

Reply Comments In Support of Real Registrant Rights and
In Opposition to RAA's Proposed 3.7.7.2 Which Will Lead to
Real Harm and Injustice for Registrants

I. Real Registrant Rights and Responsibilities

I support the comments submitted by Robin Gross, Chair of the Non-Commercial Stakeholders Group and the "Real Registrant Rights and Responsibilities" document she attached. I was pleased to find a draft of registrant rights and responsibilities, and the idea is a positive step forward – however, it was drafted without the input of Registrant groups within ICANN.

As public comment is the opportunity for public input, I hereby submit my support for the "Real Registrant Rights and Responsibility" document submitted by Robin Gross on behalf of NCSG on May 14th. This document is the result of a robust conversation on the NCSG list, and at our meeting in Beijing, and the result of significant input and edits of numerous individuals in the NCSG (attached).

II. RAA's proposed 3.7.7.2 Will Lead to Real Harm and Injustice for Registrants

On a separate and personal note, I raise my deep concern and strong objection to the proposed change in RAA 3.7.7.2 that would allow a domain name to become null, void and subject to "suspension and/or cancellation" ***within 7 days of any change to the domain name information – any change!***

The 2009 RAA requirement was reasonable and required Registrants to "promptly" update their information after a change. This proposed change to the RAA came out of nowhere, was never discussed with the Registrant Communities of ICANN, and will lead to the most unfair of results for Registrants.

The proposed 3.7.7.2 allows Domain Name Cancellation with or without any actual harm or problem with the domain name. Simply because a Registrant has not updated her information after moving a home or business – ***and regardless of the accuracy of other contact information including email and/or phone*** – the Registrar will have the option to suspend or even cancel the Domain Name Registration (!)

The result is blatantly unfair and it is baffling why ICANN would want this as a goal. For example, if a parent has registered domain names for local charities, sports, political groups and neighborhood functions, and then relocates to new physical address and does not think to update her physical address (while she/he is registering children for school, seeking out the local grocery stores, and finding pediatricians), ***then within a mere seven days, all of her/his domain names are now subject to suspension or cancellation under this proposed new section of the RAA(!)***.

This “suspension and/or cancellation” may take place, subject to the discretion of the Registrar, but allowed under the Proposed 3.7.7.2:

- regardless of ANY notice to the Registrant (or the complete lack thereof);
- regardless of ANY OTHER ACCURATE INFORMATION in the Whois database, e.g., phone and/or email address of the Registrant; AND
- regardless of any harm OR LACK THEREOF in the registration of the domain name.

This makes no sense as a rule or principle of ICANN, and will lead to the most ungracious of acts. It will allow small businesses to spy on each other and report to Registrars of recent changes of location and the need to revoke domain names – all in an effort to steal valued domain names of their business or industry; it will enable Registrars to spy on their own customers and cherry-pick domain names from their Registrants’ accounts based on the mere change of minor information only eight days earlier.

Further, Proposed 3.7.7.2 violates the standard set by the Whois Review Team which called for, not absolute accuracy of all Whois information, but the contactability of the Registrant. (See Recommendation 11 of the Data Accuracy Section which advises ICANN to “take appropriate measures to reduce the number of WHOIS registrations that fall into the accuracy groups Substantial Failure and Full Failure (as defined by the NORC Data Accuracy Study, 2009/10)...” -- terms referring to the complete and nearly complete inability to reach a registrant at **any** of his/her/its contact information).

This proposed change to the RAA is in no way tied to any requirement of the security and stability of the Internet. It is in no way tied to any other standard for consumer information updates and corrections. For example, I have ability (and notice) to update my personal information on credit cards, social networks, bank accounts, etc., and often it is the notice from an institution of an error in the data that notifies me (and all consumers) of the need for an update or correction.

Where, as here, there is no notice to the Registrant, and nothing to put him/her/it on notice of a violation, this proposed change will lead to real problems, significant harm and a sense of deep injustice by Registrants against ICANN. Thank you for correcting this proposal – and setting it back to a “prompt” correction of data (with adequate notice to the Registrant). Alternatively, this proposal must be tied, in its final version, to some type of clear and present harm and violation of the domain name registration, plus its inaccurate information, with due process for the suspension or cancellation.

Please contact me if you would like to discuss the problems with this provision further. Thank you for making the small and reasonable change requested in the final 2013 RAA.

Sincerely,
Kathy Kleiman

Co-Founder, Noncommercial Users Constituency