

# NIRA COMPLAINTS POLICY

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## 1. INTRODUCTION

This document sets out NIRA's policy on the handling of complaints made about domain names, registrars and registrants in the .ng name space.

## 2. NIRA'S JURISDICTION TO HANDLE COMPLAINTS

2.1 NIRA's jurisdiction to handle complaints is limited to matters relating to the .ng domain space. There are two types of complaints that NIRA handles:

- a. complaints about .ng domain names and registrants ("domain complaints"); and
- b. complaints about .ng domain name services provided by NIRA accredited registrars and their resellers ("industry complaints").

The different types of complaints are explained in more detail in sections 4 and 5 below.

2.2 NIRA does not have the jurisdiction to handle complaints about:

- a. generic Top Level Domains (e.g. .com, .net, .biz, .info, etc) or other country code Top Level Domains (e.g. .nz, .uk, .us, etc);
- b. web hosting, website management or website design services;
- c. Internet access or email services; or
- d. possible breaches of Nigerian law relating to Information Technology, telecommunications, broadcasting or unfair business practices.

For complaints about these matters you should contact the relevant government authority.

2.3 NIRA reserves the right not to investigate a complaint that is clearly frivolous, vexatious or abusive, or in NIRA's opinion has been brought in bad faith.

## 3. NIRA'S COMPLAINTS-HANDLING PROCESS

3.1 Complaints may be submitted to NIRA via the online form on NIRA's website, by fax or by post. NIRA will acknowledge receipt of the complaint and indicate the timeframe that the complainant can expect a response (Subject to paragraph 2.3). NIRA will endeavor to resolve complainant's complaint within thirty (30) days, but if complainant's complaint is complex it may take several weeks to resolve. If this is the case, NIRA will keep complainants informed of the progress of complainant's complaint on a weekly basis.

3.2 On receipt of the complaint, where appropriate, NIRA will request a response from the registrant or registrar involved. NIRA will investigate the complaint based on the facts provided by all parties involved in the matter. NIRA may seek further information from any party to assist with its investigation. NIRA may place a registry server lock on the domain name(s) in question, in order to preserve the status quo whilst the investigation is pending.

3.3 After conducting a full investigation, NIRA will notify complainant in writing of the outcome of the complaint and, if relevant, of any other courses of action available to the complainant.

## 4. DOMAIN COMPLAINTS

4.1 "Domain complaints" include complaints about:

- a. prohibited misspellings;
- b. offering a domain name for sale;
- c. correct "ownership" of a domain name;
- d. transfers (change of registrant); and

- e. breaches of the domain name license terms and conditions, or any NIRA Policy.
- 4.2 NIRA is the first point of contact for the above mentioned domain complaints. NIRA will investigate all complaint on the basis of whether there has been a breach of NIRA policy, not on the basis of whether the complainant has a better claim to the domain name, or whether complainant's rights in the domain name have been infringed. If the desired outcome is transfer of the domain name to the complainant, then the complainant should consider lodging a complaint under the NIRA Dispute Resolution Policy or taking legal action directly against the registrant.
- 4.3 If the complaint is upheld, NIRA may take one or more of the following actions:
- a. instruct the registrar of record to "policy delete" the domain name(s) in question;
  - b. instruct the registrar of record to correct the registrant details of the domain name(s) in question; or
  - c. in the case of an unauthorised transfer, instruct the registry to reverse the transfer

## 5. INDUSTRY COMPLAINTS

- 5.1 "Industry complaints" include complaints about:
- a. domain name registration and domain name management services of a registrar;
  - b. transfers (change of registrar of record); and
  - c. breaches of the Registrar Agreement, Registrar's Practice Policy, or any NIRA Published Policy.
- 5.2 Before NIRA will investigate a complaint, complainant must have first attempted to resolve the complaint with the registrar involved. Under the .Registrar's Practice Policy, all registrars must have adequate complaints-handling policies and procedures in place.
- 5.3 Before making a complaint to NIRA, complainant must allow a reasonable period of time of at least seven (7) days for the registrar to respond to the complaint. NIRA will not investigate any complaint unless the complainant has done so. Complainant should also collect any relevant supporting documentation, such as registration agreements, policies, emails and other correspondence with the registrar. Failure to do so may mean that NIRA is unable to investigate the complaint for lack of evidence.
- 5.4 If the complaint is upheld, NIRA may take one or more of the following actions:
- a. request the registrar to issue complainant with a full explanation and apology;
  - b. request the registrar to remedy their error and/or refund any payment for services not received;
  - c. in the case of an unauthorised transfer, instruct the registry to reverse the transfer;
  - d. request the registrar to amend the practice or procedure that led to the complaint;
  - e. notify the registrar that they are in breach of the Registrar Agreement, or any other NIRA Policy, and request them to remedy the breach; or
  - f. complainant should refer complaint to the relevant government authority or Law Enforcement Agency.

**Please Note: NIRA is not a government agency or statutory authority; therefore it does not have legislative powers to impose fines or other penalties on a registrar or registrant.**

- 5.5 If the registrar or registrant involved does not comply with NIRA's request pursuant to paragraph 5.4 a)-d), NIRA may take the following action:
- a. in the case of a registrant, NIRA may direct the registrar not to accept any services from that registrant, and to terminate if any is in existence between the registrar and that registrant; or
  - b. in the case of a registrar, NIRA may suspend or terminate the registrar's accreditation.

## **6. OTHER COMPLAINTS AND DISPUTES**

- 6.1 The NIRA Dispute Resolution Policy provides for independent arbitration of disputes between a registrant and another party with competing rights in the domain name. Proceedings must be lodged with one of the approved Providers listed on NIRA's website.
- 6.2 NIRA will not mediate or resolve disputes between a registrant and another party over a domain name. NIRA may, at the request of the parties or at its own discretion, place a registry server lock on the domain name pending resolution of the dispute by the parties themselves. Resolution of the dispute must be evidenced by a Deed of Settlement or an order of a competent arbitrator, tribunal, court or legislative body.
- 6.3 NIRA will not mediate or resolve commercial disputes between registrars and their own resellers, except insofar as the dispute involves a breach or possible breach of the Registrar Agreement or any NIRA Policy.