
Complaints Handling Policy

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Complaints Handling Policy

1. Interpretation and Definitions

- 1.1. Except where expressly provided otherwise in this Policy, all terms used in this Policy, and defined in the .aeDA's Common Definition Policy (as amended from time to time) will carry the meaning ascribed to them in that Common Definition Policy.
- 1.2. Except where the context otherwise requires, the following principles will apply in interpreting the terms and words used in this Policy:
 - a) words importing the masculine, feminine or neuter gender include any of them, and the singular includes the plural and vice versa;
 - b) clause or section headings are for ease of reference only and do not affect the meaning of this Policy;
 - c) references to notice mean notice in writing;
 - d) the Schedules and any appendices or annexures form part of this Policy;
 - e) a reference to a Party includes its executors, administrators, successors and permitted assigns; and
 - f) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments, governmental and local authorities and agencies.

2. Purpose

The purpose of this Policy is to define the procedure for complaints handling in the .ae ccTLD.

- 2.1. Registrars are required to enter into a legally binding Registry-Registrar Agreement with the .aeDA.
- 2.2. Registrars are required to have appropriate complaints handling policies as part of their Registry-Registrar Agreement with the .aeDA.
- 2.3. The Policy rules governing the Eligibility Requirements for the .ae Domain are set out in the Domain Name Eligibility Policy.
- 2.4. The Policy rules governing the Reserved Names List are set out in the Reserved Names Policy.
- 2.5. In disputes concerning in a Registrant's continued Eligibility for a particular Domain Name Licence, it is the intention of the .aeDA that Registrants should be given reasonable opportunity to ensure that their Registrant Data in the Registry Database, including their ability to meet Eligibility Requirements are up to date, before any action is taken by a Registrar with respect to that Domain Name Licence.

- 2.6. Further disputes may be resolved by the commencement of the .ae Dispute Resolution Process as outlined in the .ae Dispute Resolution Policy.

3. Types of complaints

3.1. Domain Name Eligibility

The .aeDA's authority to handle complaints with respect to Registrars and Resellers is limited to matters relating to the allocation and management of a Domain Name in the .ae ccTLD. This includes complaints about:

- 3.1.1. the Registration of a Domain Name;
- 3.1.2. the Renewal of a Domain Name;
- 3.1.3. the transfer of the Sponsorship of Domain Name from one Registrar to another Registrar;
- 3.1.4. the transfer of a Domain Name Licence to another Registrant; and
- 3.1.5. possible breaches of the Registry-Registrar Agreement, or any .aeDA Policy.

3.2. Contents of the Reserved Names List

The .aeDA's authority to handle complaints about Domain Names, words or phrases which should be on the Reserved Names List is limited to:

- 3.2.1. determining the correct authority to decide if the Domain Name, word or phrase should be added to the Reserved Name List;
- 3.2.2. adding the Domain Name, word or phrase to the Reserved Name List if it is determined that the Domain Name, word or phrase should be added to the Reserved Name List; and
- 3.2.3. removing the Domain Name, word or phrase from the Reserved Name List if it is determined that the Domain Name, word or phrase should not be on the Reserved Name List.

3.3. Website content

- 3.3.1. Complaints regarding objectionable or offensive website content should be directed in the first instance to the relevant department of the Telecommunications Regulatory Authority;
- 3.3.2. Should the .aeDA receive a complaint of this nature the .aeDA will refer the complaint to the relevant department of the Telecommunications Regulatory Authority.

3.4. Other complaints

This Policy does not deal with complaints about:

- 3.4.1. the underlying validity of the Registrant's Eligibility, such as whether the Registrant is actually operating a business under their registered business name. These should be taken up with the relevant Government authority, such as the Ministry of Justice or Ministry of Finance and Industry; or
- 3.4.2. a Registrant's use of their Domain Name, where for example the Domain Name violates or infringes on the rights of another party, such as trade mark rights. These may be handled under the .ae Dispute Resolution Policy, or alternatively the complainant should seek legal advice.

The .aeDA does not have the jurisdiction to handle complaints about:

- 3.4.3. gTLDs (for example: .com, .net, .biz, .info, etc) or other ccTLD other than .ae ccTLD (for example: .nz, .uk, .us, etc);
- 3.4.4. Internet access or email services;
- 3.4.5. web hosting, web site management or web site design services;
- 3.4.6. objectionable or offensive web site content (such complaints will be handled by other departments of the TRA), and
- 3.4.7. possible breaches of the law or regulations in force from time to time in the UAE.

4. Process for lodging a complaint

- 4.1. In the first instance, all complaints should be made directly to the Registrar of Record (the Registrar by whom the Domain Names were Registered or Renewed) as found on the publicly available Whois Service. The Registrar will then either:
 - 4.1.1. if the complaint is regarding a Domain Name, word or phrase which is on the Reserved Names List, or meets the criteria set out in the Reserved Names Policy, the Registrar will immediately report the complaint to the .aeDA;
 - 4.1.2. if the complaint is regarding the Eligibility of an Applicant or Registrant, then the Registrar will follow the process as outlined in Section 5 of this Policy; and
 - 4.1.3. if the complaint is regarding the actions of the Registrar's Reseller, then the Registrar's own internal complaints process will take effect. This may include a Registrar's interpretation of the Eligibility Requirements.
- 4.2. The .aeDA will only commence investigation of a complaint should the complainant not be satisfied with the response received from the Registrar of Record in relation to the complaint.
- 4.3. The complainant should maintain and provide as much documentary evidence of the complaint made and responses received from the Registrar of Record, in order to facilitate the process.

- 4.4. The .aeDA will acknowledge receipt of the complaint and indicate the timeframe for an expected response. The .aeDA will endeavour to resolve the complaint as quickly as possible, however if the complaint is complex it may take several weeks to resolve. If this is the case, the .aeDA will keep the complainant informed of the progress.
- 4.5. On receipt of the complaint, the .aeDA will request a response from the Registrar involved. The .aeDA will investigate the complaint based on the facts provided by both sides. The .aeDA may seek further information from either side to assist with its investigation.
- 4.6. After conducting a full investigation, the .aeDA will notify the complainant in writing (usually by email) of the outcome.

5. Restricted Domains

5.1. Eligibility complaints

- 5.1.1. The Eligibility Requirements ensure that Registrants have the correct status to take a Domain Name Licence.
- 5.1.2. The Reserved Names Policy determines Domain Names which may not be Registered or the subject of a Domain Name Licence.
- 5.1.3. It is the responsibility of each Registrant to ensure that it is Eligible to hold a Domain Name Licence, both at the time of Registration, and during the Domain Name Licence Period, and that it does not breach any of the .aeDA's policies. In order to Renew their Domain Name Licence, Registrants must confirm that they still meet the Eligibility Requirements and that all information pertaining to this held in the Registry Database (including the Registrant Data is still current). If a Registrant is no longer Eligible to hold the Domain Name Licence, then the Domain Name Licence cannot be Renewed.
- 5.1.4. At the time of Renewal Registrants must confirm that their details as recorded in the Registry Database, including as to Eligibility are still current. Should this not be the case then the Domain Name Licence must not be Renewed.
- 5.1.5. It is the .aeDA's Policy that a Registrant must be given a reasonable opportunity to update the Registrant Data pertaining to them and any information regarding their Eligibility as set out in Registry Database, if it is possible to do so, before the relevant Domain Name Licence will be cancelled.
- 5.1.6. A Domain Name Licence is a legal contract and as such may only be held by a legal entity. If the entity that initially registered the Domain Name no longer exists, then the Domain Name Licence is automatically cancelled and the Domain Name must be Deleted. It is not possible for a non-existent Registrant to update Registrant Data or details of its Eligibility as contained

in the Registry Database, or transfer the Domain Name Licence to a third party.

5.2. Eligibility complaints process

- 5.2.1. Where a person believes that a Registrant no longer exists or is no longer Eligible to hold their Domain Name Licence, that person should lodge a complaint with the Registrar of Record for the relevant Domain Name (disclosed on the WhoIs Database).
- 5.2.2. On receipt of a complaint about the Eligibility of a Registrant, the Registrar must reconfirm the details of its Eligibility as contained in the Registry Database (for example, check that the Registrant's company, business name or Trade Mark registration is still current). If the details of its Eligibility as contained in the Registry Database are current, the Registrar is not required to take any further action.
- 5.2.3. If the Registrant's details of its Eligibility as contained in the Registry Database, or if the Registrant no longer exists, the Registrar is required to follow the process outlined in the sections below.

5.3. Updating details

- 5.3.1. This section applies where the individual or entity that holds the Domain Name Licence is still in existence, but their details of its Eligibility as contained in the Registry Database are not current. Examples of this may include:
 - 5.3.1.1. where a registered company has changed its name (but the trade licence number has not changed);
 - 5.3.1.2. where a business name registration has lapsed, but the proprietor of the business has not changed; and
 - 5.3.1.3. where an application for a Registered Trade Mark has been denied, or a Registered Trade Mark has been removed, but the trade mark applicant/holder has not changed.
- 5.3.2. The Registrar must contact the Registrant to request that it updates its details of its Eligibility as contained in the Registry Database within 14 Calendar Days. The Registrar must use reasonable commercial endeavours to contact the Registrant (for example, if an email bounces, the Registrar should attempt to contact the Registrant by phone or fax).
- 5.3.3. A Registrant may update its details of its Eligibility as contained in the Registry Database either by resurrecting the original basis for its Domain Name Registration, or by providing new identification details. The Registrant does not have to use the same details of its Eligibility as contained in the Registry Database Requirements it originally used to support their Domain Name Registration.

- 5.3.4. If the Registrant updates details of its Eligibility as contained in the Registry Database within the 14 Calendar Day period, the Registrar must enter the new information in the Registry Database as a correction to Registrant Data.
- 5.3.5. If the Registrant does not update the details of its Eligibility as contained in the Registry Database within the 14 Calendar Day period, or does not respond to the Registrar's request, the Registrar must Delete the Domain Name.
- 5.3.6. While the Domain Name is in pending Deletion, the Registrant may contact the Registrar to update details of its Eligibility as contained in the Registry Database. The Registrar must request the Registry to remove the Domain Name from pending Deletion, and then enter the new information in the Registry Database as a correction to Registrant Data.
- 5.3.7. If the Registrant does not update details of its Eligibility as contained in the Registry Database while the Domain Name is in pending Deletion, then the Domain Name will be Deleted from the Registry Database. It will then become available for Registration by any Eligible Applicant on a 'first come, first served' basis. The Domain Name will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to license the Domain Name, it must apply for it using the normal Application process.

5.4. Cancellation of Domain Names

This section applies where the entity that held the Domain Name Licence no longer exists. Examples include where a company, incorporated association or statutory body ceases to operate, has been wound up or deregistered.

- 5.4.1. The Registrar must give notice to the Registrant Contact listed in the Registry Database that the Domain Name Licence is cancelled and the Domain Name will be deleted in 30 Calendar Days. The Registrar must use reasonable commercial endeavours to give notice (for example, if an email bounces, the Registrar should attempt to send notice by fax or post).
- 5.4.2. In the case where the Registrant was an individual and that individual is deceased, the Domain Name Licence passes to the deceased's estate. The Registrar is not required to take any action unless and until contacted by the executor of the estate.
- 5.4.3. The Registrar must Delete the Domain Name at the end of the 30 Calendar Day period. The Domain Name will enter 'pending delete' status after which it will be immediately dropped from the Registry.
- 5.4.4. It is not possible for a non-existent Registrant to update Domain Name Eligibility details, or transfer the Domain Name Licence to a third party. Therefore, the Domain Name must be deleted even if it is currently being used by another entity or individual (for example, by a former director of the deregistered company).

- 5.4.5. The sole exception to the above rule is if:
 - 5.4.5.1. there is documentary evidence that, prior to its demise, the Registrant agreed to transfer the Domain Name Licence to the entity or individual currently using the Domain Name; and
 - 5.4.5.2. the transfer meets the requirements outlined in the .aeDA's Transfers Change of Registrant Policy.
- 5.4.6. If the above conditions are satisfied, then the Registrar must process the transfer of the Domain Name Licence in accordance with .aeDA's Transfers Change of Registrant Policy.

6. Complaints about Registrars and Resellers

6.1. Possible remedies

Depending on the circumstances of a complaint, the .aeDA may take one or more of the following actions:

- 6.1.1. request the Registrar or Reseller to issue the complainant with a full explanation and apology;
- 6.1.2. request the Registrar or Reseller to remedy their error and/or refund any payment for services not received;
- 6.1.3. request the Registrar or Reseller to amend the practice or procedure that led to the complaint;
- 6.1.4. notify the Registrar or Reseller that they are in breach of the Registry-Registrar Agreement, or an .aeDA Policy, and request them to immediately remedy the breach; or
- 6.1.5. refer a complaint to the relevant Government authority.

6.2. Actions

If the Registrar or Reseller involved does not comply with the .aeDA's request, the .aeDA may take the following action:

- 6.2.1. in the case of a Reseller of a Registrar, the .aeDA may direct the Registrar to correct the actions of the Reseller or risk being held accountable for them; and
- 6.2.2. in the case of a Registrar, the .aeDA may suspend or terminate the Registrar's Accreditation.

The .aeDA does not have power to impose fines or other penalties on a Registrar or Reseller.

7. Escalation of complaint

The .aeDA is the endorsed manager of the .ae ccTLD. If the complainant is not satisfied with the way that the .aeDA has handled the complaint, the complainant may wish to contact the TRA.

8. Policy review

The .aeDA may update this Policy at any time in its complete discretion, including for the purpose of clarification.