

To: comments-asia-renewal-27mar19@icann.org

Re: [Proposed Renewal of .asia Registry Agreement](#)

I am a gTLD domain name registrant, and **oppose** the proposed .asia renewal registry agreement.

Reasons for opposition:

1. All of those reasons set out in the [comment submitted by Zac Muscovitch on behalf of the Internet Commerce Association \(ICA\)](#) (of which I am NOT a member), as if fully set out herein, and with which I fully concur. In accordance with ICANN's own bylaws, it is simply wrong and inappropriate for ICANN org management and staff on its own, to "make policy" in regard to legacy gTLDs, such as .ASIA, by deleting all pricing controls and allowing unlimited price gouging by registry operators, and applying RPM and other policies specifically adopted for new gTLDs, but not other gTLDs, especially when those same RPMs and policies are currently under review for further revisions by the "ICANN community." ICANN org ALWAYS fails to represent the interests of domain name registrants (which indicates ICANN is a *domain-name-industry-captured-organization*), and its process for gTLD registry renewals needs a complete overhaul in conformance with [advice from the U.S. Department of Justice Antitrust Division](#) discussed further below, attached to a [letter from NTIA](#) to ICANN. In addition I concur with [EFF's .ORG comment](#) as also applicable to this gTLD, as if fully set out herein, and the following:

The economics of domain name prices-- <https://domainnamewire.com/2019/04/29/the-economics-of-domain-name-prices/> : "... high switching costs make domain owners hostages to the registries that operate their domains. They simply have to pay whatever they are charged. The cost to switch is too much. For this reason, renewal costs must be capped. How domain registration and renewal costs should be managed--Some top level domains have market power at the time of registration. All top level domains have tremendous power over registrants at the time of renewal. For this reason, ICANN should consider capping initial registry fees for top level domains that have some level of market power, such as .com and .org. It should limit prices on *all* domains at the time of renewal. The organization [ICANN] has stated that registrants have some protection because they can renew domains for up to ten years at current prices before price hikes take effect. There are two problems with this. First, the registries must notify the registrars of the price increase. It's up to the registrars to notify customers. Busy customers might overlook these notices or not have the cash to renew for ten years today. Second, and most importantly, this just kicks the can down the road. What does a company do ten years from now when it has to pay the new rates?"

2. Those reasons set out in [my comment](#) submitted in regard to .ORG, and blog post [News Review 1\) ICANN Org Policy-Making Trashes Legacy gTLD .ORG](#), applicable to .ASIA, as if fully set out herein, as well as the aforesaid [DOJ Antitrust Division advice](#) which states:

“ICANN’s approach to TLD management demonstrates that it has adopted an ineffective approach with respect to its obligation to promote competition at the registry level.” (p.8)

The **“proposed registry agreement should include provisions that would enable ICANN to constrain ... registry operators from exercising market power. In particular, ICANN should establish competitive mechanisms for ... 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 benefits.” (p. 2) (emphasis added)**

“ICANN’s request for bids should expressly call for bids to specify an initial maximum price that would be charged by the operator for domain registrations, as well as limitations on price increases over time.” (p.7)

“... ICANN should require competitive bidding for renewals of a gTLD registry agreement, rather than granting the incumbent operator a perpetual right to renew without competition. Such a mechanism would both assist in disciplining the conduct of the incumbent during the initial term insofar as the incumbent would want to maximize the likelihood of renewal, and ensure the benefits of competition when potential operators bid for the right to operate the gTLD in the renewal term ... Experience with the .net TLD and other gTLDs has shown that ... periodic rebidding has served as an effective tool for managing the interests of registrants in gTLDs. Indeed, competitive bidding has resulted in lower domain prices and higher operating specifications than what ICANN has achieved through non-competitive negotiations. In particular, competitive bidding prompts bidders to propose and accept registry improvements, higher operating standards, and lower registration fees to win the contract.” (pp.7-8)

3. The Registry Operator Does Not Own .ASIA—top level domains do not constitute property--see U.S. government’s Amicus Curiae brief filed 29 Dec 2015 in [Weinstein vs IRAN](#) (US Court of Appeals for the DC Circuit, USCA Case #14-7193), at page 20 of 32: **“To the contrary, a foundational 1994 Internet governance policy statement, still regarded by the Internet community as authoritative, explicitly rejects efforts to assert property rights in such domains: “Concerns about ‘rights’ * * * are inappropriate. It is appropriate to be concerned about ‘responsibilities’ and ‘service’ to the community.” See [RFC 1591](#), DNS Structure and Delegation 4-5 (Mar. 1994).” (emphasis and link added)**

Respectfully submitted,

John Poole, gTLD domain name registrant, and *editor*, [DomainMondo.com](#)