



Project Information

Working Group Workspace: <https://community.icann.org/x/9iCfAg>
WG Leadership: Don Blumenthal (Chair), Steve Metalitz (Vice-Chair), Graeme Bunton (Vice-Chair)
WG Charter: <https://community.icann.org/x/pCifAg>

Basic Requirements

- Review of background documents (see <https://community.icann.org/x/XSWfAg>)
- Development of Work Plan
- (Working) Definitions of main terms
- Outreach at an early stage to other ICANN Supporting Organizations / Advisory Committees
- Request GNSO Stakeholder Groups and Constituencies for input
- EWG Survey
 - WG reviewed draft EWG questions and provided input on possible additional questions
 - Review survey results once available
- Survey of WG members may help to identify controversial / non-controversial topics - Survey launched (<https://www.surveymonkey.com/s/86N33WX>) - 6 responses received to date
- Staff to contact registrars under 2013 RAA with affiliated privacy/proxy services to obtain information on terms & conditions
- WG to review proposed categorization of charter questions and identify issues that need to be considered for each charter question

What additional information should be gathered / reviewed at the outset of the process? E.g. additional information on current practices? If so, also consider how this may link to the survey the EWG is planning 'on the existing practices of current providers of such services, with respect to their relay, reveal, and unmask procedures, and the conditions applicable to them. Also, the EWG is interested in the level of verification or validation conducted by such providers, if any, on the data provided by their customers'.

MAIN ISSUES

- What, if any, are the types of Standard Service Practices that should be adopted and published by ICANN-accredited privacy/proxy service providers?
- Should ICANN distinguish between privacy and proxy services for the purpose of the accreditation process?
 - Consider a "take down" of the domain name as an option
- What are the contractual obligations (if any) that, if unfulfilled, would justify termination of customer access by ICANN-accredited privacy/proxy service providers?
 - Consider customer option for different methods and notification issues
- What types of services should be covered, and what would be the forms of non-compliance that would trigger cancellation or suspension of registrations?
- What are the effects of the privacy and proxy service specification contained in the 2013 RAA? Have these new requirements improved WHOIS quality, registrant contactability and service usability?
 - Consider postponing this discussion given that the RAA only went into effect on 1 Jan 2014?
- What should be the contractual obligations of ICANN accredited registrars with regard to accredited privacy/proxy service providers? Should registrars be permitted to knowingly accept registrations where the registrant is using unaccredited service providers that are however bound to the same standards as accredited service providers?

MAINTENANCE (or registration?)

- Should ICANN-accredited privacy/proxy service providers be required to label WHOIS entries to clearly show when a registration is made through a privacy/proxy service?
- Should ICANN-accredited privacy/proxy service providers be required to conduct periodic checks to ensure accuracy of customer contact information; and if so, how?
 - What is the RAA's current requirement on this point?
 - How would such checks be conducted and by what means?
- What rights and responsibilities should customers of privacy/proxy services have? What obligations should ICANN-accredited privacy/proxy service providers have in managing these rights and responsibilities? Clarify how transfers, renewals, and PEDNR policies should apply.

BASIC REGISTRATION ISSUES

- Should ICANN-accredited privacy/proxy service providers distinguish between domain names used for commercial vs. personal purposes?
 - Any difference between "personal" vs "noncommercial", e.g. what about noncommercial organizations?
- Specifically, is the use of privacy/proxy services appropriate when a domain name is registered for commercial purposes?
 - Consider protections for noncommercial organizations such as political, hobby, religious and ethnic groups
 - What about domain names affiliated with or controlled by a P/P service?
 - Must P/P services disclose affiliated interests?
- Should there be a difference in the data fields to be displayed if the domain name is registered/ used for a commercial purpose or by a commercial entity instead of to a natural person?
 - Registration AND (not OR) use?
 - Is this within ICANN scope/mission?
 - How to deal with noncommercial organisations that may be incorporated as corporations for insurance or liability purposes?
- Should the use of privacy/proxy services be restricted only to registrants who are private individuals using the domain name for non-commercial purposes?
 - Why not also organizations and non-profits?

Charter Questions

CONTACT

- Should ICANN-accredited privacy/proxy service providers be required to maintain dedicated points of contact for reporting abuse? If so, should the terms be consistent with the requirements applicable to registrars under Section 3.18 of the RAA?
- What measures should be taken to ensure contactability and responsiveness of the providers?
- Should full WHOIS contact details for ICANN-accredited privacy/proxy service providers be required?
- What are the forms of alleged malicious conduct (if any) that would be covered by a designated published point of contact at an ICANN-accredited privacy/proxy service provider?

Difference between "illegal" and "malicious"?
Need protections for free expression, privacy, legitimate competitive activity, stalking, harassment and abuse?

RELAY

- What, if any, are the baseline minimum standardized relay processes that should be adopted by ICANN-accredited privacy/proxy service providers?
- Should ICANN-accredited privacy/proxy service providers be required to forward on to the customer all allegations they receive of illegal activities relating to specific domain names of the customer?

Plus publication of email address?
Any difference if enquiry is from law enforcement or not, e.g. attorneys or others?
Does it matter where the enquiry originated? Should country where the activity was supposed to have occurred matter? Any difference if P/P service is in a different jurisdiction? Any difference if activity is illegal in one jurisdiction but not the other (e.g. if P/P service is in jurisdiction that provides additional defense/protection whereas the originating country does not)?
If allegations are received from supposed victim, how to protect her safety/privacy? Require redacted requests?
Should P/P service have discretion to forward rather than be mandated (outside a court order)?

REVEAL

- What, if any, are the baseline minimum standardized reveal processes that should be adopted by ICANN-accredited privacy/proxy service providers?
- Should ICANN-accredited privacy/proxy service providers be required to reveal customer identities for this specific purpose?
 - And also require notification of customer?
- What forms of alleged malicious conduct (if any) and what evidentiary standard would be sufficient to trigger such disclosure? What specific violations, if any, would be sufficient to trigger such publication?
- What safeguards must be put in place to ensure adequate protections for privacy and freedom of expression?
 - Other concerns include anti-competitive activity, stalking/harassment and other motives unrelated to the purpose of the domain name
 - Not just published but revealed in Whois?
 - Should registrant be notified and how? Consider option to surrender domain rather than publication of contact data.
 - Consider protections in cases where publication of physical address could endanger someone's safety
- What safeguards or remedies should there be for cases where publication is found to have been unwarranted?
- What circumstances, if any, would warrant access to registrant data by law enforcement agencies?
- What clear, workable, enforceable and standardized processes should be adopted by ICANN-accredited privacy/proxy services in order to regulate such access (if such access is warranted)?

What information is required in order to be able to answer these Charter questions?
Would it be helpful to group certain questions together in clusters?
What would be the most efficient way and/or order for the WG to tackle these questions?
Would it be helpful to conduct a survey amongst the WG members on each of these questions to get an idea where people stand (which may also help determine which are questions that might be easy to tackle and which one may be more complex)?