

ICANN Business Constituency (BC) Comment on [GNSO Council Accuracy Assignment](#)

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Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter. The mission of the BC is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. Promotes end-user confidence because it is a safe place to conduct business;
2. Is competitive in the supply of registry and registrar and related services; and
3. Is technically stable, secure and reliable.

General Observations Concerning the Need to Improve WHOIS Accuracy to Fight Abusive Domain Names.

The BC believes that resolving current problems related to the accuracy and accessibility of registrant data (WHOIS data) is essential for cybersecurity, law enforcement and brand protection purposes. Requiring the accuracy and verification of such data is crucial not only for investigating cybercrime but also for establishing accountability to help prevent it in the first place.

The skyrocketing rates of abuse experienced over the last few years support the need for more accurate and accessible WHOIS data. Industry research and documentation have long demonstrated that phishing, malware, infringement, and other forms of abuse and misuse continue to show a disturbing upward trend.¹ These trends have led the European Union to adopt specific accuracy and verification requirements for WHOIS data as described in Article 28 of the EU Directive on Security of Network and Information Systems (NIS2 Directive) and Articles 109 - 112. Research conducted by the DNS Research Federation demonstrates that the enhanced accuracy and verification requirements adopted by European ccTLDs contribute to lower rates of abuse.²

¹ See

<https://interisle.net/insights/phishing-landscape-2024-an-annual-study-of-the-scope-and-distribution-of-phishing> and <https://interisle.net/insights/phishinglandscape2023>

² See <https://dnsrf.org/blog/habits-of-excellence--why-are-european-ctld-abuse-rates-so-low-/index.html>

As a result, the BC strongly supports continued GNSO Council work to improve the accuracy of WHOIS data.

Specific Comments on the Proposal

Legal Questions:

The BC supports ICANN Org’s evaluation of the legal framework applicable to WHOIS accuracy and verification, to support updates to the ICANN’s global Registration Data Directory Service (RDRS) policy adopted in response to GDPR. Since NIS2 clarified the legal basis under GDPR for the contracted parties to collect, disclose, maintain, verify, and publish WHOIS data, ICANN can and should create a global policy that improves the security and stability of the Internet for all users, not just for those impacted by NIS2.

The BC recommends that this evaluation begin immediately, since the October 17, 2024 deadline for transposing the directive into EU national law has already passed.

Threshold Questions to SGs:

The BC opposes the proposal to send threshold questions to SGs rather than following the customary practice of soliciting public comments generally. Limiting the input of important advisory committees such as the SSAC, GAC and ALAC is problematic since the issue of WHOIS accuracy affects all of them. In addition, this proposal should allow the participation of constituencies that often have differing perspectives on important GNSO policy positions. SGs often do not have processes to collect input in the manner suggested by the proposal.

In addition, proposed questions are problematic for a number of reasons:

- They focus only on the impact on contracted parties and not on the requester community.
- They are not open-ended & neutral questions. They come across as leading questions, in an apparent effort to pre-determine the outcome.
- The first and second questions should be deleted. These questions suggest that WHOIS accuracy is only needed to prevent or inhibit some activity. This perspective contradicts ICANN’s long-standing commitment to improving the accuracy of WHOIS information, as reflected in its Bylaws.³

³ ICANN’s Bylaws requires ICANN to “explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.”

- The third question should be deleted because it assumes that inaccurate information is acceptable unless a vulnerable stakeholder can be identified as being harmed by the inaccuracy. This is contrary to the ICANN core value that accuracy is important to the security and stability of the Internet and the domain name ecosystem.
- The fourth question should be deleted because it is not neutral. It assumes that data processing limitations prevent accurate WHOIS information rather than acknowledging that numerous laws and processes exist across the globe that allow data processing to verify WHOIS. For example, many ccTLDs require verification in order to register a domain name, and some jurisdictions and industries have adopted “know-your-customer” rules and processes.

Instead of finalizing the questions in the proposal, the BC proposes that the questions be developed after ICANN publishes the analysis of pending and future laws. **At a minimum, there needs to be an additional question soliciting general feedback on the importance of accurate and verified registration data.**

Alternative Proposals to Explore

The BC supports the two suggestions (review audit information and consultations with EU ccTLDs) for additional work. However, these should run in parallel with the other work identified in the proposal (legal analysis & threshold questions).

The BC supports additional data gathering, such as conducting a survey on the changes made by the contracted parties to RDRS in response to NIS2. For example, a survey on the availability and accuracy of legal persons' registration data should be possible, since such data is required to be publicly available by NIS2's Article 28.

This comment was drafted by Margie Milam with edits from Lawrence Olawale-Roberts and was approved in accordance with our [Charter](#).