

Malicious Conduct – Registrar Duty to Investigate

ISSUE: A.1	Malicious conduct – registrar duty to investigate	
Priority:	RAA Final Report (High Priority Item)	
Issue /Request	Registrars to take reasonable steps to investigate and respond to any reports (including reports from law enforcement and governmental and quasi-governmental agencies) of illegal, criminal or malicious conduct in connection with the use of domain names.	Source: LEA Code of Conduct
Notes	Additional information regarding requests: LEA: Registrars should provide complainants with a well-defined, auditable way to track abuse complaints (e.g. a ticketing or similar tracking system) RAA-DT 1) Incorporate a provision in the RAA establishing a duty of registrars to investigate and report to ICANN on actions the registrar has taken in response to reports received from a credible third-party demonstrating illegal malicious conduct involving domain names 2) Adopt a Registrar Code of Conduct (RAA 3.7.1) that incorporates provisions to achieve similar results	Source: Original request from LEA to the RAA-DT RAA-DT Final Report
Discussion Points	Description	Date Discussed
	New GTLD Registry Agreement language (See Section 2.8) generally acceptable; continued discussion needed re: authentication, definitions ("quasi-governmental," "credible third-party"), tracking. Continued discussion on definition of "quasi-governmental." Continued discussion of scope of LE request for tracking, auditing and responding to complaints from LE and from the public; discussion regarding standardization; discussion of publication of registrar's process regarding complaints submitted. Discussion of Registrar proposals related to definitions of illegal activity, applicable law, and identifying the types of law enforcement agencies that would be eligible to submit complaints of malicious conduct. Review issues re: applicable law and court of competent jurisdiction; definition of affiliates Discussion of language proposed by Registrars Review of proposals re: abuse point of contact and discussion of appropriate level of "response" for interveners Registrars to provide online abuse contact and offer 24x7 monitoring for LEA. No significant concerns by registrars about publishing registrar's abuse contact in Whois, but in thick registries, the registry agreement should also require registries to publish registrar's abuse contact in order to be useful	18 Nov 2011 2 Dec 2011 8 Dec 2011 20 Dec 2011 17 Jan 2012 17 Jan 2012 23 Jan 2012 27 Jan 2012
Proposed Text	Open	
Status /Outcome	Under Discussion	
Explanation	Open	
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