

Clarification from the Policy Review Panel

12 June 2018

The Panel has received questions regarding the minutes of the Policy Review Panel meeting of 1 May 2018 that referred to Domain Monetisation.

Background

To understand the Domain Monetisation aspects of the current policies, it is important to understand one of the key policy principles that underpins the .au domain. The .au domain is not, and never has been, a free-for-all “open slather” space like .com. It has always been the case that the registrant of a .au domain name must demonstrate their eligibility or entitlement to the domain name.

The Domain Monetisation Policy allows people to register domain names for monetisation purposes under the close and substantial connection rule.

For further background, see “Domain Monetisation Policy explained”, auDA Blog, 13 May 2011.

Under current Policy 2012-04, a registrant may not register a domain name for the sole purpose of resale or transfer to another entity.

As stated in current Policy 2012-05:

- Domain monetisation is not to be used as a cover for cybersquatting or other misleading or fraudulent activity.
- It is not acceptable for registrants to use the close and substantial connection rule (and this includes the domain monetisation limb of the close and substantial connection rule) to engage in domain speculation or warehousing.
- The current rule is not intended as a “free for all”.

Panel’s Current Views

The Panel has been considering the Eligibility and Allocation Rules for .com.au and .net.au. The Panel has sought public consultation on this issue, and has considered the information provided to the Panel to date.

The Panel’s current view is that the current policy concerning Domain Monetisation (Policy 2012-04, Schedule C, paragraph 3; Policy 2012-05, section 11) will not be included in the

new suite of policies that the Panel will recommend to the Board. The Panel also intends to recommend revisions to the close and substantial connection rule. The Panel is still working on the close and substantial connection rule.

One reason for the Panel's view in respect of Domain Monetisation is that the Panel received a lot of feedback and information from the public that Domain Monetisation is largely detrimental to the name space. Feedback, including from sophisticated businesses, domain brokers and portfolio owners, was one could register almost any domain name under the Domain Monetisation rule, and that the current rules were unclear, and that domain names were being registered under the cover of Monetisation primarily for the purposes of resale or warehousing (which is contrary to the current policy).

The Panel notes that Domain Monetisation is the only policy that specifies a particular use for a domain name. No other policy does this.

Because the current rules are outdated, inconsistent and unclear, it is difficult to enforce the current rules that prevent the registration of domain names for domain speculation and warehousing.

The Panel's current view is that Domain Monetisation will not be banned, but of itself will not be a basis to meet the allocation criteria.

At the Panel meeting on 8 June 2018, the Panel considered grandfathering issues. The Panel appreciates that changes to the allocation criteria for .com.au and .net.au domains will affect some existing domain name licensees. The Panel's current view is to recommend that any new eligibility and allocation rules should apply on the next renewal of a domain name license. This will give domain name licensees who meet the current rules, but who will not meet any new rules, time to deal with the non-compliance.

Further public consultation is sought by and will be considered by the Panel on these issues.