

AusRegistry

Review of .au Policy Framework

Names Policy Panel Discussion Paper, November 2010



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Document Purpose

This document is intended as a response to the issues raised by auDA's 2010 Names Policy Panel in relation to the following policies:

- Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05)
- Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2008-06)
- Reserved List Policy (2008-03)
- Prohibition on Misspellings Policy (2008-09)
- Domain Monetisation Policy (2008-10)

Intended Audience

- AusRegistry
- .au Domain Administration Ltd. (auDA)
- General Public

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1. Introduction

auDA is conducting a .au policy framework review. The 2010 Names Policy Panel has prepared a Discussion Paper inviting public comments on some of the main policies underlying the allocations and use of domain names in the .au domain space.

The paper sets out the issues raised by auDA's 2010 Names Policy Panel in relation to the following policies:

- Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05) at <http://auda.org.au/policies/auda-2008-05>
- Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2008-06) at <http://www.auda.org.au/policies/auda-2008-06>
- Reserved List Policy (2008-03) at <http://www.auda.org.au/policies/auda-2008-03>
- Prohibition on Misspellings Policy (2008-09) at <http://www.auda.org.au/policies/auda-2008-09>
- Domain Monetisation Policy (2008-10) at <http://www.auda.org.au/policies/auda-2008-10>

This document addresses the questions raised in the Panel's Discussion Paper.

2. Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05) and Guidelines for Accredited Registrars on the Interpretation of Policy Rules for Open 2LDs (2008-06).

2.1. 1A: Registrants must be Australian (or registered to trade in Australia)

a) Should the restriction on registrants being Australian (or registered to trade in Australia) remain in place?

AusRegistry's position is that the current restriction should remain in place. Existing policy can certainly be attributed to the success, stability, and trust that the .au ccTLD has established both globally and within the Australian Internet community.

With respect to the advice presented to the panel about foreign entities attempting to circumvent the eligibility rules by way of engaging an Australian agent, perhaps consideration should be made about formalising this expectation and introducing auDA approved agents to provide such services legitimately.

Proactively policing these rules is currently very difficult, and typically dealt with only after a complaint is lodged from the public. As identified by the Panel, "the use of agents is common in many other TLDs, and many foreign entities therefore expect to be able to do the same in .au". By allowing approved agent representation, effective policy will also be introduced that better aligns the .au ccTLD with international standards and expected practices.

It is important to consider that many international entities do have legitimate requirements for holding a .au licence, as they provide products and services over the Internet to Australian consumers. New policy allowing approved entities such as Registrars, Law Firms, or Marketing Agencies, to provide agent services to international Registrants will make it easier for auDA to administer policy compliance, help grow .au namespace recognition internationally, and offer Australian consumers better protection by having an approved local agent that they can access if needed.

2.2. 1B: Org.au eligibility criterion – "special interest club"

a) Should informal clubs and groups be allowed to register within org.au?

Yes, informal clubs and groups should be allowed to register within org.au. They should not be disadvantaged just because they do not hold an ABN, ACN, any other business identifier, or are not formally registered as a charity or not for profit.

b) Should informal clubs and groups be allowed to register within com.au and net.au (ie. relax the eligibility criteria for com.au and net.au)?

The existing policy requirements for com.au and net.au should remain in place. If for example an informal club or group does decide to register an ABN, then they too technically become eligible to register a com.au or net.au.

Importantly though, gaining an ABN may change the club or groups status with the Australian Tax Office. Such a consideration falls outside of auDA's scope and is therefore a null point when discussing domain name policy.

c) How should the policy rules address illegitimate registrations, such as the use of org.au domain names for commercial purposes?

The current means for addressing illegitimate registrations is an effective and efficient mechanism for addressing complaints, and with the recent introduction of a new review panel, registrants now have the opportunity to have policing rulings independently reviewed.

Registrant Review Panel Rules (2011-01)

<http://www.ada.org.au/policies/ada-2011-01/>

2.3. 1C: Policy enforcement

a) Are current enforcement mechanisms in the .au domain space adequate and effective?

Based on the statistics auDA provided to the Panel relating to the number and type of complaints handled during 2010, the current complaints system does appear to be effective in dealing with policy breaches after registration.

AusRegistry proposes that there should be no change.

b) If not, how could they be improved?

Not applicable

2.4. 1D: Two year licence period

a) Should the fixed 2 year domain name licence period be changed?

Firstly, as the current Registry Operator, AusRegistry would like to declare an obvious interest relating to possible changes to the fixed 2-year domain name licence period. It can be argued that extending the licence period will create a barrier to entry for new Registry Operators seeking to contend the next Registry tender in 2014.

AusRegistry believes that the proportion of domain names that will be registered for multiple years and thereby impact on a new Registry Operator's operational costs will be minimal.

It makes sense to align the .au ccTLD with international standards. Existing mechanisms employed in other domain name extensions can be easily adopted to keep Registrant data current and accurate.

b) If so, what other domain name licence periods should be made available?

AusRegistry proposes that the existing 2-year minimum period is kept, and further 3, 4, and 5-year domain registration periods are introduced.

2.5. 1E: Leasing of .au domain names

a) Should a registrant be allowed to lease their domain name to another entity?

Leasing or sub-licensing is a common commercial practice, and as such should also be allowed within the existing commercial .au 2LDs only. Introducing a policy that specifically addresses this activity will best allow auDA to monitor and administer policy.

As acknowledged by the Panel, there are “legitimate commercial reasons for sub-licensing domain names (e.g. as part of intellectual property rights management)”. Consequently, it is not a valid argument to restrict this practice on the basis that some may abuse the system. The introduction of new policy that addresses sub-licensing will actually mitigate bad faith practices that exist currently.

b) If so, under what circumstances?

Only commercial .au 2LD extensions, i.e. com.au and net.au, should be allowed to be sub-licensed. All existing policy requirements and repercussions for non-compliance should simply remain and be simply extended to the sub-licencee.

Currently, when a Registrant breaches policy they are usually given the opportunity to address and rectify the matter. If a sub-licencee breaches policy, then the Registrant must remain responsible for the domain name licence because they have entered into the Registrant Licence Agreement with auDA. Furthermore, the sub-licence relationship is not a matter for auDA to address. It is a commercial and contract law consideration between the sub-licencor and the sub-licencee.

2.6. 1F: Single character domain names (a-z, 0-9)

a) Should single character domain names (a-z, 0-9) be permitted in the .au domain?

Yes, there is no technical reason why single character domain names should not be permitted in the .au domain space. Many other ccTLD and TLD Registries have already successfully released such domain names to the public.

Based on the perceived value of these domain names, a public auction should be held to release these domain names, similar to the generic name auction in 2002.

b) If so, what requirements should a registrant have to meet to be eligible to register a single character domain name?

The existing .au policy adequately addresses eligibility to register a single character domain name. There is no difference between a single character domain name, to that of a two, three, or more character domain name.

2.7. 1G: Registration of domain names for personal use

a) Should individuals be able to register domain names that relate to a personal hobby or interest?

AusRegistry believes that all Australians should have the right to register a .au domain name for their personal use. The fact that some Australians are forced to register domain names in other TLD or ccTLD spaces indicates that the existing policy does not adequately address the needs of all Australian Internet users.

b) If so, how should the eligibility criteria be changed to accommodate this type of domain name?

Diluting policy within any of the existing open 2LDs is complex and it has the potential to undermine gains already made towards establishing the safety and security of the Australian Domain Name System.

The opportunity to introduce new open 2LD was recently reviewed by New 2LDs Advisory Panel. <http://www.auda.org.au/new2ldsap/new2ldsap-index/>

The panel recommended to the auDA Board that there was no support for the introduction of any new .au 2LDs. Consequently, suggestions such as blog.au, event.au, were rejected and existing closed 2LDs such as info.au, and conf.au, were not re-opened.

In light of the New 2LDs Advisory Panel past decision, an alternative option may be to open unrestricted second level registrations directly beneath .au. This statements leads into the next question, "1H: Direct registrations under .au".

2.8. 1H: Direct registrations under .au

a) Should .au be opened up to direct registrations?

AusRegistry acknowledges that this is a controversial suggestion, but proposes that it should at least be explored again and re-evaluated, as it was by the 2007 Names Policy Panel.

Opening second level registrations have been successfully adopted by other countries without diluting the security or safety within their ccTLD. The Japanese .jp ccTLD allows both registration at the second level for foreign entities with local presence, and domestic registrations for Japanese legal entities at the third level beneath the co.jp 2LD.

Interestingly, the .jp ccTLD was recently rated as the most secure ccTLD in the world in McAfee Report, "Mapping the Mal Web, The world's riskiest domains."

Source: http://au.mcafee.com/en-au/local/docs/MTMW_Report.pdf

b) If so, what requirements should a registrant have to meet to be eligible to register a .au domain name?

If the decision is made to open direct registrations at the second level, then the space should be opened with minimal eligibility restrictions.

3. Reserved List Policy (2008-03)

a) Do you have any comments about the contents of the Reserved List, and/or the operation of the Reserved List Policy?

AusRegistry supports the Panel's current position; that the current policy is appropriate and effective, but may require updating to ensure consistency with Commonwealth legislation.

4. Domain Monetisation Policy (2008-10)

a) What do you understand by the term “domain monetisation”?

Domain monetisation is the practice of using a domain name to convert Internet traffic into legal tender. Most typically, a monetised domain name displays advertising links on a web page that are targeted to the predicted interests of the visitor and related to the domain name canonical. The Registrant receives a commission from an Advertising Network or Affiliate Network for referring traffic, otherwise known as Click Through Traffic, to one of their advertisers.

b) Should domain monetisation continue to be subject to specific regulation?

AusRegistry believes that domain monetisation should not be subject to specific regulation. Domain monetisation is no different to any other means of extracting commercial value from online activities. Whether a Registrant sells products, services, or converts Internet traffic to revenue, the existing .au policy already adequately addresses all the commercial practices of a domain name.

c) If so, how could the Domain Monetisation Policy be made more workable?

Not applicable

d) If not, would the general Policy Rules offer sufficient safeguards to deal with bad faith registrations by domainers?

Yes, the general Policy Rules offer sufficient safeguards to deal with ALL types of bad faith registrations. Bad faith registration is not directly related to domain monetisation, it has existed long before the practice of domain monetisation was even conceived.

e) Should domain monetisation be permitted in the non-commercial 2LDs (asn.au, id.au and org.au)?

No, monetisation practice is a commercial endeavour and as such should be restricted to the only the commercial open 2LDs.

5. Prohibition on Misspellings Policy (2008-09)

a) Should the restriction on prohibited misspellings remain in place?

In the absence of the ability for auDA to offer the same level of protection to all brand owners, irrespective of a company's size or value, it is AusRegistry position that this policy should be removed.

b) If so, what type of names should be protected?

Not applicable

c) How should a prohibition on misspellings be enforced?

Not applicable