2012-05-06-01-Annex-ASOGlobalPolicy

[GPP-IPv4-2011] Global Policy for Post Exhaustion IPv4 Allocation Mechanisms by the IANA

The IANA shall establish a Recovered IPv4 Pool to be utilized post RIR IPv4 exhaustion. The Recovered IPv4 Pool will initially contain any fragments that may be left over in the IANA. It will also hold any space returned to the IANA by any other means.

The Recovered IPv4 Pool will be administered by the IANA. It will contain:

a. Any fragments left over in the IANA inventory after the last /8s of IPv4 space are delegated to the RIRs

  - The IANA inventory excludes "Special use IPv4 addresses" as defined in BCP 153 and any addresses allocated by the IANA for experimental use.

b. Any IPv4 space returned to the IANA by any means.

The Recovered IPv4 Pool will stay inactive until the first RIR has less than a total of a /9 in its inventory of IPv4 address space.

When one of the RIRs declares it has less than a total of a /9 in its inventory, the Recovered IPv4 pool will be declared active, and IP addresses from the Recovered IPv4 Pool will be allocated as follows:

a. Allocations from the IANA may begin once the pool is declared active.

b. In each "IPv4 allocation period", each RIR will receive a single "IPv4 allocation unit" from the IANA.

c. An "IPv4 allocation period" is defined as a 6-month period following 1 March or 1 September in each year.

d. The IANA will calculate the size of the "IPv4 allocation unit" at the following times:

  - When the Recovered IPv4 Pool is first activated
  - At the beginning of each IPv4 allocation period

  To calculate the "IPv4 allocation unit" at these times, the IANA will use the following formula:

IPv4 allocation unit = 1/5 of Recovered IPv4 pool,
rounded down to the next CIDR
(power-of-2) boundary.

No RIR may get more than this calculation used to determine
the IPv4 allocation unit even when they can justify a need for
it.

The minimum "IPv4 allocation unit" size will be a /24. If the
calculation used to determine the IPv4 allocation unit results
in a block smaller than a /24, the IANA will not distribute
any addresses in that IPv4 allocation period.

The IANA may make public announcements of IPv4 address
transactions that occur under this policy. The IANA will make
appropriate modifications to the "Internet Protocol V4 Address
Space" page of the IANA website and may make announcements to its
own appropriate announcement lists. The IANA announcements will
be limited to which address ranges, the time of allocation, and to
which Registry they have been allocated.

2012-05-06-01-Annex-Global Policy Proposal Background Report

Global Policy Proposal for Post Exhaustion IPv4 Allocation Mechanisms by IANA - Background Report, 8 March 2012

(Third proposal for handling recovered IPv4 address space)

Purpose of this document

This document provides a background report on the progress of an active Global Policy proposal, "Global Policy Proposal for Post Exhaustion IPv4 Allocation Mechanisms by IANA". It is intended as a background briefing for the ICANN Board and the wider community.

Introduction

Global Internet Number Resource Policies are defined by the ASO MOU - between ICANN and the NRO - as "Internet number resource policies that have the agreement of all RIRs according to their policy development processes and ICANN, and require specific actions or outcomes on the part of IANA or any other external ICANN-related body in order to be implemented". Attachment A of this MOU describes the Development Process of Global Internet Number Resource Policies, including the adoption by every RIR of a global policy to be forwarded to the ICANN Board by the ASO[1], as well as its ratification by the ICANN Board. In this context, the ICANN Board adopted its own Procedures for the Review of Internet Number Resource Policies Forwarded by the ASO for Ratification.

Among other features, these Procedures state that the Board will decide, as and when appropriate, that ICANN staff should follow the development of a particular global policy, undertaking an "early awareness" tracking of proposals in the addressing community. To this end, staff should issue background reports periodically, forwarded to the Board, to all ICANN Supporting Organizations and Advisory Committees and posted at the ICANN web site.

At its meeting on 21 April 2011, the Board resolved to request tracking of the development of a "Global Policy for post exhaustion IPv4 allocation mechanisms by the IANA", under discussion in the addressing community. The status overview presented below is compiled in response to this request and will be further updated as developments proceed, for information to ICANN entities and the wider community. This is the third background report on this proposal.

Status Overview

The purpose of the proposal is to enable IANA to allocate returned IPv4 blocks to RIRs. IANA would place IPv4 blocks returned by the RIRs in a Recovered IPv4 Pool. This Pool would be declared active when one RIR has less than half its last /8 left. IANA would then allocate an "IPv4 allocation unit" (minimum size /24) to each RIR, if the Pool size so permits. If the space available in the Pool is too limited, allocation would be deferred in 6 month intervals until space is available.

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[1] The ASO MoU states that the NRO shall fulfill the role, responsibilities and functions of the ASO (Address Supporting Organization).

Following list discussions over slightly different drafts early in 2011, the current version of this global policy proposal was first formally introduced in the APNIC region on 20 February 2011 and has since been introduced and advanced in all the other RIRs. The proposal has now been adopted in APNIC, ARIN, LACNIC RIPE and AfriNIC.

Process history
On 3 February 2011, the ASO AC[2] recognized the proposal as fulfilling the formal requirements as a candidate for a Global Policy.

The proposal has been adopted in all RIRs, i.e. AfriNIC, APNIC, ARIN, LACNIC and RIPE, and is handled by the NRO EC[3] and the ASO AC according to their procedures before being submitted to the ICANN Board for ratification.

As a background to this policy proposal, it should be noted that a previous proposal for handling recovered IPv4 address space, "Global Policy Proposal for the Allocation of IPv4 Blocks to Regional Internet Registries" was introduced in 2009 but abandoned by the NRO EC in view of version differences across the RIRs. For more information on that proposal, see the corresponding background report. That proposal is denoted as the <u>first</u> proposal in the table below.

Also, a second proposal on this theme "Global Policy Proposal for the Allocation of IPv4 by IANA Post Exhaustion" was introduced in 2010. This proposal was rapidly adopted in ARIN, but abandoned in APNIC and withdrawn in RIPE, making it unlikely that the proposal would advance to become a global policy. For more information on that proposal, see the corresponding background report. That proposal is denoted as the <u>second</u> proposal in the table below.

The proposal that is the object of the current background report - for direct access to the proposal text click here - is denoted as the <u>third</u> proposal in the table below, where the significant differences between the proposals are summarized.

Proposal/features	Third proposal	Second proposal	First proposal
RIR return to IANA	Not mentioned	Voluntary	Mandatory vs. voluntary
RIR Eligibility	Simultaneous for all RIRs	Per RIR, when it has less than a /8 in stock	Simultaneous for all RIRs
ASO reference	GPP-IPv4-2011	GPP-IPv4-2010	GPP-IPv4-2009

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[2] The ASO AC (Address Council) consists of elected representatives from each RIR's policy making community and membership.
[3] The NRO EC (Executive Council) consists of the CEOs of the five RIRs.

An overview of these proposals is also provided on the ASO website, see http://aso.icann.org/global-policy-proposals/

The table below outlines the steps taken within each RIR for the current proposal. Hyperlinks are included for easy access.

Status of Global Policy Proposal for Post Exhaustion IPv4 Allocation Mechanisms by IANA (GPP-IPv4-2011)

RIR	AfriNIC	APNIC	ARIN	LACNIC	RIPE
Proposal Introduced	7 Feb 2011 list message 28 April 2011 list message	25 Jan 2011 list message prop-097 20 Feb 2011 version 2	8 Mar 2011 list message prop 137	18 Mar 2011 list message prop 2011-05	21 Mar 2011 list message prop 2011-01
Discussion list	Resource Policy Disc. List	SIG-Policy	Public Policy Mailing List	Politicas – Policy Mailing List	Address Policy WG
Public Forum	AfriNIC 14 4 - 10 June 2011 consensus	APNIC 31 21 - 25 Feb 2011 consensus		LACNIC XV 15 - 20 May 2011 - presentation	RIPE 62 2 - 6 May 2011
Final Call for Comments	29 July – 16 Aug 2011	1 Mar - 26 Apr 2011	19 Oct -2 Nov 2011	27 May - 11 July 2011	6 Sept – 4 Oct 2011
Next Public Forum (N/A)	(AfriNIC-15 19 - 25 Nov 2011)	(APNIC 32 29 Aug - 2 Sept 2011)	(ARIN XXVIII 12 – 14 Oct 2011)	(LACNIC XVI 4 - 7 Oct 2011)	(RIPE 63 31 Oct - 4 Nov 2011)
Adoption	Ratified by the AfriNIC Board 21 Nov 2011	Endorsed by APNIC EC 6 May 2011	Adopted by the ARIN Board 16 Dec 2011	Ratified by the LACNIC Board 19 July 2011	Accepted by RIPE Community 20 Oct 2011
Link to document	AFPUB-2011-v4-004-draft-01	prop-097-v002	Proposal 137 Draft Policy ARIN-2011-9	LAC-2011-05 (EN) LAC-2011-05 (ES) LAC-2011-05 (PT)	Proposal 2011 - 01 RIPE-529
Link to Policy Development Process	Policy Development Process	Policy Development Process	Policy Development Process	Policy Development Process	Policy Development Process
Status	Adopted	Adopted	Adopted	Adopted	Adopted

2012-05-06-01-Annex-Public Comments-Recovered IPv4 v5

Public Comment Invited: Global Policy Proposal Recovered IPv4 Address Space

Forum Announcement:	Comment Period Opens on	Date:	14 March 2012
Categories/Tags:	Internet Protocol Addressing		
Purpose (Brief):	A Global Policy Proposal has been received for ratification by the ICANN Board. Comments are invited to inform the ICANN Board prior to the its decision.		
Public Comment Box Link:			

Global Policy Proposal Recovered IPv4 Address Space

COMMENT/REPLY PERIODS (*)			IMPORTANT INFORMATION LINKS
Comment Open:	14 March 2012		Public Comment Announcement
Comment Close:	4 April 2012		To Submit Your Comments (Forum)
Close Time (UTC):	23:59 UTC		View Comments Submitted
Reply Open:			Report of Public Comments
Reply Close:			
Close Time (UTC):			

BRIEF OVERVIEW

Originating Organization:	Address Supporting Organization		
Categories/Tags:	Internet Protocol Addressing		
Purpose (Brief):	A Global Policy Proposal has been received by the ICANN Board for ratification. Comments are invited to inform the ICANN Board prior to the Board's decision regarding ratification of the Proposal.		
Current Status:	Proposal adopted by all RIRs, verified by NRO EC and ASO AC, submitted for ratification		
Next Steps:	Ratification by the ICANN Board and implementation by ICANN in the performance of the IANA Functions		
Staff Contact:	Olof Nordling	Email:	olof.nordling@icann.org

DETAILED INFORMATION

Version 2.2-Staff Template (8 December 2011)

Section I: Description, Explanation, and Purpose
A Global Policy Proposal has been received for ratification by the ICANN Board. The purpose of the proposal is to enable handling of IPv4 address blocks returned from any RIR and redistribution of such address blocks to the RIRs, with smaller minimum block sizes than in the existing IPv4 allocation policy. Comments are invited to inform the ICANN Board prior to the Board's decision regarding ratification of the Proposal.
Section II: Background
The top level of the IPv4 address space was fully allocated in February 2011. The Regional Internet Registries (RIRs) have developed a policy proposal to enable redistribution of IPv4 address space returned to that pool. The proposal has been adopted by all RIRs, verified by the NRO EC and ASO AC, and submitted to the ICANN Board in line with the provisions of the ASO MoU and applicable procedures.
Section III: Document and Resource Links
Proposal text: http://www.apnic.net/policy/proposals/prop-097/prop-097-v002.txt Background report: http://www.icann.org/en/announcements/announcement-26apr11-en.htm ASO MoU: http://archive.icann.org/en/aso/aso-mou-29oct04.htm Board's review procedures: http://www.icann.org/en/news/in-focus/global-addressing/review-procedures ASO website with proposal overview: http://aso.icann.org/global-policy-proposals/
Section IV: Additional Information

(*) Comments submitted after the posted Close Date/Time are not guaranteed to be considered in any final summary, analysis, reporting, or decision-making that takes place once this period lapses.

Translations: If translations of the Announcement and Public Comment Box will be provided please indicate the languages below:										

Version 2.2-Staff Template (8 December 2011)

Separator Page

2012-05-06-01-Annex-report-comments-gpp-recovered-ipv4-05apr12-en

Report of Public Comments

Title:	Global Policy Proposal Recovered IPv4 Address Space
Publication Date:	5 April 2012
Prepared By:	Olof Nordling

Comment Period:		Important Information Links	
Open Date:	14 March 2012	Announcement	
Close Date:	4 April 2012	Public Comment Box	
Time (UTC):	23:59	View Comments Submitted	

Staff Contact:	Olof Nordling	**Email:**	olof.nordling@icann.org

Section I: General Overview and Next Steps

A Global Policy Proposal has been received for ratification by the ICANN Board. The purpose of the proposal is to enable handling of IPv4 address blocks returned from any RIR and redistribution of such address blocks to the RIRs, with smaller minimum block sizes than in the existing IPv4 allocation policy. Comments were invited to inform the ICANN Board prior to the Board's decision regarding ratification of the Proposal.

Following the closing of the public comment forum, the Board will consider the proposal and decide whether to ratify it. Provided the proposal is ratified as a Global Policy, it will then be implemented by IANA.

Section II: Contributors

At the time this report was prepared, no community submissions had been posted to the forum.

Organizations and Groups:

Name	Submitted by	Initials
-		

Individuals:

Name	Affiliation (if provided)	Initials
-		

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

No comments were submitted, so no summary is called for.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

No comments were submitted, so no analysis is called for.

2012-05-06-02-Annex - .CAT Request - Appendix-5-redline-18jan12-en-1

Appendix 5

Whois Specifications

Public Whois Specification

Public Whois for the .cat Sponsored TLD will be provided according to the specification described in Part VI of Appendix S.

Whois Provider Data Specification

Registry shall ensure the provision of bulk access to up-to-date data concerning domain name and nameserver registrations maintained on behalf of Registry in connection with the .cat sTLD on a daily schedule, only for purposes of providing free public query-based access to up-to-date data concerning domain name and nameserver registrations in multiple TLDs, to a party designated from time to time in writing by ICANN (the "Designated Recipient"). Any agreement between ICANN and a Designated Recipient for the license of such data (a "Whois License Agreement") will provide Registry with the right to enforce the Designated Recipient's obligations under this Appendix and the Whois License Agreement directly against the Designated Recipient, whether through being made a party to or third-party beneficiary of such agreement or through such other means as may be appropriate. In addition, any Whois License Agreement will include the following provisions governing the use of such data by the Designated Recipient:

1. The Designated Recipient shall only use the data provided by the Registry for the purpose of providing free public query-based Whois access as described in Section 3.1(c)(v) of the .cat Sponsored TLD Registry Agreement. The Designated Recipient may not use such data for any other purpose.

2. The Designated Recipient shall use best efforts to implement any corrections to the data provided by the Registry as soon as practicable.

3. The Designated Recipient must take such technical and organizational security measures as are, at a minimum, equivalent to those implemented by or on behalf of the Registry with respect to such data.

4. Except for providing free public query-based access according to item 1 above, the Designated Recipient shall not transfer the data to any third party for any purpose except in the event that such third party becomes bound in the same manner as a Designated Recipient by the provisions of this Appendix and the Whois License Agreement.

The procedures for providing access, and the specification of the content and format of this data, will be as stated below, until changed according to the .cat Sponsored TLD Registry Agreement. This Appendix is subject to change by agreement of Registry and ICANN during the design process as well as during the IETF standards process. In addition, Registry agrees to ensure the implementation of changes to this Appendix specified by ICANN to conform to the IETF provreg working group's protocol specification no later than 135 days after the IETF specification is adopted as a Proposed Standard [RFC 2026, section 4.1.1]. Accordingly, the following provides the target architecture and initial functionality.

A. Procedures for Providing Access

Registry shall ensure the preparation of (i) full data sets for one day of each week (the day to be designated by ICANN) and (ii) incremental data sets for all seven days of each week. Full and incremental data sets shall be up-to-date and coherent as of 1200 UTC on the day to which they relate. Until a different day is designated by ICANN, the full data sets will be prepared for Sundays. (Note that on the ICANN-designated day both an incremental and a full data set are prepared.)

1. Preparation of Files Containing Data Sets. Each full and incremental data set consists of an XML document meeting the content and format requirements of Parts B and C of this document. Once the XML document is generated, the following preparation steps will be performed:

a. The XML document will be placed in a file named according to the following convention: For full data sets: "wfYYMMDD" where "YYMMDD" is replaced with the date (YY=last two digits of year; MM=number of month; DD=day; in all cases a single digit number should be left-padded with a zero). For incremental data sets: "wiYYMMDD" where "YYMMDD" follows the same format.

b. The Registry, or its technical operator on its behalf, may optionally specify to split the document using the Unix SPLIT command (or equivalent) to produce files no less than 1GB each (except the final file). If files are split, an MD5 file (produced with MD5SUM or equivalent) must be included with the resulting files to isolate errors in case of transfer fault. The Registry may optionally specify to compress the document using the Unix GZIP command (or equivalent) to reduce the file size.

c. The file(s) will then be encrypted and signed using PGP, version 6.5.1 or above, with a key of DH/DSS type and 2048/1024-byte length. (Note that PGP compresses the escrow file in addition to encrypting it.) The Data Recipient's public key will be used for the encryption and the Registry's private key will be used for the signature. Public keys will be exchanged between the Registry and the Designated Recipient by e-mail, physical delivery of floppy diskettes, or other agreed means.

2. Transmission of Full Data Sets. Once prepared, full data sets will be provided either by the procedures for incremental data sets described in item A (3) below or, at the option of either the technical operator, on behalf of the Registry. or the Designated Recipient, by writing the full data set to DAT tape (or other media mutually agreed by Registry and the Designated Recipient) and sending it to the Designated Recipient by expedited delivery service (such as FedEx or DHL). If sent by expedited delivery service, the full data set will be scheduled for arrival no later than the second calendar day following the day to which the full backup relates.

3. Transmission of Incremental Data Sets. To permit the transmission of incremental data sets, Registry shall specify to make them available for download by the Designated Recipient by Internet File Transfer Protocol. Incremental data sets will be made available for download no later than 2000 UTC on the day to which they relate.

B. Content

The XML format is designed to represent both complete and incremental registry data sets.

- The escrow format describes domain, host, contact and registrar objects stored in the registry repository.
- The full escrow describes a snapshot of the given date, while the incremental escrow represents a transaction log. In the full escrow, only the "domain", "host", "contact" and "registrar" elements appear, while in the incremental escrow, the other elements may also appear.
- For the incremental escrow, three additional attributes are specified: the "actor" denotes the

entity that caused the modification. This is either a registrar ID, the ID of a support staff member or the name of an internal process of the SRS that performed the modification automatically (like auto-renew). The "timestamp" documents the point in time when the modification has taken place. The "txn" is an identifier that further details the precise activity.

- To allow a differentiation between the creation and updates of an object within an incremental escrow, the "domain", "host", "contact" and "registrar" elements contain an "action" attribute that provides this information.

The following core data is reproduced in the escrow file:

Domain

the internal ID of the domain object

the domain name, including the assigned language and the reserved IDN domain name variants.

the internal ID of the sponsoring registrar

the IDs of the registrant, administrative, technical and billing contact

the status values

the ENS authorization ID

the EPP authentication information

the maintainer URL

the creation, expiration, update and transfer dates

Host

the internal ID of the host object

the domain name

the assigned IP addresses

the internal ID of the sponsoring registrar

the status values

the maintainer URL

the creation, update and transfer dates

Contact

the ID of the contact object

the name, organization, streets, city, state, postal code and country code

the phone and fax numbers and the e-mail address.

the EPP authentication information

the maintainer URL

the creation and update dates

WHOIS privacy settings

the category provided by the registrant as an individual or a legal entity

the choice made by individuals to opt-in or opt out the privacy settings described in the Appendix S Part VI

Registrar

the internal ID of the registrar object

the organization, streets, city, state, postal code, country code, phone and fax number, e-mail address, web server address

the creation and update dates

the IDs of the administrative, technical and billing contact

C. Format

The document type declaration (DTD) for the XML formatted escrow files is the following:

```
<?xml version="1.0" encoding="UTF-8"?>
<!ELEMENT escrow-data (domain | del-domain | tr-domain | renew-domain | host | del-host | contact |
del-contact | registrar | del-registrar)*>
<!ATTLIST escrow-data
   tld NMTOKEN #REQUIRED
   date CDATA #REQUIRED
   type (full | incremental) #REQUIRED
   version CDATA #FIXED "1.0"
>
<!ELEMENT domain (idn-domainname)>
<!ATTLIST domain
   dom-id NMTOKEN #REQUIRED
   registrar-id NMTOKEN #REQUIRED
   registrant-id NMTOKEN #REQUIRED
   admin-id NMTOKEN #REQUIRED
   tech-id NMTOKEN #REQUIRED
   billing-id NMTOKEN #REQUIRED
   nameserver-ids NMTOKENS #IMPLIED
```

```
      status NMTOKENS #REQUIRED
      ens-auth-id NMTOKEN #IMPLIED
      authinfo CDATA #IMPLIED
      maintainer-url CDATA #IMPLIED
      period CDATA #IMPLIED
      cre-date CDATA #REQUIRED
      exp-date CDATA #REQUIRED
      upd-date CDATA #REQUIRED
      xfer-date CDATA #IMPLIED
      action (create | update) #IMPLIED
      actor NMTOKEN #IMPLIED
      timestamp CDATA #IMPLIED
      txn CDATA #IMPLIED
>
<!ELEMENT del-domain EMPTY>
<!ATTLIST del-domain
      dom-id NMTOKEN #REQUIRED
      actor NMTOKEN #REQUIRED
      timestamp CDATA #REQUIRED
      txn CDATA #REQUIRED
>
<!ELEMENT tr-domain EMPTY>
<!ATTLIST tr-domain
      dom-id NMTOKEN #REQUIRED
      registrar-id NMTOKEN #IMPLIED
      xfer-date CDATA #REQUIRED
      actor NMTOKEN #REQUIRED
      timestamp CDATA #REQUIRED
      txn CDATA #REQUIRED
>
<!ELEMENT renew-domain EMPTY>
<!ATTLIST renew-domain
      dom-id NMTOKEN #REQUIRED
      period CDATA #IMPLIED
      exp-date CDATA #REQUIRED
      actor NMTOKEN #REQUIRED
      timestamp CDATA #REQUIRED
      txn CDATA #REQUIRED
>
<!ELEMENT host (domainname, ip*)>
<!ATTLIST host
      host-id NMTOKEN #REQUIRED
      registrar-id NMTOKEN #REQUIRED
      status NMTOKENS #REQUIRED
      maintainer-url CDATA #IMPLIED
      cre-date CDATA #REQUIRED
      upd-date CDATA #REQUIRED
      action (create | update) #IMPLIED
      actor NMTOKEN #IMPLIED
      timestamp CDATA #IMPLIED
      txn CDATA #IMPLIED
>
<!ELEMENT del-host EMPTY>
<!ATTLIST del-host
      host-id NMTOKEN #REQUIRED
      actor NMTOKEN #REQUIRED
```

```
      timestamp CDATA #REQUIRED
      txn CDATA #REQUIRED
>
<!ELEMENT contact (addr, phone, fax, e-mail)>
<!ATTLIST contact
    contact-id NMTOKEN #REQUIRED
    registrar-id NMTOKEN #REQUIRED
    status NMTOKENS #REQUIRED
    authinfo CDATA #IMPLIED
    maintainer-url CDATA #IMPLIED
    cre-date CDATA #REQUIRED
    upd-date CDATA #REQUIRED
    action (create | update) #IMPLIED
    actor NMTOKEN #IMPLIED
    timestamp CDATA #IMPLIED
    txn CDATA #IMPLIED
>
<!ELEMENT del-contact EMPTY>
<!ATTLIST del-contact
    contact-id NMTOKEN #REQUIRED
    actor NMTOKEN #REQUIRED
    timestamp CDATA #REQUIRED
    txn CDATA #REQUIRED
>
<!ELEMENT registrar (org, street, street?, street?, city, state, post-code, country-code, phone, fax, e-
mail, url)>
<!ATTLIST registrar
    registrar-id NMTOKEN #REQUIRED
    status NMTOKENS #REQUIRED
    admin-id NMTOKEN #REQUIRED
    tech-id NMTOKEN #REQUIRED
    billing-id NMTOKEN #REQUIRED
    cre-date CDATA #REQUIRED
    upd-date CDATA #REQUIRED
    action (create | update) #IMPLIED
    actor NMTOKEN #IMPLIED
    timestamp CDATA #IMPLIED
    txn CDATA #IMPLIED
>
<!ELEMENT del-registrar EMPTY>
<!ATTLIST del-registrar
    registrar-id NMTOKEN #REQUIRED
    actor NMTOKEN #REQUIRED
    timestamp CDATA #REQUIRED
    txn CDATA #REQUIRED
>
<!ELEMENT domainname (#PCDATA)>
<!ELEMENT idn-domainname (basename, variant*)>
<!ATTLIST idn-domainname
    lang NMTOKEN #IMPLIED
>
<!ELEMENT basename (#PCDATA)>
<!ELEMENT variant (#PCDATA)>
<!ELEMENT ip (#PCDATA)>
<!ELEMENT addr (name, org, street, street?, street?, city, state, post-code, country-code)>
<!ELEMENT name (#PCDATA)>
```

```
<!ELEMENT org (#PCDATA)>
<!ELEMENT street (#PCDATA)>
<!ELEMENT city (#PCDATA)>
<!ELEMENT state (#PCDATA)>
<!ELEMENT post-code (#PCDATA)>
<!ELEMENT country-code (#PCDATA)>
<!ELEMENT phone (#PCDATA)>
<!ATTLIST phone
    ext CDATA #IMPLIED
>
<!ELEMENT fax (#PCDATA)>
<!ATTLIST fax
    ext CDATA #IMPLIED
>
<!ELEMENT e-mail (#PCDATA)>
<!ELEMENT url (#PCDATA)>
```

Whois Data Specification — ICANN

Registry shall ensure the provision of bulk access by ICANN to up-to date data concerning domain name and nameserver registrations maintained by Registry (or on Registry's behalf) in connection with the .cat Sponsored TLD on a daily schedule, only for purposes of verifying and ensuring the operational stability of Registry Services, the DNS, and the Internet.

The procedures for providing access, and the specification of the content and format of this data, will be as stated below, until changed according to this .cat Sponsored TLD Registry Agreement. This Appendix is subject to change by agreement of Registry and ICANN during the design process as well as during the IETF standards process. In addition, Registry shall implement changes to this Appendix specified by ICANN to conform to the IETF provreg working group's protocol specification no later than 135 days after the IETF specification is adopted as a Proposed Standard [RFC 2026, section 4.1.1]. Accordingly, the following represents the target architecture and initial functionality.

A. Procedures for Providing Access

Registry shall ensure the preparation of a full data set for one day of each week (the day to be designated by ICANN). Full data sets shall be up-to date and coherent as of 1200 UTC on the day to which they relate. Until a different day is designated by ICANN, the full data sets will be prepared for Sundays.

1. Preparation of Files Containing Data Sets. Each full data set consists of an XML document meeting the content and format requirements of Parts B and C of this document. Once the XML document is generated, the following preparation steps will be performed:

a. The XML document will be placed in a file named according to the following convention: "wfYYMMDD" where "YYMMDD" is replaced with the date (YY=last two digits of year; MM=number of month; DD=day; in all cases a single-digit number should be left-padded with a zero).

b. The Registry, or its technical operator on its behalf, may optionally specify to split the document using the Unix SPLIT command (or equivalent) to produce files no less than 1GB each (except the final file). If files are split, an .MD5 file (produced with MD5SUM or equivalent) must be included with the resulting files to isolate errors. The Registry may optionally compress the document using the Unix GZIP command (or equivalent) to reduce the file size.

c. The file(s) will then be encrypted and signed using PGP, version 6.5.1 or above, with a key of

DH/DSS type and 2048/1024-byte length. (Note that PGP compresses the escrow file in addition to encrypting it.) An ICANN public key will be used for the encryption and the Registry technical operator's private key will be used for the signature. Public keys will be exchanged between the Registry, Registry's technical operator and ICANN by e-mail, physical delivery of floppy diskettes or other agreed means.

2. Transmission of Full Data Sets. Once prepared, full data sets will be provided according to paragraph a below or, at Registry's option, according to paragraph b below:

a. Registry shall specify to make full data sets available for download by ICANN by Internet File Transfer Protocol (FTP) (FTP access will be password protected and limited to prespecified IP ranges). The data sets will be made available for download beginning no later than 2000 UTC on the day to which they relate and until the next full data set becomes available for download.

b. Registry shall specify to write the full data set to DAT (DDS-4) tape (or other media specified by ICANN) and ensure the tape is sent to ICANN by expedited delivery service (such as FedEx or DHL). The full data set will be scheduled for arrival at ICANN no later than the second calendar day following the day to which the data set relates.

B. Content

The full data sets will consist of the objects and contents described for full data sets in the Part VI of Appendix S ("Public Whois").

C. Format

Full data sets will be XML version 1.0, UTF-8 encoded documents conforming to the schema/document type declaration set forth in Exhibit B of Appendix 1.

2012-05-06-02-Annex - .CAT Request - appendix-s-vi-redline-18jan12-en-1

Appendix S — Part VI

Public Whois Specification

Subject to Registry's compliance with this .cat TLD Registry Agreement, including all attachments and appendices thereto (the "Agreement") and any Temporary Specifications or Policies or Consensus Policies as defined in the Agreement, and provided the scope of the Charter is not exceeded:

Registry will implement the following Public Whois Specification:

SPECIFICATION

Subject to any future policy regarding Whois data adopted by ICANN, domain name registrants will be required to provide correct contact information and, as permitted by applicable law, consent to selected information being made public for legitimate purposes.

Until a generally accepted specification replacing RFC 3912 is available, the Registry will provide RFC 3912-compliant Whois service. The specification contained in this Part VI to Appendix S is subject to change by agreement of the Registry and ICANN during the design process as well as during the IETF standards process. However, the following provides the target architecture and initial functionality. In addition, Registry agrees to implement changes to this specification specified by ICANN to conform to IETF provreg working group's protocol specification no later than 135 days after the IETF specification is adopted as a Proposed Standard [RFC 2026, section 4.1.1].

DATA PROVIDED IN RESPONSE TO WHOIS QUERIES

With respect to the amount and type of domain name registrant data provided in response to queries of the WHOIS service by the general public, the WHOIS service will distinguish between domain name registrants that are companies, businesses, partnerships, non-profit entities, associations, or other types of legal constructs ("Legal Persons"), and domain name registrants that are human beings, perceptible through the senses and subject to physical laws ("Individuals"). Domain name registrants will be required to specify whether they qualify as Legal Persons or Individuals by clicking the appropriate box during the registration process.

1. WHOIS Data for Legal Persons

Full WHOIS data for domain name registrants that are Legal Persons will always be available to the general public. Queries of the WHOIS service related to Legal Persons will always return full and complete standard WHOIS data, including applicable personal data such as Registrant ID, Registrant Name, Organization, Address (street, city, state, postal code, and country), Phone Number, Facsimile Number, and Email Address. Legal Persons will not be permitted to opt out of disclosing such information in response to queries submitted to the WHOIS service. The Registry Operator reserves the right, however, to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Legal Persons for marketing purposes, spamming, data-mining, or unlawful purposes.

For the fields returned in response to queries of the WHOIS service for Legal Persons, and an example of a returned record, please see the "WHOIS Output Format Specification" below.

2. WHOIS Data for Individuals

Full WHOIS data for domain name registrants that are individuals may or may not be available to the general public depending on whether the applicable domain name registrant elects to make his or her personal information available in response to queries of the WHOIS service. Unlike Legal Persons, domain name registrants that are individuals will be given the option to elect whether or not their personal information is disclosed by the WHOIS service in response to queries from the general public. The default option will be for all personal information to be disclosed by the WHOIS service. In order to override this default option, the domain name registrant that is an individual will have to specifically elect not to have such personal information disclosed by clicking the appropriate box during the registration process.

3. Individuals Who Opt-In (Default Option)

For any domain name registrant that is an Individual and that does not elect to have his or her personal information withheld from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return full and complete standard WHOIS data, including personal data such as Registrant ID, Registrant Name, Organization, Address (street, city, state, postal code, and country), Phone Number, Facsimile Number, and Email Address. The Registry Operator reserves the right to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Individuals for marketing purposes, spamming, data-mining, or unlawful purposes. For the fields returned in response to queries of the WHOIS service for Individuals that opt-in to disclosure (or that do not elect to change the default setting), and an example of a returned record, please see the "WHOIS Output Format Specification" section below.

4. Individuals Who Opt-Out

If a domain name registrant that is an Individual elects to withhold his or her personal information from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return only limited WHOIS data, including Domain Name, Domain ID, Sponsoring Registrar, Sponsoring Registrar IANA ID, Domain Status, Registrant ID, Name Server, created by registrar, last updated by registrar, domain registration date, domain expiration date, and domain last updated date. No personal information related to the domain name registrant will be available through the WHOIS service for individuals who have opted-out of disclosing their personal information.

Instead of such personal information, requestors of WHOIS data on Individuals will be informed that the registrant has elected to withhold certain personal information from disclosure by the WHOIS service, and will be provided with a link to the Registry Operator's Contact webform. Through this mechanism, requestors will be able to fulfill a webform. The content of this webform, including name of the requestor, and reason for the contact will be sent by the Registry Operator to the registrant's and administrative provided contact e-mail addresses.

For the fields returned in response to queries of the WHOIS service for Individuals that opt-out of full disclosure, and an example of a returned record, please see the "WHOIS Output Format Specification - Individuals (opt out)" section below.

5. Contact Webform

As described above, the WHOIS service will provide a link to the Contact webform in response to queries for WHOIS data on Individuals that have opted not to disclose personal information. The Registry will not store anything the requestors may introduce in such webform, retaining only the logs and the reports of success or failure of deliverance

The webform will allow the requestor to provide an e-mail address to be contacted, the reasons for contacting the registrant, and a free text field.

The Registry Operator will process the content provided by the requestor, and will deliver it to the registrant's and administrative contact e-mail addresses. The requestor must necessarily accept that the Registry provides this service as is, that the Registry will not be liable for, and that the use of the Registry Operator's contact webform does not guarantee ant answer from the registrant. Nor the Registry will be liable for any liability that may originate from the request's content. The requestor must as well accept that the registrant may or may not answer the requestor's request.

The Registry will offer access to the full data of individuals that have chose non disclosure to law enforcement agencies.

ADDITIONAL FIELDS CAPABILITY

If necessary, the Registry may introduce additional fields to the list of Whois fields described in this document. Those fields will be preceded and identified by appropriate tags.

INTERNATIONALIZED DATA

The Registry uses so-called "localized" address fields for contacts (see also RFC 3733). These fields may contain non-US-ASCII characters according to the IDN Table for Catalan Language (ca) that Registry will register with IANA upon signature of this Agreement. In order to support transmission of such characters, the system will provide an option specifying an alternative character set which should be used instead of the default US-ASCII character set.

INPUT FORMAT SPECIFICATION

The input to the Whois server consists of two parts: the options and the query itself.

The following options are available:

- the -C option allows to specify the character set for both input and output

If the -C option is specified, the Whois server expects a character set name as the next token. The name must correspond to one of the IANA character set names. Only a limited set of character sets is supported by the server. It can be determined with the HELP query described below. At least US-ASCII and UTF-8 are supported. If the specified character set is supported, the server tries to reinterpret the octet sequence that has been sent as input via this character set. If it succeeds, it continues processing, otherwise, an error response is generated. The use of this option does not guarantee in general that all characters that are intended to be sent to the client can properly be represented. If during the conversion of the output to the specified character set a character is found that cannot be represented, it is replaced with a question mark. In addition, a comment is added to the output that notifies the recipient of the response about this problem.

By default, the Whois service searches for domain names. By the following keywords, the search type can be determined:

Keywords (case insensitive)	Type
do, domain	Search for domain objects. Either the "Domain Name", "Domain Name ACE" or "Domain ID" field is used
ho, host	Search for name server objects. Either the "Host Name", "Host Name ACE" or the "Host ID" field is used
Contact	Search for contact objects in the "Contact ID" field

ap, application	Search for an application object. Either the "Domain Name", "Domain Name ACE" or "Application ID" field is used. Only valid during the sunrise period.
Registrar	Search for registrar objects in the "Registrar ID" or "Registrar Organization" field

In addition, the following search options are available:

Keywords (case insensitive)	Option
Id	Search is performed in the respective ID field
Ace	Search is performed in the respective ACE field

In general, domain names in the input are considered as being Internationalized Domain Names (IDNs, as defined in section 2, "Terminology", RFC 3490). By using the ace option, a given domain name is considered as being an ACE domain name. The use of the option does not have an influence on the response.

The output can be controlled by the following keywords:

Keywords (case insensitive)	Option
=, full	Always return the complete data, even if multiple entries are found
sum, summary	Always return summarized data, even if only a single entry is found

The last token in the input is taken as the search parameter.

If the search parameter is "help" and no object type is given, no search is performed, but a short summary about the input format is returned.

OUTPUT FORMAT SPECIFICATION

The results of the query are encoded using either the US-ASCII character set or, if a valid character set has been specified via the -C option, the selected character set. If the output contains characters for which no encoding does exist, it is handled in different ways depending on the location. For domain names, they are replaced with a question mark and a respective warning comment is added to the beginning of the output:

[Note: the following two warnings are provided as an example]

% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with "?". Please resubmit your query with a
% suitable character encoding in order to receive an
% authentic response.
%

Within contact fields, accented letters are replaced by their non-accented equivalent letters (which are part of the ASCII character set) and a respective warning comment is added to the beginning of the output:

% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with the unaccented ASCII equivalent. Please
% resubmit your query with a suitable character encoding
% in order to receive an authentic response.
%

If both cases appear, a suitable combined warning is generated. The different handling of characters that cannot be represented lies in the different importance of the correct spelling. While it is a common practice to remove accents from names and addresses in order to further process them in ASCII-only contexts, such a methodology is considered harmful regarding domain names. In this case it is better to produce an invalid domain name with question marks in it instead of a name that might be considered as the actual spelling.

All lines are terminated by CR/LF pairs. Lines that contain comments, legal notes or similar, start with a percent sign ("%"). If the output consists of multiple objects, they are separated by at least one empty line. The objects themselves (including the related subobjects, like referenced contacts of a domain) do not contain empty lines. If no objects match the search query, "NOT FOUND" is returned. The object data is composed of multiple key-value lines. Key and value of a key-value pair are separated by a colon (':'). The key may contain space characters. For domain names that appear in the output, both the IDN version and the ACE version are supplied, even if the IDN consists of LDH characters only and is identical to the ACE representation. This applies to names of domains and hosts as well as name server references in domains. It does not apply to e-mail addresses (which contain domain names as part of the address) in the contact data.

Example:

```
...
Domain Name: fundació.cat
Domain Name ACE: xn--fundaci-r0a.cat
...
Name Server: blau.exemple.cat 192.0.2.1
Name Server: marró.exemple.cat 192.0.2.2
Name Server ACE: blau.exemple.cat 192.0.2.1
Name Server ACE: xn--marr-tqa.exemple.cat 192.0.2.2
...
```

Domain Data Format

Depending on the query and options, either a short or a long format is produced.

Short format:

```
Domain ID: D38482
Domain Name: exemple.cat
Domain Name ACE: exemple.cat
```

Full Format:

```
Domain ID: D38482
Domain Name: exemple.cat
Variant Name: éxemple.cat
Variant Name: exemplè.cat
```

Domain Name ACE: exemple.cat
Variant Name ACE: xn--xemple-9ua.cat
Variant Name ACE: xn--exempl-8ua.cat
Domain Language: ca
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Expiration Date: 2005-07-23 17:53:02 GMT
Status: ok
Registrant ID: C343238
Registrant Name: CORE Internet Council Of Registrars
Registrant Organization: CORE Internet Council Of Registrars
Registrant Street: WTC II, 29 route de Pre-Bois
Registrant City: Geneva
Registrant State/Province: Geneva
Registrant Postal Code: 1215
Registrant Country: CH
Registrant Phone: +41.229295744
Registrant Phone Ext:
Registrant Fax: +41.229295745
Registrant Fax Ext:
Registrant Email: secretariat@corenic.org
Admin ID: C343238
Admin Name: CORE Internet Council Of Registrars
Admin Organization: CORE Internet Council Of Registrars
Admin Street: WTC II, 29 route de Pre-Bois
Admin City: Geneva
Admin State/Province: Geneva
Admin Postal Code: 1215
Admin Country: CH
Admin Phone: +41.229295744
Admin Phone Ext:
Admin Fax: +41.229295745
Admin Fax Ext:
Admin Email: secretariat@corenic.org
Tech ID: C343238
Tech Name: CORE Internet Council Of Registrars
Tech Organization: CORE Internet Council Of Registrars
Tech Street: WTC II, 29 route de Pre-Bois
Tech City: Geneva
Tech State/Province: Geneva
Tech Postal Code: 1215
Tech Country: CH
Tech Phone: +41.229295744
Tech Phone Ext:
Tech Fax: +41.229295745
Tech Fax Ext:
Tech Email: secretariat@corenic.org
Billing ID: C343238
Billing Name: CORE Internet Council Of Registrars
Billing Organization: CORE Internet Council Of Registrars
Billing Street: WTC II, 29 route de Pre-Bois
Billing City: Geneva
Billing State/Province: Geneva
Billing Postal Code: 1215
Billing Country: CH

Billing Phone: +41.229295744
Billing Phone Ext:
Billing Fax: +41.229295745
Billing Fax Ext:
Billing Email: secretariat@corenic.org
Name Server: ns1.exemple.cat 192.0.2.1
Name Server: ns2.exemple.cat 192.0.2.2
Name Server ACE: ns1.exemple.cat 192.0.2.1
Name Server ACE: ns2.exemple.cat 192.0.2.2

Regarding the included contact data, see below also.

Host Data Format

Short Format:

Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat

Full format:

Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Status: ok
IP Address: 192.0.2.3
IP Address: 3FFE:3273:1002::FE99:3BC7

Contact Data Format

Short format:

Contact ID: C394583
Name: Núria Ferrer i Puig

Full format:

Contact ID: C394583
Status: ok
Name: Núria Ferrer i Puig
Organization:
Street: Plaça de l'Església, 1
City: Castelló d'Empúries
State/Province: Catalunya
Postal Code: 17486
Country: ES
Phone: +34.123456789
Phone Ext:
Fax: +34.987654321

Fax Ext:
Email: nuria ferrer@exemple.cat

The actual published data depends on the registry policy and the contact's disclosure settings (see RFC 3733). If data is not disclosed, the respective key-value pair is omitted. In contrast, empty fields (like the organization in the given example), are included. This allows the client to differentiate between the two cases.

Application Format

During the Sunrise period, the Whois is enabled to return information about pending applications. Since multiple applications may be possible for a single domain name, a query using a domain name may return more than one record. Similar to the wild card search, the short report format is used by default if more than one record is found.

Short Format:

Application ID: A38482
Domain Name: exemple.cat
Domain Name ACE: exemple.cat
Name: Núria Ferrer i Puig
Organization:

Full format:

Application ID: A38482
Domain Name: exemple.cat
Variant Name: éxemple.cat
Variant Name: exemplè.cat
Domain Name ACE: exemple.cat
Variant Name ACE: xn--xemple-9ua.cat
Variant Name ACE: xn--exampl-8ua.cat
Domain Language: ca
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Expiration Date: 2005-07-23 17:53:02 GMT
Status: pending
Registrant ID: C343238
Registrant Name: CORE Internet Council Of Registrars
Registrant Organization: CORE Internet Council Of Registrars
Registrant Street: WTC II, 29 route de Pre-Bois
Registrant City: Geneva
Registrant State/Province: Geneva
Registrant Postal Code: 1215
Registrant Country: CH
Registrant Phone: +41.229295744
Registrant Phone Ext:
Registrant Fax: +41.229295745
Registrant Fax Ext:
Registrant Email: secretariat@corenic.org
Admin ID: C343238
Admin Name: CORE Internet Council Of Registrars
Admin Organization: CORE Internet Council Of Registrars

Admin Street: WTC II, 29 route de Pre-Bois
Admin City: Geneva
Admin State/Province: Geneva
Admin Postal Code: 1215
Admin Country: CH
Admin Phone: +41.229295744
Admin Phone Ext:
Admin Fax: +41.229295745
Admin Fax Ext:
Admin Email: secretariat@corenic.org
Tech ID: C343238
Tech Name: CORE Internet Council Of Registrars
Tech Organization: CORE Internet Council Of Registrars
Tech Street: WTC II, 29 route de Pre-Bois
Tech City: Geneva
Tech State/Province: Geneva
Tech Postal Code: 1215
Tech Country: CH
Tech Phone: +41.229295744
Tech Phone Ext:
Tech Fax: +41.229295745
Tech Fax Ext:
Tech Email: secretariat@corenic.org
Billing ID: C343238
Billing Name: CORE Internet Council Of Registrars
Billing Organization: CORE Internet Council Of Registrars
Billing Street: WTC II, 29 route de Pre-Bois
Billing City: Geneva
Billing State/Province: Geneva
Billing Postal Code: 1215
Billing Country: CH
Billing Phone: +41.229295744
Billing Phone Ext:
Billing Fax: +41.229295745
Billing Fax Ext:
Billing Email: secretariat@corenic.org
Name Server: ns1.exemple.cat 192.0.2.1
Name Server: ns2.exemple.cat 192.0.2.2
Name Server ACE: ns1.exemple.cat 192.0.2.1
Name Server ACE: ns2.exemple.cat 192.0.2.2

Registrar Data Format

Registrar ID: IANA-15
Status: ok
Organization: CORE Internet Council Of Registrars
Street: WTC II, 29 route de Pre-Bois
City: Geneva
State/Province: Geneva
Postal Code: 1215
Country: CH
Phone: +41.229295744
Phone Ext:
Fax: +41.229295745
Fax Ext:

Email: secretariat@corenic.org
Whois Server: whois.core.info
URL: http://www.corenic net

For ICANN-accredited registrars, the registrar ID is composed of the prefix "IANA-" and the registrar ID as specified in the registrar list maintained by IANA (http://www.iana.org/assignments/registrar-ids). Other administrative accounts operated by the registry use a different prefix.

WHOIS Output Format Specification—Individuals (Opt-Out)

% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "US-ASCII" is not able to represent all
% characters in this output. Those characters that could not be represented
% have been replaced with "?". Please resubmit your query with a suitable
% character encoding in order to receive an authentic response.
%
% Els camps que no apareixen a continuació s'han omès en virtud dels
% previsions de la normativa de protecció de dades/Fields not appearing below have been omitted
according to european data protection provisions.
%
% En cas de voler contactar amb el titular, utilitzeu el formulari:
% http://contact.whois.cat
%
% En cas de que el domini estigui abusant de la política de protecció de dades
% utilitzeu el formulari:
% http://misuse.whois.cat
%
% En cas que el domini tingui un comportament anòmal (spam, phising,
% ...) utilizeu el formulari:
% http://problems.whois.cat
%
Domain ID: REG-D672590
Domain Name: exampleindividualoptout.cat
Domain Name ACE: exampleindividualoptout.cat
Variant Name: ex?mpleindividualopto?t.cat
Variant Name ACE: xn--exampleindividualoptout.cat

Domain Language: ca
Registrar ID: R-2021 (Registrar of record)
Created On: 2010-05-17 19:50:19 GMT
Last Updated On: 2011-05-13 09:44:21 GMT
Expiration Date: 2012-05-17 19:52:01 GMT
Status: clientDeleteProhibited, clientTransferProhibited
Name Server: ns4.example.com
Name Server ACE: ns4.example.com
Name Server: ns. example.com
Name Server ACE: ns. example.com
Name Server: ns3. example.com
Name Server ACE: ns3. example.com
Name Server: ns2. example.com
Name Server ACE: ns2.example.com

WEB WHOIS SERVICE

The web Whois service shares the same functionality as the port 43 service, with the exception that the input is implemented by using the means of HTML, i.e. by text input fields, radio buttons and check boxes. The output format is the same as described above. It is included in the HTML page in a way that can easily be copied by common browsers. To support the input and output of non-US-ASCII characters, the service uses the UTF-8 encoding.

2012-05-06-02-Annex - puntcat-cat-request-05oct11-en-1

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
Print Date: 2011-10-05 14:50:38

Proposed Service

Name of Proposed Service:

Whois changes according to EU data protection legislation

Technical description of Proposed Service:

See, among others, doc attached as appendix 1: puntcat-data-protection-ext-draft.

Appendix A (catWHOIS_Appendix1_EPPdetails.pdf)

Appendix B (catWHOIS_Appendix2_art29WPletter.pdf)

Appendix C (catWHOIS_Appendix3_SpanishDPA.pdf)

Appendix D (catWHOIS_Appendix4_description.pdf)

Appendix E (catWHOIS_Appendix5_AppendixSnewlanguage.pdf)

Consultation

Please describe with specificity your consultations with the community, experts and or others. What were the quantity, nature and content of the consultations?:

Fundació puntCAT consulted with the relevant authorities on the impact of the Spanish and EU legislation on data protection. Several informal consultations with experts were also carried.

The relevant authorities are the Art. 29 Working Group, the independent EU Advisory Body on Data Protection and Privacy, and both the Spanish and Catalan Data Protection

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
Print Date: 2011-10-05 14:50:38

Authorities.

The Art. 29 Working Group, in its opinion 2/2003, states the following:

Article 6c of the Directive imposes clear limitations concerning the collection and processing of personal data meaning that data should be relevant and not excessive for the specific purpose. In that light it is essential to limit the amount of personal data to be collected and processed. This should be kept particularly in mind when discussing the wishes of some parties to increase the uniformity of the diverse Whois directories.

The registration of domain names by individuals raises different legal considerations than that of companies or other legal persons registering domain names.

- In the first case, the publication of certain information about the company or organisation (such as their identification and their physical address) is often a requirement by law in the framework of the commercial or professional activities they perform. It should be noted however that, also in the cases of companies or organisations registering domain names, individuals can not be forced to have their name published as contact-point, as a consequence of the right to object.

- In the second case, where an individual registers a domain name, the situation is different and, while it is clear that the identity and contact information should be known to his/her service provider, there is no legal ground justifying the mandatory publication of personal data referring to this person. Such a publication of the personal data of individuals, for instance their address and their telephone number, would conflict with their right to determine whether their personal data are included in a public directory and if so which

The original purpose of the Whois directories can however equally be served as the details of the person are known to the ISP that can, in case of problems related to the site, contact the individual4

And as a footnote, refering to number 4, says the following:

Such a system has been put in place in several European countries such as for instance France (through AFNIC) and United Kingdom. For instance in the UK individual registrants of domain names ('tag-holders') can have an entry on Whois that is 'care of' their ISP, this means that someone who has a problem with a website can contact its owner through the ISP with no need for the registrant's home address etc. to appear on an open database.

The document can be found here:

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
Print Date: 2011-10-05 14:50:38

http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2003/wp76_en.pdf

This same language may be found in a communication the art 29 WG sent to the board, refering to the same question. See:

http://www.icann.org/correspondence/schaar-to-cerf-22jun06.pdf

Moreover, after being consulted by puntCAT, the art. 29 wg responded by e-mail to our consultation, encouraging our proposal refering to the documents above referred.

This e-mail is attached as Appendix 2

The Spanish Data Protection Agency, the body entitled to oversee and enfoce the data protection legislation framework in Spain, where Fundació puntCAT is located, endorses .cat current proposal. puntCAT engaged in consultation with the Spanish DPA, regarding the current situation of the whois directory and its situation under european and spanish law, and presenting the major lines of the proposal puntCAT wants the ICANN board to approve.
The spanish DPA emited a communication, whereby officially endorsed the changes puntCAT wants to adopt, considering them in complete accordance to the data protecion legislation
This endorsement is attached as Appendix 3 to this request.
An english version of the Data Protection Directive may be found here:

EUR-Lex - 31995L0046 - EN

An unofficial translation to english of the transposition of the Data Protection European Directive to the Spanish legislation can be found here:

http://www.agpd.es/portalwebAGPD/canaldocumentacion/legislacion/estatal/common/ pdfs_ingles/Ley_Orgnica_15-99_ingles.pdf

a. If the registry is a sponsored TLD, what were the nature and content of these consultations with the sponsored TLD community?:

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
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gTLD: .CAT
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This request is the direct consequence of an increase in data protection concerns in our community. This concerns have been directly addressed to Fundació puntCAT throughout many registrants' petitions to allow private whois, as well as a general trend in the data protection fora that have specifically dealt with the subject. In that regard, see the documents referred above.

b. Were consultations with gTLD registrars or the registrar constituency appropriate? Which registrars were consulted? What were the nature and content of the consultation?:

Registrars were consulted and informed in a meeting held on april 14th, 2011, between puntCAT and its registrars, The meeting had the whois system change proposal as one of its main topics, and none of the registrars attending the meeting had any objections to the schema

c. Were consultations with other constituency groups appropriate? Which groups were consulted? What were the nature and content of these consultations?:

No other stakeholder groups were consulted. However, in the GAC communiqué issued on march the 28th, 2007, after the ICANN Lisbon meeting. there's a reference to whois and national laws. Through this document, the GAC informs of its position regarding the principles related to whois and gTLD's were exposed. In its Annex A, point 2.2.2 of this document, the GAC states the following:

2.2 The Gac recognizes that there are also legitimate concerns about:
2. conflicts with national laws and regulations, in particular, applicable privacy   and data protection laws

This may be found at:

http://gac.icann.org/system/files/GAC_28_Lisbon_Communique.pdf

d. Were consultations with end users appropriate? Which groups were consulted? What were the nature and content of these consultations?:

End users have addressed the question throughout their constant remarks to the Registry. There has not been a formal consultation, although the ammount of requests shows an increasing interest from end users.

ICANN Registry Request Service

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e. Who would endorse the introduction of this service? What were the nature and content of these consultations?:

Law enforcement and data protection agencies representatives from Catalonia, Spain and the EU.

f. Who would object the introduction of this service? What were(or would be) the nature and content of these consultations?:

Fundació puntCAT does not expect objections, since it is a question of compliance with data protection law.

Timeline

Please describe the timeline for implementation of the proposed new registry service:

After approval by ICANN, our temptative timeline will consist of 3 months for OT+E and a communications campaign, held in parallel. Afterwards, the service will be implemented and users will be given 2 months to adjust to the new characteristics of the service.

Business Description

Describe how the Proposed Service will be offered:

The changes will be implemented through an EPP extension, whose details are detailed in the Appendix 1.

See the Appendix 4 for a description of the new characteristics of the service.

Describe quality assurance plan or testing of Proposed Service:

Once the change is implemented, CORE will apply the usual software QA measures (unit and regression testing) and check Whois and domain:info results for all possible combinations of the newly introduces flags.

ICANN Registry Request Service

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Please list any relevant RFCs or White Papers on the proposed service and explain how those papers are relevant.:

Changes are compliant with the relevant RFCS concerning whois and EPP

Contractual Provisions

List the relevant contractual provisions impacted by the Proposed Service:

Appendix S Part VI of puntCAT's contract with ICANN. The proposed language for this Appendix to puntCAT-ICANN agreement is included in the Appendix 5 to this document

What effect, if any, will the Proposed Service have on the reporting of data to ICANN:

None.

What effect, if any, will the Proposed Service have on the Whois?:

Non disclosure of the data associated to the domain names registered by individual registrants that so choose, following provided advice by the Spanish data protection Agency and the Article 29 Working Group

Contract Amendments

Please describe or provide the necessary contractual amendments for the proposed service:

puntCAT needs to amend Appendix S Part VI of its contract with ICANN in order to comply with the provisions of Spain and EU legislation. See Appendix 5 attached with the new language.

Benefits of Service

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
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Status: ICANN Review
Status Date: 2011-10-05 14:50:26
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Describe the benefits of the Proposed Service:

Compliance with data protection legislation at both local and european level

Competition

Do you believe your proposed new Registry Service would have any positive or negative effects on competition? If so, please explain.:

N/A

How would you define the markets in which your proposed Registry Service would compete?:

N/A

What companies/entities provide services or products that are similar in substance or effect to your proposed Registry Service?:

Inside the gTLD sphere, Telnic and GNR, both subject to the EU data protection
legislation. In the ccTLD sphere, several european Registries are adjusting their policies to the provisions of the european
legislation. See Afnic .fr whois as an example.

In view of your status as a registry operator, would the introduction of your proposed Registry Service potentially impair the ability of other companies/entities that provide similar products or services to compete?:

This is not a service to be avaluated under such parameters, but one that fulfills european legislation provisions regarding data protection.

Do you propose to work with a vendor or contractor to provide the proposed Registry Service? If so, what is the

ICANN Registry Request Service

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name of the vendor/contractor, and describe the nature of the services the vendor/contractor would provide.:

CORE, puntCAT's backend provider will provide the service

Have you communicated with any of the entities whose products or services might be affected by the introduction of your proposed Registry Service? If so, please describe the communications.:

N/A

Do you have any documents that address the possible effects on competition of your proposed Registry Service? If so, please submit them with your application. (ICANN will keep the documents confidential).:

N/A

Security and Stability

Does the proposed service alter the storage and input of Registry Data?:

No

Please explain how the proposed service will affect the throughput, response time, consistency or coherence of reponses to Internet servers or end systems:

N/A

Have technical concerns been raised about the proposed service, and if so, how do you intend to address those concerns?:

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
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N/A

Other Issues

Are there any Intellectual Property considerations raised by the Proposed Service:

N/A

Does the proposed service contain intellectual property exclusive to your gTLD registry?:

N/A

List Disclaimers provided to potential customers regarding the Proposed Service:

No disclaimers needed, being the service an adjustment to the legal provisions of our legal jurisdiction.

Any other relevant information to include with this request:

The appendixes attached and mentioned throughout the request.

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
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Appendix {A(catWHOIS_Appendix1_EPPdetails.pdf)
(Seen on Next Page)

puntCAT
Registrant Data
Protection Extension

DRAFT Version – Subject to Change

Table of Contents

1. Introduction

The Spanish Data Protection Agency (DPA) requires that puntCAT domain registrants who are **natural** persons need to be able to prevent their contact information from appearing in the puntCAT Whois when their domains are queried. In contrast, registrants representing **legal** persons are not supposed to have this option, i.e. they are obliged to publish their contact information in the Whois.

This paper describes the technical approach puntCAT has chosen to meet this requirement.

2. Technical Approach

2.1. Functional Description

The puntCAT registry system will be extended to require the specification of the registrant's status (natural vs. legal person) with regard to a certain domain when the domain is created. In addition, if the registrant is marked as a natural person, a separate flag must be specified to indicate whether contact information shall be disclosed in the puntCAT Whois or not. Both flags may be updated and queried like other domain properties.

If a natural person has specified to hide their contact information, both the puntCAT Whois as well as the `domain:info` EPP command (when executed by a registrar not sponsoring the inquired domain) will, instead of returning any contact data, respond with a special indication that the registrant opted out of disclosing contact information. In particular, no contact IDs (which could be queried individually if they were known) are not returned in this case.

In order to allow law enforcement agencies and trademark protection agencies to retain unrestricted access to Whois data as today, a white list of IP addresses will be maintained; when the Whois is queried from an address on this white list, full contact data will be returned, regardless of the domain's settings. This complete access may be requested via a special web form available on the puntCAT web site, and accredited by puntCAT on demand.

Another web form will be available on puntCAT's web site that allows a requester to deliver a message to a domain's registrant's e-mail address (protected by a CAPTCHA to guard against spamming). Any protected data associated with the domain name will remain undisclosed during this process.

Finally, a web form will allow to contact puntCAT registry staff in case of technical problems with a domain name.

2.2. EPP Implementation

In EPP, the approach described above will be implemented as an extension to the `domain:create`, `domain:update` and `domain:info` commands.

2.2.1. Domain Creation

This example shows a `domain:create` command using the extension:

```xml
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <create>
      <domain:create
       xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        <domain:name>barca.cat</domain:name>
        <domain:period unit="y">2</domain:period>
        <domain:ns>
          <domain:hostObj>ns1.example.com</domain:hostObj>
          <domain:hostObj>ns1.example.net</domain:hostObj>
        </domain:ns>
        <domain:registrant>jd1234</domain:registrant>
        <domain:contact type="admin">sh8013</domain:contact>
        <domain:contact type="tech">sh8013</domain:contact>
        <domain:contact type="billing">sh8013</domain:contact>
        <domain:authInfo>
          <domain:pw>2fooBAR</domain:pw>
        </domain:authInfo>
      </domain:create>
    </create>
    <extension>
      <dx:create
       xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        ...
        <dx:disclosure>
          <dx:natural disclose="false"/>
        </dx:disclosure>
      </dx:create>
    </extension>
    <clTRID>ABC-12345</clTRID>
  </command>
</epp>
```

Example EPP domain create command (natural person)

Here, via use of the `natural` XML element within the `disclosure` element, the registrant indicates that contact `jd1234` represents a natural person for this domain. The `disclose` attribute set to "false" specifies that contact data should not be disclosed when this domain is queried. If the `disclose` attribute was set to "true" instead, data would be disclosed.

In contrast, this example creates a domain for a registrant that is a legal person:

```xml
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <create>
      <domain:create
       xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        ...
      </domain:create>
    </create>
    <extension>
      <dx:create
       xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        ...
        <dx:disclosure>
```

```
            <dx:legal/>
          </dx:disclosure>
        </dx:create>
      </extension>
      <clTRID>ABC-12345</clTRID>
    </command>
</epp>
```

Note that the `legal` element may not carry a `disclose` attribute, since disclosure is mandatory in this case, i.e. there is no choice here.

2.2.2. Domain Update

Here's an example for domain:update command altering the disclosure settings:

```
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <command>
    <update>
      <domain:update
       xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        ...
      </domain:update>
    </update>
    <extension>
      <dx:update
        xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
        <dx:chg>
          <dx:disclosure>
            <dx:natural disclose="true"/>
          </dx:disclosure>
        </dx:chg>
      </dx:update>
    </extension>
    <clTRID>ABC-12345</clTRID>
  </command>
</epp>
```

2.2.3. Domain Inquiry

Finally, here is an example for the response to a `domain:info` command showing the disclosure settings, with contact data omitted:

```
<?xml version="1.0" encoding="UTF-8" standalone="no"?>
<epp xmlns="urn:ietf:params:xml:ns:epp-1.0">
  <response>
    <result code="1000">
      <msg>Command completed successfully</msg>
    </result>
    <resData>
      <domain:infData
       xmlns:domain="urn:ietf:params:xml:ns:domain-1.0">
        <domain:name>barca.cat</domain:name>
        <domain:roid>BARCA-REP</domain:roid>
        <domain:status s="ok"/>
        <domain:ns>
          <domain:hostObj>ns1.example.com</domain:hostObj>
```

```
              <domain:hostObj>ns1.example.net</domain:hostObj>
          </domain:ns>
          <domain:host>ns1.barca.cat</domain:host>
          <domain:host>ns2.barca.cat</domain:host>
          <domain:clID>ClientX</domain:clID>
          <domain:crID>ClientY</domain:crID>
          <domain:crDate>2006-04-03T22:00:00.0Z</domain:crDate>
          <domain:upID>ClientX</domain:upID>
          <domain:upDate>2006-12-03T09:00:00.0Z</domain:upDate>
          <domain:exDate>2007-04-03T22:00:00.0Z</domain:exDate>
          <domain:trDate>2006-04-08T09:00:00.0Z</domain:trDate>
        </domain:infData>
      </resData>
      <extension>
        <dx:infData
           xmlns:dx="http://xmlns.domini.cat/epp/domain-ext-1.1">
          <dx:disclosure>
             <dx:natural disclose="false"/>
          </dx:disclosure>
        </dx:infData>
      </extension>
      <trID>
        <clTRID>ABC-12345</clTRID>
        <svTRID>54322-XYZ</svTRID>
      </trID>
    </response>
  </epp>
```

Example EPP domain info response

2.3. Whois Implementation

If a domain's disclosure settings indicate that contact data should be disclosed, the Whois output for the domain will not differ from today's presentation, i.e. full contact information is returned as follows:

```
% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
Domain ID: REG-D123456
Domain Name: barca.cat
Domain Name ACE: barca.cat
Domain Language: ca
Registrar ID: R-123 (Some Registrar)
Created On: 2006-04-22 09:48:30 GMT
Last Updated On: 2011-04-21 08:14:08 GMT
Expiration Date: 2012-04-22 09:48:30 GMT
Status: clientTransferProhibited, clientDeleteProhibited
Registrant ID: jd1234
Registrant Name: Joe Registrant
Registrant Organization:
Registrant Street: Average Street 2
Registrant City: Barcelona
Registrant State/Province:
Registrant Postal Code: 67890
Registrant Country: ES
```

```
Registrant Phone: +34.98765432
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: registrant@example.com
Admin ID: sh8013
Admin Name: Joe Average
Admin Organization:
Admin Street: Average Street 1
Admin City: Barcelona
Admin State/Province: Barcelona
Admin Postal Code: 12345
Admin Country: ES
Admin Phone: +34.12345678
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: joe@example.com
Tech ID: sh8013
Tech Name: Joe Average
Tech Organization:
Tech Street: Average Street 1
Tech City: Barcelona
Tech State/Province: Barcelona
Tech Postal Code: 12345
Tech Country: ES
Tech Phone: +34.12345678
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: joe@example.com
Billing ID: sh8013
Billing Name: Joe Average
Billing Organization:
Billing Street: Average Street 1
Billing City: Barcelona
Billing State/Province: Barcelona
Billing Postal Code: 12345
Billing Country: ES
Billing Phone: +34.12345678
Billing Phone Ext:
Billing Fax:
Billing Fax Ext:
Billing Email: joe@example.com
Name Server: ns1.example.com
Name Server ACE: ns1.example.com
Name Server: ns2.example.com
Name Server ACE: ns2.example.com
```

Example Whois output in case of data disclosure

In contrast, if a natural person opted out of disclosing contact information, Whois output will look like this:

```
% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% This domain has chosen privacy settings according to the European
% data protection framework provisions.
%
% Should you need to contact the registrant, please see
% http://www.domini.cat/contact-registrant
%
% For law enforcement and trademark protection purposes, see
% http://www.domini.cat/whois-access
%
% In case of technical problems, please see
```

domini
puntcat

Example Whois output in case of non-disclosure

```
% http://www.domini.cat/report-problem
%
Domain ID: REG-D123456
Domain Name: barca.cat
Domain Name ACE: barca.cat
Domain Language: ca
Registrar ID: R-123 (Some Registrar)
Created On: 2006-04-22 09:48:30 GMT
Last Updated On: 2011-04-21 08:14:08 GMT
Expiration Date: 2012-04-22 09:48:30 GMT
Status: clientTransferProhibited, clientDeleteProhibited
Name Server: ns1.example.com
Name Server ACE: ns1.example.com
Name Server: ns2.example.com
Name Server ACE: ns2.example.com
```

Note that the contact sections are completely missing from the Whois output; any software reading Whois output may use this (in particular, the lack of the registrant section) as an indication of the domain registrant's choice not to disclose contact information. In addition, the comment section at the top of the Whois output is augmented by information about the domain's disclosure setting and links to related services.

Both puntCAT's standard port 43 Whois, as well as the web-based Whois service will display this information according to the same logic.

A. Change Log

Versions of this document:

Version	Date	Description
DRAFT Version	2011-06	Draft Version

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
Print Date: 2011-10-05 14:50:38

Appendix {B(catWHOIS_Appendix2_art29WPletter.pdf)
(Seen on Next Page)

Assumpte: FW: .cat whois directory
De: <Niovi.Ringou@ec.europa.eu>
Data: Wed, 17 Sep 2008 17:31:40 +0200
A: <amadoz@domini.cat>
CC: <Alain.Brun@ec.europa.eu>, <Hana.PECHACKOVA@ec.europa.eu>

Dear Mr. Nacho Amadoz,

We would like to thank you for your email request concerning whois directories with a focus on protection of personal data and registrants' privacy.

We certainly welcome the initiative of your registry to follow and implement the privacy-friendly approach in your policies. We especially appreciate your efforts to implement privacy policy into the Registrar Accreditation Agreement concluded with ICANN. As the Data protection directive 95/46/EC would be applicable in your case, an informed consent of the data subject to process personal data (e.g. to collect & publish, etc.) would be required as a criterion for making processing legitimate.

We understood from your previous correspondence, that you are already consulting both local, i.e. Catalan data protection authority and the Spanish data protection authority - both being the offices responsible for enforcement of applicable data protection laws in your case. This is the right step in your activities.

We fully support the Opinion no. 2/2003 of the Article 29 Working Party on the application of the data protection principles to the WHOIS databases. Following the adoption of this Opinion, there was exchange of several letters between the Article 29 Working Party and ICANN. All the correspondence related to the privacy and data protection friendly approach and the current text of the Registrar Accreditation Agreement as there is still an actual conflict of the rigid ICANN WHOIS policies with EU privacy laws. Article 29 WP has draw several times the ICANN's attention to the fact that EU national data protection laws are not negotiable as such and cant be solved by ICANNs internal procedure only. The Article 29 therefore pointed out that, in any case, national data protection and privacy laws shall prevail over the arrangement in the RAA.

ICANN has been advised that privacy issues stemming from the making available of personal data in the context of the operation of the WHOIS services should be solved through amendments to the registrar accreditation agreement that would offer at least to those registrars located in EU member countries to comply with EU data protection legislation in accordance with the basic principles of data protection and privacy and we fully support this statement.

Furthermore, we would like to draw your attention to the GAC principles regarding gTLD WHOIS service presented and adopted by the Governmental Advisory Committee on March 28, 2007 where one of the principles goes as follows: "gTLD WHOIS services must comply with applicable national laws and regulations". Another important principle clearly spelled out is that "...gTLD WHOIS services should provide sufficient and accurate data about domain name registrations and registrants subject to national safeguards for individuals' privacy...".

Based on the number of activities we have undertaken in this field, we believe that ICANN understands the situation around EU privacy and data protector legislation.

We would like to kindly ask you to keep us informed about the result of your

re-negotiation of the RAA.

Kind regards
Niovi Ringou
Deputy Head of the Data Protection Unit

-----Original Message-----
From: Nacho Amadoz [mailto:amadoz@domini.cat]
Sent: Monday, September 08, 2008 12:05 PM
To: BRUN Alain (JLS)
Subject: Re: .cat whois directory

Mr Brun,

I re-send you the following mail, dated on 30/07/08. We'd need to know
if we can count on the opinion of the art. 29 WG, or not if not
applicable, before we proceed to go ahead.

Thank you

Nacho Amadoz

En/na Nacho Amadoz ha escrit:

> Mr Brun,
>
> My name is Nacho Amadoz. I am the lawyer of the Fundació puntCAT, a
> non for profit private entity in charge of the Registry of .cat Top
> Level Domain, I reach you in your capacity as the Head of the Unit of
> the article 29 WG
>
> We manage the .cat Registry under the terms established in our
> agreement with ICANN, signed on the 23rd of septembre of 2005.
>
> http://www.icann.org/en/tlds/agreements/cat/
>
> We are now renegotiating the aforementioned contract with ICANN in
> order to introduce some amendments we consider quite necessary to
> offer our registrants the highest possible protection of their
> personal data.
>
> Our main aim is to offer the individual registrants the option to
> choose whether to haver their data available to the general public or
> not, following the conclusion stated in the opinion 2/2003 of the art.
> 29 WG on the application of the data protection principles to the
> whois directories
>
> Should opt-out be the option chosen by the individual, the only way to
> reach him then by interested third parties would be to fill in a form
> that will be sent via e-mail to the registrant, being completely up to

him to answer, and remaining his data completely hidden during the process. This is the model implemented by Afnic, the french Registry. Bulk access for law enforcement purposes will be provided in any case.

The inclusion of these changes is subject to the approval of ICANN, because they mean amendments in the contract that binds us, and we can not implement these changes unilaterally.

We have several precedents to ground our arguments. Telnic (.tel) and GNR (.name) are two cases in which the results of their consultations with their DPA were absolutely definitive in their negotiation process with ICANN to achieve a higher standard of protection of the registrants.

So, it seems quite clear that the endorsement from the proper data protection authorities is a must in our negotiation. We've contacted the catalan and the spanish data protection agencies, but we wanted to count on your perspective as well. We think this is a good occasion to tackle this issue, and to show ICANN the views from several data protection european institutions

We'd like to know if we can count on your support along this negotiation process. We think the opinion of the article 29 WG sets the guidelines to follow in european data protection, and, as said before, the opinion 2/2003 leaves undoubtly clear what should be done concerning whois directories. Therefore, we'd like the WG to explicitly back our proposal to ICANN.

Thanks in advance for your reply

Regards

Nacho Amadoz
Fundació puntCAT
http://domini.cat

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
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Appendix {C(catWHOIS_Appendix3_SpanishDPA.pdf)
(Seen on Next Page)

SPANISH DATA PROTECTION AGENCY

Law Offices

Ref. No. ª 271928/2009
PUNTCAT FOUNDATION
Mr Nacho Amadoz LEGAL REPRESENTATIVE
C/ Consell de Cent, 329, 2º, 1ª C
08007 BARCELONA

In reply to your letter, whose entry was registered in this Agency on 1 December 2008, please find attached the report drawn up by our Law Offices.

I must emphasise that our reply is not binding and does not prejudge the criterion of the Agency Director in exercising his functions, among which the Law does not provide for the provision of binding inquiries.

Madrid, 4 September 2009
THE DIRECTOR OF THE SPANISH DATA PROTECTION AGENCY

Signed: Artemi Ralio Lombarte

Pursuant to Organic Law 15/1999, dated 13 December, on the Protection of Personal Data, you are hereby informed that the personal data required to provide a reply to the inquiry have been entered into the "Consultas" (Inquiries) file for which the Spanish Data Protection Agency is responsible, created by resolution of the Agency Director on 27 July 2001 (Official Gazette 17 August 2001) in order to process your application and issue the relevant report. You may exercise your right to access, correct, cancel and object to any such data with the Spanish Data Protection Agency, Calle Jorge Juan 6, 28001 Madrid.

Law Offices

Ref. registration 271928/2009 (Fundación PuntCAT)

Having examined your request for a report issued by these Law Offices regarding the inquiry formulated by the PuntCAT Foundation, I hereby report the following:

The inquiry addresses the impact that the current situation of the "whois" directory of those who have a registered.cat domain has on personal data protection regulations, consisting of Organic Law 15/1999, dated 13 December, on the Protection of Personal Data, and its implementation directive, approved by Royal Decree 1720/2007, dated 21 December, as well as the feasibility or conformity from the application of these regulations of the system proposed in the inquiry, which would guarantee the confidentiality of the personal data of natural persons registering those domain names, without prejudice to guaranteeing, where appropriate, the contact between those wishing to contact the owners and the owners themselves through the inquiring Foundation.

I

As a prior matter, before going on to study the model proposed by the inquirer, it should be noted that the processing of information referred to in the Foundation's inquiry is fully subject to the provisions of Organic Law 15/1999 when the information about the domain name applicant, or his or her technical, administrative or billing contact, involve natural persons.

Article 2.1, paragraph 1 of Organic Law 15/1999 provides that "This Organic Law shall apply to personal data recorded on a physical support which makes them capable of processing, and to any type of subsequent use of such data by the public and private sectors," with personal data meaning, pursuant to Article 3 a), "any information concerning identified or identifiable natural persons".

The regulation implementing the Organic Law establishes certain clarifications in relation to this point by noting the following in sections 2 and 3 of Article 2:

> "2. This Regulation shall not apply to the processing of data referring to juristic persons or to files that simply include the data of natural persons who provide their services therein, consisting solely of their name and surnames, their
> functions or job positions, and their professional postal or electronic mail address, telephone and fax number.

> 3. Moreover, data relating to individual businesspersons, when referring to them as merchants, industrialists or shippers, are also understood to be excluded from the personal data protection rules."

However, these regulations should be interpreted in the terms established by this Agency as of its report of 28 February 2008. Thus, in relation to individual businesspersons and the applicability of Article 2.3 of the Regulation, this report noted that

> "(...) "it should be considered that the data referring to individual businesspersons and appearing in association solely with their commercial or mercantile activity, or

which identify, even with their names and surnames, a certain establishment or the brand name of a certain product or service, as a result of the existence of a business decision freely adopted in this regard, are not subject to the protection conferred by Organic Law 15/1999." This criterion is reflected in Article 2.3 of the Regulation implementing Organic Law 15/1999.

At the same time, the processing must be carried out in the professional sphere. This means that for data processing purposes, the end sought by those processing the data is to collect and store information on the company and not on the merchant constituting the object of the data.

Thus, the processing of data concerning the individual businessperson, with the limitations noted above to maintain a commercial relationship with it, could be justified under Article 2.3 of the Regulation in connection with the provisions of Organic Law 15/1999 indicated above.

However, the processing of data on a merchant carried out in order to maintain a business relationship with the establishment or organisation created by that individual cannot be considered to fall under such provisions, and therefore is excluded from application of Organic Law 15/1999; such data may only be processed to glean information on the subject organised in the form of a company, with the object of the processing being not the company, but rather the businessperson, for instance, as an individual consumer.

Consequently, two decisive conclusions regarding the scope of the provisions of Article 2.3 of the Regulation can be drawn from the foregoing:

- The data protection legislation should not be deemed applicable when the data being processed regarding the merchant refer only to his status as a merchant, industrialist or shipper, that is, to his business activity.

- At the same time, the use of the data should be restricted to the business activity, that is, the subject for whom data is being processed is the company set up by the merchant, industrialist or shipper, and not the businessperson him or herself who has set up such a business. If the use of these data occurs in relation to a different sphere, it would be fully subject to the provisions of the Organic Law."

For its part, regarding the regime established in Article 2.2, the report noted that:

"(...) The Agency has indicated that in the cases where the processing of data regarding a contact person is merely accidental in relation to the purpose of the processing, referring actually to juristic persons in which the subject provides services, the provisions of Organic Law 15/1999 do not apply, and the Regulations reflect this principle.

However, once again, it is necessary for the processing of the data concerning the contact person to be accessory in relation to the end pursued. This is materialised by meeting two requirements:

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The first, which is expressly reflected in the Regulation, is that the processed data should be effectively restricted to those data strictly necessary to identify the subject as the natural person who is providing his or her services. For this reason, the Regulation determines that processing should be restricted to the data concerning name and surnames, functions or job positions, and professional postal or electronic mail address, telephone and fax number."

In this way, any processing containing data other than those indicated above would be fully subject to Organic Law 15/1999, as they would exceed the bounds of data strictly indispensable to identify the subject as a contact of those processing the data with another company or juristic person.

Therefore, files that, for example, include the subject's national identity card number would not be excluded from the Law, as this datum is not necessary to maintain the business contact. Likewise, and for obvious reasons, employers' files on their own personnel whose purpose is not solely for contact reasons, but for the organisation and management purposes afforded to them by law, can never be deemed to be excluded from the Organic Law.

The second limit lies, as in the case contemplated in Article 2.3, in the end justifying the processing. As indicated repeatedly, the inclusion of contact person data must be strictly accidental or incidental with regard to the true end pursued by the processing, which must lie not on the subject, but rather on the company or juristic person where the subject carried out his or her activity or represented by the subject in its dealings with those processing the data.

Thus, the processing must pursue a direct relationship between those processing the company's data and those holding a position in the company. In this way, the use of the datum must be addressed to the juristic person, with the datum on the subject being only the means to achieve this end.

This would be the case if the processing refers to "business to business" relationships, where communications addressing the company simply include the name of the person as a means of graphically representing the addressee of such communications. However, if the relationship is of a "business to consumer" nature, where the subject whose data has been processed plays a role not only with regard to the position being held but also as the actual addressee of the communication, such processing would be fully subject to Organic Law 15/1999, and Article 2.2 of the Regulation would not apply."

It can be clearly deduced from the report and from the fact that more and more people apply for domain names in order to create personal websites unrelated to their professional or business activity that in this case we find ourselves confronted with a data processing situation subject to the provisions of Organic Law 15/1999, where such information as name, surnames, address, telephone, fax or email address are included, and that, in the present case, there is no doubt that these data are of a personal nature as they are linked to domain name applicants or how to contact them.

II

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Having said this, in relation to the current situation, and without prejudice to issues that will be analysed below affecting the solution proposed by the inquirer, it should be noted that the processing currently being carried out by the inquirer and by the "registrars" applying for domain name registration in favour of the applicant is not contrary to Organic Law 15/1999 in terms of the information collected and processed by them.

In this regard, the inquiry details the data processing procedure and the consents sought from the persons affected by the processing of their data by the "registrar" and by the inquirer, as well as for the international data transfer required for registration with the ICANN and databases managed by the CORE Internet Council of Registrars.

Article 6.1 of Organic Law 15/1999 provides that "Processing of data shall require the unambiguous consent of the data subject, unless laid down otherwise by law." However, consent will not be required, according to Article 6.2, when the data "relate to the parties of a contract or preliminary contract for a business, employment or administrative relationship, and are necessary for its maintenance or fulfilment."

It is unequivocally deduced from the terms described in the inquiry and the documentation provided that whoever wishes to register a .cat domain name must apply for registration with the inquirer, and that the creation of such a domain name is not possible without fulfilling this requirement. Moreover, the procedure must be verified through the participation of an intermediary or "registrar", which will process the data and provide them to the inquirer, such transfer being covered by Article 11.2 c) of Organic Law 15/1999, according to which consent is not required for the communication of personal data when the processing "corresponds to the free and legitimate acceptance of a legal relationship whose course, performance and monitoring necessarily involve the connection between such processing and files of third parties."

Similarly, the transfer of data to the indicated agencies have the consent of the interested party, which is particularly important in relation to the transfer of information to the ICANN, which, by neither being within the sphere of the European Economic Space nor being subject to the legislation of a State offering an adequate level of protection, unlike the case of Switzerland, could, if the aforementioned consent has not been given, require an application for authorisation from the Director of the Spanish Data Protection Agency, pursuant to Article 33 of Organic Law 15/1999.
The inquiry states that the inquirer obtains consent from the interested parties for inclusion of their data in "whois" directories, available to the public wishing to access such data.

Although the specific clauses on which this consent is based are not included in the inquiry, the current situation, in which the directories include the personal data detailed in the inquiry, could be considered legally valid provided that the clauses in question make clear the access conditions of the aforementioned directories in the terms established in Article 5.1 of the Organic Law.

III

The purpose of the foregoing is to clarify that the current situation does not involve a violation of the data protection regulations by the inquirer. However, as can be gleaned from the inquiry, this does not imply that it should be considered optimal from the

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perspective of applying the regulations of fundamental law to personal data protection, as other situations where the guarantee of privacy and protection of the aforementioned fundamental right could be greater, to the benefit, as indicated, of the fundamental right of the affected parties as acknowledged by the Ruling 292/200, dated 30 November, of the Spanish Constitutional Court.

In this regard, the processing of personal data should be as respectful as possible of the principles on which data protection rights are based, among others on the principle of purpose as consecrated in our legal system under sections 1 and 2 of Article 4 of Organic Law 15/1999.

Thus, pursuant to Article 4.2, "Personal data subject to processing may not be used for purposes incompatible with those for which they were collected." Moreover, in relation to the purpose, Article 4.1 establishes the principle of proportionality in the processing of personal data, in such a way that "Personal data may be collected for processing, and undergo such processing, only if they are adequate, relevant and not excessive in relation to the scope and the specified, explicit and legitimate purposes for which they were obtained."

What some systems call the minimisation principle, which implies that the processing of personal data should contain the minimum amount of data necessary to fully meet the purpose justifying their processing, can be gleaned from the application of both principles.

As shown by the Working Party created under Article 29 of Directive 95/46/EC in its Opinion 2/2003 on the application of data protection principles to Whois directories, approved on 13 June 2003, and as pointed out by the inquiry to which this report refers, the purposes of the aforementioned directories have evolved over time, since at first the data "were made public in principle so network operators could contact the person in charge of technical aspects of another network, of another domain, in case of problems," but the current configuration of these directories is likened rather to that of telephone guides, but without the guarantees established by internal or EU law for these guides.

This makes it necessary to bolster the guarantees ensuring that the directories include only the necessary data to meet their purposes or at least guaranteeing the rights of the interested parties not to include more data than necessary in such directories to meet their purposes, so that, if possible, mechanisms are established to enable the greatest confidentiality of the data of domain name applicants, ensuring that such data do not appear in a public directory.

In relation to this issue, Opinion 2/2003 of the Working Party set up under Article 29 of Directive 95/46/EC said the following:

> "Article 6c of the Directive imposes clear limitations concerning the collection and processing of personal data meaning that data should be relevant and not excessive for the specific purpose. In that light it is essential to limit the amount of personal data to be collected and processed. This should be kept particularly in mind when discussing the wishes of some parties to increase the uniformity of the diverse Whois directories.

The registration of domain names by individuals raises different legal considerations than that of companies or other legal persons registering domain names.

- In the first case, the publication of certain information about the company or organisation (such as their identification and their physical address) is often a requirement by law in the framework of the commercial or professional activities they perform. It should be noted however that, also in the cases of companies or organisations registering domain names, individuals can not be forced to have their name published as contact-point, as a consequence of the right to object.

- In the second case, where an individual registers a domain name, the situation is different and, while it is clear that the identity and contact information should be known to his/her service provider, there is no legal ground justifying the mandatory publication of personal data referring to this person. Such a publication of the personal data of individuals, for instance their address and their telephone number, would conflict with their right to determine whether their personal data are included in a public directory and if so which. The original purpose of the Whois directories can however equally be served as the details of the person are known to the ISP that can, in case of problems related to the site, contact the individual."

The Opinion finally indicated that:

"In the light of the proportionality principle, it is necessary to look for less intrusive methods that would still serve the purpose of the Whois directories without having all data directly available on-line to everybody. As it was already mentioned in the introduction, the Internet Service Providers can and are playing in some countries an important role in this field. In any case filter mechanisms should be developed to secure purpose limitation in the interfaces for accessing the directories."

IV

Taking into account these considerations, one should distinguish between the processing carried out by the inquirer, where logically all the data to which the inquiry refers should be consigned, and at least in relation to the natural persons owning the domain names, the establishment in respect of the public part of the directories of mechanisms guaranteeing the right of the owners to the protection of their personal data, making available mechanisms to guarantee and preserve this confidentiality without prejudice to the possible relationships between the owners of domain names and third parties who may have a legitimate interest in contacting them.

The solution offered by the inquirer in this regard appears to be more appropriate than that which currently exists in protecting this fundamental right, as it ensures the confidentiality of the personal data of domain name owners and establishes a system enabling interested parties to contact them, thus providing a more complete fulfilment of the proportionality principle.

Logically, this solution would imply that the inquirer perform a new processing of the personal data of those wishing to contact the domain name owner, which must likewise abide by the provisions of Organic Law 15/1999, whereby the interested party must be informed of the processing of his/her personal data and the other principles, rights and obligations provided for by this Law must be observed. In addition, the inquirer must report the file created for registration in the Data Protection General Registry and keep the data the least possible amount of time necessary to fulfil the purpose justifying their processing.

In any case, while it can be considered that the exercising of the option by domain name owners that they do not appear in the whois directory as a means of exercising their right to object, they should be given the chance to exercise this right at any time. To this end, some form of restriction to the repeated exercise of the right in specific periods of time could be established.

Finally, logically, the restriction would apply to the publication of the data in the directory, but it would not prevent the data from being reported to the police and judicial authorities. In this regard the handing over of the data would stem from the processing carried out by the inquirer and not from the publication (or not) of the data in the directory, and the act of reporting the data would be covered by the provisions of Articles 11.2 d) and 22.2 of Organic Law 15/1999.

The first of these Articles provides that the consent of the interested party is not necessary "when the communication to be effected is destined for the Ombudsman, the Office of Public Prosecutor, judges, courts or the Court of Auditors in the exercise of the functions assigned to them." The second of these Articles states that "Collection and processing, for police purposes, of personal data by the security forces without the consent of the data subjects shall be limited to those cases and categories of data necessary for the prevention of a genuine threat to public safety or for the suppression of crime; such data shall be stored in special files established for the purpose, which must be classified according to their degree of reliability."

V

In the light of what has been indicated thus far, the solution proposed in the inquiry is considered to be more respectful of the norms and regulating principles of the fundamental right to the protection of personal data than the currently existing solution.

Respectfully yours,

Madrid, 31 July 2009.

THE PUBLIC PROSECUTOR HEAD OF THE LAW OFFICES

Signed: Agustín Puente Escobar

MR. DIRECTOR OF THE SPANISH DATA PROTECTION AGENCY

ICANN Registry Request Service

Ticket ID: L6T5V-0Z9D2
Registry Name: Fundació puntCAT
gTLD: .CAT
Status: ICANN Review
Status Date: 2011-10-05 14:50:26
Print Date: 2011-10-05 14:50:38

Appendix {D(catWHOIS_Appendix4_description.pdf)
(Seen on Next Page)

Description of the new WHOIS system

The .cat Registry will operate the WHOIS service in accordance with RFC 3912. It will be possible to query the system through the use of the domain name, the unique identification number of the Registered Domain Owner assigned by the .cat Registry (the "Unique ID"), the identity of the Sponsoring Registrar, or the machine name of the DNS servers that are authoritative for the domain (see Appendix S Part VI to the Registry Agreement).

Publication of WHOIS Data

The Unique ID within the Shared Registry System ("SRS") assigned to the Registered Domain Owner will always be disclosed in the WHOIS system. If the Registered Domain Owner for a domain is an individual (including individuals who use the domain for their own commercial purposes), all contact information captured by the Sponsoring Registrar during or after the registration process will, by default, be displayed in the public WHOIS system. Should an individual Registered Domain Owner wish to have his or her contact information not disclosed in the public WHOIS system, he or she must affirmatively indicate this wish to the Sponsoring Registrar during the registration process.

If the Registered Domain Owner is a corporate entity, all contact information captured by the Sponsoring Registrar during or after the registration process will be displayed in the public WHOIS system.

The Sponsoring Registrar will also be required to provide a mechanism to allow the Registered Domain Owner to change his or her contact information, his or her designation as an individual or a corporate entity, and his or her preferences for disclosure of contact information in the public WHOIS system after the registration process has been completed. Regardless of whether the Registered Domain Owner is an individual or a corporate entity, the Sponsoring Registrar will be required to pass all of the captured contact information to the Registry as part of the registration process. The Sponsoring Registrar will be required to indicate the disclosure preference of each Registered Domain Owner when creating and modifying the owner contact object within the SRS. For the .cat top level domain, disclosure preference is a mandatory element of the owner contact object. The Sponsoring Registrar will also be required to inform each individual Registered Domain Owner as part of the applicable registration agreement, by reference to the .cat registration agreement, that his or her personal contact information may be shared with third parties, even if such individual Registered Domain Owner does not choose to have such contact information displayed in the public WHOIS system

The information disclosed by the public WHOIS system will reflect the preferences indicated by each individual Registered Domain Owner for disclosure of his or her contact information. If this preference changes and such change is submitted to the Registry by the Sponsoring Registrar, such change will be reflected in the WHOIS system as soon as reasonably possible.

Public WHOIS data will always include, for each domain, the ROID (ID "tag")of the Sponsoring Registrar and the machine names of the authoritative DNS servers for the domain (if it has been delegated and is currently active), along with the status for each registration.

Requests for Detailed Registrant Information

For people who claim a legitimate need for disclosure of personal contact information that is not made available in the public WHOIS system (i.e., contact information of individual Registered Domain Owners who have not chosen to make their contact information public), the process to obtain such contact information is as follows:

1. The Registry will hold a web page through which requests for disclosure of personal contact information can be made.

2. The party requesting such personal contact information must identify who is making the request and must indicate what contact information is requested for disclosure and why such contact information is needed.

3. The requesting party must:

o fully describe the justification for the request;
o specify the domain in question, and the Unique ID for the individual Registered Domain Owner whose personal data is requested to be disclosed;
o identify himself or herself, with the full name of person to whom data is to be disclosed, the organisation for which he or she acts as an agent (if any), the postal address by which that person (and organisation, if any) can be contacted, phone and fax numbers, and the email address for online correspondence with the person making the request.

4. The Registry will process the information and deliver it to the e-mail addresses provided by both the registrant and the administrative contact.

The Registry Operator will process the content provided by the requestor, and will deliver it to the registrant's and administrative contact e-mail addressess. The requestor must necessarily accept that the Registry provides this service as is, that the Registry will not be liable for, and that the use of the Registry Operator's contact webform does not guarantee an answer from the registrant. Nor the Registry will be liable for any liability that may originate from the request's content. The requestor must as well accept that the registrant may or may not answer the requestor's request.

5. Three different kinds of request are previewed.

a) One to contac the holder of the domain name.
b) One to report abuses of the data protecion policy. The Registry will check the accuracy of the data and its conformity to the policy or its lack thereof
c) One to report malicious behaviour. The Registry will set up a rapid response mechanism to deal with any problem related to the use of the domain name.

 Law enforcement and trademark protection representatives will be granted full access to puntCAT database. An IP white list will be established to provide full access to gather all data associated with any concrete domain name.

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Appendix {E(catWHOIS_Appendix5_AppendixSnewlanguage.pdf)
(Seen on Next Page)

Appendix S – Part VI

Public Whois Specification

Subject to Registry's compliance with this .cat TLD Registry Agreement, including all attachments and appendices thereto (the "Agreement") and any Temporary Specifications or Policies or Consensus Policies as defined in the Agreement, and provided the scope of the Charter is not exceeded: Registry will implement the following Public Whois Specification:

Data Provided In Response to WHOIS Queries

With respect to the amount and type of domain name registrant data provided in response to queries of the WHOIS service by the general public, the WHOIS service will distinguish between domain name registrants that are Legal Persons and domain name registrants that are atural persons. Domain name registrants will be required to specify whether they qualify as Legal Persons or Individuals by clicking the appropriate box during the registration process.

WHOIS Data for Legal Persons

Full WHOIS data for domain name registrants that are Legal Persons will always be available to the general public. Queries of the WHOIS service related to Legal Persons will always return full and complete standard WHOIS data, including applicable personal data such as Registrant ID, Registrant Name, Organization, Address (street, city,state, postal code, and country), Phone Number, Facsimile Number, and Email Address. Legal Persons will not be permitted to opt out of disclosing such information in response to queries submitted to the WHOIS service.The Registry Operator reserves the right, however, to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Legal Persons for marketing purposes,spamming, data-mining, or unlawful purposes.
For the fields returned in response to queries of the WHOIS service for Legal Persons, and an example of a returned record, please see the "WHOIS Output Format Specification" below.

WHOIS Data for Individuals

Full WHOIS data for domain name registrants that are individuals may or may not be available to the general public depending on whether the applicable domain name registrant elects to make his or her personal information available in response to queries of the WHOIS service.Unlike Legal Persons, domain name registrants that are individuals will be given the option to elect whether or not their personal information is disclosed by the WHOIS service in response to queries from the general public. The default option will be for all personal information to be disclosed by the WHOIS service. In order to override this default option, the domain name registrant that is a individual will have to specifically elect not to have such personal information disclosed by clicking the appropriate box during the registration process.

Individuals Who Opt-In (Default Option)

For any domain name registrant that is a Individual and that does not elect to have his or her personal information withheld from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return full and complete standard WHOIS data, including personal data such as Registrant ID, Registrant Name, Organization, Address (street, city, state, postal code, and country), Phone Number, Facsimile Number, and Email Address. The Registry Operator reserves the right to take any preventive action necessary to prohibit any requestor of WHOIS data from using the WHOIS service to collect WHOIS data on Individuals for marketing purposes, spamming, data-mining, or unlawful purposes. For the fields returned in response to queries of the WHOIS service for Individuals that opt-in to disclosure(or that do not elect to change the default setting), and an example of a returned record, please see the "**WHOIS** Output Format Specification" section below.

Individuals Who Opt-Out

If a domain name registrant that is a Individual elects to withhold his or her personal information from disclosure by the WHOIS service, queries by the general public of the WHOIS service related to such individual will return only limited WHOIS data, including Domain Name, Domain ID, Sponsoring Registrar,Sponsoring Registrar IANA ID, Domain Status, Registrant ID, Name Server, created by registrar, last updated by registrar, domain registration date, domain expiration date, and domain last updated date. No personal information related to the domain name registrant will be available through the WHOIS service for individuals who have opted-out of disclosing their personal information.

Instead of such personal information, requestors of WHOIS data on Individuals will be informed that the registrant has elected to withhold certain personal information from disclosure by the WHOIS service, and will be provided with a link to the Registry Operator's Contact webform. Through this mechanism, requestors will be able to fulfill a webform. The content of this webform, including name of the requestor, and reason for the contact will be sent by the Registry Operator to the registrant's and administrative provided contact e-mail addresses.

For the fields returned in response to queries of the WHOIS service for Individuals that opt-out of full disclosure, and an example of a returned record, please see the "WHOIS Output Format Specification - Individuals (opt out)" section below.

Contact Webform

As described above, the WHOIS service will provide a link to the Contact webform in response to queries for WHOIS data on Individuals that have opted not to disclose personal information. The Registry will not store anything the requestors may introduce in such webform, retaining only the logs and the reports of success or failure of deliverance

The webform will allow the requestor to provide an e-mail address to be contacted, the reasons for contacting the registrant, and a free text field.

The Registry Operator will process the content provided by the requestor, and will deliver it to the registrant's and administrative contact e-mail addressess. The requestor must necessarily accept that the Registry provides this service as is, that the Registry will not be liable for , and that the use of the Registry Operator's contact webform does not guarantee ant answer from the registrant. Nor the Registry will be liable for any liability that may originate from the request's content. The requestor must as well accept that the registrant may or may not answer the requestor's request.

The Registry will offer access to the full data of individuals that have chose non disclosure to law enforcement agencies.

SPECIFICATION

Subject to any future policy regarding Whois data adopted by ICANN, domain name registrants will be required to provide correct contact information and, as permitted by applicable law, consent to selected information being made public for legitimate purposes.

Until a generally accepted specification replacing RFC 3912 is available, the Registry will provide RFC 3912-compliant Whois service. The specification contained in this Part VI to Appendix S is subject to change by agreement of the Registry and ICANN during the design process as well as during the IETF standards process. However, the following provides the target architecture and initial functionality. In addition, Registry agrees to implement changes to this specification specified by ICANN to conform to IETF provreg working group's protocol specification no later than 135 days after the IETF specification is adopted as a Proposed Standard [RFC 2026, section 4.1.1].

ADDITIONAL FIELDS CAPABILITY

If necessary, the Registry may introduce additional fields to the list of Whois fields described in this document. Those fields will be preceded and identified by appropriate tags.

INTERNATIONALIZED DATA

The Registry uses so-called "localized" address fields for contacts (see also RFC 3733). These fields may contain non-US-ASCII characters according to the IDN Table for Catalan Language (ca) that Registry will register with IANA upon signature of this Agreement. In order to support transmission of such characters, the system will provide an option specifying an alternative character set which should be used instead of the default US-ASCII character set.

INPUT FORMAT SPECIFICATION

The input to the Whois server consists of two parts: the options and thequery itself.The following options are available:

the -C option allows to specify the character set for both input and output If the -C option is specified, the Whois server expects a character set name as the next token. The name must correspond to one of the IANA character set names. Only a limited set of character sets is supported by the server. It can be determined with the HELP query described below. At least USASCII and UTF-8 are supported. If the specified character set is supported, the server tries to reinterpret the octet sequence that has been sent as input via this character set. If it succeeds, it continues processing, otherwise, an error response is generated. The use of this option does not guarantee in general that all characters that are intended to be sent to the client can properly be represented. If during the conversion of the output to the specified character set a character is found that cannot be represented, it is replaced with a question mark. In addition, a comment is added to the output that notifies the recipient of the response about this problem. By default, the Whois service searches for domain names. By the following keywords, the search type can be determined:

Keywords (case insensitive) Type
do, domain Search for domain objects. Either
the "Domain Name", "Domain
Name ACE" or "Domain ID" field
is used
ho, host Search for name server objects.
Either the "Host Name", "Host
Name ACE" or the "Host ID" field
is used
Contact Search for contact objects in the
"Contact ID" field
ap, application Search for an application object.
Either the "Domain Name",
"Domain Name ACE" or
"Application ID" field is used. Only
valid during the sunrise period.
Registrar Search for registrar objects in the
"Registrar ID" or "Registrar
Organization" field
In addition, the following search options are available:
Keywords (case insensitive) Option
Id Search is performed in the
respective ID field
Ace Search is performed in the
respective ACE field
In general, domain names in the input are considered as being
Internationalized Domain Names (IDNs, as defined in section 2, "Terminology",
RFC 3490). By using the ace option, a given domain name is considered as
being an ACE domain name. The use of the option does not have an influence
on the response.
The output can be controlled by the following keywords:
Keywords (case insensitive) Option
=, full Always return the complete data,
even if multiple entries are found
sum, summary Always return summarized data,
even if only a single entry is
found
The last token in the input is taken as the search parameter.
If the search parameter is "help" and no object type is given, no search is
performed, but a short summary about the input format is returned.

OUTPUT FORMAT SPECIFICATION

The results of the query are encoded using either the US-ASCII character set or, if a valid character set has been specified via the -C option, the selected character set. If the output contains characters for which no encoding does exist, it is handled in different ways depending on the location. For domain names, they are replaced with a question mark and a respective warning comment is added to the beginning of the output:
[note: the following two warnings are provided as an example]

% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with "?". Please resubmit your query with a
% suitable character encoding in order to receive an
% authentic response.
%
Within contact fields, accented letters are replaced by their non-accented equivalent letters (which are part of the ASCII character set) and a respective warning comment is added to the beginning of the output:

% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "XXX" is not able to
% represent all characters in this output. Those
% characters that could not be represented have been
% replaced with the unaccented ASCII equivalent. Please
% resubmit your query with a suitable character encoding
% in order to receive an authentic response.
%

If both cases appear, a suitable combined warning is generated. The different handling of characters that cannot be represented lies in the different importance of the correct spelling. While it is a common practice to remove accents from names and addresses in order to further process them in ASCII-only contexts, such a methodology is considered harmful regarding domain names. In this case it is better to produce an invalid domain name with question marks in it instead of a name that might be considered as the actual spelling.

All lines are terminated by CR/LF pairs. Lines that contain comments, legal notes or similar, start with a percent sign ('%'). If the output consists of multiple objects, they are separated by at least one empty line. The objects themselves (including the related subobjects, like referenced contacts of a domain) do not contain empty lines. If no objects match the search query, "NOT FOUND" is returned. The object data is composed of multiple keyvalue lines. Key and value of a key-value pair are separated by a colon (':'). The key may contain space characters. For domain names that appear in the output, both the IDN version and the ACE version are supplied, even if the IDN consists of LDH characters only and is identical to the ACE representation. This applies to names of domains and hosts as well as name server references in domains. It does not apply to e-mail addresses (which contain domain names as part of the address) in the contact data. Example:
...
Domain Name: fundació.cat
Domain Name ACE: xn—fundaci-r0a.cat

...
Name Server: blau.exemple.cat 192.0.2.1
Name Server: marró.exemple.cat 192.0.2.2
Name Server ACE: blau.exemple.cat 192.0.2.1
Name Server ACE: xn—marr-tqa.exemple.cat 192.0.2.2

...
Domain Data Format

Domain ID: D38482
Domain Name: exemple.cat
Domain Name ACE: exemple.cat
Full Format:
Domain ID: D38482
Domain Name: exemple.cat
Variant Name: éxemple.cat
Variant Name: exemplè.cat
Domain Name ACE: exemple.cat
Variant Name ACE: xn--xemple-9ua.cat
Variant Name ACE: xn--exempl-8ua.cat
Domain Language: ca
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Expiration Date: 2005-07-23 17:53:02 GMT
Status: ok
Registrant ID: C343238
Registrant Name: CORE Internet Council Of Registrars
Registrant Organization: CORE Internet Council Of Registrars
Registrant Street: WTC II, 29 route de Pre-Bois
Registrant City: Geneva
Registrant State/Province: Geneva
Registrant Postal Code: 1215
Registrant Country: CH
Registrant Phone: +41.229295744
Registrant Phone Ext:
Registrant Fax: +41.229295745
Registrant Fax Ext:
Registrant Email: secretariat@corenic.org
Admin ID: C343238
Admin Name: CORE Internet Council Of Registrars
Admin Organization: CORE Internet Council Of Registrars
Admin Street: WTC II, 29 route de Pre-Bois
Admin City: Geneva
Admin State/Province: Geneva
Admin Postal Code: 1215
Admin Country: CH
Admin Phone: +41.229295744

Admin Phone Ext:
Admin Fax: +41.229295745
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Tech Country: CH
Tech Phone: +41.229295744
Tech Phone Ext:
Tech Fax: +41.229295745
Tech Fax Ext:
Tech Email: secretariat@corenic.org
Billing ID: C343238
Billing Name: CORE Internet Council Of Registrars
Billing Organization: CORE Internet Council Of Registrars
Billing Street: WTC II, 29 route de Pre-Bois
Billing City: Geneva
Billing State/Province: Geneva
Billing Postal Code: 1215
Billing Country: CH
Billing Phone: +41.229295744
Billing Phone Ext:
Billing Fax: +41.229295745
Billing Fax Ext:
Billing Email: secretariat@corenic.org
Name Server: ns1.exemple.cat 192.0.2.1
Name Server: ns2.exemple.cat 192.0.2.2
Name Server ACE: ns1.exemple.cat 192.0.2.1
Name Server ACE: ns2.exemple.cat 192.0.2.2

Regarding the included contact data, see below also.

Host Data Format

Short Format:
Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat
- 74 -
Full format:
Host ID: H38473
Host Name: ns3.exemple.cat
Host Name ACE: ns3.exemple.cat
Registrar ID: IANA-15
Created On: 2001-07-23 17:53:02 GMT
Last Updated On: 2002-11-01 09:21:47 GMT
Status: ok
IP Address: 192.0.2.3
IP Address: 3FFE:3273:1002::FE99:3BC7

Contact Data Format

Short format:
Contact ID: C394583
Name: Núria Ferrer i Puig
Full format:
Contact ID: C394583
Status: ok
Name: Núria Ferrer i Puig
Organization:
Street: Plaça de l'Església, 1

City: Castelló d'Empúries
State/Province: Catalunya
Postal Code: 17486
Country: ES
Phone: +34.123456789
Phone Ext:
Fax: +34.987654321
Fax Ext:
Email: nuria.ferrer@exemple.cat

The actual published data depends on the registry policy and the contact's disclosure settings (see RFC 3733). If data is not disclosed, the respective key-value pair is omitted. In contrast, empty fields (like the organization in the given example), are included. This allows the client to differentiate between the two cases.

WHOIS Output Format Specification—Individuals (Opt-Out)

% puntCAT Whois Server Copyright (C) 2007 Fundacio puntCAT
%
% NOTICE: Access to puntCAT Whois information is provided to assist in
% determining the contents of an object name registration record in the
% puntCAT database. The data in this record is provided by puntCAT for
% informational purposes only, and puntCAT does not guarantee its
% accuracy. This service is intended only for query-based access. You
% agree that you will use this data only for lawful purposes and that,
% under no circumstances will you use this data to: (a) allow, enable,
% or otherwise support the transmission by e-mail, telephone or
% facsimile of unsolicited, commercial advertising or solicitations; or
% (b) enable automated, electronic processes that send queries or data
% to the systems of puntCAT or registry operators, except as reasonably
% necessary to register object names or modify existing registrations.
% All rights reserved. puntCAT reserves the right to modify these terms at
% any time. By submitting this query, you agree to abide by this policy.
%
% WARNING: THIS RESPONSE IS NOT AUTHENTIC
%
% The selected character encoding "US-ASCII" is not able to represent all
% characters in this output. Those characters that could not be represented
% have been replaced with "?". Please resubmit your query with a suitable
% character encoding in order to receive an authentic response.
%
% Els camps que no apareixen a continuació s'han omès en virtud dels
% previsions de la normativa de protecció de dades.
%
% En cas de voler contactar amb el titular, utilitzeu el formulari:
% http://contact.whois.cat
%
% En cas de que el domini estigui abusant de la política de protecció de dades
% utilizeu el formulari:
% http://misuse.whois.cat
%
% En cas que el domini tingui un comportament anòmal (spam, phising,
% ...) utilizeu el formulari:
% http://problems.whois.cat
%
Domain ID: REG-D672590
Domain Name: exampleindividualoptout.cat
Domain Name ACE: exampleindividualoptout.cat
Variant Name: ex?mpleindividualopto?t.cat
Variant Name ACE: xn--exampleindividualoptout.cat
Domain Language: ca
Registrar ID: R-2021 (Registrar of record)
Created On: 2010-05-17 19:50:19 GMT
Last Updated On: 2011-05-13 09:44:21 GMT

Expiration Date: 2012-05-17 19:52:01 GMT
Status: clientDeleteProhibited, clientTransferProhibited
Name Server: ns4.example.com
Name Server ACE: ns4.example.com
Name Server: ns. example.com
Name Server ACE: ns. example.com
Name Server: ns3. example.com
Name Server ACE: ns3. example.com
Name Server: ns2. example.com
Name Server ACE: ns2.example.com

WEB WHOIS SERVICE

The web Whois service shares the same functionality as the port 43 service, with the exception that the input is implemented by using the means of HTML, i.e. by text input fields, radio buttons and check boxes. The output format is the same as described above. It is included in the HTML page in a way that can easily be copied by common browsers. To support the input and output of non- US-ASCII characters, the service uses the UTF-8 encoding.

2012-05-06-02-Annex-.CAT Request - comments_puntCAT[1]

Comments of Fundació puntCAT regarding the IPC opposition to .cat whois proposed changes

March 5th, 2012

Fundació puntCAT submits this comment to address the position adopted by the Intellectual Property Constituency regarding the changes to be implemented by puntCAT to adapt its whois model to the european data protection framework.

puntCAT believes there is an existing conflict between its current whois policy, and the european data protection Directive (Directive 95/46/EC), transposed to the spanish jurisdiction by the Ley Órganica de Protección de Datos 15/1999.

The materials provided by puntCAT in its request contain several references made in the european framework by the data protection authorities that clearly say that there is a conflict in the current whois' policies.

Among them, the Art. 29 Working Group opinion 2/2003, that states the following:

"Article 6c of the Directive imposes clear limitations concerning the collection and processing of personal data meaning that data should be relevant and not excessive for the specific purpose. In that light it is essential to limit the amount of personal data to be collected and processed. This should be kept particularly in mind when discussing the wishes of some parties to increase the uniformity of the diverse Whois directories.

The registration of domain names by individuals raises different legal considerations than that of companies or other legal persons registering domain names.

- In the first case, the publication of certain information about the company or organization (such as their identification and their physical address) is often a requirement by law in the framework of the commercial or professional activities they perform. It should be noted however that, also in the cases of companies or organizations registering domain names, individuals can not be forced to have their name published as contact-point, as a consequence of the right to object.

- In the second case, where an individual registers a domain name, the situation is different and, while it is clear that the identity and contact information should be known to his/her service provider, there is no legal ground justifying the mandatory publication of personal data referring to this person. Such a publication of the personal data of individuals, for instance their address and their telephone number, would conflict with their right to determine whether their personal data are included in a public directory and if so which."

The document can be found here:

http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2003/wp76_en.pdf

This same language may be found in a communication the art 29 WG sent to the board, referring to the same question. See:

http://www.icann.org/correspondence/schaar-to-cerf-22jun06.pdf

EU Legislation has direct effect, and since the art. 29 WG main responsibility is to monitor a proper implementation of the Directive 95/46/EC, we believe there is absolutely no legal ground to doubt the actual necessity to proceed with the changes proposed by puntCAT.

What puntCAT wants to achieve with this request is, simply put, to abide by the provisions set in the european data protection framework, and we don't see any reason why anybody would oppose. The spanish data protection regulation derives directly, and depends on, the european framework. And, therefore, it is both the european framework and the transposition to the spanish jurisdiction the two levels that must be addressed when considering whether puntCAT may or may not be in breach of the data protection provisions.

In order to obtain guidance from the authorities at the spanish level,we also engaged in consultations with the relevant authority in Spain: the spanish data protection Agency. And, following our inquiry, they produced an opinion endorsing our changes to the whois.

The content of this opinion is included in our request. And the spanish Agency also refers to the the opinion 2/2003 of the Article 29 WG, when it says:

"Taking into account these considerations, one should distinguish between the processing carried out by the inquirer, where logically all the data to which the inquiry refers should be consigned, and at least in relation to the natural persons owning the domain names, the establishment in respect of the public part of the directories of mechanisms guaranteeing the right of the owners to the protection of their personal data, making available mechanisms to guarantee and preserve this confidentiality without prejudice to the possible relationships between the owners of domain names and third parties who may have a legitimate interest in contacting them.

The solution offered by the inquirer in this regard appears to be more appropriate than that which currently exists in protecting this fundamental right, as it ensures the confidentiality of the personal data of domain name owners and establishes a system enabling interested parties to contact them, thus providing a more complete fulfillment of the proportionality principle.

Logically, this solution would imply that the inquirer perform a new processing of the
personal data of those wishing to contact the domain name owner, which must likewise abide by the provisions of Organic Law 15/1999, whereby the interested party must be informed of the processing of his/her personal data and the other principles, rights and obligations provided for by this Law must be observed. In addition, the inquirer must report the file created for registration in the Data Protection General Registry and keep the data the least possible amount of time necessary to fulfil the purpose justifying their processing.

In any case, while it can be considered that the exercising of the option by domain name owners that they do not appear in the whois directory as a means of exercising their right to object, they should be given the chance to exercise this right at any time. To this end, some

form of restriction to the repeated exercise of the right in specific periods of time could be established.

Finally, logically, the restriction would apply to the publication of the data in the directory, but it would not prevent the data from being reported to the police and judicial authorities. In this regard the handing over of the data would stem from the processing carried out by the inquirer and not from the publication (or not) of the data in the directory, and the act of reporting the data would be covered by the provisions of Articles 11.2 d) and 22.2 of Organic Law 15/1999."

We believe both texts define very clearly how the data protection framework must be interpreted when addressing the challenges posed by the whois' system. The language used by the spanish data protection Agency is, in our understanding, clear enough to proceed with the changes as proposed. puntCAT believes it would be a severe irresponsibility not to allow us to proceed with the changes. Delaying or, even worse, preventing puntCAT from abiding by the data protection regulation would put the Registry in a very risky legal situation, from which serious economic liabilities could derive.

Therefore, puntCAT wants to state very clearly through this comment the necessity to proceed with the changes as proposed, in order to accommodate our contract with ICANN to the obligations imposed by the european and spanish data protection legislation.

Respectfully submitted

Nacho Amadoz
Legal manager
Fundació puntCAT

2012-05-06-03-Annex-Recommendations Report - IRTP Part B Rec #8 - Final - 14 March 2012

TO: ICANN Board of Directors

TITLE: GNSO Council Inter-Registrar Transfer Policy Part B, Recommendation #8

PROPOSED ACTION: Board Action to Approve

1. EXECUTIVE SUMMARY

The Generic Names Supporting Organization (GNSO) Council unanimously approved at its meeting on 16 February 2012 a proposed change related to the Inter-Registrar Transfer Policy (IRTP) and is now seeking Board review and approval. This recommendation is made following completion of the IRTP Part B Policy Development Process (PDP) and concerns the implementation of Recommendation #8 and the accompanying staff proposal.

IRTP Part B Recommendation #8 recommends standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. The ICANN Staff proposal agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they mean and why should I know?'[1] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In

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[1] The IRTP Part B Working Group, with the support of ICANN Staff developed this document, which provides an overview of EPP Status Codes and what they mean (see Annex F of the IRTP Part B Final Report [PDF, 972 KB] – EPP Status Codes, what do they mean and why should I know?)

addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

Under the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

The policy recommendations above, if approved by the Board, will impose new obligations on certain contracted parties. The GNSO Council's unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

The Annex to this submission provides the background and further details with regard to these recommendations.

2. BACKGROUND

The Inter-Registrar Transfer Policy (IRTP) aims to provide a straightforward procedure for domain name holders to transfer their names from one ICANN-accredited registrar to another should they wish to do so. The policy also provides standardized requirements for registrar handling of such transfer requests from domain name holders. The policy is an existing community consensus policy that was implemented in late 2004 and is now being reviewed by the GNSO.

The IRTP Part B Policy Development Process (PDP) was the second in a series of five PDPs that address areas for improvements in the existing Inter-Registrar Transfer Policy. The GNSO IRTP Part B Policy Development Process Working Group was tasked to address five issues focusing on issues related to domain hijacking, the urgent return of an inappropriately transferred name and "lock status". The WG delivered its Final Report to the GNSO Council on 31 May 2011. The GNSO Council acted on a number of the recommendations at its meeting on 22 June 2011, which were subsequently adopted by the Board

on 25 August 2011. In relation to recommendation #8, a proposal from staff was requested. Following consultations with the IRTP Part B Working Group, a public comment forum on the Staff Proposal and review of additional comments that were submitted after the closing of the public comment forum, the GNSO Council approved IRTP Part B Recommendation #8 and the updated staff proposal at its meeting on 16 February 2012 (see http://gnso.icann.org/resolutions/#201202).

3. **RATIONALE FOR ADOPTION OF THE RECOMMENDATION:**

Why is this issue addressed now?

The Inter-Registrar Transfer Policy (IRTP) is a consensus policy that was adopted in 2004 which provides for a straightforward process for registrants to transfer domain names between registrars. The GNSO Council established a series of five Working Groups (Parts A through E) to review and consider various revisions to this policy.

The IRTP Part B PDP is the second in a series of five scheduled PDPs addressing areas for improvements in the existing policy. The IRTP Part B Working Group has addressed five issues focusing on domain hijacking, the urgent return of an inappropriately transferred name, and lock status. Most of these recommendations have already been adopted by the GNSO Council and the ICANN Board. In relation to recommendation #8, a proposal from staff was requested. Following consultations with the IRTP Part B Working Group and a public comment forum on the Staff Proposal, ICANN Staff submitted its proposal to the GNSO Council. Following this, additional comments were submitted by the Intellectual Property Constituency. The GNSO Council reviewed the comments and the updated staff proposal, which was submitted addressing the comments provided by the IPC. The GNSO Council approved IRTP Part B Recommendation #8 and the updated staff proposal unanimously at its meeting on 16 February 2012 (see http://gnso.icann.org/resolutions/ - 201202). The IRTP Part B PDP Final Report received unanimous consensus support from the IRTP Part B Working Group as well as the GNSO Council.

What is the proposal being put forward for Board consideration?

Recommendation #8 recommends standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Based on discussions with technical experts, the IRTP Part B WG does not expect that such a standardization and clarification of WHOIS status messages would require significant investment or changes at the registry/registrar level. The IRTP Part B WG recommended that ICANN staff is asked to develop an implementation plan for community consideration which ensures that a technically feasible approach is developed to implement this recommendation.

The ICANN Staff proposal agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they mean and why should I know?'[2] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

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[2] The IRTP Part B Working Group, with the support of ICANN Staff developed this document, which provides an overview of EPP Status Codes and what they mean (see Annex F of the IRTP Part B Final Report [PDF, 972 KB] – EPP Status Codes, what do they mean and why should I know?)

Outreach conducted by the Working Group to solicit views of groups that are likely to be impacted

Public comment forums were held by the Working Group on the initiation of the PDP, the Initial Report, the proposed Final Report and the Staff Proposal on Recommendation #8 in additional to regular updates to the GNSO Council as well as workshops to inform and solicit the input from the ICANN Community at ICANN meetings (see for example, Brussels Meeting and San Francisco Meeting). Constituency / Stakeholder Group Statements were submitted (see https://community.icann.org/display/gnsoirtpb/IRTP+Part+B). All comments received were reviewed and considered by the IRTP Part B PDP WG (see section 6 of the IRTP Part B Final Report). In addition, as prescribed by the ICANN Bylaws, a public comment forum is being held on the recommendations to be considered by the ICANN Board.

What concerns or issues were raised by the community?

Following the closing of the public comment forum on the staff proposal (no comments received) and the submission of the proposal to the GNSO Council, the Intellectual Property Constituency submitted a number of comments, which ICANN staff responded to by submitting an updated proposal. The comments and updated proposal were considered as part of the GNSO Council deliberations. Subsequently, the GNSO Council adopted the recommendation and updated ICANN Staff proposal unanimously.

What significant materials did the PDP Working Group and GNSO Council review outlining the support and/or opposition to the proposed recommendations?

The materials and input reviewed by the IRTP Part B PDP Working Group are outlined in the IRTP Part B Final Report, which also outlines the full consensus support of the IRTP Part B Working Group for this recommendation. In addition to the regular updates as described above, the GNSO Council reviewed this Final Report and the ICANN Staff proposal, as well as the comments submitted by the IPC and Staff's response to those comments.

What factors the GNSO Council found to be significant?

The recommendation was developed by the IRTP Part B Working Group following the GNSO Policy

Development Process as outlined in Annex A of the ICANN Bylaws and has received the unanimous support from the GNSO Council. As outlined in the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN. In addition, transfer related issues are the number one area of complaint according to data from ICANN Compliance. Improvements to the IRTP have the potential to reduce the number of complaints, in addition to providing clarity and predictability to registrants as well as registrars.

Are there positive or negative community impacts?

Improvements to the IRTP have the potential to reduce the number of complaints, in addition to providing clarity and predictability to registrants as well as registrars. Adoption of the recommendations will require changes in processes for registrars, but these are considered to have a minimum impact and necessary in order to address the issues that are part of this Policy Development Process. The recommendations, if implemented, would usefully clarify and enhance the IRTP, to the advantage of all parties concerned.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

Apart from those changes required in process for registrars as outlined above, no other fiscal impacts or ramifications on ICANN; the community; and/or the public are expected.

Are there any security, stability or resiliency issues relating to the DNS?

There are no security, stability, or resiliency issues related to the DNS if the Board approves the proposed recommendations.

4.   COUNCIL MOTION ADOPTING THE RECOMMENDATION AND STAFF PROPOSAL

Motion on the Adoption of the Staff Proposal on IRTP Part B Recommendation #8

6

Made by: Yoav Keren

Seconded by: Stéphane van Gelder

WHEREAS on 24 June 2009, the GNSO Council launched a Policy Development Process (PDP) on IRTP Part B addressing the following five charter questions:

a. Whether a process for urgent return/resolution of a domain name should be developed, as discussed within the SSAC hijacking report (http://www.icann.org/announcements/hijacking-report-12jul05.pdf); see also (http://www.icann.org/correspondence/cole-to-tonkin-14mar05.htm);

b. Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and Admin Contact (AC). The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar;

c. Whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in hijacking cases;

d. Whether standards or best practices should be implemented regarding use of a Registrar Lock status (e.g. when it may/may not, should/should not be applied);

e. Whether, and if so, how best to clarify denial reason #7: A domain name was already in 'lock status' provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.

WHEREAS this PDP has followed the prescribed PDP steps as stated in the Bylaws, resulting in a Final Report delivered on 30 May 2011;

WHEREAS the IRTP Part B WG has reached full consensus on the recommendations in relation to each of the five issues outlined above;

WHEREAS in relation to recommendation #8, the GNSO Council resolved at its meeting on 22 June to request 'ICANN staff to provide a proposal designed to ensure a technically feasible approach can be developed to meet this recommendation. Staff should take into account the IRTP Part B WG

deliberations in relation to this issue (see IRTP Part B Final Report). (IRTP Part B Recommendation #8). The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Upon review of the proposed plan, the GNSO Council will consider whether to approve the recommendation'; WHEREAS ICANN staff developed the proposal in consultation with the IRTP Part B Working Group which was put out for public comment (see http://www.icann.org/en/public-comment/irtp-b-staff-proposals-22nov11-en.htm);

WHEREAS no comments were received as part of the public comment forum and the proposal was submitted to the GNSO Council;

WHEREAS on 10 January 2012, the IPC has provided its comments to ICANN staff proposal (as described in http://gnso.icann.org/mailing-lists/archives/council/msg12555.html);

WHEREAS ICANN staff has provided an updated proposal based on the IPC comments (as described in http://gnso.icann.org/mailing-lists/archives/council/msg12600.html);

WHEREAS the GNSO Council has reviewed and discussed the ICANN Staff proposal in relation to IRTP Part B recommendation #8.

RESOLVED, the GNSO Council recommends to the ICANN Board of Directors that it adopts and implements IRTP Part B recommendation #8 and the related ICANN Staff updated proposal (as described in http://gnso.icann.org/drafts/irtp-recommendation-8-proposal-26jan12-en.pdf).

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ANNEX A – STAFF PROPOSAL ON IRTP PART B RECOMMENDATION #8

Inter-Registrar Transfer Policy Part B - Recommendation #8

Standardizing and Clarifying WHOIS status messages

The Request: 'Prior to the consideration of approval of the recommendation regarding the standardizing and clarifying WHOIS status messages regarding Registrar Lock status, the GNSO Council requests ICANN staff to provide a proposal designed to ensure a technically feasible approach can be developed to meet this recommendation. Staff should take into account the IRTP Part B WG deliberations in relation to this issue (see IRTP Part B Final Report). (IRTP Part B Recommendation #8). The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Upon review of the proposed plan, the GNSO Council will consider whether to approve the recommendation.' (See Resolution 20110622-1)

Background: The IRTP Part B WG recommended standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Based on discussions with technical experts, the IRTP Part B WG does not expect that such a standardization and clarification of WHOIS status messages would require significant investment or changes at the registry/registrar level.

Proposal: ICANN Staff agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they

mean and why should I know?'[3] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

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[3] The IRTP Part B Working Group, with the support of ICANN Staff developed this document, which provides an overview of EPP Status Codes and what they mean (see Annex F of the IRTP Part B Final Report – EPP Status Codes, what do they mean and why should I know?).

ANNEX B - PDP Checklist

Request for an Issue Report	http://gnso.icann.org/resolutions/#200904
Preliminary Issue Report	N/A[4]
Public Comment Forum & Report of Public Comments on Preliminary Issue Report	N/A[2]
Final Issue Report	http://gnso.icann.org/issues/transfers/irtp-report-b-15may09.pdf
Initiation of the PDP	http://gnso.icann.org/resolutions/#200906
Approval of the WG Charter	http://gnso.icann.org/resolutions/#200907
Stakeholder Group / Constituency Statements received	https://community.icann.org/display/gnsoirtpb/IRTP+Part+B
Statements from other SOs/ACs received	ALAC Statement: http://forum.icann.org/lists/irtp-b-proposed-final-report/msg00003.html
Initial Report published by WG	http://gnso.icann.org/issues/transfers/irtp-b-initial-report-29may10-en.pdf
Public Comment Forum on Initial Report & Report of Public Comments	http://forum.icann.org/lists/irtp-b-initial-report/
Additional Reports	http://gnso.icann.org/issues/transfers/irtp-b-proposed-final-report-21feb11-en.pdf
Additional Public Comment Forums & Public Consultations	http://forum.icann.org/lists/irtp-b http://forum.icann.org/lists/irtp-b-proposed-final-report/ http://brussels38.icann.org/node/12502 http://svsf40.icann.org/node/22083
Final Report published by WG	http://gnso.icann.org/issues/transfers/irtp-b-final-report-30may11-en.pdf

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[4] Not applicable as this PDP was conducted under the GNSO PDP rules that applied prior to 8 December 2011

Approval of Final Report and Recommendations by GNSO Council	http://gnso.icann.org/resolutions/#201202

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2012-05-06-04-Annex-to-Board-Conflicts-of-Interest-Review-REVISED

SUBMISSION TITLE: **Conflicts of Interest Review**

The Board is being asked to approve four documents arising out of the ongoing review of the conflicts and ethics practices: A Revised Board Conflicts of Interest Policy, Revised Code of Conduct, Revised Expected Standards of Behavior, and Proposed Corporate Governance Guidelines. A clean version of each document is provided in this annex, as well as a redline of the three revised documents, showing the changes from the current version. A description of the document and the key changes is provided below. The summary of the public comment received on these documents is attached as Attachment H.

Revised Board Conflicts of Interest Policy (Clean: Attachment A, Redline: Attachment B)

ICANN's Board Conflicts of Interest Policy (the "Policy") outlines the procedures for disclosing and addressing conflicts of interests of directors, liaisons, officers and key employees (collectively, "Covered Persons"). Following a review of the policy by outside legal counsel, the Board Governance Committee approved the posting of a revised draft of the Policy. The key revisions to the Policy are as follows:

- Strengthens procedures for disclosing, processing and evaluating actual and potential conflicts of interest. As revised, the Policy requires Covered Persons to initially disclose any conflicts of interest to ICANN's General Counsel, who will inform the Board Governance Committee and facilitate the review and evaluation of the conflict by the Board Governance Committee and the Board.

- Expands on the disclosure requirements of matters that may give rise to Covered Persons being perceived to have conflicts of interest to include policies and programs and other matters.

- Requires that conflicted Covered Persons refrain from using their personal influence (either at or outside a Board meeting) to influence ICANN's handling of a matter that gives rise to the conflict of interest.

- Reiterates that conflicted directors and liaisons may not participate in Board or committee deliberations concerning the matter giving rise to the conflict of interest, unless either the Board or Board Governance Committee determines that the conflicted director or liaison should participate in the discussions and in what manner. No conflicted director may vote on a matter for which the director is conflicted.

More strongly emphasizes the consequences for a Covered Person's failure to comply with the Policy. The revised Policy specifically states that if the Board Governance Committee determines that a director or liaison has intentionally failed to disclose a potential conflict of interest, the Board Governance Committee will make recommendations to the Board for corrective action, which could include removal of the director or liaison from the Board.

The Conflicts of Interest Policy was further revised after the public comment period to clarify the disclosure of potential perceived conflicts of interest, and to make a more general identification of the committee assigned by the Board to evaluate conflicts of interest.

Revised Board Code of Conduct (Clean: Attachment C, Redline: Attachment D)

ICANN's Board Code of Conduct provides directors and liaisons with guidance with respect to their responsibilities and duties as Board members. The Board Code of Conduct promotes and supplements the standards of behavior expected of directors and liaisons set forth in ICANN's Expected Standards of Behavior. The goal is to ensure that directors and liaisons strive to foster ICANN's mission and core values in an ethical manner. The revised Board Code of Conduct sets forth additional provisions guiding the expected conduct of directors and liaisons.

In response to public comment, an addition was made to clarify that Board members should be free of interests that would conflict with the interests of ICANN or ICANN's ability to operate for the benefit of the Internet Community as a whole. Previously the language required the Board members should be free of interests that would conflict with the interests of ICANN only.

Expected Standards of Behavior (Clean: Attachment E, Redline: Attachment F)

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ICANN's current Expected Standards of Behavior provide all parties involved in ICANN's multi-stakeholder process guidance on what is expected of them and how to conduct themselves when participating in ICANN matters. The revised Expected Standards of Behavior contain additional principles of expected behavior based upon ICANN's core values.

No changes were identified as a result of public comment.

Corporate Governance Guidelines (Clean: Attachment G, Redline: Attachment G1)

ICANN has not yet adopted formalized Corporate Governance Guidelines (the "Guidelines"). The proposed Guidelines are intended as a component of the flexible framework within which ICANN's Board of Directors (the "Board"), assisted by its committees, directs the affairs of ICANN. The Guidelines also provide ICANN stakeholders with a source of reference to ICANN's governance policies. Consisting largely of existing ICANN policies and practices that are contained in ICANN's Bylaws and committee charters, the Guidelines consolidate numerous ICANN governance policies and practices, including those related to the role of the Board, structure of the Board, accountability and review, performance evaluations, Board committees and Board compensation. As noted in the Guidelines, they may address even more issues in the future; the Guidelines will be reviewed periodically by the Board and revised as appropriate to reflect the dynamic and evolving processes relating to the operation of the Board.

Since the posting for public comment, the Guidelines have been updated to include the post-service limitation that the Board imposed in relation to decisions on applications for new gTLDs. A redline of the change from the posted document is provided for the Board.

Summary of Public Comment (Attachment H)

Few public comments were received on the documents in the main or reply cycle. No comments were received that opposed the adoption of these documents, though some improvements or next steps were recommended. Some of the recommendations that were made and not addressed in these documents include:

- A recommendation that the documents be in plain language; this recommendation is under review, as there are some portions that require specific language to comply with ICANN's obligations under law (such as the Conflicts of Interest Policy).

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- A recommendation to form a cross-community task force to review ICANN's conflicts of interest structure and to engage corporate governance experts; given the ongoing three-part review of ethics and conflicts of interest frameworks within ICANN, including work with international experts on these topics, this recommendation is not yet ripe for consideration.

The identified improvement to the Code of Conduct was also raised through the public comment forum.

Submitted by:	Amy Stathos
Position:	Deputy General Counsel
Date Noted:	1 May 2012
Email and Phone Number	amy.stathos@icann.org

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2012-05-06-04-Annex-Attachment-A-Revised-Conflict of Interest Policy

Internet Corporation for Assigned Names and Numbers

Board Conflicts of Interest Policy

(Adopted on _____, 2012)

ARTICLE I -- PURPOSE AND ADMINISTRATION

Section 1.1   Internet Corporation for Assigned Names and Numbers ("ICANN") is committed to the highest levels of integrity. Covered Persons are expected to conduct their relationships with each other, ICANN and outside organizations with objectivity and honesty. Covered Persons are obligated to disclose ethical, legal, financial and other Conflicts of Interest involving ICANN and remove themselves from a position of decision-making authority with respect to any Conflict of Interest involving ICANN. The purpose of this Board Conflicts of Interest Policy ("COI Policy") is to prevent any Conflict of Interest or the appearance of a Conflict of Interest from affecting any decision-making involving ICANN, to ensure that the deliberations and decisions of ICANN are made solely in the interests of the global Internet community, as a whole, and to protect ICANN's interests when ICANN is contemplating entering into a transaction, contract or arrangement or approving a policy, program or other matter that might benefit the personal interests of a Covered Person.

Section 1.2   A Covered Person may not use his or her position with respect to ICANN, or confidential corporate information obtained by him or her relating to ICANN, in order to achieve a financial or other benefit for himself or herself or for a third person, including another nonprofit or charitable organization.

Section 1.3   This COI Policy is intended to supplement but not to replace any applicable laws governing conflicts of interest applicable to ICANN.

Section 1.4   ICANN will encourage Supporting Organizations and Advisory Committees and other ICANN-related bodies, as appropriate, to consider implementing the principles and practices of this COI Policy as relevant.

Section 1.5   The Board Governance Committee (together with any subcommittee thereof established by the Board, the "Committee") shall administer and monitor compliance with this COI Policy in accordance with the terms contained herein.

Section 1.6   Certain capitalized terms used in this COI Policy shall have the meanings set forth in Article VII of this COI Policy.

ARTICLE II -- PROCEDURES REGARDING CONFLICTS OF INTEREST

Section 2.1   Duty to Disclose.

(a)   In connection with any proposed transaction, contract, arrangement, policy, program or other matter being considered by ICANN, a Covered Person shall promptly disclose the existence of any Potential Direct Conflict that may give rise to a Conflict of Interest with

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respect to the proposed transaction, contract, arrangement, policy, program or other matter. Such disclosure shall be made to the Office of the General Counsel setting forth, in writing, all relevant facts relating to the Potential Direct Conflict. When in doubt, Interested Persons shall disclose matters as Potential Direct Conflicts.

(b)   Potential Perceived Conflicts can be seriously damaging to the multi-stakeholder community's confidence in ICANN. A Covered Person shall promptly disclose the existence of any Potential Perceived Conflict, which shall be treated as equivalent to a Potential Direct Conflict until such time as the doubt is removed and the matter is determined after investigation of all the relevant facts in accordance with this COI Policy. When in doubt, Interested Persons shall disclose matters as Potential Perceived Conflicts and disclose all relevant facts relating to the Potential Perceived Conflict to the Office of the General Counsel.

(c)   If any Covered Person has reason to believe that another Covered Person has a Potential Conflict, the Covered Person with such belief shall inform the Office of the General Counsel, including disclosing all relevant facts relating thereto.

(d)   The Interested Person shall provide the Office of the General Counsel with an updated Statement (as provided for in Article V below) at the time any disclosure is made pursuant to this Section 2.1. The disclosure to the Office of the General Counsel of a Potential Conflict shall be made promptly and pursuant to such procedures as the Board or the Committee may establish from time to time.

Section 2.2   Determining Whether a Conflict of Interest Exists.

(a)   After disclosure of a Potential Conflict by an Interested Person, the Office of the General Counsel will promptly inform the Committee of the Potential Conflict and provide the Committee with all information provided by the Interested Person related thereto. At the discretion of the Disinterested members of the Committee, the Interested Person may present further information regarding, or otherwise discuss with such members, the Potential Conflict.

(b)   Thereafter, in the absence of the Interested Person, the Disinterested members of the Committee shall determine whether or not the circumstances disclosed by the Interested Person regarding the Potential Conflict constitute a Conflict of Interest, and, subject to a contrary finding by a majority of the Disinterested Directors, the determination by Disinterested members of the Committee in this regard is conclusive and may not be challenged by the Interested Person. Such determination shall be recorded pursuant to Section 3.1 hereof. If the Interested Person is a Director or Board Liaison, such determination shall be subject to ratification by, and reported to, the Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Potential Conflict.

Section 2.3   Procedures for Addressing a Conflict of Interest.

(a)   If the Disinterested members of the Committee determine that a Conflict of Interest exists, the Conflicted Person may make a presentation to the Disinterested members of the Committee regarding the Conflict of Interest. After any such presentation, subject to Section

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2.4(d), the Conflicted Person shall leave the meeting and shall not be present during any discussion of the Conflict of Interest.

(b)   The Chair of the Committee (if Disinterested) or a majority of the Disinterested members of the Committee, shall, if appropriate, appoint a Disinterested person or committee to investigate alternatives or modifications, as applicable, to the proposed transaction, contract, arrangement, policy, program or other matter. If the Conflicted Person is a Director or Board Liaison, the findings shall be reported to Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(c)   After investigating the proposed transaction, contract, arrangement, policy, program or other matter, the Disinterested members of the Committee shall determine whether ICANN can obtain with reasonable efforts a more advantageous transaction, contract, arrangement, policy, program or other matter in a manner that would not give rise to or would alleviate or mitigate a Conflict of Interest. If the Conflicted Person is a Director or Board Liaison, such determination shall be reported to the Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(d)   If a more advantageous transaction, contract, arrangement, policy, program or other matter is not reasonably available to ICANN under circumstances not producing a Conflict of Interest, or the transaction, contract, arrangement, policy, program or other matter cannot be modified to alleviate or mitigate a Conflict of Interest, the Disinterested members of the Committee, and where the Conflicted Person is a Director or Board Liaison, the Disinterested Directors shall determine by a majority vote of the applicable Disinterested Directors whether the transaction, contract, arrangement, policy, program or other matter creating the Conflict of Interest is in ICANN's best interest, for its own benefit, and whether it is fair and reasonable to ICANN. In conformity with those determinations, the Disinterested members of the Committee or Disinterested Directors, as applicable, shall make its decision as to whether ICANN should enter into the transaction, contract or arrangement or approve the policy, program or other matter.

Section 2.4   Duty to Abstain.

(a)   After disclosing the existence of a Potential Conflict, Interested Persons shall refrain from using their personal influence (either at or outside a Board meeting) to influence ICANN's handling of the transaction, contract, arrangement, policy, program or other matter.

(b)   No Director may vote on, and each Director must abstain from voting on, any matter in which the Director has a Conflict of Interest, except that a Director need not abstain from, and may vote on, whether to accept or to reject a recommendation to the Board by an Independent Valuation Expert contained in a Reasoned Written Opinion from such Independent Valuation Expert regarding a Compensation arrangement for services provided by the Director to ICANN in the Director's capacity as a member of the Board.

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(c)	In the event of such an abstention, the abstaining Director shall state the reason for the abstention, which shall be recorded pursuant to Section 3.1.

(d)	Except as otherwise provided in Section 2.4(b) above regarding a compensation arrangement for services provided by the Director to ICANN in the Director's capacity as member of the Board, no Director may participate in Board committee or Board deliberations on any transaction, contract, arrangement, policy, program or other matter in which he or she has a Conflict of Interest without first disclosing the conflict (and otherwise complying with the requirements of this COI Policy) and until a majority of Disinterested members of the Committee or a majority of the Disinterested Directors present agree on whether and in what manner the Conflicted Person may participate.

Section 2.5	Violations of the Conflicts of Interest Policy.

(a)	If the Disinterested members of the Committee have reasonable cause to believe a Covered Person has failed to disclose a Potential Conflict, the Committee shall inform the Covered Person, and initiate the procedures described in Sections 2.1, 2.2 and 2.3.

(b)	If the Disinterested members of the Committee determine that a Director or Board Liaison has intentionally failed to disclose a Potential Conflict, the Disinterested members of the Committee shall make recommendations to the Disinterested Directors for corrective action. The Disinterested Directors shall review the Disinterested members of the Committee's recommendation and shall take such corrective action as they deem appropriate, including, but not limited to, removal of a non-disclosing Director or Board Liaison in accordance with ICANN's Bylaws and applicable law.

ARTICLE III -- RECORDS OF PROCEEDINGS

Section 3.1	The written or electronic records of the Board and the Committee relating to Conflicts of Interest shall contain:

(i)	The names of Covered Persons who disclosed or otherwise were found to have a Potential Conflict in connection with a proposed contract, arrangement, policy, program or other matter;

(ii)	The nature of the Potential Conflict;

(iii)	Any action taken to determine whether a Conflict of Interest was present;

(iv)	The Board's or the Committee's, as applicable, decision as to whether a Conflict of Interest in fact existed;

(v)	The names of the persons who were present for discussions and votes relating to the transaction, contract, arrangement, policy, program or other matter;

(vi)	The content of the discussion, including any alternatives to the proposed transaction, contract, arrangement, policy, program or other matter; and

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(vii)   A record of any votes taken in connection therewith.

ARTICLE IV -- COMPENSATION

Section 4.1   Except to the extent permitted under Section 2.4(b), a Director who receives Compensation, directly or indirectly, from ICANN for services may not vote on matters pertaining to the Director's Compensation.

Section 4.2   A Director may not vote on matters pertaining to Compensation received, directly or indirectly, from ICANN by a member of the Director's Family or by an individual with whom a Director has a close personal relationship, including, but not limited to, any relationship other than kinship, spousal or spousal equivalent that establishes a significant personal bond between the Director and such other individual that in the judgment of the Committee could impair the Director's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

Section 4.3   No Covered Person who receives Compensation, directly or indirectly, from ICANN, either individually or collectively, is prohibited from providing information to the Board or to any Committee regarding the Covered Person's Compensation.

ARTICLE V -- ANNUAL STATEMENTS

Section 5.1   Each Covered Person shall annually, or promptly upon becoming a Covered Person, sign a Statement which affirms such Covered Person: (i) has received a copy of the COI Policy; (ii) has read and understands the COI Policy; (iii) has agreed to comply with the COI Policy; and (iv) understands ICANN is a tax-exempt organization described in § 501(c)(3) of the Internal Revenue Code and that in order to maintain its federal tax exemption, ICANN must engage primarily in activities which accomplish one or more of ICANN's tax-exempt purposes.

Section 5.2   On an annual basis, all Covered Persons shall disclose on their Statement a list of all organizations in which he or she has a Financial Interest or Duality of Interest.

Section 5.3   On an annual basis, the Committee shall review the Statements of the Covered Persons to determine whether any Covered Person has a Conflict or Conflicts of Interest that is, or in the aggregate are, so pervasive that the Conflicted Person should no longer serve in his or her respective role.

ARTICLE VI -- PERIODIC REVIEWS

Section 6.1   To ensure ICANN operates with the highest levels of integrity and in a manner consistent with its tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, ICANN's Office of the General Counsel and Finance Department shall conduct periodic reviews of its purposes and activities.

Section 6.2   These periodic reviews shall, at a minimum, include the following subjects:

(i)   Whether activities carried on by ICANN are consistent with and in furtherance of one or more of ICANN's tax-exempt purposes;

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(ii)   Whether ICANN follows policies and procedures reasonably calculated to prevent private Inurement more than incidental private benefit, excess benefit transactions, substantial lobbying, and participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office;

(iii)   Whether compensation arrangements and benefits are reasonable, are based on appropriate data as to comparability, and are the result of arm's length bargaining; and

(iv)   Whether partnerships, joint ventures, and arrangements with organizations that provide management personnel or management services conform to ICANN's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax-exempt purposes, and do not result in private Inurement more than incidental private benefit, or in an excess benefit transaction.

Section 6.3   When conducting the periodic reviews, ICANN may, but need not, use outside experts and/or advisors. If outside experts and/or advisors are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted in the manner prescribed in this Article.

ARTICLE VII -- DEFINITIONS

Section 7.1   As used in this COI Policy, the following terms shall have the meanings set forth below.

(i)   "Advisory Committees" means the Governmental Advisory Committee, the At-Large Advisory Committee, the Security and Stability Advisory Committee and the Root Server System Advisory Committee.

(ii)   "Board" means the ICANN Board of Directors.

(iii)   "Board Governance Committee" means the Board Governance Committee of the Board.

(iv)   "Board Liaison" shall mean those liaisons to the Board appointed in accordance with ICANN's Bylaws.

(v)   "Compensation" includes direct and indirect remuneration as well as gifts or favors that are material in nature or amount. Compensation does not include reimbursement of properly documented travel and other appropriate business expenses.

(vi)   A "Conflict" or "Conflict of Interest" arises when the Board or the Committee, as applicable, following the procedures set forth in Articles II and III of this COI Policy, determines that a Covered Person has disclosed a Potential Conflict that may in the judgment of a majority of the Disinterested Directors or Disinterested members of the Board or the Committee, as applicable, adversely

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impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(vii)   "Conflicted Person" means a Covered Person who has been determined by the Board or the Committee to have a Conflict of Interest.

(viii)   "Covered Person" shall mean an Officer, Director, Board Liaison or Key Employee of ICANN.

(ix)   A "Director" is any voting member of the Board.

(x)   "Disinterested" means not having a Potential Conflict with respect to a transaction, contract, arrangement, policy, program or other matter being considered by ICANN.

(xi)   "Domestic Partner" shall mean an individual who resides at the same residence as the Covered Person as his or her spousal equivalent.

(xii)   A "Duality of Interest" arises when, with respect to a transaction, contract, arrangement, policy, program or other matter, a Covered Person or a member of a Covered Person's Family has a fiduciary relationship with another party to a proposed transaction, contract or arrangement which gives rise to a circumstance in which the fiduciary duties of the Covered Person to ICANN and the fiduciary duties of the Covered Person, or the fiduciary duties of the Family member of the Covered Person, to the other party may be in conflict. A Duality of Interest does not constitute a Conflict of Interest if ICANN and all other parties to the transaction, contract or arrangement being in possession of all material facts, waive the conflict in writing.

(xiii)   The "Family" of any Covered Person shall include the Covered Person's spouse; Domestic Partner; siblings and their spouses or Domestic Partners; ancestors and their spouses or Domestic Partners; and descendants and their spouses or Domestic Partners. Family shall also include anyone (other than a domestic employee or service provider) who shares the Covered Person's home.

(xiv)   A "Financial Interest" exists whenever a Covered Person has or is engaged in discussions to have, directly or indirectly, through business, investment, or Family: (a) an ownership or investment interest in any entity with which ICANN has a transaction, contract, arrangement, policy, program or other matter; (b) a Compensation arrangement with any entity or individual with which ICANN has a transaction, contract, arrangement, policy, program or other matter; and (c) a potential ownership or investment interest in, or Compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, arrangement, policy, program or other matter. As used herein, "transactions, contracts, and arrangements" include grants or other donations as well as business arrangements, approvals or endorsements. Additionally, as used herein "policies, programs or other matters" include, but are not limited to, the application for or the registration of top level domains. A Financial Interest is a Potential Conflict

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but is not necessarily a Conflict of Interest. A Financial Interest does not become a Conflict of Interest until the Board or the Committee, following the procedures set forth in Articles II and III of this COI Policy, determines that the Financial Interest constitutes a Conflict of Interest.

(xv)   An "Independent Valuation Expert" means a Person retained by ICANN to value compensation arrangements that: (a) holds itself out to the public as a compensation consultant; (b) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for Persons other than ICANN; (c) is qualified to make valuations of the type of services involved in any engagement by and for ICANN; (d) issues to ICANN a Reasoned Written Opinion regarding a particular compensation arrangement; and (e) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (a) through (d) of this definition.

(xvi)   An "Interested Person" is a Covered Person who has a Potential Conflict with respect to a particular transaction, contract, arrangement, policy, program or other matter under consideration by ICANN.

(xvii)   "Internal Revenue Code" shall mean the United States Internal Revenue Code of 1986, as amended, or any future revenue statute replacing the 1986 Code.

(xviii) "Inurement," as used in this COI Policy, shall mean: (a) a transaction in which ICANN provides an economic benefit, directly or indirectly, to or for the use of any Covered Person where the value of that economic benefit exceeds the value of the consideration (including the performance of services) that ICANN receives in exchange; or (b) any transaction or arrangement by or through which a Covered Person receives a direct or indirect distribution of ICANN's net earnings (other than payment of fair market value for property or the right to use property and reasonable compensation for services).

(xix)   A "Key Employee" is an employee of ICANN designated as a member of the executive management team of ICANN, but who is not an Officer or Director.

(xx)   An "Officer" is an individual holding a position designated as an Officer by ICANN's Bylaws or by resolution of the Board and includes, without limitation, the President of ICANN.

(xxi)   A "Person" includes an individual, corporation, limited liability company, partnership, trust, unincorporated association or other entity.

(xxii)   A "Potential Conflict" means either a Potential Direct Conflict or a Potential Perceived Conflict.

(xxiii) A "Potential Direct Conflict" means any one or more of the following: (a) a direct or indirect Financial Interest in a transaction, contract or arrangement being considered by ICANN, by a Covered Person or a member of a Covered

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Person's Family; (b) a Duality of Interest by a Covered Person or a member of a Covered Person's Family with respect to another party to a transaction, contract or arrangement being considered by ICANN that has not been waived in writing by all parties to the transaction, contract or arrangement; or (c) a close personal relationship between the Covered Person, or a member of a Covered Person's Family, with an individual who is, directly or indirectly through business, investment, or Family, a party to a transaction, contract or arrangement being considered by ICANN.

(xxiv) A "Potential Perceived Conflict" exists when a reasonable person, knowing the relevant facts, could conclude that the Covered Person's private interests could adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(xxv)   "Regulations" means treasury regulations promulgated under the Internal Revenue Code.

(xxvi) "Reasoned Written Opinion" means a written opinion of a valuation expert who meets the requirements of Section 7.1(xiv)(a) through (d) of this COI Policy. To be reasoned, the opinion must be based upon a full disclosure by ICANN to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

(xxvii) "Statement" means the annual statement required by Article V hereof.

(xxviii)"Supporting Organizations" mean the Adverse Supporting Organization, the Generic Names Supporting Organization and the Country Codes Name Supporting Organization.

Section 7.2   Where terms used in this COI Policy, such as Reasonable Compensation (which shall have the meaning set forth in § 53.4958-4(b)(1)(ii) of the Regulations), have a particular meaning under the Internal Revenue Code and/or any Regulations issued thereunder, this COI Policy shall be construed to incorporate that meaning as the context requires.

Section 7.3   All other terms used in this COI Policy shall be given their ordinary, everyday meaning.

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2012-05-06-04-Annex-Attachment-B-Redline - Board COI Policy - 4.30.12 Draft against Current Policy[1]

Internet Corporation for Assigned Names and Numbers

Board Conflicts of Interest Policy

(Adopted on _____, 2012)

ARTICLE I -- PURPOSE AND ADMINISTRATION

Section 1.1   Internet Corporation for Assigned Names and Numbers ("ICANN") is committed to the highest levels of integrity. Covered Persons are expected to conduct their relationships with each other, ICANN and outside organizations with objectivity and honesty. Covered Persons are obligated to disclose ethical, legal, financial and other Conflicts of Interest involving ICANN and remove themselves from a position of decision-making authority with respect to any Conflict of Interest involving ICANN. The purpose of this Board Conflicts of Interest Policy ("COI Policy") is to prevent any Conflict of Interest or the appearance of a Conflict of Interest from affecting any decision-making involving ICANN, to ensure that the deliberations and decisions of ICANN are made solely in the interests of the global Internet community, as a whole, and to protect ICANN's interests when ICANN is contemplating entering into a transaction, contract or arrangement or approving a policy, program or other matter that might benefit the personal interests of a Covered Person.

Section 1.1 The purpose of the Conflicts of Interest Policy (the "COI Policy") is to ensure that the deliberations and decisions of ICANN are made in the interests of the global Internet community as a whole and to protect the interests of ICANN when ICANN is contemplating entering into a transaction, contract, or arrangement that might benefit the private interest of a Covered Person.

Section 1.2   A Covered Person (see Section VII below for definitions of all defined terms that can be identified throughout this Policy with initial capital letters) may not use his or her position with respect to ICANN, or confidential corporate information obtained by him or her relating to ICANN, in order to achieve a financial or other benefit for himself or herself or for a third person, including another nonprofit or charitable organization.

Section 1.3   This COI Policy is intended to supplement but not to replace any applicable laws governing conflicts of interest in nonprofit and charitable corporationsapplicable to ICANN.

Section 1.4   ICANN will encourage ICANN Supporting OrganizationOrganizations and Advisory Committees and other ICANN-related bodies, as appropriate, to consider implementing the principles and practices of this COI Policy as relevant.

Section 1.5   The Board Governance Committee (together with any subcommittee thereof established by the Board, the "Committee") shall administer and monitor compliance with thethis COI Policy in accordance with the terms contained herein.

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Section 1.6   Certain ~~Capitalized Terms~~capitalized terms used in this COI Policy shall have the meanings set forth in Article VII of this COI Policy.

ARTICLE II -- PROCEDURES REGARDING CONFLICTS OF INTEREST

Section 2.1   Duty to Disclose.

(a)   In connection with any proposed transaction, contract, ~~or~~ arrangement, policy, program or other matter being considered by ICANN, a Covered Person shall promptly disclose ~~to the Board Governance Committee~~ the existence of any Potential ~~Conflicts~~Direct Conflict that may give rise to a Conflict of Interest with respect to the proposed transaction, contract, ~~or~~ arrangement~~.~~, policy, program or other matter. Such disclosure shall be made to the Office of the General Counsel setting forth, in writing, all relevant facts relating to the Potential Direct Conflict. When in doubt, Interested Persons shall disclose matters as Potential Direct Conflicts.

(b)   Potential Perceived Conflicts can be seriously damaging to the multi-stakeholder community's confidence in ICANN. A Covered Person shall promptly disclose the existence of any Potential Perceived Conflict, which shall be treated as equivalent to a Potential Direct Conflict until such time as the doubt is removed and the matter is determined after investigation of all the relevant facts in accordance with this COI Policy. When in doubt, Interested Persons shall disclose matters as Potential Perceived Conflicts and disclose all relevant facts relating to the Potential Perceived Conflict to the Office of the General Counsel.

(c)   If any Covered Person has reason to believe that another Covered Person has a Potential Conflict, the Covered Person with such belief shall inform the Office of the General Counsel, including disclosing all relevant facts relating thereto.

(~~b)~~d)   The Interested Person shall provide the Office of the General Counsel with an updated Statement (as provided for in Article V below) at the time any disclosure is made pursuant to this Section 2.1. The disclosure to the ~~Board Governance Committee~~Office of the General Counsel of a Potential Conflict shall be made promptly and pursuant to such procedures as the Board ~~Governance Committee~~ the Committee may establish from time to time. ~~The Covered Person making such disclosure is referred to herein as an "Interested Person."~~

Section 2.2   Determining Whether a Conflict of Interest Exists.

(a)   After disclosure of a Potential Conflict by an Interested Person, the ~~Board Governance Committee shall have a discussion with~~Office of the General Counsel will promptly inform the Committee of the Potential Conflict and provide the Committee with all information provided by the Interested Person ~~regarding the material facts with respect to~~related thereto. At the discretion of the Disinterested members of the Committee, the Interested Person may present further information regarding, or otherwise discuss with such members, the Potential Conflict.

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(b)   Thereafter, in the absence of the Interested Person, the Disinterested members of the ~~Board Governance Committee~~ Committee shall determine whether or not the circumstances disclosed by the Interested Person regarding the Potential Conflict constitute a Conflict of Interest, and, subject to a contrary finding by a majority of the Disinterested ~~Board members~~Directors, the determination by ~~the~~ Disinterested members of the Committee in this regard is conclusive and may not be challenged by the Interested Person. Such determination shall be recorded pursuant to Section 3.1 hereof. If the Interested Person is a Director or Board Liaison, such determination shall be subject to ratification by, and reported to, the Disinterested ~~Board members~~Directors at the next Board meeting and ~~shall be subject to Board ratification~~prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Potential Conflict.

Section 2.3   Procedures for Addressing a Conflict of Interest.

(a)   If ~~the Board Governance Committee determines~~ the Disinterested members of the Committee determine that a Conflict of Interest exists, the Conflicted Person may make a presentation to ~~the Board Governance Committee~~ the Disinterested members of the Committee regarding the ~~transaction, contract, or arrangement~~Conflict of Interest. After any such presentation, subject to Section 2.4(d), the Conflicted Person shall leave the meeting and shall not be present during any discussion of the Conflict of Interest.

(b)   The Chair of the ~~Board Governance Committee~~ Committee (if Disinterested) or a majority of the Disinterested members of the Committee, shall, if appropriate, appoint a Disinterested person or committee to investigate alternatives or modifications, as applicable, to the proposed transaction, contract, ~~or~~ arrangement, policy, program or other matter. If the Conflicted Person is a Director or Board ~~member~~Liaison, the findings shall be reported to Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(c) ~~After exercising due diligence, the Board Governance Committee~~ After investigating the proposed transaction, contract, arrangement, policy, program or other matter, the Disinterested members of the Committee shall determine whether ICANN can obtain with reasonable efforts a more advantageous transaction, contract, ~~or~~ arrangement, policy, program or other matter in a manner that would not give rise to or would alleviate or mitigate a Conflict of Interest. If the Conflicted ~~person~~Person is a Director or Board ~~member~~Liaison, such determination shall be reported to the ~~Board.~~Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(d)	If a more advantageous transaction, contract, ~~or~~ arrangement, policy, program or other matter is not reasonably ~~possible~~available to ICANN under circumstances not producing a Conflict of Interest, or the ~~Board Governance Committee~~transaction, contract, arrangement, policy, program or other matter cannot be modified to alleviate or mitigate a Conflict of Interest, the Disinterested members of the Committee, and where the Conflicted Person is a Director or Board ~~member~~Liaison, the ~~Board,~~Disinterested Directors shall determine by a majority vote of the applicable Disinterested ~~members~~Directors whether the transaction, contract, ~~or~~ arrangement, policy, program or other matter creating the Conflict of Interest is in ICANN's best interest, for its own benefit, and whether it is fair and reasonable to ICANN. In conformity with those determinations, ~~the Board Governance Committee or the Board~~ the Disinterested members of the Committee or Disinterested Directors, as applicable, shall make its decision as to whether ICANN should enter into the transaction, contract or arrangement or approve the policy, program or other matter.

Section 2.4~~.~~	Duty to Abstain.

(a)	After disclosing the existence of a Potential Conflict, Interested Persons shall refrain from using their personal influence (either at or outside a Board meeting) to influence ICANN's handling of the transaction, contract, arrangement, policy, program or other matter.

(~~a~~b)	No Director may vote on, and each Director must abstain from voting on, any matter in which the Director has a ~~material Financial~~Conflict of Interest ~~that will be affected by the outcome of the vote~~, except that a Director need not abstain from, and may vote on, whether to accept or to reject a recommendation to the Board by an Independent Valuation Expert contained in a Reasoned Written Opinion from such Independent Valuation Expert regarding a ~~compensation~~Compensation arrangement for services provided by the Director to ICANN in the Director's capacity as a member of the Board ~~of ICANN~~.

(~~b~~c)	In the event of such an abstention, the abstaining Director shall state the reason for the abstention, which shall be ~~noted in the notes of the meeting in which the abstention occurred~~recorded pursuant to Section 3.1.

(~~c~~d)	Except as otherwise provided in Section 2.4(~~a~~b)~~,~~ above, regarding a compensation arrangement for services provided by the Director to ICANN in the Director's capacity as member of the Board ~~of ICANN~~, no Director may participate in ~~Committee~~Board committee or Board deliberations on any transaction, contract, arrangement, policy, program or other matter in which he or she has a ~~material Financial~~Conflict of Interest without first disclosing the conflict (and otherwise complying with the requirements of this COI Policy) and until a majority of Disinterested ~~Committee or Board~~ members of the Committee or a majority of the Disinterested Directors present agree on whether and in what manner the ~~Board member~~Conflicted Person may participate.

Section 2.5	Violations of the Conflicts of Interest Policy.

(a)   If ~~the Board Governance Committee has~~the Disinterested members of the Committee have reasonable cause to believe a Covered Person has failed to disclose ~~an actual ora~~ Potential Conflict ~~of Interest~~, the ~~Board Governance Committee~~ Committee shall inform the Covered Person, and initiate the procedures described in ~~Section~~Sections 2.1, 2.2 and 2.3.

(b)   If the Disinterested members of the Committee determine that a Director or Board Liaison has intentionally failed to disclose a Potential Conflict, the Disinterested members of the Committee shall make recommendations to the Disinterested Directors for corrective action. The Disinterested Directors shall review the Disinterested members of the Committee's recommendation and shall take such corrective action as they deem appropriate, including, but not limited to, removal of a non-disclosing Director or Board Liaison in accordance with ICANN's Bylaws and applicable law.

ARTICLE III -- RECORDS OF PROCEEDINGS

Section 3.1   The written or electronic records of the Board and the ~~Board Governance Committee~~ Committee relating to Conflicts of Interest shall contain:

(~~a~~i)   The names of Covered Persons who disclosed or otherwise were found to have a Potential Conflict in connection with a proposed ~~transaction,~~contract, ~~or~~ arrangement, policy, program or other matter;

(~~b~~ii)   The nature of the Potential Conflict;

(~~c~~iii)   Any action taken to determine whether a Conflict of Interest was present;

(~~d~~iv)   The Board's or ~~Board Governance Committee's~~the Committee's, as applicable, decision as to whether a Conflict of Interest in fact existed;

(~~e~~v)   The names of the persons who were present for discussions and votes relating to the transaction, contract, ~~or~~arrangement, policy, program or other matter;

(~~f~~vi)   The content of the discussion, including any alternatives to the proposed transaction, contract, ~~or~~arrangement, policy, program or other matter; and

(~~g~~vii)   A record of any votes taken in connection therewith.

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ARTICLE IV -- COMPENSATION

Section 4.1 ~~A Covered Person~~ Except to the extent permitted under Section 2.4(b), a Director who receives ~~compensation~~Compensation, directly or indirectly, from ICANN for services may not vote on matters pertaining to the ~~Covered Person's compensation~~Director's Compensation.

Section 4.2   A ~~Covered Person~~Director may not vote on matters pertaining to ~~compensation~~Compensation received, directly or indirectly, from ICANN by a member of the ~~Covered Person's~~Director's Family or by an individual with whom a ~~Covered Person~~Director has a close personal relationship, including, but not limited to, any relationship other than kinship, spousal or spousal equivalent that establishes a significant personal bond between the ~~Covered Person~~Director and such other individual that in the judgment of the ~~Board Governance Committee~~Committee could impair the ~~Covered Person's~~Director's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

Section 4.3   No Covered Person who receives ~~compensation~~Compensation, directly or indirectly, from ICANN, either individually or collectively, is prohibited from providing information to the Board or to any Committee regarding the Covered Person's ~~compensation~~Compensation.

ARTICLE V -- ANNUAL STATEMENTS

Section 5.1   Each Covered Person shall annually ~~sign a statement~~, or promptly upon becoming a Covered Person, sign a Statement which affirms such Covered Person: (i) has received a copy of the COI Policy; (ii) has read and understands the COI Policy; (iii) has agreed to comply with the COI Policy; and (iv) understands ICANN is a tax-exempt organization described in § 501(c)(3) of the Internal Revenue Code and that in order to maintain its federal tax exemption, ICANN must engage primarily in activities which accomplish one or more of ICANN's tax-exempt purposes.

Section 5.2   On an annual basis, all Covered Persons shall disclose on their Statement a list of all organizations in which he or she has a Financial Interest or Duality of Interest.

Section 5.3   On an annual basis, the Committee shall review the Statements of the Covered Persons to determine whether any Covered Person has a Conflict or Conflicts of Interest that is, or in the aggregate are, so pervasive that the Conflicted Person should no longer serve in his or her respective role.

ARTICLE VI -- PERIODIC REVIEWS

Section 6.1   To ensure ICANN operates with the highest levels of integrity and in a manner consistent with its tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, ICANN's Office of the General Counsel and Finance Department shall conduct periodic reviews of its purposes and activities.

Section 6.2   These periodic reviews shall, at a minimum, include the following subjects:

> (ai)   Whether activities carried on by ICANN are consistent with and in furtherance of one or more of ICANN's tax-exempt purposes;

> (bii)   Whether ICANN follows policies and procedures reasonably calculated to prevent private Inurement more than incidental private benefit, excess benefit transactions, substantial lobbying, and participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

> (ciii)   Whether compensation arrangements and benefits are reasonable, are based on appropriate data as to comparability, and are the result of arm's length bargaining.; and

> (div)   Whether partnerships, joint ventures, and arrangements with organizations that provide management personnel or management services conform to ICANN's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax-exempt purposes, and do not result in private Inurement more than incidental private benefit, or in an excess benefit transaction.

Section 6.3   When conducting the periodic reviews, ICANN may, but need not, use outside experts and/or advisors. If outside experts and/or advisors are used, their use shall not relieve the Board of ICANN of its responsibility for ensuring periodic reviews are conducted in the manner prescribed in this Article.

ARTICLE VII -- DEFINITIONS

Section 7.1   As used in this COI Policy, the following terms shall have the meanings set forth below.

> (i)   "Advisory Committees" means the Governmental Advisory Committee, the At-Large Advisory Committee, the Security and Stability Advisory Committee and the Root Server System Advisory Committee.

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(ii)   "Board" means the ICANN Board of Directors.

(iii)   "Board Governance Committee" means the Board Governance Committee of the Board.

(a̶iv)   "Board Liaison" shall mean those liaisons to the I̶C̶A̶N̶N̶ Board o̶f̶ D̶i̶r̶e̶c̶t̶o̶r̶s̶ appointed in accordance with ICANN's Bylaws.

(b̶v)   "Compensation" includes direct and indirect remuneration as well as gifts or favors that are s̶u̶b̶s̶t̶a̶n̶t̶i̶a̶l̶material in nature.̶ or amount. Compensation does not include reimbursement of properly documented travel and other appropriate business expenses.

(c) "COI Policy" means this Conflict of Interest Policy as adopted by the Board of ICANN on 30 July 2009.

(d̶vi)   A "Conflict" or "Conflict of Interest" arises when the Board or B̶o̶a̶r̶d̶ G̶o̶v̶e̶r̶n̶a̶n̶c̶e̶ C̶o̶m̶m̶i̶t̶t̶e̶e̶the Committee, as applicable, following the procedures set forth in Articles II and III of this COI Policy, determines that a Covered Person has disclosed a Potential Conflict that may in the judgment of a majority of the Disinterested Directors or Disinterested members of the Board or B̶o̶a̶r̶d̶ G̶o̶v̶e̶r̶n̶a̶n̶c̶e̶ C̶o̶m̶m̶i̶t̶t̶e̶e̶Committee, as applicable, adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(e̶vii)   "Conflicted Person" means a Covered Person t̶h̶a̶t̶who has been determined by the Board G̶o̶v̶e̶r̶n̶a̶n̶c̶e̶ C̶o̶m̶m̶i̶t̶t̶e̶e̶or the Committee to have a Conflict of Interest.

(f̶viii)   "Covered Person" shall mean an Officer, Director, Board Liaison,̶ or Key Employee of ICANN.

(g̶ix)   A "Director" is any voting member of the Board o̶f̶ I̶C̶A̶N̶N̶.

(h̶x)   "Disinterested" means not having a Potential Conflict with respect to a transaction, contract, o̶r̶arrangement, policy, program or other matter being considered by ICANN.

(i̶xi)   "Domestic Partner" shall mean an individual who resides at the same residence as the Covered Person as his or her spousal equivalent.

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(~~j~~xii)   A "Duality of Interest" arises when, with respect to a transaction, contract, ~~or~~ arrangement, policy, program or other matter, a Covered Person or a member of a Covered Person's Family has a fiduciary relationship with another party to a proposed transaction, contract, or arrangement which gives rise to a circumstance in which the fiduciary duties of the Covered Person to ICANN and the fiduciary duties of the Covered Person, or the fiduciary duties of the Family ~~Member~~member of the Covered Person, to the other party may be in conflict. A Duality of Interest does not constitute a Conflict of Interest if ICANN and all other parties to the transaction, contract, or arrangement, being in possession of all material facts, waive the conflict in writing.

(~~k~~xiii) The "Family" of any Covered Person shall include the Covered Person's spouse; Domestic Partner; siblings and their spouses or Domestic Partners; ancestors and their spouses or Domestic Partners; and descendants and their spouses or Domestic Partners. Family shall also include anyone (other than a domestic employee or service provider) who shares the Covered Person's home.

(~~l~~xiv)   A "Financial Interest" exists whenever a Covered Person has or is engaged in discussions to have, directly or indirectly, through business, investment, or Family: (~~i~~a) an ownership or investment interest in any entity with which ICANN has a transaction, contract, arrangement, policy, program or other ~~arrangement~~matter; (~~ii~~b) a ~~compensation~~Compensation arrangement with any entity or individual with which ICANN has a transaction, contract, arrangement, policy, program or other ~~arrangement~~matter; and (~~iii~~c) a potential ownership or investment interest in, or ~~compensation~~Compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, ~~or other arrangement. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Transactions~~arrangement, policy, program or other matter. As used herein, "transactions~~,~~ contracts, and arrangements" include grants or other donations as well as business arrangements, approvals or endorsements. Additionally, as used herein "policies, programs or other matters" include, but are not limited to, the application for or the registration of top level domains. A Financial Interest is a Potential Conflict but is not necessarily a Conflict of Interest. A Financial Interest does not become a Conflict of Interest until the Board ~~Governance Committee~~or the Committee, following the procedures set forth in Articles II and III of this COI Policy, determines that the Financial Interest constitutes a Conflict of Interest.

(~~m~~xv) An "Independent Valuation Expert" means a Person retained by ICANN to value compensation arrangements that: (~~i~~a) holds itself out to the public as a compensation consultant; (~~ii~~b) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for Persons other than ICANN; (~~iii~~c) is qualified to make

valuations of the type of services involved in any engagement by and for ICANN; (ivd) issues to ICANN a Reasoned Written Opinion regarding a particular compensation arrangement; and (ve) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (ia) through (ivd) of this definition.

(nxvi) An "Interested Person" is a Covered Person who has a Potential Conflict of Interest with respect to a particular transaction, contract, or arrangement, policy, program or other matter under consideration by the Board or Board Governance Committee, as applicableICANN.

(oxvii) "Internal Revenue Code" shall mean the United States Internal Revenue Code of 1986, as amended, or any future revenue statute replacing the 1986 Code.

(pxviii)"Inurement," as used in this COI Policy, shall mean: (ia) a transaction in which ICANN provides an economic benefit, directly or indirectly, to or for the use of any Covered Person where the value of that economic benefit exceeds the value of the consideration (including the performance of services) that ICANN receives in exchange; or (iib) any transaction or arrangement by or through which a Covered Person receives a direct or indirect distribution of ICANN's net earnings (other than payment of fair market value for property or the right to use property and reasonable compensation for services).

(qxix) A "Key Employee" is an employee of ICANN designated as a member of the Executive Managementexecutive management team of ICANN, but who is not an Officer or Director.

(rxx)   An "Officer" is an individual holding a position designated as an Officer by ICANN's Bylaws or by resolution of the Board and includes, without limitation, the President of ICANN.

(sxxi) A "Person" includes an individual, corporation, limited liability company, partnership, trust, unincorporated association, or other entity.

(xxii)   A "Potential Conflict" means either a Potential Direct Conflict or a Potential Perceived Conflict.

(txxiii) A "Potential Direct Conflict" means any one or more of the following: (ia) a direct or indirect Financial Interest in a transaction, contract or arrangement being considered by ICANN, by a Covered Person or a member of a Covered Person's Family; (iib) a Duality of Interest by a Covered Person or a member of a Covered Person's Family with respect to another party to a transaction, contract,

or arrangement being considered by ICANN that has not been waived in writing by all parties to the transaction, contract, or arrangement; or (iiic) a close personal relationship between the Covered Person, or a member of a Covered Person's Family, with an individual who is, directly or indirectly through business, investment, or Family, a party to a transaction, contract, or arrangement being considered by ICANN.

(xxiv)   A "Potential Perceived Conflict" exists when a reasonable person, knowing the relevant facts, could conclude that the Covered Person's private interests could adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(xxv)   "Regulations" means treasury regulations promulgated under the Internal Revenue Code.

(uxxvi)"Reasoned Written Opinion" means a written opinion of a valuation expert who meets the requirements of Section 7.1(mxv)(ia) through (ivd) of this COI Policy. To be reasoned, the opinion must be based upon a full disclosure by ICANN to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

(xxvii) "Statement" means the annual statement required by Article V hereof.

(xxviii)"Supporting Organizations" mean the Adverse Supporting Organization, the Generic Names Supporting Organization and the Country Codes Name Supporting Organization.

Section 7.2   Where terms used in this COI Policy, such as Reasonable Compensation (which shall have the meaning set forth in § 53.4958-4(b)(1)(ii) of the Regulations), have a particular meaning under the Internal Revenue Code and/or any Regulations issued thereunder, this COI Policy shall be construed to incorporate that meaning as the context requires.

Section 7.3   All other terms used in this COI Policy shall be given their ordinary, everyday meaning.

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Summary Report: Litera Change-Pro ML IC 6.5.0.313 Document Comparison done on 3/11/2012 4:49:05 PM	
Style Name: JD Color With Moves	
Original Filename: 2011 december COI Policy.docx	
Original DMS:	
Modified Filename:	
Modified DMS: iw://IRI/IRI/32110/13	
Changes:	
Add	200
Delete	227
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Total Changes:	427

2012-05-06-04-Annex-Attachment-C-Revised - Board Code of Conduct

Internet Corporation for Assigned Names and Numbers

Board of Directors' Code of Conduct

(Adopted on _____, 2012)

The Board of Directors (the "Board") of the Internet Corporation for Assigned Names and Numbers ("ICANN") has adopted the following Code of Conduct ("Code") for its voting directors ("Directors") and non-voting liaisons ("Liaisons", collectively with the Directors, the "Board Members"). This Code is intended to focus Board Members on areas of ethical risk, provide guidance to help them recognize and deal with ethical issues, provide mechanisms to report unethical conduct, foster a culture of honesty and accountability, deter wrongdoing and promote fair and accurate disclosure and financial reporting. The Code is not intended to override any applicable laws or any obligations pursuant to ICANN's Bylaws, Conflicts of Interest Policy, Governance Guidelines or any other applicable policies.

No code can anticipate every situation that may arise. Accordingly, this Code is intended to serve as a source of guiding principles and not absolute directives. Generally, however, the goal is to ensure that ICANN Board Members strive to foster ICANN's Mission and Core Values in an ethical manner. ICANN Mission and Core Values set forth below can also be found in Article I of ICANN's Bylaws at http://www.icann.org/general/bylaws.htm#I.

MISSION

ICANN's mission is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. Specifically, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are

    a. Domain names (forming a system referred to as "DNS");
    b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and
    c. Protocol port and parameter numbers.

2. Coordinates the operation and evolution of the DNS root name server system.

3. Coordinates policy development reasonably and appropriately related to these technical functions.

CORE VALUES

In performing its mission, the following core values should guide the decisions and actions of ICANN:

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.

2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.

3. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.

4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.

5. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.

6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.

7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.

9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.

11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many

factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.

CODE OF CONDUCT

A. General Statement of Expectation

Each Board Member is expected to adhere to a high standard of ethical conduct and to act in accordance with ICANN's Mission and Core Values. The good name of ICANN depends upon the way Board Members conduct business and the way the public perceives that conduct. Unethical actions, or the appearance of unethical actions, are not acceptable. Board Members are to be guided by the following principles in carrying out their responsibilities. Note, however, that this Code summarizes such principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which the Board Members must comply.

Loyalty. Board Members should not be, or appear to be, subject to influences, interests or relationships that conflict with the interests of ICANN or ICANN's ability to operate for the benefit of the Internet community as a whole. Board Members shall act so as to protect ICANN's interests and those of its employees, assets and legal rights, and Board Members shall serve the interests of ICANN over those of any other person or group or constituency of ICANN.

Care. Board Members shall apply themselves with seriousness and diligence to participating in the affairs of the Board and its committees and shall act prudently in exercising management oversight of ICANN, and shall be attentive to legal ramifications of his or her and the Board's actions. Board Members are expected to be familiar with ICANN's business and the environment in which the company operates, and understand ICANN's principal business plans, policies, strategies and core values.

Inquiry. Board Members shall take such steps as are necessary to be sufficiently informed to make decisions on behalf of ICANN and to participate in an informed manner in the Board's activities. Board Members are expected to attend all meetings of the Board, except if unusual circumstances make attendance impractical.

Prudent Investment. Board Members shall avoid speculation with ICANN's assets by giving primary consideration to the probable income and probable safety of ICANN's capital assets and the relation between ICANN's assets and its present and future needs.

Compliance with Laws, Rules and Regulations. Board Members shall comply with all laws, rules and regulations applicable to ICANN.

Observance of Ethical Standards. Board Members must adhere to the highest of ethical standards in the conduct of their duties. These include honesty, fairness and integrity.

B. Integrity of Records and Public Reporting

Board Members should promote the accurate and reliable preparation and maintenance of ICANN's financial and other records. Diligence in accurately preparing and maintaining ICANN's records allows ICANN to fulfill its reporting obligations and to provide stakeholders, governmental authorities and the general public with full, fair, accurate, timely, understandable, open and transparent disclosure.

C. Conflicts of Interest

Board Members must act in accordance with the Conflicts of Interest Policy adopted by the ICANN Board, and as amended from time to time.

D. Corporate Opportunities

Board Members are prohibited from: (a) taking for themselves personally opportunities related to ICANN's business; (b) using ICANN's property, information, or position for personal gain; or (c) competing with ICANN for business opportunities. Board Members shall exercise judgment to avoid the appearance of improper influence when offered opportunities, gifts or entertainment.

E. Confidentiality

Board Members should maintain the confidentiality of information entrusted to them by ICANN and any other confidential information about ICANN, its business, customers or suppliers, which comes to them, from whatever source, except when disclosure is authorized or legally mandated. For purposes of this Code, "confidential information" includes all non-public information relating to ICANN, its business, customers or suppliers.

Process surrounding maintenance of confidential information can be found in the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate.

F. Board Interaction with Internet Community and Media:

The Board recognizes that members of the Internet community, ICANN constituency groups and the public at large have significant interests in ICANN's actions and governance and therefore the Board seeks to ensure appropriate communication, subject to concerns about confidentiality.

The Board notes that the President speaks for ICANN, consistent with applicable policy.

If comments from the Board to the Internet Community and/or Media on behalf of ICANN are appropriate, they should be reviewed and discussed by the Board in advance, and, in most circumstances, come from the Chair of the Board.

G. Enforcement

Board Members will discuss with the Chair of the Board Governance Committee any questions or issues that may arise concerning compliance with this Code. Breaches of this Code, whether intentional or unintentional, shall be reviewed by the Board Governance Committee (excluding any Board Members whose breaches are under review), which, if necessary, shall make recommendations to the full Board for corrective action. To the extent appropriate, review of breaches of this Code shall be in accordance with the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate. Serious breaches of this Code may be cause for dismissal of the Board Member committing the infraction in accordance with ICANN's Bylaws and applicable law.

H. Affirmation

All Board Members shall read this Code at least annually, and shall certify in writing that they have done so and that they understand the Code.

I. Review

This Code will be reviewed annually by the Board Governance Committee, which shall make recommendations to the full Board regarding changes to or rescinding of the Code.

2012-05-06-04-Annex-Attachment-D-Redline - Board Code of Conduct - 2012-04-30-Revised Code against Current Code

Internet Corporation for Assigned Names and Numbers

Board of Directors' Code of Conduct

(Adopted on   , 2012)

The Board of Directors (the "Board") of the Internet Corporation for Assigned Names and Numbers ("ICANN") has adopted the following Code of Conduct ("Code") for its voting directors ("Directors") and non-voting liaisons ("Liaisons", collectively with the Directors, the "Board membersMembers"). This Code is intended to focus Board membersMembers on areas of ethical risk, provide guidance to help them recognize and deal with ethical issues, provide mechanisms to report unethical conduct, foster a culture of honesty and accountability, deter wrongdoing and promote fair and accurate disclosure and financial reporting. The Code is not intended to override any applicable laws or any obligations pursuant to ICANNICANN's Bylaws, Conflicts of Interest Policy, Governance Guidelines or any other applicable policies.

No code can anticipate every situation that may arise. Accordingly, this Code is intended to serve as a source of guiding principles and not absolute directives. Generally, however, the goal is to ensure that ICANN Board membersMembers strive to foster ICANN's Mission and Core Values in an ethical manner. ICANN Mission and Core Values set forth below can also be found in Article I of ICANN's Bylaws at http://www.icann.org/general/bylaws.htm#I.

MISSION

ICANN's mission is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. Specifically, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are

   a. Domain names (forming a system referred to as "DNS");

   b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and

   c. Protocol port and parameter numbers.

2. Coordinates the operation and evolution of the DNS root name server system.

3. Coordinates policy development reasonably and appropriately related to these technical functions.

CORE VALUES

In performing its mission, the following core values should guide the decisions and actions of ICANN:

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.

2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.

3. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.

4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.

5. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.

6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.

7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.

9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.

11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they

apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.

CODE OF CONDUCT

A. General Statement of Expectation

Each ~~Director and Liaison ("Board member")~~Member is expected to adhere to a high standard of ethical conduct and to act in accordance with ICANN's Mission and Core Values. The good name of ICANN depends upon the way Board ~~members and staff members~~Members conduct business and the way the public perceives that conduct. Unethical actions, or the appearance of unethical actions, are not acceptable. Board ~~members~~Members are to be guided by the following principles in carrying out their responsibilities. Note, however, that this Code summarizes such principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which the Board ~~members~~Members must comply.

Loyalty. Board ~~members~~Members should not be, or appear to be, subject to influences, interests or relationships that conflict with the interests of ICANN or ICANN's ability to operate for the benefit of the Internet community as a whole. Board ~~members~~Members shall act so as ~~too~~to protect ICANN's interests and those of its employees, assets and legal rights, and Board ~~members~~Members shall serve the interests of ICANN over those of any other person or group or constituency of ICANN.

Care. Board ~~members~~Members shall apply themselves with seriousness and diligence to participating in the affairs of the Board and its committees and shall act prudently in exercising management oversight of ICANN, and shall be attentive to legal ramifications of his or her and the Board's actions. Board Members are expected to be familiar with ICANN's business and the environment in which the company operates, and understand ICANN's principal business plans, policies, strategies and core values.

Inquiry. Board ~~members~~Members shall take such steps as are necessary to be sufficiently informed to make decisions on behalf of ICANN and to participate in an informed manner in the Board's activities. Board Members are expected to attend all meetings of the Board, except if unusual circumstances make attendance impractical.

Prudent Investment. Board ~~members~~Members shall avoid speculation with ICANN's assets by giving primary consideration to the probable income and probable safety

of ICANN's capital assets and the relation between ICANN's assets and its present and future needs.

Compliance with Laws, Rules and Regulations. Board ~~members~~Members shall comply with all laws, rules and regulations applicable to ICANN.

Observance of Ethical Standards. Board ~~members~~Members must adhere to ~~high~~the highest of ethical standards in the conduct of their duties. These include honesty ~~and~~. fairness and integrity.

B. Integrity of Records and Public Reporting

Board ~~members~~Members should promote the accurate and reliable preparation and maintenance of ICANN's financial and other records. Diligence in accurately preparing and maintaining ICANN's records allows ICANN to fulfill its reporting obligations and to provide stakeholders, governmental authorities and the general public with full, fair, accurate, timely, understandable, open and transparent disclosure.

C. Conflicts of Interest

Board ~~members should~~Members must act in accordance with the Conflicts of Interest ~~policy~~Policy adopted by the ICANN Board, and as amended from time to time.

D. Corporate Opportunities

Board ~~members~~Members are prohibited from: (a) taking for themselves personally opportunities related to ICANN's business; (b) using ICANN's property, information, or position for personal gain; or (c) competing with ICANN for business opportunities. Board Members shall exercise judgment to avoid the appearance of improper influence when offered opportunities, gifts or entertainment.

E. Confidentiality

Board ~~members~~Members should maintain the confidentiality of information entrusted to them by ICANN and any other confidential information about ICANN, its business, customers or suppliers, which comes to them, from whatever source, except when disclosure is authorized or legally mandated. For purposes of this Code, "confidential information" includes all non-public information relating to ICANN, its business, customers or suppliers.

Process surrounding maintenance of confidential information can be found in the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate.

F. Board Interaction with Internet Community and Media:

~~1.~~ The Board recognizes that members of the Internet community, ICANN constituency groups and the public at large have significant interests in ICANN's actions and governance and therefore the Board seeks to ensure appropriate communication, subject to concerns about confidentiality.

2.   The Board notes that the President speaks for ICANN, consistent with applicable policy.

3.   If comments from the Board to the Internet Community and/or Media on behalf of ICANN are appropriate, they should be reviewed and discussed by the Board in advance, and, in most circumstances, come from the Chair of the Board.

G. Enforcement

Board Members will discuss with the Chair of the Board Governance Committee any questions or issues that may arise concerning compliance with this Code. Breaches of this Code, whether intentional or unintentional, shall be reviewed by such Committee as designated by the Board, which may Governance Committee (excluding any Board Members whose breaches are under review), which, if necessary, shall make recommendations to the full Board for corrective action, if deemed necessary. Review. To the extent appropriate, review of breaches of this Code shall be in accordance with the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate. Serious breaches of thethis Code may be cause for dismissal of the person or personsBoard Member committing the infraction in accordance with ICANN's Bylaws and applicable law.

H. Affirmation

All Board membersMembers shall read this Code at least annually, and shall certify in writing that they have done so and that they understand the Code.

I. Review and/or Sunset

This Code will be reviewed annually by such Committee as designated by the Board Governance Committee, which shall make recommendations to the full Board regarding changes to or rescinding of the Code.

Summary Report: Litera Change-Pro ML IC 6.5.0.313 Document Comparison done on 3/11/2012 10:09:27 AM	
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Embedded Excel	0
Total Changes:	82

2012-05-06-04-Annex-Attachment-E-Revised-ICANN Expected Standards of Behavior

ICANN EXPECTED STANDARDS OF BEHAVIOR

Those who take part in ICANN multi-stakeholder process, including Board, staff and all those involved in Supporting Organization and Advisory Committee councils, undertake to:

- **Act** in accordance with ICANN's Bylaws. In particular, participants undertake to act within the mission of ICANN and in the spirit of the values contained in the Bylaws.

- **Adhere** to ICANN's conflict of interest policies.

- **Treat** all members of the ICANN community equally, irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age, or sexual orientation; members of the ICANN community should treat each other with civility both face to face and online.

- **Act** in a reasonable, objective and informed manner when participating in policy development and decision-making processes. This includes regularly attending all scheduled meetings and exercising independent judgment based solely on what is in the overall best interest of Internet users and the stability and security of the Internet's system of unique identifiers, irrespective of personal interests and the interests of the entity to which an individual might owe their appointment.

- **Listen** to the views of all stakeholders when considering policy issues. ICANN is a unique multi-stakeholder environment. Those who take part in the ICANN process must acknowledge the importance of all stakeholders and seek to understand their points of view.

- **Work** to build consensus with other stakeholders in order to find solutions to the issues that fall within the areas of ICANN's responsibility. The ICANN model is based on a bottom-up, consensus driven approach to policy development. Those who take part in the ICANN process must take responsibility for ensuring the success of the model by trying to build consensus with other participants.

- **Facilitate** transparency and openness when participating in policy development and decision-making processes.

- **Support** the maintenance of robust mechanisms for public input, accountability, and transparency so as to ensure that policy development and decision-making processes will reflect the public interest and be accountable to all stakeholders.

- **Conduct** themselves in accordance with ICANN policies.

- **Protect** the organization's assets and ensure their efficient and effective use.

- **Act** fairly and in good faith with other participants in the ICANN process.

- **Promote** ethical and responsible behavior. Ethics and integrity are essential, and ICANN expects all stakeholders to behave in a responsible and principled way.

IRI-34392v2

2012-05-06-04-Annex-Attachment-F-Redline - Expected Standards of Behavior - Revised Standards against Current Standards

ICANN EXPECTED STANDARDS OF BEHAVIOR

Those who take part in ICANN multi-stakeholder process, including Board, staff and all those involved in Supporting Organization and Advisory Committee councils, undertake to:

- **Act** in accordance with ICANN's Bylaws. In particular, participants undertake to act within the mission of ICANN and in the spirit of the values contained in the Bylaws.

- **Adhere** to ~~the~~ICANN's conflict of interest ~~policy laid out in the Bylaws~~policies.

- **Treat** all members of the ICANN community equally, irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age, or sexual orientation; members of the ICANN community should treat each other with civility both face to face and online.

- **Act** in a reasonable, objective and informed manner when participating in policy development and decision-making processes. This includes regularly attending all scheduled meetings and exercising independent judgment based solely on what is in the overall best interest of Internet users and the stability and security of the Internet's system of unique identifiers, irrespective of personal interests and the interests of the entity to which an individual might owe their appointment.

- **Listen** to the views of all stakeholders when considering policy issues. ICANN is a unique multi-stakeholder environment. Those who take part in the ICANN process must acknowledge the importance of all stakeholders and seek to understand their points of view.

- **Work** to build consensus with other stakeholders in order to find solutions to the issues that fall within the areas of ICANN's responsibility. The ICANN model is based on a bottom-up, consensus driven approach to policy development. Those who take part in the ICANN process must take responsibility for ensuring the success of the model by trying to build consensus with other participants.

- **Facilitate** transparency and openness when participating in policy development and decision-making processes.

- **Support** the maintenance of robust mechanisms for public input, accountability, and transparency so as to ensure that policy development and decision-making processes will reflect the public interest and be accountable to all stakeholders.

- **~~Act~~Conduct** themselves in accordance with ICANN policies.

- **Protect** the organization's assets and ensure their efficient and effective use.

- **Act** fairly and in good faith with other participants in the ICANN process.

- **Promote** ethical and responsible behavior. Ethics and integrity are essential, and ICANN expects all stakeholders to behave in a responsible and principled way.

IRI-34392v~~1~~2

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Table Insert	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Total Changes:	16

2012-05-06-04-Annex-Attachment-G-Board-Conflicts-of-Interest

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Corporate Governance Guidelines[1]

(Adopted on _____, 2012)

Introduction

Over the course of the existence of Internet Corporation for Assigned Names and Numbers ("ICANN"), the Board of Directors (the "Board") has developed corporate governance policies and practices to help it fulfill its responsibilities to ICANN and its stakeholders. These Corporate Governance Guidelines ("Guidelines") provide a structure within which the Board and management can effectively pursue ICANN's mission. The Board intends that these Guidelines serve as a flexible framework within which the Board may conduct its business, not as a set of binding legal obligations. These Guidelines should be interpreted in the context of all applicable laws, and ICANN's Articles of Incorporation, Bylaws, policies and processes. The Guidelines are subject to future refinement or changes as the Board may find necessary or advisable.

Role of the Board

The mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. The fundamental responsibility of Directors (as defined below) is to exercise their business judgment to act in what they reasonably believe to be the best interests of ICANN. It is the duty of the Board to oversee management's performance to ensure that ICANN operates in an effective, efficient and ethical manner. The following core values should guide the Board's decisions and actions:

- Preserving and enhancing the operational stability, reliability, security and global interoperability of the Internet.
- Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
- To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.

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[1] This version of the Corporate Governance Guidelines is largely based on existing ICANN policies, procedures and processes. Counsel is recommending that the Board also discuss including additional provisions in these Guidelines, including: (i) Director independence standards; (ii) limitations on the number of boards (other than ICANN) on which a Director may serve; (iii) a notification and conflict evaluation process if a Director experiences a change of employment; (iv) expansion of the policy adopted by the ICANN Board of Directors in December 2011 relating to ICANN's gTLD program and a Director's subsequent employment opportunities (including cooling-off periods during which former Directors would not participate in ICANN related matters at any future employer); and (v) enforcement mechanisms to encourage compliance with the Guidelines and other ICANN governance policies.

- Seeking and supporting broad, informed participation reflecting the functional, geographic and cultural diversity of the Internet at all levels of policy development and decision-making.
- Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.
- Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
- Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
- Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
- Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
- Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.
- While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. The Board will exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values. (See Bylaws, Article I, Section 2.)

Directors are individuals who have the duty to act in what they reasonably believe are the best interests of ICANN and are not representatives of the entity that selected them, their employers, or any other organizations or constituencies. (See Bylaws, Article VI, Section 7.)

Board Composition and Selection; Independent Directors

1. **Board Size.** The Board has 16 voting members ("Directors") and five non-voting liaisons ("Liaisons" and, together with the Directors, the "Board Members"). The Board periodically evaluates whether a larger or smaller Board would be preferable.

2. **Selection of Board Members.** Board Members are selected in accordance with the procedures set forth in Article VI, Section 2 of ICANN's Bylaws.

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3. **Board Membership Criteria.** The Nominating Committee, Supporting Organizations and the At-Large Community (as these terms are used in ICANN's Bylaws) seek to ensure that the Board is composed of members who in the aggregate display diversity in geography, culture, skills, experience and perspective. In accordance with Article VI, Section 3 of ICANN's Bylaws, the Board is to be comprised of individuals that meet the following requirements:

- Persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and a demonstrated capacity for thoughtful group decision-making.
- Persons with an understanding of ICANN's mission and the potential impact of ICANN decisions on the global Internet community, and committed to the success of ICANN.
- Persons who will produce the broadest cultural and geographic diversity on the Board.
- Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars, with ccTLD registries, with IP address registries, with Internet technical standards and protocols, with policy-development procedures, legal traditions, and the public interest and with the broad range of business, individual, academic, and non-commercial users of the Internet.
- Persons who are able to work and communicate in written and spoken English.

No official of a national government or a multinational entity established by treaty or other agreement between national governments may serve as a Director, and no person who serves in any capacity (including as a liaison) on any Supporting Organization council will simultaneously serve as a Director or Liaison. In addition, persons serving in any capacity on the Nominating Committee will be ineligible for selection to positions on the Board. (See Bylaws, Article VI, Section 4.)

4. **Board Composition – Mix of Management and Independent Directors.** Only the President may be both an ICANN employee and a Board Member. No other Board Member may be an employee of ICANN. (See Bylaws, Article VI, Section 2.)

5. **Removal.** Any Director may be removed, following notice to that Director, by a three-fourths (3/4) majority vote of all Directors; provided, however, that the Director who is the subject of the removal action will not be entitled to vote on such an action or be counted as a voting Director when calculating the required three-fourths (3/4) vote; and provided further, that each vote to remove a Director will be a separate vote on the sole question of the removal of that particular Director. If the Director was selected by a Supporting Organization, notice must be provided to that Supporting Organization at the same time notice is provided to the Director. If the Director was selected by the At-Large Community, notice

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must be provided to the At-Large Advisory Committee at the same time notice is provided to the Director.

With the exception of the Liaison appointed by the Governmental Advisory Committee, any Liaison may be removed, following notice to that Liaison and to the organization by which that Liaison was selected, by a three-fourths (3/4) majority vote of all Directors if the selecting organization fails to promptly remove that Liaison following such notice. The Board may request the Governmental Advisory Committee to consider the replacement of the Liaison appointed by that Committee if the Directors, by a three-fourths (3/4) majority vote of all Directors, determines that such an action is appropriate. (See Bylaws, Article VI, Section 11.)

6. **Term Limits.** The Board has determined that it is in the best interest of ICANN and its stakeholders to strike a balance between Board continuity and Board evolution. Board Members who serve on the Board for an extended period of time are able to provide valuable insight into the operations and future of ICANN based on their experience with, and understanding of, ICANN's mission, history, policies and objectives. However, term limits ensure that the Board will continue to evolve with the infusion of fresh ideas and new perspectives. At present, Board Members are not allowed to serve more than three consecutive, three-year terms on the Board, other than the President. A person selected to fill a vacancy in a term shall not be deemed to have served that term. The term as Director of the person holding the office of President and CEO will be for as long as, and only for as long as, such person holds the office of President. (See Bylaws, Article VI, Section 8.)

7. **President; Board Chair and Vice-Chair.** The Board selects ICANN's President and CEO, Chair and Vice-Chair in the manner that it determines to be in the best interests of ICANN. The President and CEO, who serves as an ex officio Director, is not eligible to be the Chair or Vice-Chair of the Board. (See Bylaws, Article VI, Section 2.)

8. **Post-Service Limitation.** The Board has determined that any and all Board members who approve any new gTLD application shall not take a contracted or employment position with any company sponsoring or in any way involved with that new gTLD for 12 months after the Board made the decision on the application. (See Resolution 2011.12.08.19.)

Board Meetings; Involvement of Senior Management and Independent Advisors

9. **Board Meetings – Frequency.** The Board will generally hold regularly scheduled meetings throughout the year and will hold additional special meetings as necessary. In addition, the Board generally has informal meetings from time to time to review and discuss ICANN's operations and policy matters. Each Board Member is expected to attend both scheduled and special meetings, except if unusual circumstances make attendance impractical.

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10. **Board Meetings – Agenda.** At least seven days in advance of each Board meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting will be posted on the ICANN website. Board meeting agendas will be set by the Chair of the Board, following consultation with ICANN management and taking into account suggestions from other members of the Board.

11. **Advance Distribution of Materials.** All information relevant to the Board's understanding of matters to be discussed at an upcoming Board meeting should be distributed in writing or electronically to all members in advance, whenever feasible and appropriate. Each Board Member is expected to review this information in advance of the meeting to facilitate the efficient use of meeting time. The Board recognizes that certain items to be discussed at Board meetings are of an extremely sensitive nature and that the distribution of materials on these matters prior to Board meetings may not be appropriate.

12. **Access to Employees.** The Board should have access to ICANN officers to ensure that Board Members can ask all questions and glean all information necessary to fulfill their duties. The President and CEO, together with the Board, have developed a protocol for making such inquiries. Management is encouraged to invite ICANN personnel to any Board meeting at which their presence and expertise would help the Board have a full understanding of matters being considered.

13. **Access to Independent Advisors.** The Board and its committees have the right at any time to retain independent outside auditors and financial, legal or other advisors. Individual Directors may not retain outside advisors without prior Board or committee approval, as applicable. ICANN will provide appropriate funding, as determined by the Board or any committee, to compensate those independent outside auditors or advisors, as well as to cover the ordinary administrative expenses incurred by the Board and its committees in carrying out their duties. It is expected that ICANN staff will assist the Board and committees in retaining outside advisors.

14. **Compensation Consultant Independence.** The Compensation Committee has sole authority to retain and terminate compensation consultants that advise the Compensation Committee, as it deems appropriate. It is the policy of the Compensation Committee that any compensation consultant retained by the Compensation Committee must be independent of ICANN management. It is expected that ICANN staff will assist the Compensation Committee in retaining outside advisors.

15. **Executive Sessions of Non-Management Directors.** The non-management Board Members will meet regularly in executive session, i.e., without management present. These executive sessions will be called and chaired by the Chair of the Board. These executive session discussions may include such topics as the Chair determines.

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Accountability and Review; Public Meetings

16. **Ombudsman.** Pursuant to Article V of the Bylaws, ICANN maintains an Office of Ombudsman, to be managed by an Ombudsman and to include such staff support as the Board determines is appropriate and feasible. The principal function of the Ombudsman is to provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, the Board or an ICANN constituent body has treated them unfairly. The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible resolve complaints about unfair or inappropriate treatment by ICANN staff, the Board, or ICANN constituent bodies, clarifying the issues and using conflict resolution tools such as negotiation, facilitation and "shuttle diplomacy" to achieve these results. The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. The annual report will be posted on ICANN's website. (See Bylaws, Article V.)

17. **Requests for Reconsideration.** Subject to the provisions of ICANN's Bylaws, any person or entity materially affected by any ICANN staff action or inaction if such affected person or entity believes the action contradicts established ICANN policies, or by actions or inactions of the Board that such affected person or entity believes has been taken without consideration of material information, may request review or reconsideration of that action or inaction. (See Bylaws, Article IV, Section 2.)

18. **Independent Review.** Any person or entity materially affected by a Board decision or action may submit a request for independent review of any such decision or action alleged to be inconsistent with ICANN's Articles of Incorporation or Bylaws. (See Bylaws, Article IV, Section 3.)

Performance Evaluation; Development and Succession Planning

19. **Annual CEO Evaluation.** The Chair of the Compensation Committee leads the Compensation Committee in conducting a review of the performance of the President at least annually. The Compensation Committee establishes the evaluation process for the review of the President's performance. The evaluation results are reviewed and discussed with the non-management Board Members, and the results are communicated to the President. The Board Governance Committee, from time to time, is to review and advise on the effectiveness of the relationship between the President and the Board.

20. **Development and Succession Planning.** A primary responsibility of the Board is planning for President succession and overseeing the identification and development of executive talent. The Board, with the assistance of the Compensation Committee and working with the President and CEO and human resources department, oversees executive officer development and corporate

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succession plans for the President and other executive officers to provide for continuity in senior management.

The Board will maintain an emergency succession contingency plan should an unforeseen event such as death or disability occur that prevents the President and CEO from continuing to serve. The plan will identify the individuals who would act in an emergency and their responsibilities. The contingency plan is to be reviewed by the Board annually and revised as appropriate.

The Board may review development and succession planning more frequently as it deems necessary or desirable.

21. **Board and Committee Self-Evaluation.** The Board Governance Committee is responsible for conducting periodic evaluations of the performance of the Board and each of its members. In addition, each committee is responsible for conducting an annual performance evaluation. Evaluation results are reported to the Board. The Board Governance Committee's report should generally include an assessment of the Board's compliance with the principles set forth in these guidelines, as well as identification of areas in which the Board could improve its performance. Each committee's report generally should include an assessment of the committee's compliance with the principles set forth in these Guidelines, the committee's charter and identification of areas in which the committee could improve its performance.

22. **Reviews of Supporting Organizations and Advisory Committees.** The Board will cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee by an entity or entities independent of the organization under review. The goal of the review, to be undertaken pursuant to such criteria and standards as the Board directs, will be to determine: (i) whether that organization has a continuing purpose in the ICANN structure; and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness. These periodic reviews will be conducted no less frequently than every five years, based on feasibility as determined by the Board. (See Bylaws, Article IV, Section 4.)

Board Compensation

23. **Board Compensation Review.** The Board will periodically review the compensation paid to Directors, and whether it is in the best interest of ICANN to increase or decrease the amount of such compensation. In doing so, the Board will follow a process that is calculated to pay an amount for service as a Director that is in its entirety reasonable compensation for such service under the standards set forth in §53.4958-4(b) of the Treasury Regulations. As part of the process, the Board will retain an independent compensation expert to consult with and to advise the Board regarding Director compensation arrangements and to issue to the Board a reasoned written opinion from such expert regarding the ranges of

7

reasonable compensation for any such services by a Director. After having reviewed the expert's written opinion, the Board will meet with the expert to discuss the expert's opinion and to ask questions of the expert regarding the expert's opinion, the comparability data obtained and relied upon, and the conclusions reached by the expert. The Board will adequately document the basis for any determination the Board makes regarding a Director compensation arrangement concurrently with making that determination. (See Bylaws, Article VI, Section 22.)

Board Committees

24. **Number, Type and Composition of Committees.** The Board may establish or eliminate committees of the Board as it deems appropriate. Each committee will perform its duties as assigned by the Board in compliance with ICANN's Bylaws and the committee's charter. The composition of each committee will be determined from time to time by the Board, provided that only Directors may be appointed to a committee of the Board as voting members. If a person appointed to a committee of the Board ceases to be a Board Member, such person will also cease to be a member of any committee of the Board. The Board may designate one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee. Committee members may be removed from a committee at any time pursuant to the provisions of ICANN's Bylaws. Unless appointed by the Board, the selection process for each committee chair will be set forth in each committee charter. (See Bylaws, Article XII.)

25. **Committee Meetings and Agenda.** The chair of each committee is responsible for developing, together with relevant ICANN managers, the committee's general agenda and objectives and for setting the specific agenda for committee meetings. The chair and committee members will determine the frequency and length of committee meetings consistent with the committee fulfilling its obligations as set forth in the committee's charter.

Board Education

26. **Board Member Orientation and Continuing Education.** The Board Governance Committee and management are responsible for Board Member orientation programs and for Board Member continuing education programs to assist Board Members in maintaining skills necessary or appropriate for the performance of their responsibilities.

    a) Orientation programs are designed to familiarize new Board Members with ICANN's businesses, strategies and policies and to assist new Board Members in developing the skills and knowledge required for their service.

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b)   Continuing education programs for Board Members may include a combination of internally developed materials and presentations, programs presented by third parties, and financial and administrative support for attendance at qualifying university or other independent programs.

Review

27.   **Review of Governance Guidelines.** The policies and practices memorialized in these Guidelines have developed over a period of years. The Board expects to review these Guidelines at least every two years, as appropriate.

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2012-05-06-04-Annex-Attachment-G1-Board-Conflicts-of-Interest

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Corporate Governance Guidelines[1]

(Adopted on _____, 2012)

Introduction

Over the course of the existence of Internet Corporation for Assigned Names and Numbers ("ICANN"), the Board of Directors (the "Board") has developed corporate governance policies and practices to help it fulfill its responsibilities to ICANN and its stakeholders. These Corporate Governance Guidelines ("Guidelines") provide a structure within which the Board and management can effectively pursue ICANN's mission. The Board intends that these Guidelines serve as a flexible framework within which the Board may conduct its business, not as a set of binding legal obligations. These Guidelines should be interpreted in the context of all applicable laws, and ICANN's Articles of Incorporation, Bylaws, policies and processes. The Guidelines are subject to future refinement or changes as the Board may find necessary or advisable.

Role of the Board

The mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. The fundamental responsibility of Directors (as defined below) is to exercise their business judgment to act in what they reasonably believe to be the best interests of ICANN. It is the duty of the Board to oversee management's performance to ensure that ICANN operates in an effective, efficient and ethical manner. The following core values should guide the Board's decisions and actions:

- Preserving and enhancing the operational stability, reliability, security and global interoperability of the Internet.
- Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
- To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.

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[1] This version of the Corporate Governance Guidelines is largely based on existing ICANN policies, procedures and processes. Counsel is recommending that the Board also discuss including additional provisions in these Guidelines, including: (i) Director independence standards; (ii) limitations on the number of boards (other than ICANN) on which a Director may serve; (iii) a notification and conflict evaluation process if a Director experiences a change of employment; (iv) expansion of the policy adopted by the ICANN Board of Directors in December 2011 relating to ICANN's gTLD program and a Director's subsequent employment opportunities (including cooling-off periods during which former Directors would not participate in ICANN related matters at any future employer); and (v) enforcement mechanisms to encourage compliance with the Guidelines and other ICANN governance policies.

- Seeking and supporting broad, informed participation reflecting the functional, geographic and cultural diversity of the Internet at all levels of policy development and decision-making.
- Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.
- Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
- Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
- Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
- Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
- Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.
- While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. The Board will exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values. (See Bylaws, Article I, Section 2.)

Directors are individuals who have the duty to act in what they reasonably believe are the best interests of ICANN and are not representatives of the entity that selected them, their employers, or any other organizations or constituencies. (See Bylaws, Article VI, Section 7.)

Board Composition and Selection; Independent Directors

1. **Board Size.** The Board has 16 voting members ("Directors") and five non-voting liaisons ("Liaisons" and, together with the Directors, the "Board Members"). The Board periodically evaluates whether a larger or smaller Board would be preferable.

2. **Selection of Board Members.** Board Members are selected in accordance with the procedures set forth in Article VI, Section 2 of ICANN's Bylaws.

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3. **Board Membership Criteria.** The Nominating Committee, Supporting Organizations and the At-Large Community (as these terms are used in ICANN's Bylaws) seek to ensure that the Board is composed of members who in the aggregate display diversity in geography, culture, skills, experience and perspective. In accordance with Article VI, Section 3 of ICANN's Bylaws, the Board is to be comprised of individuals that meet the following requirements:

   - Persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and a demonstrated capacity for thoughtful group decision-making.
   - Persons with an understanding of ICANN's mission and the potential impact of ICANN decisions on the global Internet community, and committed to the success of ICANN.
   - Persons who will produce the broadest cultural and geographic diversity on the Board.
   - Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars, with ccTLD registries, with IP address registries, with Internet technical standards and protocols, with policy-development procedures, legal traditions, and the public interest and with the broad range of business, individual, academic, and non-commercial users of the Internet.
   - Persons who are able to work and communicate in written and spoken English.

   No official of a national government or a multinational entity established by treaty or other agreement between national governments may serve as a Director, and no person who serves in any capacity (including as a liaison) on any Supporting Organization council will simultaneously serve as a Director or Liaison. In addition, persons serving in any capacity on the Nominating Committee will be ineligible for selection to positions on the Board. (See Bylaws, Article VI, Section 4.)

4. **Board Composition – Mix of Management and Independent Directors.** Only the President may be both an ICANN employee and a Board Member. No other Board Member may be an employee of ICANN. (See Bylaws, Article VI, Section 2.)

5. **Removal.** Any Director may be removed, following notice to that Director, by a three-fourths (3/4) majority vote of all Directors; provided, however, that the Director who is the subject of the removal action will not be entitled to vote on such an action or be counted as a voting Director when calculating the required three-fourths (3/4) vote; and provided further, that each vote to remove a Director will be a separate vote on the sole question of the removal of that particular Director. If the Director was selected by a Supporting Organization, notice must be provided to that Supporting Organization at the same time notice is provided to the Director. If the Director was selected by the At-Large Community, notice

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must be provided to the At-Large Advisory Committee at the same time notice is provided to the Director.

With the exception of the Liaison appointed by the Governmental Advisory Committee, any Liaison may be removed, following notice to that Liaison and to the organization by which that Liaison was selected, by a three-fourths (3/4) majority vote of all Directors if the selecting organization fails to promptly remove that Liaison following such notice. The Board may request the Governmental Advisory Committee to consider the replacement of the Liaison appointed by that Committee if the Directors, by a three-fourths (3/4) majority vote of all Directors, determines that such an action is appropriate. (See Bylaws, Article VI, Section 11.)

6. **Term Limits.** The Board has determined that it is in the best interest of ICANN and its stakeholders to strike a balance between Board continuity and Board evolution. Board Members who serve on the Board for an extended period of time are able to provide valuable insight into the operations and future of ICANN based on their experience with, and understanding of, ICANN's mission, history, policies and objectives. However, term limits ensure that the Board will continue to evolve with the infusion of fresh ideas and new perspectives. At present, Board Members are not allowed to serve more than three consecutive, three-year terms on the Board, other than the President. A person selected to fill a vacancy in a term shall not be deemed to have served that term. The term as Director of the person holding the office of President and CEO will be for as long as, and only for as long as, such person holds the office of President. (See Bylaws, Article VI, Section 8.)

7. **President; Board Chair and Vice-Chair.** The Board selects ICANN's President and CEO, Chair and Vice-Chair in the manner that it determines to be in the best interests of ICANN. The President and CEO, who serves as an ex officio Director, is not eligible to be the Chair or Vice-Chair of the Board. (See Bylaws, Article VI, Section 2.)

8. **Post-Service Limitation.** The Board has determined that any and all Board members who approve any new gTLD application shall not take a contracted or employment position with any company sponsoring or in any way involved with that new gTLD for 12 months after the Board made the decision on the application. (See Resolution 2011.12.08.19.)

Board Meetings; Involvement of Senior Management and Independent Advisors

9. **Board Meetings – Frequency.** The Board will generally hold regularly scheduled meetings throughout the year and will hold additional special meetings as necessary. In addition, the Board generally has informal meetings from time to time to review and discuss ICANN's operations and policy matters. Each Board Member is expected to attend both scheduled and special meetings, except if unusual circumstances make attendance impractical.

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10. **Board Meetings – Agenda.** At least seven days in advance of each Board meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting will be posted on the ICANN website. Board meeting agendas will be set by the Chair of the Board, following consultation with ICANN management and taking into account suggestions from other members of the Board.

11. **Advance Distribution of Materials.** All information relevant to the Board's understanding of matters to be discussed at an upcoming Board meeting should be distributed in writing or electronically to all members in advance, whenever feasible and appropriate. Each Board Member is expected to review this information in advance of the meeting to facilitate the efficient use of meeting time. The Board recognizes that certain items to be discussed at Board meetings are of an extremely sensitive nature and that the distribution of materials on these matters prior to Board meetings may not be appropriate.

12. **Access to Employees.** The Board should have access to ICANN officers to ensure that Board Members can ask all questions and glean all information necessary to fulfill their duties. The President and CEO, together with the Board, have developed a protocol for making such inquiries. Management is encouraged to invite ICANN personnel to any Board meeting at which their presence and expertise would help the Board have a full understanding of matters being considered.

13. **Access to Independent Advisors.** The Board and its committees have the right at any time to retain independent outside auditors and financial, legal or other advisors. Individual Directors may not retain outside advisors without prior Board or committee approval, as applicable. ICANN will provide appropriate funding, as determined by the Board or any committee, to compensate those independent outside auditors or advisors, as well as to cover the ordinary administrative expenses incurred by the Board and its committees in carrying out their duties. It is expected that ICANN staff will assist the Board and committees in retaining outside advisors.

14. **Compensation Consultant Independence.** The Compensation Committee has sole authority to retain and terminate compensation consultants that advise the Compensation Committee, as it deems appropriate. It is the policy of the Compensation Committee that any compensation consultant retained by the Compensation Committee must be independent of ICANN management. It is expected that ICANN staff will assist the Compensation Committee in retaining outside advisors.

15. **Executive Sessions of Non-Management Directors.** The non-management Board Members will meet regularly in executive session, i.e., without management present. These executive sessions will be called and chaired by the Chair of the Board. These executive session discussions may include such topics as the Chair determines.

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Accountability and Review; Public Meetings

16. **Ombudsman.** Pursuant to Article V of the Bylaws, ICANN maintains an Office of Ombudsman, to be managed by an Ombudsman and to include such staff support as the Board determines is appropriate and feasible. The principal function of the Ombudsman is to provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, the Board or an ICANN constituent body has treated them unfairly. The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible resolve complaints about unfair or inappropriate treatment by ICANN staff, the Board, or ICANN constituent bodies, clarifying the issues and using conflict resolution tools such as negotiation, facilitation and "shuttle diplomacy" to achieve these results. The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. The annual report will be posted on ICANN's website. (See Bylaws, Article V.)

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The Board will maintain an emergency succession contingency plan should an unforeseen event such as death or disability occur that prevents the President and CEO from continuing to serve. The plan will identify the individuals who would act in an emergency and their responsibilities. The contingency plan is to be reviewed by the Board annually and revised as appropriate.

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reasonable compensation for any such services by a Director. After having reviewed the expert's written opinion, the Board will meet with the expert to discuss the expert's opinion and to ask questions of the expert regarding the expert's opinion, the comparability data obtained and relied upon, and the conclusions reached by the expert. The Board will adequately document the basis for any determination the Board makes regarding a Director compensation arrangement concurrently with making that determination. (See Bylaws, Article VI, Section 22.)

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26. **Board Member Orientation and Continuing Education.** The Board Governance Committee and management are responsible for Board Member orientation programs and for Board Member continuing education programs to assist Board Members in maintaining skills necessary or appropriate for the performance of their responsibilities.

    a) Orientation programs are designed to familiarize new Board Members with ICANN's businesses, strategies and policies and to assist new Board Members in developing the skills and knowledge required for their service.

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b)   Continuing education programs for Board Members may include a combination of internally developed materials and presentations, programs presented by third parties, and financial and administrative support for attendance at qualifying university or other independent programs.

Review

27.   **Review of Governance Guidelines.** The policies and practices memorialized in these Guidelines have developed over a period of years. The Board expects to review these Guidelines at least every two years, as appropriate.

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2012-05-06-04-Annex-Attachment-H-Public-Comment-Summary-Board-COI-Ethics-materials

Translations: If translations will be provided please indicate the languages below:											

Report of Public Comments

Title:	ICANN Board Conflicts of Interest Review - Revised Conflicts of Interest Policy and Related Governance Documents
Publication Date:	
Prepared By:	

Comment Period:			**Important Information Links**	
Open Date:	11 March 2012		Announcement	
Close Date:	24 April 2012		Public Comment Box	
Time (UTC):	23.59		View Comments Submitted	

Staff Contact:	Amy A. Stathos	**Email:**	amy.stathos@icann.org

Section I: General Overview and Next Steps

To receive public comment on revisions to the following documents: Board Conflicts of Interest Policy, Code of Conduct and Expected Standards of Behavior as well as a proposed Corporate Governance Guidelines prepared as part of ICANN's ongoing review of its Conflicts of Interest and Ethics practices.

ICANN is undertaking a three-part review of its Conflicts of Interest and Ethics practices. One of those steps is working with ICANN's long-standing outside counsel to review ICANN's corporate governance documents to make recommendations of how those could be improved in light of best practices in corporate governance, while still reflecting the needs of ICANN. This review produced recommended modifications to the ICANN Board Conflicts of Interest Policy, Code of Conduct and Expected Standards of Behavior, as well as introducing a more comprehensive Corporate Governance Guidelines document. This work has been conducted in coordination with the Board Governance Committee.

Next Steps:

This summary will be provided to the Board Governance Committee for consideration as to whether it is appropriate to recommend to the Board that the proposed documents be adopted. The comments received may also be considered by both of the outside counsel firms that are currently engaged in providing recommendations relating to ICANN's corporate governance framework.

Section II: Contributors

At the time this report was prepared, a total of eight (8) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by first posting date with initials noted. Some contributors made more than one submission. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Registries Stakeholder Group	David Maher	RySG
The Coalition Against Domain Abuse	Yvette Miller	CADNA
Intellectual Property Constituency	Steven Metalitz/J.Scott Evans	IPC
At Large Advisory Committee	ICANN At Large Staff	ALAC

Individuals:

Name	Affiliation	Initials
Kieren McCarthy	.NXT Inc.	KM

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

The RySG did not generally comment on the documents, but did make a specific recommendation that the loyalty clause in the Code of Conduct refer to protection of the public interest instead of ICANN's interest. The RySG proposed the loyalty clause to be replaced with:

> ""Loyalty. Board Members should not be, or appear to be, subject to influences, interests or relationships that conflict with the interests of ICANN or the public interest. Board Members shall act so as to protect the interests of the Internet community as a whole and shall serve those interests over those of any other person or group or constituency of ICANN."

CADNA stated that the revised documents represent a "step in the right direction" in building global confidence in ICANN however the Board's actions will ultimately determine global confidence and the ICANN Board should fully commit to the new Policy and its more stringent obligations. CADNA commented that stronger provisions should be included such as preventing conflicts of interests when Board members leave ICANN. CADNA suggested that this could be achieved by adding a one-year "non-serve" clause prohibiting Covered Persons from accepting certain positions.

The IPC stated its was unable to offer substantive comments due to the following reasons: (i) 21 day

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comment period being inadequate; (ii) the comment period commenced during the distraction of the Costa Rica public meeting and 13 other public comments open at the same time; and (iii) documents are 'incomplete' and subject to two other ongoing Board reviews which may result in further changes to the review documents.

KM agreed with points raised by RySG and the IPC. KM submitted that the treatment of "Potential Perceived Conflict" as equivalent to a "Potential Direct Conflict" in the Board Conflicts of Interest Policy was an unnecessary assumption and may lead to future problems. KM stated that the specific references to "General Counsel" in the Conflicts of Interest Policy should be replaced with "the relevant ICANN staff member". KM also expressed a preference for the use of plain English, rather than the legalistic language used.

ALAC submitted that ICANN should adopt and apply the language of the Affirmation of Commitments to the issue of conflicts of interest. ALAC views ICANN's current conflicts of interest implementation as having serious imbalances, which ALAC says is now below the standard of internet user community expectations. ALAC also concurred with the views of the other commenters. ALAC submitted its concern that some commercial entities likely to benefit from the new gTLD program were formed by ex-employees or ex-volunteers of ICANN and the ICANN Board that were involved in designing the policies that will apply to these entities. Whilst acknowledging the creation of the non-conflicted New gTLD Program Committee, ALAC expressed its regret that the Board Chair and Vice Chair are not part of the committee. ALAC recommends forming a cross-community Commission/Task Force to examine ICANN conflicts of interest at all levels as well as any structural impediments to ICANN dealing with conflicts of interest. ALAC proposes the Commission be able to engage recognized corporate governance experts to help develop a conflicts of interest framework. The ALAC further proposes that the ALAC would be represented in the Commission.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

Two commenters stated their general view that the revised documents were slight improvements to the existing corporate governance documents however more improvements could be made. Still others suggested that they could not make general comments because more work is still in process. It should be noted that the documents themselves show that this is just the first step toward enhancements. More changes are expected and ICANN is committed to making ongoing improvements as deemed appropriate.

One commenter noted that there was some unnecessary language included and that the documents appeared too legalistic. While ICANN must include particular language in order to satisfy all legal requirements and ensure that all intended areas are covered, ICANN will endeavor to determine if a simpler guide to the documents can be developed without compromising the intent.

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One commenter recommended that the loyalty clause in the Director's Code of Conduct refer to protection of the public interest and interests of the internet community instead of ICANN's interests. This will be considered, but must be balanced with a director's legal duty of loyalty.

One commenter suggested adopting a one-year non-serve clause, which prohibits Covered Persons from accepting certain positions. The Board has already adopted such a resolution with respect to New gTLDs and is open to discussing further suggestions.

One group suggested the formation of a cross-community Commission to examine ICANN conflicts of interest at all levels with the ability to engage recognized corporate governance experts to help develop a conflicts of interest framework. It should be noted that ICANN has engaged three sets of recognized corporate governance experts to enhance ICANN's overall conflicts of interest/ethics framework. The goal is that the parallel tracks of review will lead to a comprehensive set of improvements and enhancements to ICANN's Ethics and Conflicts materials that make sense practically as well as legally.

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