

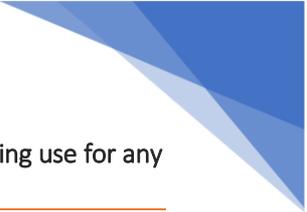
.au Policy Review Panel

Issues Paper January 2018

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Date: 03/03/2018

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1. Should the .au Domain namespace be a ‘general purpose’ domain for all Australians allowing use for any purpose?

NO. If “.au” were introduced it will threaten the stability and integrity of the namespace.

The ‘au’ (direct registration) contains NO identifier. Its “general purpose” is not associated to any specific identity. If implemented and allowed *for any purpose*, it would become a hodgepodge of entities, personal, business, not-for-profit, all of which will provide non-relevant indicators to its authority within a search engine listing. It will be avoided for this reason by the enquirer, in favour of, a domain name with an identifier.

2. Should the net.au namespace be closed to new registrations? If so, should existing net.au registrants be permitted to continue to renew their domain name indefinitely?

No. The net.au is an established extension in the *au* name tree. Unfortunately, its image has suffered due to Facebook and the multiple generic extensions on offer, along with, the availability of com.au as a means to rebrand their internet presence.

3. What should happen to the asn.au namespace? Should it be closed to new registrations or retained as a dedicated namespace for associations?

Associations and interest groups are more effective via social media than via asn.au – retire it.

4. Should the State and Territory namespaces be used for other purposes? If yes, why and what are the purposes for which domain names should be registered under these namespaces?

Give it to the state politician and councils, it’s more suited to their image than com.au.

Reserved Names

5. Should auDA continue to maintain a public reserved list? Should the public reserved list be published? What process or steps should auDA take before deleting a restricted or prohibited name?

Yes, retain the public reserve list and obviously maintain transparency about the names therein, especially considered important by Government.

6. Should auDA be able to reserve names in the public interest? How should the public interest be defined? What names should be reserved in the .au domain namespace? Should the public interest test replace the Prohibition on Misspellings Policy?

The free exchange of information should not be limited by anyone seeking to restrict important matters. Socially developed word-variances provide solidity and reference to a matter, thus, permitting potential domain registration with a view to promote the social matter in a broader context should be encouraged. Restricting words and phrases, directly infringes the right to freedom of speech as it ‘limits the capacity for individuals to voice their views and opinions on sensitive public interest topics such as terrorism, overseas conflicts, or political disasters.



'Public interest' *should not* be defined. A Public interest *matter* changes in time; defining it will only stifle the social development of keyword meanings. Also, Misspelling are not Public interest matters, the private interest of those in disagreement with spelling should take civil action.

7. **Should the names identified in the discussion paper be reserved as future 2LD namespaces? Are there other names that should be reserved for use as future 2LD namespaces and why?**

No. it's a public resource, not a private profit centre for auDA. If someone is lucky enough to buy a domain name i.e. web.com.au or any other keyword, and uses the keyword as a subdomain then that's what is commonly called capitalism. Unless you want an extreme left Marxist dynasty to sweep the Nation by turning the opportunistic domainer into a guilty parasite for trying to earn a living. I prefer the current tyrannical system that dictates to the market what it can and cannot do.

8. **Should there be a requirement for auDA to publish a list of names that are reserved for use by the registry and names that pose a risk to the operational stability and utility of the .au domain? Should there be any exceptions to the publication of names?**

I'm of the opinion that the majority of risks to the operational stability and utility of the .au domain is generally orchestrated by hackers in obtaining the domain administrator password or by exploiting weakness in a registrar, or by bribing employees for access to the database. Etc...once hijacked, those domains become toxic to the DNS. I don't see how certain names could break the internet?

The PRP-Issues-Paper-Registrant-Policy-January-2018v3.pdf referenced a document in point 63 – see link: <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.htm>

To my knowledge;

auDA is not a signatory to any Registry Agreement with ICANN – why is the PRP referring to a Registry Agreement? auDA is a signatory to a Sponsorship Agreement.

If auDA is the Registry Operator and auDA is a signatory to a Registry Agreement with ICANN (as suggested by the PRP) then auDA must conform to the terms of SPECIFICATION 5, namely;

The Registry Operator may also propose the release of these reservations (.au TLD) based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN.

The proposed implementation of the "au TLD" certainly causes confusion with the corresponding country codes like; com.au, net.au, org.au, vic.au, gov.au because, direct registration contains NO unique identifier.

➤ *Is the PRP absolutely 100% certain that auDA is a signatory to a Registry Agreement with ICANN and is subject to, the terms of that contract?*

Eligibility and allocation rules

9. How should the Australian presence requirements be defined? Should trademark applicants and registrants only be allowed to register a domain name that is an exact match to their Australian trademark application or registration when relying on the trademark application or registration to establish an Australian connection?
-

- (a) How should the Australian presence requirements be defined?

GAC Principle 9.1.6

All .au registrations require the registrant to be resident in Australia.

<https://www.iana.org/reports/2001/au-redelegation/disspain-to-alston-18jun01.html>

- (b) **Should trademark applicants and registrants only be allowed to register a domain name that is an exact match to their Australian trademark application or registration when relying on the trademark application or registration to establish an Australian connection?**

The TM applicant should have determined prior to the application that the domain name is available to register or purchase prior to making the TM application.

And, TM applicants and TM registrants *should be* allowed to create relevant domains around their brand. A local *presence* is required to maintain the TM or otherwise lose it (non-use) under paragraphs 92(4)(a) and (b). see link:

http://manuals.ipaustralia.gov.au/trademarks/Part_48_Removal_of_a_Trade_Mark_from_the_Register_for_Non_use/48.5_Grounds_an_app_may_be_made_for_removal_from_Register.htm

10. What eligibility and allocation rules should apply to the .au domain namespace (direct registration) and the open 2LD namespaces, and why? Should the close and substantial connection rule be retained and why? Should allocation criteria be removed, and the focus be on registrant eligibility? Should domain monetisation continue to be permitted in the com.au and net.au 2LD and at the second level? How should domain monetisers interests be balanced against the needs of the broader Australian Internet Community?
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Monetisation;

auDA should encourage utilisation not enforce it.

Close and substantial connection;

The opinion of The Australian Communications Consumer Action Network (ACCAN) recently noted;

“there is a broad perception within the community that a domain name should closely resemble the organisation that registers them.”

The entire argument regarding *“close and substantial connection”* is more about the individuals’ capacity for creativity *verses* the first thought that pops into your head and the angst of someone else being perceived as the enemy of your first thought”.



The Australian Business Name Registry (ABR) doesn't allow for business name registration to contain any likeness of any name already in existence. Therefore, introducing tighter restriction on allocating domain names would reduce the number of registered and registrable domains in the DNS, this will dramatically affect auDA's bottom line, increase end user costs, and registries will go broke.

Relaxing or abolishing this "close and substantial rule" allows for a healthier market place, everyone with an interest in obtaining the best brand for their business will simply make an offer on existing domain names, if rejected, get a loan or get creative.

PRP paper – object 79.

79. **Strict allocation rules would apply to the registration of a domain name in a 2LD namespace. For example, a registrant would only be able to register a name that is an exact match or abbreviation of its company or business name or trademark in the com.au namespace. The rationale for this approach is two-fold:**
- (1) **it increases consumer confidence that the domain name is related to an entity of the same or similar name, and**
 - (2) **it ensures that more domain names are available to potential registrants. The Panel recognises that a general principle underlying consumer protection is to 'know who you are dealing with' online.**

Its utterly irrational; the ABR prohibits and restricts registration of generic words as business names, along with, business names similar with another business name.

Additionally, the trademark system prohibits and restricts registration of generic words, public-domain words and phrases.

This means, Domain names are the only avenue for a company to abundantly express itself beyond its own company name.

Generic word search is the backbone of the internet. Removing this freedom of expression as proposed in object 79 will ensure the market for domain names will decline into new business registration and trademark volumes. The overall net effect of such diabolical policy change will result in minimal registration creates and the eventual abandonment and collapse of the 'com.au' and its long-built trusted brand for Australia.

One can identify a real danger in following legislative naming instruments to develop DNS policy and rules. The slow migration of *word-forms* through the auspice of legalised prohibition seeks to provide those who are protected by such laws with naming rights. This backdoor assumes "rights" over domain names where there are none, it also assumes ownership of certain domains via legislative naming instruments.

80. ACCAN recently noted that there appears to be a scarcity of .au domain names due to significant numbers of parked sites, domainer activity and the limited number of .au namespaces. Strict allocation rules may reduce the volume of domain names held by domainers for monetisation purposes. A domainer would still be eligible to register a domain name that matched the domainer's company or business name.

(A) At the end of 2016-17, there were **2,238,299 actively trading businesses** in the market sector in Australia. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8165.0>

(B) At the end of January 2018 there were **2,766,404 com.au domains registered**.
<https://www.ausregistry.com.au/wp-content/uploads/2018/02/1801General.pdf>

The number of active trading businesses in Australia compared to the number of registered and available com.au domain names is clearly not at critical levels. Keep in mind, the ABR maintains a restrictive allocation process, requiring *registration creativity* beyond generic words.¹

In light of that fact, keeping the domain name system "open and unrestrictive" allows for businesses to expand their brand initiatives beyond their current Business names or trademark and into complimentary generic support. (increasing and capturing the value of keyword search queries in unrestricted search engine like Google)

According to auDA Policy terms –

ELIGIBILITY AND ALLOCATION RULES FOR COM.AU

b) the domain name must not be, or incorporate, an entity name, **personal name** or brand name in existence at the time the domain name was registered*.

* Definitions:

o "personal name" means the given name(s) and/or last name of a person;

The *definition* of "Personal name" along with the wording of this policy requires attention; it could be argued, *any* personal name in existence cannot be registered or incorporated into a domain name. I'm sure MalcolmTurnbull.com.au might have something to say about that?

Recommend:

- **Remove** – "Personal Name" from this policy rule.
 - **Remove** – Prohibition on registering domain names for sole purpose of resale:
 - **Remove** – Close and substantial rule.
- *Everyone should have the ability to profit responsibly.*

¹ <http://asic.gov.au/for-business/registering-a-business-name/before-you-register-a-business-name/business-name-availability/updated-rules-for-determining-the-availability-of-a-business-name/>

11. **Should internationalised domain names be trialled at the second level, and under what conditions?**

No. Same trap as direct registration, just using different languages. Do you really believe the Chinese are going to use the character: 该 = au

Introducing multilingual extensions into a predominately English-speaking country is diversifying beyond the linguistic ability to monitor that space. Accordingly, using internationalised characters to depict Australia is sending the wrong message about our country. People may assume that Australia is part of China, Japan, Russia, or Korea.

GAC Principle 9.1.6

All .au registrations require the registrant to be resident in Australia.

The GAC principle leaves registration of 'au' depicted as foreign language characters to a small margin of Australian residents. Just look at the (dot) Melbourne registration figures, very low at 0.001% for a population of 4 million Melbournians.

According to the ABS website, the Resident population of Chinese in Australia as of 2016 is 526,000 or approx. 2% of the Australian population. I doubt there is a business case to warrant the introduction of an internationalised .au extension into the Australian market. Not many people in Australia are going to register 该 as an extension?

I see no benefit marketing the au as 该 in Chinese characters to China or any other country.²

Licence conditions

12. **Should a registrant be able to sublease the domain name to an unrelated party? If yes, in what circumstances should this be permitted?**

Of course, a registrant should be allowed to freely sub-lease the domain to anyone. How does auDA expect to police it? 1800 dobber³

13. **Where a domain name licence is transferred between registrants, should the transferee receive the benefit of the remainder of the licence period?**

No. unless individual registrars would like to offer it as a service to win new registrants. I personally do not see it working as a policy.

More importantly, should the registrars provide pro-rata credit to the transferrer upon successfully transferring a domain name with 18 months remaining?

² <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3412.0Media%20Release12015-16>

³ <https://dictionary.cambridge.org/dictionary/english/dobber>

14. **Should auDA be given the power to suspend a domain name licence? When should auDA suspend rather than cancel a domain name licence? What should be the maximum suspension period before a domain name licence is cancelled?**

If auDA were to suspended a domain name for more than 30 days and the registrant is found not guilty of the alleged breach, will auDA provide compensation, and reinstate the time lost on the licence period during this suspension?

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

The authority to issue licence is also the power to revoke it.

When should auDA suspend rather than cancel a domain name licence?

Any serious breach of the licence agreement is a reason to suspend the licence.

If after 30 days the respondent has not attempted to contact auDA or not attempted to remedy the breach, the licence is suspended. If after 45 days the licence is cancelled.

What should be the maximum suspension period before a domain name licence is cancelled?

45 days max, unless case managed. Extensions can be granted *if* the registrant is genuinely attempting to correct the breach. No exception.

15. **For what purposes should auDA be allowed to collect, use and disclose registrant data?**

The current auDA Privacy Policy is sufficient.⁴

- Registration and Registrant Information that can be reasonably shared for the benefit of the internet community should be encouraged.

16. **Are there any concerns with the current level of information included in the public WHOIS service? Should the technical contact field be utilised for agent and lessee details?**

No concerns. Thanks to the visibility of the WHOIS information the public can monitor mischief within the public record.

Final Note

The Panel agrees with the 2015 Names Policy Panel Final Report that any change to the “system should generate new value” and not simply replicate “existing functionality.”

Thank you for taking the time to read this submission. May you retain your independence and continue to strive for the best possible outcome for the sake of the integrity of the namespace.

Regards, Scott Long.

⁴ <https://www.auda.org.au/policies/privacy/>