

Two letter domain names

PAB SUB-COMMITTEE REPORT

1. Introduction

At PAB meeting 59 (10 September 2008), the subject of 2 letter domain names was discussed. It was agreed at this meeting that a PAB sub-committee should be formed to discuss this issue and report back to the PAB. Eric Ramage volunteered to Chair the sub-committee meeting which was held at Park Plaza Sherlock Holmes, 108 Baker Street, London W1U 6LJ on 6 November 2008. The sub-committee meeting was attended by: Andrew Bennett, Simon Bezant, Gordon Dick, Mark Healey, Nora Nanayakkara, Eric Ramage and Michael Toth. Nick Wenban-Smith and Laura Hutchison from Nominet also attended the meeting at the request of the Chair. Clive Feather sent his apologies.

This issue has previously been discussed by the PAB in June and August 2001. However, while it had been agreed in principle that 2 letter domain names should be released, a consensus had not been reached on a suitable release mechanism.

2. Should two letter domain names be made available under the .co and .org Second levels?

The group agreed with the previous PAB decision that two letter domain names should be made available for registration.

As well as being explicitly prevented by rule 5.6:

For the SLDs co.uk, me.uk, org.uk, and net.uk, a Third Level Domain may not consist of only two letters. For example, an application to register ie.co.uk, -a.co.uk or e-.co.uk would be rejected. For the avoidance of doubt Third Level Domains containing a letter and a number or two numbers are permitted thus 2a.co.uk, a2.co.uk, or 22.co.uk are acceptable.

It was noted by the group that there were currently two other rules blocking the registration of 2 letter domain names. The first is rule 5.8:

For the SLDs co.uk, me.uk, org.uk, and net.uk, a Third Level Domain may not be identical to any existing SLD (as listed in Appendices A, B and C to the Rules), or any SLD under .uk the creation of which has formally been announced by Nominet. For example, an application to register org.co.uk or nhs.co.uk would be rejected.

The second is rule 5.9:

For the SLDs co.uk, me.uk, org.uk, and net.uk a Third Level Domain may not be identical to an existing TLD or any TLD the formal approval of which has been announced by ICANN (or any replacement body which controls the creation of new TLDs). For example, an application to register uk.co.uk. eu.org.uk or com.co.uk would be rejected.

3. Should there be a special approach to releasing domain names?

The sub-committee agreed unanimously that there should be a special approach to releasing these domain names. The sub-committee agreed unanimously that there should be a staged sunrise period priced on a cost recovery basis. The first phase of which should only be for holders of registered trademarks recognised and enforceable in the UK which must be identical in every respect to the two letter combination applied for.

The sub-committee unanimously agreed that there should be a mechanism for dealing with multiple applications for the same domain name during the sunrise. The .asia sunrise was highlighted several times and was generally felt to be a good example of a sunrise period. Under this system, where two or more applications were made for the

same domain by applicants whose sunrise credentials had been verified, the applicants were invited to tender for the domain. An alternative discussed and supported by some members was that applicants should only be able to register under one second level. The problem arose that some people may have registered under the ltd and plc second levels as they weren't able to register a two letter domain name in the currently restricted SLD's. The idea of an auction with sealed bids was also discussed as a mechanism for dealing with multiple applications, but it was agreed that the precise mechanics of how to deal with multiple applications for the same domain name during the sunrise might reasonably be dealt with during the wider consultation.

The sub-committee unanimously agreed that there would need to be a cut-off date for a trademark registration to guard against marks that may have been registered speculatively in light of the recent discussion over 2 letter domain names. 1996 and 2002 were suggested as possibilities.

The second phase of the sunrise would be for applicants with unregistered "rights" recognisable and enforceable in the UK, which might include registered Companies. There was some discussion whether this could be similar to the definition of rights under the DRS system, but it was generally felt it would be more appropriate to ensure that the rights relied upon were rights that are legally enforceable such as the recognised common law right of "passing off". It was also suggested that mediation could usefully be used to resolve conflicts and help with fair allocation.

There was some discussion over the best mechanism for the third phase of the release, following the formal sunrise. Options are a Landrush on a First Come First Registered basis, some form of Lottery, and an Auction. There was no support for the idea of an Auction other than as a possible means of resolving multiple applications during the sunrise. A proposal that applicants should pay a non-refundable fee (perhaps equivalent to the registration fee) that would be donated (after recovery of costs) to the Nominet Foundation in order to enter a lottery found favour with 3 members but the remaining 4 members preferred that after the sunrise the domain names should be released in a Landrush on a First Come First Registered basis.

4. Should any 2-letter domain names be reserved?

It might be argued that country codes should be reserved, but to do so would largely negate the release of 2-letter domain names. However given that Nominet controls the UK namespace it was thought that uk should not be released. To do so might result in confusion. Consequently, the sub-committee agreed that, with the exception of uk, 2 letter country-code combinations should not be reserved at the third level. The "uk" combination should continue to be blocked to avoid confusion, or might be used by Nominet itself for some suitable purpose such as promoting awareness of the "UK Namespace Brand".

5. Should we consider releasing any other "special" domain names?

The sub-committee also discussed the possibility of releasing other "special" domain names that are currently blocked under rules 5.8 and 5.9.

With reference to 5.8 the sub-committee asked if there was any technical reason for SLD's to be blocked at the third level. Some members felt these should be released. Other felt that some such as gov.co.uk had the potential to cause confusion. It was agreed that this is best left to some future consultation debate.

The sub-committee also discussed the possibility of releasing one-character domain names. As ICANN is currently discussing the release of one-character domain names it was assumed that there weren't any technical reasons for continuing to block these registrations. The group agreed in principle to these being released.

6. Two letter domain name sub-committee recommendations

The PAB made the following recommendations:

1. Nominet should make two-letter domain names available for registration; making such alterations to its Rules as appropriate. There should be a special approach to releasing domain names with a staged sunrise period.
 - a) The first phase should be for holders of registered trademarks recognised and enforceable in the UK Courts which are identical to the two-letter combination applied for. There should be provision for dealing with multiple applications for the same name and a cut off date for trademark registration to be set at some point in the past.

- b) The second phase should be for parties with unregistered rights recognised and enforceable in the UK Courts which are identical to the two-letter combination applied for. This phase could include registered Companies who can establish that they own such rights.
 - c) There would also be a third phase for releasing any remaining names. The majority of the group favoured a land-rush approach with the minority in favour of a lottery approach, as discussed above.
2. ccTLD's should not be reserved at the third level. The only exception to this is "uk" which should be reserved to avoid confusion, or used by Nominet for an appropriate purpose such as promoting the UK namespace "brand".
 3. Subject to any technical considerations of which the PAB may be unaware, we see no reason why these principles cannot be applied to the release of single character domain names at the third level.
 4. Nominet should ensure that registrars have adequate notice of any changes to enable them sufficient time to update their systems.