

Date: 9 August 2018
Time: 10am – 3pm AEST
Location: auDA Head Office Level 17, 1 Collins Street, Melbourne Vic 3000
In Attendance: John Swinson (Chair), Narelle Clark (Consumer Protection Representative), Brett Fenton (Supply Class Member), Ian Halson (Demand Class Member), Professor Dan Hunter (Academic Representative), Bruce Tonkin (auDA) and Jeff Hole (Victorian Department of Premier and Cabinet)

MINUTES

1. STANDING ORDERS

1.1 Welcome and Apologies

Bruce Tonkin invited to address the panel and discuss policy matters which are referred to below.

Welcome to Jeff Hole. Public announcement will be made regarding Jeff Hole (in consultation with Jeff Hole).

The meeting opened at 10am AEST.

Ian Halson joined the meeting at 10.13am AEST.

1.2 Declarations of Conflict of Interest

No conflicts of interests were declared at the meeting. Conflicts of interest have been declared previously and minuted.

1.3 Confirmation of Minutes

1.3.1 Confirmation of Minutes for the Policy Review Panel Meeting – 12 July 2018

The Panel confirmed the minutes of the Policy Review Panel meeting, held on 12 July 2018, as a true and accurate record of the meeting. Secretariat to upload onto website.

1.4 Action Summary

1.4.1 Bruce Tonkin presentation to the Policy Panel

Bruce Tonkin circulated a copy of the draft Process for the Development and Review of auDA Published Policies. The Panel gave an in-principle endorsement of the Policy for public consultation. The Draft Process for the Development and Review of auDA Published Policies will be presented to the Board on 20th August 2018 and permission will be requested to put out for public comment.

auDA will continue the task of consolidating and updating the existing policies related to registrants into a single policy with a consistent style. This work will be completed by the first week of September 2018 and the Panel will receive this work in draft form for review by the Panel before any final changes are made. The Policy Panel will recommend further considerations if required and subsequently public consultation will follow.

The Panel agreed that if only minor changes to a Policy were required after public consultation, the Policy would go to the Board for endorsement, or if major changes were required it would be amended and put back for a second round of public consultation.

1.5 Discussion about consultation on proposed model direct registration Policy

The Panel agreed that a focus group concept is appropriate. The focus group will replace the public forum. It will enable the Policy to be further tested in a rigorous and methodical way.

The Panel agreed that the establishment of focus groups must be communicated to the sector.

The Panel agreed that businesses and small businesses need a focus group.

The Panel agreed to review the original submission and determine whether any other parties should be included in the focus groups.

The Panel agreed that the 4 focus groups should represent:

- Domain investors stream (working group) and independently facilitated; and
- Registrars' working group convened by Brett Fenton of ARQ Group, and;
- Large users, high-value domain group to be independently facilitated, and;
- Small business owners, digital marketers etc.

The Panel noted that it will need to approve a budget and pass a resolution supporting the cost of the focus groups.

ACTION: The Panel members to supply names of people/parties that should be approached to become members of the focus groups.

ACTION: Cameron Boardman, Chair and Secretariat to get the process of the focus groups started.

1.6 PRP Administration

1.6.1 Secretariat

Appointment of new Secretariat approved.

1.6.2 Policy Review Panel Budget

Budget to be discussed with Cameron Boardman, Chair and Secretariat.

1.6.3 Policy Review Project Timeline

Panel Chair to update project timeline and email to Secretariat.

1.6.4 Policy Draftsperson - Progress Report

Further discussion on this item is to occur with Bruce Tonkin.

1.6.5 Government Regulator Representative – Appointment Process

Jeff Hole has been appointed.

1.6.6 Peak Industry Body Representative – Appointment Process

Further discussion on this item is to occur with Panel Chair.

1.6.7 Location of next meeting

It was agreed the next meeting will be held on Monday 10 September 2018 at King & Wood Mallesons, Level 33 Waterfront Place 1 Eagle Street, Brisbane City.

2 POLICY REVIEW

2.1 Implementation of Second Level Domain Name Registrations (Direct Registration)

2.1.1 Implementation of Direct Registration Policy

- Direct Registration Policy accepted by Panel and now to go to focus group with public consultation paper.
- Agreement that flow chart image must be accessible (therefore text to speech required). Panel has requested Bruce Tonkin to review technical feasibility of implementation.
- Agreement that post policy approval and education campaign is necessary.

ACTION: Narelle Clark to provide comments to the panel after review.

ACTION: Bruce Tonkin to arrange for the flow chart to be redesigned to be graphically pleasing and ensure it can be converted into text to speech.

2.2 Registrant Policy

2.2.1 Close & Substantial Connection

The Panel agreed to keep the close and substantial concept. Remove monetisation line and delete corresponding policy.

ACTION: Professor Dan Hunter to draft a test for Close & Substantial Connection including precedent cases that can be used to provide guidance.

ACTION: Bruce Tonkin to provide briefing prior to next panel meeting using case history examples of decisions made and to explain the rationale behind decisions. Secretariat to assist Bruce with setting this briefing up via teleconference

2.2.2 90 day renewal

The Panel agreed that 90 day renewal issue will be put to public consultation.

2.2.3 Resale restriction

The Panel agreed to replace the words 'solely for the purpose of resale' to 'primarily for the purpose of resale'. Panel to include list of factors of resale.

2.2.4 List of issues where policy changes will be recommended and where further public consultation required

- The public Consultation Paper and draft policy wording will be reviewed by focus groups and feedback will be provided by 30 September 2018 which the Panel will review in the October meeting.
- The Chair has agreed to provide a list of policies where public consultation is required.

2.2.5 Monetisation Policy

Monetisation Policy will be superseded and new anti-warehousing provisions adopted.

ACTION: John Swinson to draft an anti-warehousing clause. And to provide a list of policies where public consultation is required.

2.3 Registrar Policy

The Panel accepted the Report of the Registrar Policy Working Group. The Panel accepted that polices and contractual change recommendations from the Registrar Policy Working Group will align with the work of auDA and a further update will occur at the September 2018 meeting.

2.4 Complaints Policy

2.4.1 Feedback from auDA

No comments were made.

2.4.2 Proposals for new Complaints Policy

Implementation of good faith principle:

It was agreed that auDA will investigate complaints in good faith and that auDA will work on the presumption that complaints are made in good faith. This means that if auDA finds the complaint to be vexatious or not in good faith, then auDA can reject it.

It was agreed the Panel will make recommendations to augment the complaints process within auDA including documenting the rationale for decisions.

Information to be made public

It was agreed that if you have to respond to a complaint, then you get told who made the complaint against you. And if the complaint is upheld, then the complainant response may be made public. However the complainant has the right to request this is not made public.

2.4.3 Next steps

Panel Chair requested timeframes for response to complaints. And timeframes for auDA to make a decision and he requested Bruce Tonkin provide advice on these timeframes.

The Panel requested Bruce Tonkin provide data on the number of eligibility complaints versus allocation complaints (and of the allocation complaints, how many are close and substantial connection and how many are monetisation).

It was agreed there is no requirement to draft an Issues Policy to sit alongside the Complaints Policy. Panel to review potential to publish a Complaints Dashboard as per Board document.

Final version of Complaints Policy to be considered for public consultation in September.

ACTION: Bruce Tonkin to present to the Panel data of eligibility complaints versus allocation complaints

ACTION: Individual Panel members to give feedback to Bruce Tonkin on Process for the Development and Review of auDA Published Policies.

ACTION: Bruce Tonkin recommended that Panel members review publication of complaints by TIO and Fair Trading Act

3. OTHER BUSINESS

3.1 Other Business

3.1.2 Ian Halson to join focus group

The Panel agreed that Ian Halson should become a member of the focus group of the Domain Investors Stream.

No other business for this meeting.

There being no further business, the meeting closed at 2:40pm AEST.