



United States Congress
House Committee on Energy and Commerce
Subcommittee on Consumer Protection & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

February 26, 2019

Dear Chairwoman Schakowsky and Ranking Member McMorris Rodgers:

The Coalition for a Secure and Transparent Internet (CSTI) writes to thank you for your leadership on the Energy and Commerce Subcommittee on Consumer Protection and Commerce. In response to the hearing being held today, titled “Protecting Consumer Privacy in the Era of Big Data” we write to encourage the subcommittee to do all you can to protect consumers’ privacy by restoring open access to WHOIS registration data. An open and accessible WHOIS is critical to protecting Internet users from online criminal activity and to enabling action against network and cyber security risks, illegal online opioid sales, human trafficking, consumer fraud and abuse as well as intellectual property violations.

WHOIS data is the publicly available information on who has registered and administers generic top level domain (gTLDs) names in spaces like .com and .net as well as certain country-code domain spaces like .TV. WHOIS data has been publicly accessible for free since the inception of the Domain Name System. Generic top-level domain name registrars and registries are contractually required to collect contact information from all domain name registrants at the time of registration. This contact data, including name, address, phone number, and email address, is combined with certain other attributes of a domain name’s registration to comprise WHOIS data. Accessible WHOIS data is important to law enforcement and regulators tasked with protecting consumers. Such data provides information about who may operate illegal sites, common connections between suspect sites, and the identity of Internet Service Providers to contact for additional evidence.

Due to an overly broad interpretation of the EU’s General Data Protection Regulation (GDPR), many domain name registrars and registries are shutting down public access to the full range of WHOIS data, both for one-off requests and automated access. Though the GDPR intended to create privacy protections for consumers, the current interpretation has ironically only strengthened protections for internet criminals. Law enforcement, consumer protection agencies, child advocacy groups, anti-human trafficking organizations, cybersecurity investigators, copyright and trademark holders, journalists, academics, and others rely on WHOIS to help determine *who is* operating a criminal website, sending malicious (SPAM, phishing) emails, or initiating cyber security attacks.

Private citizens are not the only constituency affected by a redacted WHOIS; numerous government agencies rely on WHOIS to conduct their criminal investigations. As Dan Burke, Senior Operations Manager, Cybercrime Investigations Unit of the U.S. Food & Drug Administration, testified before a hearing held by the Senate Caucus on the International Narcotics Control, the lack of access to WHOIS data is impairing the FDA’s efforts to combat the illegal online sales of opioids:

“Conducting online investigations is not easy, and FDA has a narrow, but important role in combatting the online sale of opioids. For good or bad, much of the Internet ecosystem,

including dark nets, have adapted and changed to build in anonymity. Public information about the owner of a domain name, known as “whois” data, is now often impossible to access with the implementation of the GDPR.”¹

In short, when WHOIS data goes dark it takes away a critical source of information that is used to help keep the internet safe, secure and sustainable for all internet users.

We encourage the Subcommittee consider legislation that would restore this vital asset for law enforcement and cyber security experts. CSTI and our member organizations look forward to working with you to continue protecting consumers online.

Thank you again for your time and attention to this important issue.

Sincerely,
The Coalition for a Secure and Transparent Internet
www.SecureandTransparent.org

ACT | The App Association; Alliance for Safe Online Pharmacies; Coalition for Online Accountability; Crucial Point LLC; CTO Vision; DomainTools; LegitScript; Liberty Asia; Motion Picture Association of America; National Association of Boards of Pharmacy; National Cyber-Forensics and Training Alliance; Partnership for Safe Medicines; Recording Industry Association of America

¹ <https://www.drugcaucus.senate.gov/sites/default/files/FDA%20Testimony%20on%20Fentanyl%20final.pdf>