



## Business Constituency Response to PDP WG on Accreditation of Privacy & Proxy services

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First, consider these 4 points the BC adopted regarding the 2013 RAA last May ([link](#)):

The BC notes that the specification only requires that registrars require P/P Providers to post their privacy-proxy terms and conditions on their websites and does not require specific content of what those terms and conditions must entail. The BC would like to see specific content requirements of the terms and conditions as to the following issues:

- Specify under what circumstances, pursuant to section 2.4.3, the P/P Provider will relay communications from third parties to the P/P Customer. The BC recommends that the P/P Provider be required at a minimum to relay any communications alleging illegal conduct or consumer fraud (e.g., infringement of intellectual property rights).
- Specify under what circumstances and which time frame, pursuant to section 2.4.5, the P/P Provider will be required to reveal the Whois information of the P/P Customer. The BC recommends that if illegal activity is alleged, that the P/P Provider be required to reveal the Whois information and that this revelation occurs within seven (7) business days to conform to section.
- The BC recommends that the P/P Provider be required to relay any covered communication within three (3) business days to the P/P Customer. In addition, the BC requests that the specification require that the P/P Provider confirm such relay within 24 hours to the person submitting the report of abuse.
- The BC is concerned that there is no means by which to amend the P/P specification. It could be several years before this specification is replaced by a Privacy and Proxy Accreditation Program. Therefore, the BC recommends there be a mechanism to amend the P/P specification as may be considered necessary by the parties and stakeholders.

Second, here are some high-level questions (not official positions) the BC offers the WG:

**ICANN enforcement:** Can we create an Accreditation system where ICANN compliance has legal power and leverage to enforce against accredited P/P providers who don't follow the required RELAY and REVEAL procedures? It's far better for ICANN Compliance to have direct relationship with P/P Providers, than to rely only upon implied liability for failures to RELAY/REVEAL.

**Must both Resellers and Registrars use accredited P/P providers?** As we discussed tonight, the 2013 RAA ([link](#)) has strong requirements for Resellers to use Accredited P/P providers, but where's the requirement for Registrars? (see comparison below)

3.12.4 ... the Proxy Accreditation Program may require that: (i) proxy and privacy registration services may only be provided in respect of domain name registrations by individuals or entities Accredited by ICANN pursuant to such Proxy Accreditation Program; and (ii) Registrar shall prohibit Resellers from knowingly accepting registrations from any provider of proxy and privacy registration services that is not Accredited by ICANN pursuant the Proxy Accreditation Program.

3.14 Obligations Related to Proxy and Privacy Services. Registrar agrees to comply with any ICANN-adopted Specification or Policy that establishes a Proxy Accreditation Program. Registrar also agrees to reasonably cooperate with ICANN in the development of such program.

**Let's plan now for the transition to Accredited P/P providers:** Can we have a communications plan to alert registrants, registrars, and P/P providers in advance of the date the Accreditation System becomes effective, such that all parties have time and incentive to convert to use only Accredited services?

**What about Registrars who don't use the 2013 RAA?** Seems that a registrant could avoid the requirement to use only Accredited P/P providers, by sticking with a registrar who has not adopted the 2013 RAA. Any registrar who serves only legacy TLDs could avoid signing the 2013 RAA, right? Must all registrars must convert to 2013 RAA at their next renewal? What is the schedule for expiration of legacy RAA contracts?

We look forward to participating in your WG session in Singapore.

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Business Constituency