

## **CONFIRMED Minutes**

8 June 2018 (Melbourne)

10 AM – 3PM

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**Present:** John Swinson (Chair), Brett Fenton, Narelle Clark, and Ian Halson

**Apologies:** Professor Dan Hunter and Nicola Seaton

Meeting commenced at 10 AM

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### **1. ADMINISTRATIVE MATTERS**

#### 1.1 New Secretariat

John Swinson welcomed the new Panel Secretariat, Angela-Gabrielle Palmer, to the meeting. Members also thanked Caroline Fritsch and Genevieve Mati for their assistance in acting as Secretariat to the Panel, and wished them well in their new roles at auDA.

#### 1.2 Disclosures

Panel members disclosed matters that could be considered to give rise to potential or actual conflict of interest.

- Narelle Clark – Appointment to the Public Interest Registry Board (Member – Asia Pacific), as of 21<sup>st</sup> May 2018.
- Ian Halson – Member, Consultation Working Group.
- Ian Halson – owner of a domain name listed on the auDA Reserved Names list.

The Panel noted these and saw no issue with either Narelle Clark or Ian Halson participating in this meeting or on the Panel.

#### 1.3 New Draftsperson

John Swinson advised the Panel that the recruitment process for a policy draftsperson was in progress and an appropriate candidate was being sourced.

The Panel agreed that given the nature of the policies for consideration, it was in the best interests of the review process to appoint a draftsman who focused more on technical writing than adopting a legalistic approach.

**ACTION:** Chair to provide an update on the appointment of a Policy Draftsperson to the 12 July Panel meeting (July 2018).

#### 1.4 Potential New Panellists

John Swinson informed the Panel that, at his request, the auDA CEO, Cameron Boardman, was assisting the Panel in sourcing a new member to fill the current vacancy for a Government Representative. It was hoped that the appointment would be formalised at the Panel Meeting scheduled to take place in July 2018.

**ACTION:** Chair to provide an update on the appointment of a new Government Representative to the July 12 Panel meeting (July 2018).

#### 1.5 Location of Panel meetings – Rotating Meetings in Melbourne, Sydney and Brisbane

John Swinson raised the possibility of rotating future Panel meetings in Sydney and Brisbane. Panel members agreed this would enable members to attend meetings with greater ease, as a number needed to travel interstate to participate in meetings. John Swinson informed the Panel he would seek further clarification from auDA on organising future meetings in Sydney and Brisbane. Panel meetings would still take place in Melbourne.

**ACTION:** Chair to examine whether future Panel meetings can be held in other Australian centres (June 2018).

#### 1.6 Policy Review Panel – Budget Allocation

John Swinson informed Panel members the auDA Board had allocated a specific budget for the Policy Review Panel for the 2018-2019 financial year. This amount was intended to cover all costs incurred by the Panel, including all meetings until June 2019, Secretariat support, the fees of the draftsman and public consultation costs.

#### 1.7 Next Round of Public Fora

John Swinson informed Panel members he would look into the possibility of hosting future public fora in Sydney, Brisbane and Melbourne at the offices of King & Wood Mallesons. This would provide attendees with greater flexibility, and would be at no extra cost to auDA or the Panel.

**ACTION:** Chair to examine whether future Public Fora can be held in the offices of King & Wood Mallesons (July 2018).

### 1.8 Clarification Statement - Domain Monetisation

Panel members approved the clarification statement on its discussions concerning domain monetisation policy at its 1 May meeting. The statement would be released on or about 12 June and distributed via the auDA website.

**ACTION:** Clarification Statement on Domain Monetisation to be released via auDA website (June 2018).

### 1.9 Recordings

Panel members requested that the recordings of past consultations be destroyed, subject to confirmation in accordance with relevant legal provisions, as these were no longer required.

**ACTION:** Secretariat to seek permission to destroy recordings of past Policy Review Panel consultations (July 2018).

### 1.10 Data

The Panel has some open requests for data to auDA. Panel members requested that a representative from Afilius attend the July Panel meeting. John Swinson asked Panel members to consider what information they wanted to source from Afilius prior to the next meeting.

**ACTION:** Afilius representative to be invited to attend the July 12 Panel meeting (July 2018).

**ACTION:** Panel members to consider what information they wished to request from Afilius prior to July 12 Panel meeting (July 2018).

### 1.11 Upcoming Deliverables

- Report on Implementation of Direct Registration, to be released in July for public consultation (**See Item 3**).
- Draft Policy for Implementation of Direct Registration.
- Report on Registrant Policy, to be released later in the year for public consultation.

## **2. FEEDBACK ON INTERIM REPORT PROCESS**

The Panel's Interim Report was submitted to the May meeting of the auDA Board for its consideration. John Swinson stated he had not yet received any formal feedback from the auDA Board, and that he did not expect to receive formal feedback. Mr Boardman had informed John Swinson that the Board had reviewed the report and were satisfied with the progress of the review process to date. John Swinson stated that he confirmed to Mr Boardman that the Panel would be in a position to submit its final report in December, subject to the appointment of the policy draftsman.

John Swinson stated that he believed that the Interim Report had been publically available from June 8.

## **3. OPEN ISSUES IN RESPECT OF IMPLEMENTATION OF DIRECT REGISTRATION**

### **3.1 Further Feedback and Public Consultation**

With the recent release of the Interim Report on the Policy Review Panel, John Swinson stated it would be desirable to release a final discussion paper in respect of direct registration. This discussion paper would seek feedback on specific issues, as well as the Panel's recommendations as a whole in respect of the implementation of direct registration. There will be a longer period of consultation and to provide feedback, of between 8 to 10 weeks.

The proposed consultation could be done in person and also via an online process. John Swinson agreed to look into the possibility of sourcing an external online portal for future consultation processes. If so, a link would be available via the auDA website to the feedback portal.

Brett Fenton requested that additional information be appended to the consultation paper on the Direct Registration Implementation policy from Malta. The model developed in Malta was similar to the model developed by the Panel for Australia, and would be an informative tool for interested parties examining the development of the Australian policy.

As part of the consultation process, Panel members considered the optimal process for obtaining feedback.

### **3.2 Domain Names at the Fifth Level**

In the Interim Report, a key issue still subject to consideration were domain names at the fifth level and whether these should participate in the priority registration process.

The Panel agreed that fifth level domain names should not participate in the priority registration process.

Brett Fenton stated that further clarification should also be sought on fourth level domain names.

The Panel agreed that fourth level domain names in .edu and .gov could participate in the priority registration process, provided that they were registered in the official registry system.

This issue would subject to broader public feedback, and the public consultation process would expressly address this issue.

#### **4. OPEN ISSUES IN RESPECT OF REGISTRANT POLICY**

##### 4.1 Reserved Names List

Panel members were asked to consider features that could be included into a new policy for the Reserved Names List.

The Panel agreed:

- That a mechanism should be in place to address domain name registrations that are contrary to law.
- That a Reserved Names policy be developed, including a fixed list of domain names that cannot be used.
- To include a review process, determining whether a name should be added, with an appeal and complaint process.
- Domain names prohibited by State or Federal law be included in the reserved list.
- Domain names added to the reserved list on legal grounds includes an explicit reference to the relevant legal provisions.
- The published list should include the date a domain list was added to the reserved list and objective criteria for its inclusion.
- That the policy also includes a process for making a reasonable request to have a domain name removed from the reserved list.
- The restricted names list includes domains blocked on public interest grounds, future 2LDs and risks to operational stability.

A process for determining Third Level Domain Names would be needed in the future, though public interest issues would need due consideration to avoid any potential conflict. John Swinson asked members to consider names to be added to a reserved list for Third Level Domain Names.

##### 4.2 Misspelling Policy

An additional issue the Panel considered was the misspellings list, which historically was developed out of complaints received by auDA.

The Panel agreed:

- To keep the misspelling list
- To ensure that the misspelling list remains public, and that the list includes the date that the term was added to the list and the ground on which it was added
- To clarify the rules and procedures to add a term to the misspelling list
- To have a process where a term can be added to the misspelling list based upon a complaint regarding an existing name that is misspelt, with auDA applying an objective test
- To allow the domain name licensee of such domain name the opportunity to respond before the domain name is cancelled.
- If a term is added to the misspelling list, then it would apply across all open domains as a block to the future registrations of such a term in all open domain spaces.

#### 4.3 Use of State and Territory Name Spaces

Panel members agreed a review on the use of state and territory name spaces was not required at this time.

#### 4.4 Eligibility and Allocation Rules

This item was held over till the next meeting.

<p><b>ACTION:</b> Eligibility and Allocation Rules to be considered at July 12 meeting.</p>
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#### 4.4 Grandfathering of Existing Domain Names

The Panel decided that, as a general principle, where new policy rules impacted existing domain name license holders, the domain name license holder had until the next renewal date to comply with all new policy rules.

This issue will be the subject of further consultation.

### **5. UPDATE FROM REGISTRAR POLICY WORKING GROUP**

Brett Fenton informed the meeting that the Registrar Policy Working Group were reviewing 6 policies. The purpose of this review was to make a determination on what aspects should be contract-based or policy-oriented. Panel members noted the code of practice was subject to review as part of this process, which specific penalties introduced for any breaches of the regulations, and issues concerning non-compliance would in future be addressed as part of a complaints policy.

An interim report would be available by the end of July, inclusive of proposed additions and amendments, and then be distributed as part of a broader consultation with registrars. The policy drafts person would then be responsible for developing the proposed policy for consideration by the auDA Board.

**ACTION:** Interim report from Registrar Policy Working Group to be submitted to Panel for consideration (July 2018).

## **6. COMPLAINTS POLICY**

To be considered in detail at July panel meeting.

**ACTION:** Complaints Policy to be added to the agenda for the 12 July Panel meeting (July 2018).

## **7. ANY OTHER BUSINESS**

None stated.

The next meeting was scheduled to take place on 12 July 2018.

The meeting closed at 3:10pm.