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ICANN70 | Prep Week – Contractual Compliance Update  
Wednesday, March 10, 2021 – 16:30 to 17:30 EST

JONATHAN DENISON: Hello everybody. My name is Jonathan Denison, and I'm with the Contractual Compliance department. Appreciate you all joining our update for prep week ICANN 70. Basically, we're just going to kind of do an update since ICANN 69. I think we're going to do questions at the end, so if you have any questions, just use the Q&A pod, would be great. And then we'll kind of address them towards the end there when we have time. Otherwise, I'll just be kind of checking out the chat room. And just a reminder to please follow the expected standards of behavior.

Another thing, if you'll notice, I'll put all the links that are in our slides into the chat room, just to make it a little bit easier for you to click along. So you'll see a slide number and then the chat there. Okay, I guess I'll kick it off by giving it over to Jamie Hedlund. Thanks again.

JAMIE HEDLUND: Thanks, JD. Good morning, good afternoon, good evening. I'm Jamie Hedlund, I lead the Contractual Compliance team. As JD just mentioned, we're going to provide an update on our activities since the last ICANN meeting at which we hosted a webinar, which was ICANN 69. We posted the slide deck before the meeting and sent it in the form, so I hope you can find it there. But our agenda is found on slide three.

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**Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.**

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we will begin with an update on the ongoing registrar audit assessing compliance with DNS security obligations found in the registrar accreditation agreement. Yan Agranonik from our LA office who heads our audit and risk function will provide that update.

Next, Leticia Castillo, director of compliance in our LA office, will review efforts to address abuse-related complaints since ICANN 69. Genie Chou, senior specialist also in our LA office will then review implementation and enforcement under the temporary specification interim data policy for gTLDs, again since the last meeting. Finally, Leticia will conclude with a summary of all enforcement actions undertaken by us since ICANN 69.

Before we get to the meat of the agenda, I just wanted to briefly describe the role of contractual compliance. We enforce the policies developed by the community and incorporated into the ICANN Organization’s agreements with registries and registrars. Our enforcement authority begins and ends with the text of these agreements. When we encounter a potential issue of noncompliance, we attempt to collaborate with the contracted party—registry or registrar—to bring them back into compliance. If the collaborative approach fails, we do not hesitate to issue a public notice holding them in breach. Failure to cure a breach can result in suspension and/or termination.

We also participate, along with other teams within the organization, in training and outreach session with different members of the community to explain and discuss contractual requirements and

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enforcement. Our perceived effectiveness often depends on the clarity of the obligations contained in the agreements. If an obligation is ambiguous or open to conflicting interpretations, our enforcement powers can appear diluted.

I say this now because many of you are engaged in policy development process. The clearer and better understood the obligations that come out of those processes, the more straightforward it becomes to enforce them.

With that, I turn it over to Yan to discuss the registrar audit.

YAN AGRANONIK:

Hello everyone. As you probably know, in January of 2021, we published the announcement that Compliance launched an audit to assess registrar compliance with RAA as related to DNS security threats. So it's a limited scope audit that we are performing now.

Before we send the audit notifications to auditees, we jointly with Registrar Stakeholder Group engage into collaboration as for the RFI, which is request for information. We run by Registrar Stakeholder Group-all the questions we're going to ask, then we jointly try to clarify them as much as possible so recipients will understand what we're asking for.

The RFI is essentially asking certain questions related to registrars' practices of collecting and handling the reports of abuse as well as for some records showing how exactly they're handling the reports of abuse.

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We picked 127 registrars for the audit, and the criteria for that were that each of those registrars had at least five abusive domains that we could find either in the security threat reports that we got from the previous audit from registries or from publicly available blocklists. Next slide, please.

At this point, as of Monday of this week, we have received approximately 1400 documents and records that have been submitted by registrars. The majority of the registrars responded and responded close to mostly all the questions we asked, with the exception of a few registrars that received a third notice—specifically ten registrars received third notice, meaning we haven't received anything from them for the last three weeks.

It's not on this slide, but I can tell you right now that as of today, all these ten registrars responded, not completely but with something at least, so everybody is engaged in the audit, which is a good thing.

Here's a brief description of what's going on and what's going to happen next. First, we're going to review obviously all the responses. Then we're going to issue a confidential individual audit report to each of the auditees. Either it's going to be a clean report, which will show that there are no questions we have at this point, or there will be some items that will require some follow up from registrars.

So then, if there is something that needs to be addressed in the initial audit report, registrar will hopefully address that and we can close an audit and the whole audit project will be finished by publicly available,

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published consolidated final report that will describe what did we do and what did we see.

Prior to publication, we're going to run this, or at least familiarize Registrar Stakeholder Group with it. The previous audit reports, you can see published on this following link. And my understanding, if you have any questions about audit, it's going to be at the end of the session.

LETICIA CASTILLO:

Thanks, Yan. Hi everyone. My name is Leticia Castillo. Yan explained the actions taken to assess compliance with abuse obligations through the audit, and I will provide details of the enforcement of this abuse obligation through the processing of external complaints.

They are in section 3.18 of the registrar accreditation agreement—or RAA—and these obligations are to take reasonable and prompt steps to investigate and respond to abuse reports, divulge domain names, [the registry sponsors] that are submitted by any user.

There are also requirements where reports are actually filed by law enforcement, consumer protection and similar entities within the registrar's jurisdiction. These are to have dedicated abuse contacts for these authorities and to have those reports submitted by these authorities reviewed within 24 hours.

The obligation to display abuse contact and a description of their abuse procedures for users to know how to submit abuse reports through the registrar and also how those reports will be handled, and the obligation

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to maintain records related to the abuse reports received and their answers to them and provide them to ICANN upon reasonable notice.

When we investigate abuse complaint, in general, we request from the registrar an explanation, evidence concerning how the specific abuse report was addressed as required by the RAA and in accordance with the registrar's own domain name use and abuse policies. We will request as much information and clarifications as needed to ensure that this was done and that we have evidence of it.

It's important to keep in mind though that our enforcement authority is limited to the requirements in the RAA. We have no authority, for example, to request domain names be suspended or their content removed in response to abuse reports or to adjudicate claims of illegal conduct. This is not something that is contemplated in the RAA.

On the slide, we have some metrics to illustrate what we mean by enforcement. And I should also add educating through the processing of external complaints, and I will explain why.

From February 2020 to January 2021, we received 2676 complaints and sent 248 notifications to registrars requesting the evidence and explanation I've mentioned before. We closed 80 notifications sent to registrars because the registrars demonstrated having taken steps to investigate and response to the abuse reports. In 41% of the cases, they suspended the domain name or domain names that were subject to the report, and the rest, they took other steps that were contemplated by the abuse policies, for example, providing the complainant with information on how to report the abuse to the entity hosting the

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content or terminating their registration agreement with the registrant or registrars [inaudible] transfer their domain names.

We closed 2279 out of scope complaints without being able to initiate an investigation with the registrar. Why? Well, in 58% of the cases, because the complainant did not provide the evidence needed for us to initiate our process.

The first requirement that we talked about is to investigate and respond to abuse reports. So abuse reports filed with the registrar must first exist for this requirement to be triggered. However, some complainants misunderstand ICANN’s role and authority and believe they can report the allegedly abusive activity directly to us. They ask us to delete domain names or to remove their content. And even though our abuse form provides clarification about this point and instructions on how to identify the registrar and file its abuse contact details, we still receive these types of requests from complainants.

In 14% of the cases, the domain name or domain names were already suspended at the time we reviewed the complaint, and 19% involved country code top-level domain, or ccTLDs, which are not within our scope because ICANN does not accredit registrars or set policy for ccTLDs, so we have no authority to address complaints about them.

The remaining smaller percentages that are not in the slide involve scenarios like complaints that were duplicates of ongoing cases or that refer to domain names that were not registered [or implicated private dispute.]

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So one important thing to take into account, this relates to my prior comment about educating, is that when we close an out-of-scope complaint, we provide an explanation why the complaint is not within our scope. And in the vast majority of the cases, we will provide additional opportunities for the complainant to ask a question or to provide us with the evidence that we need to start a process. Where they don't reply, then the case is closed, and the reason why it is closed is given to the complainant in addition not an e-mail address they can use for additional questions after the closure.

So if you want to submit [an abuse] complaint to us, what points should you keep in mind to ensure it's within our scope? The next slide highlights these points. First, ensure you have submitted an abuse report to the sponsoring registrar. Note that our abuse webforms provide a link to the tool you can use—it's called registration data lookup—to confirm the name of the registrar just by entering the domain name and clicking on search, and we also explain how to find the registrar's abuse contact details.

Second, make sure that you provided all the information that we are requesting in the form. This is domain names, registrar, a detailed description of what happened. And please keep in mind that we are aiming to collect all the information and evidence with the initial submission. This is to reduce processing it me. And our investigation may result in a registrar being in breach and potentially lose its accreditation with ICANN, so it's very important that we review all evidence available to assess compliance.



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We also need copies of the abuse report you submitted to the registrar and any response that you received from the registrar. This includes auto responses and bounceback e-mails, because if the abuse e-mail's not working, we will also address that with the registrar, just under a different requirement within the RAA section.

And finally, make sure that you're submitting complaints for reports that involve gTLD domain names and not ccTLD domains. As I mentioned, they're outside of our scope.

At the bottom of the slide, you have a link to the guidelines created by the Registrar Stakeholder Group with useful information about submitting an abuse report to registrars. And like Jamie mentioned, this presentation was uploaded to the ICANN 70 page. Links are also in the chat so you can download it and check the links that were provided through the presentation.

This is all for abuse processing. I am going to pass it over to Genie for her update.

GENIE CHOU:

Thank you. Next slide, please. This slide outlines some of the changes Contractual Compliance has undertaken with the implementation of the temporary specification which came into effect in May of 2018. A year later, in May of 2019, the interim registration data policy became effective and continues to require the implementation of the requirements of the temporary specification. Therefore, Compliance

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continues to enforce those obligations found in the temporary specification.

Compliance has had to adjust its process in reviewing complaints to account for the changes in the registration data directory service, also referred to as RDDS. Compliance is requesting additional data from reporters where necessary. For instance, in a transfer complaint, we may need to request additional evidence from the complainant showing that he or she is a registrant for the domain name at issue since often, the registrant information is redacted in the RDDS.

We also often need to confirm or request registration data such as registrant name or e-mail address from the contracted parties where necessary to address a specific complaint because, again, the information is not publicly available.

We also continue to educate reporters regarding temporary specification- requirements and changes to existing agreements and policies. A lot of that is educating reporters on the redaction requirements under the temporary specification and explaining why the RDDS may not be displaying contact information. Next slide, please.

This next slide is a summary of metrics from February 2020 to January 2021. Starting from February 1st 2020, Compliance has been publishing metrics on the monthly dashboards regarding temporary specification. Compliance has received 35 complaints with supporting evidence between February 2020 and August 2020. And to clarify, those are complaints where Compliance received evidence of a violation from

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the complainant or ICANN was able to independently verify a violation by looking at the RDDS.

In late August of 2020, we transitioned to a new complaint processing system with improved data capturing capabilities. This new system allowed us to enhance our reporting so that our temporary specification metrics now include the total number of complaints received in this area as opposed to just the complaints that are within scope. This is why we can now indicate the total number of complaints received.

So from September 2020 to January 2021, we received 61 total complaints, 39 of which were closed as out of scope. This means 22 of the 61 complaints included evidence of an alleged violation of the temporary specification or were deemed to be within scope because Compliance was able to confirm the violation through the review of the RDDS.

We've sent eight new inquiries concerning access to nonpublic registration data. We've asked the contracted parties for an explanation of their processes and actions taken or actions that will be taken on each complaint, and many of those are currently under review. Compliance has also sent 30 new inquiries concerning the display of registration data in RDDS. Some examples of these inquiries would be where there's under-redacting of registration data where it appears the RDDS is displaying registration data that would be subject to processing under GDPR and should be redacted pursuant to the temporary specification.

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Another example is if they are over-redacting registration data such as failing to display the registrant’s state or county, or failing to provide a mechanism to facilitate communication with the relevant contact listed in the RDDS.

19 RDDS inquiries were closed after the registrars remediated. For example, by updating their RDDS to provide a webform or e-mail address to contact the relevant RDDS contact, which others continue remediation efforts or continue to collaborate with ICANN through the Compliance process.

We sent three new inquiries concerning consent to display registration data, two of which were closed after registrars demonstrated compliance and that they have a consent mechanism in place, and one which remains in process.

We've sent two new inquiries concerning the provision of registration data by registrars to UDRP providers upon notification of complaint, both of which were closed after educating the respective registrars on the requirements and the registrars demonstrating compliance.

Please note that there are additional inquiries that are in process which may not be reflected in the number of inquiries and the metrics because our metrics are a snapshot of the events for a specific time period. For instance, a complaint received in January 2021 will be captured above, but if the corresponding inquiry was sent in February 2021, the inquiry is not captured in the metrics because it’s just a snapshot for February 2020 to January 2021. Next slide, please.

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So since the last time we provided our update during the pre-ICANN 69, we have utilized new complaint forms to enhance reporting on temporary specification requirements through the monthly compliance dashboard beginning September 2020, as I briefly mentioned in the slide before.

Enhancement of the dashboard includes additional data on complaint type, reporter type, complaints received and closed, inquiries and noticed sent and the reasons for closures.

Examples of the additional data you'll see on complaint type are whether the complaints refer to request for disclosure of gTLD registration data or to a registrant requesting that his or her data appear in the RDDS or over-redacting or under-redacting of the RDDS.

Examples of the additional details regarding reporter type are whether the person who submitted the complaint self-identified that he or she was the registrant, an IP lawyer, security researcher, law enforcement, or a UDRP provider. So there's a link to the monthly compliance dashboard provided in the slide if you're interested in viewing it.

We've also published additional instructions concerning how to submit complaints regarding third-party requests for access to nonpublic registration data. Some additional information includes recommendations on what information should be provided in a request, how to look up the sponsoring registrar of the domain name, and links to the specific complaint form that should be used to submit a complaint to Compliance regarding requests for access to nonpublic

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registration data. Again, a link is provided in the slides. If you're interested in viewing that information, and also in the chat.

Compliance has continued addressing previously submitted cases that are currently under remediation or pending further response and collaboration, and the last bullet item here, Compliance has continued educating complainants on changes made pursuant to the temporary specification.

Some examples of when Compliance is educating complainants is where complainants believe registration data is missing from the public RDDS or they believe the display of privacy and/or proxy service contact information or redactions or where they believe that all non-European data should be displayed. And that wraps up the section on the interim policy and temporary specification, and I'll hand it back to Leticia for an overview on enforcement actions.

LETICIA CASTILLO:

Thanks, Genie. Hi again. Like with prior program updates, I am going to provide some metrics concerning our case processing in general since we last did it right before ICANN 69. This slide shows the number of new complaints received from September 2020 to February 2021. The number is 7644, and whether they were related to registrar obligations, the majority of them, as you can see, 6903, were registry obligations, 741.

If you listened to our update in October last year, you may remember that we presented our new complaint processing system which among

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other things allows us to capture more data concerning the complaints we received to enhance our reporting to the community. This new system was launched on August 29th last year and we have added information to this slide that we are now able to capture thanks to it.

So during this reporting period of the new complaints received, 4262 were submitted by complainants who identified themselves as a registrant or authorized representative and approximately 73% of the cases, they reported transfer issues. A very common example is I want to transfer the domain name to a different registrar but they [inaudible] the auth info code. And for those that don't know, the auth info code is the password generated by the current registrar that is needed to perform a transfer.

And in approximately 11% of the cases, they reported renewal issues. Another common example, I paid for the renewal of my domain name but the registrar's not completing the renewal. And 299 were submitted by complainants who identified themselves as former registrants for the domain that they were complaining about, and of those, approximately 36% reported transfer issues while 23% reported renewal issues.

So, how are we capturing this information now? Well, when submitting a complaint, the new webforms launched last year request the complainant to select a capacity in which they're submitting the complaint from a dropdown list. This can be the registrant, this can be a law enforcement agency, UDRP provider, contracted party, IP lawyer, etc. And this is why we're now able to provide this information and to

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state the most complaints received during this reporting period were from complainants who identified themselves as the registrant and who reported issues related to transfer.

The next slide shows that we closed 3832 complaints without being able to contact the registrar or registry operator. As with prior updates, we can share that the larger number of closure across most complaint types continue to occur because complainants do not respond to our requests for evidence to support their complaint and/or misunderstand ICANN's role.

Examples are cases where complainants ask us to update registration data or to remove content from a website like I was mentioning during the abuse part, or to issue auth info codes or transfer domain names. We do not have the contractual authority or even technical ability to take these actions. We enforce the requirements and ICANN policies and agreements that relate to these actions, the registrar issuing the auth info code or updating the registration data.

We have also observed how in some cases, the issue has already been addressed at the time the complaint is reviewed. For example, the request for [zone file] access has already been approved or the transfer has already been completed, the domain name has already been renewed.

For these complaints, we provide any clarification or information that is pertinent to the case. For example, how to determine who the registrar is or what contractual obligations are involved, and we ask the complainant to reply back to us if help is still needed. Where the



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complainant does not reply back, either because the information provided is sufficient or because the issue has been resolved, the case is closed and the complainant explained why.

Where applicable, we provide also a list of other avenues they may wish to pursue. So this is for the complaints that are never sent to the contracted parties. The next slide contains information about the rest. Next slide, please.

Thank you. Once we confirm that a complaint is within our scope and that we have all the information and evidence that we need from the complainant, we start what we call the informal resolution process by [forwarding] a first compliance [notification] to the registrar or registry with a complaint, an explanation of the contractual obligations that are involved, what's needed from the contracted party to demonstrate compliance and by when.

If this is not provided, the matter escalates to a second and eventually to a third compliance notification. In certain cases where registrants are at immediate risk, for example, we may skip the first, the second and our third notifications to go straight to an escalated notice that may result in a formal breach if it's not timely addressed.

So from September 2020 to January 2021, we sent 1939 notifications within the informal resolution stage. Please note that this number does not include follow-ups in-between notification and—this means for example if a registrar replies timely to a notice and there's a need for additional clarification, we will send a follow-up to the first notice as

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opposed to escalating to a second, and that additional communication will not be reflected in the chart.

This slide also includes a breakdown of the top three complaint types in volume, meaning the complaint types for which we sent the largest number of compliance notification through this period. The largest number sent to registrars addressed obligations related to transfers—as we saw, the largest number of complaints received related to transfers, so this is consistent—the accuracy of data associated with domain names and abuse report handling.

With regards to registries, the largest numbers of notifications sent referred to maintaining the service levels mandated by the registry agreement, about zone file access requests, and regarding [escrowing] registration data.

You can see how the number decreases from the first to the second to the third, and this is because once the contracted party provides us with what we request, the case is closed, and both parties, the complainant and the registrar or registry operator receive a closure note with the reason why the case has been closed.

Each closure also includes a satisfaction survey link that we review on a monthly basis. And if as a result of this review, we determine that a clarification needs to be sent to the person completing the survey or cases need to be reopened, we do so to ensure all cases are fully addressed.

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However, if no evidence of compliance is provided, the matter escalates to what we call formal resolution or informal process. Next slide, please.

During this process, a formal notice is issued to the contracted party. This notice is published to our website. It states the specific areas of noncompliance, what's needed from the contracted party to cure, and by when. Failure to properly and fully address these notices results in a suspension or termination of the accreditation for registrar or a termination for registries.

And to that end, through to this period, we issue three formal breach notices as explained on this slide. The notices refer to obligations to provide WHOIS service, to ask for registration data, pay accreditation fees, and to provide records demonstrating that a number of transfer and renewal requests from registrants were handled in a compliant manner.

The registrar did not cure and the matter was escalated to a termination notice last month. That was based on the registrar's failure to cure the breaches and on the fact that this registrar had received three breaches within a 12-month period, and these both are grounds for termination per the RAA.

At the bottom, you have the links to the detailed information about the process I just explained and to our enforcement page that includes the published notices. So you can check it out. Also in the chat, as I mentioned before. And this is all for the update. Now we're happy to start answering questions. Back to you, JD.

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JONATHAN DENISON: Cool. Thank you. Answered all the questions in the Q&A. However, if you have some follow-ups, obviously please feel free to throw them back our way. I think I saw a hand raised. Is that a question, whoever has a hand raised? Let me see here. Not seeing the hands anymore.

Hey Pam. So your question about the outreach sessions. Okay, cool. So what we'll do first is read through the top questions that we answered regarding the audit results. We had a couple questions there, basically when we were going to present the initial results of the audit, and answer to those questions was Yan mentioned approximately 20th of April or earlier. Individual audit reports to each registrar. Is there anything else to clarify there, Yan?

YAN AGRANONIK: Yes. If Maxim meant the results of the overall audit, that would be drafted at the need of May and published probably beginning of June. That's it.

JONATHAN DENISON: Cool. Thanks, Yan. Then we've got another question from Maarten. Does ICANN refer the complaints that involve ccTLDs to the respective ccTLD? The answer to that was yeah, actually, most of the time, complaints involving ccTLDs, the complainants are directed to contact information for the ccTLD manager. And we have another question regarding access to nonpublic registration data. Inquiries sent to registrars for access to nonpublic registration data, how many of them

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resulted in noncompliance, or were they all resolved? Basically, I think Genie mentioned that these are issues that are still ongoing, so they have not been resolved yet or are not in noncompliance yet, still going.

And then finally, in the introduction, it was said Compliance participates in training and outreach sessions. Could you share some details of those session with contracted parties related to the interim policy, temporary specification, and DNS abuse since May 2018? What I can do is provide—I think we have a link to maybe outreach on the compliance page on icann.org. maybe somebody can throw that in the chat here, or I can do that later. But since it goes back to May 2018, we might need to do some tallying just because some of those outreach sessions are broader in scope. So while it might touch on some of these topics, we would just need to go back and confirm that those were covered. I hope that helps. Again, if you have any follow-ups, please feel free to write in the chat there.

Does anybody else—thank you, Leticia. She just put our outreach page there into the chat. Pam says please consider including the outreach matrix in future compliance reporting. Pam, could you maybe—sorry, unless somebody else sees, could you maybe kind of elaborate a little bit on outreach matrix?

PAM LITTLE:

Thank you. Hi. I would just be very interested. I know your reporting during this webinar we have heard so far very much focused on the enforcement activities, but I believe the training and outreach efforts are just as important as part of your compliance function and really

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would foster that compliance culture and also help those stakeholder groups, especially contracted parties, that are not actively participating in ICANN understand the obligations better.

So I would encourage you to also include in your regular webinars like this one data or metrics on your outreach and training sessions with the contracted parties, especially, as I said, those who are not actively participating in ICANN space. Thank you.

JONATHAN DENISON:

Thanks. Yeah, I appreciate that. Definitely agreed. It's an important part of some of the things that we do. So we could definitely take that back.

All right. Anybody else? Okay. Jamie, do you have any follow-ups? I don't know if anybody else has any questions or concerns. Otherwise, seems like we could probably wrap it up.

All right.

JAMIE HEDLUND:

Thank you all for attending, and if you have any follow-up questions, please feel free to e-mail us at [compliance@icann.org](mailto:compliance@icann.org), and we will get back to you. If you have other suggestions about how we could improve the webinar for next time, please do share those with us as well. And with that, We'll let everyone have 18 minutes back. Thank you all.

**[END OF TRANSCRIPTION]**