

## Staff Report of Public Comment Proceeding

### Proposed Renewal of .TEL Registry Agreement

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#### Public Comment Proceeding

Open Date:	4 August 2016
Close Date:	13 September 2016
Staff Report Due Date:	27 September 2016

#### Important Information Links

<a href="#">Announcement</a>
<a href="#">Public Comment Proceeding</a>
<a href="#">View Comments Submitted</a>

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#### Section I: General Overview and Next Steps

##### General Overview

ICANN has posted for public comment the proposed agreement for renewal of the 2006 Registry Agreement for .TEL, which is set to expire on 1 March 2017. This proposal is a result of discussions between ICANN and Telnic Limited based on the approved new gTLD Registry Agreement as updated on 9 January 2014 with specific provisions contained in the 30 May 2006 Sponsored TLD Registry Agreement being carried over to this renewal agreement to account for the specific nature of the .TEL TLD, a Sponsored TLD.

From 4 August 2016 through 13 September 2016, ICANN posted the proposed renewal of .TEL Registry Agreement for public comment. At the time this report was drafted, twenty-seven comments were added to the forum.

##### Next steps

The proposed renewal of .TEL Registry Agreement includes material changes to the current .TEL Registry Agreement, which changes are based on the terms of the existing New gTLD Registry Agreement. The proposed changes to the .TEL Registry Agreement are similar to the changes that were made to several “legacy” gTLDs, namely the .JOBS, .TRAVEL, .CAT and .PRO Registry Agreements, which were also renewed based on the new gTLD Registry Agreement as a result of bilateral negotiations between ICANN and the applicable Registry Operator. These renewed agreements can be viewed at: <https://www.icann.org/resources/pages/registries/registries-agreements-en>.

As a next step, ICANN intends to consider the renewal proposal taking into account the comments added to the forum. Following the completion of the public comment process, the proposed renewal of the .TEL Registry Agreement will be considered by ICANN's Board of Directors.

#### Section II: Contributors

*At the time this report was prepared, a total of twenty-seven (27) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.*

Organizations and Groups:

<b>Name</b>	<b>Submitted by</b>	<b>Initials</b>
Coalition for Online Accountability	Steven J. Metalitz	COA
International Trademark Association	Lori Schulman	INTA

Individuals:

<b>Name</b>	<b>Affiliation (if provided)</b>	<b>Initials</b>
Joy Antony	NA	JA
Juan Carlos Viloría	NA	JV
Mark Kolb	www.TelMasters.com	MK
AJ Sevener	NA	AS
Anthony Hickey	www.TELireland.ie	AH
Harold Clifton	NA	HC
Ross Hettel	NA	RH
Mike Seaton	NA	MS
Martin Holstern	NA	MH
Wilhelm Martinez	NA	WM
Vishal	NA	V
Wilhelm Darwin	NA	WD
Step Winter	NA	SW
Step Winter	NA	SW
George Warrens	NA	GW
Luis Hernández	NA	LH
Dan Prather	Alliance Information Services	DP
Jonathan Curley	NA	JC
Gauthier Rigaud	NA	GR
Ryan Goldstein	NA	RG
Balraj Singh	NA	BS
Jonathan Curley	NA	JC
Mike Seaton	NA	MS
Mike Seaton	NA	MS
Michael Braunwarth	NA	MB

**Section III: Summary of Comments**

*General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).*

ICANN has received various comments from the community on the proposed renewal of the .TEL Registry Agreement. The comments submitted generally fall into the following categories, each of which is explained in more detail below:

- Extension of .TEL Registry Agreement
- Proposed renewal agreement for .TEL
- The continued operation of .TEL by Telnic Limited

### **Comments on the extension of .TEL Registry Agreement**

Some of the commenters, without commenting on the proposed renewal language, expressed their support for the extension of .TEL Registry Agreement, including by stating the following:

- “I am happy with the .tel domain names. For me, .tel is the best domain name as it is very easy to manage. No need to hire programmers, no need hosting ...etc and it is the best technology in domain names and websites.” (JA).
- “I would like to see the .TEL extension continued, especially in its current DNS-dependent format. .TEL is by far the easiest domain extension to use. Although most people don't understand the full potential, it is very powerful in its ease of use and ability to quickly create and maintain subdomains. This extension is great for creating directories and providing awareness for business. This extension is great for creating directories and providing awareness for business. I have tools that can create directories in minutes using .TEL...I hope this extension continues to live and thrive.” (MK).
- “I have built a successful directory-based business – TELIreland.ie – using the DNS-dependent format offered by Telnic...The clean, simple look of the .TEL template, allied to the fact that .TEL technology is searchable and mobile-optimised across smart phones, iPads, tablet and computers, makes it perfect for business and community listings and the success of TELIreland to date is testament to this. My customers are delighted to be able to get online exposure for their business using a mobile-optimized service and a listings directory they can identify with – and, importantly, that is seen as relevant to their particular local area by all the leading search engines. Well-managed directories like TELIreland help promote local businesses for minimum cost and in tandem brings attention to the power and simplicity of use of .TEL as an online contact card that is perfect for small business and non-profits who cannot afford an instant web present requiring additional hosting and programming costs. I would like to see this domain continue and be allowed to develop further and reach its true potential.” (AH).
- DP comments that “[t]he .Tel extension was designed to simplify communications for businesses and their customers.” DP supports the unique characteristics of the .Tel extension as opposed to any other domain extension in existence today, including that:
  - o “.Tel is about communications and not web content”
  - o “.Tel allows owners to share access to communication, social and content endpoints as a service.”
  - o “.Tel is the only gTLD that uses the system behind the web (DNS) to store information in the web without having to have a website or data store/database,” noting that “[s]tored

information can be in forms to include: Text, URL's, URI's and other communication strings as Endpoints."

- ".Tel links domain names to small amounts of data stored in the DNS to provide a quicker way of delivering information to internet enabled devices."
  - ".Tel acts like a personal address book or directory for the business or person leveraging the assigned domain as their method of branded endpoint data dissemination."
  - ".Tel provides a cost effective way [to] publish and access endpoint information."
  - ".Tel provides a centralized hosted frontend platform to provide data management for consistently deliver[ing] structured and optimized data."
  - ".Tel is in fact a structured publishing and information service that just happens to be the internet's most unique domain extension positioned for alignment industry adoption to include: 1. Internet of Things; 2. Evolution of Search; 3. Marketing Technology; 4. Geo and Proximal Web Communications."
- "I recommend Telnic's Renewal of the .Tel Registry Agreement with .Tel continuing to operate with its unique model of providing Infrastructure as a Service. I do NOT recommend the opening up of the .Tel "A" Record or operation of .Tel as an open TLD for regular web content development similar to that of other TLDs (general, sponsored or county code)." (DP).
  - "Please let the tel Domains continue. I'm still developing 173 tel-Domains, for me and customers." (MB).
  - JV comments that his experience with .Tel domains "has proved to [him] that .Tel domains are a good tool. When they were presented by Telnic, .Tel domains were offered as a tool to develop profitable businesses."

Some commenters, without commenting on the proposed renewal language, suggested that certain improvements should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended, such as:

- "From my point of view, it is very necessary that the .Tel platform enables holders of .Tel domains, generating unique names and passwords for members access to directories, so that they can manage their own contact information. This would be one of the factors that help make .Tel domains profitable work tools...it is difficult to know whether resources that Telnic has placed in our hands are limited by technical or legal constraints, which could overcome. What is very clear to me, is that many people would be interested in continuing registrations and use of .Tel domains, with broader development prospects." (JV).
- "This extension has not been well documented by the registry, and as far as I and many are concerned, it is an unfortunately, well-kept secret that helps many create an instant web present without additional hosting and programming costs. The original .TEL idea as an online contact card is still valid, but there are so many other more valuable uses for the extension. Look at the sites documented at [www.TelIdentity.com](http://www.TelIdentity.com) for examples. There is also the parallel TelNames .TEL implementation with a different style which is very valuable. I have 100+ customers that use this format as well, besides my own hundreds of directories using several basic .TEL formats." (MK).
- "tel is a failing extension and will continue to fail if no radical change is made in its basic outlook. The Telnic template is almost useless except for local directories which are easy to set up. However, other easy and media rich directory software is now available so people will not be attracted to and stick to a tel directory. The Tel directories are 1990s ish. As a single point-of-contact, well that is good idea in theory but a dead idea in practice. While Tel was starting up, Facebook happened. The Telnames template is fantastic but should have a bit more features and be a bit more pliable. However this alone will not suffice to allow for a TEL comeback. The best solution is two-fold: 1. Remove the restrictions from the TEL domain. Allow people to build real websites. 2. Allow a

registrant to choose between templates, Telnic, Telnames, or choose no-template and develop their own site. TEL (the name) is fantastic as an extension name and I believe it will be an oasis of brand stability and recognition among the hundreds of new TLDs.” (AS).

- RH comments his registration experience “was the most painful and error ridden process [he] had come across in [his] years of developing websites. [He] tried two major registrars (enom and name.com) and both had major problems with the registering of a .tel domain account – something [he had] never experienced with any other domain, and it seems is unique to how Telnic controls the .tel domain. It took nearly two weeks before [he] could use the domains [he] bought, and as the TLD is an infrequent product of the registrars, they did not seem familiar or able to help [him] sort out the problems of registration. It was a horrible customer experience, and [he] expect[s that is why] the number of registrations are plummeting.”
- “Ignoring the registration issues, the main product Telnic and the .tel domain offers seems very limited. While the ability to create a basic webpage with no coding skills is nice, there are a multitude of third party companies that offer this for any regular domain. But more importantly, the six or so page designs Telnic lets you choose are dated and clearly a sign that they have ceased development on their main product. I think the .tel domain would flourish if it was allowed to become a regular gTLD where domain owners could host their own website. The current situation is not working as domain registrations have shown: <http://registrarstats.com/TLDHistoryChart.aspx?TLDName=TEL>.” (RH).
- “I had owned quite a few Tels and developed some ‘sites’. I have since dropped all of them. I think that the problem is that the TEL visionaries are holding on to an idea that is no longer viable. The original idea of data in the DNS was good. However storage is so cheap now and access speed are so phenomenal that whether data is stored in the DNS or another server somewhere else makes no difference to the average user...Maintaining the restrictions on TEL at this time, i.e. not allowing the development of full sites, is almost guaranteeing its demise. This fact should be obvious to Telnic. The Templates may be useful for certain applications. I suggest that ICANN impress upon Telnic to do three things: 1. Remove restrictions 2. Improve the Template offerings. 3. Let registrants choose between a template driven site at a higher price and a My-own-site registration at a more reasonable price. This would allow TEL to survive and be a fair and reasonable marketplace offering. Otherwise I would question whether this offering is in the interest of the public.” (GW).
- “The restrictions on .tel DNS record types were based on a hypothetical communications model that never materialized and now seems clearly outmoded. If possible, these should be lifted.” (V).
- “The ability to store information directly in the DNS was an innovative feature, responding to a need for a decade. But over time it has become the largest of its burdens. Those who have a domain under this extension we are limited by scarce resources involved storing information in DNS. ICANN should consider eliminating these restrictions. I'm sure if you are allowed to use these domains a normal hosting can become an attractive option for the end user.” (LH).
- “[M]y experience with .tel is that it has not been maintained properly, without any apparent updates for 4+ years. Making a change as simple as updating a public DKIM key in a TXT record requires accessing their API via SOAP, something that only very technical people are able to do. Additionally, modern technologies to improve security, like HTTPS and DNSSEC, are completely unsupported. I would very much prefer that .tel be handled like the rest of the new gTLDs, without undue restrictions on DNS records and the ability for any ICANN-accredited registrars to support the .TEL TLD without any additional burden, such as supporting the TelHosting Control Panel.” (RG).
- “The TEL extension is very iconic. We need to see it continue under whatever management. However I have to suggest that in addition to the templates (which are really not very useful) the registry allows the user the option to open the domain for regular websites. Otherwise it does not make any sense whatsoever.” (BS).

- “It is essential that dot tel owners and those of us who manage self-representations or brands online are provided with the core infrastructure tools that give back the control we require over our online experiences and virtual representations, and this is why I see dot tel as having the potential to be such a tool and one that is crying out for advanced development and mandated integration. (JC).
- “I have long been a fan of the ‘Data in DNS’ concept which would have made direct dialing and direct emailing etc feasible (i.e. without the phone number or email address) but it is clear that this is not going to happen with the .Tel extension...As the ‘Data in the DNS’ concept has failed .Tel should be opened up to operate as a normal gTLD.” (MS).
- “The problem with the CTH system (which does make it very easy for a user to input date into their .tel domain) is that it is NOT hosted by Telnic BUT by their registrars. This requires a registrar, just for one domain extension out of perhaps 500 or 1000 they sell, to tie up technical and system resources to handle this single extension. That may be fine if the registrar is selling tens of thousands of new .tel registrations a year, but they are not. So why should a registrar commit to using up staff and server resources for an extension that is currently failing and nowadays generates only a relatively low number of registrations/renewals each year ?” (MS).
- “If .Tel was opened up to operate as a ‘normal’ extension I believe there are many companies running the New gTLDs who could be interested in taking it over. .Tel is a great extension name for anything to do with communication - .Tel domains are very cheap in the resale market at the moment, though I doubt this would stay the case for long if it was opened up to allow normal web development to take place.” (MS).

### **Comments on the proposed renewal agreement for .TEL**

Certain commenters expressed their comments on the proposed renewal of .TEL Registry Agreement. The topics where commenters expressed their views are summarized below:

#### **a) General:**

INTA voices general support for the proposed renewal agreement for .TEL. “INTA agrees with ICANN that the New RA has important ‘technical and operational advantages’ and ‘benefits to registrants and the Internet community’ over earlier outdated versions. INTA supports ICANN’s efforts at bilateral negotiations with legacy gTLD registries in order to transition, to the extent feasible to the New RA.” INTA notes that although “there are parts of the New RA that are simply inapposite for a legacy gTLD like .TEL...INTA is encouraged that the starting point for the negotiations between ICANN and Telnic Limited was ‘based on’ the New RA.” INTA also comments on the procedural benefit of “consistency” that will come with ICANN’s “bilaterally negotiating for transition to parts of the New RA not only with .TEL but with other legacy gTLDs like .CAT, .PRO, and .TRAVEL. Transition to the new RA requirements will take some time as the legacy gTLD registry agreements cycle through their respective renewals. Nonetheless, the march of progress with respect to ICANN’s negotiations with those various legacy gTLD [R]egistry [O]perators has been steady and INTA hopes that it will continue.”

#### **b) Safeguards:**

Although COA “commends ICANN and Telnic for including in the proposed renewal agreement several provisions that reflect enhanced rights protection mechanisms for third party trademarks owners, and enhanced responsibilities for the [R]egistry [O]perator to prevent use of registrations for abusive purposes, including but not limited to violations of intellectual property rights,” COA expressed its concern over the language proposed for Specification 7 regarding applicability and implementation of applicable rights protection mechanisms:

“[S]ection 2 of Specification 7 of the proposed renewal agreement obligates the registry operator to comply with the Uniform Rapid Suspension system now in force in the vast majority of gTLD registries. We are puzzled, however, by the provision in the Addendum to the proposed renewal agreement that wipes out the registry’s obligations under section 1 of Specification 7 to “implement and adhere to” URS and other RPMs, and to include such adherence in its registry-registrar agreements, confining the latter obligation only to additional RPMs “developed and implemented by the registry operator.” This Addendum provision goes well beyond that document’s stated objective of excising “certain provisions [of the Base Registry Agreement] that are not applicable to a top level domain that is already in operation, such as [.tel].” COA urges ICANN to correct what appears to be a drafting error in the Addendum’s overbroad amendment to section 1 of Specification 7.” (COA).

Additionally, COA commented on monitoring Telnic’s compliance with the terms of the proposed Section 3(a) of Specification 11, creating an obligation to pass through via registrar the prohibition on registrants using their .tel domain names to engage in a list of abusive activities, including piracy, trademark or copyright infringement, or counterfeiting:

“COA urges Telnic to actively enforce these obligations and urges ICANN to use its contract compliance authority to correct any pattern that might arise of Telnic’s failure to do so.” (COA).

COA concludes its comment on safeguards for rights owners and the public by stating that “[t]he inclusion of both URS and PICs in yet another gTLD registry agreement underscores the glaring omission of these minimum safeguards for rights holders and the public from the registry agreements for the largest legacy gTLD registries, including the dominant competitors, .com and .net. COA fully supports the previous submissions of the Intellectual Property Constituency (among others) that this omission demands prompt correction, most immediately in any extension of the registry agreement for Verisign to operate .com. See <https://forum.icann.org/lists/comments-com-amendment-30jun16/msg00078.html>.”

INTA stated that the rationale for excluding certain rights protection mechanisms that are not applicable to “legacy” TLDs does not apply to provisions like URS and Public Interest Commitments. INTA further emphasized that inclusion of these new consumer protection tools to legacy TLDs would provide consistency.

COA and INTA also expressed some disappointment with the proposed renewal of the .COM Registry Agreement, which does not include the new gTLD safeguards that were proposed to be added to the renewal agreement of other legacy TLDs, including .CAT, .PRO, .TRAVEL and now .TEL.

### **c) Registration Data Directory Service (Whois)**

Referring to the language used in Section 1 of Specification 12 of the proposed .TEL renewal agreement versus the language in Appendix S, Part I of the existing .TEL Registry Agreement where .TEL Charter is explained, COA expressed its concern over “the continuation of special limitations on the registry’s obligation to provide a registration data directory service that is fully accessible to the public, particularly in light of apparent changes to the .tel business model upon which the ICANN board’s approval of these limitations back in 2007 was based in the first place” (COA). In light of the above, COA urged ICANN to review the language used in Specification 4 versus the language used in Appendix S, Part IV of the existing .TEL Registry Agreement since “the unique business model of .tel, upon which the Board’s decision was in great part explicitly based, seems no longer to be operative going forward. Even if the general framework of more

limited public Whois obligations were carried forward, some flaws in that framework should be addressed in the context of the renewal of the .tel registry agreement.” (COA).

INTA also reiterated their comment from 2007 below and suggested that “any Whois modifications should be reviewed and considered in light of .TEL’s revised business model.”

*“the approval of any such modification [of Whois obligations] should be conditioned upon Telnic’s continued adherence to its stated plan of storing only NAPTR records in the DNS for its registry. If in the future it changes course and adopts a new business model, under which the registry is no longer exclusively devoted to the presentation of contact information to the public in the form of NAPTR records, it should be required to notify ICANN, so that any modification allowed to the registry contract with regard to Whois can be automatically terminated, or at least subject to immediate review and reconsideration.”*

Additionally, COA seeks clarity on what Acceptable Use of Policy (AUP) as stated in Section 2 of Specification 12 of the proposed renewal agreement will contain now that all references to NAPTR records have been eliminated.

In the light of the above, COA urged the ICANN Board to review its prior decision:

“Because the Board’s agreement to relax the .tel registry’s obligation to provide publicly accessible Whois data depended upon the registry’s unique business model, and because that model has now apparently changed, COA urges the Board to “review and reconsider” its decision in light of these new realities. Put another way, by comparison to the situation obtaining in 2007, the current circumstances have changed, and thus the Board’s prior approval of the Whois modifications, in the words of the Board resolution itself, “should not be viewed as establishing a precedent that applies to [today’s] circumstances.” (COA).

Similarly, INTA stated that:

“It appears that the unique conditions that could have justified a relaxation of Whois obligations in 2007 no longer apply since .TEL no longer follows the “unique business plan”. Therefore, any Whois modifications should be reviewed and considered in light of .TEL’s revised business model.” (INTA)

Additionally, COA identified issues with respect to .TEL’s whois regime and suggested that these should be fixed:

“1. Whether requesters who are qualified to obtain access to the contact data of self-identified individual registrants should be barred from any sharing of that data with any non-subscriber to the ‘Special Access Service.’ As COA and INTA noted in 2007, ‘to be actionable, Whois information must be shared with other parties who would not themselves be subscribers to the SAS (e.g., it must be shared by lawyers with clients; by clients with lawyers; by vendors of online brand or copyright monitoring services with their clients; by anti- fraud investigators with law enforcement, to give just a few examples). It should be clarified that this sharing is permissible in furtherance of the purpose for which access was obtained.’

2. The arbitrary limitation of SAS queries to five per 24 hour period. Telnic should have the flexibility to increase this level should circumstances warrant it, without having to gain ICANN approval for a further revision of its registry contract.



3. Handling of records of SAS queries. As COA and INTA noted in their 2007 comments, ‘while it may be appropriate to require SAS subscribers to acknowledge that Telnic will record information about SAS searches, the revised proposal lacks any undertaking by Telnic about how it will handle this information. This gap should be filled.’ (COA).

GR suggested some recommendations for “any new Registry (incumbant [sic] one or new one) to successfully newly contribute to the dot TEL future” without commenting on the proposed renewal agreement. GR in his comment claimed that .TEL requires a “special contract, rather than a standardized new gtld registry agreement.”

### **Comments on the continued operation of .TEL registry by Telnic Limited**

Some commenters, without commenting either on the proposed renewal agreement for .TEL or .TEL’s extension, expressed their concern over Telnic Limited’s continuing to be the Registry Operator of .TEL, claiming, among other things, that;

- Telnic has violated ICANN’s regulations many times. (HC, MH, SW).
  - o Several commenters note specifically that Telnic has, against ICANN regulations, founded its own wholly-owned subsidiary registrar, Telnames. (MH, SW).
  - o SW notes further violations, including Telnic’s refusal to offer new developments at Telnames to the majority of customers, Telnic’s refusal to talk to the .tel community, and Telnic’s concealment of all relevant information from the public and .tel community, noting that “[n]obody has transparency on the things going on at Telnic all the time.” (SW).
- “Telnic was hiding his financials from the public...Telnic has no stable financials anymore to continue the operation of .TEL.” (HC, MH, SW) SW comments that “Telnic is nearly bankrupt.” (SW).
- “Telnic has fired the whole staff.” (HC, MH, MS). MS specifically notes that “[m]ost of [Telnic’s] key staff ha[s] left...Telnic has lost their Chief Technology Officer Henri Asseily who was responsible for the ‘Data in the DNS’ development.” (MS). HC notes that “[i]n fact, there is nobody else around the CEO Khashayar Mahdavi.” (HC).
- “Telnic has no support by the community anymore.” (HC, MH, MS).
  - o “Telnic have let down their Investors who are faced with \$35,000,000 going down the drain...Telnic will not listen to the .Tel community.” (MS).
  - o “The .tel community is complaining about Telnic’s attitude since the year 2010. The internet is full with comments about the bad business practice of Telnic. The .tel community is asking to fire Khashayar Mahdavi since the year 2011...The reputation of Telnic is completely destroyed. The .tel community is very angry about the mismanagement by Telnic.” (SW).
  - o JC notes that “[t]he first issue ICANN should tackle is the trust the community lacks in TELNIC and ICANN to turn this implementation into a satisfactory extension and end product, as over many years the community has complained to ICANN through social media as well as shared their frustrations and views through teltalk.org, and I and they may feel our concerns have been ignored and allowed to fester to a highly negative degree.” (JC).
  - o “Telnic refused many years an open communication with the community. Telnic is continuously against the interests of its customers. Any suggestions by customers have always been ignored...Telnic has always suppressed an open discussion in its forum. Unwanted comments not with the same opinion by Telnic have always been deleted in the forum. In January 2015, all comments in the public forum have been deleted from Telnic without exception. Instead a new forum with empty content was provided...For years, customers fired complaints towards Telnic. Telnic ignored all of them.” (MH).

- “Telnic have let down ICANN with minimal and falling registrations going from 333,891 on 1 March 2011 to 103,482 today [on 13 September 2016].” (MS). “The registration numbers have declined from a peak in March 2011 with 330,000 .tel domains to currently about 100,000 .tel domains.” (MH).
- “Telnic needs to be removed as the .Tel Registry. They have proved themselves incapable of seizing opportunities – for example they had a once-in-a-lifetime chance to get.tel on the world stage when Telnic’s home city London hosted the 2012 Olympics. What did they do – ABSOLUTELY NOTHING !...SO YES PLEASE – LET’S OPEN UP .TEL TO OPERATE AS A NORMAL EXTENSION AND GET RID OF TELNIC AS IT IS A FAILED REGISTRY – THEY HAD THEIR CHANCE AND BLEW IT BIG-TIME !” (MS). MS and MH cite <http://www.teltalk.org/t4387-afili-as-wants-to-buy-failed-gtld#15215> for a “possible buyer of the .Tel extension.” Further, MS notes that Telnic has “let down everyone by refusing to consider interest from [this] very successful and established internet company already running many TLDs.” (MS).
- “Telnic should not be allowed to continue destroying .TEL only for their own benefit by collecting the renewal fees for the remaining registrations.” (HC, MH). WM comments that “Telnic is the worst company [he] has ever seen. Telnic seems to have been only established to collect the money from registrants. But Telnic never cared about the need of developing product. The negligence of Telnic is in the gray area between legal and illegal activities.”
- “1. Telnic must NOT be allowed to renew the .Tel Registry. 2. The .Tel Registry needs to be assigned to a successful domain company such as <http://Afilias.info>....Telnic let down their Registrars by creating a 100% owned subsidiary Telnames to sell the new Telnames format direct to end users, but prevented their own Registrars from selling it.” (MS).
- “Please prevent that Telnic will be able to continue acting against its own customers and tries everything to make the life of domain owners as hard as possible. None of us likes to see that the registry agreement with Telnic will be extended. Please try to give the .TEL extension into hands of a honorable company.” (WM).
- “Telnic tried for years to destroy the TLD .tel. It is unacceptable that Telnic continue to be responsible for the .tel TLD...A future operation of the TLD .tel by Telnic is impossible.” (MH).
- “1) The .tel TLD should continue to exist. 2) The .tel TLD must not be managed by Telnic (or any entity/name under which it re-brands itself). 2.1) Telnic have done next to nothing to realize the goals of this unique extension for years. 2.2) Telnic now lacks the human capital required to realize the goals of .tel. 2.3) Telnic have been fully hostile to customer, developer, and community feedback since shortly after inception.” (V).
- “Please don't allow Telnic continuing destroying .tel. If there is any change to rescue .tel, it will be possible only under the requirement that Telnic won't be in charge anymore. Telnic has acted badly against all involved parties. The biggest obstacle against .tel is the missing interest of Telnic in acting reasonable. The management of .tel has been the worst management imaginable. Why does Telnic everything to fight against its customers? If Telnic will stay in charge, .tel will be destroyed completely soon. It isn't understandable why Telnic is still allowed to be the registry for .tel. Telnic should have been discharged a long time ago.” (WD).
- “Please cancel the contract with Telnic. The .tel community can't collaborate with the causer of the breakdown for this top-level domain.” (SW).
- “The management of these domains has been disastrous by Telnic. Not only at the administrative level, but also in no communication with the community that formed around these domains. It seems that Telnic has no interest in continue to manage the extension, beyond benefits for renewal fees. ICANN should consider not renew the agreement with Telnic.” (LH).
- “I do not believe Telnic should be allowed to renew (at least in their current form) on the basis of their track record, and that I believe they no longer have a vision that sits with their end customers requirements other than opening the extension up to a degree, and of which is too little too late, as by this point anyone who takes over the extension can open it up....Telnic in the past has outright

refused to develop their supporting private access system and other services supporting the proxy into a social network, all the pieces are available and yet they restrict it rather than grow it, why this is should be for Telnic to explain to a panel of industry peers, I personally don't feel a company who shoots themselves in the foot and actively works to ignore customers should be allowed to continue to manage a domain extension like this, and so it's time to retire Telnic's administration duties (while maybe allowing them to still take on technical fees) and transfer it to a new community interest company with a mandate to develop, expand, and integrate to help ensure all registrants, be it if you're a business, personal, or any other user has the tools they need to market, share and retain a network at a reasonable price, and this can be utilized as a fit for purpose digital business card / directory / persona point of contact, that transcends services and is a primary integrated core service of Internet interaction.” (JC).

On the other hand, one commenter expressed their support for Telnic’s continuing to be the Registry Operator of .TEL TLD and also pointed out some areas of improvement:

- “1. Accepting that .Tel is a "Service" then it is only fair that consistent monthly communications to registrants regarding updates, upgrades, outages, etc. be a standard practice. 2. An international oversight and Audit committee be established by IANA to review the .Tel development roadmap, maintenance approaches and structural alignment with ongoing internet related efforts. 3. A third party governing board assigned by ICANN be assigned to Audit and Report on key Registry activities to ensure uncompromised operations to include process, communications, consistencies, etc. I suggest consideration of the Areas for Improvement for Telnic to become the example TLD and operator with Infrastructure as a Service in mind for a world focused on Big Data, Mobile Now, Access Anywhere and Shared Data Access. Telnic as an operator has successfully met the objective for providing public access to register .Tel domains and have access to the Infrastructure as a Service.” (DP).

### **Other Comments**

One commenter also commented on the public comment process:

“Also while public / open comments are nice and just for the transparency of process, it does not allow customers every opportunity to express their true feelings without the fear of being sued, and as such I question ICANNs intent when only allowing public comments, and not also allowing private ones to protect registrants from legal issues or commissioning surveys directed at actual whois registrants to ensure a full balance of responses is achieved.” (JC).

and also suggested that:

“...all registrants need to be contacted and given the opportunity to respond even if its just a locked email poll or survey, other opportunities and ways to comment are important because it's also unlikely they will want to publicly comment here due to the threat of being sued by Telnic so more opportunities to respond without legal issues is desirable, though I see some like me have thrown caution to the wind and laid it all bare.” (JC).

### **Section IV: Analysis of Comments**

*General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.*

ICANN appreciates all the comments and suggestions added to the public forum for the proposed renewal of the .TEL Registry Agreement and also the concerns expressed over Telnic Limited's continuing to operate .TEL TLD.

### **Comments on the extension of .TEL Registry Agreement**

ICANN appreciates the comments added for the extension of .TEL Registry Agreement together with the development suggestions added to the forum for the operation of .TEL registry. It should be noted that the proposed renewal of the .TEL Registry Agreement is the subject of this public comment period and the suggestions on how Telnic Limited should manage the .TEL registry is outside of this scope. ICANN does not prescribe or proscribe Registry Operators' business models. The terms of the .TEL Registry Agreement set forth the contractual obligations that must be fulfilled by Telnic Limited in its operation of the .TEL registry. ICANN encourages those commenters that desire to see changes in the business model of the .TEL registry to contact Telnic Limited to express these matters.

ICANN also notes that Telnic Limited may be required to modify its operations in order to support the additional safeguards and requirements set forth in the proposed renewal of .TEL Registry Agreement, on terms similar to those contained in the form of new gTLD Registry Agreement.

### **Comments on the proposed renewal agreement for .TEL**

ICANN acknowledges the comments submitted for the proposed renewal of .TEL Registry Agreement and notes that the proposed renewal agreement for .TEL registry is a result of bilateral negotiations between ICANN and Telnic Limited. The proposed changes to the .TEL Registry Agreement are similar to the changes that were made to several "legacy" gTLDs, namely the .JOBS, .TRAVEL, .CAT and .PRO Registry Agreements, which were also renewed based on the new gTLD Registry Agreement as a result of bilateral negotiations between ICANN and the applicable Registry Operator.

While the revisions to Specification 7 were consistent with prior legacies, for the purposes of clarity to address concerns expressed over the language used in Specification 7, ICANN proposed a modification to the language of the proposed Addendum. As a result of bilateral negotiations between ICANN and the Registry Operator, the phrase "all RPMs required by this Specification and any additional..." is now proposed to be added to Section 1 of Specification 7 of the proposed Addendum to read "*Registry Operator will include all RPMs required by this Specification and any additional RPMs developed and implemented by Registry Operator in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD.*"

With respect to the comments about proposed Whois requirements in light of a "changed business model" for .TEL, ICANN notes that the [18 December 2007 Board Resolution](#) that approved changes to .TEL's Whois requirements was based on unique business and legal circumstances stating, "...the Board concludes that the requested modifications are justified by the unique business and legal circumstances of the .TEL top-level domain...". After conferring with Telnic Limited, ICANN has confirmed that, to the knowledge of the registry operator, the legal circumstances related to Whois have not changed. Therefore, the Whois requirements which were ultimately replicated from the prior agreement between ICANN and Telnic Limited will be retained in the proposed renewal.

## **Comments on the continued operation of the .TEL registry by Telnic Limited**

ICANN notes that numerous comments expressed concerns regarding Telnic Limited's business model. As discussed above, ICANN does not prescribe or proscribe Registry Operators' business models.

ICANN also notes that Section 4.2 of the .TEL Registry Agreement includes a presumptive right of renewal, as do all of ICANN's registry agreements. The presumptive renewal clause is a provision within registry agreements that allows a registry operator the right to renew the agreement at its expiration, subject to the terms of their presumptive renewal clauses. These renewal provisions are intended to promote stability and security of the registry by encouraging long-term investment in TLD operations. This has benefitted the community in the form of reliable operation of registry infrastructure. ICANN has previously described the rationale for presumptive renewal for registries: "Absent countervailing reasons, there is little public benefit, and some significant potential for disruption, in regular changes of a registry operator. In addition, a significant chance of losing the right to operate the registry after a short period creates adverse incentives to favor short-term gain over long term investment. On the other hand, the community, acting through ICANN, must have the ability to replace a registry operator that is not adequately serving the community in the operation of a registry." (Proposed Revision to ICANN-Verisign Agreements, <https://www.icann.org/news/icann-pr-2001-03-01-en>).

As mentioned in the Public Comment announcement, as part of the renewal process, ICANN conducted a review of Telnic Limited's performance under the .TEL Registry Agreement. Telnic Limited was found to be in substantial compliance with its contractual requirements. ICANN's Registry Agreements (including the .TEL Registry Agreement) include numerous provisions that enable ICANN to audit compliance, ensure security and stability of the registry, and protect against adverse events in Registry Operators' operations that jeopardize the security and stability of the registry.

With regards to the comments on Telnic Limited's financial stability, ICANN also notes that Telnic Limited has operated the .TEL registry for over 10 years and, to ICANN's knowledge, has not experienced financial or other operational impediments that have caused a failure of registry operations or security and stability concerns. ICANN also notes that, if Telnic Limited were to experience financial problems that resulted in the registry operator failing to comply with its obligations under the registry agreement, the proposed new version of the .TEL Registry Agreement provides ICANN with the ability to take action to protect registrants and ensure continuity of registry operations.

### **Other comments:**

As per the comments relating to ICANN's public comment process, it should be noted the public comment process provides a mechanism for ICANN's decision-making whereby the community is generally given an opportunity to comment upon proposals for at least 40 days. Comments are summarized, analyzed and discussed in the Board's deliberation process. Any Board action will be documented in posted minutes accompanied by detailed rationale for the decision.

Certain comments expressed concerns regarding the ability to express fulsome views because of potential retribution by Registry Operator. ICANN notes that commenters are not required to identify themselves and may post comments in the forum on an anonymous basis.

**Next Steps:** Following the completion of the public comment process, the proposed renewal of the .TEL Registry Agreement will be considered by ICANN's Board of Directors.

