.

725

726 This distinction is operational in the sense that it speaks to an historical fact
727 about the Registrant before the act of registration. It will not vary much between
728 jurisdictions, though forms of legal persons may display such variation. In some
729 countries a natural person may also be a sole trader though their classification
730 may vary depending on the nature of incorporation.

731

732

733 AGREED:

- 734 ▪ A distinction between legal and natural persons must be made.
735 ▪ This distinction must be made by the Registrant at the moment of
736 registration.
737 ▪ There is no need for validation or a challenge mechanism to this self-
738 declaration at the moment of registration so long as a post-registration
739 mechanism exists.

740

741

742 AGREED:

743 The implication of this declaration is that the public display of WHOIS records
744 must be different in the following way:

745 **Legal person** Full display of all WHOIS records

746 **Natural person** Limited display of WHOIS records

747

748 See annex 1 for examples.

749

750 ALTERNATIVE VIEWS:

751 One registrar member disagreed with the recommendation.

752 One registry member disagreed with the recommendation.

753 One user disagreed with the recommendation.

754

755 Implementation options:

- 756 ■ A checkbox (to select natural or legal) could be part of the registration
757 process.
- 758 ■ The existing flag facility within the Extensible Provisioning Protocol used by
759 registries and registrars may be a basis for implementation.

760

761 **SECTION 6 – ACCESS TO UNDISPLAYED DATA RECORDS**

762 Today, full WHOIS data records are typically available to any Requester either
763 via web-access or bulk access to the entire database. In a post-OPOC world it is
764 proposed that the full data records of certain Registrants (natural persons) will
765 not be available by these means. This section first discusses the types of access
766 to these un-displayed records and then discusses to whom such access may be
767 made available.

768 There are broadly four types of access:

- 769 ▪ 6.1 Access to the displayed WHOIS records
- 770 ▪ 6.2 One-time access to a specified un-displayed data record
- 771 ▪ 6.3 Regular query-based access to un-displayed data records
- 772 ▪ 6.4 Full access to displayed and un-displayed records.

773

774 This situation is a consequence of the OPOC proposal. Such access does NOT
775 involve the OPOC but only concerns the relationship between the party wanting
776 access, in this context described as the “Accessor”, and the Registrar. (For this
777 reason, while the term “Requester” is used in other sections to refer to a Request
778 initially made of the OPOC, the term “Accessor” is used here for clarity to refer to
779 a request for access made to a Registrar).

780

781 The objective of Access is to consider the circumstances under which WHOIS
782 data may be accessed directly from a Registrar and not through the OPOC. In
783 this pursuit the group recognised the existence of exceptions to data privacy laws
784 which, in certain circumstances, override the duty of Registrars to protect against
785 the disclosure of personal data.

786

787

788

789 **6.1 Access to the displayed WHOIS records**

790 AGREED:

791 Access to displayed WHOIS records would continue and would result in access
792 to the full data records for legal persons and to the limited data records for
793 natural persons.

794

795

796 The group discussed three additional types of access. The sub-sections that
797 follow (6.2, 6.3, 6.4) are descriptions not policy recommendations.

798 **6.2 One-time access to a specified un-displayed data record**

799 One-time access would be limited to a single record of a Registrant at a specific
800 time, wherein a specific request is made to the Registrar for each record.

801

802 This access would take place when there is “reasonable evidence of actionable
803 harm”. Such access would need to be timely to be effective.

804

805 Implementation options:

- 806 ■ Timeliness may be defined as proportionate to the suspected harm and
807 related to the means of access.

808

809 **6.3 Regular query-based access to un-displayed data records**

810 Regular access would be query-based to un-displayed data for any domain
811 subject to limitations on the purposes of Access and the uses to be made of the
812 data obtained.

813

814 This access would take place when there is “reasonable evidence of actionable
815 harm”.

816

817

818 Implementation options:

- 819 ▪ A pre-registration system by Registrars for Accessors may be needed.
- 820 ▪ A restriction of the number of queries available in a certain time period may
821 be imposed on Accessors.
- 822 ▪ There may be a need for record keeping of queries by the Registrar.
- 823 ▪ There may be means to sanction Accessors for abuse of limitations.
- 824 ▪ Limitations may be specified in contractual conditions agreed between
825 Accessors and Registrars.
- 826 ▪ Existing provisions in certain Registry agreements may provide an
827 alternative implementation option.

828

829 **6.4 Full access to displayed and un-displayed records**

830 Full access would be access to the entire database of data records that are both
831 displayed and un-displayed in a form that all are displayed. A means of
832 displaying the un-displayed records would be needed.

833

834 Implementation options:

- 835 ▪ Data records may be encrypted and a key supplied
- 836 ▪ Data records may be in a password-protected database and a password
837 supplied.

838

839 **6.5 Is there any need for Access?**

840 The group identified two broad categories of Accessors who might have a need
841 for such access as described above.

- 842 ▪ Public law enforcement agencies (LEAs): governmental agencies legally
843 mandated to investigate and/or prosecute illegal activity.
- 844 ▪ Private actors: organisations or individuals that are not part of an LEA.

845

846 **AGREED**

- 847 ▪ There were circumstances where LEAs must have access as described
848 above (one or more of 6.2, 6.3, 6.4) and where private actors must have
849 access as described above (one or more of 6.2 and 6.3). These
850 circumstances broadly include suspected terrorism, fraudulent or other
851 illegal activity, suspected consumer harm and suspected intellectual
852 property infringement.

853

854

855

856 **ALTERNATIVE VIEWS:**

857 There were circumstances where private actors may need access described
858 above (under 6.4).

859 There were some views that private actors should be denied access described
860 above (under 6.4).

861 One registrar member disagreed with the recommendation.

862 One registry member disagreed with the recommendation.

863

864 Implementation options:

865 The “circumstances” for allowable Access need to be consistently defined.

866

867 **6.6 Do those needing access require authentication?**

868 There was discussion about the need for Registrars to authenticate in some way
869 those parties requesting such access. It was recognised that authentication
870 would both potentially introduce delays in Access and impose cost upon
871 Registrars and Accessors. Among the private actors it was recognised that the
872 banking sector had an especially urgent need to address consumer fraud
873 stemming from acts such as phishing (identity theft).

874

875 It was recognised that broadly there are two mechanisms for means of access:

- 876 ▪ Self-declaration by the Accessor (probably backed-up by a challenge
877 procedure by the Registrar and/or penalties for misrepresentation).
- 878 ▪ Authentication of the Accessor by a third party.

879

880 The following options were discussed and rejected as either impractical or not
881 legally permissible on a sufficiently wide global scale:

- 882 ▪ use of Interpol to authenticate LEAs.
- 883 ▪ use of LEAs to authenticate the private sector.

884

885 There was no known method about how authentication of an Accessor by a third
886 party may take place in a way that would be scaleable globally and proportionate
887 to cost. Additionally, some LEAs reported fundamental challenges to the concept
888 of authentication of public sector organizations by private entities: this would
889 seem to reverse the usual role of government. A U.S. consultant's report, which
890 considered the practicalities of establishing an authentication mechanism for
891 LEAs in the United States, discussed possible means but in summary concluded:
892 "I am not confident that there is an organization that can properly accredit law
893 enforcement agencies in the United States, let alone internationally".

894

895

896 AGREED:

- 897 ▪ The feasibility, practicality and cost-effectiveness of authentication
898 mechanisms for LEAs and private actors should be an area for further study
899 (see section 8).
- 900 ▪ OPOC implementation should be contingent upon the development of
901 broadly supported means of Access as described in this section.

902

903

904 SUPPORT:

- 905 ▪ In the absence of a known method of authentication today access should be
906 granted to LEAs and private agencies based on self-declaration by the
907 Accessor.
- 908 ▪ A system of safeguards to prevent abuse of this Access is needed.

909

910 ALTERNATIVE VIEWS:

911 Certain user members believed self-declaration was insufficient and that
912 authentication was essential: thus no access of the type described under 6.3 and
913 6.4 should be granted to private actors.

914 One registrar member disagreed with the recommendations.

915 One registry member disagreed with the recommendations.

916

917 Implementation options

- 918 ▪ A concise description of the grounds for requiring Access may be needed.
- 919 ▪ Private actors may enter into prior agreements with a Registrar to enable or
920 speed Access.
- 921 ▪ For self-declaration to be subject to an effective challenge procedure, work
922 may be needed to determine “effective”.

923

924 **6.7 Should any Access services be chargeable?**

925 There was discussion as to whether any of the Access options described above
926 in 6.2, 6.3 and 6.4 should be chargeable by Registrars to those requiring Access.

927 Reasons in favour were:

- 928 ▪ to recover costs
929 ▪ to impose costs on those requiring the service
930 ▪ to deter abuse that may arise in a free system
931 ▪ to assist with monitoring.

932

933 Reasons against were:

- 934 ▪ a concern that fees may be excessive to Accessors
935 ▪ a concern that fees may go beyond nominal or cost recovery and become
936 profit-generating
937 ▪ a concern that there was additional (wasted) cost in merely setting up a new
938 fee collection system.

939

940 **AGREED**

941 There should be no assumption that Access services would be entirely free of
942 cost to Accessors.

943

944 **ALTERNATIVE VIEWS:**

945 One user view was that all costs should be factored into the basic user fees
946 charged by Registrars thus avoiding the need and cost of additional mechanisms.

947

948 Implementation options:

949 Registrars may consider charging a nominal fee for Access services.

950

951 **SECTION 7 – DISCUSSION OF REJECTED OPTIONS**

952 Section 7 records issues where there was substantial discussion, and lists those
953 options that did not achieve general support. These are rejected options.

954 **7.1 OPOC accreditation by ICANN**

955 (See section 2). The group discussed two means of possible accreditation of the
956 OPOC, a formal system of accreditation performed by ICANN, and a system of
957 verification and consent. The more formal option of a system of centralised
958 accreditation by ICANN (a system parallel to Registrar accreditation) was
959 generally thought to be neither scaleable nor practical. It assumed a limited
960 number of OPOCs and is thus not consistent with the concept of a much larger
961 set of consensual relationships.

962 **7.2 Distinction between Commercial and Non-Commercial Registrants**

963 (See section 5). This distinction is problematic as it relates to the future intent of
964 the Registrant and is not coincident with the moment of Registration. If this
965 distinction were to be made, those who supported it suggested it could be a self-
966 declaration at the point of registration. If this distinction were to be made, natural
967 persons could be considered engaging in commercial activities if one of the
968 following indicative criteria were satisfied:

- 969 ▪ The offer or sale of goods or services
- 970 ▪ The solicitation or collection of money or payments-in-kind
- 971 ▪ Marketing activities, advertising, paid hypertext links
- 972 ▪ Activities carried out on behalf of legal persons
- 973 ▪ Certain types of data processing.

974

975 Overall the group felt that the distinction between commercial and non-
976 commercial activities is not by itself sufficiently timely at the point of registration
977 nor easily operational.

978 **SECTION 8 – FEASIBILITY STUDIES**

979 Throughout the group's time there have been a number of issues that were
980 unresolved as a result of technical or legal uncertainty. Such issues lend
981 themselves to short, focused studies to assess feasibility and certainty. The
982 group would welcome specific ideas from ICANN staff around the headline issues
983 below.

984

985 These issues include:

- 986 ▪ cost-related studies:
 - 987 ○ costs to implement the verification and consent proposals
988 described in sections 2.4 and 2.5;
 - 989 ○ costs to implement the Request/compliance issues of section 4;
990 ○ costs to implement the Access options described in section 6;991 ○ marginal costs to implement a new fee-based system for992 Accessors compared with recovering additional costs from user993 fees using existing systems;
- 994 ▪ data privacy issues arising from the self-declaration of Accessors in the
- 995 Access proposal described in section 6;
- 996 ▪ mechanisms for a practical, cost-effective, globally scaleable means of
- 997 authenticating Accessors as described in section 6.
- 998 ▪ information on gTLD registrants and registrations and the use and misuse
- 999 of WHOIS data. (This would be a broadening of a study proposed by the1000 GAC and a go beyond the focus on spam in the June 2007 ICANN SSAC1001 study.)

1002

1003

1004 **ANNEX 1 – WHOIS DATA DISPLAY OPTIONS**

1005

Record	WHOIS today	Limited (natural person) (OPOC)	Full (legal person) (OPOC)
Domain ID:	X	X	X
Domain Name:	X	X	X
Created On:	X	X	X
Last Updated	X	X	X
Expiration Date:	X	X	X
Sponsoring Registrar:	X	X	X
Status*:	X	X	X
Registrant ID:	X	X	X
Registrant Name:	X	X	X
Registrant Organization:	X	X	X
Registrant Street1:	X		X
Registrant Street2:	X		X
Registrant Street3:	X		X
Registrant City:	X		X
Registrant State/Province:	X	X	X
Registrant Postal Code:	X		X
Registrant Country:	X	X	X
Registrant Phone:	X		X
Registrant Phone Ext.:	X		X
Registrant FAX:	X		X
Registrant FAX Ext.:	X		X
Registrant Email:	X		X
Natural person#		X	X

Record	WHOIS today	Limited (natural person) (OPOC)	Full (legal person) (OPOC)
Legal person#		X	X
Proxy service operating#		X	X
OPOC*# ID:		X	X
OPOC Name:		X	X
OPOC Organization:		X	X
OPOC Street1:		X	X
OPOC Street2:		X	X
OPOC Street3:		X	X
OPOC City:		X	X
OPOC State/Province:		X	X
OPOC Postal Code:		X	X
OPOC Country:		X	X
OPOC Phone:		X	X
OPOC Phone Ext.:		X	X
OPOC FAX:		X	X
OPOC FAX Ext.:		X	X
OPOC Email:		X	X
Admin ID:	X	?	?
Admin Name:	X	?	?
Admin Organization:	X	?	?
Admin Street1:	X	?	?
Admin Street2:	X	?	?
Admin Street3:	X	?	?
Admin City:	X	?	?
Admin State/Province:	X	?	?
Admin Postal Code:	X	?	?

Record	WHOIS today	Limited (natural person) (OPOC)	Full (legal person) (OPOC)
Admin Country:	x	?	?
Admin Phone:	x	?	?
Admin Phone Ext.:	x	?	?
Admin FAX:	x	?	?
Admin FAX Ext.:	x	?	?
Admin Email:	x	?	?
Tech ID:	x		x
Tech Name:	x		x
Tech Organization:	x		x
Tech Street1:	x		x
Tech Street2:	x		x
Tech Street3:	x		x
Tech City:	x		x
Tech State/Province:	x		x
Tech Postal Code:	x		x
Tech Country:	x		x
Tech Phone:	x		x
Tech Phone Ext.:	x		x
Tech FAX:	x		x
Tech FAX Ext.:	x		x
Tech Email:	x		x
Name Server*:	x	x	x



1006

1007

1008

1009

1010 Key:

- * multiple entries possible
- x data collected and displayed
- data collected but not displayed
-  data not collected
-  merged data with OPOC
- # new data element conditional on new policy

1011

1012 **ANNEX 2 – GLOSSARY OF WHOIS TERMINOLOGY**

1013 **Cyber-squatting**

1014 “Cybersquatting, according to the United States federal law known as the
1015 [Anticybersquatting Consumer Protection Act](#), is registering, trafficking in, or using a
1016 domain name with bad-faith intent to profit from the goodwill of a trademark belonging to
1017 someone else. The cyber-squatter then offers to sell the domain to the person or
1018 company who owns a trademark contained within the name at an inflated price.” Source:
1019 http://en.wikipedia.org/wiki/Cyber_squatting

1020

1021 **ICANN Consensus policy**

1022 A ‘consensus policy’ has a specific legal meaning within ICANN. ICANN's [agreements](#)
1023 <http://www.icann.org/general/agreements.htm> with accredited registrars and with
1024 gTLD registry operators require compliance with various specifically stated procedures
1025 and also with "consensus policies." Sponsors and registry operators of sponsored TLDs
1026 may be required to comply with consensus policies in some instances. A gTLD
1027 consensus policy is created by a completed policy development process (PDP)
1028 developed through the GNSO and adopted by the ICANN Board. To date, two
1029 consensus policies, i.e. policies that create a compliance requirement for registries and
1030 registrars, have been implemented: the WHOIS Data Reminder Policy
1031 (<http://www.icann.org/registrars/wdrp.htm>) and the WHOIS Marketing Restriction
1032 Policy (<http://www.icann.org/registrars/wmrp.htm>).

1033

1034 **Pharming**

1035 Pharming is an “attack aiming to redirect a website's traffic to another, bogus website.
1036 Pharming can be conducted either by changing the hosts file on a victim’s computer or
1037 by exploitation of a vulnerability in DNS server software. DNS servers are computers
1038 responsible for resolving Internet names into their real addresses — they are the
1039 "signposts" of the Internet. Compromised DNS servers are sometimes referred to as
1040 "poisoned". The term pharming is a word play on farming and phishing. ... In recent
1041 years both pharming and phishing have been used to steal identity information.” Source:
1042 <http://en.wikipedia.org/wiki/Pharming> . Pharming has become of major concern to
1043 businesses hosting ecommerce and online banking websites.

1044 Phishing

1045 Phishing is a criminal activity using social engineering techniques to fraudulently acquire
1046 sensitive information, such as usernames, passwords and credit card details, by
1047 masquerading as a trustworthy entity in an electronic communication. eBay and PayPal
1048 are two of the most targeted companies, and online banks are also common targets.
1049 Phishing is typically carried out by email or instant messaging, and often directs users to
1050 give details at a website whose operators then misuse the data. Source:

1051 <http://en.wikipedia.org/wiki/Phishing>

1052

1053 Port 43 access to WHOIS

1054 Port numbers are an identifier that an application uses to address a specific process or
1055 protocol on a server.
1056 For example when we type http: in a browser we are indicating that the traffic is destined
1057 for port 80 at the url.

1058

1059 So, <http://www.icann.org> can also be written as <http://www.icann.org:80>
1060 or www.icann.org:80

1061

1062 https is port 443,
1063 WHOIS is port 43

1064

1065 Further information on port numbering and use:

1066 <http://www.iana.org/assignments/port-numbers>

1067

1068 The Registrar Accreditation Agreement requires registrars to make the WHOIS database
1069 freely accessible to the public via a web query-based system called port 43.

1070

1071 RAA (Registrar Accreditation Agreement)

1072 The Registrar Accreditation Agreement (RAA) spells out which data is collected and how
1073 it is used by registrars. Registrar Accreditation Agreement,
1074 <http://www.icann.org/registrars/ra-agreement-17may01.htm>, is the agreement that
1075 sets out the obligations of ICANN-accredited registrars.

1076

1077 Regarding WHOIS, the RAA requires registrars to:

1078 - Provide at its expense an interactive web page and a port 43 WHOIS service providing
1079 free public query-based access to up-to-date (i.e., updated at least daily) data
1080 concerning all active Registered Names sponsored by Registrar for each TLD in which it
1081 is accredited. The data elements are designated by an ICANN-adopted specification or
1082 policy. Until ICANN changes this specification or policy, this data consists of the
1083 following elements:

- 1084 • Registered name
- 1085 • Names of primary and secondary name servers
- 1086 • Identity of registrar
- 1087 • Creation and expiration dates of the registration
- 1088 • Name and postal address of the registered name holder
- 1089 • Name, postal address, email address, telephone number of both the technical
1090 and the administrative contact for the registered name
- 1091 • Tell the registered name holder the purpose for the collection of any personal
1092 data and its intended recipients, and how to access and correct the data
- 1093 • Take reasonable precautions to protect personal data from loss, misuse,
1094 unauthorized access or disclosure, alteration, or destruction
- 1095 • Only sell registrations to customers who consent to providing contact information
1096 (which need not be their personal contact information) to be published in the
1097 WHOIS service
- 1098 • Abide by applicable laws and governmental regulations

1099

1100 The RAA requires registrants to:

- 1101 • Provide accurate and reliable contact data and update them as required
- 1102 • Respond within 15 days to registrar inquiries about the accuracy of the contact
1103 data

1104

1105 **Reasonable evidence of actionable harm**

1106 This terminology is mentioned in Registrar Accreditation Agreement. For the purposes of
1107 this report it may be defined as “Suspected fraudulent activity, suspected intellectual

1108 property infringement, suspected false declaration as to being a natural person, or where
1109 other criminal, civil or administrative laws may be infringed”.

1110

1111 **Registered Name Holders (registrants) and WHOIS**

1112 The following provision of the ICANN Registrar Accreditation Agreement (RAA)

1113 <http://www.icann.org/registrars/ra-agreement-17may01.htm> is relevant to the accuracy
1114 of registrar WHOIS data:

1115

1116 *[3.7.7](#) Registrar shall require all Registered Name Holders to enter into an electronic or
1117 paper registration agreement with Registrar including at least the following provisions:*

1118 *3.7.7.1 The Registered Name Holder shall provide to Registrar accurate and reliable
1119 contact details and promptly correct and update them during the term of the Registered
1120 Name registration, including: the full name, postal address, e-mail address, voice
1121 telephone number, and fax number if available of the Registered Name Holder; name of
1122 authorized person for contact purposes in the case of an Registered Name Holder that is
1123 an organization, association, or corporation; and the data elements listed in Subsections
1124 3.3.1.2, 3.3.1.7 and 3.3.1.8.*

1125 *3.7.7.2 A Registered Name Holder's willful provision of inaccurate or unreliable
1126 information, its willful failure promptly to update information provided to Registrar, or its
1127 failure to respond for over fifteen calendar days to inquiries by Registrar concerning the
1128 accuracy of contact details associated with the Registered Name Holder's registration
1129 shall constitute a material breach of the Registered Name Holder-registrar contract and
1130 be a basis for cancellation of the Registered Name registration.*

1131

1132 **Registry WHOIS**

1133 WHOIS services made available by specific registries for the domain names that they
1134 are authoritative for. Registry WHOIS often do not provide the comprehensive contact
1135 information that Registrar WHOIS services do, but they usually contain contact
1136 information for the Sponsoring Registrar. Note that the payload provided to the client by
1137 the Registry is not standardized between Registries and may vary based on the model
1138 employed by the Registry.

1139 http://icannwiki.org/Registry_WHOIS

1140

1141

1142 Thick registry

1143 A registry in which all of the information associated with registered entities, including
1144 both technical information (information needed to produce zone files) and social
1145 information (information needed to implement operational, business, or legal practices),
1146 is stored within the registry repository.

1147 http://icannwiki.org/Thick_Registry

1148

1149 Thin registry

1150 A registry in which some element of the social information associated with registered
1151 entities is distributed between a shared registry and the registrars served by the registry.

1152 http://icannwiki.org/Thin_Registry

1153

1154 WHOIS

1155 According to RFC 3912 of the IETF (<http://www.ietf.org/rfc/rfc3912.txt>), "WHOIS is a
1156 TCP-based transaction-oriented query/response protocol that is widely used to provide
1157 information services to Internet users. While originally used to provide "white pages"
1158 services and information about registered domain names, current deployments cover a
1159 much broader range of information services. The protocol delivers its content in a
1160 human-readable format."

1161

1162 ICANN's agreements with gTLD registrars and gTLD registries require them to provide
1163 WHOIS service via three mechanisms: port 43, web-based access, and bulk access.

1164 See also the ICANNWiki description of WHOIS: <http://icannwiki.org/WHOIS>

1165

1166 WHOIS Accuracy

1167 ICANN's contracts with accredited registrars require registrars to obtain contact
1168 information from registrants, to provide it publicly by a WHOIS service, and to investigate
1169 and correct any reported inaccuracies in contact information for names they sponsor.

1170 **ANNEX 3 – RECORD OF ATTENDANCE**

1171

Name		Subgroup A 25 April – 2, 3, 9, 16, 23, 30 May					Subgroup B 2, 9, 16, 23, 30 May					Subgroup C 2, 9, 16 May – 6, 14 June					24 Jun SJ	11, 18, 26 July – 1 Aug				
Philip Sheppard CHAIR		p	p	p		p		p	p		p	p		p	p	p	p		p	p	p	p
Jon Bing V-CHAIR		p	p											p	p	p			p			p
Steve DelBianco	BC	p	p	p		p	p											p	p	p	p	p
David Fares	BC	p						p	p	p	p	p					p		p	p		p
Palmer Hamilton	BC	p						p	p	p	p	p				p		p		p	p	p
Susan Kawaguchi	BC	p						p	p	p	p					p			p	p	p	p
Ute Decker	IPC	p					p											p				
Doug Isenberg	IPC							p	p	p	p	p					p	p	p	p	p	p
Steve Metalitz	IPC	p	p	p	p	p	p		p	p	p	p				p			p	p	p	p
Kristina Rosette	IPC	p													p			p	p	p	p	p
Tom Keller	RR	p							p	p		p						p			p	
Margie Milam	RR	p							p	p	p	p	p					p	p	p	p	p
Jon Nevett	RR	p																p		p	p	p
Ross Rader	RR		p		p	p		p		p	p	p	p				p		p		p	
Tim Ruiz	RR															p						
Paul Stahura	RR	p							p													
Bruce Tonkin	RR																					
Jay Westerdal	RR								p													
Avri Doria	NM	p			p			p	p	p				p	p	p		p	p	p	p	p
David Maher	RY	p						p		p		p						p			p	
Ken Stubbs	RY							p	p	p		p						p	p			p
Tony Harris	ISP								p												p	p
Mawaki Chango	NC	p																				
Robin Gross	NC	p	p			p	p															
Dan Krimm	NC	p						p	p	p	p	p						p	p	p	p	p
Milton Mueller	NC	p						p	p	p	p	p						p	p	p		p
Danny Younger	NC																					
Amadeu		p																				

Name		Subgroup A 25 April – 2, 3, 9, 16, 23, 30 May						Subgroup B 2, 9, 16, 23, 30 May						Subgroup C 2, 9, 16 May – 6, 14 June						24 Jun SJ	11, 18, 26 July – 1 Aug		
Abrill y Abrill																							
Yaovi Atohoun		p						p	p	p							p		p		p	p	
Vittorio Bertola																	p						
Carole Bird		p	p	p		p	p	p	p	p	p	p					p	p	p	p			
Martin Boyle	GAC	p																					
Beau Brendler																							
Carlos Álvarez Cabrera				p																			
Patrick Cain		p	p	p	p	p		p	p	p	p						p	p	p	p		p	
Bertrand de la Chapelle	GAC		p	p	p			p	p	p				p	p	p			p	p	p		
Wout de Natris	GAC	p							p	p	p	p					p	p			p	p	
Eric Hugh Dierker				p	p	p	p				p	p	p										
Gena A. Feist	GAC																						
Robert Flaim		p																p					
Christopher Gibson		p		p	p	p	p				p		p	p	p	p	p		p		p	p	
Lynn Goodendorf		p												p	p	p	p		p				
Markus Heyder		p																		p			
Melanie Holloway	GAC				p						p		p		p	p							
Melissa Holz	GAC																						
John Levine								p	p	p													
Leo Longauer									p					p			p				p		
Andrew Denholm																p							
Chris McElroy																							
Hope Mehlman		p	p	p													p						
Nils Victor Montan																							
Kari Moeller		p	p	p	p	p										p	p	p			p		
Lane Mortensen		p						p	p					p			p						
Carlos Neira																							
Richard Padilla		p		p		p					p					p	p			p			
Melissa Rotunno		p							p	p	p	p				p	p						
Neil Schwartzman		p											p	p	p								

Name		Subgroup A 25 April – 2, 3, 9, 16, 23, 30 May						Subgroup B 2, 9, 16, 23, 30 May						Subgroup C 2, 9, 16 May – 6, 14 June						24 Jun SJ	11, 18, 26 July – 1 Aug							
Suzanne Sene	GAC	p							p	p														p	p			
Adam Scoville		p	p	p	p	p	p									p	p			p					p		p	p
Wendy Seltzer		p								p													p			p		
Fabio Silva																							p	p				
Sofia Tabau																												
Darlene Thompson		p																										
Rudi Vansnick		p																										
Michael Warnecke		p							p	p	p	p	p							p	p	p	p	p	p	p	p	
Shaundra Watson										p		p			p				p							p	p	
Jeffrey Williams																												
Denise Michel		p	p						p								p										p	
STAFF:																												
Victoria Tricamo																											p	
Patrick Jones		p																									p	
Maria Farrell		p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	
Glen de Saint Gery		p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	p	

1172

1173 Total participants (excluding staff): 70

1174 **KEY**

1175 BC Commercial and Business Users Constituency

1176 IPC Intellectual Property Constituency

1177 RR Registrars Constituency

1178 NM GNSO Nominating Committee appointee

1179 RY GTLD Registries Constituency

1180 ISP Internet Service and Connection Providers Constituency

1181 NC Non-Commercial Users Constituency

1182 GAC Government Advisory Committee or GAC appointees

1183 p present

1184 SJ ICANN san Juan Puerto Rico physical meeting

1185 ANNEX 4 – STATEMENTS OF INTEREST**1186 A****1187 Amadeu Abril i Abril - observer****1188 1. Current occupation, employer and position**

1189 I am a consultant with CORE Internet Council of Registrars, an ICANN- accredited
1190 registrar and registry operator for two Sponsored TLD: .museum and .cat

1191 Besides that, I am a law professor, and hold other minor positions completely unrelated
1192 to Whois or DNS affairs in general.

1193 2. Type of work performed in 1 above

1194 I advise CORE in different areas, but mainly in the preparation of applications for new
1195 TLDs.

1196 3. Financial ownership or management leadership of

1197 registries, registrars or other firms that are interested parties in Whois

1198 No financial interest or ownership position at any time, past of present.

1199 I've been previously advising other ICANN-accredited registrars (Nominalia). I was also

1200 Director of the Board with a gTLD Registry (PIR; .org) and CEO of a sponsored TLD
1201 (Fundació puntCAT; .cat). I also was of Counsel in a Law Firm's IP & ITdepartment

1202 which makes regular use of Whois.

1203 I have registered some domain names in different TLDs (just four of them at present
1204 time).

1205 4. Nature of your interest in Whois

1206 Even if I am not part of their staff anymore, I am currently advising Fundació puntCAT in
1207 a proposal for amending their Whois service, in order to better reconcile the service with
1208 European Data Protection laws.

1209 Other than that, I have a general interest in the reform of Whois deriving from my
1210 experiences in the positions expressed above, as well as my involvement within the
1211 ICANN Board and the GNSO Council.

1212

1213 Carlos Álvarez - observer**1214 1. Current occupation, employer and position.**

1215 I currently work for Sony BMG Music Entertainment; I'm the Legal & Business Affairs
1216 Manager for the Andean Region (Colombia, Ecuador, Venezuela and Perú - excluding
1217 Bolivia). I'm also a member of the Advisory Committee of Alfa - Redi <[Page 55 of 88](http://www.alfa-</p></div><div data-bbox=)

1218 redi.com> (AL Structure) and a member of the ICC's Colombian Subcommittee on
1219 Electronic Commerce.

1220 2. Type of work performed in 1 above.

1221 I'm responsible for Sony BMG's Legal Department in the 4 countries that we control from
1222 Bogota; in our area we must deal with issues such as relations with artists and
1223 managers, copyright, trademarks, trade law, criminal law, computer law and others. I
1224 also teach postgraduate courses at several universities in Bogota.

1225 As a member of the Advisory Committee of Alfa - Redi I must give advice to the
1226 Organization on issues related to cyber crime, copyright, regional policies and the like.

1227 3. Financial ownership or management leadership of registries, registrars or other firms
1228 that are interested parties in Whois.

1229 None.

1230 4. Nature of your interest in Whois.

1231 As a law practitioner in Latin America I find it a must to determine the right balance
1232 between the need of checking WHOIS information and the need of protecting data that
1233 should not be disclosed. With two concerns in mind (security and IP protection) I believe
1234 there's a lot of work to be done in the WG.

1235

1236 **Yaovi Atohou – observer**

1237 1. Current occupation, employer and position

1238 I am an independent ICT consultant.

1239 2. Type of work performed in 1 above

1240 From 1997 to 2004 I was the coordinator of an USAID funded project called the Leland
1241 Initiative. I was full-time consultant during that period to support some African countries
1242 (but especially Benin Republic) in the Internet infrastructure, applications and users
1243 training. I became independent in 2004 providing my services in ICT policy and
1244 infrastructure.

1245 3. Financial ownership or management leadership of registries, registrars or other firms
1246 that are interested parties in Whose

1247 None

1248 4. Nature of your interest in Whois

1249 I am registrant of two domain names. I want to learn more about issues

1250 related to WHOIS, bring my input in the debate and then share some information with
1251 my local community.

1252

1253 **B**

1254 **Vittorio Bertola - observer**

1255 1. Current occupation, employer and position

1256 Self-employed

1257 2. Type of work performed in 1 above

1258 Consultancies related to Internet and mobile applications engineering

1259 3. Financial ownership or management leadership of registries, registrars or other firms
1260 that are interested parties in Whois

1261 I am serving on the Policy Advisory Board of the .mobi TLD representing the ALAC.

1262 Apart from that, none.

1263 4. Nature of your interest in Whois

1264 As the current Liaison of the ALAC to the ICANN Board, I would like to monitor the
1265 development of the discussion, and contribute if possible. As an individual registrant, I
1266 am interested in keeping my personal information accurate and safe from misuses.

1267

1268 **Jon Bing – Nominating Committee appointee to GNSO Council – Vice Chair**

1269 1. Current occupation, employer and position

1270 Professor at the Norwegian Research Center for Computers and Law, Faculty of Law,
1271 University of Oslo, Norway.

1272 Also partner of law firm Bing & Co, a “backoffice” company.

1273 Self-employed as creative author.

1274 2. Type of work performed in 1 above

1275 Teaching and (mainly) research in several areas of computers and law, including legal
1276 information systems and regulatory management, data protection, intellectual property
1277 law and Internet governance.

1278 The NRCCL has just initiated a project on legal aspects of Whois-databases, sponsored
1279 by Norid, which operates the cc for Norway.

1280 3. Financial ownership or management leadership of registries, registrars or other firms
1281 that are interested parties in Whois

1282 I have no such financial ownership or management leadership. .

1283 4. Nature of your interest in Whois

1284 My interest is “academic” or a general interest in both the operational or technical
1285 aspects of the databases (and I still have much to learn in that respect) and in the
1286 various legal aspects (data protection, interlegal law, intellectual property law, /etc/.)

1287

1288 **Carole Bird – observer**

1289 I am Officer in Charge, Program Management Support Services, Technological
1290 Crime Branch, Royal Canadian Mounted Police (RCMP).

1291 The RCMP is the Canadian national police service and an agency of the Ministry
1292 of Public Safety Canada. It operates as a national, federal, provincial and municipal
1293 policing body providing a total federal policing service to all Canadians and policing
1294 services under contract to the three territories, eight provinces (excluding Ontario and
1295 Quebec), more than 200 municipalities, 165

1296 Aboriginal communities, three international airports and numerous smaller airports. In
1297 total we have approx.17,000 police officers within the RCMP.

1298 My interest in working with this group is to ensure that police have access to the Whois
1299 data so that when individuals or companies report a crime we have sufficient
1300 information to determine the jurisdiction of the offence (and therefore the appropriate
1301 investigative agency) and to begin an investigation. Regardless of the nature of the
1302 crime: - child sexual abuse, human trafficking,
1303 national security, commercial crime (including fraud), technological crime,
1304 copyright/intellectual property offences, identity theft, organized crime, etc, each can be
1305 significantly affected by whatever changes are implemented to the current whois
1306 structure/data.

1307

1308 **C**

1309 **Patrick Cain - observer**

1310 1. Current occupation, employer and position.

1311 I am a research fellow and evangelist with the APWG (www.antiphishing.org). The Anti-
1312 Phishing Working Group (APWG) is the global pan-industrial and law enforcement
1313 association focused on eliminating the fraud and identity theft that result from phishing,
1314 pharming and email spoofing of all types.

1315

1316 The APWG acts as a clearinghouse for best-practices relating to deterring online fraud
1317 and crime, and collects, aggregates, and distributes discovered fraudulent domain and
1318 URL data to members, research partners, law enforcement, and filtering and anti-virus
1319 vendors to prevent.

1320 I also own a small network security consulting company using my multi-year experiences
1321 as an ISP security officer to the benefit of my customers.

1322 2. Type of work performed in 1 above.

1323 My work involves technical interactions with the APWG's data repository, blind contact
1324 system, and investigative partners. I am also part of the APWG public education group
1325 that presents technical and statistical data to other parties and public forums.

1326 3. Financial ownership or management leadership of registries, registrars or other firms
1327 that are interested parties in Whois.

1328 None.

1329 4. Nature of your interest in Whois.

1330 Our researchers maintain that fraudulent domains collect most of their victims within the
1331 first four or five hours of operation. Our mission includes identifying fraudulent domains
1332 to be included in browser and mail-relay filter lists and working to get the fraudulent
1333 domain disabled as quickly as possible to reduce the number of phishing victims.

1334 Fraudulent contact data in a domain record makes this quite hard. Hiding domain and
1335 contact data so it is harder to quickly identify suspicious URLs in a domain
1336 just creates more victims and generates more false positives.

1337

1338 **Mawaki Chango – Non-Commercial Users Constituency**

1339 1. Current occupation, employer and position

1340 Graduate assistant and Ph.D. student at Syracuse University

1341 2. Type of work performed in 1 above Academic research

1342 3. Financial ownership or management leadership of registries, registrars or other firms
1343 that are interested parties in Whois

1344 None

1345 4. Nature of your interest in Whois

1346 Civic and intellectual

1347

1348

1349 Paul Cox and Mark Taylor - observers

1350 Mark Taylor is an internet investigations officer within the music industry. Mark works for
1351 the MCPS-PRS-Alliance Ltd at the MCPS Anti-Piracy Unit enforcing the intellectual
1352 property rights of writer, composer and publisher members on-line. Mark is also a
1353 member of the Anti-Counterfeiting Group's (ACG) Internet Group and the Internet
1354 Enforcement Group (IEG). Mark and Paul Cox of legal firm SJ Berwin (who are
1355 Associate ACG members) have jointly been selected by the ACG Internet Group to
1356 apply to join the Whols Working Group in order to represent the interests of the Internet
1357 Group's members. Mark previously contributed comments to the local UK GAC
1358 representative in relation to the formulation of the draft Whols principles.

1359

1360 D**1361 Ute Decker – Intellectual Property Constituency**

1362 1. Occupation:

1363 I am a lawyer based in London, and an employee of Microsoft.

1364 2. Type of work performed:

1365 I participate in the WHOIS WG as an individual member of the Intellectual Property
1366 Constituency. I am also the European representative of the IPC on the GNSO Council.
1367 Though employed by Microsoft, I do not represent Microsoft's interest or views in the
1368 WHOIS WG, or in the IPC, or on the GNSO Council.

1369 3. Interest in registrars or registries or other parties interested in WHOIS:

1370 I have no financial or other interest in any registrar or registry. I am not aware that I
1371 have an interest in any other party interested in WHOIS.

1372 4. Nature of Interest in WHOIS

1373 I am interested in WHOIS as a member of the IPC and hope to contribute to the debate
1374 from my experience and expertise in IP, enforcement, e-commerce and EU data
1375 protection rules.

1376

1377 Bertrand de La Chapelle - observer

1378 1. Current occupation, employer and position

1379 Special Envoy for the Information Society Ministry of Foreign Affairs, FRANCE

1380 2. Type of work performed in 1 above

1381 In charge of WSIS follow-up activities and particularly of Internet Governance issues.

1382 French GAC representative.

1383 3. Financial ownership or management leadership of registries, registrars or other firms

1384 that are interested parties in Whois

1385 None

1386 4. Nature of your interest in Whois

1387 On substance : the WHOIS regime is a topical example of a situation where :

1388 - national legal frameworks are sometimes in conflict,

1389 - there is a conflict of two positive principles : between the desire to provide access to
1390 useful data in certain cases and the desire to preserve privacy

1391 As such, it is emblematic of a broad range of issues with the same kind of problem.

1392 Addressing it in a way that satisfies all stakeholders could establish a positive pattern for
1393 other issues.

1394 On process : after the extensive discussions within the GNSO and the GAC separately,

1395 it is important to bring the different categories of stakeholders together to address the

1396 problem in a joint effort rather than in a "silo" approach. This is why as a GAC member, I
1397 am pleased to participate in this working group.

1398

1399 **Steve DelBianco – Commercial and Business Users Constituency**

1400 1. Current occupation, employer and position:

1401 I serve as executive director of NetChoice, a coalition of e-commerce businesses and

1402 trade associations, including the Electronic Retailing Association, the Internet Alliance,

1403 AOL, eBay, Oracle, VeriSign, Yahoo, and several thousand small online sellers based in
1404 the U.S.

1405 I am also vice president of Public Policy at the Association for Competitive Technology

1406 (ACT), a trade association for ICT businesses in the US and Europe.

1407 2. Type of work performed:

1408 I set the policy agenda for both NetChoice and ACT. Frequently testify before the U.S.

1409 Congress and in state legislatures regarding Internet governance, e-commerce, and

1410 consumer protection. I represent NetChoice at ICANN meetings and in the Business

1411 Constituency. Also publish research and policy documents, and maintain a blog at

1412 <http://blog.netchoice.org>

1413 3. I have no financial ownership or management leadership of registries, registrars or
1414 other firms that are interested parties in Whois.

1415 4. The nature of my interest in Whois is to maintain the integrity of e-commerce and
1416 internet communications. I believe that an accurate Whois service must be accessible to
1417 business and law enforcement for purposes of consumer protection and intellectual
1418 property protection.

1419

1420 **Wout de Natris - observer**

1421 1. Current occupation, employer and position

1422 Name: Wout G.B.M. de Natris

1423 Employer: OPTA (The Netherlands Independent Post and Telecommunication
1424 Authority)

1425 Position: Compliance officer

1426 Title: Drs.

1427 2. Type of work

1428 My task at OPTA is threefold:

1429 - compliance officer internet security, investigator of spam related law breaches;

1430 - national and international liaison on internet security related matters;

1431 - compliance officer rights of way.

1432 3. Financial ownership

1433 OPTA is the regulator of the Dutch telecommunications and postal market so by it's
1434 nature does not have any interest in regulated parties or registrars and registries. As an
1435 employee of OPTA it is not allowed to have such interests.

1436 4. Nature of interest

1437 OPTA enforces spam and malware breaches of the law in the Netherlands. As such we
1438 have a direct interest in the on-line availability of Whois data for enforcers at the current
1439 level. It is from this angle that OPTA is interested to participate in the Whois Working
1440 Group.

1441

1442 **Hugh Dierker – observer**

1443 1. Current occupation,

1444 Dierker Consultancy. Consultant for Internet marketing firms operating in Vietnam,

1445 Mexico, Canada and the USA,

- 1446 2. Work performed in 1 above,
1447 Legal and marketing consulting services regarding registration and
1448 maintenance of data bases.
- 1449 3. Financial ownership or management leadership of registries, registrars or other firms
1450 that are interested parties in Whois.
1451 No personal financial interest in whois business.
- 1452 4. Nature of your interest in Whois.
1453 Privacy advocate and current chair of the gnso GA.
1454

1455 **Avri Doria – Nominating Committee appointee to GNSO Council**

- 1456 1. Current occupation, employer and position
1457 I am employed as an adjunct professor at Luelå University of Technology. I also have a
1458 contract doing QoS R&D for a Swedish start- up and am occasionally employed as a
1459 consultant to the secretariat of the IGF.
- 1460 2. Type of work performed in 1 above
1461 At the university I am responsible for the creation of a curriculum for a new program on
1462 Internet Governance and for supervision of MA and Ph.D. students. I am also active in
1463 several research efforts dealing with ubiquitous communications in remote
1464 communications challenged areas. As a technical consultant I do analysis on QoS in
1465 converging telecommunications systems, and as a consultant to the secretariat of the
1466 the IGF I provide a variety of services including creation of synthesis reports.
- 1467 3. Financial ownership or management leadership of registries, registrars or other firms
1468 that are interested parties in Whois
1469 I have no financial ownership or management leadership in any firm. I am currently
1470 involved with several non paying activities concerning indigenous peoples and other
1471 marginalized populations who desire access to TLDs. Some of these activities may
1472 someday result in registries, registrars or other firms that are interested parties in whois.
- 1473 4. Nature of your interest in Whois
1474 I am a nomcom appointee to the council, and believe that part of my responsibility as a
1475 volunteer to the council is to participate in as much of the work as possible. I am also
1476 interested and active in civil society efforts to limit the abuse of private information and
1477 do maintain membership, or contributor status, in several NGOs that have protecting
1478 privacy as part of their chartered goals.

1479

1480 **F**

1481 **David Fares - Commercial and Business Users Constituency**

1482 1. Current occupation, employer and position

1483 I am VP, E-commerce Policy at News Corporation.

1484 2. Type of work performed in 1 above

1485 I handle the international government and regulatory affairs for the company.

1486 3. Financial ownership or management leadership of registries, registrars or other firms

1487 that are interested parties in Whois

1488 I do not have any interest in a provider of domain name services.

1489 4. Nature of your interest in Whois

1490 News Corporation is a user of the Whois database, including for IP, network security and

1491 other business concerns.

1492

1493 **Robert Flaim - observer**

1494 I am an Agent with the Federal Bureau of Investigation (FBI) working in the Science and

1495 Technology Branch. My duties include monitoring Internet policy that effect the FBI's

1496 ability to investigate crimes on the Internet.

1497 The FBI uses the WHOIS as one of many tools to locate the source of cyber crimes, i.e.,

1498 child pornography, phishing, hacking, and traditional crimes, i.e., kidnapping, bank fraud.

1499 The timely contact information displayed in the WHOIS is a critical first step in solving

1500 these crimes.

1501 I respectfully submit my request to participate in the GNSO WHOIS Task Force.

1502

1503 **G**

1504 **Christopher S. Gibson - observer**

1505 1. Current occupation, employer and position

1506 I am a Professor at Suffolk University Law School in Boston, Massachusetts. I am also a

1507 consultant to the law firm of Steptoe & Johnson, in its London and Washington, D.C.

1508 offices. I am member of the Bars of California and the District of Columbia, and a

1509 registered foreign lawyer in the UK.

1510 2. Type of work performed in 1 above

1511 I teach in the areas of intellectual property, technology, international

1512 law, dispute resolution and Internet law. I consult for Steptoe on various matters.
1513 3. Financial ownership or management leadership of registries, registrars or other firms
1514 that are interested parties in Whois.
1515 None
1516 4. Nature of your interest in Whois
1517 I was Head of the Electronic Commerce Law Section of the World Intellectual Property
1518 Organization in Geneva, at the time when WIPO issued its First Internet Domain Name
1519 Report to ICANN and the U.S. Commerce Department. I am a professor following
1520 Internet IP, privacy and related legal issues. I am also an arbitrator in domain name
1521 disputes for both the UDRP and Nominet dispute-resolution systems. I have relied upon
1522 WHOIS information for many different professional purposes, including providing
1523 assistance to clients who are concerned that their rights are being infringed or that a
1524 fraud has been perpetrated on their clients or customers.
1525
1526 **Lynn Goodendorf - observer**
1527 1. Current occupation, employer and position
1528 I am part of the Risk Management department in InterContinental Hotels Group, a British
1529 corporation.
1530 I am based in the US and my position is Global Head of Data Privacy.
1531 I am a Certified Information Privacy Professional, CIPP and a Certified
1532 Information Security Systems Professional, CISSP
1533 2. Type of work performed in 1 above
1534 I am responsible for the global data privacy program including policies,
1535 standards, training and monitoring compliance.
1536 On our IHG websites, my team publishes a direct point of contact to
1537 customers for any privacy concerns or issues.
1538 Our company is focused on managing and franchising a portfolio of over
1539 3,600 hotels distributed across 100 countries and includes 7 hotel
1540 brands.
1541 Our e-commerce sales channel is a significant source of revenue and I
1542 have worked closely with that aspect of the business.
1543 We operate websites in 11 languages.
1544 I am also responsible for 1) the records management program involving

1545 data retention and disposition and 2) global coordination of business
1546 continuity plans.

1547 3. Financial ownership or management leadership of registries,
1548 registrars or other firms that are interested parties in Whois.

1549 Our company has no financial ownership or management position in
1550 registries and we have used multiple registries for our domain names.

1551 4. Nature of your interest in Whois

1552 I believe that I can make a positive contribution to this working group
1553 because

1554 I have practical experience in balancing and resolving any conflicts
1555 between security and privacy.

1556

1557 **Philip J. Greene - observer**

1558 1. Current occupation, employer and position

1559 a. Full time post, during calendar year 2007:

1560 Research Fellow Victoria University School of Law Wellington, New Zealand

1561 InternetNZ Senior Research Fellow in Cyberlaw

1562 b. Part-time post, to return to full time in calendar year 2008:

1563 Attorney U.S. Department of Commerce

1564 Intellectual Property Counsel for Trademarks, Internet, and Copyright

1565 2. Type of work performed in 1 above

1566 a. Research, writing, teaching and public speaking on topics concerning Internet law,
1567 Internet governance, Whois, domain name disputes, etc.

1568 b. Representation of U.S. Department of Commerce agencies on intellectual property
1569 and Internet-related issues.

1570 3. Financial ownership or management leadership of registries, registrars or other firms
1571 that are interested parties in Whois.

1572 None

1573 4. Nature of your interest in Whois

1574 Conducting research into Whois reform, particularly the extent to which ccTLD practices
1575 and policies might be relevant to any reforms or revisions made to Whois at gTLD level.

1576

1577

1578 Robin Gross - Non Commercial Users Constituency

1579 1. Current occupation, employer and position

1580 I am Executive Director of IP Justice, a non-profit organization based in San Francisco,
1581 California. I am also an attorney licensed by the State of California.

1582 2. Type of work performed in 1 above

1583 I work on legal matters related to intellectual property rights, Internet law, and civil
1584 liberties. My work involves legal research, writing articles and other documents, talking
1585 to the media and advocacy work on these issues.

1586 3. Financial ownership or management leadership of registries, registrars or other firms
1587 that are interested parties in Whois.

1588 None

1589 4. Nature of your interest in Whois

1590 I am a member of the Non-Commercial Users Constituency and am concerned with the
1591 appropriate balance between protecting intellectual property rights and protecting
1592 privacy rights in Internet governance matters.

1593

1594 **H**

1595 Palmer Hamilton - Commercial and Business Users Constituency

1596 1. Current occupation, employer, and position.

1597 Lawyer and member of Miller, Hamilton, Snider, & Odom, LLC.

1598 2. Type of work performed in 1 above.

1599 Our law firm was formed in 1979, with a primary focus on the representation of financial
1600 institutions. Prior to my private practice, I was an Assistant to the Comptroller of the
1601 Currency and Chief of Chartering for National Banks. In addition to the representation
1602 of banks and thrifts, I have represented the Federal Deposit Insurance Corporation and
1603 the thrift regulatory agency in the
1604 past.

1605 3. Financial ownership or management leadership of registries , registrars or other
1606 firms that are interested parties in WHOIS.

1607 None.

1608 4. Nature of your business interest in WHOIS.

1609 I represent a consortium of banks interested in WHOIS and other issues before ICANN.

1610 Banks In ICANN Consortium is a member of the Commercial and Business Users

1611 Constituency. The banks in the consortium are concerned that limiting their access to
1612 WHOIS data will preclude or, at a minimum delay, their ability to stop consumer fraud
1613 through the internet. Such fraud primarily damages the
1614 consumer, but it can indirectly affect the customer's bank as well.

1615

1616 **Tony Harris – Internet Service and Connectivity Provider Constituency**

1617 1. Current occupation, employer and position

1618 Executive Director - Argentina Internet Services Industry Association -

1619 CABASE

1620 2. Type of work performed in 1 above

1621 Government and regulatory relations, membership outreach, organization

1622 of events, representation in international fora.

1623 3. Financial ownership or management leadership of registries,

1624 registrars or other firms that are interested parties in Whois

1625 None

1626 4. Nature of your interest in Whois

1627 As a representative to the GNSO for the ISPCP constituency, I have been

1628 following the WHOIS proceedings since 2001, and am interested in continued

1629 participation in this concluding stage.

1630

1631 **Markus B Heyder – observer**

1632 1. Current occupation, employer and position

1633 Federal Trade Commission (Washington D.C.); counsel for international consumer

1634 protection

1635 2. Type of work performed in 1 above

1636 Work related to enforcement of U.S. consumer protection and privacy laws and

1637 associated policy work

1638 3. Financial ownership or management leadership of registries, registrars or other firms

1639 that are interested parties in Whois

1640 None

1641 4. Nature of your interest in Whois

1642 The FTC routinely relies on public Whois databases in its investigations of violations of
1643 U.S. consumer protection and privacy laws. To effectively perform their investigations
1644 and law enforcement functions,

1645 FTC investigators and attorneys require real-time access to domain name registration
1646 and registrant information. As a consumer protection agency, the FTC also has
1647 advocated in favor of public access for consumers to Whois information about domain
1648 names used for commercial purposes.

1649 During the GNSO Whois working group calls, any comments I make will not necessarily
1650 reflect the views of the FTC or any individual FTC Commissioner and may only reflect
1651 my own views and questions.

1652 I

1653 **Doug Isenberg – Intellectual Property Constituency**

1654 1. Current occupation, employer and position

1655 Among other things, I am an attorney in private practice in Atlanta,
1656 Georgia (USA). I am the founder of The GigaLaw Firm

1657 (<http://www.GigaLawFirm.com> <<http://www.gigalawfirm.com/>>). I am also a domain
1658 name panelist for WIPO.

1659 2. Type of work performed in 1 above

1660 My legal practice concentrates on representation of clients with copyright, trademark
1661 and technology/Internet-related needs. A substantial portion of my practice includes
1662 advice regarding domain name disputes and transactions, including representation of
1663 clients in UDRP proceedings.

1664 As a domain name panelist for WIPO, I regularly receive cases filed by third parties
1665 under the UDRP and write decisions determining the outcome of the disputes.

1666 3. Financial ownership or management leadership of registries, registrars or other firms
1667 that are interested parties in Whois.

1668 None.

1669 4. Nature of your interest in Whois

1670 As an attorney in private practice, I regularly use Whois to identify domain name
1671 registrants for, among other things, facilitating communications and resolving domain
1672 name and other online disputes. I am an individual member of the Intellectual Property
1673 Constituency of ICANN.

1674

1675 **K**

1676 **Susan Kawaguchi - Commercial and Business Users Constituency**

1677 1. Current occupation, employer and position

1678 eBay Inc. Global Domain Name Manager

1679 2. Type of work performed in 1 above

1680 Domain registration, management and enforcement

1681 3. Financial ownership or management leadership of registries, registrars or other firms

1682 that are interested parties in Whois

1683 None

1684 4. Nature of your interest in Whois

1685 As a major brand owner including eBay, PayPal and Skype we are very concerned
1686 about the availability of whois information to protect our users from phishing and fraud
1687 and the ability to enforce our trademark rights upon infringing domain names and sites.

1688

1689 **Tom Keller – Registrar Constituency**

1690 1. Current occupation, employer and position.

1691 I'm Registry Relations Manager at Schlund+Partner/1&1 Internet AG. I represent the
1692 European Registrars on the GNSO Council

1693 2. Type of work performed in 1 above.

1694 I am responsible in my company for all administrative and policy issues in regard to
1695 domain names.

1696 3. Financial ownership or management leadership of registries, registrars or other firms
1697 that are interested parties in Whois

1698 Schlund+Partner/1&1 Internet AG is an international operating webhosting company
1699 and registrar in gTLDs and ccTLDs. Schlund is holding a minor investment at Afilias.

1700 4. Nature of your interest in Whois.

1701 Schlund+Partner/1&1 Internet AG is a domain name registrar based in Germany. As
1702 such we have to comply with German privacy laws which also cover the whois issue as it
1703 relates to data of private persons.

1704

1705 **Dan Krimm – Non-Commercial Users Constituency**

1706 1. Current occupation, employer and position.

1707 I am currently between staff positions. Most recently I was Communication Director for
1708 CPSR (Computer Professionals for Social Responsibility). I am also Global Policy
1709 Fellow for IP Justice.

1710 2. Type of work performed in 1 above.

1711 I am an ICT policy analyst (MPP 2006 in ICT Policy, from USC -- also 20 years of
1712 production and project management work in online services). In the course of my work
1713 for IP Justice I have done some project work on behalf of the NCUC.

1714 3. Financial ownership or management leadership of registries, registrars or other firms
1715 that are interested parties in Whois.

1716 I am a registrant of two domains (munb.com and musicunbound.com) for "Music
1717 Unbound" which is an unincorporated, non-revenue, editorially-driven web site that I
1718 wholly own and solely operate, addressing matters related to the recorded music market,
1719 generally from the perspective of
1720 independent/unaffiliated "long tail" artists.

1721 4. Nature of your interest in Whois.

1722 In addition to my work on behalf of NCUC, as a "garden variety" domain registrant I am
1723 subject to the Whois registrant data policies as a matter of my own personal privacy and
1724 data security. It's my own name and contact information that is in the database now,
1725 though I have indeed opted to pay for NSI's privacy provisions such as they exist today.

1726

1727 **L**

1728 **John Levine – observer**

1729 1. Current occupation, employer and position

1730 2. Type of work performed in 1 above

1731 I'm self-employed as a writer and consultant. At the moment I'm
1732 working on the 11th edition of The Internet for Dummies, a book I hope
1733 some of you have read. For two years I was an interim member of the
1734 ALAC from North America. I am a member of the boards of CAUCE US and
1735 CAUCE CA, the leading grass-roots anti-spam organizations in the US
1736 and Canada, respectively.

1737 3. Financial ownership or management leadership of registries,
1738 registrars or other firms that are interested parties in Whois

1739 I am a small reseller of Tucows' registrar services, but that's not a

1740 significant fraction of my income. I am also an unpaid member of the
1741 .MOBI Policy Advisory Board. CAUCE US and CAUCE CA are both
1742 accredited ICANN at large structures.

1743 4. Nature of your interest in Whois

1744 WHOIS data, even in its current imperfect form, is a vital resource
1745 when tracking down sources of spam, phishing, and other antisocial
1746 on-line activity. I believe it is important to properly balance the
1747 interests of the millions Internet users who do not register domains
1748 but are affected by the actions of registrants against the much smaller
1749 number of people and organizations who do register domains.
1750 Incidentally, I probably won't be able to make the conf call on the 25th
1751 because I'll be flying back from a .MOBI PAB meeting.

1752

1753 **Leo Longauer – observer**

1754 1. Current occupation, employer and position

1755 I am Head of Group Intellectual Property of UBS (www.ubs.com) with global
1756 responsibility for all IP issues within the Bank, including Patents, Copyrights,
1757 Trademarks and Domain Names.

1758 2. Type of work performed in 1 above

1759 As part of our brand protection activities, we monitor and handle all types of online
1760 infringements such as Phishing and Nigerians scams and develop respective polices,
1761 including client and staff education.

1762 3. Financial ownership or management leadership of registries, registrars or other firms
1763 that are interested parties in Whois.

1764 None

1765 4. Nature of your interest in Whois

1766 Being able to take quick action against online fraud is a key element in protecting our
1767 clients and the general public. I therefore have an interest in appropriate access to
1768 Whois data while protecting legitimate privacy issues.

1769 I am part of the INTA Whois working group.

1770

1771

1772

1773 **M**

1774 **David W. Maher – gTLD Registry Constituency:**

1775 1. I am Senior Vice President - Law and Policy of Public Interest Registry (PIR), a
1776 nonprofit corporation responsible for management of the registry of the .ORG top level
1777 domain. From 1999 until 2002, I was Vice President - Public Policy of the Internet
1778 Society. In 2002, I became founding Chairman of the Board of Public Interest Registry,
1779 and served in that capacity until August, 2004. I am currently Chair of the Registry
1780 Constituency of the GNSO.

1781 I am a member of the Bar of New York, Illinois and Wisconsin and a registered patent
1782 attorney with the US Patent and Trademark Office. I am a director of the Better Business
1783 Bureau of Chicago and Northern Illinois, Inc. I am a retired partner of the law firm,
1784 Sonnenschein Nath & Rosenthal in the US, and have no connection at this time with any
1785 of its present or former clients. I am a member of the WIPO Arbitration & Mediation
1786 Center Panel of Neutrals.

1787 I am a member of the Visiting Committee to the Divinity School at the University of
1788 Chicago, a member of the American Law Institute and various other professional
1789 organizations, but have no policy making responsibilities in any of those organizations.

1790 2. As Senior Vice President - Law & Policy, I advise PIR on legal and policy issues and
1791 perform other executive functions.

1792 3. Senior Vice President - Law and Policy of Public Interest Registry (PIR), a nonprofit
1793 corporation responsible for management of the registry of the .ORG top level domain.
1794 PIR is required by its contract with ICANN to maintain a WHOIS function for the registry.

1795 4. PIR is committed to the principle that some means must be found to protect the
1796 privacy of personal data in WHOIS, while recognizing that law enforcement agencies
1797 and some other bodies have a legitimate interest in access to the data.

1798

1799 **Hope D. Mehlman - observer**

1800 1. Current occupation, employer and position

1801 I am Associate General Counsel at Regions Financial Corporation headquartered in
1802 Birmingham, Alabama. I am member of the Bars of Alabama, the District of Columbia,
1803 New Jersey, and New York.

1804 2. Type of work performed in 1 above

1805 I advise Regions on legal issues relating to intellectual property, information security
1806 and threat assessment, phishing, fraud prevention and remediation efforts, vendor
1807 contracts, and corporate governance.

1808 3. Financial ownership or management leadership of registries, registrars or other firms
1809 that are interested parties in Whois

1810 None

1811 4. Nature of your interest in Whois

1812 Financial institutions and their customers and consumers have been and continue to be
1813 a favorite target for perpetrators of fraud, particularly fraud utilizing Internet resources.
1814 Accordingly, financial institutions have a genuine need to have access to the Whois
1815 data to reduce fraud, mitigate identity theft, and to protect customers and consumers, as
1816 well as their intellectual property.

1817

1818 **Steve Metalitz – Intellectual Property Constituency**

1819 1. Current occupation, employer and position

1820 Attorney, Mitchell Silberberg & Knupp LLP, partner

1821 2. Type of work performed in 1 above

1822 Representation of clients on intellectual property and information policy issues, including
1823 members of the Coalition for Online Accountability (see www.onlineaccountability.net)

1824 3. Financial ownership or management leadership of registries, registrars or other firms
1825 that are interested parties in Whois

1826 None

1827 4. Nature of your interest in Whois

1828 President of IP constituency, participant in most previous ICANN policy work on Whois,
1829 and representative of clients who rely upon access to Whois to protect intellectual
1830 property rights and for other legitimate purposes

1831

1832 **Margie Milam – Registrar Constituency**

1833 I am the Vice President, General Counsel and Corporate Secretary of MarkMonitor, Inc.,
1834 an ICANN accredited registrar based in Boise Idaho, and am responsible for
1835 MarkMonitor's ICANN policy initiatives. MarkMonitor is the leading corporate domain
1836 registrar focusing primarily on managing the large and complex global domain portfolios
1837 of multinational corporations. MarkMonitor provides additional value added services to

1838 its corporate clientele, such as online brand protection and fraud prevention services.
1839 MarkMonitor is an active user of WHOIS information for the purposes of (i) its registrar
1840 related business, (ii) its brand protection reports as a service provider to entities seeking
1841 to protect against online infringement, and (iii) its anti-phishing services as a service
1842 provider to financial institutions and governmental agencies in detecting phishing
1843 attacks, identifying the fraudsters, and providing take down services.
1844 My primary interest in working with this group is to provide information regarding how
1845 WHOIS is legitimately used by service providers, registrars and intellectual property
1846 interests, and to assist in the development of policy that can accommodate these
1847 interests as well as privacy concerns. MarkMonitor is a member of INTA, IACC, Anti-
1848 Phishing Working Group, and LES. I currently serve as MarkMonitor's representative on
1849 the ICANN Registrar Constituency, and serve on the Internet Committee of IACC and
1850 the INTA Services Committee. MarkMonitor is also a member of the Intellectual Property
1851 Constituency. I am also a frequent speaker on intellectual property issues, and have
1852 coordinated and participated in seminars on WHOIS related issues.
1853 Prior to joining MarkMonitor, I was a partner with the Los Angeles global law firm,
1854 Pillsbury Winthrop Shaw Pitman, representing many international clients with respect to
1855 general corporate and intellectual property issues.

1856

1857 **Kari L. Moeller - observer**

1858 1. Current occupation, employer and position

1859 I am Senior Counsel with Turner Broadcasting System, Inc. in Atlanta, Georgia.

1860 2. Type of work performed in 1 above

1861 I manage Turner's domain name portfolio, handle online enforcement matters (including
1862 copyright and trademark), handle other Internet compliance issues such as privacy and
1863 e-commerce, and handle online advertising sales matters.

1864 3. Financial ownership or management leadership of registries, registrars or other firms
1865 that are interested parties in Whois

1866 I personally have no such financial ownership or management leadership. Turner
1867 Broadcasting System, Inc.'s parent company, Time Warner Inc., is also parent company
1868 to AOL LLC.

1869 Turner Broadcasting System, Inc., as a subsidiary of Time Warner Inc., is a member of
1870 the Coalition for Online Accountability.

1871 4. Nature of your interest in Whois

1872 Turner routinely relies upon and uses the Whois database to identify domain name

1873 registrants for trademark enforcement, domain name enforcement, domain name

1874 portfolio management, network security, and other similar business concerns.

1875

1876 **Lane Mortensen - observer**

1877 1 - Current occupation, employer and position

1878 Vice President and Compliance Manager in Wells Fargo Bank's Internet

1879 Services Group

1880 2 - Type of work performed in 1 above

1881 I'm responsible for providing risk management and compliance support for

1882 Wells Fargo's online banking activities. My team works on issues

1883 related to phishing and unauthorized use of our company service marks

1884 and intellectual property on the Web.

1885 3 - Financial ownership or management leadership of registries,

1886 registrars or other firms that are interested parties in Whois

1887 No financial ownership or management position in the domain name

1888 business.

1889 4 - Nature of your interest in Whois

1890 My team is responsible for quickly responding to phishing and related

1891 fraud incidents and heavily rely upon WHOIS information to protect

1892 consumers from becoming victims of identity theft and account fraud.

1893 Additionally, we rely upon WHOIS to protect our organization's

1894 intellectual property.

1895

1896 **Milton Mueller – Non Commercial Users Constituency**

1897 1. Current occupation, employer and position

1898 Professor, Syracuse University, USA

1899 2. Type of work performed in 1 above Education and research

1900 3. Financial ownership or management leadership of registries, registrars or other firms

1901 that are interested parties in Whois

1902 No financial or ownership interests in domain name businesses. I was appointed to the
1903 Policy Advisory Board of mtld (.mobi) by the Noncommercial Users Constituency. This is
1904 an unpaid advisory position.

1905 4. Nature of your interest in Whois

1906 I am a registrant of two domain names, and chair of the Noncommercial Users
1907 Constituency (NCUC), and a participant in the endless Whois Task Force of 2003-2007.

1908

1909 **N**

1910 **Jon Nevett – Registrar Constituency**

1911 1. Current occupation, employer and position.

1912 I am the Vice President and Chief Policy Counsel of Network Solutions, LLC., located in
1913 Herndon, Virginia.

1914 2. Type of work performed in 1 above.

1915 I am responsible for policy issues, public affairs, government affairs, and our Sarbanes-
1916 Oxley corporate compliance program.

1917 3. Financial ownership or management leadership of

1918 registries, registrars or other firms that are interested parties in Whois, and 4. Nature of
1919 your interest in Whois.

1920 Network Solutions is a domain name registrar. It also operates NameSecure and
1921 SRSPPlus, which also are domain name registrars. As such, we have an interest in
1922 Whois issues.

1923 Network Solutions is a member of the Registrar Constituency (RC) of the GNSO. In May
1924 2006, I was elected Chair of the RC.

1925 Network Solutions also is a member of the United States Council for International
1926 Business (USCIB). The USCIB is a member of the Business Constituency of the GNSO.
1927 Our primary interest in the USCIB is the DNS and Internet Identifiers Working Group, of
1928 which I am Co-Chair. The USCIB includes members who also will have an interest in
1929 the Whois issue.

1930

1931 **P**

1932 **Richard Padilla – observer**

1933 1. Current occupation, employer and position

1934 2. Type of work performed in 1 above

1935 I'm a Senior Support Analyst at the University of the Arts London, I'm in the processing
1936 of starting up my own web design business. At the moment I presently writing my thesis
1937 eCommerce a CARICOM Initiative for SMEs. I deal mostly with hardware and software
1938 issues. My design company will deal with the development of affordable web design,
1939 hosting and development for SMEs as well as anyone else. I have recently joined ISOC
1940 to which I hope to help develop a Caribbean chapter to have a voice in the issue and
1941 development of Internet and other related services, and also a member of ICANN, CIVIC
1942 and TTCS.

1943 3. Financial ownership or management leadership of registries, registrars or other firms
1944 that are interested parties in Whois

1945 None at this time

1946 4. Nature of your interest in Whois

1947 Outside of being asked to join by my good friend Jacqueline Morris chairwoman of
1948 ALAC, my interest here is to ensure that the Caribbean have a say in how we help
1949 develop policies in determining our Internet future as well as a better understanding in
1950 how we can develop effective policies to help in policing the Internet. It will also give a
1951 better insight into how this organisation works and become involve in ensuring that the
1952 Caribbean/Latin American region is not left behind.

1953 **R**

1954 **Ross Rader - Registrar Constituency**

1955 I am the Director of Research and Innovation for Tucows Inc., an ICANN accredited
1956 registrar and Internet services vendor. Tucows is a minority shareholder in Afilias LLC,
1957 with roughly an 8% shareholding. Neither Tucows, nor I, is in possession of, nor have
1958 access to Registry Sensitive or Registry Proprietary information as defined by any
1959 relevant registry operating contracts as a result of this relationship. Tucows provides
1960 consulting and application hosting services to other registrars and Internet services
1961 providers. I am not an officer, director, consultant, or employee of any of these customer
1962 organizations nor am I specifically involved in providing services to them.

1963 The URL for this statement is:

1964 http://www.byte.org/blog/_WebPages/StatementofInterestsforRossRader.html

1965

1966 **Kristina Rosette – Intellectual Property Constituency**

1967 1. Current occupation, employer and position

1968 I am employed as a Special Counsel by Covington & Burling LLP("Covington"), a
1969 general practice law firm with over 600 lawyers in five offices in three countries. I am
1970 resident in Covington's Washington, DCoffice and am a member of the District of
1971 Columbia bar. Since 2004, I have been a member of the Registration Practice and DNS
1972 Administration Subcommittee of the International Trademark Association's Internet
1973 Committee. I am also the Intellectual Property Constituency representative for North
1974 America to the GNSO Council.

1975 2. Type of work performed in 1 above

1976 I specialize in Internet and trademark matters, and represent trademark owner clients in
1977 connection with such matters. Among my responsibilities, I design online anti-fraud
1978 programs, develop and implement offensive and defensive domain name registration,
1979 Internet monitoring, and enforcement strategies; reclaim domain names through
1980 negotiation, arbitration, and litigation; clear proposed marks for use and registration in
1981 the United States and abroad; and conduct and coordinate IP due diligence reviews in
1982 connection with corporate transactions including, for example, mergers and acquisitions,
1983 corporate financing, and debt restructuring.

1984 3. Financial ownership or management leadership of registries, registrars or other firms
1985 that are interested parties in Whois

1986 None at the present time. I have determined that Covington did represent the
1987 International Cooperative Alliance in connection with the formation and establishment of
1988 DotCooperation LLC, the .coop registry operator, but that matter has been closed for
1989 some time. I have also determined that Covington neither represents any gTLD or sTLD
1990 registry operator in matters relating to its capacity as a registry operator nor represents
1991 any client in matters adverse to such registry operators as registry operators. Based on
1992 the responses to my inquiries, Covington does not represent any ccTLD registry
1993 operator in its capacity as a registry operator nor does it represent any client in matters
1994 adverse to any ccTLD registry operators as registry operators. To the best of my
1995 knowledge, Covington does not represent any ICANN-accredited registrar in its capacity
1996 as a registrar nor does it represent any firm client in a matter adverse to a registrar as
1997 registrar. It is possible that a firm client is an ICANN-accredited registrar, but, if so,
1998 Covington does not represent it in such matters.

1999 4. Nature of your interest in Whois

2000 As one of the IPC representatives to the GNSO Council, one aspect of my interest in
2001 Whois is to represent the interests and views of IPC members and their effect and
2002 interaction with the domain name system. On behalf of the trademark owner clients I
2003 represent, I use Whois data regularly
2004 (usually daily) to design online anti-fraud programs; to develop and implement offensive
2005 and defensive domain name registration, Internet monitoring, and enforcement
2006 strategies; to contact registered name holders to purchase domain names; to develop
2007 and pursue arbitration proceedings and litigation against parties using trademarks and
2008 domain names that violate clients' intellectual property rights; to clear proposed marks
2009 for use and registration in the United States and abroad; and/or to verify domain name
2010 and other intellectual property portfolios in connection with corporate transactions
2011 including, for example, mergers and acquisitions, corporate financing, and debt
2012 restructuring. Accordingly, I am interested in ensuring that parties with legitimate
2013 interests in accessing the data currently contained in Whois continue to have the ability
2014 to do so in furtherance of their legitimate activities.

2015

2016 **Melissa Rotunno – observer**

2017 1. Current occupation, employer and position

2018 I am Brand Counsel for the Blue Cross and Blue Shield Association (BCBSA).

2019 2. Type of work performed in 1 above

2020 I manage domain name enforcement and trademark enforcement of BCBSA's
2021 trademarks as well as interpretation of BCBSA's license agreements and regulations
2022 regarding the BCBSA brands.

2023 3. Financial ownership or management leadership of registries, registrars or other firms
2024 that are interested parties in Whois

2025 I do not have a financial ownership interest in or management leadership of registries,
2026 registrars or other firms that are interested parties in Whois

2027 4. Nature of your interest in Whois

2028 BCBSA routinely relies upon and uses the Whois database for trademark enforcement,
2029 domain name enforcement and other similar matters.

2030

2031 **Tim Ruiz - Registrar Constituency**

2032 1. Current occupation, employer and position.

2033 Vice President of Corporate Development and Policy for The Go Daddy
2034 Group, Inc. based in Scottsdale, Arizona, USA.

2035 2. Type of work performed in 1 above.
2036 Corporate development, business development, new projects, and policy.

2037 3. Financial ownership or management leadership of registries,
2038 registrars or other firms that are interested parties in Whois, and 4.
2039 Nature of your interest in Whois.

2040 The Go Daddy Group companies include eight ICANN accredited registrars,
2041 each of which are under contract with ICANN to provide publicly
2042 accessible WHOIS services via the Web and port 43. The Go Daddy Group
2043 companies also includes Domains by Proxy, Inc., a provider of private
2044 registration services to the Go Daddy Group accredited registrars. Each
2045 of the aforementioned companies could be affected by the outcome of this WG.

2046 GoDaddy.com, one of the Go Daddy Group registrars, is a member of the
2047 dotMOBI Advisory Group (MAG). I represent GoDaddy.com on the MAG. I am
2048 also a member of the MAG Steering Committee. The MAG, among other
2049 activities, is indirectly involved in recommending policy to mTLD, the
2050 dotMOBI Registry Operator.

2051 GoDaddy.com is a member of, and I am currently CTO and Vice Chair of the
2052 Registrars' Constituency of the GNSO. While I was not elected by the
2053 Constituency to serve on this Working Group, I am on the Executive
2054 Committee of the Constituency and feel an obligation to present and
2055 discuss various Constituency members' views to the Working Group as
2056 they are made known to me.

2057 GoDaddy.com is also a member of the United States Council for
2058 International Business (USCIB). The USCIB is a member of the Business
2059 Constituency of the GNSO. Our primary interest in the USCIB is the DNS
2060 and Internet Identifiers Working Group. The USCIB and aforementioned
2061 Working Group include members who have an interest in the outcome of
2062 this WG and any affect it has on access to WHOIS data.

2063
2064
2065

2066 **S**

2067 **Adam Scoville - observer**

2068 1. Current occupation, employer and position

2069 RE/MAX International, Inc., Corporate Counsel.

2070 2. Type of work performed in 1 above

2071 I oversee trademark and advertising issues at RE/MAX International, which franchises

2072 real estate brokerage offices with over 120,000 sales associates, in more than 6,500

2073 franchised offices, in over 65 countries.

2074 This includes investigating and responding to complaints by consumers and RE/MAX

2075 franchises of domain names that include the RE/MAX marks but are owned by

2076 individuals and companies not connected with RE/MAX. It also includes investigating

2077 and non-legal resolution of instances of domain names owned by RE/MAX affiliates that

2078 violate RE/MAX International's standards for affiliate domain name registration. It also

2079 includes overseeing RE/MAX International's domain name portfolio.

2080 I also chair the Whois Subcommittee of the International Trademark Association.

2081 3. Financial ownership or management leadership of registries, registrars or other firms

2082 that are interested parties in Whois.

2083 Neither I nor RE/MAX International have any ownership or management position in any

2084 registry or registrar.

2085 4. Nature of your interest in Whois

2086 I believe that the ability of consumers to verify who they are dealing with on-line is critical

2087 to the development and continuation of a safe and secure on-line marketplace, and

2088 indeed the practical operation of the rule of law on the Internet, which in turn benefit

2089 businesses wishing to reach those customers. In turn, business' and law enforcement's

2090 ability to access Whois and to address infringing and fraudulent web addresses rapidly,

2091 before more consumers can be confused or defrauded, also protects consumers.

2092 However, I believe it is worth exploring practical ways to address some data-mining

2093 issues, consistent with these principles, and that this may be our best hope for

2094 productive work on the issue.

2095 I look forward to working with working group members over the next four months.

2096

2097

2098

2099 Wendy Seltzer - observer

2100 1. Current occupation, employer and position

2101 Visiting Assistant Professor at Brooklyn Law School. During the spring term, I will be at
2102 the Oxford Internet Institute as a Visiting Fellow, teaching at the Saïd Business School. I
2103 am also a Fellow with the Berkman Center for Internet & Society at Harvard.

2104 2. Type of work performed in 1 above

2105 Research on subjects including copyright and free expression online. Teaching including
2106 Internet Law, Information Privacy, Copyright, Intellectual Property.

2107 3. Financial ownership or management leadership of registries, registrars or other firms
2108 that are interested parties in Whois

2109 I have no financial or business interest in any registration entity.

2110 4. Nature of your interest in Whois

2111 As an advocate of privacy and free expression, I am concerned that the current WHOIS
2112 unduly burdens anonymous speech and personal privacy. I am an interim member of the
2113 At-Large Advisory Committee and have been a non-voting member of the previous
2114 WHOIS task forces.

2115

2116 Philip Sheppard - Chairman

2117 I am Public Affairs Manager for AIM - European Brands Association, a Brussels-based
2118 trade association involved in public affairs activities. AIM represents the branded goods
2119 industries in Europe on key issues which affect the ability of brand manufacturers to
2120 design, distribute and market their brands. AIM's membership groups 1800 companies of
2121 all sizes through corporate members and national associations in 21 countries. These
2122 companies are mostly active in every day consumer goods. AIM's mission is to create for
2123 brands an environment of fair and vigorous competition, fostering innovation and
2124 guaranteeing maximum value to consumers.

2125 I hold various non-remunerated directorships unrelated to ICANN. I am a contact point
2126 for several domain names. I am a Council member for the Business Constituency but will
2127 not represent the constituency on this group.

2128 Honorary positions:

2129 President 2007 International Public Relations Association (IPRA), the global professional
2130 association for the PR profession.

2131 I am a Freeman of the City of London.

2132 **Fabio R. Silva - observer**

2133 1. Current occupation, employer and position: I am an in-house attorney for Burberry
2134 Limited USA, located at 1350 Avenue of the Americas, New York, NY 10019. (My
2135 contact information can be found near the bottom of this email.)

2136 2. Type of work performed in 1 above: I am responsible for enforcing Burberry's
2137 trademarks in North America. This includes IP enforcement on the Internet.

2138 3. Financial ownership or management leadership of registries, registrars or other firms
2139 that are interested parties in Whois: Neither I nor Burberry have financial ownership or
2140 management leadership at domain name registries, registrars or other firms that are
2141 interested parties in Whois.

2142 4. Nature of your interest in Whois: Because Burberry enforces its intellectual property
2143 on the Internet, it is of great importance that the company be able to identify more than
2144 merely a technical contact for websites engaged in commercial transactions with the
2145 general public. It is also not enough to send cease & desist letters via email, because
2146 email is not a generally accepted means of providing an alleged infringer with notice.
2147 Without an administrative contact, the individual that owns and operates the site is
2148 essentially unreachable by a means that is legally recognized as constituting proper
2149 "notice". No one that conducts commercial transactions with the general public should
2150 be able to hide their identity for purposes of receiving notice of infringement. This is why
2151 Burberry is interested in reviewing the proposal of the ICANN Whois Taskforce, and
2152 sharing what it knows about how counterfeiters use the Internet to their advantage.

2153

2154 **Ken Stubbs - Registry Constituency**

2155 I have provided consulting services to various clients for over 25 years, with a principle
2156 focus on the development of marketing strategies and operational and organizational
2157 structures.

2158 Since 1994, I have consulted on Internet business development strategies for the
2159 development of both commercial as well as non-profit web sites. I am also the former
2160 Chairman of the Executive Committee of CORE (3 years).

2161 I am a Director of Afilias Registry as well as a member of the Afilias Board of Director's
2162 Executive Committee.

2163 I am a member of the Registry Constituency.

2164

2165 T

2166 **Darlene Thompson – observer**

2167 1. Current occupation, employer and position

2168 I am the Secretary/Treasurer of N-CAP, a non-profit company that represents

2169 telecentres in Canada's far north. I am also the Community Access Program

2170 administrator for the Nunavut Department of Education.

2171 2. Type of work performed in 1 above

2172 I administer all funding for our telecentres and take the lead in many IT-related areas.

2173 3. Financial ownership or management leadership of registries, registrars or other firms

2174 that are interested parties in Whois.

2175 None

2176 4. Nature of your interest in Whois

2177 I am concerned with the appropriate balance between protecting intellectual property

2178 rights and protecting privacy rights in Internet governance matters.

2179

2180

2181 **Bruce Tonkin – Registrar Constituency**

2182 1. Current occupation, employer and position

2183 I am the Chief Technology Officer of Melbourne IT Limited.

2184 2. Type of work performed in 1 above

2185 I work on the technology strategy for the company, and manage the products and

2186 services built using this technology.

2187 3. Financial ownership or management leadership of registries, registrars or other firms

2188 that are interested parties in Whois.

2189 I have shares in Melbourne IT limited, which is an ICANN accredited registrar.. I have

2190 also been elected to seat #13 of the ICANN Board of Directors for a term beginning 8

2191 June 2007.

2192 4. Nature of your interest in Whois

2193 Melbourne IT operates a WHOIS service for several million domains under its

2194 management (both gtld and cctld). I am most familiar with the implementation of gtld

2195 domain name WHOIS services, as well as the .au domain name implementation of the

2196 WHOIS service.

2197 Melbourne IT is a user of WHOIS to assist corporate clients in protecting their brands
2198 online.

2199 Melbourne IT uses WHOIS as part of its efforts to protect its own global brand.

2200 Melbourne IT uses WHOIS to assist in domain name transfers, as well as in support of
2201 its web hosting operations.

2202

2203 **V**

2204 **Rudi Vansnick - observer**

2205 1. Current occupation, employer and position

2206 Business wise I am a self-employed ICT consultant, working especially on breaching the
2207 Digital divide. Aside my business activities I'm chair/president of ISOC Belgium, certified
2208 ALS and signatory of EURALO MoU. Secretary of a Belgian users organisation (TIK
2209 vzw) representing customers of the most important ISP's in Belgium (10.000 individual
2210 members today).

2211 2. Type of work performed in 1 above

2212 General management of associations. Deploying an Ombudsman service, which we
2213 actually run for about 30 months now, handling a lot of domain name issues.

2214 Furthermore we are in final phase of setting up a specific association regrouping the
2215 hosting provider, smaller access providers and web masters. Basic goal : putting in
2216 place a Code of Conduct and regulatory procedures for handling domain names related
2217 to hosting and access services.

2218 Delivering advice to governmental bodies and close collaboration with national TLD.

2219 3. Financial ownership or management leadership of registries, registrars or other firms
2220 that are interested parties in Whois

2221 No financial interest or ownership position.

2222 4. Nature of your interest in Whois

2223 Based on the cases handled with our Ombudsman, I am specifically interested in the
2224 possible reform of procedures in WHOIS, protecting privacy information of personal
2225 data, without disrupting the technical handling of issues by the registrars/agents and
2226 TLD's.

2227

2228

2229

2230 **W**

2231 **Michael Warnecke – observer**

2232 1. Current occupation, employer and position

2233 Counsel, IP and Technology Policy, Entertainment Software Association.

2234 The ESA is a Washington, D.C.-based trade group that represents the public policy
2235 interests of video game publishers.

2236 2. Type of work performed in 1 above

2237 I provide analysis on various IP and technology public policy issues that intersect with
2238 the video game industry. These include: digital rights management, user-generated
2239 content, virtual property, and other legal issues related to online games and virtual
2240 worlds. My duties also extend to working with our anti-piracy team in furthering policy
2241 goals that adequately protect our member-companies' IP rights.

2242 3. Financial ownership or management leadership of registries, registrars or other firms
2243 that are interested parties in Whois

2244 None.

2245 4. Nature of your interest in Whois

2246 The video game industry continues to suffer significant financial losses from online
2247 piracy. Like law enforcement, we have a legitimate need for continued access to Whois
2248 information. The Whois databases play a key role in our efforts, and those of our
2249 members, to identify individuals who are stealing our property. My participation is with a
2250 view to both learning more about other stakeholders' perspectives and communicating
2251 our industry's concern for reasonable access to these databases.

2252

2253 **Jay Westerdal – Registrar Constituency**

2254 1. Current occupation, employer and position.

2255 I am the President and Chief Executive Counsel of Name Intelligence, Inc., located in
2256 Bellevue, Washington.

2257 2. Type of work performed in 1 above.

2258 I am responsible for corporate management and growth.

2259 3. Financial ownership or management leadership of registries, registrars or other firms
2260 that are interested parties in Whois, and 4. Nature of your interest in Whois.

2261 Name Intelligence is a domain name registrar. We also operate DomainTools.com, a
2262 Domain Information portal. As such, we have an interest in Whois issues.

2263 Name Intelligence is a member of the Registrar Constituency (RC) of the GNSO. In May
2264 2006, I was elected Secretary of the RC.

2265

2266 **Jeff Williams – observer**

2267 1. Current occupation, CSO/DIR. Internet Network Eng. SR. Eng. Network data security

2268 2. Work performed in 1 above, Sr. Management duties regarding Security, ect.

2269 No financial interest in Domain name business. various advisory consulting work for

2270 existing customers, ect...

2271 3. Nature of your interest in Whois:

2272 I am a registrant of a number of domain names, a Spokesman for INEGroup, whos

2273 members are all domain name registrants, and a participant in previous

2274 Whois WG's/task forces, sense 2003 ect..

2275

2276 **Y**

2277 **Danny Younger - Non Commercial Users Constituency**

2278 I am employed by Artistic Ribbon Inc. in a customer service capacity; I have no financial

2279 relationship with any firms that are interested parties in Whois. I participated in the

2280 WHOIS initiative chaired by Paul Kane several years ago and have recently submitted

2281 the "Natural Persons Proposal" to the WHOIS Task Force. In my capacity as VP of the

2282 NY ISOC chapter I organized a panel discussion on the future of WHOIS.