

Since I filed the reconsideration request I had additional contacts from ICANN in response to my inquiry.

I was told to search for commercial services that collect and resell whois data. However, I have been told by my registrar that the main source of this historical whois data did not have authorization to collect and resell the whois data. From what I understand many of these services are selling what is essentially “stolen” data. I do not believe it is proper for ICANN staff to recommend users purchase questionable and potentially stolen data on the black market. I previously complained about one of these services and they filed a federal lawsuit against me [Domain Tools LLC v. Smith 2:12-cv-00498] which was dismissed. In any case the data I need is from 2000 and predates any known services offering unauthorized historical data for sale.

I was also referred to the “compliance” department. They stated:

Thank you for your follow-up inquiry on the closed Whois SLA complaint concerning the domain name directorschoice.com. ICANN has reviewed and closed your complaint previously because it was determined from your comments that your complaint did not implicate a breach of an ICANN policy or agreement.

Please note that, ICANN is a private sector, not-for-profit organization with limited technical responsibility for coordinating the unique assignment of Internet domain names and IP addresses. ICANN's authority is purely contractual, and limited to the Registrar Accreditation Agreement (RAA):

<https://www.icann.org/resources/pages/registrar-agreements-en>, the Registry Agreements (RA:<http://www.icann.org/en/about/agreements/registries>), and ICANN's Consensus Policies. ICANN does not have contractual authority to address any customer-service related matters that fall outside of the aforementioned agreements and policies.

The RAA requires ICANN-accredited registrars to provide access to Whois data to the public. Whois data is a collection of data about the registered domain name, its name servers and registrar, the domain name creation date, the domain name expiration date, the contact information for the registered name holder, the technical contact, and the administrative contact – to list a few. Among other things, Whois services are used to identify domain holders for business purposes and to identify parties who are able to correct problems associated with the registered domain.

However, please note, ICANN does not have contractual authority to address complaints about website content, such as historical Whois data found on third-party websites, since these types of consumer complaints are not addressed by the RAA, the RA, or ICANN's Consensus Policies. If you believe the website content refers to anything illegal, your best course of action is to contact a law enforcement agency in your jurisdiction or to seek legal advice from an attorney.

Sincerely,

ICANN Contractual Compliance

However, the matter has nothing to do with any private contract between me and a registrar. Further, the access to the whois data is an ICANN policy which is posted at

<https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en>

None of the replies refers to this posted policy as part of the explanation as to why ICANN can't answer my question about historical whois access.