

20 April 2008

The gTLD Registries Constituency (RyC) submits this statement to the WHOIS Study Group on areas for further study.

The underlying position of RyC on WHOIS was expressed in its statement, filed on 4 October 2007, commenting on previous GNSO Task Force and Working Group Reports.

The full statement is available at:

<http://www.gtldregistries.org/news/2007/2007-10-04-01.pdf>

In summary:

“RyC strongly believes that there is no acceptable reason for publication of an individual’s personal data such as home address, phone number or email address, whether by a registry or registrar unless that individual freely and explicitly gives consent to such publication. To the extent that such data is needed for law enforcement purposes or for the resolution of conflicts such as intellectual property, the appropriate means to meet these needs should be a tiered access process. RyC acknowledges that a tiered access model presents some policy implementation challenges but believes that it would be very worthwhile to confront those challenges in a constructive and diligent manner.”

With regard to this proceeding, RyC believes that further studies can only be justified if they are established on the basis of acknowledging the fundamental goal of protection of personal privacy of individuals. The discussion to date has not addressed this position.

There is no need for a study of the desirability of protection of personal privacy. The demand for proxy and anonymous registrations is ample evidence of the public demand for privacy.

If the working group is willing to acknowledge the need for protection personal privacy, then RyC would be willing to support the concept of narrowly focused studies on certain subjects proposed for review by the working group. The studies should not duplicate work that has already been done, as listed in the data points circulated by Ms. Gasster on 9 April.

RyC ranks the order of importance of the proposed studies (using the categories suggested in the ICANN staff report of 25 February) as set forth below. Within each category are comments on the suggested studies:

1. WHOIS misuse studies – Of the suggested studies (##1, 14, 15 and 21) only study 15 would be useful in determining more precisely the extent to which WHOIS data is currently misused (e.g., as a source for spam and phishing attacks).
2. Compliance with data protection laws and Registrar Accreditation Agreement – to the extent that these studies (## 16, 22, 23 and 24) involve purely legal analysis, they are

likely to be subjective and not very useful. To the extent that these studies are factual surveys of compliance with law and the RAA, they could be useful.

3. Availability of privacy services – As suggested in the ICANN report, a simple survey of availability, cost and features from publicly available sources would be useful. The more detailed studies suggested (## 2 and 5) would be costly and less useful.
4. Demand and motivation for use of privacy services – the suggested studies (##17, 18 and 19) would only be useful if metrics can be developed to determine which registrants are using proxy services for illegitimate purposes.
5. Impact of WHOIS data protection on crime and abuse – the suggested studies (##6 and 13) could be useful, and the offer of APWG to make data available should be accepted.
6. Proxy registrar compliance with law enforcement and dispute resolution requests – the suggested studies (##3, 20 and Metalitz) should be postponed until a preliminary study is made of data available.
7. WHOIS data accuracy – the suggested studies (##8 and 11) appear to duplicate work already being performed by ICANN.

RyC has recently learned of a series of study recommendations by the Government Advisory Committee (GAC). Because of the short time period for preparing this statement, RyC does not comment on the GAC proposals, but plans to do so at a later date.

RyC urges the Study Group to acknowledge explicitly the fundamental goal of protection of personal privacy of individuals, and to fashion any proposals for further studies in support of this goal.