



QUEENSLAND UNIVERSITY OF TECHNOLOGY

FACULTY OF LAW

REVIEW OF .AU POLICY FRAMEWORK

SUBMISSION TO THE DRAFT RECOMMENDATIONS

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The following are my comments on Draft Recommendations 1A, 1D, 3 and 4 which were released on May 2011.

Draft Recommendation 1A: Registrants must be Australian (or registered to trade in Australia)

I agree with the Panel's recommendation that Registrants must be Australian (or registered to trade in Australia) as there appears to be a strong community acceptance that ".au means Australian."

Draft Recommendation 1D: Two Year Licence Periods

"The Panel recommends that registrants should be able to license a domain name for a 1, 2, 3, 4 or 5 year period"

I agree that the introduction of a rule allowing registrants to licence a domain name for a 1, 2, 3, 4 or 5 year period would be a good move as it does offer the registrants greater flexibility and choice. It is in tandem with other countries as many countries offer longer licence periods. Longer licence periods also help ensure that registrants register their domain names for the exact period of time that they would require it for (if it is for a period of 1 to 5 years).

It is also beneficial to the registrants as registrants may forget to renew their domain name registrations if they wish to register it for a longer period of time (such as for 5 years) but were only allowed to have a two year licence. This sometimes causes embarrassing results for the registrants where their websites can no longer be accessed because they forgot to renew their domain name licences. Furthermore, it may also result in their domain names being re-registered by someone else. For example, in the United Kingdom, statistics show that: *'15% of non-renewed domain names are re-registered by someone else within one day. Astonishingly 7.5% are re-registered within 10 seconds.'*¹ The United Kingdom's domain name system, which is administered by Nominet, runs a domain name renewal awareness website known as *'keepyour.co.uk'*² to ensure that its registrants remember to renew their domain name licences as the .uk domain names currently have two year licence periods.

If registrants were allowed to licence their domain names for a 1, 2, 3, 4 or 5 year period, they may not need to be reminded to renew their domain name licences as they would most probably have registered their domain names for the exact period that they would require it for (if they needed their domain names for a period of 1 to 5 years). However, it is noted that the United Kingdom's initiative in the *'keepyour.co.uk'* is a useful one even though it would be less required in countries with domain names that have longer licence periods.

Furthermore, I think certain rules may need to be put in place to ensure that the system of allowing for longer licence period works well. In particular, there should be tighter regulations for businesses or companies that register their domain name through the eligibility of an ABN registration, etc and have registered a domain name with longer licence periods. This is because whilst a business may have a 5 year licence period for their domain name, the business may or may not last for 5 years. For example, if the business was not successful on the second year and ceases operating, it should not be able to keep the domain name for 5 years despite the fact that it initially intended to run the business for 5 years and

¹ http://www.keepyour.co.uk/renew_importance.html

² See www.keepyour.co.uk

therefore, obtained a domain name licence for a 5 year period. This also prevents fraudulent registrations and the abuse of the longer licence periods. Thus, tighter regulations for domain name licences with longer licence periods may be beneficial as it helps ensure the integrity of the system.

Draft Recommendation 3: Domain Name Monetisation Policy

The Panel recommends 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.*

I agree that the domain name monetisation rules should be embedded within the close and substantial connection rule as they are both inter-related. The flexibility in the close and substantial connection rule has resulted in some registrants using the close and substantial connection rule to register a large number of domain names for the purpose of domain name monetisation.³

It is observed that there was a policy rule published in 2006 which was the ‘Clarification of Close and Substantial Connection Rule – Domain Name Monetisation’ policy.⁴ This policy rule was later replaced by the ‘Domain Monetisation Policy’ in 2008.⁵ Interestingly, this old policy rule which was introduced in 2006⁶ also incorporated both the close and substantial connection rule and domain name monetisation rules as inter-related rules.

Thus, the question arises as to whether the recommendation would result in the similar provisions in 2006.⁷ It is therefore hoped that the new rules that are recommended would be an improved or different version of policy rule (that relates the close and substantial connection rule to domain name monetisation), rather than a similar version of the 2006 policy⁸ which was later replaced by the Domain Name Monetisation Policy in 2008⁹ due to certain improvements that needed to be made.

Draft Recommendation 4: Prohibition on Misspellings Policy (2008-09)

I agree with the Panel’s recommendation that the Prohibition on Misspellings Policy be retained in its current form.

³ See auDA Press Release – 23 March 2006

⁴ 2006-03 Clarification of Close and Substantial Connection Rule – Domain Monetisation

⁵ 2008-10 Monetisation Policy

⁶ 2006-03 Clarification of Close and Substantial Connection Rule – Domain Monetisation

⁷ 2006-03 Clarification of Close and Substantial Connection Rule – Domain Monetisation

⁸ 2006-03 Clarification of Close and Substantial Connection Rule – Domain Monetisation

⁹ 2008-10 Monetisation Policy