ICANN | GNSO
Generic Names Supporting Organization

3 July 2020

Registry Directory Service (RDS-WHOIS2) Review Team Recommendations

Mr. Maarten Botterman
Chair, ICANN Board

Dear Maarten,

ICANN staff has brought to our attention that on 25 February 2020 the ICANN Board resolved to pass through to the GNSO Council, in whole or in part, two recommendations from the RDS-WHOIS2 Review Team.

Please find below the Council's response on these two recommendations, CC.1 and CC.4.

For ease of reference, these two recommendations, along with excerpts of scorecards associated with the Board resolution are reproduced below, followed by the GNSO Council's response.

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

Board resolution: The Board approved this recommendation and directed this item "to be included in the next round of contractual negotiations with the Contracted Parties", with a note that "it cannot require or guarantee any negotiation outcomes". The Board also noted that "this is an area that the GNSO Council might wish to take into a policy development process separate from any recourse to the policy development process that might be incorporated into the negotiation process", and passed through this recommendation to the GNSO Council "for purposes of considering such initiation".

GNSO Council response:

This recommendations touches upon accuracy of registration data, which is one of the priority two topics for Phase 2 of the GNSO's Expedited Policy Development Process on Temporary Specification for gTLD Registration Data (EPDP). However, the Council is well aware that data accuracy, among some other priority two topics, is unlikely to be addressed by the EPDP Team and is considering its options and possible next steps. The Council will ensure **Recommendation CC.1** is included for consideration in due course, if this item has not bee addressed in the next round of contractual negotiations between ICANN org and the Contracted Parties (as directed by the Board).

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Recommendation CC.4: "The ICANN Board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies."

Board resolution: The Board passed the recommendation through to the GNSO Council, "with reference to documentation of clarifications received from RDS-WHOIS2 Implementation Shepherds in the 29 January 2020 discussion with the RDS Board Caucus Group", i.e. "this recommendation could be directed to the GNSO".

GNSO Council response:

Recommendation CC.4 touches upon two main areas:

1. How to measure effectiveness of RDS policies; and

2. Enforcement of RDS polices by ICANN Contractual Compliance.

With regard to #1, the Council is of the view that this has been, by and large, addressed by the non-PDP Data & Metrics for Policy Making Working Group ("DMPM WG") and the GNSO2 Review.

One of the recommendations in the DMPM WG's Final Report was to include the following language in the GNSO Working Group Charter template, which has been duly implemented:

> *"**Deliverables:***
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> *….*
>
> *If the WG concludes with any recommendations, the WG must include a policy impact analysis and a set of metrics to measure the effectiveness of the policy change, including source(s) of baseline data for that purpose:*
> - *Identification of policy goals*
> - *Identification of metrics used to measure whether policy goals are achieved*
> - *Identification of potential problems in attaining the data or developing the metrics*
> - *A suggested timeframe in which the measures should be performed*
> - *Define current state baselines of the policy and define initial benchmarks that define success or failure*
> - *Metrics may include but not limited to (Refer to the Hints & Tips Page):*
>   - *ICANN Compliance data*
>   - *Industry metric sources*
>   - *Community input via public comment*
>   - *Surveys or studies*

In addition, Recommendation 16 of GNSO2 Review Final Report was that "a policy impact assessment (PIA) be included as a standard part of any policy process." Subsequently, the following language is included in the GNSO Operating Procedures as part of the implementation of this recommendation:

> *"11. Publication of the Initial Report*
> *After collection and review of information, the PDP Team and Staff are responsible for producing an Initial Report. The Initial Report should include the following elements:*
>
> *…*

- *A statement on the WG discussion concerning impact of the proposed recommendations, which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility.*"

With regard to #2, the Council notes ICANN Compliance activities (including its audit program, approach, complaints handling processes, monitoring, reporting are documented and published on ICANN website https://www.icann.org/resources/pages/compliance-2012-02-25-en. Some Council members suggest more should be done by ICANN Compliance in this regard.

Based on the above, the Council does not propose to take any further action in relation to **Recommendation CC.4**.

We hope the Board finds the GNSO Council's response helpful.

Best regards,

Keith Drazek
GNSO Chair