

Workshop on Member States' experiences with ccTLD

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RESOLUTION 000600

7 MAY 2002

on partial regulation of administration of the domain name .co

The Minister of Communications, in virtue of the regulatory powers conferred on her by Articles 1, 4, 5, 7 and 8 of Law 72 of 1989,

WHEREAS:

Law 72 of 1989 confers on the Ministry of Communications the authority to plan, regulate and control all services in the communications sector, including certain elements and resources necessary for the provision of such services.

The country code Internet domain name for Colombia, namely .co, is a public asset in the telecommunication sector, the organization and administration of which is therefore subject to intervention by the State through the Ministry of Communications.

The Opinion issued by the Consultative Chamber and Civil Service of the Council of State on 11 December 2001 in response to the relevant request brought before it by the Ministry (No. 1.376) was founded on the following considerations: "Thus, in respect of the Internet network, matters relating to the domain name .co, administration thereof and the associated register of domain names in Colombia are inextricably linked to telecommunications and their planning, regulation and control, and consequently fall within the purview of the National Government, through the Ministry of Communications, pursuant to the aforementioned texts and the provisions of Decree 1130 of 1999, *a fortiori* insofar as the domain name .co, as explained in § 2.5, is a public asset, the use of which the Colombian State has a duty to oversee in order to safeguard the public interest, in keeping with the principle enshrined in Article 1 of the Political Constitution".

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In the said Opinion, in the replies section, the Consultative Chamber and Civil Service of the Council of State laid down that:

"4.1 The domain name .co assigned to Colombia as the country code under the Internet domain name system is a public asset.

4.2 Administration of the domain name .co is a matter inextricably linked with telecommunications and, accordingly, its planning, regulation and control falls within the purview of the National Government, through the Ministry of Communications ...".

Similarly, the Administrative Tribunal of Cundinamarca, Section Two, Subsection D, in People's Action Case 2001-0465, dated 2 April 2002, considered as follows: "As specified in the Opinion handed down by the distinguished Council of State, the domain name .co is quite clearly a public asset, and so its planning, regulation and control are of necessity subject to State intervention through the Ministry of Communications", before going on to rule as follows in the operative part of the text: "To call upon the Ministry of Communications, on the basis of the legal authority conferred on it for the purpose, to take immediate appropriate action on the planning, regulation and control of administration of the domain name .co ...".

The regulations adopted by the Ministry of Communications in respect of the domain name .co shall take into account the practices formally adopted by the international bodies administering domain names at the global level for the common good.

Pursuant to Article 8 of Law 72 of 1989, in drawing up telecommunication regulations, account shall be taken of the recommendations of the International Telecommunication Union.

The International Telecommunication Union, in Resolution 102 (Minneapolis, 1998) of its Plenipotentiary Conference, on management of internet domain names and addresses, emphasizes that the role of governments is to provide a clear, consistent and predictable legal framework, to promote a favourable environment in which global information networks are interoperable and widely acceptable to all citizens, and to ensure adequate protection of consumer and user interests.

The said ITU resolution also considers that the future management of the registration and allocation of Internet domain names and addresses must fully reflect the geographical and functional nature of the Internet, taking into account an equitable balance of interests of all stakeholders, in particularly of businesses and consumers.

The said ITU resolution emphasizes that governments are expected to promote a fair competitive environment among companies or organizations responsible for Internet resource allocation.

It is necessary, in order to give effect to the Opinion of the Consultative Chamber and Civil Service of the Council of State and respond to the call formulated in the ruling of the Cundinamarca Administrative Tribunal, to regulate administration of the domain name co. in line with the foregoing considerations and pursuant to Article 3 of Law 72 of 1989.

RESOLVES as follows:

Article 1 – The Internet domain name under the Colombian country code .co is a public asset in the telecommunication sector, the administration, maintenance and development of which shall be planned, regulated and controlled by the State, through the Ministry of Communications, with a view to advancing global telecommunications and making them available to users throughout the country.

Article 2 – The State may handle such administration referred to in the previous article, either directly, or through third parties under the terms of Article 3 of this resolution, under its supervision.

Article 3 – When administration of the domain name .co is carried out by third parties, the latter must have the requisite technical, administrative and financial capability to handle this management efficiently.

Article 4 – The country code top level domain name .co may only be used as the identifier for Colombia in the global Internet network.

Article 5 – Licensing of the domain name .co, subcontracting of its administration or appointment of a new administrator shall require prior authorization from the National Government through the Ministry of Communications or the entity or authority duly determined and empowered by the latter.

Article 6 – Any costs of entry or updating of the domain name .co in the top level domain name register and any associated maintenance and operating costs shall be borne by the stakeholders under a system reflecting the interests of the community and users. Any income received under this system shall be reserved exclusively for sustaining, improving and providing the service in question.

Article 7 – The Ministry of Communications shall coordinate application of the system laid down in this resolution with the international bodies responsible for managing top level domain names.

Transitional provision – The Ministry of Communications, in coordination with the entities referred to in the previous article, shall design and implement a comprehensive system to regulate this area of activity, and in the interim shall provisionally apply the terms of this resolution

This resolution comes into force as from its date of publication.

Done in Bogota, 7 May 2002

Angela Montoya Holguín
Minister of Communications
