

Privacy Proxy Service Accreditation Agreement Discussion Items

*Updated 5 Sept 2017

Status:

To be discussed at next IRT meeting
IRT has discussed; ICANN is analyzing IRT input.
Additional IRT feedback is requested.
Not yet discussed
Resolved.

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
1	1	Updates to Definitions From Final Report	Certain definitions have been adjusted slightly from definitions in final report: 1.22 Privacy Service; 1.24 Proxy Service; 1.25 Publication. These definitions were updated to reflect additional defined terms (for example, “beneficial user” changed to “Customer” etc; “Registration Directory Service” updated to “Registration Data Directory Service”)	On 15 August IRT call: Update to definition of “Proxy Service” could help in discussion of Customer Data Accuracy (there is a contractual relationship between a registrar and a proxy service for each individual name).	Discussed at 15 August IRT meeting. Any additional IRT input requested on-list by 21 August. If no additional input (or no contrary input) is received, these definitions will be kept (as updated) and this issue will be marked as “resolved.” Resolved
2	1.21	Provider Approval	The Draft contemplates needing the affirmative approval of 50% plus one of all Service Providers for global amendments. Please advise if this is appropriate or if some other metric should be used.		This issue has been collapsed into Issue 3. Resolved.
3	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	Feedback at 18 July meeting: Amendment process may be too complicated	Updated language based on IRT discussion discussed at 15 August IRT meeting. Edits proposed in

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			<p>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).</p>	<p>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.</p> <p>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 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.</p> <p>>Is the number of negotiations open here? Concern about gridlock. Should the number of negotiations allowed/year be limited?</p> <p>>2 year period for allowing multiple negotiations/year sounds ok</p>	<p>definition of “Working Group” and in Section 7.4.1.</p> <p>Any additional IRT feedback requested on this topic by 21 August.</p> <p>ICANN staff is analyzing IRT input and will propose updated text in next draft.</p>

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				<p>> Not sure we need to micromanage this, presumably amendment topics would be consolidated...</p>	
4	3.2.2	Data Retention	<p>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</p>	<p>Feedback at 25 July meeting: Ensure that PSWG is on call where this is discussed.</p> <p>Feedback at 8 August IRT meeting: <u>Lindsay Hamilton-Reed:</u> Under European law, we can only retain data for as long as is necessary. We have difficulties with one year, never mind two.</p> <p><u>Roget Carney:</u> This section mentions registrar—ensure references are changed to provider.</p> <p><u>Theo Geurts:</u> I don't like this. The original data retention specification was already problematic in 2013, and other work is currently ongoing re: the GDPR. As a practical matter, if we are going to collect data, which we are all doing, and there needs to be some form of retention, it should be meeting applicable law. If we have language from 2 years from 1 year--- should just mention meeting applicable law. If data is collected and processed, it should be up to the provider to retain for the period</p>	<p>Discussed at 8 August IRT meeting.</p> <p>Additional IRT Feedback requested by 14 August.</p> <p>Section will be reviewed to ensure all references to registrars are changed to “provider.”</p> <p>ICANN is analyzing IRT feedback and will propose next steps at 5 September IRT meeting.</p> <p>Discussed at 5 Sept IRT meeting. Additional IRT feedback requested by 11 Sept.</p>

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				<p>allowed under applicable law. I would highly suggest we revise this language to that effect. Please don't apply the waiver process—expensive and time-consuming.</p> <p><u>Lindsay Hamilton-Reed</u>: Agreed, Theo!</p> <p><u>Theo Geurts</u>: I don't think it's the data collection that is the problem—we are all collecting data. The biggest issue is ICANN (or another third party) obtaining that information—that is usually a no-go. That's one of the big issues here. There's a big difference between collecting data and making data available outside the provider/registrar and that's the key problem with the entire thing.</p> <p><u>Vicky Sheckler</u>: at the p/p level. ok if for affiliated pp to have data at registrar level in certain scenarios</p> <p><u>Lindsay Hamilton-Reed</u>: Well not really. We have to bear in mind the purpose of a privacy provider.</p> <p><u>Vicky Sheckler</u>: we have already gone through in the PDP process areas where data needs to be disclosed. in</p>	

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				<p>order to disclose the data, it needs to be collected and retained for some period of time</p> <p><u>Susan Kawaguchi</u>: agree with Vicky</p> <p>Re: Specification 6</p> <p><u>Susan Kawaguchi</u>: OK with these data points</p> <p><u>Vicky Sheckler</u>: Ok w/data points</p> <p><u>Theo Geurts</u>: still processing</p> <p><u>Carlton Samuels</u>: I have always believed the waiver process was makework for lawyers. Why not align it to "applicable law" and stop making these folks scofflaws in their own country</p>	
				<p>Feedback Received at 5 Sept Meeting:</p> <p>Margie Milam: So this is consistent with the RAA waivers? Ok if so.</p>	

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				<p>Vlad Dinculescu: I support to have it reviewed once the GDPR work is done. However, in preparation for a potential no workaround from the community, can we temporarily insert the clause stating "retain the data for as long as applicable in their jurisdiction"?</p> <p>Volker Greimann: I fully agree that we should reference to the GDPR work and say that anything that we come up with should be modified by results of that work. Could we refer back to any waivers that Rrs in a certain jurisdiction have already obtained and assume that these could also apply to PP providers in the same jurisdictions?</p> <p>Margie Milam: It would make sense for ICANN to publish (instead of Vlad's proposed language) for every country what the period is (some sort of grid of countries)</p> <p>Steve Metalitz: Since this is an LEA issue, it would be good to get PSWG input on this in the near future. Also, not sure we should assume that the waiver for RR should be blindly</p>	

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				applied to PP—I would have some caution about that.	
5	3.5	Code of Conduct	How should a “consensus” be measured for purposes of establishing a Code of Conduct for Service Providers?	<p>On list 31 July: This is a third order issue that I hope will not detain us now, since it deals with a hypothetical future Code of Conduct that would certainly have to go through some kind of extensive drafting and review process. If and when such an effort gets underway then I agree that the definition of consensus would need to be established. Let’s not spend time on it now.</p> <p>1 August IRT call: Point 1: I don’t think this should be in the PPAA—if it is not part of the recommendations—skip it.</p> <p>Chat—7 additional IRT members said this should be deleted from the PPAA draft.</p>	<p>Discussed during 1 August IRT meeting.</p> <p>Resolved. This section will be deleted in PPAA draft v2.</p>
6	3.5.4.1, 3.5.4.17	Cancellation (PP Service and Domain Name)	<ol style="list-style-type: none"> 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? 	<p>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</p>	<p>Discussed at 1 August IRT meeting and on-list. ICANN is currently evaluating IRT input and will propose next steps based on this feedback.</p> <p>Any additional IRT input was requested on both topics by 7 August.</p>

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				<p>registrar immediately of the breach, simultaneously with supplying it with the “actual” contact information for the customer so that the latter can be published. }</p> <p>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.</p> <p>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.</p> <p>Point 3 (chat): Remove all references to the registration of the domain</p> <p>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</p>	<p>Part A: Specifically, IRT is requested to consider—(a) should we consider reducing the required period from 15 days to some shortened period? (b) if a proposal for a shortened timeline is drafted, do you have recommendations for what the baseline timeline should be?</p> <p>Part B: Provided any additional input received affirms input to date, or if no additional input received, language will be left as-is, so that Providers are required to specify in ToS/Customer Agreement that if Provider gives Customers the option to cancel in lieu of disclosure of their information, this option would not apply in cases where the name is involved in a UDRP/URS proceeding.</p>

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				<p>Point 5: Agree with Steve (point 2). The P/P provider is limited to suspending the services it provides to its customer.</p> <p>(group asked about the recommendation to notify the registrar)</p> <p>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.</p> <p>Point 7: Please clarify if Point 6 is what we are proposing.</p> <p>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 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.</p>	

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				<p>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.</p> <p>Point 10: re point 6 I agree that we should not add time to this process</p> <p>Point 11: sounds like we need to clarify more consisely that upon uncorrected false whois, we need an explicit obligation to cancel p/p service.</p> <p>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.</p>	

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				<p>The intention wasn't to give anyone 30 days.</p> <p>Point 13: agree re: timing</p> <p>Point 14: agree we need a floor and that p/p providers can chose to have quicker turn around times</p> <p>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.</p> <p>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."</p> <p>Point 16: support noted for points 14 and 15.</p> <p>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:</p>	

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				<p>> > 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.</p> <p>This proposal was supported by 3 other IRT members.</p> <p>On-list, 3 August: 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.</p> <p>On-list, 7 August: I support Sara's suggested language (on list 2 August, above).</p>	

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				<p>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 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.</p> <p>1 August IRT call:</p>	

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				<p>Point 1: Providers can't block the cancellation of the domain. (similar points raised by other IRT members)</p> <p>Point 2: this should be in the ToS</p> <p>Point 3: Perhaps all this means is that the P/P provider should provide notice to the customer of this cancellation lock issue?</p> <p>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.</p> <p>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.</p>	
7	3.6.1	Accreditation Fees	Fees to be discussed at a later date.		Fees proposal to be discussed by IRT as part of draft v2 Applicant Guide.
8	3.6.2	Variable Fees	Who would be responsible for variable fees if Provider does not pay them? Under the Registry Agreement, Registry Operators must pay if Registrars do not.		Resolved. Variable fees are not part of planned fees proposal.

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9	3.12	Contact Info	<p>The Final Report states that “<i>P/P service providers should be fully contactable through the publication of contact details on their websites in a manner modeled after Section 2.3 of the 2013 RAA Specification on Privacy and Proxy Registrations.</i>” Section 3.12 of the Draft is the proposed mechanism for implementing this recommendation. Please advise.</p>	<p>On list (31 July): Section 3.12 seems reasonable to me. I guess the only question is whether the officer information (3.12.16) needs to be published, although it certainly should be provided to ICANN.</p> <p>During 1 August IRT meeting:</p> <p>Point 1 (chat): This seems in line with the PDP recommendations and what registrars do today.</p> <p>Point 2 (chat): if its line w/ what registrars do today, seems ok to keep</p> <p>Point 3: support having officer info available</p>	<p>Discussed on 1 August IRT call.</p> <p>Resolved. Language will remain as-is in PPAA draft v2.</p>
10	3.18.3	Reveal Requirements	<p>What disclosure of contact details is contemplated?</p>	<p>On list (31 July): This provision was included in the WG report to make clear that providers had flexibility in how they handle disclosure/ publication requests and did not have to adopt automated, one size fits all systems. If the provider adopts a policy that those who present sufficiently detailed /credible /urgent disclosure requests will be put in direct touch with customers, even if that means disclosing one means of such contact to the requester, there</p>	<p>Discussed on 1 August IRT call.</p> <p>Resolved. Language in PPAA draft v2 will be left as-is</p>

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				<p>should be no problem with that so long as the provider's policy is adequately disclosed in accordance with accreditation standards.</p> <p>1 August IRT call: Point 1: This is part of giving providers as much flexibility as possible. Providers might respond to a disclosure request by passing it along or sharing the email address where it would send it to try to help to resolve an issue quickly. This seems to come down to a disclosure issue—telling the Customer in the ToS that in some cases the Provider might disclose certain information to facilitate resolution. Not sure what further might be needed here—not intending to micro-manage.</p> <p>1 Aug IRT call (chat): 2 IRT members agreed; it aligns with the PDP</p>	
11	3.19.1	Transfer of Registered Names Requirements	Please advise on how transfers should work in connection with the de-Accreditation of a Service Provider.		Transfer discussion on holding, pending resolution of GNSO issue regarding IRTP C matter.
12	5.2	Accreditation Term	The Draft contemplates a five year term. Please advise if that is appropriate.	<p>8 August IRT call</p> <p><u>Eric Rokobauer</u>: 5 years seems fine</p>	Discussed at 8 August IRT meeting. No changes needed based on IRT feedback.

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				<p><u>Susan Kawaguchi</u>: 5 years seems reasonable</p> <p><u>Theo Geurts</u>: 5 is good</p> <p><u>Carlton Samuels</u>: No issue as long as it is connected to some kind of evaluative framework</p> <p><u>Roger Carney</u>: 5 years is good</p>	Resolved.
13	5.7.1	Provider Suspension	<p>On the Registrar side, ICANN notifies Registry Operators to implement a lock which prevents Registrars from registering new domains or receiving inbound transfers. This will be more difficult to police on the PP side as registrars can be told not to accept new registrations from a service provider but they may not have means to easily block registrations. Please advise as to whether you think this is adequate or if you have additional suggestions on this topic.</p>	<p>On list (31 July): Any registrar that receives after the suspension date a registration from the suspended provider could reject it if it is labeled as required...I suppose adequate time would need to be allowed before the suspension becomes effective but I imagine this could be managed.</p> <p>1 August IRT call:</p> <p>Point 1—if the registration is labeled with the Provider ID, that will enable the registrar to know if a registration is from a suspended provider</p> <p>Point 2—it comes to the question of how the registrar can do this from a practical perspective</p> <p>Point 3—as a registrar I can't imagine how a provider is suspended and how to prevent them from completing a</p>	<p>Discussed at 1 August IRT meeting. ICANN solicited additional feedback from registrar subteam, as this concerns a technical issue. The deadline for responses was set for 18 August.</p> <p>No new suggestions were raised by the subteam. Based on IRT feedback on the topic, the most reasonable course of action seems to be, similar to the registrar suspension process, notifying all registrars when a Provider is suspended via email and also noting the provider's suspended status on ICANN.org.</p>

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				<p>signup—not sure how that would work operationally</p> <p>Point 4—once someone is accredited, they get a number and you would be able to look at the field on an automated basis to see if the # is from a suspended provider, if there is a reasonable notification process and enough lead time</p> <p>Point 5: sounds like we need an EPP for p/p providers</p> <p>In chat, expressions of support for points 4 and 5</p> <p>Re: Point 5: But needs some exploring I guess? It might shut out non-affiliated providers</p> <p>It shouldn't - assuming standard authN/authZ mechanisms and some kind of credential mechanism.</p> <p>Agreed, but how should a lawyer deal with all this when they want to offer some privacy to their clients? Build a full EPP and Escrow Service?</p>	
				<p>On-list, 7 August: Blocking new registrations will present technical challenges and</p>	

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				<p>still just not sure how we can achieve it (whether affiliated with an ICANN ID or not).</p> <p>And maybe something to keep in mind - those applying are doing so in order to obtain the right to provide privacy/proxy as a service. And if those providers were to be in violation, they could lose their right to offering that service.</p> <p>Do we intend for it to also mean they lose the right to doing registrations also? Having this section feels like it would suggest that.</p> <p>Input from Rr Subteam: So there are a few approaches here to section 5.7.1 ICANN could send a notice to all Registrars to block ICANN ID XXX. How the Registrars deal with this is up to them. This is the easiest approach language wise but will create the biggest mess for obvious reasons.</p> <p>The more refined approach would be that the privacy provider listing maintained by ICANN can be easily parsed. At least you can script the entire thing. Still, this is time-consuming and</p>	

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				<p>costly. And basically I would have to do stuff because some provider for whatever reason is suspended, ie their problem becomes my problem. I doubt such language will get great support.</p> <p>A higher in the chain solution would be at a Registry level. This would eliminate the above issues and you have a more semi centralized solution. But this sounds out of the scope of the IRT, but we could inform the GNSO and see if we can get in scope. If we can get support for such an approach that is.</p>	
14	Data Escrow Specification	Data Escrow	<p>The Draft contemplates a modified version of the data escrow specification from the new gTLD Registry Agreement. This will be discussed during 25 July 2017 IRT meeting.</p> <p>This model was chosen based on the results of the IRT poll, but it is unclear how this will function in conjunction with IRT recommendation that registrar-affiliated providers should be able to escrow through the registrar (who will be using a different specification).</p>	<p>Point 1 (on list): Perhaps RAA section 3.6 could be adapted for the p/p accreditation context. (Of course, if the RAA provision is modified in the future to align more closely with the registry obligations, the p/p obligations may be able to move in lockstep with it)... What is the downside of this approach? Put another way, what would be the advantage gained by aligning the p/p escrow obligations with those of registries, rather than those of registrars?</p> <p>Point 2 (on list): In short, it is nice to see most of the stuff listed in a section</p>	<p>Updated specification, per IRT feedback in 25 July call and in poll, discussed at 29 August IRT meeting.</p> <p>Any additional IRT feedback on points raised 29 Aug requested by 1 Sept on-list.</p> <p>ICANN is reviewing IRT input and will propose next steps at a subsequent meeting.</p>

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				<p>and being up to date! But most of it is not new for Registrars, and as a contracted party I have no issue with it.</p> <p>What is missing in this specification is that the non-affiliated privacy provider should specify at which registrar the domain name is, they provide privacy services for in the deposit. For Registrars or affiliated privacy services, this is a nonissue as anything at a different Registrar is no longer provided by those Registrars or affiliated providers as a service.</p> <p>Point 3 (on list): I remember the F2F in Dublin - it was agreed that any third party provider would have to do the same as a registrar. Theo has highlighted those parts, but, ultimately we have to have the same standards for the escrow service to accept the data, whether that be for the registrar or third party provider. I'll also mention that I am sure the current escrow services will not change the way they currently accept data, nor process it for ICANN compliance.</p>	

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				<p><u>IRT Input on 25 July IRT call</u></p> <p>Volker Greimann—Option 2 was not envisioned by the PDP WG—they said it should be modeled on what the registrars are doing. No need to expand to accommodate PP data bc registrars are already required to escrow underlying PP data. The only problem we have to tackle is how third-party providers would escrow; makes sense to use Option 1—only option that is viable.</p> <p>Darcy Southwell—totally agree with Volker</p> <p>Sara Bockey—agree with Volker</p> <p>Theo Geurts—leaning toward option 1</p> <p>Volker Greimann: The solution envisioned by the PDP WG was that there would be no need for _any_ implementation for affiliated proxy service providers.</p> <p>Darcy Southwell: +1 Volker</p>	

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				<p>Sara Bockey: Exactly. Our processes should NOT change.</p> <p>Volker Greimann: Registrars already have to escrow underlying registrant details with the escrow provider (BTW: When will the number of free providers finally be expanded?) as secondary data set. There is simply no need for any additional application</p> <p>The PDP WG did not recommend implementing updated standards or verification processes. There is no mandate from the WG to expand this.</p> <p>Steve Metalitz: it would be helpful for staff to share what final report said re: this topic</p>	
				<p><u>IRT input on 29 August call:</u></p> <p>Steve Metalitz: registrar-affiliated providers is not a special case, it is the normal case as of today</p> <p>Theo Geurts: +1 Steve; I don't think there is a special case. For affiliates, there are API connections and someone escrows the data. I am not sure why we are heading to a different escrow spec than what is in place for Rrs—I see some very minor</p>	<p>Questions for ICANN to answer:</p> <p>Will ICANN be covering the costs of PP data escrow?</p> <p>When/can IRT review draft of the escrow agreement?</p> <p>Is there an audit provision where when the deposit is submitted to the DEA, that there is a check against the records to see that the #registrations that are listed as privacy are actually</p>

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				<p>improvements—maybe—but most of it is that I am seeing I am having to run two different escrow specifications that have the same end goal and will have to do a lot of work for it for basically the same purpose. Why?</p> <p>The current registrar escrow specification should apply here.</p> <p>Q to IRT—there is no specification for how to escrow PP data, just that PP data can be included in deposits. That’s where we need to define the headers and the file(s) where the deposit is made</p> <p>Theo Geurts: I’m not sure what we are trying to solve here</p> <p>A to IRT: The current spec doesn’t say how PP data should be escrowed. It is minor to specify that and the spec could be used to comply with both obligations.</p> <p>Margie Milam: Will ICANN be covering the costs of PP data escrow? IRT’s feedback should be sought on that.</p>	<p>included in the deposit (ie a completeness check)?</p> <p>Registrar Data Escrow Spec: 3.1.1.11 ICANN shall have the right, either directly or through use of an independent auditor or other agent, to perform an inspection and audit of the records and systems of all RDE agents.</p>

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				<p>Is the intention to have a three-party contract like there is for the Rrs and escrow providers or just a spec?</p> <p>A—it is expected that this will be structured similarly to the Rr data escrow program—a data escrow agreement and the specification in the PPAA</p> <p>Q—can an affiliated provider offer PP registrations for other Rrs? How does this work?</p> <p>Theo Geurts: We are doing multiple escrow deposits for multiple privacy providers at the moment—create single deposits for each provider—not that complicated. We just ping them all to Iron Mountain.</p> <p>Greg DiBiase: Registrars already do a single deposit where the Rr and Provider are affiliated. Does ICANN view a problem with the process currently that is the reason this needs to be changed?</p> <p>Margie Milam: Is there an audit provision where when the deposit is submitted to the DEA, that there is a check against the records to see that</p>	

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				<p>the #registrations that are listed as privacy are actually included in the deposit (ie a completeness check)?</p> <p>Theo Geurts: Where a Provider registers through >1 registrar, not a problem so long as the provider has access to each registrar’s platform. The issue arises when the provider doesn’t. This is more a problem of the provider itself than it is an issue for this team. It’s up to the provider to ensure it has access to the data and fulfills the escrow obligations.</p>	
15	Customer Data Accuracy Program Specification	Data Accuracy	<p>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 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)</p>	<p>8 August IRT Meeting:</p> <p><u>Alex Deacon:</u> I think this is a good approach (copying RAA)</p> <p><u>Theo Geurts:</u> 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.</p> <p><u>Vicky Sheckler:</u> Agree with Alex.</p>	<p>Discussed at 8 August IRT meeting.</p> <p>Additional IRT feedback requested on list by 21 August.</p> <p>Absent contrary feedback from the IRT, the “Review” provision will be deleted from this specification in the next draft.</p> <p>ICANN is analyzing IRT feedback and will provide updated text for discussion at a subsequent meeting.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
			<p>IRT input is sought on this draft specification in its entirety.</p>	<p><u>Lindsay Hamilton-Reed</u>: Agree with Theo</p> <p><u>Vicky Sheckler</u>: We should move forward unless we hear from a TPP why they can't comply with this.</p> <p>IRT asked about whether we should keep the "review" provision of this specification.</p> <p><u>Alex Deacon</u>: I think that makes sense, given that this is a requirement on icann and not the provider</p> <p>Feedback 15 August IRT call:</p> <p>Steve Metalitz (following up on message to list): The specification covers some of the same requirements 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</p>	

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				<p>might enforce that against the customer.</p> <p>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.</p> <p>5. Feedback on list (22 August): <i>Metalitz comment: Here is the drafting suggestion I mentioned on previous call (in addition to scrubbing 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</i></p>	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p><i>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.”</i></p>	
16	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?	<p>IRT feedback received on 29 August IRT meeting:</p> <p>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</p> <p>Theo Geurts: Agree with Alex. And URL could be dependent on the provider ID—</p> <p>Q to IRT re: order of name, ID, URL in label</p> <p>Alex Deacon: It seems logical to have the name first, then ID in brackets or parentheses, and then URL</p> <p>Greg DiBiase: I’m ok with that name being added and it makes sense to have the name first</p>	<p>To be discussed at 29 August IRT meeting. Any additional feedback requested on-list by 1 Sept.</p> <p>ICANN is reviewing IRT feedback and will propose next steps shortly.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p>Margie Milam: Name should appear in the record.</p> <p>Steve Metalitz: Agree w/Alex re: Provider name</p> <p>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)</p> <p>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</p> <p>Margie Milam: Would abuse point of contact be listed?</p> <p>Greg DiBiase: Agree that the link going straight to the provider’s info makes sense</p> <p>Steve Metalitz: Presumably the link to the provider’s page would include the abuse contact</p>	
17	Law Enforcement Authority	Conformance	This Specification will need to be evaluated in relation to the entire PPAA.		Discussed at 8 August meeting. No changes needed at this time.

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
	Disclosure Framework Specification				
18	Law Enforcement Authority Disclosure Framework Specification	Definitions	<p>Definitions adjusted from most recent LEA framework draft to accommodate other defined terms in PPAA. “Requestor” changed to “LEA Requestor” because “Requestor” is defined more generally in Section 1.35; definitions for “Provider” and “Customer” removed because these are already defined in Section 1.</p>		<p>Discussed at 8 August meeting. Any additional input requested by 14 August. If no additional input is received, this will be marked “resolved” and language will be kept as-is.</p> <p>Resolved.</p>
19	Law Enforcement Authority Disclosure Framework Specification	Receipt Process (Section 3.2.1)	<p>Proposed edit from PSWG: I'd like to propose the following revision to the first paragraph in section 3.2.1:</p> <p><i>"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."</i></p>	<p>IRT feedback on 8 Aug IRT call: <u>Sara Bockey:</u> The problem with this timeframe is it doesn't take into consideration weekends or holiday. Not all PP services are 24/7.</p> <p>Nick Shorey: Crime also doesn't take into account weekends and holidays and that is the nature of the challenges we face.</p> <p><u>Lindsay Hamilton-Reed:</u> I agree with Sara. We should not have this written in stone if we can't respond in time.</p> <p><u>Nick Shorey:</u> 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.</p>	<p>Discussed at 8 August meeting.</p> <p>Additional IRT feedback requested on list by 14 August.</p> <p>Topic has been added to agenda for 22 August IRT meeting for follow-up discussion based on IRT discussion on-list.</p> <p>IRT poll distributed 23 August to ensure a complete record of IRT feedback is compiled.</p> <p>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.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p><u>Sara Bockey</u>: No, not the RAA. I mean with PP services. I don't believe they currently respond within 24 hours</p> <p><u>Nick Shorey</u>: 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.</p> <p><u>Theo Geurts</u>: Privacy Providers are not in all cases Registrars, is it realistic we impose RAA 2013 obligations on them?</p> <p><u>Sara Bockey</u>: What if we change this to within 1 business day? Not 24 hours</p> <p><u>Theo Geurts</u>: This will exclude third-party providers—requiring them to perform as a registrar more or less. This could be called out in the public comment period.</p> <p><u>Ashley Heineman</u>: Is there a reason to hold PP providers to a lower standard when it comes to law enforcement</p>	<p>If not, options for next steps will be explored by ICANN and discussed with IRT on a future call.</p>

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				<p>needs? Particularly if they are being accredited by ICANN?</p> <p><u>Nick Shorey</u>: (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.</p> <p><u>Lindsay Hamilton Reed</u>: One business day works better.</p> <p><u>Susan Kawaguchi</u> (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 not asking for anything except a review and a simple response of we need more information.</p> <p><u>Alex Deacon</u>: Would an automated response to a request (e.g. "thanks we</p>	

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				<p>have received your response and will respond to your request soon....") meet this obligation?</p> <p><u>Carlton Samuels</u>: 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</p> <p><u>Vicky Sheckler</u>: agree w/ ashley and susan. pp should not be held to a lower std.</p>	
				<p>IRT Feedback on 22 August call:</p> <p>Volker Greimann - I do not accept moving from business days to calendar day</p> <p>Michele Neylon: The problem I have is that if I am being sent very legalistic documents to review and being given 24 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.</p>	

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				<p>Lisa Villeneuve: +1</p> <p>Darcy Southwell: Agree with Michele and Volker—not feasible or necessary. 2 business days is appropriate for LEA inquiries related to PP.</p> <p>Alicia Kaelin: +1 Darcy</p> <p>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?</p> <p>(Multiple registrars note in chat that they do not receive these requests frequently or have not received such a request)</p> <p>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.</p> <p>Theo Geurts: This is problematic under the RAA to get a response—with outside counsel and complex cases. And with privacy need to be even more careful.</p>	

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				<p>Michele Neylon: The RAA thing is quite different. DNS Abuse= pull the domain offline. Revealing PAA= legal headache.</p> <p>Greg DiBiase: The difference is that we are responding to abuse as opposed to deciding whether to provide a customer's private data</p> <p>Darcy Southwell: +1 Greg Eric Rokobauer: +1 Greg Greg DiBiase: +1 Michele, it's two different things</p> <p>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</p> <p>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</p> <p>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 hours, to make this consistent with the</p>	

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				<p>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.</p> <p>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.</p> <p>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?</p> <p>Michele Neylon: Q re: compliance is a very valid question and many have noted</p>	

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				<p>that they have never received a request 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.</p> <p>Q to group—could you suggest a compromise here that you would support?</p> <p>Nick Shorey (PSWG): I cannot support the two business days</p> <p>Volker Greimann: the draft is the compromise</p> <p>Michele Neylon: what Volker said</p> <p>Q to group—could you support 1 business day?</p> <p>Volker—2 days is the minimum turnaround time</p> <p>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</p>	

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				<p>maintain the 48 hour deadline for high-priority cases for a substantive response?</p> <p>Volker Greimann: another compromise—valid responses include autoresponder messages</p> <p>Nick Shorey: With this amendment—trying to provide flexibility so that response isn't required in the 24 hour period, but review should occur</p> <p>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</p> <p>What about 1 business day?</p> <p>Michele Neylon—1 business day is better than 24 hours—not ideal but moving in the right direction</p> <p>Nick Shorey: We've been clear on the 24 hours</p> <p>Darcy Southwell: What if we clarify this language to high priority issues only and 1 business day in the Provider's jurisdiction</p>	

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				<p>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</p> <p>Theo Geurts: Is GAC advice only looking from LEA view? What about privacy?</p> <p>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.</p> <p>Steve Metalitz: +1 Nick, under PSWG proposal the decision whether to disclose does not have to be made within 24 hours.</p> <p>Theo Geurts: The text seems not very flexible. Maybe we should revise altogether. I'm missing the balance here.</p> <p>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</p> <p>Steve Metalitz: To repeat, one business day will be longer than 48 hours if it is a</p>	

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				<p>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 all if we are in agreement re: the deadline for actioning the request.</p>	
20	Intellectual Property Disclosure Framework Specification	Conformance	<p>This Specification will need to be evaluated in relation to the entire PPAA.</p>	<p>IRT Feedback on 22 August call:</p> <p>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.</p> <p>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 should be able to handle that automatically.</p>	<p>To be discussed on 22 August IRT call. Additional IRT feedback requested on-list by 28 August.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p>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.</p> <p>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</p> <p>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</p> <p>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</p>	

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				<p>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.</p> <p>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</p> <p>Michele Neylon: +1 Theo</p> <p>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.</p>	
				<p>Additional comments/questions received on-list:</p> <ul style="list-style-type: none"> • Margie Milam: What is the justification for charging? (see: Section 1.2.3. Assessing a nominal cost-recovery fee for processing complaint) 	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p>submissions, or to maintain Requester account so long as 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.</p> <ul style="list-style-type: none"> • 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 	

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p>providers to be sued in lieu of the customer?</p> <ul style="list-style-type: none"> • 	
21	RAA Synchronization	Updates to the RAA	<p>The introductory paragraph of Specification 2 contains a provision contemplating automatic updates if an analogous provision is updated in the RAA. Please advise if this is workable and confirm whether other RAA-modeled provisions should receive similar treatment. This seems advisable to avoid inconsistencies across the agreements. Some of the definitions that have their origins in the RAA are inherently going to be differently phrased in the PPAA due to different defined terms, etc. so if this concept is kept then there will need to be some form of implementation to harmonize them.</p>	<p>Input received on 15 August IRT call:</p> <p>>Theo Geurts: Not sure about this. The RAA is about registrars. The PPAA is about Privacy Providers. 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.</p> <p>>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.</p> <p>>Theo @Steve that sounds reasonable >Alex: agree with Steve >Roger Carney: this is a good concept but same concern as Theo—not sure</p>	<p>Discussed at 15 August IRT meeting. Any additional IRT feedback requested by 21 August.</p> <p>If IRT confirms this course of action, next step is to identify all PPAA sections that should be sync'ed and incorporate contractual language to that effect.</p> <p>ICANN is analyzing IRT feedback and will propose updated text for IRT discussion.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
				<p>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.</p> <p>>Carlton SAMUELS: If the RAA is substantially amended and the 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.</p> <p>Feedback on list 22 August: <i>Perhaps synchronization changes proposed by ICANN would take effect unless objected to by working group within 30 (?) days.</i></p>	
22	Rights in Data (Section 3.3)	Proposed Edits	Remove extra “)” after “query-based public access).” Update reference to WHOIS to Registration Data Directory Service. Propose to remove second sentence, as this does not impose an obligation on Provider and is merely an acknowledgment that a third party shall do something.		Resolved.

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23	Data Retention Specification	Applicability		<p>Point 1: SPECIFICATION 6: DATA RETENTION SPECIFICATION Maybe I just have grown a healthy distaste when it comes to waiver processes, but do we require a data retention spec for a privacy service?</p> <p>8 August IRT Call: See input under Issue 4.</p>	<p>Discussed at 8 August meeting. Additional IRT feedback requested by 14 August.</p> <p>Next steps to be discussed on a future IRT call, date TBD. Marking this item as “resolved” as all data retention issues have been consolidated into Issue 4.</p>
24	3.20	Record Keeping	<p>Final Report stated that providers should be required to maintain statistics on the number of Publication and Disclosure requests received and the number honored, and provide these statistics in aggregate form to ICANN for periodic publication. The data should be aggregated so as not to create a market where nefarious users of the domain name system are able to use the information to find the P/P service that is least likely to make Disclosures.</p> <p>Proposed implementation:</p> <p>3.2 <u>Record Keeping.</u></p> <p>3.2.1 Provider should maintain statistics on the number of Publication and Disclosure requests received from Requesters, and the number of actual Publications</p>	<p>Feedback received on 22 August IRT call:</p> <p>Section number cited is incorrect in slides.</p> <p>Michele Neylon: what is “format specified by ICANN”? This is problematic.</p> <p>Volker Greimann: This can be an issue—some providers may not have any technological skills available</p> <p>Roger Carney: or “as agreed by providers”</p> <p>Michele Neylon: the idea of collecting metrics is a good idea—just take issue with the “format selected by ICANN”</p> <p>Steve Metalitz: or perhaps “forms specified by ICANN after consultation with providers”</p>	<p>Discussed on 22 August IRT call.</p> <p>Additional IRT feedback sought on proposed implementation of this recommendation on list by 28 August.</p> <p>If no further input on this topic is received (or no contrary input is received) ICANN will propose edits to this language per the IRT input on the 22 August call.</p>

Issue	Section	Topic	Issue	Additional IRT Feedback	Status
			<p>and Disclosure as a result of such requests.</p> <p>3.2.2 Providers should provide these statistics in aggregate form to ICANN for periodic publication, in the form specified by ICANN as may be amended or modified from time to time.</p>	<p>Theo Geurts: also a good suggestion</p> <p>Michele Neylon: I really like Steve’s suggestion because that covers the issue of getting something completely unworkable without being overly specific</p> <p>Roger Carney +1 Michele and Steve Eric Rokobauer: +1 Michele and Steve Chris Pelling: Agree with Steve M and Michele</p>	
25	3.5	Business Dealings	IRT Member requested to discuss this section	<p>Feedback received on 22 August call:</p> <p>Michele Neylon: Would this require duplicate notices to customers (e.g. data accuracy)? Would customer get notice from registrar and the provider? Eliminate that.</p> <p>Volker Greimann: Ensure that a notice is provided, not by whom</p> <p>Michele Neylon: We have the WHOIS info and the customer data for PP customers—there isn’t a totally different backend. Legally speaking the companies are separate but they are practically the same—ensure that notice is provided, not by whom.</p>	<p>IRT feedback requested on this section in its entirety on 22 August call.</p> <p>Additional feedback requested on list by 28 August. ICANN is analyzing IRT feedback and will propose next steps at a future meeting, date TBD.</p> <p>Staff action item: Review PPAA draft to ensure notifications are not duplicated to customers.</p>

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				<p>Theo Geurts: We need to make sure we are not going to do silly things like sending notices to privacy providers</p> <p>Additional Feedback Received On-List:</p> <p>Steve Metalitz: One additional issue re 3.5.4: The chapeau paragraph requires the customer to provide contact information but does not specify admin or tech contact. However, 3.5.4.2 states that Customer must provide “accurate technical and administrative contact information.”</p> <p>The goal should be for the Customer to provide enough information so that, in the event the p/p service is terminated and Publication occurs, the contact info submitted could be published in Whois. This is consistent with 3.5.4.2. Perhaps the initial paragraph of 3.5.4 should be revised to conform to this.</p>	
26	3.13	Abuse Contact	<p>Comment received from Sara Bockey on-list:</p> <p>The Final report says: P/P service providers must maintain a point of contact for abuse reporting purposes.</p>	<p>Feedback received on 5 Sept IRT call:</p> <p>Michele Neylon: makes sense to delete this</p> <p>Steve Metalitz: I agree we shouldn't just be copying RAA if not necessary, but the</p>	<p>Topic discussed at 29 August IRT meeting. Additional IRT feedback requested by 11 Sept.</p>

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			<p>In this regard, a “designated” rather than a “dedicated” point of contact will be sufficient, since the primary concern is to have one contact point that third parties can go to and expect a response from. For clarification, the WG notes that as long as the requirement for a single point of contact can be fulfilled operationally, it is not mandating that a provider designate a specific individual to handle such reports.</p> <p>But the PPAA says: 3.13.1 Provider shall establish and maintain a designated Abuse contact to receive reports of Abuse involving Registered Names for which Provider is providing the Services, including reports of Illegal Activity. Provider shall publish (i) an email address to receive such reports on the home page of Provider’s website or (ii) other mechanisms, such as a telephone number or an electronic form, that are clearly visible on Provider’s website homepage (or, in each case, in another standardized place that may be designated by ICANN from time to time), <u>which shall be monitored 24 hours a day, seven days a week.</u></p>	<p>question this raises is—what is the expectation re how the abuse contact will be monitored?</p> <p>Michele Neylon: valid question. Generally speaking an abuse contact email will be set to go into some sort of abuse desk ticketing system. Most would probably reply within a day or two, not sure what everyone would be comfortable committing to.</p> <p>Theo Geurts: We need to separate issues—if you look at abuse reporting—it should go to the registrar; for PP this could be a different topic that could require more time (usually for reveal or publication of underlying data)</p> <p>Michele Neylon—I think abuse reports should go to hosting provider first, then Rr, then PP (reveal and relay only, not takedown)</p> <p>Margie Milam: agree that there would be some need for a standard; for abuse reports, may be for reveal/relay but also for abuse of T&C</p> <p>Steve Metalitz: Look at Section 3.13.2—providers shall take reasonable and prompt steps; well-founded reports of illegal activity must be reviewed within</p>	

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			<p>Based on the recommendations of the Final report, <u>we need to have 3.13.1 of the PPAA revised to remove the 24/7 requirement.</u></p>	<p>24 hours. So this may take care of the timing concern and maybe we don't need 24/7 monitoring</p> <p>Theo/Sara (chat)—will need to take another look at 3.13.2</p> <p>Margie Milam: section cited by Steve appears to be adequate so long as this section remains</p> <p>Steve Metalitz: If 3.18.2 remains open, 3.18.1 should also remain open.</p>	
27		De-Accreditation Process		<p>On-list:</p> <p>(Theo Geurts) In general, I am not happy with this. This is a service and not a domain name. The PDF is not very clear on non-affiliated services. But parties whom I have no contract with, I am not going to suspend domain names, nor I am going expose the identity of registrants even if ICANN gives it to me. I have no legal basis here.</p> <p>So whatever we develop here, we better make sure that Registrars are not going to be liable for suspensions and make sure we are GDPR compliant.</p> <p>Feedback on 5 Sept IRT call:</p>	<p>Discussed on 5 Sept IRT call. Additional IRT feedback requested by 11 Sept on-list.</p> <p>Staff action item—distribute information about PP provider de-accreditation when affiliated registrar is terminated</p>

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				<p>Margie Milam: Is one of the grounds for termination that the affiliated registrar is terminated for compliance reasons?</p> <p>Michele Neylon: How could PP unbalance the security/stability of the DNS? This may not be relevant. Also, this entire thing about notification. I can't imagine a reality in which a provider engaged in bad acts is going to send out notices to customers. Reliance on an entity that isn't complying with anything to send notices to clients is flawed. Sending notices to registrars that service provider X is fine.</p> <p>Volker Greimann: Agree re: stability of internet. If Rr is doing that, RAA would take care of it, so this should be struck from PP agreement—doesn't make sense here.</p> <p>Steve Metalitz: Notices in two circumstances – suspension and de-accreditation. De-accreditation is prob hopeless, but suspension might not be if Provider is trying to get back into compliance.</p> <p>However, why notices to customers who are not affected by the suspension?</p>	

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				<p>Could this create confusion? But understand that suspension is often a first step to termination and might be a first notice that provider is on thin ice.</p> <p>Could ICANN use the escrowed data to send notices to customers where provider is not sending notices?</p> <p>Theo Geurts: I was going to suggest the same as Steve re ICANN sending notices.</p> <p>Margie Milam—agree escrow approach would make sense, could build into escrow agreement. The reason the notice is there is to protect the customer so it seems like it is helping them protect their data by giving them that notice so allowing ICANN to do that might be a good thing from a data protection perspective. Also, it seems like in some cases the provider would cooperate and send out notices (voluntary termination).</p> <p>Volker Greimann: breaching confidentiality of escrow for a mere warning letter may be problematic from a data privacy perspective. This would have to be investigated.</p> <p>Michele Neylon: very problematic</p>	

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				<p>Theo Geurts: Agreed, yet we should explore as this sounds like a viable option.</p> <p>Michele Neylon: I can understand why the suggestion for ICANN to contact people would be mooted and understand the context behind it, but we are talking about a PP service. Customers don't want their contact details to be given to anyone—that's what they are paying for. So their details being shared with a third party, I can see that as being very problematic. Also in terms of effectiveness of the message—someone receives a message from ICANN, a lot of people are just going to delete or report as spam. I just don't see how that's going to work.</p> <p>Steve Metalitz: I agree there are some issues to using the escrow and having ICANN send out notices. But some of this could be handled through the disclosures providers make to their customers. If provider isn't cooperative, what's the alternative? The Final Report was clear re: customer notification and we all agreed to that.</p> <p>Michele Neylon: I agree with Steve—we did discuss this and agree on this. I have no issue with that. So, in the case of a</p>	

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				<p>voluntary termination, it's not going to be a problem. Maybe the registrar could send notices if they have some of the contact details? But the problem I have is that if you have a serious meltdown with a provider that's going to become very problematic. (data escrow may be the reason they are being terminated). This may be more of an issue of trying to do this versus 100% certainty that this will be done.</p> <p>Volker Greimann: Rr won't have the customer data in some cases. Having ICANN send out the notice is probably the most sensible option, but we have to check to see whether ICANN is even allowed to access (would need terms to allow this)</p> <p>Re: 30 days notice in instances of immediate termination</p> <p>Michele Neylon: If PP is linked to Rr and Rr is being de-accredited, it's not as much of an issue—names will be transferred and gaining Rr must have a PP service. If PP is unaffiliated, this is much more complicated because the services will be decoupled, Rr doesn't have customer data</p>	