

Report of Public Comments

Title:	GNSO Privacy and Proxy Services Accreditation Issues Policy Development Process Recommendations for ICANN Board Consideration
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Publication Date:	31 March 2016
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Prepared By:	Mary Wong
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Section I: General Overview and Next Steps

This public comment proceeding sought to obtain community input on the final recommendations from the GNSO's Working Group that conducted a Policy Development Process (PDP) to develop recommendations that will guide ICANN's implementation of an accreditation program for privacy and proxy registration service providers. The GNSO Council adopted all the final consensus recommendations from the PDP Working Group in January 2016 (<http://gns0.icann.org/en/council/resolutions#201601>), and approved a Recommendations Report to the ICANN Board on the topic in February (<http://gns0.icann.org/en/meetings/minutes-council-18feb16-en.htm>). In accordance with the ICANN Bylaws, a public comment period was opened on the adopted recommendations, prior to their review and action by the ICANN Board, to provide the community with a reasonable opportunity to comment on "any policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges" (see Bylaws Article III, Section 6.1).

All the PDP Working Group's final consensus recommendations, as adopted by the GNSO Council, are described in detail in the group's Final Report, which can be viewed at <http://gns0.icann.org/en/issues/raa/ppsai-final-07dec15-en.pdf>.

Five (5) comments were received by the close of this public comment period. Of these, one (1) had no content and another was an unrelated solicitation for investment services. The remaining three (3) comments have been summarized below in Section II.

Next Steps
Staff will submit this Report of Public Comments, the GNSO Council's Recommendations Report and the PDP Working Group's Final Report to the ICANN Board for its review and necessary action.

Section II: Contributors

At the time this report was prepared, a total of 5 community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Intellectual Property Constituency	Steven Metalitz	IPC
Business Constituency	Steve delBianco	BC
Google, Inc.	Stephanie Duchesneau	GI

Individuals:

Name	Affiliation (if provided)	Initials

Darius Stackevicius		DS
Jessen Lee		JL

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

Of the three (3) comments received that related to the PDP recommendations, two (2) were from the GNSO's Constituencies (both in the Commercial Stakeholder Group) and the third was from a corporation. All three (3) organization's comments generally supported the framework recommended by the PDP Working Group, though several concerns were noted by each commenter in relation to implementation. BC and IPC supported timely and expeditious implementation, with IPC noting that the current interim specification that is in place is due to expire in January 2017 and both BC and IPC highlighting the fact that the recommendations received the Full Consensus of the Working Group. IPC commented on the "current chaotic situation" absent an accreditation program or other framework, and BC noted its longstanding support of privacy and proxy registration services accreditation "as a critical element in further evolving trust and security across the registration landscape". GI expressed its appreciation to the Working Group for considering GI's prior comments on the Working Group's Initial Report, to which the Working Group had made changes as a result of reviewing the community input received in finalizing its recommendations.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

As noted above, each of the three (3) organizational commenters also highlighted concerns over implementation of the recommendations. IPC expressed disappointment at ICANN's "recent track record" with prompt implementation of adopted GNSO policies, citing the recently concluded Thick WHOIS PDP as an example. It recommended that ICANN announce, within ten (10) days of Board approval, a "firm target date for implementation ... and to devote the resources needed to meet or exceed that target". In this context, IPC expressed its disappointment that the Governmental Advisory Committee (GAC), in its most recent Communiqué issued at the ICANN55 meeting in Marrakech, had advised the ICANN Board to delay approval of the recommendations until after ICANN56.

BC commented that ICANN will need to increase its compliance capabilities in order to effectively enforce the adopted policies. It urged the development of a de-accreditation process that contains clear consequences for failure to comply, as well as an education and outreach program that would include registrars, privacy and proxy registration service providers, and registrants and potential customers. It also suggested that law enforcement and consumer protection agencies be solicited for important input into the implementation process. Finally, BC reiterated its comments to the Working Group's Initial Report that had favored the development – during implementation – of permissible uses by domains registered via privacy or proxy services and used for commercial purposes.

GI noted concerns, presumably reflecting the Working Group's notes on the subject as published in the Final Report, over the possible interrelationship between certain aspects of the new policy recommendations with the registrar requirements under the Inter-Registrant Transfer (Change of Registrant) Process that will come into effect on August 16, 2016. In this regard it suggested that this situation be addressed by ICANN specifically when finalizing the applicable accreditation policies. In relation to the Working Group's recommendation that aggregate statistics on the number of Disclosure and Publication requests and received be published by ICANN, GI clarified its earlier comment to the Initial Report, by suggesting that aggregated statistics be published on a "per provider" basis and

not as a single statistic across all providers. GI also suggested that the Working Group's recommendation relating to validation and verification of customer data in the context of the 2013 Registrar Accreditation Agreement be further refined, to be understood to apply to the "2013 RAA or a subsequent form of the Agreement." Finally, in noting certain open areas that would need clarification during implementation, including the solicitation of community input and periodic review, GI nevertheless cautioned that these should not be viewed as opportunities to re-open discussions on areas that had been agreed to by the Working Group during the policy development phase.

The concerns, clarifications and suggestions made by these commenters as to open areas and further work to be undertaken during implementation of the adopted policies will be forwarded to the Implementation Review Team (IRT) for their consideration in developing an implementation plan. The formation of an IRT was specifically requested by the GNSO Council when approving these recommendations, in line with the Implementation Review Team Principles and Guidance that were approved by the GNSO Council in June 2015.