

## Comments on RAP “Uniformity of Reporting” recommendation

July, 2012

RAPWG-alumni drafting group

Rapporteur – Mikey O’Connor

### A. Summary

This RAPWG alumni group hopes that the Council will find a way to enact some form of the RAP working group’s “Uniformity of Reporting” recommendation.

Here is a list of benefits that will likely flow from carrying this “uniformity of reporting” work forward:

- Reduce errors and wasted time for all parties by providing “just in time” education and knowledge to people wanting to report problems
- Improve quality by making it easier to submit a valid complaint
- Reduce the cost of making (and responding to) erroneous complaints, for all parties
- Improving understanding of the limits of ICANN policies and other options to pursue if the issue is not covered by policy
- Improving the effectiveness of policy-compliance activities
- Improving the data available for GNSO (working-group) and ICANN (advisory-group) policy-making
- Improving the data available for compliance activities
- Answering the question “which comes first, policy-process or definitive data describing the problem?” along with suggestions as to how data can be gathered when it hasn’t yet been included in the reporting process.

The alumni group would also like to point to Paragraph 7 of the Affirmation of Commitments where ICANN commits to “fact based policy development” and would suggest that this recommendation by the RAP-WG addresses precisely the same goal.

The alumni group recognizes that there are interesting puzzles to be solved, just as the RAP-WG did when they wrote the recommendation. Nonetheless we hope that a way can be found to move forward with this unanimous-consensus recommendation of the RAP-WG.

## B. Findings from the RAP WG Final Report regarding Uniformity of Reporting

### 9.1 Meta-issue : Uniformity of Reporting

This working group has identified the need for more uniformity in the mechanisms to initiate, track, and analyze policy-violation reports. The IRTP Working Group identified a similar need during its review of compliance reports in that arena. This issue is much broader than registration abuse, is being discussed by a number of working and advisory groups simultaneously, and will require more than simple uniformity of contracts to address. [**Alumni group note:** the RAP-WG was thinking in terms of **all** policies, not just the subset that is being tracked by Compliance. The RAP-WG was also trying to describe why it put this topic in a “meta issue” category – a designation that ultimately may have confused the question of how to proceed with implementation.]

#### 9.1.1 The Problem

The processes by which a person experiencing a problem learns about their options to resolve that problem, or learns which remedies are covered by ICANN policy and which are not, is often difficult.

As a result:

- End-users and registrants find it confusing and difficult to identify the most appropriate problem-reporting venue or action to take when they experience problems.
- Registrars and registries are frustrated if their customers file complaints in error, in the wrong place, or without first seeking help from the most relevant provider.
- Working and advisory groups find their work hampered by the lack of reliable (rather than anecdotal) data upon which to base policy decisions.

In addition, the process of reporting a perceived policy violation could be used to educate people on the limits of ICANN policies and available options if their issue is not covered by policy.

The RAPWG suggests, as a starting point for discussion, that **every** abuse policy should have:

**Reporting:** a mechanism whereby those who are impacted can report violations of the policy.

[**Alumni group note:** the WG was thinking that just as the policy-development process (PDP) contemplates, as part of the implementation of any policy, problem-reporting mechanisms should be included at the time that policy implementation is discussed, rather than after the fact. Also note that the RAP-WG used “reporting” in two ways – this first use is really better stated as “problem-reporting” whereas the working group is also describing mechanisms to do “problem-report **tracking**” a little further on.]

**Notification:** standards as to how contracted parties make visible:

- where to report policy violations,
- “plain language” definitions of what constitutes a “reportable” problem,
- “just in time education” describing reporting or action options that are available when the person’s problem falls outside ICANN policy.

[**Alumni group note:** here again the WG was suggesting ways for proactive action. Their hope was that establishing and updating these standards would become an ongoing part of the policy-making process]

**Tracking:** transparent processes to collect, analyze, and publish summaries of valid policy-violation reports, the root-causes of the problems and their final disposition.

[**Alumni group observation:** this is the primary focus of the request that the Council made to Compliance. Here’s the Council resolution:]

*“... RESOLVED, in response to the recommendation on Meta Issue: Uniformity of Reporting, the GNSO Council acknowledges receipt of this recommendation, and hereby requests the ICANN Compliance Department to report on existing systems to report and track violations and/or complaints; improvements / changes made since the RAPWG Report or foreseen in the near future, and: identify gaps and any improvements that might be desirable but not foreseen at this stage. Further consideration of this Meta Issue, including the recommendations and considerations of the RAP WG in this regard, is deferred pending receipt of such information from the ICANN Compliance Department.”*

[**Alumni -group note:** Compliance recently responded to this Council resolution. Looking at the systems requirements portion of that response, we think a possible low-impact first-step in addressing the RAP WG’s “Tracking” recommendation could be accommodated in the upcoming system redesign if it were to be included in the Requirements Definition of the new system. The alumni-group hopes that we take advantage of this opportunity.]

**Compliance:** processes to provide due process, and sanctions that will be applied, in the case of policy violations. [Alumni group clarification: The topic of sanctions

for **policy** violations falls outside the scope of a policy process on uniformity of reporting – but our recollection is that this recommendation was really aimed at defining what to do in the case of **reporting-policy** violations]

If the GNSO creates a subsequent effort to address this issue, it can consider the following tentative **list of goals**:

- Provide “just in time” education and knowledge to people wanting to report problems
- Make it easier to submit a valid complaint
- Reduce the number of erroneous complaints
- Improve understanding of the limits of ICANN policies and other options to pursue if the issue is not covered by policy
- Improve the effectiveness of policy-compliance activities
- Improve the data available for GNSO (working-group) and ICANN (advisory-group) policy-making
- Improve the data available for compliance activities
- Answer the question “which comes first, policy-process or definitive data describing the problem?” along with suggestions as to how data can be gathered when it hasn’t yet been included in the reporting process.

### **9.1.2 Recommendation**

***The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting [and tracking] processes.***

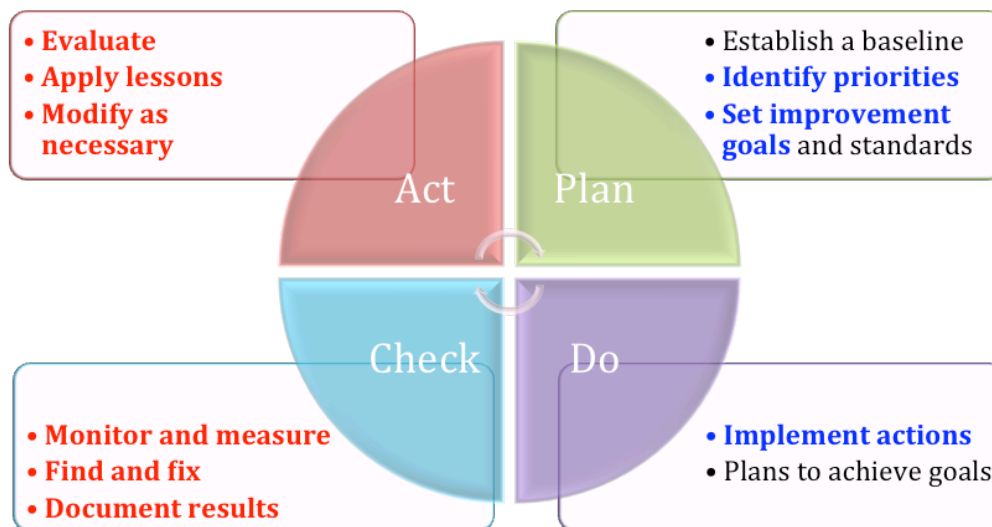
***The WG achieved unanimous consensus on the above recommendation. In favour (14): Aaron (RySG), Amadoz (RySG), Bladel (RrSG), Cobb (CBUC), Felman (MarkMonitor), Neuman (RySG), O’Connor (CBUC), Queern (CBUC), Rasmussen (Internet Identity), Rodenbaugh (CBUC), Seltzer (NCSG), Shah (MarkMonitor), Sutton (CBUC), Young (RySG). Against, or alternate views: none.***

## C. Observations by the alumni-group

**Theme 1) This is an opportunity to proactively improve consumer-facing problem-reporting and notification processes.**

- The RAPWG “uniformity of reporting” recommendation was essentially that **“every abuse policy should have:**
  - **Reporting:** *a mechanism whereby those who are impacted can report violations of the policy, and*
  - **Notification:** *standards as to how contracted parties make visible:*
    - *where to report policy violations,*
    - *“plain language” definitions of what constitutes a “reportable” problem,*
    - *“just in time education” describing reporting or action options that are available when the person’s problem falls outside ICANN policy.”*

**Theme 2) RAP recommendation in the broader context of process or quality improvement and the Affirmation of Commitments notion of “fact based policy making.”**



- The RAP working group came across the same problem that a number of working groups and policy initiatives have encountered. Policy makers often don’t have the data they need to improve the processes they’re making policy for.
- The items on the left of the diagram above (crucial for making good policy decisions) are in some cases very weak or missing right now.

- Policy makers find it difficult to make good policy (the “plan” and “act” parts of the process) without good data (the “check” and “Act” parts).

## D. Options to Consider

- The RAP noted that “meta-issues” such as this one might not fit within the PDP process. These meta-issues have a number of attributes in common:
  - They are being discussed in various Working Groups and Advisory Groups simultaneously.
  - Their scope spans a number of ICANN policies
  - Previous groups have discussed these issues without satisfactory resolution
  - They are worthy of substantive discussion and action, but may not lend themselves to resolution through current policy processes
- Possible next steps
  - Request an Issue Report as a familiar first step within the GNSO, but specify in the resolution that the result of the Issue Report **may** be a process other than a PDP (this was the recommendation of the RAP Implementation Drafting Team).
  - Request an Issue Report with the intent of launching a PDP to address this issue within the scope boundaries of the GNSO
  - Do something new – as a pilot for other projects that address these meta-issues
  - Take no action
  - Defer
  - **Alumni-group suggestion:** Given the complexity of departing from GNSO policy-making processes, initiate an Issue Report limited to GNSO-policy scope.
- One additional action to consider would be to include the RAP goals in the Charter for the upcoming Consolidated Compliance Application design and development project described in the report that Compliance recently submitted to the GNSO Council. This seems like a reasonable refinement to an effort that is already being planned. The RAP goals to consider adding to the project charter are:
  - Providing “just in time” education and knowledge to people wanting to report problems
  - Making it easier to submit a valid complaint
  - Reduce the number of erroneous complaints
  - Improving understanding of the limits of ICANN policies and

other options to pursue if the issue is not covered by policy

- Improving the effectiveness of policy-compliance activities
  - Improving the data available for GNSO (working-group) and ICANN (advisory-group) policy-making
  - Improving the data available for compliance activities
  - Answering the question “which comes first, policy-process or definitive data describing the problem?” along with suggestions as to how data can be gathered when it hasn’t yet been included in the reporting process.
- **Alumni-group suggestion:** Pass a resolution encouraging the compliance project team to explore this idea with representatives of the GNSO.
  - **Alumni-group suggestion:** Request that RAPWG alumni representatives be included on the steering committee of that Consolidated Compliance Application project.