

Price Analysis

We were unable to determine whether the prices charged by legacy gTLD to registrars have declined since the introduction of new gTLDs because legacy gTLDs are not required to provide this information under their agreements with ICANN and only two legacy gTLDs provided this information in response to our data requests.¹ Moreover, if, as seems likely, the legacy gTLDs that are subject to price caps, either limitations on the prices they can charge or on any increases of those prices, set their wholesale prices at their respective caps during the period under review, we would still not be able to observe any effect.² However, in an attempt to determine whether the new gTLDs have provided price competition to the legacy gTLDs, we compared simple and weighted averages of the wholesale prices charged by a sample of new gTLDs to simple and weighted averages of the legacy gTLDs *price caps*, where the weights are the number of registrants served by a TLD, as of March 2016.³ The following table reports the results of these calculations.

	Legacy gTLDs	New gTLDs
Simple Average	\$16.72	\$21.46
Weighted Average	\$7.92	\$15.38

¹ Below, we explain why we believe that all gTLDs should be required to provide this information in their agreements with ICANN. MEGAN AND CARLTON HAVE PROPOSED THAT THE TWO LEGACY GTLDS THAT PROVIDED PRICE DATA BE IDENTIFIED.

² If the wholesale price caps were binding throughout the period, i.e., if prices were always at the caps, we would be unable to observe the effect of new gTLD entry on the prices that legacy gTLDs *would have wanted to pay* because we would not observe those prices. It is possible, although we have no evidence of this, that legacy gTLDs reduced their wholesale prices *below* their respective price caps in response to new gTLD entry. However, we have no evidence that this was the case.

³ See G. Rafert and C. Tucker, *Phase II Assessment of the Competitive Effects Associate with the New gTLD Program*, Table 9 for the results of these calculations and Section III for a description of the manner in which the new gTLD sample was constructed. Table 9 also reports results of the same calculations for data as of April 2015.

We find that, on average, the wholesale prices charged by new gTLDs are *at or above* the wholesale prices that legacy gTLDs are permitted to charge under their price caps. However, this finding alone cannot be a basis for either retention or removal of the caps. Although the new gTLDs have set wholesale prices somewhat above the price caps, their presence might nonetheless have provided a constraint on the ability of legacy gTLDs to increase their prices significantly if the caps were removed, although we cannot be certain that this was the case. We are unable to reach a definitive conclusion on this issue in the absence of adequate data and until more time has passed for the effect of new gTLD entry to be fully felt. It is the Review Team's view that this issue should be addressed in more detail in future.

We should also note that wholesale prices may vary among gTLDs even if competition among them is intense. For example, if the market for gTLDs is characterized by *monopolistic competition*, where products are differentiated and consumers choose on the basis both of product characteristics and price but there is free entry of suppliers, prices might vary because of differences in product characteristics.⁴ For example, gTLDs with a small number of customers that have an intense demand for them because there are few close substitutes might charge higher prices than ones with many customers for which customers regard other gTLDs as particularly close substitutes. Thus, even if we were to observe that new gTLDs charge, on average, higher prices than do legacy gTLDs, that could reflect differences in the products that they offer and the number of consumers that they serve rather than the absence of competition among them. Of course, we do not have data on the prices charged by most legacy gTLDs and, even if we did,

⁴ As defined by Joe S. Bain, "Monopolistic competition is found in the industry where there are a large number of sellers, selling differentiated but close substitute products".
[<http://www.jbdon.com/pricing-under-monopolistic-and-oligopolistic-competition.html>]

those prices are as likely to reflect the effects of price regulation as of outcomes produced by competitive market forces.

Finally, even if monopolistic competition is a reasonably accurate description of the DNS “market”, it is unlikely to be a complete description because of both inertia and network effects. That is, some registries may be able to earn excess profits in the long run because consumers incur costs when they switch to new entrants and/or because some consumers prefer to employ large, established domains.