

Japan's proposal regarding domain names used for piracy websites

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Ministry of Internal Affairs
and Communications (MIC)
Japan

- Piracy websites, which illegally post comic book contents online, are causing severe damage to Japanese economy.
- The mechanisms behind piracy websites are becoming more and more complex year by year. In some cases, it is difficult to identify the administrators of the websites.

Total economic loss in Japan caused by piracy websites(*)

- Total economic loss caused by ‘Mangamura’ (a giant piracy website)
: about **2.7 billion** USD
- Total economic loss caused by ‘Haruka yumenoato’ (one of the largest leech sites in Japan)
: about **670 million** USD

* Based on estimation by a right holder group
(<https://www.gov-online.go.jp/useful/article/201712/2.html>)

2. Measures in Japan against piracy websites

- In October 2019, the Japanese Government announced its ‘the Comprehensive Menu of Countermeasures Against Pirated Copies on the Internet’, and it is moving forward with these actions.
- In December 2020, MIC announced its ‘MIC’s policy menu of anti-piracy measures on the Internet’, and promotes these actions.

Comp. Menu Against Online Piracy (October 18, 2019)

- Copyright education, and awareness-raising
- Promoting distribution of authentic versions
- Establishment of an organization as a center to counter piracy websites
- Strengthening of international cooperation and international enforcement
- Measures against search sites
- Deterring advertisements for piracy websites
- Filtering
- Measures to implement flash warnings when accessing piracy websites
- Measures against index sites (leech sites)
- Illegalization of the downloading of infringing contents
- Blocking

(ref) <https://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kousou/2020/dai1/sankou5.pdf>

MIC ‘s policy menu of anti-piracy measures on the Internet (December 25, 2020)

1. Awareness-raising activities to improve information moral and ICT literacy for users
2. Promoting measures to prevent access to piracy site, by using security software
3. Revising the law regarding disclosure of senders’ information
4. Promoting international cooperation for anti-piracy

(ref) https://www.soumu.go.jp/main_content/000725629.pdf

3. ICANN Provisions on DNS abuse

➤ Registry Agreements and Registrar Accreditation Agreements include provisions that Registries, Registrars and Privacy/Proxy (P/P) Providers shall take appropriate measures against abuse.

○ Registry Agreements Specification 9 Registry Operator Code of Conduct

3.a. **Registry Operator will include a provision in its Registry-Registrar Agreement** that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, **piracy, trademark or copyright infringement**, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and **providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name.**

○ Registrar Accreditation Agreement

3.18 Registrar's Abuse Contact and Duty to Investigate Reports of Abuse.

3.18.1 **Registrar shall maintain an abuse contact to receive reports of abuse involving Registered Names sponsored by Registrar, including reports of Illegal Activity.** Registrar shall publish an email address to receive such reports on the home page of Registrar's website (or in another standardized place that may be designated by ICANN from time to time). **Registrar shall take reasonable and prompt steps to investigate and respond appropriately to any reports of abuse.**

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.

○ Registrar Accreditation Agreement Specification on Privacy and Proxy Registration

2.2 Abuse/Infringement Point of Contact. **P/P Provider shall publish a point of contact for third parties wishing to report abuse or infringement of trademarks (or other rights).**

2.4 Terms of service and description of procedures. The P/P Provider shall publish on its website and/or Registrar's website a copy of the P/P Provider service agreement and description of P/P Provider's procedures for handling the following:

2.4.1 **The process or facilities to report abuse of a domain name registration managed by the P/P Provider;**

2.4.2 **The process or facilities to report infringement of trademarks or other rights of third parties;**

Registry Agreements and Registrar Accreditation Agreement provision;

- To include a provision in the Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from operating illegal activities including piracy, trademark and copyright infringement and providing (consistent with applicable law and any related procedures) consequences for such activities
(Registry Agreements Specification 9 Registry Operator Code of Conduct Article 3 a)
- To investigate and respond appropriately to any reports of abuse (Registrar Accreditation Agreement 3.18)
- To publish a point of contact for third parties wishing to report abuse
(Registrar Accreditation Agreement Specification on Privacy and Proxy Registration Article 2)

However, some Registries, Registrars and P/P Providers are showing invalid addresses as a dedicated abuse point of contact, and don't respond to reports of abuse.

They don't comply with the provisions in the contracts with ICANN.

Therefore, we need to ensure that Registries and Registrars comply with their relevant contracts, and domain names of piracy websites should also be handled in the same way, and based on the provisions of contracts.

Japan proposes that GAC begin discussions on finding appropriate measures to deal with domain names used for pirated websites.