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2010 NPP Meeting - 16 June 2011

Seventh Meeting
16 June 2011, 2.00-5.00pm
Maddocks, Melbourne

Present: Philip Argy, Darrell Burkey, David Goldstein, John Graham, Lisa Jarrett, Erhan Karabardak, Amin Kroll, Lisa Lennon, Jo Lim, Kimberley Lowton, David Lye, Graham McDonald, Jamie Murphy, George Pongas, Joshua Rowe, Nancye Stanelis, Derek Whitehead, Miguel Wood

Teleconference: Robert Gregory, Simon Johnson, Haig Kayserian, Annaliese Williams (DBCDE)

Apologies: Lujia Chen, Helen Richards

Actions:

- JL and DW to circulate final recommendations for Panel approval.

Discussion:

1. Confirmation of 7 April minutes

The minutes were confirmed.

2. Public consultation outcomes

The Panel's second consultation paper was released on 3 May 2011 and the deadline for comments was 10 June 2011. The Panel received 11 submissions and 31 complete responses to the online survey (summary attached).

The Panel noted that the second consultation process attracted less interest than the first consultation. Overall, the majority of comments were supportive of the Panel's draft recommendations.

3. Review of Final Recommendations

1A Registrants must be Australian

The Panel noted there was majority support for its draft recommendation on this issue.

The Panel confirmed its recommendation that the requirement for registrants to be Australian (or registered to trade in Australia) should remain in place.

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1B org.au – "special interest club" criterion

The Panel noted there was majority support for its draft recommendation on this issue.

However, the Panel also noted a number of people were undecided, perhaps indicating a reluctance to comment in the absence of a proposed definition of the "special interest club" eligibility criterion.

Whilst it is not the Panel's role to draft the definition, it was agreed to include more specific examples of possible eligibility criteria in the final report to the auDA board. The key consideration is to ensure that the statement of eligibility criteria closes the loophole for illegitimate registrants without excluding genuine registrants.

The Panel confirmed its recommendation that the "special interest club" eligibility criterion for org.au and asn.au domain names be more clearly defined.

1C Policy enforcement

The Panel noted there was majority support for its draft recommendation on this issue.

Panel members discussed the content of reports that auDA should publish about its audit program, including statistical information about the number of audits and the policies triggered. Published information should include sufficient detail to be meaningful, but should be de-identified in the interests of registrant privacy.

It was noted that domain names which are deleted for breach of policy are published on the official drop list, and it is possible for people to discover the identity of the registrant on WHOIS up to the time when the domain drops. It was further noted that sometimes a registrant may identify themselves (eg. in the media), in which case it would be reasonable for auDA to disclose details of the particular case depending on the circumstances.

Panel members agreed that audit results should only be published at the conclusion of the audit process, allowing time for any review process.

The Panel confirmed its recommendation that auDA should publish the results of its periodic policy compliance audits.

1D Two year licence period

The Panel noted there was majority support for its draft recommendation on this issue.

Panel members discussed public comments that 4-5 years would be too long and would lead to increased numbers of dormant domain names with out-of-date WHOIS details. It was noted that it is possible to challenge a domain name registration by making a complaint to the registrar or to auDA. It is also permissible to make an offer to buy a domain name from a registrant.

The Panel acknowledged the significant cost and revenue implications for the industry, however it was agreed that there is strong user demand for variable licence periods, and the change would bring .au into line with most other TLDs.

Panel members made some suggestions for implementation, including retaining the 2 year licence for initial registration and then allowing variable licence periods on renewal, and introducing mandatory renewal on transfer as with gTLD policy.

The Panel confirmed its recommendation that registrants should be able to license a domain name for a 1, 2, 3, 4 or 5 year period.

1E Leasing of .au domain names

The Panel noted there was majority support for its draft recommendation on this issue.

It was agreed to change the wording of the draft recommendation to make the intention clearer.

The Panel confirmed its recommendation that auDA's position on third party rights should be clarified and published (exact wording to be redrafted).

Erhan Karabardak did not agree with the majority view on this issue.

1F Single character domain names

The Panel noted there was no clear majority support for its draft recommendation on this issue.

Panel members noted that its general approach has been to relax policy unless there is a compelling reason not to do so. It was felt that people who opposed the release of single character domain names did so on the basis of eligibility concerns, as opposed to concerns about releasing the domain names per se.

The Panel considered toning down its recommendation to say that the prohibition on single character domain names should be lifted, rather than single character domain names should be released – ie. to use less positive language, to reflect the equivocal public comments. Whilst acknowledging that there were reasonable arguments on both sides, on balance, Panel members favoured retaining the positive language of the draft recommendation.

The Panel confirmed its recommendation that in the absence of any compelling technical or policy reason to maintain the restriction, and subject to the registrant being eligible to register the name, single character domain names should be released.

1G Domain names for personal use

The Panel noted there was majority support for its draft recommendation on this issue.

Panel members acknowledged that relaxing the rules for id.au would be a small step, but a positive move nonetheless, towards making it easier and more attractive for individuals to register .au domain names for personal use.

The Panel confirmed its recommendation that the close and substantial connection rule for id.au be relaxed to include domain names that refer to personal hobbies and interests.

David Goldstein and David Lye did not agree with the majority view on this issue. They argued that allowing individuals to register directly under .au, or within com.au and net.au, would be a far more significant and effective outcome.

1H Direct registrations under .au

The Panel noted there was majority support for its draft recommendation on this issue.

The Panel confirmed its recommendation that that direct registrations under .au not be allowed at this time.

2 Reserved List Policy

The Panel noted there was majority support for its draft recommendation on this issue.

The Panel confirmed its recommendation that the Reserved List Policy be retained, and updated as necessary to ensure consistency with Commonwealth legislation.

In relation to the reservation of state and territory names and abbreviations, the Panel noted there was majority support for Option C, which was that the names should remain on the Reserved List and there should be no provision for registration of the names.

It was noted that the majority was slim and possibly not statistically significant (approximately 54% of respondents supported Option C). The remaining 46% of respondents broadly supported some reservation of the domain names with the ability to release them being subject to specific procedures / approval (either by auDA or government).

Panel members considered that it would be inconsistent with existing policy to have a category of names on the Reserved List that cannot be released under any circumstances.

In light of the fact that no other Reserved List domain names are absolutely prohibited, the Panel agreed to recommend that the names and abbreviations of Australian states and territories should remain on the Reserved List, but may be released on application provided that the proposed registrant is eligible to use the name under normal policy rules, and that they have received permission from the relevant state government.

3 Domain Monetisation Policy

The Panel noted there was majority support for its draft recommendation on this issue.

Panel members felt that the major concerns raised by public comments have been addressed, ie. that domain monetisation should not be treated separately from the general policy rules, and that the definition of monetisation should be broader to allow domainers to pursue a range of different business models.

The Panel confirmed its recommendation that:

- a. the Domain Monetisation Policy (2008-10) should be abolished as a separate policy;
- b. Schedules C and E of the Domain Name Eligibility and Allocation Policy Rules for Open 2LDs (2008-05) should be amended to include domain monetisation under the close and substantial connection rule for com.au and net.au domain names;
- c. the existing conditions of use on domain names registered on the basis of domain monetisation under the "close and substantial" connection rule should be retained;
- d. the definition of "domain monetisation" should be replaced with a description of permissible practice, to accommodate a range of monetisation models; and
- e. the Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2008-06) should be amended to include additional explanatory material regarding domain monetisation.

In relation to point b, the Panel agreed that its report to the auDA Board should attach sample language for Schedules C and E to illustrate how auDA could implement the recommendation if it were minded to adopt it.

Erhan Karabardak did not agree with the majority view for a number of reasons. It was agreed that he might include his concerns / objections within a minority report.

David Lye did not agree with the majority view, on the grounds that the brand and personal name condition is open to abuse by complainants.

Simon Johnson did not agree with the majority view, on the grounds that the definition of monetisation is still unsatisfactory and may cause problems in future.

It was noted that these Panel members may provide a minority report, in conjunction with the Panel's final report to the auDA Board. A minority report should be based on Panel discussions, and should not introduce material that was not made available to the Panel.

4 Prohibition on Misspellings Policy

The Panel noted there was majority support for its draft recommendation on this issue.

Panel members discussed the 'catch-all' clause in paragraph 4.2(h) of the policy (a prohibited misspelling is "any other name that auDA determines is a deliberate misspelling, having regard to the surrounding circumstances"). It was agreed that the catch-all clause is desirable, as it is not possible for the policy to list every possible type of misspelling.

The Panel confirmed its recommendation that the Prohibition on Misspellings Policy be retained in its current form.

The Panel's final report will be provided to the auDA Board in time for consideration at the August Board meeting.

Derek Whitehead thanked Panel members for their collaboration in the process. He noted that whilst the Panel has not recommended any dramatic changes to policy, they are incremental changes that hopefully will improve the system for the benefit of users.

Panel members thanked Derek Whitehead for his effective chairing of the Panel.

The Panel held a general discussion about issues for future Panels. Panel members thought that the two main policy issues that would need to be revisited in future are direct registrations under .au and personal domain names, while the introduction of new gTLDs by ICANN may also have a significant impact on the Australian DNS. It was suggested that there should be more extensive public surveys conducted ahead of the next Panel, which could then be used to better focus the Panel's work.

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