

**auDA PUBLISHED POLICY****Policy Title:** COMPLAINTS POLICY**Policy No:** 2002-21**Publication Date:** 18/07/2002**Status:** Replaced by Policy No 2007-03**1. BACKGROUND**

- 1.1 This document sets out auDA's policy on the handling of complaints made by registrants and other members of the public about registrars and resellers in the .au second level domains (2LDs). At the time of publication, the open 2LDs are asn.au, com.au, id.au, net.au and org.au.

**2. COMPLAINTS-HANDLING PRINCIPLES**

- 2.1 Under Federal Government policy, the Australian domain name industry is self-regulatory. This means that the industry itself is responsible for determining appropriate responses to any problems that arise within the industry.
- 2.2 In accordance with this self-regulatory approach, auDA is an office of last resort with regard to making a complaint about a registrar or reseller. Before auDA will investigate a complaint, you must have first attempted to resolve the complaint with the registrar or reseller involved. Under the Code of Practice, all registrars and resellers must have adequate complaints-handling policies and procedures in place.

**3. auDA'S JURISDICTION TO HANDLE COMPLAINTS**

- 3.1 auDA's jurisdiction to handle complaints about registrars and resellers is limited to matters relating to the allocation and management of a domain name in the .au domain space. This includes complaints about:
- a) the registration of a domain name;
  - b) the renewal of a domain name;
  - c) the delegation/redelegation of a domain name;
  - d) the transfer of a domain name to another registrar;
  - e) the transfer of a domain name licence to another registrant; and
  - f) possible breaches of the Registrar Agreement, the Code of Practice, or any auDA Published Policy.
- 3.2 auDA does not have the jurisdiction to handle complaints about:
- a) generic Top Level Domains (eg. .com, .net, .biz, .info, etc) or other country code Top Level Domains (eg. .nz, .uk, .us, etc);
  - b) Internet access or email services;

- c) web hosting, website management or website design services;
  - d) objectionable or offensive website content; and
  - e) possible breaches of the *Telecommunications Act 1997*, the *Broadcasting Services Act 1992*, the *Trade Practices Act 1974*, the *Trade Marks Act 1995*, the *Privacy Act 1988* or any other legislation.
- 3.3 For complaints about matters listed in paragraph 3.2e), you should contact the relevant government authority, such as the Australian Communications Authority (ACA), the Telecommunications Industry Ombudsman (TIO), the Australian Broadcasting Authority (ABA), the Australian Competition and Consumer Commission (ACCC), or the Office of the Privacy Commissioner.

#### **4. HOW TO MAKE A COMPLAINT**

- 4.1 Before making a complaint to auDA, you must try to resolve the problem directly with the registrar or reseller involved, by following their internal complaints handling procedure. You must allow a reasonable period of time for the registrar or reseller to respond to your complaint. auDA will not investigate your complaint unless you have done so.
- 4.2 You should keep a record of your dealings with the registrar or reseller, including copies of any correspondence, the names of customer support staff that you speak to and the key points discussed.
- 4.3 Having followed the internal complaints handling procedure of the registrar or reseller involved through to completion, if you are not satisfied with the outcome you can make a complaint to auDA by submitting the online form on the auDA website at <http://www.auda.org.au/registrars/complaints.html> (a copy of the form is at Schedule A).
- 4.4 Before making a complaint to auDA, you should collect any relevant supporting documentation, such as registration agreements, policies, emails and other correspondence with the registrar or reseller. Failure to do so may mean that auDA is unable to investigate your complaint for lack of evidence.
- 4.5 You should also think about what you want to achieve by making a complaint, having regard to the remedies available to complaints listed in paragraph 6.1. In some cases, even if your complaint is justified, there may be legal or technical reasons why auDA is unable to grant the remedy that you seek.
- 4.6 auDA reserves the right not to investigate a complaint that is clearly frivolous, vexatious, abusive or offensive.

#### **5. COMPLAINTS-HANDLING PROCESS**

- 5.1 auDA will acknowledge receipt of your complaint and indicate the timeframe that you can expect a response. auDA will endeavour to resolve your complaint as quickly as possible, but if your complaint is complex it may take several weeks to resolve. If this is the case, auDA will keep you informed of the progress of your complaint.
- 5.2 On receipt of your complaint, auDA will request a response from the registrar or reseller involved. auDA will investigate your complaint based on the facts provided by both sides. auDA may seek further information from either side to assist with its investigation.
- 5.3 After conducting a full investigation, auDA will notify you in writing (usually by email) of the outcome of your complaint. You should be aware that auDA may determine that although you may have suffered inconvenience or disappointment, the registrar or reseller involved is not at fault.

## 6. REMEDIES AVAILABLE TO COMPLAINANTS

- 6.1 Depending on the circumstances of your complaint, auDA may take one or more of the following actions:
- a) request the registrar or reseller to issue you with a full explanation and apology;
  - b) request the registrar or reseller to remedy their error and/or refund any payment for services not received;
  - c) request the registrar or reseller to amend the practice or procedure that led to your complaint;
  - d) notify the registrar or reseller that they are in breach of the Registrar Agreement, the Code of Practice or an auDA Published Policy, and request them to immediately remedy the breach; or
  - e) refer your complaint to the relevant government authority.
- 6.2 If the registrar or reseller involved does not comply with auDA's request pursuant to paragraph 6.1a)-d), auDA may take the following action:
- a) in the case of a reseller of a registrar, auDA may direct the registrar not to accept any services from that reseller, and to terminate any reseller licence in existence between the registrar and that reseller; or
  - b) in the case of a registrar, auDA may suspend or terminate the registrar's accreditation.
- 6.3 Please Note: auDA is not a government agency or statutory authority, therefore it does not have legislative power to impose fines or other penalties on a registrar or reseller.

## 7. OTHER AVENUES FOR COMPLAINT

- 7.1 auDA is the Government-endorsed delegate for the .au domain. Whilst the Government has reserve powers over domain names under the *Telecommunications Act 1997*, it does not involve itself in auDA's functions as the self-regulatory body for the Australian domain name industry.
- 7.2 If you are not satisfied with the way that auDA has handled your complaint, you may wish to write to the Department of Communications, Information Technology and the Arts (DCITA). Contact details are available on the DCITA website at <http://www.dcita.gov.au>

**SCHEDULE A**  
**COMPLAINTS FORM**

**Contact details:**

Title	
First Name	
Last Name	
Address	
State	
Postcode	
Contact phone number	
Contact fax number	
Contact email address	

**Complaint details:**

Full name of company you are making a complaint against	
Name of person you have contacted at the company	
When did you first make a complaint to the company?	
Details of complaint	