

## Appendix A: POLICY DRIVERS

### Public Interest

- Stakeholders' expectations about registrant contact data being made available on the WHOIS, are naturally influenced by their views on disclosure and privacy. We believe that there is a continued and justifiable public interest in a free, reliable, publicly accessible WHOIS that provides reliable contact information for registrants. We suggest however that it is useful to explore whether differentiation between the collection of registration data and publication of WHOIS data, subject to certain requirements could be possible.
- A key element of Nominet's role as the registry is to hold complete and accurate registration data, whether that is published or otherwise. Registrants (and intended registrants) who have a reasonable expectation of contractual rights, being impeded from exercising those could decrease registrant and user trust in the .uk namespace.
- We note that confidence in WHOIS data has become a public policy issue, including at international level. The WHOIS has generated debate amongst different stakeholder groups, from public bodies including law enforcement agencies, to those who are concerned with using contact data in order to enforce their intellectual property rights. Other stakeholders are interested in the extent to which the registry should act as a proxy for ensuring compliance with other legislative provisions. By way of example, from time to time some stakeholders advocate that Nominet enforce legislative requirements relating to content or the publication of contact addresses on websites, as criteria for registration.

### Legal and regulatory

- The regulatory framework for Data Protection in the UK and EU is evolving and significant changes may take place over the course of the next few of years. We have sought to take account of the direction of travel, so that we continue to be in line with the relevant legislation and existing data protection principles in that data collected has a clear and proportionate purpose: in this case to record the registrant of record.
- In addition to contact data that is already made available in the WHOIS, Nominet may also make available other registrant contact data under the existing carve outs already in place, including in the course of compliance with law enforcement and investigations. Our expectation is that whatever form a new framework might take in relation to contact data, that we would continue to meet our legal obligations in this way.
- We are committed to operating an open registry and carrying out our essential functions, including providing backstop support to our registrants.

## Market behaviour and competitiveness

- We have noted that the domain name market and behaviour of registrars is evolving and the issues around both privacy services and WHOIS accuracy continue to be discussed in different forum including at ICANN. Meanwhile, as market behavior and practices continues apace, we believe that it is important to develop a flexible framework that increases stakeholder certainty and addresses the potential demand and harms.
- .uk stakeholders need a framework that takes into account the various ways in which domain names sell additional services to registrants, the demand for such services, and their impact on WHOIS users. We have come to the view that prohibiting such services altogether is difficult to enforce, and could result in unintended consequences, for example encouraging registrants to provide poor quality data with the effect of decreasing trust in the namespace.
- The domain name landscape is also changing, and the .uk namespace is competing with an increasing number of spaces for registrants to choose from, potentially reducing our ability to influence their safe and trusted internet experience. The competitiveness of top level domains is heavily influenced by the standardised processes of registrars – and in particular – registration and purchasing processes that are used by registrars for all top level domains that they sell, and which enable greater revenue generation.
- We remain conscious of the need to avoid unnecessary or disproportionate changes to our systems, and support our channel to market in making any adaptations that may be necessary. Working within existing processes wherever possible is a key objective.