

REVIEW OF POLICIES IN .AU SECOND LEVEL DOMAINS

**Proposed changes to domain name eligibility and
allocation policies in the .au domain space**

Public Consultation Report

auDA Name Policy Advisory Panel
November 2000

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1. INTRODUCTION

What is a domain name?

A domain name provides a means for a person to access a computer on the Internet by using an easy to remember text name (eg. www.auda.org.au), instead of the numerical Internet protocol (IP) address. The global domain name hierarchy consists of the generic Top Level Domains (gTLDs) such as .com, .org and .net, along with country code Top Level Domains (ccTLDs) such as .au and .uk. The second level of the hierarchy consists of domains such as com.au, co.uk. (these are known as Second Level Domains, or 2LDs).

Although domain names were originally intended to facilitate connectivity between computers, as names became easier to remember, they have come to have a much wider range of purposes for their users. A domain name may constitute a form of business identifier. Domain names are now used routinely in advertising as a means of indicating the presence of an enterprise on the Internet.¹ Domain names are used as forms of authentication, as badges of individual identity, and as marketing tools.

The international domain name system (DNS) is overseen by the Internet Corporation for Assigned Names and Numbers (ICANN), a not-for-profit body that was formed to assume responsibility for functions that were previously managed by the US Government. Another international forum with a domain name policy development role is the World Intellectual Property Organisation (WIPO), which has a particular focus on the potential for conflict between domain names and trade marks. Australia is an active participant in both of these forums and is mindful of its obligations under international legal frameworks, such as the Trade Related Aspects of Intellectual Property (TRIPS) agreement.

Domain names in Australia

The Internet has provided a revolutionary expansion in the ability of people to communicate worldwide, and the capacity to share views and ideas freely with others all over the globe has excited the interest of people like few other technology developments. This climate of freedom of expression has been a key feature of Australia's Internet culture and the structure of the Australian DNS.

The administration of Australia's DNS has been largely voluntary, relying on efforts by the .au delegate, Robert Elz, and a number of other 2LD registrars. In 1999, the .au Domain Administration (auDA) was established by the Internet community with a view to introducing a more sustainable system of domain name management. The Commonwealth Government has supported auDA in accordance with its view that domain names are a gateway to e-commerce, and also its preference for industry self-regulation in this area.²

Thanks to the foresight of those involved with the early development of the Internet in Australia, the Australian DNS has become a valuable public asset and crucial piece of the national information infrastructure. It has produced a relatively stable and predictable environment that has facilitated a steady adoption rate of electronic commerce and Internet usage while largely avoiding disputes and cybersquatting. In exchange for these benefits, users have faced some restrictions and up-front costs in meeting the criteria to obtain a .au domain name.

¹ WIPO to probe new issues relating to name abuse, Press Release PR/2000/235, Geneva, July 10, 2000
<http://www.wipo.org/eng/pressrel/2000/p235.htm> (accessed 21 September 2000)

² Senator Chris Ellison, *Telecommunications Legislation Amendment Bill 2000* Second Reading Speech, 30 August 2000

auDA Name Policy Advisory Panel

In June 2000, the auDA board established the Name Policy Advisory Panel to review and recommend changes to existing domain name eligibility and allocation policies for .au 2LDs.

The Panel's Terms of Reference and membership are at [Appendices 1 and 2](#). Panel activities to date, including minutes from all meetings, are [archived on the auDA website](#).

The Panel's Stage 1 report, [Domain name eligibility and allocation policies for .au second level domains: current and available at 31 July 2000](#), sets out policies relating to the fourteen .au 2LDs – asn.au, com.au, conf.au, csiro.au, edu.au, gov.au, gw.au, id.au, info.au, net.au, org.au, otc.au, oz.au and telememo.au.

Using the Stage 1 report as a starting point, the Panel has considered the effectiveness of individual policies and the .au 2LD domain name allocation system as a whole. It is the Panel's view that the system could be improved in some areas, and it has therefore proposed a number of changes aimed at making domain name allocation in the .au domain space more efficient, consistent, coherent and predictable.

In considering possible changes to domain name policies, the Panel concluded that there are several desirable attributes of a good domain name policy. As there are some conflicting values underlying these attributes, no policy can meet all of them fully, and a balance will need to be struck within the criteria of each 2LD.

The desirable attributes are:

1. **Coherent.** A common set of principles, baseline policies and rules which apply to everyone across all 2LDs.
2. **Flexible.** Responsive to the different needs of different types of domains, and to changing environments.
3. **Competitive.** Protects domain users as the ultimate beneficiaries of a well-regulated system.
4. **Simple.** Clear and simple rules, applications simple to process.
5. **Robust.** Rules must be technically feasible and stable, and registry information should be reliable and publicly accessible.
6. **Consistent with other rights.** Including intellectual property rights of individuals and businesses.
7. **Internationally benchmarked.** Has regard to international standards and best practice, while also reflecting Australian community standards and identity.
8. **Participative.** Promotes self-regulation and stakeholder participation.
9. **Fair.** Promotes trust in the integrity of the system.
10. **Transparent.** Adequately addresses privacy and other consumer protection issues.

Open and closed 2LDs

In Australia, it is not possible to license a domain name directly in the .au ccTLD. In other words, instead of being able to license www.name.au, people have to license their name in a 2LD, eg. www.name.com.au or www.name.org.au. The .au 2LDs exist so that Australian entities can have domain names that are aligned with their 'real' names. These 2LDs support diverse activities and entities, eg. the com.au 2LD exists to enable a commercial entity, currently registered and trading in Australia, to have a domain name that is closely aligned with its commercial name. The com.au 2LD is a listing service. It provides a distinct 1:1 correlation between a domain name and a registered commercial name of an entity.

The Panel recognises that there are some important differences between the .au 2LDs, largely relating to their purpose and management. The Panel has therefore divided the .au domain space into two categories:

- 'open' 2LDs - those 2LDs that are basically open to all users, subject to some eligibility criteria (asn.au, com.au, id.au, net.au, org.au)

- 'closed' 2LDs - those 2LDs with a defined community of interest (csiro.au, edu.au, gov.au).

Where possible, the Panel has developed proposals intended to be applied across all 2LDs. Where this has not been possible, due to the particular characteristics and circumstances of some 2LDs, the Panel has specified the category of 2LD to which the proposal would apply.

[Schedule A](#) to this report sets out the different purposes and proposed eligibility criteria for open and closed 2LDs. [Schedule B](#) is intended to illustrate how the proposals in this report apply to open and closed 2LDs, and how they interact with each other.

auDA Competition Model Advisory Panel

Running in parallel with auDA's Name Policy Advisory Panel is auDA's Competition Model Advisory Panel, established to investigate and recommend a model for the introduction of competition in domain name registration services in the .au domain space. The work of the two Panels is closely linked and there are some clear areas of overlap, as indicated in Section 4.5 of this report.

2. PUBLIC CONSULTATION PROCESS

This report begins the first formal public consultation period in the Panel's work. It outlines the issues surrounding the current .au 2LD eligibility and allocation policies, and invites public comment on proposed changes.

The Panel encourages everyone with an interest in the Australian DNS, including the allocation of .au domain names, to make a submission.

NB: While the Panel is interested in hearing from people who have experienced problems with the current system, this consultation process is not intended to be a general complaints forum. The Panel does not have any powers to determine individual cases.

People wishing to comment on the proposals or any other matters contained in the Panel's public consultation report should send their submission to:

Ms Jo Lim
Secretariat
auDA Name Policy Advisory Panel

email: jo.lim@auda.org.au
fax: 03 9268 7904
postal: GPO Box 424G, Melbourne VIC 3001

Electronic submissions are preferred.

All submissions will be posted on the auDA website within 2 working days of receipt, unless clearly marked 'Confidential'.

The closing date for submissions is **Friday 8 December 2000**.

The Panel will hold a second public consultation period in early 2001.

3. EXECUTIVE SUMMARY

Comments are invited on the following proposals:

4.1.1 Eligibility to apply for a domain name licence

a. The proposed use of the domain name licence must fit the purpose envisaged by the relevant 2LD - refer to [Schedule A](#).

b. There must be a declaration of a bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD.

c. A bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD should be demonstrated in accordance with the rules applicable in that 2LD - refer to [Schedule A](#).

d. It is not considered bona fide to license a domain name for the sole purpose of selling it.

4.1.2 One domain name licence per entity

The current rule of only one domain name licence per entity be removed.

4.1.3 Direct derivation of a domain name from an entity name

a. There must be a connection between the domain name and the domain name licence holder.

b. A connection between the domain name and the name of the domain name licence holder can be demonstrated by:

- i. an exact match between the domain name and the name or trade mark of the domain name licence holder; or
- ii. a direct semantic connection between the domain name and the name of the domain name licence holder.

4.1.4 Conflict between domain names and trade marks

Domain name licence applicants should acknowledge at the time of application that their entitlement to a domain name may be challenged by a third party with existing trade mark rights in the domain name.

4.1.5 Renewal period for domain name licences

All domain name licences should be subject to a specified renewal period, and domain name licence holders should be required to provide evidence of continued eligibility to hold the licence at the time of renewal.

4.2.1 Restriction on licensing of generic, geographic or objectionable names

Retain the current policy restricting the licensing of generic, geographic and objectionable domain names and apply it across all open 2LDs. Adopt the following 'reserved list' approach:

- a. clear definition of 'generic', 'geographic' and 'objectionable' will be developed with reference to appropriate sources (eg. Yellow Pages Index);
- b. domain names that have to date been rejected by the current registrars for being generic, geographic or objectionable will be placed on a reserved list;
- c. new applications for domain names that may be considered generic, geographic or objectionable may be referred to auDA;
- d. if the domain name is determined by auDA (according to the definition) to be generic, geographic or objectionable, then it will be added to the reserved list;
- e. applicants can challenge domain names on the reserved list, and auDA will determine whether the name should remain on the reserved list or whether changed circumstances mean the name can be licensed
- f. restrictions in relation to the registration of generic or geographic domain names should yield if the applicant seeking domain name registration can provide evidence of trade mark rights in the domain name.

4.2.2 Licensing of generic and/or geographic names

Relax the current policy and enable licensing of generic and geographic domain names using an appropriate licence allocation system, such as a market-based one.

4.3.1 Introduction of new .au 2LDs

Introduce new 2LDs in the .au domain space, subject to the ICANN experience of introducing new gTLDs.

4.3.2 Introduction of a system of gateways

Consideration be given to the introduction of a gateway structure, following consultation, along the lines of one or more of the possible models.

4.4.1 Domain names that begin with a number

Domain names that begin with a number should be allowed, however domain name licence applicants should be made aware of the potential problems.

4.4.2 Country codes and gTLDs as domain names

The prohibition on two character alpha domain names or domain names that match existing or new gTLDs should be maintained.

4.5.1 Retrospectivity and prospectivity

Changes to domain name eligibility and allocation policies will not have retrospective effect for current domain name licence holders, and will only apply to existing domain name licences at the time of re-registration.

4.5.2 Dispute resolution procedure

a. Dispute resolution procedures should apply to:

- i. all open 2LDs; and
- ii. closed 2LDs on an opt-in basis, with appropriate modifications if necessary.

b. There should be two levels of dispute resolution procedure:

- i. the first level should deal with due process - ie. where an applicant wishes to contest the implementation of a policy within a domain by a registrar; and
- ii. the second level should deal with bad faith registration and/or use of a domain name - ie. referral to a dispute panel for enforcement of third party rights.

c. At the first (due process) level:

- i. there should be a first appeal initially to the registrar;
- ii. there should be a second appeal to an independent arbitrator;
- iii. the arbitration should be compulsory and binding on the applicant, the domain name licence holder and all registrars;
- iv. the domain name should be frozen pending arbitration;
- v. only an eligible applicant should have access; and
- vi. the remedy should be restricted to registration of the domain name.

d. At the second (bad faith) level:

- i. there should be an appeal to an independent arbitrator;
- ii. the arbitration should be binding on the applicant, the domain name licence holder and all registrars;
- iii. it should be restricted to bad faith registration and/or use of a domain name;
- iv. the domain name should be frozen pending arbitration;
- v. only eligible applicants should have access; and
- vi. the remedy can be cancellation of the registration or transfer of the domain name to a successful applicant.

4. ISSUES AND PROPOSALS

4.1 RIGHT NAMES: APPROPRIATENESS OF NAME IN RELATION TO ENTITY

Background

For many Australian entities, particularly commercial entities, but increasingly also government agencies, non-government organisations, individuals and associations, domain names are one of a number of identifiers used in support of their operations. Increasingly, they are looking to establish a set of identifiers³, including one or more domain names. These business identifiers will play an important role in their online activities.

There was a general consensus within the Panel that, as a basic principle, a domain name should be appropriate to the entity licensing and using it. The principle is based on the notion that an entity should have a bona fide interest in a domain name relating to conducting a business or other activity under or by reference to the name in Australia.

The Panel seeks comments on how this principle of linking entity and name can best be expressed in a set of policies and rules that could be readily applied by registrars in a new competitive environment.

Currently, the principle is expressed through a number of detailed rules across 2LDs in .au. However, these rules are not uniform across all the 2LDs and some of the rules impose commercially unrealistic and rigid criteria, as well as creating problems of consistency in application.

Summary - key issues and proposals

Comments are invited on the following key issues and proposals:

<i>Issue</i>	<i>Proposal</i>
4.1.1 Eligibility to apply for a domain name licence.	4.1.1 a. The proposed use of the domain name licence must fit the purpose envisaged by the relevant 2LD - refer to Schedule A . b. There must be a declaration of a bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD. c. A bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD, should be demonstrated in accordance with the rules applicable in that 2LD - refer to Schedule A . d. It is not considered bona fide to license a domain name for the sole purpose of selling it.
4.1.2 One domain name licence per entity.	4.1.2 The current rule of only one domain name licence per entity be removed.
4.1.3 Direct derivation of a domain name from an entity name.	4.1.3 a. There must be a connection between the domain name and the domain name licence holder.

³ In addition to domain names, other business identifiers include company and business names, registered and unregistered trade marks, mobile and fixed phone numbers in the form of alpha-numeric numbers, Australian Business Number (ABN), Australian Company Number (ACN) and email addresses.

	<p>b. A connection between the domain name and the name of the domain name licence holder can be demonstrated by:</p> <p>i. an exact match between the domain name and the name or trade mark of the domain name licence holder; or</p> <p>ii. a direct semantic connection between the domain name and the name of the domain name licence holder.</p>
4.1.4 Conflict between domain names and trade mark rights.	4.1.4 Domain name licence applicants should acknowledge at the time of application that their entitlement to a domain name may be challenged by a third party with existing trade mark rights in the domain name.
4.1.5 Renewal period for domain name licences.	4.1.5 All domain name licences should be subject to a specified renewal period, and domain name licence holders should be required to provide evidence of continued eligibility to hold the licence at the time of renewal.

Discussion of issues

Issue 4.1.1: Eligibility to apply for a domain name licence

The .au 2LDs were established to meet specific purposes, some open and some closed, as explained in the Introduction to this report. In order to ensure that domain name licence holders fall within the purpose of the relevant 2LD, the current 2LD policies impose fairly strict eligibility criteria. It is the view of the Panel that the Australian DNS has largely benefited from these policies, as the logical structure of the .au domain space makes it relatively easy for users to find what they are looking for.

However, the Panel also recognises that the current policies have given rise to some undesirable consequences. An effect of the com.au and net.au policies has been that a number of commercial entities have registered business names in different States and Territories in order to comply with domain name eligibility criteria. This practice can be seen to amount to an abuse of the business name registration system as applicants often do not have a bona fide intention to trade under the name.

It may be argued that as long as an entity has a bona fide intention to use a domain name, in conjunction with legal activities in or with Australia, that should suffice. In this regard, a lead could be taken from trade mark and business name law, and entities/applicants for a domain name licence be required to declare a bona fide intention to use the domain name for the purposes of a business or other activity (other than a business involving direct or indirect trading in domain names).

None of the .au 2LDs provide that an Australian registered trade mark would be a sufficient prerequisite for a domain name licence application. There was general support in the Panel for a proposal to extend domain name eligibility to encompass an Australian registered trade mark as a basis for domain name licence application in the open .au 2LDs (refer to [Schedule A](#)). However, questions were raised about whether an application for registration of a trade mark in Australia would be a sufficient prerequisite for a domain name licence application.

Proposal 4.1.1:

a. The proposed use of the domain name licence must fit the purpose envisaged by the relevant 2LD - refer to [Schedule A](#).

b. There must be a declaration of a bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD.

c. A bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD, should be demonstrated in accordance with the rules applicable in that 2LD - refer to [Schedule A](#).

d. It is not considered bona fide to license a domain name for the sole purpose of selling it.

Pros of Proposal 4.1.1:

- ❑ Applying the same eligibility criteria across all open 2LDs would provide a consistent and coherent approach to domain name licensing. It would make domain name licensing simpler for both applicants and registrars, and would reduce the potential for disputes that arise from different open 2LDs using different eligibility criteria.
- ❑ Closed 2LDs would continue to be able to set eligibility rules that support their exclusive nature and purpose, thus ensuring that users are able to trust the integrity of those domains (eg. that a gov.au website really belongs to a government agency).
- ❑ Adopting the proposal to include an application for registration of a trade mark in Australia as evidence of domain name eligibility would enable a trade mark applicant to establish a web site and secure the domain name at the earliest possible time after brand selection. The time frame for securing a trade mark registration makes it commercially unrealistic for any entity to wait until a trade mark is registered prior to seeking a domain name.⁴ It is often a commercial imperative to establish a web site and secure the domain name at the earliest possible time after brand selection. It is noted that this may also be achieved by registration of a business name.
- ❑ In the event that the trade mark application never matures to registration, this may be dealt with by providing a mechanism for revoking a domain name licence should the underlying basis for registration no longer be apparent. Under the current policy, a domain name licence may be cancelled if the licence to use the registered commercial name ceases. A similar provision could be inserted to deal with trade marks.
- ❑ Under the provisions of the *Trade Marks Act 1995*, a trade mark applicant must have a bona fide intention to use the trade mark in connection with the goods and services applied for. Non-use is a ground for removing a trade mark from the Trade Mark Register. Accordingly, broadening the policy in this way should not give rise to a flood of domain name motivated trade mark filings, however the risk that this may happen should not be overlooked.
- ❑ The official fee to file a trade mark application is currently \$150 which is considerably more than the registration fee for a business name (approximately \$70). Accordingly, it seems unlikely that expanding the eligibility criteria to include a registered trade mark will lead to an increased number of bad faith or speculative trade mark and domain name applications, however the risk that this may happen should not be overlooked.

Cons of Proposal 4.1.1:

- ❑ The bona fide condition is difficult to define and will create potential for disputation.
- ❑ The value of the .au domain space may be devalued and freedom of speech may be reduced by allowing trade mark holders and applicants to hold domain name licences across all open 2LDs.

⁴ The earliest that a trade mark registration may be obtained is six months from the filing date.

- ❑ An application for registration of a trade mark in Australia corresponding to a domain name, is an inadequate basis for the granting a domain name licence. Potentially costly and complex administrative arrangements would need to be put in place to deal with applications for registration of trade marks in Australia that did not result in a registration but had been the basis of a domain name licence.⁵ In these circumstances, revocation of a domain name licence may not be an easy process, particularly if the entity concerned has made a substantial investment in a project that is dependent on the retention of the domain name licence and/or faces a substantial financial detriment as a result of revocation.
- ❑ Questions arise as to who will be responsible for monitoring and identifying the status of trade mark applications that are not registered and for ensuring revocation of each and every domain name licence based on an application for a trade mark. Failure to enforce revocation potential opens the way for abuse of the .au domain name allocation system and the .au namespace. It is likely that auDA and/or the registrars would need to allocate staff and other resources to ensure compliance with the policy.
- ❑ The use of a statutory declaration to support a domain name licence application is not as authoritative as the other criteria listed in [Schedule A](#).

Issue 4.1.2: One domain name licence per entity
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Most of the current .au 2LD policies provide that each entity may have only one permanent domain name. It appears that the original rationale for this rule was to ensure that there was a unique domain name for each entity.

It is the Panel's view that this rule does not acknowledge that entities such as commercial organisations, non-profit agencies and government entities:

- ❑ are known by different names, eg. abbreviations and acronyms derived from their company or registered business names;
- ❑ have multiple trading divisions or business units; and
- ❑ have multiple registered and/or unregistered trade marks⁶ (covering goods and services).

Accordingly, the Panel does not support the notion of a quota of names per entity.

Proposal 4.1.2:

<i>The current rule of only one domain name licence per entity be removed.</i>

Pros of Proposal 4.1.2:

- ❑ The current practice of entities registering many business names to qualify for more than one com.au or other domain name licence has resulted in some unintended consequences. There are now hundreds of registered business names that the owners have no intention of using as a business name (other than in connection with a website).
- ❑ Entities, notably small businesses, wishing to acquire more than one domain name for bona fide purposes, will no longer incur financial detriment⁷ (eg. costs incurred in obtaining

⁵ In some cases registration may happen many months after applications are filed, especially where an 'opposition' is filed and/or an applicant requests an extension of time to meet any requirements identified by a trade mark examiner. Applications are examined approximately six months after they are filed and the Act allows an applicant 15 months from the date of examiner's first report in which to meet any requirements identified by an examiner and to have the application accepted by the Registrar. An applicant may request extensions of time for periods exceeding 21 months. In this way, an applicant may effectively exclude other parties with legitimate interests from registering a particular domain name.

⁶ See the Panel's paper on Intellectual Property and Domain Names, <http://www.auda.org.au/panel/name/papers/ip.html>

⁷ Financial detriment includes the incurring costs that are greater than would otherwise have been incurred by an entity and the foregoing of revenue that would otherwise have been received by the entity.

business names for the purposes of meeting eligibility criteria for the licensing of com.au and other domain names).

Cons of Proposal 4.1.2:

- ❑ Any substantial increase in demand for domain name licences may have implications for delivery of domain name registrar services and industry competitive structure, if implementation of the proposal were to take place ahead of the implementation of the foreshadowed competition model.
- ❑ Entities which have previously applied for more than one domain name licence may object if they were not successful in obtaining the domain name licence concerned.
- ❑ The business name system helps consumers to identify whom they are dealing with, thus avoiding confusion. Removing the condition of one domain name licence per entity could increase confusion for businesses and consumers.
- ❑ Businesses that wish to use multiple web references for their products can already do so through lower level domain names (eg. www.keneally.dymocks.com.au).

Issue 4.1.3: <i>Appropriateness of direct derivation of a domain name from an entity name</i>

Most 2LD policies require that a domain name be directly derived from the name of the domain name licence holder. It has been suggested that the direct derivation rule may have increased the value and utility of the .au domain space as:

- ❑ organisations have a reasonable chance of obtaining a domain name that accurately reflects their organisation name;
- ❑ consumers can more readily understand and remember domain names; and
- ❑ instances of cyber-squatting have been minimised.

However, some of the current 2LD policies allow derivation of any consecutive sequence of letters from a commercial name. This may lead to licensing of actual names which may strictly be 'derivable' from the commercial name, but seem to have little link to the commercial name. An example discussed by the Panel was 'Designer Merchant Banner Kings' supporting registration of banking.net.au.

It was suggested that a reason for abolishing the derivation rule was to reduce the cost of registration as a checking facility adds time and cost to each application at the registry level. However, no empirical evidence was tabled to indicate the size of the cost impact, and although cost should be a consideration in the Panel's deliberations, the primary consideration should be the establishment of the best system which reflects the ['desirable attributes'](#) listed in the Introduction to this report. The cost of having a checking facility at the registry level may be one that needs to be incurred in order to arrive at the model which will achieve this goal.

A further suggestion was that an applicant should only need to show 'just cause' as to why the name was required. While there was some agreement in principle with this proposition, it seems likely that such a system would lead to a policy which is difficult to consistently apply in a predictable manner.

Proposal 4.1.3:

a. There must be a connection between the domain name and the domain name licence holder.
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b. A connection between the domain name and the domain name licence holder can be demonstrated by:

- i. an exact match between the domain name and the name or trade mark of the domain name licence holder; or*
- ii. a direct semantic connection between the domain name and the name of the domain name licence holder.*

Pros of Proposal 4.1.3:

- ❑ Using a 'connection' approach rather than 'direct derivation' provides a greater degree of flexibility in the selection of domain names, without relaxing the rule so completely as to open the door for cybersquatters.

Cons of Proposal 4.1.3:

- ❑ It will be more difficult to automate the registration process with regard to checking a 'direct semantic connection' between the domain name and domain name licence holder, as this requires a level of human scrutiny. It is possible that applicants seeking to rely on the 'direct semantic connection' rule may be required to pay an additional fee to cover costs.
- ❑ Given the need for human scrutiny, there is a question as to whether this policy can be applied consistently by all registrars and a risk that the policy could be undermined by unscrupulous registrars who are willing to register a domain name that other registrars have rejected for non-compliance with the direct connection rule.
- ❑ The potential for disputation if the direct derivation rules are not followed.

Issue 4.1.4: Conflict between domain names and trade mark rights

One of the key issues for the Panel in its review of domain name registration policies is the conflict between domain names and trade marks. The Panel paid most attention to the com.au and net.au 2LDs in this context, because trade mark rights are commercial rights (ie. relate to signs used commercially to indicate a trade source of products or services) and the issues are therefore most acute in the com.au and net.au 2LDs.

Under current domain name allocation policy, domain names in the com.au and net.au 2LDs are licensed on a first come, first served basis. The fact that an applicant's 'interests' in a domain name may not, on a commercial use or legal basis, measure as impressively as another does not play a part in determining licensing.⁸

In practice, this can lead to a conflict between domain names and trade marks. Trade marks are names, numbers etc used by traders to distinguish their goods or services from competitors. Trade marks can be registered under the Trade Marks Act which gives owners rights to stop use of infringing marks. Unregistered trade marks are also recognised where the mark has been used enough to become exclusively known in connection with one source of goods or services.

Conflicts between domain names and trade marks can arise in various ways when a person other than the trade mark owner licenses a domain name that is similar to a trade mark. For example, trade mark owners can find domain names unavailable when they wish to license. Sometimes the domain name has been licensed only for the purpose of sale (ie. cybersquatting). Also, if used in a misleading or inappropriate way, the trade mark owner may lose business or its reputation may suffer.

There is a general consensus among the Panel that trade mark rights should be given some recognition, however the difficulty lies in determining the level of appropriate recognition. To recognise them by, for example, screening domain name applications, would be complex and time consuming. There would be difficult issues to resolve, such as what would happen where

⁸ The Panel noted that the INWW website links to the Trade Marks search system ATMOSS, inferring that the applicant needs to do his/her own search for trade mark conflict.

the domain name is similar to a trade mark application that is not yet registered? If registered trade marks were to prevail over the first come, first served approach, then in principle, unregistered trade marks should be treated consistently, but they would be difficult to screen for in practice.

While it is appropriate to recognise trade mark rights because domain names function partly as trade marks, it is not appropriate to duplicate the trade mark registration system in domain name licensing because domain names are not exactly the same as trade marks and function in many additional ways, such as an Internet address, a company/business name, signage, marketing tools, personal identifiers and in other ways.

While recognising the importance of trade mark rights, the Panel considers that the onus to ensure that the licensing of a domain name does not contravene any third party's rights, such as trade mark rights, should be left in the hands of the domain name licence applicant. However, domain name licence applicants could be alerted more strongly to the possibility that there may be existing trade mark rights in the words forming the domain name, and that there are possible consequences in the event of infringement of those rights.

Proposal 4.1.4:

Domain name licence applicants should acknowledge at the time of application that their entitlement to a domain name may be challenged by a third party with existing trade mark rights in the words forming the domain name.

Pros of Proposal 4.1.4:

- The potential for disputes between domain name licence holders and trade mark owners would be reduced by ensuring that existing trade mark rights are afforded up-front recognition at the time of application.

Cons of Proposal 4.1.4:

- Trade marks in the form of a name, words and word/number combinations may exist in both registered and unregistered form. While it may be possible for applicants to screen for Australian registered marks through a search of the trade marks register, there is no simple way to screen for unregistered marks.

Issue 4.1.5: *Renewal period for domain name licences*

The .au 2LDs currently have different domain name licence periods (eg. com.au domain names are leased for a 2 year period, while the licence period for org.au domain names is undefined). The Panel proposes that all .au domain names, regardless of 2LD, should be licensed for a specified period of time, requiring all domain name licence holders to renew their licence from time to time. The Panel also considers that it would be desirable to require a domain name licence holder to provide evidence of its continued eligibility to hold that licence at the time of renewal.

Proposal 4.1.5:

All domain name licences should be subject to a specified renewal period, and domain name licence holders should be required to provide evidence of continued eligibility to hold the licence at the time of renewal.

Pros of Proposal 4.1.5:

- ❑ This approach would provide regular review points, so that the domain name registry is not cluttered with historical and outdated information, domain names that have lapsed can be re-licensed, and the integrity of the Australian DNS is preserved.
- ❑ This proposal would also enable registrars to compete in the provision of domain name services, notably in the offering of a diversity of licence periods and price discounts for longer period licences.
- ❑ Longer period domain name licences may provide a measure of comfort for licence holders and cash flow benefits for registrars.

Cons of Proposal 4.1.5:

- ❑ Regular renewal of domain name licences may impose additional cost on domain name licence holders, and additional administrative burden on registrars.

4.2 NAMES WITH FENCES: RESTRICTED NAMES

Background

The current .au 2LD registrars have adopted varying policies in regard to the allocation of domain names that are considered to be generic, geographic or objectionable. The [com.au Domain Name Allocation Policy](#) places a prohibition on the licensing of geographic locations and generic words (such as those that represent commercial categories, products, services and professions) on the basis that such domain names are overly representative and should not be allocated to one entity. Other .au 2LDs, such as, gov.au, edu.au and net.au, do not maintain the same degree of restriction in domain name licensing.

The current [com.au Domain Name Allocation Policy](#) states that 'Generic words that represent commercial categories or sectors are overly representative and will not be licensed for use as com.au domain names'. The policy notes that generic words may be categorised as products, services and professions; and industries, industry sectors and organisations types.

Generic words include those defined and used to represent products, services or professions. Typically, these are words that appear in an Australian word list (eg. The Macquarie Dictionary) and also in a commercial category listing (eg. The Yellow Pages Index®). Some examples include: cars, accounting, solicitor, weddings, manager, hifi and winery. Generic words also include words which represent whole industries, industry sectors and organisation types, such as mining, finance, company, bank.

The restriction on generic domain names does not apply in any other 2LD, open or closed.

Australian place names and their common abbreviations, also known as geographic words, are not able to be licensed for use as com.au domain names, nor as net.au names. Australian place names are country, state and territory, region, local government area and suburb names. Some examples of abbreviations are au, aus, oz, qld, vic, act, nsw. On the other hand, geographic words are frequently licensed in gov.au and edu.au.

Under current policies, all .au 2LDs prohibit the licensing of domain names that are considered to be objectionable.

The Panel has considered the prohibition on particular types of names, and makes the following general comments:

- ❑ An underlying rationale for these policies is that generic and geographic domain names should not be licensed because individuals and individual businesses could gain an unfair competitive advantage and/or 'windfall' profits. The current policy of prohibiting the licensing of these names is seen to produce a fairer and more equitable outcome.
- ❑ Current policies recognise that generic and geographic names have intrinsic commercial value, and respond to user and businesses needs for access by prohibiting the licensing of these names.
- ❑ The policies currently apply (somewhat inconsistently) in com.au and not in other domains with commercial relevance, particularly net.au.
- ❑ The current policies have given rise to a number of anomalies and disputes.
- ❑ The policies have created difficult issues through conflict of name allocation rules where an applicant may be entitled to license a domain name under one or more rules, but not entitled under other rules. For example, a company may be unable to use its company name as a domain name because it is overly generic.

- The policies have limited the ability of users to locate the information they are seeking through the use of URLs based on words and names of places, which are easily remembered, intuitive, meaningful, well known or easily recognisable.

Accordingly, the Panel considered that the current policies need to be reviewed. Comment is invited in particular on the above rationale and whether there are any other factors that were relevant to the formulation of the com.au and other policies.

Summary - key issues and proposals

The Panel has set out two major, alternative proposals relating generic and geographic names below. One proposes retaining the current policy (4.2.1) and the other proposes relaxing it (4.2.2).

Comments are invited on the following key issues and proposals:

<i>Issue</i>	<i>Proposal</i>
4.2.1 Restriction on licensing of generic, geographic or objectionable domain names.	4.2.1 Retain the current policy restricting the licensing of generic, geographic and objectionable domain names and apply it across all open 2LDs. Adopt the following 'reserved list' approach: <ol style="list-style-type: none"> clear definitions of 'generic', 'geographic' and 'objectionable' will be developed, with reference to appropriate sources (eg. Yellow Pages index); domain names that have to date been rejected by the current registrars for being generic, geographic or objectionable will be placed on a reserved list; new applications for a domain name that may be considered generic, geographic or objectionable may be referred to auDA; if the domain name is determined by auDA (according to the definition) to be generic, geographic or objectionable, then it will be added to the reserved list; applicants can challenge domain names on the reserved list, and auDA will determine whether the domain name should remain on the reserved list or whether changed circumstances mean the name can be registered; and restrictions in relation to the registration of generic or geographic domain names should yield if the applicant seeking domain name registration can provide evidence of trade mark rights in the domain name.
4.2.2 Licensing of generic and geographic domain names.	4.2.2 Relax the current policy and enable licensing of generic and geographic domain names using an appropriate licence allocation system, such as a market-based one.

Discussion of issues

<i>Issue 4.2.1</i>	<i>Restriction on licensing of generic, geographic or objectionable names</i>
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One of the major problems with the current com.au policy is that there is no definitive source of generic names which can be readily accessed by prospective domain name licence applicants in order to ascertain whether a name is generic or not. In a competitive environment in which

this policy of restriction continued to apply, it would be in interests of good domain space governance that users, businesses and competing registrars knew which names were reserved. The Panel concluded that only with a list of reserved names, would it be possible to eliminate the need for discretion to be exercised by the registrars, thus eliminating many disputes.

The Panel has not drafted a definition of 'generic' at this stage, preferring to consult as to the desirability of this proposal before doing so. However, the Panel has noted that a number of sources of generic names are currently used - in addition to latest editions of *The Macquarie Dictionary* and *The Yellow Pages Index*® being used as a basis for defining generic names, *The Macquarie Book of Australian Slang* could also be used as an authoritative source of generic words.

The Panel notes that geographic names can be defined relatively easily with reference to the [Australian Surveying and Land Information Group's \(AUSLIG\) database](#) of Australian place names.

The Panel has included objectionable names in this proposal, however it recognises that the definition of 'objectionable' is problematic due to varying and changing linguistic and cultural contexts and meanings. Comment is invited on this matter.

It is also proposed that geographic/generic name restrictions should yield if the applicant seeking licensing of the domain name can show trade mark rights in the geographic/generic name. Trade mark licensing in non-distinctive names, words and word/number combinations, while more difficult to achieve than for trade marks that are inherently distinctive, is common where, for example, the applicant has used the mark to such an extent that it has come exclusively to distinguish the owner's products or services. The geographic name OXFORD, for example, is the well known trade mark of Oxford University Press, but might be treated as an unregistrable name in the com.au domain. Similarly, the generic word APPLE, which is well associated with Apple Computers, might be treated as an unregistrable generic word.

The overriding concern is that any revised policy approach should be sufficiently robust to ensure that potential domain name licence applicants and registrars are fully aware of the restrictions in place on the licensing of generic and geographic domain names and they can check in advance of making an application whether a proposed domain name is reserved or not.

Proposal 4.2.1:

Retain the current policy restricting the licensing of generic, geographic and objectionable domain names and apply it across all open 2LDs. Adopt the following 'reserved list' approach:

- a. clear definitions of 'generic', 'geographic' and 'objectionable' will be developed, with reference to appropriate sources;***
- b. domain names that have to date been rejected by the current registrars for being generic, geographic or objectionable will be placed on a reserved list;***
- c. new applications for a domain name that may be considered generic, geographic or objectionable may be referred to auDA;***
- d. if the domain name is determined by auDA (according to the definition) to be generic, geographic or objectionable, then it will be added to the reserved list;***
- e. applicants can challenge a domain name on the reserved list, and auDA will determine whether the domain name should remain on the reserved list or whether changed circumstances mean the name can be registered;***
- f. restrictions in relation to the registration of generic or geographic domain names should yield if the applicant seeking domain name registration can provide evidence of trade mark rights in the domain name.***

Pros of Proposal 4.2.1:

- ❑ The proposal provides a clearer basis for the restriction on generic, geographic and objectionable domain names, and seeks to limit the need for discretion and judgement in the licensing process. This should provide improved governance in a competitive environment and transparency of the licensing process.
- ❑ Restricting the allocation of generic names ensures that no organisation gains an unfair competitive advantage.
- ❑ Restricting the allocation of objectionable names is in line with current government policy regarding the maintenance of community standards in relation to broadcasting services.
- ❑ The proposal should reduce the administrative and policy burden on registrars.
- ❑ The proposal relating to trade marks would bring domain name licensing into line with current trade mark registration policy, thereby minimising the distinction between names that people can use online and offline. Given the limitations placed on trade mark registration in non-distinctive names, words and word/number combinations, it is unlikely that this proposal would open the floodgates on licensing of generic and/or geographic domain names.
- ❑ The historic rationale for restricting use of generic words as domain names in com.au would be upheld and applied consistently across all open 2LDs.

Cons of Proposal 4.2.1:

- ❑ The proposal to retain the current policy prohibiting the licensing of generic and geographic domain names, particularly in the com.au 2LD, amounts to a misallocation of scarce and valuable domain names on a major scale. For example, there are over 240,000 geographic names in Australia.⁹ Businesses operating in these locations, including many in regional and rural Australia, are barred from accessing these domain names for e-commerce and other purposes.
- ❑ The proposal would sustain the inefficient and uneconomic use of valuable .au domain space. There is a substantial negative effect flowing from the policy, notably a significant opportunity cost to Australia. These scarce and valuable resources might otherwise be used, shared and managed as a public resource in the public interest.
- ❑ The proposal requires a definition of 'generic' which will be difficult to devise and problematic to administer consistently across a range of competing registrars.
- ❑ The proposal is likely to give rise to disputes, and in fact assumes that this is likely by setting out a process for their resolution by auDA.
- ❑ The proposal has the potential to place a significant administrative and policy burden on auDA, leading to a likely increase in costs and time delays in the licensing of (some) domain names.
- ❑ The proposal does not address anomalies within the current policy, and could in fact perpetuate them.
- ❑ The current policy relating to generic domain names is silent on the issue of words in languages other than English, which may nevertheless be in wide use within Australia. To prohibit the use of foreign language generic terms would be logical and consistent, but completely impractical in a competitive environment.
- ❑ With regard to trade marks, there is no clear reason why possession of a trade mark should permit the overriding of the restriction on generic names when, for example, the possession of a personal name or a company name does not.

⁹ Gazetteer of Australia database

- Although the proposal relating to trade marks may bring domain name licensing into line with current trade mark registration policy, it is likely that the registered trade mark system will be tested by those seeking to defeat a domain name policy restricting use of generic and geographic names.

Issue 4.2.2: Licensing of generic and geographic domain names

The Panel considered the alternative view to that put as Proposal 4.2.1 – to relax or abolish the policy prohibiting the licensing of generic and geographic domain names, having regard to community expectations, the interest of users and businesses and others wanting access to these domain names.

The Panel has not included objectionable names in this proposal, as it is presumed that a prohibition on objectionable domain names would continue to apply on public policy grounds that are well developed in broadcasting and other public domains. However, comment is invited on this matter.

The Panel noted that generic and geographic names can be regarded as public assets that should be managed in the public interest. In this context, the Panel considered the concept of gateways and other structured approaches to the use of generic and geographic names (refer to section 4.3).

The Panel also noted that quite different cases could be made out for generic and geographic names respectively.

Permitting generic names in open 2LDs would involve major transition issues, including in particular issues of allocation. The Panel considered a number of methods of allocation of generic and geographic domain name licences having regard to the rationale for sustaining the existing policy of prohibition. The following methods of allocation might be used.¹⁰ In the light of public responses, the Panel may move further forward with Proposal 4.2.2, and a paper will be developed on these matters.

- First come, first served: generic/geographic domain names are licensed to applicants on a first-come, first-served basis.
- Lotteries: lotteries are a competitively neutral and non-discriminatory method of allocating domain names licences, and involve applying a chance generator to determine the allocation of a domain name licence.
- Tenders: two kinds of tenders may be used to allocate generic and geographic domain name licences - highest bid tenders, and 'beauty contests'; in the latter, the monetary bid is only one of the factors considered in assessing the tender.
- Auctions: auctions would involve competitive price bidding for generic and geographic names.

Proposal 4.2.2:

Relax the current policy and enable licensing of generic and geographic domain names using an appropriate licence allocation system, such as a market-based one.

Pros of Proposal 4.2.2:

¹⁰ See Humphries, Vince and Round, David, *Charging for Memorable Phone Numbers*, Agenda, vol 7, no 2, 2000 for a comprehensive discussion of the methods of allocating and charging for phone numbers, including the cost and benefits of alternative methods. There are parallels with domain name allocation and charging methods.

- ❑ The proposal would address significant issues and problems with the current policy of prohibiting generic and geographic domain names, in particular the fact that the current policy is inconsistent across commercial domains.
- ❑ Users and business wanting to access generic and geographic names because they are, easily remembered, intuitive, meaningful, well known or easily recognisable, would be able to do so.
- ❑ The proposal would address the misallocation of scarce and valuable generic and geographic domain names and enable the efficient and economic use of intrinsically valuable .au DNS.
- ❑ The proposal potentially enables the allocation of over 240,000 geographic names, thus providing e-commerce gateways for local businesses and services, particularly in regional and rural Australia
- ❑ The proposal would enable Internet users, for their own good reasons, to access generic and geographic domain names with useful and important information (eg. www.information.com.au, www.dinner.com.au, www.health.com.au, www.safety.com.au).
- ❑ Some forms of the proposal would enable auDA to diversify its funding base and to provide additional funding for its core activities in administering the .au domain system.

Cons of Proposal 4.2.2:

- ❑ A case is set out above, in relation to Proposal 4.2.1, for the retention of the existing policy.

4.3 NEW NAMES: INTRODUCTION OF NEW 2LDS IN .AU

Background

There is no current Australian policy on the creation of new 2LDs, and Australia has not really had a debate on their desirability or otherwise. However, at the international level, ICANN plans to have several new gTLDs operating early in 2001, and this is likely to be reflected at the individual country DNS level.

The Panel has discussed the topic from various perspectives. Its primary impact on the work of the Panel is on other areas; impending new 2LDs affect most of the other topics. Its secondary impact is the need to have the creation of new 2LDs driven by clear policy rather than being ad hoc.

Summary - key issues and proposals

Comments are invited on the following key issues and proposals:

<i>Issue</i>	<i>Proposal</i>
4.3.1 Introduction of new .au 2LDs.	4.3.1 Introduce new 2LDs in the .au domain space, subject to the ICANN experience of introducing new gTLDs.
4.3.2 Introduction of a system of gateways.	4.3.2 Consideration be given to the introduction of a gateway structure, following consultation, along the lines of one or more of the possible models.

Discussion of issues

Issue 4.3.1: Introduction of new .au 2LDs

Would the creation of new .au 2LDs result in a net increase in the effectiveness of the Australian DNS?

ICANN is the leading body (but not the only one) discussing creation of new domains. A large amount of work has been done by the Names Council of ICANN, and the Panel considers that this should be a basis for Australian thinking and future policy development and implementation.

In August 2000, [ICANN called for proposals for new gTLDs](#). Applicants were required to justify their applications in terms of what they would achieve and, as pilots, what they would discover. Applicants were also required to pay a \$50,000 non-refundable application fee.

[ICANN received over 50 proposals](#) and will announce the outcomes in mid-November.

The Panel will assess the ICANN experience and incorporate proposals for the creation of new .au 2LDs into its next draft report.

Proposal 4.3.1:

Introduce new 2LDs in the .au domain space, subject to the ICANN experience of introducing new gTLDs.

Pros of Proposal 4.3.1:

Creation of new 2LDs is likely to:

- ❑ Enhance competition. This will be achieved by making competition possible across different domains serving similar purposes, and across different 2LDs serving different purposes. For example, an animal professional may have the option of a domain name in vet.au, or one in a commercial domain like com.au or net.au, or further options as an individual, or all three. Enhanced competition should reduce costs and prices of domain name licences, and potentially improve the quality of related services.
- ❑ Make the DNS more useful to Internet users – especially (but not only) by making it easier to find a web site, eg. by creation of special-purpose domains like cpa.au (for accountants), law.au (for lawyers) or vet.au (for veterinarians). This is sometimes referred to as a chartered-TLD approach, although that term has been used by ICANN to cover a diverse number of subsets (eg. an adult purposes TLD, like .xxx or .sex).
- ❑ Increase the number of domain names. There seems to be a belief that 'all the good names are already taken'. Technically, the .com gTLD is nowhere near full and com.au even less so, but there is a perception that desirable names have all been used.
- ❑ Enlarge choices. One view is that it is restriction which needs to be justified, not the enlargement of possibilities – the status quo should not necessarily be the default. If there is a demand for, and usefulness in, an enhanced range of choices, then it should be done unless there is a strong reason to the contrary.
- ❑ Create conceptual diversity in the DNS. It is suggested that the DNS is overly dominated by territorial jurisdictions and commercial interests, and that there are other ways of thinking (eg. the creation of an ind.au 2LD for Australian indigenous people).

Cons of Proposal 4.3.1:

On the other hand, creation of new 2LDs may:

- ❑ Confuse people looking for an entity. It would therefore take longer to find specific entities (ie. if there are more commercial 2LDs people will not know where to look, intuitively, for the entity they wish to find). However, the development of cross-domain search engines will make this easier.
- ❑ Be unnecessary. There is plenty of space in all of the 2LDs, even com.au – billions of possible names, even though some of the most sought-after names may have been taken.
- ❑ Force entities that wish to prevent use of 'their' name(s) to licence across a number of different 2LDs, rather than just one or two. The intellectual property issues and issues which relate to famous marks will become more complex.

<p>Issue 4.3.2: <i>Introduction of a system of gateways</i></p>

The Panel discussed the concept of gateways as a means of sharing generic and geographic names, as one approach to relaxing the policy of restriction of these domain name licences (refer to section 4.2). Specifically, a gateway can be:

- ❑ a new 2LD, which leads to 3LDs, which are subsets or entities within the overall 2LD
 - a DNS gateway could be configured in many different ways, eg. there could be a ford.au gateway, leading to separate sites for different car dealers, a realestate.au gateway which leads to property for sale arranged by price, agent, location, or type, or a doc.au gateway could lead to domain names for individual doctors. The gateway 2LD would be closed, so that domain name licences would be available only to entities that are appropriately listed under the 2LD gateway name (eg. in the case of doc.au, only a certified medical practitioner would be eligible to license a domain name).

- a sub-set of a 2LD comprising, for example, generic and/or geographic names in the com.au namespace
 - such gateways allow the use of the same domain name which takes Internet users to a list that details the different businesses and enables consumers to choose the relevant business or between competing businesses. Like a telephone directory, a user looks up, for example, 'beef' (www.beef.com.au) and then selects the link to obtain information about the business including contact name, business address, email address, phone numbers, description of goods and services, etc.
 - this concept of gateways envisages that generic and/or geographic names, as public assets to be managed in the public interest, would be:
 - licensed and used on a shared basis by more than one business with rights of access to use this domain space or marketspace¹¹ for a variety of purposes (eg. businesses with the same trademark word, registered in different classes, would have rights of access to this public namespace); and
 - accessed by users who prefer to use generic and geographic domain names as a means of accessing information, because they are easily remembered/recalled, intuitive or meaningful.

The Panel concluded that the concept of gateways has merit and, accordingly, proposes the development of a further public discussion paper, subject to favourable public comment on the concept.

Proposal 4.3.2:

Consideration be given to the introduction of a system of gateways, following consultation, along the lines of one or more of the possible models.

Pros of Proposal 4.3.2

- Gateway structures can enable the economically efficient allocation of scarce and valuable domain names, provided they are managed as a public resource in the public interest. Allocation of domain name licences using market mechanisms will provide a basis for valuation of licences, that is missing under the current allocation arrangements.
- Gateway structures based on generic and geographic names would enable many users to exercise choice in how they search for, find and access information and resources. They provide competitive mechanisms for existing gateways and portals, with consequential potential benefits flowing from efficiency gains, enhanced quality and range of services, lower prices and greater innovation.
- The proposal would enable the shared use of generic and geographic domain names as gateways to e-commerce for many Australian small businesses, with potentially significant flow-on effects to the global economy in Australia, notably in regional and rural Australia, particularly in terms of income and employment. For example, domain names such as www.nsw.com.au or www.beef.com.au could become accessible.
- The proposal could be self-funding, thus providing funding for significant administrative costs associated with developing, implementing and managing a market-based system for the allocation of generic and geographic domain names.

¹¹ According to Roger Clarke <<http://www.anu.edu.au/people/Roger.Clarke/EC/ECDefns.html#Mspace>>:

The concept of 'marketspace' is used to distinguish the 'location' in which electronic commerce is conducted, from conventional, physical marketplaces. It refers to a virtual context in which buyers and sellers discover one another, and transact business. It is a working environment that arises from the complex of increasingly rich and mature telecommunications-based services and tools, and the underlying information infrastructure. The origin of the term goes back at least as far as Rayport J. F. & Sviokla J. H. (1994) 'Managing in the Marketspace', Harvard Business Review, November-December 1994, pp.141-150.

- ❑ It would be possible to market test an allocation system of gateway structures, initially on a pilot basis if desired.
- ❑ A shared domain space by the industry/community/consumers has many benefits. Proceeds from the sale of rights to manage generic and geographic domain names could be used for public purposes, including the development and marketing of the domain space.
- ❑ Alternatively, geographic domain names could be made available in the public interest to their local communities in some way.
- ❑ If gateways have their own domain space (eg. www.news.index.au) then they would not clash with businesses which have generic domain names (eg. www.news.com.au for News Ltd). The manager of a gateway domain space would pay more and be required to offer service, as opposed to buying the licence to neutralise competition.
- ❑ Whilst the *Cons of Proposal 4.3.2* may seem compelling, a number of them fail to recognise the importance of market based mechanisms in enabling businesses and users to exercise choice, and business entrepreneurship and risk-taking as a basis for innovation and competition; some deny the opportunity of contestability and market testing.

Cons of Proposal 4.3.2:

- ❑ Gateways are unnecessary. Establishing such a structure is a complex, expensive and risky undertaking and would need a great deal of planning.
- ❑ There will need to be a central body to run it, thus creating another area for regulation and a significant administrative burden on auDA. This would lead to a likely increase in costs and time for licensing of (some) domain names.
- ❑ Many directories already exist, eg. the Yahoo approach offers both a taxonomic approach and a series of gateways, and this is to some degree true of a wide range of web portals. Or in other words, the market tends to arrange parts of the Internet in the way most useful to its users.
- ❑ The taxonomy of knowledge is likely to change over time and render a gateway structure archaic.
- ❑ It is a crude way of classifying because only one classification is permitted (eg. unlike the Yellow Pages). It would be far more useful to be able to do a keyword search confined to domain names. However, it is recognised that some users will prefer to use generic and geographic domain names to access information.
- ❑ The sharing of generic and geographic domain names on a fair and equitable basis is potentially risky and difficult to achieve. This is particularly the case where allocation takes place using a commercial model, as small businesses are likely to be at a disadvantage compared to large businesses.
- ❑ The set-up and ongoing costs associated with this model are likely to be substantial compared with an approach which simply removes the restriction on generic and geographic domain names and enables their allocation on a first come, first served basis, or a lottery basis to meet a fairness criterion. The relative costs and benefits need to be identified and weighed.

4.4 TECHNICAL NAMES: TECHNICAL CONSTRAINTS ON NAMES

Background

Most of the current .au 2LD policies place some technical constraints on the composition of domain names (eg. the net.au policy states that domain names cannot be more than two characters long, unless the second character is a number). Some of these are DNS standards which cannot be altered due to limitations of the DNS itself.¹² However, some are merely technical conventions rather than true constraints, and are therefore open to revision.

Requests for Comments (RFCs) provide the basis for the official Internet standards.¹³

Summary - key issues and proposals

Comments are invited on the following key issues and proposals:

Issue	Proposal
4.4.1 Domain names that begin with a number.	4.4.1 Domain names that begin with a number should be allowed, however domain name licence applicants should be made aware of potential problems.
4.4.2 Country codes and gTLDs as domain names.	4.4.2 The prohibition on two character alpha domain names or domain names that match existing or new gTLDs should be maintained.

Discussion of issues

Issue 4.4.1: Domain names that begin with a number

Policies within the .au space differ on the issue of whether a domain name can begin with a number. For example, com.au allows it, while net.au does not. It is commonly held that the rule which stated that domain names could not begin with a number is outdated, and so it should now be allowed.

RFC 952 specified that the first character of a domain name must be a letter. This was updated (relaxed) by RFC 1123 (R. Braden, Oct 1989): 'One aspect of host name syntax is hereby changed: the restriction on the first character is relaxed to allow either a letter or a digit. Host software MUST support this more liberal syntax.'

The Panel considers that domains beginning with numbers should be allowed, as per RFC 1123, however users should be made aware of potential problems relating to older software that may not conform to this RFC.

Proposal 4.4.1:

Domain names that begin with a number should be allowed, however domain name licence applicants should be made aware of potential problems.

Pros of Proposal 4.4.1:

- This proposal would ensure consistency with international DNS standards as proclaimed through RFCs.

Cons of Proposal 4.4.1:

¹² For an introduction to DNS principles, see <http://www.aunic.net/dns.html>

¹³ See <http://www.dns.net/dnsrd/>

- ❑ Old versions of software which do not cater for numbers at the beginning of domain names could interpret them as IP addresses (hence the need to make users aware of potential problems).

Issue 4.4.2: Country codes and gTLDs as domain names

RFC 1535 (Informational) (E. Gavron, Oct 1993): 'Highlights subversion possibilities with default resolver search lists. In general, resolver search lists should never add domain names to a basic search string unless the domains are managed by a trusted party. This means that commonly used search string members such as .COM are dangerous and should not be used. Six years later, several large software companies still haven't understood this.'

RFC 1535 points out that domain names with two alpha characters (eg. au.com.au) could 'trick' some types of client software, thereby giving rise to possible security problems, where the two character domain is the same as a country code or potential country code. Potentially, a domain name that was the same as a gTLD domain name could be misused in the same manner (eg. com.net.au).

An early method of DNS configuration utilises 'search-paths'. For example, if your machine uses this method and is in the domain name.com.au, if you enter the address name2.com.au, it will try to resolve:

name2.com.au.name.com.au
name2.com.au.com.au
name2.com.au.au
name2.com.au

If somebody licensed the domain name au.com.au and created an entry in their DNS for www.name2.com.au.com.au, people whose machines use this search-path method could be misdirected to the web site for www.name2.com.au.com.au, rather than www.name2.com.au which was their intended destination.

This search-path resolver behaviour is still reasonably common, for example, a check of the traffic passing through connect.com.au's DNS cache showed that there were many requests made by systems using this behaviour. This behaviour could be used in many applications, such as telnet, mail clients, web browsers etc.

There is a consensus among the Panel that two character alpha domain names or domain names which match existing or new gTLDs should not be allowed. The proposed approach is to place all two character alpha domain names on the reserved list (see proposal 4.2.1) along with all existing gTLDs, and subsequently add any new gTLDs to the reserved list.

Proposal 4.4.2:

The prohibition on two character alpha domain names or domain names that match existing or new gTLDs should be maintained.

Pros of Proposal 4.4.2:

- ❑ Two character alpha domain names are among the most valuable domain names available. Retaining the prohibition ensures that they are not unfairly exploited.
- ❑ This proposal would minimise security risks arising from the misuse of two character alpha domain names.

Cons of Proposal 4.4.2:

- ❑ The addition of new gTLDs would mean having to continually update the reserved list.

4.5 IMPLEMENTATION ISSUES

Background

The Panel has undertaken its Terms of Reference in the expectation that:

- the registration of .au domain names will be opened up to competition during 2001; and
- changes to domain name eligibility and allocation policies will not take effect until competition is introduced.

In drafting its proposals, the Panel has also assumed that auDA will:

- establish rules and procedures with which registrars can technically comply;
- establish codes of conduct applicable to all registrars (or at least all registrars competing within a 2LD);
- require registrars to enter into a contract to comply with the warranties and undertakings set out in the rules, as a condition and maintenance of their licence agreement; and
- establish an effective compliance and penalty regime for registrars.

Where possible, the Panel has drafted proposals that could be applied across all 2LDs by multiple registrars. It has also tried to highlight the implications for a competitive environment.

In the course of its work, the Panel has given consideration to domain name portability, which is not readily possible under current policies. In particular, reselling or otherwise transferring a domain name licence from the licence holder to a different entity has emerged from consultation with registrars as a significant user issue.

It is the Panel's view that these issues would be more appropriately dealt with by auDA's Competition Model Advisory Panel, and/or through auDA's consideration of appropriate procedures which should be followed by registrars.

However, domain name portability, including resale, does have some implications for the Panel's core policy review areas. In general, the Panel favoured enhancing the portability of domain names, subject to the other conditions relating to eligibility and name allocation being met, as proposed in this report.

Summary - key issues and proposals

Comments are invited on the following key issues and proposals:

<i>Issue</i>	<i>Proposal</i>
4.5.1 Retrospectivity and prospectivity.	4.5.1 Changes to domain name eligibility and allocation policies will not have retrospective effect for current domain name licence holders, and will only apply to existing domain name licences at the time of re-registration.
4.5.2 Dispute resolution procedure.	4.5.2 Proposed dispute resolution procedure a. Dispute resolution procedures should apply to: i. all open 2LDs; and ii. closed 2LDs on an opt-in basis, with appropriate modifications if necessary. b. There should be two levels of dispute resolution procedure: i. the first level should deal with due process - ie. where an applicant wishes to contest the implementation of a policy within a domain by a registrar; and

	<ul style="list-style-type: none"> ii. the second level should deal with bad faith registration and/or use of a domain name - ie. referral to a dispute panel for enforcement of third party rights. <p>c. At the first (due process) level:</p> <ul style="list-style-type: none"> i. there should be a first appeal initially to the registrar; ii. there should be a second appeal to an independent arbitrator; iii. the arbitration should be compulsory and binding on the applicant, the domain name licence holder and all registrars; iv. the domain name should be frozen pending arbitration; v. only an eligible applicant should have access; and vi. the remedy should be restricted to registration of the domain name. <p>d. At the second (bad faith) level:</p> <ul style="list-style-type: none"> i. there should be an appeal to an independent arbitrator; ii. the arbitration should be binding on the applicant, the domain name licence holder and all registrars; iii. it should be restricted to bad faith registration and/or use of a domain name; iv. the domain name should be frozen pending arbitration; v. only eligible applicants should have access; and vi. the remedy can be cancellation of the registration or transfer of the domain name to a successful applicant.
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Discussion of issues

Issue 4.5.1: Retrospectivity and prospectivity

The changes proposed by the Panel in this report are not intended to have retrospective effect.

However, some of the proposed changes would result in domain names that were previously registrable (and actually registered) becoming disallowed. In that situation, it is proposed that the domain name could be renewed by the current holder, but could not be re-licensed by a new holder or transferred to a new holder. Specifically, if the current domain name licence holder decided to relinquish the licence, the new policy would apply and the domain name licence would no longer be allowed.

On the other hand, some of the proposed changes to domain name policy would result in domain names that were previously prohibited becoming available for registration. The Panel acknowledges that this situation could give rise to significant implementation difficulties, with registrars required to deal with a flood of applications for newly available domain names.

One approach discussed by the Panel would be to offer the domain name to the person who first applied for it. However, on advice from current registrars that there are no definitive records of domain name applications and rejections, the Panel concluded that this approach would not be feasible.

An approach favoured by some overseas registrars is to auction domain names that have perceived high value or are in high demand. The Panel did not reach consensus on this option. However, there was a strong view that, as the DNS is a public resource, the benefits should not accrue to registrars.

Another option is for auDA to put in place a special transitional dispute resolution procedure to handle any disputes arising from a 'first come first served' approach to the allocation of previously unregistrable domain names.

Proposal 4.5.1:

Changes to domain name eligibility and allocation policies will not have retrospective effect for current domain name licence holders, and will only apply to existing domain name licences at the time of re-registration.

Issue 4.5.2: *Dispute resolution procedure*

The Panel is concerned that there are currently no formal independent dispute resolution procedures in place in any of the .au 2LDs, except for the com.au space, where there is provision for referral to a binding, independent arbitration by an applicant which considers its application has been refused, or its licence terminated, contrary to the *com.au Domain Name Allocation Policy*.

There is a perception within the Panel that the public desires dispute resolution processes to provide remedies for aggrieved applicants and for persons who are aggrieved about the use of names by third parties. It is clear that there is a perceived need for dispute resolution processes, at least in the open 2LDs.

The feeling of the Panel is that, at least in the open 2LDs, there needs to be a dispute resolution policy put in place. The rationale for this proposal is that those 2LDs by their nature are likely to (and do) have a set of conditions to be met for eligibility to licence, and the meeting of those conditions is likely to contain elements of subjectivity and the possibility of disputes, best dealt with by an independent dispute resolution process.

Whether or not a closed 2LD requires a dispute resolution procedure may need to be determined on a case-by-case basis by the administrators of those 2LDs. At the request of Online Council Ministers, Australian government officials are currently developing a dispute resolution procedure to apply to the gov.au 2LD.

The Panel has tried to provide a conceptual framework which might be used as a base to build 2LD-specific dispute resolution processes which are appropriate to the integrity of each particular 2LD.

4.5.2 Proposed dispute resolution procedure:

a. Dispute resolution processes should apply to:

- i. all open 2LDs; and***
- ii. closed 2LDs on an 'opt-in' basis, with appropriate modifications if necessary.***

b. There should be two levels of dispute resolution process:

- i. the first level should deal with due process - ie. where an applicant wishes to contest the implementation of a policy within a domain by a registrar; and***
- ii. the second level should deal with bad faith registration and/or use of a domain name - ie. referral to a dispute panel for enforcement of third party rights.***

c. At the first (due process) level:

- i. there should be a first appeal initially to the registrar;*
- ii. there should be a second appeal to an independent arbitrator;*
- iii. the arbitration should be compulsory and binding on the applicant, the domain name licence holder and all registrars;*
- iv. the domain name should be frozen pending arbitration*
- v. only an eligible applicant should have access; and*
- vi. the remedy should be restricted to registration of the domain name.*

d. At the second (bad faith) level:

- i. there should be an appeal to an independent arbitrator;*
- ii. the arbitration should be binding on the applicant, the domain name licence holder and all registrars;*
- iii. it should be restricted to 'bad faith' registrations;*
- iv. the domain name should be frozen pending the arbitration*
- v. only eligible applicants should have access; and*
- vi. the remedy can be cancellation of the registration or transfer of the domain name to a successful applicant.*

SCHEDULE A

.AU SECOND LEVEL DOMAINS - PURPOSE AND ELIGIBILITY CRITERIA

Open 2LDs

In the .au domain space, open 2LDs are characterised by a first come, first served approach with comparatively low barriers to entry for domain name applicants. Generally speaking, any person or entity can apply for a domain name in an open 2LD provided they meet the purpose of the 2LD.

It is proposed that the same eligibility criteria could be applied to all open 2LDs, but with different orders of importance and varying degrees of relevance. For example, proof of identity would probably only be relevant when applying for a domain name in the id.au 2LD.

2LD	PURPOSE	ELIGIBILITY
asn.au	For 'associations'. Includes associations incorporated under specific state legislation, some incorporated bodies, political parties, trade unions, sporting and special interest clubs and 'partnerships' between disparate organisations.	Eligibility to licence a domain name in any of the open 2LDs can be demonstrated by reference to one (or more) of the following indicators: i. a decision by a court or other accredited tribunal; ii. an Australian Registered Trade Mark, or Trade Mark application; iii. proof of identity (eg. Australian passport, Australian drivers' licence); iv. an Australian Business Number; v. an Australian Registered Business Name or Company Number; vi. any other evidence supported by a statutory declaration and proof of identity. ¹⁴
com.au	For commercial entities, currently registered and trading in Australia.	
conf.au	For short duration conferences and exhibitions.	
id.au	For individuals.	
info.au	For major information resources.	
net.au	For entities that carry on, or propose to carry on, an Internet related business in Australia. Includes companies, registered Australian bodies, statutory corporations, building/friendly societies.	
org.au	For 'organisations'. Includes companies, statutory authorities, partnerships, etc, are all acceptable, as is almost anything else that can reasonably be considered an organisation.	

Closed 2LDs

In the .au domain space, closed 2LDs are those with defined communities of interest. Applicants must demonstrate that they belong to a well-defined class or sector in order to qualify for a domain name in a closed 2LD.

¹⁴ The Panel expressed some concerns that a statutory declaration does not provide the same level of assurance as the other indicators on the list, which all require a formal registration/certification process. In particular, from a law enforcement perspective, the risk of someone swearing a false declaration was considered higher than the risk of someone falsely registering a business name or trade mark, for example. It was felt that these concerns could be addressed by requiring the person swearing the statutory declaration to provide proof of identity.

Due to the differing scope and purpose of the closed 2LDs, it is not possible to apply one common set of eligibility criteria. Therefore, it is proposed that the eligibility criteria in the closed 2LDs will continue to be determined by the relevant authority for the 2LD, subject to ratification by auDA.

2LD	PURPOSE	ELIGIBILITY
csiro.au	For exclusive use by the Commonwealth Scientific and Industrial Research Organisation.	Eligibility to licence a domain name is demonstrated if the applicant is an employee of CSIRO.
edu.au	For education-related bodies.	Eligibility to licence a domain name is demonstrated by sufficient evidence, as determined by the registrar, that the requesting body is education-related.
gov.au	For exclusive use by Australian governments.	Eligibility to licence a domain name is demonstrated by reference to an Act of Parliament or government regulation.

SCHEDULE B

PROPOSED DOMAIN NAME LICENSING PROCESS

The Panel proposes the following domain name licensing process, to illustrate how the proposals in this report would interact with each other:

Q1. Does the domain name licence fit the purpose of the relevant 2LD?

YES - proceed to Q2

NO - decline application, end of process

Q2. Does the domain name licence applicant have a bona fide intention to use the domain name licence for the purpose envisaged by the relevant 2LD, as demonstrated by the eligibility criteria for that 2LD?

YES - proceed to Q3

NO - decline application, end of process

Q3. Is the 2LD open or closed?

OPEN - proceed to Q4

CLOSED - follow the process determined by the manager for the relevant 2LD

Q4. Is there a connection between the domain name and the domain name licence holder?

YES (either direct or semantic connection) - proceed to Q4

NO - decline application, end of process

Q5. Is the domain name generic, geographic or objectionable?

YES - see options below

NO - proceed to registration

Under **proposal 4.2.1**, the domain name would be placed on the reserved list. The domain name could only be licensed if:

1. the applicant could show evidence of trade mark rights in the domain name; or
2. on appeal by the applicant, auDA agreed to remove the domain name from the reserved list.

Under **proposal 4.2.2**, a generic or geographic domain name may be licensed, according to a method of allocation determined by auDA.

Review of Policies in .au Second Level Domains

AuDA Advisory Panel No. 1 Terms of Reference

Revision Date: 8 May 2000

This document is the Terms of Reference for the auDA Policy Advisory Panel Number 1, for Review of Policies in .au Second Level Domains.

1. Activity and outcome

This Policy Advisory Panel is set up to review two policy areas for .au second level domains:

- Applicant Eligibility Policy - Policy that determines which entities are eligible to apply for a domain name.
- Name Allocation Policy - Policy that determines which names are allowed to eligible entities applying for domain names.

The Policy Advisory Panel has two stages:

- Stage 1: Identify and document the existing policies in a format suitable for inclusion on the auDA website.
- Stage 2: Recommend changes, if any, to existing Eligibility and Allocation policies.

Prioritisation of work is at the discretion of the panel. However, consideration should be given to prioritising existing areas of user concern, including review of policies necessary to support introduction of competition between registrars in major second level domains. For second level domains not available to the general community (eg. .gov.au) the panel may consider passing the documentation and review task to the authority for that second level domain.

2. Duration

The estimated timeline for the panel is subject to change. The current estimate is:

Total Time	Elapsed Time Complete	Task
		TOR Confirmed
2 weeks	2 weeks	Call for panel participants
4 weeks	2 weeks	Panel participants confirmed
8 weeks	4 weeks	First panel meeting
20 weeks	12 weeks	Develop Stage 1 Working Paper
23 weeks	3 weeks	Develop Stage 2 Working Paper
27 weeks	4 weeks	Stage 2 Draft Paper issued for public consultation
29 weeks	2 weeks	Develop Stage 2 Proposed Paper
		Stage 2 Proposed Paper issued for public consultation
30 weeks	1 week	Develop Stage 2 Report
32 weeks	2 weeks	Stage 2 Report confirmed
44 weeks	12 weeks	Implementation of recommendations

3. Chair

The panel Chair is Derek Whitehead.

4. Members

The panel should include representatives from the following areas of the community:

- Consumers
- General domain name users
- Registrars
- ISP & Web Hosting entities
- Intellectual Property

Panel membership will be limited to 30. auDA will issue a general invitation via the auDA members and dns discussion lists to interested parties to participate in the panel.

5. Operations and budget

Members of the panel will determine their method of operation. auDA will provide email list server, web site including archived comments provided to the panel, documentation of work, will arrange meeting venues, and provide teleconference support for meetings.

auDA Name Policy Advisory Panel

Chair

Mr Derek Whitehead
Director, Information Resources
Swinburne University of Technology

Members

Mr Philip Argy
Senior Partner
Mallesons Stephen Jaques
(representing the Australian Computer Society)

Ms Sandra Davey
Consultant
SMS Consulting Group Ltd
(representing the Australian Interactive Multimedia
Industry Association)

Ms Kitty Davis
Executive Secretary
South Australian Internet Association

Ms Odette Gourley
Partner
Minter Ellison

Mr Rowan Groves
Project Coordinator
Australian Competition and Consumer Commission

Mr Stuart Hamilton
Executive Director
Australian Vice-Chancellors' Committee

Mr Keith Inman
Director, Electronic Enforcement
Australian Securities and Investment Commission

Mr Ian Johnston
Policy Consultant
Small Enterprise Telecommunications Centre Ltd

Mr Geoff Morrison
Assistant General Manager
Commonwealth Scientific and Industrial Research
Organisation

Mr Steve Pretzel
Managing Director
Pretzel Logic
(representing the Australian Chamber of Commerce
and Industry)

Mr Cliff Reardon
General Manager
ClicknGo!

Dr Evan Arthur
Assistant Secretary
Department of Education, Training and Youth
Affairs

Mr Mark Davidson
Partner
Marshall Marks Kennedy Lawyers

Mr Steve Fielding
General Manager
Office for Government Online (now part of the
National Office for the Information Economy)

Mr Brandon Gradstein
Student
Monash University

Mr Ian Halliday
Director
Melbourne Trading Post

Mr Tony Hill
Executive Director
Internet Society of Australia

Mr Ron Ipsen
Managing Director
Gippsland Internet Pty Ltd

Ms Cheryl Langdon-Orr
Managing Director
Hovtek Pty Ltd

Ms Christine Page-Hanify
Chief Executive Officer
Access Online
(representing the Australian Digital Alliance)

Mr David Purdue
President
Australian Unix Users' Group

Mr Daniel Rechtman
Consultant Solicitor
(representing Melbourne IT)

Mr Peter Reynolds
Chief Manager, Technology Strategy
Commonwealth Bank of Australia

Ms Leanne Schultz
Manager, Client Connections
connect.com.au

Ms Cathy Thawley
EC Business Advisor
Tradegate ECA

Mr Ross Wilson
Registrar of Trade Marks
IP Australia

Mr Joshua Rowe
E-Pay Project
Australia Post

Mr Tony Serong
Director
KPMG Legal
(representing the Service Providers' Action
Network)

Mr Galen Townson
Project Manager
iNature Australia

Mr Michael Wolnizer
Partner
Davies Collison Cave
(representing the Internet Industry Association)

GLOSSARY

TERM	DEFINITION
auDA	.au Domain Administration - the Australian body established by the Internet community to take over the administration of .au domain name registration
bona fide	good faith
ccTLD	country code Top Level Domain - in the global domain name hierarchy, all countries have been allocated their own top level country domain (eg. .au in Australia, .uk in the United Kingdom)
closed 2LD	a Second Level Domain that has a defined community of interest (eg. csiro.au, edu.au, gov.au)
domain name	provides a means for a user to access a computer on the Internet by using an easy to remember text name rather than numerical Internet address
domain name licence	a contract between an applicant/licence holder and a registrar setting out the terms and conditions relating to the use of a domain name
DNS	Domain Name System
entity	encompasses a company, organisation, association, statutory body etc
gTLD	generic Top Level Domain - in the global domain name hierarchy, there are a number of top level domains that operate in the same way as ccTLDs (eg. .com, .net, .org)
ICANN	Internet Corporation for Assigned Names and Numbers - the international domain name governing body
open 2LD	a Second Level Domain that is basically open to all users, subject to some eligibility criteria (eg. com.au, net.au, org.au)
Registered Trade Mark	a name, word or word/number combination that has been registered under the <i>Trade Marks Act</i>
registrar	an organisation that provides domain name registration services
registry	a database containing information about domain names and domain name licence holders
RFC	Request for Comment - the basis for official Internet standards
2LD	Second Level Domain - the next domain level in the global domain name hierarchy after the gTLD or ccTLD (eg. com.au)
3LD	Third Level Domain - the next domain level in the global domain name hierarchy after the 2LD (eg. www.wombat.id.au)
URL	Uniform Resource Locator - the exact address for an Internet resource
Unregistered Trade Mark	a name, word or word/number combination that is known in connection with a person either through commercial trading or other activities such as advertising (also known as common law marks)