

Relevant Text From PDP Report	Specific Issue(s) for Implementation	Specific Question for IRT	IRT Feedback	Proposed Resolution
<p>(p. 7) "Registrars are not to knowingly accept registrations from privacy or proxy service providers who are not accredited through the process developed by ICANN."</p>	<p>Knowledge of an unaccredited privacy/proxy service provider acquired after a name is registered</p>	<p>What should a registrar be required to do when it acquires knowledge that an existing registration involves an unaccredited privacy or proxy service provider?</p>	<p><b>Volker Greimann (on-list, 11 Jan):</b> I cannot see any gap that would make an extension of registrar obligations necessary. Existing policies already sufficiently cover this question. If registrar becomes aware that one or more registrations involve such a service, either the whois accuracy policy applies, or the service iss treated as the registrant.</p>	<p>IRT members' feedback has not been consistent--there has been more support than opposition on the list and on calls to treat this situation as a WHOIS accuracy issue, but feedback in some cases has changed over time. Nonetheless, there appears to be general support for using the existing processes in the WHOIS accuracy specification to address this scenario. Staff requests additional clarification to draft an updated proposal for IRT review.</p>
			<p><b>Theo (on-list, 11 Jan):</b> Registrars already deal with made up privacy services by Registrant for whatever reason, and when the Registrar becomes aware, most of us treat it as an inaccurate whois and apply current procedures. Nothing new so far.</p> <p>The same logic can be applied when a Registrar becomes aware that domains are being registered through an unaccredited P/P service. The Registrar contacts the reseller or Registrant to correct the situation and use an accredited alternative P/P service within 15 days.</p> <p>I do not think we should come up with a system where we are going to report non-accredited P/P services to ICANN and create a lot of work for nothing. I expect we all got better things to do.</p>	

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			<p><b>Roger Carney (on-list, 11 Jan):</b> I think Theo is going down the right path and it should be simple, but I would like to add some additional ideas/thoughts.</p> <p>Theo mentions contacting the registrant and having them select/choose an accredited provider. I think we would want to leave the remedy solution up to the registrant, e.g. replace with an accredited provider, use their own information, delete the registration...</p> <p>One additional thought was on awareness/learning/teaching. One good reason I could see to notify ICANN of this incident is for an awareness/teaching opportunity. A provider may not be aware they are required to be accredited. I think that if a Registrar detects a pattern of use of an un-accredited provider they should notify ICANN and ICANN would work with the identified provider on awareness/accreditation.</p>	
			<p><b>Theo Geurts (on 1/31 call):</b> I'm not sure if this approach would be applicable. This is a very complex matter--can't use the WHOIS Accuracy Specification on WHOIS information that might be accurate. WAPS is only a 15-day time limit before we start pulling names offline. There are some pretty large unaffiliated PPs out there and if we start applying that mechanism we could potentially take offline a boatload of domain names where the WHOIS info is actually correct and the registrant is actually reachable so I am a bit hesitant to just throw this specification onto a large group of customers here.</p>	
			<p><b>Alex Deacon ( on 1/31 call)</b> My initial reaction is that using WAPS would be a good choice to consider here.</p>	
			<p><b>Susan Kawaguchi (on 1/31 call):</b> If others are aware of these large unaffiliated PPs this seems like a good opportunity to reach out and tell them you need to become accredited; this seems like a Compliance issue; also what if an individual in their own enforcement suspects or is told (as a registrar)—that the registrant is just a proxy, then can I report that as an inaccurate WHOIS and would ICANN compliance take action on that?</p>	
			<p><b>Tom Kinstler (on 1/31 call):</b> I think it is quite simple that where there is an unaccredited PP, the Rr can contact the client and tell them to fix the issue or the Rr will have to suspend the name</p>	

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			<p><b>Theo Geurts (on list, 6 February):</b> Perhaps Registrars and staff want to have a good look at what we are currently creating here. We are talking about suspension and or use WAPS. We are going to apply these procedures regarding some real old data and individuals and or resellers who try to protect the privacy of their customers for actually very good reasons. This can lead to abuse, and I think we as an IRT need to come up with solutions that are not open to abuse and make sure we get to some transition rules that ensure things are solved in a natural and organical matter without people having their domains suspended and yet make sure we have the means to deal with non accredited privacy providers. When I say abuse, let's look have a look at the current draft. It takes one individual to do a reverse whois on privacyprotect.org wich currently, protects the privacy of 1,511,044 domain names. As soon the PPSAI consensus policy comes into effect, this privacy provider becomes "rogue." Hunting season can commence, and one individual could report 1,511,044 WAPS incidents. Under WAPS, Registrars have 15 days to clean it up. Folks, this is not what we want. PPSAI should not become a tool to take down domain names in bulk for whatever reason. We have a responsibility here to the registrants who paid good money for a privacy service for most likely obvious reasons. I think we can all agree on this?</p>	<p>This concern could be addressed by developing a grace period, soft launch, or possbily delayed enforcement of requirements for existing registrations.</p>
			<p><b>Chris Pelling (on list 6 Feb)</b> Totally agree with Theo on this - the other point is the actual address information may well be totally valid, which means technically speaking it is not inaccurate in the first place.</p>	
			<p><b>Theo Geurts (on list 6 February):</b> A migration period may work, I like that idea. We faced the same issue with the THICK WHOIS Migration IRT as in we could not quantify the problem. So now we have a minimum set of migration data. And I think that is where we want to end up honestly. The IRT there came to the conclusion that the issue would solve itself in an organical matter. We all want to make this consensus policy work as in, we want everyone, on the bus as opposed to under the bus. Let's make that happen!</p>	
			<p><b>Darcy Southwell (on list 6 February):</b> Agree with Theo's approach here for the same reasons he cites in his email (and as is also indicated by Volker and Theo and Roger in the attachment Amy provided). But Theo is absolutely correct that we have to be very careful how this is implemented because we don't to create an avenue for unnecessary takedowns. It seems like we would need a period of time (at least 6 months) for P/P providers to become accredited before any registrar would be obligated to enforce these requirements. This also requires significant educational reach out by ICANN to P/P providers (thank you, Roger, for bringing that up).</p>	

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			<p><b>Luc Seufer (on list 6 Feb):</b> Just piling on at this point, but it seems to me important to stress on the fact that any action has to be taken will only happen post registration. To my knowledge there is no technical means to a priori block registrations (unless across whois verification system based on registrant ID be implemented). Any blocking measure would be really easy to game changing the “rogue” provider name slightly, or its address or phone number etc. The “knowingly” in p.7 protect us from that but I would feel safer if we have some note about it going further. (I may have missed it)</p>	
			<p><b>Luc Seufer (on list 6 Feb):</b> Regarding Roger’s point, depending on the delay ICANN will treat accreditations maybe we should add a provision addressing cases where the PP provider accreditation is pending. It’s my experience that getting accredited can be time consuming if you deal with a “hub”.</p>	
			<p><b>Luc Seufer (on list 6 Feb):</b> Lastly another aspect which worries me and for which I don’t see a straight forward solution is cases where the “rogue” provider is a law firm. What will happen if they refuse to get accredited as PP provider by for example arguing that they are authorised by their local laws to act as representative of their clients without the need to enter into a US law agreement with ICANN? Registrars will end up between a rock and a hard place again. Suspending their services and getting sue by their clients or risk losing their ICANN accreditation by maintaining the status quo.</p>	
			<p><b>Greg DiBiase (11 March IRT meeting, approx 2:51)</b> I think the WHOIS accuracy way does work because the obligation is to investigate and take steps to ensure it is accurate, not just to verify the email. If the registrant name is an unaccredited provider, that is wrong information that we need to take steps to correct. I don't think there is a gap, I think that procedure can work to remedy that situation.</p>	
			<p><b>Darcy Southwell (11 march IRT meeting, 2:51)</b> When a registrar is notified of a problem now it knows and it should treat it like an abuse report. Similar to other parts of the PDP there are already requirements that PPs have ToS, identify what is abuse, what actions to be taken, so between WHOIS requirements and abuse requirements I feel like this is covered.</p>	
			<p><b>Theo Geurts (11 March IRT meeting, 2:52)</b> Piling on Darcy and Greg, we have discussed this on the list also and most of the Rrs don't see an issue here and we can proceed to just deal with it if required.</p>	
			<p><b>Roger Carney (11 March IRT meeting, chat)</b> Agree with Darcy/Greg</p>	

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			<p><b>Jonathan Frakes (11 March IRT meeting, 2:53)</b> The one thing that I notice is that, could this not simply be pushed to the registrant to identify whether the service is accredited or not and not have the registrar deal with this? Maybe this goes in to the Terms and Conditions of the registrar to say that if Provider is not accredited the registration could be in jeopardy.</p>	
			<p><b>Steve Metalitz (11 March IRT meeting, chat, approx 2:55)</b> If the Whois data is that of an unaccredited provider, then it is inaccurate because the registrant is the customer.</p>	
			<p><b>Jonathan Frakes (11 March IRT meeting, approx 2:58)</b> A simple case--IP firm submits a domain name and essentially providing themselves as proxy for that client. But the firm may also register names in its own name for the firm. The registrar won't be able to tell the difference. Consequences of a loss of a name and pushing that accountability to the registrant and pushing that to the registrant should be substantial. The registrar shouldn't have to contact that law firm to see is this yours or your client's? that's a burden that may not be reasonable--lots of firms do this and may or may not be accredited. Not suggesting that they are bad actors--a perfectly normal situation where we could push the burden out to the registrant--risk of the loss of the name instead of having a consequence to a registrar that may not really solve the problem here.</p>	
			<p><b>Roger Carney (11 March IRT meeting, 2:59)</b> The registrants already agree that they can lose their domain if their WHOIS information isn't accurate--it is their responsibility. Privacy and proxy are supposed to be treated the same except that there is a definition difference and the Proxy is the registrant and is responsible, whereas the Privacy provider is not, so there is a slight difference.</p>	

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		<p>(Question from Francisco Arias, 11 March IRT meeting, 3:00)            So in practical terms, it seems as though the practical result is that you cannot have unaffiliated providers because there is no way to differentiate between unaffiliated providers and unaccredited providers that are not supposed to happen. There seems to be no practical way to have these unaffiliated providers that have no relationship to the registrar.</p>	<p><b>Theo Geurts (11 March IRT meeting, 3:00)</b> I think you are actually right there at the current moment that is not possible and I am not sure if we should actually put any time and effort in this IRT to explore it. This IRT should give a heads up to the RDS WG that we encountered this problem and this scenario could play itself out and maybe this should be handled in the RDS.</p>	
			<p><b>Steve Metalitz (11 March IRT meeting, chat, approx 3:01)</b> @Francisco, unaffiliated providers are to be publicly listed if they are accredited.</p>	
			<p><b>Steve Metalitz (11 March IRT meeting, chat, approx 3:03)</b> COMMENT: This has been a recurring issue. May be best to wait until an unaffiliated provider seeking accreditation steps forward and encounters those problems .</p>	
			<p><b>Theo Geurts (11 March IRT meeting, chat, approx 3:03)</b> Not a bad idea Steve</p>	
			<p><b>Darcy Southwell (11 March IRT call approx 3:05):</b> Agree with Steve.</p>	
			<p><b>(Name inaudible, 11 March IRT call approx 3:05)</b> Perhaps in the application for a domain there could be a field in the registrant information, a blank to identify whether you will use a privacy or proxy service, so if it is used the box will be checked and will need to fill in the accreditation number/ID so that this problem will be solved.</p>	
			<p><b>Steve Metalitz (11 March IRT chat approx 3:07)</b> Since all p/p registrations must be labeled as such one could require that the registrant name include the accreditation number of the provider.</p>	
			<p><b>(Name inaudible 11 March IRT call approx 3:07)</b> Regarding the suggestion of adding a question about whether a registration is from a PP service, this would be a large undertaking for registrars to do that.</p>	

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			<b>Steve Metalitz (11 March IRT chat approx 3:08)</b> In previous meetings we have decided that creating a new field is not necessary to satisfy the labeling requirement.	
		How do you envision registration lifecycle when a provider is accredited but not affiliated with the registrar?	<b>Theo Geurts (11 March IRT meeting)</b> I don't see the issue here. This language is already in the RAA (regarding resellers who deploy privacy services). We encounter these providers who are not going it correctly. We engage with them. We have been doing this for many years, there is not really an issue here. We will use same mechanisms to engage with them as we do now. (approx 2:29)	
			<b>Darcy Southwell (11 March IRT meeting)</b> at the end of the day, the registrar controls label, etc. I don't understand the question--the registrar controls those items. (2:31)	
		How do you see the process working for an unaffiliated provider's information to be put into the WHOIS record where the Provider is not affiliated with the Rr?	<b>Greg DiBiase (11 March IRT call 2:33)</b> That would be between the Provider and the Registrant contracting with the unaffiliated provider (web hosting cos put in their information for example)	
			<b>Darcy Southwell (11 March IRT meeting)</b> another challenge is that we haven't found unaffiliated providers that exist, so it is hard to imagine how it would operate. I don't know that we have a true problem that we have to fix at this time.	
			<b>Theo Geurts (11 March IRT meeting)</b> we are already facing the fact that there are unaffiliated providers, and they always have to go through a registrar to publish the WHOIS data. So if you are talking about the impact of the current situation or the proposed new situation. It is always up to the Rr to ensure that the WHOIS format and labeling is correct. We Rrs will take care of it--we will get the information from the unaffiliated Provider and ensure it is correct. If it isn't correct, the Rr will be subject to compliance.	
		Should there be authentication for non-affiliated providers? (2:39)	<b>Theo Geurts (2:40 11 March)</b> I'm not sure. I don't think there is an issue there because these are going through automated systems and basically we get information all the time from various parties and it's all being done automatically. That is not going to change.	
			<b>Theo Geurts (11 March 2:41)</b> We cannot know if a PP is accredited or not--there is no way to know. There is no tag in EPP or other mechanism to indicate that.	
			<b>Greg DiBiase (11 March 2:44)</b> My response is if it not a recommendation in the Final Report then, no, they should not be required to authenticate.	
			<b>Darcy Southwell (11 March 2:45)</b> I don't think there's just one answer for every Rr. Rrs operate differently and collect information differently from registrants (including resellers). We collectively as a Rr group can't answer this question. There's no mechanism today, and not sure there will be answer for this purpose.	

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			<p><b>Roger Carney (11 March 2:46)</b> As a registrar, we don't care how the data gets into WHOIS--the Rt puts in the data and what the put in iis what they put in. If they put in info from their accredited PP, that is what they put in. Our obligation is to verify that the email works. As long as that works we don't care and it's going to go in. We already have processes and if someone complains about it we will treat it as invalid WHOIS. I can't think of a reason why we would need to konw if they are accredited or not. All the mechanisms still work today as they would work tomorrow whether it is accredited or not accredited.</p>	
			<p><b>Theo Geurts (11 March 2:47)</b> I think most of us when we get abuse reports and we look at WHOIS data, sometimes it's really bogus information, we already have existing processes to deal with that and we already are dealing with it because it will result in WHOIS complaints. There is no set procedure for every Registrar.</p>	
			<p><b>steve metalitz:</b> Registrars would need to know because they are not to accept registrations from unaccredited providers (comment in response to Roger's comment, above, 11 March IRT call, chat)</p>	