November XX, 2010

**Dear Members of the GNSO Council**,

The Registration Abuse Policies Implementation Drafting Team (RAP-IDT) hereby submits its proposed approach to the recommendations contained in the Registration Abuse Policy Working Group (RAPWG) Final Report [<http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf>). The RAP-IDT was tasked by the GNSO Council to ‘draft a proposed approach with regard to the recommendations contained in the report, which could include the timing of forming groups to consider some of the recommendations in the final report as well as how to deal with those recommendations that did not achieve unanimous consensus’. Both the RAPWG and the RAP-IDT were aware of the need for the GNSO Council to prioritize work.

**Methodology**

In discussing a proposed approach, the RAP-IDT identified categories that it felt needed to be taken into account when assessing each of the recommendations:

* Level of the consensus reached by the RAPWG. Recommendations that received unanimous consensus were given high priority, reflecting the value assigned to them by the diverse stakeholders in the RAPWG.
* Expected size, complexity, and scope of the work related to the recommendation (Small, Medium, Large)
* Nature of the effort / approach
* Dependencies
* Next Steps

On the basis of these categories, the RAP-IDT developed a matrix (see Annex II). Each member of the RAP-IDT was asked to complete the matrix by submitting his or her view on the above-identified categories for each of the recommendations and rank the recommendations in order of priority. Following that process, the RAP-IDT reviewed the different submissions and discussed what common position on each of the categories for each of the recommendations would be acceptable to all.

**Recommended Approach**

The results of the process outlined above can be found in the table in Annex II. This table lists the recommendations in order of priority as agreed upon by the RAP-IDT and identifies the expected complexity, the nature of the effort, dependencies, if any, and proposed next steps. For some of these, additional notes have been added, which the GNSO Council may take into account as part of its deliberations. It should be noted that for those recommendations that did not achieve unanimous consensus in the RAPWG, the recommended next step is generally for the Council to review the recommendation in question and decide if or how to move forward.

A number of items were identified as ‘low hanging fruit,’ implying a low requirement on GNSO resources. This breakdown can be found in Annex III. The GNSO Council might consider expediting some of the recommendations identified as ‘low hanging fruit’ if the Council decides those projects offer value.

The RAP Implementation DT appreciates the opportunity to present the proposed approach to the GNSO Council and is available to answer any questions. The DT understands that time has been set aside on the GNSO Council Schedule on Saturday 4 December at the ICANN Meeting in Cartagena. The Co-Chairs of the DT, Mike O’Connor and Greg Aaron, will be available to participate in this session.

On behalf of the RAP Implementation Drafting Team[[1]](#footnote-2),

Mike O’Connor Greg Aaron

Co-Chair Co-Chair

**Annex I – Registration Abuse Policy Working Group (RAPWG) Recommendations**

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| **CYBERSQUATTING** | | |
| **Recommendation #1** | The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider balanced revisions to address cybersquatting if appropriate. This effort should consider:   * How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process. * Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated. | **Unanimous consensus** |
| **Recommendation # 2**  **View A**  **View B** | The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the appropriateness and effectiveness of how anyRights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space.  The initiation of such a process is premature; the effectiveness and consequences of the Rights Protection Mechanisms proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program. Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space. | **Supported by 7 members of the RAPWG**  **Supported by 7 members of the RAPWG** |

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| **FRONT RUNNING** | | |
| **Recommendation #1** | It is unclear to what extent front-running happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue and consider next steps if conditions warrant. | **Unanimous consensus** |

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| **GRIPE SITES; DECEPTIVE and/or OFFENSIVE DOMAIN NAMES** | | |
| **Recommendation #1**  **Alternate view** | Make no recommendation. The majority of RAPWG members expressed that gripe site and offensive domain names that use trademarks should be addressed in the context of cybersquatting and the UDRP for purposes of establishing consistent registration abuse policies in this area, and that creating special procedures for special classes of domains, such as offensive domain names, may present problems.  **T**he URDP should be revisited to determine what substantive policy changes, if any, would be necessary to address any inconsistencies relating to decisions on “gripe” names and to provide for fast track substantive and procedural mechanisms in the event of the registration of deceptive domain names that mislead adults or children to objectionable sites. | **Rough Consensus**  **Supported by 4 members of the RAPWG** |
| **Recommendation #2**  **View A**  **View B** | Turn down a proposed recommendation that registries develop best practices to restrict the registration of offensive strings.  Registries should consider developing internal best practice policies that would restrict the registration of offensive strings in order to mitigate the potential harm to consumers and children. | **Strong support**  **Significant Opposition** |

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| **FAKE RENEWAL NOTICES** | | |
| **Recommendation #1** | The RAPWG recommends that the GNSO refer this issue to ICANN’s Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data | **Unanimous Consensus** |
| **Recommendation #2** | **The following recommendation is conditional.** The WG would like to learn the ICANN Compliance Department’s opinions regarding Recommendation #1 above, and the WG will further discuss Recommendation 2 looking forward to the WG’s Final Report.  The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices. | **Unanimous consensus** |

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| **CROSS-TLD REGISTRATION SCAM** | | |
| **Recommendation #1** | The RAPWG recommends the GNSO monitor for Cross-TLD registration scam abuse in the gTLD space and co-ordinate research with the community to determine the nature and extent of the problem. The WG believes this issue warrants review but notes there is not enough data at this time to warrant an Issues Report or PDP. | **Unanimous consensus** |

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| **DOMAIN KITING / TASTING** | | |
| **Recommendation #1** | It is unclear to what extent domain kiting happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue (in conjunction with ongoing reviews of domain-tasting), and consider next steps if conditions warrant.  The RAPWG recommends policy development regarding domain kiting / tasting with input from the appropriate parties | **Rough consensus**  **Supported by one member of the WG** |

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| **MALICIOUS USE OF DOMAIN NAMES** | | |
| **Recommendation #1**    **Additional view** | The RAPWG recommends the creation of non-binding best practices to help registrars and registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration. The effort should consider (but not be limited to) these subjects:   * Practices for identifying stolen credentials * Practices for identifying and investigating common forms of malicious use (such as malware and phishing) * Creating anti-abuse terms of service for inclusion in Registrar-Registrant agreements, and for use by TLD operators. * Identifying compromised/hacked domains versus domain registered by abusers * Practices for suspending domain names * Account access security management * Security resources of use or interest to registrars and registries * Survey registrars and registries to determine practices being used, and their adoption rates.   Uses of domain names unrelated to registration issues are an area in which ICANN can impose mandatory practicesupon contracted parties. | **Unanimous consensus**  **Supported by 7 member of the RAPWG** |

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| **WHOIS ACCESS** | | |
| **Recommendation #1** | The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.  The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN’s new Affirmation of Commitments. | **Unanimous consensus** |
| **Recommendation #2** | The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations. | **Unanimous consensus** |

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| **UNIFORMITY OF CONTRACTS** | | |
| **Recommendation #1**  **View A**  **View B** | The RAPWG recommends the creation of an Issues Report to evaluate whether a minimum baseline of registration abuse provisions should be created for all in-scope ICANN agreements, and if created, how such language would be structured to address the most common forms of registration abuse.  Opposed to the recommendation for an Issues Report as expressed in view A | **Strong Support**  **Significant Opposition** |

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| **META ISSUE: UNIFORMITY OF REPORTING** | | |
| **Recommendation #1** | The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes. | **Unanimous consensus** |

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| **META ISSUE: COLLECTION AND DISSEMINATION OF BEST PRACTICES** | | |
| **Recommendation #1**  *Please see pages 97-102 for the full recommendation.* | The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support structured, funded mechanisms for the collection and maintenance of best practices. | **Unanimous consensus** |



**Annex II – RAP-IDT Proposed Approach based on Priority Ranking**

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| **Recommendation** | **Rank** | **Level of Consensus (RAP working group)** | **Expected size complexity scope** | **Nature of effort / approach** | **Dependencies** | **Next Steps** | **Notes** |
| Malicious Use of Domain Names (Recommendation #1 – Anti-abuse best practices) | 1 | Unanimous Consensus | Medium | PDP (for process / approach) |  | Drafting team -- pre issue-report | It would be useful to implement prior to new gTLD rollout (preferably in 2011). Use PDP (for process / approach) to develop non-binding best practices.Dependent on participation from appropriate stakeholders. Use this PDP as a pilot effort on the Best Practices recommendation. |
| WHOIS Access Recommendation #1 | 2 | Unanimous Consensus | Medium | Implementation (see notes) |  | Drafting team -- charter | Form charter drafting team. Include "review existing systems and conduct gap analysis" in the instructions to the charter drafting team. Include this in the recommendations of the RAA drafting team for follow up or a PDP. |
| WHOIS Access (Recommendation #2) | 3 | Unanimous Consensus | Small | Implementation |  | Send letter to ICANN Compliance Dept. |  |
| Cybersquatting (Recommendation #1 - Investigate UDRP) | 4 | Unanimous Consensus | Large | PDP |  | Drafting team – roadmap | Request a drafting team to develop a roadmap for Issues Reports and PDPs. My require multi-part PDP, like the IRTP did. Notes: 1) it may be helpful to see the effect of RPMs in the new gTLDs space. 2) There may be a dependency with WHOIS studies. |
| Uniformity of Contracts | 4 | Support but Significant Opposition | Large | TBD | See notes | Refer to Council | There may be parallel activities or interactions with other RAA activities such new gTLD rollout and RAA drafting review team. |
| Gripe Sites; Deceptive and/or Offensive Domain Names (Recommendation #1 - Revisit UDRP regarding gripe site and deceptive / objectionable names) | 6 | Alternate (minority) view | Large | PDP | See notes | Request Issue Report | Possible to combine this one with the broader UDRP PDP |
| Fake Renewal Notices (Recommendation #1 - refer to Compliance) | 7 | Unanimous Consensus | Small | Implementation |  | Send letter to Compliance |  |
| Cybersquatting Recommendation #2 - Decide between cybersquatting options) | 8 | Split opinion | Large | TBD | See notes | Refer to Council | There may be parallel activities or interactions with other RAA activities such new gTLD rollout and RAA drafting review team |
| Fake Renewal Notices Recommendation # 2 - conditional, based on #1) | 9 | Unanimous Consensus | Medium | PDP | Fake Renewal Notice #1 | Request Issue Report |  |
| Meta Issue: Collection and Dissemination of Best Practices | 10 | Unanimous Consensus | Large | WG | Anti-abuse best practices project may be a “pilot” | Drafting team -- charter | Or may be referred to a GNSO Improvements effort. |
| Cross-TLD Registration Scam | 11 | Unanimous Consensus | Small | TBD |  | Drafting team -- charter | Drafting team to develop the monitoring effort/approach |
| Meta Issue: Uniformity of Reporting | 12 | Unanimous Consensus | Large | TBD | Workload? | Drafting team -- charter | Or may be referred to a GNSO Improvements effort. Include "review existing systems and conduct gap analysis" in the instructions to the charter drafting team. |

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| Gripe Sites; Deceptive and/or Offensive Domain Names (Recommendation #2 - Decide between approaches to gripe sites, etc.) | 13 | Rough Consensus | Small | TBD | UDRP investigation? | Refer to Council |  |
| Domain Kiting / Tasting | 14 | Rough Consensus | Small | TBD |  | Refer to Council |  |

**Annex III – RAP-IDT Proposed Approach based on resource requirements and priority ranking**

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| **Recommendation** | **Rank** | **Level of consensus** | **Expected size, complexity, scope** | **Nature of effort/approach** | **Dependencies?** | **Next Steps** |
| **Low hanging fruit (low resource requirements)** | |  |  |  |  |  |
| WHOIS Access (Recommendation #2) | 3 | Unanimous Consensus | Small | Implementation |  | Send letter to ICANN Compliance Department |
| Fake Renewal Notices (Recommendation #1 - refer to Compliance) | 7 | Unanimous Consensus | Small | Implementation |  | Send letter to ICANN Department Compliance |
| **Suggested sequence** |  |  |  |  |  |  |
| Malicious Use of Domain Names (Recommendation #1 – Anti-abuse best practices) | 1 | Unanimous Consensus | Medium | PDP (for process/approach) |  | Drafing team -- pre issue-report |
| WHOIS Access (Recommendation #1) | 2 | Unanimous Consensus | Medium | Implementation (see notes) |  | Dafting team -- charter |
| Cybersquatting (Recommendation #1 - Investigate UDRP) | 4 | Unanimous Consensus | Large | PDP (analogous to IRTP) |  | Drafting team -- roadmap |
| Uniformity of Contracts | 4 | Strong Support but Significant Opposition | Large | TBD | See notes | Refer to Council |
| Gripe Sites; Deceptive and/or Offensive Domain Names (Recommendation #1 - Revisit UDRP regarding gripe site and deceptive / objectionable names) | 6 | Alternate view | Large | PDP | See notes | Request Issue Report |
| Cybersquatting (Recommendation #2 - Decide between cybersquatting options) | 8 | Split opinion | Large | TBD | See notes | Refer to Council |
| Fake Renewal Notices (Recommendation # 2 - conditional, based on #1) | 9 | Unanimous Consensus | Medium | PDP | Fake Renewal Notice #1 | Request Issue Report |
| Meta Issue: Collection and Dissemination of Best Practices | 10 | Unanimous Consensus | Large | WG | Anti abuse best practices | Drafting team -- charter |
| Cross-TLD Registration Scam | 11 | Unanimous Consensus | Small | TBD |  | Drafting team -- charter |
| Meta Issue: Uniformity of Reporting | 12 | Unanimous Consensus | Large | TBD | Workload? | Drafting team -- charter |
| Gripe Sites; Deceptive and/or Offensive Domain Names (Recommendation #2 - Decide between approaches to gripe sites, etc.) | 13 | Rough Consensus | Small | TBD | UDRP investigation? | Refer to Council |
| Domain Kiting / Tasting | 14 | Rough Consensus | Small | TBD |  | Refer to Council |

**Annex IV – Members of the Registration Abuse Policies Implementation Drafting Team**

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| --- | --- |
| **Name** | **Affiliation** |
| Greg Aaron | RySG |
| James Bladel | RrSG |
| Berry Cobb | CBUC |
| Phil Corwin | CBUC |
| David Donahue | IPC |
| Fred Felman | Individual |
| Kathy Kleiman | RySG |
| Mikey O'Connor | CBUC |
| Lisa Rosaya | IPC |
| Faisal Shah | Individual |
| Joi White | IPC |
| Mary Wong | NCSG |

1. See list of members in Annex IV [↑](#footnote-ref-2)