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Panels and Committees

2017 Policy Review Panel

auDRP

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Major Disaster Policy FAQ

2012 IAP Meeting - 26 July 2012

Fourth Meeting
26 July 2012, 2.00-5.00pm
auDA offices

Present:

Stuart Benjamin, James Deck, Brett Fenton (via teleconference), Erhan Karabardak (via teleconference), Paul Levins (via teleconference), Bruce Matthews, Graham McDonald, Peter Nettlefold (via teleconference), Craig Ng (Chair), Ned O'Meara, Maggie Whitnall (proxy for George Pongas), Holly Raiche, Bruce Tonkin,

Jo Lim, Paul Szyndler (auDA Staff)

Apologies:

David Cranston (ACCC), Paul Fong, Angelo Giuffrida, Robert Gregory, Jerry Leeson, Matthew Proctor, Dwayne Varey, Miguel Wood

Actions:

- auDA staff to commence development of draft recommendations paper – noting a number of Terms of Reference and subsequent recommendations are still to be discussed at the next Panel meeting.
- auDA staff to consider mechanisms for improving community engagement and contribution to calls-for-comment.

Discussion:

1. Welcome

Craig Ng opened the meeting, noting the Minutes of the Panel's previous meeting. The Chair sought panellists' views on the participation of AusRegistry with respect to the first Term of Reference and proposed to allow AusRegistry to contribute to general discussion at the meeting, but not to consensus-building around the development of draft recommendations. No objections were noted.

2. Public comment process

The Panel held a brief discussion on the submissions received as part of the public comment period on the Panel's Issues Paper (8 submissions and 10 web survey comments). While some panellists expressed concern at the limited amount of feedback, others noted this response rate was typical of auDA industry panels, and that Names Panel processes typically generate greater engagement. The issue of accessibility and digestibility of Panel consultation materials was also discussed and auDA staff undertook to investigate mechanisms for improving feedback rates – both for the later stage of this panel and subsequent auDA consultations.

3. Panel Terms of Reference – The method of registry operator selection/appointment post 2014

Jo Lim summarised the public contributions received in response to the Panel's Issues Paper. The range of comments received –from calls for an RFT process to re-negotiation with the incumbent – were noted. Craig Ng introduced discussion of the issue of registry operator selection by drawing panellists' attention to the recommendations of the previous industry panel regarding the option of renegotiation for "up to" four years and tender process that delivered contractual arrangements for a period of 6 to 8 years.

Panel members noted that two respondents to the Issues Paper declared their interest in competing for the .au 2LD registry, and Jo Lim advised that another interested party had made a confidential approach to auDA during the consultation period. Panellists discussed these statements of interest at length and, in particular, the impact this stated competition may have on the Panel's decision and recommendations regarding this Term-of-Reference.

The Panel noted that there is currently an absence of stated industry dissatisfaction with the current registry provider. This conclusion was based upon the collective .au market experience of Panel members and the fact that auDA has not received any registry-related complaints. Panellists noted that potential competitors would consider this when making a strategic business decision regarding tender participation and assessing their chances in the process.

The Panel also noted that the .au marketplace has not experienced significant change since 2005. To the best of the Panel's knowledge, the incumbent is still the only interested party with significant infrastructure established in Australia – a key requirement of performing the .au registry role. Given this, the Panel noted that the incumbent had a considerable competitive advantage over potential bidders, who would incur significant costs in establishing an Australian presence.

In this context, the Panel also noted that registry prices for .au domain names (e.g. $14.58 for two years in com.au) are already closely aligned with those in other namespaces such as .com (USD7.85 for one year).. Panellists discussed the limitations both this and significant start-up costs might place on the ability of other interested parties to price their tender at lower rates than those currently available.

Panel members also considered the potential impact of the current new gTLDs process on registry competition in Australia. The Panel noted that expansion of the global marketplace may result in additional potential registry competitors and further interest in .au,t, though this could take 2-3 years to occur. The Panel also discussed the possibility of high failure rates of new gTLDs, the resources other registry providers have committed to the new gTLD process, and the incumbent's significant involvement in Australian-based gTLD applications and concluded that these factors could work to diminish competitive effects in the near-term. On the whole, the Panel determined it was too soon to reasonably forecast the effects the new gTLD process would have.

The Panel also discussed the cost to auDA of running the process and the switching costs for registrars should the tender be awarded to a new registry provider. While the Panel noted these were not insurmountable and could be managed, they were considered by some to be factors in deciding whether or not to proceed to tender in 2014.

The Panel also considered whether a failed tender, due to low rates of response, could potentially weaken auDA's re-negotiating leverage. While a poor tender response and absence of competitive registry alternatives would provide auDA with a clearer perspective on the state of the .au marketplace, it could also do the same for the incumbent, affording that party a negotiating advantage. Although the Panel did not draw a conclusion on this issue, it did note that the real likelihood of an RFT providing credible, viable competition needed to be considered.

The Panel also considered the benefits of conducting an RFT at this time – market transparency and confidence, reputational benefits for auDA, and tangible confirmation of either a build-up, or lack, of demand for competition. It was suggested that, in recommending renegotiation in 2008, the previous industry panel had expected that auDA would run a tender process in 2014.

Balancing these pressures - both for and against a competitive tender process - the Panel achieved general consensus upon recommending to the auDA Board that it initiate re-negotiations with AusRegistry to extend the current contractual arrangements for 2, 3 or 4 years. This negotiating flexibility will allow auDA to determine which contractual period delivers the greatest value to the Australia Internet community. Should re-negotiations fail, then auDA should proceed to conduct a full RFT. In arriving at this consensus, some panellists stated their preference for an RFT process in 2014, and noted the need for the Panel to be very clear in its final recommendations as to why this decision path was not taken.

The Panel also agreed to recommend that the auDA Board commit to a formal RFT process following the expiry of the re-negotiated registry agreement. Panel members felt that this could provide certainty to the market, allow for observation and informed assessment of the true competitive effects of the new gTLD process, and give potential competitors the confidence to commit resources and finances to positioning themselves for the process.

On the question of single registry versus multiple registries, the Panel noted the consensus among community respondents and agreed to recommend the maintenance of the current model - i.e. retain a single registry for all existing .au 2LDs while allowing the option for the introduction of multiple registries in the future.

4. Panel Terms of Reference – The policy and process for registrar accreditation

Jo Lim again provided a summary of public comments received.

On the question of registrar fees, the Panel noted that accreditation fees had not increased since 2002, in accordance with the initial intent behind maintaining low barriers to entry to the .au marketplace (thereby stimulating competition in .au).

However, the Panel also discussed the subsequent growth and stabilisation of the .au domain marketplace and the increasing costs borne by auDA in relation to registrar accreditation, review, compliance monitoring and the proposed new security standard.

On balance, the Panel agreed to recommend that auDA should set fees for registrar accreditation that better reflect

the direct costs incurred. A number of panellists emphasised that any pricing changes resulting from this recommendation must be proportional and cost-based and that there should not be an extreme spike in accreditation fees.

On the question of overseas registrars, the Panel agreed that the processes, rules, and assessment requirements be the same for all potential registrars, irrespective of location. In particular, the Panel noted the importance to the integrity of the .au space of site visits and agreed to recommend that overseas-based registrars should bear the reasonable costs associated with the travel and accommodation of an auDA staff member to undertake a site visit during provisional accreditation.

The Panel also agreed to recommend the retention of current ASIC and ATO registration requirements on overseas-based registrars.

With regard to the current requirement for all potential .au registrars to act as a reseller of another registrar for 6 months, or show equivalent experience, the Panel agreed that this was another important provision for ensuring the integrity of the .au space, and agreed to recommend that the requirement be retained.

On the question of registrars seeking accreditation for the exclusive purpose of offering drop-catching services (and subsequent accreditations for the sole purpose of improving the efficacy of these services), the Panel agreed to recommend that no change be made to current accreditation procedures.

Panel members noted that accreditation was developed solely for the purpose of determining an entity's capacity to perform as a registrar and that the criteria used (including customer service, security, complaints resolution etc) must remain consistent, irrespective of the business model and activities accredited parties chose to pursue.

Panel members agreed not to offer any further comment or suggestions to the auDA Board with respect to drop-catching.

5. Panel Terms of Reference – Registrar security

The Panel noted and discussed the nearly-uniform comments of support received with regard to the draft Information Security Standard (ISS) proposed for .au registrars. After a discussion regarding mandatory implementation timelines, the Panel agreed to endorse the ISS and recommend that auDA take appropriate steps to implement the Standard.

6. Panel Terms of Reference – The status and regulation of resellers.

The Panel commenced deliberations based upon comments received regarding the status and regulation of resellers.

In particular, the Panel discussed the possible inclusion of resellers via a new, or modified, field in .au Whois records and the benefits this would bring to both registrants and resellers. Panellists agreed to recommend that the auDA Board consider the utility of adding an optional "reseller" field to Whois.

Note: Due to time constraints, discussions on reseller-related issues were suspended at this point. The Panel's deliberations on this, and the final two ToRs, will continue at the next meeting.

Next Meeting:

Thursday 23 August 2012, Melbourne

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