

5 June 2015

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auDA
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Dear Jo

2015 NAMES POLICY PANEL

Review of some of the main policies underlying the allocation and use of domain names in the .au domain space

I am writing in response to the Issues Paper released by the 2015 Names Policy Panel. Please find attached eDAC's submission on the issues raised in that paper.

eDAC notes that the edu.au domain is specifically excluded from the Panel's Terms of Reference, but is conscious that there are possible flow on effects from the issues being considered which could impact upon the edu.au domain's stakeholders and Registrants.

If you have any queries in relation to this submission, please do not hesitate to contact me.

Yours sincerely



Nick McShane
Executive Officer
edu.au Domain Administration Committee

eDAC Response to 2015 Names Policy Panel Review

The 2015 Names Policy Panel has released an Issues Paper canvassing comments on some of the main policies underlying the allocation and use of domain names in the .au domain space.

The edu.au is a closed second level domain (2LD) operating within the .au top level domain for the benefit of the Australian education and training sector. The .edu.au domain has over 15 500 registrants, has only a single registrar and operates on a not-for-profit, full cost recovery basis.

The edu.au Domain Administration Committee (eDAC) is responsible to auDA for managing and maintaining the policy framework of the edu.au domain. eDAC is a specialist committee which comprises representatives from the key sub-sectors of the education and training sector.

eDAC's response to the issues raised are set out below.

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

In relation to the issue of whether direct registrations should be permitted in the .au domain, eDAC observes that this is likely to increase competitive pressures on the edu.au domain. eDAC further observes that, as a closed 2LD in the .au domain, it is already subject to competitive pressures from other domains, including the closed .gov.au domain and the open 2LDs. Nevertheless, its tight eligibility and allocation rules and the support of key Australian education and training stakeholders have, over time, allowed it to establish its integrity and grow the domain. The recent approval of new generic Top Level Domains (gTLDs) has added to these pressures, however they do not appear to have had a significant deleterious effect on the sustainability of the edu.au domain, at least not at this stage. The creation of more directly competitive new TLDs might have a greater impact in the future.

Nevertheless, eDAC would be concerned if a move to allow direct registrations resulted in the granting of direct domain names that effectively undermine the sustainability of the edu.au closed 2LD. For example, eDAC would object to the granting of any direct registration that was based on the words 'education', 'pre-schools', 'schools', 'colleges', 'RTO', 'training' etc. The establishment of such direct registrations in a domain space that did not have the tight eligibility and allocation rules applied in the edu.au domain is likely to pose a competitive threat to the edu.au domain and ultimately undermine its long term sustainability particularly if they are used as a vehicle for fraudulent or sharp business practices that adversely reflect on the education and training sector. eDAC anticipates that other closed 2LDs and perhaps some of the specific open 2LDs are likely to have similar concerns.

Consequently, if the Names Policy Panel is inclined to recommend that direct registrations be permitted, eDAC would like the opportunity to propose limitations that prevent the granting of direct registrations that would directly undermine the sustainability of the edu.au domain.

In this context, sustainability relates to the existence of a widely-known and recognised single or principal domain space for Australian education, especially education institutions at the pre-school, primary, secondary, vocational and higher education levels. This space achieves benefit through a well-regulated space which achieves a critical mass within the education domain.

Further, eDAC observes that a risk in allowing direct registrations is that it may lead to the establishment of unofficial registries under those direct registrations. This is because the financial and market attraction of using a 2LD as an unofficial registry is likely to be greater than for a 3LD.

auDA will be aware that the edu.au domain discovered in around 2005 that a number of its Registrants were operating unofficial registries. These unofficial registries were depriving the domain of a significant amount of fee revenue and, in turn, imposing uneven cost burdens on key domain stakeholders through higher domain name licence fees than would otherwise have been the case. The domain went through a process to migrate the domain names in these unofficial registries to the official registry. This process took a number of years, despite the cooperation of the operators of the unofficial registries. The financial impact of these unofficial registries was mitigated by separating the physical migration from the payment of licence fees for the domain names held in those unofficial registries (i.e. in some cases the operators paid licence fees for some time prior to the physical migration of domain names to the official registry and the issue of individual domain name licences for these names).

Consequently, eDAC considers that, whilst the situation for open .au is different from the situation for edu.au as a closed 2LD domain, it would be important for auDA to ensure that it has strong enforcement mechanisms in place to counter the potential for unofficial registries. These mechanisms could include the rapid de-registration or suspension of direct registrations that are used as unofficial registries.

2 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?

The issues paper raises a number of sub-issues in relation to the above question. eDAC's response to these sub-issues are outlined below.

2.1 Should the domain name licence period remain fixed at two years?

The 2010 Names Policy Panel recommended that registrants should be able to license a domain name for a 1, 2, 3, 4 or 5 year period. auDA supported this recommendation but its implementation 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).

eDAC's response in relation to any proposal to divert from the current fixed licence period of 2 years remains the same as it submitted to the 2010 Names Policy Panel.

Specifically, the adoption of the 2010 Names Policy Panel recommendation by auDA is likely to create pressure for the extension of this policy to the .edu.au domain in order to ensure clients are attracted to and/or retained in the domain.

Currently .edu.au Policy restricts registrants to two year licence periods. The only exception to this rule is Section 4 of *Policy 1: .edu.au Policy and Governance Framework*, which allows for one off licence periods of less than two years in order to synchronise the expiry dates of different domain names.

While eDAC supports the concept of providing registrants with increased flexibility, it considers that there could be potentially adverse impacts caused by the 1 year and 4 - 5 year licence period options. These impacts include:

- Longer licence periods (4 - 5 years) increase the possibility of registrant contact details becoming inaccurate, thereby degrading the value of the data held by the .edu.au Registrar, and by consequence, auDA's WHOIS service.
- Increased administrative costs, which would lead to a rise in the .edu.au domain name licence fee. Administrative costs could be increased due to:
 - increased administrative workload caused by shorter licence periods (1 year); and
 - increased administrative and compliance workload caused by the need to monitor contact details in order to maintain accuracy over longer licence periods (4 – 5 years).

As the domain operates on a not-for-profit basis with a moderately sized client base, it is important for the domain's on-going viability to keep the domain name licence fee as low as possible. Accordingly, all other things being equal, increases in the administrative costs for the domain Registrar can adversely impinge on the domain's long term viability.

Accordingly, eDAC does not support auDA diverting from its current 2 year fixed term domain name licence period.

2.2 Should the principles of 'first come, first served' and 'no hierarchy of rights' be retained?

The edu.au domain currently applies these principles in its own policies. A recent review of the domain's eligibility and allocation policies recommended that there be no change to these principles.

Due to the tight nature of the domain name eligibility and allocation rules in the edu.au domain, there is no current issue in the domain regarding 'dropping' of expired names from the registry.

Nevertheless, it is possible that any change to these principles in the open .au 2LDs may create some pressure for a similar change in the edu.au domain. Although given the recent outcomes of the edu.au domain policy review, the probability of this occurring is likely to be low.

eDAC would be interested in understanding any proposals to move away from these principles in the .au domain.

2.3 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?

The Issues Paper raises the possibility that the eligibility criteria for the open 2LDs could be made mutually exclusive.

eDAC notes that it is currently possible for registrants in the edu.au domain to register domain names in a number of open 2LD domains. eDAC observes that the benefits of a closed domain like edu.au to its registrants are related to the integrity of its eligibility and

allocation rules. In this respect, the eligibility rules of the open 2LDs are not a particular concern to eDAC.

2.4 Is the ‘close and substantial connection’ rule desirable?

The edu.au domain currently applies this rule as part of its current eligibility and allocation policy. Indeed, it is an integral component in ensuring the integrity of the domain. In the Registrar’s view, this rule is applied more tightly in the edu.au domain than in the open 2LDs. A recent review of the domain’s eligibility and allocation policies recommended that there be no change to this rule.

It is likely that any change to this rule in the open .au 2LDs would create some pressure for a similar change in the edu.au domain. This is because the experience in the edu.au domain is that issues relating to this rule are a common reason for the rejection of proposed domain names.

eDAC would be interested in understanding any proposals to amend this rule in the .au domain.

2.5 What changes are required to address the new practice regarding business name registrations?

Under current edu.au domain policy and practice, the Registrar has regard to registered business names when determining whether the allocation of domain names. However, there is no policy prescription that prevents the Registrar from referencing the new business registration arrangements.

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

3.1 Reserved List Policy

eDAC currently references the auDA Reserved List in its *Policy 1 - edu.au Policy and Governance Framework* and *Policy 5 - edu.au Reserved List Policy*.

Specifically, any name contained in the auDA Reserved List is considered to be an unacceptable name for the purposes of approving domain names in the edu.au domain. The exception is that a registrant may license a domain name that contains a word or phrase on the auDA Reserved List provided they can demonstrate to eDAC that they are authorised to do so under the relevant Commonwealth legislation.

This reference will be retained in the Registration Policy that eDAC approved at its 15 May 2015 meeting and which will replace Policy 1.

eDAC is satisfied with the current scope of the auDA Reserved List and would be concerned with any proposal to reduce that scope. Any proposal to increase the scope of the auDA Reserved List would need to be considered by eDAC to determine if it would unfairly disadvantage participants (existing or potential) in the edu.au domain.

3.2 Misspellings Policy

The auDA Prohibition on Misspellings Policy does not currently apply to the edu.au domain.

The experience in the edu.au domain is that the deliberate use of misspellings of a popular domain name in order to divert trade or traffic in the edu.au domain has not been a problem in the past. This is due to the more restrictive nature of the domain name allocation rules that apply in the edu.au domain and the fact that domain monetisation is not permitted in the edu.au domain.

As a consequence, eDAC does not have any comment to make on this auDA policy.