

Reform of Existing Policies

5.1.2 Resale and warehousing

It is proposed that stricter controls be put in place to ensure that domain names are not being registered solely for the purpose of resale or warehousing (i.e. holding a large collection of domain licences for future resale when they become more valuable).

- *What are your views on the recommendation to retain and strengthen the resale and warehousing prohibition rule?*

In my opinion, any DNS policy that forcibly compels registrants to build an online presence will eventuate in the abandonment of that namespace. However, it is already well known that registrants doing it voluntarily are more likely to spend "more" on building a web presence than those who are forced because the proposition is that in a liberated market, competitors will voluntarily seek to outperform each other. It is the essence of the entrepreneurial spirit. Destroy that spirit and Registrants subject to a strictly regulated namespace will do the bare minimum to meet enforcement costs or abandon the namespace altogether.

If you simply put evidence and common sense together and at the same time try and marshal and monitor your own proclivities then everyone can have an opportunity to benefit from the namespace.

- **What are your views on the proposal to strengthen this prohibition by introducing a list of factors indicating that a domain name is likely to have been registered primarily for resale or warehousing, thereby shifting the onus to the registrant to demonstrate that is not in fact the case? What factors should the Panel recommend be used?**

The PRP must demonstrate evidence-based policy outcomes (not fixed opinions) If the PRP cannot provide verifiable evidence to support their belief that such an activity is detrimental to the namespace then it should not be making such recommendations to the auDA Board.

It is my understanding that transactions within the domain registration market is a healthy activity and should be encouraged and supported by auDA.

The evidence in keeping an investment-based domain name system is found in the reasons decided by previous Boards that lifted previous restrictive policies holding back registration growth, when liberated, the namespace grew. In doing so, auDA sustained financial support for itself as a self-funded not for profit organisation.

"Once bitten twice shy". Once you've burnt the domain investor you have effectively chopped off the hand that fed you. The proposition of removing domain investors from the market will inevitably become detrimental to the financial sustainability of auDA.

In this regard, domain investors will never trust this namespace, they will never return. Therefore, the PRP should review auDA Corporate Policy before making dramatic policy changes that affect the lives of thousands of people invested in this market.

According to auDA Corporate Policy, auDA must receive or undertake a feasibility study before making its decisions. I understand this would include evidence-based research that can be scrutinised by the public and industry participants.

auDA Corporate Policy

Principle 2:

- *A range of feasible policy options will be considered and costs and benefits.*
- *auDA is committed to a policy process that identifies all feasible options for achieving the desired outcome, including maintaining the status quo.*
- *All policy options must identify the impact on stakeholders and the broader Australian community.*

ICANN 2.4 Registrant Policies

The ccTLD Manager must be equitable and fair to all eligible registrants that request domain names.

Policies defining which organisations, businesses, individuals, etc. are eligible to register domain names under the 2-character ccTLD must be defined by the ccTLD Manager in consultation with the Local Internet Community. Specifically, the registration of domain names should be based on objective criteria that are transparent and non-discriminatory.

auDA constructed "eligibility" for the allocation of domain names and that ensured a fair and equitable distribution of domain names. But, implementing policy that imposes web development as a criterion for keeping the domain name licence will change the nature of *eligibility* as it forces the potential registrant to estimate the enforcement cost and opportunity cost of that registration. It no longer becomes a decision about what domain name should be registered, it becomes an all-inclusive decision that must take into consideration the cost of web development, hosting, SEO and Content before making a decision to register a domain name.

- Forcibly imposing anti-warehousing and web development policies upon registrants, restricts & limits one's freedom of voluntary choice to develop an online presence within the scope of their circumstances.
- Evidence-based policy-making is crucial for developing non-discriminatory outcomes.
- Evidence should be open to rigorous public and professional debate. As well as validating that evidence via trusted independent and industry inspection.

ICANN:

ccTLD Managers are entrusted with the management of the TLD Registry. A ccTLD Manager has no interest in the intellectual or other property rights in names registered as domain names or as part of domain names.

In my opinion, auDA should not seek to impose the creation of a website upon existing registrants or demand the creation of a business for the purpose of registering a domain name.

auDA has "NO INTEREST" in the intellectual creation of a domain name (only that domain names are created) and auDA has *No Interest* in any other rights that may become associated to a domain name through 'Trademarks' or 'intellectual property' or 'copyright'. Therefore, forcing a registrant to create a business for the purpose of registering a domain name, and that this business must build a website within 6 months of registration or, upon activation of such a policy, is without a doubt, causing auDA to have an interest (property rights) by proxy.

The registrant faces Policy Delete if such property is not developed. As per ICANN policy, auDA cannot have "any" including proxy (property rights) interest in a domain name.

Furthermore, stipulating the domain names digital character by suggesting a prohibition on machine made websites, restricts the domain name to a formula created by the interests of auDA, rather than, the interests of the registrant.

How does .au policy currently compare to other ccTLD managers?

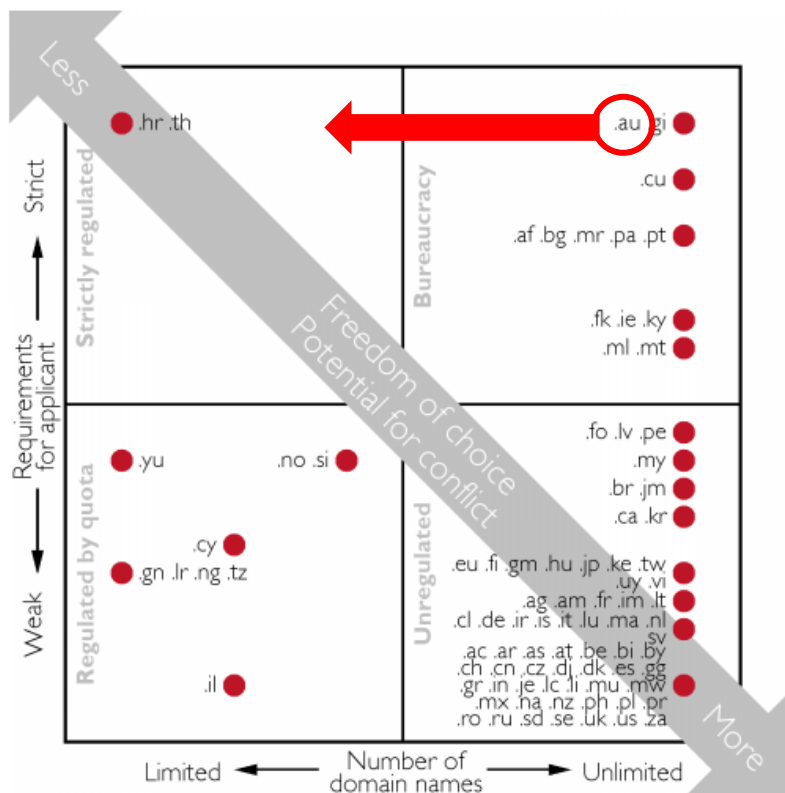


Figure 2: Domain Name Policies among ccTLDs

If the PRP recommendations are accepted by the Board of auDA then the .au namespace moves into a strictly Regulated namespace comparable to that of Croatia and Turkey.

- Croatia namespace (.hr) has just **78,368** Registered domains
- Turkey namespace (.tr) has just **312,922** Registered domains

It is obvious the majority of ccTLD managers around the world have opted for an unregulated policy framework for their nations namespace. The policy framework comparisons between each ccTLD demonstrates that an unregulated namespace is financially popular and non-discriminatory.

In light of this observation, the policy changes proposed by the PRP are very different from that of unregulated policy framework within liberalised namespaces. Any mention of comparison should not be considered as evidence to support the push for direct registrations. My advice to the PRP, dramatically change direction and abandon this strict totalitarian regulatory framework.

Thoughts are not facts, let's get the facts and then have some thought.

Regards,

Scott Long