

With reference to the panel's second consultation paper, Electronic Frontiers Australia ("EFA") makes the following submission.

## **DRAFT RECOMMENDATIONS**

Issue 1: Should .au be opened up to direct registrations (eg. domainname.au)?  
If yes, should there be any policy rules, and if so what rules?

*Draft Recommendation 1:*

*The Panel recommends that .au should not be opened up to direct registrations at this time.*

**EFA supports this draft recommendation as there is no compelling case for direct registrations and many reasons to be concerned about the effect on existing registrants.**

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

*Draft Recommendation 2a:*

*The Panel recommends that the .au domain name licence conditions should allow auDA to suspend a domain name without notice at the request of an Australian regulatory or law enforcement agency*

**EFA is opposed to this recommendation as there are a multiplicity of such agencies and this would make all of them regulators of "legal" domain names. Police and other agencies have access to existing legal processes and mere expediency is not a sufficient reason to expand the number of agencies that have the power to affect legal rights to domain names. AUDA should resist pressure from governments and agencies to bypass legal process.**

*Draft Recommendation 2b:*

*The Panel recommends that the eligibility criteria for existing 2LDs should remain unchanged, but that auDA should consider re-launching info.au as a "catch-all" 2LD for users who do not fit within the current 2LD taxonomy.*

**EFA supports this recommendation, and notes that domainer business is one such use of info.au**

*Draft Recommendation 2c:*

*The Panel recommends that registrars should continue to be required to verify registrant details at the time of registration, by automated check if possible but otherwise by manual check.*

**EFA supports this recommendation, and believes that failure of registrars to apply the rules is an important breach of their contractual responsibilities.**

*Draft Recommendation 2d:*

*The Panel recommends that the registrant warranty statement should be strengthened in relation to providing true and accurate eligibility details at the time of registration.*

**EFA supports this recommendation, provided that the warranty statement is clear as to the scope of the warranty provided.**

*Draft Recommendation 2e:*

*The Panel recommends that registrants should be able to license domain names for 1, 2 or 3 year periods, but that implementation be delayed until the new registry licence commences in 2010.*

**EFA supports this recommendation.**

*Draft Recommendation 2f:*

*The Panel recommends that the close and substantial connection rule should remain unchanged, but the clarification policy relating to domain monetisation should be strengthened to provide additional protection to brand names.*

**EFA supports this recommendation, though reserves its view on the wording of the clarification.**

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

*Proposal 3a. Transfer by private transaction*

*The first alternative proposal is for the transfers policy to be modified to allow additional transfer circumstances such as those listed in Attachment A, but only in a private transaction. This is where the registrant and buyer already know each other, or find each other through private means. Such means might include:*

*\* where the buyer approaches the registrant using contact details on WHOIS or the registrant's website*

*\* where the buyer makes inquiries through the registrar of record*

*\* where the registrant approaches someone with the same name, or in the same business, or with a similar domain name (eg. the .com version of a com.au domain name).*

**EFA supports this proposal.**

*Proposal 3b. Transfer by open secondary market*

*The second alternative proposal is for the policy to be relaxed to allow transfer for any reason, in an open secondary market with multiple commercial providers – the same as the .com secondary market.*

**EFA opposes this proposal.**

*Proposal 3c. Transfer by centralised secondary market*

*The third alternative proposal is a compromise model, intended to facilitate implementation of a secondary market in a way that addresses concerns about equity and access, domain name speculation and warehousing, and other potential negative effects. Note that the details of the model are subject to further consideration by the Panel.*

**EFA does not oppose this proposal, but the details of the model are crucial in determining whether other policy objectives would be compromised.**

Kimberley Heitman,  
Board Member, EFA  
18<sup>th</sup> October 2007