



## Australian Government

### Department of Communications and the Arts

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Policy Review Panel  
c/o .au Domain Administration Ltd  
PO Box 18315  
MELBOURNE VIC 3001

3 April 2018

Dear Panel

## 2017 Policy Review Panel

Thank you for the opportunity to comment on the 2017 Policy Review Panel (the Panel) Issues Paper. The introduction of direct registration in the .au domain name space will be a significant step in the evolution of how the .au name space is used and viewed by the Australian internet community.

Importantly, the Department of Communications and the Arts (the Department) acknowledges that the introduction of direct registration is subject to consultation with the Australian internet community, consideration of implementation arrangements by the Panel and agreement by the .au Domain Administration (auDA) Board.

Ensuring that the .au domain remains resilient, stable and secure needs to be the highest priority for auDA throughout the policy review process and beyond.

The Australian Government is a strong supporter of the multi-stakeholder approach to internet governance. The multi-stakeholder approach recognises that all stakeholders have a valuable contribution to make, and is a proven model for responding to complex policy and technical challenges associated with the development of the internet. The Department welcomes auDA's efforts to seek the views of the Australian internet community and auDA's commitment to fully consider the submissions and views received during the consultation process.

### **.au as a Public Resource**

The .au domain is an intrinsic part of the identity of many Australian businesses and organisations operating on the internet. Consumers visiting .au sites know they are Australian and are protected under Australian consumer laws.

The Australian Government endorsed auDA in 2000 and 2001 as the appropriate entity to administer the .au domain on behalf of Australian internet users as part of a self-regulatory regime. auDA's terms of endorsement note that as the domain name system is a public resource, its functions should be administered in the public or common interest.

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The Issues Paper makes two important assertions:

- *.au is a public asset that must be managed for the benefit of the Australian community; and*
- *Policies must promote consumer protection, fair trading, and be responsive to the needs of the Australian Internet Community.*

The Department agrees with these assertions, and notes that all domains should operate in a way that is consistent with Commonwealth legislation.

auDA will need to ensure that there are robust policies to limit any consumer confusion, and have in place expedient consumer protection safeguards.

auDA will need to have clear policies that explicitly prohibit misrepresentation and/or impersonation, and other false and misleading conduct, as well as comprehensive mechanisms to address breaches of its policies, including penalties for non-compliance.

As a condition of their registration, registrants must ensure that they are contactable on the information provided in their registration data.

### Reserved List Policy

The Department's view is that the same rules that apply offline should also apply online, and that in the absence of any offline regulation, names should generally be available for use as domains. It is essential that a policy framework be established that allows for the legitimate use of names, phrases and acronyms in the .au domain name space, provided that such use is not misleading or prohibited under Commonwealth legislation.

The auDA Reserved List Policy is not exhaustive and therefore does not contain every word, phrase or acronym protected or restricted under Commonwealth legislation. Compiling an exhaustive, up-to-date list of protected or restricted names is in all likelihood not feasible.

Rather than solely relying a list of words, phrases or acronyms to be reserved, an expedient mechanism should be established that enables Australian consumers, businesses, and government agencies to report domain names whose use is misleading, deceptive, or otherwise restricted or prohibited under Commonwealth law.

### Rapid Takedown Safeguard

auDA should implement a rapid takedown process for use in clearly defined circumstances, including where a domain is being used to mislead or deceive, or where use is restricted or prohibited under Commonwealth law.

The circumstances and process for dealing with rapid takedowns (including acceptable use policies, complaint resolution processes, timeframes for resolution, and so on) should all be clearly specified in auDA's policies and clearly advised to registrars and registrants (including through contracts, as necessary).

Where there is a complaint based on the above grounds, the domain name in question should be assessed objectively and in a timely manner against relevant contracts and policies.

## Complaints and Dispute Resolution Mechanisms

As the Panel and the auDA Board are aware, there are sections of the Australian internet community that have expressed concern over the introduction of .au direct registration. Clear and transparent complaints and dispute resolution mechanisms will be essential should the auDA Board decide to proceed with direct registration.

Dispute resolution mechanisms should be efficient, fair and quick, and must provide natural justice and procedural fairness to all parties. auDA will need to communicate the mechanisms to consumers in a manner that is understandable and supports consumer confidence.

## Public Education and Consumer Awareness

It is essential that auDA conducts a public education and consumer awareness campaign prior to implementing direct registration. From individual internet users to small-medium enterprises and to multinational corporations, the *entire* Australian internet community needs to have the necessary information to understand what direct registration means to them, its impact, and what their rights and responsibilities are if they currently have a .au domain name. For such a public education and consumer awareness campaign to be successful, outreach will need to be extensive in breadth and length.

## Security and Resilience

Under all circumstances, the security and resilience of the .au name space must be maintained. auDA will need to have robust policies that enable it to respond, mitigate and recover from potential cyber security threats and incidents. auDA should seek the views of Commonwealth agencies that are able to provide fit-for-purpose advice on cyber security matters. The Panel's intention to publish a draft report and draft policies in June / July 2018 will be an opportune time for consultations with Commonwealth agencies to occur. To this end, the Department can facilitate consultations with relevant Commonwealth agencies if it would assist the Panel.

Yours sincerely

Vicki Middleton  
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Strategy and Research