Government of
The Republic
of Vanuatu

A Further Consultation Paper on

Vanuatu Domain Name Management and Administration Regulation

Inviting public comment and input

19 December 2014

Vanuatu Domain Name Management and Administration Regulation

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1 BACKGROUND

TRR has the authority to make arrangements for the proper management and administration of the country code Top Level Domain (ccTLD) name for Vanuatu – that is for .vu ccTLD. Pursuant to its powers under the Telecommunications and Radiocommunications Regulation Act 2009 ("the Act"), Section 7(4)(e), TRR may make regulations for the management and administration of country code top level domain names and domain name registration for Vanuatu. Until TRR makes suitable arrangements, the management of the country code is with Telecom Vanuatu Limited (TVL) in continuation of the role it had as the single operator within Vanuatu, pursuant with its arrangement with International Corporation of Assigned Names and Numbers (ICANN). TRR acknowledges the good work that TVL has done as manager, but in a liberalised and competitive market it is now time for the management function to be fully undertaken by the independent regulator, TRR.

Under guidelines developed by ICANN, a country's ccTLD and its Internet domains names are treated as public resources which must be managed to best serve the community. Organisations and individuals applying for the use of a domain for a period of time (generally one year), are subject to certain technical, legal and policy or regulatory requirements, as are the organisations providing domain registration services to the public.

2 FUTURE MANAGEMENT OF .VU CCTLD

TRR has already consulted on the matter of .vu ccTLD management in October 2012. Very limited feedback was received at that time, and TRR adjudged that the submissions were insufficient to support the implementation of any major ccTLD management changes. However, since then, TRR has conducted its own investigations and been made aware of various views and concerns about expansion of the .vu domain market. TRR has also had the benefit of a number of discussions with TVL, as the current Registry operator, about how management of the ccTLD might develop in future.

TRR has therefore developed a comprehensive draft regulation setting out the roles and responsibilities of the various participants in the domain management process in the future, and of the procedures that shall generally apply. The draft regulation is attached for public consultation at Annex D. A graphic summary of the proposed new .vu ccTLD management structure appears at Annex B, but this is subject to the detail in the draft regulation.

3 BACKGROUND INFORMATION ON DOMAIN NAMES AND SERVICES

Outlined at Annex A is a background brief on domain names, the domain names system (DNS) and structure, and services that are provided by functionaries performing various roles in the management of the system. It is not intended that Annex A be directly subject to consultation, but it may help intending respondents to organise their thoughts.

4 FURTHER INFORMATION

This paper may be read in conjunction with the previous consultation paper http://www.trr.vu/attachments/article/351/vu_cctld_management.pdf particularly in order to understand the roles of various Internet organisations that manage critical internet resources and the different ccTLD structures and operational models that can be adopted.

5 REGULATORY IMPACT ASSESSMENT

TRR considers that the draft Regulation at Annex D provides appropriate arrangements for the management and administration of .vu ccTLD because:

- There are no Vanuatu specific arrangements, in place at present;
- The proposed separation of Registry and Registrar roles is necessary for overall good administration and is clearly provided for;
- The arrangements will facilitate achieving the following benefits and goals:
  - Equitable management and operation of .vu domain names;
  - Promoting .vu domain market growth and optimum utilisation of the .vu Internet name space;
  - Promoting growth and development of ICTs in Vanuatu and addressing "digital divide" problems;
  - Nurturing and extending indigenous Internet expertise and promoting Internet usage and computer literacy;
  - Improved interaction with the wider Internet community through participation in technical and policy fora such as ICANN, WSIS activities, IGF, IETF, Regional Internet Registries (RIRs) e.g. Asia Pacific Network Information Centre (APNIC) and regional top level domain associations e.g. Asia Pacific Top Level Domain;
  - Improved quality, diversity and safety of Vanuatu's Internet infrastructure.
- TRR considers that there are no negative impacts associated with the proposed arrangements;
- There is a need for TRR to assume the management function and it is not appropriate for the Registrar to be a Registry. The current arrangement is potentially anticompetitive and not appropriate for an open competitive environment;
- The .vu ccTLD must be managed as a public resource.

6 CONSULTATION PROCESS

TRR welcomes and invites comments and feedback to this public consultation document and the attached draft Regulation from the public at large.

TRR has set out at Annex C a series of consultation questions that may assist respondents to structure their submissions. It would be appreciated if the submissions that are responding to these questions could refer to the relevant questions being addressed at various stages in their submissions.

Submissions may be structured in any form that is convenient, but TRR requests that specific comments be cross referenced to the relevant part of the draft regulation to assist in the full appreciation of the comments being made. More general comments on the consultation document should be indicated accordingly

In the interests of transparency, TRR will make public all or parts of any submissions made in response to this Consultation Document unless there is a specific request to treat all or part of a response as confidential. If no such request is made, TRR will assume that confidentiality is not being claimed for the submission.

Respondents are requested to clearly mark any information included in their submission that they consider confidential. Reasons should be provided as to why information should be treated as confidential. Where information claimed to be confidential is included in a submission, respondents are required to provide both a confidential and a non-confidential version of their submission. TRR will determine, whether the information claimed to be confidential is to be treated as such, and, if so, will not publish that information. In respect of the information that is determined to be non-confidential, TRR may publish or refrain from publishing such information at its sole discretion.

TRR will accept comments in English, French or Bislama.

If comments are submitted in printed format, they must be submitted on A4 paper accompanied, wherever possible, by a disk or alternative storage device containing the comments in electronic format.

Comments on this consultation document should be provided to TRR via the following means:

> Email address: **enquiries@trr.vu**
> Faxed to (678) 24470
> Posted or hand delivered to:
> **Input – Vanuatu Domain Name Management and Administration Regulation**
> Telecommunications and Radiocommunications Regulator
> P O Box 3547, Port Vila, Vanuatu

The deadline for public Comments is **4pm, Friday 27th February 2015.**

For any phone enquiries regarding this Consultation document, please call the following numbers: (678) 27621 or (678) 27487

7 ANNEX A - OVERVIEW OF THE DOMAIN NAMES, DOMAIN NAME SYSTEM AND SERVICES

A.1 Domain Names

A domain name is the address of a person or an organization on the Internet. Businesses typically register domain names with their company name or sometimes their product names. Individuals often register family names or other names that have personal meaning. For instance the Internet address of TRR is "trr.vu".

Domain names are an important part of the Internet, and as a result so is ccTLD management.

Every device connected to the public Internet has a unique numeric address - similar to the uniqueness of a telephone number - which is a string of numbers that is difficult for most people to remember. This string is called the "IP address." IP stands for "Internet Protocol." For example 180.222.210.79 is the IP address of MyCompany's website.

A.2 Domain Name System (DNS) and Services

Lengthy IP numeric addresses are not easily remembered and so Internet web sites use easy-to-remember domain names linked to the IP addresses. The Domain Name System (DNS) was invented to make it easier to find a given location on the Internet. The DNS translates IP addresses into unique alphanumeric addresses called domain names that are easier for people to remember. A DNS enables you to type www.trr.vu (user understood name) without having to enter a lengthy IP address (numbers), and get to the right website – i.e. MyCompany website. Without this uniqueness, the DNS would be less predictable and reliable. By associating a familiar string of letters which is the domain name, with an IP address, the DNS makes it much easier for Internet users to remember websites and email addresses.

Domain names can also be used to send email. Whether sending business or personal communications, the sender will want to be certain that your message is directed to the intended addressee. Both the domain name and the IP address behind it are unique. The DNS enables email to reach the intended recipient, for example, enquiries@trr.vu and not someone else with a similar domain name.

A domain name can remain unchanged even if a website is moved to a different host computer or server because the DNS can be told to point an existing domain name to a new IP address.

A.3 DNS Structure

In a DNS hierarchy, all Internet domain names can be broadly categorized under the generic Top Level Domain (gTLD), country code Top Level Domain (ccTLD), infrastructure Top Level Domain and Sponsored Top Level Domain.
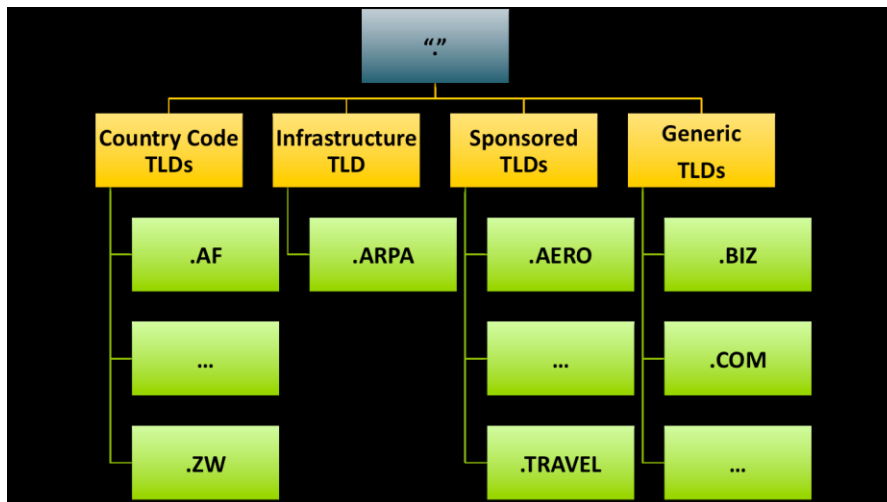
Figure 1 – DNS Structure

Examples of generic top level domains (gTLDs) include .com for commercial entities, .org for non-profit making organisations, .edu for academic institutions, .net for network providers, and .int for international organisations established under accords. An example of an infrastructure TLD is .arpa while .aero or .travel are examples of sponsored TLDs. Only companies accredited by the ICANN may act as registrars and provide registration services for these TLDs.

According to the two-letter codes in the ISO 3166-1 standard "Codes for the Representation of Names of Countries and Their Subdivisions", ccTLDs are assigned to local Internet communities. A ccTLD is a Top Level Domain (TLD) used to uniquely identify a country or territory, for example ".vu" for Vanuatu or ".pg" for Papua New Guinea. The ISO 3166 standard currently lists more than 200 ccTLDs. For each ccTLD, there is a designated registry operator. The ccTLD is also the top umbrella of second-level domains by generic descriptions. In the case of Vanuatu five second-level domains exist, under the .vu namespace and they are **.com.vu**, **.org.vu**, **.net.vu**, **.edu.vu** and **.gov.vu**. At present, TVL is the sole company providing domain registration services under these second-level domains. Generally speaking, ccTLD registry operators or simply known as Registry throughout this document, are entities that are legally and often operationally resident in the concerned country or territory.

5.4   Registry and WHOIS Services

A Registry (see Figure 2) maintains and publishes a list of domain names that have been registered in the DNS. For resilience and robustness, each zone or logical administrative unit in the DNS, is served by more than one name server that are normally distributed in different locations to avoid single points of failure. Updates to the zone are performed on exactly one server known as the master name server (or primary server) and propagated from there to the other servers which are known as slaves (secondary servers). The DNS protocol automatically takes care of synchronization and replication of data between the master name server and the slave name servers for each zone.
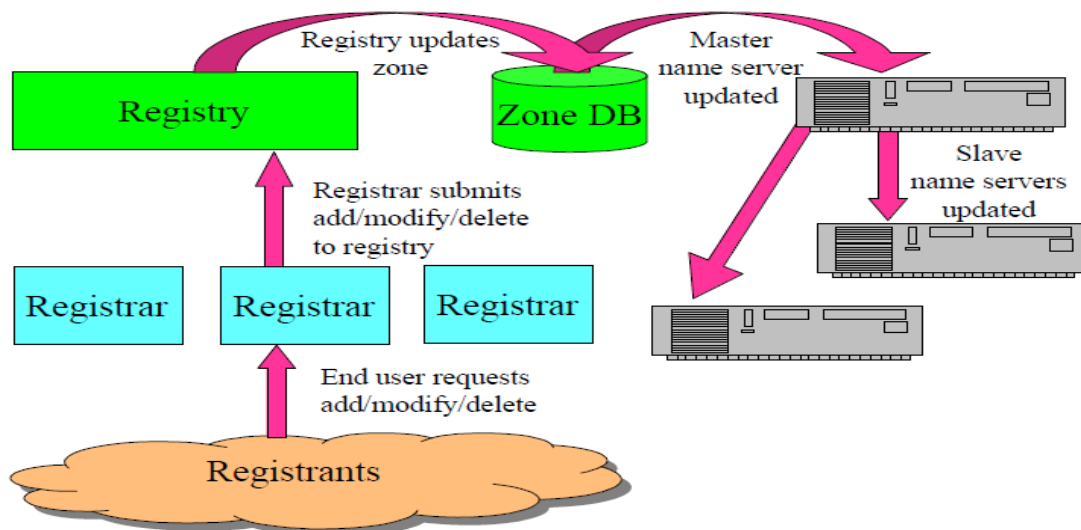
Figure 2 - Data Flow in a Standard ccTLD Registry (source: copyright © 2001, Nominum, Inc.)
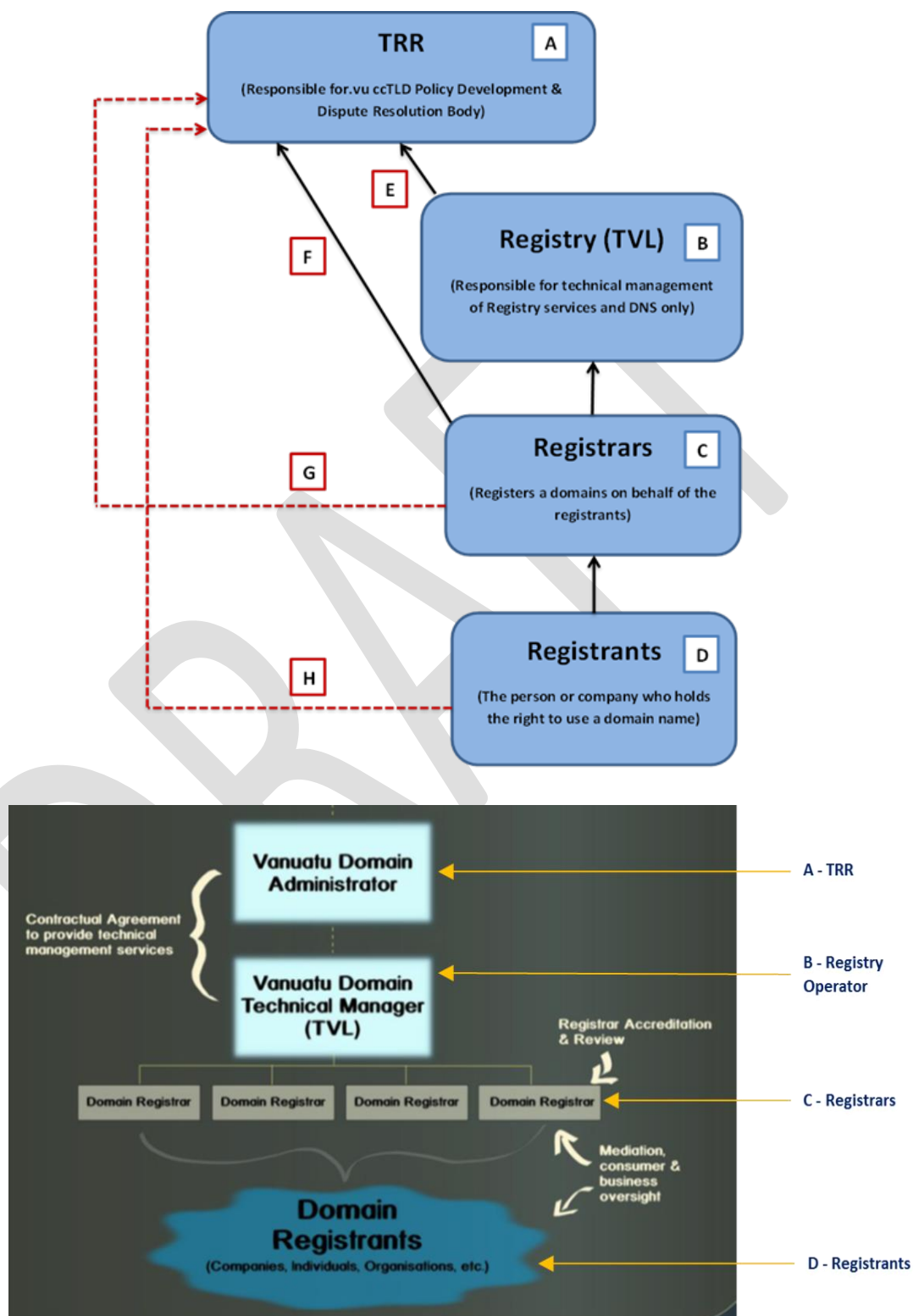
The '**whois'** service is also a critical internet service independent of the DNS. It provides information on:

- the status of domain names such as that pertaining to technical, administrative and billing contact details about the domain name holder;
- which registrar was used;
- when the domain name was registered;
- when it was last updated; and
- the domain's expiry date.

The information displayed by each registry's whois server varies, and depends on factors such as the prevailing national laws for data protection and privacy, contractual obligations and registrant or registrar preferences. TVL provides whois service as part of its registry service through Vanuatu Network Information Center (VUNIC) - http://www.vunic.vu/

Domain name services (DNS) play a critical role and are a significant part of the Internet's basic infrastructure. They provide users with useful, meaningful addresses that make navigating the Internet's vast wealth of information resources possible. Users depend on the data returned from the DNS in order to effectively visit web sites, send email and use other forms of Internet-based communication to contact those who have registered domain names. Without Internet domain services, the Internet would be effectively useless for the majority of its users.

8 ANNEX B - PROPOSED NEW .VU CCTLD MANAGEMENT STRUCTURE – GRAPHIC AND TABULAR SUMMARY

Reference	Description
A	TRR is the Vanuatu Domain Administrator and is responsible for oversight of all .vu ccTLD policy or regulation development and administration in order to ensure the structure and regulatory governance framework works best to suit Vanuatu's needs. TRR will work closely with Office of the Government Chief Information Officer on policy aspects. TRR will select the ccTLD registry, normally via a competitive tender process.
B	The Registry (referred to in the diagrams as Registry or Domain Technical Administrator) is the entity that will provide the underlying infrastructure of systems and procedures for registering domain names. The Registry will operate on the basis of a TRR appointment, and in line with relevant regulations. The Registry will be responsible for operating the register database and the supporting infrastructure of DNS servers, whois system and other DNS services. It will implement the policies and processes in line with the Domain Name Management and Administration Regulation. This will be defined by a formal agreement with TRR. The authoritative record of .vu domains will also be managed and operated by the Registry. TRR would have the authority to introduce changes to registry policy or regulation and have them implemented by the registry operator. Ideally this would be done by a process of consensus and agreement.
C	Registrars are the entities that register domains on behalf of the registrants. Registrars are independent parties who have TRR's approval via an application to perform registrar roles. They will have access to the register database provided by the Registry, and will be subjected to agreement to comply by Registrar and Registry service obligations. Registrars are typically Internet Service Providers (ISPs) or companies that offer other services such as web and mail hosting. Registrars interact with the registry which maintains a database of registered domain names. This database is used to populate the registry's Domain Name System (DNS) and whois servers.
D	Registrants (also known as end users or domain users) are the individuals or organisations/companies who hold the right to use a domain name. A registrant will generally have a business relationship with a registrar to register domain names on their behalf. No direct communication will occur between Registrants and the Registry in the first instance. The Registrar contacts the Registry on behalf of the Registrant.

E	This represents communication and reporting line of the Registry to TRR. TRR must approve of the Registry operator and sign an Agreement with the Registry operator, before it is able to provide Registry and technical administration services.
F	This represents communication and reporting line of the Registrar to TRR. TRR must approve of the Registrar operator and sign an Agreement with the Registrar operator, before it is able to provide Registrar services.
G and H	These represent communication and reporting lines during a dispute and resolution situation. If a party believes its concerns had not been addressed satisfactorily by the party it has a direct relationship to, the case may be escalated to TRR. No direct dispute communication will occur between TRR and the Registrars, or the Registrants in the first instance. Communication line in 'F' must be followed before an escalation occurs.

9 ANNEX C - CONSULTATION QUESTIONS

1. Do you agree with the proposed new ccTLD Structure and regulatory framework, and why/why not?

2. If not, what kind of .vu ccTLD Structure and regulatory framework would you like to see implemented instead?

3. What are the risks, if any, of TRR's preferred Structure and approach?

4. Do you agree that the .vu resource be managed as a public resource? State your reasons for agreeing or disagreeing.

5. Do you agree that the 'Registrar' service be opened to competition which means there will be more than one Registrar in Vanuatu? State your reasons for agreeing or disagreeing.

6. Should the Registry and Registrar roles be separated? State your reasons for agreeing or disagreeing.

7. Do you think opening up the Registrar market to competition would assist other ISPs to offer domain name registration services to supplement their usual portfolio of Internet connectivity, email and web hosting services?

8. Do you have any comments on specific provisions in the draft Regulations at Annex D? Please cite the number of the section concerned when making comments.

9. Has TRR covered all relevant aspects in the draft Regulation? If not, please outline additional provisions that should be included.

10 ANNEX D - DRAFT VANUATU DOMAIN NAME MANAGEMENT AND ADMINISTRATION REGULATION

The draft Regulation commences on the next page.

REPUBLIC OF VANUATU

TELECOMMUNICATIONS AND RADIOCOMMUNICATIONS REGULATIONS ACT NO. 30 OF 2009

Vanuatu Domain Name Management and Administration Regulation

In exercise of the powers conferred on me by section 7(4)(e) of the Telecommunications and Radiocommunications Regulation Act No. 30 of 2009 ("the Act"), and with the approval of the Minister pursuant to section 7(3) of the Act, I, **RONALD BOX**, **the Telecommunications and Radiocommunications Regulator ("the Regulator")**, make the following Regulation.

Made at Port Vila this [xx] day of [month year]

………………………………………
Ronald Box
Telecommunications and Radiocommunications Regulator

PART I – PRELIMINARY

1   Short title

This Regulation may be cited as Vanuatu Domain Name Management and Administration Regulation.

2   Commencement

This Regulation shall come into force on the date it is published in the official Gazette.

3   Definitions

Subject to sub-section (2), unless the context otherwise requires, terms used in this Regulation have the same meaning as in the Telecommunications and Radiocommunications Regulation Act No. 30 of 2009.

Unless the context requires otherwise:

"ccTLD" means Country Code Top Level Domain

"**Country Code Top Level Domain**" means a domain in the top-level of the global Domain Name System assigned according to a two-letter code based on the ISO 3166-1 standard 'Codes for the Representation of Names of Countries and Their Subdivisions;

"**Delegation**" means the process by which ICANN/IANA assigns responsibility for administration of a Top-Level Domain in the Domain Name System root;

"DNS" means Domain Name System;

"DNS root zone" means the top-level DNS zone in the Domain Name System managed by ICANN

"DNS service" means a service for entering registration information about a .vu Domain Name into the name servers of the Registry Operator;

"DNS zone" means a distinct, contiguous portion of the Domain Name space in the Domain Name System for which administrative responsibility has been Delegated to a single manager;

"domain" means a subset of a Domain Name System hierarchy used to group and identify a specific set of internet resource records typically common to or under the control of a particular entity;

"**domain name**" means a sequence of characters that defines an address of a realm of administrative autonomy, authority or control in the internet and which can be resolved by the Domain Name System into the numeric Internet Protocol Address used by the internet;

"domain name system" means the hierarchical system of Domain Names that are associated with Internet Protocol Addresses for use within the internet;

"EPP" means extensible provisioning protocol;

"EPP Service" means the Extensible Provisioning Protocol Service provided by a Registry Operator to enable multiple Registrars to administer Domain Name information;

"extensible provisioning protocol" means the protocols developed by the Internet Engineering Task Force and used to provide a method of communications between Registries and Registrars;

"Fourth-Level Domain" means the alphabetic string before the dot in the Third-Level Domain, as identified in Schedule 1;

"IANA" means the Internet Assigned Numbers Authority, a department of ICANN;

"ICANN" means the Internet Corporation for Assigned Names and Numbers, a not-for-profit organisation incorporated in the United States of America;

"IP" means Internet Protocol;

"internet protocol address" means the numerical label by which a location in the internet is identified by computers using the Internet Protocol suite;

"moderation means the process by which the eligibility of a person seeking to register a .vu Domain Name within certain Second-Level Domains is scrutinised prior to the registration;

"name server" means a computer that has both the software and the Zone Data needed to resolve Domain Names to Internet Protocol Addresses.

"personal data" refers to data about any identified or identifiable natural person;

"**re-delegation**" means the process by which ICANN/IANA changes its assignment of responsibility for the administration of a Top-Level Domain in the Domain Name System root zone;

"registrant" means the person who holds the right to use a specific .vu Domain Name for a specified period of time;

"registrar" refers to a person or entity that contracts with a Registrant and with the Registry Operator and collects registration data about the Registrant and submits registration information for entry in the Registry and who has been accredited by the Regulator for this purpose;

"registrar agreement" refers to the agreement executed between the Registry operator and a Registrar for the provision of Registry Services;

"registration services" means services provided by a Registrar to a Registrant in connection with a .vu Domain Name and includes collecting registration data about the Registrant and submitting registration information for entry in the Registry;

"registry" means a database administered by the Registry Operator comprised of data about one or more .vu Domain Names within the .vu ccTLD that is used to generate authoritative DNS resource records or responses to Domain Name available lookup requests or Whois queries for some or all of those .vu Domain Names;

"registry operator" means the entity that has the exclusive responsibly to maintain the Registry and to provide Registry Services in relation to the Second-Level Domains in the .vu ccTLD;

"registry services" means the services supplied by a Registry Operator to a Registrar and includes the EPP Service, the WHOIS Service, and the DNS service, and other services offered by the Registry Operator;

"resolve" the process by which Domain Names are used in the Domain Name System to determine the Internet Protocol address that corresponds to a particular Domain Name;

"second level domain" means the alphanumeric string before the dot in front of the .vu Top-Level Domain in the .vu ccTLD, as identified in Schedule 1;

"shared registry system" means the process and system by which a single Registry is maintained for the restriction of Domain Names and associated technical and administrative information by multiple Registrars;

"third-level domain" means the alphabetic string before the dot of the Second-Level Domain, as identified in Schedule 1;

"Vanuatu internet community" refers to the internet industry, internet users, government and other public authorities in Vanuatu;

".vu ccTLD" means the country code Top-Level Domain that is the area of the Domain Name System administered by Vanuatu;

".vu" means the univocal label country code Top-Level Domain assigned to identify Vanuatu as a nation in the Domain Name System;

".vu Domain Name" means a Domain Name within the .vu ccTLD;

".vu ccTLD Management Contract" means an agreement between the Registry Operator and the Regulator relating to the management of the Registry in the public interest;

"WHOIS" refers to a protocol used to query a Registry for information about Domain Name registrations;

"WHOIS data" means the data and information fields in a Registry that may be queried using a WHOIS service;

"WHOIS service" means a method made available to the public by the Registry Operator whereby an enquirer can query the Registry database to determine certain information relating to a .vu Domain Name;

"Zone data" means a list of the .vu Domain Names that are registered in the .vu ccTLD DNS zone, the names of name servers, the Internet Protocol Addresses of the Name services and certain other technical information.

PART II – STRUCTURE OF THE .vu ccTLD

4   Second-Level Domains

(1)   The Second-Level Domains of the .vu Top-Level Domain are specified in Schedule 2.

(2)   The Regulator may, by amendment to Schedule 2, specify additional Second-Level Domains where:

(a) The Second-Level Domain represents a significant and identifiable community of interest in Vanuatu; and

(b) the community is well-established and on-going and not ephemeral; and

(c) the name used to represent the Second-Level Domain is an obvious derivative of a word that properly describes the community of interest; and

(d) the Second-Level Domain does not conflict with, duplicate or cause confusion about, any existing Second-Level Domain and is a useful addition to the current Domain Name System hierarchy; and

(e) the action would not bring the .vu Top-Level Domain into disrepute; and

(f) the proposed amendment is supported by the Registry Operator.

(3) The Regulator shall not remove or amend a Second-Level Domain specified in Schedule 2 unless:

(a) the Regulator has conducted a public consultation with the Vanuatu Internet Community on the proposed removal or amendment that explains the proposal and its potential implications for Registrants;

(b) the public consultation period ran for a period of at least 120 days;

(c) the overwhelming majority of participants in the public consultation process support the proposed removal or amendment; and

(d) the proposed removal or amendment is supported by the Registry Operator.

5 Third-Level Domains

(1) A Third-Level Domain may only contain the following thirty-seven characters or a combination thereof:

(a) the twenty-six unaccented Roman letters;

(b) the ten western digits; and

(c) hyphens.

NOTE: This means that the permitted characters are a–z inclusive, 0–9 inclusive, and the hyphen "-".

(2) The first or last characters of a Third-Level Domain may not be a hyphen.

(3) The first four characters of a Third-Level Domain may not be "xn--".

(4) The characters corresponding to a Second-Level Domain specified in Schedule 2 may not be used as a Third-Level Domain.

NOTE: This means that "com", "org", "net", "edu" and "gov" may not be registered as a Third-Level Domain.

6 Domain Names

(1) A .vu Domain Name may not be longer than sixty-four characters in length, including the Third-Level Domain, the Second-Level Domain and the .vu Top Level Domain.

(2) A .vu Domain Name is not case sensitive.

> NOTE: This means, for example, that the Domain Names example.com.vu and EXAMPLE.com.vu cannot be separately registered.

(3) A .vu Domain Name may be registered either at the Second-Level Domain or within a particular Second-Level Domain.

> NOTE: The Domain Name trr.vu is an example of a Domain Name that is registered at the Second-Level Domain. The Domain Name vanuatu.gov.vu is an example of a Domain Name that is registered within the .gov Second-Level Domain.

7 Moderated Domain Names

(1) The registration of a Second-Level Domain that is specified in Schedule 3 shall be limited to a particular class of Registrant, as specified in Schedule 3.

(2) An application to register a Second-Level Domain that is specified in Schedule 3 shall be moderated by the Registry Operator prior to acceptance to ensure that the person requesting registration is eligible to register a .vu Domain Name within that Second-Level Domain.

PART III – ROLES AND FUNCTIONS OF THE REGULATOR

8 The role of the Regulator in the management of the .vu Top-Level Domain

(1) The functions of the Regulator in relation to the management and administration of the.vu Top-Level Domain and its sub-domains are:

(a) to select and designate the Registry Operator;

(b) to request ICANN to make a Delegation or Re-Delegation of the .vu Top-Level Domain;

(c) to accredit Registrars and, where appropriate, withdraw that accreditation;

(d) to determine the arrangements under which the Registry Operator and Registrars will manage and administer the .vu Top-Level Domain and its sub-domains;

(e) to monitor the performance of the Registry Operator and Registrars to ensure the operational stability and utility of the .vu Top-Level Domain and, more generally, the Internet's unique identifier system;

(f) to ensure that Registrars have equal access to Registry Services supplied by the Registry Operator;

(g) to promote competition, fair trading and consumer protection in the supply of Registration Services;

(h) to represent, in conjunction with the Registry Operator, the .vu Top-Level Domain at ICANN and other international forums;

(i) to ensure that Registrars establish and apply appropriate complaint handling and dispute resolution processes to address grievances relating to the registration and administration of .vu Domain Names;

(j) to ensure that the management and administration of the .vu Top-Level Domain and its sub-domains is responsive to the needs of the Vanuatu Internet community, including by creating or modifying Second-Level Domains; and

(k) to perform such other functions as are necessary to ensure the effective management and administration of the .vu Top-Level Domain by the Registry Operator and Registrars.

9 Determination of management and administration arrangements

(1) The Regulator may, by written determination given to the Registry Operator, request the Registry Operator to:

(a) develop or amend, in consultation with Registrars, written processes and procedures relating to the management and administration of the .vu Top-Level Domain and its sub-domains;

(b) develop or amend, in consultation with Registrars, guidelines or rules that deal with one or more specified matters relating to the management and administration of the .vu Top-Level Domain and its sub-domains;

(c) revise or amend the Registrar Agreement.

(2) A written determination under subsection (1) may:

(a) specify outcomes that the Registry Operator must try to achieve or prevent;

(b) specify that a particular matter be addressed in a particular manner;

(c) require the Registry Operator to give the Regulator a draft version of any guidelines or rules that the Registry Operator is requested to develop or amend:

(1) within a specified period; and

(ii) for the Regulator to review and approve prior to finalisation.

(3) A period specified in a written determination under subsection (2) must run for at least 60 days.

(4) In making a determination under this section, the Regulator must have regard to the following:

(a) The objective that the .vu Top-Level Domain be managed and administered as a public resource on a not-for-profit basis and in the public interest;

(b) The objective that the registration of Domain Names in the .vu Top-Level Domain benefit from effective and fair competition as far as practicable;

(c) The objective that the Registry Operator establish and maintain rules and practices relating to the behaviour of Registrars and administer the .vu Top-Level Domain in the interests of the Vanuatu Internet Community;

(5) Subsection (4) does not by implication limit the matters to which the Regulator may have regard.

(6)   A written determination made under this section:

(a)   must not have retrospective effect; and

(b)   is a decision of the Regulator for the purposes of Part 10 of the Act.

10   Examples of matters that may be dealt with by a determination

(1)   This section sets out examples of matters that may be dealt with by the Regulator in a written determination under section 9.

(2)   The examples are as follows:

(a)   the operation of the Registry by the Registry Operator, including the registration, management, cancellation and transfer of Domain Names and the process by which Registrars may connect to the Registry;

(b)   access by Registrars to the Registry;

(c)   the registration of Domain Names at or within a Second-Level Domain;

(d)   the dispute resolution and complaint handling processes of Registrars or the Registry Operator;

(e)   the procedures to be followed to prevent .vu Domain Names impinging on intellectual property rights;

(f)   the procedures to be followed by Registrars in the registration, management or cancellation of Domain Names, including the process by which a Registrar may facilitate the transfer of a Domain Name from one Registrant to another Registrant;

(g)   telling consumers about:

(i)   Registration Services on offer;

(ii)   the prices of Registration Services;

(iii)   the other terms and conditions on which Registration Services are offered; or

(iv)   the availability and use of .vu Domain Names;

(h)   the promotion or marketing of the .vu Top-Level Domain and its sub-domains;

(i)   restrictions on the use of certain types of words or terms in Third-Level Domains, such as subnational place names listed in ISO 3166-2 or obscenities;

(j)   the Moderation of the Third-Level Domains specified in Schedule 3;

(k)   the creation and administration of Fourth-Level Domains;

(l)   the privacy and authorised disclosure of the personal information supplied by a Registrant, including in relation to the supply of a WHOIS Service and the disclosure of Zone Data by the Registry Operator to parties not directly involved in the management of the .vu ccTLD;

(m)   limits on the number of .vu Domain Names that may be registered by any one Registrant.

11   Public consultation

(1)   Before making a determination under section 9, the Regulator must:

(a)   prepare and publish a discussion paper that:

(i)   Identifies the issues that, in the Regulator's opinion, are relevant to that matter; and

(ii)   Sets out such background material about, and discussion of, those issues as the Regulator thinks appropriate; and

(iii)   Includes a copy of a draft determination; and

(b)   cause to be published in a national newspaper a notice:

(i)   stating that the Regulator is proposing to make a determination under section 9;

(ii)   giving a short summary of the purpose and effect of the draft determination;

(iii)   stating that free copies of the draft determination will be made available to members of the public throughout the period specified in the notice; and

(iv)   identifying the period within which, and the from in which, members of the public may make submissions to the Regulator about the matter.

(2)   The period specified in subsection (1) must run for at least 60 days after the publication of the notice.

(3)   If interested parties have given comments in accordance with a notice under subsection (1), the Regulator must have due regard to those comments in making, or not making, the determination.

12   Registry Operator must comply

A Registry Operator on whom a requirement is imposed by a determination in force under section 9 must comply with the determination.

13 Register of determinations

The Regulator shall publish a copy of all determinations made under section 9 in the public register it maintains for the purposes of section 10 of the Act.

PART IV – THE REGISTRY OPERATOR

14 Process to select the designated Registry Operator

(1)   The Regulator shall develop and carry out a competitive selection process in order to select a person to be the Registry Operator.

(2)   The Regulator shall ensure that the publicity for a competition selection process under subsection (1) is sufficient to notify a reasonable pool of potential bidders in advance of the implementation of the process.

(3)   In implementing the completive selection process, the Regulator shall issue a request for proposals that specifies the details of the Registry Operator role and the related selection process for potential bidders.

(4)   The Regulator shall ensure that a request for proposals issued under subsection (3) sets out:

    (a)   a detailed description of the services to be provided, quality of service obligations, and the operational and security requirements;

    (b)   the competitive selection process including:

        (i)   an estimated timeline for the key steps in the competitive selection process; and

        (ii)   the minimum qualifications and other requirements for eligible bidders and the related evidentiary requirements; and

        (iii)   the selection and evaluation criteria for evaluating proposals and selecting the winning proposal; and

        (iv)   the form of the .vu ccTLD Management Contract to be executed with the Regulator.

(5)   The Regulator shall include in the qualification criteria and other requirements for eligible bidders, at a minimum, that the bidder should demonstrate or provide evidence , including appropriate statements of intent where appropriate, that it:

    (a)   is a company, association or incorporated society legally registered to operate in Vanuatu, or other body established under a law of the Republic of Vanuatu, that has capacity to enter into a contract;

    (b)   has the financial capacity sufficient to establish and operate the Registry;

    (c)   has the technical and administrative competency to establish, operate, manage and administer the Registry;

    (d)   will manage and administer the .vu Top-Level Domain in the interests of the Vanuatu Internet Community and also the global Internet community;

    (e)   will operate the Registry on a not-for-profit basis;

    (f)   has an appropriate and realistic business plan;

    (g)   will establish and maintain the Registry in the Republic of Vanuatu; and

    (h)   will conduct itself and manage the Registry in a manner that is consistent with the laws of the Republic of Vanuatu, this Regulation and all relevant determinations, orders and decisions of the Regulator.

15   Designation of the Registry Operator

(1)   If, following the conduct of a competitive selection process under section 14, the Regulator identifies a suitable and competent person to be the Registry Operator, the Regulator shall, by written determination made by the Regulator for the purposes of this section, designate that person as the Registry Operator.

(2)   A designation made under subsection (1) shall remain in effect until it is revoked by the Regulator under section 21.

(3)   The Regulator shall inform ICANN that the designed Registry Operator is the person endorsed by the Government of the Republic of Vanuatu's to hold ICANN's delegation of responsibility for the administration of the .vu Top-Level Domain in the Domain Name System root.

(4)   The Regulator is not bound to designate any person to be the Registry Operator following the completion of a competitive selection process under section 14.

16   Designation of the interim Registry Operator

(1)   Until such time as the Regulator makes a written determination under section 15, Telecom Vanuatu Limited shall be the designed Registry Operator.

(2)   Any actual or claimed intellectual property rights acquired by Telecom Vanuatu Limited as a consequence of its management, administration or marketing of the .vu Top-Level Domain shall not be exercised in any way that impedes:

(a)   the designation of a Registry Operator by the Regulator under section 15;

(b)   a Re-Delegation; or

(c)   the transfer of the records that make up the Registry to a Registry Operator designated under section 15.

17   .vu ccTLD Management Contract

(1)   A person designated as the Registry Operator under section 15 shall execute a .vu ccTLD Management Contract with the Regulator.

(2)   A person designated as the Interim Registry Operator under section 15 shall execute a .vu ccTLD Management Contract with the Regulator.

(3)   A .vu ccTLD Management Contract must, at a minimum, incorporate the following provisions:

(a)   the term of the agreement, performance clauses, and the processes for review and revocation;

(b)   a recognition by the Registry Operator that the management and administration of the .vu Top-Level Domain are subject to the ultimate authority of the Republic of Vanuatu;

(c)   a commitment by the Registry Operator to manage the .vu Top Level Domain in the interests of the Vanuatu Internet Community and the global internet community;

(d)   a commitment by the Registry Operator to abide by policies developed by ICANN and to ensure the payment of its contribution to ICANN's cost of operation;

(e)   a commitment by the Registry Operator to work cooperatively with the Regulator to ensure the effective management and administration of .vu Domain Names;

(f)   conditions to ensure that the Registry Operator supplies Registry Services to Registrars in accordance with a Registrar Agreement approved by the Regulator under section 19;

(g)   conditions for the efficient and effective resolution of disputes arising from the registration of .vu Domain Names;

(h)   conditions to ensure that the Registry Operator, and the Registry Operator's administrative contact, are resident in the Republic of Vanuatu;

(i)   a commitment by the Registry Operator to comply with all relevant laws, regulations and decisions of the Regulator;

(j)   a recognition by the Registry Operator that it shall not accrue any private intellectual property or other property rights as a result of the management, administration or marketing of the .vu Top-Level Domain;

(k)   conditions to ensure that the Registry Operator does not supply Registration Services; and

(l)   conditions to ensure that, if there is to be a Re-Delegation of the .vu Top-Level Domain from the Registry Operator to another party, the Registry Operator cooperates and complies with the requirements of the Regulator and ICANN to effect the transfer of the Registry functions and the Re-Delegation.

(4)   The Regulator shall give a copy of the executed .vu ccTLD Management Contract to ICANN.

18   Role and functions of the Registry Operator

(1)   The Registry Operator shall be the trustee of the .vu Top-Level Domain and its sub-domains.

(2)   The Registry Operator shall be responsible for:

(a)   establishing, operating, maintaining and controlling the Registry and managing the .vu Top-Level Domain under a Shared Registry System;

(b)   supplying Registry Services to Registrars;

(c)   developing, in consultation with the Vanuatu Internet Community, rules, guidelines and procedures that ensure the effective management and administration of .vu Domain Names in the public interest;

(d)   moderating requests for the registration of a Second-Level Domain that is specified in Schedule 3; and

(e)   such other duties that the Vanuatu Internet Community believes a modern, neutral and not-for-profit Registry Operator should perform.

(3)   The Registry Operator has the management authority for all of the Second-Level Domains specified in Schedule 2.

(4)   Subject to subsection (5), the Registry Operator may not sub-contract or delegate the technical operations or the administrative and management functions of the Registry.

(5) The Registry Operator may delegate responsibility for the Moderation of a Second-Level Domain specified in Schedule 3 to a recognised body or organisation associated with the community of interest to which the Second-Level Domain relates with the prior written consent of the Regulator, which consent may be made subject to such terms and conditions as the Regulator may decide.

(6) The Registry Operator shall not be a Registrar at the same time.

19 Registrar Agreement

(1) The Registry Operator shall supply Registry Services to Registrars in accordance with a Registrar Agreement that has been approved by the Regulator.

(2) The Registry Operator shall prepare a draft Registrar Agreement that sets out:

(a) the obligations and responsibilities of a Registrar that wishes to connect to and access the Registry; and

(b) the terms and conditions under which the Registry Operator shall supply Registry Services to the Registrar.

(3) The Registry Operator shall give the draft Registrar Agreement to the Regulator for its approval.

(4) After considering the draft Registrar Agreement, the Regulator shall

(a) approve the agreement; or

(b) reject the agreement; or

(c) request the Registry Operator to make specific changes to the agreement and resubmit it to the Regulator for consideration and approval under subsection (3).

(5) The Regulator shall not approve a draft Registrar Agreement unless the Regulator is satisfied that the agreement:

(a) contains terms that are reasonable;

(b) contains terms that constitute the whole of the agreement; and

(c) does not create any discretions in favour of either party without specification of the criteria that shall apply to their exercise.

(6) The Registry Operator may propose variations to an approved Registrar Agreement by submitting a draft agreement incorporating the proposed amendments to the Regulator for its consideration and approval under subsection (3)

(7) The Registry Operator must give the Regulator a draft Registrar Agreement within 30 days of being designated:

(a) the Registry Operator under section 15; or

(b) the interim Registry Operator under section 16.

20   Registry Operator to make rules about the administration of.vu Domain Names

(1)   The Registry Operator shall make rules to govern matters relating to the registration and use of .vu Domain Names.

(2)   The rules mentioned in subsection (1) must be:

(a)   consistent with the Act and this Regulation;

(b)   consistent with any determinations issued by the Regulator under section 9;

(3)   The Registry Operator shall not make any rules under subsection (1) unless it has first:

(a)   consulted with the Regulator;

(b)   published a draft version of the rules on its website;

(c)   engaged in a public consultation with the Vanuatu Internet Community on the substance and effects of the proposed rules over a period of at least 30 days;

(d)   published on its website copies of any written comments received during the consultation period; and

(e)   considered any submissions that were received during the consultation period and the views of the Regulator.

(4)   Rules made by the Registry Operator under subsection (1) shall not impose any obligations or conditions on the Regulator.

(5)   For the avoidance of doubt, where there is any inconsistency between rules made by the Registry Operator under subsection (1) and a determination made by the Regulator under section 9, the determination shall take precedence.

21   Revocation of the designation of a Registry Operator

(1)   The Regulator may revoke the designation of a Registry Operator where:

(a)   the Registry Operator has been declared bankrupt, is being wound-up pursuant to the Companies Act (Cap.191) or has had a liquidator appointed;

(b)   the Registry Operator has been found guilty of a crime in a court in the Republic of Vanuatu or in any other jurisdiction; or

(c)   the Registry Operator has failed to comply with the obligations imposed by:

(i)   this Regulation;

(ii)   a determination made by the Regulator under section 9; or

(iii)   the .vu ccTLD Management Contract; and

the failure is considered to be serious or ongoing, or both, as determined by the Regulator.

PART V – REGISTRARS

22   Accreditation of Registrars

(1)   A person may apply to the Regulator for accreditation as a Registrar of .vu Domain Names.

(2)   An application for accreditation must:

   (a)   be in written form;

   (b)   be in the form specified by the Regulator;

   (c)   contain the particulars of the applicant;

   (d)   be accompanied by the non-refundable application fee, as specified by the Regulator from time to time; and

   (e)   provide evidence that the applicant:

      (i)   is a legal entity with capacity to enter into a contract;

      (ii)   has access to, and will continue to have the appropriate standard of, technical skills and knowledge to be a Registrar;

      (iii)   has stable financial resources;

      (iv)   has, and will continue to have, the customer support services, including billing capability, to meet its responsibilities to Registrants.

      (v)   has, and will continue to have, the capability to interact with the Registry in accordance with the technical specification of the Registry Operator.

      (vi)   has a sufficient number of qualified staff, and adequate systems and procedures, to handle customer billing, customer enquiries and support services, and customer complaints;

      (vii)   has adequate capability for maintaining electronic copies of all transactions, correspondence and communications with the Registry Operator and Registrants for at least the length of the Registrar Agreement;

      (viii)   has adequate capability for providing information systems security procedures to prevent systems hacks, break-ins, data tampering and other disruptions to its business.

(3)   The Regulator shall process applications for accreditation in the order in which they are received.

(4)   The Regulator shall endeavour to process an application for accreditation within 30 days of receipt of the application under subsection (3).

(5)   There shall be no limit to the number of Registrars that the Regulator may accredit.

23   Obligations and responsibilities of a Registrar

(1)   A Registrar shall:

(a)   contribute to the maintenance of the integrity of the Registry;

(b)   establish and maintain procedures and capabilities to register, de-register, cancel and transfer a .vu Domain Name;

(c)   comply with any rules made by the Registry Operator under section 20;

(d)   ensure that its employees are trained on and informed of all of the Registrar's obligations under:

(i)   this Regulation;

(ii)   the Registrar Agreement; and

(iii)   any rules made by the Registry Operator under section 20;

(e)   establish a dispute and complaint resolution process that is:

(i)   consistent with any rules made by the Registry Operator under section 20; and

(ii)   clearly publicised and readily available to Registrants.

(2)   A Registrar may only seek to register a .vu Domain Name at the request of a Registrant, unless the Domain Name is for the Registrar's own use.

(3)   A Registrar shall not undertake any action or engage in any conduct that has the consequence or effect of preventing the legitimate registration of a .vu Domain Name.

(4)   A Registrar shall comply with such additional obligations, and fulfil such additional responsibilities, as may be set out in:

(a)   the Registrar Agreement;

(b)   rules made by the Registry Operator under section 20; or

(c)   a decision or order made by the Regulator under the Act.

24   Terms and conditions for the supply of Registration Services

(1)   A Registrar shall supply Registration Services to a Registrant on terms and conditions that:

(a)   are consistent with this Regulation; and

(b)   are consistent with any rules made by the Registry Operator under section 20.

(2)   The terms and conditions mentioned in subsection (1) must, at a minimum, incorporate the following provisions:

(a)   the period for which the .vu Domain Name shall be registered;

(b)   a recognition that by applying to register a .vu Domain Name the Registrant commits to being bound by the Registrar's complain handling and dispute resolution procedures;

(c)   a commitment by the Registrant to notify the Registrar promptly of any changes or corrections to the Registrant's personal information that is included in the Registry;

(d)   conditions that require the Registrant to notify the Registrar promptly of any court proceedings that involve the domain name;

(e)   a recognition that by applying to register a .vu Domain Name the Registrant consents to the Registrant's personal information being recorded and held on the Register;

(f)   an undertaking that by applying to register or using a .vu Domain Name the Registrant will not infringe the intellectual property rights of any person;

(g)   a commitment by the Registrant shall not use the .vu Domain Name for any unlawful purpose.

25   Revocation of the accreditation of a Registrar

(1)   The Regulator may revoke the accreditation of a Registrar in the following circumstances:

(a)   the Registrar has been declared bankrupt, is being wound-up pursuant to the Companies Act (Cap.191) or has had a liquidator appointed;

(b)   the Registrar has been found guilty of a crime in a court in the Republic of Vanuatu or in any other jurisdiction; or

(c)   the Registrar has failed to comply with the obligations imposed by:

(i)   this Regulation; or

(ii)   the Registrar Agreement; and

the failure is considered to be serious or ongoing, or both, as determined by the Regulator; or

(d)   the Registrar has not:

(i)   entered into a Registrar Agreement with the Registry Operator; and

(ii)   connected to the Shared Registry System;

within six months of the date of accreditation.

Schedule 1: Domain Name Hierarchy

www	.fourth	.example	.com	.vu
Host name	Forth-Level Domain, a subdomain of .example	Third-Level Domain, a subdomain of .com	Second-Level Domain, a subdomain of '.vu'	Top-level domain (TLD), specifically a Country Code Top-Level Domain (ccTLD).

Schedule 2: Listed Second-Level Domains

Second Level Domain	Purpose
.com.vu	For organisations and individuals involved in commercial activities.
.org.vu	For charities and non-profit organisations.
.net.vu	For organisations and individuals involved in the establishment and provision of network and online services.
.edu.vu	For registered educational institutions.
.gov.vu	For central and local-level Government agencies and organisations operating with statutory powers.

Schedule 3: Moderated Second-Level Domains

Second Level Domain	Persons eligible to apply to register a Domain Name
.edu.vu	A registered educational institution.
.gov.vu	A central and local-level Government agency or an organisation operating with statutory powers.