*“Threshold” Question: Currently, proxy/privacy services are available to companies, noncommercial organizations and individuals.  Should there be any change to this aspect of the current system in the new accreditation standards[[1]](#footnote-2)?*

The WG discussed the practical difficulties created by the lack of clear definition as to what is “commercial” and what is “noncommercial”. For instance, a distinction could be made on the basis of the individual or organization having a certain corporate form, or on the basis of the activities/transactions the individual or organization engages in regardless of corporate form. In addition, some commercial entities register and use domain names for noncommercial (e.g. charitable or experimental) purposes. The WG also noted that users of privacy/proxy services included those who may have critically important reasons for using them (e.g. for political speech) as well as those who do so to hide illegal activity.

An overwhelming majority of WG members believe tha proxy/privacy services should continue to be available to companies, noncommercial organizatons, and invidiuals. Therefore, the answer to that question is No, this aspect of the current system should not change.

However, Question C.1. presents some distinctions that create a division within the WG. These issues are the main question and subparts a-c..

1. Should ICANN-accredited privacy/proxy service providers distinguish between domain names used for commercial vs. personal purposes? Specifically, is the use of privacy/proxy services appropriate when a domain name is registered for commercial purposes?
2. *Define “commercial purpose” – must there be actual “trading”, or does it include any online business purpose (e.g. including for information or education)?*
3. *Should there be a definition of what constitutes trading? Purpose? Level?*
4. *Any difference between “personal” vs “noncommercial” e.g what about noncommercial organizations or noncommercial purposes such as political, hobby, religious or parental?*

A majority of WG members did not think it either necessary or practical to distinguish between commercial and noncommercial privacy/proxy service users, or limit the use of such services to certain types of uses for purposes of ICANN’s proposed accreditation program.

However, a minority of WG members disagreed, noting that in the “offline world” businesses often are required to register with the relevant authority as well as disclose details about their identity and location. These members suggested that not all domains used for commercial purposes, however that is defined, would be ineligible for privacy and proxy registrations. However, domains that conduct financial transactions online must have openly available domain registration information for purposes of, for example, consumer self protection and law enforcement purposes. Such domains should be precluded from using privacy and proxy registrations.

Question C.1 subparts a) and b), which the WG added early in our work to focus discussions, suggest defining “commercial” within the context of specific activities, and uses “trading” as an example. However, the WG discussion has focused on a broad term “commercial” and whether certain types of commercial activity mean that a domain is not eligible for P/P registration. For clarity as the WG moves forward, we will continue to use “commercial” in a broad sense and “transactional” to address issues raised by the position held by the minority in the threshold question. The minority position clearly would require a formal definition of “transactional.” WG discussions have not suggested any need for differentiation between personal and noncommercial usage of a domain.

With the foregoing in mind, it seems that overwhelming majority of the WG believes that the answer to C.2 is No. .

1. Should the use of privacy/proxy services be restricted only to registrants who are private individuals using the domain name for non-commercial purposes?

Issues discussed likely will arise with respect to matters that the WG will address later. In addition, the WG may consider requesting community feedback on this question as it continues its deliberations on the questions contained in its charter.

1. In agreeing to first discuss this threshold question for Category C, WG members noted also that answers to some questions in this category might be somewhat conditional, in that a Yes/No answer to one may obviate the need to answer others. The WG also noted that references to the “use” of a domain for specific purposes may also implicate content questions. [↑](#footnote-ref-2)