

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

1. OBJECTIVES:

1.1 The objectives of this Privacy Policy are:

(1) To disclose to the Registrant, and in doing so obtain the Registrant's consent, to the fact that the Personal Information (defined below) provided by the Registrant may be dealt with in the following manner by Christmas Island Internet Administration Limited ("CIIA"):

- (a) Personal Information shall be collected in the form of a Registrant database, which is used, maintained and corrected from time to time in accordance with this Policy;
- (b) Personal Information shall be collected by CIIA for the purpose of the storage and maintenance of the Personal Information. CIIA shall not disclose or transfer the Personal Information to any third party other than the .cx country code Top Level Domain Escrow Agent unless under the circumstances detailed in the "Use and Disclosure" section of this Policy;
- (c) All personal information about the Registrant which is supplied to CIIA or an accredited registrar is held by CIIA for the benefit of Christmas Island and global internet communities and may be required to be publicly disclosed to third parties and used to maintain a public "Whois" service, provided that such disclosure is consistent with:

- (i) privacy principles specified in CoCCA recommended policies; and
- (ii) the CIIA Policies.

(2) To outline CIIA's procedures for the appropriate collection, holding, use, correction, disclosure and transfer of a Registrant's Personal Information by CIIA.

(3) For CIIA to undertake the requirements of Section 1.1(1) in such a way so as to ensure that CIIA:

- (a) meets international concerns and obligations relating to privacy;
- (b) recognises a Registrant's interests in protecting their privacy;
- (c) recognises important human rights and social interests that compete with privacy, including the general desirability of a free flow of information and the right of CIIA to achieve its objectives efficiently; and
- (d) encourages Registrants to provide and maintain accurate and reliable contact details with the knowledge that CIIA will respect their privacy.

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

2. DEFINITIONS

2.1 "AUP" or "CIIA AUP" means the Acceptable Use Policy available at <http://www.nic.cx>

2.2 "CIIA" means Christmas Island Internet Administration Limited;

2.3 "Domain" means a .cx Domain name applied for by a Registrant, whose registration application has been processed and accepted by CIIA;

2.4 "Escrow Agent" means a third party contracted to perform data escrow services for CIIA. The data escrow arrangement with the Escrow Agent will ensure the transfer of all relevant DNS data and Registrant information, including Personal Information to a nominated replacement/back-up system, and will ensure the safety and integrity of the .cx country code Top Level Domain ("ccTLD") database. The Escrow Agent is prohibited from use or disclosure of the .cx ccTLD Data unless that use or disclosure is deemed essential to ensure the stability and integrity of the .cx ccTLD;

2.5 "Identifier" for the purposes of Section 10 includes a number assigned by CIIA to an individual to identify uniquely the Registrant for the purposes of CIIA's operations. However, an individual's name is not an identifier;

2.6 "Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a Registrant whose identity is apparent, or can reasonably be ascertained, from the information or opinion provided by the Registrant including information contained in applications for CIIA domain names;

2.7 "Policy" means the contents of the CIIA Privacy Policy and any amendments or updates to the Policy made by CIIA from time to time and posted on the CIIA website <http://www.nic.cx> ;

2.8 "Sensitive information" means Personal Information that would be considered to be "sensitive" under the CoCCA recommended policies;

2.9 "Registrant" means the individual, entity or the authorised agent for the individual or entity who applied for or caused to be applied for a Domain and whose registration application has been processed and accepted by CIIA;

2.10 "Whois Service" means the service provided by CIIA to the public, as described in Section 3 of this Policy, which is available at <http://www.nic.cx>.

3. Christmas Island ccTLD "WHOIS" SERVER IMPLICATIONS

3.1 CIIA will maintain a publicly accessible information service known as the .cx ccTLD "Whois" service which will provide limited information in relation to a Domain as follows:

1. technical information on the DNS servers resolving a Domain;
2. the date the Domain was inserted into the .cx ccTLD registry;
3. the date of last modification; and
4. the date of expiration.

3.2 CIIA shall not release a Registrant's phone numbers, addresses or email contact details without the consent of the Registrant, unless under the circumstances detailed in "Use and Disclosure" section below.

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

3.3 CIIA or CoCCA Accredited Registrars are required, as a condition of their accreditation, to provide Registrants with the tools to make visible "Extended Whois" information on .cx ccTLD domains registered through them.

3.4 CIIA will provide registrants with an on-line tool at <http://www.nic.cx> to edit information published in the ccTLD Whois. The registrant will require a registry key and will not be able to disable display of data set in 3.1.

4. COLLECTION

4.1 CIIA shall only collect Personal Information necessary for one or more of its functions or activities:

- (1) as the trustee for the .cx ccTLD database;
- (2) for the provision of the "Whois" Service;
- (3) to contact the Registrant as necessitated by the .cx ccTLD Polices;
- (4) to provide law enforcement with information required to investigate or prevent a crime.

4.2 The "Primary Purpose of Collection" by CIIA shall be for one of the necessary functions or activities of CIIA as described in Section 4.1 above and CIIA will exercise its reasonable endeavours to ensure that:

- (1) CIIA shall collect Personal Information only by lawful and fair means and not in an unreasonably intrusive way.
- (2) At or before the time (or, if that is not practicable, as soon as practicable after) CIIA collects Personal Information about a Registrant from the Registrant, CIIA shall take reasonable steps to ensure that the Registrant is aware of:
 - (a) the identity of CIIA and the Escrow Agent and how the Registrant may contact CIIA; and
 - (b) the fact that the Registrant is able to gain access to the Personal Information; and
 - (c) the purposes for which the Personal Information is collected (as outlined in the Section 4.1 above); and
 - (d) the organisations (or the types of organisations) to which CIIA usually discloses the Personal Information; and
 - (e) any law that requires the particular Personal Information to be collected; and
 - (f) the main consequences (if any) for the Registrant if all or part of the Personal Information is not provided.

(3) If it is reasonable and practicable to do so, CIIA shall collect Personal Information about a Registrant only from that individual.

(4) If CIIA collects Personal Information about the Registrant from someone else, it shall take

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

reasonable steps to ensure that the Registrant is or has been made aware of the matters listed in the "Objectives" Section 1 above except to the extent that making the Registrant aware of the matters would pose a serious threat to the life or health of any individual.

4.3 CIIA's website does not utilise technology to collect user information or track usage. CIIA's website may feature links to other websites. CIIA is not responsible for the content and privacy practices of such other websites.

5. USE AND DISCLOSURE

5.1 CIIA shall NOT use or disclose Personal Information about a Registrant for a purpose (the Secondary purpose) other than the Primary Purpose of Collection unless:

- (1) the Registrant has consented to the use or disclosure; or
- (2) CIIA reasonably believes that the use or disclosure is necessary:
 - (a) to lessen or prevent a serious and imminent threat to an individual's life, health or safety; or
 - (b) to lessen or prevent a serious threat to public health or public safety; or
 - (c) because CIIA has reason to suspect that unlawful activity or a violation of the AUP has been, is being or may be engaged in, and uses or discloses the Personal Information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons (including parties effected by a violation of the AUP) or authorities; or
 - (d) because the use or disclosure is required or authorised by or under law; or
 - (e) because CIIA reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.
 - (f) because a third party has filed a complaint relating to the AUP and providing the Personal Information may contribute to resolution of the complaint.

5.2 CIIA shall lawfully co-operate with agencies performing law enforcement functions.

5.3 This "Use and Disclosure" section (Section 5) does not override any existing legal obligations not to disclose Personal Information. Nothing in this "Use and Disclosure" section (Section 5) requires CIIA to disclose any Personal Information; CIIA is always entitled not to disclose Personal Information in the absence of a legal obligation to disclose it.

5.4 CIIA is also subject to the requirements set out in the "Transborder Data Flow" section (Section 12) of this Policy if it transfers Personal Information to a person in a foreign country, situated outside of the Commonwealth of Australia.

5.5 If CIIA uses or discloses Personal Information under this "Use and Disclosure" (Section 5), it shall make a written note of the use or disclosure, and except where requested by a law enforcement agency, inform the Registrant by email of the identity of the requesting entity and stated reasons for the release of the information. These reasons must be one of the stated reasons in section 5.1(2).

6. DATA QUALITY

6.1 CIIA shall take reasonable steps to make sure that the Personal Information it collects, uses or discloses is accurate, complete and up-to-date.

7. DATA SECURITY

7.1 CIIA shall take reasonable steps to protect the Personal Information it holds from misuse and loss and from unauthorised access, modification or disclosure.

7.2 CIIA shall take reasonable steps to destroy or permanently de-identify Personal Information if it is no longer needed for any purpose for which the information may be used or disclosed under the "Use and Disclosure" section of this Policy, except where prohibited by law or applicable policy.

8. OPENNESS

8.1 This Policy sets out CIIA's policies on its management of Personal Information. CIIA shall make this document available to anyone who asks for it.

8.2 On request by any person, CIIA shall take reasonable steps to let the person know, in general, what sort of Personal Information CIIA holds, for what purposes, and how it collects, holds, uses and discloses that information.

9. ACCESS AND CORRECTION

9.1 If CIIA holds Personal Information about a Registrant, it shall provide the Registrant with access to the information on request by the Registrant, except to the extent that:

- (1) in the case of Personal Information, providing access would pose a serious and imminent threat to the life or health of any individual; or
 - (2) providing access would have an unreasonable impact upon the privacy of other individuals;
- or

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

- (3) the request for access is frivolous or vexatious; or
- (4) the information relates to existing or anticipated legal proceedings between CIIA and the Registrant and the information would not be accessible by the process of discovery in those proceedings; or
- (5) providing access would reveal the intentions of CIIA in relation to negotiations with the Registrant in such a way as to prejudice those negotiations; or
- (6) providing access would be unlawful; or
- (7) denying access is required or authorised by or under law; or
- (8) providing access would be likely to prejudice an investigation of possible unlawful activity; or
- (9) providing access would be likely to prejudice:
 - (a) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; or
 - (b) the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - (c) the protection of the public revenue; or
 - (d) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (e) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders by or on behalf of an enforcement body; or
 - (f) an enforcement body performing a lawful security function asks CIIA not to provide access to the information on the basis that providing access would be likely to cause damage to the security of the Commonwealth of Australia.

9.2 However, where providing access would reveal evaluative information generated within CIIA in connection with a commercially sensitive decision-making process, CIIA may give the Registrant an explanation for the commercially sensitive decision rather than direct access to the information.

9.3 If CIIA charges for providing access to Personal Information, those charges:

- (1) shall not be excessive; and
- (2) shall not apply to the lodging of a request for access by Registrants to their own Personal Information.

9.4 If CIIA holds Personal Information about a Registrant and the Registrant is able to establish that the information is not accurate, complete and up-to-date, CIIA shall take reasonable steps to correct the information so that it is accurate, complete and up-to-date, as requested by the Registrant.

9.5 If the Registrant and CIIA disagree about whether the Personal Information is accurate,

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

complete and up-to-date, and the Registrant asks CIIA to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, CIIA shall take reasonable steps to do so.

9.6 CIIA shall provide written reasons for denial of access or a refusal to correct Personal Information under this section (section 9) in relation to "Access and Correction".

10. IDENTIFIERS

10.1 CIIA shall not adopt as its own identifier of a Registrant, an identifier of the Registrant that has been assigned by:

- (1) an agency; or
- (2) an agent of an agency acting in its capacity as agent; or
- (3) a contracted service provider for a government contract acting in its capacity as contracted service provider for that contract.

10.2 CIIA shall not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider mentioned in Section 10 in relation to "Identifiers" unless:

- (1) the use or disclosure is necessary for CIIA to fulfill its obligations to the agency; or
- (2) one or more of the requirements in relation to "Use and Disclosure" in Section 5.1 applies to the use or disclosure.

11. ANONYMITY

11.1 A Registrant's request not to be identified when entering transactions with CIIA shall be considered by CIIA on a case by case basis, in its sole discretion, although CIIA may to honour such request wherever it is lawful or practicable to do so.

12. TRANSBORDER DATA FLOWS

12.1 CIIA may transfer Personal Information to someone (other than CIIA, its affiliates or the Registrant) who is in a foreign country only if:

- (1) CIIA reasonably believes that the recipient of the information is subject to a law, binding scheme, or contract which effectively upholds principles for fair Resolution of the information that are substantially similar to the privacy principles under CoCCA recommendations; or
- (2) the Registrant consents to the transfer; or
- (3) the transfer is necessary for the performance of a contract between the Registrant and CIIA, or for the implementation of pre-contractual measures taken in response to the Registrants request; or
- (4) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the Registrant between CIIA, its affiliates or a third party; or
- (5) all of the following apply:
 - (a) the transfer is for the benefit of the Registrant;
 - (b) it is impracticable to obtain the consent of the Registrant to that transfer; and
 - (c) if it were practicable to obtain such consent, the Registrant would be likely to give it; or

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

(6) CIIA has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the privacy principles in the CoCCA recommendations.

13. SENSITIVE INFORMATION

13.1 CIIA shall not collect sensitive information about a Registrant unless:

- (1) the Registrant has consented; or
- (2) the collection is required by law; or
- (3) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the Registrant whom the information concerns:
 - (a) is physically or legally incapable of giving consent to the collection; or
 - (b) physically cannot communicate consent to the collection; or
- (4) where the information is collected in the course of the activities of a non-profit organisation the following conditions are satisfied:
 - (a) the information relates solely to the members of CIIA or to individuals who have regular contact with it in connection with its activities;
 - (b) at or before the time of collecting the information, CIIA undertakes to the Registrant whom the information concerns that CIIA will not disclose the information without the Registrant's consent; or
- (5) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

14. REVIEW OF POLICY

14.1 CIIA reserves the right to review or revise this policy at any time and those people who volunteer their personal details to CIIA are deemed to acknowledge and be bound by this policy and any changes made to it. This in no way affects the privacy protection available under CoCCA recommendations or other relevant laws.

About the Council of Country Code Administrators

<http://www.cocca.cx>

Taking the view that administrators of ccTLDs are trustees for the internet domain, CoCCA Members seek, through consensus, to develop approaches, policies and technologies which improve the utility, technical stability, and interoperability of member ccTLD's with the DNS.

(CX) Whois & Privacy Policy

Written by Administrator

Sunday, 12 October 2008 16:15 - Last Updated Monday, 29 March 2010 14:55

CoCCA has been established as an inclusive forum for collaboration among those trustees of ccTLDs that support responsible administration of the DNS, accountability models, and industry self-regulation. CoCCA is a non-profit, member owned company.