



Domain Name Markets: Economic Studies

London

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Issues Raised by Comment to the Guidebook

- Focus on costs associated with introduction of new gTLDs, the risks associated with:
 - ◆ Trademark infringements
 - Protection of trademarks at top-level
 - Costs for defensive second-level registrations
 - ◆ Potential growth in malicious conduct
 - ◆ Potential for user confusion
- Suggested that mechanisms be put in place to mitigate or avoid these costs or outcomes

Issues raised through previous registry contracts

- Should there be price caps for registration services?
- Are registrations in different TLDs are substitutable?
- What are the effects of the switching costs involved in moving from one TLD to another?
- What is the effect of the market structure and pricing on new TLD entrants?

Economic Studies of the gTLD Marketplace

- In consideration for the introduction of new top-level domains, a series of related studies of the domain name marketplace were released:
 - ◆ Preliminary Report of Dennis Carlton Regarding the Impact of New gTLDs on Consumer Welfare (March 2009)
 - ◆ Preliminary Analysis of Dennis Carlton Regarding Price Caps for New gTLD Internet Registries (March 2009)
 - ◆ Report Of Dennis Carlton Regarding ICANN's Proposed Mechanism for Introducing New GTLDs (May 2009)
 - ◆ Comments on Michael Kende's Assessment of Preliminary Reports on Competition and Pricing (May 2009)

Author

- Dennis Carlton:
 - ◆ Specializes in the economics of industrial organization, the study of individual markets including the study of antitrust and regulatory issues.
 - ◆ Former Deputy Assistant Attorney General for Economic Analysis, Antitrust Division, U.S. Department of Justice, the most senior position in the Antitrust Division held by an economist.
 - ◆ Noted author and expert in this area
- Compass Lexecon: a consulting firm that specializes in the application of economics to legal and regulatory issues.

Potential costs associated with gTLD expansion

- Potential for user confusion
- Imposing significant costs on Trademark Holders by forcing them to establish “defensive” registrations
- Increased opportunity for malicious conduct
- Taxing the capabilities of the root zone

Mitigation of concerns

- Objection and dispute resolution procedures:
 - ◆ Similar TLD applications causing user confusion
 - ◆ Misuse of community labels
 - ◆ Infringement of rights
- Introduction of additional rights protection mechanisms
- Measures to mitigate and reduce malicious conduct
- Root zone scaling study

Anticipated benefits with gTLD expansion

- Remove artificial restrictions on marketplace
- Will increase output, lower price and increase innovation.
- Increased, enhanced participation
 - ◆ Community representation
 - ◆ IDNs – regional participation
 - ◆ Brand identification: no longer has to be “brand.com”

Conclusions regarding price caps

- Price caps or ceilings on prices charged by operators of new gTLD registries are not necessary
- Trademark holders protected through alternate rights protection mechanisms
- New gTLD registries that attempt to act opportunistically by subsequently raising prices face significant risk of harming their reputation and the loss of customers.
- The imposition of price caps for new gTLDs may inhibit the development and marketplace acceptance of new gTLDs

Alternate Approaches for Going Forward

- Work to mitigate costs or negative effects before the TLD process is launched:
 - ◆ Implement rights protection mechanisms
 - ◆ Measures to mitigate and reduce malicious conduct

– or –

- Measure benefit accruing from the introduction of new TLDs as a step in a cost-benefit analysis:
 - ◆ Communities benefitted
 - ◆ IDN – regional participation
 - ◆ Competition, lower costs, innovation

– but in any case –

- Establish metrics, renew analysis regularly

Immediate next steps: cost mitigation

- Complete this set of consultations, listen to discussion, include set of rights protection mechanisms for the applicant guidebook
- Complete consultations on malicious conduct and incorporate recommendations into the application process and applicant requirements
- Complete the root zone scaling study
- Hold additional discussions regarding effects of TLD introduction on the marketplace

Thank you