

# Registration Abuse Policies Working Group Status Update

Submitted June 2, 2009

## STATUS OF THIS DOCUMENT

This is a status update provided by the Registration Abuse Policies Working Group as required in its charter: 'The Working Group should [...] report back to the GNSO Council within 90 days following the end of the ICANN meeting in Mexico City'.

## BACKGROUND

- On 25 September 2008, the GNSO Council adopted a motion requesting an issues report on registration abuse provisions in registry-registrar agreements. The issues report was submitted to the GNSO Council on 29 October 2008 and provides an overview of existing provisions in registry-registrar agreements relating to abuse and includes a number of recommended next steps, namely for the GNSO Council to:
  - Review and Evaluate Findings  
A first step would be for the GNSO Council to review and evaluate these findings, taking into account that this report provides an overview of registration abuse provisions, but does not analyse how these provisions are implemented in practice and whether they are deemed effective in addressing registration abuse.
  - Identify specific policy issues  
Following the review and evaluation of the findings, the GNSO Council would need to determine whether there are specific policy issues regarding registration abuse. As part of this determination it would be helpful to define the specific type(s) of abuse of concern, especially distinguishing between registration abuse and other types of abuse if relevant.
  - Need for further research  
As part of the previous two steps, ICANN Staff would recommend that the GNSO Council determines where further research may be needed – e.g. is lack of uniformity a substantial problem, how effective are current registration abuse provisions in addressing abuse in practice, is an initial review or analysis of the UDRP required?’
  
- The GNSO Council voted on 18 December to form a drafting team to create a proposed charter for a working group charged with investigating the open issues identified in Registration Abuse Policies report. The drafting team was formed and met for the first time on 9 January 2009. They finalized a charter, which was adopted by the GNSO Council on 19 February 2009, for a Registration Abuse Policies

Working Group (RAP WG). The GNSO Council will not make a decision on whether or not to initiate a PDP on registration abuse policies until the RAP WG has presented its findings.

## WORKING GROUP CHARTER

Whereas GNSO Council Resolution (20081218-3) dated December 18, 2008 called for the creation of a drafting team “to create a proposed charter for a working group to investigate the open issues documented in the issues report on Registrations[sic] Abuse Policy”.

Whereas a drafting team has formed and its members have discussed and reviewed the open issues documented in the issues report.

Whereas it is the view of the drafting Team that the objective of the Working Group should be to gather facts, define terms, provide the appropriate focus and definition of the policy issue(s), if any, to be addressed, in order to enable the GNSO Council to make an informed decision as to whether to launch PDP on registration abuse.

Whereas the drafting team recommends that the GNSO Council charter a Working Group to (i) further define and research the issues outlined in the Registration Abuse Policies Issues Report; and (ii) take the steps outlined below. The Working Group should complete its work before a decision is taken by the GNSO Council on whether to launch a PDP.

The GNSO Council RESOLVES: To form a Working Group of interested stakeholders and Constituency representatives, to collaborate broadly with knowledgeable individuals and organizations, to further define and research the issues outlined in the Registration Abuse Policies Issues Report; and take the steps outlined in the Charter. The Working Group should address the issues outlined in the Charter and report back to the GNSO Council within 90 days following the end of the ICANN meeting in Mexico City.

### CHARTER

**Scope and definition of registration abuse** – the Working Group should define domain name registration abuse, as distinct from abuse arising solely from use of a

domain name while it is registered. The Working Group should also identify which aspects of the subject of registration abuse are within ICANN's mission to address and which are within the set of topics on which ICANN may establish policies that are binding on gTLD registry operators and ICANN-accredited registrars. This task should include an illustrative categorization of known abuses.

**Additional research and identifying concrete policy issues** – The issues report outlines a number of areas where additional research would be needed in order to understand what problems may exist in relation to registration abuse and their scope, and to fully appreciate the current practices of contracted parties, including research to:

- 'Understand if registration abuses are occurring that might be curtailed or better addressed if consistent registration abuse policies were established'
- 'Determine if and how [registration] abuse is dealt with in those registries [and registrars] that do not have any specific [policies] in place'
- 'Identify how these registration abuse provisions are [...] implemented in practice or deemed effective in addressing registration abuse'.

In addition, additional research should be conducted to include the practices of relevant entities other than the contracted parties, such as abusers, registrants, law enforcement, service providers, and so on.

The Working Group should determine how this research can be conducted in a timely and efficient manner -- by the Working Group itself via a Request for Information (RFI), by obtaining expert advice, and/or by exploring other options.

Based on the additional research and information, the Working Group should identify and recommend specific policy issues and processes for further consideration by the GNSO Council.

**SSAC Participation and Collaboration:** The Working Group should (i) consider inviting a representative from the Security and Stability Advisory Committee (SSAC) to

participate in the Working Group; (ii) consider in further detail the SSAC's invitation to the GNSO Council to participate in a collaborative effort on abuse contacts; and (iii) make a recommendation to the Council about this invitation.

**Workshop at ICANN meeting in Mexico City on Registration Abuse Policies** - In order to get broad input on and understanding of the specific nature of concerns from community stakeholders, the drafting team proposes to organize a workshop on registration abuse policies in conjunction with the ICANN meeting in Mexico City. The Working Group should review and take into account the discussions and recommendations, if any, from this workshop in its deliberations.

The working group established by this motion will work according to the process defined in [Working Group Processes](#).

## THE WORKING GROUP

- Following the adoption of the charter by the GNSO Council, a call for volunteers was launched. The following individuals are part of the RAP WG and are meeting on a bi-weekly basis; all have submitted Statements of Interest:

<b>Name</b>	<b>Affiliation</b>
Greg Aaron (Chair)	Registry
Mike Rodenbaugh (Council Liaison)	CBUC
James Bladel	Registrar
Olga Cavalli	NCA
Zahid Jamil	CBUC
Beau Brendler	ALAC
Jeff Neuman	Registry
Nacho Amadoz	Registry
Philip Corwin	CBUC
Martin Sutton	CBUC
Richard Tindal	Registrar
Greg Ogorek	
Faisal Shah	IPC
Roland Perry	Individual
Paul Stahura	Registrar
Jaime Echeverry Gomez	Registrar
Li Guanghao	
Mike O'Connor	CBUC
Gretchen Olive	
Berry Cobb	
Jeff Eckhaus	Registrar
Robert Hutchinson	
Andy Steingruebl	
Jeremy Hitchcock	SSAC
Patrick Kane	Registry
George Kirikos	CBUC
Michael Young	Registry
Rod Rasmussen	Individual
Edward Nunes	NCUC
Frederick Felman	IPC
Avri Doria (GNSO Chair)	NCA
Chuck Gomes (GNSO Vice-Chair)	Registry

## ACTIVITIES TO DATE

### Workshop at ICANN meeting in Mexico City on Registration Abuse Policies

- As requested in its charter, the RAP WG held a Registration Abuse Policies workshop at the ICANN meeting in Mexico City in March of 2009. Around 40 individuals participated in the meeting.
- The programme of the workshop can be found [here](#).
- In addition to a [transcript](#) of the meeting, ICANN staff produced a '[main points of discussion overview](#)' for consideration by the RAP WG.

### SSAC Participation and Collaboration

- A representative of the Security and Stability Advisory Committee (SSAC) is participating as a member in the Working Group and also presented at the workshop in Mexico City.
- The RAP WG will be keeping in touch with the SSAC as it considers relevant topics.

### Scope and definition of registration abuse

- The RAP WG has spent most of its time to date discussing and developing a working definition of abuse, which will serve as a basis to further explore the scope and definition of registration abuse. This working definition reads:

'Abuse is an action that:

- a. Causes actual and substantial harm, or is a material predicate of such harm, and
- b. Is illegal or illegitimate, or is otherwise considered contrary to the intention and design of a stated legitimate purpose, if such purpose is disclosed.

Notes:

- \* This is a working definition as per group consensus on April 27, 2009 and will be re-visited should the WG find it inadequate after examining some specific examples.
- \* The party or parties harmed, and the substance or severity of the abuse, should be identified and discussed in relation to a specific proposed abuse.



- \* The term "harm" is not intended to shield a party from fair market competition.
  - \* The above definition of abuse is indebted to the definition of "misuse" in the document "Working Definitions for Key Terms that May be Used in Future WHOIS Studies" prepared by the GNSO Drafting Team [18 February 2009, at <http://gns0.icann.org/issues/whois/whois-working-definitions-study-terms-18feb09.pdf>].
- The RAP WG has been researching and discussing what 'registration abuse' is, including:
    - a. How 'registration' is defined. This term is not explicitly defined, and is essential for understanding the 'registration' versus 'use' issues that the charter and Issues Report call attention to.
    - b. Which 'aspects of the subject of registration abuse are within ICANN's mission to address and which are within the set of topics on which ICANN may establish policies that are binding on gTLD registry operators and ICANN-accredited registrars'. As part of the RAP WG research, a presentation was provided by ICANN staff about policy-making scope issues and past PDPs have been discussed.
  - The RAP WG has created a list of potential abuses (see [RAP WG Wiki page](#) for latest version). A next step will be to discuss each of them, including the scope issues associated (such as, can the abuse be categorized as registration abuse or not).

### **Additional research and identifying concrete policy issues**

- The RAP WG has not touched upon this aspect of its charter yet.

### **Resources**

- A dedicated [RAP WG Wiki Page](#) has been set up.

## EXPECTED TIMING & NEXT STEPS

- The RAP WG has made progress in addressing the issues outlined in the charter. A date for delivery of an initial report cannot yet be estimated. It is noted that:
  - The charter is broad, and the complex issues involved require significant research and definitional work.
  - The significant number of ongoing ICANN activities led the RAPWG members to decide on a bi-weekly instead of a weekly meeting schedule. Most of the RAP WG members have multiple ICANN obligations, which has impacted participation. In one example, the demands of the IRT effort led two RAP WG members to resign from the RAP WG, and has limited the ability of a third RAP WG member to participate. Nevertheless, the RAP WG is committed to addressing all the issues outlined in its charter and will do its best to complete these tasks deliberately and in a timely manner.
- The RAP will continue to provide the GNSO Council with regular updates as to its progress.
- The RAP WG will hold an open meeting at the ICANN Meeting in Sydney, which will also allow for a Q & A session with the broader ICANN Community. In addition, the RAP WG welcomes the opportunity to present this update to the GNSO Council at its next meeting, with the opportunity to answer any further questions.