

## **auDA PUBLISHED POLICY**

**Policy Title:** DOMAIN NAME ELIGIBILITY AND ALLOCATION POLICY RULES FOR OPEN 2LDS

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**Status:** Current

### **1. BACKGROUND**

- 1.1 This document sets out the policy rules that govern the granting of domain name licences in the open second level domains (2LDs) in the .au domain.
- 1.2 The policy rules are based on the Domain Name Eligibility and Allocation Policy Rules for Open Second Level Domains (2LDs) (2008-05) and include the final recommendations of auDA's 2010 Names Policy Panel.
- 1.3 The policy rules set out in this document do not have retrospective effect. Domain name licences that were granted before implementation of this policy will be 'grandfathered' and the registrant will be entitled to renew the licence provided that there has been no change in the registrant's circumstances that affects their eligibility to hold the domain name licence. For example, if the registrant of a com.au domain name no longer holds the registered business name that they used as a basis for licensing the domain name in the first place.

### **2. DOMAIN NAME LICENCES**

- 2.1 There are no proprietary rights in the domain name system (DNS). A registrant does not "own" a domain name. Instead, the registrant holds a licence to use a domain name, for a specified period of time and under certain terms and conditions.
- 2.2 The terms and conditions of a domain name licence are set out in:
  - a) this document;
  - b) the Mandatory Terms and Conditions Applying to .au Domain Name Licences;
  - c) the registration application and subsequent agreement between a registrant and registrar; and
  - d) any other of auDA's Published Policies that are applicable.
- 2.3 There is no hierarchy of rights in the DNS. For example, a registered trade mark does not confer any better entitlement to a domain name than a registered company or business name. Domain name licences are allocated on a 'first come, first served' basis. Provided the relevant eligibility and allocation rules are satisfied, the first registrant whose application for a particular domain name is submitted to the registry will be permitted to license it.

### **3. STRUCTURE OF .AU DOMAIN**

- 3.1 The .au domain is sub-divided into a number of 2LDs (for example, com.au, edu.au, id.au). All .au domain names are registered as third level domains (3LDs). It is not possible to register domain names as 2LDs directly under .au.

- 3.2 Each 2LD has a purpose. For example, com.au is for commercial entities, gov.au is for government bodies and org.au is for non-commercial organisations. The purpose of each 2LD dictates the eligibility and allocation rules applicable in that 2LD.
- 3.3 The 2LDs are divided into 2 categories:
- a) "open 2LDs" – those 2LDs that are basically open to all users, subject to some eligibility criteria; and
  - b) "closed 2LDs" – those 2LDs with a defined community of interest that are closed to the general public.
- 3.4 Schedule A of this document sets out the eligibility and allocation rules that apply to all open 2LDs. Schedules B-F of this document set out the eligibility and allocation rules that apply to each open 2LD.
- 3.5 The eligibility and allocation rules that apply to closed 2LDs are determined by the relevant 2LD Manager and approved by auDA.

#### **4. APPLICATION OF POLICY RULES**

- 4.1 It is the responsibility of auDA to preserve the integrity of the .au domain by ensuring that the policy rules are applied correctly and enforced as necessary. auDA reserves the right to revoke any domain name licence that has been granted, or subsequently held, in breach of the relevant policy rules.
- 4.2 It is the responsibility of all auDA accredited registrars, in accordance with the Registrar Agreement, to apply the policy rules set out in this document. Each domain name application must be checked for compliance with the relevant policy rules by the registrar before it is submitted to the registry for inclusion in the registry database.
- 4.3 It is the responsibility of all registrants, in accordance with their registration application and subsequent agreement, to ensure that they comply with the policy rules set out in this document when submitting an application to register or renew a domain name in any of the open 2LDs. To that end, a registrant is required to warrant to the registrar that they comply with the rules.
- 4.4 auDA has published Guidelines on the Interpretation of Policy Rules for the Open 2LDs, to assist registrars, registrants and other interested parties in interpreting the policy rules outlined in this document. The guidelines contain more detail and examples of how the policy rules are applied and enforced.

#### **5. BREACHES OF POLICY**

- 5.1 Where auDA considers on reasonable grounds that a registrant has made a false warranty to the registrar regarding their compliance with the policy rules, or otherwise acted in bad faith in order to obtain the domain name licence, auDA reserves the right to revoke the domain name licence.
- 5.2 Where auDA becomes aware that a registrar has approved a domain name application through misinterpretation of the relevant policy rules, auDA may issue a policy clarification to assist registrars in the interpretation of the policy rules. Under the terms and conditions of the Registrar Agreement, auDA reserves the right to take action against a registrar where it has reasonable grounds to believe that the registrar has acted negligently or recklessly in approving a domain name application in breach of the relevant policy rules.

## **6. REVIEW OF POLICY**

- 6.1 From time to time, auDA may update this document for the purposes of clarification or correction (for example, if governments introduce a new type of business or other official identifier).
- 6.2 auDA will not make any major changes to this document without conducting an Advisory Panel process, as described in auDA's Constitution.

## SCHEDULE A

### ELIGIBILITY AND ALLOCATION RULES FOR ALL OPEN 2LDS

#### *First come, first served*

1. Domain name licences are allocated on a 'first come, first served' basis. It is not possible to pre-register or otherwise reserve a domain name.

#### *Registrants must be Australian*

2. Domain name licences may only be allocated to a registrant who is Australian, as defined under the eligibility and allocation rules for each 2LD.

#### *Composition of domain names*

3. Domain names must:

- a) be at least two characters long;
- b) contain only letters (a-z), numbers (0-9) and hyphens (-), or a combination of these;
- c) start and end with a number or a letter, not a hyphen; and
- d) not contain hyphens in the third and fourth position (eg. ab--cd.com.au).

#### *Domain name licence period*

4. The domain name licence period is fixed at two years. It is not possible to license a domain name for a shorter or longer period.

5. Renewal of a domain name licence at the end of the two year period is dependent on the registrant continuing to meet the eligibility and allocation rules for the relevant 2LD.

#### *Number of domain names*

6. There is no restriction on the number of domain names that may be licensed by a registrant.

#### *auDA's Reserved List*

7. auDA's Reserved List contains names that may not be licensed. The list is available on auDA's website.

#### *Prohibition on registering domain names for sole purpose of resale*

8. A registrant may not register a domain name for the sole purpose of resale or transfer to another entity.

## **SCHEDULE B**

### **ELIGIBILITY AND ALLOCATION RULES FOR ASN.AU**

The asn.au 2LD is for non-commercial organisations.

The following rules are to be read in conjunction with the Eligibility and Allocation Rules for All Open 2LDs, contained in Schedule A of this document.

1. To be eligible for a domain name in the asn.au 2LD, registrants must be non-commercial organisations as follows:
  - a) an association incorporated in any Australian State or Territory; or
  - b) a political party registered with the Australian Electoral Commission; or
  - c) a trade union or other organisation registered under the Fair Work (Registered Organisations) Act 2009; or
  - d) a sporting or special interest club operating in Australia; or
  - e) a charity operating in Australia, as defined in the registrant's constitution or other documents of incorporation; or
  - f) a non-profit organisation operating in Australia, as defined in the registrant's constitution or other documents of incorporation.
2. Domain names in the asn.au 2LD must be:
  - a) an exact match, abbreviation or acronym of the registrant's name; or
  - b) otherwise closely and substantially connected to the registrant, in accordance with the categories of "close and substantial connection" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs.

## SCHEDULE C

### ELIGIBILITY AND ALLOCATION RULES FOR COM.AU

The com.au 2LD is for commercial purposes.

The following rules are to be read in conjunction with the Eligibility and Allocation Rules for All Open 2LDs, contained in Schedule A of this document.

1. To be eligible for a domain name in the com.au 2LD, registrants must be:
  - a) an Australian registered company; or
  - b) trading under a registered business name in any Australian State or Territory; or
  - c) an Australian partnership or sole trader; or
  - d) a foreign company licensed to trade in Australia; or
  - e) an owner of an Australian Registered Trade Mark; or
  - f) an applicant for an Australian Registered Trade Mark; or
  - g) an association incorporated in any Australian State or Territory; or
  - h) an Australian commercial statutory body.
2. Domain names in the com.au 2LD must be:
  - a) an exact match, abbreviation or acronym of the registrant's name or trademark; or
  - b) otherwise closely and substantially connected to the registrant, in accordance with the categories of "close and substantial connection" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs.
3. A domain name may also be registered in the com.au 2LD under paragraph 2(b) for the purpose of domain monetisation, in accordance with the explanation of "domain monetisation" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs, provided that the following conditions are met:
  - a) the content on the website to which the domain name resolves must be related specifically and predominantly to subject matter denoted by the domain name; and
  - b) the domain name must not be, or incorporate, an entity name, personal name or brand name in existence at the time the domain name was registered\*.

\* Definitions:

- "entity name" means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC), or the name of an Australian government body. It does not include a registered business name;
- "personal name" means the given name(s) and/or last name of a person; and
- "brand name" means the name of an identifiable and distinctive product or service, whether commercial or non-commercial.

## SCHEDULE D

### ELIGIBILITY AND ALLOCATION RULES FOR ID.AU

The id.au 2LD is for individuals.

The following rules are to be read in conjunction with the Eligibility and Allocation Rules for All Open 2LDs, contained in Schedule A of this document.

1. To be eligible for a domain name in the id.au 2LD, registrants must be:
  - a) an Australian citizen; or
  - b) an Australian resident.
2. Domain names in the id.au 2LD must be:
  - a) an exact match, abbreviation or acronym of the registrant's personal name; or
  - b) otherwise closely and substantially connected to the registrant, in accordance with the categories of "close and substantial connection" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs.
3. A domain name may also be registered in the id.au 2LD under paragraph 2(b) if it refers to a personal interest or hobby of the registrant, but the domain name must not be, or incorporate, an entity name, personal name or brand name in existence at the time the domain name was registered\*.

\* Definitions:

- "entity name" means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC), or the name of an Australian government body. It does not include a registered business name;
- "personal name" means the given name(s) and/or last name of a person; and
- "brand name" means the name of an identifiable and distinctive product or service, whether commercial or non-commercial.

## SCHEDULE E

### ELIGIBILITY AND ALLOCATION RULES FOR NET.AU

The net.au 2LD is for commercial purposes.

The following rules are to be read in conjunction with the Eligibility and Allocation Rules for All Open 2LDs, contained in Schedule A of this document.

1. To be eligible for a domain name in the net.au 2LD, registrants must be:
  - a) an Australian registered company; or
  - b) trading under a registered business name in any Australian State or Territory; or
  - c) an Australian partnership or sole trader; or
  - d) a foreign company licensed to trade in Australia; or
  - e) an owner of an Australian Registered Trade Mark; or
  - f) an applicant for an Australian Registered Trade Mark; or
  - g) an association incorporated in any Australian State or Territory; or
  - h) an Australian commercial statutory body.
2. Domain names in the net.au 2LD must be:
  - a) an exact match, abbreviation or acronym of the registrant's name or trademark; or
  - b) be otherwise closely and substantially connected to the registrant, in accordance with the categories of "close and substantial connection" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs; or
3. A domain name may also be registered in the net.au 2LD under paragraph 2(b) for the purpose of domain monetisation, in accordance with the explanation of "domain monetisation" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs, provided that the following conditions are met:
  - a) the content on the website to which the domain name resolves must be related specifically and predominantly to subject matter denoted by the domain name; and
  - b) the domain name must not be, or incorporate, an entity name, personal name or brand name in existence at the time the domain name was registered.

\* Definitions:

- "entity name" means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC), or the name of an Australian government body. It does not include a registered business name;
- "personal name" means the given name(s) and/or last name of a person; and
- "brand name" means the name of an identifiable and distinctive product or service, whether commercial or non-commercial.

## **SCHEDULE F**

### **ELIGIBILITY AND ALLOCATION RULES FOR ORG.AU**

The org.au 2LD is for non-commercial organisations.

The following rules are to be read in conjunction with the Eligibility and Allocation Rules for All Open 2LDs, contained in Schedule A of this document.

1. To be eligible in the org.au 2LD, registrants must be non-commercial organisations as follows:

- a) an association incorporated in any Australian State or Territory; or
- b) a political party registered with the Australian Electoral Commission; or
- c) a trade union or other organisation registered under the Fair Work (Registered Organisations) Act 2009; or
- d) a sporting or special interest club operating in Australia; or
- e) a charity operating in Australia, as defined in the registrant's constitution or other documents of incorporation; or
- f) a non-profit organisation operating in Australia, as defined in the registrant's constitution or other documents of incorporation.

2. Domain names in the org.au 2LD must be:

- a) an exact match, abbreviation or acronym of the registrant's name; or
- b) otherwise closely and substantially connected to the registrant, in accordance with the categories of "close and substantial connection" set out in the Guidelines on the Interpretation of Policy Rules for the Open 2LDs.