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Subject: BSA submission in ICANN Whois public comment proceeding

The Business Software Alliance (BSA) submits the following in response to ICANN's call for public comments regarding changes to Whois. See http://www.icann.org/public_comment/#whois-comments-2007 <http://www.icann.org/public_comment/#whois-comments-2007> .

BSA is the voice of the world's commercial software industry and its hardware partners before governments and in the international marketplace. We also operate an active enforcement program against infringement of our member companies' copyrights, including infringements that take place online. Ready access to Whois data plays an important role in this enforcement program. Such access is also critical in combating online frauds such as phishing, as explained in more detail in past submissions of the Anti-Phishing Working Group (see <http://forum.icann.org/lists/whois-comments/msg00075.html> <<http://forum.icann.org/lists/whois-comments/msg00075.html>>).

BSA has followed the debate within ICANN through the activities of the Intellectual Property Constituency of the GNSO, in which we participate through the Coalition for Online Accountability. We generally support the position taken by the IPC as set out on pages 26-28 of the Staff Report on Whois developments, see <http://gnso.icann.org/drafts/icann-staff-overview-of-whois11oct07.pdf> <<http://gnso.icann.org/drafts/icann-staff-overview-of-whois11oct07.pdf>> , and in particular oppose the implementation of the OPOC ("operational point of contact") proposal. This proposal would remove from public access much data on domain name registrants that is important for maintaining transparency and accountability online., and provides no mechanism for access to this suppressed data by entities with a legitimate need for it, including copyright owners.

Public access to gTLD domain name registrant data through Whois has been a positive factor in promoting confidence in the Internet and in e-commerce. BSA urges ICANN to exercise great caution before deviating from this time-tested and long-standing practice. In this regard, the proposal to conduct a comprehensive study of the uses and abuses of Whois data strikes us as the right course to follow at this point. The results of this study should lead to better policy outcomes in this complex area.

Thank you for considering the views of BSA.

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