Contractual Compliance New gTLD Registry Audit Report – April 2022 Round

Contractual Compliance

September 2022

ICANN

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1   Background

The Internet Corporation for Assigned Names and Numbers' (ICANN) Contractual Compliance team ("Compliance") enforces the consensus policies developed by its community and ICANN's agreements with domain name registries and registrars. Compliance also ensures that these policies and obligations are implemented to preserve and enhance the security, stability and resiliency of the Internet's Domain Name System (DNS). Compliance enforces these policies and contractual obligations through addressing complaints from external users, proactive monitoring and audit-related activities.

Goal of the Audit Program:
The goal of the Audit Program is to allow ICANN to identify, inform, manage and ensure remediation of any deficiencies found regarding compliance by contracted parties with the community consensus policies and ICANN agreements (the Registrar Accreditation Agreement (RAA) and the Registry Agreement (RA)). The ICANN consensus policies are incorporated into those agreements. This report is provided to update the community on the general results of this audit and should not be relied on to make conclusions or business decisions.

2   Executive Summary

On 19 April 2022, ICANN launched an audit round to test and validate compliance by the selected registry operators ("registries") with the terms of the RA and ICANN temporary and consensus policies. This report summarizes the overall results of the audit that took place from April 2022 through September 2022.

The audit round was conducted through the testing and review of data, responses and documentation received from registries, Data Escrow Agents and the Trademark Clearinghouse, as well as information obtained from registries' websites.

Twenty-eight (28) gTLDs, which have not previously been audited under the New Registry Agreement Audit Plan (https://www.icann.org/en/system/files/files/audit-plan-new-registry-agreement-01feb17-en.pdf), were selected for this audit round.

During the audit phase, ICANN reviewed over 3,400 documents collected in eight (8) different languages and received from 14 countries. At the completion of the audit phase, ICANN issued initial, individual audit reports to each auditee indicating what initial findings, if any, were identified as a result of the audit and asked auditees to address these initial findings.

For the 28 initial reports issued:

- Three (3) Registries received "clean" audit reports at the end of audit phase with no initial findings noted.

- Ten (10) registries received audit reports with initial findings noted. Registries sufficiently addressed all findings by providing additional information and/or remediating the finding. "Clean" reports were subsequently issued.

- Fifteen (15) received audit reports with findings noted and the registries are currently implementing measures to remediate at least one outstanding finding. These registries did not "fail" the audit. They were required to provide ICANN with a specific remediation plan including estimated time for completion. Remediations should be completed within 90 days (or earlier) of receiving the final report with findings. The audit team will verify that the appropriate remediation measures were implemented. Failure to remediate a deficiency will result in additional enforcement actions.

The following scenarios were noted as initial findings included in the initial/drafts reports:

- clear instances of non-compliance (later confirmed by auditee),

- a non-response to RFI and/or non-response to a follow-up email (even if later response/clarification to draft report was received that cleared the issue),

- response to RFI/follow-up received that appeared to represent true issue (even if later response/clarification to draft report was received that cleared the issue),

- if an audit test/review resulted in what appears to be an issue, but later cleared/explained (example – no response to test email, which was later found by an auditee in spam filter).

3 Audit Program Scope

The Audit Program operates on a recurring cycle. Any top-level domain (TLD) registry operator could potentially be selected for audit in each cycle. The audit plan, its scope and 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. In addition, ICANN issues a pre-audit notification email to the selected auditees two (2) weeks prior to the start of the Request for Information Phase.
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. During this phase, ICANN identifies any missing or unclear documentation obtained during the Request for Information Phase and provides auditees the opportunity to respond prior to the issuance of the Initial Report.

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/pages/compliance-reports.

Timeline

The following table summarizes the Audit Program milestones and dates for the audits, which took place from April 2022 through September 2022:

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
19 Apr 2022	11 May 2022	19 May 2022	27 May – 18 Jul 2022	20 Jul 2022	20 Jul – 16 Aug 2022	30 Aug 2022

4 Audit Program Testing Approach

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

Test Areas	Description
Article 1.3(a) ii	Representations and 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)
	IPv6 (Specification 6, 1.5)
Article 2.8	Protection of Legal Rights of Third Parties (Specification 7)
	Protection of Legal Rights of Third Parties (Specification 7) – TMCH Sunrise Period
Article 2.14	Registry Code of Conduct (Specification 9)

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 RA, which may consist of multiple requirements and test steps. Therefore, a registry may have multiple findings in a single 'Test Area.'

COMMUNITY REPRESENTATION

The 28 gTLDs represented Registry Operators from 14 countries and provided documents in eight (8) languages:

Representative Countries	
Australia	Austria
The Cayman Islands	China
Denmark	India
Italy	Japan
Mauritius	The Russian Federation
Spain	Turkey
The United Kingdom of Great Britain and Northern Ireland	The United States of America

Representative Languages	
Mandarin Chinese	English
French	German
Japanese	Russian
Spanish	Turkish

5 Audit Program Key Results

During the Audit Phase, compliance with the RA provisions was tested using auditees' responses, documentation received and the registries' websites. The graph below represents the test areas with the most deficiencies.

DNS Security Threats: ICANN Contractual Compliance updated the registry and registrar audit plans with expanded questions and testing to address contracted parties' compliance with obligations related to the handling of DNS security threats. The updated steps for this audit round included selecting a sample of abusive domains per publicly available Reputation Block Lists (RBLs) and inquiring whether the registry had received an abuse report for the sampled domains.

In cases in which the registry had received an abuse report, ICANN Compliance requested and reviewed records retained by the registry relating to actions taken.

ICANN observed examples of good practices in this area by many of the audited registries. They demonstrated actions taken in addressing abusive domain reports, including contacting the sponsoring registrar to investigate the reported domain and suspending the domain name in case of an abuse validation.

Key Audit Issues and Potential Impact Analysis:

Test Area / Specification	Finding Identified	Number of Registries with the Confirmed Findings (%)	Potential Risk / Impact
Specification 3	Domain count mismatch between data reported to ICANN and data escrowed with Data Escrow Agents	2 Registries (7%)	Registries are not accurately reporting domain registrations to ICANN or are not correctly escrowing data.
Specification 3	Registration Data Directory Services (RRDS) registration data and registration data reported to ICANN varies from escrowed registration data	2 Registries (7%)	Registries are not accurately escrowing data.
Specification 4	RDDS educational materials not found on registry webpage	11 Registries (39%)	Public and potential customers might be unaware of the use and importance of accurate WHOIS information
Specification 4	RDDS does not return nameserver results	1 Registry (4%)	Processing, maintaining and displaying of domain level information, as well as any non-domain specific requirements, are required and vital for consumers of the generic top-level domain (gTLD).
Specification 5	Reserved names are improperly registered	6 Registries (21%)	Violation of third-parties' rights to domains indicated in Specification 5.
Specification 6	Internet Assigned Numbers Authority (IANA) Internationalized Domain Names (IDN) Table and Exhibit A mismatch	5 Registries (18%)	Misinforms potential customers of the options they have when registering domain names. In addition, tables that are not in Exhibit A have not been vetted for security and stability issues by ICANN.

Test Area / Specification	Finding Identified	Number of Registries with the Confirmed Findings (%)	Potential Risk / Impact
Specification 6	Domain Name System Security Extensions (DNSSEC) Practice Statement not found on the registry webpage	12 Registries (43%)	Publication of DNSSEC Practice Statement (DPS) is important for informing and educating the public and potential customers of information related to the registry's operations.
Specification 6	Abuse contact email is not responsive to ICANN's testing	8 Registries (29%)	May result in Internet users' inability to contact the gTLD registry with abuse comments or complaints.
Specification 7	Registry-Registrar Agreements (RRA) that are missing Uniform Rapid Suspension (URS) clauses	7 Registries (25%)	Registrar may be operating in a manner inconsistent with the URS requirements associated with a TLD.
Specification 11	Registry has not implemented Additional Public Interest Commitments (APICS)	1 Registry (4%)	Reduces access to options that further augment the security and stability of the TLD.
Specification 11	Registry does not perform a sufficient technical analysis	3 Registries (11%)	A number of security threats sources remain unidentified and not acted upon.
Specification 11	RRA missing the Required Clause	2 Registries (7%)	Removes the contractual basis for terminating a domain name registration, which is operating in an abusive manner.
Category 1 Safeguards	RRA Missing Required Cat. 1 Clauses	1 Registry (4%)	Registrar may be operating in a manner inconsistent with the Category 1 Safeguards associated with a TLD.

6 Audit Program Key Recommendations

In an effort to continuously improve the audit program, Contractual Compliance has identified key recommendations which, if implemented, may help to make future audits more effective and efficient. Below are the recommendations.

Request for Information (RFI) Phase

- Registries should communicate questions regarding acceptable documentation or unique processes/procedures as they arise to avoid delays in completing the audit.

- To ensure reliability of communications between contracted parties and ICANN, Compliance intends to conduct communications via the Naming Services portal ("NSp") in future audit rounds.
- Registries should provide detailed explanations in their RFI if the documents requested are not available and provide rationale as to why the failure to produce the requested documents is consistent with their contractual obligations.

Remediation Phase

- Registries should review their ICANN audit report immediately upon receipt and seek clarification if they do not understand any of the findings.
- 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 Remediation Phase timeframe, registries should provide ICANN with a specific action plan that includes the estimated time for completion.

7   Conclusion

Three (3) of the 28 registries (11%) received an audit report with no initial findings. Ten (10) of the 28 registries (36%) 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. Resolving an initial finding includes either a) providing additional information or documentation that proved the initial finding not a valid finding or b) verifying that the finding was valid and performed a sufficient action to address and remediate the finding. The remaining 15 of the 28 Registries (54%) completed the audit with deficiencies noted as they were unable to fully resolve their initial findings prior to the completion of the audit. These registries did not "fail" the audit as they provided ICANN with a specific remediation plan, which includes the estimated time for completion and are in the process of implementing necessary changes to prevent the instances of non-compliance from recurring in the future. ICANN will confirm that remediation plans have been implemented and update progress in the CEO monthly reports.

See below for a chart containing the findings that are still under remediation following the closure of the audit, including the estimated date for completion.

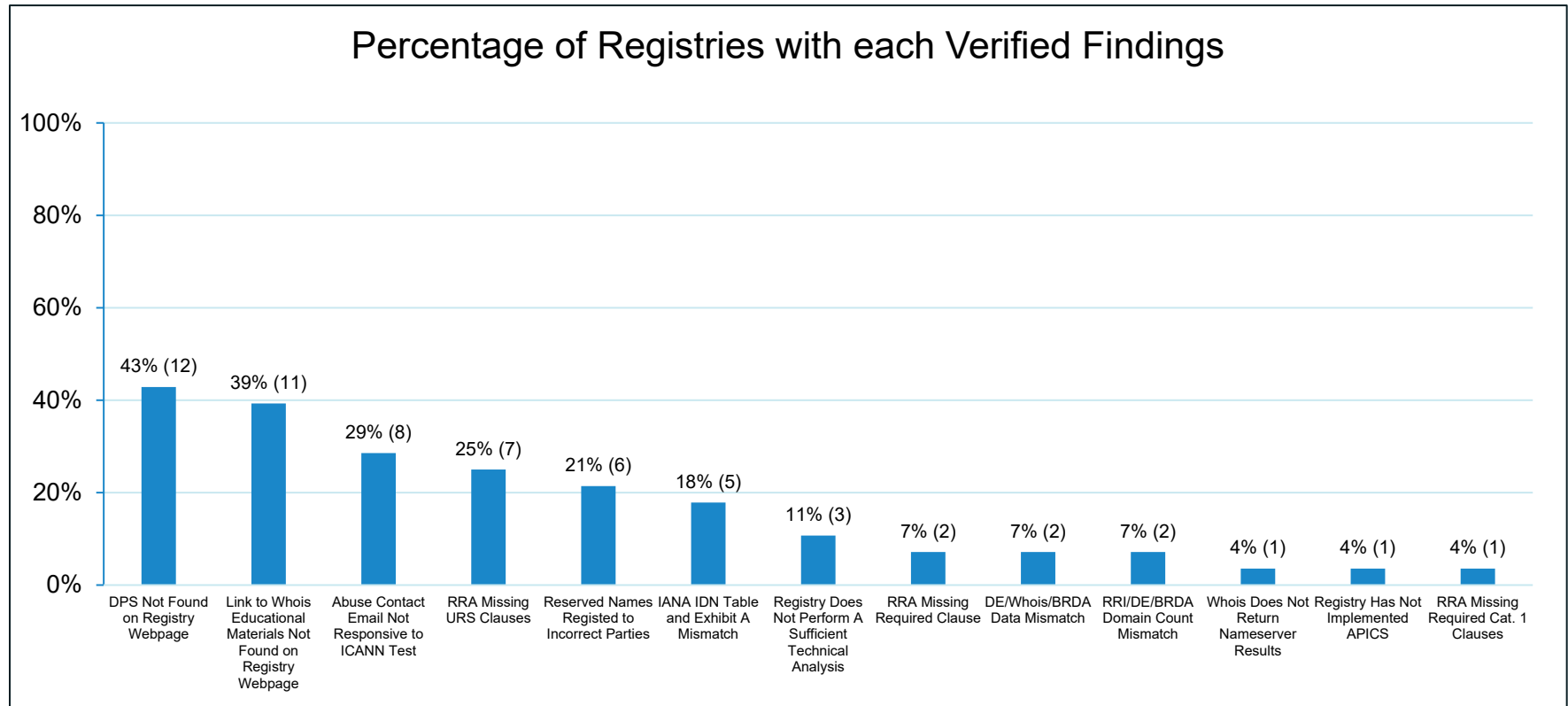| Outstanding Finding	Number of Registries	Estimated Date of Completion (# of Registries)
Review and update the current Registry-Registrar Interface (RRI), Data Escrow (DE) uploader and Bulk Registration Data Access (BRDA) mechanisms to ensure that domain counts match across all reporting sources.	2 Registries	September 2022 (1) November 2022 for (1)

Implementing a sufficient security threats technical analysis	3 Registries	October 2022 (1) November 2022 (2)
Updating RRA to contain Spec. 11 required clause	1 Registry	31 October 2022 (1)
Updating the RA and/or IANA.org Table to match languages and scripts	5 Registries	30 September 2022 (5)
Updating RRA to contain Category 1 required clause	1 Registry	30 September 2022 (1)
Deleting inappropriately registered names that should be reserved	2 Registries	01 November 2022 (2)
Updating the RRA to contain URS required clause(s)	5 Registries	15 August 2022 (1) 30 September 2022 (3) March 2023 (1)
Updating the registry webpage to contain link to ICANN Whois educational page.	1 Registry	15 August 2022 (1)
Updating the registry webpage to contain link to DPS.	1 Registry	15 August 2022 (1)

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

Delegated String (gTLD)			
Africa	App	Art	Bar
Best	Blog	Buzz	Cat
Cloud	Club	Com	Coop
Gift	Icu	Ink	Istanbul
Moe	One	Ooo	Org
Ren	Ryukyu	Tel	Tirol
Xin	我爱你 (Xn--6qq986b3xl)	닷컴 (Xn--mk1bu44c)	Рус (Xn--p1acf)

Appendix B – Percentage of Registries with Verified Findings

The following table shows the number and percentage of audited registries with each verified finding identified during the audit.

Percentage of Registries with each Verified Findings

Finding	Percentage (Count)
DPS Not Found on Registry Webpage	43% (12)
Link to Whois Educational Materials Not Found on Registry Webpage	39% (11)
Abuse Contact Email Not Responsive to ICANN Test	29% (8)
RRA Missing URS Clauses	25% (7)
Reserved Names Registed to Incorrect Parties	21% (6)
IANA IDN Table and Exhibit A Mismatch	18% (5)
Registry Does Not Perform A Sufficient Technical Analysis	11% (3)
RRA Missing Required Clause	7% (2)
DE/Whois/BRDA Data Mismatch	7% (2)
RRI/DE/BRDA Domain Count Mismatch	7% (2)
Whois Does Not Return Nameserver Results	4% (1)
Registry Has Not Implemented APICS	4% (1)
RRA Missing Required Cat. 1 Clauses	4% (1)

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