



## DOMAIN MONETISATION AND THE “CLOSE AND SUBSTANTIAL CONNECTION” RULE

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### PURPOSE

It has come to auDA's attention that some registrants have been using the “close and substantial connection” rule to register large numbers of domain names apparently for the primary purpose of capturing web traffic earning revenue from advertising. This practice is commonly known as “domain monetisation”.

The purpose of this paper is to invite public comment on whether domain monetisation should be included within the meaning of the “close and substantial connection” rule.

### BACKGROUND

#### Definition of “domain monetisation”

“Domain monetisation” has been defined as follows: “the business of purchasing domains and running advertising on a landing page to earn ad revenue from traffic. The traffic to these domains comes from a variety of sources : old bookmarks, people typing in the domain (ie. "direct navigation"), residual traffic from the previous website or search engine results”.<sup>1</sup> Registrants who practise domain monetisation are known as “domainers”.

The domain monetisation model is based on generating small amounts of revenue from large numbers of domain names. Unlike cybersquatters or warehousers, domainers (for the most part) are not interested in registering domain names for the purpose of selling them to trade mark owners or on the open market at a huge profit. Serious domainers aim to build and maintain a portfolio of hundreds of thousands of domain names that can be used to support a wide range of generic and/or content-related advertising.

Domain monetisation is becoming increasingly common in gTLDs and ccTLDs where there are no policy rules limiting the number and type of domain names that a single entity can register. There are many companies that offer domain monetisation services, ranging from generic pay-per-click (PPC) to content-related informational websites with targeted ads.<sup>2</sup>

According to some US financial analysts, revenue from text advertising on monetised domain names totalled USD400-600million in 2005 and could reach up to USD1billion by 2007.<sup>3</sup>

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<sup>1</sup> ICANNWIKI at [http://icannwiki.org/index.php/Parked\\_Domain\\_Monetization](http://icannwiki.org/index.php/Parked_Domain_Monetization)

<sup>2</sup> For example, see Google AdSense at <http://www.google.com.au/ads/>.

<sup>3</sup> The Wall Street Journal at [http://online.wsj.com/public/article/SB113200310765396752-FYV6dsilRS0N1fsiVu\\_bLf\\_5nI8\\_20061116.html?mod=rss\\_free](http://online.wsj.com/public/article/SB113200310765396752-FYV6dsilRS0N1fsiVu_bLf_5nI8_20061116.html?mod=rss_free)

## Close and substantial connection rule

Under the Domain Name Eligibility and Allocation Rules for Open 2LDs (2005-01)<sup>4</sup>, domain names that are not an exact match, abbreviation or acronym of the registrant's name must "be otherwise closely and substantially connected to the registrant"; this has become known as the "close and substantial connection" rule.

The rule was first introduced by auDA in 2002. Previously, it was only possible for registrants to register domain names that were derived from their own name. The close and substantial connection rule was intended to provide a limited degree of flexibility for registrants to register domain names that are connected to them in some way, for example the name of a product they sell or a service they provide.<sup>5</sup>

At the time the rule was drafted, domain monetisation was not a recognised business model. It was assumed that registrants would use the rule to register domain names with a connection to their existing "offline" business activities. The nature of the registrant's business would drive the choice of domain names, for example Joe's Plumbing Pty Ltd would register domain names connected to plumbing.

auDA has ruled in the past that it is acceptable under the close and substantial connection rule for a registrant who is in the business of providing Internet directory services or information portals to register multiple domain names for that purpose. For example, the same registrant might register babies.com.au in order to build a website with information about babies, shoes.com.au for a website about shoes and sydney.com.au for a website about Sydney. The registrant's decision to provide the service is dictated by whether or not they can register the domain name. In other words, if the registrant is unable to register babies.com.au then they will not provide a website about babies.

In the past 12 months auDA has investigated a number of complaints about several such registrants. If the registrant provides an actual directory service and/or information portal for each of their domain names, with genuine subject-related content, then auDA has found that there is a close and substantial connection between the registrant and the domain names.

However, the connection becomes more tenuous if instead of building individual websites for each domain name, the registrant resolves them to a landing page with advertising. Regardless of whether the ads are generic or content-related, in auDA's view these registrants have not registered the domain names in connection with providing directory services or information portals, they have registered the domain names for the purpose of domain monetisation.

## ISSUES FOR CONSIDERATION

The key question posed by this paper is, should it be acceptable under the close and substantial connection rule to register domain names for the primary purpose of domain monetisation?

(Note that the focus is on domain monetisation as the *primary purpose* of registration. This is different from the situation where a registrant temporarily parks their domain

<sup>4</sup> At <http://www.auda.org.au/policies/auda-2005-01/>

<sup>5</sup> Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2005-02) at <http://www.auda.org.au/policies/auda-2005-02/>

name until they are ready to use it, for example where the registrant is developing a new product or service.)

Importantly, auDA acknowledges that there is nothing wrong with domain monetisation per se, and it is certainly not auDA's intention to start a public "witch hunt" against domainers.

As the authority for the .au domain space, auDA's responsibility is to develop policy that reflects the needs and interests of all users of the Australian DNS. The aim of this paper is to stimulate discussion about the broader policy implications of domain monetisation and the impact it has (or may have) on the .au domain space.

### **Issue 1: Use of domain names**

There are different ways of monetising domain names, for example:

- Generic PPC: The domain name resolves to a landing page displaying generic advertising. This type of page is usually displayed when a domain name cannot be easily categorised.
- Targeted PPC: The domain name resolves to a landing page that shows ads targeted at the domain name.
- Traffic categorisation: The domain name resolves to a website that breaks down the targeted term into several categories and then displays related advertising.
- Information website with ads: The domain name resolves to a website with a number of pages of articles related to the domain name. This website will use a service like Google AdSense to show content-related advertising.
- Redirected traffic: The domain name resolves to a website that redirects to another website. The domainer earns money by "renting out" his targeted traffic to an advertising client.
- Lead-taking website: The domain name resolves to a page that gathers targeted information requests and rents or sells leads to businesses.
- Developed website: The domain name (usually a high traffic generic domain name) resolves to a fully developed and maintained website which includes advertising and affiliate links.

#### *Questions:*

- Do all or any of the above methods establish a close and substantial connection between the registrant and the domain name?
- Are some methods of domain monetisation more or less acceptable than others?

### **Issue 2: Type of domain names**

Domainers are interested in registering domain names that will capture high levels of web traffic, whether from direct navigation or search engine results. There are three main categories: well-known names (eg. celebrity and brand names); misspellings of well-known names; and popular generic words and search phrases (ie. phrases that people type into search engines).

auDA has existing policies and complaints-handling processes for dealing with the bad faith registration of well-known names (ie. cybersquatting) and misspellings, designed to give redress to parties whose legal rights have been infringed.<sup>6</sup>

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<sup>6</sup> .au Dispute Resolution Policy (auDRP) (2002-22) at <http://www.auda.org.au/policies/auda-2002-22/> and Clarification of Domain Name Licence: Prohibition on Misspellings (2005-04) at <http://www.auda.org.au/policies/auda-2005-04/>

In contrast, generic words cannot be owned by a single party and the registration of generic domain names does not usually infringe on another party's legal rights.

*Questions:*

- Is it acceptable for generic domain names to be used for domain monetisation purposes, as opposed to non-generic domain names?
- Is it a better use of the domain space for generic domain names to be registered and resolve somewhere, instead of remaining unregistered? If so, does it matter where the domain names resolve?

### **Issue 3: Volume of domain name registrations**

As explained in the Background section of this paper, the domain monetisation model relies on the registration of large numbers of domain names. The most immediate and obvious consequence of domain monetisation therefore is a significant increase in the number of domain name registrations in the .au domain space (mostly in com.au, but it may have a spillover effect in other 2LDs), and increased revenue for the Australian domain name industry.

The increase may be only transitory. Many domainers practise “tasting” or “taste testing” whereby they register thousands of domain names in order to measure the traffic to them during the initial add-grace period (7 days for .com domain names, 3 days for com.au domain names). The domainer will keep those domain names that are likely to generate a commercial return, and delete the remaining domain names for a full refund. This can have the effect of a much larger zonefile at any given point of time compared with the actual number of paid-for registrations.

The biggest gTLD domainers hold hundreds of thousands of domain names, within a total pool of over 50 million gTLD registrations. The .au domain is substantially smaller with around 620,000 registrations (approximately 540,000 in com.au).

*Questions:*

- Is tasting or taste testing an acceptable practice? Does it matter if an increase in domain name registrations doesn't necessarily equate to increased revenue?
- Does it matter how many domain names are registered by a single registrant? What is the effect on the .au domain space if a single registrant holds a significant percentage of total registrations?

### **Issue 4: Public policy issues**

The .au domain space has policy rules about who is eligible to register a domain name and the type of domain name they can register. These rules have been in place for almost ten years and have resulted in the .au domain developing a very different character to “open slather” gTLDs like .com.

Public consultations held by auDA in 2000-01 and 2004 have reaffirmed that Australians see value in having policy rules to ensure that there is some kind of connection between the registrant and the domain name.

*Question:*

- What effect might domain monetisation have on the character and utility of the .au domain space?

## IMPLEMENTATION OPTIONS

Following the consultation process, auDA will implement one of the following options:

1. Clarify that the registration of domain names for the primary purpose of domain monetisation IS NOT included within the meaning of the close and substantial connection rule.

This would mean that:

- registrars would be required to reject domain name applications that have been made, or appear to have been made for the primary purpose of domain monetisation
- auDA would investigate complaints about domainers and would actively monitor new registrations for possible domain monetisation activity
- registrants who register domain names for the purpose of providing a directory service or information portal would be required to provide an actual directory service or information portal for each domain name
- domain names that are found by auDA to have been registered for the primary purpose of domain monetisation would be deleted for breach of policy.

OR

2. Clarify that the registration of domain names for the primary purpose of domain monetisation IS included within the meaning of the close and substantial connection rule.

This would mean that:

- registrants would be able to register domain names for the express purpose of domain monetisation (ie. they would not have to give an alternative explanation such as providing a directory service or information portal for each domain name)
- auDA would not investigate complaints about domainers or monitor new registrations for domain monetisation activity.

## PUBLIC CONSULTATION

auDA is keen to receive feedback from a wide range of Australian DNS users, and encourages all interested parties to participate in the consultation process.

Comments on this paper may be sent to:

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All comments will be posted on the auDA website.

The closing date for comments is **Friday 21 April 2006**.