

# Overview: Privacy/Proxy Accreditation Program Proposal

28 February 2018



# Accreditation Program Timeline

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- 2014: GNSO Policy Development Process launched to create accreditation program for privacy and proxy service providers (“service providers”), per [interim specification in 2013 RAA](#)
- August 2016: Board approved [PDP policy recommendations](#)
- October 2016: IRT launched
- March/April 2018: public comment period (estimated); additional IRT work on Transfer Policy, per direction from GNSO Council
- May 2018: any additional work required due to public comments, GDPR
- August 2018: announcement of final program requirements (estimated)
- February 2019: application window opens (estimated)
- November 2019: compliance enforcement begins (estimated)

# Draft Accreditation Agreement Overview

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- Per policy recommendations and IRT input, service providers will enter into an accreditation agreement (PPAA) with ICANN
  - PPAA modeled on Registrar Accreditation Agreement
  - Where a service provider is Affiliated with ICANN-accredited registrar, many requirements may be met through registrar's compliance with identical requirement
- Compliance will enforce PPAA requirements
- PPAA draft proposes to implement requirements related to:
  - Registration Data Directory Service labeling
  - Intellectual property-related disclosure requests
  - Law enforcement authority disclosure requests
  - Relay and reveal requests
  - Service provider terms of service
  - Data retention and escrow
  - Statistics reporting
  - Mandatory service provider educational program

# Open Issues (as of 28 Feb): LEA Framework Spec

- **Law Enforcement Authority Framework Specification**

- Should “action” be defined to clarify what actions are acceptable for a Provider to take upon receiving a request?
  - “Action” could be defined to include actions listed in Section 4.2
    - Provide requested information, or
    - Refuse to provide requested information for identified reasons, or
    - In exceptional cases, inform requester that additional time is required to respond
- Provider response time for “high priority” requests
  - Does/should receipt process in 3.2 apply before required response time (such that, as written, maximum time to action high priority request would be two business days plus 24 hours)?
    - PSWG: maximum response time should be 24 hours from receipt of request
    - Some IRT members (particularly registrars) have opposed this
      - Other suggestions:
      - add “best efforts” language, such that provider would be required to use best efforts to action request within 24 hours

# Open Issues (as of 28 Feb): Reporting Spec

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- **Reporting Specification**

- Should providers be required to use ICANN's reporting interface?
  - This was proposed due to registrar interest in using interface for data escrow reporting and for creating consistency with other reporting processes
  - A few IRT members have complained that this is over-engineered, and a simple email or form should be adequate
- How frequently should reports be required?
  - Initial draft proposed monthly (like registry reports)
    - IRT suggested reports should be less frequent
    - IRT appears to agree that quarterly could be an acceptable frequency
- What fields should reports contain?
  - IRT members have proposed fields to cut (LEA and IP publication requests) and fields to add (non-LEA/IP requests)

# Annex: Mapping Final Report to PPAA

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- **Recommendation 1:** Definitions (Final Report, pp. 6-8)
  - See PPAA Section 1, pp. 1-5 (including terms defined in Final Report plus additional defined terms)
- **Recommendation 2:** No distinction in treatment between privacy and proxy services for purposes of accreditation process (Final Report, p. 8)
  - Not addressed explicitly in PPAA (recommendation implemented because services are treated identically in PPAA)
- **Recommendation 3:** Commercial/non-commercial status of registrant should not be driving factor in whether PP services are available to registrant (Final Report, p. 9)
  - Not addressed explicitly in PPAA (recommendation implemented because there are no PPAA restrictions on PP services being offered to commercial services--providers may offer services to commercial registrants if they wish)
- **Recommendation 4:** Registrations involving PP service providers shall be clearly labeled as such in WHOIS (Final Report, p. 9)
  - See PPAA Section 3.15, p. 16

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- **Recommendation 5:** PP customer data is to be validated/verified in a manner consistent with the 2013 RAA WHOIS Accuracy Program Specification (Final Report, p. 9)
  - See Customer Data Accuracy Program Specification p. 54.
- **Recommendation 6:** All rights, responsibilities and obligations of registrants and customers as well as those of providers must be clearly communicated in the P/P service registration agreement (Final Report, p. 9)
  - See PPAA, Section 3.5.3.11, p. 10
- **Recommendation 7:** Providers must include on their websites and all publication/disclosure-related materials a link to a request form (or an equivalent list) containing set of minimum mandatory criteria that provider requires to process third-party requests (Final Report, p. 10)
  - See PPAA, Section 3.8.2, p. 13.
- **Recommendation 8:** Providers must publish their ToS, including pricing (Final Report, p. 10).
  - See PPAA, Section 3.8 (pricing Section 3.8.4), p. 13.

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- **Recommendation 9:** Best practices (Final Report, p. 11)
  - Providers should facilitate and not obstruct transfer/renewal/restoration of customers' names
    - See PPAA 3.18, p. 18; transfers may be revisited in Transfer Policy discussions
  - Providers should use commercially reasonable efforts to avoid the need to disclose underlying customer data during renewal/transfer/restoration
    - See PPAA 3.18.3, p. 18;
  - Providers should include in ToS a link to ICANN website where definitions and meanings of terms are available
    - See PPAA 3.5.3.15, p. 11
- **Recommendation 10:** ICANN should publish and maintain a publicly accessible list of accredited providers with all appropriate contact information (Final Report, p. 11)
  - Not specifically addressed in PPAA, but this is being built into ICANN processes
  - See PPAA Section 3.15 (labeling requirement): This requires provider to link to this list in the WHOIS/RDDS label for all registrations involving the PP service



# Annex: Mapping Final Report to PPAA

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- **Recommendation 11:** Providers must maintain a designated abuse contact (Final Report, p. 12)
  - See PPAA, Section 3.12, p. 15-16
- **Recommendation 12:** Providers should be fully contactable through the publication of business contact details published on their websites (Final Report, p. 12)
  - See PPAA, Section 3.11, p. 15.
- **Recommendation 13:** Requirements relating to the forms of alleged malicious conduct to be handled by the designated published point of contact should include a list of forms of conduct to be covered (Final Report, p. 12)
  - See PPAA, definition of “abuse” at Section 1.1, p. 1
- **Recommendation 14:** The designated abuse point of contact should be capable and authorized to investigate and handle abuse reports and information requests (Final Report, p. 13)
  - See PPAA, Section 3.12, p. 15

# Annex: Mapping Final Report to PPAA

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- **Recommendation 15:** A uniform set of minimum mandatory criteria that must be followed for reporting abuse and submitting requests should be developed (Final Report, p. 13)
  - See PPAA, Section 3.12 (Abuse) p. 15, LEA Framework Specification (p. 60), IP Framework Specification (p. 65)
- **Recommendation 16:** Relay requirements (Final Report, p. 13-14)
  - See PPAA, Section 3.16, p. 16
- **Recommendation 17:** Regarding provider actions when there is a persistent delivery failure (Final Report, p. 14)
  - See PPAA, Section 3.16.4-3.16.7, p. 17
- **Recommendation 18:** No WG recommendation should be read as being intended to alter prevailing practice among providers to review requests manually or to facilitate direct resolution between a requester and customer; it also notes that in some cases disclosure of some customer contact details may be required to facilitate this resolution (Final Report, p. 14-15)
  - See PPAA, Section 3.17.3, p. 17.

# Annex: Mapping Final Report to PPAA

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- **Recommendation 19:** WG has developed illustrative IP disclosure framework. This should be reviewed post-implementation (Final Report, p. 15).
  - Review requirement was not included in the PPAA as this is a community action item.
- **Recommendation 20:** No similar framework created for LEA or others. If any framework is created in the future, should include requirements that requester agree to comply with data protection laws and exempts disclosure if disclosure would endanger customer's safety (Final Report, p. 15)
  - See PPAA, Law Enforcement Authority Framework Specification
- **Recommendation 21:** De-accreditation principles (Final Report, p. 16-18)
  - Implemented in proposed de-accreditation process.

# Annex: Mapping Final Report to PPAA

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- **Additional General Recommendations** (Final Report p. 18)
  - Next IRT review should consider PP's impact on customers.
    - Not included in PPAA or other materials, as this is an instruction for a community-led review.
  - ICANN should develop public outreach and educational program for registrars, providers and customers.
    - ICANN will develop these materials when PPAA and related program materials are finalized. Completion of educational program is proposed to be required in order to obtain privacy/proxy accreditation (See PPAA, Section 3.7 (provider training), 3.10, link to customer educational information)
  - Providers should maintain statistics on requests received and honored.
    - See PPAA Section 3.19, Reporting Specification
  - Registrar accreditation model may not be entirely appropriate for PP service providers, but may serve as a useful starting point for designing this program.
    - The proposed accreditation program structure and process is adapted from the registrar process (see, generally, Applicant Guide).