

## **Response to Proposed Amendment 3 to the .COM Registry Agreement**

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### **I. Executive Summary**

1. This comment provides an economic analysis of Verisign, Inc.'s (Verisign) proposed price increase for .COM registrations. Based on my training as an economist, review of the available evidence, and experience with ICANN and the TLD marketplace, I conclude that there is no economic rationale for Verisign to increase prices for .COM and that increased prices will very likely harm consumers:

- In the face of heightened competition, which has been provided as one reason for increasing .COM pricing, economic theory and empirical economic studies predict that a firm would typically lower, not increase, prices. To my knowledge, Verisign has not provided a rationale as to why increased competition would require it to increase prices for .COM.
- Verisign's gross profit and operating margins have grown significantly over time and are currently high relative to other firms. While not demonstrative as to whether Verisign has market power in the TLD

marketplace, they do suggest that changes in Verisign's costs are not driving Verisign's interest in increasing prices for .COM.

- An increase in the price of .COM registrations will harm consumers worldwide, as consumers are unlikely to switch to other, less expensive TLDs due to the high costs associated with switching from a .COM domain. While Verisign may argue that it will use increased revenues from .COM price increases to further improve the security and stability of the internet, thus benefiting consumers, this is unlikely. In particular, even though Verisign's net income has continued to grow, reaching approximately \$612 million in 2019, Verisign's R&D and capital expenditures have remained constant.

2. Finally, the argument that .COM is facing increased competition from new gTLDs and ccTLDs is not supported by the available evidence. .COM enjoys a dominant position in the TLD marketplace, which will allow Verisign to continue increasing prices (if permitted to do so), thus harming consumers.

3. I first describe my qualifications that are relevant to this matter in **Section II**. In **Section III**, I provide a brief overview of the proposed changes to Verisign's Registry Agreement for .COM. I then detail my opinions in **Section IV** and summarize my conclusions in **Section V**.

## II. Qualifications

4. I am the CEO and founder of the economic consulting firm, Alpine Start Advising. I received my undergraduate degree in economics from Carleton College in 2003 and my Ph.D. in applied economics at the University of California, Berkeley in 2008. Prior to founding Alpine Start Advising, I worked at Analysis Group, Inc. as a Vice President.

5. I am an expert in industrial organization, which involves the analysis of competition and antitrust issues. As an expert in industrial organization, I have been engaged on numerous matters in which I have been asked to analyze alleged anticompetitive conduct, as well as the potential pro- and anti-competitive effects of proposed mergers. In these matters, I have assessed the likelihood of price changes and the potential impacts on consumers of such price changes.

6. I have also worked, as an independent consultant, on behalf of ICANN to analyze topics related to ICANN and the TLD marketplace. My work includes:

- An assessment, conducted from 2015 through 2016, of the competitive effects associated with the new gTLD program for ICANN. This study examined changes in market prices, share, and power for domain registries and registrars as a result of the program.<sup>1</sup>
- Independent reviews of both the Security and Stability Advisory Committee (SSAC) and the Nominating Committee (NomCom) for ICANN.<sup>2</sup> Both reports identified areas in which the SSAC and NomCom work well,

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<sup>1</sup> See <https://newgtlds.icann.org/en/reviews/cct/competitive-effects-phase-two-assessment-11oct16-en.pdf>.

<sup>2</sup> See <https://www.icann.org/en/system/files/files/ssac-review-final-17dec18-en.pdf> and <https://www.icann.org/en/system/files/files/nomcom-review-final-05jun18-en.pdf>.

areas that may benefit from improvements, and whether the SSAC and NomCom are accountable to the relevant stakeholders.

- A review of the Trademark Clearinghouse (TMCH) in which I assessed the strengths and weaknesses of TMCH services in conjunction with the specified areas for review proposed by the General Advisory Committee (GAC). Specifically, this review was focused on the TMCH matching criteria, as well as the Claims Service and Sunrise Services.<sup>3</sup>
- An analysis of the use and effectiveness of the Sunrise and Trademark Claims Rights Protection Mechanisms (RPMs) offered through the TMCH. This analysis was commissioned as part of the policy review of the RPMs chartered by the Generic Names Supporting Organization (GNSO) Council in March 2016.<sup>4</sup>

7. In addition to my work on behalf of ICANN, I have worked on numerous matters involving domain name pricing and competition within the domain name space. More broadly, I have analyzed the impacts of competition in other technology marketplaces, including broadband internet and cellular networks.

### **III. Background – Proposed Amendment to the .COM Registry Agreement**

8. Verisign, the registry operator of .COM, and ICANN announced a proposed agreement to amend the .COM Registry Agreement (.COM RA) on January 3, 2020.<sup>5</sup> The

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<sup>3</sup> See <https://newgtlds.icann.org/en/reviews/tmch/draft-services-review-25jul16-en.pdf>.

<sup>4</sup> See <https://static.ptbl.co/static/attachments/191544/1540023342.pdf?1540023342>.

<sup>5</sup> See <https://www.icann.org/news/announcement-2-2020-01-03-en>.

stated rationale for this amendment is to “enhance the security, stability and resiliency of the DNS; provide limited and transparent pricing flexibility for .COM registry services; and standardize the .COM RA by including certain technical and reporting requirements based on terms in other registry agreements between ICANN and the registry operators of other TLDs.”<sup>6</sup>

9. Importantly, the proposed amendment to the .COM RA would allow Verisign to increase the price of .COM registry services. As noted by ICANN: “Under the amended Cooperative Agreement, the Department of Commerce noted that the domain name marketplace had grown more dynamic and concluded that it was in the public interest that, among other things, *Verisign and ICANN may agree to amend the .COM Registry Agreement to permit an increase to the price for .COM registry services, up to a maximum of 7 percent in each of the final four years of each six-year period (the first six-year period commenced on Oct. 26, 2018)*. The proposed agreement announced today updates the .COM RA to reflect those changes.”<sup>7</sup> (Emphasis added.)

10. The stated rationale for allowing Verisign to increase .COM prices is that Verisign is facing a more “dynamic DNS marketplace”,<sup>8</sup> in reference to .COM facing increased competition from new gTLDs, ccTLDs, and social media services.

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<sup>6</sup> See <https://www.icann.org/news/announcement-2-2020-01-03-en>.

<sup>7</sup> See <https://www.icann.org/news/announcement-2-2020-01-03-en>.

<sup>8</sup> See [https://www.ntia.doc.gov/files/ntia/publications/amendment\\_35.pdf](https://www.ntia.doc.gov/files/ntia/publications/amendment_35.pdf).

11. Although Verisign currently charges \$7.85 per year for a .COM registration, under the proposed amendment, Verisign could raise .COM prices to \$10.26 by the end of the six-year period.<sup>9</sup>

#### **IV. Analysis of Verisign’s Proposed Price Increase for .COM**

##### **a. Summary of Conclusions**

12. Based on my review of the available evidence, I conclude that there is no economic rationale for Verisign to increase prices for .COM and that price increases for .COM will harm consumers. Specifically:

- Economic theory demonstrates that in the face of increased competition, which is alleged to be the case for .COM, firms will typically lower prices, not seek to raise prices significantly.
- At the current price of \$7.85 per year that Verisign charges for a .COM registration, Verisign earns high gross profit and operating margins. These margins have increased significantly during the 2009 – 2019 period, are significantly higher than a typical technology or S&P 500 firm, and will likely increase further if Verisign is permitted to increase .COM prices to \$10.26 at the end of the six-year period governed by its .COM RA with ICANN. While margins cannot be used to infer whether a firm has monopoly power, Verisign’s high margins indicate that further price increases are not justified.

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<sup>9</sup> See <https://www.icann.org/news/announcement-2-2020-01-03-en>.

- If Verisign increases the price of .COM, consumers will be harmed since individuals are unlikely to switch to other TLDs due to high switching costs, and more generally, a lack of substitutability between .COM and other TLDs. Consumers could benefit if Verisign used its higher revenues, deriving from an increase in .COM prices, to enhance the security and stability of the internet (or otherwise improve the quality of .COM), but this is unlikely given that as Verisign's net income has grown, Verisign's R&D and capital expenditures have not increased.

13. Finally, contrary to the argument that .COM is facing increased competition from new gTLDs and ccTLDs, I find that .COM continues to enjoy a dominant position in the TLD marketplace, which will allow Verisign to continue increasing prices, if permitted to do so, to the detriment of consumers worldwide.

**b. What Economics Says About the Impact of Competition on Prices**

14. Economists, such as myself, have exhaustively studied the effects of competition on the prices that firms charge. This work includes both theoretical analyses that account for different market structures, which then yield testable predictions, and empirical work that uses market data to test the predictions resulting from this theoretical work.

15. The conclusion from this body of research is that as competition increases in a market, the prices that firms charge in that market will typically decrease. This conclusion has also been endorsed at various times by the U.S. Department of Justice (DOJ) as well as by

the European Commission.<sup>10</sup> The intuition behind why competition tends to lower prices is straightforward. Specifically, firms sell a product to consumers, and consumers compare product prices and quality across these firms (among other attributes). All else equal (e.g., holding product quality constant), consumers will select the firm selling the product at the lowest price since consumers have a limited quantity of funds available. Since firms understand that consumers will typically select the firm with the lowest price, in a market with many firms, these businesses will compete to offer a lower price.

16. If it is true that .COM is facing increased competition, then a large body of economic research suggests that instead of requesting a price increase for .COM, Verisign should be lowering .COM prices to allow it to compete against new gTLDs and ccTLDs. By doing so, it would be able to maintain its high renewal rates (i.e., not lose current customers to other TLDs or other hosting alternatives) and continue to attract new customers as they enter the marketplace. Alternatively, by raising its prices, in this alleged competitive marketplace, Verisign would risk losing customers to other TLDs.

17. That Verisign would seek to increase prices is consistent with a marketplace in which Verisign has market power (allowing it to extract rents, i.e. fees, from consumers) and where demand is inelastic. Demand inelasticity refers to a situation in which changes in price have a relatively small effect on the quantity of a given product consumers demand. Since

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<sup>10</sup> See <https://www.justice.gov/atr/speech/role-competition-promoting-dynamic-markets-and-economic-growth>; <https://www.justice.gov/atr/competition-and-monopoly-single-firm-conduct-under-section-2-sherman-act-chapter-4>; <https://www.justice.gov/atr/division-operations/division-update-spring-2019/division-tackles-digital-markets>, <https://www.justice.gov/atr/file/800691/download>; [https://ec.europa.eu/competition/general/overview\\_en.html](https://ec.europa.eu/competition/general/overview_en.html); and, [https://ec.europa.eu/competition/consumers/why\\_en.html](https://ec.europa.eu/competition/consumers/why_en.html).

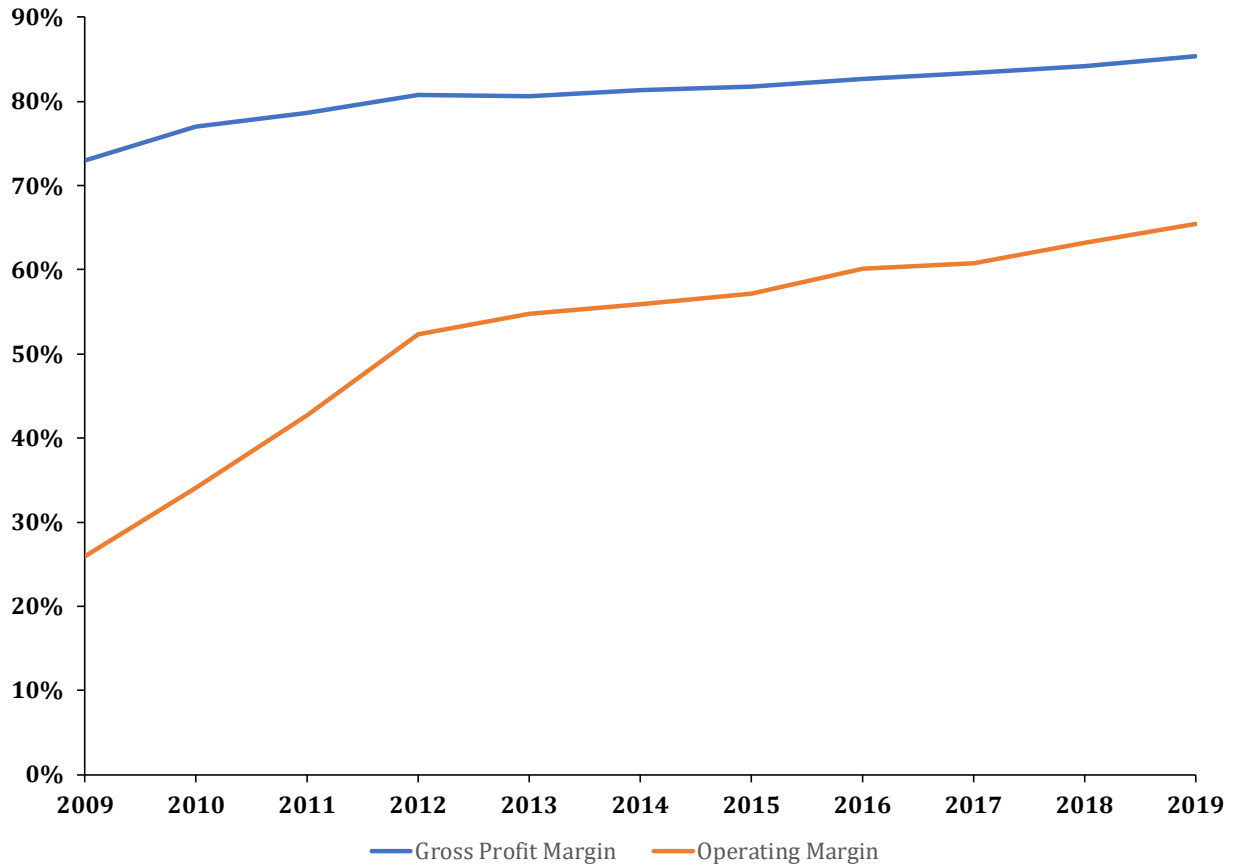


there are relatively high switching costs associated with moving a domain name from .COM to another TLD, which I detail further below, and given the strong position of the .COM brand in the minds of consumers and firms, which I also detail below, demand for registrations in .COM is likely inelastic, and suggests that increases in the prices of .COM are unlikely to significantly affect demand for .COM. This conclusion is supported by the observation that when .COM prices have increased in the past, .COM registrations and renewals have apparently been unaffected.

**c. Verisign Earns High Gross Profit and Operating Margins**

18. In **Figure 1**, I plot Verisign's gross profit and operating margins from 2009 through 2019.

**Figure 1: Verisign Gross Profit and Operating Margins (2009 – 2019)<sup>11</sup>**



19. As summarized in this figure, Verisign’s gross profit margins in 2019 were 85.3 percent and its operating margins were 65.5 percent. Verisign’s gross profit margins have been consistently high, never falling below 72.9 percent, which was the gross profit margin in 2009. While Verisign’s operating profit margin was 26.0 percent in 2009, it increased quickly over the 2009 through 2019 period.

20. When compared to other firms, Verisign’s margins are high. For example, for firms in the S&P 500, the average gross profit margin was 42.5 percent in 2019 (compared

<sup>11</sup> Sources: Verisign, Inc., Form 10-K’s.

to Verisign's gross profit margin of 85.3 percent), and the average operating margin was 13.6 percent in 2019 (compared to Verisign's operating margin of 65.5 percent).<sup>12</sup> Comparing Verisign to specific industry segments, both its gross profit and operating margins are higher than firms in these segments. In particular, Verisign realizes significantly higher gross profit margins and operating margins than firms in the following industries: Software and Programming, Internet Services and Social Media, Communications Services, and Computer Networks.<sup>13</sup>

21. **Table 1**, below, provides Verisign's financials from 2009 through 2013, and **Table 2**, below, provides Verisign's financials from 2014 through 2019.

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<sup>12</sup> See [https://csimarket.com/Industry/industry\\_Profitability\\_Ratios.php?sp5](https://csimarket.com/Industry/industry_Profitability_Ratios.php?sp5).

<sup>13</sup> See [https://csimarket.com/Industry/industry\\_Profitability\\_Ratios.php?sp5](https://csimarket.com/Industry/industry_Profitability_Ratios.php?sp5).

**Table 1: Verisign Financials, In Thousands  
(2009 – 2013)<sup>14</sup>**

	2009	2010	2011	2012	2013
<b>Domains Under Mgmt.</b>					
.COM Base				106.2	112.0
.NET Base				14.9	15.2
<b>Total Domains Under Mgmt.</b>	<b>97.6</b>	<b>105.2</b>	<b>113.8</b>	<b>121.1</b>	<b>127.2</b>
.COM Price	\$ 6.42	\$ 6.86	\$ 7.34	\$ 7.85	\$ 7.85
.NET Price	\$ 3.85	\$ 4.23	\$ 4.65	\$ 5.11	\$ 5.62
<b>Revenue</b>	<b>\$ 615,947</b>	<b>\$ 680,578</b>	<b>\$ 771,978</b>	<b>\$ 873,592</b>	<b>\$ 965,087</b>
<b>Expenses</b>					
Cost of Revenues	\$ 166,705	\$ 156,676	\$ 165,246	\$ 167,600	\$ 187,013
Gross Profit	\$ 449,242	\$ 523,902	\$ 606,732	\$ 705,992	\$ 778,074
<b>Gross Profit Margin</b>	<b>72.9%</b>	<b>77.0%</b>	<b>78.6%</b>	<b>80.8%</b>	<b>80.6%</b>
<b>Operating Expenses</b>					
Sales and Marketing	\$ 75,348	\$ 83,390	\$ 97,432	\$ 97,809	\$ 89,337
Research and Development	\$ 52,364	\$ 53,664	\$ 53,277	\$ 61,694	\$ 70,297
General and Administrative	\$ 146,531	\$ 137,704	\$ 111,122	\$ 89,927	\$ 90,208
Other Charges	\$ 15,041	\$ 16,861	\$ 15,512	\$ (765)	\$ -
<b>Total Cost and Expenses</b>	<b>\$ 455,989</b>	<b>\$ 448,295</b>	<b>\$ 442,589</b>	<b>\$ 416,265</b>	<b>\$ 436,855</b>
<b>Operating Income</b>	<b>\$ 159,958</b>	<b>\$ 232,283</b>	<b>\$ 329,389</b>	<b>\$ 457,327</b>	<b>\$ 528,232</b>
<i>Operating Margin</i>	<b>26.0%</b>	<b>34.1%</b>	<b>42.7%</b>	<b>52.4%</b>	<b>54.7%</b>
Interest Expense		\$ (157,667)	\$ (147,332)	\$ (50,196)	\$ (74,761)
Non-Operating Income, Net	\$ (35,406)	\$ 20,738	\$ 11,530	\$ 5,564	\$ 3,300
Other Income (Loss)	\$ 153,936	\$ 751,942	\$ 2,585	\$ 10,243	\$ (2,697)
<b>Net Income Before Taxes</b>	<b>\$ 278,488</b>	<b>\$ 847,296</b>	<b>\$ 196,172</b>	<b>\$ 422,938</b>	<b>\$ 454,074</b>
Income Tax (Expense) Benefit	\$ (32,935)	\$ (25,322)	\$ (55,031)	\$ (100,210)	\$ 87,679
<b>Comprehensive Net Income</b>	<b>\$ 245,553</b>	<b>\$ 821,974</b>	<b>\$ 141,141</b>	<b>\$ 322,728</b>	<b>\$ 541,753</b>
Discontinued Ops Income Adjustment	\$ (157,622)	\$ (763,822)	\$ -	\$ -	\$ -
Repatriation Income Adjustment	\$ -	\$ -	\$ -	\$ -	\$ (217,800)
<b>Net Income Post Extraordinary Adjustments</b>	<b>\$ 87,931</b>	<b>\$ 58,152</b>	<b>\$ 141,141</b>	<b>\$ 322,728</b>	<b>\$ 323,953</b>

**Table 2: Verisign Financials, In Thousands  
(2014 – 2019)<sup>15</sup>**

	2014	2015	2016	2017	2018	2019
<b>Domains Under Mgmt.</b>						
.COM Base	115.6	124.0	126.9	131.9	139.0	145.4
.NET Base	15.0	15.8	15.3	14.5	14.0	13.4
<b>Total Domains Under Mgmt.</b>	<b>130.6</b>	<b>139.8</b>	<b>142.2</b>	<b>146.4</b>	<b>153</b>	<b>158.8</b>
.COM Price	\$ 7.85	\$ 7.85	\$ 7.85	\$ 7.85	\$ 7.85	\$ 7.85
.NET Price	\$ 6.18	\$ 6.80	\$ 7.48	\$ 8.20	\$ 9.02	\$ 9.02
<b>Revenue</b>	<b>\$ 1,010,117</b>	<b>\$ 1,059,366</b>	<b>\$ 1,142,167</b>	<b>\$ 1,165,095</b>	<b>\$ 1,214,969</b>	<b>\$ 1,231,661</b>
<b>Expenses</b>						
Cost of Revenues	\$ 188,425	\$ 192,788	\$ 198,242	\$ 193,326	\$ 192,134	\$ 180,467
Gross Profit	\$ 821,692	\$ 866,578	\$ 943,925	\$ 971,769	\$ 1,022,835	\$ 1,051,194
<b>Gross Profit Margin</b>	<b>81.3%</b>	<b>81.8%</b>	<b>82.6%</b>	<b>83.4%</b>	<b>84.2%</b>	<b>85.3%</b>
<b>Operating Expenses</b>						
Sales and Marketing	\$ 92,001	\$ 90,184	\$ 80,250	\$ 81,951	\$ 64,891	\$ 46,637
Research and Development	\$ 67,777	\$ 63,718	\$ 59,100	\$ 52,342	\$ 57,884	\$ 60,805
General and Administrative	\$ 97,487	\$ 106,730	\$ 118,003	\$ 129,754	\$ 132,668	\$ 137,625
Other Charges	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Cost and Expenses</b>	<b>\$ 445,690</b>	<b>\$ 453,420</b>	<b>\$ 455,595</b>	<b>\$ 457,373</b>	<b>\$ 447,577</b>	<b>\$ 425,534</b>
<b>Operating Income</b>	<b>\$ 564,427</b>	<b>\$ 605,946</b>	<b>\$ 686,572</b>	<b>\$ 707,722</b>	<b>\$ 767,392</b>	<b>\$ 806,127</b>
<b>Operating Margin</b>	<b>55.9%</b>	<b>57.2%</b>	<b>60.1%</b>	<b>60.7%</b>	<b>63.2%</b>	<b>65.5%</b>
Interest Expense	\$ (85,994)	\$ (107,631)	\$ (115,564)	\$ (136,336)	\$ (114,845)	\$ (90,611)
Non-Operating Income, Net	\$ 4,878	\$ (10,665)	\$ 10,165	\$ 27,626	\$ 76,969	\$ 43,260
Other Income (Loss)	\$ 87	\$ (995)	\$ 540	\$ 512	\$ 130	\$ 190
<b>Net Income Before Taxes</b>	<b>\$ 483,398</b>	<b>\$ 486,655</b>	<b>\$ 581,713</b>	<b>\$ 599,524</b>	<b>\$ 729,646</b>	<b>\$ 758,966</b>
Income Tax (Expense) Benefit	\$ (128,051)	\$ (112,414)	\$ (140,528)	\$ (141,764)	\$ (147,027)	\$ (146,477)
<b>Comprehensive Net Income</b>	<b>\$ 355,347</b>	<b>\$ 374,241</b>	<b>\$ 441,185</b>	<b>\$ 457,760</b>	<b>\$ 582,619</b>	<b>\$ 612,489</b>
Discontinued Ops Income Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Repatriation Income Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Net Income Post Extraordinary Adjustments</b>	<b>\$ 355,347</b>	<b>\$ 374,241</b>	<b>\$ 441,185</b>	<b>\$ 457,760</b>	<b>\$ 582,619</b>	<b>\$ 612,489</b>

22. While Verisign's revenue has increased significantly over this period, growing from approximately \$616 million in 2009 to \$1.232 billion in 2019, its total costs have remained relatively constant, and decreased in 2019 to approximately \$425 million. This fact, combined with Verisign's very high margins, suggest that Verisign cannot point to increased costs, or low margins, as a rationale for increasing .COM pricing. In particular, to the extent Verisign's total costs remain constant in the future, which is a reasonable assumption given its historical total costs, if it is allowed to increase prices to \$10.26, its already high margins will continue to grow.

<sup>15</sup> Sources: Verisign, Inc., Form 10-K's.

23. Instead of needing to increase prices for .COM, and continue to earn high margins, available evidence suggests that Verisign could lower .COM prices and continue to operate .COM profitably. For example, some have suggested that .COM could be priced at less than \$4 per year.<sup>16</sup> In addition, when bids were allowed for .NET and .ORG, prices declined for both TLDs.<sup>17</sup>

**d. An Increase in .COM Pricing Will Likely Harm Consumers**

24. If Verisign increases the price of .COM registrations, consumers will likely be harmed because few consumers are likely to switch to another TLD, and with higher prices for .COM, consumers will pay more for the same domain name than they did before the price increase.

25. Consumers are unlikely to switch away from .COM under Verisign's future, proposed price increases in part because of the high switching costs that are present. Switching costs are high because consumers are not able to transfer a domain from one registry to another, which essentially locks a consumer into a given registry. As a result, if a .COM registrant were to switch to another TLD, they would lose all inbound links, goodwill, and work and effort they had spent to grow and promote their brand. With respect to brand promotion, companies spend significant resources on promoting their brand and websites (including the domain name of that website). If a company were to switch away from .COM to another TLD, their past website branding efforts would be lost. In addition, with websites

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<sup>16</sup> See, for example: [https://www.theregister.co.uk/2018/11/02/dotcom\\_domains\\_pricing/](https://www.theregister.co.uk/2018/11/02/dotcom_domains_pricing/); and, <https://domainnamewire.com/2018/09/11/verisign-coperative-agreement/>.

<sup>17</sup> See <https://archive.icann.org/en/committees/reconsideration/networksolutions-request-16mar06.htm>; and, [https://www.theregister.co.uk/2016/11/14/pir\\_saves\\_millions\\_in\\_org\\_rebid/](https://www.theregister.co.uk/2016/11/14/pir_saves_millions_in_org_rebid/).

and email platforms, a significant amount of time and effort is required to switch to a new domain name. Large companies have thousands of email addresses for their employees and departments, and those email addresses are tied to the domain name. In addition, to switch to a new domain name, programmers would need to be hired or deployed away from other company efforts, and URL's, database links, internal DNS settings and Name Server migrations, and firewall and other security settings would need to be updated. In addition, the logistics of switching to a new domain are disruptive to a business, and require planning and coordination across many different departments, technical and non-technical alike.

26. The high switching costs associated with moving from .COM to an alternate TLD contribute to a lack of substitutability in the marketplace; that is, other TLDs are not reasonable substitutes for .COM. This fact has been recognized by the U.S. DOJ Antitrust Division, which noted: “[R]egistrants frequently purchase domains in TLDs other than .com as complements to .com domains, not as substitutes for them.... In other words, registrants of a particular .com domain (e.g., google.com) will frequently also perceive a need to register the same domain in all or most available TLDs (e.g., google.info and google.biz) because of a desire to expand their presence on the Internet and to protect their brands from being exploited by others.... [T]he network effects that make .com registrations so valuable to consumers will be difficult for other TLDs to overcome. Due to first-mover advantage and high brand awareness, .com registrations account for the overwhelming majority of gTLD registrations. As a result, when users do not know the TLD in which a domain is registered, they most often simply append “.com” to a product or company name when attempting to find the desired website. This phenomenon creates a strong presence for .com.... Further, the

introduction of new gTLDs is not likely to constrain the exercise of market power by existing gTLDs or ameliorate the continuing need for restraints to prevent Verisign from exercising market power in the sale of .com domains.”<sup>18</sup>

27. Other factors regarding the marketplace also contribute to a lack of substitutability between .COM and other TLDs. First, many generic TLDs are not open, in the sense that they have restrictions in place regarding who can register a domain name or for what purpose the name can be used for. For example, .EDU is limited to “accredited post secondary educational institutions in the United States.”<sup>19</sup> Second, many consumers may associate a TLD as having a specific purpose. For example, consumers often associate .ORG with non-profit institutions.<sup>20</sup> Third, ccTLDs are not substitutes for .COM because many ccTLDs impose a nexus requirement between the registrant and the host country.<sup>21</sup>

28. Thus, because other TLDs are not effective substitutes for a .COM registration, an increase in .COM prices will harm consumers worldwide, as consumers are unlikely to switch to other less expensive TLDs due to the high costs associated with switching from a .COM domain. While Verisign may argue that it will use increased revenues from .COM price increases to further improve the security and stability of the internet, thus benefiting consumers, this is unlikely. In particular, even though Verisign’s net income has continued

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<sup>18</sup> See <https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf>.

<sup>19</sup> See <https://icannwiki.org/.edu>.

<sup>20</sup> See, for example, [https://www.thenonproffitimes.com/npt\\_articles/org-isnt-just-for-nonprofits/](https://www.thenonproffitimes.com/npt_articles/org-isnt-just-for-nonprofits/); <https://fitsmallbusiness.com/org-vs-com-domain-extension/>; <https://makeawebsitehub.com/org-vs-com/>; <http://www.seobook.com/archives/002421.shtml>; and, [http://brainwrap.com/story/18/05/23/whats\\_difference\\_between\\_com\\_net\\_and\\_org\\_domain\\_name](http://brainwrap.com/story/18/05/23/whats_difference_between_com_net_and_org_domain_name).

<sup>21</sup> See <https://www.icann.org/en/system/files/files/tang-decl-iso-vs-opp-to-cfit-mot-for-leave-to-file-sac-with-exhibits-22nov06-en.pdf>; and, <https://moz.com/learn/seo/cctlds>.



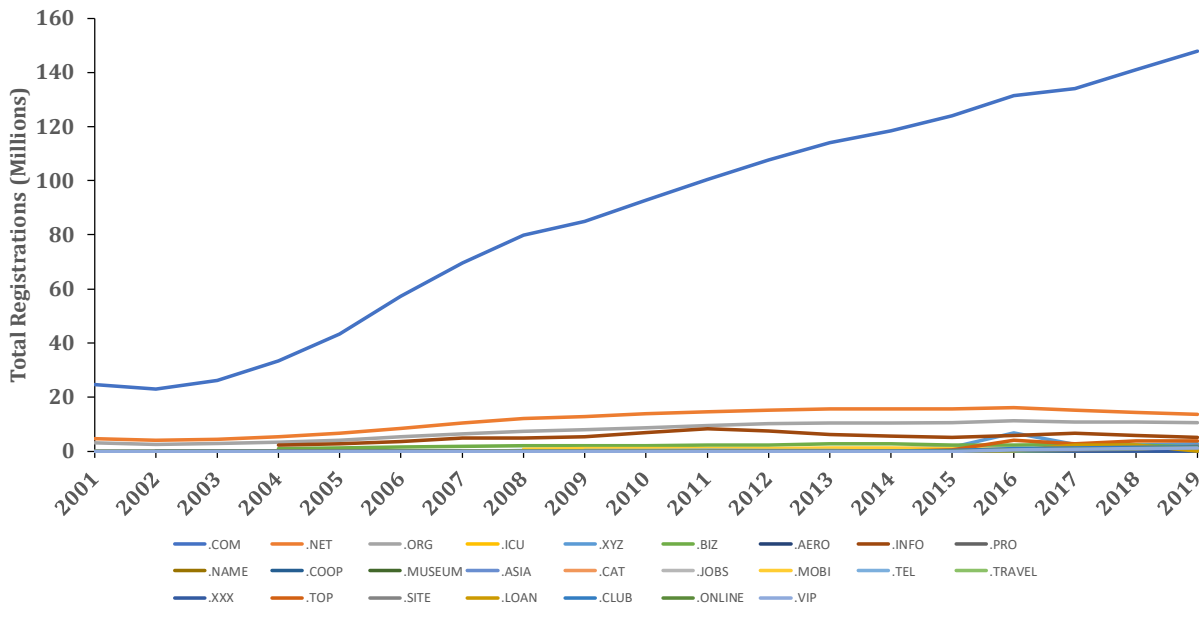
to grow, reaching approximately \$612 million in 2019, Verisign’s R&D and capital expenditures have remained constant.<sup>22</sup>

**e. .COM Is Not Facing Meaningful Competition from Other TLDs**

29. It is alleged that .COM is facing increased competition from new gTLDs and ccTLDs, however the available evidence does not support this assertion.

30. In **Figure 2** below, I have plotted registrations in .COM, registrations in other legacy TLDs, and registrations in many of the top new gTLDs. As it shows, registrations in .COM are significantly greater than registrations in any other TLD, which suggests that .COM enjoys a dominant position in the marketplace.

**Figure 2: Registration Volumes in .COM, Other Legacy TLDs, and Top gTLDs (2001 – 2019)<sup>23</sup>**



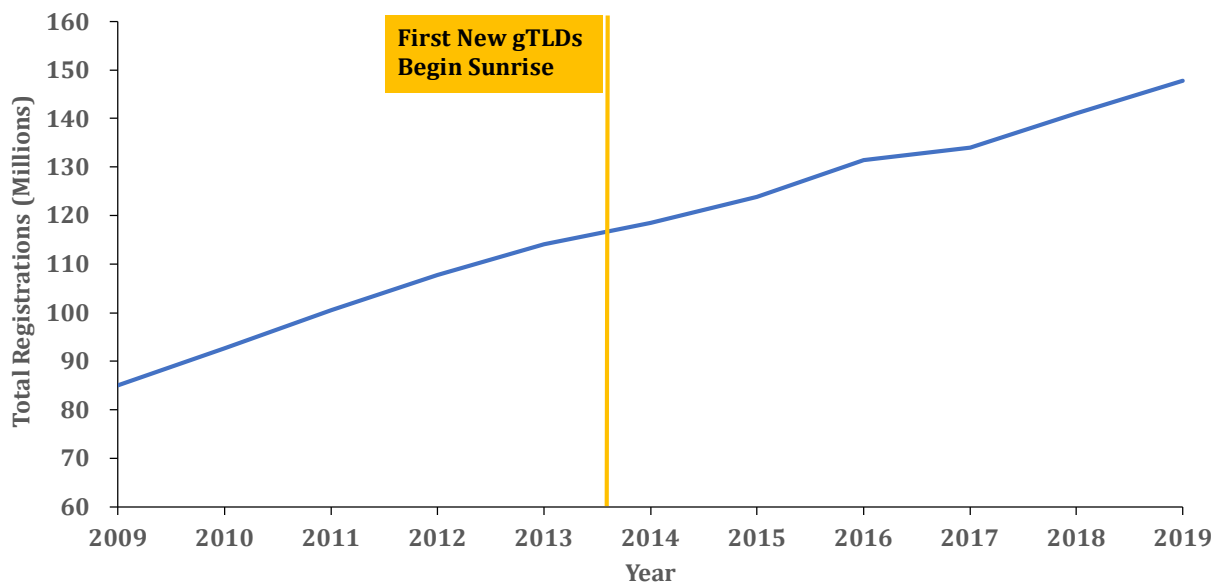
<sup>22</sup> See Tables 1 and 2.

<sup>23</sup> Sources: ICANN Monthly Registrar Reports (October of each year).

31. There are currently 1,516 delegated top-level domains in the TLD marketplace.<sup>24</sup> However, registrations for .COM continued to increase after the new gTLDs started to launch in 2013, and renewals for .COM do not appear to have been affected as the number of new gTLDs has grown. If new gTLDs were competing against .COM, .COM registrations and renewals would have likely been affected.

32. As **Figure 3** shows below, .COM registrations have continued to increase at approximately the same rate prior to the introduction of new gTLDs, which is suggestive of a marketplace in which new gTLDs do not compete in a meaningful way against .COM.

**Figure 3: Registration Volumes for .COM (2009 – 2019)<sup>25</sup>**



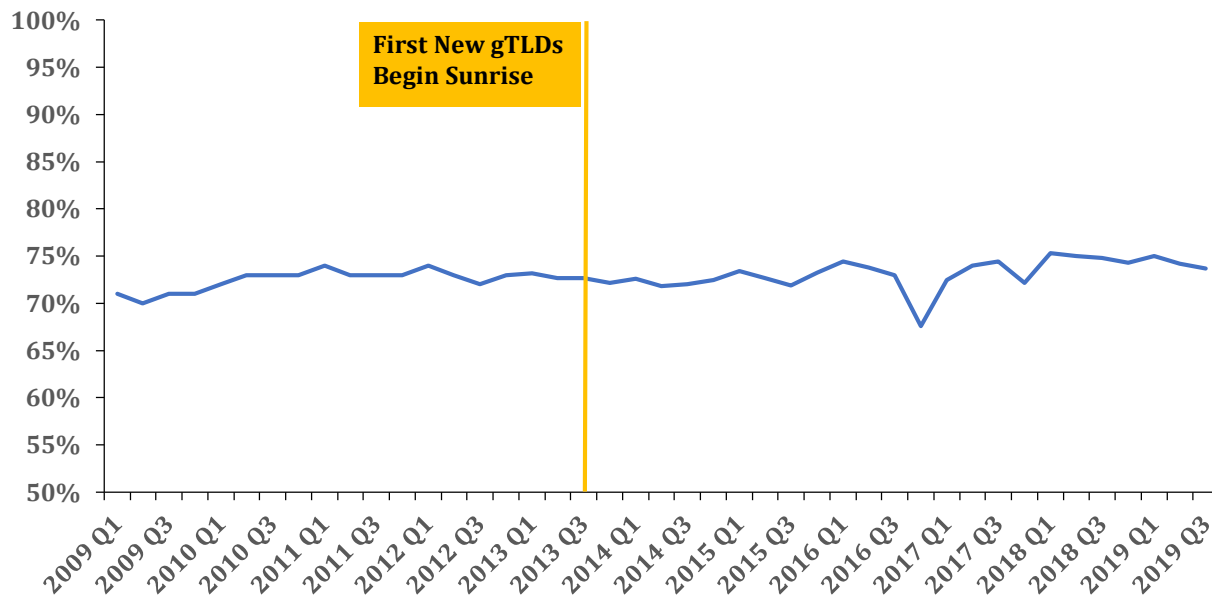
33. In addition, as **Figure 4** below demonstrates, .COM (and .NET, which is also operated by Verisign) have maintained consistent renewal rates during a significant increase

<sup>24</sup> See <http://data.iana.org/TLD/tlds-alpha-by-domain.txt>.

<sup>25</sup> Source: <https://www.icann.org/resources/pages/registry-reports>.

in the available number of TLDs. The lack of change in renewal rates, while not a direct measure of the extent to which .COM competes against other gTLDs, suggests that new gTLDs do not compete in a meaningful way against .COM. Specifically, to the extent .COM competed with other TLDs, one would expect renewal rates for .COM to decline when new gTLDs began to allegedly compete with .COM, but no such decline in renewals has been observed; in fact, average renewal rates in 2018 and 2019 were higher than in any prior year. (Based on the data available to me for this comment, it is not possible to separately calculate renewal rates for .COM and .NET, but given the number of registrations in .COM relative to the number of registrations in .NET, this chart is likely reflective of renewal rates for .COM.)

**Figure 4: Renewal Rates for .COM and .NET  
(2009 – 2019)<sup>26,27</sup>**



34. In addition to the entry of new gTLDs having no apparent effect on demand for .COM, historical increases in the price of .COM have not meaningfully affected demand. Specifically, the price charged by Verisign for .COM increased from \$6.42 in 2009 to \$7.85 in 2011,<sup>28</sup> but the growth of .COM registrations continued, and renewal rates remained constant. In addition, in 2004 and 2005, .INFO offered a promotion in which it waived its fees, yet .COM registrations were once again not apparently affected. And, in 2005, registration

<sup>26</sup> Source: Verisign Industry Briefs and Quarterly and Annual Reports.

<sup>27</sup> Note that there is a slight and temporary decrease in renewal rates in 2016 Q4 and 2017 Q1. As explained by Verisign: “During the second half of 2015 and the first quarter of 2016 we experienced an increased volume of new domain name registrations primarily from our registrars in China. The volume of these new registrations was inconsistent and episodic compared to prior periods, and by the end of the first quarter of 2016, reverted back to a more normalized registration pace.” (Source: Verisign Form 10-Q for period ended March 31, 2017.)

<sup>28</sup> See <https://reviewsignal.com/blog/2019/06/24/the-case-for-regulatory-capture-at-icann/>.

prices for .NET were reduced to less than 75 percent of the price of a .COM registration, but there was no apparent impact on .COM registrations or renewals.<sup>29</sup>

35. That .COM registrations appear to be unaffected by the entry of new gTLDs and ccTLDs, increases in .COM prices, and promotions offered by potentially competing TLDs is not surprising. .COM has a strong first-mover advantage in the marketplace, which has allowed it to develop significant recognition among registrants, potential registrants, and more generally, internet users.<sup>30</sup> .COM's first mover advantage has been aided by the marketing activities of companies with a .COM domain, of which most large firms have a .COM extension. As reported by dofo.com, as of March 28, 2019, 494 out of 500 Fortune 500 companies had a domain with a .COM extension.<sup>31</sup> Even when large firms switch to a non-.COM extension, they retain a .COM domain. For example, Alphabet Inc, the parent company of Google, uses abc.xyz as a domain name,<sup>32</sup> but Google continues to use google.com.<sup>33</sup> KPMG switched its home page to home.kpmg,<sup>34</sup> but still maintains a .COM registration at kpmg.com. As yet another example of the importance of .COM, in 2011 Overstock attempted to rebrand itself as O.co, but owing in part to consumer confusion, returned to Overstock.com (while also retaining O.co).<sup>35</sup> Finally, of the 29 principal Democratic candidates who elected to compete in the 2020 Democratic primaries, 27 out of 29 of the candidates used .COM for

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<sup>29</sup> See <https://archive.icann.org/en/committees/reconsideration/networksolutions-request-16mar06.htm>; and, <https://archive.icann.org/en/tlds/net-rfp/applications/verisign.htm>.

<sup>30</sup> See, for example: <http://newgtlds.icann.org/en/reviews/cct/phase2-global-consumer-survey-23jun16-en.pdf>.

<sup>31</sup> See <https://dofo.com/blog/fortune-500-domain-names/>.

<sup>32</sup> See <https://abc.xyz/>.

<sup>33</sup> See <https://www.google.com/>.

<sup>34</sup> See <https://home.kpmg>.

<sup>35</sup> See <https://adage.com/article/news/o-overstock-backs-o-change/230983>.

their campaign website, even though extensions such as .DEMOCRAT, .US, and .XYZ were available. This further suggests the importance of .COM relative to other TLDs.

36. Taken together, there is little evidence of movement away from .COM by consumers towards other TLDs in the marketplace, which indicates that .COM does not face meaningful competition from other TLDs. Given the lack of meaningful competition, Verisign's interest in increasing prices for .COM is consistent with a firm holding market power.

37. Market analysts have also recognized that Verisign likely has market power. For example, as noted by Brian Katz in 2009: "VRSN holds a legal monopoly on the DNS industry.... We touched on VRSN's monopoly position in DNS.... Under the contracts, VRSN is allowed to take price increases of up to 7% and 10% (for dot.com and dot.net, respectively) in as many as four of the six years in the term.... Absent existing pricing restraints in the .com and .net registry agreements, VeriSign could exploit this market dominance."<sup>36</sup> While this quote is from 2009, Verisign appears to still have market power given my discussion above.

## **V. Conclusion**

38. To summarize, in the face of increased competition that .COM is allegedly facing, a firm would typically lower prices. Yet, Verisign is asking to increase its prices for .COM. This is occurring while Verisign earns high gross profit and operating margins, that have grown over time, and that suggest that Verisign should decrease the prices of .COM.

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<sup>36</sup> See <https://www.nasdaq.com/articles/verisign-brian-katzs-highest-conviction-holding-heres-why-2009-12-29>.

Finally, these increased prices for .COM will harm consumers, since there is little evidence that .COM is facing meaningful competition from new gTLDs and ccTLDs.