

Contractual Compliance January 2017 Round New gTLD Registry Audit Report

<https://www.icann.org/resources/pages/compliance-reports-2017>

Contractual Compliance
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1 Background

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

Goal of the Audit Program:

To allow ICANN to identify, inform, manage, and help remediate any deficiencies found with the contracted parties. The deficiencies identified would relate to specific provisions and/or obligations as set out by the Registrar Accreditation Agreement and the New gTLD Registry Agreement ("Registry Agreement"). The ICANN consensus policies are incorporated into those agreements, as applicable. This ensures that proper controls exist to mitigate future deficiencies related to the obligations in the Registrar Accreditation Agreement and the Registry Agreement.¹

2 Executive Summary

On 9 January 2017, ICANN launched an audit round to test and validate the selected New gTLD Registry Operators ("Registries") compliance with the terms of the Registry Agreement and ICANN temporary and consensus policies. This report constitutes the results of the audit that took place from January 2017 through July 2017.

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

Twenty-one registries were selected for this audit round. The selection was based on the following criteria. Registries:

- ⦿ That were not previously audited
- ⦿ Who are serviced by back-end service providers
- ⦿ With gTLDs that are subject to the Category 1 Safeguards (<https://newgtlds.icann.org/en/applicants/gac-advice/cat1-safeguards>)

During the audit phase, ICANN reviewed over 950 documents collected in three different languages and received from nine countries. The 21 registries were issued initial audit reports with initial findings.

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

ICANN issued final audit reports to all 21 registries by 8 August 2017.

Fourteen registries addressed (by either providing additional information or remediating) all audit findings. The remaining seven registries received reports with audit findings that are still being remediated to be in compliant with Registry Agreements. These registries will be retested in a future audit round to verify the effectiveness of the remediation measures implemented.

¹ This update is provided for information purposes only. Do not rely on the information contained in this update to make conclusions or business decisions

3 Audit Program Scope

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

In an effort to increase transparency regarding the Audit Program, ICANN conducted outreach sessions. In addition, the audit plan, scope, notifications, and the risk mitigation plan are published on ICANN's Contractual Compliance Audit page at: <http://www.icann.org/en/resources/compliance/audits>

TIMELINE

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

1. **Pre-Audit Notification Phase** – Issue² a general audit announcement to notify all contracted parties two weeks prior to the audit.
2. **Request for Information (RFI) Phase** – Issue a notice of audit to the selected contracted parties. In addition, a email is sent to those not selected to inform them that they are not included in the current audit round.
3. **Audit Phase** – Review responses and, where applicable, test and validate.
4. **Initial Report Phase** – Issue confidential initial audit reports containing initial findings to the auditees.
5. **Remediation Phase** – Collaborate with the auditees to remediate initial findings discovered during the Audit Phase.
6. **Final Report Phase** - Issue confidential final audit reports to auditees. Consolidated audit round report is issued and published at: <https://www.icann.org/resources/pages/compliance-reports-2017>.

The following table summarizes the Audit Program milestones and the dates for this audit round:

Audit Program Milestone Dates							
Pre-Audit Notification	Request for Information (RFI) Phase			Audit Phase	Initial Report Phase	Remediation Phase	Final Report Phase
Sent to all Registries	Sent to auditees	Sent to non-responsive and partially responsive auditees	Sent to non-responsive and partially responsive auditees	Documentation and responses are reviewed	Confidential individual audit reports with initial findings noted are sent to auditees	Auditees address findings noted in audit reports	Confidential individual audit reports are sent to auditees
	1st Notice	2nd Notice	3rd Notice	Start/End	Date Issued	Start/End	Consolidated audit round report issued and published
09 Jan 2017	23 Jan 2017	13 Feb 2017	20 Feb 2017	27 Feb – 23 May 2017	24 May 2017	24 May – 31 July 2017	08 Aug 2017

² General audit announcement is discontinued as of 1 August 2017. ICANN sends audit notifications to contracted parties selected for an audit round.

4 Audit Program Testing Approach

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

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

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

Each auditee received a confidential individual audit report noting any initial findings identified in the audit as well as a first notice to participate in the remediation process in accordance with the 15-5-5 day process. (<http://www.icann.org/en/resources/compliance/approach-processes/overall-19jun13-en.pdf>).

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

Registries selected for the audit	21
Registries addressed all audit findings	14
Registries currently implementing remediation of audit findings	7

COMMUNITY REPRESENTATION

The 21 registries selected for this audit round represented nine countries and provided documents in three languages:

Countries

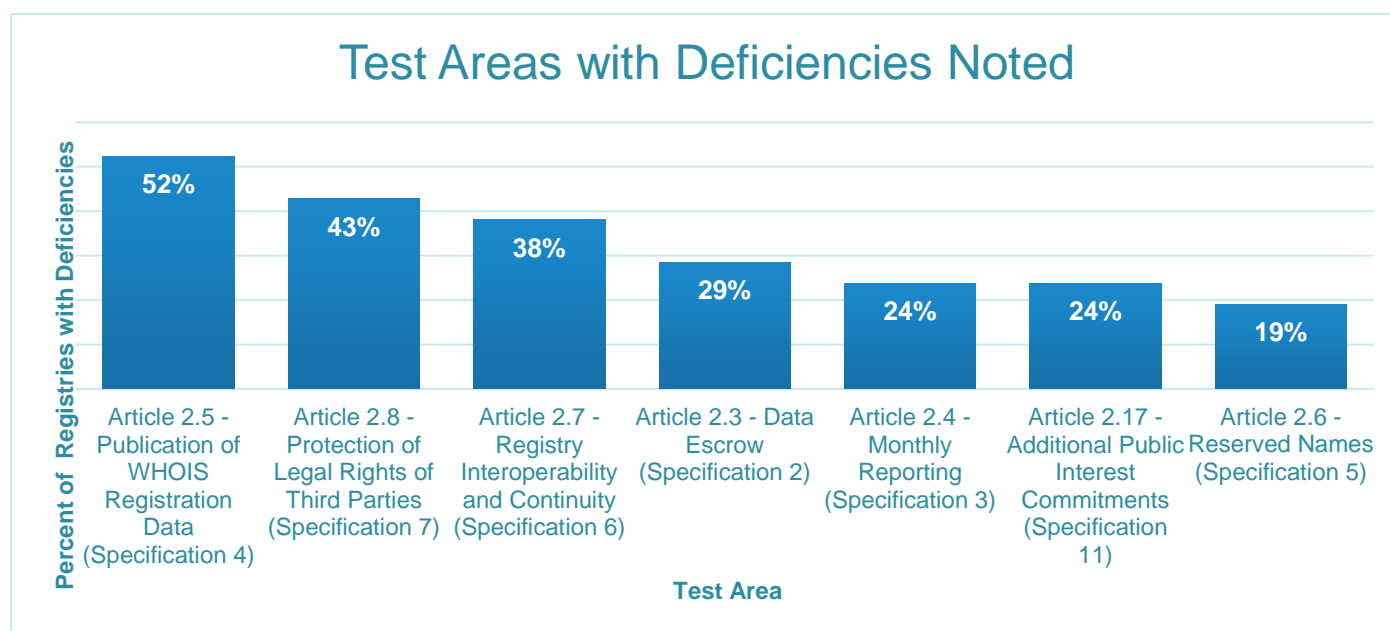
- China
- Ireland
- Japan
- New Zealand
- Taiwan
- Thailand
- United Arab Emirates
- United Kingdom
- United States

Languages

- Chinese
- English
- Japanese

5 Audit Program Key Statistics

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



Key Audit Issues and Potential Impact Analysis

Test Area / Specification	Deficiency Identified	Potential Risk/Impact
Specification 4	Link to ICANN WHOIS information/policy missing from registry's website	Public and potential customers might be unaware of the use and importance of accurate WHOIS information
Specification 7	Registry-Registrar Agreements missing required language	Registry-Registrar Agreements missing required language, specifically regarding Uniform Rapid Suspension (URS) and the consequences of using a website for prohibited and/or illegal activity, opens the community to legal liability for not properly communicating this language
Specification 6	Link to Domain Name System Security Extensions (DNSSEC) Practice Statements (DPS) missing from registry's website	Publication of DPS is an important aspect to informing and educating the public and potential customers of important information in regards to the registry's operations
Specification 2	Data Escrow (DE) and Bulk Registration Data Access (BRDA) files; some mandatory fields missing in the DE and BRDA files	Correct processing and escrowing of registration data is required for data restorability and to protect consumers
Specification 3	Monthly reporting issues; number of domains overreported or underreported	Inaccurate monthly reporting of domain counts may result in incorrect reporting of domain counts to the public and the overpayment or underpayment for domains
Specification 11	Required provision was not found in the Registry-Registrar Agreement. The technical analysis is not conducted on a periodic basis.	Distribution of malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law creates risk to the public. Further, unidentified and unmonitored security threats bear risks to the public.
Specification 5	Names that should be reserved were registered	Violation of third-parties' rights to domains indicated in Specification 5

6 Audit Program Key Recommendations

- a. RFI Phase
 - Registries are encouraged to communicate questions regarding acceptable documentation or unique process/procedures as they arise to avoid delays in the audit process.
 - Registries should respond with explanations of alternative documentation.

- When communicating with ICANN, registries should send emails with “receipt requested” option to ensure all emails are received by ICANN.
 - Registries should provide detailed explanations in their RFI if documents requested are not available and provide evidence to support such explanations.
- b. Audit Phase
- Registries should review their ICANN audit report immediately upon receipt and seek clarification if they do not understand any of the findings.
- c. Remediation Phase
- Registries should respond to the first notice of the Remediation Phase with at least partial information and/or documentation addressing the findings noted in their audit report.
 - If a finding is validated and cannot be remediated within the 15-5-5 day process, registries should provide ICANN with a specific action plan that explains why the finding cannot be remediated in the allotted time. The registry needs to provide the steps intended to correct the finding, and the estimated time to completion.

Appendix – The gTLDs Selected for Round Four of the new gTLD Registry Audit Program

Delegated String (gTLD)		
Army	Bet	Dubai
Family	Feedback	Insurance
Jprs	Kiwi	Moi
Party	Scb	Shopping
Sina	Sucks	Surgery
Top	University	Wtf
Xn—mxtq1m (政府)	Xn—vuq861b (信息)	Xxx

