

From: Kurt Pritz <kurt.pritz@icann.org>
Subject: CRAI Statement of Work
Date: August 19 2009 1:34:18 PM PDT
To: "David W. Maher" **Redacted**

David:

I have located the Statement Of Work ICANN sent to CRAI regarding registry/registrar separation. I have included a supplemental email I sent to clarify the questions to be answered. The original paper was not crisp. I think on structural vs organizational separation questions.

The statement of work is excerpted - other potential work items were discussed with CRAI in the same letter -- but the entire content concerning the separation issue is provided here. It was dated Jan 2008.

If you don't mind, give me a call when you have received this.

Kurt

ICANN STATEMENT OF WORK

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Current policy calls for structural separation of registrars and registries in the gTLD namespace. Generic TLD Registries are required to be managed through ICANN-accredited registrars. The registry contract prohibits cross-ownership. (Language is similar to: the registry operator cannot secure ownership, directly or indirectly, in more than 15% of a registrar.) In the process to establish new TLDs, there has been considerable interest voiced by registrars in applying for new TLDs. This interest is accompanied by the belief that registrars will be able to "game" or "get around" the separation requirement, i.e., the real parties in interest will be able to effectively disguise their investment in various corporate structures.

The intent of the contract clause and the separation between registrars and registries is to better serve registrants. The separation was originally developed to address problems with the COM monopoly, where the same company owned COM, NET, and ORG and the only registrar. The separation serves other registrant interests besides competition aspects: creating entities dedicated to providing customer-facing interfaces to the domain name market and providing a second source for the backup of registrant data.

There is one suggested mode that might continue these protections by allowing co-ownership of registrars and registries, but not allowing the co-owned registrar to register names of the registry that is part of the same entity.

There are apparent benefits to co-ownership. Nascent registries often have trouble during start-up because registrars are not interested in the small volumes of business the new registries represent and so do not facilitate registrations in these registries through their valuable "front-page" space. Allowing co-ownership may alleviate this problem and therefore promote competition and choice for consumers.

-- What is the effect of the elimination of the structural separation on the marketplace? How will the registry/registrar functions evolve if the separation is removed? How might the requirement that registries treat all registrars alike be enforced in an environment of co-ownership?

SUPPLEMENTAL EMAIL

To reiterate the mode for the paper - from my notes of the conference call with Pau in June - should answer the following:

1) Should structural separation between registries and registrars be maintained?

If so

2) Should organisational separation between registrars be maintained or abolished?

For each of these two questions the analysis would be:

Should the separation be kept in:

- A) all cases
- B) some cases (registrars cannot set up their own registries)
- C) no cases

In each one of those three choices:

What is the effect on registrants?

What is the effect of those with market power (VeriSign / registrars) in each of the cases?

Can we preserve the benefits to registrants of equal access of separation even though it might be reduced or abolished?

Where separation is recommended can that separation requirement be effective given the different forms of organisational structure and associations available to registrars and registries?

Therefore what recommendations can be best supported by this analysis?