

**ICANN's Summary of RAA Negotiations to Address Law Enforcement Recommendations
As of 3 June 2012**

	Summary of LE Recommendation	Status of Negotiation and Notable Issues
1	Registrar duty to investigate reports of illegal conduct, including responding to reports from law enforcement, and providing a system to track complaints.	<ul style="list-style-type: none"> • Agreement in principle regarding making abuse points of contact available, timely response and posting tracking process. • Amendments drafted, nearly final.
2	Registrar shall not engage in activities or conduct that results in: (i) a conviction by a court of competent jurisdiction of a felony or other serious offense related to financial activities; (ii) a judgment by a court of competent jurisdiction that Registrar has committed fraud or breach of fiduciary duty; (iii) the Registrar being the subject of a judicial determination that is the substantive equivalent of those offenses (i)-(ii); or (iv) the Registrar knowingly and/or through gross negligence, permitting criminal activity in the registration of domain names or in the provision of domain name WHOIS information, after failing to promptly cure such activity after notice thereof.	Referring to specific sections: <ul style="list-style-type: none"> • (i-iii) essentially already in the termination section of the agreement. • (iv) is problematic w/o a court determination, ICANN and registrars negotiating on ICANN-suggested language; registrars requesting “finality” that would make the provision difficult to enforce. • ICANN is requesting stronger termination rights within the agreement, including reference to cybersquatting; registrars have responded; language still under negotiation.
3	Registrar collection of data regarding registrations in addition to the language already collected.	<ul style="list-style-type: none"> • ICANN and Registrars agree on many of the items for collection, however remain at variance on the length of retention period (in some cases, 6 months from creation (registrars) v. 2 years after life of registration for all data (ICANN)).
4	Registrar abuse contact – posting of contact information and having a contact available around the clock.	<ul style="list-style-type: none"> • Agreement that a specific abuse contact will be made available as well as a commitment for a timely for response. • See item 1 further information.
5	Publication of registrar information, including contact details, as well as regular updates to ICANN regarding	<ul style="list-style-type: none"> • Agreed. The RAA (3.17.1) will now require registrars to provide updates to ICANN of the type of information that

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	changes in registrar business information	is required upon application for accreditation. Registrars wish to publish physical location for service but do not wish to publish physical locations (operational or physical offices) that would compromise security. Registrars also have concerns regarding publication of officer/controlling company identification on Registrar's website.
6	Disclosure of affiliated registrars and affiliated businesses	<ul style="list-style-type: none"> • The updating requirement in response to item 5 requires this disclosure. • Negotiations are focusing on the scope of definition of affiliated registrars and businesses.
7	Privacy and Proxy Services – Escrow, Reveal and Relay	<ul style="list-style-type: none"> • Agreement in principle that ICANN accreditation of proxy services can be adopted. ICANN may establish a proxy and privacy accreditation system, and once implemented, registrars will only accept registrations through privacy or proxy services if those services are accredited. • ICANN is asking for escrow of all underlying data in the interim period. Registrars have agreed as it relates to registrations through Registrar; status of registrations through resellers is under discussion.
8	ICANN Accreditation of Proxy and Privacy Services	<ul style="list-style-type: none"> • See item 7.
9	Accountability of Resellers – Resellers must be held completed accountable to all provisions of the RAA.	<ul style="list-style-type: none"> • Remains under negotiation, nearing finality of language. Registrars propose that registrars should be responsible for all registrations, regardless of reseller, though negotiations are still underway regarding the reach of all requirements. Written agreements with resellers likely to be required.

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10	Registrar validation of registrant data	<ul style="list-style-type: none"> • ICANN and Registrars have three major areas of difference: pre-verification, annual re-verification, and verification of phone numbers, however there is agreement otherwise on the type of validation/verification that is possible. • Some registrars still maintain that this issue should be addressed through the policy process. • There are concerns that heightened verification requirements will encourage more registrations through proxy or privacy services. In addition, heightened verification requirements might raise privacy concerns. • Registrars are willing to undertake post-registration verification of one of the three proposed methods (i.e. email, phone or postal address) at the election of the registrar. Requirement to validate all three data points would be subject to a policy development process.
11	Whois service level agreements, with uptime minimums and specifying data update requirements.	<ul style="list-style-type: none"> • A Whois SLA appendix remains under negotiation.
12	Expansion of grounds of termination of RAA for criminal convictions, including “knowingly and/or through gross negligence permit criminal activity in the registration of domain names or provision of domain name WHOIS information...”	<ul style="list-style-type: none"> • See item 2.

Additional Registrar Asks

NOTE: For all items below, the concessions made in these areas are dependent upon reaching agreement on a full contract.

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- **Amendment Process:** The Registrars propose the adoption of an amendment process (similar to the amendment process in the gTLD registry agreement) that would require ICANN to negotiate directly with Registrars (as a group) and allow the Registrars to vote for adoption of amendments. The proposed amendments would then be posted for public comment. Registrars are currently considering various alternatives relating to the percentages of registrars required for approval of any amendment. ICANN is currently reviewing this proposal and considering additional mechanisms to allow for review to address, for example, Whois Review Team proposals without having to resort to a full amendment process.
- **Removal of Port 43 Whois Requirements:** The Registrars request removal of Port 43 Whois requirements for "thick" gTLDs (i.e. registries that publish full registrant contact details in the registry Whois output). ICANN is rejecting any change in this area for now, however ICANN has invited Registrars to produce a position paper to support this request and open the issue for public discussion.
- **Consensus Policy Development:** The Registrars are requesting a modification to the Consensus Policy section, to compile all areas where potential policies are suggested within the RAA, as well as to incorporate language equivalent to the Registry Agreement for New gTLDs. ICANN is reviewing the proposal and considering whether amending this section would have any unintended effects. ICANN is prepared to adopt much of the language, as it will add precision to the contract, but is not prepared to adopt language that would force ICANN to use the policy process in order to issue any new or changed specifications.
- **Automatic Accreditation in New Registries:** The Registrars propose that Registrars shall be automatically accredited to serve as a registrar within all registries, subject to entering into a registry-

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registrar agreement with the registry. ICANN agrees that any benefits to individually accrediting each registrar for each particular gTLD are outweighed by the significant administrative burdens on registrars, registries, and ICANN.

Additional ICANN Asks

- **Streamlined Arbitration:** To combat the delays that ICANN has faced in prior arbitrations, ICANN is requesting that only one arbitrator be required to hear disputes, instead of the three currently required. The Registrars appear to have agreed to this request.
- **Limitation of Time for Request for Stays:** While a Registrar will still have the opportunity to request a stay of arbitration, ICANN is requesting a time limitation for the arbitration provider to rule on the stay. The Registrars appear to have agreed to this request.