Policy Review Panel	Date	08/03/2018
C/- .au Domiain Admnistration Ltd	Reference	Registrant Policy Issues Paper
PO Box 183315		
Melbourne VIC 3001		
Australia		

By Email: policy.review@auda.org.au

Dear auDA Policy Review Panel,

Internet Australia appreciates the opportunity to make a further submission to the Australian Domain Name Administration (auDA) inquiry, responding to the "Registrant Policy: Enabling Australia's Digital Economy and Society" issue paper (hereinafter referred to as the Issues Paper) released in January 2018 as additional consultation during the consultation on direct registration.

Internet Australia has already responded to auDA's earlier Issues Paper on Direct Registration and has no further comment to make on the issues raised in that earlier paper. We do look forward to the further consultations by auDA on the new issues raised in this paper, set out below.

About Internet Australia

Internet Australia is the not-for-profit organisation representing all users of the Internet. Our mission – "Helping Shape Our Internet Future" – is to promote Internet developments for the benefit of the whole community, including business, educational, government and private Internet users. Our leaders and members are experts who hold significant roles in Internet-related organisations and enable us to provide education and high level policy and technical information to Internet user groups, governments and regulatory authorities. We are the Australian chapter of the global Internet Society, where we contribute to the development of international Internet policy, governance, regulation and technical development for the global benefit.

We would be happy to have our members and experts meet with the Panel to further discuss our comments and observations raised in this paper.

Yours Sincerely

Dr Paul Brooks
Chair – Internet Australia
chair@internet.org.au

internet.org.au
@internetAUS

PO Box 1705
North Sydney, NSW 2000
Australia

General enquiries: info@internet.org.au

Submission by Internet Australia

Issues Paper: Registrant Policy on Enabling Australia's Digital Economy and Society

Introduction

The .au Top Level Domain space is recognised as one of the world's well governed namespaces, with Australian's placing a high level of trust associated with .au domains, and with Australians preferring to register new domains for business and other purposes within the .au hierarchy, as shown by the 2017 Annual Survey published by AusRegistry in November 2017.

Trust by an Internet user in the domain name system is paramount in building the confidence of the general population to increase their digital participation in Australia's digital economy and in digital society. Trust and confidence are embodied by several principles, including:

— Trust that a domain name will accurately reflect the business or content described or expected or associated with the name

— Trust that the establishment and registration of a new name is governed by open processes for review and approval that can weed out illegitimate or harmful registrations or sites before they can be used

— Trust that there are accountability measures that can act quickly in the event a name is misused or directed to a harmful site, including by reference to Australian laws and consumer protection measures expected to be available when doing business in Australia.

Users of the Internet do not distinguish between a name of a site, and the content hosted by the site to which the name points. The confidence and perceived increased safety of Internet users in the use of .au domain names as a preferred Internet destination is and will continue to be set by the trustworthiness of the content that the names point to. For these reasons it is of paramount importance that the Australian .AU TLD continues to be governed, managed, maintained and monitored with the overarching goal of enhancing the trust, safety and confidence of Internet users accessing the content of the registrants' names, ahead of convenience or revenue for registrants and registrars.

Responses to Questions

This submission addresses each of the questions raised in turn below.

> *1. Should the .au Domain namespace be a 'general purpose' domain for all Australians allowing use for any purpose?*

We reiterate our comment in our earlier submission that many of our members oppose the introduction of direct registration overall. For many members, the benefits of implementing direct 2LD registration have not been sufficiently articulated, and have not been sufficiently justified against the very real concerns of the costs involved. The costs are both financial, and a very real risk

of reduction in confidence and trust. The financial cost is easy to articulate, with new 2LDs being perceived as a money-making venture with no real improvement in the usability of the AU domain space, requiring registrants to add more administration and costs to protect brands or mitigate against fraud by registering more names they don't need to use. The cost of reduced trust and confidence in .AU names through increased name clashes, deliberate misspellings, misleading suffix combinations and misuse of a 2LD name that corresponds to an existing .com.au or .net.au registration that did not take up the 'offer' to obtain it themselves, leading to increased access to deliberately unsafe content is more difficult to quantify, but a very real concern to our members none-the-less.

In reference to Paragraph 34 of the Issues Paper, while "looser eligibility and allocation rules for the .au domain namespace" could lead to "preserve and strengthen the integrity of, and trust in the 2LD namespaces" (e..g .com.au and .net.au, presumably by moving problematic registrations up into the higher level hierarchy), it is it is difficult to understand how this will preserve and strengthen the integrity of, and trust in, the entire .AU domain space overall.

We consider the argument that other countries such as UK and New Zealand have introduced direct 2LD registration so Australia should as well, is spurious until studies of the outcomes in those countries have shown that there has been a measurable improvement in Internet usability through this change, and no decrease in trust and confidence or increase in malicious or misleading sites being introduced. Such introductions were not without controversy in those jurisdictions either.[1]

However, if 2LD direct registration proceeds, then all Australians should be able to register names in the .au domain space for any legal purpose.

> *2. Should the net.au namespace be closed to new registrations? If so, should existing net.au registrants be permitted to continue to renew their domain name indefinitely?*
>
> *3. What should happen to the asn.au namespace? Should it be closed to new registrations or retained as a dedicated namespace for associations?*

We consider these two spaces are still in use, and still attracting new registrations, and should continue to be available and used. Existing registrations should continue to be able to be renewed.

Now that they (.net.au and .asn.au) exist and are widely known and respected, locking and eventually removal of these namespaces would not be a benefit to the Australian community.

Many organisations have invested considerable cost and brand equity into a long existing association with existing names in these spaces, and forcing these organisations to change to a different space and incur the consequential costs in rebranding, reprinting stationery and rebuilding their content is unreasonable. There have been no substantive arguments as to why these two spaces should be changed, and it is difficult to argue that there is a unreasonable cost to maintain these name spaces, given the desire of this review is to drastically increase the number of name spaces and volume of name registrations.

---

[1] Charlton, *Seven reasons why .uk domains are a bad idea*, 16/9/2013,
https://econsultancy.com/blog/63407-seven-reasons-why-uk-domains-are-a-bad-idea

Notwithstanding that the eligibility and registration criteria for the .com.au and .net.au spaces are similar, many holders of names, and many users looking for these types of businesses, still place value in the traditional hint that the .net.au name indicates a network operator, particularly an Internet service provider or network operator. Where a non-network has chosen to establish a .net.au name, often it has done so because the .com.au name has been previously allocated to a different entity, and a registration in .net.au has formed a way of disambiguating the names while still keeping the overall name relatively short. Many users and registrants still value a short, concise domain name including all suffixes, and eliminating the .net.au space would remove this disambiguation method in a way that direct 2LD registrations will not.

Finally, the shuttering, and possibly eventual removal of such a key and well-known portion of the .AU namespace could raise concern and doubt about the operational stability of the .AU ccTLD and the risk that other well-known spaces may also become more ephemeral than the community expects, and may push registrants away from use of the .au namespace in preference for other spaces perceived to provide more longer-term security of tenancy.

> ### 4. Should the State and Territory namespaces be used for other purposes? If yes, why and what are the purposes for which domain names should be registered under these namespaces?

One variant of state or territory names spaces is community geographic names. They were developed to provide specific geographic regions with their own domain name. There is an established process for both granting and administering those names in serving the public interest. While they are not widely used, many are used mainly in rural and remote communities.

If other types of State and Territory name spaces are introduced, they should not detract from existing or future community geographic names.

If State and Territory names are introduced, they should be closed name spaces, administered by each state or territory government for institutions (not necessarily limited to government institutions) connected to the relevant state or territory. The NSW transport system could, for example, use the name transport.nsw.au.

> ### 5. Should auDA continue to maintain a public reserved list? Should the public reserved list be published? What process or steps should auDA take before deleting a restricted or prohibited name?

We note that auDA currently publishes a 'Reserved List', and that transparency of process is enhanced if this list continues to be publicly available as part of the appropriate policy.

In keeping with openness and transparency of process and decision making, we support the continued publication of the Reserved List, noting that the names on that list will continue to be Reserved based on the policies of other government departments whether they are published or not.

Regarding the deletion of a 'Prohibited Name' or a 'Restricted Name', we consider the policy and processes outlined in the current '2008-09 Prohibition on Misspellings Policy' appear to continue to be appropriate.

> *6. Should auDA be able to reserve names in the public interest? How should the public interestbe defined? What names should be reserved in the .au domain namespace? Should the public interest test replace the Prohibition on Misspellings Policy?*
>
> *7. Should the names identified in the discussion paper be reserved as future 2LD namespaces? Are there other names that should be reserved for use as future 2LD namespaces and why?*

Internet Australia supports the continued use of reserved names. While many examples of Reserved Names are provided in the Issues Paper, there should be a further consultation process to determine categories of names and/or individual names that should be on such list. Further, once Reserved Names are determined, they should be published in one easily discoverable place on the auDA website.

This process and visibility will protect the openness and transparency of the reservation process and the reserved names list.

> *8. Should there be a requirement for auDA to publish a list of names that are reserved for use by the registry and names that pose a risk to the operational stability and utility of the .au domain? Should there be any exceptions to the publication of names?*

As submitted above, auDA should continue to publish the list of reserved names, and names that pose a risk to the operational stability and utility of the .au domain. Exceptions might be required where the publication of a name on the list would itself form a risk to stability or utility, however these will need to considered by the auDA management on a case-by-case basis.

> *9. How should the Australian presence requirements be defined?*
> *Should trademark applicants and registrants only be allowed to register a domain name that is an exact match to their Australian trademark application or registration when relying on the trademark application or registration to establish an Australian connection?*

The various tests for Australian presence should be retained and consolidated into one test, possibly included in the public interest test. The trademarks rule allowing an Australian trademark to qualify as a component of the Australian presence, should also be retained, but only if confined (as is the case in Canada) to situations where the name includes the exact word or component of the registered Australian trademark.

10. What eligibility and allocation rules should apply to the .au domain namespace (direct registration) and the open 2LD namespaces, and why?

Should the close and substantial connection rule be retained and why?

Should allocation criteria be removed, and the focus be on registrant eligibility?

Should domain monetisation continue to be permitted in the com.au and net.au 2LD and at the second level?

How should domain monetisers interests be balanced against the needs of the broader Australian Internet Community?

Internet Australia does not, in principle, support the monetisation of names. Monetisation is, essentially, a rent seeking activity that drives up the price of names, to the potential disadvantage of micro and small business entities wanting to acquire a name appropriate for their business. However, the practice is currently allowed, and any transition away from current practice would raise questions of grandfathering existing names and potentially providing compensation to those currently in the business.

As previously submitted, Internet Australia believes that, in so far as possible, existing auDA policies should apply to 2LD registrations. These include the requirement for Australian residency (as set out in .au policies), the policy relating to misspellings, the need for a close and substantial connection between the registrant and the name, and meeting the eligibility criteria for one of the open 2TLDs that currently exist.

Paragraph 71 of the Issues Paper notes "this proposal simply replicates the existing functionality of the 2LD namespaces in a 'mixed use' namespace. It appears to generate no additional value to the .au domain or the Australian community...". Internet Australia considers that the close and substantial connection requirement *is* the additional value that users place on names in the .AU namespace, and that dropping this requirement would constitute a reduction in value, as measured by the confidence and trust that users will need to exhibit when searching or accessing the content behind these names.

Paragraph 73 highlights the issues that could occur if the close and substantial test is dropped, and the value of the existing 2LD names would be diminished, with the examples given of a citizen registering **afp.id.au.** and **afp.au.** . While afp.id.au is arguably not going to mislead a casual user into thinking this might be the official site for the Australian Federal Police, solely due to the presence of the well-known '.id.au' suffix, Australians are likely to be concerned if any Australian citizen could register **afp.au** without any connection to the Australian Federal Police or any other purpose where the AFP acronym was directly relevant.

Internet Australia agrees with the concerns expressed by ACCAN as noted in Paragraph 74 of the Issues Paper.

A Public Interest test and Independent review process
Internet Australia favours the development of a public interest as a general 'umbrella test' to guide decisions in areas such as the allocation or suspension of names. It should developed through a

public consultation process, and have clear examples of how it would be interpreted in different situations. The test should include the current rule on misspellings.

The Australian Dispute Resolution Process (auDRP) was established to provide an alternative to litigation to determine disputes between parties. However, either the auDRP should be expanded, or a simple review process developed where decisions are made by auDA (such as on the allocation, suspension, or revocation of a licence) where auDA is one of the parties. The process should be relatively inexpensive to use and independent of auDA.

11. Should internationalised domain names be trialled at the second level, and under what conditions?

In principle, the Internet Society recognises the improvements in usability and inclusion that will result from people around the world being able to access the Internet using their local script, and has supported the development of Internationalised Domain Names infrastructure within the IETF, as well as the formation of the Public Interest Registry (PIR) that operates four IDN TLDs (.opг, संगठन, .机构 and .组织机构) as well as the .org gTLD to support and encourage local language use of the Internet[2].

However, IDNs – with their introduction of alternative Unicode charactersets - have the risk of inadvertently introducing the possibility of generating misleading domain names that visually look identical to a legitimate name, but utilise alternative character representations that resolve to similar character shapes, including subtle accented variations such as ä or ė representations commonly found in European and similar Latin-derived languages. The introduction of IDNs, especially where the script has a similar visual representation to the familiar 'Latin' alphabet used in the .AU namespace currently requires careful thought, planning and communication to the wider Australian community.

We note that ICANN is currently working on IDNs at the top level, and that this is very fresh research and development, including a call for experts[3] to study rules for generating Root Zone Labels for gTLDs and ccTLDs that is not expected to complete until October 2018.

As IDN's are available and more are to be made available in new gTLDs and in countries where the native script is different from the Latin alphabet used in Australia, the Issues Paper has not set out clear reasons or studies demonstrating why introducing IDNs in the .au space is needed, when the Australian community uses the familiar Latin alphabet and most alternative scripts are available in top level IDNs. The paper has not established that there are scripts used in Australia that are not represented in the IDN gTLDs.

---

[2] Internet Society announcement, "*The Internet Society Announces New Appointments to Public Interest Registry Board of Directors*", March 2017, online at https://www.internetsociety.org/news/press-releases/2017/the-internet-society-announces-new-appointments-to-public-interest-registry-board-of-directors/

[3] ICANN, *Call for Experts to Study the Application of Root Zone Label Generation Rules*, 8 Feb 2018. Online at https://www.icann.org/news/announcement-2018-02-08-en

If a clear demand for such names can be made out, their introduction will raise many technical, linguistic and other issues that will need to be resolved, some of which are still in the process of being resolved in ICANN.

We recommend that auDA and the Australian community consult widely to agree on the demand for IDNs within .au, and perhaps which scripts will be replicated (would we duplicate every single IDN gTLD under .au?), while evaluating the work still occurring within ICANN on IDNs, before formally beginning technical trials.

12. Should a registrant be able to sublease the domain name to an unrelated party? If yes, in what circumstances should this be permitted?

Internet Australia recognises there are legitimate reasons and circumstances where a domain name license holder may wish to transfer or sublease a domain name to a third-party, and that in practice it is very difficult to prevent this practice occurring. Prohibiting such transactions will ensure that auDA is not notified when such transactions occur, thus ensuring auDA's data and the WHOIS database becomes out of date compared to actual usage of the domain names 'in the field'.

However, leasing or transferring names to an unrelated third party must not be a way of 'laundering' the name. Any new name holder must meet all auDA requirements for holding that name, including the 'close and substantial connection' rule if appropriate, before the name is leased or transferred, and auDA must reserve the power to not approve or not register such a transfer or lease.

Sanctions for permitting an unrelated third party to use the name without meeting the requirements that would have applied had the third-party originally applied for the name should include suspension of the name, thus making it unattractive and risky for the initial registrant to permit others to use the name inappropriately, helping to ensure the integrity and trust placed on names in the .au namespace is maintained.

13. Where a domain name licence is transferred between registrants, should the transferee receive the benefit of the remainder of the licence period?

The process described in Paragraph 98 of the Issues Paper, where the recipient receives the remaining balance of the license period, appears fair and should become policy. It is consistent with other similar situations, for example the purchaser of a car receives the benefit of the remaining period of vehicle registration after the transfer of registration.

14. Should auDA be given the power to suspend a domain name licence? When should auDA suspend rather than cancel a domain name licence? What should be the maximum suspension period before a domain name licence is cancelled?

We note that a suspension of a name, as compared to deletion of a name, will provide for an administrative return or reinstatement of the name if the reason for the action can be rectified or resolved, whereas a direct cancellation and deletion of the name does not allow for reinstatement. Suspension also enables the auDA to delay placing a deleted name back into the pool of available names to be recycled, thus avoiding or delaying obvious misuse to be repeated.

Internet Australia supports auDA having the authority to suspend a license rather than cancelation where there has been misuse of the name, where a malicious party has gained unauthorised control of the name or where there is a conflict over the authorised user of the name that must be resolved. There must be a clear process and clear criteria for such suspension and a process for appeal – preferably under an Independent Review Process, as suggested earlier.

15. For what purposes should auDA be allowed to collect, use and disclose registrant data?

We note that this question was not posed in the body of the paper, nor was any change to the existing disclosure policies proposed, so we suggest the current practice and policies regarding collection, use and disclosure of registrant data should continue.

We do note that the introduction of European GDPR (General Data Protection Regulations) has generated much discussion and debate recently in the global Internet community, not least in ICANN, and may form a reason to revisit these policies within the .au space generally.

16. Are there any concerns with the current level of information included in the public WHOIS service? Should the technical contact field be utilised for agent and lessee details?

Internet Australia has grave concerns for the accuracy, quality and completeness of information included in the public WHOIS service, however we note that this is not unique to the Australian ccTLD, but rather is endemic globally and in the generic TLDs also.

There is a tension between the need for complete and accurate WHOIS contact information to assist rapid operational contact to resolve problems, and the desire for domain registrants to obfuscate their contact details to frustrate the contacts and email addresses being harvested for spam and impersonation attacks including phishing email campaigns.

We note that WHOIS is in the process of being superseded by the Registration Data Access Protocol (RDAP)[4],[5], however the underlying source for the data records for both WHOIS and RDAP are likely to be from the same database, and the principles of the auDA WHOIS Policy will continue to apply

In principle, the 'Technical Contact' fields should be populated with the contact details of the organisation or individual who can practically operate the infrastructure serving the domain name, change the domain data, and respond to queries or notifications of operational problems such as the name not propagating or resolving correctly, or handle 'abuse@domain.au' reports in a timely manner. Often this is not the registrant directly, but it also may not be the agent that registered the name or the entity using the name under sublicense.

We point out that the WHOIS protocol, convention and the ICANN Registrar Accreditation Agreement includes an 'Admin Contact' set of fields in addition to the Registrant Contact and Tech

---

[4] Registration Data Access Protocol (RDAP), RFCs 7482,7480, 7483, online at
https://tools.ietf.org/html/rfc7482

[5] RDAP service by APNIC, https://www.apnic.net/about-apnic/whois_search/about/rdap/ and
https://blog.apnic.net/2015/03/27/rdap-now-a-published-standard/

Contact fields, which the current auDA WHOIS Policy does not appear to recognise. The auDA WHOIS policy could be amended to recognise the Admin contact set, so that there is room for three different parties as well as the Registrar of record to be recognised appropriately in the WHOIS data, which may help avoid inappropriately overloading either the Registrant fields or the Tech Contact fields with the third-party agent's information.

Ends