

Contractual Compliance

APRALO Multi-stakeholder Policy Roundtable @ ICANN 46

8 April 2013

New gTLDs and Implications for the Asian-Australasian-Pacific Region

Topic:
End User/
Consumer
Protection
with
New gTLDs

Discussion Questions:

1. How can end users and registrants be best protected in the context of new gTLDs?
2. What are the issues associated with turning applicant commitments into contractual obligations?
3. What are the issues related to the enforceability of contractual obligations and what recommendations should be made regarding the scaling up of ICANN compliance?

Discussion Question #1

How can end users and registrants be best protected in the context of new gTLDs?

- End users and registrants need to be informed
- Contractual Compliance readiness efforts...
 - Conducted contractual requirements gap analysis
 - Performed risk analysis based on probability of registry failure and severity of impact
 - Key is proactive monitoring
Ex: the EBERO escalation process, Service Level Agreements, Data Escrow failures
 - Developed preliminary Audit Plan

Discussion Question #2

What are the issues associated with turning applicant commitments into contractual obligations?

- PIC – Public Interest Commitment
- Voluntary for registry applicant
- Applicant commitments (PIC) to be incorporated into Specification 11
- Subject to PIC Dispute Resolution Process
- Each Registry's PIC finalized at contracting
- PICDRP is out for public comments

Discussion Question #3

What are the issues related to the enforceability of contractual obligations and what recommendations should be made regarding the scaling up of ICANN compliance?

Having real-time and automated monitoring tools

- Pro: proactive and can prevent complaints
- Con: not all provisions are suitable for monitoring so one must balance monitoring with periodic audits

The Scaling Up of ICANN contractual compliance is contingent on:

- Rate of delegation
- Level of monitoring tools and automation
- Ability to streamline and optimize the existing processes