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IPC COMMENTS RE .NET RENEWAL AGREEMENT

May 10, 2011

The IPC appreciates this opportunity to comment on proposed changes to the .NET registry agreement. See http://www.icann.org/en/public-comment/#net-renewal.

While we have no comments on the specific changes proposed in the public comment notice, we urge ICANN and Verisign to incorporate in the .NET renewal agreement the best practices for registry agreements that have developed since the current .NET agreement was signed, including appropriate provisions from the new gTLD registry agreement as it now appears in the New gTLD applicant guidebook. Specifically, the renewed .NET registry agreement should include:

- Thick Whois service. Virtually every gTLD registry agreement ICANN has signed, other than with the operators of legacy gTLDs such as .NET, has required the registry to maintain and to make available to the public a full range of Whois data, rather than devolving this responsibility to hundreds of accredited registrars scattered around the world. This is also a feature of the standard agreement proposed with new gTLD registry operators in the future. There are many compelling advantages to the thick Whois system, not least of which is the efficiency it brings to ICANN contract compliance efforts, which can focus on ensuring that the centralized registry Whois services are continuously available to the public. We know of no compelling justification for .NET to remain the outlier from this nearly universal trend.

- Enhanced Whois data quality requirements. Three of the gTLD registry agreements that ICANN has signed most recently – for .asia, .mobi and .post – call for registries to require registrars to adhere to a compliance review policy, under which they must –

  - "designate a contact point to which evidence of false or fraudulent contact data may be reported";

  - "institute procedures for investigating claims that registrations may contain false information";

  - "for registrations found to contain false information, require their speedy and efficient correction, or otherwise cancellation"; and

- allow "interested third parties [to] invoke these procedures."[1]

These eminently reasonable and practical requirements represent the current best practice for gTLD registry agreements, and they should be reflected in the .NET renewal. At a time when law enforcement, private sector security experts, consumer protection agencies, and many other groups all agree that more accurate Whois data is an essential tool in combating a growing tide of malicious, criminal, and otherwise illegal behavior online – including but by no means limited to copyright and trademark infringement –there is no justification for omitting these safeguards from the agreement governing one of the largest gTLD registries.

- <u>Abuse point of contact</u>. .NET, like the operators of new gTLDs, should be required to publish on its website a single point of contact for abuse reports.

- <u>Cooperation with contract audits</u>. The .NET operator should be subject to specific requirements to cooperate in periodic contract compliance audits, just like its counterparts operating new gTLDs.

- <u>Emergency transition and continuity plans</u>. The .NET agreement should contain safeguards in these areas equivalent to the obligations taken on by operators of new gTLDs.

- <u>Rights protection mechanisms</u>. Once the post-launch rights protection mechanisms called for in the new gTLD registry agreements are up and running, .NET should be obligated to participate in them. Notably, .NET should be required to make the uniform rapid suspension (URS) system available as an efficient and expeditious method of dealing with clear-cut cases of abusive registrations in .NET. The renewal agreement should set forth a process for ICANN to specify the date upon which these obligations will become effective for the .NET registry, along with an adequate transition period for the registry operator to put the necessary procedures into place.

A review of the standard new gTLD base registry agreement should be carried out, once its terms are finalized, in order to identify any other areas in which its provisions represent best practices that should be applied to .NET.

The inclusion in the .NET renewal agreement of provisions addressing the issues listed above would have a number of beneficial effects. ICANN's stated goal of promoting healthy competition in the gTLD space would be advanced, because these provisions will level the playing field between legacy registries, like. NET, and the new registries that will be coming online in the next few years. Without these provisions, the newer registries will be required to undertake significantly greater obligations than legacy operators, thus potentially providing the latter with a competitive advantage.

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[1] See http://www.icann.org/en/tlds/agreements/asia/appendix-s-06dec06.htm#6;
http://www.icann.org/en/tlds/agreements/mobi/mobi-appendixS-23nov05.htm;
http://www.icann.org/en/tlds/agreements/post/post-appendix-S-11dec09-en.htm.

Furthermore, the critical registrant protections provided by features such as thick (and more accurate) Whois, abuse point of contact requirements, and emergency and transition plans, will be much more effective and comprehensive once they are extended to the huge .NET universe. Failure to incorporate these provisions in the .NET agreement will signify a reduced ICANN commitment to its paramount goal of protecting registrants.

Finally, .NET's agreement to these best practices will be a concrete demonstration of its operator's commitment to the most current and up-to-date standards for responsible registry operations. These changes are "designed to allow Verisign to better serve the internet community," and thus fall within the third category of contract modifications already provided for in the draft .NET renewal agreement.[2]

For all these reasons we urge that the .NET renewal agreement be revised as outlined above.

Respectfully submitted,

Steve Metalitz, IPC vice president

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[2] They also fall within the second category of changes proposed in the draft presented for public comment, "to update the agreement to reflect changes that have occurred since the current .NET Registry Agreement was signed."