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2010 NPP Meeting - 4 November 2010

Third Meeting

4 November 2010, 2.00-5.00pm
Maddocks, Melbourne

Present:

Philip Argy, Darrell Burkey, Lujia Chen, John Graham, Robert Gregory, Simon Johnson, Amin Kroll, Erhan Karabardak, Haig Kayserian, Jo Lim, Kimberley Lowton, David Lye, George Pongas, Helen Richards, Nancye Stanelis, Derek Whitehead, Miguel Wood

Teleconference:

Tristan Kathage (DCBDE), Peter Nettlefold (DCBDE), David Lee (DCBDE)

Apologies:

David Goldstein, Lisa Jarrett, Lisa Lennon, Graham McDonald, Jamie Murphy, Joshua Rowe

Actions:

- JL and LC to circulate next draft Discussion Paper to Panel
- JL and LC to circulate draft of public survey questions to Panel

Discussion:

1. Introductions

DW introduced Philip Argy as a new Panel member representing the Australian Computer Society.

2. Items from Last Meeting

- a. Draft minutes for second meeting, 7 October 2010

The minutes were confirmed.

- b. Panel discussion list comments

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DW noted that comments from the Panel discussion list will be used as input to the final discussion paper and may be incorporated into it.

3. Desirable Attributes of Domain Name Policies

JL circulated a list of desirable attributes of domain name policies to the Panel, extracted from the final report of the auDA Name Policy Advisory Panel in April 2001. The Panel confirmed the list of attributes, and suggested that the attribute "affordability" be added to the list.

4. Draft Discussion Paper

Reserved List Policy

The Panel noted that the Reserve List Policy will need to be included in the draft Discussion Paper as an issue. The Panel agreed that the only change to the policy is whether the list needs to be updated, in line with current Commonwealth legislation.

Issue 1G – Single character domain names

The Panel noted that there are no longer any technical difficulties in releasing single character domain names. Currently, there are a few existing single letter domain names (eg. i.net.au; x.net.au), but they are legacy domain names which were created prior to auDA administration.

The Panel noted the particular issue of policy enforcement in registrant eligibility, given that it would be extremely difficult to determine what the close and substantial connection is between the registrant and a single character domain name. Any business could claim to be entitled to a single character domain name as long as it is a letter in their business name.

JL explained that there were policy enforcement issues when two-character domain names were first introduced as result of the policy review in 2006. Registrants that were entitled two-character domain names had to either show that they have a connection to the domain name because the characters have their own meaning (i.e. go.com.au) or is an acronym of their name or trademark.

Given that there are only 36 single character (a-z, 0-9) domain names available, they would be considered highly valuable and sought after.

The Panel agreed that single character domain names should be released, subject to public consultation.

It was also suggested that these domain names can be introduced via an open auction or tender process, but noted the release method would be a matter for auDA to determine.

Issue 1F – Two year licence period

JL explained that the Names Policy Review Panel in 2004 considered this issue and recommended that the licence period be changed to allow 1, 2 and 3 year licence periods, but that recommendation was not accepted by the auDA Board at the time. This was because firstly, there were registrar concerns that the administration costs were too high and secondly, that the change would be in conflict with the 4 year registry licence term.

Some Panel members noted that a shorter licence registration period (i.e. 1 year) may be desirable for temporary

purposes, such as for short-term competitions or annual events. Some Panel members noted the benefit of brand protection associated with longer licence period – 3 or 5 years would be considered reasonable.

A change to licence periods would greatly impact the existing registry database and there would be significant costs to auDA, the registry and potentially registrars who wished to offer the service.

Those on the Panel who represent the registrar industry noted the higher service costs involved within their systems to support a variable renewal period. Existing 2 year licence period is consistent and much more manageable. Some current registrants have problems remembering to renew their domain name every 2 years, let alone a variable period.

It was also noted that ICANN allows 1-10 year registrations in gTLDs, but there are costs involved with transferring to another registrar because the registrant must register an additional year on top of their existing licence period, which provides an incentive to registrars to take on long-term licences. The Panel noted that auDA's Transfers Policy may need to be changed along similar lines.

It was noted that registrant contact detail changes should be taken into consideration if the licence period is for a longer term than 2 years, as validity of registrant eligibility data may less likely be accurate if longer registration periods were available (i.e. companies that have gone out of business).

Issue 2A – Domain monetisation practices

The Panel made the following suggestions to address the issue of domain monetisation practices:

- Abolish the policy, and instead introduce another eligibility criterion under the Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05).
- Abolish the policy, thereby completely prohibiting monetisation
- Abolish the policy, but allow other mechanisms to deal with breaches of intellectual property rights
- Keep the policy, but redefine monetisation (but the Panel noted that the key issue is how monetisation could be defined)
- Specifically prohibit monetisation in org.au; asn.au; and id.au spaces (but again, the Panel noted that the issue is how monetisation could be defined)
- Keep the policy as it is (some Panel members noted that most domainers have changed their practices so they are in many cases compliant with existing policy)
- Keep the policy but remove Section 4.3(a) so that the content can just be any advertising links and does not need to “relate specifically and predominately to the domain name” (some Panel members noted that this means that domainers would be able to register anything they want and this would be unfair to other registrants who are required to have a close and substantial connection to the domain name).

The Panel noted auDA's difficulty in ascertaining what the close and substantial connection is given that the decision can be very subjective, for example when the domain name itself is an acronym and could virtually stand for anything.

Some Panel members also noted that monetisation may have a practical use, given that it is an alternative to search

engines such as Google. It is unrealistic to prohibit monetisation completely since the practice occurs regardless and in many contexts.

Issue 1D – Verification of registrant identity at the time of registration

DCBDE advised that the issue was raised by the House of Representatives Standing Committee on Communications as a subject of its inquiry into cyber crime.

The Panel noted that currently the registrant provides a warranty to the registrar at the time of registration. The registrant would be found in breach of that warranty and their domain name deleted if they have provided false or misleading information. It was also noted that the issue of fraudulent registrations is a legislative one, where greater sanctions can be enforced, and should not be a responsibility for registrars to undertake. ASIC currently does not actively verify the identity of individuals or entities, applying to register a company.

Panel members also noted that the costs to industry would be significant, if not prohibitive, if an automated electronic system was required to verify each and every registrant.

JL explained that in the past, registrants were required to fill out a close and substantial connection box but it became too difficult for registrars to manage, and for registrants to understand.

Issue 4 – Enforcement of Policy Rules

The Panel noted that the issue is whether there should be a higher level of enforcement.

JL explained that there is an increasing expectation from the public that auDA will protect their interests, and that auDA provides a mechanism which caters for entities such as government, non-profit agencies, and small businesses that cannot otherwise afford going to court or arbitration and have no enforceable intellectual property or third party rights.

JL advised the Panel that an independent registrant review panel will be set up in about 3-6months.

5. Public Consultation Process

The Panel collectively offered to distribute the discussion paper and survey to their respective representative groups – including ISOC-AU, COSBOA, and ACS. It was also suggested that government agencies such as ACMA be approached.

The Panel agreed that media coverage will be an important way of raising awareness of the paper and survey and that auDA will issue a media release.

It was suggested that Senator Conroy might also be requested to issue a media release.

The draft discussion paper and survey questions will be circulated to the Panel for comments and approval.

Next meeting:

Thursday 3 February 2011, 2-5pm – Melbourne

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