In Apr-2007 the BC submitted comments on initial policy development for the anticipated round of new gTLDs. Our comments were subtitled “Adding value to the namespace” and included support for community namespaces in the form of chartered and sponsored TLDs.

While this position shows early recognition of the value of closed TLDs, it does not discuss whether closed TLDs should be operated by a community organization or a single competitor in the target industry. ([link](http://www.bizconst.org/Positions-Statements/Position-04-2007_TLDs_added_value.doc)) and excerpt below:

The BC supports the concept of top-level domain names that are targeted towards a community as the optimal way to expand the name space because they create this sort of added-value competition. Such names may include chartered and sponsored TLDs.

Chartered TLDs are ones proposed by an applicant registry where the registry does not represent the community targeted but seeks to define and appeal to a targeted community. The public interest justification in awarding a monopoly-like right on the TLD is thus lower than that for a sponsored TLD and so allocation criteria for competing applications may be different to those appropriate for sponsored TLDs.

Sponsored TLDs are ones proposed by a sponsor (with or without plans to provide the back office and front office functions of the registry) where the sponsor defines and represents the community targeted. This ability to represent the community is the public interest justification for the awarding of a monopoly-like right to a unique domain name. Example: Tralliance was awarded the .travel TLD because it was able to show the sponsor was representative of the world’s travel trade community.

Such community supported or targeted TLDs have five key benefits:

* they establish competition with .com because they provide TLDs that have an identity: companies are provided an incentive to migrate to the TLD to take advantage of a form of brand identity within their sector,
* they identify a community that has reason to maintain and encourage registration in the TLD space,
* they provide improved searchability with more relevant results,
* they identify a community that has reason to maintain an accurate and authenticated WHOIS,
* they prevent cyber-squatting, phishing and other forms of consumer harm because there is control and validation of who registers in the space.

The BC first requested flexibility for dot-brand TLDs in our comments on Ry/Rr Separation (Vertical Integration) in Aug-2009 ([link](http://www.bizconst.org/Positions-Statements/Position-08-2009_Registry_Registrar.doc) and below):

BC position (closed markets):

It is possible that in the forthcoming expansion of domain names there will be proprietary domain names not for sale to the general public. e.g. dot brand. In this unique case the BC would accept that it makes no sense for a company owning its own name or trademark in the form of a domain name to be obliged to go to a third party to register its own second-level domain names. Thus an opt-out for this special case of internal use seems appropriate.

Recommendation 2:    The BC believes that uniquely for domain names intended for internal use, the principle of registry-registrar vertical separation should be waived.

The BC clarified those requests in Aug-2010:

**Clarification of BC position on BC Recommendation 2:**

The second recommendation from the BC September 2009 position supports a narrow exception for registries operated by a single registrant that is distributing second level names for internal use:

*BC position (closed markets)*

It is possible that in the forthcoming expansion of domain names there will be proprietary domain names **not for sale to the general public** (eg dot *brand).* In this unique case the BC would accept that it makes no sense for a company owning its own name or trademark in the form of a domain name to be obliged to go to a third party to register its own second- level domain names. Thus an opt-out for this special case of internal use seems appropriate.

Recommendation 2:

**The BC believes that uniquely for domain names intended for internal use, the principle of registry-registrar vertical separation should be waived.**

When the BC developed its September 2009 position, "internal use" was a term used for a range of entities that were under control of the single registrant and "not for sale to the general public". At the time, BC discussions of "internal use" included the following entities:

• Divisions and product names for a single registrant (e.g.copiers.canon)

• Employees of a single registrant, for use in second level domains and email addresses

• Subscribers, customers, and registered users of a single registrant, subject to approval and control by the single registrant.

The range of internal uses discussed by the BC should be considered by the Working Group as it develops consensus principles for single registrant exceptions its final report. The BC will continue its internal discussions on these categories.

**BC Request for continued policy development of single registrant exception within the Working Group**

Finally, the BC requests that ICANN continue the policy development process in order to define the eligibility criteria and conditions for the Single Registrant exception as part of the current round of new gTLDs.

The Working Group Initial Report included a preliminary draft of single registrant exception on pages 32-33 that contemplates a more restrictive definition of internal uses than what the BC has contemplated, listing only “the registry itself, its employees, agents and subcontractors.”

The BC requests further exploration of the range of internal entities for which a single registrant may distribute and manage domains within its TLD. As noted above, the BC is interested in flexibility to allow a qualified single registrant to distribute and manage domains for its departments, employees, customers, subscribers, and registered users. However, the BC understands that there would need to be well-defined criteria and enforceable contractual terms.

By late 2010 we began using the phrase “Single registrant TLD” instead of  “dot-brand”, but this was still intended for use by brands.   This began on a BC member call, where Berry Cobb suggested the new term, and several members agreed.

The BC re-iterated these requests in Dec-2010.  (pages 9-12 are shown below)

See pages 9-12, where we suggest specific edits to the Guidebook on Ry Contract and Code of Conduct.

At the Toronto ICANN meeting, Steve DelBianco posed a question to the board during the Public Forum:

The Business Constituency advocated a way to create an exemption to the new gTLD Registry Contract, such that dot-brands would be allowed to use just one registrar - perhaps even their own registrar - and that dot-brands be allowed to register their own names and control them.

So we were glad to see the Guidebook included a Registry Code of Conduct exemption.   Dot-brands, in fact, will probably avail themselves of that exemption.

But we were quite surprised-maybe even naïve- when we saw hundreds of corporate applications for generic keywords, not just dot-brands.  And these applications came from companies who want to use the keyword in a closed way.  And some of those companies even have a significant market presence as a competitor in those keyword markets.

We expect those closed keyword applicants to apply for the exemption.  And the Board of ICANN then will have to decide whether to grant the exemption.  The way it reads now is that you need to determine whether the Code of Conduct is needed to protect the public interest.

My question for you is Who and How will we determine whether exempting an applicant form the Code of Conduct is in the public interest?

The BC and I have advocated for many years a simple, limited definition for Public Interest, which should make that decision easier.   As you recall, that definition is, "For ICANN, the Public Interest is the Availability and Integrity of Registrations and Resolutions."

Isn't it time we let the community settle on a definition for Public Interest so we can decide these exemption requests?

In the Jan-2013 Intersessional at ICANN, the Business Constituency (BC) asked senior staff (David Olive and Christine Willett) this question:

Hundreds of applicants will need to obtain an exemption from the Code of Conduct, so they can bypass registrars and own their own second level domains.   That is, run a closed TLD, whether as a dot-brand or a closed generic keyword TLD.   When and how will you develop / publish how ICANN will determine whether giving an applicant this exemption is "in the public interest" as required by the Guidebook?

No answers were given. A few days later, ICANN opened a public comment period on “closed generic” gTLD applications.”