

## WHOIS POLICY REVIEW, JUNE 2003

### auDA's Response to Public Comments

auDA received 12 submissions during June/July 2003. auDA specifically invited comment on three issues:

1. How much data should be disclosed on WHOIS?
2. Is the WHOIS query limit (20 per hour) appropriate?
3. Should bulk access to WHOIS data be permitted in certain circumstances?

#### **1. How much data should be disclosed on WHOIS?**

There were two clearly opposing points of view put forward in submissions. Several people argued that registrant contact email addresses should be masked or removed from WHOIS due to possible spam abuse. On the other hand, submissions from AUSTRAC and ASIC and Guy & Associates argued that WHOIS should disclose full contact details for registrants, as well as other information including domain creation and expiry dates.

*auDA response:*

##### Disclosure of registrant contact email address

auDA's view is that the disclosure of registrant contact email addresses on WHOIS remains necessary to ensure that the registrant can be contacted in relation to their domain name. We believe that there is a significant benefit to registrants in being able to check via a public WHOIS query that their contact email address is up to date. This is especially useful for registrants who are preparing to transfer their domain name to another registrar of record.

There is no evidence to suggest that registrant email addresses are being harvested from the WHOIS database for spamming purposes, and in any case auDA believes that the best way to manage this risk is by imposing WHOIS query limits and bulk access restrictions.

auDA notes comments about various technical solutions, such as email masking, one-time-use email addresses or contact via web forms. For the reasons given above, we do not consider it appropriate to introduce such measures at this time. However, we will monitor the development and implementation of different technologies by industry providers in other domain spaces for possible application in .au.

##### Disclosure of other information

The current policy states that the street address, telephone and facsimile numbers of registrants will not be disclosed, due to Australian privacy legislation.

We note the suggestion that disclosing full contact details for companies and other corporate entities would not breach privacy legislation and should be allowed.

auDA has two comments in response to this argument:

- Building and maintaining a WHOIS database that allows for different levels of disclosure based on whether or not the registrant is a corporate entity or an individual would impose a significant technical and administrative burden on the registry and registrars.
- We note that ASIC, ABR and other government databases do not disclose full contact information for companies and businesses. We are not sure why the WHOIS database should be held to a higher disclosure standard than other public databases.

We also note comments that domain creation, renewal and expiry dates should be disclosed on WHOIS. The current policy cites the problems caused in the marketplace by misleading renewal notices as the reason for not disclosing this information on WHOIS. Unfortunately these problems still exist, and therefore auDA believes that the current policy remains justified.

## **2. Is the WHOIS query limit (20 per hour) appropriate?**

The majority of submissions were in favour of imposing a limit on WHOIS queries, and considered the current limit reasonable. Submissions that argued in favour of unrestricted public WHOIS queries were received from AUSTRAC and ASIC and Guy & Associates.

*auDA response:*

auDA is of the strong view that limits must be imposed on WHOIS queries, to guard against abuse. We believe that the current limit of 20 queries per hour is appropriate for the majority of users.

## **3. Should bulk access to WHOIS data be permitted in certain circumstances?**

Submissions from law enforcement agencies (AUSTRAC and ASIC, ACCC) argued that they should have bulk access to WHOIS data.

*auDA response:*

auDA is not sure that people who commented on this issue understand what is meant by "bulk access" to WHOIS data. It does not mean access to the full record of a particular domain name. It means access to the full records of all domain names held in the registry.

auDA is aware that law enforcement agencies may require access to the full record of a particular domain name or names as part of an investigation, the details of which would be specified by warrant, court order or other official document. auDA has entered into a formal protocol with the ACCC for this purpose, and we invite other law enforcement agencies to do the same.

However, we have difficulty understanding the type of investigation that would require bulk access to the full records of all domain names held in the registry. We do not believe that it is appropriate to compromise the integrity of the WHOIS database and the privacy of registrants merely for the convenience of law enforcement officials.

The revised WHOIS policy states that law enforcement agencies may be granted access to data for purposes of an official investigation.

## **Conclusion**

In conclusion, the revised policy would:

- retain the same WHOIS data set (Schedule A)

- retain the same restrictions on access to WHOIS data
- state that law enforcement agencies may be granted access to data for purposes of an official investigation.