

Registrars' and Users' Consultative Committees

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Minutes 5 October 2023

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1. Attendees

Users

15 persons (6 in person and 9 remotely) representing 17 members of the college.

- BACHOLLET Sébastien, representing ISOC France
- BACHOLLET-JOLY Anne-Marie, representing Association E-seniors
- BOUTIGNON Antoine
- CHAUMONT Eugénie
- CHELLY David
- FITZJEAN O COBHTHAIGH Alexis
- LESVENAN David representing Association www.bzh
- LOUIS Benjamin
- MELLET Marc-Emmanuel, representing NOVAGRAAF
- NGUYEN François
- PAWLAK Nicolas
- PERPERE PAUL representing INPI
- PORTENEUVE Elisabeth
- SANSON Morgane representing Made in IP
- TAYER David-Irving

Registrars

21 persons (7 in person and 14 remotely) representing 17 members of the college.

- ALMIRON Sébastien representing NETIM
- BLAMEUSER Juliane representing MEYER & PARTENAIRES
- CANER Emma representing OVH Cloud
- DESSENS Emilie representing DOMAINOO
- DULAC Bernard, representing Dataxy
- DURIEUX Ludovic representing SAFEBRANDS

- ENGRAND Sophie, representing NORDNET
- FRANCK Philippe, representing DOMAINIUM
- FRANQUINET Arnaud, representing GANDI
- GEOFFROY Pierre, representing ONE2NET
- HUGLA Alexandre representing GANDI
- JARNO Benoit representing GANDI
- JEAN-GILLES Sophie, representing ORANGE
- JUNG Scott, representing NORDNET
- KORN Jennifer, representing ORDIPAT
- KUNTZ Anne, representing MEYER & PARTENAIRES
- MANCEC Gaël, representing GERMAIN MOREAU
- MICHOT Jean-Claude representing SCALEWAY
- POUSSARD Jean-François, representing SOLIDNAMES
- LANTONNET Eric, representing DIGITAL GROUP SERVICES
- WITTERSHEIM Arnaud, representing NAMESHIELD

Afnic

- AMPEAU Benoit, Partnerships and Innovations Director
- BATIFOULIER Caroline, R&D Partnerships and Projects Support Officer
- BONIS Pierre, CEO
- CANAC Sophie, Head of Associative Governance
- CASTEX Lucien, Representative for Public Affairs
- DAMILAVILLE Loic, Marketing & Business Development
- DAVOUST Clémence, Events Communication Manager
- GEORGELIN Marianne, Director, Legal and Registry Policy
- MASSÉ Régis, Director Information Systems
- PASSEREAU Mégane, Assistant to General Management
- TURBAT Emilie, Marketing and Commercial Director

2. Agenda

News update

Presentation of the points submitted for consultation in the context of the fight against abuse:

- Common system for the verification of holders' data
- Graduated sanctions on registrars who do not fulfil their commitments regarding the fight against abuse

Responses to questions raised by members

Separate consultative committee meetings followed by feedback

Information update and informal exchanges

Upcoming Afnic diary dates

Networking

3. Welcome and news update

Pierre Bonis and the co-chairs thanked members for their presence.

Sophie Canac ran through the day's agenda, which would be divided into a members' consultation phase and a phase for feedback of opinions and discussions.

News update

- The arrival of Gabrielle Apfelbaum as Communications Director, Afnic. She is also the founder of Barthélemy Conseil press relations agency.

- Appointment to the Board of Trustees (Founding members' College) of Isabelle Amaglio-Terrisse, representing the French Ministry for Industry. She contributes her interest, her commitment and her skills in terms of financial control and public bodies. She is also on the Commitment Committee to ensure the compliance of contracts and calls for tenders.
 - At the end of September the Board of Trustees seminar, dedicated to the Association's promise, took place in Versailles. Afnic has to work on the various ideas with a view to the Board of Trustees' meeting at the end of November which will deal with the strategic priorities so as to develop the Association's promise in 2024.
 - Launch of the third edition of the letter for the attention of public decision-makers. This letter is addressed to well-known persons (administrations, top managements of public or para-public enterprises, ministerial and parliamentary cabinets), and is also sent to members. Its purpose is to inform in advance and identify subjects and points of interest that may resonate with political or public discussions.
- If any members wish to raise themes or subjects to be addressed, they should not hesitate to let us know.
- Afnic participation in the NDD Camp 2023 at the beginning of September in Paris. This event is structured around domain names and related technical, legal and economic issues. The next camp will be held on 22 March 2024 in Strasbourg.
 - Following the satisfaction questionnaire sent to members, some of them indicated their wish to expand the area where the association's bodies meet, since this was sometimes considered too Paris-centred.
 - Pierre Bonis thanked members for their participation and involvement in the Legal Meetings that had taken place in mid-September, bringing together a considerable number of participants. These meetings had allowed members to benefit from the various fields of expertise of presenters Gael Mancec and Nicolas Pawlak.
 - As regards transposition of the NIS2 Directive, discussions had taken place in seminars and webinars and had highlighted the following points:

- ANSSI's readiness to understand and its close attention to the specificities of the DNS sector (a committee had been put in place to liaise with DNS actors).
- Afnic's mission is to find a way to express the sector's views strongly with regard to the transposition.
- In the next few days, ANSSI would be sending out a questionnaire aimed at ascertaining the extent to which each party understands its future obligations under a transposed NIS2 Directive.
- The current phase concerns understanding and is included within the NIS scope. The DNS sector is considered important and therefore all actors are included in the scope, regardless of the size of the registrars.
- An Extraordinary Consultative Committee meeting would probably be held on this subject.

- Finally, 2024 would be a year of elections. The term of office of the elected representatives on the Board of Trustees would be put to the vote.

2024 would also see Paris hosting the Olympic Games, which could interfere with events of the association.

4. Presentation of points submitted for consultation with members

4.1. Common system for the verification of holders' data

Reminder of the context: The fight against abuse

Commitment in the State-Afnic Agreement

In Article 9 of the Convention, the registry undertakes to strengthen the procedures for verifying holders' particulars, by integrating into its system for verifying the reachability and identity of holders the systems put in place directly by the registrars and drawing up terms of reference in consultation with them.

NIS2 – Article 28

The MEPs have approved the NIS2 Directive which aims to ensure a harmonised high common level of cybersecurity throughout the European Union by October 2024.

NIS2 contains obligations for TLD registries and registrars to collect domain name registration data and keep them accurately and completely in a specialised database.

Reminder of the context: Common system for the verification of holders' data

We already have procedures ensuring the quality of the data collected in the context of domain name registration, but not all registries have the same rules and practices.

The *Common system for the verification of holders' data* project must allow:

- existing procedures to be capitalised on and a common basis to be defined for verification procedures for holders' reachability and eligibility data;
- increases in the number of holders evaluated in the registry database.

Thus on 21 April and 12 May last, Afnic held workshops, with members of the association including accredited Registrars, with the aim of exchanging views on the procedures and solutions used and being able to comply with terms of reference with acceptable rules and principles, in consultation.

Questionnaire for our Registrars

Following these workshops, in order to continue and deepen our discussions, we asked our accredited registrars to respond to a questionnaire to allow us to obtain a clearer view of practices in the area of assessment of the particulars of holders of .fr domain names.

Here are the main results of this poll:

- Verification of reachability data:
 - 79% during the registration procedure
 - 21% after registration
- Verification of eligibility data:
 - 92% during the registration procedure
 - 8% after registration
- Status update in Reachstatus and Eligstatus:
 - 21% by EPP
 - 32% by extranet
 - 47% no update

Summary of exchanges between Registrars and Afnic on the common system

In the vast majority of cases it is carried out at the time of registration/creation of the domain name.

The Registrars say they regularly verify these data (once a year on average), assessing them on their own initiative and of course whenever Afnic launches a substantiation procedure.

Point for improvement: Sending of information to Afnic

The sending of information by means of updating the status in *Eligstatus* and *Reachstatus* is lamentably inadequate and underused.

It is this sending of information that we propose to strengthen in order to improve the number of holder contacts assessed in the .fr database

Next steps in project

Public consultation, objective

It will be open from Monday 16 October until 24 November 2023.

Fight against abuse, Common system for verifying holders' data has as its objective the putting in place of a common basis of procedures allowing the number of verified holders in the registry database to be increased.

Public consultation, subjects presented

Strengthen verification actions in the short term

For all new creations of holder contacts from 1 January 2024, the Registrar must send the eligibility tag and the reachability tag to Afnic within one month of its creation via the means at its disposal: EPP, Extranet, API.

Medium-term development of the common system

Propose ways in which the existing common system might evolve, based on means yet to be deployed (digital identities, trusted third parties, etc.)

The discussions and questions-and-answers between the members and Afnic allowed the following points to be clarified:

We have noted that the registrars that carry out the highest numbers of substantiations are not necessarily those with the biggest portfolios but often those with more specialised markets or registrars with smaller portfolios but with holders that are corporates or less “general public”.

Registrar members ask about their verification obligations, whether registration contracts will be amended and whether they will have to put in place documentation or attestations evidencing status.

- Afnic does not envisage checks on the means implemented by registrars, however Afnic may carry out verifications itself. If the tag does not match the substantiation, the registry will approach the registrar to discuss the subject.
- It is Afnic’s wish that registrars should strengthen their verification actions so as to be able to send the eligibility and reachability tags to the registry for each new holder contact created, within one month of its creation.
- The principle of the common system is to see how to capitalise together on the respective procedures already in place. In the spirit of Article 28 of the NIS2 Directive, the aim is not to collect too much information. The system is based on mutual trust between registrars and registry.

As regards the medium-term development of the common system (second subject presented for public consultation), members asked whether Afnic has any paths of improvement to propose. Indeed, practices have already been observed in other countries, for example allowing a holder to self-verify his particulars via an online portal.

4.1.2. Feedback from Registrars’ and Users’ Consultative Committees

4.1.2.a/ Users

Members of the Users’ College are broadly in favour of the implementation of this system. However, they draw attention to the following points:

- The 47% of registrars that do not send information are probably registrars that are not under contract with ICANN.
- What is the purpose of this information? Why does Afnic need it? Some members thought the information was already sent automatically.
- The general opinion of Users is that Afnic must help the smallest registrars that have not yet moved to EPP.
- The date on which the system comes into force – 1 January 2024 – seems too soon.

The Users' Committee would have liked to have another meeting following the results of the public consultation in order to generalise the system to be implemented.

4.1.2.b/ Registrars

Registrar members were not opposed to the introduction of this system but raised the following points:

- Do both statuses (Reachstatus and Eligstatus) really have to be systematically updated? For the whole portfolio? In what time-frame?
- Does this verification have to be carried out after every operation?
- What impact does a change of holder have on the reachability status?
- What do we do if the client doesn't respond to emails or answer the telephone if his data have not been amended? And what if the holder cannot be reached?

Afnic responded in part to the committees' questions and observations and said it would study the rest later.

- This system allows us to identify holder contacts that have been subjected to a data and eligibility verification procedure by registrars. Afnic needs this information in order to give a fairer and more accurate view of the Whois data. Afnic will accompany the smallest registrars to EPP and also to APIs to allow them to automate the sending of statuses.
- Through the public consultation, Afnic proposes that the verification be carried out for each new creation of a holder contact within one month of its creation.

- At the request of Users that the subject of these arrangements be discussed in light of the results of the public consultation, it has been confirmed that this will indeed be on the agenda of the next meeting of the Board of Trustees, which will be before the system comes into force on 1 January 2024. These various subjects will also be discussed in a meeting of the Registry Policies Committee.
- If the address is different from that shown in Whois, the holder must update it, otherwise he will be considered unreachable. Some registrars send their holders annual requests to confirm or update their data.
- If a holder is unreachable, the registrar must leave the status blank. Afnic will then get back to the registrars in question in order to agree on what to do about these missing tags. A possible consequence of a holders' non-reachability is having his domain names suspended.
- As regards orphan domain names, Afnic will revert to members on the occasion of the next Consultative Committee meetings to propose solutions.

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

Reminder of the context

Commitment in the State-Afnic Agreement

In Article 9, 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 (...).

A commitment to fight abuse

Objectives of the project:

To bring about an ever more reliable .FR area thanks to a more proactive and reactive distribution network serving the trust of users of the .fr domain:

- Preventing the proliferation of abuse in the .FR domain
- Putting a faster and more effective stop to online abuse
- Offering an increasingly high-quality distribution network

Roadmap:

- April – September 2023: Concept workshops
- October 2023: Consultative committee meetings
- October 2023: Public consultation
- October – November 2023: Feedback from the consultation
- November 2023: Finalisation of the procedure and updating of contractual documents
- January 2024: Implementation of the procedure

Design:

- Definition of the methods for monitoring registrars and triggering the procedure: indicators and thresholds for initial and/or repeat alerts
- Definition of the procedure for applying graduated sanctions: types of sanction (fines, withdrawal of accreditation) / methods for applying sanctions (gradation and means)

Consultation of stakeholders:

- OWGs with Afnic members
- Consultative committee meetings with Afnic members

- Public consultation during October (16 October 2023)

Results of the design work: monitoring indicators:

Threshold: 0.24% – A key indicator, the rate of abusive incidents in registrars' portfolios:

The rate and the list of abusive incidents detected will be provided to the registrars every month to allow them to combat abuse.

Repeated alerts and failings – Indicators of actions taken by registrars:

- Evaluation of reactivity in responses to legitimate requests of public authorities:
trigger threshold = one alert by a public authority in the month
- Evaluation of reactivity following alerts of incidents of technical abuse by Afnic:
registrars must take charge of incidents reported and send processing reports to Afnic. Repeated failure to take charge of incidents will trigger the procedure

Body of evidence – Complementary indicators constituting a body of evidence:

- Indicators of the reliability of registration data linked to the registrar's domain names: set of indicators on substantiation procedures leading to deletion of domain names
- Indicators of disputes (ADR) regarding the registrar's domain names leading to delete or compulsory transfer operations:
- Indicators of alerts, digital injunctions and identity theft

Results of the design work: graduated sanctions:

72 hours for actions plans – Remediation phase

If an indicator threshold is passed and/or an anomaly detected, the registrar is contacted by Afnic. The registrar will then have 72 hours in which to commit to resolving the failings observed and submit an action plan for dealing with domain names reported for abuse

within one week and returning below the threshold exceeded (rate of incidences of abuse in the portfolio) within two months.

One month in which to regularise – Phase of notice of default and application of financial sanctions:

The registrar is notified of the failings detected and served formal notice to regularise the situation within one month. During this phase, any substantiation procedure that Afnic has to carry out on the registrar's portfolio will be invoiced to the registrar at the rate of €100 per case.

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.

One month maximum in which to regularise – Phase of temporary suspension of the registrar's operations

Afnic temporarily suspends the registrar's operations (account blocked) for a maximum period of one month. The account will be unblocked only once the registrar has brought its management of abuse into compliance.

15 days prior notice – Phase of termination of the registration contract and withdrawal of accreditation:

The termination of the registration contract will be notified to the registrar with 15 days' prior notice. Afnic publishes the information on withdrawal of accreditation; removal from the directory of registrars takes effect from the beginning of the prior notice period.

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

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.

Graduated sanction documents

Reference framework of good practices for managing abuse:

- Description of control indicators and their thresholds or use in bodies of evidence to describe failings in dealing with abuse.
- Descriptions of expected actions for dealing with abuse
- Description of the procedure for applying graduated sanctions

The registration contract of accredited registrars:

- Updating of the registration contract for 2024 with introduction

The discussions and questions-and-answers between the members and Afnic allowed the following points to be clarified:

Members wonder whether the threshold is the same regardless of the size of the registrar

- The threshold is a rate, the same for every registrar regardless of the size of its portfolio.

Members raise the subject of the future of the domain names of a portfolio if the registrar's accreditation is withdrawn for default following the various phases of the graduated sanctions.

- There are two possible scenarios:
 - either the registrar has anticipated the withdrawal of accreditation and the domain names have been migrated to another accredited registrar;
 - or the registrar has not anticipated it, in which case the classic procedure for orphan domain names applies. Afnic will contact the holders to provide them with their AuthInfo and will offer them a list of registrars for them to choose a new one. During this orphan domain procedure, the renewal of domain names is not blocked (paid for by the registrar). However the blocking of the Registrar's account prevents any write operations or DNS operations. The holder can

request temporary unblocking (in order to bring himself into conformity) but this requires authorisation by Afnic.

Members have asked whether there was any provision for a communication to holders to inform them of what was going on with the registrars.

- At present, in the context of the procedure for orphan domain names, holders are informed as soon as the registrar's contract is terminated.

We would have to remain attentive to the possible side effects of these arrangements and rules, which will be amended if necessary. This is the start – the implementation of rules that seem pertinent but that will have to be assessed and if necessary improved. The aim being to reduce instances of abuse but not the number of registrars.

- The objective of the graduated sanctions is to improve the basic quality and allow registrars who sometimes do not see the problem to react to cases of abuse. The phases of remediation carried out over the past few years have been successful thanks to the strong collaboration between registry and registrars.

It was asked whether other ccTLDs had made use of graduated sanctions.

- Yes, the .ai TLD has put in place graduated financial sanctions. Graduated sanctions probably already exist in various registries. However, sanctions linked to the fight against abuse (as opposed to non-compliance with financial clauses) is a recent phenomenon that has not been much developed.

The question of the date of entry into force of these systems was raised. Does it depend on a fixed date in the context of the transposition of the NIS2 Directive?

- The date of entry into force of these systems is set at 1 January 2024. It is linked not to the date of entry into force of the NIS2 Directive but rather to Afnic's contractual commitments to the French State. It is also a way for Afnic to provide notification of new contractual features. Afnic and its members wished to anticipate with these systems bearing in mind the obligations expected, rather than having rules inconveniently imposed.

- The .fr TLD is a zone of trust, constructed with members on the basis of models that reinforce the basic quality without affecting the ease of registration.
- Withdrawal of a registrar's accreditation is the subject of publication, but so is its regularisation (bringing into compliance).

4.2.2. Feedback from Registrars' and Users' Consultative Committees

4.2.2.a/ Users

User members are broadly in favour of Afnic's managing this subject, since registrars are not necessarily in a position to do so. However they raise the following points:

- The main question arising from the Users' Committee is: if a registrar's accreditation is withdrawn, does Afnic have bona fide solutions for the orphaned domain names?
- Is it really Afnic's role to go ever further in checking domain names, the internet, etc.?
- Several members considered that the threshold was very low (very demanding).
- Several members would welcome the possibility of participating in working groups on patterns/NIC handles.

4.2.2.b/ Registrars

Registrar members were broadly in favour of the introduction of graduated sanctions but raised the following questions:

- Will it be possible to envisage a review after an observation period? (say six months)
- When does the period start?
- Where will the threshold be posted? Will it be posted for everyone to see?
- Concerning the 72-hour remediation phase. Is that counted in working days?
- Is it possible to share with the registrars the weak signals of overall portfolio patterns?
- What happens after the 72-hour action period?

- Members indicate their concerns as to the €100 cost of the substantiation procedures launched by Afnic. Without a limit being fixed, this could prove very costly
- Will it be possible to track one's abuse rate?
- In the case of alerts for monitoring the rate of abuse, it would be preferable to have a specific email to avoid its being swamped by other emails.

Afnic responded in part to the committees' questions and observations and said it would study the rest later.

- As regards orphan domain names, Afnic would revert to members on the occasion of the next Consultative Committee meetings. In any case, systems were already in place - Afnic contacts the holder in question to propose solutions allowing him to find a new registrar, without this affecting the associated services.
- Furthermore, it was important to distinguish hosting of the domain name from registry operations. The registrar hosts domain names on a name server. If this is properly configured, the domain name is not affected.
- Since it has a public service mission - managing the .fr TLD, Afnic must honour its commitments, and to do so it must fulfil its obligations as regards the regulatory and legal framework. Afnic therefore strives to assist registrars, with an approach based on continuous improvement towards a safe, stable and trustworthy .FR zone.
- As a reminder, what we propose in the public consultation does not entail any amendment to the Naming Policy. The systems can of course be updated on the basis of members' feedback. These are initial Test and Learn versions, subject to change.
- The 72-hour remediation phase is based on the existing time in the registration contract for a registrar to respond to a request. The 72-hour remediation phase is equal to three working days.
- It is absolutely possible to share statistics with registrars, but not patterns.

- The threshold will be entered in the reference framework of good practices, which may also be reviewed and updated.
- Every month, the registrars will receive, in the form of an email (to be confirmed), their respective indicators relative to a fixed threshold, and the list of domain names for which technical instances of abuse have been detected.
- Concerning the €100 charge for Afnic's substantiation procedures, it will not be humanly or technically possible to launch a very large number of substantiations, so there is little risk for the registrars. Besides, the registrars have the upstream remediation phase of a possible invoicing to act on domain names involved in abuse.

5. Points of information and discussion items with members

5.1. Members' questions

Questions and subjects of discussion raised by Registrar members

Affordable charge for SYRELI procedure: why so cheap and not at the level of other extra-judicial procedures (e.g. UDRP costs \$1,500)?

- There is no review clause for the SYRELI tariff in the Convention between Afnic and the State. It is Afnic's decision to offer an affordable tariff to make it accessible to all.

Term "subject to prior examination": need to know more and why not do away with it?

- It exists but is very little used. For the names of communes, the database is updated every year. For the rest, it is rather a matter of a list from the past that has somehow survived but is no longer part of Afnic's active policies.

Afnic's position on registrars that offer or might offer their customers' expired domain names for sale or rent.

- This is not possible. As soon as a domain name expires, it re-enters the public domain and is therefore available to all.
- The registrar is an intermediary between the registry and the client, so it must not take advantage of its situation to appropriate a domain name.
- If the registrar recovers the domain name before its expiry, it prevents other registrars from recovering it.

Afnic's position on indicating .fr domain names for sale, as EURid does, to stimulate the secondary domain name market.

- If there is an EPP status, there is no reason to refuse it. However, if there is no EPP status, there is no reason to do it since it is simply a mention in Whois. The secondary market is important but it is not a core concern of a registry office.

Monitoring of SQUAW in the event of dysfunction

- This question does not relate to a subject for the Consultative Committee meetings, but to customer feedback. If there is a dysfunction, the support must be addressed through the sales channel.

Why do European registries, which are all subject to the same regulations, not operate together with a single process for the substantiation of ccTLDs in the context of the NIS2 Directive?

- The registrars sell several TLDs. Harmonisation cannot function generally since the country contexts are different from one to the other.
- Afnic intends to have common procedures but each country must transpose according to its legislation.

Reflection on the implementation of an ad hoc procedure which, while not allowing “domain tasting”, would allow registrars to obtain reimbursement in cases where domain names have been registered without the consent of their clients and for which the registrar has therefore not been paid.

- Afnic sees this as a highly operational request for a specific case. It reminds members that there is a channel for discussion and classic reporting in the context of their contractual relations with Afnic and that it is this channel that must be used for dealing with this kind of request.

5.2. Exchanges

Members asked whether it would be possible to have a recap/follow-up of the previous Consultative Committee meeting at the beginning of each committee meeting.

Pierre Bonis confirmed that he will give a follow-up of the previous Consultative Committee meeting at the beginning of the session.

Concerning patterns of abuse, there had been a request as to whether there was any possibility of taking part in working groups relating to this subject.

This will have to be discussed internally once again with a view to perhaps putting in place a voluntary action follow-up group rather than a working group. This requires time and budget but could be envisaged as part of the implementation of the development strategy of the Association’s promise.

6. Upcoming diary dates

Tuesday 17 October 2023: webinar *Market trends in domain names*, presented by Loïc Damilaville

9 November 2023, webinar *Report on international bodies*, presented by Lucien Castex

Members voted for the choice of date by a show of hands – Date selected: 9 November –
Time t.b.c.

Wednesday 25 October 2023, French Night in Hamburg.

Pierre Bonis thanked all members present both physically and online for their
participation.