

.au Domain Administrator Ltd
Level 17
1 Collins Street
Melbourne
VIC 3000

24 November 2019

Dear auDA

RE: .au Namespace Implementation Rules.

"EXACT MATCH"

Under the proposed licencing rules the "Exact Match" clause specifically relating to section 16.2, combined with the requirement that licence renewals must apply to the amended rules (sections 4.2.5 and 4.3.1) will result in a vast number of domains no longer meeting eligibily requirements at the third level (com.au, net.au). Potentially those affected would number in the tens of thousands if not more.

For example:

My current domain name bluedoor.com.au which was registered in 1998 for my business trading as Blue Door Multimedia would **no longer meet the proposed eligibility requirements** under 16.2 as it is not an exact match nor does it describe goods or services. It is an **abbreviation** of my trading name and thus is elegeible under the current licencing rules.

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

*a) an exact match, **abbreviation** or acronym of the registrant's name or trademark; or*

Having a quick look at the whois data for domain names used by some of auDA accredited registrars as further examples, they would also not be eligible to hold their current names under the new licensing rules. (Note: they may be eligible under alternative criteria as I did not do an exhaustive search, however it is unlikely that these criteria would be an "exact match").

ventraip.com.au : Registrant: VentraIP Australia Pty Ltd

arq.com.au : Registrant: NAMES BY REQUEST PTY LTD

tpp.com.au : Registrant: TPP Domains Pty Ltd

While the argument may be put forward that businesses register an exact match trading name or trademark this is an unacceptable solution as it would introduce additional costs to small business, the exact match word may not be available and the registration of the business name may not meet ASIC requirements for trading. (it may be a defensive registration. See argument below).

Many cuurent registrations would be defensive registrations, ie) those that are registered to protect a brand. These registrations generally would consist of a misspelling of a brand name ie. The use of "oz" as opposed to "aus" or the pluralisation of a name. Under the proposed licensing rules these names would not be an "exact match" and would not meet eligibilty requirements.

Recommendation:

In light of the above argument I strongly recommend that the current wording be retained which includes the use of the term "abbreviation".

With the removal of the "close and substatial" clause I recommend that some provision is made to allow for the use of defensive registrations, specifically misspellings and pluralisation of names.

Alternatively a granfathering clause is included.

INTERNATIONALISED DOMAIN NAMES.

The proposed licensing rules states that "*a person may apply to register an Internationalised Domain Name **in the .au namespace** using the syntax requirements set out in the applicable IDN Tables*".

From discussions had during the consultation period I was led to believe that internationalised domain names would only be available for second level domains ie xyz.au. If this is the case then the wording in the license agreement needs to change as in my opinion there is some ambiguity as to what is the .au namespace.

Recommendation:

That the term ".au namespace" be replaced or that the term ".au namespace" is clearly defined to represent those names at the second level.

Yours sincerely,

Ian Halson

APPENDIX A:

Exact match means that the domain name being applied for is identical to the entity's legal name, business name or trademark or a natural Person's legal name.

The following are not included:

1. commercial status identifiers such as 'Pty Ltd';
2. DNS identifiers such as com.au;
3. punctuation marks such as an exclamation point or an apostrophe;
4. articles such as 'a', 'the', 'and' or 'of';
5. ampersands.

16(2) the domain name applied for must be:

- a. an exact match of the Person's company, business, statutory or Personal name; or
- b. an acronym of the Person's company, business, statutory or Personal name; or
- c. an exact match of an Australian TradeMark held by the Person; or
- d. an exact match to or an acronym of a name of a related body corporate or
- e. an exact match or an acronym of a name of:

- (i) a partnership of which the Person is a partner;
- (ii) a trust of which the Person is a trustee; or

- f. an exact match or synonym of the name of:

- (i) a service that the Person provides;
- (ii) goods that the Person sells (whether retail or wholesale);
- (iii) an event that the Person registers or sponsors;
- (iv) an activity that the Person facilitates, teaches or trains;
- (v) a premise which the Person operates and which that Person is providing at the time of the application.

4.2.5 The amended auDA Rules or licence terms and conditions, will be those that apply to a licence when:

1. the licence was issued; or
2. the licence was renewed.

4.3 TRANSITIONAL ARRANGEMENTS

4.3.1 These auDA Rules (Licensing) will apply to a Person where that Person has:

1. applied for a licence; or
2. renewed a licence; or
3. transferred a licence; on or after the commencement date specified in paragraph 1.2.1.

2.8 INTERNATIONALISED DOMAIN NAME

2.8.1 A Person may apply to register an Internationalised Domain Name in the .au namespace using the syntax requirements set out in the applicable IDN Tables.