



**Comment on Competition,
Consumer Trust and
Consumer Choice Review
Team Draft Report of
Recommendations for New
gTLDs**

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Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

Comment

The Business Constituency thanks the Competition and Choice Review team (CCTRT) for their hard work and thought in their initial report¹ and welcome the opportunity to provide the perspective of business registrants and users.

COMPETITION AND CHOICE:

The BC agrees with the review team that there is still not enough data to justify firm conclusions about competition and choice in gTLDs. We agree that more data is still needed and find Recommendation 1 to be vitally important to the health of the gTLD industry. Timely, pertinent, and accurate data is indispensable for policy and other decision-making processes within ICANN. Further, this data will be useful for registrants, including brands that register within the TLDs.

The BC encourages the inclusion of traffic levels as one of the data points collected. The report indicates there are significantly more parked domains in new gTLDs, relative to legacy gTLDs.

This is a good indicator about 'use' but traffic to those domains should also be tracked.

To evaluate data from newly launched registries, please take into account domain speculators. There is anecdotal evidence that speculators entered during the "land rush" phase to register domain names that had shown value in the .com space. Such actions could distort rates of registration comparisons between new and legacy gTLDs. Another data point would be premium domains reserved by the registry itself, which may have impacted registration rates. A useful study could be to evaluate the same data without counting multiple registrations made by speculators and domain portfolio owners.

Recommendation 10 focuses on defensive domain name registrations by brands. A survey of brand registrants may yield interesting results in the use of new gTLDs. Many major brands actually resolve only a small fraction (less than 5%) of their domain names, and it would be interesting to see if the data indicates resolution/use of any of their defensive registrations.

A study on use and trust of new gTLDs is recommendation 13. The BC urges the CCTRT to consider "lack of trust" indicators in their study. For example, we would like to see data on how often a specific TLD is used in phishing, malware, or other scams or unlawful activity. There are several new registries where domains are known to have a high rate of abuse, and further study would be helpful.²

¹ ICANN Public comment page at <https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>

² See for example the internet Watch Foundation's Annual Report for a discussion of the new gTLDs and child sex abuse imagery. IWF reports a 258% increase in 2016 in websites against which it took action using new gTLDs. https://www.iwf.org.uk/sites/default/files/reports/2017-04/iwf_report_2016.pdf

Recommendation 15 pertains to a global survey on familiarity with new gTLDs. The general public has low awareness of gTLDs other than .com, .net, and .org, so it would be interesting to see a study that repeats part of the previous study but target more of a general audience.

Although, the current RPM's (including sunrise periods and URS) are helpful they do not prevent domain name infringement in new gTLDs. Many sunrise periods included steep fees and confusion as to timing. Many brands have chosen not register but enforce when necessary. There does appear to be growth in infringing use of new gTLDs, which was not present initially. Unfortunately, universal acceptance may be more helpful to fraud and phishing than to a legitimate use of new gTLDs.

CONSUMER TRUST AND SAFEGUARDS:

This report indicates that trust in new gTLDs is below legacy gTLDs, which indicates this program has thus far reduced trust in the DNS overall.

Registry practices should also be studied. We have documented instances where brands were targeted with objectionable practices. For example, .Feedback and .sucks significantly increased prices for domain name renewals, which erodes the trust and confidence of business registrants considering the use of new gTLDs.

The CCTRT report refers to an ongoing study of DNS abuse in new vs. legacy. We need to wait and review the results of that report. Among other things, it will specifically answer whether the "99% of registries implementing required safeguards" has made a difference in abuse prevention.

We agree with Recommendation 17 the study of WHOIS inaccuracy to see if there the same issue as in the legacy TLDS. Many new gTLD registries have implemented an *Acceptable Use Policy*, which may positively impact the use of inaccurate information.

The BC agrees with the final paragraph of this section, which notes that the lack of granular data coming out of ICANN makes it impossible to effectively evaluate what the CCTRT is being asked to evaluate.

APPLICATION AND EVALUATION:

Regarding Recommendation 15, it is important to promote awareness of the new gTLD program, with special focus on potential applicants in the global south. The BC urges ongoing work to understand barriers to participation such as the CCTRT report evaluating limited global south involvement in the program (<https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>) — and other studies looking at issues like new gTLD use and perceived trustworthiness.

ICANN has recently proposed a Registry Operator Framework (ROF). The BC encourages the CCTRT to not only review this framework as is noted in Recommendation 20, but to also make recommendations to improve security and stability in this framework. The BC suggests the following:

- Require an annual audit of the Registry Operator

- There should be a minimum set of requirements that an RSP must comply with but not discouraged from creating an environment that exceeds those requirements.

- Require a contractual agreement between the ROF and ICANN to enable compliance of the requirements. Compliance of the requirements should be audited, reviewed and enforced by David Conrad's team.

Compliance is of utmost importance to the BC, per our mission to look after the interests of business registrants and users. We therefore agree with Recommendation 23 but would add a requirement to provide detail information about the compliance action and specify that all complaints be categorized by subject matter, actions and resolution. This information should be available to the public.

The BC agrees with Recommendation 24, but we should not rely on registries offering security measures as part of their services as a replacement for compliance with the base registry agreement.

Recommendations 25 -36 relate to Restricted gTLDs. Historically, some restricted gTLDs have removed their restrictions and become open gTLDs. Brand owners have found that the restrictions of new gTLDs operators may prevent registrations of trademarked terms by the Brand owner – while allowing 3rd parties to register without having a right to the trademarked term. This occurred in restricted new gTLDs that required membership to an association or industry or a specific geographical location.

OTHER

The BC agrees with the discussion on Page 8, regarding Recommendations/Data Gathering/ICANN Contractual Compliance. This seems on-point and constructively critical of areas that need improvement for this measurement and review process to be more accurate.

The experience of BC members is not sufficient to confirm the Review Team’s statement that "Initial indications are that the New gTLD Program has led to a dramatic increase in consumer choice, a modest increase in competition and minimal impact on consumer trust."

Over time, this CCTRT statement may prove to be accurate. But our view is that initial indications are that the new gTLD program has led to *modest increases in material and relevant consumer choice, no significant increase in competition, and some negative impact on consumer trust.*

Below is a table of the 50 CCTRT Recommendations, grouped by relative importance to the BC based on the priorities outlined in this comment:

VERY IMPORANT – DATA COLLECTION AND ANALYSIS BEFORE NEXT gTLD EXPANSION

1	Formalize & promote ongoing data collection Initiative to facilitate quantitative analysis of market & policy implementation, incl a Dedicated Data Scientist
2	Regularly collect wholesale pricing for legacy and new gTLD registries (confidentially)
3	Regularly collect transactional pricing for gTLD marketplace from registries (confidentially)
4	Collect retail pricing for marketplace & develop capability to analyze data
5	Collect parking data, track parking rates at TLDs & identify trends
6	Collect secondary market data
7	Collect TLD sales at a country level
8	Create/support/partner with entities that collect TLD sales data at a country level. Cooperate (standardization of research, methodology) to obtain comparable data
9	Conduct periodic survey of registrants - collect registrant trends
13	Conduct study on: <ul style="list-style-type: none"> • Which new gTLDs have been visited most

	<ul style="list-style-type: none"> • Reasons users visit to certain new gTLDs • What factors matter • How users behaviors explain how they trust new gTLDs
15	Repeat portions of global surveys to look familiarity with at new gTLDs, visitation & perceived trustworthiness
23	Provide detailed information on the subject matter of Compliance complaints: <ul style="list-style-type: none"> • type of law violation • relates to protection of sensitive information?
49	Consider new policies to avoid potential for inconsistent results in string confusion objections. Consider: <ul style="list-style-type: none"> • Determine through initial string similarity review process that singular/plural versions of the same gTLD string should not be delegated • Avoid disparities in similar disputes by ensuring that all similar cases of plural/ singular strings are examined by same expert panelist • Introduce a post dispute resolution panel review mechanism
17	Gather data to assess whether: <ul style="list-style-type: none"> • Significant % of WHOIS complaints relate to accuracy of identity of registrant • Difference in behavior between new and legacy gTLDs

VERY IMPORTANT – ABUSE MITIGATION

19	Repeat data collection comparing abuse rates in domains under new vs. legacy Registry/Registrar Agreements
20	Next CCTRT to review proposed Registry Operator Framework and assess if clear/effective to mitigate
21	Assess whether abuse reporting mechanisms led to more focused efforts to combat abuse
22	Assess whether more effort needed to publicize contact points for abuse/illegal behavior complaints
24	Initiate stakeholder consultations on what constitutes reasonable and appropriate security measures commensurate with offering of services
34	Repeat/refine DNS Abuse Study to determine if the presence of additional reg. restrictions correlate to decreases in abuse in new gTLDs vs. new gTLDs w/o reg. restrictions, and as compared to legacies
31	Examine ICANN Compliance complaints for a registry operator’s failure to comply w/ safeguards on inherent governmental functions and cyber bullying
32	Survey registries to determine how they enforce these safeguards in recommendation 31.
38	Future gTLD applicants to state goals of each voluntary PIC

VERY IMPORTANT – BUSINESSES OPERATING BRAND TLDs

10	Consider if defensive registrations can be reduced for brands registering a large number of domains
40	A full impact study on the impact of new gTLDs on the cost/effort required to protect trademarks and repeat regularly to see the evolution
41	Fully review URS and consider how to interoperate with the UDRP
42	Fully review TMCH and its scope to provide data to make recommendations & allow an effective policy review

BC RANKS AS IMPORTANT, BUT DOES NOT HAVE A STRONG OPINION

11	<p>Consumer/end-user/ registrant surveys to explore benefits of expanded number, availability & specificity of new gTLDs, such as:</p> <ul style="list-style-type: none"> • Contributions to choice from geo TLDs, specific sector TLDs and IDN TLDs • Confusion for internet users
12	<p>Collection and processing of personal data should be more strictly regulated within rules which are mandatory for all gTLD registries. Registries should not be allowed to share personal data with third parties without consent of that person or under circumstances defined by applicable law</p>
14	<p>Incentivize registries to meet user expectations regarding:</p> <ul style="list-style-type: none"> • Relationship of content of a gTLD to its name • Registration restrictions based upon implied trust • Safety and security of users' information Business interested in the trust in the system generated by these measures
16	<p>Commission Study on impact of restrictions on who can buy new gTLD domains:</p> <ul style="list-style-type: none"> • Compare trust levels with varying degrees of registration restrictions • Correlations between DNS abuse and presence/absence of reg. restrictions • Costs and benefits of registration restrictions • How to enforce reg. restrictions
18	<p>Accuracy of data should be considered by upcoming WHOIS RT</p>
25-30	<p>Study aspects of highly regulated new gTLDs:</p> <ul style="list-style-type: none"> • Steps registry operators take to establish relationships with relevant gov/industry • # of complaints received by registrants from regulatory bodies and standard practices to respond • Sample websites to see if contact information to file complaints is easy to find • Enforcement of restrictions on necessary credentials by auditing registrars & resellers • # of complaints seeking info from ICANN Contractual Compliance and registrars/resellers of highly regulated domains • Compare rates of abuse among those highly regulated gTLDs that voluntarily agreed to verify/validate credentials vs those that don't <p>Some of these, such as .bank, could be of interest to business users and registrants</p>
33	<p>Collect data comparing subjective and objective trustworthiness of new gTLDs with restrictions on registration, to new gTLDs with few or no restrictions.</p>
35	<p>Collect data on cost/benefits of implementing reg. restrictions, including impact on compliance costs, costs for registries, registrars & registrants</p>
36	<p>Seek public comment on impact of new gTLD registry restrictions on competition, including whether restrictions create undue preferences</p>
37	<p>Improve accessibility of voluntary PICs by maintaining a publicly accessible database</p>
39	<p>Require all voluntary PICs to be submitted during application process so that GAC has sufficient opportunity to meet deadlines for community/ limited public interest objections</p>
43	<p>Set objectives for applications from the global South, establish measurable goals, and define "Global South"</p>
44	<p>Expand and improve outreach into Global South</p>

45	ICANN to coordinate the pro bono assistance program
46	Revisit Applicant Financial Support Program, and try to further reduce overall cost of application, including additional subsidies & dedicated support for underserved communities
47	GAC consensus advice to Board regarding gTLDs to be clearly enunciated, actionable & accompanied by a rationale. ICANN to provide template & Applicant Guidebook to clarify process & timelines
48	Review procedures & objectives for community-based applications. Reflect amendments in revised AGB
50	Review results of dispute resolutions on all objections prior to the next CCT review

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This comment was drafted by Susan Kawaguchi and Tim Chen, with edits by Waudo Siganga, Andrew Mack, Ellen Blackler, and Steve DelBianco.

It was approved in accordance with the BC charter.