November 15, 2010


**Dear Members of the GNSO Council**,

The Registration Abuse Policies Implementation Drafting Team (RAP-IDT) hereby submits its proposed approach to the recommendations contained in the Registration Abuse Policy Working Group (RAPWG) Final Report [http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf). The RAP-IDT was tasked by the GNSO Council to 'draft a proposed approach with regard to the recommendations contained in the report, which could include the timing of forming groups to consider some of the recommendations in the final report as well as how to deal with those recommendations that did not achieve unanimous consensus'. Both the RAPWG and the RAP-IDT were aware of the need for the GNSO Council to prioritize work.

**Methodology**

In discussing a proposed approach, the RAP-IDT identified categories that it felt needed to be taken into account when assessing each of the recommendations:

- Level of the consensus reached by the RAPWG. Recommendations that received unanimous consensus were given high priority, reflecting the value assigned to them by the diverse stakeholders in the RAPWG.
- Expected size, complexity, and scope of the work for the GNSO related to the recommendation (Small, Medium, Large)
- Nature of the effort / approach
- Dependencies
- Next Steps

On the basis of these categories, the RAP-IDT developed a matrix[1]. Each member of the RAP-IDT was asked to complete the matrix by submitting his or her view on the above-identified categories for each of the recommendations and rank the recommendations in order of priority. Following that process, the RAP-IDT reviewed the different submissions and discussed what common position on each of the categories for each of the recommendations would be acceptable to all.

**Recommended Approach**

The results of the process outlined above can be found in Annex I. The overview in Annex I lists the recommendations in order of priority as agreed upon by the RAP-IDT and identifies the expected complexity, the nature of the effort, dependencies, if any, and proposed next steps. For some of these, additional notes have been added, which the GNSO Council may take into account as part of its deliberations. A number of items were identified as 'low hanging fruit,' implying a low requirement on GNSO resources. These items are listed at the top of the overview in Annex I. The

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[1] For the latest version of the matrix, please see https://st.icann.org/data/workspaces/reg-abuse-policy/attachments/registration_abuse_policies_implementation_drafting_team:20101115160319-0-16782/original/RAP%20Impl%20DT%20-%20Sequencing%20matrix%20v4.xls. Please note that this was a working document and does not necessarily reflect the final findings as expressed in Annex I of this letter.

RAP-IDT strongly recommends that the GNSO Council considers expediting some of the recommendations identified as 'low hanging fruit' if the Council decides those projects offer value.

It should be noted that for those recommendations that did not achieve unanimous consensus in the RAPWG, the recommended next step is generally for the Council to review the recommendation in question and decide if or how to move forward. In doing so, the RAP-IDT would recommend the following steps:

1. Review each section of the RAP Final report that corresponds to recommendation, where significant consensus was not achieved;
2. Request for additional input or research to become better informed of the recommendation (optional);
3. GNSO Council Vote on the recommendation.

The RAP-IDT appreciates the opportunity to present the proposed approach to the GNSO Council and is available to answer any questions. The RAP-IDT understands that time has been set aside on the GNSO Council Schedule on Saturday 4 December at the ICANN Meeting in Cartagena. The Co-Chairs of the RAP-IDT, Mike O'Connor and Greg Aaron, will be available to participate in this session.

On behalf of the RAP Implementation Drafting Team[2],


Mike O'Connor                    Greg Aaron
Co-Chair                         Co-Chair

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[2] See list of members in Annex III

**Annex I – RAP IDT Proposed Approach based on resource requirements and priority ranking**

**A. "Low Hanging Fruit" (low resource requirements for GNSO)**

i. **WHOIS Access – Recommendation #2**: The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations

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|---|---|
| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 3 |
| Expected size, complexity, scope: | Small |
| Dependencies: | None |
| Nature of Effort/Approach: | Request to Compliance Department |
| Next Steps: | Send letter to ICANN Compliance Department |
| Notes from RAP-IDT: | None |

ii. **Fake Renewal Notices – Recommendation #1:** The RAPWG recommends that the GNSO refer this issue to ICANN's Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 7 |
| Expected size, complexity, scope: | Small |
| Dependencies: | None |
| Nature of Effort/Approach: | Request to Compliance Department |
| Next Steps: | Send letter to ICANN Compliance Department |
| Notes from RAP-IDT: | None |

**B. Sequence of Remaining RAPWG Recommendations**


i. **Malicious Use of Domain Names – Recommendation #1:** The RAPWG recommends the creation of non-binding best practices to help registrars and registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration.  The effort should consider (but not be limited to) these subjects:
   - Practices for identifying stolen credentials
   - Practices for identifying and investigating common forms of malicious use (such as malware and phishing)
   - Creating anti-abuse terms of service for inclusion in Registrar-Registrant agreements, and for use by TLD operators.
   - Identifying compromised/hacked domains versus domain registered by abusers
   - Practices for suspending domain names
   - Account access security management
   - Security resources of use or interest to registrars and registries
   - Survey registrars and registries to determine practices being used, and their adoption rates.


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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 1 |
| Expected size, complexity, scope: | Medium |
| Dependencies: | None |
| Nature of Effort/Approach: | Best Practices PDP (for Process/Approach) |
| Next Steps: | Request for Issue Report |
| Notes from RAP-IDT: | It would be useful to implement prior to new gTLD rollout (preferably in 2011). Preference to use PDP process; outcome to be best practices. Dependent on participation from appropriate stakeholders. This PDP might be used as a pilot effort relating to the Meta Issue: Collection and Dissemination of Best Practices (See below). |

Request for Issue Report should provide appropriate guidance and focus for Staff; could be done by a drafting team.

ii. **WHOIS Access – Recommendation #1:** The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.
The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN's new Affirmation of Commitments.

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 2 |
| Expected size, complexity, scope: | Medium |
| Dependencies: | None |
| Nature of Effort/Approach: | Implementation |
| Next Steps: | Drafting team - charter |
| Notes from RAP-IDT: | Form charter drafting team to develop a charter for a WG to determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion. Include "review existing systems and conduct gap analysis" in the instructions to the charter drafting team. The Council might consider adding this to the recommendations that have been submitted by the RAA drafting team for follow up or subsequent efforts relating to these recommendations. |

iii. **Cybersquatting – Recommendation #1:** The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider balanced revisions to address cybersquatting if appropriate. This effort should consider:

- How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process.
- Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated.

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 4[3] |
| Expected size, complexity, scope: | Large |
| Dependencies: | None |
| Nature of Effort/Approach: | PDP (Analogous to IRTP) |
| Next Steps: | Drafting team - roadmap |
| Notes from RAP-IDT: | Request a drafting team to identify the different issues related to a review of the UDRP and develop a roadmap for addressing these issues, possibly through multiple PDPs grouping together related issues in a similar way as was done for the review of the IRTP. Notes: 1) it may be helpful to see the effect of RPMs in the new gTLDs space, 2) WHOIS accuracy is a factor when filing some UDRP cases, but the issue of WHOIS accuracy is not a prerequisite or barrier for examining the UDRP. |

iv. **Uniformity of Contracts:**

**View A:** The RAPWG recommends the creation of an Issues Report to evaluate whether a minimum baseline of registration abuse provisions should be created for all in-scope ICANN agreements, and if created, how such language would be structured to address the most common forms of registration abuse.

**View B:** Opposed to the recommendation for an Issues Report as expressed in view A

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| RAPWG Level of Consensus: | Strong support, but significant opposition |
| RAP-IDT Rank: | 4 |

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[3] Two members of the IDT objected to the ranking of this item and suggested a lower ranking.

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| Expected size, complexity, scope: | Large |
| Dependencies: | None |
| Nature of Effort/Approach: | TBD |
| Next Steps: | Refer to Council |
| Notes from RAP-IDT: | There may be parallel activities or interactions with other RAA activities such new gTLD rollout and RAA drafting review team |

**v.**          **Gripe Sites; Deceptive and/or Offensive Domain Names – Recommendation #1:**

**Rough Consensus:** Make no recommendation. The majority of RAPWG members expressed that gripe site and offensive domain names that use trademarks should be addressed in the context of cybersquatting and the UDRP for purposes of establishing consistent registration abuse policies in this area, and that creating special procedures for special classes of domains, such as offensive domain names, may present problems.

**Alternate view: T**he URDP should be revisited to determine what substantive policy changes, if any, would be necessary to address any inconsistencies relating to decisions on "gripe" names and to provide for fast track substantive and procedural mechanisms in the event of the registration of deceptive domain names that mislead adults or children to objectionable sites.

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| RAPWG Level of Consensus: | Rough Consensus |
| RAP-IDT Rank: | 6 |
| Expected size, complexity, scope: | Large |
| Dependencies: | See notes |
| Nature of Effort/Approach: | TBD |
| Next Steps: | Refer to Council |
| Notes from RAP-IDT: | Possible to combine this one with the broader UDRP PDP |

vi. **Cybersquatting – Recommendation #2:**

**View A:** The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the appropriateness and effectiveness of how any Rights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space.

**View B:** The initiation of such a process is premature; the effectiveness and consequences of the Rights Protection Mechanisms proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program.  Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space.

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| RAPWG Level of Consensus: | Split Opinion |
| RAP-IDT Rank: | 8 |
| Expected size, complexity, scope: | Large |
| Dependencies: | See notes |
| Nature of Effort/Approach: | TBD |
| Next Steps: | Refer to Council |
| Notes from RAP-IDT: | There may be parallel activities or interactions with other RAA activities such new gTLD rollout and RAA drafting review team |

vii. **Fake Renewal Notices – Recommendation #2 – conditional on #1: The following recommendation is conditional.** The WG would like to learn the ICANN Compliance Department's opinions regarding Recommendation #1 above, and the WG will further discuss Recommendation 2 looking forward to the WG's Final Report.
The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices.

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 9 |
| Expected size, complexity, scope: | Medium |

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| Dependencies: | Fake Renewal Notice Recommendation #1 |
| Nature of Effort/Approach: | PDP |
| Next Steps: | Request Issue Report |
| Notes from RAP-IDT: | None |

viii. **Meta Issue: Collection and Dissemination of Best Practices:** The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support structured, funded mechanisms for the collection and maintenance of best practices.

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 10 |
| Expected size, complexity, scope: | Large |
| Dependencies: | Malicious Use of Domain Names Recommendation #1 |
| Nature of Effort/Approach: | WG |
| Next Steps: | Drafting team - charter |
| Notes from RAP-IDT: | None |

ix. **Cross-TLD Registration Scam**: The RAPWG recommends the GNSO monitor for Cross-TLD registration scam abuse in the gTLD space and co-ordinate research with the community to determine the nature and extent of the problem. The WG believes this issue warrants review but notes there is not enough data at this time to warrant an Issues Report or PDP.

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| RAPWG Level of Consensus: | Unanimous Consensus |
| RAP-IDT Rank: | 11 |
| Expected size, complexity, scope: | Small |
| Dependencies: | None |
| Nature of Effort/Approach: | TBD |
| Next Steps: | Drafting team - charter |
| Notes from RAP-IDT: | Drafting team to develop the monitoring effort/approach |

x.     **Meta Issue - Uniformity of Reporting:** The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes.

RAPWG Level of Consensus:        Unanimous Consensus

RAP-IDT Rank:                    12

Expected size, complexity, scope: Large

Dependencies:                    None

Nature of Effort/Approach:       TBD

Next Steps:                      Drafting team - charter

Notes from RAP-IDT:              Include "review existing systems and conduct gap analysis" in the instructions to the charter drafting team.

xi.    **Gripe Sites; Deceptive and/or Offensive Domain Names – Recommendation #2:**
       **View A:** Turn down a proposed recommendation that registries develop best practices to restrict the registration of offensive strings.
       **View B**: Registries should consider developing internal best practice policies that would restrict the registration of offensive strings in order to mitigate the potential harm to consumers and children.

RAPWG Level of Consensus:        Strong support, but significant opposition

RAP-IDT Rank:                    13

Expected size, complexity, scope: Small

Dependencies:                    UDRP investigation?

Nature of Effort/Approach:       TBD

Next Steps:                      Refer to Council

Notes from RAP-IDT:              None

xii.   **Domain Kiting / Tasting:** It is unclear to what extent domain kiting happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue (in conjunction with ongoing reviews of domain-tasting), and consider next steps if conditions warrant.

RAPWG Level of Consensus:          Rough Consensus

RAP-IDT Rank:                      14

Expected size, complexity, scope:  Small

Dependencies:                      None

Nature of Effort/Approach:         TBD

Next Steps:                        Refer to Council

Notes from RAP-IDT:                None

**Annex II – Registration Abuse Policy Working Group (RAPWG) Recommendations** (copied from the RAP WG Final Report – see http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf)

| CYBERSQUATTING | | |
|---|---|---|
| **Recommendation #1** | The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider balanced revisions to address cybersquatting if appropriate. This effort should consider:<br>• How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process.<br>• Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated. | **Unanimous consensus** |
| **Recommendation # 2 View A** | The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the appropriateness and effectiveness of how any Rights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space. | **Supported by 7 members of the RAPWG** |
| **View B** | The initiation of such a process is premature; the effectiveness and consequences of the Rights Protection Mechanisms proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program. Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space. | **Supported by 7 members of the RAPWG** |

| FRONT RUNNING | | |
|---|---|---|
| **Recommendation #1** | It is unclear to what extent front-running happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue and consider next steps if conditions warrant. | **Unanimous consensus** |

| GRIPE SITES; DECEPTIVE and/or OFFENSIVE DOMAIN NAMES | | |
|---|---|---|
| **Recommendation #1** | Make no recommendation. The majority of RAPWG members expressed that gripe site and offensive domain names that use trademarks should be addressed in the context of cybersquatting and the UDRP for purposes of establishing consistent registration abuse policies in this area, and that creating special procedures for special classes of domains, such as offensive domain names, may present problems. | **Rough Consensus** |
| **Alternate view** | **T**he URDP should be revisited to determine what substantive policy changes, if any, would be necessary to address any inconsistencies relating to decisions on "gripe" names and to provide for fast track substantive and procedural mechanisms in the event of the registration of deceptive domain names that mislead adults or children to objectionable sites. | **Supported by 4 members of the RAPWG** |
| **Recommendation #2 View A** | Turn down a proposed recommendation that registries develop best practices to restrict the registration of offensive strings. | **Strong support** |
| **View B** | Registries should consider developing internal best practice policies that would restrict the registration of offensive strings in order to mitigate the potential harm to consumers and children. | **Significant Opposition** |


| FAKE RENEWAL NOTICES | | |
|---|---|---|
| **Recommendation #1** | The RAPWG recommends that the GNSO refer this issue to ICANN's Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data | **Unanimous Consensus** |
| **Recommendation #2** | **The following recommendation is conditional.** The WG would like to learn the ICANN Compliance Department's opinions regarding Recommendation #1 above, and the WG will further discuss Recommendation 2 looking forward to the WG's Final Report. The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices. | **Unanimous consensus** |

| CROSS-TLD REGISTRATION SCAM | | |
|---|---|---|
| **Recommendation #1** | The RAPWG recommends the GNSO monitor for Cross-TLD registration scam abuse in the gTLD space and co-ordinate research with the community to determine the nature and extent of the problem. The WG believes this issue warrants review but notes there is not enough data at this time to warrant an Issues Report or PDP. | **Unanimous consensus** |

| DOMAIN KITING / TASTING | | |
|---|---|---|
| **Recommendation #1** | It is unclear to what extent domain kiting happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue (in conjunction with ongoing reviews of domain-tasting), and consider next steps if conditions warrant. | **Rough consensus** |
| | The RAPWG recommends policy development regarding domain kiting / tasting with input from the appropriate parties | **Supported by one member of the WG** |

| MALICIOUS USE OF DOMAIN NAMES | | |
|---|---|---|
| **Recommendation #1** | The RAPWG recommends the creation of non-binding best practices to help registrars and registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration.  The effort should consider (but not be limited to) these subjects:<br>• Practices for identifying stolen credentials<br>• Practices for identifying and investigating common forms of malicious use (such as malware and phishing)<br>• Creating anti-abuse terms of service for inclusion in Registrar-Registrant agreements, and for use by TLD operators.<br>• Identifying compromised/hacked domains versus domain registered by abusers | **Unanimous consensus** |

| | • Practices for suspending domain names<br>• Account access security management<br>• Security resources of use or interest to registrars and registries<br>• Survey registrars and registries to determine practices being used, and their adoption rates. | |
|---|---|---|
| **Additional view** | Uses of domain names unrelated to registration issues are an area in which ICANN can impose mandatory practices upon contracted parties. | **Supported by 7 member of the RAPWG** |

| WHOIS ACCESS | | |
|---|---|---|
| **Recommendation #1** | The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.<br>The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN's new Affirmation of Commitments. | **Unanimous consensus** |
| **Recommendation #2** | The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations. | **Unanimous consensus** |

| UNIFORMITY OF CONTRACTS | | |
|---|---|---|
| **Recommendation #1** | | |
| **View A** | The RAPWG recommends the creation of an Issues Report to evaluate whether a minimum baseline of registration abuse provisions should be created for all in-scope ICANN agreements, and if created, how such language would be structured to address the most common forms of registration abuse. | **Strong Support** |
| **View B** | Opposed to the recommendation for an Issues Report as expressed in view A | **Significant Opposition** |

| META ISSUE: UNIFORMITY OF REPORTING | | |
|---|---|---|
| **Recommendation #1** | The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes. | **Unanimous consensus** |

| META ISSUE: COLLECTION AND DISSEMINATION OF BEST PRACTICES | | |
|---|---|---|
| **Recommendation #1**<br><br>*Please see pages 97-102 for the full recommendation.* | The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support structured, funded mechanisms for the collection and maintenance of best practices. | **Unanimous consensus** |

**Annex III – Members of the Registration Abuse Policies Implementation Drafting Team**

| Name | Affiliation |
|---|---|
| Greg Aaron | RySG |
| James Bladel | RrSG |
| Berry Cobb | CBUC |
| Elisa Cooper | Individual |
| Phil Corwin | CBUC |
| David Donahue | IPC |
| Fred Felman | Individual |
| Mikey O'Connor | CBUC |
| Lisa Rosaya | IPC |
| Faisal Shah | Individual |
| Joi White | IPC |
| Mary Wong | NCSG |