Dear Panel,

I appreciate the opportunity to provide input on the review of the .au Licensing Rules. My submission reflects the perspective of a domain registrant and business operator, with the aim of ensuring that allocation, monetisation, and dispute resolution rules are fair, transparent, and practical.

The .au namespace is a critical part of Australia's online infrastructure, and its governance should balance:

- Supporting legitimate businesses and service providers;
- Protecting the integrity and trust of the .au namespaces;
- Minimising speculative or abusive behaviour; and
- Allowing operational flexibility for legitimate non-public or internal uses of domain names.

In this submission, I address key issues in the consultation paper, highlighting principles of fairness, transparency, and practicality, and offering recommendations that preserve the policy intent of each namespace while improving clarity and consistency.

Issue 1: Allocation rules for .com.au and .net.au namespaces

Question 1
Should the allocation rules require a closer match between a com.au or net.au domain name and registrant's name or business name, or should there be less requirements?

The allocation rules for the .com.au and .net.au namespaces should be retained but clarified and applied more consistently, rather than significantly tightened or removed.

Rule 2.4.4(2)(f)(i), which permits allocation based on a *Match or Synonym of the name of a Service that the Person provides*, reflects the reality of modern Australian business models, particularly online, service-based and informational businesses. Many legitimate businesses operate under descriptive service names that are not always reflected in a single registered business name or trade mark.

The concerns raised about the current framework arise primarily from ambiguity and inconsistent interpretation, rather than from the legitimacy of service-based allocation itself.

Additional Consideration – Legitimate Non-Public Use Cases:
Some registrants use domain names for purposes that do not correspond to a publicly visible service, including:

- Development environments or staging sites, often behind firewalls.
- Internal corporate intranets.
- Email services or communication infrastructure not associated with public-facing services.

These use cases represent legitimate operations and should be recognised as satisfying the allocation rules, even if no commercial or public-facing service is provided. The rules and guidance should explicitly acknowledge these scenarios to avoid confusion or inadvertent non-compliance.

Question 1.1

Should a com.au or net.au domain name only be allocated solely on the basis of sections 2.4.4(2)(a) to (e)?

No.

Restricting allocation solely to legal names, business names and trade marks would unduly disadvantage service-based businesses and favour incumbents and trade mark holders. Rule 2.4.4(2)(f) provides a necessary pathway for businesses whose services are legitimately described by the domain name itself.

Rather than removing this pathway, clearer guidance should be provided on its appropriate use.

Question 1.2

Should the allocation requirements under 2.4.4(2) be removed from the .au Licensing Rules?

The allocation requirements under Rule 2.4.4(2) should not be removed without considering the role of different .au namespaces and the expectations attached to them.

The introduction of the .au direct namespace, which requires only Australian presence and no allocation nexus beyond that requirement, has already created a less restrictive option within the .au domain. This reflects a deliberate policy choice to offer different levels of restriction across namespaces, rather than a single uniform model.

In this context:

- .au direct functions as a more open, market-driven namespace; and
- .com.au and .net.au continue to carry an expectation of a closer connection between the domain name and the registrant.

Removing allocation rules entirely from .com.au and .net.au would effectively collapse this distinction and reduce the rationale for maintaining separate namespaces with different trust signals.

At the same time, the existence of .au direct raises a legitimate question as to whether the allocation rules for .com.au and .net.au remain appropriately calibrated, or whether they impose unnecessary complexity compared to the more streamlined .au direct model.

A preferable approach would be to:

- retain allocation requirements for .com.au and .net.au;
- simplify and clarify those requirements, particularly in relation to service-based allocation; and
- ensure that differences between namespaces are clearly communicated to registrants and the public.

This approach preserves choice, reduces regulatory risk, and avoids the unintended consequences of abrupt deregulation.

Question 1.3
Should provision of a service (section 2.4.4(2)(f)(i)) be satisfied through establishment of a monetised website?

A monetised website can evidence the provision of a service, but monetisation alone should not be sufficient.

A clear distinction should be drawn between:

- **Passive domain parking**, such as automatically generated pages consisting solely of advertising links with no **substantive content** or clearly articulated service; and
- **Active service provision**, including information, comparison, referral or lead-generation services that provide genuine utility to users and are meaningfully connected to the domain name.

A parked page consisting only of advertising links, without curated or clearly described service content, should not on its own qualify as the provision of a service under Rule 2.4.4(2)(f)(i).

However, many legitimate online services rely on advertising-supported or referral-based revenue models. These should continue to qualify where the service is genuine, ongoing, and provides value beyond redirection to advertisements. Clear minimum criteria or guidance would assist registrants, registrars and auditors in making this distinction.

Question 1.4
Should 'Match or Acronym' and 'Match or Synonym' be replaced with the former 'close and substantial connection' test?

No

The former "close and substantial connection" test was inherently subjective and led to inconsistent interpretation and enforcement. While the current concepts of "Match", "Acronym" and "Synonym" would benefit from clearer guidance and examples, they provide a more predictable and objective framework than a discretionary connection test.

Transitional considerations
If changes are made to Rule 2.4.4, they should:

- Apply prospectively rather than retrospectively
- Include appropriate transitional or grandfathering arrangements
- Avoid requiring legitimate businesses to restructure solely to retain existing domain names

Closing position on Issue 1
The challenges identified with the current allocation rules stem from ambiguity rather than over-permissiveness. With clearer guidance distinguishing passive parking from genuine service provision, Rule 2.4.4(2)(f)(i) can continue to support legitimate Australian businesses while addressing community concerns.

Issue 2: Domain name monetisation in .com.au and .net.au

Question 2
Should a domain name continue to be able to be registered for monetisation in com.au and net.au?

Domain name monetisation can be a legitimate pathway for meeting the allocation rules in the .com.au and .net.au namespaces, provided the registrant demonstrates a genuine, ongoing, and meaningful provision of a service under Rule 2.4.4(2)(f)(i). Monetisation should not be evaluated solely on the presence of advertising links or pay-per-click revenue.

Key considerations

1. **Monetisation reflects modern business models**
   Many online businesses, including information, referral, comparison, and lead-generation websites, rely on monetisation through advertising or affiliate revenue. These sites provide real services to users and satisfy the allocation rules where the domain name relates meaningfully to the service offered.

2. **Distinguishing legitimate service from passive parking**
   - **Legitimate monetisation** occurs when the website provides value to users beyond a simple advertisement or redirect. Examples include curated content, guides, comparison tools, or referral information connected to the domain name.
   - **Passive domain parking** - automatically generated pages with only advertising links and no substantive service - should **not** satisfy the allocation requirement, as this is purely speculative.

3. **Regulatory clarity is required**
   Clarifying minimum standards would reduce disputes, provide certainty to registrars and registrants, and ensure alignment with the intent of the allocation rules.

4. **Consistency with allocation rules**
   Domain monetisation should support compliance with Rule 2.4.4(2)(f)(i) and not bypass allocation requirements.

Recommended approach

- Retain monetisation as a valid way to meet allocation rules in .com.au and .net.au.
- Provide clear guidance distinguishing legitimate monetised services from passive parking.
- Require demonstrable, meaningful service provision as the basis for allocation, rather than revenue alone.
- Prohibit monetisation that is purely speculative or where no genuine service is provided.

Transitional considerations

- Apply clarified rules prospectively to new applications only; existing domains should not be automatically grandfathered.
- Passive domain parking - pages with only advertising links and no substantive service - should not be grandfathered, as these represent the majority of domains that do not provide a genuine service.

- Domains generating revenue through meaningful, demonstrable services - including lead-generation, referral, or informational websites that provide real value to users - should continue to be recognised under clarified rules, ensuring legitimate business operations are not penalised.
- Provide registrars with clear examples and guidance for assessing acceptable monetisation and service provision, ensuring consistent and predictable enforcement.

Closing position on Question 2

Domain name monetisation is a legitimate and important pathway for .com.au and .net.au domains only when the registrant provides a genuine service. Passive domain parking does not constitute service provision and should not be grandfathered.

With clear guidance distinguishing between genuine service provision and passive speculation, monetisation can continue to support allocation rules, maintain trust in the namespaces, and prevent abuse by speculative domain holders, while still protecting the interests of legitimate online businesses.

Issue 3: Contested .au direct domain names

Question 3

How should contested names be dealt with in future?

The current approach to managing contested .au direct domain names should be retained, where a contested name remains unavailable until all but one applicant withdraws the application.

Key considerations:

1. **Fairness to existing registrants and historical context**
   Many registrants acquired domains through AUDA-administered allocation processes, such as the 2002 generic domain auction and the 2005 geographic domain releases. These processes restricted registration in earlier periods, meaning that applying alternative allocation criteria, such as "longest continuous holder," without recognising historical policy context can produce unintended inequities. Registrants who acquired names in good faith through these processes should not be disadvantaged relative to other applicants in contested .au direct domains.

2. **Encourages negotiation and voluntary resolution**
   The current system requires applicants to negotiate amongst themselves, promoting collaborative resolution rather than introducing competitive or speculative pressures. This ensures equitable outcomes for parties with legitimate interests in the contested domain.

3. **Government and defensive registrations**
   - Some contested .au direct domains are held by government entities for defensive purposes, with no immediate intention to actively use the domain.
   - While these registrations are legitimate under policy, private applicants often struggle to engage the government in negotiation, meaning the current "voluntary resolution" approach can leave some registrants without a practical path forward.

- AUDA should actively facilitate negotiations between private applicants and government registrants to ensure contested domains can be resolved fairly and efficiently, rather than leaving it solely to the parties to arrange.
- This approach recognises the legitimacy of government registrations while protecting the rights of other registrants who have genuine claims or interest in the domain.

4. **Against auctioning contested names**
   - Auctions inherently favour applicants with greater financial resources, rather than those with the strongest legitimate connection to the name.
   - This approach risks speculative behaviour, where contesting parties may purchase domains purely for investment or resale, rather than to provide a service or maintain ongoing use.
   - Allowing auctions could undermine the integrity and trust of the .au direct namespace, which has been built around fair and policy-driven allocation rather than purely commercial competition.

5. **Operational simplicity and predictability**
   Retaining Priority Hold status until all but one applicant withdraws provides clarity and stability for registrants and registrars alike, avoiding the need for complex rules or decision-making processes that may create disputes or unintended consequences.

Recommended approach

- Retain the current contested name rules for .au direct domains.
- Maintain Priority Hold status until all but one applicant withdraws.
- Encourage AUDA to facilitate negotiation between private applicants and government registrants, ensuring fair resolution for parties who otherwise cannot engage the government.
- Consider historical context when evaluating allocation principles such as "longest continuous holder," to avoid disadvantaging registrants who acquired domains through AUDA-administered processes.

Closing position on Question 3

The current process for contested .au direct domains is fair, transparent, and operationally effective. Retaining it:

- Protects the interests of existing registrants, including those affected by historical policy restrictions;
- Encourages negotiation and equitable resolution without introducing speculative pressures;
- Ensures AUDA actively supports negotiation with government registrants to protect private applicants;
- Prevents auctions from giving an unfair advantage to applicants with greater financial resources;
- Maintains trust and operational simplicity within the .au direct namespace.

Changes such as auctions or automatic allocation based on earliest registration could introduce unintended consequencesand are therefore not recommended. Historical context should always be considered in allocation decisions to ensure fairness and consistency with AUDA's past policies.

Issue 4: Fraudulent and bad faith registrations and reserved names

Question 4:
Should the requirement that reserved names that pose a risk to the operational security, integrity, and utility of the .au domain be published on the website be removed from the .au Licensing Rules?

The requirement for public publication of the reserved names list should be removed from the .au Licensing Rules.

Response

1. **Publication of reserved names**

   - The requirement to publish the reserved names list publicly does not need to be maintained, as publishing could inadvertently provide guidance to bad actors about which names are commonly exploited for scams or misuse.
   - Maintaining the list internally is sufficient to manage operational security and prevent misuse.

2. **Transparency and oversight**

   - While public publication is not required, the list should be available upon legitimate request to ensure oversight and accountability.
   - AUDA's decisions to deny domain applications based on the reserved list must be documented and justified, providing a clear rationale to affected parties.
   - Any domain added to the reserved list should have a legitimate reason, ensuring the process is fair, defensible, and aligned with the security and integrity objectives of the .au namespace.

Issue 5: Complaint process for domain name audits

Question 5
Should there be changes to the complaints wording and/or processes in .au Licensing Rules to reflect audit action complaints and to reflect an applicant's standing to escalate a complaint?

I have no comment on the complaints process or the applicant's standing under Part 3 of the .au Licensing Rules.

Issue 6: Alignment of selected rules in .au with equivalent rules in generic top-level domains (gTLDs)

Question 6
Should auDA align selected business practices and rules with gTLD rules?

I support removing the 90-day renewal restriction, selective alignment of lifecycle rules with gTLDs, and maintaining clear guidance and transparency for registrants.

Response

1. **90-day renewal window**

   o I support removing the 90-day renewal restriction for .au domains.
   o As a business, there may be legitimate reasons to renew domains at specific times of the year, such as for cash flow or tax planning.
   o Restricting renewals to a 90-day window is unnecessarily restrictive and limits flexibility for legitimate business operations.
   o Removal of this restriction aligns with gTLD practice and provides a more market-driven approach while still respecting the overall licence period.

2. **Cooling-off period**

   o Extending the cooling-off period from 3 to 5 days could improve flexibility, but should be carefully assessed in the context of registrar operations and fraud prevention.

3. **Redemption periods and pending deletion**

   o Standardising redemption and pending deletion periods in line with gTLD practice would improve clarity for registrants and reduce operational errors.

4. **General alignment principle**

   o Alignment with gTLD rules should be selective, focusing on improving clarity, fairness, and usability for registrants.
   o Unique Australian circumstances should still be respected, but where alignment provides practical benefits, it should be adopted.
   o Changes should be clearly communicated with appropriate transitional arrangements to avoid disrupting existing registrations.

In Conclusion

In summary, this submission recommends:

- **Issue 1:** Retaining allocation rules for .com.au and .net.au, clarifying service-based allocation, and recognising legitimate internal and development uses.

- **Issue 2:** Continuing to allow monetisation only where a genuine service is provided, distinguishing it from passive domain parking.

- **Issue 3:** Maintaining the current contested .au direct process, encouraging negotiation (including with government registrants), and avoiding auctions that favour financial capacity over legitimate interest.

- **Issue 4:** Retaining the reserved names list internally, ensuring transparency and documented justification, and requiring legitimate reasons for any name being reserved.

- **Issue 5:** No changes recommended for the complaint process.

- **Issue 6:** Aligning selectively with gTLD rules where beneficial, including removing the 90-day renewal restriction, while retaining flexibility to respect unique Australian circumstances.

Overall, the guiding principle should be fair, transparent, and practical governance that supports legitimate businesses, preserves the trust of the .au namespace, and ensures decisions are consistent with both historical policy and contemporary online business practices.

Thank you for your consideration of these points.

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