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2015 NPP Meeting - 8 October 2015

Attendance:
Philip Argy, Jeremy Blackman, Andrew Christie, Gavin Collins, James Deck, Brett Fenton, Adele Flego, George Fong, David Goldstein, Erhan Karabardak, Jon Lawrence, Jo Lim, Bruce Matthews, Peter Mead, Nicole Murdoch, Ned O'Meara, Anthony Peake, George Pongas, Holly Raiche, Vanessa Stanford (observer), Alida Vanderwiele (observer), Derek Whitehead, Miguel Wood

Apologies:
Dan Hunter, Joe Manariti

Actions:

- DW and JoL to draft the Panel's final recommendations to the auDA Board, based on discussion at the meeting.

1. Confirmation of 6 August minutes

The minutes were confirmed.

2. Draft Recommendations paper public consultation outcomes

a. broad overview of submissions and survey responses

The Draft Recommendations paper was released for public consultation on 20 August with a deadline for comments of 30 September. The Panel received 30 written submissions and 4,922 survey responses (4,495 complete or partially complete). A high level summary and analysis of responses to each question prepared by JoL was circulated to the Panel before the meeting.

It was noted that this was by far the highest number of responses to an auDA Panel consultation process, stimulated in large part by an EDM sent to customers of a large registrar group.

As with the Issues Paper consultation, most respondents focused on the issue of direct registrations.

b. discussion of draft recommendations in light of public comments

Draft Recommendation 1A
The Panel discussed and affirmed this recommendation, noting 87% of respondents supported it. Ned O'Meara did not support the recommendation.

There were no arguments or issues that were raised in submissions or survey responses that the Panel has not already identified and considered. The "yes" case was argued mostly on the belief that shorter is better, while the "no" case was largely based on a perception of higher costs for registrants / money grab by industry, and that it would cause confusion.

The Panel emphasised the need for auDA to undertake further stakeholder communication and consultation as part of the implementation process. Whilst there were suggestions that auDA should directly email all existing registrants (approximately 1.7m), it was felt that more meaningful results would be achieved with targeted market research on a representative sample.

The Panel also reached a consensus position on the following issues:

- New 2LDs: The Panel affirmed its belief that names should be reserved for future use as new 2LDs. There was discussion about the possible process for doing this, including whether people should be allowed to simply request that a name be reserved for a period of time, or whether they should be required to apply for the new 2LD under auDA's existing process. There was also a suggestion that the Reserved List mechanism could be expanded to include "names with special meaning" which could only be used as new 2LDs. Panel members noted the need to protect consumers from potentially misleading uses of direct registrations, whilst not unnecessarily restricting access to large numbers of names.
- Priority registration for existing registrants: Panel members noted the significant number of submissions and survey responses which emphasised the importance of allowing existing registrants to have priority

access / first right of refusal to the matching .au name. Whilst many respondents thought that this should apply only to com.au registrants, the Panel agreed that all registrants across the all 2LDs (open and closed) should have equal access to the matching .au name through an appropriate allocation method. The contention model adopted by .nz was considered to have been fairly successful and well-received in that namespace, however it was suggested that other options should be explored as part of the implementation process. Panel members considered whether other rights holders (particularly trade mark owners) should be included in the priority registration process, but decided that these rights are more appropriately protected by other mechanisms.

- Rights protection mechanisms: The Panel agreed that the auDRP should be applied to direct registrations, and that there would appear to be no need for auDA to introduce any additional rights protection mechanism specifically for direct registrations.
- Domain monetisation: The Panel agreed that domain monetisation should be allowed in direct registrations, on the grounds that is already allowed in com.au and net.au and it would be too difficult to enforce a complete ban.

Draft Recommendation 1B
The Panel's draft recommendation was that the same eligibility and allocation rules that apply in the open 2LDs should also apply to direct registrations, and this was supported by 89% of respondents.

On further examination, Panel members noted that implementation of this recommendation would not be as straightforward as it would appear to be, because of the different meaning of the "close and substantial connection rule" in the open 2LDs. For example, under the com.au rules an individual sole trader with an ABN can register a domain name that relates to a product they sell or a service they provide, whereas under the id.au rules an individual with no official ID can register a domain name that relates to a hobby or personal interest. The difference between the rules is justified by the different purposes of the 2LDs – com.au for business use and id.au for personal use. If .au does not have an identified purpose, then it would be confusing and difficult for people to understand why there are different rules depending on whether they want to register their .au domain name for business or personal use. Whilst it would be possible to devise registration systems to channel prospective registrants into different registration pathways depending on their intended use of the domain name, industry experience suggests that most people would default to the pathway with the least evidentiary requirements. Concerns were expressed that this would have an impact on auDA's ability to enforce the policy rules and would result in an unintentional "open slather" outcome for direct registrations.

The Panel affirmed its belief that direct registrations should not be open slather and should be subject to eligibility and allocation rules along the same lines as the open 2LDs. DW and JoL will draft a possible model for how policy rules could be applied to direct registrations, for consideration by the Panel at the next meeting.

Draft Recommendation 2A
The Panel affirmed this recommendation, noting 85% of respondents supported it.

Draft Recommendation 2B
The Panel affirmed this recommendation, noting 94% of respondents supported it.

Draft Recommendation 2C
The Panel affirmed this recommendation, noting 91% of respondents supported it.

There was discussion about whether a business name should be removed as a separate eligibility criterion for com.au and net.au, given that people now have to have an ABN in order to register a business name. It was agreed that the business name criterion should be retained, to allow legacy registrations to continue to be renewed (provided the business name details remain current).

Draft Recommendation 3A
The Panel affirmed this recommendation, noting 80% of respondents supported it.

Draft Recommendation 3B
The Panel affirmed this recommendation, noting 86% of respondents supported it.

3. Next meeting

The next (and final) Panel meeting will be on Thursday 12 November 2015.

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