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new gTLD Registries, real world and legal aspects

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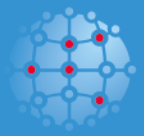

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new gTLD Registries

- Contract with ICANN as a new gTLD Registry (California, US)
- Outside of US, have to comply with the local law
- GNSO Policies
- IETF RFCs

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new gTLD GEOs

- Between two worlds:
- Contract with ICANN as a new gTLD Registry (California, US)
- Obligations before local government, similar to ccTLDs (Letter of support/non-objection)

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Issues with local law: Registries

- Personal Data
  - Some countries regulate non-disclosure, processing and localization
- RA & Conflicts with local law
  - Despite the language in RA about resolution of such conflicts, the procedure is not ready for non-WHOIS related issues, and troubled for WHOIS issues (Registry has to be involved in the litigation or being prosecuted. Procedure does not work in situations where Registry is punished instead of notification by the Regulator). At least one European Registry has to violate RA to avoid 5% turnover charges. RySG filed public comment on the issue.[1]
- RDS, new system to replace WHOIS inherits these issues
  - Requirements are being developed in RDS PDP Working Group.

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Status Quo

- Registries put burden on Registrars
  - Registrars have to implement Privacy & Proxy Services
  - Personal Data Escrowed mostly by Registrars
- Localization of data requirement creates need for local data ecosystem
  - At least one country from G20 partially implemented the idea on the platform of the local ccTLD technical center

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Resolution

- Local Data Ecosystem:
  - Data Escrow (Registrar and Registry) to local technical center of the local ccTLD.
  - EBERO based on the same company (also next Registry/Registrar might be limited to the same country).
- Participation in development of policy and legal framework around ICANN:
  - ALAC – almost anyone can participate, GNSO – ICANN Accredited Registries and Registrars, Business and TM owners, CCNSO – ccTLDs
- Efforts in Policy Development:
  - RDS PDP, RPM PDP, New gTLD Subsequent Procedures PDP.

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Next Round ?

- More issues with local law to come:
  - New data protection framework in the EU („GDPR“) for the Domain Industry comes into power 2018.[2]
  - Russian Federal Law No. 242-FZ (Amendment to Federal Law No. 152-FZ “Personal Data”) had introduced localization requirements, no established legal/court practice so far.
- More predictability, ban on changes in the process:
  - Alsmost all milestones were not met on time (most famous delays due to: Digital Archery, Name Collisions, RPMs, PIC Spec, 2letter codes e.t.c.)
  - To use multistakeholder bottom up approach in the new round issues (was not used with Strawman & RPMs, Digital Archery, Name Collisions)

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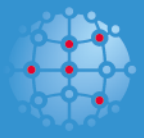
Acronyms and URLs:

- RA: Registry Agreement (with ICANN)
- RySG: Registry Stakeholder Group
- RDS PDP (Next-Generation gTLD Registration Directory Service)
  - https://gnso.icann.org/en/group-activities/active/rds
- RPM PDP (Review of All Rights Protection Mechanisms in All gTLDs)
  - https://gnso.icann.org/en/group-activities/active/rpm
- New gTLD Subsequent Procedures PDP
  - https://community.icann.org/display/NGSPP/New+gTLD+Subsequent+Procedures+PDP+Home
- [1] https://forum.icann.org/lists/comments-iag-whois-05oct15/msg00005.html
- [2] http://ec.europa.eu/justice/data-protection/reform/index_en.htm



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Questions?

Thank you!

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