

## ***ICANN Start, Episode 4: Consensus Policies, Registries, and Registrars***

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Welcome to *ICANN Start*. This is the show about one issue, five questions:

- What is it?
- Why does it matter?
- Who does it affect?
- What are the key concepts I must know about it?
- How can I learn more?

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Scott: Welcome back for another episode of *ICANN Start*. I'm Scott Pinzon. Our topic today is Consensus Policy and our subject matter expert is Margie Milam, Senior Policy Counselor. Welcome to the show, Margie.

Margie: Thanks for having me here.

Scott: We said that our topic is Consensus Policy. What is that exactly?

Margie: A consensus policy is a specification that is based on a consensus of Internet stakeholder groups. What that really means is, it's a policy that receives broad support, demonstrated by an ICANN board action that establishes the policy, or a recommendation made by the GNSO Council.

This is typically a written report that the GNSO Council puts together that describes the extent of the agreement, or the disagreement among the various impacted groups on the policy that should be adopted.

Scott: Okay.

Margie: This originates from the contracts between the registrars and the registries. ICANN enters into contracts with all of the registrars and all of the registries –

Scott: But I'm not sure that everyone listening understands the difference between those. Can you define what is a "registrar" and what is a "registry"?

Margie: A registry is the ultimate authority where domain names are registered. Registrars serve as more of a wholesaler, or distributor of domain names. The registrar is the party that has the relationship with all the registrants of domain names. The registry typically has no relationship with the registrants, and merely provides the service to the registrars to register the domain names in its central database of all the information related to the domain names in a particular top-level domain.

Scott: Is the difference that the registrars emphasize more of the marketing and the selling of the domain names? And then the registries actually handle everything that must happen in order for the domain name to work?

Margie: That's correct. The registrars are the ones that would provide the service to the customers to allow them to register the names. It'll help them manage the information related to their domain names. The registries provide more of a technical service. They just maintain the database and have the operational capabilities to keep the database running 24/7 and being able to provide quick queries related to the domain names.

Scott: So, that explains why if you're new to ICANN you probably could name some registrars. You've heard of GoDaddy or Network Solutions or 1&1, but you don't know who operates .org or .info or whatever.

Margie: That's correct.

Scott: And where this comes together in ICANN is that both these entities [registrars and registries] are bound by consensus policy.

Margie: Yes, that's right. The way that consensus policies can be made enforceable against these contracted parties is by going through the procedure that is specified in the agreements. The agreements leave a placeholder so that policies can be developed by the GNSO Council to address issues that may be important to the community, such as things that may evolve over time that relate to the domain name registration system and domain names.

The consensus policy process allows these new rules to be adopted, with consensus from the community and then enforced against the registrars and registries.

Scott: That sounds pretty unusual to me. Are you not saying that registrars and registries have signed on to a contract where the terms could change later, and they're agreeing that they'll be bound by these future terms?

Margie: In essence, that is what it says. But the contracts are written carefully so that only certain topics can be appropriate for consensus policies. For example, the registrars and registries obviously want to keep certain parts of their business to be unaffected by policies, like their prices, or things of that nature.

Scott: Sure.

Margie: The way the contracts are written, they've actually specified topics that are appropriate for consensus policies. As registrars and registries enter into contracts with ICANN, they know this upfront when they sign their contract -- that there are certain areas that are appropriate for consensus policy development by the GNSO Council, as long as it's within the topics that are suggested in the contract.

The registrars and registries understand that they need to abide by those rules and policies that may be developed. They actually have a role in participating through their representatives, for example, in the GNSO Council. They will actually participate in the working groups and the other policy formats and procedures to make sure that their side and their needs are addressed.

Scott: Yeah, so there's some flexibility there but it's not a total blank check for the community to just say whatever they want to and force it onto these registrars and registries.

Margie: Yeah, that's correct. A little history behind that: ICANN and through its Bylaws and Articles of Incorporation try to limit the amount of issues that it gets involved with. We don't want to regulate domain names with a heavy hand. The types of issues that are addressed in the consensus policy are, maybe, to address things like technical stability or interoperability of the Internet and domain name services.

But we try to stay away from things that would make it difficult for competition to occur. We want to encourage innovation and technical advancements. We don't want to hinder the domain name system with too many rules and regulations that don't have the right support through the consensus process.

Scott: Okay.

Margie: And that's why the consensus policy process is so important, because without the contracts and following the procedures in the contracts, policy development may not have the effect that members of the community would like, if the policy is not adopted in the manner that's described in the contracts.

Scott: Now, another question we often ask here is, Who does it affect? So does consensus policy only affect registrars and registries?

Margie: Actually, that's an interesting question because it affects *more* than just registrars and registries. For example, the policies might actually relate to obligations to registrants. Those might be adopted through the consensus policy process. The types of protections or rules that relate to domain name registration services affect registrants but they're only adopted through the consensus policy process.

It could affect a registrant, and it also affects just members of the community in general who may have concerns about how the domain name registration system works. Things like Whois contact information or issues like warehousing or speculation on domain names are topics that have been clarified to be appropriate for consensus policy development.

So, really it affects everyone in the community that has some involvement in the domain name system. If they feel that there are particular areas that need special attention, everyone would need to understand the consensus policy process to see whether or not there's an ability to make policies that affect registrars and registries through the contracts.

Scott: It sounds like we're already heading into the answer to our next question. Why does this matter?

Margie: You're right.

Scott: It affects everyone.

Margie: It affects everyone. It affects the kind of work and the end result from the GNSO Council. For example, the GNSO Council is charged with developing policies that relate to generic top-level domains. There are lots of policies that can be developed but it doesn't necessarily mean that they will be enforceable against registrars or registries if they're not within what we call the "picket fence."

"Picket fence" is a phrase that's been applied to the consensus policies because consensus policies list the limitations on what can be appropriate for this type of

policy development. So if it's not a consensus policy under the contract terms, there are other types of policies that might be developed. For example, best practices, or guidelines for ICANN or advice to ICANN. But these are things that registrars or registries may not necessarily be obligated to comply with.

Scott: So, in participating in ICANN, it sounds like it would be important to understand that there's a distinction between policy in general and "consensus policy."

Margie: Yes, that's right. To the extent that the community feels it's important that registrars and registries comply with these new procedures, then they need to understand the parameters and look into the contracts to see what would be appropriate for a consensus policy development.

Scott: Okay. So the ICANN community can't band together and force all registrars to give all domain names away for free, because that's not inside the "picket fence."

Margie: Right. That's right.

Scott: So we've drawn a distinction between policy in general and consensus policy, and in doing so, I've heard you mention many times this term "contracts." What contracts are we talking about? If someone wants to learn more about this, can they read these contracts somewhere?

Margie: Sure. There are two sets of contracts that apply here. ICANN is all contract-based so any of the obligations that registrars or registries are obligated to perform are in these contracts.

On the registrar side, it's a one-standard agreement that is adopted for all registrars. That contract is posted on the ICANN web site, and it's called the Registrar Accreditation Agreement, the [RAA](#). So, if you looked at that contract you would find a description of the types of things that can be consensus policies. That's a useful way of understanding what falls within the picket fence, and what types of things are appropriate for GNSO consensus policy development.

The other place you would look is to the [registry agreements](#), and that's also posted on ICANN's web site. The registry agreements are a little different than the registrar agreements because they are not standard, and they all have different terms. So if you go to the ICANN web site, you'll see the dozen or so contracts.

But they follow the same general theme, even though the words may not be exactly the same. They all have adopted this consensus policy approach where they agree that they would be bound by policies developed by the community if they're within the topics that are prescribed in the contract.

So, that's where you would go. You would go to the ICANN web site, take a look at all the contracts, and they're actually specified there with a definition of what constitutes a consensus policy.

Scott: All right. That was a great basic orientation to consensus policy. Thank you very much. Will you come back sometime and talk to us more about this Registration Accreditation Agreement? Because that sounds like a whole topic in itself.

Margie: Sure, I'd love to, Scott. Thanks.

Scott: Okay, thanks. We hope that you, listener, will join us next time on *ICANN Start*.

[Music]

Scott: Before we wrap up, I wanted to let you know that we post related links for each episode on our web site. For example, if you want to learn more about consensus policies, Margie just encouraged you to read the Registrar Accreditation Agreement and the Registry Agreements. Once you look at the RAA, I think you'll also want our "[Non-Lawyer's Guide to the RAA](#)." We've posted links to all of those next to this episode.

And, beginning this month, that includes a transcript of each episode. To find them, go to ICANN.org, click the E-Learning tab, and follow it to the podcast page.

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