

Submission:
Domain Name Commission
12 November 2007



SUBMISSION

to the

Domain Name Commissioner

on

RMC Policy Review Consultation Paper

12 November 2007

Q. Do you agree or disagree with introducing registration restrictions for open .nz domain names?

Disagree. The present policy (first-in, first served) has served us well and it does not seem that it has introduced any particular problems that have not been well dealt with by existing processes such as dispute resolution or the courts. We do not see how introducing restrictions will counteract "fraud", whatever fraud is in this context. However "cyber-squatting" has become a major business in the USA with many registrants using it as an incentive to register and many large trades now taking place.

Note: Cyber-squatting could be largely inhibited by:

- a) A "use it or lose it" strategy – if not directed to an active website after 12 months from registration and another party, claiming some legitimacy in using the name, has lodged a request for the name then the current holder could be blocked from renewing it
- b) As above, but where the content does not appear to be related to the name.

The power to exercise these options would inhibit a market developing. All costs could be recovered from the complainant.

If evidence of phishing or "passing off" is produced then the registrant of the legal name has the option to take civil legal action. The DNC does not need to have any position other than abiding by the ruling of the court.

The DNC should not be required to police registrants or registering bodies unless a formal complaint has been made.

We have reservations about the listing of proscribed words forming part of domain names: domain names are inherently short, and hence have wide "granularity". In our view, any consideration of whether a website makes fraudulent representations should be judged PRIMARILY on the content of the website, and only very secondarily on the terms used in the domain name.

A brief search of .nz whitepages shows:

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697 instances of "Gardiner", very many of whom are not associated with horticulture, 865 instance of "Banks" many of which are not financial institutions, and 12853 instances of "Smith", almost all of whom are not blacksmiths

A proscriptive listing of domain name terms could disenfranchise persons who have quite legitimate claims to a domain representing their surname. We note also that, the domain "banks.net.nz" appears to be owned by an IT firm, rather than a financial institution – is there some potential for an "own goal" here? As a matter of interest "banks.co.nz/" does not seem to be a financial institution either.

We would be opposed to paying more for fixing something that is not broken.

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