

Domain Industry Association response to the name policy panel

The Domain Industry Association represents the interests of the registrar community and currently comprises the following members:

- [Sublime IP Pty Ltd trading as GoDomains](#)
- [Domain Directors Pty Ltd](#)
- [Distribute.IT Pty Ltd trading as Click'n Go!](#)
- [Domain Central Pty Ltd](#)
- [Anchor Systems Pty Ltd](#)
- [TPP Domains Pty Ltd trading as TPP Internet](#)
- [IntaServe Pty Ltd](#)
- [Planet Domain Pty Ltd](#)
- Westnet Pty Ltd
- [Enetica Pty Ltd](#)
- [Australian Style Pty Ltd trading as Bottle Domains](#)
- [Discount Domain Name Services Pty Ltd](#)
- [NetRegistry Pty Ltd](#)
- [Domain Name Registrar \(Australia\) Pty Ltd trading as Domain Registration Services](#)
- [Melbourne IT Ltd](#)
- [Wobygong Pty Ltd](#)
- [Explorer Domains Pty Ltd](#)
- [AussieHQ Pty Ltd](#)

Members account for well over 90% of all domain transaction in .au. This document represents a unified position and individual members are free to lodge their own positions where that may differ from the industry position.

Note this document is submitted with the understand that if the policy panel makes the document public that it is up to it to ensure that the document is not deemed or interpreted to be defamatory, by blacking out or deleting any names and domain names provided by way of illustration.

Australian identity

It is the view of the industry that the policy acts to disenfranchise potential users of the namespace through its overly restrictive nature. Australians own more gTLD domains than .au domains. This fact is alarming and points to real structural problems in .au

The only real differentiator is not the policy behind the .au namespace but extension “.au” itself. Currently there is no research and little understanding in the community that for example .com.au represents a set of “close and substantial” connections rather than just being a “commercial” namespace. No loss of differentiation would occur by moving from “close and substantial” to “good faith” for .com.au and .net.au

There currently are a large set of registrants for which no place in the taxonomy exists. For example politicians, individuals with projects, mailing lists and commercial users without abn's. There is virtually no interest from individuals for the restrictive rules of id.au and this namespace is effectively a failure despite heavy marketing.

The current set of policies forces many people to go offshore to register a name, which is really quite bewildering and in stark contrast to various claims of promoting the .au namespace.

It is the industry view that the requirement to hold an abn to register under .com.au and .net.au be removed to accommodate the vast numbers of these disenfranchised users.

Usability

It is the belief of the industry that the “close and substantial” policy itself has no real basis, and that “close and substantial” does nothing but add a layer of friction and confusion to the namespace. Currently there are effectively no real restrictions on the names that people can register. For example McDonalds has the name makeupyourownmind.com.au which in no way fits into the current set of policies, yet there is absolutely no reason why they should not be entitled to register this name.

There are numerous other high profile names and countless other domain names that fit outside the policy framework but get registered anyway.

Companies should be free to register slogans, messages or any other names they may have a use for subject to “good faith”. Smaller trading entities and pre trading entities should be able to register names without an abn. The idea that one is only entitled to a .com.au once an entity is and only if it is trading is without merit and must be removed.

Economics Benefits

The namespace is a market not a democracy and it is incumbent on those wanting to place restrictions on the market to justify those restrictions. It must be the panels clear understanding that in a free society a policy must act to prevent consumer harm to justify the continuation of that policy.

Policies which create as much or more damage to the market then they prevent are likewise not justified.

As such it is the view of the industry that the “close and substantial” policy serves no purpose, represents an artificial restriction and real damage on the market and should be replaced with a “good faith” policy.

Further the claim that the requirement for an abn prevents criminal use of the namespace is nonsense. Criminals are quite capable and do borrow abn’s in order to engage in fraudulent activity under .au.

If anything the supposed safety of the .com.au creates a false sense of security that a .com.au has been “screened” and is a legitimate website.

There are numerous examples of .com.au websites having being used fraudulently.

In regards to cyber squatting the view of the industry is that it is a legislative and legal issue and not an auda policy issue. The current policy does not prevent cyber-squatting and places no deterrence on cyber squatting; it only forces a certain degree of preparation for the cyber squatter to engage in cyber squatting. For example amex.com.au was owned for many years by someone allegedly with no real claim to the name other then having setup a structure that justified its registration until recently being acquired by American Express.

Clearly the policies have not prevented names from being cyber squatted nor has the prohibition on secondary markets prevented companies from paying for these name.

It is of the view of the industry that prohibition on secondary markets is antithetical to a free society; domains should be free to move to those who value them the most.

There are currently numerous examples of names changing hands against the current policy.

This is a clear example of policies that aim to prevent a problem by creating far greater damage to the market than they prevent and must be removed.

In terms of competitiveness the close and substantial policy mandates manual processing costs, which prohibits price competitiveness with gTlds requiring no such overhead.

In regards to opening up .au it is the view of the industry that there is a clear demand for registration directly under .au and as such that the administrator must address that demand. There is no basis that a democratic process need be entered to expand the name space or that any section of the community have any right to stifle demand.

The mechanics for opening up .au for direct registration are a separate issue to the issue of opening up the space. One solution is to copy the .com.au namespace into .au where possible and for free, then allow registrants the right to keep either or both of the names and sell off or let expire an unwanted extension.

After a renewal cycle any remaining names would be charged independently. This would act to not only preserve the value for registrants but actually increase it and broadens the appeal of .au by opening up the shorter extensions.

It is also the view of the industry that “close and substantial” places onerous and unnecessary imposition and liability on registrants willing to sell a name and therefore should be replaced by “good faith” and “good faith” alone.

Domains as property

It is the view of the industry that it should not engage in legal judgments on the nature of content of a web site and its breach of any ethical or legal standards, as such the industry sees no real valid reason other than non-payment for the cancellation of a name.

It is the view of the industry that domains should be treated as private property where possible and not as some sort of public resource to be recycled, arbitrarily canceled or confiscated, and that the cancellation of names for such issues as spam etc must be subject to due legal process.