INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

CONTRACTUAL COMPLIANCE

SEMI-ANNUAL REPORT

ICANN

July 2008

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1. INTRODUCTION

In an effort to provide timely information regarding contractual compliance activities, the Contractual Compliance Department publishes reports twice a year. The contractual compliance reports include registrar and registry audit methodologies, audit results, a consumer complaint analysis, and information regarding contractual compliance projects and initiatives.

Consistent with the terms of the registrar and registry agreements, ICANN has begun the process of notifying parties found noncompliant and requesting that they cure cited breaches to avoid escalated compliance action, including possible termination.

Since publication of the department's last report dated 18 October 2007, the department continued conducting contractual compliance audits, hired a compliance audit manager, began recruitment of additional positions, received budgetary approval for significantly increased resources in this new fiscal year, and launched a monthly newsletter. The department continued to conduct audits to pursue registrars and registries that had not sufficiently responded to previous audits. Additionally, during this period, ICANN examined the results of the Uniform Domain Name Dispute Resolution Policy (UDRP) Intake Process and designed and launched a procedure to facilitate registrar compliance with UDRP Approved Dispute Resolution Provider (Provider) decisions.

1.1 Summary of Audit Activities and Results

The Contractual Compliance Department continued to conduct a Registrar Insurance Verification Audit to determine whether registrars are maintaining commercial general liability insurance as required by the Registrar Accreditation Agreement (RAA). The department commenced a registrar Whois Data Inaccuracy Investigation Audit to assess whether registrars are investigating reports of Whois inaccuracy as required by the RAA. The department also conducted a Whois Data Reminder Policy (WDRP) Audit to assess whether registrars are sending notices to registrants insisting registrants update their Whois information, as required by the WDRP. Additionally, the department conducted a Registry Performance Specifications Audit to assess whether registries are complying with the service availability and performance standards set forth in their agreements.

ICANN conducted each audit by following consistent procedures established before the audit commenced. This report contains details of the audit procedures and findings, observations and conclusions.

The audits conducted between October 2007 and June 2008 (Reporting Period) were a natural progression since the department published the last semi-annual report. They also form the foundation of ongoing audits in late 2008. The audits performed during the Reporting Period informed ICANN which registrars and registries did

not meet certain contractually mandated requirements. Consistent with the terms of the registrar and registry agreements, ICANN has begun the process of notifying parties found noncompliant and requesting that they cure cited breaches to avoid escalated compliance action, including possible termination.

Staff completed the Performance Specifications Audit. Of the 14 generic Top-Level Domain (gTLD) registries that ICANN audited, 12 registries were substantially compliant with their contractually mandated performance specifications between June and August 2007. Two registries were not recording performance specifications data between June and August 2007, but have since commenced recording and providing this data to ICANN.

Staff completed step one of the two-step Registrar Insurance Verification Audit in May 2007. Staff determined 778 of the 901 registrars audited, between December 2007 and May 2008, met the insurance criteria in the RAA. Step two includes follow-up action and possible sanctions against the 123 registrars who did not respond to the audit or prove they met the insurance criteria.

The Whois Data Inaccuracy Investigation Audit is ongoing. However, certain registrars are currently investigating Whois information associated with certain domain names at ICANN's request. In addition, staff is implementing a system that will ensure staff reviews every alleged inaccuracy report for a particularized inaccuracy before sending the report to the registrar. Staff expects to implement this system by December 2008.

The Whois Data Reminder Policy Compliance Audit has been completed annually for several years now and provides information for the period between December 2006 and November 2007. This year, a total of 850 of the 901 registrars responded to the 2007 survey questionnaire emailed to all ICANN-accredited registrars. 98% of all audit responders were found in compliance with the form and content requirements for reminder notices sent by registrars. Follow-up action has been taken concerning the remaining nonresponsive registrars including possible breach proceedings to those registrars that failed to cure.

ICANN will use the audit information contained in this report to increase registrar and registry awareness of contract requirements and to encourage best business practices.

1.2   Consumer Complaint Analysis

The volume of consumer complaints received by ICANN has consistently increased over the years due to the proliferation of ICANN-accredited registrars in the market place. ICANN currently processes consumer complaints via consumer complaint e-mail

> *ICANN will use the audit information in this report to increase registrar and registry awareness of contract requirements and to encourage best business practices.*

accounts, facsimile, telephone and postal mail. This report includes information regarding the complaints received by category in 2007 and the first 5 months of 2008.

1.3   Whois Data Accuracy Study

In November 2007, ICANN launched the developmental phase of a Whois Data Accuracy Study. The purpose of the study is to provide useful information to ICANN constituencies and the Internet community regarding Whois data accuracy. This is the first study ICANN has conducted of this type and considerable work has been done.

In November 2007, ICANN launched the developmental phase of a Whois Data Accuracy Study. The study's purpose is to provide useful information to ICANN constituencies and the Internet community about Whois data accuracy.

1.4   UDRP Grievance Intake Process

In consultation with the Intellectual Property Constituency, ICANN designed the UDRP Grievance Intake Process to assist parties that experience difficulty getting a registrar to comply with a Provider decision. The Contractual Compliance Department created a website where such grievances may be filed.
http://reports.internic.net/cgi/uirs

- Grievants may file a grievance using ICANN's Grievance Intake System 15 days after a Provider renders a final decision.
- ICANN transmits the grievant's information to the impacted registrar for resolution.
- If the grievant and the impacted-registrar do not resolve the matter within 10 business days, the grievant can use the Grievance Intake System to follow-up on the UDRP grievance.
- Upon receiving a follow-up grievance, ICANN will launch its own investigation.
- At the end of the investigation period, ICANN will inform the grievant of its conclusions. The first Grievant used the system in June 2008. The matter was resolved in an expeditious matter.

1.5   Contractual Compliance Monthly Newsletter

In April 2008, the department began publishing a monthly contractual compliance newsletter. Each month, the newsletter covers:

- Enforcement statistics
- An in-depth look at some part of the compliance process
- Proactive compliance: audits and studies
- New advisories for registries and registrars (if any; none in this issue)
- Upcoming events

The newsletter is available for public viewing on ICANN's website at http://www.icann.org/compliance/newsletter/

Your comments regarding this report, ICANN's contractual compliance program, or any other compliance related comments may be sent to compliancecomments@icann.org. Posted comments are available for viewing at http://forum.icann.org/lists/compliancecomments.

Compliance
- ICANN presumes contracted parties are complying with their contractual obligations.
- Contractual Compliance Department helps contracted parties maintain compliance by conducting workshops and seminars throughout the world to inform contracted parties of their obligations.

Detection
- ICANN receives complaints regarding alleged contract violations each day from consumers, UDRP providers, registrars, registries and other interested parties.
- ICANN monitors blogs, newspapers and other media to stay abreast of community trends that might affect contractual compliance.

Investigation
- Contractual compliance staff gathers and reviews facts to determine whether parties warrant further investigation and, in some cases, seeks advice and consultation with other internal departments.

Pursuit
- Based on the investigation results, contractual compliance staff pursues clear contract violations with registrars and registries.
- First, contractual compliance staff attempts to resolve cases of noncompliance informally by requesting parties comply with the contract.

Escalation
- When informal resolution of contract violations is impossible, unsuccessful or imprudent, ICANN commences formal breach proceedings.

Remediation
- Contractual compliance staff monitors parties to determine whether they cure cited breaches or whether they should be considered for termination.

Figure 1-1 – ICANN's Approach to Contractual Compliance. *ICANN developed a comprehensive approach to contractual compliance to ensure that registrars and registries comply with the terms of their agreements. This approach includes providing information to registrars and registries to encourage compliance as well as escalation procedures designed to bring parties into compliance or to terminate their contracts.*

2. SCOPE AND OBJECTIVES OF AUDITS

2.1   Registrar and Registry Audits

The registrar contractual compliance audits commenced since October 2007 focused on registrar compliance with specific provisions of the RAA regarding commercial general liability insurance, investigation of Whois inaccuracy reports and the Whois Data Reminder Policy.

The registrar contractual compliance audits commenced since October 2007 focused on registrar compliance with specific provisions of the RAA regarding commercial general liability insurance, investigation of Whois inaccuracy reports and the Whois Data Reminder Policy. The registry contractual compliance audit conducted during this Reporting Period focused on contractually mandated performance specifications outlined in each Registry Agreement.

The contractual compliance audit objectives are to:

- Enforce contractual compliance,

- Assess compliance with contract requirements,

- Notify parties identified as noncompliant, provide a reasonable time to cure contract violations and pursue remedies under the agreement for those who do not cure,

- Ensure that registrars and registries provide the community with the contractually mandated service levels, and

- Report audit findings to the Internet community.

3. SUMMARY OF AUDIT FINDINGS

The audits ICANN conducted during the Reporting Period varied in complexity and findings. This summary contains only the most significant findings. For detailed information regarding how a particular audit was performed, the intent of the audit, ICANN's observations, and follow-up action taken by ICANN, please refer to Section 4, Detailed Information Regarding Audit Findings And Contractual Compliance Activities, starting on page 9.

According to monthly reports and/or registry representations, 12 registries were adjudged compliant with their contractually mandated performance specifications between June and August 2007.

3.1 Registry Performance Specifications Audit Brief Description and Findings

ICANN conducted the inaugural Performance Specifications Audit to ensure registry operators complied with their service availability and performance obligations between June and August 2007. ICANN audited registry operators/sponsors for the following top-level domains:

.aero, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel. ICANN did not audit the .tel or .asia top-level domains, as neither registry had registrations at the time of the audit.

- ICANN made determinations on 12 of 14 registries.
- Two registries were not recording performance specifications data at the time but have since commenced recording and providing this data to ICANN.
- According to monthly reports and/or registry representations, 12 registries were adjudged compliant with their contractually mandated performance specifications between June and August 2007.
- Of the12 registries' monthly reports, 7 compared contractually mandated performance levels with actual service levels during the Reporting Period.
- Learning from the experience in this audit, ICANN is considering a system to independently monitor and verify registry compliance with performance specifications.

3.2 Registrar Insurance Verification – Brief Description and Findings

ICANN conducted a Registrar Insurance Verification Audit to verify whether ICANN-accredited registrars maintain the insurance coverage required by section 3.10 of the RAA. The RAA requires ICANN-accredited registrars to maintain US $500,000 commercial general liability insurance during the term of their accreditation.

- Of 901 accredited registrars, 796 responded to the audit, as of 2 June 2008.

- 105 registrars did not respond to the audit as of 2 June 2008.

- 433 registrars share an insurance policy with at least one other registrar.

- 778 of the 901 registrars met all criteria (proof of current policy and sufficient coverage).

- ICANN's contractual compliance and legal departments are currently considering options, including notices of breach of contract to the noncompliant registrars and registrars that did not respond to the audit.

3.3   Registrar Whois Data Inaccuracy Investigation Audit – Brief Description and Findings

After review and analysis of WDPRS notices, ICANN sent notices to 30 registrars due to concerns they may not have responded to a significant number of reports filed through the WDPRS. 23 registrars responded to ICANN's notice.

Staff conducted the Whois Data Inaccuracy Investigation Audit in furtherance of Section 3.7.8 of the RAA, which requires registrars to take *reasonable steps* to investigate alleged Whois inaccuracies reported through the WDPRS. Failure to comply with the obligation to investigate and correct inaccurate Whois data constitutes a breach of the RAA. ICANN recognizes that not all alleged Whois inaccuracies are actual inaccuracies. However, registrars must *take reasonable steps* to investigate all alleged Whois inaccuracies.

- After review and analysis of WDPRS notices, ICANN sent notices to 30 registrars due to concerns these registrars may not have responded to a significant number of reports filed through the WDPRS. 23 registrars responded to ICANN's notice.

- 187 domain names were included in the audit. Registrars took action on 89 domain names.

- For 15 domain names ICANN audited and cited as inaccurate, the registrars claimed to have no record of ever sponsoring the name in a gTLD.

- Registrars suggested a few users might use the WDPRS as a means to file numerous complaints not based on actual experience.

- According to representations from several registrars, registrars are currently investigating Whois information associated with domain names specified by ICANN for follow-up.

3.4   Registrar Whois Data Reminder Policy Survey and Compliance Audit – Brief Description and Findings

ICANN designed the 2007 Whois Data Reminder Policy Survey and Compliance Audit, to evaluate registrar compliance with the Whois

Data Reminder Policy (WDRP - http://www.icann.org/registrars/wdrp.htm). ICANN has conducted this audit annually since October 2004. ICANN adopted the WDRP consensus policy on 27 March 2003. The WDRP requires all ICANN-accredited registrars, actively selling domain names, to send registrants an annual reminder to update and maintain accurate Whois records.

- Of the 901 ICANN-accredited registrars audited in 2007, 825 were required to comply with the WDRP as they were actively sponsoring domain names at the time of the audit.
- 98% of all audit responders were found in compliance with the form and content requirements for reminder notices sent by registrars.
- 94% (850) of ICANN-accredited registrars participated in the 2007 WDRP survey.
- Registrars not complying have been asked to take corrective action.

4. DETAILED INFORMATION REGARDING AUDIT FINDINGS AND CONTRACTUAL COMPLIANCE ACTIVITIES

ICANN audited the following registry operators/sponsors for the following TDS: .aero, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel.

4.1 Registry Performance Specifications Audit

4.1.1 Executive Summary

ICANN conducted the inaugural Performance Specifications Audit to assess whether registry operators complied with Registry Agreement service availability and performance specifications between June and August 2007. Earlier in 2007, ICANN asked registries whether they complied with their performance specifications as part of the Code of Conduct Audit. All registries and operators surveyed in the Code of Conduct Audit represented they had.

ICANN staff based the audit on service availability and performance requirements in each registry's specific Registry Agreement. For most registries, pertinent performance specification language is set forth in Appendix 7 of the Registry Agreement. Registry monthly reporting requirements are in Appendix 4, Registry Operator's Monthly Report. Appendix 4 requires registry operators to provide ICANN system availability and performance reports at least monthly.

The performance specifications, contained in each Registry Agreement, provide ICANN a means to measure a registry operator's delivery of the registry services and, when applicable, allow for calculation of Service Level Agreement credits payable to registrars pursuant to the applicable Registry Agreement.

ICANN audited the following registry operators/sponsors for the following TLDs:

.aero, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel. ICANN did not audit .asia, or .tel, as neither had any registrations at the time of the audit.

4.1.2 Audit Objectives

- Assess registry compliance with contractually mandated performance specifications,
- Assess registry compliance with contractually mandated monthly reporting requirements,
- Pursue compliance and available remedies with noncompliant parties, and
- Ensure registries provide registrars with the service levels prescribed by the Registry Accreditation Agreements.

4.1.3 Methodology

This report summarizes steps ICANN took to assess whether registries complied with their contractually mandated performance specifications.

This report summarizes steps ICANN took to assess whether registries complied with their contractually mandated performance specifications. ICANN developed the methodology, prior to commencing the audit, with collaborative input from ICANN's registry liaison staff. Members of the ICANN Contractual Compliance Department reviewed each Registry Agreement and the monthly report that each registry submitted between June and August 2007. Where possible, staff compared the service levels in the monthly reports to the applicable Registry Agreement's performance specifications.

In some cases, ICANN staff could not determine whether registries complied with their performance specifications because monthly reports were unclear, did not compare service and performance levels or otherwise. If so, staff transmitted an audit notification letter to the registry. The letter outlined the controlling Registry Agreement's performance specifications, monthly reporting requirements and requested that the registry operator to provide ICANN service level measurements for the Reporting Period. In addition, ICANN submitted a spreadsheet with data fields for completion. One registry did not submit monthly reports during the Reporting Period. ICANN is continuing its efforts to determine whether this registry complied with its performance specifications.

ICANN staff requested that registries respond to the request for more information by Friday, 16 November 2007.

4.1.4 Findings

- ICANN made determinations on 12 of 14 registries.

- Two registries were not recording performance specifications data at the time but have since commenced recording and providing this data to ICANN.

- According to monthly reports and/or registry representations, 12 registries were substantially compliant with their contractually mandated performance specifications between June and August 2007.

- Of the12 registries' monthly reports, 7 compared contractually mandated performance levels with actual service levels during the Reporting Period.

- ICANN relies on registry submitted monthly reports and other representations to determine whether registries comply with their contractually mandated performance specifications. As such, ICANN is considering developing the capacity to independently monitor and verify registry compliance with performance specifications.

4.1.5 Observations

Although 12 registries represented they are compliant with the contractually mandated performance specifications, ICANN would like to have the capacity to confirm these representations independently. As such, ICANN is seeking means to enhance its performance specifications monitoring capabilities.

4.1.6 Follow-up Actions

- ICANN will request that registries compare actual service levels with contractually mandated performance specifications, as required by the Registry Agreement.

- ICANN may request registries to complete a monthly report template to promote uniformity and consistency in the reporting process.

- ICANN is considering steps to develop the capacity to independently monitor and verify registry performance.

Appendix A-1 – Performance Specifications Audit – Sample Letter

> *Two registries were not recording performance specifications data at the time, but have since commenced recording and providing this data to ICANN.*

Dear Registry,

Part of ICANN's mission is to ensure one interoperable, global internet accessible to all. ICANN deems the role of registry operators of utmost importance in this mission.

As such, ICANN is conducting a Performance Specifications Audit to ensure registry operators complied with their service availability and performance obligations between June and August 2007.

The ICANN Registry Agreement specifies service availability and performance requirements. In addition, Appendix 4, Registry Operator's Monthly Report, requires registry operators publish system availability and performance reports at least monthly. ICANN staff relies on these reports when conducting Performance Specifications Audits.

Based on our most recent records, we determined .blank either failed to submit service availability and performance reports or submitted incomplete information in the monthly reports.

I have attached a form that includes data fields for missing or incomplete information. Please complete and e-mail the attached form to compliance@icann.org no later than close of business Friday, 16 November 2007.

For questions and further information, please contact the ICANN Contractual Compliance Department at 310-823-9358. Your cooperation is greatly appreciated.

Best regards,

Appendix A-2 – Performance Specifications Audit – Sample Follow-up Letter

ICANN is reviewing registry compliance with the contractually required performance specifications. .blank's performance specification requirements are in Appendix 7, Section 7. In addition, the contract requires registries compare Service Level Agreement requirements with actual performance measures for the reporting month. Appendix 4, Registry Operator's Monthly Report; Section 2 Service Level Agreement.

My staff reviewed .blank monthly reports between June and August 2007 to compare actual performance with the contract's requirements. They were unable to determine whether .blank's performance levels were commensurate with the performance specifications in the following areas:

- DNS Availability

- Performance Level (nameserver capacity)

- Whois Service Availability

- Whois Service Performance Level (capacity)

- Whois Service Response Times

- Whois Service Updates

While Cross-network Nameserver Performance (CNN-P) is a reportable performance specification in section 7, ICANN will not measure registry compliance with CNN-P for this audit. So, please disregard this data field.

I appreciate your help and patience, as this is ICANN's first time conducting the Performance Specification Audit.

I look forward to corresponding after you have an opportunity to review the matter.

Please feel free to contact the ICANN Contractual Compliance Department for further information. Thanks again!

Very truly yours,
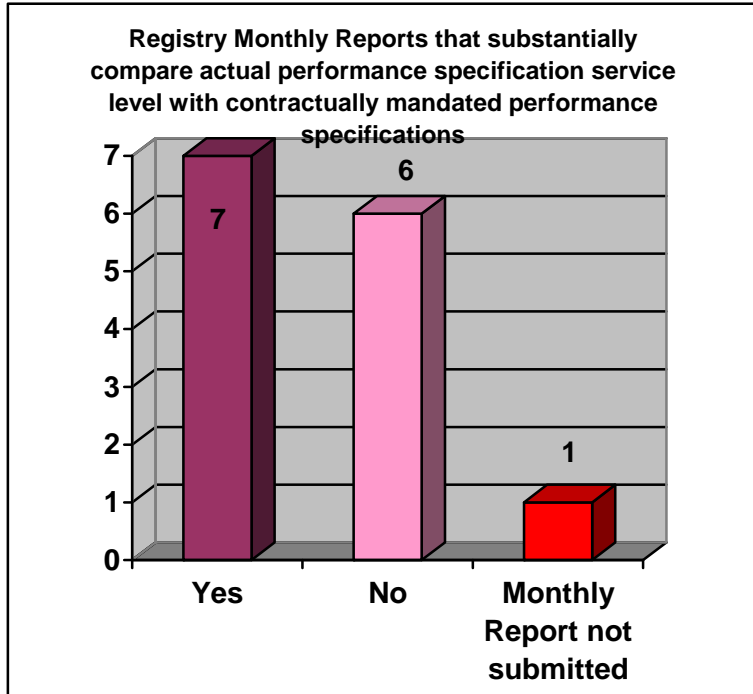
Figure 4-1 – Registries that Compared Actual Performance with Contract Requirements Note: These 6 registries are still compliant because they proved their compliance through other means.
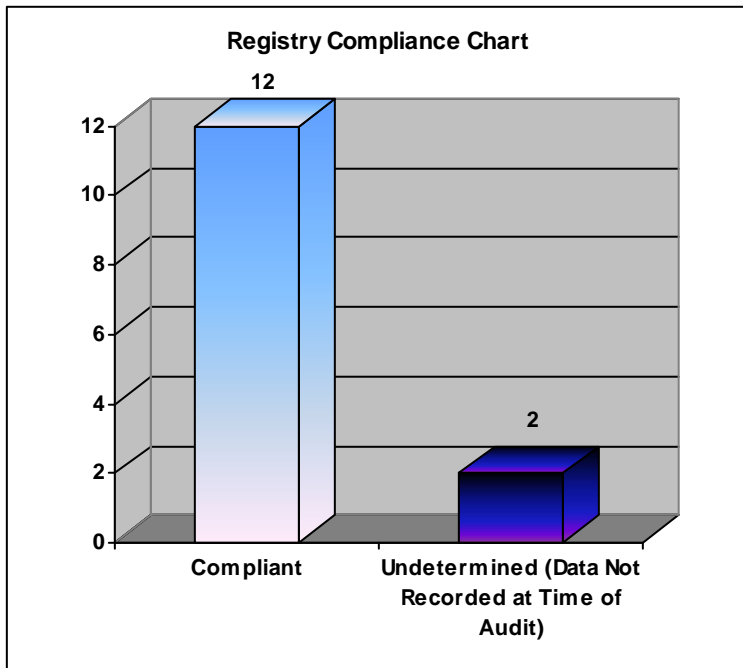
Figure 4-2 – Registries Reporting Substantial Performance Specifications Compliance.
Also notes number of registries that require further analysis.

Registry Compliance Evidence Chart

[CHART: Bar chart showing three bars. Y-axis from 0 to 6.]

- **6** — Compliant Based on Monthly Report
- **3** — Self-Reported Performance Levels During Reporting Period in Response to ICANN Audit
- **3** — Self-Reported Substantial Compliance Without Providing Performance Levels During Audit Period
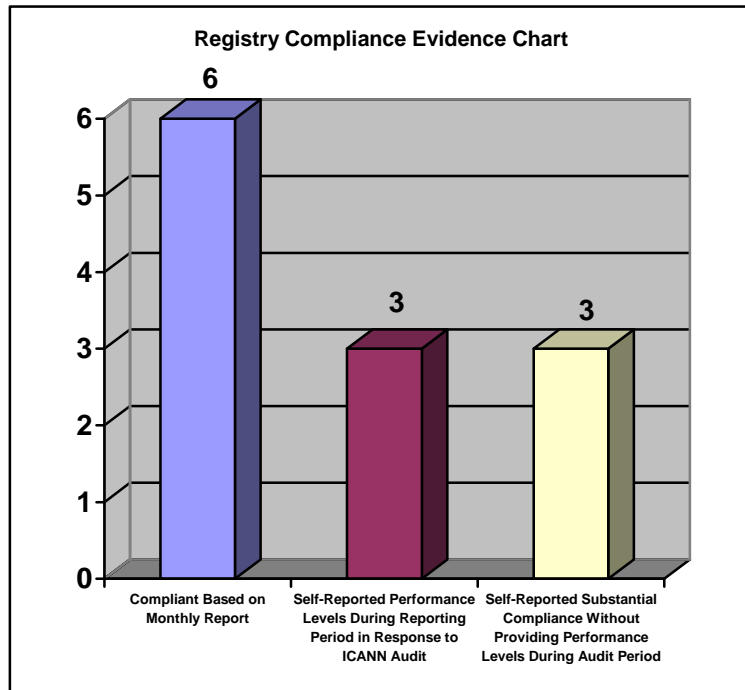
Figure 4-3 – Registries Providing Performance Levels As Evidence of Compliance. Note: All 12 registries were adjudged compliant with the audit.

4.2   Registrar Insurance Verification Audit

4.2.1 Executive Summary

The primary goal of the Registrar Insurance Verification Audit was to determine which registrars do not have contractually required insurance coverage and take further action. In addition, ICANN seeks to alert registrars of their responsibilities and give notice of ongoing insurance verification audits.

ICANN conducted a Registrar Insurance Verification Audit to verify whether ICANN-accredited registrars maintain the insurance coverage required by section 3.10 of the RAA. The RAA requires ICANN-accredited registrars to maintain US $500,000 commercial general liability insurance coverage during the term of their accreditation.

The department conducted a Registrar Insurance Verification Audit, as ICANN deems maintaining proper insurance coverage a material requirement of the RAA. The primary goal of the Registrar Insurance Verification Audit was to determine which registrars do not have contractually required insurance coverage and take further action. In addition, ICANN seeks (1) to alert registrars of their responsibilities, and (2) give notice of ongoing insurance verification audits.

4.2.2 Audit Objectives

The general objectives of the Registrar Insurance Verification Audit were to:

- Assess how many ICANN accredited registrars maintain commercial general liability insurance as set forth in RAA Section 3.10,
- Identify registrars that are not compliant with section 3.10 and take further action,
- Ensure compliance with RAA insurance requirements, and
- Report insurance verification audit findings to the larger community.

4.2.3 Methodology

Contractual compliance staff developed the insurance verification methodology with collaborative input from the Registrar Liaison staff. ICANN sent registrars an insurance verification request via e-mail on 18 December 2007. The letter outlined the RAA insurance requirements and asked all registrars to provide proof of insurance by Friday, 11 January 2008. Staff sent reminder and follow-up emails on several occasions before and after the deadline in an attempt to get a response from non-responsive registrars. Further follow-up emails were sent on 2 June 2008 to registrars that did not comply with earlier requests.

ICANN continued to assess and review proof of insurance documents received after the deadline, some as late as 15 March 2008. ICANN considered the following insurer issued documents proof of insurance:

1. An Insurance Declarations page,
2. Certificate of Insurance, and/or
3. Insurance Policy.

ICANN's information technology department electronically transmitted the insurance verification audit letter to each registrar. ICANN sent these letters to registrar e-mail addresses in ICANN's records. The RAA requires registrars provide ICANN updated, accurate contact information.

Based on a suggestion received from the Registrar Constituency, ICANN transmitted a reminder notice to all registrars on Monday, 7 January 2008, indicating that the deadline for submitting insurance verification documents was approaching and requesting that registrars comply with the audit by the deadline. Additionally, the reminder addressed common issues registrars raised in response to the Registrar Insurance Verification Audit. See Appendix A-4. Further, ICANN followed-up with registrars individually if ICANN had not received proof of insurance as of 9:00am PST Friday, 11 January 2008. A second reminder was sent on 10 March 2008 to registrars that had not responded to the initial audit. The deadline was extended to allow registrars to comply. Staff has sent reminder emails to registrars with

expired insurance policies several times since 1 April 2008 requesting updated certificates.

ICANN analyzed each proof of insurance document to determine whether it met the RAA requirements in the following areas:

1. Current coverage,

2. Coverage amount, and

3. Coverage type.

4.2.4 Findings

- Of 901 accredited registrars, 796 responded to the audit as of 2 June 2008.

- 105 registrars had not responded to the audit as of 2 June 2008.

- 433 registrars are named on a shared policy with another registrar that meet the requirements of RAA section 3.10 insurance.

- 778 of 901 registrars met all criteria (proof of current policy and sufficient coverage).

- 14 registrars submitted expired insurance policies.

- 50% of Registrars are named on a policy with another Registrar.

4.2.5 Observations

Overall, the response rate to the Insurance Verification Audit was high, with just over 88% of the registrars responding.

4.2.6 Follow-up

ICANN will follow-up with and ensure registrars, through published escalation procedures, comply with the RAA insurance coverage provisions.

Appendix A-3 – Insurance Verification Audit – Sample Letter

Dear Registrar,

In March 2007, ICANN's Contractual Compliance Department released its 2007 Proposed Audit Schedule for registrars. One of the audits scheduled for the current quarter is the Insurance Verification Audit.

Currently, we are conducting the 2007 Q4 Insurance Verification Audit. ICANN is attempting to verify whether each registrar has the insurance required by section 3.10 of the Registrar Accreditation Agreement (RAA). To determine registrar compliance, it is necessary that ICANN examine each registrar's insurance policy. Additional information about ICANN studies and audits is available at ICANN'S website which you can access through the following link: http://www.icann.org/compliance/registrar-compliance.htm .

We recognize that for some registrars this is the holiday season. In consideration of such, we allotted a 3-week reporting period. Please forward an electronic copy of your policy to "insurance-verification@icann.org," no later than Friday, 11 January 2008. ICANN is committed to using the information solely for insurance verification. In addition, we will take all appropriate measures to ensure your information remains confidential.

We considered various other options for conducting this audit. After careful consideration, we determined the process outlined above to be the least burdensome. We appreciate your cooperation as we continue to develop and improve the contractual compliance program.

Kindly acknowledge receipt of this e-mail no later than Friday, 4 January 2008. In addition, please indicate the language in which your insurance provider drafted your policy.

Please contact me if you have questions or require additional assistance. Although, I will be traveling between 21 December 2007 and 2 January 2008, I will have limited access to e-mail.

Very truly yours,

Appendix A-4 – Insurance Verification Audit Sample Follow-up Letter #1 emailed 7 January 2008

Dear Registrar,

I am writing to follow-up my e-mail sent 20 December 2007 to remind registrars that the deadline to comply with the ICANN 2007 Q4 Insurance Verification Audit is next Friday, 11 January 2008. We thank those who already sent proof of insurance.

Please be advised, it is necessary that ICANN *examine every registrar's proof of insurance*. If you have not already done so, kindly forward an electronic copy of proof of insurance to "**insurance-verification@icann.org**," no later than Friday, 11 January 2008. ICANN is committed to using the information solely for insurance verification. In addition, we will take all appropriate measures to ensure your information remains confidential.

Below, I attempted to address issues and questions a number of registrars raised. Please contact me if you require additional assistance. My staff or I will respond at the earliest opportunity.

We greatly appreciate your cooperation as we continue to develop and improve the contractual compliance program.

Very truly yours,

Insurance Verification Audit Advisory

The Insurance Verification Audit applies to all registrars without regard to whether the registrar is actively sponsoring domain names or currently sponsors names with a registry.

Insurance Carrier issued Declaration Pages and/or Certificates of Insurance containing relevant policy information (Insurance Provider, coverage type, amount, periods, etc.) are sufficient

A single copy of an insurance agreement that covers all companies and includes the complete list of registrars to which it applies is acceptable

Companies who operate multiple registrars, which did not receive the initial Insurance Verification Audit e-mail should check spam filters and ensure ICANN is white-listed.

Due to the significant strain on staff, ICANN cannot confirm receipt of individual registrar's proof of Insurance at this time.

If you did not receive the initial Insurance Verification Audit e-mail, please refer to the text of the e-mail below

Very truly yours,

Appendix A-5 – Insurance Verification Audit – Sample Follow-up Letter #2 emailed 10 March 2008

Dear Registrar,

In December 2007, ICANN conducted the 2007 Q4 Insurance Verification Audit pursuant to section 3.10 of the Registrar Accreditation Agreement (RAA). The deadline to comply with the audit was 11 January 2008. Prior to the deadline, ICANN sent a reminder on 7 January 2008. As of 5 March 2008, our records indicate you have not submitted proof of insurance.

Please note your failure to carry insurance in compliance with section 3.10 constitutes a breach of the RAA and may lead to further enforcement action.

If you have not already done so, please submit proof of insurance to insurance-verification@icann.org no later than 14 March 2008.

Very truly yours,

Summary of Registrar Responses as of 2 June 2008

	796	778	
Total Reponses	No Response (105)	Registrars Satisfying all criteria	Incomplete / Non-compliant Responses (18)
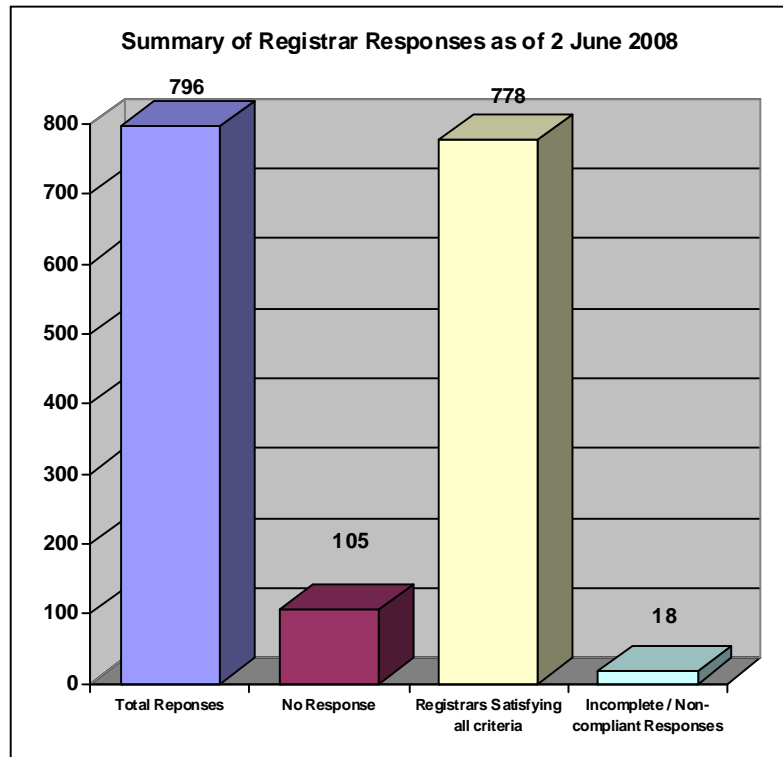
Figure 4-4 – Summary of Registrar Responses.
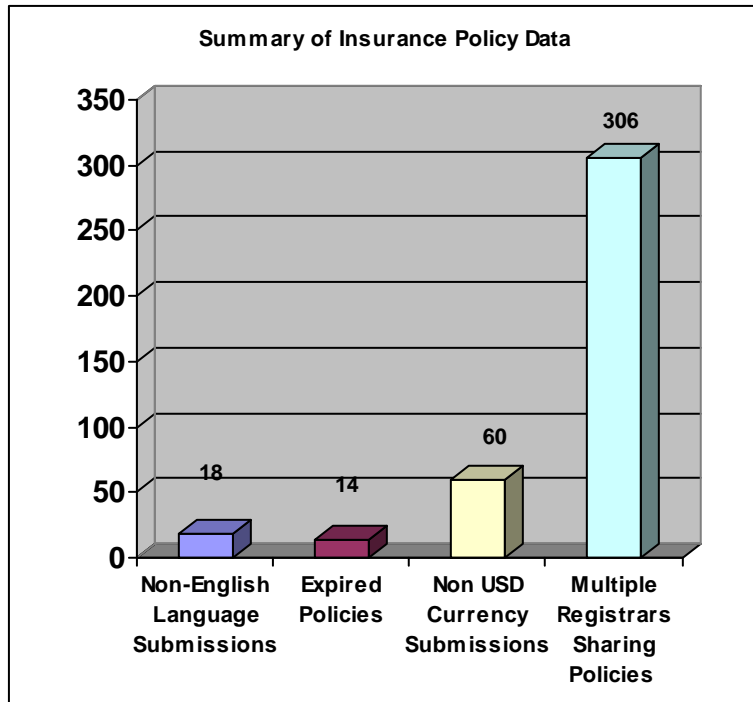
Figure 4-5 – Summary of Insurance Policy Data.
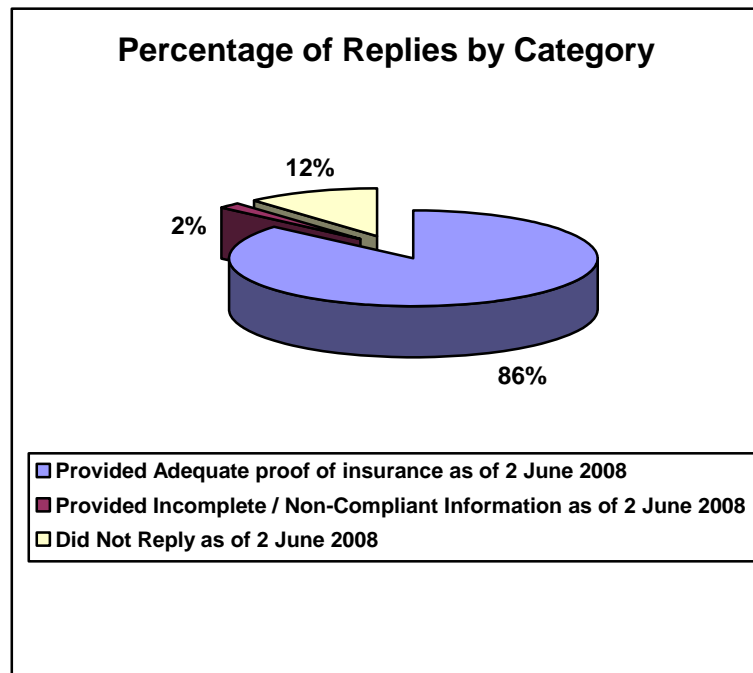
Figure 4-6 – Percentages of Registrars That Replied and Those That Did
Not Reply to the Insurance Verification Audit.
(Reasons for Incomplete Include Expired Policies and Late Responses)

Figure 4-7 – Percentage of Total Number of Accredited Registrars That Met Registrar Accreditation Agreement Insurance Criteria.
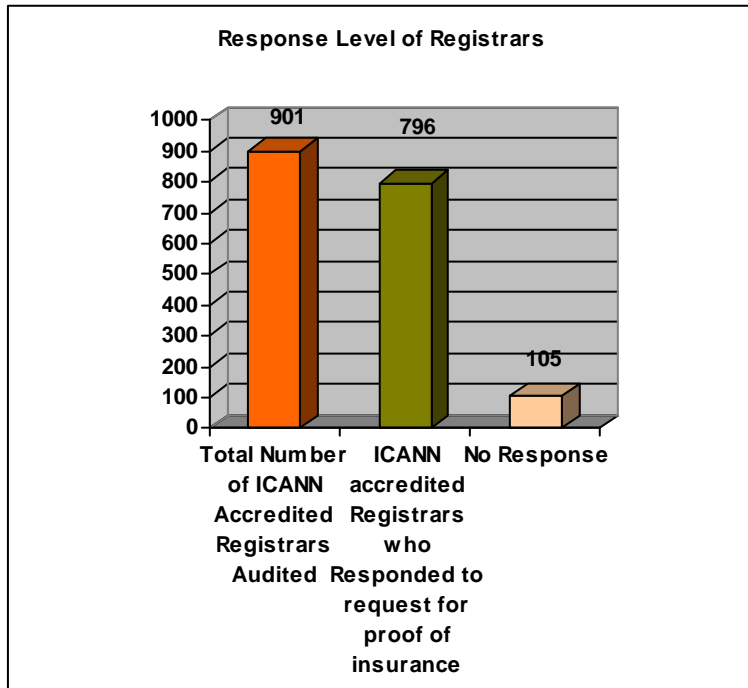
Figure 4-8 – Registrars that responded (either adequately or inadequately), and did not respond, to the Insurance Verification Audit.

4.3 Registrar Whois Data Inaccuracy Investigation Audit

4.3.1 Executive Summary

*10 complainers account for 80% of inaccuracy complaints filed through the WDPRS. ICANN recognizes that perhaps not all alleged Whois inaccuracy reports identify actual inaccuracies. However, registrars must **take reasonable steps** to investigate all alleged Whois inaccuracies.*

Each year, members of the public file thousands of Whois inaccuracy reports through the Whois Data Problem Report System (WDPRS). To assess the effectiveness of this system, ICANN conducted a Whois Data Inaccuracy Investigation Audit. Thirty ICANN-accredited registrars were part of this audit. Each of these 30 registrars was asked to provide specific information on 10 domain names randomly selected from the WDPRS. Each domain name was reported as containing inaccurate Whois information and as having unchanged Whois information after the domain name was sent to the registrar of record for investigation, as required by the RAA. The objectives of the audit were to determine the following:

1. Whether registrars are taking reasonable steps to investigate WDPRS notifications in compliance with the RAA,

2. Other actions registrars are taking in response to WDPRS notifications, and

3. A determination of the effectiveness of the WDPRS.

Pursuant to Section 3.7.8 of the RAA, registrars are required to take *reasonable steps* to investigate alleged Whois inaccuracies reported through the WDPRS. Failure to comply with the obligation to investigate and correct where necessary alleged inaccurate Whois data constitutes a breach of the RAA.
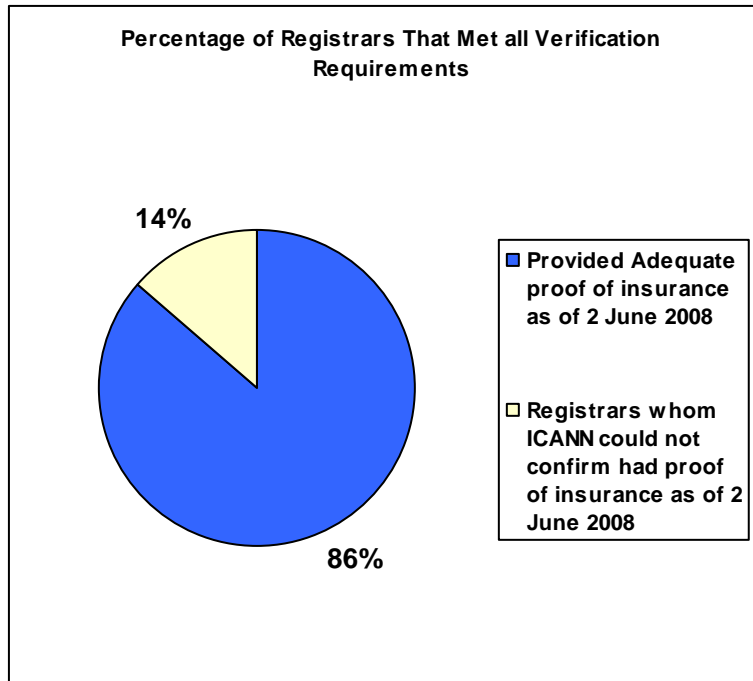
10 complainers account for 80% of inaccuracy complaints filed through the WDPRS. ICANN recognizes that perhaps not all alleged Whois inaccuracy reports identify actual inaccuracies. However, registrars must *take reasonable steps* to investigate all alleged Whois inaccuracies.

4.3.2 Audit Objectives

- Assess registrar responses to WDPRS complaints,
- Assess accuracy and effectiveness of the WDPRS,
- Increase registrar response to complaints filed through the ICANN WDPRS, and
- Enforce registrar compliance with RAA Section 3.7.8.

4.3.3 Methodology

ICANN staff reviewed WDPRS complaints filed between 17 July 2007 and 1 December 2007. Staff looked for complaints that met the following criteria:

1. Registrant Whois contact data associated with the domain name was allegedly inaccurate,

2. Complainants confirmed the alleged inaccuracy within 10 days of filing the report, and

3. The Whois data associated with the domain name had not changed in the registrar's Whois database within 90 days from the date the complaint was filed.

ICANN compiled the complaints that met this criteria then collated them by registrar. Next, staff assessed the total number of Whois inaccuracy complaints filed against a registrar, which met the criteria. If a significantly high percentage of the WDPRS complaints associated with a registrar met the criteria above, ICANN sent the registrar a Notice of Concern.

The notice reminded registrars of their obligation to *take reasonable steps* to investigate alleged Whois inaccuracies. The notices also contained a sample of actual domain names from complaints filed through the WDPRS that met the criteria above.

ICANN requested that registrars describe their policy and procedures for responding to Whois inaccuracies, provide detailed steps they took to investigate the inaccuracies reported regarding the ten domain names in question and if necessary, correct Whois information. ICANN requested that the registrars provide this information within 14 calendar days of receiving the Notice of Concern.

ICANN recognizes not all alleged Whois inaccuracies are actual inaccuracies. ICANN appreciates that some registrars may have taken other corrective action not reflected in ICANN's WDPRS. Hence, ICANN requested that registrars describe the detailed steps they took to investigate the alleged inaccuracies. ICANN is reviewing these responses to determine whether further action is necessary.

4.3.4 Findings

- ICANN sent notices to 30 registrars. 23 responded to ICANN's notice,

- Seven registrars did not respond. One of these registrars responded after follow-up. ICANN is taking compliance action against the other 6 in the form of a compliance notice initially, with escalation to follow if necessary.

- 187 domain names were included in the audit. Registrars took action on 89 of them,

- Registrars requested that ICANN provide more information for 24 domain names,

- As of 12 June 2008, registrars report they are currently investigating 26 domain names,

- 2 different registrars are disputing ownership of one domain name,

- For 15 domain names ICANN audited and cited as inaccurate, the registrars claimed to have no record of ever sponsoring the name in a gTLD.

- ICANN must continue to monitor the WDPRS in an effort to assess its responsiveness and ensure that registrars comply with their obligations to investigate and correct inaccuracies under section 3.7.8 of the RAA.

- Registrars suggested a few users might use the WDPRS as a means to file numerous complaints not based on actual experience.

- This audit is ongoing and the compliance and legal departments are currently considering options, including the issuance of notices of breach to noncompliant registrars and registrars that did not respond to the audit.

4.3.5 Observations

The next version of this audit will dramatically increase the number of complaints investigated as ICANN provides staff to monitor all WDPRS reports.

Three quarters of the registrars that received a Notice of Concern responded. Most of these took decisive action, though their actions varied greatly, e.g., cancelling names, postponing transfers, or conducting additional investigation.

A notable number of registrars expressed willingness to take action, but required more information to do so. Staff followed-up with these registrars and provided additional information.

Some information from ICANN was disputed by registrars in instances claiming the WDPRS contains inaccurate information, but staff determined that information was accurate and compliance was pursued.

4.3.6 Follow-up

- The next version of this audit will dramatically increase the number of complaints investigated as ICANN provides staff to monitor all WDPRS reports.

- ICANN may need to alter the WDPRS system to reflect alternative actions registrars take in response to WDPRS reports.

Appendix A-6 – Registrar Whois Inaccuracy Investigation Audit – Sample Letter

Dear Registrar,

Recently, ICANN staff reviewed records from the Whois Data Problem Report System (WDPRS). Upon review, staff determined your Whois server contains records that users reported as inaccurate on or after 17 July 2007, which remain unchanged as of 7 December 2007. Below, please find one or more of the domain names referenced. As such, ICANN is concerned that you may not have responded to alleged Whois inaccuracies as required by Section 3.7.8 of the Registrar Accreditation Agreement (RAA) regarding investigating and correcting Whois inaccuracies.

Specifically, RAA Section 3.7.8 states the following:

Registrar shall, upon notification by any person of an inaccuracy in the contact information associated with a registered name sponsored by registrar, take reasonable steps to investigate that claimed inaccuracy. In the event registrar learns of inaccurate contact information associated with a Registered Name it sponsors, it shall take reasonable steps to correct that inaccuracy.

Per the RAA, registrars must take reasonable steps to investigate a reported inaccuracy. For more information on what constitutes reasonable steps, please refer to RAA Section 3.7.8 or the ICANN Advisory dated 10 May 2002.

Failure to comply with the obligation to investigate and correct inaccurate Whois data constitutes a breach of the RAA. We recognize not all alleged Whois inaccuracies are actual inaccuracies. Upon investigating these alleged inaccuracies, you may have determined these complaints were invalid and did not warrant updating your Whois server. As we examine the effectiveness of the WDPRS and registrar responsiveness, we seek your cooperation. Kindly provide detailed steps you took to investigate the alleged inaccuracies, as required by Section 3.7.8 of the RAA, no later than fourteen days from the date of this correspondence.

Should you determine corrections are necessary after reviewing the attached information, please implement them no later than fourteen days from the date of this correspondence. Please advise ICANN within 3 days of making such corrections. Staff will continue to monitor the WDPRS in an effort to assess its responsiveness and ensure registrars comply with their obligation to investigate and correct inaccuracies under section 3.7.8.

We kindly request you acknowledge receipt of this correspondence no later than 22 December 2007. Please contact me if you have questions. We appreciate your support and cooperation.

Very truly yours,
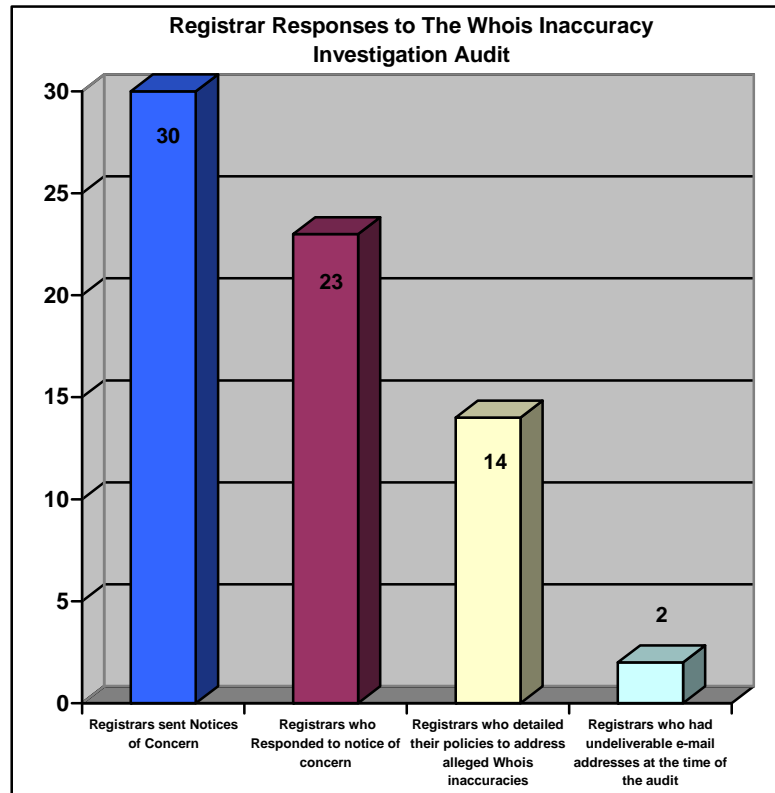
Figure 4-9 – Responses ICANN received from registrars that were contacted and asked to respond to the Whois Data Inaccuracy Audit.

Table 4-1 – Domain Name Analysis of the Whois Data Inaccuracy Investigation Audit

Domain Names Pending Investigation	26
Domain Names for which Registrars did not Respond	24
Domain Names with Registrant Whois Privacy Service	2
Domain Names for which Registrar requested more info	24
Domain Names for which Registrars Took Action	89
Domain Names Deleted and Registered with Another Registrar	7
Domain Names Currently Unregistered	12
Domain Names for which Ownership is Disputed	1
Domain Names with Undeliverable E-mail	2

4.4 Registrar Whois Data Reminder Policy Survey and Compliance Audit

4.4.1 Executive Summary

In an effort to maintain accurate Whois records, the WDRP requires all ICANN-accredited registrars that are actively selling domain names to send an annual reminder to registrants instructing them to review their Whois data and update it if necessary.

This report is a statistical summary of the WDRP and provides information for the period between December 2006 and November 2007 including registrar compliance problems encountered and the impact on the accuracy of Whois data. The report uses a variety of means to evaluate the effectiveness of the implementation of the WDRP, including results from the Whois Data Reminder Policy Survey and Compliance Audit that was sent to all ICANN-accredited registrars in October 2007.

Regarding the WDRP's impact on the accuracy of Whois data, the survey results revealed approximately 28% of audit responders reported changes in registrant data in 2007.[1]

4.4.2 Audit Objectives

- Assess registrar compliance with the Whois Data Reminder Policy,
- Determine compliance with form and content requirements for reminder notices sent by registrars,
- Examine registrar comments and problems encountered with the implementation of the Whois Data Reminder Policy to determine if policy changes are necessary,
- Evaluate the overall effectiveness of the Whois Data Reminder Policy.
- Pursue compliance and available remedies with noncompliant registrars.

4.4.3 Methodology

This report was prepared based on information obtained through a survey emailed to all ICANN-accredited registrars. The 2007 survey questionnaire was similar to that of 2006. The survey was designed to elicit important information about registrar implementation of and compliance with the WDRP. The questions covered:

- The size of the registrar.
- The percentage of registrations for which WDRP notices had been sent.

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[1] The 2006 report is available online at http://www.icann.org/whois/wdrp-report-30nov06.pdf

- The primary and secondary methods of transmitting the notices.
- The percent of notices that were undeliverable.
- The language(s) in which the notices were sent.
- The percent of notices that led to changes in registrant data, and
- The fields that were most frequently changed.

The survey invited registrars to use a free-text box to describe any problems they encountered during implementation and to provide any suggestions for improving the WDRP or the accuracy of Whois data generally. Registrars were also asked to provide a sample copy of an actual notice to ICANN for review for compliance with the WDRP requirements. A copy of the survey is contained in Appendix A-8.

4.4.4 Findings

Since ICANN began reporting on WDRP compliance in 2004, compliance has consistently improved within the registrar community.

Since ICANN began reporting on WDRP compliance in 2004, compliance has consistently improved within the registrar community.

The following are key findings of the 2007 report on the WDRP:

- Registrar compliance with the WDRP's requirement to send registrants reminder notices has consistently increased since 2004.
- Of the 901 ICANN-accredited registrars audited in 2007, 825 were required to comply with the WDRP as they were actively sponsoring domain names at the time of the audit.
- 98% of all audit responders were found in compliance with the form and content requirements for reminder notices sent by registrars, and
- 94% (850) of ICANN-accredited registrars participated in the 2007 WDRP survey.
- 103 more registrars responded in 2007 to the survey than in 2006.
- Registrars not complying have been requested to take corrective action.

4.4.5 Observations

ICANN has consistently reported a relatively high number of registrars in compliance with WDRP requirements. The annual survey sent to all ICANN-accredited registrars has proven to be a useful tool, identifying areas of improvements as well as areas of concern within the registrar community.

ICANN has consistently reported a relatively high number of registrars in compliance with WDRP requirements. The annual survey sent to all ICANN-accredited registrars has proven to be a useful tool, identifying areas of improvement as well as areas of concern within the registrar community.

In 2007, ICANN observed a slight increase in the number of registrars in compliance with the form and content requirements for WDRP reminder notices. Among the registrars able to track responses to their WDRP notices, approximately 18% observed changes to less than 10% of their registrant data and 9% observed changes to at least 1% of

their registrant data. As a result, Whois data accuracy is believed to be improved although the effects are relatively small. It is apparent from audit findings that most registrars do not track responses from the WDRP notices. Without tracking mechanisms in place, ICANN's ability to fully assess the impact of these notices is restricted.

This year, ICANN noticed a slight decrease in registrar participation in the WDRP survey that responded on time by the deadline on 16 November 2007. In order to improve compliance levels, ICANN staff will no longer provide multiple notices requesting that registrars participate in the survey before taking enforcement action. Registrars will be notified in advance before ICANN performs these routine compliance checks. ICANN encourages all registrars to timely respond to all audit requests.

As in prior years, ICANN allowed registrars to provide comments to ascertain trends and gain information for possible improvements from their experiences with the WDRP. Those comments are compiled from the free form input included in the survey. More than half of the registrars that utilized this section of the survey indicated there were no problems with implementation of the WDRP. Other registrars raised concerns about management issues concerning reseller channels and utilizing third party entities exclusively to send reminder notices. It is recommended that registrars correspond with their resellers to advise them of WDRP requirements and work collaboratively with resellers to ensure that their registrants receive WDRP notices timely. Also registrars were concerned about WDRP notices being treated as SPAM by recipients and SPAM blocking software that prevents registrants from receiving WDRP notices. To avoid this problem, registrars should inform registrants upon registration that WDRP notices will be sent annually and encouraging them to white list registrar email notices.

4.4.6 Survey Participation

A total of 850 registrars— 94% of all ICANN- accredited registrars— responded to the 2007 Whois Data Reminder Policy Survey and Compliance Audit.

All ICANN-accredited registrars are contractually obligated to comply with the WDRP.

Registrars that are actively selling domain names are required to provide each registrant with a reminder notice containing the relevant Whois data before the anniversary of the creation date of each registration. All registrations more than one year old should therefore have already been the subject of a notice. New registrations are not required to be the subject of a notice until just before the one-year anniversary of their creation date.

A total of 850 registrars (94% of all ICANN-accredited registrars) responded to the 2007 Whois Data Reminder Policy Survey and Compliance Audit. Compared to last year's rate (87% or 747 registrars), the additional 103 registrars that responded in 2007

showed a significant increase in registrar participation than in 2006. Table 4-2 represents the estimated total number of gTLD names under registrar sponsorship on 1 January 2007.

Table 4-2 – Estimated Total gTLD Names Under Registrar Sponsorship as of 1 January 2007

Size of Registrar	Number of Registrars Responding	Total Number of Registrars in Category	Registrars Responding per Category
0 names	59	76	78%
1-999 names	223	238	94%
1,000-9,999 names	360	372	97%
10,000 - 99,999 names	88	93	95%
100,000 – 999,999 names	105	106	99%
1,000,000+ names	15	16	94%
Total	850	901	94%

Figure 4-10 represents a historical analysis from the past 3 years of registrar participation in the Whois Data Reminder Survey and Compliance Audit.

Three Years Historical View of Registrar Response Rate

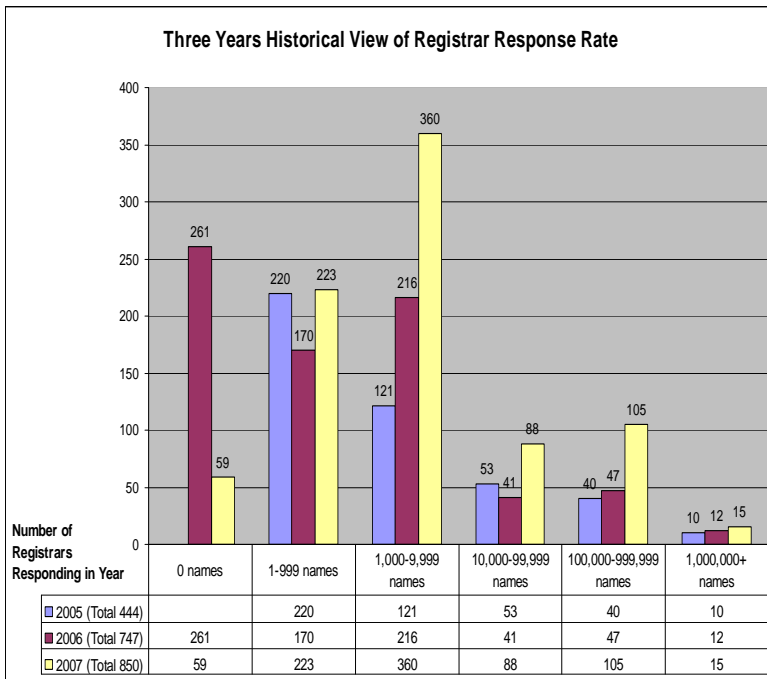| Number of Registrars Responding in Year	0 names	1-999 names	1,000-9,999 names	10,000-99,999 names	100,000-999,999 names	1,000,000+ names
2005 (Total 444)		220	121	53	40	10
2006 (Total 747)	261	170	216	41	47	12
2007 (Total 850)	59	223	360	88	105	15

Figure 4-10 – Three-Year Historical View of Registrar Response Rate

In order to report accurate findings to the community, ICANN relies on registrars' participation to complete surveys. ICANN staff resorted to using several methods to contact nonresponsive registrars including

multiple emails, faxes and phone calls. Staff proactively attempted to contact all nonresponsive registrars to improve the overall participation by registrars.

ICANN staff noticed an increase in the registrar response rate this year when multiple efforts were made to recruit nonresponsive registrars to respond to this survey. Escalation proceedings are in place to address nonresponsive registrars and to ensure the effectiveness of communication efforts by ICANN.

4.4.7   Registrar Compliance

Compliance with the WDRP was assessed using two sources: the survey responses and the sample WDRP notices that were provided to ICANN. The survey was designed to measure two primary compliance benchmarks: Whether required WDRP notices were transmitted to registrants and whether the notices contained the substantive items required by the WDRP.

4.4.8   Notification Requirement

782 of the 791 audit responders (98.9%) reported sending WDRP notices in 2007. These registrars had gTLD names under their management for at least a year and could determine the number of WDRP notices sent to registrants. Eight registrars reported that they had not sent WDRP notices this year, which represents slightly less than 1% of all responding registrars.

ICANN staff analyzed the responses from those 8 registrars who reported that they had not sent WDRP notices in 2007 and found that 5 of those registrars had legitimate explanations for not doing so. Examples of acceptable responses for not sending notices would be "a registrar that was in operation for less than a year" or "had no registrations under its management for a full year." Five registrars were in their first year of accreditation. Three of the 8 registrars who were obligated to send WDRP notices failed to do so. Of these, two registrars cited technical difficulties and the date of correction. The remaining registrar cited confusion with the WDRP process and submitted implementation dates for compliance with this policy.

Overall, the survey results consistently indicate a reasonable threshold in compliance with registrar obligations regarding the requirements of the WDRP.

Overall, the survey results consistently indicate a reasonable threshold in compliance with registrar obligations regarding the requirements of the WDRP. In 2006, ICANN reported less than one half of 1% of registrars were unable to determine the number of WDRP notices sent. In 2007, ICANN found that slightly less than one half of 1% of registrars, 3 registrars (.37%), were similarly unable to provide statistics about their compliance with the WDRP's notification requirement.

In addition to asking registrars whether notices were sent, the survey also asked registrars to estimate the percentage of notices sent in relation to the number of registrations sponsored by that registrar. The categories reflected in the current Reporting Period vary slightly from the percentage choices posed to registrars last year. The questionnaire allowed registrars to indicate if (a) 0% of registrants had been sent WDRP notices, (b) less than 50%, (c) 50% or more, but less than 100%, or (d) 100%. (As noted above, registrars also had the option to indicate that they were unable to determine the number of WDRP notices sent.)

When those registrars not yet obligated to send WDRP notices were removed from the data set, a great majority (94%) of the remaining registrars reported that they had sent notices to 100% of their registrants. Approximately 2% of obligated registrars sent notices to less than 50% of their registrants, approximately 4% sent notices to more than 50%, but less than 100% of their registrants, and less than one half of 1% (0.37%) were unable to determine how many notices were sent. Figure 4-11 illustrates this data.[2]
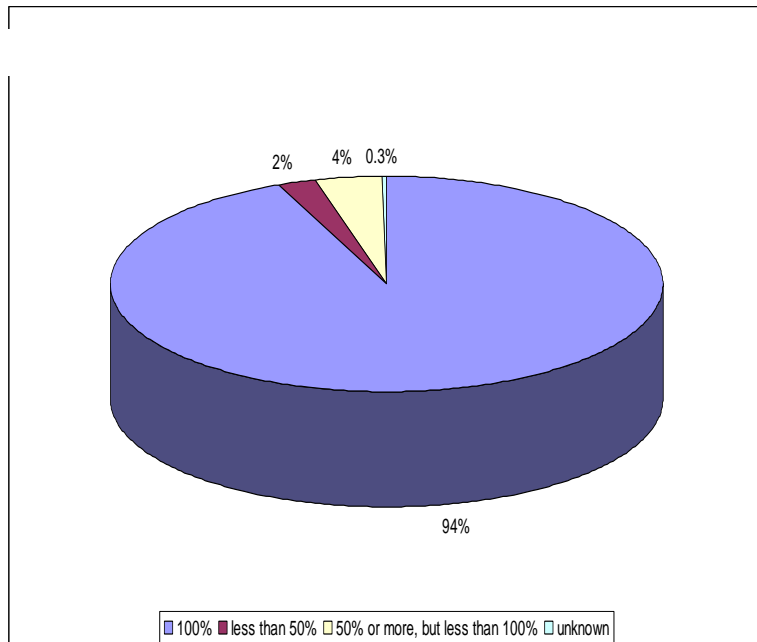

Figure 4-11 – Registrants sent WDRP notices (by registrars required to send notices).

Of the registrars obligated to send WDRP notices, Table 4-3 details the number of notices sent, according to registrar size.

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[2] Percentages may not appear to add up to 100% due to rounding

Table 4-3 – Percentage of Registrants to Whom WDRP Notices Were Sent

	Percentage					
Registrar Size	0%	<50%	<100%	100%	Not Determined	Total
<1000	1		9	213		223
1000-9999	1		3	356		360
10,000-99,999	2	1	5	79	1	88
100,000-999,999	1	3	3	96	2	105
1,000,000 or more		1	1	13		15
Total	5	5	21	757	3	791

Of the 31 registrars who reported sending less than 100% of the WDRP notices to their registrants, 14 provided legitimate responses as to why they did not, 11 provided answers that demonstrated confusion with the requirement and provided implementation dates for compliance, 5 reported technical challenges that were being resolved and one reported legal concerns related to privacy laws. This registrar reported that implementation of the WDRP will commence as soon as possible.

Registrars responding to the survey were also asked to identify their primary means for communicating WDRP notices. As in previous years, email proved to be the most commonly used method. Table 4-4 depicts the WDRP notice communication methods used by registrars.

Table 4-4 – Primary Communication Methods Used by Registrars

Web	.96% (8)
Fax	0.0% (0)
Postal Mail	0.24% (2)
Email	98.68%(825)
Other	.12% (1)
Total	100%(836)

Primary method of communicating WDRP notices, by percentage of registrars using each method

Registrars were asked to identify secondary methods used for communication of WDRP notices. Their responses appear in Table 4-5.

Table 4-5 – Secondary Communication Methods Used by Registrars

Web	8.71% (64)
Fax	1.23% (9)
Postal Mail	1.08% (8)
Email	63.13%(464)
Other	25.85%(190)
Total	100% (735)

Secondary method of communicating WDRP notices, among registrars indicating use of a secondary method.

Registrars were asked to indicate the percentage of WDRP notices that were returned as undeliverable in order to evaluate the potential effectiveness of each method of communication. A comparison by method of communication is provided in Table 4-6.

Table 4-6 – Percentage of Undeliverable WDRP Notices

Primary Method of Sending	Percentage					
	<1%	<10%	<50%	50%+	Unknown	Grand Total
Web	6	1			1	8
Fax	0					
Postal Mail					2	2
Email	70	325	16	2	412	825
Other	0				1	1
Total	76	326	16	2	416	836

It appears from this data that most messages were received by registrants, but the majority of responding registrars indicated that they were unable to count undeliverable messages. As demonstrated, around half of registrars were able to measure the success of their communication attempts. Although not a requirement of the WDRP, greater efforts by registrars to monitor communication effectiveness would contribute to a more reliable evaluation of the WDRP's effectiveness overall.

4.4.9   Content of Notices

Registrars were asked to send a copy of an actual WDRP notice to ICANN for review. As noted above, each WDRP notice must contain: (1) a copy of the data elements listed in Section 3.3.1 of the RAA and (2) a statement reminding the registrant that the provision of false Whois information can be grounds for cancellation of a domain name registration. Section 3.3.1 requires the following data elements: the domain name; the primary name server and secondary name server(s); the identity of the registrar; the original creation date of the registration; the expiration date of the registration; the name and postal address of the registrant; the name, postal address, email address, voice telephone number, and (where available) fax number of the technical contact for the domain name; and the name, postal address, email address, voice telephone number, and (where available) fax number of the administrative contact for the domain name.

In reviewing form requirements this year, ICANN observed an increase in the number of registrars that followed the survey's instruction to provide a sample WDRP notice.

In reviewing form requirements this year, ICANN observed an increase in the number of registrars that followed the survey's instruction to provide a sample WDRP notice. In comparison to the 2006 rate of 71%

(534 registrars) of audit responders that submitted notices; the 2007 rate reflected an increase due to the additional submission of 95 exemplar notices, to 74% (629 registrars) that submitted sample WDRP notices.

The samples were examined to determine whether they complied with the WDRP requirements stated above, including providing the registrant with the current Whois data by actual text or a link and providing a warning to the registrant that provision of false Whois data could be grounds for cancellation of the domain name.

In reviewing the 629 sample WDRP notices provided, ICANN discovered that 10 (approximately 1.6%) of the notices did not comply with the requirements of the WDRP. Of the 10 registrars that were contacted by ICANN as a result of the WDRP analysis process, 5 registrars corrected their notices by including the false Whois provision, and 5 registrars have not responded to ICANN's request to correct their WDRP notice. These 5 registrars are currently under compliance review by ICANN staff.

4.4.10 Language of WDRP Notices

Registrars reported transmitting WDRP notices in several languages, with English being the most common. Figure 4-12 details the primary languages used by registrars in transmitting WDRP notices.
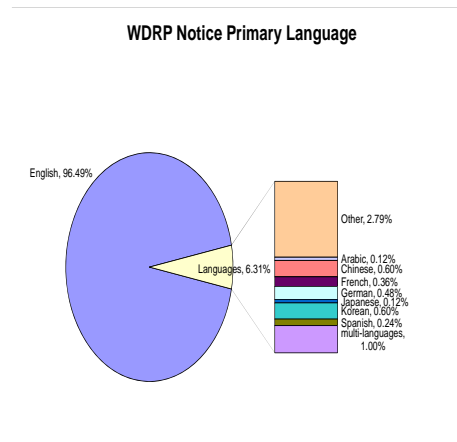

Figure 4-12 – WDRP Notice Primary Languages.

4.4.11 Registrar Comments

Registrars responding to the survey had the option to provide a description of any problems encountered throughout the WDRP process. In total, 70 registrars took the opportunity to provide substantive comments. Over half of these respondents (45) indicated there were no problems, while others raised concerns or made suggestions for improvement. Highlights of these survey responses are provided below.

4.4.12 Consumer Concerns

In 2007, ICANN staff continued to receive questions from registrants related to the validity of WDRP notices received by resellers and some registrants attempted to provide updated Whois information directly to ICANN. The primary reason ICANN continues to receive such correspondence from registrants is because some registrars include ICANN's contact information in their notices. ICANN recommends that registrars provide the link to ICANN's WDRP policy (http://www.icann.org/registrars/wdrp.htm) as well as the link to ICANN's WDRP FAQ page (http://www.icann.org/whois/wdrp-registrant-faq.htm).

Registrants have become aware of spoofed WDRP notices sent by entities other than their registrars and were quick to report unwanted solicitation efforts by companies that are not accredited by ICANN.

Consistent with prior years, the majority of registrar comments attributed SPAM as a major concern with the transmission of WDRP notices to their registrants. In particular, reminder notices being treated as SPAM were being blocked from recipients. Due to the large volume of notices sent, the larger registrars reported notices frequently caught by users' SPAM filters, preventing customers from receiving notices. One registrar reported a significant increase in customer service requests for an explanation of the WDRP notice, even though the registrar notifies registrants in their native language.

As in the past, some registrars received complaints from registrants that have many domain names that would prefer one email per contact or even better, one email per email address. The WDRP does not require that each registration result in a unique WDRP notice. A registrar reported that the current format does not encourage checking contact details. Another registrar reported low customer response rates from correspondence sent by the registrar. This registrar further stated that update requests show no defined trends that demonstrated an increase in updates as a result of the notices.

4.4.13 Concerns Applicable to Specific Registrar Business Models

Registrants became aware of spoofed WDRP notices sent by entities other than their registrars and were quick to report unwanted solicitation efforts by companies that are not accredited by ICANN.

This year, opposing views from registrars were expressed regarding their experiences with resellers. More registrars raised concerns about effectively managing resellers responsible for sending WDRP notices to customers than in prior years, while other registrar comments expressed reliance on resellers for transmissions of these notices.

Some registrars indicated that WDRP compliance would improve by using third party entities to ensure a uniform nature of implementation of WDRP notices.

Other registrars reported a level of assurance with their relationship with third party entities responsible for operating certain registrar services, including running the Whois database and the associated tasks involved. Overall, registrars expressed an interest in finding better solutions to ensure the transmission of WDRP notices to all of their clients through their resellers.

4.4.14 Impact on Accuracy

When asked to what extent WDRP notices improved Whois data accuracy, registrars responded most frequently that they did not know or were unable to determine this information. Approximately 72% of responding registrars said they could not track the changes resulting from the WDRP notices. Changes resulting from WDRP notices that were tracked by registrars are shown in Figure 4-12.

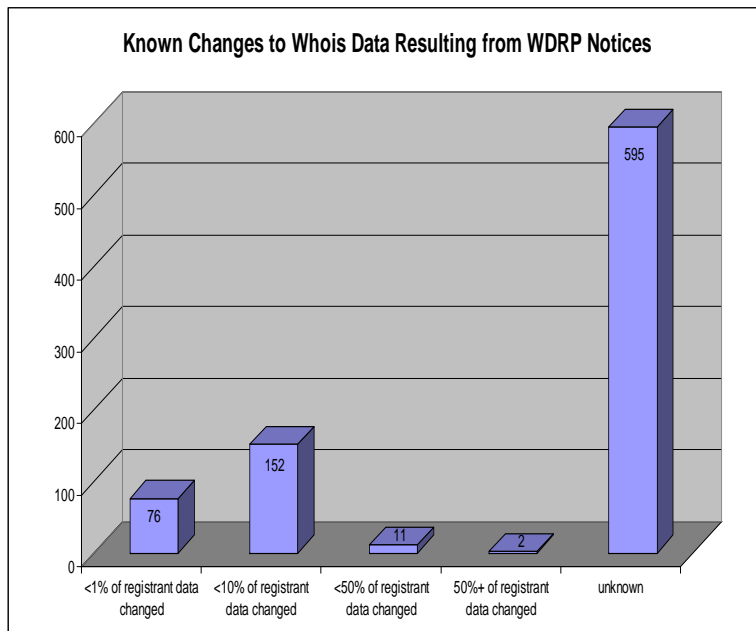**Known Changes to Whois Data Resulting from WDRP Notices**

Figure 4-12 – Known Changes to Whois Data Resulting from WDRP Notices.

Just as most registrars had not tracked the number of changes resulting from WDRP notices, when asked which registration fields changed most frequently in response to WDRP notices, most registrars were similarly unable to answer. In fact, 92% of responding registrars answered with unable to determine when asked which Whois fields were changed most frequently. Among registrars who did have tracking data, 33 found the registrant fields to be the most frequently changed, 34 found the administrative contact fields to be most frequently changed, and 4 found that most changes were made to the technical contact fields.

In response to the community's demand for Whois data accuracy, ICANN encourages all registrars to do a more comprehensive job of tracking response rates to WDRP notices in the future.

Because so little information is available regarding the resulting changes to registrant data following WDRP notifications, it is difficult to measure, statistically, the effectiveness of the WDRP on Whois data accuracy. ICANN encourages all registrars to do a more comprehensive job of tracking response rates to WDRP notices in the future. [3]

4.5   Consumer Complaint Analysis

ICANN does not have contractual authority to address complaints it receives concerning financial transactions, Internet content, SPAM, data protection, data privacy and web hosting. Only a small number of complaints received by ICANN pertain to issues that ICANN has the contractual authority to resolve. Consumer complaints that are addressed in the Registrar Accreditation Agreement (RAA) such as transfer problems, enforcement of registrar obligations concerning UDRP decisions rendered by a dispute resolution provider and Whois, are addressed in the RAA and may require review by ICANN staff. Please see, http://www.icann.org/registrars/ra-agreement-17may01.htm. Accordingly, ICANN, in most instances, forwards complaints to registrars for handling and resolution.

ICANN does not have contractual authority to address complaints it receives concerning financial transactions, Internet content, spam, data protection, data privacy and web hosting.

ICANN does, however, monitor all complaints received. Complaint statistics provide useful information regarding the types of problems frequently experienced by registrants. ICANN uses its complaint statistics, as well as other information, to determine which contractual compliance audits to conduct. Efforts are underway to enhance ICANN's complaint processing systems to provide consistent reporting and improved internal processing. This report includes consumer

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[3] Whois Data Reminder Policy: http://www.icann.org/registrars/wdrp.htm
RAA Whois Requirements: **http://www.icann.org/registrars/ra-agreement-17may01.** **htm**
Whois Data Reminder Policy Survey and Compliance Audit 2007: http://survey.icann.org/wdrp-2007.htm
Registrant Whois Data Reminder Policy (WDRP) FAQ Page: http://www.icann.org/en/whois/wdrp-registrant-faq.htm

complaint statistics from 1 January 2007 – 30 December 2007 and 1 January 2008 – 31 May 2008. Additionally, this report includes a comparative analysis of the types of complaints received over the past two years.

Figure 4-14 illustrates the volume of complaints received by ICANN at registrar-info@icann.org, one of five e-mail accounts where consumer complaints are received. This chart was developed after analyzing 5,808 consumer complaints received from 1 January 2007 to 30 December 2007 by category. In each case, the consumer complaint was forwarded to the appropriate registrar for investigation and any required corrective action.

Consumer Complaint Analysis 2007 (5808 complaints)

Transfer 23%, UDRP 2%, Domain Name Dispute 4%, Whois 5%, Control Panel 3%, Registrar Customer Service 14%, Reseller/Webhost 12%, Update Contact Info 1%, Transfer of Ownership 1%, Financial Transactions 1%, Redemption 1%, Domain Renewal 20%, ccTLD 3%, Abuse 2%, Other 8%
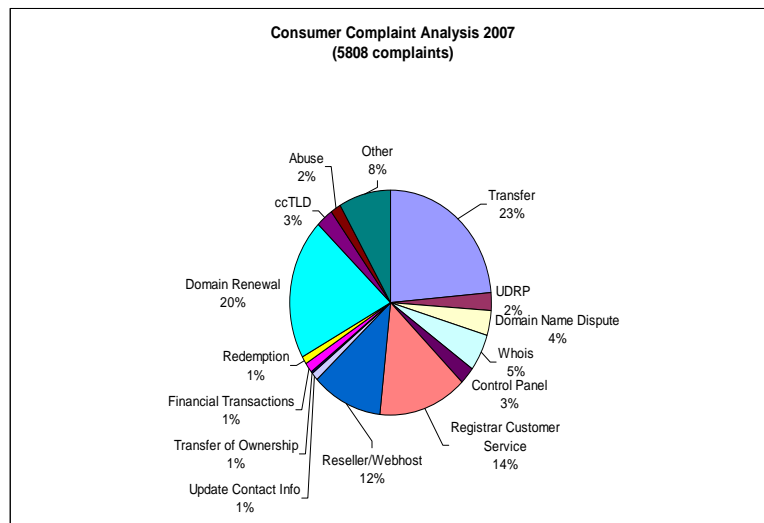
Figure 4-14 – Consumer Complaint Analysis for 2007.

Figure 4-15 illustrates the volume of complaints received by ICANN at icann@icann.org and registrar-info@icann.org, two of the 5 e-mail accounts where consumer complaints are received. This chart was developed after analyzing 3065 complaints received through the month of May 2008.

Changes between last year and this reporting period are largely attributable to a change in data collection and analysis methods. In prior years, ICANN analyzed and reported complaints processed through the Registrar Problem Report System. This year, ICANN took a more comprehensive approach to capturing complaint statistics by also including complaints received through icann@icann.org. The 15 categories selected were created to better reflect the nature of complaints received. In 2007, the top two complaint categories were domain renewal (20%) and transfer complaints (23%). This year (January – May), the statistics reflect a significant decline in incoming complaints for domain renewals (7%) and transfer complaints (17%). The statistics for the remaining categories are shown in Figure 4-15.
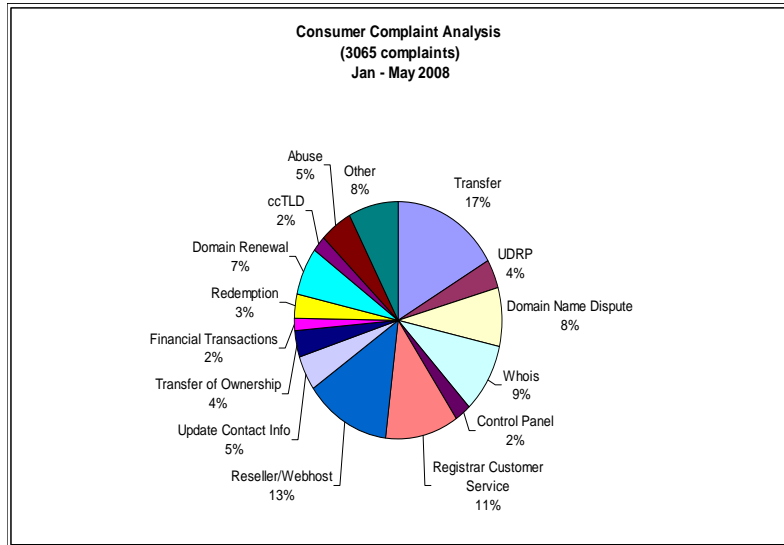
Figure 4-15 – Consumer Complaint Analysis for January to May 2008.

4.6   Whois Data Accuracy Study

4.6.1   Purpose of the Study

ICANN is engaged in contract negotiations with a highly respected research institution to collaborate in developing a sampling plan and multi-stage methodology to determine the accuracy of the Whois data across all gTLDs.

With the goal of providing useful information to ICANN constituencies and the Internet community regarding Whois data accuracy, ICANN launched a Whois Data Accuracy Study in November 2007. The Whois Data Accuracy Study was designed to assess, with a standard degree of accuracy, the percentage of Whois data accuracy that exists within a representative sample of the gTLD population. This is the first study of this type to be conducted by ICANN. To allow sufficient time to complete planning, execution and analysis of findings, it is estimated that the study will take approximately 12 to 15 months to complete

4.6.2   Progress

With the assistance of a statistician, ICANN developed a sampling plan to extract a representative sample of domain names from the gTLD population. As part of the sampling plan, an algorithm was developed to determine the appropriate sample population size – one that provided acceptable accuracy and certainty levels. ICANN selected a sample from an infinitely large data base that provided a measure of accuracy to +/-5% with a certainty of 95%. Next, staff randomly selected domain names in accordance with statistical sampling practices.

After randomly selecting a representative sample population of domain names and determining that the representative sample includes domain names with addresses in approximately 45 countries,

staff commenced the process of clearly defining the methodology to verify the accuracy of each domain name Whois data set.

After completing a trial Whois data accuracy verification process for a small number of domain names, staff's results indicated a number of issues to be addressed in the actual survey. Additionally, staff documented several obstacles that made it extremely difficult to verify the accuracy of names and addresses.

In the interest of providing reliable and useful information regarding Whois data accuracy, it was determined that a credible entity with significant experience conducting name and address verifications should be consulted before continuing. Accordingly, ICANN staff undertook a search to find institutions that provide name and address verification services. After developing and transmitting a needs statement, ICANN received proposals from several companies that purported to provide name and address verification services and/or research analysis services. Staff is in advanced discussions with one organization.

4.6.3 Next Steps

ICANN is engaged in contract negotiations with a highly respected research institution to collaborate in developing a sampling plan and multi-stage methodology to determine the accuracy of the Whois data across all gTLDs.

4.7 UDRP Grievance Intake Process

ICANN designed the Grievance Intake Process to help grievants who experience difficulty getting a registrars to comply with a Provider decision.

ICANN designed the UDRP Grievance Intake Process to help grievants who experience difficulty getting a registrar to comply with a Provider decision.

4.7.1 When UDRP Grievances May Be Filed

Grievants may only register a UDRP grievance with ICANN pursuant to the Intake Process after exhausting their administrative remedies as set forth in the UDRP*.* Parties wishing to file a grievance regarding the enforcement of an administrative decision must wait at least ***fifteen business days after a Provider renders a final decision before they may file a grievance using ICANN's Grievance Intake System***. ICANN intends to provide parties with sufficient time to comply with administrative decisions and/or engage in settlement discussions.

4.7.2 Filing a UDRP Grievance with ICANN

Grievants eligible to file a UDRP grievance include the following:

1.   Authorized agents,
2.   Providers,

3. Registrars,

4. UDRP complainants, and

5. UDRP respondents.

To file a grievance, the grievant must complete the applicable online form at http://www.internic.net/UDRPIntakeReportSystem.html

ICANN will e-mail the grievant acknowledging receipt of the grievance within two business days of receiving the grievance. The e-mail transmission will include an ICANN grievance tracking number. This e-mail transmission will inform the grievant of ICANN's intent to transmit the grievant's information to the impacted-registrar for resolution.

Note   Often parties resolve UDRP grievances shortly after a registrar receives a notice from ICANN instructing the registrar to comply with the administrative decision. This negates the need for significant interaction between ICANN staff, the registrar and grievant. However, ICANN will monitor data from this system to assess trends and take action when appropriate.

4.7.3 When UDRP Grievance Investigations Are Initiated

If the grievant and impacted registrar do not resolve the matter within 10 business days from the initial grievance date, the grievant should use the ICANN tracking number to register a follow-up grievance. ICANN designed a special webpage for follow-up of UDRP grievances.

Upon receiving a follow-up grievance, ICANN will launch its own investigation. ICANN will send an e-mail transmission to the grievant within 10 business days from the follow-up grievance date. This e-mail transmission will contain the status of the investigation and whether ICANN requires additional time to investigate the grievance.

Note   ICANN will use all information received pursuant to the grievance intake process in whatever matter it deems necessary to resolve the dispute.

4.7.4 Grievance Closure

At the end of the investigation period, ICANN will inform the grievant of its conclusions, which shall include ICANN's final determination, recommendations, if any, and a statement regarding whether ICANN considers the matter closed.

5. CONCLUSION

Overall, contractual compliance staff was pleased with the community's response to the second series of registrar and registry audits. The audits conducted during the Reporting Period included a Registrar Insurance Verification Audit, Registrar Whois Data Inaccuracy Investigation Audit, and a Registry Performance Specifications Audit. The audit results indicated that most registrars and registries take contractual compliance seriously and timely respond to ICANN's audit requests. Further, most registrars and registries were found fully compliant with their contractual obligations. However, a notable number of registrars and registries did not respond by the stated audit deadlines, despite follow-up notifications. A lesser number of registrars did not respond to audits at all. The Contractual Compliance Department hopes to see an increase in registrar response levels and greater registrar/registry compliance with audit deadlines. However, RAA amendments that allow ICANN to impose sanctions and suspend registrars for noncompliance will more than likely result in greater registrar audit response rates and increased contractual compliance, if adopted.

Based on this Reporting Period's results, the Contractual Compliance Department is considering a series of next steps. First, staff will follow-up with registrars who did not respond to audit requests. In addition, staff will engage in further analysis necessary to determine whether certain registries and registrars complied with contract requirements. Contractual compliance staff will also consider enforcement actions against noncompliant and unresponsive parties.

The department will continue to build on the foundation of audits conducted thus far. During the next trimester, contractual compliance staff will visit UDRP Dispute Resolution Providers in their home offices to discuss UDRP process improvements and engage in more in-depth audits. Over the coming year, contractual compliance staff will devote significant time and resources to assessing Whois issues and enhancing the effectiveness of the Whois system by strictly enforcing all of the Whois related terms of the RAA.

To ensure that the contractual compliance program continues to improve and address matters of interest to the community, ICANN encourages the community to register comments at compliancecomments@icann.org. Posted comments are available for viewing at http://forum.icann.org/lists/compliancecomments.

We appreciate your support and cooperation!

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