

auDA NAME POLICY REVIEW PANEL

DOMAIN NAME ELIGIBILITY AND ALLOCATION POLICY RULES FOR OPEN 2LDS ISSUES PAPER

August 2004

Background

In July 2004 the auDA Board established the Name Policy Review Panel to:

- review auDA's Domain Name Eligibility and Allocation Rules for the Open 2LDS (2002-07); and
- provide recommendations to the auDA Board about what changes (if any) should be made to that policy.

The Panel's Terms of Reference and a list of Panel members is available on the auDA website at <http://www.ada.org.au/nprp/nprp-index/>.

The two auDA Published Policies that form the basis of the Panel's review are:

- Domain Name Eligibility and Allocation Policy Rules for the Open 2LDS (Policy No 2002-07), available on the auDA website at <http://www.ada.org.au/policies/ada-2002-07/>; and
- Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDS (Policy No 2003-07), available on the auDA website at <http://www.ada.org.au/policies/ada-2003-07/>.

Please note that the following issues do NOT form part of the Panel's Terms of Reference:

- Review of the restriction on use of Australian geographic names in com.au and net.au. auDA has conducted public consultation on this issue as part of a separate policy review process. See <http://www.ada.org.au/reviews/geonames-2004/>.
- Consideration of whether registrations should be allowed directly under .au (eg. "myname.au"). The auDA Board has confirmed its commitment to the existing 2LD hierarchy.

Purpose

The purpose of this paper is to canvass some of the issues that have been identified by the Panel and seek public comment on them, to assist the Panel to formulate its recommendations to the auDA Board.

Following this first phase of consultation, the Panel will publish its draft recommendations to the auDA Board for further public comment.

Public Submissions

If you would like to comment on the issues in this paper, or you would like to raise any other issue in relation to auDA's domain name eligibility and allocation policy rules, please send your submission to:

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Electronic submissions are preferred.

All submissions will be posted on the auDA website within 2 working days of receipt, unless clearly marked confidential.

The closing date for submissions is Monday 30 August 2004.

Glossary

<i>Term</i>	<i>Definition</i>
2LD	Second level domain, ie. a name at the second level of the .au domain name hierarchy (eg. com.au)
ABN	Australian Business Number
ABR	Australian Business Register
ACN	Australian Company Number
ASIC	Australian Securities and Investment Commission
auDA	.au Domain Administration Ltd
auDRP	.au Dispute Resolution Policy
ccTLD	Country Code Top Level Domain (eg. .au, .uk)
DNS	Domain Name System
gTLD	Generic (or Global) Top Level Domain (eg. .com, .biz)
IETF	Internet Engineering Task Force
Registrant	an entity or individual that holds a domain name licence in one of the 2LDs
Registrar	an entity that registers domain names for registrants and is accredited by auDA
RFC	Request for Comment (IETF standard)
TM	Trade mark
WHOIS	Public interface to the domain name registry database.

Issues for Consideration

The Panel has identified a number of issues that it believes should be considered as part of the review. These are not exhaustive, and the Panel encourages people to raise other issues that are relevant to the subject matter of the review.

Identification of an issue for consideration does not necessarily indicate that the Panel intends to recommend a policy change; it merely identifies an issue that the Panel proposes to consider in its deliberations.

Under each section below there is a brief explanation of the current policy, and then a discussion of issues in relation to that policy.

1. Issues relating to registrant identity and integrity of the Australian DNS

1.1 Verification of registrant identity

Current policy:

Under the eligibility rules for com.au, net.au and org.au it is currently not possible to register a domain name without providing an official identifier, eg. ACN or ABN. Registrars are required to check the registrant's identification details against the relevant authoritative database, eg. ASIC or ABR.

The eligibility rules for asn.au and id.au do not require the registrant to provide an official identifier if they don't have one. Instead, the registrant is required to warrant their identity and eligibility to the registrar. auDA reserves the right to revoke the registrant's domain name licence if the registrant's warranty proves to be false.

Issues:

The Panel believes that verification of registrant identity has resulted in good data integrity in the .au registry compared with the gTLDs and other ccTLDs. From a law enforcement perspective, this means that action to shut down online scammers who are operating under .au domain names can be taken relatively quickly and easily. Australian users in general also benefit from being able to rely on public WHOIS data to check the identity of a registrant.

The most convenient and reliable way of verifying a registrant's identity is by cross-checking with authoritative databases like ASIC, however this is only applicable where the registrant has an official identifier. One suggestion is that address verification (eg. checking against Australia Post databases) could be used to verify the identity of a registrant who does not have an official identifier, eg. in the case of registrants in id.au.

1.2 Opening up .au to non-Australian registrants

Current policy:

Under current policy there are three exceptions to the general rule that registrants must be Australian: foreign companies registered with ASIC, owners of an Australian Registered Trade Mark (both permitted to register in com.au and net.au), and foreign embassies and consulates (permitted to register in org.au).

Issues:

It has been suggested that .au should be opened up to non-Australian registrants more generally. Non-Australian registrants would be subject to similar identity verification checks as Australian registrants.

Panel members have raised the following pros and cons:

- the policy already supports the principle of allowing non-Australian registrants, by allowing the three exceptions mentioned above
- many businesses (especially in our immediate region) are small and do not have the resources to make themselves eligible for a .au domain name by registering with the relevant Australian government authorities
- foreign companies and businesses would be able to protect their brand in the Australian marketplace, and market their products directly to Australian consumers
- Australians are allowed to register domain names in many other ccTLDs, therefore the same access should be extended to people who wish to register domain names in .au
- access to .au domain names could be limited to countries that enjoy a special relationship with Australia, eg. Australia has a very close trading relationship with New Zealand
- determining which countries should have access to .au domain names would be politically sensitive, and is made more complex by those countries that use their ccTLD as a surrogate gTLD (eg. .tv, .am)
- not all countries have company/business registration procedures and publicly searchable databases that can be used to verify registrant identity
- foreign companies that are "serious" about doing business in Australia should be prepared to register with the relevant Australian government authorities
- allowing non-Australian entities and individuals may increase the risk of online scams and fraud in the Australian DNS
- there is the potential for conflict between Australian registrants and non-Australian registrants of the same name
- ".au" represents "Australia" and users would therefore expect that the registrant of a .au domain name is Australian, resides in Australia or is registered with Australian authorities.

1.3 Domain name licence periods

Current policy:

The licence period for all .au domain names is fixed at 2 years (ie. registrants must renew their domain name every 2 years).

Issues:

The gTLDs and many other ccTLDs allow domain name licence periods between 1 and 10 years.

Long licence periods of 5-10 years may give registrants some security of tenure. However, there is a risk that the registrar or reseller will not provide services over the full licence period. Under auDA policy registrants would be able to transfer their domain name to another registrar or reseller at no cost to themselves, but some registrars and resellers may not be prepared to take on the long-term provision of support and

infrastructure services when they will not receive any payment until the end of the licence period (and even then, the registrant may choose not to renew their domain name through that registrar or reseller).

There have been scams in the gTLD space regarding fraudulent 10 year renewal invoices. Another problem with long licence periods is the difficulty in keeping registrant data up-to-date. It is common for registrant contact details to change even within a 2 year licence period, let alone 5 or 10 years. This would have a detrimental effect on the integrity of the registry database, unless measures were introduced to verify registrant contact details at regular intervals.

It has been suggested that .au domain name licences be available for 1, 2 or 3 year periods. Variable licence periods would enhance industry competition and give the registrant better choice in terms of managing their domain names. Allowing registrants to synchronise the expiry dates of multiple domain names (a service currently available in the gTLDs) also assists with domain portfolio management, often in conjunction with corresponding trademark or business name portfolios.

On the other hand, variable licence periods may make it more difficult for registrants to keep track of their domain name expiry dates, and may make them more susceptible to renewal scams and other unethical practices in the industry. Experience in the Australian market over the past 2 years has been that a fixed licence period simplifies the consumer protection message in the face of mail outs that attempt to mislead registrants into believing that their domain name is due to expire.

1.4 Restriction on domain names that match existing TLDs

Current policy:

The auDA Reserved List contains existing ccTLDs and gTLDs, which means that people cannot register two-letter domain names such as "uk", "nz" and "jp", or other domain names such as "com", "name" and "museum". The basis for reserving gTLDs and ccTLDs is to comply with IETF standard RFC 1535 (refer to <http://www.ietf.org/rfc/rfc1535.txt?number=1535>.)

Issues:

RFC 1535 was drafted more than 10 years ago and at the time was informational only. Given extensive technological developments in the past decade with respect to DNS resolution and Internet browser software, the Panel questions whether continued compliance with RFC 1535 is necessary.

2. Issues relating to eligibility criteria for domain names.

2.1 Eligibility criteria for net.au

Current policy:

The eligibility criteria for net.au are exactly the same as for com.au. Registrants must demonstrate that they are registered to trade in Australia by providing an appropriate official identifier, such as ACN, ABN or TM number.

Issues:

Historically, net.au domain names were intended for IT companies such as ISPs and network hosts. Since 1 July 2002 the purpose and rules for net.au have been aligned with com.au to make them interchangeable in policy terms. However, statistical evidence shows that com.au is a much stronger brand and remains far more popular among users.

Reintroducing some form of differentiation between com.au and net.au may make net.au domain names more attractive to users. This could be done by reverting to the original purpose of net.au, ie. restricting it to IT companies. Alternatively, the eligibility criteria for net.au could be opened up to any Australian entity or individual for any purpose they choose.

2.2 Eligibility criteria for org.au and asn.au

Current policy:

The eligibility criteria for org.au are currently more restrictive than for asn.au. In order to register an org.au domain name, registrants must be incorporated or at the very least have an ABN whereas registrants in asn.au are not required to provide an official identifier.

The reason for the different eligibility criteria is that the 2LDs have different purposes. As stated in the policy, org.au is for non-profit organisations and registered charities, so the eligibility rules require the applicant to provide an official identifier to verify their status. However, asn.au is for sporting clubs, special interest groups etc which by their nature do not usually have formal legal status and are therefore unable to provide an official identifier.

Issues:

It has been suggested that the eligibility criteria for org.au should be the same for asn.au. This would amount to aligning the purposes of the two 2LDs, in the same way that com.au and net.au are currently aligned.

The main argument put forward in support of this change is that, according to statistical and anecdotal evidence, asn.au is not popular among users. The experience of registrars is that their non-commercial customers have a strong preference for org.au; if the customer can't satisfy the eligibility requirements for org.au then they will register a .org gTLD rather than an asn.au domain name.

A counter argument is that Australian users expect registrants within the .au domain to be proper legal entities with verifiable identifiers. This may be especially significant in the case of fund-raising organisations; allowing non-registered or unincorporated entities to operate in org.au could increase the risk of online scam activity in Australia.

3. Issues relating to allocation criteria for domain names.

3.1 Close and substantial connection rule

Current policy:

The policy rules define "close and substantial connection" with reference to a number of types - eg. product sold by the registrant, service provided by the registrant, etc. Registrants must select the appropriate claim type when they submit their application to a registrar. Registrars are not required to verify close and substantial connection claims, the registrant is required to warrant that the claim is true.

auDA reserves the right to revoke a domain name licence if the registrant's warranty proves to be false; to date, this has happened on only 2-3 occasions. Complaints about false warranty (ie. bad faith) can also be handled under the auDRP.

Issues:

Analysis of new domain name registrations since 1 July 2002 shows that the majority of registrants have registered their domain name under a close and substantial connection.

Industry experience is that registrants often use the default close and substantial connection claim provided on the application form, or they select whatever claim they think will get their application approved. In effect, this means that many registrants are making false warranties although not necessarily in bad faith because they do have a genuine claim to the domain name.

It has been suggested that the different close and substantial connection types in all 2LDs could be replaced with a general "connection warranty" that the domain name is connected to the registrant in some way.

If the close and substantial connection rule was relaxed in this way, then there may be a need to strengthen the grounds and process for auDA to revoke domain name licences for false warranty. There may also be increased recourse to the auDRP.

3.2 Exact match, abbreviation and acronym

Current policy:

In all 2LDs, registrants are able to register domain names that are an exact match, abbreviation or acronym of their company, business or personal name.

Issues:

The Panel believes that people will continue to want to register domain names that are derived from their own names. However, in order to simplify the policy rules, it has been suggested that *all* allocation criteria (including exact match, abbreviation and acronym) be replaced with the general connection warranty discussed under section 3.1 above.

3.3 Allocation criteria for id.au

Current policy:

Registrants in id.au are allowed to register domain names that are an exact match, abbreviation or acronym of their personal name, or are derived from the personal name in some way. This can include nicknames, but the registrant must warrant that it is their

nickname and registrars must check to make sure it is a "reasonable" nickname (eg. commercial names are not generally accepted as nicknames).

Issues:

Statistical evidence shows that uptake of id.au domain names has not been high, despite "free gift" offers and other promotions. In order to encourage growth, it has been suggested that the allocation criteria for id.au domain names be relaxed to allow people to register any name they like, along the lines of other personal domain spaces like me.uk or .name.

Relaxing the criteria may result in cybersquatting and other types of bad faith activity. As noted under section 3.1, there may be increased recourse to the auDRP.