Privacy Proxy Service Accreditation Agreement Discussion Items

*Updated 4 August 2017

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
1	1	Updates to Definitions From Final Report	Certain definitions have been adjusted slightly from definitions in final report: 1.22 Privacy Service; 1.24 Proxy Service; 1.25 Publication. These definitions were updated to reflect additional defined terms (for example, "beneficial user" changed to "Customer" etc; "Registration Directory Service" updated to "Registration Data Directory Service")		To be discussed at 15 August IRT meeting
2	1.21	Provider Approval	The Draft contemplates needing the affirmative approval of 50% plus one of all Service Providers for global amendments. Please advise if this is appropriate or if some other metric should be used.		To be discussed at 15 August IRT meeting
3	1.42; 6; 7.4	Working Group; Amendments	Like the RA and the RAA, the PPAA needs a method to implement global amendments. However, Service Providers do not have a Stakeholder Group. The Draft contemplates a Working Group to fill this role until a Provider Stakeholder Group is formed (if ever).	**Feedback at 18 July meeting**: Amendment process may be too complicated **Feedback at 25 July meeting:** Maybe there could be a process for amendments to be considered by a re-convened IRT for a period of time (1-2 years) before reverting to this Section 7.4, as this is a completely new agreement and issues may arise as it goes into effect.	Updated language based on IRT discussion to be discussed at 15 August IRT meeting.

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4	3.2.2	Data Retention	The RAA provides that this information is to be kept for two years, but ICANN proposes that Providers only keep it for one in order to limit the number of exemption requests	**Feedback at 25 July meeting:** Ensure that PSWG is on call where this is discussed.	To be discussed at 8 August IRT meeting
5	3.5	Code of Conduct	How should a "consensus" be measured for purposes of establishing a Code of Conduct for Service Providers?	**On list 31 July:**):This is a third order issue that I hope will not detain us now, since it deals with a hypothetical future Code of Conduct that would certainly have to go through some kind of extensive drafting and review process. If and when such an effort gets underway then I agree that the definition of consensus would need to be established. Let's not spend time on it now. **1 August IRT call:** Point 1: I don't think this should be in the PPAA—if it is not part of the recommendations—skip it. Chat—7 additional IRT members said this should be deleted from the PPAA draft.	Discussed during 1 August IRT meeting. Any additional IRT input requested by 7 August. If additional input received affirmed input received to date (or if no additional input received), this section will be deleted in PPAA draft v2.
6	3.5.4.1, 3.5.4.17	Cancellation (PP Service and Domain Name)	1. Please advise on cancellation process. 2. How would a Service Provider prohibit cancellation of a domain name that is the subject of a UDRP dispute?	**Part A:** On list (31 July): I agree that the reference to cancellation of the registered name agreement should probably be dropped from 3.5.4.1, as that action has to be taken by the	Discussed at 1 August IRT meeting. Any additional IRT input requested on both topics by 7 August. **Part A:**

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				registrar. {Perhaps the provider should be required to notify the registrar immediately of the breach, simultaneously with supplying it with the "actual" contact information for the customer so that the latter can be published.} **1 August IRT call:** Point 1: This works pretty well for Rrs and affiliates, but not sure how a TPP would be able to do this. Point 2: I agree with point 1 w/r/t the domain name registration. Maybe we need to add—basis for immediate notification to registrar for invocation of the RAA provision (re: cancellation). If the Rr did not cancel they would have a compliance issue. So drop the last 5 words and substitute requirement to immediately notify registrar. Point 3 (chat): Remove all references to the registration of the domain Point 4: I agree with point 2. There will be some sort of EPP connection in place for affiliates; for non-affiliates we should expand a bit re:	**Specifically, IRT is requested to consider—(a) should we consider reducing the required period from 15 days to some shortened period? (b) if a proposal for a shortened timeline is drafted, do you have recommendations for what the baseline timeline should be?** **Part B:** Provided any additional input received affirms input to date, or if no additional input received, language will be left as-is, so that Providers are required to specify in ToS/Customer Agreement that if Provider gives Customers the option to cancel in lieu of disclosure of their information, this option would not apply in cases where the name is involved in a UDRP/URS proceeding.

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				the costs attached, that allows Rr to bill the providers	
				Point 5: Agree with Steve (point 2). The P/P provider is limited to suspending the services it provides to its customer.	
				(group asked about the recommendation to notify the registrar)	
				Point 6: if I am understanding this proposal, customers will be allowed approximately 30 days before a domain name will be suspended. 15 for p/p and 15 for registrar.	
				Point 7: Please clarify if Point 6 is what we are proposing.	
				Point 8: (Re: point 6) That would be unfortunate and we should try to avoid a second bite at the apple. Especially for affiliated providers that seems unfair. Then you have someone who gives false info and because they used an affiliate provider they get an extra 15 days. We should try to avoid that outcome. But I don't see this 15 day provision as necessarily a floor. Both the provider	

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				and the registrar could have a shorter period. Point 9: re: point 6: I understand why it is convenient to pull from the RAA but in this case we are making the period far too long. I believe in our instance if we are told info is inaccurate we provide customer several days (maybe 3) to correct that info, and then service would be removed, info would be restored and then it would become a registrar matter and they could cancel/suspend the name itself. We could do something similar here to keep it more efficient and give customer incentive to correct the info and keeps PP provider and Rr actions separate and compartmentalized. Point 10: re point 6 I agree that we should not add time to this process Point 11: sounds like we need to clarify more consisely that upon uncorrected false whois, we need an explicit obligation to cancel p/p service. Point 12: The intention of the PDP was not to extend this.. different	

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				registrars do things differently, so long as it is within the parameters. The intention wasn't to give anyone 30 days. Point 13: agree re: timing Point 14: agree we need a floor and that p/p providers can chose to have quicker turn around times Point 15: RAA uses stronger language—this says "basis for suspension." RAA says the registrar SHALL. I'm wondering whether should think about having that language based on that here. The RAA Spec language ends with "Registrar either terminate or suspend or place on Client Hold or and client Transfer Prohibited." The PPAA should contain a more specific obligation, not "be a basis for suspension or cancellation." Point 16: support noted for points 14 and 15. **On-list, 2 August:** Regarding Section 3.5.4.1, what if we used language that provided some	

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				> flexibility regarding the time frame? For example: > > A Customer's willful provision of inaccurate or unreliable > information, its willful failure to update information provided to > Provider within seven (7) days of any change, OR ITS FAILURE TO > RESPOND TO PROVIDER INQUIRIES WITHIN THE TIME FRAME REQUIRED BY > PROVIDER'S TOS (NOT TO EXCEED (15) DAYS) concerning the accuracy of > contact details associated with the Registered Name for which Provider > is providing the Services constitute a material breach of the service > agreement between such Customer and Provider and be a basis for > suspension or cancellation of the Services. This proposal was supported by 3 other IRT members. On-list, 3 August: Note the language at the end needs to be revised along the lines of the RAA, as I think was tentatively agreed on the last call. **Part B:**	

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				On list (31 July): as I recall one (or possibly two) WG members felt strongly that customers should be provided the option of cancelling their registrations rather than having their contact points published, and that this should be a required policy for all accredited providers. There was a lot of pushback against such a mandate, with the compromise solution that the provider be allowed, but not required, to adopt such a policy (which of course would have to be adequately disclosed). In practice I agree that such a policy could only be implemented by a provider that is either Affiliated with (i.e., controlled by) a registrar, or at least as the result of some kind of contractual agreement between the registrar and an unaffiliated provider. As I read 3.5.4.17 it simply says that no such policy can trump the applicable UDRP or URS policies as adopted by ICANN. This make sense to me and I don't know of any reason 3.5.4.17 has to be changed in this regard. **1 August IRT call:** Point 1: Providers can't block the cancellation of the domain. (similar points raised by other IRT members)	

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				Point 2: this should be in the ToS Point 3: Perhaps all this means is that the P/P provider should provide notice to the customer of this cancellation lock issue? Point 4: I think this language is OK. The PDP WG recommended that Providers should be able to give customers the option to cancel a domain in lieu of having their information disclosed, but not if the name is subject to UDRP proceedings. The Provider should disclose this to the customer and the public. Point 5: Prohibition of cancelation of a domain name during a UDRP is a registrar obligation I see no reason to include this language in the P/P accreditation agreement.	
7	3.6.1	Accreditation Fees	Fees to be discussed at a later date.		
8	3.6.2	Variable Fees	Who would be responsible for variable fees if Provider does not pay them? Under the Registry Agreement, Registry Operators must pay if Registrars do not.		
9	3.12	Contact Info	The Final Report states that "*P/P service providers should be fully contactable through the publication of*	**On list (31 July):** Section 3.12 seems reasonable to me. I guess the only question is whether the officer	Discussed on 1 August IRT call. Any additional IRT input requested by 7 August. If additional input affirms

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			contact details on their websites in a manner modeled after Section 2.3 of the 2013 RAA Specification on Privacy and Proxy Registrations." Section 3.12 of the Draft is the proposed mechanism for implementing this recommendation. Please advise.	information (3.12.16)needs to be published, although it certainly should be provided to ICANN. **During 1 August IRT meeting:** **Point 1 (chat):** This seems in line with the PDP recommendations and what registrars do today. Point 2 (chat): if its line w/ what registrars do today, seems ok to keep Point 3: support having officer info available	views raised on 1 August IRT call (or no further input received), language will remain as-is in PPAA draft v2.
10	3.18.3	Reveal Requirements	What disclosure of contact details is contemplated?	**On list (31 July):** This provision was included in the WG report to make clear that providers had flexibility in how they handle disclosure/ publication requests and did not have to adopt automated, one size fits all systems. If the provider adopts a policy that those who present sufficiently detailed /credible /urgent disclosure requests will be put in direct touch with customers, even if that means disclosing one means of such contact to the requester, there should be no problem with that so long as the provider's policy is	Discussed on 1 August IRT call. Any additional IRT input requested by 7 August. If additional input affirms IRT input to date (or if no additional input received), language in PPAA draft v2 will be left as-is

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				adequately disclosed in accordance with accreditation standards. **1 August IRT call:** Point 1: This is part of giving providers as much flexibility as possible. Providers might respond to a disclosure request by passing it along or sharing the email address where it would send it to try to help to resolve an issue quickly. This seems to come down to a disclosure issue—telling the Customer in the ToS that in some cases the Provider might disclose certain information to facilitate resolution. Not sure what further might be needed here—not intending to micro-manage. 1 Aug IRT call (chat): 2 IRT members agreed; it aligns with the PDP	
11	3.19.1	Transfer of Registered Names Requirements	Please advise on how transfers should work in connection with the de-Accreditation of a Service Provider.		
12	5.2	Accreditation Term	The Draft contemplates a five year term. Please advise if that is appropriate.		To be discussed at 8 August IRT meeting.
13	5.7.1	Provider Suspension	On the Registrar side, ICANN notifies Registry Operators to implement a lock which prevents Registrars from registering new domains or receiving	**On list (31 July):** Any registrar that receives after the suspension date a registration from the suspended provider could reject it if it is labeled	Discussed at 1 August IRT meeting. Any additional IRT input requested by 7 August.

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			inbound transfers. This will be more difficult to police on the PP side as registrars can be told not to accept new registrations from a service provider but they may not have means to easily block registrations. Please advise as to whether you think this is adequate or if you have additional suggestions on this topic.	as required…I suppose adequate time would need to be allowed before the suspension becomes effective but I imagine this could be managed. **1 August IRT call:** Point 1—if the registration is labeled with the Provider ID, that will enable the registrar to know if a registration is from a suspended provider Point 2—it comes to the question of how the registrar can do this from a practical perspective Point 3—as a registrar I can't imagine how a provider is suspended and how to prevent them from completing a signup—not sure how that would work operationally Point 4—once someone is accredited, they get a number and you would be able to look at the field on an automated basis to see if the # is from a suspended provider, if there is a reasonable notification process and enough lead time Point 5: sounds like we need an EPP for p/p providers	**Specifically, IRT is asked to consider:** **(a) Whether it is feasible for a registrar to block new registrations from a suspended provider (provided that provider is identified by its ICANN ID during the registration process), as IRT input on this point has been mixed;** **(b) If the answer to (a) is yes, whether any additional language is required with respect to Point 5 raised during the call (sounds like we need an EPP for PP Providers).** Once contractual provision is finalized, draft Policy should be reviewed to ensure prohibition on registrar knowing acceptance of registrations from nonaccredited entities include entities on suspended status.

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				In chat, expressions of support for points 4 and 5	
				Re: Point 5: But needs some exploring I guess? It might shut out non-affiliated providers	
				It shouldn't - assuming standard authN/authZ mechanisms and some kind of credential mechanism.	
				Agreed, but how should a lawyer deal with all this when they want to offer some privacy to their clients? Build a full EPP and Escrow Service?	
14	Data Escrow Specification	Data Escrow	The Draft contemplates a modified version of the data escrow specification from the new gTLD Registry Agreement. This will be discussed during 25 July 2017 IRT meeting. This model was chosen based on the results of the IRT poll, but it is unclear how this will function in conjunction with IRT recommendation that registrar-affiliated providers should be able to escrow through the registrar (who will be using a different specification).	**Point 1 (on list)**: Perhaps RAA section 3.6 could be adapted for the p/p accreditation context. (Of course, if the RAA provision is modified in the future to align more closely with the registry obligations, the p/p obligations may be able to move in lockstep with it.)… What is the downside of this approach? Put another way, what would be the advantage gained by aligning the p/p escrow obligations with those of registries, rather than those of registrars? **Point 2 (on list):** In short, it is nice to see most of the stuff listed in a section	Updated specification, per IRT feedback in 25 July call and in poll, to be discussed at 29 August IRT meeting.

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				and being up to date! But most of it is not new for Registrars, and as a contracted party I have no issue with it. What is missing in this specification is that the non-affiliated privacy provider should specify at which registrar the domain name is, they provide privacy services for in the deposit. For Registrars or affiliated privacy services, this is a nonissue as anything at a different Registrar is no longer provided by those Registrars or affiliated providers as a service. **Point 3 (on list):** I remember the F2F in Dublin - it was agreed that any third party provider would have to do the same as a registrar. Theo has highlighted those parts, but, ultimately we have to have the same standards for the escrow service to accept the data, whether that be for the registrar or third party provider. I'll also mention that I am sure the current escrow services will not change the way they currently accept data, nor process it for ICANN compliance.	

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				IRT Input on 25 July IRT call Volker Greimann—Option 2 was not envisioned by the PDP WG—they said it should be modeled on what the registrars are doing. No need to expand to accommodate PP data bc registrars are already required to escrow underlying PP data. The only problem we have to tackle is how third-party providers would escrow; makes sense to use Option 1—only option that is viable. Darcy Southwell—totally agree with Volker Sara Bockey—agree with Volker Theo Geurts—leaning toward option 1 Volker Greimann: The solution envisioned by the PDP WG was that there would be no need for _any_ implementation for affiliated proxy service providers. Darcy Southwell: +1 Volker	

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				Sara Bockey: Exactly. Our processes should NOT change. Volker Greimann: Registrars already have to escrow underlying registrant details with the escrow provider (BTW: When will the number of free providers finally be expanded?) as secondary data set. There is simply no need for any additional application The PDP WG did not recommend implementing updated standards or verification processes. There is no mandate from the WG to expand this. Steve Metalitz: it would be helpful for staff to share what final report said re: this topic	
15	Customer Data Accuracy Program Specification	Data Accuracy	This was adapted from the RAA, in furtherance of the Policy Recommendation that "P/P customer data is to be validated and verified in a manner consistent with the requirements outlined in the WHOIS Accuracy Program Specification of the 2013 RAA (as may be updated from time to time). In the cases where a P/P service provider is Affiliated with a registrar and that Affiliated registrar has carried out validation and verification of the P/P customer data, reverification		To be discussed at 8 August IRT meeting.

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			by the P/P service provider of the same, identical, information should not be required." (Final Report p. 9) IRT input is sought on this draft specification in its entirety.		
16	Registration Data Directory Service Labeling Specification	Data Fields	Please review and provide feedback regarding which fields you believe are applicable. This is appropriated from the RAA, but certain fields may not be applicable (including Registry Admin/Tech IDs). Should Customers be required to designate admin and tech contacts?		To be discussed at 29 August IRT meeting.
17	Law Enforcement Authority Disclosure Framework Specification	Conformance	This Specification will need to be evaluated in relation to the entire PPAA.		To be discussed at 8 August meeting.
18	Law Enforcement Authority Disclosure Framework Specification	Definitions	Definitions adjusted from most recent LEA framework draft to accommodate other defined terms in PPAA. "Requestor" changed to "LEA Requestor" because "Requestor" is defined more generally in Section 1.35; definitions for "Provider" and "Customer" removed because these are already defined in Section 1.		To be discussed at 8 August meeting.
19	Law Enforcement Authority	Receipt Process (Section 3.2.1)	Proposed edit from PSWG: I'd like to propose the following revision to the first paragraph in section 3.2.1:		To be discussed at 8 August meeting.

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	Disclosure Framework Specification		*"Within 24 hours of the disclosure request being submitted, the Provider will review the request to ensure it contains the relevant information required to meet the minimum standard for acceptance."*		
20	Intellectual Property Disclosure Framework Specification	Conformance	This Specification will need to be evaluated in relation to the entire PPAA.		
21	RAA Synchronization	Updates to the RAA	The introductory paragraph of Specification 2 contains a provision contemplating automatic updates if an analogous provision is updated in the RAA. Please advise if this is workable and confirm whether other RAA-modeled provisions should receive similar treatment. This seems advisable to avoid inconsistencies across the agreements. Some of the definitions that have their origins in the RAA are inherently going to be differently phrased in the PPAA due to different defined terms, etc. so if this concept is kept than there will need to be some form of implementation to harmonize them.		To be discussed at 15 August IRT meeting
22	Rights in Data (Section 3.3)	Proposed Edits	Remove extra ")" after "query-based public access)." Update reference to		

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			WHOIS to Registration Data Directory Service. Propose to remove second sentence, as this does not impose an obligation on Provider and is merely an acknowledgment that a third party shall do something.		
23	Data Retention Specification	Applicability		**Point 1:** SPECIFICATION 6: DATA RETENTION SPECIFICATION Maybe I just have grown a healthy distaste when it comes to waiver processes, but do we require a data retention spec for a privacy service?	To be discussed at 8 August meeting.