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Date: 21 January 2011

Review of .au Policy Framework

The Internet Society of Australia (ISOC-AU) welcomes this opportunity to respond to auDA's review of its policy framework.

ISOC-AU's fundamental belief is that the Internet is for everyone. We provide broad-based representation of the Australian Internet community both nationally and internationally from a user perspective and a sound technical base. We also consistently promote the availability of access to the Internet for all Australians.

The overriding objective of the Society is to give expression to the needs and wishes of individuals, groups, or organisations that have a common interest in the viability of the Internet in Australia, so that all Australian users of the Internet may continue to benefit from, and contribute to, its applications, technologies, and evolution. Our submission, therefore, is made from the perspective of the Internet users, which include individuals, groups and organisations that are impacted by the auDA Name Policy Framework.

In our view, Domain Names should be viewed as a public resource to be managed in the interests of Internet users including individuals seeking access to Internet sites and registrants providing those sites. Our responses to specific issues raised by the auDA Discussion Paper for this Review are as follows:

1A QUESTION a. Should the restriction on registrants being Australian (or registered to trade in Australia) remain in place?

Response:

Yes. ISOC-AU agrees with many of the reasons put forward in paragraph 1.10 of the Discussion Paper for retention of the existing rules. The .au space has a valuable reputation for trusted, secure domain names, which could be jeopardised by opening up the Australian eligibility criteria. We note particularly that there is no barrier for foreign entities being reached by Australians.

1B QUESTIONS a. Should informal clubs and groups be allowed to register within org.au?

Response

ISOC-AU is sympathetic to opening up .org to unincorporated groups. There are many public interest and community groups that could benefit from having a domain name, but

do not want the expense and administrative burden of incorporation. If the criteria for .org are widened, however, there should be clear criteria for such organisations that could include, for example:

- Demonstrated membership
- Clear, articulated objectives that the membership has subscribed to and that have a close and substantial connection with the proposed domain name
- Evidence of membership activity to implement the agreed objectives

The applicant organisation should be required to warrant that the agreed criteria are complied with, and should the organisation, on request of auDA, not provide evidence of compliance with the agreed criteria within a short period of time, the domain name could be withdrawn

b. Should informal clubs and groups be allowed to register within com.au and net.au (ie. relax the eligibility criteria for com.au and net.au)?

Response

No. The eligibility rules for both com.au and net.au¹ require that the registrant have a company name and business number, as is appropriate for commercial enterprises. This provides both potential registrants and end users with guidance as to the type of organisation that holds the domain name. The .org 2LD is the more appropriate place for informal organisations and clubs, as set out above.

c. How should the policy rules address illegitimate registrations, such as the use of org.au domain names for commercial purposes?

Response

The Registrar Agreement already provides dispute resolute mechanisms, including mediation, arbitration and, as a last resort, termination of the registrar contract² for non-compliance with the Agreement.

1C QUESTIONS a. Are current enforcement mechanisms in the .au domain space adequate and effective? b. If not, how could they be improved?

Response

ISOC-Au does not have a comment on this issue.

Issue 1D: Two year licence period

1D QUESTIONS a. Should the fixed 2 year domain name licence period be changed? b. If so, what other domain name licence periods should be made available?

Response

We support flexibility in licence periods, allowing a licence for one, two or three years, particularly for applicants such as conferences or events that may want a domain name for a shorter period of time.

1E QUESTIONS a. Should a registrant be allowed to lease their domain name to another entity? b. If so, under what circumstances?

¹ Guidelines for Accredited Registrars on the Interpretation of Policy Rules for Open 2LDs (2008-06)

² Registrar Agreement July 2010, Parts 22 and 23

Response

We have a real concern with this suggestion. There is a real possibility that the lessee of the name may not necessarily have the close and substantial connection that is required of registrants. If this is permitted, the registrant should, before the lease is finalised, seek auDA advice as to whether the proposed lessee would meet all auDA policy requirements. Further, the lease must require the lessee to comply with all relevant requirements under both the auDA Registrar Agreement and the Registrar Code of Practice

1F QUESTIONS a. Should single character domain names (a-z, 0-9) be permitted in the .au domain? b. If so, what requirements should a registrant have to meet to be eligible to register a single character domain name?

Response

As long as the applicant registrant can demonstrate that a single character domain name has a clear and substantial connection with the registrant, we do not object to the proposal?

1G QUESTIONS a. Should individuals be able to register domain names that relate to a personal hobby or interest? b. If so, how should the eligibility criteria be changed to accommodate this type of domain name?

Response

As stated above, we support opening up the eligibility criteria for the .org 2TLD. This would allow people with similar hobbies or interests to apply for a domain name in the .org space.

1H QUESTIONS a. Should .au be opened up to direct registrations? b. If so, what requirements should a registrant have to meet to be eligible to register a .au domain name?

Response

No. ISOC-AU has consistently opposed direct registration. No compelling case has been made as to why direct registrations should be allowed. As we have stated in earlier submissions to auDA, the current system clearly identifies whether the registrant is a commercial entity, a not-for-profit entity, a government agency, etc. ISOC-AU supports and endorses the continuation of a clear and easily understood rules based approach to eligibility for licensing domain names, which we believe has contributed to the reliability of the current system of 2LD hierarchy and the respect with which .au names are held internationally

2 QUESTION a. Do you have any comments about the contents of the Reserved List, and/or the operation of the Reserved List Policy?

Response

ISOC-AU continues to support the operation of the Reserved List Policy. The only changes that should be made to the list are those necessary to ensure continued consistency with Federal legislation.

3 QUESTIONS a. What do you understand by the term “domain monetisation”? b. Should domain monetisation continue to be subject to specific regulation? c. If so, how could the Domain Monetisation Policy be made more workable? d. If not, would the general Policy Rules offer sufficient safeguards to deal with bad faith registrations by domainers? e. Should domain monetisation be permitted in the non-commercial 2LDs (asn.au, id.au and org.au)?

Suggested response

Our understanding of domain monetisation is in line with that of auDA's definition included in the Discussion Paper:

domain monetisation" means "registering a domain name in order to earn revenue from a monetised website", and a "monetised website" means "a website or landing page that has been created for the purpose of earning revenue from advertising".

ISOC-AU recognises the difficulty arising from the definition of domain monetisation. However, the existing rules still serve to give both potential registrants and Internet users some guidance on domain names. That is, there should be a clear and substantial link between the name and the site content and Internet users should not be diverted to websites that do not offer a real service or information.

4 QUESTIONS a. Should the restriction on prohibited misspellings remain in place? b. If so, what type of names should be protected? c. How should a prohibition on misspellings be enforced?

Response

ISOC-AU supports the continued prohibition on misspellings as a protection for Internet users against misleading domain names.

Additional comment: Ensuring Unencumbered Domain Names

Increasingly, domain names are a significant asset for individuals, particularly for businesses. And, increasingly, registrants are using their right to use a particularly valuable domain name as collateral when obtaining a loan. The issue is that there is no mechanism to check whether a domain name someone proposes to 'purchase' is encumbered – and therefore of less or no value to the 'purchaser'.

In May 2011, a new Personal Property Securities Register (PPSR) will be introduced that will allow purchasers of property to check whether that property is encumbered. Using that scheme, encumbrances could be lodged against a domain name. Domain name 'purchasers' could then be better protected, with the transfer of names facilitated with more certainty for the purchaser and at lower cost to registrants.

In addition, the existing registrar lock mechanism could be incorporated into the use of the PPSR scheme, so that when a domain is listed as encumbered, it cannot be transferred. This would provide extra security to end users, particularly those wanting to 'purchase' a domain name, ensuring that their asset is free of encumbrances.

If use of the PPSR scheme is not accepted auDA could run a similar scheme, in conjunction with AusRegistry, requiring registrants to register any encumbrance on their names.

We will be happy to provide any further comments on issues raised by our NBN submissions.

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