



ELECTRONIC FRONTIER FOUNDATION

Protecting Rights and Promoting Freedom on the Electronic Frontier

June 12, 2015

Krista Papac
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
USA

Dear Ms Papac,

Extension of Uniform Rapid Suspension (URS) to .Travel Domain

The Electronic Frontier Foundation is the leading nonprofit organization defending civil liberties in the digital world. Founded in 1990, EFF champions user privacy, free expression, and innovation through impact litigation, policy analysis, grassroots activism, and technology development. We work to ensure that rights and freedoms are enhanced and protected as our use of technology grows.

We write to provide our comments on the proposed agreement for renewal of the 2005 Registry Agreement for .travel, which contains significant revisions to the original terms. Most notable amongst these is a new requirement for a Uniform Rapid Suspension (URS) process, originally developed for the new gTLD program, that would streamline the suspension of domain names that a third party alleges infringe its rights.

The introduction of the URS, in response to a 2009 recommendation from the new gTLD program's Implementation Recommendation Team (IRT), was characterized (however dubiously) as an implementation detail of the new gTLD program. Despite the fact that, in effect, it has largely displaced the existing UDRP system for the new gTLDs, this characterization enabled it to bypass the full Policy Development Process (PDP) that would otherwise be required for such a major policy change.

The URS never became a consensus policy that would be applicable across all gTLDs. Neither is it likely that such a consensus could be achieved, given that the lesser due process rights that the URS affords to registrants, leading to a higher risk of arbitrary domain suspension. Further, the policy provides no monetary sanctions against URS abuse to discourage the use of the URS to practice what amounts to censorship of domains, and more importantly, of the content hosted at those domains.

If the URS is to be extended to legacy domains such as .travel, this would place many further domains at risk of rapid suspension, which raises significant free speech concerns. It would also set a bad precedent for the extension of the URS to other legacy domains such as .com, .net and .org as their registries' contracts come up for renewal.

815 Eddy Street • San Francisco, CA 94109 USA

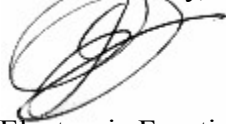
voice +1 415 436 9333 *fax* +1 415 436 9993 *web* www.eff.org *email* information@eff.org

We note the remarks of the Committee of Ministers of the Council of Europe, given on June 3, 2015, when they relevantly stated:

Measures to prohibit the use by the public of certain words or characters in domain names and name strings may raise issues under Articles 10 and 11 of the European Convention on Human Rights. Expressions contained in the names of websites, such as domain names and name strings, can be construed as forms of expression that are used to identify and describe content, to disseminate a particular point of view, or to create spaces for communication, interaction, assembly and association for various societal groups or communities. In pursuing its commitment to act in the general public interest, ICANN should ensure that, when defining access to the use of top-level domains (TLDs), an appropriate balance is struck between economic interests and other objectives of common interest, such as pluralism, cultural and linguistic diversity and respect for the special needs of vulnerable groups and communities.¹

In conclusion, ICANN should not apply URS to the .travel domain, or to any additional domains, by the unaccountable means of staff inserting new conditions into the renewal of the registry operator's contract. Rather, the public policy implications of such a move demand that a full PDP be undertaken first. Should ICANN undertake such a process, we will have more to say about the undesirability of extending this unbalanced program.

Yours faithfully,



Electronic Frontier Foundation
per Jeremy Malcolm
Senior Global Policy Analyst

¹ See <https://wcd.coe.int/ViewDoc.jsp?Ref=Decl%2803.06.2015%292>.