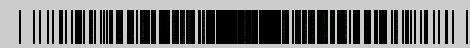


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ccTLD Manager Liability and Negligence Craig Ng



27 March 2006
ccNSO Members Meeting
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Outline

- Hypothetical scenario
- Legal basis for tort liability for DNS failure
- How do you manage or limit your potential liability



Hypothetical scenario

- .zz (Zuzanbar) ccTLD
- Registry database and zone server penetrated
- .zz zone file altered and populated with corrupt information
- Within 20 minutes, name servers updated with corrupt information
- Catastrophic DNS failure
- Original zone file restored within 2 hours
- Name servers and cache update with correct information after 24 hours





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Who can sue who?



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Legal Basis for Tort Liability for DNS Failure

- Tort Liability for pure economic loss
- Duty of care
 - Relationship between ccTLD Manager and end-users
 - Knowledge of potential claimants
- Courts reluctant to impose liability for pure economic loss
 - Economic loss of claimant may be part of a profit making motive
 - Size of liability may not be easily determined



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Limiting Liability by Contract

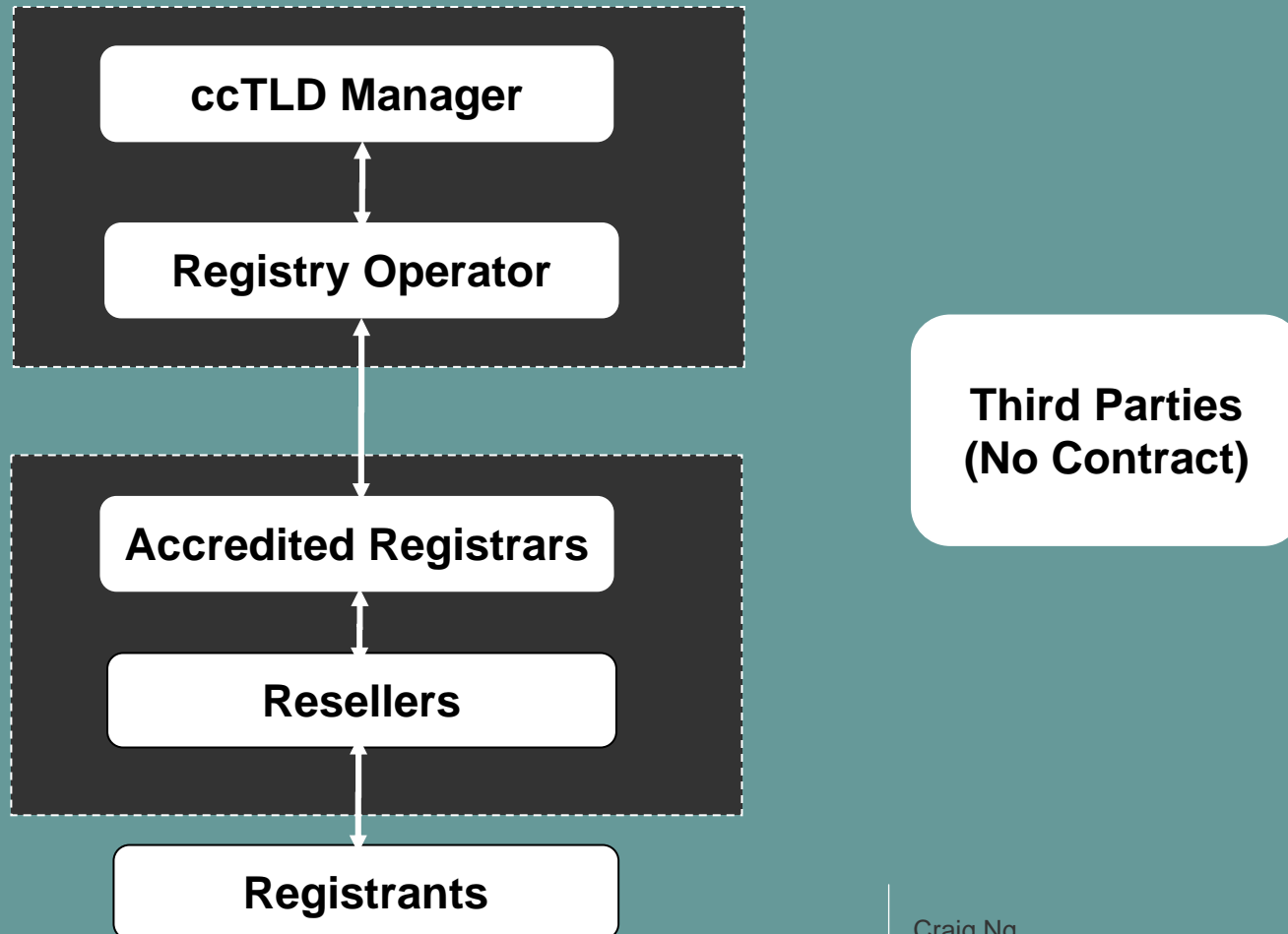
- Contractual structure



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Contractual structure





Limiting liability outside of contract

- Liability only arises if negligent
 - Adopt world's best practice for redundancy
 - Ensure adequate security to protect zone file
- Be careful about making statements about network or DNS reliability
 - Concept of voluntary assumption of risks



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