



**Comment on Competition,  
Consumer Trust, and  
Consumer Choice Review  
Team (CCT) Final Report &  
Recommendations**

Status: FINAL

Version: 1

26-Nov-2018

**Business Constituency Submission**

**GNSO//CSG//BC**

## **Background**

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants. As defined in our Charter, the mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

### **Comment on Final Report of the Competition, Consumer Trust, and Consumer Choice Review Team<sup>1</sup>**

We thank the Competition and Consumer Trust (CCT) review team for its thorough work in reviewing the impact of the New gTLD Program (“Program”) on consumer choice, competition, and consumer trust in the domain name marketplace. Consistent with our mandate and prior comments, we particularly welcome the close attention the working group paid to domain abuse and the effectiveness of safeguards, as well as on participation and competition within the Global South.

We are pleased to see that the additional recommendations that the BC supported in our January 2018 comments on the New Sections to Draft Report of Recommendations are reflected in the Final Draft Report.<sup>2</sup> We generally support the suite of recommendations put forward by the working group and, particular, wish to emphasize the following points in response to the Draft Final Report.

#### **Access to data on consumer choice, competition, and consumer trust**

We share the working group’s concern that the ability to comprehensively assess the Program’s impact on these key areas was limited both by the Program’s relative newness, as well as the paucity of data available for some relevant metrics. We support the recommendations put forward to formalize data collection processes and to broaden data collection in future iterations of the CCT review, as well as in complementary policy development working groups and reviews.

We encourage ICANN to take advantage of data collection processes available within ICANN contracts with registries and registrars; to improve ICANN compliance data; and make use of voluntary data that can be obtained from contracted parties, the community, and users and registrants at large. We believe the working group has struck the right balance by not drawing hasty conclusions on limited data while encouraging improved data collection in the longer term.

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<sup>1</sup> See ICANN Public Comment page at <https://www.icann.org/public-comments/cct-final-recs-2018-10-08-en>

<sup>2</sup> See 15-Jan-2018 comments by the Business Constituency on – New Sections to Draft Report of Recommendations of the Comment on Competition, Consumer Trust, and Consumer Choice Review Team, [https://www.bizconst.org/assets/docs/positions-statements/2018/2018\\_01january\\_15%20BC%20comment%20on%20new%20sections%20of%20CCTRT%20recommendations.pdf](https://www.bizconst.org/assets/docs/positions-statements/2018/2018_01january_15%20BC%20comment%20on%20new%20sections%20of%20CCTRT%20recommendations.pdf)

## **Referral of key topics related to Rights Protection Mechanisms and New gTLD Application procedures to the respective policy development working groups**

We agree with the working group's assessment that several topics require fuller assessment in order to fully grasp the impact of the new gTLD program on the domain name marketplace. By way of example, we believe that topics such as improving safeguards for TLDs in highly-regulated industries and effectuating voluntary commitments by new gTLD are important topics for the New gTLD Subsequent Procedures Working Group, while further assessment of the Uniform Rapid Suspension Procedure and the Trademark Clearinghouse belong within the remit of the RPM review.<sup>3</sup>

We are particularly keen to see further work within the New gTLD Subsequent Procedures Working Group on the use of incentives as a way to encourage registries and registrars to adopt policies and procedures that reduce abuse and improve trust for all users, and on expanding the impact of the Program in the Global South. We believe that further work in both of these areas are essential to ensure that future application processes evoke trust in users, and that the competitive benefits associated with such programs are global.

Research presented last year in ICANN's "LAC DNS Marketplace Study" shows how the region is exposed to a great deal of vulnerability in the domain name space, which can be understood to extend to other developing world countries as well<sup>4</sup>. More progress on the evaluation of Uniform Rapid Suspension Procedure implementation has previously been requested as a way to help curb and expedite the resolution of issues and continues to be an important matter in furthering business-oriented goals in underserved regions.

### **DNS Abuse and safeguards**

We support the continued exploration of the impact of abuse and safeguards to curb abuse on the new gTLD program including through contractual negotiations with registries and registrars, improved public reporting through DAAR or other initiatives, enhanced user education, and the use of incentives, as described above.

We particularly support the proposed approach to address contracted parties whose rates of abuse are found to dramatically exceed the normal range. As recommended in our prior comments, contracted parties whose abuse rates were sufficiently high to suggest that they were complicit in the abuse being carried out could "should in the first instance be required to a) explain to ICANN Compliance why this is, b) commit to clean up that abuse within a certain time period, and / or adopt stricter registration policies within a certain time period." The CCT's proposal to set specific thresholds to identify abusive

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<sup>3</sup> Regarding the review of the URS and the TMCH, the BC had previously suggested that Recommendations 41 and 42 (now Recommendations 27 and 28) be specifically directed to the RPM Working Group, and appreciate that the final CCT report now acknowledges that the RPM WG has largely fulfilled the recommendations already.

<sup>4</sup> LAC DNS Marketplace Study, 13-Mar-2017, at <https://www.icann.org/news/blog/publication-of-the-lac-dns-marketplace-study>

TLDs and launch inquiries should allow ICANN Compliance to take meaningful action against registry operators that are unwilling or unable to address abuse within their TLD.

### **ICANN Negotiations with Registries and Registrars**

As noted in our previous comments, a number of the recommendations suggest changes to contracts with registries or registrars. While we are generally supportive of the objectives of those recommendations, we once again emphasize that community input and transparency in ICANN Org actions.

Prior to ICANN entering any structured negotiations with registries or registrars (including bilateral negotiations), there should be agreement between the community and ICANN Org on objectives. It is vital that ICANN operate in an open and transparent manner and involve the multistakeholder community, particularly when contracted parties are involved. As stated previously by the BC, changes to registry and registrar agreements directly affect the broader community and the internet in innumerable ways.

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This comment was drafted by Stephanie Duchesneau and Mark Datysgeld.  
It was approved in accord with our charter.