HONG KONG INTERNET FORUM
香港互聯網論壇

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By mail and Fax: 2802 4549

15 June 2007

Office of the Government Chief Information officer
Commerce, Industry and Technology Bureau
15/F Wanchai Tower
12 Harbour Road, Wan Chai
Hong Kong
Attn: Systems Manager (H)41

Dear Sir/Madam,

Comments on the Public Consultation on Review on Administration of Internet Domain Names in Hong Kong

Hong Kong Internet Forum ("HKIF") is a non-profit organisation representing the opinions and needs of Internet users in the local community. These opinions and needs are channelled to service providers, vendors, HKSAR Government, local, regional and global organisations and associations to influence their policies and strategies affecting the rights of local Internet users and their families, as well as their quality of life in the real and cyber world. HKIF is an At-large Structure ("ALS") in Asia Pacific accredited by the Internet Corporation for Assigned Names and Numbers ("ICANN").

Overall we welcome the review on the administration of ".hk" domain by the HKSAR Government. The HKSAR Government has recognized that the initial framework set up in 2001 leading to the establishment of HKIRC (to take over the ".hk" administration from the Joint Universities Computer Centre Ltd. ["JUCC"]) was far from perfect and needed some adjustments. However we do understand that the HKSAR Government does have its constraints in developing the full potential of ".hk" to benefit local Internet users. On this basis we hope to put forward our opinions which could allow ".hk" to play and to continue to play a part in fulfilling the vision of the Digital 21 strategy, as well as conforming to the vision of the World Summit for the Information Society ("WSIS") and now Internet Governance Forum ("IGF").

Our opinions and responses to the recommendations made in the consultation paper are as follows:

1. The institutional framework

1.1 We agree that the current set up, namely that of a non-profit member-based organization as the registry of ".hk", delegated by the HKSAR Government and monitored at arms-length, is a suitable one and should continue. In this regard, we believe that there is a positive role on the HKSAR Government in creating the enabling environment for information and communication

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technology development. As noted in the Report of the Working Group on Internet Governance of the United Nations, during the years, the Internet evolved from a research and academic facility into a facility available to the public. We also see the Internet as an open system and domain names in Hong Kong as 'assets' of Hong Kong as a whole.

1.2 To our belief, such a set-up is of fundamental importance in maintaining public confidence. It can help avoid any actual or apparent appearance of governmental interference in controlling and managing the day to day functions of the internet. We are of the view that, being a public facility', such a set-up can further strengthen and enhance participation from all stakeholders in Hong Kong thus creating a vibrant environment that allows further usage and development of the internet for the benefit of all concerned.

1.3 From a freedom-of-speech point of view, any arrangement to allow intervention by the HKSAR Government with the day-to-day activities of the HKIRC will be perceived as an attempt to enable government censorship of information exchanged on the Internet. Such perception is against the international trend of multi-stakeholder involvement in the governance of Internet as proposed by the WSIS and IGF.

2. The guiding principles

2.1 We agree that the ".hk" ccTLD is a public resource of the HKSAR and as such should be administered in a way that would maximize the benefits to the Hong Kong community.

2.2 Independence of HKIRC is of paramount importance when one needs to maximize the benefits to the Hong Kong community.

2.3 While we agree that the HKIRC should encourage competition and consumer choice in the management of ".hk" domain names, we do not see why "increasing the number of .hk users" is necessary an aim to be achieved. The aim should be high user satisfaction and acceptance of ".hk" by the local Internet community. The stakeholders include the whole community, not just users, suppliers and associations having an interest in ".hk".

3. Scope and priorities of the HKIRC

3.1 In line with the practice of most countries/economies in the region, the following Internet infrastructure-related developments should also fall within the scope of the HKIRC.
- The administration and allocation of IP addresses for local users
- The administration and allocation of AS numbers for local users
- ENUM, RFID and other related future developments

4. Corporate governance mechanism

4.1 In paragraph 17, it is stated that *"There should be a transparent mechanism for the Board to account for its decisions in any circumstances in which it decides not to follow the advice of the CAP."* We are of the view that the same level of transparency required should not be based solely on advice not followed but all advice whether followed or not thus showing complete transparency of the entire process.

4.2 The consultation paper recommends reducing the number of membership classes from six to three (Supply, Demand and Representative Association). We believe that there should be no assigned classes. The class structure is not a fair arrangement and is only there at the start purely for transitional purposes. The HKSAR Government should be more determined to create a truly open and fair environment for the election of the HKIRC Board, rather than maintain certain privileged stakeholders. Maintaining privilege classes shows that the HKSAR Government is obviously biased towards certain classes and neglects the true benefactors of the internet, the entire Hong Kong community. In the long term this would not be in the interests of the HKSAR Government, as this will create unrest in the entire internet community and could lead to another review, which ultimately are not in the interests of the Hong Kong people. As these privilege classes will be focusing on their own interests, needs and goals and not that of the entire population of Hong Kong. By associating with certain classes, how could one be convinced that the internet is there to benefit the community? The internet should not be controlled by certain privilege classes, it is an asset of Hong Kong and the people of Hong Kong should have a say in electing those Directors to the Board who represent their interests. Accountability is a crucial factor for success. Having privileged classes there is no incentive to be accountable to the entire community; rather accountability will only be confined to the class that nominated such a Director. This could lead to confusion as to where the Directors responsibilities should be. We believe this recommendation could create problems and are of the view that an open, transparent and non assignable classes is the most logically step forward.

5. Registry-registrar system

5.1 We support the adoption of the registry-registrar model whereby HKIRC is the registry of ".hk" and multiple registrars are accredited to encourage competition and create more customer choices. This also helps to further develop the local Internet service industry, increase business opportunities and does aid in creating further employment which benefits the people of Hong Kong.

5.2 We are of the view that an "accreditation scheme for registrars" should be put in place to safe guard the interests of users. HKIRC does have a duty of care to ".hk" users by ensuring that their needs and interests are being looked after and protected.

5.3 In relation to the registry-registrar system, an "insurance protection scheme" should also be put in place to compensate the financial loss of registrants when an accredited registrar ceases to operate due to certain constraints and then goes out of business. This would simply require a "guarantee deposit" to be paid by each successfully accredited registrar. This deposit is in addition to the annual fee payable to the registry.

5.4 We urge the Government to ensure that, after the adoption of the registry-registrar model, the rights of and services provided to existing ".hk" users should not be unduly affected. Continuity of services and seamless transition are of highest priorities. When appointing new registrars, HKIRC should ensure that the interests of existing ".hk" users are well protected rather than just focusing on transferring the servicing responsibility.

6. Performance measurement and monitoring

6.1 Paragraph 22 mentioned the publishing of a comprehensive Corporate Governance Framework by the HKIRC. We are of the view that the HKIRC should seek comments from the public on the adequacy of the proposed framework before adopting it.

6.2 Paragraph 23 says *"In addition, the HKIRC should...with key metrics agreed with the CAP and report quarterly to the CAP on these measures...."* This is very strange arrangement as the CAP should only be a body providing advice to the HKIRC Board from a strategic point of view. It should be the Board, not the CAP, who has the final say on the key metrics and receives report on the performance of the company based on the metrics.

6.3 We are of the view that the measurement of the performance of the HKIRC should be performed by an external body who can conduct fair and accurate measurement without undue influence by stakeholders and staff. This external body should be remunerated.

7.   Proposed mandate and composition of the management board

7.1 In relation to the formation of the Board, HKIF has the following views
-    Directors should be independent and impartial, and should not have any conflict of interest which affects the day to day operation of HKIRC.
-    Directors should be appointed and elected entirely in their personal capacity, and not representing any associations or sectors which they belong to. When considering matters for the HKIRC, they should consider the interest of the whole community rather than the interest of the constituencies that they belong to.
-    There should be 4 elected directors and 3 appointed directors.
-    The Chairman of the Board should be elected amongst the Board members and should not be limited to one of the appointed directors.
-    In order for the Board to be entirely accountable to the people of Hong Kong and to adhere to Corporate Governance principles, appointed directors should be appointed from three of the following four associations, and should have relevant experience in the management of non-profit associations
     i.   Hong Kong Institution of Chartered Professional Accountants
     ii.   Hong Kong Institution of Compliance Officers
     iii. Hong Kong Institution of Directors
     iv.   Law Society of Hong Kong

7.2 The title of the first Annex calls the HKIRC Board a "Management Board". We are perplexed by this term. We believe the Board should focus on setting the strategic direction and ensuring governance only, and should not be involved in the management and operations of the day-to-day activities which should ideally be handled by staff of HKIRC, headed by a Chief Executive Officer who is fully accountable to the Board.

8.   Proposed mandate and composition of the Consultative and Advisory Panel (CAP)

8.1 HKIF is of the view that a clear and transparent structure of the CAP should be put in place to govern which professional associations or community sectors the 14 advisors should be appointed from. HKIF would propose the following list of 13 possible professions/sectors and

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one member should be appointed from each of these professions/sectors, in addition to the Government representative

- Accountancy/Finance
- Alternative Dispute Resolution
- Company Secretarial
- Compliance
- Consumer Affairs
- Engineering
- Equal Opportunities/ Social Services
- Human Resources
- Information Technology
- Insurance
- Legal
- Marketing
- Personal Data Privacy

8.2   HKIF also urges the HKSAR Government and HKIRC to have rotation schemes in place for the CAP members as well as the Board members to ensure smooth transition and transfer of knowhow from one CAP to the next and from one Board to the next.

9.   Others

9.1   We note that, after the handover of ".hk" administration from JUCC to HKIRC, there remains one outstanding issue that needs to be addressed. This relates to the administration of ".edu.hk" domain name which JUCC currently continues to administer. We do not believe this arrangement serves the interest of the public at large and adds an unnecessary layer and not to mention added costs and expenses for all concerned. We understand that HKIRC has paid HK$10 million to JUCC in July 2006 to recognize their past contributions to the development of ".hk". This arrangement needs to be reviewed as the eligibility for registering an ".edu.hk" domain name requires a Certificate of Registration of a School issued by the Education Department. On this basis HKIRC can simply refer to the Education Department for verifying eligibility. There is no value by involving JUCC in the process (in particular, primary and secondary schools are not under the ambit of JUCC). Once the registry-registrar model is adopted, JUCC can apply to become a registrar for ".edu.hk" registrations if they so wish, thus creating a level playing field for all concerned, as JUCC should not be seen to be afforded privileges as services rendered in the past have been duly compensated by the HK$10 million.

9.2   If Hong Kong is to become an Internet hub in this region and a leader in e-Government initiatives, the HKSAR Government should provide better support and resources to the development of the HKIRC. These resources would include the following

- Necessary office space
- Funding for the "One domain name per company" or "One domain name per resident" initiative
- Funding to implement or support other initiatives from the Government to enable Hong Kong to maintain its internet competitiveness.

All in all we believe the review is timely and we would like to thank the HKSAR Government and the

current and past HKIRC Board members for their foresight and efforts in making Hong Kong the internet hub of Asia. An open and accountable HKIRC is the only way forward in order to maximize the benefits to the entire Hong Kong community. Allowing privilege classes would only create unnecessary hurdles which would greatly affect the further development of the internet. On this basis we do urge the HKSAR Government to review our comments positively and if we can be of further assistance please do not hesitate to revert back to us.

Yours sincerely

Christopher To
Chairman, Hong Kong Internet Forum (HKIF)

c.c.   All Council Members of HKIF