26 February 2021

Philippe Fouquart
Chair, GNSO Council

RE: GNSO Council Request for ICANN org briefing on accuracy requirements and programs

Dear Mr. Philippe Fouquart,

I am writing in follow-up to my 10 December 2020 letter regarding the GNSO Council's 4 November 2020 request for a briefing on existing accuracy requirements and programs.

Attached to this letter you will find the requested briefing. The document provides an overview of the following:

- Contractual requirements regarding accuracy, including Registrar Accreditation Agreement (RAA) requirements
- Consensus policy requirements regarding accuracy, including the Restored Names Accuracy Policy (RNAP) and the WHOIS Data Reminder Policy (WDRP)
- ICANN org programs related to accuracy, including the Registrar Compliance Program and the WHOIS Accuracy Reporting System (ARS)

For each of the above, the briefing provides information regarding the effect of the General Data Protection Regulation (GDPR) and adoption of the Temporary Specification for gTLD Registration Data (Temporary Specification)/Interim Registration Data Policy for gTLDs (Interim Policy) on implementation/enforcement of the accuracy requirements/programs.

As noted in the briefing, ICANN org is able to provide any additional information to assist the GNSO Council and accuracy scoping team, as needed. ICANN org again appreciates the opportunity to contribute to the scoping team's deliberations on the topic of accuracy of registration data.

Sincerely,

Theresa Swinehart
Senior Vice President, Global Domains & Strategy
Internet Corporation for Assigned Names and Numbers (ICANN)

ICANN Org Briefing

Registration Data Accuracy Requirements and the European General Data Protection Regulation (GDPR)

Global Domains & Strategy
26 February 2021

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Executive Summary

In November 2020, to inform the deliberations of an accuracy scoping team, the Generic Names Supporting Organization (GNSO) Council requested ICANN org to provide a briefing on accuracy requirements and programs including how the General Data Protection Regulation (GDPR) has affected enforcement of accuracy requirements.[1] This briefing outlines these requirements and effects from the GDPR.

Contractual Requirements

The base Registry Agreement (RA)[2] does not contain provisions that directly address the accuracy of registration data for generic top-level domains (gTLDs), and the majority of requirements regarding accuracy are found in the 2013 Registrar Accreditation Agreement (2013 RAA).[3] The 2013 RAA requires registrars to enter into registration agreements with Registered Name Holders that include, at minimum, three specific provisions concerning registration data accuracy. The 2013 RAA also requires registrars to investigate allegations of inaccuracies and to comply with the WHOIS Accuracy Program Specification contained in the RAA. The WHOIS Accuracy Program Specification has specific requirements for validation and verification of registration data as well as for taking steps to investigate allegations by any person of inaccuracies of contact information associated with a registered name sponsored by that registrar. ICANN org has found that there has been minimal effect of the GDPR, or the adoption of the Temporary Specification for gTLD Registration Data (Temporary Specification) and Interim Registration Data Policy for gTLDs (Interim Policy), on enforcement of these requirements. The Interim Policy does not modify the requirements for collection of registration data by a registrar, and ICANN Contractual Compliance continues to enforce accuracy requirements of registration data, including non-public/redacted registration data.

Consensus Policy Requirements

Two consensus policies include accuracy requirements, namely the Restored Names Accuracy Policy (RNAP)[4] and the WHOIS Data Reminder Policy (WDRP).[5] Both of the policies were recently reviewed by ICANN org in Wave 1 of the Expedited Policy Development Process (EPDP) Recommendation 27: Registration Data Policy Impacts Report.[6] In this report, ICANN org noted that the impact to these policies was low and medium, respectively.

ICANN org Programs

ICANN Contractual Compliance conducts the Registrar Compliance Program, which includes monitoring compliance areas such as domain name transfers and renewals, data escrow, Uniform Domain Name Dispute Resolution Policy (UDRP), and the Registration Data Directory Service (RDDS). As part of its monitoring of RDDS compliance, including requirements in the 2013 RAA, ICANN Contractual Compliance manages the WHOIS (Registration Data) inaccuracy complaint process.[7] This process allows for complaints regarding inaccurate registration data to be submitted to ICANN Contractual Compliance, who will take action to

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[1] See: https://www.icann.org/en/system/files/correspondence/fouquart-to-swinehart-04nov20-en.pdf.

[2] See: https://www.icann.org/resources/pages/registries/registries-agreements-en.

[3] See: https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en.

[4] See: https://www.icann.org/resources/pages/registrars/consensus-policies/rnap-en.

[5] See: https://www.icann.org/resources/pages/registrars/consensus-policies/wdrp-en.

[6] See: https://www.icann.org/en/system/files/correspondence/lentz-to-drazek-et-al-19feb20-en.pdf.

[7] See: https://icannportal.force.com/compliance/s/registration-data.

investigate and address the complaint as appropriate. While ICANN Contractual Compliance has made some updates to its programs in light of new requirements in the Interim Policy, the overall effect on enforcement of accuracy requirements has been minimal. ICANN Contractual Compliance continues to enforce accuracy requirements, including for non-public/redacted registration data, for example, through the audit function or where complainant provides evidence of inaccuracy of underlying registration data (e.g., registrar or registrant disclosed data). This may involve obtaining non-public registration data from registrars to ensure validation/verification requirements and/or any necessary corrections have been made.

Finally, until June 2018, ICANN org also administered the WHOIS Accuracy Reporting System (ARS). The ARS was designed to be a framework for repeatable assessments of registration data accuracy. The results of each report were provided to ICANN Contractual Compliance for follow-up with registrars on potentially inaccurate registration data (i.e., WHOIS inaccuracies), as appropriate. However, because of the implementation of the GDPR and the adoption of the Temporary Specification and Interim Policy, ICANN org has not released any reports since June 2018, pending continued work on the topic of registration data and accuracy in the ICANN community.

ICANN org acknowledges that the ICANN community places great importance on continuing activities related to measuring accuracy of registration data, such as via the ARS. ICANN org believes it is important to view the question of measuring registration data accuracy in light of ongoing higher-level conversations on accuracy, as addressed in ICANN org President and CEO Göran Marby's September 2020 letter[8] to the Governmental Advisory Committee (GAC) and October 2020 letter[9] to the European Commission. As a result, the discussion of accuracy measurement should not be solely focused on the ARS but should encompass the wider range of issues related to the GDPR and data protection. ICANN org believes that it may be beneficial to commission a study on how accuracy of registration data might be measured, and that a framework for such a study be developed together with the GNSO Council and with input from the ICANN community.

See Table 1 below for a breakdown of the requirements and programs listed here and effects from the GDPR and subsequent adoption of the Temporary Specification and Interim Policy.

Table 1. Summary of Requirements, Programs and Impact of GDPR

Contractual Requirements	Summary of Requirement	Impact of GDPR
Registry Agreement	Does not directly address accuracy of registration data. Specification 6, subsection 1.6 requires registry operators to submit change requests to the IANA Functions operator to	**No impact/not applicable.**

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[8] See: https://www.icann.org/en/system/files/correspondence/marby-to-ismail-10sep20-en.pdf.
[9] See: https://www.icann.org/en/system/files/correspondence/marby-to-viola-et-al-02oct20-en.pdf.

	update "outdated or inaccurate DNS or WHOIS records of the TLD" within 7 days, though this is beyond the scope of this document.	
2013 Registrar Accreditation Agreement Subsection 3.7	Requirements for provision of accurate contact details by the Registered Name Holder. Subsection 3.7.8. requires registrars to comply with the WHOIS Accuracy Program Specification, to take reasonable steps to investigate claimed inaccuracies, and to take reasonable steps to correct inaccuracies the registrar is aware of.	**No impact**. Interim Policy does not modify requirements for collection of registration data by registrars or requirements to comply with the WHOIS Accuracy Program Specification.
WHOIS Accuracy Specification Program	Contains requirements for ICANN-accredited registrars to "validate" and "verify" registration data and Registered Name Holder contact information and to take specified steps if the registrar has any information suggesting that contact information is incorrect.	**No impact**. Interim Policy does not modify requirements for collection of registration data by registrars or steps that must be taken to correct inaccuracies. ICANN Contractual Compliance continues to enforce accuracy requirements of registration data, include non-public and redacted registration data.
Consensus Policies	**Summary of Policy**	**Impact of GDPR**
Restored Names Accuracy Policy (RNAP)	If a registrar restores a name from the Redemption Grace Period that had been deleted based on the provision of false contact data or non-response to inquiries from the registrar, the name must be placed on Registrar Hold status until the registrant has provided updated and accurate contact data.	**Low impact**. See Wave 1 report. Risk of impact is "low." This policy is built into the WHOIS Accuracy Program Specification Sections 4 and 5.
WHOIS Data Reminder Policy (WDRP)	Registrar must present to the registrant the current WHOIS information for each domain name registration and the Registrants must review their WHOIS data and make any corrections.	**Medium impact**. See Wave 1 report. Risk of impact is "medium". The underlying procedure and requirements for this policy can continue under the Registration Data Policy.

ICANN Org Programs	Summary of Program	Impact of GDPR
Registrar Compliance Program	Monitors compliance areas such as domain name transfers and renewals, data escrow, Uniform Domain Name Dispute Resolution Policy (UDRP), and the Registration Data Directory Service (RDDS), including the WHOIS Inaccuracy Complaint process.	**Processes updated, some impact to enforcement**. ICANN Contractual Compliance has made updates to processes to account for new requirements. ICANN Contractual Compliance continues to enforce accuracy requirements of non-public and redacted registration data. However, some contracted parties have refused to provide non-public registration data to ICANN Contractual Compliance citing reasons such as local law (e.g., GDPR or similar data protection law) or the absence of Data Protection Agreements between ICANN and the contracted party.
WHOIS Accuracy Reporting System (ARS)	A framework for repeatable assessments of registration data accuracy, based on 2013 RAA requirements. The results of each report were provided to ICANN Contractual Compliance, which followed up with registrars on potentially inaccurate registration data, as appropriate.	**On-hold**. Since June 2018, ICANN org has not conducted any further ARS data collection or analysis due to implementation of GDPR, adoption of the Temporary Specification and Interim Policy, and ongoing discussions regarding accuracy in the ICANN community. ICANN org also notes that, due to redaction of registration data, continuing the ARS using publicly available data may not provide useful results in terms of the overall accuracy of registration data. Significant changes to the ARS process would be required for ICANN org to process non-public registration data to ensure that the ARS is collecting a representative sample of registrations. In light of these issues, ICANN org believes that it may be beneficial to commission a study, with input and agreement from the community, on how accuracy of registration data might be measured.

Background on the GNSO Council Request

This briefing on accuracy requirements has been prepared in response to a request by the GNSO Council in its 4 November 2020 letter.[10] The GNSO Council requested ICANN org to "prepare a briefing document outlining both the existing accuracy requirements and programs as well as the impact that GDPR has had on implementing and enforcing the identified requirements and programs." The GNSO Council noted that the briefing would be used in the context of a scoping team on accuracy, which will be formed "to facilitate community understanding of the issue and assist in scoping and defining the issue." ICANN org acknowledged the request in its 10 December 2020 letter.[11] This briefing document is intended to address this request from the GNSO Council and inform the deliberations of the scoping team.

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[10] See: https://www.icann.org/en/system/files/correspondence/fouquart-to-swinehart-04nov20-en.pdf.
[11] See: https://www.icann.org/en/system/files/correspondence/swinehart-to-fouquart-10dec20-en.pdf.

Accuracy Requirements & Programs and Impact of GDPR on Enforcement

This section contains information regarding the impact of the General Data Protection Regulation (GDPR) and adoption of the Temporary Specification for gTLD Registration Data (Temporary Specification) and Interim Registration Data Policy for gTLDs (Interim Policy) on existing accuracy requirements and programs:

- Background and General Effects of Adoption of Temporary Specification and Interim Policy
- Contractual Requirements
- Consensus Policy Requirements
- ICANN Org Programs

Background and General Effects of Adoption of Temporary Specification and Interim Policy

The ICANN Board adopted the Temporary Specification on 17 May 2018, ahead of the 25 May 2018 effective date of the GDPR. The Temporary Specification was set to expire on 25 May 2019, and on 15 May 2019, the Board adopted the Interim Policy, which requires contracted parties to continue to implement measures that are consistent with the Temporary Specification.[12] The Temporary Specification is applicable to all contracted parties, regardless of geographic location, via consensus policies and Temporary Policy Specifications in the Registrar Accreditation Agreement (RAA) and Registry Agreement (RA).

Following adoption of the Temporary Specification, to address questions regarding the ways in which contracted parties and their agreements would be affected, ICANN Contractual Compliance and Global Domains & Strategy (what was then the Global Domains Division) held a webinar[13] in June 2018 to provide an overview of some of the effects. ICANN org also provided additional information regarding the enforcement of the Temporary Specification via the publication of a Frequently Asked Questions document in June 2018, including responses to questions regarding collection, display, and publication of registration data.[14] With regard to redaction and collection of registration data, ICANN org stated that "the Temporary Specification for gTLD Registration Data does not modify the requirements for collection of registration data by a registrar as prescribed in the relevant Registrar Accreditation Agreement (RAA)."[15]

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[12] See: https://www.icann.org/news/announcement-2018-05-17-en.
[13] See: https://www.icann.org/en/system/files/files/presentation-gtld-registration-data-temp-spec-06jun18-en.pdf.
[14] See: https://www.icann.org/resources/pages/gtld-registration-data-specs-faqs-2018-06-22-en.
[15] Ibid.

Contractual Requirements[16]

2013 Registrar Accreditation Agreement Requirements

The 2013 Registrar Accreditation Agreement (RAA) contains several sections which specifically address accuracy requirements for contact details in registration data, as well as a program, the WHOIS Accuracy Specification Program, designed to address and ensure continued accuracy of registration data.[17] See Appendix A for the full language of the sections.

RAA Subsections 3.7.7.1 - 3.7.7.3, 3.7.8

Summary: Subsection 3.7 of the RAA delineates "Registrar Obligations" regarding "Business Dealings, Including with Registered Name Holders" and Subsection 3.7.7, specifically, contains requirements that the registrar is to require the Registered Name Holder to enter into an agreement with the registrar that governs the registration of a domain name sponsored by the registrar. Subsections in 3.7.7 contain requirements regarding the provision of accurate contact details by the Registered Name Holder (3.7.7.1) as well as consequences for not providing accurate contact details or responding to inquiries by the registrar (3.7.7.2). Additionally, in 3.7.7.3, there are requirements for the provision of accurate contact information for when the Registered Name Holder has licensed use of a domain by a third party. Subsection 3.7.8. obligates the registrar to comply with the WHOIS Accuracy Program Specification (summarized below) and also requires the registrar to respond to and investigate claims of inaccuracy.

> → **Impact**: ICANN org has not identified an impact of the Interim Policy on these requirements. The Interim Policy does not modify the requirements for collection of registration data by a registrar or requirements to comply with the WHOIS Accuracy Program Specification.[18]

WHOIS Accuracy Specification Program

Summary: The RAA's WHOIS Accuracy Specification Program contains requirements for ICANN-accredited registrars to "validate" and "verify" registration data and Registered Name Holder contact information within certain timeframes. "Validate" refers to ensuring the format of registration data is consistent with applicable standards and is an action conducted by the registrar. Examples of required "validation" activities include: ensuring the presence of data for all required fields in the correct format for the applicable country or territory and ensuring email addresses are in the correct format according to RFC5322.[19] "Verify" refers to confirming or

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[16] The base Registry Agreement (RA) does not directly address accuracy of registration data. Specification 6, subsection 1.6 requires registry operators to submit change requests to the IANA Functions operator to update "outdated or inaccurate DNS or WHOIS records of the TLD" within 7 days. However, this is beyond the scope of the current document. See the base RA here: https://www.icann.org/resources/pages/registries/registries-agreements-en.

[17] All registrars are obligated to the 2013 RAA. There are no longer any registrars obligated to the 2009 RAA. For more information on the 2009 RAA, please see here: https://www.icann.org/resources/pages/ra-agreement-2009-05-21-en.

[18] Ibid.

[19] One validation requirement is currently not enforced, i.e., that all postal addresses are "consistent across fields (for example: street exists in city, city exists in state/province, city matches postal code). In mid-2014, ICANN Org and the Registrar Stakeholder Group jointly agreed to place on hold the across

correcting the accuracy of registration data and requires contact with the registered name holder.[20] An example of a required "verification" activity includes sending an email requiring an affirmative response to the registered name holder.

The specification also contains sections stipulating when a registrar should manually verify contact information (Section 2), when it is not required to validate or verify (Sections 3 and 7), when it should "re-verify" contact information (Section 4), and when it should terminate a domain based on issues regarding the accuracy of contact information (Section 5). The specification also notes in Section 6 that the Specification itself should be reviewed by ICANN and the Registrar Stakeholder Group (RrSG), a process which occurred in July 2015.[21]

→ **Impact:** ICANN org has not identified an impact of the Interim Policy on these requirements. The Interim Policy does not modify the requirements for collection of registration data by a registrar. Additionally, ICANN Contractual Compliance continues to enforce accuracy requirements of registration data, including non-public/redacted registration data, for example, through the audit function or when a complainant provides evidence of inaccuracy of underlying registration data (e.g., registrar or registrant disclosed data). This process may involve obtaining non-public registration data from registrars to ensure validation/verification requirements and/or any necessary corrections have been made.

Consensus Policy Requirements

Restored Names Accuracy Policy

Summary: This policy provides that when a domain name registration is deleted on the basis of submission of false contact data or non-response to registrar inquiries, if a registrar restores the name from the redemption grace period, the name must be placed on "registrar hold" status until the registrant has provided updated and accurate contact data.[22] The policy recommendations for this policy noted that: "the purpose of this policy is to make sure that the redemption process cannot be used as a tool to bypass registrar's contact correction process."[23] This policy is enforceable under Section 4.1 of the 2013 RAA, which stipulates "Compliance with Consensus Policies and Temporary Policies."

→ **Impact**: In February 2020, ICANN org issued a "Wave 1 report" on EPDP Phase 1 Recommendation 27: Registration Data Policy Impacts analysis. The report notes that

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field validation initiative. Additional information is available on the Across Field Address Validation wiki page, See: https://community.icann.org/collector/pages.action?key=AFAV.
[20] See ICANN Contractual Compliance presentation from ICANN57 (Slide 9): https://www.icann.org/en/system/files/files/registrar-compliance-program-03nov16-en.pdf.
[21] See the review document here: https://www.icann.org/public-comments/2013-whois-accuracy-spec-review-2015-05-14-en. See the public comment report here: https://www.icann.org/en/system/files/files/report-comments-2013-whois-accuracy-spec-review-20jul15-en.pdf.
[22] See: https://www.icann.org/resources/pages/registrars/consensus-policies/rnap-en#:~:text=The%20Restored%20Names%20Accuracy%20Policy,effective%20beginning%2012%20November%202004.
[23] See: https://archive.icann.org/en/gnso/whois-tf/report-19feb03.htm#I.

the risk of impact of the EPDP on this recommendation is "low." These requirements are built into RAA WHOIS Accuracy Program Specification Sections 4 and 5.[24] As noted above, the Interim Policy does not modify the requirements for collection of registration data by a registrar, and ICANN Contractual Compliance continues to enforce accuracy requirements of registration data, including non-public/redacted registration data.

WHOIS Data Reminder Policy

Summary: The WHOIS Data Reminder Policy provides that, at least annually, a registrar must present to the registrant the current WHOIS information for each domain name registration and remind the registrant that provision of false WHOIS information can be grounds for cancellation of the domain name registration. Registrants must review their WHOIS data and make any corrections.

→ **Impact:** The Wave 1 Report, noted above, found that the risk of impact of the EPDP on this policy is "medium" and that "the underlying procedure and requirements for this policy can continue under the Registration Data Policy; however, some clarification to the requirements may be required." As noted above, the Interim Policy does not modify the requirements for collection of registration data by a registrar, and ICANN Contractual Compliance continues to enforce accuracy requirements of registration data, including non-public/redacted registration data.

ICANN Org Programs

ICANN Contractual Compliance Registrar Compliance Program

Summary

ICANN org, through its Contractual Compliance department, conducts the Registrar Compliance Program, which includes monitoring compliance areas such as domain name transfers and renewals, data escrow, Uniform Domain Name Dispute Resolution Policy (UDRP), and the Registration Data Directory Service (RDDS).

As part of its monitoring of RDDS compliance, ICANN Contractual Compliance manages the WHOIS Inaccuracy Complaint process,[25] which allows individuals to submit complaints regarding any of the following:[26]

- Registration data is inaccurate or missing;
- Requesting for disclosure of registration data by a third party with legitimate interest was denied or not responded to;
- Registrant requested and consented to the display of their own registration data, but it is not displayed;
- Privacy/Proxy; or
- The WHOIS/RDAP service is not operative.

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[24] See: https://www.icann.org/en/system/files/correspondence/lentz-to-drazek-et-al-19feb20-en.pdf.
[25] See: https://icannportal.force.com/compliance/s/registration-data.
[26] See: https://www.icann.org/compliance/complaint.

Once the form has been submitted to ICANN Contractual Compliance, the complaint is initially addressed by ICANN Contractual Compliance.[27] ICANN Contractual Compliance has two resolution processes for complaints, informal and formal. The response time to the informal resolution process varies depending on the complaint type and contracted party. Typically, most complaint types follow a 5-5-5 business-day deadline for the first three notices. For WHOIS inaccuracy complaints, registrars have 15 business days to respond.[28] The formal resolution process, also known as the enforcement process, is initiated when a contracted party fails to work within or respond to the Informal Resolution process. In this case, ICANN Contractual Compliance issues a Notice of Breach to a contracted party. If a contracted party is issued a breach notice, they are given a set amount of time indicated in the notice to resolve the contractual issue, otherwise the contracted party may be issued a notice of suspension, termination, or non-renewal. Formal resolution notices are published on ICANN's website and the progress of each enforcement action is updated by the Contractual Compliance department.[29]

ICANN Contractual Compliance has a performance measurement dashboard where community members can find data regarding monthly complaint and process volume as well as turn-around times. The dashboard also provides annual reports about the formal resolution process. According to the 2019 annual report, ICANN Contractual Compliance received 11,469 WHOIS inaccuracy complaints.[30] 9,540 WHOIS inaccuracy complaints were closed without issuing a first inquiry or notice (note that the total complaints closed may include complaints received in the prior reporting year). In 2019, ICANN Contractual Compliance did not issue any breaches, suspensions, or terminations resulting from WHOIS inaccuracy complaints. Comparatively, in 2020, ICANN Contractual Compliance received 4,826 WHOIS inaccuracy complaints. In 2020, 5,019 were closed before first notice (note that the total complaints closed may include complaints received in the prior reporting year). Only 8 such complaints went to 3rd notice/inquiry and no breach notices were issued.

Impact
ICANN Contractual Compliance has made some process updates to account for new requirements related to the Interim Policy. In a presentation at ICANN69, ICANN Contractual Compliance noted that it "adjusted its review of complaints to account for changes in display of Registration Data in Registration Directory Data System (RDDS)" by:

- Requesting additional data from reporters where necessary to validate complaint[s].
- Requesting Registration Data from contracted parties as required for compliance review.
- Educating reporters regarding Temporary Specification requirements and changes to existing agreements and policies."[31]

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[27] ICANN Contractual Compliance staff strives to address new complaints within 3-5 business days of receipt. See: https://www.icann.org/resources/pages/faqs-84-2012-02-25-en#40.
[28] See: https://www.icann.org/resources/pages/faqs-84-2012-02-25-en#40.
[29] See: https://www.icann.org/compliance/notices.
[30] See: https://features.icann.org/compliance/dashboard/2019/complaints-approach-process-registrars.
[31] See ICANN Contractual Compliance Update from ICANN69: https://69.schedule.icann.org/meetings/vey3rasYRcq5wvAMo#/?limit=10&sortByFields[0]=isPinned&sortByFields[1]=lastActivityAt&sortByOrders[0]=-1&sortByOrders[1]=-1&uid=a6ijir8iemBHYWRru.

ICANN Contractual Compliance also implemented new complaint forms to address requirements modified under the Interim Policy, including complaints concerning a contracted party's denial of or failure to respond to third-party requests for access to non-public registration data and consent to display registration data. ICANN Contractual Compliance provided additional information on its website with guidance as to which complaint form reporters needed to submit for complaints relating to access to non-public registration data under Temporary Specification Section 4.1 Appendix A.[32]

Specifically concerning WHOIS inaccuracy complaints, the number of such complaints received and confirmed as valid by ICANN Contractual Compliance has substantially decreased since the adoption of the Temporary Specification in May 2018. In 2017, upon confirming a valid WHOIS inaccuracy complaint, ICANN Contractual Compliance sent 12,826 first notices or inquiries to contracted parties, which subsequently decreased to 5,615 in 2018, 2,008 in 2019 and 527 in 2020. ICANN Contractual Compliance attributes the decrease in the number of valid complaints to the unavailability of public contact information associated with a domain name in registrars' respective Registration Data Directory Services (RDDS). As shown in the metrics provided by ICANN Contractual Compliance, the number of first notices/inquiries related to accuracy was reduced by more than half the year the ICANN Board adopted the Temporary Specification and has significantly decreased since. Although the volume of cases processed by ICANN Contractual Compliance has decreased, ICANN Contractual Compliance continues to actively enforce accuracy requirements and has adapted its process to account for changes based on the Interim Policy/availability of Registration Data in the RDDS.

Regarding enforcement of accuracy requirements, ICANN Contractual Compliance continues to enforce accuracy requirements, including of non-public/redacted registration data, for example, through the audit function or where complainant provides evidence of inaccuracy of underlying registration data (e.g., registrar or registrant disclosed data). This may involve obtaining non-public registration data from registrars to ensure validation/verification requirements and/or any necessary corrections have been made.

ICANN Contractual Compliance noted in a blog from 16 July 2018 that one recurring concern received from the community was "how ICANN Contractual Compliance will obtain non-public registration data that is required to process a complaint." However, Section 5.7 of the Temporary Specification states that contracted parties must provide reasonable access to registration data to ICANN Contractual Compliance for "the purpose of investigating compliance-related inquiries and enforcement of the Registry Agreement, Registrar Accreditation Agreement, and ICANN Consensus policies." Additionally, Section 4.4.13 of the Temporary Specification identifies the processing of contractual compliance matters as a "legitimate purpose for processing registration data."[33] Notwithstanding the provisions within the Temporary Specification, some contracted parties have refused to provide non-public registration data to ICANN Contractual Compliance, and have challenged ICANN org's ability to collect such data for the purpose of Contractual Compliance, citing reasons such as local law (e.g., GDPR or similar data protection law) or the absence of Data Protection Agreements between ICANN and the contracted party. Contractual Compliance continues to address these challenges with the contracted parties through the informal, confidential compliance process, described above.

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[32] See: https://www.icann.org/en/system/files/files/submitting-3pa-complaint-02dec20-en.pdf.
[33] Ibid.

Finally, prior to the adoption of the Temporary Specification, ICANN Contractual Compliance had also received inaccuracy complaints created from the WHOIS Accuracy Reporting System (ARS). However, ICANN Contractual Compliance noted in its presentation at ICANN64, the processing of WHOIS inaccuracy complaints created by the ARS prior to the implementation of the GDPR was put on hold.[34] Similarly, since June 2018, when the ARS was put on hold (see section on WHOIS ARS below), ICANN Contractual Compliance has not received any additional WHOIS inaccuracy complaints coming from the ARS. The Cycle 5 report (from December 2017) was the last report which led to the creation of WHOIS inaccuracy complaints. ICANN Contractual Compliance received over 4,600 tickets from the Cycle 5 report. However, almost half of those were closed before first notice and nearly another 1,000 after the first notice.[35]

WHOIS Accuracy Reporting System

Summary

Based on recommendations regarding registration data accuracy from the 2012 WHOIS Review Team,[36] the Board resolved in August 2012 to "proactively identify potentially inaccurate gTLD data registration information in gTLD registry and registrar services."[37] Following this, in April 2013, the Governmental Advisory Committee (GAC) issued advice in its Beijing Communique regarding safeguards which were to be applicable to all new gTLDs, stating that: "Registry operators will conduct checks on a statistically significant basis to identify registrations in its gTLD with deliberately false, inaccurate or incomplete WHOIS data at least twice a year."[38] In response to the advice, the Board resolved in June 2013, as part of the New gTLD Program Committee Proposal for Implementing the GAC Safeguards, that "ICANN will perform a periodic sampling of WHOIS data across registries to identify potentially inaccurate records. ICANN will also maintain statistical reports that identify the number of inaccurate WHOIS records identified."[39]

Accordingly, ICANN org designed a framework for repeatable assessments of registration data accuracy--the Accuracy Reporting System (ARS). In implementing the ARS, ICANN org also incorporated advice from SAC058, the SSAC Report on Domain Name Registration Data Validation. SAC058 included recommendations for the terminology of validation (e.g., "syntactical" and "operational" validation), which ICANN org ultimately used in its reports.[40] ICANN org also leveraged the taxonomy of validation to implement ARS as a phased approach, i.e., Syntactic (Phase 1), Operational (Phase 2), and Identity (Phase 3) phases, and in August 2015, ICANN org released its first report, the Phase 1 Report, which focused on syntactical accuracy.[41] In December 2015, ICANN org released the first of an iterative series of Phase 2

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[34] See: https://www.icann.org/en/system/files/files/presentation-compliance-12mar19-en.pdf.

[35] See the WHOIS ARS Compliance Metrics page here: https://whois.icann.org/en/whoisars-contractual-compliance-metrics.
See also the Compliance Metrics page here: https://features.icann.org/compliance/dashboard/report-list.

[36] See: https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf.

[37] See: https://www.icann.org/en/system/files/bm/briefing-materials-1-08nov12-en.pdf.

[38] See: https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf.

[39] See: https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-i-agenda-2b-25jun13-en.pdf.

[40] See: https://www.icann.org/en/system/files/files/sac-058-en.pdf.

[41] See: https://whois.icann.org/en/file/whoisars-phase1-report.

Reports, in which ICANN org examined both syntactical and operational accuracy.[42] Phase 3 has not been implemented.

Regarding findings of the reports, the ARS found in its Cycle 6 Report (June 2018), for example, that approximately 94 percent of email addresses, 60 percent of telephone numbers, and 99 percent of postal addresses were found to be operable (e.g., accurate such that the email address or phone numbers are operational) for all three contacts (administrative, technical, and registrant), according to the requirements of the 2013 RAA.[43] Results from all the ARS reports can be found on the WHOIS ARS page.[44]

Finally, the results of each report were provided to ICANN Contractual Compliance, which followed up with registrars on potentially inaccurate registration data (i.e., WHOIS inaccuracies), as appropriate. See Appendix B for more information regarding how tests were conducted and ICANN Contractual Compliance involvement. See also section on ICANN Contractual Compliance for more information regarding WHOIS inaccuracy complaints.

Impact
Between December 2015 to June 2018, ICANN org published an ARS report every six months. However, since June 2018, ICANN org has not conducted any further data collection or analysis, and the last report published by ICANN org was the June 2018 Cycle 6 Report.[45] ICANN org made the decision to pause further reports following the GDPR being implemented and subsequent adoption of the Temporary Specification as well as due to inquiries made by registrars as to whether it is permissible to provide certain registration data to ICANN in response to a WHOIS inaccuracy ticket issued by ICANN Contractual Compliance as a result of the ARS.

In June 2019, ICANN org sought to clarify with the GNSO Council how the topic of accuracy and the WHOIS ARS might be considered within the EPDP. ICANN org expected registration data accuracy to be considered during Phase 2 of the EPDP, as noted in the EPDP Team Phase 1 Final Report: "[t]he topic of accuracy as related to GDPR compliance is expected to be considered further as well as the WHOIS Accuracy Reporting System."[46] In light of this, ICANN org sent a letter to the GNSO Council requesting clarification of the EPDP team's plans to consider the subject of data accuracy as it relates to gTLD registration data and related services, such as the ARS.[47]

In October 2019, the GNSO Council responded to ICANN org's letter, acknowledging that the EPDP project plan includes data accuracy as a Priority 2 topic for discussion.[48] The GNSO Council also requested clarity around the current challenges and obstacles ICANN org faces in collecting and publishing ARS reports and enforcing other accuracy requirements and

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[42] See: https://whois.icann.org/en/whois-ars-phase-2-reporting

[43] See: https://whois.icann.org/en/file/whois-ars-phase-2-cycle-6-report-syntax-and-operability-accuracy.

[44] See: https://whois.icann.org/en/whois-ars-phase-2-reporting.

[45] See: https://whois.icann.org/en/file/whois-ars-phase-2-cycle-6-report-syntax-and-operability-accuracy

[46] See footnote 6 on page 7 of the EPDP Team Final Report: https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-gtld-registration-data-specs-final-20feb19-en.pdf.

[47] See: https://www.icann.org/en/system/files/correspondence/marby-to-drazek-21jun19-en.pdf.

[48] See: https://www.icann.org/en/system/files/correspondence/drazek-to-marby-15oct19-en.pdf.

welcomed ICANN org's view toward developing an update to ARS for cases where ICANN itself is asserting its own purposes for processing data which is non-public.

In December 2019, ICANN org responded in an attempt to clarify concerns with continuing the ARS:

> "To date, ARS has relied on collecting publicly available registration data to determine the accuracy of registrant contact information as specified in the 2013 Registrar Accreditation Agreement. If the required registration data is not available for collection (e.g., registrant's name, email address, and telephone number), the ARS will be unable to perform its fundamental function of analyzing and measuring the accuracy of registration data. Further, as a result, ICANN Contractual Compliance is unable to investigate inaccuracies that were previously measured and reported by the ARS."[49]

ICANN org also acknowledged in its letter that the ARS forms only one part of the discussion over accuracy: "Other important policy considerations around data accuracy include, for example: requirements relating to verification, accuracy standards, mechanisms for [the] update and correction of data, and actions to be taken when registration data is identified as inaccurate."

In light of continued developments throughout 2020 with regard to accuracy in EPDP Phase 2, ICANN org continued to keep the ARS on hold.

Future of ARS

ICANN org acknowledges that the community places great importance on continuing activities related to measuring accuracy of registration data, such as via the ARS. This is evident in recommendations from various review teams, including the Registration Directory Service (RDS-WHOIS2)[50] and Security, Stability and Resiliency (SSR2)[51] review teams, as well as from comments and statements made by community groups regarding the EPDP Phase 2 Final Report[52] along with EPDP Phase 2 Priority 2 Recommendations.[53] ICANN org also understands that the Accuracy Scoping Team is concerned with whether registration data is more or less accurate than it was prior to the implementation of the GDPR and Interim Policy and is looking to the ARS for data in helping to assess this question. In light of this, ICANN org would like to provide to the GNSO Council and Accuracy Scoping Team some additional context regarding the future of the ARS as well as a recommendation for how ICANN org and the community might proceed on this topic.

As noted above, ICANN org has expressed to the GNSO Council concerns with continuing the ARS using publicly available data, which it has relied on to measure accuracy. ICANN org questions whether publicly available data will provide useful results in terms of the overall accuracy of registration data; indeed, any results may be biased toward those contracted parties who do publish contact details in registration data and/or those registrants who consent to publication. Additionally, the ARS, as it is currently conceived, requires several months to

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[49] See: https://www.icann.org/en/system/files/correspondence/marby-to-drazek-05dec19-en.pdf.

[50] See: https://www.icann.org/en/system/files/files/rds-whois2-review-03sep19-en.pdf.

[51] See: https://www.icann.org/en/system/files/files/ssr2-review-team-final-report-25jan21-en.pdf.

[52] See: https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf.

[53] See: https://www.icann.org/public-comments/policy-recommendations-epdp-phase-2-2020-12-03-en.

produce a report[54] and involves numerous internal and external resources, including contracting with at least three vendors to conduct the tests and produce statistical analyses. As noted in the June 2019 letter from ICANN org President and CEO Göran Marby to Keith Drazek, ICANN org wishes to ensure an efficient use of resources and fears continuing the ARS using publicly available data may not meet such a threshold.[55]

Further, the legal environment has changed significantly since the WHOIS ARS was launched. While ICANN org could restart WHOIS ARS using public registration data (despite the issues noted above), ICANN org could not simply re-launch the WHOIS ARS and require the contracted parties to provide access to non-public registration data to ensure that the ARS is collecting a representative sample of registrations (i.e., not simply domains for which registration data is publicly available).[56]

ICANN org is aware of community views that ICANN org should have a legal basis in accessing non-public registration data, considering the legitimate purposes of measuring and monitoring the accuracy of registration data.[57] Accordingly, the new "Purpose 2" recommended by the EPDP Phase 2 team ("Contribute to the maintenance of the security, stability, and resiliency of the Domain Name System in accordance with ICANN's mission") identifies a purpose for ICANN's processing of personal data that could be of relevance in this context. However, this new statement of purpose, alone, wouldn't make ICANN's processing of non-public registration data for WHOIS ARS GDPR-compliant. In order for such processing to comply with the GDPR, the processing (i.e., collection, analysis, retention, and eventual destruction) must be necessary for the purposes of a legitimate interest pursued (such as contributing to the maintenance of the security, stability, and resiliency of the DNS in accordance with ICANN's mission), and this interest must not be outweighed by the data subjects' interests and fundamental rights and freedoms. Further, even if the requirements for legitimate interest processing can be demonstrated, the processing must comply with other GDPR requirements, including implementation of any required safeguards for cross-border transfers of personal data and ensuring compliance with data subject rights, including notice and opportunity to object. Therefore, significant changes to prior WHOIS ARS procedures would be required.

Finally, ICANN org notes the ongoing, higher-level conversation regarding accuracy, as addressed in Göran Marby's September 2020 letter[58] to the Governmental Advisory Committee (GAC), October 2020 letter[59] to the European Commission, subsequent response[60] from the European Commission, and an ICANN org December 2020 blog regarding ICANN's GDPR-related efforts.[61] ICANN org believes it is important to view the question of measuring registration data accuracy in light of those ongoing conversations. The discussion of accuracy

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[54] One issue created by the length of time for the report to be completed is that often inaccuracies found by the ARS become obsolete by the time they reach ICANN Contractual Compliance for follow-up. As noted in the section on ICANN Contractual Compliance programs, as a result of the Cycle 5 ARS report (from December 2017), over 2,0000 (almost half) of the tickets created by the ARS for follow-up were closed before first notice and nearly another 1,000 after the first notice.

[55] See: https://www.icann.org/en/system/files/correspondence/marby-to-drazek-21jun19-en.pdf.

[56] See Appendix B for more information regarding how registration data is collected for WHOIS ARS testing.

[57] See: https://www.icann.org/public-comments/policy-recommendations-epdp-phase-2-2020-12-03-en.

[58] See: https://www.icann.org/en/system/files/correspondence/marby-to-ismail-10sep20-en.pdf.

[59] See: https://www.icann.org/en/system/files/correspondence/marby-to-viola-et-al-02oct20-en.pdf.

[60] See: https://www.icann.org/en/system/files/correspondence/viola-et-al-to-marby-18dec20-en.pdf.

[61] See: https://www.icann.org/news/blog/an-update-on-icann-s-gdpr-related-efforts.

measurement should not be solely focused on the ARS but should encompass the wider range of issues related to the GDPR and data protection. Additionally, developments in the EU regarding accuracy, such as the proposal for a revised Directive on Security of Network and Information Systems (NIS2 Directive), as discussed in ICANN org's December 2020 blog, should also be taken into account.

Taking this context for the ARS into consideration as well as the Accuracy Scoping Team's interest in the accuracy of registration data as it stands today, ICANN org believes that it may be beneficial to commission a study on how accuracy of registration data might be measured, whether using publicly available data or with access to non-public registration data. However, ICANN org notes that any such study would need to be done with input from the community as well as potentially an agreement with contracted parties. ICANN org therefore recommends that it, together with the GNSO Council, develop a framework for a study on how to measure accuracy and/or obtain a snapshot of accuracy as it stands now, and that this be presented to the ICANN community for review and input.

Closing

ICANN org has provided this briefing in response to a GNSO Council request, in order to inform deliberations by an accuracy scoping team. While this briefing provides an overview of accuracy requirements and programs, as well as how enforcement of these requirements has been affected since implementation of the GDPR and Temporary Specification and Interim Policy, ICANN org is able to provide additional information and/or details, as needed. ICANN org is also prepared to collaborate with the GNSO Council on determining a framework for a study of how to measure accuracy of registration data. ICANN org understands the importance of the topic of accuracy as it relates to the GDPR and appreciates the opportunity to contribute to this work.

Appendix A: 2013 Registrar Accreditation Agreement (RAA) Requirements

This appendix provides the full text of the 2013 RAA accuracy requirements, as discussed [above](#).

2013 RAA - Section 3 "Registrar Obligations"
3.3.1. gTLD operating a "thin" registry, a port 43 Whois service (each accessible via both IPv4 and IPv6) providing free public query-based access to up-to-date (i.e., updated at least daily) data concerning all active Registered Names sponsored by Registrar in any gTLD. Until otherwise specified by a Consensus Policy, such data shall consist of the following elements as contained in Registrar's database:

> 3.3.1.1 The name of the Registered Name;

> 3.3.1.2 The names of the primary nameserver and secondary nameserver(s) for the Registered Name;

> 3.3.1.3 The identity of Registrar (which may be provided through Registrar's website);

> 3.3.1.4 The original creation date of the registration;

> 3.3.1.5 The expiration date of the registration;

> 3.3.1.6 The name and postal address of the Registered Name Holder;

> 3.3.1.7 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name; and

> 3.3.1.8 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name.

The agreement between the Registry Operator of a gTLD and Registrar may, if approved by ICANN in writing, state alternative required data elements applicable to that gTLD, in which event, the alternative required data elements shall replace and supersede Subsections 3.3.1.1 through 3.3.1.8 stated above for all purposes under this Agreement but only with respect to that particular gTLD.

3.7.7 Registrar shall require all Registered Name Holders to enter into an electronic or paper registration agreement with Registrar including at least the provisions set forth in Subsections 3.7.7.1 through 3.7.7.12, and which agreement shall otherwise set forth the terms and conditions applicable to the registration of a domain name sponsored by Registrar. The Registered Name Holder with whom Registrar enters into a registration agreement must be a person or legal entity other than the Registrar, provided that Registrar may be the Registered Name Holder for domains registered for the purpose of conducting its Registrar Services, in which case the Registrar shall submit to the provisions set forth in Subsections 3.7.7.1 through 3.7.7.12 and shall be responsible to ICANN for compliance with all obligations of the Registered Name Holder as set forth in this Agreement and Specifications and Policies. Registrar shall use

commercially reasonable efforts to enforce compliance with the provisions of the registration agreement between Registrar and any Registered Name Holder that relate to implementing the requirements of Subsections 3.7.7.1 through 3.7.7.12 or any Consensus Policy.

3.7.7.1 The Registered Name Holder shall provide to Registrar accurate and reliable contact details and correct and update them within seven (7) days of any change during the term of the Registered Name registration, including: the full name, postal address, e-mail address, voice telephone number, and fax number if available of the Registered Name Holder; name of authorized person for contact purposes in the case of an Registered Name Holder that is an organization, association, or corporation; and the data elements listed in Subsections 3.3.1.2, 3.3.1.7 and 3.3.1.8.

3.7.7.2 A Registered Name Holder's willful provision of inaccurate or unreliable information, its willful failure to update information provided to Registrar within seven (7) days of any change, or its failure to respond for over fifteen (15) days to inquiries by Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration shall constitute a material breach of the Registered Name Holder-registrar contract and be a basis for suspension and/or cancellation of the Registered Name registration.

3.7.7.3 Any Registered Name Holder that intends to license use of a domain name to a third party is nonetheless the RegisteredName Approved by the ICANN Board on 27 June 2013 Page 15 of 41 Holder of record and is responsible for providing its own full contact information and for providing and updating accurate technical and administrative contact information adequate to facilitate timely resolution of any problems that arise in connection with the Registered Name. A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing the Registered Name Holder reasonable evidence of actionable harm.

3.7.7.4 Registrar shall provide notice to each new or renewed Registered Name Holder stating:

> **3.7.7.4.1** The purposes for which any Personal Data collected from the applicant are intended;
> **3.7.7.4.2** The intended recipients or categories of recipients of the data (including the Registry Operator and others who will receive the data from RegistryOperator);
> **3.7.7.4.3** Which data are obligatory and which data, if any, are voluntary; and
> **3.7.7.4.4** How the Registered Name Holder or data subject can access and, if necessary, rectify the data held about them.

3.7.8 Registrar shall comply with the obligations specified in the Whois Accuracy Program Specification. In addition, notwithstanding anything in the Whois Accuracy Program Specification to the contrary, Registrar shall abide by any Consensus Policy requiring reasonable and commercially practicable (a) verification, at the time of registration, of contact information associated with a Registered Name sponsored by Registrar or (b) periodic re-

verification of such information. Registrar shall, upon notification by any person of an inaccuracy in the contact information associated with a Registered Name sponsored by Registrar, take reasonable steps to investigate that claimed inaccuracy. In the event Registrar learns of inaccurate contact information associated with a Registered Name it sponsors, it shall take reasonable steps to correct that inaccuracy.

2013 RAA - WHOIS ACCURACY PROGRAM SPECIFICATION

Registrar shall implement and comply with the requirements set forth in this Specification, as well as any commercially practical updates to this Specification that are developed by ICANN and the Registrar Stakeholder Group during the Term of the Registrar Accreditation Agreement.

1. Except as provided for in Section 3 below, within fifteen (15) days of (1) the registration of a Registered Name sponsored by Registrar, (2) the transfer of the sponsorship of a Registered Name to Registrar, or (3) any change in the Registered Name Holder with respect to any Registered Name sponsored by Registrar, Registrar will, with respect to both Whois information and the corresponding customer account holder contact information related to such Registered Name:

a. Validate the presence of data for all fields required under Subsection 3.3.1 of the Agreement in a proper format for the applicable country or territory.
b. Validate that all email addresses are in the proper format according to RFC 5322 (or its successors).
c. Validate that telephone numbers are in the proper format according to the ITU-T E.164 notation for international telephone numbers (or its equivalents or successors).
d. Validate that postal addresses are in a proper format for the applicable country or territory as defined in UPU Postal addressing format templates, the S42 address templates (as they may be updated) or other standard formats.
e. Validate that all postal address fields are consistent across fields (for example: street exists in city, city exists in state/province, city matches postal code) where such information is technically and commercially feasible for the applicable country or territory.
f. Verify:
   i. the email address of the Registered Name Holder (and, if different, the Account Holder) by sending an email requiring an affirmative response through a tool-based authentication method such as providing a unique code that must be returned in a manner designated by the Registrar, or
   ii. the telephone number of the Registered Name Holder (and, if different, the Account Holder) by either (A) calling or sending an SMS to the Registered Name Holder's telephone number providing a unique code that must be returned in a manner designated by the Registrar, or (B) calling the Registered Name Holder's telephone number and requiring the

Registered Name Holder to provide a unique code that was sent to the Registered Name Holder via web, email or postal mail.

In either case, if Registrar does not receive an affirmative response from the Registered Name Holder, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder, Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

2. Except as provided in Section 3 below, within fifteen (15) calendar days after receiving any changes to contact information in Whois or the corresponding customer account contact information related to any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar will validate and, to the extent required by Section 1, verify the changed fields in the manner specified in Section 1 above. If Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder, Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

3. Except as set forth in paragraph 4 below, Registrar is not required to perform the above validation and verification procedures in Section 1(a) through 1(f) above, if Registrar has already successfully completed the validation and verification procedures on the identical contact information and is not in possession of facts or knowledge of circumstances that suggest that the information is no longer valid.

4. If Registrar has any information suggesting that the contact information specified in Section 1(a) through 1(f) above is incorrect (such as Registrar receiving a bounced email notification or non-delivery notification message in connection with compliance with ICANN's Whois Data Reminder Policy or otherwise) for any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar must verify or re-verify, as applicable, the email address(es) as described in Section 1.f (for example by requiring an affirmative response to a Whois Data Reminder Policy notice). If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the customer paying for the Registered Name, if applicable, providing the required verification, Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

5. Upon the occurrence of a Registered Name Holder's willful provision of inaccurate or unreliable WHOIS information, its willful failure promptly to update information provided to Registrar, or its failure to respond for over fifteen (15) calendar days to inquiries by

Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration, Registrar shall either terminate or suspend the Registered Name Holder's Registered Name or place such registration on clientHold and clientTransferProhibited, until such time as Registrar has validated the information provided by the Registered Name Holder.

6. The terms and conditions of this Specification shall be reviewed by ICANN in consultation with the Registrar Stakeholder Group on or about the first anniversary of the date that the form of this Agreement is first executed by a registrar.

7. Nothing within this Specification shall be deemed to require Registrar to perform verification or validation of any customer account holder information where the customer account holder does not have any Registered Names under sponsorship of Registrar.

Appendix B: WHOIS Accuracy Reporting System (ARS) Testing and ICANN Contractual Compliance Follow-up

This appendix provides an overview of how ICANN org obtained registration data for purposes of testing accuracy and how the testing was conducted in the ARS. This appendix also includes an overview of actions taken by ICANN Contractual Compliance based on ARS results.

Sample Design

For Cycle 6, ICANN org collected an initial sample of 200,000 records from gTLD zone files of 818 gTLDs. From the initial sample, an analyzed subsample of 12,000 records is created. This two-stage sample was designed to provide a large enough sample to reliably estimate subgroups of interest, given the technical limitations of collecting study data. Each ARS report provides a detailed overview of the process for obtaining the sample used for testing.[62]

Testing

Syntax and operability accuracy tests were designed to assess the contact information of a WHOIS record by comparing it to the applicable contractual requirements of the 2009 and 2013 RAAs.[63] Syntax testing assessed the format of a record (e.g., does the email address contain an "@" symbol?), and operability testing assessed the functionality of the information in a record (e.g., did the email not get bounced back?). ICANN org contracted with a group of vendors to conduct the testing. The vendors performed syntax and operability accuracy tests on all nine individual contact information fields in a record (i.e., email address, telephone number, and postal address for the registrant, administrative, and technical contacts). The resulting data were analyzed to produce statistics of syntax and operability accuracy for WHOIS contact information across subgroups such as New gTLDs or Prior gTLDs, Region, and RAA type (i.e., 2009 RAA or 2013 RAA).[64]

WHOIS ARS & ICANN Contractual Compliance

Upon completion of the accuracy testing, a report of all the results of the tests was provided to ICANN Contractual Compliance for follow-up with registrars, as appropriate.

Syntax Inaccuracy Follow-Up

ARS complaints could be classified as WHOIS format errors if the error indicated non-compliance with the format requirements of the 2013 RAA, but the information was otherwise valid and contactable (e.g., a missing +1 county code for a registrant located in the United States).[65] Where the error rendered the contact unreachable (e.g., a missing postal address), the ARS complaint was processed as a WHOIS inaccuracy complaint.

Operability Inaccuracy Follow-Up

ARS complaints that were generated due to failures of operability were processed as WHOIS inaccuracy complaints. Operability failures indicate substantive inaccuracies that required

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[62] See: https://whois.icann.org/en/file/whois-ars-phase-2-cycle-6-report-syntax-and-operability-accuracy (pages 8-13).

[63] At the time of the ARS reports, there were still registrars obligated to the 2009 RAA. There are now no longer any registrars obligated to the 2009 RAA.

[64] See: https://whois.icann.org/en/whoisars-validation.

[65] Because the 2009 RAA did not include format requirements, WHOIS format errors were not considered for registrars under the 2009 RAA.

registrars to take reasonable steps to investigate, and where applicable, correct the alleged inaccuracies, according to the RAA, including the WHOIS Accuracy Program Specification.

Compliance Metrics
Compliance worked with registries and registrars to resolve identified issues. Metrics for the ARS are presented in the Compliance Performance Reports (see https://features.icann.org/compliance) and at ICANN Public Meetings. ICANN Contractual Compliance also published additional metrics on the WHOIS ARS Contractual Compliance Metrics page (see https://whois.icann.org/en/whoisars-contractualcompliance-metrics).

Appendix C: References & Resources

This appendix contains a list of resources for topics related to accuracy, including many of the documents referred to in this briefing.

- GDPR & Legal Guidance
  - [Accuracy Principle](#)
  - [Bird & Bird Legal & Natural Persons Memo - January 2019](#)
  - [Bird & Bird Accuracy Memo - February 2019](#)
  - [Bird & Bird Accuracy Memo - April 2020](#)
- Temporary Specification for gTLD Registration Data / Interim Policy
  - [Temp Spec](#)
    - [Board adoption of Temp Spec](#)
  - [Interim Policy](#)
    - [Board adoption of Interim Policy](#)
  - [ICANN Org Blog](#)
  - [FAQ](#)
- Expedited Policy Development Process (EPDP)
  - [Phase 1 Final Report](#)
  - [Phase 2 Final Report](#)
  - [Letter from Marby to Ismail - September 2020](#)
  - [Letter from Marby to Viola - October 2020](#)
- WHOIS ARS
  - [ARS Homepage](#)
  - [Reports](#)
  - [Compliance ARS Metrics](#)
  - [Letter from Marby to Drazek - June 2019](#)
  - [Letter from Drazek to Marby - October 2019](#)
  - [Letter from Marby to Drazek - December 2019](#)
- ICANN Contractual Compliance
  - [Submitting Complaints](#)
    - [WHOIS Inaccuracy Complaint](#)
  - [Registrar Compliance](#)
  - [Metrics](#)

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