



**Internet Society of Australia
A Chapter of the Internet Society**

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**To: Jo Lim
Chief Policy Officer, auDA
Via email: jo.lim@auda.org.au**

ISOC-AU SUBMISSION: in response to the Australian Domain Name Administrator (auDA) Issues Paper, 'Review of .au Domain Name Policy Framework'

The Internet Society of Australia (ISOC-AU) is a non-profit society founded in 1996 which promotes the Internet development in Australia for the whole community – private, academic and business users: the Internet is for everyone! ISOC-AU is a chapter of the worldwide Internet Society and is a peak body organisation, representing the interests of Internet users in this country. We have a longstanding and ongoing commitment to the effective representation of these interests in code development and self-regulatory processes in the telecommunications, domain name and Internet-related services industries.

The overriding objective of the Society is to give expression to the needs and wishes of individuals, groups, or organisations that have a common interest in the viability of the Internet in Australia, so that all Australian users of the Internet may continue to benefit from, and contribute to, its applications, technologies, and evolution. This submission, therefore, is made from the perspective of the users of the Internet, drawing on the strong technical base of understanding of our ISOC-AU membership. In particular, users include the individuals, groups and organisations that will be impacted by any changes to the existing Name Policy Framework.

Our responses to this paper are in addition to the submission ISOC-AU made to the auDA Issues Paper released in May 2007. Our specific responses to this paper are as follows:

Policy Objectives:

ISOC-AU supports the four policy objectives for the .au domain listed in the paper.

DRAFT RECOMMENDATIONS

Issue 1: Should .au be opened up to direct registrations?

For the reasons ISOC-AU set out in its response to the May Issues Paper, we strongly support the Panel recommendation that .au not be opened up to direct registrations at this time.

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

2.1 Illegal and malicious use of a domain name.

ISOC-AU supports the recommendation that licence conditions should allow auDA to suspend a domain name without notice at the request of an Australian regulatory or law enforcement agency. We also, however, repeat the concerns we set out in our response to the May Issues Paper: the auDA power to suspend a domain name should be accompanied by processes that ensure natural justice to the domain name holder, including the following:

- That the registrant has a recognised right of appeal against such suspension and deletion; and**
- That the forum for such the decision to suspend and, ultimately delete domain names is both accountable and transparent in its activities.**

2.2 2LD taxonomy and eligibility criteria

ISOC-AU agrees existing 2LDs should not be changed at this time, and if there is demand for a 'catch all' 2LD, the existing 2LD of info.au can be used.

2.3 Verification of registrant eligibility details

ISOC-AU supports a continued requirement that registrars must verify registrant eligibility details at the time of registration.

2.4 Registrant warranty statement

ISOC-AU supports strengthening the warranty statement provided by registrants on the provision of true and accurate eligibility details.

2.5 Domain name licence periods

ISOC-AU supports allowing registrants being allowed to licence domain names for 1, 2 or 3 years, to take effect in 2010.

2.6 Close and substantial connection rule – domain monetisation policy

ISOC-AU supports clarification of the 'close and substantial connection' rule to provide additional protection to brand names.

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

The paper identifies opposing principles held by Panel members in relation to a 'secondary market' for domain names, as follows:

- Domain Names are a public resource and should not be regarded as a tradeable market; or**
- Domain Names should be as tradeable as any other form of licence.**

ISOC-AU supports the first principle listed: domain names should not be regarded as a tradeable market. However, ISOC-AU is concerned that the process by which people can acquire domain names is not well known or understood. If there are changes made to the existing rules on transfer, their aim should be to ensure that the process is an open and transparent one under which anyone can easily find out what names are available, on what terms and conditions and at what price. Our response to the three alternative proposals suggested is as follows:

Proposal 3a: Transfer by private transaction

In principle, ISOC-AU supports the modification of existing auDA policy to allow transfers in additional circumstances which are consistent with existing policies on transfer. However, because transfers in this proposal would only be through private means, there is no openness or transparency in the process, and no way that members of the public can easily find out what names are generally available and at what price. We therefore do not support this proposal.

Proposal 3b: Transfer by open secondary market

ISOC-AU opposes this option. Domain names are not, and should not be, considered as a tradeable commodity. Domain names are a public resource for the benefit of Internet users, providing an easily understood naming system to facilitate user access to Internet websites.

Proposal 3c: Transfer by centralised secondary market

For ISOC-AU, this is the preferred option. The advantages of this option are:

- Its stated commitment to the retention of existing policy rules, including satisfaction of eligibility criteria for the new registrant;
- The creation of a centralised market, managed by auDA;
- Provision of a sufficient time between listing and transfer to allow existing trademark holders or others to lodge complaints on the transfer;
- The advertisement of the price, terms and conditions in advance, in an open and transparent way to ensure all potential registrants can learn what is available, and at what price; and
- Because the sale price must be published, there is a means to ensure that the price paid is as it had been advertised.

ISOC-AU also welcomes the proposed conditions on registrants to discourage domain name speculation and warehousing, including the following:

- A block on transferring domain name licences in the first 6 months of registration; and
- A cap on the number of licences that a registrant can transfer per annum.

While ISOC-AU is prepared to support Option 3c, it is only on condition that all of the circumstances listed in Clauses 7.30 and 7.31 of this Issues Paper are followed. Together, those circumstances ensure that there is only one, centralised market for domain names, that it is under the control of auDA, and that the process for transfer is open and transparent. The additional circumstances listed in Clause 7.31 are also vital to discourage any speculation in domain names or warehousing. In particular, the cap on the number of licences that a registrant can transfer should be a very small number (no more than five), to strongly discourage speculation in domain names. ISOC-AU also urges that any centralised market established by auDA is simple, largely automated and inexpensive to access and use, so that residential and small business users will realistically have access to the centralised market.