

DOCUMENT FOR ccTLD WORKSHOP

Source: France
Title: Arrangements for the management of “.fr”

In France, the arrangements for the management of “.fr” were defined having regard to certain principles:

- the DNS is a public resource which must be managed in the general interest;
- the ccTLD manager must have the support of the local Internet community and of the Government or competent public authorities;
- the name space must be a space that Internet users can trust.

In this spirit, the *Association Française pour le Nommage Internet en Coopération* (French Network Information Center) (AFNIC) was set up in December 1997 on the joint initiative of INRIA and the State, the latter being represented by the Ministries responsible for telecommunications, industry and research. A not-for-profit association governed by the French Act of 1 July 1901, AFNIC brings together all Internet players: users, providers and public authorities.

The rules for the management of “.fr” are defined by AFNIC, whose decisions are binding on all “.fr” users.

The fact that the “.fr” management rules were initially very restrictive had the effect of dissuading “cyberpiracy” and of limiting conflicts to just a few cases per year; at the same time however, it limited the number of “.fr” registrations. In consultation with all the players concerned, AFNIC gradually relaxed the “.fr” management rules while maintaining the principle of an *a priori* control over registrations.

The vast majority of domains are registered by companies asserting an intellectual property right (business name, brand, etc.) over the name requested. AFNIC performs the necessary checks by consulting the details of such companies in the relevant official online databases (trade or brand register).

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AFNIC's current management of ".fr" appears rigorous enough to avoid conflicts and to make for Internet user confidence by ensuring proper identification of domain name holders and requiring proof of an intellectual property right over the names being registered. It has become sufficiently flexible to make ".fr" more attractive to users.

Consultations organized at the request of the Government served to confirm that the majority of users were satisfied with the balance achieved in the management of ".fr", which will nevertheless need to continue evolving in order to take account of new user requirements and of changes in the international DNS management context.

Consolidating the legal framework for the designation of ccTLDs pertaining to French territory

The development of the Internet, particularly e-commerce, and the ever-increasing risk of legal action being taken not only against the holders of domain names but also against top-level domain managers (geographic, in this particular case), have highlighted the need to ensure, by means of sound legal bases, that the management of these resources will be carried out with all due respect for the principles that are recognized in France and would appear to be necessary at the international level, namely that the ccTLD is held to be a public or collective resource that cannot come under the heading of private property and must be managed in the general interest, and that governments in the final instance have authority over the ccTLDs pertaining to their territory.

From the consultations held with the French players in the Internet sphere it emerged that the latter consider it appropriate that the French Government should be responsible for designating, following consultation with the players concerned, the entities entrusted with managing the domain names pertaining to French territory.

In this context, a Bill (see below) was drawn up and was approved by the Council of Ministers on 15 January 2003, and will shortly be examined by Parliament.

It consolidates the legal framework for the management of national domains corresponding to metropolitan France, the overseas *départements* and certain overseas territories. The aim is to give the Minister responsible for telecommunications the competence to designate the entity or entities to be responsible for the management of these top-level domains and to ensure that that management is carried out in the general interest. The transparency of the management rules, respect for intellectual property rights and the possibility of changing provider in the event of any default on the part of the register (bankruptcy or failure to meet its obligations) are matters explicitly taken into account by the Act.

The Act, supplemented as necessary by a State Council decree, will therefore lay down only the basic principles pertaining to the management of the domain names in question. It will give the Minister responsible for telecommunications the power to delegate their management. This approach is comparable to the one adopted for the draft Community regulation on ".eu".

On the other hand, it was not found desirable to define, by means of specific legal or regulatory provisions, the detailed arrangements for the management of those domains, the use of the Internet being too subject to change and the practice of pursuing consultation within AFNIC having given satisfactory results. Their inclusion in AFNIC's statutes and *charte de nommage* [a body of provisions designed to ensure the harmonious administration of domain names] currently provides the necessary flexibility. The practical arrangements for the management of these ccTLDs, particularly the definition of subdomains or the checking of requests for registration, are therefore not defined by the new Act, but will continue to be so by the ccTLD manager, in consultation with the stakeholders.

Management of overseas ccTLDs - redelegation of ".tf"

The top-level domains (ccTLDs) corresponding to the French overseas *départements* and territories were delegated by IANA to various operators without the French authorities having been consulted at the time.

a) In addition to ".fr", AFNIC manages ".re" (Réunion), ".pm" (St Pierre and Miquelon), ".yt" (Mayotte) and ".wf" (Wallis and Futuna). All of the domains other than ".fr" were frozen (no registration possible) until 2001.

At the request of the Government, and following consultation of the local players and ministries concerned, particularly with a view to drawing up an appropriately tailored *charte de gestion*, AFNIC opened the doors to registration under ".re" in June 2001, with 170 domains having been registered as at January 2003.

b) The codes ".pf" for Polynesia and ".nc" for New Caledonia are open and are managed by public entities, namely the *Office des Postes et Télécommunications* (OPT)¹ and the *Institut de Recherche pour le Développement* for ".nc". Within these territories, competence in the field of telecommunications falls to the territorial authorities and not to the Minister responsible for telecommunications.

c) The other domains are managed by private companies.

The code ".tf" (Southern and Antarctic Lands) was delegated to the British company Adams Names, which also manages other ccTLDs (".tk" Turks and Caicos, ".vg" British Virgin Islands, etc.). In 2000, the French Government contacted ICANN to request the transfer of ".tf" to AFNIC. Apparently recognizing the validity of that request, ICANN began discussions with Adams Names, which halted registrations under ".tf" pending its possible transfer to NIC France (i.e. AFNIC). However, ICANN has still not taken the decision to redelegate the management of ".tf" to AFNIC.

In view of the diversity of France's ccTLDs, the Bill on the digital economy leaves open the possibility of designating several registers for those domains. The fact remains that the Government wishes for the time being to strengthen AFNIC's role in the management of the ccTLDs (with the exception of ".pf" and ".nc", which continue to be managed by other public entities by agreement with the competent territorial authorities).

Annexes

Presentation of AFNIC's *charte de nommage*:

<http://www.afnic.fr/enregistrement/nommage.html> - principes

AFNIC's *charte de nommage*:

<http://www.afnic.fr/enregistrement/nommage-fr.html>

Bill on the digital economy

Domain names (Article 5)

Article 5

¹ OPT delegated management to its private subsidiary MANA S.A., which provides Internet access and hosting services.

I. - The heading of Section VI in Chapter II of Title I in Book II of the *Code des Postes et Télécommunications* is replaced by the following heading: "Numbering and addressing".

II. - Following Article L. 34-10 of the *Code des Postes et Télécommunications*, an Article L. 34-11 is inserted with the following wording:

"Art. L. 34-11. - I. - The Minister responsible for telecommunications shall, following public consultation, designate the entities responsible for allocating the domain names, within the top-level domains of the Internet domain names addressing system, corresponding to the national territory. The performance of their duties shall not confer upon the entities thus designated any intellectual property rights over the domain names.

Domain names shall be allocated by the aforementioned entities in the general interest, in accordance with rules that are non-discriminatory and publicly available and which respect intellectual property rights.

In the event that the entities should cease their activities, the State shall have the right of use of the domain name database they previously managed.

The Minister responsible for telecommunications shall see to it that the entities duly respect the principles set forth in the second paragraph. He may decide to withdraw the designation of an entity, after having given the latter an opportunity to present its remarks, in the event that it is found to be ignorant of the provisions of the present Article. Each entity shall submit to the Minister an annual report.

A State Council decree shall, as necessary, specify the conditions governing application of the present Article.

II. - Without prejudice to their application by right on Mayotte pursuant to Article 3.I.8 of Act No. 2001-616 of 11 July 2001, the provisions of I shall be applicable in Wallis and Futuna and in the French Southern and Antarctic Lands.

The entities responsible for allocating domain names in New Caledonia and in French Polynesia shall not hold any intellectual property rights over those names."
