



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

December 23, 2020

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Chairman Wicker:

In our numerous conversations with your staff, the status of the WHOIS database often comes up. Given the important decisions at the Internet Corporation for Assigned Names and Numbers (ICANN) concerning the WHOIS database, I wanted to furnish you with an informal status report.

The WHOIS databases are the internet's white pages. Every entity, whether individual, business, organization or government, which registers domain names, must provide identifying and contact information. This information includes, but is not limited to, name, address, email, telephone number, and technical contacts. This data is managed by "registrars" and "registries."

For many years, NTIA, under several different Administrations, has sought to ensure that WHOIS data is accurate and accessible. The importance of this data cannot be overstated. Having access to contacts for websites and domain names is essential for law enforcement, cybersecurity, and IP interests. More generally, the ability of WHOIS to provide consumers and small business with information about those with whom they do business allows an easy and inexpensive way for identity authentication, thereby encouraging safety and trust on the internet.

In May 2018, in response to the European Union's implementation of the General Data Protection Regulation, ICANN commenced a process to change its policies concerning accessibility to the WHOIS databases. Following this process, ICANN stakeholders issued their recommendations on WHOIS in August 2020. NTIA has met with stakeholders from federal and local law enforcement, cybersecurity industries, and the business and the IP communities to better understand their concerns about this process.

Under NTIA's leadership, the Government Advisory Committee (GAC) issued a minority statement withholding support for certain recommendations. Specifically, the statement expressed the following public policy concerns about the recommendations:

- Proposes a fragmented rather than centralized disclosure system,
- Lacks enforceable standards to review disclosure decisions,
- Fails to sufficiently address consumer protection and consumer trust concerns,
- Does not offer reliable mechanisms for the System for Standardized Access/Disclosure (SSAD) to evolve in response to increased legal clarity, and

- May impose financial conditions that risk an SSAD that calls for disproportionate costs for its users including those that detect and act on cyber security threats.

Moreover, the recommendations failed to address the following basic issues:

- Measures to ensure data accuracy,
- Policies to allow freely-given consent or objection to disclosure of data at the time of domain name registration,
- Rules that distinguish between natural and legal entities and
- Efforts to examine the feasibility of unique contacts to have a uniform anonymized email address.

In expressing concerns with certain recommendations, the GAC was joined by the Business Constituency, the Intellectual Property Constituency, and the At-Large Advisory Committee.

Despite these concerns, the ICANN council governing policy development approved the recommendations and forwarded them to the ICANN Board for their consideration and formal adoption. Ironically, even after this multiyear process, the recommendations will take years to implement. Meanwhile, federal and local law enforcement, cybersecurity industries, and the business and IP communities continue to have their efforts hampered.

NTIA encourages the Committee to explore alternate approaches to providing federal and local law enforcement, cybersecurity industries, the business and the IP communities—as well as small businesses and the public— prompt and effective access to information they need to build a safe, secure, and trustworthy internet.

If you have any questions, please feel free to contact me at (202) 482-3480 or Jason Goldman, Deputy Director of Congressional Affairs, at (202) 482-1830.

Sincerely,

Carolyn Tatum Roddy
Deputy Assistant Secretary Performing the
Non-Exclusive Functions and Duties of the
Assistant Secretary for Communications and
Information