

## GNSO Council Report to the ICANN Board

### Thick Whois PDP

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#### Executive Summary

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 10 October 2013 the recommendation of the Thick Whois Policy Development Process (PDP), namely:

- The provision of thick Whois services, with a consistent labeling and display as per the model outlined in specification 3 of the 2013 RAA<sup>1</sup>, should become a requirement for all gTLD registries, both existing and future.

Under the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

#### a. A clear statement of any Successful GNSO Vote recommendation of the Council

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 10 October 2013 the following recommendations on the Thick Whois (PDP):

- #1: The provision of thick Whois services, with a consistent labelling and display as per the model outlined in specification 3 of the 2013 RAA<sup>1</sup>, should become a requirement for all gTLD registries, both existing and future.
- #2: Following the adoption of the Final Report report and recommendations by the GNSO Council, the subsequent public comment forum (prior to Board consideration) and the notification by the ICANN Board to the GAC, specifically request input on any considerations related to the transition from thin to thick Whois that would need to be taken into account as part of the implementation process. **(completed)**

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<sup>1</sup> <http://www.icann.org/en/resources/registrars/raa/approved-with-specs-27jun13-en.htm#whois>

- #3: As part of the implementation process a legal review of law applicable to the transition of data from a thin to thick model that has not already been considered in the EWG memo<sup>2</sup> is undertaken and due consideration is given to potential privacy issues that may arise from the discussions on the transition from thin to thick Whois, including, for example, guidance on how the long-standing contractual requirement that registrars give notice to, and obtain consent, from each registrant for uses of any personally identifiable data submitted by the registrant should apply to registrations involved in the transition. Should any privacy issues emerge from these transition discussions that were not anticipated by the WG and which would require additional policy consideration, the Implementation Review Team is expected to notify the GNSO Council of these so that appropriate action can be taken.

Under the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

- b. If a Successful GNSO Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) or Stakeholder Group(s) that held the position;**

N/A

- c. An analysis of how the issue would affect each constituency or Stakeholder Group, including any financial impact on the constituency or Stakeholder Group;**

The GNSO Council expects numerous benefits as a result of requiring thick Whois for all gTLD registries, as outlined in the Thick Whois PDP Final Report (see <http://gns0.icann.org/en/issues/whois/thick-final-21oct13-en.pdf>). Nevertheless, the GNSO Council recognizes that a transition of the current thin gTLD registries would affect over 120 million domain name registrations and as such it should be carefully prepared and implemented. Furthermore, the GNSO Council points out that some considerations in relation to financial

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<sup>2</sup> See <http://forum.icann.org/lists/gns0-thickwhoispdp-wg/pdfLtpFBYQqAT.pdf>

impact are covered in section 5.6 of the Final Report- cost implications. Overall, the GNSO Council expects that there will be a one-off cost involved in the actual transition from thin to thick, but it also notes that considering synergies in the implementation process may minimize such costs. For example, instead of requiring all registrar data to be transferred to the registry at a certain point in time, this could coincide with the submission by the registrar of the data to the escrow agent so that it may only involve minor adjustments to submit that data to the gTLD operator. Also, as virtually all registrars already deal with thick TLDs and the only registry currently operating thin gTLDs also operates thick gTLDs, it is the expectation that there is hardly no learning curve or software development needed.

**d. An analysis of the period of time that would likely be necessary to implement the policy;**

In addition to the legal review of law applicable to the transition of data from a thin to thick model that has not already been considered in the EWG memo<sup>3</sup>, Staff will need to carry out a further analysis in order to determine how this recommendation and the transition can be best managed. Furthermore the GNSO Council notes that specific consideration will need to be given to the timeline for implementation, noting that in certain cases more time may be needed than in others to meet the requirements, but the GNSO Council does emphasize that implementation of one part of the recommendation (for example, transition of existing thin gTLD registries to thick model) should not unnecessarily delay the implementation of another part of the recommendation (for example, the consistent labeling and display of such data). The GNSO Council does recommend that as part of the implementation a team is formed consisting of experts from the parties that will be most affected by this transition, together with ICANN Staff, to work out such details. It is the expectation that any implementation plan would be shared with the ICANN Community for input.

**e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest;**

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<sup>3</sup> See <http://forum.icann.org/lists/gns-thickwhoispdp-wg/pdfLtpFBYQqAT.pdf>

No outside advisors provided input to the Working Group, but it is worth noting that the PDP WG consulted with a number of individuals involved in the transition of .org from a thin to thick model on a few occasions to learn from their experiences.

**f. The Final Report submitted to the Council**

The Thick Whois Final Report can be found here: <http://gnso.icann.org/en/issues/whois/thick-final-21oct13-en.pdf>. Translations of the Final Report will be available shortly (see <http://gnso.icann.org/en/group-activities/active/thick-whois>).

**g. A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.**

See <http://gnso.icann.org/en/meetings/minutes-council-31oct13-en.htm>.

**ADDITIONAL INFORMATION**

**h. Consultations undertaken**

*External*

In addition to regular updates to the GNSO Council, workshops were organized to inform and solicit the input from the ICANN Community at ICANN meetings (see for example <http://durban47.icann.org/node/39777> and <http://beijing46.icann.org/node/37029>).

Constituency / Stakeholder Group Statements were requested as well as input from other ICANN Supporting Organizations and Advisory Committees at an early stage of the process. Almost all GNSO Stakeholder Groups and Constituencies provided input, in addition to the At-Large Advisory Committee (see <https://community.icann.org/x/WIRZAg>).

The WG also opened a [public comment forum](#) on the Initial Report on 21 June 2013.

All comments received have been reviewed and considered by the Thick Whois PDP Working Group (see section 6 of the Final Report).

#### *Internal*

Regular updates were provided to the different ICANN departments potentially affected by these recommendations (e.g. compliance, registrar/registry relations teams) under consideration and potential issues were raised with the Thick Whois PDP Working Group.

#### **i. Summary and Analysis of Public Comment Forum to provide input on the Thick Whois Recommendations adopted by the GNSO Council prior to ICANN Board consideration**

A public comment forum to solicit input on the recommendations prior to Board consideration was opened on 6 November 2013 (see <http://www.icann.org/en/news/public-comment/thick-whois-recommendations-06nov13-en.htm>). 4 comments in support of the recommendations were received at the closing of the public comment forum (see report of public comments at <http://www.icann.org/en/news/public-comment/report-comments-thick-whois-recommendations-06jan14-en.pdf>).

#### **j. Impact / Implementation Considerations from ICANN Staff**

In relation to the legal review of law applicable to the transition of data from a thin to thick model that has not already been considered in the EWG memo<sup>4</sup>, as recommended by the GNSO Council, based on the input received as part of the public comment forum as well as possible GAC input, staff will need to analyze the scope and possible budget implications of such a review to determine when and how such a review can be carried out. Any consideration of such a review would also have to take into account the propriety of ICANN providing legal advice and research to its contracted parties. Following that, as noted above, Staff will need to carry out a further analysis in order to determine how the implementation and the transition can be best managed.

After that, staff would be in a position to share a proposed implementation plan with the

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<sup>4</sup> See <http://forum.icann.org/lists/gns-thickwhoispdp-wg/pdfLtpFBYQqAT.pdf>

Implementation Review Team, that the GNSO Council has decided to form. As part of this analysis, additional questions and/or issues may arise that staff would aim to address in consultation with the Implementation Review Team. Additional time and resources are expected to be needed to ensure that the implementation is accompanied by the appropriate materials to ensure efficient implementation and communication of the new requirements to all parties involved.