

ref RKH:MHL:kc/1667

27 September 2002

Ms Jo Lim
Chief Policy Officer
.au Domain Administration Limited
107 Faraday Street
CARLTON VIC 3053

By email: jo.lim@auda.org.au

Dear Ms Lim

PROPOSED SECOND LEVEL DOMAIN

I refer to your email of 26 August to Anne Trimmer, chair of the Law Council's e-Practice Committee requesting comments on the discussion papers issued by the New Names Advisory Panel ('Panel') in response to the submissions for new 2LDs.

The discussion paper on Geographic 2LDs is not relevant to the Law Council. Our comments are confined to the issues raised in the discussion paper on the broader issue of new 2LDs.

Law Council is somewhat surprised that some of the substantive issues raised in the discussion paper were not considered and addressed prior to calling for submissions on new 2LDs. Law Council submitted its interest in the proposed closed 2LD, .law.au, in good faith on the basis that its proposal would be evaluated against the assessment criteria. Law Council advised that it would submit further information, in particular the business case and management arrangements, once it became clearer that its submission might be accepted.

Notwithstanding this, Law Council makes the following comments on issues raised in the discussion paper.

The Panel has expressed concern about the nature of closed 2LDs generally. In particular the Panel is concerned about the degree of control that is exercisable by the managing body of the 2LD. This is precisely the reason why Law Council put forward

its submission for .law.au as a closed 2LD. The Law Council was concerned that the domain may either become an open domain with no regulation as to its use or, alternatively, be granted to a body that is neither equipped to manage use nor representative of the legal profession nationally. In each case the risk is that confusion may be caused among the public as to the nature of the domain user.

The Panel is concerned about 'memorability' of domain names in terms of connection with a particular body or profession. The Panel itself acknowledges that this is not an issue for the legal profession and use of .law.au.

The Panel has queried whether the approval of .law.au or .med.au might not set a precedent for other professions and the basis on which auDA might then approve such use. This is an issue that should have been considered in the initial calls for submissions. The strength of the Law Council proposal is that the domain .law.au would be allocated only to a qualified lawyer with a practising certificate issued by one of the profession's regulatory bodies. This enables consumers to differentiate qualified and practising lawyers from others. The Law Council is not able to comment on whether the issue of a large number of 2LDs would dilute the DNS.

The discussion paper states that the Panel is concerned over the potential for commercial advantage being awarded to a single industry body by allowing it to 'corner the market'. It is difficult to see how other legal bodies could legitimately claim to be entitled to use the domain unless the domain ceases to have attached to it the consumer benefit referred to above. The State and Territory Law Societies and Bar Associations are all members of the Law Council of Australia and would not be competing for the right to control the domain. Other bodies would not be representative of the practising profession. In fact it is difficult to determine what other law-related bodies would have an interest in managing the domain.

The Panel has acknowledged the benefit of the 'seal of approval' approach, provided that registrant eligibility criteria are linked to professional accreditation as opposed to membership of an industry association. This is the intention behind the Law Council proposal. It is intended that the domain only be made available to licensed, practising members of the legal profession.

These issues have not come before the Law Council as a whole for consideration as yet, pending the decision of the Panel to proceed with the grant of the domain. The final form of the business case and management arrangements will be finalised at that time.

I trust these comments assist the Panel in its further deliberations.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ron Heinrich', written in a cursive style.

Ron Heinrich
President