

Annex 4: Repository of best practices for managing abuse and applying graduated sanctions



Management of the .fr TLD and the French overseas TLDs, .pm, .re, .tf, .yt and .wf

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1. Introduction

1.1. Context

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.

In 2022 Afnic made new commitments to the French 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.

In this context, Afnic also undertook to **put in place graduated sanctions imposed on registrars** accredited for the distribution of domain names under the .fr, .re, .pm, .tf, .wf and .yt TLDs.

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 outline these measures, Afnic is providing its registrars, in complete transparency, with a reference framework of good practices for managing abuse and application of graduated sanctions.

1.2. Definition of the reference framework of good practices

In accordance with the provisions of the registration contract, the registrar undertakes to comply with the legal and regulatory provisions relating to naming as well as all documents of any kind drawn up by Afnic and notably, the **Naming Policy**, the **Accreditation Policy** and the Repository of best practices adopted by Afnic.

This Repository of best practices for managing abuse and applying graduated sanctions is therefore a reflection of Afnic's desire to provide a contractual framework document that sets out the practices expected from registrars in terms of the fight against abuse and the sanctions that may be applied.

1.3. Responsibilities of holders of .fr and French overseas TLDs

The Naming Policy states that all natural persons residing and all legal persons having their registered office or main place of business in one of the Member States of the European Union (as well as Iceland, Liechtenstein, Norway and Sweden) may request the registration or renewal of a domain name.

It also specifies that the domain name holder and the administrative contact must be reachable and, to this end, must provide details of and keep in working order a telephone number and email address, as well as accurate information to establish their identities.

Pursuant to the French Postal and Electronic Communications Code (CPCE), the Naming Policy recalls that domain names are registered and renewed on the basis of statements made by the applicant and under said applicant's responsibility. The same applies to the use and exploitation of a domain name, which is the sole responsibility of its holder.

In this respect, Article L. 45-2 of the CPCE states that registration or renewal of a domain name must not be:

- 1° Liable to disrupt public order or morality, or the rights guaranteed by the French Constitution or French law;
- 2° Liable to infringe intellectual property rights or personal rights, unless the Claimant provides proof of a legitimate interest and is acting in good faith;
- 3° Identical or related to that of the French Republic, of a local authority or group of local authorities, of an institution or a local or national public service, unless the Claimant provides proof of a legitimate interest and is acting in good faith.

1.4. Reminder of the role and obligations of accredited registrars

With regard to the role and obligations of the registrars, the Naming Policy and the registration contract state, among other things:

- that the registrar accredited by Afnic acts as an intermediary between the claimant or holder and Afnic;
- that it is solely responsible for the relationship it has with its customers and for fulfilling requests and ensuring the proper execution of checks sent to it by Afnic;
- that it undertakes to respond to requests from Afnic within a maximum of 72 hours (reduced to 48 hours in case of emergency substantiated by Afnic in its request);
- and that it has an obligation to inform its customers of the legal and regulatory provisions as well as the terms of the Naming Policy and that, to this end, it undertakes notably to inform its customers of the obligations in terms of eligibility, their rights and obligations as domain name holder, their responsibilities regarding the choice of domain name and notably the obligation to comply with the rules set by the French Postal and Electronic Communications Code and regarding the need to provide precise identification data.

2. The control indicators

To allow registrars to handle the instances of abuse detected in their portfolio of domain names and to take action against such abuse, Afnic has implemented control indicators.

These indicators for monitoring the quality of the portfolio of domain names and of the actions taken by accredited registrars to combat abuse have been established in consultation with the registrars.

2.1. Technical abuse incidence rate

The key indicator, 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.

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.

2.2. 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.

2.3. 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:
 - The verification procedures concerning holders' data processed by Afnic (Article 3.2 of the Naming Policy) 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 verification procedures 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.

- Particular attention will be paid to verification procedures performed on domain names declared as verified by the registrar within the framework of the federated data verification system for verifying holder's data.
- 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 Expert) are subject to monitoring indicators, and particular note is taken of those ending in the deletion or compulsory transfer (enforced change of registrant) of a domain name. An anomaly such as a large number of delete and/or compulsory transfer (enforced change of registrant) 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.

3. Good practices expected

Accredited registrars actively participate in the fight against abuse and in this context undertake 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.
- take charge of the lists of instances of abuse sent monthly by Afnic and issue, at the latest one (1) month after receipt of these lists, processing reports to inform Afnic of the actions taken.
- actively participate in the federated data verification system for the verification of data to guarantee the reliability of the registration data of the registrar's domain name.

4. The procedure for applying graduated sanctions against accredited registrars

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 (Article 24 of the registration contract).

4.1. 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 (Article 7.1 of the registration contract) 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).
- provide an action plan for resolving the failings observed.

If the registrar has brought itself into compliance at the end of the term set in its action plan, Afnic will close the file.

4.2. 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 (1) month of receipt of the formal notice (Article 24 of the registration contract).

In this formal notice it will specify that a fixed rate charge is applied (Article 24 of the registration contract). During this phase, any verification operation initiated by

Afnic 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 reserves the right to 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.

4.3. 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 (1) month (Article 24 of the registration contract).

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

4.4. 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 (Article 25 of the registration contract).

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

Afnic will publish the fact that the registrar's accreditation has been withdrawn on its website www.afnic.fr.

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

In the event of repeated failings, if Afnic has suspended operations on the registrar's account at least three (3) times in any two (2)-year period, it 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 (3) years.