

.au Domain Administration Ltd

Proposed Membership and Governance Model

24 August 2018

LONG-TERM MEMBERSHIP AND GOVERNANCE MODEL

Introduction

Following the public release of the Review of the .au Domain Administration on the 18th of April, 2018, the board of auDA established the Consultation Model Working Group (CMWG) to develop a model of consultation with auDA members and stakeholders in response to the Review's recommendations.

Additionally, auDA wrote to the Minister for Communications and the Arts, Senator The Hon. Mitch Fifield, on the 17th of May 2018 outlining our Implementation Plan in response to the Government's recommendations. Explicit in the Plan was the consultation that auDA would conduct, through the CMWG, to seek member and stakeholder feedback on the recommendations, and to inform the development of a new governance and membership model.

Following two public forums, significant online discussion and debate from the CMWG, the following membership and governance model has been adopted by the Board of auDA and is recommended to the Department for consideration.

Whilst this is a variation of recommendation 10 in the Review, auDA strongly believes that this model will best equip the organisation to deliver stability in order to effectively administer the .au namespace and implement all of the recommendations in the Review.

The proposed model has been considered by the CMWG and is supported by a majority of its members. A description of the model is as follows.

Membership

Following a maximum three-year transitional period, auDA will have a single membership class, open to any applicant who has a demonstrable link to Australia. This link will be satisfied if a member is eligible to register an open or closed existing Second Level Domain (**2LD**). This will require most members to either operate an Australian business or be a permanent resident of Australia (subject to appropriate exceptions, e.g. for .gov.au and .edu.au registrations).^{1, 2}

auDA will offer complimentary membership for holders of .au 2LDs and increase marketing of membership to non-registrant stakeholders. This approach, which is similar to the model of the Canadian Internet Registration Authority (**CIRA**), will broaden the membership base to give a greater voice to all Australians who rely on or benefit from a strong .au domain space.

A campaign to contact all .au registrants to inform them of auDA and to promote the benefits of membership will be developed and implemented. This will also include promotional activities with other technology and communications focussed member organisations to inform their members of auDA membership. These activities will meet the expectations of recommendations 11 through 13 in the Review.

¹ Full details of eligibility criteria are published on the auDA website at <https://www.auda.org.au/policies/index-of-published-policies/2012/2012-04/>.

² CMWG minutes and consultation conversation trackers <https://www.auda.org.au/about-auda/membership/consultation-model-working-group/>

Board

The Board will consist of 4 "Elected Directors" (who have been reviewed against the Board's skills matrix, and approved, by the Nominations Committee) elected by the members of auDA, and 6 "Independent Directors" appointed by the Nominations Committee. The CEO will not be a member of the Board.

The Nominations Committee will be responsible for appointing all Independent Directors and approving nominated Elected Directors to stand for election. The Committee will consult with the Board and will appoint or approve Directors in accordance with a Board Skills Matrix, developed by the Committee in consultation with the Board. Members will be able to put forward names of potential Elected Director candidates to the Nominations Committee.

The Nominations Committee will initially consist of those persons appointed by the Board on the recommendation of DoCA, initially comprising the auDA Board chair (as chair of the Committee) and one representative from each of industry, the business sector, consumers, auDA members and government. Following this, the Board will be responsible for reviewing the makeup, performance and operation of the Committee and will have the power to appoint or remove Committee Members subject to DoCA's oversight.

This board composition and nomination process will ensure that the auDA Board effectively represents stakeholders and possesses the skills, experience and background to make decisions in the best interests of the broader Australian internet community.

Stakeholder and member engagement

Stakeholders (both members and other interested parties) will be encouraged to participate in auDA policy through Advisory Committees. Initially, there will be at least two Standing Advisory Committees established in the auDA constitution – the General Advisory Standing Committee and the Technical Advisory Standing Committee – who will meet at least four times per year and advise the auDA Board on matters of policy, technical requirements and administration of the .au namespace. The Board will also from time to time constitute other Committees and Working Groups to advise on specific matters including but not limited to security standards, contractual terms and marketing initiatives.

Advisory Committees will be supported by dedicated administrative resources provided by auDA and the periodic reports and recommendations from the Committees will be considered by the Board at appropriate intervals. Each Committee will have its own Terms of Reference.

Oversight of auDA and the performance of its Board

auDA will report annually on the Board's performance against the Board Charter and the organisation's performance against a KPI framework, transparency and accountability framework, membership diversification initiatives and stakeholder engagement strategy.³

auDA will also report quarterly to DoCA on its implementation of reforms, work agenda and key work priorities. DoCA will independently verify some or all of auDA's reporting and will provide a senior executive officer to sit as a non-voting observer at Board meetings.⁴

There will be a formal process for members to raise concerns regarding the performance of a Director, which will be considered by the Nominations Committee. If the Nominations Committee considers that the Director's conduct is such that the Director should no longer continue as a Director of auDA, the Nominations Committee can either refuse to appoint or nominate the Director for re-appointment or re-election at the end of his or her term or, if necessary, through a Governing Member, propose a meeting of the company to pass a resolution to remove that Director.

³ Recommendations 6, 8, 9, 12 and 19 of the DoCA Report.

⁴ Recommendation 16 of the DoCA Report.

TRANSITIONAL MEMBERSHIP MODEL

Background

It has been recognised that auDA has faced significant instability over the past two years. The existing model under which a small group of members can requisition general meetings calling for the removal of Directors, has been a substantial factor in this instability. If it is not immediately addressed, this ongoing instability will detract from auDA's ability to properly carry out its role as the policy authority and industry self-regulatory body for the .au domain space. This is because of the impact on auDA's ability to attract and retain high quality directors and the time spent by the Board and the organisation responding to the requests of a small minority of vocal members. Stability is critical to auDA and a transition period is necessary to ensure that stability.

Broadening auDA's membership base will reduce the factors that contribute to this instability by increasing the number of members who must support requisitioning a general meeting before such a meeting must be called under the Corporations Act. Recognising that diversification of the membership will take some time, a three-year transitional membership model has been proposed, which will split members into a closed group of "Governing Members" and an open group of "Associate Members".

Except as summarised below, the transitional membership arrangements will not affect auDA's governance structures. Arrangements described above with respect to member eligibility and diversification strategies, Board composition, stakeholder and member engagement and oversight will apply to both transitional and long-term arrangements.

Transitional membership arrangements

	Governing Members	Associate Members
Eligibility	Members of the Nominations Committee	Existing members who meet the "eligibility criteria" and other members admitted by the Board who meet the eligibility criteria
Status	Members of the company	Non-members with limited rights under the constitution
Voting rights	Full rights to vote at general meetings, including on appointment or removal of directors and changes to the constitution	Right to vote on election of "Elected Directors" who have been approved by the Nominations Committee Will not have the right to call general meetings or vote to remove directors
Guarantee Liability	Liable to pay a guarantee amount in the event auDA is wound up	Not required to give a guarantee

Moving from the transitional membership model to the long-term membership model

Three years after the constitution has been adopted, or when a threshold of Associate Members has reached 15,000, Associate Members that provide their consent to the company will convert to Governing Members.

auDA will contact each Associate Member shortly prior to the third anniversary of the changes to the Constitution to obtain this consent.

If prior to the third anniversary, the number of Associate Members of auDA has grown to a level that sufficiently reduces the risk of instability described above, it would be open to the Governing Members to amend the constitution to fast-track the transition to the long-term model.

IMPLEMENTATION

The key features of the membership and governance model described above relating to membership, board composition, Director election, nominations committee and advisory committee concepts must be reflected in auDA's constitution. auDA currently intends to recommend to its members the approval of a new constitution at a General Meeting to be held on 27 September 2018. Approval will require a 75% majority of those present and voting of each class of current auDA members (supply members and demand members).