

Policy Advisory Body: Draft Note of Discussions

This note will be tabled for approval at Meeting 67

Sixty-sixth (inquorate) meeting of the Policy Advisory Body

**Victoria Park Plaza, 239 Vauxhall Bridge Road, SW1V 1EQ
13th January 2010**

Those present:

Gordon Dick	Nominet Non Executive Director & Board Representative
Sara Draper	Observer - CBI
Dave Evans	Appointed Member – Information Commissioners Office
Mark Healey	Elected Member
Nora Nanayakkara	Elected Member
Stephen Rhodes	Appointed Member – BIS
Michael Toth	Elected Member

By invitation of the PAB:

Martin Boyle, Senior Policy Advisor, Nominet
Phil Kingsland, Director of Marketing and Communications, Nominet
Mary Uduma, Nigerian Internet Registration Association

1) Welcome and apologies

Apologies were received from James Conaghan, The Earl of Erroll, Marie-Claude Hemming, Eric Ramage (who was stuck in a snowdrift), Rob Taylor and Tom Wills-Sandford. It was noted that the meeting was inquorate.

Gordon Dick chaired the meeting on behalf of Eric Ramage.

The Chair welcomed Mary Uduma, Licensing Director from the Nigerian Communications Commission and Vice President of the Nigerian Internet Registration Association and Phil Kingsland, (Director of Marketing and Communications, Nominet) to the meeting. Mary was on a study visit to the UK to look at the operation of .uk to help inform their own decisions for the .ng registry.

2) Declaration of Interests

Nora declared an interest in item 10.a.

3) Approval of the November meeting report

No comments were received. Formal approval was deferred to the next meeting.

4) Matters arising

The secretariat noted that expired domain name tasting was on the agenda under item 10.a. The Secretariat had posted to the forum announcing that the November meeting report had been published. On the declaration of interests form, it was suggested that this could be included in a future agenda: the secretariat would discuss this with the member concerned.

5) Board Response to PAB resolutions

It was noted that the Board had requested additional input from the PAB on the resolution on the future of the PAB: the implementation of the proposed standing committee (4 of the Board response) will be discussed under item 6.a.; and the PAB elections (6 of the response) under item 6.b.

6) PAB internals:

a) The Future of the PAB

In the light of the Board response to the November resolution, those present looked at the issues associated with creating the new standing committee (paragraph 4 of the Board's response). Members all recognised that the policy work would be done in the issues groups, and that these groups needed to establish a representative cross section of external stakeholders and bring in expertise from Nominet's membership.

The role of the standing committee had been agreed in November: in its discussion, the PAB members present focussed on what the composition of the standing committee should be to fulfil this mandate. In general it was recognised that the standing committee would provide the only permanent committee structure with external membership providing the interface with external stakeholder and with the policy functions: this was of key importance to government and regulatory bodies. However, it was noted that stakeholders could also go directly to the secretariat or to Nominet, as the recommendation called for a stakeholder engagement function in Nominet.

During discussion the following points were made:

- The standing committee should not be a huge group. It was recognised that chairs of issues groups would usefully be involved in discussions to ensure coherence between groups: very few of these would be expected to be permanent groups, so attendance would need to be by some form of standing invitation.
- The standing committee itself needed to be made up from the Nominet membership, bringing in expertise from the different areas of interest and expertise, and from other key stakeholder groups.
- One member wondered whether the standing committee might provide a pool of "professional chairs" for the issues groups, helping to facilitate their work. Others noted that it had been agreed that issues groups should select their own chairs.
- One member raised the concern of capture of issues groups. In the discussion, members highlighted that the standing committee did not have a "filtering role", but that it could ask issue groups probing questions. The Board would make decisions on implementation and would need to look (among other things) at the inclusiveness of discussions and the level of cross-community support.
- In the discussion on the .uk brand, members suggested the need for impact assessments. It was thought that the standing committee could have a role in these studies.
- SIDN (.nl) ran open events: this might be a model for .uk and could provide a central outreach platform for the standing committee and for the policy advisory function.

In summing up, Gordon noted that those members present supported stakeholder (include Nominet member) participation in the standing committee and welcomed the involvement of issue-groups'

chairs. In addition to the description agreed in November (under 2), the role of the standing committee could also include:

1. Testing consistency between groups and providing a forum for groups to get together;
2. An independent mechanism to help issue groups that had “got stuck”;
3. Discussing the impact assessment associated with policy decisions; and
4. Providing horizon scanning to identify issues.

It was also agreed that the standing committee might be able to collate best-practice guidelines for running issue groups.

Those members present discussed the membership of the standing committee. It was suggested that the issues and stakeholder maps prepared for the September meeting could provide an indication of the areas of interest that needed to be addressed. In discussion it was agreed that membership should be drawn from Nominet, expert organisations and bodies representing wider stakeholder interests:

- Nominet members: it was recognised that this was a valuable source of knowledge for the policy advisory function. There was some discussion about how to achieve balanced representation across the areas:
 - ISPs (it was suggested that this could be a nominee from ISPA);
 - Registrars;
 - Other interests;
- Government;
- Parliamentarians;
- Businesses;
- Intellectual property rights holders; and
- Consumers.

It was noted that academics might be drawn in to provide independent fact-finding and analysis.

Those present agreed that the **PAB should be asked:**

1. **To support the proposal for Nominet to go out to consultation on the future of the PAB; and**
2. **Whether this outline provided a good basis for the standing committee element of the new policy advisory function.**

b)PAB Elections

Gordon introduced this item and noted that Eric would have asked the PAB to consider the transition period and the consequences of this for the PAB elections. Martin then outlined the expected process for introducing reform in the PAB:

- 19 January: Board decision to go out to consultation.
- Executive to prepare consultation papers.
- End February: consultation opens.
- End March: consultation closes.
- Executive prepares analysis of consultation responses.
- End April: Board decision on the future of the policy advisory function.

The rules say that the nomination period would normally be opened in February. The election should usually take place in March, at least 28 days after the opening of nominations. In practice they are

timed to allow new members to take their position at the May meeting. This would mean that new members would be identified for a role that might have ceased to exist.

One member asked how realistic the timescale was. It was noted that the timing for the elections was established under the rules. Meeting the timescales for implementation of the future of the PAB depended on timing of Board decisions, the preparatory work to prepare the consultation – which had already been done by the PAB – and how controversial the consultation was seen to be by respondents.

PAB members present were unanimous that holding elections in these circumstances would not be appropriate and agreed that **the PAB should consider the resolution, to ask Nominet to suspend the rules on the election process.**

c) PAB Performance Review

The Chair had revised his paper to address questions raised by a member who agreed that the paper now responded to his concerns. The paper will be presented for Member approval at the next meeting.

d) Status report on PAB recommendations

The secretariat introduced this paper: it was noted that regular reports had been prepared by the Secretariat in the past. Members present welcomed the feedback.

7) Policy issues:

a) .uk Brand (This item was taken before item 6.)

Nora introduced her paper. She drew attention to how decisions on policy can impact the perceptions of the .uk brand and that the .uk brand was of one that was seen as trusted, relevant and local. How do we ensure that policy decisions ensure the reputation of .uk. The discussion was about understanding this influence and ensuring that policy decisions were consistent with the objectives on brand image.

Phil Kingsland supported this approach. He noted that a number of the PAB's priorities and discussions – on phishing, industry standards and registration policy, for example – had a real influence on the way Nominet was perceived. He also noted how the media criticise policies and interpret them against their perceptions of the .uk brand – for example on the first-come-first-served policy and that registration was not limited to UK-based registrants.

In the discussion the following points were made:

- Surveys of perceptions show that local, more trusted and relevant were the three most frequently cited for .uk. However, larger companies were inclined to want .com addresses. One member noted that companies probably wanted both .co.uk and .com names, but asked about which domain name companies actually use;
- According to MacAfee, .uk sat roughly in the middle of a spectrum of ccTLDs for safety of domain names;
- There was a discussion about the open registration rule: it was noted that organisations that wanted to do business in the UK or address British consumers would want a .uk domain name: this was not a bad thing. Some users registered as part of a brand-protection strategy. The problem arose when it was not clear to consumers that the organisation was based outside the country. There was a lack of clarity in people's minds (including a reluctance to look at clear indications, and there was probably a need for improving consumers' education. It was noted

that many users have no interest in where the organisation was based. In all, about 7-8 % of registrations are from outside the country;

- One member suggested the need for an impact assessment associated with policy recommendations – this was widely supported (and taken up in the discussion on the standing committee under item 6.a.);
- There was a discussion about blocking offensive domain names (BIS had received a complaint about a number of names registered under .uk). It was recognised that it would be difficult to identify all abusive terms and some terms (like childabuse, incest etc) might have legitimate, even beneficial uses;
- It would be useful to benchmark .uk against other registries, in particular as new gTLDs started to come on stream.

Those present agreed that some form of impact assessment was needed in the policy-making process, and that the impact on the brand image of .uk could be a useful way of identifying issues which needed to be addressed.

Summing up, Gordon noted that the ideas from this discussion fed well into the reform of the policy-advisory process and would help inform the agenda. He asked for impact assessment to be included on the March meeting agenda.

b) .ltd.uk & .plc.uk update on the domain name registration rules

Martin gave an oral update on the Company House name policy and how this affected policy for .ltd.uk and .plc.uk. He reported a meeting with BIS's Company Law Group and Companies House set up by Stephen Rhodes: the PAB principles could almost be met by following the rules identified for company names. However, there was an exception for names where a symbol (@, &, £, \$ etc) appeared in a name without spaces on either side – ie as an integral part of a word. In this case, it would be possible for two companies to claim the same domain name, a fundamental principle in the PAB's resolution. (So Insur@nce Ltd and Insurance Ltd could both claim insurance.ltd.uk.) Companies House are now aware of this problem, but do not have plans to amend the rules accordingly.

The only solution to this would be to continue to prevent a company with a symbol as integral part of a word in its name from registering the relevant domain name. Martin promised to set this out in a paper for the PAB.

In answer to a question, Martin explained that there was no current intention to apply rules retrospectively: while the PAB had flagged this as an issue, the Board had asked the PAB to discuss the implications of retrospective application of registration rules.

8) PAB work programme including:

a) New Items for the Work Programme

Following the meetings discussion, it was noted that .ltd.uk rules and outcomes from the .uk brand discussion should be on the work programme.

9) Matters arising from Nominet Forum and pab-suggest

In response to an exchange on the PAB mailing list, Nominet gave a brief update on the case raised by a PAB member following the PCeU action. It was noted that the case in question had false contact details

and was therefore in breach of the registrant contract, but on further investigation, it was identified that there had been no criminal activity. Nominet had re-instated the domain name once the contact information had been corrected in line with the registrant contract.

It was noted that, of 1200 domain names involved in the action, there had only been a handful of responses from registrants. The police had reversed their instruction in one case and in one other the registration had been reinstated once the registrant had provided up to date contact information and agreed not to use the opt out.

10) AOB

a) Expired domain name tasting

Following the discussion at the November meeting, the PAB had received a paper from a member. In discussion, it was suggested that there were two issues: that some registrars point the domain name to a parking page on expiry of the domain name; and that registrars already have access to figures for the domain name.

In answer to a question it was explained that the registrant would receive e-mails from Nominet¹ (and this was independent of the registrar). The registrar hosting an expired name did not earn revenue on the use of resources as they were effectively hosting the domain for free over the grace period. It was also noted that, because of other services (such as hosting), registrars prefer registrants to renew.

It was noted that the PAB had discussed parking pages fairly recently: these had not been seen as a problem except (in the case of advertisements associated with a brand name, when the registrant might lose a dispute resolution case).

It was suggested that the paper did not fully identify the issues of concern or consider the topics in sufficient detail.

Action: The chair suggested that we ask Nominet if they consider the Best Practice Terms and Registrar agreement to already cover this issue and to bring back to the PAB in what way this is done. We would encourage Nominet to review the statistics of domain names that get dropped and re-registered by the same tag (or connected tag) but to a different registrant and identify to the PAB if there appears to be evidence of this behaviour within .uk.

11) Date of next meeting

The next meeting will be held at the Victoria Park Plaza, 239 Vauxhall Bridge Road, SW1V 1EQ on the 10th March 2010.

¹ Details at www.nominet.org.uk/registrars/renewals/reminder/