

Ms Jo Lim
Chief Policy Officer
.au Domain Administration
GPO Box 1545P
Melbourne VIC 3001

Fax: 03-9226 9499

Dear Ms Lim

I refer to auDA's Name Policy Advisory Panel's Public Discussion Paper on New 2LDs and would like to submit the following comments as Chair of the *Action Group into the Law Enforcement Implications of Electronic Commerce* (AGEC).

The AGECE (formerly 'Research' Group) was formed in 1997 as a response by the *Heads Of Commonwealth Operational Law Enforcement Agencies* (HOCOLEA) need to research the impact of electronic commerce on law enforcement and revenue agencies' ability to continue to promote a safe community.

AGECE consists of representatives from the following Commonwealth law enforcement and revenue protection agencies:

- AUSTRAC (Chair)
- Attorney-General's Department
- Australian Competition and Consumer Commission
- Australian Customs Service
- Australian Federal Police
- Australian Securities and Investment Commission
- Australian Taxation Office
- Australian Centre for Policing Research
- Department of Immigration and Multicultural Affairs
- National Crime Authority
- Office of the Commonwealth Director of Public Prosecutions

AGECE has been working to ensure that the challenges and risks posed to the capabilities of law enforcement and revenue protection agencies by electronic commerce can be mitigated without compromising the potential benefits. To this aim, AGECE pursues two different but complementary approaches. The first can be described as the "*environmental*" approach, whilst the second can be described as the "*tools and powers*" approach.

- The "*environmental*" approach encourages and facilitates government, business and consumers in establishing an environment hostile to crime. This is a preventative approach and is not new. The simplest analogy in the "real world" is the encouragement by law enforcement agencies to homeowners to have good security - the environment itself then helps law enforcement to do its job. There

- are less vulnerable targets, harder work for the criminals, and more efficient use of law enforcement resources.
- The "tools and powers" approach is the more traditional approach adopted by law enforcement and revenue agencies. This requires governments to give law enforcement and revenue agencies the tools and legal powers they need to do their jobs.

The environment should be as hostile to crime as is reasonably possible and, when crime does occur, there should be specific countermeasures taken to fight it. Both approaches must be adopted to successfully counter crime relating to electronic commerce and the wider information economy.

It is within the context of AGECE's "environmental" approach that I am writing to you.

The auDA Name Policy Advisory Panel's discussion paper on new 2LDs raises the prospect of:

An 'open slather' 2LD. This means a 2LD with no eligibility requirements whatsoever. This type of domain would be akin to the .com, .net and .org gTLDs, where domain names are licensed purely on a first come, first served basis, and there is no distinction between commercial and non-commercial, or individual and organisation. It has been suggested that an open slather 2LD would ease the pressure in the existing 2LDs.

It is not clear from this extract whether the open-slather 2LD proposal would include any weakening of the underlying licensing requirements. The critical issue for AGECE is that the process of identifying licensees when a licence is issued does not change. The present system of issuing licences is robust and ensures that law enforcement agencies can find the licensee behind a domain name. This is demonstrated by the fact that so far as I am aware, in undertaking investigations AGECE members have not encountered any case where the licensee of an ".au" domain space could not be identified. Conversely, this has not been the case for matters that have originated from other domain spaces such as ".com".

AGECE would urge that the integrity of the current procedure for issuing licences be maintained to ensure that law enforcement investigations can readily identify the licensees of domain names.

AGECE comments in this submission have been limited due to time constraints but if the Panel requires any further information or comment from AGECE this will be provided.

Yours sincerely

Elizabeth Montano
Director AUSTRAC / Chair of AGECE

8 June 2001