

Introduction of .uk - Don't Do It!

(But if Nominet must do it, they should do it fairly)

If you, your company, your family, your friends, or anyone you know owns a .co.uk domain name, this document applies to YOU!

Existing domain registrants stand to lose from Nominet's current proposal to open up domain registrations directly under .uk.

You have been warned...

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Why the proposed release of .uk will damage the UK economy

- The internet is big business and matters to the UK economy (8.3% of GDP, highest of any G20 country)
- It's all based on domain names such as example.co.uk
- Most businesses use .co.uk and 93% of UK names are .co.uk
- Nominet now proposes the release of .uk, but not to the owners of .co.uk (e.g. the BBC would not automatically get BBC.uk)
- Nominet will give priority to trademark holders, who will have free rein to register .uk domains ahead of existing .co.uk domain owners
- Existing owners would have to prove their entitlement or buy their matching .uk name through an auction
- This will cause confusion and conflict, and the uncertainty is already damaging UK business
- The current status quo works extremely well, and the call for change is not being driven by businesses. It is driven by greed, not need
- If .uk names are to be released, this should be done fairly and in a way that gives priority to existing users
- Experience from abroad confirms that the current Nominet proposals will be widely seen as unfair and will create chaos. Legal action and demands for compensation will be encouraged by the proposal ignoring international precedent
- The additional direct costs to UK businesses will exceed £50 million per year, and associated adjustment costs could come to £billions
- Trust in the UK namespace will be permanently undermined by the release of .uk in its current form
- The new .uk domains will be introduced at a price 800% higher than existing .co.uk domain registrations, and will be seen as a new Internet stealth tax on businesses
- Nominet is driven by self-serving motives, and Government needs to intervene for the sake of the economy

Summary

The internet economy in the UK is the most advanced of any G20 nation. At 8.3% of UK GDP, it contributes £121 billion a year to the economy. This figure will double in the next 5 years. It is the fifth largest sector, ahead of education and healthcare.ⁱ

The bedrock of every internet business is its domain name, such as *Amazon.co.uk* or *Google.co.uk*. A domain name is a unique signpost that tells customers exactly where to find a business on the web, and lies at the heart of its online identity.

A key component of the success of the UK internet economy is the strength of .co.uk as an internationally recognised and trusted domain extension from which to do business.

Nominet is the organisation responsible for issuing, regulating and managing UK domain names (such as *example.co.uk*). This role is known as a domain registry (with parallels to the Land Registry, or the DVLA for car number plates).

Since the beginning of commercial internet development in the UK, the de-facto domain extension for businesses has always been .co.uk, and Nominet has actively supported this view [Appendix F].

However, Nominet are now proposing to introduce domain registrations directly under .uk (such as *example.uk*) with priority given to trademark holders and other interests ahead of existing .co.uk domain name owners.

Critical Importance of .co.uk to the Internet Economy

With over 10,000,000 domain registrationsⁱⁱ, the UK has the world's second largest ccTLD (country code top level domain) after Germany.

Nominet says this about .co.uk: "Since its peak in 2001, making up 93% of the uk registry, .co.uk has remained extremely stable during the last 12 years. Despite a small drop of 2% in 2004, as .org and .me have experienced growth, .co.uk clearly continues to be the preferred choice of SLDs. As .org and .me have gradually declined since 2007, .co.uk has grown steadily to re-establish this 2%, making up almost 93% of the register again in 2012."ⁱⁱⁱ

On Nominet's AGreatPlaceToBe.co.uk campaign website, they state: ".co.uk [is] the most popular choice of domain for business and enterprise in the UK. 4 in 5 people searching online in the UK prefer .co.uk websites."^{iv}

All 10 of the top selling car brands in the UK^v operate from .co.uk websites, as do 12 of the 13 largest newspapers^{vi}. 63 of the top 100 UK advertisers^{vii} are on .co.uk domains, and 142 of the top 250 brands in the UK^{viii} chose .co.uk domains for their websites.^{ix}

Over 3,000,000 businesses use .co.uk domains^x, and together these businesses spend billions of pounds a year branding .co.uk as a component of their online identities. Indeed, over 65% of all UK print and TV advertising includes a web address.^{xi} The evidence is all around: it is impossible to open a newspaper, turn on the TV or walk down the street without being exposed to web addresses that end in.co.uk. And every appearance of .co.uk strengthens the core .co.uk brand.^{xii}

This strength is demonstrated by the amounts firms have invested to secure their ideal domain name, from Cruises.co.uk (£560,000)^{xiii} to Phones.co.uk (£175,000), Software.co.uk (£150,000), Ink.co.uk (£130,000) and HorseRacing.co.uk (£100,000).^{xiv} Indeed, businesses recently spent £3,000,000 acquiring 1- and 2-letter domain names in an auction held by Nominet in late 2011^{xv}, with each .co.uk domain name costing them close to £5,000 on average^{xvi}.

These significant investments are clearly based on confidence in .co.uk as the leading extension for UK businesses, not on uncertainty.

Nominet's proposal to introduce .uk

Nominet are proposing to launch domain name registrations directly under .uk. This will mean that domain names such as *example.uk* will be available for the first time, and run alongside *example.co.uk*, *example.ltd.uk* etc.

However, instead of offering these new domains, which they describe as "specifically designed for businesses that are or want to get online"^{xvii} to existing .co.uk registrants, they propose to hand them directly to trademark holders.

After trademark holders have had their pick, any remaining domains will next be offered to the registrants of all matching domains at the third level (.co.uk, .org.uk, .me.uk, .ac.uk, .gov.uk etc.) with no regard for when these were first registered. This will mean expensive auctions for the right to register the corresponding .uk domain name in the case of competing claims.

Nominet's process for allocating .uk flies in the face of best practices that have been refined over the last 13 years by a dozen countries which have themselves successfully undertaken similar transitions, including Japan, China and Korea. (Appendix C)

All other countries (without exception) have acknowledged the right of existing domain owners to upgrade to the new commercial extension by according them a "sunrise period" in which to register domain names ahead of trademark holders. Competing claims were decided strictly on the basis of longevity (earliest domain registrant wins).

Nominet stands alone in seeking to deny UK businesses this right by painting ".uk" as a brand new extension, divorced from past associations. They describe it as: *a new and different service that would sit alongside the already known, respected and trusted options such as .co.uk, .org.uk and me.uk that will remain as an accessible, flexible and vibrant domain name spaces.*^{xviii}

This is like a car manufacturer taking a car, adding an electric sunroof and air conditioning, and then claiming that what they're selling is no longer a car, but a different type of vehicle altogether.

Nominet also draws parallels with the auction of 1- and 2-letter domain names held in Autumn 2011, and references the forthcoming launch of new global top-level domain names (GTLD) by ICANN.

Such comparisons are disingenuous and misleading.

Last year's auction and the forthcoming launch of new GTLD both represent cases of a vacuum being filled. There were no existing registrants to consider during the auction, because 1- and 2-letter domains had never previously been available for registration. Similarly, and by definition, the launch of a **new** GTLD implies that there are no existing domain names registered under it.

By contrast there are over 10,000,000 UK domain names already registered, held by millions of registrants. It is therefore impossible to consider .uk in isolation, without taking into account everything that has come previously.

However, Nominet appears intent on eroding the investment in .co.uk made by millions of UK businesses, and assisting in the expropriation of valuable web addresses.

The new .uk domains will be introduced at a price 800% higher than existing .co.uk domain registrations¹. Nominet justifies this 800% increase in base price by packaging each domain name with a suite of security and technical services that is certainly not being demanded, nor even likely to be understood, by its core market of SMEs.

This will result in direct additional costs to UK businesses in excess of £50,000,000 a year just to maintain the "status quo". This revenue will flow directly to Nominet (via their network of registrar partners) and represents more than twice Nominet's 2011 turnover. [Appendix A]

The indirect costs, in the form of loss of customer trust and confusion, rebranding costs, and other adjustment costs associated with a transition from .co.uk to .uk, will rapidly eclipse this figure, and represent a drag on the UK economy that could easily reach the £billions.

Companies will have no choice but to absorb these costs if they want to maintain an online presence on the "best" extension for doing business. They will be forced to

¹ Nominet's wholesale pricing for .co.uk, .ltd.uk and other existing domain extensions is £3.50/year or £2.50/year for registration periods of 2 years or longer. Their proposed pricing for the new .uk extension is approx. £20/year: *Exact pricing is yet to be determined though we believe the cost will be sub £20 per year wholesale to registrars. Registrars are free to set their own price in the market.* All figures quoted are ex VAT, and represent the amount Nominet receives from each registration. See page 19 of Nominet's consultation document for details: http://www.nominet.org.uk/sites/default/files/Nominet_FINAL_electronic_form3_0.pdf

protect their substantial investment in their existing .co.uk domains by acquiring the .uk version at any price.

It is also worth noting that because the proposal seeks to limit .uk to UK-based registrants, unlike .co.uk which is global, hundreds of thousands of non-UK registrants will automatically lose the right to the corresponding .uk domain name.

It is likely to destroy the trust in .co.uk that UK businesses have collectively fought so hard to establish. Consumers will be torn between the "old" .co.uk domains and the "new, more secure" .uk domain names. (Think washing powder adverts: the new formula always 'washes whiter' than the old, so who wants the old version after that?)

This erosion was clearly present in other countries following their own transitions, with weakening demand for the existing extension coupled with aggressive growth in the new. New extension registrations outpaced the old by up to 5 to 1. [Appendix E]

This proposal is not in the interest of the millions of existing domain name registrants, who have enjoyed a strong online identity under .co.uk, one which they had cause to be proud of until now. Nor will it benefit the internet economy.

The parties that stand to profit directly from it are Nominet, its executives, its partner registrars, and trademark holders sitting on trademarks for common English words and phrases such as "pizza", "pets", "chocolate" or "cheese". [Appendix E]

The best solution: maintain the status quo

Why change a system that not only is not broken, but is very obviously thriving, and that serves the needs of existing internet business owners so well?

At best, existing domain owners may end up with a matching .uk domain, and will be confronted by two (significantly increased) renewal fees each year. At worst, they stand to lose out on their .uk domain name, with the likelihood of two competing businesses ending up with near-identical identities. Which would you trust, Bank.co.uk or Bank.uk? What if one was owned by Barclays and the other by an unknown entity? What if one was owned by Barclays and the other by HSBC?

The costs of introducing .uk will be enormous, the uncertainty surrounding the process is already hampering business development, and the confusion it will generate is guaranteed to harm consumer interests.

It is therefore obvious that the current status quo represents the best outcome for the largest number of stakeholders, though the registrars that control most of Nominet's votes would likely disagree since they would lose an opportunity to sell expensive new domains to existing clients [Appendix B]

Should the right decision be taken to preserve the status quo, it must be taken in a way that permanently dispels the cloud of uncertainty hovering over the industry.

We're experiencing the consequences of not doing so right now, since Nominet's current proposal mirrors in many ways the ".UK - Revisited" proposal^{xix} written by Stephen Dyer and put before Nominet's Policy Advisory Board (PAB) in January 2005. The 11 member PAB rejected it unanimously at the time with a Resolution that "*In the light of strong consensus among stakeholders, the PAB unanimously resolved to recommend that no changes are made with respect to opening up registrations at the second level within '.uk'.*"^{xx}

Despite that unanimous decision to preserve the status quo, taken when less than half as many domain names were registered, and when the internet economy was just a fraction of its current size, we find ourselves confronting the issue again today.

The "least-worst compromise": an equitable allocation of .uk domain names

Should Nominet remain steadfast in their desire to provide domain registrations under .uk in the face of the evidence against it, then they should at a minimum adopt the tried and tested precedents established by other countries in their own transitions.

These lessons from past successes have been condensed into a "Proposal for the Equitable Allocation of .uk Domain Names" (which appears below this section, along with a Glossary) which safeguards the interests of existing domain registrants while not favouring any particular third-level domain extension. After all, are the rights of a company (.co.uk) any more important than those of a non-profit organisation (.org.uk) or an educational establishment (.ac.uk)?

This revised proposal enshrines the strict "First come, first served" principle that has been at the heart of Nominet's domain registration service by carrying it through from third level domains to the second level.

It would put UK businesses first by prioritising their trademark claims, gives trademark holders with equal rights a fair chance at obtaining the relevant .uk at auction, and provides interested parties with a mechanism (Landrush) that would also give them a fair chance at the domain names of interest to them.

In Conclusion

I urge Nominet to take this revised proposal on board, and consider adopting it - or a close variant of it - as the basis of their .uk allocation process. I also urge them to bring proposed .uk pricing in line with .co.uk registration fees, and to decouple the more esoteric security and technical services from the base domain name registration.

If you agree with the views in this document, or have concerns of your own, you can participate in Nominet's consultation process by visiting <http://www.nominet.org.uk/news/latest/consultation-new-uk-domain-name-service>, or contact Nominet directly by visiting <http://www.nominet.org.uk/who-we-are/contact-us>

Proposal for the Equitable Allocation of .uk Domain Names

NOTES: A glossary of terms appears at the end of this proposal. Domain names would be allocated to successful applicants at the conclusion of each phase. Unallocated domains remain available to applicants in later phases.

Phase 1: Domain Owner Sunrise (60-90 Days)

Existing domain owners under any .uk 3LD can request the exact equivalent 2LD domain (e.g. [domain].co.uk -> [domain].uk).

Multiple applications from parties with identical strings (e.g. from owners of *example.co.uk* and *example.org.uk* domains) resolved in favour of the owner of the earliest domain name registration, unless a matching trademark is owned by one or more parties. Multiple applications, each with a matching domain/trademark pair, resolved in favour of the owner of the earliest domain name registration.

In other words:

- (domain + trademark) vs (domain + trademark) = oldest domain wins
- (domain + trademark) vs (domain) = trademark holder wins
- (domain) vs (domain) = oldest domain wins

Fees: Domains issued under Phase 1 would be available to existing registrants at registration rates comparable to existing 3LD. Trademark holders would pay an additional "filing fee" (to be set on a cost-recovery basis) to cover the administrative processes associated with verifying the applicability of their trademark documentation.

Other considerations: A cutoff date should be established for the validity of domain names and trademarks under this proposal (for example 3 months prior to the start of Nominet's initial consultation on .uk). Domains registered after the cutoff date should be ineligible. The cutoff date for .me.uk domain names should be 25 October 2004, since the extension has been reserved exclusively for natural persons since that date.

Phase 2: Trademark Sunrise (120 days)

This phase would be divided into two parts, with successful applicants granted their .uk domain names at the conclusion of each part.

1. Trademark Sunrise A (30 day application period + 30 day auction)
Holders of UK trademarks can request the 2LD that exactly matches the text of their trademark. Multiple applications for the same 2LD (from entities holding identical trademarks in different trademark classes) to be resolved by auction.
2. Trademark Sunrise B (30 day application period + 30 day auction)
Holders of global trademarks with national applicability can request the 2LD that exactly matches the text of their trademark. Multiple applications for the same 2LD (from entities holding identical trademarks in different trademark classes) resolved by auction.

Fees: Trademark holders to pay a "filing fee" (to be set on a cost-recovery basis) to cover the administrative processes associated with verifying their claims. Unopposed applications to result in domains issued at regular registration rates. In the case of valid applications from multiple parties, domains to be issued at the final price achieved at auction (this is a one-time cost; all .uk domains will renew at regular rates in future)

Other considerations: Cutoff dates should be established for the validity of trademarks under this proposal (for example 3 months prior to the start of Nominet's initial consultation on .uk)

Phase 3: Landrush (60 day application period + 30 day auctions)

Any entity can express an interest in registering a .uk 2LD. Applications are batched, so first come first served does not apply during this period.

Unopposed registration requests are automatically granted at the end of Landrush. Competing applications resolved by auction.

Fees: Applicants to pay a "landrush fee" (to be set on a cost recovery basis) for participation in this phase. This fee would go into a pool to offset the running of the auction process. Unopposed applications to result in domains issued at regular registration rates. In the case of valid applications from multiple parties, domains to be issued at the final price achieved at auction (this is a one-time cost; all .uk domains will renew at regular rates in future)

Phase 4: General Availability (indefinite)

First come first served availability of .uk at standard registration fees.

KEY BENEFITS

- Adheres to the precedents established by other countries in their 3LD to 2LD transitions
- Protects the interests of existing domain registrants while not favouring any particular 3LD (are the rights of a company more important than those of a non-profit or an educational establishment?)
- Enshrines the core "first come, first served" principle of domain name registration by carrying it through from 3LD to 2LD
- Puts UK businesses first by prioritising their trademark claims.
- Gives trademark holders with equally valid claims (same trademark, different classes) fair chance at obtaining matching 2LD at auction.
- Multiple interested parties have fair chance at obtaining 2LD (Landrush)
- Maximises the revenue that can legitimately accrue to Nominet and the Nominet Trust while minimising the impact on businesses from additional registration fees.

GLOSSARY OF TERMS

2LD - second level domain name

A domain name registered directly under the top extension for the country (in the UK's case, under .uk) An example of a 2LD for the UK market would be *example.uk*

3LD - third level domain name

A domain name registered under a sub-domain of the top level country code domain for a particular country. Examples of 3LD for the UK market would be *example.co.uk* or *example.org.uk*

cctld - country code top level domain

The top level extension in a national domain name system. The UK's is .uk, France's is .fr, Germany's is .de etc. A full list of all cctld can be found at http://en.wikipedia.org/wiki/Country_code_top-level_domain

Domain registrar

Any company authorised to sell domain name registration services on behalf of the domain registry.

Domain registry

Organisation tasked with issuing and maintaining domain names under the top level domains for which it is responsible, and for maintaining the domain name registry (the database of all domains registered within a top level domain). It controls domain allocation policy.

General availability

The point at which domain names become available to register on a first come, first served basis. Occurs after the sunrise period, and the landrush period, if any.

Landrush period

A set timeframe (generally occurring after the sunrise period) during which domain name registrations are collated, and multiple applications resolved, frequently by resorting to an auction (highest bidder wins the domain name)

Sunrise period

A set timeframe during which certain rights holders (e.g. existing domain registrants, trademark holders, etc.) are given preferential access to new 2LD ahead of general availability. This sunrise period can sometimes be broken into phases to accommodate different classes of rights holders. In every 3LD to 2LD transition to date, existing domain owners had priority when multiple rights holder classes were established.

Appendix A: Projected Effect of .uk Launch on Nominet Revenue

To project the likely effect of the launch of .uk on Nominet's finances, we need to account for their current financial situation and the likely initial pattern of registrations (based on historic data from the launch of 2LD in other countries). [Appendix E]

NOTE: Nominet has consistently maintained during the 2002-2011 period that their primary business is domain registrations and renewals.

Year Ending	Turnover	Year on Year Growth
30 September 2011	£23,473,000*	9%
30 September 2010	£21,503,000	9%
30 September 2009	£19,798,000	9%
30 September 2008	£18,171,000	19%
30 September 2007	£15,275,000	7%
30 September 2006	£14,309,000	13%
30 September 2005	£12,621,000	19%
30 September 2004	£10,592,469	15%
30 September 2003	£9,192,287	0%
30 September 2002	£9,232,224	NA
TOTAL	£154,166,980	

*excludes one-off auction revenue from 1/2-letter auctions

DATA SOURCE: Nominet Annual Reports^{xxi}

.uk Launch Assumptions (Conservative Model)

A) There will be an initial increase of 25% in the total number of domain names registered in the UK immediately following the launch of .uk. This is commensurate with the increases seen in domain markets in other countries post 2LD launch [Appendix E] and does not factor in the more advanced internet economy in the UK, which is likely to drive uptake higher.

B) The wholesale registration cost for new .uk domains will be £20+VAT/year, as per Nominet's proposal. This is 800% of the current wholesale registration costs for other UK domains (.co.uk, .org.uk etc.) which has been pegged at £2.50+VAT/year for 2-year registrations.

C) There are 10,000,000 domains currently registered under subdomains of .uk (this figure was passed in March 2012).

D) All domain names are sold directly, without auctions. In practice, there will be many auctions under the launch structure proposed by Nominet. Nominet saw a one-off windfall of £3,000,000 from its auction of just 2,831 one and two letter domain names in 2011^{xxii}.

From these assumptions, it is estimated that the launch of .uk will deliver an immediate boost to Nominet's bottom line of £50,000,000², or 213% of Nominet's 2011 annual revenue. This would be in addition to Nominet's regular revenue from the 10,000,000 domains already registered.

² 10,000,000 x 25% x £20

Appendix B: Top 12 Nominet Member Voting Rights

Nominet counts over 2,800 members. Its membership is entitled to vote based on the number of domain name registrations *maintained* by each member.

In other words, voting rights do not accrue to the domain owners themselves, but to the domain name registration services through which those owners registered their domain names.

A real-world parallel might be giving house builders a vote for each house they build, while disenfranchising owners and tenants.

With just over 10,000,000 domains registered (i.e. 10,000,000 votes on offer) this means that the largest member controls over 20% of the vote (their CEO, Thomas Vollrath, sits on Nominet's board as a non-executive director^{xxiii}). Together, the 12 largest members control more than 65% of all votes³.

Organisation	Votes	Business Lines
Webfusion Ltd	2,105,943	Domain name registration, web hosting
1&1 Internet AG	1,922,221	Domain name registration, web hosting
Key-Systems Gmbh	397,702	Domain name registration, web hosting
Register.com Inc	286,879	Domain name registration, web hosting
Namesco Ltd	284,452	Domain name registration, web hosting
Yell Limited	240,528	Local business information
NetBenefit Ltd	240,468	Domain name registration, web hosting
Tucows Inc	222,337	Domain name registration
Iomart Hosting Ltd	211,760	Domain name registration, web hosting
UK2 Limited	206,558	Domain name registration, web hosting
eNom	198,671	Domain name registration, web hosting
LCN.com Ltd	196,375	Domain name registration, web hosting
TOTAL	6,513,894	

These voting rights were calculated on 20 March 2012 in advance of the 2012 AGM, and were audited by Popularis Ltd, Nominet's elections scrutineer.^{xxiv}

³ The Nominet Voting Rights policy controls how weighted voting rights are determined for members of the company. It includes a series of formula for determining these rights, and caps of 3% or 10% voting rights per member apply depending on the circumstances of the vote. For full details, see http://www.nominet.org.uk/sites/default/files/58367_votingrightspolicy17052012_0.pdf

Appendix C: 2LD Roll-outs in Other Countries

No exact comparison to Nominet's proposed .uk rollout is available because of the unprecedented scale of the UK's existing domain name market and the size of its internet economy. Nevertheless, all previous 2LD rollouts feature certain similarities, most notably **the protection of the rights of existing domain name holders**.

In each instance, domain owners had precedence over trademark holders. This is vital since trademarks are regularly granted for common descriptive terms [Appendix E].

Additionally, no requirement on the use of the 3LD at the time of the transition was imposed by any country. By contrast, Nominet is proposing to restrict sunrise rights to the owners of 3LD that have been in active use.

SUMMARY

Country	Extension	1st Priority	2nd Priority	3rd Priority	4th Priority	Conflict Resolution
South Korea	.kr	Some government agencies	3LD owners	Korean entities	Anyone	Earliest domain registrant
China	.cn	.com.cn owners	Anyone	--	--	Not applicable
Japan	.jp	.co.jp owners	Trademark holders	Anyone	--	Not applicable
Malaysia	.my	3LD owners	Anyone	--	--	Earliest domain registrant
Colombia	.co	3LD owners	Colombian trademark holders	Global trademark holders	Landrush, followed by anyone	Earliest domain registrant
Mexico	.mx	3LD owners	Anyone	--	--	Earliest domain registrant
Saudi Arabia	.sa	.gov.sa owners	Other 3LD owners	Anyone	--	Earliest domain registrant
Uruguay	.uy	3LD owners	Anyone	--	--	Govt institutions then earliest domain registrant
Guatemala	.gt	3LD owners	Anyone	--	--	Earliest domain registrant
Philippines	.ph	.com.ph owners	Anyone	--	--	Not applicable
Uganda	.ug	.co.ug owners	Anyone	--	--	Not applicable
Peru	.pt	3LD owners	Anyone	--	--	Earliest domain registrant
UK	.uk	Trademark holders	Owners of 3LD in "active use"	Landrush auctions	UK entities	Auctions in each phase between competing claims

NOTES:

1. Unlike the UK, most European countries began with 2LD domains by default so have never needed to consider this issue. Nominet inherited a pre-existing domain structure in 1996 when it replaced the Naming Committee as manager of the UK's rapidly developing domain namespace.^{xxv}
2. Australia has considered and rejected a rollout of registrations directly under .au on a number of occasions, most recently in 2010 and 2007. The 2010 Names Policy Panel noted that "People thought the current 2LD hierarchy is well-known and understood, and introducing direct registrations would cause unnecessary confusion for little public benefit."^{xxvi}
3. Most national domain registry operators explicitly called this process a "migration" or "transition" from their existing systems. In contrast, Nominet are seeking to position .uk as a brand new extension.

DETAIL OF EACH COUNTRY'S 2LD TRANSITION

KOREA (.kr) ^{xxvii}

Timeframe: 2006-2007

Domain allocation process

1. Designated Korean governmental agencies (18 September 2006-11 November 2006)
2. Domain owner sunrise: registrants of any 3LD .kr registered prior to 31 March 2006 could apply for matching 2LD .kr domain. If multiple applications were received from multiple 3LD owners with competing claims, preference was given to those with an identical trademark as well. Ties were broken by allocating the new 2LD .kr domain name to the earliest domain name registrant among competing claims. (21 November 2006-22 January 2007)
3. Local presence sunrise: Korean entities given the opportunity to register under .kr ahead of general availability (28 March 2007-18 April 2007)
4. General availability, first come first served

CHINA (.cn) ^{xxviii}^{xxix}

Timeframe: 2003

Domain allocation process

1. Domain owner sunrise: sunrise for owners of .com.cn domains registered prior to 6 December 2002 to claim the matching .cn domain name. (6 January 2003)
2. General availability, first come first served (17 March 2003)

JAPAN (.jp) ^{xxx}

Timeframe: 2000-2001

Domain allocation process

1. Domain owner sunrise: sunrise for owners of .co.jp domains registered before 31 March 2000 to claim the matching .jp domain name (10 October 2000)
2. Sunrise for holders of trademarks identical to the proposed 2LD
3. General availability, first come first served (25 March 2001)

MALAYSIA (.my) ^{xxxix xxxii}

Timeframe: 2007-2008

Domain allocation process

1. Domain owner sunrise: sunrise for owners of any 3LD domain name registered before 26 October 2007. In the case of applications from multiple competing claimants each holding domains with identical strings, the owner of the earliest registered 3LD had priority. (1 November 2007-31 December 2007)
2. General availability, first come first served (25 March 2008)

COLOMBIA (.co) ^{xxxiii}

Timeframe: 2010

Domain allocation process

1. Domain owner sunrise: automatic "grandfathering" of oldest 3LD by issuing an auth code to the registrant contact for that domain name, granting an initial 1-year registration under the .co 2LD.
2. Trademark sunrise A: owners of Colombian trademarks could claim the identical 2LD (1 April 2010-20 April 2010)
3. Trademark sunrise B: global trademark owners holding trademarks of national effect could claim the identical 2LD (26 April 2010-10 June 2010)
4. Landrush: applications collected during this period, with competing claims triggering an auction for that domain name (21 June 2010-16 July 2010)
5. General availability, first come first served

MEXICO (.mx) ^{xxxiv xxxv}

Timeframe: 2009

Domain allocation process

1. Domain owner sunrise: any .com.mx, .net.mx, .org.mx, .edu.mx, .gob.mx domain owners can apply for identical string under .mx. Multiple competing applications decided in favour of oldest domain registration. (1 May 2009-31 July 2009)
2. Quiet period for processing applications and resolving issues (1 August 2009-31 August 2009)
3. General availability, first come first served

SAUDI ARABIA (.sa) ^{xxxvi}

Timeframe: 2011

Domain allocation process

1. Domain owner sunrise: existing 3LD owners with domain registrations preceding cutoff date of 6 December 2010 could apply for matching .sa 2LD. In case of multiple applications, priority given to .gov.sa applicants, then to the applicant with the oldest domain name (10 January 2011-7 March 2011)
2. General availability, first come first served (2 May 2011)

URUGUAY (.uy) ^{xxxvii xxxviii}

Timeframe: 2012

Domain allocation process

1. Domain owner sunrise: eligible 3LD domain owners given 1 year of equivalent 2LD domain registration free of charge. If no string conflicts, existing 3LD registrant automatically granted equivalent 2LD. If matching claims were received, then precedence given to Government institutions, followed by that of the oldest registered domain (10 July 2012)
2. General availability, first come first served

GUATEMALA (.gt)^{xxxix}

Timeframe: 2012

Domain allocation process

1. Domain owner sunrise: 3LD domain owners could apply for the equivalent 2LD domain name directly under .gt. Competing claims resolved based on oldest domain registration. (5 March 2012-28 May 2012)
2. General availability, first come first served

PHILIPPINES (.ph)^{xi}

Timeframe: 1999

Domain allocation process

1. Domain owner sunrise: owners of .com.ph domains given 45 days to register the equivalent .ph domain
2. General availability, first come first served

UGANDA (.ug)^{xii}

Timeframe: 2004

Domain allocation process

1. Domain owner sunrise: two year period during which owners of a .co.ug domain name will be able to register the equivalent domain name directly under .ug (started 1 August 2004)
2. General availability, first come first served (in parallel with domain owner sunrise, since all 2LD that have corresponding 3LD were automatically marked as "reserved")

PERU (.pe)^{xiii}

Timeframe: 2007

Domain allocation process

1. Domain owner sunrise: priority period during which 3LD owners could register the corresponding 2LD. Multiple applications handled by granting the domain name to the registrant with the oldest 3LD
2. General availability, first come first served (20 December 2007)

Appendix D: Domain Names and Trademarks

As anyone with a passing familiarity with trademark law knows, just about every common English expression has already been trademarked by somebody, somewhere. For example, the words "law", "car", "food", "home", "television", "shoes", "bank", "domain", "name", "cooking", "gas", "milk" and "fashion" all have one or more live trademarks.^{xliii} Even the word "trademark" has itself been trademarked - 16 times over.

Despite this, Nominet's proposed .uk roll-out prioritises trademark holders ahead of existing domain name owners, regardless of circumstances. In other words, the simple act of owning a trademark is enough to put you first in line for the corresponding .uk domain name.

This is diametrically opposite to the approach taken by all other countries during their own 2LD transitions. **In every previous case, domain name owners were granted a sunrise period to secure the 2LD domain name matching their 3LD ahead of trademark holders.** [Appendix C]

There is already an excellent tool available to trademark holders to defend their brands: the Dispute Resolution Process (or DRS). Widely praised for its accessibility and effectiveness, this provides trademark holders with a simple, relatively cheap way to pursue any intellectual property claims they feel they have against domain owners, first through a guided mediation process and then through the judgement of a panel of experts.

As DRS case law has pointed out on numerous occasions, the holding of a trademark is not an automatic silver bullet to claim a particular domain name, if the expression in the trademark itself is generic. However, Nominet's proposal ignores these findings in favour of a blunt "trademark owners go first" system.

It is the owners of descriptive domain names who stand to be instantly penalised by Nominet's proposal. From FTSE100 companies to small businesses and individuals, they had the foresight to secure the most valuable .co.uk domains, often investing substantially in order to do so.

However, trademarks cannot be registered in the class to which a word or phrase applies descriptively, so until now the issue of trademarks has been totally irrelevant to the owners of these types of domain name.

In each of the examples below, the domain registrant does not hold a corresponding trademark and would therefore automatically forfeit their right to a matching .uk domain under Nominet's current proposal.

It would be easy (though wrong) to claim this is because these domain owners have somehow failed to take advantage of the trademark system. In fact, the opposite is true: they are using the trademark system for *exactly* the purpose it's meant to be used, to

protect their *brands*. Generic words used in their generic sense do not constitute brands, and therefore cannot be trademarked.

Even companies with extensive portfolios of trademarks have explicitly ignored generic expressions. For example, Barclays hold 421 trademarks, but no trademark for "bank". Kellogg have 85 trademarks, but no trademark for "breakfast". The Co-Operative Group has 39 trademarks, but no trademark for "pharmacy". ITV chose to protect "citv" (a brand) but not "cinema" (a generic word).

Domain Name	Registrant	Number of Live Trademarks
air.co.uk	TagNames Limited	50
antivirus.co.uk	Trend Micro UK Limited	1
art.co.uk	Art.com, Inc.	52
avionics.co.uk	Avionicare Ltd	1
bank.co.uk	Barclays Bank Plc	5
banks.co.uk	Bruce Banks Sails Ltd	7
beer.co.uk	Mr D V Phillips	1
books.co.uk	Global Domain Names Limited	1
breakfast.co.uk	Kellogg Marketing and Sales Company (UK) Limited	2
camping.co.uk	Sports Plc	2
caravan.co.uk	The Caravan Club Limited	15
cashmere.co.uk	Scotweb Marketing Ltd	11
charity.co.uk	St. Martins Finance Limited	2
cheese.co.uk	The Cheese Company Limited	2
chocolate.co.uk	Duncan Garnsworthy	3
cinema.co.uk	ITV Consumer Limited	4
class.co.uk	Class Publishing Ltd	12
consultant.co.uk	Focus Digital Limited	2
cook.co.uk	Cook (UK) Ltd	2
cooking.co.uk	Dayline Enterprises Limited	1
cruises.co.uk	Victoria Travel Services Limited	1
dating.co.uk	Freeway APS	1
diamonds.co.uk	Michel Einhorn t/a Cool Diamonds	4
dog.co.uk	Andre Schneider	3
domain.co.uk	Sedo GmbH	1
education.co.uk	The Education Company Limited	5
electricity.co.uk	Paul Walsh and Steve Walsh	1
ferry.co.uk	P&O Ferries Limited	2
food.co.uk	Lawrence Frewin	7
garden.co.uk	City Heights Ltd	10
gas.co.uk	Centrica Plc	14
glass.co.uk	Glass's Information Services Limited	7
grapes.co.uk	Chris Jenkins	1
guide.co.uk	Paul McGroary	18
guitar.co.uk	Merchant City Music Ltd	2

health.co.uk	Discovery Health Nutritional Systems Limited	3
heaven.co.uk	Jason Crouch	15
home.co.uk	Ben Horton	27
house.co.uk	British Gas Trading Limited	5
industry.co.uk	David Townsend	5
invest.co.uk	Carl Moss	3
jelly.co.uk	Another.com Ltd	2
job.co.uk	The Hotgroup Plc	9
jobs.co.uk	C.R.S. Web Limited	2
john.co.uk	John Henry Cook	6
kettle.co.uk	Kettle Produce Ltd	11
knowledge.co.uk	knowledge.co.uk	5
law.co.uk	PSINet UK Limited	3
lawn.co.uk	Michael Seaton	2
lawyer.co.uk	Napthens LLP	2
light.co.uk	ETP Ltd	11
loan.co.uk	Total Company Solutions Ltd	1
loans.co.uk	MBNA Europe Bank Limited	1
london.co.uk	W B P Data Ltd	14
londontaxi.co.uk	Sean Ruttledge	2
love.co.uk	Steven Terence Jackson	56
magazine.co.uk	Magazine.co.uk Ltd	1
maps.co.uk	Maps Ltd	5
marzipan.co.uk	Memorable Domains Ltd	2
milk.co.uk	The Dairy Council	9
mobile.co.uk	Tessoro Media Ltd	9
mobiles.co.uk	Mobiles.co.uk Ltd	1
models.co.uk	Net Direct Ltd	1
money.co.uk	Dot Zinc Limited	8
mortgage.co.uk	Anu Gupta and Phil Meredith	1
name.co.uk	Twentytwenty Media Ltd	5
names.co.uk	Namesco Limited	1
news.co.uk	NI Group Limited	7
newspaper.co.uk	Telegraph Media Group Limited	1
pashmina.co.uk	Pure Collection Ltd	8
pets.co.uk	Mars Petcare UK	5
pharmacy.co.uk	The Co-Operative Group	5
piano.co.uk	Kevin Ward t/a Piano Creative Services	5
pizza.co.uk	Gribhold BV	4
poetry.co.uk	Psychic Media Ltd	3
power.co.uk	Power Promotion Limited	46
presentations.co.uk	Smart Presentations Limited	1
pub.co.uk	Bunning and Price Ltd	2
puzzle.co.uk	JKF Trust	9
reading.co.uk	Gary Grandin	3
reason.co.uk	Robert John Reason	6
romance.co.uk	Successful Internet Limited	11
roses.co.uk	R Harkness & Co Ltd	11

scam.co.uk	Chris Poxon	5
school.co.uk	Chris Jones	1
sex.co.uk	Gregory Dumas	3
sheep.co.uk	Bee Internet Ltd	2
shoes.co.uk	Pigley Stairs Ltd	1
silver.co.uk	Silver Productions (London) Limited	17
socks.co.uk	James Colin Brown	2
software.co.uk	Software.com Holdings Pty Limited	3
stockmarket.co.uk	Network Technologies & Associates Ltd	1
stop.co.uk	Select Office Furniture Ltd	18
sugar.co.uk	Mr Denys Ostashko	13
takeaways.co.uk	Competitive Advantage UK Limited	4
television.co.uk	Mahesh Mark Kotecha	1
toast.co.uk	Toast (Mail Order) Limited	12
tv.co.uk	Energis Communications Ltd	17
umbrella.co.uk	Arctic Solutions Limited	4
wellbeing.co.uk	Jelf Group Plc	7

Note: the list above was capped at 100 for brevity, and is merely meant to be representative of the tens of thousands of similar cases.

Appendix E: Impact of Second Tier Domain Launches

Country	2LD Sunrise Period	Old Extension	New Extension	
China	6 Jan 2003 - 17 Mar 2003	.com.cn	.cn	
Japan	March 2001	.co.jp	.jp	
Mexico	1 May - 31 July, 2009	.com.mx	.mx	
Malaysia	1 Nov 2007 - 31 Dec 2007	.com.my	.my	
South Korea	21 Nov - 22 Jan 2007	.co.kr	.kr	
Uruguay	10 June 2012	.com.uy	.uy	
Country	Size of Commercial Registry at 2LD Launch	New Extension Registrations During Sunrise Period	Size of Commercial Registry Post-Launch	Growth in Commercial Registry Due to 2LD Launch
China	145,719	95,531	241,250	39.6%
Japan	204,485	52,217	256,702	20.3%
Mexico	275,580	51,505	327,085	15.7%
Malaysia	54,007	6,427	60,434	10.6%
South Korea	537,870	224,766	762,636	29.5%
Uruguay	34,894	33,929	68,823	49.3%
Country	New Extension Penetration at Launch (% of all Commercial Registrations)	Current New Extension Penetration	Current Old Extension Registrations	Current New Extension Registrations
China	39.6%	79.6%	1,101,774	4,309,560
Japan	20.3%	71.5%	354,056	887,377
Mexico	15.7%	29.2%	404,112	166,372
Malaysia	10.6%	43.8%	109,766	85,467
South Korea	29.5%	27.8%	641,911	247,100
Uruguay	49.3%	49.8%	35,974	35,704
Country	Current Total Size of Commercial Registry	Growth in Old Extension since launch of New Extension	Growth in New Extension since launch	Data Current as of
China	5,411,334	956,055	4,309,560	30-Sep-12
Japan	1,241,433	149,571	887,377	01-Oct-12
Mexico	570,484	128,532	166,372	30-Sep-12
Malaysia	195,233	55,759	85,467	20-Oct-12
South Korea	889,011	104,041	247,100	30-Sep-12
Uruguay	71,678	1,080	35,704	01-Sep-12
NOTE				
South Korea is a special case because a Hangul IDN top level domain is also available				
SOURCES OF DATA				
China	http://www1.cnnic.cn/IS/CNym/CNymtjxxcx/			
Japan	http://jprs.co.jp/en/stat/domains.html			
Mexico	http://www.registry.mx/jsf/domain_statistics/monthly/info.jsf			
Malaysia	http://mynic.my/en/statistics.php			
South Korea	http://isis.kisa.or.kr/eng/sub01/index.jsp?pageld=010100			
Uruguay	http://www.nic.org.uy/Registrar/estadist/index.htm			

Appendix F: Statements from Nominet about .co.uk

NOTES

- Lesley Cowley, OBE, MBA, has been Nominet's Chief Executive since 2002^{xliv}
- Phil Kingsland has been Nominet's Director of Marketing and Communications since 2006
- AGreatPlaceToBe.co.uk is a campaign website set up by Nominet to encourage more registrations under .uk
- KnowTheNet.org.uk is an educational website set up by Nominet to teach individuals and small businesses about all aspects of the web

".co.uk [is] the most popular choice of domain for business and enterprise in the UK. 4 in 5 people searching online in the UK prefer .co.uk websites."^{xlv} AGreatPlaceToBe.co.uk, 2012

"The .uk top level domain is separated into several second level domains. It's best to register a domain name that relates to the kind of site yours is. These include:

- co.uk for commercial enterprises
- org.uk for non-commercial organisations
- me.uk for personal domains
- .ltd.uk and .plc.uk for registered company names only
- .net.uk for Internet Service Providers
- .sch.uk for schools.

The most popular Second Level Domain within the UK is .co.uk, which accounts for 91% of registrations. Like all other .uk addresses, it's managed by the .uk registry, Nominet."^{xlvi} KnowTheNet.org.uk, 2012

"British internet users appreciate the value of .co.uk domain names. When searching for information online, 72% will choose a .uk address ahead of a .com address, whether it's actually based in the UK or not. A .co.uk domain name says the information available on the website is local, relevant and most of all trusted. This shows the importance of a local internet presence for UK businesses and for anyone wanting to do business with UK consumers."^{xlvii} KnowTheNet.org.uk, 2012

"Companies based in the UK usually register a domain name ending in .co.uk. Recent research carried out earlier this year by Ciao Surveys, suggests that British Internet users are 77% more likely to choose a .uk rather than a .com address when looking for information via an Internet search engine."^{xlviii} Phil Kingsland, 4 December 2009

"We focused our stakeholder communications on raising the profile of .uk domain names by running PR and advertising campaigns to promote the value of a .co.uk domain name and the importance of renewing names through our sales channel of registrars."^{xlix} Lesley Cowley (2008 Nominet Annual Report)

"We are pleased to see that the .uk registry is growing year on year. This, coupled with the high level of consumer trust in .uk emphasises the value of businesses having a .co.uk domain name. It has become a key element of a UK-based company's brand identity."^l Phil Kingsland, 2 September 2008

"News that a company has recently paid a record £560,000 for the domain name cruises.co.uk indicates that the secondary market for .uk domain names is still strong.

Cruise.co.uk decided to pay the large sum to a German travel company for the plural version of the domain name in order to improve their chances of being the first port of call for web users searching for cruise holidays.

What's interesting is that being the registrant of cruise.co.uk, the purchaser has a clear idea of the potential value of the domain name to their business. They were therefore in a good position to determine what was a fair price as opposed to speculating about potential future revenues."^{li} Phil Kingsland, 8 February 2008

"If you're a local business in the UK .co.uk will be appropriate for you. If you're a global body then you tend to find that global companies will try to find a .com."^{lii} Phil Kingsland, 5 February 2008

"The majority of UK businesses recognise the strength of the .co.uk domain not only from a brand protection, but also from a trusted brand perspective. What is even more encouraging to us is that preference for .co.uk is stronger with the younger respondents, showing that the new generation of marketers and their companies value .co.uk above other domains."^{liii} Lesley Cowley, 29 October 2007

"With six million domain names now registered and a large percentage of these linked to e-commerce, it's easy to see the importance of a .co.uk domain name to a business."^{liiv} Lesley Cowley, 6 July 2007

"For millions of businesses, their domain name is mission critical, from their website to the email addresses it supports."^{liv} Lesley Cowley, 1 May 2012

About the Author (and Declaration of Interests)

This document was written by Edwin Hayward.

I am a director and co-owner of 2 UK Ltd companies that stand to be directly impacted by Nominet's proposal, Memorable Domains Ltd and Maps Ltd.

My involvement in the domain name industry started in 1996 when I established the world's first dedicated domain name news and information website, iGoldrush.com. I sold this website to its current owner in 2000, but I have remained active in the industry ever since.

I have presented on panels at a number of domain conferences, most notably the MeetDomainers show^{lvi} held in Manchester in August 2010, and the TRAFFIC ccTLD conference^{lvii} held in Amsterdam in June 2009. I have also exhibited at Internet World in 2008 and 2009.

On occasion, I have featured in the media on domain name issues, going back to news reports by CNET.com in 1997^{lviii lix}, and I am referenced in "The Domain Name Game", a book by David Kesmodel.



Memorable Domains Ltd is a domain investment company that maintains a portfolio of over 7,000 generic, descriptive .co.uk domains (names such as MapleSyrup.co.uk, SearchEngine.co.uk, Comedies.co.uk and ElectricBicycles.co.uk).

More information: <http://www.memorabledomains.co.uk/>



Maps Ltd is focused on developing local area guides (business / tourist directories for towns and cities across the UK). Developed sites include Maps.co.uk, Cambridge.co.uk, BuryStEdmunds.co.uk, Newmarket.co.uk, Stowmarket.co.uk and others. It maintains a portfolio of over 70 geo domains for future development, including Blackpool.co.uk, Lancaster.co.uk, Kendal.co.uk, Map.co.uk and Britain.co.uk.

More information: <http://www.maps.ltd.uk/>

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