

Comment by John Poole, domain names registrant and editor of [Domain Mondo](#), re: [Competition, Consumer Trust And Consumer Choice Review Team Draft Report](#), submitted 2017-05-19:

Introduction

Thank you (review team) for the opportunity to comment on your draft report. I have read the entire draft report (146 pages) and attended your [webinar on April 3, 2017](#) (19:00 UTC session). I also reviewed the content at <https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>.

My perspective in reviewing and commenting on your draft report is from that of (1) a domain names registrant (I have a small portfolio of less than 300 domain names), and (2) a close observer of ICANN, including its processes and policy-making, as editor of DomainMondo.com. I have been a registrant of only 1 new gTLD domain name, which I no longer have. You can read about that experience [here](#). I had hoped to receive ICANN's answers to [my questions](#) submitted in advance of the last ICANN quarterly stakeholder call, some of which relate to the work of this review team. If the review team wants a copy of those answers (which I expect to receive next week), let me know via email.

Overall Comment

Your efforts to meet the stated requirements and goals for this review, fall short in the draft report. The failings are multiple. As I stated during your webinar on April 3, 2017, [chat transcript](#) excerpt:

John Poole: **Your data is already stale and no longer relevant--new gTLD registrations are now declining**

----- (04/03/2017 14:18) -----

John Poole: **You have not considered 3000% pricing increases already announced for some new gTLDs**

----- (04/03/2017 14:19) -----

John Poole: 10% of all new gTLD registrations are now in "delete status"

Carlton Samuels: @John Poole: All true. At the time of the report those were future developments. The final report will likely say soemthing about that.

----- (04/03/2017 14:21) -----

Carlton Samuels: Even your 3000% price increase is dated. Uniregistry is backtracking on that!

Carlton Samuels: <http://domainnamewire.com/2017/04/03/uniregistry-backtracks-price-hike-existing-registrations/>

John Poole: Not really--read the fine print

----- (04/03/2017 14:23) -----

John Poole: <https://onlinedomain.com/2017/04/03/domain-name-news/little-late-uniregistry-will-offer-price-protection-9-extensions/>

----- (04/03/2017 14:27) -----

John Poole: **How are you going to get wholesale pricing data** since ICANN is proposing to delete that reporting requirement in the new gTLD Base Registry Agreement

----- (04/03/2017 14:28) -----

John Poole: My question above

----- (04/03/2017 14:33) -----

John Poole: **How do you define "consumer"--registrant or internet user?**

Jordyn A Buchanan: **"Consumer" includes both.**

----- (04/03/2017 14:35) -----

Jordyn A Buchanan: Elaborating: "Consumer" is subdivided into two categories: registrants and "consumer end users"; the latter are your "internet users"

John Poole: Well **your data is definitely stale if you maintain registrants trust new gTLDs after 3000% price increases--you need to re-examine your data and sources**

----- (04/03/2017 14:37) -----

Jordyn A Buchanan: We would be happy to consider well-conducted surveys that show a change in trust that are more recent than any particular events. So if you have pointers to such data, we'd be happy to consider it.

----- (04/03/2017 14:38) -----

John Poole: **You need to obtain and pay for a well-conducted relevant up-to-date study--I am not on your committee and I am not going to do your job for you**

----- (04/03/2017 14:42) -----

Jordyn A Buchanan: One thing we recommend in the report is to continue various of the data-gathering exercises associated with the report, so assuming those recommendations are adopted you'd expect to see such a survey in the future.

Brian Aitchison: @Jordyn, John: Rec 15 under Consumer Trust recommends ongoing surveys

----- (04/03/2017 14:45) -----

Brian Aitchison: Recommendation 15: ICANN should repeat selected parts of global surveys (for consumerend-user and registrant surveys, in addition to necessary baseline and questions – repeat700, 800, 900, and 1100 series survey questions and questions 775, 1000, 1036, 1050, 155and 1060) to look for an increase in familiarity with new gTLDs, visitation of new gTLDs andperceived trustworthiness of new gTLDs.Rationale/related Findings: Future review teams can compare these results to prior data toassess whether there has been an increase in familiarity with and trust of new gTLDs.

----- (04/03/2017 14:48) -----

John Poole: **Unfortunately Brian, studies authorized by ICANN are usually conducted by "junk science" firms who are paid to come up with the answers ICANN wants--look back at the "junk science" firm ICANN used to justify the new gTLDs program**

John Poole: <http://www.domainmondo.com/2016/11/news-review-icann-used-junk-science.html>

As a domain names registrant and editor of *Domain Mondo*, I am very aware of the new gTLDs and some of the grievous mistakes ICANN has made in connection with this ill-advised, ill-conceived expansion of gTLDs, but the review team seems unaware, in denial, or unwilling to be rigorously honest. Any review, to have merit and lasting value, must be rigorously honest. This is not the time to lapse into ICANN's usual dysfunctional habits of avoiding troubling facts, distorting the historical record, or disregarding the most relevant and current data--

April 13 – May 17, 2017, a loss of 2 million new gTLDs' domain name registrations --per ntlstats.com



A view of all this from an even more experienced domain names registrant:



Rick Schwartz @DomainKing · 13h

"Greater Fool Theory" states the price of an (object) #GTLD is determined not by its intrinsic value, but by irrational beliefs. #Domains



Rick Schwartz @DomainKing · 13h

When this all started, 2 extensions alone told ME they would do 8 million registrations EACH! They overestimated DEMAND! #Domains #gtld



Rick Schwartz @DomainKing · 13h

Replying to @DomainKing

500 extensions COMBINED can't stop the bleeding. And .xyz still has "BLACK JUNE" to deal with. #Domains #gtld



new gTLD Statistics by Top-Level Domains

new gTLD Breakdown and Statistics by Registrars. Get more insights about all new Top-Level Domains.

ntldstats.com



Rick Schwartz @DomainKing · 13h

#GTLD's now down 2MM. Back to Mid-December 2016 levels and heading for November with 1.8MM more 2 drop. #Domains



new gTLD Statistics by Top-Level Domains

new gTLD Breakdown and Statistics by Registrars. Get more insights about all new Top-Level Domains.

ntldstats.com



Rick Schwartz @DomainKing · May 17

.Net is an "Orphan Extension" & it's 1000% better than any new #GTLD. .Net has up to a 35% LEAK FACTOR! .Co has a 60% Leak Factor! #Domains



Rick Schwartz @DomainKing · May 17

I can find a GOOD .com name in any subject in MINUTES. Why would new #Startups RISK all on a DUMB #GTLD decision? LAZY? Gullible? #Domains

5 11



Rick Schwartz @DomainKing · May 17

The notion that we are running out of .com or any #cctld names is a FALSE narrative! There is an INFINITE supply of #names. #Domains #gtld



Rick Schwartz @DomainKing · May 17

Of the 2 million #GTLD's that I GUESS are registered by end users, I would also say 90% are defensive. No gas in this tank! #Domains

1 3



Rick Schwartz @DomainKing · May 17

I would GUESS less than 2 Million #gTLD's actually registered by end users. Registries holdbacks & domainers have sucked them up. #Domains



Rick Schwartz @DomainKing · May 16

Domainers and #icann did more harm to #Domains & the "Domain Industry" then all forces combined. 4 #Google, we have been a strategic threat.

1 2 2



Rick Schwartz @DomainKing · May 16

8 out of TOP 10 #gTLD's now in DECLINE! HUGE losses. Millions of #Domains DELETED! Why? They are WORTHLESS CRAP!



new gTLD Statistics by Top-Level Domains

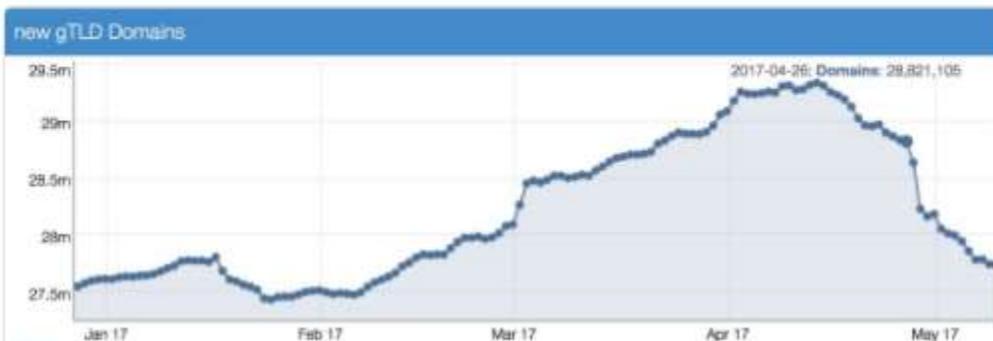
new gTLD Breakdown and Statistics by Registrars. Get more insights about all new Top-Level Domains.

ntldstats.com



Rick Schwartz @DomainKing · May 10

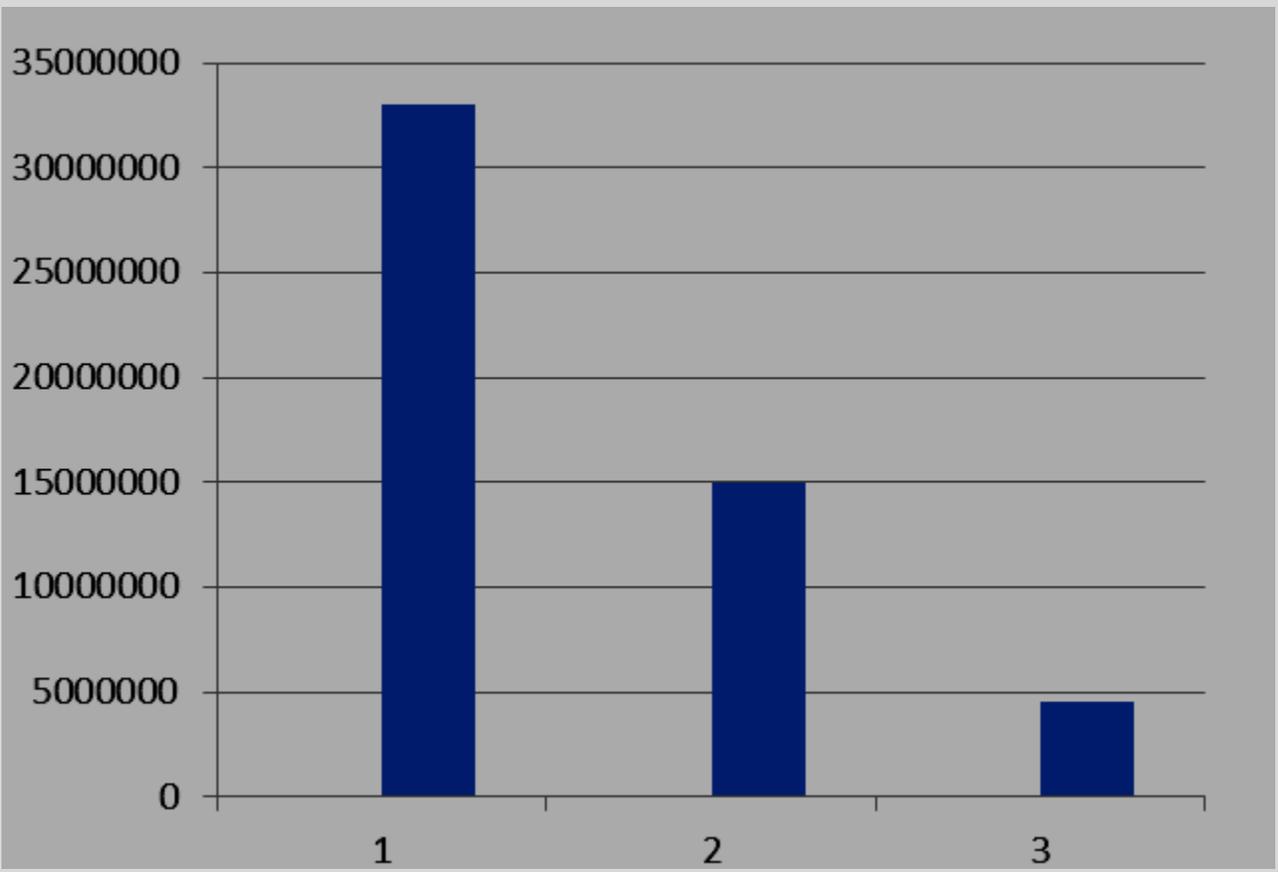
ALL 2017 #GTLD registrations WIPED OUT as per graphic below! Dozens of NEW extensions could not overcome the continuing MELTDOWN! #Domains





“Almost ALL failure happens at the beginning.”—[Rick Schwartz](#)

And of course, some of you may know that ICANN itself “drank the Kool-Aid” and grossly overestimated demand for new gTLDs: see [New gTLD Domains, the Walking Dead and Dying, ICANN FY15 Results | DomainMondo.com](#):



Above: Column 1 - ICANN first estimated 33 million new gTLD registrations would occur **in FY15** (July2014-June2015); Column 2 - ICANN revised its estimate (in its adopted FY15 budget) to 15 million new gTLD registrations; Column 3 - Actual new gTLD domain name registrations in FY15: **Less than 5 million.**

No surprise then that among the working titles I considered for this comment:

- The Sordid History of ICANN & Its New gTLDs from [Beckstrom-Thrush-Pritz](#) (pdf) to [Atallah & Chehade](#);
- ICANN & Its New gTLDs: A **Legal Racket** or **Consumer** (registrant) **Scam**?
- New gTLDs: A Dream Come True for Cybercriminals, Cybersquatters, Spammers, & ICANN?
- ICANN's New gTLDs Program: Greed + Incompetence = Choice & Innovation?

Threshold Question

Legal rackets have [two essential components](#): 1) a public-relations "cover" that obscures the racket and 2) the mechanism that extracts the wealth from the "marks." ICANN's new gTLDs program has both components:

1. The **PR cover** is *"the largest-ever expansion of the Domain Name System (DNS); a change that promises to promote global innovation, competition and consumer choice."*—[Akram Atallah](#)
2. The **extraction mechanism** is the new gTLDs' unregulated, monopolistic, "bait-and-switch" price-gouging **pricing model** to extract wealth from the "marks" (domain name registrants), sanctioned by ICANN.

In December, 2008, the U.S. Department of Justice Antitrust Division told ICANN:

*"ICANN is obligated to manage gTLDs in the interests of registrants and to protect the public interest in competition. ICANN appears to have assumed that the introduction of new gTLDs necessarily will enhance competition and promote choice and innovation, without offering any evidence to support that assumption **The Division makes two specific recommendations. First**, ICANN's general approach to new gTLDs should be revised to give greater consideration to consumer [registrant] interests. ICANN should more carefully weigh potential consumer harms against potential consumer benefits before adding new gTLDs and renewing new gTLD registry agreements. **Second**, the RFP process and proposed registry agreement should include provisions that would enable ICANN to constrain new registry operators from exercising market power. In particular, ICANN should establish **competitive mechanisms** for authorizing new gTLDs and renewals of gTLD registry agreements whereby prospective gTLD operators would compete for gTLDs by proposing registry terms – **including maximum fee schedules** – that would provide consumer [registrant] benefits."*—[U.S. Department of Justice, Antitrust Division, December 3, 2008](#) (pdf) (read the entire letter!) via a [U.S. Department of Commerce \(NTIA\) letter](#) (pdf) in December, 2008.

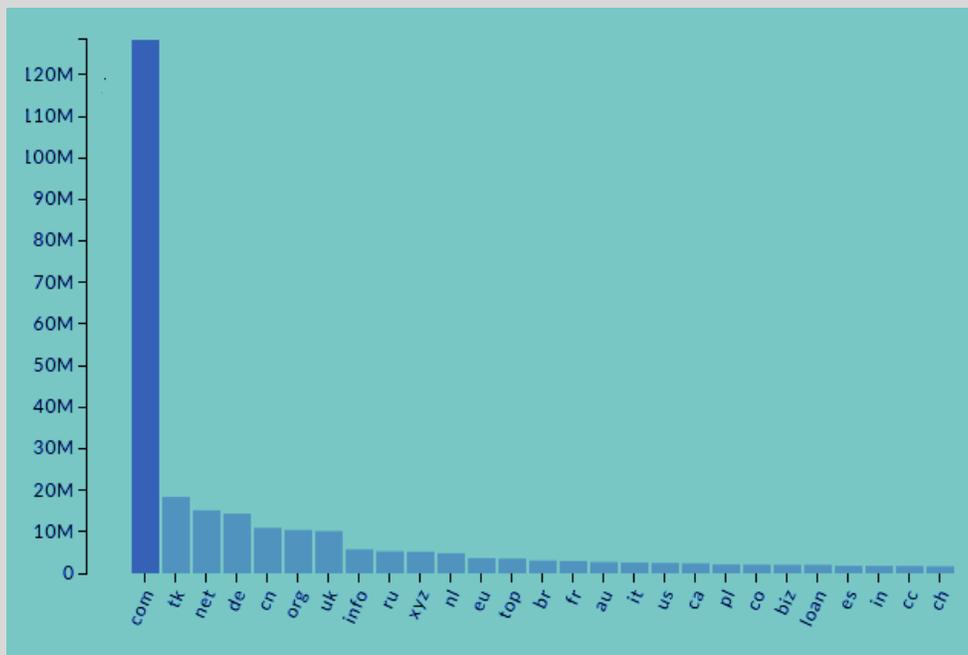
Why did ICANN reject (and to this day continues to reject) the wise, experienced, expert advice of the **U.S. Department of Justice Antitrust Division**, which is among **the world's foremost authorities** on **"consumer choice and competition" issues**?

That's the **threshold question** the [review team](#) **failed to ask**, and needs to follow-up on, with both ICANN and the [United States Department of Justice Antitrust Division](#).

Also don't forget the BIG LIE used to justify the new gTLDs program: “we’re running out of domain names.” No we’re not--see comments of Rick Schwarz above about this “false narrative”, and also note the failure of ICANN to understand the importance of the churn of domain names and the secondary market (a/k/a “aftermarket”):

Mike Berkens | [TheDomains.com: ...Thoughts On The New gTLD Program & Some Predictions for 2015](#) (excerpt, emphasis added): “... **The choice consumers have isn’t to register a new .COM or a new gTLD [domain name].** For one, there are around 75,000-100,000 .Com domain names that drop everyday of the year These domain were registered by someone else and some are as old as 20 years. Everyday there are around 10,000 .com domain names that have been registered for 10 years that drop. There are millions of .com domain names for sale on the aftermarket which continue to sell from the hundreds of dollars into the seven figures and those are just the public sales. When you’re talking about spending hundreds, thousands and even five figures a year in registration fees on a new gTLD, then the option of buying a registered .com on the aftermarket becomes much more attractive to the consumer....”

Here’s a graphic of the global domain names market today by TLD (data sets vary depending upon the source, which is another reason ICANN needs a full-time, real-time data collection & publishing department reporting directly to the ICANN President & CEO):



Little has changed since the introduction of new gTLDs because **most new gTLDs are not trustworthy** and are an **inferior alternative** to .COM domain names due to **pricing issues**, as well as **universal acceptance (UA) issues** and **collision issues**, and the draft report fails to even mention either the UA or collision issues!

“**The new extensions (new gTLDs)** are about as reliable and trustworthy as a **CentralNic dot COM subdomain**: not only is pricing subject to abrupt change with little notice, but even the continued availability of your domain name could be disrupted by transfer to a different operator. ICANN rejected the advice of the US Department of Justice Antitrust Division in December 2008 on how to deliver competition in domain names with new gTLDs while also

providing consumer (registrant) protections. **As a result, for end user registrants, the new gTLDs are an inferior alternative to .COM domain names, and under present circumstances, always will be. Caveat Emptor!**--

<https://www.thedomains.com/2017/05/09/never-let-someone-else-control-business/#comment-221014>

Universal Acceptance / Consumer Fraud:

Re: [UA study](#) (funded by ICANN) see [MIT Technology Review article comment](#)—

“ The statement *"The bug [Universal Acceptance issue] wasn't an obvious problem until 2011, when ICANN decided to ..."* is FALSE. ICANN has known of the problem since at least 2003. The one and same Ram Mohan, who is now Chair of the "industry-led group [Universal Acceptance Steering Group], sponsored by the International [sic] Corporation for Assigned Names and Numbers (ICANN)," has been an ICANN Board Member (SSAC Liaison) since 2008, and documented the history of the problem [here](#).

ICANN was grossly negligent in authorizing new gTLDs and delegating them into the Internet root starting in October, 2013, knowing they would *"fail to work as expected on the Internet."* ICANN has even tried to shirk its public responsibility in [§1.2 of the new gTLDs registry agreement](#).

To add insult to injury, neither ICANN, nor its new gTLD registry operators, have issued any warnings to consumers (registrants) about these new gTLD issues. People are registering these new gTLD domain names and launching businesses only to discover the new gTLD domain names "fail to work as expected on the internet." Sound like **"consumer fraud"** to you? Perhaps the FTC needs to get involved or private class actions filed against ICANN and its new gTLDs' registry operators.

The "technical feasibility of the TLD string" is the issue here. MIT Technology Review has a duty to inform its readers, not mislead them by parroting some "junk study" paid for by ICANN and peddled by ICANN's PR flacks (out of ICANN's Washington D.C. office) to some MIT Technology Review Associate Editor in Washington D.C.

I suggest the review team recommend ICANN publish on its homepage and require all accredited ICANN registrars to publish on their respective homepage(s) the following notice for consumers (registrants):

"Important Notice to Registrants: Please note that annual registration renewal fees charged by new gTLD registry operators and registrars for new gTLD domain names can vary based on the domain and in some cases may be significantly higher than those fees charged for domains under legacy gTLDs such as .COM domain names. Also note that some new gTLDs' domain names may have experienced universal acceptance or collision issues. For more information go to [ICANN webpage dedicated to explaining new gTLDs' pricing, universal acceptance, and collision issues, to registrants]."

Other Specific Comments re: Review Team Draft Report

New gTLD Program history—incomplete, fails to accurately reflect the historical record and context, fails to note the numerous conflicts of interest and controversies surrounding the development of the ICANN new gTLDs program, testimony before the U.S. Congress, the resignation of the ICANN Board Chairman after a critical vote, the [resignation of ICANN's Chief Strategy Officer](#) (“architect of the new gTLDs program”) for an undisclosed conflict of interest, after which he was paid six-figure sums by ICANN for an extended period of time and then became Executive Director of the new gTLDs’ domain name industry trade organization [reportedly founded](#) with the support of ICANN management. No mention of **the .SUCKS debacle**, the 3000% pricing increase announced for Uniregistry new gTLDs and the stated reasons, and other procedural and substantive failings in the new gTLDs program, IRPs, litigation, etc. If the review team needs more information about the **sordid history of ICANN and its new gTLDs** from [Beckstrom-Thrush-Pritz](#) (pdf) to [Atallah & Chehade](#), contact me.

Competition in the DNS Marketplace—fails to properly define, much less understand the global domain names marketplace. Other issues already addressed hereinabove.

Consumer Choice—fails to understand there was little need for such a massive expansion of gTLDs--the global domain names market was already healthy, competitive and vibrant with over 200 ccTLDs plus existing generic TLDs. If ICANN had added say, only 50 new gTLDs (such as .AFRICA, .WEB, .CLUB, .XYZ, .TOP, .VIP, .LINK, .BANK, .APP, .BLOG, .NGO, etc.), with competitive pricing protections as recommended by the U.S. Department of Justice Antitrust Division, the results would have been better and avoided so much of what has gone wrong in ICANN’s new gTLDs’ program. IDNs and intranational geographic TLDs such as .LONDON, .PARIS, should have been assigned for ccTLDs’ expansion. Brand gTLDs should not have been allowed. Any Brand that desires a TLD should have been required to seek such as a ccTLD of the country in which it is jurisdictionally headquartered. Corporations (and similar legally formed organizations) are creations of sovereign governmental authorities. ICANN overstepped its authority by creating separate gTLDs for these kinds of entities.

Consumer Trust—fails to understand components of “consumer trust”—the necessity of regulation of monopolies, and the necessity of having complete wholesale and retail pricing transparency in order to have a healthy and competitive market. Opaqueness or “confidentiality” in pricing is contrary to a free, competitive market. Ask the Securities and Exchange Commission or FTC or United States Department of Justice Antitrust Division. **Collusion** between ICANN’s Global Domains Division and gTLD registry operators is **a real problem already**. In addition the draft report failed to consider the implications of Universal Acceptance issues:

Universal Acceptance debacle: *"1.2 Technical Feasibility of String. While ICANN has encouraged and will continue to encourage **universal acceptance** of all top-level domain strings across the Internet, **certain top-level domain strings may encounter difficulty** in acceptance by ISPs and webhosters and/or validation by web applications. Registry Operator shall be responsible for ensuring to its satisfaction the technical feasibility of the TLD string prior to entering into this Agreement."*--[ICANN Base Registry Agreement](#) (pdf), updated 09 January 2014 (emphasis added).

[ICANN press release](#) April 11, 2017: "... According to one study, 13 percent of websites reject new domain names with more than three letters [in the TLD (top-level domain)] ... **many applications still do not accept the new domains** [[new gTLD domain names](#)]. **Universal Acceptance [UA]** has progressed [even] less for IDNs than for gTLDs ..." (emphasis added) (*Editor's note: ICANN has known about this UA problem since at least 2003* and yet ... ICANN decided to proceed with its [new gTLDs program](#), collect the money, and delegate over 1200 new gTLDs knowing they would "[break stuff](#)," without any disclosures or warnings to the general public or domain name registrants!)

Add to the above the fact that [ICANN's new gTLDs](#) come with no limitations as to future price increases to consumers (domain name registrants). Unlike .COM domain names, that shiny **new gTLD domain name** that cost you \$XX this year to register could cost you \$XX,000 next year to renew, and ICANN is in the process of deleting the requirement that new gTLD registry operators notify ICANN about price increases--better not put your **new gTLD domain name** on "auto-renew."

"ICANN is just a scam and the entire industry is based on monopolistic fraud with DC payoffs."--[Mike Mann](#), domain name registrant, March 30, 2017.

Public Interest Commitments—fails to note and discuss the complete utter failure in consumer (registrant) protection, including protection from price-gouging, ample notice of price increases, etc.

Right Protection Mechanisms—fails to address the failure of ICANN to provide a means and method for trademark holders to block new TLDs violative of distinctive registered marks. ICANN should not be utilizing extortionate methods to “sell” defensive new gTLDs. See [Frequently Asked Questions | ICANN New gTLDs](#): "1.10 Can I reserve my trademark as a gTLD? No, ICANN does not accept reservations or pre-registrations based on trademarks."

Application and Evaluation—fails to address the already recognized aspects of [new gTLDs' mistakes, fiascos, horrible implementation](#).

Recommendations 1-16 should ALL be Prerequisite or Priority Level and all **wholesale and retail pricing data** should not be confidential but required to be open, disclosed, published, and transparent, in order to have healthy market competition. Opaqueness and “confidentiality” is not consistent with healthy competitive markets, consumer choice, and consumer protection. The internet, its DNS, and ALL TLDs are public resources, not private property, and are subject to the fiduciary requirements set forth by **Jon Postel** in [RFC 1591](#):

2) These designated authorities [registry operators] are trustees for the delegated domain, and have a duty to serve the community. The designated manager [registry operator] is the trustee of the top-level domain for both the nation, in the case of a country code, and the global Internet community.

3) The designated manager must be equitable to all groups in the domain that request domain names ..."

Draft Report p. 66—“**Public Trusts Legacy gTLDs More Than New gTLDs**: The survey data shows that both consumer end users and registrants trust new gTLDs less than they do legacy gTLDs.” So True!

Additional comments and notes:

ICANN should consider replacing its mostly useless, time-intensive, bureaucratic-like surveys, dashboards, etc., with data-driven, real-time, feedback loops that quickly identify problems including registry operators and registrars price gouging registrants. See [Why Amazon is eating the world | TechCrunch.com](#).

“What amazing benefits will all this [new gTLDs] bring to consumers? None whatsoever, says Esther Dyson, who once chaired ICANN. She says the new plan is wasteful and unnecessary.”-- [ICANN's Boondoggle | MIT TechnologyReview.com](#)

“The public at large, consumers and businesses, would be better served by no expansion or less expansion’ of domains” said Jon Leibowitz, former chairman of the US Federal Trade Commission in the [New York Times](#).”

[Tim Berners-Lee](#): “...when a decision is taken about a possible new top-level domain, ICANN's job is to work out, in a transparent and accountable manner, whether it is really in the best interest of the world as a whole, not just of those launching the new domain.”

Ethics Fight Over Domain Names Intensifies: *“A boardroom dispute over ethics has broken out at the organization that maintains the Internet address system after its most important supporter, the United States government, reproached the group for governance standards said to fall short of “requirements requested by the global community ...”*--[The New York Times](#)

“Advocates of Internet freedom contend that such an expanded address system [[new gTLDs](#)] effectively places online control over powerful commercial and cultural interests in the hands of individual companies, challenging the very idea of an open Internet.” [New York Times, August 17, 2013](#)

“... we are not running out of domains. This is a “way for registries and registrars to make money,”--[Esther Dyson Told ICANN new gTLDs were a mistake in 2011](#)(video)

“[ICANN](#) has a conflict of interest in pursuing the global public interest since its own financial interests are at odds with keeping costs down for Internet users and businesses,” Castro [Daniel Castro, senior analyst for the Information Technology and Innovation Foundation] said. “Without US oversight, ICANN has the potential to grow into the world's largest unregulated monopoly.” source: [InformationWeek](#)

“We strongly believe that ICANN should substantially reduce the maximum number of new gTLDs that could be introduced in the initial round to a much smaller number. Indeed, doubling the number of existing [22] gTLDs in one year would be an aggressive increase. The imposition of a more reasonable limit is necessary to curb the risks inherent in expanding the number of gTLDs, including the proliferation of malicious conduct. We recommend that ICANN use this round as a limited pilot program, as it has done in previous rounds, assess the organization’s ability to evaluate, introduce, and manage additional gTLDs, conduct an assessment of the increased risks posed by the program, and then consider whether a more significant expansion would be appropriate. --[US Federal Trade Commission, letter to ICANN](#), December 16, 2011.