**PPSAI – Category D - CONTACT point provided by each privacy/proxy service**

**Question 1 -** What measures should be taken to ensure contactability and responsiveness of the providers?

**Background information relevant to this question:**

**Information from the Whois Studies**

*WHOIS Proxy/Privacy Reveal & Relay Feasibility Survey Report:*

* 4.2.2. Interviewee observations: Processes for responding to requests appear to be ad-hoc and performed manually on a case-by-case basis. Responders said that they automatically co-operate with local law enforcement but have trouble authenticating requests from overseas. Those initiating requests expressed dissatisfaction with providers’ responsiveness. It is not clear if the reported inconsistency between those on the supply and demand side of relay and reveal requests is caused by structural problems or process/communications failures.
* 5.1.1. Recruiting Participants: Considerable effort was expended by the survey team in the last week of October to contact privacy and proxy providers. This proved to be a challenging and painstaking task. There is no central register of these providers or their contact details. ICANN staff helped locate a breakdown of providers and the number of domain names they serve.14 This list was supplemented by provider names known to the survey team and others arising from earlier research by NORC.15

The web sites of the 50 largest providers were located and manually checked. Some sites provided no contact details at all. Others offered web forms for requesting information or technical support, usually protected by CAPTCHA mechanisms. Where these forms were available, invitations to take part in the survey were sent manually. Many of these web forms require users to choose from a predefined list of request categories—e.g., sales inquiries or technical support—that did not fit well with a notification about the survey, and it is not clear how effective that communication channel was. Further attempts were made to contact privacy and proxy providers. The WHOIS entries for their domain names were checked and email was sent to the published Technical and Administrative Contacts inviting them to participate. (Ironically, almost all of those Contacts were themselves obscured by the use of privacy and proxy services.) Many of the privacy and proxy providers identified by this outreach effort were either operated by or had close business relationships with ICANN-accredited registrars. Although all of those emails were successfully delivered, it is not known if they were read or acted upon. The feasibility survey design did not include correlation of individual outreach efforts with subsequent participation in the survey, so it is not possible to quantify the impact of those efforts on survey participation.

**Information from the EWG Survey**

P/P Service Contracts and Customer Support

7 providers published customer contact information on their website, but just two of those explicitly included a phone number. One said that contacts were not published because they varied by TLD and customer, while another explained, “P/P Provider contact information constantly changes and is not posted on the website for that reason.”

Ten providers supplied links to their P/P service contracts1 and described customer support services:

* Privacy and Proxy are available to be purchased and applied to domain names either directly, during the normal domain order process as well as within the member’s console. Once the service has been purchased and assuming it remains active the client can either active or deactivate the service at will. Customer Support can access the same via the customer management system.
* Our customer support is available by phone or by email P/P. Customers access these services like any other customer would.
* At registration, we offer our own proxy details for [redacted] ccTLDs (not gTLDs) in case the customer refuses to disclose passport numbers, VAT numbers, etc. Customer requests are processed to either register with privacy or enable privacy afterward, again using our own privacy details.
* Each of our clients has a dedicated account manager that he can call/email/contact by mail directly. When the dedicated account manager is not present, one of his colleagues will be able to respond directly to the client.
* Our clients or potential ones can also call/email/write to our commercial team. Some offers can be ordered online and some others like Proxy or Privacy can't.
* Customer service is available by phone, email, and Live Chat. Privacy customers access our Support team via those standard methods. Privacy customers can purchase the service at the same time as purchasing the domain name, or after registration they can add the service to an existing domain through their control panel.
* This control panel also allows suspension of the privacy service.
* Customer support services are accessed through [redacted]. Customers access these services by logging into their account and clicking the P/P link associated with their domain.
* We have a "contact us", "contact owner " and "report abuse" form which goes straight through to our support team, they take the appropriate action from there.
* Customer Support for [our] service is provided directly by the Sponsoring Registrar of the domain name. The ability to disable and enable privacy services is available to all Sponsoring Registrars and their customers using [our] service. Basic questions a Registrar faces is documented here: [redacted]. [This] knowledge base article is available to every customer on the Sponsoring Registrar's platform. FAQs are also documented on [our] website - http://[redacted]/faqs/
* [We] offer customers an online support community to assist with all its products, including My Private Registration. This community is available via the URL: [redacted]. Phone, email and postal mail support is also available for customers. These services are described on our website: [redacted]

**From the Whois Review Team Final Report**

Recommendation 10 - Data Access -- Privacy and Proxy Services

(…) The Review Team considers that one possible approach to achieving this would be to establish, through the appropriate means, an accreditation system for all proxy/privacy service providers. As part of this process, ICANN should consider the merits (if any) of establishing or maintaining a distinction between privacy and proxy services. The goal of this process should be to provide clear, consistent and enforceable requirements for the operation of these services consistent with national laws, and to strike an appropriate balance between stakeholders with competing but legitimate interests. At a minimum, this would include privacy, data protection, law enforcement, the industry around law enforcement and the human rights community. ICANN could, for example, use a mix of incentives and graduated sanctions to encourage proxy/privacy service providers to become accredited, and to ensure that registrars do not knowingly accept registrations from unaccredited providers.

ICANN could develop a graduated and enforceable series of penalties for proxy/privacy service providers who violate the requirements, with a clear path to de-accreditation for repeat, serial or otherwise serious breaches.

In considering the process to regulate and oversee privacy/proxy service providers, consideration should be given to the following objectives:

(….)

- Providing full WHOIS contact details for the privacy/proxy service provider, which are contactable and responsive;

(…)

**From the Expert Working Group (EWG) Status Update (November 2013)**

Recommendation relating to proxy services: Proxy service providers should provide the registrar with their own name and contact details, including a unique forwarding email address.

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| **What measures should be taken to ensure contactability and responsiveness of the providers?** | **Who** | **WG Response** | **Recommended Action (if any)** |
| Periodic checks by ICANN Compliance, also following up on any related complaints. | Withheld |  |  |
| Email should be more than sufficient, even within a ticket system for processing and completing any complaint. | Chris Pelling |  |  |
| Each form of contact that is relay-able to the registrant should be relayed in a timely manner. Clearly forwarding an email to a registrant can be automated and rapid, while postal mail may be more time consuming. Providers should also respond to reveal requests and allegations of criminal contact in a timely fashion. Reasonable time frames for both relays, and external requests should be mandated in the contract between ICANN and the providers. | Emily Emanuel, John Horton, and Justin Macy.  Representing LegitScript |  |  |
| Upon receipt of a third party complaint ICANN should proactively take prompt steps to enforce the obligations of registrars. Services that cannot be contacted or that do not respond in a timely fashion should risk loss of accreditation and therefore ability to register domain names through accredited registrars. ICANN should also maintain a registry of accredited providers. | Keith Kupferschmid |  |  |
| Contractual obligation to provide (1) full and accurate PP Service Provider contact information in all Whois entries using PPS; (2) potential for revocation of PP Service Provider accreditation and liability where the Service Provider does not comply with the RELAY and REVEAL procedures in 2 above. | Jim Bikoff, David Heasley, Griffin Barnett, Valeriya  Sherman / Silverberg, Goldman & Bikoff, LLP |  |  |
| Banning them from holding more domain names, seizing revenues from "registrations", stripping them of their accreditation to be a proxy/privacy service and ordering the transfer to another service of the names they hold, imposing a hefty fine on them (a 20% of their income last year)... | Gema Campillos |  |  |
| Strong ICANN enforcement, proactively and when triggered by third party complaint (so that services that cannot be contacted, or that do not respond in a timely fashion, risk loss of accreditation and therefore ability to register DNs through accredited registrars). ICANN to maintain publicly accessible registry of accredited providers. Service providers should be required (as term of accreditation) to respond to all inquiries, regardless of location of service or of party launching the inquiry. | IPC |  |  |
| The RAA raises some good ideas. We would like to talk in the WG with the P/P Service Providers to see what they think, how the new rules are working, and whether they serve the purpose for which they were intended (contactibility of the proxy/privacy service provider). | NCSG |  |  |
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|  | **Should ICANN distinguish between privacy and proxy services for the purpose of the accreditation process?** |
| **WG Preliminary Conclusion** |  |
| **Should the same conclusion apply to proxy services & privacy services? If not, please explain why.** |  |