

# Public consultation

Fight against abuse

Graduated sanctions on  
registrars who do not fulfil  
their commitments regarding  
the fight against abuse

16 October to 24 November 2023

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# 1. Context

## 1.1. Public consultations on .fr projects

Afnic regularly consults the Internet community as a whole on any far-reaching projects concerning the .fr domain and the French overseas TLDs that it manages. The public consultations conducted so far have primarily dealt with the means used to combat abuse, but other topics have included the opening of registration to domain names with only 1 or 2 characters under .fr, the reform of ICANN, the supervision of the DNS root and the application of the GDPR.

More recently, Afnic consulted the Internet community on the implementation of a mediation procedure.

Today we launch a new public consultation in order to gather in the contributions of all interested parties on a new dimension of the fight against abuse, namely graduated sanctions to be imposed on registrars accredited for the distribution of .fr and French overseas domain names whose TLDs are managed by Afnic.

## 1.2. The .fr TLD and the fight against abuse

Since 2006 when the registration of .fr domain names was opened to private individuals, Afnic has been a pioneer in the fight against abuse, proposing a comprehensive approach involving prevention and monitoring of abuse, judicial and extra-judicial procedures, and specific services to the public authorities. These procedures are described in the **dispute management policy**, and **guides** are made available to domain name holders and rights holders to support them with their formalities.

By way of example, the verification of domain name holders' data [11,037 procedures opened from 2021 to July 2023] or the procedure for requesting disclosure to a rights holder of the personal data of private individual domain name holders [2,422 requests from 2021 to July 2023] are tried and trusted mechanisms that have been familiar to .fr users for several years.

In 2011, Afnic also launched an effective dispute resolution service, which has been adopted by rights holders and which involves little of the usual burdensome administration. Some 2,486 decisions have been handed down thanks to the legal expertise of Afnic's team, which is unique in France, regarding disputes linked to the .fr and French overseas TLDs, and the team is recognised internationally, even training WIPO experts on the subject.

Lastly, in 2021 Afnic made new commitments to the State regarding the fight against abuse and has already put in place a mediation procedure as an amicable means of resolving disputes as well as a mechanism for facilitating access to holders' registration data for public authorities with a right of communication.

The low rate of abuse in the .fr area is thanks to this active policy of combating abuse, which Afnic put in place from the outset. Thanks to the governing bodies of the association, it has thus been able to play a pioneering role in proposing dispute resolution solutions and in verifying data of .fr domain name holders. The procedures it makes available to rights holders and domain name holders are regularly praised for their quality and effectiveness.

### 1.3. Afnic's commitment in its Agreement with the State

This public consultation concerns the plan to impose graduated sanctions on registrars accredited for the distribution of domain names under the .fr, .re, .pm, .tf, .wf and .yt TLDs.

This project has been initiated in order to fulfil a commitment made by Afnic in the context of the agreement signed with the French State in its capacity as Registry Office for the national TLD, .fr.

The commitment made is worded as follows: "The registry undertakes, after consultation with the governing bodies of the association, to put in place a system of graduated sanctions against registrars that are insufficiently responsive to legitimate requests from public authorities and that have a significant percentage of registrations involved in cases of technical abuse or that do not take sufficient action following indications of cases of technical abuse (...)." - *Paragraph 9 of the Agreement: Fight against abuse (page 8)*

The aim is therefore to tighten the checks on accredited registrars' handling of cases of abuse detected in their portfolio of domain names and make sure that they take action against such abuse, by means of a series of measures that may go as far as withdrawal of accreditation in the event of refusal to comply or unsatisfactory results.

To this end, Afnic will transparently make available to its registrars a reference framework of good practices for managing abuse.

### 1.4. The stages in the "graduated sanctions" project

In accordance with the commitment made in the context of its Agreement with the State, Afnic has consulted the governing bodies of the association at every step of the project.

Thus it presented the project during the consultative committee meetings of 30 March 2023 and called for volunteers from among its members to contribute to Operational Working Groups examining the project.

These sessions took place in April and May 2023:

- On 21 April 2023 to define the methods for monitoring registrars and triggering the graduated sanctions procedure: indicators and thresholds for initial and repeat alerts
- On 12 May 2023 to define the procedure for applying graduated sanctions: types of sanction (fines, withdrawal of accreditation) / methods for applying sanctions (gradation and means)

Following these two sessions it was decided to add to the work done with members of the association by performing a test with the indicators identified, so as to allow a more finely calibrated setting of the procedure's trigger thresholds.

Based on this work, Afnic submitted a completed version of the project to consultation by its members at the consultative committee meetings of 5 October 2023. Opinions received were favourable.

## 2. Introduction of a reference framework of good practices for managing abuse

In December 2023, for application from January 2024, Afnic will make available to registrars a reference framework of good practices for abuse management. This document, which will form an integral part of the accredited registrars' registration contract, will describe:

### 2.1. The control indicators

The work carried out has allowed us to identify a set of indicators for monitoring the quality of the portfolio of domain names and of the actions taken by accredited registrars to combat abuse. We have been able to set thresholds for the indicators so that the application of sanctions will be triggered in a transparent manner.

#### Key indicators:

- **Technical abuse incidence rate**

The key indicator, which will be tracked monthly, is that of the rate of incidence of abuse in the registrar's portfolio of .fr domain names.

Each month, Afnic will use the data provided by databases that inventorise cases of technical abuse (spamming, phishing, malware, botnets, etc.) to establish the technical abuse incidence rate of each accredited registrar.

Thanks to the test carried out, the trigger threshold for the graduated sanctions described hereunder has been set at 0.24% of active domain names in the registrar's portfolio for the month considered.

This indicator will be provided monthly to each registrar, so as to ensure pro-active monitoring. The registrars will also receive a monthly list of domain names in their portfolio associated with cases of abuse reported in the various reference databases used by Afnic.

- **Level of response expected:**

- Lack of responsiveness in the replies to legitimate requests from the public authorities. Indicator established on the basis of declarations made by the public authorities to Afnic. The trigger threshold is set at one alert in the past month.
- Inadequate action following Afnic's alerts of cases of technical abuse. Cases of abuse for which alerts are issued must be taken in hand by registrars and processing reports sent to Afnic. Repeated failings in taking them in hand will trigger the procedure.

## Additional indicators:

These indicators correspond to the percentages of registrations posing problems in the registrar's portfolio of domain names, detected in the context of the procedures for combating abuse carried out by Afnic:

- Indicators of the reliability of registration data linked to the registrar's domain names:  
Verifications of holders' data processed by Afnic are subject to monitoring indicators, and particular note will be taken of those ending in the deletion of a domain name. An anomaly such as a large number of delete operations following verifications carried out on a registrar's portfolio will add to the group of indicators of inadequate combating of abuse on the part of that registrar.
- Indicators of abuse alerts concerning the registrar's domain names (examples: via the alert form made available by Afnic, digital requisitions made to Afnic, reports to Afnic of identity theft):  
An anomaly such as a large number of alerts received in respect of domain names belonging to a registrar's portfolio will add to the group of indicators of inadequate combating of abuse on the part of that registrar.
- Indicators of disputes regarding the registrar's domain names:  
The dispute resolution procedures (ADR: Syreli and PARL Experts) are subject to monitoring indicators, and particular note is taken of those ending in the deletion or compulsory transfer of a domain name. An anomaly such as a large number of delete and/or compulsory transfer operations in a registrar's portfolio following ADR procedures will add to the group of indicators of inadequate combating of abuse on the part of that registrar.



## 2.2. Good practices expected

Accredited registrars will be expected to participate actively in the fight against abuse.

They must strive to stay below the threshold established for the rate of incidences of abuse detected in a portfolio of domain names. The threshold may be reviewed in light of the averages and improvements observed.

The registrars must take charge of the lists of instances of abuse sent monthly by Afnic and issue processing reports to inform Afnic of the actions taken.

Concerning the reliability of the registration data of the registrar's domain names, active participation in the common system of data qualification will be key.

## 3. Graduated sanctions to be imposed on accredited registrars

### 3.1. The procedure for applying graduated sanctions

Depending on the seriousness of the failings detected in the checks on registrars, Afnic will initiate graduated sanctions, as provided in the registration contract between Afnic and each of the accredited registrars.

The routing envisaged in Article 24 of the registration contract is as follows:

#### 3.1.1. Remediation phase

If Afnic detects that any of the thresholds established for the control indicators has been exceeded and/or that there is anomaly in a group of indicators, it will inform the registrar of this by email.

The registrar will then have 72 hours in which to commit to resolving the failings observed, and then one week to deal with domain names reported for abuse and two months to return below the threshold exceeded (rate of incidences of abuse in the portfolio). Depending on the problems identified by Afnic, the registrar must provide an action plan for resolving them within 72 hours.

If the registrar has brought itself into compliance at the end of the term granted, Afnic will close the file.

### **3.1.2. Notice of default and application of financial sanctions phase**

If the remediation phase fails (no response within the time allowed or no improvements observed), Afnic will proceed to give formal notice of the failings detected and to require the registrar to regularise the situation within one month of receipt of the formal notice.

This formal notice will indicate that financial sanctions will be applied. Indeed, during this phase, any verification procedure that Afnic has to carry out on the registrar's portfolio and that leads to the deletion of domain names will be invoiced to the registrar at the rate of €100 per case plus tax.

Afnic will publish the fact that formal notice has been served on the registrar as a result of failings in the management of cases of abuse. In the event that the situation is regularised within the term granted, this too will be made public.

If the registrar has brought itself into compliance at the end of the term granted, Afnic will close the file.

### **3.1.3. Temporary suspension phase of the registrar's operations**

If the requirement to regularise phase does not lead to compliance, Afnic will proceed to temporarily suspend the registrar's operations (blocking of the account) for a maximum period of one month.

The temporary suspension of operations will be lifted once the registrar has brought its management of abuse into compliance.

### **3.1.4. Termination of the registrar's account and withdrawal of accreditation**

If the registrar fails to bring itself into compliance in the term granted, Afnic will proceed to terminate the registration contract for serious breach.

The termination of the registration contract shall be notified to the registrar by registered letter with acknowledgement of receipt, with 15 days' prior notice.

Afnic will publish the fact that the registrar's accreditation has been withdrawn on its website [afnic.fr](http://afnic.fr).

The registrar's entry in the directory of registrars on the afnic.fr website will also be removed from the start of the notice period.

In the event of repeated failings, specifically if Afnic has suspended operations on the registrar's account three times in any two-year period, Afnic will proceed to terminate the registration contract.

Following termination of contract, no new accreditation will be possible for that registrar for a period of three years.

## 4. Arrangements for the public consultation

### 4.1. Your contributions

You can forward your contributions and comments on these plans up until 24 November 2023 at the latest by connecting to the following address:

**<https://www.afnic.fr/en/observatory-and-resources/public-consultations/public-consultation-fight-against-abuse-graduated-sanctions/>**

In this form, you will be asked to provide certain elements of identification that will enable us to take better account of your contribution, which will be anonymised in the summary report that we will publish following this public consultation.

Lastly, if you would like to discuss the projects of the .fr domain in the fight against abuse in greater depth and to become a stakeholder in the search for and implementation of the solutions discussed in the consultative committees, we invite you to become an Afnic member: **<https://www.afnic.fr/en/become-an-afnic-member/>**