

To,

Mr. Fadi Chehade, CEO and President

**Sub: Contractual Violations (Verisign)**

In furtherance of the DIDP process of ICANN, we would like to request information regarding ICANN's registry agreement with Verisign, the operator of the .com domain.

In Article III of the Registry Agreement with respect to the .com domain, there are provisions pertaining to contractual compliance audits.<sup>9</sup> Given the concerns raised by the US Congressional Committee as well about contractual compliance having an effect on the kind of content that was on the Internet (such as child pornography, IP violations and so on)<sup>10</sup>, and how '*ICANN is working to address those concerns*'<sup>11</sup>, we believe that it is of public importance to understand if there was any action taken for instances of violation of contractual compliance. Mr. Chehadi has stated clearly that in the event that there is a complaint, ICANN reaches out to the Registries and Registrars and follows it up.<sup>12</sup> We believe that this is likely to have contributed to a situation which has resulted in a disagreement between the registry operators and ICANN, the outcomes of which are necessarily to be put into the public domain.

<sup>9</sup> Section 3.4, Contractual and Operational Compliance Audits., .com Registry Agreement, (December 1, 2012), available at <https://www.icann.org/resources/pages/com-2012-12-07-en>

(a) ICANN may from time to time (not to exceed once per calendar quarter) conduct, or engage a third party to conduct, contractual compliance audits to assess compliance by Registry Operator with its representations and warranties contained in Article II of this Agreement and its covenants contained in Article III of this Agreement. Such audits shall be tailored to achieve the purpose of assessing compliance, and ICANN will (a) give reasonable advance notice of any such audit, which notice shall specify in reasonable detail the categories of documents, data and other information requested by ICANN, and (b) use commercially reasonable efforts to conduct such audit in such a manner as to not unreasonably disrupt the operations of Registry Operator. As part of such audit and upon request by ICANN, Registry Operator shall timely provide all responsive documents, data and any other information necessary to demonstrate Registry Operator's compliance with this Agreement. Upon no less than five (5) business days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its covenants contained in Section 3.1.

(b) Any audit conducted pursuant to Section 3.4(a) will be at ICANN's expense, unless (i) the audit relates to Registry Operator's compliance with Section 3.1(c)(iv) and such audit reveals a material discrepancy or discrepancies in the data provided by Registry Operator, or (ii) the audit is related to a discrepancy in the fees paid by Registry Operator hereunder in excess of 5% to ICANN's detriment. In either such case of (i) or (ii) above, Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with such audit and such reimbursement will be paid together with the next Registry-Level Fee payment due following the date of transmittal of the cost statement for such audit..

<sup>10</sup> [https://youtu.be/fD\\_INKXTg2k?t=3820](https://youtu.be/fD_INKXTg2k?t=3820)

<sup>11</sup> [https://www.youtube.com/watch?v=fD\\_INKXTg2k](https://www.youtube.com/watch?v=fD_INKXTg2k)

<sup>12</sup> [https://youtu.be/fD\\_INKXTg2k?t=3885](https://youtu.be/fD_INKXTg2k?t=3885)

THE  
CENTRE  
FOR

internet  
& Society



Centre for Internet and Society  
#194, 2nd 'C' Cross, Domlur 2nd Stage,  
Bangalore - 560 071  
Karnataka, India

We would therefore like to request you for copies of documents showing action taken by ICANN stemming from discrepancies in contractual compliance by Verisign, as revealed from the aforementioned audits.

We hope that our request will be processed within the stipulated time period of 30 days. Do let us know if you require any clarifications on our queries.

Thank you very much.

Warm regards,

Padmini Baruah

Programme Associate - Internet Governance

Centre for Internet and Society