

# **Contractual Compliance New gTLD Registry Audit Report – August 2023 Round**

Contractual Compliance

December 2023



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# 1 Background

The Internet Corporation for Assigned Names and Numbers' (ICANN) Contractual Compliance team ("Compliance") enforces the consensus policies developed by its community and ICANN's agreements with domain name registries and registrars. Compliance also ensures that these policies and obligations are implemented to preserve and enhance the security, stability and resiliency of the Internet's Domain Name System (DNS). Compliance enforces these policies and contractual obligations through addressing complaints from external users, proactive monitoring, and audit-related activities.

## **Goal of the Audit Program:**

The goal of the Audit Program is to allow ICANN to identify, inform, manage, and ensure remediation of any deficiencies by contracted parties with the community consensus policies and ICANN agreements (Registrar Accreditation Agreement (RAA) and the Registry Agreement (RA)). The ICANN consensus policies are incorporated into these agreements. This report updates the community on the general results of this audit and should not be relied on to make conclusions or business decisions.

# 2 Executive Summary

On 14 August 2023, ICANN launched an audit round to test and validate compliance by the selected registry operators ("registries") with the terms of the RA and ICANN temporary and consensus policies. This report summarizes the overall results of the audit that took place from August 2023 through December 2023.

The audit round was conducted through the testing and reviewing data, responses, and documentation received from registries, Data Escrow Agents, and the Trademark Clearinghouse, as well as, information obtained from registries' websites.

Nineteen (19) registries, which have not previously been audited under the New Registry Agreement Audit Plan (<https://www.icann.org/en/system/files/files/audit-plan-new-registry-agreement-01feb17-en.pdf>), were selected for this audit round.

During the audit phase, ICANN reviewed over 1,100 documents collected in five (5) different languages and received from nine (9) countries. At the completion of the audit phase, ICANN issued initial, individual audit reports to each auditee indicating what initial findings, if any, were identified as a result of the audit and asked auditees to address these initial findings.

For the 19 initial reports issued:

- Nine (9) Registries received "clean" audit reports at the end of audit phase with no initial findings noted.
- Two (2) Registries received audit reports with initial findings noted. Registries sufficiently addressed all findings by providing additional information and/or remediating the finding. "Clean" reports were subsequently issued.

- Eight (8) received audit reports with findings noted and the registries are currently implementing measures to remediate at least one outstanding finding. These registries did not “fail” the audit. They were required to provide ICANN with a specific remediation plan, including an estimated time of completion. Remediations should be completed within 90 days (or earlier) of receiving the final report with findings. The audit team will verify that the appropriate remediation measures were implemented. Failure to remediate a deficiency will result in additional enforcement actions.

### 3 Audit Program Scope

The Audit Program operates on a recurring cycle. Any top-level domain (TLD) registry operator could potentially be selected for audit in each cycle. The audit plan, its scope, notifications, and the risk mitigation plan are published on ICANN’s Contractual Compliance Audit page at: <http://www.icann.org/en/resources/compliance/audits>.

The Audit Program consists of six (6) phases with specific milestone dates and deliverables:

- 1) **Planning Phase** – ICANN plans the audit scope and timeline. In addition, ICANN issues a pre-audit notification email to the selected auditees two (2) weeks prior to the start of the Request for Information Phase.
- 2) **Request for Information Phase** – ICANN issues a notice of audit to the selected contracted parties (the auditees). During this phase, the auditees compile information and respond to the audit request. This phase follows the overall compliance approach published here: <https://www.icann.org/en/system/files/files/overall-03oct14-en.pdf>.
- 3) **Audit Phase** – ICANN reviews the responses and, where applicable, tests and validates them to ensure compliance with the contractual obligations. During this phase, ICANN identifies any missing or unclear documentation obtained during the Request for Information Phase and provides auditees the opportunity to respond prior to the issuance of the Initial Report.
- 4) **Initial Report Phase** – ICANN issues a confidential initial audit report to each auditee. It contains the initial findings and requests the contracted party to address the findings or provide clarity, if needed.
- 5) **Remediation Phase** – ICANN collaborates with the auditees to remediate any issues discovered during the audit phase as appropriate.
- 6) **Final Report Phase** – ICANN issues a confidential final audit report to each auditee. In addition, ICANN summarizes the audit round in the overall audit report, which is published here: <https://www.icann.org/resources/pages/compliance-reports>.

## Timeline

The following table summarizes the Audit Program milestones and dates for the audits, which took place from August 2023 to December 2023:

Audit Program Milestone Dates					
Request for Information (RFI Phase)			Audit Phase	Initial Report Phase	Remediation Phase
1 <sup>st</sup> Notice	2 <sup>nd</sup> Notice	3 <sup>rd</sup> Notice	Start/End	Date Issued	Start/End
14 Aug 2023	05 Sept 2023	13 Sept 2023	20 Sept – 07 Nov 2023	08 Nov 2023	08 Nov – 13 Dec 2023

## 4 Audit Program Testing Approach

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

Test Areas	Description
Article 1.3(a) ii	Representations and Warranties
Article 2.2	Compliance with Consensus Policies and Temporary Policies
Article 2.3	Data Escrow (Specification 2)
Article 2.4	Monthly Reporting (Specification 3)
Article 2.5	Publication of WHOIS Registration Data (Specification 4)
Article 2.6	Reserved Names (Specification 5)
Article 2.7	Registry Interoperability and Continuity (Specification 6)
	IPv6 (Specification 6, 1.5)
Article 2.8	Protection of Legal Rights of Third Parties (Specification 7)
	Protection of Legal Rights of Third Parties (Specification 7) – TMCH Sunrise Period
Article 2.14	Registry Code of Conduct (Specification 9)
Article 2.17	Additional Public Interest Commitments (Specification 11)
Article 2.19	Community-based TLDs Obligations of Registry Operator to TLD Community (Specification 12)
Specification 13	Brand TLD
Category 1	Category 1 TLD Safeguards

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

## COMMUNITY REPRESENTATION

The 19 gTLDs represented Registry Operators from nine (9) countries and provided documents in five (5) languages:

Representative Countries	
Australia	Canada
The Cayman Islands	France
Germany	Spain
Switzerland	The United Kingdom of Great Britain and Northern Island
The United States of America	

Representative Languages	
English	French
German	Spanish
Swiss	

## 5 Audit Program Key Results

During the Audit Phase, compliance with the RA provisions was tested using auditees' responses, documentation received, and the registries' websites. The graph below represents the test areas with the most deficiencies.

**DNS Security Threats:** ICANN Contractual Compliance updated the registry and registrar audit plans with expanded questions and testing to address contracted parties' compliance with obligations related to the handling of DNS security threats. The updated steps for this audit round included selecting a sample of abusive domains from publicly available Reputation Block Lists (RBLs) and inquiring whether the registry had received an abuse report for the sampled domains.

In cases in which the registry had received an abuse report, ICANN Compliance requested and reviewed records retained by the registry related to actions taken.

ICANN observed examples of good practices in this area by many of the audited registries. They demonstrated actions taken in addressing abusive domain reports, including contacting the sponsoring registrar to investigate the reported domain and suspending the domain name in case of an abuse validation.

## Key Audit Issues and Potential Impact Analysis:

Test Area / Specification	Finding Identified	Number of Registries with the Confirmed Findings (Percent)	Potential Risk / Impact
<b>Specification 4</b>	Registration Data Directory Services (RDDS) educational materials not found on registry webpage	6 Registries (32 Percent)	General Public and potential customers might be unaware of the use and importance of accurate WHOIS information
<b>Specification 4</b>	RDDS does not return WHOIS results in compliance with Specification 4	2 Registries (11 Percent)	Processing, maintaining and displaying of domain level information, as well as any non-domain specific requirements, are required and vital for consumers of the generic top-level domain (gTLD).
<b>Specification 5</b>	Reserved names are improperly registered	5 Registries (26 Percent)	Violation of third parties' rights to domains indicated in Specification 5.
<b>Specification 6</b>	Internet Assigned Numbers Authority (IANA) Internationalized Domain Names (IDN) Table and Exhibit A mismatch	2 Registries (11 Percent)	Misinforms potential customers of the options they have when registering domain names. In addition, tables that are not in Exhibit A have not been vetted for security and stability issues by ICANN.
<b>Specification 6</b>	Domain Name System Security Extensions (DNSSEC) Practice Statement not found on the registry webpage	10 Registries (53 percent)	Publication of a DNSSEC Practice Statement (DPS) is important for informing and educating the public and potential customers of information related to the registry's operations.
<b>Specification 7</b>	Registry-Registrar Agreements (RRA) that are missing Uniform	1 Registry (5 Percent)	Registrar may be operating in a manner inconsistent with the

Test Area / Specification	Finding Identified	Number of Registries with the Confirmed Findings (Percent)	Potential Risk / Impact
	Rapid Suspension (URS) clauses		URS requirements associated with a TLD.
<b>Specification 12</b>	Registry was not performing weekly manual checks of domain registrations to validate compliance with community requirements	2 Registries (11 Percent)	Domain names may not follow community guidelines and have a negative impact on the credibility or reputation of the community.
<b>Category 1 Safeguards</b>	RRA Missing Required Cat. 1 Clauses	1 Registry (5 Percent)	Registrar may be operating in a manner inconsistent with the Category 1 Safeguards associated with a TLD.

## 6 Audit Program Key Recommendations

In an effort to continuously improve the audit program, Contractual Compliance has identified key recommendations that, if implemented, may help to make future audits more effective and efficient. Below are the recommendations.

### Request for Information (RFI) Phase

- Registries should answer questions regarding acceptable documentation or unique processes or procedures as they arise to avoid delays in completing the audit.
- To ensure reliability of communications between contracted parties and ICANN, Compliance intends to conduct communications via the Naming Services portal (“NSp”) in future audit rounds.
- Registries should provide detailed explanations in their RFI, if the documents requested are not available, and provide a rationale as to why the failure to produce the requested documents is consistent with their contractual obligations.

### Remediation Phase

- Registries should review their ICANN audit report immediately upon receipt and seek clarification if they do not understand any of the findings.
- Registries should respond to the first notice of the Remediation Phase with at least partial information and/or documentation addressing the findings noted in their audit report.
- If a finding is validated and cannot be remediated within the Remediation Phase timeframe, registries should provide ICANN with a specific action plan that includes the estimated time for completion.

## 7 Conclusion

Nine (9) of the 19 registries (47 percent) received an audit report with no initial findings. Two (2) of the 19 Registries (11 percent) who received a final report had initial findings noted in their draft report and were able to fully resolve them prior to the completion of the Remediation Phase. Resolving an initial finding includes either a) providing additional information or documentation that proved the initial finding is not a real finding; or b) verifying that the finding was valid and performed a sufficient action to address and remediate the finding.

The remaining eight (8) of the 19 registries (42 percent) completed the audit with deficiencies noted as they were unable to fully resolve their initial findings prior to the completion of the Remediation Phase. These registries did not “fail” the audit as they provided ICANN with a specific remediation plan, which includes the estimated time for completion and are in the process of implementing necessary changes to prevent the instances of non-compliance from recurring in the future. ICANN will confirm that remediation plans have been implemented and update progress in future CEO monthly reports. Failure to remediate a deficiency will result in an additional enforcement action up to and including suspensions and/or termination of the RA.

See the chart below, containing the findings that are still under remediation following the closure of the audit, including the estimated date for completion.

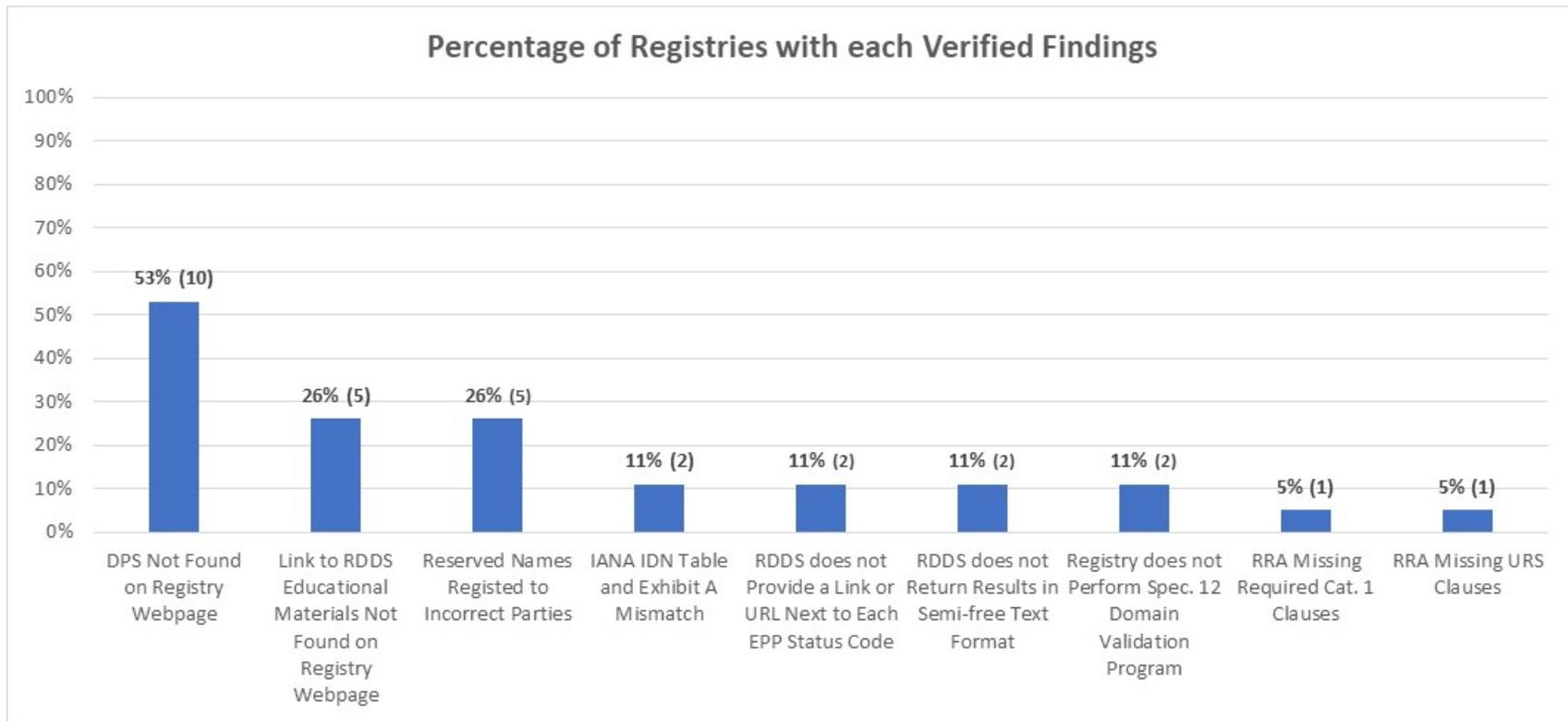
Outstanding Finding	Number of Registries	Estimated Date of Completion (# of Registries)
Updating the RA and/or IANA.org Table to match languages and scripts	2 Registries	February 28, 2024
Updating RRA to contain the Category 1 required clause	1 Registry	December 15, 2023
Deleting inappropriately registered names that should be reserved	5 Registries	February 28, 2024
Implementing community guidelines validation program per Specification 12	1 Registry	February 28, 2024

## Appendix A – The gTLDs Selected for Round Eight of the New gTLD Registry Audit Program

Delegated String (gTLD)			
Bayern	Build	Bzh	Click
Cpa	Eus	Gal	Help
Kred	London	Love	Melbourne
Nyc	Paris	Realestate	Scot
Sex	Swiss	Vegas	

## Appendix B – Percentage of Registries with each Verified Finding

The following table shows the number and percentage of audited registries with each verified finding identified during the audit.



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