AusRegistry's Comments to the 2015 Names Policy Panel Draft Recommendations

30 September 2015

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Classification

Public

Purpose

This document is AusRegistry's comments on the 2015 Names Policy Panel Draft Recommendations.

Scope

This document outlines AusRegistry's position on the 2015 Names Policy Panel Draft Recommendations.

Audience

General public

auDA Names Panel

auDA Board

AusRegistry

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Cover Letter

AusRegistry's Comments to the 2015 Names Policy Panel Draft Recommendations, August 2015

Dear Jo Lim,

We thank auDA for the opportunity to respond to the 2015 Names Policy Panel Draft Recommendations, August 2015. Please find attached AusRegistry's comments to the Panel.

AusRegistry would like to take this opportunity to express our appreciation to auDA and the Panel for the time and effort that has been expended in reaching its draft recommendations.

AusRegistry Pty Ltd is the Registry Operator for the open 2LDs (asn.au, com.au, id.au, net.au and org.au), the community geographic 2LDs (act.au, nsw.au, nt.au, qld.au, sa.au, tas.au, vic.au and wa.au) and two closed 2LDs (edu.au and gov.au). Appointed the 2LD Registry Operator by way of open tender processes held in 2001 and 2005, and subsequent licence extensions in 2009 and 2013, our technical function affords the ability to deliver unique and valuable industry perspective.

Please do not hesitate to contact me should you require clarification or elaboration of any of the comments made in this document to the Panel's draft recommendations.

Kind regards,

Adrian Kinderis
Chief Executive Officer
AusRegistry Pty Ltd

Terms of Reference 1

Direct registrations under .au

Should .au be opened up to direct registrations (eg. domainname.au)? If yes, should there be any policy rules, and if so what rules?

Draft Recommendation 1A

The Panel recommends in principle that .au should be opened up to direct registrations.

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendation.

We believe that opening the .au namespace to direct registrations will ensure the continuing provision of a strong and viable namespace for our nation. We believe that through careful management, the opening of the .au namespace to direct registrations will enhance the reputation of the namespace and position it for continued innovation.

Furthermore we believe that businesses, organisations and individuals should be allowed the choice to decide whether they want to differentiate themselves with the existing 2LD options or to directly identify their Australian connection with a direct .au registered domain name. The .au namespace needs to progress at the same rate as consumers. With the trend toward the use of mobile devices, the number of relevant keystrokes required by users to access a web site is increasingly important; consumers are seeking ease, simplicity and speed.

The .au namespace has built a global reputation of being one of the most trusted and well utilised country code Top Level Domains; however the way users access and navigate the Internet is changing with the introduction of new Top Level Domains. Users have unprecedented access to domain name options related to industry verticals, generic words and geographic locations. We also believe that opening the .au namespace to direct registrations will provide a meaningful namespace for those who intend to utilise their domain name for personal use – something that has been lacking in the .au context.

Finally we believe that the implementation of such an opening of the .au namespace can be achieved in a manner which respects existing .au Registrants. AusRegistry supports the establishment of an implementation working group consisting of Internet stakeholders to ensure that questions relating to a hierarchy of rights, grandfathering and a release program are developed.

A strong and viable .au namespace

The .au namespace has served its users well since its delegation in 1986. Our tenure as Registry Operator commenced on 1 July 2002 and since that time we have seen the .au namespace develop from 282,632 domain names to over 3 million domain names today. This evolution of the .au namespace has been driven largely by policy development and implementation supported by a stable and secure DNS

environment. Focused marketing initiatives, education and awareness campaigns, and stakeholder and channel engagement have also been key drivers in the success of the .au namespace.

For a population base of just less than 24 million, Australian's rates for holding .au domain names – 125 .au domain names per 1,000 people – ranks as one of the highest amongst all country code Top Level Domains. These statistics, which consistently place .au in the top ten country code Top Level Domains worldwide for domains under management, are indicators of a healthy namespace.

Since delegation the .au namespace has evolved and innovated to service the needs of its users. Some changes of note have been:

- The formation of auDA in April 1999 to be the policy authority and industry self-regulatory body .au namespace.

- Implementation of the Registry-Registrar model by the awarding in 2001 of the Registry Licence Agreement to AusRegistry as the Registry Operator.

- Policy initiatives that have influenced change include:

    □ Abolition of the one domain name per entity restriction and introduction of the 'close and substantial connection', allowing prospective Registrants to register multiple domain names for a variety of purposes;

    □ Removal of the prohibition on generic domain names in .com.au, increasing the number of domain names registered;

    □ Removal of the prohibition on geographic domain names in .com.au and .net.au, increasing the number of domain names registered;

    □ Release of new 2LDs in .au for each state and territory wa.au, vic.au, nsw.au, nt.au, sa.au, qld.au, tas.au, act.au, giving community groups access to geographic domain names;

    □ Domain monetisation clarification of the 'close and substantial connection' rule incorporated into the Domain Name Eligibility and Allocation Policy Rules for the open 2LDs in December 2012, allowed domainers to enter the .au market; and

    □ Relaxation of the Transfers (Change of Registrant) Policy (2008-08), updated in November 2011, allowed the secondary market selling of .au domain names.

These changes and innovations have come about to meet the needs of users and to respond to a changing environment. Further change and innovation is needed though to ensure we evolve at industry pace. We are part of a global industry which has expanded dramatically in recent times. Over 750 new Top Level Domains have been introduced to date by the Internet Corporation for Assigned Names and Numbers specifically to increase competition and choice in the domain name market – with many more to come. Today's reality is that the market is changing along with end user behaviours and expectations. This is the opportunity for the Australian Internet community to listen and respond.

There is an increasing trend towards the use of mobile devices to access the internet. This has come about through innovation in technology, bringing more functional devices, better, faster and cheaper internet access and access to Wi-Fi networks. We need to respond to the market holistically across end user and Registrant behaviour to maximise these innovations in technology and respond to change.

Domain names face fierce competition, not only from within the industry through the introduction of new Top Level Domains – with hundreds more Top Level Domains expected to enter the market over the coming years – but also through alternate navigation methods such as Search, QR codes, social

media platforms and apps. Thus it is critical that the .au namespace to keep pace with technological advancements.

The.au Survey 2015, a joint research initiative from AusRegistry and auDA, attracted 3,101 responses from the general Australian population. Survey results indicate that there has been a noticeable shift among domain name holders towards domain names in other Top Level Domains. Looking at the three years of data, .au domain name Registrants were at 66% of respondents in 2013, then increased to 69% in 2014 but reduced to 61% for 2015 – almost a 10% reduction from 2014.

Respondents to the .au Survey 2015 appear less likely to hold a 2LD .au as part of a broader portfolio as the proportion holding just a .au 2LD is steady, while the proportion of respondents holding domain names, but not 2LD .au domain names, has risen from 31% to 39%, and the proportion holding a mixture is down from 27% of domain name owners to 20%.

For many years, the .au namespace grew rapidly with the uptake of the Internet and regular policy reviews, with domain name creates reaching a peak in FY12. Since then, annual domain name creates have begun to decline slowly as illustrated by the following chart showing domain name creates over the last seven financial years.
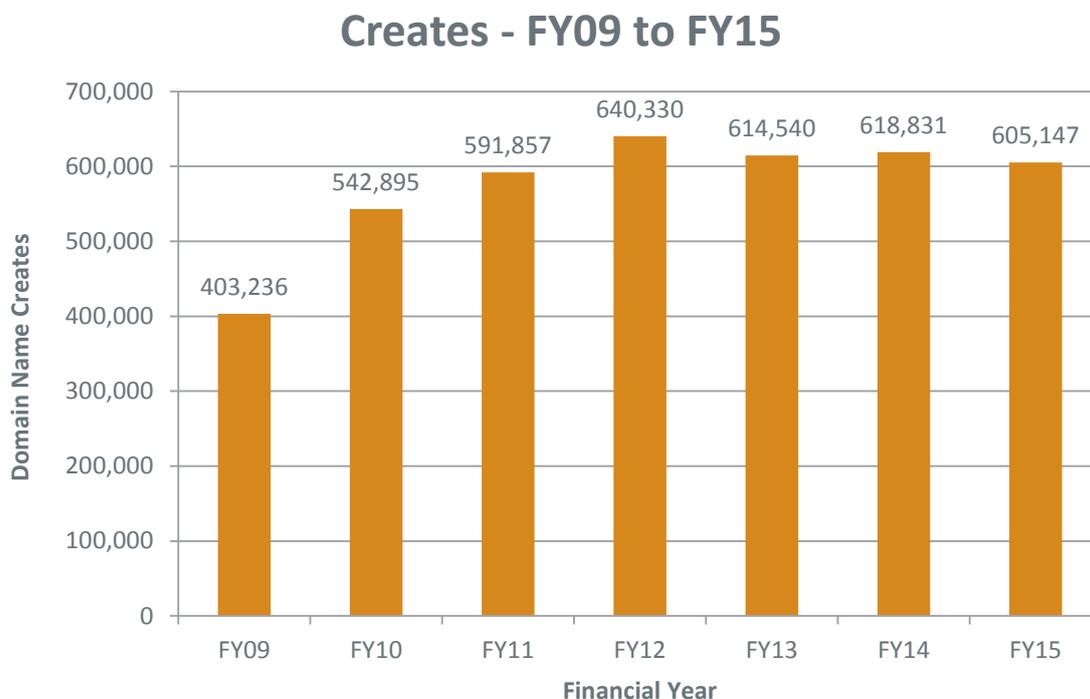
Creates - FY09 to FY15

Chart 1 - .au Domain Name Creates

We believe that the time is right to open the .au namespace to direct registrations. In doing so we would not be heading into uncharted waters; two recent and relevant examples of countries that have undergone such a process are New Zealand and the United Kingdom. Both these countries were in a similar situation to the .au namespace, and both within the last two years have undergone a successful process allowing direct registrations.

The New Zealand experience

Experiences for the New Zealand perspective indicate that the opening the .nz namespace to direct registrations has been well received. In response to opening up the .nz namespace, Debbie Monahan, Domain Name Commissioner, provided the following information to us:

> *"The success of our approach, ultimately, lay in the development and implementation of a fair and robust policy. From the project's early days we meaningfully engaged with the public and stakeholders – achieving this through multiple public consultation rounds and meetings.*
>
> *Our experience was that this public outreach surfaced a number of important points, which we subsequently wrote into the policy. By being prepared to listen and make changes, our final policy was well received and went through with a minimum of fuss.*
>
> *There were a number of policy aspects involving preferential registration and reservation, associated eligibility dates and a process for dealing with 'conflicted' names. Top of mind for us was the need to communicate with registrants about what this meant in a clear and straightforward manner.*
>
> *To socialise the change, we undertook our largest ever awareness campaign. All existing registrants were contacted at least twice by their registrar and made aware of their options. Our primary vehicle for communications was registrars. We also undertook significant advertising, media and third-party awareness activity.*
>
> *We can say with confidence that the change allowing shorter .nz domain names has been well embraced. Over 100,000 names direct at .nz have so far been registered – increasing the total number of active .nz domain names from 551,689 (at September 2014 go-live), to approximately 653,000. We have observed that existing Second Levels such as .co.nz also continue to be popular registration choices.*
>
> *There remain a number of registrants with a conflicted name. At September 2014 go-live there were 23,418 sets of conflicted sets of names direct at .nz. This had reduced to 19,124 by 25 May 2015. We are receiving some enquiries from registrants with a conflicted name and are offering facilitation to help them reach agreement, as required."*
>
> *- Debbie Monahan, Domain Name Commissioner*

Note: *a conflicted .nz domain name is one that has been registered in at least two 2LDs.

AusRegistry supports adopting and investing in similar education and awareness programs to those used to open the .nz namespace.

Statistics for the .au namespace

As of September 2015 a review of the .au namespace indicates that of the 2,608,097 potential .au registrations that exist in .com.au and/or .net.au, there would be no contention between Registrants for 2,473,813 (94.9%) of them. This is because 2,315,867 (88.8%) are held in only one of the commercial zones, generally but not exclusively .com.au, and for another 157,946 (6.1%) the owner is identifiably the same in both .net.au and .com.au.

The remaining 134,284 (5.1%) are potential contention sets and would need to be resolved. Some of these may have common ownership, where for example, the same entity registered in com.au with a state based business number and the .net.au with an ABN, however the size of this group is difficult to determine.

Thus we believe that contention sets in the .au namespace will be relatively small, and with a sensitive policy implementation for contention resolution, can be easily managed.

Reputation and utility of the .au namespace

auDA as the policy authority has established and maintains comprehensive policy for the .au namespace. This policy, backed by auDA's policy review process, and advisory panels, committees, and other consultative groups used to develop policies and practices that are appropriate for the Australian environment, has helped to establish the .au namespace as one of the most robust and well utilised country code Top Level Domains.

Put simply Australian users have trust in .au domain names, and the organisations that use them. Findings from the.au Survey 2015 showed that:

- 76% of .au domain name holders think that .au is the most popular domain and best represents Australian organisations;

- 68% of survey respondents are more likely to trust a website that ends with .au; and

- 72% of respondents that interact with .au think the amount of regulation is right.

Note: The .au Survey 2015 Report can be viewed at the following link:
http://www.ausregistry.com.au/pdf/auSurvey2015.pdf

AusRegistry believes that the existing policy framework can be modified without substantially derogating from existing policy. We believe that many of the principles of the .au policy framework can remain in place, and that opening of the .au namespace to direct registrations can be used to address the need to provide an accessible and relevant namespace for personal use.

.au Domain Names for personal use

The.au Survey 2015 indicated that over half of the respondents that hold a domain name do so for personal use however we know that the utilisation of id.au is low at 0.4%. This statistic suggests that id.au has a poor market fit and does not resonate with Australian domain name Registrants who are therefore registering non .au domain names to fulfil their personal use requirements.

As can be seen in the following chart, since 2011 there has been a steady decline in the registrations of id.au domain names – the 2LD specifically created in 2002 for Australian citizens and residents. It is evident that this 2LD has not resonated with Australian internet users who have the option to register domain names in other Top Level Domains.
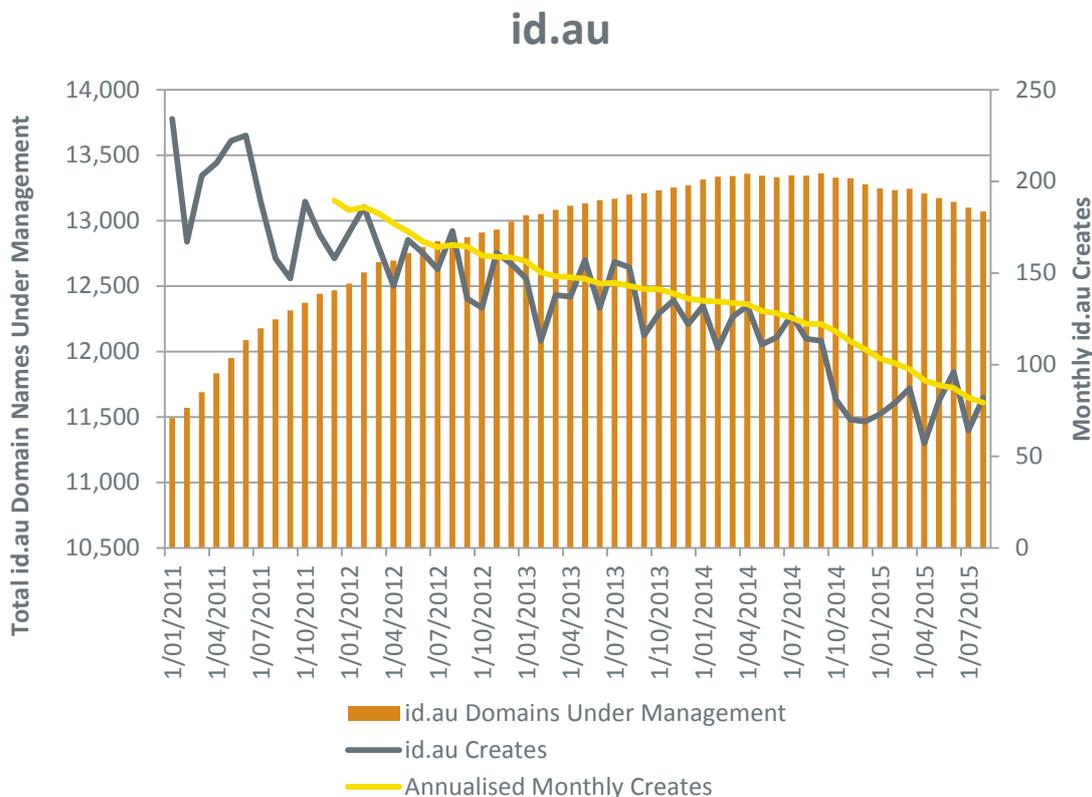
id.au

Chart 2 - id.au Domains Under Management and Creates

If we are to encourage innovation and creativity within the .au namespace one obvious way to do so is to promote the .au namespace for personal use – we believe that opening of the .au namespace to direct registrations will do just this.

Respecting Registrants in the .au namespace

AusRegistry understands that change can bring with it uncertainty. We strongly encourage that when considering opening of the .au namespace to direct registrations that the policy developed respects existing .au Registrants. It is our .au Registrants that have helped to build the industry in Australia and have invested in their on-line brand.

As such we support the positon that existing .au Registrants are recognised by any proposed allocation method, and that they are given priority to register their corresponding domain name. We also support the concept that there is no hierarchy of rights within the 2LDs rather that each 2LD is treated equally; and for example where different Registrants hold myname.net.au and myname.com.au neither Registrant would have priority to register the corresponding myname.au domain name. To resolve such contention we would favour a method similar to that employed by the .nz Domain Name Commission who treated unresolved contention between Registrants across 2LDs by making the domain name unavailable for registration to any party and encouraging the parties to resolve the contention directly

or by the facilitation of a mediation process; the domain name remains unavailable for registration until the contention is resolved or the registration lapses.

We must not only consider the investment of incumbent Registrants, but importantly future Registrants, those who may not even know that they need a domain name. With 41% of domain names in the first renewal phase, the .au namespace is at risk of quickly loosing market relevance if it no longer holds market fit.

In conclusion

AusRegistry views the Panel's recommendations as critical to the continued evolution and viability of the .au namespace and are willing to consider the negotiation of amendments to the current Registry Licence Agreement to facilitate the Panel's recommendations.

Draft Recommendation 1B

The Panel recommends that the same policy rules which currently apply in the existing 2LDs should also apply to direct registrations:

Eligibility criteria:

- Australian entity, or foreign entity registered to trade in Australia – evidenced by ABN, ACN, RBN, ARBN, TM

- Australian citizen or resident – evidenced by warranty with additional proof of identity if challenged

Allocation criteria:

- Exact match, abbreviation or acronym of the registrant's name or trade mark

- Close and substantial connection between the registrant and the domain name

Other rules:

- Reserved List Policy

- Prohibition on Misspellings

- .au Dispute Resolution Policy

- Other policies applying to .au 2LDs

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that that the policy rules which currently apply in the existing 2LDs should also apply to direct registrations as we believe that those policy rules have helped the .au namespace earn its trusted reputation.

Notwithstanding, we believe there is the opportunity to address certain issues through these processes, such as privacy concerns as they relate to WHOIS.

Eligibility and Allocation criteria

We believe that applying the same policy rules will provide consistency for Registrars and Registrants alike, reducing the potential for confusion in the market. It will also reduce the burden on Registrars in terms of implementation.

AusRegistry recognises the complexities of opening the .au namespace to direct registrations and recognises the extensive implementation work that may be required. Since 2002 AusRegistry has worked with auDA and Registrars in the development and review of policy and to market and promote the .au namespace. We are confident that with the active participation of all stakeholders that the implementation will be successful.

WHOIS Policy and Registrant Contact Information Policy

Within the .au namespace a Registrant must not do anything that conceals the true identity of the Registrant or the Registrant Contact by using a privacy or proxy registration service. AusRegistry believes however that the introduction of 'Privacy Services' in the .au context is important for Registrants who want to protect their privacy and do not wish to disclose their personal information.

We believe there is a clear case for an individual wanting their personal data to remain private; however there is also a case for others such as sole traders operating businesses from home addresses, to large multinational corporations engaged in company acquisitions or marketing activities where anonymity is critical – thus we believe that there is a strong need to allow Privacy Services.

AusRegistry would recommend that such a service is implemented at the Registry level in order to maintain the integrity of .au data. Obfuscation of .au extension data and contact data requires a systematic approach in order to maintain a centralised repository of consistent information. Maintaining a consistent data set allows auDA and other authorised parties to conduct prompt and reliable queries. A Registry level implementation minimises the impact to Registrar businesses and limits the need for costly software changes. Furthermore such an approach ensures a standardised service across all domain names, thereby avoiding confusion in the marketplace.

AusRegistry proposes the development of a WHOIS Privacy Service integrated into the Registry software, with such to be compliant to auDA policy and security standards. The service would include an interface for Registrars to manage those Registrants who have elected to take up the service. The following information would be obfuscated from the WHOIS Service:

- .au extensions
  - Registrant Name
  - Registrant ID
  - Eligibility type
- Contacts
  - Registrant
  - Administrative
  - Technical
  - Billing.

In conclusion

We stand ready to assist auDA and Registrars in expediting a smooth implementation. Further, AusRegistry is willing to participate in reviews and contribute to education and awareness campaigns noting that we have an established record of working with auDA and Registrars in marketing and promoting the .au namespace.

We are willing to consider the negotiation of amendments to the current Registry Licence Agreement to facilitate the Panel's recommendations.

Terms of Reference 2

2LD eligibility and allocation policy rules

Should the eligibility and allocation policy rules for asn.au, com.au, id.au, net.au and org.au be changed? If yes, what changes should be made?

Draft Recommendation 2A

Subject to draft recommendations 2B and 2C below, the Panel recommends that the eligibility and allocation criteria for open 2LDs be retained in their current form.

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that the eligibility and allocation criteria for open 2LDs be retained in their current form.

Draft Recommendation 2B

The Panel recommends that the fixed two year licence period be changed to a variable 1-5 year period (ie. registrants could choose to register their domain name for 1, 2, 3, 4 or 5 years).

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that the fixed two year licence period be changed to a variable 1-5 year period (ie. Registrants could choose to register their domain name for 1, 2, 3, 4 or 5 years).

Changes to the .au licence period from a fixed 2 year term to a variable registration period have been discussed by various Panels since 2004. Described in our response to the 2015 Names Policy Panel Issues Paper is the suggestion that concerns over the maintaining the currency and accuracy of registrant data can be dealt with via policy enforcement and process implementation.

We maintain that this remains true and that a variable registration period is desirable. Making such a change will more closely align .au domain names to other TLDs which will likely reduce end user confusion and increase choice.

Draft Recommendation 2C

The Panel recommends that auDA and/or AusRegistry should make the appropriate changes to the policy and/or registry database fields to reflect the nationalised business names registration system, ensuring that there is no disadvantage to registrants.

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that auDA and/or AusRegistry should make the appropriate changes to the policy and/or Registry database fields to reflect the nationalised business names registration system, ensuring that there is no disadvantage to Registrants. AusRegistry is willing and able to commit to the implementation and support of this change.

Terms of Reference 3

Other 2LD policy rules

Should the policy rules relating to the reserved list and misspellings be changed? If yes, what changes should be made?

Draft Recommendation 3A

The Panel recommends that the Reserved List Policy be retained in its current form.

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that that the Reserved List Policy be retained in its current form.

Draft Recommendation 3B

The Panel recommends that the Prohibition on Misspellings Policy be retained, but that auDA should revise the audit list provisions to provide more flexibility in the way the policy is enforced.

AusRegistry's Comments to the Panel

AusRegistry supports the Panel's draft recommendations.

AusRegistry supports the recommendation that the Prohibition on Misspellings Policy be retained, and that auDA should revise the audit list provisions to provide more flexibility in the way the policy is enforced. AusRegistry would be pleased to work with auDA on implementation of such changes should it be required.

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