

# Registrant Policy Issues Paper Submission

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This submission is in response to the .au Registrant Policy Issues Paper and forum. I am the Operations Manager of a drop catcher, Netfleet, which also assists with aftermarket sales. I believe that experience gained in this role has provided me with insight to make this submission. However, this submission is made in a personal capacity, the suggestions and opinions in is document do not reflect those of Netfleet.

## .au Structure

### Should direct registrations be a general purpose/mixed use domain?

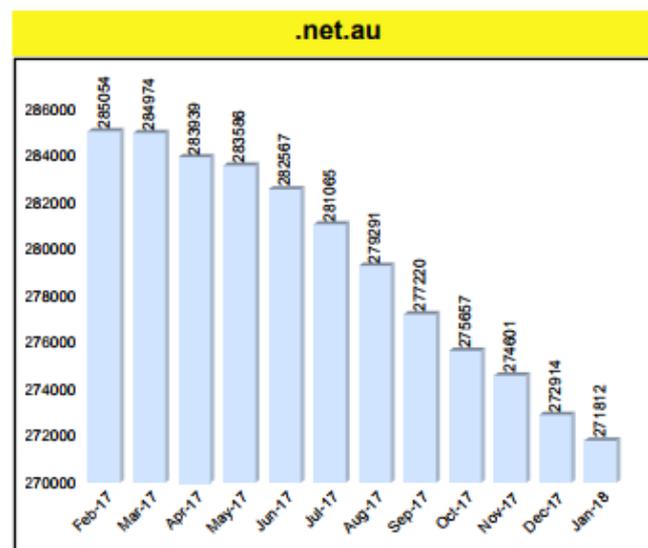
I believe that the market would benefit from having a general-purpose domain namespace which maintains the Australian presents requirement. Such a namespace will allow greater flexibility in the use of domain names while maintaining the trusted Australian brand.

Policies should be implemented alongside the launch of such a namespace which will enable auDA to respond quickly if any domain names are used for malicious purposes. This would be in the best interest of the community and in maintaining trust in the .au brand.

### Should net.au be closed to new registrations?

I don't think that net.au registrations should be closed yet. Although usage levels are low and registrations are declining, net.au domains are still being used. The namespace must be providing some benefit to the market.

In September 2017 AusRegistry estimated that 77,136 (28%) of net.au domains are identical to the com.au, both having the same registrants. Although net.au registrations are consistently declining and assuming 28% of the registrations are defensive, about 72% of net.au registrations are being used for other purposes. This significantly larger portion of the market shouldn't be overlooked.



net.au Domains Under Management, January 2018<sup>1</sup>

In my opinion, it is too early to know with confidence what should be done with the net.au namespace. I suggest leaving this namespace as it is for now and revisit the question a year or two after direct registrations have been introduced.

1. AusRegistry EOM Report: Domains Under Management Scorecard, January 2018

If direct registrations make the net.au namespace redundant, most net.au registrations are defensive and the use of resources to maintain the namespace could be better used elsewhere, then it would be best to close registrations.

## Reserved Names

### Should auDA continue to maintain a public reserved list?

It is reasonable that auDA shouldn't maintain a register of restricted names under Australian law, it is too difficult to maintain. A policy referring to the legislation will suffice.

The process for deleting a restricted names domain name should be similar to the existing complaints process whereby the registrant has a specified period within which to prove eligibility otherwise the name is deleted. This period should provide a reasonable timeframe for the registrant to gather and present information to prove eligibility. Provisional registration seems to be a fair approach in cases where Ministerial consent is being sought.

## Eligibility and Allocation Rules

### What eligibility and allocation rules should apply to .au and the open 2LD namespaces?

I do not agree with any of the models proposed in the issues paper for the following reasons:

#### Model A

I disagree with this model because I believe that direct registrations should be less regulated, allowing individuals, associations and organisations the opportunity to own a short and concise Australian domain name. Direct registrations should have an Australian presence requirement but no eligibility and allocation criteria.

#### Model B

The requirement of a relationship existing between the domain name and registrant is essential to maintaining the integrity of the 2LD namespaces.

#### Model C

Under this model I disagree with suggestions for eligibility and allocation for the com.au and net.au namespaces. I believe that implementing this model would make the com.au and net.au namespaces too rigid.

As mentioned in the paper, the initial policy requirement for net.au was removed in May 2002 due to low uptake. Narrowing these namespaces to only exact match or abbreviation to company name or trademark would have the same effect. If the viability of continuing registrations of namespaces is determined by uptake, then implementing this model could see the end of the com.au and net.au namespaces.

I also disagree that there is a scarcity of .au domain names. About 500 – 1,500 domain names become available to register daily, a list of these domain names is published by auDA. I believe that the current eligibility and allocation criteria, together with the complaints policies are sufficient to keep the amount of parked domain names at an acceptable level.

AusRegistry's data shows that the net.au namespace is declining<sup>1</sup>. This is a convincing indicator that there isn't a scarcity of .au domain names. The introduction of direct registrations will further broaden the market.

I propose the following alternative to the above models:

#### Model D

The existing eligibility and allocation criteria for the 2LD namespaces remain unchanged and direct registrations maintain the general eligibility criterion of an Australian presence but does not have any additional eligibility or allocation criteria.

Rules	.au	com.au/net.au	org.au	asn.au	id.au
<b>Australian presence requirement</b>	✓	✓	✓	✓	✓
<b>Additional eligibility criteria</b>	✗	✓ Must be a commercial entity.	✓ Must be a not for profit.	✓ Must be an incorporated or unincorporated association.	✓ Must be a natural person.
<b>Allocation criteria</b>	✗	✓ 1) Name must be an exact match or abbreviation of the company name, business name or trademark. OR 2) Substantial connection OR 3) Monetisation	✓ Name must be an exact match or abbreviation of the organisation's name, business name or trademark.	✓ Name must be an exact match or abbreviation of the association's name, business name or trademark.	✓ Name must be part of the person's legal name or nickname.

Table 1: Model D

#### *Benefits of this model*

Model D ensures that the introduction of direct registrations adds value to the .au market while preserving the value of 2LDs in the following ways:

- i. Introduces a modernised domain name for any individual or organisation with an Australian presence to use.
- ii. Maintains the integrity and usability of the 2LD namespaces (close and substantial connection and monetisation will be discussed next).
- iii. Preserves the registration levels and viability of the com.au namespace.
- iv. Preserves the domain name investments made by companies. These companies use domain names for SEO, branding and directory purposes, as recognised in the issues paper. Some companies retain domain names for future businesses.

## Close and substantial connection rules

As mentioned in the issues paper, these rules were introduced to allow for flexibility in eligibility. These rules are a good balance between providing flexibility without losing the reliability of the namespace and eliminating the close and substantial connection rules will decrease the usefulness of domain names.

It is common for businesses to register domain names according to frequently used keywords or specific to a product or service they offer. The usefulness of such domain names is to increase the likelihood of web traffic to the business and help the web user to find the best match for what they are looking for. These rules also allow businesses to quickly and cheaply test business ideas, encouraging start-ups and online businesses.

I do not think this would be a very complicated policy to administer, the onus is on the registrant to convince auDA of their eligibility. If the registrant's case is not convincing or their argument isn't logical then auDA can delete the domain name. auDA has a department dedicated to eligibility issues, the staff in this department have ample experience as they administer the policies daily. Therefore, they are more than capable of making appropriate decisions in this area. If registrants disagree with auDA's decision, they can request a review.

There is nothing wrong with the close and substantial connection allocation criteria, I believe they add value to the com.au and net.au namespaces and should remain unchanged. If auDA is having difficulty administering the rules, maybe the focus should be on clarifying the policy.

## Domain monetisation

I don't think that domain name monetisation should be removed but the policy could be adapted to solve the challenges that auDA experiences. The following are auDA's challenges and the suggested solutions:

**a) "it is difficult to determine if a domain name has been registered for monetisation purposes, especially where a domain name has been parked"**

If a domain name is parked – doesn't go to a website or have pay-per-click links on the page – then it can be assumed that the registrant has registered the domain name either for future use and/or for monetisation. In either case, does it really matter which one if the registrant ensures that they are compliant with the policy? In my experience, this hasn't caused harm to the industry and there aren't such a significant number of complaints where it can be considered problematic.

Complaints are usually made by individuals who want to have rights to the domain name. If their complaint is not successful, they could always register the name in an alternative namespace (e.g. if there is a complaint on the com.au they can register the net.au).

**b) "there is no time requirement in which a registrant must put up a monetised site resulting in a significant number of monetised registrations not resolving to a web site at all"**

I suggest introducing a reasonable time frame in which the registrant is required to monetise the domain name. In my opinion, month is a reasonable time frame for this.

- c) **“sometimes links on a monetised website do not go anywhere beyond the website, they just spawn another page with a lot of related or unrelated links that behave in the same way”**

I understand that this doesn't make the web experience pleasant for users but there's nothing in the policy that prevents this. I suggest making the policy more specific on what is acceptable and what is not.

There are registrants who are selling products on their websites, but the purchasers never receive the products. The policy should state that if this happens the domain names can be deleted. Fair Trading have tried to protect consumers against this fraudulent activity but auDA does not have a policy which gives it the authority to delete a domain name in this event.

A website like this causes harm to the community and degrades the domain name industry, stripping the Australian namespace of its reliability status. This is serious threat which needs to be managed.

- d) **“the types of domain names registered has grown beyond generic and searchable terms to include personal names, non-generic and non-English terms and acronyms”**

If it isn't logical that the names other than generic and searchable terms can't be monetised, then they wouldn't be acceptable to auDA and could be deleted.

- e) **“some domain names are monetized via other than websites, for example, the leasing of email addresses”**

Is this issue common? If so, what are the implications? If it is harming the community and domain name industry then the policy should exclude such use, if not then it is fine to remain unchanged.

- f) **“it is difficult to enforce the rule against domain names being registered for the sole purpose of resale”**

It is difficult to prove or disprove one's intentions however, auDA has mechanisms in place to monitor such activity. If there is a transfer of ownership shortly after the domain name is registered, then that is an indication that the registrant registered the domain name for the sole purpose of resale. This of course isn't a perfect indicator as there are many reasons for this to happen, but these incidents are assessed on a case by case basis. This method seems to work well.

The issues auDA is experiencing administering the close and substantial connection and monetisation rules are not reason to remove them from the policy. Specifying and/or clarifying the policy makes more sense. It is not realistic to expect all issues to be resolved but they can certainly be reduced, through clarification, to better support auDA in administering the policies.

The complexities involved in significantly altering policies of prominent domain names which need to be considered. It is difficult for auDA to effectively communicate with current and potential registrants, making the complexities more difficult to manage. These resources would be better used in encouraging Australian businesses to register Australian domain names and to promote direct registrations.

## Licence Conditions

### Should a registrant be able to sublease the domain name to an unrelated party?

If there is demand for such a service, then it should be considered for direct registrations only. Allowing 2LDs to be subleased will make administering the policy too difficult for auDA. This is under the assumption that direct registrations will not have eligibility and allocation criteria other than Australian presence.

### Should auDA be given the power to suspend a domain name licence?

I think that suspension is useful where the domain name is misleading or causing harm to the community. In cases where the registrant isn't authorised to use the business name or where the domain name is being used for suspected criminal activity, auDA could suspend the domain name while undergoing the complaints process.

### Are there any concerns with the current level of information included in the public WHOIS service?

No, I do not believe nor have come across anyone who reasonably believes that the level of information provided is inappropriate. I think the Australian public WHOIS service strikes a good balance between privacy and public information.

## Implementation of Direct Registration

The implementation of direct registration was not in the issues paper but was discussed that the forums.

### Remarks on the Panel's thoughts for contested domain names

I think that the timeframes are good, i.e. 6 months to purchase a ticket, 3 months to reach an agreement and the entire process taking less than a year. They are reasonable, allowing registrants enough time to respond without dragging out the process for too long.

I understand that setting a cut-off date is the simplest way to narrow the pool of contested domain names but don't agree with setting a date of almost 2 years ago. It might be fairer to set the date to the inception of the policy panel or the date when the policy will submit its suggestions to auDA. There isn't going to be a solution that everyone agrees with but if the solution is fair then there will be less angst towards to process.

Finally, if the panel proceeds with the current implementation model for direct registrations there should be a system in place which manages or provides support for the agreement phase. During this phase registrants could be subject to coercion from competing registrants, being forced to forgo their opportunity to hold the .au domain name.