



Terms of Endorsement for auDA

November 2021

Preamble

Australia is a strong supporter of a multi-stakeholder approach to internet governance that is inclusive, consensus-based, transparent and accountable. The multi-stakeholder approach balances the needs and views of the community, civil society, industry, the technical community, academia and governments. This approach underpins the open, free and secure nature of the internet, and the consequent economic, social and cultural benefits to Australia.

The internet naming system is a public resource and, in keeping with the multi-stakeholder approach, its functions should be administered to create and deliver value in the public or common interest and in accordance with Australian laws.

On this basis, the Australian Government continues to endorse the .au Domain Administration (auDA) to administer Australia's (.au) country code Top Level Domain (ccTLD) for the benefit of all Australians in accordance with the following terms.

Core Functions

auDA will continue to undertake the following Core Functions:

- Ensure stable, secure and reliable operation of the .au domain, as part of Australia's suite of critical infrastructure.
 - Respond quickly to matters that compromise the security and integrity of the Domain Name System (DNS).
 - Maintain appropriate security protocols in line with Australian and international best practice, and contemporary security practices.
- Administer a licensing regime for .au domain names based in multi-stakeholder processes that is transparent, responsive, accountable, accessible and efficient.
 - Develop policies for the .au domain with a multi-stakeholder approach to provide the greatest benefit for the Australian community.
 - Maintain and ensure compliance with these policies.
 - Maintain appropriate dispute resolution policies that are consistent with Australian and international best practice.
 - Maintain a complaints process that is clear and consistent, and provides procedural fairness.
- Advocate for, and actively participate in, multi-stakeholder Internet governance processes both domestically and internationally.

Core Principles

Engagement with the Australian Government

The Australian Government has a strong interest in the management of the .au domain. The Government expects that auDA will continue to work closely with it so that the .au domain is managed consistent with community expectations. The Department of Infrastructure, Transport, Regional Development and Communications (the Department) will help facilitate the relationship with auDA on behalf of the Government. This would include a Departmental representative being a member of the Nominations Committee and having a standing invitation to observe auDA's Board meetings, as well as regular dialogue between a representative of auDA and the Department.

auDA is also encouraged to maintain relationships and work co-operatively with other Government departments and agencies, including the Australian Federal Police, the Australian Cyber Security Centre, the Office of the eSafety Commissioner and the Department of Home Affairs. The Department will help foster partnerships across Government as required.

Support trust and confidence in .au

As the .au namespace is a public resource that supports the Australian economy and society, maintaining confidence in its integrity, security, and resilience is of great importance. In addition to best practice security, auDA will also have regard to maintaining and enhancing the reputation of the .au domain as a safe, trusted online space.

auDA will work to promote the utility of the internet for all Australians for example through undertaking strategic research, education and public awareness raising.

Promote principles of competition, fair trading and consumer protection

auDA's policies will improve the utility of the .au domain for all Australians and continue to promote competition, fair trading and consumer protection to facilitate equitable access to the market.

Support fair and transparent multi-stakeholder engagement

auDA is a key player in the Australian internet ecosystem, and has a role in upholding and advocating for the multi-stakeholder model of internet governance and promoting its benefits. auDA will continue to support fair and transparent multi-stakeholder engagement processes and take into consideration the full range of stakeholder views, when reviewing or developing policies related to auDA's core functions. auDA will continue to engage locally and internationally to exchange information and share expertise on Internet governance and domain administration.

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

auDA will work to make sure its membership is diverse and representative of the range of stakeholders who rely on the .au domain namespace.

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

auDA will continue to operate within the provisions of its Constitution and as a fully self-funding not-for-profit and for-purpose organisation¹ and in accordance with its sponsorship arrangements with the Internet Corporation for Assigned Names and Numbers (ICANN). auDA's commercial activities will be considered and undertaken in accordance with these Terms of Endorsement.

auDA's governance processes will continue to include, but not be limited to:

- An independent process for appointing directors.²
- A board on which the majority of directors and the Chair are independent.³
- A board charter that sets out the roles and responsibilities of the CEO, Board, Chair and the basis for the appointment of the Chair.
- A strategic plan that reflects these Terms of Endorsement and the company's purpose, with reference to how it will discharge its functions as a not-for-profit entity.
- An annual report outlining how auDA has discharged its responsibilities under these terms. If the Government has concerns, the Minister will write to auDA asking for a commitment to improve its performance.

Ongoing endorsement

The Government's ongoing endorsement is contingent on auDA continuing to meet the conditions of endorsement. The Government is able to endorse an alternative manager or exercise its legislative powers under the *Telecommunications Act 1997* and the *Australian Communications and Media Authority Act 2005* with respect to the .au ccTLD in the event that auDA proves unable to manage electronic addressing in an effective manner.

Recognising that .au is Australia's ccTLD and an important public resource, if there is a reassignment of the delegation of authority for administration of .au from auDA to another party, auDA agrees to cooperate and comply with the requirements of the Commonwealth and/or ICANN in order to effect the orderly transfer and re-delegation of authority for the .au ccTLD. In preparation for the unlikely event of this occurring, auDA must ensure that all business-critical operations are properly documented, to facilitate this orderly transfer. This could be outlined as part of its regular business continuity plan.

These terms commence with immediate effect. The Australian Government may review these terms at any time, but normally every three years, to determine whether they remain fit for purpose and best serve the Australian community.

¹ According to Pro Bono Australia, for-purpose organisations are a collection of people who have come together because they share a common goal for society.. <https://probonoaustralia.com.au/news/2017/02/purpose-brand-identity/#:~:text=For%2Dpurpose%20organisations%20are%20a,choice%20to%20partner%20with%20you>

² To be consistent with [Recommendation 1.2 of Principle 1 of the ASX Corporate Governance Principles & Recommendations, 4th edition](#), applying to director appointments – and if not, to explain the reasons why.

³ Independent means no material or pecuniary relationship with the company, or in the decisions of the company, excluding directors' fees (i.e. not an employee of a registry, registrar, reseller, domain investor, or a close relative of an employee of one of these; close relative means a spouse, parent, child, or sibling).

auDA's acceptance of these Terms of Endorsement must be indicated by auDA's Chair writing formally to the Minister for Communications within 30 days of the Terms being published. Failure to accept these Terms of Endorsement may result in the Government endorsing an alternative manager.

If at some future date auDA decides not to accept the Terms, it must provide six months' written notice to the Government, in which case the Government will seek an alternative manager for the .au domain. If transitioning to an alternative manager will take longer than six months, the Government will work with auDA to establish an appropriate timeframe. Any transitional arrangements should preserve the stability and security of .au.