



.ke Domain Name WHOIS Policy

Document Information

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1.0. Interpretation and Definitions

- 1.1 Terms defined in the Terms & Conditions and/or the .ke Dispute Resolution Rules are used herein with a capital letter.
- 1.2 The following terms that are not defined in the Terms and Conditions are defined as follows:
- (a) **Allocated** shall have a corresponding meaning to allocation;
 - (b) **Allocation** means the method by which a domain name is created and assigned to an Applicant;
 - (c) **Applicant** means a natural person, company or organization in whose name an Application is submitted;
 - (d) **Application** means the complete and technically correct request for a domain name, which complies with this policy and any other policy issued by KeNIC, or ICANN;
 - (e) **Consent of Registrant** means any manifestation of express, unequivocal, free, specific and informed will by which the Registrant or his/her legal, judicial, treaty representative accepts that his/her personal data be subjected to manual or electronic processing;
 - (f) **Data Mining** means sorting through large data amounts for useful information. It uses artificial intelligence, neural networks, and advanced statistical tools to decide trends, patterns, and relationships. These trends might be unnoticed otherwise;
 - (g) **Data Subject** has the meaning assigned to it under the Data Protection Act, 2019 and would in this case specifically be the Registrant;
 - (h) **Direct Marketing** means the dispatch of any message that seeks to directly or indirectly promote the goods and services or the image of a person selling such goods or providing such services; it also refers to any solicitation carried through message dispatching regardless of the message base or nature, especially messages of a commercial, political or charitable nature, designed to promote, directly or indirectly, goods and services or image of a person selling the goods or providing the services;
 - (i) **ICANN** means the Internet Corporation for Assigned Names and Numbers, its successors and assigns;
 - (j) **Legal Person** for the purpose of this Policy means any incorporated entity under the Companies Act, 2015;

- (k) **Natural Person** for the purpose of this policy means an individual human person, or other type of Registrant, as opposed to a legal person (incorporated entity under the Companies Act, 2015;
- (l) **Personal Data** has the meaning assigned to it under the Data Protection Act, 2019;
- (m) **Processing of Personal Data** has the meaning assigned to it under the Data Protection Act, 2019;
- (n) **Registrar** means an entity that is authorized to offer domain name services in relation to the TLD;
- (o) **Registry** means the systems used to record, store and maintain details of domain names in the TLD and in this specific case refers to KENIC;
- (p) **Service** means the services that the Registry provides in relation to the TLD;
- (q) **TLD** means Top Level Domain and for the purpose of this policy the TLD shall be .ke;
- (r) **WHOIS** means a query and response protocol used to lookup certain information related to domain names. A WHOIS query returns information related to contact details, name servers, and the Registrar of a domain name. This service is intended only for query-based access.

2.0. Purpose of the Policy

- 2.1. The purpose of this policy is to describe the WHOIS Service of the TLD, how the Service may be used, actions the Registry may take to promote the accuracy of the Service and those the Registry may take to ensure the security and stability of the Service.
- 2.2. The purpose of a whois service is also to make available up-to-date contact data for the individuals involved in each domain registration under the TLD, i.e. the registrant, the Admin-C, the Tech-C and the registrar the domain is registered with.
- 2.3. Further, a whois query is used specifically:
 - (a) To check if a given [.ke] domain is still available;
 - (b) To resolve technical problems with a specific domain;
 - (c) To identify the person or host responsible for a domain name (e.g. to confirm that this matches the apparent provider of a website, email or other service related to the domain name);
 - (d) To allow registrants of .ke domain names to see information about their domain name;
 - (e) To show publicly if a domain name is in a special status; and
 - (f) To locate and contact the registrant and/or host of the domain name in relation to the prevention or detection of systems abuse, or to establish or defend legal rights (including an intent to use the Dispute Resolution Service).

3.0 PRIVACY POLICY

3.1 Processing of Data and Personal Data (*where applicable*)

- 3.1.1 By registering a Domain Name and accepting the .ke Domain Name Registration Terms and Conditions (“**Terms and Conditions**”), the Registrant authorizes the Registry to process its data and personal data (*where applicable*) required to operate the .ke Domain Name.
- 3.1.2 The processing of personal data shall not be done without the express consent of a Registrant.
- 3.1.3 The processing of personal data shall be done in conformity with the principles of data protection set out under the Data Protection Act.
- 3.1.4 The Registry shall store and use personal data collected for a purpose which is lawful, specific, and explicitly defined.
- 3.1.5 The Registrant shall explicitly agree that the Registry can use the data for operating the system (which will include attribution of the Domain Name, transfer of a Domain Name to a new Registrant, transfer of one Domain Name or a portfolio of Domain Names to a new Registrar) and can only transfer the data to third parties:
- 3.1.6 A Registrar shall provide a natural person whose data is to be processed with the following information, before the data is collected, and regardless of the means and facilities used, with the following information:
- (a) His/her identity and of his/her representative, if any;
 - (b) The purpose of the processing for which the data is intended;
 - (c) Categories of the data involved;
 - (d) Recipient(s) to which the data may be disclosed;
 - (e) The capacity to request to be removed from the file;
 - (f) Existence of the right of access to and the right to rectify the data concerning him/her;
 - (g) Period for which data is stored;
- 3.1.7 A right conferred on a data subject may be exercised –
- (a) Where the data subject is a minor, by a person who has parental authority or by a guardian;

- (b) Where the Registrant has a mental or other disability, by a person duly authorized to act as their guardian or administrator; or
 - (c) In any other case, by a person duly authorized by the data subject.

- 3.1.8 A Registrar shall not process personal data relating to a child unless: -
 - (a) Consent is given by the child's parent or guardian; and
 - (b) The processing is in such a manner that protects and advances the rights and best interests of the child.

- 3.1.9 A Registrar shall incorporate appropriate mechanisms for age verification and consent in order to process personal data of a child.

- 3.1.10 Mechanisms contemplated under 3.1.8 above shall be determined on the basis of: -
 - (a) Available technology;
 - (b) Volume of personal data processed;
 - (c) Proportion of such personal data likely to be that of a child;
 - (d) Possibility of harm to a child arising out of processing of personal data; and
 - (e) Such other factors as may be specified by the Data Commissioner.

- 3.1.11 A data subject has a right to object to the processing of their personal data, unless a Registrar demonstrates compelling legitimate interest for the processing which overrides the data subject's interests, or for the establishment, exercise or defense of a legal claim.

- 3.1.12 The Registry shall, at the request of a data subject, restrict the processing of personal data where -
 - (a) Accuracy of personal data is contested by the data subject, for a period enabling the Registry to verify the accuracy of the data;
 - (b) Personal data is no longer required for the purpose of the processing, unless the Registry requires the personal data for the establishment, exercise or defense of a legal claim; or

- (c) Data subject has objected to the processing, pending verification of legitimate interests.

3.1.13 Where processing of personal data is restricted as above –

- (a) The personal data shall, unless the data is being stored, only be processed with the data subject's consent or for the establishment, exercise or defense of a legal claim, the protection of the rights of another person or for reasons of public interest;
- (b) The Registry shall inform the data subject before withdrawing the restriction on processing of the personal data.

3.1.14 Registrars shall implement mechanisms to ensure that time limits established for rectification, erasure or restriction of processing of personal data, or for a periodic review of the need for the storage of the personal data, is observed.

3.1.15 A person shall not use, for commercial purposes, personal data obtained from the WHOIS query unless the person –

- (a) Has sought and obtained express consent from a data subject; or
- (b) Is authorized to do so under any written law and the data subject has been informed of such use when collecting the data from the data subject.

3.1.16 The following shall be the obligations of the Registrars:

- (a) **Confidentiality obligations** – The processing of personal data shall be confidential and such processing shall be undertaken solely by persons operating under the authority and instructions from the Registrar;
- (b) **Sustainability obligations** – Registrars shall ensure that all appropriate and reasonable measures to ensure that processed data can be utilized regardless of the technical device employed in the process.

(c) **Security obligations** – Registrars must take all appropriate precautions, according to the nature of the data, and in particular, to prevent such data from being altered or destroyed, or accessed by unauthorized third parties. Further, as regards with the security obligations, the following shall apply:-

- (i) Registry operator will provide appropriate security measures to prevent abuse of WHOIS data. Appropriate security measures may be, including but not limited to: using a captcha code; using an automated rate-limiting system; disabling bulk access to WHOIS data (except, if necessary, because of ICANN regulations); or IP address whitelisting.
- (ii) Third parties using the WHOIS service agree to the Registry's conditions for using the service.
- (iii) Third parties should not use personal data to send unwanted e-mails and/or other unwanted contact is prohibited, unless it serves a purpose listed under 2.3; and

(d) **Storage obligations** – Personal data shall be kept for no longer than is necessary for the purposes for which the data were collected or processed.

3.1.17 The Registrant has the right to access his personal data and to arrange for it to be amended where errors exist and both the Registrar and the Registrant should ensure compliance with the Data Protection Act, 2019 on the right to rectification and erasure. Further, the Registrant must keep the Registry immediately informed through the Registrar of any change in name, address, e-mail address and telephone.

3.2 Information collected for internal use

3.2.1 The following personal data will be collected for the internal use of the Registry (unless where also available through the WHOIS look-up facility provided for in Section 4 hereof):

- (i) Full name of the Registrant;
- (ii) Technical contact name;
- (iii) Postal address;
- (iv) E-mail address;
- (v) Telephone number; and

3.2.2 The information must be that of the Registrant and must not be recorded in the Register as that of the Registrar, proxy or representative of a person or entity that does not meet the General Eligibility Criteria.

4.0 WHOIS LOOK-UP FACILITY

4.1 Introduction

- 4.1.1 The Public Policy Rules require the Registry to provide a WHOIS look-up facility where, by typing in a .ke Domain Name, information about the administrative and technical contact administering the Domain Name can be found.
- 4.1.2 When a Domain Name is registered the information relating to that registration sits in a WHOIS database in compliance with the rules set out below. The information collected includes Registrant contact information, the Registrar involved and details of the name servers to which the Registry delegates authority for the Domain Name and is further set out in Section 4.4. hereof.
- 4.1.3 By going to the Website of the Registry and typing in the Domain Name in the WHOIS look-up facility, information about that name and the Registrant can be accessed in accordance with the rules set out below.
- 4.1.4 When registering a Domain Name, the Registrant accepts the Registry's Terms and Conditions which authorizes the Registry to make data including personal data provided accessible on its web site, along with technical data (such as status of the Domain Name or the name servers), in order to guarantee the transparency of the domain name system towards the public.

4.2 Purpose

- 4.2.1 The purpose of the WHOIS database, is to provide reasonably accurate and up to date information about the technical and administrative points of contact administering the domain names under the .ke TLD.
- 4.2.2 If the Registry is holding false, incorrect or outdated information, the Registrant will not be contactable and may lose the name. By deliberately submitting inaccurate information, the Registrant would also be in breach of the Terms and Conditions, which could also lead to loss of the Domain Name.

4.3 Identifying Natural Persons and Legal Persons

- 4.3.1 Those requesting to register a .ke Domain Name are required to provide information including identification information, technical data (such as status of the Domain Name or the name servers), physical and postal address and contact information through an accredited .ke Registrar. In respect of the name of the Registrant there are two fields: The first is 'Name' and the second is 'Company'.
- 4.3.2 Both fields may be completed or just the 'Name' field. If only the first field is completed, it is assumed that the registration is in the name of a private individual (natural person).
- 4.3.3 If the 'Company' field is completed, it is assumed that the company is the Registrant. This ensures that the Domain Name of the company cannot be "held hostage" by an employee who suddenly leaves or who is dismissed, and who tries to transfer or delete the Domain Name or to link it to another website via the managing agent.

4.4 Information published in the WHOIS

- 4.4.1 All Registrants shall accept the Terms and Conditions in which the Registrant authorizes the Registry to publish certain personal data.
- 4.4.2 When the Registrant is a legal person or another form of organization the Registry generally publishes the following information in its WHOIS:
- (a) name, address and telephone and fax number of the Registrant;
 - (b) technical contact person;
 - (c) e-mail address of Registrant; and
 - (d) technical data (such as status of the Domain Name or the name servers).
- 4.4.3 When the Registrant is a natural person (private individual) the Registrant contact information published is restricted to the e-mail address, unless they request otherwise.

4.4.4 Natural persons who apply for a .ke Domain Name will be explicitly informed by their Registrars of the possibility to create and use a specific functional e-mail address for publication in the WHOIS as an alternative to the use of their personal e-mail address.

4.4.5 All other information collected will only be kept for internal use in accordance with Section 3.2. hereof. This information will not be disclosed to third parties unless in accordance with Section 4.6. hereof.

4.5 Preventing misuse of WHOIS data

4.5.1 WHOIS data can be accessed through a purely textual command or by use of a web-based facility. The textual WHOIS look-up facility only contains technical information and the registrar's information which does however not specifically relate to the Registrant.

4.5.2 In order to prevent misuse of personal data available in the web-based WHOIS look-up facility the Registry takes the following steps:

- (i) E-mail addresses, and if published, postal addresses, telephone and fax numbers are displayed as images (pictures) rather than text making it difficult to automate capture of the data.
- (ii) Multi-criteria searching and other search facilities to search by name, e-mail address, address, fax or telephone numbers will not be possible.
- (iii) All those who submit a query to the WHOIS database will be assumed to have read and agree to the 'WHOIS legal statement and terms and conditions' which will inform the user that:
 - a) the WHOIS services are provided for information purposes only;
 - b) by submitting a query, the user agrees not to use the information to:
 - i. allow, enable or otherwise support the transmission of unsolicited, commercial advertising or other solicitations whether via email or otherwise;
 - ii. target advertising in any possible way;
 - iii. cause nuisance to the Registrant in any way by

sending messages to them.

4.5.3 The Registry shall comply with the ICANN WHOIS Marketing Restriction policy which provides as follows:

- (a) The Registry's access agreement shall require the third party to agree not to use the data to allow, enable, or otherwise support any marketing activities, regardless of the medium used. Such media include but are not limited to e-mail, telephone, facsimile, postal mail, SMS, and wireless alerts;
- (b) The Registry's agreement must require the third party to agree not to sell or redistribute the data except insofar as it has been incorporated by the third party into a value-added product or service that does not permit the extraction of a substantial portion of the bulk data from the value-added product or service that does not permit the extraction of a substantial portion of the bulk data from the value-added product or service for the use by other parties;

4.5.4 To prevent "data mining" using the textual command method, only a maximum of 15 domain names within 60 seconds may be retrieved from the same IP address.

4.6 Disclosure of personal data

4.6.1 Third parties may have legitimate reasons to request the disclosure of personal data of natural persons not published in the WHOIS, but processed by the Registry for its internal use in accordance with Section 3.2. hereof.

4.6.2 The third party must individually request the disclosure of these data by filing an application form and:

- (i) State and substantiate the legitimate reasons for the request
- (ii) Read and agree to a disclaimer which requires the third party not to use the information made available for other purposes than those justified by the above-mentioned legitimate reasons
- (iii) Disclose its full name and address (including e-mail address, telephone and fax number, and the company number if the third party is a legal person)

4.6.3 The third party asking for access to the data would only be

granted access to the requested data if it fulfils all requirements or if the Registry is ordered by a judicial authority in Kenya to grant such access.

- 4.6.4 The Registry reserves the right to institute the appropriate judicial proceedings against any third party who infringes this Section.

4.7 WHOIS DATA REMINDER POLICY

- 4.7.1 The Whois look-up facility shall adopt the ICANN Whois Data Reminder Policy in the following ways:

- (a) It is the Registrant's responsibility to ensure that any information provided to a Registry when registering or renewing a domain name is complete and accurate. Additionally, the Registrant is required to update their information with the Registry if a change has occurred to the information provided.
- (b) The Registry may attempt to verify the information that a Registrant provides at the time of application to register a domain name. The Registry may reject an application to register a domain name where incomplete information is provided, or where verification fails.
- (c) During the term of registration of the domain name, the Registry may;
 - (i) Perform audits of the information that has been provided; and
 - (ii) Attempt to contact the nominated entities associated with the domain name, requesting the review of the information that has been provided—and if required request that the Registrant contact the Registry to make adjustments.

5.0 Liability and Indemnity

5.1 The Registry does not guarantee the accuracy or availability of the WHOIS Service records. Any records returned from the WHOIS Services are provided on an "as is" basis without any representations or warranties of any kind.

5.2 The Registry is not liable for any damages or loss of any kind arising out of or in connection with the WHOIS Services or the records generated by the WHOIS Services or for any omissions or errors in the WHOIS records.

6.0. Copyright

- 6.1. All copyright in the WHOIS information, the WHOIS database, and WHOIS datasets are explicitly reserved.
- 6.2. It is strictly prohibited to combine, collect, and/or compile any information that is obtained from this WHOIS service.

7.0. Review

- 7.1. This document has been prepared and published to represent the Registry's policy regarding the administrative and technical management of the TLD. The Registry may discontinue or amend any part or the whole of this policy from time to time at the Registry's absolute discretion.