

~~[DraftDraftv2]~~ Privacy and Proxy Services Accreditation Policy IRT Review Version ~~12~~

1. Scope

The ICANN organization 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.¹ For purposes of this Policy, the following definitions will apply:

3.1 “Affiliate” means a Person that, directly or indirectly, through one or more intermediaries, Controls, is controlled by, or is under common control with, the Person specified.

3.2 “Affiliated Provider” is any Service Provider that is an Affiliate of Provider.

3.3 “Affiliated Registrar” is a Registrar that is an Affiliate of Provider.

~~3.14~~ “Customer” means the licensee or beneficial owner of a registered domain name.ⁱ

~~3.2~~ “Knowingly” refers to actual knowledge at a Person for whom Provider provides 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.ⁱⁱServices.

~~3.35~~ “Privacy Service” means a service by which a Registered Name is registered to its beneficial user a Customer as the Registered Name Holder, but for which alternative, reliable contact information is provided by the Privacy or Proxy a Service Provider for display of the Registered Name Holder's contact information in the in the Registration Data Directory Service (WHOIS) or equivalent services.ⁱⁱⁱrather than the Customer's contact information in the Registration Data Directory Service.

~~3.4~~ A “Provider” is an entity that provides Privacy and/or Proxy Services to Customers.

~~3.5~~ 3.6 A “Proxy Service” ismeans a service through which a Service Provider, as 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 such Registered Name Holder's, and the Service Provider's contact information is displayed in the Registration Data Directory Service (WHOIS) or equivalent services rather than the Customer's Customer's contact information.^{iv}

~~3.63.7~~ “Registered Name Holder” means the holder of a Registered Name.^v

¹ Definitions incorporated from current PPAA draft. These definitions were adapted from the Final Report, in some places adapted to accommodate other defined terms in the Agreement, such as “Person.”

~~3.73.8~~ **“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}

~~3.83.9~~ A **“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~~ A **“Service Provider”** means a Person that provides Privacy Services or Proxy Services that has been Accredited and entered into an agreement with ICANN substantially similar to this Agreement, including Provider.

~~3.103.11~~ 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>.

4.4 Registrar Obligations

~~4.1~~ 4.1 Registrars **MUST NOT** knowingly accept gTLD ~~privacy/proxy~~ registrations ~~from registrants who are~~ involving a Privacy and/or Proxy Service if the provider is not accredited ~~as Privacy/Proxy Providers by ICANN.~~² Registrars **MUST** ensure that their Resellers **MUST NOT** knowingly accept gTLD ~~privacy/proxy~~ registrations involving a Privacy and/or Proxy Service if the provider is not accredited by ICANN.

~~4.2~~ Registrars **MUST NOT** knowingly accept new gTLD registrations involving a Privacy and/or Proxy Service if the Service Provider’s accreditation has been suspended by ICANN.³ Registrars **MUST** ensure that their Resellers **MUST NOT** knowingly accept new gTLD ~~privacy/proxy~~ registrations ~~from~~ registrants who are not accredited as ~~Privacy/Proxy Providers~~ involving a Privacy and/or Proxy Service if the Service Provider’s accreditation has been suspended by ICANN.

~~4.24.3~~ If a Registrar becomes aware that one or more registrations made through the Registrar involves an unaccredited ~~Provider~~ provider or was

² See Final Report, 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.”

³ See Final Report, 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.”

initially registered when the Service Provider's accreditation was on suspended status, 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.

4.3.1 If the inaccuracy is the result of a provider's de-accreditation by ICANN pursuant to the Privacy and Proxy Service Provider Suspension, De-Accreditation and Transition Procedure, the Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information, if the Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification within thirty (30) days of receipt of notification from ICANN Org that the provider has been suspended and/or terminated, pursuant to Section 3 of the Privacy and Proxy Service Provider Suspension, De-Accreditation and Transition Procedure.

5.5 gTLD Registry Operator and Registrar Obligations

WHOISgTLD Registry Operators and Registrars MUST facilitate and MUST NOT hinder Service Providers' compliance with Registration Data Directory Service (RDDS) 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.*Accreditation Program.

6.6 Terms and Conditions of Accreditation Agreements

6.1 6.1—Service Providers MUST enter into and maintain in effect Accreditation Agreements with ICANN. The following is an outline, specifying requirements including:

6.1.1 Retention of the accreditation requirement topics to be specified in greater detail in the Privacy Customer and Proxy Service Registration Data

6.1.2 Data Escrow

6.1.3 Business Dealings, Including With Customers

6.1.4 Provider Accreditation Agreement executed by ICANN Training

6.1.5 Terms of Service, Website Publication, and each Description of Procedures

6.1.6 Link to Customer Educational Information

6.1.7 Provider:* Contact, Business Organization and Officer Information

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

6.1.6.1.8 Minimum Mandatory Criteria for Third Party Requests and Abuse ————— Contact and Duty to Investigate Reports of Abuse

6.1.7—Data Retention and Escrow

6.1.8—Record-Keeping

6.1.9 Law Enforcement Authority Disclosure Framework
6.1.10 Intellectual Property Disclosure Framework
6.1.96.1.11 Registration Data Directory Service Labeling
6.1.12 Relay Requirements
6.1.13 Reveal Requirements
6.1.14 Transfer of Registered Names Requirements
6.1.15 Record Keeping

- 6.2 An applicant for accreditation MUST demonstrate that it ~~likely can~~ is able to perform its obligations as a ~~Privacy and/or Proxy~~ Service Provider by ~~showing~~ demonstrating in its application for accreditation and/or an Affiliated Registrar's and/or Affiliated Provider's ICANN accreditation and compliance history that it possesses the qualifications required to perform those obligations.

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>).