
Public Comment Summary Report

Proposed Renewal of the Registry Agreement for .NET

Open for Submissions Date:

Thursday, 13 April 2023

Closed for Submissions Date:

Thursday, 25 May 2023

Summary Report Due Date:

Tuesday, 27 June 2023 (extended from Thursday, 08 June 2023)

Category: Other

Requester: ICANN org

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Open Proceeding Link: <https://www.icann.org/en/public-comment/proceeding/proposed-renewal-of-the-registry-agreement-for-net-13-04-2023>

Outcome:

ICANN org received fifty-seven (57) comments to the proposed .NET Registry Agreement (RA) renewal: forty-eight (48) from individuals and nine (9) from organizations. Commenters voiced general support on the incorporation of the contractual obligations from the [2023 Global Amendment](#) to the Base gTLD Registry Agreement (Base RA) approved by the generic top-level domain (gTLD) registries and the ICANN Board ([resolution](#)), commitments to combat DNS security threats similar to those in the Base RA's Specification 11, Sections 3A and 3B, and the extension of the Letter of Intent (LOI) between Verisign and ICANN org to apply to the .NET registry.

Other commenters focused on the proposed redlines in Section 2.7(b)(ii) and 2.7(b)(ii)(5) of Appendix 8 the Registry Registrar Agreement (RRA) updating the RRA to be consistent with the .COM RA and other registry agreements with similar provisions. Another group of comments focused on a possible disparity between the Base RA and the .NET RA (not a part of the proposed renewal) regarding the use of a lower case "s" (Base RA) versus a capital "S" (.NET RA) in the use of "security and stability" and how that difference may impact the applicability of Consensus Policies to the .NET RA.

ICANN org appreciates the time, dedication, and participation in this proceeding and is grateful to those who provided their feedback.

Section 1: What We Received Input On

ICANN org posted for Public Comment the proposed agreement for renewal of the 2017 .NET Registry Agreement (.NET RA), set to expire on 30 June 2023. The renewal proposal is a result of bilateral discussions between ICANN and VeriSign, Inc. (Verisign), the registry operator for the .NET and .COM TLDs.

The proposed renewal agreement for the .NET Registry Agreement (.NET Renewal RA) is based on the [current .NET RA](#) with proposed modifications, including the incorporation of some provisions from the [Amendment 3 to the .COM Registry Agreement](#) and from the [2023 Global Amendment](#) to the Base gTLD Registry Agreement (Base RA) which was recently approved by the gTLD registries and the ICANN Board.

Below is a summary of key provisions in the proposed .NET Renewal RA that are materially different from the current .NET RA:

- The proposed .NET Renewal RA incorporates certain contractual obligations from the 2023 Global Amendment including:
 - A requirement to comply with the [gTLD Registration Data Access Protocol \(RDAP\) Profile](#).
 - The plan to sunset certain requirements to provide Registration Data Directory Services (RDDS) via the WHOIS protocols on a date aligned with the WHOIS Sunset Date set forth in the 2023 Global Amendment.
 - Updated definitions for RDDS related terms.
 - Updated reporting requirements that include changes to address the advice from the ICANN Security and Stability Advisory Committee in [SAC097](#) related to inconsistent reporting of RDDS queries.
 - Service Level Requirements for RDAP availability, round-trip time, and update time.
 - Updates to Uniform Resource Locator (URL) web addresses in the RA and miscellaneous changes (e.g., URLs updated to “https” from “http”) to address outdated links.
 - Adjustments to the allowable uses by ICANN of the Bulk Registration Data Access (BRDA) to include research purposes.
- The Proposed .NET RA includes commitments related to combating DNS security threats similar to those in the Base RA Specification 11, Sections 3a and 3b.
- The proposed agreement also includes revisions that were made as part of Amendment 1 to the .NET RA and as part of 2022 revisions to Verisign’s RRA which is incorporated into the RA. ICANN and Verisign propose to amend the binding [Letter of Intent](#) (LOI) dated 27 March 2020 for two purposes.
 1. To extend the commitment by Verisign to adopt enhanced contractual provisions addressing security threats (which includes the proposed [DNS abuse amendment](#) currently open for Public Comment) to the .NET RA, as already provided for in the LOI for the .COM RA.

To add an agreement that the parties develop mutually agreed upon requirements appropriate for the .COM and .NET TLDs for reporting security incidents to ICANN. This is based on recommendations by the Security and Stability Advisory Committee (SSAC) in its 3 November 2015 Advisory ([SAC074](#)) which were [approved](#) by the ICANN Board in February 2018.

Section 2: Submissions

Organizations and Groups:

Name	Submitted by	Initials
TurnCommerce Inc.	Jeffrey Reberry	TC
Internet Commerce Association	Zak Muscovitch	ICA
ICANN Business Constituency	Business Constituency	BC
ICANN Intellectual Property Constituency	Matthew Williams	IPC
Registrar Stakeholders Group	Zoe Bonython	RrSG
At-Large Advisory Committee (ALAC)	Staff	ALAC
Namecheap, Inc.	Owen Smigelski	NC
Cross-Community Working Party on ICANN and Human Rights	Ephraim Percy Kenyanito	CCWP-HR
Domain Law Podcast	David Michaels	DLP

Individuals:

Name	Affiliation (if provided)	Initials
Joe Royall		JR
Jeff Malterre		JM2
Corwin Brust		CB
Guy Moss		GM
Jeremy Griggs		JG
James Thompson		JT
Mark Ashton Smith		MAS
Shinri Kosame		SK
Larry Lewinski		LL
Private Person		
Josh Vogelgesang		JV
Xinyu Chen		XC
Robert C		RC
Daniel O`Leary		DO
George Wyatt		GW
Arthur Endsley		AE
Daniel Pareja		DP
David Piepgrass		DP2
Rich Merc		RM
Brian S		BS

Alexandria Cortez		AC
Fre Trotter		FT
MC Bennett		MB
Pavlo Khodnevych		PK
Timothy Reichle		TR
Lyne Lyne		LL
Vic		V
Robin Edgar		RE
Konstantin Nekrasov		KN
Bernardo Lopez		BL
Isaac R		IR
Peter Jones		PJ
Jhon Kibi		JK
Tom Liang		TL
Joshua Moon		JM
Matthew Vance		MV
Jean Vallon		JV
Joshua Wowk		JW
Symon Andrade	AmazonNIC	SA
Weijian Liao		WL
Harman Bains		HB
James Olorundare		JO
Jiaming Zhang	Yixi Bio	JZ
George Kirikos	Leap of Faith Financial Services Inc.	GK
Alex Lerman		AL
Chad Folk	Contrib. LLC	CF
B Lambert		BL2
Michael Palage		MP

Section 3: Summary of Submissions

ICANN org received fifty-seven (57) comments from the community on the proposed renewal of the .NET Registry Agreement. Commenters voiced general support on the incorporation of the contractual obligations from the [2023 Global Amendment](#) to the Base gTLD Registry Agreement (Base RA) approved by the generic top-level domain (gTLD) registries and the ICANN Board ([resolution](#)), commitments to combat DNS security threats similar to those in the Base RA's

Specification 11, Sections 3A and 3B, and the extension of the Letter of Intent (LOI) between Verisign and ICANN org to apply to the .NET registry.

ICANN org thanks all the contributors for their valuable input and feedback to the proposed .NET Registry Agreement renewal. All comments have been thoroughly reviewed and a categorized summary of ICANN org's analysis by category is provided below.

Of the 57 comments received, 60 percent of the comments focused on an individual's post regarding the Registry Registrar Agreement (RRA) included as Appendix 8 in the proposed .NET Registry Agreement (RA) renewal. Soon after the proposed .NET RA was posted for Public Comment, an individual commenter shared concerns centered on the redlines of Section 2.7(b)(ii) and Section 2.7(b)(ii)(5) requiring a registered name holder to acknowledge and agree that Verisign reserves the right to deny, cancel, redirect, or transfer any registration to comply with applicable law.

The commenter mistakenly interpreted this to mean that the registry operator, Verisign, may in their "sole discretion" redirect a registered domain name, but the comment did not include the context of the specification to explain why this may occur. Verisign, as with many other registry operators who include this provision in their RRA, may "redirect" a registered domain name to comply with specifications from an authoritative industry group with respect to the Internet (e.g., Request for Comments, or RFCs), to correct mistakes made by Verisign or the registrar, for non-payment of fees to Verisign, to protect against imminent threats to the security and stability of the registry operations, to comply with local law, and/or to stop or prevent violations of any of the terms and conditions of the agreement, operational requirements, or pursuant to Verisign's registry agreement with ICANN.

Within two weeks of the original comment posting, 34 commenters posted with comments echoing the same misleading information. This led ICANN org to post an update on 26 April 2023 clarifying the interpretation of Section 2.7(b)(ii) and Section 2.7(b)(ii)(5) of the RRA and why the proposed redlines are not nefarious as the comments implied. Soon after posting the update, the flurry of comments abated on this topic.

Following a review of all the comments, ICANN org organized the comments submitted into the following general categories:

1. Registry pricing and cooperation in economic studies and/or market analysis
2. Renewal of agreement and need for transparency in the negotiations
3. Registry Registrar Agreement (RRA)
4. Difference in the use of the capitalized "S" versus lower case "s" in relation to compliance with Consensus Policies
5. Letter of Intent (LOI), Public Interest Commitments, and DNS abuse amendments
6. Uniform Rapid Suspension (URS) and Thick WHOIS

7. Reserved names in IANA

This Public Comment summary and analysis report includes a summary of the comments by each of the categories listed above with the analysis of the comments provided immediately following each category.

1. Registry pricing and economic studies and/or market analysis

COMMENTS SUMMARY

- “The RrSG maintains its concerns that the proposed price increases are without sufficient justification or an analysis of its potentially substantial impact on the DNS.” “ICANN (has declined) to provide an explanation how increased domain name prices are in the public interest or how this furthers the security and stability of the DNS.” Further, “... the RrSG requests that ICANN conduct an economic study of whether competition can effectively constrain prices.” (RrSG)
- “While the Base RA does not have price controls for domain names, the proposed .NET RA maintains price caps.” In previous public comments (2016 and 2019) regarding the “Proposed Amendments to the Base New gTLD Registry Agreement, the BC said, “it is not ICANN’s role to set and regulate prices”. “Given the BC’s established position that ICANN should not be a price regulator, and considering that .ORG, and .INFO adopted(sic) RPMs and other registrant provisions we favor, the BC supports broader implementation of the Base Registry Agreement, including removal of price controls”. (BC)
- “Verisign should not be allowed to raise prices and withdraw more windfall profits. Can we look forward and expect improvement? Probably not. VeriSign Inc. should be put on notice of intent to cancel no-bid contracts.” (BL2)
- “Another potentially significant area of disparity between the agreements is the language surrounding economic studies. Section 2.5 of the Base RA requires the Registry Operators to “reasonably cooperate” with any ICANN org “economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters. Neither Verisign’s .NET or .COM RA appears to contain a similar provision, although these two TLDs account for approximately 80% of the global gTLD market.” (ALAC)
- “If you want better service for its millions of users, which is ICANN role, open the bidding, lower the price, put SLA's in place like all other enterprise software companies do when servicing a client.” (CF)
- “The presumptive award of the .net registry contract to Verisign with no negotiations as to the wholesale fees or public tender tends to indicate that ICANN’s decision makers have been compromised and are failing to act in the public interest” (DLP)

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- “Section 2.5 of the Base RA requires the Registry Operator to “reasonably cooperate” with any ICANN org “economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters. Neither Verisign’s .NET or .COM RA appears to contain a similar provision, although these two TLDs account for approximately 80% of the global gTLD market.” Further, ICANN should be looking at the following trends within the domain name marketplace: e.g., impact of vertical integration, growing consolidation in registry operator and registry service provider marketplace, secondary domain name market, the role of resellers, privacy/proxy service providers, and the impact of new gTLD on retail domain name pricing, etc.” (MP)
 - “ICANN is significantly adjusting the price caps of a legacy gTLD without providing any type of economic analysis of the potential impact that increased prices for the second largest gTLD by volume (13.2 million domains) might have on the DNS marketplace”. (NC)
 - “Unfortunately, this price increase has not been properly justified and poses the risk of locking out registrants from using these services altogether”. (CCWP-HR)
 - We recommend that ICANN; a) include a “Cooperation with Economic Studies” provision comparable to that of the Base Registry Agreement be included in the Proposed Revised Agreement; b) commission an economic study of the .net registry and .net Service Fees in order to determine whether there is satisfactory evidence supporting the appropriateness of annual 10% Service Fee hikes in the .net Registry Agreement; (ICA)

ANALYSIS OF COMMENTS

Several commenters shared concerns regarding the price of a .NET domain name registration (7.2(a) of the .NET RA) and the ability for Verisign to increase the maximum wholesale price for a domain name registration or renewal by up to 10 percent annually. It is worth noting that these concerns arose even though there are no proposed alterations to the section 7.2(a), which describes the pricing rules and has been in effect since 2005.

ICANN acknowledges the comments and reminds the community that, at this time, ICANN has three models for pricing terms in Registry Agreements, 1) the legacy pricing constraint present in the .NET and .NAME RAs, 2) the pricing constraints present in the .COM RA which were set by a relevant competition authority, the United States Department of Commerce National Telecommunications and Information Administration (NTIA), and 3) no cap or constraints to pricing levels. All three models also contain requirements to provide advance notice of price increases to registrars, to enable registrations for up to 10 years, and to prohibit discriminatory pricing. The majority of those comments received related to pricing sought a fourth approach which was to eliminate the right of the registry operator to increase prices of wholesale domain name registration services.

ICANN is not a competition authority or price regulator and does not have the remit to serve as one. As enshrined in ICANN’s Bylaws, which were developed through the bottom up,

multistakeholder process, ICANN's mission is to ensure the security and stability of the Internet's unique identifier systems.

None of ICANN's current Registry Agreements absolutely prohibit a registry operator from raising prices of domain name registrations, including the Base RA. From 2012 to 2020 there was a provision in the .COM RA which prohibited the registry operator from increasing the wholesale price of a domain name registration or renewal. However, this freezing of prices was put into place in the .COM RA at the request of Verisign, based on direction to them from their relevant regulatory authority, the NTIA. In addition to the .COM RA between ICANN and Verisign, the NTIA and Verisign maintain "the Cooperative Agreement"¹ for Verisign's operation of the .com TLD.

In response to the request from commenters to conduct an economic study or to add Section 2.15 of the Base gTLD RA to the proposed .NET RA, it is important to understand that Section 2.15 which addresses cooperation with economic studies, is intended to "study the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters." It does not pertain to the overall market with legacy TLDs. In addition, some of these comments suggest that adding the provision would enable ICANN to collect data to determine if the price increases are in the public interest or may have an impact on the DNS marketplace. However, since the pricing for .NET is public and the zone file information is available, conducting a study, if necessary, would not be impeded.

2. Renewal of agreement and need for transparency in the negotiations

COMMENTS SUMMARY

- "The RrSG reiterates its concerns from previous comments that ICANN again did not consult with the community prior to the negotiation of this amendment" (RrSG)
- "The BC generally supports the proposed renewal [for .NET] provided that ICANN and Verisign address questions and suggestions [as provided]. The BC also supports the inclusion of certain obligations from the 2023 Global Amendment to the Base RA". (BC)
- "The IPC reiterates the importance of ensuring adequate opportunities for meaningful input from the IPC and other non-contracted stakeholders – and meaningful input in the negotiation process". (IPC)
- "It's good to see that the proposed modifications align with industry standards and best practices. The incorporation of the gTLD Registration Data Access Protocol (RDAP) Profile and updates to reporting requirements for consistent reporting of RDDS queries are important steps in promoting transparency and accountability in the management of domain names. Additionally, I appreciate the commitments related to combating DNS

¹The NTIA and Verisign Cooperative Agreement <https://www.ntia.doc.gov/page/verisign-cooperative-agreement>

security threats, which will help protect the integrity and security of the internet. Overall, I believe that the proposed renewal agreement will benefit the internet community.” (HB)

- “The ALAC and At-Large community are supportive of the majority of updates to the .NET contract including provisions concerning RDAP; DNS Abuse mitigation commitments; and use, by ICANN, of the Bulk Registration Data Access (BRDA) for research.” (ALAC)
- “Verisign [is] the only legacy Registry Operator refusing to voluntarily migrate over to the new Base RA.” “Recommendation: ICANN Org should publicly post a red-line of the proposed 2023 .NET RA against the Base RA” (MP)
- “This sweetheart agreement with Verisign for the operation of the .NET registry is anti-competitive, due to the presumptive renewal clause. As such, to promote competition, ICANN should put out the contract to a competitive tender.” (GK)
- “The most important and critical issues that may arise from the proposed renewal of the .NET RA are 1) Compliance with the gTLD Registration Data Access Protocol (RDAP) Profile, 2) Sunset of certain requirements to provide Registration Data Directory Services (RDDS) via the WHOIS protocols, 3) Updated definitions for RDDS related terms, Updated reporting requirements, Commitments related to combating DNS security threats similar to those in the Base RA’s Specification 11, Sections 3A and 3B.” (JO)

ANALYSIS OF COMMENTS

ICANN org has followed an established and straightforward process to negotiate amendments and renewals to registry agreements. These are bilateral agreements between ICANN org and the registry operator to discuss whether to renew the agreement in its current form or transition all or part of it to the Base gTLD Registry Agreement. Additionally, ICANN relied on the Base gTLD RA developed via the multistakeholder process, as well as the 2023 Global Amendment to the Base RA, which was adopted by the ICANN Board on 30 April 2023, as a foundation for the negotiations with Verisign.

Once the parties agree on the form of agreement, a draft renewal is produced by ICANN for the review and comment of the registry operator. When both parties agree on the terms of the proposed renewal agreement, ICANN org invites the community to comment on the proposed agreement, through the Public Comment process, to collect valuable community input before proceeding. The proposed .NET Registry Agreement and amendment to the binding Letter of Intent are a result of this established process.

Somewhat related to the negotiation process for registry agreements, a few comments suggest that the .NET registry should be put out for tender or competitive bid. However, Section 4.2 of the .NET RA provides that the .NET RA “shall be renewed” upon the expiration date absent a contractual breach. In the absence of a serious breach of any agreement the renewal provisions in the registry agreement are in place to 1) provide continued security and stability, and 2) encourage long-term investment in robust TLD operations. It is worth noting that Verisign has a

track record of over 25 years of 100% uninterrupted Domain Name System resolution for the .NET (and .COM) TLD.²

1. Registry Registrar Agreement (RRA)

COMMENTS SUMMARY

- “We've seen how corrupt governments can get and now you want to give them carte blanche over any/all domain names? This is probably the most absurd digital act of our generation. Why do they need this power? Answer: they don't. They already have TLD .gov! Taking away anyone's domain name is extremely intrusive. It disrupts organic traffic that they've spent years building. You're not just taking a domain name you're taking everything that comes along with it! Please consider the consequences of your actions.” (JM2)
- “I do not agree with Section 2.7 of Appendix 8, on pages 147-148 that allow any government to cancel, redirect or transfer any domain under this agreement. This is a dangerous precedent that I do not wish to see here and/or applied to any domain name extension. Section 2.7 of Appendix 8, on pages 147-148 should be changed regarding allowing any government to cancel redirect or transfer any domain under this agreement.” (GM)
- “Expressing opposition to the overly broad language of proposed changes to Section 2.7 of Appendix 8 regarding agreements by registrants to accept unilateral confiscation of domains at the request of governments. Due process is not adequately protected against government agencies that have demonstrated a willingness to act in bad faith ways, or for policies adopted that violate international standards and expectations. No single entity, government or otherwise, should have such broad and unrestrained ability to interfere with the domain name system, including the registrar.” (JT)
- “There MUST be due process BEFORE seizure in the home country of the domain owner. I do not support seizure of domains without due process in a court that is based in the home country of the domain owner.” (RM)
- “The amendments to Section 2.7(b)(ii) and 2.7(b)(ii)(5) should be repealed in their entirety. The adoption of these amendments will allow various unscrupulous government/law enforcement agencies to confiscate domain names without the necessary legal procedures. This cannot be allowed. The amendments must be rejected outright.” (PK)
- “This proposal is not only dangerous but also outrageous. It would represent a complete government takeover of domain names and would overturn two decades of global

² <https://investor.verisign.com/news-releases/news-release-details/verisign-reports-fourth-quarter-and-full-year-2022-results>

domain name policy. It could pave the way for Verisign to extend the provision to other extensions, such as .COM, which the company also manages.” (KN)

- “This is absolutely unacceptable. This proposal is a threat to free speech, due process, the rule of law, human rights, and any number of other rights that must be preserved and to which the Internet is uniquely positioned to either protect or destroy. I urge you to reconsider this proposal and strike this language from the current contract, as well as adopting a strict policy that this kind of language is not valid and will not be proposed again at any time in the future.” (IR)
- “Section 2.7 ii clause 4 (page 148) seems unworkable without some sort of arbitration agreement or vetting process. For example, what process is followed when the government of the Russian Federation demands that a domain owned by a Ukrainian national be transferred into their control? Are you really going to blindly follow all requests issued by governments?” (PJ)
- “This is a very dangerous, risky proposal that does not respect due process. It usurps the role of registrars, making governments go directly to Verisign (or any other registry that adopts similar language) to achieve anything they desired. It overturns more than two decades of global domain name policy.” (MAS)
- “... we reject the language of 2.7(b)(i), 2.7(b)(ii)(4), 2.7(b)(ii)(5) and 2.7(b)(iii). We also reject the related provisions in 2.14, and all of Appendix 11. While these are all related, in one way or another, to the laudable goal of addressing security and/or abusive online behavior, the means do not justify the ends. The language is overly broad, vague, and ultimately does not balance the interests of the registry operator (Verisign) and the affected stakeholders (registrants in particular). “It’s clear that the RRA Amendment Procedure is deeply flawed, as it relies upon registrars to be actively reviewing changes for each and every TLD. Registrants have no ability to participate. No one has time these days to do this review in depth. To the extent that registrars do any review at all, they are ultimately only concerned about the impact of changes upon themselves, and have no duty or obligation to look out for the interests of registrants.” (GK)
- “One potential area of potential concern in the draft new contract is the language granting the registry the right to obey takedown orders from national governments with relevant jurisdiction.” “ICANN, in conjunction with the contracted parties, should explore the development of a disclosure framework for court and government ordered domain takedowns.” (ALAC)
- “The BC notes that text in the .NET RA explains that the registry operator reserves the right to follow orders from governments with jurisdiction over its operations or domains. This same text is already in most Registry-Registrar Agreements.” “The BC recognizes that this provision is substantially similar to other provisions in registry and registrar agreements and in any event is likely crucial from the Registry’s perspective. As such, the BC understands and does not object to this proposed revision.” “The BC recognizes that registry operators must be able to follow government orders and laws applicable to their operations.” “The BC has two suggestions for ICANN and Verisign: 1) ICANN and

all contracted parties develop guidelines to voluntarily disclose government orders they receive (e.g., a disclosure framework), and 2) ICANN and Verisign establish parallel requirements to report government orders they receive regarding security issues in .COM and .NET domains, subject to specific government orders that prohibit such disclosure.” (BC)

ANALYSIS OF COMMENTS

The comments on the Registry Registrar Agreement (RRA) accounted for 60 percent of the 57 total comments received and focused on a provision in the Registry Registrar Agreement (RRA) included as Appendix 8 in the proposed .NET Registry Agreement (RA) renewal. The majority of these comments seem to echo or recite concerns raised by an individual commenter who also published their comment as a blog. Unfortunately, the original comment mistakenly interpreted the redlines in Section 2.7(b)(ii) and Section 2.7(b)(ii)(5) of the RRA. These provisions require the registrar to ensure a registered name holder acknowledges and agrees that Verisign reserves the right to deny, cancel, redirect, or transfer any registration to comply with applicable law to mean that the registry operator, Verisign, may in their “sole discretion” redirect a registered domain name. However, the comment did not include the context of the specification to explain why this may occur.

Verisign, as with many other registry operators who include this provision in their RRA, may “redirect” a registered domain name to comply with specifications from an authoritative industry group with respect to the Internet (e.g., Request for Comments, or RFCs), to correct mistakes made by Verisign or the registrar, for non-payment of fees to Verisign, to protect against imminent threats to the security and stability of the registry operations, to comply with local law, and/or to stop or prevent violations of any of the terms and conditions of the agreement, operational requirements, or pursuant to Verisign’s Registry Agreement with ICANN.

In the 26 April update on the Public Comment page, ICANN provided commenters with information relating to process and precedent. The provisions in question were not part of the proposed .NET renewal but were added to the RRA in 2022 following the completion of the [RRA Amendment Procedure](#). These provisions are typical for RRAs, and similar language is included in the RRAs for other leading registry operators, including GoDaddy Registry, Google Registry, Identity Digital, and Public Interest Registry (PIR). These provisions are also nearly identical to those in the .COM RRA that was updated in 2020 as part of Amendment #3 to the .COM RA. This change was included in the .COM RRA as part of the Public Comment proceeding on Amendment #3 and completion of the RRA Amendment procedure. In none of the prior processes were concerns raised by registrars or community members.

2. Difference in the use of the capitalized “S” versus lower case “s” between the .NET RA and the Base RA in relation to obligations to comply with Consensus Policies

COMMENTS SUMMARY

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- “ICANN should explain why “security and stability” were not capitalized in section 1.2.1 of the Base RA. If intentional, ICANN should explore making this update to the corresponding language in the .NET RA.” (ALAC)
 - “The BC echoes ALAC concerns about using defined terms for Security and Stability that might limit consensus policy obligations for the .NET registry operator. The BC requests that ICANN and Verisign explain why the .NET RA uses defined terms for security and stability as it applies to consensus policies. Depending upon that explanation, the BC may request that the renewal RA for .NET match the Base RA by using undefined security and stability terms for consensus policies.” (BC)
 - “ICANN Org needs to explain why it has permitted two different definitions of Consensus Policy to appear in the RAs and its impact on its mission.” (MP)
 - “...definitions for what constitute “Security” and “Stability” in the renewed .NET RA should be made consistent with how these terms are treated under the New gTLD Base RA -- as it stands, the definitions in the current and proposed renewal .NET RA are much more limited.” (IPC)

ANALYSIS OF COMMENTS

Four commenters expressed concern on the use of the defined terms of Security and Stability that have been in the .NET RA since 2005. The concern focuses on the use of capitalized “S” in Section 3.1(b)(iv)(1) of the .NET RA versus a lowercase “s” used in Specification 1, Section 1.2.1 of the Base RA when referring to “security and stability”. These provisions set forth the allowed topics for ICANN Consensus Policies to be applicable to the Registry Operators.

The question raised is whether the use of the capitalized “S” in the .NET RA might restrict Verisign’s obligation to comply with Consensus Policies under Section 3.1(b)(iv)(1) to those policies that fall within the defined terms of Security and Stability, while the lowercase “s” used in the Base RA could, it was argued, theoretically allow for a broader mandate for ICANN to enforce Consensus Policies related to broader conceptions for security and stability.

Both the .NET RA and the Base RA have similar definitions for “Security” and “Stability”. In both agreements, the provisions noted above focus on compliance with Consensus Policies, specifically for issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or DNS.

ICANN acknowledges the comments on this topic and has reviewed and researched the question extensively. The provision in question has been in place since the 2005 .NET RA and used in registry agreements, including .COM and .NAME as well as .BIZ, .INFO, and .ORG before the latter three TLDs transitioned to the Base RA in 2019, without any policy development work or Consensus Policies being limited as hypothesized in the comments. We acknowledge however that the capitalization of the “s” could in theory potentially lead to different interpretations of the applicability of certain future Consensus Policies under Section 3.1(b)(iv)(1) for the .NET RA.

Because in this instance it was not the intent of ICANN org nor Verisign to limit in this manner the applicability of Consensus Policy topics for which uniform or coordinated resolution is reasonably necessary to facilitate the interoperability, security and/or stability of the Internet or DNS, ICANN org and Verisign have mutually agreed to update Section 3.1(b)(iv)(1) of the .NET RA to the lower case “s.”

3. Letter of Intent (LOI), Public Interest Commitments, and DNS abuse

COMMENTS SUMMARY

- “The IPC welcomes the proposed extension of the Letter of Intent between Verisign and ICANN.’ Regarding annual payments from ICANN “for costs to be incurred by ICANN during the upcoming 12-month period (“SSR period”) in conducting, facilitating, or supporting activities that preserve and enhance the security, stability, and resiliency of the DNS: “To date, the community has had no visibility on what additional SSR activities ICANN has been able to undertake, utilizing this funding from Verisign”. “... ICANN should take the opportunity to enhance transparency around these SSR activities...”. (IPC)
- “The IPC supports updates to the .NET Registry Agreement (“RA”) to bring it closer in line with the New gTLD Base RA with respect to user protections, such as Public Interest Commitments aimed at preventing or mitigating the use of domain names for abusive and illegal activities.” (IPC)
- “The BC supports inclusion in the .NET RA of registrant and user protections from the Base RA...”. “...including Public Interest Commitments.” (BC)
- “... ICANN org and Verisign have both mutually agreed to amend the existing Letter of Intent executed in connection with the .COM renewal...”, “Verisign and ICANN will publish communications (either jointly or individually) to provide education about methods to help DNS stakeholders mitigate Security Threats”. ICANN org should immediately make available all documentation in connection with the bilateral negotiations on Security Threats that Verisign and ICANN org have had in connection with the Letter of Intent”. (MP)
- “... in its Letter of Intent for the .COM Registry Agreement dated March 20, 2020, Verisign recognized the need to show leadership by identifying best practices for mitigation of security threats and adoption of new contract language from the Base RA to address DNS abuse in .COM. However, despite the adoption of best practices by registries like .ORG that embraced the 2019 DNS Abuse Framework, the .COM and .NET registries have not adopted the RA or the DNS Abuse Framework.” (BC)
- “ICANN and contracted parties are close to completing negotiations on amendments to the Base Registry Agreement and Registrar Accreditation Agreement (RAA). These

amendments are being developed specifically to create clearer registry operator obligations to address DNS Abuse on domains in the TLD. [need links]. These amendments are expected to be published for public comment in the next 30 days and would likely be approved before the end of 2023. The .NET TLD has over 13 million domains, with a share of DNS abuse instances. So the BC is eager to see Verisign incorporate pending DNS Abuse amendments once they are approved by ICANN and Registries.” (BC)

- “... as the Registry Stakeholder Group pursues negotiations with ICANN regarding targeted amendments to the New gTLD Base RA related to DNS Abuse (as defined by ICANN and contracted parties), it is essential that such contractual provisions also are incorporated into the RA for .NET (in addition to .COM, as previously agreed under the LOI). While the IPC understands that these negotiations are taking place bilaterally between ICANN and contracted parties, the IPC reiterates the importance of ensuring adequate opportunities for meaningful input from the IPC and other non-contracted stakeholders -- and meaningful consideration of such input in the negotiation process.” (IPC)
- “The ALAC and At-Large community are supportive of the majority of updates to the .NET contract including... DNS Abuse mitigation commitments.” (ALAC)

ANALYSIS OF COMMENTS

ICANN acknowledges and values the favorable feedback regarding the incorporation of Public Interest Commitments from Specification 11, Sections 3a and 3b, from the Base RA added to the proposed .NET RA and the amendment to the Letter of Intent (LOI) to include .NET. The inclusion of these elements, alongside Verisign’s commitment to include the proposed DNS abuse amendment to the Base RA for the .NET RA renewal, demonstrates the ICANN community’s recognition of the importance to take proactive measures to prevent or halt the utilization of domain names for DNS abuse. This progress signifies the positive momentum in addressing this issue.

ICANN org also acknowledges the comments on the proposed extension of the LOI between ICANN and Verisign to apply to the .NET registry and the request for more transparency around the Security, Stability, and Resiliency (SSR) activities the LOI funds support. ICANN further appreciates the requests to provide the ICANN community with visibility on how the annual payments from Verisign to ICANN to conduct, facilitate, or support activities that preserve and enhance the security, stability, and resiliency of the DNS. ICANN org agrees with and supports the need for accountability and transparency regarding how the funds are used and is committed to full transparency to provide the ICANN community the appropriate level of information as such funds are received and used. Examples of how the funds may be used can be found in Appendix D of the [Operating & Financial Plans for FY24-28 and FY24](#) and include the expansion of the ICANN Managed Root Server (IMRS), updates to the Domain Abuse Activity Reporting (DAAR) system, and the development of machine learning within ICANN research programs to help detect security threats.

6. Uniform Rapid Suspension (URS) and Thick WHOIS

COMMENTS SUMMARY

- “...the IPC is disappointed that Verisign has declined to take this opportunity to integrate voluntarily the Uniform Rapid Suspension System (“URS”), the Post-Delegation Dispute Resolution Procedure (“PDDRP”), or other new gTLD Rights Protection Mechanisms (“RPMs”) into these TLDs. (IPC)
- “...it is critical that the .NET RA renewal (and all other efforts to update or amend ICANN agreements) take into account recent regulatory developments, notably the approval of the updated EU Directive on Network and Information Security Services in 2022 (“NIS2”). As ICANN is well aware, NIS2 has been adopted, now constituting binding law within the EU, and is in the process of being transposed and implemented by each EU Member State. In particular, the .NET RA defines .NET as a “thin” registry, whereas NIS2 provides a clear legal basis for all gTLD registries, including .NET, to operate as “thick” registries.” (IPC)
- “The adoption of the updated EU Directive on Network and Information Security Services in 2022 (NIS2) may have established the legal basis for the maintenance of a thick registry. NIS2, which now carries the effect of binding law, imposes obligations on registries that can be met through the maintenance of thick WHOIS records. As a result, one of the impediments for implementing the Thick WHOIS consensus policy has been removed, and the BC recommends that the .NET agreement include commitments from Verisign to implement the Thick WHOIS policy by a date certain.” Further, “The BC recommends that ICANN evaluate and determine whether NIS2 establishes “an appropriate legal basis” as called for in the above consensus policy now in effect”... and “include commitments to adopt Thick WHOIS and negotiate data processing agreements to enable the transition to THICK WHOIS as soon as possible.” (BC)

ANALYSIS OF COMMENTS

ICANN org acknowledges the comments expressing concern that the adoption of Uniform Rapid Suspension (URS) is not included in the proposed .NET RA renewal. With respect to legacy gTLDs adopting URS in their renewal Registry Agreements, it should be noted that URS was recommended by the Implementation Recommendation Team (IRT) as a mandatory RPM for all new gTLDs. In the [IRT Final Report](#), the IRT stated that “the IRT recommends that ICANN Organization implement the URS, which would be mandatory for all new generic Top Level Domain (gTLDs), implemented through the new gTLD Registry Agreements, which would in turn bind registrars supplying *new gTLDs* to the marketplace.” (Emphasis added).

Although the URS was developed through the process described above, including public review and discussion in the GNSO, it has not been adopted as a Consensus Policy and ICANN org has no ability to make it mandatory for any gTLDs other than those subject to the

Base RA. Accordingly, ICANN has not moved to make the URS mandatory for any legacy gTLD. Moreover, registrations in .NET, just as registrations in all gTLDs, are subject to the Uniform Domain-Name Dispute-Resolution Policy (UDRP), as this is an adopted Consensus Policy.

ICANN appreciates the comments on the adoption of the updated European Union Directive on Network and Information Security Services in 2022 (NIS2). ICANN org is of the opinion that the NIS2 Directive neither expressly mandates nor prevents Thick WHOIS.

It should be noted that ICANN's multistakeholder model for policy making, which operates on a global scale, is also tasked with establishing operational requirements for gTLDs. This includes determining the data elements to be collected or implementing a disclosure system. Under the nearly final Registration Data Policy, the decision whether a registry will receive the "thick" data or not will depend on the registry and registrar determining the legal basis for the transfer (including that a legitimate purpose exists for the transfer that is not outweighed by the registrant's interests under applicable data protection law) and entering into a data protection agreement that covers the data, where such an agreement is required by law. After receiving input from the GNSO Council, ICANN org, in consultation with the IRT for the Registration Data Policy, concluded that ICANN org would enforce a transfer requirement only if the relevant contracted parties agree that a legal basis exists for the transfer and that a data protection agreement is in place. If additional requirements for Thick WHOIS apply to the parties under local laws, such local laws may be considered by the contracted parties when determining whether a legal basis exists for the transfer of registration data from registrar to registry. However, ICANN's role is limited to enforcing ICANN policies and agreements and does not extend to local laws. Therefore, no changes were made to the proposed .NET RA based on these comments.

7. Reserved names in IANA

COMMENTS SUMMARY

- "Flawed language of Section 3.1(d)(i) relating to reserved names... the text was modified in such a manner as to make a major policy change." "... for initial (i.e., other than renewal) registration at the second level within the TLD" was removed from the current version of the agreement's text. We believe this may have been an inadvertent change, given the enormous consequences of the new language, consequences that were not highlighted by ICANN staff as being "materially different" from the current agreement." (GK)

ANALYSIS OF COMMENTS

In 2005, ICANN org added the contractual obligation to legacy TLD RAs to avoid consumer confusion in relation to "double" TLD addresses (i.e., TLD1.TLD2 such as com.travel and travel.jobs) to renewed TLD RAs (e.g., .TRAVEL and .JOBS in May 2005, .NET and .MOBI in

2005). The obligation was added to the .COM RA in 2006 and the .NAME RA in 2007. The obligation is only in four legacy TLD RAs currently: .COM, .NET, .NAME, and .XXX.

In 2007, the Generic Names Supporting Organization (GNSO) Reserved Names Working Group (RN-WG) concluded in the [Final Report](#), that TLD1.TLD2 was not a risk to the security and stability of the DNS. The RN-WG's recommendation was to remove the obligation because they found "TLD1.TLD2" did not present a risk to the security and stability of the DNS and the potential risk of user confusion for new gTLDs has been balanced against the fact that the combinations have existed for an extended period of time (e.g., www.net.com, www.edu.org, www.jobs.com, and www.travel.ca) without documented side effects of user confusion. Therefore, the obligation was not included in the base RA.

Based on the recommendation from the RN-WG, Verisign could have requested to remove the obligation in subsequent RA renewals for .COM in 2021 and .NET in 2017 but did not do so. Verisign is now taking the opportunity to remove the contractual obligation in the .NET RA to bring it more in line with the Base RA.

Section 4: Analysis of Submissions

Included above in section 3.

Section 5: Next Steps

Following the completion of the Public Comment process, the ICANN CEO or delegate will review and decide on the renewal of the .NET Registry Agreement as proposed with the change noted above as suggested by commenters to Section 3.1(b)(iv)(1), including the amended binding Letter of Intent.