

REVIEW OF .AU DOMAIN NAME POLICY FRAMEWORK

2007 NAMES POLICY PANEL

FINAL RECOMMENDATIONS TO THE auDA BOARD NOVEMBER 2007

1. BACKGROUND

1.1 In February 2007 the auDA Board established the 2007 Names Policy Panel to:

- review the policy framework underlying the allocation and use of domain names in the .au domain space*; and
- provide recommendations to the auDA board about what changes (if any) should be made to the policy framework.

1.2 The Panel considered the following issues:

1. Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?
2. Should the policy rules for asn.au, com.au, id.au, net.au and org.au be changed? If yes, what changes should be made?

Relevant auDA Published Policies:

- Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2005-01) at <http://www.auda.org.au/policies/auda-2005-01/>
- Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2005-02) at <http://www.auda.org.au/policies/auda-2005-02/>
- Reserved List Policy (2006-02) at <http://www.auda.org.au/policies/auda-2006-02/>
- Clarification of Close and Substantial Connection Rule – Domain Monetisation (2006-03) at <http://www.auda.org.au/policies/auda-2006-03/>
- Clarification of Domain Name Licence – Prohibition on Misspellings (2006-05) at <http://www.auda.org.au/policies/auda-2006-05/>

3. Should registrants be allowed to sell their .au domain names?

Relevant auDA Published Policies:

- Clarification of Domain Name Licence – Prohibition on Sale of Domain Name (2005-05) at <http://www.auda.org.au/policies/auda-2005-05/>
- Transfers (Change of Registrant) Policy (2004-03) at <http://www.auda.org.au/policies/auda-2004-03/>

* The following 2LDs are excluded from the Terms of Reference: csiro.au, edu.au, gov.au and the community geographic 2LDs (act.au, nsw.au, nt.au, sa.au, tas.au, vic.au, wa.au).

1.3 Full text of the Panel's Terms of Reference, a list of Panel members and minutes of Panel meetings, are available on the auDA website at <http://www.auda.org.au/2007npp/2007npp-index/>.

2. PUBLIC CONSULTATION

2.1 The Panel was required to undertake at least two rounds of public consultation, to ensure that its recommendations to the auDA Board were properly canvassed with, and informed by, key stakeholders and the general community.

Issues Paper, May 2007

2.2 The Panel released an Issues Paper in May 2007 which set out the current situation and invited comment on suggestions and options for change. The Panel received 48 submissions, which are archived on the auDA website at <http://www.auda.org.au/2007npp/2007npp-index/>.

Draft Recommendations, September 2007

2.3 The Panel released its Draft Recommendations in September 2007. With respect to the first two issues under consideration – direct registrations under .au and 2LD policy rules – the draft recommendations represented the clear consensus view of the Panel. At the time, the Panel had not reached a consensus view on the third issue under consideration, namely whether registrants should be allowed to sell their .au domain names.

2.4 The Panel received 25 submissions, which are archived on the auDA website at <http://www.auda.org.au/2007npp/2007npp-index/>.

3. GLOSSARY

<i>Term</i>	<i>Definition</i>
2LD	Second level domain, ie. a name at the second level of the .au domain name hierarchy (eg. com.au)
3LD	Third level domain, ie. a name at the third level of the .au domain name hierarchy (eg. domainname.com.au)
auDA	.au Domain Administration Ltd
auDRP	.au Dispute Resolution Policy
ccTLD	Country Code Top Level Domain (eg. .au, .uk)
DNS	Domain Name System
Domain monetisation	The practice of registering a domain name for the purpose of earning revenue from advertising links on a webpage
gTLD	Generic (or Global) Top Level Domain (eg. .com, .biz)
Registrant	An entity or individual that holds a domain name licence
Registrar	An entity that registers domain names for registrants and is accredited by auDA
Registry operator	An entity that operates the central registry database of domain names
Reseller	An entity that acts as an agent for a registrar

4. 2LD HIERARCHY

2LD	Purpose
asn.au	For non-profit organisations, associations, clubs and special interest groups
com.au	For commercial entities and traders
csiro.au*	For the Commonwealth Scientific and Industrial Research Organisation (CSIRO)
edu.au*	For educational entities
id.au	For individuals
gov.au*	For government departments and agencies
net.au	For commercial entities and traders
org.au	For non-profit organisations, associations, clubs and special interest groups
act.au, qld.au, nsw.au, nt.au, sa.au, tas.au, vic.au, wa.au*	For local community groups. Only Australian place names may be registered – eg. ballarat.vic.au and wollongong.nsw.au

*These 2LDs are excluded from the Panel's Terms of Reference.

5. POLICY OBJECTIVES

5.1 The Panel identified the following policy objectives for the .au domain (in no particular order):

1. To maintain the **Australian identity** of the .au domain space.
The Panel believes it is important that policy rules continue to require that .au registrants have an association or nexus with Australia, in order to differentiate the .au domain from other TLDs.
2. To enhance the **usability** of the .au domain space.
The Panel believes that the .au domain should be easy to navigate, simple to understand, not confusing, and responsive to user needs.
3. To preserve the **integrity** of the .au domain space.
The Panel believes that the .au policy framework should aim to minimise the risk of cybersquatting, scams and other misuse, and reduce conflicts and disputes. It should provide adequate protection for rights holders, and as far as possible be consistent with other regulatory regimes.
4. To facilitate **economic benefits** flowing from the .au domain space.
The Panel believes that the .au domain space should support the Australian online economy by promoting high .au domain name penetration rates. To this end, registering a .au domain name should be cost effective and attractive for Australian businesses, and there should be an efficient reuse of domain names.

5.2 These objectives are consistent with auDA's constitutional objects, available on the auDA website at <http://www.auda.org.au/about/constitution/>.

6. FINAL RECOMMENDATIONS

Issue 1: Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?

Current situation

6.1 It has never been possible for people to register a domain name directly under .au (eg. domainname.au). Instead, the .au domain is structured into a number of second level domains (2LDs) and people must register their domain name as a third level domain (3LD) (eg. domainname.com.au, domainname.org.au and so on).

Public submissions

6.2 The majority of submissions to both rounds of public consultation were opposed to allowing direct registrations in .au. People cited user confusion, domain name conflict and cost to small business as the main reasons why it would not be desirable to introduce direct registrations.

Views of the Panel

6.3 The Panel's Issues Paper in May set out a number of arguments for and against direct registrations in .au; for background informational purposes, these are reproduced at Attachment A.

6.4 The Panel's view is that there is no groundswell of support among the general community for opening up .au to direct registrations, and even amongst those in favour of direct registrations, there is little likelihood of agreement on a method for implementation. For these reasons, the Panel has agreed to recommend that .au should not be opened up to direct registrations at this time.

Recommendation 1:

The Panel recommends that .au should not be opened up to direct registrations at this time.

Issue 2: Should the policy rules for asn.au, com.au, id.au, net.au and org.au be changed? If yes, what changes should be made?

Current situation

6.5 The current policy rules for asn.au, com.au, id.au, net.au and org.au (known as the "open 2LDs") have been in place, mostly unchanged, since 1 July 2002.

6.6 The Domain Name Eligibility and Allocation Policy Rules for Open 2LDs (2005-01) set out three types of rules:

- General policy rules that apply to all 2LDs, eg. "first come, first served" and a fixed 2 year licence period.
- Eligibility criteria that apply in each 2LD, eg. commercial entities are eligible for com.au and net.au, not-for-profit entities are eligible for asn.au and org.au, individuals are eligible for id.au.
- Allocation rules that apply in each 2LD, eg. exact match, abbreviation or acronym, or "close and substantial connection" rule.

6.7 In addition to the core domain name policy rules, two other auDA policies also govern the types of domain names that people can register in the open 2LDs:

- Reserved List Policy (2007-01) – prohibits the unauthorised registration of words and phrases restricted under Commonwealth legislation.
- Clarification of Domain Name Licence – Prohibition on Misspellings (2006-05) – prohibits the registration of misspellings of company and brand names.

Public submissions

6.8 Of the three issues under consideration, the policy rules attracted the least public comment. Proposals put forward in submissions included:

- changes to address gaps and deficiencies in the existing 2LD taxonomy
- removing the eligibility criteria for com.au
- removing manual verification of registrant ID details (eg. ACN, ABN)
- tightening or relaxing the close and substantial connection rule
- changing the fixed 2 year licence period.

Views of the Panel

6.9 The Panel believes that, overall, the current 2LD policy rules strike an appropriate balance between allowing people to register the domain names they want whilst protecting the integrity and usability of the .au domain; this view is supported by the relative lack of public response. However, the Panel has identified some ways in which the policy rules might be clarified or enhanced to ensure that they are workable and effective.

2a. Illegal and malicious use of a domain name

6.10 The Panel has agreed to recommend that the .au domain name licence conditions should allow auDA to suspend a domain name without notice at the request of an Australian regulatory or law enforcement agency. The Panel notes that a number of regulatory and law enforcement agencies have jurisdiction over different types of illegal online activities (eg. spam, child pornography) and it is the responsibility of those agencies, and not auDA, to determine whether or not a domain name should be deleted for illegal use.

6.11 The Panel notes that implementation of this recommendation will be a matter for auDA, but suggests that auDA give consideration to the following:

- the definition of key terms like “regulatory or law enforcement agency”
- the process for making a request to auDA
- the right of the registrant to appeal against the suspension.

Recommendation 2a:

The Panel recommends that the .au domain name licence conditions should allow auDA to suspend a domain name without notice at the request of an Australian regulatory or law enforcement agency

2b. 2LD taxonomy and eligibility criteria

6.12 The Panel notes that there are two options for accommodating more, or different types, of users within the .au 2LD taxonomy: change an existing 2LD; or create a new 2LD. The consensus view of the Panel is that the existing 2LDs should not be changed. The creation of new 2LDs is outside the Panel’s remit; however, the Panel notes that info.au, an existing 2LD which is currently inactive, might be suitable for use as a “catch-all” 2LD for users who do not meet the eligibility criteria in the other 2LDs.

Recommendation 2b:

The Panel recommends that the eligibility criteria for existing 2LDs should remain unchanged, but that auDA should consider re-launching info.au as a “catch-all” 2LD for users who do not fit within the current 2LD taxonomy.

2c. Verification of registrant eligibility details

6.13 The Panel has considered comments by registrars about their inability to automate checks of the ASIC database, and the resulting additional overhead and time delays in processing domain name registrations. The Panel understands that auDA has investigated the possibility of automating checks of the ASIC database, but it is currently not achievable. Whilst auDA should continue to monitor possible options for automating database checks, in the meantime the Panel feels that manual verification of registrant eligibility details at the time of registration is still necessary and desirable in order to preserve the accuracy and integrity of the .au registry database.

Recommendation 2c:

The Panel recommends that registrars should continue to be required to verify registrant details at the time of registration, by automated check if possible but otherwise by manual check.

2d. Registrant warranty statement

6.14 The Panel believes that it would be prudent to strengthen the registrant warranty statement in relation to providing true and accurate eligibility details.

Recommendation 2d:

The Panel recommends that the registrant warranty statement should be strengthened in relation to providing true and accurate eligibility details at the time of registration.

2e. Domain name licence periods

6.15 The Panel notes that the Name Policy Review Panel in 2004 recommended that registrants should be able to license domain names for 1, 2 or 3 years, but this was not implemented because of the current registry licence arrangements.

6.16 The Panel supports the previous Panel’s recommendation, and has agreed to make the same recommendation but with the acknowledgement that implementation will have to be delayed until the new registry licence commences in 2010. The Panel notes that this will provide ample lead time for industry participants to make the necessary system changes, and for registrants to be informed of the changes.

Recommendation 2e:

The Panel recommends that registrants should be able to license domain names for 1, 2 or 3 year periods, but that implementation be delayed until the new registry licence commences in 2010.

2f. Close and substantial connection rule – domain monetisation policy

6.17 The consensus view of the Panel is against an “open slather” approach to domain name registrations in .au. Equally, the Panel does not support the proposition that the policy rules should be made more restrictive. On that basis, the Panel believes that the close and substantial connection rule should remain unchanged.

6.18 However, the Panel notes that in the case of domain monetisation under the close and substantial connection rule, there are some gaps in the current policy relating to the protection of brand names where they are included in compound domain names (eg. domain names like telstraphones.com.au or safewaysupermarket.com.au would not be covered under the current policy). The Panel has agreed to recommend that the Clarification of Close and Substantial Connection Rule – Domain Monetisation (2006-03) should be strengthened to provide additional protection to brand names and other names of significance.

Recommendation 2f:

The Panel recommends that the close and substantial connection rule should remain unchanged, but the clarification policy relating to domain monetisation should be strengthened to provide additional protection to brand names.

Issue 3: Should registrants be allowed to sell their .au domain names?

Current situation

6.19 A domain name is not a property asset; the registrant does not “own” the domain name, they hold a licence to use it. For this reason, the .au domain name licence conditions (also known as the Registrant Agreement) prohibit a registrant from transferring, or purporting to transfer, a proprietary right in a domain name registration; ie. registrants are not allowed to sell their .au domain name. Under auDA’s Clarification of Domain Name Licence – Prohibition on Sale of Domain Name (2005-05) policy, registrants who offer their domain name for sale risk having their domain name deleted for breach of policy.

6.20 auDA’s Transfers (Change of Registrant) Policy (2004-03) permits domain name licence transfers for legitimate commercial or legal reasons, but stops short of sanctioning a secondary market in .au domain name licences. The policy allows registrants to transfer their domain name licence to another eligible party, but only under the following specific circumstances:

- where the registrant sells all or part of their business operations or assets to the other party
- where the registrant assigns their intellectual property rights to the other party
- where the registrant enters into administration or liquidation, and the administrator or liquidator authorises the transfer to the other party
- where the registrant and the other party are related corporate entities
- where the registrant originally registered the domain name as agent for the other party
- where the registrant dies or becomes insane, and the executor or power of attorney authorises the transfer to the other party
- where a competent authority (eg. a court or auDRP arbitrator) orders the transfer to the other party
- where the registrant transfers the domain name to the third party in settlement of a dispute.

Public submissions

6.21 There was no clear consensus of public opinion on this issue, and proponents on both sides of the argument appeared to hold their views very strongly. However, one consistent message coming through submissions was the need to simplify the current transfers process and reduce the administrative and cost burden on registrars and registrants. It is also worth noting that the majority of submissions in response to the Panel's Draft Recommendations supported a less restrictive and less regulatory approach to transfers.

Views of the Panel

6.22 The Panel's Issues Paper in May set out a number of arguments for and against allowing registrants to sell their .au domain names; for background informational purposes, these are reproduced at Attachment B. The Panel notes that although people may refer to a "sale" of domain name, in legal terms, it is actually a transfer of domain name licence.

6.23 Resale of .au domain names (also referred to as a secondary market), was the most contentious issue for the Panel, and a number of different approaches and proposals were discussed before consensus was reached. Despite divisions along policy principle lines, there was common agreement on the following points:

- all transfers should be subject to normal policy rules, ie. regardless of the reason why a domain name licence is transferred, the prospective new registrant (or buyer) must satisfy the applicable eligibility criteria as if they were registering the domain name for the first time
- the transfer process should be streamlined to reduce the administrative burden and cost on registrars and registrants.

6.24 The Panel's Draft Recommendations in September put forward three alternative proposals:

- for the transfers policy to be modified to allow some additional transfer circumstances, but only in a private transaction; the current prohibition on offering or advertising a domain name for sale would remain in place
- for the policy to be relaxed to allow transfer for any reason, in an open secondary market with multiple commercial providers – the same as the .com secondary market
- for the policy to be relaxed to allow transfer for any reason, but through a centralised market with some conditions imposed on registrants (eg. a cap on the number of transfers allowed per annum).

6.25 A majority of Panel members ended up rejecting the first proposal on the grounds that it would not address the inequities in the current transfers system, and would continue to favour those "in the know" who could exploit the policy loopholes. Some Panel members were uncomfortable with the "open slather" approach of the second proposal, and the risk that individuals and small businesses might be pressured into paying unreasonably high prices for domain names. With regard to the third proposal, some Panel members noted potential enforcement difficulties for auDA in forcing registrants to use a centralised market instead of other domain listing services (eg. eBay, Sedo), as well as concerns raised in public submissions about excessive bureaucracy and associated costs.

6.26 Whilst there was consensus among Panel members for relaxing the transfers policy, there was no consensus on the way in which the new transfers policy should be implemented. Accordingly, the Panel has agreed simply to recommend that the

policy be relaxed to allow a registrant to transfer their domain name to another eligible party for any reason.

6.27 The Panel is keen to emphasise that the rationale for its recommendation is to give people access to domain names that would not otherwise be available, and allow the transfer of domain names to those who have best use for them. The Panel does not desire to create a secondary market for its own sake.

6.28 The Panel notes that implementation of this recommendation will be a matter for auDA, but suggests that auDA give consideration to the following:

- ensuring that the terms and conditions of sale (transfer) are known to both parties
- facilitating access to information about the .au secondary market
- discouraging domain name speculation and warehousing, eg. by imposing certain conditions on registrants
- promoting secondary market price transparency, noting that there may be legitimate commercial or other reasons why some transfer prices should be kept confidential.

The Panel also recommends that auDA conduct a two year review of the new transfers policy. The review should consider the following:

- the total number of domain names transferred
- the number of times individual domain names are transferred
- secondary market pricing
- whether there has been any increase in complaints and disputes over domain names.

Finally, the Panel observes that auDA will need to undertake an extensive awareness-raising campaign when the new policy is introduced, given that it represents such a significant change to .au rules.

Recommendation 3:

The Panel recommends that the transfers policy be relaxed to allow a registrant to transfer their domain name licence to another eligible entity, for any reason.

The Panel recommends that auDA conduct a two year review of the new transfers policy.

Extract from Issues Paper, May 2007

Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?

7.3 There are two ways in which a direct registration model could be adopted within the .au domain space:

- *Option 1: Direct registrations only.* This would mean that people would only be able to register a domain name directly under .au, and the 2LD hierarchy would be deactivated (subject to an appropriate transition plan and timetable).
- *Option 2: Combination of direct registrations and 2LD hierarchy.* This would mean that the current 2LD hierarchy would be retained, and people could choose whether to register in a 2LD or directly under .au.

Arguments in favour of direct registrations

7.8 The Panel has identified the following arguments in favour of allowing direct registrations under .au:

- Domain names under .au would be shorter and arguably more memorable, ie. domainname.au instead of domainname.com.au. This might have the effect of encouraging Australian entities who have registered their domain name in .com to register in .au. From a user perspective, there would be four fewer characters for people to type.
- .au domain names would more readily and effectively identify the registrant as Australian (compared with com.au, org.au etc), showcasing Australian businesses and brands more effectively in the global market.
- Assuming Option 1 above was adopted, a “flat” structure would be much simpler to understand and navigate than a hierarchical structure, because users would not have to know and remember the different 2LDs and their meanings. This might make it easier for international users, who are more familiar with direct registrations in other TLDs, to navigate the .au domain.
- Assuming Option 2 above was adopted, there would be more choice for registrants to register their domain name directly under .au or under one of the 2LDs (or both). It may also enable new registrants to have access to desirable and valuable domain names that have already been taken in the 2LDs.
- There would be a commercial gain for the Australian domain name industry; the registry operator, registrars and resellers could expect to generate more revenue from increased numbers of registrations. Under auDA’s registry competition policy, a new operator may be selected to run the .au registry, potentially leading to lower costs and more choice for registrars.
- Other ccTLDs¹ have managed the transition to direct registrations successfully, and their experience shows that there is strong consumer demand once direct registrations become available.

¹ Examples include Austria (.at), China (.cn), Japan (.jp), Korea (.kr), Singapore (.sg).

Arguments against direct registrations

7.9 The Panel has identified the following arguments against allowing direct registrations under .au:

- The existing 2LD hierarchy works well and there is high market recognition of the com.au and org.au brands especially. There are approximately 860,000 3LD .au domain names² compared with over 65 million .com domain names³, indicating that the existing 2LDs are not exhausted in terms of desirable and valuable domain names.
- Unlike new TLDs, this is not a greenfields scenario and the rights and expectations of existing registrants should not be discounted. Existing 3LD domain names may be devalued if .au is opened up to direct registrations, and existing 3LD registrants may be forced into defensive registration or legal action to protect their brands.
- Registrants who choose, or feel compelled, to switch from a 3LD to a direct registration may face significant costs, such as domain name registration fees, printing and stationery, signage, marketing and advertising, as well as revenue already spent promoting the current brand.
- Introducing direct registrations may lead to increased disputes about rights to a domain name. Regardless of the implementation method, ultimately only one entity can secure the .au version of a domain name, which is particularly problematic where the same domain name is held by different registrants in different 2LDs.
- Regardless of which implementation option is adopted, introducing direct registrations is likely to cause user confusion, at least in the short to medium term. User confusion and unfamiliarity with the new domain names may lead to an increased risk of phishing and scams similar to the misleading renewal notices that occurred in Australia during 2003-04.
- Assuming Option 1 above was adopted, direct registrations would reduce the size of the available namespace as well as the branding choice for registrants, because they would not be able to differentiate themselves as commercial (com.au) or not-for-profit (org.au).
- Increased commercial opportunities and revenue for the Australian domain name industry is not in itself a sufficient business case for making a change, in the absence of any clear benefit for the broader community.
- Experience with new TLDs, most recently .eu, suggests there would be a high risk of implementation problems and people trying to game the system.⁴ Any special protective rules or procedures would have a high overhead, with the likelihood that costs would be passed onto consumers.

² Refer to .au registry reports at <http://www.auda.org.au/ausregistry/reports/>.

³ Refer to daily domain count statistics at <http://www.domaintools.com/internet-statistics/>.

⁴ For example, refer to www.euridsucks.eu.

Extract from Issues Paper, May 2007

Should registrants be allowed to sell their .au domain names?

Arguments in favour of allowing registrants to sell their .au domain names

7.18 The Panel has identified the following arguments in favour of allowing registrants to sell their .au domain names:

- The current policy is not effective because:
 - auDA's complaints-handling process under the Clarification of Domain Name Licence – Prohibition on Sale of Domain Name (2005-05) policy does not provide adequate remedy for trade mark or other rights holders, because it allows a registrant who has sought to sell their domain name to withdraw it from sale without suffering any penalty
 - it is possible for registrants to get around the prohibition by disguising a sale of domain name under one of the acceptable circumstances in the Transfers (Change of Registrant) Policy, and it is difficult for auDA to investigate and determine that there has been a breach of policy when both parties are complicit in the breach
 - if auDA finds that the registrant has sold their domain name in breach of policy, the only available remedy is to delete the domain name, which penalises the person who has bought the domain name and not the registrant who sold it.
- A secondary market would increase the options available to both registrants and prospective registrants, and would facilitate the efficient reuse of domain names. For example, a registrant may have initially registered a domain name for a genuine business activity which never eventuated, but rather than delete the domain name they will continue to renew it because of the internet traffic that they can attract, either to their main website or for monetisation purposes. However, if they were allowed to sell the domain name, they might decide to relinquish the domain name to a new registrant who is able to put it to a better purpose.
- One of the aims of the current prohibition on selling domain names was to prevent domain hoarding and speculation in the early days of .au, so that all the "good" names would not be registered before others had a fair opportunity under a first come, first served system. However, now that there are nearly 1m .au domain names, most of the "good" names have now been registered and the potential for domain hoarding and speculation has lessened.
- What is the policy reason for stopping someone who is willing to pay a secondary market price for a domain name from paying it? The generic domain names auction⁵ and geographic domain names ballot⁶ conducted

⁵ The highest price paid for a generic name was \$153,000 and the median auction price was \$2,900. Refer to auDA media release at <http://www.auda.org.au/news-archive/auda-01102002/>.

⁶ There were nearly 10,000 applications for over 2,700 commercial geographic domain names, at a fee of \$825 per name. Refer to auDA media release at <http://www.auda.org.au/news-archive/auda-19082005/>.

by auDA demonstrated that people are prepared to buy desirable domain names at a market price which is higher than the current range of prices offered by registrars.

- Other policies, such as the auDRP and the prohibition on misspellings, could be strengthened if necessary to deal with trade mark infringement and other bad faith behaviour. Moreover, the domain name policy rules would ensure that domain names could only be sold to another eligible registrant, thereby reducing the pool of potential buyers and acting as a disincentive to domain speculators and warehousemen.
- To the Panel's knowledge, no other TLD has a prohibition on a secondary market for domain names (although some TLDs like .biz have rules against registering a domain name for the sole purpose of selling it). There has been an active secondary market in .com and other TLDs for many years, with few problems.

Arguments against allowing registrants to sell their .au domain names

7.19 The Panel has identified the following arguments against allowing registrants to sell their .au domain names:

- Given that transfers are allowed under current auDA policy, it is unclear why there is a need for a more liberalised secondary market. There does not appear to be any public benefit or value to the broader community in allowing individual registrants to sell their domain names. Domain names can be seen as a public resource, similar to telephone numbers or spectrum. If a registrant no longer has use for their domain name they should simply delete it so it can be returned to the pool and re-allocated to someone else.
- A secondary market in domain names may artificially increase demand, leading to higher prices; for example, the generics auction conducted by auDA in 2002 shows that some domain names sold for tens of thousands of dollars. This may disadvantage sole traders and small businesses in particular.
- There is a risk that allowing people to register domain names for the purpose of selling them would legitimise a business model based on cybersquatting or domain speculation.
- The cost of any transitional regime may be high, both in terms of the direct cost of administration and regulation, as well as indirect cost to industry and consumers.