

<http://www.icann.org/en/resources/compliance>

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I. Highlights of 2012

What a year! Excitement, hard work and passion best describe 2012 for the Contractual Compliance team.

Thank you for the opportunity to provide this service. Our focus and commitment are still strong to earn the ICANN community's trust as we continue to strengthen the Contractual Compliance program, operations and performance measures and improve on community reporting.

2012 Achievements Against Contractual Compliance's Three Year Plan

Contractual Compliance's three-year plan is aligned with ICANN's Four Strategic Focus Areas: (1) DNS Stability and Security; (2) Competition, Consumer Trust & Consumer Choice; (3) Core Operations; and (4) A Healthy Internet Governance Eco-System. Efforts were wide-ranging. We established and implemented a structured organization with an effective and efficient operations model and process. We improved compliance communication and reporting, as well as registrar and registry compliance follow-up and follow-through. We made Whois Improvements and established a law enforcement referral process. Below is a summary of the accomplishments.

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

Budget Increase

The Contractual Compliance budget was increased to US\$6,179,000 in fiscal year 2013, a 60 percent increase over the amount forecasted for the prior year. Additional funds were allocated for hiring new staff, conducting contractual compliance audits and increased overhead expenses.

(in Thousands of US Dollars)

Extract from Adopted Operating Plan and Budget for FY13 found at: http://www.icann.org/en/about/financials/adopted-opplan-budget-fy13-24jun12-en.pdf					
Organizational Activities	FY13 Draft Budget	FY12 Forecast	FY12 Budget	FY13 Budget less FY12 Forecast	
Contractual Compliance	6,179	3,816	4,799	2,363	61.9%

Contractual Compliance Department	FY12 BUDGET	FY13 BUDGET	Year over Year Change	Comments
Contractual Compliance Department budget	\$2,276,930	\$3,619,506	\$1,342,576	Contractual Compliance department operating cost to cover personnel, travel & meetings, professional services and administration. Increase due to additional FTEs, travel and systems improvement projects
Shared resources	\$2,521,884	\$2,559,702	(\$37,818)	Support from other departments: IT, meeting logistics shared costs, Finance & HR admin, etc. As the core team deepened, the support level from other departments was reduced.
Total Functional View of Contractual Compliance Activities	\$4,798,814	\$6,179,208	\$1,380,394	Increase in Personnel to build the core team; Increase in professional services and systems improvements.

For detailed information regarding ICANN’s fiscal year 2013 budget, go to:
<http://www.icann.org/en/about/financials>.

Staff Increase

As of the date of this report, the Contractual Compliance staff is comprised of 13 full time employees and three contract employees. This represents an increase from five full time employees in 2011. Staff members, who routinely resolve compliance matters by communicating with parties in languages other than English, are fluent in seven languages: Arabic, English, French, Hindi, Korean, Spanish and Urdu. For staff information please go to:
<http://www.icann.org/en/resources/compliance/staff>.

Increased Number of Escalated Compliance Notices

In 2012, 23 escalated compliance notices (i.e. notices of breach, suspension and termination) were issued; a 64 percent increase in the number of escalated compliance notices issued in 2011. Escalated compliance action was taken based on a registrar's failure to comply with its contractual obligations. Please refer to Summary of Complaints below for the enforcement activities.

Rollout of Quality Assurance Processes

Standard business approaches and processes were implemented to ensure consistency, accuracy and ability to measure and report to the community about complaint processing. Enhancements were made to the Whois Data Problem Report System (WDPRS) and the General Complaint System (C-Ticket System).

In addition, a feasibility study was conducted to assess and select a complaint management system to replace the current complaint tools while improving on the user experience. The consolidation into one centralized system will improve complaint processing, tracking and overall operational effectiveness and efficiency. Development work began in 2012 and the system is scheduled for implementation in early 2013 with a gradual transition by complaint types.

Monthly Newsletters

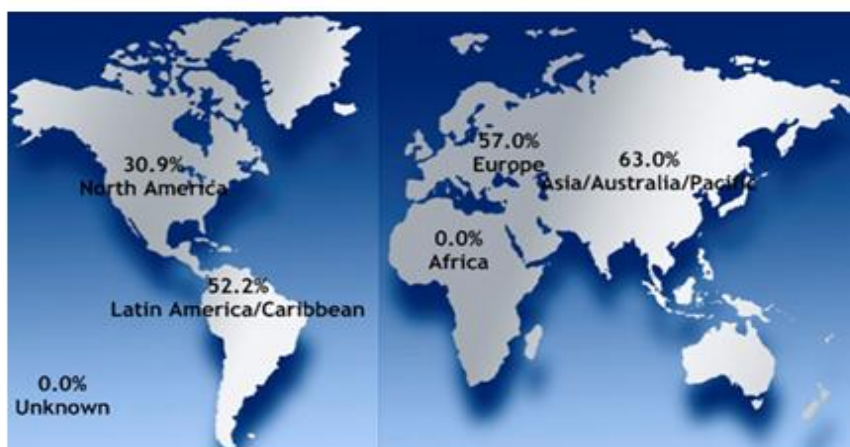
The Contractual Compliance team resumed publishing high level monthly updates to keep the ICANN community informed of Contractual Compliance news and activities. The newsletter can be found at:

<http://www.icann.org/en/resources/compliance/newsletter>

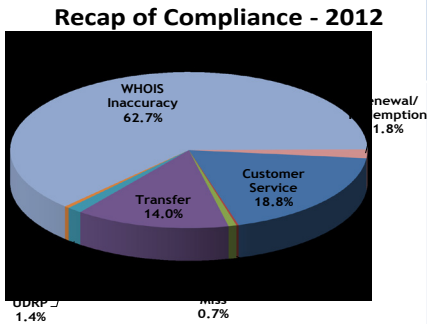
Summary of Complaints

Percent of Registrars with Complaints by region

Jan-Dec 2012



Compliance Performance Results Jan-Dec 2012

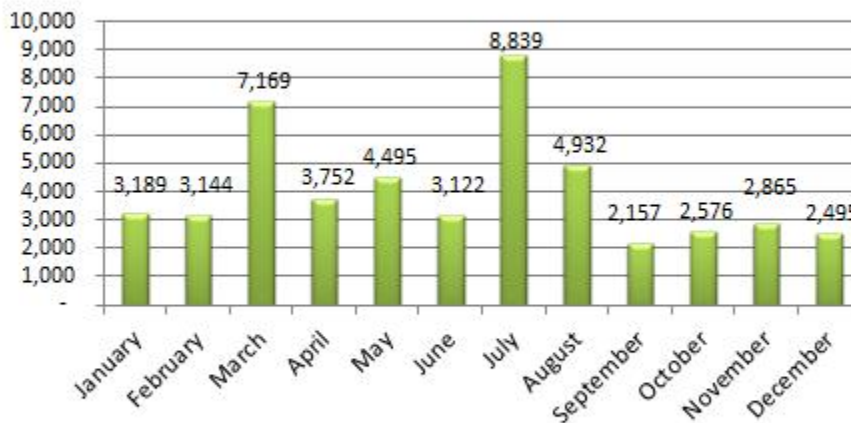


48,711 Complaints
24 Enforcement Actions

Jan - Dec 2012	All Complaints Received by Type	Quantity
Prevention Phase	Customer Service	9,177
	Data Escrow Audit	97
	Data Escrow Miss	351
	Transfer	6,799
	UDRP	658
	Renewal/Redemption	878
	WHOIS Access	216
	WHOIS Inaccuracy	30,535
	Total Complaints	48,711
Enforcement Phase	Breach	20
	Suspension	1
	Terminated/Non-Renewal	3

Whois Inaccuracy led with 62.7 percent, followed by Customer Service at 20.6 percent and Transfer problems at 14 percent. “Customer Service” is comprised of: Website Content, Spam Abuse, Reseller Provider, Registrar Service, Redemption, Ownership Transfer, Name Password, Inquiries, GTLD, Financial Transactions, Domain Renewal, DN Dispute, CPanel and ccTLD.

2012 Complaint Count Trending Jan-Dec 2012



2012 Enforcement Activities Jan-Dec 2012

	0101 Internet, Inc 816,	AB Connect SARL 1378,	Alantren Billnalm Ltd St. 898,	Allcas Registry, Inc. 275,	Asadal, Inc. 632,	Bergin Register, Inc. 1081,	DomainAllias.com, Inc. 709,	eName Technology Co., Ltd 1331,	Infocom Network Ltd. 1484,	InTrust Domains, Inc. 693,	Mat Bao Trading & Service Company	Name For Name, Inc. 1103,	Net-4 India Limited 1007,	Pachames Ltd. 103,	Planet Online Corp. 815,	Server Plan Sri 1460,	Tucows.com Co. 69,	Viseeh Infotechnics Ltd. d/b/a Signdom	Xin Net Technology Corporation 120,	YnotDomains Corp. 924,
Enforcement Notices 2012																				
Communicate contact data changes (RAA 5.11)																				
Escrow registration data (RAA 3.6)																				
Link to ICANN's registrant rights & responsibilities website (RAA 3.15)																				
Maintain registration data (RAA 3.4)																				
Pay accreditation fees (RAA 3.9)																				
Provide AuthInfo code (IRTP 5)																				
Provide communication records (RAA 3.4.3)																				
Provide evidence relied on for transfer (IRTP 4)																				
Provide Registrar Services (RAA 3.1)																				
Provide Whois Services (RAA 3.3.1)																				
Publish contact data (RAA 3.16)																				
Publish deletion, recovery and auto-renewal policies (RAA 3.7.5/5/6)																				
Respond to audits (RAA 3.14)																				
Additional concern-conduct re. UDRP and UDRP Rules																				
Maintain and provide communication records (RAA 3.4.2/3)																				
Additional concern-conduct re. Contractual Compliance audit program																				
Additional concern-failure to respond to UDRP verification requests																				

For up-to-date information, go to:

<http://www.icann.org/en/resources/compliance/notices#notices-2012>

II. 2012 Registrar Contractual Compliance Summary

Improving Whois Inaccuracy Complaints Handling

Application enhancements were completed to the Whois Data Problem Reporting System on 15 September 2012. The enhancements were to:

1. Shorten time to resolution by reducing the notification process steps from five to three, an outcome of aligning with the compliance process.
2. Improve processing quality and effort by reviewing all tickets prior to sending to registrars.
3. Ensure that registrars are timely investigating Whois inaccuracy claims by requiring proof of registrars' investigative efforts for every Whois inaccuracy report filed.
4. Process a backlog of complaints over a short period in a team building focused effort while developing additional staff knowledge in Whois processing.

Inter Registrar Transfer Summary

In 2012, 6799 total complaints were received. Listed below were the most commonly reported issues:

- Registrars not providing the auth-code via their control panel, nor providing it within the IRTP-required five days.

- Registrars not unlocking the domain names nor providing means for the transfer contacts to unlock them themselves.
- Registrars sending the auth-code to a contact different than the Registered Name Holder.
- Resellers requiring registrants to renew their domain names as a condition to processing their transfer requests.

Five registrars received notices of breach due to violations of the IRTF. These breaches were cured.

Summary on Domain Reseller Issues

With over 1000 ICANN-accredited registrars located throughout the world, some provide domain registration services directly to the public and some through reseller(s) or other intermediaries (resellers).

For ICANN-accredited registrars, domain names registered through a reseller can pose additional or unexpected compliance challenges.

In 2012, registrars were reminded that the registrar of record shown in the gTLD registration data (i.e., Whois) is responsible for its reseller's action or inaction with regard to compliance issues arising from the Registrar Accreditation Agreement (RAA). Please refer to the October Update for more details on common compliance issues and ways to be compliant.

Outreach Activities in 2012

Contractual Compliance launched the first outreach session at ICANN's 42nd public meeting. Since then, Wednesday afternoon during the public meeting week has become the forum for focused discussions as well as open interactions with all interested members of the ICANN community with the Contractual Compliance team.

Outreach activities increased transparency and collaboration. ICANN held different types of outreach sessions; for Registrars and Registries to inform them about the Contractual Compliance Audit Program; by region to address the Inter-Registrar Transfer Policy and Contractual Compliance process and other sessions focused by registrar on Whois Inaccuracy and transfer related issues.

Another outreach effort focused on improving the quality of submitted Whois inaccuracy reports and reducing the large volume of improper reports, ICANN reached out to reporters to inform them of the "improper or invalid" reason their ticket was closed. This effort improved the accuracy of the data sent to registrars and the turn-around time of reports. Problems included profanity/improper language, complaint not reflected in Whois, complaints about domain content, or complaints about own domain name.

Click here for the link to the Outreach Page
<http://www.icann.org/en/resources/compliance/outreach>.

Public access to data on registered names

ICANN-accredited registrars are required to provide public access to data on registered names (commonly known as Whois data) via an interactive web page and a port 43 Whois service. ICANN periodically monitors registrars' web page Whois services and uses the "Whois Monitoring System" (WMS) to monitor every registrar's port 43 Whois service several times per day.

In summary, the majority of registrars did provide access to Whois data via a port 43 Whois service. Between January and December 2012, using WMS, ICANN monitored the port 43 services for 1035 accredited registrars.

Within this time period:

- 92 percent or 953 registrars provided consistent access to Whois data compliant with Section 3.3 of the RAA.
- Eight percent or 82 registrars did not provide consistent access to Whois data, meaning the WMS tool was unable to reach port 43 Whois servers for three or more consecutive days. ICANN followed up with each of the registrars concerned and all of them resolved the initial port 43 access issues.

Whois Data Reminder Policy Audit Summary

In January 2012, ICANN commenced the final standalone Whois Data Reminder Policy (WDRP) audit to assess whether registrars met the WDRP requirements during 2011.

Registrars accredited under the 2009 RAA as of 1 January 2011 and who had sponsored a domain name for a minimum of 12 months between 1 January 2011 and 31 December 2011, were required to respond within 15 days to four questions and to provide copies of registration agreements and sample reminders.

As a result of this audit, ICANN issued six notices of breach to registrars that failed to respond to the 2011 audit. Five of the six cured the breaches and one was terminated.

For the full audit report, please click on the following link:

<http://www.icann.org/en/resources/compliance/reports/wdrp-audit-2011-report-11jul12-en.pdf>

Uniform Domain Name Dispute Resolution Policy Summary (UDRP)

In 2012, ICANN processed 30 UDRP complaints through its complaint processing system. The complaints received concerned registrars failing to implement UDRP panel decisions. By the end of calendar year 2012, 26 complaints were resolved and 4 were in the complaint resolution process.

Registrar RAA self-assessment audit questionnaire pilot and the Registry self-assessment questionnaire pilot on hold

ICANN piloted a self-assessment audit questionnaire with a limited number of registrars and registries. The effort was put on hold to work on and launch the Contractual Compliance Audit Program in late 2012.

Fake Renewal Notices (FRN)

With the on-going challenge with FRN, ICANN initiated an internal analysis related to those complaints. Since 2009, ICANN received 57 FRN related complaints. The notices were from domain resellers, and did not appear to violate any laws (as described by complainants) or ICANN policies.

Participation in ICANN Policy Development Process

The Contractual Compliance team participated on the policy development teams listed below in 2012. Participation varied from reviewing or recommending proposed contract amendments to providing comments to proposed contract language regarding the enforceability of the proposed language or implementation proposals.

RAA Amendments - For more details regarding the Negotiations between ICANN and Registrars to Amend the RAA, go to:

<https://community.icann.org/display/RAA/Negotiations+Between+ICANN+and+Registrars+to+Amend+the+Registrar+Accreditation+Agreement;jsessionid=D22E7449964B37851BC706CD41402E3A>.

Locking of a Domain Name Subject to UDRP Proceedings Policy Development Process Working Group -- For more details go to:

<https://community.icann.org/display/udrpproceedings/Home>.

“IRTP Part B” PDP Working Group – worked on the areas for improvement in the Inter-Registrar Transfer Policy which focused its efforts on domain name hijacking, the urgent return of an inappropriately transferred name and lock status. For more information go to:

<https://community.icann.org/display/gnsoirtpb/IRTP+Part+B+PDP+WG+-+Home>.

“IRTP Part C” PDP Working Group - tasked with addressing areas for improvement in the Inter-Registrar Transfer Policy concerning the change of control function, time limiting Forms of Authorization (FOA) and use of IANA IDs. For more information, please refer to:

<https://community.icann.org/display/gnsoirtppdpwg/Home>.

Report to GNSO Council on Uniformity of Reporting - with a focus on existing Compliance tools and systems and future improvements can be found at:

<http://gnso.icann.org/issues/rap/contractual-compliance-report-reporting-uniformity-16mar12-en.pdf>

Drafting of preliminary issues report on the Translation or Transliteration of Internationalized Registration Data - For more information go to: <http://gnso.icann.org/en/issues/ird/final-report-ird-wg-07may12-en.pdf>)

III. 2012 Registry Contractual Compliance Summary

ICANN has contracts with registry operators for the following top-level domains (TLDs): .BIZ, .COM, .INFO, .NAME, .NET, .ORG, .TEL, .AERO, .ASIA, .CAT, .COOP, .JOBS, .MOBI, .MUSEUM, .POST², .PRO, .TRAVEL and .XXX. For detailed information regarding the terms of each registry operator's agreement with ICANN, go to: <http://www.icann.org/en/about/agreements/registries>.

ICANN strengthened its contractual compliance oversight efforts in the registry area. Dedicated staff monitored registry operator compliance and processed complaints that were received in the following categories:

- Sunrise period violations (failure to allow trademark owners to register names during the sunrise period)
- Registry charter violations (acting outside of the stated charter)
- Failure to comply with reserved names restrictions
- Registry acting as its own registrar
- Customer service issues, i.e. failure to timely respond to complaints and questions (ICANN does not have contract authority to address customer service related complaints)

By mid-2013, the community will be able to log registry complaints in the new centralized complaint management tool instead of sending an email.

Monthly Reports

All registry operators are required under their registry agreements to provide monthly reports reflecting critical performance metrics. Due to contract restrictions, ICANN may not publish information from these registry operator performance reports for 90 days following the delivery of each report. During the January 2012 – October 2012 period, ICANN's operational registry operators reported the following performance metrics:

- | | |
|---|--------------------|
| • DNS Availability | 100% |
| • Whois Availability | 100%* ³ |
| • Equal Registrar Access to the Shared Registration System | 100% |
| • Complaints Regarding Denial of Bulk Access to the Zone File | 0 |

² .POST is not operational and therefore compliance information concerning this registry operator does not appear in this report.

³ During the month of June 2012, .PRO reported ½ of a percent deviation.

Registry Agreement Renewals

.COM, .NAME, .BIZ and .INFO were considered for contract renewal in 2012. As part of the renewal process ICANN reviews the compliance record of each registry considered for renewal and issues a summary report of the findings. All four registry operators were found compliant with the terms of their agreement.

Please refer to the published reports for .COM and .NAME at links below:

.COM - <http://www.icann.org/en/resources/compliance/reports/operator-verisign-com-27mar12-en.pdf>

.NAME - <http://www.icann.org/en/resources/compliance/reports/operator-verisign-name-06apr12-en.pdf>

Expedited Registry Security Requests (ERSR) Processed

The ERSR process, developed to allow TLD registries to inform ICANN of a present or imminent security incident to their TLD and/or to the DNS and request a contractual waiver for actions they might take or have taken to mitigate or eliminate an Incident, was invoked once in 2012. The request was reviewed by designated staff in Security, gTLD Registry Liaison, Office of General Counsel and Contractual Compliance. ICANN worked cooperatively with the registry operator to process the request.

For detailed information regarding this process, go to:

<http://www.icann.org/en/resources/registries/ersr>.

Registry Operator Litigation

In July 2011, Employ Media, the registry operator for .JOBS, filed for arbitration based on a notice of breach ICANN sent to .JOBS in February 2011. The matter was resolved in December 2012. For more details regarding this matter, go to:

<http://www.icann.org/en/news/litigation/employ-media-v-icann>.

IV. 2012 Law Enforcement Efforts Summary

ICANN's Contractual Compliance team continued to strengthen its relationship with law enforcement agencies (LEA) by participating in discussions and collaborating when requested.

Meetings were held in Los Angeles, Prague and Toronto with representatives from a number of agencies from Canada, the United Kingdom, the United States, Switzerland, Mauritius, as well as with Europol. Discussions were related to law enforcement's expectations, ICANN's and LEA's roles and responsibilities, registrar enforcement, registrars' obligations and ICANN's referral process to and from law enforcement.

ICANN managed LEA referral based on the process, while respecting the confidentiality, and all agreements and applicable laws and regulations. Time and scope of the investigations varied based on the complexity of the referral. ICANN's role was as simple as engaging and encouraging registrar collaboration and as complex as responding to an in-depth review of different documents.

V. Audit Program Update

The three-year Contractual Compliance Audit Program was revealed at ICANN 44 in Prague. In 2012, the program included developing an audit strategy, approach and methodology, and the roll out of the first round of audits in late 2012.

ICANN's goal with the audit program is to first identify, and then properly manage and help remediate any deficiencies found, thereby ensuring alignment and compliance by all contracted parties with their contractual obligations.

This program is the first contractual compliance audit program at ICANN to be executed across all contracted parties. With this effort, a baseline will be established to drive focused audit activities based on non-compliance issues and audit results.

Audit statistics for 26 November 2012 through 4 January 2013

RFI Phase Statistics	1st Notice	2nd Notice	3rd Notice	As of
Issued on	26-Nov-12	17-Dec-12	28-Dec-12	04 Jan 2013
Email				
Sent to Registrars	317	132	36	N/A
Sent to Registries	6	0	0	N/A
Log-Ins				
<i>Registrars</i>				
Logged In	72	277	304	313
Not Logged In	245	40	13	4
<i>Registries</i>				
Logged In	1	5	5	5
Not Logged In	5	1	1	1
Other Stats				
Documents Uploaded	592	11,776	17,840	19,267
As of	5 Dec 2012	17-Dec-12	28-Dec-12	

For additional information: <http://www.icann.org/en/resources/compliance/audits>.

VI. New gTLD Readiness Effort

Base agreement assessment and risk analysis were the focus for 2012. ICANN conducted a gap analysis to review and assess Contractual Compliance operational needs and to identify required changes to systems, processes and the proposed agreement. As a result, the team is working towards a multi-phased readiness plan. This will include a list of operational needs prioritized by the risk level and the probability of any given registry failing to comply with a particular requirement, as well as the severity of the impact upon failure to the security or stability of the Internet.

