

Subject: Follow-up on an enquiry during Durban Public Forum

Date: Wednesday, September 25, 2013 6:33:18 PM Pacific Daylight Time

From: Olivier MJ Crepin-Leblond

To: Fadi Chehade

CC: Steve Crocker, Secretary, ICANN At-Large Staff, Olivier MJ Crepin-Leblond, Evan Leibovitch

ALAC Correspondence Ref: AL-ALAC-CO-0913-01-00-EN

Dear Fadi,

I am following up on a question which was asked as an individual by my colleague Evan Leibovitch during the Public Forum in Durban:

Quoting the transcript of the session, page 87:

EVAN LEIBOVITCH: Thanks, Steve. I'm Evan Leibovitch, vice chair of the ALAC speaking on my own behalf. But this is based on a number of conversations with a number of people within the At-Large and elsewhere. Without coordinating it at all with Phil, it relates to something he said and it has to do with the relationship between benefits and rights. Somewhere, somehow, section 9 of the RAA had some strange search and replace happen where the words "rights" were taken out and "responsibilities" put in. Not only that but it was done in a confusing way. The document for section 9 heading says "benefits and responsibilities" and the first section talks about rights. Since then there have been many talks this week about rights and responsibilities. The "B" word hasn't been used anywhere, but there it is in the RAA. Can someone explain how it crept in, why it's there, and what is meant by the distinction between rights and benefits? I think to a lot of people, there's a very real distinction in the word. I'd like to know how it crept into the RAA.

STEVE CROCKER: Management response here?

FADI CHEHADE: We'll look into that. That's all I can say. I'm trying to find out some facts, but I appreciate your comment. I appreciate the distinction between the two. That's all I can say.

--- end of transcript ---

The ALAC has discussed this point during its August and its September monthly calls and on its mailing lists and this has proved to be a particularly important point which needed clarification. I am therefore writing to you to ask for this clarification.

It is understood that the RAA is a legal contractual document, several copies of which were signed in Durban. The page in question is Section 9, entitled "Registrants' Benefits and Responsibilities", page 68.

Until the title of this section appeared, the notion of "Registrant Rights and Responsibilities" was the notion that prevailed, certainly in the At-Large world. As Evan Leibovitch mentions in his comment during

the public meeting, there is much difference between a Registrants' Rights and a Registrants' Benefits.

But the confusion is then exacerbated by the fact that the next line on that same RAA page is a sub-heading of "Domain Name Registrants' Rights" and the list printed on that page very clearly reads as a list of Registrant Rights. RAA signatories are therefore clearly signing on a list of Registrants' Rights.

Furthermore, Section 3.16 of the same RAA document points to "an educational webpage summarizing the terms of the Registrar Accreditation Agreement and related Consensus Policies (as of the date of this Agreement, located at: <http://www.icann.org/en/registrars/registrar-rights-responsibilities-en.htm>)."

On the other hand, Section 3.7.10 mentions "Registrants' Benefits and Responsibilities" as: "Registrar shall publish on its website(s) and/or provide a link to the Registrants' Benefits and Responsibilities Specification attached hereto and shall not take any action inconsistent with the corresponding provisions of this Agreement or applicable law."

and:

"3.12.7 Its Resellers shall publish on their website(s) and/or provide a link to the Registrants' Benefits and Responsibilities Specification attached hereto and shall not take any action inconsistent with the corresponding provisions of this Agreement or applicable law."

So what we have is references to both Rights and Benefits, and I, like my colleague Evan Leibovitch, would like to point out that these are entirely different words meaning entirely different things -- and I note that from your response in the ICANN Public Forum, you appreciate the distinction between the two.

Would you then please kindly provide clarification as to how the title of that section is called "Registrants' Benefits and Responsibilities" when there are clearly no "Benefits" but indeed there are "Rights" listed?

Warmest regards,

Olivier MJ Crépin-Leblond
ALAC Chair