

# Submission on the Draft Recommendations of the 2015 Names Policy Panel



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**100% Australian owned and operated**

This submission contains my own personal opinions and does not necessarily reflect the views of businesses or organisations that I have ownership in or engage with.

# Summary

I appreciate the opportunity to put forward my views on the Draft Recommendations of the 2015 Names Policy Panel.

While there are a number of sensible recommendations that have been put forward by the Panel, I am very concerned by recommendations 1A and 1B, as they could have serious impacts on a number of stakeholders, in particular small and medium-sized enterprises (SMEs).

My responses to the recommendations are summarised below.

- Draft Recommendations 1A and 1B: **do not support**
- Draft Recommendations 2A, 2B and 2C: **support**
- Draft Recommendations 3A and 3B: **support**

I would be happy to discuss these issues further and can be contacted using the details provided in the email to which this submission was attached.

Best regards,

*Luke Summers*

**The Lucky Country**

# Draft Recommendations 1A and 1B

## ***I do not support Draft Recommendations 1A and 1B.***

The Australian market is already well served by the existing second level domains, such as .com.au and .net.au, and I do not support the introduction of direct registrations.

Allowing direct registrations under .au (e.g. theluckycountry.au) would impose further cost burdens on Australian businesses, burdens which would be most acutely felt by SMEs. The brand protection costs alone would be substantial.

The Australian namespace has built a positive reputation over many years and is now widely regarded by consumers as both trustworthy and secure. The .com.au extension has a high level of consumer recognition and is seen as the place to find Australian businesses online.

Introducing direct registrations would create confusion in the marketplace, and also risks damaging the trusted reputation of the .au namespace.

Allowing direct registrations would result in three possible addresses for commercial entities: .com.au, .net.au and .au. This would fragment the Australian namespace and create confusion for both consumers and businesses.

Direct registrations would also pose a number of serious integrity issues for the Australian namespace, including:

- greatly increased risks of intellectual property infringements (e.g. passing off as another business or its brands);
- increases in phishing attacks (e.g. a nefarious .au registrant imitating a bank website hosted on a .com.au domain); and
- misdirected emails potentially leading to the release of commercially sensitive information or breaches of consumer privacy (e.g. emails intended for .com.au addresses going to unrelated .au addresses).

The argument that supply (domain availability) is somehow limited is simply not reflected in the registration numbers, with only 3 million .com.au registrations, 0.3 million .net.au registrations and 0.013 million .id.au registrations <sup>1</sup> – very small numbers when you consider that there are 118.5 million .com registrations <sup>2</sup>.

I am also very concerned by the lack of protection for existing .com.au registrants in the recommendations released by the Panel.

A similar ‘free for all’ approach was initially put forward in proposals to introduce direct registrations under the .uk namespace and the backlash was so strong that the policy was ultimately changed to ensure that there was appropriate protections for existing registrants <sup>3</sup>.

In order to protect UK businesses, their brands and other intellectual property - existing registrants were given first rights on the equivalent .uk domain. A tiered allocation approach was used, which started with .co.uk registrants and then proceeded through the other extensions if the .co.uk domain was unregistered. This tiered approach was adopted in recognition of the fact that the vast majority of UK businesses operate on the .co.uk extension. The situation in Australia is remarkably similar, with .com.au being the dominant extension used by Australian businesses, representing 86.5% of all registrations in the .au namespace <sup>4</sup>.

This was a simple and effective way to protect the rights of existing registrants and also maintain the integrity and reputation of the .uk namespace.

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<sup>1</sup> Behind the Dot – State of the .au Domain: Edition 4: <http://www.ausregistry.com.au/pdf/auSurvey2015.pdf>

<sup>2</sup> The Domain Name Industry Brief, Volume 12, Issue 3 (September 2015): <http://www.verisign.com/assets/domain-name-report-september2015.pdf>

<sup>3</sup> Trials And Tribulations Of .UK: <http://www.domainer.com.au/trials-and-tribulations-of-uk/>

<sup>4</sup> Behind the Dot – State of the .au Domain: Edition 4: <http://www.ausregistry.com.au/pdf/auSurvey2015.pdf>

# Draft Recommendations 2A, 2B and 2C

***I support Draft Recommendations 2A, 2B and 2C.***

The existing eligibility and allocation criteria are largely effective; however increased flexibility in the domain licence period would be beneficial.

In particular, allowing a longer domain licence period would give businesses greater certainty and increased capacity to protect a key branding asset, their domain name.

# Draft Recommendations 3A and 3B

***I support Draft Recommendations 3A and 3B.***

The Prohibition on Misspellings Policy plays a useful role in reducing typosquatting and misleading and deceptive behaviour; however the practical application of this policy has been hampered by inflexible administration provisions.

Some common sense changes in this area would be very beneficial. In particular, changes to reduce the frequency of questionable cases involving generic terms, many of which arguably fall outside of genuine brand protection, given the broad usage of these terms across the Australian market.

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