

Law Enforcement Recommendations Regarding Amendments to the Registrar Accreditation Agreement

2009 Law Enforcement Recommendation	2011 Law Enforcement Proposal*
<p>1) The RAA should not explicitly condone or encourage the use of Proxy Registrations or Privacy Services, as it appears in paragraphs 3.4.1 and 3.12.4. This goes directly against the Joint Project Agreement (JPA) ICANN signed with the United States Department of Commerce on September 25, 2006 which specifically states <i>“ICANN shall continue to enforce existing (Whois) policy”</i>, i.e., totally open and public WHOIS, and the September 30, 2009, Affirmation of Commitments, paragraph 9.3.1 which states <i>“ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS information, including registrant, technical, billing, and administrative contact information.”</i> Lastly, proxy and privacy registrations contravene the 2007 GAC Principles on WHOIS.</p> <p>If there are proxy and/or privacy domain name registrations, the following is recommended concerning their use:</p> <p>a. Registrars are to accept proxy/privacy registrations only from ICANN accredited Proxy Registration Services;</p> <p>b. Registrants using privacy/proxy registration services will have authentic WHOIS information immediately published by the Registrar when registrant is found to be violating terms of service, including but not limited to the use of false data, fraudulent use, spamming and/or criminal activity.</p>	<p>1. Use of Proxy or Privacy Registrations</p> <p>a. In the event ICANN establishes an accreditation program for proxy or privacy registration services, Registrar will accept proxy/privacy domain name registrations ONLY from ICANN accredited Proxy Registration Services. Registrar shall cooperate with ICANN to establish an ICANN accreditation program for proxy or privacy registrations.</p> <p>b. Registrar will ensure authentic WHOIS information is immediately published when a registrant is found to be violating terms of service, including but not limited to the use of false data, fraudulent use, spamming and/or criminal activity, subject to any applicable cure periods.</p>

* This refers to the 2011 Draft Registrar Code of Conduct to Enhance Law Enforcement Investigations. This text is provided to assist in understanding the scope of the primary Law Enforcement Recommendations that were issued in 2009. Except where indicated on the Negotiation Summary, it is ICANN’s understanding that the 2009 Recommendations are the primary guidance for the negotiations.

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<p>2) To RAA paragraph 5.3.2.1, language should be added to the effect “or knowingly and/or through gross negligence permit criminal activity in the registration of domain names or provision of domain name WHOIS information...”</p>	<p>2. Prohibition of Certain Illegal, Criminal or Malicious Conduct {Based on Section 5.3.2.1}. Registrar shall not engage in activities or conduct that results in: (i) a conviction by a court of competent jurisdiction of a felony or other serious offense related to financial activities; (ii) a judgment by a court of competent jurisdiction that Registrar has committed fraud or breach of fiduciary duty; (iii) the Registrar being the subject of a judicial determination that is the substantive equivalent of those offenses (i)-(ii); or (iv) the Registrar knowingly and/or through gross negligence, permitting criminal activity in the registration of domain names or in the provision of domain name WHOIS information, after failing to promptly cure such activity after notice thereof.]</p>

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<p>3) All Accredited Registrars must submit to ICANN accurate and verifiable contact details of their main operational and physical office location, including country, phone number (with international prefix), street address, city, and region, to be publicly disclosed in ICANN web directory. Address must also be posted clearly on the Registrar's main website. Post Office boxes, incorporation addresses, mail-drop, and mail-forwarding locations will not be acceptable. In addition, Registrar must submit URL and location of Port 43 WHOIS server</p>	<p>3. Valid Physical Address to be Published. Registrar must provide a valid physical address for legal service, including a valid street address, city, and region, as well as a valid telephone number and fax number to ICANN. Additionally, Registrar agrees that accurate and verifiable contact details of (a) the main operational and physical office location, including country, (b) phone number (with international prefix), and (c) street address, city, and region, will be publicly disclosed in the ICANN web directory, as well as posted clearly on the Registrar’s main website. Additionally, Registrar will notify ICANN immediately of any changes to items (a), (b) and/or (c), and concurrently update Registrar’s website. Lastly, Registrar will submit URL and location of Port 43 WHOIS server.</p>

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<p>4) Registrars must publicly display of the name of CEO, President, and/or other responsible officer(s).</p>	<p>4. Valid Officer Data to be Published. Registrar will display on the Registrar’s main website, and update as necessary, the name of the company’s executive management personnel, including its CEO and President as well as any other responsible officer(s) or executive(s). The Registrar may include other contact data as appropriate, such as for the legal department or customer service department, to assist in the resolution of issues. Additionally, Registrar will immediately notify ICANN and concurrently update Registrar website of any changes in executive management structure, as well as any changes in the controlling ownership of Registrar.</p>

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<p>5) Registrars with multiple accreditations must disclose and publicly display on their website parent ownership or corporate relationship, i.e., identify controlling interests.</p>	<p>5. Disclosure of Registrars owned by Affiliates. Registrars with multiple accreditations must disclose and publicly display on their website parent ownership or corporate relationship, i.e., identify controlling interests.]</p>

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<p>6) Registrar must notify ICANN immediately of the following and concurrently update Registrar website:</p> <ul style="list-style-type: none"> a. any and all changes to a Registrar’s location; b. changes to presiding officer(s); c. bankruptcy filing; d. change of ownership; e. criminal convictions ; f. legal/civil actions 	<p>6. Notice to ICANN of Certain Changes. Registrar will notify ICANN immediately of the following:</p> <ul style="list-style-type: none"> a. Any and all changes to a Registrar’s location(s), office(s); b. Changes to presiding officer(s); c. Change in controlling ownership; d. Any criminal convictions, and any civil convictions causal or related to criminal activity. <p>Registrar will concurrently update their website upon notifying ICANN of (a) –(c) above.</p>

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	NOTE: Law Enforcement noted that this was an appropriate standard for the negotiations
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7) Registrar should be legal entity within the country of operation, and should provide ICANN with official certification of business registration or license.	7. Maintenance of Business Licenses. Registrar will maintain throughout the term of its accreditation with ICANN, and provide to ICANN verifiable documentation that its company is a legal entity within its country of operation, and will provide current, valid, and official certification of business registration(s) or license(s) upon request by ICANN.

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8) Resellers must be held completely accountable to ALL provisions of the RAA. Registrars must contractually obligate all its Resellers to comply and enforce all RAA provisions. The Registrar will be held directly liable for any breach of the RAA a Reseller commits in which the Registrar does not remediate immediately. All Registrar resellers and third-party beneficiaries should be listed and reported to ICANN who shall maintain accurate and updated records.	N/A

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<p>9) Registrars and all associated third-party beneficiaries to Registrars are required to collect and securely maintain the following data:</p> <p>(i) Source IP address (ii) HTTP Request Headers</p> <p>(a) From (b) Accept (c) Accept-Encoding (d) Accept-Language (e) User-Agent (f) Referrer (g) Authorization (h) Charge-To (i) If-Modified-Since</p> <p>(iii) Collect and store the following data from registrants: (a) First Name: (b) Last Name: (c) E-mail Address: (d) Alternate E-mail address</p>	<p>(e) Company Name: (f) Position: (g) Address 1: (h) Address 2: (i) City: (j) Country: (k) State: (l) Enter State: (m) Zip: (n) Phone Number: (o) Additional Phone: (p) Fax: (q) Alternative Contact First Name: (r) Alternative Contact Last Name: (s) Alternative Contact E-mail: (t) Alternative Contact Phone: (iv) Collect data on all additional add-on services purchased during the registration process. (v) All financial transactions, including, but not limited to credit card, payment information.</p>	<p>N/A</p>

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<p>10) Each registrar is required to validate the following data upon receipt from a registrant:</p> <p>(1) Technical Data (a) IP addresses used to register domain names. (b) E-mail Address (i) Verify that registration e-mail address(es) are valid.</p> <p>(2) Billing Data (a) Validate billing data based on the payment card industry (PCI standards), at a minimum, the latest version of the PCI Data Security Standard (DSS).</p> <p>(3) Contact Data (a) Validate data is being provided by a human by using some anti-automatic form submission technology (such as dynamic imaging) to ensure registrations are done by humans. (b) Validate current address WHOIS data and correlate with in-house fraudulent data for domain contact information and registrant's IP address.</p> <p>(4) Phone Numbers (i) Confirm that point of contact phone numbers are valid using an automated system. (ii) Cross validate the phone number area code with the provided address and credit card billing address.</p>	<p>N/A</p>

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<p>11) Registrar must provide abuse contact information, including the SSAC SAC 038 recommendations below:</p> <ul style="list-style-type: none"> · Registrars must prominently publish abuse contact information on their website and WHOIS. <p>1. The registrar identified in the sponsoring registrar field of a Whois entry should have an abuse contact listed prominently on its web page. To assist the community in locating this page, registrars should use uniform naming convention to facilitate (automated and rapid) discovery of this page, i.e., <a href="http://www.<registrar>.<TLD>/abuse.html">http://www.<registrar>.<TLD>/abuse.html.</p> <p>2. Registrars should provide ICANN with their abuse contact information and ICANN should publish this information at http://www.internic.net/regist.html.</p> <ul style="list-style-type: none"> · The information a registrar publishes for the abuse point of contact should be consistent with contact details currently proposed as an amendment to Section 3.16 of the RAA. Each contact method (telephone, email, postal address) should reach an individual at the Registrar who will be able to promptly and competently attend to an abuse claim; for example, no contact should intentionally reject postal or email submissions. · Registrars should provide complainants with a well-defined, auditable way to track abuse complaints (e.g. a ticketing or similar tracking system). 	<p>8. Publication of Abuse Point of Contacts.</p> <p>Registrar will prominently publish abuse contact information on their website and WHOIS. The abuse contact will be prominently displayed on its webpage, and a uniform naming convention will be utilized to facilitate discovery of the webpage. The abuse contact information will provide the community with an individual’s point of contact information, including telephone and email address. The abuse contact will be an individual who can promptly (within 24 hours) take action to remedy the situation in response to a well-founded report of illegal, criminal, or malicious activity involving a domain name registration.</p>

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12) ICANN should require Registrars to have a Service Level Agreement for their Port 43 servers.	9. Service Level Agreement for Port 43 WHOIS Access. Registrar will meet or exceed the requirements of a service level agreement (SLA) announced by ICANN with regards to access to WHOIS information published through Port 43, that addresses the following features: (i) minimum uptime levels for WHOIS servers, (ii) acceptable query limitations and/or IP blocking restrictions, and (ii) minimum data updates frequency. Registrar will monitor compliance of the ICANN SLA requirements on a monthly basis, and will correct any violations of the WHOIS SLA identified by Registrar or by others within thirty (30) days of notice thereof. Failure to satisfy the WHOIS SLA during two consecutive months during any 12 month period may result in notice of SLA violation posted on ICANN’s website, or other appropriate ICANN compliance action under the RAA. Registrar shall cooperate with ICANN, as requested, to develop the parameters to be included in the WHOIS SLA.