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Question 1. If you consider registering a .nz domain name in the future, would you like anyname.nz to be an option rather than a name under just the second levels, e.g. anyname.co.nz?

No

Introducing second-level .nz domain names into an already well-established third-level system will cause consumer confusion, put intellectual property owners at a disadvantage, and create unnecessary expenses for existing domain name owners. The proposal in its current form does not adequately mitigate these risks, so we do not consider it is practical to introduce second-level .nz domain names. Most owners of .co.nz addresses will want/need to register the .nz address to avoid other businesses or cyber squatters registering them. This means increased costs and deciding whether to transfer the owner's entire website over to .nz (at great cost) or redirect .nz traffic to .co.nz site (also at cost). There still seem to be no compelling policy reasons for going ahead with the change, other than a desire to create more business for registrars. The DNC says there is "no clear consensus" from the first round of submissions. However, there were almost twice as many submissions against the proposal as there were in favour. Further, the overall standard of the submissions against the proposal went into much more detail and raised substantive issues, whereas most of the submissions in favour gave brief responses that did not go into the consequences of the proposal. The second proposal document does not address many of the concerns that have been raised by those who have opposed. Simply comparing the numbers of submissions does not give a clear picture of public opinion. If, despite the strong concerns held by many, the proposal does proceed, further measures are necessary to protect the intellectual property rights of trade mark owners, and resolve disputes between competing parties.

Question 2. Would likely short term confusion over a transition period be an acceptable consequence for offering a long term option of allowing .nz registrations at the second level?

No

The confusion caused by the rollout of .nz domains, without adequate intellectual property protection measures, is not justified. If trade mark owners are not given the opportunity to protect their marks during the Sunrise Period, ahead of the "free-for-all", the resulting problems will not resolve themselves within the "short term".

Question 3. Do you agree that existing .nz registrants should get a priority right in obtaining their name at the second level if this proposal proceeds?

Yes

Existing domain name owners should be given priority over the general public. However, registered trade mark owners should be given priority over both groups. A registered trade mark demonstrates a real commercial interest in a domain name – it takes time and considerable expense to register and maintain a trade mark, as opposed to registering a third-level domain, which can be done almost instantly and by anyone, at little cost. Trade mark owners should therefore be given priority to obtain domain names that correspond with their registered marks – this is in line with current international practice, and reflects that trade marks are significant intellectual property assets.

Question 4. Do you agree with the approach in the draft amended policies if we proceed with this? What, if anything, would you change?

No

During the first round of submissions, many submitters raised serious concerns about the potential for cybersquatting, consumer confusion, and a lack of protection for intellectual property owners. These concerns are not adequately addressed in the amended policies. We are disappointed the proposed expanded Sunrise Period still offers no protection for owners of registered trade marks. The only people who will be able to participate in the proposed Sunrise Period are owners of third level .nz names who registered their domain name prior to 30 May 2012 - more than a year ago. Trade mark owners, people who have registered domain names in the last year, and the general public, will all have to make do with a "first in, first served" system after the Sunrise Period is over. This is at odds with current international practice, including the approach taken by ICANN for the global roll-out of hundreds of new gTLDs happening over the next few years. The Internet Corporation for Assigned Names and Numbers (ICANN) has set up the Trademark Clearinghouse to protect the interests of registered trade mark owners. ICANN realises that simply owning a domain name does not indicate that someone has a legitimate interest in that name, whereas a trade mark registration indicates a true commercial interest that should be protected. It is widely accepted practice for Sunrise Period priority to be given to trade mark owners. At the very least, in a conflict between two domain name owners over the same .nz name, preference should be given to the party that owns a registered trade mark. As it stands, someone with no commercial interest in a domain name, who simply happens to have registered it at the third level before May 2012 - even as a cybersquatter - has the same ability to register a .nz name as a business who has been using their own third level domain name and registered trade mark for many years. Priority should also include trade mark owners whose marks have been registered since May 2012. Since trade mark applications are subject to examination and third-party opposition before they are registered, the risks that a mark will be registered for an improper purpose (i.e. obtaining a domain name unfairly) do not apply in the same way they apply to third-level domain names registered since that time.

Question 5. Do you support the proposal that a current registrant of a .nz name at the third level should be able to reserve that name at the second level for no cost if they wish to block others from registering it but not actually utilise it themselves?

Yes

Registered trade mark owners should be given the same ability. Owners of registered trade marks and/or existing domain names should be able to reserve or block names at the second level as long as their trade mark or domain name remains validly registered.

Question 6. Is two years an appropriate time to wait before reviewing policy to allow a reservation at no cost? Should this time frame be longer?

No

Two years is not long enough, and this time frame should be extended. The current proposal simply delays the cost and inconvenience to domain name holders – it does not solve the problem. For business owners with an extensive portfolio of existing .nz domain names, the cost of registering every one of these at the second level would be a burden, however it may be necessary in order to prevent anyone else from improperly registering each domain name. It would be more practical, and fair, to allow owners of existing domains to permanently reserve or block others from registering second-level names, to avoid consumer confusion.

Question 7. Is two years an appropriate time to wait before reviewing the policy to extend the Dispute Resolution Service to sub-domains of second level registrations? Should this time frame be longer?

No

The DRS should be continued indefinitely, as the problems caused by the introduction of new domain names will continue well beyond two years. If reservations are only to be allowed for two years, then a new wave of disputes is likely to arise at the end of this two year-period, which will require resolution.

Question 8. Do you see any benefits from allowing registrations at the second level which have not been covered in this paper?

No

Question 9. Do you see any detrimental effects from allowing registrations at the second level which have not been covered in this paper?

Yes

DNC has not offered any compelling reasons for introducing second-level domain names. The reasoning of "offering greater choice" is not persuasive, since the .nz domain space is hardly stretched for capacity now. We are not aware of consumers clamouring for more choice, and consider the current domain name options available are sufficient to meet market demand. Since there are no strong reasons for introducing these measures, and considerable reasons not to, we consider the proposal should be rejected. As we, and many other parties, have highlighted previously, the interests of trade mark owners have not been considered in the DNC's proposal. We are surprised at this reluctance to acknowledge the intellectual property rights of trade mark owners, and the significant potential for detriment if no protection is offered. If the DNC decides there is some advantage to introducing second-level .nz names, we recommend an approach similar to that of ICANN in the new gTLD rollout. In particular, we strongly recommend a Sunrise Period for trade mark owners to take first priority for second-level .nz names.