



**Internet Society of Australia
A Chapter of the Internet Society**

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**To: Jo Lim
Chief Policy Officer, auDA
Via email: jo.lim@auda.org.au**

ISOC-AU SUMISSION: in response to the Australian Domain Name Administrator (auDA) Issues Paper, '.au Dispute Resolution (auDRP) Review'

The Internet Society of Australia (ISOC-AU) welcomes this opportunity to provide comments for this auDA review of its Dispute Resolution Policy.

The Internet Society of Australia (ISOC-AU) is a non-profit society founded in 1996 which promotes the Internet development in Australia for the whole community – private, academic and business users: the Internet is for everyone! ISOC-AU is a chapter of the worldwide Internet Society and is a peak body organisation, representing the interests of Internet users in this country. We have a longstanding and ongoing commitment to the effective representation of these interests in code development and self-regulatory processes in the telecommunications, domain name and Internet-related services industries.

ISOC-AU responses to specific questions asked are as follows;

- Is the auDRP an appropriate and effective alternative to litigation for disputes about competing rights to a .au domain name?
- Are there any aspects of the auDRP Policy and/or Rules which require clarification or modification?

ISOC-AU generally supports auDRP processes and is not aware any major difficulties that have arisen in relation to the operation of the auDRP that would require either clarification or modification to the auDRP policy or Rules.

- Is auDA's approval process for auDRP Providers appropriate?

The auDRP Policy and Rules are consistent with international guidelines used by the World Intellectual Property Organization (WIPO) for arbitration of disputes. The Policy and Rules are also similar to the Uniform Dispute Resolution Policy, administered by ICANN, with modifications appropriate to Australia.

- Are the current auDRP fees appropriate?
- Should auDA continue to fix fees, or allow Providers to set their own fees in a competitive market?

The existing fees are well within the range of fees charged internationally for similar processes.

The fees should continue to be set by auDA to ensure that they cover the reasonable costs of the parties involved. ISOC-AU does not support allowing Providers to set their own

fees in a competitive market. That could allow Provider fees to escalate beyond reasonable costs, with the possible effect of discouraging legitimate complainants from using the auDRP processes.

- Is auDA's current role in relation to the auDRP appropriate?

Yes. auDA is the regulator, and it would clearly be inappropriate for the body that is ultimately responsible for the registration of domain names to also be involved in settling disputes on the registration of those names.

We note, however, that auDA is ultimately responsible for the DRP process and, as such, has a responsibility to ensure the continuing effectiveness and integrity of the policy.

- Additional ISOC-AU comments

The existing auDRP is an arbitrated process under which parties are bound by the outcome. We suggest, as well, that there could be more flexibility, or additional steps to the process, similar to the dispute resolution processes offered under the WIPO Arbitration and Mediation Centre, that would allow parties to enter into mediation to resolve disputes without necessarily being bound by an outcome.

We also note that auDA has intervened in three instances when it 'has become aware of substantive procedural flaws in an auDRP proceeding'. While auDA's actions to uphold the overall integrity of the process are supported, there is nothing in the published policy rules to suggest the possibility of such auDA intervention. ISOC-AU believes that auDA should include something in its policy statements or guidelines that alerts users to the possibility of auDA intervention when there has been a clear, substantive procedural flaw in the dispute resolution processes.