

Registering, Managing and Cancelling Policy Review - Submission

From: David Ward

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I write in regard to the RMC Policy Review.

Our view has and continues to be that the only defensible position for any registrar is that it offers as open and unregulated a system as possible, while still maintaining and protecting the integrity of the internet, including the principles of free speech and freedom of expression, along with the rights of domain name holders. The World Wide Web - for which Domain Names hold the most use - was designed to be open, transparent, free and equal. It continues to be of grave concern that a small but vocal minority persist in attempting to impose draconian regulations and restrictions in order to achieve ends which are either purely self interested or which can be achieved via far easier means.

By way of example I direct you to the World Wide Web consortium <http://www.w3.org/Consortium/mission>, to quote their site:

“Web for Everyone. The social value of the Web is that it enables human communication, commerce, and opportunities to share knowledge. One of W3C's primary goals is to make these benefits available to all people, whatever their hardware, software, network infrastructure, native language, culture, geographical location, or physical or mental ability.”

The New Zealand Domain Name system, like many other aspects of its economy has operated in an open and transparent first-come first-served method. This has been a model which increasing numbers of countries around the world have adopted – the reason for which is clear, it is the cheapest, most efficient and fairest system. It avoids subjective judgement, elitism, cronyism and back door lobbying. In any closed system you inherently introduce systemic inefficiencies and provide an environment in which influence can be obtained through bribery, corruption or threats.

SECURITY JUSTIFICATION

In regard to phishing and other scams. It has been proposed that restricting registrations will somehow reduce or stop this from happening. Clearly this is nonsense.

These scams work by exploiting people who fail to check that the sites they are entering data into are authentic. This is not a consequence of registering a “similar” domain name, it is done by recreating the look and feel of a site. The majority of phishing scams operating overseas (which is far and away a larger market) don't even have anything close to the domain name they are trying to emulate and over a third of the instances I am familiar with simply use IP addresses in place of domain names. The domain name is irrelevant.

This is an issue of educating the public, not introducing an additional, expensive and subjective process to decide what is and isn't acceptable.

Additionally, there are a wide range of other options aside from .co.nz, including .com space which has successfully run largely unregulated for a lot longer than .co.nz and with some 69 million active domain names dwarfs New Zealand. Empirical evidence suggests that .com is trusted almost as much as "local" domain names in most western countries, and restricting .nz space will be of little or no benefit here.

Furthermore it is a sad indictment of the New Zealand banking system (to use one example), that while overseas banking sites require partial password checks – so that the entire password is never revealed to a key logging program or phishing site – some New Zealand banks simply request the entire password in one go. Why should we introduce restrictions into the .nz name space because some banks in New Zealand are too lazy to correct their own security issues?!

If they joined the rest of banking world and thought seriously about their security, they would realise that a simple but effective measure of partial checks would ensure that even a phishing site would obtain no more than a part of a password, and even that would be useless after 3 failed attempts.

Shame on the New Zealand banking industry attempting to blame phishing scams for what in part must be a consequence of their own ineptitude.

COMMERCIAL JUSTIFICATION

It has been proposed that registration of Domain Name's be restricted where they are similar to existing names or trademarks. Once again the intellectual property lawyers are flogging their favourite dead horse, whereas any logical person can see that the market must be left to sort it out. Take db.co.nz, we were the original registrants of this Domain Name over a decade ago and via a legal process (rightly or wrongly) exploited by Dominion Breweries, they forcibly obtained this Domain Name. However what right did they have to this name compared to Deutsche Bank who also have a presence in New Zealand, are a significantly larger and more globally renown company and who also are the registrants of db.com? Or how about Oracle or Microsoft? – who between them sell most of the worlds database software (often abbreviated as "db"). To advocate a system where a subjective judgement is imposed by a select few is to introduce bureaucracy, inefficiency, contradiction and opens it up to bribery, lobbying and behind the scenes shenanigans.

Furthermore it would be incredibly naïve of us to assume that any large company would abide by any decision that did not go their way, they would simply proceed to court, thereby rendering this additional layer of "checking" completely redundant.

In regard to offensive Domain Names, again we are making subjective judgements about what is or isn't offensive, who should be made the final arbitrar of what is or isn't offensive? At the end of the day you only find what you type in and there are already restrictions in place in regard to advertising, meaning that the only way a person would

“stumble” across an “offensive” domain name would be if they typed it in. It is hard to feel sorry for someone claiming they had been seriously offended because they typed “f**ckmewithadeadsheep.co.nz” into their web browser and it had come up with a site!

Secondly, an offensive domain name is nothing compared to offensive content which can be placed on any site, anywhere in the world, using any domain name. Where is the benefit?

Let us be clear. There is almost no commercial justification for these changes, other than the enrichment of ambulance chasing intellectual property lawyers who specialise in manufactured and vexatious scaremongering arguments designed to further their own self interests and line their pockets with cash.

Self interest hidden lightly beneath claims of “being in the public good” is not persuasive to me and nor could they be persuasive to any other reasonable minded person.

SUMMARY

We have yet to see any argument that remotely justifies a step backwards in domain name policy. Domain Name registration should remain as unregulated as possible – any proposals to the contrary can only be viewed as self-interest and scaremongering. Most worryingly, the introduction of any form of subjective judgement in the registration process is completely unacceptable and will undoubtedly result in additional court cases, expense and an absolute travesty of natural justice.

There are already processes in place to deal with all of these proposals, and none of them can realistically mitigate any of the issues they are supposedly designed to address, instead it will simply result in another layer of interference which can be circumvented by anyone with deep pockets using existing systems of redress.

We sincerely hope that common sense will prevail.

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