

File Reference: Y2001/0582

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Via email: jo.lim@auda.org.au

Dear Ms Lim

Second Report for Public Consultation: Recommended Competition Model for the .au Domain Space

The ACA has reviewed this report and only wishes to comment on those recommendations that deal with proposed consumer safeguards.

The second public consultation report does not acknowledge that the safeguards available to consumers could vary significantly, depending on whether or not a registrar is a carriage service provider (CSP). CSPs are organisations that supply voice or data services to the public using one or more links to distinct places in Australia. The definition of a CSP is contained in section 87 of the *Telecommunications Act 1997*. Further details are also available from the ACA's website at the following address: www.aca.gov.au/licence/carrier/spo.htm

The organisations most likely to be appointed by auDA as registrars will probably not fit the definition of a CSP, in which case consumers will be protected by safeguards contained in the registrar agreement, the *Trade Practices Act 1974*, state-based fair trading legislation and, to a lesser extent, codes developed by the Internet Industry Association (IIA). However, if a registrar does fit the definition of a CSP, then its consumers will be entitled to additional protection under the *Telecommunications Act 1997*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, and codes developed by the Australian Communications Industry Forum (ACIF). A complete list of codes developed by ACIF is available from its website at: www.acif.org.au.

The ACA recommends that auDA work closely with legal representatives, the ACA, ACIF and the IIA to identify additional protection measures available to customers of CSPs. Once this has been done, auDA will be in a position to determine the appropriateness of these safeguards to domain name registration and the extent to which these codes will require amendment.

Some examples of safeguards contained in codes are provided below. This list is by no means exhaustive, as there are too many safeguards available to consumers of CSPs to sensibly list them all here:

- *Protection of Personal Information of Customers of Telecommunications Providers* (ACIF C523:1999). Under this code, CSPs must take reasonable steps to ensure the customer is aware of the use to which personal information will be put and the other persons or organisations to which the information will be given. CSPs must give customers access to personal information about them held by the provider, with limited exceptions. CSPs may only transfer customer information outside of Australia if the customer has consented, the transfer is for the benefit of the customer and is necessary for legal reasons.
- *Customer Information on Prices, Terms and Conditions* (ACIF C521: 2000). Before purchasing a product, the customer must be given a full description of the product, pricing information, the length of the sales contract and how it can be terminated. Any disclaimers to a product offer must be clearly indicated and understandable and closely linked to the offer.
- *Customer Transfer* (ACIF 546: 2000). CSPs must take reasonable steps to ensure that they are dealing with the customer authorised to consent to the transfer of a service. The CSP should also confirm the details of the transfer, including the identity of the customer and the service being transferred. Finally, the CSP should inform the customer when the transfer of service is complete.

If auDA did decide to adopt consumer safeguards that were lower than that those applicable to registrars that were CSPs, then it should justify why it has gone down this path. The ACA would be disappointed if auDA adopted consumer safeguards that were significantly lower than those applicable to a very large segment of the telecommunications industry.

Please contact Alan Chalmers of this office on (03) 9963 6841 if you would like to discuss any of the above.

Yours sincerely

Neill Whitehead
Manager
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8 June 2001