

## **Ministry of Internal Affairs and Communications of Japan Comments on the Amendment to the Base gTLD Registry Agreement (RA) and Registrar Accreditation Agreement (RAA) to Modify DNS Abuse Contract Obligations**

The Japanese Ministry of Internal Affairs and Communications (hereafter, “MIC-Japan”) welcomes the proposed amendment and appreciates the opportunity to submit our comment. First of all, MIC-Japan is grateful for the dedicated time and effort made by all those engaged in the contract negotiation. MIC-Japan would like to congratulate ICANN org and contracted parties to reach an agreement as presented. MIC-Japan highly evaluates the amendment – the additional obligations of Registries and Registrars are stipulated clearly enough to be implemented. MIC-Japan supports the proposed amendment and expects that the amendment would facilitate the contracted party’s actions against DNS Abuse.

MIC-Japan requests that ICANN org conduct periodical monitoring review on the implementation of the amendment and that ICANN org share the result within the community in a manner as transparent as possible. As a member of Governmental Advisory Committee (GAC) of ICANN, MIC-Japan looks forward to the monitoring reports to assess the progress and impact of this amendment from the perspectives of contracted party’s compliance and effectiveness of this amendment. It is also expected that the monitoring reports would help develop good practices against DNS Abuse and sharing these good practices would promote their DNS Abuse mitigation effectively.

Regarding the RA amendment, MIC-Japan requests that ICANN org or the responsible parties provide a good format of, or the list of required information in, the report on the malicious conduct stipulated in the Specification 6 – 4. Abuse Mitigation. MIC-Japan suggests that the Registry’s perspective be well taken into consideration in the format so that these reports would help reporters to submit better founded reports and help Registries take actions against the reported conduct when deemed necessary even if the reported conduct is not considered DNS Abuse as defined in this amendment.

Regarding the RAA amendment, MIC-Japan points out that there are issues remaining unsolved by this amendment and these issues need to be discussed, including a further RAA amendment when appropriate. One particular remaining issue is “hopping” – the way malicious registrants survive and illegal activities prevail in the Internet. The issue of “hopping” is common in many illegal activities in the Internet – not limited to those activities containing DNS Abuse as defined in this amendment – and malicious registrants hopping around the Internet very much frustrate Japanese Internet community and industry.

There are two main sources of the frustration. First one is that the malicious registrants are able to move much faster than the law enforcement – they easily change their domain names to continue their engagement in illegal activities and the effort by the law enforcement (e.g. court order) becomes invalid once the domain names are changed.

The second one is the fact that Registrars do not react to the reports on illegal activities – as articulated in RAA 3.18.1. The article requires Registrars to take reasonable and prompt steps to investigate and respond appropriately to any reports of abuse. What MIC-Japan observes in the Internet is that a malicious registrant who is reported to a particular Registrar on its illegal activity acquires new domain name from the same Registrar, which helps the malicious registrant continue its engagement in the illegal activity. This could raise a question of RAA compliance and this is why MIC-Japan has been proposing further discussion toward RAA contract improvement at GAC / PSWG session in recent ICANN meetings.

As stated in ICANN75 GAC Communique, RAA 3.18.1 is not clear enough to present a case of ICANN compliance or to help Registrars appropriately handle the reports on illegal activities. MIC-Japan has proactively insisted the need for improvement in this part of the article and strongly requests that ICANN org and the contracted parties continue the discussion on this issue in a similar manner to the contract negotiation that has taken place and brought this amendment.

Sincerely,

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- Nobuhisa NISHIGATA (Mr.) is the Director of Computer Communications Division at the Ministry of Internal affairs and Communications (MIC-Japan). His responsibilities include the Internet - its operation and governance, oversight over the telecommunications businesses and reinforcement and decentralization of digital infrastructure (e.g. datacenter). Nobu also serves as i) Vice-chair for the OECD's Working Party on AI Governance (WP-AIGO) and ii) Representative of Japan for ICANN's Governmental Advisory Committee (GAC).
- Nobu worked at the OECD from 2017 to 2021, serving as economist and policy analyst on AI. He was engaged in various work and publications – notably the scoping process and the development of the OECD AI Principles (adopted by the OECD Council in May 2019) and the creation of the OECD.AI Policy Observatory (launched in February 2020), among others.
- Before that, Nobu has served in a wide range of senior functions within MIC-Japan since 1999, including the regulatory authority of telecommunications and broadcasting, as well as in the development of ICT strategies in Japan. Prior to the current appointment, Nobu served as the Secretariat for the Info-Communications Council within the Ministry and published recommendations for ICT policies toward 2030 and beyond (June 2022).