Commission for
Communications Regulation

Submissions to Consultation

Inputs to Consultation on Regulation of **.ie**

Submissions received from respondents

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1   Antoin O Leachtnain Submission

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

No. The matters ComReg raises are of immediate importance and need to be pursued by ComReg in the first instance and with urgency. ComReg, not IE Domain Registry Ltd. is prescribed in law as the body which can set down how domain names are registered. It needs to put regulations in place to ensure the interests of consumers are complied with.

ComReg does not have a legal framework in which to issue a binding 'direction'. It would be more appropriate for it to put in place regulations, as the legislators apparently intended. This regulation should certainly be as light as possible but as specific and as strong as necessary.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

It depends on the seriousness of what is being considered. No details have been provided.

The organization involved in IE Domain Registry is very small. It should be possible to enact technical and organizational changes within months.

My overall view is that it should not take years to make changes. The periods should be reduced to three months before a review of the plan for change. The review should not be preliminary. Progress on the plan might then be monitored on a monthly or quarterly basis, with implementation to be completed within one year.

Some of the proposed changes may be of a 'root-and-branch' nature. If ComReg believes these are necessary, it should regulate in regard to these. It is unrealistic to expect major changes of corporate governance to be made on foot of unasked-for advice. However, some time should be allowed to implement the regulations fully.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

No.

The steps are commendable, and would be appropriate to an advisory committee or the board of IE Domain Registry were they to propose them.

They are not, however, appropriate actions for ComReg, which has a specific legislative mandate.

ComReg is not a think-tank and is not a public sector consulting service. Its primary role is to regulate, not recommend or advise.

ComReg should make regulations to protect the consumer interest and the advancement of the

namespace. It should make these regulations after full consultation with the stakeholders, including the Registry. It would be best if these consultations had the Registry as a driving force, proposing draft regulations to ComReg and the other stakeholders. If this is not possible, ComReg should step into the role.

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

What the IE Domain Registry does is its own business unless and until it is regulated. Even then, regulations should be at a high level, and should not specify individual, specific actions. ComReg should not have to micromanage the IE Domain Registry.

It is inappropriate for ComReg to consult on such matters. I believed that the purpose of this consultation was to determine what ComReg, rather than the Registry should do. I do not think that ComReg should regulate to require IE Domain Registry in relation to issues such as this.

I think ComReg should maintain a policy advisory committee. Under 32(4)(b) and (c) of the Act, ComReg is responsible for determining the rules for domain name registration, which forms the bulk of policy. ComReg is not in a position to delegate this right to anyone else. There should be consultation and it should be as wide as possible, but under the legislation, ComReg is ultimately responsible for the regulations and therefore, the policy.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

The Registry may steward or manage the process, but ComReg is legally responsible for the process.
It would make sense that ComReg adopted similar procedures to other areas in relation to consulting on major policy decisions.
ComReg should operate a policy committee whose job it is to consider proposals from the public, formulate proposals where appropriate and elicit feedback from the public.

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

Firstly, ComReg, not the Registry is responsible for this decision. ComReg is the only body with the power to institute regulations about the registration of domains.
Secondly, I believe that wider consultation is necessary to reach a useful conclusion on this topic. The extent of consultation in this current process has not been sufficient.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

I think that prices should be in line with reasonable, efficient costs. There is no other principle at play here.

If ComReg believes a 'non-competition' principle should be instituted, this would certainly require regulations. It would be inappropriate to institute or maintain such a principle on a 'recommendation' or 'consensus' basis.

If ComReg were to suggest this as an operating principle as part of 'recommendations' to the registry, and did not have the appropriate legal framework in place, it would almost certainly amount to a breach of Article 86 of the EC Treaty. There would need to be an evaluation of the regulatory impact.

It is simply untrue to say that 'Therefore, being in a dominant position, the Registry has a responsibility to set pricing so that it promotes competition and innovation amongst resellers but does not put artificial or unfair constraints on them.'

(In fact the law says that dominant players are forbidden from limiting markets or technical development or otherwise abusing its position [Competition Act, 2002; Article 82, EC Treaty])

IE Domain Registry Ltd. is not dominant in the retail market. Even though it is dominant in the retail market, it is under no obligation to promote competition and innovation amongst resellers, anymore than eircom is under an obligation to promote competition and innovation amongst Perlico, BT and Smart Telecom. These obligations, if they exist at all, are on the regulator, not the regulated company.

I observe that in general, ComReg does not favour separation between wholesale and retail marketplaces (for example, in the telecomms and postal sectors). It would be unusual to regulate differently in such a comparatively small market.

However, it might turn out to be appropriate in the light of a full investigation.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

I see no problem in principle with the registrar offering registrations, provided the price of the service is in line with costs. However this depends on the overall regulatory environment.

If ComReg decides that it is appropriate to forbid or restrict the Registry's retail operations, then consideration should be given to having this type of function. Similar issues arise in connection with telecomms structural separation.

At one stage in the past, a member of the IE Domain Registry staff opened a business offering discounted domain names, at a price below the retail price. Whilst there is no reason to believe there was an impropriety, this seemed to me like inappropriate behaviour. The management of IE

Domain Registry Ltd. disagreed with me. They believed that it was acceptable behaviour and no action was taken in regard to the incident.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

I can see no reason why not, but there may be broader regulatory issues to consider in an overall framework. Further consideration is necessary. The issue is similar to the issue of structural separation in the telecomms industry.

On the face of it, domain name registration is a small and clearly defined industry and is not a suitable candidate for structural separation.

It is important that ComReg regulates and uses its influence to promote the interests of consumers, not the interests of resellers or the industry.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

It is very difficult to answer this question by reference to the facts available in the public arena alone. The retail price is simply irrelevant to the cost paid generally.

I note that the charges in Finland for registration of a domain name are considerably cheaper than in Ireland. EUR 43 for three years (i.e., 14 euros per year, 75 percent cheaper than the .ie price) is the charge for retail registrations. The Finnish registration process is similar to Ireland in that it is managed.

On the basis of this, I would say that the prices offered are not reasonable, are not proportion and not competitive. I am therefore of the view that market intervention is necessary.

I would say that an appropriate next step for ComReg in this regard would be to analyse the workings of an efficient registry and to use it as a basis to derive what the cost of the service would be if it were to be provided efficiently. This should then be used as a basis to evaluate activities in the Irish market.

It is much easier to find appropriate comparators for domain name registration than it is for telecomms or postal regulation.

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

I think further consultation is required about the detail of this. I think it is important that the rules for registration of domain names are given a strong legal footing (by means of regulation under the Act) before a new dispute resolution mechanism is instituted. This would ensure that rules were appropriately drafted and would make any further appeals more straightforward.

It would be for the benefit of the public, the regulator, the courts and arbitrators and most of all the

Registry itself to have the rules clearly enshrined in regulations. This would be the best protection for consumer certainty and for avoiding time-consuming legal action.

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

Yes. Comreg also has an important role to play. The formal process should be documented in the regulations. It should allow appeal to the same body as responsible for the ADRP to ensure consistency.

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

Yes.

There should not be an 'escrow agreement'. Whilst agreement and consensus are desirable, escrow arrangements should be instituted by means of regulation, not contract law. The escrow should be to the full extent necessary to meet the requirement of the law.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

ComReg should make regulations to ensure that the objectives in legislation are met. The technical means of doing this might or might not involve escrow arrangements for resellers. It would appear to be technically more straightforward to avoid doing this. Comreg should seek appropriate technical advice as to the most cost-effective way of instituting what is required.

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

In principle, this is a commendable position. No regulator ever wants to have to intervene. Comreg should institute appropriate regulations that are straightforward to understand and enforce and that protect consumers.

However, it would be unreasonable for ComReg to stand back and not to regulate to protect the consumer, when it has clearly been mandated to do so.

In the current situation, regulations appear to be necessary to deal with identified issues. Hopefully further regulations will not be necessary, and it may even be possible to reduce the regulatory burden. But I think that ComReg should not make a decision on this until consumers see the improvements coming into place.

It is worth noting that this stance is different from ComReg's stance in relation to other areas of

new technology where monopolies are involved, such as NGN, where the dominant player is regulated to a high degree.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

This consultation has not really considered the future role of the registry in relation to new developments, or what its relation to industry and consumers should be. I think it is important to develop a broader vision, rather than simply concentrating on current requirements.

I am concerned that the importance of innovation and planning for future requirements has not been considered. I am concerned that financial issues have not been considered or consulted upon. I am concerned that no mention is made of appropriate governance for IE Domain Registry Ltd. I am concerned that there has been no consideration of the cost of regulation to IE Domain Registry Ltd. and to the consumer.

The registry goes about its business in a highly secretive manner. I was promised answers to questions about corporate governance at the registry in 2005, but am still awaiting a reply. I am concerned about the lack of basic information.

The registry still has no legal, administrative or other status to act as the registrar.

As far as IANA and ICANN are concerned, University College, Dublin is responsible for the .ie domain, not IE Domain Registry Ltd. At the most basic level, this situation is grossly unfair for the IE Domain Registry itself, if it is to remain as the registry. It also results in uncertainty for consumers and resellers. It could well result in the registration of domain names being undermined.

(See http://www.iana.org/domains/root/db/ie.html)

I believe that in fairness to all involved, this situation should be regularized as a matter of priority. The legislation clearly places this responsibility on ComReg. I think Comreg needs to consider whether it is appropriate to nominate IE Domain Registry Ltd. as the registry, or whether it should nominate itself as a 'Sponsoring Organization'. It should consult on this matter before coming to a decision.

2   Brendan Murray Submission

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

While having a managed system has advantages, having an over-managed system definitely hurts Irish competitiveness and stifles inventiveness. For example, I currently own fishywiki.org, fishywiki.net and fishywiki.com. I could add another dozen TLDs to this, but the only one I am interested in is inaccessible to me since I am not VAT-registered. This is plainly absurd: assignment of names should be based on the individual merits of each application, not on the corporate structure or otherwise of the applicant. The effect of this is that if someone has an inventive idea into which they are willing to invest time and money as a part-time venture, but for which they are not willing to adopt the red tape associated with a corporate identity, it is not possible to start with a .ie domain, hence the potential for a web-site's Irishness is lost, something that might well be important for the particular business idea. There is a long list of Irish web sites that are registered as .com sites simply because of this bureaucratic absurdity, many of which would have enjoyed more business if they could have tagged themselves as truly Irish. The only counter-argument to allowing people register whatever name they please is that of conflicts. However, ICANN doesn't usually have any particular problem with this in unmanaged environments, so why should this be so difficult for .ie? The real risk is that .ie will be subverted by the new liberalised system under ICANN, where perhaps .irl or .ireland will be registered as unmanaged domains and will, by virtue of popularity, simply swamp .ie.

3   BT Ireland Submission

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

BT concurs that as we do not have a clear vision of the issues being addressed because of their confidentiality, we do have some difficulty in making a reasoned response. However, as a matter of principle, it would seem to be thoroughly reasonable and in fact necessary that the IEDR should be allowed and should be expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

Yes, BT agrees.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

Yes, BT agrees that it is necessary for ComReg to take those steps outlined to protect consumer interest and the advancement of the .ie namespace.

Governance, transparency and accountability are necessary to ensure that the objectives of the legislation are met. Moreover, as ComReg have stated there must be cognisance that there may be a possibility in the future that circumstances may deteriorate and/or a new or interim Registry might be required.

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

Yes, BT agrees that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account.

BT would favour the approach taken by Nominet U.K's Policy Advisory Body. It appears that Nominet provide input into what is publicly Consulted on and also draw up a useful annual Work Programme.
The membership of the PAB is drawn from representatives of up to eight appointed organisations, up to eight individuals elected by Nominet members and up to two non-executive directors. The appointed members are currently drawn from the Confederation of British Industry, The Department for Business (formerly the Department of Trade and Industry), The All Party Parliamentary Communications Group, the Information Commissioner's Office, the Institute of Trademark Attorneys and the Federation of Small Businesses.

The PAC should be constituted from similar RoI bodies. Consideration should be given to the ISPAI (Internet Service Provider Association of Ireland) in particular.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

Yes, BT agrees that the .ie Registry should adopt a formal consultative process for major policy decisions. The consultative process should be open to the public and be transparent with a reasonable period for response and publication of findings on the .ie Registry website.

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

Yes, BT agrees that the Registry should continue to adopt the managed approach to .ie domain name registrations.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

Yes, BT agrees that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

Yes, BT agrees that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price. BT agrees with the analysis that ComReg sets out that the IEDR should reasonably continue to act as "registrar of last resort" and that individuals should be able to deal directly with the Registry for purchase, however, there needs to be open monitoring of this practice to ensure fair competition and governance over this developed in the terms of reference of the IEDR. Also the Advisory Body should monitor and consider this issue going forward and have the ability to recommend a change to these circumstances as they see fit.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

Yes, please see our answer to Q.8.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

Yes, with caveats. Please see our answer to Q.8.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

BT agrees with ComReg's analysis in relation to this. However, BT believes that the price should continue to be monitored and benchmarked against European best practise and reviewed on an annual basis at a minimum.

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

BT believes that the .ieDRP (the localised version of the UDRP) is satisfactory. The Advisory Body could be asked to review the current process and recommend amendments as appropriate.

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

Yes, BT agrees that the Registry should develop and document an open, transparent and formal process for rejected registration request, namely a formal appeals process. BT agrees that this does not have to be an onerous task, primarily the objective is to have a standard process and to ensure there is transparency in decision making.

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

Yes, BT agrees that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure. BT believes that the arrangements should be underpinned by a legally binding contract.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

Yes, BT agrees that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future. This issue should be revisited for consideration on a semi-regular basis.

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

Yes, BT agrees that there should be an objective of minimal or "light touch" regulation in this area, once a review has been completed and any issues identified and addressed.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

4 Chris Daly Submission

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

I both agree and disagree that the Registry should continue to adopt the managed approach. I agree with the managed approach in the way that all domains need approval provided adequate reasons and arguments. it helps to eliminate domain spam, which also contributes towards the mentioned "sixth least risky TLD". However, I disagree with the current approach regarding personal .ie domains. Forcing people to use their full surname in any of the combinations, rather than allowing surname initial, poses a potential security risk for those who wish to do their internet business under aliases or pseudonyms. Also disallowing the use of said aliases in .ie domains further adds to the problem. With the managed approach to .ie domains, nicknames could be allowed in personal domain names, as long as sufficient evidence and proof is supplied to show that the registrant is well-known under the domain they are attempting to register.

5   Déise Design Submission

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

In relation to the "managed registry model" of the IEDR, it is important that this would remain the case. Even though it may in some cases lead to a less efficient or less streamlined registration process, it in the long run affords greater protections to the end-business registrant. As the domain is also often tied to a CRO number, it makes it clear who the owner is. As a business, we have never had a problem in relation to the ownership of a .ie domain, the same cannot be said in relation to .com Without the financial ability to take legal action, a company can be at the mercy of web companies who decide to hold onto a domain which was registered using their name instead of the company in question.

6   Dennis Jennings Submission

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

Yes – but should be guided by international best practice, using, for example, CENTR (www.centr.org) as a source of information. In the interests of transparency and openness, ComReg should require the IEDR to publish as much information as possible about the areas being addressed and the progress being made (subject to reasonable security considerations) so that the Irish Internet community (the stakeholders – the general public, Internet users, commercial and other organisations that depend on the Internet, ISPs. the State, etc. – hereinafter the Community) can track issues and progress. The IEDR must not be permitted to use commercial sensitivity to hide information from the Community. The .ie Registry (currently IEDR Ltd.) is a servant of the Community.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

Yes. Subject to reasonable security considerations, the IEDR should publish quarterly progress reports to the Community.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

Yes I do. While the IEDR is indeed, by reason of history, the current Registry and is a private company, its internal affairs cannot be the sole responsibility of the organisation's governing body and its management team.

The IEDR, as a ccTLD Registry has several levels of accountability:

   * Public accountability that deals with mechanisms for assuring stakeholders that the .ie Registry has behaved responsibly;
   * Corporate and legal accountability which covers the obligations that the Registry (currently the IEDR) has through Irish company law and its Memorandum and Articles of Association; and
   * Community accountability that ensures that the Board of the .ie Registry and the management perform functions in line with the wishes and expectations of the Community.

Thus, such a review must be conducted as far as practical in public, and with the intention that the .ie Registry meets all three levels of accountability. If necessary, the IEDR should be required to change its legal structure to accommodate appropriately the necessary accountability, as a condition of its continuing as the .ie Registry.

While the resultant recommendations may not be binding on IEDR, ComReg and the Community have a right to expect that the IEDR will recognise the value of acting on the recommendations and thus harvesting wider public support for its services. In addition, mechanisms need to be introduced that enable ComReg and the Community to replace the Board and management of the

.ie Registry (currently IEDR Ltd.) should that be deemed by the Community to be necessary (with suitable protections against capture by any stakeholder group).

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

Yes – there must be a Community based Policy Committee for the .ie Registry – but

No – the outcomes of the Community based policy development process must ultimately be binding on the Registry.

The Policy Committee should be structured so that its members represent the various stakeholder interests, and be appointed by the stakeholder groupings. Detailed consideration of the stakeholder groupings and appointment mechanisms will need to be worked out, and are beyond the scope of this note. The Policy Committee must have mechanisms to appoint at least 2 people to the Board of Governance of the .ie Registry, where they will have the normal fiduciary responsibilities of Board members.

The Policy Committee should be supported by the Registry, and be charged with developing policy in areas of domain name registration, Registry/Reseller Contracts, Registry/Reseller/ Registrant Contracts, contract compliance, dispute resolution, WHOIS policy, and policies related to consumer protection and to security (e.g. the prioritising of DNSSEC), etc. The Policy Committee should also determine overall financial policy for the Registry – consistent with prudent financial management – and overall pricing policies.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

Yes, absolutely. Characteristics: Open, Transparent, Accountable.

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

Yes, indeed. I think that this adds significant value to a .ie domain name for the registrants, and, more particularly, for consumers, who can have reasonable confidence that a .ie name belongs to a real and substantive Irish organisation. The challenge is to run a managed domain name registry in a way that is efficient and effective, and to scale that model as the number of registrations grows. The key is, I believe, to have clear unambiguous eligibility criteria, and careful processes that enable new eligibility criteria to be introduced so that previous applicants who may have been refused applications for domain names against previous criteria have a reasonable window of opportunity to be considered first under any changed rules. One simple mechanism to add to the efficiency of the Registry is to permit "registration by assertion" – i.e. a registrant may assert compliance with specific regulations in order to register, but at the risk that incorrect claims may later result in the loss of the domain name.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

Yes.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

Yes.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

Yes – but this is a policy area that needs to be carefully considered by the Policy Committee referred to above, so that safeguards against risks of serious allegations of unfair competition can be developed.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

Yes – but this should be actively discouraged by the Registry by publication in an accessible manner of the Reseller alternatives.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

Yes, I think so. But, every effort needs to be made by the Registry to makes its internal operations as simple and efficient as possible so that the cost of checking its eligibility requirements is as low as possible. Also, the Registry needs to take into consideration and minimise the external costs that its compliance requirements force on Resellers and Registrants, as these can be a significant financial burden, and can discourage Resellers from promoting .ie domain names. Pricing should be progressively and aggressively reduced, once the IEDR has a year's operating costs in reserve, so that the IEDR breaks even financially (allowing also for planned investment in technology and security developments).

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

I agree that there should be a local DRP that is as inexpensive and efficient as possible. I have no experience of the ieDRP, so I cannot comment.

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

Yes, of course. I suggest – without having given this much thought – that there should be an internal formal IEDR Reconsideration Process, with separate legal advice to that normally provided to the IEDR, plus an eternal Reconsideration Process established by the Board with input and advice from the Policy Committee for situations where the IEDR internal Reconsideration Process fails to resolve the issue. It is the responsibly of the Board of the Registry to organise these processes.

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

Yes, most definitely – it is to its shame that the IEDR has not recognised this as a requirement and has not put in place arrangements to protect the Community in the event of its (the IEDR's) failure. The arrangement must be a legally binding arrangement with the IEDR that in the event of its failing to register names and operate the associated DNS servers, and that failure continuing for some agreed short period of time as determined by an external responsible body – perhaps ComReg – that prearranged alternative arrangements be put immediately in place to operate the DNS servers and to transfer in an expeditious manner the responsibility for the Registry to a new organisation. (Several Registry services companies now exist and a contract could be put in place with one or more of them to cope with such an eventuality). IEDR funding must be set aside to cover the costs. All relevant technical and commercial data must be held in Escrow – although the fall back arrangements triggered by various levels of IEDR failures should give priority to the stability of the DNS operations, and should protect, as best as may be possible, the commercial interests of IEDR Ltd. The arrangements for continuing DNS operations must not be susceptible to blocking by a Liquidator or Examiner, and strict limits on the time available for alternative commercial arrangements by any Liquidator or Examiner must also be in place.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

I think that really depends on the contractual arrangements between the Registry, the Resellers, and the Registrants, and the availability of the relevant data. The contractual arrangements should be examined with this in mind.

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

Yes, I fully agree with this approach. The monitoring framework should be Community led, with ComReg as a stakeholder on behalf of the State.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

The Board and Management of the IEDR appear to me to be resistant to and dismissive of an Open, Transparent and Accountable framework for .ie policy development, and for the management and operation of the .ie Registry, and appear to give undue weight to their responsibilities under corporate accountability under Irish Company Law rather than to any responsibility to the Community. This, if a fair and true assessment, is not an acceptable position for the Board and Management to take, and argues strongly for the immediate replacement of the whole Board. Such action, if required, should be undertaken by UCD, which remains the organisation with overall responsibility for .ie, in consultation with the Community, including ComReg on behalf of the State.

7   Digiweb Submission

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

Yes, we agree with this point.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

Yes, we agree with this.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

We agree that this absolutely necessary and support Comreg wholeheartedly. No organisation can be objective without an outside source advising.

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

We agree with this as it is the only way to have a consistent and visible feedback process from the people who use the services the most. The only concern would be that Members of the committee associated with individual hosting companies may not act or advise in everyone's best interest but instead in their own so this would need to factored in choosing members of the committee. The committee should advise on any proposed changes to the registries systems or procedures.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

Yes, this should be a public process with the process agreed upon at the time so that it is something that everyone has an input into and also that can't be reneged upon unless very specific reasons are given with a better way of doing it. This would then need to be agreed upon again.

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

We prefer a managed registry approach as the benefits are a reduction in cyber squatting, disputes, and sites with questionable content. Any relaxation of the managed registry model would allow more questionable registrations through and devalue the domain.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

The IEDR should not be allowed to sell domains at Competitive prices against their resellers. Comparing the IEDR's retail price to the lowest reseller prices available is not good enough; the Retail price needs to be well above what any reseller is charging so as to avoid competition.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

Yes but the gap needs to be larger than it currently is. A price of over e100 per domain for direct retail customers would be sufficient to take the registry out of competition with any resellers.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

We agree that this is a good idea.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

While customer should have this option the domain should be priced at such a premium that very few people should want to register it with the IEDR directly.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

We believe that the price is reasonable at the moment and no intervention is needed right now, however the option for future intervention should be left open.

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

We believe the process is fine as it is currently. Because the registry is managed there have been very few disputes in the history of the .ie domain name so there is not enough volume to justify a separate appeals process.

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

We believe this system is fine as it is at the moment. Because the rules for registering a .ie name are very clear cut there is not much left to the judgment of the individual staff member in the IEDR. If there was a big increase in the number of discretionary names being allowed or a relaxation of these rules then a more formal procedure would need to be in place for appealing rejected decisions as well as accepted names where the link seems tenuous.

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

We agree that the registry should keep an escrow service in the event of total registrar failure and to use different providers for a backup environment that is entirely technically independent of the current environment for full disaster recovery.
.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

We agree with Comreg on this.

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

Yes we agree with this.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss.

8   Eircom Submission

EXECUTIVE SUMMARY

- The '.ie' suffix is the domain name that is unique to Ireland. This status makes .ie an important national asset, the preservation of which is crucial to the identity of Irish based web sites. The management of the database that records the .ie domain names is therefore a function that must be conducted to the highest standards.

- eircom welcomes ComReg's consultation document as an opportunity for stakeholders to provide views on the management of this national asset. eircom notes the pre-consultation work that was conducted by ComReg and the external expert consultants.

- The IEDR offers a public function through the assigning and management of the .ie domain names. The IEDR is the monopoly provider of this service. This unique position brings with it added responsibilities to ensure that the service is guaranteed and the validity of the database is protected at all times.

- While replying to the questions set out in the consultation document, eircom is cognisant that the information provided is incomplete. ComReg gives the reason for this as ". The Consultants' report contains a significant amount of commercial information and a great deal of sensitive data on technical and security arrangements". The views put forward by eircom are therefore not as complete as desired.

- eircom is concerned with any suggestions that the current methods of operations is under question and requests that these be addressed urgently. Corporate governance issues, which ComReg has identified, require firm remedial action to protect the integrity of IEDR and the .ie domain name register.

- A robust infrastructure, with in-built disaster recovery mechanisms, will ensure the reliability of the .ie database.

- eircom is proposing that the 'managed approach' for the registration of domain names be continued. The Establishment of a Policy Advisory Committee, with consultation procedures, will be of value to the Irish stakeholders. The current dispute resolution process is adequate once it becomes fully documented.

- In eircom's view the existing price levels are appropriate and a regular review by ComReg of the IEDR published accounts is sufficient as a price check. eircom does not envisage that changes to the current position of the IEDR in the market are warranted, notwithstanding the monopoly status of the IEDR.

Security, Sensitive Processes and Technical Operations

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

And

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

In its preamble to these questions ComReg does not indicate the nature of any problems that were found during the independent review by ComReg. ComReg states that: "While certain areas for improvement have been documented along with the identified strengths, the former have not resulted in catastrophic failures to date and IEDR's record of improvement over the last few years provides solid assurance that the necessary corrective steps will be taken as quickly as possible." (emphasis added). Without the full knowledge of the independent review it is not possible to assess the scale of any problems that were identified, nor indeed is it possible to discern which areas of the IEDR operations that the problems refer. The responses to the questions are therefore, in some respect, in the abstract.

As a general principle, when addressing any "security, sensitive process and technical operations", there are industry practices and 'best in class' models that can be used by IEDR. IEDR is the only body in Ireland that performs the particular function of allocating and managing '.ie domain names'. Consequently there should be assurances that whatever remedial action is taken by IEDR follows the 'best in class' principles adopted by reputable bodies in Ireland and abroad.

In addition the IEDR should have the necessary skills at its disposal to guarantee that the remedial actions are effectively and speedily put in place. Once completed there should be ongoing risk-management assessments to identify any shortcomings that may arise. ComReg notes " .. the relatively limited personnel resources of a small ccTLD". This suggests that the IEDR does not have adequate resources to address the shortcomings. Consequently permitting the IEDR to review and address the perceived shortcomings is potentially risky. Therefore external assistance should be sought to provide expertise in the areas identified for improvement.

The proposed time period of 12 months for a preliminary review of progress is, in eircom's view, too long. The function performed by the IEDR is of critical importance. It is of concern that there is any suggestion that the current method of operations is under question. Any remedial actions that are necessary must take place as early as possible. The preliminary review period should be no longer that six months and further reviews should take place at six monthly intervals until satisfactory completion.

Corporate Governance

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

The IEDR provides a service that is of national importance and moreover the IEDR is in the position of being a monopoly provider of the service. The provision and the management of the

service must be guaranteed over the long term, in the interests of consumers, businesses and the reputation of Ireland more generally. The steps, which ComReg proposes to protect the consumers, are valid and eircom is supportive.

It is essential that there are robust corporate governance procedures and systems in place. These include risk management checks, strict financial procedures, up to date IT systems security, customer service procedures and all the normal checking procedures and systems appropriate to such an enterprise. ComReg notes that "..while the latter recommendations may not be binding on IEDR, ComReg would anticipate that IEDR would recognise their value in harvesting wider public support for its services." However ComReg does not state what action is proposed if the recommendations are not followed by the IEDR. It is essential that any recommendations or alternatives be implemented to preserve this vital service.

The significant interests of consumers and stakeholder bodies that depend upon the IEDR service, as well as the national interest itself, emphasise the requirement that the IEDR is properly managed and can survive into the future even if difficulties arise.

Policy Formation, Outreach and Transparency

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

And

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

eircom concurs with the view that policy development in this area should be undertaken as an open and transparent bottom-up process. This ensures that there is an opportunity for all stakeholders to be involved in the creation of polices. Representatives on the Policy Advisory Committee (PAC) should include bodies such as The Internet Service Providers Association of Ireland, The Irish Internet Association and registered resellers of the Irish Domain Registry. Consumers, through a consumers' body, should also be afforded the opportunity of representation on the PAC.

The PAC should consider such matters as, the current registration policy, the naming policy, charging and general service issues. Scenarios such as allowing people with 'blogs' to be allowed to register a .ie domain name without being a registered company could be adjudicated upon by the PAC. Furthermore, with the IEDR being the sole provider of the service in Ireland, the PAC could give advice on the strategic operational issues, for instance service continuity. The PAC could consult directly with industry representatives, stakeholders and with consumers through the invitation of submissions. The request for submissions could be advertised in the print media along with on-line and other usual above-the-line communications channels.

Managed Registry Model

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

Experience to date in Ireland suggests that the managed approach is working well, in the Irish context. The alternative to a managed approach is to adopt a 'first come first served' approach.

There are merits and drawbacks with both methods. A third option would be an open market or auction method to allocate .ie domain names.

The managed approach does have the perception of being anti-competitive as the IEDR does make the ultimate decision on the allocation of domain names. The vetting used in the managed approach ensures that individuals or bodies applying for domain names are reputable and have genuine intent. The managed approach also has the benefit of having clear and transparent eligibility criteria, which can be applied in an independent and objective manner across all applicants.

The first come first served approach is more fair and democratic. It can be, and indeed has been, abused by individuals or bodies that wish to profit excessively and unfairly from the ownership of a domain name. The profit is earned by the re-sale of the domain names without the need to operate a genuine web-site, this practice is commonly known as cyber squatting. This acts to the detriment of the genuine users and consumers alike. There have also been recorded cases, where this approach is applied, of hoarding of domain names whereby the applicants register particular names to prevent, perhaps, a competitor from accessing a suitable domain name.

While the auction method does have the merit of being fair and transparent, it favours those with greater financial reserves. eircom, on balance, favours the retention of the managed service approach as being the most fair and least open to abuse. The adoption of firm and transparent policies, determined by the PAC as discussed above will guarantee an open and transparent allocation of domain names. Furthermore an appeals process will allay any fears that may be inherent in the use of a managed service.

Competition & Pricing

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

And

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

In answering these questions it is important to understand the wholesale and retail markets for the service provided by IEDR. The resellers of .ie domain names are generally Internet Service Providers (ISP's) and operate in the downstream retail market for Internet services.

The Registry offers a service to the ISP's that is an essential input and, as such, operates in an upstream wholesale market. Within this wholesale market for .ie domain names the Registry has a monopoly.

The question therefore is regulatory intervention needed to increase competition in this wholesale market and would it improve consumer welfare? Would regulatory intervention to introduce a second Registry to "compete" with IEDR in the provision of .ie domain names be likely to lead to lower prices, or better service? As the demand for .ie domain names is likely to be price inelastic in the range that prices might vary and as the new entrant is likely to face total costs above 50% of those faced by IEDR, the unit cost per address provided is more likely to rise than to fall (even with aggressive efficiency improvements). The upstream market appears to have the characteristics of a "natural monopoly".

If there is no regulatory intervention to encourage competition in the upstream market, it raises the question as to what are the risks to competition in the downstream market. There are two potential risks – predatory pricing by IEDR in the retail market and excessive prices for the wholesale input charged to the ISP's.

As the IEDR does not operate as an ISP – and does not sell the range of additional services (Internet Access, Web Space, e-mail services, etc.) that an ISP must add to the .ie domain name to construct a customer offering – there is no real risk of IEDR leveraging (monopoly) power from the upstream market into the retail market with predatory effect. ComReg should therefore limit the nonprice intervention required to ensure competition in the retail market to a requirement that IEDR does not operate as an ISP. Unless IEDR operates as an ISP there is no incentive to squeeze the margins available to the resellers of .ie domain names.

However there remains the risk that IEDR will damage consumer welfare in the retail market by charging excessive prices for the essential wholesale input into that market. This excessive price can arise in two distinct ways; the IEDR could run an efficient operation and set a price that leads to recovery of costs incurred plus an excessive return or the IEDR could run an inefficient operation and set the price to recover those costs plus an adequate return to sustain the business at that inefficient level. eircom notes that the IEDR is a "not-for-profit" organisation but that it has retained cash reserves approaching €2 million – and had a profit in excess of €500,000 for the most recent reporting year. eircom also notes that the IEDR has reduced prices regularly and that the financial performance of the IEDR is critically dependent on the volume of domain names registered – because most of the costs of administering the registry are fixed and cannot be avoided as volumes decline.

Given the recent relaxation of general domain name extensions system, there is clearly a risk that as volumes may decline the ISPs' customers move to non .ie extensions ComReg should therefore desist from direct intervention in IEDR pricing decisions. In particular it is worth noting that any "benchmarking" by simple comparison with prices charged by registries in other countries provides no reliable guide for pricing a registry service in Ireland. This is worthy of comment because regulatory intervention on pricing of services offered by natural monopolies is all too often informed by no more than such inappropriate comparisons. Denmark, Germany, and the Netherlands all have more than four times as many domain names registered per head of population than does Ireland. So even the smallest of these registries probably has unit costs less than 30% of the IEDR level – and it is likely that the German IEDR has a unit cost less than 10% of the IEDR level. IEDR should generally maintain a price differential of at least 10% between the retail price it charges end users for a direct registration service and the lower wholesale price it charges resellers for domain names to be sold on. This margin reflects both the retail cost avoided by the IEDR when dealing with the expert reseller rather than the end user who may only ever purchase a single domain name, and the contribution to the reseller's retail costs for the domain name element of the bundle of Internet services sold to their retail customers.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

And

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

In a competitive and open marketplace there will be many wholesale providers of service. In the case of domain names the wholesale providers are known as Registrars or Re-Sellers. In practical terms consumers would have adequate choice amongst the re-sellers.

However in the interests of maximising consumer choice then the IEDR should be permitted to continue to operate as a retail provider. Furthermore, with the controls and recommendations discussed in the ComReg consultation document the IEDR should be in an operationally strong position and be capable of surviving any difficulties it may encounter. This status will offer comfort to consumers in the protection of the existing domain names and the guaranteed ability to

obtain new domain names. eircom therefore supportive of the concept of a 'registrar of last resort' and the choice this offers to consumers to register domain names directly with the IEDR.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

The current price level is reasonable and is regularly reviewed by the IEDR themselves.
The IEDR has an obligation of prudence to ensure the viability of the registry against fluctuations in demand. The current price level, together with the cash reserves, insure the IEDR against a sudden drop in .ie domain names. A regular review of the IEDR published accounts by ComReg should be quite sufficient to establish that the price is in the appropriate range. In eircom's view, no further intervention seems appropriate at this time.

Handling Disputes and Improper Registrations

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

And
Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

Under the current process there were 17 reported disputes since 2003. In the scale of the level of activity and the volume of new applications received this does appear to be a small number of disputes. This indicates that the current process for handling applications is in general very satisfactory. In eircom's own experience the application process has been very positive. The existing policy used by IEDR is viewed as being fair by eircom. For parties that are not satisfied with the outcome of a dispute resolution process there is recourse to the courts. Another alternative would be to use arbitration, which would be final and binding in its determination. This would remove the significant benefit of the supervisory function of the courts, which is integral in the current process. Since arbitration is essentially a private procedure, recourse to the courts, if required, contributes to the general jurisprudence in relation to domain names in Ireland.
The current process that is in place is regarded by eircom as being satisfactory. If there are ways to make the process more affordable then these should be explored. Currently there is no record available for rejected applications. To facilitate transparency there should be information available on the volume of applications that are rejected and the criteria that are used in assessing the applications. Any process that is put in place for rejected applications should include the following attributes;

- the reason for the refusal,
- the particular criteria that applied with respect to the refusal,
- the deadline to lodge an appeal,
- the deadline for lodging a further appeal to ComReg,
- the IEDR and ComReg review times and
- a guarantee that the domain name would be held until the review is concluded.

Escrow of Registry Data

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

And

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

eircom's understanding of an escrow arrangement is that a valuable body of work or intellectual property is held by a third party for safe keeping on behalf of, say, a rights owner and a customer. The work in only released in certain circumstances, which are agreed by the rights-owner and customer at the time of execution of the escrow agreement. This could include the .ie domain name database.

In eircom's view however an escrow arrangement is not sufficient or appropriate to protect the i.e domain name registry, the robustness of the access to the .i.e database when required and the credibility of the web-sites that rely on the .ie suffix.

The .ie database is held on a computer that is accessed by web servers wishing to validate a requested .ie domain name before connecting to the requested web-site. This relies upon 24 hours accessibility, 365 days per year. There are two key components to this arrangement, firstly the database and its host computer and secondly the accessibility to the database.

In order to guarantee the true robustness of the service and ensure its credibility among users and the industry, a resilience and disaster recovery plan needs to be implemented.

At a high level this would comprise two computers, hosting the database, sited at different physical locations, each would be accessible via alternatively routed telecommunications infrastructure and with each computer being connected to each other. This arrangement ensures the database may be instantly and simultaneously updated on each computer and that the database can be accessed at all times in the event of one computer or telecommunications link failing. Such an arrangement is standard in the industry and is generally supported by 24 hour, 365 day service level agreements with penalties.

It is the responsibility of the IEDR to protect and guarantee access to the database at all times. Consequently there should not be a need for registrars or re-sellers to have similar arrangements in place for themselves.

ComReg's approach to Regulation

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

eircom is in agreement with the proposal that ComReg minimise its regulatory intervention, subject to the identified issues being addressed and suitable monitoring being in place.

Other Issues

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

None.

9 IEDR Submission

1. **INTRODUCTION**

   1.1 The IE Domain Registry (IEDR) welcomes the issue of the Consultation Paper and appreciates the opportunity of submitting comments on the important matters raised therein.

   1.2 In Appendix I to this Response entitled "IE Domain Registry – What it is and what is does", a brief account is given of the background to the Company's establishment and its current status and operations.

   1.3 The regulatory powers in the Communications Regulation (Amendment) Act 2007 relating to IEDR are discretionary, i.e. they are available for use if required but are not mandatory.

   1.4 The IEDR feels sure that ComReg would share with the IEDR a concern to ensure that the consultation process and any outcome from it would be consistent with the regulatory provisions set forth in the legislation and, in particular Section 32(1) of the Electronic Commerce Act 2000 and the other provisions of Part 4 of that Act, as substituted by the 2007 Act, and with the principles governing Regulatory Impact Assessment prescribed by the Irish Government and helpfully published by ComReg on 10th August 2007 (these principles being summarised for ease of reference at Appendix III to this IEDR Response).

   1.5 Following are the IEDR's responses to the specific questions raised by ComReg in the Consultation Paper. Hopefully, these responses will be of assistance to ComReg in determining the most appropriate and cost-effective regulatory framework. The Company can, of course, supplement or clarify these responses as required.

2. **IEDR RESPONSE TO COMREG CONSULTATION ITEMS**

   2.1 Security, Sensitive Processes and Technical Operations

   Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

   IEDR Response – Safeguarding the .ie domain has always been the IEDR's main priority and is the particular focus of the management team. Risk assessment and threat analysis are ongoing processes within the Company and are reflected in the Company's business continuity and disaster recovery plans. Any requirements on enhancements or refinements to internal processes or functions, precautionary arrangements, or software/hardware are assessed and prioritized for implementation.

The success of the IEDR's policies and practices in this area is evident from the fact that not only has there been no "catastrophic failure to date" (as stated in the Consultation Paper) but there has been no unplanned service outage of any significance to date. The necessity for actions such as directing IEDR to take all necessary steps to safeguard the .ie domain, as mooted in the Consultation Paper, is not, therefore, apparent. The legal basis for any such actions and their possible legal consequences would also require very careful consideration.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

IEDR Response – In the event that any matters related to "internal arrangements" arose which would represent "risks to the continued safe operation of the .ie namespace", stakeholders can be assured that the IEDR would address them as a matter of extreme urgency. The Company would not tolerate a situation where such risks subsisted for weeks, let alone months.

It seems to the Company that the most appropriate way of dealing with this is as part of a regular monitoring framework as mooted in Question 16 and the Company would welcome this.

2.2   Corporate Governance

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

IEDR Response – It would seem to be a matter for regulatory impact assessment to determine whether it is necessary to take such steps. The necessity is hardly apparent from a general consideration of current circumstances. As a company registered under the Companies Acts, the IEDR is subject to all the requirements and sanctions of company law and the directors carry out their responsibilities in accordance with best corporate governance principles and practices.

In fulfilling its mandate as a ccTLD operator and manager, the IEDR is mindful of the primary requirement on a Registry to be equitable and fair to all groups (in accordance with IANA's ICP-1) and to balance the interests of different stakeholders. The Company's approach is to weigh carefully the common and divergent interests of all stakeholders, with an emphasis on the interests of users.

The IEDR will, of course, cooperate with ComReg in any appropriate review of the Company's corporate governance arrangements and the IEDR Board

would carefully consider any recommendations arising therefrom, having regard to their fiduciary, legal and other responsibilities.

2.3   Policy Formation, Outreach and Transparency

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

IEDR Response – As it happens, the IEDR had already been giving consideration to establishing a body on these lines to supplement existing but less formal arrangements and would envisage consulting with stakeholders on terms of reference, membership, and modus operandi. The objective would be to establish a consultative and advisory group to represent the collective views of the Internet community in relation to the operation of .ie. We envisage that the membership might be representative of the stakeholders set out in Appendix II. It would be envisaged that the group could, on its own initiative or on request from the IEDR Board, discuss, form a consensus if possible, and make recommendations to the IEDR Board on matters such as (but not necessarily limited to) :-

- registration policy, terms and conditions

- dispute resolution and internet abuses

- best practice recommendations of ICANN, IANA, and CENTR.

In light of the issue of the Consultation Paper, the Company will await the outcome of the ComReg consultation on this matter before proceeding further.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

IEDR Response – In practice, the IEDR already operates an informal consultative process which involves the local Internet community as represented by the Irish Internet Association, the Internet Service Providers of Ireland, the Association of Patent Attorneys of Ireland, the reseller community and others. Examples of previous consultations may be viewed on the IEDR website. A body on the lines envisaged in the Response to Question 4, if it were to be established, could, it is considered, formalize this process.

2.4   Managed Registry Model

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

IEDR Response – The position of the IEDR on this matter is set out on page 38 of the IEDR Annual Report and Review 2007, where the benefits of the managed registry approach for Ireland and individual registrants are outlined. The document is available for download at :- http://www.iedr.ie/NEWS/IEDRAnnualReport2007.pdf

The benefits for Ireland Inc. are set out as follows :

A quality DNS system, with fewer lame delegations
- applications are checked for valid DNS before registration is completed

Virtually no cyber squatting
- registrants must authenticate their claim to the domain

More websites attached to domain names
- a consequence of less cyber-squatting

Fewer Intellectual Property legal battles
- as registrants have authenticated their claim to the domain name

Minimal poaching of domains – no formal secondary market exists
- No transfers of AdminC are allowed.
- Domains must effectively be deleted and then reapplied for, which requires precise timing, and a level of risk for the transferee.

A local namespace
- restricted to those with a real and substantive connection to the island of Ireland

Intellectual Property protection
- less need to worry that a domain could be poached and held to ransom by speculative registrants

Less cyber-crime on .ie websites
- applicants have authenticated their claim to the name, and the IEDR has performed certain limited checks on applicants

A higher quality e-commerce platform
- consumers using credit cards on-line can have confidence that certain checks have been carried out on the .ie website domain holders prior to registration. Consumers have a greater chance of returning damaged or unwanted on-line purchases to a geographically closer .ie website operator than an international .com website.

Reduced likelihood of illegal, explicit or immoral content appearing on websites
- with .ie domain addresses, due to the fact that registrants contact data is screened as part of the registration process.

The benefits for individual registrants are set out as follows. A Registrant :

Can most likely register her first choice domain
- in .com the domain is probably long gone

Can transfer between billing agents at will
- in .com resellers can block a transfer

Can renew with a new billing agent after the renewal date
- in .com she must renew with the existing registrar if the renewal date has passed

Can modify her domain details without a fee
- in .co.uk a transaction fee is payable

Has a level of IP protection
- Knows that she does not need to register dozens of variations of her domain name – just to protect it from cybersquatters / speculators

Gets 30 days credit, and many payment options
- a .com domain must be paid for immediately by credit card, and is not refundable.

Greatly improves her listing on search engines such as Google
- compared to a .com address in Ireland
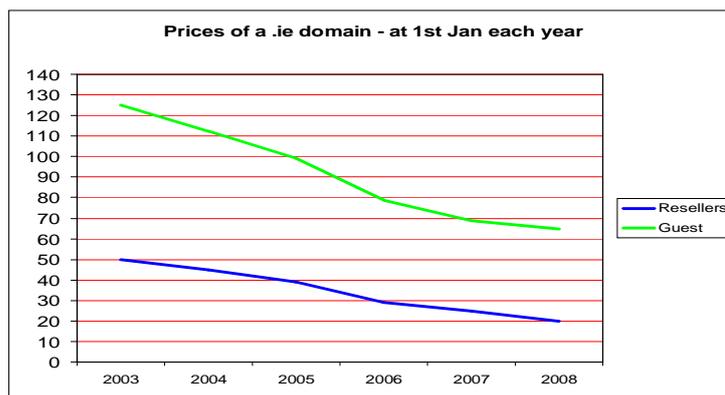
2.5 Competition and Pricing

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

IEDR Response – The IEDR finds the wording of this question rather confusing. The issue of "discounting" retail charges does not arise – there is one retail rate. What seems to be in question is the margin between the retail rate and the wholesale rate charged to resellers. These rates are currently 65 euro and 20 euro respectively, i.e. a markup of 3.25. Retail and wholesale rates have been reduced substantially over the past five years, from 125 euro and 50 euro respectively in January 2003. Over the period, the absolute margin has reduced from 75 euro to 45 euro but the markup has, in fact, increased from 2.5 to 3.25. The IEDR can hardly be perceived as a competitor on pricing grounds to its reseller community at these rates.

The Company envisages continuing with its pricing policy of reducing prices to its users consistent with its financial stability but would always maintain a reasonable margin between the retail and wholesale rates such that it should not reasonably be perceived as competing on price with the reseller community.

The Registry has decreased retail prices from 125 euro down to 65 euro over a five-year period, and has done so in a measured and careful way, mindful of :-

- the need to maintain market stability,

- comparative international pricing levels,

- the financial position of the Registry, and

- resellers' sales and marketing plans, where available.

Prices of a .ie domain - at 1st Jan each year

In balancing these requirements the Registry is operating fairly in a competitive marketplace.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

IEDR Response – The short answer is "yes". However, an equally important consideration is that the IEDR does not compete with resellers. It provides choice to the consumer and operates in a registrar of last resort role (see Response to Questions 9 and 10).

Of the database of 106,000 domain names, 6% comprise direct registrations while 94% are handled by the reseller community on behalf of registrants. Currently, only 3% of new registrations on average are direct to the Registry with 97% through resellers. The IEDR does not advertise directly to the public nor does it run sales and marketing campaigns which might encourage registrants to register with it directly. Information or awareness advertising always promotes the .ie namespace and always directs intending registrants to the list of resellers on the IEDR website.

It should also be borne in mind that the domain market comprises many individual niche markets. Resellers may offer different combinations of services (registration, hosting, web design, etc.), price, and technical support. A reseller who sought to charge three or more times the retail rate for a domain only service would clearly be uncompetitive.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

We agree that the registrar of last resort is a prudent and necessary function. (See also our response to Question 10). In 2006 the IEDR established a Registrant Protection Fund which is designed to ensure that domains due for renewal would not be suspended or deleted while registrants make arrangements to transfer away from a reseller who may have failed.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

IEDR Response – A small minority of registrants, for their own reasons, deal directly with the Registry and it seems reasonable to the IEDR that a registrant should have that choice. Practice elsewhere in Europe in this matter does vary but the large majority of registries permit direct registration.

The IEDR also offers direct registrations for a variety of reasons related to offering **choices** to registrants. A small minority of registrants (currently 3% of new registrations) prefer to deal directly with the Registry. We understand that some of the reasons leading registrants to deal directly with the Registry include the fact that those registrants:-

- are technically proficient, and do not need resellers' technical advice,

- want control over their domain, and

- value their intellectual property rights and do not want third parties involved in the registration or renewal process.

The Registry does not advertise its services to the general public. Apart from generic advertising it does not engage in sales and marketing activities directed at the public, at SMEs or the SoHo market sectors. Registry staff make every effort to direct enquiries to the reseller page on the IEDR website. Those registrants who wish to register directly with the IEDR are entitled to make that choice and we believe that their right to do so should not be removed by the regulator.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

IEDR Response – Both the domain registration market and the reseller market are highly competitive. The IEDR competes with the gTLDS, such as .com, .org, etc., which have huge economies of scale and which are not, incidentally, subject to ComReg or other equivalent regulation.

The reseller market is diverse in terms of services offered and prices are readily compared. In such markets it is not evident that regulatory intervention in pricing is necessary or would indeed be sensible. As a not for profit Company limited by guarantee, the IEDR's pricing policy is to price at a prudent minimum consistent with financial stability, taking advantage of economies arising from growth and of cost containment measures. The succession of price reductions over the past five years is evidence of the success of that policy.

2.6   Handling Disputes and Improper Registrations

Disputes – "bad faith" registrations

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

IEDR Response – The IEDR is always a neutral party in these cases as it has no vested interest in which registrant becomes the registered domain holder following the ieDRP process operated by WIPO (for this reason also, it would be unreasonable to expect the IEDR to subsidise disputes of this nature).

To be successful a Complainant must be able to demonstrate that :
1. a domain name is identical or misleadingly similar to a Protected Identifier in which the Complainant has rights; *and*
2. the Registrant has no rights in law or legitimate interests in respect of a domain name; *and*
3. a domain name has been registered or is being used in bad faith.

It is true that the requirement to fulfil the three conditions above places a particular burden of proof on the Complainant. Failure to demonstrate even one of the three requirements will result in an unsuccessful complaint.

Any perceived difficulty in lodging a claim under the ieDRP process should be considered in the context of a managed registry operating a first-come first-served policy. An existing .ie domain name has successfully gone through a process whereby new registrations must be submitted by a registrant with a demonstrated "real and substantive connection with the island of Ireland" and where that registrant had to "authenticate a claim to the domain name".

It may well be naïve to believe that the timelines and expense of the ieDRP means that "it might be more appropriate to have an alternative local, impartial and independent procedure". It is considered unlikely that a cheaper or faster service could be offered while maintaining an equivalent standard of due process.

Another relevant consideration is that there are in practice very few complaints. Since the ieDRP process was introduced in 2003 there have been 17 cases referred for arbitration.

Disputes – Rejected Registration Requests

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

IEDR Response – The IEDR operates open, transparent and formal processes. Resellers' staffs are familiar with IEDR registration policies and

with its processes for registration requests which are rejected or queried by the IEDR registration services team (resellers currently manage 94% of the .ie database and 97% of new .ie registrations). The IEDR would see no objection to publishing current practices, including the rejected registration appeal process, on its website.

2.7   Escrow of Registry Data

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

IEDR Response – The company has developed sophisticated business continuity plans and disaster recovery arrangements to ensure continuity of service and to cater for a wide range of threat scenarios. One important objective is to ensure that mission critical services are recovered rapidly in the event of a service outage.

It is important to note that the IEDR's global network of 22 name servers, operating the Anycast technology, ensures that the probability of an interruption to DNS services for .ie domains is infinitesimal. This means that the registered base of .ie domain names would remain online and connected to the Internet, irrespective of what may happen to the Registry.

The relevant legislation provides that ComReg shall have "access to all Internet .ie domain name databases" and the IEDR has no difficulty in principle in arranging that on a basis which protects the property rights of the Company and its registrants in the databases.

Escrow as such may seem straightforward but, in fact, it forms but a part of a range of matters to be dealt with in the event of Registry failure. Among the matters that would have to be settled would be (i) the definition of a Registry "failure", (ii) how the property rights of the IEDR and its registrants would be protected, (iii) how, by whom and on what conditions the release from escrow would be triggered etc. As is recognised in the Consultation Paper, one is dealing here with remote contingencies but the IEDR recognises that .ie is a national resource and that the question of what would happen if the Registry, for whatever reason (and however unlikely the contingency), were unable or unwilling to continue to provide service requires mature consideration, even if the conclusion may be that additional measures would be impracticable for reasons of complexity or otherwise.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

IEDR Response – Agreed. In any event, the implementation of such arrangements could be equally as difficult as noted in the Response to Question 14 above.

2.8 ComReg's approach to Regulation

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

IEDR Response – The observations at 1.3 and 1.4 above are relevant here.

The IEDR agrees with ComReg's objective of minimising ongoing regulatory intervention in the .ie namespace. Furthermore, the IEDR believes that this is consistent with Government regulatory policy as articulated in such documents as "Better Regulation" and helpfully reflected in the ComReg document published on 10 August 2007 – see Appendix III to this Response.

We agree that "the Internet world has emerged on a largely unregulated basis of consensus standards and openness".

The IEDR believes that ComReg should carry out a formal Regulatory Impact Assessment before taking any action in relation to regulation of the .ie namespace.

While we are encouraged that ComReg's focus is to ensure that any steps it might take in furtherance of its obligations are "reasonable and proportionate" we have a concern that such steps should not disadvantage the Registry in competing with its unregulated international competitors - .com .net etc

Ireland is virtually unique in regulating its national namespace in the manner proposed. ComReg is only addressing 37% of the domain market in Ireland. It is ironic that ComReg is seeking to regulate the activities of a managed Registry, while the .com and .net activities, which are the source of spam, identity theft, credit card fraud and unsavoury practices such as cyber crime, warehousing of Internet addresses etc remain unregulated and outside the scope of the Regulator's focus.

In any event, the IEDR looks forward to the discussion of a suitable monitoring framework in due course.

2.9 Other Issues

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

The IEDR does not wish to comment on other issues, but would welcome the opportunity to assist further in any matters arising from the consultation process.

APPENDICES

Appendix I – IE Domain Registry – What it is and what it does

1. The IE Domain Registry (IEDR) was incorporated in 1999 as an independent not-for-profit company limited by guarantee (without a share capital). It is governed by a Board of Directors (with a balanced mix of technical, financial and industrial expertise) in accordance with the Companies Acts and is subject to the network of laws covering contracts, data protection, intellectual property, etc.. Its principal activity is the registration of domain names - internet addresses ending in .ie. The IEDR's principal asset is the active .ie database, which has been built up by the Company over the years and which represents the accumulation of current individual contracts with domain-holders.
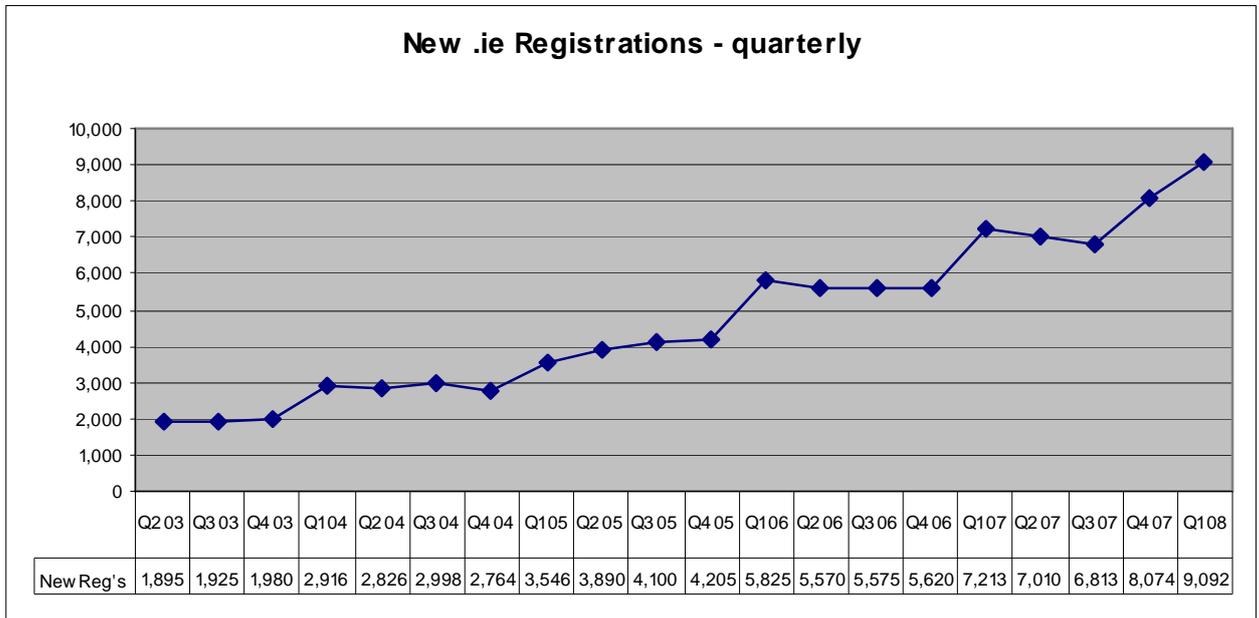
2. The IEDR is a small company with, currently, 12 staff and an annual income of circa €2.3 million. As a ccTLD (Country Code Top Level Domain Registry), IEDR would rank in international terms among the smaller national registries. The IEDR has 101,000 registered domains at end March 2008, as compared, for example, with Nominet (the UK ccTLD) at 6.8 million domains.

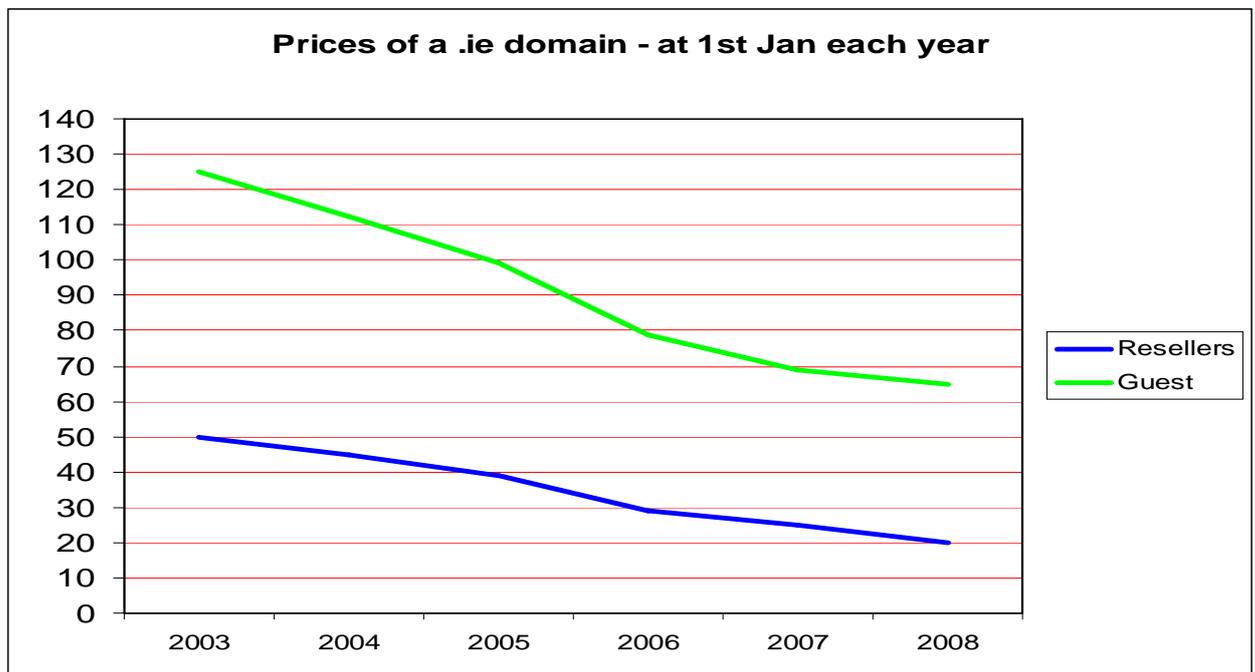| Country	Name	TLD	Total number of registered ccTLD domains (3/4/08)	Country Population		ccTLD regs per 1000 inhabitants
Netherlands	SIDN	.nl	2,797,827	16,491,461		169.65
Denmark	DK Hostmaster	.dk	907,415	5,475,791		165.71
Switzerland	SWITCH (Swiss Education and Research Institute)	.ch	1,178,437	7,591,400		155.23
Germany	DENIC eG	.de	12,049,926	83,251,851		144.74
United Kingdom	Nominet	.uk	6,826,039	60,587,300		112.66
Austria	NIC.at	.at	753,600	8,327,709		90.49
Norway	Norid	.no	377,834	4,748,300		79.57
Sweden	NIC-SE	.se	729,020	9,182,927		79.39
Luxembourg	DNS.lu	.lu	37,683	476,200		79.13
Belgium	dns.be	.be	784,525	10,584,534		74.12
Czech Republic	CZ.NIC	.cz	420,804	10,349,372		40.66
Hungary	nic.hu	.hu	370,000	10,075,034		36.72
Finland	Finnish Communications Regulatory Authority	.fi	178,419	5,302,545		33.65
Slovenia	ARNES	.SI	55,000	1,932,917		28.45
Poland	NASK	.pl	1,002,421	38,625,478		25.95
Italy	Registration Authority Italiana	.it	1,527,167	59,715,625		25.57
Ireland	**IE Domain Registry (IEDR)**	**.ie**	**101,596**	**4,339,000**		**23.41**
France	AFNIC	.fr	1,132,441	64,473,140		17.56
Portugal	FCCN	.pt	184,595	10,623,000		17.38
Spain	ES-NIC	.es	770,984	45,200,737		17.06
Greece	GR Hostmaster	.gr	140,162	11,147,000		12.57
Croatia	CARNet	.hr	53,432	4,490,751		11.90
Cyprus	UCY-DNS	.cy	7,200	855,000		8.42
Malta	NIC(Malta)	.mt	2,500	407,000		6.14

3. As a company limited by guarantee, the IEDR has no share capital and its accumulated surplus, currently at approximately 12 months income, or 15 months operating expenses, represents the Company's capital.

4. Up to 2007, the .ie namespace was the responsibility of the Minister for Communications in accordance with the Electronic Commerce Act 2000, which gave the Minister power to make regulations on a range of matters affecting the national .ie namespace, although the Minister never found it necessary to exercise his discretion under the Act to make such regulations. Under amending legislation in 2007, the Minister's powers were transferred to ComReg.

5. In the past 5/6 years, IEDR has increased the active .ie domain database by 308% with consistent quarter-on-quarter growth …

New .ie Registrations - quarterly

	Q2 03	Q3 03	Q4 03	Q1 04	Q2 04	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05	Q4 05	Q1 06	Q2 06	Q3 06	Q4 06	Q1 07	Q2 07	Q3 07	Q4 07	Q1 08
New Reg's	1,895	1,925	1,980	2,916	2,826	2,998	2,764	3,546	3,890	4,100	4,205	5,825	5,570	5,575	5,620	7,213	7,010	6,813	8,074	9,092

………and has reduced its prices by 60% since January 2003.

Prices of a .ie domain - at 1st Jan each year

6. Most customers (83.6%) are businesses, and they largely register corporate or registered business domain names (65.2%).

Analysis of domains by class and category 31 March 2008

Class of registrant	Grand Total	As a % of Total		
Body Corporate (Ltd,PLC,Company)	61,176	62.3%		
Sole Trader	20,929	21.3%	82,105	83.6%
Unincorporated Association	8,457	8.6%		
Natural Person	2,732	2.8%		
Statutory Body	2,535	2.6%		
School/Educational Institution	1,821	1.9%		
Discretionary Applicant	342	0.3%		
Constitutional Body	235	0.2%		
	98,227	100.0%		

Category of domain name	Grand Total	As a % of Total		
Corporate Name	36,746	37.4%		
Registered Business Name	27,313	27.8%	64,059	65.2%
Discretionary Name	19,939	20.3%		
Unincorporated Association Name	4,843	4.9%		
Registered Trade Mark Name	3,367	3.4%		
Personal Name (PDN)	1,541	1.6%		
School/Educational Institution Name	1,375	1.4%		
State Agency Name	1,307	1.3%		
Publication Name	910	0.9%		
Personal Trading Name	683	0.7%		
Politician's Name	203	0.2%		
	98,227	100.0%		

7. Following a consultation process with the industry, the IEDR implemented a modest liberalisation of policy rules in October 2007, to allow individuals to register their personal .ie domain names. The application/authentication process is simple and straightforward. Over 1,500 individuals have done so to the end of March 2008.

8. The IEDR has competed successfully with the international alternatives for domains, .com, .eu, .info, etc. Extensive technical innovations (aimed primarily at improving security of the infrastructure and service to domain holders and intermediary providers) have been implemented. Importantly for such a critical national resource, .ie has always functioned efficiently and continuously.

9. Since its inception, the IEDR has operated (with broad official and market approval) as a "managed" registry, which means that a process of checks is carried out to establish an applicant's entitlement to the domain name (Internet address) sought. This provides internet users with assurance that .ie website operators are who they say they are. In contrast, "unmanaged" domains such as .com, .eu, .info, etc. have no such authentication process and will assign a domain on request provided it is not already assigned. A "managed" registry model offers significant advantages, for example a negligible level of cybercrime and therefore better security for financial transactions, a level of protection against cybersquatting, etc. In 2007, the McAfee study rated .ie as the second-safest namespace in the world, after Finland's national namespace .fi.

10. The internet domain name market is highly competitive. At present, .ie is estimated to have about 40% of the Ireland market (approximately the world average for a ccTLD).

Estimated Domain market	March 2008	
	Registered Domains	Market Share
.ie	98,227	37.6%
Total ccTLD	98,227	
Com *	76,160	29.1%
Net *	9,466	3.6%
Org *	20,656	7.9%
Info *	18,627	7.1%
Biz *	1,827	0.7%
cnobi gTLD	126,736	48.5%
.eu ^	36,382	13.9%
New gTLD	36,382	
Total ccTLD and gTLD	261,345	100.0%

* Data taken from Statistics produced by Directi (www.webhosting.info). The country of origin of the hosting company is used to determine the country of origin of the registrant.

^ The .eu data is taken from the Eurid registry website.

11. The great majority of .ie domains are sold (registered) through a plethora of intermediary service providers, who would customarily "sell" a .ie domain as (often quite a minor part of) a package of internet related services. Although prospective customers are directed to intermediaries, the IEDR provides a facility to customers who do not wish, for one reason or another, to register through an intermediary. Such intermediaries are competing with each other, frequently with very different business models and price/service/technical support combinations. The intermediary market is itself highly competitive and IEDR pricing impacts only indirectly on provider pricing. The competitive nature of both the domain namespace and the intermediary provider markets have been positive factors in the growth of the internet in Ireland.

12. The Company passed a major transparency milestone in April 2005 when it introduced a web-based reseller console for its intermediaries. This console gave IEDR resellers 24/7/365 visibility, access, control and transparency over their portfolio of .ie domain names, transaction history records, domains in the billing cycle and domains in the suspension process.

13. The IEDR DNS infrastructure consists of a network of 22 nameserver locations around the globe, managed by reputable companies such as Neustar (Anycast node), HP, Afnic, UCD, BT Ireland, Magnet and RIPE NCC. During 2006 the IEDR substantially increased the security, resilience and failover capability of its nameservers and its mission-critical systems and applications by co-locating critical elements of the infrastructure in a state-of-the-art Tier IV data centre.

14. In December 2006 the Company signed an agreement with Comreg to provide the national ENUM registry service for Ireland, and formally launched the service in May 2007, only the seventh country in the world to do so. The IEDR was one of the first ccTLD's in Europe to deploy an IPv6 capable nameserver, and participates in the Department of Communications' IPv6 Forum. The IEDR continues to closely monitor international developments in relation to IDN (which provides for domain names with non-ASCII characters) and DNSsec, particularly

as there are now five live ccTLD deployments of DNSsec worldwide (See http://www.xelerance.com/dnssec/).

Appendix II - Indicative list of Stakeholders within the local Internet community

Stakeholder	Stakeholders interest in the .ie registry relates to:
Government :- in particular Department of Communications (dcenr) and Department of Trade (entemp) Department of Justice, Equity and Law Reform, ..and their initiatives eg TrustIT, OIS etc	➢ Fair competition ➢ Protection of the consumer ➢ Promotion of Ireland as an e-commerce hub ➢ Security and stability of the .ie namespace for Ireland Inc. ➢ No adverse publicity for Ireland's e-commerce reputation
Regulator (ComReg)	➢ Price, choice, service and security for the consumer ➢ Fair, open competition, absence of restrictive practices
ISPs - large high-volumes	➢ Automated systems ➢ Minimal (or no) manual procedures ➢ Low prices, Price discounts (for high-volume, for multiyear registration)
ISPs - smaller niche players, low volumes	➢ Personal service from the registry ➢ Prices that allow them to make a profit margin ➢ Mix of automated and manual systems ➢ 24/7 registration / billing systems availability
Data protection commissioner	➢ Data privacy, Appropriate whois disclosures ➢ Security of personal information
Internet industry representative bodies, in particular IIA, ISPAI	➢ IIA - serving interests of registrant's ➢ ISPAI - serving interests of resellers / ISP's / HSP's
Industry and commerce in particular IBEC, ISME, ISA, IBEC TiF, IPSO, Office for Internet Safety (OIS), Internet Safety Advisory Council (ISAC).	➢ Value for money service ➢ No downtime ➢ Robust reliable infrastructure ➢ No adverse publicity for Ireland's e-commerce reputation
Members of the Irish Internet community with "a non-proprietorial interest in …the Irish domain name market"	➢ Not known
Intellectual-property lawyers	➢ Protection of intellectual property rights ➢ Protections against cybersquatting ➢ Dispute resolution procedures (UDRP)
Individuals /registrants	➢ Fair and reasonable access to get the domain they want ➢ Easy to use registration, billing and modification processes
Consumer affairs	➢ Consumer rights ➢ No overcharging (and rectification procedures)
Competition Authority	➢ Fair, open competition ➢ Absence of collusion on retail pricing

ISPs represent only the supply side of the Community so the consumer side must be equally represented. The Internet community for purposes of representation or consultation should be broadly defined to balance the interests of suppliers and consumers.

Appendix III - Regulatory Impact Assessment

1.   In accordance with a 2003 Policy Direction issued by the Minister for Communications, Marine and Natural Resources to ComReg pursuant to section 13 of the Communications Regulation Act 2002, ComReg is required to conduct a Regulatory Impact Assessment ('RIA'), in accordance with European and international best practice and the Irish Government's 'Better Regulation' programme, prior to deciding to impose a regulatory obligation on an undertaking.

2.   This is acknowledged in the 'Guidelines on ComReg's Approach to Regulatory Impact Assessment', published by ComReg on 10 August 2007 (the 'Guidelines').

3.   ComReg's own view (as stated in the Guidelines) is that RIA should be conducted on an *ex ante* basis, as close to the outset of that process as possible. Indeed, the RIA, where appropriate, is to be presented as an addendum to the main consultation document.

4.   The purpose of RIA is threefold:

> (a)   To establish whether regulation is actually necessary;
>
> (b)   To identify any positive or negative effects which might result from a regulatory measure and establish whether there is a net benefit; and
>
> (c)   To identify and assess any alternative measures.

5.   The Guidelines state (at paragraph 1.2):
"It is incumbent on ComReg to consider the impact of proposed regulatory measures as they may impose a significant burden or cost on stakeholders. ComReg does not want such measures to be overly burdensome. Therefore ComReg will, where possible, identify opportunities to withdraw from or reduce regulatory intervention in relevant markets, by establishing all possible options and selecting that which is most appropriate. Proper use of RIA should ensure that the most effective approach to regulation is adopted, as it helps determine the impact of any proposed new regulatory measure or process, or any proposed changes to (including the withdrawal of) an existing measure or process, on all stakeholders. By identifying the full range of regulatory options which are available to deal with a particular issue and assessing the potential effect of each option, RIA should establish whether regulation is in fact necessary, and if it is, it should allow ComReg to identify and impose the most appropriate and least burdensome measure, while still allowing ComReg to achieve its objectives."

6.   A 5-step approach to conducting a RIA has been developed by ComReg in the Guidelines. According to ComReg, the appropriate steps are as follows:

> (a)   Describe the Policy Issue and Identify the Objectives;
>
> (b)   Identify and Describe the Regulatory Options;
>
> (c)   Determine the Impacts on Stakeholders;
>
> (d)   Determine the Impacts on Competition; and

(e)   Assess the Impacts and Choose the Best Option.

10 Irish Computer Society Submission

Introduction

The Irish Computer Society (ICS) welcomes the opportunity to respond to the "Regulation of .ie" consultation document. The ICS is a national membership organisation for Information and Communication Technology Professionals and has been advancing professionalism in IT since 1967. Through its events, research, and special interest networks, the ICS nurtures an active exchange of information, ideas, and technological best practices and innovation among its members. The ICS is a not-for-profit organisation directed by a volunteer council drawn from the membership and shares an executive with its training and certification arm, ICS Skills. Since 1997 ICS Skills (formerly ECDL Ireland) has been raising the level of IT skills in Ireland, increasing user confidence in computer usage and making the information society accessible to all. ICS Skills, a not-for-profit organisation with charitable status, was founded in response to a real need in Ireland to develop basic computer user skills. As the national operator and certification body for the European Computer Driving Licence programme in Ireland, ICS Skills has accredited more than 1000 training and test centres across Ireland. Through this national network more than 400,000 people have undertaken an ICS Skills certification. For these reasons we believe we represent two key groups of stakeholders in the future of the .ie domain. [For further information on our membership and student/graduate body, please see the appendix to this document.]

Response to Consultation Questions

Having reviewed the consultation document "Regulation of .ie", the ICS/ICS Skills executive and the ICS Council agreed that the organisations represent two important groups of stakeholders; ICT professionals and computer and internet users. It was decided to consult the membership of the Irish Computer Society on selected questions. ICS Members were invited to complete an online survey containing 4 questions related to .ie domain registration. The survey was available to be completed between Thursday 31st July and Thursday 7th August. Of the 206 members who started the survey, 172 completed. The results for the relevant questions are detailed below.

Introduction to the "Regulation of .ie" questions
The following explanatory text was displayed to survey respondents before answering the related questions. (Note: the four relevant questions were part of a larger survey and are therefore numbered 7-10.)

Section 3 – ComReg has recently been given regulatory control of the .ie domain registry and is seeking submissions on how it should use its new powers. The Irish Computer Society is considering making a submission. Please help the ICS Council form its position by responding to the following questions. You may provide further input to this process using the comment boxes below or by emailing memberservices@ics.ie

Note: The full request for submissions can be accessed here
http://www.comreg.ie/ fileupload/publications/ComReg0848.pdf

When answering the following questions please be aware that unlike .com, .net and other domains, .ie is a "managed" domain with a vetting process requiring registrants to have a valid claim on domain names. This is believed to be one reason why websites with .ie domain names are rarely used for fraudulent purposes and the .ie domain has been ranked as the 6th "least risky" by MacAfee.

ICS Survey Question 7.

Do you agree that the .ie Registry should maintain a Policy Advisory Committee (PAC) that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, do you believe that the ICS should have a role in this group?

Answer Options	Response Percent	Response Count
Yes the .ie Registry should maintain a PAC and ICS should have a role in this group	83.7%	144
Yes a PAC should be maintained but ICS should not have a role in this group	9.9%	17
No the .ie Registry should not maintain a PAC	6.4%	11
answered question		172
skipped question		34

ICS Survey Question 8.

Do you believe that the benefit of more secure internet transactions on Irish websites outweighs the disadvantage of a more difficult registration process?

Answer Options	Response Percent	Response Count
Yes	84.3%	145
No	8.7%	15
I don't know	7.0%	12
answered question		172
skipped question		34

ICS Survey Question 9.

If yes to Q8., Do you believe that this should be marketed as an advantage to Irish and International businesses of .ie registration?		
Answer Options	**Response Percent**	**Response Count**
Yes	80.2%	138
No	2.3%	4
I don't know	5.8%	10
N/A	11.6%	20
	answered question	172
	skipped question	34

ICS Survey Question 10.

If yes to Q8., do you believe Irish internet users should be encouraged to favour products and services from Irish domain websites over those from unmanaged domains?		
Answer Options	**Response Percent**	**Response Count**
Yes	64.0%	110
No	15.7%	27
I don't know	8.7%	15
N/A	11.6%	20
	answered question	172
	skipped question	34

Conclusion

The results of the survey of members are presented above for the Commission to interpret. Following are the survey conclusions and recommendations of the ICS/ICS Skills executive.

    1. It is the opinion of the majority (84%) of survey respondents that the .ie registry should maintain a Policy Advisory Committee, and that the Irish Computer Society should have a role in this group.

    ➢   The executive of ICS/ICS Skills agrees with this opinion and recommends that the nominee, who should represent the views of the Irish ICT profession and Irish internet users, be agreed by both ICS Council and the Board of ICS Skills.

    2. It is the opinion of the majority (84%) of survey respondents that the benefit of more secure internet transactions on Irish websites outweighs the disadvantage of a more difficult registration process.

    ➢   The executive of ICS/ICS Skills agrees with this opinion and believes that, given their profession, a significant percentage of respondents have firsthand experience or knowledge of the .ie registration process. Their opinions should be given corresponding weight.

    3. It is the opinion of the majority (80%) of survey respondents that the relative safety of the .ie domain should be marketed as an advantage to Irish and International businesses of .ie registration.

❯ The executive of ICS/ICS Skills agrees with this opinion and believes that very few people, IT professional or otherwise, consider this benefit when registering a domain.

4. It is the opinion of the majority (64%) of survey respondents that Irish internet users should be encouraged to favour products and services from Irish domain websites over those from unmanaged domains.

❯ The executive of ICS/ICS Skills agrees with this opinion but believes that caution must be exercised when doing so, and risk clearly communicated, as statistics show the .ie domain to be safer, not safe.

Finally, the Irish Computer Society and ICS Skills are happy to assist the Commission in its new role, and provide further feedback from our members, if required.

Appendix - About the communities we represent

ICT Professional Members

70% are more than 10 years in IT
50% work in the private sector
30% work in the public sector
66% work in non-ICT sector organisations (e.g. finance and banking, retail, government, universities etc.)
25% are director or manager level
40% are in a team lead, or project management role

ICS Skills Student/Graduate Community

To date: Over 400,000
Estimated 2008: 35,000
Approximate breakdown of current students:
o 40% In Education
o 40% In Employment
o 20% Disadvantaged or Unemployed

11 Irish Domains Submission

Irish Domains Ltd is one of the longest established independent .ie registrars, having registered .ie and other domain names for over eight years. As well as being a "Table A" reseller/registrar for .ie domain names, we are an accredited .eu registrar and are long standing members of Nominet UK. We would be one of the larger registrars in terms of total .ie domains held. This document contains our response to ComReg's request for submissions (08/48) regarding the regulation of the .ie top-level domain name.

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

Given that we do not know the nature of the shortcomings identified, this is a difficult question to answer. On the assumption that this refers solely to technical and/or security issues, then certainly we agree that these should be rectified without delay.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

If there are serious technical or security deficiencies identified by ComReg, then 18 months is potentially a very long time to remedy these. We would be of the opinion that the registry operator should probably be required to submit an action plan within 3 months with a schedule for implementation and verification within 3-6 months.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace? Please provide reasons for your answer.

In relation to Corporate Governance, we certainly agree that ComReg should conduct a comprehensive and detailed review of the composition, operation, competence and financial security of any potential registry operator.
However we would be anxious that such a review would include the fundamental nature of how IEDR as an organization is constituted with a view to ensuring that the registry does not continue to operate in isolation from the greater internet community.
Currently, the IEDR is governed by a board of directors who are also the sole members of the company – in effect it is a self-elected closed shop. Other than through explicit regulation by ComReg made possible under recent legislation, there is no current facility for external input or control other than on IEDR's own terms.
Within the IEDR, virtually all policy changes in recent years have been imposed rather than agreed (consultation generally occurs after the decision making process and immediately prior to implementation). Few if any alterations to proposed policy or operational changes are ever effected by the limited amount of consultation that takes place. There is a large amount of disquiet among .ie registrars about the lack of input and transparency both regarding fundamental policy, and also on day-to-day issues.
This can be contrasted with the two most successful European ccTLD registries Nominet (.uk) and Denic (.de) that have an open membership structure that is comprised of the many hundreds of companies that register domains on behalf of end-users. There is a very high level of satisfaction with the governance of these registries due to the open, transparent and responsive nature of their organizational and management structures.

Our suggestion would be that pending a radical overhaul of the IEDR's corporate structure (and we don't just mean the formation of a hand-picked policy review committee) that the IEDR should initially only be granted the status of interim registry operator.

In addition, we feel that having "optional" recommendations may not produce the desired result. The registry to date has not exhibited significant concern about the level of "public support for its services". It is doubtful that ComReg can legally force many recommended changes within the IEDR as it is an independent company, however it can require such changes to be made in advance of its designation as registration authority.

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

We note the failure of previous attempts by the registry to implement a Policy Advisory Committee, and the closure of the old .ie discussion list when the registry did not like the way the discussions were progressing.

Although management style and attitudes have changed for the better in recent years, the basic closed organizational structure of the IEDR has remained unchanged. There has been no move to reconstitute the PAC in any form in the years since the original committee was abandoned, and we do not believe that simply duplicating the original failed model would be useful.

In the consultation document ComReg cites Nominet UK as a good example of an organization with a transparent and bottom-up policy development process. We agree wholeheartedly with this assessment, but Nominet is a very different organization to IEDR.

Nominet is based on an open membership of those companies that register .uk domains on behalf of end-users. The Board is directly elected by members, it is not selfappointed. The Nominet Policy Advisory Board consists of up to eight members from Industry and Government, eight members elected by the members, and two nonexecutive directors. The PAB actively interfaces with stakeholder organizations, formulates policy, and makes recommendations to the board.

The Nominet example works because it is open, transparent, and democratic and the board has a genuine interest in advancing policy recommended by PAB (as it is after all itself elected by the members). This would not be the case within the current closed structure of the IEDR. We would support the creation of a .ie PAC along the lines of the Nominet PAB model, however we caution that this could not be effective without some fundamental changes to the IEDR's structure and the democratization of its membership and board.

An alternative interim approach might be for ComReg itself to host the PAC. After all, the current legislation does stipulate that many of the policy issues regarding the registration of .ie names can be implemented directly by regulation. In many ways this would be a less attractive option but would in all probability be the most effective route unless then necessary changes in the IEDR's governing structures are realized.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

The answer to Q4 above pretty much applies here as well. If there is a properly implemented policy development process with formal input from all stakeholders, then there should usually be no need for any other consultative process. For very far-reaching policy proposals that would have a major impact on the regulations (for example, transition to an unmanaged

registry model) the current legislation would seem to allow ComReg itself to decide if a wider consultation is required (and to organize it).

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

We agree that the managed approach does seem to make .ie a more trusted domain than some other TLDs, however this has to be balanced against the difficulty that many individuals and organizations have in obtaining their chosen .ie name. For example, it is easy for an individual to register their own name, and it is easy for established businesses to register their company, trading, product names and trademarks etc. However it is often difficult for an individual to register a name for a "hobby" or for an intended business in advance of getting up and running. Modern establishing businesses usually wish to secure their domain names BEFORE setting up as otherwise their chosen domain may turn out not to be available after they've already invested in branding/design etc.
In addition, for anything other than personal names and established company, trading or product names, the existing rules are badly formulated and are subject to varying interpretations. The discretionary rules especially are not clearly defined and are skewed against individuals, for example a company can request a discretionary name with just a letter, however an individual generally has to prove previous significant investment of time or effort.
While we agree that the current managed status of .ie should be maintained to some extent, we believe that the rules need to be made simpler, less open to subjective decisions and friendlier to individuals.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

We are on record for our long-standing opposition to the activity of the registry in the retail space. We believe that it represents a fundamental conflict of interest for the registry to be both a monopoly wholesaler and a retailer, and it is our opinion that this is against best practice internationally – in particular ICANN do not usually allow this for top-level domains under their control.
Many well run TLDs do not allow end-user registrations direct with the registry, and of those few that still allow it, the price is usually set at a point which makes it much more attractive to use an independent registrar.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

We believe that as a principle, a registry should not be allowed to register domains to end-users. Once a registry offers direct registrations, the principle of "non-competition" is invalidated. One might argue that can be "non-effective-competition" however this depends on the ratio of the retail wholesale to the wholesale price.

Examples of practice in the main European ccTLD's:

Germany (Denic) .de	Allows direct registrations at 10 times wholesale
UK (Nominet) .uk	Allows direct registrations at 16 times wholesale
Netherlands .nl	Does not allow direct registrations
Sweden .se	Does not allow direct registrations

France (AFNIC) .fr	Does not allow direct registrations
Belgium .be	Does not allow direct registrations
Italy .it	Allows direct registrations at 21 times wholesale
Spain .es	Allows direct registrations at 7 times wholesale

Currently IEDR offers direct .ie registrations at just over 3 times wholesale. We believe that the authorized registry should not be allowed perform direct registrations. Only in the event that this is not deemed possible, should they be allowed perform registrations at a high multiple of the wholesale price.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function? If not, please explain your reasoning.

The registrar of last resort is unnecessary, as is evidenced by the fact that half of the largest European ccTLD's do not seem to view it as an issue, and the fact that direct registration has been explicitly disallowed by ICANN for almost all gTLDS.
The only situations where it could be argued as being useful would be where there is little or no reseller/registrar network (for example, Finland where registration can only be done directly by FICORA – their communications regulator) or where there is a realistic possibility for one registrar to maliciously prevent the transfer of customer domains to another registrar. As the IEDR website currently lists almost 100 possible registrars for .ie domains, and as a .ie domain name can be transferred without any intervention (or even knowledge) of the losing registrar, neither of these situations are relevant here.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

.ie domain names in general do not exist on their own. They cannot be initially registered unless they are already set up on valid name servers, most commonly those of a domain registrar hosting company. This means that it usually makes most sense for the end-user to purchase the domain at the same time as purchasing other services from their provider so that they will usually be able to purchase the domain cheaper alongside other services and have consolidated billing and control. As there are about 100 .ie registrars through which the consumer can already register their domain name, and given the ease of transfer of .ie registrations, then there is clearly no significant benefit to having the registry support direct registrations, any perceived benefit would almost certainly be outweighed by the potential for conflict of interest.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary? If not, please explain your reasoning.

In the three years from July 2005 to July 2008, the total number of registered .ie domain names has increased by more than 100% from 49K to 107K with a consistent annual increase of about 30%, and new registration growth looks set to continue for the foreseeable future at a similarly high rate.
Over the same period, the IEDR's wholesale price for volume .ie registrars has dropped by less than 40%. At the same time, the registry has managed to accumulate reserves of €2 million (plus deferred revenue of 1.1 million). This represents about €30 for every domain registered, or about 18 months turnover.
Allied with continuing strong registration growth, this does seem to indicate that there is a strong argument that .ie registrants have been "taxed" in recent years in order to remedy past problems with the financial security of the registry, and that savings due to increased

volumes and automation have not completely been passed on to registrars or indirectly to consumers.

Past price decreases have been largely reactionary – partly because of increased volumes in previous periods, and partly because of demands from the registrar community. Given that the IEDR's financial assets now represent one and a half year's turnover for the registry, and given also the current strong growth in demand for .ie domain names, there is a very strong argument that wholesale domain prices should be reduced significantly in order to pass on savings and to further stimulate demand.

We believe that wholesale .ie pricing should be based on cost recovery only and should be closely monitored by ComReg. Increased volumes will always allow ongoing price reductions, but this can make it more difficult to ensure that the Registry is controlling costs in other areas.

Q.12 Do you agree that the .ie Registry should consider developing an Irish Alternative Dispute Resolution Process (ADRP) or do you consider ieDRP (the localised version of UDRP) to be satisfactory? If the former, what characteristics should this ADRP have?

There have not been a large number of disputes in the .ie namespace to date, this is largely due to the managed nature of the .ie TLD. In our opinion, those disputes that have arisen have been arbitrated fairly and consistently, and despite being operated by WIPO the decisions have not always come down on the side of "the big guy".

There is a possible cost issue OK, €1,500 for IEDRP as opposed to US$1,500 for UDRP which has been exacerbated by recent currency movements, however it is still less than the €1665 for .eu arbitrations.

By having the IEDRP based largely on UDRP, it is easier for both registrants and those disputing registrations to access legal counsel or other expert help that has had prior experience of such procedures. This also allows the arbitrator (WIPO) to use already established standards for determining if someone does or does not have rights to a given mark, for establishing "bad-faith" registration or usage etc.

If a new alternative DRP were to be created (for example, along the lines of the Nominet one) this would involve a lengthy consultation process, it would possibly require additional expert staff within the registry and could even make things more difficult for both parties in the dispute.

We do not think there is a significant need for an alternative DRP, in any event this would be unlikely to be economically viable given the current small level of disputes.

Q.13 Do you agree that the Registry should develop and document an open, transparent and formal process for rejected registration requests? If so, how should it be organised?

There is an element of informality about the current application process – once an application is lodged, there can often be a number of communications between registrar and registry host masters about each application. This interaction can be by email, phone or through the reseller API and web console systems. This is useful and especially where things are not clear cut, a certain amount of "working together" does take place between registry and registrar in order to get each domain registered on behalf of the applicant.

Provided that it does not reduce the flexibility in the system, web believe that a formal appeals process would certainly be useful for rejected applications – in the past there was such a facility however this was internal to the IEDR and the operation of the process was not very transparent.

The requirement for an appeal mechanism would be somewhat reduced if the registration policies for .ie were clarified and it were made easier for registrants to get their desired name, or at least if they could better understand upfront the required documentary standards that

they have to meet in each situation. In particular, this applies to discretionary names, but there are other inconsistencies in the application of registration policies that should also be addressed. Any appeals process should require an upfront appeal fee that is high enough to discourage spurious appeals that would increase costs for registrars and the registry alike – perhaps this could be refunded in the event of a successful outcome.

Q.14 Do you agree that it is essential to establish full and effective escrow arrangements for the .ie Registry to ensure continuity of service in the event of Registry failure? If so, on what basis and to what extent do you consider that an escrow agreement should be introduced?

We agree that in order to ensure the security and continued safe operation of the .ie zone, escrow of basic registry data is essential. This would include domain and zone information, as well as whois data. It should also include essential accounting data to ensure that in the event of registry failure, a subsequent operator would be able to continue commercial operations, renewals, registrations etc with the a minimum of intervention.
Such arrangements would be made simpler if direct registrations were not allowed by the registry as this would mean that there would only be about a hundred (currently) billing accounts to maintain rather than potentially tens of thousands.

Q.15 Do you agree with ComReg that there is not a current need to introduce escrow arrangements for registrars/resellers for the foreseeable future?

Registrar level escrow is unnecessary for .ie because the essential technical and contact information for a .ie domain registrant is already held by the registry. This means that even in the event of the failure of a registrar, and where the registrar could not independently arrange the smooth transfer of customer information to another registrar, the domains will still continue to operate as normal and the registry will be in a position to contact registrants to advise them to change registrar.

Q.16 Do you agree with ComReg's objective of minimising ongoing regulatory intervention in this area as soon as any identified issues are addressed and a suitable monitoring framework has been put in place?

We agree that as a general rule the ongoing regulatory touch should be light. Even so, we do believe that a certain amount of oversight is required in certain critical areas especially in the short term.

1) To ensure that the registry is required to operate efficiently on a cost-recovery basis,
2) That it is required to change its constitution and organizational structure to ensure that proper registrar and other stakeholder accountability is established,
3) To ensure the implementation a transparent and effective policy development process driven by registrars and other stakeholders.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

There are several issues on which we would like to comment:

Registry, Registrar and Registrant.

In the consultation document, ComReg describes a registrar (or 'reseller' in IEDR parlance) as having "a commercial relationship with IEDR". While this is true on one level - we are invoiced by the IEDR for registrations and renewals, we have no explicit contract with the IEDR that

define terms of service, service level agreements, or any other details that would be part of a normal commercial relationship.

Apart from meeting certain minimum volume requirements, there are few regulations as to who can become an approved reseller (registrar). Even the volume requirement tends to be looked upon flexibly – there are a number of Registrars that do not even meet the basic requirements as to domains under management.

In addition, in the event of a grievance or dispute occurring between the registry and a registrar, there is no defined mechanism for the resolution of such an issue. We believe some mechanism should be established with independent oversight (perhaps via ComReg) in order to handle such situations.

Similarly, unlike with most other registries, there is no registration agreement between the registrant and the registry – exactly what a domain registration is (in a commercial sense) is not clearly defined, nor are the rights and responsibilities of the various parties ever clearly outlined.

This places registrars in a difficult position in that we are essentially reselling a product to third parties that is not clearly defined – is a domain registration property ? Is it a license? Is the ability to renew in the future guaranteed? Is it merely a technical service that can be withdrawn at any time?

Although things to some extent "work in practice" it is not currently a satisfactory situation for registrars or registrants. Even the right to transfer a .ie domain name is not clear – it has been permitted in the past but is only on the sanction of the registry.

Registry Systems

Registrars can interact with the IEDR using either an online interface (suitable only for lower volumes of registrations) or via an API. However the API used is a proprietary one unlike most modern registries that use EPP – this would allow a lower barrier to entry as the same codebase could be used to register domains in multiple TLD's. Currently, if the IEAPI changes, then all registrars using it must expend development and testing effort to maintain compatibility.

In addition, the API and underlying registry systems are maintained on an ad-hoc basis, for example multi-year registrations and renewals are not yet supported. However the biggest barrier (apart from cost) to volume registrations is the registration policy and the subjective nature of most of the application process.

Registry Registrar Model

A number of times it has been mooted that there could be a new model of interaction between registrars and the registry where much of the decision making process on applications would be moved from the registry onto the registrars. This could speed up registration and remove duplication of effort leading to a reduction in .ie wholesale price. However apart from an initial request for comments many moons ago, discussions on this possibility have not materialized. In any event, we do not believe that this would be possible without a formalization of the relationship between registrars and the registry, or without a much more open policy development process materializing.

Summary

We note that the tone of the consultation document seems to imply that ComReg's intention is that for the large part registry operation will continue by the IEDR much as it has done with just some small changes as regards policy development and technical oversight.

We would point out that this is a perfect opportunity to get things right. If the decision is that the IEDR should continue as registry operator, this should not be happen in any permanent way unless the organization transforms itself into a more open, transparent and accountable body that is directly accountable to a larger membership that more properly reflects the interests of the Irish Internet Community.

Currently the IANA delegation for the .ie zone still names UCD as the designated registry operator. This is clearly unsatisfactory, as UCD no longer fulfills this function (although they still carry a certain amount of influence on the IEDR board).

However, re-delegation to IEDR would simply copper fasten the status quo and make it significantly more difficult to enforce changes within that organization. We therefore believe that neither re-delegation nor naming of a permanent registry should take place until either the required changes have been made within IEDR (or to any other organization that might be constituted to fulfill the role). Even then we would recommend that an ongoing periodic review of such an organization should take place in order to ensure that the interests of stakeholders and the Internet Community in general are being maintained.

12 Omniserve.ie Submission

Regulation of .ie

Submission by Eoin Costello, Omniserve.ie

Q.1 Do you agree with ComReg that IEDR should be allowed and expected to review and address any perceived or reported shortcomings in its internal arrangements that might represent risks to the continued safe operation of the .ie domain?

RESPONSE: All IEDR activity that is of a magnitude that may affect the efficient and safe operation of the Registry should be subject to external audit/monitoring at set intervals.

Q.2 Do you agree that a period of 12 months is a reasonable period to allow before a preliminary review of progress is made on any corrective action necessary, with a further 6 months allowed to finalise this work? If you do not agree, please provide your comments and alternative suggestions.

RESPONSE: Yes.

Q.3 Do you consider it necessary for ComReg to take the steps proposed above to protect the consumer interest and the advancement of the .ie namespace?

RESPONSE: The procedure whereby directors are selected for the board should be open and subject to Comreg scrutiny. A review of the composition of the existing board is necessary to ensure that those making up the board remain relevant to the industry. A maximum term of 4 years should be set for those serving on the board, there are a number of board members currently serving whose active participation in the Irish internet industry ceased many years ago while other board members have zero knowledge or experience in the Irish internet industry.

Q.4 Do you agree that the .ie Registry should maintain a Policy Advisory Committee that is broadly representative of stakeholders and the Irish Internet Community in general and of whose opinion it takes utmost account? If so, how should this group be constructed and which matters do you consider it should advise upon?

RESPONSE: Yes, such a group should be composed of representatives of the Reseller group and industry representative organisations. It should have an input into all material matters that have the potential to affect the reseller group and the general public.

Furthermore the IEDR should introduce an Independent annual review and publish the results (like that carried out by NOMINET in the UK) of the Irish internet community's satisfaction level in respect of the IEDR on the following parameters:

Technical: Uptime of IEDR domain processing and administration services

Customer Service: Quality of service provided by customer service staff

Transparency: Quality and transparency of all actions carried out by the Management at the IEDR that have implications for the Irish Internet Community.

Q.5 Do you agree that the .ie Registry should adopt a formal consultative process for major policy decisions? If so, what characteristics should this process have?

RESPONSE: It is essential that all consultation is transparent and that if recommendations are not adopted by the Management of the IEDR clear explanations of why not provided. The process should follow the same procedure as this current process, publication of objectives, request for and publication of feedback, formal response to feedback and finally agree and implement decision.

Q.6 Do you agree that the Registry should continue to adopt the managed approach to .ie domain name registrations? If not, please provide your arguments and proposals for an alternative approach.

RESPONSE: Yes. However abuses such as bebo.ie and adidas.ie have shown that the current practices of the IEDR need attention. It is relatively easy to comply with the IEDR evidence of claim requirements despite the ultimate registration being a flagrant breach of a well known copyrighted domain. In the case of high profile trade marks sanity checks by the IEDR against a trade mark registry could prevent such bad faith registrations.

Q.7 Do you agree that deep discounting of its own retail charges by the Registry to the point where it becomes a perceived competitor to its Reseller community is incompatible with the obligations of a ccTLD and should be prevented?

RESPONSE: Yes, the IEDR is directly competing with Resellers whom the Registry claims are its channel to market.

Q.8 Do you agree that the principle of "non-competition" is maintained as long as the wholesale price of a registration remains significantly lower than the published retail price?

RESPONSE: No, the published retail price of the IEDR effectively sets the retail level for the .ie domain thereby effectively setting the Reseller's retail price. The IEDR's price to the public should be at a premium to the average prevailing retail price. In the UK Nominet charges approximately £5 to resellers and approximately £80 direct to the public.

Q.9 Do you agree that the registrar of last resort is a prudent and necessary function?

RESPONSE: Yes.

Q.10 Do you agree that consumers should have the choice to register .ie domain names directly with the Registry?

RESPONSE: No, this places the IEDR in direct competition with its Resellers and causes confusion in the market place on the part of the public. The Registry are in direct competition for .ie business with their Accredited Resellers and account for one of the largest market shares in .ie's sold to the public. The IEDR has a high profile through its internally funded PR activities and the sale of .ie's directly to the public benefits from this activity.

Q.11 Do you agree that the price of registering a .ie domain name seems reasonable, proportionate and competitive and therefore market intervention by ComReg is not currently necessary?

RESPONSE: Yes, the wholesale level is reaching a point where it is reasonable taking into account the amount of work involved for the Reseller in registering a .ie domain.

Q.17 Do you wish to comment on any other relevant issues which may bear on ComReg's approach to regulation in this area? If so, please discuss these issues.

RESPONSE: The IEDR has no signed legal Resellers Agreement in place with Resellers along the lines of a Registry/Registrar model common at other registries. In the past the lack of a formal signed legal agreement has led to financially insolvent Resellers being on the IEDR's highly prized Accredited Table A Resellers list whereby registrations from the public are channelled to these companies. There is no monitoring by the IEDR of the financial health or customer service reliability of any Reseller.

13 Paul Jakma Submission

Q.1 and Q.2:

The background information provided and the wording of the questions themselves (e.g. referring to 'corrective action' and shortcomings) suggests there may be some significant technical and procedural problems within IEDR. However, as the paper indicates, ComReg has no plans to release further details on these matters.

I would suggest that if ComReg desires to receive any useful feedback on Q1 and Q2, other than from "insiders", ComReg needs to release more information on the problems, if not the bulk of the reports which the paper says will be withheld. E.g. how can respondent answer Q2, on appropriate time-scale for corrective action, if respondents may not know the extent of any of the problems?

Q3:

Seems to be a discretionary matter for ComReg. I would note that the ie. domain requires binding oversight, rather than discretionary advice..

Q4: No opinion.

Q5:

No opinion, except to note that IEDR has in the past carried out public consultation on policy changes, only to ignore the received responses and that as a result it may be difficult to staff the proposed PAC with people of good standing in the general Irish internet/domain community.

Q6:

The 'managed' model is a recipe for stagnancy in the ie. domain. At a minimum, there should be an unmanaged sub-domain in ie., however more preferable would be to provide a clearly-branded, managed sub-domain (e.g. mark.ie., or whatever). It should be noted that DRPs can apply as well to unmanaged domains as to managed.

However, this is a question on which ComReg appears already to have settled itself on an answer, given the several explicit statements favouring the benefits of "managed".

Q7: Yes, I agree.

Q8: No, I do not agree.

It is impossible to say there is "noncompetition" when IEDR do in fact sell domains, and have a privileged position in that market.

Q9:

I disagree. There is no need for such.

If there were a need, it would be indicative of a market failure and it would be the *market failure* which IEDR would most urgently need to address. The smooth operation of the ccTLD and the registration market around it being IEDRs prime concern, there is nothing that direct-registration can achieve except to distract IEDR from that important goal.

Again, why does IEDR so favour keeping direct-registration? What proportion of revenue does it bring? From their 2006 Annual Report, they state there were 5283 direct registrations, or 8% of all registrations. This equates to approximately Â£343,000 of revenue, which would be 14% of their report turnover for 2006. Clearly, it is reasonable suggest that IEDR have a not insubstantial financial interest in retaining direct registrations.

Q10: No. I think Irish consumers should have a competitive market offering registration service. The ccTLD manager offering same services is detrimental to such competition.

Q11: No opinion, except to note that ie. domains cost twice as much or more as other domains.

Q12, Q13: No opinion

Q14: Establishing escrow policies and implementing them would be a pointless expenditure of energy, in my opinion. The risks mentioned can all be addressed through technical means within the IEDR. All that is required therefore is:

a) To ensure that these technical processes are implemented to guarantee the longevity of ie. registration data, and access to it (by any acting appropriately on behalf of the state).

b) To ensure the longevity of IEDR as an organisation.

Both of these can be ensured through effective, non-discretionary oversight.

As the paper itself states, the ramifications of IEDR failing to the extent the state would need to boot-strap the ie. ccTLD from data held in escrow, would be severe. Indeed, one presumes that IEDR would never be allowed to fail and that the state would instead intervene to keep it running, in some worst-case (I presume legislation exists to provide the state with the means to do so).

In other words, as it is not only inconceivable that IEDR would fail, but the state should have the means to prevent any failure. Therefore, escrow is pointless.

Energy should be expended on oversight!

Q15: Agreed

Q16: Agreed. However, systemic failures may require far-reaching changes.

14 WhoisIreland.ie Submission

Q1 Response:

Yes.

Q2 Response:

No. The proposed 12 month timeframe is too long. A six month timeframe would be better.

Q3 Response:

Without seeing these key recommendations, it is difficult to give a yes or no response. Asking people to agree to recommendations that they have not seen is illogical and goes against the ethos of transparency - something that is essential for public confidence.

A clear, public, examination of the constitution of the board of IEDR is essential. There has to be industry and stakeholder representation on the board of IEDR. A term limit of 2 years should be applied to representative board members. Intellectual Property expertise is clearly essential for any modern registry and there should be a board member with this particular expertise.

At least one member of the board of IEDR should be elected by a vote of the registrants of .ie domains. One member of the board should be elected by vote of the .ie resellers. Comreg should also have one member on the board of IEDR.

The .ie ccTLD is a national resource. Membership of the board of IEDR should reflect this importance and industry expertise should be a factor in the selection of board members.

Q4 Response:

Yes. The PAC should represent the stakeholders in .ie ccTLD and PAC recommendations should be binding on IEDR.

The reason why the PAC decisions should be binding on IEDR is simply because the current board of IEDR is populated by people who are not recognised for their expertise in the Irish domain and hosting industry. This lack of industry expertise is a major liability for a registry and has to be addressed. Ideally this issue would be resolved as part of the corporate governance recommendations (Question 3) mentioned in section 5.2 of the 08/48 consultation paper.

An electoral model for the PAC based on .ie registrants, .ie resellers and the Irish internet community would probably be acceptable. The vote would be based on ownership of a .ie domain and each person would have only one vote regardless of how many domains they own. The .ie resellers would by their nature be the most important aspect of the PAC as they deal with .ie registrations on an ongoing basis. A discussion mailing list or web

forum should be established to determine how to create the PAC. After establishment of the PAC, the mailing list/web forum would become the primary discussion medium for the PAC. Quarterly physical meetings of the PAC could be held when necessary and any .ie domain owner could attend these meetings.

The remit of the PAC should be limited to .ie policies. The operation of the .ie ccTLD should be addressed via the board of IEDR - this is why it is important to have stakeholder and industry expertise on the board of the registry. The PAC and the board have to work together to ensure the smooth functioning of .ie ccTLD.

This new model would be more democratic, more representative, and would have the confidence of the industry and the Irish internet community. It would ensure a greater sense of ownership of .ie ccTLD. This greater cooperation would bring many more skills into play, specifically industry expertise, and would benefit the .ie ccTLD.

Q5 Response:

Yes. One similar to this one and one that publishes the submissions, discussions and decisions. It should be web or e-mail based.

Q6 Response:

Yes. The managed approach works. However it may be necessary to change the model in the future and introduce subdomains.

Q7 Response:

Yes. It is wrong to have the registry competing with its own resellers.

Q8 Response:

The principle of "non-competition" should be maintained by not having the registry compete with its resellers.

Q9 Response:

Yes.

Q10 Response:

Apart from the 'registrar of last resort' issue, no.

Q11 Response:

The price for .ie registrations needs to decrease. One of the main methods of proving entitlement for a .ie domain for an individual or business is a Registered Business Name (RBN) certificate. This can sometimes add an extra, hidden, charge to registering a .ie domain. A discount for a registration that involves specifically registering the domain name as an RBN may help increase the number of registrations.

There should be an annual review of the price of .ie registrations by ComReg.

Q12 Response:

Yes. One of the key issues in UDRPs is the cost. It deters smaller rights holders from pursuing the matter. Some preliminary resolution panel and procedure may make the DRP more accessible and more effective for rights owners.

Q13 Response:

Yes. It should do so with industry input. Where necessary, a rejected registration should have a formal legal opinion as to why it was rejected. A rules based rejection would require no such formal opinion. There should also be a right of appeal against the registry's decision. The appeal board should consist of .ie stakeholder representatives, registry board representatives and PAC representatives.

Q14 Response:

Yes.

Q15 Response:

Yes. However it may become necessary to do so within the next three years as .ie grows.

Q16 Response:

Yes. The registry should run the .ie ccTLD with minimal Comreg intervention.

Q17 Response:

Events like the Eubrowser.com fiasco, where a number of high profile trademarks and brands were cybersquatted, must not be allowed to reoccur. This involved a pattern of clearly abusive registrations of well known trademarks such as Buy and Sell, Google, Bebo, Adidas, Nike, the Irish Independent etc. The registry must have a process in place to stop this kind of activity immediately and deter such activities. The registry was apparently powerless to deal with this kind of cybersquatting activity as it exploited registration rules.

The registry should also have a list of words and or terms which are unacceptable for registration. The current situation leaves the registry with the task of deciding, in the first instance, what is acceptable as a .ie domain name.