

SUBMISSION BY IPSANZ
TO
THE OFFICE OF THE
DOMAIN NAME COMMISSIONER:

REVIEW OF THE
REGISTERING, MANAGING AND CANCELLING DOMAIN NAMES
POLICY (RMC 1.5)

Introduction:

In general we would concur with the comment in the ICONZ Group submissions (25 August 2006) that the existing policy RMC 1.5 is fair, operable and well suited to the requirements of the New Zealand internet community.

We wish to highlight the following points however, which are largely in support of issues raised in the submissions received by the DNC in 2006.

1. Clause 6 should be updated to refer to the new DNC disputes process.
2. Clause 11.7 no longer seems relevant and should be deleted.
3. It would be useful to separate out moderated and unmoderated 2LD's in the Policy, as the State Services Commission suggests in its submissions. This would give more clarity in the procedure for each category.
4. The New Zealand Bankers' Association submission that the policy could be amended to require that registrations must not consist of words not permitted by New Zealand law (and that an appropriate list of restricted words be drawn up) seems sensible and we support it in principle. This does not seem difficult to implement and could reduce or avoid costly disputes proceedings later on.

Additional comments on other submissions by interested parties:

Submissions by ICONZ –

1. We make no comment on the administrative burden encountered by Registrars in supplying and updating registrants with the UDAI code.

We do not think that any unreasonable burden is placed on registrants by having to store or protect their own UDAI code. It is a question of responsible management of confidential information – something which most businesses deal with every day. We are not aware of the number of instances where unauthorised persons have accessed a UDAI and taken control of a domain name. If this was shown to be happening in significant numbers, then it may be that retrieval on demand would be a better option if registrants are concerned about security issues.

ICONZ's proposed changes suggested would not however seem to unduly prejudice registrants, provided that the UDAI code is freely available, either through an automated system, on demand, or is sent out at the end of the grace period.

Submissions by State Services Commission

1. The SSC's point that all policy documents should be integrated and appropriately cross-referenced is probably valid. The DNC should be keeping all its earlier policies up to date as it amends policies and introduces new policies (such as the new disputes resolution procedure).

2. As the SSC suggests, the DNC could usefully provide a meaningful explanation of its "security system", although this could perhaps be done in a separate document which could be updated as required.

3. We disagree with the SSC's submission that the grace period be used as a public notification and opposition period. This would place an extremely high administrative/compliance burden on the whole process. The five day grace period would not be sufficient to allow both publication and opposition. If a longer period was allowed, it would substantially delay the registration and activation of domain names, with particularly significant impact on parties legitimately applying for domain names.

This would also create a quasi-judicial responsibility for the DNC and/or registrars, neither of whom may have the resources or expertise to decide on opposition type issues.

It remains open for affected parties to initiate the dispute procedure or court proceedings in relation to registrations affecting their rights.

Submissions by the New Zealand Bankers' Association

1. The Bankers' submission that processes be put in place to prevent fraudulent registrations or registrations that "lack integrity would be difficult to implement. As with the SSC's suggestions, it would burden the DNC and/or registrars with a quasi-judicial function, something neither may be particularly well-suited to at the registration stage.

The compliance burden would be extremely high if every registration had to be checked. We believe that it should remain up to affected third parties to take action, either through an appropriately tailored disputes process or if necessary through the courts, where they feel a domain name registration materially affects their rights or interests. We support in principle the proposal that has been made to move towards a type of light handed "gateway" service which prevents the registration or allows the removal of names that are plainly offensive or contrary to law.

2. The submission that the DNC should put pressure on foreign registries in relation to overseas registrants (we assume that the Bankers group is referring to domain name registrations in other registries than .nz – all .nz registrations are subject to the .nz policies regardless of where the registrant resides) is outside the scope of this policy review. The DNC and InternetNZ have no responsibility for foreign registries – their sole function relates to the management of the .nz registry.

3. In relation to the submission that the 5-day grace period be used to verify payments before a domain name is registered, we understand that the “tasting” phenomenon has become an issue in the .com gTLD. This involves the acquisition by domain name trading companies by automated processes of thousands of domain names which they use only as “landing sites” on which there are sponsored advertisements or search engines linking to other sites and where pay-per-click regimes are in place. These companies trial these domain names during the five day period and keep those which attract browsers and therefore more pay-per-click advertising revenue. They may allow some domain names to be cancelled, and then re-apply for them for a further five days without payment. Trade marks are more likely to generate visitors and are probable targets.

Standard domain name dispute resolution processes do not help in combating this activity, and we therefore suggest that a requirement for payment up front be considered.

4. We are not convinced that there is any need for the DNC to randomly check registrant details. This would be a significant resource burden. It is always open to third parties to lay a complaint if they suspect details are fraudulent. Once again, we would support the fine tuning of any dispute procedures to deal with situations of this type and to do so in a cost effective and efficient way.

14 February 2007