



American Red Cross
National Headquarters
Office of the General Counsel
2025 E Street, NW
Washington, DC 20006

July 30, 2010

Via Email: raa-improvements2010@icann.org

Re: Comments Regarding ICANN's Initial Report on Proposals for Improvements to the Registrar Accreditation Agreement (RAA)

Dear ICANN Board of Directors and Staff:

Thank you for the opportunity to provide comments to the Internet Corporation for Assigned Names and Numbers ("ICANN") on the Initial Report on Proposals for Improvements to the Registrar Accreditation Agreement (RAA) on behalf of the American Red Cross. I am an employee of the American Red Cross ("Red Cross"), a not for profit philanthropic organization and one of approximately 180 member national societies of the International Federation of Red Cross and Red Crescent Societies.

I. Introduction

The American Red Cross, like many similarly situated not-for-profit organizations, use domain names to communicate and engage the public, their members, supporters and volunteers about their mission, services and activities. Our organizations, including Red Cross greatly depend upon ICANN stakeholders to provide a reliable, secure and safe DNS environment in which to conduct these mission-critical activities.

Therefore, the below comments are presented with the goal of detailing concerns regarding changes to the RAA in respect to Red Cross' use of the Internet to execute its mission, as well our broader policy concerns about the Internet. We strongly urge ICANN to review these comments carefully and consider the particular needs of not-for-profit organizations such as Red Cross when preparing the final version of the RAA.

Unfortunately, some individuals and companies register domain names to pursue fraudulent, deceptive or criminal purposes that hinder the ability of not-for-profit organizations to execute their missions. While cybersquatting is an issue, Red Cross is also concerned with other types of malicious online activity, such as false and misleading websites offering harmful or unverified information, or attempting to solicit charitable donations. Thus, Red Cross believes that registrants and the public should have a right to enforce the RAA, or at the least be considered a third party beneficiary to the Agreement. Registrants and third parties must be able to assert their rights not only against their own registrar, but against other registrars who may be harboring and/or abetting malicious online activity. To that end, it is critical that registrant rights and responsibilities in the RAA must be more clearly defined and such definitions should be clearly enumerated in the RAA.

While an "Aspirational Registrant Rights and Responsibilities Charter" is a lofty goal, its effect on the reality of fighting online malicious behavior is nebulous. Thus, Red Cross believes that a more detailed and specific enumeration of such "aspirations" is necessary in order to make the RAA an effective document and tool in ensuring the security and stability of the on-line community.

II. Recommendations

Red Cross' specific comments on the provisions of the Aspirational Registrant Rights and Responsibilities Charter are as follows:

Registrants should:

1. *have accurate, current and complete contact and locative information regarding their registrar.*

It is critical for both registrants and members of the public to have access to accurate contact information regarding a registrar such that malicious behavior can be identified and legal service performed if necessary. Nothing in this provision outlines how registrants can ensure that they are in possession of accurate, current and complete contact information regarding their registrar or other registrars, or how that information may be made available to the public seeking to combat malicious behavior. At a minimum, this provision should specify how and where registrars must provide and publish their contact information so that it is available to registrants and the public.

2. *be the sole entity capable of asserting and changing ownership information for their domain.*

Provisions must be made so that ownership information can be changed by parties other than the registrant if required by law or other contracted responsibilities (*i.e.* transfer as the result of a UDRP proceeding).

3. *have ample opportunity to renew their existing domain(s) at the same rates as new domains.*

Red Cross and many other not-for-profit organizations operate on a limited budget. Moreover, Red Cross is committed to using its funds to execute its mission to provide services to the public, rather than spending excessive funds on administrative overhead. Therefore, it is crucial that Red Cross not be subject to undue rate increases for the renewal of domain names. The language in this provision is likely to be ineffective at preventing registrars from applying relatively expensive "standard" rates for renewal after offering initial registration as a discount. Red Cross recommends that such language be amended to clarify that excessive rate hikes are prohibited or that when faced with a rate increase, registrants have the option to switch registrars with a guarantee of rapid transfer completion by the registrar.

4. *protect their trade name against unauthorized use.*

Red Cross agrees with this provision in principle. Red Cross' ability to use the Internet to engage in its mission-related activities, especially distributing lifesaving information and engaging in fundraising efforts, is dependent upon the public's trust in the Red Cross name. Thus, any online infringement of Red Cross' name and trademarks has the potential to cause serious harm to the health and safety of the public. However, Red Cross believes that this provision could be more clearly elucidated to ensure that mechanisms are in place so that registrants can protect their trade names from unauthorized use and the public from misleading and malicious online behavior. As written, this provision does not provide sufficient guidance as to the rights protection mechanisms available to registrants.

5. *refuse the transfer of their personal information to unauthorized bodies.*

Red Cross recognizes and respects the need for individual registrants' privacy and the need to keep their personal information private and secure. However, such need should not outweigh the need for a safe and secure online community. Therefore, Red Cross recommends this provision be amended such that it is clear that engaging in malicious online behavior will result in a forfeiture of this right and that WHOIS contact information for registrants will be provided to the public upon request in the event that malicious behavior needs to be stopped.

6. *expect ICANN to enforce its agreements with registrars.*

While registrants may expect ICANN to enforce its agreements, there is little recourse for registrants to ensure such enforcement. As the enforcement of such agreements can serve as an effective tool in combating malicious online behavior, Red Cross would like to see some language added or changes made to the RAA that would allow for registrants (and perhaps the public) to have a form of recourse to ensure that the terms of ICANN's agreements with its registrars are properly enforced.

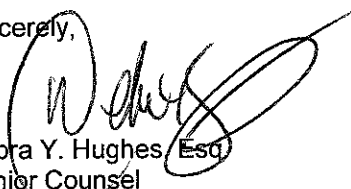
Additionally, Red Cross strongly supports changes and amendments to ensure access to domain name contact information, especially in the case of private or proxy registrations, as it is critical to Red Cross to be able to stop the public from being harmed by malicious online conduct associated with fraudulent solicitations for charitable donations. There are numerous legitimate reasons when a registrant needs to license a domain name registration to a third party or for a registrant to use a service to protect his or her personal information in the WHOIS record. However, it does not appear that the proposed changes to the RAA or the Registrant Rights and Responsibilities Charter provide any useful means for combating malicious online conduct and easing the discovery of the source of such behavior. We hope the ICANN community recognizes that this practice **can be and is used** by individuals and companies engaged in illegal and harmful activity to avoid liability for nefarious activities. The RAA should require every registrar to implement a fair and clear process that is enforced by ICANN, for disclosure of the identity and contact information of the licensee of the domain name.

VI. Conclusion

In conclusion, Red Cross strongly encourages ICANN to more clearly define the purpose of the Registrant Rights and Responsibilities Charter, by providing detailed, meaningful guidance that will produce benefits to registrants and the public. Further, Red Cross urges ICANN to consider the role the RAA has and can have in effectively combating malicious behavior online.

We thank you for considering these comments, and welcome further discussions regarding the above. Please let us know if you have any questions regarding our submission.

Sincerely,



Debra Y. Hughes, Esq.
Senior Counsel
American Red Cross