

## Report of Recommendations

Date statement submitted: **15 January 2018**

Reference URL: <https://www.icann.org/public-comments/cct-recs-2017-11-27-en>

### Background<sup>1</sup>

- The purpose of the 2nd call for input is to gather community input on **new sections that have been added to the draft report.**
  - The CCTRT plans to publish its final report in Q1 2018.
  - The new sections pertain to
    - **DNS Abuse**  
Based on: *Statistical analysis of DNS abuse in gTLDs* ([link to study](#))  
(RySG commented on this analysis: [link to RySG comment](#))
    - **Cost to trademark holders**  
Based on a survey by the International Trademark Association INTA ([link](#))
    - **Parking and consumer choice**
  - **New Sections to the CCTRT draft report:** <https://www.icann.org/en/system/files/files/cct-rt-draft-recs-new-sections-27nov17-en.pdf>
  - CCTRT Draft report March 2017 ([link to report](#))  
RySG comment on the March 2017 Draft Report: [link to RySG comment](#)
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Registries Stakeholder Group (RySG) comment:

### **I. Introduction**

The unprecedented size and scope of namespace expansion resulting from the New Generic Top-Level Domain (gTLD) Program makes review of *any* of its components a significant and challenging undertaking. The RySG commends and thanks the CCTRT for its hard work and dedication to fulfilling a key element of the Affirmation of Commitments (AoC) by conducting this review.

registrars. To the extent that this recommendation pertains to new gTLD registries, that would put ICANN org in the position of endeavoring to prevent the use of registrars that it accredits, which will likely violate a registry's equal access obligations. This recommendation attempts to force gTLD registries to do what ICANN cannot: indirectly control resellers. ICANN must not shift its Contractual Compliance responsibilities to ROs, which this Recommendation effectively seeks to do.

- **The RySG strongly disagrees with the proposal to create a DNS Abuse Dispute Resolution Procedure (DADRP)** and supports the rationale of the Minority Statement included in the report. The proposal is premised upon the false assumption that registries are directly responsible for abuse within their TLDs; however, registries generally have no direct relationship with registrants and little control over how domains are used once registered. As is acknowledged in the CCT-RTs own report, registry-level safeguards have proven ineffective at reducing DNS abuse. Further, registries with the concentrations of abuse contemplated within the section are a small few, and are readily identifiable without relying upon a third party trigger. Improvements should be made to the existing compliance function rather than relying upon a whole new procedure to handle enforcement in a very narrow subset of cases, where there is no evidence that such a procedure is necessary or would be effective in achieving its intended aim. The alternative of creating the DADRP creates uncertainty and potential operational burden for registries without clear benefit.

**ments on the Recommendations**

**roduction to the Competition and Consumer Choice Analysis**

**tion 5:** (red = new text)  
**data.**

**ed findings:** The high incidence of parked domains suggests an impact on the competitive landscape, but a frustrates efforts to analyze this impact.

should regularly track the proportion of TLDs that are parked with sufficient granularity to identify trends and global basis. **Future reviews should conduct further analyses of whether there is a correlation between s and renewal rates or other factors that may affect competition. Further analysis should be performed ship between parking and DNS abuse.**

**res:** The availability of relevant data for use by the ICANN organization, contractors and the ICANN its work in evaluating competition in the DNS space.

<p><b>To</b>          ICANN          organization</p>	<p><b>Priority</b>          High</p>
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*it on March 2017 report:*

*usly is in favor of increasing usage. However, while this data could be useful, it's unclear how, in the end, it would be put to use by the ICANN ity.*

*it on new sections:*

udies that the CCT-RT undertook to measure the impact of parking on both competition and rates of DNS abuse returned inconc ew sections of the report put forth a number of possible hypotheses that could be explored, but which have no demonstrable, cc he absence of a documented problem, the RySG believes additional studies on parking are unnecessary at this time and are an ir s shrinking resources.

ICANN adopts this recommendation and dedicates resources to study parking further, the RySG recommends that ICANN take a scrutinize the utility and validity of those studies, without pre-supposing the outcomes of any studies.

**Safeguards (new recommendation)**

**Option A:**

**Urging ICANN org, in its discussions with registries, to negotiate amendments to existing Registry Agreements, or in negotiations of new Registry Agreements associated with subsequent rounds of new gTLDs, to include provisions in the agreements to provide incentives, including financial incentives for voluntarily open registries, to adopt proactive anti-abuse measures.**

**Key findings:** The new gTLD safeguards alone do not prevent technical abuse in the DNS. Abuse rates are influenced by registration restrictions imposed on registrants and registration prices may influence rates too. Some registries are currently designed to have strict registration policies and/or high prices. However, a free, open, and competitive market will invariably include registries with open registration policies and low prices that must adopt other measures to prevent technical DNS abuse. Registries that do not impose registration eligibility restrictions can reduce technical DNS abuse through proactive means such as identifying repeat offenders, monitoring suspicious registrations, and detecting abuse instead of merely waiting for complaints to be filed. Therefore, ICANN should incentivize the implementation of proactive anti-abuse measures by such registry operators to reduce technical DNS abuse in gTLDs.

ICANN Board should consider urging ICANN org to negotiate with registries to include in the registry agreement discounts available to registry operators with open registration policies that implement proactive measures to prevent technical DNS abuse in their zone.

**To:**  
ICANN Board, the  
Registry  
Stakeholders  
Group, the  
Registrar  
Stakeholders  
Group, the Generic  
Names Supporting  
Organization and  
the Subsequent  
Procedures PDP  
WG

**Priority:**  
High

[Comment on new recommendation:](#)

ICANN supports recognizing and supporting the many ROs that take steps to discourage abuse, but opposes amending the RA as recommended to incentivize 'proactive' anti-abuse measures.

The recommendation raises a number of questions, including what types of anti-abuse measures would qualify for what types of incentives. Upon definition of abuse, this could be challenging. Coming to such a definition will, as the RySG knows from experience, be a long and difficult process, and, depending on which, the parties must negotiate the relevant registry agreement amendments.

ICANN will ensure proper countermeasures are in place when engaging in lower price selling, there is no guarantee that existing benefits will be maintained, or live up to their obligations under any such program, resulting in no net improvement to the current state.

In reference to the suggested inclusion of proactive abuse mitigation within the Registry Agreement, it is noted that such contractual provisions may have the potential to create an increased risk of legal liability for the registry operator. Should contracted parties accept a final recommendation, ICANN will ensure proper countermeasures are in place when engaging in lower price selling, there is no guarantee that existing benefits will be maintained, or live up to their obligations under any such program, resulting in no net improvement to the current state.

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in for undertaking proactive abuse mitigation, a substantial risk occurs that should they fall short in this task (fail to discover (an use harm or loss (e.g. phishing, malware dissemination, botnet/C&C)). A registry operator, having accepted a specifically prevent in their RA, would be at a distinct legal disadvantage if attempting to disclaim liability, were they joined to any action arising out

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**guards (new recommendation)**

**tion B:**

**ing ICANN org, in its discussions with registrars and registries, to negotiate amendments to the Registrar Accreditation Agreement and Re include provisions aimed at preventing systemic use of specific registrars for technical DNS abuse.**

<p><b>ed findings:</b> Current policies focus on individual abuse complaints. However, registrars and registry associated with extremely high rates of technical DNS abuse continue operating and face little incentive to al DNS abuse. Moreover, there currently exist few enforcement mechanisms to prevent systemic domain associated with resellers. Systemic use of particular registrars and registries for technical DNS abuse security and stability of the DNS, the universal acceptance of TLDs, and consumer trust.</p> <p>ANN Board should consider directing ICANN org to negotiate amendments to the Registrar Accreditation Registry Agreement provisions aimed at preventing systemic use of specific registrars for technical DNS guage should impose upon registrars, and their affiliated entities such as resellers, a duty to mitigate buse, whereby ICANN may suspend registrars and registry operators found to be associated with normal and extremely high rates of technical abuse. ICANN must base such findings on multiple verifiable and such findings may be rebutted by the registrar upon sufficient proof that the findings were following factors may be taken into account when making a determination: whether the registrar or or 1) engages in proactive anti-abuse measures to prevent technical DNS abuse, 2) was itself a victim in tance, 3) has since taken necessary and appropriate actions to stop the abuse and prevent future its services for technical DNS abuse.</p>	<p><b>To</b> ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization and the Subsequent Procedures PDP WG</p>	<p><b>Priority</b> High</p>
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[t on new recommendation:](#)

ngly opposes this Recommendation. Specification 11 of the new gTLD Registry Agreement states that new gTLD Registry Operate N-accredited registrars. To the extent that this recommendation pertains to new gTLD registries, that would put ICANN org in the g to prevent the use of registrars that it accredits, which will likely violate a registry's equal access obligations. This recommend: rce gTLD registries to do what ICANN cannot: indirectly control resellers. ICANN must not shift its Contractual Compliance respo this Recommendation effectively seeks to do.

lditional policies or provisions to promote behavior beyond what is already mandated in registry and registrar agreements sugge ement of existing policies should be prioritized. If bad actors are identified, action should be taken by ICANN to discipline or de- as occurs with other breaches of ICANN's agreements.

the RySG opposes any scheme in which a contracted party is deemed guilty until it proves its innocence. ICANN has shown a gre

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rough its DAAR program to consider third-party (“3P”) abuse monitoring services to be “multiple verifiable reliable sources” when not been vetted or reviewed by the community. ICANN must not suspend a contracted party and potentially destroy its reputational sources.\*\* This is particularly true for ROs that are, or are affiliates of, publicly traded companies. ICANN’s willingness to do – especially org has repeatedly stated its refusal to accept any liability for this potential damage – is irresponsible and inconsistent with ICANN’s policy. ICANN strongly objects to placing the business and reputations of contracted parties at the whim, error, or (mis)interpretation of 3Ps.

ICANN must take into account that each of the 3P sources ICANN uses for DAAR has its own, independent (i.e. not controlled by any standard) definition of abuse. So does each contracted party. No community-defined process exists to classify a 3P abuse report of conduct against a party’s “abuse” definition, but does not violate the relevant contracted party’s “abuse” definition. ICANN must openly and transparently address these and other concerns before it releases and relies upon DAAR.

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**guards (new recommendation)**

**tion C:**

**he relationship between specific registry operators, registrars and DNS abuse by commissioning ongoing data collection, including but not Abuse Activity Reporting (DAAR) initiatives. For transparency purposes, this information should be regularly published in order to be able egistrars that need to come under greater scrutiny and higher priority by ICANN Compliance. Upon identifying abuse phenomena, ICANN s plan to respond to such studies, remediate problems identified, and define future ongoing data collection.**

**ed findings:**

Study commissioned by the CCT-RT identified extremely high rates of abuse associated with specific registrars as well as registration features, such as mass registrations, which appear to enable abuse. Study concluded that registration restrictions correlate with abuse, which means that there are many h to account in order to extrapolate cross-TLD abuse trends for specific registry operators and registrars. Study has highlighted certain behaviors that are diametrically opposed to encouraging consumer trust in n registries and registrars appear to either positively encourage or at the very least willfully ignore DNS ravior needs to be identified rapidly and action must be taken by ICANN compliance as deemed

ditional studies need to be of an ongoing nature, collecting relevant data concerning DNS abuse at both d registry level. The data should be regularly published, thereby enabling the community and ICANN particular to identify registries and registrars that need to come under greater compliance scrutiny and ch behavior eradicated.

To	Priority
ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization and the Subsequent Procedures PDP WG, SSR2 Review Team	High

[t on new recommendation:](#)

ports the recommendation that ICANN conduct ongoing research on DNS abuse, but cautions against using the DNS Abuse Study rns and strongly opposes the use and publication of data from DAAR.

G respects the intent and efforts of the researchers who conducted the DNS Abuse Study, the RySG believes the study is flawed : the basis for any decisions. These flaws include: The study is self-referencing and in many cases only references prior work by th he Reference list in the study where the authors repeatedly quote themselves). The study makes conclusions for which it provid :he text (despite no data about price, and only mentioning price twice as a sidenote, the study concludes that lower prices might e study circularly relies on the statements of the tools it chose to use (i.e. citation to Spamhaus itself for its assertion that Spamh



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se positive list”).

It opposed to ongoing anonymized data collection to learn more about abusive behaviors but strongly recommends that the res is required to provide clear reports that link every conclusion to a specific data point and analysis. Even though the RySG does note th is some positive, and well-researched findings based on data (such as the findings that most new gTLDs are not havens for abuse quality of the study is lacking enough that care should be taken when interpreting all of the results.

As mentioned previously, ICANN has created DAAR behind closed doors, with no community consultation, and determined which ly on, without input from the community. ICANN has apparently, in determining how “trusted” these 3Ps are, relied on the cost- porate IT departments that pay for filtering rather than the needs and interests and concerns of the community, and particularly rties. Although there is much benefit to be had in establishing reliable tools for the measurement and mitigation of abuse, which e ultimate aspiration for the DAAR project, any current reliance on DAAR is exceptionally premature. The CCT-RT should not reco o monitor or police contracted parties, until the community has had a chance to discuss and debate the impact, benefits and risk tuencies. In particular, the CCT-RT should not recommend that ICANN publish the data from DAAR until there is a mechanism in | mmunity concerns that does not jeopardize the reputation or business of the RO without a fair and impartial investigation, and li its potential liability for reliance on DAAR.

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**guards (new recommendation)**

**tion D:**

**ispute Resolution Policy ("DADRP") should be considered by the community to deal with registry operators and registrars that are identified as abusive (to define, e.g. over 10% of their domain names are blacklisted domain names). Such registry operators or registrars should be required to a) explain to ICANN Compliance why this is, b) commit to clean up that abuse within a certain time period, and / or adopt stricter a certain time period. Failure to comply will result in a DADRP, should ICANN not take any action themselves.**

**ed findings:** The DNS Abuse Study commissioned by CCT-RT identified extremely high rates of abuse specific registries. It is important to have a mechanism to deal with this abuse, particularly if it's certain registries. Abusive behavior needs to be eradicated from the DNS and this would provide an to combat that abuse.

**in team:** Majority consensus but not unanimity (see Minority Statement in Appendix 6.1 Minority

Compliance is one route to dealing with this high level of DNS abuse, enforcing existing and any the Registrar Accreditation Agreement to prevent systemic use of specific registrars for technical DNS recommendation 2. However, in addition, a specific DADRP should be considered as it could also be very ing with such DNS abuse, and it could also serve as a significant deterrent and help prevent or minimize of DNS abuse. Registry operators or registrars that are identified as having excessive levels of abuse (to example where a registry operator has over 10% of their domain names blacklisted by one or more blacklists (StopBadware SDP, APWG, Spamhaus, Secure Domain Foundation, SURBL and CleanMX). A set out specific penalties. Examples from the DNS Abuse Study of new gTLDs with over 10% of their blacklisted, according to Spamhaus for example are .SCIENCE (51%), .STREAM (47%), .STUDY (33%), .0%), .CLICK (18%), .TOP (17%), .GDN (16%), .TRADE (15%), .REVIEW (13%), and .ACCOUNTANT (12%). these registries should be obliged to review their second level domain names being used for DNS abuse y this is, commit to cleaning these up within a certain timeframe, and adopt stricter registration policies if sure that there exist relevant contractual terms to effectively handle such registrations. If the domain are not cleaned up satisfactorily, and in the event ICANN does not take immediate action, then a DADRP t by an affected party. The process should involve a written complaint to the registry, time allotted for a the registry, and an oral hearing. Final decisions should be issued by an expert panel which could e or more enforcement mechanisms to be agreed upon by the community.

if this recommendation, a registrar acting under the control of a registry operator would be covered by is important to ensure that "registry operator" shall include entities directly or indirectly controlling,

<b>To</b>	<b>Priority</b>
ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization and the Subsequent Procedures PDP WG, SSR2 Review Team	High

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er under common control with, a registry operator, whether by ownership or control of voting securities, otherwise where 'control' means the possession, directly or indirectly, of the power to direct or cause the management and policies of an entity, whether by ownership or control of voting securities, by contract		
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[t on new recommendation:](#)

ngly disagrees with the proposal to create a DNS Abuse Dispute Resolution Procedure (DADRP) and supports the rationale of the this Recommendation.

erns about committing registry operators to be bound to a new DRP when our contracts with ICANN already require that we take use. The DADRP proposal is premised upon the false assumption that registries are directly responsible for abuse within their TLDs. Registries generally have no direct relationship with registrants and little control over how domains are used once registered. As is stated in the CCT-RTs own report, registry-level safeguards have proven ineffective at reducing DNS abuse. Further, registries with the most cases of abuse contemplated within the section are a small few, and are readily identifiable without relying upon a third party trigger. Enforcement should be made to the existing compliance function rather than relying upon a whole new procedure to handle enforcement in a small number of cases, where there is no evidence that such a procedure is necessary or would be effective in achieving its intended aim. The DADRP creates uncertainty and potential operational burden for registries without clear benefit.

again to the over reliance on 'blacklists' in this context. Whereas it can be accepted that data sourced from blacklists are useful in some cases, actual data remain formally unverified, and underlying evidence remains largely unavailable to any affected party. Its with much concern, the continued justification for the use of such sources based on nebulous concepts such as 'widespread use' and 'reputation', rather than verification of the underlying data. It has been publicly accepted by ICANN Compliance (ICANN 60 DNS Abuse Reporting & Mitigation) that the use of such blacklists alone at the aggregate level, would not be deemed sufficient to ground contractual enforcement, and a decision to suggest that the same sources are somehow suitable to similarly ground a DRP.

is DADRP would require a significant outlay of time, energy and resources from the community – especially considering that there is no notion of "abuse" – with little obvious benefit or return on that effort. In addition, this recommendation raises the possibility of involuntarily re-interpretation of our contracts, which is a proposition that the RySG cannot support. Any such step would require a GNSO PDP, at

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tion 40: (red = new text)

**Study An Impact Study** to ascertain the impact of the New gTLD Program on the cost and effort required to protect trademarks in the DNS at regular intervals to see the evolution over time as the New gTLD Program continues to evolve and new gTLD registrations increase. We would like to see the next Impact Survey be completed within 18 months after issuance of the CCTRT final report, and that subsequent studies be repeated. CCTRT acknowledges the fact that this was carried out in 2017 by Nielsen surveying INTA members and we encourage that to continue and for the studies to be more user friendly.

**Key findings:**

Costs vary considerably over time as new gTLDs are delegated and registration levels evolve. Repeating the study would enable a comparison over time.

Evolution over time will provide a more precise picture of costs as they evolve and track the effectiveness of the program in the Domain Name System.

**Notes:** The results of such Impact Studies would provide significantly more data to the relevant working groups by looking into RPMs and the TMCH as well as future ones, thereby benefitting the community as a whole. Future studies would then also be able to evolve appropriately in future CCT Review Teams.

**To**  
ICANN organization

**Priority**  
High

Change from March 2017 report: -

Change on new sections:

Recognizes the value in conducting this type of impact study, and that the complexity of the INTA Impact Study made it difficult for many to complete the questionnaire.

ICANN should take steps to ensure that any studies conducted are optimized to solicit meaningful and statistically significant data from a representative sample of respondents.

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**tion 41:** (red = new text)

the URS should be carried out and consideration be given to how it should interoperate with the UDRP. However, given the PDP Review c  
hanisms in All gTLDs, which is currently ongoing, such a review needs to take on board that report when published and indeed may not be  
ubstantial in its findings and if the report fully considers potential modifications.

~~ed findings:~~ The uptake in use of the URS appears to be below expectations, so it would be useful to  
reasons for this and whether the URS is considered an e ective mechanism to prevent abuse. It is also  
ll gTLDs to have a level playing field. The PDP Review of All Rights Protection Mechanisms in All gTLDs,  
g in parallel to this ccT Review Team, will contribute to this consideration with its report due in 2018. ~~is  
the URS during spring or early summer 2017 with a final report scheduled for January 2018. It would  
ting resources to create a separate review of the URS without the clarity of the PDP Review of All Rights  
hanisms in All gTLDs.~~ That Working Group’s report needs to be considered to set the scope of any review  
odifications.

w of the URS should cover potential modifications inter alia (1) whether there should be a transfer option  
ther than only suspension; (2) whether two full systems should continue to operate (namely UDPR and  
considering their relative merits, (3) the potential applicability of the URS to all gTLDs and (4) whether  
of di erent mechanisms applicable in di erent gTLDs may be a source of confusion to consumers and

res: Based on the findings, a clear overview of the suitability of the URS and whether it is functioning  
e way originally intended.

<b>To</b>	<b>Priority</b>
RPM PDP Working Group	Prerequi:
Generic Names Supporting Organization	

it on March 2017 report:

ceived benefit of this recommendation, what would the cost be to carry it out, and would the benefit exceed the cost?

it on new sections:

t this recommendation is already being followed through the work of the RPM PDP WG, which is reviewing the URS.

CANN’s policy development process, and for the sake of avoiding duplication of efforts, the RySG believes that allowing the RPM  
th its work is sufficient to meet this recommendation. However, the RySG notes that the CCT-RT has only provided a list of sugge  
n as to what issues or problems led to them. We believe it would be very helpful to the RPM PDP to include a reason for each su  
the GNSO Council will duly consider the findings and recommendations that the RPM PDP WG produces in its Final Report regar  
iew of new gTLD RPMs.

guards

tion 42: (red = new text)

Trademark Clearinghouse (TMCH) and its scope should be carried out to provides us with sufficient data to make recommendations and review.

ed findings: ~~It seems likely that a full~~ A cost-benefit analysis and review of the TMCH is necessary. The if the TMCH appears to be in question. The dra report of Trademark Clearinghouse Independent Review of s not been able to make definitive conclusions due to data limitations. We need to await the final report dent Review to finalize our recommendations. It is hoped that the INTA Impact Study will also provide at respect. Indeed the PDP Review of All Rights Protection Mechanisms in All gTLDs, which is running in CCT Review Team, will contribute to this consideration with its report due January 2018. That Working needs to be considered to set the scope of any review and potential modifications.

ppears to be considerable discussion and comment on whether the TMCH should be expanded beyond / identical matches and if it should be extended to include “mark+keyword” or common typographical ark in question. If an extension is considered valuable, then the basis of such extension needs to be clear.

res: The availability of adequate data to make recommendations and allow an e ective policy review of

To  
RPM PDP Working  
Group  
  
Generic Names  
Supporting  
Organization

Priority  
Prerequi:

it on March 2017 report:

*a review of the TMCH—it was lauded as a system that would be put to extensive use by rights holders, but that is far from the actual case. ceived benefit of this recommendation, what would the cost be to carry it out, and would the benefit exceed the cost?*

it on new sections:

rectfully requests that the CCT-RT provide additional detail about how it believes such a cost-benefit analysis should be undertak value it would add to the extensive evaluation of the TMCH already being undertaken by the RPM PDP WG.

l PDP WG has been reviewing the TMCH, it has not engaged in any specific cost-benefit analysis. Given that the WG is still under ENSO to be able to adopt this recommendation, additional guidance from the CCT-RT would be helpful.

requests that the CCT-RT consider balancing the benefits of such an analysis with the time and resources required to undertake