

RDS/WHOIS2 Request for Data – Privacy/Proxy Services  
Emails to compliance@icann.org from Alice Jansen on 28 February 2018

**Draft questions from RDS-WHOIS2 regarding ramp up to manage PPSAI policy compliance**

[Draft responses for use during 20 March 2018 RDS-WHOIS2 call]

*Note: these responses are from the perspective of ICANN Contractual Compliance only and are based upon the current draft of the Privacy/Proxy Accreditation Agreement (PPAA) and Policy document under consideration by the PPSAI-IRT. They are subject to change based upon the requirements of the final versions of these documents.*

1. Challenges your team has identified with the implementation?

*The following areas have been identified as potential challenges for ICANN Contractual Compliance with implementing the PPAA and Policy:*

Timing of implementation:

*- Current Specification on Privacy and Proxy Registrations in the 2013 Registrar Accreditation Agreement (RAA) expires on 1 July 2019, so any PPAA and Policy need to be effective by that date, or the Specification needs to be extended.*

*- Compliance enforcement will follow depending on the effective requirements at that time.*

Unknown/unintended consequences:

*- ICANN Contractual Compliance's enforcement readiness efforts include reviewing the potential impact of the PPAA and Policy on enforcement of other existing ICANN agreements and policies. However, there are likely some consequences of implementation by contracted parties that will remain unknown until implementation is complete and compliance enforcement begins. ICANN Contractual Compliance will incorporate this information into its enforcement program as it becomes available.*

Resource allocation:

*- Readiness for implementation and subsequent enforcement may require additional resources that may not be available to ICANN Contractual Compliance, causing strain on existing resources.*

*- Note that currently budgeted costs and time forecasts for implementation are estimates and may vary once the PPAA and Policy are finalized and implementation has occurred.*

2. What internal systems will this implementation impact?

*Internal systems owned by ICANN Contractual Compliance will likely be impacted by the implementation of the PPAA and Policy and include the complaint processing system and updates to metrics data mart. Additionally, existing ICANN Contractual Compliance content*

*living on icann.org (e.g., complaint forms, Learn More pages and program details) will require updates to coincide with the PPAA and Policy effective date(s).*

3. Is there budget allocated for this implementation?

*Current ICANN Contractual Compliance participation in implementation is through existing resources. Compliance is participating in the budget forecasting process to ensure sufficient resources for the additional activities required for the Initial Evaluation and Project Maintenance Phases, which are detailed below in response 6.*

4. Any part of the implementation that will require new technology?

*There are no current plans for ICANN Contractual Compliance to use new technology to implement the PPAA and Policy. However, see response to item 2 above.*

5. Will this require modification of the RAA?

*Modification of the 2013 RAA is unlikely, since Section 3.14 of the 2013 RAA requires registrars to comply with any Specification or Policy that establishes a Proxy Accreditation Program. The current Specification on Privacy and Proxy Registrations in the 2013 RAA expires on 1 July 2019, so any PPAA and Policy need to be effective by that date, or the Specification needs to be extended. Compliance enforcement will follow depending on the effective requirements at that time.*

*This response does not include the impact of GDPR and potential WHOIS masking on the RAA, PPAA and Policy, which is being assessed elsewhere.*

6. What plans does the compliance team have for ensuring compliance?

*Similar to the prior readiness efforts completed for enforcement of compliance related to the launch of the new gTLD program and the 2013 RAA, ICANN Contractual Compliance intends to take the following steps to ensure compliance with the PPAA and Policy:*

- Define and document informal and formal resolution process for new Privacy/Proxy (P/P) complaints (and impact on existing complaints), including communication templates, forms, staff training and documentation*
- Define and document P/P audit program*
- Define, document and prepare metrics and reports on ICANN.org related to P/P Compliance and audit programs*
- Conduct compliance status checks of existing contracted parties to support accreditation process*
- Conduct community outreach regarding P/P provider compliance with requirements*
- Process complaints regarding P/P providers and requirements (and other impacted areas), including enforcement;*

- *Conduct audits of P/P providers*
- *Conduct reporting of performance and metrics related to P/P impacted areas.*

7. How long do you estimate it will take for the implementation?

*Completion of ICANN Contractual Compliance's readiness efforts for enforcing the PPAA and Policy will coincide with the agreement/policy's effective date(s). Contracted parties expected to complete their implementation efforts by the policy's effective date(s).*

RDS/WHOIS2 Request for Data – Privacy/Proxy Services  
 Emails to compliance@icann.org from Alice Jansen on 1 March 2018  
 and Jean-Baptiste Deroulez on 2 March 2018

1. Has Contractual Compliance received complaints that have been filed related to Privacy/Proxy specifications of the 2013 RAA?

*Yes. Since the effective date of the Specification on Privacy and Proxy Registrations (“Specification”) of the 2013 Registrar Accreditation Agreement (“RAA”) on 1 January 2014 through February 2018, ICANN Contractual Compliance has received the following complaints regarding the Specification’s requirements:*

<i>Privacy/Proxy Complaints</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>Total</i>
<i>Received</i>	<i>49</i>	<i>43</i>	<i>105</i>	<i>83</i>	<i>8</i>	<i>288</i>
<i>Out of scope</i>	<i>17</i>	<i>36</i>	<i>81</i>	<i>66</i>	<i>7</i>	<i>207</i>
<i>In scope and forwarded to registrar</i>	<i>32</i>	<i>7</i>	<i>24</i>	<i>17</i>	<i>1</i>	<i>81</i>
<i>Enforcement</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>

*The Specification and the obligations it imposes on registrars can be found at <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#privacy-proxy>.*

a. If so, how many were received, what was the nature of those complaints, and what were the steps taken?

*See above regarding how many complaints have been received by ICANN to date.*

*Complaints that are determined to be out of scope of the Specification are closed before being forwarded to the registrar for review. This includes complaints about issues outside of the Privacy/Proxy obligations in the Specification (including complaints about registrars that have not yet executed a 2013 RAA, third party private disputes, website content and customer service issues) and complaints where the reporter did not provide information necessary for ICANN Contractual Compliance to validate that the complaint was within scope of the Specification’s obligations.*

*Complaints that are determined to be within scope of the Specification are forwarded to registrars for review and they are requested to demonstrate compliance with the Specification. Actions taken by registrars to resolve the complaints include adding (or confirming the existing location of) required web posting obligations, demonstrating that the registrar abides by published terms and procedures and ensuring that the privacy or proxy entity is properly identified in the public WHOIS (including accurate contact information).*

*Other complaint types that may also implicate Privacy/Proxy obligations under the Specification (for example WHOIS inaccuracy or Transfer complaints) are not included in these*

*metrics. Those complaints were received and processed for the primary nature of the complaint.*

*Beginning with Quarter Four of 2017, ICANN Contractual Compliance began publishing a Registrar Closed Complaints by Closure Code report. The 2017 Quarter Four Registrar Closed Complaints by Closure Code is available at <https://features.icann.org/compliance/dashboard/2017/q4/registrar-resolved-codes>.*