



Australian Government

Department of Communications and the Arts

12 April 2019

Policy Review Panel
c/o .au Domain Administration Ltd
PO Box 18315
MELBOURNE VIC 3001

Dear Panel

auDA Policy Review Panel - Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration

Thank you for the opportunity to comment on the auDA Policy Review Panel's (the Panel) *Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration* (the Consultation Paper). The Department of Communications and the Arts (the Department) expresses its appreciation for the efforts of the Panel in seeking the views of all members of the Australian internet community and welcomes the opportunity to respond to the Consultation Paper.

The Department notes the broader context for our advice to the Panel in the conduct of the .au Review. The Panel will recall that in the exercise of his responsibilities in relation to appropriate governance of the .au domain, on 18 April 2018 the Minister for Communications issued a revised Terms of Endorsement. It remains the Department's expectation that auDA will focus its attention on fully implementing all recommendations of the Review which confirms the importance of ensuring that the .au domain remains resilient, stable and secure into the future.

As a general comment on auDA's policy reform process, we note that the Department's priorities remain unchanged for the .au namespace. From a government perspective, we would like to see the high level of trust the public currently attributes to the .au domain maintained through the policy review process. We encourage auDA to continue to apply fit-for-purpose governance to the .au domain that will deliver ongoing stability and resilience for the public, registrants and registrars, and the Australian Government.

We note that auDA will consult with the Australian Competition and Consumer Commission on major policy changes as outlined in the auDA KPI Policy Framework.

The Department further notes that the Digital Transformation Agency (DTA) has already provided auDA with a submission in response to the Consultation Paper, and would like to support the comments made in that submission.

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Communication with Stakeholders

Given the importance of maintaining public trust in the domain registration system, we encourage auDA to prioritise good communication with stakeholders across all stages of the registration process to ensure that changes to the current .au registration policy align with public expectations.

The Department supports auDA's efforts to date to ensure that the implementation of direct registration is undertaken in a way that meets stakeholder needs through the current consultation process. Specifically, the Department supports the Panel's proposal that auDA raise stakeholder awareness through a widespread education and awareness campaign leading up to the release of direct registration, and that such a campaign should also publicise the details of the priority registration and conflicting names process.

Building on this effort, the Department encourages auDA to continue to take stakeholder responses in shaping the new policy framework into account beyond the consultation phase and through to the implementation phase to ensure that registrants and consumers are fully aware of the new policy framework and related processes.

The Department further encourages auDA to clearly outline the process for direct registration on the auDA website, including easily accessible information that is supported by contact information so stakeholders may have direct access to auDA advice where necessary.

Complaints and Dispute Resolution Mechanisms

I take this opportunity to reiterate comments made by the Department in its 2017 submission to the Panel on the need for robust complaints and dispute resolution mechanisms. As much detail as possible on these mechanisms should also be easily accessed via the auDA website.

In light of this, we note that auDA's KPI Framework includes the establishment of appropriate dispute resolution mechanisms and complaints handling process.

Reserved List Policy

In January 2019, the Secretary of the Department of Communications and the Arts wrote to counterparts in other Australian Government departments with responsibility for administering the legislation relevant to auDA's Reserved Names List to notify them that auDA had published a revised list of terms that are protected under Australian legislation (the Reserved List).

Advice to agencies clarified that ministerial consent is required in order to register any name on the current list as a .au domain name. The Secretary also advised counterparts that as it was the domain name holder's responsibility to ensure their domains comply with Australian law, affected organisations would need to write to relevant ministers in cases where they wished to register or renew a name on the current Reserve List.

Recent interaction with stakeholders/domain registrants indicates that some are not clear on the current requirements and processes for seeking to register or renew domain names containing terms on the auDA Reserved List. The Department agrees with the Panel's comment that, "greater clarity is required around the composition of the Reserve List, the process for adding names to the list, and the process for unblocking a reserved domain name where a registrant has legitimate grounds for use of a reserved domain name ..."¹.

While the Department recognises that as an independent organisation, auDA is responsible for policy in relation to maintaining the Reserved List, we acknowledge that with the high volume of legislation passed, it will be difficult to keep track of terms which will need to be added to the

¹ Page 19, *auDA Policy Review Panel: Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration, 3.11 Reserved Names.*

Reserved List on an ongoing basis. The Department will continue to work with auDA on the challenge presented in relation to maintaining the Reserve List.

As a starting point, we agree with the Panel's proposition that the onus be on the relevant government departments to notify auDA of any words or phrases that should be added to the Reserved List, and will work with relevant government departments and agencies to facilitate this. Going forward, the Department would like to join the DTA in helping auDA educate relevant agencies and departments by:

- "Promoting the existence and purpose of the Reserved Names List;
- Ensuring relevant organisations can incorporate potential Reserved Names into legislative drafting, review and publication processes
- Promoting to agencies the need to notify auDA of legislative changes of formal complaint that may affect the Reserved Names List."²

We note also the Panel's comment that, "the Schedule A list does not include the source of the consent required for the use of the reserved names on that list"³ – and we are willing to work with auDA to define the source of content as part of the whole-of-government awareness-building exercise.

The Department encourages auDA, for its part, to continue to work with registrars to ensure domain name holders receive adequate notification that their domain name is on the Reserved List and to advise them that they will need to seek approval from the relevant Government department to continue to use the domain name. Clear direction from auDA with respect to this process will help provide clarity on the respective roles and responsibilities of auDA, of registrants and registrars, and of government departments responsible for names and legislation linked to the Reserved List.

As a final point, the Department would also like to support the DTA's advocacy of the expansion of the Reserved List to include a public interest test as an additional measure for ensuring sound governance of the Reserved List.⁴

Thank you again for the opportunity to participate in the development of the new policy framework.

Yours sincerely



Richard Bullock
Assistant Secretary
Strategy and Research

² Page 4, Digital Transformation Agency, 2019 submission to the *auDA Policy Review Panel: Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration*.

³ Page 18, *auDA Policy Review Panel: Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration*, 3.11 Reserved Names.

⁴ Page 4, Digital Transformation Agency, 2019 submission to the *auDA Policy Review Panel: Public Consultation Paper: Reform of Existing Policies & Implementation of Direct Registration*.

