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2017 Policy Review Panel

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2012 IAP Meeting - 22 March 2012

First Meeting

22 March 2012, 2.00-5.00pm

auDA

Present:

Stuart Benjamin, David Cranston*, James Deck, Brett Fenton, Paul Fong, Robert Gregory, Erhan Karabardak, Jerry Leeson, Paul Levins, Bruce Matthews, Graham McDonald, Peter Nettlefold, Craig Ng (Chair), Ned O'Meara, George Pongas, Matthew Proctor, Holly Raiche, Bruce Tonkin (part), Dwayne Varey, Miguel Wood

Jo Lim, Paul Szyndler (auDA Staff)

* Australian Competition and Consumer Commission (ACCC) observer

Apologies:

Angelo Giuffrida

Actions:

- JL and PS to circulate presentation materials (.au history / policies)
- CN to circulate previous registry tender documentation (done).
- JL to circulate indicative tender process costings and Code of Practice complaints statistics
- Paul Levins to circulate additional material and economic analyses from ICANN's experiences (done).

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Discussion:

1. Welcome and introductions

Craig Ng opened the meeting and broadly contextualised the Panel's structure and purpose within the .au policy development environment.

Panel members introduced themselves and declared relevant interests.

2. Panel operating procedures

The Panel noted and agreed the operating procedures (Annex 1).

Craig Ng and Jo Lim explained the Panel process and deliverables (originally Agenda Item 4). The first deliverable that the Panel is working towards is a discussion paper to be released for public consultation.

3. Introduction to .au industry structure

JL gave a presentation covering the history of .au and the structure and roles of auDA.

5. Panel Terms of Reference – general discussion of policies and issues

Discussion at the meeting covered general issues about the .au domain, and specific issues about the policies under review.

5.1 The method of 2LD registry operator selection / appointment post-2014.

JL explained the historical reasons behind regulator / registry separation, the registry's functions and model, previous registry selection processes and the registry licence agreement.

Issues discussed by the panel included:

- How to extract the best value for the Australian Internet community, through whichever mechanism, beyond 2014.
- Process and costs associated with a registry tender process, especially in the context of a small / depressed marketplace.
- Alternative market approaches (EoI / RFP) and their limitations
- Costs and complexities for registrars associated with a change in registry operator.
- Cost effectiveness of contract renegotiation and the role it may play in enshrining the incumbent and decreasing competitive pricing pressures in the future.
- Pros and cons of maintaining the provision allowing for multiple registries, including the possible constraints on new 2LDs of a single registry model and the effect multiple registries could have on the security and stability of .au.
- The possible effect of the introduction of new gTLDs on the .au marketplace, registry and registry competition.

- The scope of competition amongst Australian entities capable of providing registry services (noting that the registry operator must be Australian and have physical presence in Australia).

5.2 The policy and process for registrar accreditation

JL outlined the competitive registrar model in place within .au, registrar functions, the accreditation process and fees, the registrar agreement and a market breakdown across auDA's accredited registrars.

Issues discussed by the panel included:

- Second and subsequent accreditations for registrars, including through acquisitions and market consolidation.
- The market presence of overseas-based registrars and the limitations this necessarily places upon accreditation / site-inspection requirements
- The requirement for potential registrars to act as resellers for six months, show "equivalent experience" and/or participate in policy examinations
- The appropriateness of maintaining "low barriers for entry" in a now-established marketplace, and the actual costs incurred by auDA in the accreditation process.

Panellists noted the importance of familiarising themselves with the registrar agreement and accreditation process – <http://www.ada.org.au/registrars/accreditation/>

5.3 Registrar security

CN and JL noted that this issue has been intentionally drawn out from among general "registrar accreditation" issues, due to its importance in relation to the stability and security of .au and recent attacks against registrars and other security events.

JL explained that a sub-set of registrars are currently considering a draft security standard, developed by Vectra, that will form the basis of the panel's deliberations on this issue.

CN proposed to "park" the issue until the third or fourth panel meeting, pending input from the registrars' group.

5.4 The status and regulation of resellers

JL outlined the current status of resellers, the number "notified" to auDA, and their formal interrelationships with registrars, auDA and the registry.

Issues discussed by the panel included:

- The requirement for, and enforcement of, registrar-reseller contracts by auDA.
- The appropriateness of the definition of "resellers" – i.e. currently those registering names "on behalf of a registrar", not bulk buyers, lawyers etc

- Mechanisms for identifying as a reseller – self-identification, by the registry, by auDA.
- Resellers’ ability to interact with the registry and the automation of processes through registrars.
- The benefits and issues associated with listing resellers in WHOIS records
- Technical capabilities for WHOIS records to reflect both registrar-of-record and reseller contacts (thick- vs thin- registry model, flexibility of WHOIS fields, required registry changes)
- Difficulties for resellers arising from the current WHOIS listing prohibition: client confusion when receiving certificate of domain name registration, client maintenance following registrar failure etc
- The benefits and difficulties associated with a formalised auDA-reseller relationship – including costs, administrative and policy requirements, increasing barriers to entry, shift in the competition model.

5.5 Policy and process for registrar transfers

JL outlined the current “Change of Registrar of Record Policy” and the history and rationale behind its formulation.

Issues discussed by the panel included:

- The appropriateness of the current process for authorisation of registrar transfers, and the need to strike a balance between customer convenience and domain/data security
- The rationale for the prohibition on bulk transfers
- How this prohibition impacts upon both resellers and registrars who are seeking to consolidate / merge their name registration records.
- The need for reseller consent in instances of bulk registrar transfers
- “Forcible” renewals by some registrars upon names transferred in
- Issue of data escrow (not necessary for a thick registry model)

5.6 The status and operation of the .au Domain Name Suppliers’ Code of Practice.

JL outlined the current status of the Code, clarifying its status outside of current auDA Policy frameworks.

Issues discussed by the panel included:

- The relevance of the Code, and shortcomings in updating / revisiting it
- Number/type of complaints made under the Code, although noting that an absence of complaints does not mean that the Code is unnecessary
- The utility of absorbing the Code into established auDA Policy frameworks, ensuring periodic review.
- Tensions that compete with the above absorption into policy - auDA’s facilitation of an industry self-regulatory model that should favour Codes of Practice over policy
- The panel’s capacity and mandate to recommend changes to the Code, most notably with regard to prescribing “ownership” (to auDA or community-based committee)

6. Next steps

Panel Chair and auDA support staff will summarise all of the above issues into a “Draft Issues Paper” that will be circulated to the Panel in advance of the next meeting.

The Panel will then discuss, refine and prioritise these issues at that meeting.

Next Meeting:

Thursday 19 April 2012, Melbourne

2012 INDUSTRY ADVISORY POLICY PANEL

Operating Procedures

1. Meetings

Panel meetings have been scheduled for the fourth Thursday of each month (apart from April due to Anzac Day), to be confirmed at the first Panel meeting:

Thursday 19 April 2012, 2-5pm

Thursday 24 May 2012, 2-5pm

Thursday 28 June 2012, 2-5pm

Thursday 26 July 2012, 2-5pm

Thursday 23 August 2012, 2-5pm

Thursday 27 September 2012, 2-5pm

Thursday 25 October 2012, 2-5pm

Thursday 22 November 2012, 2-5pm

Note that the Panel will not meet during public consultation periods (anticipated to be in June and October, but subject to change). The Panel is due to provide its final report to the auDA Board in December 2012.

As the majority of Panel members are located in Victoria, all meetings will be held at the auDA offices in Melbourne (114 Cardigan St, Carlton).

Participation in meetings should be as equitable as possible, given that some members will be attending in person and some by telephone. Meetings of the full Panel may be supplemented by teleconferences or meetings of sub-groups if required.

2. Proxies

Panel members are permitted to send proxies to meetings where necessary. The Panel member must ensure that

their proxy is sufficiently briefed to ensure continuity of Panel proceedings. Members cannot replace themselves by proxies on an ongoing basis; if a member cannot continue their position they should resign from the Panel.

3. Confidentiality

Panel proceedings are confidential. Members are free to canvass, discuss and debate the issues outside Panel meetings (eg. on public mail lists or with their constituencies) but not to disclose the proceedings of the Panel - ie. what is actually said and by whom. To do so is likely to inhibit free discussion and work against an outcome.

4. Consensus

Consensus has been defined by auDA as a 2/3 majority, although whether this means a 2/3 majority of members as a whole or 2/3 majority of members who are present at a meeting is yet to be determined. In the past, Panels have mostly been able to reach consensus without needing to call a formal vote on issues. There is an expectation that the Panel will provide a single recommendation to the auDA Board, however a significant minority opinion could also be presented to the Board as part of the Panel's final report.

5. Conflict of interest

All Panel members have, or represent, a particular stakeholder interest and in most cases the nature of that interest will be clear. However, if any members feel that they need to clarify their interests in relation to particular issues under consideration, then they should do so.

6. Minutes, papers and submissions

Panel minutes will be published on the auDA website as soon as possible after each meeting. The minutes will record the Panel's discussion, but will not attribute comments to individual members unless expressly requested by the member. Panel papers are confidential until published on the auDA website. Papers will ordinarily be published unless the Panel decides that a paper should remain confidential, in which case the minutes will record the existence of the paper. All submissions to the Panel will be published on the auDA website unless clearly marked confidential.

7. Reporting and publicity

The Panel Chair will report to the auDA Board at each Board meeting. The Panel is independent of the Board in its deliberations, but the Board has the final say on what actually happens. The only official statements made on behalf of the Panel will be made by the Chair. Panel members are free to speak about the work of the Panel, but should make it clear that they are not speaking on behalf of the Panel.

8. Panel mail list

The mail list for the Panel is panel-comp@lists.auda.org.au. Discussion on the list is confidential, and posts to the list will not be published or archived.

9. Panel resources

auDA will provide secretariat support to the Panel. auDA will also, at its discretion, provide financial assistance to Panel members who require it. auDA will consider any reasonable request for additional resources that the Panel believes are necessary to complete the Terms of Reference (eg. market research surveys). Any such request should be made to auDA by the Panel chair.

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