**IPC Position Paper on Accuracy of Registrant Data (“WHOIS Data”)
as of August 2021**

**Accuracy Of WHOIS Data Is Of High Importance To The IPC:** Accuracy of WHOIS data is of high importance to the IPC for two reasons. First, accurate WHOIS data enables IP rightsholders to contact domain name registrants in cases of IP infringement, and, if necessary, serve notice for legal actions (including UDRP and URS proceedings). Second, when domain name registrants are required to submit accurate WHOIS data, this leads to reduced abusive and illegal activity, including IP infringement. For example, DK Hostmaster, the registry operator for .dk, undertakes strategic and rigorous procedures to verify the WHOIS data for its .dk domain name registrants. As described in a January 2020 article

from the Internet Policy Review entitled “The Regulation of Abusive Activity and Content: A Study of

Registries’ Terms of Service”:

 *“In Denmark, a problem with online shops selling counterfeit products was manifested by an increasing*

*number of court orders that the registry received to seize <.dk> domains. In 2017, the Danish registry, DK*

*Hostmaster, introduced the mandatory use of a common login and verification solution used by*

*government, banks and other private actors for identity verification purposes of Danish registrants and a*

*risk-based assessment of foreign registrants at the time of registration. The verification requirement*

*resulted in a decrease of online shops suspected of IP infringements from 6,73% to 0,12% (DK*

*Hostmaster, 2019).”[[1]](#footnote-1)*

The IPC has fully recognized this point. For example, in the IPC Comments on the RDS-WHOIS2 Review Final Report, we stated:

 *“Inaccuracies in the RDS continue to cause harm and confusion in the marketplace and facilitate DNS abuse.”*[[2]](#footnote-2)

**Accuracy As Applied To WHOIS Data Is An Objective Standard:** As ICANN has undertaken to adapt its policies to the EU GDPR, arguments include that accuracy is an exclusive right of the data subject (the registrant in the case of WHOIS data) and that it is up to the data subject to decide whether their data is accurate. The IPC rejects this argument. As set forth in the IPC’s joint Minority Statement on the EPDP Phase 2 Final Report:

*“The Phase 2 Report fails to address the fundamental issue of accuracy of registrant data, as was agreed by the EPDP in Phase 1, despite the fact that there are adequate tools today to verify the accuracy of registrant data. The inaccuracy of WHOIS data has been problematic for over 20 years. The EPDP Team failed to follow the legal advice it had requested with respect to the interpretation of accuracy requirements under the GDPR. The EPDP Team also failed to follow the advice of the European Commission, which confirmed that data accuracy is not solely in the interest of the data subject. Patently false data is not protected under data privacy laws, and preserving the wholesale redaction of false or fictitious registrant data from the DNS represents another failure of the EPDP, which further erodes trust, accountability and transparency in the DNS.”[[3]](#footnote-3)*

**The IPC Supports The Accuracy Requirements In The RA And RAA:** The IPC supports the current contractual provisions in the Base Registry Agreement and the 2013 Registrar Accreditation Agreement as the minimum requirements necessary to address accuracy of WHOIS data. With respect to the RAA, these include sections 3.3.4, 3.7.7.1, 3.7.7.2, 3.7.7.3, 3.7.8 (including the WHOIS Accuracy Program Specification), and 5.5.2.1.3.

**The Accuracy Requirements In The RAA Are Not Being Met:** The IPC has noted that *“inaccuracy rates remain unacceptably high (in the 30-40% range)”* and that *“simple validation at the outset of WHOIS entry is an easy remedy to help reduce inaccuracy rates.”*[[4]](#footnote-4) The IPC has further maintained that *“community-driven initiatives like cross-field validation should be implemented immediately.”[[5]](#footnote-5)*

**ICANN Compliance Must Do A Much Better Job Of Enforcing Accuracy Contractual Requirements:** The IPC explicitly supports all the RDS Review Team’s Recommendations and has stated, *“ICANN’s obligation to maintain the security, stability and reliability of the internet is predicated on ensuring and protecting the accuracy of its data quality and the integrity of registrant data.”* [[6]](#footnote-6) The IPC believes that ICANN Compliance must devote more resources to enforcing contractual accuracy requirements and the IPC *“supports any recommendation to require Compliance to proactively investigate using all data sources available to detect systemic information failure.”*[[7]](#footnote-7) (emphasis added). Among the actions that the IPC maintains that Compliance must undertake to enforce accuracy requirements are: (i) continued proactive monitoring through the Accuracy Reporting System, (ii) cross-referencing of data to detect patterns of failure to validate and verify WHOIS data, (iii) addressing systemic issues, including as identified from information from sources other than inaccuracy complaints, and (iv) broadening its capabilities in furtherance of identifying and addressing inaccuracy.[[8]](#footnote-8)

**Any New Accuracy Project, PDP Or Policy Related Work Must Not Weaken Or Undermine Current Contractual Requirements:** The IPC believes that accuracy of WHOIS data overall needs to be improved and that current contractual provisions need to be better enforced. The IPC asserts that the GDPR should not be used as a basis or excuse from backing away from these imperatives. The IPC believes that any new Accuracy project or policy work undertaken by the GNSO Council should not be used to back away from or undercut any of the current contractual requirements in the RA and RAA concerning WHOIS data accuracy. If any such work or project is undertaken, it needs to be with the clear acknowledgment that the current accuracy-related contractual requirements may not be weakened and establish the minimum requirements with respect to accuracy of WHOIS data.

1. <https://policyreview.info/articles/analysis/regulation-abusive-activity-content-study-registries-terms-service> [↑](#footnote-ref-1)
2. <https://www.ipconstituency.org/assets/ipc-position-papers/2019/2019_12December_23%20IPC%20Comments%20re%20RDS-WHOIS2%20Review.pdf> [↑](#footnote-ref-2)
3. <https://www.ipconstituency.org/assets/ipc-position-papers/2020/2020_07July_29%20Minority%20Statement%20of%20the%20BC%20and%20IPC%20on%20the%20EPDP%20Phase%202%20Final%20Report.pdf> [↑](#footnote-ref-3)
4. <https://www.ipconstituency.org/assets/ipc-position-papers/2019/2019_12December_23%20IPC%20Comments%20re%20RDS-WHOIS2%20Review.pdf> [↑](#footnote-ref-4)
5. Ibid [↑](#footnote-ref-5)
6. Ibid [↑](#footnote-ref-6)
7. Ibid [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)