**SUMMARY OF RECOMMENDATIONS FROM SUB TEAM 4**

**12 October 2015**

**Category A: Issues concerning LEA**

The Sub Team makes no specific recommendation concerning LEA access to Customer information, except to note that this remains an option for the WG to work on further. Should the WG decide to take up the issue, the Sub Team then recommends that the comments summarized in this Category A be further analyzed to help inform policy recommendations on the topic.

**Category B: Methodology**

1. Mandatory Post-Implementation Periodic Review: The WG should consider a recommendation that a review be conducted two years after the launch of the Accreditation Program and every [two] years thereafter, to determine if the implemented recommendations meet the policy objectives for which they were developed. Such a review might be based on the non-exhaustive list of guiding principles being developed by the GNSO’s Data and Metrics for Policy Making (DMPM) WG. As noted by the DMPM WG, relevant metrics could include industry sources, community input via public comment or surveys or studies. In terms of surveys (whether or providers, customers or requesters), data should be anonymized and aggregated.
2. [Education of Customers, Requesters and the Public on the Features of the Accreditation Program] (TBD by the WG)

**Category C: New or Additional Features**

1. Unless otherwise addressed by the WG’s discussions over De-accreditation, develop a specific framework as part of the implementation phase to accept and investigate notifications of breach of accreditation standards leading to improper disclosure or publication, or improper refusal to disclose.
2. Consider [monetary damages or other penalties] for [repetitive] abuses of the disclosure process.
3. Include a limited retention period in accordance with applicable laws, restricted only to direct and initial needs for the data. The Sub Team notes that this is likely to be included in the WG’s revised Disclosure Framework applicable to trademark and copyright owners.
4. Require Providers to maintain statistics on the number of Publication and Disclosure requests received, and the number honored, and provide these statistics in aggregate form to ICANN for periodic publication. The data should be aggregated as we do not wish to create a market where nefarious users of the DNS find the P/P service least likely to make disclosures.
5. Ensure that the Final Report is clear and easily understandable. We ask the WG and its co-chairs to carefully review the entire document for clarity. As people will be reviewing and implementing this policy who are not lawyers and for whom English is not a first language, this complex policy should be crystal clear and easily accessible to all.

**Category D: Possible Unintended Consequences of Disclosure**

1. Consider whether a process similar to that applicable to requests from trademark and copyright owners (see Annex E of the WG’s Initial Report, as updated by Sub Team 3) should be created to deal with cases involving other types of requesters, where a Provider finds specific information, facts, and/or circumstances showing that Disclosure will endanger the safety of the Customer.
2. The WG should discuss the issue of whether or not the accreditation scheme should result in the loss of the use of counsel to act anonymously for a domain name registrant. This raises significant issues related to the right of counsel.
3. In connection with the post-implementation periodic review mechanisms suggested above, the metrics used should enable rapid evaluation of the question whether such unintended consequences arise in a systemic manner and, if possible, ways of fixing them.

**Category E: Additional Reasons For/Against the Accreditation Program**

1. We believe that the WG has addressed this concern adequately to date, in particular if the WG proceeds to recommend post-implementation review as described in Category D. The Sub Team notes that such a review could address the questions raised by many commenters as to the need and justification for an Accreditation Program. The Sub Team notes that short summary of the many comments expressing concern over creation of an accreditation process should be reflected briefly in the final report.

**Category F: Additional due process concerns not already covered by other Sub Teams**

1. The WG should also consider which law it deems should apply to the Request: the law of the P/P customer’s location, the law of the P/P provider’s location (likely the law mentioned in the agreement with the customer), the law of the location of the aggrieved party.

**Category G: Other specific topics within WG scope not captured by the above categories.**

1. Consider the whole of the final report in context to review, assess (and correct as needed) whether “due process” has been incorporated at every stage of the processes being created.