

To:

Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094
USA

From:

Warezio s.r.o.
Na Folimance 2155/15
120 00 Praha
Czech Republic

Date: 13th of October 2025

Subject: Call to action against abusing the domain system for piracy

Dear ICANN Legal Team,

We are writing to bring to your attention serious concerns regarding the operation of the .to country code top-level domain (ccTLD) and its registry operator tonic.to, which has created an environment that facilitates widespread abuse by piracy websites.

Our research has identified that a significant count of active piracy websites operate under .to domains. As an anti-piracy company, we frequently encounter .to domains in our enforcement activities, which has given us firsthand insight into the registry's problematic practices. This is not a coincidence but a direct result of the registry's operational approach that prioritizes anonymity over accountability. The 2024 Review of Notorious Markets for Counterfeiting and Piracy, published by the Office of the United States Trade Representative (USTR), underscores the problematic nature of this domain. It includes seven references to .to domains, far more than any other ccTLD:

TLD	Count	Domains
.com	15	dhgate.com, bukalapak.com, krakenfiles.com, rapidgator.net, savefrom.net, shopee.com, streamtape.com, taobao.com, pinduoduo.com, y2mate.com, vk.com, whmcssmarters.com, iptvsmarters.com, 1fichier.com, nsw2u.com
.to	7	1337x.to, 2embed.to, hianime.to, torrentgalaxy.to, rg.to
.net	6	ddos-guard.net, flokinet.net, geniptv.net, magistv.net, rapidgator.net, vsys.host
.org	3	thepiratebay.org, rutracker.org, yifysubtitles.org
.ru	3	avito.ru, libgen.ru, sci-hub.ru

.mx	2	yts.mx, torrentgalaxy.mx
.cc	1	2embed.cc
.biz	1	cuevana.biz
.eu	1	squitter.eu
.in	1	vegamovies.in
.me	1	unknowncheats.me
.rs	1	libgen.rs
.se	1	sci-hub.se
.site	1	fitgirl-repacks.site
.host	1	vsys.host
.tv	1	genip.tv

The tonic.to registry operates with fundamental deficiencies that enable abuse:

- **Lack of accessible WHOIS/RDAP data and failure to ensure accountability**

The registry does not operate a functional, publicly accessible WHOIS or RDAP service **containing registrant contact information.**

According to Tonic’s own FAQ, the registry “provides information about the domain and DNS without revealing personal details.” In practice, .to is among the very few ccTLDs with no publicly available database of domain holders, effectively shielding registrants’ identities from any form of legitimate inquiry.

While protection of personal data is legitimate, the complete absence of a public registration database prevents rights-holders, law-enforcement authorities, and regulatory bodies from exercising their legitimate interests, including the enforcement of intellectual-property and consumer-protection rights.

By systematically withholding registrant data, the registry undermines transparency and accountability in domain administration and facilitates persistent misuse of .to domains for piracy, phishing, and other unlawful activities.

- **No Identity Disclosure Mechanisms**

Even when presented with legitimate legal requests, the registry maintains no mechanisms for revealing registrant identity information. This obstructs legitimate legal processes and prevents accountability for piracy activities conducted through these domains.

- **Lack of Terms and Conditions for Domain Owners**

The registry operates without publishing terms or conditions for domain owners, creating an unregulated environment that lacks standard industry safeguards and compliance mechanisms. When we inquired about the registry’s terms and conditions, we were merely directed to an FAQ page. (ATTACHMENT 1) This response is completely inadequate, as FAQ sections cannot substitute for comprehensive legal terms that clearly define the rights, obligations, and protections for domain registrants. The absence of proper terms and conditions recourse mechanisms that are standard practice in the domain industry.

- **Lack of Terms and Conditions for Registrars**

The registry fails to establish any conditions for registrars and does not maintain a registrar directory or provide mechanisms to identify the registrar responsible for a given domain registration. This creates an enforcement gap for rights holders, who cannot pursue violations of registrar terms of service due to their inability to both identify the relevant registrar and determine the applicable regulatory framework governing that registrar's operations. When we attempted to obtain the conditions for registrars, the registry responded that it is not currently accepting new registrars and declined to provide the terms and conditions. (ATTACHMENT 2)

- **Discriminatory access and refusal to accredit new registrars**

Tonic has confirmed that it is “not accepting new registrars at this time.” As a result, all .to domain registrations must be purchased exclusively through Tonic’s selected companies, effectively operating as a closed oligopoly.

- **Lack of a dispute-resolution mechanism**

The .to registry provides no alternative dispute-resolution (ADR) policy for domain-name conflicts. Unlike most ccTLDs, .to has neither adopted the Uniform Domain-Name Dispute-Resolution Policy (UDRP) nor implemented a comparable national policy. Consequently, trademark owners and other affected parties have no non-judicial recourse, forcing them to litigate in Tonga or foreign courts.

- **Insufficient contact information and lack of local presence**

According to IANA’s public record, both the administrative and technical contacts for .to are located in Burlingame, California, USA, not in Tonga. Moreover, the registry’s website provides only a generic e-mail address (hostmaster@tonic.to) and **no postal address or legal contact for official correspondence.**

- **Non-compliance with European legislation**

Despite the fact that registry’s services (particularly new domain registration and general website functionality) are accessible within the European Union, the services are completely non-compliant with European legislation. (ATTACHMENT 3)

Conclusion

The current state of the .to registry represents a threat to intellectual property rights. We believe that only through the implementation of basic transparency, accountability mechanisms can internet domain management entities contribute to a trustworthy internet ecosystem.

Unfair Competition

We wish to draw your attention to the fact that ICANN’s inaction in this matter could itself give rise to legal concerns under European and Czech competition and unfair-competition law.

By knowingly tolerating a registry operator that facilitates unlawful commercial activities and obstructs legitimate enforcement actions, ICANN risks being regarded as an auxiliary participant (so-called “assisting person”) in the unfair competition conducted through the .to domain ecosystem.

We base this legal assessment on the applicability of Czech law, which governs the protection of economic competition and intellectual property rights within the territory of the Czech Republic.

Our company represents (inter alia) Czech rights holders whose copyrighted works are unlawfully made available to the public on websites operating under .to domains (e.g. videoserialy.to).

These infringing communications are targeted at and accessible from the territory of the Czech Republic, where the harm to legitimate market participants materializes and where the competitive effects of such conduct are felt.

Under Czech private international law and the principles of the EU’s Rome II Regulation (Regulation (EC) No. 864/2007), the law applicable to acts of unfair competition is that of the country where the market is affected (*“the country where the competitive relations or collective interests of consumers are, or are likely to be, affected”*).

Accordingly, as the unlawful availability of protected works on .to domains directly distorts the Czech market, Czech substantive law — including Section 2976 et seq. of the Civil Code on unfair competition — applies to the evaluation of ICANN’s and the registry’s conduct.

Under Czech law, the general clause of unfair competition is set forth in Section 2976(1) of the Czech Civil Code, which provides that:

“Unfair competition shall mean conduct in the course of trade which is contrary to good morals of competition and is capable of causing harm to other competitors or customers.”

This definition establishes three cumulative criteria that must be met for an act to constitute unfair competition:

1. The conduct must occur in the course of trade – i.e., within an economic or commercial context;
2. The conduct must be contrary to good morals of competition – this refers to the generally recognized ethical and professional standards of fair business behavior, emphasizing honesty, fairness, and respect for the legitimate interests of others in the market;
3. The conduct must be capable of causing harm to other competitors or customers – actual damage need not occur; it suffices that the conduct is objectively capable of causing detriment or distortion within the competitive environment.

Where these elements are fulfilled, the act is deemed unlawful per se. If ICANN remains inactive in this matter, its conduct would fulfil all three of the above conditions, for the following reasons.

1) Conduct in the course of trade

This requirement is satisfied because ICANN operates within an economic and competitive environment in which its decisions (and omissions) have direct market effects. The coordination and oversight of the DNS root – including the continued recognition of a ccTLD manager – constitute activities performed in commerce, with immediate consequences for access to domain registrations, enforcement costs, and competitive positioning of lawful market participants.

Under Czech doctrine and case law, “conduct in the course of trade” is construed broadly and does not presuppose a direct rivalry between the actor and the injured party; it is enough that the actor’s behavior objectively affects the outcome of competition.

In this sense, if – despite this notice – ICANN allows the .to registry to continue operating without transparent policies, functional WHOIS/RDAP, and ADR, **ICANN acts as an auxiliary participant (assisting person)**: it knowingly provides and maintains the essential organizational framework and technical gatekeeping through which the unfair competitive effects are realized.

2) Conduct contrary to good morals of competition

This condition is likewise fulfilled. Under Czech law, the notion of “good morals of competition” (*dobré mravy soutěže*) is an open-textured standard protecting the integrity of competition as a whole; courts assess it in light of objective ethical and professional expectations of fair market conduct, with emphasis on honesty, decency, and acceptable competitive methods. The Supreme Court has explained that this standard is a relatively indeterminate legal concept whose content must be specified with regard to the concrete case, time, place, and the parties’ interactions; it tolerates a degree of market aggressiveness, yet excludes deceitful, parasitic or otherwise unfair practices toward competitors and consumers.

According to settled Czech case law, including the Supreme Court judgment in *23 Cdo 2793/2020 (Hellspy)*, liability for unfair competition is not limited to those who directly engage in the unlawful activity themselves. It also extends to any person who creates or maintains the conditions enabling another party’s unfair competitive conduct. The Court expressly held that even an intermediary who provides a technical or organizational framework for the dissemination of infringing content acts contrary to good morals of competition, because such facilitation constitutes a knowing participation in conduct that undermines fair market behavior.

Applying this reasoning, ICANN’s persistent tolerance of the .to registry’s operations – despite being informed that the registry systematically enables copyright infringement and frustrates lawful enforcement – represents behavior that is manifestly inconsistent with the ethical and professional standards of fair competition. By continuing to support and legitimize a registry that prioritizes anonymity over accountability and disregards fundamental transparency obligations, ICANN effectively sustains an ecosystem that distorts lawful market competition and harms legitimate rights holders.

3) Capability of causing harm to competitors or customers

This condition is met because the effects of the .to operational model are objectively capable of causing detriment to other competitors or customers.

By enabling anonymous registrations and withholding registrant-identifying data (no functional WHOIS/RDAP) and by offering no ADR, the registry materially increases enforcement costs and delays for lawful market participants, diverts customers to infringing services, and erodes the reputational goodwill of compliant traders.

ICANN’s continued inaction sustains the organizational preconditions for these market effects and thus qualifies – under Czech doctrine as an endangerment tort – as conduct capable of causing harm to competitors and consumers.

Accordingly, all three cumulative conditions of the general clause of unfair competition under Section 2976(1) of the Czech Civil Code are fulfilled. ICANN’s conduct – carried out within an economic context,

contrary to good morals of competition, and objectively capable of causing harm to competitors and consumers – therefore meets the statutory definition of unfair competition under Czech law.

Should ICANN continue to remain inactive despite having been duly informed of these facts, it would expose itself to potential legal actions for unfair competition before the competent Czech courts. Such proceedings could seek injunctive relief, corrective measures, and compensation for the ongoing market distortion and harm suffered by Czech rights holders and legitimate businesses.

Call for action

We therefore call upon ICANN to ensure that domain registry operators implement fundamental mechanisms essential to the DNS ecosystem's integrity - specifically, WHOIS services and legal disclosure mechanisms for registrant data. These core components are vital for maintaining transparency and accountability within the domain name system, and their implementation by all registry operators is crucial for preserving the balance of rights and responsibilities that underpins the current regulatory framework.

We also call upon ICANN to exercise general oversight ensuring that registry operators possess the legal competency to operate such services in the first place. The absence of proper terms and conditions, combined with violations of European legislation in the case of the .to registry, demonstrates a fundamental lack of legal preparedness and compliance awareness that should disqualify entities from managing critical internet infrastructure. ICANN must enforce minimum legal standards for registry operators, including mandatory publication of comprehensive terms of service, adherence to applicable data protection laws, and demonstration of regulatory compliance in jurisdictions where they provide services.

The internet community deserves domain registries that balance legitimate privacy concerns with the need for accountability and legal compliance. We trust that ICANN will take swift and decisive action to address these critical issues.

Please confirm within seven (7) days of receipt of this notice the remedial steps ICANN will take and the timeline for their implementation. We remain available to cooperate constructively and to provide further evidence as needed. Absent timely and adequate action, we reserve all rights and remedies, including the pursuit of unfair-competition claims.

We look forward to your prompt response and concrete steps toward resolving these concerns.

Best regards,



Jakub Hájek, CEO


Warezio s.r.o.

<https://warezio.com>



Attachments:

1. tonic.to operator's response to Terms and Conditions request for .to registry

04.08.25 12:30 Seznam Email

 **Eric Gullichsen** egullich@colo.to 30. 7. 2025, 21:19

Komu: jakub.hajek@warezio.cz, hostmaster@tonic.to

 **Re: Terms of use** 

Dear Mr. Hájek:

You will find Tonic's policies here:

<https://www.tonic.to/faq.htm>

Best regards,

- Eric Gullichsen

On 7/30/25 04:05, Jakub Hájek | Warezio wrote:

Dear Sir/Madam,

We were unable to locate the terms and conditions for your domain registry and registrar, tonic.to. Could you please direct us to where these terms are available?

Best regards,
Jakub Hájek

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- Eric Gullichsen

2. tonic.to operator's response to Registrar Conditions request for .to registry

04.08.25 12:38

Seznam Email

**Eric Gullichsen** egullich@colo.to ▾

31. 7. 2025, 20:35

Komu: jakub.hajek@warezio.cz

 Re: Terms of use

Jakub:

On 7/30/25 23:19, Jakub Hájek | Warezio wrote:

> what is process and requirements needed to become a registrar of .to
> domain?

We are not accepting new registrars at this time.

Best regards,

- Eric Gullichsen

GDPR Violation Report

Target Website: tonic.to

Date of Report: 09.08.2025

1. Executive Summary

The tonic.to website collects sensitive personal data, including names, billing addresses, and emails, while operating without the basic GDPR safeguards required under EU law.

The absence of a Privacy Policy, cookie consent mechanism, and user rights infrastructure represents not just minor oversights, but **systemic disregard for data protection law**.

Key Violations Identified:

- Complete failure of transparency obligations (Articles 12–14).
- Unlawful data processing (Article 6).
- Absence of valid consent (Article 7).
- Failure to respect user rights (Articles 15–22).
- Potentially insecure and unlawful cross-border transfers (Articles 44–49).

Such deficiencies put both the company and its users at high risk.

2. Detailed GDPR Violations

A. No Privacy Policy or Notice (Articles 12–14)

- **Finding:** No accessible Privacy Policy or GDPR notice. Users cannot see what personal data is collected, how it is processed, retention periods, or their rights.
- **Critical Issue:** This is a **foundational violation**. Transparency is the backbone of GDPR.

B. No Lawful Basis for Processing (Article 6)

- **Finding:** The site collects personal identifiers (first name, last name, billing details) but does not state whether processing is based on consent, contract, legal obligation, or legitimate interest.
- **Critical Issue:** Data collected without a lawful basis is **illegal processing** under GDPR.

C. Absence of Consent Mechanism (Article 7 + ePrivacy Directive)

- **Finding:** Cookies and trackers load automatically. No cookie banner, no opt-in, no granular controls, no option to refuse.

- **Critical Issue:** This is a **direct violation of EU case law (Planet49 ruling)**. Consent must be active, not implied.

D. No Process for Exercising User Rights (Articles 15–22)

- **Finding:** No mention of rights to access, erasure (“right to be forgotten”), data portability, restriction, or objection. No email, form, or DPO contact provided.
- **Critical Issue:** GDPR requires controllers to make exercising rights simple and accessible.

E. Lack of Information on Data Retention (Article 5(1)(e))

- **Finding:** Website does not disclose how long user data is kept.
- **Critical Issue:** GDPR requires data minimization and **defined retention periods**. “Keep data indefinitely” is unlawful.

F. No Information on International Transfers (Articles 44–49)

- **Finding:** No disclosure whether user data leaves the EU/EEA, or what safeguards apply.
- **Critical Issue:** Given tonic.to operates globally, transfers are highly likely. Without safeguards, this is a **major compliance failure**.

G. Security & Accountability Failures (Articles 24 & 32)

- **Finding:** No information on encryption, pseudonymization, breach notifications, or compliance measures.
 - **Critical Issue:** GDPR requires **accountability**. Controllers must demonstrate compliance, not hide it.
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3. Pattern of Non-Compliance

These issues are not isolated errors but a **complete failure to implement GDPR measures**. Violations cover all six pillars of GDPR:

- Transparency
- Consent
- Lawful Basis
- User Rights
- Data Transfers
- Security

This pattern suggests the site is either:

- **Ignoring legal obligations intentionally, or**
- **Operating without any compliance framework.**

Either scenario represents serious risk to EU users’ rights and freedoms.

4. Conclusion

The tonic.to website demonstrates **widespread GDPR violations**, including absence of a Privacy Policy, unlawful data collection, and denial of user rights.