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Nominet consultation:
Contact data disclosure in
the .uk WHOIS

Registrar overview

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Registrar overview

All information relating to this consultation can be found on www.nominet.org.uk/whoisconsultation

This includes a **short version** and **long version** of the consultation document.

This overview is intended to provide **information of particular interest to registrars** and to supplement the information contained in the consultation document. It sets out expectations on the **potential practical implementation of our proposals**, should they move forward. The information should be considered indicative only and is intended to encourage feedback on the consultation proposals. In particular we **welcome registrar feedback** on the potential technical and other process issues that may arise.

The information provided is subject to consultation and potential changes, following stakeholder feedback and further evidence.

RECOMMENDED PROPOSALS

- a) Refine WHOIS opt-out criteria to meet stakeholder expectations
- b) Enable registrar-run privacy service to operate within a contractual framework
 - separating the concept of *collection* of contact data from the *publication* of contact data

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BY 3 JUNE 2015

A two-part test is applied to determine if registrants are eligible to opt out from publishing contact address details in the WHOIS.

NOW

- i. The registrant must be an individual; and,
- ii. The domain name must not be used as part of a business, trade or profession (the “trading” test)

PROPOSED

- i. The registrant must be an individual; and,
- ii. The domain name must not be used:
 - a) to transact with customers (merchant websites);
 - b) to collect personal data from subjects (i.e. data controllers as defined in the Data Protection Act);
 - c) to primarily advertise or promote goods , services or facilities.

What it applies to

- Registrant address

- Registrant address
- Registrant name

Key Question

Should the name of opted-out registrants be withheld from publication?



Key aspects

- a) Domains used to carry out commercial transactions or promote goods and services would remain ineligible to opt out
- b) Domains used to collect personal data would not be eligible for the opt-out, for example those collecting sensitive information through competitions and surveys
- c) Affiliate advertising and pay-per-click would generally only prevent a registrant from opting out where this is the sole use of the domain.
- d) Other classes of registrants (such as businesses or charities) are not eligible to opt out
- e) Those with a legitimate need to see the name and address of an opted-out registrant would still be able to request that information from Nominet under the terms of our registrant contract, and the exemptions set out in the Data Protection Act

Key Question

Are there any process or technical consequences of the proposed changes to WHOIS opt-out eligibility that Nominet should take into account or that would discourage implementation of this proposal?



Views and approaches

- These minor refinements would increase the clarity of eligibility for opt-out, in particular addressing concerns about the interpretation of the ‘trading’ test, which would allow more consistent application
- The proposed changes broaden the range and number of individuals who could decline publication of their details, i.e. some bloggers and those who register domains for community groups where the primary purpose is not commercial

Key Question

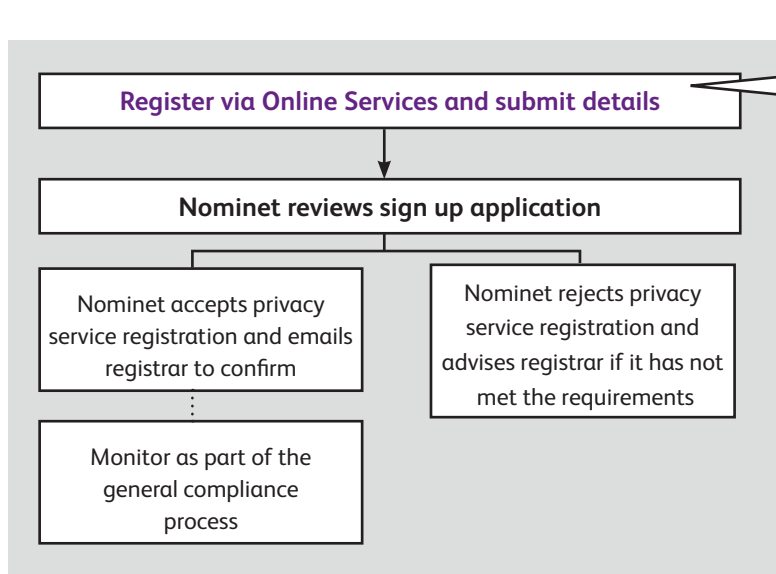
What obligations, if any, should registrars be subject to in relation to drawing the attention of registrants to the availability of the WHOIS opt-out?



B. How the privacy service framework could work:

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B1. Signing up for privacy service



Provide the following information:

- Name of registrar privacy service (must be a 'legal person')
- Privacy service contact name
- Privacy service contact phone number/email
- Privacy service contact address

Key Question

Are there process or technical issues in separating collection from publication of contact data in the way we have suggested that Nominet should be aware of? E.g.

- *Updating registration data of domains currently held using a privacy service to the registry*
- *Moving domains with privacy from a registrar to another (TAG change), where the new registrar does not offer privacy*
- *Transfer of a domain(s) to a privacy service*
- *Transfer of a domain(s) to a new registrant*
- *Minimising the incidence of abuse*
- *Use of the RFC5733 contact disclose field for both name and address*



Key aspects

- Open to Channel Partner and Accredited Channel Partner tag users
- No charge to registrars
- Registrars would be free to charge their customers if they wished
- Maximum 1 privacy service per tag
- Customers using the privacy service would be the registrant and subject to our T&Cs of Domain Name Registration
- Registrars not using this framework, and continuing to register their privacy service as the registrant:
 - Would be free to do so within existing terms of the Registrar Agreement
 - Do so at their own risk
 - Take on any liabilities associated with being the registrant and being contracted as such with Nominet
- Data would be released by Nominet to third parties under existing exemptions and processes

Views and approaches

- This would provide a clear contractual framework enabling registrars to offer privacy services, and the ability to do so without becoming the legal registrant
- The actual registrant would be the respondent in the event of a DRS complaint
- The framework would mitigate the potential for post-expiry issues where a registrant has not received an expiry notification email
- Nominet would continue to have contact data for the registrant and can ensure continuity of service in the event the privacy service stops operating

Key Question

Should other third parties be allowed to operate privacy services?



Key Question

Are there any specific standards that registrars should be asked to meet in order to provide a privacy service? E.g.

- *Acting as an address for service for the registrant*
- *Being required to respond to or transmit abuse complaints from third parties to the registrant*
- *Being required to reveal contact details on receipt of a Dispute Resolution Service complaint from a third party*
- *Provide their own contact details to be published in the WHOIS*
- *Other*



B. How the privacy service framework could work:

B2. Submitting registration with privacy service

Submit registration in the name of the end user (name, address and email) – including privacy service flag

Registrant contact data is subject to the data quality policy and validation in the usual way. No changes to the WHOIS output envisaged.

Example EPP

EPP code would be added at the end of a <contact:create> or <contact:chg> element

```
<contact: disclose flag="0">  
<contact:org/>  
<contact:addr/>  
</contact>
```

Examples can be found in RFC 5733:
<contact:create> - section 3.2.1

Example WDM

Privacy flag facility could be added to the Modify Contact screen in WDM

Modifying the following contact: **Nicholas Robertson (12345678)**

Contact name	<input type="text" value="Nicholas Robertson"/>
Email address	<input type="text" value="itadmin@NR.co.uk"/>
Phone <small>Optional. Format: +44.1234567 (Country code, followed by phone number, with no spaces)</small>	<input type="text" value="+44(0)1234 111222"/>
Registrant/organisation type	<input type="text" value="UK Individual"/>
Trading name	<input type="text"/>
Organisation number <small>Optional, depending on organisation type</small>	<input type="text"/>
Opt out	<input checked="" type="radio"/> Yes ¹ <input type="radio"/> No ¹
Street address 1	<input type="text" value="123 The Avenue"/>
Street address 2	<input type="text"/>

Key aspects

- a) Facility to set privacy service flag would only be available in EPP and WDM (as Automaton is being phased out)
- b) Propose using standard EPP field <contact:disclose> as defined in RFC5733
- c) If it is a second level .uk domain requiring a UK address for service, the registrar should submit this address with the registration, as is the case now

B3. WHOIS disclosure

WHOIS disclosure would be modified based on the privacy service flag and information previously provided

Result of WHOIS query:

Domain name:

shinycleanhouse.co.uk

Registrant:

Name withheld. This registrant is using a privacy service.

Registrant type:

Withheld.

Registrant's address:

Registrant's address is withheld. This registrant is using a privacy service.

Data validation:

Registrant contact details validated by Nominet on 10-Dec-2012

Registrar:

Efficient Registrar Limited [Tag = EFF]

URL: <http://www.efficientregistrar.uk>

Relevant dates:

Registered on: before Aug-1996

Expiry date: 06-Dec-2015

Last updated: 25-Nov-2013

Registration status:

Registered until expiry date.

Name servers:

nom-ns1.nominet.org.uk 213.248.199.16

nom-ns2.nominet.org.uk 195.66.240.250 2a01:40:1001:37::2

nom-ns3.nominet.org.uk 213.248.242.70

Privacy Service:

Privacy Services Limited

Privacy Service's address:

81 Rivington Street, London, EC2A 3AY

B4. Other relevant processes

Moving domains currently registered in the name of a registrar privacy service

Some registrars currently offer their customers a privacy service which they register as the registrant. These domains could be moved to the new privacy service framework as outlined below.

Sign up for privacy service as outlined in B1

a) Accredited Channel Partners

- Transfer domain from registrar privacy service to customer with the 'privacy service flag' set
- Available in EPP or WDM; no charge to the registrar

b) Channel Partners

- Facility provided in Online Services to action transfer

Registry systems information

- EPP – flag would show on query via info command
- WDM – would show privacy service flag on screen
- Online Services – would show privacy service flag, privacy service name and address, registrant name and address

Impact on other registration processes

- Domain transfer to new registrant
- Domain transfer to new tag
- Amend account details
- Others?

Via registrar (Accredited Channel Partner and/or Channel Partner) or Online Services

Registrars may wish to provide feedback on whether the privacy flag should remain set or be removed as part of these or similar processes, and whether/how the registrar and registrant should be informed of any changes.

General Questions

1. Do you agree that the proposals to refine the WHOIS opt-out eligibility and to provide a framework for registrar privacy services meets the policy objectives set out in the consultation document?
2. Do you wish to highlight any potential stakeholder impacts or concerns should the proposal to refine the WHOIS opt-out eligibility criteria be implemented?.
3. Do you wish to highlight any potential stakeholder impacts or concerns should privacy services be permitted to operate in the way in which we have proposed?
4. Please provide any other views on the direct impact these proposals may have on you or your organisation.
5. Do you have a commercial interest in the domain name industry, including but not limited to acting on behalf of registrants in the registration of domain names or holding domain names in your own name?

Additional Questions

6. Do you agree with our assessment of the options that we have chosen to not recommend?

WHOIS opt-out

- 7a. Are the proposed criteria for eligibility of the opt-out clear and logical enough for WHOIS users and registrants?
- 7b. Do they meet your expectations as a WHOIS user or registrant?
- 7c. Do you agree that domains used to collect personal data should be excluded from eligibility to opt out? If you do not agree, we would like your thoughts on whether your concerns could be mitigated by being able to use a privacy service.
8. Are there any process or technical consequences of the proposed changes to WHOIS opt-out eligibility that Nominet should take into account or would discourage implementation of this proposal?
9. Do you think we should change the WHOIS query output so that the name of registrants who are opted-out are withheld from publication, as well as their address?
10. What obligations, if any, should registrars be subject to in relation to drawing the attention of registrants to the availability of the WHOIS opt-out?

Privacy Services

11. Are there any specific standards that registrars should be asked to meet in order to provide a privacy service?
For example acting as an address for service for the registrant, being required to respond to or transmit abuse complaints from third parties to the registrant, being required to reveal contact details on receipt of a Dispute Resolution Service complaint from a third party, provide their own contact details to be published in the WHOIS, other?
12. Are there process or technical issues in separating collection from publication of contact data in the way we have suggested that Nominet should be aware of?
For example updating registration data of domains currently held using a privacy service to the registry, moving domains with privacy from a registrar to another (TAG change) where the new registrar does not offer privacy, transfer of a domain(s) to a privacy service, transfer of a domain(s) to a new registrant, minimising the incidence of abuse, use of the RFC5733 contact disclose field for both name and address?
13. Whilst noting that the proposed privacy services framework would not apply to Self-Managed Tag users where domains must be connected to the registrant, should the framework be restricted only to Nominet Channel Partner and Accredited Channel Partner Tag holders?
- 13b. If you believe the framework should not be restricted, and that other parties should be permitted to operate privacy services, please explain why and provide comments on how Nominet could identify, monitor, and enforce the framework for third parties.

Assumed operational implications for registrars

- Minor technological development
- Minimal changes to existing registration processes
- Would necessitate minor changes to the Registrar Agreement

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