**PPSAI – Category G – TERMINATION of [accreditation of] privacy/proxy service**

**Question 1 – What types of services should be covered, and what would be the forms of non-compliance that would trigger cancellation or suspension?**

**Preliminary Note from ICANN Staff:**

A number of survey respondents assumed that this question was about the cancellation of the PP service to the customer rather than termination of the accreditation of the service itself. In the original scoping of the WG charter, however, the origin of this question can be traced to the 2010 Joint GNSO-ALAC RAA Drafting Team’s Final Report, in which the group recommended (as one item on its list of high-priority topics) that a registrar should bear responsibility for cancellation, under appropriate circumstances, of registrations made by PP services that are offered by others for noncompliance with Relay and Reveal procedures. The DT clarified that this recommendation would apply to proxy services not offered by the registrar in connection with registration, i.e., independent services. It also noted that this is where Relay or Reveal function requirements for these services could be spelled out.

In addition to the above, early discussions within this WG indicated that some members thought it would be helpful to also discuss the circumstances under which a PP service provider’s accreditation can be terminated.

Finally, the preliminary models that were presented for initial discussion with the WG by the Registrar Services Team in October 2014 noted the following considerations in relation to termination issues:

* Under the Registrar model: terminations require greatest level of coordination among parties and potentially involve greatest risk
* Under the Reseller model: ICANN could create standardized termination procedure and/or allow some flexibility
* Under the Escrow model: ICANN could effect terminations (as in registrar model) or apply reseller model approach

**Background information relevant to this question:**

*Whois Review Team Final Report*

ICANN could develop a graduated and enforceable series of penalties for proxy/privacy service providers who violate the [accreditation] 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:

(…)

* Maintaining the privacy and integrity of registrations in the event that major problems arise with a privacy/proxy provider.

*Joint GNSO-ALAC RAA Drafting Team Final Report*

Recommendation 6: Registrar responsibility for cancellation under appropriate circumstances of registrations made by other privacy/proxy services for noncompliance with Relay and Reveal. This applies to proxy services not offered by the registrar in connection with registration, i.e., independent services. This is where Relay or Reveal function requirements for these services could be spelled out.

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| **What types of services should be covered, and what would be the forms of non-compliance that would trigger cancellation or suspension?** | **Who** | **WG Discussion/Response** | **Recommended Action (if any)** |
| Breach of the provider/registrant contract should trigger known and documented procedures for cancellation. The procedures should be clear in order to limit transfers and substantial changes to domain name contact information while the service is being suspended and cancelled. Allowing a registrant to modify all verified contact information, providing inaccurate information, before a cancellation or suspension, would undermine the initial verification of the registrant data. | Emily Emanuel, John Horton, Justin Macy (LegitScript) |  |  |
| Any service that seeks to post in WHOIS any data substituting for the actual name, contact information etc. of the domain name registrant should be cancelled. | Keith Kupferschmid |  |  |
| Both privacy and proxy services should be covered. If the provider is non-compliant in revealing the information after a set period (e.g. 15 calendar days) then the applicable registry may direct it to comply. If it fails to comply, ICANN may revoke its registration. It may also be useful to have some sort of “three strikes” system whereby PP customers who have been found to violate the law (e.g. UDRP, URS, court of competent jurisdiction etc.) three times are placed on a blacklist and forbidden from any future use of PP services. | Jim Bikoff, David Heasley, Griffin Barnett, Valeriya  Sherman / Silverberg, Goldman & Bikoff, LLP |  |  |
| Failure to provide correct identification data, or if the registrant sells the domain name to someone else to identify the person responsible for the online content or activity at the domain name. | Gema Campillos |  |  |

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|  | **What types of services should be covered, and what would be the forms of non-compliance that would trigger cancellation or suspension?** |
| **WG Preliminary Conclusion** |  |
| **Should the same conclusion apply to proxy services & privacy services? If not, please explain why.** |  |