

Summary of Potential Harms from VI/CO

Competition Harms

- Decreased competition in Registrar space – reduced cost for a VI registrar will allow lower prices and increase in marketing from other registrars, forcing competitors out of market
- Decreased competition in Registry space - Integrated Registry Service Providers (RSP+Rr) could demand equity stake or harsh demands from prospective Registry thus decreasing competition in Registries
- Decreased number of Registrars able to offer VI TLD – extremely complex requirements from VI entity for their TLD could keep out all Registrars except the integrated Registrar
- Registrars have 10 year head start acquiring customer base - If a Registrar were to acquire a Registry and a TLD this would be unfair to current stand-alone Registries
- Registrar could easily exert control over market channels for new gTLDs - by requiring costly fees to promote a TLD, unless Registry contracted with Registrars integrated RSP
- Reduced industry competition - due to increased discrimination against non-affiliated Registries and Registrars

- 100% vertical integration - or anything goes - negates the justification for registrar accreditation and for consensus policy. Only minimal technical requirements on DNS provisioning and resolution services would be needed.

Availability/Pricing Harms

- Almost Free Domain Tasting – A Registry could register domains with an integrated Registrar in that TLD. Once domain is tasted then deleted, the overstock/penalty fee Registrar would pay would go to integrated Registry. Only cost would be ICANN fee lowering costs by >90%
- Domain Front Running – A Registry can see DNS traffic for all non-existent domains (not registered). With access to this data the integrated entity could identify potentially high value names and monetize them through auctions, traffic sites or secondary market sales.
- Post Tasting Pricing – A Registry could register the domains with their integrated Registrar and taste the domains, realizing the traffic and ppc value for domain, then price accordingly to the a value assigned based on these factors.

- Higher prices - Each gTLD is a monopoly of that name space, competition within that name space has been provided by registrars. Allowing a gTLD to vertically integrate, operate both the TLD and the channel, relieves pressure on the gTLD operator to keep prices low that typically come from competing registrars.
 - This will also lead to a lower level of stability, security and service for same reasons as noted above

Data Harms

- Deleted domains drop data – A Registry could share the algorithm/schedule to their integrated Registrar of when deleted domains become available, giving Registrar an advantage in picking up domains in the integrated TLD
- EPP command data sharing – A Registry could share the check command data coming in from all Registrars (check to see if domain is available) with their integrated Registrar and Registrar could use the data in that TLD for nefarious purposes (warehouse, pricing)

Other Harms (harms that were mentioned on list but could not find details)

- Creation of complex structures and relationships will be difficult or impossible to enforce. ICANN will have several new compliance issues to deal with regarding dozens and likely hundreds of new gTLDs - IPv6, DNSSEC, new IP protection mechanisms/tools, and possibly other new rules regarding malicious conduct. Compliance is not merely a matter of money, there is a practical limit to what ICANN the organization or community can optimally keep up with.
- Lack of innovation - vertical integration or high levels of co-ownership only further entrench the incumbent registries and registrars, leaving little incentive for new service providers (back end, registrars, etc.) to be created.

- Collusion between two parties
- Unfair marketing relationships between two vertically integrated entities
- “Shelf Space”
- Easier cybersquatting
- Account Lock-ins

Harms from Register.com comments

- Affiliated entities have a reduced true cost for each registration because the registry fee is not fully realized. This allows the affiliated registrar to sustain lower prices, or spend more on bundled services or marketing than other registrars, potentially forcing competitors out of the market.
- An affiliated registrar would have **de facto** better access to registry systems, deleted names and operation support. Similar to the above this would allow the affiliated registrar to receive additional benefits that are not available to competitors which the affiliated registrar could pass on to its customers.
- A registry could institute registrar requirements which on their face do not discriminate, but which in execution make it difficult for all but the affiliated registrars from obtaining approval.

For example overly complex API requirements could have the impact of either raising costs to unaffiliated registrars or, in the extreme, keeping other registrars out of the market.

Harms from Lubsen letter to PDT (Afilias)

- If allowed to go forward, this proposed deregulation will facilitate “insider trading” that will open the door to abusive domain registration practices and higher domain name prices for some registrants. It will provide the affiliated registrar access to sensitive registry data that includes the entire universe of data for potential and existing domain names from all registrars that sell the TLD. A registry has the unique power to see DNS traffic in its domain; with access to this data, an affiliated registrar would be in a unique position to identify potentially high value names and monetize them through auctions, traffic sites or secondary market sales
- Domain name tasting and front running are just two recent examples of the type of abusive practices that will result if a vertically integrated registry can sell its TLD through its affiliated registrar. Both practices could result in registrars withholding valuable names from average registrants and have the effect of *raising prices* for the average consumer who seeks to register names in what is supposed to be a first-come-first-serve system. ICANN’s proposal will make it possible for a combined registry-registrar entity to eliminate nearly the entire financial penalty on tasting. A vertically integrated registry registrar eliminates 94% of the current cost imposed on a registrar that engages in tasting

Harms from Raad letter to PDT (PIR)

- A large Registrar could easily exert control over market channels for new gTLDs by requiring costly fees to promote a TLD, unless the registry contracted with the Registrar’s affiliated back end service provider.
- The provider could even demand an equity stake or other interest in the Registry. Registry operators may feel compelled to accept harsh contractual terms to ensure market exposure and a likelihood of success. Rather than increasing competition, cross-ownership, in this example, could significantly reduce competition by creating an oligopoly market consisting exclusively of large Registrar. In anticipation of the new gTLDs, Registrars have been actively luring prospective applicants for Registries to serve as their back-end Registry operator by promising to deliver an established customer base, prominence on the Registrar’s website and guaranteed marketing designed to reach ultimate end users. In other words, these Registrars can promise to deliver exactly what existing Registries cannot - a direct marketing relationship with the ultimate registrant
- Allowing the existing Registry Operators to serve as Registrars and vice versa, immediately prior to a new round of TLDs being selected, is also fundamentally unfair in that the

Registrars have had a ten year head start in acquiring large customer bases. This head start will take years to overcome by the existing Registry Operators

Sapington presentation

- Reduced industry competition, due to increased discrimination against non-affiliated registries and registrars
- Limit the access of non-affiliated registries to prime shelf space

Links

<http://www.icann.org/correspondence/maher-to-karklins-25sep09-en.pdf>

<http://forum.icann.org/lists/2gtld-guide/msg00033.html>

<http://www.icann.org/correspondence/lubsen-to-dengate-thrush-12oct09-en.pdf>

<http://www.icann.org/correspondence/raad-to-dengate-thrush-09sep09-en.pdf>

<http://www.icann.org/correspondence/raad-to-dengate-thrush-08may09-en.pdf>