

## 2LD Policy Review - Proposed New Policy Submission

**From:** Ewen McNeill  
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I am pleased to see that we have a nearly complete Second Level Domains policy and that applications for Second Level Domains might be able to open again soon, perhaps less than 18 months after they were closed.

In general I am also happy with the content of the policy as it is proposed, subject to some detailed comments below. I would like to thank the 2LD Review working group for their efforts in producing a near complete policy.

However I would strongly prefer that the policy be made available in a more usable document; the existing PDF:

- + causes the Acrobat plugin for my web browser to hang
- + cannot be printed from either of my main computers (due to font errors)

If a PDF file must be used (there is little in the policy which cannot be rendered in ASCII (or ISO-8859-1 or UTF-8) encoded text), then it would be useful to ensure that the file is easily opened on a wide variety of platforms. Caution should be exercised in the use of Identity-H encoded fonts as these appear to be the major cause of interoperability problems.

Some more detailed comments:

**Clause 3.4** does not properly address the problem of "overlaps" with broad 2LDs (gen.nz, and to a lesser extent co.nz). These two domains have frequently been used as an excuse not to create other more specific 2LDs, even when there is a clear community of interest, because they (gen.nz in particular) overlap with everything. The policy should include a statement to the effect that "overlap with generic 2LDs such as gen.nz and co.nz will not be fatal to the application for a new 2LD".

**In clause 4.4** I would suggest the addition of the words "if they are uncertain" at the end of the clause (it is impractical to have every registrant talk to their registrar prior to registering a domain name, and many have little need to do so).

**Clause 5.5** should be moved to below clause 5.7 (its current position interrupts the flow from 5.4 ("meet the criteria") to the 5.6 (the criteria)).

**Clause 5.6.3** also needs to reflect the "overlap with generic 2LDs" issue that I mentioned above (regarding clause 3.4). This may also need to be addressed with clause 5.6.5, although I'm not entirely sure what clause 5.6.5 is supposed to mean.

**Clause 5.9** needs an "r" before the final full stop.

**Clause 5.14** (or another clause) should address what is done if there are issues raised during the public consultation which impact on the creation of the 2LD. One possible suggestion would be for the proposer to refine their proposal and resubmit it, but this issue is not addressed.

As a related matter there appears to be no discussion at all of timelines (e.g., how long the public consultation will be), which was a major issue with the pre-existing policy.

There is also no discussion of any timeline for resubmitting a proposal; on its face it appears a proposer who has their application rejected can immediately resubmit it and so on until they are blue in the face.

**Clause 5.15** refers to a threshold of registrations but does not define what it will be. The proposed policy refers to 300-500 domain names registered. I suggest that a threshold that high will be nearly impossible to satisfy in the case of many worth 2LDs, and I cannot see any justification for setting it so high. I would suggest that proposers be asked to supply an estimate of potential registrations for their 2LD as part of the proposal, and that the threshold for pre-registrations be some fraction of that. (Obviously silly estimates should be rejected.) This would also help with identifying the potential community of interest.

I cannot make any sense of **clause 6.4.1**. What are the "organisational criteria"? Is it proposed that only "properly constituted organisations" be permitted to apply to the moderator for domain names under a moderated 2LD? If so, why? If not, I'd strongly recommend rewriting clause 6.4.1 for additional clarity. If these "organisational criteria" are in fact criteria for who can have a domain under that moderated 2LD, then perhaps "moderation criteria" would be a more appropriate description. (Clause 6.4.2 also suffers from this confusion.)

**Clause 6.4.4** should be placed below clause 6.4.5 (it is otherwise a distracting interruption between clause 6.4.3 and 6.4.5 both referring to the number of working days).

**Clause 6.4.7** needs some reference to clause 6.11 (that the DNC will not terminate moderation except on application from the affected registrants).

**Clause 6.6** should probably refer to "accidentally permitted" (not "accidentally registered"), and besides that I'm not exactly happy with a registrant being cut off against their will. Possibly the policy should be that the registrant is strongly encouraged to register elsewhere. If they are to be cut off against their will then they should be given considerable notice (3 months or more).

**Clause 6.7**, regarding compensation, is probably necessary, but I worry it opens up potentially unlimited liability. I do think the moderator at the time should take responsibility for the moderation that they do, and hence be responsible for the cost of "cleaning up" after any they accidentally permit. But such liability should not be unlimited.

**Clause 6.9 and clause 6.8** point 3 appear to say the same thing and I wonder if both are needed. Clause 6.9 should probably allow for the possibility of the moderator becoming a registrar if it remains.

I'm not sure I see the point of **Clause 6.10**, given that there's apparently no other restriction on the transfer of domain names in a moderated 2LD space. Why does a designated registrar need to be involved if there are no other restrictions on transfer? (Perhaps the description of the moderation policy also needs to say that it must include any restrictions on transfer; and that transfers must be approved by the moderator. This is, at best, implied at present.)

The proposed process and flowchart are too vague at present to comment on, so I will wait until a more detailed policy is prepared. (Subject to my comments above the process outline seems basically sensible.)