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MALE: I'm from Shimwa. I'm a Chinese registrar.

MAGUY SERAD: Do we have other registrars that are presented here from Asia Pacific? You're not, okay. The team in the back in the chairs are you guys just observers or are you here representing a registrar or business?

MALE: They are all my colleagues from a company called Zodiac. We are a TTLTD applicant. We applied for 15 new gTLD strings.

MAGUY SERAD: Okay thank you. We were hoping for a larger audience. He has sent the invite to our registrars for Asia Pacific and we were hoping to have more engaged dialogue to discuss contractual compliance. With that in mind what I'd like to do is we will start. We had planned to go through a few slides to make sure we are aligned on the contractual compliance process and certain provisions and take any questions that you may have for us. With me in the audience from contractual compliance is Carlos Alvarez. Carlos is the senior manager for operations.

And they manage and receive all the complaints and work with the registrars and registries to address any complain or issue that comes. This is an interactive session and I hope that if you have questions you can engage with us. I always present the first slide because it's important for our contracted parties to know that we do provide a service for compliance. And the service is focused on ensuring that the contractual obligations are being met.

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And in order for us to be able to work with everybody not only the contracted parties, we work with different ICANN constituents to make sure we address the concerns of the community and the contracted parties. Today in contractual compliance reports directly to Mr. Fadi Chehade, he is our CEO and we have 15 staff members on the team. The team is organized into different groups where we have a very focused attention on the registrar and registry. And we have a group very focused on operations, a group that is looking overall for prevention and enforcement.

We also do the performance measurement on reporting. We have a team that looks for the risk and audit management. We do cover multiple languages. And we have on staff also Chinese speaking team members but they could not be with us for this meeting in Beijing. We are doing our best with the help of our translation staff to take any questions that you might have for us and address the language barrier. I'm going to skip this slide and let you look at it. It's about our plan and what we want to accomplish.

It's a plan we committed to the community and this is our third year. When you put a plan for three years you report to the community how you are doing against it. We have reached 2013 and we are in the process of consolidating our systems. We are also in the process of running an annual audit and also getting ready for a new gTLD. From a consolidated system update what we have done is, for the registrar, we have improved the complaint system and rolled out WHOIS inaccuracy first. And the complaints now are more structured to where we have frequently asked questions and navigation that is available in the six UN languages.

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Filing a complaint it's still in English for now. But we have added the six UN languages to be able to provide guidance, navigation and frequently asked questions. The link on the top is the link to the new application that's just rolled out. By ICANN 47 our objective is to bring all the systems on to one because today in compliance we had several ways a complaint can come through but today we are like I said pulling together all the tools into one system so that we have by ICANN 47 all remaining complaint types that exist on the front systems will be rolled up and migrated.

We will also be adding the capability to submit multiple complaints, not just one complaint at a time. And also we are going to finalize and implement a bulk submission. By ICANN 48 the next phase will be addressing new registry complaints. Today we only receive emails if there are registry complaints. So we will be adding those to the tool and also building on and migrating on to other systems that all of ICANN is building in readiness for a new gTLD. We just published in late February the annual report. It's also available in six UN languages.

We are also publishing monthly updates available in six UN languages. We are trying to improve the communication and transparency through these multiple language updates. Another thing you are going to see, it should be launched today or tomorrow on My ICANN - have you guys tried My ICANN? On My ICANN contractual compliance is going to have a page. Today the page is still static. In the near future it's going to be more real-time. And the page is about the contractual compliance metrics.

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Metrics that are global and that we've been using to report on at a general level across all complaint types, across regions, not specific to a registrar or registry. It's more global metrics across all areas and complaints. This year we rolled out a three year audit plan. And the three year audit plan is over three years and the reason it's over three years is because we have never really done a full-scale audit plan of this nature.

We want to make sure we're auditing all the contracted parties, registrars and registries to allow us to collaborate and work with each of them to address any noncompliance challenges but also most importantly to baseline where we are today as we are rolling up but also to help us identify which areas we need to focus on more. This slide shows you the phases of the audit. And this slide applies to the three year plan. Every year we will apply the same methodology and approach and timeline for the randomly selected registries and registrars to go through the audit. There were multiple audit communications to date.

And the communications focus directly with the contracted parties or at a more global level with the entire ICANN community and updates were published in our monthly update on the website. From a registrar audit report we ran the 317 registrars in year one and six registries. And this tells us briefly by date how we process the different batches to allow us to work directly with each contracted party. On Wednesday we're going to have more and talk to all this in detail [Audio skips]. If you look at this slide it gives a representation for the year one audit [Audio skips]. There were several registrars who were issued breach notices.

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And the breach notice was issued because there was not collaboration or response...

[Audio Skips]

MAGUY SERAD:

And it consists of reviewing all the documents that's uploaded and working with the registrars to ensure that they are in compliance. And we follow the compliance process through this audit phase. A report is issued directly to each contracted party. The report consists of two things. If a contracted party has completed the audit and uploaded the required information correctly, then a no deficiency report was issued to the registrar or registry and in that report it states clearly there is no further action required.

For the contracted parties who had deficiencies and there were areas that needed to be improved to be in compliance, a deficiency report was sent directly to the registrar or registry listing where the deficiency is and requesting that additional information and collaboration be worked on to get into this. At the end of the audit phase we will also do a survey to get feedback from the registrars and input to continue to improve the audit process. The reporting phase is the next phase.

We started to report at a high level the statistics to the community. And a public report will be published by June 2013 where we list all the registrars and registries that were in this first year. We will also issue statistical reports by phase and the percentage of deficiencies for year one and also the breach notices. The nonpublic report means those are reports that are only sent directly to the registrar. Those reports will

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consist specifically to the registrar or registry to address their specific deficiencies and issues.

Again in year one this shows as of 27 March, you can see the percentage of registrars with no deficiencies. And the good news is that as you see the volume is really little on the deficiencies and there is ongoing collaboration with the registrars and the contractual compliance team to address the deficiencies in the report. After the audit phase closes we reach what we call the remediation phase. Sometimes some of the deficiencies cannot be addressed immediately and will require time to fix.

This is where a registrar or registry presents contractual compliance with a remediation plan. And the plan will consist of a high level what does the contracted party, that's the registrar or the registry intends to do to correct the deficiency but most importantly by what date. A remediation plan has an end date with a very clear outcome of that plan. The registrar or registry that is in the remediation phase is what we call in the collaboration phase, we do not do anymore follow-ups as it relates to notices or a breach because we are working together to get to a resolution.

And if the remediation phase is not completed by the due date then escalated enforcement will come into effect. Are there any questions on the general update that we have presented?

MCKAILEY NALEN:

McKailey Nalen, Black Night. Since it would be unfair of me to attend a compliance session without asking you at least one question, I thought I

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might as well. With respect to the number of registrars that still have pending compliance actions or whatever way you want to phrase it, how many are there that are still being dealt with as a result of the audit?

MAGUY SERAD: I don't have the full number as I said because the audit phase is still underway.

MCKAILEY NALEN: Well the ones that you've already issued things to. I'm not talking about the ones you might end up issuing notices to but the ones that you issued notices to over the last two or three months. Several of them have been terminated, so that's done. Several have resolved the issue. So the question I had is how many registrars are currently still in a queue or phase?

MAGUY SERAD: I don't have the number memorized but if we can back to the pie chart please. I don't have the numbers for you but based on this batch one and two, out of the 317 total registrars selected for year one, this only represents 97 registrars of which 80% are now with no deficiencies. So based on that we can see that then we have the breakdown where you have some registrars with one or three deficiencies, so the number is dwindling down. I don't have the number, so 80% of 97.



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MCKAILEY NALEN: If you would have an actual number for us on Tuesday for the update to the registrars it will be appreciated.

MAGUY SERAD: Yes and Jack will have those. We're going to proceed with the next phase of the session. The next phase is going to be presented to share with the audience the process but also the different provisions based on the complaints we are seeing from the audience, from the contracted parties. With that, we keep showing this slide and again the intent was to have a much larger audience. I will not spend a lot of time on each slide unless there is a specific question.

The reason we put this slide here is very important because we see a lot of challenges when it comes to the reseller agreements. We wanted to highlight the fact that the contractual compliance team focused on working with the registrar and the registry based on the agreements and the consensus policies, whatever business model exists beyond that it is the registrar or registry's responsibility to ensure that the contractual agreements and provisions are carried to that business model.

We talked about the contractual compliance model and approach. This is to highlight how does the process work and why? As I said at the beginning we restructured the compliance team to have what we call a preventive and enforcement team who is proactively working with our contracted parties to ensure compliance. And the preventative activity is where the monitoring takes place, audits and outreach and education. In the enforcement phase is when all activities for collaboration have not been successful that leads to an enforcement activity.

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In between what we call the informal resolution is mostly the focus of the operations team. This is where we are addressing complaints that we received through our complaint system, through emails, through phone calls, we receive them so many different ways but it is called informal resolution because we work directly with the contracted party. And it's really important to have that time to work together because we are discovering sometimes it's a question of understanding and interpretation that leads to some of the misalignment on the contractual obligations. So on the left or if you're facing the screen on the right side you see the arrows. Under prevention and informal resolution it's between us.

We do not publish any data about that except the number of complaints we receive by each phase. This is to be able to earn the trust of you, the contracted party, to collaborate with us and work with us to address those. What is published is only in the enforcement phase. Once we issue a breach, it's published on the website and then the whole community knows what's going on.

This slide I know many people who have attended compliance sessions for the past two years have seen this because we built it together. We started this slide in Dakar two years ago. We put it and we brought it to the community and we brought it not only to the registrars and registries but we also took it to the different ICANN community members and asked them “Are we meeting your expectations in building this process? Are we addressing it? Is this going to be able to be manageable for you and for us? And what other questions or concerns do you have?”

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Because in order for us to be able to do truly our job we needed to have that full transparency and buy in on the process. So now all of ICANN including any community member they know how contractual compliance process works, what it means when we speak of a first notice or a second inquiry or a third notice. They know where they are in the process. It's all standard, standard language, standard templates to address it. And then in the enforcement it's also like I said, when we publish it we publish on the compliance website under the Notices Page, we publish all that information.

It's really important when we are looking at this process and we when are communicating that we have that collaboration in the informal phase. This is where we can really get down and get things resolved. We have seen a lot of improvements from the community registrar and registry when they are responding. It used to be the trend they do not respond to the third notice. We are now capturing turnaround times and responses. And we have seen truly a much greater response time from the first notice and the second.

Please, it's really important that when you receive a notice to immediately get to compliance to be able to address any concern. Yes McKailey?

MCKAILEY NALEN:

I've beat up on you a couple of times in the past on this and just wanted to say for the record the compliance has become a lot more responsive as well with respect to these kinds of communications back and forth because the previous criticism I had was it was very much one-way. But

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now I'm seeing it's much more responsive, thank you, I'm much happier. And I will leave you alone a lot more as long as it remains that way.

MAGUY SERAD:

Thank you McKailey and thanks for the feedback. As I promised the community since I first came here two years ago, actually it's my two year anniversary this week with ICANN, and we want to make a difference. Compliance needs to be trusted by each and every community member because everybody has a different expectation. We are here to deliver that service and in order for us to do the job right we have to follow strict processes and that have been communicated.

So to McKailey's point one of the things we improved recently and you will see that McKailey in the new consolidated system, there is a follow-up and follow through to the phases with a closure email. And there is also a survey, a pulse we call the Pulse Survey. It's about five questions. And the survey is not only to the contracted party, registrar and registry but it's also to the complainant because this is what's going to help us deliver and improve on our service.

Again this is the end of year three, now we're transitioning to continuous improvement and that's what it is about, so thank you for the feedback. We always like to show this picture because people are always interested, where are your complaints mostly focused from? And in order to do a fair representation of that you have to look at it in relation to the number of registrations by region. The regions you see here are referred to as the ICANN regions.

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And we show here the total number of domain registrations, number of registrars, the percent of complaints and you will see based on each region where the volume is. But this slide is going to be interesting to see how we're going to evolve with new gTLD and the newcomers. But the slide helps the contractual compliance team into doing what we call preventive activities, referred to as outreach. Every time we have an ICANN meeting we focus on the region and we deliver outreach sessions which are what we're doing today here with our Asia Pacific audience focus. We look at the region, what are the areas of challenges and we meet one-on-one.

We had a meeting this morning to discuss different challenges. And we continue to meet this week with different registrars focused specifically on that area to address. It's really nice if we can sit face-to-face and collaborate when we are visiting those regions because we have the venue and we have the data to sit down and discuss this. This chart has served us well into building those outreach sessions which we continue to deliver on.

This slide shows the different complaint types that exist today. This is based on what we used to capture through the old tool internick. And now as we are growing we are discovering there are complaint types that are not here. So we are continuing to add more complaint types to the consolidated tool, not to the old system. when we finish rolling up these complaint types into the new system you're going to see a new feature on the systems, on the website where you will have the flexibility to even add different types of complaints based on what we heard from the community but most importantly based on the

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complaints that we see in our system that fall under “Other Category” because they cannot fit into here.

This is the slide I was referring to earlier and here I only wanted to show as it relates to the Asia Pacific. The thing to take away from this slide is that for this past trimester and the data is only through end of February even though the trimester goes through ICANN meeting. Like I said the tools are not very real-time yet so we have to wait about 10 days into the month before we can collect the data because it's coming from different systems.

Once we consolidate by ICANN 47 we should have more real-time data to be able to report on a timely basis. But from this data, from October 2012 through February 2013 you are looking at the volume of complaints by the notices. In the informal resolution as I said earlier, the community whether it's on My ICANN or when we report to the community, this is the extent of the communication we do in informal.

Just what did we see from a volume perspective in this three phases and sometimes also at what level of breakdown for which complaint type. Enforcement activities again this slide is catered for our Asia Pacific registrars but we do publish those on a monthly basis. And it is published for the month and for those enforcement activities that are from previous month, we provide an update.

With this I'm going to turn the mic to Carlos. Carlos is our senior manager responsible for operations. We're going to go through the slides. This is interactive. If you have questions let us know. Our objective from this session is to be able to clarify or address questions that are specific to you. We use these slides to guide the discussion.

CARLOS ALVAREZ:

Thank you and hi everyone. Before we go into the sustenance of the following slides I want to go back to this slide and add to something that Maguy shared. I want to highlight the volume of how many complaints we closed during the trimester, from October to February because the work was great. It was a very high volume of work and it's something to be highlighted. By the beginning of last trimester at October we had almost 7,000 complaints that were coming from the previous trimester to this trimester during that trimester we received almost 13,000 complaints and of those we were able to close 18,000 complaints during that trimester.

That left us with only less than 1,700 as of the end of February. That's a great number and that shows the effort that the team has been putting into processing all the complaints. Also something very important to show is how the complaints process that's putting them one, two, three and then the in person phase. How it works in the sense that even before we were sending the first notice we closed almost 2,600 complaints. Just because those were FAQ type complaints or invalid complaints.

We receive quite a few of those under WHOIS inaccuracy. Then you see the closure rate per stage in the process, the amount of complaints closed at first notice after we sent the first notice with the replies received from the registrars almost 2,300. Then the number drops greatly to a bit over 700, that obviously tells us about the success of the communications between ICANN and the registrars. The registrars are understanding our notices and they're providing us with information

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and the documents that we need for us to be able to close the complaints.

And then from there to the amount of complaints that we closed at the third notice stage, it's another big jump to just 166. That's a very low number of third notices that were sent during the trimester. The process works basically that's the message here. With regards to the substantive matters that we want to speak about right now we wanted to talk about the obligations that the registrars have before ICANN.

From the point of view of the lifecycle of the domain name this is a very good representation of the moment the domain name is created until it dies and it gets deleted from the zone file and then goes back to the nothing. But I'm going to do something if you could spare a second; the slide is not showing properly. The first thing that happens in the lifecycle of the domain name is the moment of its registration. The domain name is registered for terms between one up to 10 years.

During this lifecycle the first - the basic thing we want to mention here at this time are when the domain gets registered the basic [Inaudible 00:50:34] that pops up that instance is that fact that that register has to enter into a registration agreement with the registrant. That registration agreement has to exist and the registrar has the obligation of retaining records of when it was entered into, when the registrant clicked accept, there should be a timestamped log of when that happened. Also that's the moment in which the registrar - Yes McKailey?



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MCKAILEY NALEN:

Yes because this particular thing I know has caused some level of confusion and complexity. For example if you were to register a domain with via my company you would have to agree to our terms and conditions which includes the registration agreement but if you were to ask me to prove specifically that and only that I would have difficulty doing it but I can show to you that it's impossible for you to place an order with us without agreeing to our terms and conditions.

The thing I think is hard to understand how you guys are interpreting this. If you're aware of this kind of practical operational reality that it's not a case of did you agree to X and X only or did you agree to X and Y and Z as part of that entire thing.

CARLOS ALVAREZ:

Of course, what we need to see is evidence that the agreement was entered into. How that evidence looks it depends on the registrar and of course when we get into the substance of the registration agreement itself we want to see that the minimum provisions, that the RA mentions are there. That's basically it's. It's not complicated. Obviously our registrars have many different business models and different business systems so we understand that. When the domain gets registered that's the moment in which the registrar has to start maintaining the information related to the account for that particular registrant. That includes the RAA mentions and information regarding payment, renewal fees, etc.

Also we want to see that the register is maintaining the records of the updates that it sends to the registries. When I register a domain name say Carlos.org or dot any, just to not pick a particular TLD, and three

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months into the registration I want to change my name server or I want to change my email address as registrant, I go to the registrar and the registrar forwards that command to the registry to update the registry database. The registrar should keep the logs of when those records are submitted to the registry as well. Obviously we're not going to enter here into mentioning the specific provisions on [Inaudible 00:54:10].

We're not going to go into the legalese, lawyer kind of talk because that's not the point of this discussion. It's just a practical chat basically. The next thing during the lifetime of a domain the obligations that we want to highlight at this point are the following in general terms. I was waiting a speaking slowly because the interregister transfer policy the first item there, the IR2P could be under potential events. And I'm going to explain why. I'm going to speak first about WHOIS accuracy. The registrars have in their registration agreement with their customers, with their registrants they have to include certain provisions.

Some of those provisions make the registrants create the obligation on the registrants that they have to provide accurate and reliable data. And they have to respond within 15 days to the registrar when the registrar sends them inquiries about the accuracy or the reliability of the registration information about the WHOIS data. And their registrars whenever they receive complaints that allege that there's inaccurate WHOIS information they have to take - and that's the wording the IRA - reasonable steps to investigate and correct. That's a very important obligation that they have to comply with.

Then with regards to the Expired Domain Deletion Policy, the EDDP, I'm speaking briefly about this because we have more slides about this

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following, that's enhanced now with a new policy, that's the Expired Registration Recovery Policy. These two are related to certain obligations that the registrars must comply with when the domains approach the registration - yes McKailey?

MCKAILEY NALEN: Sorry I keep on asking questions, but it's not as if there's a massive queue of people. The ERRP is this the new - this is which hasn't been implemented yet? So that's a future obligation?

CARLOS ALVAREZ: Yes, exactly.

MCKAILEY NALEN: Okay that's fine, that's fine. Well I know what it is but was making sure that was what I thought it was.

CARLOS ALVAREZ: Yes it's not current, it's not valid yet.

MCKAILEY NALEN: That's fine, that's fine.

CARLOS ALVAREZ: But it's worth mentioning.

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MCKAILEY NALEN: I don't disagree but I was just wondering was I in breach of something that I didn't even know existed.

CARLOS ALVAREZ: You would have already heard something from us.

MCKAILEY NALEN: Maybe, maybe not.

CARLOS ALVAREZ: Maybe. Okay WHOIS updates and commands to registry those two are continuation of the previous obligation that I mentioned that the time and registration of the domain, the registrar has to keep on allowing the registrants to update their information and they have to keep on sending the commands to the registries and maintaining those records as well. And now we go to the last subsection there, potential events. The reason why I said that the IR2P the Interregister Transfer Policy could've been placed here is because these are potential situations. They don't have to happen but if they happen they trigger certain obligations.

When me, Carlos, a registrant I have my domain name with registrar X and for some reason I decide I want to go to Black Night because I like McKailey because he's a very good guy, then I have to - when I request my registrar, registrar X to allow me to transfer the domain name, registrar X has to comply with certain obligations and then Black Night would have to comply with certain obligations. We'll talk about it in a minute.

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I just wanted to point out which they are right now. then with regards to ownership disputes and UDRP, oh the TDRP, when me Carlos, the registrant I see that my domain name was transferred to another registrar without my consent, without my previous authorization, I go to my registrar, registrar X and complain, “Why is my domain name no longer with you?” And then I go to Black Night and complain “Why is my domain with you since I never authorized that it be transferred to you?” Then since my complaint is legit and since my two registrars are very cooperative they initiate a process with the registry operator. This is optional.

It's not an obligation of the registrars. They don't have to initiate these procedures. But if they do then they have to follow certain procedural rules on how the process is followed. This is in a way consumer protection for allowing registrants who have lost or whose domains have been transferred without their authorization, to get them back to their previous registrar. Then we go to ownership disputes and UDRP. Ownership disputes have two sides.

We'll receive many, many complaints from I want to say registrants but I'd rather use the word complainant acknowledging that they have differences or disputes or problems with former partners or with their ex-colleague or with their former employer. And the disputes are regarding which of them should remain as the registrant. We don't deal with those. Those are not complaints that we can process because those are not within our scope. Those are not within the scope of the Registrar Accreditation Agreement.

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However if a trademark holder, say I am their owner of the trademark Carlos and someone registers Carlos with a Z instead of an S then I can initiate a UDRP procedure. UDRP stands for Uniform Domain Dispute Resolution Policy. That's a cheap, quick version of a court proceeding, under the private system of justice if you want see it that way. When I started UDRP then it's under our scope and we can look into it when registrars don't implement their decisions or when they don't inform the parties once UDRP procedure was initiated basically.

Then we go the domain has expired. It's not dead yet but its days are counted and it's not showing. There's a renewal period that can go from zero to 45 days. Then we have redemption grace, planning delete restorable. And here comes [Inaudible 01:03:47] that's key as long as it shows up, there it is. This obligation is key and it's really relevant to other registrars. It's the obligation of retaining documents and records for the lifetime of the domain name and three years thereafter. And the three years a domain is active until...yes McKailey?

MCKAILEY NALEN:

Sorry just one thing here with the lifetime of the domain plus three years I assume that if for example a domain name was registered with my registrar for one year and then sorry was registered with us for three years and was transferred after the second year my obligations for retention I've no further knowledge of the domain. So I have a little bit of a problem with the wording of this because I have no visibility over the domain when it's no longer on my accreditation. I cannot be expected to A) know about it or B) retain data for a domain that could be registered for 100 years.

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CARLOS ALVAREZ: And you wouldn't have those records and documentation, so.

MCKAILEY NALEN: No but you see the way it's worded at the moment is -

CARLOS ALVAREZ: Yes, I understand, I understand.

MCKAILEY NALEN: You're saying if the domain as existed - it needs to be clear that the registrar has a connection to that domain, otherwise it doesn't make any sense.

CARLOS ALVAREZ: Yes, you can make that suggestion. The domain name is active until it is deleted from the zone file basically. And that happens when the domain jumps from redemption grace period being in a specific status or stage, that's called pending delete restorable. Then it goes into pending delete nonrestorable. That's when it's off the zone file. It no longer results - it didn't result in the redemption grace period, under pending delete restorable. But that's what triggers the initiation of the three years after the life of the domain name. That [Inaudible 01:06:25] is really important because that's what helps the registrars keep the information that we need to see to determine that they are in compliance.

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Within the audit registrars were asked to provide certain documents and records and it came down to this basically. And that's regardless of whether or not the registrars have a reseller business model because still the registrar is responsible, even if the reseller is the one that's in reality and the practical conduct of business maintaining the documents. We're going to the registrar and we're going to ask registrar "Please send me this" and the registrar will see how tight they squeeze the reseller's neck, that we need to get those documents regardless basically.

With regards to a very specific obligation that the registrars have, they have to publish their contact information on the website. It's not a very hard obligation to comply with. If I don't recall incorrectly they basically have to provide in their website, email address, postal mail address and I don't recall well but I think their phone and fax numbers as well. Those two I don't recall. Regardless the information is in the RAA. It's information that is to be kept accurate. For example, placing a contact form instead of an email wouldn't be in compliance.

The RAA mentions specifically an email address, so that's something to remember. With regards to the information that's included in the registrar database that we and the registrars call radar, it's truly important that the registrars keep it updated. Yes?

MCKAILEY NALEN:

Sorry I was actually looking in radar at the moment. At the moment, if my understanding is correct, you use the primary contact of the registrar. There is no compliance contact.



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CARLOS ALVAREZ: There is no compliance contact.

MCKAILEY NALEN: Now as a suggestion to you, it would make sense to me that you allow there to be a compliance contact in radar because I'm the primary contact for our registrar, but if I'm stuck on a plane or I'm actually decided to take a holiday and disconnect from the internet, then in theory you could send me breach notices until the cows came home and I wouldn't even know about them.

CARLOS ALVAREZ: Yes, that's a good suggestion.

MAGUY SERAD: Actually the radar system is also one of the systems that is going to be upgraded into what they refer to the enterprise customer CRMs, Customer Relation Manager. And one of the requirements we are pushing for is to have that because the primary contact can be the CEO of a company or the owner of a company. And to a point we need to be able to work compliance matters with operational compliance. That's one of the recommendations that are being worked on.

MCKAILEY NALEN: Thank you because I think it's something that - I think we actually communicated with the compliance team saying "Look would you please send any compliance issues for us to a slightly different email

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address than the primary contact” because asking me to update the primary contact it's a bit kind of - it's a bit illogical because there could be notifications sent to the primary contact that have absolutely nothing to do with compliance. And yet I want the compliance function to go to my legal team or whoever. So I would be supportive of that.

CARLOS ALVAREZ:

Okay then as I was saying the registrars have to publish their contact information including email address and mailing addresses on their website. We've actually seen it in more cases than what one would think then registrars have to publish a link on their website to the - it's still called Bill of Registrant Rights and Responsibilities although its name is going to change probably. That's being discussed. That link is right there. It has to be published on the website. Some registrars included in the registration agreement as a piece of information for the registrants. And then this is the logo that the registrars can use.

They shouldn't use the ICANN corporate logo. Occasionally we've seen some using ICANN's corporate logo which is not the right one. And we've also seen registrars that were terminated using these logos and resellers using these logos. In both cases we sent it to legal and legal jumps on them. That's out of our scope because it's no longer contracted parties or by default it's not contracted parties if it's a reseller. So legal is happy to take this one. Yes?

MCKAILEY NALEN:

Just to kind of question. I think I raised this once in the past and I never - I don't know maybe the person I spoke to didn't really understand

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what I was talking about. Several of the digital certificate company such as Komodo and others have trust marks which are tied back to URLs. So for example, if we have one on our site - I'm not sure if it's there at the moment or not - which is to state with regards to our PCI compliance. And it does a check to see what the domain name is, where it's being displayed so you can click it in real-time and see if they're an authorized user or not.

For the ICANN accredited logo why aren't you doing at implanting something like that? It's likely more interactive because then if they don't take down the logo then immediately it will flag as not being valid which solves a lot of the problems. Because I can't see how it's within your gift to go out and check every single website on the internet to see if they're using the ICANN accredited logo or not. Or they could be even if you're searching for that image programmatically somebody could be using a derivative of it which you'd never find.

CARLOS ALVAREZ:

That can happen. But just with the information as part of the audit the audit team did actually check the website for the 317 registrars. And some of them I believe some of them were found not to be using the right logo. But it's obviously manual work. It can be improved. Data escrow, the basic obligation regarding data escrow is to deposit all the information with an escrow agent. It sounds redundant but it's as simple as that. When does the obligation begin to exist? When the registrar starts to have domains registered. What should be deposited?

The registration information basically, what's in the registrar database. What's the purpose of the escrow? To allow for the reconstruction of a

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registrar basically in the event of disaster or whatever other serious instances could happen. What do we do at ICANN Compliance to check what's going on with the registrars complying with the obligation? We monitor several aspects. First we make sure we monitor whether or not they are scheduling, they are depositing within their schedule, depending on the amount of domains that the registrars have deposited. They have to deposit daily or every day or they have to do it weekly. We monitor that.

Then also depending on the amount of domains that they have they have to make a huge deposit with all of the information that they have, the whole registrar database they have to deposit it. That's the weekly deposit, the full that contains all the registered database. But if they have to deposit daily in addition to that full deposit, every day they have to make incremental deposits. That's the information that's changed or added or deleted from the last full deposit. It's the daily changes basically. And then we also monitor whether the information that's deposited is valid in format. Whether the right spaces or [Inaudible 01:16:15] are there and whether those fields are completed and have content or whether they're empty.

We also have the right to request Iron Mountain which is the escrow agent with which most I would 99.999% of the registrars are depositing their information. We can ask Iron Mountain to conduct manual audits. And each of those manual audits is really manual in the sense in that there is someone behind a computer who goes into the escrow file and checks to see that the information is good, basically.

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Now with regards to the Inter Register Transfer Policy just mentioning briefly when I registrant want to transfer a domain my registrar has to give me one of two options or actually both depending. The registrar can give me access to a control panel so that I can log in and retrieve it from there. If there is no access to the control panel or if the control panel is down and it is not responding for some reason I can go to the registrar and request the code directly to the registrar. And the registrar has to give me the code.

Now that's the key that's technically needed for the transfer to be successful. You can think of it - it's not technically correct to call it a password but you can think of it like a password. It's kind of a key. Then with regards to another step the registrars have to comply with, there's something called a Form of Authorization. The gaining registrar and I'm only referring here to what's an obligation, there are two FOAs. One of those FOAs is optional and I'm not going to refer to it. I want to focus on the - those who register can use an optional FOA. The manger of a FOA has to be received by the gaining registrar. That's the one that you may be thinking of.

MCKAILEY NALEN:

I thought that changed under the last IRTP implementation?

CARLOS ALVAREZ:

Nope, nope, nope. When the gaining registrar is processing the transfer request it must receive from either of the transfer contacts be it the registrar holder or the admin contact, it has to receive the FOA confirming that the transfer has been consented. And finally with

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regards to unlocking the domain names the registrars must allow the registrants to unlock the domains themselves or this would be through a control panel. If there's no such access to a control panel then the registrar has to unlock within five days of the request made by the registrant. The Expired Domain Deletion Policy, it's a very easy one to comply with.

Basically the registrars have to send two renewal reminders prior to expiration. That's something that we receive often complaints about. Registrants don't receive their reminders, their domains expire and they come to ICANN asking for help basically on what happened. Then also the registrars have the obligation to publish their auto renewal and deletion policy on their website. And they have to post the fees that they collect for recurring domains that have fallen into their redemption grace period. We have seen here sometimes I don't want to say often but we have seen it, that these reminders are not readily available to the registrars when there are resellers in the middle.

The registrars can rely or may rely on the resellers to send their reminders but then they have to make sure that the resellers do send them and that the resellers keep them. Because they have to - the registrars must have copies of these reminders during the lifetime of the domain plus three years. And when we ask for them but the reseller lost them or never kept a copy then the registrar is in breach, not the reseller. And we are going to the registrar not to the reseller.

Next we have and this is basically for your reference as well because it's not effective yet. It will become effective on August 31 of this year, the Expired Registration Recovery Policy. That in very general terms will

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make more specific the obligations that the registrars have with regards to when their renewal reminders have to be sent. And specify some of obligations between the registrars and the resellers, obviously focused on consumer protection; you can see it like that. Again, it's for your reference.

I mentioned a bit about the UDRP before. It's basically to solve disputes over trademarks being registered - domain names confusingly similar to registered trademarks. It's a dispute resolution mechanism. We focus - what the registrars have to do when a UDRP procedure is commenced they must communicate to ICANN the service provider being the dispute resolution providers and the parties. They have to implement the decision obviously. When they don't it's a matter for us obviously. There are cases in which the registrars have questions and don't implement decisions based on interpretations regarding jurisdiction.

As I mentioned in the slide that showed the detailed lifecycle of the domain name, this information is really important, maintaining the registration data and records. Registrars are required to maintain correct registration data of all written communications between them and the registrants. And they have the obligation of maintaining that and providing it to ICANN. Regarding the RAA mentions all the communications between the registrar and the registrant. That would include for example the renewal reminders, the [Inaudible 01:27:03] notices, those are the yearly notices that the registrars sent to the registrants to confirm the accuracy of their WHOIS information, etc.

And this is regardless of the their business model, regardless of whether or not there's a reseller in the middle and regardless of whether the

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registrar made the reseller responsible before itself before the registrar of maintaining some of these data records. We ask the registrar. We don't ask the reseller. The registration agreement, those are some of the examples of records that must be maintained by the registrars. As I mentioned when McKailey asked the question regarding the registration agreement when we were beginning to talk about this matter, with regardless of the substance of what should be in the registration agreement, these are the provisions in the RAA that mention again what provisions the registration agreement must include.

Within the audit, the audit team reviewed the registration agreements used by the 317 registrars that were audited. And we literally are revising registration agreements from the registrars along our compliance process, that's normal. And note that even if there's a reseller in the middle and even if that registration is requested from a registrant to a reseller there still has to be a registration agreement between the registrant and the registrar. There has to be that link that has to be able to exist regardless of whether there is that reseller in the middle. It has to exist. It has to be there even if there's a reseller.

So the fact that the reseller now has its own agreement with its customer that happens to be the registrant doesn't take away the obligation of the registrar entering into this agreement that some call the Terms and Conditions or Terms of Service. The name is not important. The important thing is that the agreement has to be there and it has to include these minimum provisions. Now this is one of the most basic obligations, the obligation to provide WHOIS access. Both the Port 43 and the web, I want to mention here this doesn't seem to be



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a conflicts obligation from the point of view of what it means to comply with it.

However, I want to mention an example that we had at the beginning of this year. when a registrar who's based on Mars, without giving any names, was including such type IP address [Inaudible 01:30:50] IP address [Inaudible 01:30:50] is a technical measure that some registrars have implemented to avoid their databases to be harvested and their servers to be abused based on the amount of queries that they receive daily or by the hour from any given IP address. This registrar had established and implemented such a tight IP rate limiting policy that it was denying every single query.

And what they were doing was that even if it was your first query from your IP address you would always receive through the registrar's Port 43 link redirecting you to their web service, their web host. That's not compliant. That wasn't good. We had to explain to them and we went through a process. It ended up well. They understood. They relaxed. They made their IP rate limiting list tight. They continued to provide, they were before they just tightened it up for a while. It can be sometimes a bit not complex but you have to be understanding of the different interpretations that are around or can be around.

MCKAILEY NALEN:

For us as registrars if other registrars Port 43 isn't working or their rate limits are insane it has a massive operational impact on us. Your team is aware that I will quite happily report other registrars to you because my staff cannot transfer domains to us if there is no WHOIS.

CARLOS ALVAREZ:

Yes. With regards to WHOIS inaccuracy, as I said the registrars are required to take reasonable steps to investigate and correct. It's not only about the investigation it's about correcting the inaccurate data. What do we expect to see when we forward an inaccuracy complaint to our registrar? We want to see correspondence. We want to see that the WHOIS has changed if there's something inaccurate.

We want to see status updates when the registrar reaches out to the registrant and there's no reply. Then the registrar can cancel the domain or suspend it. So we would see status client hold or register hold. It's really important for us to see that the registrar is reaching out and forwarding the complaints to the registrants. For that what we expect to receive is an actual copy of the email that's sent by the registrar to the registrant. That's really important.

And obviously we expect to receive those copies of those communications including four basic fields and they're really basic -- to, from, date, time -- so that we know that it was really sent to the registrant and not someone else or the admin contact for that matter, preferable the registrant.

MCKAILEY NALEN:

One thing there just on that thing, I assume that you want it to be fixed and we would too. It just seems to me that if you are focusing on this communication being sent to the registrant that seems to be a little bit illogical because the entity or party who may be in a better position to remedy the inaccuracy might not be the registrant or the admin contact.

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It could be my account holder who could be somebody or completely different.

CARLOS ALVAREZ: We're not focusing on anything in particular. We just want to see that you have taken reasonable steps.

MCKAILEY NALEN: Okay that's because you specifically stated that.

CARLOS ALVAREZ: Yes and every situation is different. Every complaint is different. There are so many combinations of complaints and possible reasonable steps that the registrars can make. There are some replies that we have received that I want to mention very briefly that are not acceptable and you'll understand why. When registrars come to us after a month, month and a half and tell us "Hey yes I received your complaint, I'm still attempting to verify whether the WHOIS information is accurate or not" and they didn't send us anything, just that statement. In a plain text email with any copies of anything, that's not acceptable.

When we receive that then the registrar has put itself in queue for the next notice. That the registrant confirmed that the information is accurate but we don't receive a copy of the communication sent by the registrar to the registrant, we would expect to see it obviously. The registrant said "That's my information, I want it there, that's okay", we want to see it. Then again as I was saying we would want to see fields to, from, date, time. We've received PDF files or JPEG image files with

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text in them but no indication of timestamp. We don't know when it was sent. And there was no to, from. We don't know who sent it and to whom. So that's not good enough. It doesn't give us what we need to see.

Or the registrar states that the WHOIS data changed or was updated but we go in, make the query and we see it just as it was before. That obviously is not acceptable. Something that I want to mention here because I know it's important for the registrar community. We're making great effort and I do mean ever important effort in filtering what we consider to be invalid complaints. I wish the registrars could see how we do it on a daily basis. You don't see those complaints. The registrars don't know how many we get. The registrars only get the complaints that we consider are valid.

Of course of the amounts that we receive occasionally one or two I want to say skip our filter which is obviously not this horrible but it can happen, unfortunately. We're taking measures to prevent it from happening of course. And these are some of the reasons why we close or reject complaints. They're about spam or content on a website. It's about ICANN.org or Internick.net or they include irrelevant comments such as "The registrant is not replying to email" when the registrants don't have to reply to email, etc. You can see them on here.

Very importantly some frequent reporters were submitting complaints marking every field as invalid without providing any type of detail. We're requested those reporters that we have identified very clearly. We asked them to specify what's wrong with the information, non-reply. So of course all those complaints were closed. After sending the

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three notices we still consider that we haven't received information that's good enough for us to determine whether the registrar complied with its obligations in simple terms the registrar receives a notice of breach. We go through an internal process.

We prepare our referral to enforcement. That's a formal document that includes all the information that's necessary for the enforcement team to prepare the notice of breach in a reasonable timeframe. We have 48 hours turnaround time for the enforcement team to prepare the initial notice of breach. And once the notice is sent the registrar has 15 days to respond and cure basically. If we don't see that the registrar is complying and in some situations the RAA allows ICANN to suspend the registrar's accreditation. It's happened once.

A registrar in Europe was suspended. The good thing about that case was that it was a learning experience for them. ICANN worked hand-in-hand with that registrar not only weekly but I want to say almost daily in helping them understand what their obligations were and monitoring their activities very closely because the idea was to help them come into the good side of the forest. That is a very good learning opportunity for them. And that's the intention of the enforcement side of the process. ICANN doesn't want to terminate the registrar's accreditation. That's not the intention.

The purpose of issuing a notice of breach is for the registrar to be formally notified that there was a breach and that they need to cure it. And during that moment of the process ICANN cooperatively works with the registrars to help them cure. That's the process. The issuing of notice of breach is not a sanction. It's a notification. That's why it's

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called a notice of breach. It's you hereby are notified that.” I think that’s basically then if the registrar is going to be terminated, if their accreditation is going to be terminated it can either be terminated as such at any time during the validity term of the RAA or it can be nonrenewed if their renewal is approaching.

That’s another measure. And when a registrar is terminated that’s obviously when the data escrow deposit becomes relevant because ICANN wants to protect the registrants. And if there's a registrar that’s misbehaving badly enough that its accreditation needs to be terminated then ICANN doesn’t want the registrants to suffer the consequences. I think that’s it from this side.

MAGUY SERAD:

Thank you Carlos. There are a few slides included in the deck as Carlos was going through them and even after this that are put there for your reference. We want to thank the audience. We know we have some audience in the Adobe Room. And we had hoped for more audience to be present with us today, but we thank those who are present with us today. As I stated at the beginning this session including the presentation will be published on the website and will be published in both languages.

We will also reference those two sessions in our monthly update and hopefully drive more traffic to this presentation. I think this is the first time where we do a very detailed approach to each of these areas where we are seeing different challenges or misunderstanding. So with that we close this session. Again thank you for joining us. We still have

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a little bit of time if you have any questions. But we look forward to seeing you the rest of the week.

There is a special session Wednesday mid-morning that will provide an update on the accomplishments but will provide a lot more statistics and discussions on the audit program because the community in addition to our registrars and registries wanted a little more data about the outcome of the audit to date. So Wednesday at 11 o'clock, it is on the main schedule. If your time allows it please join us for me information. Are there any questions from the audience?

PAM:

Thank you Maguy, thank you Carlos for the presentation. I think you had a lot of slides and a lot of information but I would have liked to see more Asia Pacific issues or challenges you've seen. I suppose this was a session targeting Asia Pacific registrars. It seems to me the information is still quite general rather than Asia Pacific registrar specific, so that is a comment.

CARLOS ALVAREZ:

The information is general because we wanted to address the registrar's obligations. And we were expecting more Asia Pacific registrars to be here and ask specific questions related to their issues and we wanted to be able to respond to their questions. Unfortunately not many of them came so we were unable to address their questions because they weren't asked.

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PAM: How did you anticipate them asking questions? They were just general obligations not Asia Pacific registrar specific issues.

CARLOS ALVAREZ: The issues are the same regardless of which continent you are in.

PAM: Sorry?

CARLOS ALVAREZ: The obligations are the same regardless of what continent you are in.

PAM: Sure I agree. But presumably they understand the basic obligations under their contract.

MAGUY SERAD: Thank you for the feedback Pam. What we tried to do in some of the slides we tried to provide data that's specific to it like on the different complaint types and volumes. And to Carlos's points the obligations are general. But as you know and many of us know a lot of those challenges whether it's in inaccuracy of transfers are experienced worldwide. The hope was to engage specifically and stop at certain slides to address those challenges but - if there's something specific you're looking for please let us know. Thank you again and have a great rest of the day.

[End]