Privacy Proxy Service Accreditation Agreement Discussion Items

6 December 2017

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
1	1.4 – 1.37	Definitional Concerns	Some definitions do not match the text of the Final Report; some definitions are copied from the RAA and are not necessary to the PPAA.	**1.4 Affiliated Provider**: This definition is unnecessary. (LHR) **1.8 Customer**: We should consider the universal change of "Registered Name Holder" with "Customer," to avoid operational issues or failures. (SB, DS) **1.13 gTLD Zone-File Data**: This definition is unnecessary as the zone file does not contain WHOIS info. (LHR, TG) **1.16 Law Enforcement Authority**: please confirm this matches the RAA, as there was contention about the term "consumer protection agency". Could Provider be "subject to" a different jurisdiction other than where they are located or organized? (JB)	Confusion on this definition – potential rewording suggested. Follow-up to confirm all uses of Customer throughout PPAA do not result in operational issues or failures. **Resolved.** (Consistent with RAA.) Consumer protection agency matches Section 3.18.2 of the 2013 RAA. The language re: applicable jurisdiction should be looked at in conjunction with the LEA Framework to ensure that provider may have obligations outside the PPAA, and this definition does not negate that.

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				1.18 Person: “Person” should be changed to “Entity”. (LHR)	**Resolved.** (No concerns raised on call.)
				1.19 Personal Data: "personal data" shall mean any information relating to an identified or identifiable natural person ('Data Subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity. (TG)	**Resolved.** (Consistent with RAA.)
				1.20 Privacy Service: The definitions of Privacy Service and Proxy Service [should] reflect those in the 2013 RAA. (SB)	Some IRT members would like these definitions to exactly mirror the RAA/Final Report.
				1.21 Provider Approval: Consider changing from 50% plus one to "at least 50.1%" (RG)	**Resolved**. (Consistent with RAA).
				1.22 Proxy Service: The definitions of Privacy Service and Proxy Service [should] reflect those in the 2013 RAA.	Some IRT members would like these definitions to exactly mirror the RAA/Final Report.
				1.24 Registered Name: The Registered Name definition is far too convoluted. (LHR) In this context, the	**Resolved.** (Consistent with RAA).

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				2013 RAA also defines "Registered Name" as a domain name within the domain of a gTLD, about which a gTLD Registry Operator (or an Affiliate or subcontractor thereof engaged in providing Registry Services) maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance, and "Registered Name Holder" is defined as the holder of a Registered Name. (SB)	
				1.25 Registered Name Holder: This definition seems unnecessary. If it is kept, it needs to be reworked. (LHR)	**Resolved.** (Consistent with RAA).
				1.28 Registration Data Directory Service: Why is this used instead of WHOIS? (LHR)	**Resolved**. (No issues noted on call.)
				1.33 Reseller: This definition needs to be reworked. (LHR)	**Resolved**. (No issues noted on call.)
				1.36 Registered name is sponsored: Why is this included if it's not a definition? (LHR)	**Resolved**. (Consistent with RAA.)
				1.37 Service Provider: "Service Provider" is defined here and should be used consistently throughout (i.e.,	Ensure consistency throughout PPAA.

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				don't use "Provider" when "Service Provider" is the defined term). (ER)	
1	1.42; 6; 7.4	Working Group; Amendments	Like the RA and the RAA, the PPAA needs a method to implement global amendments. However, Service Providers do not have a Stakeholder Group. The Draft contemplates a Working Group to fill this role until a Provider Stakeholder Group is formed (if ever).	**Feedback at 18 July meeting**: Amendment process may be too complicated **Feedback at 25 July meeting:** Maybe there could be a process for amendments to be considered by a re-convened IRT for a period of time (1-2 years) before reverting to this Section 7.4, as this is a completely new agreement and issues may arise as it goes into effect. **Feedback at 15 August meeting:** >This looks OK. It makes sense not to say re-convene the IRT explicitly. I feel reasonably confident that GNSO would look to the IRT list as the first	Request from IRT for redrafting – please refer to 12 Dec comments.

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				stop. One proposed change—in the clause about a provider stakeholder group. If there is one, it shouldn't be appointing all the representatives to the WG, just the service provider representatives to the WG that is convened by the GNSO. >Support expressed for recommendation above. >Is the number of negotiations open here? Concern about gridlock. Should the number of negotiations allowed/year be limited? >2 year period for allowing multiple negotiations/year sounds ok > Not sure we need to micromanage this, presumably amendment topics would be consolidated... **Feedback at 17 October meeting:** >Working Group definition should be amended to ensure Providers can only nominate the Service Provider representatives of the Working Group. >Working Group definition should have GNSO removed, and negotiation should be between Providers and ICANN.	

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				Feedback on list 28 November – 1 December: > Definition of Restricted Amendment needs to be removed and we need to remove restricted amendment and redraft the whole two pages in relation to amendments. (LHR) >Definition of Voting Eligible Service Providers: surely the only way to offer these services would be to be accredited? Registrars/Resellers should always check. I assume a list will be maintained on the ICANN website. (LHR) >1.43 Working Group Definition: : strike "comprising the Working Group," insert "representatives of the Service Providers." This issue is noted on page 2 of the Discussion Items document. (SM) > I'm not sure we should be defining GNSO structures in to this agreement. For example, what if the best approach is a Constituency rather than a Stakeholder Group? And the GNSO/Council doesn't create working groups, unless they are initiating a PDP… (JB)	

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				> Why are we defining a working group in 1.43? That should have finished by the time this goes live. I see no point in continuing with a working group. (LHR) Amendment Process > **Lindsay Hamilton-Reid**: this is ridiculously long and needs to be redrafted. I am still concerned about the mention of a working group. I fail to see the need for special or restricted amendments. **Feedback on 12 Dec Call**: **>Steve Metalitz**: should there be any such working group at all? There may be unanticipated problems, which is why there is this working group. There should be a cross-section of the community reviewing this. Everything that comes after "provided" – it might be a constituency or stakeholder group. Based on past experience, the chances of there being a Provider Stakeholder Group are slim. Since this is a remote contingency, you might want to take out that proviso. How does this affect the composition of the Working Group – take out the "provided that"	

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				and maybe that would improve the definition. The first sentence it is important that if we're going to have a group to make midcourse corrections after implementation, it should not be restricted to Service Providers. >**Darcy Southwell**: Seems problematic to define Working Group here per James Bladel's comment. If we are addressing negotiations bewteen a contracted party and ICANN, community members are not appropriate members. > **Margie Milam**: I think the Board approves new constituences or stakeholder groups > **Darcy Southwell**: This program essentially creates a new contracted party, so I'd be surprised if there is not a new SG or C that comes from it. >**Steve Metalitz**: @Darcy, so would registrars that are also service providers get two stakeholder groups in GNSO council? Would registrars surrender part of their voting power in order to get the new SG established? This will be very congroversial.	

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				*controversial" It might happen but the possibility is remote and this issue could be dealt with then. **Margie Milam**: I would suggest deleting the SG reference	
2	2.3	General Obligations of ICANN	Drafting question	**Feedback on list 28 Nov:** Under ICANN obligations, why are 2.3.2 and 2.3.3 necessary? (LHR)	**Resolved.** (Consistent with RAA)
3	2.4	Use of ICANN-Accredited Providers	Drafting question	**Feedback on list 28 Nov:** > We need to redraft 2.4 or move it – it is surely a registrar obligation to ensure the entity is ICANN accredited to provide P/P services? How would this apply to ICANN? (LHR) > This section would not be considered legal or enforceable in many jurisdictions.	IRT requested redrafting: Margie Milam: "intends to abide" is weak language – consider redrafting to "shall abide" or "shall reasonably abide"
2	3.2.2, 3.2.3, 3.5.3.3, 7.2, Data Retention Specification	Data Retention; Data Provision; GDPR Concerns	The RAA provides that this information is to be kept for two years, but ICANN proposes that Providers only keep it for one in order to limit the number of exemption requests	**Feedback at 25 July meeting:** Ensure that PSWG is on call where this is discussed. **Feedback at 8 August IRT meeting:** Lindsay Hamilton-Reed: Under European law, we can only retain data for as long as is necessary. We have difficulties with one year, never mind	Keep language as is for now in draft PPAA pending conclusion of GDPR work. If a solution is developed in GDPR before PPAA is finalized, amend PPAA accordingly.

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	3.3, 3.4	Rights in Data; Data Escrow	Drafting Concern	**On List 28 Nov – 1 Dec**: >**Lindsay Hamilton-Reid**: as all of this data will be with the registrar, who will have to work with the privacy provider. I see no need for this extended paragraph. >**Rob Golding**: 3.3 makes no sense following the redlining (and possibly didn't before) >**Theo Geurts**: What is the use of this section? What are we trying to solve here? >**James Bladel**: I think our ability to share this information with ICANN should also be subject to applicable law. Can we reference the data fields in the RAA here? If those ever change, then we only have to update one doc. **>Rob Golding:** is fax still required for these type of documents? Is there perhaps a legal reason to use this communication method? 3.4 >**Rob Golding**: Data Escrow needs *except* where already escrowing the	

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				data as an ICANN Accredited Registrar, or prohibited by law. >**Theo Geurts**: Most likely covered in the SPEC itself.	
	3.5.3	Business Dealings	Timeline for correction of inaccurate WHOIS data	**On-list 28 Nov**: >**Rob Golding**: 7 days is far too short - needs to be 30+ - would never be accepted as "reasonable" time in a court	
	3.5.3.4	Consent	Requiring consent for data processing	**On List 28 Nov**: >**Theo Geurts**: Requiring consent is often used within the USA and some other jurisdictions but does not have to be leading for the rest of the world. Obtaining the service and having the agreement available at the provider can be sufficient in some jurisdictions.	

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3	3.5.4.1, 3.5.3.17	Cancellation (PP Service and Domain Name)	1. Please advise on cancellation process. 2. How would a Service Provider prohibit cancellation of a domain name that is the subject of a UDRP dispute?	**Part A:** On list (31 July): I agree that the reference to cancellation of the registered name agreement should probably be dropped from 3.5.4.1, as that action has to be taken by the registrar. {Perhaps the provider should be required to notify the registrar immediately of the breach, simultaneously with supplying it with the "actual" contact information for the customer so that the latter can be published.} **1 August IRT call:** Point 1: This works pretty well for Rrs and affiliates, but not sure how a TPP would be able to do this. Point 2: I agree with point 1 w/r/t the domain name registration. Maybe we need to add—basis for immediate notification to registrar for invocation of the RAA provision (re: cancellation). If the Rr did not cancel they would have a compliance issue. So drop the last 5 words and substitute requirement to immediately notify registrar. Point 3 (chat): Remove all references to the registration of the domain	**IRT to discuss proposed edits to 3.5.3.1 and Customer Data Accuracy Program Specification, Section 5.**

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				Point 4: I agree with point 2. There will be some sort of EPP connection in place for affiliates; for non-affiliates we should expand a bit re: the costs attached, that allows Rr to bill the providers Point 5: Agree with Steve (point 2). The P/P provider is limited to suspending the services it provides to its customer. **(group asked about the recommendation to notify the registrar)** Point 6: if I am understanding this proposal, customers will be allowed approximately 30 days before a domain name will be suspended. 15 for p/p and 15 for registrar. Point 7: Please clarify if Point 6 is what we are proposing. Point 8: (Re: point 6) That would be unfortunate and we should try to avoid a second bite at the apple. Especially for affiliated providers that seems unfair. Then you have someone who gives false info and	

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				because they used an affiliate provider they get an extra 15 days. We should try to avoid that outcome. But I don't see this 15 day provision as necessarily a floor. Both the provider and the registrar could have a shorter period. Point 9: re: point 6: I understand why it is convenient to pull from the RAA but in this case we are making the period far too long. I believe in our instance if we are told info is inaccurate we provide customer several days (maybe 3) to correct that info, and then service would be removed, info would be restored and then it would become a registrar matter and they could cancel/suspend the name itself. We could do something similar here to keep it more efficient and give customer incentive to correct the info and keeps PP provider and Rr actions separate and compartmentalized. Point 10: re point 6 I agree that we should not add time to this process Point 11: sounds like we need to clarify more consisely that upon uncorrected false whois, we need an	

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				explicit obligation to cancel p/p service. Point 12: The intention of the PDP was not to extend this.. different registrars do things differently, so long as it is within the parameters. The intention wasn't to give anyone 30 days. Point 13: agree re: timing Point 14: agree we need a floor and that p/p providers can chose to have quicker turn around times Point 15: RAA uses stronger language—this says "basis for suspension." RAA says the registrar SHALL. I'm wondering whether should think about having that language based on that here. The RAA Spec language ends with "Registrar either terminate or suspend or place on Client Hold or and client Transfer Prohibited." The PPAA should contain a more specific obligation, not "be a basis for suspension or cancellation."	

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				Point 16: support noted for points 14 and 15. **On-list, 2 August:** Regarding Section 3.5.4.1, what if we used language that provided some > flexibility regarding the time frame? For example: > > A Customer's willful provision of inaccurate or unreliable > information, its willful failure to update information provided to > Provider within seven (7) days of any change, OR ITS FAILURE TO > RESPOND TO PROVIDER INQUIRIES WITHIN THE TIME FRAME REQUIRED BY > PROVIDER'S TOS (NOT TO EXCEED (15) DAYS) concerning the accuracy of > contact details associated with the Registered Name for which Provider > is providing the Services constitute a material breach of the service > agreement between such Customer and Provider and be a basis for > suspension or cancellation of the Services. This proposal was supported by 3 other IRT members. On-list, 3 August:	

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				Note the language at the end needs to be revised along the lines of the RAA, as I think was tentatively agreed on the last call. On-list, 7 August: I support Sara's suggested language (on list 2 August, above). **Part B:** On list (31 July): as I recall one (or possibly two) WG members felt strongly that customers should be provided the option of cancelling their registrations rather than having their contact points published, and that this should be a required policy for all accredited providers. There was a lot of pushback against such a mandate, with the compromise solution that the provider be allowed, but not required, to adopt such a policy (which of course would have to be adequately disclosed). In practice I agree that such a policy could only be implemented by a provider that is either Affiliated with (i.e., controlled by) a registrar, or at least as the result of some kind of contractual agreement between the registrar and an unaffiliated provider. As I read 3.5.4.17 it simply says that no such policy can trump the applicable	

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				UDRP or URS policies as adopted by ICANN. This make sense to me and I don't know of any reason 3.5.4.17 has to be changed in this regard. **1 August IRT call:** Point 1: Providers can't block the cancellation of the domain. (similar points raised by other IRT members) Point 2: this should be in the ToS Point 3: Perhaps all this means is that the P/P provider should provide notice to the customer of this cancellation lock issue? Point 4: I think this language is OK. The PDP WG recommended that Providers should be able to give customers the option to cancel a domain in lieu of having their information disclosed, but not if the name is subject to UDRP proceedings. The Provider should disclose this to the customer and the public. Point 5: Prohibition of cancelation of a domain name during a UDRP is a registrar obligation I see no reason to include this language in the P/P accreditation agreement.	

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				On List 28 Nov – 1 Dec: > **Theo Geurts**: Third party providers are not in a position to enforce this. Nor have they a contractual agreement with the Registrar to force such party to comply with the requests from such third party. Provider is not in all cases linked to the registration services of the domain name. suspension etc may not be applicable. >**Eric Rokobauer**: "Terminating a Registered name" should not be included and a viable option here.	
4	3.6.1	Accreditation Fees	Fees were updated to reflect what was shown in P/P Applicant Guidebook.	**On-List 28 Nov – 1 Dec**: >**Lindsay Hamilton-Reid**: This fee is excessive. **>Theo Geurts**: Still up for discussion. 4k is a lot of money for providers who are forced to offer this service for free. IMO there should be no annual fee, offering such a service is not by choice but rather due to ancient policies not being up to par when it comes to data protection laws, 110+ countries. >**Sara Bockey**: Agree - we need to discuss fees further	Fees proposal under review by ICANN to minimize the impact and cost to applicants.

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	3.7	Provider Training	Drafting concern	**On-list 1 Dec**: >**Eric Rokobauer**: Eric Rokobauer: Change "at all times employee" to "dedicated"	
	3.8.3	Publication of Information on Websites	Wholesale registrars may have trouble with the publication requirement	**On-list 28 Nov**: **>Theo Geurts**: This is problematic for wholesale registrars as it is up to the resellers when it comes to fees.	
	3.9	Provide Self-Assessment and Audits	Drafting concern	**On-list 28 Nov**: >**Lindsay Hamilton-Reid**: as the working group shall not longer exist and I see no reason for it to exist, this needs to be redrafted.	
	3.11	Provider Contact Information	Drafting concern	**On-list 28 Nov**: >**Theo Geurts**: Why is the contact information for officers required for a privacy service? My email provider has not listed all their officers and their contact details.	
	3.12	Abuse Contact	Response time, availability, inconsistency with Final Report	**On-list 28 Nov – 4 Dec**: > **Lindsay Hamilton-Reid**: 3.12.1, 3.12.2 and 3.12.3 should be one paragraph.	

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				>Darcy Southwell: Does not read consistent with the Final Report. (sections 3.12.1 and 3.12.2) **>Peter Roman**: High priority requests are usually emergencies where victims are moments away from danger. Not requiring immediate responses to these requests renders them moot. A request that is answered within 24 hours, but 20 hours after the victim is dead, does not respect the importance of the request or the imminence of the danger. 3.12.2 - If the abuse contact point is not monitored 24/7, how are providers going to respond to high priority requests in time? **>Sara Bockey**: Edit section 3.12.2, as it still contains new language that has been added since the IRT agreement on language in August. The first sentence in its entirety should be removed. The section should start with "Well founded…" >**Rob Golding**: Rob Golding: 3.12.2 Provider shall establish and maintain	

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				a dedicated Abuse contact, including a dedicated email address and telephone number that is monitored 24 hours a day, seven days a week Just NO. Abuse contact is already detailed in 3.12.1. >**Theo Geurts**: re: 3.13.3 - perhaps we can bridge some language and solve the issue with 3.12.1 here?	
	3.15	Labeling	Drafting Concern	**On-list 28 Nov – 4 Dec** >**Sara Bockey**: Edit Section 3.15 – Labeling – to remove excessive language. Provider shall ensure that each Registered Name for which Provider is providing the Services is clearly labeled as such in the Registration Data Directory Service, as specified in the Labeling Specification attached hereto, and shall otherwise comply with the requirements of the Labeling Specification attached hereto. This language is duplicative and not necessary. Let's not add unnecessary words to this already long document. If there are doing to be extra works, perhaps mention complying with applicable local laws in light of GDPR.	

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				>**James Bladel**: Agree – this language should be removed. >**Theo Geurts**: We should not force providers in manually reviewing all these requests. if there is a better automated solution available than a provider should be able to implement such a solution. This could also be beneficial for the requesting party. We should have language here that enables such solution but is also within spirit of the current language.	
	3.16	Relay Requirements	Drafting Concern	**On-list 28 Nov – 1 Dec**: > **Lindsay Hamilton-Reid**: 3.16 should be much simpler and needs to be redrafted.	
	3.17	Reveal Requirements	Text does not match Final Report	**On-list 28 Nov – 1 Dec**: >**Darcy Southwell**: Does not read consistent with the Final Report. >**Sara Bockey**: Need clearer language here. Perhaps use the language from the Final Report? Final Report states: "in deciding whether or not to comply with a Disclosure or Publication	

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				request, providers not mandate that the Requester must have first made a Relay request" >**Eric Rokobauer**: Language should be revised to follow Final Report.	
5	3.18	Transfer of Registered Names Requirements	Please advise on how transfers should work in connection with the de-Accreditation of a Service Provider.	**On-List 28 Nov**: >**Lindsay Hamilton-Reid**: 3.18 should just say in the event of a transfer away, the service shall be cancelled. If a customer does transfer away, it would be difficult not to make their information public if the service is cancelled. >**Theo Geurts**: Third party providers cannot facilitate a renewal process. This is up to the Registrar. >**Eric Rokobauer**: Theo made comments here that I agree with. Staff, will you please identify which paragraphs of the policy does this operation relate to? I think at minimum we must remove "facilitate and" as Service Provider does not have control in respect to those registrar functions called out within.	Transfer discussion on hold, pending resolution of GNSO issue regarding IRTP C matter.

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	3.19	Record Keeping	Update due to recent data trends	**Feedback received on 22 August IRT call:** **Section number cited is incorrect in slides.** Michele Neylon: what is "format specified by ICANN"? This is problematic. Volker Greimann: This can be an issue—some providers may not have any technological skills available Roger Carney: or "as agreed by providers" Michele Neylon: the idea of collecting metrics is a good idea—just take issue with the "format selected by ICANN" Steve Metalitz: or perhaps "forms specified by ICANN after consultation with providers" Theo Geurts: also a good suggestion Michele Neylon: I really like Steve's suggestion because that covers the issue of getting something completely unworkable without being overly specific Roger Carney +1 Michele and Steve Eric Rokobauer: +1 Michele and Steve	

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				Chris Pelling: Agree with Steve M and Michele	
	5.2	Renewal	Renewal Term	**On-List 28 Nov**: >**Lindsay Hamilton-Reid**: why is there a five-year term? Why not allow the agreement to run continuously until terminated?	
	5.3	Right to Substitute Updated Agreement	ICANN's right to substitute new version of PPAA	**On-List 1 Dec**: >**Steve Metalitz**: Section 5.3 does not give ICANN the right to substitute the new version of the agreement, it gives that right to the **provider.** Furthermore, 5.3 addresses the scenario in which the new agreement is swapped in during the term of the current agreement. The point I was trying to raise on the call (and I am sorry if this was not clear) is ensuring that all renewals of the agreement **at the end of the term** reflect the most recent version. As currently drafted, section 5.2 seems to give the provider the option of renewing under the terms of the old agreement ("under the terms and conditions of this agreement"),	

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				even if it has been superseded by a new form of agreement that is materially different. This could be fixed by adding a subsection 5.2.5 along the following lines: '5.2.5: this Agreement has been superseded by a revised form accreditation agreement for the provision of the Services ("Updated PPAA") that is materially different from this Agreement, in which case the right of renewal provided by this section shall be under the terms and conditions of the Updated PPAA. **Lindsay Hamilton-Reid**: any reference to updated agreements really means amendments by ICANN and should be redrafted.	
	5.5, 5.6, 5.9	Termination by ICANN	Drafting concern	**On-List 28 Nov**: >**Lindsay Hamilton-Reid**: Causes for termination are normally mutual and this needs to be simplified. --If you are both a registrar and privacy provider? It should be specified that even if one agreement is terminated, it will not necessarily affect the other agreement.	

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				Notice Procedures: In respect of notice periods, fifteen days may not be long enough. Limitation on monetary remedies should be mutual.	
	5.7.4, 6.1, 7.4	Stability, Security	Drafting concern	**On-List 28 Nov**: >**Thomas Keller**: Thomas Keller: Language like 5.7.4 or 6.1, 7.4 and its subsections are a cause for concern, and one has to wonder if Registrar lawyers will sign off on such contractual provisions. >**Theo Geurts**: This could indeed be a cause for concern. What is reasonable? How is this determined? We need clearer language. The RAA language was always very vague, there is no reason to continue this practice for a privacy service. Agreements should be clear, and understandable for "most" folks.	
	7.5	Synchronization Amendment	Mention of RAA	**Input received on 15 August IRT call:** >Theo Geurts: Not sure about this. The RAA is about registrars. The PPAA is about Privacy Providers.	

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				These aren't the same, so perhaps we should not automatically synchronize. That needs some thinking before we just apply one obligation from one contract over to another. >Steve Metalitz: I think in principle this makes sense, and do to this more globally, not just in Spec 2. Two suggestions: (1) if we have this WG/reconvened IRT, it might make sense for ICANN to present the changes to the group for a look (the non-substantive modifications); (2) drafting issue—first phrase about provision being automatically amended, I can send text edits on that. >Theo @Steve that sounds reasonable >Alex: agree with Steve >Roger Carney: this is a good concept but same concern as Theo—not sure we can directly tie this. I like Steve's idea of when these changes come up, pursue them and get them agreed-upon assuming it makes sense that the provision is changed. Some agreement before the change takes effect. >Carlton SAMUELS: If the RAA is substantially amended and the	

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				amendment flows thru to the PPAA, then at minimum the mandatory requirement is notice first then a timeline to respond. That response from the WG may trigger additional work or acceptance of the amendment in whole or part. Feedback on list 22 August: *Perhaps synchronization changes proposed by ICANN would take effect unless objected to by working group within 30 (?) days.* **On-List 28 Nov**: >**Lindsay Hamilton-Reid**: I don't know why the RAA is even being mentioned. If ICANN choose to include updated specifications or further specifications, this again should be dealt with in amendments to the agreement. After all, not all privacy providers shall be registrars and therefore are not a party to the RAA.	
6	Customer Data Accuracy Program Specification	Data Accuracy	This was adapted from the RAA, in furtherance of the Policy Recommendation that "P/P customer data is to be validated and verified in a manner consistent with the requirements outlined in the WHOIS	**8 August IRT Meeting:** Alex Deacon: I think this is a good approach (copying RAA)	Discussed at 8 August IRT meeting. **Additional IRT feedback requested on list by 21 August.**

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			Accuracy Program Specification of the 2013 RAA (as may be updated from time to time). In the cases where a P/P service provider is Affiliated with a registrar and that Affiliated registrar has carried out validation and verification of the P/P customer data, reverification by the P/P service provider of the same, identical, information should not be required." (Final Report p. 9) IRT input is sought on this draft specification in its entirety.	Theo Geurts: I think for third-party providers, I don't know how they would be able to comply with this specification. There's a lot of stuff that requires the provider to do stuff, and non-affiliates likely don't have an EPP connection to the Rr and I'm not sure how they would comply with those. Vicky Sheckler: Agree with Alex. Lindsay Hamilton-Reed: Agree with Theo Vicky Sheckler: We should move forward unless we hear from a TPP why they can't comply with this. IRT asked about whether we should keep the "review" provision of this specification. Alex Deacon: I think that makes sense, given that this is a requirement on icann and not the provider **Feedback 15 August IRT call:** Steve Metalitz (following up on message to list): The specification covers some of the same requirements	Absent contrary feedback from the IRT, the "Review" provision will be deleted from this specification in the next draft. **ICANN is analyzing IRT feedback and will provide updated text for discussion at a subsequent meeting.**

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				as 3.5.4.1, but the requirements of the specification and 3.5.4.1 are not identical. 3.5.4.1 references suspension of PP, one references cancelation/the other termination, etc. It seems providers would want to know which one to follow. That discrepancy should be addressed—likely should include that ToS are going to include provision of accurate contact data and you don't want to foreclose possibility that service might enforce that against the customer. Theo Geurts (on list): How does a Registrar verify a request to suspend/delete a domain name from a provider that is not affiliated? Based on the current requirements if I would get such a request, the not affiliated privacy provider has to make sure that I will not be liable for any suspension or deletion. Till then I would ignore such requests as a Registrar as I have no contract with them. **5.** Feedback on list (22 August): *Metalitz comment: Here is the drafting suggestion I mentioned on previous call (in addition to scrubbing*	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				for inconsistencies): Change second sentence of Spec 2 to read: "If any provision in the Whois Accuracy Program of the 2013 RAA is revised pursuant to section 6 of the 2013 RAA, then any analogous provision of this Specification shall be deemed amended to conform to such revision…..[specifying the procedure for synchronization]." In other words, it is the RAA provision that is amended pursuant to RAA, not the PPAA spec provision "in analogous form." **On-list 28 Nov – 1 Dec** **> Sara Bockey:** We need to revisit PPAA, Spec 2: Customer Data Accuracy. This entire Spec needs to be revisited and made clearer since the entire spec is dependent on whether or not the Service Provider is affiliated or non-affiliated. It's very disjointed, it starts out Section 1, this is what you need to do, then in	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				Section 3, it says you don't need to do this if you are an affiliated Provider, and then in Section 4 it goes back to this is what you need to do and forgets about section 3. It seems to me that this entire section is dependent on if there is an Affiliated Registrar. So at a minimum, it needs to state at the very beginning who this is applicable to. Or, if we go with 2 PPAAs, it would apply in the Non-Aff PPAA, but the language would still need to be cleaned up. >**Eric Rokobauer:** Service Providers do not control transfers so this should be removed. Requests to Registrars to terminate or suspend (at least terminate) should be removed. Registrars not bound to this. >**Steve Metalitz**: in paragraph 6, after "clientTransferProhibited," insert "by Registrar." I think this would also address the point Theo raises in his sticky note. >**Sara Bockey**: Third party providers are not able to comply with the above	

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				requirements ie client hold, transfer prohibited. > **Theo Geurts**: I think this says, if it is not your customer you do not have validate or verify?	
7	Registration Data Directory Service Labeling Specification	Data Fields	Please review and provide feedback regarding which fields you believe are applicable. This is appropriated from the RAA, but certain fields may not be applicable (including Registry Admin/Tech IDs). Should Customers be required to designate admin and tech contacts?	**IRT feedback received on 29 August IRT meeting:** **Alex Deacon:** because users are going to be looking at WHOIS record, the name is needed, as the user may not be familiar with the org ID **Theo Geurts:** Agree with Alex. And URL could be dependent on the provider ID— **Q to IRT re: order of name, ID, URL in label** **Alex Deacon:** It seems logical to have the name first, then ID in brackets or parentheses, and then URL **Greg DiBiase:** I'm ok with that name being added and it makes sense to have the name first	To be discussed at 29 August IRT meeting. **Any additional feedback requested on-list by 1 Sept.** ICANN is reviewing IRT feedback and will propose next steps shortly. Format of label to be kept as-is. ICANN will incorporate format of provider-specific link requirement after functionality is confirmed.

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				Margie Milam: Name should appear in the record. **Steve Metalitz:** Agree w/Alex re: Provider name **Q—could we include a URL to the Provider's contact info page on the ICANN site instead of the ICANN listing (so one page down from the list of all providers)** **Alex Deacon:** It would be better to have the link straight to the specific provider's contact details instead of forcing to click on a link and then search **Margie Milam:** Would abuse point of contact be listed? **Greg DiBiase:** Agree that the link going straight to the provider's info makes sense **Steve Metalitz:** Presumably the link to the provider's page would include the abuse contact **On-list 28 Nov – 1 Dec**:	

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				Steve Metalitz: Some of section 1 may have been carried over a bit too glibly from the corresponding RAA provision. Many of the elements added in the staff's redline (after Domain Name) are the "thin Whois" data elements related to the underlying registration, not to provision of the Services. Would an unaffiliated Provider necessarily know all this information (other than by getting it from the registrar or registry Whois)? Additionally, shouldn't the next group of data elements refer to Customer Name, Customer Organization, etc. rather than Registrant Name, etc.? For a proxy service, all (and for a privacy service, almost all) of this data pertaining to the Registrant is the Provider's contact data. What we want here is the obligation of Provider to collect a full set of Customer data so that (among other things) this data can be conveniently loaded into Whois if the p/p Services are terminated (i.e., if Publication occurs), or can be communicated to a requester under appropriate circumstances. **Eric Rokobauer**: "P/P Customer" is defined in RAA along with	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				"beneficial user." Why are we not using that defined term here?	
	Consensus Policies and Temporary Policies Specification	Security, Stability	How does a privacy service endanger the security or stability of the internet?	**On-List 28 Nov – 1 Dec** >**Theo Geurts**: How does a privacy service endanger the security or stability of the internet? I think we can delete all sections in 1.3 as they deal with domain name registrations in general rather than providing a privacy service. We could say privacy providers should not practice warehousing, but that is not what it currently says.	
8	Law Enforcement Authority Disclosure Framework Specification	Receipt Process (Section 3.2.1)	Proposed edit from PSWG: I'd like to propose the following revision to the first paragraph in section 3.2.1: *"Within 24 hours of the disclosure request being submitted, the Provider will review the request to ensure it contains the relevant information required to meet the minimum standard for acceptance."*	**IRT feedback on 8 Aug IRT call:** Sara Bockey: The problem with this timeframe is it doesn't take into consideration weekends or holiday. Not all PP services are 24/7. Nick Shorey: Crime also doesn't take into account weekends and holidays and that is the nature of the challenges we face. Lindsay Hamilton-Reed: I agree with Sara. We should not have this written in stone if we can't respond in time.	Discussed at 8 August meeting. **Additional IRT feedback requested on list by 14 August.** **Topic has been added to agenda for 22 August IRT meeting for follow-up discussion based on IRT discussion on-list.** **IRT poll distributed 23 August to ensure a complete record of IRT feedback is compiled.**

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				Nick Shorey: We are trying to be consistent with the RAA. I think one of the original concerns was that we might be shifting from the RAA and hopefully this is more consistent. Sara Bockey: No, not the RAA. I mean with PP services. I don't believe they currently respond within 24 hours Nick Shorey: Hopefully, this will provide the facility—if the provider is unable to action a request in time, the provider at least has to alert the requester that the request has been received and is being processed. This is important on the LEA side when we are factoring in risk. Theo Geurts: Privacy Providers are not in all cases Registrars, is it realistic we impose RAA 2013 obligations on them? Sara Bockey: What if we change this to within 1 business day? Not 24 hours Theo Geurts: This will exclude third-party providers—requiring them to perform as a registrar more or less.	**Poll results reflected views raised on 23 August IRT call. Results sent to PSWG liaison for feedback. If PSWG is open to discussing a compromise then this will be raised on a future IRT call.** **If not, options for next steps will be explored by ICANN and discussed with IRT on a future call.**

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				This could be called out in the public comment period. Ashley Heineman: Is there a reason to hold PP providers to a lower standard when it comes to law enforcement needs? Particularly if they are being accredited by ICANN? Nick Shorey: (re proposal for 1 business day) we proposed 24 hours because, similar to the point you made, crime does not always work on business hours and you have to maintain the ability to react and respond. What we have done is remove the obligation to respond at the end of the 24 hour deadline which should remove the concern expressed by operators previously and bring it more in line with the 2013 RAA. Lindsay Hamilton Reed: One business day works better. Susan Kawaguchi (echoing Ashley's comment)—why would you hold PP to a lower standard than Rrs? If provider can sell services 24/7, they should have a mechanism to review LEA requests within 24 hours. I think this is a good compromise—they are	

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				not asking for anything except a review and a simple response of we need more information. Alex Deacon: Would an automated response to a request (e.g. "thanks we have received your response and will respond to your request soon....") meet this obligation? Carlton Samuels: Should not be the case. Its the service we must focus on. Simplify the rules as best as possible but same rules for everybody who wants to provide the service. Equal protection for all Vicky Sheckler: agree w/ ashley and susan. pp should not be held to a lower std.	
				IRT Feedback on 22 August call: **Volker Greimann** - I do not accept moving from business days to calendar day **Michele Neylon**: The problem I have is that if I am being sent very legalistic documents to review and being given 24	

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				hours, that's a massive issue—going to outside counsel, it's hard to get a response within 24 hours-basically impossible. And even if I could, the costs would be absolutely insane. **Lisa Villenueve: +1** **Darcy Southwell:** Agree with Michele and Volker—not feasible or necessary. 2 business days is appropriate for LEA inquiries related to PP. **Alicia Kaelin:** +1 Darcy **Steve Metalitz:** Q for registrars—PSWG argument seems to be that this is what the RAA requires. Has that proven to be a problem in the RAA? (Multiple registrars note in chat that they do not receive these requests frequently or have not received such a request) **Volker Greimann:** the difference is that privacy services may be one-man operations whereas most registrars have more information and ability to react than a whois privacy service, so urgency may be warranted; whereas a privacy service can only tell them the underlying data and that's it. Certainly not the same urgency. **Theo Geurts:** This is problematic under the RAA to get a response—with outside	

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				counsel and complex cases. And with privacy need to be even more careful. **Michele Neylon:** The RAA thing is quite different. DNS Abuse= pull the domain offline. Revealing PAA= legal headache. **Greg DiBiase:** The difference is that we are responding to abuse as opposed to deciding whether to provide a customer's private data **Darcy Southwell:** +1 Greg **Eric Rokobauer:** +1 Greg **Greg DiBiase:** +1 Michele, it's two different things **Michele Neylon:** I can understand why LEA would look at RAA and try to draw parallels. However, these are not the same. In the case of privacy, we have to review the materials very carefully before disclosing private data; not just taking a domain offline **Theo Geurts:** The RAA is pre-GDPR and it is not a domain name, but a service dealing with privacy and we can be very liable **Nick Shorey (PSWG):** We looked again at the language in that section and recognized the discrepancy from the RAA in the text originally proposed in the requirement for a response within 24	

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				hours, to make this consistent with the RAA. There is no response required in that period—if it's a high priority case you have 24 hours to action request after that. Now we have it consistent with the RAA and we are maintaining standards. **Steve Metalitz:** If it's been problematic in the RAA context I wonder if ICANN has received any complaints about this from LEA to document that the 24 hour period is unrealistic. I guess there's a question of how this would be enforced—if there's no notice within 24 hours, really, LEA just has to know that within 48 hours that some action has been taken or heard that action will not be taken. **Is there any record of issues of this from a Compliance PoV under the RAA?** Also, if LEA gets its response in 48 hours, the review period appears to be a very technical requirement. **Margie Milam:** 24 hours is for a review, not necessarily a response. If the request does not meet the minimum standard, provider will notify requester. Is it in compliance if the notice says simply, doesn't meet standards? Should there be a clarification about why the request didn't meet the standard? **Michele Neylon:** Q re: compliance is a very valid question and many have noted that they have never received a request	

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				under the RAA provision. But, regardless, whether it's easy to prove or not I wouldn't be comfortable to sign a contract knowing I would breach it. **Q to group—could you suggest a compromise here that you would support?** **Nick Shorey (PSWG):** I cannot support the two business days **Volker Greimann**: the draft is the compromise **Michele Neylon:** what Volker said **Q to group—could you support 1 business day?** **Volker—**2 days is the minimum turnaround time **Steve Metalitz:** If we are looking at a provision that doesn't require notice.. just review, I'm wondering what that really adds from the LEA perspective. If you went to 1 business day, that might be longer than 48 hours, which would be longer than the time required for a response. My suggestion would be—do we even need this provision if we maintain the 48 hour deadline for high-priority cases for a substantive response?	

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				Volker Greimann: another compromise—valid responses include autoresponder messages **Nick Shorey:** With this amendment—trying to provide flexibility so that response isn't required in the 24 hour period, but review should occur **Michele Neylon:** The problem is that the RAA and PP are two very different animals; going back to the business day concept works pretty well from our PoV—the 24 hours really doesn't **What about 1 business day?** Michele Neylon—1 business day is better than 24 hours—not ideal but moving in the right direction **Nick Shorey:** We've been clear on the 24 hours **Darcy Southwell:** What if we clarify this language to high priority issues only and 1 business day in the Provider's jurisdiction **Michele Neylon:** I think we are at an impasse. Business days are feasible. 24 hours is not. RAA and PPAA are different—can't always draw parallels	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				Theo Geurts: Is GAC advice only looking from LEA view? What about privacy? **Nick Shorey:** In terms of reviewing a request the question of privacy of customer data doesn't necessarily apply. We are considering the privacy element but for this particular point—24 hours to review the request, I can't see any privacy implications in the reviewing of the request that has been received. **Steve Metalitz:** +1 Nick, under PSWG proposal the decision whether to disclose does not have to be made within 24 hours. **Theo Geurts:** The text seems not very flexible. Maybe we should revise altogether. I'm missing the balance here. **Re: suggestion from Darcy Southwell:** Michele—I don't fully agree but this is a question of having staff available who are qualified to review 24hours a day Volker Greimann—won't work **Steve Metalitz:** To repeat, one business day will be longer than 48 hours if it is a 3 day weekend so would have to respond substantively before your review obligation is completed. Suggest thinking about whether we need a review period at	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				all if we are in agreement re: the deadline for actioning the request.	
		LEA framework (continued)		**On-List 28 Nov – 1 Dec** **Lindsay Hamilton-Reid**: All other specifications should be in line with what is already in existence in relation to a request from LEAs and IP rights holders, but specifying it here is not correct – each registrar or reseller will have their own processes for this in complying with applicable laws. **Eric Rokobauer**: Is this framework the most up to date with our comments from prior meetings? Based on comments below for this Spec, it seems there are still open-ended questions that were in discussions IRT had had (including with PSWG)? We need to identify how the GDPR will affect this framework when it comes to Disclosure (or Publication) for EU resident registrants and address those issues in the framework. **Peter Roman**: This is the same issue as for 3.12.2 in the main bod of the agreement, if the point of contact is not required to be available 24/7, it defeats the purpose of the high priority requests. This part of the receipt process combined with 4.1 creates a two-day window before providers have to even	**IRT feedback requested on proposed edits to LEA framework in PPAAv2 proposed for consistency of terms and to combine/eliminate duplication.**

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				address whether a request is high priority, again defeating the purpose of having a high priority request. By waiting to respond until after the Receipt Process is complete, which can take up to two days under 3.2.1, the agreement renders the high priority request provisions moot. Responding to high priority requests within 24 hours is not sufficient. A request that is answered within 24 hours, but 20 hours after the victim is dead, does not respect the importance of the request or the imminence of the danger. High priority requests need to be responded to more or less immediately. **Theo Geurts**: can we provide a footnote with an example of what a secure mechanism could be? **Eric Rokobauer**: Change "Disclosure can be reasonably refused by Provider" to "Provider may reasonably refuse Disclosure" **Steve Metalitz**: for most of this we need the input from PSWG, but pending that I'd suggest that the word "applicable" be inserted before "national" in 4.2.2.2.	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				Theo Geurts: or violation of applicable data protection laws **Eric Rokobauer**: change “national or international law” to “applicable law” **Eric Rokobauer**: What does "give due consideration" mean as this was only defined in the IP Framework in the Final Report? **Peter Roman**: The Provider should be required to disclose changes to the timeframe for notification of the Customer to LEA Requestors with current requests (i.e., “should” should be “must”). If the Customer is a target, notifying the Customer without alerting LEA can lead to the Customer destroying evidence, fleeing, or even threatening or killing informants who led law enforcement to the Customer’s account in the first place. **Eric Rokobauer**: Is this a requirement of the Final Report? What was the discussion in prior meetings? This doesn’t seem to be needed. **Peter Roman**: Peter Roman: I do not understand the purpose of this provision. LEA is not a party to this agreement and the agreement has no ability to bind LEA	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				actions if the Provider fails to respond to a request. (section 5.1 – 6.1) **Eric Rokobauer**: Does this exceed the provision in the Final Report? Something to review with PSWG? (section 6.3)	
9	Intellectual Property Disclosure Framework Specification	Conformance	This Specification will need to be evaluated in relation to the entire PPAA.	IRT **Feedback on 22 August call:** **Margie Milam:** Following up on message to the list, it struck me that framework is missing the intro language from the final report about manual review of these requests and that there is a rebuttable presumption of noncompliance if there is not a human review. I would like to propose to add that. **Michele Neylon:** I don't like forcing human review. If provider is processing a large number of requests, not taking request via email (probably API or some automated process). The way one would normally handle data going through that type of system is more automated (if a request requires 5 elements and request only has 4, API could automatically reject it). When it comes to initial review under any of the frameworks I don't see why it has to be done by a human—if they haven't provided enough information for a request to be valid we	**IRT feedback requested on proposed edits in PPAAv2, Section 3.15, and IP framework. ICANN org is proposing non-substantive edits to framework for consistency of terms and as noted in the document comments.**

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				should be able to handle that automatically. **Margie Milam:** I understand that where would be some API but the policy does talk about that. I'd like to hear from others who were involved in the PDP as to why this was in the report and how we might accommodate that. **Michele Neylon:** One of the reasons this was in here was concerns about high-volume requests we all receive around certain types of alleged abuse where it is 100% automated (e.g. DMCA requests)—the concern people expressed was that without some level of human review someone could send hundreds/thousands of automated requests in there **Mary Wong:** For background from PDP, from what I recall, there was some concern on requester and provider side about high volume requests. Not sure the intention was to create an obligation for providers to have human review when they received a request—don't think recommendations went that far **Michele Neylon: +1 Mary** **Steve Metalitz:** My recollection is that the concern Michele raised is the source of this. The expectation was there probably would not be a high volume of	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				these requests (unlike Relay, that made clear that providers could use automated processes for those). The expectation was that because of the detail that has to be provided in a disclosure request, seems likely that it wouldn't be feasible to do these in an automated fashion. **Theo Geurts:** I would like to point out that the # of reports that could come in could go up depending on several processes within ICANN itself—usage of PP could increase drastically so we need to think about the future **Michele Neylon:** +1 Theo **Steve Metalitz:** let's keep this in perspective. This is where we ended up. There are obviously provisions that I would like to see improved and others would, too, but after a very protracted negotiation we ended up here and we should think carefully about whether we want to change anything in here.	
				Additional comments/questions received on-list: • **Margie Milam:** What is the justification for charging? (see: **Section 1.2.3**. Assessing a nominal cost-recovery fee for processing complaint submissions, or to maintain Requester account so long as	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				this does not serve as an unreasonable barrier to access to the process). Since there was no support on the IRT for requiring manual review of requests, perhaps there is no longer a need to charge a fee for submitting requests. • **Section 1.2 -** There should be an appeal process built in (just like registrars are afforded when "adversely affected") – especially where the Provider can revoke or block Requester access to the submission tool … • **Section 2.1.6.1** and **2.2.7.1**- Requiring the rights holder to state that "is not defensible: is an improper standard because anyone can "claim a defense" • **Section 3.3.4 –** if the disclosure is refused, and the customer has surrendered the name, how does the rights holder identify who and where to sue for past infringement? Are the providers to be sued in lieu of the customer?	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				On-list 28 Nov – 1 Dec: >**Sara Bockey**: Edit Section 3.14 to remove the language re no automation. This is not feasible. This language must be removed: Provider shall not use high-volume, automated electronic processes (for example, processes that do not utilize human review) for sending Requests or responses to Requests to Requesters or Customers in performing any of the steps in the processes outlined in the Intellectual Property Disclosure Framework Specification. >**Lindsay Hamilton-Reid**: surely an automatic acknowledgement would be sensible while the claim is investigated? **Theo Geurts**: What is verifiable evidence? I often get very legal like claims, stating tons of trademarks, is that verifiable evidence? (Section 2.1, 2.2) **Sara Bockey**: I need clarification as well. I note that Section 3.17.2 reads: Provider shall not mandate that a Requester first make a Relay request	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				before Provider responds to or acts on a Disclosure or Publication request. IP Spec, Section 2, states: Provider shall not be required to comply with a Request unless the Requester provides to Provider verifiable evidence of wrongdoing. **Theo Geurts**: Note to IRT, perhaps we want to move to calendar days, business days are not universal. (Section 3.1.2) **Steve Metalitz**: Provider has already caused Customer contact details to be Published in RDDS as the result of termination of the Services;". The Provider is not actually the one who publishes Whois data, that is the Registrar (and Registry). I believe RDDS is the more future-proof term than Whois and this is reflected in the definition of Publication in 1.23.	