

Closed Generics: Draft Pros and Cons for Discussion

Pros: closed generics should be allowed	Cons: closed generics should be restricted
<p>New types of TLDs could be a source of business model innovation.</p> <p>Innovation can lead to greater competition and new services that are beneficial to the public and promote consumer choice.</p> <p>ICANN is not a regulator and should not attempt to regulate issues related to competition and business models.</p> <p>There are no objective criteria for determining what constitutes a generic word. ICANN should not attempt to classify words for regulatory purposes.</p> <p>It is not possible to have universally applicable definitions for the term “generic” across languages. Therefore it is unclear how ICANN could apply policies around generic terms in a way that is fair and consistent.</p> <p>The purpose of expanding the DNS is to increase utility. Dictating the way TLDs can be used undermines this goal.</p> <p>Generic words are already in use by specific brands/companies at the second level (food.com, books.com, etc). There is little practical difference between using these terms at the first level and second level.</p> <p>There is little difference between closed generics and other TLDs already in play -- such as some community applications and brands that correspond to generic strings.</p> <p>There is no automatic link between owning a domain name and dominating a market signified by that string (see amazon.com and books.com, which is owned by Barnes & Noble).</p>	<p>Generic words are a form of public space. It is not in the public interest to have these strings under the control of a single entity.</p> <p>Closed generics harm competition - if a single player in a market has exclusive access to an industry-related generic TLD string, this player has an unfair advantage.</p> <p>Closed generics favor large industry players, tipping the scales in favor of those who already dominate the market and potentially limiting consumer choice.</p> <p>Closed generics undermine the goals of the trademark system, which forbids individuals from gaining exclusive property rights in generic names of products and an unfair competitive advantage in the marketplace.</p> <p>Different business models for TLDs may confuse consumers.</p> <p>Closed generics may mislead consumers: If closed, generic TLDs are approved, consumers may mistakenly believe that they are using a gTLD that allows for competition, when in reality the gTLD is closed and the apparently competitive products are being offered by a single entity.</p> <p>While generic strings are in use by specific brands and companies at the second level, the top level is different. The impact is greater. A new gTLD requires ICANN approval and substantial resources, both for the application and for the operation of the gTLD. Search engines are likely to give priority to pages associated with a gTLD that appears to be dedicated to content related to the search terms and more likely</p>

Regulation of closed generics limits free expression by imposing collective obligations and top-down regulations on domain owners.

New gTLDs are valuable economic assets. ICANN policies should assure that these assets are allocated to their most highly valued uses.

In support of allowing closed generics on a case-by-case basis: Closed generics can serve the public interest. ICANN should allow specific closed generics to operate if it can be established that they serve the public interest.

to be controlled by an established, relevant institution. The stakes are higher regarding ICANN delegation of a gTLD, and the public interest concerns must weigh more heavily than they do for individual domain names.

Delegation of closed gTLDs may violate ICANN's by-laws, the New gTLD Registry Operator Code of Conduct, and the New gTLD Registry Agreement. The exemption that permits closed gTLDs was intended for brand TLDs, not generic words that are common industry terms. ICANN's core values include promoting competition in the registration of domain names.

For non-Latin character sets in languages such as Chinese and Japanese, closed generics will place entire cultural identities at risk. There will be loss of opportunity for people and businesses in that native language to express, pursue and flourish in TLD namespaces designed for them.