

I. NARALO Q&A - This is an opportunity for At-Large and members of the community to pose questions directly to ICANN Staff concerning Compliance issues.

1. **Question(s) from At-Large Members concerning unsolicited domain sales marketing:** The Registrar Accreditation Agreement (RAA) has a special provision prohibiting the use of WHOIS record data for "[commercial advertising or solicitations](#)." The Chair has been receiving multiple complaints from At-Large members concerning deceptive marketing of domain purchases or transfers from unknown "registrars" sent to the contact address in their WHOIS. In one example "Asian Domain Registration Service in China" sent a notice to a domain owner falsely claiming the domain owner's trademark was being used in domain purchases and that the domain owner should purchase the domains with "Asian Domain Registration Service in China" to avoid their trademark from being abused. [This is in fact a well-documented scam](#). In a second example an At-Large member and domain owner received several emails claiming a similarly named domain string was pending sale should be re-registered through the linked service. In one email the service was called "Ourbestnames" in another it was called "Jackdomains" with the actual service being called "Active Domain (Re)Sale." The business address posted for these services is [2710 Thomes Ave Cheyenne WY](#) which is [widely documented as being associated with shell companies and fraud](#). The name of the entity behind these services is "Great Value Domains LLC ." No records have been found so far validating the existence of "Great Value Domains" in California, Nevada, Delaware or Wyoming. There is zero transparency on their sites as to which Registrar they resell for. According to RAA 3.12.3 "[Reseller shall identify the sponsoring registrar upon inquiry from the customer](#)," but an email to their contact address was returned with the message "Recipient address rejected: User unknown in virtual alias table." Our specific questions for ICANN Compliance are as follows:
 - A. How and where can members of the community report violations of 3.12.3 and 3.3.5?
 - B. How and where can members of the community monitor the status of such complaints?
 - C. What is ICANN Compliance doing to handle such clear abuses of the registration system?

ICANN response:

Question A: How and where can members of the community report violations of 3.12.3 and 3.3.5?

Please refer to this link on how to contact ICANN regarding contractual compliance matters: <https://www.icann.org/en/resources/compliance/complaint-submission>.

Question B: How and where can members of the community monitor the status of such complaints?

To obtain a status on a complaint, members of the community can send an inquiry to compliance@icann.org referencing the complaint. In the current process, once complaints are processed and matters reach a resolution, an email is sent to the complainant to inform them of the outcome.

Question C: What is ICANN Compliance doing to handle such clear abuses of the registration system?

The senders of the scam emails, referenced above, are not ICANN-accredited registrars; therefore, ICANN Contractual Compliance is often not in a position to address these situations. To be clear, ICANN's Contractual Compliance department will investigate cases of alleged violation of the RAA or ICANN consensus policies arising from a "fake" renewal notice" and will pursue enforcement actions against the non-compliant registrar, if appropriate. However, each "fake" renewal notice needs to be examined on a case-by-case basis in order to determine the legality of such notice and whether there is a violation of the RAA or ICANN policies. Since 2008, ICANN received a total of 56 complaints.

Please refer to the GNSO Council's updated report of the Fake Renewal Notices Drafting Team at <http://forum.icann.org/lists/gnso-frn-dt/msg00141.html>

Question(s) from At-Large Members concerning Registrar responsibility for sponsored names: [The Registrar Accreditation Agreement](#) explicitly states the conditions under which a domain reseller must operate, specifically that the reseller must not represent itself as the sponsoring Registrar. It has been reported to the Chair that an At-Large member attempted to report a phishing email to the sponsoring Registrar and was referred to the domain reseller who rejected the complaint out of hand. By conferring its duties to a reseller and abandoning responsibility the Registrar is in effect denying its sponsorship and representing the reseller in the role of Registrar. Our specific questions for ICANN Compliance are as follows:

- A. How and Where can members of the community report attempts by a Registrar to deny sponsorship and assign contractual responsibilities to a reseller?
- B. How and where can members of the community monitor the status of such complaints?

ICANN response:

Please refer to the response above

2. **Question(s) from community member about abuse occurring within ccTLD domains:** [The InterNIC Complaint](#) form (AKA "Registrar Complaint Form", AKA "Registrar Problem Report Form") has a radio button labeled "ccTLD" as an issue. This is extremely misleading as ICANN does not handle ccTLD Compliance issues. The ICANN website has a page with the Compliance area entitled "[ccTLD Compliance Program](#)." This is extremely misleading since there is no program. The first line of this page states: "ICANN does not have contract authority to take compliance action against ccTLD operators." Our specific questions for ICANN Compliance are as follows:
- A. Can the "ccTLD Compliance" pages be transformed into a referral list where members of the community may directly access ccTLD administration information, thus sparing Compliance Staff the need to respond to such complaints and also giving the community an real avenue for redress?
 - B. How and who can the community engage to develop a comprehensive and responsible mechanism for ccTLD compliance?
 - C. Can the "ccTLD" issue item on the complaint form be removed or modified for the sake of clarity?

ICANN response:

Question A: Can the "ccTLD Compliance" page be transformed into a referral list where members of the community may directly access ccTLD administration information.

Thank you for this feedback. As of 6 December 2012, the ccTLD Compliance page is updated to provide the community a direct link to the list by referring them to the IANA Root Zone Database, which contains the authoritative record of the operators of each country-code top-level domain.

Question B: How and who can the community engage to develop a comprehensive and responsible mechanism for ccTLD compliance?

ccTLD operators establish their own rules, agreements and policies. Please refer to the list above for contact information.

Question C: Can the "ccTLD" issue item on the complaint form be removed or modified for the sake of clarity?

The ccTLD issue item on the complaint form will be modified. As previously communicated, efforts are underway to improve the complaint reporting tool and the user interface. Those efforts are scheduled to begin rollout early 2013. Please refer to the latest update provided in the presentation link below, slides 6-10, to learn more

about the improvements -

<http://toronto45.icann.org/meetings/toronto2012/presentation-compliance-metric-17oct12-en.pdf>.

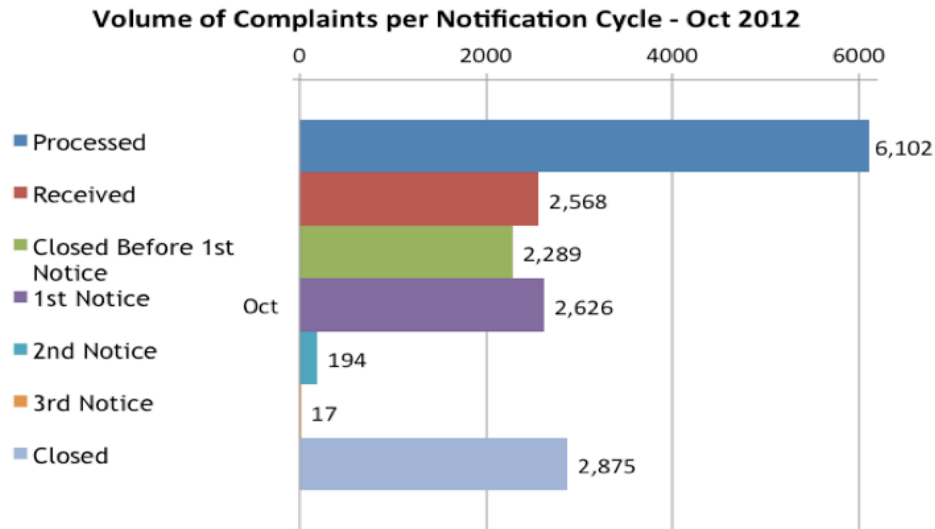
Please note that the ICANN intake system anticipates the types of inquiries that can be received. If an inquiry is outside of ICANN’s authority, ICANN provides guidance on where to resolve the issue through its Frequently Asked Questions (FAQs).

II. Review of Compliance Newsletter

Comments or questions here refer to the last (October 2012) [Compliance Newsletter](#)

1. In reference to the "Volume of Complaints per Notification Cycle - Oct 2012" Bar chart, there appears to be a lack of context, for example the number of "closed" complaints exceeds the number of "received" complaints. There is no explanation of what these numbers really mean or how the related to each other. Can Compliance clarify the data?

ICANN response:



Complaints are managed in a rolling cycle month over month. A complaint entered in September may not be closed until the following month of October. Received complaints, referenced in the chart above, are the new complaints entered in the month of October. "Closed" status refers to complaints that are closed following the department’s process regardless of the month in which it is received, and are not tied to the number of complaints received in the month for which the reporting is provided. For example, the Contractual Compliance Department may close prior

months' complaints in October creating a higher "Closed" count for October when compared to the "Received" counts, and some of the complaints received in October will be reported as "Closed" in the future month in which the complaint is actually closed.

2. Under the "Responding to Whois Inaccuracy Complaints" section it is stated that Registrar "Reasonable steps" include canceling the domain registration if the registered name holder (A) Provided inaccurate or unreliable information, (B) Failed to promptly update information, and/or (C) Failed to respond for over fifteen calendar days to inquiries. This appears to be in direct conflict with the [Compliance advisory from 2003](#) which states in part that "Subsection 3.7.7.2 of the Registrar Accreditation Agreement does not *require* a registrar to cancel a registration in the event a customer fails to respond within 15 days", "the registrar is given **discretion** to act", "a registrar can appropriately conclude that **much more than 15 days** should be allowed before the registration is cancelled". Additionally, Compliance staff stated in the [WHOIS Review Team Report](#) that "there is no requirement in the RAA for registrars to ensure that WHOIS data is accurate." Compliance appears to be overstepping its authority in the most recent newsletter and contradicting the standing policy without rescinding that policy. In the interests of transparency can Compliance cite the specific authority which allows ICANN to state that the "registrar *should*...cancel the domain registration" when this language does not exist in the contract?

ICANN response:

ICANN's end goal is to be able to obtain a factual response from the registrar that supports their actions and to address the Whois inaccuracy complaint. The steps to validate compliance are guided by the advisory and the RAA.

3. The "Enforcement Activity" Section of the Newsletter has no reference to the 14 September 2012 Breach of AB Connect Sarl, yet it has references to breaches issued *before* and *after* the AB Connect breach. Our specific question is: why is the AB Connect Sarl breach not listed in the October summary?

ICANN response:

Please refer to the September 2012 Newsletter at <https://www.icann.org/en/resources/compliance/newsletter/newsletter-sep12-en.htm> for an update on the AB Connect. The October 2012 Newsletter refers to the activities in enforcement relevant to the month.

III. Review of Compliance Meeting in Toronto

[In Toronto the Chair requested a follow up to a question](#) asked in Prague concerning the "re-accreditation" of A-Technology Company after being de-accredited in a notice which states in part that "[ICANN does not intend to renew the A Technology Company's accreditation](#)". In response Compliance stated that "The breach was cured 30th of June 2010." The problem with the answer is that A Technology's ability to cure a breach had already expired. Compliance also stated that: "The Registrar was not officially terminated", however the question concerned the de-accreditation or non-renewal. Regardless, it may be difficult for the casual onlooker to grasp these semantic differences, especially when the non-renewal notice states: "[we look forward to amicably resolving any domain name transition issues that may arise from this termination](#)." In general the timelines established in Compliance matters seem rather fluid. The questions are then, (1) at what point does a Registrar become officially de-accredited (whether through termination or non-renewal)? And (2) at what point are they required to completely submit a new application?

ICANN response:

The effective date for A Technology's expiration of its RAA was on 12 July 2010. Per breach notice, 2nd paragraph, A Technology cured the breach on 30 June 2010, and was entitled to renew its accreditation. The accreditation expiration date was not until 12 July 2010.

IV. Review of Compliance Recent Activities

- On 14 September 2012 AB Connect Sarl received a [Breach/Non-Renewal notice from ICANN Compliance](#) for failure to Escrow. The deadline to cure was 19 September 2012. As of 25 November 2012 there is no update on this breach and AB Connect Sarl is still listed as an active Registrar. Our specific question is: What is the status of this breach?

ICANN response:

As stated in the September 2012 newsletter, <http://www.icann.org/en/resources/compliance/newsletter/newsletter-sep12-en.htm>, AB Connect cured the breach identified in its Notice of Breach on or before 19 September 2012.

- On 19 November 2012 Bargin Register Inc. received a [Breach notice from ICANN Compliance](#) for a number of items with varying deadlines: Bargin must pay \$3,845.44 by 30 November 2012 AND Bargin must supply communications, process relating to a UDRP by 12 December 2012. Our specific question is: The breach makes extensive reference to [the Registrar's failure to comply with a UDRP process](#) yet it does not hold the Registrar in breach of [RAA 3.8 which states "Registrar shall comply with the Uniform Domain Name Dispute Resolution Policy"](#), why?

ICANN response:

The notice of breach to Bargin Register Inc. is for failure to maintain registration data and records, failure to provide those to ICANN, and non-payment of accreditation fees. The UDRP inquiry is part of a request for additional information. If the registrar cannot provide documentation sufficient to establish compliance with 3.8 of the RAA (specifically that the registrar has in place a policy and procedures for resolution of disputes concerning registered names), then ICANN may issue a subsequent notice of breach.

- In general breaches marked as "cured" do not have any dates or specifics provided. Therefore the community has no transparent information as to the timelessness or conditions of the cure. Our specific question is: Can Compliance at a minimum post the date which the Registrar responded and a brief of the actions taken?

ICANN response:

Please refer to the Contractual Compliance Newsletters at:

<http://www.icann.org/en/resources/compliance/newsletter> for a summary of the enforcement action relating to each Notice of Breach, including the dates. "Breach Cured" means the registrar responded no later than the Due Date listed (or as modified by an extension date, which is also listed) and that the actions to cure the breach as listed in the breach notice were completed. Please refer to each notice for the relevant dates and expected actions.

V. Previous Questions

There are a number of outstanding unanswered compliance questions, which can be found [here](#)

ICANN response:

Contractual Compliance staff made the decision in adhering to its process of enforcing the RAA; please refer to 21 May 2012 responses in the report referenced above, in addition to the discussion in the transcripts at ICANN 44 and 45.

As mentioned in September's update,

<http://www.icann.org/en/resources/compliance/newsletter/newsletter-sep12-en.htm>, application enhancements were completed to the Whois Data Problem

Reporting System to align with current contractual compliance process and improve processing quality and effort. Please let us know if you have questions as it relates to current complaints.