

## Summary of Public Consultation on Creating a Universal Whois Service

*This summarizes the third of three public meetings VeriSign held to solicit input and feedback on the development of a “universal Whois” service. The meeting was held in Washington, DC at the Center for Democracy and Technology and focused on input from public interest and civil liberties groups.*

### Participation

#### Panel

Miriam Sapiro	Director of International Policy, VeriSign	Moderator
Mark Kusters	VeriSign	Panelist
Alan Davidson	Center for Democracy and Technology	Panelist
Becky Burr	Wilmer, Cutler and Pickering	Panelist

#### Attendees

Amy Black	VeriSign
Lynn Blokzijl	NeuLevel
Rob Courtney	Center for Democracy and Technology
Leslie Daigle	VeriSign
Harold Feld	Media Access Project
Benn Kobb	Civil Rights Forum
Mihir Kshirsagan	EPIC
Eric Merge	Small Business Alliance
Andrew Newton	VeriSign
Jon Pawlow	Small Business Alliance/Advocacy
Manon Ress	Essential Information
Larry Vagnoni	NeuLevel
John Wolfe	Business Software Alliance

### Agenda

1. Welcome and introductory remarks
2. Discussion
3. Concluding remarks

### I. Welcome and Introductory Remarks

Sapiro:

- Welcomed everyone and thanked Alan Davidson and the Center for Democracy and Technology for co-hosting the meeting.
- Explained that this consultation (focused on getting the thoughts of civil liberties groups and other NGOs) is the third of three consultations VeriSign has held this year to discuss the future of the Whois database R&D project. The first consultation was focused on getting the views of the business, intellectual property, and law enforcement communities. The second was an effort to get international input. Pursuant to its contract with ICANN, VeriSign is working with others to try to develop a universal WHOIS search capability. To achieve

- this VeriSign is also going to set up a web-based forum for public comment, so that everyone who has suggestions and input can participate.
- Clarified that in connection with the new Registry Agreement, Verisign has agreed to allocate a part of the \$200 million that the company has committed for “research, development, and infrastructure improvements to the .com, .net and.org Registries” “to design and develop a Universal Whois Service that will allow public access and effective use of Whois across all Registries and TLDs” (Appendix W). This would be a genuinely universal Whois service, in other words applicable to all TLDs, including ccTLDs. VeriSign will insofar as is feasible in view of its “dependence on the cooperation of third parties, strive to achieve significant progress in implementing a Universal Whois Service by December 31, 2002.”
  - Clarified three points that have been raised in previous consultations. First, VeriSign is required through its contracts with ICANN to pursue this effort. Second, it is a technical R&D effort and is not intended to get into the policy issues that are properly the responsibility of ICANN, such as those discussions that are now underway in the Names Council Whois Taskforce. Third, VeriSign’s contract with ICANN states that if VeriSign can design the protocols that create a universal Whois system it will “a) make the application program interfaces necessary to produce software which can sufficiently deploy and use the service available to application developers on an open, non-proprietary, standards-based and royalty free basis, and b) make the universal Whois service available at a standardized reasonable fee to be negotiated with ICANN.”
  - Reiterated that VeriSign’s engineers and management were there to get input from participants on the way forward. It would be particularly useful to hear about users’ requirements and their priorities.

Davidson:

- Welcomed everyone. Thanked VeriSign for hosting and providing a chance for the non-commercial community to voice their opinions. Clarified that recording of the meeting was only for in-house purposes. Solicited everyone’s participation. Initiated introductions of participants.

Kosters:

- Summarized two previous formal consultations and informal meetings at various technical forums.
- 1) Sees Whois as a non-centralized service. Predicts that people are hesitant to give data to a centralized service. 2) Sees Whois as not being specific to any particular TLD registry. This allows more flexibility to meet the differing needs of various groups. 3) Sees Whois as being non-proprietary. 4) Sees Whois as having international character support. 5) Sees Whois as permitting support for access control.
- Whois currently does not have access control mechanisms.
- VeriSign only wants to invent what is necessary. Does not want to reinvent the wheel.

- VeriSign's role is to coordinate through meetings such as this one and to listen to the input of various stakeholders.

Davidson:

- Serious policy questions arise in the context of Whois. Even technical requirements need to be informed by policy implications. CDT's view is that the technology behind Whois should support a range of policy options.
- Concerns have been raised about individual privacy. The non-commercial community realizes there are sometimes legitimate reasons to have access to personal information. Cited law enforcement, consumer protection, and technical stability of the Internet as important to the non-commercial community.
- Proposed four possible technical solutions to balance need for access with consumer protection. 1) A tiered model of access to data. For example, names might be more accessible than phone numbers. Also law enforcement might be granted access to a higher tier than businesses. 2) Auditing mechanisms could protect against spammers by keeping a record of who is receiving what information and for what purposes. 3) A third party proxy system could protect the identities of individuals. 4) Different rule sets might be applied in different contexts. For example, a gTLD dedicated to individual non-commercial use might have fewer requirements for Whois data than that predominantly dedicated to commercial uses by businesses.

Burr:

- Wanted to provide a historical perspective on what the Commerce Department was thinking about when they required that a registry information database be included in the White Paper.
- Emphasized that she no longer works for the government and her comments reflect her personal perspective on the mindset of the government when these agreements were made.
- A central task assigned to ICANN was to resolve complaints about the registration, as opposed to the use, of domain names.
- The White Paper called for the inclusion of a registry database that would make available to anyone with access to the internet up to date registration and contact information, up to date and historical chain of registration information for the domain name, a mail address for service of process (could be a proxy address), date of the domain name registration, date of any objections to the registration of the domain name, and any other information ICANN developed pertaining to the domain name that was necessary to solve disputes.
- The heart of this policy was to provide a way to contact and serve domain name registrants. The Commerce Department was aware of privacy issues but felt that solutions, similar to those mentioned by Mr. Davidson, were available to address concerns: proxy registrations, a top-level domain name for non-commercial uses (balanced with the ability to take down a site engaging in commercial practices under this protection) and a gradation of the amount and kinds of information available.

- Though aware of privacy considerations, the Commerce Department did believe that companies interested in protecting intellectual property or trademarks should be mandated to provide this information.
- The Commerce Department did not think much about who would be allowed access to the information, but was always supportive of limitations on use of Whois data by those who would use the information to generate unsolicited email.

## II. Discussion

Sapiro:

Always helpful to get an historical perspective. VeriSign is very interested in hearing about the priorities of the groups represented here.

Feld:

Asked Ms. Burr if the telephony model was considered by the Commerce Department as a starting point. Many of the issues in this discussion seem to mirror those raised between 1994-1998 with respect to the telecommunications industry.

Burr:

It was looked at. Without new legislation the steps that could be imposed on Network Solutions were limited. The question was how to affect the market in a positive way. Did not want to stifle innovation. Technologies were available that were both pro-privacy and pro-consumer. Many models were looked at but none seem to fit. Value judgments were made in favor of getting information out there. While law enforcement concerns weren't discussed consumer protection was a big issue.

Kshirsagan:

Not just about marketing. Concern that technical standards take into account first amendment rights to share information. Also given the international nature of the Web, what obligation will Whois have to give information to international governments? Whois should be constructed in a way that protects the content of websites.

Kosters:

How then could the technology be designed to allow different access for different users? Different kinds of TLDs have different needs and different purposes. How does one decide who gets access to what information?

Davidson:

What about third party proxy models? Where does the traditional process of getting a subpoena break down? Perhaps it could provide a decent starting point.

Sapiro:

From the view of law enforcement, they currently have nearly instant access to the Whois database. They may perceive any new limitation on the information, or

increased difficulty in getting the information, as being a step backward. People should be aware of their perspective.

Burr:

There is a trade off in that it makes the law enforcement community resistant to adding more TLD names.

Kshirsagan:

Just because law enforcement has that power right now doesn't mean it should necessarily continue to have it. Has an opt-in model been considered? Many businesses would benefit from having their information published and could opt-in while those that valued privacy could choose not to participate. Because the problem with the third party proxy idea is that it is only available to technically savvy users.

Kosters:

It may be possible to use an existing protocol or develop a new one that will allow a user to control what access is made available to other users.

Feld:

The IP Community doesn't want the status quo. They want new rules, some of which affect rights. Whois is inaccurate and open. How much does the openness of it affect its inaccuracy? At least two motivations exist that might lead people to give false information. Spammers want to keep their identity hidden to protect their profits, while political dissidents want to keep their identity hidden for personal protection. A mechanism that builds trust will promote better information from name registrants and small business owners. If VeriSign implements this, what is the scope of this project? Which TLDs will be affected?

Sapiro:

Your question is at the heart of the matter. How will this be done? VeriSign has been tasked by ICANN to do this, but it is not solely a VeriSign effort. The language of the contract between VeriSign and ICANN proves this. ICANN envisions Whois as a universal service, not a centralized one. The success of this Whois effort depends upon the contribution of everyone in the Internet community.

Burr:

It's not a tool that reaches into one database. It's a tool that reaches into whatever databases are made available.

Davidson:

Is that a given? Because the idea of a distributed system is a valuable idea.

Burr:

It was clear that in 1998 businesses were not interested in submitting their information into a centralized database. So to the extent that it's technologically feasible a more distributed model will be the result.

Sapiro:

We can't say it's a given. But it is a sentiment that was expressed strongly at the international consultation where there were many ccTLDs.

Kosters:

Currently the focus is on a decentralized system and we're trying to hear from you what sorts of features and characteristics you would like to see in such a system. We've heard a great number, but if there are other technical requirements it helps us to know that.

One thing we're working on is defining what the search criteria should be and what searching mechanisms are made available by a given registrar or registry. It would support both thick and thin. Right now, unlike ten years ago where you could go to one place to get the information you need, Whois information is all over the place and it makes the job challenging. It's time to try to rebuild something better.

Courtney:

Do you intend to maintain some of the functionality of traditional Whois servers? Some have different search capabilities. How will those differences be bridged?

Kosters:

Right now search capabilities among registrars are not uniform and that may be a good criteria to start with. Some support wild cards, others require direct matches. A common search platform is something that could perhaps become a requirement. It would be dictated by policy.

Feld:

How often will VeriSign be reporting out to the community?

Sapiro:

No schedule yet. But next year we'll look at the calendar and see if we have enough support in the ICANN community to make this work. As we've said the website is always available to take input. Have to start by the end of the year, and must begin to implement by the end of next year if there's enough support.

Davidson:

Asked for reaction to the ideas laid out in his presentation. Has VeriSign heard similar ideas from other sources?

Kosters:

This is a great basis for setting up requirements. We have thought of a lot of the ideas, but many we haven't. So it's very helpful.

Sapiro:

This is some of the most substantive feedback we've gotten.

Davidson:

I understand that some of these ideas will meet resistance from groups that have had easier access in the past. However some of the non-commercial community is genuinely conflicted. Some of the ideas will be easier to implement than others. The third party proxy is already being used. It seems the most promising and easiest. What are other people here thinking? Asked small business advocates for their views.

Pawlaw:

Small businesses are most likely divided on the issue. Most small businesses have to put their information up. However, one of our fastest growing sectors includes those that have home offices. They use PO boxes because they don't want to divulge their home addresses. Other than that we don't have a lot of information. If VeriSign is interested we could invite small business owners to a meeting to get a dialogue going about what their requirements are.

Feld:

Expressed that he has been encouraged by the impression that VeriSign is open to ideas beyond this one meeting and has made efforts to consult a variety of people. This seems to be an iterative process in its beginning stages and has not heavily privileged one group over another.

Davidson:

Expressed that he thinks there needs to be as much conversation as possible and this dialogue underscores the importance of taking into consideration the various legal and cultural structures around the world from a technical point of view. It must be robust enough to adapt to changing structures so that the whole thing doesn't have to be thrown out when a country's laws change two years down the road.

Burr:

Asked if a TLD such as .speech that is set aside for non-commercial activity an attractive idea, or is it objectionable?

Davidson:

Two answers to the question. It is attractive to people who want a space that is more appropriate for conveying ideas that are not of a commercial nature. But free speech advocates also want to see protection provided to all TLDs. So it is attractive but not sufficient to meet the concerns of free-speech advocates.

Sapiro:

A .speech would raise interesting Whois issues.

Feld:

On a consumer protection side free speech is not just about those who sell products. You also don't want to see people slandering others on the web.

Wolfe:

From an enforcement perspective, wherever regulations are most lax, that's where criminals will go, whether it's .speech or an opt-in/opt-out model.

Burr:

There has to be some balance where those that abuse the system can have their sites taken down.

Kshirsagan:

There will always be people looking for loopholes and they will find them. Regulations against them make it difficult for the average person that just wants to get online and have a discussion. The rules must be designed with the normal person, not the criminal, in mind. There may be negative consequences but these are balanced by free speech.

## **Concluding Remarks**

Sapiro:

Thanked attendees for their participation. Encouraged everyone to use the website to submit further ideas. Assured participants that the minutes from all meetings would be made available and that VeriSign would work to take everyone's comments into consideration.