

Proposed Final RAA Posted for Public Comment

22 April 2013

After an extended period of negotiations, the Proposed Final 2013 Registrar Accreditation Agreement (RAA) is being posted for public comment.

On 7 March 2013, ICANN posted its version of the 2013 RAA for public comment, noting some areas of disagreement between ICANN and the Registrar Negotiating Team (NT). In addition, some of the specifications posted for comment were ICANN versions only, and had not been fully reviewed by the Registrar NT prior to posting. Since the 7 March posting, the Registrar NT has engaged in frequent negotiation sessions with ICANN to bring closure to the remaining negotiation topics and to consider the community comments received from the 7 March 2013 posting. As a result, at ICANN's public meeting in Beijing, ICANN and the Registrar NT announced that they had reached agreement in principle on each of the outstanding items highlighted in the March posting version. The documents posted today reflect ICANN and the Registrar NT's agreements and are the Proposed Final 2013 RAA.

The Proposed Final 2013 RAA now includes provisions addressed to improve the image of the domain industry and to protect registrants through a further updated contractual framework. ICANN and the Registrar NT worked closely to consider all issues within the negotiations and the RAA posted today reflects hard-fought concessions on many of key issues raised throughout the negotiations. The public comments received on the 7 March posting version recognize that the 2013 RAA, if adopted, represents a significant improvement over the current 2009 version, and significantly raises performance requirements for every ICANN accredited registrar, thereby bringing dramatic improvements to the domain name ecosystem.

The highlights of this proposed 2013 RAA include:

- **The 12 Law Enforcement Recommendations** that served as the impetus for these negotiations are all addressed in this proposed draft. The attached Law Enforcement Summary Chart identifies the section or specification of the 2013 RAA that addressed each recommendation. Some of the highlights include the creation of an abuse point of contact at each registrar, Whois verification and validation requirements at the registrant and the account holder levels, stronger language on registrar obligations for resellers, and new data retention obligations.
- **Enhanced Compliance Tools** including broader suspension and termination tools, clarification of audit rights and access to information to facilitate ongoing investigations, and annual certification requirements.
- **A Registrant Rights and Responsibilities Document** that sets out, in clear and simple language, the rights and responsibilities that are set out in the

2013 RAA, such as the types of information that registrants can expect to be made available to them about terms and conditions of registrations, fees and customer service processes. The document also emphasizes the registrant's role in providing accurate contact information, and responsibilities in maintaining domain name registrations. These enumerated rights and responsibilities are not comprehensive of all registrant rights and responsibilities set out in consensus policies, however this document is closely tied to the terms of the 2013 RAA.

- **Registrar Responsibility for Reseller Compliance** with all appropriate terms of the RAA.
- **Consolidation with the Registry Agreement for New gTLDs.** Where appropriate, ICANN and the Registrar NT have agreed to mirror language from the Registry Agreement, to allow for contracts that are better aligned. The New gTLD Registry Agreement and the 2013 RAA are anticipated to complement each other as Registries and Registrars move towards agreements that better reflect the changing marketplace.
- **Proxy and Privacy Provider Interim Requirements.** ICANN and the Registrar NT have agreed to interim protections that will be in place for proxy and privacy services offered through registrars. These interim protections will require that information is made available on items such as customer service processes and when a provider will relay information on the underlying user of the domain name registration. While these are not comprehensive of the protections that some have requested to be put in place for proxy and privacy providers, these interim protections will provide a more responsible marketplace until a formal accreditation program is developed.

Negotiations Drawn to a Close

This is the third version of the RAA posted since the negotiations started at the end of 2011. In June 2012, the ICANN community was given its first opportunity to see the advancements within the negotiations when a draft RAA was posted in advance of ICANN's meeting in Prague, Czech Republic. After public sessions at the Prague meeting and in October 2012 at the ICANN Meeting in Toronto, Canada, and continued negotiations, on 7 March 2013 a new version was posted for comment. That version highlighted a few areas where differences remained between ICANN and the Registrar NT, and set out ICANN's proposed language in other areas where there appeared to be agreement in principle among the negotiating teams.

After that 7 March 2013 posting, ICANN and the Registrar NT continued negotiations in earnest, meeting nearly every other day. Part of those discussions included the comments received through the public comment forum. The Summary

and Analysis of the Public Comment Forum describes how the comments, where appropriate, were integrated into the negotiations. The Summary and Analysis also makes clear that some of the longstanding issues within the ICANN community, such as broader changes to Whois, or imposing additional interim requirements for privacy or proxy services, were not brought back into the negotiations. Instead, those items are appropriate for consideration in the policy development work that is expected soon within ICANN. After parsing through comments, and continuing negotiations on the areas of difference, ICANN and the Registrar NT now present the new proposed 2013 RAA.

ICANN and the Registrar NT are very interested in seeing the community response to this proposed 2013 RAA. In particular, comments on those items that have resolved and changed since the 7 March 2013 posting will be of assistance in determining if the correct balance has been reached in this new RAA.

To assist in understanding the evolution of these documents, ICANN is providing a few comparative redlines for the community's review. For the base RAA, there are redlines to both the 2009 RAA that is in force today, as well as the 7 March 2013 version that was posted for comment. All specifications are provided with redlines to the versions that were posted on 7 March 2013. For a few of the specifications, ICANN is also providing redlines to the June 2012 versions as a point of information. In addition, a Summary of Changes explaining all changes from the 2009 version is provided.

Next Steps

At the conclusion of the public comment, ICANN and the Registrar NT will review the comments received to determine if further modifications to the 2013 RAA are needed. It is important to note that much of the 2013 RAA represents a careful balance of negotiated positions; large-scale change as a result of comments is not anticipated. However, the community positions on the RAA, and particularly how the Registrar NT and ICANN have addressed the remaining areas of difference, will be carefully considered prior to moving forward with the 2013 RAA.

After revision, if any, the ICANN Board will be requested to approve the execution of the 2013 RAA. At that time, eligible registrars will be able to sign the agreement. ICANN and the Registrars will both have operational work to do to transition to the new obligations of the 2013 RAA, so all will have to move forward with that transitional planning and work. While best efforts have been made to identify all sections where time for transition is needed, there is the possibility that additional clauses may have to be included into the transition addendum to allow for an orderly move to the new obligations.

The proposed 2013 RAA that is posted today has been long awaited by many. ICANN thanks the members of the Registrar NT for their hard work and countless hours in negotiations and in discussions with their community to bring us to the

point where we can post this negotiated document. The members of ICANN's negotiating team thank them for the constructive dialogue and tireless work they have contributed to bring this agreement to where it is today.