

H. Expanded usTLD Registrars Contracts

NeuStar has established standard agreements with usTLD Accredited Registrars for the expanded space that provide the accountability and administrative certainty necessary to maintain the integrity and stability of the usTLD space.

In addition to the technical risks of transitioning of the usTLD to a successor provider, there is an administrative and legal risk in requiring a successor administrator to establish contractual relationships with each of the existing providers of registrar services for the expanded usTLD space. As the incumbent usTLD Administrator, NeuStar already has existing contractual relationships with the usTLD Accredited Registrars that establish clear and comprehensive parameters for the management of the enhanced usTLD space, as well as sets basic requirements and obligations binding on NeuStar, as the usTLD Administrator, and the Registrars. In addition, because the usTLD Administrator does not have a direct contractual arrangement with the registrants, these contracts include “flow through obligations”, such as the Nexus requirement, the obligation to provide accurate up-to-date WHOIS data, and the requirement that Registrars enforce in contracts with registrants. These legal relationships provide the accountability and administrative certainty necessary to maintain the stable operation of the usTLD.

The two agreements that are required to be executed by all usTLD registrars for the expanded usTLD registrars are the (1) usTLD Accreditation Agreement v. 2.0 and (2) the usTLD Administrator-Registrar Agreement. Each of these agreements are vital to ensure the minimum technical, operational and financial requirements for a registrar to be accredited to sell .us domain names and to ensure that Registrars follow and pass through all of the policies, obligations and requirements of the usTLD. Copies of these agreements can be found at <http://neustar.us/registrars.index.html> and in Appendix E of this document.

As a registry operator of multiple gTLDs and the usTLD, NeuStar is aware that any changes to existing contracts with Registrars, no matter how seemingly minor or trivial, can cause great confusion and disruption to the service provided to registrants and utilizes support resources at the registry. Thus, one should not propose changes to these agreements half-heartedly. Such changes should only be implemented if they serve the public interest and truly enhance the usTLD. It is for this reason that we are not proposing any changes to the usTLD Accreditation Agreement and only one change to the usTLD Administrator-Registrar Agreement to improve the security and stability of the usTLD.

Highlights

- **Agreements require a pass-through of all usTLD policies through the registrars to the ultimate registrants.**
- **Agreements require vigorous enforcement of the WHOIS, Nexus and other key policies.**
- **Agreements require NeuStar to adhere to the strictest performance standards in the industry.**
- **Proposed modifications expressly allow for the takedown of abusive domain name registrations**

In our Proposal, NeuStar has proposed a number of new policy and technical initiatives. In the event that any or all of these new initiatives are approved by the DoC, then further changes to one or both of these agreements may be necessary to implement the new programs.

1. usTLD Accreditation Agreement v. 2.0

The first agreement, the usTLD Accreditation Agreement establishes minimum criteria, requirements, and obligations that all registrars have in the expanded usTLD space, including kids.us. However, the original version of the usTLD Accreditation Agreement used by NeuStar for the launch of the expanded usTLD space did not contemplate registrations in the third-level, such as the kids.us second-level domain. In order to accommodate registrations in the third-level, and allow new public interest spaces like kids.us (or any third level introduced in the future) to exist, NeuStar developed a revised usTLD Accreditation Agreement which had the flexibility to accommodate such new spaces (without having to sign completely new agreements in the future).

The usTLD Accreditation Agreement was amended a second time in early 2005 to insert a new Section 3.7.7.4 that clarified and made more explicit the prohibition on anonymous or proxy registrations. The amendment provided: "neither registrar nor any of its resellers, affiliates, partners and/or contractors shall be permitted to offer anonymous or proxy domain name registration services which prevent the Registry from having and displaying the true and accurate data elements . . . for any registered name". See Proposal Section J-4. The usTLD Accreditation Agreement v. 2.0 is included in Appendix E-1.

2. usTLD Administrator-Registrar Agreement

The usTLD Administrator-Registrar Agreement is a second agreement that must be executed by each Registrar in the enhanced usTLD space prior to the Registrar engaging in performing services for the usTLD. More specifically, the usTLD Administrator-Registrar Agreement requires the Registrar to comply with, and to include in its agreement with individual registrants, all the substantive requirements of the usTLD Contract. This includes passing through the requirements relating to WHOIS, Nexus, Registration Restrictions and the usDRP. In return, NeuStar grants the usTLD Registrar secure access to the registry system, providing high levels of stability, reliability, and security. We commit to the industry's highest performance specifications and support obligations and we do so in a non-discriminatory process which ensures each Registrar has equivalent access to the usTLD registry system.

There are only two changes that we propose to the usTLD Administrator-Registrar Agreement at this time. A copy of the usTLD Administrator-Registrar Agreement can be found at Appendix E-2. The first change would remove the usTLD Policy Council (as described in Proposal Section L). This would entail modifying Section, 2.7 and 3.10.2 as follows:

- 2.7. **DoC/usTLD Administrator Requirements.** The usTLD Administrator's obligations hereunder are subject to modification at any time as the result of DoC-mandated requirements and NeuStar policies developed by usTLD Administrator ~~through its United States Policy Advisory Council ("usTLD Policy Council" or "Council")~~ from time to time. Notwithstanding anything in this Agreement to the contrary, Registrar

shall comply with any such requirements or policies in accordance with the stated timelines.

- 3.10.2. Operational standards, policies, procedures, and practices for the usTLD as set forth in the usTLD Agreement, the ccTLD Agreement, and as established from time to time by usTLD Administrator ~~and/or the Council~~ in a non-arbitrary manner and applicable to all registrars generally, and consistent with DoC's standards, policies, procedures, and practices. Among usTLD Administrator's current operational standards, policies, procedures, and practices are those set forth in Exhibit E. Additional or revised usTLD Administrator operational standards, policies, procedures, and practices for the usTLD shall be effective upon thirty (30) days notice by usTLD Administrator to Registrar.

The second proposed change is in Exhibit E, Section IV, by adding a new subsection (6) which explicitly grants the usTLD Administrator the right to deny, cancel, or transfer any registration that it deems necessary in its discretion to prevent the use of a domain name used for the submission of unsolicited bulk e-mail, phishing pharming, malware, bot-nets or other abusive or fraudulent purposes. Although technically, we do perform "take downs" of domain names that are used for these purposes under subsection (1) ("to protect the integrity and stability of the registry") as set forth in Proposal Section B, Exhibit C, C.4.1.v.g. We believe there is value in explicitly stating this in the agreement. The proposed new section reads:

IV. Reservation

The usTLD Administrator reserves the right to deny, cancel or transfer any registration that it deems necessary, in its discretion; (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of usTLD Administrator, as well as its affiliates, subsidiaries, officers, directors, representatives, employees, and stockholders; (4) for violations of this Agreement (including its Exhibits); ~~or~~ (5) to correct mistakes made by usTLD Administrator or any registrar in connection with a domain name registration or (6) to prevent the use of a domain name for used for the submission of unsolicited bulk e-mail, phishing, pharming, malware, bot-nets or other abuse or fraudulent purposes. usTLD Administrator also reserves the right to freeze a domain name during resolution of a dispute. (*emphasis added*)