MARRAKECH – Contractual Compliance Program Updates and Q&A Session
Wednesday, March 09, 2016 – 09:00 to 10:15 WET
ICANN55 | Marrakech, Morocco

MAGUY SERAD: All right. Everybody awake? Good morning. All right, what a beautiful room. This is like one of my favorite now.

This is Maguy Serad, Vice President Contractual Compliance. I know we're going to have probably more people come in. We were running from sessions to another also. This is the Contractual Compliance Program Update. It's open to everyone at the ICANN community.

Thank you for joining us. This session is being recorded, correct? Yes, thank you. Before we get started, what I'd like to do is just look around the audience. We've got some registry representation here, just raise a hand. Registrars? Both hands. Okay. I know we have ALAC representation. How about some of the other faces I'm not recognizing? I know we've got KPMG, our partner with the audit program. Who else is in the audience?

UNIDENTIFIED FEMALE: NextGen.

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.

EN

MAGUY SERAD: All right, we have NextGen. Great.

To my left is my boss, Allen Grogan. He is our Chief Contract Officer. Also, an amazing team I work with, Owen, Selim, Seher, Jennifer and Yan. With all of us at the table, we hope to address any and all questions you might have about our program.

Our update today is going to focus on an update since the last ICANN meeting. What I would like to ask the audience is if you would allow us about 15 minutes of sharing with you the update. Then the rest of the time is your session. We're here to address and all questions you might have for us.

The first update is, as you know since the last ICANN meeting, we shared with you a project that we had launched or an initiative to improve the knowledge and awareness of contractual compliance. We launched it with the content made available in eight languages. We are working with the communications team at ICANN to measure the traffic to these different means of initiatives we're putting on our website because that's going to help us decide the value of that initiative if we need to change directions or we need to do something differently.

The good news is, as I reported last ICANN meeting, is that when we launched it on YouTube, it was a video about getting to know contractual compliance and hand out campaign about what is a

ICANN|55
MARRAKECH
5 – 10 MARCH 2016

contractual complaint, how to go about it. We had a very, very high demand. The clicks were there, and people went to it.

So what we're doing now, we're taking it to the next level. We went and launched another campaign on Twitter and Facebook. he more people know about the source, the better. The Twitter and the Facebook campaign, we changed a little bit our strategy there. We wanted to drive people to what we call the complaint submission or the learn more pages. We've built the learn more pages in eight languages also to be able to provide guidance to the community and better awareness about what are these complaints, what is this contract, what does it mean, where do I go, what do I do. We will be reporting back to this community also on the success of that.

As you know – and I'm glad to hear we have a NextGen representation in the audience – getting involved at ICANN is very, very important. That's what makes this multistakeholder model work. People think of compliance as just we just focus on the contract. Well, guess what? We are a full lifecycle at ICANN. Contractual compliance works with also the policy and the working groups. We provide input to the policy development process by providing something as simple as data. How is this policy performing? We measure the performance of the policy by the different types of complaints, what are they, how can we

learn from those to improve the next policies or contract amendments.

But we also, in addition to the data, when the policy is being developed, we also review or a contract is being developed, we review and contribute our input into it because we are touching the whole ICANN community. Not only the world comes to us. It's everybody. Contracted parties come to us. You come to us.

So we want to make sure that when we provide our input to the policy and the working group, it's an input that drives the decisions and the facts that we learned through the complaint processing.

I've listed a few bullets about some of the policies that we are actively working on and contributing to.

The next slide here is about continuous improvement. Again, what you're hearing me talk about here is not just the contract. It's the full lifecycle of contractual compliance. Continuous improvement is the mode we have been in for the past year and we will continue for a few years and many more, but the focus on continuous improvement now is much more intense.

We've had several new contracts coming to effect. The 2013 RAA now almost two years into effect and the new registry agreement, which brings with it a lot of new audience, a lot of

new different contractual provisions and enforcements. So continuous improvement is a process where compliance, and the contracted party, and the community are collaborating and providing a feedback, whether to the complaint submission system, to the policy, to improvements of how we work and collaborate with all of you.

Some of the improvements, as you see here, are based on community and contracted party feedback. Something as simple as the communication templates we have. When you work with contractual compliance, you work with us globally. The message from compliance is the same. You should not be able to tell if you're talking to compliance in Los Angeles or in Istanbul or in Singapore. We all follow the same process and approach. We all have the same templates and communications, and work together and collaborate to bring forward the best service to all of you.

Policy initiatives and system-based improvements are driven mostly by [they let] you hear the community if it's policy initiatives. System improvements are based on things we learn as we are working through the system, but are also driven by some of the contract and policy changes.

I'm going to turn it briefly here to Yan to share with you on the contractual compliance, audit activities and like I said, we will take the questions at the end. Thank you.

YAN AGRANONIK: Hello everyone, this is Yan Agranonik, Contractual Compliance Audit Manager.

For the registry activities, we currently are in the new round of Registry Agreement Audit, which was started in January 2016 by sending request for information to ten selected TLDs, registries that are serviced by – basically the second bullet is telling you on what basis we selected this sample. They are serviced by ten Registry Service Providers that have not been previously audited. These registries are basically should allow us to have a complete coverage of all the Registry Service Providers at this point.

Tentatively, the audit phase will take place starting this month and it will go until April. At the end of the audit phase, we're going to issue what's called the preliminary audit reports with preliminary observations and which will require registries attention. Some of them may receive a clean report, which will not require any action on their part. If there is an action required, there should be a remediation phase, which may last as long as May.

The countries covered, this is basically just some geographical statistics for you. The registries selected for this round are from the countries that are listed. Sources of data that we're looking at is the data received directly from registry operators or their RSPs, Registry Service Providers [inaudible] ask for agents that are servicing those registries, Trademark Clearinghouse and internal files that we are receiving at the ICANN. The languages we're looking at at this point are listed here.

Next slide, please.

This slide is talking about the registrar audit that we are currently performing, which right now is at its [hand]. It started this September last year. We selected 67 registrars. Not everyone made to the audit phase. We received the number of documents that's shown here that we received during the RFI phase, and we keep receiving them as we speak because right now, we are in remediation phase.

Initial audit reports were issued in February. The initial audit reports again, like in the previous slide, contain the initial findings that require registrar's attention. When we work with the registrars doing audit, we follow the same approach that we are using when we process complaints.

Again, right now, we are in remediation phase, and it's about to be wrapped up. Most of the registrars are cooperating. I want to

say the majority of them receive the clean reports by now, meaning there is no activities. There is nothing expected from them. Some indicated that they need the time to correct the findings, and we work with them on that. We expect that final audit reports, meaning clean audit reports after the remediation is completed will be issued by the end of March.

MAGUY SERAD: Thank you, Yan. This is Maguy Serad for the record.

As you know, audits are a proactive approach to address any potential or alleged noncompliance issue. It's a program that has been in place at ICANN within our department for several years now, and it will continue. We continue to approve on it and conduct it. Every time we conclude an audit, round, the team will publish an audit report with aggregate data and statistical data related to the different issues and opportunities that were identified.

Now, a brief update on performance measurement and reporting. This is something you probably have seen if you if you follow the quarterly call that Fadi conducts for all ICANN community. What we do is we have several KPIs we provide. You see in here, it's a core to the business we do.

Overall registrar or registry compliance, closure rate and monthly dashboard measurement. The first two relate to the core of the contract. The registrar and registry compliance is measured by the opportunities or what we refer to, if and when we reach what we call an enforcement or a third notice, because we want to allow for collaboration. The first few collaboration phases, these are opportunities to work and collaborate because at some points also, ICANN, ourselves, our departments may be misunderstanding the data provided to us.

When a registrar or registry reaches a third notice or an enforcement, this is how we measure the compliance. Yes?

UNIDENTIFIED MALE: [Inaudible] Adobe Room with the graphic.

MAGUY SERAD: Okay. Yeah.

UNIDENTIFIED MALE: [Inaudible].

MAGUY SERAD: We apologize for the Adobe Room. For some reason, the graphics are not shown, but I would like the audience to know

that the presentations are also published on the ICANN website in the schedule or on the compliance webpage.

The next two KPIs, closure rate and monthly dashboard relate to transparency and accountability, and also to the customer service we provide. Closure rate is the length of time it takes us from receiving a complaint to closing it and how we are responding to the reporters or the people who are sending complaints our way.

The monthly dashboard is a measurement we provide. Basically, we have committed to publishing a quarterly dashboard by the 15th, a monthly dashboard, a quarterly newsletter, a monthly dashboard by the 15th, annual reports. All of those are measurement of transparency and accountability to the community.

Compliance also, at the closure of every complaint we receive or a report we receive, sends a simple customer service survey. In the survey, we've simplified it. The first year in 2011, '12 and the first three years, the customer survey was much more detailed. We had five specific questions because we were changing, we were evolving, we had a lot of moving pieces. Now, we have turned it into a very simple question, overall satisfaction with an opportunity to provide us some feedback in a comment section.

EN

The customer service survey is sent to both the contracted parties but also to the reporters who are submitting complaints with compliance.

The running balance score card. What we want to share with you here is, I know [of] some people, we've been criticized, "Oh, you're reporting on volume." It's not just volume. It's to show you how things progress through the process. We have received this level of new complaints, but we also sometimes have complaints that are falling still from the previous month or the previous meeting. Focus on the bottom part of it. When you start with the high volume of complaints, see how it gets reduced as you move through the process.

For many reasons, sometimes if it's an alleged noncompliance, it gets resolved. Sometimes it requires additional follow-ups. But the point is you start-off with let's say a thousand complaints a month in the first notice. By the third notice, we're down to the hundred or less.

The next two slides are focusing on the volume and turnaround time. We committed to provide a turnaround time measurement, not just on how the contracted parties are responding to the compliance notices or inquiries, but also on how staff turnaround time is. This is an average because some complaints, as many of you know, for example, the WHOIS

inaccuracy, there is a contractual obligation of 15 days. Other complaints, for example, the URS has a 24-hour turnaround time. It's an average of different kinds of complaints across the different phases within compliance.

With this, I'm going to turn the mic to Owen to share with you high level update on registrars.

OWEN SMIGELSKI: Hello. Good morning, good evening, good afternoon.

This slide here gives just a very high level summary of the types of issues that we see here. First is WHOIS format. The 2013 RAA requires a particular format for WHOIS output. Also, there is the AWIP, which just came into force, as well as the WHOIS clarifications, which do some further tweaks and enhancements to that. That's required upon all registrars. The AWIP and the WHOIS clarification were effective January 31st. So there are some links later in the slides for that.

Also, there do continue to be some data escrow obligations whether the deposits are not the correct format or not depositing and compliance is working with the registrars to resolve that.

We also still do see a number of renewal issues that pop up. Registrars are required by the ERRP to send reminders at

EN

particular intervals, as well as to disrupt the DNS resolution of a domain. Once it expires, we still continue to see some registrars that are not doing that, so we're working with them to remediate and bring them into compliance.

The transfer policy, as it's currently known as the Inter-Registrar Transfer Policy, there still are some ongoing issues with that, as always. But also, be aware that coming in August will be IRTPC, which will be renaming it to the transfer policy, which will have some additional requirements, including the change of registrant, FOA, Form of Authorization, as well as a transfer lock based upon that.

We're just wrapping up the annual compliance certificate review. All registrars under the 2013 RAA are required to perform a self-evaluation and submit a compliance certificate to ICANN by January 20th. We're in the process of going through that ensuring that all registrars who have not submitted one or who have not submitted one in the correct format do so.

One of the biggest issues we see is that the registrar will submit it in January 20th 2016 and date it for the year 2016. It needs to be dated for the previous year.

The other big area we're getting a little more activity in is the UDRP. There was a locking requirement that became effective on July 31st, 2015. So any domain that is subject to UDRP, the

ICANN|55
MARRAKECH
5 – 10 MARCH 2016

UDRP provider will contact the registrar to verify the registrant details. Registrars are now required to respond to that verification request and provide the information that was requested by the provider. In addition, the registrar must lock the domain. It can still resolve.

However, the registrant cannot transfer and also cannot modify a registrant data pending the UDRP. We're seeing a number of registrars that are either missing those communications or are not aware of the requirements, so we're receiving complaints from the UDRP providers regarding those issues.

Just a summary of some of the complaint types that we do process. As you see, as always, WHOIS inaccuracy tends to be the biggest bucket of complaints that compliance receives, anywhere from 70% to 80% of our volume by month. It's followed by a transfer complaints, which are about 10% and then renewal which are 1% to 5% depending upon the month.

Next slide.

Apologies to those in the Adobe Room. You can follow the slides from the website. We put the link in there so that you can download to follow the closure codes. So these are just some of the common resolve codes that we do see for our biggest complaint types. [Inaudible] here, I can't read them as well. So

[inaudible] and actually a lot of those result by domain being suspended or the data being updated.

Transfer. A lot of the complaints are of that when we receive a transfer complaint, that is not automatically forwarded to a registrar. First, we follow-up with the registrant to confirm that they have contacted the registrar and sometimes they have not so that's why those complaints are closed before first notice and that will say requested evidence not provided.

Next slide, please.

Here's some other resolve codes for domain [rule in] WHOIS format again quite a bit. We do get non-response from the registrant, and so complain is closed.

Next slide.

Just some more other codes. You can look at those. If you have any questions, feel free to follow-up. I'm not going to go into great detail now.

JENNIFER SCOTT: Hi, this is Jennifer Scott, ICANN Contractual Compliance staff, and I'll be giving an update regarding the registry agreement and registry operator space.

Similar to the registrar side of things, registry operators also have to conduct an annual self-review and submit a certification of compliance if they meet certain criteria. Some of those criteria are if the registry operator has cross ownership or a exemption to the code of conduct or a Specification 13 brand designation. Those are also due by the 20th of January each year, so for the past few months, we have been reviewing those certifications to make sure they've come in and they're complete.

Number two, registry operators are required to provide a Zone File Access to their TLDs through the Centralized Zone Data Service. There's only limited reasons for which request for access could be denied, so we're working with registry operators to educate them on what those reasons are.

Number three is data escrow requirements. Similar to registrars, registry operators are also required to escrow their registration data at certain intervals and provide notification to both ICANN from the registry operator and their data escrow agent.

And, number four is controlled interruption. There are certain requirements depending on when the TLD was delegated to implement controlled interruption, which is a preventative measure for name collision.

Here are the registry complaint metrics. You can see they're listed with the largest volume of complaints by complain type. You can see that in comparison from ICANN 54 to ICANN 55 timeframe, how those quantities compare and whether or not any of those complaints have been closed before being sent to the registry operator because they were invalid.

Here are some of those complaint types and their resolve codes, similar to the registrar sign for Zone File Access and data escrow. Again, for the [abuse] contact data and Service Level Agreement complaint type.

MAGUY SERAD: Thank you, Jennifer.

The rest of the session is your time. What we would like to do is open it up for questions or dialogue. Please state your name and your affiliation as you speak and speak loudly into the microphone.

UNIDENTIFIED MALE: Thank you, Maguy. This is [inaudible] for the record.

We have a question from Rob Golding from [Astutium]. The question is, has this specification for data escrow has been changed/updated? Mike Zupke wants to apply the drafts pack

we [inaudible] to improve it based on his and compliance [inaudible] for a lot more data and different formats to be published specification requirements.

He also has a command. And our command was that wanting more different stuff is fine, but the specification says something specific and very different to what we were being asked for.

OWEN SMIGELSKI: Hey Rob. We're just checking to see if we have a link in the presentation to that. Okay. There is a link on icann.org to the data escrow specification, what the requirement is and what the file format. My understanding is that is not changed for sometime. There are some more data escrow providers that are being onboarded. I don't expect there to be changes, but if you were in dialogue with Mike Zupke on that, I would recommend following up with him.

RONALD SCHWÄRZLER: Ronald Schwärzler at WIEN in the registrar Netzadresse.at, just to make short in one sentence. Does certification that we have to do that we are in compliance with all these things, they have to be for the past year? Because we got two different forms on the registry, one headed 2016 and we got one from the registrar with the 2015 on top.

I'm sure we have to do it for the past year because I can't promise that we will be compliant for the following year. It has to be for the past year, right? For both the registry and the registrar.

OWEN SMIGELSKI: This is Owen Smigelski. Yes, that's correct. That's for the past year. We would love if you could predict the future but right now, we're backward looking with that.

RONALD SCHWÄRZLER: Okay.

RUBENS KUHL   Rubin Kuhl, NIC.br. What are your thoughts moving forward with regards to criteria for selection to [all of this]? Because if there is some current criteria that goes to country [based] or regional based, you always be hitting up Latin America and Africa frequently because there are very few registries from Africa and from South America and from the Caribbean. Is that something that you mention, or you mention some criteria that could distribute the workload more evenly?

YAN AGRANONIK: The criteria are shown there, but you're correct. Naturally, if you have more registries in the United States for example or Europe, then if you are honestly and appropriately apply the selection criteria, you will get more registries from those regions.

Now, in addition to impartial selection, we will include the registries in the audit that have, for example, substantial number of complaints. There were some other reasons, but at this point, I think the representation from the geographical regions will be in proportion to how many registries are there in those regions.

RUBIN: Just to follow-up, I don't have a problem with that. The problem with that if you try to always have representative from less represented regions, which would actually unbalancing against such reasons.

YAN AGRANONIK: Yeah, this is Yan Agranonik again. Now, that's not our goal at this point.

MAGUY SERAD: Thank you, Rubens, for your question.

On slide 47, what I want also to highlight the audience, we have attached several slides in the appendix for your reference and we'll go to them if you have questions.

When the program was created, we have put forward a selection criteria that's more of a guideline. A simple criteria is a contracted party that has not been audited before, right? Another criteria that we focus on and you heard Yan talk about is areas or opportunities to improve. For example, we have contracted parties. I want to say large volume of third notices because we have to allow the collaboration. We all have to work through areas and opportunities. But if we're reaching third notice and there's an ongoing what we call third notice or enforcement, this is where we say notices of breach in the last 12 month. That means there are opportunities for improvement in that area.

Another area, which we considered as a high risk: contracted parties with largest volume of failed data escrow deposits. Sometimes we may keep tab on ICANN community concerns that we bring it. Every audit is not necessarily every provision in the contract. Let me make that clear.

Sometimes we do a focused audit. Sometimes we do more of a generic audit. For example, you see on the slide here, bullet number four, we don't wait on a compliance audit to launch to

EN

conduct an audit on data escrow because it's a high risk. It's registrant data. It's information that's critical to the stability and security of the Internet. What we do if and when a contracted party reaches third notice, compliance automatically initiates a data escrow audit because that's a borderline for enforcement.

If and when a notice of breach has to be issued and there is truly a failure in that contracted party business area, we want to make sure we have the right data and we are preparing for it.

So, as you hear, audits are conducted based on the business need, but also trying to also fulfill an audit strategy that we put forth.

SIDI MONZAK: Thank you, Maguy. We have another new [inaudible] question.

We have a question from Pam Little. Is data escrow within the scope of registrar audit? If not, why not?

YAN AGRANONIK: Thank you Pam for your question.

The registrar data escrow will be included in the next round of audits, and it is going to be shown tomorrow on the updated audit scope presentation. Currently, we are performing the

registrar data escrow audits for all registrars who receive third notices while processing complaints.

So, going forward, we're going to expand this and we are going to include these audits which are called RD Audits. They will be included as a part of a standard registrar audit. Thank you.

ATSUSHI ENDO: Atsushi Endo, Japan Registry Service, gTLD Registry Operator and also accredited registrar.

I have a question for today's presentation that's on slide 11 and 12. This was languages. What does this mean, that several languages listed up, and does registry always [re-communicate] with these languages? What does this mean?

YAN AGRANONIK: That means that we receive documentation quite often in the native language. So the registry and registrar for the same matter don't have to translate anything. We will accept documentation in whatever the language they have, and that's the languages that were listed.

UNIDENTIFIED MALE: Okay. Thank you.

DICK KOSHINOVSKI: When I see that registries with a high number of complaints per domain name are going to be audited and the CZDS request of one of these complaints that count into this I think, then for me as a registry operator, it's better to [take] and approve every CZDS request in order not to get a complaint, instead of reviewing the CZDS request if they are valid and accurate and so on. That's something. I don't know what to do on this now.

MAGUY SERAD: Can you please identify yourself for the record?

DICK KOSHINOVSKI: Dick Koshinovski from dotBERLIN. Sorry.

MAGUY SERAD: Thank you, Dick. I know who you are. Just it's being recorded.

Dick, if I may point you to the second bullet on slide 47, contracted parties with larger volume of third notices per number of domain. This is why we encourage everyone including the reporters. Please talk to us. Please respond. Hopefully, you will not reach third notice with CZDS as you were talking about.

So, that's why we put that criteria there, and you heard my counterpart speak to the statistics on the complaint volume. That's why when I provided the performance measurement, I

said, "I'm going to take you directly to the bottom." Focus on the third notices.

Encourage everyone who is manning the shop on compliance in your area to please respond, which you are doing. I can say that for the record. Respond and to focus here for pulling someone in and there is by the third notice or enforcement. That's why we specifically pointed that out.

And, as I said earlier also, we have provided slides and put forth an audit program for both registrars and registries defining across all provisions. But the selection for each audit when we launch it will be determined based on what is it we're targeting to address or bring clarity to.

That's why every time when we launch and audit program, we also publish the outreach so people know what the scope is. The scope in the past few times has been consistently the same. We may change. We may decide, "This area of the contract has proven to be more stable. Let's focus on something else."

SIDI MONZAK: Thank you, Maguy. We have another question.   We   have another question from Pam Little. Could you please provide an update on whether and how ICANN or Iron Mountain ensures a registrar is depositing data for each TLD the registrar is selling?

YAN AGRANONIK: Thank you, Pam, for your question.

We are currently are in discussion. Actually it's more than a discussion. We completed the work with Iron Mountain on that very subject. The tool has being developed, which estimated to be developed by the end of this month, that will show how many domains and in which TLD a registrar is escrowing.

MAGUY SERAD: If I may guide you a little bit – thank you Pam for the question. Yan, today, how do we conduct audits on data escrow? What you're speaking to is the automation for the future, but how is it done today for data escrow in that space?

YAN AGRANONIK: As I said, before, currently, we are performing data escrow audits for all the registrars who are receiving third notices, reviewing the format and content of the data escrow files. Thank you.

STATTON HAMMOCK: Statton Hammock with Rightside. I'll break the silence.

One of the survey that you sent out, what kind of feedback do you get from complainants and from audited parties or

responding parties that puts you in their target? Is it usually positive feedback, negative feedback, neutral feedback? Is it a comment about speed? Is it a comment about outcome? What kind of feedback do you get in your follow-up surveys?

MAGUY SERAD: Thank you, Statton, for your question.

Everything you stated. We even have feedback especially for the complaints that we close because they are outside the scope of the contract. You get a variety from thank you to you're not helpful to something I can't say on the recording. We receive feedback, as you saw on my continuous improvement slide earlier, that contributed, like improve your communication, there was not clarity or in the title.

As you can imagine, all kinds. If you want to see a little bit more details, I'm happy to bring forward to this forum at the next ICANN meeting a sample, but of course, removing the names and the ticket IDs.

UNIDENTIFIED MALE: [Inaudible].

MAGUY SERAD: Yes. I mean, it's like any other customer satisfaction survey you send. It's about meeting expectations. That's what brought forward this initiative that I spoke about earlier to improve awareness of contractual compliance and the scope, and the work we do, because there are so many expectations out there of us that we cannot fulfill.

UNIDENTIFIED MALE: [Inaudible] speaking, Case Systems.

I might have missed this because I came in a little late but what are your current practices with regard to bad reporters that again and again send false reports or lie in their reports?

OWEN SMIGELSKI: Maguy is checking to see if we have this. It's in one of the slides we prepared. I'm not sure if it's in this one. We do have a similar to a one, two, three notice process that we go through with the contracted parties. There's also a similar for invalid reporters. The first is they receive a warning, told that if they continue those types of submissions, they will be banned. The second, if they continue, then they get the second level, which is a 15-business day suspension. We will close any invalid complaints and won't accept any more for 15 business days. If they then,

after the suspension, continue to do so, we will block them from further complaint submission.

Since ICANN 54, two reporters have received 15-day suspensions. One was for WHOIS format and I think one was for WHOIS SLA complaints, and we do continue to follow-up with other reporters as well, too.

SIDI MONZAK: We have another question from Pam Little.

What happens if, at the third notice phase, you find the registrar has not deposited any data or depositing incomplete data?

OWEN SMIGELSKI: Hi, Pam. There are generally two possible outcomes in this. If the third notice that's pending is resolved by the registrar, we'll open up a separate ticket in our complaint processing system and process the data escrow complaint through the one, two, three notice process. Excuse me. However, if it does go to a breach, that will be another area of noncompliance that we identified in the breach that needs to be cured looking forward.

KRISTINA ROSETTE: I'm Kristina Rosette, Amazon.

This is a somewhat comparable question to one that [Volker] asked. Is compliance tracking or doing any investigation of the CZDS requestors whose requests have been denied under the provision of 2.1.5 that it prohibits the registry operator from allowing a user to use the data for two categories of conduct? And if so, what are you doing with that?

JENNIFER SCOTT: Jennifer Scott for the record.

So right now, we're not tracking reasons for denial through the complaint ticketing system. I'm not sure if you meant generally or just what we receive through complaints. Since compliance just deals with complaints as they come in rather than doing a proactive monitoring in the space right now, we only have visibility to a limited set of denials that are coming through.

I can tell you just anecdotally that those that are denied for that reason are very few and far between in the complaints.

KRISTINA ROSETTE: Just a quick follow-up. If a registry operator through its review and approval or denial of CZDS requests had identified particular requestors that, at least based in the registry operators it creates, demonstrated that kind of pattern of

conduct, do we report that to you? What do we do with that information?

JENNIFER SCOTT: Jennifer Scott again.

As a registry operator, I would just hang on to it and the event that there's the complaint that follows on from the denial. Therefore, when ICANN forwards that complaint to you, you'd be able to respond with that information and reasoning for the denial.

KRISTINA ROSETTE: But in the meantime, I need to continue reviewing and denying the same requestor over and over and over again, just so I'm clear.

JENNIFER SCOTT: Yes.

KRISTINA ROSETTE: Okay. Thank you.

SIDI MONZAK: We have a question from Chris [Paling]. Why does ICANN use business days with some compliance topics and contracts, and

just days in other contracts, for example, registry [inaudible] question just to ask, as I see this as sometimes misleading.

ALLEN GROGAN: The honest answer as I think some of that is simply historical anomaly. We have had complaints from time to time that business days and less, more carefully defined, can be ambiguous because it's unclear where the business days are properly measured. So I think that the trend has been in most contracts to try to move towards calendar days rather than business days to avoid that issue, but there are still places in various contracts where business days is used and either is defined in some cases or is not defined in other cases.

MAXIM ALZOBA: Maxim Alzoba [FAITID] for the record.

Actually, I'd rather be cautious about that because in compliance, you have to see on the other side, legal advisors or operation managers and they tend to work on business days. And when we have public holidays, actually, we do not expect from the first line of support to be able to read contracts or do things like that. So by removing business days you're suggesting that we're hiring the support way more highly priced [personal] and its material change. Thanks.

ALLEN GROGAN:

Allen Grogan again for the record, I appreciate the input well taken into account.

SIDI MONZAK:

We have a question from Rieke Poppe from one.com. Did I understand correctly that we don't have to translate our communication with the registrant into English anymore? We operate in 13 different languages, so translating for audits has taken even more time in an audit.

YAN AGRANONIK:

Yeah, you have a correct understanding. No communication needs to be translated into English. I'd like to even expand on that. There are other questions in audit requests that has to do with accounting systems and other things, and you don't have to retype or interpret for us what your system is showing to us. We try to minimize your work effort. You can send us the raw original information and we'll be able to interpret it. If we do not understand something, then we'll ask. Thank you.

OWEN SMIGELSKI:

Just following up on that, Rieke, there are actually some communications that are required to be in English. For example,

the IRTP requires FOAs, the Form of Authorization, to be in English. Registrars do have the option of adding in a translation. However, English must be present, and that is the controlling version. So please do be aware that there are some places that require communications in English, as well as at other languages.

MICHAEL FLEMMING: Michael Flemming from GMO.

Just a question, what resources does ICANN use to translate those documents? Is this ICANN staff or is it actually signified translators?

YAN AGRANONIK: We are using independent company. Specifically, KPMG is our partner. This note is published on our website. Their staff is doing translations.

MAGUY SERAD: As you know, on our website, we also provide several reports in all eight languages, and ICANN has a translation services. You see them all around. They're actually translating for this session also. They're not present in the room that they are certified interpreters.

On our staff and our day-to-day activities, the compliance team is fluent in nine languages, which allows us to have our dialogue with the contracted party in a more operational aspect. In the writing form, we always put English and sometimes, we might add French or Spanish just to allow the team to globally be able to understand what's going on.

There are different levels, but to the audit as a perspective as Yan mentioned, we have been working with KPMG over the last few years and they do have the resources.

SIDI MONZAK: We have another question from [inaudible], and we have a question from Chris Paling.

If you had to put a rough figure on the cost of translation, what would it be?

MAGUY SERAD: Chris, thank you for your question.

I don't put rough figures because I don't have them. If you're speaking to the ICANN provided translation services, it's part of the ICANN cost. I don't have any information on that.

And, with our audit services, it's one of the requirements in the RFP when we put it out to all vendors that this service be included and inclusive, but we did not singled it out.

MAXIM ALZOBA: As I understand, you share all our documents during an audit with KPMG. Is it possible to understand which kind of nondisclosure do you have with them? Because effectively being partially in consulting business in our country, we might be in competing position with them on some things. It's better to know which things are shared and with whom to avoid issues because of leak of information, which is misfortunate usually.

YAN AGRANONIK: We have an agreement with KPMG that describes the handling of documentation. All the documentation is treated as proprietary or business confidential. Then, after the audit, at certain point, it is purged. Nothing sensitive is stored.

Also, which is a common practice among the leading consulting companies, KPMG does, before they go into engagement and into the audit of one of the registries or registrars, they're doing their own conflict check. Meaning if they are providing services for this company, which is registrar or registry in other areas such as accounting, finance and things of that nature, they will

confirm with the client whether the client will allow KPMG to help us with an audit.

We had experienced before when the client specifically and registries said, "No, we don't want you, KPMG, perform both services that they're currently performing in audit." But again, I just want to say that all the documentation is treated with a confidentiality, which we expect from a leading company like KPMG. Thank you.

MAGUY SERAD: Maxim, we also on the audit page, which I'm just showing here in front of you guys I'm displaying on the screen. For the remote participants, it's basically on the compliance audit program page. On the bottom, you will see a placeholder about audit partners and risk mitigation plan. I just wanted to point that out.

SIDI MONZAK: We have another question from Rieke Poppe from one.com. Is there actually an SLA for registries to approve CZDS [inaudible]? Sorry if this is supposed to be common knowledge. I haven't been able to find it.

JENNIFER SCOTT: Currently, there's no specific timeframe for approving or denying requests in the Centralized Zone Data Service. There has been discussion about this previously, and ICANN has encouraged registry operators to be reasonable in this regard. However, there are current registry agreement renegotiations underway that I believe are contemplating at 21-day period for handling these requests. If you're looking for the place in the registry agreement where this requirement is located, it's in specification [four], section two.

RUBENS KUHL: KPMG is also a [inaudible] operator of .KPMG. Who doubted .KPMG?

YAN AGRANONIK: When and if we are going to include KPMG as an auditee, what's going to happen is we have tools that we're using to do that audit that has been jointly developed. What's going to happen is ICANN, internally, using the same tools that we're using to do the audit of other registries, will perform the audit of KPMG itself.

We do have experience in that because, like I mentioned before, there was one registry that was opted out of being audited by KPMG because they also are client of KPMG for financial issues.

We, ICANN, internally are doing the full audit with the same criteria that have been developed for all the other registries.

SIDI MONZAK: We have a question from Chris [Paling].

At some point, what are the specifics? As in Germany, for example, some data cannot be held for more than a month?

Question from Chris [Paling]. At some point, what are the specifics as in Germany, for example, some data cannot be held for more than a month?

UNIDENTIFIED MALE: [Inaudible].

SIDI MONZAK: He adds, that was relating to the data deletion after audit.

YAN AGRANONIK: Typically, when registry or the registrar is issued the clean report, we don't need this data anymore and it's purged faster than one month. However, if we have a situation – which mostly happens with the registrars when a registrar is performing remediation because they were unable to demonstrate the compliance at the time of an audit, meaning, there are open

issues – the support for those open issues, we are keeping until the remediation is completed and we verified that it is effective.

MAXIM ALZOBA: Just going back to the question of KPMG and the tool, and the performance matrix they created. Is it possible to share this matrix with us to avoid the competitive disadvantage where only one registry knows how to pass audit and a lot others just guess? Because if you created with KPMG tools, you are using to evaluate KPMG so they basically know how to pass it.

It creates a disadvantage because a single registry know something while other registries do not know. Thus it would be wise to share those matrix with us. Thanks.

YAN AGRANONIK: This is Yan Agranonik again.

The matrix, as you referred, is the audit scope spreadsheet that is published on our website that shows what RA articles are under audit. I think you are asking more specifically, how exactly are we testing compliance? Because you think that .KPMG would have an advantage in being audited.

Again, the group that is helping us with that is our vendor in performing the audit is separate from a group within KPMG that

runs .KPMG. A leading company like KPMG or other [big four], they are aware that they have to separate their groups in their businesses. They are aware that they should not be sharing this knowledge with a group that runs .KPMG.

Publishing a detailed audit program, it is not feasible because we are updating and constantly learning from the lessons that we learn in the previous audits. But let me assure you that, again, that .KPMG will not have a competitive advantage of passing the audit because people who run it may know something that you don't know.

SIDI MONZAK: We have a question from [Marco Shaffer] Host Server. Is compliance able to do a registrar audit and to store the submitted data that include domain holder data, including IP address [billing only] in Europe to fully comply with German and European data protection laws?

YAN AGRANONIK: When we send the request for information, which is constantly updated again to make sure that we include the feedback that we receive from registrars in the past or include the experience that we gain by looking at documentation submitted. What we're trying to do, we try to indicate to registrars that the level

EN

of documentation that we require is not as detailed as you may think.

For example, when you say IP address, let me give you an example. One of the items we're asking for is the record that shows that the registrant accepted the terms and conditions of your agreement. In the beginning, some of the registrars send us detailed data, which included the IP address. However, the other registrars that have concerns about this asks, "Do you need that level of details?" And the response was not.

So, when you're asking, "Can we keep this data in Europe?" Right now, we don't have these technical capabilities. However, we do not require that level of detail that would require us to keep the data within the European Union.

MAGUY SERAD: We have three minutes left. Any more questions or comments?

I want to thank everyone for joining us this morning for the Contractual Compliance Program Update. For the contracted parties, we look forward to seeing you tomorrow in the closed session. The closed session is to allow us to dive into more details, discussions but also to allow the dialogue amongst yourselves about some of the practices and the lessons learned we're all going through.

We look forward to seeing you tomorrow. For everyone else, thank you again for joining us, and have a great day.

[END OF TRANSCRIPTION]