Contractual Compliance at ICANN

Newcomers' Track

24 June 2012

Agenda

One World

One Internet

- ❑ **Contractual Compliance Overview**
- ❑ **Compliance Update**

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ICANN Organization Structure

ICANN Multi-Stakeholder Model

Contractual Compliance

Board of Directors

President and CEO

Governmental Advisory Committee — G A C

ICANN Staff

Nominating Committee
Per ICANN Bylaws, Article VII, section 2

Technical Liaison Group — TLG

Internet Engineering Task Force — IETF

ASO
Regional Internet Registries
AfriNIC
APNIC
ARIN
LACNIC
RIPE NCC

GNSO
gTLD Registries
gTLD Registrars
IP interests
ISPs
Businesses
Non-Commercial Interests

ccNSO
ccTLD registries (.us, .uk, .au, .it, .be, .nl, etc.)

At-Large
Internet Users (At-Large Advisory Committee, in conjunction with RALOs)
ALAC

Security & Stability Advisory Committee — SSAC

Root Server System Advisory Committee — RSSAC

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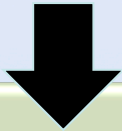No. 44 · 24–29

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Contractual Compliance Dept

- 12 members
- Arabic, English, French, Hindi, Mandarin, Spanish, Urdu
- Organization
  - Head of Compliance (1)
  - Registrar and Registry Compliance (9)
  - Risk and Audit Management (1)
  - Performance Measurement and Reporting (1)
- 1 new member in July 2012
- 2 open positions

Our Vision, Mission and Approach

ICANN's Vision
One World. One Internet.

Contractual Compliance's Vision

To be a "**trusted**" Contractual Compliance service provider

ICANN's Mission
To coordinate the stable and secure operation of the Internet's unique identifier systems.

Contractual Compliance's Mission

To preserve the security, stability and resiliency of the Domain Name System and to promote consumer trust

ICANN's Approach
Open and Transparent
Equitable Treatment

Contractual Compliance's Approach

Prevention through collaboration
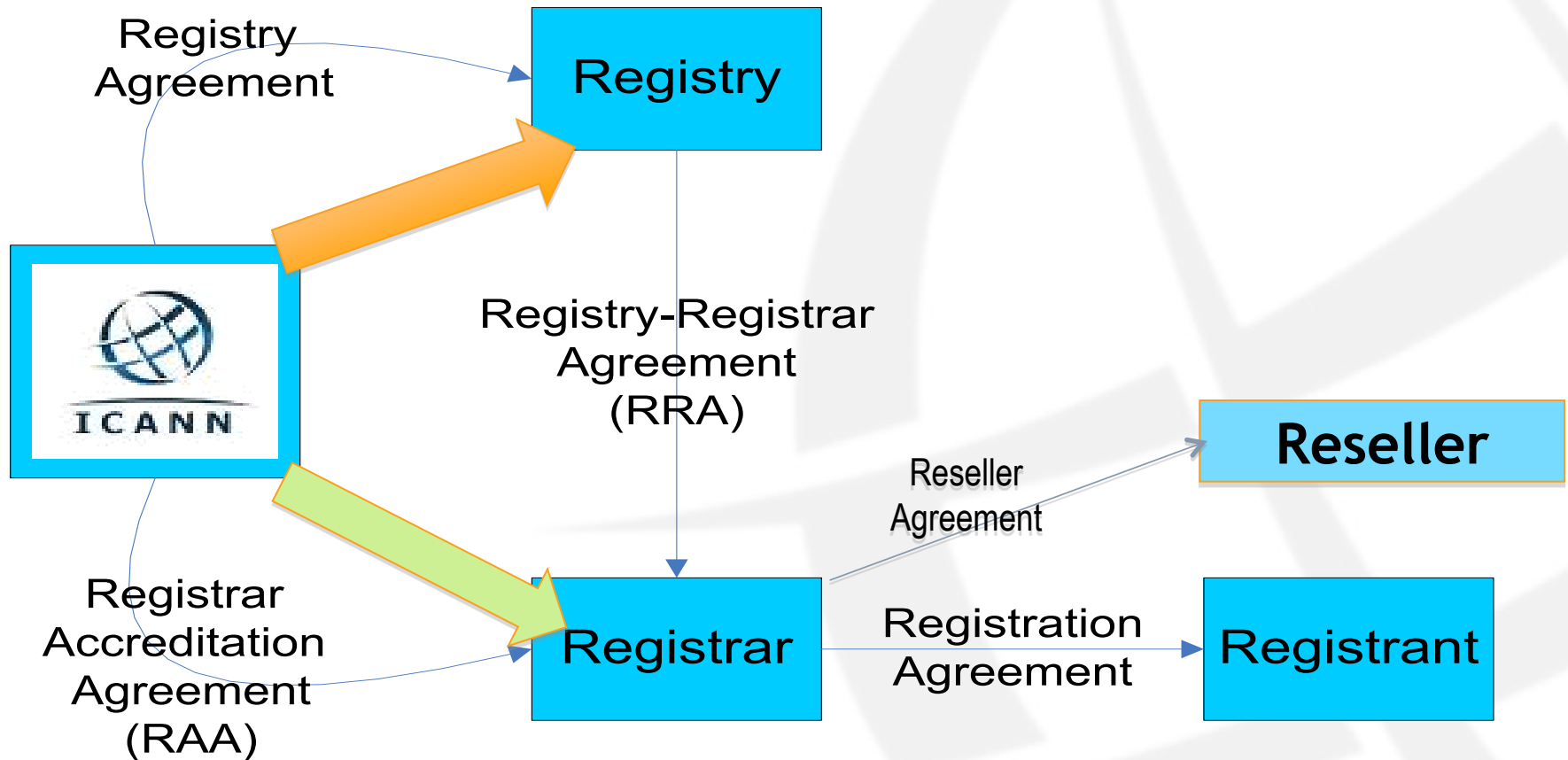
Transparency through communication

Enforcement

ICANN PRAGUE

What is <u>contractual</u> compliance?

❏ Use CONTRACT as a COMPLIANCE tool
❏ Contracted parties adhere to:
   ✓ a set of rules;
   ✓ a standard of performance

❏ ICANN is NOT a government or law enforcement agency
❏ ICANN's authority is contractual

Contractual Relationship Overview

Registry Agreement → Registry

Registry-Registrar Agreement (RRA)

Reseller Agreement → Reseller

Registrar Accreditation Agreement (RAA)

Registration Agreement → Registrant

Registrar

Registrars: register domain names (~ 1010)
Registry operators: keep the master file for all domain names that end in a particular suffix (22)
Registrant: Domain name owner

Contractual Compliance Model and Approach

Culture of Compliance

1. Bottom-up
2. Multi-stakeholder

FORMAL RESOLUTION

INFORMAL RESOLUTION
Inquiries & Warnings

PREVENTATIVE ACTIVITES
Monitoring Audits
Education & Outreach

SELF-Assessment
Industry Best Practice

Enforcement

Prevention

Non-Renewal, Suspension, Termination

Breach

Final Inquiry

2nd Inquiry

1st Inquiry

Process

General Compliance Approach

| PREVENTATIVE
Monitor, Audit, Educate & Outreach	ENFORCEMENT

Intake

INFORMAL RESOLUTION ← → **FORMAL RESOLUTION** ← →

1 → **2** → **3** →

1st Inquiry or Notice
Email

2nd Inquiry or Notice
Email
Phone call

Final Inquiry or Notice
Email
Phone call
Fax

Breach Notice

Suspension (Rr)
Termination
Non-renewal

Check other non-compliance

Publish on website

← **Good Standing** → ← **NOT in Good Standing** →
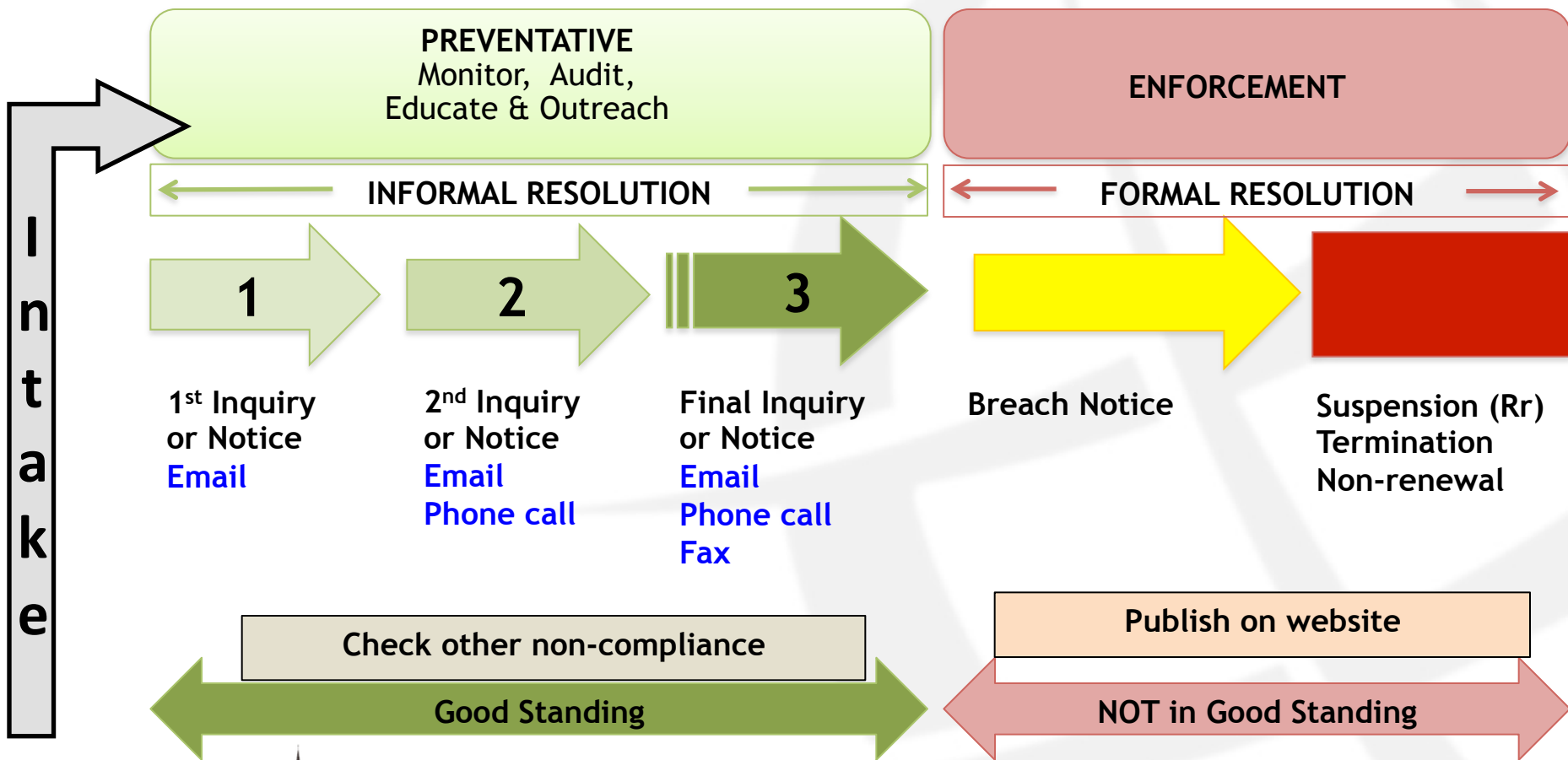
Three-Year Plan

Strengthen program and operations (Core Operations)

Establish performance measures and improve reporting

(Transparency and Accountability)

2013

2012

2011

Transformation Phase

Grow staff in number and expertise

Standardize operations

Plan and develop
- Global metrics
- Audit strategy
- System enhancements/process
- Annual Compliance Report

New gTLD readiness

Future Phase

Continuous Improvement

Consolidate Contractual Compliance Systems

Rollout Annual Audits

Assessment Phase

Stabilize operations

Assess people, processes and tools

Develop improvement plan

Begin implementation of plan

New gTLD Compliance Readiness Plan

Staff Readiness 2012

- Dedicating resources to build knowledge on new gTLD Agreement
- Train other staff members
- Hire additional staff

Operational Readiness

- Enhance the complaint system to capture additional types and metrics
- Review and assess operational needs and changes
- Prepare standard communication templates
- Design an audit strategy
- Plan Outreach activities

Wednesday Outreach Sessions
Palmovka / Rokoska Room

2:00 – 3:00   Compliance **Registrar** Focus

3:00 – 4:00   Compliance **Registry** Focus

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✓ **Contractual Compliance Overview**

❑ **Compliance Update**

Why it matters?

Imagine life without the Internet
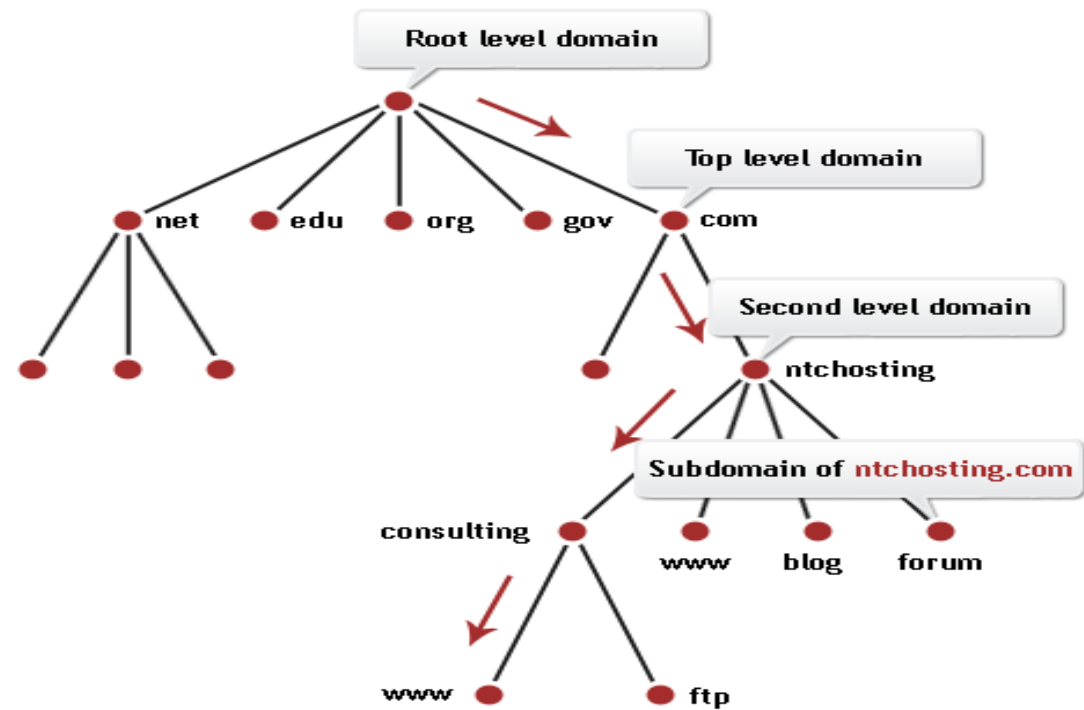
Everyone is affected

Domain Registration Issues

- Trademark disputes

- WHOIS inaccuracies

- Transfer issues

- Reseller issues

- Registration restrictions

<u>Please note</u>: RAA does not address issues arising from domain aftermarket activities

Domain Use Issues

Generally are dealt with by law enforcement or consumer protection agencies

Examples:

- Website content
- Spam
- Phishing
- Malware
- Cybercrime

Compliance Update
for
March 2012 – May 2012

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Complaints per Domain Volume
March – May 2012

LEGEND	Feb 2012 Domain Volume/Million	# Complaints	% Complaints per Domain Volume
	# registrars per region	# registrar w/ Complaints	% Unique registrars with complaints per region

Europe

21.2M	1,596	.008%
141	67	47.5%

Americas

98.8M	6,498	.007%
697	137	19.7%

Asia

14.3M	3,067	.021%
161	61	37.9%

Africa

1,384	0	0%
5	0	0%

Australia

| 6.4M	130	.002%
18	11	61.1%

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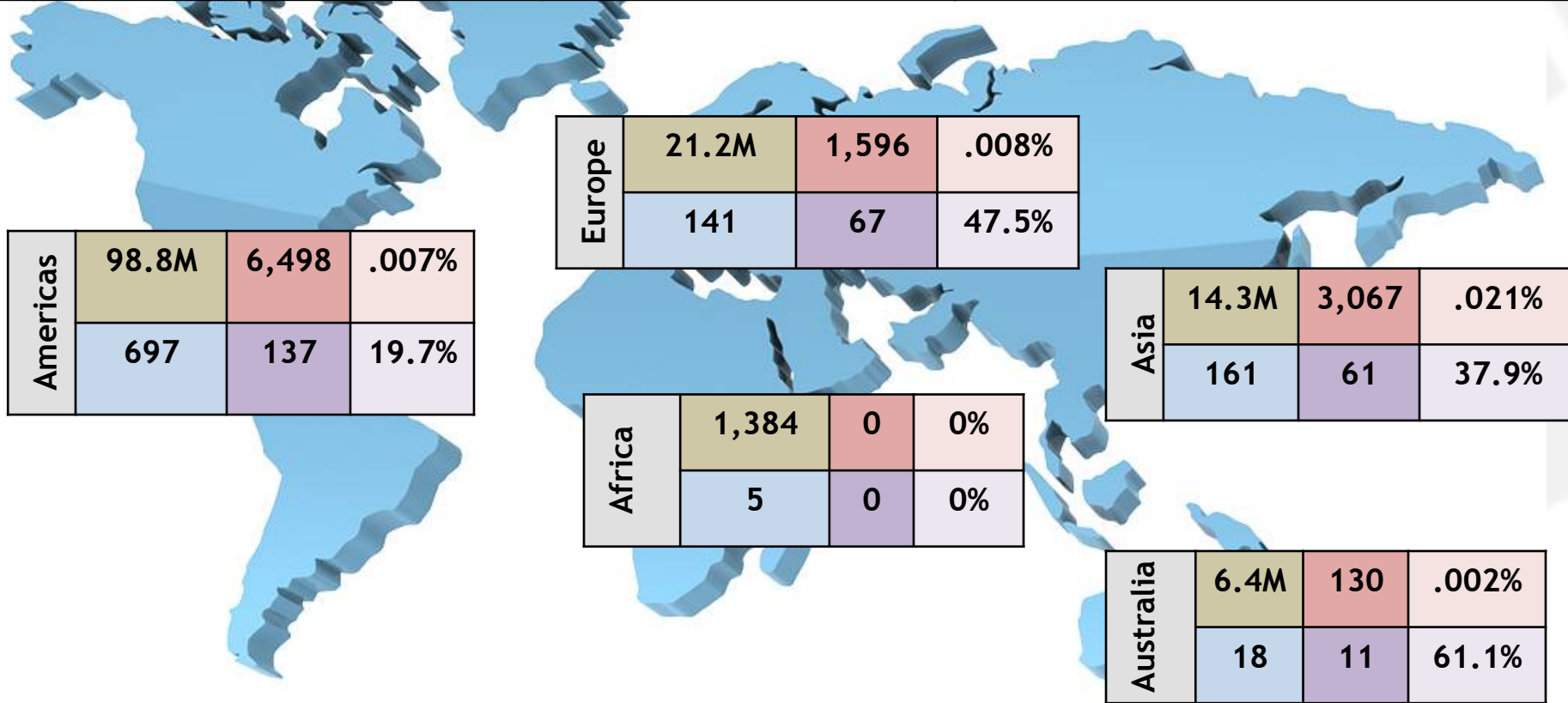
Registry Compliance & Locations

March – May 2012

- All registries submitted monthly transactions reports

- Registries reported 100% compliance regarding:
  - ✓ DNS Availability
  - ✓ WHOIS Availability
  - ✓ Equal registrar access to the Shared Registration System
  - ✓ No complaints regarding denial of bulk access to zone file

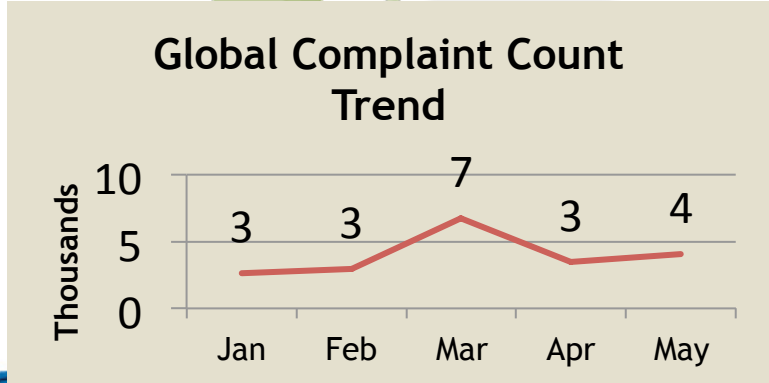- 2 compliance inquiries in "preventive" phase

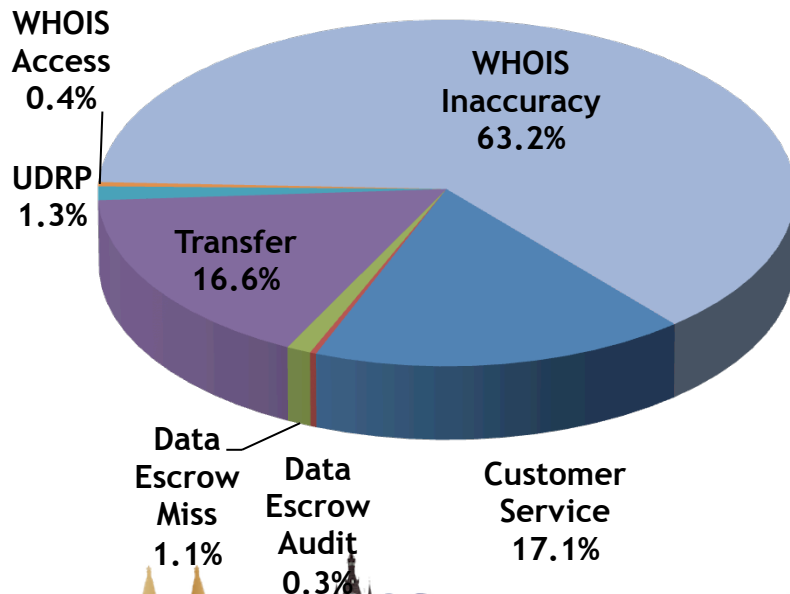10   7   1

Global Complaint Trend

March – May 2012

Americas

Europe

Asia

Australia
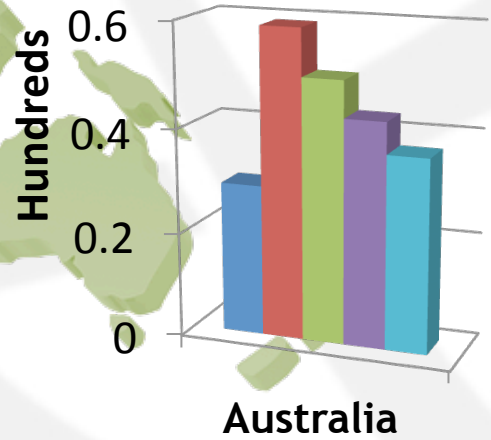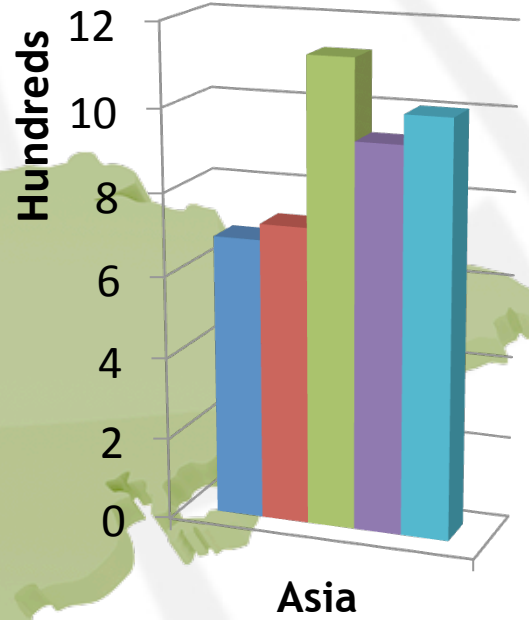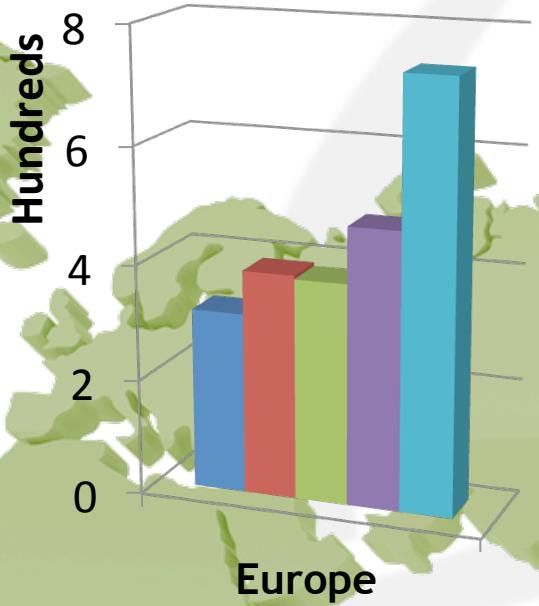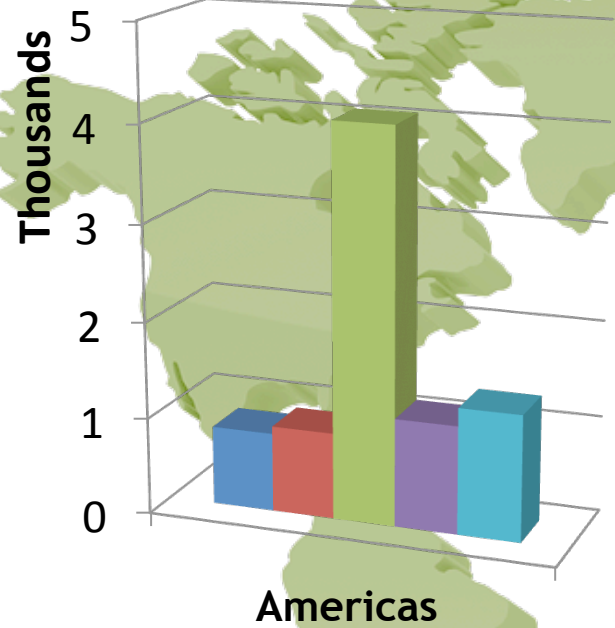
Legend:
- January
- February
- March
- April
- May

Global Complaint Count Trend

Jan 3, Feb 3, Mar 7, Apr 3, May 4

Complaint Types and Phases

March – May 2012

15,292 Complaints

Mar 2012 – May 2012	All Complaints Received by Type	Quantity
Prevention phase	Customer Service	2,627
	Data Escrow Audit	44
	Data Escrow Miss	171
	Transfer	2,463
	UDRP	197
	WHOIS Access	61
	WHOIS Inaccuracy	9,728
	Law Enforcement	1
	Total Complaints	15,292
Enforcement Phase	Breach	7
	Suspension	0
	Terminated/ Non-Renewal	1

Informal Resolution Phase

March - May 2012 data

- % of Complaints sent in each phase
- Based on the 1-2-3 compliance approach
- Complaint Notices tracked manually past trimester

Complaint Type	Notification Phase %		
	1st	2nd	3rd
Customer Service	N/A	N/A	N/A
Data Escrow Audit	77%	20%	2%
Data Escrow Miss	91%	6%	2%
Transfer	78%	17%	5%
UDRP	60%	40%	0%
WHOIS Access	81%	19%	0%
WHOIS Inaccuracy	62%	21%	17%

N/A = Not Available

Additional Resources

- About ICANN Contractual Compliance: http://www.icann.org/en/compliance/

- Contact us at compliance@icann.org

- Whois Look Up: http://www.internic.net/whois.html

- Have a Problem? Dispute Resolution Options http://www.icann.org/en/dispute-resolution/

- Report Inaccurate Whois Data, http://wdprs.internic.net/

- File a complaint about a registrar: http://reports.internic.net/cgi/registrars/problem-report.cgi

- List of Approved Dispute Resolution Service Providers: http://www.icann.org/en/dndr/udrp/approved-providers.htm

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Questions & Feedback

**Please send your feedback to
Compliance@icann.org**

Subject
[ICANN 44 Prague Compliance Feedback]

Thank You

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Appendix

2012 Transformation Phase
Program Overview
ICANN Consensus Policies
Registrar Data Escrow
Registrar WHOIS Access and
Accuracy
UDRP
IRTP

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ICANN 43
11-16 March
Costa Rica

ICANN 44
24-29 June
Czech
Republic

ICANN 45
14-19 October
Canada

2012 – Transformation Phase

☐ **Grow staff and mature the organization to the next level**

☐ Improve **<u>QUALITY</u> then speed** in complaints handling

☐ **Define and implement metrics based on available data**

☐ Plan for a consolidated Compliance system

☐ Assess **reporting** and implement improvements

☐ **Design and implement registry and registrar audits**

☐ Develop ICANN referral process to LEA

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ICANN Consensus Policies

1. Uniform Domain Name Dispute Resolution Policy

- A fast, cost effective mechanism to resolve cybersquatting claims
- Neither registrar nor ICANN are parties to proceedings
- ICANN's role is to ensure registrars implement UDRP decisions

2. WHOIS Data Reminder Policy

- Intended to improve WHOIS accuracy
- Registrars' obligation is to send an annual reminder to registrants

3. Inter-Registrar Transfer Policy

- To provide domain portability and better consumer choice

4. WHOIS Marketing Restriction Policy

- Registrars to provide third party bulk-access to WHOIS under an agreement and set maximum annual fees chargeable by registrars at $10,000
- Prohibit use of WHOIS data for certain marketing purposes

ICANN Consensus Policies

5. Restored Names Accuracy Policy

Requires registrars to place "Registrar Hold" status on a domain name until the registrant has provided updated and accurate Whois information under certain circumstances

6. Expired Domain Deletion Policy

Requires registrars to delete domain names if registrants do not consent to renewal after 2nd renewal reminder, barring extenuating circumstances

Requires registrars to post on their websites renewal fees and policy

7. Registry Services Evaluation Policy

Process and criteria for evaluating new registry services proposed by a registry operator

8. Add Grace Period Limits Policy (AGP)

Intended to curb domain tasting

Current Program Overview

❑ **Prevention**

✓ Manage Consumer Complaint Systems

✓ Investigate Claims of Non-Compliance

✓ Conduct Contract Audits

✓ Monitor and Address Compliance Issues

❑ **Enforcement**

✓ Investigate Claims of Non-Compliance

✓ Communicate with Contracted Parties to Resolve Outstanding Contract Breaches

✓ Establish Remedial Plans and Terms for Suspensions

✓ Send Escalated Compliance Notices (Notices of Breach or Suspension, Termination and Non-Renewal)

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Registrar Data Escrow (RDE)

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❑ **What –** Each ICANN-accredited registrar (who has names) is required to escrow registration data. The data is released to ICANN under limited circumstances.

❑ **Why – Registrant protection**
In case of a registrar failure, the data can be used for a bulk transfer from the failed registrar to another ICANN-approved recipient (gaining) registrar

❑ **How –** Compliance monitors RDE deposit and data audit reports from Iron Mountain and actively works with registrars to address problems and help them become compliant

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Whois Access and Accuracy

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❑ **Access** – All ICANN-accredited registrars are required to provide public access to contact details for names sponsored by the registrar

  ✓ Port 43 Whois Service Monitoring Tool
  ✓ Audits of Registrar websites

❑ **Accuracy –** Those who register domain names must provide accurate contact details and registrars must investigate claims that the data is inaccurate

  ✓ Whois Data Problem Report System

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Uniform Domain Name Dispute Resolution Policy (UDRP)

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❑ **What –** The UDRP provides an alternative dispute resolution to address "cybersquatting" problem

❑ **Why -** A cost effective alternative (to litigation through courts) for resolving disputes for the past 10 + years

❑ **How –** Contractual Compliance assists IP attorneys or affected parties and actively works with registrars to ensure compliance (maintain status quo, implement decisions, etc.)

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Inter-Registrar Transfer Policy (IRTP)

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❑ **What –** The policy sets out a procedure for domain name holders to transfer their names from one ICANN-accredited registrar to another, should they wish to do so

❑ **Why – To promote competition and consumer choice** through enhanced domain name portability, resulting in greater consumer and business choice and enabling domain name registrants to select the registrar that offers the best services and price

❑ **How –** Contractual Compliance investigates claims of non-compliance with the policy and ensure registrars take corrective actions