

4 April 2023

Dear Mr. Toshi,

On behalf of the Internet Corporation for Assigned Names and Numbers (ICANN) Contractual Compliance, we would like to thank you and your colleagues for the questions you have raised regarding Section 3.18.2 of 2013 Registrar Accreditation Agreement (RAA). Below please find our responses to each of your questions:

2013 Registrar Accreditation Agreement

3.18.2 Registrar shall establish and maintain a dedicated abuse point of contact, including a dedicated email address and telephone number that is monitored 24 hours a day, seven days a week, to receive reports of Illegal Activity by law enforcement, consumer protection, quasi-governmental or other similar authorities designated from time to time by the national or territorial government of the jurisdiction in which the Registrar is established or maintains a physical office. Well-founded reports of Illegal Activity submitted to these contacts must be reviewed within 24 hours by an individual who is empowered by Registrar to take necessary and appropriate actions in response to the report. In responding to any such reports, Registrar will not be required to take any action in contravention of applicable law.

- (Overview) We would like to ask for your clarification of the article, particularly the scope to whose well-founded report Registrars are obliged to review within 24 hours after the submission and take necessary and appropriate actions. Particularly in the case that the Registrar is an American company (e.g., *Namecheap*, established in US and maintains its physical office in US) and the Registrar does not have foreign office (e.g., Japanese office) (“American Registrar” hereafter), we would like to have your clarification to whose well-founded report of Illegal Activities is this American Registrar obliged to review within 24 hours after the submission and take necessary and appropriate actions.

Response: In the situation you outline above, the Registrar would have an obligation to take reasonable and prompt steps to investigate and respond appropriately to reports submitted by any user. However, the requirements in RAA 3.18.2 to review within 24 hours by an individual empowered to take necessary and appropriate actions only apply to a Registrar that is established or has a physical office(s) in the United States (U.S.) when U.S. law enforcement agencies, U.S consumer protection or quasi-governmental agencies submit well-founded reports of Illegal Activity to the Registrar. In addition, this provision would apply to a U.S.-based Registrar if other similar authorities designated by the US government submit a report of Illegal Activity.

For example: in 2016, Japan’s Ministry of Health, Labour, and Welfare communicated in writing to ICANN that LegitScript had been “designated by the Japanese Ministry of

Health, Labour and Welfare ... to submit reports regarding domain names used for illegal activity to domain name registrar, and to request the suspension and locking of such domain names.” Reports of Illegal Activity submitted by LegitScript to Registrars established or with physical offices in Japan are required to be addressed in accordance with RAA 3.18.2.

- Request for further clarification:
- If Japanese government or its agency (e.g. *MIC-Japan*) submits a well-founded report of Illegal Activities to an American Registrar, is this American Registrar obliged to review the Japanese government’s report of Illegal Activities within 24 hours after the submission?

Response: No. The requirements in RAA 3.18.2 to review within 24 hours do not apply to reports submitted by governments of jurisdictions other than the governments of the jurisdiction(s) in which the Registrar is established or has physical offices. The Registrar is still required to take reasonable and prompt steps to investigate and respond appropriately to the report submitted by the Japanese government (under RAA 3.18.1) and to document its receipt of and response to such report in the terms prescribed by RAA 3.18.3.

- If Japanese Embassy in US submits a well-founded report of Illegal Activities to an American Registrar, is this American Registrar obliged to review the Japanese Embassy’s report of Illegal Activities within 24 hours after the submission?

Response: No. The establishment of an Embassy in the United States does not by itself, create the equivalent of a designation by the US government of that Embassy as an authority for the purposes of requiring a review of the report within 24 hours as stated in Section 3.18.2 of the RAA.

- Is there any Japanese-government-related organization in US (in addition to the Japanese Embassy) that an American Registrar is obliged to review its well-founded report within 24 hours after the submission? We would be appreciated if you could provide a detailed scope of this article with regard to Registrar’s obligation of within 24 hours review followed by necessary and appropriate actions.

Response: If the US government designates a Japanese organization or entity to be an authority under Section 3.18.2 of the RAA, any well-founded reports of Illegal Activity submitted to US Registrars by such an organization or entity must be reviewed within 24 hours in accordance with the requirements in RAA 3.18.2. ICANN is not aware of any Japanese organization or entity currently with such a designation.

- Is this American Registrar’s obligation limited ONLY to those reports of Illegal Activities from

the US government authorities (incl. quasi-governmental or other similar authorities) such as FTC, FCC or NTIA?

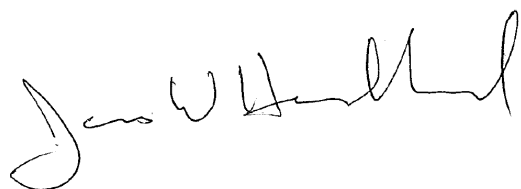
If so, we would also be appreciated if you could provide a detailed scope of this article (or example of eligible organization) with regard to Registrar's obligation of within 24 hours review followed by necessary and appropriate actions.

Response: The requirements in RAA 3.18.2 to review within 24 hours by an individual empowered to take necessary and appropriate actions only apply to reports submitted by the listed authorities of the jurisdictions in which the Registrar is established or has physical offices. The Registrar is, however, still required to take reasonable and prompt steps to investigate and respond appropriately to the report submitted by the Japanese government (RAA 3.18.1) and to document its receipt of and response to such report and provide such records to ICANN upon notice in the terms prescribed by RAA 3.18.3.

You may refer to the LegitScript example above. Any well-founded report of Illegal Activity submitted by LegitSript to a Registrar established or with physical office(s) in Japan must be reviewed within 24 hours by a Registrar's representative who is empowered to take the necessary and appropriate action in response to such report. These actions may vary depending on the specific circumstances of the case but may include the suspension of the domain names.

Thank you again for your questions. We hope our responses are helpful. If we can provide any additional information or clarifications, please do not hesitate to let us know.

Sincerely,



Jamie Hedlund
Senior Vice President
Contractual Compliance & U.S. Government Engagement