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GNSO Council Feedback on a Proposal to Limit the Scope of the Forthcoming RDS Review

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The GNSO Council has reviewed the Proposal for a Limited Scope of the RDS Review (formerly the 2nd WHOIS Review) that was circulated to the community for comment in November 2016, and wishes to provide the following input for consideration.

The GNSO Council notes that the ICANN Bylaws provide for a periodic Registration Directory Service (RDS) Review in the following terms:

4.6 (e) Registration Directory Service Review

- (i) Subject to applicable laws, ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations and Advisory Committees to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.
- (ii) The Board shall cause a periodic review to assess the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data ("Directory Service Review").
- (iii) The review team for the Directory Service Review ("Directory Service Review Team") will consider the Organisation for Economic Co-operation and Development ("OECD") Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD in 1980 and amended in 2013 and as may be amended from time to time.
- (iv) The Directory Service Review Team shall assess the extent to which prior Directory Service Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.
- (v) The Directory Service Review shall be conducted no less frequently than every five years, measured from the date the previous Directory Service Review Team was convened, except that the first Directory Service Review to be conducted after 1 October

2016 shall be deemed to be timely if the applicable Directory Service Review Team is convened on or before 31 October 2016.

Accordingly, the GNSO Council would like to suggest the following nine (9) areas of focus for the RDS Review Team:

1. Assess whether the RDS efforts currently underway in the ICANN community are on target to meet the “legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data.”
2. Assess the RDS efforts currently underway (or planned in the near term), for the purpose of making recommendations regarding how they might be improved and better coordinated.
3. Ongoing work by the Privacy and Proxy Services Accreditation Issues Implementation Review Team (see Recommendation 10 of the 2012 WHOIS Review Team Final Report).
4. Progress of cross validation implementation (see Recommendations 6 and 7, 2012 WHOIS Review Team Final Report).
5. Review compliance enforcement actions, structure and processes (see Recommendation 4, 2012 WHOIS Review Team Final Report).
6. Availability of transparent data concerning enforcement of contractual obligations of WHOIS.
7. Assess the value and timing of RDAP as a replacement protocol.
8. To the extent time and bandwidth permit, evaluate the effectiveness of any other steps ICANN has taken to implement Recommendations 3-11 of the 2012 WHOIS Review Team Final Report.
9. Ensure no duplication of work that is the responsibility of the GNSO’s RDS Policy Development Process Working Group.

The GNSO Council appreciates the opportunity to comment on the Proposal, and hopes its suggestions will be helpful in focusing the work of the RDS Review Team while avoiding duplication of work that is already underway in the community.

Best regards,

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