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Attendance:

Philip Argy, Andrew Christie, James Deck, Adele Flego, Brett Fenton, George Fong, David Goldstein, Dan Hunter, Jon Lawrence, Jo Lim, Joe Manariti, Peter Mead, Nicole Murdoch, Ned O'Meara, Cobey Parnell, Anthony Peake, George Pongas, Holly Raiche, Bridget Smith, Derek Whitehead

Teleconference:
Gavin Collins

Apologies:
Jeremy Blackman, Erhan Karabardak, Miguel Wood

Actions:

- JoL to circulate 'Introduction to .au' presentation to Panel.
- DW and JoL to draft first cut of Issues Paper.

1. Welcome and introductions

 Panel members introduced themselves and declared relevant interests.

2. Panel operating procedures

The Panel noted and agreed the operating procedures (attached).

3. Introduction to .au presentation

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JoL gave a presentation covering the role of auDA, the specific auDA policies to be reviewed by the Panel, and the outcomes of the 2010 Names Policy Panel.

4. Panel process and deliverables

The first deliverable for the Panel is an issues paper to be released for public consultation. This will be followed by a set of draft recommendations to be released for public consultation. The Panel is due to provide its final report to the auDA Board by the end of the year.

5. Panel Terms of Reference – general discussion

Panel members held a wide-ranging discussion of issues relating to the Terms of Reference.

1. Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?

- Panel members discussed the need to identify clear arguments and evidence both for and against opening up .au. The Panel also needs to have careful regard to the way in which opening up .au would change the nature of the domain space. Panel members expressed a desire to ensure that opening up for direct registrations would not undermine the overall integrity of the .au domain.
- The Panel will need to consider potential impacts both on existing .au registrants and prospective new registrants. If .au is opened up, then it will be important to ensure that rights protection and dispute resolution issues are addressed. It was suggested that registry data analysis could be undertaken to assess the volume of potential contentions between 2LD registrations (ie. where the same name is registered in different 2LDs to different registrants).
- It was suggested that one reason in favour of direct registrations is the relative unpopularity or failure of some 2LDs, for example id.au and asn.au. However, some Panel members questioned the definition of "failure", and observed that the number of registrations is not the sole determining factor. Further, there may be several reasons for a low registration rate, including policy, user perception and awareness, marketing and pricing.
- The three basic policy rule options for direct registrations are 1) no policy rules (open slather), 2) same policy rules as the 2LDs, 3) different policy rules from the 2LDs. It was suggested that there would be little utility in simply replicating 2LD rules at the top level (option 2).
- The experiences of other ccTLDs in opening their domain spaces up to direct registrations, especially .uk and .nz in 2014, will be an important input to the Panel. For example, Panel members would like to know ccTLD registration statistics before and after opening up, and growth rates.
- The impact of new gTLDs is also a relevant consideration for the Panel. Whilst .au is currently very popular with Australian users, there is a potential for new gTLDs to erode the brand equity in .au. Opening up .au may be considered necessary or desirable in order to make .au more attractive and accessible vis-à-vis the range of new gTLD options.
- Panel members noted the risk that direct registrations may be perceived, or intentionally used, as new 2LDs rather than individual domain names. It was suggested that use issues could be dealt with in policy and licence terms and conditions, however the perception issues may be harder to address.
- Whilst implementation issues are explicitly out of scope for the Panel, it was noted that auDA's competition model would apply to registry operations – ie. AusRegistry would not automatically have rights to run the direct registrations registry, but would be subject to a contestable tender process. This means that if the Panel

was to recommend opening up to direct registrations, the timing of implementation would likely be tied to the registry tender process slated for 2017.

- It was noted that the Panel's consideration of ToR Issue 1 will impact the Panel's consideration of ToR Issues 2 and 3. For example, the Panel may decide to recommend direct registrations in order to address perceived shortcomings with 2LD registrations, in which case it may feel that there is no need to make any changes to 2LD policy rules. On the other hand, if the Panel decides not to recommend direct registrations, then it may wish to recommend changes to 2LD policy rules to address perceived shortcomings.

2. Should the eligibility and allocation policy rules for asn.au, com.au, id.au, net.au and org.au be changed? If yes, what changes should be made?

- The Panel was advised that a recommendation from the 2010 Panel that the domain name licence period be changed to 1-5 years is currently on hold and will be considered by the auDA Board at the time of the next registry tender process in 2017. This is due to the impact of licence period changes on auDA and registry operator revenue models. It is open to this Panel to support the 2010 Panel's recommendation, or to recommend something different.
- The Panel was advised that a recommendation from the 2010 Panel to release single character domain names was initially accepted by the auDA Board, but auDA staff were unable to define eligibility for single characters in a way that was consistent with other policy rules. Again, it is open to this Panel to make a recommendation on single character domain names, but it is unlikely to be accepted by the auDA Board if other 2LD policy rules remain unchanged.
- It was noted that com.au and net.au eligiblity criteria may need to be updated to reflect the nationalisation of the business name registration system and the fact that state and territory business numbers are no longer in use. Panel members observed that this has caused some problems in relation to existing domain name registrations with business details that are now out-of-date.

3. Should the policy rules relating to the reserved list and misspellings be changed? If yes, what changes should be made?

- Panel members generally agreed that there is a public interest in protecting users from typosquatting, and that the current prohibition on misspellings policy appears to be effective in achieving this purpose.
- There was general discussion about how to address trade mark infringement when the domain name is not a misspelling, ie. where the domain name contains a correctly-spelled trade mark. The .au zone file is not currently available for people to search for particular strings to identify potential trade mark infringements. It was suggested that auDA should either make the zone file available, or provide a user-pays service that allows trade mark owners to search for infringing domain names. Panel members noted that opening up the zone file for one purpose might lead to people using it for different and potentially harmful purposes. Some Panel members also raised objections to auDA providing a commercial service and/or acting as a de facto trade mark enforcement body. It was also noted that the prioritising of trade mark rights would be at odds with the 'first come, first served' and 'no hierarchy of rights' principles that underpin .au policy.

Panel Issues Paper

- The Panel agreed that the Issues Paper should use plain English and avoid too much industry jargon. The Paper should also include sufficient background explanation and context to help readers understand the issues, particularly in relation to direct registrations.
- The Panel also agreed that the Issues Paper should be circulated as widely as possible, to try and elicit responses from a broad range of people. It was noted that it is up to Panel members who represent particular constituencies to ensure that they consult with their own members/stakeholders throughout the process.

6. Next meeting

The next Panel meeting will be held on Thursday 5 March 2015, 2pm-5pm, at the auDA office in Melbourne.

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