- Fake Renewal Notices
  - Task of the DT
    - Background information
      - Process to date
        - RAP Final Report Section 5.4 ◆ pages 42-43 (see http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf)
        - ICANN Compliance response to request for feedback from GNSO Council (see http://gnso.icann.org/mailing-lists/archives/council/msg10766.html)
        - Transcript of the GNSO Council discussions on this issue that preceded the adoption of the resolution (see http://singapore41.icann.org/meetings/singapore2011/transcript-rap-18jun11-en.pdf ◆ pages 4 ◆ 29).
      - Studies of the issue
        - http://cira.ca/legal/brandongray/
          - Extract for the report?
        - http://www.asa.org.uk/ASA-action/Adjudications/2009/11/Domain-Registry-of-America/TF_ADJ_47583.aspx
          - Advertising Stds board in the UK
          - Misleading advertising is a key point -- we don't want to prohibit advertising across the board, just misleading info
          - Is there a privacy issue in here?
        - IPC may already have some data -- Marika can reach out
    - Issue Definition
      - Section 5.4.1 of the 29-March 2011 RAP report
      - Rec 1 -- request info from Compliance
        - Compliance memo -- 23-Feb -- Compliance can only enforce if there's language in the RAA or there's an accredited RY involved
        - Memo from Compliance
        - Page 4-29 of the transcript - Singapore
          - more info needed on scope and appropriateness for policy-formation
      - Conditional Rec (#2) -- if Compliance sees no basis, then move towards PDP
    - Frame request and questions for RR's
      - Decisions for the drafting team
        - Level of detail?
          - yes/No? or number of FRNs
        - Treat as "confidential information" (sanitize info b4 making public)?
          - Might use DSSA approach as model
            - https://community.icann.org/download/attachments/20906098/DSSA+-+Confidential+information+-+Approach+candidate+v2.pdf?version=1&modificationDate=1312040023000
      - What additional information is needed from RR's before proceeding
      - Develop preliminary list of questions
      - Review with RRs and revise as needed
      - Distribute to RRs
    - Frame questions for staff to pursue
      - Is there something in the Registrar accreditation process that would catch this?
        - Is that process geared to handle bad actors identified in other places
      - Does the new version of the RAA provide more or better mechanisms to address the FRN issue?
    - Work with RR's obtain info
      - IPC may already have some data -- Marika can reach out
    - Analyze information and develop recommendations
      - Frame questions
        - Before end of year
      - Registrars answer questions/collect data
        - End of February
      - Analysis
        - First look at survey results
          - 19 responses
          - Overall comments
            - this issue is a source of negative perception about ICANN's ability to monitor and manage the behavior of bad actors in the registrar community
            - realistically, this is one entity -- maybe raises the "do we need a PDP" question, since it's only one entity -- maybe there's a better way to deal with it
              - need to square that with Question 6 -- where people are reporting new players
              - DRA, DRC, DRE are perceived to be resellers when in fact they are a registrar -- Brandon Grey, dba Namejuice
              - it's the same player -- if a ccTLD can handle the problem, ICANN ought to be able to handle it as well -- see CERA/UK -- possible examples of non-policy ways that governmental bodies can get involved
            - If we asked non-contracted parties, we'd get different costs (from registrant perspective)
            - There are some registrars who feel passionately that is this a significant problem for them, while many others don't
            - we need to ensure that don't take a small problem and create a bigger one with the cure
          - Possible recommendations
            - maybe use tools that are already in place? compliance staff is working on process based on existing authority to suspend non-compliant registrars
            - take this question beyond the registrars?
            - Paul -- Registry has been in touch with Compliance
            - question that wasn't asked -- "what is your practice when people ask you to get involved"
              - Some registrars may not be getting involved and thus seeing little impact
              - Registrars that get more involved may be feeling a bigger burden
              - Possible question for the PDP?
            - Next steps discussion --
              - What are your thoughts about how to approach the next phase of the work?
                - ICANN-only?
                  - PDP
                  - Cross-constituency WG?
                - Anything beyond compliance?
                  - ICANN as a meeting point
                  - Focal point
                  - E.G. cross-TLD scam
                    - Note: This topic may be added to the scope of our work
                - Include others (e.g. consumer-protection agencies)?
              - What do you thing the role of ICANN and other third parties (e.g. consumer protection agencies, etc.) should be in solving this problem?
                - Truth in advertising
                  - The word "transfer" is prominent in the notice?
                  - Require that predefined wording be included in all transfer-offers to registrants
                  - Require that these notices adhere to some minimum standard of visibility
            - What to do
              - Issue: Compliance does not currently have the tools to address this issue -- no specific mention or definition of FRN in RAA or current consensus policy
                - Careful of unintended consequences
                - Need a careful definition of FRN
                  - Model on British Advertising standards board made?
                  - Robust as possible, but don't squash legimate practices
                  - "Deceptive transfer solicitations"
                    - purports to be coming from the current reigstrar of record
                    - Examples
                      - SEO renewal
              - Goal: Provide good definition of FRM and guidance to ICANN compliance as to how to address the issue.
                - the registrar should not knowingly deceive the registrant about their relationship
                - you can't represent to a registrant that you are something that you are not
              - Option: Initiate a PDP on FRN
                - Next step
                  - Initiate the PDP process -- issue report
                - Pro
                  - Provides all the usual benefits of the PDP
                    - Discussion and awareness across the broader community
                    - Opportunity for fact-finding and discussion of alternative approaches
                - Con
                  - Contention for scarce PDP resources
                  - This is a narrow issue, which appears to be confined to a small number of miscreants
                  - PDP process takes a long time
                - Drafting team view
                  - We do not feel that this issue warrants a PDP
              - Option: Add this issue to the upcoming PDP on the RAA
                - Next step
                  - Add the FRN issue to the scoping conversation that is currently under way with regard to the RAA PDP
                - Pro
                  - Leveraging resources that are already committed to studying similar issues
                  - May be a shorter start-up cycle to get the conversation started
                - Con
                  - This issue may be neglected as the conversation focuese on more serious or pressing issues
                  - May divert resources away from more important issues
                  - The PDP will take a long time
                - Drafting team view
                  - We think this option is worthy of a broader discussion by the Council, but is not our preferred approach
              - Option: Add a section of the RAA that addresses Business Practices
                - Next step
                  - Registrars, working with ICANN compliance, initiate the ???? process to develop and add language to section ?? of the RAA to address FRN
                  - Similar to current language of RAA 3.7.3 Registrar shall not represent to any actual or potential Registered Name Holder that Registrar enjoys access to a registry for which Registrar is Accredited that is superior to that of any other registrar Accredited for that registry.
                  - Proposed language -- Registrar shall not deceptively represent to any Registered Name Holder that Registrar is currently the Registrar of Record for that domain name when in fact they are not.
                - Pro
                  - Fewer resources required
                  - Less time required
                  - More targeted work
                  - More targeted solution
                - Con
                  - Process is not as transparent as the PDP
                  - Caution would be required to ensure that the wording did not cause more problems than it solved
                - Drafting team view
                  - We think this option is worthy of discussion by the Council and is our preferred approach
              - Option: Do not proceed with any action at this time
                - Next step
                  - No next step required
                - Pro
                  - The least resources required
                - Con
                  - Does not provide ICANN Compliance with any assistance in defining or addressing the FRN issue
                  - Does not respond to the concerns of registrars who view this as a serious issue
                  - Does not help address the negative perception that is created by not addressing the FRN problem
                - Drafting team view
                  - We do not support this approach
            - How to proceed
              - PDP?
                - not exclusively
                - don't want to convey the impression that there isn't a problem -- just that this problem isn't well suited to a PDP
              - perhaps part of another PDP?
                - we like the idea
                  - if the PDP is well matched with the FRN problem
                - RAA or consensus policy
                  - Sensitivity to putting things in the RAA
                  - Maybe we could put some boundaries on the issue
                  - Maybe there is a category in the preliminary issue report for the RAA PDP -- staff proposal for categories -- parallel or sequential.
                - Future IRTP PDP?
                  - Final issue report is in preparation
                  - time delay is an issue
              - Registrars request change?
          - Making names public?
            - publish list vs tying name to responses
          - 3
          - 4 Burden or minor?
            - split -- bi-nodal
            - not significant volume -- but significant problem when it arrives
            - 19 responses -- may need to match these responses up with registrars to see what's going
            - be sensitive to the sample size
            - "and they represent X% of names under management"
            - question that wasn't asked -- "what is your practice when people ask you to get involved"
              - Some registrars may not be getting involved and thus seeing little impact
              - Registrars that get more involved may be feeling a bigger burden
              - Possible question for the PDP?
          - 5 Seeing any trend?
            - Most common - steady state
          - 6 Same players, or new ones?
            - DRA, DRC
              - split between yes and don't know
              - they operate under different names in different locations
            - many survey reponses from European registrars
          - 7 where are FRN coming from?
            - Resellers
              - several name specific registrar
          - 8 what country
            - US, Canada, UK, etc, in order
            - it's really the same party that's responsible, it just appears to be coming from different places
          - 9 what mechanism you use to prevent FRN?
            - half are saying n/a-because they don't do resellers
            - contract is dominant tool of registrars that address this
          - 10 impact
            - cost, lost customers, confusion, wasted time, customer service
              - source of negative perception by customers and others
          - 11 other topics
            - new scenario -- combined with solicitations for other poducts
            - security angle to this -- auth codes
            - "name and shame" reseller black list
            - similar to slamming in other industries, eg long distance phone companies
            - bad for industry reputation
        - Staff response to questions
        - Next steps discussion --
          - What are your thoughts about how to approach the next phase of the work?
            - ICANN-only?
              - PDP
              - Cross-constituency WG?
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              - ICANN as a meeting point
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                - Note: This topic may be added to the scope of our work
            - Include others (e.g. consumer-protection agencies)?
          - What do you thing the role of ICANN and other third parties (e.g. consumer protection agencies, etc.) should be in solving this problem?
            - Truth in advertising
              - The word "transfer" is prominent in the notice?
              - Require that predefined wording be included in all transfer-offers to registrants
              - Require that these notices adhere to some minimum standard of visibility
      - Recommendation to Council
        - In time for Costa Rica
    - Report back to the Council
  - Approach
    - Poll non-registrars?
      - not in this round -- probably will want to do that during the PDP, if one is launched