

FOREIGN TOP-LEVEL DOMAINS IN CHINA SHOULD STEP-UP COMPLIANCE EFFORTS AS CENTRAL MINISTRY SEEKS TO RECOUP CONTROL

BRIEFING PAPER, MAY 20, 2015

EXECUTIVE SUMMARY

China's domain name industry has been largely unregulated for more than a decade, and the government recognizes the need to reign in control as Internet security has become a top priority for the new administration.

China's new regulations concerning domain name registries and registrars are now close to completion. Following several years of ambiguity and rumor, new information emerged in China's state-run media on May 12, 2015 which casts light on the eventual requirements. The Ministry of Industry and Information Technology (MIIT) is now actively applying the regulatory code to China's registrars.

Domestic Chinese registrars are facing new scrutiny right now, and the examination and a re-approvals process will continue over the next five to six months.

Foreign registries which have not applied for Chinese market approval are advised to do so in the near term, as unapproved Top-Level Domains are likely to be taken off the market from July this year. For foreign registries, a Chinese incorporated company and other regulatory and technical requirements will be necessary to have their domain names offered for sale in China.

► Foreign domain name registries must improve compliance efforts to ensure China market access

Foreign domain name registries are advised to step-up market entry and compliance efforts in China in the face of new (and long-awaited) developments in the regulatory regime. After some six years of ambiguity and rumor, on May 12, 2015 China's Ministry of Industry and Information Technology (MIIT)¹ announced it will be implementing a domain name sector "Special Action Policy," indicating the domain name market is facing scrutiny over coming months.

Released on May 12, 2015, The MIIT's "Interpretation (Reading) on Carrying Out the Domain Name Registration Services Market Special Action Policy" (Chinese: 关于开展规范域名注册服务市场专项行动政策解读) calls for "work on setting up a domain name service registration institution for examination and approval" and delegating this to every province, autonomous region, and centrally-regulated city's Communications Management Bureau. In the announcement, the MIIT also

published a list of eight registries and 14 top-level domains which have received authorization to operate in China's mainland. An authorized list of 93 domestic registrars has been in effect since April 2013.



中华人民共和国工业和信息化部

Ministry of Industry and Information Technology of the People's Republic of China

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Many TLDs in common use in China, such as Verisign's .com and .net, are not in the latest list of authorized TLDs. This demonstrates that MIIT is playing catch-up with regulating the domain name market in China, which has vastly expanded due to ICANN's New gTLD program and the hundreds of new TLDs launching on the internet.

Aimed largely at domestic registrars, but also addressing domestic and foreign registries and the TLDs under their control, the new regulations include an examination and approval process to ensure proper observance of the government's domain name sector requirements.

In effect as of April 2015, the process will be completed in four phases over the next five to six months: (1) "comprehensive screening and checking" which is currently underway within the registrar channel, (2) "on-site inspection," (3) "reorganization processing," and finally (4) "conclusive upgrading." Registries and registrars are required to have a "physical presence" in China² to achieve full compliance.

1. The Ministry of Industry and Information Technology (MIIT) of the People's Republic of China is the state agency of the Chinese government that is responsible for regulation and development of the Internet, postal service, broadcasting, communications, electronic and information good production, software industry, and promotion of the knowledge economy.

2. Physical presence in China refers to an active operational Wholly-Foreign Owned Enterprise or Chinese-Foreign Joint Venture Corporation, most importantly with a properly designated "Legal Person" or chief representative who is ultimately held responsible for the actions of the company. Hong Kong, Macau and Taiwan corporate vehicles will not be acceptable under the new regulations.

► MIIT's control of domain name sector no longer ambiguous

The MIIT regulations' purpose is "to protect China's domain name resource usage and Internet information safety." Stating in the April 30th report that "through resource allowance, website records, and many other aspects [it] will gradually strengthen domain name regulation," the MIIT has indicated its unambiguous intent to establish more control.

While the full text of the body of regulations are still to be released, a majority of local industry observers agree that the code is largely complete. Allegravita's analysis of newly available information is that by

sometime in July 2015, the MIIT will not permit unapproved registries to operate or offer their domains for sale in China. The MIIT will not interfere with existing domain registrations for unapproved registries; however, new registrations will not be permitted to be sold by Chinese registrars to Chinese registrants. A very small number of newly formed domain name registries which are currently in the process of Chinese incorporation, such as .Club Domains LLC, are currently in the advanced stages of MIIT approval. Older rumors of a "grace period" for unapproved registries and their TLDs seem to no longer be assumed.

► Registrars to face brunt of initial MIIT regulations

The MIIT is aware that a majority of registries and registrars in China are not fully inline with its domain management rules and application criteria, which have been in effect for a decade. The domain name sector has been regulated since the 2004 publication and enforcement of "China's Domain Name Management Measures" (published on MIIT's website in 2009), a document often mentioned in MIIT's latest announcement. A website cross check with the registrar list indicates that a majority of Chinese registrars have been overlooking MIIT's authorizations, selling TLDs not on the approved list.

According to latest information acquired by Allegravita, registrars will receive the brunt of the MIIT's inspection work over the next five to six months.

Chinese industry contacts have concurred with new MIIT policy, which states the ministry "will focus on domain registration provider services that have not yet obtained approval or have overstepped their scope, on requirements for implementing domain name real name registrations, on those committing fraud, on standardizing and cleaning-up behavior that uses force and improper methods of selling domains and other non-legal, out-of-line behavior, to improve the standards of domain name service behavior, to build a fair and equitable environment for the domain name registration service market, to protect the legal rights and interests of consumers, and to promote a healthy domain name registration market, and its orderly development."

► Impact on registries and TLDs

The new information on the latest MIIT regulations is likely to affect domestic Chinese and foreign registries in the short-term. As indicated by journalist Wan Jing (Chinese: 万静) from China's government-controlled *The Legal Daily* (Chinese: 《法制日报》)³, "compared with '.com', '.net', and similar top-level domains already available in China's market, numerous foreign TLDs preparing to open in the Chinese market such as '.xyz', '.club', and others, at this time not having attained list status, will also be subject to large effects." Wan Jing concludes that there may be a general approval trend for TLDs that are closely related to China, but leaves the interpretation open to ambiguity, as government releases often do in China.

The new MIIT list of authorized TLDs is surprisingly small, and as already mentioned, does not include industry heavyweights such as .com or .net.

AUTHORIZED TLDs	CONTROLLING REGISTRY
.cn / .中国 ("china") / .公司 ("company") / .网络 ("network")	CNNIC
.政务 ("government-affairs") / .公益 ("public-interest")	CONAC
.商标 ("trademark")	Global Trade Domain Technology Limited [Huyi]
.网址 ("website")	Longzhong Internet Technology Limited [Huyi]
.wang / .商城 ("mall")	Zhuoyuetongda Technology Limited [Zodiac]
.ren	Qianxiang Internet Landscape Technology Development Limited
.citic / .中信 ("citic")	Citic Group Limited
.top	Bangning Technology Limited

3. China's *The Legal Daily* is an official newspaper publication of the Political and Judiciary Commission under the Central Committee of the Communist Party of China. The cited article's URL is http://www.legaldaily.com.cn/index/content/2015-05/12/content_6079839.htm

► Foreign registries have China incorporation and other requirements

According to highly-placed Chinese industry sources interviewed by Allegravita in May 2015, indications are that registries which have TLDs already available via Chinese registrars, are already in the pipeline for MIIT approval, are able to satisfy all regulatory requirements (such as providing real name verification for all Chinese mainland registrations, having local Chinese data escrow, and others), and are already establishing an incorporated Wholly-Foreign Owned Enterprise or a Chinese-Foreign Joint Venture Corporation are likely to have an excellent chance of meeting all MIIT requirements.

What is also clear is that all domain registries and registrars must meet the requirements of the "Domain Name Management Measures," special conditions dictated by MIIT in 2004. Once it has done so, in

addition to meeting new compliance measures, our analysis of current information is that it should expect to receive full authorization to operate in China.

The Domain Name Management Measures (Article 23, Article 26, Article 27, Article 35 and others) clearly stipulate that registries must "consciously observe the relevant laws of China and the administrative rules and regulations, guarantee the safety of the domain name system, operate reliably, fairly, and reasonably to provide safety to registrars and convenient domain name services; must configure the necessary Internet and telecom emergency equipment, create a complete Internet and information safety emergency system; must observe and comply with relevant Domain Name Management Measures' detailed rules and regulations, report to MIIT about implemen-

tation after Internet Content Provider (ICP)⁴ records are made; must publish domain name service content, term of expiration, and costs, inquiry services that provide domain registration information, and cannot use domain registration information for other purposes; be obligated to cooperate with central authorities on carrying out website inspection work, and when necessary follow requirements to temporarily stop or suspend service analysis."

Articles 12 and 14 call for "registration of a physical entity, system installation, specialist personnel arrangements, long term service capacity, business development programs, internet and information safety assurance measures, market exit mechanisms and other aspects."

► ICP still of critical importance

China's Internet Content Provider "Bei-an" licenses (ICP Bei-an⁵ or PSB Bei-an⁶) continue to be a strict requirement for all second level domains used for websites hosted within the People's Republic of China. These certificates, depending on respective industry and website type, are mandatory for operating a website in China. They tie every website to a known individual and/or organization and are considered by China's government to be a mark of approval and consumer protections.

All translations from Chinese are by Allegravita.

For More Information

Detailed information on the MIIT's domain registry and registrar management rules, and application criteria is available now to Allegravita's clients and the media.

Allegravita, incorporated in New York and Hong Kong, is one of the world's most experienced China-focused PR and strategic communications agencies, and is the Chinese domain name sector's most experienced consultant to foreign registries and registrars.

Allegravita is a full member of the Domain Name Association (thedna.org) and actively supports DNA industry development activities. For more information on China's domain name sector or Chinese market entry in general, please contact



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nihao@allegravita.com (Chinese)



4. ICP license or Internet Content Provider license is a license administered by the MIIT for e-commerce type websites or websites that gain income from purchases.

5. All websites hosted in China through a Chinese IP address must have an ICP Bei-an (备案) regulation in order to obtain an ICP Bei-an number. This is mandatory by the MIIT for all Chinese websites.

6. PSB Bei-an (备案) or Public Security Bureau Bei-an (备案) is also a mandatory regulation of the MIIT for all Chinese websites.

Disclosure

Allegravita is currently engaged by a number of domain name industry companies, including some mentioned in this briefing paper. All information presented herein is independent in nature and is intended as a neutral explainer of recent developments in the Chinese domain name sector.

Glossary

Registry	A company or government enterprise which controls one or more Top Level Domains. Registries do not typically sell domain names to registrants, instead “wholesaling” domains to registrars.
Registrar	A company or government enterprise which sells or otherwise makes available domain names to registrants.
Registrant	A company, enterprise, or individual which has registered a domain name.
Top Level Domain	The domain to the right of the dot, such as .com, .co, .club, .global, .fans, .nyc, .ski, .bio, .archi, .ceo and hundreds of others that enable people to conveniently navigate the Internet.
Second Level Domain	A domain name that is registered for use on the internet, such as google.com or coffee.club.

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【字体：大 默认 小】【打印】【关闭】

稿件来源：法制日报——法制网 发布时间：2015-05-12 16:18:05

法制网北京5月12日讯 记者万静 记者今天从工信部获悉，工信部公布的《关于开展规范域名注册服务市场专项行动政策解读》（下称《解读》），称“设立域名注册服务机构审批工作”已下放至各省、自治区、直辖市通信管理局，并公布了截至目前已获得批准的家域名注册管理机构和14个顶级域名。分析发现，名单中的机构和顶级域均由国内管理，.com、.net等常见的顶级域，以及国外域名注册管理机构，并不在这次名单里面。

此前，工信部电信研究院互联网研究员刘越曾对媒体表示，工信部将通过资源准入、网站备案等多个环节，逐渐加强对域名的管理，不允许未取得许可就开展新顶级域注册，也不接受使用未经许可的新顶级域名进行网站备案，通过规范域名机构行为和域名市场秩序，来保障中国域名资源使用和网络安全。现在，主管部门已经展开行动。工信部的此次专项行动，最重要的一个改变是对域名注册管理机构（即“注册局”）和域名注册服务机构（即“注册商”）备案要求的变化，如是否在大陆设有实体机构、售卖域名也需要备案等要求的改变，这些变化将对域名市场的游戏规则和发展产生深刻影响。

首当其冲的，当属.com、.net等此类在国内已有较大市场份额的国外顶级域，它们的管理机构均在国外，目前尚没有在国内设立起实体，和国内注册商的交流，基本通过“遥控”，对中国市场和政策监管变化的反应也总是慢半拍，它们没有出现在此次获批名单，在料想当中，但是将迫使它们不得不游离在“是获得批准的顶级域”这一合法身份之外，没有这个身份，对它们的注册申请、解析启用多少会受到一定限制，产生不利影响。

相对.com、.net这些在国内已有较深市场基础的顶级域，众多正准备打开国内市场的国外新顶级域名如.xyz、.club等，此次未在获批名单中，也将受到很大的影响，如果它们在规定的时间范围内仍然没通过批准，更是面临从中国市场上退出的风险。中国作为互联网市场第一大国，这类情况并不是它们所乐见。

和这些国外顶级域冰火两重天的是，像.cn、.wang、.商城等在获批名单中的顶级域，则是极大的市场利好，由于它们及时按主管部门政策要求备案申请，将在本轮政策调整中受益。在获得批准的14个顶级域当中，大都带有浓厚的“国产”色彩，如“.cn”是我国的国家域名；“.wang”则有“网”的寓意；“.zen”有“人”的意思，其它如“.中国”、“.商城”、“.网址”则直接是中文域名。在国内市场具有中国元素特色的域名会更符合中国人的使用习惯，便于记忆。这也意味着域名市场已走向支持“国货”的道路上，鼓励使用国产域名。

China's The Legal Daily published article on MIIT policy

www.miit.gov.cn | 手机报 | 无障碍通道 | 网站地图 | 2015年5月19日 星期二

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