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Clash of the kiwis as InternetNZ launches '.kiwi.nz'
New Zealand - Hogan Lovells International LLP

Domain names

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The New Zealand domain name registry, [InternetNZ](#), launched a new second-level domain on September 11 2012: '.kiwi.nz'. This extension has no restrictions and is available for registration by anyone, as are the main extensions of the '.nz' domain name space.

Currently, domain name registrations in the '.nz' domain name space are available only under extensions such as '.co.nz', '.net.nz' or '.org.nz', although the possibility of allowing registrations directly under '.nz' is currently being considered. The [New Zealand Domain Name Commission](#) has recently put forward a [consultation paper](#) on this subject and the closing date for submissions was September 27 2012.

Why '.kiwi.nz'? The kiwi, that bird endemic to New Zealand, is a national symbol of the country and, over the years, this term has come to designate New Zealanders. This is thus an opportunity for New Zealanders "to make [the term] 'kiwi' part of their online identity" within the '.nz' domain name space, as stated in the [application](#) for the new second-level domain submitted earlier this year.

The Domain Name Commission validated the creation of '.kiwi.nz' on the condition that the threshold of 500 domain name applications be met, which was the case. A statement published on the registry's website on September 11 2012 actually states that, in the first 15 minutes of the opening of '.kiwi.nz', over 1,000 domain names were registered. It also states that the launch of '.kiwi.nz' has pushed the number of '.nz' domain name registrations to over 500,000.

However, the announcement of the launch of '.kiwi.nz' has not pleased everybody. Tim Johnson, CEO of [Dot Kiwi Ltd](#), the company that has applied for the new generic top-level domain (gTLD) '.kiwi', claimed in a statement published on August 24 2012 that the creation of '.kiwi.nz' "is not in the best interest of Kiwis, internet users or, in fact, the internet in New Zealand", and that "there will now be widespread confusion with the '.kiwi.nz' domain and the well-advertised forthcoming launch of the '.kiwi' domain".

Despite Dot Kiwi's open opposition to the creation of '.kiwi.nz', which it expressed in various submissions to the Domain Name Commission when this matter was being discussed, the commission validated the application. One of the reasons was that, under its current policy, a new second-level domain can be created if, among other criteria, it "does not conflict with, duplicate or cause confusion about, any existing second-level domain".

The process in place to assess applications thus takes into account other second-level domains only, and not top-level domains; therefore the '.kiwi' new gTLD application submitted by Dot Kiwi to the [Internet Corporation for Assigned Names and Numbers](#) (ICANN) was not considered an obstacle to the creation of the '.kiwi.nz' extension (one can however wonder if the Domain Name Commission considered the potential risk of confusion between '.kiwi.nz' and the existing extension '.iwi.nz', intended for traditional Māori tribes, when assessing this new application).

Likewise, the creation of '.kiwi.nz' does not seem to enable InternetNZ to object to the '.kiwi' new gTLD application. The ICANN Applicant Guidebook states that TLD operators may file a string confusion objection against a new gTLD application if they can assert confusion between the proposed new gTLD and their own TLD - therefore, this does not seem to concern other second-level domains.

This is not the only conflict of interest that has arisen between TLD registries and new gTLD applicants. A few weeks ago the Thai domain name registry filed an objection with ICANN against the '.thai' new gTLD application submitted by a company called Better Living Management Company Limited. The Thai registry notably asserts that:

"the word 'Thai' is the transliteration of the word 'ไทย' which is [Thailand's] internationalised country-code top-level domain. The two strings in ASCII and in Thai sound exactly the same once read by any Thai-speaking person. This is definitely a serious phonetic string conflict causing confusion for the internet users."

Similarly, there have been rumours that the [Sint Maarten domain name registry](#), which operates '.sx' and has been surfing on the 'sexy' wave surrounding its TLD (its website presents '.sx' as "The hottest new TLD of 2012" and states that "Now everybody can get '.sx'"), had planned to file an objection against the two '.sex' new gTLD applications filed by [ICM Registry SX LLC](#) (which actually runs the adult-oriented TLD '.xxx' launched last year) and Internet Marketing Solutions Limited. The '.sx' registry has denied these rumours,

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but also stated that it had not yet taken any official position or decision regarding this.

In any event, as far as the 'Kiwi clash' is concerned, '.kiwi.nz' and '.kiwi' will have to co-exist on the web should the '.kiwi' application pass the ICANN new gTLD evaluation process. This should certainly give internet users greater choice when deciding how to register 'kiwi'-related domain names.

David Taylor and Laetitia Arrault, Hogan Lovells LLP, Paris

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