

Report of Public Comments

Title:	Translation and Transliteration of Contact Information PDP Final Report																				
Publication Date:	13 August 2015																				
Prepared By:	Lars Hoffmann																				
<table border="1"> <tr> <td colspan="2">Comment Period:</td> </tr> <tr> <td>Comment Open Date:</td> <td>29 June 2015</td> </tr> <tr> <td>Comment Close Date:</td> <td>10 August 2015</td> </tr> <tr> <td>Time (UTC):</td> <td>23:59</td> </tr> </table>		Comment Period:		Comment Open Date:	29 June 2015	Comment Close Date:	10 August 2015	Time (UTC):	23:59	<table border="1"> <tr> <td colspan="2" style="text-align: center;">Important Information Links</td> </tr> <tr> <td colspan="2" style="text-align: center;">Announcement</td> </tr> <tr> <td colspan="2" style="text-align: center;">Public Comment Box</td> </tr> <tr> <td colspan="2" style="text-align: center;">View Comments Submitted</td> </tr> <tr> <td colspan="2" style="text-align: center;">Report of Public Comments</td> </tr> </table>		Important Information Links		Announcement		Public Comment Box		View Comments Submitted		Report of Public Comments	
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Section I: General Overview and Next Steps																					
<p>The Translation and Transliteration of Contact Information Policy Development Process (PDP) Working Group (WG) was concerned with the following two Charter questions:</p> <ul style="list-style-type: none"> • Whether it is desirable to translate contact information to a single common language or transliterate contact information to a single common script? • Who should decide who should bear the burden [of] translating contact information to a single common language or transliterating contact information to a single common script? <p>The Generic Names Supporting Organization (GNSO) unanimously approved its meeting on 24 June 2015 the following policy recommendations, which will be submitted to the Board for adoption after the conclusion of the public comment period:</p> <p>Recommendation #1 The Working Group recommends that it is not desirable to make transformation of contact information mandatory. Any parties requiring transformation are free to do so on an <i>ad hoc</i> basis outside Whois or any replacement system, such as the Registration Data Access Protocol (RDAP). If not undertaken voluntarily by registrar/registry (see Recommendation #5), the burden of transformation lies with the requesting party.</p> <p>Recommendation #2 Whilst noting that a Whois replacement system should be capable of receiving input in the form of non-ASCII script contact information, the Working Group recommends its data fields be stored and displayed in a way that allows for easy identification of what the different data entries represent and what language(s)/script(s) have been used by the registered name holder.</p> <p>Recommendation #3 The Working Group recommends that the language(s) and script(s) supported for registrants to submit their contact information data may be chosen in accordance with gTLD- provider business models.</p> <p>Recommendation #4 The Working Group recommends that, regardless of the language(s)/script(s) used, it is assured that the data fields are consistent to standards in the Registrar Accreditation Agreement (RAA), relevant Consensus Policy, Additional Whois Information Policy (AWIP) and any other applicable policies.</p>																					

Entered contact information data are validated, in accordance with the aforementioned Policies and Agreements and the language/script used must be easily identifiable.

Recommendation #5 The Working Group recommends that if the transformation of contact information is performed, and if the Whois replacement system is capable of displaying more than one data set per registered name holder entry, these data should be presented as additional fields (in addition to the authoritative local script fields provided by the registrant) and that these fields be marked as transformed and their source(s) indicated.

Recommendation #6 The Working Group recommends that any Whois replacement system, for example RDAP, remains flexible so that contact information in new scripts/languages can be added and expand its linguistic/script capacity for receiving, storing and displaying contact information data.

Recommendation #7 The Working Group recommends that these recommendations are coordinated with other Whois modifications where necessary and are implemented and/or applied as soon as a Whois replacement system that can receive, store and display non-ASCII characters, becomes operational.

Finding in relation to second Charter question Based on recommendations #1-#7, the question of who should decide who should bear the burden of translating or transliterating contact information to a single common script is moot.

Recommendation 1 was accompanied by a **Minority Statement**, reading as follows:

Working Group member Petter Rindforth, in line with the position taken by his Constituency, the Intellectual Property Constituency (ICP),¹ recommends mandatory translation and/or transliteration (transformation) of contact information in all generic top-level domains (gTLDs).

Although he agrees that there are situations where the contact information in the local language of the registrant is the primary version, such as to identify the registrant in preparation for a local legal action, there are a number of situations where a global WHOIS search, providing access to data in as uniform a fashion as possible, is necessary for the data registration service to achieve its goals of providing transparency and accountability in the DNS. See also 5.1.1 [of the Final Report] explaining the Working Group's arguments supporting mandatory transformation of contact information in all generic top-level domains.

Section II: Contributors

At the time this report was prepared, a total of three (3) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Business Community	Steve del Bianco	BC
International Trademark Association	Lori Schulman	INTA

¹ see also 5.1.1 and the Public Comment Review Tool (Annex B).

Intellectual Property Constituency (IPC)	Greg Shatan	IPC
Non-Commercial Stakeholder Group	Rafik Dammak	NCSG
Registries Stakeholder Group (RySG)	Paul Diaz	RySG
International Federation of Intellectual Property Attorneys	Rebecca Sandland	FICPI

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

All submissions support Recommendation 2 up to and including Recommendation 7. Recommendation 1, which also received consensus from the WG members (and was accompanied by a minority statement (see above)), is not supported by the IPC, the BC, FICPI, and the INTA. Both the NCSG and the RySG support also Recommendation 1.

The IPC, whose member Petter Rindforth submitted the minority opinion on Recommendation 1 (see above), states that “the Working Group’s arguments against mandatory transformation seems to overlook the obvious need for global and transparent information for the average surfer, and mainly focus on the extra costs related to such system.” The IPC reiterates their suggestion “to solve the problem in a practical manner, without increasing the costs for registrants and/or end users, namely: to require WHOIS information to be in the language of the registrar, and use translation or transliteration if the information is not in Latin characters.” Additional arguments are brought forward to mirror those raised by Petter Rindforth in the WG and also those previously submitted by the IPC in its public comment on the Initial Report of the Translation and Transliteration of Contact Information PDP.

The INTA believes that ‘the mandatory translation and transliteration of WHOIS contact data into a common language and alphabet is essential to the preservation of transparency and accountability in global Internet commerce.’ Therefore, the INTA also disagrees with Recommendation 1 and “submits that minimum standards of transparency and accountability in global electronic commerce require WHOIS contact data to be translated or transliterated, as appropriate, into a common language, in respect to all domain names used for the advertising or sale of goods and services.” The INTA further notes, “The ability to identify a person or entity legally responsible for the origin and source of goods and services is a universal requirement in corporation, fictitious name, unfair competition, and consumer protection laws in the United States and around the world. This principle is by definition dispositive on the question of translation and transliteration.”

FICPI, similarly supports the Minority view. They reiterate the comments they submitted during the Public Comment on the Initial Report, including – but not limited to: “ mandatory transformation of all contact information into a single script would allow for a transparent, accessible and easily searchable database; without translation/transliteration of contact information, the contact information record system (currently WHOIS) might lose clarity; mandatory transformation of contact information will avoid unnecessary legal actions, because the registered domain name holder can quickly, easily and cost effectively be properly

identified and/or contacted.”

The BC echoes the views of others that oppose Recommendation 1 and also states that it had previously flagged its concerns during the Public Comments of the Initial Report. In addition, the BC provided some issues for a post-implementation review to assess how the recommendations are working in practice that, in its view, should be conducted if the Board does adopt the recommendations:

- How many registrars and registries are actually pursuing the voluntary practice of transforming WHOIS contact data?
- Given that ASCII/English is the most common script/language, are ASCII and English language users experiencing difficulty in comprehending and using the data?
- Are WHOIS users easily able to meaningfully and efficiently transform such data into local languages? What are the burdens, costs and practical problems facing large and small WHOIS users alike? Are the burdens outweighing the ability of Internet users to meaningfully access such information?
- What are the burdens, costs and practical problems law enforcement are experiencing as a result of the PDP?
- Are bad actors gaming the least translatable languages or choosing registries/registrars who do not translate contact information as safe havens for cybersquatting, criminal activity, fraud and abuse?
- What complaints has ICANN Compliance received related to the decision underlying this PDP?
- After conducting a deep dive into randomized WHOIS data across the new gTLDs, how much of the non-translatable contact data is accurate after it is transformed into ASCII/English?
- What would be the actual costs associated with ICANN working with registries and registrars to transform such data going forward as a uniform practice?

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

The comments submitted are clearly structured and the arguments are well presented. All submissions support Recommendations 2, 3, 4, 5, 6, and 7. The RySG and the NCSG also support Recommendation 1. The other four comments all oppose Recommendation 1 and instead support the Minority View that forms part of the Final Review.

All those opposing Recommendation 1 represent, at least partially, organization, business, and/or individuals that are most likely to request Registration Contact Information for a variety of purposes.

The arguments brought forward by all four submissions are not new, they are largely repetitive of those submitted for the Initial Report. First, it should be noted that all four represent views with a bias towards US-ASCII, arguing that a contact Information database needs to be in one script, namely US-ASCII or Latin. However, as the Working Group pointed out in its Final Report, this would not help those that are not familiar with ASCII, e.g. a Russian intellectual property lawyer investigating a Chinese website when contact

information in Latin characters might not be helpful. Also, the fact discussed by the Working Group that translating or transliterating proper nouns consistently and accurately – crucial for a searchable database – is near impossible has not been given much consideration. Accuracy of data must be in the interest of all and as the Working Group pointed out, data submitted in the script/language the Registrant is most familiar with, and that has to be validated by the Registrar, must be the most accurate.

The BC brings forward a very interesting point, assessing the impact of these recommendations once they have been implemented. This could be a useful exercise and the questions the BC brings forward might be an excellent starting point for such a review process. It will be up to the community to decide how and when such a review will happen.