

Contractual Compliance September 2017 Round New gTLD Registry Audit Report

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

Contractual Compliance

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1 Background

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

Goal of the Audit Program:

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

2 Executive Summary

On 05 September 2017, ICANN launched an audit round to test and validate the selected New gTLD Registry Operators ("Registries") compliance with the terms of the Registry Agreement and ICANN temporary and consensus policies. This report constitutes the results of the audit that took place from September 2017 through March 2018.

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

Ten registries were selected for this audit round. Registry selection was based on the following criteria: Registries that were not previously audited and Registries with gTLDs that are subject to the Category 1 Safeguards (<https://newgtlds.icann.org/en/applicants/gac-advice/cat1-safeguards>)

Delegated String (gTLD)	gTLD Not Previously Audited	Category 1 Safeguards
Airforce	X	X
Bingo	X	X
Creditcard	X	X
Dentist	X	X
Gripe	X	X
Lawyer	X	X
Ltd	X	X
Pharmacy	X	X
Poker	X	X
Srl	X	X

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

During the audit phase, ICANN reviewed over 650 documents collected in two different languages and received from four countries. The 10 registries were issued initial audit reports with initial findings.

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

ICANN issued final audit reports to all 10 registries by 30 March 2018:

- The registries of four (4) gTLDs received audit reports with no findings noted.
- The registries of three (3) gTLDs received audit reports with findings noted and addressed (by either providing additional information or remediating) all findings.
- The registries of three (3) gTLDs received reports with audit findings that are still being remediated to be in compliant with Registry Agreements.
 - These registries will be retested in at a later date to verify the effectiveness of the remediation measures implemented.

3 Audit Program Scope

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

The audit plan, scope, notifications, and the risk mitigation plan are published on ICANN's Contractual Compliance Audit page at:

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

Timeline

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

1. **Pre-Audit Notification Phase** – Issue² a general audit announcement to notify all contracted parties two weeks prior to the audit.
2. **Request for Information (RFI) Phase** – Issue a notice of audit to the selected contracted parties.
3. **Audit Phase** – Review responses and, where applicable, test and validate.
4. **Initial Report Phase** – Issue confidential initial audit reports containing initial findings to the auditees.
5. **Remediation Phase** – Collaborate with the auditees to remediate initial findings discovered during the Audit Phase.
6. **Final Report Phase** - Issue confidential final audit reports to auditees. Consolidated audit round report is issued and published at:
<https://www.icann.org/resources/pages/compliance-reports-2017>.

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

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

Audit Program Milestone Dates						
Request for Information (RFI) Phase			Audit Phase	Initial Report Phase	Remediation Phase	Final Report Phase
1st Notice	2nd Notice	3rd Notice	Start/End	Date Issued	Start/End	End
05 Sept 2017	26 Sept 2017	3 Oct 2018	11 Oct - 02 Jan 2018	2 Jan 2018	02 Jan - 30 Mar 2018	02 May 2018

4 Audit Program Testing Approach

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

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

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

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

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

Registries selected for the audit	10
Registries with no audit findings	4
Registries addressed all audit findings	3
Registries currently implementing remediation of audit findings	3

COMMUNITY REPRESENTATION

The 10 registries selected for this audit round represented four countries and provided documents in two languages:

Countries

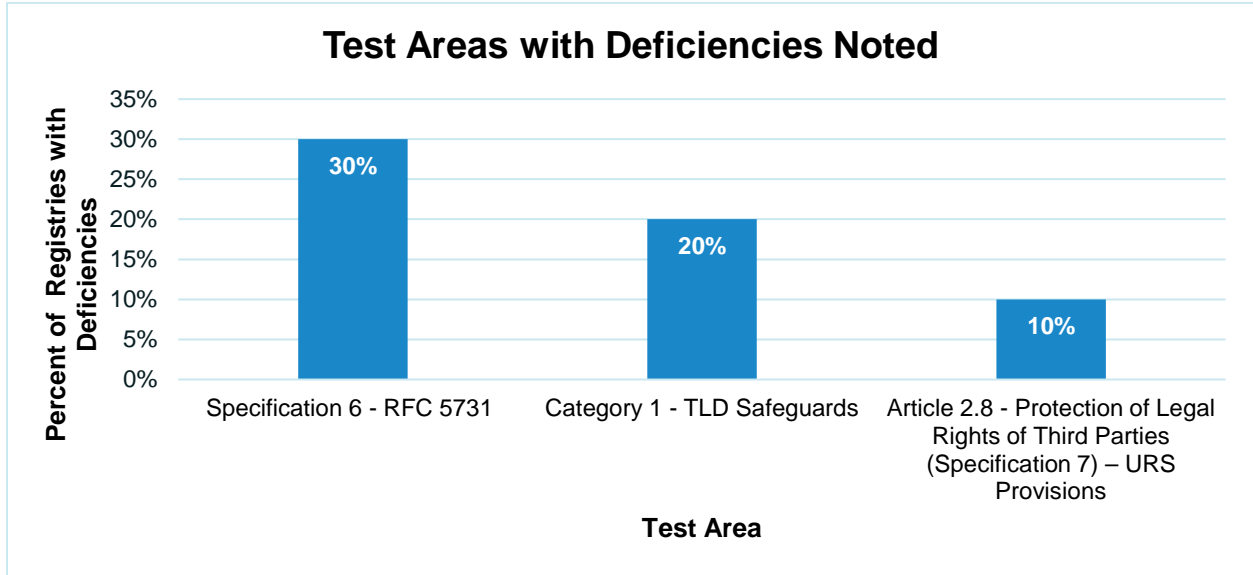
- Germany
- Ireland
- United Kingdom
- United States

Languages

- English
- German

5 Audit Program Key Statistics

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



Key Audit Issues and Potential Impact Analysis

Test Area / Specification	Deficiency Identified	Potential Risk/Impact
Specification 6 RFC 5731	Prohibited glue nameserver ("NS") records were identified in the zone file.	Records which are not part of the authoritative data [of the zone] may allow for potential abuse.
Specification 7	Registry-Registrar Agreements were missing required language relating to either Uniform Rapid Suspension (URS).	Registry-Registrar Agreements missing required language, specifically regarding Uniform Rapid Suspension (URS), opens the community to legal liability for not properly communicating this language.
Category 1 Safeguards	Registry-Registrar Agreements of Category 1 gTLDs were missing provision(s) relating to Category 1 Safeguards.	Registrar may be operating in a manner inconsistent with the Category 1 Safeguards associated with a TLD.

6 Audit Program Key Recommendations

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

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

Delegated String (gTLD)		
Airforce	Bingo	Creditcard
Dentist	Gripe	Lawyer
Ltd	Pharmacy	Poker
Srl		