IPC Meeting Minutes
ICANN49, Singapore
Tuesday, March 25, 2014 1:45pm-4:15pm (local time)

I.   IPC President, Kristina Rosette, called the meeting to order, welcomed the participants and provided an overview of the agenda.

II.   The IPC received a briefing from ICANN staff on new gTLD implementation. Krista Papac from the Generic Domain Division, addressed compliance requirements unique the new gTLD program.

a. Ms. Papac noted that there are certain points in time where the obligations of the new gTLD registries (RO) come into effect: in some cases, the triggering point is once the RO sign the agreement and others, upon delegation.
b. Ms. Papac further noted that as TLDs are getting delegated, there are systems in use for monitoring and for registries to report and provide information such as Data Escrow Reports, etc. Any problems in relation to these systems can either be a result of operational problems faced by ICANN, or a result of issues with the registry.
    i. To address such situations, ICANN will work to resolve it quickly. For Registry Operator related issues, the compliance process (which remains unchanged from that of existing generations of TLDs) comes into play.
c. Claudio DiGangi asked for more details regarding ICANN's procedures for handling the posting of the Sunrise information, and if there was a reason why ICANN was experiencing any delays.
    i. Ms. Papac began by providing some background on the TLD Startup Information (Sunrise Portal) and noted that they have been taking user/IPC requests into consideration and making adjustments as issues arise in order to make it more user-friendly. She encouraged the IPC to continue to submit feedback to ensure ICANN can continue to make the Portal more useable. She also noted that the high volume of data presents yet another challenge to making the information more navigable.
    ii. Ms. Papac further assured that they have been diligent about complying with the rules of the RPMs document.
d. Kristina Rosette asked why, from time to time, there are strings for which even though the information has been previously posted, it will reflect a newer, more recent posting date.
    i. Ms. Papac confirmed that the question was regarding the added "published date". She noted that, as specified in the RPMs document, registries do have the ability to modify dates. Some put the dates in their policy document so the policy document clearly articulates the different periods which get posted on the registry's web site where people go for information. Thus, when they modify the dates within the restrictions of the RPMs document, they need to update the published document as well.

  ii. Kristina Rosette offered the suggestion that there be a way to designate that the startup information for a particular TLD has been posted before but because of a subsequent change, it has been reposted.

 e. Claudio Di Gangi asked what ICANN is doing to address cases of misuse of registry operator's ability to reserve any number of domain names (permitted by the new gTLD Registry Agreement) to be later allocated after the sunrise period. He noted that these reserved names would still be subject to claims notices but couldn't be registered during sunrise, and if the RO reserved a sufficient number of those names that are in the Clearinghouse, it would defeat the purpose of the sunrise period altogether.

  i. Ms. Papac encouraged anyone who comes across such situations to submit a compliance ticket and the Compliance Team would follow up.

  ii. John McElwaine requested that ICANN be empowered to request a list of domain names reserved under both sections 3.2 and 3.3, this might provide a way to provide transparency and a check to ensure that Registry Operators are in proper compliance.

  iii. Ms. Papac noted that the Compliance Team does have the power to request lists for both now, and those lists can change at any time, thus there is no way of knowing if those lists are, in fact, up to date. Maguy Milam confirmed, noting that the Compliance Team has requested such lists when they have specific reports to validate against and because the lists are constantly evolving, they do so on a case-by-case basis.

 f. Kristina Rosette raised the issue of concerns the IPC has regarding discriminatory practices, in particular, the $25,000 sunrise for the proposed ".sucks" gTLD. Ms. Rosette inquired whether ICANN can use public information not included in application when evaluating this issue, and whether such an arrangement (where a RO intends to charge high prices for a domain name) which has the intended effect of requiring trademark owners to pay high prices was taken into account in the process of approving that RPM.

  i. Regarding consideration of public information, Ms. Papac noted that as they are made aware of issues, ICANN looks into them. Thus if a situation arose that "didn't look right" and someone alerted ICANN staff of it, it would be sent for consideration.

  ii. Ms. Papac noted that generally as long as the policy is on its face compliant, ICANN does not generally interfere with pricing issues.

  iii. After a request for clarification on whether the boundaries of what was within the "remit" of ICANN were clearly identified, Ms. Papac noted that although ICANN does try to clearly define the boundaries, they are continually evolving and thus, she could not give a definite answer.

III. **Karen Lentz, Director of Operations and Policy Research at ICANN spoke on plans and preparations within ICANN for reviews of the New gTLD Program.**

 a. ICANN is in the processing of applications stage and budgeting for projects that will be needed to get those reviews under way, ensuring they are adequately resourced and can be done in a timely, effective way.

 b. Activities include:

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Affirmation of commitments review- Implementation Assistance Group is working on metrics covering the aspects of competition, consumer trust, and choice. The Group has been tasked with providing advice on implementation in terms of which metrics require a baseline, and feasibility of some recommendations.
Formation of the Review Team, which will formulate a report to be considered by the Board
Additional reviews:

Route scaling- considering the effects of delegations of new gTLDs on security and stability.
SDI Recommendations that the URS be reviewed one year after the first date of operations

Review of Operational Aspects- looking at the mechanics of the new gTLD program in terms of the evaluation process and criteria, objection processes, contention resolution, etc. Debriefing had

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Ms. Lentz also noted the potential for a GNSO policy track of activities, but was unsure of what that will entail.
Jonathan Zuck added that a big part of the economic study suggested in the Implementation Assistance Group's preliminary recommendations would be pricing strategies and the effect that those strategies have on consumer trust, etc. Thus, some of the issues important to the IPC would be a part of an economic study but was requested to the Board.
Steve Metalitz inquired as to whether there were time limits for the AOC and Route Scaling Reviews.
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Karen answered she did not believe so, especially not for the Root Zone Scaling Study.
Ms. Lentz did note, however, that the AOC Review provides for periodic review, however she does not believe any time limit is in place.

Kristina Rosette asked if Ms. Lentz had a sense as to when they were likely to have more definitive information as to kind of structure and scope of that review, in particular, the mechanism through which the community could provide input.
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Ms. Lentz responded that by the ICANN Meeting in London, there would be a more comprehensive plan and rough timeline/expected sequence of events.

Steve Metalitz questioned whether any of the reviews Karen mentioned include consideration of whether any of the safeguards developed for new gTLDs should be applied to legacy TLDs.
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Ms. Lentz responded in the negative, stating she did not think so as far as the scope of review was stated, and she felt the reviews were limited to reviewing the effects of the new gTLD program.

IV. Margie Milam then spoke to the IPC about the WHOIS accuracy tool and the improvements effort.

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Ms. Milam provided an overview of how the WHOIS accuracy tool developed.
Ms. Milam then noted that what ICANN staff has been focusing on is enhancing its online WHOIS systems:

      i. WHOIS Website- Published during the ICANN meeting in Buenos Aires, the website is an educational tool and central place for all additional work that are coming with regard to the WHOIS program.

      ii. WHOIS Primer- synthesizes WHOIS requirements into language that is understandable to someone not familiar with ICANN contracts or legalese. It contains live links to related contract terms.

      iii. WHOIS Look up Tool- simplifies looking up WHOIS information. Reporting features are made easier and will eventually include ability to send inaccuracy complaints. Launch scheduled to be within the next few weeks.

      iv. WHOIS Online Accuracy Reporting System- WHOIS Review Team recommended that ICANN publish statistics related to the WHOIS program and be able to track accuracy rates over time. WHOIS Accuracy Tool is meant to proactively identify inaccurate WHOIS records. Ms. Milam further described how such identification and validation would be executed and noted that the results of such work would be publicly reported.

c. Ms. Milam further outlined the development phases for the WHOIS Online Accuracy Reporting System.

      i. Phase 1- WHOIS online search tool (as described earlier)

      ii. Phase 2- After public comment period has closed, ICANN will publish an RFP to seek out tools such as postal address validation, telephone number validation, parsing, etc. in order to be able to keep a record and conduct analytics necessary for statistical analysis.

            1. Impacts Contracted Parties, Registrars, due to increase in the volume of inaccuracy complaints being forwarded to Registrars for action. ICANN is also exploring how it impacts the Contractual Compliance Department.

      iii. ICANN will start publishing results of the analysis before all Phase 2 procedures are finalized because it must work with Registrars and the Compliance Team to determine the best way to forward inaccurate records to them.

d. Ms. Milam noted that NORC suggested methodologies on how to look at a WHOIS record to determine the extent of the failure in the report and an assigned score.

            1. E.g. - Failure, limited failure, substantial failure, full failure… etc.

      ii. NORC has suggested scoring a record and using the scores as a basis for producing statistical analysis reports. Scoring considerations include: operational accuracy, identity, etc.

      iii. System will be automated, allowing for review of a substantially higher number of records.

e. Ms. Milam then elaborated on what will be reported. Data of note included:

      i. Accuracy of records by geographic region

      ii. Impact of size of Registries and Registrars on accuracy rates

      iii. Comparison between new and legacy gTLDs

f. First accuracy reports are hoped to be available by end of 2014.

       i.   Once this process is in place, ICANN will simultaneously with Registrars on operational aspects of how to transmit inaccurate records to them.

g. Mr. Metalitz noted that the New gTLD Program Committee had informed the GAC nine months ago that this WHOIS Accuracy Reporting Tool was already in place, and queried whether ICANN had any plan to update the GAC as to the fact that the tool was not yet in place even though registrations are already being taken with the new gTLDs?

       i.   Ms. Milam responded that she was unaware of a need to update the GAC beyond what was available to them in the public comment but agreed to do so if deemed of value.

h. Marc Trachtenberg inquired whether the reports contemplate identifying the Registrars that had complaints submitted and the number submitted.

       i.   His comment was supported by Jonathan Zuck, who noted that such a statistical report may in fact create some pressure on Registrars while at the same time relieving some of the pressure on compliance.

      ii. Ms. Milam noted that although ICANN had not yet scoped out the process once a record gets forwarded to the Registrars, she would bring forward the suggestion and encouraged submission of such comments in the public comment forum.

i. It was also suggested that it be noted in WHOIS results there has been an inaccuracy complaint submitted for a specific domain name, thus alerting individuals to the fact that information could potentially be inaccurate.

j. Finally, Petter Rindforth asked Ms. Milam had any recommendations or comments for the Translation and Transliteration Working Group based on her experience thus far.

       i.   Ms. Milam noted that the WHOIS Review Team recommendations do include making reports relating to internationalized registration data and whatever policy gets developed and implemented will be expanded to check accuracy rates in non-ASCII.

V. Maguay Serad and Owen Smigelski from Contractual Compliance spoke on issues of compliance within the new gTLDs.

a. Ms. Serad noted that all Web forms and other preparations needed to receive complaints from the ICANN community or reports have been built, and "FAQs" have been developed.

b. By ICANN50 in London, their audit report Year 2 will be presented, as well as what Compliance is doing in preparation for the audit plan and details of the audit plan for the new Registry Agreement.

c. Ms. Serad noted the different ways of filing WHOIS inaccuracy submissions (single complaints, multiple complaints and bulk WHOIS inaccuracy submission)

       i.   Bulk WHOIS inaccuracy submissions- authenticated access provided to interested parties who have provided Compliance with reason for wanting this ability to upload a file.

      ii. All complaint submissions go through the same processes for scrutiny and validation, but are tracked as bulk vs. individual for sake of compiling statistics.

      iii. Slides were provided, but not presented, regarding closure codes associated when Compliance closes complaints, whether they are closed at the beginning or the end, what the closure codes and percentages are.

      iv. Ms. Serad then noted the significance and helpfulness of the "learn more" pages on the ICANN website

d. Mr. Smigelski spoke on topics regarding compliance and enforcement as it relates to the enhancements due to the 2013 RAA.

      i. Mr. Smigelski stated that the RAA, specifically the WHOIS accuracy program specification, has significantly more requirements for Registrars and noted that there have been some growing pains both internally for ICANN Staff as well as with some registries.

        1. Some additional requirements include:

          a. Email address verification and re-verification at time of registration (as well as when there is a WHOIS accuracy complaint even if the complaint is not about the email address itself).

          b. Domain names must be suspended or the Registrar must do a manual verification if no response from the Registrant, requiring a pro-active response from the Registrar.

        2. Other Changes:

          a. 2013 RAA measures time in calendar days, not business days.

          b. 15 calendar days in which Registrars must take action regarding WHOIS verification/validation (i.e. upon first notice)

          c. Starting with the second notice, Compliance will inquire why the Registrar did not suspend the domain name if it has not been corrected or suspended at that point.

      ii. Mr. Smigelski then described the two parallel tracks for WHOIS inaccuracy complaints that Registrars must follow:

        1. WHOIS inaccuracy complaint regarding address, telephone number, technical, administrative contact- registrar must verify email address and take active steps to investigate the complaint, requiring an affirmative response from the Registrant. Without such affirmative Registrant response, the Registrar must do a manual verification or the domain must be suspended.

          a. Required responses/affirmative responses from the Registrar- (1) the WHOIS is updated and validated, (2) cross-field validation is conducted (mechanism not yet in place), (3) Registrar to verify it correct and validated; if the Registrar does not receive a response from the Registrant within 15 calendar days, it must suspend the domain.

      iii. Mr. Smigelski continued by addressing differences between privacy service and proxy services and what Compliance has been doing on this front with regards to WHOIS inaccuracy complaints

1. Mr. Smigelski noted the difference between the two in that a privacy service must actually show the Registrant's name, while for the proxy service, the Registrant's name is listed but it licenses the domain to a beneficial user.
2. Compliance is working to ensure either that the accrual Registrant's information is shown or that it is a proxy service that is a separate legal entity from the Registrar. This information must be verified and validated for the 2013 RAA

iv. Another aspect of the 2013 RAA involves abuse reports. (Section 3.18)
1. Registrars must accept abuse reports, must have an email address on their website, must have an email address and telephone number in its WHOIS output.
2. Registrars must take reasonable prompt steps to investigate and respond appropriately.
3. Compliance considers whether the reporter provided specific enough information to enable Registrars to take action.
4. These abuse reports are separate from trademark abuse reports which must still go through the UDRP.

v. Ms. Serad and Mr. Smigelski closed their presentation with a slide listing the twelve Registry complaint currently existing and links to more information. Finally, they encouraged those interested in learning more about the compliance program to attend a session on the issue the following day.

e. The floor was then opened to the following questions:

i. Greg Shatan raised the issue of applicants in a contention set that have not yet signed a contract, offering a 'pre-sunrise priority registration' for a premium price, before the beginning of the sunrise period, was raised.
1. Although it was noted that pricing aspects are not considered by Compliance, the aspect of offering priority pre-sunrise could be submitted in a complaint with supporting facts for Compliance to review. However, until an applicant has become a Contracted Party, staff stated they felt it was outside of the Compliance process.

ii. Jonathan Zuck raised the point of metrics for complaints to enable ICANN to obtain a baseline understanding of how the processes are working and to create objectives for improving them and then compare the results to those projections.

iii. Clarification was sought on whether ICANN saw applicant terms and conditions as a contract or not, particularly with regard to the .SUCKS applicant discussed earlier in the meeting.
1. Ms. Serad noted that they could only speak from within Compliance's scope, but applicants remain merely applicants until the complete the compliance review, the RAA is signed, and they are delegated. It is then that Compliance begins enforcing the contract, since the applicant has now become a Registry operator or operating a TLD.

iv. Jonathan Zuck raised a question about the process regarding Closures of WHOIS complaints. Are they reviewed by someone before the closure?
   1. The answer given stated that part of the functionality in the automation is for those complaints and that the system does periodically check to see fi the domain has been suspended. If it has been, then that satisfies the complaint, it will close automatically and a closure notice goes out just for those that are automatically resolved.
   2. For manual checks, Staff selects the complaints and that is processed out. It was recommended that in the case that a glitch is encountered, rather than replying to the ticket, the individual forward it to compliance@icann.org.
v. Alex Deacon asked what Compliance is doing to enforce the PIC specifications.
   1. Ms. Serad replied that Compliance is working directly with the DNS engagement team which, from a business perspective, has laid out the procedures. The PIC DRP runs through all of the steps of the procedures, however, Compliance is doing two things:
      a. Proactively picking, reviewing, and auditing the TLD on their PICs. (To be finalized this trimester)
      b. When a report of a PIC noncompliance is received, Compliance will follow up and follow through per the reported process to ensure that it becomes compliant. This process is currently up and running.
   2. It was further noted that Compliance also generates complaints itself, as one complaint may lead to the discovery of another instance of noncompliance. Ms. Serad emphasized a focus on what is "public facing" and the importance of allowing the ICANN community to reach Compliance with their issues.
   3. After this reporting and review procedure is in place, Compliance will be conducting an audit program of the PICs. Ms. Serad expressed that they hoped to be able to share this plan by ICANN 50. The Year 2 audit session will be reported as well as the activities planned for the new Registry Agreement audit plan. PIC will be a subset of that.
vi. Marc Trachtenberg raised a question regarding registries who are purporting to offer alternatives to the TMCH, which is prohibited under the RPMs and Registry Agreements.
   1. Compliance staff responded that they had not received a complaint on this matter and expressed that unless they had documentation to support and track complaints, or they investigated matters themselves (i.e. via the audit which had not yet been conducted) they could not address the matter for reasons of accountability. However, in general, if this is an instance of a Registry operator violating the terms of their Registry Agreement, it would be a case for Compliance to take action.

f. Kiran Malancharuvil commented on the issue of pre-registration schemes at the Registrar-level where Registrars provide trademarks claims notification that appear non-compliant with the trademark claims notifications as specified in the RPM requirements. Ms. Malancharuvi expressed concern over ICANN's failure to adequately address this issue despite formal complaints being.

   i. Ms. Serad again emphasized that they could only take action on specific submitted complaints, some of which are still in review, and unless the Registrar has signed an agreement, Compliance has determined the Registrar is in breach, and the Registrar has not cured their breach, Compliance cannot take it to another level of enforcement.

   ii. Ms. Rosette re-phrased the question by asking what happens if Compliance determines a TM-Claims notice is in breach and what happens registrations issued based on these notices.

      1. Ms. Serad noted a comparison to WHOIS inaccuracy- if a Registrar's WHOIS outputs are inaccurate- does compliance have the power to prevent the registrar from adding additional registrations. Ms. Serad noted that Compliance has enforcement tools, but enforcement from the ICANN community is necessary as they are not at the level to go ahead and suspend these practices themselves, as a whole.

g. Steve Metalitz raised the question of who is responsible for selecting panelists for the PIC DRP panels?"

   i. Compliance staff responded that this effort is led by the DNS engagement team, which has been providing input and putting processes and criteria in place.

h. Ms. Serad thanked the IPC and closed the meeting by encouraging all members to keep the channels of communication open with Compliance in order to enable them to best address the community's concerns.

VI. Kristina closed the option portion of the meeting, announcing a break before transitioning to the closed session of the IPC meeting.