

Policy Advisory Board: Report from Meeting 14

STRATTON STREET, LONDON, W1. 8 June 2001

Note: for the purpose of this report, the following abbreviations are used:

- CoM: Council of Management
- PAB Members: PAB members or Attendees
- Steering Committee: Nominet members
- Executive: Nominet staff

Those present:

- Richard Almeida, Elected member
- Richard Baron, Appointed member
- Adam Beaumont Elected member
- Denesh Bhabuta, Elected member
- Roy Bisson Appointed member
- Alex Bligh, Appointed member
- Gordon Dick Elected member
- Steve Dyer Appointed member
- Clive Feather Elected member
- Peter Gradwell Elected member
- Eric Ramage Appointed member
- Shirley Wood Elected member

From the Executive by invitation of the PAB: Willie Black, Lesley Cowley, Felicity Hoad, Fay Howard, Emily Taylor.

1. Welcome and apologies

Adam Beaumont was welcomed to the PAB.

Apologies were received from Mike Blanche.

2. Code of Practice

Fay Howard presented a report on the development of the Code of Practice. The key points were:

1. Support for the complete separation of the CoP Organisation from Nominet
2. A full time PA, Isobel Garcia, had been appointed
3. Some Registrant information is arising through calls taken by the customer support department, but more needs to be obtained.
4. Visits had been made to key Nominet departments, and further meetings were planned with members, resellers, industry and government bodies.

The Accreditation Manger recommended that the CoP Organisation is named INCOP, which stands for Internet Names Code of Practice. This was unanimously agreed. Logo designs were presented, and the PAB recommended further work is done to reduce the 'policing' image of the design and put more emphasis on quality.

There had been some liaison with the DTI, who are concerned about ISPs failing to publish Nominet's Terms and Conditions and the difficulties faced by businesses in trying to move Tags.

Regarding the difficulties in making direct contact with legal Registrants, the PAB recommended that a questionnaire carried out through a random survey of the Nominet database would help.

The Office of Fair Trading, concerned that Trust marks are losing consumer confidence, is looking at establishing guidelines for Trust mark organisations. It was agreed that INCOP should follow such guidelines.

The Accreditation Manager outlined changes made to the draft consultation document, including background, definitions, the proposed organisation, membership/eligibility, content, standards of measurement, accreditation, complaints procedure and reviewing the Code.

A discussion arose over the imposition of financial incentives and the relationship with Domain Name registration fees. For example, would Nominet give a discount to those members who had signed up to the CoP? This resulted in further support for the complete separation of Nominet and INCOP.

3. Revised Terms and Conditions

Emily Taylor presented a summary of the changes made to the Terms & Conditions as a result of advice from counsel, and the last PAB Meeting.

The issue was raised whether ISPs could rely on their terms and conditions with Registrants to refuse a Domain Name transfer. It was agreed that further debate was needed on this issue and Nominet's practice with regard to changes of Tag, and it was to be tabled for the next meeting.

The Data Protection aspect of publication of registration data was raised. It was pointed out that Nominet operates within the Data Protection Act as all the data that is published is for essential use by the Registry. In addition, the Council for European National Top Level Domain Registries (CENTR) is lobbying the EC on guidelines for the publication of WHOIS data.

It was agreed to re-instate the option for Nominet to either bill the Agent or Registrant for the Domain Name.

It was pointed out that the T&C's would remain valid in the event that Nominet moves towards issuing electronic Certificates.

A copy of the revised Terms and Conditions has been sent to the Office of Fair Trading for review.

The PAB approved the Terms and Conditions and agreed that the Council of Management should be able to make any necessary changes before implementation.

4. New Dispute Resolution Service

Emily Taylor outlined the key changes that had been made to the DRS as a result of the public consultation. The key changes were as follows:

1. The Bad Faith definition has been replaced by a defined term "Abusive Registration". It was agreed that this should now read: "A Domain Name that has been registered and/or is being used in a manner which, without due cause, takes unfair advantage or is detrimental to the Complainant's rights."
2. The reference to the criminal standard of proof has been removed.
3. Changes have been made to the treatment of Tribute and Protest sites. Recourse is limited to sites "operated solely" in tribute or criticism of a

business or person. Where the Domain Name is identical to the name in which the Complainant asserts rights, the burden shifts to the Registrant to show that it is not an abusive registration.

4. Regarding Appeals, the panel can now consider Appeals on facts and procedure. Nominet can refer questions to the panel, and although appeal decisions will be published for guidance, they will not have precedent value.
5. The word limit of 2000 is retained, but excludes mandatory inclusions and annexes.
6. The Complainant "may" submit a reply but does not have to. The word limit is increased from 1000 to 2000.
7. The "Three strikes and you're out" policy is now limited in time.

The PAB approved the policy with minor amends as incorporated above.

A paper on the recruitment and retention of expert panellists was distributed for review at the next meeting.

5. Application for .scot.uk Second Level Domain

There were no conflicts of interest declared by the PAB members in considering this application.

The PAB unanimously agreed to endorse the Executive's recommendation to reject the application by Scotnom for the reasons detailed in their recommendation.

Legal advice was given to the PAB on the competition aspect raised by Scotnom regarding the stated preference for Nominet-operated SLDs in the policy. The policy is not seen by the PAB as anti-competitive. It was noted that the DTI stated that should someone other than Nominet be running an open UK namespace, they would be concerned.

The PAB decided that there was nothing to prevent the Executive submitting proposals for new SLDs, whether based on pre-submitted applications or not.

The PAB agreed to discuss the wider issue of geographic SLDs at its next meeting; as well as consider the tabled application for a personal SLD .me.uk.

6. Re-introducing two-letter combinations at the Third Level

The PAB discussed the desirability of opening up two letter combinations at the Third Level, ie aa.co.uk. The majority of the PAB were in favour of opening-up the Domain Names, but believe that a suitable mechanism for doing so has yet to be found.

The possibilities of undertaking open or sealed bids, a sunrise registration period, open registration and random processing were looked at as some possible options. All parties were invited to suggest additional mechanisms by e-mailing ideas to pab-suggest@nominet.org.uk.

The next PAB meeting will discuss the alternative mechanisms for opening up the two-letter combinations.

7. Tag Holder Agreement

The PAB endorsed the mechanism of the Tag Holder contract and encouraged all members to sign-up to the Agreement by the June 22 deadline.

The PAB re-iterated to the membership that the Agreement had undergone a one-month public consultation prior to being introduced, in addition to being reviewed by competition lawyers.

8. AGM

It was agreed that the afternoon session of the AGM on Wednesday July 4 would be a PAB workshop and all members were encouraged to attend.

9. Date of next meeting

The next meeting would take place from 13.00 hours on 1 August venue tbc.