

Proposed .au Dispute Resolution Policy (auDRP) and Rules

Response by Momentous Australia to auDA Dispute Resolution Working Group Public Consultation Report of May 2001

Proposed .au Dispute Resolution Policy (auDRP) and Rules

Whilst Momentous Australia commends the Working Group for a robust auDRP system, it is imperative that any UDRP works in complete tandem with both the Competition Policy and the Names Policy.

We commend a proposal which:

- emphasises transparency, consistency and ease of access^{3/4}essential for industry and community support of the enhanced domain administration regime described by the Names Policy and Competition Policy panels
- recognises Australia is an integral part of the global information economy, in which it is neither desirable nor feasible to develop an idiosyncratic regime for addressing disagreements about domain administration.
- underpins internet connectivity for Australian businesses, individuals and organisations.

The thrust of the Working Group's recommendations about policy and rules is endorsed.

Use of the ICANN Uniform Dispute Resolution Policy (UDRP) model addresses the needs of auDA as market regulator, market participants, investors, the wider community and parties such as the Federal Government.

The proposed Policy and Rules will be affected by the outcomes of current proposals from the Name Policy Panel and the Competition Policy Panel. Comment on specific features of the proposed auDRP will be made as the work of those Panels proceeds.

In the interim, we note four issues.

Flexibility The UDRP is evolving. The Policy and Rules will need to keep pace with developments that flow, for example, from the World Intellectual Property Organization's interim report regarding The Recognition of Rights & the Use of Names in the Internet Domain Name System.

Commitment Separate submissions from Momentous Australia have emphasised that the auDRP is an integral part of introduction of competition for the provision of services within the au domain space.

Establishment of the auDRP must be a priority in auDA's planning for implementation of recommendations by the two panels. It is essential to promote awareness of, and thus commitment to, the auDRP prior to the commencement of competition. That promotion must be a responsibility of auDA, of service providers, of any industry bodies and of third parties such as the National Office for the Information Economy and the Australian Competition & Consumer Commission.

Industry Code Proposals in the Names Policy panel May 2001 report regarding 2LDs have implications for the auDRP and rules. The Working Group has necessarily not addressed those implications in detail.

Development of an effective dispute resolution and regulatory regime must encompass disagreement between competing domain registration (and registry) services. Given the emphasis on transparency it is desirable that auDA articulate a policy framework that is broader than disputes between registrars and registrants. The reference in the Competition Policy panel's May report to the industry code for ICANN accredited registrars is a welcome step in that direction.

Significance Discussion regarding domain dispute resolution mechanisms is sometimes characterised as driven by or only of concern to intellectual property specialists. In a 'connected' society a domain address will often be as important as a telephone or fax number. Effective dispute resolution, along with opportunities for acquiring domain names, are thus of real importance. That should be borne in mind when studying the auDRP and its relationship to other proposals under consideration by auDA.

Momentous Australia

Momentous Australia is owned by an Ottawa-based internet services group that operates in Canada and intends to participate in the Australian market.

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