

The background features a photograph of the Charminar in Hyderabad, India, with its iconic four minarets. The image is overlaid with a blue-to-orange gradient and abstract white geometric lines in the bottom right corner.

ICANN|57 HYDERABAD



Input to Competition, Consumer Trust & Consumer Choice Review Team

| 4 November 2016



Process Update

CCT-RT Mandate

Evaluate how
New gTLD
Program has
promoted
competition,
consumer trust
and consumer
choice

Evaluate
effectiveness
of application
and
evaluation
processes

Evaluate
effectiveness
of safeguards

Goal for Hyderabad: Seek community feedback on interim findings

Informed by Multiple Resources



June 2016 – Global Consumer Research – Wave 2 (Nielsen)

September 2016 - Global Registrant Survey - Wave 2 (Nielsen)

October 2016 - Phase II Assessment of the Competitive Effects Associated with the New gTLD Program (Analysis Group)

October 2016 - New gTLDs and the Global South: Understanding Limited Global South Demand in the Most Recent New gTLD Round and Options Going Forward (AMGlobal)

November 2016 - Applicant Survey

March 2017 - DNS Abuse Study (Preliminary Report)



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HYDERABAD

Attend Competition, Consumer Trust and Consumer Choice Research Results session on 5 November for more information

Initial Observations



- We are in “Early Innings” – the full effects of New gTLDs will not be felt for some time
- Lack of relevant data has hampered the analysis – missing key data- such as information about legacy gTLD pricing, DNS abuse and burden and costs to trademark owners
- Alternative market definitions considered - Lack of information prevents us from defining the relevant “market” for the purpose of analyzing competition, and have considered a number of market definitions



Competition & Consumer Choice High-Level Findings

Industry Structure

The existence of registrars and backend providers facilitates the entry of new gTLDs into the market.

- There are hundreds of registrars offering new gTLDs, but only a handful of backend providers. However, 6 providers service at least 1M SLDs under the gTLDs that they support.

90% of new gTLDs have <10,000 registrations, excluding .BRANDs.

So far, only a single TLD has ceased operations. (A few others have been sold.)

Most gTLDs have modest numbers of registrations, raising the possibility that they have not achieved minimum viable scale. So far, we have seen only one failure, so the structure of the industry may make it possible for “stand alone” gTLDs to continue to operate even with low registration volumes.

- ***Recommendation:*** Continue to measure metrics around gTLD viability.

New gTLD Market

New gTLDs represent about half the overall growth in gTLD registrations since the end of 2013, and about 1/3 of the increase in total registrations (including ccTLDs). Overall, new gTLDs represent approx. 9% of current registrations amongst all gTLDs.

By all standard measures of market concentration, the “new gTLD market” is significantly less concentrated than the “overall gTLD market”.

New gTLDs have decreased concentration in the gTLD market, but because the program is relatively new and the existing base of registered domains is large, the overall effect has been modest.

- Although many studies in other industries find a relationship between concentration and price, we are missing important data to draw strong conclusions regarding price.
- The current average wholesale price in new gTLDs is higher than the current average price cap in legacy gTLDs.

Recommendation: ICANN needs to gather more data relating to price in legacy gTLDs. (This may be particularly interesting if price caps are removed from some legacy gTLDs.)

Parking

- A majority of new gTLD registrations (65%) are parked or unused, although there is considerable per-TLD variation (e.g., .xin is 95% parked, .science 23% and .xyz 65%).
 - Of those, most “parked” domains simply do not resolve or serve errors.
- Parking is common in legacy gTLDs as well, although we do not yet have comparable data between legacy and new gTLDs.
- The prevalence of parking in new gTLDs, and lack of ability to compare to legacy gTLDs, is one of the factors that makes it harder to understand the impact of new gTLDs in the marketplace.

Registrars

- Concentration among registrars within new gTLDs has declined somewhat since the introduction of new gTLDs, largely due to slightly lower concentration within the new gTLDs.
- Although there is sometimes high concentration amongst registrars *within a specific gTLD*, even in those gTLDs there are a large number of registrars.
- There is a surprising degree of variation in retail prices between registrars for the same gTLD.

Trademarks

- As with previous expansions of the gTLD space, some trademark holders engage in defensive registrations.
- In a sample studied by Analysis Group, 54% of trademarks registered in .com were registered in one or more of the new gTLDs.
- Most trademarks are only registered in a small number of new gTLDs (median of 3), although 4% of trademarks were registered in over 100 new gTLDs, and one trademark was registered in 406 gTLDs.
- The cost of the new gTLD program for most trademark holders related to direct registrations in defensive registrations has been relatively low; however, a small fraction of trademark holders are likely incurring significant costs. Further study on other potential costs is underway.

Choice

In some cases (18%), users prefer to register in new gTLDs even when the SLD is available in .COM.

- This is particularly true in IDN TLDs. In some IDN TLDs, >60% of SLDs registered are available as exact matches in .COM.

The vast majority (92%) of new gTLD registrations could have been registered in .COM instead in the form SLDTLD.COM. (e.g., users pick BIGSHOTS.PHOTOGRAPHY even though BIGSHOTSPHOTOGRAPHY.COM was available)

- For many gTLDs, this is true despite the fact that the retail price for the gTLD is typically higher than for .COM.
- Registrants are attracted to new gTLDs because they perceive them as modern, more flexible, facilitate communication and are priced well.

Pricing

In general, we are missing important data to draw strong conclusions. In particular, we are missing transactional data from registrars, wholesale pricing from most legacy gTLDs, and data on resale prices of domain names.

Most of the data we do have is inconclusive.

- On average, new gTLDs are priced no lower than the price caps for legacy gTLDs, but it is unclear what prices the legacy gTLDs would charge in the absence of the price caps.

Policies

Most of top 30 registries (90%) have published Privacy policy.

Two thirds of these registries would not share those data with third parties, except in cases prescribed by law and regarding to Whois policy.

- 43% of these registries have strict obligation in their policies that they will take reasonable measures to provide the security of personal data.

No restrictions on who can register, except for .nyc.

All of these registries have compliance procedure for abusive behavior or other violation of policy.

No TLDs have policies related to “parked domain names”.



Competition & Consumer Choice Q&A



Safeguards & Trust High Level Findings

Affirmation of Commitments

ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, **consumer trust** and consumer choice, *as well as effectiveness of* (a) the application and evaluation process, and (b) **safeguards put in place to mitigate issues involved in the introduction or expansion.**

Safeguards and Trust

High Level Questions:

Has the new gTLD Program put sufficient mechanisms in place to:

improve trustworthiness and

mitigate risks to DNS?



Safeguards and Trust

High Level Questions:

Have these efforts had an impact on public perception of the DNS?

Safeguards and Trust

Improve Trustworthiness/Mitigate Risks

Sub-questions

Have the safeguards been implemented in a manner that promotes effective enforcement?

What was the impact of the new safeguards on DNS Abuse?

Did the Rights Protection Mechanisms mitigate certain risks involved with the expansion of the new gTLD program?

Safeguards and Trust

Improve Trustworthiness/Mitigate Risks

Mechanisms

Technical Safeguards

Safeguards Applicable to all
new gTLDs

Safeguards Applicable to new
gTLDs that: raise consumer
protection concerns, contain
sensitive strings, or strings in
regulated/highly regulated
markets

Voluntary Public Interest
Commitments

Rights Protection Mechanisms

Technical Safeguards

Vet
Registry
Operators

DNSSEC

Prohibit
Wildcarding

Most implemented via
application process or contract
provisions in standard
Registry/Registrar Agreements

Voluntary
Framework for
High Security Zones

Expedited
Registry Security
Request

Centralized
Zone file
access

Prohibit
orphan
glue
records

Thick
WHOIS

Registry +
Registrar
Level Abuse
Contacts

- Screen out bad actors
- Ensure integrity/utility of registry info
- +Focused Efforts to combat abuse
- Not Implemented

Safeguards Applicable to All New gTLDs

- **WHOIS**

- verification/documentation
- Checks

- *RAA (June 2013), §3.7.8; 3.7.7.1-2; WHOIS Accuracy Specification; ICANN WHOIS ARS*

- **Mitigating abusive activity**

- provision prohibiting registered name holders from engaging in abusive activities
- consequences (including suspension)

- *RA (Jan. 2014), Spec. 11, 3(a)*

- **Security checks**

- technical analysis
- maintain reports

- *RA (Jan. 2014), Spec. 11, 3(b)*

- **Complaints**

- procedures for making/handling
- abuse POC

- *RA (Jan. 2014), § 2.8; Spec. 6, § 4.1*

Implemented in Manner that Promotes Effective Enforcement?

WHOIS

- ✓ Registrar provisions with clear obligations and timelines
- Largest category of complaints for ICANN Compliance
- ☐ Accuracy still an issue

Security checks

- ☐ Lacks obligations to: 1) notify registrar or 2) respond to threats
- Community discussions underway

Complaints

- ☐ Questions about what constitutes “reasonable steps” to respond to complaints

Safeguards Applicable to New gTLDs Raising Concerns

CP Concerns/sensitive strings/strings in **regulated** markets:

- Compliance with applicable laws (registrants must comply with all applicable laws, including those that relate to:
 - Privacy
 - data collection
 - consumer protection (re: misleading and deceptive conduct, fair lending, debt collection, organic farming, disclosure of data, and financial disclosures)
- Implement reasonable/appropriate security measures for collection of sensitive financial/health information

- RA, Jan. 2014, Spec. 11, 3(a); Implementation Framework for GAC Category 1 Advice

Implemented in Manner that Promotes Effective Enforcement?

CP Concerns/sensitive strings/strings in **regulated** markets:

Compliance with applicable laws (including privacy, data collection, and consumer protection)

- ICANN Compliance proactively monitored in 2014 and reported 99% compliance (Ks contained provision)

Implement reasonable/appropriate security measures for collection of sensitive financial/health information

- ❑ Difficult to assess b/c ICANN compliance does not identify complaints by safeguard category or potential law violation

Safeguards Applicable to New gTLDs Raising Concerns

CP Concerns/sensitive strings/strings in **highly regulated** markets:

- Registries to establish relationship w/relevant regulatory/industry bodies
- Registrants to have a single point of contact for complaint reporting and contact info for relevant regulatory bodies

- *RA, Jan. 2014, Spec. 11, 3(a)-(b)*

- **Verification/validation of credentials:**

- Representation that Registrant possesses necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string.
- Duty to consult if Complaint (If Registry Operator receives complaint re: authenticity of credentials, Registry Operators should consult with relevant national supervisory authorities re: authenticity)
- Duty to Update Credential Status (Registrant)

- *Implementation Framework for GAC Category 1 Advice*

Implemented in Manner that Promotes Effective Enforcement?

CP Concerns/sensitive strings/strings in **highly regulated** markets:

Relationship with relevant regulatory/industry bodies

- ❑ implementation language appears to require only publicizing a point of contact and issuing an invitation , rather than actually establishing a working relationship

Verification/validation of credentials

- ❑ proactively screening **before** doing business with public using the name of a regulated sector such as a bank, charity, or pharmacy vs. “representation” that Registrant has appropriate credentials and duty to consult w/authorities if complaints
- ❑ periodic post-registration checks to ensure validity of credentials vs. self-reporting of material changes
 - poses the risk of consumer fraud and potential harm because risk that bad actors will make false representations about their credentials

Safeguards/Voluntary Public Interest Commitments

- 71 out of the 116 regulated gTLDs and 17 out of 29 high regulated gTLDs adopted some form of voluntary public interest commitments.
- 9 out of 29 highly regulated new gTLD domain name registries included a form of voluntary commitments focused on abuse, included in Specification 11 or 12.
- Six operators ran the top 30 largest new gTLDs that incorporated voluntary public interest commitments (PICs) in their application or registry agreement.
- An operator of six of the top 30 new gTLDs reserved the right to discontinue any of its voluntary PICs “in the case of a substantial and compelling business need.”

***** Still gathering data**

Safeguards/Rights Protection Mechanisms

Numbers of Cases filed (Uniform Domain Name Dispute Resolution Policy and Uniform Rapid Suspension System)

UDRP: We have seen a drop in UDRP complaints since the introduction of new gTLDs taking 2012 as a baseline

- Roughly 13% drop

URS: New process as of 2012:

- In both 2014 and 2015 there were a little over 200 URS complaints

Total complaints filed (UDRP + URS): Remain lower than the total UDRPs in 2012

- 7.5% decrease

Note: number of UDRPs and URSs filed may be tip of the iceberg. Bulk of enforcement costs incurred with defensive registrations /monitoring / cease and desist letters, etc.

Upcoming: Looking at data from WIPO and Forum plus results of the INTA Impact Study December 2016

Safeguards/RPMs and Total Costs to Trademark Owners

The wider picture:

- Cost to Trademark Owners continual and the total cost rising as more TLDs go into the root with monitoring / cease and desist letters / litigation / TMCH / sunrises / premium pricing / defensive registrations / blocking registrations.
- Difficult to quantify the various costs as data not available
- Some data points to there being more infringement proportionally in new gTLDs than in legacy TLDs:
 - Of all gTLD registrations 9% are new gTLDs.
 - Of all UDRP cases (WIPO) new gTLDs account for 15% of their caseload.
- On current data unclear whether the RPMs have *appreciably* done more or less in to mitigate certain risks involved with the Expansion of the gTLD program.

Upcoming: Looking at data from WIPO and Forum plus results of the INTA ImpactStudy December 2016

High Level Questions:

Have consumers expressed trust in new gTLDs?

Has consumer trust in the DNS improved overall since introduction of new gTLDs?

Safeguards & Trust Topics

Have these efforts had an impact on public perception of the DNS?

What is level of consumer awareness of new gTLDs?

Consumers

46% to 52%
2015, 2016

Registrants

64% to 66%
2015, 2016

Legacy gTLDs

90-91% "very/somewhat"
trustworthy
2015, 2016

New gTLDs

49% to 45 to 52%
2015, 2016 (added gTLDs)

Do consumers trust gTLDs ?

Has consumer trust in the DNS improved since the introduction of New gTLDs

Trust has not decreased

Behavior:

- Comfort level providing sensitive PII half as much for new gTLDs vs. legacy

Reputation and Familiarity:

- Trustworthiness

Restrictions on who can purchase domain names contribute to trust

Source: Nielsen Consumer / Registrant Surveys 2015 -2016



Safeguards & Trust Q&A

The background of the slide is a solid yellow color. Overlaid on this is a stylized world map. The map is formed by a network of white dots of varying sizes, connected by thin white lines. The dots are more densely packed in some areas, particularly in North America and Europe, and more sparse in others, like Africa and South America. The overall effect is a digital, interconnected globe.

Application & Evaluation High Level Findings

Safeguards/String Contentions

- 230 exact match contention sets, majority of which are now resolved
- The outcome of the objections to plural versus singular string contention not particularly consistent
- The International Chamber of Commerce (ICC) dispute resolution center addressed applications for 62 gTLDs that raised community objections.
 - ICC found in favor of the community in 12 gTLDs, the objectors failed for 31 gTLDs and objections were dropped for 19 gTLDs. The number of total cases is greater because single gTLDs sometimes had multiple cases raised.
- The International Chamber of Commerce (ICC) dispute resolution center addressed objections against applications for 10 gTLDs on limited public interest grounds.
 - The ICC found in favor of the objector in only one gTLD, the objectors failed for 5 gTLDs and objections were dropped for 4 gTLDs. Again the number of total cases is greater because single gTLDs sometimes had multiple cases raised.
- Many strings had objections for more than one issue (for example community plus limited public interest or confusability plus community).

New gTLDs and the Global South (AMGlobal)

Limited Demand in the Global South

Constraints

- ✦ **Awareness** – too few people knew about the program, not enough time or details to move forward
- ✦ **Business model** – no sense of “what success looks like”, concerns about customer confusion, market demand, limited sense of “generic” gTLDs
- ✦ **Cost and Complexity** – perception that cost was high for global south markets and process complex, unsure about available support
- ✦ **Urgency** – While there was interest, there was a limited sense of urgency

Actions

- Create clearer outreach tools answering key Qs about cost, process, timing, ICANN
- More fully explain different uses for new gTLDs, provide case studies answering business model questions
- Build long-term, consistent program of outreach – including in-language, in person and general public-facing efforts, start early + involve ICANN community
- Evaluate other assistance – price support, consultant registries, sales channel info

New gTLDs and the Global South (AMGlobal)

Address the big underlying questions...

- Q: Is the community committed to promoting gTLDs in the global south, and if so, how committed are we?
- Q: What would success look like for this effort?
- Q: Why is this important for ICANN and for the ICANN community?

Applicant Survey (Nielsen)

Satisfaction

- 49% said received sufficient guidance from ICANN.
- 64% would apply again under the same process.
- Discussion with respondents who agreed to be re-contacted (n=9) points out that the process itself is seen as onerous and bureaucratic. And it was marred by some technical malfunctions.
- As such, applicants are seldom going to be “very satisfied” (1 in 45)
 - As one participant stated “For this process, somewhat satisfied is actually a good rating.”

Applicant Survey (Nielsen)

Additional Insights from Follow-On

- Technical problems (outage, digital archery) did not present ICANN well.
- Changing process/timelines very frustrating for those who “played by the rules”. “If you work hard to meet the deadline, and someone else does not, that should be your advantage.”
- Rule/process changes or shifting guidance undermine credibility e.g. plurals, linguistic reviews.
- Perception held by some that ICANN does not respect the business/financial implications that their delays have on applicants.
- Process was about procedure, not substance of applications—potentially a stronger concern for community applicants.
- Letters of credit and bank transfers seen as onerous, non-standard, “illegal” or inappropriate for government entities.
- Communication methods designed to convey impartiality, but some don’t believe impartiality was maintained.



Application & Evaluation Q&A



Work Plan & Timeline

Work Plan

*Community Input
on Interim
Findings*

Nov 2016

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*Draft Report for
Public Comment*

Dec 2016

*DNS Abuse Study
and INTA Survey*

March 2017

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*Final Report for
Board
consideration*

July 2017

A world map where the continents are defined by a complex network of white dots and thin white lines, resembling a network or data visualization. The background is a solid dark gray.

The Floor is Yours

WE WANT TO HEAR FROM YOU!



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Happy to join your session at ICANN 57



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Thank you!

