Progress Report – Negotiations on the Registrar Accreditation Agreement
Status as of 1 March 2012

NOTE: For the entirety of this Summary document, the Notes/Comments are provided to give broader understanding of the status of the discussions. The Notes/Comments section does not include a full statement of a negotiation position, nor does it preclude additional issues being raised within the discussion. There are significant interdependencies between the provisions under discussion, not all of which can be identified at this time.

General Comments

ICANN and the Registrar Negotiation Team (NT) are undertaking a comprehensive review of the Registrar Accreditation Agreement (RAA) with the following goals and objectives:

- Address the concerns and issues reflected in various requests, proposals, and suggestions made by law enforcement authorities (LEA).
- Incorporate the results of detailed discussions in the ICANN community leading to the Registry Agreement for new gTLDs contained in the new gTLD Guidebook where appropriate
- Create flexible and workable mechanisms to address compliance issues as they emerge
- Maintain a level contractual playing field across the Registrar community
- Streamline and align processes across stakeholder groups where appropriate
- Clarify the RAA itself by incorporating appendices that address many of the items identified (such as the Service Level Agreement for Whois; the Whois Accuracy Program; Consensus Policies; Data Collection and Maintenance; Registrar Information Updates; and others as applicable)

Neither the ICANN staff nor the members of the Registrar Negotiation Team have the authority to bind the ICANN Board or individual registrars. The terms “agreement” or “agreement in principle” are used in this document to reflect the status of discussions at this time, and not necessarily a final resolution of the issue.

ICANN and the Registrar Negotiation Team jointly drafted this Summary.
The full text of the Law Enforcement Recommendations is available in a companion document.

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Request	Agreement[1] in Principle	Agreement on Language	Notes/Comments
LEA REQUEST 1: (a) If ICANN creates a Privacy/Proxy Accreditation Service, Registrars will accept proxy/privacy registrations only from accredited providers; (b) "Registrants using privacy/proxy registration services will have authentic Whois information immediately published by Registrar when registrant is found to be violating terms of service"	(a) Yes (b) Yes	(a) Yes (b) No	(a) Registrars will comply with commercially reasonable privacy/proxy accreditation scheme (b) "Reveal" or "relay" provisions will be included in a proxy/privacy accreditation program. (c) Further discussion needed to address request for "publication" of underlying data to general public, which may raise data protection issues. (d) Further discussion required on issues related to escrow of underlying data, issues related to unidentified, informal proxy service providers, determination that registrant is violating terms of service

[1] Key: **Agreement in Principle:** "yes" indicates that ICANN and Registrars have an understanding that requested item will appear in an amended RAA, however, the exact language is not yet identified and, in some cases, substantial discussion is still required.

Agreement on Language: "yes" indicates that it appears that the parties agree that a provision will appear in an amended RAA, this box will have an "X" or "yes" if language is essentially complete.

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LEA REQUEST 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…"	Yes	No	Further discussion to ensure that implementation is workable and captures the intent of this request
LEA REQUEST 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	Yes	Nearly	Much of this information is already required as part of an application for accreditation. Agreement in principle to use an appendix requiring update and posting requirements for corporate, contact, and affiliation information responsive to LEA requests. In addition, Registrars will post address for service of process, physical address for principles place of operations on website.
LEA REQUEST 4: Registrars must publicly display of the name of CEO, President, and/or other responsible officer(s).	Yes	Yes	Registrars will publish names of corporate officers on website.
LEA REQUEST 5: Registrars with multiple accreditations must disclose and publicly display on their website parent ownership or corporate relationship, i.e., identify controlling interests.	Yes	Yes	Registrars will publish the name and address of its corporate parent, if any, on website. In addition, registrars will provide additional affiliation information to ICANN for posting on InterNIC.

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LEA REQUEST 6: Registrar will notify ICANN immediately of the following: 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. Registrar will concurrently update their website upon notifying ICANN of (a) –(c) above.	Yes	Yes	Registrars will notify ICANN and provide updated information as identified on the appendix.
LEA REQUEST 7: Registrar should be legal entity within the country of operation, and should provide ICANN with official certification of business registration or license.	Yes	Yes	Licensing/other corporate information required for accreditation must be kept current.

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LEA REQUEST 8: Reseller Accountability and disclosure obligations.	Yes	No	Agreement in principle to articulate in RAA Registrar's responsibility to ensure that all registrations sponsored by Registrar – directly or indirectly - must be registered and maintained in compliance with Registrar's obligations under the RAA. LE proposal called for more detailed recitation of specific reseller obligations in RAA. Registrars think that the provisions in the current RAA that call out specific duties with respect to resellers is confusing and undermines the fundamental principle of responsibility in the past. They have proposed suggested that the recitation of reseller-specific language be replaced with language that clarifies that obligations apply to all sponsored registrations, no matter what business model is used.
LEA REQUEST 9: Registrar collection and maintenance of data on the persons initiating requests for registration, as well as source IP addresses and financial transaction information.	No	No	Further discussion and clarification required.

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LEA REQUEST 10: Validation of Whois data upon receipt from registrant	Yes	No	Implementation of a Whois Accuracy Program is acceptable to Registrars in principle. Broader community discussion is required to identify the full nature and scope of such a program. ICANN and the registrars will host a forum in Costa Rica on verification models, available technologies and data, and the effects of a Whois Accuracy Program to help inform this process.

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LEA REQUEST 11: Registrar creation of an abuse point of contact, and provision of a well-defined, auditable way to track complaints.	Yes	Nearly	There is an agreement in principle that Registrars will develop and publish information about processes for the receipt, tracking, handling of, and response to complaints, including requirement regarding receipt of and response to reports received from law enforcement authorities. Language is still being refined to address issues relating to jurisdiction and authentication of law enforcement.
LEA REQUEST 12: ICANN should require Registrars to have a Service Level Agreement for their Port 43 servers.	Yes	No	Subject to NT[2] request to remove the Port 43 requirement for "thick" registries; agreement in principle to incorporate an SLA for Port 43 Whois servers.

[2] "NT" is the Registrar Negotiation Team.

Other Items Proposed For Negotiation in Addition to Law Enforcement Recommendations

Note: The items appearing below were proposed either by (1) the prior RAA Amendments Drafting Team, (2) ICANN and/or (3) the Registrars. Each request is stated in summary form.

Request	Agreement in Principle	Agreement on Language	Notes/Comments
Clarify and streamline mechanisms for binding amendment of the RAA through Consensus Policy development; amendments supported by specified percentages of registrars; predictable processes for comprehensive RAA revisions	Yes	No	There is agreement in principle on the need to provide clear and predictable processes for amending and revising the RAA, and for rolling out amendments in a manner that maintains an even playing field and removes incentives/rewards for holding out/free riding. Additional discussion is required on possible mechanisms for comprehensive review.
Align articulation of "Consensus Policy" topics and processes in line with the form presented in the new gTLD Registry Agreement (i.e., Specification 1 of new GTLD agreement).	No	No	This issue has not been fully discussed.

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NT has proposed to eliminate requirement for Registars to provide Port 43 Whois Requirements in relation to "Thick" Registries.	No	No	Because "thick" registries provide similar output on their Port 43 servers as the registrars provide, there is a request to remove that operational requirement from the RAA. The NT believes that this requirement is unnecessary, the information is duplicative as it is already provided by Registries, and the requirement may become significantly burdensome in connection with new gLTDs; also needed to prevent inconsistencies of Whois query results.
Implement 2009 RAA provision regarding elimination of bulk WHOIS obligations	No	No	The RAA contemplates elimination of this requirement to the extent that no individual or entity can exercise market power with respect to registration data used for development of added products and services.
Streamlining RAA renewal process using the same principles covering the automated renewal of gTLD registry contracts	No	No	Further discussion required.
Review of Registrar compliance record prior to granting renewal of RAA	Yes	No	Further discussion required about how this would be implemented.

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Suspension of allowing new registrations as a heightened compliance tool	Yes	No	Agreement on need for workable compliance tools, including clarification of existing suspension rights (in 2.1 of the RAA), and to tie such suspension rights to termination provisions more clearly. Various mechanisms under discussion.
Modification of Dispute Resolution Clause to require one arbitrator, not three	Yes	Nearly	Allows for streamlined, less costly, and more workable dispute resolution
Insertion of time limit for arbitration panel to rule on Registrar's request for a stay of termination	No	No	Further discussion required.
Clarification that fees due to ICANN cannot be modified or altered to account for registrar's taxes	Yes	No	Further discussion is required to understand emerging issue.
Clarification that Registrar may not enter into agreement with itself as a domain name registrant, though registrar may register names for its own use in providing Registrar Services	Yes	Nearly	The amendment does not represent a change from the meaning of the 2009 RAA, rather a clarification. The exact language to capture the intended meaning is still under consideration.
Requirement that Registrars will complete a self-assessment on a regular basis	No	No	Full discussion has not yet occurred, but no fundamental objections have been raised.
Permit alternative form of liability insurance in the event that commercial general liability insurance is not available to registrar	No	No	Full discussion has not yet occurred regarding this term, but no fundamental objections have been raised.

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Provisions relating to operational or conduct requirements for vertically integrated registry/registrar operations, similar to provisions in new gTLD Registry Agreement.	Yes	No	There appears to be agreement to this placeholder companion to the requirements in the New gTLD Program (where cross ownership of registries and registrars is allowed) being included in the RAA. The exact language has not been formally agreed upon.
Refining the Registrar termination provision regarding officer or Board member convicted of financially-related crimes or any felony, if the registrar does not remove the officer or Board member after knowledge of the conviction, to correspond with the provision in the New gTLD Registry Agreement	Maybe	No	Full discussion has not yet occurred regarding this term, though there appears to be agreement in principle to this provision remaining in the RAA in some form.
Revise the termination provision relating to Bankruptcy or Insolvency to correspond with the provision in the New gTLD Registry Agreement	Yes	No	There appears to be agreement in principle regarding the updating of this provision.
Permit ICANN to terminate Registrars with three material breaches of the RAA within a 12-month period	Yes	No	Further discussion required.
Permit ICANN to terminate an RAA where a Registrar or certain affiliates are determined to have engaged in a pattern of cybersquatting	Yes	No	Further discussion required to identify relevant affiliates and a workable mechanism to identify pattern of cybersquatting.
Removal of requirement to enter into an Appendix for each new TLD in which the registrar wishes to be accredited.	Yes	Nearly	There appears to be agreement to streamlining this process.

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Requiring a Service Level Agreement for Registrar's web-based Whois service	No	No	New gTLD Registries will be required to meet an SLA on both Port 43 and web-based Whois services. ICANN requests to make this web-based obligation applicable to Registrars as well. Full discussion has not yet occurred on this item.
Insert provision prohibiting domain name warehousing and speculation by Registrars	Yes	No	There appears to be agreement in principle that this provision NOT be negotiated and remain the subject of future policy development as the ICANN community sees fit.
Allowance of email notification to registrars for adoption of new specification, policy or program as called for in the agreement	No	No	ICANN requests a streamlining of certain notice requirements when notice is required to go to all registrars.