
SAN JUAN – Contractual Compliance Program Update
Wednesday, March 14, 2018 – 08:30 to 09:30 AST
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MAGUY SERAD:

Good morning, everyone. I guess I'm the only one awake this morning. Thank you for joining us early this morning at 8:30 in Puerto Rico. My name is Maguy Serad. I just want to do a little bit of logistics before we start. For the people who are dialing in, we hear the dings. Thank you for joining us. We apologize for the inconvenience. There will not be an Adobe room and live streaming from the camera, but we have provided – in the schedule, there is two attachments. The presentation material is in the schedule. The dial-in information, that will also allow you to eventually speak, is also in the schedule.

While we are presenting, we will mute the line and would appreciate it for the people who are dialing in to mute your line, so that we reduce the noise. Then, if we have questions, please just speak up.

Again, welcome to ICANN Contractual Compliance Program Update. With me in the audience I have our Senior VP, Jamie Hedlund, Selim Menzak, Joseph Restuccia, Jennifer Scott, and Nick Axelrod-McLeod. I'll get your name straight one day.

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.

This program update is open for the entire community and it's also being recorded. So, before you speak or ask your question, we would appreciate that you announce your name and your affiliation.

I just want to do a little sound check with the technicians. Is everything okay with the line? Okay, thank you.

Our program update this morning is going to consist of ... Focus mostly on outward. What do you as a community see in compliance, and what have we done to also share with you and bring more transparency to you in the community?

I'm pleased to see we have representation from the contracted party and other community members. I hope we have more people on the line. I can't see who joined us [inaudible], but I hope we have a lot of pay attention also on the line.

The first thing I want to share with you is what have we done in reporting metrics to you in the community? I am now on slide five, for people on the five.

On slide five, you will see some blurbs about how have we enhanced our monthly reports? In there, there is a link. For the team in the room, I am going to go to Google so I can show you where this information is and how you can access it and give you a little bit of a tour of our metrics.

So, when you come into icann.org, there is a tab under resources for compliance, and when you reach the compliance tab, it puts you on the landing page ... Sorry, the technology switch on us this morning is challenging me with using the tool here. Just a sec. Perfect, thank you, Jennifer.

So, on the compliance landing page, there are four main tabs. On the left, one is reporting and performance measurement. On there, is what we provide to the community, full visibility to the different areas in compliance from notices, outreach activities, quarterly, annual reports, audit reports. One of the [inaudible] performance reports, with the enhanced transparency took place on this area.

In the monthly dashboard, we have completed – I’m going to open the February one to share with you. If you have been keeping up with the CCT Review Team Public Safety Working Group and all the feedbacks that we heard from you as community members, many people kept saying a volume of complaint received or closed is not telling us a story. So, what we want to know, the community and the working groups wanted to know more depth about the subject matter of the complaints. So, we have provided that on this dashboard at the bottom here. The frontend of the dashboard is still the same. You’ve got the aggregate overview by complaint type, our SLAs

on the right. But, on the bottom, you're going to notice additional information.

The additional information is also a hyperlink that would provide you the definitions of everything that's on this page, so that people can have a better understanding and appreciation of where is this data, what does it mean?

We have provided additional granularity to data related to the DNS abuse or the abuse complaint types. We have provided granularity on WHOIS inaccuracy complaints, transfer complaints, and the most recent update that we have done is at the bottom of the screen related to complaints that relate to the GAC category one safeguards. It's all directly from the contract, so we're not defining new things. We're extracting it from there and identifying the TLD and the categories of the complaint as its associated with that.

Similar to that, you go down to the registries. Of course, we do the same, but it's only related to the areas that apply in the registry space. So, this is one of the enhancements we did here in the dashboard.

Another one I want to share with you is if you go to the 2017 tab on the performance measurement and metrics, this was last year's, we have created as I said in my blog – I don't know if some of you saw it – we have created two new buckets of

reporting to bring also another level of transparency to all of you.

A bucket for quarterly reports. The quarterly reports bucket is basically an opportunity to share with the community in a consistent and regular matter a quarterly update. We used to provide what I called ICANN Meeting Metrics, and we don't want to just be dependent on an ICANN meeting schedule. We wanted to bring a structure of a quarterly reporting to the community.

So, the first compliance metrics is an extract of the different metrics we used to report at ICANN meetings about the information that was requested of us, we kept it there. But, what we have done is we've created a couple of reports to bring more detailed information.

For example, there was very much interest about which areas of the contract were breached and how many unique registrars were impacted [inaudible] their area. We cite all those in here.

As you know, in the enforcement phase in compliance, it starts with a notice of breach. For the registrars, there is the ability to do a suspension and then a termination. We also state the [inaudible] and the unique registrars. This report can also tie into the 13-month – rolling month – report that we currently provide you also on the main page.

Going back to the quarterly report, what I want to do is share with you two more categories of report – three more categories of report.

The reporter category. Many community members were interested about what type of reporters does compliance receive reports from. At the front here, I'm looking now at the reporter quarterly Q4 report. In the 2017 Q4 report, and in the other periods also, we have identified four categories of reporters.

The WHOIS accuracy reporting system. this is a system that ICANN initiated by request from the WHOIS Review Team, approved by the board and all of that. A couple of times a year, compliance is referred several complaints related to WHOIS inaccuracy that are generated from that system.

Another type of reporting that compliance deals with or reporters, we have an ability to provide access through WHOIS inaccuracy bulk request that is initiated and all that information is on our webpage. Those users are provided an access and they can upload up to 400 complaints and an interface once a week to compliance related to WHOIS inaccuracy.

Another big category of reporters for compliance is what we call individual submissions. These are the reporters that provide individual complaints at a time. And of course, we have our internal ICANN submission, which consists of the proactive

monitoring that our team conducts or the automated monitoring that comes to us from technical services.

So, we provide at the bottom the details based on each category of the reporters and how they come into the different complaint types.

As many of you know, sometimes reporters request that they remain anonymous, and what we do with that, we do not provide that information to the contracted party, but we still provide the issue. But, we work with the reporter to make sure there is not an identifiable way in that report. So, again, enhancing transparency to bring more information to the community.

The other reports I want to share with you quickly here is many of you see how many complaints we receive and how many we close before first notice and there was a big gap of transparency, what goes between that phase and then if there is an enforcement [inaudible] of breach.

So, we have created a report that shows you visibility through the entire process of the compliance phase. And as you see on every report that I'm pulling up, we are providing data where we are separating the complaints by the TLD they fall in, the legacy or not, or the new.

There is a not specified and that is related to sometimes it is a complaint that doesn't pertain to registrar or registry and doesn't belong in either bucket.

But, you will see in this report a much better visibility to the process. What I'd like to highlight here, while it is initially, we receive a large volume of complaints, you can see that sometimes there is a lot of them that are closed before first notice for multiple reasons. The simplest reason, sometimes we have a follow-up to the reporter. They don't provide additional information. We give them five days to respond to us, and when they don't, we close it.

Another reason we close an inquiry sometimes or a complaint, it could be a duplicate of one that's underway. Another one, it could be that it is out of scope.

But, once it gets to first notice, you see how much the number changes, and then second notice. Then, when we get to a third notice, we're talking less than 100 in relation to the bigger number that's received. So, we are seeing a lot of collaboration and work and effort to be sure we are getting there.

In the quarterly report, another one I want to share with you is the last one we just launched and it applies to both sides of contracted parties. I'm just going to pull up a rather one. We call it the closed complaint report.

This report is bringing transparency of what happened to the complaint. You said you closed them. What bucket did they fall in? we have identified four buckets – resolved, and there’s a definition of all of this. Resolved is that it’s been resolved or addressed, or it’s been responded to and the contracted party demonstrated compliance. There’s a bucket referred to as out of scope. Another one, it’s an ICANN issue. And a fourth category, other.

So, you will see now in the details by each complaint type how many complaints were closed and for what reason.

With this last report, our goal is to close the loop and provide that granularity and improve transparency to the full process or the lifecycle of the complaints we receive.

JENNIFER SCOTT:

Good morning. This is Jennifer Scott. I’m going to provide some information that we’ve been seeing in the spaces of the registry and registrar agreements.

The first is a reminder that most pertinent to registrars and registries that there’s a new consensus policy that has been announced in January for the protection of specific names related to intergovernmental organizations and non-governmental organizations or IGOs and INGOs.

There is a specific list of identifiers that has been published in association with this consensus policy. That is on icann.org. The policy provides for an exceptions procedure for the registration of IGOs and requires claim notices for second-level INGO identifiers.

Important note is that the policy does not address identifiers that are pending board approval or completion of PDPs by the GNSO process, including the IGO acronym list.

Another area that we've been seeing a volume of complaints in is with the registrar transfer policy and the change of registrant lock. Under the transfer policy, if there's changes to certain information in the WHOIS, a 60-day lock is imposed on the domain name. However, the lock should only be applied when changes are made to the registrant name, the registrant organization, the registrant e-mail address, or if no registrant e-mail address, then the admin contact e-mail address.

We have been seeing some change of registrant locks being applied when there's changes to other fields in the WHOIS, including the registrant telephone number or when there's been changes to the underlying customer information for names that have privacy-proxy services applied to them.

So, we've been working with registrars to make sure that they're following the change of registrant lock policy and only applying that lock to those areas that are applicable.

With regard to abuse report handling, we've been seeing a lot of attention to DNS abuse, so we just want to make sure that registrars are up-to-date and reminded of their requirements under the 2013 Registrar Accreditation Agreement, in particular section 3.18 and their requirement to respond and investigate abuse reports that they receive.

The next is registrar data escrow obligations. This is another reminder to registrars that their obligation to deposit escrow with an ICANN-approved data escrow agent begins with their first registration. We continue to see technical issues with the format of data escrow submissions, so we're working with registrars to make sure that their escrow is in line with the terms, format, and schedules that are laid out in the specifications, so that in the event that there's a failure of the registrar, that the data will be usable.

In the registry space, the policy I mentioned earlier for the protection of IGOs and INGOs, that also applies to registries. Both contracted parties will need to comply with the implementation dates that are in that consensus policy. For the IGOs, that's the first of August of this year. For INGOs, it's within

12 months after the release of the claims system, which is development with ICANN Org currently.

Another reminder related to the registry side of abuse in the DNS is specification 11, section 3b. This requirement has registries conducting periodic security threat analysis and reporting. They typically ... What we see in this space is that they're sharing that information with registrars and registrars are taking action on those security threats.

The final point here is a reminder that registry operators are required in some instances to notify ICANN of and seek approval from ICANN if they have a material change to any of their registry services or are implementing new services that haven't been previously approved. This also includes what we call material subcontracting arrangements which are services provided by subcontractors in the five critical registry areas.

[GEORGE]:

Good morning. This is George [inaudible] for the record. For those of you on the bridge, we are now moving onto slide 12. I'm going to be providing the audit update for the audit activity that we've done since ICANN 60.

For those of you aren't aware, we do the audits for both registrars and registries. The key things that I'd like to point out

for this slide is that typically we do two of these audits a year for both parties. We launched audits for both of them in September. Currently, the registrar audit is still in progress. It's in the remediation phase. The registry audit was finished in February. The next one just began this week.

On the next slide, which is slide 13, you'll be able to see that this is what a population of a registrar audit looks like. As I mentioned, we are in the remediation phase. What that means is that we have sent out the initial reports to the registrars with our initial findings and we're working with them to clear any findings or issues that we may have seen.

I'd also like you to note from the registrar slide that there are many registrars that we do look at and they come from many different countries. We also are looking at many documents that are in many different languages.

In the next slide, we're talking about the registry audit. As I mentioned, this one was just completed. As you can see, it covered ten top-level domains which were subject to the category one safeguards. Those reports were sent out through the timeline of January to March. The next one that I said just started this week which is in progress is in the request for information phase where we send out a list of questions as well

as some audit evidence that we are looking for that we will then evaluate during our audit phase.

On the next slide we're talking about the data escrow activity. As you know, registrars are required to send an escrow data with their data escrow agents. We do this proactively and, as you can see, since ICANN 60, we've requested more than 86 of these.

MAGUY SERAD:

Thank you, [Joseph]. Before I move off the audit update, my apologies to our audit partners. At the beginning of this session, we did not announce your presence. We have Matt and Eric. They are from KPMG. They have been ICANN contractual compliance audit partners since inception of the audit program in 2012 working with us in partnership while we are taking on these audits and working with all the contracted parties and reporting on all the activities.

Before we turn and start the Q&A question, I want to ask you if you have any questions, I want to just highlight a few things. Please note that if you want to reach us, there is a generic compliance e-mail you can reach us at. If it's specific to this session, just add this subject line. There are additional slides in the appendix. The reason we add this is we want the community to also know that contractual compliance is very much active in the policy world from inception of an idea to measuring the

concepts of policies. We work directly with the policy team and you have a list of the different policy and working groups that we contribute and work with on these efforts.

So, with this, it's going to be a little difficult managing the remote participants in light of no visibility to the Adobe or facilitation. So, what I'd like to do is start the Q&A questions and give the courtesy to the people who are on the phone first. If you have a question, please state your name and affiliation and ask your question. I will also let you know we are going to repeat your questions in the room because the recording doesn't have the ability to tie into your phone. Any questions from the participants on the phone?

This is the Q&A session. If there are people in the room that have comments, questions to the compliance team, we're here. Go ahead, Amadeau.

AMADEU ABRIL | ABRIL:

Good morning, Maguy and all the team and everybody. Sorry because I arrived late. At that moment, something was being explained. Perhaps I got it incorrectly, but I think I heard something like if we change service regarding [inaudible] agreement, we need to notify compliance. Is that correct? Because in my view, we have to notify the GDD and [inaudible]

or whatever part of the agreement is, but not notify compliance on that. Have I got it wrong?

JENNIFER SCOTT:

Hi, Amadeau. This is Jennifer Scott. I hope I didn't misspeak, but the approval and notification process is to ICANN. Logistically how that works would be for the registry operator to open a case in the naming services portal or to send an e-mail to globalsupport@icann.org. If you're in the naming services portal, there are process cases that are specific to the services that are being requested, including what's called a registry services evaluation policy request, or RSEP request. Those cases have embedded forms in them to allow you to fill out the information that's being requested in association with that service. That is how you would provide that notification to ICANN.

AMADEAU ABRIL | ABRIL:

Okay, so no change in that, right? It's not that we need to notify separately compliance. Just follow the naming services approval procedure, RSEP, or not depending on the services. Correct, thanks.

JENNIFER SCOTT:

Correct, thank you.

UNIDENTIFIED MALE: Good morning, [inaudible]. Quick question. On your dashboard, I see you have compliance process volumes and turnaround times, volume first notice, second notice, third notice. Then, later on in the report, you're combining inquiry and notices. Has ICANN compliance stopped that level of granularity yet or are we just not reporting on increase anymore?

MAGUY SERAD: Thank you for the question. At this point, the reporting is combined for inquiries and notices. This is one of the reports that's next in queue that we're working towards. Where's Reg? That's one of the things that a lot of the contracted parties, Jasmine and a lot of people have asked in the past is the separation, to bring another layer of transparency.

And for the audience, just to make sure that you're speaking the same language we're speaking with the contracted parties, when we send an inquiry from compliance, it's basically more of an initial fact-finding. We receive a report or a complaint, but we don't have enough facts or we don't have enough information, and we went back to the reporter and they still were not able to answer something.

So, we go to the contracted party and say, “This is an inquiry. Please help us understand how you’re applying this, so we can make a determination if it is a breach of the contract or not.”

A notice is a very obvious complaint that has a clear facts that have been provided and we go to the contracted party with a notice.

So, it has been a request on the table for us, but we wanted to make sure we accomplish all the other reports we just launched, and we hope to have that report in the near future.

On the phone, is there any questions? In the room, if you have any questions or comments, just please raise your hand. Amadeau?

AMADEAU ABRIL | ABRIL: That’s me again. I have a question regarding the audit first. I would say that during the last year, what we have seen in compliance tickets has been much better than what we saw before, both the relationship with the team and especially the type of cases. When we receive a compliance case, it’s something [inaudible]. A complaint from somebody for zone file access for the registry, they are correct to do that and [inaudible]. But, we are much happier now.

Still, the audit we passed last year as registrar was a nightmare. This is a question probably for the KPMG team here. In the current audit, you still receive this [inaudible] response not sufficient, you are in second notice, you are in third notice no matter what you respond. This was our experience last year, quite frankly.

The second question is for Maguy directly also related to the audit and it was a request we had last year in which we were forced to change our agreement even if our agreement was in compliance with ICANN [inaudible] as it was confirmed by GDD and legal afterwards. But, compliance team refused to stop the audit and ask this question to ICANN legal and we would like knowing whether this time, the next time that we have an audit for a registrar or registry this would be possible, to stop the third notice and the bridge notice because we have [inaudible] interpretation of the agreement, not the fact something is missing, and be forced to change something when later we are told that we are correct. Okay, thanks.

MAGUY SERAD:

Thank you, Amadeau, for the two questions. I need to take the first question, too. Sorry. It's not KPMG who is driving the notices. Our partnership with the KPMG is that ICANN contractual compliance is facing the front end and we work with

KPMG who provides us if you want to call it more of a back office, but they do the full strategic planning with us in the QA. But, when we are talking to the contracted parties and following the communication and all that, it's our team.

So, I think what I heard you say is that you are receiving notices after each other without a clear understanding. Sorry, if you can explain.

AMADEAU ABRIL | ABRIL: No, this only happened for the audit, not for the regular compliance case. In the audit, we were getting questions, we were replying, and what it looked like an automated response from a machine saying response not sufficient, and then boom, moving to second notice for that.

It really looked like not a human answering, but an automated system and everything ... For instance, we were [inaudible] with a question. You provide this and we were asking, "But, do you mean validation or verification?" Response not sufficient. Second notice. Well, it was quite [inaudible]. Nobody was reading that. It was clearly a machine replying to anything we were sending. It was quite disturbing, quite frankly. And I think we were not the only one receiving that last year. I heard that from many other registrars as well.

MAGUY SERAD:

Thank you for the clarification, Amadeau. Yes, we were made aware of that frustration in our closed session with the registrars yesterday in relation to the audit responses and the notices insufficient and not providing enough information. We have noted that and the audit team ... We'll look at that and we'll be able to provide you a notice with more clarity as why it's insufficient or incomplete.

Now, I would like to address the second question you had for us. I'm not really familiar ... I don't remember the case, but if you don't mind, I heard you say a deficiency was noted and you needed to address that interpretation. I want to confirm to you that we also, when there is a challenge of interpretation, we go internally and talk to our counterparts and one of them is the legal department. We even talk to either our registrar services or registry services to make sure we are on the same page. But, I think what I heard you say is that we did not put it on hold or something, but let me go specifically to your case and I will talk to [Yan] and see what happened in that case and we'll be able to have a better understanding of it. Is that okay with you? He's nodding his head forward. That means yes. Reg?

REG LEVY:

Hi, this is Reg Levy from Tucows. I wanted to follow on one of the issues that Amadeau raised with regard to escalating a notice when the conference is still ongoing.

In the past, we have had assurances from the compliance team here at the table and other compliance team members who aren't here that as long as we're making good faith efforts and having a conversation with the ICANN compliance team that it doesn't merit an escalation.

But, my team has seen multiple situations where we have been in conversations, we have been responding, and the notices keep getting escalated. The fact that you call me or send me a facsimile transmission doesn't make it more of a priority for me. It doesn't mean that the answer from my standpoint is going to change or it's not going to change my understanding of it.

I don't know why they're being escalated, so the first thing is do I have your continued and ongoing assurance that when we're actually in conversation with you, you won't escalate it?

My second question is the second level of notice is a call. But, a voicemail that says, "Hey, you're at second notice," isn't worth a lot to me. A call is you guys are on the phone and I am on the phone and we have a conversation. So, I would ask that the notification level of there is a call is not a voicemail that's left for

me, but actually an invitation. Here are some meeting times that are available for us. Are any of these available for you?

JENNIFER SCOTT:

Hi, Reg. Thanks for the feedback. Regarding the first part of your comment regarding the escalations, it would be helpful to have some specific examples that we can look at, but just generally noting that if there is a response that hasn't come in by the due date, that might be a reason for escalation. If it looks like some of the things that are being requested haven't been addressed, that might also be cause for an escalation.

We do strive to put into our communications why something is insufficient and why it might be escalating or what might be still outstanding. If you're not seeing that, let us know because that should be happening.

In terms of the call, we also make sure to call within the contracted parties local business hours, so we try to increase the chances of getting somebody actually on the phone, but sometimes we don't and therefore we need to leave a voicemail. It would extend the time to process the ticket a lot longer if we had to wait to schedule conference calls with everyone. So, there's a little bit of a scalability issue there, but you're always able to request a scheduled conference call in your response to the ticket and we'll be happy to set that up for you.

We can also take this feedback back and make sure the team is leaving for substantive information in the call, but the call is really just a redundancy effort to make sure that you've received the e-mail which is where all of the details of about the complaint should be already existing.

REG LEVY: So, I hear that your answer is no. Thank you.

MAGUY SERAD: The answer is no is when we call ... You were asking, just to be clear, your request is when we call and we leave a message at the businesses we're calling for the contracted party, you would like us to leave a message saying we are available. Please call me – which date you're available and all this stuff so that you can call us back. When we call, as Jennifer said ... Try to work with me on this one. If I leave the same message, you know how many contracted party calls are being made and it's not always the same person who is processing. Sometimes it goes by the zone based on what's going on.

But, as Jennifer said, when we leave a message, if you do want a call ... Many people don't want to call them back or they don't need to talk to us. Some contracted parties respond to the ticket. "I received a call from you. Sorry, I was in a conference,"

or something, “Can you please call me back on this day at this time?” And the team calls them back.

So, it’s hard to maintain schedules and manage that. We don’t have really that scalability, as Jennifer said. But, we do welcome – if you want, when you receive that message and you want to talk to us, respond to the ticket please. And let us know your availability. Say, “I’m available on this day and this day. Let’s have a call.” We’re happy to do that.

I’m going to pause and ask the remote participants, is there any question you have for us or comments? We have no visibility to the lines or hand raisers or anything. There is no Adobe, so I’m just going to take it by voices. Any other comments or questions in the room?

Thank you so much for joining us this morning. This is Maguy Serad. There are no more questions on the phone or in the room. We appreciate your participation. All the material has been published and if you have any questions to the compliance team, please send it to us and we will respond to you. Have a great rest of the week. Thank you, tech support.

[END OF TRANSCRIPTION]