

Webhosting Fine Prints Danger Zone

A SPECIAL EXCLUSIVE REPORT

“Learn why your website is at risk of loss and what you need to do to save it from an impending disaster.”



This special report is brought to you by:

[Manny Jao II](#)

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SALUTATION

Dear Webmaster Friend,

Thank you for taking the time to download our special report entitled **“Webhosting Fine Prints Danger Zone”**.

We appreciate that **you feel it is important** for you to know the dangers that those contractual fine prints pose to you and your online presence.

As more and more people are entering the webhosting business, more and more customers are finding out that **webhosting services are getting cheaper** and cheaper everyday. It's a good stuff for today's webmasters as well as those future website owners. But this also has brought great risks to the hosting consumers.

While it is true that cheap may not mean that much to the average Joe nowadays, most of these consumers are exposed to what we now call **“fine print tolerance syndrome”**. The repercussion of this is serious.

This behavior happens when, upon scanning a seemingly typical long terms and conditions page (as presented in those long and boring contracts), **we just simply ignore the contents**, click the **“Agree”** button and proceed to purchase or enter into an agreement with the other party without even understanding the first page of the document.

It is worthwhile to mention that while this is done most often out of convenience (and sometimes necessity), the consumer's rights is given away without them knowing it. Unaware of their contractual obligations and what recourse each party can avail of in times of dispute, the **ignorant party's rights are in danger**. Like the danger of losing their precious websites without recourse.

As the title implies, the purpose of this special report is **to make you become aware of the dangers of not reading those fine print online** (and maybe you can apply it to offline as well). We have to remind everyone of the need to exercise diligence in reading those small letters that can wipe your rights to have a good fight in case of problems. This has happened to us so we know.

And of course, you are about to learn **what you can do today** that can help you **mitigate those risks of tomorrow if not eliminate them totally**.

So take a cup of coffee, **sit back and enjoy the good read**. After you finished reading this, you will never look the same at those boring and time-consuming contractual fine prints again.

Manny R. Jao II
Author and Publisher

Contents

[1 Salutation](#)

[2 Foreword](#)

[3 What is a Fine Print?](#)

[4 Your Web Host's Fine Print](#)

[5 Did you really sign it?](#)

[6 Review of Top Webhosts' TOS & AUPs](#)

[7 Important Notes](#)

[8 Fine Print Detection](#)

[9 Mitigating Risks](#)

[10 7 Ways to Protect You Against Risks of Loss](#)

[11 Conclusion](#)

[12 Special Announcements](#)

Foreword

Highlights

Over the years, the webhosting business has evolved into a massive worldwide industry. Many people made money early in the race but in the latter days, competition is so fierce that hosting prices are dropping like jaws in awe.

There are **no controls and no regulating body** that will curb the quick deterioration of revenues and profits to be made by the so called “webhosts” or webhosting companies. New players come in everyday **dropping their prices like crazy** just to get a piece of the action. It’s a webmaster’s market nowadays.

The pricing issue is mainly caused by the **reduced server and network costs** offered by various datacenters competing for server sales. With more supply than there is demand, it creates highly competitive business landscape to the resellers. Competitors go by price wars and jacked up webhosting features.

“The chronic pricing problem has pushed profit margins of web hosts to an all time low...”

This chronic pricing problem has pushed profit margins to its all time low prompting many webhosts to look closely at their costs. While the chaotic pricing is beyond the webhost’s control, their costs and expenses are theirs to manage.

In recognizing the need to streamline their costs (in order to make some money), these webhosts now have to **pass on** certain limitations and responsibilities to their customers. One good example of these is making sure that they only allow certain activities on their server and network (IRC, newsgroups, email blasting, live chats, download sites and other server-intensive activities.)

“Limitations are normally embedded in the legal fine prints and if the innocent webmaster violates them, he is posing a grave threat to his website’s existence.”

Another example is to **disallow particular website** types from using their servers and their network. These include Mp3 sites, adult sites, spam sites, forums and may other types of sites known to eat up a lot of shared resources. They do this to make sure that their cheap services will not be subject to abuse which may affect even their other existing customers to leave them for poor service.

These **limitations are normally embedded** in the legal fine prints. If the innocent webmaster violates them, he is **posing a grave threat** unintentionally to his website’s existence. The problem is that these lines of text in the contracts are **normally ignored or are not taken seriously** by these webmasters until problems surfaced. Been like that before until I encountered a huge problem.

“When problems arise, that’s the only time we go back to the terms and conditions of our purchase...”

And **when these problems arise**, that’s the only time **we go back to the terms and conditions of our purchase** and to our surprise, we may find out that we have just agreed to something we should have not done so in the first place. And worst of all, these terms has changed that you no longer enjoy the rights and privileges you know you have before.

Then **when all these happened**, that is the only time you know you are in danger of losing a fight. Only then you realize that you **might be in trouble**.

I. FIRST OF ALL, WHAT IS A “FINE PRINT”?

Highlights

Dictionaries commonly referred to this as:

1. the part of a contract that contains reservations and qualifications that are often printed in small type

Such as "...don't sign a contract without reading the fine print."

2. small print in a contract – the literal meaning of the phrase.



Such as "...bring me my glasses so I can read the fine print."

WikiPedia has a better definition:

“refers to the practice of including necessary legal terms, warnings, disclaimers or other phrases in small writing on commercial or contractual documents. Small print is usually included at the end or bottom of a document, in a smaller type size.”

“Fine prints are critical terms in the contract that we tend to ignore because we either don’t like to read them or we simply didn’t see them.”

Contractual fine prints, based on the above definitions, can be summarized in a few words – **critical terms in a contract we tend to ignore** – either because **we don’t read them** or **we simply didn’t see them** as they are presented.

Having said that, we don’t mean literally that **webhosts intentionally** make the font smaller for you not to read their terms and conditions but **the normal tendencies** of the average web surfer is to **just click on “Agree”** button even without looking at these **“fine but important words.”**

I am personally guilty of this **fine print tolerance syndrome**. More often than not, **the problem is with us consumers** by choosing to ignore those lines of texts on long white pages of boring reading material because we are simply busy to spend time on it or we are in a hurry to do something.

These terms and/or conditions **have significant impact** to both contracting parties that ignoring them may benefit one over the other when dispute arises. **Not knowing your contractual rights** (like the right to rebates or refunds for example) as the webmaster will weaken your position in any dispute.

“Without reading the contractual fine prints, the ignorant party may be giving up his rights in case of disputes.”

Much to our concern is the fact that online consumers are entering into a contract, and they can't change that contract in any way. They are normally bound by certain contractual obligations simply because **they have to agree** on it when they purchase the service. You know the type. Those that let you tick on the **“YES, I agree with these terms”** or those embossed buttons with **“I Agree”** marked on it. There are many other forms of these “Agree-meant” to be.

II. YOUR WEBHOSTING PROVIDER'S FINE PRINT

HIGHLIGHTS

Getting a webhosting service normally necessitates you and me to enter into an agreement with the terms and conditions that's posted on the webhost's website under live links named usually as **"Terms of Services (TOS)"** or **"Acceptable Usage Policy (AUP)"**.

Other names include **"Legal Terms"**, **"Legal Notices"** and **"Registration Agreements"** and similar stuff. If you can't find this on the main page, you'll normally see this on the order page before you click that **"Order now"** link.

In the offline world, these contractual documents are normally **discussed, negotiated, revised and agreed** upon by both parties before signing the hard copies. There are several discussions that can take place in what normally known as **"contract negotiations"** until both parties are satisfied with the results.

But this contract negotiation doesn't apply online. We are **normally left with no choice** but to agree to the terms of the providers - **clicking the "Agree" button immediately** without even reading the whole TOS or AUP. In other words, we only have two options; **"either we take it or leave it"**.

Imagine if you are in a hurry to put a web business or maybe you need to transfer from your old problematic host to a new host. Your only mission that time is to get a service provider to answer your needs and that's it. You came to their website and **sign your life away without reading the terms thoroughly**. And when some problems happen later, boom! You can't go back in time.

Always remember that these TOS and AUPs are **crafted by these webhosting companies' legal advisers**. Real life scenarios show that there is a **tendency to favor the rights** of those who have a hand in drafting a contract. And they **reserve the right to change** the terms within these documents at any time and yet the other party is still bound to abide by it.

Unfortunately, the **fundamental problem is usually not with these webhosts' terms and conditions** but really more with **our discipline as consumers** to read through the **meaning of these texts** and **their impact** to your online presence at the time we are given the chance to review them (i. e. before you sign up).

Once a consumer signs up, it is very unlikely that the customer (you and me) will visit that terms page again to check for any updates so you will never know what to expect and where your rights now stand.

"Unlike paper contracts in the offline world, online contracts called TOS, AUPs or Legal Terms are not negotiated anymore and have to be accepted by the customer on a take it or leave it basis."

"Unfortunately, the fundamental problem is not with the terms and clauses of the TOS or AUPs but rather on our discipline to read and understand them before signing up and agreeing electronically."

III. DID YOU REALLY SIGN IT?

HIGHLIGHTS

While you might think that you are safe by agreeing to those normal TOS and AUPs on the web without reading and understanding that much, the law think otherwise and has caught up with technology through the [E-Sign Law](#).

Under this law, a simple click of a mouse could replace a physical signature whereby the consumer “consents electronically” or confirms his/her consent electronically to the accessible document online.

Supporters of the law hoped it would revolutionize e-commerce, decreasing paperwork, speeding transactions and allowing consumers to purchase products completely online.

These “electronically signed contracts” can be in various forms like those on webpages as well as in emails. The law reiterates, though, that these forms should be accessible all the time to the one who signed it for easy reference.

It's considered “signed” by any electronic mark or stamp by mere click actions that demonstrate the intent to agree to the contract normally known as electronic signatures in the E-sign law.

So when you click that “I Agree” button, you left already your signature to the e-document - that TOS and AUPs you have been ignoring this long – and you are bound to abide by it as long as you have not withdrawn consent from the same.

That withdrawal of consent will normally mean cancellation of service.

“Your simple click of a mouse on the “I Agree” button already signifies your agreement to the terms and conditions.”

IV. REVIEW OF TOP WEBHOSTS' TOS AND AUP

The following are examples of what you should really watch out for in a TOS and AUP of your webhosts or other service providers. You should know how to spot these blocks of texts for your protection and awareness of your rights and options.

What we did here is take screenshots of TOS and AUPs of some of the top webhosts' in the industry and see what they are really saying about their services, guarantees, warranties, responsibilities and other major clauses in the contracts.

We analyzed each of the most important but often ignored fine prints and present them to you as plainly as we could so you can understand them better. These contractual wordings are dissected, chopped and examined to give you an insider's look into what these words means to you and your online presence.

“We analyzed the most important but often ignored fine prints and present them plainly for your easy understanding.”

Remember that these online Legal stuffs are carefully crafted by lawyers of these top companies and are found to be widely plagiarized by smaller webhosts in the industry. That's why these samples are representative of a wider range of companies and small businessmen and women and in the industry today.

IMPORTANT NOTE TO WEBHOSTS

The following reviews and comments on various TOS and AUP that appeared in this report are not made to blame, degrade or attack any web hosts or anyone in the industry but rather give light to what the contract means to both parties.

We believe that these TOS and AUPs are legal documents carefully crafted by competent professionals to protect the interest of the hosting companies and their customers. We further acknowledge that these **fine prints are normal terms and conditions** that can be included in web hosting contracts for that matter.

We have intentionally blurred or white-marked all mention of company names and websites in our examples. The screenshots are taken at its current state from **publicly available documents** on the internet at the time this report is made and we acknowledged that it (or portions of it) may change in the future thus no reference to a particular website or company will be made.

With these analyses of the TOS and AUP of many web hosts, we hope to remind everyone to **read these fine prints carefully** next time.

IMPORTANT NOTE TO WEBMASTERS

After reading this, we are not in any way encouraging you to condemn your hosts for putting all these **fine prints** in their TOS and AUPs.

Remember that **these terms are normal** in nature and are widely acceptable in many contractual commitments. By agreeing to these terms when you signed up, **you are responsible for your actions** and you are obliged to abide by these terms at all times.

The very **purpose and essence of this report is to remind you**, the webmaster-customer, of the **finer details** of your contractual obligations with your web hosting provider.

We hope that by reading this, **you will know what important points and terms** you might have missed, what are your options as of the moment and what you can do to protect yourself and your online presence moving forward.

LASTLY, THIS REPORT IS DEDICATED TO ALL

This report is dedicated to the web hosting industry (for the web hosts and the webmasters) in the hope that when every aspect of web hosting is **clear to both parties**, it will be an easier place to do business with one another.

We only want the industry to grow so those doing business online will make the most money. **Transparency and trust** are vital components of success for this business. We hope to enlighten everyone through this **special exclusive report**.

It is our prayer that the web hosting industry **flourishes even more**.

HIGHLIGHTS

"We believe that these TOS and AUPs are legal documents carefully crafted by competent professionals to protect the interests of the hosting provider and the customers they serve..."

"As webmasters, we are responsible for our actions and agreeing to our host's TOS or AUPs binds us to accept the terms and conditions stated therein..."

"We dedicate this report to the webhosting industry and hope to enlighten everyone that transparency and trust is important for the industry to flourish..."

FINE PRINT DETECTION 101.1

HIGHLIGHTS

“Did you know that you cannot hold your host liable to whatever harm their services may do unto you? And that you cannot claim damages or loss of money from your web host in case of problems?”

When something bad happens to your website (i.e. unannounced shut downs, server crashes, DOS attack, hacking cases, long downtime, etc.), that's the only time **you look for someone to compensate you** for your losses very much like when you get your car hit by an accident. Indeed, when we are in trouble, **that's the only time** you look for your insurance to cover for losses or damages.

“Will my webhosting company compensate me for lost of profits or lost opportunities?”

Let's face it. It happens every time. You might have asked questions like, “Who's gonna **be responsible** for this loss?” “**Who's gonna pay** me for this mess?” “**Will my web host compensate me** for lost profits and opportunities?”

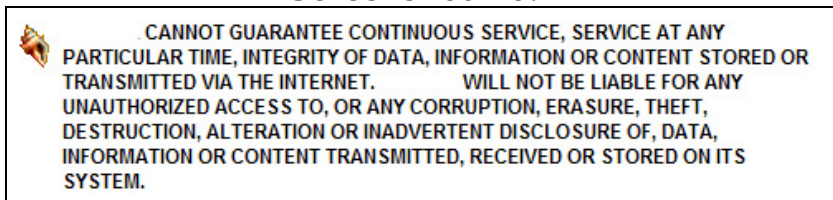
Get real. Look into the fine print closely of your host's legal pages and you will find **shocking truths that you might have missed** when you signed up. Look again and see that most probably, you will end up with nothing to gain but everything to lose in the first place. Now that sounds scary, isn't it?

The reason is that most of the terms and conditions stated in the TOS and AUPs out there contain certain clauses on limitations of guarantee and liability. Most hosts guarantee a superb and enticing uptime of 99.99%. But hey, **they cannot guarantee** that if your site is lost by accident (and sometimes by their negligence), you can claim something from them. Too bad eh? Not really.

“Look into the fine prints of your host's TOS or AUP and don't be surprised if you find shocking truths you might have missed when you agreed to those terms...”

Can't believe this? Look at these careful analyses of the most common legal terms inside the TOS and AUPs of the top webhosts as of 2006. You will clearly see now the “**danger zones**” and “**hot spots**” by zooming in to these **legal fine prints** that once passed your eyes like the morning breeze.

Screenshot No. 1



COMMENTS:

This is a typical example of NO guarantee and NO liability clause in your web host's TOS. It simply says that they cannot guarantee at all your website's security and safety.

The loss of data and unauthorized access are serious threats to any website out there but this host is claiming no responsibility on it whatsoever. This means the host is passing on the risk of loss and breach of security to you as the website owner. By reading carefully

these fine prints, you should be able **spot these types of dangers** in the TOS so you know what you are up to.

HIGHLIGHTS

TIP:

You will see these clauses normally under headers named as Limitation of Liability, Warranty and Guarantees, Warranties and Limitations and similar sections of the TOS.

Screenshot No. 2

WARRANTIES AND LIMITATIONS

PROVIDER makes every reasonable effort to maintain operation of the PROVIDER service however because as many events and circumstances are beyond the control of PROVIDER, PROVIDER does not in any way warrant or otherwise guarantee the availability of the PROVIDER system or servers and is not responsible for any delay or loss of data, lack of connection, slow connection, or any other such issues whether due to the active or passive negligence of PROVIDER.

THE PROVIDER SERVICE IS PROVIDED TO YOU ON AN "AS IS" BASIS, AND WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

"By reading carefully these fine prints, you should be able to spot these types of dangers in the TOS so you know what you are up to..."

COMMENTS:

This one does say it will make reasonable effort to maintain operations (that's great) but does not guarantee your host's service availability even if it is caused by their negligence. So you can lose all your website data or lose your connection and your host is still not liable.

The reason, the host explained, is the fact that there are circumstances beyond their control. It simply implies to us, therefore, that this host might not be prepared to meet the challenges of tougher problems (like hacking and DDOS attacks) that usually happen nowadays.

And for them to be safe, they want to let you, their consumer, know beforehand through the TOS and AUPs so that you will not blame your them later if something goes wrong.

"There are certain circumstances that are beyond the control of your webhost..."

But you have to understand **this danger** by reading through the fine print. And this is a typical clause you have to deal with in most TOS so don't blame your host on this one if you don't read and internalize it before you sign up.

Ignorance is bliss? Yeah right! Here is another example.

Screenshot No. 3

EXCEPT AS EXPRESSLY PROVIDED BELOW, NEITHER PARTY SHALL BE LIABLE IN ANY WAY TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LICENSES OR SERVICES OR SIMILAR ECONOMIC LOSS, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES OF ANY NATURE, WHETHER FORESEEABLE OR NOT, UNDER ANY WARRANTY OR OTHER RIGHT HEREUNDER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF ANY ORDER, OR FOR ANY CLAIM AGAINST THE OTHER PARTY BY A THIRD PARTY, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES.

COMMENTS:

The above is another typical example of “**No Liability clause**” in your webhost's TOS which means that whatever happens, you cannot claim compensation for loss, damage or injury to you on any problems that may arise like loss of data or loss of profits.

The good thing about this one is that it's reciprocal and will apply to both parties so the customer **will not be liable as well unless** specifically provided in other clauses in the contract so read more.

HIGHLIGHTS

Screenshot No. 4

Limitation of PROVIDER's Liability.

PROVIDER SHALL NOT BE LIABLE FOR NONPERFORMANCE OR DELAY IN PERFORMANCE CAUSED BY ANY REASON, WHETHER WITHIN OR OUTSIDE OF ITS CONTROL. IN NO EVENT SHALL PROVIDER BE LIABLE UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOST PROFITS, LOSS OF DATA OR INFORMATION OF ANY KIND OR LOSS OF BUSINESS GOODWILL OR OPPORTUNITY) WHETHER OR NOT PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. PROVIDER SHALL NOT BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY. PROVIDER'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY USE OF THE SERVICES IS THE CANCELLATION OF YOUR ACCOUNT AS SET FORTH HEREIN. IN NO EVENT SHALL PROVIDER LIABILITY TO YOU EXCEED ANY AMOUNTS ACTUALLY PAID IN CASH BY YOU TO PROVIDER FOR THE PRIOR ONE MONTH PERIOD.

“A “No Liability Clause” in the TOS or AUP means that whatever happens, you cannot claim compensation for loss or damages...”

COMMENTS:

This is yet another typical example of **No Liability clause** in your webhost's TOS. Look at those types of losses enclosed in parenthesis where it says that:

1. they are **NOT LIABLE** without limitation for “, **Loss of Use, Loss of Profits, Loss of Data, or Loss of Information of any kind or Loss of Goodwill or Loss of Opportunity**”;
2. your only option (exclusive remedy) is to cancel your account;
3. and they can only be liable for the amount of money you paid them for that month prior to the happening of the non-performance, loss and/or damage.

“There are clauses in the TOS and AUP where your only option in case of loss is to cancel your account and move on...”

Now that's OK with them but is it OK with you really?

FINE PRINT DETECTION 101.2

Did you know that your hosts can change (add/edit/delete) the contents of their TOS or AUPs anytime without obligation to inform you about it because you have the responsibility to check their TOS from time to time for any changes?

Yes, that's true and I will prove my point later with screenshots. But how this will affect you as a web hosting consumer?

Let me tell you what I learned lately from one of the many webmaster forums I hang around.

There was this guy (let's name him Mr. Copycat) who was so mad at his

host because his site was shut down without prior notice (or at least he claimed not to receive emails at all). The host claimed later that Mr. Copycat violated the copyright infringement of another company under the [Digital Millennium Copyright Act](#). Someone complained.

HIGHLIGHTS

The issue is about an alleged copyrighted picture appearing in his main page's header graphic. Mr. Copycat contends that this picture is on his website for 4 years already (he got it customized by a web graphics design company) but the host has not acted on it accordingly until then.

What happened here? The host says they finally changed their TOS a month back to include the DMCA clause which states "that all sites with copyright infringement issue will be shut down with or without notice to the website owner in full compliance with the law".

"Illegal use copyrighted materials is a violation of the TOS or AUPs and will endanger your website for suspension and/or termination..."

This quick act from the host in compliance with the law is reasonable for legalities sake but what made Mr. Copycat angry is the lack of information prior to the shut down. Because of this, he lost a huge amount of money on his major advertising stunts as well as lost sales because of his unscheduled downtime.

Mr. Copycat cries out for help but it takes weeks before his site was up due to the grumblings with his host that complicate the matter to worst. And the only clear failure on his part is to trust his host so much to inform him on any of these problems with his websites.

But if you look at the host's TOS, it clearly says there (probably this part has changed as well) that it's the host's sole discretion to change the TOS anytime for any reason whatsoever and the act of posting the changed TOS on their website means automatic notification to clients. The host is under NO obligation to send any notification of whatever form to their clients.

"In most TOS and AUPs nowadays, the webhosts has the power to change or alter in whole or in part the hosting terms and conditions and the customers are deemed notified as soon as the changed TOS or AUPs are posted on the website..."

If clients do not agree, the clients' only option was to cancel their hosting subscription with host immediately. Then they go on discussing their termination procedures and processes.

And here's the kicker. It's their clients' responsibility to look into the TOS from time to time to spot the changes and abide by it. Wow! Did you know that?

If it's tough for you to read it before, I am sure it's tougher to read it again. The probability that a typical webmaster will miss it is very high.

Does a busy webmaster really do this checking of TOS? How often do you visit your host's website in a month or in a year?

Now that's dangerous isn't it?

Look at these sample screenshots.

Screenshot No. 5

CHANGES AND MODIFICATIONS

You may review the most current version of the TOS at this same page and URL. PROVIDER may change the TOS or change the scope of the Services, in whole or in part, at any time at PROVIDER's sole discretion. Posting of such changed TOS on this same URL shall constitute notice of such changes to you, although PROVIDER, at its sole option and without obligation, may choose additional types of notice. Your continued use of the Services following constructive notice or otherwise constitutes your acceptance of all changes in the TOS. If you do not agree to any such changes, your sole and exclusive remedy is to cancel your account as described below.

IF YOU DO NOT AGREE TO THE TOS AT ANY POINT IN TIME, YOU MUST DISCONTINUE THE REGISTRATION PROCESS, DISCONTINUE YOUR USE OF THE SERVICES, AND, IF YOU ARE ALREADY A CUSTOMER, CANCEL YOUR ACCOUNT IMMEDIATELY.

HIGHLIGHTS

"In most cases, your host is not responsible and not under obligation to inform you of the changes in the TOS as defined in their TOS..."

COMMENTS:

Wow! That was blunt eh?

This is a typical example of **Change or Modification Clause** in your webhost's TOS. If you will examine it closely, you will see that

1. they are not responsible to inform you about any changes,
2. it is their sole discretion to change the TOS,
3. you automatically accepts as notified once the changed TOS is posted
4. it is your responsibility to check from time to time any changes in the TOS.
5. you are considered agreeing to these changes unless you terminate the hosting service
6. you are bound by those changes and your only option is to cancel if you don't agree

"You are considered agreeing to the terms and conditions of your webhosts until you terminate the hosting services..."

Sounds one sided, isn't it? Not really. The host is giving you very clear options and instructions on how to deal with the changes in the TOS. At least you have a choice **but only if you know**.

Well again, this is quite normal terms in most online contract but may have serious impact to you as a consumer. So watch out for these as well.

TIP:

These types clauses are normally found at the bottom part of the long contracts page under the headings "Changes and Modifications", "Modifications to Contract" "Acceptance of Changes" and something similar.

And here is another typical example...

Screenshot No. 6

HIGHLIGHTS

15. MODIFICATIONS TO SERVICE AND TERMS OF AGREEMENT

PROVIDER reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that PROVIDER shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

Except as otherwise provided in this Agreement, you agree, during the term of this Agreement, that we may: (1) revise the terms and conditions of this Agreement; and/or (2) change part of the services provided under this Agreement at any time. Any such revision or change will be binding and effective immediately upon posting of the revised Agreement or change to the service(s) on PROVIDER's Web sites. You agree to periodically review our Web sites, including the current version of this Agreement available on our Web sites, to be aware of any such revisions. If you do not agree with any revision to the Agreement, you may terminate this Agreement at any time by providing us with notice by e-mail Attention: Customer Support. Notice of your termination will be effective on receipt and processing by us. Any fees paid by you if you terminate your Agreement with us are nonrefundable, but you will not incur any additional fees. By continuing to use PROVIDER services after any revision to this Agreement or change in service(s), you agree to abide by and be bound by any such revisions or changes.

"If your hosts can change their TOS anytime without notice to you, then it is your responsibility to check their TOS page from time to time to make sure you know if the changes they made affect your hosting services..."

COMMENTS:

Again, this is another example of how a web host can change the terms and conditions of the web hosting services without you knowing it. And it will be binding as soon as they posted it on their website. Did you see that they can even discontinue their services at any time without notice to their customers? Wow!

What will happen if, for example, you have an e-commerce site that is previously acceptable in their list and now, after the changes, it is no longer allowed on their server? You'll never know.

That's why it pays to be aware of all these fine prints in the contract most especially if your site has been kicked out on some other servers simply by its nature. The dangers are there so better see it coming.

Here's another one.

Screenshot No. 7

We may modify any of the terms and conditions contained in this TOS, at any time and in our sole discretion, by posting a change notice or a new agreement on our site with or without notice to you.

IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RECOURSE IS TO CANCEL YOUR HOSTING ACCOUNT THEREBY TERMINATING THIS AGREEMENT. YOUR CONTINUED PATRONAGE FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW POLICY ON OUR SITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

[back to top](#)

"If you disagree with the new TOS, your only recourse is to cancel your hosting account thereby terminating the agreement with your host..."

COMMENTS:

This one is pretty straightforward. It clearly says that your only option is to cancel your account if you disagree with the changes, which, you may or may not know depending on how often you check out the TOS page. And your continued use, even if you don't agree because you don't know what's there, shall mean you agree. Wow! Mere tolerance means YES in this case so be very careful.

FINE PRINT DETECTION 101.3

HIGHLIGHTS

Did you know that your account CAN BE terminated or suspended anytime without advance notice to you?

When working online, it is quite dangerous to assume that you're perpetually safe and sound because you are hosted by one of the best or the biggest web hosting companies out there. Not until something nasty would come along.

"When working online, It is quite dangerous to assume that you are safe and sound even with the best web hosts today..."

Take it from my experience. Back in 2002, I was hosted on a reseller account by one of the top web hosts in the US at that time. I owned and operated several websites and one of them is a redirection service site for my customer-members. Everything worked well until one day, the site was suspended without warning.

My members rushed at me with emails saying they can't use the site, its not available, its not working blah blah... Some of them are angry because they rely on this redirection service for their advertising links.

I immediately checked my WHM (webhosting reseller console of cPanel) and found out that the site is there – suspended. I cannot unsuspend it so I emailed my webhost (they have no telephone numbers back then) and asked for help and explanation why my site was suspended. No response that day. I checked daily at my WHM the status of the site and after 4 days found out the site was deleted.

I was shocked! I've never thought of that to happen that fast. I sent my host tons of emails and on the 5th day they finally responded only to tell me that my website was under DOS attack and they've no other choice but to keep it out of the system saying "We're sorry we can no longer host this domain as it puts too much drain on our network".

They said they thought they can stop the attack that's why they keep it suspended but after sometime, they said it can't be stopped so they deleted the account. On top of that, they advised me to redirect the domain to another server because it is still causing troubles for them which they did not explain much. I was further advised that I will be provided with the website backups, but up to now, none...

"Murphy's law applies also to web hosting. When it's bound to happen, it will happen at the time and place you least expect I to strike you..."

Truly, Murphy's Law applies to everyone. When you least expect it as coming from a reputable big hosting company, something wrong can happen so fast you wouldn't have a chance to respond or minimize your losses at the very least.

And the sad thing is that I can't really get back to my host for a liability claim because they are protected by certain clauses in the contract that says they have the right to suspend and/or terminate accounts that they deemed to be problematic or causing their systems to falter and die. I don't know how to prove it otherwise so it would be costly to file a case.

And those clauses in the contract further provide that it's the host's sole discretion and that they can do this without obligation to inform us in advance. When you're in trouble, your site is at your host's mercy.

Take a look at these screenshots that should not be missed when you're buying web hosting services:

HIGHLIGHTS

Screenshot No. 8

Emergencies/Special Situations

1. We reserve the right to take any proactive steps we deem necessary to maintain the security, connectivity, performance and services of our Customers, including but not limited to actions requiring us to deactivate Web sites, shut down our network, or review the content on Web sites to evaluate the reason for perceived behaviors.
2. In rare instances, we may need to completely delete a Web site or account because of some significant failure, security breach or other emergency. In such cases, we do our best to backup a deleted Web site, but we cannot ever guarantee a full restore of a Web site.

"In case of emergencies, your web host has the right and power to suspend and/or terminate accounts..."

COMMENTS:

Look at how they plainly state here that in case of emergencies, they have the right to suspend and or delete websites (on extreme cases). But who decides which site is posing threat to the server? Not you, but you host. And for all intents and purposes, your site is dead already by the moment you know it.

Even if you argue, it is more often futile and costly. Plus you delay everything you have fighting for a lost cause because simply, these host can legally do suspensions and shutdowns anytime they feel they have to in order for them to protect their business.

Screenshot No. 9

7. Suspension of Service or Cancellation:

PROVIDER reserves the right to suspend network access to any subscriber if in the judgment of PROVIDER, the subscriber's account is the source or target of a violation of any of the terms of the TOS, or for any other reason which PROVIDER deems necessary.

If inappropriate activity is detected, all accounts of the subscriber in question will be deactivated until our investigation is complete. Prior notification to the subscriber is not assured. In extreme cases, law enforcement will be contacted regarding the activity. The subscriber may not be credited for the time the subscriber's machines were suspended if the subscriber is found to be at fault.

"Your host is the sole arbiter on any case or complaint against your website and as such, it has the power to deactivate all your suspected websites in question without payment credit to you..."

COMMENTS:

This one looks pretty dangerous than the previous one. If you read closely between the lines, the host is simply saying that ALL your accounts in question "will be" (sure thing) deactivated until their investigation of the problem is complete (assuming you'll know what the problem is because they cannot assure notification to you).

So what will happen if you have multiple domains hosted there? Say you have a reseller account. Will they consider them all as questionable? Probably. Probably not. And the word used here is "deactivated" which means suspension of ALL your sites without assurance of advance notice. Now, that's freaking scary to me!

Screenshot No. 10

- A. When we become aware of a violation of our AUP, it is at our sole discretion to respond in the manner we believe to be appropriate for stopping the offending activity, including but not limited to, removing or blocking access to material, shutting down a Web site, blocking offending transmissions, deleting an account and all associated information and files with or without prior notice to customers.

No credits or refunds will be issued for any account that is cancelled due to a violation of this AUP, whether or not it is later proven that an actual AUP violation occurred.

HIGHLIGHTS

COMMENTS:

This one tackles more closely the host's right to decide the fate of a website they "believe" is violating their AUP. This violation may or may not be known to you. So they can shut down your website anytime without you knowing it.

"No credit or refund will be given to you for the alleged violation even if that violation cannot be proven later..."

And look and behold. No credit or refund will be given for the alleged violation even if that violation cannot be proven later. All this on top of your website being dead on the net for quite some time until you find a new host.

Tsk! Tsk! Tsk! Whew!

Screenshot No. 11

The customer is fully responsible for all activities that are performed through his/her account. Provider has the right to suspend or terminate any account, which does not comply with the terms of use, without prior notice and with no refund. Provider cannot and will not be liable for any loss or damage arising from account suspension or termination due to unacceptable use of the account, even if the customer is not aware of and/or has not authorized such use.

COMMENTS:

This clause in the TOS or AUP should not be missed. What makes this to important to you and me is the fact that even if the webmaster is not aware or has not authorized use of his websites, the websites can be suspended or terminated. A typical example of this is when the host found out that breach of security of the hosting server came from your domain.

"...even if the webmaster is not aware of has not authorized the use of his websites, the websites can be suspended or terminated as well..."

Sometimes, unsuspecting webmasters install free scripts on their sites that is later subjected to exploits and may wreck havoc on the host's server. They unknowingly adopt these files which are later on targeted by hackers for malicious intents (like bots on your domain to launch DOS attack or mailbomb or send SPAM to other servers).

This is dangerous and scary because you might not even know you have done anything wrong or that because of your actions, some bad eggs managed to login to your account and bring disasters to others using your website! And a nasty script planted on your website can ruin your reputation as well like those Spammers that spoof and list your domains on the SPAM blacklistings all over the internet. Your host will shut you down for this and that's really really scary!

"You are solely responsible for our actions and other people's action through your websites...."

*This provision on the TOS says it all to you straight face. **You are solely responsible** for your actions and you cannot blame your host if they react (by suspending or terminating your account) accordingly to protect their and their other customers' interests.*

FINE PRINT DETECTION 101.4

HIGHLIGHTS

Did you know that your website's content and backups are your sole responsibility and not your host?

This is the one of those subtle parts we missed in the fine print but is the most important task for all webmasters. I say "ALL" because if taken lightly, then a webmaster's online presence is risk.

Oftentimes, we ignore things that are easy to do and are of NO threat to us at the moment. A typical example is eating our way to indulgence. After some time we realized we are getting fat (and sick) and that's the only time we hold back. But look at those bulges on the mirror. Look at the hypertension or heart problems we have.

"We oftentimes ignore the things that are easy to do and are of no threat to us at the moment..."

The same is true to your reliance to your hosts. It's easy to rely on someone but when you realize it's not what you think they will be doing, you're dead. A typical example is to believe (without looking at their TOS or AUP) that your webhost will backup all your websites and be responsible to restore it for you (since they backup your website anyway, right?) anytime you need them.

What if we show you that deep within those webhosting TOS fine prints, it says there that YOU are solely responsible for your websites and your backups even if they have a backup system in place?

Your hosts know that you can never be assured by the ever faltering hardware and softwares hence this advice to backup your websites. They are trying to tell you through their TOS and AUP that you should be responsible for your content and your backups.

"It's not right to assume that your web host will backup and restore all your websites for you anytime you need them..."

This is something that every webmaster should take seriously. Backing up your website is relatively easy. You just don't see the value of it until you are in trouble.

Study these screenshots for a moment. Don't be shocked with what you will find out.

You have been warned...

Screenshot No. 12

e. Customer is solely responsible for making back-up copies of the Customer Web site and Customer Content.

"Backing up your websites is easy... You just don't see its value until you are in trouble..."

COMMENTS:

This host is pretty straightforward eh? You bet it is simple but it's a dangerous line of texts you can surely miss and/or ignore.

This simple sentence can mean so many things to you as a webmaster but have you spotted it on the TOS of your host?

Screenshot No. 13

HIGHLIGHTS



Backups and Data Loss

Your use of the service is at your sole risk. Provider is not responsible for files and/or data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on Provider servers.

COMMENTS:

This one tells it you straight face. Website backups and data loss are at your own SOLE risk! Not your host. YOURS.

You should be able to spot warnings like these. The words "Sole Risk" here should flag you to be more responsible to your website content. But even if you do notice this and ignore it later, it will do you no good.

Here are more screenshots.

"Website backups and data loss is at your own risk and responsibility..."

Screenshot No. 14

Backups

The Provider performs backups on all servers to ensure critical files are never lost. However the Provider is NOT responsible for lost data, time, income or any other resource due to faulty backups or non-existent backups.

COMMENTS:

This host is accommodating by performing backups on all servers. But still takes no risk on data loss. So in that case, you assume the responsibility.

If indeed data is lost, you can never claim any compensation from them even if they say in their marketing ads or sales ads page that they backup all your websites.

"Although some hosts may backup their servers, they still take no responsibility on the risks of data loss and lost profits of their customers..."

Screenshot No. 15

g. **Back-Up Files:** Webhost provides the tools needed to create back ups of account data. It is the responsibility of the customer to keep up-to-date archives of their backed up data. Webhost currently does not utilize any back-up services and is not responsible for any lost data.

COMMENTS:

This host simply tells you "Hey, we don't do backups so use the backup tools provided to you for your sake!"

If you follow their advice, you are safe. If not, you'll face the risks of loss because your host bluntly said here that they do not backup your website at all.

That's a fair and honest warning by the way.

"Your host provides the tools needed to create backups of your hosting accounts... It is your responsibility to keep up-to-date archives of backup files..."

Screenshot No. 16

when deploying services related to data integrity, backup, security, and retention. These services include, but are not limited to: hard drive storage, raid hard drive arrays, network attached storage, storage area networks, operating system installs, operating system reloads, customer portal information, and other situations involving customer data. Customer assumes ultimate responsibility for data integrity, retention, security, backup, and ownership.

HIGHLIGHTS

COMMENTS:

This clause states that whatever you are doing on your website and whatever your host is required to do on their servers that affects your content should be taken as your ultimate responsibility when something wrong happens.

“Whatever you and your hosts are doing on the server, you should be ready for any untoward incidents...”

This means that your host will be washing their hands if, for example, a server software update renders your site unusable or totally wrecked your database for whatever reasons. If this happens, you should be ready to address the problem yourself and not your host since compatibility to their servers is your responsibility.

Screenshot No. 17

Web site construction and management is the responsibility of the client. PROVIDER is not responsible for web site management or files lost or damaged by users. Backup of all site files is recommended, and should be maintained by the client on a machine outside of the PROVIDER network. A fee of \$100 is required should a client request any files from our back up systems, which are intended for disaster retrieval only. PROVIDER does not guarantee that the files contained in our backup systems will be the most current copy of a client's web site. PROVIDER will exclude the following file types in our backup system: (*.zip, *.exe, *.mp3, *.mpg, *.wma, *.wmv, *.mov, *.avi, *.wav, *.gzip, *.tar)

COMMENTS:

These guys tell you that your backup files should be off their server (which is the right thing to do by the way) and should be maintained by you, the webmaster.

And though this hosts backup files, it says it's for their own use in case of disasters (which is good). But they tell you further that if you do not maintain your backups and need to restore from their files, you have to pay them \$100 for the restoration (fair enough since you don't maintain your backups anyway). At least you have a fallback.

“Sometimes you have to pay your hosts just to restore their backups of your websites... even then, they will not guarantee that the restored files are complete and updated...”

However, notice that the web host further says that their backups may not be that most recent (maybe they do monthly or weekly backups only) copy of your website content even though you are gonna pay for it anyway. And that they exclude bulky files (probably to save on server resources) in their backups.

So, chances are, their restoration will be incomplete. And you paid for it huh. Oh man!

Those kinds of terms and conditions should be understood carefully and you should be able to visualize all the scenarios that can possibly happen to see what you are up to in the future.

Screenshot No. 18



Because the Services permit Customer to electronically transmit or upload content directly to the Customer Web site, Customer shall be fully responsible for uploading all content to the Customer Web site and supplementing, modifying and updating the Customer Web site, including all back-ups. Customer is also responsible for ensuring that the Customer Content and all aspects of the Customer Web site are

HIGHLIGHTS

COMMENTS:

Clearly, this clause justifies why you, as a customer, is responsible for your own website content.

The fact that you are permitted to upload anything and everything you need on your website, makes your host believe (and justify) that you are also fully responsible for your content.

This includes all your backups and that's fair enough to say the least.

“Because you are permitted to upload contents directly to your hosting accounts, you, the customer, is responsible for your own website content...”

Screenshot No. 19

Backup & Restore Policy

1. PROVIDER does not maintain backup copies of Customer Web sites or e-mail.
2. PROVIDER cannot guarantee that the contents of a Web site will never be deleted or corrupted, or that a backup of a Web site will always be available.
3. PROVIDER ALWAYS recommend that Customers copy all content of a Web site to a local computer and strongly suggest that Customers make an additional copy (on tape, CD, multiple floppies, another desktop, or elsewhere) to ensure the availability of the files.

COMMENTS:

I liked this one very much because this host is projecting an honest service provider by telling you what's included and what's not. These types of hosts are the “No Surprises” ones that I love to deal with.

The fact that they cannot guarantee your host being deleted or corrupted is a good ground for you to stand on to keep your site updated and backed up. They seem to suggest also that they backup your websites but cannot guarantee its availability in case you'll need them. (That's weird.)

And they also suggest the simplest disaster recovery plan for the all webmasters. That is keeping your backups where they are supposed to be – OFFSITE – or off the servers.

Offsite or off-computer backups (CDs, Tape drive even USB drive) are really the best way to ensure full recoverability in times of disasters.

“It is highly recommended that webmasters copy all content of a website to a local computer and make additional copies on tape or other media to ensure availability of files for restoration...”

That's it!

Now that you know some of the very important **fine prints you should watch out for** in your host's TOS or AUP, we hope that you become fully aware of your responsibilities as a webmaster.

Keep in mind that **these fine prints are there** not just to protect your web hosts but also to protect your interests by letting you know what you can and cannot do in the management of your website and at the same time tell you what your hosts can or can't do for you in times of troubles.

MITIGATING THE RISKS

HIGHLIGHTS

I hope by now you are enlightened already by those reviews and analyses of the contractual fine prints we made in this report.

If you will notice, the main theme really of this report is not just about you reading those fine prints just for the sake of reading and understanding.

This report tells you more than that.

It tells you that you need to TO BE IN CONTROL of your online presence.

"The main theme of this report is for you to be in control of your websites rather than your hosts or other parties..."

When you are in control of your website, you can

- Sleep well at night knowing that the next day you're website are still there
- Be confident that whatever plans you have in the future will not be derailed by mishaps, disasters and accidents
- Focus on what's more important for your online presence rather than worry about what will happen when your host is down
- Strategize to benefit more from your online presence and reap the rewards of keeping your website up and running all the time
- Forget about the pains of disasters of the past and move on the next level of challenge that your online presence brings
- Sit back, relax and enjoy the feeling of freedom from stress and anxiety because you know you are protected and secured.

So for your protection, we'll give you tips and tricks to minimize risks.

HERE ARE 7 EASY WAYS TO PROTECT YOU AND YOUR WEBSITES FROM RISKS OF LOSS

1. Read the Web Hosting Contracts Fully

This is the main purpose of this report but I like to reiterate this again for your welfare. This is so damn important that you have to be reminded twice and thrice just to make sure you will not be complacent about it.

You know the effects of not reading your TOS and AUP, right? So watch out for those fine prints and good luck.

"It's always good to communicate with your host to clarify those provisions in the TOS or AUP that is not clear to you..."

2. Communicate With Your Host

Before you sign up into a new web hosting contract, make sure that you communicate to your host and ask what level of support you can expect from them. It's important that you clarify with them whatever issues you have regarding the TOS or AUP.

You have to make sure that what they tell you is confirmed via email so that you can always have proof of what was agreed upon at the beginning of the service.

3. Review Your Host's TOS From Time to Time

HIGHLIGHTS

As mentioned in our thorough dissection of the webhost's TOS or AUP, it is important that you check back from time to time your host's TOS.

It's not only important for the sake of knowing but because it is your responsibility to know how these changes will affect you and the way you manage your websites. You can simply send your host an email asking if there are changes in their legal terms and conditions.

You can also ask your host if there are changes by calling them on the phone if you don't have the time to read and find the changes.

"Be sure to review your web host's TOS or AUP from time to time..."

4. Be Careful With Your Installs

Be careful in installing free scripts on your website. These scripts are normally open source and are most vulnerable to exploitation and hacking.

Also, DON'T ever install cracked or nullified scripts on your website for whatever reasons. Be sure that the scripts you are buying online came directly from the source and not from those selling a "bunch of scripts" at Ebay or downloaded at some "cracker" sites that render this script vulnerable to your source's exploits.

5. Be Alert and Responsive.

Sometimes, unscrupulous individuals invade your domain without you knowing it. They might have breached your security accessed through some unsecured scripts you installed previously.

These hackers may install some unknown files on your websites and use them wreck havoc somewhere. In this case, you and your domain are the innocent bad guys. You can be a SPAM source or one of those DDOS attackers that are pounding another network or server without you knowing it.

"Be diligent and watchful for illegal activities and breach of security through your website..."

But if you are diligent enough to check your website files from time to time, you may be able to detect this early. Always change your hosting password as often as you can and inform your host about any suspicious files you have on your websites.

6. Do Not Upload Anything Illegal on Your Website.

Without knowing it, you might be uploading illegal stuffs in your website. This includes copyrighted materials such as pictures, photos, graphics and text contents. You can also be misled in uploading copyrighted files such as MP3 files, zipped files, scripts and software installers. Also don't upload unallowable content like porn, nudity, warez, cracks and other banned files by your host.

"DO NOT upload anything illegal on your website which is a ground for suspension and termination of your hosting account..."

Most hosts are worried of these things and they can close your website down fast and without notice if you do. Also, if someone complains about you having these files on your website, you should be ready to defend it with legality, otherwise, your host may shut you down as well.

7. LASTLY, keep your own BACKUPS.

HIGHLIGHTS

Backing up your website files is an important webmaster task you should not ignore. If you are doing this already, then congratulations! You are truly one of the Web Masters out there that we applaud.

However, if you belong to a group of website owners who are not that concerned about backing up their websites, then the following is for you.

Look at the many threats to your website existence:

1. Server downtimes (datacenter or host related)
2. Datacenter Hardware failures (e.g. crashed hard disk)
3. Severe Software failures (e.g. your scripts now useless)
4. Problematic server transfers or movements
5. Viruses and scripts exploits
6. Ill-Hackers (those hackers whose aim is to destroy)
7. Joy-Hackers (those that hack for fun and fame)
8. Network failures and connectivity problems
9. Datacenter accidents (fires, water leaks, power outage)
10. Terrorisms and national emergencies
11. Denial of Service (DOS) attacks
12. Unauthorized Access or breach of security
13. Telecom failures
14. Physical security (e.g. workplace violence, gross negligence)
15. Natural disasters (typhoons, hurricanes, storms, earthquake, wildfires)
16. Labor disputes and strikes
17. Troubles or quarrels with your webhost
18. Legal issues and court battles
19. Web host bankruptcy and cessation of business
20. Third party negligence (e.g. your programmers negligence)
21. Unexpected suspensions or termination of service
22. Human errors and faults

“There are many threats to your online presence that's why periodic backup of your website is extremely important...”

“Backup your sites today and be in total control of your websites whatever disasters may come your way...”

These are serious threats to your websites and your online reputation. If one of these threats happens to your host or on the server you are hosted on, you are facing the risk of loss of your websites.

If you think are not affected by any of the above, then you don't need a backup. However, if you believe you are vulnerable, then you should consider backing your website files today.

We have listed all these threats so that it will be easy for you to recognize the value of having your own website backup.

So backup your sites today and be in total control of your websites whatever disasters may come.

It's your only insurance on your way to online success.

END

SPECIAL ANNOUNCEMENTS



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