

At-Large RAA Section 3.7.8 Modification Workspace

Close Date	Statement Name	Status	Assignee (s) and RALO(s)	Call for Comments	Call for Comments Close	Vote Announcement	Vote Open	Vote Reminder	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
n/a	At-Large RRR WG – RAA Section 3.7.8 Modification	No Statement	Garth Bruen (NARALO)	11.06.2012	20.06.2012	TBC	TBC	TBC	TBC	TBC	n/a	TBC

Please note that information on this page originates on the [At-Large RRR WG -- RAA Section 3.7.8 Modification workspace](#).

RAA section 3.7.8

Background

From Garth Bruen:

So, what's broken in 3.7.8? In short there is no obligation of a Registrar to delete a domain with a false WHOIS record nor is there an obligation to correct the record. Because there is no obligation, a Registrar cannot be held in breach for failing to do so. So there is in fact no authority for ICANN to enforce against inaccuracy. This is stated on page 79 of the WI RT final report ([icann.org/en/about/aoc-review/whois/final-report-11may12-en](#)) and detailed here: [cirtle.com/posts/20120312_icanns_contract_not_enforceable_on_whois_accuracy](#)

This issue separate from the current registrar negotiations – it does not fit into the items concerning privacy/proxy or WHOIS validation being debated, rather it is a flaw in the original language that needs correction.

It is important to understand that unlike other parts of the RAA there are four (4) parties to 3.7.8:

1. ICANN
2. The Registrar
3. The domain owner/registrant
4. The complainant

The complainant is pure public interest and this is what probably riles them the most. The process is completely driven from outside by non-contracted parties and non-consumers, it is initiated by a lowly Internet user.

Will making domain deletions mandatory reduce the rights of domain owners? The situation is in fact unchanged. Domain owners have no recourse in the current scheme either. This is something the RRRWG should recommend, a due process for deleted or suspended domains.

The current Draft RAA ([prague44.icann.org/meetings/prague2012/presentation-draft-2012-raa-03jun12-en.pdf](#)) changes some of the language in 3.7.8 but does not specifically fix these issues. The new 3.7.8 refers to a WHOIS ACCURACY PROGRAM SPECIFICATION ([prague44.icann.org/meetings/prague2012/presentation-whois-accuracy-03jun12-en.pdf](#)). Some of the language in this document should be moved directly into 3.7.8, specifically item 5. In general, revised language should include clear language making failure to follow the policy is a breach offense but also absolving a registrar who properly follows policy.

The draft language I'm proposing takes section 5 from the WHOIS ACCURACY PROGRAM SPECIFICATION to replace most of the last section of the existing 3.7.8 and uses language from the 2003 advisory ([icann.org/en/news/announcements/advisory-03apr03-en.htm](#)), which is already "policy", to replace the term "reasonable steps." The last section I have added to clarify the registrar's immunity and responsibility.

Proposed wording for 3.7.8

Original wording from Garth with contributions from Cintra:

Registrar shall, upon notification of an inaccuracy in the contact information associated with a Registered Name sponsored by Registrar, investigate by promptly transmitting to the registrant the inquiries concerning the accuracy of the data that are suggested by RAA Subsection 3.7.7.2. The inquiries should be conducted by all commercially practicable means available to the registrar: by telephone, e-mail, and registered postal mail.

Upon the occurrence of a Registered Name Holder's willful provision of inaccurate or unreliable WHOIS information, its willful failure promptly to update information provided to Registrar, or its failure to respond for over fifteen (15) calendar days to inquiries by Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration, Registrar shall either terminate the Registered Name Holder's Registration or place such registration on clientHold and clientTransferProhibited. The sponsoring Registrar is responsible for maintaining and presenting to ICANN Compliance all communication records occurring during the complaint period. Registrars taking all reasonable steps to execute this policy properly shall not be held at fault.