Contractual Compliance Report

For the Period of 1 – 31 July 2022

Jamie Hedlund, Senior Vice President,
Contractual Compliance and U.S. Government Engagement

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KEY HIGHLIGHTS FOR JULY 2022

- Worked with auditees on initial findings resulting from the analysis of their responses and data from certain Data Escrow Agents (DEAs) and the Trademark Clearinghouse (TMCH) during the Registry Operators Audit.
- Received 947new complaints and forwarded more than 453 notifications to CPs during investigations into compliance with numerous requirements across ICANN policies and agreements.
- Provided additional input, including enforcement and enforceability, regarding certain recommendations contained in the Initial Report on the Transfer Policy Review Policy Development Process – Phase 1(a).
- Completed the review of the Annual Registry Code of Conduct Certifications per Specification 9 and Specification 13 of the Registry Agreement. This is the first year the Compliance team worked closely with the Global Delivery Services (GDS) team to perform upfront checks of the submitted certificates. Following this, GDS highlighted the missing certificates the Compliance team needed to follow up on.
  - There were 35 top-level domains (TLDs), which necessitated the Contractual Compliance team to obtain the required certifications. After a follow-up, all required certifications were provided.

OVERVIEW OF ACTIVITY

Audit Program
In July, the Audit team sent individual audit reports with initial findings, which require action on the auditees' part. By the end July the audit team had issued several "clean" final audit reports to auditees who were able to address all issues listed in initial audit reports. The Compliance team is following up with the rest of auditees, who have been mostly cooperating though frequently slow in responding.

Contractual Compliance Enforcement
All notices can be found here.

Notice of Breach
During July 2022, ICANN did not issue any new Notices of Breach. The Contractual Compliance team continued to review and follow up, as appropriate, on communications with the relevant contracted parties (CPs) pertaining to Notices of Breach issued in prior months.

Additionally, during this period, ICANN Contractual Compliance conducted in depth reviews and produced the necessary documents for two new Notices of Breach. These Notices were ultimately not issued, however, as the CPs cured the non-compliance immediately prior to the deadline to cure. Specifically, two cases combined in one single Breach Notice related to the Uniform Domain Name Dispute Resolution Policy (UDRP), UDRP Rules obligations and numerous cases combined in one single Breach Notice related to providing access to zone file data under Specification 4 of the Registry Agreement. The preparation of a Notice of Breach generally entails – in addition to addressing the obligations related to the case(s) at hand – an overall contractual compliance "health check" of the relevant CP. This includes reviewing the display of mandatory information on the CP's website and within the registration agreement, where applicable, the WHOIS services and format and data escrow obligations. In addition to curing the violations to avert a Notice of Breach, the relevant CPs continue to work with the Contractual Compliance team on subsequent steps including implementation of preventive measures to ensure compliance with the relevant obligations moving forward.

Notices of Suspension/Terminations

During July 2022, ICANN did not issue any new Notices of Suspension or Termination. The Contractual Compliance team continued completing reviews and follow-ups related to the 21 June 2022 Notice of Suspension sent to the registrar Intracom Middle East FZE, which became effective on 6 July 2022. The suspension period will conclude on 4 October 2022, if the registrar becomes compliant on or before 13 September 2022. During the suspension period, the registrar will not be able to create new registrations or initiate inbound transfers of gTLD domain names. Additionally, the registrar may be subject to escalated compliance action (including termination of the registrar's Registrar Accreditation Agreement (RAA)), if ICANN receives additional information demonstrating that Intracom is continuing to violate the RAA or Consensus Policies, during or after the suspension period ends.

Enforcement Notices Escalated to the ICANN Legal Team (mediation)

No escalations were received by the ICANN Legal team.

Compliance Matters Related to Registrars and Registry Operators

In July, Contractual Compliance received 947 new complaints (854 against registrars, and 93 against registry operators) and sent 453 inquiries and notices (collectively referred to as "compliance notifications") to CPs. This number (453) refers to the first, second and third compliance notifications and does not account for notifications sent to request clarification or additional evidence following a CP's response.

Most of the notifications sent to registrars addressed obligations related to abuse, registration data inaccuracy and transfers. Most notifications sent to registry operators addressed obligations related to zone file access, registry data escrow and monthly reports. During the month of July, the Contractual Compliance team closed 1,122 complaints without contacting the CP.

Examples of complaints closed without contacting the CP include instances in which the complainant:
- Did not respond to ICANN Contractual Compliance's request for evidence
- Complained about a domain registered in a country code top-level domain (ccTLD)
- Submitted a duplicate complaint either before resolution of the original complaint or about an issue that was already resolved at the time the complaint was reviewed (e.g., the domain is subject to a pending WHOIS inaccuracy complaint)

In all the cases, the Compliance team educated complainants on ICANN's authority and provided alternatives where appropriate.

Compliance Monthly Dashboard and Trend Reporting
- The July 2022 Dashboard is available here: Contractual Compliance 2022 Monthly Dashboards.
- The New Trend Reporting is available here: Contractual Compliance Twelve-Month Trends Reporting.

Enforcement of the Temporary Specification for gTLD Registration Data via the Interim Registration Data Policy

In July, the Contractual Compliance team continued to process Temporary Specification-related compliance inquiries. The team initiated one new inquiry concerning reasonable access to

Nonpublic Registration Data (Section 4.1, Appendix A) and one new inquiry concerning display of Registration Data in the Registration Data Directory Services (Section 2-3, Appendix A). The team also continued addressing previously submitted cases currently under remediation or pending further responses and collaborations. It also continued educating complainants on Temporary Specification requirements for out-of-scope or invalid complaints (e.g., where complainants believe registration data redacted per the Temporary Specification is "missing" from the public WHOIS, privacy, or proxy service data are redactions, or that all non-European data should be displayed, etc.).

In July, the Contractual Compliance team continued:
- Providing contractual compliance input for implementation of the General Data Protection Regulation (GDPR) and the Expedited Policy Development Process (EPDP) Phase 1 recommendations, specifically concerning policy language and enforcement
- Attending Board Caucus calls concerning EPDP and GDPR/Data Protection and Privacy
- Providing metrics related to complaints about alleged violations of the Temporary Specification and compliance notices or inquiries sent and closed during the month

In addition, Contractual Compliance:
- Participated in a cross-functional alignment meeting regarding charging fees related to processing requests for access to Nonpublic Registration Data
- Prepared a draft Advisory to inform the community that some registrars have begun charging fees to process third-party requests for access and identify the issues raised by this practice under current ICANN contract requirements and pending and proposed policy recommendations

Registration Data Access Protocol (RDAP) Implementation
In July, the Contractual Compliance team:
- Continued processing service-related compliance notifications for the Registration Data Access Protocol (RDAP).
- From October 2019 to July 2022, continued to process notifications with respect to the implementation of the RDAP service and registration of base Uniform Resource Locators (URLs). Current information indicates that two top-level domains (TLDs) and 111 registrars have not yet uploaded their URL to the Naming Services portal (NSp) or registered their URL with the Internet Assigned Numbers Authority (IANA).
- The Contractual Compliance team continues to collaborate with the CPs that have not yet implemented RDAP, and those that have presented remediation measures to become compliant. These CPs are requested to provide regular updates to their open compliance tickets regarding their progress towards remediation.
- To date, the Contractual Compliance team has received no third-party complaints concerning RDAP. There has been no indication that any registrars or registry operators have ceased to operate WHOIS services.

Policy and Working Group Efforts
The Contractual Compliance team worked with the Global Domains and Strategy (GDS) team on assessing the multiple recommendations produced by review teams. The following activities took place:
- Provided input regarding metrics used for the Domain Name Marketplace Indicators initiative
- Continued providing contractual compliance input for implementation of the EPDP on the Temporary Specification for gTLD Registration Data Phase 1 recommendations

- As part of the public comment process, Compliance provided additional inputs, including enforcement and enforceability, regarding the working group's (WG) preliminary recommendations contained in the Initial Report on the Transfer Policy Review – Phase 1(a).
  - Specifically, Compliance provided further inputs and rationales concerning additional elements required to be included in the "Notification of TAC Provision" and "Notification of Transfer Completion" (Recommendations 3 and 4) and the definition of "Designated representative" (Recommendation 6 and Footnote 14).
  - Compliance also recommended that the policy should include requirements related to the maintenance and provision to ICANN (upon reasonable notice) of records related to when/how/to whom the Transfer Authorization Code (TAC) was provided, regardless of the means the registrar chose to provide the TAC (WG's Response to Charter Question A8).

Worked with GDS on implementation efforts for CCT Recommendation 21 item 2, which calls for publication of the TLD subject to abuse in complaints received by Compliance. While ICANN org already collects the data requested in item 2 of the recommendation, the release of data regarding TLDs subject to abuse cannot be executed without an explicit agreement and consent from registry operators and the Registries Stakeholder Group to publish gTLDs subject to abuse.

Registry Compliance Checks
There were no new registry compliance checks for July 2022.

Outreach
There was no new outreach activity for July 2022.

To learn more about ICANN's Contractual Compliance work, please visit:
https://www.icann.org/resources/pages/compliance-2012-02-25-en

Notices:
https://www.icann.org/compliance/notices

Reports:
https://www.icann.org/resources/pages/compliance-reports-2021

Performance Measurement Dashboard:
https://features.icann.org/compliance/dashboard/report-list

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