

Policy Development Process (PDP) Update

Privacy and Proxy Services Accreditation Issues in relation to the 2013 Registrar Accreditation Agreement and the Development of a Privacy and Proxy Services Accreditation Program by ICANN

February 2018

Upcoming Important Dates

The Privacy and Proxy Service Provider Accreditation Program Implementation Review Team (IRT) meets weekly, on Tuesdays, at 15:00 UTC. Additional information about the IRT's work is available on the ICANN community wiki, <https://community.icann.org/display/IRT/Privacy+and+Proxy+Services+Accreditation+Implementation>. Members of the GAC are invited to sign up for this IRT as active participants or as observers.

The [ICANN Board directed](#) the IRT to continue working with the Governmental Advisory Committee's Public Safety Working Group to address GAC concerns related to the accreditation of privacy and proxy service providers. The ICANN organization initiated a consultation with the PSWG for the purposes of developing a proposal for a framework that will set forth requirements for privacy and proxy service providers' responses to requests from law enforcement authorities. As of the date of this memo, PSWG and registrar members of the IRT disagree about one element of the draft law enforcement authority framework (the response time for high priority/emergency requests). If this disagreement is not resolved during the final discussion call on this topic, this item will be specifically flagged for community input during the public comment period.

The IRT is in the final stages of reviewing the draft accreditation Policy document, the draft Accreditation Agreement and the draft Applicant Guide prior to the opening of a public comment period. The IRT intends to publish these documents for the community's information prior to ICANN61, so that ICANN61 can be used as a vehicle to encourage broad community participation during the public comment period. The public comment period will be extended to account for ICANN61 and in consideration of the scope of the documents to be reviewed by the community.

Once the documents referenced above are posted for public comment, the IRT will consider Transfer Policy issues that were referred by the GNSO Council, pursuant to the Council's instruction to consider this topic after the items above have been published for public comment. It is expected that the Transfer Policy issue will be discussed by the IRT at ICANN61.

The project timeline, [available on the ICANN website](#), will be revisited within the IRT and updated quarterly.

The ultimate implementation date of this program (the policy and contractual effective date) will depend heavily on the amount of IRT work required in response to the public comments.

Summary

The Registrar Accreditation Agreement (RAA) is the contract that governs the relationship between ICANN and its accredited registrars (a directory of accredited registrars can be found at

<http://www.internic.net/regist.html>). Its provisions also may have impacts on registrants and other third parties involved in the domain name system. In June 2013, the ICANN Board approved a new 2013 RAA (the provisions of which can be found at <http://www.icann.org/en/resources/registrars/raa/approved-with-specs-27jun13-en.pdf>). In initiating negotiations for the 2013 RAA between ICANN and the Registrars Stakeholder Group in October 2011, the ICANN Board had also requested an Issue Report from the GNSO that, upon the conclusion of the RAA negotiations, would start a GNSO Policy Development Process (PDP) to address remaining issues not dealt with in the RAA negotiations that would be suited to a PDP. The GNSO Council approved the charter for this effort at its meeting on 31 October 2013 and a Working Group was formed.

The WG published its Initial Report for public comment on 5 May: <https://www.icann.org/public-comments/ppsai-initial-2015-05-05-en>. Due to the unusually large volume of comments received (including over 11,000 public comments and almost 150 survey responses), the WG extended its timeline in order to carefully and thoroughly consider all the input received. Having completed its review of all the comments, the WG completed and sent its Final Report to the GNSO Council on 7 December 2015. On 21 January 2016, the GNSO Council voted unanimously to approve all the recommendations contained in the WG's Final Report, all of which attained Full Consensus among the WG. Consonant with the requirements of the ICANN Bylaws, a public comment forum was opened on the final recommendations from 5 February to 16 March (<https://www.icann.org/public-comments/ppsai-recommendations-2016-02-05-en>), the GNSO Council approved the transmission of a Recommendations Report to the ICANN Board on 18 February, and notification provided to the GAC on 19 February.

In May 2016, the ICANN Board [acknowledged](#) receipt of the GNSO's recommendations, and requested more time to consider them, including time for the provision and consideration of GAC advice, if any. The GAC hosted a session at ICANN56 on the topic and in its [Helsinki Communique](#) advised the ICANN Board to 'direct the Implementation Review Team (IRT) to ensure that the GAC concerns are effectively addressed in the implementation phase to the greatest extent possible'. On 9 August, the Board approved the PDP recommendations and acknowledged the GAC's advice, which it will consider in order to provide further input to the Implementation Review Team (IRT) that is to be formed.

The IRT has been formed and commenced meetings in October. Approximately 40 volunteers have signed up for the IRT, including multiple volunteers from the GAC's PSWG.

[In December, the ICANN Board adopted](#) a scorecard, [GAC Advice—Helsinki Communique: Actions and Updates](#). In this scorecard, the Board:

- Accepted the GAC's advice with respect to this program and said that it will continue to encourage dialogue on constructive ways to address GAC concerns as the policy implementation continues;
- Noted that members of the PSWG have joined the IRT, and encouraged the IRT to continue to work with the PSWG to address the concerns expressed by the GAC regarding accreditation of privacy/proxy service providers; and
- Said that it will use the existing processes in ICANN's Bylaws and the Board-GAC Consultation Process to address any additional advice from the GAC regarding accreditation of privacy/proxy service providers. The Board also noted that ICANN's existing Consensus Policy Implementation Framework allows for new policy issues that emerge during implementation to be referred back to the appropriate policy making body, in this case, the GNSO.

Engagement Opportunity Status



This project is now in the implementation phase. The GAC is encouraged to participate in the Implementation Review Team, particularly as the Public Safety Working Group works to develop a proposed framework for accredited Privacy and Proxy Service Providers' responses to law enforcement requests. Pursuant to the ICANN Bylaws, any GAC advice that is timely provided will be taken duly into account by the Board.

Additional Information

Implementation Review Team wiki page

<https://community.icann.org/display/IRT/Privacy+and+Proxy+Services+Accreditation+Implementation>

WG Charter

<http://gnso.icann.org/en/drafts/raa-pp-charter-22oct13-en.pdf>

WG Workspace

<https://community.icann.org/x/9iCfAg>

WG Initial Report

<http://gnso.icann.org/en/issues/raa/ppsai-initial-05may15-en.pdf>

WG Final Report

<http://gnso.icann.org/en/issues/raa/ppsai-final-07dec15-en.pdf>

GNSO Council resolution approving the Final Report

<http://gnso.icann.org/en/council/resolutions#201601>

GNSO Council Recommendations Report to the ICANN Board

<http://gnso.icann.org/en/drafts/council-board-ppsai-recommendations-09feb16-en.pdf>

ICANN Board notification to the GAC

<https://gacweb.icann.org/download/attachments/27492514/2016-02-19-Steve-Crocker-to-Thomas-Schneider-GNSO-PDP.pdf?version=1&modificationDate=1456046942000&api=v2>

ICANN Board resolution of May 2016: <https://www.icann.org/resources/board-material/resolutions-2016-05-15-en#2.a>

GAC Helsinki Communique:

https://gacweb.icann.org/download/attachments/27132037/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.pdf?version=1&modificationDate=1469016353728&api=v2

ICANN Board resolution of August 2016: <https://www.icann.org/resources/board-material/resolutions-2016-08-09-en#2.e>

ICANN Board resolution of December 2016: <https://www.icann.org/resources/board-material/resolutions-2016-12-13-en#1.d>