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Domain Name Commission's Dispute Resolution Review - Response

A. Introduction

The DNC is not directly responsible to consider New Zealand's partnership with Māori as stated in the Treaty of Waitangi. However, good community and corporate citizens and society in general largely accept we live in a society that recognises its obligations to the Treaty of Waitangi and or an understanding of The Māori Language Act. The .nz management has usually not considered Māori or other cultures who are its stakeholders. It is also important to state here that there is not one Māori world view. This is due to social and family hierarchy, colonisation, introduction of religions, cultural assimilation and urbanisation. By consulting individuals, you will only seek an individual opinion.

B Disputes and Offensive to Māori registrations

I accept and understand that it is not the role of the DNC to be a judge and jury of registrations. However, traditional knowledge, mātauranga Māori and Indigenous fairness is not able to be recognised by the New Zealand Legal system. The Copyright Act review is seeking feedback regarding Treaty and Traditional Knowledge issues.

For many years, a number of offensive to Māori registrations and historically used names such as Iwi names have been registered and cyber squatted with no repercussions. The only way to combat these registrations was to use the WHOIS Policy as most of the time these registrations used aliases and fake addresses.

Another area that is growing slowly is the usage of te reo Māori names and translations. I am aware of at least one government organisation who could not register the Māori version of their name as someone had cyber squatted it. Again, the current disputes process and structure does not cater to Māori language complaints. When dot KIWI was being launched, the company took the proactive step of creating a list of offensive to Māori names and ensured the similar to .nz, Iwi names could be protected.

C. Māori Society versus Legal Entities

A major oversight of the creation of .iwi.nz was that an Iwi had to be a legal entity to register a domain. This colonial approach forced societal and political structures that have been operating for centuries being forced to create legal entities to satisfy the Internet Society of New Zealand who did

not consult with Iwi when a few decided to create the 2LD. Such policy also ignores traditional Māori views of ownership and representation.

In recent weeks I was made aware of Māori organisation that has also been around for more than 180 years and is a well known group in the Māori world and with the New Zealand government, were sent a letter from the DNC advising their registration needed to prove they were a legal entity, if they did not prove it their domain name would be cancelled straight away and would not be able to be renewed.

D. Iwi.nz

I have been the .iwi.nz moderator since 2000. While I personally believe this section could apply to all moderated 2LD's, this section is around the .iwi.nz

Currently there is no disputes resolution for an applicant who disagrees with my decision as a moderator. In the past I have negotiated and resolved issues myself.

But on one occasion, the DNC commissioner without consultation cancelled several registrations as it thought they did not meet the criteria.

E. Recommendations

1. That the DNC utilises a dispute process for Māori knowledge. This is an opportunity for New Zealand to be leaders in the world. The DNC disputes process could involve a new advisory group that considers "Offensive to Māori" and "Traditional Knowledge" complaints. The New Zealand government MBIE utilise a TradeMarks and a Patents Maori advisory committee that has statutory authority.
It is my understanding that there are also discussions with the Companies Office for a similar committee. The Plants Variety Act Review and Copyright Review have also mooted new committees to assist with disputes. This recommendation was largely from the WAI 262 recommendations. I believe this is something that the DNC should consider.
2. A new disputes process should cater to iwi.nz applicants and any member of the DNC or public who do not agree with the moderator decision, if after seeking to resolve the matter in a culturally appropriate manner.
3. In addition to the .nz review, there needs to be some consideration for Māori groups who are not legal entities.

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