

IE Domain Registry CLG

Policy Advisory Committee

Minutes from the 20 June 2017 Meeting



Identifiably Irish
.....
Ireland's Domain Registry

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Minutes of the Meeting held on 20 June 2017

Meeting Location: Pegasus 1 Suite, Spencer Hotel, Excise Walk, IFSC, Dublin 1

Meeting Time: Called to order at 11:05am by the PAC Chairman.

Members present:

Chair	Alfie Shaw
Association of Patent & Trademark Attorneys in Ireland	Judy McCullagh
Department of Communications, Climate Action & Environment	Ciaran Byrne
Department of Jobs, Enterprise and Innovation	Catherine MacEnri
Enterprise Ireland	Jim Barry
HEAnet	Brian Nisbet
Irish Computer Society	Kevin Thomas
.ie Accredited Registrar (Blacknight Solutions)	Michele Neylon
.ie Accredited Registrar (Hosting Ireland)	Jonathan Bate
.ie Accredited Registrar (Irish Domains)	Conor Moran
.ie Accredited Registrar (Register 365)	Kelly Salter
Internet Service Providers Association of Ireland	Fred Logue
Small Firms Association	Linda Barry
IE Domain Registry (IEDR)	Jimmy Joyce

IEDR Representatives:

David Curtin
Oonagh McCutcheon

PAC Secretariat:

Sarah Keegan

1. Apologies - Members not present:-

- Paula Maguire – Enterprise Ireland (pre-arranged)
- Joe Kane – Law Society

Alternates attending on behalf of PAC members:

- Jim Barry – Enterprise Ireland

2. Minutes from the 27 April 2017 PAC meeting

It was confirmed that the Minutes from the 27 April 2017 PAC meeting were published online, and that no further comment was received in relation to their content.

3. Review of action points from the 27 April 2017 PAC meeting

3.1. To remove restrictions on .ie domain names corresponding to TLDs

The action points from the last meeting were briefly outlined, and the policy change updates are detailed in Section 4.

3.2. Fast Track Request: WHOIS Policy & Acceptable Use Policy

The policy change proposal was briefly summarised for the PAC members, along with the action items from the last meeting. The PAC were reminded that the proposed edits to the WHOIS output display include the addition of Billing Contact information (Nic-Handle and Name), along with a new Registrar abuse contact, and the removal of the legacy class and category fields, which are now used for internal analysis only.

It was noted that the proposed edits to the WHOIS display had been drafted by the PAC Secretariat, and circulated to the accredited .ie Registrar PAC representatives for consideration.

It was acknowledged that no objections to the proposed edits had been raised. Accordingly, it was agreed that the proposed edits would be circulated to the wider accredited .ie Registrar channel for consideration over a consultation period, to ensure that there are no objections to the proposed changes.

Further updates will be provided to the PAC at the next meeting.

3.3. Fast Track Request: Privacy Policy

The PAC were reminded that this fast track policy change request was submitted to account for updates to European and National legislation, and that the action point from the last meeting related to the accredited .ie Registrar representatives on the PAC continuing their review of the specific text proposals with their legal advisors.

It was noted that two questions had been raised by an accredited .ie Registrar PAC representative, relating to the:-

- i. Request to provide further clarification within the proposed Privacy Policy edits regarding the IEDR's data retention practices
- ii. Content scraping practices of third parties (*relates to Publicly available content only*).

Data Retention Practices

It was acknowledged that, in the course of its operations, the IEDR is supplied directly and indirectly with personal information and sensitive documentation, including passports and driving licenses, by applicants when demonstrating their connection to the island of Ireland.

Discussion focused on the policy and operational changes necessary for businesses to become compliant with the new EU General Data Protection Regulation (GDPR) before its enforcement in May 2018.

There was broad consensus amongst the PAC that personal information cannot be held indefinitely, and that clarification on the matter would be helpful for the accredited .ie Registrar representatives, currently reviewing the proposed edits to the Privacy Policy.

The IEDR noted that it was currently establishing an internal task force to review potential changes necessary to ensure GDPR compliance, and the PAC were advised that the Registry would ensure that the data retention practices were documented, and shared with the PAC in due course.

Content Scraping Practices

The secondary query raised related to the industry-wide practice of third parties 'scraping' publicly available information from WHOIS services across various TLDs. This practice was briefly outlined for the benefit of the PAC members from a non-technical background.

Specifically, the query raised related to the scraping activities of a third-party, domaintools.com, who were alleged to be scraping publicly available content from the dot IE WHOIS output. The IEDR clarified for the PAC that there was no data-sharing agreement between this third-party and the Registry, and it was further emphasised that the information being scraped was publicly available information only.

Discussion centred on the provisions within the WHOIS Policy and Acceptable Use Policy, which are used to deter / limit such activities. These provisions include the use of 'rate limiters', which restrict the number of successful access requests to the WHOIS service from any IP address in a 24 hour period, and blocking any offending IP addresses that reach this limit.

These provisions were acknowledged by the PAC as appropriate safeguards to deter WHOIS use abuse, and there was agreement that TLD operators cannot reasonably be obligated to take legal action against such activities.

3.4. Proposal to alter the operation of the DNS check validation process for new registration, modification and registrant transfer requests

The action points from the last meeting were outlined, and the updates are detailed in Section 5.

3.5. Proposal to remove the 'claim to the name' requirement from the Registration & Naming Policy

The action points from the last meeting were outlined, and the updates are detailed in Section 6.

4. Update on the policy change – to remove restrictions on .ie domains corresponding to TLDs

The action points from the last meeting were outlined, and it was confirmed that the PAC Secretariat had engaged with the Working Group in relation to establishing consensus for a suitable release mechanism for the three domains which have historically been held by the IEDR on the grounds that they reflect gTLD extensions.

The PAC were reminded that the three domains which the IEDR had agreed to release were:-

- **Post.ie**
- **Aero.ie**
- **Coop.ie**

The PAC were further reminded of the release mechanisms typically used by namespace managers, and which are currently under consideration:-

- **Phased Release (Sunrise, with Auction, if multiple bidders)**
- **Lottery**
- **First Past Post**

It was noted that the Working Group reviewing this policy change proposal had continued their discussions, and that the Group was still working to establish consensus for a preferred release mechanism.

Standardised release model for the IE namespace

It was proposed that in order to follow a standardised release mechanism for the IE namespace, a phased release would be the most appropriate option, as this model has previously been used for the release of one and two letter domains, and internationalised domains, to the IE namespace.

The appropriateness of a phased release was further considered by PAC members, particularly in light of the limited number of domains due to be made available as a result of this policy change proposal.

Accordingly, it was acknowledged that the time and financial effort required to support a phased release for such a low volume of domains could be disproportionate to the potential benefits of the release. The IEDR then advised the PAC that the cost of a phased release should not be deemed prohibitive to its potential use, and further noted that net proceeds from an auction process from the release could be donated to worthy Internet causes.

In light of these considerations, there was consensus amongst the PAC that a phased release mechanism should be selected as the standard release mechanism for the IE namespace.

Reserved dot IE domains

Discussion focused on the potential release of other reserved dot IE domains which are currently registered to the IEDR, and which reflect other TLD extensions. Specifically, discussion centred on the domain registration of porn.ie, for which it was suggested that significant demand might exist. The IEDR noted that it would first need to consult with its Board of Directors to determine if this domain would be included in the release. Accordingly, the IEDR agreed that it would update the PAC on this matter, in due course.

The IEDR was then asked how many domains are currently reserved, and it was noted that 112 are registered and published, whilst 40 are registered, unpublished. The accredited .ie Registrar representatives on the PAC requested that the IEDR compile a list of the reserved domains it holds, and for this list to be shared with PAC members. The IEDR agreed that it held no objection to this suggestion.

An accredited .ie Registrar PAC representative queried whether a number of the 14 reserved two letter dot IE domains, which are registered to the IEDR, should also be considered for release. The PAC noted that consensus to permit the reservation of the 14 two letter .ie domains was only recently established, and that it would be inappropriate to consider these domains for inclusion in this release.

Further updates will be provided at the next PAC meeting.

5. Update on the policy change – to alter the operation of the DNS check validation process for new registration, modification and registrant transfer requests

The policy change proposal was summarised for the PAC, and it was noted that under the current technical operations of the IEDR systems, a triple pass validation check runs on all new registration, modification and registrant transfer requests.

Within this triple pass process, the IEDR systems verify that:-

- the request has been manually checked for compliance with the IEDR Registration & Naming Policy by a Registry staff member
- the DNS records listed within the request are configured in accordance with specific technical protocols (RFC 1034 and 1035)
- payment of the required fee has been successful

Where a request fails any stage of the triple pass process, the request cannot complete until all three validation checks have been successful.

Under the proposed policy change, a new registration, modification or registrant transfer request would not be submitted to the technical DNS check stage, ensuring that this would not delay or impede the completion of the request.

The PAC were reminded that consensus had been found for the policy change proposal at the last PAC meeting, and the action points from that meeting were outlined. It was confirmed that a mini-Working Group had been formed by the PAC Secretariat and the proposal submitter, Blacknight Solutions. It was further noted that communications to the wider accredited .ie Registrar channel, which outline the rationale for, and impact of, the proposal, is currently being drafted. This content will be issued to the Registrar channel in due course to open discussion on the policy change proposal and to ensure that no serious objections exist.

Further updates will be provided to the PAC at their next meeting.

6. Update on the policy change – to remove the ‘claim to the name’ requirement from the Registration & Naming Policy

The policy change proposal was summarised for the PAC, along with the action points from the last meeting. It was noted that consensus for the proposal had been found amongst the PAC, and that a Working Group had been established, in accordance with the 10-step Policy Development Process (PDP). The Working Group advised that they had further established an appropriate modus operandi for the consideration of this far-reaching policy change proposal.

It was noted that a number of issues had been raised during the Working Group discussions, and these are identified and detailed in the supplemental PowerPoint presentation slide deck, which is available at <https://www.iedr.ie/p30/policy-development/>

To summarise, some of the issues raised to date include the following:-

- Cybersquatting
- Domain name registration abuse (e.g. defamation, slander etc.)
- Undertaking substantial awareness and promotional activities
- Promoting strong engagement in the Public Consultation period
- Ensuring that existing registrants are notified of the proposed policy change

During the Working Group’s discussions, it was noted that four work streams were identified as critical to the full consideration of the policy change proposal, and that coordinators had been appointed to each work-stream in order to maintain momentum within discussions.

These work streams include:-

- Implications of removing the claim requirement (including the potential need for an alternative dispute resolution mechanism, mediation, edits to the IEDR Registration and Naming Policy)
- Communications - awareness and promotion (Communications to be considered under three phases, IEDR’s Public Service obligation to notify registrants, roles of PAC members etc.)
- Aftermath of the policy change approval:-
 - Making the process of showing a ‘Connection to the island of Ireland’ more deterministic (updating the ‘Guidelines’ of the IEDR Registration & Naming Policy)
 - Implementation of a new ‘fast-pass’ registration process for existing registrants

Work Stream 1 - Alternative Dispute Resolution (ADR) Process

The existing formal dispute resolution policy, known as the ie Dispute Resolution Policy (ieDRP), was briefly outlined for the PAC. It was noted that this process is operated by an independent third party arbitrator, known as the World Intellectual Property Organisation (WIPO), and that the cost associated with submitting a complaint is significant, with applicable fees ranging between €1,500 - €4,500. It was further noted that the significant cost can deter potential complainants from following through with the complaint submission process.

During discussions, the Working Group noted that the removal of the claim requirement was unlikely to have a significant initial impact on the number of domain disputes received, as applicants would still be required to prove their real connection to the island of Ireland (and their identity). The potential for disputes to become more frequent over time was also acknowledged. It was further noted that the potential issues identified by the Working Group (e.g. cybersquatting etc.), which are currently under consideration, are potentially applicable to the existing registration process (e.g. if someone provides falsified claim information etc.).

During discussions, it was further acknowledged that broad consensus existed for the introduction of an ADR mechanism to the IE namespace, and that it was a welcome proposal, particularly as it could potentially operate as a 'faster, cheaper and easier' dispute process. Accordingly, it was agreed that the proposal to introduce an ADR mechanism to the IE namespace should be submitted to the PAC as a distinct and separate policy change request, as it was not directly arising from the proposal to remove the claim requirement.

The Working Group noted that they had been reviewing a number of ADR mechanisms implemented by other ccTLD / TLD operators, giving particular consideration to the:-

- Fees that would apply to the process (expected to be less than those applicable to the ieDRP)
- Scenarios that could be addressed by the process (domain registration abuse, rather than domain use abuse)
- Potential for fees to be partially refunded to complainants, where their complaint is upheld (e.g. as per the operations of DNS Belgium).

A Member expressed a view that a potential ADR process should focus on addressing issues of domain name registration abuse, and not content abuse, which could lead to the Registry and Registrars being considered as an accessible route for enacting censorship.

The existing registration safeguards were also considered, and it was acknowledged that where a registrant misused a domain registration causing technical issues (e.g. de-stabilising the DNS system, or spreading malware), rules are already in place within the provisions of the IEDR Registration & Naming Policy, which could address such matters.

The IEDR also reminded the PAC of the Regulatory Authority Protocol (RAP), which provides a framework through which allegations of breaches of National Regulations on a dot IE domain registration can be reported by Regulatory Authorities to the Registry. It was noted that this protocol has been used to address concerns submitted by a number of Regulators, such as the Office of the Director of Corporate Enforcement, regarding dissolved companies trading on dot IE domains. As such, it was acknowledged that these safeguards, in addition to the need for applicants to still prove their connection to the island of Ireland (and identity), should suitably protect the reputation and integrity of the namespace.

The Working Group confirmed that they will continue their deliberations on the ADR policy change, in tandem with the proposal to remove the claim requirement. There was consensus amongst the PAC that there was an important need to ensure both proposals are given sufficient time for consideration, and designed effectively and appropriately. The Working Group also noted that they will seek the input of the Law Society regarding the potential operations etc. of the ADR process, and provide further updates to the PAC at the next meeting.

Work Stream 2 - Communications - Awareness building and promotion

The Working Group co-ordinator advised the PAC that a number of considerations had been identified relevant to this work stream, including:-

- Considering building awareness under three distinct phases:
 1. Public Consultation
 2. Notifications to existing registrants
 3. Promotion post implementation (if the policy change proposal is approved)
- Whether the Registry is obligated to inform existing registrants of the proposed policy change
- Whether such notifications to existing registrants would be classified as public service announcements or marketing communications
- If Registrars could handle these communications themselves, to avoid confusing their clients
- Timing of communications
 - ❖ Public Consultation will determine the timing of communications (it kick-starts the communications plan)
 - ❖ Public Consultation shouldn't be held during the Summer holiday period
 - ❖ Sufficient time needs to be given for the potential for:
 - Additional Public Consultations and feedback analysis
 - Registrar channel system updates (90-day notice with technical specification documents)

The Working Group confirmed that they will continue their deliberations and provide further updates to the PAC at their next meeting.

Work Stream 3 - Deterministic Registration Process: How to show a 'Connection to Ireland'

The Working Group co-ordinator notified the PAC that they were currently considering draft edits to the 'Guidelines' of the IEDR Registration & Naming Policy. The aim was to provide clarification on how a future domain holder can show their connection to the island of Ireland.

Within the current proposed edits, the 'one-item' pieces of evidence which show a connection to the island of Ireland are documented. The rationale behind this is to ensure that the guidelines are deterministic, and that the registration process is easier to understand and faster for interested applicants. The Working Group noted that word-crafting is still on-going, and that they have identified several areas that require further consideration. These areas include:-

- ❖ Accepting utility bills to show 'Connection'
- ❖ Determining how clubs, bands and other organisations can show their real 'Connection'
- ❖ Determining whether non-citizens and / or non-residents of the island of Ireland can show a real 'Connection'

- ❖ Establishing a catch-all clause to avoid drafting guidelines on edge cases (which would be confusing for applicants)
- ❖ Determining whether existing registrants need to re-prove their 'Connection' after a defined period of time

The Working Group advised the PAC that they will continue their discussions and provide an update at the next PAC meeting.

Work Stream 4 - Fast-Pass Registration Process for existing registrants

The Working Group co-ordinator advised the PAC that they are currently deliberating on the potential introduction of a 'fast-pass' registration process for existing registrants. As existing registrants will have already demonstrated their compliance with the Registration & Naming Policy (i.e. shown their Connection to Ireland), subsequent new registration requests could be added to the IE zone file without the need for supporting documentation or the manual acceptance of the request by Registry staff.

It was noted that a form of 'fast-pass' registration currently exists, where an existing registrant applies for an additional dot IE domain which they have an evident claim to. In such instances, Registry staff simply re-check the validity of the connection to Ireland (e.g. is the applicant company still trading?) and manually pass the registration request without the need for the registrant to provide additional documentation.

The accredited .ie Registrar representatives on the PAC highlighted the implementation of a 'fast-pass' registration process by Nominet, the manager of the .co.uk and .uk namespaces, which had been considered challenging from a Registrar perspective. Accordingly, the Working Group noted that there was an important need to ensure that the process is designed to operate as easily as possible.

During discussions, broad consensus for the proposal was established on the basis that the process would be optional for Registrars to use. The Working Group noted that further discussion is still required regarding the technical specifications of the process, its practical implementation and how 'fast-pass' requests from dissolved entities would be handled.

The Working Group will continue their discussions and provide further updates to the PAC at their next meeting.

7. Any Other Business

7.1. Venue location

The PAC noted that the location of the 20 June 2017 meeting was particularly easy to access. Accordingly, it was requested that, where possible, future meetings be held at the Spencer Hotel / IFSC area.

7.2. Industry related developments / relevant legislative changes

Topics discussed included:

- **ICANN 59**

The upcoming ICANN meeting in Johannesburg was discussed, along with a number of the topics expected for discussion at that meeting, including WHOIS changes and preparations for the upcoming EU GDPR.

- **IANA Transition – Second Work-stream**

There was brief discussion regarding the next phase of the IANA transition, particularly on the need for enhanced transparency and accountability at ICANN, in addition to the potential introduction of service level agreements (SLA).

7.3. Annual Report

It was confirmed that the Annual Report from the PAC, to the Board of the IEDR, outlining the PAC's operations in 2016 had been drafted and circulated to the PAC members for feedback. It was further noted that the report had been finalised, and a hard back copy was provided to the PAC members in attendance at the meeting.

The report will be presented to the IEDR Board of Directors at their next meeting in July 2017.

7.4. EU NIS Directive

There was brief discussions on the EU NIS Directive and the on-going preparations for its transposition into Irish National Law. It was noted that preparations at Government-level were still on-going, including the Heads of Bill, which would be published in the near future.

8. Next Steps

IEDR will:-

- Compile a list of the reserved domain names held by the Registry. This list will be shared with the PAC.
- Document data retention practices in the course of its GDPR preparations, and circulate this to the PAC in due course.
- Consult with the IEDR Board of Directors regarding the potential release of the reserved domain, porn.ie.

PAC Secretariat will:-

- Circulate the proposed WHOIS edits to the wider accredited .ie Registrar channel, requesting comment over a 14 day period.
- Document the rationale for the policy change proposal to alter the operation of the DNS technical check system, to ensure that it doesn't impede registration, modification or registrant transfer requests. This will then be circulated to the wider accredited .ie Registrar channel, requesting comment over a 30 day period.

Claim Proposal Working Group will:-

- Continue their deliberations on the various work streams.
- Provide updates to the PAC at their next meeting.

9. Next Meeting

PAC Secretariat will engage with wider PAC to set a date for the next meeting, which is expected to be held in early September 2017.