

.au Policy Consultation

Conversation Tracker

December 2019

Introduction

Purpose of this document

This document's purpose is to capture a synthesised summary of the conversations and activities during the auDA .au Policy Consultations held during October and November.

ThinkPlace in partnership with auDA facilitated a series of face to face workshops and webinars with members of the auDA community and the general public to consult with and get feedback on a range of proposed policy measures.

Please note this document does not capture the conversation verbatim, rather it presents a snapshot of key discussion points and activities.

Audience

The audience of this document are the participants of the consultations and the auDA leadership team.

Consultation Participants

Members of the auDA community, the general public, representatives from Afilias, and representatives from auDA.

Public Consultations

- 15th Oct Canberra (face to face)
- 16th Oct Sydney (face to face)
- 17th Oct Melbourne (webinar)
- 17th Oct Melbourne (face to face)
- 29th Oct Brisbane (face to face)
- 30th Oct Melbourne (webinar)
- 30th Oct Melbourne (webinar)
- 21st Nov Melbourne (GASC, face to face)

Context

Key messages from Bruce Tonkin, Chief Operating Officer | auDA

auDA is responsible for the development and implementation of the policies governing the operation of the .au cc top level domain (TLD), including the registration of .au domain names. auDA is going through an extended consultation period with its stakeholders in order to capture feedback on draft policy changes prior to implementation sometime in 2020.

Consultation on the introduction of .au began in 2014, when a panel was formed to discuss the possibility of drafting rules regarding the .au domain space.

In 2017, a Policy Review Panel was created for two key tasks:

1. To understand how they might draft rules to implement the prioritisation for the .au domain space
2. To review the other 33 rules within domain regulation and ensure alignment with other developments in Australian government policy and laws.

Through this process, auDA consolidated all the proposed changes into a set consolidated rules that auDA would like to gain feedback on.

auDA is keen to understand from stakeholders:

- What about the rule adds value?
- What is missing?
- Any ideas or suggestions to improve implementation.



Attendees

CANBERRA

Department of Employment, Skills, Small and Family Businesses

Independent Schools Council of Australia

Department of Veterans' Affairs

Digital Transformation Agency

Afilias

Attorney General's Department

SYDNEY

NSW Fair Trading

Registrars

Small businesses

Domain owners

Web developers

MELBOURNE

Education sector: Victorian university representatives

Small businesses

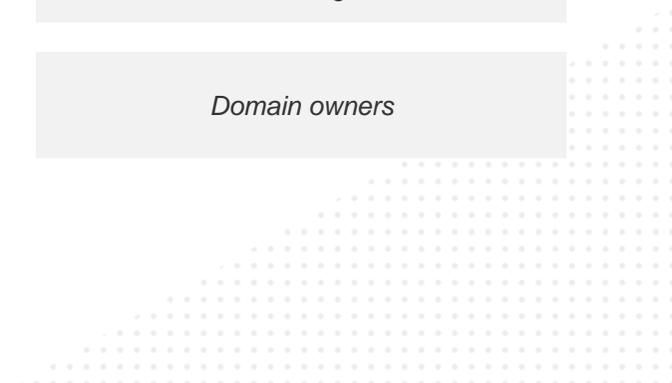
Companies providing hosting and domain services

IT Consultancies

Victorian Bar

Corporation Service Company (CSC) – an auDA registrar

Domain owners



Attendees

BRISBANE

Small businesses

Domain owners

Domain hosts

WEBINARS

Registrar

Domain owners

Domain hosts

Small businesses

Marketing firms

Young Australians Retail Association

IT consultancies

Education sector

.nz

Linux Australia



Why did participants attend these consultations?

CANBERRA

Are the interests of the general public protected? Does this disadvantage small business?

I feel like there is a lot of confusion around domain names with the coming of .au domain names

The lockdown model lacks clarity and I feel apprehensive about the lockdown dates

Do the new rules favour competition or the general public?

I want to understand it from the business perspective and how the rules will affect the competitive aspect of domain ownership

SYDNEY

How will the new eligibility criteria affect my client's access and experience in this space?

I wanted to understand what fee structures are in place and what are possible cost implications of the new rules

I don't have much clarity on the rules that have changed and how the new rules are different compared to the old ones.

How the change in policy will impact small business

How does eligibility affect value of domains? How should investors proceed, invest in .com.au or wait for .au?

MELBOURNE

I wonder how the new lockdown model will encourage/curb predatory behaviour

We are here today to understand how the rules are changing and how will it affect my clients

I don't have much clarity on the rules that have changed and how the new rules are different compared to the old ones.

I'm worried there might be adverse impact on small businesses

Does this affect the role of registrars? How can they help others deal with the changes?

Why did participants attend these consultations?

BRISBANE

To understand the rules so that I can provide advice to my clients

To understand how this may affect my own business

WEBINARS

A better understanding of where that .au namespace is heading and how we can interact with registrar's/domain owners going ahead since the restructure of the AU Domain Space.

Want to understand how this will affect domain names for local government

I want to understand the changes and also give feedback - this is an important time to get the policy settings right

Exactly what the process will be for registering the new .au domains (would like to ensure it is not overly complicated)

Consensus amongst the attendees on the major issues and challenges re: suggested changes and to ensure auDA understands the implications of some of the more aggressive changes

To get clarity on the new policies and share some feedback especially regarding direct .au registrations.

More information on how the rules apply to edge cases and if there will be an advisory service for these cases.

Get a sense of the approval and deployment timeline for new rules and hopefully direct .AU registrations

Understand the pricing implications

Need time and information to contact clients about options in the future.

Executive summary

This session highlights the key themes that came through across all workshops and webinar session

High level observations

There was general agreement that regulation of the .au space is critical for protection of the Australian public. Across all locations, the general sense was that the .au space is complex with many different players having a range of intentions and regulation was important and required to deter fraudulent activity.

There is no significant change required to most of the rules. While participants suggested small edits and alterations to the rules, auDA's suggested changes received agreement for most rules across all locations. There were some concerns raised with regards to the Lockdown model and Cut-off date which have been documented in this conversation tracker.

There is a need for better education and communication to the Australian community, on all of the rules and rule changes. A common theme across the feedback received, was in reference to the lack of education and communication. Participants provided suggestions on how auDA could improve their communication on the proposed changes.

Participants requested auDA to extend their communications to the wider public using language that the broader audience can understand and relate to. Additionally, many raised the issue that the lack of communication to the larger audience marginalises the general public.

.com.au and .net.au allocation rules

What works?

There is a **clear, streamlined registration process** that is flexible and easy to navigate

This rule **promotes transparency and removes ambiguity**

Eligibility criteria of 'having a Australian presence' is valued. It promotes trust and transparency in the system

What is missing or needs improvement?

There were concerns raised that this rule might **discourage innovation and become restrictive for new businesses**

There is a **lack of understanding of auDA's verification process** (e.g. how will auDA verify the authenticity of businesses)

More understanding and **clarity is required in relation to some of the language** used by auDA [e.g. definition of active/ inactive user]

More clarity is required on the **exceptions to this rule especially in the case of Government and other trusted institutions**

There were questions raised in regards to **auDA's possible role in mediation or having third party assistance with mediation/ dispute resolution**

There were concerns raised around **retrospectivity and implications as a result of the new eligibility criteria of having 'an exact match'**



International Domain Names

What works?

This rule **reflects inclusion and support towards multiculturalism and the Australian community**

This rule **promotes competition - nationally and internationally**

What is missing or needs improvement?

More **clarity is required on how this process will work**

There were **concerns raised around the possible increase in administrative burden** as well as related costs and resources required to manage and monitor this rule

There were concerns raised around the **complexity and confusion that this rule can cause as a result of language barriers** [e.g. possibility of errors, duplications, confusion with character sets etc]

There were concerns raised about the **potential risks that this rule could pose to the public without access to clear, simple communication and education**



Sub Domains

What works?

There was general agreement that this rule **helps deter illegal and fraudulent activity**

This rule puts **ownership and accountability on the parent company**

What is missing?

Lack of clarity on **how auDA will police and enforce this rule**
[questions raised around resources available and cost implications for auDA]

More clarity is required on auDA's process if domain names are cancelled or suspended [e.g. implications, timeline, notice, penalty etc]

There is **lack of clarity on eligibility criteria to have sub domains**



Sub-leasing

What works?

There was general agreement that this **rule helps deter illegal and fraudulent activity**

What is missing?

There were some concerns raised that this **rule hinders competition and innovation**

There were questions **raised about the possibility of removing the restrictions on subleasing** but having strict rules in place to police it

There is a lack of clarity on **how auDA will enforce and monitor this rule**

Noting that concerns were raised mainly by the registrar community



Cut-off date

What works?

There was general **consensus on the need to have a cut off date** for .au priority

What is missing?

There is lack of clarity and **the need for more education and awareness on the reason behind having a cut- off date** and what it would mean for applicants

There were **concerns raised around fairness of this rule especially on active users**, given the possibility of priority being given to non-active users

There were **concerns raised around the rule inhibiting new entrants**

There were some **differences in opinion in what the cut off date should be**



Lockdown model

What works?

Participants were in **agreement as to why a Lockdown model needs to exist**, however concerns were raised on the approach proposed by auDA

The model **minimises the intervention from registrars**

What is missing?

There were **concerns raised across locations on the approach/ process proposed by auDA and the risk associated disputes/ conflicts amongst contested applicants**

There were concerns raised about the **negative impact of the rule on active users as well as new entrants** [if in a lockdown with inactive users]

There were **questions raised around exceptions of this rule for Government bodies and other trusted institutions**

There were **concerns raised about the fairness of this model in regards to the need to pay a fee to hold interest in the DN, as it potentially favours larger corporations**

There were **some comments made about the Lockdown model being contentious**

There were **concerns raised about the legal and administrative implications of this rule on auDA**



Public Interest test

What works?

There is agreement in favour of this rule. Participants find this rule **fair, reasonable and required** to protect public interest

What is missing?

There needs to be more **clarity and awareness provided by auDA on the notification process if a DN is suspended or cancelled for public interest reasons**

There were **questions raised around auDA's authority and role in regards to requests made for suspension and cancellation for public interest reasons** :

There were questions raised around the **possibility of having an appeals process and right of the license holder whose domain has been suspended or taken down**

There were some concerns **raised around bureaucracy and Machinery of Government changes and its impact on the .au space**



Executive summary

This session provides more detail from the consultation sessions

.com.au and .net.au allocation rules

When making a registration for a com.au or net.au domain name, there needs to be a connection between the business and the domain name. e.g. The name of a product, service, event associated with your brand. These allocation rules aim to protect consumers and ensure fair trading.



Summarising themes

What works?

There is a **clear, streamlined registration process** that is flexible and easy to navigate

This rule **promotes transparency and removes ambiguity**

Eligibility criteria of 'having a Australian presence' is valued. It promotes trust and transparency in the system

What is missing or needs improvement?

There were concerns raised that this rule might **discourage innovation and become restrictive for new businesses**

There is a **lack of understanding of auDA's verification process** (e.g. how will auDA verify the authenticity of businesses)

More understanding and **clarity is required in relation to some of the language** used by auDA [e.g. definition of active/ inactive user]

More clarity is required on the **exceptions to this rule especially in the case of Government and other trusted institutions**

There were questions raised in regards to **auDA's possible role in mediation or having third party assistance with mediation/ dispute resolution**

There were concerns raised around **retrospectivity and implications as a result of the new eligibility criteria of having 'an exact match'**





What I value ...

There is a clear, streamlined process registration process that is flexible and easy to navigate: Participants appreciated the clarity of the rules which simplified the direct registration process. Many of the participants agreed that it had made registration an easier process. Participants in Melbourne were curious to know the role of registrars in light of the new rules.

This rule promotes transparency and removes ambiguity: Participants across locations believe that the introduction of this rule ensures that the criteria for domain names to match the businesses/ services they provide, ensures that domain names are less 'vague'. Transparency also implies lower search costs for registrants.

Eligibility criteria of 'having a Australian presence' is valued. It promotes trust and transparency in the system: Participants on the webinars and across locations agreed that the criteria protects public interest and over time will help people trust domains increasingly and limit squatting. Participants across cities remarked that they liked the specific requirement of the domain registrant to have an Australian presence and an ABN to register.

"In years gone by, it was very complicated, and I'm really like that auDA have clarified and streamlined the process." - Sydney

"The rule makes complete sense, but you need to explain why you are doing it. Small businesses need to understand this decision clearly" – Canberra

"Security, simplicity and transparency are the key positive aspects of this rule" – Brisbane

"I love that there needs to be a valid ABN. Anything we can do to prevent it becoming as messy/lawless as the .com namespace is appreciated." - Webinar



What can be better ...

There were concerns raised that this rule might **discourage innovation and become restrictive for new businesses**: Participants claimed that the eligibility could be restricting to new businesses (i.e. restrict their access in this space).

There is a **lack of understanding of auDA's verification process** (e.g. how will auDA verify the authenticity of businesses): Participants raised that auDA would have to spend a lot of time and costs to track and monitor the authenticity and connection of various domain names to registered businesses.

More understanding and **clarity is required in relation to some of the language** used by auDA [e.g. definition of active/ inactive user]: Participants thought it was unfair for inactive users to have equal rights as individuals who were active users. There were a lot of conversations around what defines an active v/s an inactive user and the general lack of transparency in this space.

More clarity is required on the **exceptions to this rule especially in the case of Government and other trusted institutions**: Questions were raised around whether this rule would apply to government and trusted institutions.

There were questions raised in regards to **auDA's possible role in mediation or having third party assistance with mediation/ dispute resolution**: Participants wanted to know whether auDA would intervene or provide assistance in cases of disputes or where a resolution cannot be met between applicants.

There were concerns raised around **retrospectivity and implications as a result of the new allocation criteria related to the requirement that a foreign person that has an Australian trademark** can only be allocated a domain name that is an exact match of the trademark - The new allocation rules requires all registrants that foreign people that have an Australian trademark need to have an 'exact match' of their domain name with their business/ associated service provided. This will mean that if they don't meet this criteria, they would need to change their domain name or risk the fact that their domain name could be suspended. It would have enormous cost and resource implications on existing license holders to comply with this eligibility criteria.

"It seems like the rules are quite loose in practice. The rule are enforced only when someone complains" - Melbourne

"I feel like this rule is against innovation. I need to have a functional business before I can register the name.." - Sydney

"This could be possibly too broad as "phones.com.u" can be taken by an individual because they sell/are related to phones, but that cuts off a lot of potential people" - Webinar

*"Frankly, the disgusting pricing decisions at retail. I know it is an 'open marketplace', but find it hard to fathom why some businesses are able to get away with charging hundreds of dollars for local registrations. It's obscene. *coughMelbourneITcoughcough*" - Webinar*



Ideas and Suggestions

Explain the 'why' of the rule: Participants claimed that often the general public were unclear as to why a rule had been added or updated. Information on how the rule will be implemented would also be valuable.

Suggestions to promote protection of public interest: Some participants raised that:

- Businesses should be asked to identify themselves in a more specific, articulate manner to avoid confusing the consumers
- Specific cases of people registering domain names including words like psychologist, drugs, doctor should be inspected and scrutinized for public safety.

Having an automatic review process: Participants suggested having some form of check for names that are parked as well as the ability of the system to auto-review and auto-audit, with ongoing tracking and monitoring of domain names.

Eligibility rules to consider close and substantial association as compared to exact match: Participants thought that the exact match rule is too restrictive for foreign persons that hold an Australian trademark.

Many of my clients are from small businesses and do not understand that this rule protects their interests."

"One-stop shop for all allocation queries."

"I hope not just anyone can register a domain name with doctor in it because they have found some way to relate it to their business."

"People shouldn't be allowed to register something like plumberscanberra.com.au because that gives them a strong advantage and increases confusion."

International Domain Names

The new rules allow for names in the following scripts to be registered at the second level:

- (1) Chinese (Simplified);
- (2) Korean;
- (3) Japanese;
- (4) Arabic; and
- (5) Vietnamese.



Summarising themes

What works?

This rule **reflects inclusion and support towards multiculturalism and the Australian community**

This rule **promotes competition - nationally and internationally**

What is missing or needs improvement?

More **clarity is required on how this process will work**

There were **concerns raised around the possible increase in administrative burden** as well as related costs and resources required to manage and monitor this rule

There were concerns raised around the **complexity and confusion that this rule can cause as a result of language barriers** [e.g. possibility of errors, duplications, confusion with character sets etc]

There were concerns raised about the **potential risks that this rule could pose to the public without access to clear, simple communication and education**





What I value ...

This rule reflects inclusion and support towards multiculturalism and the Australian community: Participants agreed that this rule makes many others in the Australian society feel more welcome and shows support toward diverse communities.

This rule promotes competition - nationally and internationally: Participants agree that this rule gives Australian businesses a chance to expand their target audience. Participants agreed that this is a good rule for auDA to implement as it is being done globally as well.

"This is a sign we are reflecting the global market. We are a multi-cultural society, we have lots of people and they all should know they are welcome here." - Sydney

"It's a great opportunity for Australian businesses to address international businesses." - Melbourne



What can be better ...

More clarity is required on how this process will work: Participants wanted more clarity on the application process and who was monitoring translation of International Domain Names. They also wanted clarity on eligibility requirements for having internationalised domain names in the different languages.

There were **concerns raised around the possible increase in administrative burden** as well as related costs and resources required to manage and monitor this rule: Participants wanted to understand how the implementation of this rule will alter fee structures, administration costs to manage and monitor compliance, given the language barriers.

There were concerns raised around the **complexity and confusion that this rule can cause as a result of language barriers** [e.g. possibility of errors, duplications etc]: Participants were concerned that their inability to understand different languages could result in errors or duplications. There were some questions raised about how auDA would manage and deal with translation of foreign languages. Concerns were also expressed regarding the ability of international companies to use their brand name in other languages and how auDA would protect their interests.

There were concerns raised about **security and potential risks that this rule could pose to the public without access to clear, simple communication and education:** Some participants were concerned about the retrospective impact and potential risks this rule could pose to the public (especially small businesses) without access to clear, simple communication and education. They were also concerned about this rule promoting fraudulent behaviour and the need for auDA to be monitoring domains to catch misuse.

“How do I know if they being misleading as a government agencies – like election banners in a different language with same colours could be misleading. Do we have in-house speakers who can monitor this.” - Canberra

“If I own the English domain, can ONLY I own the IDN version as well? Or can someone else buy it?” – Sydney

“How much will it cost? have you weighed cost against the probable demand of IDNs” – Brisbane

“Allow Domains to be verified after the domain has been registered in order to encourage registrations. Most registrations will be valid. Those that aren't can be immediately deleted.” - Webinar



Ideas and Suggestions

Staggering the release of this rule for a later date: Participants agreed with this rule but suggested that auDA should stagger the release of International domain names and not sanction too many big changes at the same time. They believe that this will ensure that auDA can monitor the domain space better as well.

Document examples of other countries who have the same rule: This is a rule that has been implemented in many countries. Examples of this implementation and its benefits will help to reassure individuals who believe this rule might disadvantage the English speaking Australians.

Exploring the possibility of allowing the market to decide what languages should be added to IDNs: Participants were also keen to know if more languages were to be added post the initial trial and how would those languages be decided.

There was some suggestions around having safeguards in place to remove chaos and confusion with using characters in different languages [e.g. restrict Cyrillic]

Many of my clients are from small businesses and do not understand that this rule protects their interests"

"One-stop shop for all allocation queries"

"I hope not just anyone can register a domain name with doctor in it because they have found some way to relate it to their business"

"People shouldn't be allowed to register something like plumberscanberra.com.au because that gives them a strong advantage and increases confusion"

Sub Domains

Registrants can create sub-domains e.g. you register `forexample.com.au` and can create `subdomain.forexample.com.au`

However, sub-domains are sometimes used as part of activities that breach auDA rules or are illegal or unlawful.

The new rules make clear that when auDA becomes aware of the use of a subdomain which breaks the rules or is being used for illegal or fraudulent activity, auDA can suspend or cancel the licence the sub-domain is attached to.



Summary - Sub Domains

What works?

There was general agreement that this rule **helps deter illegal and fraudulent activity**

This rule puts **ownership and accountability on the parent company**

What is missing?

Lack of clarity on **how auDA will police and enforce this rule**
[questions raised around resources available and cost implications for auDA]

More clarity is required on auDA's process if domain names are cancelled or suspended [e.g. implications, timeline, notice, penalty etc]

There is **lack of clarity on eligibility criteria to have sub domains**





What I value ...

There was general agreement that this rule helps deter illegal and fraudulent activity.

This rule puts **ownership and accountability on the parent company**: Participants appreciate the parent-child hierarchy applied to domains and sub-domains. Participants in Brisbane like the ability of the parent domain to host as many sub-domains as they like. They also appreciate the fact that these rules will apply to International Domain Names. Most participants across cities thought that it was logical for the license holder of the domain name to be held accountable in the event of misuse.

“Seems like a good approach in light of the new .au policies” – Canberra

“Seems reasonable and our group gives it a gentle thumbs up.” – Brisbane

“The domain holder should be responsible for all uses of the name, at all levels of the DNS” - Webinar

What can be better ...

Lack of clarity on **how auDA will police and enforce this rule** [questions raised around resources available and cost implications for auDA]: Participants commented on the lack of authority and monitoring in the sub-domain space. Many expressed worry that the opening up of the .au space will increase fraudulent behaviour in the sub domain space.

Participants raised that there was a possibility of people gaming the system and still maintaining non compliant sub domains. There were questions around how auDA would monitor all sub domains and activity in the .au space given its resource constraints.

More clarity is required on auDA's process if domain names are cancelled or suspended [e.g. implications, timeline, notice, penalty etc]: There was discussion amongst participants about having documented rules to explain at what point will a sub domain be taken down, what are the expectations from license holders, repercussions to the license holder, communication protocol to the general public and outline the differences in scenarios where auDA would take down a site versus suspend it.

There is **lack of clarity on eligibility criteria to have sub domains**: Some participants were unclear on requirements and the eligibility criteria to have sub domains.

“Sub domains need to be linked, light touch, substantial linkage. there needs to be a clear association between the sub domain and the main domain” - Canberra

“with .au releasing, people might register weird things. We are opening the doors wider and giving fraudulent people more rope to play with. auDA needs to be vigilant about this” – Sydney

“How is auDA planning on policing the sub-domains? And how do you file complaints against others?” – Brisbane

“Very concerned about possibility of abuse of new .au tld 'generic' domains eg tech.au” Webinar



Ideas and Suggestions

Create awareness and educate people on this rule and how it will work in practice There should be a requirement to document all the rules that apply mainly to sub domains. This can include:

- The list of things one must know when buying subdomains
- Examples of what counts as a breach versus what does not
- The list of offenders so people know '*what not to do*'.

Clarify the process for people to lodge complaints: This will promote legitimate/registered sub domains.

“What is the whistle-blower space here? What happens when I see something suspicious? How do I report these activities?” - Brisbane

Sub- leasing

Sub-leasing of domain names is currently forbidden in .au except between related bodies corporate (e.g. where agents or subsidiaries of a head company wish to make use of a domain licence which is held in the name of the head company).



Summary - **Sub-leasing**

What works?

There was general agreement that this **rule helps deter illegal and fraudulent activity**

What is missing?

There were some concerns raised that this **rule hinders competition and innovation**

There were questions **raised about the possibility of removing the restrictions on subleasing** but having strict rules in place to police it

There is a lack of clarity on **how auDA will enforce and monitor this rule**

Noting that concerns were raised mainly by the registrar community





What I value ...

There was general agreement that this rule helps deter illegal and fraudulent activity: Most participants were against sub-leasing and believed that disallowing it was a good way to stop monetisation.

“The rule is fair and stops monetisation” - Sydney

“Great - gets rid of free domains not registered to owner” - Webinar



What can be better ...

There were some concerns raised that this **rule hinders competition and innovation**: Some participants thought that this rule was very restrictive, thus impeding innovation in the Australian market.

There were questions **raised about the possibility of removing the restrictions on subleasing** but having strict rules in place to police it: While all the participants agreed with the rule, there were some participants from the registrar community that believed that restrictions to subleasing were unnecessary if there were strict rule in force to remove or deter unlawful or fraudulent activity.

There is a lack of clarity on **how auDA will enforce and monitor this rule** [i.e. cost implications, resource requirements]

A few participants voiced the option of taxing, penalising or issuing fines to individuals who were sub-leasing. Their opinion was that sub-leasing is underway and currently auDA doesn't have legislation against individuals who are sub-leasing.

“Should we tax it instead of completing banning it because it is happening anyway” – Brisbane

“Flexibility in the policy to allow for leasing in a controlled manner. Not all uses will be nefarious in nature. The policy seems onerous. Again, optimistic allocation and use with compliance-oriented actions for violations.” – Webinar

“For sub-leasing, why not just have an additional WHOIS lookup value for lessor and lessee? There are many business cases for leasing domains and banning it outright would drive this underground” - Webinar

The cut-off date for .au priority

When second level .au domain names launch, existing registrants will be able to apply for priority to register the exact match of their third level domain at the second level.

In the small number of cases where there are multiple applications for the same name (known as contested names), registrants of names created before the cut-off date of 4 February 2018 are given priority over registrants whose names were created after.



Summary - Cut-off date

What works?

There was general **consensus on the need to have a cut off date** for .au priority

What is missing?

There is lack of clarity and **the need for more education and awareness on the reason behind having a cut- off date** and what it would mean for applicants

There were **concerns raised around fairness of this rule especially on active users**, given the possibility of priority being given to non-active users

There were **concerns raised around the rule inhabiting new entrants**

There were some **differences in opinion in what the cut off date should be**





What I value ...

There was general **consensus on the need to have a cut off date** for .au priority: Most participants provided positive feedback on the fact that auDA has recommended a cut-off date for .au priority. A commonly held opinion was that the current date should stay the same and not change but there were some differences in opinion.

“At this point the bare minimum you can do is, don’t move the date forward or backward. Just let it be where it is. If you move it forwards, you will end up with more people in the contested space and that will be very problematic” – Canberra

“It is fair and works against people who have ‘gamed’ the system” – Melbourne

“Not moving the date curbs abuse of the rule” - Brisbane



What can be better ...

There is lack of clarity and **the need for more education and awareness on the reason behind having a cut-off date and what it would mean for applicants**: Participants raised that education around why the date exists, what are the implications of changing the date and what impact it has on registrants needs to be simplified and accessible.

There were **concerns raised around fairness of this rule especially on active users**, given the possibility of priority being given to non-active users: Most participants agreed with the cut off date, but many raised questions as to whether it was fair for inactive users to have the same rights as active users given that varying levels of interest and need.

There were **concerns raised around the rule inhibiting new entrants**: Participants discussed that there is a likelihood that this rule may inhibit new businesses from entering the space as priority is given to existing applicants.

There were some **differences in opinion in what the cut off date should be**: Some participants thought that the cut off date should be moved back to 2016, while others thought that the cut-off date of 4 February 2018 was fair and reasonable. Participants talked about exploring the possibility of pushing the date further back so as to not provide unfair advantage to some parties. Participants in Brisbane claimed that the current date provides an unfair advantage to anyone who has been keeping track of the happenings in the domain name space.

"I think it is unfair for me to keep paying the fee and wait longer to finally get a domain name from someone who might not even be using it in the first place" – Sydney

"Who should buy .au? Why are they buying it? We should start treating .au like real property" – Melbourne

"Is the cut off date too early - a balance between pressure but also time to give parties work through it successfully" – Webinar

"As a panel was set-up and feasibility studies were done back in 2015, a date in that year would be more suitable as compared to the current one." Brisbane



Ideas and Suggestions

Better and improved communication about the cut-off dates and related processes to remove confusion: There were discussions and suggestions about clearer communication in the form of a visual graphic or a video to present the information to the Australian community in a way that is simple to understand and relatable.

Suggestion were raised to release details of the domain names: There was discussion in Melbourne on how the domain names should be released at the conclusion of the priority registration period. Some ideas shared were that domain names:

- Should be released alphabetically
- Should be considered through the creation dates of the original DNs

“What is the whistle-blower space here? What happens when I see something suspicious? How do I report these activities?” - Brisbane

Lockdown model

Where there are multiple category 1 applicants for a second level name, the second level name is only allocated when agreement has been reached between the applicants.

If no agreement is reached the second level name remains locked. Applicants are required to maintain their application via a yearly renewal.

When there is only one applicant left the name can be allocated. This system is known as the 'lockdown' model.



Summary - Lockdown model

What works?

Participants were in **agreement as to why a Lockdown model needs to exist**, however concerns were raised on the approach proposed by auDA

The model **minimises the intervention from registrars**

What is missing?

There were **concerns raised across locations on the approach/ process proposed by auDA and the risk associated disputes/ conflicts amongst contested applicants**

There were concerns raised about the **negative impact of the rule on active users as well as new entrants** [if in a lockdown with inactive users]

There were **questions raised around exceptions of this rule for Government bodies and other trusted institutions**

There were **concerns raised about the fairness of this model in regards to the need to pay a fee to hold interest in the DN, as it potentially favours larger corporations**

There were **some comments made about the Lockdown model being contentious**

There were **concerns raised about the legal and administrative implications of this rule on auDA**



What I value ...

Participants were in agreement as to why a Lockdown model needs to exist, however concerns were raised on the approach proposed by auDA: Some participants liked the fact that auDA has employed a fair, tried and tested method to resolve conflict. Most participants were in agreement regarding the existence of a lockdown model but shared some concerns on what auDA is currently proposing as it can possibly disadvantage smaller organisations.

The model minimises the intervention from registrars: Some participants thought that the model was fair and removed registrars from intervening .

“Better to have five slightly annoyed people as compared to one happy and four extremely angry.” - Melbourne



What can be better ...

There were **concerns raised across locations on the approach/ process proposed by auDA and the risk associated disputes/ conflicts amongst contested applicants**: Across locations and webinars, participants debated what the period of lockdown should be. Opinions ranged from having no lockdown period to three-five years and five-ten years. Some participants expressed the need for auDA to intervene after the passage of a stipulated lockdown period, to facilitate conflict resolution.

Other methods of conflict resolution were discussed across sessions but each suggested method was seen to disadvantage some part of the public. (e.g.: giving it to someone who holds the domain for the longest, disadvantages newer entrants.)

There were concerns raised about the **negative impact of the rule on active users as well as new entrants** [if in a lockdown with inactive users]: Participants across locations believed that individuals who was an active user or established web presence, deserved more priority than a registrant who just owned a domain name.

There were **questions raised around exceptions of this rule for Government bodies and other trusted institutions**: Participants thought that government agencies, large trusted institutions should gain priority in the lockdown model to protect public interest and ensure there isn't any confusion or fraud.

There were **concerns raised about the fairness of this model in regards to the need to pay a fee to hold interest in the DN, as it potentially favours larger corporations** [those that can keep paying the fee during the lockdown period] Participants wanted to better understand the fee schedule. Some participant felt that it was unfair that they had to pay for something that they may probably never receive any return value for. Participants also raised that this model might disadvantage smaller organisations who are unable to pay the fee whilst in the lockdown period [i.e. larger corporations who can afford to keep paying the renewal fees would have an unfair advantage].

There were **some comments made about the Lockdown model being contentious**.

"I don't agree with the fact that you have equal rights just because you have a domain name, you need an active presence. It could get quite messy if both are Aussie and registrants." – Sydney

"If you lock tld's down which restricts the Australian economy from making use of it, that has the benefit of reducing confusion for consumers, and also levelling the playing field for everyone else. Some TLD's are very powerful and influential." - Webinar

"Have you done a cost benefit analysis on the options?" – Webinar

"Its not fair to smaller businesses that can pay the fee for extended amounts of time. You are promoting larger corporations with this rule." - Sydney



What can be better ...

There were **concerns raised about the legal and administrative implications of this rule on auDA**: Participants had questions around whether auDA had considered the potential risks and legal implications resulting from disputes/ issues arising with regards to contested rules. There were some questions raised around cost impacts and administrative requirements to monitor and evaluate compliance to this rule.

“Has auDA even considered legal implications?” - GASC



Ideas and Suggestions

auDA to potentially play the role of a mediator and provide conflict resolution services: Participants across locations recommended having some method of conflict resolution. Participants talked about auDA's role in mediating conflicts and dispute resolution. There were some concerns raised on auDA's availability of resources to support dispute resolution.

Participants in some locations also raised the possibility of auDA having a set timeframe for the Lockdown period to encourage and force applicants to reach agreements within a set timeframe.

Possibility of publicly reporting and making available information in regards to domain names that are contested or in lockdown periods.

Public Interest test

Domain names are often used as part of cyber-criminal activities and auDA regularly gets requests from law enforcement agencies to suspend or cancel .au domain names to protect the public. auDA developed the public interest test to ensure that these kinds of requests are made in the public interest.

After consulting with government and relevant law enforcement agencies it was decided that each request:

must be made by an enforcement or intelligence agency

and meet a set of public interest objectives



Summary - Public Interest test

What works?

There is agreement in favour of this rule. Participants find this rule **fair, reasonable and required** to protect public interest

What is missing?

There needs to be more **clarity and awareness provided by auDA on the notification process if a DN is suspended or cancelled for public interest reasons**

There were **questions raised around auDA's authority and role in regards to requests made for suspension and cancellation for public interest reasons** :

There were questions raised around the **possibility of having an appeals process and right of the license holder whose domain has been suspended or taken down**

There were some concerns **raised around bureaucracy and MOG changes and it's impact on the .au space**





What I value ...

There is agreement in favour of this rule. Participants find this **rule fair, reasonable and required to protect public interest**: Most participants appreciate the authority given to Australian enforcement agencies to intervene in times of an emergency. Generally, participants felt that in the public interest, Australian law enforcement should have agency to act with immediacy and authoritativeness.

“I like the fact that it gives our law enforcement the ability to act” - Melbourne

“I like the agency it gives Australian law enforcement if a overseas provider is hosting the content but refuses to take it down” - Melbourne.”

“I like that this is genuinely about the public’ interest and political interests” – Brisbane

“Agree court orders can sometimes not be timely and good to have options” - Webinar



What can be better ...

There needs to be more **clarity and awareness provided by auDA on the notification process if a DN is suspended or cancelled for public interest reasons**: While participants were in agreement on the rule, they had a range of questions and wanted more details on:

- How the license holder would be notified
- What was the timeframe between receiving the notification and the domain being suspended/taken down
- How the protocols differed in case of an emergency (eg. terrorist shooting being streamed live on a site)
- Would a reason be provided for suspension/ cancellation
- Who would make decisions - can auDA reject request made by law enforcement agencies
- How auDA will communicate to the Australian community
- Confidentiality and secrecy clauses and how they affect the domain holder (e.g. investigation situations).

There were **questions raised around auDA's authority and role in regards to requests made for suspension and cancellation for public interest reasons**: Participants had many questions about who could request suspensions, what was the level of involvement by government and what authority did auDA have to act without the government's involvement.

There were questions raised around the **possibility of having an appeals process for license holders whose domain has been suspended or taken down**: Participants wanted to understand what was the appeal process, what happened to domains after they were taken down and whether they could be bought again. They were keen to know what were the next steps one could consider after their domain had been suspended/ taken down.

There were some concerns **raised around bureaucracy and MOG changes and it's impact on .au space**: Some participants raised concerns with trusting government and law enforcement agencies with making responsible decisions that protect public interests. Participants also shared some concerns around the power some Australian organisations may have within this sphere and how that may affect the freedom of speech online.

"Will there be a public statement released on why? I don't think it is enough if someone just claims it to be in public interest." – Sydney

"Early suspension due to "public interest" seems reasonable IF initiated by Australian law enforcement. Outright revocation should be limited to the outcome of legal process or objective policy violation" – Webinar

"What is the current rule in this situation? How do we currently appeal in case our domain gets suspended" – Canberra

"With Scott Morrison talking about terrorist laws, auDA should have authority to take things down within a reasonable time-frame at the cost of national safety" – Canberra

"We have seen significant issues with law enforcement in NSW and QLD recently arresting and charging people for activity that is not unreasonable, unsafe or illegal. These actions have been overturned later on, but they highlight the issue with law enforcement being able to make broad enforceable requests without oversight." - Webinar



Ideas and Suggestions

Possibility of reporting or publicly publishing information on suspended or cancelled domains: Participants would like auDA to publish a list of DNS cancelled or suspended with details on who/why lodged a compliant and what rules did the suspended/taken down domain breach.

Information, advice and options to be provided to license holders when domain name has been suspended/taken down for public interest reasons: Participants in Sydney suggested that when one receives a notification letting them know their domain is being taken down/suspended, the notification should also point them to materials that detail their rights and what the appeal process involves.

“I believe there is an expectancy that there should be visibility behind why someone’s domain got taken down. It promotes accountability and transparency” - Canberra

Frequently Asked Questions

These are common questions and queries raised across the different locations.

These questions can guide development of communication material, marketing material and FAQs.



.COM.AU AND .NET.AU ALLOCATION RULES

1. Has the wording around 'close and substantial' connection taken out?
2. How do the rules apply for vague terms like "we do stuff"? Could they register wedostuff.com.au?
3. With the 'exact match' criteria e.g. blue door multimedia - can I get just have blue door? Does Blue Door count as an acronym? Need clarity about what counts as a acronym?
4. If you want a plural, would it not be an exact match if there is an extra 's' in the domain name?

INTERNATIONAL DOMAIN NAMES

1. Will .au be written in English even though the rest of the domain name will in another script?
2. Do we have reciprocal relationships with other countries whose languages we are using?
3. Is it ever mix characters (e.g. english characters used in Malay)?
4. After these languages as a trial is successful – will auDA consider other languages?
5. Is it possible to add new domain extensions in the new languages you want to open to, instead of using the current ones?
6. How will other languages work with Australian billing and CRM systems?
7. What is the policy/procedure on when an internationalised version directly translates to a current allocation?

THE CUT-OFF DATE FOR .AU PRIORITY

1. Will auDA/Afilias be well staffed enough to respond to queries from small businesses?
2. Cut off date for .au option is pretty quick for general public to have the understanding required of impact on their domain name, will there be an advertising campaign to support the changes to existing com.au holders beyond an email and 6 months to change?

LOCKDOWN MODEL

1. Is there a fee to be part of this lockdown?
2. How do you know you are eligible for the name? Are rules for participating?
3. Do you make a difference between someone who has a web presence or someone who doesn't?
4. Is .au more expensive than com.au?
5. Does it cost more to hold all domains (.au, com.au, etc) or do you get a discount?
6. Does someone like Telstra automatically get Telstra.au?
7. Is there an auDA appointed mediator or will there just be a 'it's locked until you lot make your minds up' approach'?
8. How would a small business "compete" for a name v/s a large corporation who has more money to drop?

SUB-LEASING

1. Would a domain reseller / web developer registering a domain under their own ABN until the project has been paid for in full be considered "sub-leasing"? Is there a different way this can/should be done to protect our interests until the project has been paid?

SUB DOMAINS

1. What if I own company.com.au and then host us.company.com.au for the USA or ind.company.com.au for India – and in other languages? Whose responsibility is it?
2. Is there a restriction on the levels of sub domains?
3. Are mixed character sub-domain names allowed?
4. Can you take down the sub-domain or do you reprimand the host domain?
5. Is the domain holder restricted to use only the ABN-based business name? For example, if the company has a separate us-only based business could they not use us.domain.com.au as a page with information promoting that business?

PUBLIC INTEREST TEST

1. Does auDA have a right to suspend domains without Government intervention? What scenario would that entail?
2. Does auDA have the authority to make a decision against requests from law enforcement agencies?
2. Are auDA able to validate and verify requests with Afilias?
3. What specific Australian Law Enforcement organisations would be involved?
4. Who on the auDA Board or CEOs are responsible for suspension decisions?
5. Do you publish a list of names that have been deliberately cancelled?
6. Who can request a suspension?
7. Is it only cancelled or can it be suspended?
8. If it is cancelled, can it be bought by someone else?
9. What is the recourse of the person whose domain is being suspended?
10. Does auDA have rules about content that can be put up?

Thank you for your time, participation and feedback