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.

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, 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) 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政政策解读) 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.

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

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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 China 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.
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.

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.

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.”

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

### 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》), "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.

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### Table: Authorized TLDs and Controlling Registry

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<th>Authorized TLDs</th>
<th>Controlling Registry</th>
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| .cn / .中国 (".china") / .公司 (".company") / .网路 
("
.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
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 implementation after Internet Content Provider (ICP) 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.”

China’s Internet Content Provider “Bei-an” licenses (ICP Bei-an or PSB Bei-an) 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 hello@allegravita.com (English) or 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 (公安部) regulation in order to obtain an ICP Bei-an number. This is mandatory by the MIIT for all Chinese websites.
6. PSB Bei-an (公安部) or Public Security Bureau Bei-an (公安部) is also a mandatory regulation of the MIIT for all Chinese websites.
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.

**Disclosure**

**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, .yc, .ki, .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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China's The Legal Daily published article on MIT policy