

PDP Initial report - section 1.5 Registrar Support for new gTLDs

Comments from Christopher Wilkinson, 24 September 2018

1. The consequences of Cross-Ownership vs. Vertical integration

The problems described in paragraphs (b) and (f) derive directly from the flawed decisions in 2010 to abandon discussion of vertical integration between the functions of new Registries and their Registrar functions, in favour of a flawed and anti-competitive business model favoring cross ownership between Registrars (as they then were) and the new Registries.

The results of the 2012 Round in this respect are consistent with my analysis and criticism of the PDP Initial Report, 23 July 2010, at the time, attached .PDF

Indeed, we still have multiple small new independent Registries which do not have the necessary support from ICANN accredited Registrars. The rule changes in the previous round did nothing to alleviate this situation, indeed may have made matters worse since the number of SLDs that a Registry could delegate directly remained extremely low.

2. Accumulation of portfolios of new gTLDs by certain Registrars.

I did not anticipate in 2010 the extent to which the new cross-ownership rule would be exploited (gamed?) by a few large Registrars. Thus, in addition to failing to protect and encourage the launch of independent new gTLDs, ICANN permitted previously unheard of anti-competitive concentration in the DNS market.

Now the risk is that should the next Rounds fail to correct this situation, further concentration of ownership of new Registries would be facilitated and new, initially necessarily small, independent gTLDs would continue to experience the same difficulties as before.

3. Codes of conduct and structural separation...

I have not seen any ICANN report on the implementation of these codes of conduct, nor an audit of structural separation between cross-owned Registrars and Registries. Although I confess to harboring a certain skepticism in this regard.

The WG may wish to return to this question after being informed as to exactly which Registrars own which Registries and how many of these Registries are actually being used.

4. Pre-payment and post-payment.

I am quite familiar with these business models and have no comments on the principle, however, the text begs the question as to how pre-payment is being managed in the current cross-ownership model. For example, following the text, if a large Registrar holds a portfolio of, say 50 Registries and is dealing normally with, say, 100 other Registrars, does that mean that the disorganization is managing 5,000 pre-payment accounts? Does the Registrar then pay-itself (under structural separation) for the SLD delegations that it makes itself on its own portfolio of new gTLDs?

Do these apparently *rocambollesque* business models affect the access of new independent

gTLDs to the services of existing accredited Registrars? Currently we do not have a 'must carry' rule. Which if introduced would have to apply to the 'portfolio' Registrars as well!

5. Options under consideration

- *The wholesale Registrar:* this would hardly be a last resort. Under present circumstances as described, it would be the first port of call, notably because Registrars owning Registries are no longer regarded as neutral.

One would need more information and a comment from ICANN.org before taking this idea any further. In any event, in the light of language, IDN and jurisdiction considerations one would need several wholesale Registrars.

- *Increase the number of names registered directly:* (Back to the future) This is what should have been implemented in 2010. I think we do not know how many names make an independent Registry viable. But it is a large number.

Meanwhile if we are to achieve the diversity and geographical distribution that has been advocated, then there is a serious question as to whether 'ICANN accredited Registrars' will ever offer the global coverage required.

- *Encouraging conversations between applicants and established registrars:* the tone of the language in the fourth bullet needs to be reconsidered. It could be read as: "... be aware that you are proposing to enter an already oligopolistic Registrar market, protected by ICANN 'accreditation', so do you deals privately, up front, or don't bother to apply." (sic).

6. The specific questions

In the light of the above discussion and the attached paper from August 2010, I would ask rather different questions.

Regarding the fourth bullet, if the WT is still asking itself that, then why not delete Section 1.5 entirely?

7. Deliberations

- *Product defects?* I suggest that it is not appropriate for an ICANN PDP+WG+WT+Staff to try and pass the buck to 'poorly conceived' new gTLDs. There was a whole evaluation process whose main objective was to ensure that 'poorly conceived' gTLDs did not get through. Were some of them 'poorly funded' Well, certainly not those that had Venture Capital support. Do we have an audit of how the new Registries were funded in 2012?

- *including Registrar accreditation, a 'benefit':* Really? So in addition to setting up a new independent gTLD, the applicant would be expected- as a now accredited registrar - to service on a non-discriminatory basis all the other gTLDs, past, present and future? I don't think so.

- *payment clearing house?:* local-to-local currency payments wouldn't need an ICANN-esque intermediary, even small communities have banks. The 'single deposit' should be a general option, (see above), not specific to smaller TLDs. How portfolio

Registrars manage their business in this respect has not been explained.

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N.B. These comments have been prepared with a view to the PDP call at 20.00 UTC today. Additional comments and advice may be forthcoming in due course in the light of the further debate that is necessary on these matters.

Attachment: Vertical integration between Registries and Registrars, 13 August 2010

CW

20.30 CEST, 24/09/2018