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Telecom Vanuatu Ltd

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9th April 2015

Mr. Ronald Box
Telecommunications and Radiocommunications Regulator
PO Box 3547
Port Vila



Dear Sir,

Re: TVL Response to the TRR's Public Consultation of 19th December 2014 on 'Vanuatu Domain Name Management and Administration Regulation.

Please find attach our Responses on the above.

Yours sincerely

Prakash BHEEKHOO
Chief Executive Officer





TVL Response to the TRR's Public Consultation of 19th December 2014 on 'Vanuatu Domain Name Management and Administration Regulation.'

Purpose

This paper has been prepared by TVL to provide comments and input on TRR's public consultation of 19th December 2014 on 'Vanuatu Domain Name Management and Administration Regulation' in view of establishing an appropriate ccTLD model for the administration and management of the .vu.

As per the meeting dated 25th March 2015 between TVL and TRR and TRR's public consultation of 19th December 2014, our comments will focus mainly on the different functions currently performed by TVL:

- Administration and management of the ccTLD
- Registry - Technical Management
 - Administrative Management
- Registrar

TVL takes note of TRR comments in the briefing Paper and TVL's responds to the TRR's comments is dealt with in Annexure A attach to this document.

Background

TVL has been administrating and managing the .vu since 1995 following delegation by ICANN. TVL also undertakes the two function role of the Registry: administrator and technical manager of .vu and as well as the Registrar.

Administration and Management of the ccTLD

TRR itself acknowledges the good work that TVL has done as ccTLD manager and affirms that TVL has met the strict requirements even in cases of natural disasters. TVL has no objection to a re-delegation of the .vu in the interest





of the Country subject to discussion on certain specific issues to be dealt at higher level and/or with TRR.

Registry

(a) Technical

Under the current practice, TVL is responsible for the technical management of the Registry. The technical functions of the registry include:

- Hosting & Management of DNS Security
- provision of bandwidth
- DNS server must be resilient
- maintenance of servers
- Interfacing with Registrars & other stakeholders

TVL has deployed DNSSEC technology on its DNS platform in 2014. Service availability is 99.9 %. Moreover TVL has a redundancy plan i.e. 7 servers whereby 6 servers are located in Vanuatu and 1 server is overseas

The costs involved in operating the technical management of the Registry by TVL include the following:

- Technical & Human Resources costs
- Operational Costs
- Cost of local & international bandwidth.

If TVL continues to maintain the function of technical management of the Registry, then TRR will have to finance the technical side of the Registry.

TVL has already invested around USD\$15,000 on technical infrastructure and overheads. In order to ensure the smooth and continuous operation, TVL will require additional investment from the TRR, mainly:

- upgrade of technical infrastructure in the sum of US\$30,000 (once off CAPEX for HW and SW)
- operating cost of US\$2,500/monthly
- bandwidth of 3 Mbps (US\$1,500)/ monthly
- Maintenance & support US\$1,800/ monthly



If TRR decides to take over the Registry technical, then TVL will have to be compensated for maintenance cost and for all investment made in the technical management of the Registry.

(b) Administrative

TVL has implemented the VUNIC's platform and is compliant with all guidelines and policies of ICANN. The policies are accessible to all parties operating in the .vu domain name space and cover important administration aspects.

As the guidelines and policies issued by TVL are publicly available, the domain names services are competitive and equitable to all users.

Registrar

Being the Registrar as well, TVL has to register domains on behalf of Registrants and maintain the integrity of the Registry. TVL Tariff is a very competitive 50 US \$ per year compared to Fiji and New Zealand 545 US \$ per year and 70 US \$ respectively.

TVL is agreeable to be one of the accredited Registrars.

Conclusion

TVL agrees to discuss with TRR for the re-delegation of .vu for the benefit of the public and for the benefit of the local Internet Community subject to negotiation.

TRR will have to compensate TVL for maintenance cost and investment if it takes over the technical management of the Registry. But, if the technical management of the Registry is still carried out by TVL, TRR will have to invest in the cost of operating the technical management of the Registry to ensure the smooth and continuous operation of the Registry through a Services Contract between TVL and TRR.

TVL would still maintain its function of Registrar.





Attachment to TVL Comments and Input on TRR's Public Consultation of 19th December 2014, on 'Vanuatu Domain Name Management and Administration Regulation.

Purpose

This paper has been prepared by TVL to respond to TRR Briefing paper on Intended future arrangement and management of .vu country code top level domain – IG M003/02-2015/P003.

TVL has taken cognizance of the Purpose of the briefing paper and agrees to discussion for the redelegation of .vu for the benefit of the public interest and for the benefit of the local Internet Community subject to negotiation.

Background

TVL takes note of the contents of the paragraphs of the briefing paper relating to Background. TVL denied that "*the ccTLD management was automatically assumed by TVL given its former single country operator status*" (Page 2, Paragraph 3 - Background). TVL avers that it has been managing the .vu country code Top Level Domain (ccTLD) since 1995 following a request made to ICAAN.

TRR stated, *at page 2 paragraph 3 of the briefing paper – Background*, that there are "few significant complaints regarding management of .vu – opening of Internet services." TVL avers that there had been a complaint in June 2014 regarding 'phishing' activities. However, phishing activities reside with customers and /or service providers and administrator/registry of ccTLD cannot be held liable.

Indeed, TRR acknowledged the following *at page 3, paragraph 1 of the briefing paper-3 Administrative and Technical Management Issues of .vu ccTLD* :

- the good work done by TVL as ccTLD manager; and
- TVL can meet the strict requirements even in the event of natural disasters

Under the heading of *Background page 2 paragraph 4 of the briefing paper*, TRR has asserted that it "is currently in the process of redeeming appropriate rights held totally by TVL, especially domain policy setting, in



order to better and more appropriately establish and organise new ccTLD management arrangements." TVL avers that neither ccTLD confers proprietary rights nor does the government/regulator own the ccTLD.¹

TVL submits that ccTLD does not grant propriety rights². TVL avers that any conclusion that a ccTLD is "property" would run contrary to both authoritative Internet protocol standards and the views of governments around the world. ICANN's ICP-1 publication, as well as RFC 1591, state in pertinent part: Concerns about "rights" and "ownership" of domains are inappropriate. It is appropriate,

however, to be concerned about "responsibilities" and "service" to the community. For instant, a number of governments signed onto a set of principles in 2000 relating to delegation and administration of ccTLDs including the principle that "No private intellectual or other property rights should inhere in the ccTLD itself, nor accrue to the delegee as the result of the management, administration or marketing of the ccTLD."³ Clauses 5.2.1⁴ and 9.1.3⁵ of the Principles and Guidelines for the Delegation and Administration of ccTLDs conclude that there should be no claim of intellectual property rights in a ccTLD. Thus, there is a consensus among major countries that no property rights exist in a ccTLD.

Other established principles within the Internet community also refute any notion that a country "owns" the ccTLD assigned to it. In 2000, the Governmental Advisory Committee, an independent group of governments that provide ICANN with public policy advice regarding ICANN's activities, agreed to another set of principles stating, among other things, that "no private intellectual or other property rights should inhere in the ccTLD itself."⁶

Consequently, TRR cannot refer to redeeming rights when referring to the redelegation of ccTLD.

¹ Seth Charles Ben Haim, et al., v. The Islamic Republic of Iran, et al., INTERNET CORPORATION FOR ASSIGNED NAME AND NUMBERS' MOTION TO QUASH WRIT OF ATTACHMENT

² The legal term of a ccTLD is a collection of technical and administrative services rather than property. A ccTLD cannot be physically held, it is not capable of a precise definition because it is constantly changing as new domain names are added and deleted, there is no established market within which a ccTLD can be purchased or sold, and a ccTLD holds no intrinsic value. - Seth Charles Ben Haim, et al., v. The Islamic Republic of Iran, et al., INTERNET CORPORATION FOR ASSIGNED NAME AND NUMBERS' MOTION TO QUASH WRIT OF ATTACHMENT

³ Clause 4.2 of the Governmental Advisory Committee Principles for the Delegation and Administration of ccTLDs

⁴ Any intellectual property rights that the ccTLD Registry may have acquired as the result of delegation or which any entity may have acquired as a result of the management, administration or marketing of the ccTLD shall be taken into account and dealt with in accordance with applicable law in the case of a re-delegation. Such rights should not be exercised in a way that unnecessarily impedes re-delegation of a ccTLD Registry decided according to national law or under the circumstances

⁵ Confirmation that the ccTLD is operated in trust in the public interest and that any claim of intellectual property rights in the two-letter code in itself shall not impede any possible future change of Registry.

⁶ Clause 4.2 of the Governmental Advisory Committee Principles for the Delegation and Administration of ccTLDs



Administrative and Technical Management Issues of .vu ccTLD

ccTLD as a Public Trust or Service

TVL takes note of the *content related to paragraph 3 - Administrative and Technical Management Issues of .vu ccTLD and paragraph 3.1 relating to ccTLD as a Public Trust or Service.*

TRR alleges, at *page 3 paragraph 2 – 3.1 ccTLD as a Public Trust or Service*, that “TVL’s objective for .vu domain name management and services is one of profit making which is paramount to TVL over public service. This, in turn, creates a conflict of interest and makes it challenging for TVL in a competitive environment, to maintain the public service aspect and to make the domain names services competitive and equitable for all users”.

TVL avers that it is providing a Public service for all users around the world with equity and most stability as possible. TVL also provides customer assistance by email via hostmaster@vunic.vu.

In order to keep ccTLD domain names services online and follow ICANN’s guidelines, TVL is selling as a Registrar domain names .vu at \$ 42 per year compared to \$545 and \$ 110 for Fiji and New Zealand respectively .

These sales are the only way for TVL to keep up to date his DNS Infrastructure. Following ICANN’s best practices, at least 4 or 5 servers are necessary for ccTLD services. TVL has 6 servers included

VUNIC platform, human resources are working on it to improve servers and keep up to date them. In addition of servers’ costs and human resources, there are others costs as power, bandwidth, infrastructure oversea, etc.

Clause 4.1 of the Governmental Advisory Committee Principles for the Delegation and Administration of ccTLDs avers that “Its policy role should be distinguished from the management, administration and marketing of the ccTLD. These functions may be performed by the same or different entities”. Therefore, the registry and registrar status of TVL is not an issue.

Model and Policy or Regulatory Framework of .vu ccTLD

TRR alleges, at *page 3 paragraph 1 relating to 3.2 Model and Policy or Regulatory Framework of .vu ccTLD*, that “there are no current established and publically available policies guiding all parties operating in the .vu domain name space and covering important domain administration aspects”



TVL affirms that it is providing the VUNIC's platform, this platform contains all guidelines and policies (<http://vunic.vu/terms.php> & <http://vunic.vu/faq.php>), and links are available on all website's pages.

TVL is already in the process of improving its policies. TVL is bound to respect the national law of Vanuatu and public policy, customs and beliefs of the People of the Republic of Vanuatu. Accordingly, TVL has banned domains names that are taboo, obscene, scandalous, indecent or contrary to the law or morality. TVL has also restricted several domain names - Cultural Terms, Technical Terms; which is found via <http://vunic.vu/list.php> .

In 2013, TVL had reviewed all the policies and had sent it to TRR for its input but TRR did not revert. TVL acknowledges that it has to work with local internet community to improve its domain name policy and TVL is disposed to work with the TRR to design the perfect policy.

TVL would like to have some clarification regarding the TRR approved model (Annex A), it does not comply with ICANN Best Practice definitions and this model will open market to multiple Registrars.

For that, TRR has to be aware of technical details:

- The VUNIC platform is a TVL's property under Copyright.
- To maintain DNS platform, TVL has a lot of charges and can't support them has a ccTLD registry only. TRR has to find a way to finance properly human resources, technical devices dedicated to this platform
- Currently ccTLD platform (DNS and VUNIC services) is not implemented to manage multiple registrars, it will require several months of development (creation of APIs, new backoffice,...) and validation process. This development requires engineering and will have a cost for TVL.

Plans on Growing the .vu Domain Market

TVL take cognizance of the *content of the paragraph of the briefing paper relating to 3.3 Technical Infrastructure and Administration*. TVL submits that it is bound to operate the Top Level Domain (TLD) of .VU under the guidelines established by the Internet Assigned Names Authority (IANA) as described in RFC 1591. As the ccTLD Registry, TVL is performing a public service on behalf of the Internet Community; TVL cannot discriminate among registrant. As explain above, TVL has to respect the national law of Vanuatu, some domain names are restricted or banned (pornographic terms).



As a Registrar, TVL is keeping all data from of its Customers. TVL knows its main customers/resellers, we are in contact with them permanently via hostmaster@vunic.vu.

Technical Infrastructure and Administration

TVL records the *contents of the paragraphs of the briefing paper – 3.4 Technical Infrastructure and Administration*. TRR alleges, at page 7 paragraph 5 - *3.4 Technical Infrastructure and Administration*, that “there are no clearly documented and communicated Registry and associated DNS server continuity plans.”

TVL stress out that all technical and administrative details are available on IANA’s website: <https://www.iana.org/domains/root/db/vu.html>. TVL also asserts that due to international DNS needs, the DNS platform is constantly being upgraded, for instant bug fix, security fix, new servers, etc.

TVL also affirms that in the event of an internet disruption in Vanuatu, TVL owns DNS platform in Mauritius to prevent ccTLD services disruption.

Domain Name Server Security or DNSSec

TVL takes note of the contents of the *paragraphs of the briefing paper – 3.5 Domain Name Server Security or DNSSec*. TRR stated that “there is unclear information if TVL has any plans and timeframe for installing and applying DNSSEC on its DNS servers which serve majority of the internet users in Vanuatu. Implementation of DNSSEC is an important security action in the .vu domain namespace and should be seriously considered by TVL.”

TVL avers that it is constantly improving his DNS platform including the DNSSEC implementation. TVL had informed TRR via an email dated 23rd July 2014.

As discussed with ICANN, TVL will deploy DNSSEC technology on his DNS platform for the end of the year 2014 or the beginning of 2015. For this deployment, ICANN has offered its help.

Conclusion

TVL acknowledges that .vu ccTLD has been administered in the public interest, whilst taking into consideration issues of public policy and relevant law and regulation. The tariff practised by TVL is amongst the lowest in the world. TRR has acknowledged the good work done by TVL in administering and managing the .vu ccTLD. TVL has also complied with



ICAAN's policies and principles regarding technical redundancy, security, non-discrimination and transparency.

In light of the above, TVL is favourable for redelegation subject to negotiation regarding issues to be resolved, cleared and discussed.

A handwritten signature in black ink, consisting of several loops and a vertical stroke, located in the bottom right corner of the page.