

Submission providing feedback on the 2021 proposed Terms of Endorsement for auDA

Thank you for the opportunity to comment on the following “core principles” of the ToE:

Support trust and confidence in .au:

“As a critical piece of Australia’s digital infrastructure, the .au domain must be managed competently and securely in a manner which will produce outcomes in the long-term interest of all users. auDA should foster .au’s reputation through education and public awareness activities.”

My comment:

The big problem is that auDA is entirely self-regulated. They are the sole judge, jury and executioner. **There is no independent arbiter or Ombudsman should any stakeholder want a review of a decision made regarding a complaint relating to auDA.** Therefore, the objectives of ensuring trust, confidence and consumer protection are not met. This is not healthy for a membership organization.

Promote principles of competition, fair trading and consumer protection:

“The promotion of competition, fair trading and consumer protection principles is also key. Although not a consumer affairs body, auDA must be mindful that adherence to these principles results in net benefits for internet users. For example, having a competitive market for domain names encourages more efficient use of a significant resource.”

My comment:

I absolutely agree. However, in my opinion, auDA has allowed one particular group of Registrars to engage in **monopolistic and anti-competitive activities in the domain aftermarket** to the

detriment of general internet users. Some of these activities even flout the spirit of the auDA Registrar agreement and other policies, but auDA seems to turn a blind eye (despite complaints).

This flies in the face of the core principle of facilitating equitable access to the market.

Some examples:

- There is currently only one drop-catcher for expired .au domains. Because of their dominant position, they can (and do) preclude anyone they choose from using their service.
- This drop-catcher has also engaged in alleged dubious practices concerning domain names being “won” by friends, family or associated companies. These activities have been well documented, and complaints have been made to auDA. No action taken.
- Contrary to auDA policy, this drop-catcher is front running – acquiring valuable domain names to the exclusion of all others.

Support fair and transparent multi-stakeholder engagement:

“The Government supports this approach and expects that auDA will do so as well, particularly in formulating policy. auDA should also strive to represent the views and interests of Australian internet users when it attends international gatherings.”

My comment:

This is the perfect world. If only it happened.

Support a membership structure that reflects the diversity of the Australian community:

“Maintaining a membership structure representative of auDA’s diverse range of stakeholders will enhance auDA’s understanding of user needs.”

My comment:

I agree with the premise of this core principle, but If the membership of a “not for profit” organization cannot vote for any changes, then they are effectively disenfranchised. Why bother having members if they can’t have any say?

After the removal of the previous “administration”, a new auDA was supposed to be the answer. A period of two years was set for the new auDA to get things sorted. But at the stroke of a keyboard, this period was then extended by another two years. This was approved by the “Governing Members” – a group of around 10 people including the Chair of auDA. Can you imagine if any Local, State or Federal Government tried this on, there would be an uproar.

Maintain effective governance processes that are transparent, accountable, support effective decision-making and promote the interests of the Australian community:

“A focus on governance processes to ensure continued transparency, accountability and effective decision-making is required of auDA in accordance with the Corporations Act, its own Constitution and its sponsorship arrangement with ICANN.”

My comment:

Once again, this is the perfect world scenario. If only it happened. The big boss – ICANN – has an independent Ombudsman because it recognizes there will be occasional disputes over governance issues. Why shouldn’t auDA have one as well? After all, it is the registrants of .au domains that fund everything.

Conclusion

I choose to make this public submission anonymously for fear of retribution.

auDA management has proven to be “a bully” when they don’t like what is said about them and some of their practices. They are also quick to use registrant’s money to fund threats of litigation in order to shut down any constructive criticism.