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HYDERABAD – Contractual Compliance Program Updates and Q&A Session  
Saturday, November 05, 2016 – 11:00 to 12:15 IST  
ICANN57 | Hyderabad, India

UNKNOWN SPEAKER: It is November 15<sup>th</sup> 2016 in G01 02, for the contractual compliance updates and Q&A session, 11:00 to 12:15.

MAGUY SERAD: Good morning everyone.  
  
Good morning everyone.  
  
Hello?

UNKNOWN SPEAKER: Now it works.

MAGUY SERAD: That's the energy... That's [inaudible], it's not working now.  
  
It's working. Can you guys hear me? All right, all right. Thank you.  
  
Good morning everyone. My name is Maguy Serad, VP contractual compliance. This is the contractual compliance program update, open to everyone in the ICANN community.

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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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With me in the audience this morning is my team. I'm starting with the APAC team, Jasmine, Roger, Jennifer, Owen, and our short-term leader, Alan. I still can't get over that. I want to thank everyone who is joining us this morning. This session is being recorded, and this session is for all of us.

The goal of this session is to provide an update to the community on the compliance activities that are relevant to you. We are happy to take any questions from the audience at the end. And my goal here is mostly to facilitate this session. And the reason I say facilitate the session, is because we have representation around here with us, from contracted parties and multiple audiences from the ICANN community.

So thank you again for joining us, and we will begin.

OWEN SMIGELSKI:

Hi, this is Owen Smigelski for the record. Just this slide, highlights some of the lessons learned that we had on the registrar space since ICANN 55. I'm not going to go into too much detail, just want to highlight some of the things, report to the community what we've been seeing in terms of the big issues.

So the first one is registrar data escrow. Some of the things that we are see are registrars not doing timely deposits, or when

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checked their deposits are not in the correct format. And also, another thing that we see also is that the 2013 RAA had a new requirement that in addition to the public WHOIS information for privacy proxy registrations, the underlining customer information also had to be included in there.

So, efforts have been underway to ensure that registrars comply with that. We still see [inaudible] number to this domain renewal reminders, that is required by the ERRP, I know the acronym, I forget what it stands for.

Expired Registration Recovery Policy. I get so stuck on those acronyms, you forget what the words are sometimes. Those are required of the registrars to send renewal reminders at certain times to the registrant, and not to other contacts, unless it's also going to the registrant. So we continue to see some issues with that.

With the IRTP, or the Inter Registrar Transfer Policy, still there are some ongoing issues regarding the provision of the off info code to transfer a domain. Or the FOA, the Form of Authorization, not being either sent or in the incorrect format. I just do want to highlight that there will be the IRTP has been renamed the transfer policy.

There is a new version that will come into effect on December 1<sup>st</sup> of this year, and efforts are underway in compliance and

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elsewhere, to ensure compliance with that, and to assist registrars in the community to make sure that those go as smoothly as possible. Finally, the UDRP, there are, continue, we do see with the new, from 2015, there is a requirement that registrars respond to verification requests from UDRP providers.

They must do that within two business days, and they also must lock the domain name that's subject to UDRP. Still see some issues with registrars not doing that, and UDRP providers do submit those complaints to ICANN when that occurs, and then because of the two business day requirement, compliance processes those in an expedited process, instead of our usual five business days that most complaints have.

We do those as one calendar day, so there is some... Staff is aware of that, and we do respond to those quickly. And I think that's it from the RAA side. This slide highlights some of the continuous improvement things that the team has done since ICANN 55. There was some onsite outreach that our APAC team participated in, along with some other ICANN teams in Seoul, South Korea, as well as in various areas in China.

There is the link on there where you can read more about that, but that was conducted in sight, in person, and also in the local languages, to better assist with understanding and the contractual obligations. Internally, in compliance, we did a

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couple of efforts since ICANN 55. One was a third notice project, where we did a pilot where the team looked to see if we could, if it was feasible to identify registrars that had a high volume of third notices, and then do outreach that was targeted specifically towards that specific registrar, to see if there were opportunities to improve communication and compliance.

And those efforts were done by all three hub offices. And when applicable, the outreach was conducted in the local language. We had, of the eight registrars targeted, six participated, and it was very good feedback from the registrars for that efforts. We're still monitoring complaint volume through December, to see the results of those efforts.

In addition, the audit team did a remediation validation project. This was a purely internal effort, whereas had been identified in previous audits, some registrars were found to be deficient in certain areas, and had to implement remediation plans to come back into compliance with the either the RAA or consensus policies, and so, what was done was we looked at the complaints for that registrar afterwards, to determine whether there were those issues that had been remediated, or indeed remediated, and the efforts of that found there were no instances of non-compliance for those areas that had been remediated.

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In addition, the team also again, the Singapore hub, did a registrar WHOIS review project, and this was targeted to first Korea, and now ongoing in China, to test compliance with the 2013 RAA requirements that registrars verify and validate WHOIS information.

And so those, the Korea one, I think is complete, or still ongoing. But the registrars for both of those have been responsive, and have been doing remediation to ensure compliance.

So this is highlighting contractual compliance team continues to do some additional outreach, other than these ICANN sessions, and try to reach target audiences, to give them so more information about what it is that we do, and sometimes what we cannot do, and there were some, the team put together some info graphics regarding transfer complaints, as well as WHOIS inaccuracy complaints, which are the, collectively are about 90%, on average, of the complaints that contractual compliance receives.

So, in order to get those info graphics out there, there was some targeted campaigns on Twitter, as well as Facebook. I did see the statistics there, that we were able to reach a large number of people, and get that information out there. So they, you know, can become better informed about how to deal with those types of issues.

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This is a summary, and apologies in the room, there is a lot of data there. These slides are available on the meeting website, they're there now if you're in the Adobe room. You can read them a little bit more. But it just shows the different trends between ICANN 57 and ICANN 55 for the various complaint types that compliance receives.

There is one thing, a highlight that we like to do, show that we have slightly modified, is WHOIS inaccuracy used to be reported as just one complaint type. It still show the overall numbers there, however, we have broken down the different types of WHOIS inaccuracy complaints that we have.

The first one is quality review, or QR, that is where compliance will usually take a look back at previous WHOIS inaccuracy complaints to ensure that the registrar continues to comply with the obligations of the 2013 RAA. The next one below is bulk submission. There are about 8 approved bulk WHOIS inaccuracy submitters, who have gone through a vetting and onboarding process, and can submit up to 300 WHOIS inaccuracy complaints through a bulk submission tool.

Then it shows the individual submissions, those are one at a time submissions through the ICANN dot org complaint form, and then the last one is WHOIS ARS, which is the WHOIS accuracy reporting system, which is an ongoing effort to review

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the level of accuracy, and to take steps to improve that based upon Board and WHOIS review team recommendations.

JENNIFER SCOTT:

This is Jennifer Scott, and I will be speaking to the registry operator side of the compliance program. These four items listed are things that we've had opportunities in with registry operators since ICANN 55. The first one is regarding zone file access, and the centralized zone data service, or CZDS. The registry agreement requires registry operators to provide zone file access through the CZDS.

And there is a couple of reasons that they can deny access. Those being for incomplete or illegitimate credentials, or a reasonable belief that the terms of use will be violated. So, from an end user perspective, it will go a long way to making sure that your credentials in the CZDS are complete.

And the reason provided for wanting access to a zone file is clear. Item number two, we've seen some opportunities from registry operators regarding assignments, which can be a change of control, or a material subcontracting arrangement for a critical function. And there is notification and sometimes approval requirements for those types of changes that need to be complied with by registry operators.



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Number three relates to service level agreement monitoring and communications. In specification 10 of the registry agreement, there are certain requirements and thresholds for complying with DNS and DNSSEC requirements, as well as the registration data directory service. And if those thresholds aren't met, ICANN has a monitoring system that will automate communications to registry operators to let them know that they've had a downtime in this area.

And hopefully, avoid reaching the threshold for emergency back end registry operators. Item number four relates to monthly reporting by registry operators, which is comprised of two different reports. A functions activity report, and a report by registrar. And those reports are due to ICANN for the prior month, each following month at the 20<sup>th</sup> of that month.

So, we've been seeing some registry operators who aren't meeting that deadline, and that will generate a compliance notice to the registry operator as well. Similar to the registrar slide, this shows the volume of the complaints on the complaint types we received for registry operators. We've got the numbers here from ICANN 55, and then contrasting from ICANN 55 to ICANN 57.

Because we didn't present a compliance update at ICANN 56, the amount of time between 55 and 57 is larger, so that's why you'll

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see some of the numbers increased here. Also take note of the center columns, which are what we call closed before first inquiry or notice. And these are complaints that ICANN received, but deemed invalid and closed before forwarding on to the registry operator.

So there are quite a few cases that ICANN staff reviews and determines they're out of scope of the contract.

ROGER LIM:

Thank you Jennifer. My name is Roger Lim. I'm going to present a quick update on the audit activities. So this slide is basically talking about the audit history that compliance team has done since 2012. Sorry it's a bit small, but slides are available on the meeting schedule.

So, we have done audits of the registrars and registries every year since 2012. We can see all of the numbers there. And it's of each audit as well. So, this slide is basically a way to let everyone understand what the column headings are in the previous slide, so that you understand what the phases are of the audit cycle. So I won't go through that in detail, you can read that.

Okay, we've had questions about what the general criteria are for audit action. So we've provided this slide so that it can give

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you a general guideline on what selection criteria is for audits. And also, finally, this is the current audit schedule for the October audit registrar site.

They're ongoing right now, so if you can see it's actually in the audit phase right now, in the middle of the slide. So that is still ongoing at this point. We should complete that hopefully in January 2017.

MAGUY SERAD:

Maguy Serad for the record. The last update we provide you, and before we open up the session for questions, is on performance measurement and reporting. On the website, on a monthly basis, there is the ICANN dashboard, which also part of it, under goal 4.4, represents a portion of it for contractual compliance KPIs.

What you see on the slide represents overall registrar, registry compliance. And glad to see some members with us in the audience that were also in the audience yesterday, and I went blank. I could not remember what the formula was for the registrar and registry compliance.

What we are going to do is try to find, put that on the website also with some explanation, but for the audience to know today, the overall compliance for the contracted party is a formula

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driven by the number of complaints by, and third notice or enforcement, for the active registrars.

So, that's how that overall compliance indicator is driven. So then the closure rate, as we all know, when you are receiving complaints, there is complaints from receipt all the way to closure. We try to measure that. That is inclusive of our processing, what we call ICANN internal processing of complaints, but also of the contracted parties processing of complaints.

It is an average across all complaints, and we should add, in the monthly dashboard, in addition part of contractual compliance is also the aspect of reporting back to the community, publishing reports, and dashboards. We had committed to doing that by the 15<sup>th</sup> of every month, for the monthly reports, and then also for the quarterly, and then also for an annual report.

We measure our progress on that. We are providing, on this slide, the running balance scorecard. This is, again, since ICANN 55, and it shows the month, a running balance to just give the audience a more appreciation of what is being received, what falls in the different categories, and how many of those complaints end up in enforcement.

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This slide, we are still working on. At the closure at every complaint, compliance sends a customer satisfaction survey to the reporter, and to the contracted party. We are in the process of finalizing this process. I want it to be, for transparency, bring it here. As you saw on the dashboard, we don't report on it yet, because we're still in the process of learning more about it and working with the data.

But we do look at it, and we review it internally. It consists of data points, the reporter perspective and the contracted party perspective. We take the overall satisfaction, and we share it. The team also reviews those on a monthly basis. And we take back the feedback, and we try to see if it's an opportunity for us to improve on the processing, or the communication, or why did we receive not an unsatisfactory, or dissatisfied rating.

So, as I said, we're still learning about it and working with the data we receive. I will not necessarily go in the details of this. We are providing those as mentioned earlier, the presentation can be found in the meeting schedule under this session. We will also be providing it under the outreach page for contractual compliance.

What we show on the next two slides is how are these complaints, from the volume and the turn around time, progress through the process, but also with visibility to the turn around

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time? As I said, the turn around time is an average, and it's driven by the types of complaints, but it's also driven by the complexity of some complaints. So these are the different factors that come in here.

Before I open it to the audience, I also want to highlight that in the appendix, we have provided additional slides that we're happy to take you through if you have questions during the session. I know we have had a lot of people join us after the session started, I just wanted to let everyone know, this session is being recorded.

So, thank you again for joining us, I will be facilitating the Q&A. So just when you are speaking, please announce your name, and if you are affiliated with a contracted party, just say so, so that the audience also knows who you are.

So community members, you are always anxious and excited to hear about what goes on behind closed doors. The informal resolution process, this is our opportunity to have dialogue. We are all here to share we experience, to a certain extent.

LIZ:

Hi Liz [inaudible], PIR. Could you talk a little bit about the code of conduct of violations? I see a huge jump from just a handful

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to 315, and maybe give us a sense of what some of the substance of those complaints would be. Thanks.

JENNIFER SCOTT:

Hi. This is Jennifer Scott. So, there is a large number of code of conduct cases in this figure, because it includes the annual certification processing that occurred just after ICANN 55. So, what our team does during that time period is reviews every TLD that has that requirement in its registry agreement, to make sure that they've complied with either providing certification in line with specification 13, an exemption to the code of conduct, if that's been granted, or if they have a registry related party that is a provider of registrar reseller services.

And so, all three of those categories of registry operators need to submit these certifications on an annual basis. And so, if they haven't submitted it, if it's late, if it's not complete, that will generate a case. That's the bulk of these numbers here that you see.

DAN:

This is Dan [inaudible] from Right Side Registries. So, do you think the...? So, the increased numbers in code of conduct, could it be related to the fact that there are maybe more and more registries launching more in TLDs over the last 18 months,

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and so more and more have to now certify to that code of conduct? And so it's just a volume of numbers that is pushing that number up, right?

Follow-up.

JENNIFER SCOTT:

Yes. That could be a possible reason. Like I said, it's, any registry operator that fits one of those three categories, and the obligation is upon the effective date of either the specification 13, or the exemption, or the signing of the registry agreement, if it meets the qualification there.

So yes, given a large number of new gTLDs, there is probably a contributing factor to that large number that you see there.

DAN:

Can I have a follow-up? Separated related thing. So, I wanted to make compliance aware of something that's happening between registries and members of the IPC. We put together an informal discussion group, not a working group, not a policy group, just a cross-community group to talk about consumers that IPC people have raised related to how registries have implemented their contractual obligations, how they've implemented some voluntary measures to protect rights, intellectual property rights and that sort of thing.



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So we've had a good dialogue going between the two stakeholder groups for a period of, I don't know, a couple of months. One of the things that we've agreed to work on together, was suggestions, concerns we both share about some of the ICANN compliance reporting.

Maybe the concerns vary widely, whether there is not enough granularity in some of the things, or we think that the data that is being shown isn't always clear, or what we consider to be representative of what we see as registries see, and there is some ambiguity from the IPC side of the house as to, you know, what happens in the black box that they like to call it.

And I've heard, I know you've heard that expression before. So, I just wanted to make ICANN compliance aware that this is a dialogue, the two groups are having, and out of that dialogue, will probably become a list of suggestions we'd like to bring to ICANN compliance, to see if you'd be interested, see if you'd be willing to maybe change some reporting, or add some reporting, or maybe give some greater clarity to some of the reports that you do issue on a regular basis.

So I just wanted to alert you to that, might be coming in the few weeks, or few months, maybe after the first of the year. No, not years. We're a nimble, informal group, right? We're just kind of brainstorming, right? Spit balling some things that we both

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think we could improve, make some good suggestions that would improve the information.

So, we'll bring it to you when it's time, but I thought I would let you know that that will be, that's kind of percolating right now.

MAGUY SERAD:

Maguy Serad for the record. I'm going to give you the compliance clap, bear with me, you guys. That is a thank you. [CROSSTALK]

First of all, thank you for the heads up, but I think you said a very key element. It's very easy to criticize the reporting, and the performance, and everything that we've been publishing. What the audience tends to forget sometimes is, we bring a certain level of reporting, but we continue to improve on the reporting based on the feedback we get.

So don't just tell me, it's not value add. Keep in mind the ICANN community is very diverse. What may be value add for one, may not be for the other. So when you are coming to us, requesting information, it's not value add, that's very generic. Tell me exactly what you are targeting, what you are looking for, and do the, to the extent that we are able to, we will accommodate.

But here is how we accommodate. For the sake of transparency, every request we have received, for example, I am sitting here, I

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am going to share with the audience, it's not only, we don't only do complaint processing guys and audits. I'm going to share with you how we also are active contributors in the policy development process.

So, when people come to us, asking for data points, or granularity of data, we step back, we assess where is the source, what does it mean? And we try to implement it in a fashion, first of all, we work with that group to understand what is the need, and are we meeting the expectation of that data?

And then once we have a pilot, that it works, we immediately publish it, and make it available online for everybody. An example is the CCT that consumer choice, consumer trust working group. It's the data points that we are also providing to the RPM group, to the new G review team. We are actively involved in that, and as you know Kathy, you're in the line. If you guys just give me two minutes, I would like to share with you one slide.

Let me see.

In the appendix, you will have visibility to the different policy and working group efforts that compliance team is involved on both the registrar and registry side. So, again, what we do, in that aspect, is the thought or the idea of a PDP or the evaluation of a policy, they come to us asking for data. We understand, try

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to understand the requirement, and we provide them the aggregate data to those working groups, to those review teams.

Another aspect the compliance team is involved with, is throughout the policy discussions, we conduct internal reviews with our policy counterparts. It depends on the frequency and the timeline of each discussion. Sometimes we meet up once a month to review what's being discussed, and if they are opportunities or data or discussions from the compliance perspective.

Once a policy makes it and is approved by the Board and it gets to the implementation review team, a compliance team member is actively engaged on that group to not only contribute and understand, and contribute to that effort, but also to build what we call metrics and data points to help measure that expectation of that effort later, because it's a full circle.

So with this, I know Kathy you came to the table, you have a question.

KATHY:

I wanted to follow-up on what [inaudible] was saying, and let you know that some of us are actually very concerned about private negotiations taking place within ICANN. We are a multistakeholder process. The idea is to bring everyone to the

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table, non-commercial, commercial, registries, registrars, to negotiate policy. But there is a lot of policy that's now being negotiated privately.

And it sounds like you might be getting suggestions from some registrars and intellectual property, that haven't gone through the multistakeholder process. And maybe, well, hold on, I get to finish, right? And so, you know, if it's as easy as reporting, that's one thing. But [inaudible] mentioned the voluntary practices, and you're going to hear us as a theme throughout this meeting, and probably every meeting in the future of ICANN, volunteer practices are really dangerous.

What we're seeing is intellectual property community, in fact, everyone at the multistakeholder table wins things and loses thing. You get some, you don't, you compromise. And coming back for the rest of it through the voluntary practices, which are privately negotiated agreements, and in fact, you'll hear [inaudible] from the Electronic Frontier Foundation has actually come to this meeting, to talk about shadow regulation.

And this negotiation in private, of rights that you might not get through the multistakeholder process, and in fact, rights you might not get under law. And so, I wanted to let you know, we like to be involved before changes are made in compliance.

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We'd like the community to be more involved in the process.  
Thank you.

MAGUY SEARD:

Thank you Kathy for your comment. This is Maguy Seard. So, first of all, again, thank you. This is what this meeting is about, guys. We put this meeting together a few years ago, to bring everyone to the table, because during the stakeholder, the old meeting forum, it was a roadshow for compliance. We used to put on our tennis shoes and run from one meeting to the next, 15 minutes here, 30 minutes there, and providing what we call targeted updates.

We took a step back. I know we're young, we're in good shape, but we could not keep up with the community. It's a topic that's relevant to everyone, so we took a step back, and Kathy, yes, we do have closed sessions with the contracted parties. Yesterday, we conducted a closed session with registrars only, and with registries only.

And to everyone in the audience, please allow us the ability to conduct those sessions and dialogue, because it's not, we don't air dirty laundry. To the contrary. It's opportunities for us to discuss ideas or items that are compliance related, specific to the existing contracts and agreements. We're not creating new

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contracts and policies, but sometimes it's opportunities to clarify things.

So that's one aspect. But this session today, is for everybody for that transparency. [CROSSTALK]

KATHY: ...I was talking about. Although you should mark that on the schedule...

MAGUY SERAD: It is marked.

KATHY: No, it's only marked if you go in... [CROSSTALK] ...because we try to go and then find out it was closed. But what they're talking about is closed negotiations between registrars and intellectual property...

MAGUY SERAD: So [inaudible], you want to address that please?

UNKNOWN SPEAKER: This is [inaudible]. So let me clarify, Kathy, and for any others who aren't clear on what I was describing. So I mention, this is an informal collaboration between two stakeholder groups, who

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are looking for common, common ways, common concerns that we have, and ways that we can work together to improve the process. And as I said, it's not policy driven at all.

There is no negotiation happening at all between the two organizations. There is no policy being discussed. What we are putting together is a list of improvements we could recommend to compliance for reporting. For the reports that we see, that the IPC folks feel aren't useful or helpful enough, and often from the registry side of the house, we agree that they could be more useful and helpful.

To be clear, this is not policy, this is not a volunteer initiative, this is two groups of people who have some common concerns, that we thought would be great to collaborate and together, put together a list that we would provide to ICANN compliance. So there is nothing here that's part of the multistakeholder process, it's just trying to get some simple improvements to the reporting that we both are receiving, as members of the multistakeholder community.

So, I just wanted to make that clear.

MAGUY SERAD:

Maguy Serad. Thank you [inaudible] for clarifying that. And also, after [inaudible] mentioned the collaborative effort, you



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heard me say that as we work with either the review team, or any group that comes to us for additional data points, we take a step back, review the request, and where applicable, and if available, we try to make it available and publish it everywhere on our website.

We maintain the contractual compliance page up to date, with every data element. And sometimes, we are providing data points to review teams. What we have done, on our monthly dashboard, we have added the links to those, so that the whole ICANN community is aware where they can find additional compliance reporting, that we don't put it on our page, because it's relevant to that review team, and we don't want to create duplicative pages and information.

We provide it to the source, and we link to the source. I hope that clarified, Kathy.

KATHY:

There is still a lot of voluntary practices getting inserted privately all over the place, but we'll talk about that differently. But thank you for the clarification, and as co-chair of one of the PDPs going on, one of the working groups, thank you for the data that you're collecting and providing us.

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MAGUY SERAD: Before we take one more question from the audience, I know we have one in the remote participation room.

UNKNOWN SPEAKER: Yes. This is a question from Yasmine. “Does ICANN report on compliance matrices to the GAC in any way? If so, are these reports public?”

MAGUY SEARD: Yes, where are you? This is Maguy Serad. Yes, Yasmine. So, by request, I think about a year or so ago, Alan and I were invited to the GAC to give an update on the compliance efforts, or maybe two years ago. It’s all blending in. It has been such an amazing journey, I don’t keep track of time anymore. So, we did, by invite, attend, and they had asked us specifically to share an update on our activities.

And I think they had some discussion on the metrics. That is, whatever presentation we gave for that... It was during an ICANN meeting, and it was also published on the outreach page for compliance. So, everything we do, even for our closed sessions, you are not invited from the ICANN community, because the closed session, we still publish the presentations on our website, to maintain that transparency.

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So, that's the only time during my tenure, that we have presented directly to the GAC. However, the data is available on our webpage for anyone to review, and to date, I have not received any specific questions from the GAC related to compliance data. Yes, [inaudible], did I address your question?

MITCH:

Hi. Mitch [inaudible] from the Electronic Frontier Foundation for the record. Going back to the discussion of the informal collaboration between IPC and various registrars, if recommendations are being shared, discussed, in, what did you say? Nimble, informal, collaborations, like this then I think the question becomes what is contractual compliance that ICANN generally to do with that?

Seeing that we've just been told that's not a multistakeholder process, it is outside the multistakeholder process. What's the right way, if at all, to accept those sorts of recommendations? Conversely, if those are to become, if those are to be considered by the contractual compliance or other ICANN organs, I think it would be important for the community in general to know who is participating in these informal meetings, which registries and registrars in particular?

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MAGUY SERAD: Hi Mitch. It's nice to put the name and the face together. Welcome to our session. Thank you for joining. So let me address that. I think [inaudible] addressed it to address Kathy's points. Have you been on our contractual compliance webpage?

MITCH: Yes I have.

MAGUY SERAD: Have you read our vision? The number one... I arrived here, April 4, 2011. That date, I remember this date better than my wedding day. I still sometimes forget my wedding day, is it the 3<sup>rd</sup> of 4<sup>th</sup> of August? But that's okay, as long as my husband remembers.

So, 4<sup>th</sup> April 2011, I arrived at ICANN. My first ICANN meeting, literally, I felt like a dashboard, with everybody pointing at us and throwing at us. There was even a public session about compliance. That was an eye opening, and what I quickly learned at that session, that no one trusted contractual compliance.

What I quickly learned at that session, that everybody wanted to help contractual compliance. I took a step back and said, okay, what is it you want to help us with? What do you think we need

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help with? And the help and the recommendations are...? Do you need escalation? Do you need budget?

Do you need resources? Like wait a minute, wait a minute. I don't need any of this. I'm fully aware of the environment I stepped in, and I take full responsibility. In order for compliance to meet everyone's expectation, we needed to understand what each stakeholder at ICANN needed from us. Took a step back, and all we did is ask everyone, there is an echo.

There is that much delay in the reception? Wow. Okay. So, to summarize it, guys, our vision speaks of a trusted compliance service, because when you are in a role like contractual compliance, we need to remain neutral. We are enforcing the contract.

To enforce the contract, we have to have the ability to understand how it is, what is it doing. The scope, which is very important, because we cannot go outside the scope of the contract and the policies that guide that, you know, the contractual compliance work. So, we quickly took a step back. I collected all of the expectations, and on the next meeting, I came back and I met with the chairs, and I said, we can meet those expectations, but I'm sorry to tell you, I cannot do the following.

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So I was very clear from the beginning, what we can and cannot do. But Mitch, to the specific question you are asking about, so I today, learned about this effort, just the same forum as everybody. And I appreciate learning about it, because eventually, I will receive an email, can you provide this level of data? Can you provide us this information?

Not knowing what's coming my way, here is the way I approach things. I take a step back, and I put a logic in it. I review the request, what is the data that's being asked of us? And why, what is the need for it? Right?

And like I said earlier, I will make it public on our webpage. I will note it. You will hear about it in our quarterly newsletter, you will hear updates about in our annual report. And if there is a need, for example, the community at one point kept saying we don't have clear visibility to WHOIS inaccuracy.

What are you doing in there? Because there are different elements that come into, whether it's individual reporting, bulk submission, or the ICANN initiatives, right? So we broke it down, and it's visible to everybody. Even though it came to us from one individual constituency. So we try to accommodate where we can. So not knowing what the request is at this time, we have to take it one step at a time. Yes, go ahead.

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UNKNOWN SPEAKER: So I was just going to say kind of the same thing. Not knowing exactly what's coming, it's hard to respond to the specifics. I think, sometimes, there are implementation operational aspects of what compliance does, or other parts of ICANN do, that really don't rise to the level of multistakeholder policy implications, right?

For example, we publish a tremendous amount of data on the compliance website about our activities. And if somebody comes to us and says, you know, it would be nice to see that data presented in a different way, it would be nice to see bar graphs, or pie charts, or historical analysis on how that data trends over time, I don't see that as something that we need to put out for a one year, multistakeholder public comment process.

That's a matter of operational presentation of data to try to enhance ICANN's accountability. If, and again, not knowing what's coming, I don't know if that's what the suggestion is going to be or not, if it implicates something that is more policy oriented, then that's different. But there is always a challenge or attention within ICANN between having the multistakeholder community involved in policy decisions, and crippling the organization in terms of having the multistakeholder community insist on being involved in every aspect of operational details of implementation.

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UNKNOWN SPEAKER: Can I respond? I appreciate the difficult circumstances that you work in, but I think the fact that so many groups are interested in contractual compliance, in the minute details, shows that compliance enforcement is policy. There is, those are difficult to separate, and particularly when compliance enforcement operationalizes, it makes real, the interpretation of the contract.

And in particular, where the language is vague, the interpretation is everything. That strikes me as kind of, as what's going on, and why recommendations are, or whatever may be coming from this informal, and this informal conversation, whether or not it's subject to the full multistakeholder process, needs to be considered as a formation of policy and treated that way.

UNKNOWN SPEAKER: Yeah, let me just respond quickly, and then [inaudible], love to have your viewpoint too. So, if it relates to something like interpretation of contract provisions and how ICANN is going to enforce contracts, I tend to agree with you.

Again, the devil is in the details, but I tend to agree with you. On the other hand, if it's a merely, in quotes, a suggestion for how we present data about the actions that we take, it's not an



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attempt to influence the actions that we take, but it's just an attempt to have us be more or less transparent about the data on the actions that we do take.

I don't think that necessarily rises to a level of policy. And that's why I say, in the abstract, it's very hard to say because I don't know what's coming.

MAGUY SERAD:

This is Maguy. I don't want it to become a three-way conversation, I would like to give the opportunity to many others to bring in new ideas. Here is what I would like to say. In this forum, let's set a date, let's have a date at the next ICANN meeting, I think, if it's not a policy meeting, I can't remember. Okay.

So, at the next ICANN meeting, please join us in this session. And [inaudible], and anybody, if we had received anything about this, and the data points, and we are happy to share with you what are we working towards from a metrics perspective, if in doubt, please, the verb assume does not exist.

If you know, somebody explained to me, and I know that you've heard me say that many times, assume is not a verb in my dictionary. The verb ask is better. So please, don't ever doubt, just ask us. And this is the forum to do it.

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And the reason I say this is the forum because it's not all about just contractual compliance. I really, I thank the contracted parties for joining us at this forum. It has made this meeting much more productive, because it gives an appreciation to everybody in the ICANN community, inclusive of staff, contracted party, and whatever stakeholder group you are from, an appreciation of what is it we're trying to accomplish and work towards.

So, if it's okay Mitch, I would like to close that topic today, and let's have a date at the next meeting, or [inaudible], you're not going to let me close the topic. I promise you, Max, after [inaudible], you're next.

UNKNOWN SPEAKER:

I'll be quick so I can yield to my colleagues. So, I had no idea when I mentioned this to you at the beginning of the session this would dominate the agenda. But let me give you a couple of examples, so we can really put clear that this is not policy that we're talking about, okay?

So, one of the suggestions in the group was, more specific resolution codes, when you close a complaint, right? Addition of more resolution codes, or maybe some more language around the resolution code, so that the IPC folks could, you know, get an understanding of, you know, what was the transaction between,

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the transmission of information between the registries or registrars, and compliance with respect to the specific matter.

So they know that either that A, the complaint was not valid, or the registry or registrar responded this way or that way. So, a little more specificity around the resolution code. I mean, that's what we're talking about, right?

And from the registry side, it's things that I asked earlier about like the code of conduct, right? We saw the number go from three to 315, so you know, and I asked, well, you know, is that because more registries came online so we're now more subject to the spec nine requirement of code of conduct?

So if ICANN compliance would produce that, look, this is an increase in volume too, which could be attributable to the scale, then we wouldn't have to ask that question. So, that's another thing. That's not policy. And I would just encourage those who say, hey, you know, we're bringing things to ICANN compliance to help improve the communication, I mean certainly, you can do that Mitch, with your colleagues and your interest group, if you had some reporting that you wanted more clarity on, you could have that dialogue with them, or have them among dialogues with other people in the community.

So, there is nothing sort of secretive going on. It's just, we think we could have some common concerns and issues that we like

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to bring to ICANN compliance and get more clarity on the reporting. That's all this is, okay?

MAGUEY SERAD: Thank you. And it's officially closed guys, all right? Let's a rendezvous for the next ICANN meeting. One more, oh man.

UNKNOWN SPEAKER: If it's not secretive, it would be nice to know who is participating.

UNKNOWN SPEAKER: IPC and registries.

MEGUEY SERAD: Max.

MAX: Max [inaudible] for the record. Actually, small addition to that, basically the other party, even you, if you file a case, you do not understand what happened. Maybe you filed something strange, or maybe there was particular reason, so the reason of closure should be at least few words. The other parties, they don't, they didn't know what they see as a blurred box. They put something in, and they don't know what to expect. That's it. Basically they didn't understand.

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The second question was, you mentioned the level of trust. Have you thought about making a poll with the registries and registrars about level of trust to compliance?

MAGUY SERAD: No, I have not.

UNKNOWN SPEAKER: It could be a good idea.

MAGUY SEARD: Thank you for the suggestion.

UNKNOWN SPEAKER: We have a question for Lilly. What Lilly... “Will compliance team be involved in the upcoming registration directory service, RDS review? [Inaudible], who is review? If yes, in what kind of way?”

OWEN SMIGELSKI: Thanks for the question, Lilly. This is Owen Smigelski for the record. Yes, the compliance team is involved in all sorts of policy efforts. Maguy, I think, you showed briefly a slide that was regarding the registrar side of things. We also have a registry side as well too, and the level of compliance participation varies.

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Sometimes it's merely providing data, such as to the consumer trust. Other aspects, compliance actually attends the working group sessions. We also give feedback, along with other ICANN departments, for a plenary as well as a final report. And also, compliance is involved in a lot of the implementation review teams, the IRTs, where we help facilitate policy coming into practice.

So, yes, if it's something that is going to touch and effect compliance, and the contracts, consensus policies, our team will be involved.

MAGUY SERAD: [Inaudible]

UNKNOWN SPEAKER: Thanks, [inaudible] for the record. Based on the numbers, it seems like the fear of new gTLDs is unfounded, and that the registries and registrars are overwhelmingly in compliance. Would compliance agree?

MAGUY SEARD: Maguy Serad. Is that a trick question?

UNKNOWN SPEAKER: I don't believe so.

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MAGUY SEARD: So, based on the numbers that we are publishing for the KPIs, for that period of time, the rate at 99%, they are in compliance for that specific category. For the audit reports, we also published the audit reports, and you will see if and when a notice of breach was issued, and you'll see also how many of the contracted parties are in compliance, and you'll see how many are in remediation.

So generally speaking, that's the objective here. And the conclusion, as you know, I saw you come in later, but we said earlier, it depends which group is looking at it from what angle. They can make their own conclusion. We present the data, and when we are asked questions like you just asked, I will address it.

UNKNOWN SPEAKER: And as a follow-up, have you seen any types of complaints that could use to a pick RDRP? Excuse me, that could lead to a pick RDRP?

JENNIFER SCOTT: We have had some... Can you advance the slide?

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So, we have had some filings in the pick DRP complaint type. Most of them have been closed as being out of scope, mostly because the reporter chose to use the wrong complaint form, and simply misunderstood what type of complaint form they needed to actually use.

Can you refocus me on what your question was?

UNKNOWN SPEAKER: Just trying to underscore the fact that gTLDs are not the big nasty that they are often made out to be. Thank you.

KATHY: Kathy [inaudible] again. On a different topic, on a different topic. Okay. This has to do with WHOIS complaints. And a rising tide that we're hearing in the non-commercial community about people who feel that the WHOIS reporting, and the follow-up by compliance, is creating a situation that the registrant believes to be harassment, in some cases.

So, apparently, and you can tell me, because I haven't experienced this first hand, but I know people who have. If there is an element missing from the WHOIS, say a student doesn't have a telephone, they're being pursued to get that telephone number into the WHOIS record, even if they're contactable via other means.



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And sometimes they'll ask who it is that is asking for this information, and apparently, that's not discoverable. You can't find out who has filed the WHOIS complaint. Again, I'm coming to you for information. But they're now news stories out that this is being used for not just personal harassment, but also anti-competition.

So, businesses going after each other to try to get domain names taken down, because the WHOIS information isn't fully, fully, fully accurate. I'll just add that from the WHOIS review team, our goal, when we did it, was contact ability. You know, is there enough information, because we knew that a lot of elements were being published that people were concerned, in some cases, about putting out there.

But is the registrant contact able if there is a problem with the domain name? And it seems like, from what we're hearing from compliance, it's going further with the investigation of the WHOIS. So, if someone is coming after me for data, can I find out who has filed that WHOIS complaint, and if someone believes, if a registrant believes that there is a harassing element to the person trying to seek the accurate data, will you mediate that?

OWEN SMIGELSKI:

This is Owen Smigelski for the record. Kathy, thank you for mentioning the word contact ability. I say that all of the time to

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my team, and I'm sometimes at a loss for where the origins of that, so that is what we do base our WHOIS inaccuracy complaints upon, is contact ability. And so that kind of drives, 2013 RAA brought the new wrinkle of domain suspension, which was mandatory if there was not a response from the registrant within the 15 day period, and with that, we quickly discovered certain things which could be classified as inaccurate, such as a missing country code, was not necessarily inaccuracy per se, because you could guess what the country code was.

If everything in the address, in the WHOIS data is for France, adding a 33 for the country code would be a safe assumption to make. And because of that concern about suspension of a domain name, and requiring registrars to do so for failure to respond, ICANN compliance took the approach that, if it could be contact able, we figure out some other way to treat that as a WHOIS format complaints, which is different than a WHOIS inaccuracy complaint.

WHOIS format can be adjusted by the registrar, if they don't have to contact the registrant, if they have other information available to them, or they know, oh, this is somebody in France, they can make that change without contacting the registrant. No need to involve them, or have a domain suspension involved with that.

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On the flip side, though, if it is inaccurate, such as there is a missing telephone number, you know, that could be inaccurate. The RAA states certain required elements are there, name, address, telephone number, email address, and if those elements are not there, or are unreachable, then that is something that is a WHOIS inaccuracy.

You know, we do have the availability for all complaint types to submit them anonymously. And that does happen. We honor those requests. Compliance does, ICANN does know who that is. They do provide that information, we need the email address and name of that... And we honor that request because a lot of times, certain complaints could involve, expose somebody to retribution.

It's regarding a domain of all alleged illegal activity. There is a number of reasons for that. However, we don't want that to be a weapon that people can use. We don't have visibility to what happens with that complaint once it's sent out, if it is being used for harassment or something like that, or uncompetitive things. We need that feedback to us, where that is happening, and we can take a look and then either follow-up internally, or determine that that's somebody who should not be filing complaints.

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We have actually, not in the anonymous complaints, but we have actually banned people from submitting complaints because they have abusive either to ICANN, or to the registrars, or using profanity, or things like that. So, if there is somebody who is using the anonymous complaint submission for improper purposes, if we're told about that, then we can certainly follow-up and review, and take action as necessary.

KATHY:

We'll be in a position to provide you more data, because we're putting this together. They are using... For purposes of harassment and anti-competition, the WHOIS accuracy is being used. So we'll let you know more of those horror stories as they come forward.

MAGUY SERAD:

So on that topic, I don't see any hands raised here, but what I would like to also... Since we have... This is truly a multistakeholder forum here. When you are reporting, whoever you may be, because we have reports from any team, any member of the community, we get reports from different sources.

When a report is filed with contractual compliance, please, as much as possible, provide enough information, because if you

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don't, it's going to delay our response to you, because we're going to go back to you and say, show us. Give us evidence of this. Give us information. Or why do you think there is alleged non-compliance here?

But the more information you provide, it will allow us to work directly with the contracted party, whichever way it is going, by providing that information directly to them to address it. So, just wanted to throw that in, because that's always a concern, because we do attempt to vet for validity of complaints, as you saw from the statistics.

Sometimes a reporter files a complaint, doesn't even respond additional information from us, and we close the complaint. And when we close the complaint, that's bulk of why we see also a drop in customer... You closed my complaint. It's like, well, you did not respond within five days. We're not going to keep a complaint open forever. So, that collaboration and patience, patience is important.

As much as we bug the reporters for information, we are also buggy the contracted parties to provide and address some of the either inquiries, or notices that we send their way.

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UNKNOWN SPEAKER: This is [inaudible] from [inaudible]. This is my first time to attend this conference. Very nice to see you here. So, just feedback about the IRTP item C. Firstly, I'm very sorry that we haven't participated in the [inaudible] area appear enough. So, I know that has been confirmed.

But I have feedback about this. You know in China, also in the second [inaudible] domain name market, the domain name will be, [inaudible] transaction in the market. So, about 16 days mark, there will be a difficult for the seller to resell it at the names.

It's better in China, there are lots of domain name, will be, sell and sell again and again, maybe only one month. So, and [inaudible] what can I do? Is there anybody who can give me some advice to make this...? To resolve this problem for the Chinese market? Okay, thank you.

OWEN SMIGELSKI: This is Owen Smigelski for the record. Thank you for that. While ICANN is certainly not in a position to tell you how to operate your business, the policy is created by the community, we just implement it and ensure enforcement. Regarding the 60 day lock, there is the provision that a registrant can opt out of that.

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Registrars can choose to do so. It has to be something that they do explicitly according to the transfer policy. So that is one possibility that's there for that, but otherwise, that is an obligation that would be required for the registrars.

UNKNOWN SPEAKER: Not only for the registrar transfer. It's only it's also [inaudible] that can be sold in advanced, time and times, I think. So, how to resolve the six days' lock?

MAGUY SERAD: So first of all, welcome to ICANN meeting. How has it gone? it's going well?

UNKNOWN SPEAKER: Okay, thank you.

MAGUY SERAD: It's overwhelming. It's still overwhelming for old-timers like us. Being involved, it's very important. So, thank you for joining us today. Thank you for speaking up. What I would like to do is, I think this is specific to your area.

If we can take it on the sideline, here is what I would like to do. I thought I saw Howard come in. Yes. Do you know Howard Lee? You need to know Howard Lee. Howard is on [inaudible], also

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Howard is the relationship, or the registrar services for the Asia Pacific region. Jennifer, correct me if I'm misstating.

In partnership with Roger, and Jasmine, and the team from the contractual compliance, happy to take it off line and work with you. I know it's a regional opportunity. We don't want to say issues, right? It's... The opportunity is for all of us.

Let's take it offline, and try to kind of see how that could be addressed. Is that okay guys? Thank you. Howard, thank you for coming to our session.

We have five more minutes.

UNKNOWN SPEAKER: Thank you for the session.

MAGUY SERAD: You are welcome. Guys, please note, Max said thank you to compliance. For the record. ICANN 57, yeah. Thank you, I appreciate Max, you know. We have to laugh through it all guys. This is such serious business.

With this, I want to thank everyone who joined us today, especially our counterparts. ICANN staff, we love you. Thank you for being here. We feel stronger when you're in the audience



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with us. Thank you for the community. Please, join us, let's make this an ongoing dialogue. We welcome your feedback.

Don't complain we're not doing it right. Come specifically, we will listen and we will work with everyone to make it to the right thing. Okay?

[SPEAKER OFF MICROPHONE]

Okay. Are we meeting your expectations through this forum? Is this dialogue good? If not, we can take it off the agenda, guys. All right, good. Thank you Kathy. Thank you everybody.

All right. We'll see you around the hallways and have a great ICANN meeting.

**[END OF TRANSCRIPTION]**