

APPENDIX A – DATA ANALYSIS

The initial phase of Whois Task Force #2's work involved gathering and analyzing data relating to the task force's policy objectives. This document presents a summary analysis of the data reviewed by the task force.

The data gathering phase of the task force's work examined the following data sources:

- Questionnaires developed by the task force for each of the GNSO's constituencies, the GAC, the CNSO launching group, and CENTER.
- Data gathered as a part of previous ICANN-related WHOIS initiatives.
- A survey conducted by ICANN staff of data collection and consent practices by large ICANN-accredited registrars.
- Some third party studies of national laws and regulations

I. National laws and regulations

The following statements were reviewed:

George Papapavlou, European Commission:

- Personal data may be processed only if:
 - The data subject has unambiguously consented, or
 - There is a contract to which the data subject is a party.
 - Processing is necessary for compliance of legal obligation of the data controller.
 - Necessary to protect the vital interests of the data subject.
 - To perform a task in the public interest or in the exercise of official authority.
 - Legitimate interests of the controller or third parties to whom data are disclosed except where such interests are overridden by fundamental interests of data subject.
- However, personal data must be:
 - Processed fairly and lawfully.
 - Collected for specific, explicit, and legitimate purposes and not further processed in a way not incompatible with those purposes.
 - Adequate, relevant, and not excessive in relation to the processing purpose.
- Data subject does not have to consent to the disclosure of his personal data if disclosure was part of the processing purpose, of which the data subject has been informed.
- There is no explicit regulation of the transmittal of personal data to other countries that is applicable in connection with domain name registration, but Articles 25 & 26 of Directive 95/46/EC deal with transfer of personal data to third countries and apply to all cases.
 - There are various possibilities foreseen to facilitate international transfers of data while ensuring adequate data protection (consent, contracts, important public interest grounds, public information registers).
- In principle, law of the country where data controller is applies; this may be registrar/registry.
 - Where the data controller is established outside the EU but has processing activities/facilities inside the EU, the law of the EU Member State where his processing equipment is used applies.
- For more information on EU privacy principles, please see Mr. Papavlou's presentation at <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00017.html>

Marc Schneiders, Responses from the NCUC:

- Laws worldwide protect the collection, distribution and publication of personal data and give people a right to expect that their home addresses, phone numbers and email addresses will be protected. The EU Privacy Directive is the model of these laws, and its principles have

- been adopted by many countries (both members and not members of the EU).
- For more information, please see full NCUC comments at <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00013.html>

Marvin J. Johnson, ACLU (US):

- Comments provide a legal argument for anonymity and against use of WHOIS data both for US case law regarding commercial and noncommercial registrants in the US.
- For details regarding individual cases please see ACLU comments at <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00018.html>

In addition, information regarding a variety of countries was compiled below:

Country	United States
1 Overall Count	
1.1 Number of Registrars	34
1.2 Rank	1
1.3 Region	N Amr
2 Privacy/Anonymity Laws or Regimes	
2.1 Laws (Major source for this section, and its citations: Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development	Sectoral laws (e.g., financial, health, children's online privacy) and Self-Regulation; Supreme Court cases find right of anonymous political and personal speech in US First Amendment.
2.2 Enforcement	Depends on law; Federal Trade Commission for some laws (e.g., children's online privacy); no data protection commission or commissioner. http://www.icann.org/presentations/mithal-whois-workshop-24jun03.pdf
3 EU Privacy Directive	
3.1 Member of EU?	No
3.2 Link to EU Privacy Directive	
3.3 EU Opinion of WHOIS data?	
3.4 Links to EU WHOIS comments and papers.	

4 Article 29 Data
Protection Working
Party *

4.1 Member of
A29WP? No

4.2 Existing
Opinion on
WHOIS? No

4.3 Link to Opinion
on WHOIS N/A

5 County Code
Registries

5.1 ccTLD WHOIS
Policy/data
elements .US Privacy Statement v.2

5.2 Any limitations
on data elements
collected and/or
displayed? No.

5.3 Links to ccTLD
WHOIS policy http://www.us/policies/docs/us_privacy.pdf

5.4 Comments on
WHOIS

5.5 Links to
comments on
WHOIS

6 gTLD Registries

6.1 Links to gTLD
WHOIS Policy

6.2 Comments on
WHOIS

6.3 Links to
comments on
WHOIS

7 gTLD Registrars

7.1 Comments on
WHOIS

7.2 Links to
comments on
WHOIS <http://gnso.icann.org/mailing-lists/archives/uf2-survey/doc00000.doc>

8 OECD Privacy
Guidelines

8.1 Member of Yes

OECD?	
8.2 Explanation OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441,00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	<p>American Civil Liberties Union (ACLU) comment on US Supreme Court case law protecting anonymous speech from name and address publication under the First Amendment, http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00018.html</p> <p>International Working Group on Data Protection in Telecommunications (IWGDPT), Common Position on Privacy and Data Protection aspects of the Registration of Domain Names on the Internet ("Common Position"), adopted at the 27th meeting of the Working Group on 4/5 May 2000 in Rethymnon / Crete, commenting: "The Working Group stresses that any registrar operating within the jurisdiction of existing data protection laws and any national domain name registration procedures are subject to the existing national data protection and privacy legislation and to the control by the existing national Data Protection and Privacy Commissioners," http://www.datenschutz-berlin.de/doc/int/iwgdpt/dns_en.htm.</p> <p>IWGDPT, January 2003 Letter to ICANN President Stuart Lynn, "At its meeting in November 2002 the Working Group has reaffirmed the recommendations given in its Common Position," http://www.dnso.org/clubpublic/nc-whois/Arc00/pdf00009.pdf</p>
10 Principles	<p>[1] OECD Privacy Guidelines (1980)</p> <p>1. Collection Limitation Principle. "There should be limits to the collection of personal data and any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject."</p> <p>2. Data Quality Principle. "Personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete and kept up-to-date."</p> <p>3. Purpose Specification Principle. "The purposes for which personal data are collected should be specified not later than at the time of data collection and the subsequent use limited to the fulfillment of those purposes or such others as are not incompatible with those purposes and as are specified on each occasion of change of purpose."</p>

4. Use Limitation Principle. "Personal data should not be disclosed, made available or otherwise used for purposes other than those specified in accordance with Paragraph 9 [Purpose Specification Principle above] except: (a) with the consent of the data subject; or (b) by the authority of law.

5. Security Safeguards Principle:. "Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorized access, destruction, use, modification or disclosure of data."

6. Openness Principle. "There should be a general policy of openness about developments, practices and policies with respect to personal data. Means should be readily available of establishing the existence and nature of personal data, and the main purposes of their use, as well as the identity and usual resident of the data controller."

7. Individual Participation Principle. "An individual should have the right: (a) to obtain from the data controller, or otherwise, confirmation of whether or not the data controller has data relating to him; (b) to have communicated to him, data relating to him (i) within a reasonable time; (ii) at a charge, if any, that is not excessive; (iii) in a reasonable manner; and (iv) in a form that is readily intelligible to him; (c) to be given reasons if a request made under subparagraphs (a) and (b) is denied, and to be able to challenge such denial; and (d) to challenge data relating to him and, if the challenge is successful, to have the data erased, rectified, completed or amended."

8. Accountability Principle. A data controller should be accountable for complying with measures which give effect to the principles stated above.

Above principles from OECD, Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1980),
<http://webdomino1.oecd.org/horizontal/oecdacts.nsf/Display/5401F696038E2226C1256E6B006FD3CF?OpenDocument>

11 Explanations

11.1 *

The Article 29 Data Protection Working Party is a forum of the Federal Data Protection Commissioners of the EU Member States and can issue advisories. Please note that the Member States however are not obligated to adopt these advisories into their national legislation

Country

United Kingdom

1 Overall Count

1.1 Number of Registrars

12

1.2 Rank

2

1.3 Region

Eur

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development

Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. (The UK Data Protection Act 1998 implements EU Data Protection Directive; "limitations for the use of personal information, access to and correction of records and requires that entities that maintain records register with the Information Commissioner.") Global .Name Registry ("GNR") is required to get informed consent of the Registrants about the WHOIS policy.

2.2 Enforcement

Office of the Information Commissioner; independent agency; maintains Records Register; enforces Data Protection Act; receives complaints; forwards cases for prosecution; issues reports to public.
<http://www.informationcommissioner.gov.uk>

3 EU Privacy Directive

3.1 Member of EU?

Yes

3.2 Link to EU Privacy Directive

http://europa.eu.int/comm/internal_market/privacy/law_en.htm

3.3 EU Opinion of WHOIS data?

EU Paper to GAC, 12 May 2003: "To the extent that Whois data refer to or allow the identification of natural persons, they fall within the scope of the European directives on personal data protection and in particular Directive 95/46/EC." "Therefore, uniformity could only be supported if data are kept to a minimum at global level. Additional registration requirements cannot be imposed on the basis of achieving uniformity."

3.4 Links to EU
WHOIS
comments and
papers.

<http://www.dnso.org/dnso/notes/ec-comments-whois-22jan03.pdf>
<http://www.icann.org/presentations/alonso-blas-whois-workshop-24jun03.pdf>
<http://icann.org/montreal/captioning-whois-24jun03.htm>
<http://gnso.icann.org/mailling-lists/archives/lf2-survey/msg00017.html>

4 Article 29 Data
Protection
Working Party *

4.1 Member of
A29WP?

Yes

4.2 Existing
Opinion on
WHOIS?

Yes, Opinion 2/2003 on the application of the data protection principles to the Whois directories (WP76): "In the light of the proportionality principle, it is necessary to look for less intrusive methods that would still serve the purpose of the Whois directories without having all data directly available on-line to everybody."

4.3 Link to
Opinion on
WHOIS

English--
http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf. Posted in 11 languages--
http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs03_en.htm, 13.06.2003.

5 County Code
Registries

5.1 ccTLD
WHOIS
Policy/data
elements

"Registrant Opt-Out" of Nominet

5.2 Any limitations on data elements collected and/or displayed?

Yes, only name/address shown for .UK domain names displayed. Additional opt-out of address listing for domain names of "consumers" not using them for business purposes.

5.3 Links to ccTLD WHOIS policy

<http://www.nic.uk/RegistrantOpt-out.html>

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

<http://www.dnso.org/dnso/dnsocomments/comments-whois/Arc00/doc00001.doc>

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

Global Name Registry has been contacted by the UK Data Commissioner regarding the .name WHOIS. Contact info is www.informationcommissioner.gov.uk. GNR has changed and may have to change again in the future, its WHOIS policy to follow local regulations due to successful complaints to the UK Information Commissioner. For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive.

<http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00017.html>

6.3 Links to comments on WHOIS

<http://gnso.icann.org/mailing-lists/archives/tf2-survey/doc00001.doc>

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines	
8.1 Member of OECD?	Yes
8.2 Explanation OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441,00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	.nl Registry http://www.icann.org/presentations/boswinkel-whois-workshop-24jun03.pdf
10 Principles	<p>[2] EU Data Protection Directive Principles</p> <p>To the extent that Whois data refer to or allow the identification of natural persons, they fall within the scope of the European directives on personal data protection and in particular Directive 95/46/EC. The following principles embedded in this Directive are particularly relevant to the Whois data discussion:</p> <ul style="list-style-type: none"> · personal data must be collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes · the term processing means any operation, including collection, storage, retrieval, consultation, use, disclosure, dissemination, alteration, destruction · personal data must be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed (can the same purpose be achieved through less privacy-intrusive means?) · personal data must be accurate and, where necessary, up to date · personal data may be processed only if the data subject has unambiguously given his consent; or if processing is necessary: for the performance of a contract to which the data subject is party; for compliance with a legal obligation; for the performance of a contract to which the data subject is party; for compliance with a legal obligation; for the performance of a task carried out in the public interest; or for the purposes of legitimate interests pursued by the controller or by the third party to whom the data are disclosed, except where such interests are overridden by the privacy interests of the data subject. · every data subject has the right to obtain from the controller at reasonable intervals confirmation as to whether data relating to him are being processed and for what purpose · the data subject has the right to object to the processing for direct marketing purposes of personal data relating to him

· the transfer to a third country of personal data may take place only if the third country in question ensures an adequate level of protection.

Country

Germany

1 Overall Count

1.1 Number of Registrars

11

1.2 Rank

3

1.3 Region

Eur

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information

Center's Privacy & Human Rights: An International

Survey of Privacy

Laws and

Development

Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. (German Federal Data Protection Law (Bundesdatenschutzgesetz) of 1977 revised in 2002 to implement EU Data Protection Directive; covers collection, processing and use of personal data" by public and non-public entities; "one of the strictest data protection laws in the European Union.")

2.2 Enforcement

Federal Data Protection Commissioner

(Bundesbeauftragter für den Datenschutz) and its state level counterparts (State Data Protection Commissioner /

Landesbeauftragter für den Datenschutz) supervise Federal Data Protection Act and receives/investigates complaints.

3 EU Privacy

Directive

3.1 Member of EU?

Yes

3.2 Link to EU Privacy Directive

http://europa.eu.int/comm/internal_market/privacy/law_en.htm

3.3 EU Opinion of WHOIS data? EU Paper to GAC, continued: "The principle of proportionality is especially important in this context meaning that only data that are strictly necessary for the purpose or purposes of the Whois should be made publicly available. The Data Protection Authorities in Europe and at international level have stated in particular their concerns concerning the publication of telephone numbers of domain holders."

3.4 Links to EU WHOIS comments and papers. <http://www.dnso.org/dnso/notes/ec-comments-whois-22jan03.pdf>
<http://www.icann.org/presentations/alonso-blas-whois-workshop-24jun03.pdf>
<http://icann.org/montreal/captioning-whois-24jun03.htm>
<http://gnso.icann.org/mailling-lists/archives/tf2-survey/msg00017.html>

4 Article 29 Data Protection Working Party *

4.1 Member of A29WP? Yes

4.2 Existing Opinion on WHOIS? Yes, Opinion 2/2003, WP76, continued: "The Working Party encourages ICANN and the Whois community to look at privacy enhancing ways to run the Whois directories in a way that serves its original purpose whilst protecting the rights of individuals. It should in any case be possible for individuals to register domain names without their personal details appearing on a publicly available register.

4.3 Link to Opinion on WHOIS English--
http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf. Posted in 11 languages--
http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs03_en.htm, 13.06.2003.

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements	"Data Protection" of DENIC
5.2 Any limitations on data elements collected and/or displayed?	Yes, only name/address shown for .DE domain names, "not their telephone numbers or e-mail addresses." DENIC comments.
5.3 Links to ccTLD WHOIS policy	http://www.denic.de/en/domains/recht/datenschutz/index.html
5.4 Comments on WHOIS	DENIC is in permanent contact with the DPA in whose precinct DENIC is located. The authority is Regierungsprasidium Darmstadt. For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive. http://gnso.icann.org/mailing-lists/archives/uf2-survey/msg00017.html .
5.5 Links to comments on WHOIS	http://gnso.icann.org/mailing-lists/archives/uf2-survey/msg00019.html
6 gTLD Registries	
6.1 Links to gTLD WHOIS Policy	
6.2 Comments on WHOIS	
6.3 Links to comments on WHOIS	
7 gTLD Registrars	
7.1 Comments on WHOIS	
7.2 Links to comments on WHOIS	http://gnso.icann.org/mailing-lists/archives/uf2-survey/msg00001.html
8 OECD Privacy	

Guidelines	
8.1 Member of OECD?	Yes
8.2 Explanation OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441,00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	

Country

Canada

1 Overall Count	
1.1 Number of Registrars	10
1.2 Rank	4
1.3 Region	N Amr
2 Privacy/Anonymity Laws or Regimes	
2.1 Laws (Major source for this section, and its citations: Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development)	Comprehensive data protection laws. (2001 Personal Information and Electronic Documents Act governs collection, disclosure, retention, and disposal of personal information by business.)
2.2 Enforcement	Privacy laws overseen by the Privacy Commissioner of Canada (and independent agency, headed by an officer of Parliament); powers to receive complaints, and to "investigate, mediate, and make recommendations, but cannot issue orders or impose penalties." EPIC*

3 EU Privacy
Directive
3.1 Member of EU? No
3.2 Link to EU
Privacy Directive
3.3 EU Opinion of
WHOIS data?

3.4 Links to EU
WHOIS
comments and
papers.

4 Article 29 Data
Protection
Working Party *
4.1 Member of
A29WP? No
4.2 Existing
Opinion on
WHOIS? No
4.3 Link to
Opinion on
WHOIS No

5 County Code
Registries

5.1 ccTLD WHOIS Policy/data elements CIRA Privacy Policy and Registration Agreements

5.2 Any limitations on data elements collected and/or displayed? Yes, "The [WHOIS] information is currently limited to the following: The name, address, phone number, email, and fax number (if provided) of the Administrative Contact and Technical Contact; The Registrant's CIRA assigned Registrant number; The name of t

5.3 Links to ccTLD WHOIS policy <http://www.cira.ca/en/privacypolicy.html#q6>

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD?	Yes
8.2 Explanation OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441.00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	

Country

Republic of (South) Korea

1 Overall Count

1.1 Number of Registrars

10

1.2 Rank

5

1.3 Region

Asia-Pac

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development

Sectoral laws (e.g., Korean Act on Promotion of Information and Communications Network Utilization and Data Protection adopts "rules for the collection, use, and disclosure of personal data by 'providers of information and communications services") and self-regulation.

2.2 Enforcement

Data Protection Review Commission under Premier's Office "to recommend and review proposals on improving data protection policy." EPIC*

3 EU Privacy

Directive
3.1 Member of EU? No
3.2 Link to EU Privacy Directive
3.3 EU Opinion of WHOIS data?

3.4 Links to EU WHOIS comments and papers.

4 Article 29 Data Protection Working Party *
4.1 Member of A29WP? No
4.2 Existing Opinion on WHOIS? No
4.3 Link to Opinion on WHOIS No

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements "Privacy Policy of Korea Network Information Center"

5.2 Any limitations on data elements collected and/or displayed? Yes, if registrant is an individual, he/she can submit a request to KRNIC asking that personal information not be published; only registrant name will appear with various technical data.

5.3 Links to ccTLD WHOIS policy <http://www.nic.or.kr/www/english/domain/policy.htm>

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD? Yes

8.2 Explanation of OECD Privacy Principles OECD Privacy Principles, see Endnote [1].

8.3 Link to OECD Privacy Principles http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441,00.html

8.4 Additional OECD Reports on Privacy? PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)

8.5 Links to Additional OECD Privacy Report <http://www1.oecd.org/publications/e-book/9303051E.PDF>

9 Other relevant comments collected but not yet referred to.

Country *France*

1 Overall Count

1.1 Number of Registrars *7*

1.2 Rank *6*

1.3 Region *Eur*

2 Privacy/Anonymity Laws or Regimes

2.1 Laws (Major source for this section, and its citations: Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development) Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. French Data Protection Act of 1978 covers personal information held by government agencies and private entities. Amendments in progress will make Act consistent with EU Data Protection Directive.)

2.2 Enforcement Data protection authority is Commission Nationale de l'Informatique and des Libertés (CNIL); independent agency; "takes complaints, issues rulings, sets rules, conducts audits, makes reports, and ensures the public access to information by being a registrar

3 EU Privacy

Directive	
3.1 Member of EU?	Yes
3.2 Link to EU Privacy Directive	http://europa.eu.int/comm/internal_market/privacy/law_en.htm
3.3 EU Opinion of WHOIS data?	See EU Data Protection Principles below [2]. For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive. http://gnso.icann.org/mailing-lists/archives/ff2-survey/msg00017.html
3.4 Links to EU WHOIS comments and papers.	http://www.dnso.org/dnso/notes/ec-comments-whois-22jan03.pdf http://www.icann.org/presentations/alonso-blas-whois-workshop-24jun03.pdf http://icann.org/montreal/captioning-whois-24jun03.htm http://gnso.icann.org/mailing-lists/archives/ff2-survey/msg00017.html
4 Article 29 Data Protection Working Party *	
4.1 Member of A29WP?	Yes
4.2 Existing Opinion on WHOIS?	Signatory of Opinion 2/2003.
4.3 Link to Opinion on WHOIS	English-- http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf . Posted in 11 languages-- http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs/03_en.htm , 13.06.2003.
5 County Code Registries	

5.1 ccTLD WHOIS Policy/data elements Charte .fr, Règles d'enregistrement pour les noms de domaine se terminant en .fr 2004-01-05 (English: Charter for .fr, Registration rules for domain names under .fr)

5.2 Any limitations on data elements collected and/or displayed? Yes, SPECIFIC RULES FOR THE .NOM.FR EXTENSION, "26. Anyone registering a name under the .nom.fr extension may request to take up the so-called "Ex-directory" option. 27. When the "Ex-directory" option is activated, no personal information (name, address, telephone or fax number, email address if applicable) can be accessed from the public database Whois. The only information that will appear in the database will be of a technical nature, such as technical contact details and details of the registrar and DNS servers."

5.3 Links to ccTLD WHOIS policy http://www.afnic.fr/obtenir/chartes/nommage-fr_fr (French),
http://www.afnic.fr/obtenir/chartes/nommage-fr_en (English)

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD?	Yes
8.2 Explanation OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37_441,00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	

Country

Australia

1 Overall Count

1.1 Number of Registrars

6

1.2 Rank

7

1.3 Region

Asia-Pac

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information Center's Privacy &

Human Rights: An International

Survey of Privacy Laws and

Development

Sectoral laws (e.g., financial, tax file number) and self-regulation. (Australian Privacy Act of 1988, amended in 2000, requires private businesses to follow 10 national privacy principles based on principles for fair handling of personal information). Anonymity has federal protection with National Privacy Principle #8 stating: "Wherever it is lawful and practicable, individuals must have the option of not identifying themselves when entering into transactions with an organization."

2.2 Enforcement

The Office of Privacy Commissioner enforces the Privacy Act; separate statutory agency; "wide range of functions, including handling complaints, auditing compliance, promoting community awareness, and advising the government and others on privacy matters.

3 EU Privacy
Directive
3.1 Member of EU? No
3.2 Link to EU
Privacy Directive
3.3 EU Opinion of
WHOIS data?

3.4 Links to EU
WHOIS
comments and
papers.

4 Article 29 Data
Protection
Working Party *
4.1 Member of
A29WP? No
4.2 Existing
Opinion on
WHOIS? No
4.3 Link to
Opinion on
WHOIS No

5 County Code
Registries
5.1 ccTLD WHOIS

Policy/data elements	
5.2 Any limitations on data elements collected and/or displayed?	Yes, "In order to comply with Australian privacy legislation, the street address, telephone and facsimile numbers of registrants will not be disclosed."
5.3 Links to ccTLD WHOIS policy	http://www.auda.org.au/policies/auda-2003-08/
5.4 Comments on WHOIS	
5.5 Links to comments on WHOIS	
6 gTLD Registries	
6.1 Links to gTLD WHOIS Policy	
6.2 Comments on WHOIS	
6.3 Links to comments on WHOIS	
7 gTLD Registrars	
7.1 Comments on WHOIS	
7.2 Links to comments on WHOIS	
8 OECD Privacy Guidelines	
8.1 Member of OECD?	Yes
8.2 Explanation of OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441,00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF

9 Other relevant comments collected but not yet referred to.

Country

Japan

1 Overall Count

1.1 Number of Registrars

5

1.2 Rank

8

1.3 Region

Asia-Pac

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information

Center's Privacy & Human Rights: An

International

Survey of Privacy

Laws and

Development

2.2 Enforcement

Sectoral laws and self-regulation. (Personal Data Protection Act for businesses dealing with personal information passed May, 2003)

Designated Cabinet Ministers implement the Personal Data Protection Act and issue recommends or orders to businesses dealing with personal information. EPIC*

3 EU Privacy Directive

3.1 Member of EU?

No

3.2 Link to EU Privacy Directive

3.3 EU Opinion of
WHOIS data?

3.4 Links to EU
WHOIS
comments and
papers.

4 Article 29 Data
Protection
Working Party *

4.1 Member of
A29WP? No

4.2 Existing
Opinion on
WHOIS? No

4.3 Link to
Opinion on
WHOIS

5 County Code
Registries

5.1 ccTLD WHOIS
Policy/data
elements "Privacy Policy"

5.2 Any limitations
on data elements
collected and/or
displayed? Information collected and published.

5.3 Links to ccTLD WHOIS policy	http://jprs.jp/en/privacy.html
5.4 Comments on WHOIS	
5.5 Links to comments on WHOIS	
6 gTLD Registries	
6.1 Links to gTLD WHOIS Policy	
6.2 Comments on WHOIS	
6.3 Links to comments on WHOIS	
7 gTLD Registrars	
7.1 Comments on WHOIS	
7.2 Links to comments on WHOIS	
8 OECD Privacy Guidelines	
8.1 Member of OECD?	Yes
8.2 Explanation of OECD Privacy Principles	OECD Privacy Principles, see Endnote [1].
8.3 Link to OECD Privacy Principles	http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37441.00.html
8.4 Additional OECD Reports on Privacy?	PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)
8.5 Links to Additional OECD Privacy Report	http://www1.oecd.org/publications/e-book/9303051E.PDF
9 Other relevant comments collected but not yet referred to.	

Country

China

1 Overall Count

1.1 Number of

5

Registrars
1.2 Rank
1.3 Region

9
Asia-Pac

2
Privacy/Anonymity
Laws or Regimes
2.1 Laws
(Major source for
this section, and
its citations:
Electronic Privacy
Information
Center's Privacy &
Human Rights: An
International
Survey of Privacy
Laws and
Development
2.2 Enforcement

No general data protection laws; a few sectoral laws (e.g., banking, minors).

3 EU Privacy
Directive
3.1 Member of
EU?
3.2 Link to EU
Privacy Directive
3.3 EU Opinion of
WHOIS data?

No

3.4 Links to EU
WHOIS
comments and
papers.

4 Article 29 Data
Protection
Working Party *

4.1 Member of
A29WP? No

4.2 Existing
Opinion on
WHOIS? No

4.3 Link to
Opinion on
WHOIS

5 County Code
Registries

5.1 ccTLD WHOIS
Policy/data
elements

5.2 Any limitations
on data elements
collected and/or
displayed?

5.3 Links to
ccTLD WHOIS
policy

5.4 Comments on
WHOIS

5.5 Links to
comments on
WHOIS

6 gTLD Registries

6.1 Links to gTLD

WHOIS Policy
6.2 Comments on WHOIS
6.3 Links to comments on WHOIS

7 gTLD Registrars
7.1 Comments on WHOIS
7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines
8.1 Member of OECD? No
8.2 Explanation OECD Privacy Principles
8.3 Link to OECD Privacy Principles
8.4 Additional OECD Reports on Privacy?

8.5 Links to Additional OECD Privacy Report

9 Other relevant comments collected but not yet referred to.

Country

Spain

1 Overall Count

1.1 Number of Registrars

4

1.2 Rank

10

1.3 Region

Eur

2

Privacy/Anonymity Laws or Regimes

2.1 Laws
(Major source for this section, and its citations:

Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development

Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. (Spanish Data Protection Act first ena

2.2 Enforcement

The Agencia de Protección de Datos enforces the Act, maintains the records registry, investigates complaints, and has the power to fine companies for violations.

3 EU Privacy Directive

3.1 Member of EU?

Yes

3.2 Link to EU Privacy Directive

http://europa.eu.int/comm/internal_market/privacy/law_en.htm

3.3 EU Opinion of WHOIS data?

See EU Data Protection Principles below [2] For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive.

<http://gnso.icann.org/mailing-lists/archives/ff2-survey/msg00017.html>

3.4 Links to EU WHOIS comments and papers.

<http://www.dnso.org/dnso/notes/ec-comments-whois-22jan03.pdf>
<http://www.icann.org/presentations/alonso-blas-whois-workshop-24jun03.pdf>
<http://icann.org/montreal/captioning-whois-24jun03.htm>
<http://gnso.icann.org/mailing-lists/archives/ff2-survey/msg00017.html>

4 Article 29 Data Protection

Working Party *

4.1 Member of A29WP?

Yes

4.2 Existing Opinion on WHOIS?

Signatory of Opinion 2/2003.

4.3 Link to Opinion on WHOIS

English--

http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf. Posted in 11 languages--

http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs03_en.htm, 13.06.2003.

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements

5.2 Any limitations on data elements collected and/or displayed?

5.3 Links to ccTLD WHOIS policy

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD? Yes

8.2 Explanation of OECD Privacy Principles OECD Privacy Principles, see Endnote [1].

8.3 Link to OECD Privacy Principles http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_3_7441,00.html

8.4 Additional OECD Reports on Privacy? PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)

8.5 Links to Additional OECD Privacy Report <http://www1.oecd.org/publications/e-book/9303051E.PDF>

9 Other relevant comments collected but not yet referred to.

Country

Israel

1 Overall Count

1.1 Number of Registrars

3

1.2 Rank

11

1.3 Region

Africa

2 Privacy/Anonymity Laws or Regimes

2.1 Laws Comprehensive "Protection of Privacy Law" regulates the processing of personal information in computer databases to protect personal privacy. Requirements include registration of the database. (Major source for this section, and its citations:

Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development

2.2 Enforcement The Registrar of Databases enforces the Privacy Law with regard to databases; the Registrar is part of the Ministry of Justice.

3 EU Privacy Directive

3.1 Member of EU? No

3.2 Link to EU Privacy Directive

3.3 EU Opinion of WHOIS data?

3.4 Links to EU WHOIS comments and papers.

4 Article 29 Data Protection Working Party *

4.1 Member of A29WP? No

4.2 Existing Opinion on WHOIS? No

4.3 Link to Opinion on WHOIS

5 County Code Registries

5.1 ccTLD WHOIS Policy/data

elements

5.2 Any limitations
on data elements
collected and/or
displayed?

5.3 Links to
ccTLD WHOIS
policy

5.4 Comments on
WHOIS

5.5 Links to
comments on
WHOIS

6 gTLD Registries

6.1 Links to gTLD
WHOIS Policy

6.2 Comments on
WHOIS

6.3 Links to
comments on
WHOIS

7 gTLD Registrars

7.1 Comments on
WHOIS

7.2 Links to
comments on
WHOIS

8 OECD Privacy
Guidelines

8.1 Member of No
OECD?

8.2 Explanation
OECD Privacy
Principles

8.3 Link to OECD
Privacy Principles

8.4 Additional
OECD Reports on
Privacy?

8.5 Links to
Additional OECD
Privacy Report

9 Other relevant
comments
collected but not

yet referred to.

Country	Italy
1 Overall Count	
1.1 Number of Registrars	2
1.2 Rank	12
1.3 Region	Eur

2

Privacy/Anonymity
Laws or Regimes

2.1 Laws (Major source for this section, and its citations: Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. (Italian Data Protection Act 1996 fully implements EU Data Protection Directive.)

Electronic Privacy
Information

Center's Privacy &
Human Rights: An
International

Survey of Privacy
Laws and
Development

2.2 Enforcement

3 EU Privacy
Directive

3.1 Member of
EU? No

3.2 Link to EU
Privacy Directive http://europa.eu.int/comm/internal_market/privacy/law_en.htm

3.3 EU Opinion of
WHOIS data? See EU Data Protection Principles below [2] For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive.
<http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00017.html>

3.4 Links to EU WHOIS comments and papers. <http://www.dnso.org/dnso/notes/ec-comments-whois-22jan03.pdf>
<http://www.icann.org/presentations/alonso-blas-whois-workshop-24jun03.pdf>
<http://icann.org/montreal/captioning-whois-24jun03.htm>
<http://gnso.icann.org/mailling-lists/archives/ff2-survey/msg00017.html>

4 Article 29 Data Protection Working Party *

4.1 Member of A29WP?

4.2 Existing Opinion on WHOIS? Signatory and a principal author of Opinion 2/2003.

4.3 Link to Opinion on WHOIS

English--
http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf. Posted in 11 languages--
http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs/03_en.htm, 13.06.2003.

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements

5.2 Any limitations on data elements collected and/or displayed?

5.3 Links to ccTLD WHOIS policy

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD
WHOIS Policy
6.2 Comments on
WHOIS
6.3 Links to
comments on
WHOIS

7 gTLD Registrars
7.1 Comments on
WHOIS
7.2 Links to
comments on
WHOIS

8 OECD Privacy
Guidelines

8.1 Member of OECD? Yes

8.2 Explanation OECD Privacy Principles, see Endnote [1].
OECD Privacy
Principles

8.3 Link to OECD Privacy Principles http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37_441,00.html

8.4 Additional OECD Reports on Privacy? PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)

8.5 Links to Additional OECD Privacy Report <http://www1.oecd.org/publications/e-book/9303051E.PDF>

9 Other relevant
comments
collected but not
yet referred to.

Country

India

1 Overall Count

**1.1 Number of
Registrars**

2

1.2 Rank

13

1.3 Region

Asia-Pac

2
Privacy/Anonymity
Laws or Regimes

2.1 Laws No general data protection laws. (Data protection law under development by
(Major source for Ministry of Communication and Information Technology.)
this section, and
its citations:

Electronic Privacy
Information
Center's Privacy &
Human Rights: An
International
Survey of Privacy
Laws and
Development
2.2 Enforcement

3 EU Privacy
Directive
3.1 Member of
EU?
3.2 Link to EU
Privacy Directive
3.3 EU Opinion of
WHOIS data?

3.4 Links to EU
WHOIS
comments and
papers.

4 Article 29 Data
Protection
Working Party *
4.1 Member of
A29WP?
4.2 Existing
Opinion on
WHOIS?
4.3 Link to
Opinion on
WHOIS

5 County Code
Registries
5.1 ccTLD WHOIS
Policy/data
elements

5.2 Any limitations on data elements collected and/or displayed?

5.3 Links to ccTLD WHOIS policy

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD? no

8.2 Explanation OECD Privacy Principles

8.3 Link to OECD Privacy Principles

8.4 Additional OECD Reports on Privacy?

8.5 Links to Additional OECD Privacy Report

9 Other relevant comments collected but not yet referred to.

Country	Jordan
1 Overall Count	
1.1 Number of Registrars	1
1.2 Rank	14
1.3 Region	Africa

2
 Privacy/Anonymity
 Laws or Regimes
 2.1 Laws No general data protection laws.
 (Major source for
 this section, and
 its citations:
 Electronic Privacy
 Information
 Center's Privacy &
 Human Rights: An
 International
 Survey of Privacy
 Laws and
 Development
 2.2 Enforcement

3 EU Privacy
 Directive
 3.1 Member of No
 EU?
 3.2 Link to EU
 Privacy Directive
 3.3 EU Opinion of
 WHOIS data?

3.4 Links to EU
 WHOIS
 comments and
 papers.

4 Article 29 Data
 Protection
 Working Party *
 4.1 Member of
 A29WP?
 4.2 Existing
 Opinion on
 WHOIS?

4.3 Link to
Opinion on
WHOIS

5 County Code
Registries
5.1 ccTLD WHOIS
Policy/data
elements
5.2 Any limitations
on data elements
collected and/or
displayed?
5.3 Links to
ccTLD WHOIS
policy
5.4 Comments on
WHOIS

5.5 Links to
comments on
WHOIS

6 gTLD Registries
6.1 Links to gTLD
WHOIS Policy
6.2 Comments on
WHOIS
6.3 Links to
comments on
WHOIS

7 gTLD Registrars
7.1 Comments on
WHOIS
7.2 Links to
comments on
WHOIS

8 OECD Privacy
Guidelines
8.1 Member of no
OECD?
8.2 Explanation
OECD Privacy
Principles
8.3 Link to OECD
Privacy Principles

8.4 Additional
OECD Reports on
Privacy?

8.5 Links to
Additional OECD
Privacy Report

9 Other relevant
comments
collected but not
yet referred to.

Country

Kuwait

1 Overall Count

**1.1 Number of
Registrars**

1

1.2 Rank

15

1.3 Region

Africa

2

Privacy/Anonymity
Laws or Regimes

2.1 Laws No information.

(Major source for
this section, and
its citations:

Electronic Privacy
Information

Center's Privacy &
Human Rights: An
International

Survey of Privacy
Laws and
Development

2.2 Enforcement

3 EU Privacy
Directive

3.1 Member of No
EU?

3.2 Link to EU
Privacy Directive

3.3 EU Opinion of
WHOIS data?

3.4 Links to EU
WHOIS
comments and

papers.

4 Article 29 Data Protection Working Party *

- 4.1 Member of A29WP?
- 4.2 Existing Opinion on WHOIS?
- 4.3 Link to Opinion on WHOIS

5 County Code Registries

- 5.1 ccTLD WHOIS Policy/data elements
- 5.2 Any limitations on data elements collected and/or displayed?
- 5.3 Links to ccTLD WHOIS policy
- 5.4 Comments on WHOIS

- 5.5 Links to comments on WHOIS

6 gTLD Registries

- 6.1 Links to gTLD WHOIS Policy
- 6.2 Comments on WHOIS
- 6.3 Links to comments on WHOIS

7 gTLD Registrars

- 7.1 Comments on WHOIS
- 7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines
8.1 Member of OECD? no
8.2 Explanation OECD Privacy Principles
8.3 Link to OECD Privacy Principles
8.4 Additional OECD Reports on Privacy?
8.5 Links to Additional OECD Privacy Report

9 Other relevant comments collected but not yet referred to.

Country

Barbados

1 Overall Count

1.1 Number of Registrars

1

1.2 Rank

16

1.3 Region

Latin Amr

2

Privacy/Anonymity Laws or Regimes

2.1 Laws No information.

(Major source for this section, and its citations: Electronic Privacy Information Center's Privacy & Human Rights: An International Survey of Privacy Laws and Development

2.2 Enforcement

3 EU Privacy Directive

3.1 Member of EU?

3.2 Link to EU Privacy Directive

3.3 EU Opinion of WHOIS data?

3.4 Links to EU WHOIS comments and papers.

4 Article 29 Data Protection Working Party *

4.1 Member of A29WP?

4.2 Existing Opinion on WHOIS?

4.3 Link to Opinion on WHOIS

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements

5.2 Any limitations on data elements collected and/or displayed?

5.3 Links to ccTLD WHOIS policy

5.4 Comments on WHOIS

5.5 Links to comments on WHOIS

6 gTLD Registries

6.1 Links to gTLD WHOIS Policy

6.2 Comments on WHOIS

6.3 Links to comments on

WHOIS

7 gTLD Registrars

7.1 Comments on WHOIS

7.2 Links to comments on WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD? no

8.2 Explanation OECD Privacy Principles

8.3 Link to OECD Privacy Principles

8.4 Additional OECD Reports on Privacy?

8.5 Links to Additional OECD Privacy Report

9 Other relevant comments collected but not yet referred to.

Country

Poland

1 Overall Count

0 (Answered GAC questions)

1.1 Number of Registrars

1.2 Rank

1.3 Region

Eur

2

Privacy/Anonymity Laws or Regimes

2.1 Laws

(Major source for this section, and its citations:

Electronic Privacy Information

Center's Privacy & Human Rights: An International

Survey of Privacy Laws and

Development

Comprehensive laws govern the collection, use and dissemination of personal information; oversight body ensures compliance; transborder flows of personal data limited to countries with adequate levels of protection. (Personal Data Protection Act issued by Polish Parliament in 1997. The Polish registry (Research and Academic Computer Network research and academic entity "NASK") data may be collected solely for purposes determined to be in the provision of legal acts. Company, organizations or other entities' data may be collected and disclosed without limitation, unless otherwise stated in a contract. Private individual's data may not be disclosed to anyone unless the individual consents, but there are exceptions. Exceptions include a justified legal interest in obtaining data.)

2.2 Enforcement Bureau of the Inspector General for Personal Data Protection.

3 EU Privacy Directive

3.1 Member of EU? Joining in next two months.

3.2 Link to EU Privacy Directive

3.3 EU Opinion of WHOIS data? See EU Data Protection Principles below [2] For more information on the principles guiding EU member states' national privacy laws, please see comments submitted by GAC member, George Papapavlou on the principles and explanation of the EU Data Protection Directive.
<http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00017.html>

3.4 Links to EU WHOIS comments and papers.

4 Article 29 Data Protection Working Party *

4.1 Member of A29WP? Participate in the meetings.

4.2 Existing Opinion on WHOIS? Generally support current decisions.

4.3 Link to Opinion on WHOIS English--
http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2003/wp76_en.pdf. Posted in 11 languages--
http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs/03_en.htm, 13.06.2003.

5 County Code Registries

5.1 ccTLD WHOIS Policy/data elements Untitled.

5.2 Any limitations on data elements collected and/or displayed? Yes, "Data of a private person such as the name and the address are protected by The Personal Data Protection Act of the 29th August 1997."

5.3 Links to ccTLD WHOIS policy <http://dns.pl/english/whois.html>

5.4 Comments on WHOIS "Therefore from WHOIS under .PL cannot be retrieved any data of a private person unless the concerned person agreed to make public its data or there exists legitimate interest in obtaining the data," Comments to Task Force 2, March 9, 2004.

5.5 Links to <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00016.html>

comments on
WHOIS

6 gTLD Registries

6.1 Links to gTLD
WHOIS Policy

6.2 Comments on
WHOIS

6.3 Links to
comments on
WHOIS

7 gTLD Registrars

7.1 Comments on
WHOIS

7.2 Links to
comments on
WHOIS

8 OECD Privacy Guidelines

8.1 Member of OECD? Yes

8.2 Explanation OECD Privacy Principles, see Endnote [1].
OECD Privacy
Principles

8.3 Link to OECD Privacy Principles http://www.oecd.org/document/18/0,2340,en_2649_37441_1815186_1_1_1_37_441,00.html

8.4 Additional OECD Reports on Privacy? PRIVACY ONLINE: OECD GUIDANCE ON POLICY AND PRACTICE (14th November, 2003)

8.5 Links to Additional OECD Privacy Report <http://www1.oecd.org/publications/e-book/9303051E.PDF>

9 Other relevant
comments
collected but not
yet referred to.

II. Current practices by registrars, registries, and resellers

A. Current data gathered and displayed, by TLD

	RAA (2001), 3.3	.com r'y agmt (app. O)	.net r'y agmt (app. O)	.org r'y agmt (app. O; thin)	.org r'y agmt (app. O; thick)	.aero spons. Agmt (att. 15)	.biz r'y agmt (app. O)	.coop spons. Agmt (att. 15)	.info r'y agmt (app. O)	.museum spons. Agmt (att. 15)	.pro r'y agmt (app. O)
General Information											
- Domain Status		R	X	R	X	X	X	X	X	X	
- Domain Name ID				X	X	X	X	X	X	X	X
- Domain Name	X	X	X	X	X	X	X	X	X	X	X
- Registrar ID						(act.)					
- Name of Registrar	X	X	X	X	X	[X]	X	X	X	X	X
- Name Server(s)	X	X	X	X	X	X	X	X	X	X	X
- Name Server ID											
- Creation Date	X	R		R	X	X	X	X	X	X	X
- Expiration Date	X	R		R	X	X	X	X	X	X	X
- Updated Date		X	X	X	X	X	X	X	X	X	X
- WHOIS Server		X	X	X							
- Referral URL		X	X	X							X
- Created by						X	X	X			
- Last Updated by						X	X	X			
- Last Transferred Date						X	X	X		X	
- Last Transferred by								X			
Registrant											
- ID					X	X	X	X	X	X	X
- Name	X				X	X	X	X	X	X	X
- Organization						(x)	(x)	(x)	(x)	(x)	(x)
- Address	X				X	X	X	X	X	X	X
- E-Mail address						X	X	X	X	X	X
- Phone number						X	X	X	X	X	X
- Fax number						(x)	(x)	X	X	(x)	(x)
Technical Contact											
- ID					X	X	X	X	X	X	X
- Name	X				X	X	X	X	X	X	X
- Organization						(x)	(x)	(x)	(x)	(x)	(x)
- Address	X				X	X	X	X	X	X	X
- E-Mail address	X				X	X	X	X	X	X	X
- Phone number	X				X	X	X	X	X	X	X
- Fax number	(x)				(x)	(x)	(x)	X	X	(x)	(x)
Administrative Contact											
- ID					X	X	X	X	X	X	X
- Name	X				X	X	X	X	X	X	X
- Organization						(x)	(x)	(x)	(x)	(x)	(x)

- Address	X			X	X	X	X	X	X	X
- E-Mail address	X			X	X	X	X	X	X	X
- Phone number	X			X	X	X	X	X	X	X
- Fax number	(x)			(x)	(x)	(x)	(x)	(x)	(x)	(x)
Billing Contact										
- ID					X	X	X	X	X	
- Name	Coll				X	X	X	X	X	
- Organization					(x)	(x)	(x)	(x)	(x)	(x)
- Address	(Coll)				X	X	X	X	X	
- E-Mail address	(Coll)				X	X	X	X	X	
- Phone number	(Coll)				X	X	X	X	X	
- Fax number	(Coll)				X	(x)	X	X	X	
Remarks	(0)			(3)	(1), (4)	(3), (4)	(1), (3)	(2), (3)	(1), (3), (4)	(2), (5)

	.name Summary WHOIS	.name Standard WHOIS	.name Detailed WHOIS	.name Extensive WHOIS	.uk WHOIS	.de WHOIS	.pl WHOIS
General Information							
- Domain Status	[x]	X	X	X	X		
- Domain Name ID	X	[x]	[x]	[x]			
- Domain Name	[x]	X	X	X	X	X	X
- Registrar ID		X			(x)		
- Name of Registrar			X	X	(x)		X
- Name Server(s)			X	X	X	X	X
- Name Server ID		X		[x]			
- Creation Date		X	X	X	(x)		X
- Expiration Date		X	X	X	(x)		
- Updated Date		X	X	X	X	X	X
- WHOIS Server							
- Referral URL					(x)		
- Created by							
- Last Updated by							
- Last Transferred Date							
- Last Transferred by							
Registrant							
- ID		X	X	X			
- Name			X	X	X	X	X
- Organization					(x)	(x)	(x)
- Address			X	X	(x)	X	(x)
- E-Mail address				X			

- Phone number			X		
- Fax number			X		
Technical Contact					
- ID	X	U	X		
- Name		U	X	X	
- Organization		U	X		(x)
- Address		U	X	X	
- E-Mail address		U	X		(x)
- Phone number		U	X		(x)
- Fax number		U	X		(x)
Administrative Contact					
- ID	X	U	X		
- Name		U	X	X	
- Organization		U	X		(x)
- Address		U	X	X	
- E-Mail address		U	X		(x)
- Phone number		U	X		(x)
- Fax number		U	X		(x)
Billing Contact					
- ID	X	U	X		
- Name		U	X		
- Organization		U	X		
- Address		U	X		
- E-Mail address		U	X		
- Phone number		U	X		
- Fax number		U	X		
Remarks					

- a. Practices by registrars, registries (including ccTLDs) to obtain consent from potential registrants for the collection and publication of their data in the Whois database

Whois Task Force 2 (“TF2”) is tasked with reviewing ICANN’s current policy with respect to the collection, disclosure, and transmission of data as a part of the Whois database. Two of the questionnaires created and circulated by TF2 ask registrars and ccTLD registries, accordingly, how they obtain consent from registrants to the collection and publication of their data in the Whois database. Unfortunately, the Task Force did not receive much information in response to these questionnaires. Only five responses provided pertinent information, and even among those, the responses are somewhat inconsistent.

Two responses were from registrars. Deutsche Telekom, which acts as a registrar for a number of TLDs, states that customers are not required to give express consent.

Rather, these customers accept the Terms and Conditions which include notifications that they agree to have their contact data collected and published. *See* <http://gnso.icann.org/mailling-lists/archives/tf2-survey/msg00001.html> (German language only). In a response submitted by Tim Ruiz on behalf of Go Daddy, Wild West Domains, and Blue Razor Domains, these registrars likewise state that they provide a notice to registrants that they will only make contact data available to third parties if required to do so by law. *See* <http://gnso.icann.org/mailling-lists/archives/tf2-survey/msg00004.html>.

A summary of the results of survey of the top 20 registrars (includes Go Daddy also covered by Tim Ruiz's submission, see above) conducted by ICANN staff in early 2004 states that 15 of the 20 registrars obtain consent from registrants via Registration Agreements. *See* <http://gnso.icann.org/mailling-lists/archives/dow2tf/msg00076.html>. According to the survey results, these registrars are: Corenic.org; Dotster.com; Enom.com; Gandi.net; Discount-domain.com; Godaddy.com; Dotregistrar.com; Itsyourdomain.com; inww.com; Netsol.com; Onlinenic.com; Register.com; Schlund.de; Stargate.com; and Domaindirect.com. A review of the registration agreements for some of these registrars indicates that they include language ascribing consent to registrants as part of a much longer list of applicable terms and conditions to which the registrant agrees. *See*, e.g., Corenic.org registration agreement sec. 4.4., at <http://www.corenic.org/Registration-Agreement.htm>: "By accepting this Agreement, you consent to the use of your Data as described above, and to the transfer of data to the abovementioned recipients." *See* also GoDaddy registration agreement, sec. 3: "You agree that for each domain name registered by You the following information will be made publicly available in the Whois directory as determined by ICANN Policy and may be sold in bulk as set forth in the ICANN agreement [followed by a list of data elements]." *See* https://www.godaddy.com/gdshop/legal_agreements/domain_registration_GD.asp?isc=&se=%2B&from_app=&mscssid=&pl_id=1&prog_id=GoDaddy. *See* also section 7.iv of Enom's registration agreement: "You agree and acknowledge that eNom will make available domain name registration information you provide or that we otherwise maintain to ICANN, to the registry administrator(s), and to other third parties as ICANN and applicable laws may require or permit. You further agree and acknowledge that eNom may make publicly available, or directly available to third party vendors, some, or all, of the domain name registration information you provide, for purposes of inspection (such as through our "whois" service) or for targeted marketing and other purposes as required or permitted by ICANN and applicable laws. You hereby consent to any and all such disclosures and use of, and guidelines, limits and restrictions on disclosure or use of, information provided by you in connection with the registration of a domain name (including any updates to such information), whether during or after the term of your registration of the domain name. You hereby irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of your domain name registration and other information by eNom." *See* <http://www.enom.com/help/agreement.asp>. Identical language is employed by Register.com in sec. 8(d) of its Services Agreement. *See* <http://www.register.com/service-agreement.cgi#1>.

The ICANN staff survey also states that 2 of the 20 registrars surveyed require registrants to click a box indicating their consent to having data published. These are Bulkregister.com and Domaindirect.com (the latter is listed in both categories). Finally, the ICANN staff survey was unable to determine how 4 of the 20 surveyed registrars obtained consent. These are Joker.com; Domaindiscover.com; Directnic.com; and Yesnic.com. See <http://gnso.icann.org/mailing-lists/archives/dow2tf/msg00076.html>

Responses were also received from two registries. The Global Name Registry, the registry for .name, simply stated that registrars are required to get informed consent from registrants but did not state how. See <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00012.html>. Finally, DENIC, the registry for the German ccTLD, .de, submitted a response that stated the German Data Protection Act did not require express consent from registrants. See <http://gnso.icann.org/mailing-lists/archives/tf2-survey/msg00019.html>. All that is needed, according to DENIC, is that the registrant be put on notice as to what data is collected and made publicly available, which is stated in DENIC's conditions for registration.

- C. Existing proxy registration or anonymization services

III. Current Use of Whois Data

12 comments have been made on the basis of questions #1 and #2 of the questionnaires distributed to all constituencies:

1. Levitt, Mallory
2. ASCAP (American Society of Authors, Composers and Publishers)
3. Fox/NewsCorp
4. ISPCP Constituency
5. Philips Electronics
6. Walt Disney
7. Tyler Self
8. Oxfam
9. NCUC Constituency
10. IP Constituency
11. ALAC
12. ACLU (American Civil Liberties Union)

Additionally, the result of 8 Q&As of the former Whois Survey have been retrieved (see attachment).

The 12 sets of comments have been compiled and presented in the same template (one per comment, see attachments).

A. High-level summary of some of the comments received (see attachment for exact details of each response) – Current use:

- IPC members use Whois data in cases of cybersquatting, trademark and copyright infringements. They have no concern with making Whois info available. ASCAP uses Whois data to negotiate performance license with websites offering music.
- The NCUC Constituency sees no need Whois data (except technical contact info) and is concerned about unconditional and anonymous Whois access and notably considers that the current system facilitates identity theft, spamming, stalking and unwarranted IP claims.
- ALAC states that individual Internet users use and abuse Whois data for the same purposes as members of any other constituency. It notably considers that current access to Whois chills online speech, opens the door to harassment and consumer fraud and contradicts the Data Quality (relevance), Purpose Specification and Use Limitation privacy principles.
- ISPCP's need Whois data to be able to comply with C&D requests, find cybersquatters and identify multiple domains with different expiration dates.
- Tyler Self uses Whois to avoid theft of domain names and help restoring domain name to rightful owner.

- Oxfam finds Whois data useful to see if a domain name is available for purchase.

B. High-level summary of comments received (see attachment for exact details of each response) – Suggestions for new useful fields:

- Levitt, Mallory: “Registrar name information”
- Fox/NewsCorp: “Registrar’s contact data” + “Date of domain name deletion”.
- ISPCP: “One-stop for all registries and indicators re: pending transfers, deletion or expiration”
- Philips Electronics: “Historical information about domain name ownership and changes of ownership”
- IPC: Usefulness of Whois would be improved by adding some specific data, notably with regard to “chain of title information”, “date of initial registration”, notice of encumbrances” and “date and method of last verification of registrant contact information”.

1)

QUESTION	ANSWER
Respondent:	ACLU
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	All
1.a) How do members of your constituency make use of the data?	<Not a constituency> No usage mentioned
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	No
1.c) Describe any concerns your constituency may have with making this information available.	Violates right to anonymity, which is a Constitutional right under U.S. law
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	No new data elements suggested
2.a) Use – How would members of your constituency make use of the data?	n/a
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	n/a

2)

QUESTION	ANSWER
Respondent:	ALAC
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	All
1.a) How do members of your constituency make use of the data?	In general, individual Internet users use and abuse WHOIS for the same purposes as members of any other constituency.
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	No, but individual Internet users should have equal access to all elements of WHOIS data to which other users have access. If conditions are imposed on access, individual Internet users should be able to meet those same neutral conditions.
1.c) Describe any concerns your constituency may have with making this information available.	<ul style="list-style-type: none"> • ALAC is concerned about disclosure of identity and contact information of individual registrants, including registrant, administrative, billing contact fields likely to identify individuals. • Publication of identity information chills online speech. Individual Internet users may be critics, activists, whistleblowers, harassment victims, or simply shy. They should be able to register a domain for online speech, particularly for non-commercial use, without identifying themselves. • Mandatory collection and disclosure of registrants' contact data in general opens the door to harassment and consumer fraud. • Collecting unnecessary contact details at the time of domain name registration, and then publishing the data collected for any use or purpose contradicts the Data Quality (relevance), Purpose Specification and Use Limitation privacy principles.

3)

QUESTION	ANSWER
Respondent:	<i>Intellectual Property Constituency</i>
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>Fields falling under “Registrant Information” category</i>
1.a) How do members of your constituency make use of the data?	<p>A. <i>ID</i></p> <ol style="list-style-type: none"> 1. <u><i>Use:</i></u> <i>Use of this data element was unclear. Queries in .biz, for example, appear to result in the same contact information that is revealed in a general domain name search. This data element would probably be more useful for searches based on registrant, which most gTLD registries no longer provide.</i> 2. <u><i>Necessity:</i></u> <i>see above.</i> 3. <u><i>Concerns:</i></u> <i>The IPC has no concerns making this data available.</i> <p>B. <i>Name</i></p> <ol style="list-style-type: none"> 1. <u><i>Use:</i></u> <i>Used to contact and identify those engaged in possibly infringing activity and to identify to whom to send cease & desist letters or licensing demands. Obviously inaccurate name information might give a first indication whether the website is a legitimate site.</i> 2. <u><i>Necessity:</i></u> <i>IPC members indicate that this element is necessary.</i> <p>C. <i>Address</i></p> <ol style="list-style-type: none"> 1. <u><i>Use:</i></u> <i>Used to contact and identify those engaged in possibly infringing activity and to identify where and to whom to send cease & desist letters or licensing demands. Obviously inaccurate address information might give a first indication whether the website</i>

is a legitimate site.

2. Necessity: IPC members indicate that this element is necessary. An address is required for service of legal process.
3. Concerns: The IPC has no concerns making this data available.

D. *Email Address*

1. Use: Provides a prompt means of contact with the domain name registrant to facilitate investigation and IP enforcement.
2. Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently provided.
3. Concerns: The IPC has no concerns making this data available.

E. *Phone Number*

1. Use: Provides a prompt means of contact with the domain name registrant to facilitate investigation and IP enforcement.
2. Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently provided.
3. Concerns: The IPC has no concerns making this data available.

F. *Fax Number*

1. Use: Provides a prompt means of contact with the domain name registrant to facilitate investigation and IP enforcement.
2. Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently

	<p><i>provided.</i></p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>See above</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>See above</i>
1) List of data fields on which respondent has commented.	<i>Fields falling under “Technical Contact Information” category</i>
1.a) How do members of your constituency make use of the data?	<p>A. <i>ID [see response above on “ID” for “Registrant information”]</i></p> <p>B. <i>Name</i></p> <ol style="list-style-type: none"> 1. <u>Use</u>: Contact info used for inquiries and sending cease & desist notices to ISPs & infringers; aids in identifying possible host of a website. 2. <u>Necessity</u>: IPC members indicate that this element is necessary. 3. <u>Concerns</u>: The IPC has no concerns making this data available. <p>C. <i>Address</i></p> <ol style="list-style-type: none"> 1. <u>Use</u>: Used to identify those engaged in possibly infringing activity, and to whom to send cease & desist letters or licensing demands. May indicate if the website is a legitimate site and probable location. 2. <u>Necessity</u>: IPC members indicate that this element is necessary. 3. <u>Concerns</u>: The IPC has no concerns making this data available. <p>D. <i>E-Mail Address</i></p>

	<p>1. <u>Use</u>: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site's legitimacy and probable location.</p> <p>2. <u>Necessity</u>: IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p> <p>E. Telephone Number</p> <p>1. <u>Use</u>: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site's legitimacy and probable location.</p> <p>2. <u>Necessity</u>: IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p> <p>F. Fax Number</p> <p>1. <u>Use</u>: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site's legitimacy and probable location.</p> <p>2. <u>Necessity</u>: Some IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p>
<p>1.b) Is it necessary that this information be made available to members of your constituency? If so, why?</p>	<p>See above</p>

<p>1.c) Describe any concerns your constituency may have with making this information available.</p>	<p><i>See above</i></p>
<p>1) List of data fields on which respondent has commented.</p>	<p><i>Fields falling under “Administrative Contact Information” category</i></p>
<p>1.a) How do members of your constituency make use of the data?</p>	<p>A. <i>ID [see response above on “ID” for “Registrant information”]</i></p> <p>B. <i>Name</i></p> <ol style="list-style-type: none"> 1. <i>Use: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site’s legitimacy and probable location.</i> 2. <i>Necessity: IPC members indicate that this element is necessary.</i> 3. <i>Concerns: The IPC has no concerns making this data available.</i> <p>C. <i>Address</i></p> <ol style="list-style-type: none"> 1. <i>Use: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site’s legitimacy and probable location.</i> 2. <i>Necessity: IPC members indicate that this element is necessary.</i> 3. <i>Concerns: The IPC has no concerns making this data available.</i> <p>D. <i>E-Mail Address</i></p> <ol style="list-style-type: none"> 1. <i>Use: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site’s legitimacy and probable location.</i>

	<p>2. <u>Necessity</u>: IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p> <p>E. Telephone Number</p> <p>1. <u>Use</u>: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site’s legitimacy and possible location.</p> <p>2. <u>Necessity</u>: Some IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p> <p>F. Fax Number</p> <p>1. <u>Use</u>: Used to identify to whom ISP and cease & desist notices/licensing demands are sent. Also used to identify possible hosts, as well as giving an indication of the site’s legitimacy and possible location.</p> <p>2. <u>Necessity</u>: Some IPC members indicate that this element is necessary.</p> <p>3. <u>Concerns</u>: The IPC has no concerns making this data available.</p>
<p>1.b) Is it necessary that this information be made available to members of your constituency? If so, why?</p>	<p>See above</p>
<p>1.c) Describe any concerns your constituency may have with making this information available.</p>	<p>See above</p>
<p>1) List of data fields on which respondent has commented.</p>	<p>Fields falling under “Billing Contact Information” category</p>

1.a) How do members of your constituency make use of the data?

A. *ID [see response above on “ID” for “Registrant information”]*

B. *Name*

1. *Use: Not used in most popular TLDs, but would be useful for investigation and IP enforcement purposes.*
2. *Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently provided.*
3. *Concerns: The IPC has no concerns making this data available.*

C. *Address*

1. *Use: Not used in most popular TLDs, but would be useful for investigation and IP enforcement purposes.*
2. *Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently provided.*
3. *Concerns: The IPC has no concerns making this data available.*

D. *E-Mail Address*

1. *Use: Not used in most popular TLDs, but would be useful for investigation and IP enforcement purposes.*
2. *Necessity: This information is necessary where it is provided, and should be added in those registries where it is not currently provided.*
3. *Concerns: The IPC has no concerns making this data available.*

E. *Phone Number*

	<ol style="list-style-type: none"> 1. <u>Use</u>: Not used in most popular TLDs, but would be useful for investigation and IP enforcement purposes. 2. <u>Necessity</u>: This information is necessary where it is provided, and should be added in those registries where it is not currently provided. 3. <u>Concerns</u>: The IPC has no concerns making this data available. <p>F. Fax Number</p> <ol style="list-style-type: none"> 1. <u>Use</u>: Not used in most popular TLDs, but would be useful for investigation and IP enforcement purposes. 2. <u>Necessity</u>: This information is necessary where it is provided, and should be added in those registries where it is not currently provided. 3. <u>Concerns</u>: The IPC has no concerns making this data available.
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>See above</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>See above</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	<i>Suggestions for new fields that would fall under the "General Information" category</i>
2.a) Use – How would members of your constituency make use of the data?	<p>A. Last Verified Date</p> <ol style="list-style-type: none"> 1. <u>Use</u>: this would show when the data was last verified. This would indicate whether the data is possibly outdated or stale,

	<p>therefore having a high likelihood of inaccuracy.</p> <p>2. <u>Necessity</u>: Because it's not currently offered, it's impossible to determine whether or not it is necessary. This information will almost certainly increase the value of Whois data to the IPC, and may become indispensable to online investigations of piracy or trademark infringement. ICANN's Security and Stability Advisory Committee (SECSAC) recommended that this information be added to the Whois database. See Whois Recommendation of the Security and Stability Advisory Committee, at http://www.icann.org/committees/security/sac003.htm</p> <p>B. Last Verified Method</p> <p>1. <u>Use</u>: This would show by what method the data was last verified. Methodology, or a combination of methodologies will go far to indicate the reliability of the data in the Whois database.</p> <p>2. <u>Necessity</u>: This information will increase the value of Whois data to the IPC, and may become indispensable to online investigations of piracy or trademark infringement. ICANN's Security and Stability Advisory Committee (SECSAC) recommended that Whois data "contain a reference to the data verification process."</p>
<p>2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?</p>	<p>See above</p>
<p>2) Suggestion 2</p>	<p>Suggestions for new fields that would fall under the "Registrant Information" category</p>

<p>2.a) Use – How would members of your constituency make use of the data?</p>	<p>A. <i>E-Mail Address (where not currently provided)</i></p> <ol style="list-style-type: none"> 1. <i>Use: This element would allow another prompt method of contacting the registrant for a domain name in connection with which infringing activity takes place.</i> 2. <i>Necessity: Quick response is vital for IP enforcement in the online environment. Of the contact methods Whois gives information for, E-mail is perhaps the fastest, and certainly the most suitable to the Internet. Having E-Mail addresses displayed would great facilitate online enforcement.</i> <p>B. <i>Telephone Number (where not currently provided)</i></p> <ol style="list-style-type: none"> 1. <i>Use: Like the E-Mail address data element, a telephone number would allow another prompt means of contacting registrants connected with infringing domain names.</i> 2. <i>Necessity: A multitude of methods is needed to ensure at least one open channel of contact with a registrant. Telephone numbers, while perhaps not as conducive to the Internet as E-Mail, may prove more helpful by quickly facilitating prompt resolutions to taking down infringing material connected with a domain name.</i>
<p>2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?</p>	<p style="text-align: center;"><i>See above</i></p>
<p>2) Suggestion 3</p>	<p style="text-align: center;"><i>Suggestions for new fields that would fall under the “Billing Information” category</i></p>
<p>2.a) Use – How would members of your constituency make use of the data?</p>	<p>A. <i>ALL (where not currently provided)</i></p> <ol style="list-style-type: none"> 1. <i>Use: Billing information is not included in the Whois output for</i>

	<p><i>the most popular TLDs. IP owners would use this information to contact the individual or company connected to a domain name engaged in infringing activity. As registrars arguably are paid for domain name registrations, they must be paid by someone. Having access to the billing contact information may more quickly lead to accurate contact information for the registrant.</i></p> <p>2. <u><i>Necessity</i></u>: <i>This information is not currently provided in .com, for example, and its necessity is therefore impossible to prove. As stated above, it may become invaluable for IP enforcement if it promptly leads to accurate registrant contact information.</i></p>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>See above</i>
2) Suggestion 4	<i>Chain of Title Information (to extent not currently provided)</i>
2.a) Use – How would members of your constituency make use of the data?	<i>Data showing previous registrants, dates of transfer, etc., would be useful in documenting the presence or absence of bad faith, recovering domain names lost to fraud or hijacking, and for similar purposes.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>This information is not currently provided in most gTLDs, and its necessity is therefore impossible to prove. If provided, it may become invaluable for IP enforcement for the reasons stated above.</i>
2) Suggestion 5	<i>Date of initial registration</i>
2.a) Use – How would members of your constituency make use of the data?	<i>To the extent that this does not equate with “date of creation,” this is part of the set of historical data that would be useful for the reasons stated above under “Chain of Title Information”.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>This information is not currently provided in most gTLDs, and its necessity is therefore impossible to prove. If provided, it may become invaluable for IP enforcement for the reasons stated above.</i>
2) Suggestion 6	<i>Notice of encumbrances</i>
2.a) Use – How would members	<i>A reference to whether there are encumbrances on</i>

of your constituency make use of the data?	<i>the domain name registration, and the location where the details of those encumbrances may be reviewed, would be useful in conducting due diligence on registrants whose registration is a significant financial asset, and in protecting, e.g., purchasers of registrant entities.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>This information is not currently provided in most gTLDs, and its necessity is therefore impossible to prove. If provided, it may become invaluable for IP enforcement for the reasons stated above.</i>
2) Suggestion 7	<i>Actual deletion Date</i>
2.a) Use – How would members of your constituency make use of the data?	<i>An actual deletion date would state when a domain name had actually been deleted, as opposed to an expiration date. Domain names, while technically “expired,” may continue to be active for several months after expiration, increasing the likelihood that they may be re-registered by cybersquatters.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>This information is not currently provided in most gTLDs, and its necessity is therefore impossible to prove. If provided, it may become invaluable for IP enforcement for the reasons stated above.</i>

4)

QUESTION	ANSWER
Respondent:	NCUC
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	All except technical contact info
1.a) How do members of your constituency make use of the data?	None listed
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	No
1.c) Describe any concerns your constituency may have with making this information available.	1. Concerned about making contact information available unconditionally and anonymously to the public, companies, and governments without accountability, auditability or due process. 2. Identity Theft 3. <i>Spamming and other Forms of Email and Phone Harassment</i> 4. Stalking 5. Unwarranted Threats from Overly Broad

	Intellectual Property Claims 6. Unwarranted Surveillance and Threats from Companies, Government, and Law Enforcement
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	NCUC: no new data elements suggested
2.a) Use – How would members of your constituency make use of the data?	n/a
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	n/a

5)

QUESTION	ANSWER
Respondent:	OXFAM
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	All
1.a) How do members of your constituency make use of the data?	Oxfam: to see if a domain is available for purchase
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Did not say that it was “necessary” only that it was “useful”
1.c) Describe any concerns your constituency may have with making this information available.	None expressed
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	Oxfam: no new data elements suggested
2.a) Use – How would members of your constituency make use of the data?	n/a
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	n/a

6)

QUESTION	ANSWER
Respondent:	T.Self
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	T.Self: all
1.a) How do members of your constituency make use of the data?	(Not a constituency) used to help restore DN to rightful owner
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Yes - to avoid theft of DNs
1.c) Describe any concerns your constituency may have with making this information available.	No comment

7)

QUESTION	ANSWER
Respondent:	<i>WALT DISNEY COMPANY</i>
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>General Information</i>
1.a) How do members of your constituency make use of the data?	<i>Disney utilizes the below identified whois fields in enforcing its intellectual property rights, all of which are necessary for Disney's enforcement purposes, except as indicated otherwise.</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Domain Name - USED TO CONFIRM THAT THE RECORD RELATES TO THE RELEVANT DOMAIN Name of Registrar - USED TO DETERMINE WHERE A UDRP OR OTHER LEGAL COMMUNICATION SHOULD BE SENT Creation Date - USED TO HELP DETERMINE HOW LONG A CONFLICTING NAME/WEB SITE HAS BEEN IN OPERATION Expiration Date - USED TO DETERMINE IF THE REGISTRATION MAY BE NEAR EXPIRATION

	Updated Date - USED TO HELP DETERMINE THE REGISTRANT'S INTEREST IN THE DOMAIN
1.c) Describe any concerns your constituency may have with making this information available.	<i>No comment</i>
1) List of data fields on which respondent has commented.	<i>Registrant</i>
1.a) How do members of your constituency make use of the data?	<i>Disney utilizes the below identified whois fields in enforcing its intellectual property rights, all of which are necessary for Disney's enforcement purposes, except as indicated otherwise.</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Name - USED FOR COMMUNICATING WITH SUSPECTED INFRINGERS. Address - USED FOR COMMUNICATING WITH SUSPECTED INFRINGERS. E-Mail address - USED FOR COMMUNICATING WITH SUSPECTED INFRINGERS. Phone number - USED FOR COMMUNICATING WITH SUSPECTED INFRINGERS, BUT THIS FIELD IS NOT INDESPENSIBLE FOR ENFORCEMENT USE.
1.c) Describe any concerns your constituency may have with making this information available.	<i>No comment</i>
1) List of data fields on which respondent has commented.	<i>Administrative contact</i>
1.a) How do members of your constituency make use of the data?	<i>Disney utilizes the below identified whois fields in enforcing its intellectual property rights, all of which are necessary for Disney's enforcement purposes, except as indicated otherwise.</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Name - USED AS AN ALTERNATE MEANS OF COMMUNICATING WITH SUSPECTED INFRINGERS Address - USED AS AN ALTERNATE MEANS OF COMMUNICATING WITH SUSPECTED INFRINGERS E-Mail address - USED AS AN ALTERNATE MEANS OF COMMUNICATING WITH

	SUSPECTED INFRINGERS <i>Phone number - USED AS AN ALTERNATE MEANS OF COMMUNICATING WITH SUSPECTED INFRINGERS, BUT THIS FIELD IS NOT INDESPENSIBLE FOR ENFORCEMENT USE</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>No comment</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	<i>No comment</i>
2.a) Use – How would members of your constituency make use of the data?	<i>N/A</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>N/A</i>

8)

QUESTION	ANSWER
Respondent:	<i>PHILIPS ELECTRONICS</i>
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>No comment</i>
1.a) How do members of your constituency make use of the data?	<i>No comment</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>No comment</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>No comment</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	<i>We would like to make a suggestion about datafields, that could be of use to us, but</i>

	<p><i>that are not presently available within WHOIS.[...] We believe that historical information about domain name ownership and changes of ownership could be of use to us to track down misuse of our IP rights and to determine whether a third party has adopted and transferred a domain name in bad faith. We understood that a WHOIS database does not contain historical information about data fields, besides perhaps 'the creation date', and, therefore, we suggest to make such historical information about ownership available. (We refer as well to available historical information of International Trade Mark Registration in the WIPO Trademark Database.)</i></p> <p><i>Other historical Information about datafields such as renewals and modifications could be useful to manage one's domain name portfolio.</i></p>
<p>2.a) Use – How would members of your constituency make use of the data?</p>	<p><i>We believe that historical information about domain name ownership and changes of ownership could be of use to us to track down misuse of our IP rights and to determine whether a third party has adopted and transferred a domain name in bad faith.</i></p>
<p>2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?</p>	<p><i>Our company, Koninklijke Philips Electronics N.V. in the Netherlands has been using the Philips trademark since 1892 and we own several other registered trademarks. Unfortunately, we noticed that the Internet is crowded with businesses and people who do not understand the significance of trademark rights or do not have such experience. We have experienced , for example, that third parties transfer a conflicting domain name including our company's trademark several times, also just to frustrate legal actions from the trademark owner.</i></p>

9)

QUESTION	ANSWER
Respondent:	ISPCP
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	ISPCP: all
1.a) How do members of your constituency make use of the data?	Contact information re: Int.Prop. infringers to comply w/ DMCA, find cybersquatters and fraudulent sites, identify multiple domains w/ different expiration dates
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	Yes, no other source of info
1.c) Describe any concerns your constituency may have with making this information available.	Want full info, sensitive to privacy concerns
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	ISPCP: all
2.a) Use – How would members of your constituency make use of the data?	Wants one-stop for all registries and indicators re: pending transfer, deletion or expiration
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	(see above)

10)

QUESTION	ANSWER
Respondent:	FOX / NEWS CORP
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>GENERAL COMMENT – AIMED AT NO SPECIFIC DATA FIELD</i>
1.a) How do members of your constituency make use of the data?	<i>GENERAL COMMENT:</i>

WE USE THE DATA TO OBTAIN CONTACT INFORMATION FOR DOMAIN NAME CYBERSQUATTERS AND FOR WEBSITES WHOSE CONTENT CONTAINS INFRINGEMENTS OF OUR COPYRIGHTS AND TRADEMARKS.

SPECIFIC USE (Fields bolded below are used):

Information

- Domain Status -TO DETERMINE HOW CLOSE TO EXPIRATION A DOMAIN NAME IS

- Domain Name ID

- Domain Name -TO IDENTIFY THE DOMAIN NAME

- Registrar ID*

- Name of Registrar -TO DETERMINE WHICH REGISTRAR WE NEED TO CONTACT FOR TRANSFERS OR TO ALERT RE: INACCURATE INFO

- Name Server(s) -FOR EVALUATION WHEN THERE IS A PROBLEM WITH CONTENT OR TRANSFERS

- Name Server ID*

- Creation Date -TO DETERMINE HOW LONG THE REGISTRANT HAS OWNED THE NAME

- Expiration Date -TO DETERMINE WHEN THE NAME WILL BE AVAILABLE

- Updated Date -TO DETERMINE IF ANY CHANGES HAVE BEEN MADE TO THE RECORD RECENTLY

- WHOIS Server* -TO DETERMINE REGISTRAR WHEN REGISTRAR IS UNFAMILIAR

- Referral URL

- Created by*

- Last Updated by* -TO DETERMINE IF ANY CHANGES HAVE BEEN MADE TO THE RECORD RECENTLY

- Last Transferred Date-TO DETERMINE IF ANY CHANGES

HAVE BEEN MADE TO THE RECORD RECENTLY

- Last Transferred by-TO DETERMINE IF ANY CHANGES HAVE BEEN MADE TO THE RECORD RECENTLY**

Registrant

- ID
- Name -WE USE ALL OF THESE FIELDS TO CONTACT THE REGISTRANT TO ADDRESS INFRINGING ACTIVITY

- Address
- E-Mail address
- Phone number
- Fax number

Technical Contact

- ID
- Name -WE USE ALL OF THESE FIELDS AS AN ALTERNATIVE TO CONTACT THE REGISTRANT IF THE REGISTRANT INFORMATION IS INACCURATE OR IF THE REGISTRANT IS UNRESPONSIVE

- Address
- E-Mail address
- Phone number
- Fax number

Administrative Contact

- ID
- Name-WE USE ALL OF THESE FIELDS AS AN ALTERNATIVE TO CONTACT THE REGISTRANT IF THE REGISTRANT INFORMATION IS INACCURATE OR IF THE REGISTRANT IS UNRESPONSIVE

- Address
- E-Mail address
- Phone number
- Fax number

Billing Contact

- ID

	<p>- Name-WE USE ALL OF THESE FIELDS AS AN ALTERNATIVE TO CONTACT THE REGISTRANT IF THE REGISTRANT INFORMATION IS INACCURATE OR IF THE REGISTRANT IS UNRESPONSIVE</p> <ul style="list-style-type: none"> - Address - E-Mail address - Phone number - Fax number
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>YES, IT IS THE ONLY WAY TO DETERMINE WHO TO CONTACT, BOTH FOR CORRESPONDENCE AND FOR FILING UDRP COMPLAINTS</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>NONE</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	REGISTRAR'S CONTACT DATA
2.a) Use – How would members of your constituency make use of the data?	<i>WE WOULD LIKE A FIELD CONTAINING THE REGISTRAR'S CONTACT DATA. WE WOULD USE THIS INFORMATION TO CONTACT THE REGISTRAR IF THERE WAS A PROBLEM WITH A TRANSFER OR IF THE WHOIS INFORMATION LISTED CONTAINED INACCURATE OR INCOMPLETE DATA.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>ALTHOUGH THIS INFORMATION CAN BE RESEARCHED CURRENTLY ON EACH INDIVIDUAL REGISTRAR'S SITE, IT WOULD BE MORE CONVENIENT IF IT WAS CENTRALLY LOCATED IN THE WHOIS RECORD.</i>
2) Suggestion 2	<i>FIELD THAT STATED THE DATE A DOMAIN NAME WILL ACTUALLY BE DELETED</i>
2.a) Use – How would members of your constituency make use of the data?	<i>WE USE THIS INFORMATION (AND IT IS NECESSARY) TO MONITOR INFRINGING DOMAIN NAMES THAT ARE CLOSE TO EXPIRATION TO ENSURE THAT THEY ARE NOT REGISTERED BY A</i>

	<i>SUBSEQUENT CYBERSQUATTER. CURRENTLY, EVEN WHEN A NAME IS TECHNICALLY "EXPIRED," IT CAN REMAIN REGISTERED FOR MONTHS, AND AN ACTUAL DATE WOULD ASSIST WITH OUR MONITORING EFFORTS.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>CURRENTLY, EVEN WHEN A NAME IS TECHNICALLY "EXPIRED," IT CAN REMAIN REGISTERED FOR MONTHS, AND AN ACTUAL DATE WOULD ASSIST WITH OUR MONITORING EFFORTS.</i>

11)

QUESTION	ANSWER
Respondent:	<i>ASCAP (American Society of Authors, Composers and Publishers)</i>
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>General Information</i>
1.a) How do members of your constituency make use of the data?	<i>We wish to determine the domain name and date of creation to determine when the site began operation.</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>With regards to the General Information, ASCAP mainly requires the Domain Name and the Creation Date. We wish to determine the domain name and date of creation to determine when the site began operation.</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>ASCAP has no concerns that this information is available to the public.</i>
1) List of data fields on which respondent has commented.	<i>“Contact information”</i>
1.a) How do members of your constituency make use of the data?	<i>In general, ASCAP uses the data to determine the person or entity and contact information that is performing music on the website at issue in order to obtain a performance license.</i>
1.b) Is it necessary that this information be made available to members of your constituency? If so, why?	<i>Yes. Although some sites have the necessary contact information to obtain the licenses we seek, many do not and we must rely on the Whois data. In these situations,</i>

	<i>without proper whois data the site will remain unlicensed and the copyright owners will not be compensated for the performance of their works. While other contact data on the site itself is helpful, often we must rely on the whois data. Without publicly available accurate Whois data, it would be difficult for ASCAP to determine the owner of websites which perform copyrighted music. With publicly available Whois data, ASCAP is able to contact website owners, negotiate performance licenses and fairly distribute royalties to the owners of performed. By and large the technical information is not as important to ASCAP.</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>ASCAP has no concerns that this information is available to the public</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	<i>The fields presently available are satisfactory to ASCAP. Our main issue is that of fraudulent or outdated information.</i>
2.a) Use – How would members of your constituency make use of the data?	N/A
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	N/A

12)

QUESTION	ANSWER
Respondent:	<i>Levitt, Mallory</i>
1) For each existing data field within the Whois, please provide feedback to the task force regarding the following:	
1) List of data fields on which respondent has commented.	<i>“Registrant” + “Administrative contact” data fields</i>
1.a) How do members of your constituency make use of the data?	<i>The data is used to identify the owner and/or track down a contact to whom C&D letters are directed.</i>
1.b) Is it necessary that this information be made available to members of your	<i>Absolutely. It is crucial to have accurate information be provided for purposes of</i>

constituency? If so, why?	<i>evaluating the context of the infringement (domestic, foreign, repeat infringer, legit registrant, etc., and directing demand letters and possibly UDRP complaints.</i>
1.c) Describe any concerns your constituency may have with making this information available.	<i>None.</i>
2) If there are fields not presently available within Whois that would be of use to members of your constituency, please suggest what those fields may be. For each suggestion, provide feedback regarding the following:	
2) Suggestion 1	<i>The registrar name information is helpful, since some WHOIS databases are unable to provide the WHOIS info if it is not the registrar of the domain. We therefore are required to go to that registrar's site and conduct the WHOIS search locally.</i>
2.a) Use – How would members of your constituency make use of the data?	<i>It would facilitate the access to WHOIS information in situations where WHOIS databases are unable to provide the WHOIS info because it is not the registrar of the domain.</i>
2.b) Necessity – Is it necessary that this information be made available to members of your constituency? If so, why?	<i>See above.</i>

13)

Cut-and-paste from WHOIS Bucharest Draft Final Report:

In the very first question, participants were asked to classify themselves into one of several categories:

Category	#	%
Commercial business user	1063	35%
Non-commercial organization user	208	7%
Governmental organization user	35	1%
Individual or household user	1021	34%
Domain name registrar and/or registry	130	4%

Internet access provider or network operator	234	8%
Other:	222	7%
(No Response)	122	4%
Total Responses:	3035	100%

Question 3 asked participants how frequently they use the WHOIS service themselves:

Question 3	hourly	daily	weekly	occasionally	never	not stated	Grand Total
Commercial	183	184	290	374	31	1	1063
Governmental	4	3	7	18	3		35
Individual	72	131	260	509	45	4	1021
Isp	109	58	42	22	3		234
non-commercial	32	32	66	69	7	2	208
not stated	1	4	5	13		99	122
Other	40	27	82	58	13	2	222
registrar-registry	45	18	23	34	8	2	130
Grand Total	486	457	775	1097	110	110	3035

Question 4 asked about respondents' use of the WHOIS system:

Question 4	availability	responsibility	technical	IP₅	marketing	law₆	other	# respondents
Commercial	482	574	352	389	28	30	66	1063
governmental	26	16	19	6		7	4	35
Individual	513	626	322	136	18	23	71	1021
Isp	97	142	167	36	5	20	23	234
non-commercial	125	107	75	53	3	13	12	208
not stated	109	14	7	9	1	2	1	122
Other	140	97	49	117	8	12	31	222
Registrar-registry	48	73	50	34	5	7	11	130
Grand Total	1540	1649	1041	780	68	114	219	3035

The dominant use of the WHOIS system among respondents is, in the commercial, individual, and registrar-registry categories, “to find out the identity of a person or organization who is responsible for a domain name or web site”. Governmental respondents generally mention WHOIS as a means to find out about the availability of a domain, as do non-commercial, “not stated”, and “other” respondents. ISP respondents mostly use WHOIS “to support technical operations of ISPs or network administrators”.

It’s worth noting that non-IP law enforcement use is most frequently mentioned by governmental respondents (20%), followed by ISPs (9%) and non-commercials (6%). Also, almost 90% of respondents which did not assign any category to themselves mention “availability” as their most important use of WHOIS.

By-category analysis of multiple-choice questions

Question 5

Summary of rankings of availability of a domain name as the purpose of WHOIS:

Question 5.a	1	2	3	4	5	6	7	Total	Avg
commercial	487	165	106	63	70	82	35	1008	2.4544
governmental	3	5	5	3	3	4	3	26	3.8462
individual	452	127	106	71	95	67	43	961	2.5869
Isp	102	35	22	24	22	11	12	228	2.6053
Non-commercial	76	19	27	24	28	9	7	190	2.8105
not stated	13	7	1	1	1	1	2	26	2.2692
other	80	29	26	26	17	17	8	203	2.7734
registrar-registry	71	13	9	12	5	3	7	120	2.2

Summary of rankings of finding out if similar domain names are already in use:

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Question 5.b	1	2	3	4	5	6	7	Total	Avg
com	70	286	207	157	130	105	35	990	3.45

merc ial									05
gove rnme ntal	2	4	3	4	7	4	3	27	4.25 93
indiv idual	66	284	149	119	145	146	40	949	3.62 28
Isp	15	54	40	36	30	32	15	222	3.75 68
Non- com merc ial	11	41	27	31	33	30	9	182	3.87 91
Not state d	4	9	5		3	3	2	26	3.23 08
other	12	47	42	29	30	26	7	193	3.64 25
regis trar- regis try	9	47	15	13	13	12	7	116	3.32 76

Summary of rankings of identification and verification of online merchants:

Que stion 5.c	1	2	3	4	5	6	7	Tota l	Avg
com merc ial	76	107	171	205	190	157	47	953	4.03 36
gove rnme ntal	1	8		8	7	2	4	30	4.4
indiv idual	102	105	203	193	156	123	42	924	3.79 33
Isp	17	28	29	35	40	41	24	214	4.27 1
Non- com merc ial	15	21	31	28	26	28	27	176	4.25 57
not state d	2	1	5	4	7	5		24	4.16 67
other	19	17	39	32	43	28	7	185	3.94 59

regis trar- regis try	8	13	26	17	11	18	15	108	4.14 81
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Summary of rankings of identifying online infringers for enforcement of intellectual property rights:

Que stion 5.d	1	2	3	4	5	6	7	Tota l	Avg
com merc ial	186	137	166	184	150	92	42	957	3.43 78
gove rnme ntal	6	5	7	2	3	3	5	31	3.64 52
indiv idual	63	91	152	204	163	149	81	903	4.20 04
ISP	14	27	38	42	40	26	26	213	4.16 9
non- com merc ial	22	35	23	30	24	23	19	176	3.81 82
not state d	3		8	7	2	1	5	26	4.07 69
other	61	32	21	31	24	10	12	191	3.01 57
regis trar- regis try	13	12	24	24	17	13	10	113	3.87 61

Summary of rankings of sourcing unsolicited e-mail:

Que stio n 5.e	1	2	3	4	5	6	7	Tota l	Avg
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com merc ial	83	104	135	129	160	192	128	931	4.36 09
gove rnme ntal	6	7	2	5	4	3	5	32	3.71 88

individual	143	183	162	105	102	101	130	926	3.716
ISP	37	29	52	28	29	21	22	218	3.6147
non-commercial	27	30	44	23	19	19	19	181	3.6077
not stated	1	3	5	6	3	6	2	26	4.2692
other	22	19	25	18	32	46	18	180	4.2722
registrar-registry	8	7	11	15	23	19	25	108	4.8056

Summary of rankings of identifying contacts in the investigation of illegal activity:

Question 5.f	1	2	3	4	5	6	7	Total	Avg
commercial	137	155	157	158	136	152	56	951	3.7161
governmental	11	5	5	3	4		3	31	3
individual	145	135	134	143	139	168	48	912	3.7588
ISP	46	41	28	30	28	33	11	217	3.4424
non-commercial	40	24	22	22	27	34	10	179	3.6369
not stated	3	4	4	5	3	6	1	26	3.8846
other	28	48	22	43	19	18	11	189	3.3968
registrar-registry	13	19	11	17	22	20	10	112	4.0357

Summary of rankings of other purposes:

Question 5.g	1	2	3	4	5	6	7	Total	Avg
commercial	110	34	26	17	16	32	167	402	4.3905
governmental	6	2	1				4	13	3.1538
individual	88	28	14	18	29	42	199	418	4.8995
ISP	38	13	4	4	2	8	29	98	3.602
non-commercial	33	11	8	4	6	4	20	86	3.3605
not stated	3	1			1		7	12	4.9167
other	28	7	13	1	3	8	46	106	4.434
registrar-registry	17	5	6	2	4	3	16	53	3.8302

The respondents were asked what the purpose of the « WHOIS » should be. It clearly appears that for all categories of respondents (except possibly for governments) the most important purpose should be to check whether a domain name is available, closely followed by the search for similar domain names. Individuals

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particularly support the need to identify on-line merchants and to source unsolicited commercial communications. In addition, many respondents amongst all categories (not only commercial and governments but also non-commercials, and “others”) stated that the purpose should also be to identify on-line intellectual property infringements. In the free text responses, the majority of respondents underlined the following elements: the need to know with whom they are dealing with, the ability to access technical contacts, to know the names owned by a company, to deter irresponsible behavior and track spammers, to identify suspicious IP addresses. In “others”, most respondents noted the need to identify names which relate to suspicious activities, and to make investigations, to trace back in case of security violations, to identify ISPs hosting spam, and to identify the source of technical problems.

Free text responses were only solicited from those who checked “other” purposes. Only 1188 respondents did so, and fully half of these (585) ranked their purpose as 6th or 7th in importance out of 7.

Question 6

In contrast to the preceding questions, question 6 asked respondents to choose among three statements in identifying the issue about which they were “most concerned” with respect to Whois data.

Question 6	Privacy	Intellectual Property	Technical	No opinion	Other	Total
commercial	165	543	258	34 521052		
governmental	4	13	13	1 435		
individual	295	347	250	58 591009		
ISP	27	49	140	7 9232		
non-commercial	33	89	68	11 5206		
not stated	5	16	1	2	2	26
other	15	136	29	11 26217		
registrar-registry	32	42	34	11 8127		
Total	576	1235	793	135 1652904		

Question 6 (%)	Privacy	Intellectual Property	Technical	No opinion	Other
commercial	16%	52%	25%	3%	5%
governmental	11%	37%	37%	3%	11%
individual	29%	34%	25%	6%	6%

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ISP	12%	21%	60%	3%	4%
non-commercial	16%	43%	33%	5%	2%
not stated	19%	62%	4%	8%	8%
other	7%	63%	13%	5%	12%
registrar-registry	25%	33%	27%	9%	6%
Min	7%	21%	4%	3%	2%
Max	29%	63%	60%	9%	12%

A plurality of respondents (43% of the total) agreed that they were “most concerned about effective identification of who is behind a specific domain for consumer protection

or intellectual property protection purposes.” This was the leading choice among all categories of respondents, except among ISPs, 60% of whom felt that “ensuring that Whois supports the resolution of technical problems on the Internet” was the most important concern, and among governmental respondents, for whom the technical problems response tied with the effective identification response. “Protecting the privacy of domain name registrants” was not identified as the main concern of any group of respondents, and was chosen less often than “effective identification” by every group, although among respondents who identified themselves as individuals the privacy concern (29%) placed a close second to effective identification (34%). Overall, about 6% of respondents rejected the three choices and identified an “other” “main concern” regarding Whois data; these responses have not yet been comprehensively reviewed. Some of these respondents reiterated concerns about the fact that a domain name registrant must be accurately represented (need for effective identification). Some also noted the need to see whether a domain has been moved or abandoned. Others cited consumer protection.

Question 7

Question 7 asked whether respondents had been harmed or inconvenienced by inaccurate, incomplete, or out of date Whois data. 44% of respondents said they had experienced this and 56% had not.

Question 7	yes	no	Total	% yes	% no
commercial	513 516		1029	50%	50%
governmental	12 18		30	40%	60%
individual	317 674		991	32%	68%
ISP	134 98232			58%	42%

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non-commercial	94 108		202	47%	53%
not stated	12	15	27	44%	56%
other	118 93211			56%	44%
registrar-registry	67 59		126	53%	47%
Min				32%	42%
Max				58%	68%
Total	1267 1581284 8			44%	56%

Question 7	# < 5%	# [5%, 25%]	# [25%, 50%]	# > 50%	Total
commercial	529	262	82	53	926
governmental	14	7	1	1	23
individual	553	166	54	44	817
ISP	128	71	15	5	219
non-commercial	100	58	13	6	177
not stated	15	5	3	3	26
other	99	68	21	11	199
registrar-registry	57	33	13	10	113
Total	1495	670	202	133	2500

Question 7 (%)	% < 5%	% [5%, 25%]	% [25%, 50%]	% > 50%
commercial	57%	28%	9%	6%
governmental	61%	30%	4%	4%
individual	68%	20%	7%	5%
ISP	58%	32%	7%	2%
non-commercial	56%	33%	7%	3%
not stated	58%	19%	12%	12%
other	50%	34%	11%	6%
registrar-registry	50%	29%	12%	9%
Min	50%	19%	4%	2%
Max	68%	34%	12%	12%
Total	60%	27%	8%	5%

Similarly, more than half of the respondents thought that less than 5% of the Whois records they had relied upon had been inaccurate, while 27% estimated inaccurate records to be in the 5-25% range, and about 8% thought that more than one-quarter of the records were inaccurate. Individual respondents were most likely to report very low estimates (68% in this category chose "under 5%"), while registrars/registries were most likely to report the highest estimates (21% of these respondents thought that 25% or more of the records were inaccurate). In the free text responses, respondents were asked to describe the harm or inconvenience caused by the inaccurate data and to state how they thought an improvement in accuracy might best be achieved.

Description of harm: respondents underlined they had been harmed by the inability to contact the registrants and the service provider of a web site (and to send complaints), the difficulty to trace spammers

or the operator of a pornographic site. More generally they stressed the difficulty to trace infringers. They also noted the difficulty to update records, and the time and cost required to find the right company and to conduct investigations.

How to improve: Many respondents underlined that registrars should make efforts to correct and update data regularly or more often (periodic update, update on an annual basis...). Among the categories identified in our analysis, this was the single most common suggestion from every category of respondent. Other respondents underlined the need to standardize and centralize the information. They also proposed to provide an online form to facilitate updates or to check data via automated tools. Some respondents proposed to cancel the domain name if the data registered is inaccurate, or to suspend the domain name information until it is accurate. One respondent specifically referred to the need to enforce the RAA. Few noted that registrants check the accuracy of their contact on the “whois” list.

Question 8

Question 8	Adequate	Inadequate	Unnec.	Total	%adequate	%inadeq.	%unnec.
commercial	770	146	129	1045	74%	14%	12%
governmental	27	5	3	35	77%	14%	9%
individual	663	74	254	991	67%	7%	26%
ISP	196	19	18	233	84%	8%	8%
non-commercial	142	32	28	202	70%	16%	14%
not stated	24	3		27	89%	11%	0%
other	155	38	22	215	72%	18%	10%
registrar-registry	99	11	18	128	77%	9%	14%
Min					67%	7%	0%
Max					89%	18%	26%
Total	2076	328	472	2876	72%	11%	16%

This question listed the data elements currently provided by Whois with regard to registrations in .com, .net and .org, and asked whether respondents considered these adequate, inadequate, or unnecessary for their purposes. A strong majority of respondents in every category (ranging from 67% to 89%) stated that the

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current list of data elements is adequate. Overall, about 11% of respondents thought that additional data elements should be provided in Whois, while approximately 16% considered some of the elements unnecessary. This data strongly suggests an overall high level of satisfaction among these respondents that Whois in the original gTLD environment collects and makes available the right kinds of data. The level of satisfaction did vary somewhat across categories, however, with 16% of non-commercial respondents

believing that more data elements should be included, while 26% of individual respondents thought some data elements were unnecessary.

Questions 8.1 and 8.2 invited respondents to identify specific data elements they would like to see added to, or subtracted from, those currently made available to the public in Whois. Not surprisingly, most of those who responded in these free text responses noted the need for phone number, fax number, email address, some combination of these elements or all of those elements. Some noted the need to access contact information for reporting unlawful activities, and to obtain information on the last active contact with the registrar. Few asked information on for sale availability of domain name. Among those who wanted existing data elements suppressed, the largest number in most categories of respondents cited telephone and fax number and postal address.

Question 9

Building on the general attitudes expressed in response to question 8, this question sought to elicit more specific answers about the perceived value of each specific data element within the com/net/org Whois. Respondents were asked to label each data element as essential, desirable, or valueless.

Question 9A							
Name of the SLD	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	211	773	50	1034	20%	75%	5%
governmental	8	26	34		24%	76%	0%
individual	258	696	40	994	26%	70%	4%

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87%				2%			
non-commercial	44	149	9	202	22%	74%	4%
not stated	5	22	1	28	18%	79%	4%
other	50	154	7	211	24%	73%	3%
21	101	4	126	17%	80%	3%	
Min					11%	70%	0%
Max					26%	87%	5%

Question 9B							
Names	desirable	essential	valueless	Total	% des.	% ess.	% val.-less

server addr.	le	al	ss				less
comme rcial	331	628	76	1035	32%	61%	7%
govern mental	8	25	2	35	23%	71%	6%
individ ual	284	614	90	988	29%	62%	9%
ISP	43	179	12	234	18%	76%	5%
non- comme rcial	53	134	14	201	26%	67%	7%
not stated	9	19		28	32%	68%	0%
other	80	117	17	214	37%	55%	8%
registra r- registry	29	87	12	128	23%	68%	9%
Min					18%	55%	0%
Max					37%	76%	9%

Questi on 9C							
Dom.n ames of NS	desirab le	essenti al	valuele ss	Total	% des.	% ess.	% val- less
comme rcial	400	559	80	1039	38%	54%	8%
govern mental	12	20	2	34	35%	59%	6%
individ ual	384	514	92	990	39%	52%	9%
ISP	78	144	12	234	33%	62%	5%
non- comme rcial	79	113	9	201	39%	56%	4%
not stated	4	22	1	27	15%	81%	4%

other	80	115	19	214	37%	54%	9%
registrar-registry	34	87	7	128	27%	68%	5%
Min					15%	52%	4%
Max					39%	81%	9%

Question 9D							
Registrar	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	197	768	72	1037	19%	74%	7%
governmental	6	27	2	35	17%	77%	6%
individual	285	593	118	996	29%	60%	12%
ISP	43	172	18	233	18%	74%	8%

ISP	25
5	233 11%

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registrar-registry

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non-commercial	50	139	12	201	25%	69%	6%
not stated	5	22		27	19%	81%	0%
other	41	165	7	213	19%	77%	3%
registrar-registry	28	93	7	128	22%	73%	5%
Min					17%	60%	0%
Max					29%	81%	12%

Question 9E							
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Date of registration	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	340	619	77	1036	33%	60%	7%
governmental	16	15	4	35	46%	43%	11%
individual	476	390	123	989	48%	39%	12%
ISP	92	117	23	232	40%	50%	10%
non-commercial	90	96	16	202	45%	48%	8%
not stated	6	21	1	28	21%	75%	4%
other	74	128	12	214	35%	60%	6%
registrar-registry	44	71	12	127	35%	56%	9%
Min					21%	39%	4%
Max					48%	75%	12%

Question 9F							
Date of expiration	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	267	680	87	1034	26%	66%	8%
governmental	16	14	5	35	46%	40%	14%
individual	388	470	135	993	39%	47%	14%
ISP	77	134	21	232	33%	58%	9%
non-commercial	76	103	23	202	38%	51%	11%
not stated	10	17	1	28	36%	61%	4%

other	74	121	19	214	35%	57%	9%
registrar-registry	33	82	13	128	26%	64%	10%
Min					26%	40%	4%
Max					46%	66%	14%

Question 9G							
Registrant	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	219	700	116	1035	21%	68%	11%
governmental	10	23	2	35	29%	66%	6%
individual	275	455	266	996	28%	46%	27%
ISP	71	144	18	233	30%	62%	8%
non-commercial	43	134	26	203	21%	66%	13%

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not stated	4	21	3	28	14%	75%	11%
other	36	160	18	214	17%	75%	8%
registrar-registry	31	77	18	126	25%	61%	14%
Min					14%	46%	6%
Max					30%	75%	27%

Question 9H							
Tech-C	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
	286	623	123	1032	28%	60%	12%

commercial							
governmental	7	25	3	35	20%	71%	9%
individual	327	488	181	996	33%	49%	18%
ISP	43	174	14	231	19%	75%	6%
non-commercial	56	124	24	204	27%	61%	12%
not stated	8	17	3	28	29%	61%	11%
other	67	131	14	212	32%	62%	7%
registrar-registry	43	71	12	126	34%	56%	10%
Min					19%	49%	6%
Max					34%	75%	18%

Question 9I							
Adm-C	desirable	essential	valueless	Total	% des.	% ess.	% val.-less
commercial	283	621	125	1029	28%	60%	12%
governmental	11	21	3	35	31%	60%	9%
individual	336	433	222	991	34%	44%	22%
ISP	60	149	23	232	26%	64%	10%
non-commercial	68	112	24	204	33%	55%	12%
not stated	11	17	1	29	38%	59%	3%
other	61	141	12	214	29%	66%	6%
registrar-	32	78	17	127	25%	61%	13%

registry							
Min					25%	44%	3%
Max					38%	66%	22%

Not surprisingly in the light of the responses to question 8, more than half of the respondents found each individual data element now in the com/net/org whois to be essential. Across all categories and data elements, more than 70% of respondents selected either "essential" or "desirable". The largest portion of "valueless" responses to any part of this question was 27%, by individual respondents with regards to the registrant's name and address. 22% of individual respondents also found the administrative contact's name and address "valueless", 18% gave this answer with respect to the technical contact's name and address. The clear trend of satisfaction among respondents with the information currently provided to the public by Whois is evident in the responses to question 9 as well as 8.