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DUBLIN – Contractual Compliance Program Updates and Q&A Session  
Wednesday, October 21, 2015 – 08:30 to 09:45 IST  
ICANN54 | Dublin, Ireland

MAGUY SERAD: Good morning, everyone. My name is Maguy Serad. I'm the VP of Contractual Compliance. Thank you for joining us this morning for the Contractual Compliance Program Update. This session is open to everyone at the ICANN meeting, and also open remotely for participation.

Our goal today is to provide you a very high-level update on developments and activities since ICANN 53. Most of the session is going to be open to all of you to dialogue with us.

With me in the audience on my left is Allen Grogan, my boss. Then I have Jennifer, Leticia, Owen, Zuhra, and Elif joining me from the compliance team. We also have most of our compliance staff members participating remotely. With this, we're going to get started. This session is being recorded.

The first update since ICANN 53 is we launched a compliance awareness campaign. We became aware through our communications team and the ICANN website administrators that they are receiving a lot of questions from domainers, from registrants, and from different sources about where can I file a

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**Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.**

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complaint? How do I file a complaint? And all of those different questions.

So we launched a campaign with the help of our communication team. The objective is, very simply, to improve the knowledge and awareness to the community about contractual compliance. We made a very simple video campaign about getting to know contractual compliance, and also a very simple handout about what is a contractual compliance complaint.

The links provided here are also posted on YouTube but also on our landing page for the compliance. All of this material is available in eight languages.

This slide was provided to us also by our communication team. We launched the campaign from the 15<sup>th</sup>-28<sup>th</sup> of September. For those of you familiar with the terminology “organic vs. paid,” when it first launched, and then a few days later, our communication team launched a paid campaign for it. You can see the return on investment. For a couple hundred dollars of investment, we were able to really up the access and the visibility to our video, and to the data. We’re still in the process of finalizing on the Chinese video and reaching to the different audiences, as you can see.

Another area we continue to report to the community on is our continuous improvement updates. Continuous improvement

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comes from different sources. Sometimes it could be a system update, and those system updates are usually not optional. For example, a software update to improve our security on the tool.

A lot of our updates or continuous improvements are led either by feedback from the community, including contracted parties, about the systems or the responses from compliance. Or it could be initiated by policy developments or policies that are going to be implemented.

So it's not only the contracted parties who have to get ready for new policies that are coming down the pipeline. We also need to be able to address and have the system work through the nuances or the changes of the policies.

Audit activities. We report on those at every meeting because we're continually conducting audits with the contracted parties. The audit objective is two-fold. One is to be able to share with the community and for the public to let them know that we are and we have a stable and secure environment.

But the second objective is for us also to be able to address proactively any opportunities for us to have and address any issues that might show. So an audit allows us to work with the contracted parties proactively, identifying potential issues.

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Sometimes, when we think it's an issue, it may be something that the contracted party is conducting their business or accumulating data in a different fashion, and we just need clarification. But it helps us to be very aware of the environment and to address any noncompliance issues proactively so it avoids any future areas of issues.

The first update is the New Registry Agreement Audit Program. We completed the March 2015 audit. What you're going to see us refer to is by the month that it was launched. So the March 2015 audit was conducted for eleven registries, and by the time we concluded the audit phase and the remediation and the reporting, we had one registry operator who still was in the remediation phase. As of today, that registry operator has completed the remediation and it's now completed. So all eleven are in compliance.

The audit report is published, and the audit report will provide you not only the list of the participants, but also some of the top issues that we encounter and how they impact the community and how they were addressed.

Another audit underway we launched in September is the registrar audit. The scope was 69 registrars. We completed the request for information phase as of this week. All 69 registrars have made it to the audit phase. What that means is in the

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request for information phase, all contracted parties uploaded the data as requested, and now the team is reviewing them. We had zero enforcement.

We are also in the process of globalizing the audit page – “globalizing the audit page” meaning that we are going to provide data in all eight languages, and the data we’re going to provide here is going to be templates. We have received a lot of requests from the community: “Well, what does the notice look like when you send an audit request? What does the communication with the contracted party look like? What does the audit report look like?”

So what we’re going to do is create templates of all this communication that we have with the contracted parties throughout the audit process, translate them to the eight languages, and publish them on our website. So hopefully by the next ICANN meeting we will have this ready for us.

I provided slide 9 to share with the community about the different criteria into consideration when we launch an audit. Very simple criteria. If you’ve never been audited, [inaudible] Again, the objective of the audit is we’re not going to audit all – now we have over about 2000 registrars. It’s not the goal to audit all 2000 every time, twice a year. It’s not the goal to audit all 600+ registries every time. No.

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It's to do a sampling based on the criteria listed on this slide; for example, if we have had a contracted party that had a breach in the last twelve months. So it's a proactive approach to make sure that we do not have a repeat or an issue.

I provided a slide here, slide 10 – all this material is already published in the schedule – to list and share with the community what are some of the issue we say in this registry agreement audit that was just completed.

The registrar agreement that launched in September, as I just said, is in the audit phase now, and will follow the standard compliance approach through the 1-2-3 notification process.

A couple slides just for your reference where some of the registrars that are in scope are coming from. Again, we will take questions at the end. I'm not going to walk you through every slide. The material is available to you, but we'll be happy to take questions later to any slide you want to talk to.

The global metrics I want to highlight just for two minutes here. What we started to do now is we added a column that refers us to the previous ICANN meeting so we can start showing a bit of a trend, what's going on.

Part of our ongoing reporting is we also report to the community about not just the volume, but mostly about the turnaround

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time from the contracted parties and from ICANN compliance staff because, again, there's a perception there is no collaboration or no work.

To the contrary, look at the turnaround times. Those are measured in business days. It's an average because the turnaround time depends on the type of complaint we are working with.

For example, WHOIS inaccuracies by contract require 15 days. We have other contractual obligations that require four hours, or 24 hours. But this is the average, taking into account all the different complaints we process, and we share it with the community. The same on the registry side also.

With this, I'm going to turn it to Owen Smigelski to provide a high-level update on the activities since ICANN 53 for registrars.

OWEN SMIGELSKI:

Thank you, Maguy. I'm not going to go into great detail on these slides. I'll just give you some high-level highlights and let you know that the WHOIS ARS Phase 1, which is sampling WHOIS data and determining whether it complies with the standards of the 2009 and 2013 RAA. That report was published. There's a link to that on there, as well as a webinar that was done regarding that.

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Compliance received the domains that were identified as having areas of potential noncompliance, and that's in process. We had to change our system in order to accept that file. In the previous WHOIS ARS pilot, there were some issues with the data that was provided, and ultimately we didn't really end up processing many of those. So there's a lot more data that's in there so that the contracted parties will be able to know specifically what the problem is with that. Next slide, please.

These are some of the highlights of issues that compliance does continue to see with registrars regarding some of the issues of the 2013 RAA, as well as the consensus policies, a big one being the verification/validation of WHOIS data, which is something that's under consideration with the 2013 RAA WHOIS Accuracy Program Specification Review, as well as still seeing some registrars not sending domain renewal reminders at the proper times. Next slide, please.

July 31<sup>st</sup> of this year there was an update to the UDRP rules, big changes that registrars are now required to lock a domain subject to a UDRP, confirm the lock has been done, as well as provide the information requested in the verification request from the provider. There's also a requirement about what they have to do with the locks afterwards, as well as more communication requirements regarding the UDRP.



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We had to update our complaint forms, so we have actually been receiving complaints from UDRP providers that the locks have not been implemented. So that form has been modified as well as our systems. Next slide, please.

Another thing that continues to be high-profile are abuse reports. This slide just shows some of the thing that ICANN can do in response to a request. All of those reports from reporters are confirmed. We do want to check to make sure that the reporter has actually contacted the registrar and is not just contacting ICANN as a first source. We want to see all communications between the reporter and the registrar, both to the registrar and from the registrar, before forwarding that to the contracted party.

There are certain levels of actions that registrars can take based upon that. At a minimum, ICANN is looking to see that the abuse complaint was forwarded to the registrant. And then some additional things that can be done as well as listed up on this slide. Next slide, please.

Here are some of the policy efforts that various compliance staff participated in since the last ICANN meeting. A changed the transfer policy, which will be coming up August of next year, IRTP-D, and some of the other things in there as well, too,

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including the RDDS. There's some big changes coming to that for the contracted parties in January of 2016.

This is just a summary of all the different registrar complaint types that we get from largest volume to lowest volume and comparing that between the two ICANN meetings. This highlights the ones that are closed before first inquiry or notice. Those are ones that either we don't receive information from the reporter as requested. It could also be about a WHOIS inaccuracy complaint about somebody's own domain name, or a domain renewal for a domain that's already been renewed. So those are ones that all tickets are reviewed manually by compliance staff before sent to contracted parties, so those reflect the ones that have been closed. Next slide.

This is just giving you the top closure reasons for various complaint types. The WHOIS inaccuracy is the largest bucket, and the biggest way that those complaints are resolved is the domain is either suspended or cancelled. Next slide, please – oh, sorry there.

Just giving you some more information. You're free to go through that. Is the presentation online?

UNIDENTIFIED MALE: Yes.

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OWEN SMIGELSKI: Yes, it is. Okay. So it is online, and I apologize to the Adobe Connect that some of those slides aren't coming through on there. But the presentation is on the link to this session.

JENNIFER SCOTT: Good morning. This is Jennifer Scott, ICANN staff on the registry side. I just want to let you know that, since ICANN 53, staff has been continuing to process registry operator-related complaints to work with registry operators to ensure enforcement and compliance with the registry agreement.

These are some of the high-interest items that we've been seeing since ICANN 53, including continuation of registry operators, processing requests from third parties, and centralized zone data service, as well as complying with the controlled interruption and uniform rapid suspension system requirements.

Similar to the registrar side of things, staff has also been involved with registry-related policy and working groups. The most recent of these was the already-issued advisory for the correction of non-compliant ROIDs, which is a repository object identifier. These identifiers are used in a variety of things,

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including WHOIS output, EPP, and data escrow, amongst some other things.

We've noticed that a number of gTLD registry operators have been using ROIDs that are not in the correct format, and therefore an advisory was issued indicating that warnings will be issued if they're not corrected by the second of November of this year, with strict enforcement occurring at the end of January 2016. Next slide, please.

Staff has also been focused on making sure that registry operators are complying with the Uniform Rapid Suspension System, or URS. This is a rights protection mechanism related to trademark infringement that requires registry operators to lock a domain name subject to URS complaint within 24 hours of receiving notice of the complaint from the URS provider.

Similar to the registrar volume metrics, here are the registry ones, also listed by volume of complaint type and also showing those that were closed before a first notice or inquiry was ever sent to the registry operator.

Also similar to the registrar complaints, here are some of the top closure reasons that are used to close out complaints related to registries, including those in zone file access and data escrow.

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Again, those four service level agreement complaints and the reserve names or controlled interruption complaints.

MAGUY SERAD: With this, we conclude our presentation to you, and we would like to open it for dialogue with all of you. Before you speak, please identify yourself and your affiliation.

PADMINI BARUAH: Good morning. This is Padmini from the Centre for Internet and Society, India. I had a question about your third-party audit partner. I'm quoting from a documentary information disclose response that ICANN had given to me.

So you said that there was a request for proposal to select a third-party audit partner which was designed and approved in May 2012. This RFP was a directed RFP since the specific skill set and capabilities required for this service was only found in certain potential windows in the marketplace during a pre-selection process.

I understand that the third-part auditor appointed was [KPMG] in this case, so I was wondering: could you elaborate a little bit on these specific skill sets and capabilities, please?

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MAGUY SERAD: Thank you, Padmini. Yes, the specific skills sets, as you know, being in the ICANN industry, is new. There is no audits that have been written for this environment. But the specific skillsets we looked for are very simple. Some of them can range from the presence globally, as you would see and notice from our audit reports. We received documentation, in the last couple of them, in 20+ languages.

We needed somebody also who had the tools and ability to address audits and work with us on it. So we list all that I think in the [inaudible] or – I don't have them all memorized, but I remember clearly we looked for organizations that have global presence, but not just presence, but also the global skill sets to address it directly and be able to be present globally and work with the community on that.

PADMINI BARUAH: Just a quick follow-up to that. I'm quoting again where you said ICANN will continue to evaluate whether the public interest in disclosing the RFP outweighs the harm that may be caused by such disclosure.

So I was wondering: are you considering publishing the RFP form for the public anytime soon?

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MAGUY SERAD: What we are considering to do is not just the RFP form because the RFP form can vary. The audits are not always the same. An audit sometimes can be focused on one area, or it can be all-inclusive.

What we have tried to do is, through the outreach and the documentation that you will see either through the outreach section of the compliance audit pages, through the outreach webpage or through the audit page, we published different provisions, but not necessarily the RFP that we send because it's more of an operational direct work that we do with the contracted parties.

But what we provide the community – again, for the sake of transparency – we list everything that we are working on or could be a potential scope for the RFP.

MAXIM ALZOBA: Could you please clarify if the delay in delivering results of audit of these here for registries is a result of those special qualifications of the audit company, or is it just forgotten to be delivered? What was the reason?

MAGUY SERAD: Thank you, Maxim. If I go to this slide here. So usually during the request for information phase, which is the first notice of an

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audit, the contracted parties are given 15 business days to respond to the different questions that are posed or upload the data.

We go through the 1-2-3 process to allow for collaboration. What happens is, by the end of the third phase of that 1-2-3 process, if a contracted party still has not uploaded their documentation, then an enforcement will take place.

So the delay here in this remediation was not a delay because of interpretation or dialogue. It's that this contracted party, as you see from the topic, data escrow format and issues. Those had systematic needs to be conducted and applied, and that's why the remediation plan proposed by the contracted party [inaudible] the date extended beyond the audit date. So we follow it separately but we close that audit report program for that one section.

Did that answer your question?

MAXIM ALZOBA: Yeah. Simpler form. When should we expect end of this summer audit?

MAGUY SERAD: For the registry agreement that was conducted?



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MAXIM ALZOBA: Yes. Yes because in previous meetings, we saw timelines...

MAGUY SERAD: Yes.

MAXIM ALZOBA: With the – yeah, like before August or something. They have new dates?

MAGUY SERAD: As you notice the first bullet, it says we completed the March 2015 audit program. So that audit that was launched in March completed. Now we have a registrar audit underway, and we will be in the process of planning a next round of registry audit.

MAXIM ALZOBA: The question is, reports to the audited parties were not delivered. We would like to see at least the timeline. When should we expect it? Because my legal department asks me, “Are we in the phase of passing audit, or are we still in the investigational? What’s going on?” because I provided them with the data from your previous slides, and suddenly we see nothing about the timeline. Are we okay or not? It’s the question.

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MAGUY SERAD: Okay. Let me get back to you directly because all the audit reports have been delivered to the individual contracted parties. But let me follow up with you separately on that one. Thank you.

JIM PRENDERGAST: Hi, Maguy. Jim Prendergast with the Galway Strategy Group. While we're on this slide, in the intercessional in Los Angeles, there was talk of, particularly from the registrars, about those that had been given the notice that they might be included in the audit program, those that had not been selected getting an affirmative e-mail letting them know that they had not been selected. Did that get implemented with this round, or is that a future round?

MAGUY SERAD: Thank you, Jim, for the question. Yes, it was implemented with this round. If I may share with the audience, what happened at the GDD Summit, which is the intercessional summit that took place in September – it was led by the GDD Group, and compliance was part of that summit because we were on the agenda to discuss different areas.

There was a request from the contracted parties that, even though we send what we call a pre-audit notification – and the

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pre-audit notification is not a contractual obligation. It's just a way of informing everybody an audit is going to start – that we would send it to all contracted parties, and then those who would be selected will be receiving a request for information.

So at the summit, what we heard from the contracted parties is, “When you send a pre-audit notification, if we are not selected, can you please let us know, even though the notification says, “If you are selected, you will receive...” So by default, if you don't receive, you're not selected. But they wanted an additional communication, so we did implement that with this round.

To my surprise, it caused more confusion than not sending one. I will have to talk to you offline, too. We received a lot of questions: “Why are you sending me this?” Especially those that were not present and did not participate at the summit.

So there's a struggle with how much do we communicate and when do we draw the line on the communication.

JIM PRENDERGAST: Be careful of what you ask for?

MAGUY SERAD: Yeah.

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JIM PRENDERGAST: I'm glad to hear you did that because I think that's compliance actually working together with the contracted parties in a positive way and responding to requests. So I think that's a great example, even though it may have wound up causing more confusion in the end.

Also, when you audit both for registries and for registrars, do you audit by accreditation, or do you audit by family?

MAGUY SERAD: Yes and yes. As you know, for the rest of the audience members, every contracted party has a different business model. Some contracted parties, if we speak of registrars – and I'm not talking about vertical integration here; I'm just talking registrars – they may have other registrars that they are associated with.

So one of the things that we ask in the audit – again, we want to be proactive in the audit request, but we also want to be reasonable because many of them operate within the same model, meaning same processes, same system, and same compliance team. So we do ask that question, and a lot of times, when we check before we conduct an audit, that association has not been relayed to us yet, but the registrars let us know.

And we do audit by the accreditation. So the three-year program focused on the 2001 and 2009 at the time. Now this audit is

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mostly focused on the 2013 RAA; however, with one caveat, as you can see here on this next slide, 9, is that sometimes those who were part of a previous audit but they had like a breach in the last twelve months and maybe on the 2009 may be rolled back in.

JIM PRENDERGAST:

Just as a follow-up, what drove my question on that was a statistic that Akram gave during his operational update on Monday, that, since the Buenos Aires meeting, which was in June, ICANN has added 579 new registrar accreditations. So do you have a plan in place to keep up with that growth? I hear it's continuing. How is compliance going to handle all of that? Owen's great, but jeez.

MAGUY SERAD:

Yes, we do have a plan. Like I said, this is one of the criteria. Being new but not having any domain names registered also takes them off the criteria. So you have to be reasonable when you look at this selection. What is the activity level? What is the domain name registration volume? We also look at the new nuances if they are available opportunities.

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One minor correction. Owen is responsible for the operational aspect, which is complaints. We do have a Risk and Audit Manager who is separate and operates for the audits.

JIM PRENDERGAST: I guess the third-party audit provider to give you some of that search capacity if you need it?

MAGUY SERAD: Yes. They're for what we call augmentation. Yes.

JIM PRENDERGAST: Got it.

MAGUY SERAD: But it's always the contractual compliance ICANN team who has the direct communication and direct ownership. They are the staff augmentation to operate with us.

JIM PRENDERGAST: Okay. Thanks.

MAGUY SERAD: We have a remote question. [inaudible] contractual compliance. We have a question from remote participant Heath Dixon: "You

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said that when a complaint is received, you check whether the complainant contacted the registrar. Is the only question whether the registrar was contacted, or do you evaluate the quality of the contact? If it is more than a [binary] question about contact, how do you evaluate the quality of the [inaudible] complainant contact?”

OWEN SMIGELSKI:

Hi, Heath. I made that reference to an abuse complaint, but there are a number of complaint types that we do check to see if the reporter has contacted the registrar or sometimes the registry operator. I can speak only to the registrar side.

For example, if it's a transfer complaint, that's also another complaint type that we check to see whether a reporter has contacted the registrar. Some complaints, though, such as WHOIS inaccuracy, don't require that the reporter has already contacted the contracted party.

But, yes, we also do evaluate in addition whether there is something legitimate in there. I like to bring up an example of Michele [inaudible] abuse complaint. Somebody complained about a blank HTML tag appearing on a website that was hosted with his registrar. If somebody sent that complaint to us, we would realize that that was not a valid abuse complaint and would not forward that to the contracted party and would let

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the reporter know that that was something outside the scope of an abuse complaint.

ADRIAN CHEEK:

Hi. Adrian Cheek from LegitScript. Heath rather stole my thunder, but I'll go onto that. So you say that the abuse complaints are forwarded on and you do verify and you do check that they have been done so.

But when the nature of the abuse complaint is, let's say, illegal or illicit everywhere unless certain criteria comply, yet the registrar is saying, "Well, how are we supposed to know?" Do you check and verify the answers the registrar receives? Because if they're saying they don't know if it's legal or not, and the registrant replies and said, "Yes, of course I am," is that then grounds to close the complaint? Because we are seeing complaints closed, and the illicit activity continuing, and when we ask for clarification of why that complaint has been closed, we're still being told it's confidential.

When that activity involves something illegal, and everyone is saying, "We don't know if it's illegal or not," and there are agencies and companies out there who are willing to verify whether that information that's been provided is legitimate or not, why are we still being told it's confidential if everyone involved is saying they don't know if it's legal or not?



OWENN SMIGELSKI:

When Maguy first joined ICANN, there wasn't really a complaint processing process in place for that, so along with consultation with the community, a whole process was kept, and that you can see on the complaints website there: the compliance process and approach. There's two parts to that. There's the informal resolution process, and then the formal resolution process.

The informal resolution process is kept confidential, and that's to encourage collaboration and feedback with the contracted parties. So information provided through that does remain confidential.

Actually, there's been quite a few situations that have been resolved where either registrar or registry has identified a major gap in their process; certain reminders not being sent, certain verifications not being sent, certain things like that; disclosure of breaches and things like that. Those things do remain confidential in order to foster the collaboration and to resolve issues.

It's only when it gets to that enforcement phase is that then published on ICANN.org; a notice of breach and additional details provided on there. But that's the reason why that's kept confidential.

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We do give some summaries, such as on the slide here, of some examples of what we've seen. Also, with the requirements of the 2013 RAA, it doesn't describe exactly what actions are supposed to be taken, and that's left to the registrar to decide. But we do need to see some sort of action from the registrar. They just can't ignore that type of complaint.

ADRIAN CHEEK:

Okay. So from our point of view, there's two aspects. One, if that registrant has provided the required information for whatever act that is. Obviously, us as the complainant would like to know that so we can potentially stop sending notifications to them for an act which potentially then is legal. So that's the first part.

But the second part again goes back to, if parties are saying, "Well, how do we know if it's legal or not?" How are they then able to verify that the information they're being given is legal or not without reaching out to a third party?

Now, I'm not expecting it to be broadcast on the websites and everything else, but at least replying back to the initial complainant with reason A, B, and C is at least a step forward because at least then the initial complainant can come forth and say, "Well, they need to do," or, "Can they provide X, Y, Z?" and we will say, "Yes. We agree. That's legal," or, "Actually, no. That's still an illegal act." At the moment being kept confidential for

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specific reasons is still facilitating allowing that illegal act to continue.

ALLEN GROGAN:

I think one of the questions or issues here is whether registrars or ICANN are in a position to make both factual and legal determinations, right? So we get an allegation of illegal activity which may involve an assessment both of the factual basis for the allegation – what activities is the registrant engaged in, and then is that activity legal or illegal? Registrars do not have subpoena power, do not have investigatory power, do not have the ability to go in and investigate the activities of a registrant in every country in the world.

So then the question is, is the registrant or the registrar simply to assume the accuracy of the allegations submitted by the complaining party and act on those, or is it reasonable for the registrar to say, “I’m unable to determine whether or not this party is engaged in an illegal activity. Therefore, I’m unwilling to take action on the basis of an allegation”? I think that’s the issue.

PADMINI BARUAH:

Sorry. I had a quick follow-up to that. Don’t you think that in the event that there is a discrepancy that is found with an individual

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contracted party in your audit report there would be public interest in disclosing that audit report where the discrepancy has been found after your formal process? I'm talking about the registrar and the registry audit here. Once you've done an audit and there's a clear discrepancy, wouldn't the public interest override the need for confidentiality in such a case? Thank you.

MAGUY SERAD: Padmini, I'm sorry. You spoke too fast. I could not keep up with you.

PADMINI BARUAH: I'm really sorry. I tend to do that. Okay. I was saying once you conduct a registrar audit or a registry audit, and you find out that there are discrepancies associated with the contracted party, why are these individual audit reports still confidential?

MAGUY SERAD: Thank you for speaking slowly. Sorry. It's not only the translation team who needs us to slow down also, tight, guys? So thank you for your question.

You are correct. We do provide information about the discrepancies identified. The way we do that is through the audit report and also an outreach sessions.

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Here's an example of what were some of the key issues that were identified during the audit process and during the review. What happens is that, true, we finish the review of the documentation that's been uploaded. We issue what we call a preliminary report of our findings. We call it findings. That preliminary report goes to the contracted party. They take a look at it, and they say, "Well, you know what? You misunderstood my response here." I'm just giving you a very simple approach. "You misunderstood what I'm telling you. This is what I meant here," and that issue is a non-issue now because there's been a clarification, and thus the need for collaboration.

The issue where – for example, it was a data escrow – the specification is very clear about how it needs to be laid out. Thus that has become, as you see it here, was our number one. We even reported that we had one. But the individual report – to come to your question; I'm not avoiding it – is between us and the contracted party. It's an operational report.

So after the preliminary findings report, we adjust – again, it's another collaboration. It's in the informal resolution. Let's remember why we're conducting audits here: to proactively share with the community the value or the validity of our operational aspect and how well the contracts are being followed.

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So after an initial or preliminary finding report, we receive responses. We review and validate, and as you heard in one of our questions from Maxim we send a final report to the contracted party. I still need to follow-up on why Maxim did not get his because I know we sent them.

We send a final report. The final report is basically letting the contracted party know that there are zero issues identified. That closes the audit. For those that still have an issue and propose a remediation plan, we still try to respect the timeline of the audit program and issue a report because the community is still waiting on us.

PADMINI BARUAH:

This is just for my clarification because I'm not sure I've understood this clearly. Say I'm a registrar and there is some massive discrepancy that has come up. It's been reported to you. You start your audit and you find your findings. You issue to me a preliminary report of your findings and I respond, and my response is completely unsatisfactory. You finish your audit process, and at the end of the day you find out that the discrepancy hasn't been remedied. Your audit report finally says, "This is a terrible registrar. Blah, blah, blah. They're not sorting out their discrepancies."

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In that event, would you still consider making it public for the community? Thank you. Was I too fast this time?

MAGUY SERAD:

I can tell you're passionate. We love passionate people. If we do reach a scenario where we have – I don't want to call it bad. We're all together in it, right? But to your point, we may have a contracted party who may not respond or still is not correcting. There are two aspects of it, lack of response and lack of providing any data. We reach what we call an enforcement phase.

Again, the actual audit report that was sent to the contracted party will not be published. However, please, I don't know if you've seen our enforcement page on the notices. As Owen mentioned earlier, we have breached several contracted parties in the past during an audit program. In that breach notice, the first page-and-a-half is a brief summary, but then on the bottom you will see a chronology of events and the issues.

So, yes, the community is made aware of it and we also report on it. But if there's a remediation and collaboration, we have to allow that to happen, and we report to you through the audit report. Thank you.

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PAM LITTLE:

Pam Little from Zodiac. I have two questions relating to registrar data escrow. This is the audit where you test whether the data escrow [deposit] with the escrow agent is the same as the WHOIS.

First question is, why do you need to wait for the audit to test [that]? Because on the day to day or weekly deposit, I [inaudible] should be able to verify that. So that's question one.

Second question is, if with all these new gTLDs, registrars assigning new gTLDs every day or every month, how do you assure or ensure the registrar is depositing all the gTLD they are selling – all the data they're selling?

Say, for example, this month I have ten new gTLDs. Next month I have 20. How do you actually verify they are depositing all the 20 new gTLDs' registration data with [inaudible]? Thank you.

MAGUY SERAD:

Thank you, Pam, for your question. So your question is two-fold. Why do we audit and not just do it through the daily or the – we do both. It's an additional validation. I know the audit – I'm sorry. Jan could not join us this morning remotely. But they do take it to the next level and additional validation.

But you're right. We do receive an interface or a communication not just that the data escrow has been deposited, but also we



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conduct that validation that they conduct and report to us on it.  
So it's a combination of both.

Regarding the new gTLD, I'm sorry. Can you repeat that question?

PAM LITTLE: Yeah. So if I'm a registrar, say last month I was only selling legacy TLDs, but the next month I add ten new gTLDs to my portfolio. How does ICANN ensure that I'm depositing all those new gTLDs' data?

MAGUY SERAD: Thank you. We receive notification when that process happens. When a registrar becomes accredited for another TLD, we receive notification on that. For example, if Registrar A used to be one legacy TLD and now they have ten more in the new G world, we receive notification on which TLDs they have and then gone into agreement with a registry operator on. Then that process also kicks in with a data escrow agent, and then they start depositing and we start the process from there, too.

PAM LITTLE: Sorry. Can you clarify how do you receive notification about which TLDs a particular registrar is carrying and how does that

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work with Iron Mountain’s onboarding of that new gTLD data escrow? Thanks.

MAGUY SERAD: I see it in an e-mail to me. I can get back to you on that one. But I know I have seen it in e-mails where this registrar has now these additional ones. So I can follow-up specifically with how do we see it and get it.

PAM LITTLE: Okay. Thank you.

[YASMIN OMER]: Hi. Yasmin Omer from [inaudible]. Can we go to slide 9 I think it is, with the general audit selection criteria, please?

Okay. I just had a few questions about this slide. Contracted parties with low responsiveness to ICANN requests. How exactly do you measure that? Is low response measured by reference to the response day? Because as far as I’m concerned, if I respond a day before the due date or five days before the due date, there shouldn’t necessarily be a difference.

The second question is about ICANN community concerns. It’d be interesting to know what thinking goes into making a determination as to whether a registry would be audited based

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on the concerns. How many people have to talk to you? What kind of issues do they have to raise with you? So this is particularly important because other people are impacting whether or not I'm audited.

My next question is on the next slide, please. Point 6: Eligibility criteria for prospective registrars and available – is it your understanding that as a registry we need to make public the eligibility criteria for registrars?

So I guess my question is, when it references unavailable, well, unavailable to whom?

MAGUY SERAD:

I'm trying to write as you were asking the questions. Let's go back this slide. Regarding low responsiveness to ICANN requests, as you heard from the community earlier and throughout if you've been keeping up on some of the ticket requests, there is a great mystery in the community about the 1-2-3 collaboration process, even though it's published.

So low responsiveness is basically not just the turnaround time with tickets and the resolution to tickets, but it's also the progression through that process in the collaboration space. So we have some contracted parties who sometimes wait until the third notice to respond. Well, we should not wait until the third

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notice to respond. So we're trying to conduct outreaches in that space, but also one-on-one calls with the registrars.

We're seeing much better improvements, and you can see that from the statistics that we share about first, second and third, how it narrows.

As far as ICANN community concerns, we monitor different types of social media, different types of sources, and communications that's going on.

You're right. We're not going to jump to everything that's going on .You have to weigh it and put it in perspective of the environment and the bigger picture. Sometimes it requires us to do additional research. Sometimes it may require us to really add an aspect to the audit in that area.

Okay. Criteria number 6. During this audit process, this was one of the requests in the RFI. We had a couple of contracted parties who did not upload or make it available to the auditor. That's what this criteria was about.

YASMIN OMER:

Okay. That makes me a lot more comfortable. So, sorry, just to follow-up on the low responsiveness note, it's always going to be tied to the deadlines that you communicate to us, right?

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MAGUY SERAD: Yes.

YASMIN OMER: Yeah. Great. Thanks.

PAM LITTLE: Pam Little with Zodiac Registry again. I have a follow-up question on the new gTLD registry audit criteria. I understand the second round in [inaudible] that was conducted in March. One of the exclusion criteria was, if your TLD is supported by the same back end service provider, then you would only select one from that group of gTLDs.

Can you explain the rationale for that? I have some trouble with that because I feel it would almost indirectly discriminate smaller back end service providers in those TLDs that are supported by those smaller back end providers.

For example, if a back end provider is supporting 300 new gTLDs, only one out of the 300 will be selected. If a back end provider is supporting five, one out of five will be selected.

I also want to know how you select one out of the 300 or one out of the five. Thank you.

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MAGUY SERAD:

Thank you, Pam, for your question. So a minor correction to the statement you made. This past audit, yes, Yan did share in the outreach with the registry operators I think to the question that Jim asked earlier. Not just in the registrar space, we have the same opportunities of scalability in the registry space.

So what we tried to do is, again, take a step back and look. For example, in this audit that was completed for the March 2015, yes, they audit took a sample because there are several back end service providers. What we want to do is, again, low-hanging fruit. If a sample was taken based on the different criteria that Yan shared during the outreach – but one of the criteria is, we need a sample from the different back end service providers.

That helped identified few issues. What that allows us to do is the fact that that back end service provider is servicing whether five, one, or 100, it's at this point not as critical as the aspect of identifying an issue.

If there is an issue, it can be addressed properly across the five, one, or 100. It does not mean that we're not going to include the other registry operators in future audits based on the different criteria.

But we tried to do what we call more of a logical approach and low-hanging fruit. So that's the explanation of how that was conducted. It was not like a discrimination of large or small.

PAM LITTLE:

Sorry. If I may follow up. But that is based on an assumption that all TLDs that are supported by one back end provider are operating similarly. From a technical perspective, operational perspective, and business perspective, that's not necessarily the case. They might be all technically using the same infrastructure, but they have very different practices, different launch plans, and business practices.

So how could that be a logical assumption? I don't know. Can you address the second question? For example, if one back end provider is supporting five, how do you select one out of those five? Thank you.

MAGUY SERAD:

Thank you for your question. You stated it very well. There is an infrastructure commonality. Operationally, it may be different, absolutely, and that's what I meant by low-hanging fruit.

The infrastructure, if we can address some of the common elements, it's not going to exclude a future audit of the other contracted parties. So that's the logic.

Now, the logic of selecting of one of the five: I think that was shared in the audit outreach when Yan explained. I don't have the document in front of me, but I can refer back to that. It's

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published. If you still have questions, we'll ask Yan to address it for you directly because there was a criteria that was selected for those.

PAM LITTLE: That's the reason I'm asking.

PETER GRAY: Hello. Peter Gray, [inaudible] Group. I just had a follow-up question again on the low responsiveness point, actually. Sorry to dwell on that point.

My question was, you mentioned that it's based on the deadlines set by ICANN for the notices. But what I want to know is whether that goes a bit more granular.

Let's say you set a seven-day deadline for a ticket. Would you consider a registrar that responds after three days compared to a registrar that responds after seven days, more responsive than the one that responds after seven days? Thank you.

MAGUY SERAD: Thank you, Peter, for your question. We're not that picky. The reason the timelines were put is more operational, right? So we can get back to the reporters in a timely fashion. Also, if I was finding a complaint with Delta Airlines, for example, or with



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whatever form, I'd like to know there's a resolution and a closure. So those timelines or dates were placed. Some of them were contractually-driven. Some of them are mostly operational.

We encourage contracted parties to respond within that timeline because what happens if a contracted party – I'm looking around; I have many who will respond immediately. They even ask me, "Don't send us notices on Friday because we can't go to bed when we see it coming from compliance." So they respond immediately, and it allow us to either address it if there is additional follow-up. We're still following up, so we do not go to the next level.

If they respond on the fifth day or seventh day – whatever that timeline is – and then that response is incomplete, then we go to second notice. So a lot of contracted parties like to respond from within that timeline. It allows for collaboration.

Some contracted parties might get back to us within that timeline and say, "I really need three more days, and here's why." We extend it. So it's not just one way.

But we have the other extreme, also, Peter, where contracted parties do not respond. First, second, third, and if you read some of the notices that have been published – breach notices – we

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breach them because they're not responding. So that's what's meant by this. I'm explaining to you in general.

But we pull data and we look at the different areas before we launch it. Okay?

MAXIM ALZOBA:

Could you investigate the possibility of sending a notification on really short [inaudible] for services like DNS, where we have only four hours cumulatively over a week, not in 24 minutes, which is actually quite a lot if you're thinking about it in terms of, yeah, incident, to make it like five percent or maybe three percent? Because when a registry has an incident with DNS saying he has no access to API, he will have to spend another three percent of SLA trying to call and investigate what's going on. Because with DNS we have Anycast clouds. It's not a simple one server. You have different visibility of different servers tested from different distances. Even relaying the information here takes, yeah, some time, like ten minutes or something.

So in the end, the operator can start doing something only in half an hour or 40 minutes, which is quite a lot comparing to four hours allowed over a week.

So could you start investigating the possibility of, letting some registry operators opt out to participate in [inaudible] DNS and

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DNSSEC in five minutes or so after a failure is detected by a [inaudible]? Thanks.

MAGUY SERAD: Thank you, Maxim, for your request. May I ask you, are you joining us tomorrow in the closed session for the registries?

MAXIM ALZOBA: For sure.

MAGUY SERAD: Can you please bring that up again? Because we will have the Technical Services Team with us, and I think it is a dialogue that's also relevant to many of the registry operators, and it'd be good to have that dialogue with everybody in that audience. Is that acceptable?

MAXIM ALZOBA: Yes.

MAGUY SERAD: Thank you.

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REG LEVY: Hi. This is Reg Levy from Minds + Machines. I wanted to thank you guys for posting these slides beforehand. It's something that I've been asking for, so I really appreciate it. Just in general, compliance is consistently the most responsive department at ICANN. So I appreciate it.

MAGUY SERAD: Can you repeat that? You spoke too fast? Did you get it in all the languages, please? No, on a serious note – I know it's too early in the morning – thank you very much. Actually, we appreciate the responsiveness that we get from yourself and [Crystal] and many of the other registry operators present, and registrars, in the audience.

Thank you for your patience with us. I know we're very persistent and we ask for a lot of data, but I want to thank you in front of the audience. Maxim?

MAXIM ALZOBA: Short question. Do you relate, in your internal relation of operators, for example, how many cases were opened in the scope of the registry agreement? For example, all may be outside of scope, so they should be closed, for example.

The example is, some third party opens a case by [CCDS] complaint. They have factual mistakes which they provide, like,

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“Yes, we need that. We need that,” and even [inaudible] complaint it’s visible they forgot something. Then they complain they were denied access, and the description of why they were denied is in the data. Still, the case is opened. The registry operator is just spending time on it, and in the end, will understand that the case should not have been opened.

So as I understand, the current incentive is the most cases you close, the better. But could you investigate the possibility of having a negative incentive? The more cases outside of contractual scope you open, the [inaudible]

MAGUY SERAD:

Thank you for your question. I would like to correct one perception, and I’ve heard it from you twice this week. This is the second time about an incentive. I’m not clear what you mean by that. You mentioned that compliance has an incentive to close tickets. It’s more an obligation to the reporters to provide a response in closure.

But let me address the topic you started with, Maksim. Yes, we capture and we reduce that count if it’s identified as an issue. Sometimes it could be a delay in communication. It could be an interpretation. We capture those either close before first notice, when we identify that in the dialogue early on. Sometimes, as we all have known, we can interpret something and we identify

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by your request, the contracted party, and ICANN issues. ICANN issues not necessarily on the compliance issue. It could be any other department we depend on for information.

But we track it and we deduct it from the registry or the registrar count, and we put it on the ICANN count.

So we only have three more minutes.

Again, have a wonderful day. Thank you for joining us in this session. Have a great rest of the week.

**[END OF TRANSCRIPTION]**