[Draft] Privacy and Proxy Services Accreditation Policy IRT Review Version 1

1. **Scope**

    ICANN adopts the following policies concerning the accreditation of Privacy and Proxy Service Providers in gTLDs.

2. **Effective Date**

    This Policy is effective on _____.

3. **Definitions.** For purposes of this Policy, the following definitions will apply:

    3.1 **"Customer"** means the licensee or beneficial owner of a registered domain name.[i]

    3.2 **"Knowingly"** refers to actual knowledge at the time the registration is submitted to the Registrar. This knowledge would normally be obtained through a report to the Registrar from ICANN or a third party.[ii]

    3.3 **"Privacy Service"** means a service by which a Registered Name is registered to its beneficial user as the Registered Name Holder, but for which alternative, reliable contact information is provided by the Privacy or Proxy Service Provider for display of the Registered Name Holder's contact information in the Registration Data Directory Service (WHOIS) or equivalent services.[iii]

    3.4 A **"Provider"** is an entity that provides Privacy and/or Proxy Services to Customers.

    3.5 A **"Proxy Service"** is a service through which a Registered Name Holder licenses use of a Registered Name to the privacy or proxy Customer in order to provide the privacy or proxy Customer use of the domain name, and the Registered Name Holder's contact information is displayed in the Registration Data Directory Service (WHOIS) or equivalent services rather than the Customer's contact information.[iv]

    3.6 **"Registered Name Holder"** means the holder of a Registered Name.[v]

    3.7 **"Registrar"** means a person or entity that contracts with Registered Name Holders and with a Registry Operator and collects registration data about the Registered Name Holders and submits registration information for entry in the Registry Database.[vi]

    3.8 **"Reseller"** means a Person or entity that participates in a Registrar's distribution channel for domain name registrations (a) pursuant to an agreement, arrangement or understanding with the Registrar or (b) with the Registrar's actual knowledge, provides some or all registrar services, including collecting registration data about Registered Name Holders, submitting that data to the Registrar, or facilitating the entry of the registration agreement between the Registrar and the Registered Name Holder.[vii]

    3.9 References to **"WHOIS"** are to the current globally accessible gTLD Registration Data Directory Service as well as any successors or replacements thereto.[viii]

    3.10 The key words **"MUST", "MUST NOT", "SHOULD", "SHOULD NOT", and "MAY"** in this document are to be interpreted as described in RFC 2119, which is available at http://www.ietf.org/rfc/rfc2119.txt.

4. Registrar Obligations

    4.1   Registrars MUST NOT knowingly accept gTLD privacy/proxy registrations from registrants who are not accredited as Privacy/Proxy Providers by ICANN.[ix] Registrars MUST ensure that their Resellers MUST NOT knowingly accept gTLD privacy/proxy registrations from registrants who are not accredited as Privacy/Proxy Providers by ICANN.

    4.2   If a Registrar becomes aware that one or more registrations made through the Registrar involves an unaccredited Provider, the Registrar MUST treat the information listed in WHOIS as inaccurate, such that requirements of the 2013 Registrar Accreditation Agreement's WHOIS Accuracy Program Specification apply.

5. gTLD Registry Operator and Registrar Obligations

    WHOIS labeling requirements implemented as a result of this Policy supersede all prior WHOIS output requirements for gTLD Registrars and gTLD Registry Operators with respect to the labeling of registrations involving Privacy and Proxy Services.[x]

6. Terms and Conditions of Accreditation Agreements

    6.1   Providers MUST enter into and maintain in effect Accreditation Agreements with ICANN. The following is an outline of the accreditation requirement topics to be specified in greater detail in the Privacy and Proxy Service Provider Accreditation Agreement executed by ICANN and each Provider:[xi]

        6.1.1   Contactability

        6.1.2   Data Reminders, Data Validation and Verification

        6.1.3   Provider Disclosures and Terms of Service

        6.1.4   Relay and Reveal

        6.1.5   Transfers

        6.1.6   Minimum Mandatory Criteria for Third-Party Requests and Abuse Reports

        6.1.7   Data Retention and Escrow

        6.1.8   Record-Keeping

        6.1.9   Registration Data Directory Service Labeling

    6.2   An applicant for accreditation MUST demonstrate that it likely can perform its obligations as a Privacy and/or Proxy Service Provider by showing in its application for accreditation that it possesses the qualifications required to perform those obligations.

Commented [AB1]: NOTE: ICANN proposed to specifically note application to resellers to this provision; IRT members on the 1/10/17 call indicated that this is consistent with the PDP WG's intent.

Commented [AB2]: NOTE: This provision is based on discussion with IRT in January, on-list, and at ICANN58. ICANN specifically requests feedback on this section.

Commented [AB3]: NOTE: We will update the language to include the specific labeling requirements for registries and registrars after discussion with the IRT, since we need to be specific about what the new WHOIS output is.

i This term was not defined in the Final Recommendations. The Final Report refers, in various places, to the "beneficial owner," "beneficial user" and "licensee" of a domain name. Staff is proposing to use this term, and proposing a definition for this term, for consistency across the policy and the accreditation agreement.

ii "Knowingly" is defined in footnote 11, page 7 of the Final Report.

iii "Privacy Service" is defined on p. 6 of the Final Report.

iv "Proxy Service" is defined on p. 6-7 of the Final Report.

v "Registered Name Holder" is not explicitly defined in the Final Report, but is shown capitalized around references to other terms that are defined in the RAA. On that basis, staff is interpreting the use of this as an apparent defined term in the Final Report as an intent to use the RAA definition, which is being proposed here.

vi "Registrar" was not defined in the Final Report. Staff is proposing to add this for completeness and is proposing to use the definition of this term that appears in the 2013 RAA.

vii This term is not defined in the Final Report. Staff is proposing to incorporate this definition, from the 2013 RAA, because we anticipate that Resellers will also be impacted by these requirements including, at a minimum, the restrictions on Registrars' knowing acceptance of registrations from unaccredited Privacy and Proxy Service Providers.

viii This elaboration on the meaning of the word "WHOIS" appears on p. 9, footnote 15 of the Final Report.

ix The Final Report says, on p.5, "Registrars are not to knowingly accept registrations from privacy or proxy service providers who are not accredited through the process developed by ICANN."

x See Final Report, p. 9, "To the extent that this is feasible, domain name registrations involving P/P service providers should be clearly labelled as such in WHOIS."

xi This Section is proposed as a complement to the structure of the Statement of Registrar Accreditation Policy (introductory text copied/appropriated from Rr Policy), https://www.icann.org/resources/pages/policy-statement-2012-02-25-en#II).