

DOCUMENT FOR ccTLD WORKSHOP

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Contact: Eur.-Ing. Nigel Roberts
Channel Islands Registry
Channel Islands

Tel: +44 1481 824482
Fax: +44 1481 822818
Email: nigel@nic.gg

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Introduction

This paper is presented to the International Telecommunications Union's workshop on Member State's Experiences with Country Code Domain Names.

The author is Eur.-Ing. Nigel Roberts, who is the Managing Director of the Channel Islands Registry.

Abstract

The paper briefly describes the Channel Islands and their constitutions. It notes that the Islands have never been part of the United Kingdom and that they have their own Parliaments, Legal Systems and Governments. The paper briefly describes the ccTLD Registry which manages the .GG and .JE domains, and further describes private sector mechanisms by which consultation takes place between the Channel Islands Registry and the Governments of the Islands in regard to the Islands' ccTLDs.

Where are the Channel Islands?

The Channel Islands are a group of Islands in the Bay of St Malo that were part of the Duchy Normandy before the incorporation of mainland Normandy into France in the Middle Ages.

The Bailiwick of Guernsey (*Bailhache de Guernsey*) comprises the islands of Guernsey, Alderney, Sark (including Brecqhou), Herm and Jethou, together with associated islets and offshore rocks. The Bailiwick of Jersey (*Bailhache de Jersey*) comprises the island of Jersey itself, together with associated islets and offshore rocks.

Together they are known as the Channel Islands, although a recent term which has come into use recently is that of "British Channel Islands" to avoid confusion with a similarly named group of Islands in California.

Although since 1066 the Channel Islands have been regarded as being geographically part of the British Isles and have a close association with the English Crown, they are actually physically closer to France and have never been part of either the Kingdom of England (before 1701) nor of the United Kingdom (since 1701).

Today the islanders are mostly native English speakers (though as recently as the late 19th Century this was not necessarily so). Even so, there remains a significant minority of native Norman/French *patois* speakers in the two largest Islands of Guernsey and Jersey.

Constitutional Status and Nature of Government

As a result of their historic status as part of the Duchy of Normandy, the Islands are direct dependencies of the English Crown; neither part of the United Kingdom nor an overseas territory or colony. The Islands enjoy full independence, except in certain limited respects.

None of the Channel Islands is part of the European Union. Instead the Islands enjoy a special relationship with the European Community which is set out in Protocol 3 to the 1973 Treaty of Accession which means that the islands are considered as part of the Customs Territory of the EU. Though European Directives do not apply in the Islands, the Islands often pass legislation mirroring (and occasionally improving upon) European legislation.

As the Islands are Crown Dependencies, by convention Her Majesty's Government in the United Kingdom shoulders on the responsibility for the defence of the islands and for foreign relations.

All other matters remain the responsibility of the respective Islands' governments.

Each of the Islands has its own Parliament which are unicameral primary legislatures.

- Jersey (*Jersey*) *Les Etats de Jersey* / the States of Jersey ^[1]
- Guernsey (*Guernesey*) *Les Etats de Guernesey* / the States of Guernsey ^[2]
- Alderney (*Aurigny*) *Les Etats d'Aurigny* / the States of Alderney ^[3]
- Sark (*Sercq*) Chief Pleas of the Isle of Sark ^[4]

(Note: The Guernsey States from time to time legislates on certain matters which affect Alderney and Sark by passing laws which apply to the Bailiwick of Guernsey as a whole, but all such “Bailiwick-wide” laws are subject to a formal process of ratification by both the States of Alderney (for Alderney) and by Chief Pleas (for Sark). Examples of this are the *Data Protection Law*, and the *Electronic Transactions Law*.)

None of the Islands' parliaments are run on party political lines, and the respective Governments are currently organised on the Committee system. (Jersey is currently changing to a Cabinet style government).

International Agreements

While international agreements which are entered into by Her Majesty's Government in the United Kingdom, may apply to the Islands, this is not automatic. The Insular Authorities are always consulted by the Crown in advance and, generally speaking, such international agreements only apply to the Islands after specific ratification on behalf of, or extension to, the Islands.

Therefore it should not be assumed that international agreements which apply to the United Kingdom automatically apply to the Channel Islands (nor, for very similar reasons, to the Isle of Man).

As the UK represents the Islands in all foreign relations, the interests of the Islands in the International Treaty Organisations (such as the ITU) are represented by the UK Delegation, but whenever appropriate, consideration is given to arranging for Island representation, either as a member of the United Kingdom delegation or as an observer.^[5]

Law and Jurisdiction

The Islands have a completely different system of Law to that which obtains in the United Kingdom (common law systems) or in the European mainland (civil law systems).

The legal systems in the Islands have a common historical root with each other, and this is based on Customary Law which derives from the legal practices of Normandy before its incorporation into France, with the addition of Statute Law in each of the Islands having been passed by the respective legislatures.

Before the Second World War, much legislation was in French. Today, however, all legislation takes place in English, (although Channel Islands advocates are still required to carry out part of their training at Caen in Normandy and obtain a French legal qualification).

Internet ccTLDs

In mid-1996 the Internet Authority for Assigned Names and Numbers (IANA) agreed that the Channel Islands Registry would be set up and that the codes of “JE” (Bailiwick of Jersey) and “GG” (Bailiwick of Guernsey) could be allocated.

RFC-1591

The generally acknowledged terms and conditions for the creation of ccTLDs were, in 1994, embodied in an RFC (Internet Standards Document) known as RFC-1591.

It is the terms and conditions contained within RFC-1591 which describe the terms under which the Channel Islands Registry has operated since 1996, and remains so until it is mutually agreed otherwise between the Registry and whichever agency eventually takes over responsibility for the DNS root server system from the US Government.

Legal Personality

The Registry, like most European registries is not a part of any Governmental agency.

Yet at a very early stage it was determined that, with two ccTLDs representing four different and independent jurisdictions, a method of communication and co-operation between the Registry and the Insular Authorities would be highly desirable.

Co-operation between the Insular Authorities and the Registry.

The Islands are committed to ensuring that money launderers, tax evaders, drug traffickers and all other criminals should not be able to launder the proceeds of their crimes through the Islands or operate from the Islands. At the founding of the Registry there was some concern that unscrupulous persons may use local website address or email addresses to further their nefarious activities.

Yet an Internet Registry, no matter what its constitution cannot regulate its customers, nor can it act as the enforcement arm of the Financial Services regulators.

What it can do, is to maintain good communication and close co-operation between the Registry and the authorities such that both Governmental and private industry are aware of the possible issues and can get the perspective of both private sector interests, and those relating to public policy issues. Consultation is a two way street and the Registry's Governmental Advisory Committee fulfils this role.

The Registry's Governmental Advisory Committee.

The CI-GAC was set up in 1997 by the Registry with invited representatives from two of the four Island governments. The other two Island Governments joined shortly thereafter.

Indeed, the Registry's Channel Islands Governmental Advisory Committee, while specifically for communication between representatives of the four Governments and the Registry has also proved a useful forum for an exchange of views on general e-commerce matters between the governments unrelated to domain name matters.

This does not mean that there is always total agreement between the Registry and the members of the Advisory Committee. For example, one of the Governments restricts the use of corporate names and has from time to time has sought to apply the same bias when considering matters relating to Internet Domain Registration without fully understanding the differences between company names and internet names. This has highlighted the importance of informing and educating all parties through such a consultation process.

The Registry has also benefitted from insights into public policy considerations from the Governmental members.

Memorandum of Understanding

In early 2000, all four Island Governments were taking part in the Advisory committee, and it was decided to produce a formal document describing the co-operation.

This took the form of a Memorandum of Understanding which recognised the private sector nature of the Internet Registries and at the same time provided a formal basis on which the Island's Governments could fully participate in consultations regarding proposed domain name rule changes or other matters of common interest.

What's Still Missing?

Like all ccTLDs, the secure and stable operation of the root server is of concern to both Registry and to the authorities.

The root server system is run well, and is run mostly by volunteers, some of which are outside the USA. The authoritative "A" root is, however, run by Verisign (Network Solutions) under a direct contract with the United States Government.

This essentially means that the Government of one country has *de facto* control over the e-commerce infrastructure of all other 240+ sovereign countries and territories and in theory (if not in practice) could affect or re-reroute internet names within any ccTLD.

Despite this fairly remote possibility, given the current stage of evolution of ICANN, it is considered preferable by many ccTLD Managers that the US Government does *not* hand over control of the root to ICANN as things stand today.

However it does not appear to be desirable in public policy terms for most sovereign countries in the medium- to long- term that a single country should have total control of the World Root, since this could lead to the possible perception that the operation of the authoritative World Root may favour that country's own economic interests, unconsciously or otherwise.

Therefore the most fundamental issue that still remains to be addressed is that of internationalising the operation of the A root server system.

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To contact the Channel Islands Registry:

Channel Islands Domain Registry
4 & 5 St Anne's Walk, P O Box 65, Alderney, GUERNSEY GY9 3JZ
(British Channel Islands)

Telephone +44 1481 822800

Fax: +44 1481 822818

Email: hostmaster@channelisles.net

<http://www.channelisles.net>

References and links

- [1] The States of Jersey www.gov.je
- [2] The States of Guernsey www.gov.gg
- [3] The States of Alderney www.alderney.gov.gg
- [4] Chief Pleas www.sark.gov.gg
- [5] Lord Chancellor's Department (UK)
<http://www.lcd.gov.uk/constitution/crown/govguide.htm#part14>