

Use of the WHOIS opt-out

Information to inform the PAB's discussion

1. Introduction

At their July meeting the PAB briefly discussed the use of the WHOIS opt-out and specifically the opting in of registrants previously opted out of the WHOIS. This paper is intended to provide background information to the PAB and does not contain any recommendations.

2. Background

The only type of registrant currently allowed to opt-out of displaying address details on the WHOIS are consumers. A consumer is defined as an individual not registering, using or planning to use the domain name as part of a business, trade or profession. All other types of registrant e.g. individuals using a domain name in the course of trade (this includes the registration of domain names for monetization purposes, e.g. pay per click etc), sole traders, partnerships, limited companies etc are required to display an address on the WHOIS.

This address does not need to be the registrant's address; for example, it could be the address of their registrar, solicitor, accountant or registered office. It could also be a PO Box address. However, we must be able to contact the registrant "quickly at any reasonable time without having to get information from anywhere else" (Terms and conditions, Section 1 Definitions). This is important to ensure we can contact the registrant in the event of a domain name dispute, at the point of renewal or for any other reason. Failure to provide good quality contact details could result in the cancellation of the domain name.

We receive a relatively low number of complaints regarding the misuse of the opt-out, on average 26 each month. Nearly half of the registrants who are the subject of an opt-out complaint go on to complain about misuse of the opt-out by another registrant. This usually occurs within the domainer community. Further statistics are provided in section 4.

3. Current Practice

The current terms and conditions allow us to immediately remove the opt-out without notifying the registrant:

12Please note that if, at any point, we discover that you are not a consumer, we may automatically cancel your opt-out (see condition 11.2) without notifying you.

However, our practice is as follows; on receipt of a complaint we review the registrant information. If the registrant is clearly a limited or public limited company we immediately remove the opt-out. If the registrant is an individual, and we believe the domain name is being used in the course of trade, we send an email to the registrant and their registrar to advise that we believe their current use of the opt-out is not permitted. After 4pm the following day the opt-out is removed. In the intervening period the registrant may choose to modify the address information provided for their domain name. Alternatively they may wish to contest our belief that the domain name is being used in the course of trade.

This 24 hour notice period works well. It gives the registrant time to modify the address details prior to publication if necessary but does not create an unnecessary delay. We note that a member of the PAB has suggested that we should discuss the intention to opt their details into the WHOIS with the registrant prior to making the change. We would be very concerned that a requirement to speak to the registrant, rather than issuing an email, could potentially severely delay the process.

4. Statistics

- On average we receive 26 WHOIS opt in/out complaints each month
- We do not proactively seek out misuse of the opt-out facility and instead respond to complaints received.
- Normally the complaint is about between one and six domains. We often discover other domain names when we run searches against the registrant name. The largest recent complaint involved 1,300 domains.
- Based on a sample of recent cases, the tag holder amended the opt-out field data in 3% of cases. Registrant Services updated the remainder.
- A very small proportion of cases involve misuse of the registrant type "IND" as the registrant is actually a limited company etc. The remainder were all valid registrations for individuals. The misuse arises because the domain name was being used for commercial purposes.
- Of these, all cases in the sample used the domain names for pay-per-click income or had 'domain is for sale' banners.
- We receive a response to our enquiries in 87% of cases.
- Nearly half of the registrants who are the subject of an opt-out complaint go on to complain about misuse of the opt-out by another registrant. This usually occurs within the domainer community.