

PROPOSAL FOR A NEW SLD .SCOT.UK - REPORT FROM THE NOMINET UK EXECUTIVE TO THE POLICY ADVISORY BOARD MEETING ON 6TH JUNE 2001

1. INTRODUCTION

An application for .scot.uk has been submitted by ScotNom Limited. It is the first complete application for a new Second Level Domain (SLD) to have been received by the Executive since the introduction of the Policy and Procedure for the creation of new SLDs in *.uk*.

The application proposes the creation of a new SLD for Scotland with a third party delegated registry managed by ScotNom Limited (a not for profit company) with registry operations delegated to Scotland Online Limited. It is intended that income would be split 60/40 basis, with 60% to ScotNom Ltd. A membership model would apply, with ScotNom members receiving a registration price of £10 for 2 years (£80 to non-members).

2. EVALUATION BY THE EXECUTIVE

The application was received in March 2001. Earlier versions of the application were submitted to the Executive in October 2000 and February 2001, but were incomplete. Feedback was given to ScotNom Ltd, which resulted in the current application. In accordance with the published Policy and Procedure, the Executive has evaluated the application in advance of its submission to the PAB and our comments are below.

The application was firstly assessed by checking for its completeness using the published Check List criteria. Secondly, the Executive examined the application by reference to the published procedure. The Executive then considered the application by reference to the published policy prior to making recommendations.

3. ASSESSMENT OF COMPLETENESS OF THE APPLICATION USING THE CHECK LIST

3.1 Charter Contents

3.1.1 Name – .scot.uk.

3.1.2 Purpose – covered in the sections titled ‘The Charter’ and ‘Target Market’. The purpose is to provide Domain Names for Scottish organisations and those organisations who wish to be associated with Scotland.

3.1.3 Eligibility – covered in ‘The Charter’. It is noted that the intention is that the SLD - for Scottish organisations, will be used by those who are either based in Scotland, or who wish to be associated with Scotland, but that this will not be policed. The term ‘organisations’ is used throughout the application. It is assumed this applies to companies and other bodies, but it is unclear whether individuals would also be able to register in the SLD.

3.1.4 Application processing – covered in ‘The Charter’ – first-come, first-served basis.

3.2 The Statement

3.2.1 Community of Interest – covered under ‘Benefits’ – Scottish organisations and those associated with Scotland.

3.2.2 Anticipated number of Registrations – covered under ‘Expected number of registrations’. An estimated 10,000 per month. It is noted that there is no indication of the length of time this estimate will continue for and that the monthly volumes are assumed to be static in the financial projections (Application appendix D), including registrations that will renew from April 2003.

3.2.3 Necessity of new SLD – covered in ‘Benefits’ and ‘Appropriate use of limited resources’ sections. The application argues limited space in *.uk*, especially *.co.uk* and benefits for promoting organisations associated with Scotland.

The application mentions that the *.us* domain, most of which is divided into geographical areas. The Executive note that this Registry has a low percentage of the total available US Market.

3.2.4 Evidence of requirement – covered under ‘Benefits’ and ‘Support’ sections. The organisations that have agreed to be founder members of ScotNom Ltd are noted.

3.2.5 SLD compliance with Policy – partly covered under ‘Appropriate use of limited resources’. As this is a geographical SLD proposal, there is clearly overlap with all of the current SLDs under *.uk*. Other policy items are all covered in the remaining sections of the application.

3.2.6 Application re-submission – Not applicable. This is the first complete application received from ScotNom Ltd for the *.scot.uk* SLD.

3.3 Outline Rules

These are shown in application appendix A. It is noted that these are based on current *.uk* rules, which are presently under review.

3.4 Applications from Third Party Registries

3.4.1 Registry recognised as a neutral and impartial body by a substantial number of potential Registrants – covered by ‘Support’ section. The Executive note the organisations listed, but are unable to determine whether they represent a substantial number of potential Registrants. Evidence has not been supplied that the registry is directly recognised as a neutral and impartial body by a substantial number of potential Registrants.

3.4.2 Financial plans – supplied in application appendix D.

3.4.3 Terms and Conditions – supplied in application appendix E. It is noted that these are based on current *.uk* terms and conditions, which are currently under review.

3.4.4 Application Fee – supplied

- 4. **ASSESSMENT OF APPLICATION WITH REGARD TO THE PROCEDURE**
- 4.1 **Prescribed Form**

The application does not directly reflect the checklist format. However, the material was readily found.
- 4.2 **Application Accompaniments**
 - 4.2.1 **Draft charter** – supplied (see 3.1 above)
 - 4.2.2 **Statement** – supplied (see 3.2 above)
 - 4.2.3 **Proposed rules** – supplied (see 3.3 above)
- 4.3 **Additional Accompaniments**
 - 4.3.1 **Contractual terms and conditions** – supplied (see 3.4 above)
 - 4.3.2 **Third party registry’s declaration** – supplied (see 4.7.3, 4.7.3 and 5 below)
 - 4.3.3 **Detailed financial plans** – supplied (see 5.5 below)
 - 4.3.4 **Application fee** - supplied
- 4.4 **Charter**
 - 4.4.1 **Name** - .scot.uk. It is noted that this is four characters in length, whereas the procedure states that there should be no more than two or three characters.
 - 4.4.2 **Criteria for eligibility** – supplied (see 3.1 above)
- 4.5 **Statement**
 - 4.5.1 **Community of interest** – covered (see 3.2)
 - 4.5.2 **Necessity for the SLD** – covered (see 3.2)
 - 4.5.3 **Compliance with policy** – partly covered (see 3.2)
- 4.6 **Outline rules** – supplied (see application appendix A).
 - 4.6.1 **Incorporation of Nominet’s Terms and Conditions** – confirmed.
 - 4.6.2 **Neutrality** – The outline rules are based upon the current .uk rules and include operation on a first-come, first-served basis and in a neutral manner.
- 4.7 **Applications by proposed third party registries**
 - 4.7.1 **Application by third party registry** – the application is submitted by the proposed third party registry.
 - 4.7.2 **How the SLD delegation would serve the interests of the Internet Community, rather than the Third Party Registry’s own commercial or other interests** - This aspect is not well covered in the application.

ScotNom, as the applicant, is stated as being a non-profit organisation. Although not stated, it is believed that the operating company is for-profit.

4.7.3 Prejudicial facts, information or risks – covered in ‘Declaration’ section. There are none stated.

4.7.4 Third Party Registry’s Resources – The Technical Resources of the Operating Company are covered in application appendix C. The technical resources of the Registry, ScotNom, are not mentioned in the application.

The commercial resources of the operating company are covered in application appendix C.

Financial resources are covered by ‘Pricing’ section, financial analysis section, financial assumptions, application appendix D, and the financial spreadsheets provided. It is noted that registrations are priced at £10 for 2 years (£80 non-members), that membership fees would be the same as those of Nominet UK, and that revenue would be split 60% to ScotNom and 40% to Scotland Online.

4.8 Third Party Registry Contract – it is noted that this aspect of the procedure will apply only to approved applications and it is assumed that ScotNom Ltd will enter into a contract containing the specified provisions.

4.9 Legal costs – it is noted that legal costs are payable by the applicant when the above contracts are drawn up and it is assumed that ScotNom Ltd will meet such costs.

5. DETAILED COMMENTS ARISING FROM THE ASSESSMENT

5.1 Sub-contracting of third party registry operations – The application proposes that the SLD be delegated to ScotNom Ltd, who would sub-contract registry operations to Scotland On Line. As this type of arrangement was not one envisaged when the procedure was written, it is difficult to comment on this particular proposed arrangement. Both the PAB and Members will need to consider whether the application can be treated as ‘a special arrangement’.

5.2 Tender for Operating Company - A summary of the tender process to determine the operating company is shown under ‘Operations’. It is noted that invitations to tender were restricted to Scottish Companies and it is unclear whether EU competitive tender regulations were considered. There are not sufficient details supplied for any further assessment of the tender process.

5.3 Registry Software - The Executive were most concerned to note that the Operating Company proposal assumes that Nominet will provide versions of the applications and codes which Nominet has developed. This has not been agreed by Nominet UK, neither has the principle been discussed with the Nominet Board. It is noted that the financial projections assume this will be provided at no cost, nor do they include the costs of alternatives.

5.4 Sufficiency of resources – It is of concern that details of the technical, commercial and operational resources of ScotNom Ltd have not been supplied. Details of the staff and Management of ScotNom Limited itself have not been

provided, although there are named posts in the application. It is not clear whether these posts have been recruited, but no CVs have been provided. We are therefore unable to assess commercial resources or experience, in particular, whether any of those involved have registry experience and knowledge. The Executive consider that there are a number of aspects of running a Registry that require a wide knowledge base and experience.

- 5.5 Financial Projections** - It is noted that there is a discrepancy between the stated Domain registration income and the stated volumes and prices. It is not clear whether the registration income is split between member registrations and direct registrations, but it is usual that the volume of direct registrations be very small. However, the stated volume for month one should produce an income of £200,000 if all registrations were at the member price, not £100,000 as stated. This comment may also apply to the following months, where 10,000 registrations per month at the member rate would produce income of £100,000, not £50,000 as stated.

There are also a number of cost variations between years 1 and 2 that are not covered by any narrative.

The Executive has no reason to believe that the applicant may run into financial problems or produce excess profits. However, they note the stated intention to use any balance of funds to finance a *.scot* gTLD application to ICANN. They question, as a matter of policy, whether this is an appropriate use of such funds.

- 5.6 Database Rights** - The matter of database rights has not been mentioned in the application. Given that the operations are to be sub-contracted, the Policy Advisory Board may wish to consider further the protection and retention of rights, in the event of the Registry or Operating Company running into difficulties, marketing the database etc.

6. ASSESSMENT BASED ON THE POLICY

- 6.1 Benefits of proposed SLD** – it is believed that this new SLD would be beneficial to users, or potential users of the UK namespace and the Internet community as a whole. In particular, it would be beneficial to Scottish users and those associated with Scotland, or wishing to target the Scottish market.
- 6.2 Appropriate use of limited resources** - the creation of geographical SLDs under *.uk* is a matter that has yet to be debated by either the PAB or the CoM. Clearly, the debate would need to include all potential geographic second level domains under *.uk*. If it were to be agreed that geographical SLDs be created, then it might also be appropriate to create these all at the same time, rather than discriminate against a particular geographical area.
- 6.3 Overlap with existing SLDs** – eligible registrants for the proposed SLD would also be eligible to register in one or more existing SLDs of *.uk*, but the charter is clearly distinct from those SLDs already existing.
- 6.4 Widening of the charter** – it is considered that a wider charter would not be appropriate in this instance and would not better serve the interests of the Internet Community.

- 6.5 **Type of SLD** – the application proposes a third party delegated registry, but with operations further delegated to an operating company. This proposed arrangement is not covered by the policy.
- 6.6 **Third party registry neutrality and impartiality** - Evidence has not been supplied that the registry is directly recognised as a neutral and impartial body by a substantial number of potential Registrants.
- 6.7 **Third party acting in the interests of the Internet Community** – it is considered that ScotNom would act in the interests of the Internet Community as a trustee of the delegated SLD. However, the application does not demonstrate how applying surplus funds to a Scottish ccTLD/gTLD application would necessarily be in the interests of the Internet community. Indeed, it may devalue the investment of those who register within .scot.uk.
- 6.8 **Nominet operated SLD** – not applicable as the application proposes a third party registry.
- 6.9 **Predisposition towards Nominet operated SLDs** - The application does not provide sufficient information to demonstrate why this predisposition should be waived or that operation by a Third Party is more desirable.

7. RECOMMENDATIONS

The executive is satisfied that, apart from relatively minor items, the application provides the material required by the checklist, procedure and policy. However, the application fails to comply with the stated policy in several key areas.

In the view of the Executive, the application meets policy rules 3, 4 (with the caveat below), 6, 7 and 8, but does not meet policy rules 9 or 11. Therefore, the Executives recommend that the PAB reject the application in its current form. The Executive notes that the failure to meet policy rules 9 and 11 would be irrelevant were the application amended to be for a Nominet operated SLD.

The Executive recommends that the PAB consider, with regard to policy rule 4, the wider issues of geographical SLDs and how this might affect the re-submission of a suitably modified application.