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#ICANN51

16 October 2014

Thick Whois Implementation Working Session

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Agenda

- Background
- Implementation Considerations
- Impact on Affected Parties
- Current Status of Implementation
- Proposed Next Steps
- Discussion with IRT

Background on Policy Recommendation

Milestones

- 30 May 2011** **IRTP B Working Group recommended requiring Thick Whois for incumbent registries** in order to improve security, stability and reliability of the domain transfer process
- 14 Mar. 2012** **GNSO Council initiated a Policy Development Process** regarding the use of thick Whois by all gTLD registries, existing and future
- 21 Oct. 2013** **The Thick Whois PDP Working Group reached full consensus** on the recommendations
- 31 Oct. 2013** **GNSO Council recommended the adoption of the recommendations from the Working Group** by the ICANN Board, subject to review by an Implementation Review Team
- 7 Feb. 2014** **ICANN Board adopted the GNSO Council Policy Recommendations** and directed the President and CEO to develop and execute on an implementation plan consistent with the guidance provide by the GNSO Council

WG Deliberations on the value of Thick Whois

- Improved **response consistency**
- Improved **stability** (increased availability in case of business/technical failure)
- Improved **access** to Whois data (registry vs. registrars accessibility)
- No specific **data protection** issues (in addition to already known issues)
- **Privacy** issues are much larger than the policy issue of migrating to thick Whois
- No overly burdensome **cost impact** on providers of Whois data
- No detrimental effect of transition from thin to thick on **data synchronization**
- No detrimental effect on **authoritativeness** (specific policy not necessary)
- More level playing field for **competition** between registry providers
- No substantive detrimental effect on **existing Whois application**
- More copies of **escrowed data** in the event of a failure
- Irrelevance of **Port 43 Whois** requirement for registrar addressed in RAA 2013

Recommendations of the WG

1. The **provision of thick Whois services**, with a **consistent labeling and display as per the model outlined in specification 3 of the 2013 RAA**, should become a requirement for all gTLD registries, both existing and future
2. Following the adoption of this report and recommendations by the GNSO Council, the subsequent public comment forum (prior to Board consideration) and the notification by the ICANN Board to the GAC, specifically request input on any considerations related to the transition from thin to thick Whois that would need to be taken into account as part of the implementation process

Recommendations of the WG

3. As part of the implementation process, **a legal review of law applicable to the transition of data from a thin to thick model not already been considered in the EWG memo** is undertaken, and due consideration is given to **potential privacy issues that may arise from the discussions on the transition from thin to thick Whois**, including, for example, guidance on how the long-standing contractual requirement that registrars give notice to, and obtain consent from, each registrant for uses of any personally identifiable data submitted by the registrant should apply to registrations involved in the transition. **Should any privacy issues emerge from these transition discussions that were not anticipated by the WG and which would require additional policy consideration, the Implementation Review Team is expected to notify the GNSO Council** of these so that appropriate action can be taken

EWG Memo

- Staff paper to the Expert Working Group on gTLD registration data (29 August 2013)
 - **Scope: General principles of international data protection laws** with respect to the **use, processing and transfer of personal data** in connection with (...) a Whois database replacement platform
- Main contributions relevant to thick Whois Policy implementation
 - The administration of the Whois database **may implicate the laws of** (i) the country where the Whois database platform is located, (ii) the country where the data owner/licensor/controller (controller) is located, (iii) the country where the data subjects (e.g., registrants) are located
 - Generally speaking, E.U. Data Protection Directive 95/46/EC imposes the **most comprehensive and stringent standards** on data collection, processing, and transfers
 - The **purpose for which data was originally collected** is of greatest importance and impacts the application of the remaining data privacy and protection principles
 - **The transfer of personal data will likely require data subject consent**

Implementation Considerations

Implementation Considerations (§7.2)

Costs implications

- **One-off costs expected** in the transition from thin to thick, with **implementation synergies that could minimize such costs** (e.g. synchronize transfer of data with escrow data submissions)
 - Hardly **any learning curve or software development** expected
-

Existing provisions or exemptions

- No impact expected on :
- **2013 RAA-based waiver in the collection/retention of data** element violating applicable local law
 - Procedure for handling **Whois conflicts with privacy law**
-

Guidelines for conducting transition

- **Implementation of one part** of the recommendation (transition from thin to thick) **should not necessarily delay the implementation of another part** of the recommendation (consistent labeling and display of data)
- **A team of experts from parties most affected** by this transition should work out the details with ICANN staff
- Valuable information may be learned from the **transition of .org**
- Implementation plan shared with the community for input

Impact on Affected Parties

Provision of Thick Whois Services

| Affected | TLDs | .COM .NET .JOBS Currently operating under a thin Whois model | All other gTLDs, current and future Operating a thick Whois model |
|----------|-------------|---|---|
| | Registries | VeriSign, Inc Employ Media LLC | All Others |
| | Registrars | 959 entities (as of June 2014) | 327 (RAA 2009) 833 (RAA 2013) (as of 12 Oct 2014) |
| Impact | Registries | Whois & SRS development Data transfer, management & storage | None |
| | Registrars | EPP implementation Update Whois systems update End of Port 43 requirement | None |
| | Registrants | Potential change to terms of registrations Potential privacy issues | None |
| | End-users | Potential change of source for Whois information | None |

Consistent Labeling & Display Per 2013 RAA

| | | |
|-----------------|--------------------|---|
| Affected | TLDs | All gTLDs, current and future |
| | Registries | |
| | Registrars | 327 (RAA 2009) 833 (RAA 2013) (as of 12 Oct 2014) |
| Impact | Registries | Whois data structure Whois output (format + data) SRS EPP extension |
| | Registrars | SRS EPP extension (new data to be provided to Ry) |
| | Registrants | None |
| | End-users | Modification of output |

Summary of Expected Outcomes

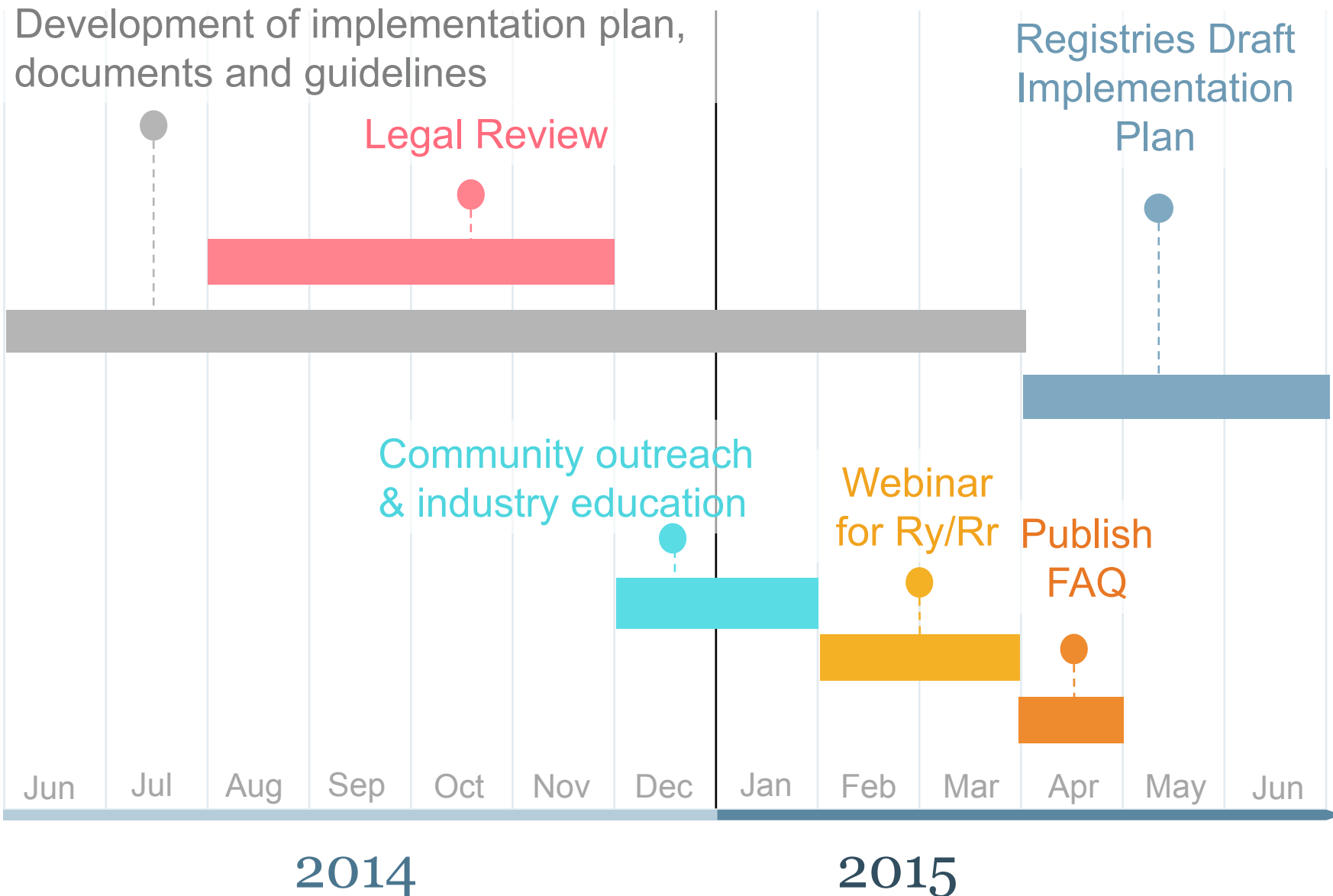
1. Transition from thin to thick Whois for .COM, .NET and .JOBS, including:
 - Legal review of laws applicable to the transition of data
 - Due consideration to privacy issues that may arise
 - Careful preparation and implementation (number of registrations)
2. Consistent labeling & display as per the model outlined in Specification 3 of the 2013 RAA

Current Status of Implementation

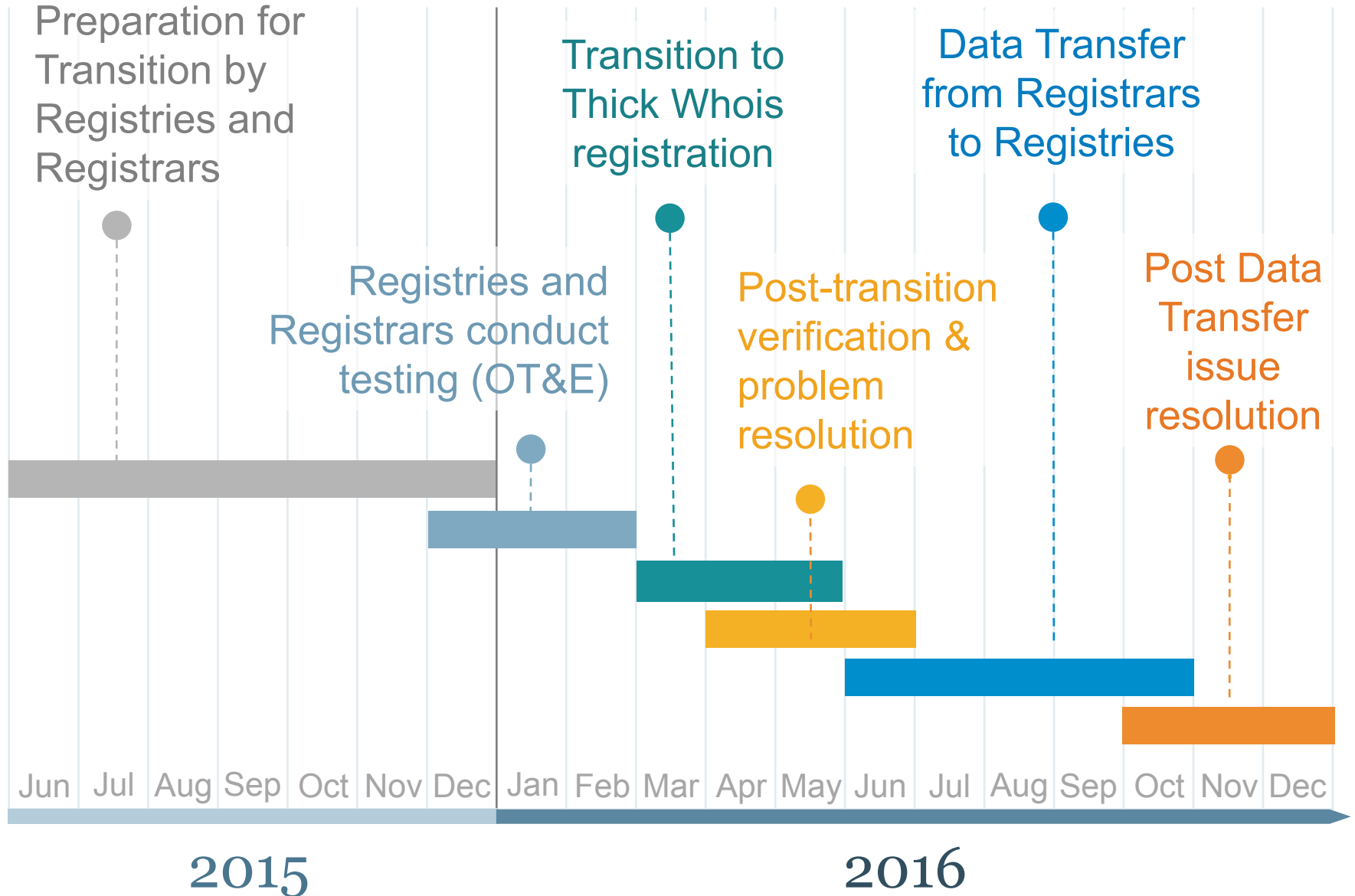
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Current Implementation Plan 2014-2015



Current Implementation Plan 2015-2016



Legal Review

- Status

- Legal research and analysis started in August 2014
- Conclusions to be available in November

- Scope

- Consistent with recommendation #3 of the WG
- Issues associated with the transition from thin to thick Whois
- Focus on specific new risks, if any, that may be posed by the transition to the thick Whois model for the three impacted TLDs

Legal Review Focus (1)

- What type of personal data issues may arise in the transition from thin to thick Whois ?
 - Data protection: are the RAA requirements sufficient ?
 - Registrant consent to the sharing of personal data:
 - Currently sufficient to authorize transition and display by registry ?
 - How broad does it need to be, can it be revoked ?
 - Would there be a registrant right to require correction and erasure ?
 - Is the transfer of data permissible from registrars located in various jurisdictions to a registry operator in the United States ? If so, what mechanisms must be in place ?

Legal Review Focus (2)

- What practical solutions would be available to facilitate the implementation of thick Whois in terms of cross-border data transfer ?
 - Standard clauses in the registration agreements
 - Safe harbors frameworks
 - Regionalization of data stores
 - Mandatory notices and purpose descriptions to registrants
 - Data Protection requirements, specifications, limitations
 - Onward transfer agreements with adequate protections for third parties managing thick Whois data

Implementation Documentation - Drafting

- Guidelines to Registries and Registrars on Transition
 - Inform affected parties on requirements, process and timeline
 - Includes best practices and input from affected parties
- Transition Verification Document
 - Support and monitor the timely transition from thin to thick Whois
 - Explain purpose and roles of parties involved
- (Post-)Transition Problem Resolution Plan
 - Support problem resolution of issues in transition from thin to thick
 - Lists possible issues and mitigation measures

Proposed Next Steps

Proposed Next Steps

1. Decoupling implementation of the two expected outcomes
2. Inviting experts from parties most affected by the transition from thin to thick to work out implementation details
3. Discussing the opportunity of synchronizing Thick Whois Implementation with a potential roll out of RDAP
4. Next meetings on Thick Whois Implementation

Proposed Next Steps (1)

- Decoupling implementation of the two expected outcomes
 - Guideline for implementation from the WG Final Report

Proposed Overall Timeline 2014-2016

Legal Review



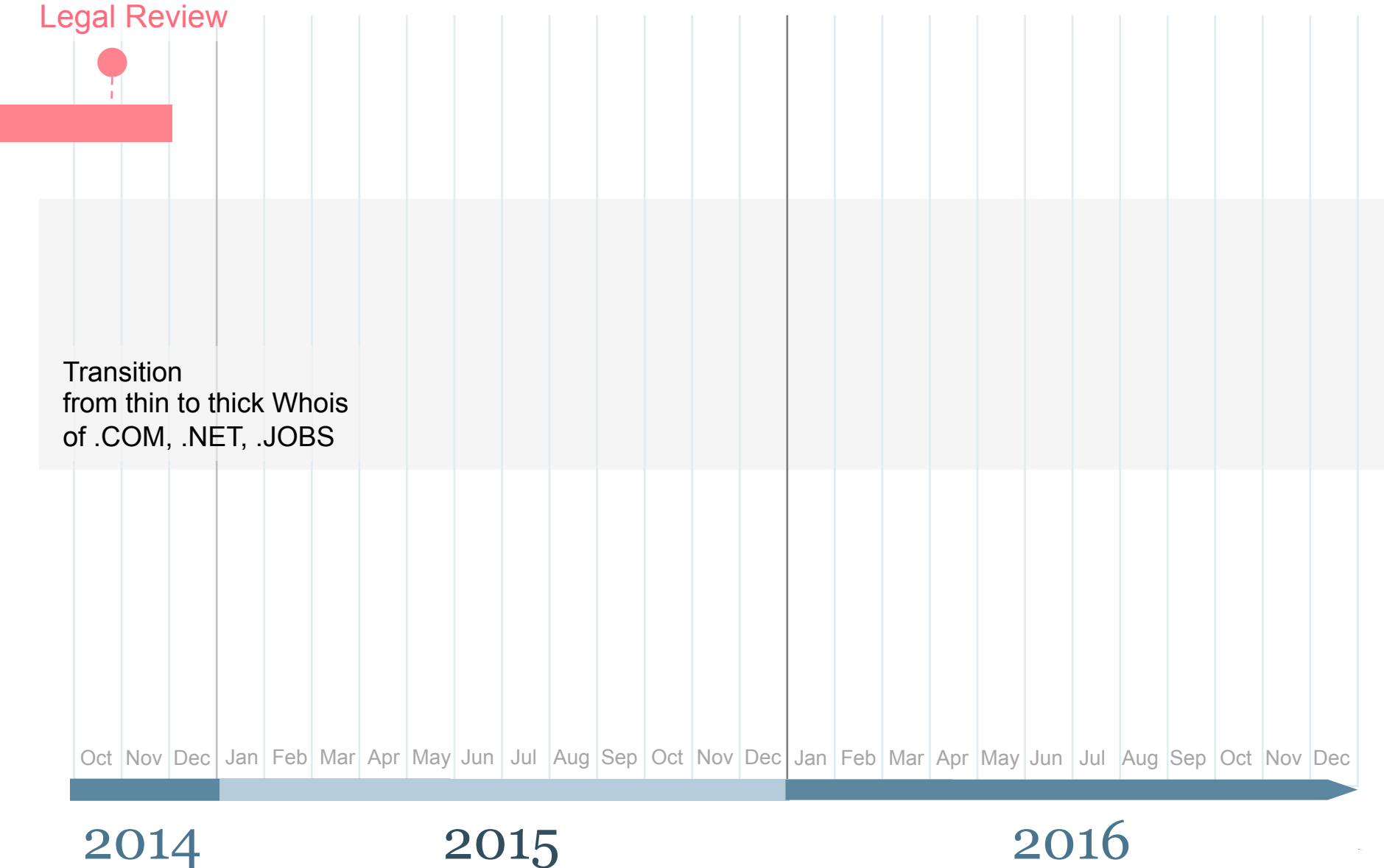
Transition
from thin to thick Whois
of .COM, .NET, .JOBS

Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

2014

2015

2016



Proposed Overall Timeline 2014-2016

Legal Review



Transition
from thin to thick Whois
of .COM, .NET, .JOBS

Consistent labeling
and display
of Whois output
as per RAA 2013

Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

2014

2015

2016



Proposed Overall Timeline 2014-2016

Legal Review



Preparation for implementation of transition



Implementation of transition by affected parties



Transition from thin to thick Whois of .COM, .NET, .JOBS

Consistent labeling and display of Whois output as per RAA 2013

Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

2014

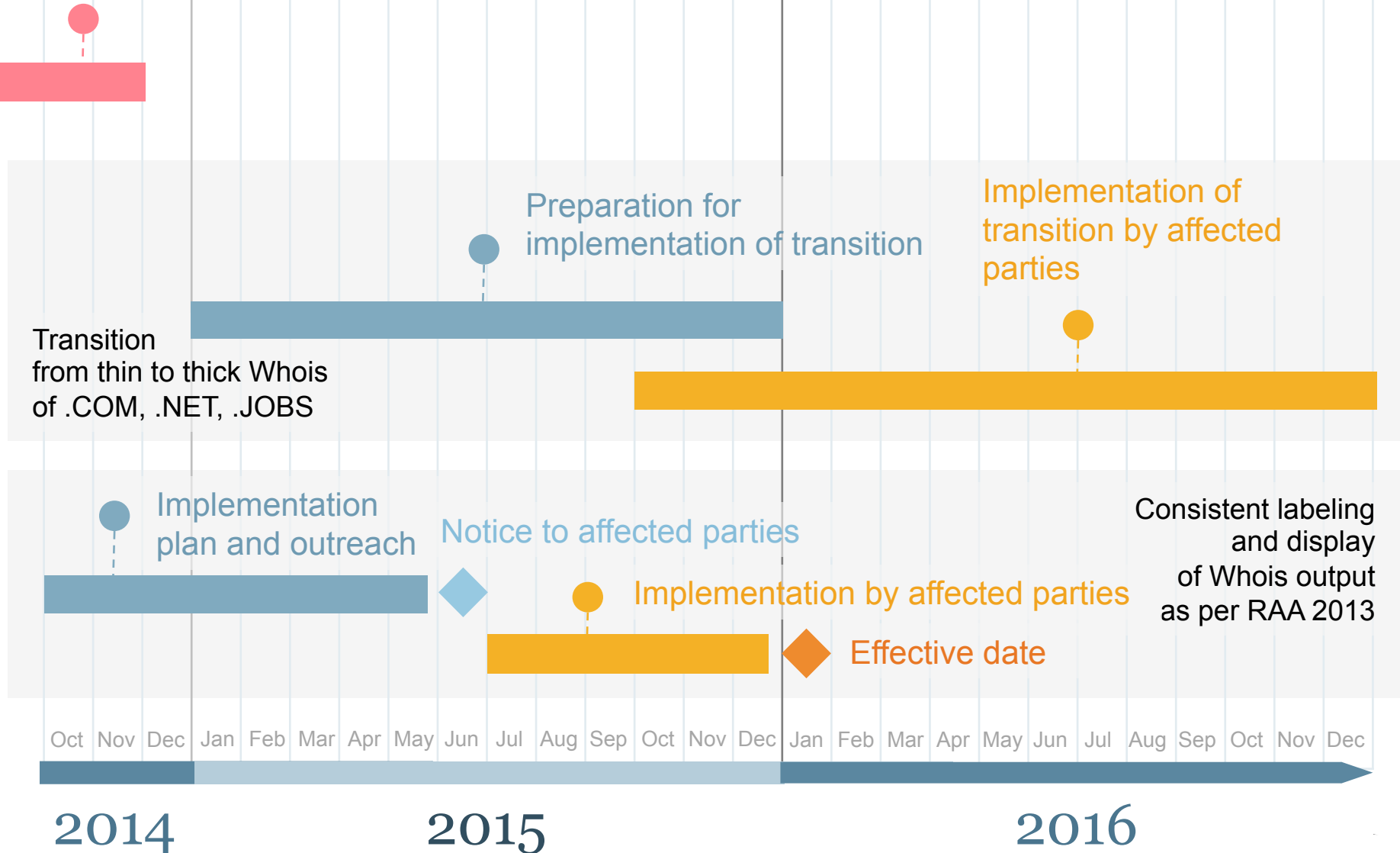
2015

2016



Proposed Overall Timeline 2014-2016

Legal Review



Proposed Next Steps (1)

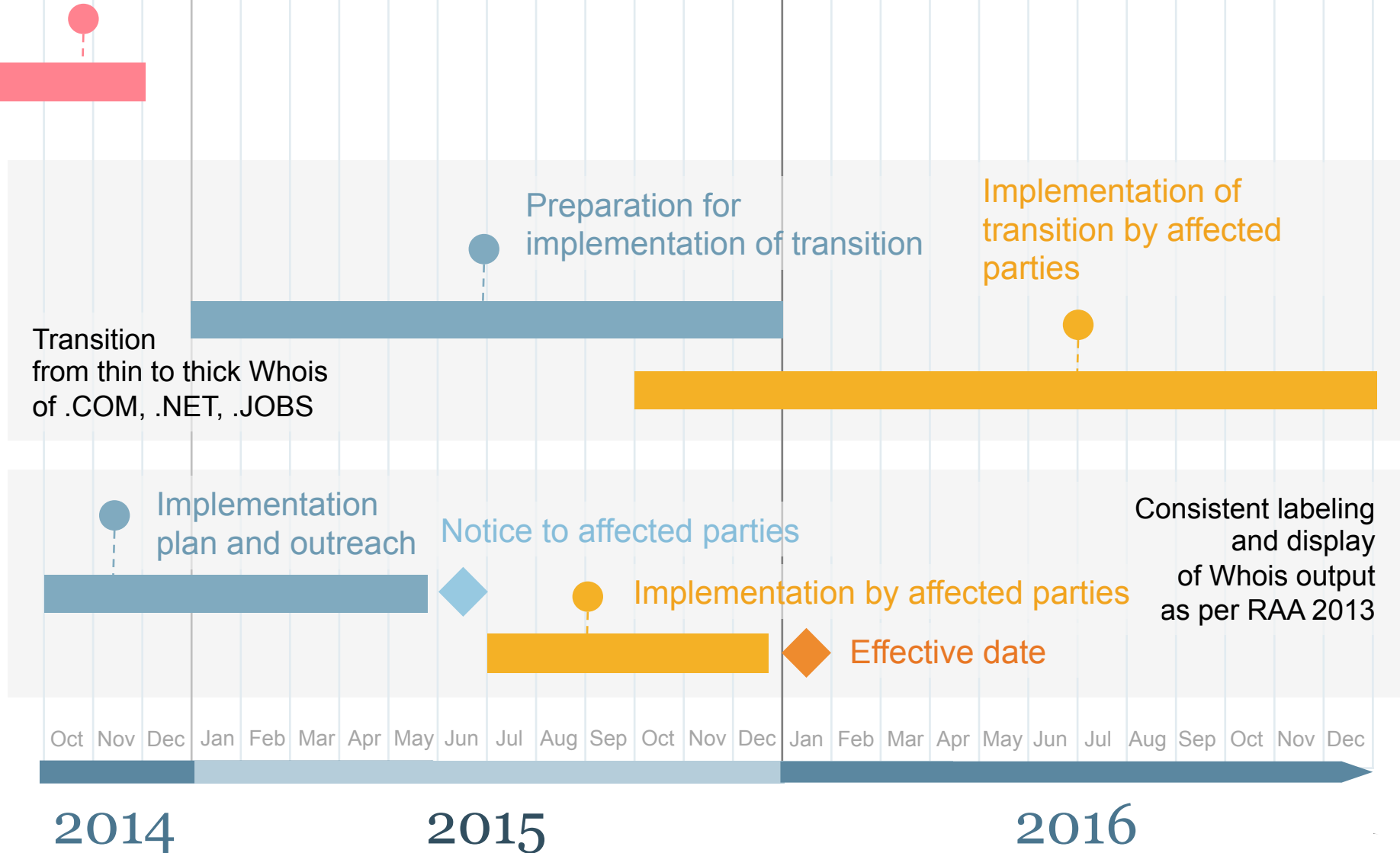
- Decoupling implementation of the two expected outcomes
 - Guideline for implementation from the WG Final Report
 - Benefit: Incremental and more timely delivery of outcomes
 - To be adressed:
 - More analysis of impact on affected parties of consistent labeling & display of Whois output per RA 2013
 - Detailed implementation plan
 - What requirement for Thin Whois Registries (not transitionned yet) ?

Proposed Next Steps (2)

- Inviting experts from parties most affected by the transition from thin to thick to work out implementation details

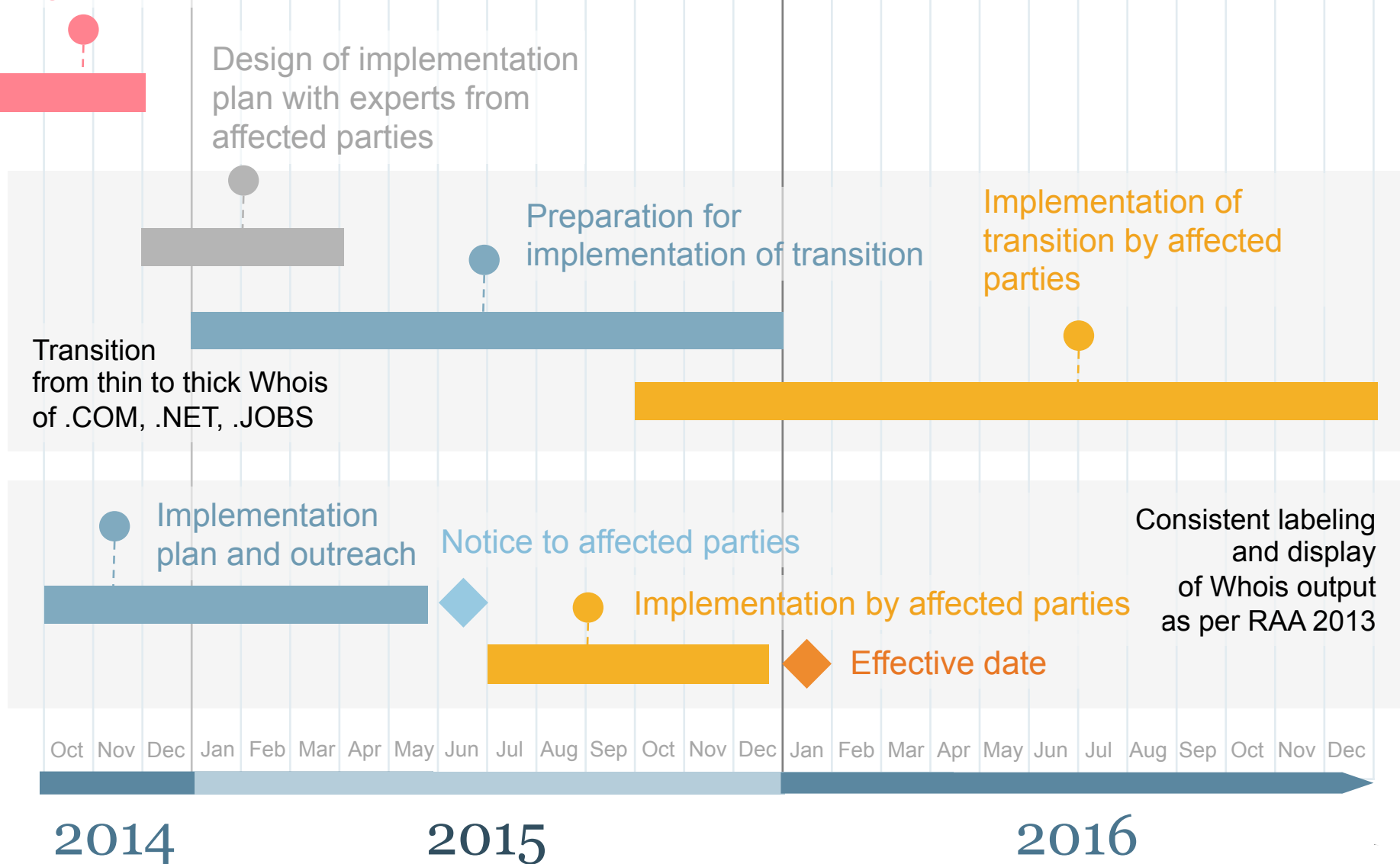
Proposed Overall Timeline 2014-2016

Legal Review



Proposed Overall Timeline 2014-2016

Legal Review



Proposed Next Steps (2)

- Inviting experts from parties most affected by the transition from thin to thick to work out implementation details
 - Who should be invited ? How should we reach out to them ?
 - How should these experts be assembled ? As a specific team, for a limited duration ? Or simply by joining the IRT ?

Proposed Next Steps (3)

- Discussing the opportunity of synchronizing Thick Whois Implementation with a potential roll out of RDAP
 - Registration Data Access Protocol (RDAP)
 - IETF development since 2012, stemming from SAC 051 Advisory for the ICANN community to evaluate and adopt a replacement to Whois
 - Expected Standardization of RDAP RFCs in the coming months
 - Potential synergies with thick Whois Implementation
 - Redirect features could help with potential data transfer issues
 - RDAP could be an incremental step towards a potential policy outcome from the EWG report

Proposed Next Steps (4)

- Next Meetings on Thick Whois Implementation
 - IRT Meetings
 - Thursday 30 October 14:00 UTC
 - Thursday 27 November 14:00 UTC
 - Experts Meetings on thin to thick Whois transition – TBD with IRT

Thank you
for your participation