

I C A N N

COMMUNITY FORUM

58

COPENHAGEN

11-16 March 2017





GAC Session

Contractual Compliance | ICANN 58 | 15 March 2017

Agenda

Request from GAC per email on 18 January 2017

1. How has the Safeguard Advice been implemented such that it is subject to contractual oversight? How easy/hard was it to do so?
2. What does the data say about compliance levels with the Safeguard Advice?
3. In the view of the Contractual Compliance team, is the current contract resulting in good public policy outcomes and/or good levels of consumer trust?

Safeguard Implementation & Oversight

1. How has the Safeguard Advice been implemented such that it is subject to contractual oversight? How easy/hard was it to do so?

- Most Safeguard Advice was incorporated into ICANN's agreements or policies, which subjects it to contractual oversight by ICANN Contractual Compliance.
 - Implementation details are outlined in Comprehensive Report of NGPC Responses to GAC Advice re: the New gTLD Program (as of 7 October 2015) at <https://www.icann.org/en/system/files/files/gac-advice-scorecard-07oct15-en.pdf>.
- Contractual oversight of implemented advice is subject to standard ICANN Contractual Compliance approach and process, including complaint processing, monitoring and audits.

Compliance with Safeguards

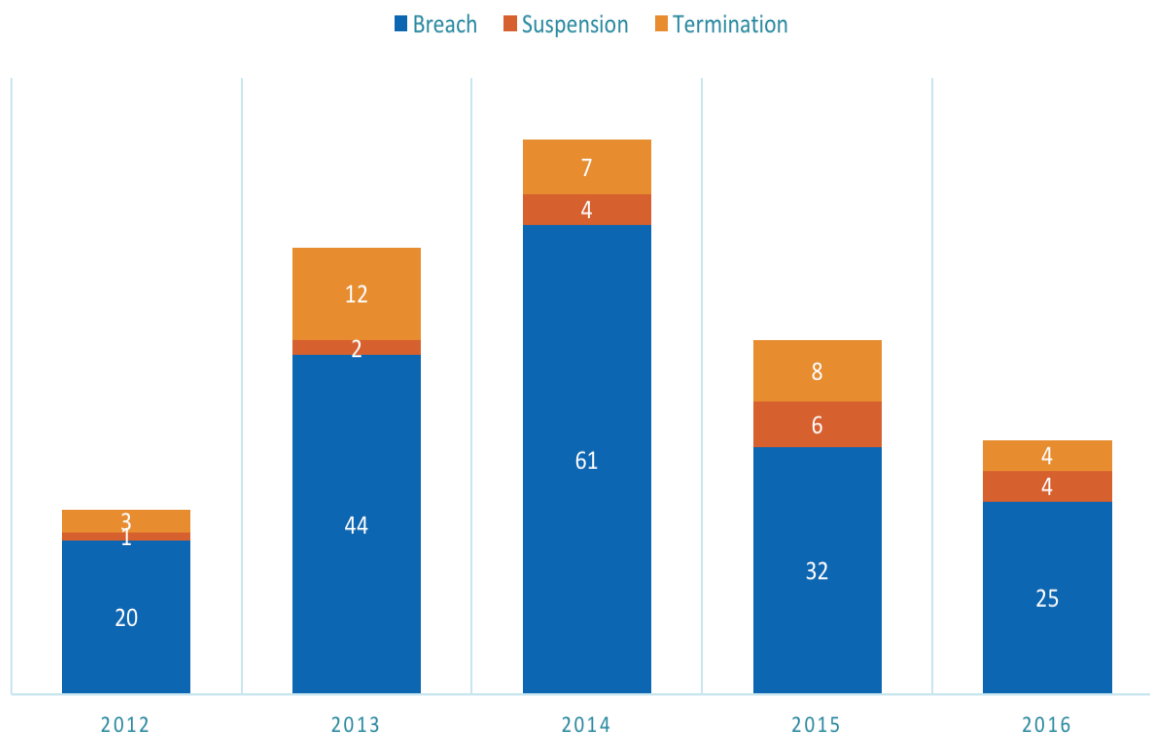
2. What does the data say about compliance levels with the Safeguard Advice?

- Complaint types relevant to implemented advice:
 - WHOIS Inaccuracy
 - Accuracy Reporting System (ARS)
 - Quality Review
 - Individual Submission
 - Bulk Submission
 - Abuse (Registrar)
 - Abuse Contact Data (Registry)
 - Public Interest Commitments
- Metrics on complaints at <https://features.icann.org/compliance>
- Audit result at <https://www.icann.org/resources/pages/audits-2012-02-25-en>
- Please refer to slides 10 and 11 for data on above complaints

Compliance Enforcement Trend

- Compliance ability to enforce the contract
- Increased monitoring and outreach activities lead to improved compliance
- Enforcement notices posted at <https://www.icann.org/compliance/notices>
- Enforcement in 2016
 - 22 Registrars
 - 3 Registries

Formal Notice Volume 2012 - 2016



Source: 2016 Contractual Compliance Annual Report

Compliance Enforcement in 2016

Abuse and Whois Inaccuracy Enforcement Violations in 2016:

- Some of the violations were identified during the compliance check
- **Registry Agreement (RA)**
 - Publish on website abuse contact details (RA Section 4.1 of Spec 6)
- **2013 Registrar Accreditation Agreement (RAA)**
 - Publish on website email address for abuse reports (RAA 3.18.1)
 - Maintain and provide records related to abuse reports (RAA 3.18.3)
 - Publish on website description of procedures for the receipt and tracking of abuse reports (RAA 3.18.3)
 - Validate and verify WHOIS contact information (RAA-WAPS 1, 2, 4)
- **No termination notices issued for any safeguard advice violation**
- **No enforcement notices issued regarding noncompliance with Category 1 and Category 2 safeguards**

3. In the view of the Contractual Compliance team, is the current contract resulting in good public policy outcomes and/or good levels of consumer trust?

- ICANN Contractual Compliance provides data to working groups and review teams that undertake review of policy and contractual language effectiveness and outcomes
 - Competition, Trust and Choice Review
 - DNS Abuse Review Team
 - New gTLD Subsequent Procedures
 - WHOIS Accuracy Reporting System

Questions & Answers



Send compliance questions

To: compliance@icann.org

Subject line: ICANN 58 GAC Session

The ICANN 58 presentations are available at:

- The ICANN Contractual Compliance Outreach page at this link
<https://www.icann.org/resources/compliance/outreach>
- The ICANN 58 Schedule page

Compliance with Safeguards

Legacy TLD	2014 Volume							2015 Volume							2016 Volume						
Complaint Type	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach
WHOIS ARS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7092	2993	2067	128	10	4579	0
WHOIS INACCURACY	27164	9883	16929	3148	438	25913	15	33073	11665	21638	1990	446	33197	4	21195	9758	11600	1086	118	21835	7
WHOIS QUALITY REVIEW	82	1	81	31	2	94	0	44	0	25	4	1	44	1	8	1	11	3	0	10	0
ABUSE (Registrar)	233	94	134	70	22	212	3	404	239	158	53	12	410	3	480	334	183	53	10	514	0
ABUSE CONTACT DATA (Registry)	10	10	0	0	0	10	0	19	20	0	0	0	20	0	45	44	0	0	0	44	0
Public Interest Comit.	11	11	0	0	0	11	0	6	6	0	0	0	6	0	3	3	0	0	0	3	0

new gTLD	2014 Volume							2015 Volume							2016 Volume						
Complaint Type	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach	Received	Closed Before 1st Notice	1st Notice	2nd Notice	3rd Notice	Closed	Breach
WHOIS ARS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1466	693	255	18	1	937	0
WHOIS INACCURACY	177	120	55	7	0	166	0	528	235	249	34	2	433	0	1102	303	800	89	37	1078	0
WHOIS QUALITY REVIEW	3	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ABUSE	5	4	1	0	0	5	0	18	15	1	0	0	16	0	31	27	7	2	1	33	0
ABUSE CONTACT DATA	85	1	84	13	2	84	0	22	0	22	7	1	23	0	1	1	0	0	0	1	0
PIC	265	18	241	18	3	249	0	7	5	2	2	1	19	0	5	2	4	1	0	5	0

- Volume of complaints as it goes thru the compliance process
- The Contractual Compliance Approach & Process are published at <https://www.icann.org/en/system/files/files/overall-03oct14-en.pdf>

Compliance with Safeguards –

Examples of Closure Reasons:

- Common to all complaint types – Incomplete; Requested evidence not provided; Duplicate complaint; Invalid complaint; Registrar or Registry demonstrated compliance; Registrar or Registry fixed the issue
- Whois Inaccuracy – Complainant's own domain name; Data changed; etc.
- Abuse (Registrar) – Abuse contact, email, phone number report handling procedures published; Domain suspended or canceled.
- PIC – Not applicable to the TLD (invalid);

2013 RAA: Abuse Reports Requirements

Section 3.18.1

- Registrars must:
 - Take reasonable and prompt steps to investigate and
 - Respond appropriately to ANY reports of abuse
- Reasonable steps may include:
 - Contacting the RNH of the domain(s)
- “Appropriately” varies depending on facts and circumstances
- WHOIS data verification by itself is insufficient
- Court order is not required for registrar to investigate absent a specific local law or regulation provided to ICANN

VS

Section 3.18.2

- Registrar must have dedicated abuse email and phone number in WHOIS output
- Reports of Illegal Activity must be reviewed within 24 hours by an individual who is empowered to take necessary and appropriate actions
- Reports can be from any applicable jurisdiction once reporter is designated by registrar’s local government as an authority

2013 RAA: Abuse Reports Complaint Processing

- ⦿ ICANN confirms reporter sent abuse report to registrar abuse contact before sending complaint to registrar
- ⦿ ICANN could request:
 - ⦿ Steps taken to investigate and respond to abuse report
 - ⦿ Time taken to respond to abuse report
 - ⦿ Correspondence with complainant and registrant
 - ⦿ Link to website's abuse contact email and handling procedure
 - ⦿ Location of dedicated abuse email and telephone for law-enforcement reports
 - ⦿ WHOIS abuse contacts, email and phone
- ⦿ Examples of steps registrars took to investigate and respond to abuse reports:
 - ⦿ Contacting registrant
 - ⦿ Asking for and obtaining evidence or licenses
 - ⦿ Providing hosting provider info to complainant
 - ⦿ Performing WHOIS verification
 - ⦿ Performing transfer upon request of registrant
 - ⦿ Suspending domain

Public Interest Commitments

Specification 11 of the Registry Agreement

- ◉ Comply with mandatory and voluntary (as applicable) commitments
- ◉ ICANN compliance can enforce PICs regardless of whether a PIC-DRP is filed.
- ◉ PIC-DRP: ICANN conducts preliminary review of complaint to ensure it is complete, has a claim of non-compliance with at least one commitment, and that reporter is in good standing
- ◉ Registry and reporter have 30 days to resolve dispute; if unsettled ICANN investigates or defers to Standing Panel
- ◉ Standing panel has 15 days to return a decision to ICANN
- ◉ If reporter prevails ICANN sends notice of breach to Registry Operator and it has 30 days to cure

Safeguards Applicable To All New gTLDs

Safeguards applicable to all new gTLDs:

1. WHOIS verification and checks (WHOIS Accuracy Reporting System)
2. Mitigating abusive activity (RA Specification 11, Section 3a)
3. Security checks (RA Specification 11, Section 3b)
4. Documentation (WHOIS Accuracy Reporting System and RA Specification 11, Section 3b)
5. Making and Handling Complaints (RA Specification 6, Section 4.1; RA Section 2.8)
6. Consequences (RA Specification 11, 3a; 2013 RAA Section 3.7.7.2)

Safeguards Applicable To Category 1

Summarized from the GAC Beijing Communique

Safeguards applicable to Category 1 gTLDs (consumer protection, sensitive strings and regulated markets)

Incorporated by Registry Agreement, Specification 11 of applicable strings

1. Acceptable Use Policy requirements
2. Notification to registrants by registrars at time of registration
3. Implementation of security measures for sensitive health and financial data
4. Establish working relationship with regulatory bodies, including developing mitigation strategy against fraud and illegal activities
5. Require registrants to provide up-to-date contact for notification of abuse reports and contact details of regulatory bodies

Safeguards Applicable To Category 1 (continued)

Summarized from the GAC Beijing Communique

(Additional safeguards for specific risks associated with regulated markets)

6. Verification and validation of registrant's credentials for participation in that sector

7. Consultation with supervisory authorities to authenticate registrant credentials

8. Periodic post-registration checks to ensure continued compliance with sector requirements and that activities are conducted in interests of served consumers

9. Develop and publish registration policies to minimize risk of cyber bullying and harassment

10. Registration requirement that registrant will avoid misrepresentation of endorsement by government military forces

Safeguards Applicable To Category 2

Summarized from the GAC Beijing Communique

Safeguards applicable to Category 2 gTLDs (restricted registration policies)

1. Restricted Access: registration restrictions should be appropriate for risks associated with TLD and access should not be preferential against any registrar or registrant (RA Specification 11, Section 3c)
2. Exclusive Access: exclusive access to generic strings should serve a public interest goal