



VERISIGN®

February 22, 2019

VIA EMAIL

Cyrus Namazi

Vice President, Domain Name Services & Industry Engagement, Global Domains Division
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Cyrus:

We are writing to request an extension of the current implementation deadlines under the Thick WHOIS Consensus Policy (“Thick WHOIS Policy”). Under the current implementation plan, the optional milestone deadline for registrars to begin voluntarily submitting thick registration data to Verisign is May 31, 2019, the deadline for registrars to submit all new domain name registrations to Verisign as thick is November 30, 2019, and the deadline to complete the migration for all existing .com and .net domain name registrations is May 31, 2020.¹ Although Verisign has completed all technical and operational work necessary to begin accepting thick data from registrars in May, we believe an extension of the current deadlines for one year is necessary for the reasons set forth below.

First, as ICANN is aware, the GNSO Expedited Policy Development Process Team on the Temporary Specification for gTLD Registration Data (“EPDP”) has recently submitted a Final Recommendations Report to the GNSO Council for its consideration.² That Final Report includes, among other items, recommendations by the EPDP that, if adopted as an ICANN Consensus Policy, will modify what WHOIS data registrars are required to collect, what WHOIS data registrars are required to transfer to registry operators and for what legitimate purposes both registrars and registry operators may process WHOIS data. Given these potential modifications, the EPDP has also explicitly recommended that the Thick WHOIS Policy and the related

¹ See ICANN Board, *Resolution 2018.10.25.04* (October 25, 2018).

² See Final Report of the Temporary Specification for gTLD Registration Data Expedited Policy Development Process (submitted 20 February 2019) (“Final Report”).

Registry Registration Data Directory Services Consistent Labelling and Display Policy (“CL&D Policy”) be updated as a part of the implementation of the EPDP’s policy recommendations.³

Second, the Final Report also includes recommendations that, if adopted as an ICANN Consensus Policy, will supersede, or at least require substantial modifications to, the currently proposed amendments to the .com and .net registry-registrar agreements. For instance, the EPDP has recommended that ICANN negotiate and enter into required data protection agreements with registries and registrars that, among other things, “specify the responsibilities of the respective parties for the processing activities as described therein.”⁴ Although we hesitate to speculate on the specific form and content of such data protection agreements, it is clear that such agreements are likely to have a direct impact on the roles and responsibilities with respect to the processing of WHOIS data set forth in registry-registrar agreements, including the terms currently set forth in our proposed amendments to the .com and .net registry-registrar agreements.

Third, we recognize that work in Phase 2 on a system for Standardized Access to Non-Public Registration Data and the ongoing important work on a RDAP-based technical solution for access to non-public data may further complement, revise or supersede several of the recommendations in the Final Report. While we fully support and are actively engaged in the efforts to address access to non-public registration data, they remain a work in progress and their potential impact, if any, on the roles and responsibilities of ICANN, registries and registrars with respect to the processing of WHOIS data remains uncertain.

Given the changes to the current requirements of the Thick WHOIS Policy and to the other ICANN requirements regarding the collection, transfer and processing of WHOIS data that are likely to result if these (and other) EPDP recommendations are adopted as an ICANN Consensus Policy, we believe adhering to the current implementation deadlines for the Thick WHOIS Policy and migrating massive amounts of WHOIS data associated with .com and .net would add complexity and risk to the compliance situation at a critical time for the community’s work to remove the current uncertainties through the establishment of a permanent Consensus Policy for gTLD Registration Data. Accordingly, we believe the thick WHOIS transition for .com and .net should not occur until the compliance situation becomes clear and the work of the community and ICANN to formulate and implement a permanent Consensus Policy for gTLD Registration Data is complete. We are therefore requesting that ICANN extend all dates in the current implementation plan for the Thick WHOIS Policy by one year, to coincide with the time-frame for the community to finalize a permanent Consensus Policy to replace the Temporary

³ See Final Report, EPDP Team Recommendation #27.

⁴ See Final Report, EPDP Team Recommendation #19. See also EPDP Team Recommendation #20 (recommending “the inclusion of the data processing activities and responsible parties . . . to be confirmed and documented in the relevant data protection agreements.”)

February 22, 2019

Page -3-

Specification and for any necessary corresponding implementation review and contractual modifications resulting from that Consensus Policy to be completed.

Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrick S. Kane".

Patrick S. Kane

CC: Karla Hakansson, ICANN