

auDA NAME POLICY REVIEW PANEL

FINAL RECOMMENDATIONS ON DOMAIN NAME POLICY RULES

November 2004

Executive Summary

The Panel's recommendations to the auDA Board are summarised below for ease of reference, however the Panel urges readers to consider each recommendation in conjunction with the explanatory text provided in the body of the report.

1. The Panel recommends the retention of the current policy rules relating to the verification of registrant identity, other than the proposed change in Recommendation 6 in relation to the eligibility criteria for org.au and asn.au.
2. The Panel recommends the retention of the current general rule that registrants must, with three exceptions, be Australian.
3. The Panel recommends that:
 - the licence period for open 2LD domain names be 1, 2 or 3 years (in 12 month blocks); and
 - registrants be allowed to shorten their domain name licence period in order to synchronise expiry dates for multiple domain names.
4. The Panel recommends that the restriction on domain names that match existing TLDs be removed.
5. The Panel recommends the retention of the current eligibility criteria for net.au.
6. The Panel recommends that:
 - the eligibility criteria for org.au and asn.au should be combined and applied to both 2LDs; and
 - auDA strengthen the registrant warranty statement, and include a more explicit warning about the consequence of false warranty, to make it easier to revoke a domain name licence for false warranty or bad faith.
7. The Panel recommends the retention of the current allocation criteria for asn.au, com.au, net.au and org.au. With respect to implementation of the allocation criteria, the Panel recommends that:
 - the different allocation criteria should be reorganised into two categories; and
 - auDA strengthen the registrant warranty statement, and include a more explicit warning about the consequence of false warranty, to make it easier to revoke a domain name licence for false warranty or bad faith.
8. The Panel recommends that the policy rules for id.au be amended to allow a registrant to register any personal name by which they are known (ie. a nickname).

Background

In July 2004 the auDA Board established the Name Policy Review Panel to:

- review auDA's Domain Name Eligibility and Allocation Rules for the Open 2LDs (2002-07); and
- provide recommendations to the auDA Board about what changes (if any) should be made to that policy.

The two auDA Published Policies that formed the basis of the Panel's review are:

- Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (Policy No 2002-07), available on the auDA website at <http://www.auda.org.au/policies/auda-2002-07/>; and
- Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (Policy No 2003-07), available on the auDA website at <http://www.auda.org.au/policies/auda-2003-07/>.

The following issues did not form part of the Panel's Terms of Reference:

- Review of the restriction on use of Australian geographic names in com.au and net.au. auDA has conducted public consultation on this issue as part of a separate policy review process. See <http://www.auda.org.au/reviews/geonames-2004/>.
- Consideration of whether registrations should be allowed directly under .au (eg. "myname.au"). The auDA Board has confirmed its commitment to the existing 2LD hierarchy.

The Panel's Terms of Reference and a list of Panel members is available on the auDA website at <http://www.auda.org.au/nprp/nprp-index/>.

Panel Proceedings, July - October 2004

The auDA Board appointed Derek Whitehead as Chair of the Panel in June 2004. Following a public call for nominations, 20 people were appointed to the Panel representing a range of interests and stakeholders. One Panel member resigned in August due to other commitments.

The Panel held three meetings, on 27 July, 7 September and 13 October 2004, supplemented by discussion on the Panel mail list. There was a high rate of participation by Panel members.

The Panel released an Issues Paper on 9 August 2004 for a three week public consultation period. The Issues Paper identified a number of issues to be considered as part of the Panel's review of domain name eligibility and allocation policy. The Panel received seven public submissions in response to the Issues Paper.

The Panel released its Draft Recommendations on 23 September 2004 for a two week public consultation period. The Panel received five public submissions in response to the Draft Recommendations.

All Panel papers, minutes and public submissions are available on the auDA website at <http://www.auda.org.au/nprp/nprp-index/>.

Recommendations to the auDA Board

The Panel's eight recommendations to the auDA Board propose fairly minor modifications to the policies introduced two years ago. It was clear from the two consultations undertaken and from the Panel's own discussions that the level of support for the current policies is high, and few people saw much reason for substantial change.

A number of issues were raised initially by the Panel, and formed the subject of its consultations. However, in three of these areas it was agreed that no recommendation for change would be made, while a fourth recommendation is for a change in procedures rather than in policy.

Each section below includes:

- the Panel's recommendation to the auDA Board;
- a brief explanation of the current policy; and
- the Panel's consensus view and rationale for the recommendation.

Recommendation 1: Verification of registrant identity

Recommendation 1:

The Panel recommends the retention of the current policy rules relating to the verification of registrant identity, other than the proposed change in Recommendation 6 in relation to the eligibility criteria for org.au and asn.au.

Current policy:

Under the eligibility rules for com.au, net.au and org.au it is currently not possible to register a domain name without providing an official identifier, eg. ACN or ABN. Registrars are required to check the registrant's identification details against the relevant authoritative database, eg. ASIC or ABR.

The eligibility rules for asn.au and id.au do not require the registrant to provide an official identifier if they don't have one. Instead, the registrant is required to warrant their identity and eligibility to the registrar. auDA reserves the right to revoke the registrant's domain name licence if the registrant's warranty proves to be false.

Rationale:

The Panel believes that verification of registrant identity has resulted in good data integrity in the .au registry compared with the gTLDs and other ccTLDs. This view was reinforced by comments made in most public submissions to the Panel.

The Panel is concerned that information about registrants is as accurate and current as possible, but believes that this is primarily the role of registrars. The Panel notes that registrars employ various mechanisms to ensure that their customers maintain accurate contact details.

The Panel notes that the .au WHOIS database discloses registrant identification details (eg. ACN, ABN, etc) and auDA policy provides for cancellation of a domain name if the registrant does not maintain correct identification details.

The Panel therefore does not propose any major change to the current requirements for verification of registrant identity. The Panel also agreed that no further checks proposed are practicable, and that such approaches as address verification were not reliable or efficient enough to be added to the current processes.

Recommendation 2: Opening up .au to non-Australian registrants

Recommendation 2:

The Panel recommends the retention of the current general rule that registrants must, with three exceptions, be Australian.

Current policy:

Under current policy there are three exceptions to the general rule that registrants must be Australian: foreign companies registered with ASIC, owners of an Australian Registered Trade Mark (both permitted to register in com.au and net.au), and foreign embassies and consulates (permitted to register in org.au).

Rationale:

The Panel believes that the needs of non-Australian entities that are legitimately trading in Australia are adequately met within the current policy. These needs are primarily commercial, and the barriers to obtaining an ABN or registered business name are not high.

On the other hand, the Panel is of the very strong opinion that allowing non-Australian registrants would substantially undermine data integrity in the .au registry, due to the impracticality of requiring registrars to verify the identity of foreign entities. This would be less so if eligibility were extended only to New Zealand, but the Panel cannot see a clear rationale for a dividing line between New Zealand and the rest of the world.

Recommendation 3: Domain name licence periods

Recommendation 3:

The Panel recommends that:

- the licence period for open 2LD domain names be 1, 2 or 3 years (in 12 month blocks); and
- registrants be allowed to shorten their domain name licence period in order to synchronise expiry dates for multiple domain names.

Current policy:

The licence period for all .au domain names is fixed at 2 years (ie. registrants must renew their domain name every 2 years).

Rationale:

The Panel's view is that there are good reasons to be more responsive to the needs of both registrants and registrars for different licence periods. For example, a 1 year licence period would suit registrants who want to use domain names for temporary promotions or events, while a 3 year period would be consistent with the business name registration cycle.

The Panel also sees benefits to registrants in allowing synchronisation of expiry dates, to assist with domain name portfolio management in conjunction with corresponding trademark or business name portfolios. (Note that the registrant would still be required to register for a full 1, 2 or 3 year licence term, but would be able to shorten the licence period once the domain name is registered.)

However, the Panel also believes that there are good reasons for imposing a ceiling on the length of registrations. The Panel's view is that a longer licence period (eg. 5 or 10 years) is unnecessary and undesirable for the following reasons:

- the market demand for 10 year licences is estimated (in public submissions) to be less than 1%;
- most businesses change a lot in 10 years, and many small businesses fail within the first 2-5 years;
- there is greater potential for registrants to hold desirable domain names for a long period without using them;
- it may create additional regulatory burdens on auDA, eg. auDA may be required to introduce special consumer protection measures to deal with registrars and resellers who go out of business in 5 or 10 years; and
- it is not appropriate to align domain name registration periods with trademark registration periods, as domain names do not confer the same legal rights as trademarks.

Recommendation 4: Restriction on domain names that match existing TLDs

Recommendation 4:

The Panel recommends that the restriction on domain names that match existing TLDs be removed.

Current policy:

The auDA Reserved List contains existing ccTLDs and gTLDs, which means that people cannot register two-letter domain names such as "uk", "nz" and "jp", or other domain names such as "com", "name" and "museum". The basis for reserving gTLDs and ccTLDs is to comply with IETF standard RFC 1535 (refer to <http://www.ietf.org/rfc/rfc1535.txt?number=1535>.)

Rationale:

The Panel notes that the technical basis for maintaining the restriction is no longer relevant due to DNS technology developments since RFC 1535 was drafted over 10 years ago. The Panel further notes that in the past the restriction has been imposed inconsistently, and hence some restricted names are in fact being used with no apparent ill effect.

The Panel suggests that auDA may wish to implement this change in conjunction with the release of geographic names in com.au and net.au (announced by auDA on 1 September 2004).

Recommendation 5: Eligibility criteria for net.au

Recommendation 5:

The Panel recommends the retention of the current eligibility criteria for net.au.

Current policy:

The eligibility criteria for net.au are exactly the same as for com.au. Registrants must demonstrate that they are registered to trade in Australia by providing an appropriate official identifier, such as ACN, ABN or TM number.

Rationale:

The Panel believes that the current policy for com.au and net.au widens the pool of commercial names, and gives a choice of two 2LDs each with a different “feel”. Registration statistics from AusRegistry over the past two years show that there's been a steady increase in the number of net.au domain names, suggesting that it retains a degree of market value and recognition.

Recommendation 6: Eligibility criteria for org.au and asn.au

Recommendation 6:

The Panel recommends that:

- the eligibility criteria for org.au and asn.au should be combined and applied to both 2LDs; and
- auDA strengthen the registrant warranty statement, and include a more explicit warning about the consequence of false warranty, to make it easier to revoke a domain name licence for false warranty or bad faith.

The eligibility criteria recommended by the Panel are provided at Attachment A.

Current policy:

The eligibility criteria for org.au are currently more restrictive than for asn.au. In order to register an org.au domain name, registrants must be incorporated or at the very least have an ABN whereas registrants in asn.au are not required to provide an official identifier.

The reason for the different eligibility criteria is that the 2LDs have different purposes. As stated in the policy, org.au is for non-profit organisations and registered charities, so the eligibility rules require the applicant to provide an official identifier to verify their status. However, asn.au is for sporting clubs, special interest groups etc which by their nature do not usually have formal legal status and are therefore unable to provide an official identifier.

Rationale:

The Panel notes public comments that asn.au has failed to attract user support, and shows recent signs of declining even further. The experience of registrars is that their non-commercial customers have a strong preference for org.au; if the customer can't satisfy the eligibility requirements for org.au then they will register a .org gTLD rather than an asn.au domain name.

The Panel believes that it is therefore reasonable to respond to market demand by allowing unincorporated entities to register an org.au domain name in the same way that they can currently register an asn.au domain name.

In line with its views on the importance of verifying registrant identity (Recommendation 1), the Panel is concerned to ensure that the relaxation of eligibility criteria for org.au does not result in numbers of "illegitimate" organisations registering domain names. The Panel therefore recommends that auDA strengthen the registrant warranty statement to make it easier for auDA to revoke a domain name licence where the registrant is not a legitimate organisation or has otherwise acted in bad faith to obtain the domain name. There should also be a more explicit warning to registrants at the time of registration of the consequences of making a false warranty.

Recommendation 7: Allocation criteria for domain names – exact match, abbreviation, acronym, close and substantial connection

Recommendation 7:

The Panel recommends the retention of the current allocation criteria for asn.au, com.au, net.au and org.au. With respect to implementation of the allocation criteria, the Panel recommends that:

- the different allocation criteria should be reorganised into two categories; and
- auDA strengthen the registrant warranty statement, and include a more explicit warning about the consequence of false warranty, to make it easier to revoke a domain name licence for false warranty or bad faith.

The allocation criteria categories recommended by the Panel are at Attachment B.

Current policy:

In all 2LDs, registrants are able to register domain names that are an exact match, abbreviation or acronym of their company, business or personal name. They are also able to register names which have a "close and substantial connection". This is defined with reference to a number of types - eg. product sold by the registrant, service provided by the registrant, etc.

Registrants must select the appropriate allocation criteria when they submit their application to a registrar. In the case of close and substantial connection claims, the registrant is required to warrant that the claim is true.

auDA reserves the right to revoke a domain name licence if the registrant's warranty proves to be false; to date, this has happened on only 2-3 occasions. Complaints about false warranty (ie. bad faith) can also be handled under the auDRP.

Rationale:

The Panel believes that registrants should only be permitted to register a domain name that is in some way connected to their name (by exact match, abbreviation or acronym) or their activities (by close and substantial connection). Therefore, the Panel supports the current policy with respect to allocation criteria for asn.au, com.au, net.au and org.au.

However, the Panel's view is that the implementation of the policy could be simplified for both registrars and registrants by reorganising the allocation criteria into two categories. In other words, instead of the domain name application form listing ten or more allocation criteria, it would list only two criteria as illustrated at Attachment B.

It's important to note that this does not amount to a change in allocation criteria, it is merely a reorganisation for implementation purposes. Registrars would still be required to check that the registrant meets the allocation criteria. In relation to a close and substantial connection, the Panel recommends that auDA strengthen the registrant warranty statement to make it easier to revoke a domain name licence for false warranty or bad faith. There should also be a more explicit warning to registrants at the time of registration that they will have their domain name licence revoked if they are unable to substantiate their close and substantial connection claim.

Recommendation 8: Allocation criteria for id.au

Recommendation 8:

The Panel recommends that the policy rules for id.au be amended to allow a registrant to register any personal name by which they are known (ie. a nickname).

Current policy:

Registrants in id.au are allowed to register domain names that are an exact match, abbreviation or acronym of their personal name, or are derived from the personal name in some way. The guidelines for applying the current policy provide that nicknames may be registered, but the registrant must warrant that it is their nickname and registrars must check to make sure it is a "reasonable" nickname (eg. commercial names are not generally accepted as nicknames).

Rationale:

The Panel notes that the current guidelines for id.au (auDA Published Policy 2003-07) allow the registration of nicknames, but that this is not reflected in the policy for id.au (auDA Published Policy 2002-07). The Panel therefore recommends an alignment of current policy and practice.

ATTACHMENT A - asn.au and org.au eligibility criteria (Recommendation 6)

Eligibility criteria for org.au and asn.au

To be eligible for a domain name in the asn.au or org.au 2LD, registrants must be:

- an association incorporated in any Australian State or Territory; or
- a political party registered with the Australian Electoral Commission; or
- a trade union or other organisation registered under the *Workplace Relations Act 1996*; or
- a sporting or special interest club operating in Australia; or
- a charity operating in Australia, as defined in the registrant's constitution or other documents of incorporation; or
- a non-profit organisation operating in Australia, as defined in the registrant's constitution or other documents of incorporation.

ATTACHMENT B - Allocation criteria categories (Recommendation 7)

Allocation criteria for asn.au, com.au, net.au and org.au

Domain names in asn.au, com.au, net.au and org.au must be:

- an exact match, abbreviation or acronym of the registrant's name* or trademark; or
- otherwise closely and substantially connected to the registrant.

* A "name" refers to the registrant's company name, business or trading name, organisation or association name.

ATTACHMENT C - Glossary

<i>Term</i>	<i>Definition</i>
2LD	Second level domain, ie. a name at the second level of the .au domain name hierarchy (eg. com.au)
ABN	Australian Business Number
ABR	Australian Business Register
ACN	Australian Company Number
ASIC	Australian Securities and Investment Commission
auDA	.au Domain Administration Ltd
auDRP	.au Dispute Resolution Policy
AusRegistry	AusRegistry Pty Ltd, the registry operator for open 2LDs
ccTLD	Country Code Top Level Domain (eg. .au, .uk)
DNS	Domain Name System
gTLD	Generic (or Global) Top Level Domain (eg. .com, .biz)
IETF	Internet Engineering Task Force
Registrant	an entity or individual that holds a domain name licence in one of the 2LDs
Registrar	an entity that registers domain names for registrants and is accredited by auDA
RFC	Request for Comment (IETF standard)
TM	Trade mark
WHOIS	Public interface to the domain name registry database.