

Legal Regulation & Education: Doing the Right Thing?

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Taking Offence - Restricting Domain Name Registrations

To date, the focus of most legal discussion concerning Internet domain name registration has centred upon the issues of trademark infringement and passing off resulting from the open, first come first served system of registration commonly employed by registries. The limitations placed upon a registrant to choose a domain name is not limited at the point of registration but the right to use a particular name may be removed at a later stage if proven to be an abusive registration as defined under the various dispute resolution procedures used by the registries.

Some registries (such as .ie and .sg) limit the freedom of a registrant to have an open choice of names at the point of registration by applying a test of offensiveness. The parameters within which any threshold test for offensiveness operates is not always entirely clear.

The recent Macdonald Review of Nominet's Registration Policy [1] examined the feasibility of applying a similar level of control on the registration of .uk addresses. This paper will consider the implications of operating such restrictions on domain name registration and it will also analyse the findings of the Macdonald Review. It will draw upon the experience of those registries operating such a test and the functioning of a similar system limiting the use of business names under UK companies legislation.