



ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2

Registry Name: Fundació puntCAT

gTLD: .CAT

Status: ICANN Review

Status Date: 2011-10-05 14:50:26

Print Date: 2011-10-05 14:50:38

Proposed Service

Name of Proposed Service:

Whois changes according to EU data protection legislation

Technical description of Proposed Service:

See, among others, doc attached as appendix 1: puntcat-data-protection-ext-draft.

[Appendix A \(catWHOIS_Appendix1_EPPdetails.pdf\)](#)

[Appendix B \(catWHOIS_Appendix2_art29WPletter.pdf\)](#)

[Appendix C \(catWHOIS_Appendix3_SpanishDPA.pdf\)](#)

[Appendix D \(catWHOIS_Appendix4_description.pdf\)](#)

[Appendix E \(catWHOIS_Appendix5_AppendixSnewlanguage.pdf\)](#)

Consultation

Please describe with specificity your consultations with the community, experts and or others. What were the quantity, nature and content of the consultations?:

Fundació puntCAT consulted with the relevant authorities on the impact of the Spanish and EU legislation on data protection. Several informal consultations with experts were also carried.

The relevant authorities are the Art. 29 Working Group, the independent EU Advisory Body on Data Protection and Privacy, and both the Spanish and Catalan Data Protection



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Authorities.

The Art. 29 Working Group, in its opinion 2/2003, states the following:

Article 6c of the Directive imposes clear limitations concerning the collection and processing of personal data meaning that data should be relevant and not excessive for the specific purpose. In that light it is essential to limit the amount of personal data to be collected and processed. This should be kept particularly in mind when discussing the wishes of some parties to increase the uniformity of the diverse Whois directories.

The registration of domain names by individuals raises different legal considerations than that of companies or other legal persons registering domain names.

- In the first case, the publication of certain information about the company or organisation (such as their identification and their physical address) is often a requirement by law in the framework of the commercial or professional activities they perform. It should be noted however that, also in the cases of companies or organisations registering domain names, individuals can not be forced to have their name published as contact-point, as a consequence of the right to object.

- In the second case, where an individual registers a domain name, the situation is different and, while it is clear that the identity and contact information should be known to his/her service provider, there is no legal ground justifying the mandatory publication of personal data referring to this person. Such a publication of the personal data of individuals, for instance their address and their telephone number, would conflict with their right to determine whether their personal data are included in a public directory and if so which

The original purpose of the Whois directories can however equally be served as the details of the person are known to the ISP that can, in case of problems related to the site, contact the individual⁴

And as a footnote, referring to number 4, says the following:

Such a system has been put in place in several European countries such as for instance France (through AFNIC) and United Kingdom. For instance in the UK individual registrants of domain names ('tag-holders') can have an entry on Whois that is 'care of' their ISP, this means that someone who has a problem with a website can contact its owner through the ISP with no need for the registrant's home address etc. to appear on an open database.

The document can be found here:



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http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2003/wp76_en.pdf

This same language may be found in a communication the art 29 WG sent to the board, referring to the same question. See:

<http://www.icann.org/correspondence/schaar-to-cerf-22jun06.pdf>

Moreover, after being consulted by puntCAT, the art. 29 wg responded by e-mail to our consultation, encouraging our proposal referring to the documents above referred.

This e-mail is attached as Appendix 2

The Spanish Data Protection Agency, the body entitled to oversee and enforce the data protection legislation framework in Spain, where Fundació puntCAT is located, endorses .cat current proposal. puntCAT engaged in consultation with the Spanish DPA, regarding the current situation of the whois directory and its situation under european and spanish law, and presenting the major lines of the proposal puntCAT wants the ICANN board to approve.

The spanish DPA emitted a communication, whereby officially endorsed the changes puntCAT wants to adopt, considering them in complete accordance to the data protection legislation

This endorsement is attached as Appendix 3 to this request.

An english version of the Data Protection Directive may be found here:

EUR-Lex - 31995L0046 - EN

An unofficial translation to english of the transposition of the Data Protection European Directive to the Spanish legislation can be found here:

http://www.agpd.es/portalwebAGPD/canaldocumentacion/legislacion/estatal/common/pdfs_ingles/Ley_Orgnica_15-99_ingles.pdf

a. If the registry is a sponsored TLD, what were the nature and content of these consultations with the sponsored TLD community?:



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This request is the direct consequence of an increase in data protection concerns in our community. This concerns have been directly addressed to Fundació puntCAT throughout many registrants' petitions to allow private whois, as well as a general trend in the data protection fora that have specifically dealt with the subject. In that regard, see the documents referred above.

b. Were consultations with gTLD registrars or the registrar constituency appropriate? Which registrars were consulted? What were the nature and content of the consultation?:

Registrars were consulted and informed in a meeting held on april 14th, 2011, between puntCAT and its registrars, The meeting had the whois system change proposal as one of its main topics, and none of the registrars attending the meeting had any objections to the schema

c. Were consultations with other constituency groups appropriate? Which groups were consulted? What were the nature and content of these consultations?:

No other stakeholder groups were consulted. However, in the GAC communiqué issued on march the 28th, 2007, after the ICANN Lisbon meeting. there's a reference to whois and national laws. Through this document, the GAC informs of its position regarding the principles related to whois and gTLD's were exposed. In its Annex A, point 2.2.2 of this document, the GAC states the following:

2.2 The Gac recognizes that there are also legitimate concerns about:

2. conflicts with national laws and regulations, in particular, applicable privacy and data protection laws

This may be found at:

http://gac.icann.org/system/files/GAC_28_Lisbon_Communique.pdf

d. Were consultations with end users appropriate? Which groups were consulted? What were the nature and content of these consultations?:

End users have addressed the question throughout their constant remarks to the Registry. There has not been a formal consultation, although the ammount of requests shows an increasing interest from end users.



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e. Who would endorse the introduction of this service? What were the nature and content of these consultations?:

Law enforcement and data protection agencies representatives from Catalonia, Spain and the EU.

f. Who would object the introduction of this service? What were(or would be) the nature and content of these consultations?:

Fundació puntCAT does not expect objections, since it is a question of compliance with data protection law.

Timeline

Please describe the timeline for implementation of the proposed new registry service:

After approval by ICANN, our tentative timeline will consist of 3 months for OT+E and a communications campaign, held in parallel. Afterwards, the service will be implemented and users will be given 2 months to adjust to the new characteristics of the service.

Business Description

Describe how the Proposed Service will be offered:

The changes will be implemented through an EPP extension, whose details are detailed in the Appendix 1.

See the Appendix 4 for a description of the new characteristics of the service.

Describe quality assurance plan or testing of Proposed Service:

Once the change is implemented, CORE will apply the usual software QA measures (unit and regression testing) and check Whois and domain:info results for all possible combinations of the newly introduces flags.



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Please list any relevant RFCs or White Papers on the proposed service and explain how those papers are relevant.:

Changes are compliant with the relevant RFCs concerning whois and EPP

Contractual Provisions

List the relevant contractual provisions impacted by the Proposed Service:

Appendix S Part VI of puntCAT's contract with ICANN. The proposed language for this Appendix to puntCAT-ICANN agreement is included in the Appendix 5 to this document

What effect, if any, will the Proposed Service have on the reporting of data to ICANN:

None.

What effect, if any, will the Proposed Service have on the Whois?:

Non disclosure of the data associated to the domain names registered by individual registrants that so choose, following provided advice by the Spanish data protection Agency and the Article 29 Working Group

Contract Amendments

Please describe or provide the necessary contractual amendments for the proposed service:

puntCAT needs to amend Appendix S Part VI of its contract with ICANN in order to comply with the provisions of Spain and EU legislation. See Appendix 5 attached with the new language.

Benefits of Service



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Describe the benefits of the Proposed Service:

Compliance with data protection legislation at both local and european level

Competition

Do you believe your proposed new Registry Service would have any positive or negative effects on competition? If so, please explain.:

N/A

How would you define the markets in which your proposed Registry Service would compete?:

N/A

What companies/entities provide services or products that are similar in substance or effect to your proposed Registry Service?:

Inside the gTLD sphere, Telnic and GNR, both subject to the EU data protection legislation. In the ccTLD sphere, several european Registries are adjusting their policies to the provisions of the european legislation. See Afnic .fr whois as an example.

In view of your status as a registry operator, would the introduction of your proposed Registry Service potentially impair the ability of other companies/entities that provide similar products or services to compete?:

This is not a service to be avaluated under such parameters, but one that fulfills european legislation provisions regarding data protection.

Do you propose to work with a vendor or contractor to provide the proposed Registry Service? If so, what is the



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name of the vendor/contractor, and describe the nature of the services the vendor/contractor would provide.:

CORE, puntCAT's backend provider will provide the service

Have you communicated with any of the entities whose products or services might be affected by the introduction of your proposed Registry Service? If so, please describe the communications.:

N/A

Do you have any documents that address the possible effects on competition of your proposed Registry Service? If so, please submit them with your application. (ICANN will keep the documents confidential).:

N/A

Security and Stability

Does the proposed service alter the storage and input of Registry Data?:

No

Please explain how the proposed service will affect the throughput, response time, consistency or coherence of responses to Internet servers or end systems:

N/A

Have technical concerns been raised about the proposed service, and if so, how do you intend to address those concerns?:



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N/A

Other Issues

Are there any Intellectual Property considerations raised by the Proposed Service:

N/A

Does the proposed service contain intellectual property exclusive to your gTLD registry?:

N/A

List Disclaimers provided to potential customers regarding the Proposed Service:

No disclaimers needed, being the service an adjustment to the legal provisions of our legal jurisdiction.

Any other relevant information to include with this request:

The appendixes attached and mentioned throughout the request.



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**Appendix {A(catWHOIS_Appendix1_EPPdetails.pdf)
(Seen on Next Page)**



puntCAT

Registrant Data
Protection Extension

DRAFT Version – Subject to Change

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1. Introduction

The Spanish Data Protection Agency (DPA) requires that puntCAT domain registrants who are **natural** persons need to be able to prevent their contact information from appearing in the puntCAT Whois when their domains are queried. In contrast, registrants representing **legal** persons are not supposed to have this option, i.e. they are obliged to publish their contact information in the Whois.

This paper describes the technical approach puntCAT has chosen to meet this requirement.

2. Technical Approach

2.1. Functional Description

The puntCAT registry system will be extended to require the specification of the registrant's status (natural vs. legal person) with regard to a certain domain when the domain is created. In addition, if the registrant is marked as a natural person, a separate flag must be specified to indicate whether contact information shall be disclosed in the puntCAT Whois or not. Both flags may be updated and queried like other domain properties.

If a natural person has specified to hide their contact information, both the puntCAT Whois as well as the `domain:info` EPP command (when executed by a registrar not sponsoring the inquired domain) will, instead of returning any contact data, respond with a special indication that the registrant opted out of disclosing contact information. In particular, no contact IDs (which could be queried individually if they were known) are not returned in this case.

In order to allow law enforcement agencies and trademark protection agencies to retain unrestricted access to Whois data as today, a white list of IP addresses will be maintained; when the Whois is queried from an address on this white list, full contact data will be returned, regardless of the domain's settings. This complete access may be requested via a special web form available on the puntCAT web site, and accredited by puntCAT on demand.

Another web form will be available on puntCAT's web site that allows a requester to deliver a message to a domain's registrant's e-mail address (protected by a CAPTCHA to guard against spamming). Any protected data associated with the domain name will remain undisclosed during this process.

Finally, a web form will allow to contact puntCAT registry staff in case of technical problems with a domain name.

2.2. EPP Implementation

In EPP, the approach described above will be implemented as an extension to the `domain:create`, `domain:update` and `domain:info` commands.

2.2.1. Domain Creation

This example shows a `domain:create` command using the extension:

```
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <create>
      <domain:create
        xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        <domain:name>barca.cat</domain:name>
        <domain:period unit="y">2</domain:period>
        <domain:ns>
          <domain:hostObj>ns1.example.com</domain:hostObj>
          <domain:hostObj>ns1.example.net</domain:hostObj>
        </domain:ns>
        <domain:registrant>jd1234</domain:registrant>
        <domain:contact type="admin">sh8013</domain:contact>
        <domain:contact type="tech">sh8013</domain:contact>
        <domain:contact type="billing">sh8013</domain:contact>
        <domain:authInfo>
          <domain:pw>2fooBAR</domain:pw>
        </domain:authInfo>
      </domain:create>
    </create>
    <extension>
      <dx:create
        xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        ...
        <dx:disclosure>
          <dx:natural disclose="false"/>
        </dx:disclosure>
      </dx:create>
    </extension>
    <clTRID>ABC-12345</clTRID>
  </command>
</epp>
```

**Example EPP domain
create command
(natural person)**

Here, via use of the `natural` XML element within the `disclosure` element, the registrant indicates that contact `jd1234` represents a natural person for this domain. The `disclose` attribute set to "false" specifies that contact data should not be disclosed when this domain is queried. If the `disclose` attribute was set to "true" instead, data would be disclosed.

In contrast, this example creates a domain for a registrant that is a legal person:

```
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <create>
      <domain:create
        xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        ...
      </domain:create>
    </create>
    <extension>
      <dx:create
        xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        ...
        <dx:disclosure>
```

**Example EPP domain
create command
(legal person)**

```

    <dx:legal/>
  </dx:disclosure>
</dx:create>
</extension>
<clTRID>ABC-12345</clTRID>
</command>
</epp>

```

Note that the `legal` element may not carry a `disclose` attribute, since disclosure is mandatory in this case, i.e. there is no choice here.

2.2.2. Domain Update

Here's an example for `domain:update` command altering the disclosure settings:

**Example EPP domain
update command**

```

<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <update>
      <domain:update
        xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        ...
      </domain:update>
    </update>
    <extension>
      <dx:update
        xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        <dx:chg>
          <dx:disclosure>
            <dx:natural disclose="true"/>
          </dx:disclosure>
        </dx:chg>
      </dx:update>
    </extension>
    <clTRID>ABC-12345</clTRID>
  </command>
</epp>

```

2.2.3. Domain Inquiry

Finally, here is an example for the response to a `domain:info` command showing the disclosure settings, with contact data omitted:

```

<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <response>
    <result code="1000">
      <msg>Command completed successfully</msg>
    </result>
    <resData>
      <domain:infData
        xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        <domain:name>barca.cat</domain:name>
        <domain:roid>BARCA-REP</domain:roid>
        <domain:status s="ok"/>
        <domain:ns>
          <domain:hostObj>ns1.example.com</domain:hostObj>

```

Example EPP domain info response

```

    <domain:hostObj>ns1.example.net</domain:hostObj>
  </domain:ns>
  <domain:host>ns1.barca.cat</domain:host>
  <domain:host>ns2.barca.cat</domain:host>
  <domain:clID>ClientX</domain:clID>
  <domain:crID>ClientY</domain:crID>
  <domain:crDate>2006-04-03T22:00:00.0Z</domain:crDate>
  <domain:upID>ClientX</domain:upID>
  <domain:upDate>2006-12-03T09:00:00.0Z</domain:upDate>
  <domain:exDate>2007-04-03T22:00:00.0Z</domain:exDate>
  <domain:trDate>2006-04-08T09:00:00.0Z</domain:trDate>
  </domain:infData>
</resData>
<extension>
  <dx:infData
    xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
    <dx:disclosure>
      <dx:natural disclose="false"/>
    </dx:disclosure>
  </dx:infData>
</extension>
<trID>
  <clTRID>ABC-12345</clTRID>
  <svTRID>54322-XYZ</svTRID>
</trID>
</response>
</epp>

```

2.3. Whois Implementation

If a domain's disclosure settings indicate that contact data should be disclosed, the Whois output for the domain will not differ from today's presentation, i.e. full contact information is returned as follows:

```

% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
Domain ID: REG-D123456
Domain Name: barca.cat
Domain Name ACE: barca.cat
Domain Language: ca
Registrar ID: R-123 (Some Registrar)
Created On: 2006-04-22 09:48:30 GMT
Last Updated On: 2011-04-21 08:14:08 GMT
Expiration Date: 2012-04-22 09:48:30 GMT
Status: clientTransferProhibited, clientDeleteProhibited
Registrant ID: jd1234
Registrant Name: Joe Registrant
Registrant Organization:
Registrant Street: Average Street 2
Registrant City: Barcelona
Registrant State/Province:
Registrant Postal Code: 67890
Registrant Country: ES

```




```
Registrant Phone: +34.98765432
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: registrant@example.com
Admin ID: sh8013
Admin Name: Joe Average
Admin Organization:
Admin Street: Average Street 1
Admin City: Barcelona
Admin State/Province: Barcelona
Admin Postal Code: 12345
Admin Country: ES
Admin Phone: +34.12345678
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: joe@example.com
Tech ID: sh8013
Tech Name: Joe Average
Tech Organization:
Tech Street: Average Street 1
Tech City: Barcelona
Tech State/Province: Barcelona
Tech Postal Code: 12345
Tech Country: ES
Tech Phone: +34.12345678
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: joe@example.com
Billing ID: sh8013
Billing Name: Joe Average
Billing Organization:
Billing Street: Average Street 1
Billing City: Barcelona
Billing State/Province: Barcelona
Billing Postal Code: 12345
Billing Country: ES
Billing Phone: +34.12345678
Billing Phone Ext:
Billing Fax:
Billing Fax Ext:
Billing Email: joe@example.com
Name Server: ns1.example.com
Name Server ACE: ns1.example.com
Name Server: ns2.example.com
Name Server ACE: ns2.example.com
```

**Example Whois output
in case of
data disclosure**

In contrast, if a natural person opted out of disclosing contact information, Whois output will look like this:

```
% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% This domain has chosen privacy settings according to the European
% data protection framework provisions.
%
% Should you need to contact the registrant, please see
% http://www.domini.cat/contact-registrant
%
% For law enforcement and trademark protection purposes, see
% http://www.domini.cat/whois-access
%
% In case of technical problems, please see
```



**Example Whois output
in case of
non-disclosure**

```
% http://www.domini.cat/report-problem
%
Domain ID: REG-D123456
Domain Name: barca.cat
Domain Name ACE: barca.cat
Domain Language: ca
Registrar ID: R-123 (Some Registrar)
Created On: 2006-04-22 09:48:30 GMT
Last Updated On: 2011-04-21 08:14:08 GMT
Expiration Date: 2012-04-22 09:48:30 GMT
Status: clientTransferProhibited, clientDeleteProhibited
Name Server: ns1.example.com
Name Server ACE: ns1.example.com
Name Server: ns2.example.com
Name Server ACE: ns2.example.com
```

Note that the contact sections are completely missing from the Whois output; any software reading Whois output may use this (in particular, the lack of the registrant section) as an indication of the domain registrant's choice not to disclose contact information. In addition, the comment section at the top of the Whois output is augmented by information about the domain's disclosure setting and links to related services.

Both puntCAT's standard port 43 Whois, as well as the web-based Whois service will display this information according to the same logic.

A. Change Log

Versions of this document:

Version	Date	Description
DRAFT Version	2011-06	Draft Version



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**Appendix {B(catWHOIS_Appendix2_art29WPletter.pdf)
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FW: .cat whois directory

Assumppte: FW: .cat whois directory

De: <Niovi.Ringou@ec.europa.eu>

Data: Wed, 17 Sep 2008 17:31:40 +0200

A: <amadoz@domini.cat>

CC: <Alain.Brun@ec.europa.eu>, <Hana.PECHACKOVA@ec.europa.eu>

Dear Mr. Nacho Amadoz,

We would like to thank you for your email request concerning whois directories with a focus on protection of personal data and registrants' privacy.

We certainly welcome the initiative of your registry to follow and implement the privacy-friendly approach in your policies. We especially appreciate your efforts to implement privacy policy into the Registrar Accreditation Agreement concluded with ICANN. As the Data protection directive 95/46/EC would be applicable in your case, an informed consent of the data subject to process personal data (e.g. to collect & publish, etc.) would be required as a criterion for making processing legitimate.

We understood from your previous correspondence, that you are already consulting both local, i.e. Catalan data protection authority and the Spanish data protection authority - both being the offices responsible for enforcement of applicable data protection laws in your case. This is the right step in your activities.

We fully support the Opinion no. 2/2003 of the Article 29 Working Party on the application of the data protection principles to the WHOIS databases. Following the adoption of this Opinion, there was exchange of several letters between the Article 29 Working Party and ICANN. All the correspondence related to the privacy and data protection friendly approach and the current text of the Registrar Accreditation Agreement as there is still an actual conflict of the rigid ICANN WHOIS policies with EU privacy laws. Article 29 WP has draw several times the ICANN's attention to the fact that EU national data protection laws are not negotiable as such and cant be solved by ICANNs internal procedure only. The Article 29 therefore pointed out that, in any case, national data protection and privacy laws shall prevail over the arrangement in the RAA.

ICANN has been advised that privacy issues stemming from the making available of personal data in the context of the operation of the WHOIS services should be solved through amendments to the registrar accreditation agreement that would offer at least to those registrars located in EU member countries to comply with EU data protection legislation in accordance with the basic principles of data protection and privacy and we fully support this statement.

Furthermore, we would like to draw your attention to the GAC principles regarding gTLD WHOIS service presented and adopted by the Governmental Advisory Committee on March 28, 2007 where one of the principles goes as follows: "gTLD WHOIS services must comply with applicable national laws and regulations". Another important principle clearly spelled out is that "...gTLD WHOIS services should provide sufficient and accurate data about domain name registrations and registrants subject to national safeguards for individuals' privacy...".

Based on the number of activities we have undertaken in this field, we believe that ICANN understands the situation around EU privacy and data protector legislation.

We would like to kindly ask you to keep us informed about the result of your

FW: .cat whois directory

re-negotiation of the RAA.

Kind regards
Niovi Ringou
Deputy Head of the Data Protection Unit

-----Original Message-----

From: Nacho Amadoz [<mailto:amadoz@domini.cat>]
Sent: Monday, September 08, 2008 12:05 PM
To: BRUN Alain (JLS)
Subject: Re: .cat whois directory

Mr Brun,

I re-send you the following mail, dated on 30/07/08. We'd need to know if we can count on the opinion of the art. 29 WG, or not if not applicable, before we proceed to go ahead.

Thank you

Nacho Amadoz

En/na Nacho Amadoz ha escrit:

Mr Brun,

My name is Nacho Amadoz. I am the lawyer of the Fundació puntCAT, a non for profit private entity in charge of the Registry of .cat Top Level Domain, I reach you in your capacity as the Head of the Unit of the article 29 WG

We manage the .cat Registry under the terms established in our agreement with ICANN, signed on the 23rd of septembre of 2005.

<http://www.icann.org/en/tlds/agreements/cat/>

We are now renegotiating the aforementioned contract with ICANN in order to introduce some amendments we consider quite necessary to offer our registrants the highest possible protection of their personal data.

Our main aim is to offer the individual registrants the option to choose whether to have their data available to the general public or not, following the conclusion stated in the opinion 2/2003 of the art. 29 WG on the application of the data protection principles to the whois directories

Should opt-out be the option chosen by the individual, the only way to reach him then by interested third parties would be to fill in a form that will be sent via e-mail to the registrant, being completely up to

him to answer, and remaining his data completely hidden during the process. This is the model implemented by Afnic, the french Registry. Bulk access for law enforcement purposes will be provided in any case.

The inclusion of these changes is subject to the approval of ICANN, because they mean amendments in the contract that binds us, and we can not implement these changes unilaterally.

We have several precedents to ground our arguments. Telnic (.tel) and GNR (.name) are two cases in which the results of their consultations with their DPA were absolutely definitive in their negotiation process with ICANN to achieve a higher standard of protection of the registrants.

So, it seems quite clear that the endorsement from the proper data protection authorities is a must in our negotiation. We've contacted the catalan and the spanish data protection agencies, but we wanted to count on your perspective as well. We think this is a good occasion to tackle this issue, and to show ICANN the views from several data protection european institutions

We'd like to know if we can count on your support along this negotiation process. We think the opinion of the article 29 WG sets the guidelines to follow in european data protection, and, as said before, the opinion 2/2003 leaves undoubtly clear what should be done concerning whois directories. Therefore, we'd like the WG to explicitly back our proposal to ICANN.

Thanks in advance for your reply

Regards

Nacho Amadoz
Fundació puntCAT
<http://domini.cat>



ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2

Registry Name: Fundació puntCAT

gTLD: .CAT

Status: ICANN Review

Status Date: 2011-10-05 14:50:26

Print Date: 2011-10-05 14:50:38

**Appendix {C(catWHOIS_Appendix3_SpanishDPA.pdf)
(Seen on Next Page)**

SPANISH DATA PROTECTION AGENCY

Law Offices

Ref. No. ^a 271928/2009
PUNTCAT FOUNDATION
Mr Nacho Amadoz LEGAL REPRESENTATIVE
C/ Consell de Cent, 329, 2º, 1ª C
08007 BARCELONA

In reply to your letter, whose entry was registered in this Agency on 1 December 2008, please find attached the report drawn up by our Law Offices.

I must emphasise that our reply is not binding and does not prejudice the criterion of the Agency Director in exercising his functions, among which the Law does not provide for the provision of binding inquiries.

Madrid, 4 September 2009

THE DIRECTOR OF THE SPANISH DATA PROTECTION AGENCY

Signed: Artemi Ralio Lombarte

Pursuant to Organic Law 15/1999, dated 13 December, on the Protection of Personal Data, you are hereby informed that the personal data required to provide a reply to the inquiry have been entered into the "Consultas" (Inquiries) file for which the Spanish Data Protection Agency is responsible, created by resolution of the Agency Director on 27 July 2001 (Official Gazette 17 August 2001) in order to process your application and issue the relevant report. You may exercise your right to access, correct, cancel and object to any such data with the Spanish Data Protection Agency, Calle Jorge Juan 6, 28001 Madrid.

Ref. registration 271928/2009 (Fundación PuntCAT)

Having examined your request for a report issued by these Law Offices regarding the inquiry formulated by the PuntCAT Foundation, I hereby report the following:

The inquiry addresses the impact that the current situation of the "whois" directory of those who have a registered.cat domain has on personal data protection regulations, consisting of Organic Law 15/1999, dated 13 December, on the Protection of Personal Data, and its implementation directive, approved by Royal Decree 1720/2007, dated 21 December, as well as the feasibility or conformity from the application of these regulations of the system proposed in the inquiry, which would guarantee the confidentiality of the personal data of natural persons registering those domain names, without prejudice to guaranteeing, where appropriate, the contact between those wishing to contact the owners and the owners themselves through the inquiring Foundation.

I

As a prior matter, before going on to study the model proposed by the inquirer, it should be noted that the processing of information referred to in the Foundation's inquiry is fully subject to the provisions of Organic Law 15/1999 when the information about the domain name applicant, or his or her technical, administrative or billing contact, involve natural persons.

Article 2.1, paragraph 1 of Organic Law 15/1999 provides that "This Organic Law shall apply to personal data recorded on a physical support which makes them capable of processing, and to any type of subsequent use of such data by the public and private sectors," with personal data meaning, pursuant to Article 3 a), "any information concerning identified or identifiable natural persons".

The regulation implementing the Organic Law establishes certain clarifications in relation to this point by noting the following in sections 2 and 3 of Article 2:

"2. This Regulation shall not apply to the processing of data referring to juristic persons or to files that simply include the data of natural persons who provide their services therein, consisting solely of their name and surnames, their functions or job positions, and their professional postal or electronic mail address, telephone and fax number.

3. Moreover, data relating to individual businesspersons, when referring to them as merchants, industrialists or shippers, are also understood to be excluded from the personal data protection rules."

However, these regulations should be interpreted in the terms established by this Agency as of its report of 28 February 2008. Thus, in relation to individual businesspersons and the applicability of Article 2.3 of the Regulation, this report noted that

"(...) "it should be considered that the data referring to individual businesspersons and appearing in association solely with their commercial or mercantile activity, or

which identify, even with their names and surnames, a certain establishment or the brand name of a certain product or service, as a result of the existence of a business decision freely adopted in this regard, are not subject to the protection conferred by Organic Law 15/1999." This criterion is reflected in Article 2.3 of the Regulation implementing Organic Law 15/1999.

At the same time, the processing must be carried out in the professional sphere. This means that for data processing purposes, the end sought by those processing the data is to collect and store information on the company and not on the merchant constituting the object of the data.

Thus, the processing of data concerning the individual businessperson, with the limitations noted above to maintain a commercial relationship with it, could be justified under Article 2.3 of the Regulation in connection with the provisions of Organic Law 15/1999 indicated above.

However, the processing of data on a merchant carried out in order to maintain a business relationship with the establishment or organisation created by that individual cannot be considered to fall under such provisions, and therefore is excluded from application of Organic Law 15/1999; such data may only be processed to glean information on the subject organised in the form of a company, with the object of the processing being not the company, but rather the businessperson, for instance, as an individual consumer.

Consequently, two decisive conclusions regarding the scope of the provisions of Article 2.3 of the Regulation can be drawn from the foregoing:

- The data protection legislation should not be deemed applicable when the data being processed regarding the merchant refer only to his status as a merchant, industrialist or shipper, that is, to his business activity.
- At the same time, the use of the data should be restricted to the business activity, that is, the subject for whom data is being processed is the company set up by the merchant, industrialist or shipper, and not the businessperson him or herself who has set up such a business. If the use of these data occurs in relation to a different sphere, it would be fully subject to the provisions of the Organic Law."

For its part, regarding the regime established in Article 2.2, the report noted that:

"(...) The Agency has indicated that in the cases where the processing of data regarding a contact person is merely accidental in relation to the purpose of the processing, referring actually to juristic persons in which the subject provides services, the provisions of Organic Law 15/1999 do not apply, and the Regulations reflect this principle.

However, once again, it is necessary for the processing of the data concerning the contact person to be accessory in relation to the end pursued. This is materialised by meeting two requirements:

The first, which is expressly reflected in the Regulation, is that the processed data should be effectively restricted to those data strictly necessary to identify the subject as the natural person who is providing his or her services. For this reason, the Regulation determines that processing should be restricted to the data concerning name and surnames, functions or job positions, and professional postal or electronic mail address, telephone and fax number."

In this way, any processing containing data other than those indicated above would be fully subject to Organic Law 15/1999, as they would exceed the bounds of data strictly indispensable to identify the subject as a contact of those processing the data with another company or juristic person.

Therefore, files that, for example, include the subject's national identity card number would not be excluded from the Law, as this datum is not necessary to maintain the business contact. Likewise, and for obvious reasons, employers' files on their own personnel whose purpose is not solely for contact reasons, but for the organisation and management purposes afforded to them by law, can never be deemed to be excluded from the Organic Law.

The second limit lies, as in the case contemplated in Article 2.3, in the end justifying the processing. As indicated repeatedly, the inclusion of contact person data must be strictly accidental or incidental with regard to the true end pursued by the processing, which must lie not on the subject, but rather on the company or juristic person where the subject carried out his or her activity or represented by the subject in its dealings with those processing the data.

Thus, the processing must pursue a direct relationship between those processing the company's data and those holding a position in the company. In this way, the use of the datum must be addressed to the juristic person, with the datum on the subject being only the means to achieve this end.

This would be the case if the processing refers to "business to business" relationships, where communications addressing the company simply include the name of the person as a means of graphically representing the addressee of such communications. However, if the relationship is of a "business to consumer" nature, where the subject whose data has been processed plays a role not only with regard to the position being held but also as the actual addressee of the communication, such processing would be fully subject to Organic Law 15/1999, and Article 2.2 of the Regulation would not apply."

It can be clearly deduced from the report and from the fact that more and more people apply for domain names in order to create personal websites unrelated to their professional or business activity that in this case we find ourselves confronted with a data processing situation subject to the provisions of Organic Law 15/1999, where such information as name, surnames, address, telephone, fax or email address are included, and that, in the present case, there is no doubt that these data are of a personal nature as they are linked to domain name applicants or how to contact them.

Having said this, in relation to the current situation, and without prejudice to issues that will be analysed below affecting the solution proposed by the inquirer, it should be noted that the processing currently being carried out by the inquirer and by the "registrars" applying for domain name registration in favour of the applicant is not contrary to Organic Law 15/1999 in terms of the information collected and processed by them.

In this regard, the inquiry details the data processing procedure and the consents sought from the persons affected by the processing of their data by the "registrar" and by the inquirer, as well as for the international data transfer required for registration with the ICANN and databases managed by the CORE Internet Council of Registrars.

Article 6.1 of Organic Law 15/1999 provides that "Processing of data shall require the unambiguous consent of the data subject, unless laid down otherwise by law." However, consent will not be required, according to Article 6.2, when the data "relate to the parties of a contract or preliminary contract for a business, employment or administrative relationship, and are necessary for its maintenance or fulfilment."

It is unequivocally deduced from the terms described in the inquiry and the documentation provided that whoever wishes to register a .cat domain name must apply for registration with the inquirer, and that the creation of such a domain name is not possible without fulfilling this requirement. Moreover, the procedure must be verified through the participation of an intermediary or "registrar", which will process the data and provide them to the inquirer, such transfer being covered by Article 11.2 c) of Organic Law 15/1999, according to which consent is not required for the communication of personal data when the processing "corresponds to the free and legitimate acceptance of a legal relationship whose course, performance and monitoring necessarily involve the connection between such processing and files of third parties."

Similarly, the transfer of data to the indicated agencies have the consent of the interested party, which is particularly important in relation to the transfer of information to the ICANN, which, by neither being within the sphere of the European Economic Space nor being subject to the legislation of a State offering an adequate level of protection, unlike the case of Switzerland, could, if the aforementioned consent has not been given, require an application for authorisation from the Director of the Spanish Data Protection Agency, pursuant to Article 33 of Organic Law 15/1999.

The inquiry states that the inquirer obtains consent from the interested parties for inclusion of their data in "whois" directories, available to the public wishing to access such data.

Although the specific clauses on which this consent is based are not included in the inquiry, the current situation, in which the directories include the personal data detailed in the inquiry, could be considered legally valid provided that the clauses in question make clear the access conditions of the aforementioned directories in the terms established in Article 5.1 of the Organic Law.

III

The purpose of the foregoing is to clarify that the current situation does not involve a violation of the data protection regulations by the inquirer. However, as can be gleaned from the inquiry, this does not imply that it should be considered optimal from the

perspective of applying the regulations of fundamental law to personal data protection, as other situations where the guarantee of privacy and protection of the aforementioned fundamental right could be greater, to the benefit, as indicated, of the fundamental right of the affected parties as acknowledged by the Ruling 292/200, dated 30 November, of the Spanish Constitutional Court.

In this regard, the processing of personal data should be as respectful as possible of the principles on which data protection rights are based, among others on the principle of purpose as consecrated in our legal system under sections 1 and 2 of Article 4 of Organic Law 15/1999.

Thus, pursuant to Article 4.2, "Personal data subject to processing may not be used for purposes incompatible with those for which they were collected." Moreover, in relation to the purpose, Article 4.1 establishes the principle of proportionality in the processing of personal data, in such a way that "Personal data may be collected for processing, and undergo such processing, only if they are adequate, relevant and not excessive in relation to the scope and the specified, explicit and legitimate purposes for which they were obtained."

What some systems call the minimisation principle, which implies that the processing of personal data should contain the minimum amount of data necessary to fully meet the purpose justifying their processing, can be gleaned from the application of both principles.

As shown by the Working Party created under Article 29 of Directive 95/46/EC in its Opinion 2/2003 on the application of data protection principles to Whois directories, approved on 13 June 2003, and as pointed out by the inquiry to which this report refers, the purposes of the aforementioned directories have evolved over time, since at first the data "were made public in principle so network operators could contact the person in charge of technical aspects of another network, of another domain, in case of problems," but the current configuration of these directories is likened rather to that of telephone guides, but without the guarantees established by internal or EU law for these guides.

This makes it necessary to bolster the guarantees ensuring that the directories include only the necessary data to meet their purposes or at least guaranteeing the rights of the interested parties not to include more data than necessary in such directories to meet their purposes, so that, if possible, mechanisms are established to enable the greatest confidentiality of the data of domain name applicants, ensuring that such data do not appear in a public directory.

In relation to this issue, Opinion 2/2003 of the Working Party set up under Article 29 of Directive 95/46/EC said the following:

"Article 6c of the Directive imposes clear limitations concerning the collection and processing of personal data meaning that data should be relevant and not excessive for the specific purpose. In that light it is essential to limit the amount of personal data to be collected and processed. This should be kept particularly in mind when discussing the wishes of some parties to increase the uniformity of the diverse Whois directories.

The registration of domain names by individuals raises different legal considerations than that of companies or other legal persons registering domain names.

- In the first case, the publication of certain information about the company or organisation (such as their identification and their physical address) is often a requirement by law in the framework of the commercial or professional activities they perform. It should be noted however that, also in the cases of companies or organisations registering domain names, individuals can not be forced to have their name published as contact-point, as a consequence of the right to object.
- In the second case, where an individual registers a domain name, the situation is different and, while it is clear that the identity and contact information should be known to his/her service provider, there is no legal ground justifying the mandatory publication of personal data referring to this person. Such a publication of the personal data of individuals, for instance their address and their telephone number, would conflict with their right to determine whether their personal data are included in a public directory and if so which. The original purpose of the Whois directories can however equally be served as the details of the person are known to the ISP that can, in case of problems related to the site, contact the individual."

The Opinion finally indicated that:

"In the light of the proportionality principle, it is necessary to look for less intrusive methods that would still serve the purpose of the Whois directories without having all data directly available on-line to everybody. As it was already mentioned in the introduction, the Internet Service Providers can and are playing in some countries an important role in this field. In any case filter mechanisms should be developed to secure purpose limitation in the interfaces for accessing the directories."

IV

Taking into account these considerations, one should distinguish between the processing carried out by the inquirer, where logically all the data to which the inquiry refers should be consigned, and at least in relation to the natural persons owning the domain names, the establishment in respect of the public part of the directories of mechanisms guaranteeing the right of the owners to the protection of their personal data, making available mechanisms to guarantee and preserve this confidentiality without prejudice to the possible relationships between the owners of domain names and third parties who may have a legitimate interest in contacting them.

The solution offered by the inquirer in this regard appears to be more appropriate than that which currently exists in protecting this fundamental right, as it ensures the confidentiality of the personal data of domain name owners and establishes a system enabling interested parties to contact them, thus providing a more complete fulfilment of the proportionality principle.

Logically, this solution would imply that the inquirer perform a new processing of the personal data of those wishing to contact the domain name owner, which must likewise abide by the provisions of Organic Law 15/1999, whereby the interested party must be informed of the processing of his/her personal data and the other principles, rights and obligations provided for by this Law must be observed. In addition, the inquirer must report the file created for registration in the Data Protection General Registry and keep the data the least possible amount of time necessary to fulfil the purpose justifying their processing.

In any case, while it can be considered that the exercising of the option by domain name owners that they do not appear in the whois directory as a means of exercising their right to object, they should be given the chance to exercise this right at any time. To this end, some form of restriction to the repeated exercise of the right in specific periods of time could be established.

Finally, logically, the restriction would apply to the publication of the data in the directory, but it would not prevent the data from being reported to the police and judicial authorities. In this regard the handing over of the data would stem from the processing carried out by the inquirer and not from the publication (or not) of the data in the directory, and the act of reporting the data would be covered by the provisions of Articles 11.2 d) and 22.2 of Organic Law 15/1999.

The first of these Articles provides that the consent of the interested party is not necessary "when the communication to be effected is destined for the Ombudsman, the Office of Public Prosecutor, judges, courts or the Court of Auditors in the exercise of the functions assigned to them." The second of these Articles states that "Collection and processing, for police purposes, of personal data by the security forces without the consent of the data subjects shall be limited to those cases and categories of data necessary for the prevention of a genuine threat to public safety or for the suppression of crime; such data shall be stored in special files established for the purpose, which must be classified according to their degree of reliability."

V

In the light of what has been indicated thus far, the solution proposed in the inquiry is considered to be more respectful of the norms and regulating principles of the fundamental right to the protection of personal data than the currently existing solution.

Respectfully yours,

Madrid, 31 July 2009.

THE PUBLIC PROSECUTOR HEAD OF THE LAW OFFICES

Signed: Agustín Puente Escobar

MR. DIRECTOR OF THE SPANISH DATA PROTECTION AGENCY



ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2

Registry Name: Fundació puntCAT

gTLD: .CAT

Status: ICANN Review

Status Date: 2011-10-05 14:50:26

Print Date: 2011-10-05 14:50:38

**Appendix {D(catWHOIS_Appendix4_description.pdf)
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Description of the new WHOIS system

The .cat Registry will operate the WHOIS service in accordance with RFC 3912. It will be possible to query the system through the use of the domain name, the unique identification number of the Registered Domain Owner assigned by the .cat Registry (the "Unique ID"), the identity of the Sponsoring Registrar, or the machine name of the DNS servers that are authoritative for the domain (see Appendix S Part VI to the Registry Agreement).

Publication of WHOIS Data

The Unique ID within the Shared Registry System ("SRS") assigned to the Registered Domain Owner will always be disclosed in the WHOIS system. If the Registered Domain Owner for a domain is an individual (including individuals who use the domain for their own commercial purposes), all contact information captured by the Sponsoring Registrar during or after the registration process will, by default, be displayed in the public WHOIS system. Should an individual Registered Domain Owner wish to have his or her contact information not disclosed in the public WHOIS system, he or she must affirmatively indicate this wish to the Sponsoring Registrar during the registration process.

If the Registered Domain Owner is a corporate entity, all contact information captured by the Sponsoring Registrar during or after the registration process will be displayed in the public WHOIS system.

The Sponsoring Registrar will also be required to provide a mechanism to allow the Registered Domain Owner to change his or her contact information, his or her designation as an individual or a corporate entity, and his or her preferences for disclosure of contact information in the public WHOIS system after the registration process has been completed. Regardless of whether the Registered Domain Owner is an individual or a corporate entity, the Sponsoring Registrar will be required to pass all of the captured contact information to the Registry as part of the registration process. The Sponsoring Registrar will be required to indicate the disclosure preference of each Registered Domain Owner when creating and modifying the owner contact object within the SRS. For the .cat top level domain, disclosure preference is a mandatory element of the owner contact object. The Sponsoring Registrar will also be required to inform each individual Registered Domain Owner as part of the applicable registration agreement, by reference to the .cat registration agreement, that his or her personal contact information may be shared with third parties, even if such individual Registered Domain Owner does not choose to have such contact information displayed in the public WHOIS system.

The information disclosed by the public WHOIS system will reflect the preferences indicated by each individual Registered Domain Owner for disclosure of his or her contact information. If this preference changes and such change is submitted to the Registry by the Sponsoring Registrar, such change will be reflected in the WHOIS system as soon as reasonably possible.

Public WHOIS data will always include, for each domain, the ROID (ID "tag") of the Sponsoring Registrar and the machine names of the authoritative DNS servers for the domain (if it has been delegated and is currently active), along with the status for each registration.

Requests for Detailed Registrant Information

For people who claim a legitimate need for disclosure of personal contact information that is not made available in the public WHOIS system (i.e., contact information of individual Registered Domain Owners who have not chosen to make their contact information public), the process to obtain such contact information is as follows:

1. The Registry will hold a web page through which requests for disclosure of personal contact information can be made.
2. The party requesting such personal contact information must identify who is making the request and must indicate what contact information is requested for disclosure and why such contact information is needed.
3. The requesting party must:
 - o fully describe the justification for the request;
 - o specify the domain in question, and the Unique ID for the individual Registered Domain Owner whose personal data is requested to be disclosed;
 - o identify himself or herself, with the full name of person to whom data is to be disclosed, the organisation for which he or she acts as an agent (if any), the postal address by which that person (and organisation, if any) can be contacted, phone and fax numbers, and the email address for online correspondence with the person making the request.
4. The Registry will process the information and deliver it to the e-mail addresses provided by both the registrant and the administrative contact.

The Registry Operator will process the content provided by the requestor, and will deliver it to the registrant's and administrative contact e-mail addresses. The requestor must necessarily accept that the Registry provides this service as is, that the Registry will not be liable for, and that the use of the Registry Operator's contact webform does not guarantee an answer from the registrant. Nor the Registry will be liable for any liability that may originate from the request's content. The requestor must as well accept that the registrant may or may not answer the requestor's request.

5. Three different kinds of request are previewed.
 - a) One to contact the holder of the domain name.
 - b) One to report abuses of the data protection policy. The Registry will check the accuracy of the data and its conformity to the policy or its lack thereof
 - c) One to report malicious behaviour. The Registry will set up a rapid response mechanism to deal with any problem related to the use of the domain name.

Law enforcement and trademark protection representatives will be granted full access to puntCAT database. An IP white list will be established to provide full access to gather all data associated with any concrete domain name.



ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2

Registry Name: Fundació puntCAT

gTLD: .CAT

Status: ICANN Review

Status Date: 2011-10-05 14:50:26

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**Appendix {E(catWHOIS_Appendix5_AppendixSnewlanguage.pdf)
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Appendix S – Part VI

Public Whois Specification

Subject to Registry's compliance with this .cat TLD Registry Agreement, including all attachments and appendices thereto (the "Agreement") and any Temporary Specifications or Policies or Consensus Policies as defined in the Agreement, and provided the scope of the Charter is not exceeded: Registry will implement the following Public Whois Specification:

Data Provided In Response to WHOIS Queries

With respect to the amount and type of domain name registrant data provided in response to queries of the WHOIS service by the general public, the WHOIS service will distinguish between domain name registrants that are Legal Persons and domain name registrants that are natural persons. Domain name registrants will be required to specify whether they qualify as Legal Persons or Individuals by clicking the appropriate box during the registration process.

WHOIS Data for Legal Persons

Full WHOIS data for domain name registrants that are Legal Persons will always be available to the general public. Queries of the WHOIS service related to Legal Persons will always return full and complete standard WHOIS data, including applicable personal data such as Registrant ID, Registrant Name, Organization, Address (street, city, state, postal code, and country), Phone Number, Facsimile Number, and Email Address. Legal Persons will not be permitted to opt out of disclosing such information in response to queries submitted to the WHOIS service. The Registry Operator reserves the right, however, to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Legal Persons for marketing purposes, spamming, data-mining, or unlawful purposes.

For the fields returned in response to queries of the WHOIS service for Legal Persons, and an example of a returned record, please see the "WHOIS Output Format Specification" below.

WHOIS Data for Individuals

Full WHOIS data for domain name registrants that are individuals may or may not be available to the general public depending on whether the applicable domain name registrant elects to make his or her personal information available in response to queries of the WHOIS service. Unlike Legal Persons, domain name registrants that are individuals will be given the option to elect whether or not their personal information is disclosed by the WHOIS service in response to queries from the general public. The default option will be for all personal information to be disclosed by the WHOIS service. In order to override this default option, the domain name registrant that is an individual will have to specifically elect not to have such personal information disclosed by clicking the appropriate box during the registration process.

Individuals Who Opt-In (Default Option)

For any domain name registrant that is an Individual and that does not elect to have his or her personal information withheld from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return full and complete standard WHOIS data, including personal data such as Registrant ID, Registrant Name, Organization, Address (street, city, state, postal code, and country), Phone Number, Facsimile Number, and Email Address. The Registry Operator reserves the right to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Individuals for marketing purposes, spamming, data-mining, or unlawful purposes. For the fields returned in response to queries of the WHOIS service for Individuals that opt-in to disclosure (or that do not elect to change the default setting), and an example of a returned record, please see the "**WHOIS** Output Format Specification" section below.

Individuals Who Opt-Out

If a domain name registrant that is a Individual elects to withhold his or her personal information from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return only limited WHOIS data, including Domain Name, Domain ID, Sponsoring Registrar, Sponsoring Registrar IANA ID, Domain Status, Registrant ID, Name Server, created by registrar, last updated by registrar, domain registration date, domain expiration date, and domain last updated date. No personal information related to the domain name registrant will be available through the WHOIS service for individuals who have opted-out of disclosing their personal information.

Instead of such personal information, requestors of WHOIS data on Individuals will be informed that the registrant has elected to withhold certain personal information from disclosure by the WHOIS service, and will be provided with a link to the Registry Operator's Contact webform. Through this mechanism, requestors will be able to fulfill a webform. The content of this webform, including name of the requestor, and reason for the contact will be sent by the Registry Operator to the registrant's and administrative provided contact e-mail addresses.

For the fields returned in response to queries of the WHOIS service for Individuals that opt-out of full disclosure, and an example of a returned record, please see the "WHOIS Output Format Specification - Individuals (opt out)" section below.

Contact Webform

As described above, the WHOIS service will provide a link to the Contact webform in response to queries for WHOIS data on Individuals that have opted not to disclose personal information. The Registry will not store anything the requestors may introduce in such webform, retaining only the logs and the reports of success or failure of deliverance

The webform will allow the requestor to provide an e-mail address to be contacted, the reasons for contacting the registrant, and a free text field.

The Registry Operator will process the content provided by the requestor, and will deliver it to the registrant's and administrative contact e-mail addresses. The requestor must necessarily accept that the Registry provides this service as is, that the Registry will not be liable for , and that the use of the Registry Operator's contact webform does not guarantee an answer from the registrant. Nor the Registry will be liable for any liability that may originate from the request's content. The requestor must as well accept that the registrant may or may not answer the requestor's request.

The Registry will offer access to the full data of individuals that have chose non disclosure to law enforcement agencies.

SPECIFICATION

Subject to any future policy regarding Whois data adopted by ICANN, domain name registrants will be required to provide correct contact information and, as permitted by applicable law, consent to selected information being made public for legitimate purposes.

Until a generally accepted specification replacing RFC 3912 is available, the Registry will provide RFC 3912-compliant Whois service. The specification contained in this Part VI to Appendix S is subject to change by agreement of the Registry and ICANN during the design process as well as during the IETF standards process. However, the following provides the target architecture and initial functionality. In addition, Registry agrees to implement changes to this specification specified by ICANN to conform to IETF provreg working group's protocol specification no later than 135 days after the IETF specification is adopted as a Proposed Standard [RFC 2026, section 4.1.1].

ADDITIONAL FIELDS CAPABILITY

If necessary, the Registry may introduce additional fields to the list of Whois fields described in this document. Those fields will be preceded and identified by appropriate tags.

INTERNATIONALIZED DATA

The Registry uses so-called "localized" address fields for contacts (see also RFC 3733). These fields may contain non-US-ASCII characters according to the IDN Table for Catalan Language (ca) that Registry will register with IANA upon signature of this Agreement. In order to support transmission of such characters, the system will provide an option specifying an alternative character set which should be used instead of the default US-ASCII character set.

INPUT FORMAT SPECIFICATION

The input to the Whois server consists of two parts: the options and the query itself. The following options are available:

the -C option allows to specify the character set for both input and output. If the -C option is specified, the Whois server expects a character set name as the next token. The name must correspond to one of the IANA character set names. Only a limited set of character sets is supported by the server. It can be determined with the HELP query described below. At least USASCII and UTF-8 are supported. If the specified character set is supported, the server tries to reinterpret the octet sequence that has been sent as input via this character set. If it succeeds, it continues processing, otherwise, an error response is generated. The use of this option does not guarantee in general that all characters that are intended to be sent to the client can properly be represented. If during the conversion of the output to the specified character set a character is found that cannot be represented, it is replaced with a question mark. In addition, a comment is added to the output that notifies the recipient of the response about this problem. By default, the Whois service searches for domain names. By the following keywords, the search type can be determined:

Keywords (case insensitive) Type
do, domain Search for domain objects. Either the "Domain Name", "Domain Name ACE" or "Domain ID" field is used
ho, host Search for name server objects. Either the "Host Name", "Host Name ACE" or the "Host ID" field is used
Contact Search for contact objects in the "Contact ID" field
ap, application Search for an application object. Either the "Domain Name", "Domain Name ACE" or "Application ID" field is used. Only valid during the sunrise period.
Registrar Search for registrar objects in the "Registrar ID" or "Registrar Organization" field
In addition, the following search options are available:

Keywords (case insensitive) Option
Id Search is performed in the respective ID field
Ace Search is performed in the respective ACE field

In general, domain names in the input are considered as being Internationalized Domain Names (IDNs, as defined in section 2, "Terminology", RFC 3490). By using the ace option, a given domain name is considered as being an ACE domain name. The use of the option does not have an influence on the response.

The output can be controlled by the following keywords:

Keywords (case insensitive) Option
=, full Always return the complete data, even if multiple entries are found
sum, summary Always return summarized data, even if only a single entry is found

The last token in the input is taken as the search parameter. If the search parameter is "help" and no object type is given, no search is performed, but a short summary about the input format is returned.

OUTPUT FORMAT SPECIFICATION

The results of the query are encoded using either the US-ASCII character set or, if a valid character set has been specified via the -C option, the selected character set. If the output contains characters for which no encoding does exist, it is handled in different ways depending on the location. For domain names, they are replaced with a question mark and a respective warning comment is added to the beginning of the output: [note: the following two warnings are provided as an example]

```
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with "?". Please resubmit your query with a
% suitable character encoding in order to receive an
% authentic response.
%
```

Within contact fields, accented letters are replaced by their non-accented equivalent letters (which are part of the ASCII character set) and a respective warning comment is added to the beginning of the output:

```
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with the unaccented ASCII equivalent. Please
% resubmit your query with a suitable character encoding
% in order to receive an authentic response.
%
```

If both cases appear, a suitable combined warning is generated. The different handling of characters that cannot be represented lies in the different importance of the correct spelling. While it is a common practice to remove accents from names and addresses in order to further process them in ASCII-only contexts, such a methodology is considered harmful regarding domain names. In this case it is better to produce an invalid domain name with question marks in it instead of a name that might be considered as the actual spelling.

All lines are terminated by CR/LF pairs. Lines that contain comments, legal notes or similar, start with a percent sign ('%'). If the output consists of multiple objects, they are separated by at least one empty line. The objects themselves (including the related subobjects, like referenced contacts of a domain) do not contain empty lines. If no objects match the search query, "NOT FOUND" is returned. The object data is composed of multiple keyvalue lines. Key and value of a key-value pair are separated by a colon (':'). The key may contain space characters. For domain names that appear in the output, both the IDN version and the ACE version are supplied, even if the IDN consists of LDH characters only and is identical to the ACE representation. This applies to names of domains and hosts as well as name server references in domains. It does not apply to e-mail addresses (which contain domain names as part of the address) in the contact data. Example:

```
...
Domain Name: fundació.cat
Domain Name ACE: xn—fundaci-r0a.cat
...
Name Server: blau.exemple.cat 192.0.2.1
Name Server: marró.exemple.cat 192.0.2.2
Name Server ACE: blau.exemple.cat 192.0.2.1
Name Server ACE: xn—marr-tqa.exemple.cat 192.0.2.2
```

...

Domain Data Format

% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "US-ASCII" is not able to represent all
% characters in this output. Those characters that could not be represented
% have been replaced with "?". Please resubmit your query with a suitable
% character encoding in order to receive an authentic response.

Domain ID: D38482
Domain Name: exemple.cat
Domain Name ACE: exemple.cat
Full Format:
Domain ID: D38482
Domain Name: exemple.cat
Variant Name: éxemple.cat
Variant Name: exemplè.cat
Domain Name ACE: exemple.cat
Variant Name ACE: xn--xemple-9ua.cat
Variant Name ACE: xn--exempl-8ua.cat
Domain Language: ca
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Expiration Date: 2005-07-23 17:53:02 GMT
Status: ok
Registrant ID: C343238
Registrant Name: CORE Internet Council Of Registrars
Registrant Organization: CORE Internet Council Of Registrars
Registrant Street: WTC II, 29 route de Pre-Bois
Registrant City: Geneva
Registrant State/Province: Geneva
Registrant Postal Code: 1215
Registrant Country: CH
Registrant Phone: +41.229295744
Registrant Phone Ext:
Registrant Fax: +41.229295745
Registrant Fax Ext:
Registrant Email: secretariat@corenic.org
Admin ID: C343238
Admin Name: CORE Internet Council Of Registrars
Admin Organization: CORE Internet Council Of Registrars
Admin Street: WTC II, 29 route de Pre-Bois
Admin City: Geneva
Admin State/Province: Geneva
Admin Postal Code: 1215
Admin Country: CH
Admin Phone: +41.229295744

Admin Phone Ext:
Admin Fax: +41.229295745
Admin Fax Ext:
Admin Email: secretariat@corenic.org
Tech ID: C343238
Tech Name: CORE Internet Council Of Registrars
Tech Organization: CORE Internet Council Of Registrars
Tech Street: WTC II, 29 route de Pre-Bois
Tech City: Geneva
Tech State/Province: Geneva
Tech Postal Code: 1215
Tech Country: CH
Tech Phone: +41.229295744
Tech Phone Ext:
Tech Fax: +41.229295745
Tech Fax Ext:
Tech Email: secretariat@corenic.org
Billing ID: C343238
Billing Name: CORE Internet Council Of Registrars
Billing Organization: CORE Internet Council Of Registrars
Billing Street: WTC II, 29 route de Pre-Bois
Billing City: Geneva
Billing State/Province: Geneva
Billing Postal Code: 1215
Billing Country: CH
Billing Phone: +41.229295744
Billing Phone Ext:
Billing Fax: +41.229295745
Billing Fax Ext:
Billing Email: secretariat@corenic.org
Name Server: ns1.exemple.cat 192.0.2.1
Name Server: ns2.exemple.cat 192.0.2.2
Name Server ACE: ns1.exemple.cat 192.0.2.1
Name Server ACE: ns2.exemple.cat 192.0.2.2

Regarding the included contact data, see below also.

Host Data Format

Short Format:
Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat
- 74 -
Full format:
Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Status: ok
IP Address: 192.0.2.3
IP Address: 3FFE:3273:1002::FE99:3BC7

Contact Data Format

Short format:
Contact ID: C394583
Name: Núria Ferrer i Puig
Full format:
Contact ID: C394583
Status: ok
Name: Núria Ferrer i Puig
Organization:
Street: Plaça de l'Església, 1

City: Castelló d'Empúries
State/Province: Catalunya
Postal Code: 17486
Country: ES
Phone: +34.123456789
Phone Ext:
Fax: +34.987654321
Fax Ext:
Email: nuria.ferrer@exemple.cat

The actual published data depends on the registry policy and the contact's disclosure settings (see RFC 3733). If data is not disclosed, the respective key-value pair is omitted. In contrast, empty fields (like the organization in the given example), are included. This allows the client to differentiate between the two cases.

WHOIS Output Format Specification—Individuals (Opt-Out)

```
% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "US-ASCII" is not able to represent all
% characters in this output. Those characters that could not be represented
% have been replaced with "?". Please resubmit your query with a suitable
% character encoding in order to receive an authentic response.
%
% Els camps que no apareixen a continuació s'han omès en virtut dels
% previsions de la normativa de protecció de dades.
%
% En cas de voler contactar amb el titular, utilitzeu el formulari:
% http://contact.whois.cat
%
% En cas de que el domini estigui abusant de la política de protecció de dades
% utilitzeu el formulari:
% http://misuse.whois.cat
%
% En cas que el domini tingui un comportament anòmal (spam, phishing,
% ...) utilitzeu el formulari:
% http://problems.whois.cat
%
Domain ID: REG-D672590
Domain Name: exampleindividualoptout.cat
Domain Name ACE: exampleindividualoptout.cat
Variant Name: ex?mpleindividualopto?t.cat
Variant Name ACE: xn--exampleindividualoptout.cat
Domain Language: ca
Registrar ID: R-2021 (Registrar of record)
Created On: 2010-05-17 19:50:19 GMT
Last Updated On: 2011-05-13 09:44:21 GMT
```

Expiration Date: 2012-05-17 19:52:01 GMT
Status: clientDeleteProhibited, clientTransferProhibited
Name Server: ns4.example.com
Name Server ACE: ns4.example.com
Name Server: ns. example.com
Name Server ACE: ns. example.com
Name Server: ns3. example.com
Name Server ACE: ns3. example.com
Name Server: ns2. example.com
Name Server ACE: ns2.example.com

WEB WHOIS SERVICE

The web Whois service shares the same functionality as the port 43 service, with the exception that the input is implemented by using the means of HTML, i.e. by text input fields, radio buttons and check boxes. The output format is the same as described above. It is included in the HTML page in a way that can easily be copied by common browsers. To support the input and output of non- US-ASCII characters, the service uses the UTF-8 encoding.