



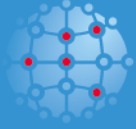
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New gTLD program: experience, comments, perspectives (RA & RAA procedures development)

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Crete, September 11, 2013

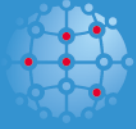


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History:

- Zero Round (2000-2011):
 - .asia, .jobs, .cat, .mobi, .post, .tel, .travel, .aero
- New gTLD start (2012):
 - 1,930 applications
- Process (2012 – 2014?)
 - 17 signed RA contracts
 - No new gTLD Registry functional yet
 - Open ended issues, not a predictable process
- Survivors & winners (2013?-2015?)
 - Most applicants depleted their resources and have no choice but to sign new RA
 - Possible litigation issues (Unilateral change of rules after 185k USD transfers)
 - First General Availability of new gTLD in 2014 (?)

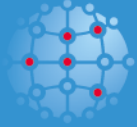


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Terms & Definitions:

- We all love abbreviations:
 - RA - Registry Agreement
 - RAA - Registrar Accreditation Agreement
 - TMCH - Trademark Clearinghouse
 - RPMs – Rights Protection Mechanisms
 - PIC - Public Interest Commitments
 - PIC DRP - Public Interest Commitments Dispute Resolution Procedure
 - LOC/COI – Letter of Credit /Continuing Operations Instrument
 - CA – Certificate authority
 - PDP - Policy Development Process
 - AGB - Applicant Guidebook
 - Public Interest – interesting definition in the last RA (p. 30)

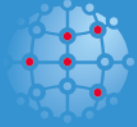


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Parties & effects:

- ICANN (Staff, CEO, Board, Chairman)
- Old Registries
- Applicants (generic, GEO, brand, community)
- Constituencies & Groups (RySG, NTAG, GEO, Brand, IP, RrSG... GNSO?)
- GAC
- Important “Third parties” (TMCH, URS providers, EBERO, DPT provider)
- U.S. Government

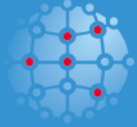


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Positive interaction?

- RySG, NTAG, GEO
 - Information exchange point
 - Crowdsourcing (solutions of administrative, legal, technical issues are elaborated and forwarded to ICANN)
 - Less plain criticism, more proposed solutions
- IP, TMCH
 - Some really interesting ideas (11th hour changes, Strawman Solution, no SLA for TMCH e.t.c.)
- GNSO is losing it's role
 - At the first glance – these working groups do the job
 - Whole picture is not that bright – they do not take into account opinion of other groups



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Indicator of IG process:

- Multistakeholder Model (theory)
 - AGB as a product of Multistakeholder PDP process
 - Unique role of ICANN to follow bottom-up, multi-stakeholder model in open and transparent fashion
- Process vs. Implementation (reality)
 - Top-down regulatory relationship (we all have right to cancel contracts in 30 days)
 - Unilateral Right to amend RA & RAA
 - Hand-picked special committees (5y Strategic Plan)
 - Public comments, opinion of common with ICANN working groups, results of previous PDP – ignored
 - Lack of transparency and accountability
 - Changes to RA, RAA 2013, new rules (RPMs) outside of PDP process
 - Lots of small changes to AGB, RA made it what we see now

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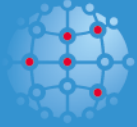


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IG or not IG?

- Operational inequality
 - U.S. Stakeholders ?
 - Lost Consensus (more new Constituencies, working groups, committees make role of GNSO less relevant)
 - New Role of ICANN as a tool of U.S. Government
 - More and more GAC Advice
 - RA & RAA 2013 are not suitable for most parties outside of the USA (no process of settling these issues exist for both new gTLD Applicants and Registrars)
 - Registrars inequality (only RAA 2013 registrars can sell new gTLDs at cost of harsh restrictions and new obligations)
 - Registries inequality (some CCTLD act as new gTLDs without borders, Old Registries have more freedom and not restricted to old RAA registrars, .COM has NTIA contract)

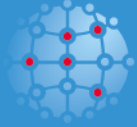


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Marathon distance:

- Old experience is inapplicable
 - CCTLDs – much broader rights, less obligations
 - Registrars – Shopper vs. Shopkeeper experience
 - Old Registries – the closest match, only from technical side
- Importance of financial endurance
 - ICANN's history of delays, false starts (Digital Archery e.t.c.)
 - Current delay with RA, RAA 2013 execution
 - Open ended issues
 - 2013 Joint Strategic Plan On Intellectual Property Enforcement (obviously, needs to be implemented ...)
- Avoiding Roulette
 - Right choice of experienced consulter
 - Next Run can be yours in years to come



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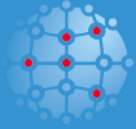
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State of affairs:

- RAA 2013
 - No Formal process exists to fix local legislation issues
 - Registrars applied for RAA 2013, handed in their filled out forms and waiting for reply from ICANN

- RA
 - TMCH (legal & technical & timeline issues)
 - URS (legal & technical issues)
 - PIC DRP (legal issues, no operational process in place)
 - Unknown process of Legal Negotiations (operational issue)
 - RPMs (legal, technical)
 - More GAC Advice soon?
 - Name Collision (Operational, Administrative issue)

- we may hope for new strings to be operational during the spring 2014



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Questions?

Thank you!

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