

# Contractual Compliance

## 2014 ICANN Registry Roadshow Contractual Compliance Update

Los Angeles: Sep 10, 2014

Tokyo: Sep 25, 2014

Istanbul: Nov 20, 2014

# Question

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- Where in the world is ICANN's Contractual Compliance team present?
  - Los Angeles, Singapore, Istanbul
- How many languages does the Contractual Compliance staff speak?
  - 9. Arabic, English, French, Korean, Mandarin, Russian, Spanish, Turkish and Uzbek

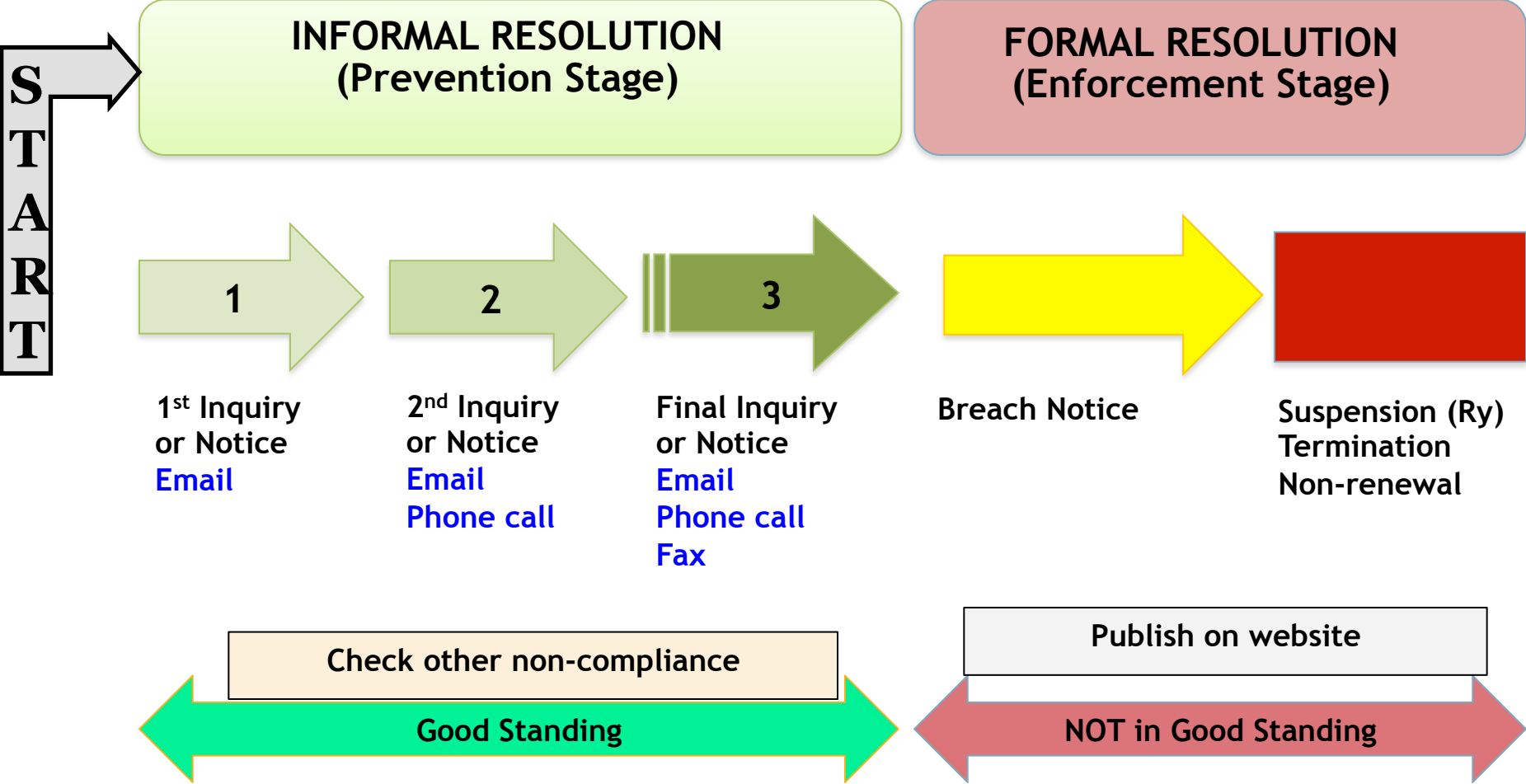


# Agenda

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- Contractual Compliance Approach and Process
- Contractual Compliance Registry Scope
- Registry Performance Measurement
- New Registry Agreement Audit
- Guidelines on Obligations
- Lessons Learned

# Contractual Compliance Approach and Process (Fact-based Decisions)



\* For registry enforcement mechanisms outside of Compliance process, please refer to relevant registry agreement

# Inquiry vs. Notice

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An **Inquiry** may be sent for (i) information gathering, (ii) there is no known compliance violation, or (iii) proactive compliance monitoring effort. Non-response to inquiry may result in a notice.

A **Notice** may be sent regarding an alleged area of non-compliance

An **Escalated Notice** applies to compliance matters that require immediate resolution or are a repeated matter of a recently cured breach.

# Complaint Management Guidelines

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Registry receives an inquiry or a notice...now what?

- **Please RESPOND** directly to the email
- DO NOT edit subject line
- Attachments should not be greater than 4MB
- Attachment file formats .pdf,.doc(x), .txt

# Contractual Compliance Registry Scope

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- The [Registry Agreement](#) and applicable [Consensus Policies](#)
- The Dispute Resolution Procedures
  - Public Interest Commitments
  - Community Registration Restrictions
  - Trademark Post-Delegation
  - Uniform Rapid Suspension
- The Sunrise Processes
- The Claims Services Processes
- The Audit is limited to the representations and warranties in Article 1, and the covenants in Article 2

# Contractual Compliance Registry Scope

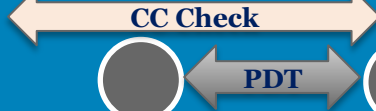
- Data Escrow
- Monthly Report
- Transfer Bulk WHOIS
- Transfer Zone File to ICANN & EBERO
- Fixed & Variable Fees
- SLA
- WHOIS Publication of Data
- Zone File Access to End Users
- Audit: 2.3 Data Escrow
- Audit: 2.4 Monthly Report
- Audit: 2.5 Publication of Registration Data (Whois); Specification 4
- Audit: 2.7 Registry Interoperability and Continuity; specification 6
- Audit: 1.5 IPv6; Specification 6
- Audit: 2.19 Community – Based TLDs Obligations of Registry Operator to TLD Community; Specification 12
- Audit: Specification 13 .BRAND TLD PROVISIONS; 5.1 (ii)

- Claims Notice Posted
- Registry validations
- Audit: 2.8 Protection of Legal Rights of Third Parties (TMCH) Claims Period; Specification 7
- LORDN to TMDB

Application Process

Delegation

TM Claims Period



RA Signed

Sunrise

EBERO

- Post-Delegation Procedures: PICs/TMPD, RR, URS
- RPM Access Fees
- Continued Operations Instrument
- Reserved Names
- Block Name-Collision SLD Names
- Code of Conduct
- Abuse Contact Data
- Registration Restriction Policies
- Audit: 1.3 Representations & Warranties
- Audit: 2.2 Consensus Policies
- Audit: 2.17 Additional Public Interest Commitments; Specification 11

- Only TM Holder registers
- No Allocation/earmarking before Sunrise registrations
- Sunrise Policies aligned with RPMs
- Audit: 2.8 Protection of Legal Rights of Third Parties (TMCH) Sunrise Period; Specification 7
- Audit: 2.14 Registry Code of Conduct; Specification 9 Parts A, D, E



# Regional Domain, Registrar & Registry Complaints June-Oct 2014

N. America	104.3M	8,375	.008%
	890	421	47.3%
	243	205	84.4%

Europe	24.3M	1,707	.007%
	176	132	75.0%
	159	130	81.8%

Asia/A/P	25.8M	4,679	.018%
	207	149	72.0%
	69	54	78.3%

Latin America	1.1M	132	.012%
	24	23	95.8%
	5	5	100.0%

Africa	21,452	19	.089%
	8	6	75.0%
	4	3	75.0%

LEGEND	Domain Volume (as of June 2014)	# Complaints	% Complaints per Domain Volume
	# registrars per region	# registrars w/ Complaints	% registrars with complaints per region
	# registries per region	# registries w/ Complaints	% registries with complaints per region

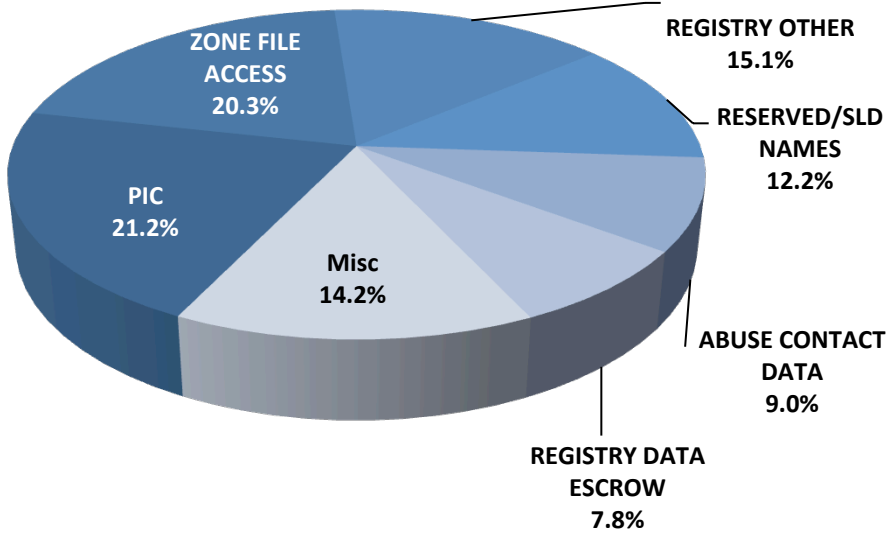
Notes: "# registrars per region" data may contain some obsolete registrars but is retained for reporting history  
"# of registries per region" includes all TLD's



# Registry Complaint Type Volume

## June – Oct 2014 - EMEA

**Complaint Distribution**



Registry TAT	(in days)
Avg TAT 1st Notice	5.3
Avg TAT 2nd Notice	5.1
Avg TAT 3rd Notice	6.0

Formal Notices	
Volume Breach	0
Volume Termination	0

REGISTRY Complaints	Qty
ABUSE CONTACT DATA	31
BANKRUPTCY	1
BULK ZFA	7
CLAIMS SERVICES	3
CODE OF CONDUCT	2
MONTHLY REPORT	6
NAME COLLISION CI	42
PIC *	73
REGISTRY DATA ESCROW	27
REGISTRY FEES	3
REGISTRY OTHER	52
RR-DRP	4
SLA	20
SUNRISE	1
URS	2
ZONE FILE ACCESS	70
<b>Total New Complaints Processed</b>	<b>344</b>
<b>Total Complaints Closed</b>	<b>251</b>

*\*PIC Complaints are ICANN generated inquiries*

# Selected Obligations Due Upon Signing of Registry Agreement

- Comply with Temporary & Consensus Policies, as applicable (Spec 1)
- Reserve Special Domain Names (Spec 5)
- Meet Interoperability/Continuity Standards (Spec 6)
- Implement Rights Protection Mechanisms (Spec 7)
- Maintain Continued Operations Instrument (Spec 8)
- Comply with Code of Conduct (Spec 9)
- Comply with Public Interest Commitments (Spec 11)
- Implement Community Registration Policies, as applicable (Spec 12)

# Selected Obligations Due Upon Delegation

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- Pay [Registry-Fees](#) (Article 6)
- Ensure [Escrow Agent delivers daily verification notifications](#) (Spec 2) & Registry notifies ICANN
- Submit [Monthly Reports](#) (Spec 3)
- Operate a [WHOIS service & web-based RDDS](#) per Spec 4
- Grant access to ICANN of daily [Zone File](#) (Spec 4, Section 2.3)
- Grant access to ICANN of weekly [Thin Registration Data](#) (Spec 4, S. 3)
- Maintain [Registry Performance](#) (Spec 10)

# Comply with Temporary & Consensus Policies

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- Consensus Policies are developed by the community and adopted by the ICANN Board
- Temporary Policies are Board-established specifications or policies necessary to maintain the stability or security of Registrar or Registry Services, the DNS or the Internet

# New Registry Agreement Audit - Timeline

The scope of the New Registry Agreement audit program includes gTLDs that signed the July 2013 base registry agreement (the “Agreement”) as amended from time to time, including all its Specifications and Public Interest Commitments.

**Goal:** To proactively identify deficiencies and manage the remediation process to ensure compliance with contractual obligations

## New gTLD Registry Audit

	RFI Notification Phase				Audit Phase		Reporting Phase	Remediation Phase					
Pre-Audit Notification	RFI - 1st Notice	RFI - 2nd Notice	RFI - 3rd Notice	RFI - 3rd Notice Due	Start	End	Start	Start	Rem - 1st Notice	Rem - 2nd Notice	Rem - 3rd Notice	Rem - 3rd Notice Due	End
30-Jun-14	14-Jul-14	05-Aug-14	12-Aug-14	18-Aug-14	19-Aug-14	19-Sep-14	22-Sep-14	22-Sep-14	22-Sep-14	14-Oct-14	21-Oct-14	27-Oct-14	28-Oct-14

For more information, please email [complianceaudit@icann.org](mailto:complianceaudit@icann.org)



# Lessons Learned & Guidance

## Abuse Contact Data

Specification 6, Section 4.1 of the RA:

Provide to ICANN and publish accurate details for reports of malicious conduct in the RA

<b>Issue</b>	<ul style="list-style-type: none"><li>• Mailing address &amp; primary contact</li></ul>
<b>Guidance</b>	<ul style="list-style-type: none"><li>• In the TLD's webpage referencing abuse reports, ensure there is valid email address plus mailing address and primary contact</li><li>• Many gTLDs are publishing email address, <b>but not the mailing address</b> and primary contact for reports by mail</li><li>• Must be evident that abuse reports may be sent to the general mailing address being displayed.</li></ul>



# Lessons Learned & Guidance

## **Zone File Access Requirements**

Specification 4, Section 2 of the RA

- Act upon requests for zone file access via CZDS

<b>Issue</b>	Time elapsing for the Registry Operator to respond
<b>Guidance</b>	Be open and transparent: Establish, publish and adhere to a policy that informs end-users by when they should reasonably expect a response



# Lessons Learned & Guidance

## Zone File Access Requirements

Specification 4, Section 2.1 - 2.3 of the RA

- Reasons to deny or revoke access to zone files

### Issue

1. Registry denying access because not yet in sunrise
2. Registry denying access until NDA signed

### Guidance

Neither is a valid reason to deny access – Three reasons per RA:

- (i) failure to satisfy credentialing requirements of §2.1.2
- (ii) not providing correct or legitimate credentialing requirements of §2.1.2
- (iii) reasonable belief that requestor will violate terms of §2.1.5

# Lessons Learned & Guidance

## Trademark Clearinghouse Rights Protection Mechanisms Requirements

Sections 2.1.1 & 2.2.4

- To “Allocate” is to “allocate, assign, designate, or otherwise earmark” a Domain Name (DN). Subject to exceptions, a Registry Operator can’t Allocate a DN to a registrant that is not a Sunrise-eligible rights holder prior to the Allocation or registrations of all Sunrise-Registrations.

<b>Issue</b>	Improper Allocation/ earmarking before sunrise ends
<b>Guidance</b>	Improper Allocation occurs irrespective of sunrise preemption or whether the earmarking was converted to a registration

# Lessons Learned & Guidance

## **Name Collision Assessment**

Specification 6, Section 6.2 of the RA

### **Issues**

- Zone file not available for ICANN's review.
- Delegation records for SLDs in the SLD Block List instead of/in addition to CI records.
- Invalid Wildcard in Block list (Wildcarded **SLD** CI vs. Wildcard CI)

### **Guidance**

Activate any names in the DNS zone per the 4 Aug 2014 Controlled Interruption (CI) Assessment. and the 12 Sep 2014 SLD CI variations Letter.

# Lessons Learned & Guidance

## Registration Data Publication Services

### Specification 4, Section 1 of the RA

#### Issues

- Unavailability of Whois.nic.tld
- Extra keys in the Whois output
- Misnamed keys in Whois output
- Incorrect order of keys in Whois output

#### Guidance

Consult the Advisory: Clarification to the New gTLD Agreement, Specification 4. available here: <https://www.icann.org/resources/pages/registry-agreement-spec4-raa-rdds-2014-09-12-en>

# Meet Public Interest Commitments Requirements

## Specification 11 of the Registry Agreement

- Comply with mandatory and voluntary (as applicable) commitments
- ICANN conducts a preliminary review of the complaint to ensure that it is complete, has a claim of non-compliance with at least one commitment, and that the reporter is in good standing
- Registry and Reporter have 30 days to resolve dispute; if unsettled ICANN investigates or defer 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

# Maintain Registry Performance

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## Specification 10 of the Registry Agreement

- Meet the service level outlined in the Service Level Agreement matrix of Specification 10
- Maintain records for a period of at least one year

# Maintain Continued Operations Instrument (COI)

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## Specification 8 of the Registry Agreement

- COI must be in effect for 6 years from effective date of RA
- No amendment without ICANN approval
- If COI is terminated or not renewed, required
- to obtain replacement COI

# Thank You

Please send general questions:

To: [Compliance@icann.org](mailto:Compliance@icann.org)

Subject line: **ICANN Roadshow – Istanbul**



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# Additional Slides for References

# New Registry Agreement Audit – Scope

<b>Registration Agreement Articles</b>	<b>Test Objective</b>
1.3 Representations and Warranties. 1.3 (a) ii.	Registry Operator is still in good standing since application process
2.2 Compliance with Consensus Policies and Temporary Policies	To obtain an assurance that Registry is complying with all Consensus Policies - AGP (Add Grace Policy)
2.3 Data Escrow; Specification 2; PART B Legal Requirements	Content of the escrow deposits are per the contract
2.4 Monthly Reporting; Specification 3	To ensure the monthly Per-Registrar Transactions Report accurately represents the number of active domains
2.5 Publication of Registration Data (Whois); Specification 4	Availability and following Specification 4 (Section 1.4)
2.6 Reserved Names; Specifications 5	Names that Registry Operators are obligated to reserve are actually reserved
2.7 Registry Interoperability and Continuity; Spec 6.2.2 Name Collision Occurrence Assessment (Blocked Second Level Domain Names)	Names that Registry Operators are obligated to block are actually blocked

# New Registry Agreement Audit – Scope

Registration Agreement Articles	Test Objective
2.7 Registry Interoperability and Continuity; Specification 6	Registry Operators have BCP
2.8 Protection of Legal Rights of Third Parties - (TMCH) Sunrise Period; Specification 7	Domain names registered during sunrise were eligible for registration
2.8 Protection of Legal Rights of Third Parties (TMCH) Claims Period; Specification 7	During the trademark claims period, Registry performed required validation
2.14 Registry Code of Conduct; Specification 9 Parts A, D, E	Compliance of the Registry on Code of Conduct
2.17 Additional Public Interest Commitments; Specification 11	To ensure that Registry Operator complies with its public interest commitments as incorporated into Specification 11 of the Registry Agreement
2.19 Community- Based TLDs Obligations of Registry Operator to TLD Community; Specification 12	Registry has a written Registration Policy and complied with it when registering with community based TLDs
Specification 13 . BRAND TLD PROVISIONS; 5.1 (ii)	To confirm that only Registry Operator, its Affiliates, or Trademark Licensees register domain names and control the DNS records associated with domain names at any level in the TLD.

# Meet Reserved Names Requirements

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## Article 2.6 & Specification 5 of the Registry Agreement

- For Registry Operations
- Other Requirements
  - Two-character labels at the second level (unless otherwise approved by ICANN)
  - Names on the list of Inter-governmental organizations (IGO), at the second level
  - Names on the list of International Olympic Committee, International Red Cross & Red Crescent, at the second level
  - Country and Territory names at all levels (and IDN variants as applicable)

# Meet Registry Interoperability & Continuity Specifications

## Specification 6 of the Registry Agreement

- Standards Compliance
  - DNS, EPP, DNSSEC, IDN, IPv6
- Registry Services & Wildcard Prohibition
- Business Continuity Plan & Annual Testing
- Abuse Mitigation - Contact Data & Malicious Use of Orphan Glue Records
- Initial & Renewal Registrations
- Name Collision Occurrence Management

# Name Collision, Controlled Interruption (CI)

- Obligations for gTLDs delegated on or after 18 Aug 2014
  - No activation of names (other than nic.tld ) for 90 days after delegation
  - The gTLD chooses when to start CI
  - Implement CI per Section 1 of Name-Collision Occurrence Assessment (the “ Assessment”)
- Obligations for gTLDs delegated before 18 Aug 2014 and names activated other than nic.tld
  - The gTLD chooses when to start CI; in the meantime, block the SLDs in the Alternate path to Delegation (APD) List
  - Once CI starts, implement it per Section II of the Assessment
  - After the CI period ends, may release APD List per Section II (c) of the Assessment

# Name Collision, Controlled Interruption (CI) Requirements

- Obligations for gTLDs delegated on or after 18 Aug 2014 and no names activated, other than .nic
  - The gTLD chooses when to start CI
  - Choose whether to follow Section I or II of the Assessment
  - Implement CI per the chosen section of the Assessment

# Meet TMCH Rights Protection Mechanisms (RPM) Requirements

## Specification 7 of the Registry Agreement

- Comply with Trademark Clearinghouse Rights Protection Mechanisms Requirements
- Comply with all dispute resolution procedures
  - Uniform Rapid Suspension
    - lock of domain name within 24 hours of notice by URS provider; perform the actions required upon notification of a URS decision
  - Registry Restriction Procedure and Trademark-Post Delegation Procedure
    - Perform the remedial actions if the Reporter prevails in the dispute



# Registration Restriction Dispute Resolution Procedure Requirements

## Specification 7 of the Registry Agreement

- Comply with community registration policies per Article 2.19 and Specification 12
- ICANN conducts a preliminary review of the complaint to ensure that it is complete, has a claim of non-compliance with at least one registration restriction, and that the reporter is in good standing.
- If the report passes the initial review, the complaint is sent to the Registry Operator; if the dispute remains unsettled the Reporter may then file a complaint with a approved Service Provider

# Uniform Rapid Suspension Requirements

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## Specification 7 of the Registry Agreement

- Registry must lock a domain name in dispute under URS within 24 hours of receipt of Notice of Lock from URS Provider
  - If URS Provider submits complaint to ICANN, 1-2-3 expedited notices (24 hours each) to registry operator
- Registry must perform the steps in section 10.2 of URS procedure upon receipt of an URS Determination in favor of the complainant
  - ICANN enforces upon report by Complainant that prevailed

# Meet Code of Conduct Requirements

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## Specification 9 of the Registry Agreement

- Provide registrars equal access to registry services
- No front-running
- Requirements for registries with cross-ownership
  - Must prevent unauthorized disclosures of Personal Data by the affiliated registrar
  - By 20 January 2015: Code of conduct certification by TLD Executive & Results of Review
  - Separate legal entities & Separate accounting books

# Implement Community Registration Policies

## Specification 12 of the Registry Agreement

- Criteria for eligibility to register names
- Methods for validating Community eligibility
- Required to be a member of the specified Community
- Procedures for resolution of disputes concerning compliance with TLD registration policies

# Pay Registry-Level Fees

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## Article 6.1 of the Registry Agreement

- Fixed and Variable fees
  - Fixed = US\$6250/quarter
  - Variable = US\$0.25/transaction over 50,000
- Pay fees within 30 calendar days of the issue
- date of ICANN invoice

# Meet Data Escrow Requirements

## Specification 2 of the Registry Agreement

- Daily deposits by the Registry Operator
  - a) Sunday: full deposits to Data Escrow Agent by 23:59 UTC
    - Full deposit consists of the entire set of registry database objects as defined
  - b) Monday-Saturday: differential deposits by 23:59 UTC (or a full deposit)
    - Differential deposit includes all registry database objects that have been created, deleted, or updated since the previous full or differential deposit
- Registry Operator must ensure that its Data Escrow Agent send daily status notifications to ICANN per Section 7, Part B
- Registry Operators also sends daily notification of deposit to ICANN per Section 7, Part A

**Note:** Data Escrow Agent *notifies ICANN on a daily basis of a missed, valid or invalid deposit*

# Meet Monthly Reports Requirements

## Specification 3 of the Registry Agreement

- Two reports are required
  - Registry Functions Activity
  - Per Registrar Transaction Report
- The Registry Operator must provide one set per gTLD, using the API described in draft-lozano-icann-registry-interfaces, see Specification 2, Part A, Section 9, reference 5.

# Comply with WHOIS Service & RDDS

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## Specification 4, section 1, of the Registry Agreement

- Operate a WHOIS service and a web-based
- Registration Data Directory Service that meets the requirements stated in Spec 4
- Comply with RDDS guidance for registries by 31 January 2015



# Daily Zone File Access Requirements

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## Specification 4, Section 2 of the Registry Agreement

- Must provide to ICANN, bulk access to the zone files by 00:00:00 UTC
- Must provide zone data to the end users who request it through the Centralized Zone Data Service

# Weekly Access to Thin Registration Data

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## Specification 4, Section 3 of the Registry Agreement

- Must provide to ICANN, bulk access on the day specified during ONBIR