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Dear Sirs,

***Regards New 2LDs Advisory Panel Discussion Paper, April 2010***

I am writing in further support of my original and subsequent submissions to the auDA processes reviewing Australian 2LDs

***(The) view that conf.au should be closed down***

My overall position is that the New2LDs Advisory Panel should reconsider their recommendation in favour of the past decision of the auDA Board, that is, to keep .conf.au active.

***Paper submitted to New Names Advisory Panel in 2002 and Recommendations to the auDA Board***

The New Names Advisory Panel in April 2003<sup>1</sup> recommended to the auDA Board:

“• conf.au

The Panel is in unanimous agreement that the proposal to retain this existing 2LD should be recommended. The Panel notes that auDA would need to undertake further consultation to develop suitable eligibility and allocation criteria for the 2LD, and that a marketing campaign would be useful in promoting its relevance among intended users.”

and the auDA Board on 14 April 2003<sup>2</sup>:

“New 2LD proposals. The board accepted the Panel's recommendations in full, namely: 1) conf.au will be reactivated, following policy development and consultation by auDA; and 2) no other proposal for new 2LDs will be accepted at this time.”

The auDA website notes<sup>3</sup> that:

“auDA performs the following functions:

- develop and implement domain name policy
- license 2LD registry operators ”

The endorsement of auDA in 2000<sup>4</sup> noted that

“its functions must be administered in the public or common interest”

My concern and comment here is by making a positive decision in 2003, the auDA Board has created a positive obligation and a community expectation for itself to effect it, that is, in this case to reactivate conf.au.

1 <http://www.auda.org.au/pdf/nnap-new2LDs-final.pdf>

2 <http://www.auda.org.au/minutes/minutes-14042003/>

3 <http://www.auda.org.au/about/about-overview/>

4 <http://www.auda.org.au/pdf/auda-govt-endorse.pdf>

It follows that the actual question that New 2LDs Advisory Panel is required to advise either on:

1. policy for conf.au; or
2. the deactivation of conf.au in light of the auDA Boards previous decision and more generally the overall issues surrounding the deactivation of any .au 2LD either now or in the future.

I would rather have seen a concerted effort to reactivate conf.au than for merely the passage of time to undo the work and effort put in by myself and the New Names Advisory Panel.

### ***The example of csiro.au***

The Commonwealth Scientific and Industrial Research Organisation (CSIRO) is a Commonwealth statutory authority established under the *Science and Industry Research Act 1949*<sup>5</sup>. CSIRO uses the .csiro.au Australian 2LD as the organisations domain name.

It shares some similarities with conf.au; in that:

- it is a legacy 2LD in the Australian 2LD name space
- as a legacy 2LD it has had only one registrant and one registrar, the body corporate that is CSIRO

conf.au has had due to its ambiguous status between 2003 and the present only one significant registrant being Linux Australia, Inc for linux.conf.au. It should be noted here the organising committees of the yearly conference have often experienced frustration<sup>6</sup> during the (re-)registration of the domain name and their continued use of .conf.au is a testimony to their perseverance.

The issue for the New 2LDs Advisory Panel to consider is the extent the number of registrants in a .au 2LD should have any impact on the future of the .au 2LD. Whilst the inherent nature of .au 2LDs breaks registrants up by their endeavours (for example, com.au versus asn.au), it does not automatically follow that the future of their .au 2LD should depend on it. In the case of this example, both CSIRO and Linux Australia, Inc make valuable contributions to their fields of endeavour.

### **gw.au, otc.au, telememo.au and oz.au – the pre-history of .au 2LDs**

gw.au, otc.au and telememo.au have all been decommissioned by their registrants, registrars and the .au ccTLD registry/registrar/administrators. oz.au largely remains to support the legacy role of munnari.oz.au in Australia's Internet infrastructure and registrations in the 2LD have been removed by their holders.

All four of these .au 2LDs could easily be regarded as having been voluntarily relinquished by their registrants.

The issue for the New 2LDs Advisory Panel to consider here is the precedent that will be set by the removal of a .au 2LD which contains valid and valuable registrants that wish to continue using it. I refer here to the submission by Steve Walsh (in respect to Linux Australia, Inc.) to the panel.

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5 <http://www.innovation.gov.au/Section/AboutDIISR/FactSheets/Pages/CommonwealthScientificandIndustrialResearchOrganisation%28CSIRO%29FactSheet.aspx>

6 <http://m.zdnet.com.au/linux-conf-au-hits-domain-disaster-339292792.htm>

## **Future re-activation of conf.au – Proprietary rights and trademarks**

A deactivation of conf.au could lead to an interesting conundrum. What I'm about to suggest is merely a speculation and for the purposes of demonstration I'll use "example" rather than a real organisation.

Example Association, Inc has been registering in the .conf.au 2LD for several years with few other registrants for their conference, example.conf.au. auDA upon advice from the Panel deactivates the conf.au domain. Example Association, Inc. based on their conference, example.conf.au, develop conf.au as a trademark/brand through further use and formally register it under the appropriate legislation.

Issues for the panel to consider here are:

- the weakening of auDA, as the ccTLD administrator, rights vis trademarks in terms of conf.au due to the deactivation
- the issue of any restriction of future reactivation of conf.au when a trademark is registered in that class of good/service

### **Contact Details**

I am available to be contacted further:

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Yours faithfully,

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