



# **Contractual Compliance Update**

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**Contractual Compliance Team**

October 2009

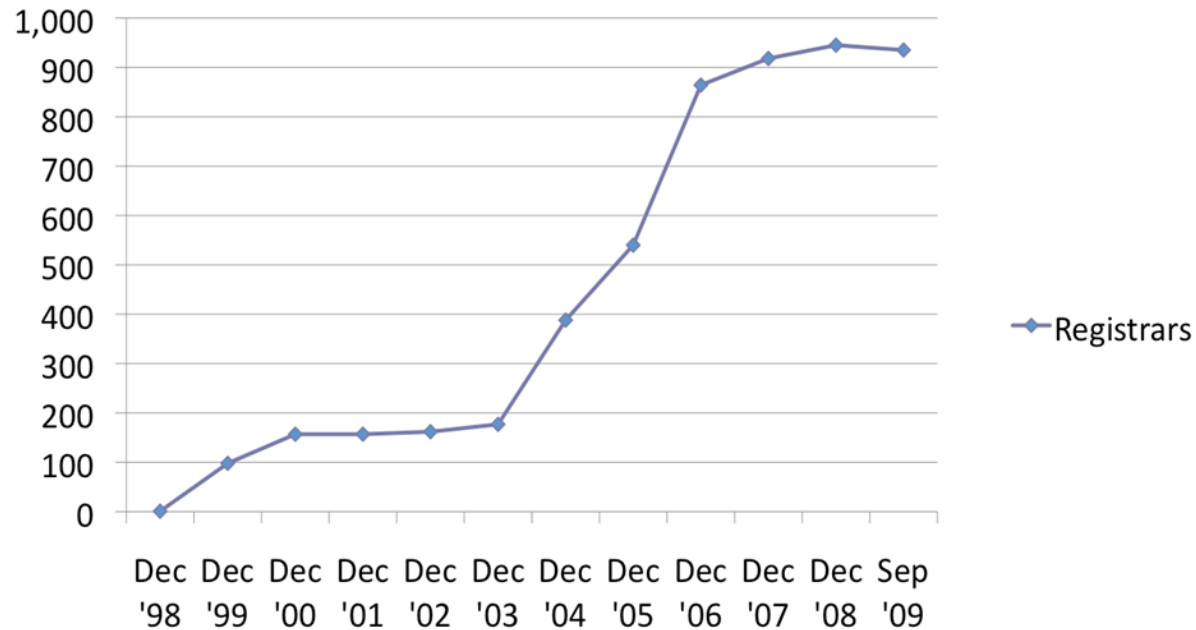
# Agenda

- Contractual Compliance Enforcement Activity Jan – Oct 2009
- 2009 RAA Update
- Possible Future RAA Amendments

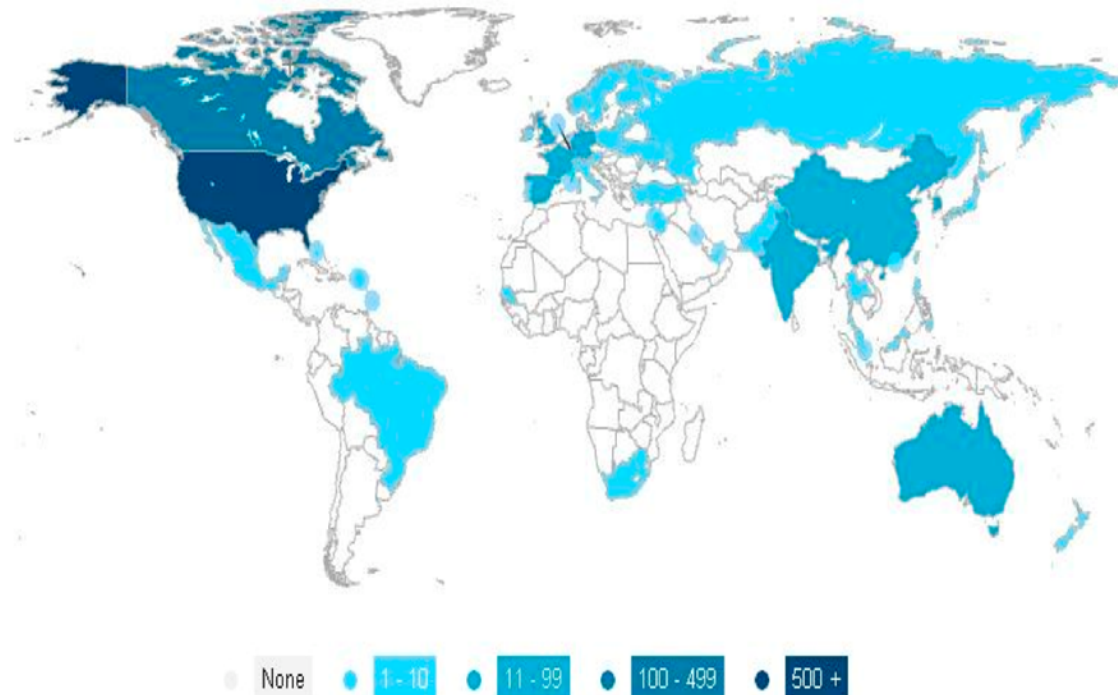
# Growth in Number of Registrars

## Registrars

The number of accredited registrars has grown from 1 to 938 over the past 11 years



# Global Distribution of Registrars



Currently 938 Registrars

New registrars: Europe (49%), Asia/Pacific (26%), North America (16%) during past year

# Enforcement Activity

(Jan - Oct 2009)

- 16 Registrar Accreditation Agreement (RAA) Terminations and Non-Renewals
  - 9 Terminations
  - 7 Non-renewals
- 184 Breach Notices Transmitted
- 4,290 Enforcement Actions
- 9,304 Consumer Complaints Processed (Jan-Sept)

# ICANN's Whois Enforcement Work

- Whois Data Accuracy Enforcement
  - Enhanced WDPRS includes follow-up notices to assess registrar compliance with RAA Whois investigation requirements
  - WDRP requires registrars to send reminder notices to registrants to update Whois data
- Whois Data Availability Monitoring
  - Electronic tool monitors registrars' Port 43 Whois services
- Whois Data Accuracy Study
- Privacy/Proxy Registration Study

# 2009 RAA

- Adopted by ICANN Board on 21 May 2009
- Available on the ICANN web site  
(<http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm>)
- Reasons for New RAA
  - Reflect changes and address concerns in DNS
  - Enhance protections for domain registrants
  - Clarify and streamline certain contractual terms

# Who Is Required to Sign 2009 RAA

- Every new Registrar
- Every existing Registrar upon renewal of its current accreditation
- All other Registrars (in good standing) may sign 2009 RAA at any time prior to renewal
- Registrars representing 87.3% of all gTLD registrations have signed or requested the 2009 RAA



# Key Changes to 2009 RAA

- Enhanced enforcement tools to ensure full compliance with RAA and ICANN policies
- New sanctions for non-compliance
- New requirements for Registrar contact info
- Additional audit and data escrow requirements
- New requirements for reseller agreements
- Administrative and procedural changes

# Possible RAA Amendments

## Why?

- Enhance enforcement of RAA through ICANN's contractual compliance work
- Identify new potential RAA obligations to address Internet Community concerns about DNS
- Clarify existing RAA obligations that are hard to enforce or result in significant mismatches between community expectations and actual enforcement
- RAA provisions should define business practices that are efficiently enforceable

# Potential New RAA Obligations

## DNS Issues

- Prohibition of Registrar Cybersquatting
- Malicious Conduct
  - Duty to investigate complaints and report to ICANN
- Privacy/Proxy Services and Resellers
  - Escrow P/P data and disclose points of contact
  - Forward malicious conduct complaints to P/P service customers
- Full Information on Registrars and its affiliates
  - Ability to verify Registrar and affiliate information

# Clarify Existing RAA Obligations

## Promote Compliance

- Whois Inaccuracy Claims
  - Extend requirements for problem investigation to validation or verification of accurate data
- Registered Name Holder Registration Data
  - Require Registrars to produce and send copies of records to ICANN when requested
- Termination of RAA by ICANN
  - Immediately terminate RAA when Registrar abandons its business
  - Terminate RAA for repeated and willful violations

# Clarify Existing RAA Obligations

## Promote Compliance

- Business dealings with Registered Name Holders
  - Clarify period of time to accept liability or disclose identity of licensee under Section 3.7.7.3
- Arbitration
  - Reduce number of arbitrators to save time and expense for all parties
- Administration of Contracts
  - Improve administrative processes so Registrars in good standing can efficiently be accredited for additional gTLDs

# Clarify Existing RAA Obligations

## Promote Compliance

- Process to establish new/revised specs and policies
  - Clarify voting requirements for establishing Consensus Policies within ICANN
- Insurance
  - Maintain coverage to protect registrants from losses caused by Registrar's wrongful acts
- Privacy/Security of Registrant Account Records
  - Define “security breach” in RAA
  - Promptly disclose security breaches of Registrar's systems that affect registrants

