

Office of the President
of the Philippines
Malacañang

Commission on Information and Communications Technology

20 August 2004

ATTY. RONALD OLIVAR SOLIS
Commissioner
National Telecommunications Commission
BIR Road, East Triangle
Diliman, Quezon City

Dear Commissioner Solis:

This refers to the draft Guidelines on the Administration of the .PH Domain Name submitted to my Office by the National Telecommunications Commission (NTC) in a memorandum dated 30 July 2004.

In this regard, may I request that the same be posted in the NTC website for the general public's information. Attached is a certified copy of the Guidelines for your perusal. The ITECC Secretariat shall also forward an electronic copy to the Office of Deputy Commissioner Jorge Sarmiento.

Thank you.

Very truly yours,

Sgd.

SECRETARY VIRGILIO L. PEÑA
Chairman

**Office of the President
of the Philippines
Malacañang**

Commission on Information and Communications Technology

**MEMORANDUM CIRCULAR NO. 1
August 2004**

SUBJECT: GUIDELINES IN THE ADMINISTRATION OF THE .PH DOMAIN NAME

WHEREAS, the .ph domain is the ccTLD for the Philippines, a public resource administered in trust for, and in the interest of, the Internet community and the nation;

WHEREAS, the .ph Administrator, as trustee, is accountable to the Internet community;

WHEREAS, the Philippine government has public-policy authority over the .ph domain name with the duty to ensure a legal and policy environment for .ph domain name registration that fosters effective and fair conditions of competition, that coincides with its national ICT policies;

WHEREAS, the administration and management of the .ph domain name must comply with the public-policy objectives of the Philippine Government, guided by Principles and the Best Practice Guidelines of ICANN, GAC, WIPO, ITU and other recognized international bodies, as well as by effective and meaningful communication and consultation primarily with the local Internet community, while mindful of the interests of the global Internet community; and,

WHEREAS, the local Internet community must be assured of an efficient, stable, equitable and transparent administration of the .ph domain.

NOW, THEREFORE, in order to ensure that the .ph domain is administered in accordance with the foregoing, the Commission on Information and Communications Technology (CICT) hereby promulgates these guidelines drafted by the National Telecommunications Commission (NTC) assisted by the Advisory Board, after a series of public consultations and hearings, to govern the conduct of oversight functions over .ph domain name system and registration.

Article I. Definition of Terms

Alternative Dispute Resolution – means any system of resolving a dispute other than by a court litigation, and includes arbitration, mediation, conciliation and processes of administrative dispute resolution

Country Code Top Level Domain (ccTLD) - A domain in the top level of the global domain name system, assigned according to the two-letter codes in the ISO 3166-1, Standard Codes for the Representation of Names of Countries. The .ph domain is the ccTLD for the Philippines.

ccTLD Registry - The system on which is recorded domain names for the country code top level domain name, according to policies and rules, and following procedures, established with the local Internet community. The ccTLD Registry is administered by the ccTLD Administrator or ccTLD Manager.

ccTLD Administrator or Manager, referred to in these Guidelines as the Administrator - the duly incorporated or organized entity that manages the ccTLD Registry, which the Commission on Information and Communications Technology (CICT) has previously designated as such, and which ICANN has chosen to be the delegee for the ccTLD on behalf of the local and global Internet Community.

ccTLD Sub-domain Administrator - the duly incorporated or organized entity to which the ccTLD Administrator has delegated the responsibility of administering a sub-domain of the ccTLD (e.g. .edu.ph, .gov.ph, .mil.ph). It similarly administers the sub-domain as a trustee, on behalf of the local and global Internet community.

Commission on Information and Communications Technology (CICT) – a national body, attached to the Office of the President pursuant to Executive Order 269, which shall be the primary policy, planning, coordinating, implementing, regulating, and administrative entity of the executive branch of Government that will promote, develop and regulate integrated and strategic systems, and reliable and cost-efficient communication facilities, services and resources for nation-building and global competitiveness.

Delegation - refers to the entrusting by ICANN/IANA of the responsibility for the administration of the ccTLD. The act of assignment by the ccTLD Administrator of the responsibility for the administration of a ccTLD sub-domain is also referred to as delegation.

Designation - means the authorization that is given by the CICT to the duly incorporated or organized entity it has chosen to act as ccTLD Administrator.

Delegee - means the entity to which ICANN/IANA has delegated the responsibility of administering the ccTLD as a trustee on behalf of the local and global Internet community, in accordance with the previous designation by the Philippine Government through the CICT. The Delegee also refers to the ccTLD Administrator or ccTLD Manager.

DNS - means domain name system.

DNS Records - the database of domain names maintained by the ccTLD Administrator.

Governmental Advisory Committee (GAC) – comprises representatives of national governments, multinational governmental or treaty organizations, and distinct economies as recognized in international fora. The GAC considers and provides advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN’s policies and laws, international agreements, or public policy issues.

IANA - Internet Assigned Numbers Authority, which was incorporated into ICANN in 1999.

ICANN - Internet Corporation for Assigned Names and Numbers.

ICANN Uniform Dispute Resolution Policy (UDRP) – the policy adopted by ICANN for trademark-based domain-name disputes. It is incorporated by reference into the registration agreement in effect between the ccTLD registrar and the registrant or domain-name holder and sets forth the terms and conditions in connection with a dispute between the registrant or domain-name holder, and any party other than the registrar over the registration and use of an Internet domain name registered by the registrant or domain-name holder.

ICP-1 – ICANN’s Internet Coordination Policy version 1.

Internet Community – refers to the Internet industry, local or global, as the case may be, of individual or corporate users of the Internet, the government, the non-government organizations/civil society and the academe.

ITU – International Telecommunications Union.

Memorandum of Agreement or Equivalent Instrument – a written agreement that is conformed to by, and governs the relationship between, the Philippine Government, represented by CICT and the designated Administrator.

National Telecommunications Commission (NTC) – the government regulatory agency attached to the Commission on Information and Communications Technology (CICT) pursuant to Executive Order 269 and mandated to exercise oversight functions over domain name registration and other internet related concerns.

Redelegation – means the change of entity responsible for the administration of the ccTLD Registry by ICANN, upon a duly authorized request by the Philippine Government through the CICT.

Registrant - A company, organization or individual for whom a name has been registered as a domain name in the ccTLD Registry database.

Registrar - refers to a person or entity that contracts with Registrants and with the ccTLD Administrator and collects registration data about the Registrant and submits registration information for entry in the Registry database.

Registry Data - means all data maintained in electronic form in the registry database, and shall include Zone File Data, and all data submitted by registrars also in electronic form, and all other data concerning particular registrations or nameservers maintained in electronic form in the registry database.

RFC – ICANN’s Request for Comments.

Shared Registry System - the system that allows authorized registrars to directly access the register and change details as necessary.

WHOIS - a database that contains registration information about any given domain name, including who registered it, when it was created and who to contact at that domain.

WIPO – World Intellectual Property Organization.

Zone File Data – the data on a particular second-level domain (SLD) under the PH ccTLD which include the name of the SLD and the IP addresses and the corresponding names of the primary and secondary nameserver(s) for the SLD.

Article II. Qualifications of the Administrator

Section 1. The Administrator shall be a corporation organized under Philippine laws and operating in the Philippines. At least sixty (60 %) per centum of its capital must be owned and controlled by Philippine citizens. No member of its board of directors/trustees must be related up to the fourth degree of consanguinity or affinity or have any interest in any Registrar or the Registrar business.

Section 2. The Administrator must be able to carry out the necessary responsibility in the management of the .ph ccTLD Registry, and do an equitable, just, honest and competent job.

Section 3. The Administrator must obtain the necessary government registrations, permits and licenses, and comply with all legal requirements for Philippine corporations.

Section 4. An administrator must have an administrative contact and a technical contact. The administrative and technical contacts must be residents of the Philippines and their contact information must be made publicly available online.

Article III. Designation of the Administrator

Section 1. A duly organized and incorporated entity may only be designated as ccTLD Administrator if it meets the qualifications of Article II of these Guidelines.

Section 2. The designation and resulting relationship between the designated Administrator and the Philippine Government, as represented by the CICT, shall be documented by way of a Memorandum of Agreement (MOA) or equivalent instrument, which shall be submitted to ICANN. The MOA or equivalent instrument may also be a tripartite agreement with ICANN.

Section 3. The MOA or equivalent instrument shall make express reference to full compliance with these Guidelines and be binding upon the Administrator .

Section 4. No delegation from ICANN/IANA shall be deemed valid in the Philippines, unless the Delegee has been previously designated by the CICT.

Section 5. The MOA or equivalent instrument between the Philippine government and the Administrator shall be governed by Philippine laws.

Section 6. The Philippine Government through the CICT should take into consideration the importance of long-term stability in the administration of the ccTLD and in the DNS, in its designation of the Administrator.

Article IV. Technical Competence

Section 1. The Administrator must do a satisfactory job of operating the DNS service for the domain. Duties such as the assignment of domain names, delegation of sub-domains and operation of nameservers must be done with technical competence. Equipment used by the Administrator must reflect, as far as practicable, the state of the art prevailing in the DNS globally.

Section 2. The Administrator must be on the Internet. There must be email connectivity to the management, staff, and contacts of the Administrator. There should be published e-mail and web address contacts, updated facsimile numbers, phone numbers, mobile numbers, and office addresses, and these should be publicly and permanently accessible on the Internet.

Section 3. The ccTLD domain name service should be continuously available. At a minimum, the ccTLD Administrator must provide permanent twenty four [(24) hours per day, seven (7) days per week Internet Protocol (IP)] connectivity to at least two (2) nameservers and the Registry servers.

Section 4. The Administrator must protect the safety and integrity of its zone file data and must make arrangements to assure continued operation of the Registry, and continued resolution of names within the .ph ccTLD's zone(s). A data escrow or mirror site policy for the Registry data managed by the Administrator shall be established. The escrow agent or mirror site should be mutually approved by the CICT and the Administrator, and should not be under the control of the Administrator.

Section 5. The primary and secondary servers must be operated and maintained in a stable and secure manner. The DNS servers must be properly functioning and able to handle peak transmission loads. The primary servers should be in the Philippines, unless authorized by CICT to be located outside of the country, while secondary servers may be located outside of the country. However, the NTC must have access to Registrant's contact information and the Administrator must furnish the NTC such information on a quarterly basis as well as upon request, and in such format as will be designated by them.

Section 6. The ICANN and NTC must have access to all zones on a continuing basis so that the domain can be easily checked for operational status and database accuracy.

Section 7. The Administrator must keep the ICANN and NTC advised of any changes to the information concerning the domain that is maintained in the ICANN's root registry database, and should respond to requests for information from ICANN and NTC relating to the status and technical operations of the domain in a timely manner.

Section 8. The Administrator must take all reasonable professional measures to ensure that all Registry data is secured against damage or loss, using the best technology available as resources permit.

Section 9. The Administrator, with notice to CICT, may delegate the management of .ph sub-domains (e.g. .edu.ph, .gov.ph, .mil.ph) to another entity, provided that the designated sub-domain Registry administrators are qualified under Article II of this Guidelines; provided further, that a government agency or instrumentality assigned by the Philippine government for this purpose is deemed qualified under Section 1 of Article II. A Memorandum of Agreement shall be concluded between the ccTLD Administrator and the sub-domain Administrator, which shall contractually oblige the sub-domain Administrator, as a minimum, to full compliance with the Guidelines and other documents governing the ccTLD Administrator, where applicable.

Section 10. The Administrator must operate the database with accuracy, robustness resilience and reliability. Upon the effectivity of these Guidelines, the Administrator is required to furnish and regularly update the Government through the NTC, on a bi-annual basis, every 30th day of June and December, with documents pertaining to the network design, backup and disaster recovery strategy and recovery commitments, physical and network-based security strategies, and related documents and other declarations that support compliance with Internet Coordination Policy-1 (ICP-1). The NTC reserves the right to request the Administrator to submit additional documentations and declarations, if necessary, in line with this requirement.

Section 11. The Registry shall use a shared Registry system to allow multiple Registrars access to the Registry.

Article V. Management and Delineation of Functions

Section 1. There shall only be one Registry for the .ph domain name, with multiple registrars to encourage competition.

Section 2. The Administrator should recognize that the administration and management of the ccTLD Registry is a special function, a trust, and thus, imposes unique duties and responsibilities, which must never be abused.

Section 3. The Administrator must provide high quality service levels equitably and without bias to all its customers, registrars, registrants and business partners.

Section 4. The Administrator of the Registry shall not perform Registrar functions. The Administrator shall not sell the use of the .ph domain name directly to Registrants.

Section 5. The Administrator shall ensure a fair and open competition among multiple registrars with no advantage or preference being accorded to one or to a select number of Registrars in its accreditation or treatment, whether directly or indirectly.

Section 6. The NTC shall exercise oversight function over .ph domain name concerns. In the performance of this oversight functions, the NTC shall be assisted by an Advisory Board composed of representatives from government, the academe and the private sector.

Section 7. Administrator's policies affecting the stability of the DNS, domain name registration requirements, privacy, and dispute resolution shall be consulted with the local Internet community, including the NTC and its Advisory Board, for at least thirty (30) days before implementation. The Administrator must provide the local Internet community with a forum for discussion and feedback on policies and must practice complete transparency in its policies and practices. All policies must be available for public inspection on the Internet.

Section 8. Fees to be charged by the Administrator to the Registrars, guided by market forces, shall be reasonably set at levels that would promote competition and the increased usage of the .ph domain name. It must be consistent with a fair, equitable, non-arbitrary, and transparent pricing policy, which shall be incorporated in the MOA or equivalent instrument entered into between the CICT and the Administrator.

Section 9. The Administrator is required to submit annual reports on the implementation of these Guidelines every 30th of December each year, and to provide documents or data to, and in such format designated by the NTC, copy furnished the CICT.

Section 10. The performance of the Administrator in terms of its compliance with the Guidelines and the extent to which it satisfies the needs of the local and global Internet Community, shall be subject to periodic evaluation by the NTC.

Section 11. The Administrator should work cooperatively with the CICT and the NTC, in line with the public policy objectives of the government.

Article VI. Registration of Domain Names

Section 1. The Administrator should be equitable and fair to all eligible registrants that request domain names. Policies defining which organizations, businesses, individuals are eligible to register domain names under the .ph ccTLD must be defined by the Administrator, in consultation with the local Internet Community. Specifically, the registration of domain names should be based on objective criteria that are transparent and non-discriminatory. The definition must be documented, available for public inspection, and transparent to the local Internet community.

Section 2. The Administrator must provide the Registrars a standard contract for Registrants, setting out the expectations and obligations of each party. Conditions of registration must obligate Registrants to supply accurate and complete contact information at the time of registration, and to keep it current.

Section 3. The Administrator shall ensure that the privacy of each individual registrant is protected. It shall warrant, as part of the standard contract that any data obtained from registrants are for the sole purpose of fulfilling the requirements for DNS registration. The Registrar must obtain the unambiguous consent of the registrant before the data obtained from the

registrant is used for purposes other than for what they were originally solicited or is made available to any third party.

Section 4. The Administrator must collect, store and process the necessary information in such a manner that the Registrant can be authoritatively identified and the Registry database kept coherent, consistent, and up-to-date.

Section 5. The WHOIS service shall be required, maintained and kept publicly accessible, subject to the Administrator's policy on privacy.

Article VII. Use, Marketing and Promotion of the .ph Domain

Section 1. The unique identity and proper representation of the Philippines in the global domain name system must be protected and preserved in the .ph domain name.

Section 2. The Administrator must provide all marketing and promotional support of the domain name equally to all Registrars.

Article VIII. Service

Section 1. The Administrator should respond to requests for domain names in an efficient, timely and accurate manner.

Section 2. The Administrator is required to activate registration requests from Registrars within twenty four (24) hours of receipt of such request. Suspension, deletion and updates of the zone files in the database are likewise expected to be acted upon within twenty four (24) hours. The Administrator is required to submit to the NTC a systems update document that includes the process flow illustrating the manner by which the Administrator intends to employ manual and/or automated technology to consistently deliver this turnaround requirement.

Section 3. The Administrator is required to publish its support mechanisms and infrastructure. This includes a twenty four- (24-) hour, seven- (7-) day per week email and phone hotline, and an escalation procedure that includes the email, phone and mobile numbers of the person or persons responsible for each escalation level.

Section 4. The CICT may formulate separate guidelines specifically for service requirements.

Article IX. Ownership of DNS-Related Data

Section 1. No rights of ownership, private intellectual or other property rights, particularly in the domains and data in the Registry pertinent thereto, shall vest in the Administrator, as trustee of the ccTLD for the local and global internet community, as well as in the technical or administrative contact by virtue of their administration or management of the ccTLD. Therefore,

any claim of rights or ownership of the domains and data pertinent thereto by the Administrator shall be deemed inappropriate.

Article X. Dispute Resolution

Section 1. The Administrators must define and publish its domain name dispute resolution policies and procedures, in consultation with the Local Internet Community and in conformity with the ICANN UDRP model.

Section 2. Efficient and effective mechanisms should be established by the Administrator to handle fairly and independently any such disputes arising between Registrants, or other parties, and the Administrator. The Administrator shall endeavor to implement Alternative Dispute Resolution procedures online.

Section 3. In case of dispute between domain name registrants, or other third parties, the Administrator shall have no role or responsibility other than to provide contact information to both parties. Making judgments in relation to disputes between third parties and domain name Registrants are outside the remit of the Administrator.

Section 4. The Administrators and the Registrars must extend cooperation in the settlement of disputes arising from domain names.

Section 5. The Administrators shall cooperate with the appropriate Government agency in case of disputes with respect to intellectual property and consumer protection issues.

Section 6. The CICT may develop guidelines and mechanisms which will provide an alternative dispute resolution system.

Article XI. Redelelegation

Section 1. Redelelegation of the .ph ccTLD Administrator is an issue of national importance and should be resolved taking into account the applicable ICANN/GAC principles on redelegation, the views of all local stakeholders, and the rights of the existing ccTLD Administrator.

Section 2. In accordance with ICANN documents RFC 1591 and ICP-1, redelegation proceedings may be undertaken, based on any of the following:

- a) grave abuse or serious misconduct by the Administrator in violation of these Guidelines;
- b) failure to remedy persistent, recurring problems with the proper operation of a domain;
- c) contravention of the MOA or equivalent instrument with the Philippine government;
- d) operation of the Registry in a manner which threatens the stability of the DNS or the Internet;
- e) loss of support from the Local Internet Community and the Philippine government;
- f) termination of the MOA by the Administrator upon thirty (30) days notice to the Philippine Government;
- g) such other causes, as may be appropriate, in accordance with law.

Section 3. In the event of redelegation, the CICT shall designate a new administrator and this designation shall be documented by way of a MOA or equivalent instrument.

Section 4. The redelegation by ICANN shall be documented by way of an MOA or equivalent instrument.

Section 5. The Administrator shall ensure the smooth transfer of all relevant DNS data to the designated replacement, upon redelegation by ICANN.

Section 6. The CICT shall issue redelegation and replacement procedures, rules and criteria internal to the .ph domain, as may be appropriate. Such procedures shall be guided by the ICANN/GAC Principles on Redelegation.

Article XII. Interim Provisions

Section 1. Any person or entity presently performing any or all of the functions of the Administrator shall be subject to, and immediately comply with, the provisions of these Guidelines.

Section 2. Within three (3) months from the effectivity of these Guidelines, the incumbent Administrator should formally notify the CICT whether it will act as an Administrator or Registrar, but not both. It shall also submit to the CICT a plan to divest itself of either the operations of Registry or its Registrar operations. In no way should the divestment exceed the period of twelve (12) months from the end of the initial three (3) month period herein specified.

Section 3. Should an existing ccTLD Administrator decide to continue as such, it shall simultaneously, within the abovementioned twelve (12) month divestment period of its Registrar operations:

- a. meet the qualifications of Article II of these Guidelines
- b. seek the proper designation from the CICT
- c. conclude the required MOAs with the CICT
- d. submit to the NTC a statement of the policies and practices it observes to demonstrate full compliance with the Guidelines

Section 4. Should the ccTLD Administrator opt to become a Registrar and divest itself of the Registry, the required divestment plan should include provisions for the smooth turnover of the Registry and the relevant databases to the new Administrator.

Section 5. Any existing sub-domain Administrators for .edu.ph and .gov.ph, should they decide to continue as such, shall conclude an MOA with the ccTLD Administrator to document the designation and delegation of the administration of the sub-domain, in addition to the requirements in the preceding section.

Section 6. The .mil.ph sub-domain shall be reserved for the use of the Philippine Military and Defense organizations.

Section 7. The CICT may commence redelegation procedures in the event that an Administrator notifies its intention to become a Registrar, or otherwise fails to comply with the Interim provisions of the Guidelines within the periods herein provided.

Section 8. New registrars shall be encouraged.

Article XIII. Other Provisions

Section 1. All doubts in the implementation and interpretation of the Guidelines, shall be resolved in favor of giving effect to the government public policy objectives and ICANN/GAC principles on ccTLD administration.

Section 2. Any guidelines or policies from ICANN or IANA to be implemented by the Administrator must be consistent with these Guidelines. In the event of conflict, these Guidelines shall prevail.

Section 3. Any portion or provision of these Guidelines that may be declared invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

Section 4. The CICT may issue separate guidelines on the (a) relationship between the Registry, Registrars and resellers without curtailing competition, (b) conduct of Registrars.

Article XIV. Effectivity

Section 1. These Guidelines shall take effect fifteen (15) days from the date of its publication in a newspaper of general circulation in the Philippines or in the Official Gazette; provided, that at least three (3) copies hereof be filed with the University of the Philippines Law Center.

Sgd.

VIRGILIO L. PEÑA
Chairman