

## **Public Interest Commitments (PIC) Form**

*This form allows for the submittal of an initial report claiming that a Registry may not be complying with one or more of its Public Interest Commitments (PICs) per Specification 11 of its Registry Agreement with the Internet Corporation for Assigned Names and Numbers (ICANN).*

*ICANN will conduct a preliminary review of the initial report to ensure that it is complete, it states a claim of non-compliance with at least one PIC, and the Reporter is in good standing.*

*To file an initial report, please complete and submit this form in its entirety.*

*[Items with an asterisk (\*) are required]*

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## **About the Complaint**

<i>TLD In Question *</i>	.FEEDBACK
<i>Domain Name in Question</i>	Various multiple domain names.

*I. Please specify the PIC and section from Specification 11 of the Registry Operator's Registry Agreement in which the Registry Operator is allegedly not complying \* [2000 characters]*

Top Level Spectrum ("TLS") flagrantly violated, and continues to violate, its PICs, the many related provisions in TLS' own policies, terms and conditions, and the promises it made in its new gTLD application. TLS' conduct breaches the public interest and its activities violate applicable laws.

TLS violated and continues to violate the text and spirit of **Spec 11 § 3(c)**, in which it committed to “operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies.” This PIC originated from GAC advice that registries should “be operated in an open manner consistent with general principles of openness and nondiscrimination.” The GAC further advised that the PIC “include a non-discriminatory requirement to provide registrants an avenue to seek redress for discriminatory policies” and has consistently advised that “transparency alone is insufficient to deter discriminatory and preferential registration policies.”

TLS further violated, and failed to abide in its own right by, PIC **Spec 11 §3(a)**, which contains provisions prohibiting “fraudulent or deceptive practices” and other “activity contrary to applicable law.” This PIC originated from GAC Advice that registries should “ensure that terms of use for registrants include prohibitions against ... fraudulent or deceptive practices...”; that registries must “ensure that there is a mechanism for making complaints to the registry operator that the WHOIS information is inaccurate or that the domain name registration is being used to facilitate or promote ... fraudulent or deceptive practices....”; and that “registry operators shall ensure that there are real and immediate consequences for the demonstrated provision of false WHOIS information and violations of the requirement that the domain name should not be used in breach of applicable law.”

*II. Please state the grounds of the alleged non-compliance with the PIC \*[2000 characters]*

TLS repeatedly changed its own policies and marketing programs in a confusing, unclear, nontransparent manner, with the intent to discriminate against brand owners.

TLS self-allocated, or reserved for allocation to third parties acting in concert with TLS, numerous domains corresponding to brands, many of which were held during the Sunrise period. TLS launched many deceptive and discriminatory marketing schemes that prevented brand owners from registering or recovering domains corresponding to their brands.

TLS promised to operate .Feedback as trusted space where consumers receive and “give actual feedback.” Instead, TLS hired paid professionals to write and post fabricated reviews throughout .FEEDBACK’s sites. TLS copied actual reviews and user identities on its .FEEDBACK sites, taken from third party sites such as Yelp. Many of these reviews were posted years earlier. TLS never disclosed that such reviews are not from actual customers (or copied from third party websites). It never disclosed its role in soliciting and hiring paid reviewers. In fact, the vast majority of such reviews (62%) come from identifiable users in the Seattle area, in close proximity to TLS’ headquarters. The postings were designed to create the false appearance that .Feedback is a popular, trusted source of legitimate commentary

TLS launched and continues to operate a deceptive and discriminatory marketing program called FREE.FEEDBACK, which has resulted in TLS misusing brand owners’ .COM WHOIS information and deceptively soliciting them to validate and renew .FEEDBACK domain names they never sought to register. The FREE.FEEDBACK program has resulted in brand owners being targeted by phishing schemes using the scraped .COM registration data used in this deceptive program.

As outlined further in Complainants' full complaint and accompanying exhibits, these acts, both individually and collectively, violate the PICs.

*III. Please provide a detailed explanation of the harm caused to you by the alleged non-compliance with the PIC \**

Complainants have suffered and continue to suffer monetary loss and reputational harm as a result of TLS's deceptive acts and practices. The public has also suffered from TLS's deceptive practices.

Constantly changing registry policies and terms of service have prejudiced any meaningful ability of Complainants to voluntarily register domains in the TLD under clear and fair requirements and conditions. Thousands of domains matching well-known trademarks have been reserved, self-allocated, registered and/or used by TLS, alone or in concert with others, including before and during Sunrise. TLS's activation of such domains falsely suggests that Complainants are affiliated with or endorse such domains. Complainants who have registered domains defensively in the TLD have been harmed through TLS's exploitative and discriminatory pricing and mandatory opt-out fees for default content.

TLS was behind the many paid and false reviews, and outdated reviews misappropriated from third party sites, that now appear on a large number of domains in the TLD. TLS has failed to disclose these facts to the public, and has harmed Complainants and the public through such fraudulent practices. TLS's misuse of Complainants' logos, tag lines and other brand indicia on these sites cause further harm by implying to the public a possible official affiliation or endorsement of the sites that does not exist.

TLS's creation of false registration data through the FREE.FEEDBACK program harms Complainants and the public by creating a false impression that brand owners are willingly registering domains in the TLD. Some brand owners have been misled into verifying unwanted domain registrations in the TLD through this program. Complainants have devoted considerable time and resources to investigate TLS's deceptive acts and practices. Absent relief by ICANN and the Standing Panel, TLS is likely to continue to harm Complainants and consumers and reap unjust enrichment, contrary to the public interest.