



Content Regulation Using The Domain Name System: Safeguards and Risks

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ICANN Bylaws

1.1 (c) ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that such services carry or provide...



ICANN Bylaws

1.1(d)(ii) Notwithstanding any provision of the Bylaws to the contrary, the terms and conditions of the documents listed in subsections (A) through (C) below, and ICANN's performance of its obligations or duties thereunder, may not be challenged by any party in any proceeding against, or process involving, ICANN (including a request for reconsideration or an independent review process pursuant to Article 4) on the basis that such terms and conditions conflict with, or are in violation of, ICANN's Mission or otherwise exceed the scope of ICANN's authority or powers...



2013 Registrar Accreditation Agreement

1.13 "Illegal Activity" means conduct involving use of a Registered Name sponsored by Registrar that is prohibited by applicable law and/or exploitation of Registrar's domain name resolution or registration services in furtherance of **conduct involving the use of a Registered Name** sponsored by Registrar that is prohibited by applicable law.

3.18.1 Registrar shall maintain an abuse contact to receive reports of abuse involving Registered ... including reports of Illegal Activity ... Registrar shall take reasonable and prompt steps to **investigate and respond appropriately** to any reports of abuse.



Who Wants Content Regulation?

- Media & Entertainment Industries
- Pharmaceutical Interests
- Professional license bodies (.DOCTOR)
- Law enforcement (“fraudulent” content)



“self-regulation”

- Healthy Domains Initiative
 - Pre-emptive, private regulation
- Public Interest Registry’s arbitration process for Web content
- MPAA-Donuts “Trusted Notifier” agreement



Challenges

- “Best Practices” as Shadow Regulation
- Individual Decisions vs. Collective or Coercive Policies
- The Danger of Building Censorship Architectures



Questions?

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