



**ICANN** NO. 51 | 12-16 OCTOBER 2014  
LOS ANGELES

#ICANN51

Contractual Compliance

# Registry Stakeholder Group

Tuesday, October 14, 2014

#ICANN51



# Update since ICANN 50

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- General Guidelines and Clarification
- Proactive Review, also known as Monitoring of:
  - Abuse Contact Data
  - Public Interest Commitments
  - Rights Protection Mechanisms and
  - Name-Collision Occurrence Assessment
- Audit Update

# General Guidelines and Clarification

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## (Response to RySG Question #2)

- Inquiries are sent when 1) Information gathering is required; 2) there is no known compliance violation; and/or 3) Proactive compliance monitoring effort. Non-response to inquiry can result in a notice.
- Audit: ICANN will give advance notice of audit similar to the Three-Year Audit Program and New Registry Agreement Audit; Audit focuses on **past** performance; date driven.
- Observation: Will not require Registry Operators to take any immediate action on this matter. Observation in the Audit Report is informational and to point out opportunities.

# Monitoring of Publication of Abuse Contact Data

## (Response to RySG Question #1)

ICANN is monitoring that Registry Operators are publishing on their websites :

- Email address
  - Mailing address
  - Primary contact to manage abuse reports
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- Please notify ICANN of repeat offenders or abuse of operational procedures.

# Monitoring of Publication of Abuse Contact Data

## (Response to RySG Question #1)

- Preliminary Statistical Update – over 50% of TLDs were either missing the mailing address or the primary contact.
  - Sent 83 notices to Registry Operators;
  - Notices were grouped by “family” or “portfolio”
  - Impact is to 100% of TLDs in General Availability as of 1 October 2014
  - 35 notices in progress
  - 48 notices are resolved (closed)

# Public Interests Commitments

## Specification 11

- Launched the monitoring effort to proactively enforce the PIC requirements and address some of the GAC and community concerns *such as:*
  - a) *Proactive check of security threats by registries while a framework is being developed with RySG input*
  - b) *Whois Audits*
- Inquiries sent to 100% of gTLDs (by family/portfolio, as applicable) in General Availability phase up to 1 Oct 2014 (over 200 TLDs impacted)
- Results pending evaluation

Note: Project details are at this link:

<https://features.icann.org/plan/project/532212e2002da01f4c379f077c1604e0>

# Monitoring of PIC – Mandatory Provisions

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ICANN is monitoring that Registry Operators are:

- Only using 2013 RAA Registrars (Section 1)
- Including the mandatory provisions in the RRA (Section 3a)
- Maintaining statistical reports on security threats detected and actions taken based on security threats detected (Section 3b)
- Publishing registration policies (Section 3c)
- Not imposing restrictive eligibility criteria (Section 3d)



# Monitoring of PIC – Voluntary Provisions

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- Not all Registry Operators have voluntary commitments
- Some of the voluntary commitments being monitored are:
  - Performing Whois Audits and taking Remediation steps
  - Excluding Registrars with a history of non-compliance
  - Establishing a pathway to collaborate with governments and industry, self-regulatory bodies on abuse reports
  - Limiting domain name proxy and privacy services only to registrars that enforce the accuracy of registrant data and collaborate with law enforcement groups

# Public Interests Commitments

## (Response to RySG Question #2)

- Mandatory and Voluntary PICs are contractual obligations, subject to monitoring and enforcement efforts.
- ICANN is assessing readiness and compliance via inquiries
- Statistical reports required to be provided to ICANN on:
  - Security threats identified
  - Actions taken as a result of periodic security checks

Note: PICDRP panel is constituted and on boarded

<http://newgtlds.icann.org/en/announcements-and-media/announcement-17sep14-en>

# PICs Monitoring Preliminary Results as of 12 October 2014

## General Statistical Information:

- Over 200 TLDs
- Excludes the 14 TLDs in the New Registry Agreement Audit
- Responses to inquiries = over 80% of TLD
- Pending additional data = approximately 25% TLDs

# Monitoring of Rights Protection Mechanisms

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## Specification 7

ICANN is monitoring that Registry Operators are:

- Timely delivering the List Of Registered DN files to TM Data Base
- Publishing the Registration Policies on TLD's website
- Abiding by prohibition of Allocating domain names, before Sunrise registrations unless per Specification 5, Section 3.2

### Preliminary Results:

81% are publishing the registration policy as of 9 October 2014

# Monitoring of Implementation of the Name Collision Occurrence Assessment

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ICANN is monitoring Registry Operators are in compliance with:

- 4 August 2014 Name Collision Occurrence Assessment
- 12 September 2014 SLD CI Variations Letter as applicable
- The types of TLDs being monitored are:
  - gTLDs delegated on or after 18 Aug 2014
  - gTLDs delegated before 18 Aug 2014 and names activated other than nic.tld
  - gTLDs delegated on or after 18 Aug 2014 and no names activated, other than .nic

# RySG Questions 4 and 5 – Outreach Events

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The following questions refer to the Compliance session slides used at 2014 Registry Roadshow in LA and Tokyo:

**RySG Question #4:** Slide # 6 Please clarify Jones Day's role in this regard and in any other ICANN Compliance activities?

Answer #4: Jones Day helps supports the GDD review of Sunrise Policies received from Registries as part of the TLD Start Up information.

**RySG Question #5:** The process under “FORMAL RESOLUTION” in slide #7 contradicts with that provided in the new gTLD Registry Agreement. Will ICANN Compliance update the slide?

Answer #5: Completed

# RySG Questions 6 and 7 – Outreach Events

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Slide #9 legend includes: #registries per region; # registries w/ Complaints; % registries with complaints per region

**RySG Question #6A:** Please clarify how a registry's region is designated.

Answer #6A – Based on Registry's information provided to ICANN on the primary business location

**RySG Question #6B:** Please provide the number of complaints filed by third parties and the number of complaints generated by ICANN or ICANN's contractors.

Answer #6B – ICANN does not distinguish between types of reporters

**RySG Question #7:** Obligations upon Signing and Delegation...

Answer #7: Slide 15 reflects obligations upon Delegation (not upon registration of domain names).

# New Registry Agreement Audit Update

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- Sent Request for Information on 15 July to 14 TLDs and their respective DEAs
- Completed data and documentation collection phase in August
- Received approximately 877 Documents
- Completed Audit Phase mid September
- Issued Initial Audit reports to Registries on 22 September
- Remediation stage is in progress through October



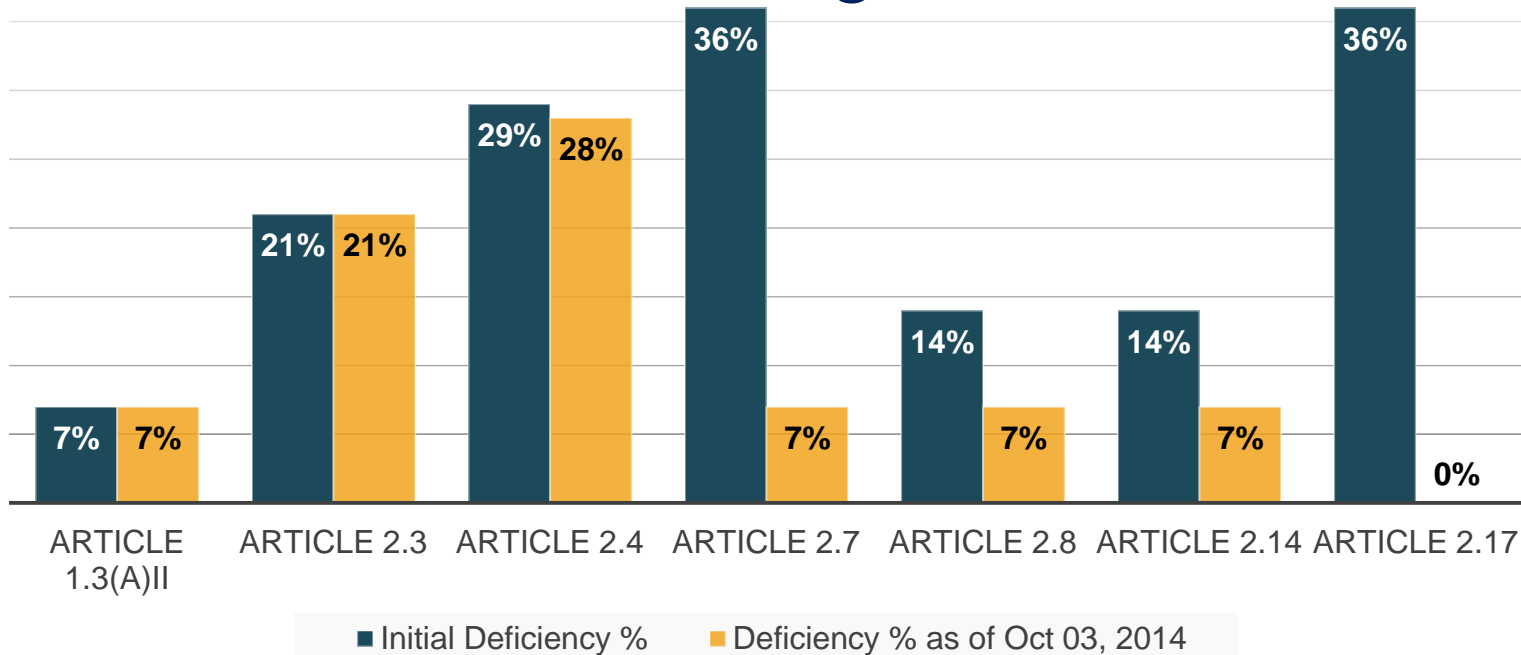
# New Registry Agreement Audit Update

## Initial deficiency noted

Article	Number of gTLDs Deficient	Percentage
Article 1.3 (a) ii - Representations & Warranties; inability to provide updated requested documentation	1	7%
Article 2.3 - Data Escrow deposit (Specification 2); discrepancies in Data Escrow file	3	21%
Article 2.4 - Monthly Reporting (Specification 3); discrepancies in number of registered domains reported to ICANN	4	29%
Article 2.7 - Registry Interoperability and Continuity (Specification 6); BCP is not available and/or periodic testing is not performed	5	36%
Article 2.8 - Protection of Legal Rights of Third Parties (Specification 7) – TMCH Claims Period; improper domain registrations	2	14%
Article 2.14 - Registry Code of Conduct (Specification 9 – Parts A, B, D); self-registrations	2	14%
Article 2.17 - Additional Public Interest Commitments (Specification 11); no evidence of Technical Analysis being developed	5	36%

# New Registry Agreement Audit Update

## Remediation Phase Progress



### Legend

Article 1.3 (a) ii - Representations & Warranties; inability to provide updated requested documentation

Article 2.3 - Data Escrow deposit (Specification 2); discrepancies in Data Escrow file

Article 2.4 - Monthly Reporting (Specification 3); discrepancies in number of registered domains reported to ICANN

Article 2.7 - Registry Interoperability and Continuity (Specification 6); BCP is not available and/or periodic testing is not performed

Article 2.8 - Protection of Legal Rights of Third Parties (Specification 7) – TMCH Claims Period; improper domain registrations

# Questions & Answers

Please send general questions:

To: [Compliance@icann.org](mailto:Compliance@icann.org)

Subject line: **ICANN51 RySG Session**

**Please join us on:**

Wednesday 15 October 2014

Contractual Compliance Program Update Session

8:30 – 9:45 - Location: Westwood

Thursday 16 October 2014

Contractual Compliance Registry Outreach Session

10:00 – 11:15– Location: Olympic

# RySG Question 1

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## Specification 6, Section 4.1 of the RA (registry abuse contact)

ICANN seems to be vigorously enforcing the requirement of posting abuse contact on registry's website.

- Is it possible to add safeguards to complaints/abuse handling procedures to avoid unnecessary re-creation of dismissed cases over and over again?

# RySG Question 2

## Specification 11, Section 3b of the RA (monitoring of security threats)

It appears that ICANN sent a total of 253 “PIC-DRP complaints” to registries in August and September 2014

<https://features.icann.org/compliance/prevention-stats>. ICANN claims these are “inquiries”, not an audit.

- How does ICANN distinguish audit vs. inquiry?
- The scope of the inquiry is much broader than that in the audit. What is the rationale for the different scopes?
- What are the criteria based on which ICANN determines whether a registry operator is compliant with their contractual obligations in response to the audit and inquiry respectively:

# RySG Question 3

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This audit scope is limited to representations and warranties contained in Article 1 and covenants contained in Article 2 of the RA. We note that during the recent Audit, ICANN Compliance conducted tests to assess compliance with requirements not contained in the RA and noted failures to meet these requirements as ‘observations’.

- a) What provision in the RA allows ICANN Compliance to conduct tests to assess compliance with requirements not contained in the RA?
- b) What are the criteria for noting an ‘observation’ in the Audit Report?

# RySG Questions 4 and 5

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The following questions refer to the Compliance session slides used at 2014 Registry Roadshow in LA and Tokyo:

Q#4: Slide # 6 says “Sunrise Policies aligned with RPMs (Jones Day)” – Please clarify Jones Day’s role in this regard and in any other ICANN Compliance activities?

Q #5: The process under “FORMAL RESOLUTION” in slide #7 contradicts with that provided in the new gTLD Registry Agreement. Will ICANN Compliance update the slide?

# RySG Questions 6 and 7

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**Question #6:** Slide #9 legend includes: #registries per region; # registries w/ Complaints; % registries with complaints per region.

**a)** Please clarify how a registry's region is designated (for example, place of incorporation or principal place of business, etc.).

**b)** Please provide the number of complaints filed by third parties and the number of complaints generated by ICANN or ICANN's contractors.

**Question #7:** Slides #14 & 15 provide "Selected Obligations Due Upon Signing of Registry". But slide #31 of [Contractual Compliance Update](#) (during Singapore meeting) says: "Registries must comply with their contractual obligations under the Registry Agreement upon delegation". These seem contradictory. Please clarify.