

**URGENT**

# 香港人權監察

## HONG KONG HUMAN RIGHTS MONITOR

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### **Submission to the LegCo Panel on Information Technology and Broadcasting on the Review on the Administration of Domain Names in Hong Kong**

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The Hong Kong Human Rights Monitor would like to submit the following views regarding the reform of the .hk domain name administration in Hong Kong:

1. We welcome the move by the government to improve the governance and transparency of the Hong Kong Internet Registration Corporation Limited (HKIRC) and the Hong Kong Domain Name Registration Company Limited (HKDNR), which is much needed.
2. We are very concerned about the recent changes in the HKIRC board of directors, with the government appointing 4 out of 8 directors, increasing the percentage of government-appointed directors to 50%. We feel that this is a departure from the international practices of self-governance by the industry and end users. More importantly, we fear that the freedom of expression is at risk as the government may use its effective control to introduce censorship in domain name registration in the future.
3. The Government has stated that the intention of appointing directors is to “give HKIRC access to professional knowledge and corporate governance expertise”. We believe this is better achieved by the appointing of advisors or directors without voting power, while preserving the self-governance through the board by the industry and end users.
4. We recommend that it should be expressly stated in the new Memorandum of Understanding (MOU) that HKIRC must act in line with the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights. It should also stated that HKIRC must not practice censorship by rejecting, suspending or terminating domain name

registrations based on political, religious or moral grounds, or reserving domain names for the same purposes.

5. We recommend that it should also be expressly stated in the new MOU that HKIRC be required to publish its rules for rejection, suspension, termination and reservation of domain names, and that any change to such rules will need to be discussed in the HKIRC Consultative and Advisory Panel (CAP) as well as going through public consultation. This is important to make sure that HKIRC should not be given an unfettered power to make rules.
6. In the rare cases where the rules are inadequate to deal with any criminal offenses, serious abuses or security attacks where HKIRC needs to react urgently, exceptional decisions may temporarily be made to the rules provided that efforts to make sure that (a) any appeal by the applicants or domain name holders to the decision could be heard swiftly and (b) public consultation on any relevant amendments to, or preservation of, the rules should be started as soon as possible.
7. In the course of any refusals or disqualifications, HKIRC should be obliged to cite the rule(s) and explain how the rule(s) are being applied for the disqualification to the applicants or domain name holders.
8. We recommend making all domain name registrants automatically registered as HKIRC members by default, or at least implement a greatly simplified membership registration procedure, in order to enhance membership participation.
9. We noticed that some have suggested changing HKIRC's voting rule from the existing system to one-domain name-one-vote. We oppose this change as this would allow corporate bodies with abundant financial resources to register multiple domain names in order to cast more votes and exert a disproportionate influence on the decisions of HKIRC.
10. To address the problem of lacking transparency, HKIRC should be required to develop and publish an information disclosure policy, which can be modelled on the International Corporation for Assigned Names and Numbers' Documentary Information Disclosure Policy (ICANN's DIDP). In this policy, it will (a) identify the list of documents it needs to routinely make public; (b) develop a time frame for responding to requests for information not already publicly available (if HKIRC is unable to provide the information, or unable to do so within the established time frame, it should provide a written explanation); (c) identify specific conditions for nondisclosure of information; and (d) set out a mechanism under which requestors may appeal a denial of disclosure.
11. The following should be among the list of information to be published: financial report, budget, operating plan, annual report, board and CAP meeting agenda, minutes and any accompanying documents, policy and regulation documents, and official correspondence. Information in official correspondence, the board and CAP meeting minutes and their accompanying documents on tenders and sensitive employment conditions can be withheld if their withholding from

public disclosure can be cogently justified. However, the justifications must be made public in such cases.

12. While HKIRC is a non-profit entity, there is apparently some confusion over whether its subsidiary, HKDNR, is operating and will be operating as a non-profit entity. Since domain names are public resources, we believe that as the overseeing organization, HKIRC, and any of its subsidiaries, should be run as a non-profit entity independent of the government.
13. We regret that the public have not been provided the full version of the consultancy report titled ***Consultancy Study on the Institutional Framework and Corporate Governance for the Administration of Internet Domain Names in Hong Kong***<sup>1</sup> commissioned by the government. It has only been published with various sections being blanked out purportedly as “commercially sensitive information”.<sup>2</sup> Without the full report published, the public will not be able to read and further the discussion on domain name administration reforms.

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<sup>1</sup> [http://www.ogcio.gov.hk/eng/pubpress/epubcs\\_aidn.htm](http://www.ogcio.gov.hk/eng/pubpress/epubcs_aidn.htm)

<sup>2</sup> To give one absurd example, page 14 of the Deliverable 1 (current environment report) of the Consultancy Report reads, “HKIRC has recently developed a Mission Report” while the next part is blanked out citing reasons of legal proceedings, third party information and business confidences.