



**Comment on .WED Registry
Agreement Amendment -
Introduction of Third Level
Domain Sales**

Status: FINAL

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Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC). The BC's comments arise from the perspective of Business users and registrants, as defined in our Charter¹:

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.

On June 4, 2014, ICANN posted a request for comment on the proposed amendment to the .wed registry agreement.² Specifically, Atgron, Inc., the .wed registry operator, is requesting that ICANN amend the .wed registry agreement to allow for the sale of third level domains within the .wed registry. Atgron's request includes a list of some 11,000 second-level domain names in which it desires to sell registrations on the third level. The Reply Comment period opened on July 10, 2014.

Comment

The proposed amendment to Exhibit A of the .wed registry agreement posted by ICANN reads in pertinent part :

"... Registry Operator may offer domain name registrations at the third and lower levels subject to all the requirements in this agreement for domain name registrations..."³

It is clear that the new gTLD Registry Agreement covers all levels of domain registrations controlled by the Registry Operator. For example, Specification 9 of the Registry Agreement (Registry Code of Conduct) explicitly restricts activities in sub-domains:

1. In connection with the operation of the registry for the TLD, Registry Operator will not, and will not allow any parent, subsidiary, Affiliate, subcontractor or other related entity, to the extent such party is engaged in the provision of Registry Services with respect to the TLD (each, a "Registry Related Party"), to: ...

- c. register names in the TLD **or sub-domains of the TLD** based upon proprietary access to information about searches or resolution requests by consumers for domain names not yet registered (commonly known as, "front-running"); ...

However, the BC believes that the broad language used in the proposed registry agreement amendment posted with the request for comment could create some ambiguity with regard to Atgron's proposed

¹ Business Constituency Charter, at <http://www.bizconst.org/charter.htm>.

² See, <https://www.icann.org/public-comments/wed-amendment-2014-06-04-en>

³ See .wed Registry Agreement posted at: <https://www.icann.org/sites/default/files/tlds/wed/wed-proposed-amend-04jun14-en.pdf>

sale of third level domains. The BC believes it is imperative that Atgron provide answers to the following questions before ICANN considers the requested amendment:

1. Will Atgron offer a Sunrise Period and Trademark Claims Service for domains registered at the third level?
2. Will domain name registrations sold at the third level be subject to the UDRP and URS?

Given that the .wed proposal creates the opportunity for abuse on the third level, the BC believes it is essential that ICANN ensure that Atgron offers the necessary Rights Protection Mechanisms on the third level. Additionally, the BC believes that failure to offer the appropriate Rights Protection Mechanisms at the third level creates an imbalance in the competitive landscape since other registry operators are required to offer such protections in connection with the sale of domain names within their registries.

Conclusion

For these reasons, the BC strongly urges ICANN to request that Atgron provide answers to the questions enumerated above before taking any further action with regard to the requested amendment to the .wed registry agreement.

This comment was drafted by J. Scott Evans and Steve DelBianco. It was approved in accordance with the BC charter.