

Authorisation of Registrars Policy Review - Submission

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Submission to the Authorisation of Registrars (AOR) Policy Review

I was a member of the SRS Working Group, and co-author of the SRS Working Group Final Report, which is the foundation on which the current NZ domain name management structure is based.

The working group considered at some length the nature of the barriers to entry that should apply to potential registrars, and was placed under some pressure from some quarters to create a model which would have high barriers to entry, artificially creating a business opportunity for a small number of players to act as registrars to a number of service provider resellers.

We also considered at some length the business model of the incumbent registry (Domainz) at the time, the key elements of this being that registrants were considered to be customers of the registry, and service providers were expected to resell registrations on that basis. We were also under some pressure to partly or wholly endorse this model

These pressures were (I believe to our credit) resisted. In examining both approaches, it was clear that a significant part of the registry's costs were incurred in maintaining the registrar-registrant relationship, and effectively duplicated (both in terms of cost and potentially conflicting contractual obligations) the relationship between registrants and their service providers. This duplication would still exist if we produced a model that forced service providers to engage in a reseller arrangement with a third party registrar.

The outcome of this consideration is enshrined in the following paragraph from the Final Report:

"Registrar Accreditation and Charging

"An accredited registrar is able to directly access the register and be the designated maintainer of domain names in the register. The working group considered a number of conditions that might be imposed on a registrar as a prerequisite for accreditation. Given the immaturity of the industry, the size of the New Zealand market and a national culture that believes in letting anyone have a go the working group has concluded that no subjective barriers should apply."

In short, anyone should be able to become a registrar if they could build a technical interface to the registry, and pay the bill. The intent was that these alone would drive a decision whether or not to become a registrar, pricing being tuned toward discouraging those without a significant number of domain names. By avoiding subjective

and unnecessary hurdles in access to the registry, the market for providing domain name registrations would always be open and uncapturable.

The success of this model is something with which I and the other working group members regard with some pride. Therefore, I am disturbed by the following proposed change to the Authorisation of Registrars policy:

"1. The addition of a clause allowing the DNC to require a period of up to 12 months operating as a 'formal reseller' to an authorised registrar prior to authorisation being confirmed."

Such a requirement would require duplication of effort by potential registrars in setting up technical systems and contractual arrangements first with the resold provider, and then again with the NZ registry. Worse, a suitable reseller arrangement may not even be available to the potential registrar, or the available options may be restricted or otherwise unpalatable; a potential registrar would be faced with having to sign a reseller agreement with the very parties they wish to compete against.

The reseller effectively hands the registration of its customers' domain names to the registrar it is reselling, creating an ambiguous contractual relationship between the registrant and the registrar, and between the registrant and the reseller. This ambiguous relationship can become a significant hurdle once the reseller moves to become a registrar. I have difficulty seeing how enforcing such an ambiguous relationship between registrant, registrar and reseller can possibly benefit the registrants involved.

The proposal does not state whether it is intended to be applied to all potential registrars, to some, or just to those perceived as problematic. If it is not to be applied to all applicants equally, it clearly becomes another subjective barrier, one which could prevent a prospective registrar from assessing whether or not it will be able to become a registrar.

In short, this proposal is unnecessary, overcomplicated and anticompetitive. It departs significantly from the principles of the Final Report regarding efficient, cost-effective and open access to the registry.

The other proposals I discuss below.

"2. The addition of a clause allowing site visits prior to authorisation if requested by the DNC."

It is not clear to me what the purpose of such visits would be. If the purpose is simply to establish a working relationship, there is little to oppose in such a requirement. However, a site visit should not be the basis for refusing accreditation of a registrar; this would amount to a subjective barrier.

"3. The addition of a time limit for the registrar to connect to the production environment before the authorisation is terminated for non-use.

If the time limit was generous e.g. 12 months, and some flexibility provided for, this proposal seems reasonable.

"4. Making the time limit retrospective for those organisations already authorised but not connected to production (though with discretion for those with a legitimate reason for not yet being connected)."

Again, this would be reasonable, however a notice period would be required. I believe the least actionable approach would be to require the authorisation period to be considered as starting from the time of the policy change rather than the original application.

"5. Amending the application form to make the obligations and declarations clearer."

This is always laudable, provided that such clarifications do just that, and do not materially alter registration policy as understood by current and potential registrars.

"6. Increasing the application fee to \$3,000 plus GST, reflecting the time and cost spent on processing the applications."

The Final Report from the outset assumed that costs would have to be set and fine-tuned based on experience. It is always disappointing when costs prove to be higher than first anticipated and price rises result. However, such price changes are not incompatible with the Final Report or the principles of InternetNZ.

Finally, I note that none of these proposals contain any justification or evidence supporting them. It is not at all clear what, if any, problems they are intended to solve. This submission would have suggested alternatives to unacceptable proposals had the problems they are intended to address been stated.

Even the application fee increase lacks any evidence to support it. One can only comment on its appropriateness in the context of existing policy; one is left to take it on faith that the increase is justified.

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