Contractual Compliance March 2018 Round New gTLD Registry Audit Report

https://www.icann.org/resources/pages/compliance-reports-2018

Contractual Compliance

September 2018

ICANN

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1 Background

ICANN's Contractual Compliance team's mission is to ensure that all contracted parties comply with their agreements and applicable consensus policies. ICANN strives to achieve this goal through education, enforcement, and prevention.

Goal of the Audit Program:
To allow ICANN to identify, inform, manage, and help remediate any deficiencies found with the contracted parties. The deficiencies identified would relate to specific provisions and/or obligations as set out by the Registrar Accreditation Agreement and the New gTLD Registry Agreement ("Registry Agreement"). The ICANN consensus policies are incorporated into those agreements, as applicable. This ensures that proper controls exist to mitigate future deficiencies related to the obligations in the Registrar Accreditation Agreement and the Registry Agreement. This update is provided for information purposes only. Do not rely on the information contained in this update to make conclusions or business decisions.

2 Executive Summary

On 13 March 2018, ICANN launched an audit round to test and validate the selected New gTLD Registry Operators ("Registries") compliance with the terms of the Registry Agreement and ICANN temporary and consensus policies. This report constitutes the results of the audit that took place from March 2018 through September 2018.

The audit round was conducted through the testing of data and the review of documentation, registry websites, and correspondence between the selected registries representing different top-level domains (TLDs), their respective Data Escrow Agents and registrars, and ICANN's Contractual Compliance team.

Twenty Registries were selected for this audit round. Registry selection was based on the following criteria: Registries that were not previously audited or were selected to achieve 100% coverage of a Registry Operator's portfolio.

During the audit phase, ICANN reviewed over 650 documents collected in two different languages and received from four countries. The 20 registries were issued initial audit reports with initial findings.

During the remediation phase, all registries collaborated with ICANN's Contractual Compliance team in remediating confirmed audit findings.

ICANN issued final audit reports to all 20 registries by 30 September 2018:
- The registries of seven (7) generic top-level domains (gTLDs) received audit reports with findings noted and addressed (by either providing additional information or remediating) all findings.
- The registries of 13 gTLDs received reports with audit findings that are still being remediated to be in compliance with Registry Agreements.
  - These registries will be retested at a later date to verify the effectiveness of the remediation measures implemented.

3 Audit Program Scope

The Audit Program operates on a recurring cycle. Any new gTLD Registry Operator could potentially be selected for audit in each cycle.

The audit plan, scope, notifications, and the risk mitigation plan are published on ICANN's Contractual Compliance Audit page at:
http://www.icann.org/en/resources/compliance/audits

The Audit Program consists of six (6) phases with specific milestone dates and deliverables:

1) **Planning Phase** – ICANN plans the audit scope and timeline
2) **Request for Information Phase** – ICANN issues a notice of audit to the selected contracted parties (the auditees). During this phase, the auditees compile information and respond to the audit request. This phase follows the overall compliance approach published here: https://www.icann.org/en/system/files/files/overall-03oct14-en.pdf
3) **Audit Phase** – ICANN reviews the responses and, where applicable, tests and validates them to ensure compliance with the contractual obligations.
4) **Initial Report Phase** – ICANN issues a confidential initial audit report to each auditee. It contains the initial findings and requests the contracted party to address the findings or provide clarity, if needed.
5) **Remediation Phase** – ICANN collaborates with the auditees to remediate any issues discovered during the audit phase as appropriate.
6) **Final Report Phase** – ICANN issues a confidential final audit report to each auditee. In addition, ICANN summarizes the audit round in this overall audit report, which is published here: https://www.icann.org/resources/compliancereporting-performance (under Reports).

Timeline

The following table summarizes the Audit Program milestones and dates for the audits that took place from March 2018 through September 2018:

Audit Program Milestone Dates						
Request for Information (RFI Phase)			Audit Phase	Initial Report Phase	Remediation Phase	Final Report Phase
1st Notice	2nd Notice	3rd Notice	Start/End	Date Issued	Start/End	End
13 March 2018	03 Apr 2018	10 Apr 2018	17 Apr – 24 Jun 2018	25 Jun 2018	25 Jun – 03 Aug 2018	30 Sept 2018

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1 General audit announcement is discontinued as of 1 August 2017. ICANN sends audit notifications to contracted parties selected for an audit round.

4 Audit Program Testing Approach

The table below summarizes the articles and extensions of the Registry Agreement that were tested for compliance.

Test Areas	Description
Article 1.3(a) ii	Representations & Warranties
Article 2.2	Compliance with Consensus Policies and Temporary Policies
Article 2.3	Data Escrow (Specification 2)
Article 2.4	Monthly Reporting (Specification 3)
Article 2.5	Publication of WHOIS Registration Data (Specification 4)
Article 2.6	Reserved Names (Specification 5)
Article 2.7	Registry Interoperability and Continuity (Specification 6)
Article 2.8	Protection of Legal Rights of Third Parties (Specification 7)
Article 2.14	Registry Code of Conduct (Specification 9 - Parts A, B and D)
Article 2.17	Additional Public Interest Commitments (Specification 11)
Article 2.19	Community-based TLDs Obligations of Registry Operator to TLD Community (Specification 12)
Specification 13	Brand TLD
Category 1	Category 1 TLD Safeguards

Note: A 'Test Area' is an article or other extension (e.g. Category 1 TLD Safeguards) of the Registry Agreement which may consist of multiple requirements and test steps. Therefore, a Registry may have multiple findings in a single 'Test Area'.

Each auditee received a confidential individual audit report noting any initial findings identified in the audit as well as a first notice to participate in the remediation process in accordance with the 15-5-5 day process. (https://www.icann.org/en/system/files/files/informal-resolution-03oct14-en.pdf)

The following table summarizes the Registry participation in this audit round.

Registries selected for the audit	**20**
Registries addressed all audit findings	7
Registries currently implementing remediation of audit findings	13

COMMUNITY REPRESENTATION

The 20 gTLDs represented five Registry Operators from four countries and provided documents in two languages:
Countries

- ⊙ Belgium
- ⊙ China
- ⊙ Netherlands
- ⊙ United Kingdom

Languages: Chinese; English

5   Audit Program Key Results

During the Audit Phase, the Registry Agreement provisions were tested utilizing auditees' responses, documentation received, and the registries' websites. The graph below represents the test areas with the most deficiencies.

New in this audit round: In light of the ICANN community concerns regarding domain name system (DNS) infrastructure abuse, ICANN Contractual Compliance updated the Registry and Registrar audit plan with expanded questions and testing to address DNS abuse handling by contracted parties. The Registry Operator (RO) updated audit steps are focused on reviewing processes and procedures related to preventing, identifying and handling of abusive domains. Specifically, testing is focused on verification of existence of technical analysis (security threats) reports and review for reports' completeness in comparison to publicly available sources.

ICANN requested a limited number of security threats reports, which were provided by ROs. In addition, auditees provided examples of actions taken to act on abusive domains and, responding to audit questionnaire, described their mechanisms of DNS infrastructure abuse monitoring and handling.

ICANN observed examples of ROs' good practices in this area. ROs provided reports by TLD which included almost all abusive domains that have been listed in publicly available abuse reports, for the same time period. Also, auditees demonstrated their actions on such domains; for example, ROs reached out to registrars managing these domains, requesting a review of reported domain, while placing it in suspension. Responses from registrars and evidence of their actions were provided as well.
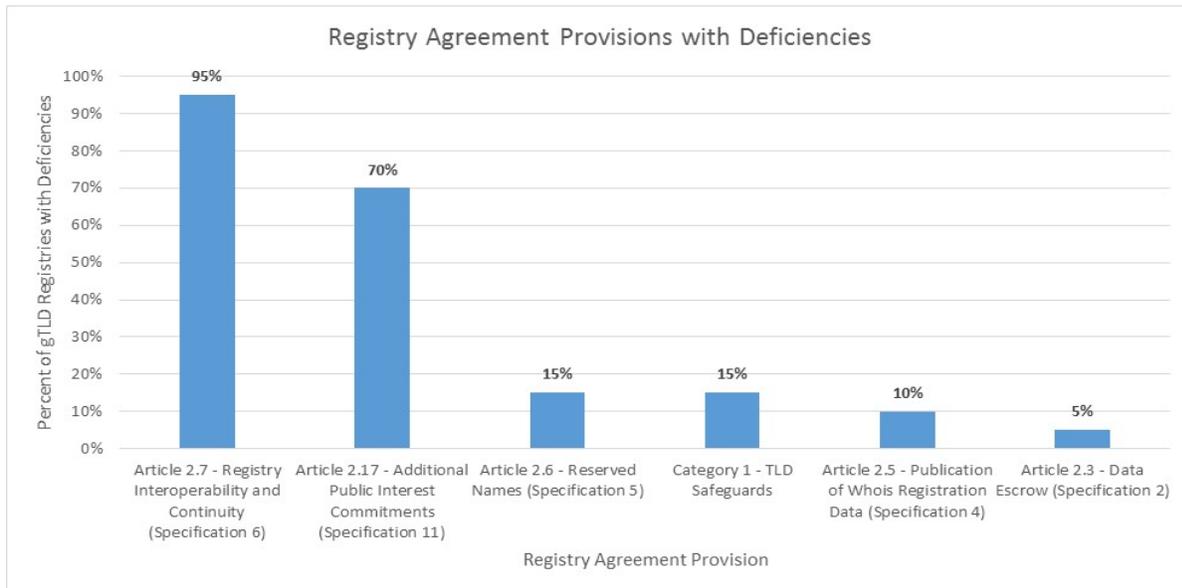
Key Audit Issues and Potential Impact Analysis

Test Area / Specification	Deficiency Identified	Potential Risk / Impact
Specification 4	1) Link to ICANN's WHOIS information/policy missing from registry's website 2) Public WHOIS service did not return the details required under the Additional WHOIS Information Policy ("AWIP")	1) Public and potential customers might be unaware of the use and importance of accurate WHOIS information 2) Processing, maintaining and displaying of domain level information, as well as any non-domain specific requirements, are required and vital for consumers of the gTLD
Specification 5	1) Names that should be reserved were registered	1) Violation of third-parties' rights to domains indicated in Specification 5
Specification 6	1) IDN Table in Registry Agreement does not match the IANA IDN Repository. 2) Link to Domain Name System Security Extensions (DNSSEC) Practice Statements (DPS) missing from registry's website 3) Incomplete / missing abuse contact information	1) Misinforms potential customers of the options they have when registering domain names. 2) Publication of DPS is an important aspect to informing and educating the public and potential customers of information in regard to the registry's operations 3) May result in Internet users' inability to contact the gTLD Registry with abuse comments or complaints.
Specification 11	1) Registry webpage did not have the required APM Seal language 2) Reports of security threats technical analysis performed appear to be incomplete	1) Reduces access to options that further augment the security and stability of the TLD 2) A number of security threats sources remain unidentified and not acted on
Category 1 Safeguards	1) Registry-Registrar Agreements of Category 1 gTLDs were missing provision(s) relating to Category 1 Safeguards.	1) Registrar may be operating in a manner inconsistent with the Category 1 Safeguards associated with a TLD.

6 Audit Program Key Recommendations

RFI Phase

- Registries should communicate questions regarding acceptable documentation or unique process/procedures as they arise to avoid delays in the audit process.
- Registries should respond with explanations of alternative documentation.
- When communicating with ICANN, registries should send emails with "receipt requested" option to ensure all emails are received by ICANN.
- Registries should provide detailed explanations in their RFI if documents requested are not available and provide evidence to support such explanations.

Audit Phase

- Registries should review their ICANN audit report immediately upon receipt and seek clarification if they do not understand any of the findings.

Remediation Phase

- Registries should respond to the first notice of the Remediation Phase with at least partial information and/or documentation addressing the findings noted in their audit report.
- If a finding is validated and cannot be remediated within the 15-5-5 day process, registries should provide ICANN with a specific action plan that explains why the finding cannot be remediated in the allotted time. The registry needs to provide the steps intended to correct the finding, and the estimated time to completion.

7 Conclusion

Seven (35%) of the 20 Registries who received a final report had initial findings noted in their draft report and were able to fully resolve them prior to the completion of the Remediation Phase. Thirteen (65%) of the 20 Registries completed the audit with deficiencies noted as they were unable to fully resolve their initial findings prior to the completion of the Remediation Phase. These Registries are in the process of implementing necessary changes to prevent the instances of non-compliance from recurring in the future. ICANN will follow-up with these Registries in a later audit round once their agreed-upon due date for compliance action has been reached.

Appendix – The gTLDs Selected for Round Six of the New gTLD Registry Audit Program

Delegated String (gTLD)			
Accountant	Bid	Brussels	Cam
Cricket	Date	Download	Faith
Loan	Men	Party	Racing
Review	Science	Stream	Trade
Webcam	Win	网址 (Xn—ses554g)	政务 (Xn—zfr164b)

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