

auDA Transparency
and Accountability Framework
(consultation draft)

January 2018

.auDA
.AU DOMAIN ADMINISTRATION LTD

www.auda.org.au

PO Box 18315
Melbourne VIC 3001

info@auda.org.au

auDA Transparency and Accountability Framework (consultation draft)

Introduction

In April 2011, the Board of auDA commissioned Westlake Consulting Ltd (WCL) to undertake an independent review of the governance of .au, following 10-years of industry self-regulation. The final report was presented to auDA on 8 December 2011 and made 15 recommendations to improve auDA's governance and operations.

The auDA board considered the 15 recommendations at its meeting of 20 February, 2012, whereby it accepted 10 of the recommendations, rejected 1 recommendation and provided qualification of the remaining 4. Recommendation 1 of this Review was that auDA "develop and publish an Accountability and Transparency Framework, broadly similar to that developed by ICANN".

In April 2018, the Department of Communications and the Arts (DoCA), released its "Review of the .au Domain Administration" which made a further 29 recommendations to improve trust and confidence in .au along with the management framework of auDA, in order to meet the new Terms of Endorsement from the Commonwealth Government.

Recommendation 9 of the DoCA Review stated that auDA:

- a) formalise its transparency and accountability framework, consistent with the recommendations of the Westlake review
- b) report annually on its performance against the framework in its Annual Report and at its Annual General Meeting

As a consequence of the DoCA review, auDA developed a series of new governance and administrative documents, consistent with the Review's findings and recommendations, and held an Extraordinary General Meeting on 27 September, 2018, to adopt a new constitutional framework. These documents are summarised and explained in the associated Explanatory Memorandum.

The Framework has been developed to meet the expectation of recommendation 9 of the DoCA Review, and to formalise the recommendations of the 2011 Westlake Review. It was noted in both the Westlake and DoCA Reviews that auDA administers the .au ccTLD for the benefit of the Australian Community, and that "auDA members, staff, Australian Internet users and stakeholders expect auDA to take responsibility for its actions, to be accountable for its decisions and to be transparent in its operations". This Framework is designed to meet this expectation.

As identified by Westlake, transparency refers to:

- The openness of processes and procedures; and
- The disclosure, dissemination and further explanation (where required) of information (including ease of access).

As part of auDA's response to the DoCA Review, a separate Stakeholder Engagement Strategy has been developed. This Strategy identifies the principles of auDA's stakeholder engagement, the engagement process, success measures to determine effectiveness and a stakeholder engagement roadmap. The Strategy embraces a philosophy of "if not, why not?" and provides the basis of the operating rhythm auDA will adopt to meet the public reporting expectations of the Strategy, and this Framework.

The body of this Framework is structured into four Chapters.

Chapter 1 – Overview

This provides auDA's purpose and responsibilities, its authority to operate, the overall philosophy of transparency and accountability, a diagrammatic representation and a description of each of the elements.

Chapter 2 – Principles

This Chapter sets out some principles for operation of auDA’s transparency and accountability – drawn from the ICANN (Internet Corporation for Assigned Names and Numbers) Transparency & Accountability Framework, from the 2018 DoCA review and from auDA’s own material.

Chapter 3 – Transparency and Accountability mechanisms

This Chapter sets out how the key Transparency and Accountability (“T&A Framework”) mechanisms are to function, divided into the following sections:

- Government liaison and accountability
- International liaison and accountability
- Board and Board Committees
- Membership
- Advisory Committees
- Policy development
- Stakeholder communication and engagement
- Public Reporting
- Complaints and dispute-handling

Chapter 4 – Reviews

This section describes how auDA’s operations are open to scrutiny, review and challenge – including periodic reviews of its performance against the T&A Framework.

Consultation

This framework document is subject to the same principles of transparency and accountability that it sets out. Stakeholders will be provided with the opportunity to comment on its effectiveness and on any proposed changes.

Framework Overview

.au Domain Administration Ltd (auDA) is the policy authority and industry self-regulatory body for the .au domain space (a Country Code Top level Domain or ccTLD). auDA is a public purpose organisation and this document sets out its obligation to operate with transparency and accountability to the stakeholders that it serves.

Purpose

The principal objects of auDA are set out in its Constitution as follows:

1. to be the administrator of, and the Australian self-regulatory policy body for the .au ccTLD and its associated Second Level Domains;
2. to maintain and promote the operational stability and utility of the .au ccTLD and more generally, the Internet's unique identifier system, and to enhance the benefits of the Internet to the wider community;
3. to ensure a cost-effective administration of the .au ccTLD and its sub-domains;
4. to develop and establish a policy framework for the development and administration of the .au ccTLD including:
 - a) rules governing the operations of second level domain registries;
 - b) the creation of second level domains;
 - c) rules governing the accreditation of registrars and registry operators;
 - d) rules governing the registration of names within second level domains and access to second level domain registries;

- e) ensuring that registrars have equal access to second level registry services.
- 5. to manage the operation of critical technical functions including:
 - a) the primary and secondary .au name servers;
 - b) zone files for second level domains; and
 - c) a searchable data base containing information on registrations within the .au ccTLD.
- 6. to liaise with national and international bodies on issues relating to the development and administration of domain name systems; and
- 7. to establish appropriate complaints handling and dispute resolution processes to provide for conciliation or redress of grievances on matters associated with the administration of the .au ccTLD.

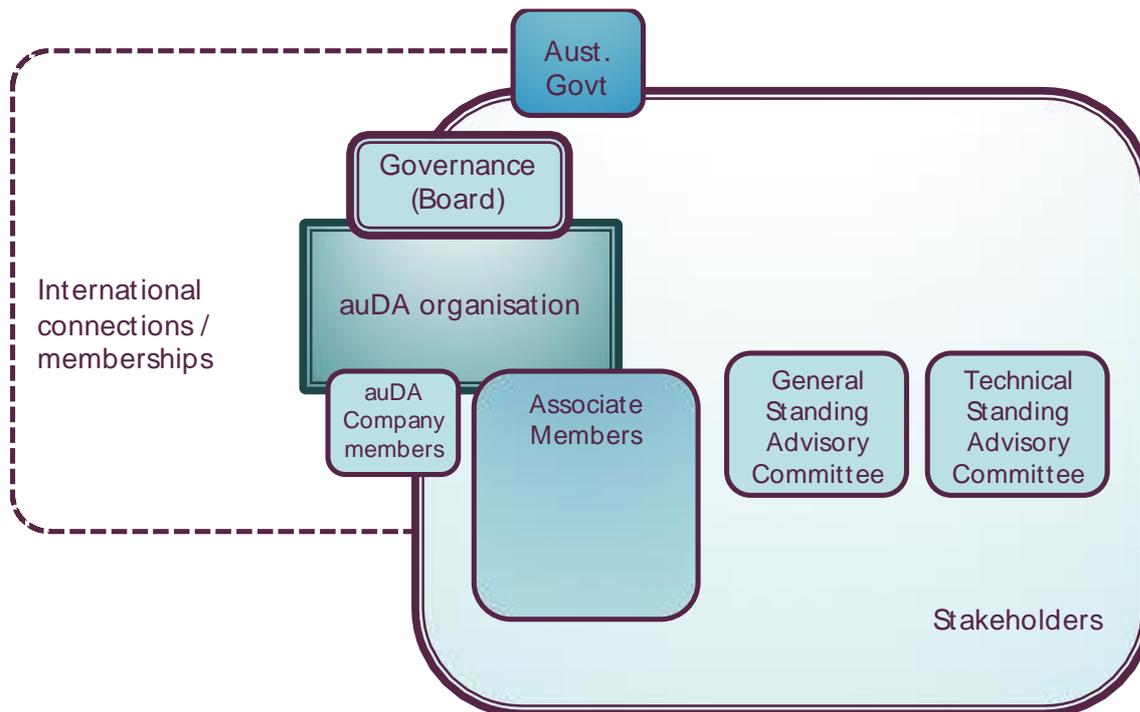
2.2 Authority

auDA draws its authority to operate from two sources:

1. The Commonwealth of Australia through a formal instrument of endorsement, previously issued in 2000, and re-issued as the new Terms of Endorsement resulting from the recommendations of the 2018 DoCA Review of the .au Domain Administration.
2. ICANN through a sponsorship agreement that sets out the relationship including the specific obligations on ICANN and on auDA as the ccTLD administrator, the requirements for establishing specifications and policies and a range of contractual terms and conditions.

2.3 Accountabilities

auDA has both general and specific accountabilities to the stakeholders shown in the diagram below.



The principal accountability relationships are:

2.3.1 Commonwealth Government of Australia

Through the Government's Terms of Endorsement for administration of the .au domain, through periodic government reviews and its status as an observer at Board meetings, auDA maintains an accountability to the Australian Federal Government.

2.3.2 ICANN (international)

auDA is accountable to ICANN for effectively carrying out its responsibilities for the top level country domain .au, and auDA's part in maintaining the stability, security and resilience of the world-wide internet. auDA contributes to global operation of the internet's system of unique identifiers through its participation in ICANN.

2.3.3 Governing Board

The primary accountability for auDA as an organisation is to its governing Board, achieved through reporting to the Board, referring major decisions to the Board, executing delegated authority provided by the Board and through performance oversight by the Board.

2.3.4 Company Members

auDA is an Australian Corporation and accountable to its company members consistent with the Corporations Act. This includes reporting to members at an Annual General Meeting and the powers reserved to members under the Corporations Act and the Constitution.

2.3.5 Associate Members

Under the 2018 Constitution, a single membership class (Associate Members) is open to any legal person who is able to register a 2LD in the .au domain under published policies.

2.3.6. Standing Advisory Committees

The Standing Advisory Committees provide an important source of stakeholder advice and a channel for general feedback through to the management of auDA and its Board.

2.3.7 Other stakeholders

auDA is a public-purpose body and is in principle, accountable to all of its stakeholders (domain name owners, internet-related service providers and the public generally) for effective operation, for transparently sharing information about its work, for assisting the public in understanding and using the .au domain, seeking stakeholder feedback on issues affecting them and for handling complaints and disputes about the operation of the .au domain.

Some of this is achieved through ad-hoc or issue-specific engagement and some through two formal mechanisms of accountability. The first is formal, structured public reporting against agreed indicators, financial details and the operation of transparency and accountability mechanisms. The second is handling complaints and disputes in a way that is accessible, fair, independent, timely and accountable. The beforementioned Stakeholder Engagement Strategy articulates auDA's principles and approach to stakeholder engagement.

3. Transparency and Accountability Principles

This section aims to set out the high level principles that auDA aims for – in all of its work and external stakeholder interactions such as those described in Chapter 2.3.

3.1 Transparency

auDA is committed to operating openly and transparently. As a guiding principle, wherever practical, auDA's constitution and rules, policies, strategic and business plans, key decisions, and consultation activities will be publicly available.

By way of example, to facilitate effective Board dynamics, under its Minutes Publishing Policy, Board minutes and agendas will be posted on the auDA website.

In another example, Advisory Committee and Panel working papers will generally be available publicly, except where they may contain commercial-in-confidence or security-related information with the potential to be misused.

3.2 Multi-stakeholder environment

auDA recognises that it operates in a multi-stakeholder environment and it actively seeks and supports broad, informed participation and engagement that reflects the functional, geographic, cultural and gender diversity of the .au domain.

auDA recognises that different groups of stakeholders will have different areas of interest, levels of knowledge, preferred means of engagement and capacity to contribute. To achieve meaningful transparency and accountability for these different groups of stakeholders, auDA must have multiple varied approaches.

auDA's Stakeholder Engagement Strategy, in its 'Introduction and Purpose' articulates the multi-stakeholder internet governance model, along with the principles and process to engage with its stakeholders, based on the "if not, why not?" philosophy.

3.3 Public interest

auDA is a public-purpose custodian on behalf of the whole spectrum of those with a stake in the effective operation of the .au domain. Its operations and decision-making place the overall benefit to the community as its primary duty.

3.4 Fairness

auDA recognises the importance of the administration of the .au domain balancing the interests of all stakeholders. It is committed to working in a way that achieves both substantive and perceived fairness and to be held accountable for this through its complaints and disputes processes.

3.5 Stability, security and resilience

auDA recognises that the effective operation of the .au domain is a critical service of national importance. The security, stability and resilience of the domain is a precondition and will be prioritised over other aims in auDA's operational focus and decision-making.