



Reference: 2015 Names Policy Panel – Draft Recommendations:
gov.au Domain Administration Submission
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Dear Ms Lim

2015 Names Policy Panel – Draft Recommendations – gov.au Domain Administration Submission

Thank you for the opportunity to comment on the 2015 Names Policy Panel (the Panel) Draft Recommendations. While we understand that consideration of potential implementation mechanisms for opening up .au to direct registrations is outside the scope of the Panel's Terms of Reference, we note that the Panel is able to make comments and suggestions to the auDA Board regarding issues that should be considered as part of implementation. Similarly, although the gov.au 2LD is excluded from the Panel Terms of Reference, the potential registration of domain names directly under .au could present issues for Australian Government agencies and Australian governments more generally. It may also present some opportunities for government.

The Digital Transformation Office (DTO) has responsibility for the gov.au second-level domain (2LD) through a sub-sponsorship agreement with .au Domain Administration Ltd (auDA). In this capacity, we would like to suggest a number of recommendations, relating to the following issues, for consideration by the Panel.

1. Avoiding confusion for internet users
2. Rights protection for existing gov.au domain registrants
3. Additional 2LDs - Potential opportunities for government
4. Word protection / Reserved words

Re DRAFT RECOMMENDATION 1A:

The Panel recommends in principle that .au should be opened up to direct registrations.

Re DRAFT RECOMMENDATION 1B:

The Panel recommends that the same policy rules which currently apply in the existing 2LDs

Avoiding confusion for internet users

As referred to in the Executive Summary of the Draft Recommendations, the direct registration of domains under .au, leaving the existing 2LDs in place, does have the potential for creating confusion and reducing clarity for internet users who understand the existing 2LDs structure and contextual meaning i.e. com.au is for commercial purposes, gov.au is for government bodies etc.

Under the [Australian Government Domain Name Policy](#)¹ non-corporate Commonwealth entities must use a gov.au domain to support their website/s, and not use other non-gov.au domain names (unless granted an exemption). The intent of this policy is to convey to users that a website supported by a gov.au domain can be trusted to be an authoritative Australian Government website. Research has indicated that gov.au domains form an important element of trust in government websites and digital services by citizens.

One issue of concern is the potential for the registration of domains under .au that may appear to be similar to existing gov.au domains i.e. incorporating the 'gov' 2LD name without the preceding '.' or incorporating other characters. For example, the registration of pmgov.au or pm-gov.au could easily be misread as being pm.gov.au. Although some internet users (so-called 'digital natives') may be able to distinguish these subtle differences, governments must reach a broader audience, many of whom do not have the same level of understanding or online experience. As such, we suggest that there should be a prohibition of any domain name with 'gov' immediately preceding .au, e.g. examplegov.au, to avoid confusing or misleading users as to whether a website supported by such a domain should be trusted to be an 'official' government website. For similar reasons, this could be extended to include the other .au 2LDs.

Recommendation: That there be a prohibition on the registration of any domain directly under .au that utilises the characters of any closed or open 2LD immediately preceding .au.

¹ The Australian Government Domain Name Policy
<http://www.domainname.gov.au/domain-policies/australian-government-domain-name-policy/>

Rights Protection for rights for existing gov.au domain registrants

At June 2014, there were 4,740 gov.au domains registered by Australian, state and territory governments.² It is anticipated that, if direct registration of domains under .au is introduced, the registrants of gov.au domains may have a strong interest in registering the equivalent domain under .au to ‘protect their brand’. Brand protection currently takes place, in some instances, where agencies register the equivalent .com.au, .net.au etc domain names to prevent them being registered by other entities.

While noting that there would also be a financial impact for Australian governments, if the direct registration of domains under .au proceeds the rights of registrants of existing gov.au domains must be equal to the rights of registrants of domain names under the open 2LDs for direct registrations under .au.

Recommendation: That a ‘sunrise’ period of at least 26 months (being the current domain licence period plus the notification of expiry period) be implemented, allowing registrants of an existing domain name under an .au 2LD to register the equivalent name directly under .au. Complementary to this, a ‘first right of refusal’ process on a matching name should be also be established.

Where there is an equivalent name across multiple .au 2LDs, the rights of registrants of domains under closed 2LDs are to be equal to the rights of registrants of domain names under the open 2LDs for direct registrations under .au

Potential opportunities for government

The direct registration of domains under .au may present opportunities for the domains of some Commonwealth entities to be presented in a different form. An example of this could be a *parliament.au* domain. At present, the Parliament of Australia uses the *aph.gov.au* domain. This implies that the Parliament is a government agency which is not the case (refer to [Parliament of Australia submission](#)³ to the [New 2LDs Advisory Panel](#)⁴ (2009-2010).

This concept could potentially be extended to other institutions such as the Governor-General and the Courts (and their state and territory equivalents) and other bodies that operate at ‘arms-length’ from government, such as Royal Commissions. There may also be interest from other organisations that may be perceived as separate from government to some degree, such as the military, police forces and some corporate Commonwealth entities.

Such domains could be set up to operate in a similar fashion to the existing gov.au domain space i.e. the 2LD would support a Commonwealth domain, e.g. *parliament.au*, with 3LDs created to support the state and territory jurisdictions where applicable, e.g. *nsw.parliament.au*.

² Australian Communications and Media Authority Communications report 2013–14 p.45
<http://www.acma.gov.au/theACMA/Library/Corporate-library/Corporate-publications/communications-report>

³ Submission for a new second level domain (2LD) name –“parliament.au”
<http://www.ada.org.au/pdf/sub-aph.pdf>

⁴ New 2LDs Advisory Panel
<http://www.ada.org.au/policies/panels-and-committees/new-2lds-advisory-panel/>

Noting that many of the above words have been used in commercial names, there is a concern that these potential 2LDs could be registered as domains directly under .au where an applicant could demonstrate a 'close and substantial connection between the registrant and the domain name'.

Recommendation: That a period of 12 months be allowed for additional 2LDs to be proposed, with the names reserved during the assessment process, prior to allowing the direct registration of domains under .au.

Re DRAFT RECOMMENDATION 3A:

The Panel recommends that the Reserved List Policy be retained in its current form.

Word protection

The [auDA Reserved List Policy](#)⁵ (the List) sets out names that may not be used as domain names in the open .au 2LDs. This includes certain words and phrases that are restricted under Commonwealth legislation such as: *Commonwealth / Anzac / Universities / Red Cross / Olympic Games* etc. We note that auDA may update the list in line with any amended or new Commonwealth legislation. The names and abbreviations of Australian states and territories and the name 'Australia' are regarded as names of national significance and as such are also reserved from general use.

The List does not however include other words that are, or could be considered to be, related to government entities or operations that may or may not be registered as trademarks.

The registration of a domain directly under .au by a non-government organisation using words associated with government e.g. '*Australian Government*', agency names, program names or official titles, may give the appearance of being an official government domain. It is possible that users may perceive websites supported by such domains to be government initiatives and there is a consequent risk that this could lead to citizens being misled or otherwise exploited.

It should be noted that there have been instances of domains that have been registered by non-government entities (under the current auDA 2LD policies), that have been misunderstood by users as being government related.

⁵ 2014-03 - Reserved List Policy
<http://www.ada.org.au/policies/2014-03/>

While acknowledging that there are many words used in a government context that are in common use in a non-government context, an issue for Australian governments would be what mechanisms (other than legislation) could be put in place to ensure that words specifically related to government can be protected.

Recommendation: That the Digital Transformation Office and auDA work together to establish a set of principles that new reserved names related to government will comply with.

Please do not hesitate to contact me if you have any queries in relation to this submission.

Yours sincerely

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Digital Transformation Office