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Rules & Procedures for the enforcement of the .EU Code of Conduct

A. GENERAL

1 Procedure of subscription to the Code of Conduct

Parties wishing to subscribe to the Code of Conduct will be able to do so by completing an application form downloadable from <http://www.coc.eu>. A copy of the Code of Conduct will also be available on this website.

The Council of Conduct approves (or approves with a proviso,) candidate subscribers to the Code of Conduct, on a monthly basis. After approval of the subscription to the Code of Conduct by the Council of Conduct, the Registrar will be added to the list of Code of Conduct subscribers. The latter will be published on <http://www.coc.eu>.

To become and to remain a subscriber to the Code of Conduct, the Registrar Agreement between EURid and the registrar must be in force.

2 Termination of subscription to the Code of Conduct

The subscription to the Code of Conduct is considered terminated, when:

- The subscriber notifies the Secretariat in writing of his wish to opt out.
- The Code of Conduct label is withdrawn by the Council of Conduct due to a complaint
- The Registrar Agreement is terminated.
- The subscriber's judicial or business form changes due to, for instance, but not limited to, a merger, a takeover, an acquisition or a consolidation unless the subscriber notifies EURid of his wish to continue its subscription to the Code of Conduct

If a subscriber to the Code of Conduct is party to a pending dispute related to an alleged infringement of the Code of Conduct, he will not be able to unsubscribe for the duration of the dispute.

B. THE PARTIES TO THE CODE OF CONDUCT

1 The Subscribers

An up-to-date alphabetical list of all subscribers to the Code of Conduct will be maintained by the Secretariat and made available to the general public on <http://www.coc.eu>.

Every subscriber will notify the Secretariat of any change of his name, address, telephone number and e-mail.

2 The Council of Conduct

2.1 Interim Council

- a. An Interim Council of Conduct of maximum 12 (twelve) and minimum 8 (eight) full members will be appointed in order to put the Code of Conduct into effect. EURID will appoint the members of this Interim Council.
In principle, the members of this Interim Council will be chosen from registrars that presented themselves as candidates to sit on the Council of Conduct (after a public call for candidates.) Should the numbers be insufficient, Eurid will invite representative members of the Internet community at large to sit on the Interim Council of Conduct in order to reach the minimum of 8 members. Not more than 4 (four) members of the Interim Council of Conduct should have their official physical address, as reflected in the registrar Agreement with EURid indicated in their registrar account with EURid, outside the Member States of the European Union.
- b. A physical person cannot represent more than one registrar account in the Interim Council of Conduct. Each registrar can have maximum one seat in the interim Council of Conduct.
- c. This Interim Council will, without delay and as soon as there are sufficient candidates, proceed with the election, by lottery, of 8 (eight) full members of the Definite Council of Conduct, and 8 (eight) reserve members of the Council of Conduct. The Interim Council will be dissolved at the moment of the first meeting of the Definite Council. As long as there is no Definite Council of Conduct, the Interim Council will remain in effect.
- d. The Interim Council of Conduct will handle the complaints filed between the entering into force of the Code of Conduct and the first meeting of the Definite Council of Conduct, and this according to the complaints handling procedure described later in this text.

2.2 Definite Council

2.2.1. Composition

- a. The Council of Conduct is composed of fifteen (15) dedicated representatives and fifteen (15) reserve representatives. Eight (8) full members and eight (8) reserve members, having their address in a European Union Member State, as reflected on the Registrar Agreement between EURid and the Registrar, will be elected, by lottery, after a public call for candidates. The election by lottery will be held in the presence of a bailiff
- b. There will be 3 additional representatives of the Definite Council of Conduct, appointed by Eurid, namely:

- One (1) representative of EURid.
 - Two (2) representatives of the .eu registrants selected by EURid from appropriate consumer associations.
- c. A physical person cannot represent more than one registrar account in the Definite Council of Conduct. Each registrar can have maximum one seat in the Definite Council of Conduct
- d. Four (4) dedicated members and four (4) reserve members of the Council of Conduct should have their address, as reflected on the registrar agreement between EURid and the Registrar, in a non EU Member State. They will be co-opted by the other members of the Definite Council of Conduct, on the condition that they (the co-opted candidates) are available to perform their duties. Should the numbers be insufficient, a board of eight European Union members and a EURid representative will be considered validly, although provisionally, constituted.
- e. EURid will publish instructions on its website (<http://www.coc.eu>) as to how registrants can present their candidacy. A standard template will be provided by EURid. All information on the election procedures will be published in a timely manner on the website of EURid and announced by e-mail and in the registrar newsletters.
- f. Candidates for membership of the Council of Conduct, coming from the Registrar community, must also be subscribers to the Code of Conduct. Should a Council of Conduct member's Registrar Agreement with EURid be terminated, that member will cease to be a Representative of the Council of Conduct.
- g. The term of office of the dedicated as well as the reserve members of the Council is 2 years and is renewable every two years. Elections by lottery are held at the end of the term in order to replace half of the European Union based members and again six months later in order to replace the remaining half of the members who have their registered address as specified in their EURid Registrar Account in a European Union Member State. Two out of four dedicated members and two out of four reserve members of the Council of Conduct having their address, as reflected on the registrar agreement between EURid and the Registrar, in a non EU Member State, will be co-opted at the end of the term. Six months later the remaining 2 co-opted members will be replaced. This process assures a smooth transfer of knowledge, experience and current affairs.
- h. The re-election will be carried out by means of lottery after a public call for candidates has been made. The resigning Council of Conduct members will remain in place if, after the lottery, the number of candidates should prove to be insufficient. The next lottery should be organised with due diligence by the Secretariat.
- i. The meetings of the Council of Conduct will be chaired by EURid.

- j. If a member of the Council cannot attend a meeting and has informed the Secretariat thereof, the Secretariat will call a reserve member to replace the absent representative. In case this is impossible, EURid will designate replacement.

2.2.2. Responsibilities of the Council of Conduct

- a. The Council of Conduct is the instrument for effecting the evolution of the Code of Conduct. The Council of Conduct is entitled to issue recommendations and requirements to the registry, in terms of functional or operational improvements of the registry system. The Secretariat will submit the recommendations to EURid's legal counsel in order to ascertain their consistency with all applicable rules and laws.
- b. The Council of Conduct should meet at least once a year through a meeting held in person. Other meetings may be held in person, by telephone, video conference, Internet conferencing methods or other similar means of communication. Meetings will be organised by the Secretariat. Any Council Member can propose that the Secretariat convene a Council of Conduct Meeting.
- c. Any meeting of the Council to be held in person must be approved by EURid as to the location, the calendar and the agenda. The logistics of such meetings will be organised by the Secretariat.

3 The Secretariat

- a. The Council of Conduct will be assisted by the Secretariat. The Secretariat will be manned by EURid employees. The Secretariat can convene a Council of Conduct meeting.
- b. The Secretariat carries out all administration according to the Code of Conduct, the Rules and Procedures for the Code of Conduct, and as instructed by the Council of Conduct.
- c. The Secretariat retains the right to veto any decision in conflict with the Public Policy Rules (Regulation EC 874/2004) and the contract between EURid and the European Commission.
- d. The Secretariat will, amongst others things:
 - Appoint two (2) Council of Conduct Members from the registrar community, while avoiding conflicts of interest, who will need to rule together with a EURid Staff member and (1) Council of Conduct Member from the consumer organisations appointed by EURid, regarding a complaint appropriately filed according to the complaint handling procedure.
 - Maintain an up-to-date list of all subscribers to the Code of Conduct and a history of the changes to that list.

- Advise and provide support, including financial means, as is reasonably required in organising Council of Conduct meetings.
- Receive subscriptions to the Code of Conduct and transmit them to the Council of Conduct, who will approve on a monthly basis subscribers to the Code of Conduct
- Publish the names of the Council of Conduct Members.
- Prepare and publish FAQ.
- Receive and publish suggestions for amendments to the Code of Conduct.
- Publish a brief summary of the ruling of the disputes brought to the attention of the Council of Conduct.
- Verify the completeness of the submitted complaint and whether it meets certain administrative requirements.
- Inadmissible complaints will be sent by to EURid by the Secretariat.
- The Secretariat will draft the minutes of the Council of Conduct meetings.

3.1 Publications by the Secretariat

The Secretariat will put in place and maintain a website (<http://www.coc.eu>) including but not limited to the following Code of Conduct related publications:

- an up-to-date list of all subscribers to the Code of Conduct and a history of the changes to that list.
- an up-to-date list of all Members of the Council of Conduct and a history of the changes to that list.
- the most recent version of the Code of Conduct and a history of previous versions.
- the most recent version of the Rules and Procedures surrounding the Code of Conduct and a history of previous versions (idem.)
- Frequently Asked Questions related to the Code of Conduct.
- The minutes of the Council of Conduct meetings.
- Information regarding the pending disputes and the rulings

C. THE MODE OF OPERATION

- a. At least 8 (eight) Council of Conduct Members, one of which a EURid representative, must be present at a Council of Conduct Meeting for any discussed amendments to the Code of Conduct to be put into effect. If this quorum is not obtained, the amendments to be dealt with are to be referred to a subsequent meeting. EURid will have a decisive vote.
- b. Minutes of the proceedings at each meeting of the Council of Conduct will be kept and published by the Secretariat on the Code of Conduct website, regardless of whether this meeting was held in person, by telephone, video conference, Internet conferencing methods or other similar means of communication.

- c. Any member of the Council of Conduct may participate in a meeting of the Council of Conduct by means of telephone, video conference or other similar means of communication provided that all participants in the meeting are audible. The Secretariat must be present at all meetings held by the Council of Conduct.

D. COMPLAINT HANDLING

1 Submission of the complaint

- a. Complaints against .eu registrars that have subscribed to the Code of Conduct can be submitted to the Secretariat of the Council of Conduct. Only complaints regarding alleged breaches of the Code of Conduct will be considered. If the Registrar who allegedly breached the Code of Conduct is not a subscriber to the Code of Conduct, the Secretariat will transmit the complaint to EURid, for further consideration. Complaints are to be submitted via the appropriate platform, located on <http://www.coc.eu>.
- b. A complaint is complete only if its dossier contains the following elements:
- name, address, telephone number and email address of the complainant;
 - name and postal address of the registrar that has committed the alleged violation(s);
 - indication of the domain name(s) that may constitute the object of the complaint;
 - indication of the specific stipulations of the Code of Conduct, that have allegedly been violated;
 - all relevant documents and information that can provide proof of the alleged violation(s).
- c. The Secretariat will, within 8 calendar days of receipt of the completed complaint, notify the registrar, who allegedly committed the violation(s), of the existence and the content of the complaint by email.
- d. After the notification mentioned in the previous paragraph, the Secretariat will invite the registrar to submit a brief of arguments, if any, against the complaint(s). The registrar will have a period of 1 month to transmit them to the Secretariat, via the appropriate platform located at <http://www.coc.eu>.
- e. The complainant then needs to confirm, within 8 calendar days, whether or not he wishes to withdraw his complaint or whether he wishes the Council of Conduct to formulate a ruling regarding his complaint. This confirmation needs to take place via the appropriate platform on <http://www.coc.eu>.

2 Language

The language of the complaint procedure, including the notifications to and from the complainant, the notifications to and from the involved registrar and the notifications to and from the members of the Council of Conduct assigned to the complaint handling (see further) will be English.

3 Investigation of the complaint

The Secretariat will document the complaint submitted to the Council of Conduct within 1 month of its submission. All appropriate content will be published on a password protected section of <http://www.coc.eu>, which is only accessible to the Council of Conduct and the Secretariat.

4 Ruling by the Council of Conduct

- a. The Council of Conduct will appoint, in a random manner, two (2) Council of Conduct Members belonging to the registrar community. Those two (2) members, together with the EURid Council of Conduct member and one (1) Council of Conduct Member from the consumer organisations, will need to rule on the complaint that was brought to the attention of the Council of Conduct. They will jointly deliberate and then reject or accept by simple majority the complaint and pronounce a sanction as provided for in paragraph D.4.f of the present document. The members that rule on a particular complaint are hereafter called “panelists.”
- b. In case of conflict of interest, a Council of Conduct member will be replaced by another member of the Council of Conduct.
- c. In order to reach the numbers stated above, reserve Members of the Council of Conduct may also be appointed to rule as panelists on a complaint brought to the attention of the Council of Conduct.
- d. The panelists will post their decision via the appropriate platform within one month of having been appointed to rule on a particular complaint.
- c. The Secretariat will publish a copy of the complaints to be dealt with on <http://www.coc.eu>. These files are only to be accessible to the panelists and the Secretariat.
- d. Decisions of the panelists will be posted on the appropriate platform, and communicated by means of e-mail to the complainants and the registrars involved.

- e. If the panelists are unable to formulate a ruling within one month of having been appointed, the complaint will be escalated and brought to the attention of the Council of Conduct who will make the final ruling.
- f. In the event of a breach of the code, the Panellists or the Council of Conduct in general can apply one of the following sanctions depending on the nature and gravity of the infraction and whether it is repetitive in nature. The Council of Conduct or the Panellists can:
 - reprimand the registrar or issue a warning;
 - withdraw the logo and features associated with the code for a limited time;
 - withdraw the logo and features associated with the code permanently.
- g. The decision of the Panellists, or the council in case of escalation, will be binding to all parties.
- h. The Secretariat will publish the ruling of the complaints on the CoC website.

Comment [MSOffice1]: Why has the "h" been struck through?
MV

E MAINTENANCE AND SUPPORT OF THE CODE OF CONDUCT

1 Interpretation of the Code of Conduct

The Council of Conduct may, whenever needed, formulate relevant interpretations concerning the Code of Conduct by simple majority of the members that are present at the Council of Conduct meetings. The Council of Conduct must publish such interpretations on the EURid website as a time stamped attachment to the Code of Conduct.

2 Evolution of the Code of Conduct and the Rules and Procedures

- a. The Council of Conduct may present proposals to EURid to modify the Code of Conduct and the Rules and Procedures related to the Code of Conduct.
- b. The Council of Conduct may suggest recommendations for the modification of the IT system or the support organisation of EURid which are geared at improving the monitoring of the Code of Conduct. Suggestions for recommendations can be submitted to EURid by the Council of Conduct.
- c. The current state of the Code will be available on the EURid website, suitably dated with the date on which it came into effect. EURid will maintain an archive of previous versions and modifications to the Code.

F EXPENSES

- a. All costs incurred in the running of the Code of Conduct will be borne by EURid. Council of Conduct members will not be compensated by EURid for their mandate.
- b. All reasonable expenses incurred by council members in physical meetings related to travel and accommodation will be borne or reimbursed by EURid.
- c. EURid reserves the right to evaluate the cost estimate for planned activities and to approve or reject the budget.

G VOTING

- a. Whenever necessary, voting by the members of the Council of Conduct must take place at a well-defined moment in time, to be decided upon by the Council of Conduct on each and every occasion. All members of the Council of Conduct will need to be present to cast their vote. Any member of the Council of Conduct may participate in a meeting of the Council of Conduct by means of telephone, video conference or other similar means of communication whereby all persons participating in the meeting are audible. Participating in a meeting in this manner will be considered as presence in person at such a meeting. Voting can take place, without delay, by actual presence, by means of telephone or over the Internet.
- b. The quorum will be 8 members, one of which will be the EURid representative.
- c. Decisions are made by simple majority.
- d. The vote of the Chair will be decisive.