<table>
<thead>
<tr>
<th>Reference No.</th>
<th>Date</th>
<th>Submitted By</th>
</tr>
</thead>
<tbody>
<tr>
<td>DN01</td>
<td>06.06.2000</td>
<td>Mr Son</td>
</tr>
<tr>
<td>DN02</td>
<td>07.06.2000</td>
<td>Mr Richard Ao Newsbook Ltd</td>
</tr>
<tr>
<td>DN03</td>
<td>07.06.2000</td>
<td>Mr Keith Wan Hong Kong Internet (Holding) Limited</td>
</tr>
<tr>
<td>DN04</td>
<td>10.06.2000</td>
<td>Mr Callan G Anderson</td>
</tr>
<tr>
<td>DN05</td>
<td>15.06.2000</td>
<td>Mr Allan Dyer Technical Director Yui Kee Co. Ltd.</td>
</tr>
<tr>
<td>DN06</td>
<td>16.06.2000</td>
<td>Ms Elaine Lau Head Legal Counsel, Legal &amp; Regulatory Affairs iSmart.net Limited</td>
</tr>
<tr>
<td>DN07</td>
<td>21.06.2000</td>
<td>Mr Ichiro Uchiki</td>
</tr>
<tr>
<td>DN08</td>
<td>28.06.2000</td>
<td>Mr Gordon Fong</td>
</tr>
<tr>
<td>DN09</td>
<td>29.06.2000</td>
<td>Mr Hui Hon Sang</td>
</tr>
<tr>
<td>DN10</td>
<td>02.07.2000</td>
<td>Mr Mark Jiang M Phil student Law School of the City University of Hong Kong</td>
</tr>
<tr>
<td>DN11</td>
<td>04.07.2000</td>
<td>Ms Joyce Tang Domain Fighter Helix Web Hosting</td>
</tr>
<tr>
<td>DN12</td>
<td>12.07.2000</td>
<td>Mr K.W. Chan Head of Information Technology Services Hong Kong Trade Development Council</td>
</tr>
<tr>
<td>DN13</td>
<td>13.07.2000</td>
<td>Mr Ron Cameron Head, Trade Practices Division Consumer Council</td>
</tr>
<tr>
<td>DN14</td>
<td>14.07.2000</td>
<td>Ms Betty Au Secretary, Trade Services The Chinese General Chamber of Commerce</td>
</tr>
<tr>
<td>DN15</td>
<td>14.07.2000</td>
<td>Mr Peter N. Dobson, Jr Associate Vice-President for Academic Affairs The Hong Kong University of Science &amp; Technology</td>
</tr>
<tr>
<td>DN16</td>
<td>14.07.2000</td>
<td>Mr Kandy Yuen Manager - Regulatory &amp; Commercial Cable &amp; Wireless HKTCSL Limited</td>
</tr>
<tr>
<td>DN17</td>
<td>14.07.2000</td>
<td>Mr Edward Rubin Council Member Hong Kong International Arbitration Centre</td>
</tr>
<tr>
<td>DN18</td>
<td>14.07.2000</td>
<td>Ms Maria The Chinese Manufacturers' Association of Hong Kong</td>
</tr>
<tr>
<td>DN19</td>
<td>14.07.2000</td>
<td>Ms Eva Chan General Manager, Regulatory Advocacy Cable &amp; Wireless HKT Limited</td>
</tr>
<tr>
<td>DN20</td>
<td>14.07.2000</td>
<td>Mr Matthew Laight</td>
</tr>
<tr>
<td>DN21</td>
<td>15.07.2000</td>
<td>Mr To Cheung</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vice Chairman</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hong Kong Web Hosting Association</td>
</tr>
</tbody>
</table>

| DN22 | 15.07.2000 | Mr Fung Kin Ming |

| DN23 | 15.07.2000 | Dr P. T. Ho |
|      |            | Acting Director |
|      |            | Joint Universities Computer Centre Limited |

| DN24 | 15.07.2000 | Dr F. T. Chan |
|      |            | Chairman |
|      |            | The British Computer Society (Hong Kong Section) |

| DN25 | 15.07.2000 | Mr To Cheung |
|      |            | Managing Director |
|      |            | UDomain Web Hosting Company Ltd. |

| DN26 | 16.07.2000 | Mr K. L. Tam |
|      |            | Morris Web Hosting Company Ltd. |

| DN27 | 16.07.2000 | Mr K.L. Chen |
|      |            | (Requested to keep confidential) |

| DN28 | 17.07.2000 | Mr Ernest Yik |

| DN29 | 17.07.2000 | Mr Daniel Lai |
|      |            | President |
|      |            | Hong Kong Computer Society |

| DN30 | 17.07.2000 | Mr J. Scott Evans |
|      |            | Chairman |
|      |            | Domain Subcommittee |
|      |            | Special Committee on the Internet |
|      |            | The International Trademark Association |

| DN31 | 17.07.2000 | Ms Patricia Hui |
|      |            | Legal Counsel |
|      |            | Hutchison Telecommunications (Hong Kong) Limited |

| DN32 | 17.07.2000 | Mr Charles Mok |
|      |            | Chairman |
|      |            | Hong Kong Internet Service Providers Association |

| DN33 | 18.07.2000 | Mr Woody Ho |
|      |            | Director |
|      |            | Chinese Domain Name Corporation Limited |

| DN34 | 18.07.2000 | Dr Eden Woon |
|      |            | Director |
|      |            | The Hong Kong General Chamber of Commerce |

| DN35 | 18.07.2000 | Ms Alice Leung |
|      |            | Manager - Learned Society |
|      |            | The Hong Kong Institution of Engineers |

Last updated: 31.07.2000
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN01
Date of Submission : 06.06.2000
Submitted by : Mr Son

我希望可以開放 .com.hk 以 $200 予大眾市民使用，並無須以商業登記証登記！
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN02
Date of Submission : 07.06.2000
Submitted by : Mr Richard Ao
Newsbook Ltd.

Dear Sir,

We are a local ISP in HK. We think that there is some problem with the new proposed system.

The most important thing is how to define the "international brand name". For example, in A country, one may have used Sun for a long time. In B country, the other one is using it also for a long time and also have its trade mark in B country. Thus, both one claims the right for the .com.hk

Thus, the proposed system has something unclear and make thing worse. Thus, we oppose the new reserved system.

We think that the most effective one is the first-come-first-registered services.

Yours,
Richard Ao
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. :DN03
Date of Submission :07.06.2000
Submitted by :Mr Keith Wan

CEO

Hong Kong Internet (Holding) Limited

Subject: Comments on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

We have several comments on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong.

1. Authorize 5 - 10 Internet Services Providers as a registrar provides .hk registration services.
2. Annual fee or renewal fee of .hk can't not higher than HK$200 per year. It is because com/net/org can be registered in the lowest price US$15.00/year now.
3. Release web services providers(Non PNets) to register domain net.hk to all company in Hong Kong.
4. A company should allowed to register more than one domain names, but should be limited no more than 5 - 10 nos.
5. Release Individual resident(Hong Kong identity card holder) register one to three domain names.

Regards
Keith (CEO)

Hong Kong Internet (Holding) Limited
香港國際網絡【股份】有限公司
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN04
Date of Submission : 10.06.2000
Submitted by : Mr Callan G Anderson

Response to the Consultation Paper on the Review of Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong.

Respondent: Mr Callan G Anderson

Background: Callan Anderson presently resides in Hong Kong after transferring his breadth of Ecommerce experience to the SAR. Previously Callan worked for the British Chamber of Commerce in the United Kingdom, and was adviser to both the Scottish Parliament, Enterprise Commission and Royal Bank of Scotland in the development of an Ecommerce strategy.

Date 8th June, 2000

I felt that as I had very strong views on the paper presented, that I should make a few comments known in relation to where Hong Kong wants to be in terms of a 'Cyber Port' and how the paper addresses those desires in relation to Domain Name Policy.

The present naming authority should be commended in administering and developing a system that allows for the registration of domain names in Hong Kong. The diversification of how the internet effects business and individuals on a global scale can not be underestimated, and should be defined in much broader terms than the paper indicates. Many of the issues raised within the document pertain to the business community and only mentions in brief the potential for individuals to register their own name.

Although Hong Kong has aims to be at the pinnacle of Ecommerce, it is not the pure corporate usage that generates both an ecommerce ready SAR or registration on a "need basis". The use of domains should have a much wider scope than those indicated in the paper.

Much of my previous work involved advising individuals (members of the public) in how they may develop online business or small ecommerce ventures out with their normal work. Registering a domain name in the UK and USA is one of the most simple processes in the ecommerce development process, where concerns whether a domain matches a company are unimportant, as it should be. (unless breaking registered trade marks).

Individual people should have as much 'right' and 'usage' of a domain name as anyone else in the community, and not only to their family HKID card name alone (the ramifications of people with the same names or businesses already using private family names to trade under and then wanting to register for a domain are indication enough about how difficult such a system would be to control).
The purchase of a Domain by an individual under a business idea they hold is the perfect introduction and enabler for an individual to start a small business or toe dip the global market place. The prevention of general public adoption of domain names, other than their own name, will devalue the use of the com.hk extension in favour of other country extensions. Time would then eventually lead to the non-use of the com.hk extension by Hong Kong companies who would be aware that consumers are only really aware of the top-level org, com and net extension.

The argument could well be placed that if someone wants a domain name who is an individual, they can register with Internic in the USA for a top level domain com, org, net. As these names are open to a global market under American 'State' Laws, there are numerous reasons why it is both difficult to find the name you would want, as well as understand the limitations that such a top level domain may hold if you were to infringe the trade mark laws or hold your servers in the USA in relation to where a business or individual is actually taxed.

As a Hong Kong resident, I would much prefer my personal or business website to be recognised as from Hong Kong (com.hk) rather than a non-descript dot.com or other country extension. The Task Force have to balance between commercial and private usage correctly so that the best web sites or ecommerce, be that private or commercial can be clearly defined as a com.hk site, and not some faceless entity or even worse, as being aligned in another country when it is not.

The issue of cyber squatting is of course a major issue internationally, and a registration process that has a requirement for the user to prove his company resembles the domain they applying for does negate much of this problem, as would prevent the registration of names that are already trademarks. To be an Ecommerce Hub, Hong Kong needs to be more flexible and be more open in the use of the name past corporate demand.  

There are legal issues surrounding who has the right to a name, and not something I believe any naming authority should become involved in. No matter if HKNIC prevents the use of a name, there are plenty of other ways in which a determined user can obtain a name that appears to be from Hong Kong (e.g. dot.hk.com) and other derivatives. Therefore I suggest the cybersquatting issue is a red herring in the bigger picture.

A quote I read from your paper says, "the rationale being that a domain name is primarily intended to provide clear and convenient Internet address to facilitate access to the web of a concerned company". I would argue strongly against placing as much emphasis on the corporate angle as you are.

The real definition of a domain address is to make it as easy as possible to locate the web site of a particular company, individual or institution instead of utilising the numeric IP address as the only method of accessing pages of information or research.

LOCAL PRESENCE

The restriction preventing bodies outside Hong Kong being granted a domain name is too restrictive as your paper indicates, and should be opened up to a global purchase. Hence the reason why the demand for names will certainly be greater than the size of population in Hong Kong. The comparison to the UK is valid, but again emphasise that it is not restricted to corporate use only, and as such allows individuals with a business idea time to develop before making a full-blown business online.

A prime example being myself who holds 7 domains names globally for private use and makes good use of each one of them.

I commend the paper on the basis that what is presently available through HKNIC does not fulfill the present and future need for domain names in Hong Kong. I would however urge that restrictions on who owns a name (be that individual or corporate) be lifted, and Hong Kong truly opens itself to both the potential reward, and issues that surround true
Internet adoption. The Internet momentum moves so fast, that whatever paper is adopted must consider long term issues, not just the minor issues of today.

Part of that adoption relates to how well the domain name situation is handled, as failure will lead Hong Kong business and public to create and develop their own extensions to which the SAR will have very little control over. That is the pitfall and benefit the Internet offers.

Callan G Anderson
Subject: Comments on Consultation Paper on Review of Admin of Domain Names

I have a few comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

First, I did write a letter to ComputerWorld Hong Kong in April which is relevant to this issue. Having read the Consultation Paper, I have modified my opinion slightly, as detailed later. I include the full message to ComputerWorld Hong Kong here:

------- Forwarded Message Follows  --------
From: Allan Dyer
To: ComputerWorld Hong Kong
Subject: Re: Viewpoint, April 21, 2000
Date sent: Fri, 21 Apr 2000 12:43:33 +0800

I will not stoop to Joe Sweeney's level of casting aspersions on the lavatorial habits of people he disagrees with, but I really don't see the problem he and the frustrated clients of the Gartner Group are having about the one domain name per business registration limit in .hk.

Firstly, you don't get one name, you get a whole sub-domain. Although most people seem to stick with www, you could name your web servers by the business line. For my own company, I could create (these don't exist) candies.yuikee.com.hk, computers.yuikee.com.hk, education.yuikee.com.hk... you get the idea. This combines obvious function with brand-name awareness. The name gets a little longer, but does this matter? If the content of the site is good, people will bookmark it and never type the name again. If the content is bad, a snazzy name will not help.

Secondly, there is no lack of business registrations in Hong Kong, and they often come in groups, as the number of Holding companies demonstrates (I would have thought this was obvious to the Gartner Group*). Just check which of your subsidiaries don't have a domain name yet. All done, and just got an idea for the killer domain name and application? Why not register a new company to hold the name - it even makes it easier to go IPO later.

Shakespeare said something about roses, names and smell - he was right, it's content, not name that is important. Yahoo wasn't even a dictionary entry a few years ago, the content made the difference. When the dust has settled, it won't be the best name that emerges the winner, but the best...
In-line with the sentiments expressed in my letter, I still do not see a need for allowing unlimited domain name registrations. However, if the rule was kept as "one company, one domain name", then trademark names might remain unused, for example, where a company had more than one trademark. Therefore, I recommend changing section (50.p) to a limit of one domain name per company registration *and* one domain name per registered trademark.

I do support introducing domain names for individuals (section 42.g). It would be interesting, and could reduce the workload at the registry, if families could administer their own sub-domains. For example, if the second-level domain for individuals is person.hk, I could register dyer.person.hk, and create sub-domains allan.dyer.person.hk (for myself) and james.dyer.person.hk (for my son).

I disagree with restricting registration to a domain name resembling the company name, its products or services (section 38). This restriction makes difficulties for innovative companies with ideas for new businesses - for example, company A has an idea for an entirely new way of providing service X over the Internet. They do not currently provide service X, so they cannot register the domain name without making detailed revelations of their plans, or waiting until they have the new delivery method fully developed. Meanwhile, a company providing service X by traditional methods could register the name. With my suggested restrictions above to one domain name per company and one per registered trademark, the risk of cybersquatting is greatly reduced, so it is feasible to allow registration of unrelated names.

Concerning the suggestion of replacing the HKNIC with a "non-profit making and non-statutory corporation" (section 50.a), I recommend the principle of, "if it ain't broke, don't fix it". In my dealings with HKNIC, I have found it to be fair and efficient (as opposed to the technical staff of my ISPs, who were surprisingly inefficient). Section 13 states, "However, with the rapid development of the Internet and electronic commerce locally, there are views as to whether the JUCC is able to adequately represent the interests of different sectors in Hong Kong in carrying out this function." but it does not justify these claims in any way. HKNIC has a proven track-record of providing the administration function successfully. In comparison, the registries for Chinese domain names are in total confusion - my company has registered a Chinese domain name, but there are no clues as to when the system will work. If the HKNIC and JUCC is happy continuing the work, then I see no reason to set up a new body at great expense to replace them.

I hope my opinions are useful to you,

Regards,
Allan Dyer

-----------------------------------------------------------
Allan Dyer, CISSP, MHKCS, DFCAE
Technical Director
Yui Kee Co. Ltd.
Re: Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

We refer to the above Consultation Paper.

We generally support the suggestions set out in paragraph 50 of the Consultation Paper. Our response to certain issues of paragraph 50 are set out below (following the numbering of the sub-paragraphs in paragraph 50):

Sub-paragraph (f): the existing arrangements for IP address allocation in Hong Kong should continue

IP addresses allocation is a scarce resource and with the rapid growth of internet business, it is our view that the existing arrangement can only meet the demands on a short term basis.

Currently, APNIC (the IP address distribution body) applies a very strict approach in checking the appropriateness for each IP address allocation.

Each ISP is required to provide details and reason to justify each assignment (even for simple based-line connection service). Further, APNIC's responsibility cover a number of countries resulting in considerable delay in processing each assignment. As each country has its own unique technology development situation / stage, APNIC may not fully understand the actual need of each locality e.g. some country use CDMA while others use GSM mobile communications. It is not practical for APNIC to fully understand the need of IP address allocation for each technology. This would be more complicated with the introduction of GPRS and 3G.

In summary, iSmart recommends a single body to run the IP address allocation in Hong Kong. This would expedite the process for the application of IP address. We anticipate a surge of applications with the launch of broadband services and recommend such a single body to be form as soon as possible.

Sub-paragraph (k): the registrar responsible for .com.hk, .org.hk and .net.hk domain names may engage agents to perform some of the routine registration work.
The engagement of agents may not expedite the process. The registrar would have to manage the agents and their service level. We recommend the registrar running the process itself perhaps with more built-in automation process.

Yours faithfully,
For and on behalf of iSmart.net Limited

Elaine Lau
Head Legal Counsel
Legal & Regulatory Affairs
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN07
Date of Submission : 21.06.2000
Submitted by : Mr Ichirou Uchika

Subject: 對「互聯網域名」 (.net) 的意見

以下是 http://www.cuhk.edu.hk/hknic/香港網絡資訊中心的定義：

COM.HK接受商業機構申請，這些機構需具備商業登記證（非分行登記證）。海外公司亦需具備商業登記證。
ORG.HK接受各類一般並非牟利之團體申請，例如經香港警方註冊之社團、經財政局認可之慈善機構、經立法會或註冊而成立的法人團體等。
NET.HK接受一般持有公共非專利電訊服務牌照（國際增值電訊網絡服務營辦商及互聯網服務供應商）之機構申請。

我覺得有問題。尤其是「.net」。而且根據這定義，一般網站亦沒有合適的「.net」名子。我建議應作以下分類：

.com(co) [來自company] 爲公司和商業團體。

.net(internet) [來自internet] 爲一般網站，網頁登記，包括資訊性、興趣性、個人性等。而且隨著互聯網發展，這些網站會佔最多數。故此建議同時開放「.stt(st)」、「.ste(st)」（二字同來自site）及「.web(.we)」（來自web）三個「.net」名子以供登記。

.org(or) [來自organization] 爲一般團體，包括已於團體登記的，以及自己成立的團體，如興趣團體、同人團體等。不需向香港登記的團體。因爲它們也是團體。亦建議開放「.org(.og)」（來自organization）。

隨著科技及互聯網發展，除上面的建議外，有關方面亦應開放以下「.net」名子給人們登記：

.fan(fa) [來自fans] 供偶像書籍網站登記。
.wap(wa) [來自wap] 供專門有wap網頁的網站登記。

而以下定義及所接受登記的組織，則應繼續沿用：
.edu(ed) 接受教育署註冊之學校及各大專院校申請。
.gov(go) 接受香港政府部門申請。

而且，由於「.net」、「.stt」、「.ste」、「.web」、「.fan」、「.org」都可能是或祇是供一般人使用，故此不應收取費用，或祇收取一個小額的費用。

同時亦要嚴禁商業網站及公司借這些不收費或祇一點過收小額費用的網名作商業網站，而且亦要嚴禁「網名」。例如發現網名是用来用或者目的是要他人向他「買網名」，則應立即取消該名字登記，以開放給其他人士。

註：括號內的二字母名子，祇在有需要時或某些地區採用，例如日本以「.co.jp」、「.me.jp」去取代「.com.jp」、「.net.jp」。
Subject: Numerals in domain names

On Fri, Jun 23, 2000 at 09:57:12PM +0800, Gordon Fong wrote:

> Oops, a domain name cannot start with a digit.
>
> Is the above problem being considered in the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"? Many countries do permit domain names starting with a digit, even the normal "com" and the "com.cn".
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN09
Date of Submission : 29.06.2000
Submitted by  : Mr Hui Hon Sang

有關：香港互聯網域名及管理編配安排檢討

"建議書"

1. 將各種域名中某份額平均分配，限制非真正使用者預先將域址登記後再行善價而沽。

2. 每個域名或域址的登記人需向域名服務提供商證明是真正使用者，避免日後真正使用者無法登記。

3. 配合回歸後中文普及化，撥備更多中文域名及提供登記中文域址供應。

4. 香港自行建立新域名，例如：・HKSAR 等。

5. 廢除“先到先得”原則，防止被人預先登記謀利。

6. 每人和每間機構只許登記一個域名。

[完]

HUI HON SANG
(許漢生)
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No.: DN10
Date of Submission: 02.07.2000
Submitted by: Mr Mark Jiang
M Phil student,
Law School of the City University of Hong Kong

Subject: consultation paper/ domain name in Hong Kong

Dear Madams and Sirs,

I provide my personal opinion on the paper for your reference. Though the task force makes great progress to reform the present hk domain name mechanism. There are following points that may be improved:

1. alternative dispute resolution mechanism

It is stated in the page 18 that the dispute resolution procedure will be invoked if evidence of trademark or service mark is provided. However, it is not clear whether worldwide trademark or service mark (may be further certified) can be acceptable, for it is disappointed if only trademark or service mark in hk is acceptable. In fact, in present dispute resolution policy, the HKNIC only accepts local trademark. It is a poor restriction, which is contrary to the former Network Solution resolution policy or present ICANN policy.

2. domain name for individuals

According to the paper, each individual can only register one domain name in a new second-level domain category. This is another disappointed restriction—only one domain name limited in a one new category not able to extend to other categories. Supposing this is a way to prevent cybersquatting, but if there is alternative dispute resolution procedure, there is no need to resort to this kind of way. Domain name registration shall be free to all, individual or company, foreigner or local resident, in order to promote the development of internet service in hk. Substantiality of alternative dispute resolution procedure is to provide a less costly and more efficiency way than court proceeding to solve domain name disputes. If this administrative procedure is established, it will be easy for right claimant to claim back domain name even if cybersquatting arises. So really no need to impose so much restriction on registration procedure.

3. second-level domain category being selected for a particular domain name application should correspond to the business nature of the applicant

This is another over-restrication. I suppose that the underline policy is also to prevent cybersquatterting. But it again sacrifice the freedom to develop internet service. A company's business nature definitely may be changed according to market and it may
register a domain name for today or future's business. It shall be given such freedom to make a choice. Moreover, as said in point, with the efficiency alternative dispute resolution procedure, the registration procedure shall be more free and open. Otherwise, what the alternative procedure is for?

Sincerely yours,

Mark Jiang
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN11  
Date of Submission : 04.07.2000  
Submitted by : Ms Joyce Tang  
Domain Fighter  
Helix Web Hosting

Subject: Consultation Paper

Dear sir,

We have reviewed your documents on the administration and assignment of internet domain names and internet protocol addresses in Hong Kong.

Below is a list of recommendations for your kind consideration:

1) Domain modification
We consider the present authorization method for domain name modification insecure and time-consuming (10 working days): -

a) We suggest HKNIC or the proposed policy-making and administrative body to consider the practice of www.register.com or www.directnic.com where domain owners could logon and change their domain information online.

b) To make way for ISP's and webhosts to administer their customers' domain modification, there should be some sort of business partnership (as in Network Solutions) where the present way of sending template emails and email authorization should continue with ISP's and webhosts. However, we suggest HKNIC or the proposed policy-making and administrative body to tighten up the authorization method.

2) Contact
Presently, ISP's and webhosts do not have access to HKNIC (other than email), let alone the general public.

a) We suggest with the business partnership program, HKNIC or the proposed policy-making and administrative body should have account specialists which allow ISP's and webhosts to discuss special domain registration and modification issues.

We hope the recommendations above are helpful. Should you need further discussion and clarifications from us, please feel free to contact us.

Best Regards,
Joyce Tang,  
Domain Fighter  
Helix Web Hosting
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN12  
Date of Submission : 12.07.2000  
Submitted by : Mr K.W. Chan  
Head of Information Technology Services  
Hong Kong Trade Development Council

Dear Sir,

Consultation Paper on the Review on Administration & Assignment of Internet Domain Names & Internet Protocol Addresses in HK

We congratulate the proposal prepared by the Task Force on the captioned subject. Among others, we support the idea of setting up an independent and non-profit organization to handle the Internet domain names registration and related issues. Upon reading the consultative paper, we have the following observations:

- In the transition period, it makes sense to have the target organization to handle the administrative tasks of domain registration. On a long term basis, the Task Force might want to consider to "outsource" the administrative tasks to external parties and have the organization to focus in policy-making only. The benefits with this arrangement are two folds. First, the target organization can maintain its impartiality by separating policy making from execution. Second, efficient services to the public can be offered without having the target organization to invest into this area. Engagement of "Networksolutions" by the US Government is a good case in point.
- The proposal makes reference to practices elsewhere. This should be encouraged in the future organization. SAR should adopt the "best practices" within the Internet community as far as possible without creating its own version.
- It might be a good idea to include representatives from the legal community on the Board of Directors. Legal issue over the Internet is always complicated. A legal representative on the Board could offer the right advice at the right time.
- The Task Force may also want to consider having a user representative on the Board, e.g. from a large e-commerce company. With such an inclusion, the view of user community can be considered at an early stage of the policy making process.

To conclude, we fully support the proposal made in the consultative paper and we wish you a very successful implementation of the proposal.

Yours faithfully,

K. W. Chan  
Head of Information Technology Services
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN13  
Date of Submission : 13.07.2000  
Submitted by : Mr Ron Cameron  
Head, Trade Practices Division  
Consumer Council

Consumer Council
Response to Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

Introduction

1. The Consumer Council welcomes the move by the Government to review the administration and assignment of Internet domain names (DN) and Internet Protocol (IP) addresses in Hong Kong.

2. At the outset, the Council wishes to express its general support for the proposed structure of the administration and assignment of Internet DN and IP. In particular, it welcomes the setting up of a non-profit, non-statutory and self-financing entity to take over the work currently undertaken by the Joint Universities Computer Centre. The Council believes that the new arrangement will speed up the development of e-commerce and play an important role for Hong Kong when its consumers and businesses engage in electronic commerce.

3. The Council fully supports the view that applicants should avoid infringing upon the intellectual property rights of a third party. It also believes that reserving domain name consisting of well-known international trademark, service marks and brand names as well as some other restricted used names by the registration authorities can impede cyber squatting.

4. Although the Council agrees with the Government that prohibiting legitimate transfer of domain names may be too restrictive, there is no control mechanism in place to discourage the speculation over domain names if it allows the transfer of domain names. The Council urges that the proposed domain name administration body should consider necessary steps to address this matter in future.

5. The Council would also like to take this opportunity to recommend certain safeguards to satisfy consumer protection, and competition concerns.

Competition and Consumer Safeguards

6. The Council supports the view that the domain names should be registered on a "first come, first served" basis and only companies and organizations registered or incorporated in Hong Kong are allowed to register domain names ending with .hk.
Selection of registrar

7. The Council agrees with the Government's proposal that the existing practice should continue in having a single domain name registrar for the .hk domain name administration (except .gov.hk and .edu.hk). However, the Council recommends that the Government consider using the criterion of whoever can offer the lowest registration fee, as the means to select the domain name registrar.

Registrar's Agents

8. The Government has suggested that the registrar may engage agents to perform some of the routine registration work, implying therefore that there could be competition between multiple agents in providing registration services. With the current exponential growth in Internet activities, the need for multiple registrars is most likely inevitable. In these circumstances, some recognition should be given to the need for consumer and competition safeguards in order that the market operates efficiently.

9. For example, it is possible that some agents might misrepresent their services in order to obtain unfair advantage over competitors, even though they have signed an agreement to adhere to the same set of registration practices and procedures as required by the registrar. In addition, unless there is ongoing monitoring of the sector, there may be a risk that in a rapidly changing environment, particularly as the .hk domain could become a market in its own right, that opportunities to correct market distortions might be lost. This could result in the impairment of efficiency in the sector, and industry structures that could make reforms difficult.

10. The Council suggests that as a precaution, the registrar be given the task of monitoring whether agents comply with appropriate rules of marketplace behavior that provide for certain consumer and competition safeguards. Some suggestions are as follows.

Misleading and deceptive conduct

11. The guidelines issued by the Office of the Telecommunications Authority for telecommunications service providers, on acceptable advertising practices, noted below, could serve as a basis for formulating appropriate principles that agents should follow when marketing their services to the public.

- Advertising should be clean, honest and truthful.
- Comparative advertising is acceptable so long as references to a competitor, or a competitor's products or services is fair, reasonable and not misleading.
- Advertisements which criticize a competitor or a competitor's products or services should be avoided.
- Disparaging or smearing advertising does harm to the image of the industry.
- Advertisements should be capable of substantiation.
- The purpose is to prove any claims made in advertisements. While the substantiation need not be unequivocal, it is good practice to indicate the source of research or authority on which the claim is based.
- The use of superlatives should be avoided unless substantiated by facts.
- Technical jargon and technology comparisons should be used with care. Inappropriate use of jargon and comparisons can be counter productive in that it tends to confuse and mislead the consumers rather than explain the merits of the products or services.
- The identity of the product/service provider should be clearly indicated in all promotional materials that consumers have no doubt which company is providing what products and services.
- Advertising should maintain decency and good taste.

Competition oversight

12. In the Government's May 1998 Statement on Competition Policy the Government noted that industry self-regulation (such as codes of practice) could be one means by which competition could be promoted, thereby attaining the objectives of economic efficiency and free trade.
13. The Council suggests that the domain name registrar could establish a general competition code of practice, against which registrars would be assessed, requiring them to refrain from certain restrictive practices that distort markets and impair economic efficiency or free trade. Examples were given in the Government's policy statement, such as price-fixing, bid-rigging, and market allocation. A simple complaints handling procedure could be maintained by the registrar, where any restrictive trade practices that allegedly impair economic efficiency and fair trade, could be subject to scrutiny and sanctioning, or otherwise, by the registrar.

*Alternative Dispute Resolution*

14. The Council also agrees with the Government that an alternative dispute resolution should be developed in Hong Kong to facilitate early resolution of .hk domain name disputes, which can also be used by consumers as a possible way to get redress in other e-commerce disputes.

Consumer Council
13 July 2000
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN14  
Date of Submission : 14.7.2000  
Submitted by : Ms Betty Au  
Secretary, Trade Services  
The Chinese General Chamber of Commerce

Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

Thank you for your letter dated 5 June, 2000 with enclosure addressed to our Chairman.

Our Committee Members were briefed and invited to comment on the captioned issue at their monthly meeting. A letter was also sent to members concerned to solicit their opinions. However, no comments so far have been received.

Thank you for your attention.

Yours sincerely,

Betty Au  
Secretary  
Trade Services
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN15  
Date of Submission : 14.07.2000  
Submitted by : Mr Peter N. Dobson, Jr  
Associate Vice-President for Academic Affairs  
The Hong Kong University of Science & Technology

Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

Thank you for the opportunity to review the proposals on administration and assignment of Internet domain names. I obtained comments from several staff with special expertise in this area, several of whom informed me they had also had opportunities earlier in the process to provide input. Their comments are quite supportive of the approaches recommended in the consultation paper. My comments below touch on a few of the major issues.

2. The allocation of second level names under the .hk country code by the JUCC and its predecessor has served the community well during a period of rapid and growth and expansion. As the universities were in the forefront of the new Internet technologies, as evidenced by the fact that Hong Kong's first ISP began as a community service provided by HKUST, the university-based organization was ideally placed to make sure that local developments kept pace with the international trends. However, as the focus of the Internet has shifted from the academic community to the private sector, it is clearly time to move this activity to a more independent body. We agree with the reasoning of the Task Force and support its recommendation to establish a non-statutory non-profit-making corporation for this purpose. If Government accepts the Task Force's recommendation that JUCC play a role in spinning off such a corporation, we will do whatever we can to support this development.

3. The Task Force has identified a number of complex issues regarding domain name registration, and we support its conclusions and recommendations. To a significant extent, the Task Force wisely recommends leaving alone those procedures that have been working well and can be foreseen to continue to work well. In the areas where improvements are either needed now or can be anticipated, it has made sensible recommendations.

4. The recommendations on dispute resolution are particularly timely. As use of .hk domain names increases, the likelihood of disputes will rise steeply. The Task Force has proposed a sensible procedure based on the international model adopted by ICANN. This certainly seems workable in the interim, and consideration of setting up a more formal tribunal can await experience with this approach.

5. I hope these comments will be of some assistance.
Sincerely,

Peter N. Dobson, Jr
Associate Vice-President for Academic Affairs
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN16  
Date of Submission : 14.7.2000  
Submitted by : Mr Kandy Yuen  
Manager - Regulatory & Commercial  
Cable & Wireless HKTCSL Limited

Comments on the Consultation Paper on the Review on Administration & Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

CWHKTCSL support the recommendation put forward by the Taskforce in the report. However, there are some views, which we like to comment on. These comments are set as follow:

Allocation of IP addresses

In order to unify the IP addresses allocation process, the HKNIC or the future organization should represent Hong Kong to co-ordinate with AMC for public IP addresses allocation for Hong Kong. This can unify the process and HKNIC or the future organization can then have all the IP addresses for firms applied through them, which may ease the application process.

Application for Domain Names

We agree to the 'first come first served' process for application. However, an application bulletin board is suggested to be posted in order for applicants to check if there is any duplication of application. The application time should be posted to avoid dispute of 'first come first served' application. A grace period is also suggested (e.g. One week post on the bulletin board for any objection) to be placed for any objection from any person or organization.

On-line Checking of Domain Names

In order to avoid duplication and ease of application for Domain Names, an on-line checking facility for currently in used Domain Names and Domain Names under application is needed. This will form an integral part of the record for HKNIC or the future organization.

Chinese Domain Names

As Hong Kong and Taiwan is using traditional characters but other locations including the Peoples' Republic of China and Singapore is using simplify characters, each Chinese Domain Names should include both simplify and traditional characters sets which may represent 2 domains.
Dear Sirs

Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong, June 2000

We have read the above-mentioned Consultation Paper with great interest, particularly Paragraphs 48 and 49 pertaining to "Dispute Resolution for .hk Domain Names".

We believe that the Hong Kong International Arbitration Centre ("HKIAC") is ideally suited to undertake the design and administration of dispute resolution mechanism for disputes which may arise in connection with .hk domain names. The HKIAC, an independent non-profit organisation, was established 15 years ago with the objective of promoting the use of arbitration, and other alternative dispute resolution methods, both domestically in Hong Kong and internationally. We are the focal point for dispute resolution in Hong Kong and we are involved in all facets of the field. We have helped develop and administer various programs and schemes in connection with dispute resolution in Hong Kong. For example, we now administer the appointment of arbitrators in cases where parties to a potential arbitration have failed to agree or have failed to designate an appointing authority or in certain circumstances if the designated appointing authority fails to perform its obligations. This is a function which was previously carried out buy the Courts. Among other things, we also provide the support for the Securities and Futures Commission Appeals Panel.

The area of the resolution of domain name disputes is of particular interest to us. Earlier this year we took the initiative to establish an e-commerce Dispute Resolution Group and among other things this Group is looking into the subject of on-line arbitration and dispute resolution. Out of this arose a decision we made to apply to ICANN to become the first domain resolution dispute service provider in Asia. Our submission in this regard was submitted on 13 June 2000. Furthermore, in this connection, Mr Christopher To, our Secretary-General, will be attending the ICANN Board meeting in Yokohama, Japan to be held between 12 to 17 July 2000. We are also planning special training courses for issues involved in domain name disputes for those who may wish to be appointed to the Panel of Arbitrators which we intend to establish should our ICANN application be approved.

All of this would stand us in very good stead should we be appointed as the administrator or provider of the dispute resolution scheme in respect of the .hk domain and we sincerely express our interest in seeking such appointment.
We are enclosing herewith information in regard to our organisation. If any further information is required please see our website at www.hkiac.org or contact our Secretary-General, Mr Christopher To.

Yours faithfully
For and on behalf of
Hong Kong International Arbitration Centre

Edward Rubin
Council Member

Encl
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No.: DN18  
Date of Submission: 14.7.2000  
Submitted by: Ms Maria  

*The Chinese Manufacturers’ Association of Hong Kong*

Consultation Paper on the Review  
On Administration and Assignment  
Of Internet Domain Names and  
Internet Protocol Addresses in Hong Kong

With reference to the captioned review, the Association has the following comments:-

1. We support the formation of a non-profit making and non-statutory corporation to administer and assume the overall responsibility for Internet domain name administration in Hong Kong rather than assigning the duties to the HKNIC under the Joint Universities Computer Centre (JUCC) at present.

2. In order to run on a self-financing basis and to ensure the proper and efficient operation of the corporation, a governing body comprising of representatives from the government, the academia and the business community should be formed to supervise and monitor the overall performances of the new establishment.

3. We also agree to the proposal of separating the registrar responsibilities in respect of the .gov.hk domain and the .edu.hk domain to the government and the JUCC respectively.

4. At present, each organization is only allowed to register for one domain name under .hk while multiple registrations are possible for the top level domains (gTLDs) worldwide. Therefore, we believe that with the more stringent requirements of registering .hk domain names in alignment with the true business nature of the registering organization, more than one domain name under .hk should be granted to serve the needs of such organization.

5. As for individual registration, we support the idea of allowing each individual resident of Hong Kong to register for one domain name in a new second-level domain category under .hk in order to facilitate the local population to migrate to the information age, by providing more enabling technologies and means to the public to use the internet in their daily communication.

6. With reference to the renewal fee now not being levied by the HKNIC, the Association opines that only a nominal fee should be charged if we are to encourage more enterprises and individuals to do their businesses on a web-based environment.
Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

CWHKT welcomes this opportunity to comment on the administration and assignment of Internet domain names and Internet protocol addresses in Hong Kong.

CWHKT's Views

CWHKT is broadly supportive of the recommendations put forward by the Taskforce in its report. CWHKT welcomes the Taskforce's statement that appropriate registration policies should be drawn to strike a balance between encouraging the development of electronic commerce in Hong Kong and guarding against cyber squatting. CWHKT believes that as expressed in the World Intellectual Property Organisations Final Report of the WIPO Internet Domain Name Process (the WIPO Report) that it is important that proposed registration practices do not hamper or distort the speed with which events are able to occur in the Internet world. Overly restrictive registration practices will not only distort the speed with which activities on the Internet occur but will also result in a stifling of other key strengths of the Internet which include its ability to foster innovation and encourage diversity. CWHKT also believes that given the global nature of the Internet the practices adopted by Hong Kong must be in line with those adopted internationally.

Given these fundamental principles, there are a number of recommendations on which CWHKT would like to comment. These recommendations are set out below.

Reserved List

The Taskforce recommends that the registration authority should draw up a reserved list of well-known international trademarks, services marks and brand names and make the list available on the Internet. It is suggested that such a list could be based on the reserved lists prepared by other cc TLD registration authorities. CWHKT suggests that in developing any such list of names the registration authority could be guided by the WIPO Report in terms of the factors that should be taken into account in determining whether a mark is well known. The non-exhaustive criteria that have been put forward in the WIPO Report include:

- the degree of knowledge or recognition of the mark in the relevant sector of the public;
- the duration, extent and geographical area of any use of the mark;
- the duration, extent and geographical area of any promotion of the mark including advertising or publicity and the presentation, at fairs or exhibitions, of the goods and/or services to which the mark applies;
- the duration and geographical area of any registrations, and/or any applications for registration, of the mark, to the extent that the reflect use or recognition of the mark;
- the record of successful enforcement of rights in the mark, in particular, the extent...
to which the mark was recognised as well known by courts or other competent authorities; and

- the value associated with the mark
- evidence of the mark being the subject of attempts by non-authorised third parties to register the same or misleadingly similar names as domain names.

Format and business nature of a domain name

The Taskforce recommends that the second level domain name category being selected for a particular domain name application should similarly correspond to the business nature of the applicant and suggest that it might seek evidence from the relevant business registry in order to confirm that this is the case.

CWHKT appreciates that the motivation behind this recommendation is to deter cybersquatting. However CWHKT believes that this approach is likely to limit the ability of parties to develop new businesses and seek out new opportunities if they are to be limited to registering a name that corresponds to their existing business name or which is in accordance with their current provision of goods or services. CWHKT believes that there are more appropriate ways to deal with the issues of cybersquatting than by providing overly restrictive rules on the domain names that particular parties can register.

Multiple Registrations

CWHKT firmly supports the ability of a party (other than an individual) to register multiple domain names provided that other steps to deter cybersquatting are taken in parallel with this approach.

Transferability of domain names

CWHKT supports the transferability of domain names on valid grounds such as the ownership or distribution right of a company, its products or services has been transferred. CWHKT also believes that there should be some limited scope for the commercial transferability of domain names. CWHKT does not support purposeful resale of domain name for commercial gain. CWHKT can envisage circumstances where commercial transfers would be appropriate such as in circumstances where a company with a legitimate right to a domain name goes into liquidation, for example, and the liquidator in charge of that company could obtain a commercial price for the transfer of that name. In such circumstances CWHKT believes that there should be no bar on the commercial transfer. Clear guidelines on circumstances under which domain names could be transferred should be made public.

First Come, First Served

While CWHKT supports the first come, first served principle on the basis that such a principle avoids unnecessary delays involved with requiring a registrar to search all of the applicable information to determine whether there is a party with a more legitimate right to the domain name then the applicant, CWHKT agrees that the applicant must be required to give a representation that to the best of the applicant's knowledge that the domain name does not interfere with or infringe the intellectual property rights of another party. CWHKT would suggest that the Taskforce should perhaps consider the wording adopted by ICANN which requires the applicant to represent that to the best of its knowledge and belief, neither the registration nor the manner in which it is directly or indirectly used infringes the legal rights of a third party. CWHKT also believes that the applicant should be required to make a representation that all of the information provided by the applicant is true and accurate.

Renewal of domain names

CWHKT supports the Taskforce's recommendation that domain names should be subject to a renewal process and that the renewal fees should cover the administrative costs of the process and enable the registration authority to operate on a self-financing basis. CWHKT believes that the Taskforce should consider the recommendation put forward in the WIPO Report that failure to pay the renewal fee within a specified time should result in cancellation of the registration.
CHWKT also suggests that the Taskforce should consider whether if at the time of renewal of a registration of a domain name, applicants who have yet to commence using the domain name should be required to make a statement as to their intention to use the domain name during the period of the next renewal. While CHWKT acknowledges that in the WIPO report it was recognised that there are circumstances in which it might be legitimate to register a domain name and to hold it "without" use and that therefore a statement of intention to use should not be required, CHWKT believes that the issue requires further consideration particularly given that there has been no discussion of how long a renewal period should last for. CHWKT believes that if long renewal periods are to be chosen then there may well be benefits in introducing a requirement that on renewal, a party who has yet to commence using their domain name should be required to make a statement as to their intention to use the domain name within the next renewal period.

Individual Domain Names

While supportive of the proposal that individuals should be allowed to register their names in a new second level domain under .hk, CHWKT queries how exactly the requirements that such domain names should be required to be derived directly from the names appearing on their Hong Kong identity cards will be resolved alongside the obvious problem of individuals with identical names. CHWKT believes that there are a number of issues which will require careful resolution before this policy can be proceeded with.

Dispute Resolution for .hk Domain Names

The Taskforce's recommendations with respect to dispute resolution issues relating to domain names is that:

- the registration authority may appoint organisations which provide arbitration and mediation services to act as domain name dispute resolution service providers. The registration authority and the dispute resolution service providers will agree on a stipulated service level (e.g. turn around time, availability of qualified panellists to serve the arbitration panels, factors to be taken into consideration in deciding disputes etc)
- the dispute resolution procedure will be invoked if the claimant is able to produce the following evidence to one of the service providers:
  - the registered domain name is identical or confusingly similar to a trademark or service mark to which the claimant has rights;
  - the registrant has no rights or legitimate interests in respect of the domain name; and
  - the registered domain name is being used in bad faith.
- the dispute will be handled by an independent arbitration panel provided by the dispute resolution service provider.
- the arbitration panel will inform the disputed parties once a decision has been made. In the event that the registrant loses, an appeal against the decision may be made to the courts in Hong Kong within a specified period. If no appeal is made within the stipulated period, the domain name of the registrant will be deleted from the domain name database.
- the domain name registrar receiving complaints against domain name will take no action until it receives instructions from the registrant or an order of a court or a dispute resolution service provider handling the concerned dispute.
- notwithstanding the establishment of an alternative dispute resolution procedure parties involved in domain name disputes may go to the court to resolve their dispute before the alternative dispute resolution procedure commences or to contest the result of the dispute resolution.

CWHKT supports the idea of a dispute resolution process to provide a speedy, efficient and cost effective alternative to litigation. CWHKT agrees however that the overall right to litigate should be retained for the parties. CWHKT would also suggest that the Taskforce should consider mandating a requirement as that domain name applicants should in the domain name agreement be required to submit without prejudice to other potentially applicable jurisdictions to the jurisdiction of the courts of the country where the registrar is located. A similar requirement that domain name applicants be required to submit to jurisdiction was recommended in the WIPO Report.
CWHKT believes that it is important for the dispute resolution procedure to ensure as far as possible that the decisions that are made by arbitration panels are based on consistent principles. CWHKT also believes that in order to ensure the speedy resolution of disputes the arbitration panel should only be entitled to rule on the validity or otherwise of the applicants claim to the domain name, the transfer of the domain name registration to the third party complainant and the allocation of the responsibility for payment of the costs of the proceedings.

CWHKT believes that in assessing the question of whether a domain name has been registered in bad faith the following factors which were put forward in the WIPO Report should be considered as evidence of the registration and use of a domain name in bad faith:

(i) an offer to sell, rent or otherwise transfer the domain name to the owner of the trade or service mark, or to a competitor of the owner of the trade or service mark for valuable consideration; or
(ii) an attempt to attract for financial gain, Internet users to the domain name holders website or other on line location, by creating confusion with the trade or service mark of the complainant; or
(iii) the registration of the domain name in order to prevent the owner of the trade or service mark from reflecting the mark in a corresponding domain name, provided that a pattern of such conduct has been established on the part of the domain name holder; or
(iv) the registration of the domain name in order to disrupt or cause inconvenience to the business of a competitor.

CWHKT also believes that a key issue relating to the alternative dispute resolution process with respect to domain names is the level of costs above. CWHKT agrees with the WIPO Report findings that the dispute resolution procedure is likely to entail the following cost elements;

(i) an administration fee to be paid to the dispute resolution service provider;
(ii) the fee to be paid to the panel of decision makers;
(iii) other fees that may be incurred in relation to the proceedings.

CWHKT believes that while the third party claimant should be required to pay an administration fee at the outset of the process, the sharing of costs and perhaps the reallocation of the liability for the administration fee between the parties is a matter that CWHKT believes can be fairly left to the arbitration panel to be decided on conclusion of the arbitration process.

CWHKT also believes that the procedures to be adopted by the arbitration panel should be as speedy and efficient as possible. In this case CWHKT believes that the use of electronic or on line filings as suggested in the WIPO Report should be considered.

**Proposed Institutional Arrangements**

While CUHK is the only registrar in Hong Kong now, it is CWHKT's view is that if there are other qualified parties interested to provide the service, these parties should be invited to be the registrar. CWHKT appreciates that more competition may drive down the cost and improve service quality.

Regardless of whether the new non-statutory, non-profit making corporation is to be spun off from IUC, it is important that the organization has an appropriate level of transparency, in particular in making its new rules and decision. It is also desirable if an appeal mechanism can be established for check-and-balance.
SUBMISSION ON CONSULTATION PAPER ON THE REVIEW ON ADMINISTRATION AND ASSIGNMENT OF INTERNET DOMAIN NAMES AND INTERNET PROTOCOL ADDRESSES ("THE CONSULTATION PAPER")

The following submission is made by the Hong Kong Institute of Trade Mark Practitioners ("the Institute"). Our submissions are made by reference to the headings used in the Consultation Paper.

PROPOSED INSTITUTIONAL ARRANGEMENTS

Policy making and administrative function relating to Internet domain name

The Institute supports the creation of a new body to be responsible for policy making and administrative functions. Ideally, the body should have a statutory basis, but the Institute acknowledges that this would be too time consuming and cumbersome to set up given the immediate need. A viable solution, as proposed, is for a non-statutory body to be formed but for that body to be controlled through a formal agreement with the Government which sets out the powers and functions of the non-statutory body.

The Institute believes the body should be non-profit making and should be funded through the registration fees and renewal fees of domain names. The Institute does not believe that the membership of the body should be on a subscription basis since this may lead to the financially stronger members taking control. The Institute feels strongly that membership should be open to the legal profession as well as ISPs, the commercial sector, academia and the Government. Indeed the Institute itself believes that it has a role to play in the policy making function of this new body.

The Institute believes that the Government should take the lead in forming the new body. Without Government impetus, the body is unlikely to be formed quickly.

The Institute supports the appointment of a Board of Directors to exercise the policy making function but considers the proposal to spin off another company with an interim board (paragraph 28) to be too complex. The Institute believes the Government should take the lead in setting up the Board of Directors and the new body as a whole and should invite some members of JUCC to sit on the Board and then extend an open invitation to others to apply for membership of the Board.
Policy making function relating to IP addresses

The Institute is not aware of any problems relating to the allocation of IP addresses and is not able to comment on this issue.

Administrator of the ccTLD Registry

The Institute agrees that there should be a single registrar in Hong Kong

Registrar and agents

Whilst the Institute understands the special interest that the Government has in "gov" second level domains and that JUCC may have in "edu" second level domains, the Institute believes that the principle of a single registrar should be followed through. There should be no agents or sub-registrars appointed for different second level domains. The Institute believes that to ensure consistency, there should be a single registrar and when it comes to the issue of whether an applicant is entitled to use "edu" of "gov", that question should be outsourced to the Government or JUCC as appropriate.

DOMAIN NAME REGISTRATION FOR "HK" DOMAIN NAMES

The Guiding Principles

The Institute supports wholeheartedly the guiding principles set out in the Consultation Paper, subject to the following comment. The Institute believes that the principle at paragraph 34(c) is too restrictive. There should be an unfettered right to transfer domain names. Any illegitimate trading in domain names will be controlled by the dispute resolution procedures.

Registration Guidelines for "hk" domain names

(a) Reserved List

The Institute does not support the creation of a reserved list. The Institute feels strongly that the formation and maintenance of such a list is likely to lead inevitably to incorrect inclusions and exclusions. Difficulties include the fact that well-known names change over time and even obscene and indecent words and phrases change over time. Similarly difficulties will arise from the fact that similar marks can legitimately be used by different businesses in different business sector. The Institute believes that this time consuming task will take up resources unnecessarily and for no real benefits. If any domain name issued offends any third party, then they can rely on the dispute resolution procedures.

(b) Format and business nature of domain name

The Institute notes that the Consultation Paper refers to the fact that in Australia and Canada there is a requirement that a request domain name must resemble the name of the company or its products/services. The Institute supports the fact that this is not recommended to be adopted in Hong Kong. There are countless examples of legitimate domain names bearing no resemblance to the company name or nature of products/services. The Institute notes the proposal that second level domain categories should correspond to the business nature of the applicant with documentary proof on the relevant registries. Whilst the Institute considers that this appears to be beneficial, the Institute fears that it will be cumbersome and that it will not necessarily be a simple matter to provide documentary proof even in legitimate cases. What sort of documentary proof does the Task Force have in mind? Therefore the Institute believes that this issue may be best left to the dispute resolution procedures.

(c) "First come, first served" Principle

The Institute agrees that domain names should be issued on a "first come, first served"
basis and supports inclusion of an appropriate declaration by the applicant that, to the best of the applicant's knowledge, the domain name does not infringe third party's rights.

(d) Multiple domain names per registrant organization

The Institute supports multiple domain names per registrant organization.

(e) Transferability of domain names

The Institute supports the transferability of domain names but feels strongly that it should be an unfettered right.

(f) Local presence

The Institute supports the periodical review of the requirement that applicants for domain names must be incorporated in Hong Kong.

(g) Domain names for individuals

The Institute supports the ability of individuals to register domain names but does not believe it should be restricted to the name appearing on Hong Kong ID cards. An example of why the restriction is inappropriate is an author who may wish to publish on a website under a pseudonym. The right to apply should be without restriction and any disputes should be left for the dispute resolution procedures.

(h) Renewal of domain names

The Institute supports the renewal of domain names and suggests that a fee structure similar to that operated by ICANN should be adopted, i.e. a fee for the initial two years and then renewals on a two year basis. Whilst it has not been suggested, the Institute wishes to make clear that it believes that proof of use should not be a pre-requisite to renewal.

DISPUTE RESOLUTION PROCEDURE

The Institute supports wholeheartedly the suggestion to follow the ICANN dispute resolution procedure and supports the concept that the procedure should be operated by someone other than the domain name registrar.

The Institute's notes in paragraph 49(d) reference to the domain name being deleted upon the successful application of a challenger under the dispute resolution procedure. The Institute believes that the registrar should delete or transfer as appropriate in line with the ICANN dispute resolution procedure.

The Institute would welcome further discussion or correspondence with the Information Technology Services Department should any queries arise on the submission.

14 July 2000
Hong Kong Institute of Trade Mark Practitioners
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN21  
Date of Submission : 15.07.2000  
Submitted by : Mr To Cheung  
Vice Chairman  
Hong Kong Web Hosting Association  

Comments on Consultation Paper

The Hong Kong Web Hosting Association is founded by a number of local web hosting companies in April, 2000. Our mission is to promote the web hosting and domain name services industry and protects the industry interest. Regarding the Consultation Paper on the future arrangements for the administration and assignment of Internet domain suggested by the Task Force, we agree with most of the policies. However, judging from the point of view of the industry interest, we do have the following suggestions that represent the common needs and concerns of our members.

1. (k) The registration from .com.hk, .org.hk and .net.hk domain names may engage agents to perform some of the routine registration work.  
We suggest that the registrar should not be involved in the routine domain registration work. The current policy in which customers should register local domain names through ISP or web hosting companies with local DNS servers should be kept. If customers can register any domain names through an online registration form provided by the registrar, the application system must be well security built and the primary and secondary DNS must be presented when application taken.

2. (l) A reserved list of domain names consisting of well-known international trademarks, service marks and brand names as well as some other names which are of restricted use, making reference to the reserved lists prepared by other ccTLD registration authorities, may be drawn up.  
Disagree. The free market policy has been proven successful in Hong Kong. Such restriction will only limit the growth of the Internet market development. Also, it is hard to well define the list. The implementation of the rule will be difficult. Instead of setting new restrictions, the task force should consider releasing number the restrictions on registering number domain names and single-character domain names to promote the domain name service industry. Such kind of domain names are very popular in the US and there is no such kind of restrictions for registering any .com domain names.

3. (m) The 2nd-level domain category being selected for a particular domain name application should correspond to the business nature of the applicant.  
We disagree with it because it is very difficult to prove the relationship of the name and the business nature of the applicant. It may also increase the work load of the local ISP and web hosting companies if they need to help the applicants go through the approval procedures.

4. (o) The domain name applicant should declare, when making an application, that to its
best knowledge, the domain name applied for does not infringe upon the intellectual property rights of a 3rd party.

Even if the applicant has made such declaration, argument may still arise because a regular applicant will not have sufficient information nor knowledge to determine whether or not the domain name has infringe the intellectual property rights of a third party. Such policy may not be enforceable.

5. Each organization should be allowed to register more than one domain name under .hk.

Multiple domains registered by a single company is a good thing, but will very quickly lead to squatting and greatly increased sale/trade of .com.hk domain names, which is undesirable. Instead, we propose a maximum number of 50 domains for each company, same as the policy set by CNNIC. This will allow the company enough freedom to register the domain names of their products and/or alternate company name spellings among other things, but prevents widespread abuse of squatting. It will happen, but this will keep it to a manageable level. These two changes together will have a similar effect as charging a yearly renewal fee, but will maintain the attractiveness of .com.hk domains compared to .com domains. Enforcing that name servers remain authoritative for domains will make unused domains available for registration by others, as they should be. This also reduces the attractiveness of squatting, as you not only have to register the domain, but maintain the name servers for them as well. The average user will not be able to do this, and most ISP would be unwilling to participate unless they get paid, which further reduces the attractiveness of squatting. hknic should charge whatever fee is necessary to maintain costs, but as a one-time-only fee. This fee might be re-evaluated from time to time to increase or reduce as appropriate. A yearly renewal fee is very likely to be unrelated to the actual costs of maintaining the registry, and might generate a lot more income than is needed, increasing the chances of corruption or mis-use of funds.

6. Domain names should be subject to renewal at a fee.

We are strongly against the idea of charging annual or renewal fees. This will greatly reduce the attractiveness of registering a .com.hk domain. To address cleaning out of abandoned domain names, instead a policy should be made to enforce deletion of domain names registered under name servers which are now lame for that domain. If hknic doesn't receive enough revenue from new registrations and modifications, the one-time and/or modification charge should be increased to match costs. If domain names are subject to an annual or renewal fee, people will be much more likely to register a .com domain with a us$8/year .com registrar. The cheaper .com registrars often have problems, and lost passwords are a major pain, both retarding the development of Internet in Hong Kong. The current .hk domain registration system is very simple, straightforward, and doesn't have any problems with changing legal ownership or modifying name servers, so it increases its attractiveness. Nobody will be locked out of their .com.hk domain.

7. Other suggestions:

a) With reference to the domain name policy in United Kingdom(.UK), India(.IN), Hungary(.HU), more second-level domain names, such as .ltd.hk and .pri.hk, should be made available for applicants to choose from. A higher registration price may be acceptable to the public. Therefore, not only will it generate higher revenue for the registrar, but it will also increase the source of income for the web hosting industry.

From our members' experience, many customers register a domain name but never build a web page with it. It, to some extent, may lead to squatting, which is undesirable. We suggest that each domain name should be developed, with at least one welcome page. If it is left blank for a certain period of time, the registrar should reserve its right to delete the domain name and release it again.
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN22
Date of Submission : 15.7.2000
Submitted by : Mr Fung Kin Ming

Subject: comments towards .hk name consultation paper

Dear ITBB: my personal humble opinions, totally independent from my employer and institutions:

> c. the corporation should be spun off from the JUCC initially, with
> an interim Board comprising directors from the academia, the
> industry and the Government;

the corporation should be started as soon as possible:

- JUCC should not be represented more than other sectors, and her role should diminish to a minority weight within a year. Afterall, academics don't play a major role in the internet anymore;
- the new corporation needs time to train her staff, and write and tune her own software from scratch; give them at least 3 months after incorporation for preparations before taking on real registrations;

> i. the JUCC should continue to provide registration services in
> respect of the .edu.hk domain;

only if the education sectors of HK show approval; we should not automatically assume JUCC knows who is and who is not an educational institution. Definition of such always have a lot of grey areas. Default should be to let edu.hk be treated like com/org/net.hk, unless the HK education sectors express their wishes to be otherwise;

> k. the registrar responsible for .com.hk, .org.hk and .net.hk domain
> names may engage agents to perform some of the routine registration work;

to avoid conflict of interest, such agents must not be affiliated with ISPs or webhosting companies, otherwise the impartiality of such agents will be questioned if their affiliated ISP competes with another ISP (who has no agents) to register a name.

> l. a reserved list of domain names consisting of well-known
> international trademarks, service marks and brand names as well as
> some other names which are of restricted use, making reference to
> the reserved lists prepared by other ccTLD registration authorities,
> may be drawn up;
better default to no such list, unless we know how the list is made up, and who has the power to change it. Danger of having no such list is small.

> p. each organisation should be allowed to register more than one domain name under .hk;

but only for a small number of names; many names for each organization will result in hogging of names, whether or not they can be transferred to other organizations later;

> q. the transfer of domain names on valid grounds should be allowed;

commercial relationships between transfer parties can be extremely complex, and it will be totally impossible for HKNIC (old or new) to draw up a satisfactory list of acceptable reasons for transfer. This "on valid grounds" clause is a time-bomb that will surely create lots of heated arguments. Let organizations transfer names whenever they want. Cybersquatting needs to be defeated by other means. Even if you don't allow transfer, companies will still hog lots of name, because you cannot tell/convince everyone that their names may not be transferrable.

> r. only companies and organisations registered or incorporated in Hong Kong should be allowed to register domain names ending with .hk initially;

delete the word "initially". .hk names are like +852 numbers. Why should we let a US company register hkfood.com.hk (e.g.) so HK companies cannot use it? If they want to do business in HK, let them register in HK, and use that HK identity to register .hk names.

> t. domain names should be subject to renewal at a fee;

very needed, and should be applicable to names already registered;

> v. an alternative dispute resolution mechanism should be developed in Hong Kong to facilitate early resolution of .hk domain name disputes

The new HKNIC should give a reasonable timeframe (e.g. 6 months) to develop such mechanisms.

Others: we might approach the Business Registry to seek their opinion on whether they want to be the registry (or an agent) for com.hk names, which by nature are nothing more than Business names or labels. We might need legislation to achieve that purpose, but be assured that the technical part is the easy part: all that is needed: 3 more fields in a Business Registration Certificate: domain name, nameserver1, and nameserver2.

Advantage: every business knows how to do business registration, so they will know immediately how to register com.hk names, and save them a lot of time. We can also mimic the mechanism to resolve who is most eligible for a particular business name, and try to apply it towards com.hk names, and this can solve a worldwide headache problem: who is the most appropriate party for a particular business name.

Thanks for you very nice consultation paper. Go for it. –Kinming–
representing himself only in these opinions
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. :  DN23
Date of Submission :  15.07.2000
Submitted by :  Dr P. T. Ho

Acting Director
Joint Universities Computer Centre Limited

Joint Universities Computer Centre Limited

Response to the Consultation Paper
on the Review on Administration and Assignment of Internet Domain Names and
Internet Protocol Addresses in Hong Kong

In response to the Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong (URL: http://www.digital21.gov.hk/structure/con_paper.html), the Joint Universities Computer Centre (JUCC) would like to submit the following comments for the consideration of the Information Technology and Broadcasting Bureau:

2. In general, the JUCC would consider that the proposals set out in the consultation paper are a bit too conservative and may not be able to respond to the rapid development of the Internet world. We understand that the registration policy should need to be reviewed periodically by the new policy-making body in response to the changing needs. As the current proposals in the consultation paper only aim to answer the immediate requests, we anticipate that another review would be needed in a very near future.

3. We have much concern about some of the comments in paragraph 13. The JUCC has always been trying the best in carrying out the function to ensure that the interests of different sectors in Hong Kong are being taken care of. However, we believe that the direct participation of the stakeholders should benefit the future development and therefore, very much welcome about the current review process and inviting the participation of the community at large. The senior management of the Universities have strongly expressed that the JUCC should be openly recognized of its initiatives and contributions to servicing the Hong Kong community in administering the service in the past 8 years.

Proposed Institutional Arrangements

4. We suggest the Government provide seed money for funding the initial set up of the proposed non-profit making and non-statutory corporation for taking care of the overall responsibility for Internet domain name administration in Hong Kong though we agree
with the concept that the corporation should be a self-financing body when it is
established to provide the regular services to the community.

5. We would consider the suggestion that the corporation be spun off from the JUCC
initially, with an interim board comprising of directors from the academia, the
industry, the Government and certain selected interested organizations or individuals. The
JUCC would continue its commitment to serve the community if the new operating
environment after the review is still suitable for us to carry on the duties.

**IP Address Allocation**

6. We recommend that the corporation should participate actively in reviewing the
arrangements for IP address allocation in Hong Kong to ensure that it brings the best
benefit to the HK Internet community.

**Registry**

7. We agree with the principle as suggested.

**Registrar**

8. We advocate introduction of multiple registrars soon, say, within 6 to 12 months after
the corporation is formed.

**Registration guidelines for .hk domain names**

9. We would like to point out that the effort in maintaining the proposed reserved list
would be enormous and that the process for identifying well-known international names,
obscene and indecent names would be very much subjective to different peoples'
understanding.

10. We recommend that a separate body other than the Registry might be more
appropriate to maintain the reserved list in order to minimize the possible conflict of
interest.

11. We advise that the registrar(s) should not be expected to assess the registration case by
case if more than a domain name can be registered and that it would be more logical to
expect the registrar(s) to hold the two simplest principles - "first come, first served" and
"the applicant shall assume all responsibility for not infringing upon the intellectual
property rights of a third party"

**Fee**

12. We consider the suggestion agreeable.

**Dispute Resolution**

13. We consider the suggestion agreeable.

**Others**

14. We clarify that

- there are also other known choices of technical set up for implementing multilingual
domain names;
- the participation of HKNIC in the Chinese Domain Names Consortium formed in
May 2000 is not known to JUCC
- there is no Chairman of HKNIC.
P T Ho
Acting Director
JUCC Ltd
July 15, 2000
HPT/AC
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No.: DN24
Date of Submission: 15.7.2000
Submitted by: Dr F. T. Chan  
Chairman  
The British Computer Society (Hong Kong Section)

Dear Sir,

Consultation on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

1. The British Computer Society (Hong Kong Section), hereinafter abbreviated as BCS(HKS), welcomes the government's initiative on the review of the Administration and Assignment of Internet Domain Names and Internet Protocol Address in Hong Kong. A well planned strategy and widely accepted policy on these matters would strengthen Hong Kong's position in its long term development to become one of the most important Information and Internet Hubs in the world.

2. The proposals suggested in the Consultation Paper has addressed a few issues that have been inadequately handled under the existing rules of HKNIC, such as registration of multiple domain names by a company, transfer of domain names and domain names for individuals, etc. However, the proposals suggested are generally considered rather conservative. They could most probably be sufficient for tackling the issues that occur presently and those appeared in the past. However, one would expect that the suggested framework and guidelines would fail to handle many future cases due to the rapidly changing and innovative developments in Internet and the fast expansion in deploying Internet technology in all aspects of human society. The BCS(HKS) is of the view that a desirable policy, which could provide a good foundation for the administration of domain names and IP addresses of Hong Kong, should be one that can liberalize the various restrictions as much as possible by introducing competitive participation.

3. The suggestion of setting up an independent, non-profit making, non-statutory corporation to take charge of the overall policy-making and administration of the Internet domain name administration in Hong Kong is acceptable. We should anticipate that there will be fast and big development in Internet relating to all sectors of businesses in Hong Kong. The evolvement of IPv6 could also relieve the pressure in global contention of the limited number of available IP addresses. Hence, the corporation to be instituted should also take charge of the overall policy-making and administration of the Internet Protocol addresses within Hong Kong at an early stage. The suggestion in the Consultation Paper of continuing the existing arrangement for the allocation IP addresses should only be treated as an interim measure rather than a satisfactorily acceptable arrangement.

4. The suggestion of maintaining a common Registry for Domain Names in Hong is logical and technically reasonable. On the other hand, the suggestion of keeping a
single Registrar for handling domain name registration in Hong Kong, which is practically maintaining the present practice, is rather conservative and very undesirable. The idea of creating a layer of Agents below the Registrar is in effect compounding the complexity, that should otherwise rather simple, of the organization of the parties that will be involved in the domain name registration work. The BCS(HKS) is of the view that the registration service which are on increasing demand in the Hong Kong community must be liberalized through the introduction of competitive participation by multiple Registrars; and that the suggestion of maintaining a single Registrar should only be treated an interim measure and should not be continued for more than one year.

5. The BCS(HKS) welcomes the suggestion of allowing an organization to register more than one domain under the .hk ccTLD. It should be the best if an unambiguous policy could be instituted to govern the registration of multiple domain names by the same organization. For example, a company should be allowed to register multiple domain when it has more than one products or services with Registered Trademark registered under Hong Kong or under a recognized international trademark registrar. When defining such rules which should not discourage any legitimate and reasonable registration requests is considered administratively impractical, the BCS(HKS) is of the view that the registration of multiple domain names by the same organization should be liberalized by removing any known restrictions as much as possible. The BCS(HKS) is of the view that the cyber-squatting problems should be tackled by other means, say legally and/or financially.

6. The suggestion in the Consultation Paper that the registration authority in Hong Kong could draw up a reserved list of domain names. While the BCS(HKS) is open to this suggested arrangement whenever it is technically and practically feasible, we would raise that there would be considerable conflict of interest if the "registration authority" and any of the designated Registrars were not separate entities under different and separate management. To avoid such kind of scenario, the formation and management composition of the registration authority must be independent and separated from any of the Domain Name Registrars.

7. For transfer of domain names, the BCS(HKS) is of the view that transfer of all domain names under the .hk ccTLD should be allowed so as to liberalize the use of any registered domain names in an Internet-based business community. Unnecessary or "unwelcome" transfers could be discouraged by financial means, say a higher cost would be charged in comparison with that for a new registration.

8. To the best knowledge of BCS(HKS), the HKNIC under the management of JUCC is the only existing Domain Name Registrar in Hong Kong and it has not been known that a separate Chairman of HKNIC has been appointed. Hence, the related parts in paragraph 31 and Annex B of the Consultation Paper should be clarified and accordingly rectified.

Thank you very much for your attention.

Yours sincerely,

Dr. F.T. Chan
Chairman
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN25  
Date of Submission : 15.07.2000  
Submitted by : Mr To Cheung

Managing Director  
UDomain Web Hosting Company Ltd.

I) Comments on Consultation Paper

We have reviewed the Consultation Paper and found ourselves agreed on most of the future arrangements for the administration and assignment of Internet domain suggested by the Task Force. However, there are concerns for a number of the arrangements that we would like to address to below.

With regards to:

a) The corporation should gradually transform into membership-based organisation with its directors elected from its members.

The suggestion of a membership-based organisation is generally accepted as the membership income can provide financial support to the daily operation of the organisation. In addition, members of the organisation could have a voice in the board of directors.

However, a number of issues have to be considered

• the prerequisites to becoming a member  
• the responsibility of setting the membership fee  
• the rights of the directors

These should be addressed before a membership-based model would conclude to be most suitable to the corporation. Otherwise, conflict of self-interest against interest of the corporation might exist.

We suggest to the Task Force that a well-defined membership handbook should be compiled, which specifies the roles and responsibilities of members and directors within the corporation.

b) The registration from .com.hk, .org.hk and .net.hk domain names may engage agents to perform some of the routine registration work.

The suggestion of engaging agents for domain name registration is not generally accepted since monopoly or oligopoly may emerge as a result. That is definitely not healthy to the industry as a whole. At the same time, the criteria of selecting agents could be very subjective which creates tension within the industry. Therefore we suggest the Task Force to continue the existing practice of having a single registrar for domain names.
However, agents such as ISPs and Web Hosting companies should remain exclusive in application of domain names. Public mass is not suggested to apply domains directly from the registrar with the following considerations:

- Lack of knowledge of individuals in domain application procedures such as filling in IP addresses
- Unfairness to local DNS owners when their IP addresses are being misused by a third party
- Protection of exclusive right of agents because a large portion of the agents' profit comes from domain name application
- Room should be given for development and expansion of agents
- Better knowledge of agents on provision of information and education to public mass based on the established working relationship

c) A reserved list of domain names consisting of well-known international trademarks, service marks and brand names as well as some other names which are of restricted use, making reference to the reserved lists prepared by other ccTLD registration authorities, may be drawn up.

Although a reserved list as described above could reduce cyber-squatting, a list as such could be difficult and subjective to form. In addition, we suggest that domain names registration should not be bounded by conservative constraints in a market-driven economy like Hong Kong. Regarding cyber-squatting, we believe the existing practice of the HKNIC regarding trademarks intellectual property rights is appropriate and therefore shall not be changed.

d) The 2nd-level domain category being selected for a particular domain name application should correspond to the business nature of the applicant.

This suggestion is generally not accepted, as it would be too subjective and difficult to determine the relationship between the business nature and the domain name.

Businesses shall reserve the rights in determining which domain name is the best to represent their business nature or to promote their brand names. Their decisions should not be restricted or determined by a third party i.e. domain name registrar, which is not in the specific fields of interest and not in a position to subjectively decide whether a particular domain name should correspond to certain business nature of the applicant.

Furthermore, we believe this suggestion will lead to disunite domain name registration. Take a newly emerged private competitor SARNic for instance. This company owns the .hk.com domain and it begins selling domain names to any individual or company with no limit to the number of domains registered. The presence of SARNic has misled a number of end users to believe that such is an official registrar, but in fact, it is not. The response from the market has reflected the fact that the supply of domain names is insufficient to meet the market demand. In order to avoid misleading messages, a simple and flexible application procedure is strongly recommended. In addition, lenience application regulation is essential for ISP and Web Hosting companies to create business opportunities.

e) The domain name applicant should declare, when making an application, that to its best knowledge, the domain name applied for does not infringe upon the intellectual property rights of a 3rd party.

The suggestion of such declaration might not serve the purpose of protecting the intellectual property rights of a third party as it is far too ambiguous to declare "to one's best knowledge". In addition, customers might concern the meaning of this declaration, the consequence of signing, and the definition of all kinds, making this clause difficult to be enforceable.
Moreover, there are difficulties involved in the implementation. For example, the issues on extra costs spent on explaining and educating end users regarding this declaration. Experience has told us most end users are very concerned about legal responsibilities, which will hinder them from applying domain names. In other words, this declaration is only at a disadvantage to the agents when they are dealing with clients. Therefore, we suggest maintaining the existing practice, which specifies that trademarks are protected under intellectual property rights.

f) Each organisation should be allowed to register more than one domain name under .hk.

This suggestion is totally agreed upon by us as it creates flexibility to an organization. However, we believe that an upper limit of the number of domain names to be registered by each organisation should be determined. With reference to the upper limit posed by CNNIC, we believe that allowing a maximum of 50 domain names for each organization is an acceptable standard to follow.

From an economic point of view, an increase of domain name registration will bring registrar sufficient funding, particularly when a self-financing body is proposed. Network Solutions Registrar registered for a record of 161 percent increase in domain name registration for the fourth quarter of 1999. Meanwhile, they also reported a record of net revenue amount to US$75.9 million for the last quarter of 1999, increased by 143 percent, as compared to US$31.3 million for the same quarter a year ago. With this reference, we believe deregulation not only creates flexibility and convenience to organizations but also contributes to the economic growth.

g) Each individual resident of HK should be allowed to register one domain name in a new 2nd-level domain category under .hk.

Same to the suggestion in f), we agree to this new arrangement as it encourages the public mass on web-site deployment. With reference to the existing practice in Korea, a separate 2nd-level domain name, pr.kor, is given to all individual registrations. However, we are once again concerned about the number of domain names that each individual be allowed to register. We would prefer to restrict registrations from 5 to 10 names in contrast to only 1 name as suggested by the Task Force for better flexibility on domain name usage.

With Governmental promotion on the Internet and E-commerce development, more domain names for either business or individual should be allowed to complement such development. It can create confusion to public as Internet development is being encouraged while many restrictions are still being imposed. South Korea can be a good example in this scenario. Lenience regulations on domain name registration enable South Korea to remain a world leader in domain name registration in the Year 2000, left alone that of The States. Regarding this growing Internet community, Network Solutions has done a breakthrough move on adding Korean language support for dot com registration. This encourages more Korean users to utilize the Internet as well as on E-Commerce solution development.

II) Other suggestions by UDomain

Being one of the key players in the domain name registration industry for years, UDomain has both the experience and the expertise to the domain name service and is ready to give further comments to the Task Force for consideration:

a) Domain details modification

The time needed for modification of domain details is too long (around 7 days) which is considered a barrier to the economic growth. With reference to the transfer time for .com domain name, 3-5 days would be adequate. This period can even be shortened to 1 day in some special cases when users require an urgent transfer with proof of domain ownership.
b) Domain name ownership

The existing domain name ownership is unclear as to whom be the administrative contact person. With reference to the case of Network Solutions in the US, domain names are under the ownership of Network Solutions rather than that of the domain name users. Should an agent of a registrar have the ownership of a customer's domain names, it is a critical matter to be discussed and defined by the Task Force in Hong Kong.

c) Trademark names

In order to resolve the conflicts and disputes on trademark names, we suggest that these names be registered under first level domains, for example www.nike.hk.
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No.: DN26
Date of Submission: 16.7.2000
Submitted by: Mr K. L. Tam

香港網主聯會

致 檢討香港有關互聯網域名及互聯網規約地址的管理及編配安排專家小組：

香港網主聯會回應香港互聯網域名及互聯網規約地址的管理及編配安排檢討諮詢文件

本意見書是回應有關香港互聯網域名及互聯網規約地址的管理及編配安排檢討諮詢文件提出的各項建議。

域名政策及行政機構

現時香港網絡資訊中心是香港唯一負責香港地區「.hk」域名下的二級域名的編配工作，雖然該中心在有關管理本地互聯域名名稱，得到各界肯定，但隨著香港互聯網和電子商貿迅速發展，由大學聯合電腦中心繼續維持有關服務未必能反映各界的利益，未能反映現時快速變動的商業環境的有關要求。

所以，本會同意報告書的建議，成立一個非牟利的域名政策及行政機構負責互聯網域名及互聯網規約地址的管理和編配，和同意該組織以收費方式招收會員的建議。會員代表各界人士，包括域名登記服務提供者、互聯網服務供應商、網頁儲存服務公司、機構、學術組織、以及有興趣的個人。

本會認為，將來有關域名政策及行政機構，應該是一個法定機構，以證明該機構的地位和權限，更有助有關機構代表香港在國際互聯網社群中的功能和角色。本會認為，由政府以正確形式設立的非法定機構，會被質疑有關機構的獨立性和權威性，更有可能引起有關域名政策及行政機構的法律訴訟。所以，本會認為應設立一個法定的域名政策及行政機構。

由設立法定機構需要一段時間，在設立法定機構前，應先成立一個非法定的臨時域名政策及行政機構，負責研究和制定有關新域名登記制度事宜，和向立法會的有關法案委員會提供意見。但本會認為，臨時機構的運作時間，應越短越好，應該以不超過一年為限。

域名登記申請

近年來，由於互聯網流行，電子商貿興起，加上香港特區政府積極推動電子商貿，所以很多公司和機構都設置網頁，用來宣傳自己和為顧客提供服務。很多公司和機構已經在互聯網上設置服務供應商或網頁儲存服務公司的網頁設備服務。由於申請一個域名名稱，需要設置兩台域名系統伺服器 (domain name server)，自行設置兩台域名系統伺服器很不習慣，所以很多公司和機構透過互聯網服務供應商或網頁儲存服務公司申請，向香港網路資訊中心登記域名名稱。

在香港，香港網絡資訊中心是香港唯一負責香港地區「.hk」域名下的二級域名的編配和登記工作，雖然香港網絡資訊中心承諾登記新域名需時兩個工作日，而更改域名則需時七個工作日。可是，有網頁儲存服務公司向本會反映，指出香港網絡資訊中心不能於兩個工作日內完成登記域名之工作，有些更改域名之申請更長達一個月。

由於香港網絡資訊中心只有一個聯絡用的電郵地址用作解答域名登記申請的查詢，所以有
域名的公眾資源，作爲牟利之用。

中文域名

雖然香港、中國和台灣有機構提供中文域名登記服務，但由於有中文域名的機制尚未成熟，亦未有國際接受的標準，所以本會認爲，現階段不宜引入中文域名服務。

但本會認爲，現時的香港網絡資訊中心和將來新法定的域名決策及行政機構應當積極參與有關中文域名的研究，並研究有關政策和技術細節。一旦中文域名成爲國際標準，將來成立的法定的域名決策及行政機構應採用有關標準，並讓域名服務提供者提供中文域名服務。

私隱問題

現時，所有登記「.hk」（域名名稱）的資料，均會被公開。網民可以利用軟件，向 whois.hknic.net.hk 查詢有關域名的登記者姓名，公司名稱，電話，地址，域名名稱，和域名系統伺服器地址等。在注意私隱權利的今天，這些安排已經不合時宜，這些資料更有可能被廣告宣傳公司用作商業宣傳用途。由於將來容許個人登記域名，把域名的登記資料公開顯示，更會影響市民的登記域名名稱需求。

所以，本會建議，以後有關查詢域名名稱登記資料的 whois.hknic.net.hk ，以及將來有關域名 登記服務提供者的伺服器，只能顯示登記者公司名稱 / 姓名，和域名系統伺服器地址，不應列出地址，電話資料，以保護私隱。

解決有關「.hk」域名爭議的建議

本會同意，為了保持中立，現時香港網絡資訊中心和新設立的域名決策及行政機構均不應該直接介入處理因登記或使用域名而引起的爭議。

不過，現時由法庭處理因登記或使用域名而引起的爭議程序繁複，時間長，和成本高昂，便因受他人著數登記，或從他人商標詐利的人士受損的機構不能以較短的時間和較少的支出收回有關域名名稱。

所以，本會同意建議，由一個獨立的仲裁機構處理有關域名爭議的事宜，有關仲裁機構由域名登記服務提供者委任，仲裁機構應約見投訴者和被投訴者雙方，和作出調查，調查完 成後並把結果通知投訴者和被投訴者雙方，有關域名登記服務提供者，和域名決策及行政機構。

本會亦同意建議，分支會委員會的有關域名登記服務提供者可即時處理有關域名的投訴，直至收到登

記人的指示或法庭命令為止的安排。

香港網主聯會
二零零零年七月十五日

[ Back ]  [ Top ]
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN27
Date of Submission : 16.07.2000
Submitted by : Mr K.L. Chen

K.L. Chen Comment to Adm. & Assig. of I. Domain Names & IP Addr.

16. The idea of Multi-lingual domain name system is good; but no detail about this system is addressed in the consultation paper. If a registered domain holder had provided an English abstract and related search keywords; it is sensible for the domain be granted global access; although the accessing terminals is running on operating system of language other than that of the registered domain. The domain may be presented as graphic images; and the content is therefore independent of the language of both the server and accessing computer / terminal.

17.1 I believe that only the most user-friendly, efficient, widely-supported (not just Chinese community but the world) system shall last. China and Taiwan administrations should accept the selection outcome of the global Internet community.

17.2 It is sensible to have .cn treated same as .en; but why spend more time entering .cn if same search can be done with .en? It is clumsy (or is it possible?) to enter 中文 on computers running operating system of other languages (French / German / Italian / Japanese / Korean / Portuguese / Spanish / etc.); their keyboard are unlikely to have Chinese characters.

17.3 If it is intended to limit the access to .cn to those Internet subscribers of ISP partners of its domain maintaining organisation, each domain name holder would have to take care of two distinct addresses to enable them to be found in these two domains.

18. For technical concern, if searching English keywords in the English abstract provided by the domain name owner is allowed, Multi-lingual domain name system may be better than the test-beds because it support many languages.

26, 27 Agree.

41.(a) Who is going to pay the administration cost?

46.1 Domain composed of both name & unique registration number of individuals should be used. An individual should has the right to choose full name or abbreviation derived from his/her Hong Kong identity card.

46.2 Arrangement should be made for assigning skipped registration number to cope with individual request based on ones spiritual believe (such as 9413, 709394, 666, 999, 13, 4444, 1234, etc.) The individual should therefore have the right not to tell the reason why he/she reject an assigned registration number.
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN28
Date of Submission : 17.7.2000
Submitted by : (Requested to keep confidential)

Subject: Consultation Paper

dear sir/madam,

in regard to the Consultation Paper on The Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong (http://www.info.gov.hk/digital21/eng/structure/con_paper.html),

item 47:
i am strongly against the idea of charging annual or renewal fees. this will greatly reduce the attractiveness of registering a .com.hk domain. to address cleaning out of abandoned domain names, instead a policy should be made to enforce deletion of domain names registered under nameservers which are now lame for that domain. if hknic doesn't receive enough revenue from new registrations (estimated at hk$400,000/month) and modifications (probably a similar figure), the one-time and/or modification charge should be increased to match costs. if domain names are subject to an annual or renewal fee, people will be much more likely to register a .com domain with a us$8/year .com registrar. the cheaper .com registrars often have problems, and lost passwords are a major pain, both retarding the development of internet in hong kong. the current .hk domain registration system is very simple, straightforward, and doesn't have any problems with changing legal ownership or modifying nameservers, therefore increasing its attractiveness. nobody will be locked out of their .com.hk domain.

item 43:
multiple domains registered by a single company is a good thing, but will very quickly lead to squatting and greatly increased sale/trade of .com.hk domain names, which is undesirable. instead, i propose a maximum number of 5 or 10 domains for each company. this will allow the company enough freedom to register the domain names of their products and/or alternate company name spellings among other things, but prevents widespread abuse of squatting. it will happen, but this will keep it to a manageable level.

these two changes together will have a similar effect as charging a yearly renewal fee, but will maintain the attractiveness of .com.hk domains compared to .com domains. enforcing that nameservers remain authoritative for domains will make unused domains available for registration by others, as they should be. this also reduces the attractiveness of squatting, as you not only have to register the domain, but maintain the nameservers for them as well. the average user will not be able to do this, and most isp's would be unwilling to participate unless they get paid, which further reduces the attractiveness of squatting. hknic should charge whatever fee is necessary to maintain costs, but as a one-time-only fee. this fee might be re-evaluated from time to time to increase or reduce as appropriate. a yearly renewal fee is very likely to be unrelated to the actual costs of maintaining the registry, and might generate a lot more income than is needed, increasing the chances of corruption or mis-use of funds.
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN29
Date of Submission : 17.7.2000
Submitted by : Mr Ernest Yik

Subject: Comments on the IT Infrastructure consultation paper

The following are my comments on the IT Infrastructure consultation paper:

1. I believe there is no need for a reserved list or extra regulation to prevent cybersquatting. I prefer leaving them to the dispute resolution mechanism. What are we going to do with the names in the "reserved list"? Is the list open for public review or closed within "the corporation"?

2. Paragraph 37 states a "general principle to protect Internet domain names from indecency, words which are obscene, scandalous, indecent, and contrary to law or morality should not be registered." Where does this "general principle" come from? I believe this is unnecessary.

3. I believe each individual HK resident should be allowed more than one domain name, perhaps with an increasing fee for extra names. The only benefit of this restriction is "for simplicity and easy management" rather than the interest of the people.

Regards,
Ernest YIK
Dear Sir / Madam,

Re: Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

I refer to the letter from Mr Rex Chang for Secretary for Information Technology and Broadcasting and the Consultauon Paper. On behalf of the Hong Kong Computer Society, I provide the following comments:

1. In principle, we agree with the spirit, recommendations and guidelines as general, but there are a few points we would seek further considerations.

2. Para 50(c)
   The non-profit-making and non-statutory corporation to be established would preferably be completely separate from JUCC to maintain an absolute independence. Adequate representation must be ensured.

3. Para 50(k)
   Engaging agents to perform registration may result in poor standards of services as it would be a commercial arrangement. Adequate scrutiny and control need to be established. Alternatively, the register could take up the work.

4. Para 50(n)
   There should be fair and adequate appeal mechanisms.

5. Para 50(n)
   Individual domain names should follow names in personal identity cards.

6. Para 50(n)
   The fee should be reasonable.

7. Para 50(n)
   The number of domain names a company allowed to apply for should be limited to a reasonable number (e.g., one organism).

8. Para 32
   ITSD of HKSAR should be considered to take over from JUCC.

Yours faithfully,

Daniel Lai
President

Hong Kong Computer Society
INTRODUCTION

The International Trademark Association (INTA) takes this opportunity to offer its response to the request for comments on the "CONSULTATION PAPER ON THE REVIEW ON ADMINISTRATION AND ASSIGNMENT OF INTERNET DOMAIN NAMES AND INTERNET PROTOCOL ADDRESSES IN HONG KONG" which is to be considered by the Information Technology and Broadcasting Bureau. INTA is a 122-year-old not-for-profit organization dedicated to, among other things, educating business, the media and the worldwide public on the proper use and importance of trademarks. We have more than 3,700 members in 120 countries around the world.

1. CREATION AND OPERATION OF A GOVERNING AUTHORITY

INTA believes that a non-profit organization would be the best vehicle for the new Hong Kong ccTLD governing body. This organization/body should be self-financed and separate from the JUCC. And, given the valuable role trademarks play in the global economy and in e-commerce, the board of directors should include one or more directors from the intellectual property community with the skill and expertise necessary to assist the board in dealing with trademark issues that arise for domain name disputes as they relate to registered trademarks.

Eventually the organization/body may wish to transform to a membership-based body. However, INTA believes that the new governing body may wish to explore other possibilities before deciding on a final structure. INTA also feels that the transfer of governing authority to the new non-profit organization should be formalized in a written agreement between the government and the new non-profit organization. Such an agreement would serve to delineate the authority of the new governing body and specifically set forth the new organization's responsibilities. Such an agreement would also serve the purpose of legitimizing the new organization's role in the governance of the .hk ccTLD.

2. REGISTRAR RESPONSIBILITIES

Because the Computer Services Centre of the Chinese University of Hong Kong ("CUHK") is currently the registrar for ccTLD's in Hong Kong, it will be important for the new governing body to have authority and control over the CUHK to avoid conflicts similar to those ICANN and InterNic experienced.
It seems that having the government take responsibility for the registration of .gov.hk domain names will entail the same effort that forming a body to deal with administration of the Hong Kong system in general. Thus, it may be more practical to keep all registrations under one roof, while developing specific requirements for registrants of .gov.hk domains (i.e., providing a valid government charter, and any other relevant official documentation) which are strictly enforced.

Along a similar vein, since the JUCC has been the party responsible for registration of the .edu.hk since the inception of the Hong Kong ccTLD system, it seems that there is no practical reason to change, if the JUCC is in agreement. The same is true for .com.hk, .org.hk, and .net.hk domain names. That is, the JUCC has been responsible all along and should continue with the registration of these domains. However, as it is generally anticipated that there will be a surge in demand for the registration of domain names in Hong Kong, the JUCC should have the ability to employ agent/registrars, as practiced in other ccTLD jurisdictions. Nevertheless, such agents should be subject to the strict control of the JUCC and follow all policies established and adhered to by the JUCC including, but not limited to, adherence to all dispute resolution policies adopted by JUCC and approved by the new governing organization. INTA agrees that this control should be incorporated into a formal agreement between JUCC and any third party agent whereby JUCC would retain the necessary control and authority to remove any agent that did not comply with the governing principles and policies established by the new governing body and the JUCC.

3. FAMOUS MARKS LIST

History has shown that owners of well-known marks are often victims in the battle with cybersquatters. While the concept of creating a reserved list of domain names to protect well-known, international trademarks, service marks and brand names seems attractive, we do not believe that it is a practical solution. The World Intellectual Property Organization ("WIPO") unsuccessfully attempted to create this type of list to assist with the regulation of the gTLDs, .com, .net and .org. Because there is no global definition of "famous" or "well-known," WIPO was not successful in this endeavor. We believe that the registry would encounter similar difficulties and would be more successful by instead incorporating a dispute policy such as ICANN's Uniform Dispute Resolution Policy ("UDRP"). This type of policy would offer protection for intellectual property owners against abusive registrations. The UDRP has been carefully drafted and considers the existing laws and regulations governed by international treaties to protect mark owners.

4. ELIGIBILITY FOR REGISTERING DOMAIN NAMES

INTA encourages the implementation of chartered or restricted TLDs that would enable a business to have a second-level domain category that corresponds to the business nature of the applicant. In order for this to be successful, it is very important that the criteria for registration in the chartered TLD be strictly enforced. In the event that disagreements about eligibility occur, a mechanism to enforce the restrictions must be in place. INTA believes that the UDRP could be amended to allow parties that believe there has been a charter violation to obtain objective review by an independent panel.

Within chartered and unchartered domain names, the Internet generally allows for the registration of domain names on a first-come, first-served basis if the applicant meets the registration requirements. While this is sometimes problematic in protecting the rights of trademark holders, INTA realizes that it would impose considerable burdens for registrars and registrars to evaluate and decide on the eligibility of one application over another. As such, we accept the first-come, first-served registration process as long as there are safeguards in place for trademark, service mark and brand protection. The ICANN Uniform Dispute Resolution Policy provides such protection and we strongly encourage its adoption.

The registry, as an administrative body dealing with management of domain name registration, should take all measures to minimize the possibility of intellectual property infringement. We recognize the difficulty of this responsibility and understand that it is not possible for the registry to make educated, legally accurate decisions regarding various rights-holders. Thus, we agree that the responsibility lies with the applicant to declare that,
to its knowledge, the domain name registration does not infringe upon the rights of another party. However, this statement must be clearly set forth in the domain name registration agreement between the JUCC and the domain name holder. In addition, the registration agreement must provide severe consequences for any domain name holder that chooses to make misleading or false representations. Without such serious consequences, any representations made by the domain name registrant would merely be a fruitless exercise.

5. POLICIES FOR DOMAIN NAME REGISTRATION

It is generally anticipated that there may be a "rush" to register domain names in Hong Kong. This raises the issue of cybersquatting. Nevertheless, if the JUCC adopts the UDRP, it will have gone a long way towards deterring would be cybersquatters. Although there are no guarantees that a trademark holder will win back a domain or stop a third party registration under the UDRP, its adoption will at least offer the most cost efficient method of protecting trademarks.

INTA is not opposed to allowing companies to own more than one domain name provided that the new governing body adopts policies such as ICANN’s UDRP that will allow trademark owners the opportunity to thwart those companies that would choose to engage in nefarious cybersquatting activities. The JUCC should also permit the free transferability of domain names between parties, especially, for example, when corporations are shut down, or bought out by other companies. There are sufficient trademark laws in place in Hong Kong to put any would be purchasers of the domain names of registered trademark holders on notice that violation of those rights will be dealt with harshly under law. In addition, the implementation of the UDRP will also offer protections for trademark holders.

It has also been proposed that only those entities with a Hong Kong legal presence be permitted to register a Hong Kong domain. While in other Asian countries, the registration of a ccTLD is an indicator of a legal presence in that region, in Hong Kong, such a measure is really irrelevant since all one need do to register a Hong Kong company is purchase and off-the-shelf company for several hundred dollars. Given this reality, INTA is not convinced that a "legal presence" requirement would actually serve any purpose with regard to .hk.

It has been further proposed that Hong Kong residents should also be allowed to register one domain name under the .hk ccTLD. In Singapore and Taiwan, this system has been implemented without issue since the new second level domains in which such registrations have been allowed apply only to the names (surname and given name) of persons registering them. Based on the Singapore and Taiwan experience, INTA does not see any potential problems with implementing such a system.

It has also been proposed that a renewal fee be implemented. INTA believes that having a renewal fee will serve to assist in returning unused domain names to the public domain, thereby alleviating stress on the domain name system in the .hk ccTLD. For this reason, INTA agrees with the fee provided; however, that any such fee is reasonable and sufficient to cover expenses of the registrar and keep it functioning well.

6. DISPUTE RESOLUTION

Because there is no way to completely avoid intellectual property disputes on the Internet, it is vital that the governing authority responsible for the registration of .hk domain names offer a reasonable mechanism for resolving these disputes. We agree that the body responsible for administration of the .hk registry should maintain a neutral role as long as adequate protection for trademarks, service marks and brand names is available. For this purpose, INTA strongly encourages the adoption of ICANN's Uniform Dispute Resolution Policy. The policy may need to be modified to address any jurisdictional issues specific to Hong Kong, but it is a strong policy that was drafted and is used at an international level.

CONCLUSION
INTA appreciates this opportunity to provide comments to the Information Technology and Broadcasting Bureau on the "CONSULTATION PAPER ON THE REVIEW ON ADMINISTRATION AND ASSIGNMENT OF INTERNET DOMAIN NAMES AND INTERNET PROTOCOL ADDRESSES IN HONG KONG." We look forward to a comprehensive policy that will minimize the use of TLDs to infringe upon trademark rights.
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN32
Date of Submission : 17.7.2000
Submitted by : Ms Patricia Hui
Legal Counsel
Hutchison Telecommunications (Hong Kong) Limited

COMMENTS OF HUTCHISON WHAMPOA GROUP
ON
THE CONSULTATION PAPER ON
THE REVIEW ON ADMINISTRATION AND ASSIGNMENT
OF INTERNET DOMAIN NAMES AND
INTERNET PROTOCOL ADDRESSES
IN HONG KONG

PRELIMINARY

This memorandum sets out the comments and suggestions of the Hutchison Whampoa Group on the proposals made in the Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong.

The Hutchison Whampoa Group is a conglomerate comprising approximately 1,600 companies incorporated in Hong Kong and overseas with business interests in various parts of the world. Currently, we have approximately 600 domain names registered worldwide and approximately 70 domain names registered in Hong Kong.

We welcome and are encouraged by the opportunity the Consultation Paper offers to express our views and recommendations on the proposed arrangements on the administration and assignment of internet domain names and internet protocol addresses in Hong Kong. We would also like to pay tribute to the efforts the Task Force has put into the Consultation Paper.

COMMENTS ON THE PROPOSED ARRANGEMENTS

A. Proposed Institutional Arrangements

1. Policy-making and administrative function relating to Internet domain names

1.1 We concur with the view of the Task Force that the future policy making and administrative body should assume the overall administration and assignment of Internet domain names and IP addresses and should have a wide representation from different sectors of the community. A non-profit making body, with membership open on a subscription basis to ISPs, the commercial sector, academia, the Government as well as other organisations and individuals with an interest in the development of the Internet, is
certainly a widely adopted model overseas which we believe will achieve the aim of wide
representation of views within this administrative and policy making body.

1.2 In view of the speed and flexibility at which the non profit-making body can be set up,
we agree that the future policy making and administrative body should be a non statutory
corporation. However in order for this body to represent Hong Kong in, and be recognised
by, the international internet community, we are of the view that the body should be
formally endorsed by the Government by way of a written agreement as suggested in the
Consultation Paper.

1.3 If a non-statutory and non-profit making corporation is to be set up, new mandate,
policies, guidelines, rules and terms and conditions should be drawn up and clearly
defined for different aspects of the future framework and for the transitional related
matters. We believe that the new body can build upon the wealth of experience of JUCC
in the technical operation and administration of the existing system and of course the
database would have to be transferred to the new body but do not necessarily agree that
the new body should model upon the existing structure and operations of JUCC. We
suggest that some form of steering committee composed of representatives from the
academia, the commercial sector, the Government and the industry be set up to oversee,
co-ordinate and facilitate the formation of this new body and transition of existing data
from JUCC.

1.4 We agree with the Task Force’s views that a Board of Directors should be appointed to
exercise the policy-making function. With regard to the composition of the Board of
Directors, we suggest the following:

(a) The Board of Directors will comprise a certain number of directors elected by
membership. The number should not be too small in order to allow fair
representation of different sectors of the community on the Board of Directors. On
the other hand, the number should not be administrative-wise too big to handle.

(b) Directors will be required to be members of the new policy making and
administrative body.

(c) The majority of the Board of Directors should comprise elected members, and
the HKSAR Government will have a permanent position on the Board.

(d) After each annual election, the Board will elect its Chairperson from amongst
the elected Directors. The Chairperson of the Board will have the responsibilities
and duties normally associated with such a position.

1.5 We suggest that in the interim pending the establishment of the new policy making
and administrative body that the members of the steering committee referred to above
shall serve as the interim Board of Directors to prepare, inter alia, for the first elections of
the Board of Directors. A target date (say maximum one year) should be set by which the
first elections should be held. The election procedures will have to be further drafted and
defined, which can be a future subject for public consultation.

1.6 We agree that the new policy making and administrative body can operate on a self
financing and cost recovery basis deriving income principally from the registration and
renewal of domain names.

2. Policy-making function relating to IP addresses

We concur with the Task Force’s views that the existing arrangements on the allocation
and distribution of IP addresses in Hong Kong should continue but if there are policy
issues involved which may arise in the international arena in the future and which may
have implications on Hong Kong, the new policy making and administrative body
responsible for domain names administration should be involved.

3. Administrator of the ccTLD registry
In a small local community like Hong Kong, we believe that there are strong reasons to support maintaining a single ccTLD registry in Hong Kong to provide simple clearcut structure to applicants. We do not have any objection to the management of the registry being performed in-house. However should such role be outsourced, the duties, performance criteria, obligations and liabilities of the party to which the role is to be outsourced should be clearly spelt out and formalised in a legally binding written agreement.

4. Registrar and agents

4.1 Initially to avoid increasing the administrative burden of the new policy making and administrative body which may in turn delay the set up of such new body, we have no objection to:

(a) the Government taking over the registrar responsibility in respect of .gov.hk domain;

(b) the JUCC continuing to provide registration service in respect of .edu.hk domain; and

(c) maintaining one single registrar for .com.hk, .org.hk and .net.hk domain names.

4.2 The single registrar may engage agents to perform some of the routine registration work. However on top of signing an agreement to agree to adhere to the same set of registration practices and procedures required by the registrar, the agent should also pledge to perform the duties and responsibilities of the registrar up to the standard and requirements as from time to time required by the new policy making and administrative body.

4.3 In the long run, the volume of domain name registration and the speed at which such applications are handled should be kept under constant review to gauge as to whether multiple registrars system, seen in some foreign jurisdictions, should be adopted.

B. Domain Name Registration for .hk Domain Names

1. The guiding principles

We support the guiding principles set out in the Consultation Paper subject to the following:

(a) With regard to the principle set out in paragraph (c) that the registration of .hk domain names should be on a need basis, we feel that this is too restrictive and onerous. Please refer to paragraph B.2(b) below for our rationale behind such objection.

(b) Given that the "first come first served" principle should continue to be endorsed and adopted, and that the domain name registrar will not police as to whether any third party intellectual property rights have been infringed in the process of registration, we note that the domain name applicants have been required to avoid infringing upon the intellectual property rights of a third party. Please refer to paragraph B.2(c) below for our views and concern on this principle when put in practice.

2. Registration guidelines for .hk domain names

(a) Reserved list

We have no objection to the option of a reserved list as suggested in the Consultation Paper. However we believe that the criteria for inclusion of names/words in this reserved list together with the first draft of the reserved list should be made available for public comment. Thereafter the reserved list should be made available for public inspection, and should be updated as approved by the
Board of Directors of the new policy making and administrative body. Any person with an interest may apply to the Board of Directors with supporting grounds and documentary evidence for inclusion of a particular name or word(s) to the reserved list.

We are uncertain as to the purpose and the benefits of this reserved list which are both unclear from the Consultation Paper. In practice well known names should have already been registered as domain names or trademarks. Is the reserved list for reference by the public and thereby the potential applicants? Or is it a reference document for the registry in its consideration and approval process of domain names applications? Does it mean that the names and words will not be available for registration and all application for domain names containing words or names in the reserved list will be automatically rejected by the registrar?

(b) Format and business nature of a domain name.

We do not agree with the Task Force's view that the second level domain category being selected for a particular domain name application should similarly correspond to the business nature of the applicant with documentary proof from the relevant registry in Hong Kong as appropriate.

We acknowledge that "cybersquatting" is a problem which needs to be discouraged and tackled. However in the case of conglomerates like ourselves, which comprise companies incorporated in different jurisdictions with different business interests and operations being held and carried out by different groups of subsidiaries and associated companies, corporate planning is very important for business and other reasons. We firmly believe that our group, although comprising many individual legal entities, should be viewed on a whole and treated as a single entity in this context.

Applications may broadly be divided into 2 categories: (a) applications for domain names which correspond with the names of the relevant companies and (b) applications for domain names which resemble relevant trademarks/brand names. With regard to the first category of applications, imposing restrictions on the holding structure of the domain names may affect our genuine corporate planning for the group and we submit that the "business nature" requirement should be deemed to be satisfied if we can produce documentary evidence to show that the applicant for the domain name and the company (ies) carrying on the relevant business are within our Hutchison Whampoa Group.

For the second category of applications, the same argument applies. In addition, it seems that the only documentary evidence which may be produced perhaps would be the trademark application/registration. However there is currently no present requirement/restriction for an applicant or a registrant of a trademark in Hong Kong to be a company incorporated in Hong Kong nor a company carrying on business in Hong Kong. In the case of new ventures and/or products we believe that the purpose of protection will be defeated if no application can be made for a new domain name unless and until the corporate entity has been set up and/or the relevant trademark application is made therefor.

(c) "First come, first served" principle.

We concur with the Task Force's view that the domain names should be registered on a "first come first served" basis. We also note that as the registrar would not assume the responsibility for checking whether a domain name being applied for infringes the rights of any third party, the responsibility rests with the applicants in the sense that they would be required to make a declaration to the same effect when making an application. We however doubt whether the real purpose can be achieved by simply a declaration. We do not believe that this requirement for a declaration will have a deterring effect on people engaged in cybersquatting. On the other hand the checking process, which needs to be done to ensure that the declaration is complied with, is in our view impractical, unduly onerous and burdensome, and
penalises real users like ourselves.

(d) **Multiple domain names per registrant organisation**

We agree that each organisation should be allowed to register more than one domain name under .hk to enable local companies to use different .hk domain names for their products and services. However the problems outlined in paragraph (b) "Format and business nature of a domain name" would apply here as well.

(e) **Transferability of domain names**

We welcome the Task Force's view that transfer of domain names should in principle be allowed. We would however like to request the Task Force to define what circumstances would constitute valid grounds for transfer. There would be more grounds than what the Task Force has listed in the Consultation Paper if the Task Force acknowledges that there are genuine reasons for domain names to be held by non-trading and/or non-Hong Kong incorporated subsidiaries within the same group of companies. At least to quote as an example, internal restructuring/reorganisation should be allowed. Also we do not see why genuine sale and purchase on normal commercial terms, as differentiated from speculative trading, should not be allowed as one of the valid grounds.

(f) **Local presence**

In our view local companies and multinational organisations with a local presence at least should be allowed to register domain names. This scope is however still too narrow when viewed with the fact that registration of trademarks in Hong Kong does not have correspondingly local presence requirement. We are concerned that such a restrictive approach may become an impediment to genuine business development and on a wider horizon to the development of Hong Kong as a leading digital city.

(g) **Domain names for individuals**

To promote Hong Kong as a leading digital city, we do not see the reason for prohibiting individuals from applying for domain names. To prevent "cybersquatting", we agree that one individual should be allowed to apply for and register only one domain name.

(h) **Renewal of domain names**

We concur with the Task Force's views that all .hk domain names should be subject to renewal and that renewal fees should be charged. We would suggest that a variety of renewal options should be made available so that the registrants can opt for renewal for 1, 2, 5, 10 or more years having regard to their respective business requirements and financial resources. Failure to pay the prescribed renewal fee within a reasonable period of required time should be a ground, amongst others, to revoke the domain name registration so that they can be made available for registration by others.

C. **Dispute Resolution for .hk Domain Names**

I. **Dispute resolution guidelines**

   (a) **Registration authority to maintain a neutral role.**

   We agree that the new policy making and administrative body should remain neutral in any dispute in relation to registration or use of domain names.

   (b) **Alternative dispute resolution mechanism.**

   We certainly welcome in principle the establishment of an alternative dispute
resolution mechanism which should provide a more effective, efficient and inexpensive way of dealing with complaints relating to domain names as compared to court procedures. However until defined rules for the alternative dispute resolution mechanism are drafted, no definitive view can be given on the mechanism. We therefore urge the Task Force to make available such draft alternative dispute resolution rules for public consultation.

It is unclear from reading the Consultation Paper as to whether the dispute resolution procedure can only be invoked until all of the three types of evidence specified are produced or whether any one of those three specified is sufficient. The Consultation Paper also has not addressed the dispute resolution for rejected applications for domain names.

D. Other Comments

1. Revocation and suspension of registration

Grounds for revocation and suspension for registration should be clearly specified.

2. Warranty on Accuracy

We are of the view that the new policy making and administrative body should represent and warrant that reasonable endeavours will be used to ensure accuracy of information recorded in the registry to ensure confidence in the integrity of the registration system in Hong Kong.

CONCLUSION

As this round of consultation is very much focused on the framework of and the general principles behind the operation of the future policy making and administrative body, we urge the Task Force to make available in the future draft detailed rules, regulations, policies and guidelines relating to all aspects of this body and indeed amendments from time to time of such rules, regulations, policies and guidelines for public consultation so as to allow views of different sectors of the community to be taken into account in the establishment and improvement of this future policy making and administrative body, which we believe is a very important element in establishing Hong Kong as a leading digital city.

We would also take this opportunity to request for a meeting with the Task Force at a time convenient to the Task Force to discuss the concern we have as a conglomerate on this issue.

Hutchison Whampoa Group
July 2000
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN33
Date of Submission : 18.7.2000
Submitted by : Mr Charles Mok

HKISPA Response to the Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

1. For years, HKISPA has been concerned about the administration and assignment of Internet domain names and Internet protocol addresses in Hong Kong. Specifically, we have been concerned that policies of the Hong Kong Network Information Center (HKNIC) have not been friendly to the development of Internet business and electronic commerce, and the HKNIC administration has also been lacking in transparency. HKISPA has therefore called for a review of the situation for years and after several meetings with the Government about this issue, we were glad that a task force was formed to review the matters.

2. Concerning the Proposed Institutional Arrangements, HKISPA agrees that "a new non-profit making body" be set up "to assume the overall responsibility for Internet domain name administration in Hong Kong". HKISPA is also basically in principle agreement that the new body should not be in the form of a statutory body.

3. However, HKISPA is concerned about the issue of legitimacy for the new HKNIC. For example, the task force may draw its attention to the recent controversies surrounding ICANN and its legitimacy, and the problems ICANN encounters in attempting to collect fees from national governments. In the current review, it has been virtually assumed that the HKSAR Government, or the Information Technology and Broadcasting Bureau, with the recommendation from the Task Force on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Address in Hong Kong, will have the legitimacy to set up a new HKNIC authority. HKISPA believes that such assumption may warrant a closer examination.

4. Therefore, HKISPA would like to see further discussion regarding the authority, or even ownership, of the new HKNIC. HKISPA does not believe the authority should be a Government, or even a para-Government, entity. One way to ensure the legitimacy base of such an organization or authority will be through extensive consultation - of which the current exercise is a major step - and how representative the membership of the new authority will have. So, HKISPA believes that the new HKNIC should be an independent, membership-owned body, recognized and endorsed by the Government.

5. The task force recommends the membership of the future non-profit making body will have membership that is "open on a subscription basis to ISPs, the commercial sector, academia, the Government as well as other organizations and individuals with an interest in the development of the Internet." HKISPA welcomes that the membership is recommended to be open to an person, corporation or association with an interest. However, HKISPA believes it is premature to stipulate that
membeship will only be "open" on a "subscription basis." This is in contrary to the principle of making the body as open as possible. By comparison, ICANN membership is completely open, with any interested person able to become an "at-large member" simply by registering on its web site. HKISPA believes that the classification of membership and charges, if any, should be further discussed with the public before any decision is made.

6. HKISPA is concerned that before the issue of legitimacy and representation is clarified, it is premature to recommend that "a Board of Directors should be appointed to exercise the policy-making function." It was not clear from the consultation who will make such appointment. In the case of ICANN, the members of the various boards were elected, and indeed, the terms of reference and the bylaws of the body itself were also publicly discussed, drafted, amended, and rectified. Such is the tradition of openness of the Internet, and Hong Kong should adopt such an open approach, as opposed to the Government making appointments on its own, and then leaving the new authority open to criticism about its legitimacy base, and the Government open to attacks about the lack of transparency. HKISPA believes that election can take place from the beginning, as opposed to "gradually transforming into the proposed membership-based body with its directors elected from its members." HKISPA is also seriously concerned that no timetable for the migration to an independent elected body has been discussed or proposed, other than that it will be "gradual." This will leave the future of the Internet industry in very serious uncertainty.

7. HKISPA agrees that the current arrangements for the Policy-making function relating to IP addresses should continue. We also agree that the arrangement for a single Administrator of the ccTLD registry should be continue.

8. Concerning the issues about registrars and agents, HKISPA agrees that the Government may take over the registrar responsibility of the .gov.hk domain, since the .gov.hk domain space will be exclusively for the use of the HKSAR Government anyway. However, HKISPA has some reservations about the task force's view that "JUCC's role [as the registrar] should continue if the public generally supports the approach." While JUCC would be an acceptable party to continue to handle the task, the proper approach should be a open solicitation or tender for a neutral, independent body or consortium to compete for the task, in case some bodies may be as, or more, capable and appropriate to handle the task. HKISPA is also concerned that no timetable has been discussed about the transfer of authority if JUCC is to continue the task of administration of HKNIC.

9. About the issue of multiple registrars, HKISPA believes that while the specific number and policies need not be confirmed at present time, it is important for the Government and the task force to fully endorse the concept that multiple registrars will lead to more competition and hence will be beneficial to the industry overall. There should not be much controversy about this matter because it is the generally accepted view of the international community including ICANN, and is consistent with the HKSAR Government's telecommunications and Internet policies.

10. Concerning the registration guidelines for .hk domain names, HKISPA believes that the public should be involved in the determination of any reserved list, and an appeal process should be allowed for any person or company in case it believes it has a legitimate reason to apply for the use of a name on the reserved list. Also, HKISPA is very concerned about the "unclear" definition that any "general principle" to protect Internet domain names from "indecent, words which are obscene, scandalous, indecent, and contrary to [...] morality" should not be registered. There will be serious public concern if there is no prevailing standard and such applications will be "accessed on a case by case basis." Efforts should also be made to ensure consistency with the broadcasting and publishing guidelines regarding such "words," if any, and the use of words as Internet domain names should not be any more restrictive.

11. Regarding the format and business nature of a domain name, HKISPA does not agree that "a requested domain name must resemble the name of the company or its products/services, the rationale being that a domain name is primarily intended to provide a clear and convenient Internet address to facilitate access to a web site of
12. About **multiple domain names per registrant organization**, HKISPA believes that no limit should be set on the number of names each entity may be allowed to register, simply because any limit on any number will be arbitrary.

13. About the issue of **local presence**, HKISPA disagrees with the task force that "only companies and organizations registered or incorporated in Hong Kong should be allowed to register domain names ending with .hk." This is inconsistent with Hong Kong's aim to become an Internet and electronic commerce center or hub in the region, or the world. There is limited risks, if any, for completely opening .hk registration. In fact, in many previous cases, overseas companies have failed to reserve its .hk domain names before a local office has been set up, and saw their names taken by others, causing them to switch to set up an office in other regional economies. Therefore, HKISPA proposes a completely open policy for .hk registration.

14. The registration of **domain names for individuals** is long called for, and HKISPA agrees that individual residents of Hong Kong should be allowed to register domain names in a new second-level domain category under .hk. However, HKISPA does not believe that such domain names must be "derived directly from the names appearing on their Hong Kong identity cards." This act serves no practical purpose other than imposing restrictions and stifling creativity and individuality, key characteristics of the Internet and Internet citizens. As long as records are kept about the legal domain name individual owners and that these owners are traceable, there is no reason to limit the way individuals may like to use a creative individual domain name or alias. The Government mentality about the Internet cannot take an overly paternalistic or authoritative approach unnecessarily.

15. For years HKISPA has proposed that HKNIC would collect charges for the **renewal of domain names**, so HKISPA is supportive of the task force proposal to the same effect.

16. In principle, HKISPA agrees that **dispute resolution mechanism** with an arbitration panel should be set up for handling disputes. However, HKISPA is concerned that no discussion so far about the authority and the membership of the arbitration panel has been discussed so far.

17. The issue of Chinese domain names was discussed in the review paper as background information and no specific recommendations were made about Chinese domain names in the current review. HKISPA agrees that it is too early at this stage to set up any policy in this area, and since it may take some time for any standard to emerge, the policy in Hong Kong regarding Chinese domain names should be as open as possible, or, in other words, no policy may be needed at present.

18. HKISPA welcomes its views as reflected in this response to be made public by the Government.

---

Hong Kong Internet Service Providers Association  
July 16, 2000
Dear Sir/Madam:

Re: Response to Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong.

Chinese Domain Name Corporation Limited (CDNC) is in the business of helping establish Chinese identities on the Internet, starting with Chinese domain names. Domain names form the critical first point of contact with users, yet they are restricted by legacy to Western language. For the exploding online Chinese population, this is unnatural; for the equally exploding number of companies targeting Chinese consumers, this gap translates to higher marketing costs and greater business risks. CDNC offers officially sanctioned, market leaders backed, Chinese domain name registration for generic TLDs. Together with the market, business, regulatory, and technology partners, CDNC aims to help businesses establish and enrich their online Chinese identity, and make the Internet more natural and intuitive for millions of the Chinese users. A quarter of humanity is hard to ignore in the New Economy.

After studying your Consultation Paper published earlier, please find our views and responses with respect to various sections outlined as follows:

1. Chinese Domain names (section 16-18)
   - We would suggest that the non-statutory corporation (which is proposed in section 27) should work with CNNIC and the 4 Chinese NICs regarding the Chinese domain names services. This corporation/HKNIC should be prepared for this and be ready when a more clear picture and standard of this becomes available.

2. Proposed Institutional arrangements (section 20-28)
   - We would to clarify the mechanism how the board of the non-statutory corporation is being selected in the initial transformation period from JUCC

3. Registrar and agent (section 31-33)
   - We would suggest that instead of government and JUCC to take care .gov and .edu registrar function, the task force may consider one single registrar but for .gov and .edu domain names, the registrar needs to follow the instruction from Government and JUCC respectively. Domain names registered under .gov and .edu is probably not large enough and separate registrar would not be cost effective.
4. Domain name registration guiding principles (section 34c)

- While cybersquatting should not be promoted and encouraged, domain name trading should be part of normal business dealings as long as 2 parties agree to do so.

5. Registration guidelines-reserved list (section 37)

- Case by case assessment is not feasible from the operational point of view. It increases administrative cost and involvement of subjective judgment is prone to argument.

6. Format and business nature of domain names (section 39)

- Domain name is not only used for a company to promote its product or service, it is an identity for corporations or individual in the cyberspace, it is a branding for a lot of different purposes that may be in existence or non-existence, therefore restricting names that is "similar" to a company is not reasonable. It also restricts the creativity how a user can make use of a domain name for building a new service/concept in the cyberspace.
- It is also difficult to judge what is "similar" and what is not. With the same rationale of the comment made for section 37, it increases administrative cost and is not feasible as far as operation is concerned when a huge amount of registrations need to be handled on a daily basis.
- It is suggested that as long as domain name dispute policy is in place and clearly communicated to end users, and that a mechanism and dispute resolution centre exists, the registrar should only perform a service provider function and let the dispute handled by appropriate party.
- While discouraging cybersquatting is important, a balance between development of electronic market space and the restriction to minimize cybersquatting should be maintained

7. Transferability of domain names (section 44)

- With the same rationale as stated above, transferability of domain names should be done as long as 2 parties agree and should not be judged by the registrar. It would be difficult to determine what is a "valid ground".

In summary, we would suggest the following:

- Registrar should perform the function of administering a centralized database for .hk domain names and ensure the .hk DNS infrastructure is robustly and securely run.
- Registrar should be a facilitator to provide registration services for agents and end users with a clearly defined set of rules that do not involve human judgment on whether a domain name should be registered or transferred.
- It is not feasible for the registrar operation to determine "non-quantifiable" parameters such as "similar", "valid ground" to determine registration and transfer of domain names, particularly when the registration volume increase and human involvement will delay the whole process, and therefore the development of electronic commerce.
- Other than identity protection such as registered trademarks, service marks, and restriction of registration of improper language (such as foul language), all other names should be allowed to register through the registrar. Any domain name dispute that is arisen beyond restricted list mentioned above, the parties should take it to accredited resolution centre. The registrar should not be in the position to determine whether such names should belong to which party.
- As such, the registrar should allow transfer of domain names as long as 2 parties involved agree to such transfer.

We certain hope that our responses could be helpful to the Task Force in reviewing the
Administration and Assignment of Internet domain names and Internet protocol addresses in Hong Kong. If there is any publication or circulation in the future, we would be grateful if you could add us - Chinese Domain Name Corp. - to your circulation list. We would very much like to contribute in any way to help the developments on Internet domain name administration as well assisting businesses set up and enrich their online Chinese identity and branding. Together, we believe we can bring the Internet to millions of Chinese users and these millions of Chinese users to the Internet.

Sincerely yours,
Woody Ho
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN35  
Date of Submission : 18.7.2000  
Submitted by : Inland Revenue Department

IRD's Comments on Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

General Comments

The Role of the Registrar

1. To enable the registrar to perform its functions effectively, it must have the power to sanction uncooperative applicants and registrants, including, as a last resort, the power not to renew or even to cancel the registration of a domain name. Some of these powers may not be derived from the proposed agreement between the Government and the registrar.

Fostering Confidence in E-Commerce

2. In the virtual world of electronic commerce, the consumer is not coming face to face with the merchant. Except where the business is very well known, the customer does not have much information on who he is actually dealing with. To give consumers confidence in the system, we are of the view that the registrar of domain names should have an important role to play in ascertaining that the business and/or personal information provided by the applicants are correct, that any changes to these information are timely reported and recorded and that the latest information are available for easy retrieval by members of the public who may wish to do the verification.

Balanced Guiding Principles for Registration

3. The Task Force seems to subscribe to the argument that to facilitate the development of the Internet and electronic commerce in Hong Kong, greater flexibility should be allowed in our domain name registration system (paragraph 13 of the Paper). It has identified as one of the guiding principles for domain name registration that the application procedures should be simple to allow efficient processing (paragraph 34 of the Paper). In this connection, we are of the view that while flexibility and efficient processing are important, adequate regulatory control that gives creditability to the system and improves consumer confidence is also equally vital. The right balance should be worked out so that the promotion of flexibility and efficiency would not lead to too much sacrifice in regulatory control. At the end of the day, no matter how simple and easy it is for businesses or individuals to register domain names, electronic commerce cannot really take off unless the community at large is confident that the playing field is being properly regulated and that there is a way for them to seek recourse in case something untoward should happen.
Specific Proposals

Registrar to be a Statutory Body

4. To address the concern in paragraph 1 above, we propose that, in the long run, it is more desirable for the registrar to be set up as a statutory body with full legal backing of its work. This is the only way to ensure that the domain registration functions can be carried out efficiently and effectively.

Disclosure of Essential Information

5. We would propose that consideration should be given to require all .hk companies to display vital business information such as their business names, business addresses and business registration numbers, etc. prominently on their web pages for ease of identification. In this regard, we note the Task Force's view that initially only companies and organizations registered or incorporated in Hong Kong should be allowed to register domain names ending with .hk. As these Hong Kong companies/organizations would be required to display their business registration certificates when trading in the real world, why should they be allowed not to display the same particulars on their web pages when trading on the Internet?

6. As an alternative to the proposal in paragraph 5 above, we propose the domain name registrar to include in the public domain search database the same vital business information as mentioned above for .hk companies, viz. the business names, business addresses and business registration numbers, etc. This will boost the confidence of the e-customers.

Tightening of Registration Procedures

7. To address the concern in paragraph 3 above, we propose the domain name registrar to tighten the registration procedures. In particular, it should always insist on the submission of a copy of the valid business registration certificate before the registration of a .hk company can be effected. As for individuals that are proposed to be registered under a new second-level domain category, the registrar should also ensure that they are not carrying on businesses, e.g. by asking the applicant to make a declaration to such effect when applying for registration.

8. The above proposal is not meant to complicate the registration procedures nor to impose a restrictive registration policy [paragraph 43 of the Paper]. Instead, the procedures will be more or less the same as those presently in force except that they will be more strictly enforced.

-END-
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN36  
Date of Submission : 21.07.2000  
Submitted by : Dr Eden Woon  
Director  
The Hong Kong General Chamber of Commerce

Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong  
Comments by the Hong Kong General Chamber of Commerce

The Internet is playing a critical role in Hong Kong's economy. Internet Domain Names and Protocol Addresses are an important part of the Internet infrastructure, and their administration will have an effect on the development of the Internet. We welcome the effort to establish an effective system for the administration of Internet Domain Names and Protocol Addresses and we find the consultation paper a very timely document.

Our basic position is that the approach should be based on a minimalist regulatory principle, with maximum encouragement for the efforts of the private sector. Our comments on the specific recommendations of the consultation paper are as follows.

a) a non-profit making and non-statutory corporation should be set up to assume the overall responsibility for Internet domain name administration in Hong Kong,  
b) the corporation should operate on a self-financing basis

We support the formation of a self-financing, non-profit corporation. This corporation will, however, act not just as an administrative body but will take on a regulatory function, as a non-statutory self-regulatory body. The support of the ultimate authority for regulation, namely ITSD, will be critical for this corporation.

In order to benefit from the dynamics of the private sector, this corporation should serve as the executive arm of the ultimate regulatory authority (ITSD) and as much of its work as possible should be undertaken by the private sector.

c) the corporation should be spun off from the JUCC initially, with an interim Board comprising directors from the academia, the industry and the Government;

We agree to the evolution and governance of the corporation as proposed. On industry representation, we would point out that the board should consist not only of experts from the IT or Internet sector, but more importantly members who can represent the general business community. In our view, the significance of e-commerce lies not in "Internet companies" as such, but in the application of the Internet to the entire range of businesses in Hong Kong.

d) the corporation should gradually transform into a membership-based organisation with its directors elected from its members;

We are unable to fully appreciate the rationale for a membership-based structure. The
corporation should have a very focused mandate of administration and regulation of
domain names and IP addresses. A membership-based structure will be more suited to
organisations with broader objectives, such as "promotion of the Internet". In our view,
this corporation should concentrate on the specific task of providing a service to end users
(i.e. registration of names and addresses) and regulating the registrars and agents. As to
general promotion of the Internet, already a large number of organisations in the private
sector are undertaking that task.

e) the authority of the corporation should be formalised through some form of
endorsement from the Government, e.g. an agreement with the Government;

We agree fully. This endorsement is crucial in lending government authority to the
corporation.

f) the existing arrangements for IP address allocation in Hong Kong should continue;
g) the existing arrangements for a single domain name registry in Hong Kong, with duties
assigned by the body responsible for .hk domain name administration, should continue;

We agree.

h) the Government should take over the registrar responsibility in respect of the .gov.hk
domain;
i) the JUCC should continue to provide registration services in respect of the .edu.hk
domain;
j) the existing practice of having a single registrar for domain names ending with .com.hk,
.org.hk and .net.hk should continue;
k) the registrar responsible for .com.hk, .org.hk and .net.hk domain names may engage
agents to perform some of the routine registration work;

We understand the benefits of having a single registrar for each category, at least initially.
Our comment on each category is as follows:

.gov.hk We agree government should be the registrar.
.edu.hk This should continue to fall under the academic community.
.net.hk This should be taken up by some representative body of the IT sector.
.com.hk The registrar should be an organisation with broad business representation and
contacts.
.org.hk This should be taken up by an organisation with broad representation and contact
among non-governmental organisations.

l) a reserved list of domain names consisting of well-known international trademarks,
service marks and brand names as well as some other names which are of restricted use,
making reference to the reserved lists prepared by other ccTLD registration authorities,
may be drawn up;

n) domain names should be registered on a "first come, first served" basis;

In respect of domain name allocation, we believe there is merit in treating special numbers
or character strings separately, using the concept of "special numbers" in
telecommunications numbering. The rationale is that "special" or "lucky numbers" are a
public resource and their allocation may not be best served by the first-come-first-serve
principle. The experience of the Office of Telecommunications Authority and its
Numbering Advisory Committee may be worth exploring.

m) the second-level domain category being selected for a particular domain name
application should correspond to the business nature of the applicant;

n) the domain name applicant should declare, when making an application, that to its best
knowledge, the domain name applied for does not infringe upon the intellectual property
rights of a third party;

p) each organisation should be allowed to register more than one domain name under
.hk;

q) the transfer of domain names on valid grounds should be allowed;
r) only companies and organisations registered or incorporated in Hong Kong should be
allowed to register domain names ending with .hk initially;
s) each individual resident of Hong Kong should be allowed to register one domain name in a new second level domain category under .hk;
t) domain names should be subject to renewal at a fee;

These recommendations all relate to the operational aspects of the administration of domain name and IP addresses. We agree with all these suggestions. We would point out, however, that they reinforce the need for ensuring that the registrar bodies should be in close touch with their respective constituent end users.

Furthermore, a domain name has the properties of a business registration, a trade mark, a telephone number and - since it can be applied to individuals - a personal identifier. In the administration of domain names, the related regulatory principles or practices should also be considered. For example, in processing domain names for individuals, there may be implications of personal data privacy which have to be taken into account.

u) the body responsible for .hk domain name administration should maintain a neutral role in the handling of disputes arising from the registration or use of domain names ending with .hk; and
v) an alternative dispute resolution mechanism should be developed in Hong Kong to facilitate early resolution of .hk domain name disputes.

The Internet is fast changing; it is also a comparatively recent development. Disputes relating to the Internet and their settlement present a challenge to regulators and legal practitioners. The disputes are also likely to be much broader than just domain names and IP addresses.

We agree that there should be a mechanism to deal with disputes over domain names and IP addresses. As the aim of the corporation is to facilitate Internet businesses, the dispute resolution mechanism should be designed on the principle of simplicity. More importantly, it should be part of a broader framework for regulation of the Internet which the ITSD and ITBB should develop. For this reason, it is all the more important to specify very clearly and unambiguously the role and mandate of the corporation.

(Ends)
Public Comments on the "Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong"

Reference No. : DN37
Date of Submission : 28.07.2000
Submitted by : Ms Alice Leung
Manager - Learned Society
The Hong Kong Institution of Engineers

Dear Sir

Consultation Paper on the Review on Administration and Assignment of Internet Domain Names and Internet Protocol Addresses in Hong Kong

Thank you for your letter of 5 June 2000 inviting the HKIE comments on the captioned document. We would like to inform you that the Institution does not have any specific comments on the above paper.

Thank you for your kind attention.

Regards,

Alice Leung
Manager - Learned Society