

**INTERNET CORPORATION FOR ASSIGNED  
NAMES AND NUMBERS**

**2007 SEMI-ANNUAL CONTRACTUAL  
COMPLIANCE AUDIT REPORT**

**18 October 2007**

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## I. INTRODUCTION

In support of the Internet Corporation for Assigned Names and Numbers' (ICANN) commitment to improve overall contractual compliance by Registrars and Registries, on 25 March 2007, ICANN updated its contractual compliance program to include, among other things, regular registrar and registry contractual compliance audits. ICANN's registrar and registry contractual compliance audits are intended to determine whether ICANN's contracted parties are complying with specific terms of their agreements. ICANN's proposed contractual compliance audit schedule for calendar year 2007, reflected below, was published in March of 2007 on ICANN's website to provide registries, registrars and other interested parties with notice of all contractual compliance audits to be conducted by ICANN. Although audit schedule changes were made since the initial publication in March 2007 to accommodate the priorities of ICANN's executive management and suggestions by the community, ample notice was given to the Registry and Registrar communities regarding ICANN's intention to assess compliance with contractual requirements by way of regular audits.

<b>Proposed 2007 Registrar Audit Schedule</b>			
Q-1	Q-2	Q-3	Q-4
Whois Data Prob. Report Findings	Registrar Fees	Whois Server Accessibility	Insurance Verification
Update Primary Contact Info.	Website Compliance	Registrar Data Retention*	Whois Data Accuracy*
			Inter-Registrar Transfer Policy*

<b>Proposed 2007 Registry Audit Schedule</b>			
Q-1	Q-2	Q-3	Q-4
Code of Conduct	Registry Fees	Whois Data Accuracy	Data Escrow
Non Discriminatory Access	Performance Specifications		Registration Restrictions
*New Audits			

This report summarizes ICANN's audit activities from January through September 2007. During this period, ICANN completed five registrar contractual compliance audits and two registry contractual compliance audits. ICANN conducted each audit by following consistent audit procedures established before each audit commenced. This report contains details of the audit findings, observations and conclusions.

The audits conducted during the reporting period are the foundation for future, more in-depth audits to assess registrar and registry contractual compliance. For example, ICANN conducted a Registrar Data Retention Audit during the reporting period to assess the data retention practices of the registrar community. As part of this audit, registrars were requested to complete a data retention survey. During the 2008 calendar year, ICANN will use the survey data reported by registrars to conduct site visits and request data to verify the information reported in the survey.

During the reporting period, ICANN also conducted a Registry Code of Conduct Audit. As part of this audit, ICANN requested that all Registries and Sponsors verify that they were complying with the terms of their agreements regarding, among other things, the provision of equal access to registry services for all registrars. Similarly, ICANN will use the information provided by the Registries and Sponsors in response to the Code of Conduct Audit to conduct site visits and request information to verify the information provided by the Registries and Sponsors.

ICANN will continue to examine and build its Contractual Compliance program to ensure its continual improvement and to assess its impact on registrar and registry contractual compliance. ICANN will use the audit results from this reporting period and the results from other audits currently underway, to determine how to increase registrar and registry community awareness of contract requirements and best business practices. Your comments regarding this report, ICANN's Contractual Compliance Program, or any other compliance-related comments may be registered at [compliancecomments@icann.org](mailto:compliancecomments@icann.org). Posted comments can be viewed at <http://forum.icann.org/lists/compliancecomments>.

## **II. SCOPE AND OBJECTIVES OF AUDITS**

The registrar contractual compliance audits completed during this reporting period focused on revenue collection, primary contact information verification, data retention practices, website compliance and Whois accuracy. The registry contractual compliance audits completed during the reporting period focused on code of conduct compliance and revenue collection. The contractual compliance audit objectives were to:

- Assess compliance with contract requirements;
- Notify parties identified as noncompliant and provide a reasonable time to cure contract violations;
- Encourage future contractual compliance; and
- Report audit findings to the Internet community.

### **III. SUMMARY OF FINDINGS**

The audits conducted during the reporting period varied in complexity and information revealed. Only the most significant findings are reported in this summary. For detailed information regarding how a particular audit was performed, the intention behind the audit, ICANN's observations, additional findings and follow-up action taken by ICANN, please refer to Section IV, Detailed Audit Findings, starting on page 11.

#### **Registrar Primary Contact Audit**

The first audit conducted by ICANN in 2007 was a Primary Contact Audit. This audit was intended to encourage all registrars to update their primary contact information to ensure that ICANN has current contact information on file for all ICANN-Accredited Registrars. While seemingly one of the more simplistic contractual compliance audits conducted by ICANN in 2007, the Registrar Primary Contact Audit was an important starting point for the 2007 audit schedule, as it assured ICANN staff that the proper parties would receive future audit correspondence.

#### **Findings**

- This audit was not intended to check the accuracy of primary contact information of every registrar. Conversely, it was intended to proactively solicit primary contact changes from registrars. Of the 860 registrars that were sent notices, 57 registrars responded with updated primary contact information.
- Therefore, the Primary Contact Audit resulted in a 6.6% increase in registrar contractual compliance with Registrar Accreditation Agreement (RAA) Section 5.11.

#### **Registrar Website Compliance Audit**

This audit was conducted to assess registrar compliance with working website requirements and Whois service availability requirements as set forth in RAA Section 3.3. Failure to maintain a working website and Whois service availability for public use make it nearly impossible for a registrar to provide adequate customer service to registrants. As part of the Website Compliance Audit, ICANN examined 881 registrars' websites and found that 102 ICANN-Accredited Registrars were not managing any active registered names at the time, and therefore were not required to have an interactive website and Whois service available pursuant to RAA Section 3.3.1. Concerning registrars that were managing active registered names, ICANN found the following:

#### **Findings**

- 19 of the 779 registrars managing active registered names were found to have non-working websites.
- 20 of the 779 registrars managing active registered names with working websites were found to have no Whois service available on their websites.

- 38% of all registrars that were found noncompliant (15 registrars), made changes in a timely manner (within two weeks of receiving notice from ICANN).
- 44% of all registrars that were found noncompliant (17 registrars), made changes late (changes were made 15 days or more after receiving notice from ICANN).
- 18% of all registrars that were found noncompliant with website requirements (7 registrars), failed to respond to ICANN's notice of noncompliance and follow-up correspondence.
- ICANN has escalated the cases of the 7 noncompliant registrars with the intention of exercising all remedies available under the terms of the RAA to bring these parties into compliance.

### **Registrar Fees Audit**

Pursuant to RAA Section 3.9, all registrars are required to pay yearly accreditation fees and quarterly variable fees. ICANN transmits detailed quarterly invoices to all registrars reflecting the amount owed by each registrar regarding the required fees. ICANN staff examined ICANN's financial records related to approximately 889 registrars.

### **Findings**

- During the audit, ICANN found that 697 registrars, or 78.4%, were compliant with RAA Section 3.9 regarding the timely payment of required fees.
- ICANN found 192 registrars, or 21.6%, had invoices 30 days or more past due.
- Of the 192 registrars initially identified as delinquent, 178, or 93%, either paid their delinquent fees or made arrangements to pay their delinquent fees after being contacted by ICANN. This figure brought the total percentage of registrars in compliance with RAA requirements regarding the payment of required fees to 98%.
- ICANN collected approximately \$750,000.00 in delinquent fees and \$572,000.00 was committed to ICANN as a result of payment arrangements made with registrars.
- ICANN's delinquent debt was reduced to approximately \$149,000.00 from the original delinquent debt total of \$1,471,000.00 as a result of the implementation of a collections procedure to address delinquent accounts.

### **Registry Fees Audit**

ICANN conducted an internal Registry Fees Audit to assess whether registries and sponsors are complying with the terms of their agreements regarding the payment of required fees in a timely manner. ICANN audited registry operators/sponsors for the following top-level domains: .aero, .biz, .cat, .com,

.coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel. ICANN did not audit the .tel and .asia TLDs, as they did not have any registrations at the time of ICANN's audit.

### **Findings**

- 12 out of 14 registries'/sponsors' accounts were found current.
- 2 of 14 registries/sponsors had entered into payment arrangements with ICANN and were performing based on those payment arrangements.
- ICANN will continue to closely monitor those registries/sponsors that have made payment arrangements to ensure that they fulfill their payment promises.

### **Data Retention Audit**

Pursuant to RAA Section 3.4, registrars are required to maintain an electronic database and records for each active Registered Name Sponsored by the registrar within each top-level domain (TLD) for which it is accredited. The Data Retention Audit was conducted to assess the data retention practices within the registrar community, including, but was not limited to, whether registrars have written contingency plans in place, whether registrars have sufficient insurance coverage and whether registrars maintain backup data.

### **Findings**

- 99.8% of active registrars reported that they are maintaining registration data submitted in electronic form to the registry operators for at least the term of the RAA, plus three years, pursuant to RAA Section 3.4.2.
- 99.8% of active registrars reported that they are maintaining in electronic form records of the accounts of all registered name holders with registrar, including dates and amounts of all payments and refunds for at least the term of the RAA, plus three years, pursuant to RAA Section 3.4.2.
- 93.3% of registrars responded yes when asked if they could make registration data available for inspection by ICANN if given seven days' notice.
- 84% of registrars reported that they have a written continuity plan to address potential natural disasters, operational/technical failures, malicious business interference (hacking), acts of terrorism, or other violence.
- 100% of registrars reported that they maintain a commercial general liability insurance policy of at least US\$500,000.00 (or the foreign equivalent) as required by RAA Section 3.10. A significant number of registrars, 49%, reported that they maintain an insurance policy that exceeds the contract required minimum.
- ICANN has escalated the cases of those registrars that reported that they are not compliant with registrar data retention practices with the intention

of exercising all remedies available under the terms of the RAA to bring those parties into compliance.

- To verify the registrar data retention practices reported, in 2008 ICANN will randomly select a representative number of registrars and conduct site visits and request documentation to verify the information provided as part of this audit.

### **Registry Code of Conduct Audit**

ICANN conducted a Registry Code of Conduct Audit to assess whether registries and sponsors are complying with the terms of their agreements by abstaining from sharing employees, data, storage facilities, and account management functions. ICANN also inquired about the systems each registry or sponsor had in place to ensure equal access to registry services by all registrars. ICANN audited registry operators/sponsors for the following top-level domains: .aero, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel. ICANN did not audit the .tel and .asia TLDs, as they did not have any registrations at the time of ICANN's audit.

### **Findings**

- 86% of registries/sponsors reported that they provide equal treatment with respect to registry services to all ICANN-Accredited Registrars.
- 86% of registries/sponsors reported that they provide the same level of access to customer support personnel to all ICANN-Accredited Registrars.
- 86% of registries/sponsors reported that all ICANN-Accredited Registrars were sent the most recent version of the toolkit software.
- 86% of registries/sponsors reported having sufficient protective measures in place to prevent access to proprietary registrar data by affiliates, subsidiaries or other related entities.
- 86% of registries/sponsors reported that they do not have any employees that are also employees of an ICANN-Accredited Registrar.
- ICANN is currently in communication with the remaining two registries/sponsors that have not provided sufficient information to verify compliance to ensure that these registries/sponsors are aware of what is needed to be considered compliant and are given a sufficient time period to correct the problems identified by ICANN.
- To verify the registry Code of Conduct practices reported, in 2008 ICANN will conduct registry site visits and request documentation to verify the information provided as part of this audit.

### **Whois Data Problem Report System**

This report summarizes ICANN's experience with the operation of the Whois Data Problem Report System (WDPRS) during the 12-month period that ended 28 February 2007. This system receives and tracks complaints about inaccurate or incomplete Whois data entries. When members of the public discover what

appear to be inaccurate or incomplete Whois data entries, they can inform ICANN by completing an online form, which is forwarded to the registrar of record for appropriate action. The WDPRS is one of the tools ICANN uses to improve Whois data accuracy. Through the WDPRS, ICANN can track how many reports are filed and confirmed by the reporter so they can be sent to the registrar of record. After 45 days, ICANN asks the person or entity that reported the error to complete the process by performing a follow-up review, which involves checking the Whois data again and indicating whether (1) the data was corrected; (2) the domain name was deleted; (3) the data was unchanged; or (4) there is some other disposition.

### **Findings**

- During the reporting period there were 50,189 reports filed that included follow-up responses. Of those, 34,029 unique domain names were the subject of reports, indicating that 16,160 duplicate reports were filed.
- 35% of the domain names reported as either inaccurate or incomplete were corrected, suspended or are no longer registered.
- Of the 50,189 reports received during the reporting period, one individual filed nearly 40% of these reports.
- Complete findings regarding the WDPRS can be found at:  
<http://www.icann.org/whois/whois-data-accuracy-program-27apr07.pdf>.
- ICANN has implemented additional tools that address Whois inaccuracy going forward, including a new Whois Data Accuracy Audit.

## **IV. DETAILED AUDIT FINDINGS**

- A. Primary Contact Audit**
- B. Registrar Website Compliance Audit**
- C. Registrar Fees Audit**
- D. Registry Fees Audit**
- E. Data Retention Audit**
- F. Registry Code of Conduct Audit**
- G. Whois Data Problem Report System**

### **A. PRIMARY CONTACT AUDIT**

#### **Executive Summary**

ICANN conducted a Registrar Primary Contact Audit to ensure that ICANN-Accredited Registrars provide and maintain current primary contact information. This audit was based on the requirements contained in RAA Section 5.11. ICANN transmits all notices under the RAA in writing to registrars at the address provided by registrars at the time of contract execution. Unfortunately, registrars move and change contact information without providing updated information to ICANN. Without current primary contact information, ICANN has difficulty contacting registrars for billing purposes, compliance investigations, audit correspondence and a host of other business purposes. ICANN sent each registrar, via email, the contact information on file at ICANN, requesting that the registrar contact ICANN if their primary contact information had changed. Of the 860 registrars that were sent notices, 57 registrars responded with updated primary contact information.

#### **Introduction**

To ensure that all correspondence from ICANN reaches registrars and to minimize the number of nonresponsive registrars, ICANN conducted a Registrar Primary Contact Audit. The Registrar Primary Contact Audit was considered necessary because ICANN had begun experiencing significant problems contacting certain registrars. As part of the Registrar Primary Contact Audit, it was ICANN's goal to inform registrars of the prescribed method for submitting primary contact changes as set forth in the RAA and to alert registrars of upcoming compliance audits.

#### **Audit Objectives**

- Obtain current primary contact information from all ICANN-Accredited Registrars.
- Provide registrars with the current method to submit change of contact information prescribed by the RAA.
- Remind registrars of the importance of responding to upcoming audits and surveys.
- Ensure that all correspondence from ICANN is received by registrars.

## **Methodology**

This report summarizes the steps ICANN took to assist registrars with updating contact information. The Registrar Primary Contact Audit required assistance from ICANN's Information Technology Department to electronically transmit the audit notification letter to each registrar (see the notice letter in Appendix A-I). The audit notification letter contained the current contact information officially on file at ICANN for each registrar, including the registrar's mailing address, primary contact, primary contact email address, telephone number and fax number. If the registrar's primary contact information was inaccurate, registrars were asked to provide current primary contact information. Registrars were also reminded that ICANN would be conducting a series of registrar compliance audits to encourage compliance with the RAA.

## **Findings**

- Of the 860 registrars that were sent notices, 57 registrars responded with updated primary contact information.
- The Primary Contact Audit resulted in a 6.6% increase in registrar compliance with RAA Section 5.11.
- Approximately 49% of the 57 ICANN-Accredited Registrars that responded to the audit with updated contact information responded after the deadline established by ICANN.

## **Follow Up Actions**

- Registrar Primary Contact Audits may not be necessary in the near future as ICANN will encourage the use of its new RADAR system which will allow registrars to update their own contact information electronically.
- ICANN will continue to encourage registrars to maintain current primary contact information through various communication methods, including email reminders and website reminders.

## Appendix A-I

Dear Registrar,

My name is Stacy Burnette and I am ICANN's Director of Contractual Compliance. In the coming months, ICANN will be conducting a series of registrar compliance audits to encourage compliance with the Registrar Accreditation Agreement (RAA).

Registrars will be notified in advance before ICANN performs these routine compliance checks. To ensure that all ICANN correspondence reaches you, we are asking all ICANN-accredited registrars to review their current primary contact information listed below. If any of your contact information is inaccurate, you must correct it by 19 March 2007.

Current Contact Information:

Registrar Name:

IANA ID:

Primary Contact Name:

Email Address:

Postal Address:

Country:

Phone:

Fax:

In accordance with section 5.11 of the RAA, a change of primary contact is considered a change to the agreement itself. All notices of change in contact information must be sent to ICANN in writing, on company letterhead and signed by an officer or director of the company. You must transmit this letter by fax or courier to:

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292-6601  
USA

Fax: +1-310-823-8649, attention Compliance Department.

We anticipate your timely response to this request and your cooperation in future audits. In keeping with our goal of maintaining transparency, ICANN will publish all Contractual Compliance audit findings on our website. I look forward to working with you to ensure that ICANN's Contractual Compliance Program will help identify areas to be considered for reform and highlight successful practices.

Please contact me or Connie Brown, ICANN's Contractual Compliance Specialist, at (310) 301-3855, should you have any questions.

Kind regards,

Stacy K. Burnette  
Director, Contractual Compliance  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292  
(310) 301-3860

## **B. REGISTRAR WEBSITE COMPLIANCE AUDIT**

### **Executive Summary**

ICANN performed a Registrar Website Compliance Audit of all ICANN-Accredited Registrars' websites to determine compliance with RAA requirements. Among active ICANN-Accredited Registrars, the audit team found 19 registrars with non-working websites and 20 registrars with no Whois service available on their websites. All active ICANN-Accredited Registrars found out of compliance with RAA website requirements were notified and given an opportunity to cure cited violations.

### **Audit Objectives**

The general objectives of the Registrar Website Compliance Audit were to:

- Assess how many active ICANN-Accredited Registrars have non-working websites in violation of the website requirements as set forth in RAA Section 3.3.[\[1\]](#)
- Assess how many active ICANN-Accredited Registrars do not provide Whois service on their websites for public use as required by RAA Section 3.3.
- Notify active registrars identified as noncompliant with RAA website requirements and provide a reasonable time for cure.
- Encourage compliance with RAA requirements regarding the provision of working websites and working Whois service by publishing a report regarding ICANN's audit findings.
- Report observations made from the audit findings and provide follow-up actions to be taken by ICANN.

### **Methodology**

The methodology for the Registrar Website Compliance Audit was determined by ICANN staff in consultation with registrar community members before the audit commenced.[\[2\]](#) The staff members that undertook the audit tasks were familiar with registrar websites and the navigational tools frequently used by registrars to provide public information regarding various registrar services. To maintain focus on the objectives of the Registrar Website Compliance Audit, ICANN staff performed the audit by completing three sequential tasks.

#### **1. Website Examination**

ICANN staff examined every ICANN-Accredited Registrar's website. At the time of the audit, there were approximately 881 ICANN-Accredited Registrars. If a registrar had a website, the website was deemed working if it was interactive. Registrars with working websites were deemed in compliance with this portion of the audit. In those cases where registrars were found not to have working websites, ICANN staff noted that information for the purpose of later notifying those registrars of the apparent RAA violation.

## **2. Assessment Regarding the Availability of Whois Service on Websites**

Of those registrars that had working websites, ICANN staff looked for Whois service on their websites. If Whois service was found on a registrar's website, ICANN staff tested the Whois service to determine operability. ICANN staff input a registered domain name in each Whois service to test whether the service would provide a responsive message. Referral messages that included the name of the sponsoring registrar and other pertinent information regarding the domain names as well as messages with complete whois data were considered compliant. When acceptable responsive messages were returned, the registrar was deemed in compliance with this portion of the audit. In those cases where registrars were found not to have any Whois service available on their sites or the Whois service was inoperable, ICANN staff noted that information for the purpose of later notifying those registrars of the apparent RAA violation.

## **3. Transmission of Notices to Registrars Found out of Compliance with RAA Requirements**

Before transmitting notices of noncompliance, ICANN staff compiled a list of all registrars that did not have working websites and a list of registrars that did not have Whois service available for public use. These lists were checked against ICANN's list of registrars currently managing active registered names. Those registrars that were not managing any active registered names at the time of the audit were excluded from the list of registrars considered for notification of noncompliance. As explained in the Findings section of this report, RAA Section 3.3.1 only requires registrars that are managing active registered names to comply with the website requirements. There were approximately 32 registrars that were not managing active registered domain names at the time of the audit, but were found to have either non-working websites or no Whois service available on their websites.

Upon finalizing the list of active registrars thought to be out of compliance with RAA website requirements, ICANN notified those registrars via email. Below is a sample noncompliance notice transmitted by ICANN as part of the Registrar Website Compliance Audit.

## Sample Noncompliance Notice

Dear Registrar Representative:

Over the past six weeks ICANN conducted an audit to determine whether Registrars are in compliance with website requirements as provided by the Registrar Accreditation Agreement. Specifically, ICANN looked at each Registrar's website to assess whether:

1. There was a working website as required by section 3.3 of the RAA; and
2. There was a working Whois service available on the website as required by section 3.3 of the RAA.

ICANN audited your company's website between 5 April 2007 and 12 April 2007. ICANN determined that your company is not in compliance with Section 3.3 of the RAA because your company does not have a working website.

Failure to have all of the information and services required by the RAA on your website constitutes a breach of the RAA. On or before 18 May 2007, please respond to this electronic mail message by providing an explanation as to when this problem was corrected. Failure to cure breaches within the time period specified in the RAA is grounds for termination of your registrar accreditation agreement. We intend to look at your company's website again after 18 May 2007 to determine if these violations of the RAA have been cured.

ICANN will be engaged in other website audit checks in the coming months to determine whether registrars have information on their websites concerning their deletion and renewal policies as required by the RAA. You are encouraged to make whatever adjustments are necessary to your website now to ensure compliance and avoid future notices of this kind.

Please contact me at the telephone number below if you have any questions.

Regards,

Stacy Burnette  
Director,  
Contractual Compliance  
ICANN  
4676 Admiralty Way  
Marina del Rey, CA 90292

Although several registrars are currently engaged in discussions with ICANN regarding the notices of noncompliance and their interpretations of the RAA website requirements, a significant number of noncompliant registrars cured the RAA violations cited in the notices of noncompliance within days after receiving the notices. Complete information regarding time to cure the violations cited by ICANN will be published on ICANN's website within the next 30 days.

### **Updated Information Regarding Timeliness of Registrar Responses (October 2007)**

- 19 of the 779 registrars managing active registered names were found to have non-working websites.
- 20 of the 779 registrars managing active registered names with working websites were found to have no Whois service available on their websites.
- 38% of all registrars that were found noncompliant (15 registrars), made changes in a timely manner (within two weeks of receiving notice from ICANN).

- 44% of all registrars that were found noncompliant (17 registrars), made changes late (changes were made 15 days or more after receiving notice from ICANN).
- 18% of all registrars that were found noncompliant with website requirements (7 registrars), failed to respond to ICANN's notice of noncompliance and follow-up correspondence.
- ICANN has escalated the cases of the 7 noncompliant registrars with the intention of exercising all remedies available under the terms of the RAA to bring these parties into compliance.

## Findings

As part of the Registrar Website Compliance Audit process, ICANN examined 881 registrars' websites. At the time of the audit, the audit team found that there were 102 ICANN-Accredited Registrars that were not managing any active registered names, and therefore were not required to have interactive websites and Whois service available on their websites pursuant to RAA Section 3.3.1.<sup>[3]</sup>

The audit team found 19 registrars managing active registered names with non-working websites. In those instances when ICANN staff attempted to examine a registrar's website and found a non-working website, the server returned either an error message or a place holder page with a message such as "This site is under construction" or "Coming Soon."

The audit team found 20 registrars managing active registered names with working websites but no Whois service available on their websites. The audit team carefully searched these websites and used all of the navigational tools available on these sites to find Whois service.

Figure IV-1 illustrates the Registrar Website Compliance Audit findings.

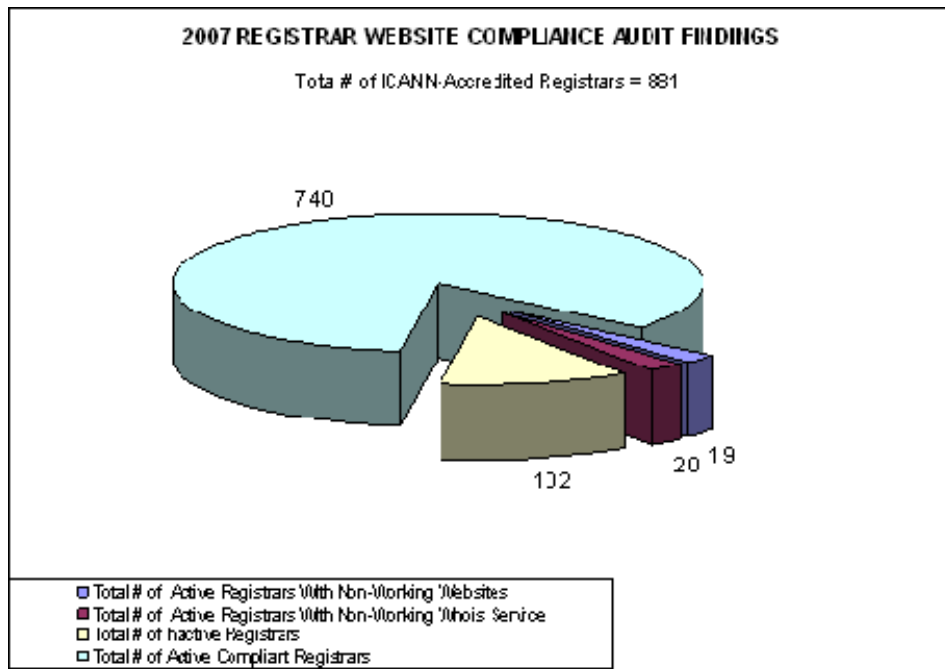
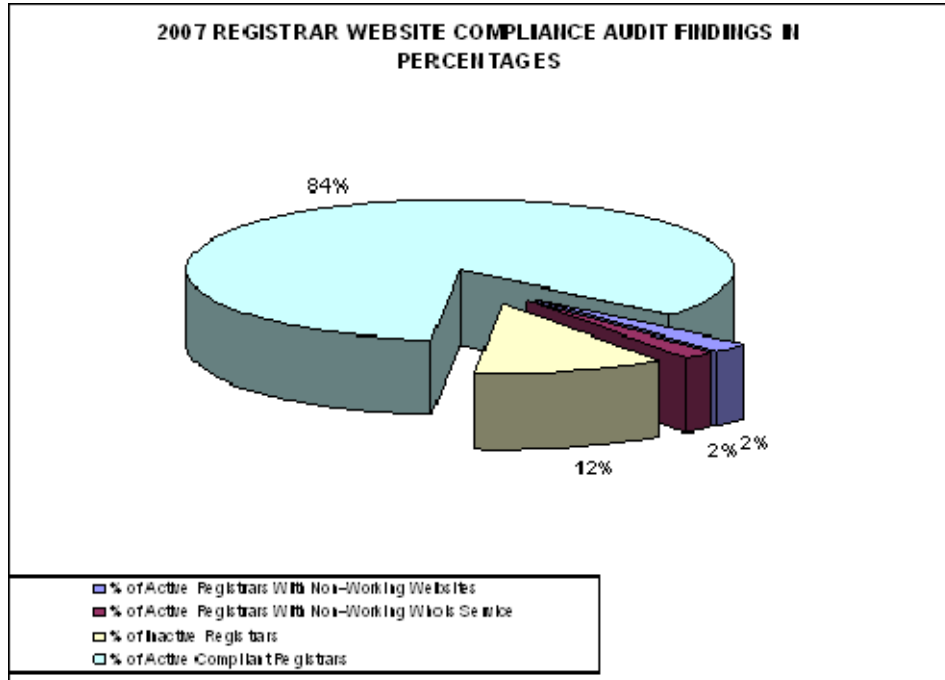
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[1] ICANN considers a registrar active if the registrar is currently managing active registered names. Conversely, those registrars that are ICANN-Accredited, but are not managing active registered names, are considered inactive.

[2] The methodology was modified slightly after the audit commenced due to unforeseen complexities and lessons learned during the course of the audit.

[3] A Registered Name is defined in RAA Section 1.7 as,  
 ...a domain name within the domain of a TLD that is the subject of an appendix to the Agreement, whether consisting of two or more (e.g., john.smith.name) levels, about which a TLD Registry Operator (or an affiliate engaged in providing Registry Services) maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance. A name in a Registry Database may be a Registered Name even though it does not appear in the zone file (e.g., a registered but inactive name).

Section 3.3.1 of the RAA states in relevant part, "At its expense, Registrar shall provide an interactive web page and a port 43 Whois service providing free public query-based access to up-to-date (i.e., updated at least daily) data concerning all **active Registered Names** sponsored by Registrar for each TLD in which it is accredited." Emphasis added.



**Figure IV-1 – Registrar Website Compliance Audit Findings**

**Observations**

- Approximately 4% of all ICANN-Accredited Registrars are not in compliance with the studied RAA website requirements.
- Twelve of 19 active registrars that do not have working websites have been accredited by ICANN for two years or less.

- Eleven of 19 active registrars that do not have working websites are based in North America.
- Ten of 20 active registrars found to have no working Whois service available on their websites have been accredited by ICANN for two years or less.
- Ten of 20 active registrars found to have no working Whois service available on their websites are based in North America and the remaining ten are located in China, Germany, Portugal, Australia, Russia, Turkey, Jordan, Israel and Sweden.

#### **Follow-Up Actions**

- ICANN requires remedial action by those registrars found to be non-compliant. Registrars that do not take this action will be sent formal notices that they are in breach of their agreement.
- ICANN, in consultation with the registrar constituency, will develop registrar compliance materials for newly accredited registrars to assist them in understanding their contractual obligations as ICANN-Accredited Registrars.
- ICANN will engage in annual Registrar Website Compliance Audits as such audits serve as a valuable tool in assessing website compliance by the registrar community.

## **C. REGISTRAR FEES AUDIT**

### **Executive Summary**

Pursuant to RAA Section 3.9, all registrars are required to pay yearly accreditation fees and quarterly variable fees. Failure to pay required fees constitutes a breach of the RAA. ICANN performed a Registrar Financial Audit to assess the number of ICANN-Accredited Registrars with delinquent invoices (invoices that are 30 days or more past due) and to implement procedures for collecting delinquent funds. The audit resulted in the following:

- ICANN found that 192 registrars had invoices that were delinquent at the time the audit commenced in February 2007.
- Following the receipt of notices from ICANN, payments were received or payment arrangements were made with 165 registrars.
- ICANN transmitted breach notices to 27 registrars that failed to respond to ICANN's notice of delinquency.
- Following the receipt of breach notices, 10 registrars made payments or payment arrangements with ICANN.
- Based on the results from this audit, ICANN is considering termination for 11 delinquent registrars.
- ICANN collected approximately \$750,000.00 in delinquent fees as a result of the audit and an additional \$572,000.00 was committed based on payment arrangements made with various registrars.

### **Audit Objectives**

The general objectives of the Registrar Financial Audit were to:

- Assess how many ICANN-Accredited Registrars had delinquent accounts in violation of RAA Section 3.9.
- Notify registrars identified as delinquent and provide a reasonable time for cure.
- Encourage compliance with RAA requirements regarding the timely payment of invoices.
- Report findings from the Registrar Fees Audit and provide follow-up actions to be taken by ICANN.

### **Methodology**

The methodology for the Registrar Fees Audit was determined by ICANN staff before the audit commenced. Compliance staff, in consultation with ICANN's Office of General Counsel, Registrar Liaison staff and Financial Management staff, developed a collections procedure for consistent handling of delinquent registrars. The next step involved the development of a comprehensive list of registrars with delinquent accounts by ICANN's Financial Management staff. The Financial Management staff also provided a total amount owed in delinquent

funds. Consistent with the collections procedure, notice of delinquency letters were transmitted to all delinquent registrars informing them of (1) their delinquent status; (2) the amount owed; (3) the availability of payment arrangements; (4) the next steps to be taken by ICANN if the amount owed was not paid in 30 days or payment arrangements were not made (see sample notice of delinquency letter below).

### **Sample Notice of Delinquency Letter**

Date

Registrar's Name and Address

**Re: 30 days or More Past-Due Invoices**

Dear \_\_\_\_\_:

This letter is to inform you that [insert company name here] has ICANN registrar accreditation fee invoice(s) that are 30 days or more past due. Please bring this account into a current status immediately. Our records show that the over 30 days past due invoices total \$\_\_\_\_\_. For your reference we have enclosed a customer statement.

If we do not receive payment for all past due invoices within 30 days from the date of this letter, we will take further action, consistent with the terms of the Registrar Accreditation Agreement, to collect this debt.

Please contact ICANN immediately if you believe there is an error in our payment records. If you are not able to make full payment immediately, contact Komaki Takekoshi at [komaki.takekoshi@icann.org](mailto:komaki.takekoshi@icann.org) so that possible payment arrangements can be discussed.

Thank you for your immediate attention to this matter.

Sincerely,

Accounting Department  
[accounting@icann.org](mailto:accounting@icann.org)

cc: ICANN Legal Department  
ICANN Compliance Department

Those registrars that paid or made payment arrangements within the 30-day period provided in the notice of delinquency letters were removed from the list of delinquent registrars and no further action was taken. Those registrars that failed to respond to ICANN's delinquency letters after 30 days were sent Notice of Breach letters that clearly warned each registrar that failure to pay past due fees may result in termination (see sample Notice of Breach letter below).

Those registrars that failed to respond to ICANN's Notice of Breach letter are being considered for termination by ICANN. To determine the reasons for noncompliance, Compliance staff attempted to contact all of the registrars being considered for termination by telephone. In some cases, registrars stated that they were no longer interested in being ICANN-Accredited Registrars and requested transition assistance. Other registrars made payment arrangements once they were contacted by phone. However, in the vast majority of cases, ICANN was unable to make telephone contact with registrars being considered

for termination. As of the date of this report, approximately 11 registrars are being considered for termination based on failure to pay fees as required by RAA Section 3.9.

### Sample Notice of Breach Letter

Date

Registrar's Name and Address

#### FINAL NOTICE

RE: NOTICE OF BREACH OF REGISTRAR ACCREDITATION AGREEMENT

Dear \_\_\_\_\_:

This letter is formal notice of breach of Section 3.9 of the Registrar Accreditation Agreement which requires registrars to pay accreditation fees to ICANN. This breach results from (XYZ's) failure to pay past-due accreditation fees in the amount of \$\_\_\_\_\_.

If this breach is not cured within fifteen working days, ICANN may exercise any and all remedies available to it pursuant to the Registrar Accreditation Agreement, including termination.

On (date) a 30 Days or More Past Due Invoices letter was sent to you and on (date) a Second Notice of Past Due Invoices letter was sent to you requesting that XYZ bring this account up to date. ICANN did not receive full payment in the amount stated in these letters, nor was an arrangement for a payment plan made with ICANN regarding the past-due amount.

A copy of the customer statement for XZY is enclosed for your review. Payment instructions for ICANN can be found at <http://www.icann.org/ffinancials/payments.htm>. Please send an email message to [accounting@icann.org](mailto:accounting@icann.org) upon payment to ensure proper application of payment. All inquiries may also be directed to the same email address.

Very truly yours,

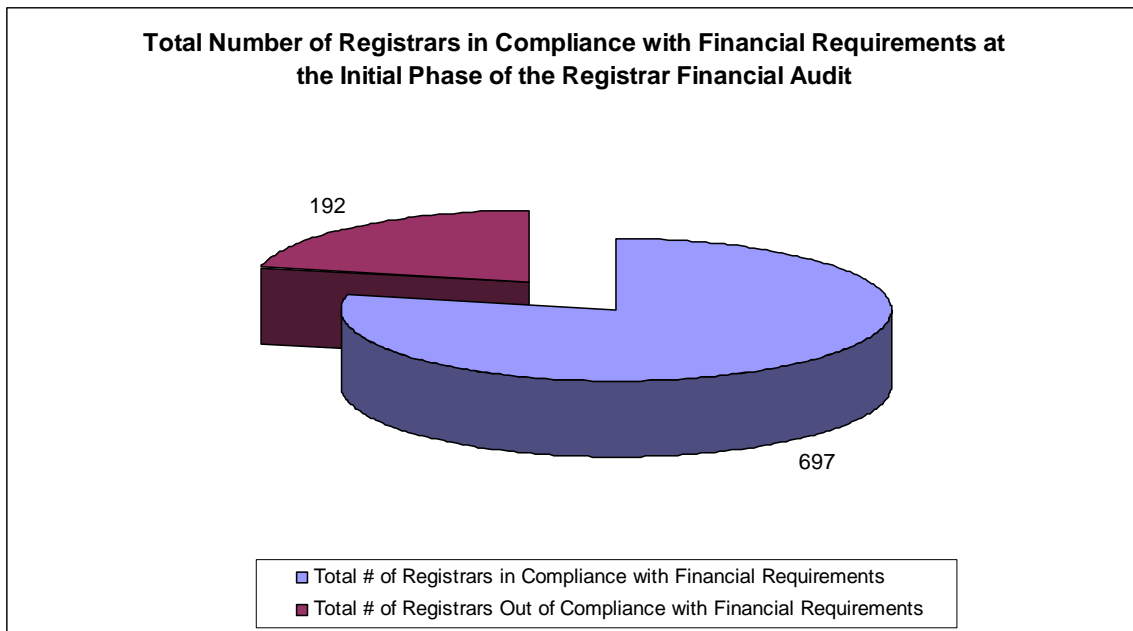
Stacy K. Burnette  
Director  
Contractual Compliance

### Findings

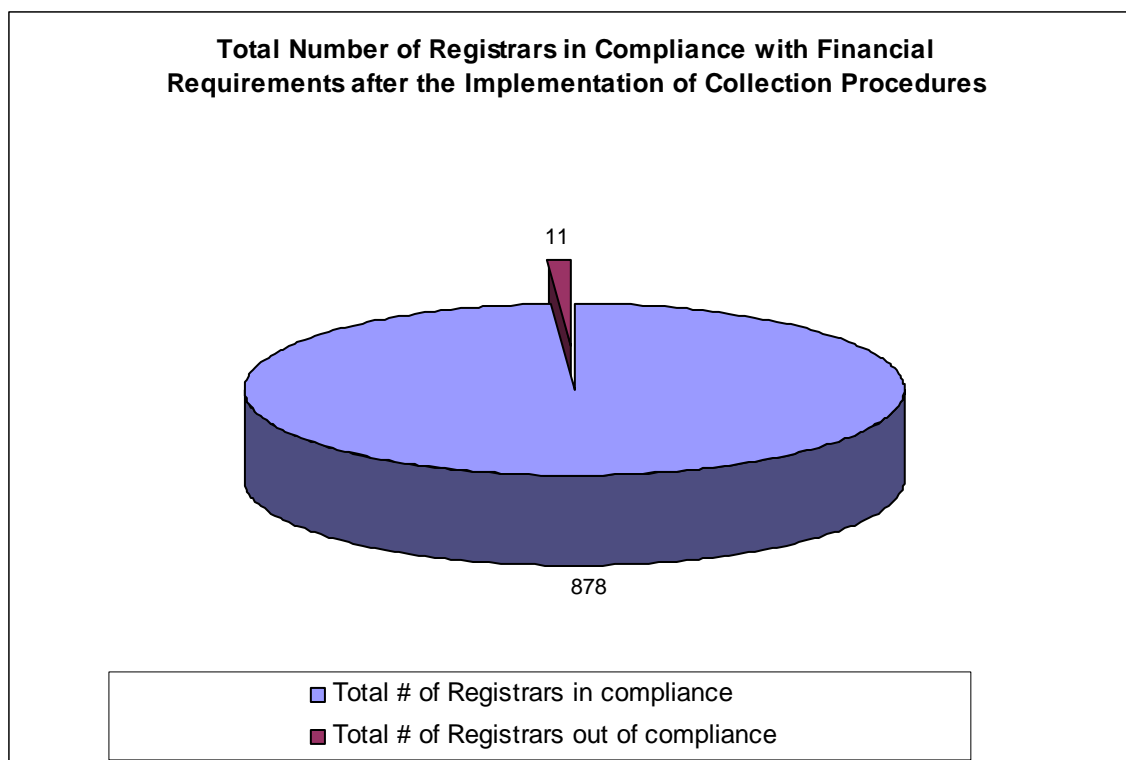
- As part of the Registrar Financial Audit process, ICANN staff examined ICANN's financial records related to approximately 889 registrars. During the audit, ICANN found that 697 registrars, or 78.4%, were compliant with RAA Section 3.9 regarding the timely payment of yearly accreditation fees and variable accreditation fees.
- As part of the Registrar Financial Audit process, ICANN found 192 registrars, or 21.6%, had invoices that were 30 days or more past due.
- After issuing notices of delinquency to 192 registrars having invoices that were 30 days or more overdue, 165 registrars made payments or payment arrangements with ICANN.
- After issuing notice of breach letters to 27 registrars, 9 registrars made payments or payment arrangements.

- ICANN collected approximately \$750,000.00 in delinquent fees and \$572,000.00 was committed to ICANN as a result of payment arrangements made with registrars.
- ICANN’s delinquent debt was reduced to approximately \$149,000.00 from the original delinquent debt total of \$1,471,000.00 as a result of the implementation of a collections procedure to address delinquent accounts.
- After contacting registrars via telephone that received notice of breach letters, 7 registrars made payments or payment arrangements.
- This audit resulted in 11 registrars being considered for termination based on their failure to pay fees as required by RAA Section 3.9.
- Of the 192 registrars initially identified as delinquent, 181, or 94%, either paid their delinquent fees or made arrangements, and are performing based on those arrangements, to pay their delinquent fees. This figure brought the total percentage of registrars in compliance with RAA requirements regarding the payment of fees to 98.7%.

Figure IV-2 illustrates the number of registrars found in compliance before collection procedures were implemented and the number of registrars found in compliance after the implementation of collection procedures.



**Figure IV-2(a) – Number of Registrars Found in Compliance Before Collection Procedures were Implemented**



**Figure IV-2(b) – Number of Registrars Found in Compliance After Collection Procedures were Implemented**

**Follow-Up Actions**

- ICANN will closely monitor those registrars that made payment arrangements to ensure that they fulfill their payment promises.
- ICANN will consider the facts in each of the 11 termination cases and determine the best way to proceed with the protection of registrants as a primary focus.
- ICANN will provide transition assistance to those registrars that no longer wish to own and operate ICANN-Accredited Registrars while concurrently pursuing payment for past due invoices.
- ICANN will engage in quarterly Registrar Fee Audits as such audits have resulted in increased financial responsibility and compliance by the registrar community.

**Information Regarding Registrars Being Considered for Termination**

- One registrar currently being considered for termination has approximately 6,700 names under management;
- Two registrars currently being considered for termination have approximately 1500 names under management; and
- The remaining eight registrars currently being considered for termination have 400 or less names under management.

## **D. REGISTRY FEES AUDIT**

ICANN conducted an internal Registry Fees Audit to assess whether registries and sponsors are complying with the terms of their agreements regarding the timely payment of required fees. ICANN audited registry operators/sponsors for the following top-level domains: .aero, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, and .travel. ICANN did not audit the .tel and .asia TLDs, as they did not have any registrations at the time of ICANN's audit.

### **Audit Objectives**

The general objectives of the Registry Fees Audit were to:

- Assess how many registries and sponsors had delinquent accounts in violation of their agreements;
- Notify registries and sponsors identified as delinquent and provide a reasonable time for cure;
- Encourage compliance with Registry and Sponsorship Agreement requirements regarding the timely payment of fees;
- Report findings from the audit and provide information regarding the follow-up actions taken.

### **Methodology**

The methodology for the Registry Fees Audit was determined by staff before the audit commenced. ICANN's Financial Management staff developed a customer aging document that included the current status of all registries' and sponsors' accounts. An analysis of the customer aging document revealed that all of the registries' and sponsors' accounts were current except for two companies that had previously made payment arrangements with ICANN and were performing based on those payment arrangements. As a result, ICANN did not send any notices of delinquency or notices of breach to any registries or sponsors because all were deemed compliant.

### **Findings**

- 12 out of 14 registries'/sponsors' accounts were found current;
- 2 of 14 registries/sponsors had entered into payment arrangements with ICANN and were performing based on those payment arrangements;
- ICANN will continue to closely monitor those registries/sponsors that made payment arrangements to ensure that they fulfill their payment promises.

## E. DATA RETENTION AUDIT

### Executive Summary

ICANN conducted a Data Retention Audit of all ICANN-Accredited Registrars to assess the data retention and disaster recovery practices of the registrar community. This audit was based on requirements contained in RAA Section 3.4, titled *Retention of Registered Name Holder and Registration Data*. A registrar is required to maintain its own electronic database for each active registered name sponsored within each TLD for which the registrar is accredited. Registrar responsibilities concerning the maintenance of records relating to dealings with the registry operators and registered name holders can be found at <http://www.icann.org/registrars/ra-agreement-17may01.htm>.

The Data Retention and Disaster Recovery Questionnaire was designed to obtain information from registrars about whether they have processes in place to regain access to data necessary to resume critical business operations after a natural or human-induced disaster and to verify compliance with RAA requirements for data retention. Each registrar was provided with a unique data retention audit identification number and directed to a designated URL to complete the online survey questions pertaining to their disaster recovery retention plan. Of the 895 registrars that were sent notices, 449 responded by the 18 June 2007 deadline. After follow-up notices were transmitted, 304 registrars responded by the extended deadline, 28 June 2007, and an additional 60 registrars responded after the extended deadline, bringing the response rate to 91%. The Contractual Compliance staff then contacted the remaining 82 nonresponsive registrars again by email, fax and telephone. An additional 50 registrars responded after ICANN's third attempt to contact nonresponsive registrars, bringing the total response rate to 96%.

ICANN found the following:

- 99.8% of active registrars reported that they are maintaining registration data submitted in electronic form to the registry operators for at least the term of the RAA, plus three years, pursuant to RAA Section 3.4.2.
- 99.8% of active registrars reported that they are maintaining in electronic form records of the accounts of all registered name holders with registrar, including dates and amounts of all payments and refunds for at least the term of the RAA, plus three years, pursuant to RAA Section 3.4.2.
- 93.3% of registrars responded yes when asked if they could make registration data available for inspection by ICANN if given seven days notice.
- 84% of registrars reported that they have a written continuity plan to address potential natural disasters, operational/technical failures, malicious business interference (hacking), acts of terrorism or other violence.

These statistics are based on the registrar responses to the Data Retention and Disaster Recovery Survey questions. The registrars that do not have names under their management are deemed inactive by ICANN. These inactive registrars represent 5.4% of the total number of registrar responses.

### **Introduction**

One of the ways in which ICANN monitors contractual compliance with RAA requirements is through contract audits. The Data Retention Audit was designed to assess the data retention practices within the registrar community.

With the increasing reliance on computer software systems to store registrant registration data, protective measures are critical to aid data recovery in a natural or human-induced disaster. This audit was intended to determine which registrars are in compliance with RAA requirements and to emphasize the importance of having a contingency plan in place. Additionally, the Data Retention Audit was intended to encourage registrars to authenticate backup of critical registrant data, to ensure that data is backed up on a reasonably frequent basis, and to encourage registrars to follow consistent verification procedures to ensure the integrity of data after the transmission or storage of data. Finally, it was ICANN's intention to assess whether registrars have protective measures in place to secure registration data. These areas of inquiry and the responses received have assisted ICANN in identifying potential issues that could impact the stability, reliability and security of the Internet.

The findings of this audit were based exclusively on registrar responses to survey questions and, in certain cases, responses to follow-up questions posed by Contractual Compliance staff. ICANN's Contractual Compliance Department would like to thank all registrars that participated in the Data Retention Audit.

### **Audit Objectives**

The general objectives of the Data Retention Audit were to:

- Assess data retention and disaster recovery practices of the registrar community.
- Assess registrar compliance with data retention requirements found in RAA Section 3.4.
- Verify that all registrars are maintaining records in electronic form as required in RAA Section 3.4.2.
- Determine how backup data is maintained and what registration data is currently stored.
- Follow-up with registrars identified as noncompliant with RAA requirements.
- Initiate breach proceedings against noncompliant registrars that fail to come into compliance within a reasonable period of time.

## **Methodology**

ICANN staff determined the methodology used for the Data Retention Audit based on collaborative input from the Compliance, Registrar Liaison, and Information Technology Departments to construct a survey that would best assess registrar data retention compliance requirements and registrar disaster recovery contingency planning. The initial planning phase required a thorough examination of RAA Section 3.4 to create survey questions that would allow registrars to report on their data retention practices. The Registrar Data Retention and Disaster Recovery survey contained 14 multiple choice questions divided into four categories:

- Registrar Accreditation Requirements Regarding Data Retention
- Contingency Planning and how back-up data is maintained
- Level of insurance coverage
- Demographic Data

ICANN's IT Department completed the following tasks:

- Generated the online survey
- Created the link for all registrars to access the survey
- Provided a unique data retention audit number for each registrar
- Transmitted an electronic notice to all registrars

## **Findings**

### **I. Registrar Accreditation Requirements Regarding Data Retention**

The first set of multiple choice questions were composed from requirements contained in RAA Section 3.4, titled *Retention of Registered Name Holder and Registration Data*. Registrars are required to maintain records such as registration data, registration applications, confirmations, modifications or terminations, as well as records of the accounts of all registered name holders including dates and amounts of all payments and refunds for at least the term of the RAA, plus three years. A total of 863 registrars responded to the audit, with an approximate 96% compliance rate among registrars. The majority of registrars maintained these records by using a database.

Table IV-1 reflects the percentage/number of registrars that responded to Q01–Q05 in Category I. Registrar Accreditation Requirements Regarding Data Retention.

**Table IV-1 – Category I: Registrar Accreditation Requirements Regarding Data Retention**

<b>Data Retention Audit and Disaster Recovery Questions</b>		
<b>Question Number</b>	<b>Survey Questions</b>	<b>% or #of Registrar Responses</b>
Q01	Pursuant to Section 3.4.2 of the RAA, your registrar is required to maintain specific records relating to its dealings with registry operators and registered name holders. Is your registrar maintaining records, in electronic form, of the submission date and time, and the content, of all registration data (including updates) submitted in electronic form to the registry operators for at least the term of the RAA, plus three years?	Yes = 95.4% No = 2.9% Not Sure = 1.7%
Q02	As required by Section 3.4.2 of the RAA, is your registrar maintaining records, in electronic, paper or microfilm form, of all written communications constituting registration applications, confirmations, modifications or terminations and related correspondence with Registered Name Holders, including registration contracts for at least the term of the RAA, plus three years?	Yes = 96% No = 3% Not Sure = 1%
Q03	As required by Section 3.4.2 of the RAA, is your registrar maintaining, in electronic form, records of the accounts of all Registered Name Holders with Registrar, including dates and amounts of all payments and refunds for at least the term of the RAA, plus three years?	Yes = 96% No = 2.9% Not Sure = 1.1%
Q04	Regarding your answers to questions 1, 2, and 3, in what form are these records retained? (check all that apply) *	Database = 805 Flat file = 128 Other = 122
Q05	If given 7 days notice, can your registrar make the records described in questions 1, 2 and 3 above available for inspection by ICANN?	Yes = 93.3% No = 6.7%

## **II. Contingency Planning and How Backup Data Is Maintained**

The second set of multiple choice questions were aimed at assessing contingency planning mechanisms in place by registrars and to determine how backup data is maintained and verified. ICANN observed that 82.5% of the 863 registrars that responded to the survey have a contingency plan in place to address a potential natural or human-induced disaster. Registrars that did not have a contingency plan in place were contacted by ICANN staff. Some of the contingency plans provided by registrars that required further follow-up consisted of the use of Network Operations Centers (NOCs) to monitor, log and redirect reported problems; retention of off-site and on-site backup procedures and verification practices of all business and operational data; as well as archiving data and mirroring the database in different geographical locations. The majority

of registrars that were contacted to provide further explanation or a corrective action plan reported processes in place to provide provisions for registration data and the ability to transfer the data if necessary. The registrars that did not have a contingency plan in place either worked with their information technology department to construct one, or were unaware that a contingency plan was necessary or did not have a contingency plan based on the low volume of customers under their management.

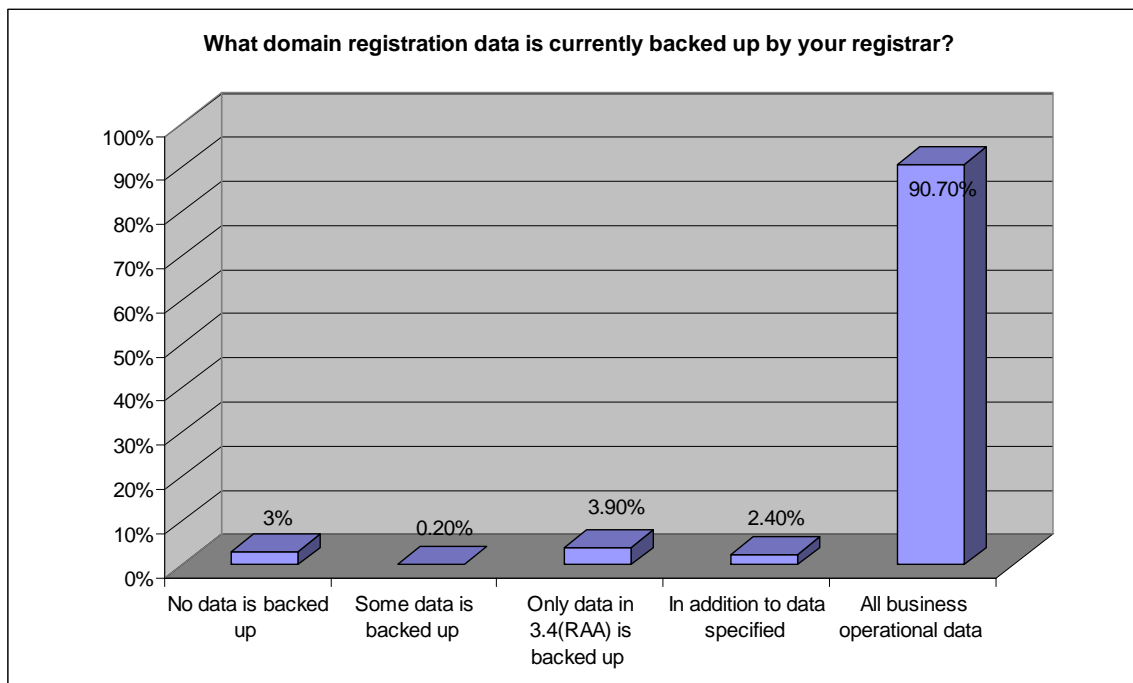
Table IV-2 reflects the number of registrars that responded to Q06-Q13 in Category II. Contingency Planning and how back-up data is maintained.

**Table IV-2 – Category II: Contingency Planning and How Backup Data Is Maintained**

<b>Data Retention Audit and Disaster Recovery Questions</b>		
<b>Question Number</b>	<b>Survey Questions</b>	<b>% or #of Registrar Responses</b>
Q06	Does your registrar have a written continuity plan to address potential: (check all that apply)*	Natural Disaster = 499 Operational Failures = 711 Malicious interference = 687 Terrorism = 573 N/A (no contingency plan) = 135
Q07	Does your contingency planning, if any, direct or allow provision of registration data to ICANN or an accredited registrar in the event of a longer than temporary business disruption?	Yes =82.5% No = 7.5% N/A = 10%
Q08	Does your contingency planning, if any, direct or allow provision of registration data to ICANN or an accredited registrar in the event of a longer than temporary business disruption?	More freq than daily = 46.9% Daily = 45.4% Weekly = 3.3% Monthly = .35% Less freq than monthly = .35% Never = 3% Non-time based schedule =.71%
Q09	What domain registration data is currently backed up by your registrar?	No data is backed up = 3% Some data is backed up = .2% Only data in 3.4(RAA) is backed up = 3.9% In addition to data specified = 2.4% All business operational data = 90.7%
Q010	Which of the following non-domain-registration data, if any, is currently backed up by your registrar(s)? (check all that apply) *	Hosted data = 652 Zone data = 647 N/A (registrar does not provide hosting or DNS services) = 111
Q11	How is backup data maintained? (check all that apply)*	Data backups are retained on-site = 553 Data backups are retained off-site = 446 Data backups are retained off-site geo div = 269 Data backups off-site third party = 96 Data backups off-site service provider = 54

Data Retention Audit and Disaster Recovery Questions		
Question Number	Survey Questions	% or #of Registrar Responses
Q012	Is backed up data validated or otherwise verified to ensure its integrity after transmission or storage?	Yes = 73.2% No = 21.3% Not sure = 5.1% N/A (no back-ups) = .4%
Q13	Besides performing backups, to what extent, if any, does/do your registrar(s) utilize redundant technology to minimize disruption in the event of technical failure? (check all that apply)*	Redundant local storage (e.g. RAID) = 741 Redundant or clustered servers = 630 Redundant connectivity = 699 Miscellaneous redundant = 726 Other = 139
*(check all that apply) Registrars were allowed to answer more than once.		

Figure IV-3 illustrates the domain registration back-up practices of the registrar community revealed in response to Q9.



**Figure IV-3 – Registrar Domain Registration Backup Practices**

### III. Level of Insurance Coverage

Pursuant to RAA Section 3.10, registrars are required to maintain a commercial general liability insurance policy of at least US\$500,000 (or the foreign equivalent) for the term of their agreement. ICANN observed that 49.2% of the registrars that responded to the survey exceed the minimum requirement and 42.8% had commercial general liability policy with at least the minimum required liability limit (\$500,000USD) and additional coverage for Errors and Omissions.

Table IV-3 reflects the percentage of registrars that responded to Q14 in Category III. Level of Insurance Coverage.

**Table IV-3 – Category III. Level of Insurance Coverage**

Data Retention Audit and Disaster Recovery Questions		
Question Number	Survey Questions	% or #of Registrar Responses
Q14	What level of insurance coverage does your registrar maintain?	Minimum = 8% Exceeding minimum =49.2% Additional = 42.8%

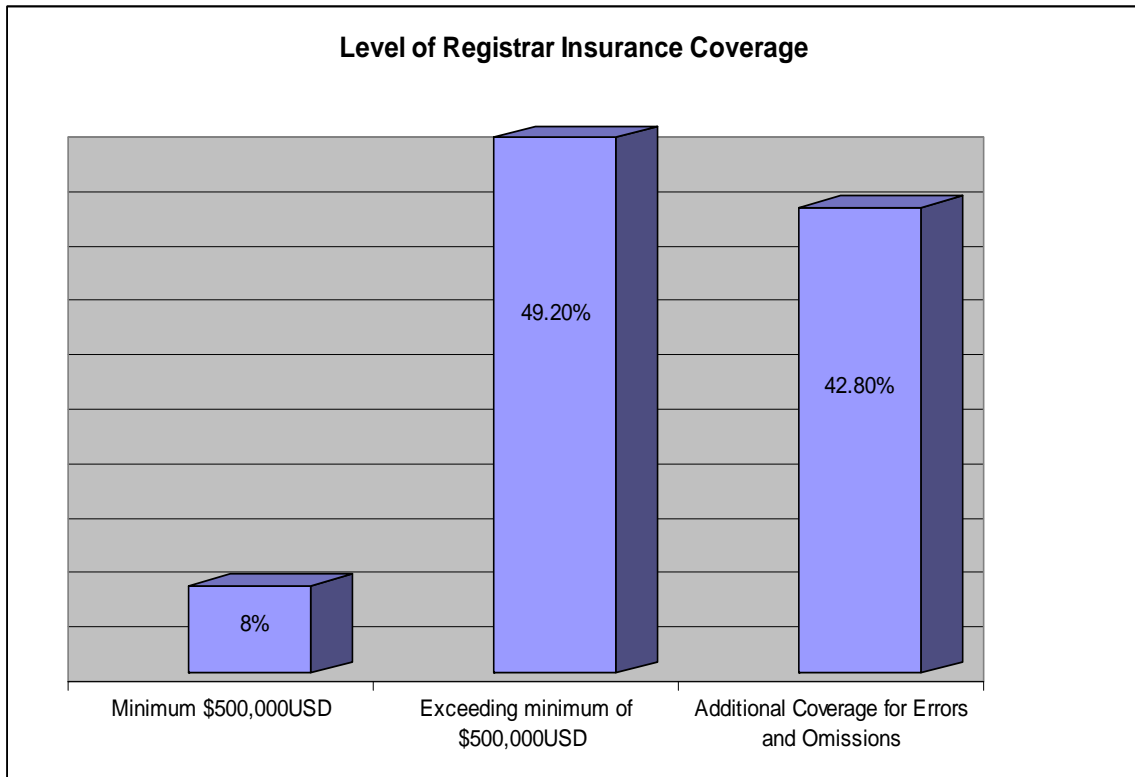


Table IV-4 reflects the percentage of registrars that responded to Q15-Q17 in Category IV. Demographic Data.

**Table IV-4 – Category IV. Demographic Data**

<b>Data Retention Audit and Disaster Recovery Questions</b>		
<b>Question Number</b>	<b>Survey Questions</b>	<b>% or #of Registrar Responses</b>
Q15	Approximately how many gTLD registrations are affected by your registrar's data retention procedures?	Less than 1,000 = 44.2% 1,000-9,999 = 19.4% 10,000 - 99,999 = 8.6% 100,000-999,999 = 7.3% 1,000,000+ = 20.5%
Q16	Approximately how many ccTLD registrations are affected by your registrar's data retention procedures?	Less than 1,000 = 63.3% 1,000-9,999 = 5.3% 10,000 - 99,999 = 14.7% 100,000-999,999 = 16.7% 1,000,000+ = 17.2%
Q17	Approximately how many domain name customers are affected by your registrar's data retention procedures?	Less than 100 = 21% 100-999 = 29.5% 1,000-9,999 = 17.2% 10,000+ = 32.3%

A copy of the Registrar Data Retention Audit Survey appears on the following pages.



**Registrar Data Retention Audit  
Response Date: 18 June 2007,**

**Registrar:  
IANA-ID:**

**Please respond by 18 June 2007**

**Pre-question**

**0. Does your registrar have any domain names under management?**

- Yes  
 No

**Registrar Accreditation Agreement Requirements Regarding Data Retention**

**1. Pursuant to Section 3.4.2 of the RAA, your registrar is required to maintain specific records relating to its dealings with registry operators and registered name holders. Is your registrar maintaining records, in electronic form, of the submission date and time, and the content, of all registration data (including updates) submitted in electronic form to the registry operators for at least the term of the RAA, plus three years?**

- Yes  
 No  
 Not sure

**2. As required by Section 3.4.2 of the RAA, is your registrar maintaining records, in electronic, paper or microfilm form, of all written communications constituting registration applications, confirmations, modifications or terminations and related correspondence with Registered Name Holders, including registration contracts for at least the term of the RAA, plus three years?**

- Yes  
 No  
 Not sure

**3. As required by Section 3.4.2 of the RAA, is your registrar maintaining, in electronic form, records of the accounts of all Registered Name Holders with Registrar, including dates and amounts of all payments and refunds for at least the term of the RAA, plus three years?**

- Yes
- No
- Not sure

**4. Regarding your answers to questions 1, 2, and 3, in what form are these records retained? (check all that apply)**

- a. Database
- b. Flat file
- c. Other

**5. If given 7 days notice, can your registrar make the records described in questions 1, 2, and 3 above available for inspection by ICANN?**

- Yes
- No

#### **Contingency Planning**

**6. Does your registrar have a written continuity plan to address potential: (check all that apply)**

- a. Natural disasters
- b. Operational/technical failures
- c. Malicious business interference (hacking)
- d. Acts of terrorism or other violence
- e. n/a (no written continuity plan)

**7. Does your contingency planning, if any, direct or allow provision of registration data to ICANN or an accredited registrar in the event of a longer than temporary business disruption?**

- yes

- no
- n/a (no contingency planning)

**8. How frequently does your registrar perform backup of critical registrant data (i.e. the data fields that must be retained pursuant to section [3.4 of the Registrar Accreditation Agreement](#))?**

- More frequently than daily
- Daily
- Weekly
- Monthly
- Less frequently than monthly
- Never
- According to a non-time-based schedule (e.g. after every N transactions)

**9. What domain registration data is currently backed up by your registrar?**

- No data is backed up
- Some of the data specified in section 3.4 of the RAA is backed up
- Only the data specified in section 3.4 of the RAA is backed up
- In addition to the data specified in section 3.4 of the RAA, all underlying customer data (in the case of “private” or “proxy” registrations) is backed up
- All business operational data is backed up (including the data elements specified in section 3.4 of the RAA and all other domain name customer data)

**10. Which of the following non-domain-registration data, if any, is currently backed up by your registrar(s)? (check all that apply)**

- a. Hosted data (in the case of web, email, and other hosting customers)
- b. Zone data (for customers using your nameservers)
- c. n/a (registrar does not provide hosting or DNS services)

**11. How is backup data maintained? (check all that apply)**

- a. Data backups are retained on-site
- b. Data backups are retained off-site
- c. Data backups are retained off-site in a distinct and geographically diverse location
- d. Data backups are retained off-site by a third party data storage provider
- e. Data backups are retained off-site by a registrar service provider other than a registry (e.g. back-end provider or batch pool operator retains an additional copy of registrant or other data)

**12. Is backed up data validated or otherwise verified to ensure its integrity after transmission or storage?**

- Yes
- No
- Not sure
- n/a (no backups)

**13. Besides performing backups, to what extent, if any, does/do your registrar(s) utilize redundant technology to minimize disruption in the event of technical failure? (check all that apply)**

- a. Redundant local storage (e.g. RAID) of registration data
- b. Redundant or clustered servers
- c. Redundant connectivity
- d. Miscellaneous redundant infrastructure (e.g. power, HVAC, etc.)
- e. Other (please specify: )

**14. What level of insurance coverage does your registrar maintain?**

- Only the minimum required by the RAA (\$500,000 USD Commercial General Liability policy (or the foreign equivalent))
- A Commercial General Liability policy (or the foreign equivalent) with policy limits exceeding the minimum (\$500,000 USD)
- A Commercial General Liability policy with at least the minimum

required liability limit (\$500,000 USD) and additional coverage for Errors and Omissions

### Demographic Data

**15. Approximately how many gTLD registrations are affected by your registrar's data retention procedures?**

- Less than 1,000
- 1,000-9,999
- 10,000-99,999
- 100,000-999,999
- 1,000,000+

**16. Approximately how many ccTLD registrations are affected by your registrar's data retention procedures?**

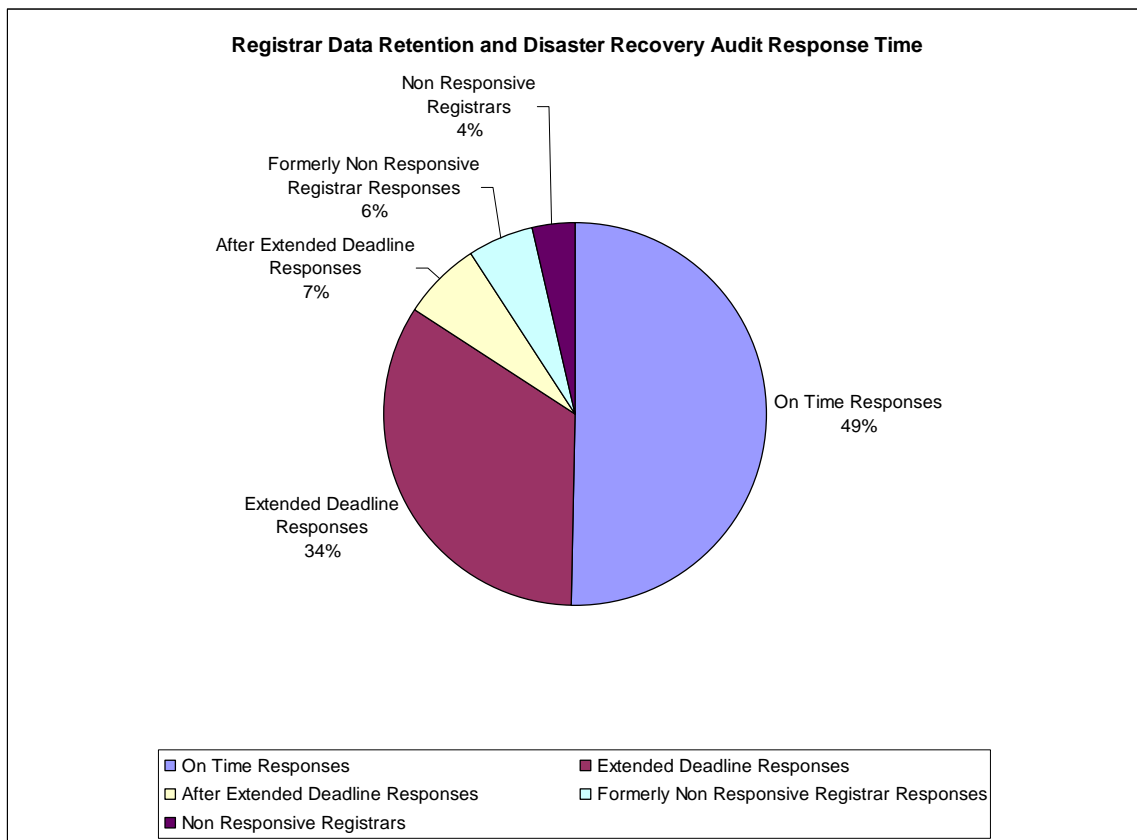
- less than 1,000
- 1,000-9,999
- 10,000-99,999
- 100,000-999,999
- 1,000,000+

**17. Approximately how many domain name customers are affected by your registrar's data retention procedures?**

- less than 100
- 100-999
- 1,000-9,999
- 10,000+

Registrars were given a deadline to respond to the Registrar Data Retention and Disaster Recovery Audit Survey. Of the 895 registrars that were sent notices, 449 responded by the deadline. After follow-up notices were transmitted, 304 registrars responded by the extended deadline and an additional 60 registrars responded after the extended deadline bringing the response rate to 91%. The Compliance staff then contacted the remaining 82 nonresponsive registrars again by email, fax and telephone. An additional 50 registrars responded after the third attempt bringing the total response rate to 96%.

Figure IV-4 illustrates the Registrar Data Retention and Disaster Recovery Audit Response.



**Figure IV-4 – Registrar Data Retention and Disaster Recovery Audit Response**

The analysis of the audit results was broken down into several components. The preliminary question was designed to categorize registrars that had no domain names under their management. Registrars that had no names under their management are deemed inactive by ICANN. Inactive registrars are not expected to have a contingency plan in place because they have no names to manage. Consequently, the Compliance team decided not to follow-up with inactive registrars that consistently responded “no” to all questions pertaining to

the following sections: Registrar Accreditation Requirements Regarding Data Retention, and Contingency Planning and How Backup Data Is Maintained. The remaining registrars that answered “N/A,” “No,” “Never,” “Less frequently than monthly,” “Non-time based schedule,” “Some,” “None” and “Not sure” to Questions 1–12 were contacted by ICANN staff to provide an explanation or a corrective action plan.

### **Observations**

- The survey results reveal that almost all ICANN-Accredited Registrars reported that they are compliant with registrar data retention requirements.
- The response rate to the Data Retention Audit was high.
- 42 of the initial 82 nonresponsive registrars are located in North America.
- 18 of the initial 82 nonresponsive registrars are located in Europe.
- Eleven of the initial 82 nonresponsive registrars are located in Asia.
- Eight of the initial 82 nonresponsive registrars are located in the Middle East.
- Three of the initial 82 nonresponsive registrars are located in Australia/Pacific.

### **Follow-Up Actions**

In 2008, ICANN will conduct site visits and request data from registrars to verify the information provided in the Data Retention Audit.

Nonresponsive registrars remain a focus for the Contractual Compliance Department. ICANN’s Compliance Department informed registrars that failure to respond to the survey may lead to further investigation by ICANN, including site visits and comprehensive compliance assessments. ICANN has commenced investigations regarding the 32 nonresponsive registrars.

ICANN’s Compliance Department will continue to take aggressive steps to ensure compliance and to improve the overall responsiveness from registrars when contacted by ICANN. ICANN requests that registrars respond to all communications sent from ICANN’s Contractual Compliance Department in a timely manner.

## **F. REGISTRY CODE OF CONDUCT AUDIT**

### **Executive Summary**

ICANN performed a Registry Code of Conduct Audit for all registries and sponsors to determine whether possible contract violations occurred due to the sharing of employees, data, storage facilities and account management functions with registrars.

Each registry and sponsor was given a certification letter related to specific provisions in the respective agreements and was asked to submit a formal sworn statement signed by a corporate officer and witnessed by a notary public or by an officer who can administer oaths and declarations signed and stamped to authenticate the documents. In addition to the certification letters, the registries and sponsors were given a Request for Information that contained pertinent questions addressing the process taken by each registry and sponsor to provide equivalent access to registrars under their respective registry management.

Due to the confidential nature of the information submitted by each registry or sponsor concerning their specific business practices and operations, detailed information regarding their business operations is not included in this report. However, information regarding specific areas of compliance is reported here. Among the 14 registries and sponsors examined, 12 were found in compliance with the terms and conditions stated in their Registry and Sponsorship Agreements regarding Code of Conduct matters.

### **Audit Objectives**

The general objectives of the Registry Code of Conduct Audit were to:

- Ensure equivalent treatment with respect to registry services to all ICANN-Accredited Registrars.
- Specify how many IP addresses had been allotted for each ICANN-Accredited Registrar to connect to the shared registration system gateway for the TLD via the Internet.
- Verify that all ICANN-Accredited Registrars were sent the most recent version of the toolkit software.
- Explain how the customer support personnel were made available to each registrar in the registry.
- Determine what protective measures are in place to prevent registry access to proprietary registrar data by affiliates, subsidiaries, or other related entities.

### **Methodology**

The methodology for the Code of Conduct Audit required a thorough analysis of the registry operators' and sponsors' agreements to create certification letters verifying that the registries and sponsors were compliant with the terms and conditions stated in their agreements.

Each registry operator and sponsorship agreement is different. Accordingly, each audit was tailored to address the specific shared registration system gateway for the TLD stipulated in the agreements defined as Access to Registry Services in Article VII of the Registry Agreement, *Use of ICANN-Accredited Registrars*, as set forth in Section 3.6 of the Sponsorship Agreement, and/or Code of Conduct in Appendix I of the Registry Agreement.

All registries and sponsors were asked to have the certification letters signed by a corporate officer and notarized. Comprehensive and detailed responses were requested from each registry or sponsor to the Request for Information. All documents were to be sent via courier to ICANN by 11 June 2007.

ICANN staff completed the following tasks:

- Drafted certification letters based on specific requirements in the relevant registry/sponsor agreements.
- Transmitted the Request for Information and certification letters to each registry and sponsor.
- Logged all notarized certification letters and analyzed all registries and sponsors responses submitted from the Request for Information.
- Completed follow-up action with registries and sponsors for further explanation as needed.

ICANN sent each registry or sponsor a Request for Information questionnaire and a certification letter based on the specific terms and conditions set forth in each registry or sponsor agreement. The Code of Conduct Audit was classified under the three separate headings defined according to the registry or sponsor's respective registry agreements. A copy of the audit notification letter, the declaration statement and the Request for Information is provided below:

## **I. Access to Registry Services**

Dear Registries and Sponsors:

ICANN is conducting an Access to Registry Services Audit. Attached hereto you will find an Access to Registry Services Certification letter and a Request for Information. The letter must be signed by a corporate officer and notarized. Your responses to the Request for Information should be comprehensive. All documents must be sent by courier to:

The Internet Corporation for Assigned Names and Numbers  
Attention: Stacy Burnette  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
USA

We ask that all correspondence is postmarked by 11 June 2007. Thank you for your prompt attention to this matter. Please feel free to contact Constance Brown at (310) XXX-XXXX should you have any questions.

Regards,

Stacy K. Burnette  
Director  
Contractual Compliance  
The Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way  
Suite 330  
Marina del Rey, CA 90292

## Access to Registry Services Certification

(Insert registry or sponsor), acting in its capacity as the Registry Operator, certifies that (insert registry or sponsor) is complying with the terms and conditions as set forth in Article VII of the Registry Agreement titled *Access to Registry Services*.

- (i) All registrars (including any registrar affiliated with Registry Operator) were able to connect to the shared registration system gateway for the TLD via the Internet by utilizing the same maximum number of IP addresses and SSL certificate authentication;
  - (ii) Registry Operator has made the current version of the registrar toolkit software accessible to all registrars and has made any updates available to all registrars on the same schedule;
  - (iii) All registrars had the same level of access to customer support personnel via telephone, email and Registry Operator's website;
  - (iv) All registrars had the same level of access to registry resources to resolve registry/registrar or registrar/registrar disputes and technical and/or administrative customer service issues;
  - (v) All registrars had the same level of access to data generated by Registry Operator to reconcile their registration activities from Registry Operator's Web and ftp servers;
  - (vi) All registrars were able to perform basic automated registrar account management functions using the same registrar tool made available to all registrars by Registry Operator; and
  - (vii) The shared registration system has not included, for purposes of providing discriminatory access, any algorithms or protocols that differentiate among registrars with respect to functionality, including database access, system priorities and overall performance.
- (b) Registry Operator has not acted as a registrar with respect to the TLD.
- (c) Registry Operator has not acquired, directly or indirectly, control of, or a greater than fifteen percent ownership interest in, any ICANN-Accredited Registrar.

This Certification is dated this the \_\_\_\_ day of June, 2007.

(insert registry or sponsor) By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The Access to Registry Services certification letter was sent to nine registries or sponsors. A copy of the Request for Information questions is provided below:

## Request for Information

1. What procedures are followed by (insert registry name) and its subcontractors to ensure that all ICANN-Accredited Registrars in the (insert TLD) registry are provided nondiscriminatory access to registry services?
2. Please specify how many IP addresses (insert Registry name) has allotted for each ICANN-Accredited Registrar to connect to the shared registration system gateway for the TLD via the Internet.
3. Please verify that all ICANN-Accredited Registrars in the (insert TLD) registry have been sent updates to the most recent version of the toolkit software.
4. Please explain how (insert registry name) customer support personnel are made available to each registrar in the (insert TLD) registry.
5. What resources does (insert registry name) make available to registrars to resolve issues, such as, registry/registrar disputes, registrar/registrar disputes or technical and/or administrative customer service issues?
6. How do you ensure that registrars in the (insert TLD) registry have equivalent access to data generated by (insert registry name) to reconcile their registration activities?

## **II. Use of ICANN-Accredited Registrars**

Dear Registries and Sponsors:

ICANN is conducting an audit regarding the Use of ICANN-Accredited Registrars. Attached hereto you will find a Certification letter regarding the Use of ICANN-Accredited Registrars and a Request for Information. The letter must be signed by a corporate officer and notarized. Your responses to the Request for Information should be comprehensive. All documents must be sent by courier to:

The Internet Corporation for Assigned Names and Numbers  
Attention: Stacy Burnette  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
USA

We ask that all correspondence is postmarked by 11 June 2007. Thank you for your prompt attention to this matter. Please feel free to contact Constance Brown at (310) XXX-XXXX should you have any questions.

Regards,

Stacy K. Burnette  
Director  
Contractual Compliance  
The Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way  
Suite 330  
Marina del Rey, CA 90292

### **Certification Re: Use of ICANN-Accredited Registrars**

(Insert sponsor) acting in its capacity as the Sponsor, certifies that (insert sponsor) is complying with the terms and conditions as set forth in section 3.6 of the Sponsorship Agreement titled *Use of ICANN-Accredited Registrars*.

1. Sponsor has entered its standard written agreement authorizing the provision of Registry Services (its Authorizing Agreement) with any ICANN-Accredited Registrar so selected that wishes to enter an Authorizing Agreement and is able to comply with its terms.
2. Sponsor has required Registry Operator to provide equivalent treatment with respect to Registry Services to all ICANN-Accredited Registrars that are in compliance with a currently effective Authorizing Agreement.

This Certification is dated this the \_\_\_\_\_ day of June, 2007.

(insert sponsor) By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The Use of ICANN-Accredited Registrars certification letter was sent to three sponsoring organizations. A copy of the Request for Information question is provided below:

#### **Request for Information**

What steps are taken by (insert registry name) to ensure that the Registry Operator is providing equivalent treatment with respect to Registry Services to all ICANN-Accredited Registrars that are in compliance with a currently effective Authorizing Agreement?

### III. Code of Conduct

#### Code of Conduct Certification

The (insert registry or sponsor), acting in its capacity as the Registry Operator, certifies that (insert registry or sponsor) is complying with the terms and conditions as set forth in Appendix I of the Registry Agreement titled *Registry Code of Conduct*.

1. Other than in connection with the distribution of dividends or other profits to (insert registry or sponsor) members and shareholders, (insert registry or sponsor) has not, and have not required that its subcontractors directly or indirectly, show any preference or provide any special consideration to any DNS registry operator or ICANN-Accredited Registrars in the (insert tld) Registry versus any other DNS registry operator or ICANN-Accredited Registrars in the (insert TLD) Registry, as those terms are defined by ICANN, including the registry or registrar owned by a member of (insert registry or sponsor).
2. All ICANN-Accredited Registrars in the (insert tld) Registry had equal access to Registry Services provided by (insert registry or sponsor) as set forth in Appendix H.
3. (Insert registry or sponsor) and its members and subcontractors have not in any way attempted to warehouse or register domain names in their own right, except for names designated for operational purposes in compliance with Subsections 3.6.1 and 3.6.2 of the Registry Agreement. In its Monthly Report to ICANN, (insert registry or sponsor) included a list of all names designated for operational purposes.
4. Any shareholder, subsidiary, affiliate, or other related entity of (insert registry or sponsor) that also operates as a provider of registrar services has maintained separate books of account with respect to its registrar operations separate from those of (insert registry or sponsor).
5. Neither (insert registry or sponsor), nor its shareholders, subsidiaries, affiliates, or other related entities have not had access to user data or proprietary information of an ICANN-Accredited Registrar, except as necessary for registry management and operations.
6. (Insert registry or sponsor) has ensured that no user data or proprietary information from any ICANN-Accredited Registrar is disclosed to its affiliates, subsidiaries, or other related entities, except as necessary for registry management and operations.
7. Confidential information about (insert registry or sponsor)'s business services has not been shared with employees of any DNS registry operator or ICANN-Accredited Registrars, except as necessary for registry management and operations.

8. No member of (insert registry or sponsor)'s Board of Directors has simultaneously served on the Board of Directors of an ICANN-Accredited Registrar that obtains Registry Services from (insert registry or sponsor).
9. No employee of (insert registry or sponsor) holds greater than 5% interest, financial or otherwise in a company that obtains Registry Services from (insert registry or sponsor).
10. No employee of (insert registry) is also an employee of any (insert registry) subsidiary, affiliate or other related entity that also operates as an ICANN-Accredited Registrar.
11. (Insert registry) has ensured that no user data from or proprietary information of any registry operated or controlled by (insert registry) is disclosed to any other registry operated or controlled by (insert registry).
12. (Insert registry) has not attempted to itself determine any entity's right to a particular domain name, and does not have means to verify such rights.
13. (Insert registry) has conducted internal neutrality reviews on a regular basis.

This Certification is dated this the \_\_\_\_ day of June, 2007.

(Insert registry)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The Code of Conduct certification letter was sent to two registries. A copy of the Request for Information questions is provided below:

## Request for Information

1. What procedures are followed by (insert name) and its subcontractors to ensure that all ICANN-Accredited Registrars in the (insert TLD) registry are shown nonpreferential treatment?
2. Please send the most current (insert registry name) Equivalent Access Certificate pursuant to section 3.5.2, "Registry Operator shall certify to ICANN every six months, using the objective criteria set forth in Appendix H, that Registry Operator is providing all such ICANN-Accredited Registrars with equivalent access to its Registry Services, including to its shared registration system."
3. What protective measures are in place to ensure that any shareholder, subsidiary affiliates or other related entity of (insert registry name) maintains separate books of account with respect to its registrar operations?
4. Please specify what protective measures are in place to prevent registry access to proprietary registrar data by (insert registry name) affiliates, subsidiaries, or other related entities.
5. Have there been any cases where disclosure of proprietary information from any ICANN-Accredited Registrar was necessary per items 5 and 6 of Appendix I? If so, please provide details.
6. What protective measures are in place to control confidential information? How can you ensure that shareholders, subsidiary affiliates or other related entities of (insert registry name) are not given access to user data or proprietary information?
7. Please confirm that no member of (insert registry name) Board of Directors simultaneously serves on the Board of Directors of an ICANN-Accredited Registrar that obtains Registry Services from (insert registry name).
8. Are there any employees of (insert registry name) that hold a more than 5% interest, financial or otherwise in a company that obtains Registry Services from GNR?
9. Are there any employees of (insert registry name) that are also employees of any (insert registry name) subsidiary, affiliate or other related entity that also operates as an ICANN-Accredited Registrar?
10. Please provide a copy of the most current internal neutrality review conducted by (insert registry name).

At the conclusion of the audit, each registry and sponsor was given its results, an explanation of any areas in need of further explanation and a deadline to respond.

## **Findings**

ICANN examined responses received from 14 registries and sponsors to the Request for Information documents transmitted in conjunction with the Code of Conduct Audit. The following is an overview showing the various issues ICANN encountered during the compliance review associated with the Code of Conduct requirements. These statistics are based on results compiled from data received by the registries and sponsors:

- 86% of registries/sponsors reported that they provide equal treatment with respect to registry services to all ICANN-Accredited Registrars.
- 86% of registries/sponsors reported that they provide the same level of access to customer support personnel to all ICANN-Accredited Registrars.
- 86% of registries/sponsors reported that all ICANN-Accredited Registrars were sent the most recent version of the toolkit software.
- 86% of registries/sponsors reported having sufficient protective measures in place to prevent access to proprietary registrar data by affiliates, subsidiaries or other related entities.
- 86% of registries/sponsors reported that they do not have any employees that are also employees of an ICANN-Accredited Registrar.
- ICANN is currently in communication with the remaining two registries/sponsors that have not provided sufficient information to verify compliance to ensure that these registries/sponsors are aware of what is needed to be considered compliant and are given a sufficient time period to correct the problems identified by ICANN.
- To verify the registry Code of Conduct practices reported, in 2008 ICANN will conduct registry site visits and request documentation to verify the information provided as part of this audit.

The following categories required further follow-up by ICANN to assess compliance:

### **IP Address Allocation and Distribution**

Four registries or sponsors were asked to provide extensive information regarding IP address allocation or distribution. Specifically, the eligibility requirements in place to determine how to receive more IP addresses; how many total IP addresses are allocated for all registrars; and how do you restrict access to registrars' respective allocated IP addresses.

### **Nonpreferential Treatment**

Two registries or sponsors were asked to explain the technical and procedural measures involved in the eligibility and name selection process for registrars under the registry's management to ensure equivalent treatment; registries or sponsors were asked to include the steps taken and the security measures in place to ensure the registry is providing equivalent treatment; finally, how do you

ensure that registrars in the registry have equivalent access to data generated by the registry to reconcile their registration services.

### **Protective Measures and Discriminatory Access**

Eight registries or sponsors were asked to describe what measures are in place to prevent shareholders, subsidiary affiliates or other related entities from looking at data; provide a detailed description of the processes in place to ensure that the books of accounts are kept separately; provide a detailed description of the processes used by registrars to prevent discriminatory access to registry services; provide a detailed response outlining the protective measures that are in place to prevent registry access to proprietary registrar data and include the technical measures that are in place.

### **Recent Version of the Toolkit Software**

Two registries or sponsors were asked how registrars can access the most recent toolkit and if it is available to the public and to provide the URL.

### **Neutrality Review Certification**

One registry or sponsor was asked to provide adequate detail about the steps undertaken in the review to ensure that the registry or sponsor was complying with all the provisions in their agreement.

### **External Registry Operator**

Two registries or sponsors were asked to provide further explanation to the responses submitted.

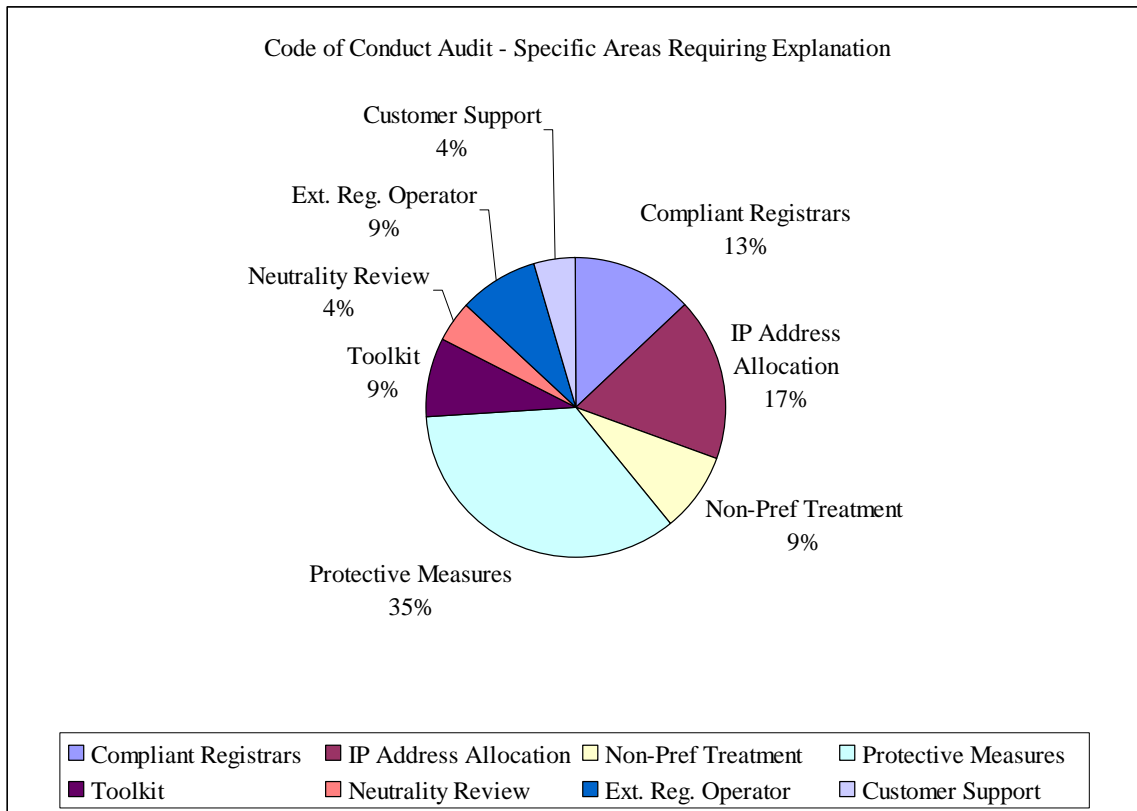
ICANN is aware of the type of arrangement in which registries use an external registry operator; however, we address our correspondence with the entity that has the agreement with ICANN. To provide ICANN with the level of detail required to be considered compliant, ICANN allowed the registries and sponsors to forward questions to the external registry operator for assistance as needed.

### **Customer Support/Resolving Disputes**

One registry or sponsor was asked what resources does the registry or sponsor make available to registrars to resolve issues such as registry/registrar disputes, registrar/registrar disputes or technical and/or administrative customer service issues.

After the initial analysis, three registries or sponsors were in compliance with all areas tested. ICANN staff requested the remaining 11 registries or sponsors to provide extensive information about their operations.

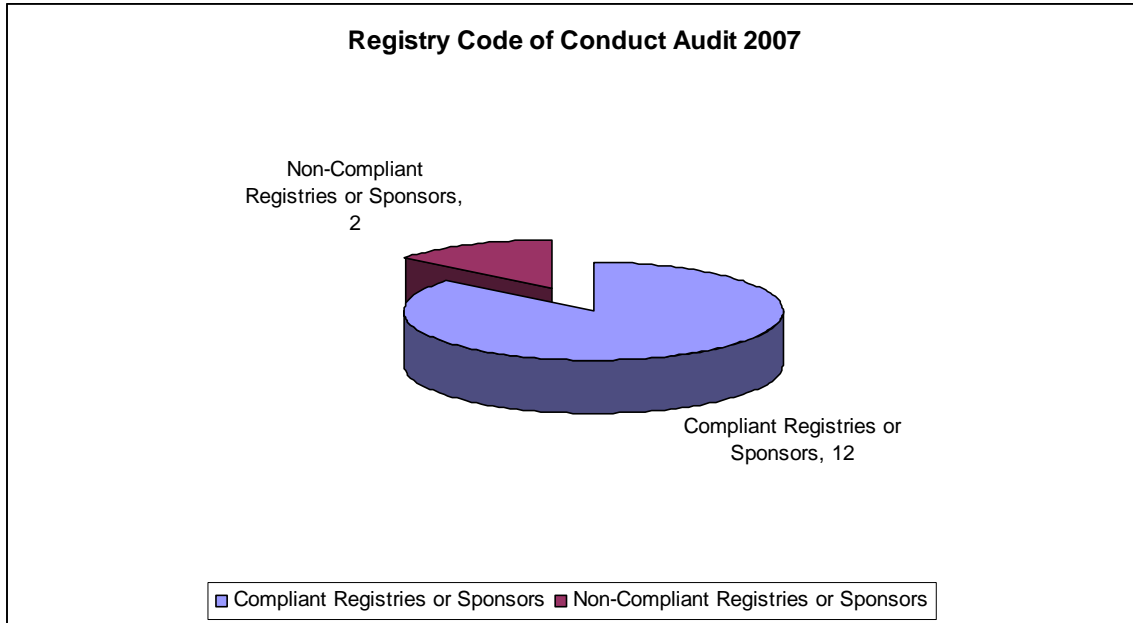
Figure IV-5 displays the compliance areas that required follow-up:



**Figure IV-5 – Compliance Areas Requiring Follow-Up**

After all compliance efforts were completed, of the remaining 11 registries and sponsors, nine were considered compliant after providing ICANN with the requested follow-up information.

Figure IV-6 illustrates the Registry Code of Conduct Compliance findings:



**Figure IV-6 – Registry Code of Conduct Compliance Findings**

Based on the requirements in each agreement, registries and sponsors were considered compliant if they:

- Provided the notarized certification letter signed by a corporate officer.
- Ensured equivalent treatment with respect to registry services to all ICANN-Accredited Registrars.
- Specified how many IP addresses had been allotted for each ICANN-Accredited Registrar to connect to the shared registration system gateway for the TLD via the Internet.
- Verified that all ICANN-Accredited Registrars were sent the most recent version of the toolkit software.
- Explained how the customer support personnel were made available to each registrar in the registry.
- Determined what protective measures are in place to prevent registry access to proprietary registrar data by affiliates, subsidiaries, or other related entities.
- Provided a neutrality review certification document that provided adequate detail about steps undertaken in the review to ensure that the registry or sponsor and its owners complied with all the provisions of the registry or sponsor's agreement.

**Follow-Up Actions**

- ICANN will contact the registries and sponsors that have outstanding information needed to complete this audit.
- ICANN will use the information provided by the registries and sponsors from this audit to evaluate and identify potential areas of reform to be considered by the ICANN community.
- ICANN will use the data provided in this audit as an accountability framework mechanism to assess future compliance work including on-site audit visits by ICANN staff.

## **G. WHOIS DATA PROBLEM REPORT SYSTEM**

### **Community Experiences with the InterNIC Whois Data Problem Report System**

#### **Executive Summary**

This report summarizes ICANN's experience with the operation of the Whois Data Problem Report System (WDPRS) during a 12-month reporting period that ended 28 February 2007. ICANN developed this system to receive and track complaints about inaccurate or incomplete Whois data entries. Individuals who encounter such entries can notify ICANN by completing an online form, which is then forwarded to the registrar of record for appropriate action. The WDPRS is one of the tools that ICANN uses to improve the accuracy of Whois data.

Through the WDPRS, ICANN can track how many reports are filed and confirmed by the reporter so they may be sent to the registrar of record. After 45 days, ICANN asks the person filing the report to complete the process by performing a follow-up review, which involves checking the Whois data again and indicating whether (1) the data was corrected; (2) the domain name was deleted; (3) the data was unchanged; or (4) there is some other disposition.

The WDPRS is one of the tools used by ICANN to improve Whois data accuracy and assist users in resolving Whois data accuracy disputes. In collaboration with the Internet community, ICANN will continue to explore measures to improve compliance with Whois provisions in ICANN agreements. The information provided through this report indicates that ICANN's current tools, including the WDPRS, continue to serve as valuable resources for users attempting to resolve Whois data accuracy claims.

In the most recent reporting period, there were 50,189 reports for which ICANN received follow-up responses during the year. Of these, 34,029 unique domain names were subject to reports. Thus, 16,160 duplicate reports were submitted.

As in previous years, a great majority of reports were filed by a small number of individuals. One individual this year filed nearly 40% of all reports received. The top 20 contributing individuals accounted for over 83% of the 50,189 reports. The fact that less than 1% of reporters accounted for almost 90% the reports presents an issue for statistical analysis of the data. The methodology we use for analysis depends on the judgments of the reporters, and hence any bias or skew in the judgments of that industrious 1% may affect the conclusions drawn. Because of this concern, ICANN staff did an independent analysis of approximately 16,000 of the domain names (described below) and the report indicates differences between the data sets.

The analysis performed on the data indicates that approximately 35% of the names reported were corrected, suspended, or are no longer registered (a total of 11,910 names fall in these categories). This number of names identified as corrected is 3,978 lower than the number in last year's report. This drop is believed to be due primarily to three reasons: ICANN tightened the definition of

names qualifying as “suspended,” reducing that number; rather than deleting names, some registrars are believed to “park” the names, with the registrant’s use of the name apparently disabled; and a reduction in the preciseness of reports furnished by reporters.

The total number of reports handled by the WDPRS during this reporting period (50,189) was slightly lower than the number of reports handled by the WDPRS in the last reporting period (51,664). This was likely due to the implementation of a limiter that prevents users from filing reports regarding domain names that were reported within the prior five days. On 1 June 2006, ICANN initiated use of a “limiter” at <http://wdprs.internic.net> to prevent abusive report submissions. ICANN has noted previously that some users of the WDPRS have abused the system by filing redundant, repetitive reports in short amounts of time. Registrars have complained that these notices can often be attributed to the manner in which a domain name is used (e.g., to send spam), but not necessarily to inaccurate Whois data. Registrars further observed that these redundant reports adversely impact their ability to timely act on legitimate, unique complaints. The use of the limiter has allowed the WDPRS to handle reports involving an additional 8,810 domain names over last year, while decreasing the aggregate number of reports by 1,475.

### **Applicable Provisions of the ICANN Registrar Accreditation Agreement**

The [RAA](#), which governs the relationship between ICANN and all accredited registrars, sets out several obligations for registrars with regard to Whois data accuracy. Specifically, registrars must:

- Require each registrant to submit (and keep updated) accurate contact details (RAA ¶ 3.7.7.1 <<http://www.icann.org/registrars/ra-agreement-17may01.htm#3.7.7.1>>).
- Provide both a web-based and Port 43 Whois service providing access to complete contact information for all TLDs covered under the RAA (RAA ¶ 3.3.1 <<http://www.icann.org/registrars/ra-agreement-17may01.htm#3.7.7>>).
- Require registrants to agree that willfully submitting inaccurate contact details (or failing to respond within 15 days to an inquiry regarding accuracy) shall be a basis for cancellation of the registration (RAA ¶ 3.7.7.2 <<http://www.icann.org/registrars/ra-agreement-17may01.htm#3.7.7.2>>).
- Take reasonable steps to investigate and correct the contact details in response to any reported inaccuracy (RAA ¶ 3.7.8 <<http://www.icann.org/registrars/ra-agreement-17may01.htm#3.7.8>>).

### **Implementation of the Whois Data Problem Report System (WDPRS)**

To assist registrars in complying with the contractual obligations outlined above, ICANN implemented the Whois Data Problem Report System (WDPRS) on 3 September 2002. The goal of the WDPRS is to streamline the process for receiving and tracking complaints about inaccurate and incomplete Whois data,

and thereby help improve the accuracy of Whois data. Since launching the WDPRS, several improvements were made to simplify the reporting process and automate the report investigation and registrar notification processes. Further technical enhancements are planned that will allow for enhanced statistical reporting of registrar report handling to ICANN Compliance staff.

Reports of inaccurate Whois data under the WDPRS are submitted through the InterNIC website, operated by ICANN as a public resource containing information relating to domain registration services. The centerpiece of the WDPRS is a centralized online form, available at <http://wdprs.internic.net>, for submitting reports about Whois data inaccuracies. The form requests Internet users (called “reporters” in this context) to specify the domain name they believe is inaccurate and their name and email address. After submitting this information, the reporter is shown the Whois record for that domain name, and asked to specify the inaccuracy or inaccuracies. The system then sends the reporter an email request for confirmation of the report. The reporter then has five days to acknowledge the request or the report will be deleted.

Once the report is confirmed by the reporter, it is automatically forwarded to the registrar of record for handling. Forty-five days later, a follow-up questionnaire is sent to the reporter, asking whether the inaccurate data was corrected, whether the name was deleted, whether there was no change, or whether there was some other disposition. The aggregate data collected during this final step is used by ICANN compliance staff to follow up with registrars as needed to ensure compliance with the requirements of the Registrar Accreditation Agreement.

### **Statistics from Operation of the WDPRS**

The following sections provide a statistical summary of operation of the Whois Data Problem Report System. These statistics cover the operation of the system from the last report’s cut-off date of 28 February 2006 until this year’s cut-off date of 28 February 2007. It includes information concerning (1) the number of Whois data inaccuracies reported; (2) the number of unique domain names with reported inaccuracies; and (3) registrar handling of the submitted reports.

### **Reported Data Inaccuracies**

A total of 50,189 confirmed Whois Data Problem Reports, involving 34,029 unique domain names, were completed by the submission of a follow-up report by the reporter during this reporting period. The 2006 report indicated that 51,664 submissions had been confirmed during that reporting period, involving 25,219 unique domain names.

On a per TLD basis, .com represented 74.43% of confirmed reports, with .net and .info constituting 13.36% and 8.28%, respectively. When scaled by the total number of registrations in each TLD, .info domain names were the subject of the most reports. Approximately 7 domain names were subject to report(s) for every 10,000 .info registrations. The statistics for these and the other gTLDs are included in Table IV-5.

**Table IV-5 – Reports of Inaccuracies by Total Number and Percentage by Registry**

TLD	# Reports	% Reports	Reports per 10,000 registrations	# Unique Reports	% Unique Reports	Unique Reports per 10,000 registrations*
.com	37,357	74.43%	6.35	25,136	73.87%	4.27
.net	6,707	13.36%	7.75	4,734	13.91%	5.47
.info	4,154	8.287%	10.98	2,563	7.53%	6.77
.biz	484	.97%	3.10	311	.91%	1.98
.org	1,482	2.95%	2.70	1281	3.76%	2.33
.name	4	< .01%	0.18	4	< 0.01%	0.175
<b>Total</b>	<b>50,189</b>	<b>100%</b>	<b>6.39</b>	<b>34,029</b>	<b>100%</b>	<b>4.33</b>

\* Based on registrations as of 30 November 2006.

It is unclear why .info names were the subject of more WDPRS reports per 10,000 registrations than the other TLDs. (The .info ratio has dropped from last year.) This TLD has been offered by some registrars at promotional prices—in some cases .info names have been offered at no cost—but further research into the relationship between domain price and Whois data accuracy is needed before any conclusions are made.

A total of 2,437 different individuals submitted reports. On average, each reporter submitted approximately 24 reports, while some individuals submitted significantly more. Out of a total of 50,189 confirmed reports, the number of reports per individual for the top 20 reporters is as follows:

**Table IV-6 – Number of Reports Submitted by Top 20 Reporters**

Top 20 Reporters	# Reports Submitted
1	19,873
2	3,408
3	2,926
4	2,848
5	2,366
6	2,282
7	2,261
8	1,412

<b>Top 20 Reporters</b>	<b># Reports Submitted</b>
9	1,394
10	1,263
<b>Total</b>	<b>40,033</b>

As this table shows, fewer than 0.5% of all those who filed reports (10 people) were responsible for over 87% (40,033 out of 50,189) of all Whois inaccuracy reports submitted to ICANN during the reporting period. The 2006 report indicated that the top 20 reporters were responsible for over 59% (30,843 out of 51,664) of Whois inaccuracy reports. It is interesting to note that during the most recent reporting period, one user filed approximately 40% (19,873 out of 50,189) of all the Whois inaccuracy reports submitted to ICANN—a record. Nevertheless, individuals are also reporting single domains when they discover a problem—there were 1,086 individuals who submitted exactly one report.

From both anecdotal information received by ICANN and text accompanying the body of WDPRS reports received, we conclude that most, if not all, of the high volume reporters are driven by a concern about abuses involving email. In approximately 53% of the reports filed, the reporter indicated “spam,” “phishing,” or “fraud” in the comments accompanying the reports.

### **Unique Domain Names**

A total of 34,029 unique domain names were the subject of Whois Data Problem Reports during this review period. As reported above, there were a total of 50,189 reports confirmed and completed. Accordingly, 16,160 of the reports were duplicate submissions.

In reviewing the 20 most-reported domain names, it appears that all were appropriately deleted, suspended, or corrected.

### **Registrar Handling**

The following table characterizes the state of the reported Whois records as indicated by the follow-up reports provided to ICANN by the reporter.

**Table IV-7 – Status of Reported Whois Records**

<b>Status</b>	<b>Domain Names</b>	<b>%</b>
Inaccuracy Corrected	1,152	3.4 %
Domain Deleted	1,973	5.8 %
Other	1,917	5.6 %
Data Unchanged	28,978	85.2 %
<b>Total</b>	<b>34,029</b>	<b>100 %</b>

To better understand the nature of the reports marked “Other” or “Data Unchanged” ICANN staff reviewed 16,471 of the underlying Whois records and made the following observations: approximately 29% had in fact been deleted or suspended. Approximately 40% of them had Whois data that appeared to be accurate (note, however, that it is quite possible to supply Whois information that looks completely plausible, but is in fact bad). About 31% of the records appeared incomplete or clearly inaccurate.

**Table IV-8 – ICANN Findings of Status of Whois Records**

	<b>“Unchanged” or “Other” Domains Reviewed by ICANN Staff</b>	
<b>Actual Status</b>	<b>Domain Names</b>	<b>%</b>
Suspended	3,240	19.7 %
Domain Deleted	1,514	9.2 %
Incomplete or Clearly Inaccurate Data	5,080	30.8 %
Whois Contained Plausible Data	6,637	40.3 %
<b>Total Domains Reviewed</b>	<b>16,471</b>	<b>100 %</b>

Combining the suspended or deleted domain names noted by ICANN staff with the user reports of corrected, suspended, or deleted domain names, we arrive at an estimate of 35% of reported domain names with bad data that were corrected, suspended, or no longer registered. An additional 28% of domains with clearly bad information were not changed. This leaves approximately 37% of reported domains’ Whois data without obvious errors.

**Table IV-9 – Disposition of Unique Domains**

	<b>Estimated Disposition of Unique Domains</b>
Whois Corrected	3.4%
Domain Deleted	14.2%
Domain Suspended	17.9%
Whois Inaccurate or Incomplete	27.9%
Plausible Whois	36.6%

There are a number of explanations for the relatively high number of “unchanged” dispositions reported. The reporter may not have correctly interpreted the Whois data. Similarly, the domain name in question may have been placed in Registrar Hold status by the registrar, which would effectively prevent the domain name from functioning in any meaningful way, but this might

not have been understood by the reporter. Additionally, a reporter might have been motivated to inaccurately report an “unchanged” status, believing this would punish a registrant or registrar perceived to be causing or allowing the transmission of spam or phishing email. Anecdotal evidence also indicates some registrars or their resellers may have effectively suspended users’ use of domain names without deleting the names or placing them in clientHold status by resetting the nameservers to cause the domain name not to resolve or to resolve to a page controlled by the registrar. This apparent practice will be more closely investigated by ICANN to ascertain whether such measures comply with the Whois data accuracy requirements of the Registrar Accreditation Agreement.

In reviewing the number of reports filed per registrar, no pattern emerged in relation to registrar size and number of reports. Those registrars with larger numbers of unresolved WDPRS reports will be subjected to additional auditing later in the year.

### **Impact of WDPRS**

Several conclusions can be drawn concerning the impact of the WDPRS.

ICANN’s Whois Data Problem Report System continues to have a measurable impact on the accuracy of Whois data. Of the 34,029 unique domain names subject to WDPRS reports during this review period, we estimate that approximately 12,054 (35.4%) were deleted or suspended, or had correct Whois data supplied. An additional 12,449 (36.6%) domains had what appeared to be plausible Whois data, although practical constraints limited our ability to verify their accuracy with certainty.

The number of unique domain names subject to WDPRS reports increased.

Through ongoing monitoring of WDPRS complaints, ICANN has learned that some registrars did not purportedly receive forwarded complaints from ICANN due to spam-filtering or similar problems. ICANN has worked with several registrars to address this problem and will continue educational efforts to ensure greater compliance going forward.

ICANN will commence comprehensive Whois public access and data accuracy audits in 2007 as part of its updated Contractual Compliance Program. Scheduled dates for these audits have been published on ICANN’s compliance webpage at <http://www.icann.org/compliance/>. These audits are intended to ensure compliance with ICANN agreements; registrar/registry outreach events are also planned throughout 2007 to aid in these efforts.

Although the 34,029 reported names with inaccurate Whois comprise a small fraction of the nearly 80 million gTLD registrations, ICANN continues its resolve to improve Whois data accuracy through community education and enforcement of its contracts with registrars. In addition, there is a presumption that these 34,000-plus complaints were targeted at registrations that are sources of improper behavior and therefore curtailed that activity from those domain names.

Going forward, ICANN will continue to improve the WDPRS tool and take steps to improve Whois accuracy overall. Areas of improvement will include increased implementation of and reliance on automation and on-line reporting tools and augmented staffing of the ICANN contractual compliance function so that patterns of noncompliance can be aggressively pursued.

## V. CONCLUSION

The Contractual Compliance Department conducted its first series of registrar and registry contractual compliance audits since the creation of the Contractual Compliance Department in November 2006. The seven audits conducted during the reporting period, Registrar Primary Contact Audit, Registrar Website Audit, Registrar Fees Audit, Registry Fees Audit, Registrar Data Retention Audit, Registry Code of Conduct Audit and the Report on the Whois Data Problem Report System, resulted in the collection of valuable registrar and registry data that will be used to conduct future, more in-depth audits and to determine the validity of information provided by registrars and registries in response to ICANN inquiries.

During the process of conducting the registry and registrar contractual compliance audits, the Contractual Compliance Department learned several lessons including, but not limited to the following:

1. Most registrars and registries are polite and are genuinely interested in coming into compliance and remaining in compliance;
2. An appreciable number of registrars do not respond to ICANN's contractual compliance audit notices until ICANN sends repeated notices;
3. Significant staff time must be allotted to follow up with nonresponsive registrars;
4. The growing population of registrars often presents challenges in terms of data collection and data analysis; and
5. Site visits are necessary to verify contractual compliance audit responses.

The Contractual Compliance Department has analyzed the lessons learned during the reporting period to develop systems and processes to better address problems when they arise in the future.

The Contractual Compliance Department's experience with the Registrar and Registry communities during the reporting period was positive and the audit results reported herein reveal that overall registrar and registry compliance has improved. The Contractual Compliance Department will use its past experiences as building blocks to develop and maintain a Contractual Compliance Department that will benefit all members of the global Internet community by preventing harmful inconsistencies, unauthorized practices and unfair advantages.

To ensure that the Contractual Compliance Program continues to improve and address matters of interest to the community, ICANN encourages the community to register comments at [compliancecomments@icann.org](mailto:compliancecomments@icann.org). Posted comments can be viewed at <http://forum.icann.org/lists/compliancecomments>.