At-Large Compliance Questions <u>after</u> San Jose Meeting
on Sunday 11 March 2012

Q #	FROM	QUESTIONS	Contractual Compliance RESPONSE
1	<u>Rinalia</u> **Abdul Rahim**	What are the obstacles in incorporating the need for resellers to be bound by the same compliance requirement as registrars in the RAA?	ICANN does not have contractual relationships with resellers. The 2009 RAA imposes obligations on registrars working with third-party resellers. The RAA now requires registrars to include specific items in the Registrar/Reseller Agreements, including: prohibiting the reseller from making representations that it is accredited by ICANN; requiring that all reseller registration agreements include all provisions that the Registrar is required to include in its Registrar/Registered Name Holder Agreement; requiring the posting of all links to all ICANN websites that the Registrar is obligated to post; and identification of the sponsoring registrar. Please see http://www.icann.org/en/resources/registrars/raa/ra-agreement-21may09-en.htm
2	<u>Rinalia</u> **Abdul Rahim**	In the requirement to publish breach notice on the website of non-compliant registrars, is it clear that the notice has to be prominently displayed? Does ICANN Compliance check to ensure that the breach notice is prominently displayed?	The 2009 RAA does not require registrars to "publish breach notice[s] on the website of non-compliant registrars." ICANN publishes notices of breach on the ICANN website at http://www.icann.org/en/resources/compliance/notices

3	**Evan Leibovitch**	Most end users and many registrants don't know that substantial regulatory situation of gTLDs compared to ccTLDs, especially considering the many ccTLDs that market themselves as generics (ie., .co and .tv). What is ICANN doing to help complainants regarding registries outside ICANN's direct authority? Does ICANN even publish best practices for ccTLDs in this regard?	ICANN has a website with resources and information about ccTLD's available at http://www.icann.org/en/resources/cctlds. Complainants experiencing issues with ccTLD registries that are outside ICANN's direct authority can consult the link above for information on contacting the relevant registry operator and information about the registry operator's dispute resolution policies.
4	Evan Leibovitch	I heard Maguy say during the ALAC session that the compliance/enforcement process in place was based on an assumption of self-governance. I take issue with that assumption and challenge it as "accepted wisdom". Self-governance would be appropriate as a model if ICANN was a contracted party industry association	The comment made was in relation to self-regulation. This statement was in support of encouraging a "culture of compliance" in the ICANN community and making it everyone's responsibility to ensure compliance. The contractual compliance team is accountable and will enforce compliance per process.

		(and indeed there are many who already perceive ICANN in that way). However, ICANN's multi-stakeholder model doesn't work that way -- the parties being regulated are only one component of a very broad coalition of communities. So the term "self-regulation" is not only completely inappropriate, it is dangerous to ICANN's public image in that it enforces attitudes that ICANN's processes are captured by the very bodies it claims to regulate.	
5	**Evan Leibovitch**	In light of the above, I believe that the interest of ICANN end-users is best served by abandonment of the incorrect philosophy of "self-regulation", replaced with an asserted commitment to the multi-stakeholder model and methods consistent with the Affirmation of Commitments. Doing so would subtly but significantly change the bias of ICANN compliance activity from one of registrar protection to one of public protection. As just a single example -- complaint statistics, which are an issue of fact not opinion, must be open by default and will serve the public interest through provision of transparency and	Comment noted.

		openness mandated by the AOC. It is detrimental to the public interest, and to effective consumer choice and trust, to withhold complaint data up until a Breach is officially determined.	
6	**Evan Leibovitch**	Olivier's pointing out the technobabble on the "how to complain" page is a significant concern. ICANN has spent considerable resources on simplifying the explanations of "what is a new gTLD", so we know that the ability to talk in plain language exists when the will exists. Get Scott Pinzon involved in the simplification of "what to do if something goes wrong", taking an FAQ approach that first tackles the most common complaints.	The team continues it efforts to simplify and update the website.
7	**Evan Leibovitch**	Please elaborate (and break down further) the 24% "invalid complaints" as described on slide 6. This is an insufficient explanation for so large a percentage of rejected complaints.	Slide 6 of the Contractual Compliance presentation included a chart that categorized how 6,445 Whois inaccuracy complaints were closed during the T2 trimester. The chart indicated that 1% of the complaints closed during T2 were closed because the complaints were characterized as "Invalid Reports."

Slide 6 did not contain a category titled "invalid complaints"

24% of the complaints were closed, as registrars verified that the data was correct. |

			Numerous Whois inaccuracy reports filed are and were deemed inaccurate for the following reasons: Complainant failed to confirm complaint; Complaint form was used inappropriately, often to make derogatory remarks about businesses and/or people; and complaint had already been filed within a recent timeframe, etc.
8	**Evan Leibovitch**	If there are complaints that are legitimate, but outside the scope of Compliance, these MUST be documented as well as the ones that are acted upon. If there are complaints that are deemed out of scope yet still potentially valid, ICANN has an obligation to not let them "fall through the cracks".	All complaints are addressed and do not "fall through the cracks"
9	**Evan Leibovitch** Submitted by Rudi Vansnick:	Almost 3 years after the Mexico summit, where I've organized a thematic session entitled "Registries-registrars and abuse of domain names" I do not see any improvement with regards to the way registrars and especially their resellers are abusing the WHOIS hidden form registrations!	WHOIS remains a strategic priority for ICANN. Staff is exploring alternate means to help achieve significant improvements in gTLD WHOIS accuracy. Potential paths to implementation include: changes to the Registrar Accreditation Agreement (RAA), which is currently under negotiation; possible adoption by registrars of best practices intended to improve WHOIS accuracy; and/or possible creation of a new GNSO consensus policy that modifies the WHOIS Data Reminder Policy or creates a new policy to achieve improvements in WHOIS accuracy.
10	**Evan**	Many registrars fail to put correct data	

	Leibovitch Submitted by Rudi Vansnick:	in the WHOIS of domain registrations! My questions is specific with regards of registrars registering ccTLDs where it seems compliancy is less requested	ICANN does not accredit registrars for ccTLDs, and the requirements of the RAA do not apply for registrations within those ccTLDs. Accreditation of registrars for ccTLDs and compliance with the accreditation requirements are matters of choice for the ccTLD Registry Operators – ccTLDs do not have to accredit registrars, and if they choose to accredit, ccTLDs may set their own standards and obligations for accreditation.
11	**Evan Leibovitch** Submitted by Rudi Vansnick:	What has ICANN undertaking to avoid registrars are still having hidden of false information in the WHOIS data of many ccTLD's?	Please see above.
12	**Evan Leibovitch** Submitted by Rudi Vansnick:	How ICANN will be able to guarantee the registrant he/she will not be victim of those "criminal reseller networks" behind some specific registrars?	ICANN encourages registrant protections by requiring registrars to provide a link to the ICANN Registrant Rights and Responsibilities Webpage on any website that the registrar operates for domain name registration or renewal. The link must be clearly displayed to its Registered Name Holders at least as clearly as its links to policies or notifications, required to be displayed, under ICANN Consensus Policies.