

IE Domain Registry CLG

Policy Advisory Committee – PAC #21

Minutes from the 12 September 2019 Meeting



IE Domain Registry

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Minutes of the PAC #21 Meeting held on 12 September 2019

Meeting Location: Liffey & Harbour Suites, Hilton Garden Inn, Custom House Quay, Dublin 1.

Meeting Time: Called to order at 11:00am by the PAC Chair.

Members and representatives present:

Chair
Association of Patent and Trade Mark Attorneys (APTMA)
CyberSafe Ireland
Department of Business, Enterprise and Innovation (DBEI)
Department of Communications, Climate Action & Environment (DCCAE)
HEAnet
.ie Accredited Registrar (Blacknight)
.ie Accredited Registrar (FCR Media)
ie Accredited Registrar (Register Group)
Internet Service Providers Association Ireland (ISPAI)
Irish Computer Society (ICS)
IE Domain Registry (IEDR)
PAC Secretariat

1. (a) Apologies – Members not present

- Enterprise Ireland
- ie Accredited Registrar (MarkMonitor) – pre-arranged
- Irish Reporting & Information Security Service (IRISS) – pre-arranged
- Law Society
- Small Firms Association – pre-arranged

1. (b) New Representatives

Following the acceptance of an invitation to join the list of eligible organisations that participate on the PAC, the Chair welcomed CyberSafe Ireland to the PAC and thanked its representative for volunteering their time and expertise with the Committee.

The Secretariat confirmed that the Irish Reporting and Information Security Service (IRISS) had also accepted an invitation to join the list of eligible organisations that participate on the PAC, and that its representative was unable to attend the PAC#21 meeting.

The Chair acknowledged that both member organisations bring a wealth of expertise to the PAC, and noted that it looks forward to working with them.

2. Minutes from the 4 July 2019 PAC #20 meeting

The Chair confirmed that the Minutes from the PAC #20 meeting were published online at <http://www.iedr.ie/policy-development-process/> following the 10-day comment period. It was noted that no requests for edits were made during the PAC member comment period. Accordingly, the minutes will be digitally signed by the Chair.

3. Update on the policy change request to modify .ie WHOIS Policy with respect to mandating use of the abuse contact

The PAC was reminded that this policy change request relates to altering the operation of the abuse contact field which appears on the .ie WHOIS service. Specifically, this policy change request would mandate that all Registrars provide an abuse contact email address. This abuse contact email address would appear on the .ie WHOIS for all domains under their management to enable the general Public to submit reports of online abuse to the Registrar. Furthermore, the policy change request would alter how abuse is defined within the .ie Policy (to remove anti-social behaviour from scope).

It was noted that there was broad consensus amongst the PAC for this policy change request at the PAC#20 meeting. The PAC was also reminded that there was agreement for a consultation process to be held with the impacted Stakeholders, the Registrar channel, in accordance with the .ie policy development process. This will ensure that feedback from the broader Registrar channel is collected and taken into consideration during the policy development process.

The Secretariat confirmed that it had:-

- engaged with the proposal submitter, Blacknight Solutions, to draft and circulate supporting materials for the consultation process
- launched a 30-day consultation process with the accredited .ie Registrar channel on 2 September 2019. This will end on 1 October 2019

It was noted that feedback received to date has been limited, yet positive, with a number of suggestions for additional changes received. Discussion followed on the categories of feedback received. It was confirmed that feedback received will be compiled and circulated to the membership at the conclusion of the Registrar consultation process for further consideration.

There was detailed discussion regarding the following matters:-

- whether there was a need to mandate that specific action be taken by Registrars on receipt of such abuse notifications
- whether mandating use of the field by Registrars would set an expectation for certain action to be taken
- whether mandating use of the field by Registrars would establish a legal obligation for Registrars to act (and if so, whether a defined response process should be mandated in legal agreements between Registrars and the Registry, and further defined within .ie Policy).

One member clarified that mandating use of the abuse contact field would not create an implicit legal obligation for Registrars to take specific response action.

The Registry acknowledged that accredited .ie Registrars are likely to act responsibly and professionally when alerted to potential online abuse taking place on .ie domains under their management, and will likely have an existing process for handling reports of abuse, particularly those which are ICANN accredited (as an abuse contact role is similarly mandated in the gTLD space).

It was remarked that the mandated use of the abuse contact should be allowed to evolve over time, following a “layered/stepped approach”. In the meantime, Registrars would retain the ability to set their own abuse-handling response processes. There was agreement that the matter could be reviewed again in future, if a need arose to review mandating Registrar action in response to receiving such abuse notifications.

It was confirmed that the Secretariat will circulate feedback from the Registrar consultation in due course, and that the matter will be raised for further discussion at the PAC #22 meeting.

4. Update on the on-going discussion relating to the handling of online abuse in the .ie namespace

Discussions on this matter to date were briefly summarised, as outlined in the supporting slide deck available at <https://www.iedr.ie/policy-development-process/>. It was noted that there was increased awareness of online abuse at a national and international level and that the topic had previously been raised as a discussion item at the PAC#19 and PAC #20 meetings in a bid to establish whether a policy response was needed to tackle potential online abuse in the .ie namespace, and if so, what that appropriate policy response would entail.

There was clarification on the roles of content publishers and hosting providers in the context of being the most appropriate and effective parties to act on concerns of alleged online abuse (criminal and technical), as these parties have the ability to remove/stop the abusive material/activity.

It was further remarked that domain suspension at a Registry-level would only impede access to the alleged abusive content, and would not result in its removal from the internet (as the content would remain accessible to those with knowledge of its IP address).

Therefore, it was noted that Registry-level action has historically been considered an option of last resort, particularly as it can result in unintended collateral damage where an innocent website owner has its domain suspended, and may have been unaware that its website had been compromised / is being used by a third party in connection with abusive activity.

There was extensive discussion on criminal and technical abuse-handling mechanisms in other ccTLD namespaces, and applicable legal instruments. Discussion turned to the potential legal basis for, and potential risks associated with, suspending .ie domains for allegedly engaging in criminal activity.

Some potential guiding principles identified by the PAC were summarised. These focused on:

- Consumer protection considerations
- Taking a responsible and transparent approach in handling abuse
- Assisting genuine victims (*especially SMEs*)
- The possibility of adopting a cooperative approach with Law Enforcement / Public Authorities / Registrars etc.
- The need to distinguish between criminal abuse and technical abuse

4.1. Criminal Abuse

Cooperative Arrangement

Discussion turned to criminal abuse handling and the relevant model operated by Nominet which was presented at the PAC#20 meeting. The PAC was reminded of Nominet's reliance on its:-

- Terms of Use which prohibit using a domain in connection with unlawful activity, and
- Cooperative arrangements with UK National State and Law Enforcement Agencies, which are used to suspend domains found to have engaged in online criminality.

It was noted that the .ie Registrant Terms and Conditions include a similar prohibition on unlawful use.

There was a request to indicate the number of domains used in connection with alleged unlawful activity. It was noted that abuse in the .ie namespace is exceptionally low, relative to that experienced in other namespaces. It was remarked that this is likely due to the "managed registry" model employed in the .ie namespace, which requires those applying for a .ie domain to provide evidence of a real connection to the island of Ireland during the application process. In contrast, registration in the .com namespace is instantaneous, without the need for additional evidence/information to be supplied.

Extensive discussion on the potential introduction of a cooperative arrangement with Law Enforcement Agencies followed, in particular with regard to:-

- the potential legal basis for suspending .ie domains as part of a cooperative arrangement,
- whether there was a need for such an arrangement in the .ie namespace in light of the low incident rate of abuse (albeit highly serious in nature when such incidents do arise),
- the importance of due process and education/training Law Enforcement Agencies as part of a potential cooperative arrangement,
- the potential for Law Enforcement Agencies to be required to engage with Hosting Providers regarding takedown prior to requesting a suspension with the Registry (i.e. Registry being the option of last resort),
- the potential legal risks to the Registry from implementing such an arrangement,
- concerns of potential improper process use,
- operation of the existing Regulatory Authority Protocol, and
- how requests from European Law Enforcement Agencies would be handled.

Investigative Lock Tool

There was discussion on the technical operation of the Registry-level feature outlined by Nominet at the PAC#20 meeting. This feature enables Registrars to suspend domains suspected of engaging in illegality whilst they investigate the allegations.

Registrars remarked that the feature is available in the gTLD space, and that the functionality is not currently available in the .ie namespace. It was further commented that Registrars would find the feature particularly useful where a domain under their management is alleged to be engaging in abusive activity and is hosted via a third party. This is due to the fact that the most effective way to address abusive activity is at a hosting-level. Therefore, if a Registrar does not host a domain, the action it can take to stop the abusive activity is limited.

4.2. Technical Abuse

With regard to technical abuse, the PAC was reminded of the Nominet abuse-handling initiatives, Domain Watch and Domain Health, which had been raised at previous PAC meetings.

- Domain Watch is an algorithm (risk-based assessment) used at the point of application to identify domains that are likely to engage in abusive activity, escalating such registrations for additional, manual verification.
- Domain Health is an informational webpage/platform used to notify Registrars about domains within their portfolios which are suspected of engaging in online abuse. (Nominet collects and collates information from third party service providers).

It was proposed that a Domain Health-style initiative might be appropriate for implementation in the .ie namespace to notify Registrars of domains under their management which are engaging in technical abuse.

The Chair acknowledged, and thanked the PAC for, the robust discussion and considered dialogue on this topic. It was agreed that further discussion on the matter would be scheduled at the PAC #22 meeting.

5. Update on the Discovery Group reviewing the handling of blocked/reserved names work stream

The Secretariat outlined the objectives previously identified by the PAC with regard to the handling of blocked/reserved names. It was noted that, as part of the on-going discussion on handling these blocked/reserved names, the PAC has:-

- ❖ acknowledged the need for enhanced determinism, consistency and clarity regarding blocked/reserved names
 - Some names have historically appeared as self-registered to IEDR, to ensure they are unavailable for registration (avoid confusion e.g.uk.ie).
 - Other names appeared as available for registration when they weren't (geographical place names e.g. Thurles.ie).
- ❖ discussed broadly how this should be updated within .ie Policy

The Secretariat confirmed that it had drafted a paper outlining a number of policy mechanisms in use within other namespaces for handling blocked/reserved names. It was noted that the Discovery Group had engaged via mailing list and conference call to discuss the suggested policy approaches.

The Secretariat confirmed that the Discovery Group had considered the proposals at length, and had established broad, emerging consensus for a potential, appropriate policy response to address the handling of blocked/reserved names.

The Secretariat noted that the preferred approach would include the following elements:-

- ❖ Avoid the introduction of a dedicated Reserve Name Policy
- ❖ Address blocked/reserved names in the "availability" provisions within .ie Registration & Naming Policy

- ❖ Publish a non-exhaustive list of blocked/reserved names (those names blocked on security grounds would not be published)
- ❖ Publishing user-friendly materials, such as leaflets, with guidance on why/how such names are handled
- ❖ Introducing a defined, transparent procedure for facilitating requests to “apply” for blocked/reserved names (*available to those with a legitimate, overriding interest in the name*)
- ❖ Use of labels such “blocked”, “reserved”, similar to those used by EURid (.eu) to distinguish the applicable grounds for blocking/reserving names
- ❖ .ie domains intended for potential future commercial use by the Registry would be treated as normal registrations, rather than as blocked/reserved names. In line with standard practice, these names will show IE Domain Registry as the domain holder on WHOIS

The Secretariat further confirmed that the Discovery Group had agreed to delay reviewing the policy provision which restricts the registration of “offensive names” at this time, deeming it out of scope for the Group which is seeking to find consensus for a potential, appropriate policy approach for handling of blocked/reserved names. It was confirmed that this matter will be re-visited in a subsequent, broad review of the provisions within the .ie Registration & Naming Policy.

Next Steps:

The Secretariat confirmed that the Discovery Group is expected to consider and discuss the following matters:-

- ❖ **Policy edits arising from the proposed policy response**
To be drafted by the Secretariat, including “label” definitions. These will be circulated for discussion/refinement.
- ❖ **Proposed Blocked/Reserved Name List**
A list of the .ie names proposed to be blocked/reserved/restricted for security reasons.
- ❖ **Procedure for requests to “apply” for blocked/reserved names**
To be drafted and circulated for discussion and refinement.
- ❖ **User-friendly materials, including leaflets**
To be drafted and circulated by the Secretariat for discussion and refinement.
- ❖ **Present recommendations at next PAC meeting**
Following further engagement via conference call and mailing list

Further updates on this matter will be presented at the PAC#22 meeting.

6. Any Other Business

6.1. Formal conclusion of the policy change request to introduce an Alternative Dispute Resolution (ADR) Process to the .ie namespace

The Secretariat gave a brief update on the post-implementation phase of this policy change request, and summarised the work undertaken by the PAC during the policy development process.

It was noted that the ADR process was operating smoothly, and that five potential cases had been escalated to the ADR Service Provider, Net Neutrals EU, to date. The Secretariat confirmed that the Registry and Net Neutrals EU were continuing to monitor the operation of the process post-implementation, and would report back to the PAC with further feedback on an on-going basis.

IEDR acknowledged, and offered its sincere gratitude for, the extensive effort expended by the PAC and the dedicated Working Group reviewing this policy change proposal. Working Group members had kindly offered their expertise and time by participating in a series of lengthy discussions via conference call, and on the dedicated mailing list, to ensure all aspects of the policy change proposal, and its implementation, were comprehensively considered

The Chair further thanked the membership for its efforts, and formally acknowledged the conclusion of the policy change request. The policy conclusion template will be signed by the Chair.

6.2. Formal conclusion of the policy change request to remove restrictions on .ie domains corresponding to TLDs

The Secretariat gave a brief update on the implementation of this policy change request, and summarised the work undertaken by the PAC during the policy development process.

It was noted that the final implementation-related action item was to launch the phased release of three .ie domains which correspond to TLD extensions – aero.ie, coop.ie, post.ie.

The Secretariat confirmed that all three domains had been applied for and were now registered.

- ❖ Post.ie was registered in the initial Sunrise Phase for trademark holders.
- ❖ Aero.ie and coop.ie were registered in the secondary Landush Phase (premium pricing applied). It was noted that one application had been contested and an auction was held to determine the successful registrant.

With the implementation of the policy change request now finalised, IEDR thanked the PAC and the Working Group charged with reviewing this proposal for its dedication and commitment to thoroughly investigating this proposal in accordance with the .ie policy development process.

The Chair further thanked the membership for its efforts, and formally acknowledged the conclusion of the policy change request. The policy conclusion template will be signed by the Chair

6.3. Update on industry related developments/legislative changes (including NIS Directive) to be outlined by PAC members

There was brief discussion on this matter. IEDR reminded the PAC that it had been designated an operator of essential services (OES) under the NIS Directive. It was also noted that implementation of the NIS Directive in the technical sector had been delayed.

The Department of Communications, Climate Action and Environment (DCCAE) commented that the draft national Cyber Security Strategy is currently under review with the Minister. It is anticipated that it will be published in Q4 2019.

7. Next Steps

PAC Secretariat will:-

- ❖ circulate feedback to the PAC in due course from the Registrar consultation to mandate use of the WHOIS abuse contact
- ❖ Work with the Discovery Group reviewing the handling of blocked/reserved names work stream on the next step action items:
 - ✓ Draft Policy edits arising from the proposed policy response
 - ✓ Draft a proposed Blocked/Reserved Name List
 - ✓ Draft a procedure for requests to “apply” for blocked/reserved names
 - ✓ Draft user-friendly materials, including leaflets

8. Next Meeting

The date for the next PAC meeting has been set for 5 December 2019 (the same day as the .ie Registrar Day event will be held).