AU

SUBMISSION

.au Licensing Rules Review 2025

Response to the Policy Advisory Panel Draft Report
June 2026

Retain rule 2.4.4(2)(f). Adopt Option 1.

Prepared for the Policy Advisory Panel

ICA INTERNET COMMERCE ASSOCIATION

MEMBER

9 July 2026

Policy Advisory Panel
.au Licensing Rules Review 2025
c/o .au Domain Administration Ltd
PO Box 18315
MELBOURNE VIC 3001

Dear Members of the Policy Advisory Panel,

Re: .au Licensing Rules Review 2025 Submission on Questions of Law, Competition and Evidence Arising from the Policy Advisory Panel Draft Report (June 2026)

We have worked in the domain name industry for thirty years, since before auDA was established. We are members of the Internet Commerce Association, and we have served upon auDA working groups.

We hold Australian trade marks in respect of certain of our domain names.

We support Recommendation 1. Domain monetisation should remain permitted in com.au, net.au and .au direct.

On Recommendation 2, we support Option 1 and we oppose Option 3. Subparagraph 2.4.4(2)(f) should be retained in full.

It is the pathway upon which ordinary Australian businesses hold descriptive and generic domain names for services they provide, including the advertising services recognised in Class 35 of the Nice Classification.

Enforcement should be directed at DNS abuse, and not at the holding or the monetisation of domain names. The reasons are set out in the submission that follows.

We consent to the publication of this submission.

Contents

Part 1 Introduction, Scope and Basis of this Submission

1 This submission responds to the Policy Advisory Panel Draft Report of June 2026. It is directed to Recommendation 1 and Recommendation 2, and in particular to Option 3.

2 It raises questions of law, of competition, and of evidence. It raises further questions concerning auDA's own prior stated position, its conduct, and its administration of the .au namespace, so far as those matters bear upon the proposals.

3 It asks whether the proposals are supported by evidence, and whether they are consistent with the Competition and Consumer Act 2010 (Cth).

4 It asks whether they accord with auDA's Terms of Endorsement, and with the core functions and principles that the Australian Government has set for the administration of .au.

5 It asks whether auDA may now adopt a course which its own Chief Executive Officer publicly disclaimed in 2008, and which auDA Management examined and rejected in 2019.

6 It asks upon what evidence such a reversal is founded, the Draft Report identifying none, and by what process it may be adopted without notice to the registrants affected.

7 It asks whether the utility of the namespace may be invoked against parked com.au names, while auDA charges an annual fee for contested .au direct names that are allocated to nobody and used by nobody.

8 It asks who receives that fee, and what is supplied in exchange for it.

9 Finally, it asks whether auDA may characterise as illegitimate an activity from which it has itself derived revenue, through the licences of investors and the accreditation of the registrars that monetise them.

10 The submission proceeds upon primary materials only. These comprise the Draft Report, the 2019 Management Response, the .au Licensing Rules, and the .au Direct Priority Implementation Rules.

11 They further comprise auDA's Terms of Endorsement, published guidance of the Australian Competition and Consumer Commission, the WIPO Nice Classification, contemporaneous trade press reporting, and the published materials of auDA-accredited registrars.

12 Those materials are indexed at Annexure A and reproduced, where necessary, at Annexures B to N. Each proposition below is capable of independent verification by the Panel from the sources there identified.

13 Where the analysis of the Internet Commerce Association in its letter to the Panel of 8 July 2026 is relied upon, it is identified as such. This submission supplies further Australian legal and evidentiary material bearing upon the same questions.

14 **Disclosure of interest.** The author discloses the following matters, so that the Panel may weigh this submission with knowledge of them.

15 The author holds .au domain name licences and has a commercial interest in the outcome of this Review. The author is a member of the class of registrants upon whom Option 3 would operate.

16 The author is a member of the Internet Commerce Association, and assisted in the preparation of its submission to this Panel of 8 July 2026, which is Exhibit 14 to this submission.

17 This submission and that of the Internet Commerce Association are therefore not independent of one another, and the Panel should not treat them as unconnected sources of support.

18 Every other matter relied upon below is drawn from primary materials published by **auDA**, by the Commonwealth, by registrars, or by contemporaneous reporting. Each is capable of verification independently of the authors and of the Internet Commerce Association.

Source: auDA consultation; Draft Report (June 2026)
https://www.auda.org.au/consultations/consultation-on-au-licensing-rules-review-draft-report/ | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 2 Summary of Position

19 **First,** Recommendation 1 should be adopted. The current approach to domain name monetisation should be retained, together with proportionate, risk-based audits directed at DNS Abuse.

20 **Second,** on Recommendation 2, Option 1 is the correct and sufficient response. Option 3 should be expressly rejected, and subparagraph 2.4.4(2)(f) retained.

21 **Third,** pay-per-click monetisation is a recognised commercial service, classified as an advertising service under the WIPO Nice Classification and by IP Australia. It is not a category of abuse.

22 **Fourth,** auDA-accredited registrars have marketed, operated and profited from domain parking and pay-per-click for more than twenty years, including in com.au and net.au.

23 **Fifth,** Option 3 would permit pay-per-click monetisation in .au direct while prohibiting the identical conduct in com.au and net.au. That asymmetry raises serious competition concerns.

24 **Sixth,** those concerns engage the restrictive trade practices provisions in Part IV of the Competition and Consumer Act 2010 (Cth), which the Australian Competition and Consumer Commission administers.

25 **Seventh,** a monetised page displays advertisements from many competing advertisers, delivered by Google's advertising platform. It affords greater advertiser participation and greater consumer choice than a conventional single-supplier website. The Draft Report nowhere weighs that benefit.

26 **Eighth,** conditioning a com.au or net.au licence upon the registrant not monetising it engages section 47 of the Competition and Consumer Act 2010 (Cth), which prohibits exclusive dealing that substantially lessens competition.

27 **Ninth,** auDA reports that since the launch of .au direct in March 2022 it has seen no increase in fraudulent registrations, in a namespace of some 800,000 licences that applies no allocation criteria and permits monetisation.

28 **Tenth,** the ACCC warns that rule-making bodies risk anti-competitive conduct where they set advertising restrictions limiting competition, whether or not that effect is intended, and that such rules must be backed by evidence.

29 **Eleventh,** auDA Management itself examined and rejected these proposals in the 2019 Management Response, finding no evidence of harm and warning that they may give rise to market power and anti-competitive practices.

30 **Twelfth,** a registrant who displays advertising supplies a service to advertisers. That is a service within the meaning of subparagraph 2.4.4(2)(f), and it is recognised as an advertising service in Class 35.

31 **Thirteenth,** existing registrants have not been individually notified of this Review or of its potential effect on their licences, assets and businesses. That is a serious defect of process.

32 **Fourteenth,** the Chief Executive Officer of **auDA** stated publicly in 2008 that **auDA** held no bias against domainers, or against monetisation through pay-per-click, and said so at a conference of that industry, which **auDA** attended in an official capacity.

33 **Fifteenth, auDA** holds its authority upon the endorsement of the Commonwealth, and upon conditions of transparency and accountability. A reversal of a position held for more than seventeen years, taken without evidence and without notice, does not meet them.

34 **Sixteenth, auDA** has itself derived revenue from the licences of domain investors, and from the accreditation of the registrars that monetise them. That bears upon the consistency of the course now proposed.

35 **Seventeenth,** in .au direct, **auDA** charges an annual fee to every applicant for a contested name that is allocated to nobody and used by nobody, until one applicant ceases to pay. That model cannot be reconciled with a prohibition of undeveloped com.au names.

Part 3 auDA Already Permits Monetisation in com.au and net.au, and Says So in Its Own Published Guidance

36 The question whether monetisation is permissible in the commercial namespaces has already been answered by auDA. It is answered on auDA's own website, in guidance published for registrants and titled Domain investing and monetisation.

37 That guidance defines domain monetisation as registering a domain name to sell, lease or hold it to generate revenue, and states that this includes using the name to generate revenue from advertising links on an associated website.

38 It then states the position in terms. Domain monetisation is **"Permitted in the com.au, net.au and .au direct namespaces"**, where undertaken in accordance with the .au Licensing Rules, including the eligibility and allocation requirements.

39 The same guidance records that domain monetisation is prohibited in the org.au, asn.au, id.au and edu.au namespaces, and in the State and Territory namespaces. auDA has therefore already drawn the line, and drawn it by namespace.

40 Where auDA intended to prohibit monetisation, it did so expressly, and said so plainly. Where it intended to permit monetisation, it did so expressly, and said so plainly. com.au and net.au fall in the second category.

41 Nor is this a matter of guidance alone. The .au Licensing Rules themselves define Domain Name Monetisation, and the definition is accompanied by examples of the practice.

42 Those examples include affiliate websites, pay-per-click websites where revenue is earned through advertising systems, and domain parking where advertising is published upon the parked domain name. The Rules name the very conduct now said to be objectionable.

43 It follows that pay-per-click advertising and domain parking are not practices that the Rules overlooked, nor conduct that slipped through a gap. They are practices that auDA identified, defined, addressed, and permitted in com.au and net.au.

44 Option 3 cannot be reconciled with that position. It would remove, through the allocation criteria, the pathway upon which the permission auDA publishes to registrants depends.

45 A registrant who reads auDA's guidance today is told that monetisation is permitted in com.au and net.au. Under Option 3 the same registrant would find the allocation basis for that permitted use withdrawn, without any finding that the use is harmful.

46 That guidance is reproduced in full at Annexure G, as Exhibit 18, captured from auDA's website on 9 July 2026.

47 The position is not recent. It has been auDA's position for twenty years, and auDA once expressed it in terms that answer the present question directly.

48 In auDA Published Policy 2006-03, titled Clarification of Close and Substantial Connection Rule, Domain Monetisation, auDA addressed whether a domain name might be registered in com.au or net.au for the purpose of monetisation.

49 Its answer was that it might. auDA determined that domain monetisation falls within the category of **"a service that the registrant provides"**, and that it is acceptable to register a domain name under that rule for the explicit purpose of monetisation.

50 auDA then identified what that service consists of. The service provided is the service of providing users with information and advertising links about the subject matter of the domain name.

51 That is the very characterisation this submission advances. It is not advanced here for the first time. It is auDA's own, adopted after consideration, and published as auDA policy.

52 The category described in 2006 as a service that the registrant provides is the direct ancestor of the allocation pathway now found in subparagraph 2.4.4(2)(f). Option 3 would delete it.

53 auDA also stated the balance it sought to strike. The policy was framed to balance **"the right of domainers to pursue a legitimate business model"** against the public interest in preserving the integrity of the .au domain.

54 auDA thus recognised monetisation as a legitimate business model, and regulated its abuse rather than its existence. Its conditions required the content to relate to the domain name, and forbade the use of an existing entity, personal or brand name.

55 That second condition was directed, in auDA's own words, at ensuring monetisation is not used as a cover for cybersquatting or other misleading or fraudulent activity. auDA in 2006 regulated the abuse, and permitted the practice.

56 Policy 2006-03 is reproduced in full at Annexure F, as Exhibit 17. It was superseded by Policy 2008-10, and the permission it recognised now appears in the Licensing Rules and in the guidance described above. The thread is unbroken across twenty years.

57 Policy 2008-10 was itself revoked in December 2012. Upon 18 December 2012 **Cooper Mills Lawyers** reported the introduction of **auDA** Published Policy 2012-04, the Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs.

58 It reported that the principal change was **"the revocation of the Monetisation Policy"**. The rules governing monetisation were not abolished. They were incorporated into the new eligibility policy.

59 The report records that the new policy specified with greater clarity how registrants may use domain names for monetisation. Monetisation thereby passed from a standalone policy into the general eligibility rules.

60 That is Exhibit 26 to this submission, reproduced at Annexure L. The chain is unbroken from Policy 2006-03, through Policy 2008-10, to the eligibility rules that Option 3 would now amend.

61 **At no point in twenty years has auDA prohibited the monetisation of a com.au domain name. It has defined it, regulated it, and permitted it.**

Source: auDA, Domain investing and monetisation; auDA, .au Domain Administration Rules: Licensing; auDA Published Policy 2006-03 **https://www.auda.org.au/au-domain-names/manage-your-au-domain-name/domain-investing-and-monetisation/** | **https://www.auda.org.au/au-domain-names/au-rules-and-policies/au-domain-administration-rules-licensing-2/** | **https://files.auda.org.au/documents/auda-2006-03.pdf**

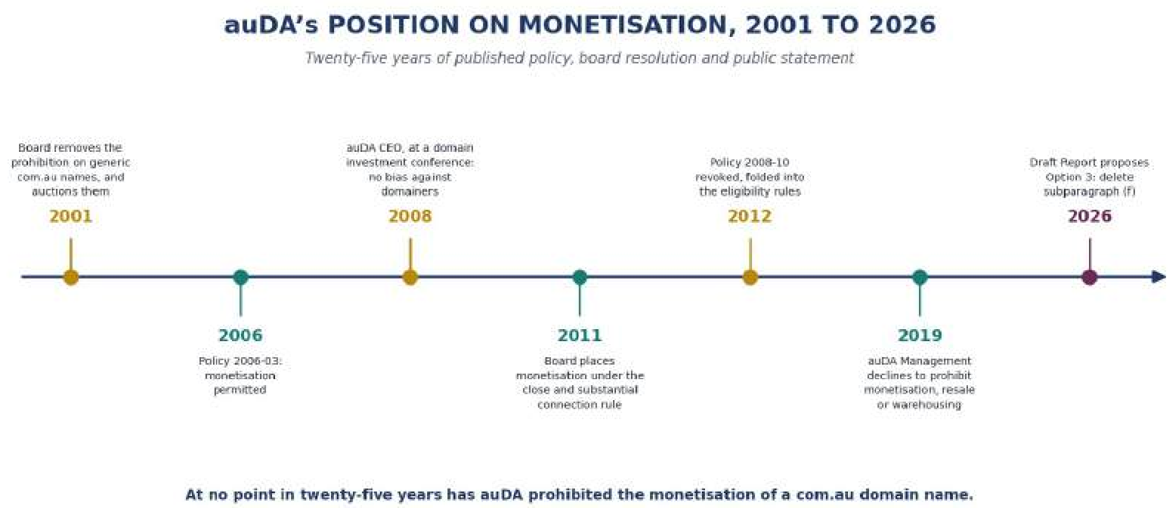


Figure 3: auDA's position on monetisation, 2001 to 2026. Prepared from auDA Published Policies 2006-03 and 2008-10, the auDA Board Minutes (Exhibit 27), the DNJournal report (Exhibit 20), Cooper Mills Lawyers (Exhibits 25 and 26), and the Draft Report.

Part 4 Pay-Per-Click Monetisation Is a Recognised Class 35 Advertising Service

62 Pay-per-click advertising is, properly characterised, a recognised commercial service and not a category of abuse. The WIPO Nice Classification lists pay-per-click advertising as a service in Class 35, under basic number 350113.

63 Class 35 comprises advertising and business services. IP Australia applies the same taxonomy, under which Classes 1 to 34 comprise goods and Classes 35 to 45 comprise services.

64 Domain-name pay-per-click is one means by which that advertising service is delivered. The Panel's own Draft Report records that the definition of Service includes a service providing information, or a referral to another provider.

65 The classification is not theoretical. It is used, in Australia, by Australian businesses that hold registered rights.

66 **Upon the knowledge of the authors of this submission, more than one hundred trade marks are registered in Australia in Class 35 in respect of pay-per-click advertising services.**

67 That statement is made upon the authors' own inquiry of the Australian Trade Mark Search maintained by IP Australia. It is not put higher than that, and it is capable of verification by the Panel from that register.

68 The consequence is direct. The Commonwealth grants and maintains registered rights in respect of the very service that Option 3 would treat as a doubtful use of a domain name licence.

69 A registrant may hold an Australian trade mark for pay-per-click advertising services, and may satisfy subparagraph (a) of rule 2.4.4(2) upon that mark, while **auDA** proposes to deny the same activity as an allocation basis under subparagraph (f).

70 Classification does not immunise any page from scrutiny under trademark, consumer protection, scam or DNS Abuse principles. It establishes only that monetisation is not inherently abusive, and that the definition of Service properly accommodates advertising-supported use.

Source: WIPO Nice Classification, Class 35; IP Australia; Australian Trade Mark Search
https://nclpub.wipo.int/enfr/?basic_numbers=show&class_number=35 | **https://www.ipaustralia.gov.au/trade-marks/what-are-trade-marks/what-are-classes-of-goods-and-services** | **https://search.ipaustralia.gov.au/trademarks/search/advanced**

Part 5 International Practice: ICANN Treats Parking and Pay-Per-Click as Recognised Monetisation

71 **ICANN** published a Policy Issue Brief on Domain Name Monetization in June 2008. It is reproduced in full at Annexure D, as Exhibit 15. It repays close reading, because it addresses the precise question now before the Panel.

72 **ICANN** defines domain name monetisation as the generation of revenue from domain names, and identifies three methods: pay-per-click, parking and tasting. It treats each as an established practice, and describes their operation without disapproval.

73 Of pay-per-click, **ICANN** records that a registrant hosts advertisements for products or services related to the name, and earns revenue when a visitor clicks. Of parking, it records that the visitor is taken to a landing page carrying paid links.

74 Two matters recorded by **ICANN** in 2008 are directly material. The first concerns registrars. **ICANN** records that the registrar parks the registrant's domain name on a page featuring paid links, and that the resulting revenue accrues to the registrar and, depending upon the registrar's parking program, to the registrant.

75 **ICANN** adds that large registrars were estimated to earn millions of dollars each year from pay-per-click fees on parked websites. That was in 2008. The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** is the same practice, eighteen years on.

76 The second concerns the consumer. Quoting its own Generic Names Supporting Organization, **ICANN** records the proponents' case that parking uses domain names to deliver relevant advertising and enhanced search options, instead of serving the visitor an error page.

77 That is the answer to the suggestion that a monetised page gives the visitor nothing. On **ICANN**'s own record, the alternative is not a developed website. The alternative is a 404 error page.

78 **ICANN** does not present monetisation uncritically, and this submission does not put it that way. The brief records that the pay-per-click model has been criticised for encouraging parties to register names similar to famous brands or persons.

79 That criticism is a criticism of cybersquatting, not of advertising. It is answered in Australia by the auDRP, by trade mark law, and by the prohibited-use provisions of the Rules. It is not answered by removing an allocation pathway from compliant registrants.

80 What matters is what **ICANN** did. It acted against tasting: the Board moved to restrict refunds during the Add Grace Period, imposed a transaction fee upon deleted names, and amended the .BIZ and .INFO agreements to curb excessive deletions.

81 It did not act against pay-per-click or parking. On the contrary, **ICANN** concluded that those practices **"have not to date generated the same concerns as tasting"**.

82 That is the disposition of an evidence-based regulator. It identified an actual harm, being tasting, and regulated it precisely. It identified no comparable harm in pay-per-click or parking, and therefore regulated neither.

83 Option 1 asks the Panel to do exactly what **ICANN** did. Option 3 asks it to do the opposite: to prohibit, through allocation, the practice that the international regulator examined and declined to restrict.

Source: ICANN, Policy Issue Brief: Domain Name Monetization (June 2008), reproduced at Annexure D **https://archive.icann.org/en/policy/briefs/domain-name-monetization-jun08-en.pdf**

Part 6 Worked Example: The auDA-Accredited Registrar GoDaddy CashParking Pay-Per-Click (PPC) Monetisation Program

84 The clearest evidence that monetisation is mainstream and industry-endorsed is that auDA-accredited registrars sell it themselves. The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** is marketed to Australian registrants upon **GoDaddy**'s Australian website.

85 That page is directed at Australian consumers. It is published at the .au country page, quotes prices in Australian dollars as captured, the currency being selectable, and lists an Australian telephone number. It appears under a menu heading titled Domain Investing.

86 The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** is described as a service that generates revenue from parked domain names. Advertisements are placed upon the parked domain. The registrant earns money each time a visitor clicks one.

87 The registrant points the domain name to **GoDaddy**'s **CashParking** nameservers. **GoDaddy** then displays contextually relevant advertisements drawn from its network of advertising partners. The resulting click-through revenue is divided between **GoDaddy** and the registrant. The mechanism is illustrated in Figure 1 below.

88 The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** offers three tiers to Australian registrants. A Free membership. A Premium membership at A$17.30 per month, paying the registrant 80 per cent of click-through revenue. A Domain Pro membership at A$43.29 per month.

89 Both **CashParking** plans permit an unlimited number of domain names to be associated with the account, with up to 500 added at one time. Membership of **GoDaddy** Auctions is included free with a **CashParking** plan.

90 Critically, **GoDaddy** markets the service on the express footing that no website need be built. Under the heading of monetisation of idle domains, it states: **“There’s no need to actively develop or maintain a website.”**

91 **That single sentence answers the premise of Option 3. An auDA-accredited registrar tells Australian registrants, in terms, that a domain name may lawfully earn advertising revenue without any operating website at all.**

92 **GoDaddy** further confirms that a domain name registered with another registrar may be parked and monetised through **CashParking**, by repointing its nameservers. The practice is therefore not confined to names registered with **GoDaddy**.

93 **GoDaddy** names the two nameservers to which a registrant must repoint a domain name, being ns01.cashparking.com and ns02.cashparking.com. The instruction is addressed to registrants of names held with other registrars.

94 **GoDaddy** explains the mechanics of the service. Advertisements are drawn from its network of advertising partners. When a visitor clicks an advertisement, the partner pays.

95 That click-through revenue is then divided between the service provider and the domain owner. Upon the Premium plan the registrant receives 80 per cent of that revenue share.

96 An unlimited number of domain names may be associated with a single account, and up to 500 may be added at one time. Membership of **GoDaddy** Auctions is included with every CashParking plan.

97 The Domain Pro membership is marketed as total aftermarket access, comprising the memberships required to buy, sell and monetise domain names. It bundles Premium **CashParking**, **GoDaddy** Auctions membership, auction credit, bulk valuations and an investing course.

98 **GoDaddy** is also a member of the Internet Commerce Association, at Platinum level, and has been since 2016. The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** is therefore offered by an accredited registrar and an **ICA** member simultaneously.

99 The significance is this. An auDA-accredited registrar actively promotes, operates, and derives revenue from the very pay-per-click monetisation that Option 3 would render non-compliant in com.au and net.au.

100 If that conduct were inherently illegitimate, auDA would be accrediting registrars to sell an illegitimate service to Australian consumers, in Australian dollars, on an Australian webpage. That cannot be so. The practice is mainstream, commercial and legitimate.

101 The primary materials for this Part are indexed at Annexure A, Exhibits 1 to 3. Each is a page published by **GoDaddy**, and each may be verified by the Panel at the address there recorded.

102 The **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program** webpage is reproduced at Annexure E, as Exhibit 16, as the page renders in a web browser. It was captured on 9 July 2026, and the Panel may compare it with the live page.

Source: GoDaddy CashParking (Australia); GoDaddy Help, What is CashParking; GoDaddy, CashParking update (2026); ICA Member Directory
https://www.godaddy.com/en-au/domains/cashparking |
https://www.godaddy.com/help/what-is-cashparking-1331 |
https://www.godaddy.com/resources/news/cashparking-update |
https://www.internetcommerce.org/directory/

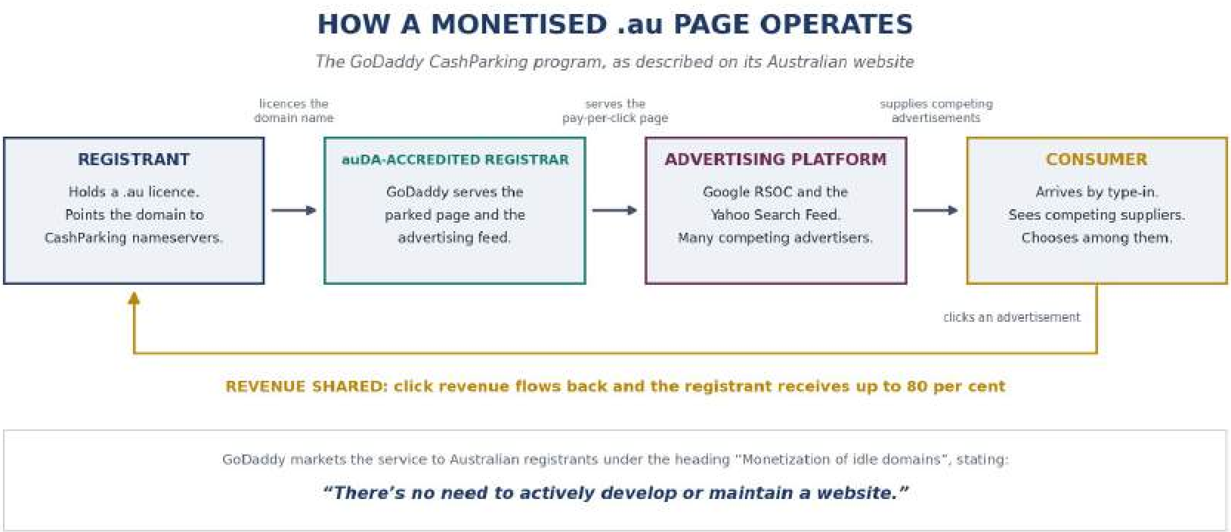


Figure 1: How a monetised .au page operates. Prepared from the GoDaddy CashParking Australian webpage and GoDaddy help guidance. See Annexure A, Exhibits 1 to 3.

Part 7 The Same Registrar Operates Brokerage, Sales, Auction and Aftermarket Programs

103 The involvement of the auDA-accredited registrar **GoDaddy** is not confined to pay-per-click. The same auDA-accredited registrar operates an integrated suite of programs for the monetisation, brokerage, sale and auction of domain names, including names held by investors.

104 **First,** brokerage. The auDA-accredited registrar **GoDaddy** operates a Domain Broker Service. It assigns a dedicated broker who approaches the registrant of a name that is already registered, and negotiates its purchase on behalf of an anonymous buyer.

105 **GoDaddy** markets that service as the leading domain broker worldwide. It charges a non-refundable upfront fee, together with a commission of 20 per cent of the negotiated sale price. Brokers are given a 30-day negotiation window.

106 That service presupposes the legitimacy of investor-held names. Its entire commercial premise is that names are lawfully held by registrants who may be persuaded to sell them at a negotiated price.

107 **Second,** auctions. **GoDaddy** Auctions is marketed as the leading marketplace for expired domain names. It operates bid-style auctions, offer and counter-offer listings, buy-now listings, and a closeout process operating as a reverse auction.

108 Expired names registered with **GoDaddy** are listed on **GoDaddy** Auctions 26 days after expiry. Auctions run for 10 days. Unsold names proceed to Final Closeout, and are released to the registry 43 days after expiry if unsold.

109 Membership of **GoDaddy** Auctions is sold to buyers for an annual fee. **GoDaddy**'s own materials state that domains registered with any registrar may be listed, and expressly that parked domains may be listed.

110 **Third,** aftermarket sales. Afternic is a **GoDaddy** brand. Since 2024 **GoDaddy** has directed sellers to Afternic for listings, which are then syndicated back to **GoDaddy** Auctions and to a registrar distribution network for wider exposure.

111 **Fourth,** valuation. **GoDaddy** operates a domain appraisal tool that estimates the market value of a domain name and displays comparable sales, so that a registrant may price a name for resale.

112 **GoDaddy**'s own guidance describes the domain aftermarket as the secondary market in which buyers acquire names already registered, recently expired, or expiring, and in which sellers list names for purchase.

113 It states in terms that domain investors use domain marketplaces to place names before interested buyers. It identifies parking and advertising as services that marketplaces may offer alongside listings.

114 The composite picture is decisive. An auDA-accredited registrar operates, and profits from, pay-per-click monetisation, domain brokerage, expired-domain auctions, aftermarket listing, syndication and valuation. Each program is indexed at Annexure A, as Exhibits 4 to 10.

115 Each of those programs is available to Australian registrants. Each depends upon the lawfulness of holding a domain name for monetisation, future transfer or resale. Each is operated by a registrar that auDA has accredited.

116 Option 3 would render non-compliant, in com.au and net.au, the very conduct that auDA's own accredited registrars build their aftermarket businesses upon. The Rules cannot coherently condemn what the accredited channel is licensed to sell.

Source: GoDaddy Domain Broker Service; GoDaddy Help, Domain Broker Service; GoDaddy Auctions; GoDaddy Help, What is GoDaddy Auctions; GoDaddy Help, Listing types; GoDaddy Help, Expired domains timeline; GoDaddy, Auctions changes (2024)
https://www.godaddy.com/domains/domain-broker | **https://www.godaddy.com/help/what-is-godaddys-domain-broker-service-1699** | **https://www.godaddy.com/auctions/domain-auctions** | **https://www.godaddy.com/help/what-is-godaddy-auctions-890** | **https://www.godaddy.com/help/listing-types-for-godaddy-auctions-1525** | **https://www.godaddy.com/help/timeline-for-godaddy-auctions-expired-domains-42743** | **https://www.godaddy.com/resources/news/godaddy-auctions**

Part 8 auDA Itself Accredits the Registrars That Sell This Service, and the Consequences of Prohibiting It

117 The registrars named in this submission are not third parties operating beyond auDA's reach. Each appears upon auDA's published list of accredited .au registrars.

118 That list includes the auDA-accredited registrar **GoDaddy**. It also includes Above.com, Drop.com.au, Fabulous.com.au, Netfleet.com.au, DomainShield and MarkMonitor Corporate Services. Each of those entities provides parking, monetisation, drop-catching, brokerage or portfolio services.

119 Accreditation is not a formality. An applicant must satisfy technical and security standards, hold a Registrar Agreement with auDA, comply with the .au Domain Name Suppliers Code of Practice, and maintain certification under auDA's Information Security Standard.

120 auDA therefore knows precisely what its accredited registrars sell. It accredits them, contracts with them, audits them, and receives fees generated by the registrations

they process. It has never suggested that **CashParking**, domain parking or pay-per-click is impermissible.

121 The question that arises is a simple one, and the Draft Report does not answer it. If pay-per-click monetisation is illegitimate in com.au and net.au, why does auDA accredit and continue to accredit the registrars that sell it to Australian registrants?

122 **Either the practice is lawful, in which case Option 3 removes a lawful pathway without evidence of harm. Or it is not, in which case auDA has for many years accredited registrars to sell an unlawful service to Australians. Only the first can be correct.**

123 It is also necessary to identify who would bear the cost of prohibition. The Draft Report performs no such assessment, though Principles 2 and 3 of auDA's Principles for policy development require it.

124 Registrars would lose revenue. The auDA-accredited registrar **GoDaddy** and the other accredited registrars derive income from parking and monetisation programs, and from the aftermarket, brokerage and auction services built upon them. That income would be reduced or extinguished in com.au and net.au.

125 Advertisers would lose a channel. Australian advertisers, including small and medium enterprises, reach consumers through the advertising placed upon monetised pages. Suppressing those pages removes an advertising surface that competing advertisers presently use.

126 Australian service providers would lose their market. Enterprises such as Monetise.com.au, based in Perth and established in 2019, exist to supply parking, advertising and portfolio tools to Australian registrants. Their market in com.au and net.au would be extinguished.

127 Registrants would lose lawful income. A registrant who displays advertising engages in commerce, in trade and in advertising. The revenue so earned is applied to renewal fees and to the development of the name. That commerce would be prohibited by allocation rule rather than by any finding of wrongdoing.

128 Consumers would lose choice. The visitor to a monetised page is presented with a range of competing suppliers. Suppressing the page substitutes, at best, an error message.

129 auDA itself would lose. Registration and renewal fees fund auDA, the registry operator, the accredited registrars and the auDA Foundation. Reduced renewals reduce that funding, and the Commonwealth loses the goods and services tax upon the fees foregone.

130 Each of those losses is a cost of Option 3. None is quantified, or even identified, in the Draft Report. A measure whose costs have not been assessed cannot satisfy the requirement of net public benefit.

Source: auDA, List of auDA accredited registrars; auDA, Become an accredited registrar; GoDaddy CashParking (Australia) **https://www.auda.org.au/registrar-resources/list-of-au-accredited-registrars/** | **https://www.godaddy.com/en-au/domains/cashparking**

Part 9 A Monetised Page Is a Legitimate Use That Delivers Greater Advertiser Participation and Consumer Choice

131 The Draft Report proceeds upon an unexamined assumption. It treats a pay-per-click page as a lesser or defective use of a domain name, and a conventional business website as the proper use. The Rules draw no such hierarchy.

132 The Rules impose no general obligation to operate an active website. A pay-per-click page is content. It displays advertising, delivered through an established advertising platform, to a visitor who has arrived at the domain name.

133 Consider what the visitor sees. A conventional business website displays the goods or services of a single supplier. It presents one offering, at one price, from one trader.

134 A monetised page, by contrast, displays advertisements from many competing advertisers, selected for relevance to the visitor's evident interest. The visitor is presented with a range of suppliers, and may choose among them.

135 On any ordinary understanding of consumer welfare, that is more choice, not less. The consumer who arrives at a generic domain name with a commercial interest is shown competing suppliers rather than a single trader.

136 The comparison is not between a monetised page and a developed website. **ICANN** records that parking delivers relevant advertising and enhanced search options to a visitor who would otherwise be served an error page.

137 The position of advertisers is the same. A conventional website affords advertising access to its owner alone. A monetised page affords access to every advertiser participating in the underlying advertising platform, including small and medium Australian enterprises.

138 The platform in question is not obscure. **GoDaddy**'s advertising feeds are Google's Related Search on Content platform and the Yahoo Search Feed, following the retirement of Google's AdSense for Domains product.

139 Above.com, an Australian platform within the Trellian group and a member of the Internet Commerce Association, states that Related Search on Content allows domains to access the full spectrum of advertisers using Google Search results.

140 It follows that the advertising displayed upon a monetised .au page is drawn from the same advertiser pool, and delivered by the same advertising infrastructure, that funds Google Search itself.

141 A monetised page is therefore not a lesser class of content. It is the same advertising content that Australian consumers encounter every day, delivered upon a different surface, by the same suppliers, through the same platform.

142 This bears directly upon auDA's Terms of Endorsement, which require it to promote competition, fair trading and consumer protection. A use that widens advertiser participation and enlarges consumer choice advances each of those objectives.

143 It bears equally upon any assessment of public benefit. Conduct that removed a page displaying many competing advertisers, in favour of nothing at all, would reduce advertiser access and consumer choice. That is anti-competitive detriment, not public benefit.

144 The Draft Report nowhere weighs these benefits. It records objections founded upon the perception created by pay-per-click pages. It does not assess what those pages deliver to advertisers, to consumers, or to competition.

145 That omission is material. The Panel's Terms of Reference require recommendations supported by evidence, and auDA's Principles require a case for action and an assessment of costs and net benefit. Neither is possible without weighing the benefits foregone.

146 Before any measure is adopted that would suppress monetised pages, the Panel should identify and assess the advertiser participation, consumer choice and competitive benefit those pages confer. That assessment has not been undertaken.

147 The character of pay-per-click monetisation as a Service, as Advertising, and as Commerce, together with the consequence the Draft Report has not weighed, is summarised in Figure 2 below.

Source: GoDaddy, CashParking update (2026); Above.com (Trellian), monetisation and RSOC; GoDaddy CashParking (Australia) **https://www.godaddy.com/resources/news/cashparking-update** | **https://www.above.com/blog/the-new-era-of-monetization-with-above** | **https://www.godaddy.com/en-au/domains/cashparking**

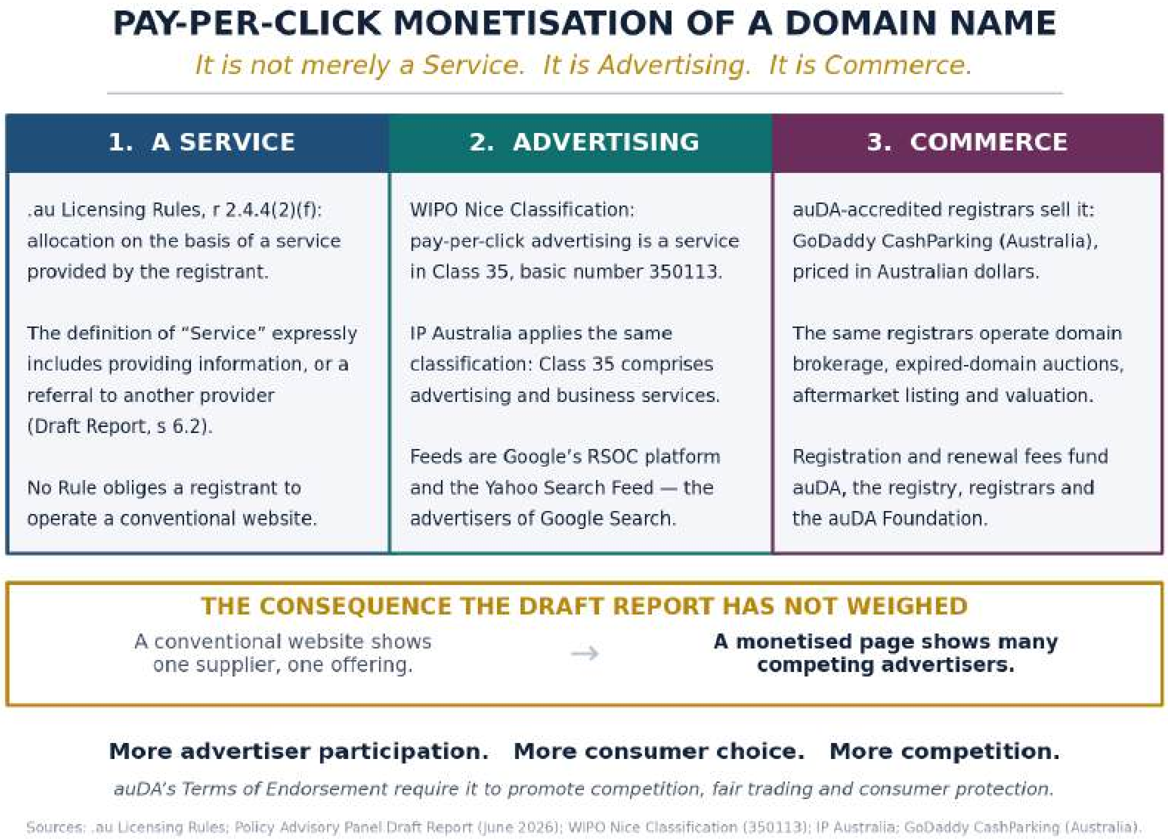


Figure 2: Pay-per-click monetisation of a domain name is a Service, it is Advertising, and it is Commerce. Prepared from the sources cited in Parts 3 to 6 and Annexure A.

Part 10 The Wider Registrar Sector Sells the Same Service

148 The auDA-accredited registrar **GoDaddy** is not an isolated example. Domain parking and pay-per-click are offered across the accredited registrar sector and the aftermarket platforms that serve Australian registrants.

149 Crazy Domains, Above.com, Fabulous.com.au, Netfleet.com.au and the Drop.com.au drop-catching service each operate upon the same advertising-supported model. Sedo and Afternic operate marketplaces that incorporate parking.

150 Registrars have offered pay-per-click and monetisation services for com.au and net.au names for more than twenty years. That longstanding practice has generated a substantial body of registrations, and recurring renewal revenue for auDA, the registry and registrars.

151 The sector is not confined to registrars, nor to foreign enterprise. An Australian industry has been built upon the provision of parking and monetisation services to Australian registrants.

152 Monetise.com.au describes itself as Australia's domain parking platform. It was established in 2019, is based in Perth, and is affiliated with the Australian domain

brokerage DBR.com.au. It was created, in its own words, by domain professionals for domain professionals.

153 Its published products are directed wholly at the conduct in question. They comprise domain management across registrars, a parking page, a parking site, a domain portfolio, an advertising manager, a leads inbox, and a domain marketplace.

154 An Australian company therefore employs Australians to build and operate the very tools by which .au domain names are parked and monetised. Option 3 would remove a substantial part of the market those tools serve.

155 The Monetise.com.au webpage is reproduced in full at Annexure H, as Exhibit 19. It was captured from that address on 9 July 2026.

156 It would be commercially incoherent for the Rules to permit the registrar sector to offer these services while treating registrants who adopt the identical model as suspect. The relevant distinction is between lawful monetisation and actual abuse.

Source: Monetise.com.au; industry commentary (Assets Australia); GoDaddy CashParking
https://www.monetise.com.au/a/hello/home | **https://assets.com.au/auda-2026-rules-review/** | **https://www.godaddy.com/en-au/domains/cashparking**

Part 11 An auDA-Accredited Registrar Opposes These Proposals

157 The opposition to these proposals extends into the accredited registrar sector itself. Drop.com.au is a registrar accredited by auDA. It operates the principal .au drop-catching and expired-domain auction platform.

158 Drop.com.au forms part of the Trellian group, an Australian enterprise whose accredited .au registrars include Above.au, Fabulous.com.au and Netfleet.com.au. Those platforms furnish portfolio-management and monetisation services to Australian registrants.

159 Drop.com.au has publicly opposed the proposed changes and has invited registrants to lodge submissions before the consultation closes. Its own registrant materials confirm that current auDA policy permits registering domain names in order to monetise and sell them.

160 Where a registrar that auDA itself accredits opposes a proposal as harmful, restrictive and anti-competitive, that is a matter to which the Panel ought to attach weight. It indicates an absence of industry support.

161 The materials of Drop.com.au are indexed at Annexure A as Exhibit 12. Its status as an auDA-accredited registrar may be confirmed from auDA’s own published list of accredited registrars.

Source: Drop.com.au (accredited registrar); industry commentary (Domainer)
https://drop.com.au/about-drop.com.au.html | **https://www.domainer.com.au/auda-policy-review-recommendations-not-good-for-domain-investors/**

Part 12 The ICA's Membership Comprises the Very Operators Affected

162 The Internet Commerce Association represents domain name registrars, marketplaces, brokers, and domain-parking and monetisation providers. A number of them operate in, or provide services to, the .au market.

163 Its members include **GoDaddy**, whose **CashParking** service is described above; Above.com, part of the Trellian group that operates Drop.com.au; Sedo, which provides a marketplace and domain parking; and PTL and ParkLogic, which provide traffic monetisation.

164 The membership further includes registrars such as NameBright, Dynadot, NameSilo and Porkbun, the marketplace Atom, an Australian member DNC.com.au, and Reflex Publishing, which developed generic names such as Motels.com and Flooring.com into operating websites.

165 Collectively, the **ICA**'s members serve millions of customers worldwide and provide advertising-supported domain services on a global scale. Pay-per-click and parking form part of the advertising-funded model that has underpinned the growth and funding of the modern internet.

166 The membership of the Internet Commerce Association is recorded in its published member directory, indexed at Annexure A as Exhibit 11, and may be verified at the address there recorded.

167 Advertising-supported services are not peripheral to the internet. They remain a fundamental and enduring means by which online content and services are funded. A rule impairing lawful monetisation in .au would sit at odds with that global reality.

Source: ICA Member Directory **https://www.internetcommerce.org/directory/**

Part 13 Monetisation Is Frequently a Stage in a Domain Name's Lifecycle

168 Monetisation is frequently a stage in a domain name's development, rather than its final use. Many generic com.au and net.au names that began as pay-per-click or monetised pages have since grown into substantial Australian businesses built upon the name itself.

169 A page that is monetised today is therefore no indication that the name will never be developed. To treat present monetisation as a mark of illegitimacy would penalise the very lifecycle that has produced established Australian businesses.

170 The Panel appears to accept this. The **ICA**'s letter of 8 July 2026 records the same point, and the Draft Report imposes no general obligation upon a registrant to operate an active website.

Source: Internet Commerce Association, letter to the Policy Advisory Panel, 8 July 2026 (Exhibit 14); Draft Report (June 2026) **https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/** | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 14 Competitive Neutrality and the .au Direct Asymmetry

171 Rule 2.4.4(2) applies only to com.au and net.au. The .au direct namespace requires an Australian Presence, but imposes no equivalent allocation criteria.

172 A registrant with Australian Presence may accordingly hold a .au direct domain name and monetise it through pay-per-click, without any reliance upon subparagraph (f).

173 Option 3 would remove that pathway for com.au and net.au alone. The result would be incongruous. Identical pay-per-click monetisation would remain permissible in .au direct, yet be denied to com.au and net.au registrants engaged in precisely the same conduct.

174 Consider Accountants.com.au, Accountants.net.au and Accountants.au. Each is a generic name. Each is held with Australian Presence. Each is pointed to the same lawful parking service. To distinguish between them by suffix alone is neither competitively neutral nor evidence-based.

175 Such differential treatment of substitutable namespaces is not merely anomalous. It would disadvantage an entire class of com.au and net.au participants relative to .au direct registrants performing identical conduct.

Source: Draft Report (June 2026) **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 15 The .au Direct Namespace Is auDA's Own Controlled Comparison, and It Answers the Question

176 The .au direct namespace was launched on 24 March 2022. It is open to any person or organisation with a validated Australian presence, including citizens, permanent residents and Australian trade mark holders. No Australian Business Number is required.

177 auDA describes .au direct as a general use namespace. Its guidance to registrants states: **“You can choose any .au direct domain name you like, provided it’s available”**. It applies none of the allocation criteria found in rule 2.4.4(2).

178 Monetisation is permitted there. A registrant with Australian presence may hold a .au direct name and monetise it by pay-per-click advertising, relying upon no allocation criterion whatever.

179 The scale is not trivial. auDA reports that .au direct is now the second largest .au namespace, accounting for almost one in five .au domain names. Against a total exceeding 4.3 million, that is on the order of 800,000 licences.

180 What has been the consequence? auDA has answered that question itself. Writing of the period since the launch in March 2022, auDA states that it has **“seen no increase in fraudulent registrations”**.

181 auDA further reports that approximately 0.03 per cent of .au domain names experience DNS Abuse, well below the global average, and that generic top level domains experience approximately 0.3 per cent, being ten times that rate.

182 The significance of those statements is difficult to overstate. The .au direct namespace is a controlled comparison, conducted by auDA itself, over four years, upon hundreds of thousands of licences.

183 The registry is the same. The accredited registrars are the same. The compliance regime is the same. The DNS Abuse machinery is the same. The country and the applicable law are the same. Australian presence is required in each case.

184 The single variable removed is the allocation criteria in rule 2.4.4(2). The result of removing it, upon auDA’s own evidence, is no increase in fraudulent registrations, and a DNS Abuse rate an order of magnitude below the generic namespaces.

185 That is the very evidence the Draft Report says is absent. It exists, it is auDA’s own, and it runs in the opposite direction to Option 3.

186 It demonstrates that restrictive allocation criteria are not what keeps .au safe. What keeps .au safe is the Australian presence requirement, the accountability that follows from it, and enforcement directed at actual abuse.

187 Two consequences follow. First, there is no case for action to extend restrictions in com.au and net.au. Principle 1 of auDA’s Principles for policy development is not satisfied, and the Panel’s Terms of Reference are not met.

188 **Second,** the evidence supports the opposite reform. If a namespace of some 800,000 licences operates safely without the allocation criteria in rule 2.4.4(2), the

criteria applied to com.au and net.au fall to be reconsidered by reference to that experience.

189 A question of competition also arises. auDA maintains restrictive allocation rules for com.au and net.au while operating an open .au direct namespace, and reports that the open namespace has produced no additional harm.

190 The result is that registrants hold differing commercial rights over the identical word according only to the suffix. A holder of Accountants.au may monetise. Under Option 3 an applicant for Accountants.com.au, intending the identical use, would not be eligible.

191 Differential treatment of substitutable products, imposed by the sole supplier of both, upon no evidentiary basis, is a matter properly for examination under Part IV of the Competition and Consumer Act 2010 (Cth), by the ACCC, and ultimately by a court.

192 The Draft Report contains no analysis of that differential. It does not explain why conduct that auDA reports to be safe in a namespace of some 800,000 names is to be treated as impermissible in the adjacent two.

193 The position may be stated shortly.

194 **auDA** operates a namespace of some 800,000 licences in which no allocation criteria apply at all. It reports that the namespace is safe, that DNS Abuse is well below the global average, and that businesses across Australia use it.

195 **If a namespace functions without allocation criteria, then allocation criteria are not what makes a namespace function.**

196 **auDA cannot maintain both propositions. It cannot tell the Commonwealth that .au direct is safe without allocation criteria, and tell this Panel that com.au and net.au require stricter ones.**

197 The reform indicated by the evidence is not Option 3. It is the harmonisation of com.au and net.au with .au direct.

198 Eligibility should rest upon a validated Australian presence and good standing, with the protection of exact-match rights for the holders of Australian trade marks, as it does in .au direct today.

199 That reform would simplify the most complex allocation regime in the world, as set out in Part 18 of this submission. It would remove the asymmetry examined in Part 14. It would cost **auDA** nothing.

200 It is sought by the twentieth requested outcome in Part 28 of this submission.

201 Before any measure of the kind contemplated by Option 3 is adopted, auDA should publish its DNS Abuse, scam and complaints data disaggregated by namespace, and explain, by reference to that data, why the .au direct experience does not answer the question.

Source: auDA, .au direct two years and counting; auDA, .au direct domain names; Draft Report (June 2026) **https://www.auda.org.au/news-insights/blog/au-direct-two-years-and-counting/** | **https://www.auda.org.au/au-domain-names/the-different-au-domain-names/au-direct-domain-names/** | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 16 Restrictive Practices and Anti-Competitive Conduct: The Competition and Consumer Act 2010 (Cth)

202 The competition concerns identified above are not merely matters of policy preference. They engage the restrictive trade practices provisions in Part IV of the Competition and Consumer Act 2010 (Cth), administered by the Australian Competition and Consumer Commission.

203 Part IV prohibits conduct that has the purpose, effect or likely effect of substantially lessening competition in a market. The relevant market here is the market for the registration, holding, monetisation and resale of Australian domain names.

204 Section 45 prohibits contracts, arrangements, understandings and concerted practices that have the purpose or effect of substantially lessening competition. Since the Harper reforms commenced on 6 November 2017, concerted practices are prohibited on that basis.

205 Section 46 prohibits a corporation with a substantial degree of market power from engaging in conduct having the purpose, effect or likely effect of substantially lessening competition. Since 6 November 2017 an effects test applies, and no anti-competitive purpose need be proved.

206 Section 47 prohibits exclusive dealing, including the conditional supply of services and refusals to supply, where the conduct substantially lessens competition.

207 auDA is a company limited by guarantee. It administers the .au country code top level domain under Australian Government endorsement. It is the sole administrator of that namespace, and no substitute administrator exists.

208 A body in that position holds a substantial degree of power in the market it administers. It is not unlawful to hold market power. What the Act prohibits is conduct having the purpose or effect of substantially lessening competition.

209 Option 3 would prohibit an entire class of lawful market participants from relying upon the principal allocation pathway in com.au and net.au, while the same conduct remains permissible in .au direct.

210 It would simultaneously leave the large portfolios of trademark and brand owners largely untouched under subparagraphs (a) to (e). The burden would fall upon investors, marketplaces, brokerages, drop-catching services and monetisation providers.

211 Those consequences are capable of amounting to a substantial lessening of competition. They would restrict competitors from competing effectively, raise barriers to entry into the .au aftermarket, and foreclose an established class of participants.

212 auDA Management itself identified this risk in 2019. It warned that the asymmetry elevates the rights of trademark and other intellectual property owners over other licence holders, and may raise market power and anti-competitive concerns.

213 It is not asserted that auDA has contravened the Act. What is submitted is that Option 3, if adopted, would create a serious and foreseeable risk of contravention, and would properly attract the attention of the ACCC.

214 That risk is avoidable. The Panel can avoid it entirely by adopting Option 1, which addresses the identified harms through enforcement rather than through the exclusion of lawful participants.

215 If auDA nevertheless considers that a restriction of this kind is justified, the Act provides a lawful path. auDA may apply to the ACCC for authorisation or lodge a notification, and the ACCC may grant an exemption on public benefit grounds.

216 The ACCC may grant an exemption only where the conduct does not substantially lessen competition, or where the public benefit outweighs the anti-competitive detriment. On the Panel’s own findings, no such public benefit has been demonstrated.

217 The Panel has found that there is a lack of evidence that monetising a website inherently undermines trust and confidence. A restriction unsupported by evidence of harm is unlikely to satisfy the public benefit test.

218 The prudent and lawful course is therefore to retain subparagraph 2.4.4(2)(f), adopt Option 1, and direct enforcement at abuse. That course carries no competition risk. Option 3 carries a substantial one.

Source: ACCC, Competition and anti-competitive behaviour; Competition and Consumer Act 2010 (Cth) **https://www.accc.gov.au/business/competition-and-exemptions/competition-and-anti-competitive-behaviour** | **https://www.legislation.gov.au/C2004A00109/latest**

Part 17 Exclusive Dealing: Conditioning a Registrant’s Freedom to Choose What Business It Does

219 Section 47 of the Competition and Consumer Act 2010 (Cth) prohibits exclusive dealing. The ACCC describes exclusive dealing as occurring where one business, trading with another, imposes conditions upon the other’s freedom to choose what business it does, who it deals with, or where it trades.

220 Exclusive dealing is lawful unless it has the purpose, effect or likely effect of substantially lessening competition. The ACCC identifies two circumstances that make that consequence more likely: where the service cannot be obtained elsewhere, and where the business imposing the conditions is powerful.

221 Both circumstances are present here. A com.au or net.au licence cannot be obtained from any source other than the .au registry administered by auDA. There is no alternative supplier. auDA is the sole administrator of the namespace.

222 Option 3 would condition the supply of a com.au or net.au licence upon the registrant refraining from a particular lawful commercial use of it, namely pay-per-click advertising monetisation. That is a condition upon what business the registrant may do.

223 The asymmetry sharpens the point. Take the generic term **“accountants”**. A registrant of Accountants.au may hold that name with Australian Presence and monetise it through pay-per-click advertising, relying upon no allocation criterion at all.

224 Under Option 3, an applicant for Accountants.com.au or Accountants.net.au intending the identical use would not be treated as eligible. The identical conduct, upon the identical word, by an identically situated Australian registrant, would be permitted in one namespace and prohibited in the adjacent two.

225 It is important to state the position precisely. The Draft Report proposes no restriction upon pay-per-click monetisation as a matter of .au direct eligibility. It proposes to remove the allocation pathway upon which that use rests in com.au and net.au alone.

226 The two positions cannot stand together. auDA would simultaneously permit and prohibit the same conduct, within the same country code top level domain that it alone administers, distinguishing between them by suffix rather than by any evidence of harm.

227 The competitive consequence is not theoretical. Suppressing monetised pages in com.au and net.au would reduce the number of pages upon which competing

advertisers may appear, and correspondingly reduce the choice of suppliers presented to Australian consumers arriving at those names.

228 Fewer advertisers reach the market. Fewer suppliers are shown to the consumer. That is a lessening of competition and a narrowing of consumer choice, brought about by a condition imposed by the only body from which the licence may be obtained.

229 That is the precise mischief to which section 47 is directed. It is not asserted that auDA has contravened the Act. The submission is that Option 3 would create a serious and foreseeable risk of contravention, which the Panel should not invite.

230 Section 47 is not the only provision engaged. Part IV of the Act contains two others that bear upon a measure of this kind.

231 Section 45 prohibits a contract, arrangement or understanding, and a concerted practice, that has the purpose or effect of substantially lessening competition in a market.

232 The Licensing Rules bind **auDA**, the registry operator and every accredited registrar. A rule excluding an entire class of lawful participants from the principal allocation pathway may fall for consideration under that section.

233 Section 46 prohibits a corporation with a substantial degree of power in a market from engaging in conduct that has the purpose or effect of substantially lessening competition.

234 **auDA** is the sole administrator of the .au namespace. It sets the eligibility rules, accredits the registrars, and sets the wholesale price. A body in that position may hold a substantial degree of power in that market.

235 It is not asserted that **auDA** has contravened section 45 or section 46, and no such allegation is made. The point is that the questions arise, and that they have not been examined in the Draft Report.

236 The Act provides a lawful path if auDA considers the restriction justified. It may lodge a notification with the ACCC, which assesses whether the conduct is likely to substantially lessen competition and, if so, whether it is nonetheless in the public interest.

237 On the Panel's own finding that there is a lack of evidence that monetising a website inherently undermines trust and confidence, a restriction of this kind would face obvious difficulty in satisfying that public interest test.

Source: ACCC, Exclusive dealing (s 47); Competition and Consumer Act 2010 (Cth)
https://www.accc.gov.au/business/competition-and-exemptions/exclusive-dealing |
https://www.legislation.gov.au/C2004A00109/latest

Part 18 International Classification and the Absence of Any Comparable Prohibition

238 Australia is a contracting party to the Nice Agreement of 1957, which establishes the international classification of goods and services administered by the World Intellectual Property Organization. IP Australia applies that classification.

239 Under that classification, pay-per-click advertising is a service in Class 35, basic number 350113. Classes 1 to 34 comprise goods and Classes 35 to 45 comprise services.

240 The point is put carefully. The Nice Agreement is a classification instrument for the registration of marks. It does not of itself confer upon any person a right to conduct an activity, and no such claim is made here.

241 What it establishes is characterisation. The activity that Option 3 would treat as falling outside the definition of a **“Service”** is the very activity that the international classification, applied by IP Australia, records as an advertising service.

242 An administrator that declared pay-per-click advertising not to be a service would place itself at odds with the classification its own national intellectual property office applies, and with the treaty instrument to which Australia is a party.

243 Nor is there any comparable precedent. The Draft Report acknowledges that monetisation has existed since the early development of the internet, and records comparable practice in .com and in the registries of New Zealand, the United Kingdom, France, Germany, Italy and Spain.

244 The 2019 Management Response reached the same conclusion, confirming that a compliant registrant may use a licence for any legitimate purpose including monetisation, consistent with the approach of the .ca, .nz, .fr, .uk and .de registries.

245 The Panel itself observes that allocation rules of this kind are now uncommon among the larger global country code registries. The Draft Report identifies no registry anywhere that prohibits pay-per-click monetisation through an eligibility or allocation criterion.

246 **No such registry is known. If Option 3 were adopted, auDA would stand alone among comparable administrators, imposing through eligibility a prohibition that no comparable registry imposes at all.**

247 There is a further matter, closely related. The .au allocation regime is already among the most complex in the world.

248 A registrant of a com.au name must first satisfy an eligibility criterion, and must then satisfy one of the six allocation criteria in rule 2.4.4(2) of the Licensing Rules.

249 Those criteria include exact match, abbreviation and acronym of a legal name, of a registered business name, or of an Australian trade mark, together with the residual criterion in subparagraph (f).

250 The .au direct namespace adds a Priority Allocation Process, priority categories, contested names, and an annual application renewal fee. Those matters are set out in Part 31 of this submission.

251 No comparable registry known to the authors of this submission imposes a regime of that complexity. The Draft Report identifies none.

252 Option 3 would not simplify that regime. By deleting subparagraph (f) it would narrow the pathway upon which ordinary registrants rely, and would leave the remaining criteria to be construed by registrars and by **auDA**.

253 Complexity is not a neutral quality in a namespace. It deters registration. It invites inconsistent administration. It generates disputes about eligibility rather than about conduct.

254 It is respectfully submitted that a regime of this complexity, made more restrictive upon no evidence, bears upon the reputation of the .au namespace, and upon the standing of Australia as a place in which to do business online.

255 It bears also upon the reputation of **auDA** as administrator of the namespace, and upon the confidence of the Commonwealth in that administration. Those matters are addressed in Part 30 of this submission.

Source: WIPO, Nice Agreement and Nice Classification; IP Australia; Draft Report (June 2026)
https://www.wipo.int/en/web/treaties/classification/nice/index | **https://nclpub.wipo.int/enfr/?basic_numbers=show&class_number=35** | **https://www.ipaustralia.gov.au/trade-marks/what-are-trade-marks/what-are-classes-of-goods-and-services** | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 19 The ACCC's Guidance to Rule-Making Bodies: Restrictions Upon Advertising

256 The ACCC publishes guidance addressed to industry associations, being member-based bodies that make rules governing the conduct of those within an industry. auDA is such a body. It is a member-based, not-for-profit company that makes the Rules governing accredited registrars and registrants.

257 The ACCC states that an association may contravene the Act where it imposes rules or codes of conduct that are overly restrictive or used to restrict competition, or where it sets advertising restrictions which limit competition among its members.

258 The guidance is explicit that intention is beside the point. Advertising restrictions that limit competition can be regarded as anti-competitive conduct, in the ACCC's words, **"whether designed to have this effect or not"**.

259 That disposes of the answer that Option 3 is not aimed at advertising. Option 3 would remove the allocation pathway upon which advertising-supported use rests. In substance and in effect, it is a restriction upon advertising.

260 The ACCC further states that advertising rules should be genuinely in the interest of consumers and not overly restrictive, and warns that rules which are too restrictive reduce the amount of information available to consumers.

261 That is precisely the consequence identified above. A monetised page presents a range of competing advertisers to the consumer. Suppressing such pages reduces the information available to consumers, and reduces the advertisers who may reach them.

262 The ACCC also sets out what association rules should be. They should be reasonable and achievable, clear and transparent, backed by evidence, not overly restrictive, and applied in a consistent, unbiased and fair manner to all.

263 Option 3 fails at least two of those requirements on the Panel's own findings. It is not backed by evidence, the Panel having found a lack of evidence that monetisation inherently undermines trust and confidence.

264 Nor would it be applied consistently or fairly to all. The identical conduct would remain permissible in .au direct while being prohibited in com.au and net.au, a distinction drawn by suffix rather than by evidence.

265 The ACCC adds that membership requirements should not create a barrier to entry and limit competition within the market. An eligibility criterion that excludes an entire class of lawful participants from the principal allocation pathway is such a barrier.

266 It is accordingly submitted that Option 3, if adopted, would be an advertising restriction of the kind the ACCC identifies as attracting risk under the Competition and Consumer Act 2010 (Cth), imposed by the only body from which a .au licence may be obtained.

Source: ACCC, Industry associations; ACCC, Exclusive dealing; ACCC, Competition and anti-competitive behaviour
https://www.accc.gov.au/business/competition-and-exemptions/associations-and-professional-services/industry-associations |
https://www.accc.gov.au/business/competition-and-exemptions/exclusive-dealing |
https://www.accc.gov.au/business/competition-and-exemptions/competition-and-anti-competitive-behaviour

Part 20 auDA Management Has Already Considered, Rejected and Warned Against These Very Proposals

267 This is not the first time these proposals have been advanced. In the 2017 to 2019 review cycle the Policy Review Panel recommended prohibiting resale and warehousing, and removing monetisation as a basis for allocation.

268 auDA Management considered those recommendations upon the evidence and rejected them, announcing its decision on 15 April 2019. Its response records that auDA Management does not support the Panel recommendation for a resale and warehousing prohibition.

269 The reasons matter more than the conclusion. auDA Management found there was no evidence that domain name flipping, as an investment strategy, was having any negative impact upon the utility of the .au domain, or causing any scarcity of domain names.

270 It further found that the Panel of that cycle had supplied no evidentiary material by which the nature of the supposed warehousing problem could be assessed, or by which it could be determined what action, if any, was required.

271 auDA Management then made the observation that is decisive for the present Review. It concluded that the proposed prohibition appeared to target domain investors disproportionately, because the licence portfolios of trademark and brand owners would be excluded from it.

272 It reasoned that such a proposal elevates the rights of trademark and other intellectual property owners above those of other licence holders in the .au domain, and that this may give rise to issues of market power and anti-competitive practices.

273 **That warning was auDA's own. It was not made by an investor, nor by a trade association, nor by a competition regulator. It was the considered conclusion of the administrator of the namespace, upon the evidence before it.**

274 **auDA** Management accordingly abolished the domain monetisation rule for com.au and net.au.

275 It confirmed that a compliant registrant may use a licence **"for any legitimate purpose, including domain name monetisation or domain name investment"**.

276 The chronology is precise, and it matters. The standalone Domain Monetisation Policy, numbered 2008-10, had already been revoked in December 2012.

277 Its rules were then incorporated into the eligibility policy, and specified with greater clarity, as set out in Part 3 of this submission and evidenced by Exhibit 26.

278 What remained was a monetisation rule within those eligibility rules. That rule was abolished by the determination of 15 April 2019.

279 The permission to monetise therefore stood from 2006, was defined and regulated from 2008, was carried into the eligibility rules in 2012, and was placed beyond condition in 2019.

280 **auDA** Management recorded that this was consistent with the approach of other country code registries, naming those of Canada, New Zealand, France, the United Kingdom and Germany.

281 The determination was reported at the time by the Internet Commerce Association. That report is Exhibit 28 to this submission, reproduced at Annexure N, and it remains published.

282 It records that **auDA** Management, having considered the Panel's Final Report and the comment of the Internet Commerce Association, rejected the proposals in terms.

283 It records that **auDA** Management did not support the recommendation of the Policy Review Panel for a resale and warehousing prohibition.

284 It records that **auDA** Management found no evidence that domain name flipping, as an investment strategy, was harming the utility of .au or causing scarcity of names.

285 And it records the reason: the licence holdings of trade mark and brand owners would have been excluded from the prohibition, so that it fell upon investors alone.

286 That last conclusion is the asymmetry identified in Part 18 of this submission. It was identified by **auDA** Management itself, seven years ago, and it has not been answered since.

287 It recorded that this position was consistent with the approach taken in comparable country code registries, namely those of Canada, New Zealand, France, the United Kingdom and Germany.

288 Option 3 would revive the precise asymmetry that auDA Management identified as raising market power and anti-competitive concerns. It would burden investors and the aftermarket while leaving the portfolios of trademark and brand owners untouched under subparagraphs (a) to (e).

289 Nothing in the Draft Report identifies any change of circumstances since that determination. To the contrary, the Panel's own findings reaffirm it, recording a lack of evidence that monetisation inherently undermines trust and confidence.

290 The Internet Commerce Association publicly welcomed that outcome at the time. It described the proposals as **"unsubstantiated and ill-conceived attempts"** to prohibit domain name investing and monetisation in the .au namespace.

291 It is respectfully submitted that the Panel should not recommend, in 2026 and upon no better evidence, the very course that auDA Management examined, rejected, and warned might be anti-competitive.

Source: Internet Commerce Association, auDA Management rejects attempts to prohibit domain name investment (April 2019); DNJournal, 15 April 2019; Draft Report (June 2026)
https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/ | **https://www.dnjournal.com/archive/lowdown/2019/dailyposts/20190415.htm** | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 21 The Identical Objections Were Put in 2019, and auDA Accepted Them

292 The objections advanced in this submission are not novel. The Internet Commerce Association put them to the 2017 Policy Review Panel by letter of 9 April 2019. auDA Management then accepted them.

293 The **ICA** submitted in 2019 that the Panel of that cycle had found solutions in search of a problem, and had not engaged in evidence-based policy making. The same criticism is available today, and the Panel's own findings supply it.

294 Upon monetisation, the **ICA** made a submission of direct present relevance. Advertising on the internet, including through monetised domain names, is a substantial business worldwide, and advertisers pay for it because it produces sales for them.

295 It follows, as the **ICA** then put it, that a registrant who displays such advertising provides a service to advertisers, and engages in a lawful and beneficial business. That characterisation matters to the present Review.

296 The service contemplated by subparagraph 2.4.4(2)(f) need not be a service supplied to the visitor. A registrant who furnishes advertising placement to advertisers supplies a service, and does so in a manner recognised in Class 35 of the Nice Classification.

297 The **ICA** further observed in 2019 that even registrars relied upon monetisation as a revenue stream for unused registered domain names. That was true then. The **GoDaddy CashParking** program, described in Part 4, demonstrates that it remains true today.

298 It also observed that monetisation revenue flows indirectly to auDA. Registrants apply advertising income toward renewal fees. Were that income eradicated, renewals would fall, and revenue to auDA, to the registrars and to the registry operator would fall with them.

299 The **ICA** submitted that no restriction upon monetisation should be contemplated until the economic effects had been studied. No such study was undertaken then. None appears in the Draft Report now.

300 The **ICA** also recorded that Australia was the only country of which it was aware maintaining such restrictive domain name policies, and that monetisation is permitted in the United States, the United Kingdom, Canada and New Zealand without significant adverse consequence.

301 On the drafting of any Option 2 measure, the 2019 letter is a cautionary text. The Panel of that cycle proposed an indicator turning upon whether a website was primarily computer generated. The **ICA** asked how that test could sensibly apply.

302 If a page carries custom graphics and custom text together with advertisements that Google selects according to the visitor's interests, is it computer generated or is it not? For a generic term such as red, must every advertisement relate to something red?

303 Those questions were never answered. They would arise again under any redrafted definition of **"Service"** that sought to exclude advertising-supported use, and they demonstrate why such a definition would be unworkable in practice.

304 The **ICA** warned in 2019 that law-abiding Australians who had invested in full compliance with the Rules, in some cases their life savings, stood to lose their investment, and that aggrieved registrants would have legal recourse.

305 It concluded that the supposed harms were largely illusory, while the actual harm created by the proposed policies, if enacted, would be deep and widespread. The **ICA** has repeated that conclusion, in those terms, in its letter to this Panel of 8 July 2026.

306 auDA Management agreed with the **ICA** in 2019. The Panel is now invited to agree with it again, and to decline to revive by allocation what auDA rejected upon the evidence seven years ago.

307 The **ICA** letter of 9 April 2019 is reproduced in full at Annexure B, as Exhibit 13. The **ICA** letter of 8 July 2026 is reproduced in full at Annexure C, as Exhibit 14. Both may be considered in their entirety.

Source: ICA letter to the Policy Review Panel, 9 April 2019; ICA letter to the Policy Advisory Panel, 8 July 2026; DNJournal, 15 April 2019 **https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/** | **https://www.dnjournal.com/archive/lowdown/2019/dailyposts/20190415.htm**

Part 22 Deleting Subparagraph (f) Would Reach the Entire Aftermarket

308 In practical terms, deleting subparagraph 2.4.4(2)(f) would not affect domain investors alone. It would reach domain marketplaces, brokerages, drop-catching services and corporate brand-protection portfolios.

309 Enterprises such as Afternic, Sedo, Above and Atom, and brand-protection providers such as CSC and MarkMonitor, routinely hold or administer portfolios exceeding fifty names for clients. The Panel's fifty-name proxy would capture them.

310 Drop-catching would be particularly affected. Its ordinary function is to return expired names to the market, so that eligible registrants may acquire them through transparent competition rather than opaque private arrangement.

311 Subparagraph (f) is not a special allowance for investors. It is the general goods-and-services allocation pathway relied upon by ordinary Australian businesses, including cafes, retailers and referral services without a matching corporate or business name.

Source: Industry commentary (Domainer); Draft Report (June 2026) **https://www.domainer.com.au/auda-policy-review-recommendations-not-good-for-domain-investors/** | **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf**

Part 23 auDA's Own Usage Data Shows Most Names Are Undeveloped or Parked

312 This data is not a matter of inference. It was provided by auDA itself. Bruce Tonkin, the Chief Executive Officer of auDA, set it out in correspondence dated 9 June 2026, answering a request for information made for the purposes of this Review.

313 Upon that data, in com.au 37 per cent of names carry developed content, 20 per cent carry limited content such as parked pages, and 43 per cent carry no content at all.

314 In .au direct, 18 per cent carry developed content, 23 per cent carry limited content such as parked pages, and 59 per cent carry no content at all.

315 Mr Tonkin offered auDA's own explanation of the difference, and it is adopted here. The result is not unexpected, he wrote, when com.au has a lifetime of 40 years and .au direct a lifetime of 4 years.

316 Two conclusions follow, and neither assists Option 3. The first is that a name carrying no website is not thereby unused. auDA also provided data upon mail exchanger records, which indicate use of a name for email.

317 Of the com.au names carrying no content, 39 per cent nevertheless have mail exchanger records. Of those carrying limited content, being parked pages, 50 per cent have such records. Those names are in active use.

318 The second is one of scale. Taking developed content as the measure, some 63 per cent of com.au names and 82 per cent of .au direct names are not conventional multi-page websites. That is the ordinary condition of the namespace, not a pathology.

319 Parked pages alone account for 20 per cent of com.au and 23 per cent of .au direct. To treat parked or undeveloped status as presumptively suspect is therefore to cast suspicion upon a very large, and entirely lawful, proportion of the .au domain.

320 Mr Tonkin further advised that .au direct remains the fastest growing namespace, at 3.5 per cent, against 2.6 per cent for com.au. The namespace that applies no allocation criteria, and permits monetisation, is growing the fastest of all.

321 Names carrying no developed website are held lawfully for email, for future use, for brand protection, for resale and for monetisation. They are not abandoned, and the Rules impose no obligation to develop them.

Source: Bruce Tonkin, Chief Executive Officer, auDA, correspondence dated 9 June 2026; auDA, .au registry reports **https://www.auda.org.au/news-insights/au-registry-reports/**

Part 24 Definitional Precision

322 The danger of an imprecise definition is not hypothetical in the .au domain. It has occurred before, and Australian legal analysis has demonstrated the consequence.

323 auDA formerly maintained a Domain Monetisation Policy. Cooper Mills Lawyers, an Australian firm practising in domain name and trademark law, examined its definitions in December 2008.

324 That policy defined a monetised website as a website or landing page created for the purpose of earning revenue from advertising. It defined domain monetisation as registering a domain name in order to earn revenue from such a website.

325 Cooper Mills observed that most commercial websites exist to earn revenue by advertising their goods and services. Upon that definition, ordinary business websites are monetised websites, and the registrants who hold them are engaged in domain monetisation.

326 The firm gave examples that make the point unanswerable. Upon auDA's own definitions, the websites of News Limited at news.com.au, and of the Anti Cancer Council of Victoria at sunsmart.com.au, were monetised websites. Their registrants were domainers.

327 The definitional net thus captured a national news publisher and a cancer charity. As Cooper Mills put the consequence, **"it is the legitimate domainers who get caught in the net"**.

328 The commentary is not that of an interested registrant. **Cooper Mills Lawyers** practises in domain name law, trade mark law and internet law, and advises upon the .au namespace.

329 A Director of the firm appeared upon the Australian Domains panel of the 2008 conference addressed by the Chief Executive Officer of **auDA**, as set out in Part 29 of this submission.

330 The article was published on 21 December 2008, within weeks of that conference. It is Exhibit 25, reproduced at Annexure L to this submission.

331 It records that **auDA** then maintained a Domain Monetisation Policy, numbered 2008-10, which defined domain monetisation, monetised website and domainer.

332 Monetisation was therefore not prohibited in 2008. It was defined, regulated, and permitted, by a published policy of **auDA** directed to that very subject.

333 The definition reached further than the Draft Report acknowledges. Policy 2008-10 defined a monetised website as a website or landing page created for the purpose of earning revenue from advertising, **"including monetised domain parking pages"**.

334 Domain parking was therefore not a practice unknown to **auDA**, nor one that **auDA** sought to prohibit. It was named in **auDA**'s own policy, and brought expressly within a regulatory definition.

335 The Policy further provided that where a domain name resolves to a monetised website, **auDA** is entitled to regard that name as having been registered for the purposes of domain monetisation.

336 The definition of domainer is more significant still, and it bears directly upon Option 3.

337 Under Policy 2008-10, a domainer was a person who had registered a domain name under the close and substantial connection rule, for the purpose of domain monetisation.

338 Policy 2008-05, the Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs, provided two grounds upon which a com.au domain name might then be registered.

339 The first was that the name be **“an exact match, abbreviation or acronym of the registrant’s name or trademark”**. The second was the close and substantial connection rule.

340 Those two grounds are the ancestors of subparagraphs (a) to (e), and of subparagraph (f), of rule 2.4.4(2) of the Licensing Rules as they now stand.

341 **auDA** therefore defined the domainer by reference to the very ground of allocation that Option 3 would delete.

342 **Option 3 does not regulate the domainer. It abolishes the ground upon which auDA itself said that the domainer registers, and it leaves the conduct complained of undefined and unaddressed.**

343 The firm did not exempt itself. **Cooper Mills Lawyers** observed that upon those definitions its own website, at coopermills.com.au, was a monetised website. It placed itself within the class.

344 The article is the first of a two-part series. The second considers the significance of being a domainer. Both are identified in the source note to this Part.

345 That is what occurs when a definition is drawn by reference to advertising revenue rather than by reference to harm. The lawful and the unlawful are captured together, and enforcement falls upon whoever is convenient.

346 The lesson for any clarification under Option 2 is one of precision. The Rules should define and address misconduct, being DNS Abuse, phishing, malware, scams, impersonation, fraud and misleading conduct. They should not treat monetisation itself as misconduct.

347 The distinction is not difficult to draw. It is drawn by asking whether the facts disclose a recognised abuse, and not by asking whether a page carries advertising.

Source: Cooper Mills Lawyers, Domain Monetisation in the .au space (Part 1), 21 December 2008; Cooper Mills Lawyers, domain name monetisation and auDA policy
https://www.coopermills.com.au/domain-monetisation-in-the-au-space-part-1/ | **https://coopermills.com.au/domain-name-monetisation-and-auda-policy/**

Part 25 Scale, Economic Significance and the Reliance Interest

348 The Panel’s own data record 3,386 registrants holding 582,895 names across com.au, net.au and .au direct. That is a substantial portion of the namespace.

349 Industry analysis associated with this Review estimates in excess of 500,000 monetised .au names. It estimates that auDA, the registry, registrars and the auDA Foundation have benefited by not less than one hundred million dollars in fees over twenty-five years.

350 To remove the allocation basis for a substantial proportion of these names would diminish demand for .au, reduce renewals, occasion a loss of Commonwealth GST revenue, and displace registrants toward .com and other extensions beyond auDA's stewardship.

351 These portfolios were assembled over many years in reliance upon settled rules, and upon auDA's own considered rejection of these proposals in 2019. Retrospective change would invite claims for compensation.

352 The Panel applies precisely this reliance reasoning in Recommendation 3, where it observes that parties have paid for years on the basis of clearly stated rules, and that changing the rules now would be unfair. That reasoning applies here with greater force.

Source: Draft Report, s 6.1; industry commentary (Assets Australia)
https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf | **https://assets.com.au/auda-2026-rules-review/**

Part 26 A Matter of Process: Existing Registrants Have Not Been Notified

353 It does not appear that existing .au registrants were individually notified, whether directly or through their registrars, that this Review was on foot, or that its proposals might affect their licences, rights, assets or businesses.

354 The consultation has been conducted through auDA's website, public events and written submissions. Those channels reach engaged stakeholders. They do not reach the great majority of ordinary registrants, who are unlikely to be aware of the Review.

355 That is a significant consideration. Several proposals, and Option 3 in particular, could diminish the value of existing licences, unsettle established portfolios, and affect the businesses built upon them.

356 auDA's Terms of Endorsement require transparent, accountable and consultative administration of .au. A change of this magnitude, adopted without adequate notice to the registrants most affected, would be open to criticism on procedural-fairness grounds and would be vulnerable to challenge.

357 It would also carry a wider cost. To alter accrued rights without meaningful notice would destabilise confidence in the .au market, and would risk lasting damage to trust in, and respect for, auDA's stewardship, in Australia and internationally.

358 The remedy is straightforward. Before any change affecting existing registrations is adopted, auDA should require registrars to give existing registrants direct notice of the Review and its potential effects, and should extend the consultation accordingly.

359 The point is not abstract. It may be tested by reference to a single registrant.

360 **Nine Entertainment Co** holds, through companies acquired from Fairfax Media, in excess of 10,000 com.au domain names. That is set out in Part 29 of this submission, and two of those licences are proved by Exhibits 21 and 22.

361 It does not appear that **Nine Entertainment Co** has been notified of this Review, of Option 3, or of the manner in which a submission may be made.

362 Nothing in the Draft Report, and nothing upon **auDA**'s consultation page, discloses any such notification to it, or to any other substantial registrant.

363 The generic names it holds are not exact matches, abbreviations or acronyms of its legal name, of a registered business name, or of an Australian trade mark.

364 Their allocation basis can be found only in subparagraph (f). Option 3 would therefore reach them.

365 A registrant in that position requires the facts, the proposals and the reasons. It requires the opportunity to obtain legal advice before it can determine what submission to make.

366 A listed company owes duties to those who invest in it. Its directors cannot assess whether a proposed rule is material to the assets of the company if they do not know that the rule is proposed.

367 **Nine Entertainment Co** is not alone in that position. Subparagraph (f) is the general goods-and-services allocation pathway, as set out in Part 24 of this submission.

368 It is relied upon by ordinary Australian businesses that hold no matching company name, business name or trade mark, and by corporate groups holding portfolios of generic names.

369 The number of licences that depend upon it has never been published. **auDA** alone is able to count them, and this submission asks that it do so, by the fourteenth requested outcome in Part 28.

370 Whatever that number proves to be, it is not small. The Panel's own data record 3,386 registrants holding 582,895 names across com.au, net.au and .au direct.

371 Each of those registrants is entitled to be told that a rule is proposed which may remove the basis upon which its licences were allocated.

372 Each is entitled to the information necessary to obtain legal advice, and to make a considered submission in protection of its own interests and, where it is a company, of the interests of its investors.

373 **A consultation that does not reach the registrants whose licences are at stake is not a consultation. It is an announcement.**

374 The remedy is not confined to notice. A proposal of this significance calls for a standard of explanation that the Draft Report has not met.

375 Any entity of substance, faced with a rule that would strip the allocation basis of its licences, would require the evidence, the analysis and the reasons before it could respond.

376 The Panel should require of **auDA**, before any change is adopted, a statement of the evidence relied upon, an assessment of the costs and of the benefits, and the reasons for preferring Option 3 to Option 1.

377 It should require an assessment of the number of licences affected, and of the classes of registrant upon whom the measure would in fact operate. That is the subject of the fourteenth requested outcome in Part 28 of this submission.

378 It should require an explanation of why the concerns identified by **auDA** Management in 2019, as to market power and anti-competitive practices, are said no longer to apply.

379 None of that material has been published. A registrant cannot answer a case that has not been made, and the Panel cannot weigh a benefit that has not been quantified.

Source: auDA consultation page **https://www.auda.org.au/consultations/consultation-on-au-licensing-rules-review-draft-report/**

Part 27 Regulate Abuse, Not Monetisation

380 Deleting subparagraph (f) would not deter those who perpetrate scams. A wrongdoer may satisfy subparagraph (a) by registering or misusing a corresponding business name, and need never rely upon (f).

381 The registrants whom its deletion would in truth burden are the compliant ones. The Panel has already charted the correct course on scams in Recommendation 7, by retaining the current approach and working with the NASC.

382 The proper question is not whether a page is monetised. It is whether the facts disclose DNS Abuse, phishing, malware, a scam, impersonation, fraud, misleading conduct, or the bad-faith infringement of rights.

383 A parked page, a page offering a name for sale, a referral page or a pay-per-click page is not abuse merely because it earns advertising revenue. Enforcement ought to be directed at conduct, prospectively, through the machinery that already exists.

384 There is a further matter, and it concerns the office that **auDA** holds.

385 **auDA** administers the .au namespace. It sets eligibility, it accredits registrars, and it enforces the licence conditions. That is its function, and it is a substantial one.

386 **auDA is not a consumer protection regulator. It is not a competition regulator. It is not a fair trading authority. It is not a tribunal, and it is not a court.**

387 Misleading and deceptive conduct is the province of the Australian Competition and Consumer Commission and of the State and Territory fair trading authorities. Fraud is the province of the police and of the courts.

388 Trade mark rights are determined by IP Australia and by the courts, and disputes as to domain names are determined under the .au Dispute Resolution Policy.

389 Option 3 would have **auDA** adjudicate, at the point of allocation, questions of commercial purpose and legitimacy which those bodies exist to determine upon evidence, and after hearing.

390 A registrant would lose the basis of its licence not upon a finding of wrongdoing, but upon an administrative view of how it uses a webpage.

391 The Board of **auDA** has itself said, in its own minutes, that it is not its role to provide protection to brand owners. That statement is set out in Part 32 of this submission.

392 **The submission is that auDA should remain within its role. It should administer the namespace, and it should refer abuse to the bodies charged with it.**

Source: Draft Report (June 2026), Recommendation 7; .au Domain Administration Rules: Licensing, prohibited-use provisions **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf** | **https://www.auda.org.au/consultations/consultation-on-au-licensing-rules-review-draft-report/**

Part 28 Requested Outcomes

393 It is respectfully submitted that the Final Report should recommend as follows.

394 **First,** that Option 1 be adopted as the appropriate and sufficient response to the concerns identified in the Draft Report.

395 **Second,** that Option 3 be expressly rejected, and that subparagraph 2.4.4(2)(f) be retained in the .au Licensing Rules.

396 **Third,** that the definition of Service continue to include bona fide information, referral, advertising-supported, marketplace, parking, affiliate, lead-generation and pay-per-click services.

397 **Fourth,** that portfolio size, a for-sale notice, a parking page, pay-per-click links, or the absence of an operating website not be treated as evidence of non-compliance.

398 **Fifth,** that enforcement be directed at DNS Abuse, scams, fraud, impersonation, false affiliation and materially misleading conduct, rather than at lawful domain name investment or monetisation.

399 **Sixth,** that no change affecting the allocation basis of existing registrations apply retrospectively, and that existing compliant registrations be protected for renewal, portfolio management and lawful transfer.

400 **Seventh,** that auDA require registrars to give existing registrants direct notice of this Review and its potential effects, and extend the consultation before adopting any change affecting existing registrations.

401 **Eighth,** that before adopting any measure of the kind contemplated by Option 3, auDA obtain and publish competition law advice, and consider whether authorisation or notification under the Competition and Consumer Act 2010 (Cth) is required.

402 **Ninth,** that the Final Report expressly address whether Option 3 would condition a com.au or net.au licence upon the registrant forgoing a lawful commercial use, and whether that condition would substantially lessen competition.

403 **Tenth,** that auDA publish its DNS Abuse, scam and complaints data disaggregated by namespace, and reconcile the .au direct experience with any proposal to restrict allocation in com.au and net.au.

404 **Eleventh,** that the Final Report address the position publicly stated by the Chief Executive Officer of **auDA** in 2008, and identify the evidence and the reasons upon which any departure from that position is founded.

405 **Twelfth,** that **auDA** disclose, in respect of contested .au direct names, the recipient of the annual application renewal fee, the service rendered in exchange for it, and the number of names presently held in contention.

406 **Thirteenth,** that the Final Report reconcile any prohibition of undeveloped or monetised com.au names with **auDA**'s own contested names model, under

which .au direct names are allocated to nobody, used by nobody, and charged for annually.

407 **Fourteenth,** that **auDA** obtain and publish, in the Final Report, aggregate and de-identified data upon the distribution of com.au and net.au licence holdings, sufficient to show the concentration of holdings and the number of licences whose allocation basis is subparagraph (f).

408 **Fifteenth,** that the annual application renewal fee for contested .au direct names be abolished, that a priority application remain active without charge, and that the name remain unallocated until only one eligible applicant remains.

409 **Sixteenth,** that before adopting Option 3 **auDA** publish the evidence relied upon, an assessment of costs and benefits, and its reasons for preferring Option 3 to Option 1, together with an explanation of why its 2019 competition concerns are said no longer to apply.

410 **Seventeenth,** that **auDA** give direct notice, through registrars, to every registrant whose licence is allocated under subparagraph (f), and extend the consultation so that those registrants may obtain legal advice and make considered submissions.

411 **Eighteenth,** that any grandfathering or transitional arrangement be perpetual, be free of any additional fee, levy or premium, extend to renewal, portfolio management and lawful transfer, and not expire upon any date or number of renewal cycles.

412 **Nineteenth,** that the Final Report expressly acknowledge that compliant domain name monetisation, including pay-per-click monetisation and the holding of a domain name for sale, remains a legitimate commercial activity in the .au namespace.

413 **Twentieth,** that the Panel recommend the harmonisation of com.au and net.au with .au direct, eligibility resting upon a validated Australian presence and good standing, with exact-match protection for the holders of Australian trade marks.

Part 29 auDA’s Own Chief Executive Publicly Stated in 2008, at a Conference of the Domain Name Investment and Monetisation Industry, That auDA Has No Bias Against Domainers or Pay-Per-Click Monetisation

414 The premise of Option 3 is that monetisation sits uneasily within the .au namespace, and that the domain investor is a registrant of doubtful legitimacy. The Chief Executive Officer of **auDA** contradicted that premise publicly, in 2008.

415 The historical record demonstrates that **auDA** did not merely tolerate monetisation. It engaged with the industry publicly, at a conference dedicated to domain name investment and pay-per-click monetisation.

416 **auDA** participated. It did not send an observer, and it did not send a note of objection. Its Chief Executive Officer took the stage.

417 He appeared alongside the Chief Executive Officer of AusRegistry, the operator of the .au registry, and alongside a registrar and a firm of solicitors practising in the field.

418 On Tuesday 18 November 2008, following the afternoon tea break on the opening day of business, the Australian Domains panel took the stage at the T.R.A.F.F.I.C. Down Under conference.

419 That conference was held at the Sheraton Mirage Resort, Surfers Paradise, Queensland, from 17 to 21 November 2008. It was the first T.R.A.F.F.I.C. conference staged outside the United States, and was hosted by the Brisbane company Fabulous.com.

420 T.R.A.F.F.I.C. is the conference series of the domain name investment industry. It was co-founded by Rick Schwartz and Howard Neu, and the Down Under event was staged under licence from them.

421 Fabulous.com, the host, was itself a domain monetisation business. The report records that it owned hundreds of thousands of domain names, and held one of the largest portfolios in the world.

422 It operated a low-cost registration platform, a domain parking service, and an aftermarket platform known as the Domain Distribution Network, each made available to the wider domain community.

423 The program was addressed to that industry. The opening seminar covered domain strategy, domain economics, mergers and acquisitions, risk analysis, and the market forces then shaping the business.

424 Pay-per-click revenue was analysed from the podium. Michael Gilmour presented research that the share of online advertising revenue paid by Google to domain owners for their traffic had fallen from 37.2 percent in the first quarter of 2005 to 27.9 percent in the third quarter of 2008.

425 Two live domain auctions were conducted during the conference, at which domain names were bought and sold, including .com.au names.

426 The Chief Executive Officer of **auDA** therefore addressed a conference at which the acquisition, monetisation and resale of domain names was the express subject of the program, and was transacted in the room.

427 The activity that Option 3 would characterise as illegitimate has been conducted, at scale, by the largest media companies in Australia.

428 **Fairfax Media Limited**, then a company listed upon the Australian Securities Exchange, acquired the Online Marketing Group. The acquisition was announced in March 2011.

429 The Online Marketing Group, trading as OMG, described its portfolio as comprising more than 30,000 Australian websites. It described itself as the largest channel for Australian direct navigation search traffic.

430 Direct navigation traffic is the traffic upon which pay-per-click monetisation depends. It is the subject of Parts 4 and 9 of this submission.

431 The provenance of that portfolio is a matter of public record. A WHOIS record captured in February 2009 recorded the registrant of the domain name omg.com.au as Boomerang.com.au Australia Pty Ltd.

432 Following the acquisition, the business operated under the name Online Marketing Group, Fairfax Digital Media. It continued to describe itself as Australia's largest website publishing network, with more than 30,000 sites.

433 Fairfax Media merged with **Nine Entertainment Co** in December 2018, and was delisted from the Australian Securities Exchange. Its digital and publishing assets passed into the merged entity.

434 A portfolio built upon generic Australian domain names was therefore acquired by a listed media company, operated as a division of it, and carried into the largest media group in the country.

435 No suggestion is made that any of that was improper. The opposite is submitted. It was, and it remains, ordinary commerce.

436 It is the ordinary lifecycle of a domain name, described in Part 13 of this submission, in which acquisition, monetisation, development and resale are successive stages of a single lawful activity.

437 The Panel is respectfully invited to consider whether an activity conducted at that scale, by companies of that standing, is properly described as a category of abuse.

438 It is respectfully submitted that a rule which strips the allocation basis from names held for that purpose does not describe abuse. It describes commerce.

439 The position did not end with the merger. The following is stated upon the personal knowledge of the authors of this submission, who have thirty years of experience in the domain name industry.

440 **Nine Entertainment Co**, through companies acquired upon its merger with Fairfax Media, remains the registrant of in excess of 10,000 .com.au domain names. They include generic names such as **jobs.com.au** and f2.com.au, the first of which is Exhibit 21.

441 Many of those names are monetised through pay-per-click advertising. Many are offered for sale.

442 That statement is made upon the authors' own knowledge and inquiry. It is not put higher than that, and it is capable of verification by the Panel.

443 That proposition may now be tested against **auDA**'s own records. A search of the **auDA** WHOIS service was conducted on 10 July 2026. The result is Exhibit 21, reproduced in full at Annexure J.

444 The WHOIS record for the domain name **jobs.com.au** records the Registrant as **Fairfax Media Limited**, and the Registrant ID as ABN 15008663161.

445 It records the Registrant Contact Name as Admin Contact **Fairfax Digital**, and the Registrant Contact Email at the domain name f2.com.au.

446 It records the Eligibility Type as Company, and the Registrar as Corporation Service Company (Aust) Pty Ltd. The record was last modified on 4 March 2026.

447 The WHOIS database was last updated on 9 July 2026. The record is therefore current as at the date of this submission.

448 **jobs.com.au** is a generic domain name. It is not the legal name, the business name, or an Australian trade mark of the registrant.

449 It is held, upon **auDA**'s own record, by a company within the largest media group in Australia. That disposes of any suggestion that generic name portfolios are the province of individual speculators.

450 The extent of such holdings cannot lawfully be established by any registrant. The terms upon which **auDA** makes the WHOIS Service available forbid its use for other purposes.

451 Those terms prohibit the use of the service for **"aggregating, collecting or compiling information from the WHOIS database"**, whether for personal or for commercial purposes.

452 **The consequence is decisive. Only auDA can produce the data upon which Option 3 depends.**

453 **auDA** prohibits the public from compiling that data. **auDA** does not publish it. And **auDA** now proposes to restrict allocation upon assumptions about it.

454 That is why the fourteenth requested outcome, set out in Part 28 of this submission, is pressed.

455 A second WHOIS search was conducted on the same day. The result is Exhibit 22, reproduced in full at Annexure K.

456 The WHOIS record for the domain name f2.com.au records the Registrant as **Fairfax Digital Australia & New Zealand Pty Limited**, and the Registrant ID as ABN 34087887456.

457 That is a different company from the registrant of **jobs.com.au**. The two names are held by two separate corporate entities.

458 Each records the same Registrant Contact Name, Admin Contact Fairfax Digital, and the same contact email address at the domain name f2.com.au.

459 The holdings are therefore distributed across companies within a single group, and are administered centrally. That is consistent with a portfolio taken up upon the merger of Fairfax Media with **Nine Entertainment Co**.

460 Both companies remain registered. Neither has been deregistered, and neither is dormant upon the public record.

461 A search of the Australian Business Register on 10 July 2026 records **Fairfax Media Limited**, ABN 15 008 663 161, as Active from 1 November 1999, and as an Australian Public Company.

462 The same search records **Fairfax Digital Australia & New Zealand Pty Limited**, ABN 34 087 887 456, as Active from 1 July 2000, and as an Australian Private Company.

463 Each records its main business location within the same postcode, NSW 2060. Those records are Exhibits 23 and 24 to this submission.

464 **Fairfax Media Limited** ceased to be listed upon the Australian Securities Exchange in December 2018, upon its merger with **Nine Entertainment Co**. It did not cease to exist.

465 It became a company within the **Nine Entertainment Co** group. It remains a registered Australian public company. It remains the licensee of **jobs.com.au**.

466 The position is therefore clear upon the public records of the Commonwealth and of **auDA** alike. The licences are held by live companies within Australia’s largest media group.

467 They are not held by dormant shells, and they are not held by individuals. They are held by **Nine Entertainment Co**, through the companies it took up from Fairfax Media.

468 The record was last modified on 14 October 2025. The WHOIS database was last updated on 9 July 2026.

469 Upon the personal knowledge of the authors, in excess of 10,000 generic Australian domain names remain within the holdings of **Nine Entertainment Co**. Many are monetised through pay-per-click advertising, and many are offered for sale.

470 That figure may be compared with the portfolio acquired by Fairfax Media, which the Online Marketing Group described at the time as comprising more than 30,000 Australian websites.

471 The two exhibits establish the pattern. Generic Australian domain names, held for their traffic and their value, licensed to companies within the largest media group in the country.

472 The consequence for Option 3 has not been considered in the Draft Report.

473 **jobs.com.au** is a generic word. It is not the legal name, the business name, nor an Australian trade mark of **Fairfax Media Limited**. The same is true of f2.com.au and its registrant.

474 The allocation basis for such a name cannot be found in subparagraphs (a) to (e) of rule 2.4.4(2). The Panel is invited to consider whether it can be found anywhere but subparagraph (f).

475 If that is so, Option 3 would strip the allocation basis of the generic names held by companies within **Nine Entertainment Co**, as it would strip that of the individual Australian registrant.

476 It would prevent those names being monetised through pay-per-click advertising. It would bear directly upon their sale.

477 No submission is made as to the course that **Nine Entertainment Co**, or any other registrant, would take in that event.

478 The submission is that the Draft Report does not appear to have appreciated that Option 3 reaches registrants of that size, holding portfolios of that scale, in a namespace of that importance.

479 What Option 3 would leave untouched is the portfolio of trade marked and branded names, whose allocation basis lies in subparagraphs (a) to (e).

480 That is the asymmetry **auDA** Management identified in 2019, and which is set out in Part 20 of this submission. It elevates the rights of trade mark owners above those of other licence holders.

481 It is established here upon **auDA**’s own records, at Annexures J and K to this submission.

482 The means of verification are within **auDA**’s own hands. **auDA** maintains the registry, and it knows precisely how many licences each registrant holds.

483 The Draft Report publishes no such data. It proposes to restrict allocation upon the footing that portfolios of undeveloped or monetised generic names are a mischief, without identifying who holds them.

484 If portfolio concentration is the mischief at which Option 3 is directed, the Panel is respectfully invited to obtain that data from **auDA**, in aggregate and de-identified form, and to publish it.

485 That data need name no registrant. This submission does not seek the publication of registrant identities by **auDA**.

486 Where a registrant is identified in this submission, it is identified from **auDA**’s own public WHOIS record, and it is a corporation. No individual registrant is identified, and none should be.

487 **auDA**’s WHOIS Service forbids the compilation of registrant data. The privacy of registrants should not be surrendered in order to justify a rule.

488 Counts and proportions are sufficient. They will show how holdings are distributed, and how many licences depend upon subparagraph (f).

489 It is anticipated that the largest holders of generic com.au names will be found to include listed companies and corporate groups, and not the individual registrants upon whom Option 3 would principally operate.

490 No criticism is made of any registrant for holding such names, and none is made of **Nine Entertainment Co**. The activity is lawful, and this submission contends that it should remain so.

491 The point is narrower, and it is fatal to Option 3. A rule directed at large portfolios of generic names would not fall where the Draft Report supposes it would fall.

492 It would fall upon the small Australian registrant, and equally upon the generic portfolios of corporate groups, while portfolios of trade marked and branded names would be untouched.

493 That is the precise asymmetry which **auDA** Management identified in 2019 as raising issues of market power and anti-competitive practices, and which is set out in Part 20 of this submission.

Source: Reported acquisition of the Online Marketing Group by ***Fairfax Media Limited****, announced March 2011; Online Marketing Group / Fairfax Digital Media, corporate profile; contemporaneous WHOIS record for omg.com.au, February 2009; Fairfax Media and* ***Nine Entertainment Co*** *merger, December 2018* **https://forums.whirlpool.net.au/archive/1191995** | **https://www.linkedin.com/company/online-marketing-group-fairfax-digital-media** | **https://www.startupranking.com/acquisition/fairfax-media-acquires-omg-4564** | **https://www.dntrade.com.au/threads/domain-markets-going-crazy.2212/**

494 The first keynote address was delivered by Dr Paul Twomey, then President and Chief Executive Officer of ICANN. He described the expansion of the conference series beyond the United States as a positive development.

495 Dr Twomey said the domain community had made great strides in professionalism. He called upon domainers to become active participants in ICANN, whether by joining existing constituencies or by forming one of their own.

496 Michael Collins, then Executive Director of the Internet Commerce Association, presented upon managing community risk, and urged attendees to support and involve themselves in that association.

497 The reason he gave is recorded in the report. Without a strong trade association there would be nobody standing between domain owners and those seeking to modify or create laws that would make it easier to take away domains to which they were not entitled.

498 That was written in 2008. The letters of the Internet Commerce Association to the Panel of 2019, and to this Panel, are Exhibits 13 and 14 to this submission.

499 The report also records the character of the extension then under discussion. The com.au extension is described as reserved for business use, and as having enjoyed a high rate of growth since the restrictions upon it were liberalised.

500 It was into that setting that the Chief Executive Officer of **auDA** came. It was from that dais that he spoke.

501 The panel comprised four members. The first was **Chris Disspain**, then Chief Executive Officer of **auDA**, described in the report as the governing body for .au domain names.

502 The second was **Adrian Kinderis**, then Chief Executive Officer of **AusRegistry**, described in the report as the operator of the central registry for .au domain names.

503 The third was Kartic Srinivasan, Product Manager of the Australian registrar Melbourne IT. The fourth was a Director of Cooper Mills Lawyers, a firm described as involved in all legal issues surrounding .au administration.

504 The panel was convened to explain the rules and regulations governing the .au country code namespace, and to discuss the prospects for the continued growth of the extension.

505 The report is not confined to text. It publishes a photograph of the four panellists seated upon the dais, and identifies each of them by name in its caption.

506 The Chief Executive Officer of **auDA** is photographed at that table. So is the Chief Executive Officer of AusRegistry, the operator of the .au registry.

507 The report publishes a second photograph, of the Chief Executive Officer of AusRegistry addressing the conference.

508 Both photographs are reproduced at Annexure I to this submission, as published. Each may also be viewed at the address of page 1 of the report, recorded in this Part and in Annexure A.

509 The Panel is invited to view them. The administrator of the .au namespace, and the operator of its registry, are pictured upon the platform of a domain monetisation conference in November 2008.

510 A complaint was then current among Australian domain investors. They considered that **auDA** often made arbitrary decisions in taking .com.au domain names away from registrants without sufficient cause.

511 **Chris Disspain** addressed that complaint directly. He explained the matters that **auDA** takes into consideration before making a decision to revoke a domain name registration.

512 He then emphasised that **auDA** has **"no bias against domainers"**. He said the same of domain monetisation through pay-per-click programs.

513 That statement was published contemporaneously by Ron Jackson in DNJournal, in his review of the conference. It is Exhibit 20 to this submission, published at **https://www.dnjournal.com/events/2008/traffic-down-under-review.htm** and **https://www.dnjournal.com/events/2008/traffic-down-under-review-page2.htm**. Pages 1 and 2 of the report are reproduced at Annexure I to this submission.

514 Web addresses are liable to change or to cease to resolve over time. Complete archival captures of both pages, in MHTML format, are held by the authors of this submission.

515 Those captures preserve the pages in the form in which they were published, including the passage quoted above. They will be produced to the Panel, or to any other person, upon request.

516 Page 1 of the report is additionally preserved in the Internet Archive, in a capture taken on 30 January 2012, at **https://web.archive.org/web/20120130132858/https://www.dnjournal.com/events/2008/traffic-down-under-review.htm**.

517 Page 2 of the report is likewise preserved in the Internet Archive, in a capture taken on 30 December 2011, at **https://web.archive.org/web/20111230131918/http://www.dnjournal.com/events/2008/traffic-down-under-review-page2.htm**.

518 The same report records the regulatory position as it stood in November 2008. The tight restrictions formerly applying to the .com.au extension had recently been liberalised.

519 The report states that the sale and monetisation of .com.au domain names was, by then, allowed. The only qualification recorded is the requirement that the registrant be a registered Australian business.

520 The report further records that this liberalisation had created aftermarket demand for .com.au domain names, as evidenced by the sales achieved in the live domain auctions held at the conference.

521 That demand was demonstrated at the conference itself. At the Aftermarket.com live auction on Thursday 20 November 2008, several .com.au names were sold, led by Jeweller.com.au, reported at $9,200.

522 At the RickLatona.com live auction later the same day, further .com.au names were sold. History.com.au was reported at $8,500, StockExchange.com.au at $7,500, and Snowboards.com.au at $6,000.

523 The report also records that the .com.au extension was then growing at an annual rate of 25 percent, and had passed one million registered domain names.

524 **Adrian Kinderis** attributed that growth to an active marketing program, and to an educational campaign conducted by **AusRegistry** to inform Australian businesses of the policy changes that had made the extension more appealing.

525 Four conclusions follow, and each bears directly upon Option 3.

526 First, the position advanced in this submission is not novel, and it is not the special pleading of an interested class. It was the stated position of **auDA**, articulated by its own Chief Executive Officer.

527 It was articulated from a conference dais, to an audience composed of the very registrants that Option 3 would burden, and alongside the Chief Executive Officer of the registry operator.

528 Second, monetisation through pay-per-click has been a permitted use of a com.au licence since at least November 2008. More than seventeen years have elapsed. Registrants have built portfolios, businesses and revenue streams in reliance upon that permission.

529 That reliance interest is addressed in Part 25 of this submission, dealing with scale and economic significance, and the material in this Part supplies its historical foundation.

530 Third, conduct is evidence, and it is evidence of a different order from words. A namespace administrator that regarded pay-per-click monetisation as illegitimate would not send its Chief Executive Officer to address a conference of the industry that practises it.

531 **auDA** did so. **AusRegistry** did so, its Chief Executive Officer seated on the same dais. ICANN did so, its President and Chief Executive Officer delivering the keynote address at the same conference.

532 None of them treated the domain investor as a registrant of doubtful legitimacy. Each engaged with that industry openly, as a stakeholder in the namespace.

533 That is consistent with the position of ICANN set out in Part 5 of this submission, dealing with international practice and the treatment of parking and pay-per-click.

534 The Panel is respectfully asked to weigh that conduct, and not the words spoken in 2008 alone.

535 Fourth, the capacity in which the statements were made, and in which the attendance occurred, is material.

536 **Chris Disspain** did not attend as a private individual. He appeared, and was described in the report, as the Chief Executive Officer of **auDA**, the governing body for .au domain names.

537 **Adrian Kinderis** appeared as the Chief Executive Officer of **AusRegistry**, the operator of the central registry. Both spoke from the dais of a panel convened to explain the rules governing the .au namespace.

538 **auDA** thereby lent its institutional presence, in an official capacity, to a conference of the domain name investment and monetisation industry.

539 It did not attend in order to warn that industry that its practices were illegitimate, nor to foreshadow their prohibition. It attended to explain the rules, and to disclaim any bias against those practices.

540 This submission does not put the matter as an estoppel. It is accepted that a policy-making body may revisit its policies, and that no registrant acquires an indefeasible right to the continuation of a rule.

541 The submission is a different one. Where a body has stated a position publicly, in an official capacity, has endorsed it by its conduct, and has maintained it for more than seventeen years, a reversal calls for cogent evidence and a reasoned explanation.

542 Consistency is a hallmark of sound regulatory practice. It is what permits registrants to plan, to invest, and to comply.

543 The Draft Report identifies no change of circumstances, no new evidence, and no reasoned explanation for departing from the position **auDA** has held since November 2008.

544 The burden of justifying a reversal of that kind lies upon the body proposing it. It is respectfully submitted that Option 3 does not discharge that burden.

545 That is so with added force where existing registrants have not been given direct notice of the proposal, a matter addressed in Part 26 of this submission.

546 The position stated in 2008 was not an aberration. It was maintained by **auDA** Management in its determination of 15 April 2019, which is set out in Part 20 of this submission.

547 A matter of characterisation should be recorded, so that the Panel is not misled as to the nature of the evidence. The quoted words are those of the reporter, Ron Jackson, recording what **Chris Disspain** said.

548 They are not a verbatim transcript of the address of **Chris Disspain**. The report is a contemporaneous published account, by an established trade publication, of a public statement made by the Chief Executive Officer of the administrator of the namespace.

549 The distinction does not diminish the weight of the material. It is tendered as a contemporaneous record of **auDA**’s own publicly stated position, and not as a transcript.

550 **Option 3 would reverse, upon no evidence identified in the Draft Report, a position that auDA has held and has publicly stated since at least November**

2008. It is respectfully submitted that the Panel should not recommend that course.

Source: Ron Jackson, Fabulous Affair: Australia's T.R.A.F.F.I.C. Down Under Conference Enchants Attendees With Fun, Freshness and Flair, DNJournal (conference held 17 to 21 November 2008), pages 1 to 3; Exhibit 20
https://www.dnjournal.com/events/2008/traffic-down-under-review.htm | **https://www.dnjournal.com/events/2008/traffic-down-under-review-page2.htm** | **https://www.dnjournal.com/events/2008/traffic-down-under-review-page3.htm**

Part 30 Trust, Accountability, and auDA's Terms of Endorsement

551 The Draft Report invokes trust and confidence in the .au namespace. That consideration tells against Option 3, and it does so at the level of **auDA**'s own constitutional arrangements.

552 **auDA** is not a statutory regulator. It is an independent not-for-profit company, endorsed by the Australian Government in 2000 as the appropriate entity to operate the .au domain.

553 Its sponsorship agreement with ICANN rests upon the continuing endorsement of the Australian Government. That endorsement is captured in formal Terms of Endorsement.

554 The Terms set out the Government's expectations of **auDA**, its core functions, and the principles under which it administers the .au domain.

555 The Terms were last revised in 2025, following public consultation conducted between 22 January and 19 February 2025, and were released by the Minister for Communications.

556 Among the core functions is the administration of a licensing regime for .au domain names, based in multi-stakeholder processes, that is transparent, responsive, accountable, accessible and efficient.

557 Among the core principles is the maintenance of effective governance processes that are transparent and accountable, that support effective decision-making, and that promote the interests of the Australian community.

558 Option 3 engages each of those requirements. A rule change reversing a publicly stated position of more than seventeen years, upon evidence the Draft Report does not identify, is not readily described as accountable.

559 Nor is it readily described as supporting effective decision-making. A measure that strips the allocation basis of existing licences held by registrants who have received no direct notice is not readily described as transparent or accessible.

560 That absence of notice is addressed in Part 26 of this submission, dealing with process and the position of existing registrants.

561 The Commonwealth reviews the Terms of Endorsement periodically. The Final Report of the 2025 Review records that the revised Terms make clearer **auDA**'s responsibilities in the unlikely event that a timely re-delegation is needed.

562 The Final Report further records that the arrangements contemplate the event of a self-regulatory body being unable to manage electronic addressing in an effective manner, which could include the transfer of .au to another party.

563 This submission does not suggest that the adoption of Option 3 would occasion re-delegation. That matter is referred to for a narrower purpose.

564 **auDA**'s authority over the namespace is not proprietary. It is held upon endorsement, and upon conditions of transparency and accountability.

565 Measures that erode confidence in the administration of .au therefore bear upon the endorsement itself. The Panel is respectfully asked to weigh that consideration.

566 Trust and confidence should not be invoked as a rationale supporting Option 3 when, properly understood, it tells against it.

567 There is a further matter. It is put without any imputation of impropriety, and without any suggestion that **auDA** ought not to be funded.

568 **auDA** sets the wholesale annual licence price for .au domain names. It announced in June 2025 that the price would change with effect from 1 October 2025.

569 Revenue is derived from every licensed .au domain name. In the 2024-25 financial year **auDA** supported more than 4.2 million .au domain names.

570 **auDA** also accredits the registrars. It charges an application fee of $2,200 and an annual licence fee of $3,300, each inclusive of GST.

571 Those are the same registrars that market, operate and profit from domain parking and pay-per-click services, as established in Parts 8 and 10 of this submission.

572 **auDA** has therefore derived revenue, over many years, from the licences held by domain investors, and from the accreditation of the registrars that monetise them.

573 **auDA** is a not-for-profit entity, and no criticism is made of its funding model. The point is one of consistency, and it is a simple one.

574 A namespace administrator that has accepted licence fees upon investor-held registrations for more than seventeen years, and accreditation fees from the

registrars that monetise them, is poorly placed to characterise that same activity as illegitimate.

575 Option 3 would prohibit a class of use from which **auDA** has itself been funded. It would do so upon no evidence identified in the Draft Report, and without notice to those affected.

576 It is respectfully submitted that such a course would damage confidence in the administration of the .au namespace, and would harm the very registrants upon whose licences that administration is funded.

Source: auDA, Terms of Endorsement; auDA, 2025 Terms of Endorsement for auDA; Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts, Final Report: 2025 auDA Terms of Endorsement Review (March 2025) and media release; auDA, .au domain name wholesale pricing; auDA, Become an accredited .au registrar; auDA, Annual Reports; auDA, Registrar Accreditation Application Form **https://www.auda.org.au/about-auda/corporate-governance/terms-of-endorsement/** | **https://www.auda.org.au/news-insights/statements/2025-terms-of-endorsement-for-auda/** | **https://www.infrastructure.gov.au/sites/default/files/documents/final-report-2025-auda-terms-of-endorsement-review.pdf** | **https://www.infrastructure.gov.au/department/media/news/updated-terms-endorsement-au-domain-administration-auda** | **https://www.auda.org.au/registrar-resources/wholesale-au-domain-pricing/** | **https://www.auda.org.au/registrar-resources/become-an-accredited-registrar/** | **https://www.auda.org.au/about-auda/corporate-reporting/annual-reports/** | **https://www.auda.org.au/au-domain-names/au-rules-and-policies/registrar-accreditation-application-form-2013-05/**

Part 31 The Contested Names Model: auDA Charges an Annual Fee for .au Direct Names That Are Allocated to Nobody and Used by Nobody

577 **auDA**'s own conduct in the .au direct namespace supplies a controlled comparison. That comparison is addressed in Part 15 of this submission. The contested names model completes it.

578 When .au direct launched on 24 March 2022, existing registrants were able to apply for the exact match of their name through the Priority Allocation Process. That process closed on 20 September 2022.

579 Where two or more eligible registrants applied for the same .au direct name, the name was not allocated to either of them. Such names remain on priority hold, and **auDA** describes them as contested names.

580 A contested name is allocated to nobody. It is licensed to nobody. It resolves to nothing. It is developed by nobody, and it carries no content of any kind.

581 To remain in contention an applicant must hold an active priority application and must renew it annually. Renewals fall due on 20 September each year.

582 Rule 1.9.11 of the .au Direct Priority Implementation Rules provides that an application for Priority Status automatically lapses where the person fails to pay the annual application renewal fee.

583 Rule 1.9.13 provides that **auDA** will publish on its website the annual application renewal fee.

584 Accredited registrars administering the process state that all priority application fees are non-refundable.

585 Those registrars further state that the renewal of a priority application is charged upon the same footing as the renewal of a .au direct domain name for one year. Retail prices are set by each registrar and vary between them.

586 Every applicant in contention therefore pays annually, upon the footing of a domain name registration, while no domain name is registered to any of them.

587 No product is delivered. No service is rendered. The name remains on priority hold, and the registry entry is delivered to nobody.

588 The applicant therefore pays, and pays again every year, and receives no domain name licence at all.

589 The applicant receives no delegation in the Domain Name System. The applicant receives no right to use the name, and no capacity to publish anything at it.

590 What the applicant receives is continued contention, and the exclusion of every rival applicant, for so long as the fee continues to be paid.

591 Where a name is contested by several applicants, every one of them pays. Each pays separately, and each pays again every year, for the same single name.

592 The name is delivered to none of them. It is delivered to nobody at all, for so long as more than one application remains active.

593 A single unallocated name may therefore yield recurring annual revenue from two applicants, or from five, or from more, and may do so indefinitely.

594 The applicants receive nothing. No licence is granted. No name is delegated. No service is rendered to any of them, and the fees are not returned.

595 The revenue is nonetheless collected, year after year, by the parties in the supply chain through which it passes.

596 The name is allocated only when every applicant but one ceases to pay, or otherwise withdraws the application or allows it to lapse.

597 Allocation is therefore triggered by a failure or a refusal to continue paying. It is not triggered by any determination of right, of merit, or of eligibility as between the applicants.

598 Nobody receives the name until somebody stops paying for it.

599 **auDA** has not always resolved contention in that way.

600 When the prohibition upon generic com.au domain names was removed in 2001, the Board adopted a method of allocation for names sought by more than one eligible applicant.

601 Those applicants proceeded to a closed auction. The winner paid the amount bid, and the name was delivered to the successful applicant.

602 Contention was resolved by a single event, and the name was delivered to a registrant. That method is set out in Part 32 of this submission, upon the minutes of the Board meeting of 13 August 2001.

603 In .au direct, contention is resolved differently. The name remains unallocated until only one eligible applicant remains.

604 That rule is not, of itself, objectionable. A name sought by several eligible applicants may properly remain unallocated while more than one of them maintains an interest in it.

605 This submission does not propose an auction. An auction resolves contention by capacity to pay, and that is the very vice identified above in this Part.

606 Nor does this submission seek any increase in charges, nor any acceleration of allocation, nor any forced resolution upon a fixed date.

607 The comparison with 2001 is drawn for a single purpose. It establishes that **auDA** has, before now, resolved contention by a mechanism that delivered the name to a registrant.

608 The objection to the present model is narrower, and it is directed at one thing only. It is directed at the fee.

609 A fee is charged, every year, to every applicant, for so long as contention endures. Contention may endure indefinitely, and the fee endures with it.

610 **It is the fee, and the fee alone, that converts a rule about eligibility into a contest of endurance funded by money.**

611 Remove the fee, and contention is resolved by continued eligibility and continued interest. It is not resolved by capacity to pay.

612 The Panel is respectfully invited to recommend that the annual application renewal fee for contested .au direct names be abolished.

613 A priority application should remain active without charge. The name should remain unallocated until only one eligible applicant remains.

614 That is the whole of the relief sought upon this Part. It costs **auDA** nothing that it is entitled to, because nothing is supplied in exchange for the fee.

615 No process should turn upon the capacity of an applicant to outspend the others. It would be no answer to substitute an auction, nor to raise the charge, nor to compel allocation before the applicants themselves resolve the contention.

616 Until that occurs, the fees continue to be paid by every applicant, and the name continues to be delivered to none of them.

617 The Panel is respectfully asked to require **auDA** to identify the recipient of those fees, and to identify the service, if any, rendered in exchange for them.

618 Contested names remain unallocated until only one applicant remains. A domain name provider records that approximately 4,500 contested names remained outstanding.

619 The consequence is that thousands of .au direct names are held, year upon year, in a state of permanent non-use.

620 Each of them generates an annual fee. The fee is paid through the applicant’s registrar, and **auDA** publishes the annual application renewal fee.

621 That is the model **auDA** administers in the namespace it introduced.

622 The annual application renewal fee is authorised by **auDA**’s own Rules. Rule 1.9.13 provides for its publication. The question raised by this Part is therefore not one of power. It is one of justification.

623 The Licensing Rules define a Licence Fee by reference to a Licence. The annual application renewal fee is not a licence fee, because no licence is granted, and none may be granted while contention persists.

624 A fee is ordinarily rendered in exchange for something. The Panel is respectfully invited to identify what is supplied to the applicant in exchange for it.

625 There is a further difficulty, and it goes to the objects of the Priority Rules themselves.

626 The outcome of contention is not determined by right. It is not determined by eligibility, nor by priority category, once applicants share the same category.

627 It is determined by which applicant is able, and willing, to keep paying an indefinite annual fee for a name that is never delivered.

628 So long as continued contention requires payment, allocation by attrition is allocation by capacity to pay. The applicant with the deeper resources prevails, not by reason of any better right, but because the others cannot sustain the fee.

629 That is a hierarchy of resources. The Priority Rules expressly disclaim a hierarchy of rights, and it is respectfully submitted that they ought not to be administered so as to substitute one.

630 **auDA** is respectfully asked to explain what the applicant is charged for, and why the charge should recur, without limit of time, for a name that is never supplied to anyone.

631 Option 3 proposes to strip the allocation basis from com.au and net.au licences upon the footing that names may be parked, undeveloped, or held without an operating website.

632 The comparison is not a comfortable one for that proposal.

633 A parked com.au name resolves. It carries content, whether advertising or a notice that the name is for sale. It is licensed to an identified registrant, who is eligible, who has been validated, and who pays a licence fee for a name that the registrant holds.

634 A contested .au direct name resolves to nothing. It carries no content. It is licensed to nobody. Yet a fee falls due, annually, from each applicant, for a name that none of them holds.

635 If undeveloped names truly undermined trust and confidence in the .au namespace, the contested names model would be the clearest instance of that harm. It is **auDA**'s own.

636 The .**auDA** Priority Rules state that their objects include the establishment of a transparent and equitable process for determining priority of applications for names in .au direct.

637 The same Rules record that there are no proprietary rights in a domain name, and that there is no hierarchy of rights.

638 The Panel is respectfully invited to put the following questions, which this submission cannot answer for it.

639 First, what does an applicant for a contested .au direct name receive in exchange for the annual application renewal fee?

640 Second, why is that fee non-refundable, when the applicant may never be allocated the name, and when in every contested case all but one applicant necessarily never will be?

641 Third, who receives the money, in what proportions, and for what service rendered?

642 Fourth, upon what principle may **auDA** prohibit a monetised com.au name for want of development, while itself charging annually for .au direct names that are developed by nobody and allocated to nobody?

643 Fifth, is the annual application renewal fee a licence fee within the meaning of the Licensing Rules, and if it is not a licence fee, what is it?

644 These questions are not put rhetorically. They bear upon whether Option 3 is a measure directed at the utility of the namespace, or a measure directed at a class of registrant.

645 Until they are answered, Option 3 cannot properly be assessed against **auDA**'s Terms of Endorsement, which are addressed in Part 30 of this submission.

Source: auDA, .au direct Priority Allocation process; auDA, .au direct Priority Allocation: contested .au direct domain names; .au Domain Administration Rules: .au Direct Priority Implementation, rules 1.2.1, 1.5.12, 1.9.11 and 1.9.13; auDA, What is the Priority Allocation Process?; accredited registrar statements as to non-refundable priority application fees; .au Domain Administration Rules: Licensing, definition of Licence Fee **https://www.auda.org.au/au-domain-names/the-different-au-domain-names/au-direct-domain-names/au-direct-priority-allocation-process/** | **https://www.auda.org.au/news-insights/blog/au-direct-priority-allocation-contested-au-direct-domain-names/** | **https://www.auda.org.au/au-domain-names/au-rules-and-policies/auda-rules-au-direct-priority-implementation/** | **https://www.auda.org.au/news-insights/blog/what-priority-allocation-process/** | **https://www.ddns.com.au/faq/294/.au-Direct-Priority-Applications.html** | **https://www.cheaperdomains.com.au/faq/296/Transfer-my-.au-Direct-Priority-Application-to-Cheaper-Domains.html** | **https://www.domainname.edu.au/direct.htm** | **https://www.auda.org.au/au-domain-names/au-rules-and-policies/au-domain-administration-rules-licensing-2/**

Part 32 The Resolutions of the auDA Board: Monetisation Was Deliberately Placed Within the Close and Substantial Connection Rule

646 This submission has so far relied upon **auDA**'s published policies and its public statements. The internal record of **auDA**'s own Board is to the same effect, and it is more precise.

647 The minutes of **auDA** Board meetings from 2000 to 2016 were released under Freedom of Information request 28-1617, upon the disclosure log of the Commonwealth Department. They are Exhibit 27 to this submission.

648 The Board's treatment of generic domain names is older still, and it is decisive.

649 Until 2001 the registration of generic domain names in the com.au second level domain was prohibited.

650 At its meeting of 8 May 2001 the Board agreed, in principle, that **"the prohibition on generic domain names in the com.au 2LD should be removed"**, subject to agreement upon a method of allocation.

651 At its meeting of 13 August 2001 the Board adopted that method. A list of names refused as generic was to be published, and a period of fourteen days advertised within which an interest in a name might be registered.

652 Where only one eligible applicant came forward, that applicant might reserve the name upon payment of a fixed price to **auDA**.

653 Where more than one eligible applicant came forward, those applicants might proceed to a closed auction for the name. The winner might reserve the name by paying the amount bid.

654 The minutes record, in terms, that **“auDA will receive the proceeds of the auction”**.

655 **auDA** therefore did not merely permit the holding of generic com.au domain names. It removed the prohibition upon them. It then sold them at auction, and it took the money.

656 The proceeds were substantial. The minutes of 14 October 2002 record a significant increase in members’ funds, attributable to **“revenue raised by the generics auction”**.

657 At its meeting of 12 August 2002 the Board considered a proposal to apply a portion of the generics auction revenue to the establishment of a foundation.

658 That foundation is the **auDA** Foundation. It makes annual grants to promote education and research initiatives that enhance the utility of the internet for the benefit of the Australian community.

659 The charitable arm of **auDA** was endowed, in part, from the sale of generic com.au domain names to the highest bidder.

660 Option 3 proceeds upon the footing that holding a generic com.au domain name for its value is an illegitimate use of the namespace.

661 **auDA created that value. auDA sold it. auDA banked the proceeds, and applied a portion of them to its own foundation.**

662 It is respectfully submitted that **auDA** cannot now characterise as illegitimate the very asset class that it brought into existence, and sold.

663 The approach of the Board was settled long before. At its meeting of 4 February 2002 the Board discussed the meaning of the close and substantial connection rule as it applies in com.au and net.au.

664 The Board acknowledged the comments of the Names Panel Chair, made in support of a more flexible interpretation of that rule.

665 The Board then recorded that one of its guiding policy principles is **“the facilitation of industry growth and business development”**.

666 The rule that Option 3 would delete was framed, from the beginning, to facilitate industry growth and business development.

667 At its meeting of 10 April 2006 the Board considered a public consultation upon domain monetisation. The minutes record the question that was before it.

668 The minutes record that **“The issue is not whether domain monetisation is good or bad”**. The question was whether monetisation should be included within the interpretation of the close and substantial connection rule.

669 The minutes record that the matter was one of policy clarification, and not of new policy. Monetisation was assumed to be lawful. The only question was the rule under which it sat.

670 At its meeting of 13 June 2006 the Board agreed to adopt the approach recommended by **auDA** staff, and directed that a policy clarification be published. Policy 2006-03 followed.

671 The 2007 Names Policy Panel then examined the monetisation policy and the resale of domain names.

672 At its meeting of 10 December 2007 the Board accepted the recommendation that the close and substantial connection rule remain unchanged, and that the clarification policy upon monetisation be strengthened to protect brand names.

673 The Board minutes of 14 April 2008 record that registration activity by domainers had steadily increased since the announcement, in December 2007, that the transfers policy would be relaxed.

674 **auDA** observed the growth of the domain investment sector within its own namespace. It recorded that growth in its minutes. It did not prohibit it.

675 The decisive resolution was taken on 15 August 2011.

676 Upon a motion proposed and seconded by two of its directors, the Board resolved to accept recommendation 3 of the 2010 Names Policy Panel. The motion was carried.

677 The resolution had five limbs. The first was that the Domain Monetisation Policy 2008-10 be abolished as a separate policy.

678 The second was that Schedules C and E of the Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs, being Policy 2008-05, be amended to include domain monetisation under the close and substantial connection rule for com.au and net.au domain names.

679 The third was that the existing conditions of use upon names registered on the basis of domain monetisation under that rule be retained.

680 The fourth was that the definition of domain monetisation be replaced with a description of permissible practice, so as to accommodate a range of monetisation models.

681 The fifth was that the Guidelines for Accredited Registrars be amended to include additional explanatory material regarding domain monetisation.

682 **The significance is difficult to overstate. The Board of auDA did not merely tolerate monetisation. It resolved that monetisation be brought within the close and substantial connection rule, as a basis of allocation.**

683 That rule is the ancestor of subparagraph (f) of rule 2.4.4(2) of the Licensing Rules, as set out in Part 24 of this submission.

684 **Option 3 would delete the subparagraph into which the Board of auDA deliberately placed monetisation, by resolution, in 2011.**

685 The Board went further still. A minority report proposed alternative recommendations upon monetisation. The Board did not agree with them.

686 The Board considered that removing clause 4.3(a) of the Policy would undermine the operation of the close and substantial connection rule, which it described as **"an integral part of the .au policy framework"**.

687 The Board therefore refused, in 2011, to weaken the very rule that Option 3 would now remove altogether.

688 The Board has also stated, in terms, where the limits of its role lie.

689 At its meeting of 16 June 2008 the Chief Executive Officer raised the position of major brand owners who were unaware of registrations of misspellings of their brand names.

690 The Board noted that **"it is not auDA's role to provide protection to brand owners"**, though there might be more that **auDA** could do to encourage brand owners to protect themselves.

691 Option 3 would do the opposite. It would preserve the allocation basis of trade marked and branded names under subparagraphs (a) to (e), and would remove it from every other registrant.

692 That is the protection of brand owners, achieved by the deletion of a subparagraph. The Board of **auDA** has said, in its own minutes, that this is not its role.

693 The Board has drawn that boundary more than once. At its meeting of 8 April 2002 it reaffirmed that it is not **auDA**'s role to write the industry Code of Practice, but to promote and facilitate its development by the industry.

694 At its meeting of 11 October 2004 it recorded that it is not **auDA**'s role to provide facilitation and support services to communities.

695 The Board has consistently understood **auDA** to be the facilitator of an industry, and not the protector of particular interests within it.

696 At its meeting of 19 April 2011 the Board was advised that a Working Group of industry and consumer representatives had been formed to examine the operation of the .au domain name secondary market.

697 The minutes record that the Department was interested in the outcome of that process. The secondary market was, and remains, a recognised feature of the namespace.

698 The Board also received evidence upon the scale of the sector. At its meeting of 20 August 2012 the Chief Executive Officer of AusRegistry presented registration statistics.

699 The minutes record that portfolio holders, being registrants holding more than fifty domain names, accounted for approximately 16 percent of the .au market. Domainers were considered to account for less than 10 percent.

700 Two matters follow. Domain investors were a small minority of registrants, and **auDA** knew it, upon data presented to its Board by the operator of the registry.

701 A rule directed at that class is directed at less than one tenth of the market. The Draft Report does not explain how a class of that size imperils trust and confidence in the namespace.

702 Candour requires one further matter to be recorded, because it is the only entry in the minutes that tells against this submission.

703 The Board minutes of 18 February 2008 record that **auDA** would issue a policy clarification upon the prohibition on registering domain names for the purpose of resale.

704 A prohibition upon registration for the purpose of resale is a distinct thing from monetisation. That question was examined again in the 2017 to 2019 review cycle.

705 **auDA** Management then declined to prohibit resale and warehousing, upon the evidence, for the reasons set out in Part 20 of this submission. The position has not since changed.

706 The Board's own record therefore discloses a deliberate and repeated choice, made across a decade, to permit monetisation and to allocate domain names upon that basis.

707 That choice was made by the Board of **auDA**, by resolution, upon the recommendations of two policy panels and following two rounds of public consultation.

708 It is respectfully submitted that a choice of that character should not be reversed by the deletion of a subparagraph, upon no evidence identified in the Draft Report.

Source: auDA Board Minutes 2000 to 2016, released under Freedom of Information request 28-1617 (Exhibit 27), being the minutes of the Board meetings of 8 May 2001, 13 August 2001, 4 February 2002, 8 April 2002, 12 August 2002, 14 October 2002, 11 October 2004, 10 April 2006, 13 June 2006, 10 December 2007, 18 February 2008, 14 April 2008, 16 June 2008, 19 April 2011, 15 August 2011 and 20 August 2012; auDA Board Minutes Archive **https://www.infrastructure.gov.au/who-we-are/freedom-information/freedom-information-disclosure-log/foi-request-28-1617-au-board-minutes-2000-2016** | **https://www.infrastructure.gov.au/sites/default/files/documents/dot-au-board-minutes-2000-2016.pdf** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2006/060410/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2006/060613/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2007/board-minutes-10-december-2007/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2008/080414/** | **https://www.infrastructure.gov.au/who-we-are/freedom-information/freedom-information-disclosure-log/foi-request-28-1617-au-board-minutes-2000-2016** | **https://www.infrastructure.gov.au/sites/default/files/documents/dot-au-board-minutes-2000-2016.pdf** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2011/110815/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2012/120820/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2002/020204/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2008/080616/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2011/110419/** | **https://www.auda.org.au/about-auda/corporate-governance/board-meetings-and-minutes/board-minutes-archive/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2001/010508/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2001/010813/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2002/020812/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2002/021014/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2002/020408/** | **https://www.auda.org.au/about-auda/our-org/board-meetings/2004/041011/**

Part 33 Any Grandfathering or Transitional Arrangement Must Be Perpetual, Unconditional and Free of Cost

709 Nothing in this submission concedes that Option 3 ought to be adopted. The submission is that it ought not.

710 If, contrary to that submission, any change were made to subparagraph (f), transitional protection of existing licences would be indispensable. This Part addresses the form that protection must take.

711 A grandfathering clause that protects existing licences for a limited period only is not protection. It is deferral.

712 If existing registrations were protected for a term of years, and the new rule then applied upon the expiry of that term, every affected licence would fall together.

713 The consequence would be the loss of the allocation basis of a very large number of licences upon a single date, or upon a short series of dates in rapid succession.

714 That is not an orderly transition. It is a delayed and concentrated disruption, and it would be more damaging than an immediate change, not less.

715 Nor may transitional protection be conditioned upon payment.

716 A registrant who satisfied the allocation rules in force at the time of registration has already paid for that licence, and pays again upon every renewal.

717 To require a further payment, whether described as a transition fee, an extension fee, or a premium renewal, would charge the registrant for the preservation of a right the registrant already holds.

718 It would impose a financial burden upon the very registrants whom the change would injure. It would confer a corresponding benefit upon **auDA**, the registry operator and the registrars, as set out in Part 30 of this submission.

719 The submission is therefore in these terms.

720 **Any grandfathering or transitional arrangement must be perpetual. It must protect the licence for so long as the licence is renewed and the registrant remains compliant.**

721 **It must extend to renewal, to portfolio management and to lawful transfer, as sought by the sixth requested outcome in Part 28 of this submission.**

722 **It must be free of any additional charge. It must not require the registrant to pay any fee, levy or premium in order to retain the allocation basis upon which the licence was granted.**

723 **And it must not expire upon any date, nor upon the passing of any number of renewal cycles.**

724 The consequences of doing otherwise would not be confined to the registrants affected.

725 A rule that removed the allocation basis of a large number of licences upon a future date would create uncertainty across the namespace, and would do so for so long as that date remained pending.

726 Registrants could not plan. They could not value their holdings. They could not transact in them with confidence.

727 Renewals would fall. Investment would cease. The aftermarket would contract. Those effects are addressed in Part 25 of this submission, dealing with scale and the reliance interest.

728 Trust in the administration of .au would not survive it. That trust is the asset the Draft Report says it seeks to protect.

729 **auDA** holds its authority upon the endorsement of the Commonwealth, and upon conditions of transparency and accountability. Those conditions are set out in Part 30 of this submission.

730 A transitional arrangement that charged registrants for the preservation of accrued rights, and then removed those rights upon a fixed date, would invite inquiry into whether the administration of the namespace remains fit for its purpose.

731 That inquiry would come from the Commonwealth, which reviews the Terms of Endorsement periodically, and from the registrants themselves.

732 This submission does not invite that inquiry, and does not suggest that it is presently warranted. It is identified because it is a foreseeable consequence, and because it is avoidable.

733 It is respectfully submitted that no such arrangement should be contemplated, and that Option 1 should be adopted, so that the question of transition does not arise at all.

Source: Draft Report (June 2026); auDA, Terms of Endorsement; Part 25, Part 26 and Part 30 of this submission **https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf** | **https://www.auda.org.au/about-auda/corporate-governance/terms-of-endorsement/**

Part 34 The Consequences of Adopting Option 3: Reliance, Resources and the Avenues Open to Affected Registrants

734 The Panel should understand who stands behind this submission, and what will follow if Option 3 is adopted.

735 The registrants affected are not a marginal constituency. Among them are parties of substantial size and resources, whose investments in the .au namespace run to many millions of dollars.

736 Those investments were made in reliance upon the Licensing Rules, upon **auDA**'s published guidance, and upon **auDA**'s own considered rejection of these proposals in 2019.

737 Every one of those holdings was allocated in compliance with the rules in force. Not one was obtained in breach of them.

738 Legal counsel has been engaged by affected parties, over many years, to review proposed changes to **auDA** policy and to assist in the preparation of submissions. This submission is made in that tradition, and with restraint.

739 **That restraint should not be mistaken for acquiescence.**

740 **If Option 3 is adopted, and if it occasions instability in the namespace or loss to registrants whose holdings comply with the rules, affected registrants are prepared to pursue every avenue open to them.**

741 Those avenues include proceedings in the courts, and they include a representative proceeding.

742 An **auDA class action** has been considered by affected registrants, and it has been discussed among them. They are of sufficient number, and hold interests of sufficient value, to bring one.

743 Those registrants include members of the Internet Commerce Association, whose licences would be reached by Option 3 upon the same footing as every other holder of a generic com.au name.

744 No such proceeding has been commenced. No allegation of contravention is presently made against **auDA**, and none is presently warranted.

745 The prospect is identified because it is a foreseeable consequence of adopting Option 3 to the financial detriment of registrants whose holdings comply with the rules, and because it is avoidable.

746 Those avenues further include complaint to the Australian Competition and Consumer Commission upon the matters identified in Parts 16 to 19 of this submission.

747 They include recourse to the Commonwealth, which endorses **auDA** and reviews its Terms of Endorsement, and which contemplates the transfer of the administration of .au where a self-regulatory body is unable to manage it effectively.

748 That last matter is not raised lightly, and it is not raised by these registrants alone. It is contemplated in the Terms of Endorsement Review Final Report, as set out in Part 30 of this submission.

749 It is not asserted that **auDA** has contravened the Competition and Consumer Act 2010 (Cth). No such allegation is made, and none is presently warranted.

750 The submission is that Option 3 would create the conditions in which those questions must be litigated, whether directly or indirectly, and that **auDA** Management itself identified those conditions in 2019.

751 A regulator that reverses a settled position upon no evidence, without notice to the registrants affected, and to their financial detriment, invites the scrutiny it least desires.

752 None of that serves **auDA**. None of it serves the namespace. None of it serves the Australian businesses that hold com.au and net.au licences.

753 **All of it is avoidable. It is avoided by retaining subparagraph 2.4.4(2)(f) and adopting Option 1.**

Source: Draft Report (June 2026); auDA, Terms of Endorsement; auDA Management Response (2019), Exhibit 28; Parts 16 to 19, Part 26 and Part 30 of this submission
https://files.auda.org.au/documents/au-Licensing-Rules-Review-2025-Policy-Advisory-Panel-Draft-Report-4.pdf | **https://www.auda.org.au/about-auda/corporate-governance/terms-of-endorsement/**

Part 35 Conclusion

754 In Recommendation 1 the Panel has correctly declined to prohibit domain name monetisation and investment. Those calls were made, considered and rejected on the evidence in the 2017 to 2019 review cycle.

755 Option 3 would prohibit through allocation what Recommendation 1 preserves in principle. It would strip the allocation basis from large numbers of compliant registrations held by investors and ordinary Australian businesses alike.

756 **It would permit in .au direct the identical conduct it forbids in com.au and net.au. It would burden the compliant and deter no wrongdoer. It would expose auDA to competition law risk, to compensation claims, and to a loss of trust.**

757 The supposed harms are largely perceptual, and are already addressable through the compliance measures the Panel has recommended. The actual harm Option 3 would create, if adopted, would be deep and widespread.

758 The course now proposed is one that **auDA** itself disclaimed. Its Chief Executive Officer said in 2008 that **auDA** held no bias against domainers, or against monetisation through pay-per-click, and **auDA** attended that industry's conference to say so.

759 That position was maintained by **auDA** Management in 2019. It has never been withdrawn upon evidence, and the Draft Report identifies none.

760 **auDA** holds its authority upon endorsement, and upon conditions of transparency and accountability. A reversal of this kind, taken without evidence and without notice to those affected, does not meet them.

761 Nor may the utility of the namespace be invoked against parked com.au names while **auDA** charges, year upon year, for contested .au direct names that are allocated to nobody and used by nobody.

762 Option 1 is the course consistent with the evidence, with **auDA**’s own stated position, and with its Terms of Endorsement.

763 **For those reasons Option 1 is the only course consistent with the evidence, with the Panel’s Terms of Reference, with auDA’s Principles, and with the Competition and Consumer Act 2010 (Cth). Option 3 should be rejected and subparagraph 2.4.4(2)(f) retained.**

Respectfully submitted to the Policy Advisory Panel.

Annexure A Exhibit Index: Sources Relied Upon

This index lists every exhibit relied upon in this submission. Exhibits 1 to 12, Exhibits 23 and 24, and Exhibit 27, are publicly available pages, and the address of each is recorded below. The addresses are current as at 10 July 2026.

Exhibits 13 to 22, and Exhibits 25 and 26, are documents reproduced in full within this submission, at the annexure identified against each. They are the letters of the Internet Commerce Association, the Policy Issue Brief of **ICANN**, the webpage of the **auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program**, auDA Published Policy 2006-03, auDA current guidance, the Monetise.com.au domain parking platform, the DNJournal conference review of November 2008, and the auDA WHOIS records for jobs.com.au and f2.com.au.

Each exhibit may be read and verified independently, either at the address recorded below or at the annexure in which it is reproduced. Where an exhibit is relied upon in a particular Part, that Part identifies it.

Exhibit	Program	Nature of activity	Source
1	GoDaddy CashParking (Australia)	PPC monetisation of parked names; AUD pricing; states no need to develop or maintain a website	https://www.godaddy.com/en-au/domains/cashparking
2	CashParking plans and FAQ	Free, Premium (A$17.30/mo, 80 per cent of click revenue) and Domain Pro (A$43.29/mo) tiers; unlimited domains	https://www.godaddy.com/help/what-is-cashparking-1331
3	CashParking feed update (2026)	Advertising feeds are Google RSOC and Yahoo Search Feed	https://www.godaddy.com/resources/news/cashparking-update
4	GoDaddy Domain Broker Service	Brokered acquisition of registered names; anonymous buyer; 20 per cent commission	https://www.godaddy.com/domains/domain-broker
5	Domain Broker Service (help guidance)	Dedicated broker negotiates purchase from existing registrant over 30 days	https://www.godaddy.com/help/what-is-godaddys-domain-broker-service-1699
6	GoDaddy Auctions	Marketplace for expired domain names; bidding, buy-now and closeout	https://www.godaddy.com/auctions/domain-auctions
7	GoDaddy Auctions (help guidance)	Listing names for sale; buy-it-now pricing; parked domains may be listed	https://www.godaddy.com/help/what-is-godaddy-auctions-890
8	GoDaddy Auctions listing types	Bid-style, offer and counter-offer, buy-now, and reverse-auction closeout	https://www.godaddy.com/help/listing-types-for-godaddy-auctions-1525
9	Expired domains timeline	Expired names auctioned from day 26; released to registry at day 43 if unsold	https://www.godaddy.com/help/timeline-for-godaddy-auctions-expired-domains-42743
10	GoDaddy Auctions changes (2024)	Sellers directed to Afternic; listings syndicated back to GoDaddy Auctions	https://www.godaddy.com/resources/news/godaddy-auctions

11	ICA Member Directory	GoDaddy is a Platinum member; Above.com (Trellian) a member since 2013	https://www.internetcommerce.org/directory/
12	Drop.com.au	auDA-accredited registrar; .au drop-catching and expired-domain auctions	https://drop.com.au/about-drop.com.au.html
13	ICA letter to the Policy Review Panel, 9 April 2019	Reproduced in full at Annexure B to this submission	https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/
14	ICA letter to the Policy Advisory Panel, 8 July 2026	Reproduced in full at Annexure C to this submission	https://www.auda.org.au/consultations/consultation-on-au-licensing-rules-review-draft-report/
15	ICANN, Policy Issue Brief: Domain Name Monetization (June 2008)	Reproduced in full at Annexure D to this submission	https://archive.icann.org/en/policy/briefs/domain-name-monetization-jun08-en.pdf
16	auDA-accredited registrar GoDaddy CashParking pay-per-click (PPC) monetisation program (Australia), captured 9 July 2026	Reproduced at Annexure E to this submission, as the page renders in a web browser	https://www.godaddy.com/en-au/domains/cashparking
17	auDA Published Policy 2006-03, Domain Monetisation	Reproduced in full at Annexure F to this submission	https://files.auda.org.au/documents/auda-2006-03.pdf
18	auDA, Domain investing and monetisation, page captured 9 July 2026	Reproduced in full at Annexure G to this submission	https://www.auda.org.au/au-domain-names/manage-your-au-domain-name/domain-investing-and-monetisation/
19	Monetise.com.au, Australian domain parking platform, captured 9 July 2026	Reproduced in full at Annexure H to this submission	https://www.monetise.com.au/a/hello/home
20	DNJournal, Ron Jackson, T.R.A.F.F.I.C. Down Under conference review (November 2008), page 1 and page 2	**auDA** CEO **Chris Disspain** states **auDA** has no bias against domainers or against domain monetisation through PPC programs; records the 2008 liberalisation permitting sale and monetisation of .com.au; 25 percent annual growth past one million registrations, attributed by **Adrian Kinderis** of **AusRegistry** to marketing and education. Pages 1 and 2 reproduced at Annexure I to this submission	https://www.dnjournal.com/events/2008/traffic-down-under-review.htm | https://www.dnjournal.com/events/2008/traffic-down-under-review-page2.htm | Internet Archive (page 1, 30 January 2012): https://web.archive.org/web/20120130132858/https://www.dnjournal.com/events/2008/traffic-down-under-review.htm | https://web.archive.org/web/20111230131918/http://www.dnjournal.com/events/2008/traffic-down-under-review-page2.htm
21	auDA WHOIS record for **jobs.com.au**, captured 10 July 2026	Registrant recorded as **FAIRFAX MEDIA LIMITED**, ABN 15008663161; contact **Admin Contact Fairfax Digital**. Reproduced in full at Annexure J to this submission	https://whois.auda.org.au/
22	auDA WHOIS record for f2.com.au, captured 10 July 2026	Registrant recorded as **FAIRFAX DIGITAL AUSTRALIA & NEW ZEALAND PTY LIMITED**, ABN 34087887456; a separate registrant from that of **jobs.com.au**. Reproduced in full at Annexure K to this	https://whois.auda.org.au/

		submission	
23	Australian Business Register, current details for ABN 15 008 663 161, extracted 10 July 2026	**Fairfax Media Limited** recorded as Active from 1 November 1999; Australian Public Company; licensee of **jobs.com.au**	https://abr.business.gov.au/ABN/View/15008663161
24	Australian Business Register, current details for ABN 34 087 887 456, extracted 10 July 2026	**Fairfax Digital Australia & New Zealand Pty Limited** recorded as Active from 1 July 2000; Australian Private Company; licensee of f2.com.au	https://abr.business.gov.au/ABN/View/34087887456
25	Cooper Mills Lawyers, Domain Monetisation in the .au space (Part 1), 21 December 2008	**Cooper Mills Lawyers** analyses auDA Domain Monetisation Policy 2008-10 and its definitions of domain monetisation, monetised website and domainer. Reproduced in full at Annexure L to this submission	https://www.coopermills.com.au/domain-monetisation-in-the-au-space-part-1/
26	Cooper Mills Lawyers, auDA publishes new Eligibility Policy for .au domains, 18 December 2012	Records the revocation of the Monetisation Policy and its incorporation into auDA Published Policy 2012-04. Reproduced in full at Annexure M to this submission	https://www.coopermills.com.au/auda-publishes-new-eligibility-policy-for-au-domains/
27	auDA Board Minutes 2000 to 2016, released under FOI request 28-1617 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts	Board resolution of 15 August 2011 abolishing the Domain Monetisation Policy as a separate policy and placing domain monetisation under the close and substantial connection rule; Board rejection of the minority report; registry statistics of 20 August 2012	https://www.auda.org.au/about-auda/our-org/board-meetings/2011/110815/ | https://www.auda.org.au/about-auda/our-org/board-meetings/2012/120820/ | https://www.auda.org.au/about-auda/corporate-governance/board-meetings-and-minutes/board-minutes-archive/
28	Internet Commerce Association, auDA Management Rejects Wrongful Attempts to Prohibit Domain Name Investment in Australia, Kamila Sekiewicz, 15 April 2019	Contemporaneous report of the determination of auDA Management rejecting the proposed prohibitions upon domain monetisation, warehousing and resale; records auDA Management's findings that there was no evidence of harm, and that a warehousing prohibition would disproportionately target domain investors because the holdings of trade mark and brand owners would be excluded. Reproduced in full at Annexure N to this submission	https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/

764 Each exhibit is relied upon as evidence that the buying, holding, parking, monetisation, brokerage, auction and resale of domain names are ordinary commercial activities, conducted by registrars that auDA has itself accredited.

Annexure B Exhibit 13: Letter of the Internet Commerce Association to the Policy Review Panel, 9 April 2019

The following nine pages reproduce, in full, the letter of the Internet Commerce Association to the auDA Policy Review Panel dated 9 April 2019. The letter is the work of the Internet Commerce Association and is reproduced here as an exhibit, with attribution, because auDA Management accepted its substance on 15 April 2019.

It is placed before the Panel in its entirety so that the propositions summarised in Part 17 may be read in their original terms and context.

Via Email: policy.review@auDA.org.au

April 9, 2019

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

Dear Mesdames and Messieurs:

Re: Final Report: Recommendations to the auDA Board: Reform of Existing Policies & Implementation of Direct Registration

I write to you on behalf of the Internet Commerce Association. Founded in 2006, the Internet Commerce Association (the "ICA") is a non-profit trade organization headquartered in Washington, D.C.

We represent the thriving industry that has developed around the independent value of domain names in this Internet Age, including domain name investors, domain name secondary marketplaces, domain name brokers, escrow service companies, registries, and related service providers. Our members are individuals and businesses located all over the world, including Australia.

The ICA's mission is to assist with the development of domain name related policy, particularly as it relates to supporting, encouraging, and maintaining a viable domain name ecosystem where investment in domain names is respected. Our Comments herein are summarized as follows:

1. auDA should reconsider its approach to domain name investing and should embrace it as a beneficial and important part of the domain name ecosystem;

2. The Panel has found solutions in search of a problem;

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 1 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

3. The Panel has not engaged in evidence-based policy making;

4. Rather than clarifying the policies, the Panel has merely created equally or more unclear policies which are impossible and costly to effectively enforce.

Investment Naturally Exists in Every Marketplace

Although we recognize that auDA's policies have historically acted to discourage rather than welcome domain name investing, we believe that auDA should be aware that there are nevertheless many good reasons for auDA to reconsider its approach to domain name investing.

Whether in land, a catalogue of Beatles songs, or domain names, investing in assets is a natural by-product of a free and open market. Domain registrants use and risk their own money to lawfully purchase generic and descriptive domain names on a first-come, first-served basis and from prior owners and should have the right to do so. Domain name investors range from an at-home mom making a casual investment in a handful of names to professional domain name investors who spend substantial money and efforts on building a portfolio and marketing it to the public. Such business activities involving domain names are entirely legal, expected, and natural. Indeed, Australia is the only country that we are aware of that has such restrictive policies when it comes to domain names. As part of auDA's examination of policy changes pertaining to domain name investing, we would have expected that the experiences of other countries such as the UK, Canada, United States, and New Zealand would have been examined and considered. In each of these aforementioned countries, domain investing contributes positively to the overall domain name ecosystem and helps ensure the success and viability of the registry.

Domain name investors risk their own capital to register or purchase a domain name with no guarantee that they will ever see a return on that investment. Domain investors compete with thousands of other market participants, seeking out desirable domains, and bidding against each other at auctions where the price is set by the market through the combined actions of thousands of participants. Many domain name investors lose money on their acquisitions, as they find that they have overpaid to acquire domain names that others do not regard as an attractive investment or which others do not want.

Investing in valuable generic and descriptive domain names is comparable to investing in vacant real estate. Both investments are made on the basis of an expectation that there will be an appreciation in value upon resale. A businessperson who wishes to open a beachfront café in Sydney would expect that land to be already owned. Similarly, it should not come as any surprise that a valuable domain name already has a registered owner, whether it be a professional domain name investor or another kind of business, and that the owner is prepared to sell it at a market-determined price.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 2 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

Domain Name Investors Offer a Valuable Service by Providing Liquidity to an Illiquid Market

Domain names are notoriously illiquid investments. The holding period of domain names held by domain name investors can stretch into decades. Yet if an individual or a company wishes to immediately sell a domain name, it is the investor who steps up to provide a ready market and liquidity. If, for instance, a retiring couple who used a valuable generic domain name for their business and now wished to sell it since it was no longer needed has trouble finding an interested end-user buyer, domain name investors will often step in, bid against each other for the right to acquire the domain name, and thereby create a liquid market enabling the couple to quickly convert their domain name into cash. When Yahoo! wished to sell its contests.com domain name, it was put up for auction at a domain investor conference where the winning bidder paid $380,000. Domain name investors allow domain name owners to readily obtain cash for domain names that they no longer need, or may otherwise wish to sell.

Domain Name Pricing and Availability Would be Little Different Even in the Imagined Absence of Domain Name Investors

Domain name investors do not set the market value of aftermarket domain names nor do they determine which domain names are desirable — the operation of a competitive marketplace does. Prices and desirability are dictated by the market. If the asking price is set too high, a buyer can choose from a variety of similar domain names available at a range of prices. If a domain name is desirable, it would have been registered long ago even in the absence of domain name investment. Even if professional domain name investors vanished, high-quality domain names would not be sitting unregistered and the owners of these domain names would seek the market value for them.

Based on our familiarity with domain name investors, our view is that the likely impact on the .au name space due to the activities of domain name investors, is that a quasi-scarcity of marginally valuable domain names may result from domain name investors registering these domain names in bulk. The bulk registration of marginal domain names is often a triumph of hope over experience, as it is rarely profitable for the domain investor.[1] The reason is in part that for the possible end-user buyer there is almost always a comparable domain name sitting unregistered, such that the domain investor has no pricing power and finds it challenging to sell the desired domain name at a price that compensates for building the domain name portfolio and for the time value of the money invested. The primary beneficiary of the optimism of domain investors who register in bulk domain names that would otherwise sit unregistered is auDA itself. auDA likely receives millions of dollars in revenues from such registrations and renewals. From a public policy perspective, the question arises as to what harm is caused by the optimism that results in the bulk registration of otherwise unregistered domains when balanced with all the worthwhile initiatives that auDA could fund with the revenues from such registrations and renewals.

Accordingly, we believe that contrary to the apparent assumption embedded in auDA's current policies and especially in the new proposed policies, there are good and important policy reasons for taking a different course entirely, and instead welcoming domain name investors to the

[1] See https://moz.com/blog/is-buying-domain-names-profitable

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 3 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

Australian namespace. This would increase value amongst existing registrants, make Australia an attractive market for investors, increase liquidity for registrants including individuals and business who wish to divest of their valuable domain names, and ultimately increase the overall attractiveness and value of Australian domain names.

Non-Evidence Based Policy Making; A Solution in Search of a Problem

Notwithstanding these good and important policy reasons for welcoming domain name investment, we recognize that auDA currently discourages domain name investment with its current policy which prohibits registration "for the sole purpose of resale or transfer". This auDA's policy has to-date, permitted some licensees to nevertheless register domain names and resell them in full compliance with existing auDA policy.

The Panel however stated in the Final Report, that "on balance" it "believes that the resale and warehousing prohibition should be retained and strengthened". From our review of the Final Report however, it is entirely uncertain and undocumented as to what extent there is any genuine "problem" existing in the Australian namespace arising from the current rules as drafted, rather than an assumption by the Panel.

We note that for example, the Panel commissioned two reports to assist it with its fact-finding mission namely the Consumer Sentiment report, prepared by Omnipoli, and the Economic Impact Assessment, prepared by ACIL Allen Consulting. These aforementioned two reports were obviously crucial for the Panel in making determinations in its Final Report on other issues. Actual data-gathering and evidence-based policy making is, of course, crucial to developing sound policy, and surely a major change to the eligibility requirements warrant studies and surveys as much as other important changes to auDA policies that the Panel considered.

Instead, however, it appears that the Panel made an assumption that there was a problem with the existing rule based upon possibly anecdotal evidence alone, without any solid evidentiary basis. For example, how many domain names have been registered for resale or have actually been resold? Is there any evidence of "warehousing" of domain names at all? If the proposed new rules were not retrospective, how many domain names would be affected? Are we talking about a virtual handful of domain names or a widespread practice? What actual and tangible effect has this had on the namespace to-date? Is resale a net benefit or net detriment to the namespace? What would the economic impact be on the registry if everyone ceased registering domain names for resale? Would the proposed draft rule have any effect on the number of registrations or the namespace or would it be negligible? How many people are for or against the resale of domain names based upon actual survey evidence? What policy arguments exist in favour of permitting resale? What is the experience in other ccTLD registries, such as Canada, where there is no prohibition whatsoever on registering a domain name for the sole purpose of resale?

These questions are not mere curiosities, as the Panel may very well be proposing a severe policy change that could have an unintended negative effect on the registry as a whole. If, for example, this policy change resulted in hundreds of thousands of domain names being dropped, it would have a significant impact on the registry's revenues, the value of domain names already licensed to registrants, and also possibly cause hardship to registrars and the registry manager.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 4 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

Alternatively, if this proposed policy change would have no or little impact at all, then there could be little point in changing the policy at all.

We therefore believe that it would have been prudent for the Panel to have engaged in data gathering when it comes to any assessment as to whether the current rule should be strengthened or eliminated. Otherwise, it appears that at best the Panel has possibly found a solution in search of a problem, and at worst has proposed policy without any satisfactory evidence or data, thereby risking significant unintended and uninvestigated consequences for the registry.

Replacing One Ineffective Rule with Another One

The Panel has proposed a policy change which it apparently believes will "strengthen" the existing rule. The Panel opined that the current rule was "unenforced" because it was; a) "use[s] general terms that are open to various interpretations"; b) "it is difficult to demonstrate that the domain name has been registered for the sole purpose of resale"; and c) "a sophisticated domain name speculator can easily create computer-generated webpages" and thereby "assert that the domain name was registered is for actual "use" and not "resale". Accordingly, the Panel proposed a new rule which ostensibly would avoid the aforementioned obstacles that purportedly arise from the current rule. The problem, however, is that the Panel has not made things clearer or more enforceable, but rather has created a new rule which shares all of the same characteristics as the current rule.

For example, the Panel proposed new wording which prohibits registration when the "primary purpose is resale, transfer to another entity, or warehousing". What the Panel did here, was essentially propose changing the words "sole purpose" to "primary purpose", ostensibly because that clears upon any confusion as to what the required threshold is. In our respectful view, this does nothing of the sort, and merely continues the vagaries of the current rule. Indeed, "primary purpose" may actually be a more uncertain term than "sole purpose". For example, a registrant may register a domain name for several purposes, and resale is but one of them, making it not the "primary purpose".

The Panel however must have appreciated that its proposed new rule would inevitably lead to uncertainty as well, so it ostensibly proposed some "indicators" which could be used to help determine what the "primary purpose" of the registration was.

For example, the Panel proposed that if a registrant or an entity associated with the registrant has licenses for more than 100 Australian domain names, that could mean that the "primary purpose" was for resale, warehousing, or transfer. Such an "indicator" would likely result in registrants intent on avoiding this indicator, merely establishing another legal registrant to hold domains so as to avoid the 100 domain rule. Ostensibly, then auDA would need to investigate related entities in order to connect the dots, and even if it did so, could be met with the defense that resale, warehousing, or transfer, were not the "primary purpose" but merely one of many purposes for the registration.

The Panel also proposed as an indicator whether the domain name in question resolves to a website that is "primarily computer generated". Any registrant intent on avoiding this purported

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 5 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

indicator would likely not rely upon computer generation or would mix it with non-computer generation so as to avoid this indicator. The question then would become what constitutes "primarily" computer generated material, and ostensibly an auDA compliance officer would be required to investigate this and draw some conclusions based upon evidence submitted by the registrant and possibly by an outside expert.

The Panel also proposed that if a domain name was advertised or listed for sale or auction along with other domain names belonging to the registrant, that would be an indicator that the "primary purpose" was resale, transfer, or warehousing. This ostensible presumptive indicator would however, not alone be determinative of the "primary purpose", as again, there may be other equal or more important purposes besides the resale, transfer, or warehousing. Moreover, commonly domain names are listed for possible sale not by the registrant itself, but by third parties without authorization, such as is commonly the case with many registrars who consistently advertise that a particular domain name may be for sale. Similarly, the Panel's other purported indicator, of soliciting a sale, would likely result in bona fide and lawful registrants fearing any attempt to sell their domain name thereby unfairly restricting their ability to sell their domain name, or even registrants facing malicious or misguided complaints by prospective purchasers who attempt to use solicitations to get coveted domain names for free. Lastly, the supposed indicator of offering a domain name for sale for more than "documented out of pocket costs directly related to the domain name" is entirely unclear and exceedingly difficult to police, as; a) this would not necessarily prevent someone reselling a domain name for the substantial sum that the registrant had originally paid for it; and b) there is no way of knowing in advance, which domain names are being offered for more than they were purchased for, therefore potentially opening up the floodgates to innumerable challenges to every domain name offered for sale, everywhere. This will have the effect of depreciating the value of all domain names and prejudicing bona fide registrants who have complied with all existing policies.

The last purported indicator proposed by the Panel for determining the "primary purpose" of the registration is whether more than six domain names were sold or transferred during the previous six months except in relation to a business. What constitutes a business? Who investigates how many domain names were sold or transferred by a registrant? How does the registrant prove that the domain names were transferred for a bona fide reason?

Accordingly, not only is "primary purpose" as unclear or more unclear than "sole purpose", but the purported indicators make things even more unclear, and crucially, incredibly burdensome not only on the registrant who bears the ostensible onus of disproving the allegation of "primary purpose", but in auDA itself. Has the Panel turned its mind to the potentially impractical burden on auDA to enforce compliance under the new proposed rule? Has the Panel made any assessment of the potentially substantial additional costs of investigation and conducting fair hearings when a registration is impugned? Is a tribunal going to be established along with rules of procedure and evidence? What safeguards will be in place to prevent malicious actors from foisting an investigation onto an innocent registrant based merely on a complaint to auDA about a particular domain name?

One of the biggest questions arising from the proposed rule, is what happens to existing registrants? Grandfathering only until the end of the current registrant period would be an

Exhibit 13, page 6 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

egregious change to the existing registrants who relied upon the current rule and would certainly be aggrieved and possibly have legal recourse. The damage and upheaval caused by such an ill-advised action would be severe. First, law abiding Australians who investing their hard-earned money and in some cases their life savings in domain names in compliance with all existing auDA policies, stand to lose their entire investment as their domains are cancelled pursuant to the proposed new policies. Young people, families, students, retirees, and business people who legitimately purchased domain names will be struck an egregious blow should such policies be enacted.

We have been advised by a director of multiple Australian companies that due to the proposed policies that he may be forced to resign as a director of these companies lest his association with these companies, whose combined domain registrations total in excess of 100 domains, make all the domains owned by these companies eligible for deletion. Moreover, should a couple of companies with which a director is associated, dispose of six or more domain names in a given six month period, that could apparently put at risk every domain registered to any company for which he is a director. This is but one identified unintended collateral harm of an overly broadly written policy. One can expect many more such unintended negative repercussions to be revealed if the policies are put into place, which would result in a spotlight shining on the auDA's role in disrupting legitimate business activities.

Ultimately, the Panel's efforts to clear up the language has resulted in more questions, more issues, more costs, and less clarity, thereby begging the question of precisely what is being accomplished with this new proposed rule? Is it causing more harm than good and is it even necessary?

<u>Domain Monetisation</u>

Domain Monetisation is permitted under the current rules, and again, there is no apparent actual evidence presented in the Final Report beyond anecdotal evidence, such as evidence upon formal study or investigation which would have shed light on whether monetisation is even an issue worth revisiting again. Is this such a widespread problem that it needs to be addressed or is this merely another solution in search of a problem? Moreover, if the new proposed policy is to be grandfathered indefinitely, would it make any appreciable difference on the number of domain names being monetized? And if it is not to be grandfathered or grandfathered only until the end of the current registration term, would the aggrieved existing registrants have legal recourse arising from the new policy?

The existing policy makes some sense, as if monetized domain names are specifically related to the subject matter of the domain name, there is little reason to prohibit them as they provide bona fide advertising related to key words that the visitor is looking for. Indeed, in the United States, UK, Canada, and New Zealand, monetisation is permitted with no significant adverse consequences and with numerous benefits. Advertising on the Internet, including via monetised domain names is a substantial business the world over and advertisers pay for the service because it works, resulting in sales for the advertiser. Domain name owners who provide the service to advertisers are engaging in what is a lawful and beneficial business.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 7 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

Moreover, the revenue derived from such monetisation indirectly goes to auDA. Registrants who use a domain name for advertising receive some compensation which assists them in paying for the renewal. If this funding was eradicated it would likely lead to fewer renewals and therefore less revenue for auDA and for registrars and the registry operator. Even registrars rely upon monetisation as a revenue stream for unused registered domain names. Accordingly, any discussion about further restricting or eliminating monetisation as a bona fide use of a domain name should only occur once the economic effects have been studied, and this has simply not been done. Accordingly, the Panel's recommendations may result in serious and unintended consequences for the domain name ecosystem and namespace.

In any event, the proposed new policy is again so vague and unjustifiable that it appears unfit even for the purposes for which it was intended. The Panel proposes that an online directory or online information service ought not to be "primarily computer generated". If the website has custom graphics and some custom text along with advertisements selected by Google based upon the visitor's interests, is that prohibited because it is computer generated, or is that not sufficiently computer generated? And what tests should be applied to determine if the content is closely enough related to the domain name? What about a generic term such as "red"? Must every advertisement be related to something red? With such complications and issues it would seem to make more sense to simply allow the current rule to continue rather than attempt to create even more restrictions on monetisation. Even the Panel itself notes that further work and consultation may be required when it comes to monetisation and accordingly, this should be taken as a clear indication that the proposed policy change may be unworkable, impractical, or unwarranted in the circumstances.

Panel's Proposal on Direct Registration Is Unfair to Registrants

Our first concern is the definition of "Contestable Level" as it unnecessarily edu.au and .gov.au, when in our view it makes more practical sense to only enable .net and .com registrants to contest a direct registration so as not to compel educational and governmental institutions to participate in the contest. Moreover, confusion within the namespace will only increase if governmental and educational instiitutions commence using a .au domain name instead of their well-identified and distinctive current suffixes.

Furthermore, the Panel proposed that after a six month "priority period", anyone can register an SLD on a 'first come first served basis'. What this means in effect, is that existing registrants will be compelled to register the corresponding SLD at their expense or face a new entrant who will undoubtedly create confusion with the SLD registration. Moreover, once this confusion is sowed, the confusion will remain entrenched in relation to that particular domain name indefinitely into the future, even when the registrants change. This clearly prejudices existing registrants and devalues their domain names and the Australian namespace overall. In other countries where SLD's were released, it was significantly earlier on. For example, in Canada SLD's were released in 2000, in the UK in 2014, and in New Zealand in 2013. From the report, it doesn't appear that the experience in these other countries has been adequately examined in order to see what effects and issues would arise from a release of SLD's at this time under the proposed procedure.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 8 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

In the view of many registrants, they registered their domain names on the basis and understanding that auDA would not create untold opportunities for confusion in connection with their existing licenses, and accordingly we strongly object to the introduction of SLD registration under the proposed procedures. All existing registrants should be entitled to at their option, either decide to not register and be able to prevent the registration of their corresponding SLD domain name, or at any time choose to register it.

In conclusion, our familiarity with the global domain industry counsels an approach that recognizes domain investing as a vital and welcome part of the Internet economy. Domain investors should respect intellectual property rights, and Australia already has appropriate rights protection mechanisms in place. The attempt to stamp out domain investing will create a multitude of unintended collateral harms. The effort will either be ineffective or will entrap those who are not primarily domain investors in an overly broad net. The supposed harms the policy is attempting to address are largely illusory while the actual harm created by the proposed policies, if enacted, will be deep and widespread.

Yours truly,
INTERNET COMMERCE ASSOCIATION

Per:
Zak Muscovitch
General Counsel, ICA

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 13, page 9 of 9 Internet Commerce Association letter to the Policy Review Panel, 9 April 2019.

Annexure C Exhibit 14: Letter of the Internet Commerce Association to the Policy Advisory Panel, 8 July 2026

The following nine pages reproduce, in full, the letter of the Internet Commerce Association to the Policy Advisory Panel dated 8 July 2026. The letter is the work of the Internet Commerce Association and is reproduced here as an exhibit, with attribution.

It is placed before the Panel in its entirety so that the propositions relied upon in this submission may be read in their original terms and context.

July 8, 2026

Policy Advisory Panel
.au Licensing Rules Review 2025
c/o .au Domain Administration Ltd.
PO Box 18315
MELBOURNE VIC 3001

Dear Members of the Policy Advisory Panel:

Re: .au Licensing Rules Review 2025 – Policy Advisory Panel Draft Report (June 2026)

I write to you on behalf of the Internet Commerce Association. Founded in 2006, the Internet Commerce Association (the "ICA") is a non-profit trade organization headquartered in Washington, D.C. We represent the industry that has developed around the independent value of domain names, including domain name investors, secondary marketplaces, brokers, escrow service companies, registries, registrars, and related service providers. Our members are individuals and businesses located all over the world, and include Australian businesses and Australian domain name registrants who hold licences in the com.au, net.au and .au direct namespaces and who would be directly affected by the outcome of this Review.

The ICA participated in the prior review cycle, submitting detailed Comments to the 2017 Policy Review Panel (the "PRP") on April 9, 2019, and further Comments on April 23, 2019, concerning auDA Management's Response to the PRP's Final Report (the "2019 Management Response", available on auDA's website at https://files.auda.org.au/documents/2017prpauDA-Management-Report-PRP-Recommendations-Final.pdf). We appreciate the opportunity to participate once again in auDA's multi-stakeholder policy process. Our Comments are summarized as follows:

1. The ICA supports Recommendation 1, retaining the current approach to domain name monetisation, together with proportionate, risk-based audits and compliance checks directed at DNS Abuse;

2. On Recommendation 2, the ICA supports Option 1 as the primary and sufficient response, namely increased compliance checks under the current rules. To the extent the Panel considers any measure under Option 2, it should be limited to narrow, objective, prospective and presentation-based requirements directed at genuinely deceptive conduct;

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 1 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

3. The ICA strongly opposes Option 3, namely deletion of subparagraph 2.4.4(2)(f) from the .au Licensing Rules. Option 3 would achieve indirectly, through allocation, the prohibition on monetisation and investment that Recommendation 1 rightly declines to impose directly. It would also revive PRP Recommendation 9, a proposal auDA Management considered and rejected for the commercial namespaces in 2019;

4. The ICA strongly opposes any version of Option 2 that would operate in substance as Option 3 by excluding lawful referral, information, advertising, marketplace, parking or pay-per-click services from the "Services" definition; and

5. The ICA supports Recommendations 3, 6 and 7, and urges safeguards in respect of Recommendation 5.2.

A Threshold Observation: A Perception Problem, Not a Rule Failure

Before addressing the recommendations, the ICA offers a threshold observation. Much of the concern recorded in the Draft Report regarding monetisation and investor-held domain names appears to reflect a mismatch between public expectations and the current Licensing Rules, rather than a demonstrated failure of those Rules. That distinction matters. Under the current framework, a registrant that satisfies the applicable eligibility and allocation criteria may register a com.au or net.au domain name on the basis that the domain name is a match or synonym of the name of a service, goods or activity provided by the registrant. A referral or advertising page, including a parked or pay-per-click page, may constitute the relevant service where it otherwise satisfies the Rules. Holding the domain name for future transfer in accordance with the Rules, displaying advertising or referral links, and operating the domain name otherwise than as a conventional business website are not prohibited merely because the registrant is a domain name investor.

The concern, therefore, is not that the Rules silently prohibit a class of conduct that has gone unenforced. The concern is that some members of the public believe that a registrant operating in the secondary market is less entitled to a domain name than an operating business that later wants that name. The Draft Report recognises that concern, but the Rules do not adopt such a hierarchy. To the contrary, the .au framework proceeds from first come, first served, no proprietary rights in a domain name and no hierarchy of rights. A later-arriving applicant with a trademark, business name or preferred commercial use does not, by reason of that status alone, have a superior claim to a domain name already held by another eligible registrant.

This point is important to Recommendation 2. Recommendation 1 properly recognises that the current approach allowing domain name monetisation should not be substantially changed. Recommendation 2 should not be used to achieve indirectly, through the deletion of the relevant allocation pathway, the prohibition that Recommendation 1 rejects directly. Removing the ability to rely on a service, goods, activity, event or premises allocation pathway because some registrants use that pathway for monetised websites would go well beyond addressing misuse. It would alter the structure of com.au and net.au allocation more broadly, including for registrants whose use is entirely compliant.

That does not mean that auDA should be indifferent to misuse. If a monetised page is used for DNS Abuse, misleading advertising, unlawful content or conduct otherwise contrary to the Rules, that is

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 2 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

properly a compliance matter. The ICA supports effective compliance action against such misconduct. But the remedy for misuse is enforcement against misuse, not removal of a lawful allocation pathway relied on by compliant registrants. The Draft Report itself recognises the practical difficulty of unwinding a longstanding secondary market, the consistency of licence trading with market practice, and the absence of evidence that monetisation inherently undermines trust and confidence in com.au, net.au or .au direct.

Misunderstanding calls for clarity, not prohibition. Where complaints arise because a complainant believes that an investor-held name should be made available to a later-arriving business, auDA can address that misunderstanding through clearer public guidance, complaint-process communications and transparent reporting of compliance outcomes. Recasting lawful, longstanding conduct as non-compliant in order to align policy with a misperception would penalise registrants who have complied with the Rules, unsettle legitimate expectations created by auDA's own framework and still not resolve the underlying grievance of complainants whose real objection is that the name they want is already registered. For that reason, the perception concerns recorded in the Draft Report are best addressed through the compliance and communication measures reflected in Option 1 under Recommendation 2, not by deleting the allocation pathway on which compliant registrants rely.

The ICA Supports Recommendation 1

Domain name monetisation and investment are lawful, longstanding and internationally accepted commercial activities. As the Draft Report records (s 6.1), submissions explained that monetisation has existed since the early development of the internet, and the Panel acknowledged comparable practices in .com and in many ccTLD registries, including those of New Zealand, the United Kingdom, France, Germany, Italy and Spain. Domain investors risk their own capital, provide liquidity to an otherwise illiquid market, widen the choice of names available to businesses through the secondary market, and contribute to registration and renewal demand that supports auDA, the registry and registrar ecosystem, and auDA's broader public benefit initiatives. The ICA equally supports the compliance component of Recommendation 1: our members have no interest in monetised websites being used, deliberately or inadvertently, to facilitate DNS Abuse, and increased audits targeted at DNS Abuse address the actual harm identified in consultation, proportionately, without punishing lawful registrants.

Option 3 Would Nullify Recommendation 1 and Revive a Proposal auDA Rejected in 2019

The Panel found that "there is a lack of evidence that monetising a website inherently undermines trust and confidence" in the com.au, net.au or .au direct spaces, and that it is not convinced a blanket ban on registering a licence for future transfer or income generation would be effective (Draft Report, s 6.1). Recommendation 1 follows logically from those findings. What does not follow is Option 3. If monetisation is to remain permitted, it is incoherent to simultaneously remove the com.au and net.au allocation pathway through which monetisation-based registrations are lawfully made. A right to monetise that cannot be exercised because the underlying registration can no longer be allocated is no right at all. Option 3 is the blanket ban the Panel disclaims, achieved through the back door of eligibility rather than the front door of prohibition.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 3 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

Nor is this proposal new. PRP Recommendation 9 (2019) proposed that monetisation no longer serve as a basis for allocation. auDA Management implemented that recommendation only for the non-commercial namespaces, abolished the monetisation restriction for com.au and net.au, and confirmed that a compliant registrant may use its licence for "any legitimate purpose, including domain name monetisation or domain name investment," consistent with the approach of the .ca, .nz, .fr, .uk and .de registries (2019 Management Response, Recommendation 9). Management likewise found "no evidence that domain name flipping… is having a negative impact" on the utility of the .au domain or causing scarcity, and that the PRP had supplied no evidentiary material establishing the supposed warehousing problem (2019 Management Response, Recommendations 5–7). Nothing in the present Draft Report identifies any change in circumstances since 2019 that would justify reversing those considered conclusions. Indeed, the Panel's own findings reaffirm them.

Deleting Subparagraph (f) Would Be Grossly Overbroad

Subparagraph (f) is not a special allowance for domain investors. It is the general goods-and-services allocation pathway for the com.au and net.au namespaces, relied upon by ordinary Australian businesses: it permits a commercial entity to register a name that is a match or synonym of a service it provides, goods it sells, an event it sponsors, an activity it facilitates, or premises it operates. A café registering a descriptive name matching the food it sells rather than its trading name, a retailer registering its product category, or a company operating an information or referral service may have to rely on (f), unless it also has a matching corporate name, business name, acronym, trademark or related-entity basis under subparagraphs (a) through (e). Because a registrant must remain eligible for the entire time it holds a licence, deleting (f) would place at risk existing, fully compliant registrations, unless grandfathered in perpetuity, which would merely freeze the secondary market and create a two-tier namespace.

The scale of the disruption is apparent from the Panel's own data (Draft Report, s 6.1): 3,386 registrants hold more than 50 Domain Name Licences each, together holding 582,895 names in com.au, net.au and .au direct. By any measure, that is a substantial portion of the namespace, and the Panel acknowledges that this 50-name proxy sweeps in registrants who are not investors at all, such as corporate brand protection portfolios. To these must be added ordinary business owners holding more than one domain (descriptive, campaign and defensive names), SEO and digital marketing firms, and the businesses built on the secondary market: marketplaces, brokerages, drop-catching services, registrars for whom aftermarket services are a material revenue stream, and brand protection providers. The impact would be especially acute for drop-catching services and their customers, because the ordinary function of those services is to return expired names to the market and permit eligible registrants to acquire them through transparent competition rather than through opaque private arrangements.

Finally, the Rules impose no general obligation to operate an active website, and rightly so. A compliant registrant may have legitimate commercial reasons to hold a licence pending development, protection, portfolio management or lawful transfer. Monetisation is, moreover, frequently a stage in a domain name's lifecycle rather than its final use: many generic names that began as parked or monetised pages have since been developed into substantial operating businesses built on the name itself. No principled line dispossesses an investor of an unused name while sparing the unused portfolios of trademark holders. That is the very asymmetry auDA

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 4 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

Management warned "elevates the rights of trademark and other intellectual property owners over other licence holders" and may raise market power and anti-competitive concerns (2019 Management Response, Recommendation 5).

Option 3 Fails the Panel's Mandate and auDA's Principles for Policy Development

Option 3 fails at the threshold level required by the Panel's own Terms of Reference. The Panel's deliverable is not merely to identify possible policy preferences, but to provide recommendations for change supported by "information, evidence and/or submissions" obtained during the review process. A measure as disruptive as deleting subparagraph 2.4.4(2)(f) requires clear evidence of harm, a demonstrated causal link between the rule and that harm, and a reasoned assessment that less intrusive measures would be insufficient. The Draft Report does not provide that foundation. Option 3 also fails auDA's Principles for policy development:

Principle 1 (case for action): The Draft Report itself establishes that no case of this severity exists. Objections centred on the perception created by pay-per-click pages; there was "one report of a monetised website providing advertisements linking to scam websites" during consultation, which auDA's own complaints data did not corroborate (Draft Report, Executive Summary). Grievances that an investor registered a desirable name first and offers it at a market price are not evidence of harm: it is inherent in any first-come, first-served allocation system that a desired name may already be registered, whether the prior registrant is an investor, a competitor, or a dormant company.

Principles 2 and 3 (options, costs and net benefit): The Draft Report contains no assessment of Option 3's costs: the registrations that would lose their allocation basis; the impact on registry and registrar revenues; the destruction of value in lawfully acquired portfolios; the legal exposure the Report itself records, in noting warnings that removal may prompt compensation claims from investors and businesses (Draft Report, s 6.1); or the displacement of registrants toward .com, .co, .io, .ai and other extensions beyond auDA's stewardship. Australia already maintains one of the most restrictive licensing regimes among major namespaces, and the Panel itself notes that allocation rules of this kind are now uncommon among larger global ccTLDs (Draft Report, s 6.2). Option 3 would make the regime more restrictive still, reducing demand for and the value of .au domain names and weakening the very namespace this Review is meant to strengthen.

Principle 4 (competition): Option 3 would exclude or substantially impair an entire class of lawful market participants in com.au and net.au while leaving the large portfolios of trademark and brand owners largely untouched under subparagraphs (a) through (e); precisely the disproportionate targeting auDA Management identified in 2019 as raising market power and anti-competitive concerns. The asymmetry extends across namespaces as well. Rule 2.4.4(2) applies only to com.au and net.au; .au direct requires an Australian presence but imposes no equivalent allocation criteria, so a registrant may hold and monetise a .au direct name without any reliance on subparagraph (f). Option 3 would accordingly deny to com.au and net.au registrants the identical conduct that remains permissible in .au direct. Differential treatment of substitutable namespaces determined by suffix rather than by evidence of harm is not competitively neutral, and sits uneasily with the promotion of competition, fair trading and equitable access to .au domain names to which auDA's Terms of Endorsement and the Panel's Terms of Reference are directed.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 5 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

Principle 8 (proportionality): The harms actually identified (confusing pay-per-click pages, inactive links and rare abusive content) are directly addressable through the increased audits the Panel has already recommended and enforcement of the existing DNS Abuse and prohibited-use provisions. Deleting the entire goods-and-services allocation pathway to address a presentation problem on a subset of parked pages is the opposite of proportional.

Scams, Reliance and Legal Risk

To the extent Option 3 is motivated by scam concerns, it is misdirected. Allocation rules do not deter criminals: as the NASC submission summarized in the Draft Report shows (s 6.7.2), scammers exploit expired domains and misuse ABNs, and a bad actor willing to commit fraud can often seek to satisfy subparagraph (a) by registering or misusing a matching business name, without ever engaging (f). The registrants Option 3 would actually affect are the law-abiding ones. The Panel has already charted the correct course on scams in Recommendation 7, by retaining the current approach under the .au Licensing Rules and recommending that auDA work with the NASC to refine scam identification and takedown processes. That targeted approach should not be displaced by a blunt allocation-rule change that would primarily burden compliant registrants.

Registrants have also invested substantial capital in full compliance with the Rules as they have stood since 2021, in reliance on auDA's considered rejection of these very proposals in 2019. On contested names, the Panel rightly reasons that parties have been paying for years on the basis of clearly stated rules, and that changing the rules now would be unfair (Draft Report, s 6.3). That logic applies here with greater force, where the reliance interests span very large numbers of registrations. The Report itself records the practical problem of unwinding a secondary market well established over many years and consistent with international practice (s 6.1). The ICA urges the Panel to give these observations decisive weight.

If, contrary to the ICA's submission, auDA were to consider any material change affecting the allocation basis for existing registrations, such change should not apply retroactively. At minimum, existing compliant registrations should be protected for renewal, ordinary portfolio management and lawful transfer. A rule that merely allows existing registrants to renew but prevents ordinary resale or transfer would not be a meaningful grandfathering measure; it would freeze lawfully acquired value and impair the very secondary market that the Draft Report recognises as long-established and consistent with international practice.

Option 2 Requires Great Caution; Option 1 Is the Correct Outcome

The ICA does not oppose clarity, nor narrow, objective, prospective and presentation-based measures directed at genuinely deceptive conduct, such as the Draft Report's suggestion (s 6.2) that pages offering a name for sale state that fact clearly and provide contact details. Honest disclosure of a lawful offer for sale is something our members already practice. But a redrafted 'Services' definition excluding referral, information, advertising, marketplace, parking or pay-per-click services would not be clarification; it would be Option 3 by other means. The definition of 'Service' in the current Rules expressly includes a service providing information or a referral to another provider (Draft Report, s 6.2), and registrants have relied on that express language. That treatment accords with international classification practice: pay-per-click advertising is a recognised advertising service in Class 35 of the WIPO Nice Classification (basic number

Box 4999, Washington, DC 20008
info@internetcommerce.org

350113), the classification system applied by IP Australia, and auDA-accredited registrars themselves market domain parking and monetisation services to Australian registrants. A practice recognised as a service under trademark classification, and offered through the accredited registrar channel itself, cannot coherently be treated as presumptively illegitimate when adopted by registrants. The 2017–2019 cycle also stands as a cautionary tale about subjective, indicator-based administrative rules, which auDA Management rejected as costly, burdensome and disproportionate (2019 Management Response, Recommendations 6–7). Any Option 2 measure must be objective rather than subjective (consistent with object (e) of the Rules), prospective only, directed at conduct rather than the registrant's business model, and exposed to further consultation in draft form.

Option 1 is the primary and sufficient response to the concerns identified in the Draft Report, and the only one of the three options fully consistent with Recommendation 1, the Panel's evidentiary findings, the 2019 Management Response, the experience of comparable ccTLDs, and auDA's Principles. It addresses the identified harms at their source, using enforcement machinery that already exists, without collateral damage to lawful registrants or to the value and liquidity of the namespace. The experience of the gTLD space, though governed by a separate regime with no application to .au, is nonetheless instructive as comparative practice: when parking and pay-per-click raised policy questions there, ICANN's Policy Issue Brief on Domain Name Monetization (June 2008) treated them as established monetisation methods, recorded that they had not generated the concerns associated with abusive practices such as domain tasting, and directed regulatory attention at the abuse rather than at monetisation itself.

Requested Disposition of Recommendation 2

The ICA respectfully submits that the Final Report should recommend as follows:

(a) Option 1 should be adopted as the appropriate response to the concerns identified in the Draft Report;

(b) Option 3 should be expressly rejected;

(c) subparagraph 2.4.4(2)(f) should be retained;

(d) the definition of "Service" should continue to include bona fide information, referral, advertising-supported, marketplace, parking, affiliate, lead-generation and pay-per-click services;

(e) portfolio size, a for-sale notice, a parking page, pay-per-click links, or the absence of an immediately operating business website should not be treated as evidence of non-compliance; and

(f) enforcement should be directed at DNS Abuse, scams, fraud, impersonation, false affiliation and materially misleading conduct, rather than at lawful domain name investment or monetisation.

Box 4999, Washington, DC 20008
info@internetcommerce.org

Other Recommendations

Recommendation 3 (contested .au direct names): Supported. The Panel's reasoning, based on settled rules, years of reliance, the absence of any more deserving class of contestant, and the principle of no hierarchy of rights, is sound. We invite the Panel to apply that same reasoning consistently to Recommendation 2.

Recommendation 5.2 (broadened 'affected person' standing): The ICA urges caution. As one submission cited in the Draft Report warned (s 6.5.2), broadened standing risks turning the complaints regime into a secondary acquisition channel rather than a genuine compliance mechanism. Our members' experience across many jurisdictions is that open-standing complaint processes are misused by parties who covet a registered name and seek to obtain through complaint what they will not obtain through purchase. At minimum, any broadened standing should be accompanied by safeguards, including: a requirement that the complainant demonstrate a genuine and particularized interest beyond a desire to acquire the domain name; summary dismissal of complaints that are speculative, repetitive, abusive or primarily acquisitive; consideration of whether the complainant has attempted to purchase the name before complaining; and written reasons where a complaint proceeds despite an apparent acquisition motive.

Recommendation 6 (domain lifecycle alignment): Supported. Aligning the renewal window, cooling-off, redemption and pending delete periods with common international practice benefits registrants and registrars alike and extends protection against inadvertent loss of names. The same comparative, international lens, applied to allocation and monetisation, points firmly to Option 1.

Recommendation 7 (scams): Supported, for the reasons set out above.

A Note on Process: Notice to Affected Registrants

Finally, the ICA raises a matter of process. It does not appear that existing registrants have been individually notified, directly or through their registrars, that this Review is on foot or that its proposals could affect their licences and the businesses built upon them. Consultation through auDA's website, public events and written submissions reaches engaged stakeholders; it does not reach the great majority of ordinary registrants. Where proposals under consideration, Option 3 in particular, could diminish the value of existing licences, procedural fairness and auDA's commitment to transparent, accountable and consultative administration counsel that those most affected receive clear notice and a genuine opportunity to be heard. The ICA respectfully suggests that, before any change affecting existing registrations is adopted, auDA ask registrars to give existing registrants direct notice of the Review and its potential effects, and extend the consultation accordingly.

Conclusion

In Recommendation 1, the Panel has correctly resisted calls to prohibit domain name monetisation and investment. Those calls were made, considered, and rejected on the evidence in the 2017–2019 review cycle. The ICA urges the Panel to carry that conclusion through to its Final Report by adopting Option 1 and expressly rejecting Option 3, which would prohibit through allocation what Recommendation 1 preserves in principle; strip the allocation basis from large numbers of compliant com.au and net.au registrations held by investors and ordinary businesses alike, while

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 8 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

undermining confidence in the stability and commercial value of the .au namespace more broadly; restrict competition and depress the value and liquidity of the namespace; and provide no meaningful protection against scams. It would do all of this without the case for action that the Panel's Terms of Reference and auDA's own Principles require. The supposed harms are largely perceptual and already addressable through the compliance measures the Panel has recommended; the actual harm Option 3 would create, if adopted, would be deep and widespread.

The ICA thanks the Panel for the opportunity to comment and would be pleased to provide any further information that may assist in preparing the Final Report.

Yours truly,
INTERNET COMMERCE ASSOCIATION

Per:
Zak Muscovitch
General Counsel

Box 4999, Washington, DC 20008
info@internetcommerce.org

Exhibit 14, page 9 of 9 Internet Commerce Association letter to the Policy Advisory Panel, 8 July 2026.

Annexure D Exhibit 15: ICANN Policy Issue Brief, Domain Name Monetization, June 2008

The following four pages reproduce, in full, the Policy Issue Brief of the Internet Corporation for Assigned Names and Numbers titled Domain Name Monetization, published in June 2008. The brief is the work of **ICANN** and is reproduced here as an exhibit, with attribution.

It is placed before the Panel in its entirety because it records the treatment of pay-per-click and parking by the international body responsible for the domain name system, and the regulatory response it considered appropriate.

POLICY ISSUE BRIEF EN

Domain Name Monetization

This is a basic introduction to *domain name monetization*, an important area of Internet policy development that is being addressed currently by the ICANN community's bottom-up, consensus based, policymaking structure. It is designed to accommodate newcomers to ICANN, as well as ICANN issue veterans, who may be unfamiliar with *domain name monetization*. Whether a newcomer or veteran, we encourage you to go beyond this introduction and learn more about the work of the ICANN community. We have included URLs to additional information on *domain name monetization*, as well as other topics that we reference as we discuss the issue.

We also invite you to receive regular updates on ICANN policy development activities via e-mail by subscribing to the monthly ICANN *Policy Update*. To subscribe, simply visit the ICANN subscriptions page at *http://www.icann.org/newsletter/*, enter your e-mail address, and click on the ICANN *Policy Update*.

International participation and collaboration are essential to the success and effectiveness of ICANN's policy development activities today, but success in the future will not be possible without the commitment of volunteers like you from around the world. Whether you represent the Internet interests of a nation, a group of individual Internet users, a company, or an organization that would like to become more involved in the issues, there is a place for you at ICANN where you can help shape the future of the Internet.

Thank you for your interest and participation.

If you would like more information on this issue or about how to get involved in ICANN policy development activities, please e-mail the ICANN Policy Development Department at policy-staff@icann.org.

ICANN

Exhibit 15, page 1 of 4 ICANN Policy Issue Brief, Domain Name Monetization, June 2008.

Domain Name Monetization

What is *Domain Name Monetization*?

You might naturally think that *tasting* and *parking* have more to do with going out to eat at a restaurant than with the domain name system (DNS), but both terms have become popular ways to describe aspects of *domain name monetization*. The term *domain name monetization* defined broadly refers to ways of generating revenue from domain names. The registries that maintain the authoritative database for each top-level domain (e.g., .AERO, .COM, and .ORG) obviously generate revenue, as do the registrars and resellers that charge a fee to those who register domain names. But the practices that are usually referred to as *monetization* refer to ways of using domain names to generate income. Three of these methods – pay per click, parking, and tasting – are described here.

Pay-per-click (PPC) is when someone, a registrant, registers a domain name that might attract a large number of Internet users to it. The registrant then hosts revenue generating content or links to other websites at the domain name, which typically feature advertisements for products or services related to the name. Each time a user visits the website and clicks on the one of the links or advertisements, it creates revenue for the registrant. The more popular the domain name is in terms of being able to attract traffic, the more revenue the registrant generally receives per click. While the amount of money received for each click is often relatively low, the cumulative amount received from all of the clicks throughout a year can result in an extremely lucrative revenue stream, particularly for registrants holding many domain names.

Domain parking is described in the ICANN Generic Names Supporting Organization's (GNSO's) *Issues Report on Domain Tasting* as follows: "Domain parking is a practice used by registrars, individual registrants and Internet advertising publishers to monetize type-in traffic. Type-in traffic refers to Internet users who visit a web-page by typing its URL directly into their browser rather than by clicking on a link from another page such as a search engine result page. Proponents of domain parking say it uses domain names to deliver relevant advertising and enhanced search options instead of serving Internet users with an error page often referred to as a *404 file not found*."

With *parking*, the Internet user is taken to a landing page that has links that generate income for the person or company hosting the site similar to the PPC model described above. Traffic can come from several sources, including out-of-date bookmarks, people typing in the registered domain name, or search engine results. A registrant, for example, may register a domain name but may not be ready to establish a website yet. The registrar then *parks* the registrant's domain name on a website that features paid links. Each time Internet users try to locate the website that would correspond to the domain name, they will be directed to the parked page that features an array of advertising links, often offering goods and services related to the domain name. When the user clicks on any of these links, it generates revenue for the registrar, and depending on the terms of the registrar's parking program, the registrant as well. Some estimate that large registrars earn millions of dollars each year from the PPC fees they earn on parked websites.

Domain name tasting is the practice whereby a party registers a domain name to test whether it has sufficient value to justify payment of the associated registration fees. The value of the name is often measured through the use of a website at the domain

Exhibit 15, page 2 of 4 ICANN Policy Issue Brief, Domain Name Monetization, June 2008.

name with PPC advertisements. Traffic to the name and revenue derived from the PPC advertisements are evaluated to determine whether the name will be worth keeping. In most gTLDs, registrars may delete a registration within 5 days of its creation and receive a refund of the registration fees from the registry. This *Add Grace Period* (AGP) was created to allow registrars to correct legitimate mistakes, but it has become the basis for Domain Name Tasting because some registrars allow their registrant-customers to delete names during the AGP and receive either a full or partial refund of the registration fees paid to the registrar. The AGP has enabled parties to register tens of millions of domain names each month before dropping all but the most lucrative within the 5-day AGP. In response, some registries, such as .ORG, have adopted excess deletion fees to curb the use of the AGP for domain name tasting.

Joichi Ito, a former member of the ICANN Board, described tasting as follows: "The trick is to sign up for millions of domain names; set up pages and run ads on them; after one day delete domains that have no traffic; after three days delete names that have some traffic; after five days delete pages with marginal traffic; keep the 1% of pages that have enough traffic to be worth keeping the domain. Because of the refund policy, the 99% of pages deleted before the five day grace period are refunded in full and the *monetizer* gets to keep the ad revenue generated over those five days." (CircleID, "The Parked Domain Monetization Business," *http://www.circleid.com/posts/the_parked_domain_monetization_business/* (Dec. 1, 2005).

Though there is less evidence of this, the AGP has also enabled some parties to continually re-register domain names within successive 5-day grace periods and repeatedly receive refunds for them. As described below, the AGP is now under review and ICANN is considering other mechanisms to curb *tasting* practices.

How does Domain Name Monetization impact registrants?

Domain name monetization techniques impact Internet users in different ways. The PPC model has been criticized for increasing the prevalence of cyber-squatting and speculative behavior by encouraging parties to grab names that are similar to famous brands or people and are therefore more likely to generate significant traffic. It has also raised questions about whether "good names" are being used solely to create paid links and PPC revenue, rather than enable new users to create an online identity or substantive content.

Tasting, which results from taking advantage of the add grace period, has been the subject of particular discussion and concern. Because of the volume of the activity, there are concerns about taxing the registry system and DNS, and thus increasing the costs for all registrants. There are also concerns about increasing the prevalence of intellectual property abuse, since the domain names being tested are often misspellings or variations of trademarked names, and enforcement of trademark rights can be very difficult when the name exists for only a short period of time. This can lead to consumer confusion and increase the cost to trademark holders of monitoring their brands.

What is ICANN doing to address these issues?

ICANN's Generic Names Supporting Organization (GNSO) approved a motion to prohibit any gTLD operator that has implemented an AGP from offering a refund for any domain name deleted during the AGP that exceeds 10% of its net new

Exhibit 15, page 3 of 4 ICANN Policy Issue Brief, Domain Name Monetization, June 2008.

registrations in that month, or fifty domain names, whichever is greater. Under the terms of the motion, an exemption from the limitation could be sought for a particular month, upon a showing of extraordinary circumstances.

The ICANN Board is expected to approve this motion at its July 2008 meeting and direct Staff to implement it. This language also is found in the proposed ICANN budget for next fiscal under which ICANN would charge its $.20 cent "transaction fee" on names deleted during the AGP. The Board also is expected to approve this in July 2008. The goal is to eliminate the ability of parties to register and delete – without cost – domain names for predominantly speculative purposes. It is not clear if this will eliminate the practice of *tasting*, but it would help reduce it.

On March 28, 2008, the Board approved amending the agreements governing .BIZ and .INFO to address excessive deletions during the AGP. Under the amendments, the two registries will be permitted to limit the number of deletions that a registrar can make and incur no cost. Registrars that delete over 10% of their registered names will generally be charged the full registry price for all deleted registrations above that threshold.

The practices of using *parking* and *PPC* to monetize domain names have not to date generated the same concerns as *tasting*.

Want to learn more?

To learn more about the work of the Generic Names Supporting Organization (GNSO), the policy development body of ICANN concerning generic top-level domains (gTLDs), please visit *http://gnso.icann.org/*.

The GNSO *Issues Report on Domain Tasting* is available at *http://gnso.icann.org/issues/domain-tasting/gnso-domain-tasting-report-14jun07.pdf.*

The following articles, also cited in the GNSO *Issues Report on Domain Tasting*, provide more information on domain name monetization practices (please note, the articles below were not produced by ICANN and do not necessarily reflect the views of ICANN):

- CircleID, "How Domain Traffic Testing/Tasting Works," *http://www.circleid.com/posts/how_domain_name_tasting_works/* (Apr. 24, 2006).
- CircleID, "The Parked Domain Monetization Business," *http://www.circleid.com/posts/the_parked_domain_monetization_business/* (Dec. 1, 2005).
- The Wall Street Journal, "Thanks to Web Ads, Some Find New Money in Domain Names," *http://online.wsj.com/public/article/SB113200310765396752-FYV6dsilRS0N1fsiVu_bLf_5nI8_20061116.html?mod=rss_free* (Nov. 15, 2005).

Exhibit 15, page 4 of 4 ICANN Policy Issue Brief, Domain Name Monetization, June 2008.

Annexure E Exhibit 16: auDA-Accredited Registrar GoDaddy CashParking Pay-Per-Click (PPC) Monetisation Program (Australia), webpage captured 9 July 2026

The following two pages reproduce the webpage published by **GoDaddy** at **https://www.godaddy.com/en-au/domains/cashparking**, being the Australian **CashParking** page. The page was captured from that address on 9 July 2026 at 1.38pm Australian Eastern Standard Time. The webpage is the work of **GoDaddy** and is reproduced here as an exhibit, with attribution.

It is placed before the Panel so that the propositions in the GoDaddy Part of this submission may be verified against the page itself. GoDaddy is an auDA-accredited registrar. The page is addressed to Australian registrants and quotes prices in Australian dollars. The frequently asked questions upon the page are displayed in collapsed form in this capture. The words quoted in Part 6 of this submission appear upon the same page, within the section addressing the reasons for parking domain names with GoDaddy.

- Digital Marketing
- Logo Maker AI-POWERED
- Unified Inbox
- GoDaddy App
- HIRE AN EXPERT
- SEO Services
- Digital Marketing Services
- GODADDY AIRO�
- AiroLaunch your brand quickly with a domain, logo, and social media marketing.

Logo generator
How to make a logo

- Security
  - WEB SECURITY
  - SSL CertificatesShow visitors your site is encrypted and trustworthy.
  - Website SecurityComprehensive protection to help defend your site from threats.
  - All Web Security Options
- Airo AI Builder
- Pricing

Deals Help Center Account Basket

Search for a GoDaddy product

Popular Search Terms

website builder

whois

email

domain

payments

QUICK LINKS

- Domain Search
- Help Center
- Plans & Pricing
- Account Sign-In
- Hire an Expert

Deals (02) 8188 9799 Help

SEAN

All Domain Options

Auctions for Domain Names

Auctions Appraise Domain Value Discount Domain Club CashParking� Investing in Domain Names

CashParking�

Earn cash with your unused domains

Our customers say Excellent 4.4 out of 5 stars based on 137,648 reviews Trustpilot

Choose the plan that\u2019s right for you

Recommended if you\u2019re new to domain parking

EARN MORE AND SAVE ON DOMAIN RENEWALS

Free Membership

$0.00

You pay $0.00 today.
Auto-renews Aug. 2026 at $0.00.

Premium Membership

$17.30/mo

You pay $17.30 today.
Auto-renews Aug. 2026 at $17.30.
Cancel anytime in Account Settings

Domain Pro Membership

$2,164.82+ VALUE

$43.29/mo

You pay $519.38 today.
Auto-renews Jul. 2027 at $519.38.
Cancel anytime in Account Settings

Exhibit 16, page 1 of 2 GoDaddy CashParking (Australia), captured 9 July 2026 from www.godaddy.com/en-au/domains/cashparking

Cancel anytime in Account Settings

Add to Cart

Get started with parking for free

Add to Cart

Earn up to 80% of advertising revenue on your parked domains

Add to Cart

- Save up to 60% on all TLDs we offer
- $15.86 .com registrations, renewals & transfers
- Get $30/mo in auction credit with your Pro membership, that's $360/year, the same price as membership itself
- Total Aftermarket Access: All memberships you need to buy, sell and monetize domains including Premium CashParking and GoDaddy Auctions memberships, plus member-only experiences and more
- Domain Pro Toolkit: Tools to accelerate your success including Domain Academy Investing Course, bulk domain valuations, domains API access, keyword research tools and more
- Discounts on select aftermarket products

Recommended for domain professionals to maximize earnings

Recommended for serious domain professionals

feat cash parking int

There\u2019s money in your unused domains

If you have domains in your account that you\u2019re not currently using, they could be earning you money. With just a few simple steps, you can set them up to deliver contextually relevant advertisements and earn cash with every click they get.

How It Works

Pick a plan that works for you

Choose a free plan or increase your earnings with a premium membership.

Add your domains to your CashParking� portfolio

There\u2019s no limit to the number of domains you can include, so pile them all in there. The more you have, the more you can earn.

Change the nameservers on your domains

Just point them to GoDaddy\u2019s CashParking® servers and you\u2019re good to go. It\u2019s super simple, but if you want help, our friendly support team can walk you through it.

Do nothing

That\u2019s right, nothing. We\u2019ll set up your pages with contextually relevant advertisements, so you can just kick back and watch the money come in each month (or each quarter, depending on your payment preferences).

Frequently Asked Questions

What is CashParking�?

CashParking® is a service that allows you to generate revenue from parked domain names. It works by placing relevant advertisements on parked domains that you have associated with your CashParking® account. You earn money each time a visitor clicks on one of the advertisements.

If you have the Premium CashParking® plan, you receive 80% of click-through revenue. Both CashParking® plans allow you to associate an unlimited number of domains to your CashParking® account.

Why should I park my domains with GoDaddy?

If I register a domain elsewhere, can I still park it with GoDaddy?

How is revenue generated through CashParking�?

How many domains can I park under my CashParking� account?

Can I upgrade or downgrade my Cashparking� plan?

How do I get paid?

Disclaimers

HEMSELVES \u2022 Social Made Simple \u2022 TRUSTED WORLDWIDE \u2022 GoDaddy is a great business partner \u2022 GROW YOU

Exhibit 16, page 2 of 2 GoDaddy CashParking (Australia), captured 9 July 2026 from www.godaddy.com/en-au/domains/cashparking

Annexure F Exhibit 17: auDA Published Policy 2006-03, Clarification of Close and Substantial Connection Rule, Domain Monetisation

The following two pages reproduce, in full, auDA Published Policy 2006-03, published on 20 July 2006 and later replaced by Policy 2008-10. The policy is the work of auDA and is reproduced here as an exhibit, with attribution.

It is placed before the Panel because, at paragraph 4.1, auDA determined that domain monetisation falls within the category of a service that the registrant provides, being the service of providing users with information and advertising links about the subject matter of the domain name.

THE AUSTRALIAN **DOMAIN NAME** ADMINISTRATOR

auDA PUBLISHED POLICY **Policy Title:** CLARIFICATION OF CLOSE AND SUBSTANTIAL CONNECTION RULE – DOMAIN MONETISATION **Policy No:** 2006-03 **Publication Date:** 20/07/2006 **Status:** Replaced by Policy No 2008-10

1. BACKGROUND

1.1 This policy clarifies the "close and substantial connection rule" as it applies to domain names registered in com.au or net.au for the purpose of domain monetisation.

1.2 Under the Domain Name Eligibility and Allocation Rules for Open 2LDs (2005-01) it is possible to register a domain name that is "closely and substantially connected to the registrant" (known as the "close and substantial connection rule"). The Guidelines for Accredited Registrars on Interpretation of Policy Rules for Open 2LDs (2005-02) list six categories of close and substantial connection for com.au and net.au domain names. This policy clarifies that domain monetisation falls within the category "a service that the registrant provides".

2. TERMINOLOGY

2.1 This policy uses the following terms:

a) "domain monetisation" means registering a domain name in order to earn revenue from a monetised website;

b) "monetised website" means a website or landing page that has been created for the purpose of earning revenue from advertising, including monetised domain parking pages;

c) "domainer" means a person who has registered a domain name under the close and substantial connection rule for the purpose of domain monetisation;

d) "entity name" means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC). It does not include a registered business name;

e) "personal name" means the given name(s) and/or last name of a person; and

f) "brand name" means the name of an identifiable and distinctive product or service.

3. POLICY PRINCIPLES

3.1 This policy aims to strike an appropriate balance between the right of domainers to pursue a legitimate business model, and the broader public interest in preserving the integrity of the .au domain space.

3.2 This policy is consistent with .au domain name licence conditions which prohibit the registration of misspellings of company or brand names (refer to Clarification of Domain Name Licence – Prohibition on Misspellings (2005-04)).

Exhibit 17, page 1 of 2 auDA Published Policy 2006-03, Domain Monetisation, 20 July 2006.

4. DOMAIN NAMES REGISTERED FOR PURPOSE OF DOMAIN MONETISATION

4.1 It is acceptable to register domain names under the close and substantial connection rule for the explicit purpose of domain monetisation within the category "a service that the registrant provides". The "service" being provided by a domainer is the service of providing users with information and advertising links about the subject matter of the domain name.

4.2 In addition to their obligations under auDA Published Policies and the Registrant Agreement (domain name licence), domainers must comply with the following conditions of use:

a) the content on a monetised website must be related specifically and predominantly to the domain name; and

b) the domain name must not be an entity name, personal name or brand name in existence at the time the domain name was registered.

4.3 The condition in paragraph 4.2a) is intended to ensure that the close and substantial connection between the domainer and the domain name is visible and meaningful to users. If the content of a monetised website does not relate to the domain name in any discernible way, then the domainer is not providing the service described in paragraph 4.1 and the close and substantial connection rule is not satisfied.

4.4 A "reasonableness test" is used to determine whether the content on a monetised website satisfies paragraph 4.2a), ie. would a reasonable person regard the content as related specifically and predominantly to the domain name? For example, a monetised website at www.shoes.com.au would need to contain information and advertising links about shoes and/or shoe manufacturers and suppliers. If the website contained information and advertising links about clothing in general including shoes, then it would not be acceptable under the close and substantial connection rule.

4.5 The condition in paragraph 4.2b) is intended to ensure that domain monetisation is not used as a cover for cybersquatting or other misleading or fraudulent activity.

5. COMPLAINTS-HANDLING PROCESS

5.1 Where a person believes that a domainer is in breach of the conditions of use outlined in paragraph 4.2 of this policy, that person may lodge a formal complaint with auDA using the contact details on the auDA website at http://www.auda.org.au. auDA handles formal complaints in accordance with the Complaints Policy (2002-21).

5.2 auDA will investigate the complaint, having regard to the explanatory material in section 4 of this policy. If the complaint is upheld:

a) where the complaint is about a breach of paragraph 4.2a), auDA will contact the registrant and give them 7 days to rectify the breach. If the registrant fails to rectify the breach within 7 days, auDA will instruct the registrar of record to delete the domain name; and

b) where the complaint is about a breach of paragraph 4.2b), auDA will instruct the registrar of record to delete the domain name.

5.3 The domain name will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to license the domain name, they must apply for it using the normal application process.

Exhibit 17, page 2 of 2 auDA Published Policy 2006-03, Domain Monetisation, 20 July 2006.

Annexure G Exhibit 18: auDA, Domain investing and monetisation in .au, webpage captured 9 July 2026

The following two pages reproduce the webpage published by auDA at its address for domain investing and monetisation guidance. The page was captured from that address on 9 July 2026. The webpage is the work of auDA and is reproduced here as an exhibit, with attribution.

It is placed before the Panel because it records auDA current published position that domain monetisation is permitted in the com.au, net.au and .au direct namespaces, and prohibited in the org.au, asn.au, id.au, edu.au and State and Territory namespaces.

Log in About auDA Contact

.auDA .au domain names .au members Registrar resources Insights, news and events Public impact

Home > .au domain names > Manage your .au domain name > Domain investing and monetisation

Domain investing and monetisation

Understand the rules and guidelines governing domain name monetisation in the .au domain, which covers investing, leasing and sub-licensing.

Domain investing and monetisation

Domain monetisation refers to the practice of registering a domain name to sell, lease or hold the domain name to generate revenue. This includes using the domain name to generate revenue from advertising links on a website associated with the domain name.

Domain monetisation is:

- Permitted in the com.au, net.au and .au direct namespaces where it is undertaken in accordance with the .au Licensing Rules, including meeting registrant eligibility requirements and allocation requirements for com.au and net.au domain names
- Prohibited in the org.au, asn.au, id.au, edu.au and the State and Territory namespaces.

Leasing or sub-licensing .au domain names is prohibited under the .au Licensing Rules.

Join more than 6,583 members and help us shape the .au

Join now

auDA Logo .au domain names Insights, news and events

Exhibit 18, page 1 of 2 auDA, Domain investing and monetisation in .au, captured 9 July 2026.

in footer, link

.au members

Public impact

Aborig inal flag Torres Strait

Registrar resources

About auDA

In the spirit of reconciliation auDA acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

�2026 .au Domain Administration Ltd Privacy Policy Website terms and conditions Accessibility statement

Exhibit 18, page 2 of 2 auDA, Domain investing and monetisation in .au, captured 9 July 2026.

Annexure H Exhibit 19: Monetise.com.au, an Australian domain parking and monetisation platform, webpage captured 9 July 2026

The following two pages reproduce the webpage published by Monetise.com.au. The page was captured from that address on 9 July 2026. The webpage is the work of Monetise.com.au and is reproduced here as an exhibit, with attribution.

It is placed before the Panel because it demonstrates that an Australian enterprise, established in 2019 and based in Perth, exists to supply parking, advertising and portfolio management tools to Australian registrants of .au domain names.

Monetise.com.au PRODUCTS PRICING HELP & SUPPORT ABOUT US LOG IN SIGN UP

Australia\u2019s Domain Parking Platform

Finally, an Australian-based platform that has everything you need to easily park, monetise and manage your domains.

Domain Management

One place to manage all your domains from all registrars.

Read More

Parking Page

Park like you have always done, but do it better with Monetise.com.au.

Read More

Domain Portfolio

Showcase your domains & sell more, better.

Read More

Ad Manager

Bring your own ads, keep everything you earn.

Read More

Monetise.com.au Marketplace

List your domains for free on our zero commission marketplace

Coming Soon

Sign up now.
It's free

Yes, that's correct. Create your free Monetise.com.au account now and get instant growth on your domains. No credit card required.

Get Started

About Monetise.com.au

At Monetise.com.au, we are united to achieve a single focused goal and that is to research, design and develop tools to help every aspect of how domains are utilised.

Established in 2019, we are a young company affiliated with DBR.com.au and are based in the beautiful city of Perth, Australia. We hope to fill these pages with more details in the near future with our exciting offerings of tools and services. If you have any questions, please contact us via email at brokers@dbr.com.au.

Created by domain professionals, for domain professionals.

Being a domain professional means managing many things at once. We understand because we are domain professionals ourselves.

Exhibit 19, page 1 of 2 Monetise.com.au, Australian domain parking platform, captured 9 July 2026.

We created Monetise.com.au because we wanted a tool that would help us with all aspects of domain management and at the same time, delightful to use.

We hope you find Monetise.com.au and its growing suite of products as useful as we do. Take a look around at our offerings and if you have any questions, let us know. We love hearing from our users.

Ready give Monetise.com.au a try?

Get Started with Monetise.com.au

Monetise.com.au

Connect with us

Products
- Domain Management
- Parking Site
- Parking Page
- Domain Portfolio
- Ad Manager
- Lead Inbox

Help & Support
- Email us
- Tweet to us

Contact us

1300 76 55 66

brokers@dbr.com.au

By DBR
PO Box 166
North Beach, WA 6920

Exhibit 19, page 2 of 2 Monetise.com.au, Australian domain parking platform, captured 9 July 2026.

Annexure I Exhibit 20: DNJournal, Ron Jackson, T.R.A.F.F.I.C. Down Under conference review (November 2008), page 1 and page 2

Fabulous Affair: Australia's T.R.A.F.F.I.C. Down Under Conference Enchants Attendees With Fun, Freshness and Flair

DNJournal — Ron Jackson — November 2008 — Page 1

Following the afternoon tea break, Australian Domains took center stage with a four-man panel explaining the unique rules and regulations that govern the .au ccTLD space and discussing the prospects for the continue growth of the extension. The dais featured Chris Disspain , the CEO of auDA (the governing body for .au domains), Adrian Kinderis , CEO of AusRegistry (operators of the central registry for .au domains), Kartic Srinivasan , Product Manager for pioneering Australian registrar Melbourne IT , and Erhan Karabardak , Director for Cooper Mills Lawyers (a firm involved in all legal issues surrounding .au administration).

Australian Domain Panel (left to right): Erhan Karabardak , Adrian Kinderis , Chris Disspain and Kartic Srinivasan

Adrian Kinderis AusRegistry CEO You see the extension on billboards and signs throughout Australia. In 2002 .com dominated in Australia but the .com.au has now made significant inroads. The extension has been growing at a 25% annual rate and now has more than 1 million domains registered. Kinderis said an active marketing program helped turn the tide for .com.au (an example that other slow-growing ccTLDs like America's .us would do well to follow). Kinderis sadi AusRegistry launched an educational campaign to make sure businesses knew about policy changes that made the TLD more appealing and to inform them of how using .com.au domains could help their bottom lines. He said a variety of media platforms was used included radio, TV, print and direct marketing. The end result is that Australians are some of the most loyal ccTLD users in the world. One complaint I heard from Australian domainers was that they felt auDA often made arbitrary decisions in taking .com.au domains away from registrants without sufficient cause. Disspain tried to bridge that gap by explaining the things that auDA takes into consideration before making a decision to revoke a domain registration. He emphasized that auDA has no bias against domainers or the previously prohibited practice of domain monetization through PPC programs.

Source: https://www.dnjournal.com/events/2008/traffic-down-under-review.htm

Exhibit 20, page 1 of 5. DNJournal conference review, page 1, reporting the Australian Domains panel and Chris Disspain's statement that auDA had no bias against domainers or PPC monetisation.

Photograph from DNJournal conference review, page 1. Australian Domain Panel (left to right): a Director of Cooper Mills Lawyers, Adrian Kinderis, Chris Disspain and Kartic Srinivasan. Source: DNJournal.

Photograph from DNJournal conference review, page 1. Adrian Kinderis, AusRegistry CEO. Source: DNJournal.

11:34 Thu, 9 July

dnjournal.com/events/2008/traffic-down-und

DN Journal
The Domain Industry News Magazine

TRAFFIC simply

Latest News	Articles	Dear Domey	Resources
The Lowdown	Legal Matters	Letters to Editor	Classified Ads

Search Domain Names For Sale

Domain Names for Sale - Afternic

Search

Fabulous Affair: Australia's T.R.A.F.F.I.C. Down Under Conference Enchants Attendees With Fun, Freshness and Flair

Page 2

By Ron Jackson

Sean Stafford
(CEO, Elvate LLC)

The T.R.A.F.F.I.C. Down Under program for Wednesday (Nov. 19) followed the opening day format with two sessions each in the morning and afternoon, with a lunch hour keynote address sandwiched in between. The day began with a panel dedicated to **Acquiring Domains** that included **Sean Stafford** (CEO, **Elvate LLC**), **Kellie Peterson** (Director of Marketing & Operations at **Name.com**) and **Divyank Turkhia**, President of **Directi**. Stafford's topic was **Wholesale Scavenging** while Peterson covered **Domain Metrics** and Turakhia's talk was titled **So You Want to Be Your Own Registrar?**

Stafford, who wrote an excellent domain primer that is available at **DomainGraduate.com**, covered all of the basics. He noted that little things can make a big difference. As a an example he talked about buying a domain that was earning **$60** a year on PPC but soared to **$1,000** a year after being moved to a different PPC provider. Instead of having to wait 5 years to recoup his investment he had his money back in 4 months. Turakhia pointed out the merits of becoming your own registrar, something one of the Directi companies, **LogicBoxes.com**, makes a lot easier and more cost effective than going it alone.

Also during this session, **Dr. John Berryhill** gave the presentation, a **Case Law Review**, that had to be postponed from the previous day due to a delay in getting to the Gold Coast. On a key current issue, the state of **Kentucky's** attempt to claim jurisdiction over domain names and confiscate ones they don't want their citizens seeing (gambling domains in the case that is currently underway), Berryhill said he believed the final decision will go the domain owners' way. Regarding the new TLDs ICANN intends to start rolling out next year Berryhill forecast it would be a trademark attorney's nightmare and added that you can expect implementation to be delayed by at least five months while the **Department of Commerce** (who

Exhibit 20, page 2 of 5. DNJournal conference review, page 2, showing the acquiring-domains and pay-per-click discussion.

11:34 Thu, 9 July

Web Development was next up on the agenda with the second Wednesday morning session featuring **Craig Rowe (WhyPark.com)** saying **Content Is King Again**, **Ron James** (**NamePros.com** founder) talking about **Products & Services: Build, Buy or Outsource** and **Ryan Steel** (SEO Specialist, **aeiou.com**) demystifying **Search Engine Optimization**.

Web Development Panel (left to right): **Ryan Steel**, **Craig Rowe** and **Ron James**

Rowe ran through the pluses and minuses of each of the various content sources developers can use in building sites, including RSS Feeds, Affiliate Content & Product Databases, Creative Commons, Licensed Content, User Generated Content, creating Unique Content and utilizing Authority Content. James covered the various kinds of sites that can be built, off the shelf development software solutions and consideration involved in tackling custom development.

After a lunch break **Wotif.com** founder **Graeme Wood** delivered the show's second keynote address. Wood was a perfect follow-up to the previous conversation on development as he detailed how he overcame all of the odds to build Wotif.com into a travel industry powerhouse that drew over **40 million** visitors last year and that now employs over 400 people worldwide.

Graeme Wood
Founder, Wotif.com

Wood originally wanted **WhatIf.com** but was unable to reach the owner of that domain, despite going so far as hiring a private detective to try (unsuccessfully) to find him. He wound up settling on the sound alike Wotif.com and made it work. Wood said that while a good domain name can certainly help a business, content and customers still matter most in the long run. "A viable business model has to come **before** the domain name," Wood said and as much as we all love domain names there are certainly plenty of case histories (**Pets.com** anyone?) that back him up.

The afternoon seminar schedule opened with **Monetization Alternatives**, a session that featured **Robert Tomkinson** (Managing Director, **Shopping.com**) on **Is Commerce Content?**, Matt Bateman (COO, **Commission Monster**) with **Hot Leads, Cool Profits** and **Chris Bayley** (Director, **Domain Partners**) with a presentation titled **Monetize a Domain, build a Brand, or create a Business?**

Exhibit 20, page 3 of 5. DNJournal conference review, page 2, showing web development and the Wotif.com keynote.

11:34 Thu, 9 July

dnjournal.com/events/2008/traffic-down-und

Robert Tomkinson (Managing

Graeme Wood
Founder, Wotif.com

Director, **Shopping.com**) on **Is Commerce Content?**, Matt Bateman (COO, **Commission Monster**) with **Hot Leads, Cool Profits** and **Chris Bayley** (Director, **Domain Partners**) with a presentation titled **Monetize a Domain, build a Brand, or create a Business?**

Robert Tomkinson
Managing Director, Shopping.com

With so many shopping platforms offering to let developers integrate their product offerings into new websites, I found Tomkinson's list of recommendations especially interesting. He suggested that domain developers do the following:

- Add commerce to your monetization strategy, especially for commerce-related domain names.
- Partner with top tier companies that are able to offer meaningful payments.
- Look for a robust, flexible API, widgets/graphics, reporting and tools.
- Think Global
- Combine content with AdSense for better user experience, search engine compliance and greater monetization potential.
- Complement with unique content for greater SEO payments.

After a break for tea, the final Wednesday seminar, **Asset Sales**, brought **John Mauriello** (Domain Sales Specialist, **Moniker.com**), **Jackson Hopkins** (CTO, **Domain Distribution Network**) and **Richard Moore** (CEO, **Dark Blue Sea**) to the dais. Mauriello talked about domain **Valuation**, Hopkins dissected the **Sales Channel** and Moore explained **Financial Modeling**.

Asset Sales Panel (left to right): **John Mauriello**, **Jackson Hopkins** and **Richard Moore**

Mauriello pointed out that despite the recession in the general economy, the domain aftermarket is holding its own. He noted that the average sale price at live domain auctions conducted by his company and its **Oversee.net** sister company **SnapNames.com** has been **$20,000** in 2008, a significant increase over the **$16,000** average they posted in their 2007 live auctions. He added that anecdotal evidence shows fewer domainer to domainer sales at wholesale prices while higher ticket retail sales to end users are increasing.

Exhibit 20, page 4 of 5. DNJournal conference review, page 2, showing monetisation alternatives and the asset-sales panel.

11:34 Thu, 9 July

Asset Sales Panel (left to right): **John Mauriello**, **Jackson Hopkins** and **Richard Moore**

Mauriello pointed out that despite the recession in the general economy, the domain aftermarket is holding its own. He noted that the average sale price at live domain auctions conducted by his company and its **Oversee.net** sister company **SnapNames.com** has been **$20,000** in 2008, a significant increase over the **$16,00** average they posted in their 2007 live auctions. He added that anecdotal evidence shows fewer domainer to domainer sales at wholesale prices while higher ticket retail sales to end users are increasing.

Hopkins broke down the various aspects of domain value noting that his company looks at over 50 different data points to arrive at what they believe is fair market value for a domain. Moore, who is CEO of the parent company of Fabulous.com (and their Domain Distribution Network), said that as of six months ago domain sale had begun producing **more revenue** for the company than PPC. That dovetails with my own experience this year which has been my best sales year ever (with small business end users representing almost 100% of my buyers). My sales revenue is far outstripping (and easily offsetting) the PPC revenue decline that I, like most others, have seen. That underlines one of the most attractive aspects of owning domain names - they can produce income in **multiple ways** so that if one method is down another can pick up the slack and keep overall revenue on an even keel.

Jay Chapman
President, DigiMedia

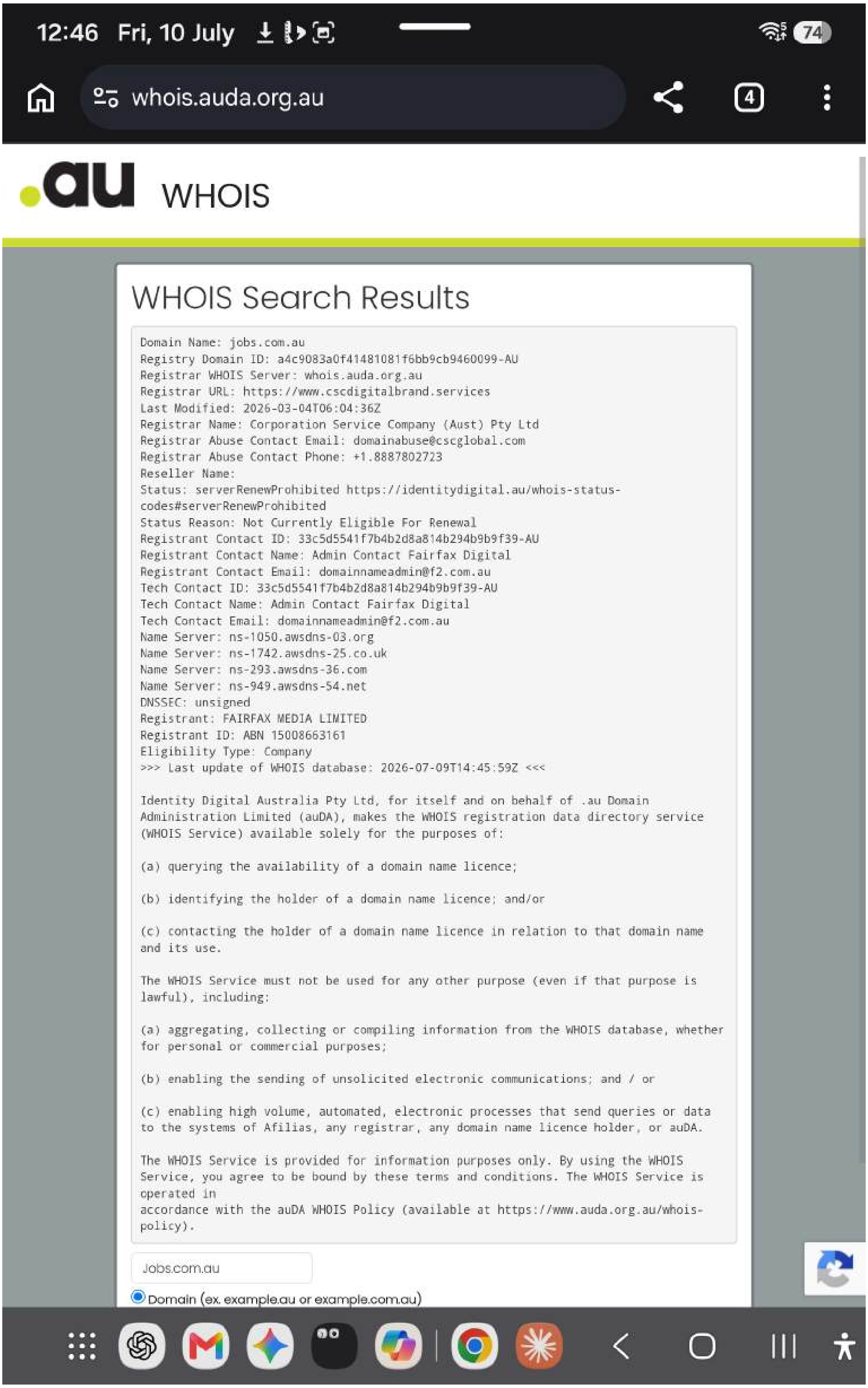
That session concluded Wednesday's business agenda and opened the door for a gala evening dinner that included "Domain Stories" from DigiMedia President **Jay Chapman** and Dark Blue Sea Partner Manager **Jen Sale**. Both talked about how their companies added value to great generic domain names to produce either an outstanding profit upon sale (as in Sale's case history of **BedroomFurniture.com**) or increasing the flow of revenue to developed properties they intend to keep (as DigiMedia has done with sites they built and continue to operate on **FantasyFootball.com**, **Jerky.com** and others).

That was followed by a charity auction (run by **RickLatona.com's** auctioneers) that produced over **$18,000** for the ICA, the non-profit domain industry trade association. The top sales were **BodybuildingProducts.com** at **$5,200** (purchased by T.R.A..F.F.I.C. Co-Founder **Howard Neu**) and **MovingCosts.com** at **$5,000** (purchased by **Darren Cleveland** of the **Recall Media Group**). Both of those domains were donated by show organizers Fabulous.com. **Howard Hoffman** of **PPCIncome.com** was also very active in the auction. In addition to donating a name that sold for **$1,000** (**FreeRangeFoods.com**), Hoffman purchased two domains.

Charity auction raised funds for the Internet Commerce Association

Exhibit 20, page 5 of 5. DNJournal conference review, page 2, showing the asset-sales discussion and ICA charity auction.

Annexure J Exhibit 21: auDA WHOIS record for jobs.com.au, captured 10 July 2026




```
Domain Name: jobs.com.au
Registry Domain ID: a4c9083a0f41481081f6bb9cb9460099-AU
Registrar WHOIS Server: whois.auda.org.au
Registrar URL: https://www.cscdigitalbrand.services
Last Modified: 2026-03-04T06:04:36Z
Registrar Name: Corporation Service Company (Aust) Pty Ltd
Registrar Abuse Contact Email: domainabuse@cscglobal.com
Registrar Abuse Contact Phone: +1.8887802723
Reseller Name:
Status: serverRenewProhibited https://identitydigital.au/whois-status-
codes#serverRenewProhibited
Status Reason: Not Currently Eligible For Renewal
Registrant Contact ID: 33c5d5541f7b4b2d8a814b294b9b9f39-AU
Registrant Contact Name: Admin Contact Fairfax Digital
Registrant Contact Email: domainnameadmin@f2.com.au
Tech Contact ID: 33c5d5541f7b4b2d8a814b294b9b9f39-AU
Tech Contact Name: Admin Contact Fairfax Digital
Tech Contact Email: domainnameadmin@f2.com.au
Name Server: ns-1050.awsdns-03.org
Name Server: ns-1742.awsdns-25.co.uk
Name Server: ns-293.awsdns-36.com
Name Server: ns-949.awsdns-54.net
DNSSEC: unsigned
Registrant: FAIRFAX MEDIA LIMITED
Registrant ID: ABN 15008663161
Eligibility Type: Company
>>> Last update of WHOIS database: 2026-07-09T14:45:59Z <<<

Identity Digital Australia Pty Ltd, for itself and on behalf of .au Domain
Administration Limited (auDA), makes the WHOIS registration data directory service
(WHOIS Service) available solely for the purposes of:

(a) querying the availability of a domain name licence;

(b) identifying the holder of a domain name licence; and/or

(c) contacting the holder of a domain name licence in relation to that domain name
and its use.

The WHOIS Service must not be used for any other purpose (even if that purpose is
lawful), including:

(a) aggregating, collecting or compiling information from the WHOIS database, whether
for personal or commercial purposes;

(b) enabling the sending of unsolicited electronic communications; and / or

(c) enabling high volume, automated, electronic processes that send queries or data
to the systems of Afilias, any registrar, any domain name licence holder, or auDA.

The WHOIS Service is provided for information purposes only. By using the WHOIS
Service, you agree to be bound by these terms and conditions. The WHOIS Service is
operated in
accordance with the auDA WHOIS Policy (available at https://www.auda.org.au/whois-
policy).
```

*Exhibit 21, page 1 of 1. auDA WHOIS record for **jobs.com.au**, whois.auda.org.au, captured 10 July 2026.*

Annexure K Exhibit 22: auDA WHOIS record for f2.com.au, captured 10 July 2026


```
Domain Name: f2.com.au
Registry Domain ID: 24a1566a92a44b7a9a010eea622da86e-AU
Registrar WHOIS Server: whois.auda.org.au
Registrar URL: https://www.cscdigitalbrand.services
Last Modified: 2025-10-14T05:04:09Z
Registrar Name: Corporation Service Company (Aust) Pty Ltd
Registrar Abuse Contact Email: domainabuse@cscglobal.com
Registrar Abuse Contact Phone: +1.8887802723
Reseller Name:
Status: serverDeleteProhibited https://identitydigital.au/whois-status-
codes#serverDeleteProhibited
Status Reason: Registry Lock
Status: serverRenewProhibited https://identitydigital.au/whois-status-
codes#serverRenewProhibited
Status Reason: Not Currently Eligible For Renewal
Status: serverTransferProhibited https://identitydigital.au/whois-status-
codes#serverTransferProhibited
Status Reason: Registry Lock
Status: serverUpdateProhibited https://identitydigital.au/whois-status-
codes#serverUpdateProhibited
Status Reason: Registry Lock
Registrant Contact ID: 1e951ce3b6114447ae0b4ad293a097e4-AU
Registrant Contact Name: Admin Contact Fairfax Digital
Registrant Contact Email: domainnameadmin@f2.com.au
Tech Contact ID: 1e951ce3b6114447ae0b4ad293a097e4-AU
Tech Contact Name: Admin Contact Fairfax Digital
Tech Contact Email: domainnameadmin@f2.com.au
Name Server: ns-1241.awsdns-27.org
Name Server: ns-1640.awsdns-13.co.uk
Name Server: ns-397.awsdns-49.com
Name Server: ns-795.awsdns-35.net
DNSSEC: unsigned
Registrant: FAIRFAX DIGITAL AUSTRALIA & NEW ZEALAND PTY LIMITED
Registrant ID: ABN 34087887456
Eligibility Type: Company
>>> Last update of WHOIS database: 2026-07-09T14:46:52Z <<<

Identity Digital Australia Pty Ltd, for itself and on behalf of .au Domain
Administration Limited (auDA), makes the WHOIS registration data directory service
(WHOIS Service) available solely for the purposes of:

(a) querying the availability of a domain name licence;

(b) identifying the holder of a domain name licence; and/or

(c) contacting the holder of a domain name licence in relation to that domain name
and its use.

The WHOIS Service must not be used for any other purpose (even if that purpose is
lawful), including:

(a) aggregating, collecting or compiling information from the WHOIS database, whether
for personal or commercial purposes;

(b) enabling the sending of unsolicited electronic communications; and / or

(c) enabling high volume, automated, electronic processes that send queries or data
to the systems of Afilias, any registrar, any domain name licence holder, or auDA.

The WHOIS Service is provided for information purposes only. By using the WHOIS
Service, you agree to be bound by these terms and conditions. The WHOIS Service is
operated in
accordance with the auDA WHOIS Policy (available at https://www.auda.org.au/whois-
policy).
```


Exhibit 22, page 1 of 2. auDA WHOIS record for f2.com.au, whois.auda.org.au, captured 10 July 2026.

12:47 Fri, 10 July

whois.auda.org.au

.au WHOIS

WHOIS Search Results

```
Domain Name: f2.com.au
Registry Domain ID: 24a1566a92a44b7a9a010eea622da86e-AU
Registrar WHOIS Server: whois.auda.org.au
Registrar URL: https://www.cscdigitalbrand.services
Last Modified: 2025-10-14T05:04:09Z
Registrar Name: Corporation Service Company (Aust) Pty Ltd
Registrar Abuse Contact Email: domainabuse@cscglobal.com
Registrar Abuse Contact Phone: +1.8887802723
Reseller Name:
Status: serverDeleteProhibited https://identitydigital.au/whois-status-codes#serverDeleteProhibited
Status Reason: Registry Lock
Status: serverRenewProhibited https://identitydigital.au/whois-status-codes#serverRenewProhibited
Status Reason: Not Currently Eligible For Renewal
Status: serverTransferProhibited https://identitydigital.au/whois-status-codes#serverTransferProhibited
Status Reason: Registry Lock
Status: serverUpdateProhibited https://identitydigital.au/whois-status-codes#serverUpdateProhibited
Status Reason: Registry Lock
Registrant Contact ID: 1e951ce3b6114447ae0b4ad293a097e4-AU
Registrant Contact Name: Admin Contact Fairfax Digital
Registrant Contact Email: domainnameadmin@f2.com.au
Tech Contact ID: 1e951ce3b6114447ae0b4ad293a097e4-AU
Tech Contact Name: Admin Contact Fairfax Digital
Tech Contact Email: domainnameadmin@f2.com.au
Name Server: ns-1241.awsdns-27.org
Name Server: ns-1640.awsdns-13.co.uk
Name Server: ns-397.awsdns-49.com
Name Server: ns-795.awsdns-35.net
DNSSEC: unsigned
Registrant: FAIRFAX DIGITAL AUSTRALIA & NEW ZEALAND PTY LIMITED
Registrant ID: ABN 34087887456
Eligibility Type: Company
>>> Last update of WHOIS database: 2026-07-09T14:46:52Z <<<

Identity Digital Australia Pty Ltd, for itself and on behalf of .au Domain
Administration Limited (auDA), makes the WHOIS registration data directory service
(WHOIS Service) available solely for the purposes of:

(a) querying the availability of a domain name licence;

(b) identifying the holder of a domain name licence; and/or

(c) contacting the holder of a domain name licence in relation to that domain name
and its use.

The WHOIS Service must not be used for any other purpose (even if that purpose is
lawful), including:

(a) aggregating, collecting or compiling information from the WHOIS database, whether
for personal or commercial purposes;

(b) enabling the sending of unsolicited electronic communications; and / or

(c) enabling high volume, automated, electronic processes that send queries or data
to the systems of Afilias, any registrar, any domain name licence holder, or auDA.
```

Exhibit 22, page 2 of 2. auDA WHOIS record for f2.com.au, whois.auda.org.au, captured 10 July 2026.

<u>Annexure L Exhibit 25: Cooper Mills Lawyers, Domain Monetisation in the .au space (Part 1), 21 December 2008</u>

Domain Monetisation in the .au space (Part 1)

21 12 2008

Domain monetisation regularly causes problems for this breed of persons called 'domainers', with threats of domain deletion, but what does auDA's (au Domain Administration Ltd – the Industry Regulator for the .au domain space) '*Domain Monetisation Policy 2008-10*' ("the Policy") actually say ? We will look at these issues in part 1 of our 2 part blog series on domain monetisation.

Our position on many of auDA's policies is well known within the industry – they are in many cases unreasonable, do not reflect the practical realities, and do not reflect developments in the .au domain space. Whilst we acknowledge that auDA's job as the regulator is a difficult one, and that this isn't helped by some people who blatantly do the wrong thing, it is the legitimate domainers who get caught in the net.

The greatest issues with the Policy arise from the definitions or 'terminology' as auDA likes to call it contained in the Policy. The three definitions that we would like to focus on in the Policy are:

> *a) "domain monetisation" means registering a domain name in order to earn revenue from a monetised website;*
>
> *b) "monetised website" means a website or landing page that has been created for the purpose of earning revenue from advertising, including monetised domain parking pages;*
>
> *c) "domainer" means a person who has registered a domain name under the close and substantial connection rule for the purpose of domain monetisation;*

These definitions are rather unusual.

The definition of 'monetised website' is in essence is a website that has been created for the purpose of earning revenue from advertising. Last time we checked the internet, most commercial (and some non commercial) websites sought to earn revenue from advertising their goods and services, after all, isn't this what commercial websites are for ?

On the basis of this definition www.coopermills.com.au, www.news.com.au and www.sunsmart.com.au are monetised websites. If we were to register lawyers.com.au, and develop a website to use in promoting our services, then this would also be a monetised website. auDA agrees with this interpretation in clause 4.2 and says:

> "*If a domain name resolves to a monetised website then auDA is entitled to regard the domain name as having been registered for the purposes of domain monetisation….*"

Bearing this in mind we look at the definition of 'domain monetisation', which means registering a domain in order to earn revenue from a monetised website. On this basis almost all domains registered for commercial (and some non commercial) websites, are registered for domain monetisation.

Having established that almost all commercial entities who have registered domains for use with their business websites are monetised websites, we look at the definition of 'domainer'.

Exhibit 25, page 1 of 2. Cooper Mills Lawyers, "Domain Monetisation in the .au space (Part 1)", 21 December 2008.
Source: **https://www.coopermills.com.au/domain-monetisation-in-the-au-space-part-1/**

A domainer is someone who registered a domain name under the close and substantial connection rule (*for those of you who are not familiar with auDA Published Policy – Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05) – this is one of the grounds upon which you may register a .com.au domain name under – the other is, an exact match, abbreviation or acronym of the registrant's name or trademark*) for the purpose of monetisation.

The policy goes some way to narrow its extremely broad definitions – so now we have a situation that if you are a commercial entity who has registered a domain and developed a website to resolve from it, and that domain name is not "*an exact match, abbreviation or acronym of the registrant's name or trademark;*" then you are a 'domainer'. Congratulations!

Two 'domainers' that spring to mind are News Limited by virtue of its www.news.com.au website and the Anti Cancer Council of Victoria by virtue of its website www.sunsmart.com.au on which it sells a large range of products.

In part 2 of our blog series we will look at the significance of being a domainer. Stay tuned…..

Need an expert law firm you can trust to help with registering a trademark?

Contact us today for a free 30 minute consultation for your expert legal advice today

Get your Free Consultation

Exhibit 25, page 2 of 2. Cooper Mills Lawyers, "Domain Monetisation in the .au space (Part 1)", 21 December 2008. Source: **https://www.coopermills.com.au/domain-monetisation-in-the-au-space-part-1/**

Annexure M Exhibit 26: Cooper Mills Lawyers, auDA publishes new Eligibility Policy for .au domains, 18 December 2012

Cooper Mills LAWYERS   HOME   WHO WE ARE   WHAT WE DO   BLOG

Home › Blog › Domain law and domaining › auDA publishes new Eligibility Policy for .au domains

auDA publishes new Eligibility Policy for .au domains

18 12 2012

As a result of the 2010 Names Policy Panel Report, auDA has implemented some of the Panel's recommendations with the introduction of the new 2012-04 Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs and 2012-05 Guidelines on the Interpretation of Policy Rules for the Open 2LDs.

The main changes involve the revocation of the Monetisation Policy, with rules around monetisation now being incorporated into the new policy, and specifying with more clarity as to how registrants can use domains for monetisation. The changes to policy also broaden the eligibility basis for .id.au domain names to now allow individuals to register these domains for personal interests or hobbies.

NEED AN EXPERT LAW FIRM
YOU CAN TRUST TO HELP WITH REGISTERING A TRADEMARK?

Exhibit 26, page 1 of 1. Cooper Mills Lawyers, auDA publishes new Eligibility Policy for .au domains, 18 December 2012, captured 10 July 2026. Highlighting added.

Annexure N Exhibit 28: Internet Commerce Association, auDA Management Rejects Wrongful Attempts to Prohibit Domain Name Investment in Australia, 15 April 2019

auDA Management Rejects Wrongful Attempts to Prohibit Domain Name Investment in Australia

KAMILA SEKIEWICZ / APRIL 15, 2019 / UNCATEGORIZED

89 SHARES

The Internet Commerce Association (the "ICA") Congratulates Australian Domain Investors on the rejection of certain Proposed Policy Changes in the Australian namespace which would have had a detrimental effect on domain name investors and on the Australian namespace.

On April 15, 2018, auDA management responded to the Policy Review Panel's Final Report and Recommendations (the "PRP"). The ICA had submitted a detailed response to the Final Report ("the ICA Comment") and auDA Management has clearly taken it to heart. As pointed out in the ICA Comment, and as concluded by auDA Management, "there is no evidence that domain name flipping as an investment strategy is having a negative impact on the utility of the .au domain nor resulting in a scarcity of domain names" and that "the PRP has not provided any evidentiary material on which to assess the nature of the warehousing problem and what, if any, action is required".

Moreover, auDA Management rightly concluded that, "the warehousing prohibition appears to disproportionately target domain investors as the licence portfolios or holdings of trademark and brand owners will be excluded under the PRP proposal. This proposal elevates the rights of trademark and other intellectual property owners over other licence holders in the .au domain, which may give rise to issues of market power and anti-competitive practices."

auDA management accordingly, **"DOES NOT SUPPORT THE PRP RECOMMENDATION FOR A RESALE AND WAREHOUSING PROHIBITION".**

Moreover, auDA Management has "abolished" the domain monetisation rule for the com.au and net.au namespaces: "A Person....will be able to use [their domain name] for any legitimate purpose, including domain name monetisation or domain name investment. This is consistent with the approach in other ccTLDs, including .ca, .nz, .fr, .uk and .de domains."

The ICA is very pleased that auDA Management has gotten these crucial issues right and that it has resisted unsubstantiated and ill-conceived attempts to prohibit domain name investing and monetisation in the .au namespace. The ICA believes that the rejection of these proposed policies will ensure the continued viability and success of the .au namespace and expresses its appreciation for auDA management's clear rejection of these wrongheaded policy proposals which would have dramatically affected domain name investment in Australia.

Exhibit 28, page 1 of 1. Internet Commerce Association, auDA Management Rejects Wrongful Attempts to Prohibit Domain Name Investment in Australia, Kamila Sekiewicz, 15 April 2019. Source: https://www.internetcommerce.org/uncategorized/auda-management-rejects-wrongful-attempts-to-prohibit-domain-name-investment-in-australia/