GNSO - Registration Abuse Policy Working Group

Uniformity of Contracts - Subteam

Uniformity of Contracts Subteam Charter

From the RAP WG Charter

Additional research and identifying concrete policy issues – The issues report outlines a number of areas where additional research would be needed in order to understand what problems may exist in relation to registration abuse and their scope, and to fully appreciate the current practices of contracted parties, including research to:
'Understand if registration abuses are occurring that might be curtailed or better addressed if consistent registration abuse policies were established'
'Determine if and how {registration} abuse is dealt with in those registries {and registrars} that do not have any specific {policies} in place'
'Identify how these registration abuse provisions are {...} implemented in practice or deemed effective in addressing registration abuse'.

In addition, additional research should be conducted to include the practices of relevant entities other than the contracted parties, such as abusers, registrants, law enforcement, service providers, and so on.

The Working Group should determine how this research can be conducted in a timely and efficient manner -- by the Working Group itself via a Request for Information (RFI), by obtaining expert advice, and/or by exploring other options.

Based on the additional research and information, the Working Group should identify and recommend specific policy issues and processes for further consideration by the GNSO Council.

← **U of C Charter**

- Meeting Dates 2009: 8/13, 8/27, 9/9
- UofC Subteam Meeting MP3s Available at: http://gnso.icann.org/calendar/

RAPWG Chair:

Greg Aaron	RyC

Subteam Members:

Mike Rodenbaugh (Council Liaison)	CBUC
Mike O'Conner	CBUC
Berry Cobb	CBUC
James Bladdel	RC
Jeff Neuman	RyC
Marika Konings	ICANN
Margie Milam	ICANN
Gisella Gruber-White	ICANN

The Research

- Collect and analyze publicly available contracts and agreements across the spectrum of Registries, Registrars, and Registrants, including other parties as appropriate
- Attempts to quantify “current state” for the purpose of providing a visual representation to answer the questions of dispersion and variance among contracts and agreements relative to abuse
- Information and correlations made here will be used to support any recommendations made by the larger RAP working group

Navigating the Charts


Domain Name Registration Agreement

1. AGREEMENT.

2. SELECTION OF A DOMAIN NAME.

3. FEES.

4. TERM.

5. MODIFICATIONS TO AGREEMENT.

6. MODIFICATIONS TO YOUR ACCOUNT.

Country & Region

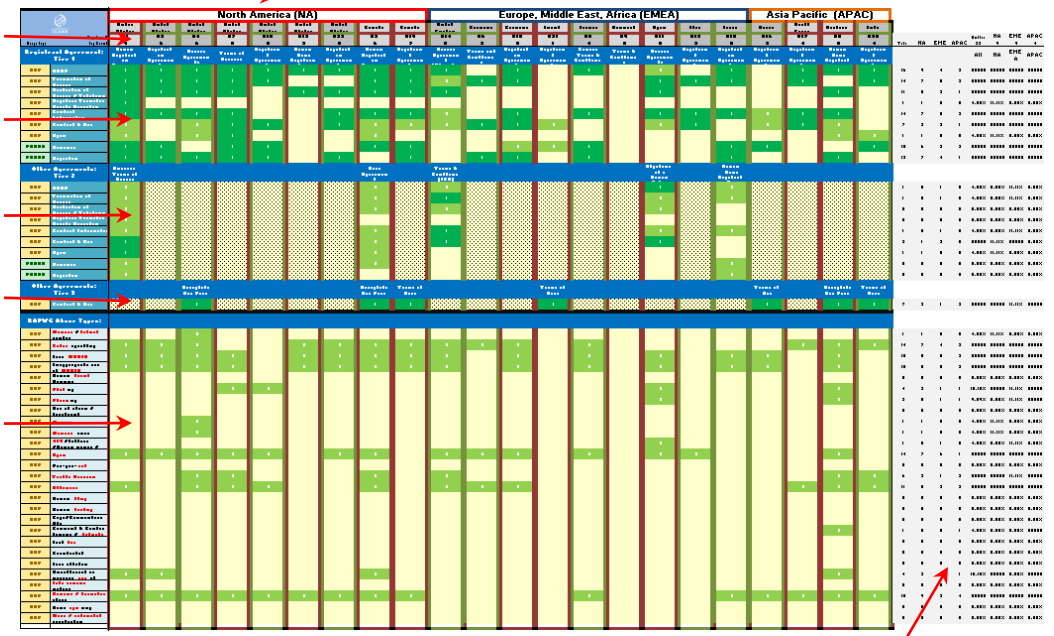
Registrar & Flag Count

Primary Registrant Agreement Inventory

Secondary Agreement Inventory (if applicable)

Tertiary Agreement (if applicable)

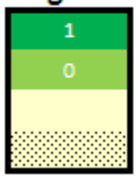
RAPWG Abuse Types (keyword search)



Hit % by Category & Region

- Gauge of dispersion by registrar and by country
- Gauge of dispersion by agreement category

Legend:



Agreement met category requirement by formal section definition

Category requirement flagged via separate agreement

Formal section definition of category not found within agreement

Tier 2 or 3 Agreement not found or not in scope

Sample Selection

North America (NA)									Europe, Middle East, Africa (EMEA)									Asia Pacific (APAC)			
Unites States	United States	United States	United States	United States	United States	United States	Canada	Canada	United Kingdom	Germany	Germany	Finland	France	Denmark	Spain	Italy	Israel	Russia	South Korea	Australia	India
R1	R2	R4	R7	R10	R13	R22	R3	R19	R14	R6	R15	R21	R8	R9	R11	R12	R18	R16	R17	R5	R20
9	6	6	8	5	2	5	6	7	5	3	5	1	4	0	5	3	5	2	4	5	4

- Each column of the spread sheet represents a single registrar in the matrix, labeled R<n> (R1 – R22)
  - Below the label is a cumulative “hit” count relative to the inventory requirement
- Sample range of registrars is the top 500 based on % market share of held registrations per webhosting.info (June 2009),
  - highest concentration within the top 150, making up approximately 98 % of market
- To date, 22 registrars across three regions were inventoried
  - “top, middle, bottom” is the guiding principle for selection of registrars within the pool
  - makes up approximately 59% of market

Agreement Categories


Domain Name Registration Agreement

1. AGREEMENT.
In this Registration Agreement ("Agreement") "you" and "your" refer to you, "we", us" and "our" refer to Register.ca Inc. (Register.ca) and "Services" refers to the domain name registration and related services provided by us. ICANN refers to "Internet Corporation for assigned Names and Numbers", CIRA refers to "Canadian Internet Registration Authority" and the "Registry PRP" refers to all of CIRA's Policies, Rules, and Procedures including the Canadian Dispute Resolution Policy and Rules and the Fees Policy and Rules.

We are a CIRA certified registrar for dot-ca domain names. This Agreement explains our obligations to you, and explains your obligations to us for various Services. For non Dot-ca domains we operate as a reseller and service provider of an ICANN accredited registrar. In addition to this agreement, non dot-ca domain registrations are subject to the GTLD domain name registration agreement with the GTLD registrar as published on our website.

2. SELECTION OF A DOMAIN NAME.
You represent that, to the best of your knowledge and belief, neither the registration of the domain name nor the manner in which it is directly or indirectly used infringes the legal rights of a third party and that the Domain Name is not being registered for any unlawful purpose.

3. FEES.
As consideration for the Services, you agree to pay to us the applicable service(s) fees. All fees payable hereunder are non-refundable. If you submit a registration request and then we cannot register the domain name for you for any reasons we issue you credit equal to your payment or a refund at our full discretion. The credit can be used to register, renew or transfer a domain name or related services. If you have an issue with credit card charges, you should contact us first before you contact your credit card company to request a charge back or reversal of the charge. In the event of a charge back by a credit card company you agree that we may suspend access to any and all accounts you have with us and that all rights to and interest in any of your domain name registration(s) services, website hosting, and/or email services, including all data hosted on our systems shall be determined by us. We will reinstate your rights to and control over these Services solely at our discretion, and subject to our receipt of the unpaid fee(s) and our then-current reinstatement fee, currently set at CAD$200.
As further consideration for the Services, you agree to;
(1) provide certain current, complete and accurate information about you as required by the registration process and
(2) maintain and update this information as needed to keep it current, complete and accurate.
All such information shall be referred to as account information ("Account Information"). You by completing and submitting this Agreement represent that the statements in your application are true.

4. TERM.
You agree that the Registration Agreement will remain in full force during the length of the term of your Domain Name Registration as selected, recorded, and paid for upon registration of the Domain Name. Should you choose to renew or otherwise lengthen the term of your Domain Name Registration, then the term of this Registration Agreement will be extended accordingly. Should you transfer your domain name or should the domain name otherwise be transferred due to another Registrar, the terms and conditions of this Contract shall cease and shall be replaced by the contractual terms in force for the purpose of registering domain names then in force between domain holders and the new Registrar.

5. MODIFICATIONS TO AGREEMENT.
You agree, during the period of this Agreement, that we may:
(1) revise the terms and conditions of this Agreement; and
(2) change the services provided under this Agreement.
Any such revision or change will be binding and effective within 30 days of posting of the revised Agreement or change to the service(s) on our web site, or 15 days after a notice is sent to you by e-mail or regular mail as per the Notices section of this agreement. You agree to review our web site, including the Agreement, periodically to be aware of any such revisions. If you do not agree with any revision to the Agreement, you may terminate this Agreement at any time by providing us with notice by e-mail or regular mail as per the Notices section of this agreement. Notice of your termination will be effective once we acknowledge and process your request. You agree that, by continuing to use the Services following notice of any revision to this Agreement or change in service(s), you shall abide by any such revisions or changes. You further agree to abide by CIRA and ICANN terms and policies as amended from time to time.
You agree that, by maintaining the reservation or registration of your domain name after modifications to the Dispute Policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modifications, you may request that your domain name be deleted from the domain name database.

6. MODIFICATIONS TO YOUR ACCOUNT.
In order to change any of your account or domain name WHOIS information, you must use your Account Identifier and Password that you have been assigned when you opened your account with us. Please safeguard your Account Identifier and Password from any unauthorized use. You agree that any person in possession of you account login identifier and password will have the ability and your authorization to modify your account and domain name information. We will take reasonable precautions to protect the information we obtain from you from loss, misuse, unauthorized access or disclosure, alteration or destruction of that information and that such

Agreement Sections →

RAP Categories

- UDRP
- Termination of Service
- Restriction of Service / Takedown / Revocation
- Registrar Transfer Dispute Resolution Policy
- Contact Information
- Conduct & Use
- Spam
- Renewals
- Expiration

Other Categories

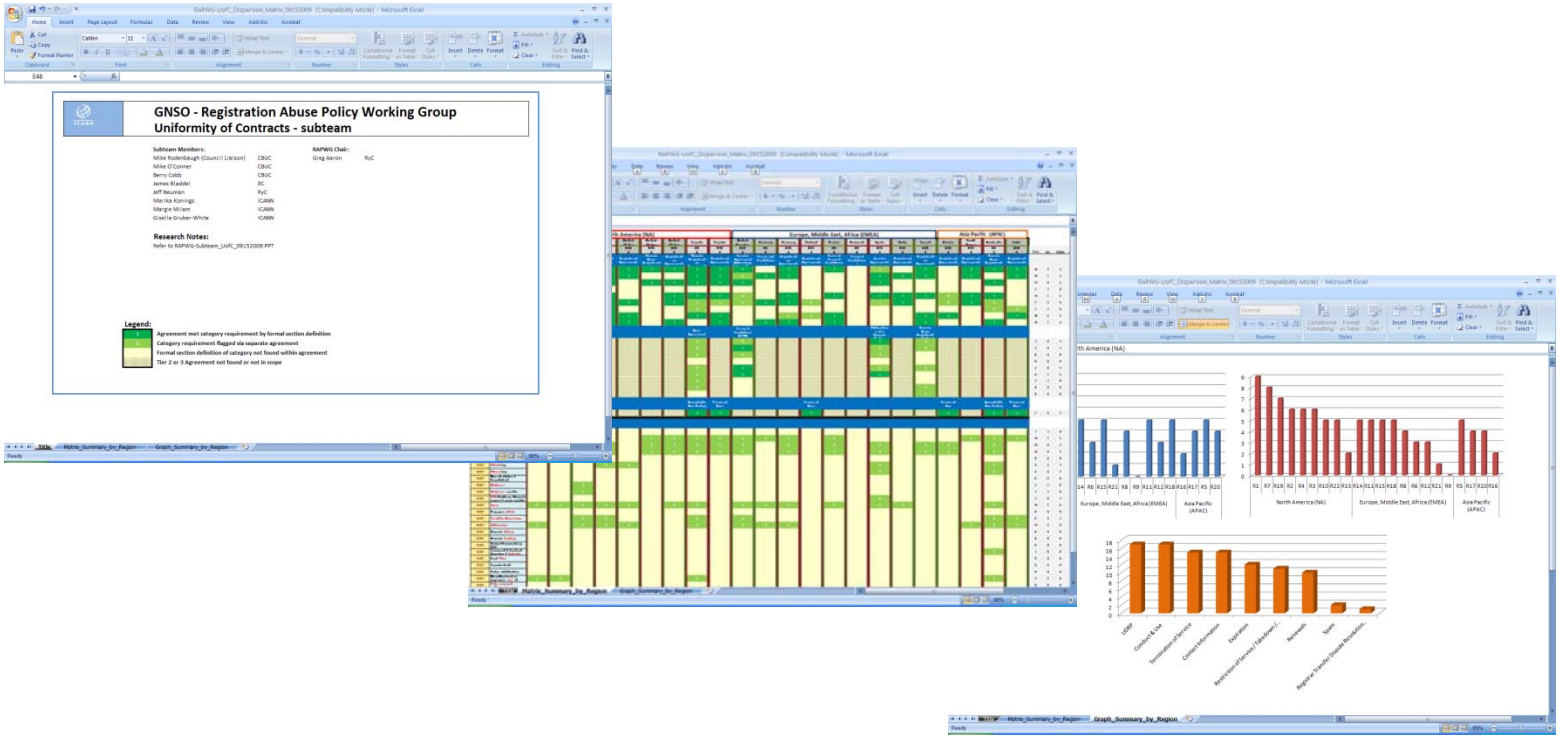
- 3rd Party
- Account Access
- Agency
- Agree to Agreement
- Breach
- Fees & Payment
- Force Majeure
- Guaranty
- Indemnification
- Infancy
- Language
- Law & Jurisdiction
- License to Registrar
- Limitation of Liability
- Modifications / Passage of Time
- Non-waiver
- Notices / Announcements
- Ownership
- Parked Services
- Representation & Warranty
- Reseller or Licensor
- Right of Refusal
- Services / Responsibilities
- Severability
- Survival
- Terms / Parties
- Transfers
- Use of Information (privacy)
- User/Client Responsibilities, Representations, & Warranties
- Waiver
- Misc. Notes (flag not counted)
- cc or gTLD Specific Sections

- Consistency across contracts relative to section definition
- The sections naturally collected to like categories in which the entire agreement could be inventoried
- 40+ formally defined sections across the agreements

Review the Spread Sheet

Review the research and charts @

RAPWG-UofC_Dispersion_Matrix_09152009.xls



Options

1. Conclude further research is required within Registrar pool and expand research to Registry and other parties

2. Remain in the “Status Quo,” and change nothing

3. Develop abuse standards or best practice with voluntary adoption

4. Recommend increased uniformity in contracts with respect to abuse via minimum standard defined in consensus policy (possibly similar to UDRP enactment)

Questions to the Larger Group

- What are the advantages and disadvantages of uniformity?
  - to Registrars - to Abusers / Bad Actors
  - to Registries - to Criminals
  - to Registrants
- Will it or can it apply across all jurisdictions?
- What market conditions could or will occur with uniformity changes?
- What are the side-effects or possible unintended consequences to uniformity?
- If uniformity is the desired state how will the changes be monitored & enforced?
- What are impacts to liability and changes to indemnification to uphold ICANN abuse provisions?

U of C Sub-team Conclusions

- Increased consistency across contracts creates a level playing field amongst registrars
- If policies are consistent, then responsibility to enforce consistently falls upon ICANN
- Lowest common denominator (minimum requirement) approach with abuse provisions is best and allows entities to not be constrained by exceeding the minimum
- A better understanding of cost projections for implementation are required before formal recommendation

What's Next?

- RAPWG members review research and formulate their conclusions
- RAPWG to review findings, discuss options, and develop next steps
- RAPWG – UofC sub-team will convene upon larger working group direction