

2015 NAMES POLICY PANEL

DRAFT RECOMMENDATIONS, AUGUST 2015

Executive summary

The administrator of the .au domain space, .au Domain Administration Ltd (auDA), has established a Panel of stakeholders to review the major Australian domain name policies, and this document contains the draft recommendations of the Panel. Anyone may make submissions or comments on the draft recommendations.

The main recommendation is that, in principle, Australians should be able to register domain names directly under .au (eg. myname.au). This has never been possible before – all domain names are registered under second level domains (2LDs) for specific purposes (eg. myname.com.au for commercial entities). The proposed change would leave the existing 2LDs in place, and also add the option of registering directly for any Australian entity or individual.

Those registering directly would need to be eligible to register a domain under the existing 2LD rules, and if necessary provide evidence of eligibility; and the existing rules would also apply to the kind of name that could be registered – the name must be an exact match, abbreviation or acronym of the registrant's name or trade mark, or there must be a close and substantial connection between the registrant and the domain name.

Why has the Panel recommended this change? The main reason is that direct registrations would create names which are shorter, more appealing and more memorable. They would make the domain name system simpler and easier to use. Moreover, the proposed change would open a wide range of new choices for registrants, and would provide a better option, especially for some groups; in particular, the Panel thinks that the biggest benefit will be for individuals, who would be able to obtain an Australian domain name in a simple and straightforward way.

The case against this change argues that many of the new registrations would simply be additional versions of the same name, for defensive reasons, and that the main value added would be revenue for the domain name industry. It is suggested that the change would be confusing for users, disrupting the logical hierarchy of names in the Australian DNS.

The Panel also proposes some other changes:

- the domain name licence period should be from 1-5 years (currently it is two years)
- the policy relating to business names should be updated, to reflect the national business names registration system that came into effect in 2012
- the policy prohibiting misspellings should be retained, but there should be more flexibility in the way it is enforced.

Importantly, the recommendations set out in this paper are in draft form. They are not set in stone, and the Panel will take into account the comments it receives through this consultation process, before finalising its recommendations to the auDA Board.

How to submit your comments

There are two ways in which you can comment on the Panel's draft recommendations.

1. Send a written submission to:

Jo Lim, Chief Operations and Policy Officer, auDA
email: jo.lim@auda.org.au
fax: 03 8341 4112

All submissions will be posted on the auDA website unless clearly marked confidential.

The closing date for submissions is **Wednesday 30 September 2015**.

2. Complete the online survey at <https://www.surveymonkey.com/r/WKZZLPV>

Collected survey responses will be posted on the auDA website at the close of the public consultation period.

The survey will close at **midnight on Wednesday 30 September 2015**.

Background

In December 2014 the auDA Board established the 2015 Names Policy Panel to:

- review the policy framework underlying the allocation and use of domain names in the .au domain space; and
- provide recommendations to the auDA Board.

Full text of the Panel's Terms of Reference, a list of Panel members and minutes of Panel meetings to date, are available on the auDA website at <http://www.auda.org.au/policies/panels-and-committees/2015-names-policy-panel/>.

The Panel is required to undertake at least two rounds of public consultation, to ensure that its recommendations to the auDA Board have been properly canvassed with, and informed by, key stakeholders and the general community.

In May 2015, the Panel released an Issues Paper for public comment. The Panel received 25 written submissions from individuals and organisations, and 193 complete or partially complete online survey responses. These are published on the auDA website at <http://www.auda.org.au/policies/panels-and-committees/2015-names-policy-panel/>. The outcomes of this first round public consultation have been detailed under each of the issues in this paper.

Following this second and final phase of consultation, the Panel will provide its final report to the auDA Board by the end of 2015.

Structure of the Australian Domain Name System (DNS)

The .au domain space is organised into a number of different second level domains (2LDs) which each have a particular purpose:

2LD	Purpose
asn.au	For Australian non-profit organisations, associations, clubs and special interest groups
com.au	For Australian commercial entities and traders
csiro.au*	For the Commonwealth Scientific and Industrial Research Organisation (CSIRO)
edu.au*	For Australian educational entities
id.au	For Australian individuals
gov.au*	For Australian government departments and agencies
net.au	For Australian commercial entities and traders
org.au	For Australian non-profit organisations, associations, clubs and special interest groups
act.au, qld.au, nsw.au, nt.au, sa.au, tas.au, vic.au, wa.au*	For Australian local community groups. Only Australian place names may be registered – eg. ballarat.vic.au and wollongong.nsw.au

*These 2LDs are excluded from the Panel's Terms of Reference.

In addition to specific eligibility criteria which apply in each 2LD, there are a number of general policy rules which apply to all .au domain names, including:

- 'first come, first served' – ie. no hierarchy of rights, or recognition of prior rights
- registrants must be Australian or registered to trade in Australia
- fixed two year domain name licence period
- registration for the sole purpose of resale is not permitted.

Fundamentals of the Australian DNS

As explained in its earlier Issues Paper, the Panel continues to believe that there are some elements which are fundamental to the Australian DNS, and that any proposed changes to the Australian DNS should seek to preserve and even enhance these elements. Chief amongst these are that the .au space is for Australians – ie. individuals and entities who are not Australian (or not registered to trade in Australia) are not permitted to register a .au domain name.

The Panel is aware that the .au domain has a strong local and international reputation as a comparatively well-regulated and trusted space. The Panel's overriding concern is to ensure that any changes will facilitate the continued growth and development of the .au domain, but not at the expense of its perceived value.

Draft recommendations

1. Direct registrations under .au

Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?

Current situation

It has never been possible for people to register a domain name directly under .au (eg. myname.au). The .au 2LD hierarchy was created in the 1990s by the first administrator of the .au domain, Robert Elz, who adopted some generic Top Level Domain (gTLD) names – com.au, org.au, net.au, edu.au, gov.au – and added some uniquely Australian names – asn.au, id.au. Elz also determined that each 2LD should be for a different purpose – eg. com.au for commercial entities, org.au for charities, edu.au for educational entities and so on.

Public consultation outcomes

The Panel's Issues Paper invited general comments on the headline question of whether or not .au should be opened up to direct registrations, as well as posing some supplementary questions:

- do new gTLDs pose a threat to the “.au brand”?
- is there evidence of any market demand for direct registrations?
- what types of registrants/users would benefit from direct registrations?
- what policy rules should apply to direct registrations?
- what issues would need to be taken into account as part of the implementation process?
- should .au follow the example of other ccTLDs like .uk and .nz?

On a yes/no count of submissions and survey responses, the results were 63% in favour of direct registrations and 37% against. However, it is worth noting that of the 63% in favour, 27% offered qualified support – ie. “yes, but only if ...” for example, com.au registrants are given priority rights to the matching .au name, or strict policy rules apply.

Responses to the other questions were more evenly split, with no clear consensus emerging on any of the specific issues raised.

Panel's proposal

On the basis of public comments and its own deliberations to date, the Panel believes in principle that direct registrations under .au (eg. myname.au) should be made available, alongside the existing 2LDs (eg. myname.com.au, myname.org.au and so on). Whilst this is the general consensus position of the Panel, it is important to note that a number of Panel members have raised varying degrees of concern about different issues, mostly related to implementation.

The Panel has considered a number of different ways in which a policy framework could support direct registrations, and is presently agreed on the following broad policy model:

Who would be eligible to register a name directly under .au?

The Panel strongly supports the notion that registrants of .au names must be Australian. The Panel recommends that only Australian citizens or residents, or other Australian entities should be eligible for a domain name at the second level.

What evidence would they need to provide?

The Panel agrees that the evidence which must be provided in order to establish eligibility for a domain name at the second level should be the same as that required for registration at the third level within the five open 2LDs:

- an entity would be required to provide an ABN, ACN, RBN, ARBN, or Australian trade mark number to prove that it is Australian or registered to trade in Australia; and
- an individual would be required to warrant that he or she is an Australian citizen or an Australian resident, with additional proof of identification to be supplied in the event that their eligibility is the subject of a complaint to auDA.

The Panel has considered whether simplified forms of evidence might be sufficient, such as an Australian postal address. However, it was felt that these would add relatively limited flexibility at the cost of a significant lessening of the reliability and trustworthiness of the Australian DNS.

What domain name would they be permitted to register?

The Panel agrees that the existing allocation rules applying to open 2LDs should also apply to direct registrations:

- exact match, abbreviation or acronym of the registrant's name or trade mark; or
- close and substantial connection between the registrant and the domain name.

The Panel's view is that these rules are largely understood and accepted among users, and if they are considered to be appropriate for other .au domain names then there is no good reason not to apply them to direct registrations.

Applying the same rules across all .au namespaces would also help to minimise confusion and inconsistencies among different groups of registrants, at least in the short term – the Panel notes that changing the rules in order to differentiate direct registrations from registrations within the open 2LDs, may be considered as part of a future policy review.

What other rules would apply?

The Panel believes that the existing rules relating to the reserved list and the prohibition on misspellings should apply to direct registrations, as well as other aspects of the .au policy framework such as the .au Dispute Resolution Policy (auDRP), WHOIS policy, registrant transfers and so on. As noted above, the Panel's intention is to maintain consistency across all .au namespaces, to help ease the transition to direct registrations.

Panel's rationale for proposal

The Panel notes that the Australian DNS, as it has evolved over the past 15 years, has built a strong domestic and international reputation for trust and integrity. Whilst .au has remained consistently popular with Australian users over time, the Panel believes that there is scope for further evolution and development of the namespace. Change can be introduced to remedy deficiencies, or to improve the operation of the system. The Panel's view is that the proposed changes are likely to improve the operation of the system for its three main user categories – the domain name industry, registrants of over three million .au domain names, and Internet users in Australia and beyond.

The Panel also considers that the proposal reflects in general terms the preponderance of comments received in response to the Issues Paper. Many respondents were supportive of direct registration provided that it would bring about results beneficial to themselves – for example, because it would mean they could register a name they had missed out on in com.au, or it would enable them to

extend the brand equity in their existing com.au name. In other words, most people's commitment to direct registration was conditional on the way in which it affected them personally. The Panel believes that by taking a relatively conservative approach to the policy framework, it is likely to gain the most acceptance among supporters of direct registrations.

The Panel has identified a number of reasons why it believes that direct registrations should be allowed:

1. Superiority of shorter names

The strongest rationale for opening the Australian DNS to permit registration of domain names directly under .au is that it would make available domain names which are shorter, more appealing, and more memorable.

Shorter names would potentially simplify the operation of the DNS for its ultimate users. The effects would flow through to other activities which would benefit from simplification, greater brevity and memorability – for example, email addressing, mobile devices, advertising and marketing.

Some evidence that shorter names are more attractive to registrants can be seen in .uk and .nz, both of which introduced direct registrations in mid-2014. Recent .nz statistics show that there is already a clear shift underway from 2LDs to direct .nz names¹. The same trend is visible in .uk, where total registrations under 2LDs have declined by approximately 65,000 since January 2015, while direct registrations have increased by approximately 130,000².

2. Wider choice and appeal to registrants, especially individuals

Opening up a new namespace within .au will give Australians more choice in deciding what domain name to register, or in some cases may give them a choice where there now is none.

The Panel believes that direct registrations would be more appealing to natural individuals, who are not well served by the current structure. AusRegistry research shows that while there has been an increase in the number of people registering different types of domain names for individual use, there has been a decrease in the number of id.au domain names being registered.

Making Australian citizens and residents eligible to register directly under .au with minimal evidentiary requirements (by warranty, backed up if challenged by standard proof of identity such as a passport or driving licence) will enable, and hopefully encourage, individuals to obtain a desirable Australian domain name in a simple and straightforward way.

3. Adding value for everyone

The Panel believes that opening up the Australian system will add value to all three main categories of users – vendors, registrants and ultimate users of the system.

The Panel is very aware that the existing system holds a great deal of value, with over three million registrations and a comparatively high per capita penetration rate of 130 domain names per 1000 inhabitants. It is important that any change to the system should generate new value, rather than adding trivially to existing value, or simply duplicating existing functionality, or cannibalising valuable

¹ .nz Domain Name Commission website at <http://dnc.org.nz/story/monthly-nz-statistics-domain-names-2ld-0?m=346>

² Nominet website at <http://www.nominet.uk/news/reports-statistics/2015-uk-register-statistics>

domain territory. The fact that change may be driven from the supply side does not mean that the change will not also be beneficial to people on the demand side of the industry.

A common argument is that expanding the number of available domain names, coupled with an implementation which will reserve new names for holders of matching names in the open 2LDs, amounts to rent-seeking on the part of the domain name industry. People who make this argument claim that the great majority of registrations at the second level will simply be defensive registrations on the part of existing registrants, leading to additional costs, administrative burden and inconvenience for those already in the system, and closing down naming options for new entrants.

It has also been argued that the newly-acquired direct registration is likely to be redirected to the registrant's existing website, meaning that the new namespace is unlikely to result in any new online content for users. There is some evidence from .nz and .uk to support this argument, however it is still too early to make a proper assessment of registration trends since those TLDs opened up at the second level. The Panel believes that it is important to take a long term view – for a larger entity, a change of domain identity is not a simple exercise, and will take time. It is also the case that a high proportion of Australian com.au names are relatively new (41% are in their first two-year registration cycle) and in reality the system is quite volatile; it is therefore considered to be unlikely that large numbers of new names at the second level would remain unused for long periods of times as domain name registrants sit on them defensively.

The Panel has discussed the possibility of introducing rules that aim to mitigate the risk of large numbers of defensive registrations, by requiring registrants to use a new domain at the second level or perhaps it might lapse after a specified period of time – a “use it or lose it” rule. However, the Panel foresees major enforcement problems with this idea, and considers that it would make the system much more complex and potentially more costly. The Panel also notes that currently about a third of Australian domain names do not resolve to nameservers (ie. are not being used for email or website purposes), which has not resulted in any discernible degradation of the system's utility overall.

4. The wider context

The Panel has considered a range of issues about the context in which our DNS is evolving. auDA Panels have a track record of recommending incremental policy changes as a response to emerging market trends and changes in user behaviour. Allowing direct registrations may be regarded as removing another obstacle to the natural evolution of the namespace, which will be decided by the market and consumer choice.

The Issues Paper asked whether people thought that the creation of hundreds of new gTLDs through the current ICANN process would have a major impact on the Australian system. The general response was that the proliferation of gTLDs is significant, but is not of itself a reason to introduce changes to .au. It was felt that the Australian system stands on its own merits, at least as far as Australian registrants and users are concerned.

The Panel has also taken into account whether the introduction of direct registrations would be confusing to users of the Australian DNS. The potential for widespread confusion is commonly raised as an argument against making changes, but the system has undergone various changes over the past 15 years without this being an insurmountable problem. There is an argument that there is already confusion among users between the different .au 2LDs and what they are supposed to represent. It has also been suggested that as more people get used to being able to register domain

names directly at the second level in an increasing number of ccTLDs and new gTLDs, over time it will become more confusing for users if the Australian namespace remains the “odd one out”.

The Panel has also looked at the effect of new and emerging technological developments on the future use and relevance of domain names. Website and email addressing in the context of the massive growth in mobile computing is another contextual issue, which highlights the desirability of having shorter names that are easier to type and display on mobile devices.

Issues for further consideration

In proposing the introduction of direct registrations, the Panel is highly cognisant that this is not a straightforward task and there are a number of potential issues which will need to be addressed. Some of these are raised below, along with the Panel’s views on how they might be addressed.

1. New 2LDs within .au

The current Australian system has provision for the creation of new 2LDs, subject to an approval process with defined criteria based on meeting user demand and the broader public interest. There have been few new 2LDs created, and the trend has been for the number of 2LDs to be reduced rather than increased.

However, the Panel believes that the existing provisions for the creation of new 2LDs remain relevant and useful, and that it should still be possible for new 2LDs to be created in future. For example, neither the courts nor Australia’s nine parliaments are logically (or ‘legally’) part of the gov.au 2LD, and there may be public benefit in having them reside within their own 2LD (eg. court.au and parliament.au). Indigenous nations are another group which do not easily sit within any of the existing 2LDs and might also benefit from having their own separate 2LDs, or a single 2LD (eg. nation.au). The Panel believes that there should be a process by which names can be reserved prior to the release of direct registrations, for potential future use as new 2LDs (with any such reservation being for a limited time only).

2. Potential de facto 2LDs

The Panel has given a lot of consideration to the problems which might arise should a registrant at the second level attempt to use their domain name as a new 2LD, comparable with the existing 2LDs. This might involve creating a private registry, invisible to the DNS as a whole and not subject to the provisions ensuring the stability, consumer safeguards and regulation of the current Australian DNS.

The Panel agrees that it is important for the policy rules to be drafted so as to prevent registrants from using their direct registration as a de facto 2LD. It suggests that auDA have reference to ICANN’s rules for new gTLDs which are aimed at prohibiting the creation of second level registries other than through the approved registry operator.

3. Bad faith registrations

Any change creates new opportunities for anti-consumer practices, and the potential for bad faith registrations to occur as a result of a move to direct registrations should be anticipated. As well as cybersquatting and trade mark infringement abuses, the Panel is concerned about the risk that direct registrations may be used to spoof well-known names, especially gov.au names.

The Panel believes that this is not a reason not to proceed with direct registrations, but that special measures may need to be adopted to mitigate the risk of bad faith uses, at least in the initial transition period. For example, the Panel notes the Uniform Rapid Suspension (URS) process

implemented by ICANN for new gTLDs. The Panel also suggests that the industry (registrars and resellers) might need to become more pro-active about monitoring and reporting abusive registrations.

4. *Domain monetisation*

Currently the registration of domain names for the purpose of domain monetisation is allowed within com.au and net.au but not in the other 2LDs – ie. it is assumed that because domain monetisation is a commercial practice, only names in the two commercial 2LDs should be allowed to be registered solely for monetisation purposes.

This raises a major issue for direct registrations. Should the domain monetisation rules be carried over on the assumption that most registrations would be for commercial use? Would allowing large numbers of names to be “tied up” by domainers undermine the purpose of making them available in the first place? Is it reasonable or even feasible to enforce a complete ban on an activity which has for many years been part of the DNS landscape, and of auDA policy?

The Panel has not yet reached a consensus view on this issue and would welcome comments from the public to help guide its recommendation in this area.

Implementation issues

The Terms of Reference of the Panel specifically exclude consideration of potential implementation mechanisms for direct registrations. However, the Panel is able to make comments and suggestions to the auDA Board regarding issues that should be considered as part of implementation, and possible methods which the Panel believes would be consistent with the views expressed so far.

- Recognition of existing registrants. The Panel notes that the majority of ccTLDs which have moved from a 2LD hierarchy to direct registrations have provided some form of recognition of existing registrants, usually in the form of a first right of refusal on the matching name. Panel members acknowledge that this approach would tend to conflict with the fundamental ‘no hierarchy of rights’ principle underpinning the .au domain space, however it is felt that not affording any prior rights to existing registrants would be considered to be unreasonable and unfair. The Panel notes that a large number of respondents to the Issues Paper argued or assumed that com.au registrants should have the right to the matching .au name; in line with the ‘no hierarchy of rights’ principle, the Panel does not agree that com.au should be given preference, and believes that all 2LDs should be regarded as equal.
- Recognition of trade mark rights. The implementation of new gTLDs includes a mandatory trade mark sunrise period, which allows trade mark owners to register domain names prior to general release. Observing the ‘no hierarchy of rights’ principle, as noted above, the Panel is not in favour of a trade mark sunrise period for .au names.
- WHOIS policy for direct registrations. Currently auDA policy does not permit registrants to use private or proxy registration services to prevent their name from being disclosed on WHOIS. One of the Panel’s stated reasons for recommending that direct registrations be allowed is to cater for individuals who are not well-served by the current 2LD hierarchy, and there is an expectation that perhaps the highest level of demand for direct registrations will come from individuals. Some Panel members have raised concerns that auDA’s current policy prohibiting the use of private registrations may deter individuals from taking up a direct registration, and therefore this policy should be reviewed as part of the implementation process.

- Registry operations. The .au 2LD registry operator is AusRegistry Pty Ltd, which holds a licence from auDA to provide registry services through to 30 June 2018. The Panel notes that auDA’s competition model for .au allows for registry services in different domain spaces to be provided by different registry operators – eg. there could be one registry operator for all the 2LDs, and another one for direct registrations. The Panel is aware that the selection of a registry operator for direct registrations will be a major aspect of implementation for auDA to determine.
- Pricing. As noted above, auDA will select the registry operator for direct registrations, and part of that process will involve setting the wholesale fee charged by the registry operator to registrars. The Panel notes that fees will be one of the key determining factors in the take-up of direct registrations. It has been suggested that a “premium” pricing model could help to distinguish and differentiate .au names from 2LD names. Most Panel members believe that in setting the wholesale price, auDA should aim to make the new names widely accessible whilst maintaining the overall integrity of the namespace.
- Education and awareness. The Panel believes that there will need to be a widespread education and awareness campaign as part of the implementation of direct registrations, and notes there will be associated cost implications for auDA and the industry.

DRAFT RECOMMENDATION 1A:

The Panel recommends in principle that .au should be opened up to direct registrations.

DRAFT RECOMMENDATION 1B:

The Panel recommends that the same policy rules which currently apply in the existing 2LDs should also apply to direct registrations:

Eligibility criteria:

- **Australian entity, or foreign entity registered to trade in Australia – evidenced by ABN, ACN, RBN, ARBN, TM**
- **Australian citizen or resident – evidenced by warranty with additional proof of identity if challenged**

Allocation criteria:

- **Exact match, abbreviation or acronym of the registrant’s name or trade mark**
- **Close and substantial connection between the registrant and the domain name**

Other rules:

- **Reserved List Policy**
- **Prohibition on Misspellings**
- **.au Dispute Resolution Policy**
- **Other policies applying to .au 2LDs**

2. 2LD eligibility and allocation policy rules

Should the eligibility and allocation policy rules for asn.au, com.au, id.au, net.au and org.au be changed? If yes, what changes should be made?

Current situation

The current policy rules for asn.au, com.au, id.au, net.au and org.au (known as the “open 2LDs”) have been in place, mostly unchanged, since 1 July 2002.

The Domain Name Eligibility and Allocation Policy Rules for Open 2LDs (2012-04) set out three types of rules:

- General policy rules that apply to all 2LDs, eg. “first come, first served” and a fixed 2 year licence period
- Eligibility criteria that apply in each 2LD, eg. commercial entities are eligible for com.au and net.au, not-for-profit entities are eligible for asn.au and org.au, individuals are eligible for id.au
- Allocation rules that apply in each 2LD, eg. exact match, abbreviation or acronym, or “close and substantial connection” rule (which includes domain monetisation in com.au and net.au).

The policy rules are further elaborated in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs (2012-05), including the different types of official identifier required for a registrant to establish their eligibility – eg. ACN or ABN for a com.au and net.au domain name.

Public consultation outcomes

The Panel’s Issues Paper invited comments on the following issues:

- Should the domain name licence period remain fixed at two years?
- Should the principles of ‘first come, first served’ and ‘no hierarchy of rights’ be retained?
- Should the current 2LD eligibility criteria (ie. restricting com.au/net.au to commercial entities, org.au/asn.au to not-for-profit entities, id.au to individuals) be modified?
- Is the ‘close and substantial connection’ rule desirable?
- What changes are required to address the new practice regarding business name registrations?

Submissions and survey responses demonstrated a reasonably high level of satisfaction with the current eligibility and allocation rules for open 2LDs. The majority of respondents were in favour of retaining both the current eligibility criteria for the different 2LDs, and the close and substantial connection rule (which in the past has been one of the more contentious issues for auDA Panels to deal with). The one issue on which there was clear majority support for change was in relation to the domain name licence period.

Panel's proposal

1. Eligibility and allocation criteria for open 2LDs

As noted above, the general tenor of responses to the Issues Paper indicated that people are happy with the current rules. Apart from the two issues set out below, in the absence of any evidence of policy failure or shortcoming, the Panel recommends that the status quo be maintained.

DRAFT RECOMMENDATION 2A:

Subject to draft recommendations 2B and 2C below, the Panel recommends that the eligibility and allocation criteria for open 2LDs be retained in their current form.

2. Domain name licence period

auDA's 2010 Names Policy Panel recommended that the fixed two year licence period be changed to a variable 1-5 year period (ie. registrants could choose to register their domain name for 1, 2, 3, 4 or 5 years). This recommendation is currently on hold and is due to be considered by the auDA Board at the time of the next registry tender process (scheduled for 2017). This is because changing the domain name licence period has implications for the revenue models of both auDA and the registry operator.

A clear consensus emerged from submissions and survey responses to the Panel's Issues Paper, with approximately 65% in favour of allowing variable domain name licence periods. The Panel agrees with the majority of respondents, who believed that a variable licence period offers greater choice and flexibility for registrants and registrars alike. Accordingly, the Panel wishes to endorse the recommendation from the 2010 Panel.

DRAFT RECOMMENDATION 2B:

The Panel recommends that the fixed two year licence period be changed to a variable 1-5 year period (ie. registrants could choose to register their domain name for 1, 2, 3, 4 or 5 years).

3. Business names registration

One of the eligibility criteria for com.au and net.au domain names is a registered business name and number. As explained in the Panel's Issues Paper, when the Australian Securities and Investment Commission (ASIC) took over the registration of business names from the states and territories in 2012, the consequential changes to the format of business numbers caused some problems in relation to registrants whose business details are out-of-date and/or cannot be verified by the registrar.

The Panel's view is that a registered business name should continue to be accepted as an eligibility criterion for com.au and net.au domain names. Accordingly, auDA should implement whatever changes are necessary to reflect ASIC's business names registration system, with the proviso that there be no disadvantage to registrants. The Panel notes that implementation may also require AusRegistry to make changes to the registry database fields.

DRAFT RECOMMENDATION 2C:

The Panel recommends that auDA and/or AusRegistry should make the appropriate changes to the policy and/or registry database fields to reflect the nationalised business names registration system, ensuring that there is no disadvantage to registrants.

3. Other 2LD policy rules

Should the policy rules relating to the reserved list and misspellings be changed? If yes, what changes should be made?

Current situation

In addition to the core domain name policy rules, two other auDA policies also govern the types of domain names that people can register in the open 2LDs:

- Reserved List Policy (2014-06) – prohibits the registration of words and phrases restricted under Commonwealth legislation, without requisite authorisation
- Prohibition on Misspellings Policy (2008-09) – prohibits the registration of misspellings of entity, personal and brand names.

Public consultation outcomes

The Panel's Issues Paper invited general comments on both of the policies listed above. A majority of submissions and survey responses (approximately 60%) were supportive of retaining policies, with people believing that they serve to discourage cybersquatting and help to protect the integrity of the .au space.

Panel's proposal

1. Reserved List Policy

The Panel agrees with public comments that the Reserved List Policy continues to be relevant and effective in maintaining the integrity of the .au domain space, and that it should be retained in its current form.

DRAFT RECOMMENDATION 3A:

The Panel recommends that the Reserved List Policy be retained in its current form.

2. Prohibition on Misspellings Policy

With respect to the Prohibition on Misspellings Policy, the Panel believes that it serves a useful consumer protection purpose by discouraging typosquatting and misleading and deceptive behaviour. The Panel acknowledges comments that the policy also has the effect of providing free protection to many brand names, however it does not think that this detracts from the primary purpose of the policy.

Whilst the policy and the complaints-based enforcement mechanism appears to be working well, Panel members have been advised by auDA staff that the audit list provisions of the policy have become administratively burdensome, with over 2,000 names currently on the prohibited misspellings list requiring investigation whenever they are registered. Many of the names have been on the list for several years and are no longer recognisable brands within the meaning of the policy; this is particularly true of singular/plural versions of generic words. In light of this advice, the Panel's view is that whilst the overall policy and complaints-based mechanism should be retained, the audit provisions should be revised to give auDA more flexibility in the way it enforces the policy.

DRAFT RECOMMENDATION 3B:

The Panel recommends that the Prohibition on Misspellings Policy be retained, but that auDA should revise the audit list provisions to provide more flexibility in the way the policy is enforced.

Glossary

Term	Definition
2LD	Second level domain, ie. a name at the second level of the .au domain name hierarchy (eg. com.au)
ABN	Australian Business Number
ACN	Australian Company Number
ASIC	Australian Securities and Investment Commission
auDA	.au Domain Administration Ltd, the administrator of the .au DNS
ccTLD	Country Code Top Level Domain (eg. .au for Australia, .nz for New Zealand)
DNS	Domain Name System
Domain monetisation	The practice of registering domain names in order to earn revenue from advertising
gTLD	Generic (or Global) Top Level Domain (eg. .com, .info, .sydney, .melbourne)
ICANN	Internet Corporation for Assigned Names and Numbers, the global DNS governing body
RBN	Registered Business Number
Registrant	An entity or individual that holds a domain name licence
Registrar	An entity that register domain names for registrants and is accredited by auDA
Registry operator	An entity that operates the central registry database of domain names
TLD	Top Level Domain