

**auDA PUBLISHED POLICY**

**Policy Title:** CLARIFICATION OF DOMAIN NAME LICENCE – PROHIBITION ON SALE OF DOMAIN NAME

**Policy No:** 2005-05

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**Status:** Replaced by Policy No 2008-08

**1. BACKGROUND**

- 1.1 This document clarifies the terms and conditions of a domain name licence in the .au domain, with respect to offering a domain name for sale.
- 1.2 Under clauses 10.1 and 10.2 of the Registrar Agreement, accredited registrars are required to enter into a binding and enforceable Registrant Agreement (domain name licence) with a registrant which contains a number of minimum provisions, including:
  - a) the registrant must not, directly or indirectly, through registration or use of its domain name or otherwise, register a domain name for the purpose of selling it; and
  - b) the registrant must not in any way transfer or purport to transfer a proprietary right in any domain name registration.

**2. PROHIBITION ON SALE OF DOMAIN NAME BY REGISTRANT**

- 2.1 There are no proprietary rights in a domain name. A registrant does not "own" their domain name, instead they hold a licence to use the domain name for a specified period of time and subject to the licence terms and conditions.
- 2.2 Because the registrant does not have a proprietary right in the domain name, it is not legally possible for the registrant to "sell" the domain name. By offering to sell their domain name to another party, the registrant is in breach of the Registrant Agreement.
- 2.3 It is possible for a registrant to transfer their domain name licence to another party, but only in the circumstances set out in auDA's Transfers (Change of Registrant) Policy (Policy No 2004-03). A registrant who attempts to "sell" their domain name licence should be aware that such a transaction will not fall within the circumstances set out in the Transfers (Change of Registrant) Policy, and therefore the domain name will not be transferred to the other party.

**3. COMPLAINTS-HANDLING PROCESS**

- 3.1 Where a person believes that a registrant has offered their domain name for sale, that person should lodge a complaint with auDA by using the contact details on the auDA website at <http://www.auda.org.au>. The complaint should include relevant supporting documentation (eg. copy of the registrant's offer to sell, or link to a listing on an auction website).
- 3.2 If auDA determines that the registrant has offered their domain name for sale in breach of the Registrant Agreement, auDA will contact the registrant and request that they withdraw the domain name for sale. The registrant will be required to respond within 7 calendar days of auDA's request. The registrar of record for the domain name will also be notified of the complaint.

- 3.3 If the registrant withdraws their domain name from sale, auDA will take no further action on the complaint.
- 3.4 If the registrant does not withdraw the domain name from sale, or does not respond to auDA's request, auDA will instruct the registrar to delete the domain name. The domain name will enter "pending delete" status for 14 calendar days, then it will be randomly dropped from the registry database within the next 7 calendar days.
- 3.5 The domain name will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to licence the domain name, they must apply for it using the normal application process.