

2007 NAMES POLICY PANEL

Seventh Meeting
23 October 2007, 2.00-5.00pm
RACV Club, Melbourne

MINUTES

Present:

Darrell Burkey, Simon Delzoppo, David Goldstein, Kim Heitman, Jo Lim, Jeff Marr, Andrew McCullough, Jamie Murphy, George Pongas, Holly Raiche, Dean Shannon (observer), Tony Steven, Bruce Tonkin, Derek Whitehead,

Teleconference:

Brett Fenton, Peter Firminger, Amin Kroll, Len Joynson (proxy for Philip Argy), Paul Szyndler

Apologies:

Bruce Arnold, Grace Chu Te, Sally Foreman, Graham Ingram, Bennett Oprysa, Alex Woerndle

Actions:

- DW and JL to draft Panel's final report.

Discussion:

1. Public consultation outcomes

The Panel received 25 public submissions during the second consultation period, a much lower response rate than the first consultation. Overall the submissions were supportive of the Panel's draft recommendations.

2. Panel's recommendations (Issues 1 and 2)

- Draft Recommendation 1: The Panel recommends that .au should not be opened up to direct registrations at this time.

Confirmed.

- Draft Recommendation 2a: The Panel recommends that the .au domain name licence conditions should allow auDA to suspend a domain name without notice at the request of an Australian regulatory or law enforcement agency.

Confirmed. The Panel noted public comments on the need to ensure that due process is observed. It was agreed that the explanatory text for this recommendation in the Panel's report will include some matters that auDA should take into account when implementing the new licence condition, such as the definition of "regulatory or law enforcement agency" and the process for making a request to auDA.

- Draft Recommendation 2b: The Panel recommends that the eligibility criteria for existing 2LDs should remain unchanged, but that auDA should consider re-launching info.au as a “catch-all” 2LD for users who do not fit within the current 2LD taxonomy.

Confirmed.

- Draft Recommendation 2c: The Panel recommends that registrars should continue to be required to verify registrant details at the time of registration, by automated check if possible but otherwise by manual check.

Confirmed.

- Draft Recommendation 2d: The Panel recommends that the registrant warranty statement should be strengthened in relation to providing true and accurate eligibility details at the time of registration.

Confirmed.

- Draft Recommendation 2e: The Panel recommends that registrants should be able to license domain names for 1, 2 or 3 year periods, but that implementation be delayed until the new registry licence commences in 2010.

Confirmed.

- Draft Recommendation 2f: The Panel recommends that the close and substantial connection rule should remain unchanged, but the clarification policy relating to domain monetisation should be strengthened to provide additional protection to brand names.

Confirmed.

3. Discussion of secondary market (Issue 3)

The Panel noted that 17 of 25 submissions supported option 3b, an open secondary market.

A straw poll of Panel members indicated majority support for either option 3b with some restrictions, or option 3c with fewer restrictions. In other words, most Panel members were comfortable with allowing registrants to transfer domain names in an open but regulated market. The share market was used as an analogy.

A majority of Panel members considered that option 3a would not address the inequities in the current transfers system, and would continue to favour those “in the know” who could exploit the policy loopholes.

The Panel discussed transfer by centralised market. Some Panel members thought that a centralised market would help to ensure that parties to the transfer were informed of material terms and conditions, and would provide auDA with greater regulatory oversight of the secondary market. Others cited potential enforcement difficulties for auDA in making registrants use the centralised market instead of other domain listing services (eg. eBay, Sedo). The Panel also acknowledged concerns raised in public submissions about excessive bureaucracy and associated costs. It was noted that the transfer process is already centralised to some extent through

AusRegistry and notification to auDA, which provides an opportunity for investigation and intervention if warranted.

The Panel discussed whether secondary market pricing should be transparent. It was agreed that sellers and buyers need to have access to information about the marketplace, but some Panel members questioned whether it was necessary for this information to be provided through mandatory notification and/or publication of prices. There are many domain valuation and market news services available online, and it was pointed out that auDA registrars may also provide these services specifically for .au domains. It was also noted that there may be legitimate commercial or other reasons why a transfer price should be kept confidential.

Whilst there was strong consensus among Panel members for relaxing the transfers policy, there was no consensus on the way in which the new transfers policy should be implemented. Accordingly, the Panel agreed simply to recommend that the policy be relaxed to allow a registrant to transfer their domain name to another eligible party for any reason. The rationale for the Panel's recommendation is to give people access to domain names that would not otherwise be available, and allow the transfer of domain names to those who have best use for them. The Panel does not desire to create a secondary market for its own sake.

Whilst implementation will be a matter for auDA, the Panel's report will include factors that should be taken into account by auDA, such as the need to discourage domain name speculation and warehousing.

The Panel will also recommend that auDA conduct a 2 year review of the new transfers policy. The review should consider the total number of domain names transferred, the number of times individual domain names are transferred, secondary market pricing, and whether there has been any increase in complaints and disputes over domain names.

Finally, the Panel observed that auDA will need to undertake an extensive awareness-raising campaign when the new policy is introduced, given that it represents such a significant change to .au rules.

4. Panel feedback to auDA

The auDA board requested feedback from the Panel on new elements introduced to the advisory panel process this year:

- payment of expenses for some Panel members (eg. non-profit groups, individual volunteers) – this was considered very useful in maintaining a high level of attendance at meetings, and ensuring participation by people who would otherwise be excluded
- inclusion of auDA directors on the Panel – this was deemed beneficial in terms of having people who are across the issues, but some concerns were raised about possible conflict of interest and directors having “two bites at the cherry”
- market research surveys commissioned by auDA – this was considered to be of limited use only, with public submissions and the Panel's own discussions being much more important.

5. Next steps

The Panel is due to provide its final report in time to be considered at the auDA board meeting on 10 December 2007.

The Panel will not meet again; the report will be finalised on the mail list.

DW thanked Panel members for their active participation during the year.

