



Registration Abuse Policies WG: Initial Report Information Session



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Background

- Registries and registrars seem to lack uniform approaches to deal with domain name registration abuse
- What role ICANN should play in addressing registration abuse?
- What issues, if any, are suitable for GNSO policy development?
- Registration Abuse Policies Pre-PDP Working Group launched in March 2009

Objectives

RAP pre-PDP WG tasked to address issues such as:

- What is the difference between registration abuse and domain name use abuse?
- What is the effectiveness of existing registration abuse policies?
- Would there be benefits to a more uniform approach by registries and registrars?
- What issues, if any, are suitable for GNSO policy development?
- Initial Report published on 12 Feb 2010

Initial Report – Definition of Abuse

Abuse is an action that:

- a. Causes actual harm and substantial harm, or is a material predicate of such harm, and
- b. Is illegal or illegitimate, or is otherwise contrary to the intention and design of a stated legitimate purpose, if such purpose is disclosed.

Notes:

- The party or parties harmed, and the substance or severity of the abuse, should be identified and discussed in relation to a specific proposed abuse.
- A predicate is a related action or enabler. There must be a clear link between the predicate and the abuse, and justification enough to address the abuse by addressing the predicate (enabling action).

Initial Report – Registration Abuse vs. Domain Name Use Abuse

- Understanding and differentiating between registration abuse and use abuse is essential in the ICANN policy context. See Issues Report and WG’s Initial Report.
- Registration abuses may occur at various points in a domain name’s lifecycle
- *Registration issues* are related to the core domain name-related activities performed by registrars and registries. (domain creation, transfers, Whois data, etc.)
- *Use issues* concern what a registrant does with the domain after it has been created, or the services the registrant operates on the domain.



Initial Report – Registration Abuses Explored

- WG developed a list of abuses, developed definition, determined what registration issues exist (if any), scope and policy issues involved
- Abuses covered include:
 - Cybersquatting
 - Front-running
 - Gripe sites; deceptive, and/or offensive domain names
 - Fake renewal notices
 - Name spinning
 - Pay-per-click
 - Traffic diversion
 - False affiliation
 - Domain kiting / tasting



Initial Report – Malicious Use of Domain Names

- Examples of malicious use: phishing, malware, spam.
- The question is what ICANN can reasonably do within its mission and policy-making boundaries. Malicious uses of domain names have limited but notable intersections with registration issues. (Example: WHOIS issues.)
- Issues discussed include intent, risk and indemnification, and the Expedited Registry Security Request (ERSR).
- All registrars and most if not all registries are already empowered to develop anti-abuse policies and suspend domains if they wish to do so.
- A key issue may be whether or not ICANN has the power to force contracted parties to suspend domain names for malicious uses.

Initial Report – Whois Access

Basic accessibility of Whois has inherent relationship with registration process abuses. Also a key issue related to malicious use of domain names

Findings:

- Thin-registry Whois data is not always accessible on a predictable, guaranteed, or enforceable basis.
- Users sometimes receive different Whois results depending on where or how lookup is performed.
- Problems with enforcement of existing registrar obligations.

Initial Report – Uniformity of Contracts

- Sub-team investigated questions related to desirability or not of uniform provisions related to registration abuse in registration agreements
- Detailed analysis, but no consensus on way forward

Initial Report – Meta Issues

- Number of attributes in common such as:
 - Discussed in various WGs and Advisory Groups
 - Scope spans different policies
 - Previous groups have discussed these issues without solution
 - Worthy of substantive discussion and action, but might not be suitable for policy development
- Uniformity of Reporting
- Collection and dissemination of best practices

RECOMMENDATIONS

Initial Report – Recommendations

Unanimous Consensus

Cybersquatting

The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider revisions to address cybersquatting if appropriate. This effort should consider:

- How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process.
- Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated.

[This is not a recommendation regarding newTLD rights protection mechanisms – see below.]



Initial Report – Recommendations

Unanimous Consensus

Malicious Use of Domain Names

The RAPWG recommends the creation of non-binding best practices to help registrars and registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration. The effort should consider (but not be limited to) these subjects:

- Practices for identifying and investigating common forms of malicious use (such as malware and phishing)
- Creating anti-abuse terms of service for inclusion in Registrar-Registrant agreements, and for use by TLD operators.
- Practices for identifying stolen credentials



Initial Report – Recommendations

Unanimous Consensus

Malicious Use of Domain Names (continued)

- Identifying compromised/hacked domains versus domain registered by abusers
- Practices for suspending domain names
- Account access security management
- Security resources of use or interest to registrars and registries
- Survey registrars and registries to determine practices being used, and their adoption rates.

Initial Report – Recommendations

Unanimous Consensus

Whois Access

The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.

The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN's new Affirmation of Commitments.

Initial Report – Recommendations

Unanimous Consensus

Whois Access (continued)

The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations.

Initial Report – Recommendations

Consensus

Fake Renewal Notices

#1. The RAPWG recommends that the GNSO refer this issue to ICANN's Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data.

Alternative view (supported by 1 member): There does not seem to be any policy that Compliance could enforce.

#2. *The following recommendation is conditional.* The WG would first like to learn the ICANN Compliance Department's opinions regarding Recommendation #1 above, and the WG will further discuss this recommendation: that the RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices.



Initial Report – Recommendations

Unanimous Consensus

Domain Kiting / Tasting

and

Front-Running

It is unclear to what extent domain kiting happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue (in conjunction with ongoing reviews of domain-tasting), and consider next steps if conditions warrant.

It is unclear to what extent front-running happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue and consider next steps if conditions warrant.



Initial Report – Recommendations

Unanimous Consensus

Meta Issue: Uniformity of Reporting

The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes.

Initial Report – Recommendations

Unanimous Consensus

Meta Issue: Collection and dissemination of best practices

The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support structured, funded mechanisms for the collection and maintenance of best practices.

Initial Report – Recommendations

Rough Consensus

Gripe sites; deceptive and/or offensive domain names:

Make no recommendation.

Alternative view (supported by 4 members):

The URDP should be revisited to determine what substantive policy changes, if any, would be necessary to address any inconsistencies relating to decisions on “gripe” names and to provide for fast track substantive and procedural mechanisms in the event of the registration of deceptive domain names that mislead adults or children to objectionable sites.

Initial Report – Recommendations

Strong Support but Significant Opposition

Gripe sites; deceptive and/or offensive domain names

WG turned down a proposed recommendation that registries develop best practices to restrict the registration of offensive domain strings.

Alternative view (supported by 5 members):

Registries should consider developing internal best practice policies that would restrict the registration of offensive strings in order to mitigate the potential harm to consumers and children.

Initial Report – Recommendations

Strong Support but Significant Opposition

Uniformity of Contracts

The RAPWG recommends the creation of an Issues Report to evaluate whether a minimum baseline of registration abuse provisions should be created for all in-scope ICANN agreements, and if created, how such language would be structured to address the most common forms of registration abuse. (8 members)

Significant Opposition:

Opposed to the recommendation for an Issues Report (5 members)



Initial Report – Recommendations

No Consensus

Cybersquatting: NewTLD Rights Protection Mechanisms

(Supported by 7 members of the RAPWG:)

The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the appropriateness and effectiveness of how any Rights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space.

(6 members of the RAPWG:)

The initiation of such a process is premature; the effectiveness and consequences of the Rights Protection Mechanisms proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program. Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space.

Your Input Requested

- Participate in the Public Comment Forum on the Initial Report (until 28 March): <http://www.icann.org/en/public-comment/#rap-initial-report>
- Review the Complete Initial Report <http://gnso.icann.org/issues/rap-wg-initial-report-12feb10-en.pdf>
- Translations of the Executive Summary available at <http://www.icann.org/en/public-comment/#rap-initial-report>

Next Steps

- RAPWG will review and analyze the comments received during the public comment period
- Update Report accordingly
- Presentation of Final Report to the GNSO Meeting in time for the ICANN meeting in Brussels
- GNSO Council to consider recommendations and decide on next steps

**COMMENTS?
QUESTIONS?**