

**Advice requested by ICANN Board  
regarding definitions, measures, and targets  
for competition, consumer trust and consumer choice**

Prepared by the Consumer Trust Working Group,  
for ALAC, GAC, ccNSO, and GNSO consideration

## Background

This advice was drafted in response to an ICANN board resolution asking for definitions and metrics that will be used to evaluate the gTLD expansion program in a post-launch review required under the [Affirmation of Commitments](#)<sup>1</sup>.

ICANN and the US National Telecommunications and Information Administration (NTIA) signed the Affirmation of Commitments (AOC) on 30-Sep-2009. Article 3.c of the AOC is a commitment to “*promote competition, consumer trust, and consumer choice in the DNS marketplace*”.

Article 9.3 expanded on this and committed ICANN to “*adequately address*” “*competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection*” “*prior to implementation*”.

Article 9.3 also committed ICANN to perform a review one year after the first new gTLD was delegated, to “*examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice*”.

Community discussions during the AOC review of Accountability and Transparency included calls for *metrics* – objective measures that could be used to assess ICANN’s performance on key aspects of accountability and transparency. Moreover, it was argued that such metrics would help ICANN management to focus its efforts in ways that would measurably improve performance. In that vein, several community members encouraged ICANN’s board to establish metrics for other AOC reviews and commitments, including public interest, consumer trust, competition, and consumer choice.

Since the AOC did not define the terms or measures of competition, consumer trust and consumer choice, the ICANN Board resolved in December 2010 to request advice from the ALAC, GAC, GNSO and ccNSO on establishing the definition, measures, and three year targets for those measures, for competition, consumer trust and consumer. The Board [resolution](#)<sup>2</sup> (2010.12.10.30) reads as follows:

Whereas, ICANN has committed to promoting competition, consumer trust and

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<sup>1</sup> Affirmation of Commitments: <http://www.icann.org/en/documents/affirmation-of-commitments-30sep09-en.htm>

<sup>2</sup> Consumer Trust Board Resolution: <http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#6>

consumer choice in the Affirmation of Commitments

Whereas, if and when new gTLDs (whether in ASCII or other language character sets) have been in operation for one year, ICANN has committed to organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice.

Resolved, the ICANN Board requests advice from the ALAC, GAC, GNSO and ccNSO on establishing the definition, measures, and three year targets for those measures, for competition, consumer trust and consumer choice in the context of the domain name system, such advice to be provided for discussion at the ICANN International Public meeting in San Francisco from 13-18 March 2011.

In response to that Board resolution, community members in the GNSO, ccNSO and ALAC began to organize a working group at the Singapore meeting in Jun-2011. The Working Group invited the GAC to participate and welcomes GAC response to this draft advice.

The Consumer Trust, Choice, and Competition Working Group was chartered first by the GNSO Council on 7 September 2011. It was intended that the Charter ([link](#))<sup>3</sup> could also be formally endorsed by ALAC and ccNSO, but their endorsement was not a requirement for participation in the Working Group. The charter Drafting Team understood that its goal was to produce advice for consideration by GNSO, ccNSO, GAC and ALAC, each of whom was asked for advice as part of the Board resolution discussed above. Each AC/SO may act independently on the Working Group's draft advice, and may endorse all, part, or none of the draft advice as it decides how to respond to the Board resolution.

The Working Group understands that the purpose of this advice is to provide ICANN's board with definitions, measures, and targets that could be useful to the Affirmation review team that will convene one year after new gTLDs are launched. However, the Working Group understands that this advice cannot pre-determine or otherwise limit the scope of the future Affirmation review team. Additionally, this advice is not intended to recommend policy changes or policy development.

In addition, the Working Group anticipates that ICANN's board may want to have definitions, measures, and targets established early enough to become part of ICANN's management objectives as it evaluates new gTLDs this year. The Working Group recommends that ICANN staff begin to collect appropriate measures and publish baseline data as soon as the Board has acted on advice from ACs and SOs.

The ICANN Board should also consider the resource requirements for collecting new metrics, both in terms of internal staff and expense for external third-party assistance with surveys and other data collection efforts.

Lastly, it is essential when reviewing this advice that the definitions of each term be considered when reviewing the metrics. Both are complements of each other and context can be lost if they were to be considered alone.

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<sup>3</sup> Consumer Metrics Charter: <https://community.icann.org/display/CMG/3.++WG+Charter>

## **Scope of this advice**

The Working Group charter adopted a limited scope for this advice, citing the Board resolution seeking advice on definitions and metrics for the gTLD expansion review that is required in the Affirmation of Commitments.

The Working Group acknowledges that the limited scope it has undertaken provides only a partial evaluation of all choices from the Internet end-user point of view. Considering this perspective, a full examination of choice should not only measure the diversity within registries and registrars, but also examine options that allow users to avoid direct use of the DNS altogether.

Alternate methods of accessing Internet content and services (mobile apps, search engines, social portals, QR codes, etc.) are growing in popularity and themselves present innovative and competitive threats to ICANN-regulated TLDs. As such, they should be considered in any complete evaluation of consumer choice and trust related to ICANN in general and new gTLDs specifically.

## **Community representation on the Working Group**

The Working Group on Consumer Trust, Choice, and Competition was formed to respond to an ICANN Board resolution regarding a review of the new gTLD program, as required under the Affirmation of Commitments. Names of Working Group participants and ICANN staff are listed in Appendix A. The list includes representatives of the ALAC, CBUC, IPC, NCSG, RySG, RrSG, NCA groups, as well as individual participants.

## **Process for developing this Draft Advice**

The Working Group began regular meetings after the Singapore meeting in June 2011. Working Group members drafted a charter for consideration by any and all community groups from whom the board solicited advice. The Charter was approved by the GNSO on 7 September 2011 and is available [here](#)<sup>4</sup>.

In addition to its bi-weekly conference calls, the working group held public discussion sessions at the Singapore and Dakar meetings, including presentations of preliminary results. In Dakar, the Working Group also briefed GNSO Council during its weekend session.

This initial draft of advice was approved by the Working Group on 22 February 2012 and forwarded to ICANN staff to post for public comment. The Working Group will assess comments received and expects to offer final draft advice to the GNSO and ALAC soon after closing of the public comment period. Draft advice will also be shared with the GAC and ccNSO for their consideration, as they may also be developing advice pursuant to the Board's Dec-2010 resolution.

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<sup>4</sup> Consumer Metrics Charter: <https://community.icann.org/display/CMG/3.++WG+Charter>

## Advice on Definitions

As its initial task, the Working Group considered definitions for Consumer Trust, Competition, and Consumer Choice in the context of the DNS and ICANN's gTLD expansion program. As a threshold matter, the working group established this definition of *consumer*, which is critical to two of the three defined terms:

**Consumer** is defined as actual and potential Internet users and registrants.

Consistent with the *Affirmation of Commitments*, this definition of *Consumer* is designed to focus on the interests of anyone or any entity taking the role of an Internet user or domain name registrant.

The definition focuses not on the nature of an entity, but rather on the *role* they are playing by using the DNS to do resolutions or to register a domain name. Therefore, any entity can be regarded as a consumer, including individuals, businesses, governments, non-profits, etc. When any of these entities are also playing other roles with respect to the DNS – such as a registry operator or registrar – their interests are not relevant to this definition.

Including the above definition of *Consumer*, the working group recommends these definitions for the key terms in the AOC and Board resolution:

**Consumer** is defined as actual and potential Internet users and registrants.

**Consumer Trust** is defined as the confidence Consumers have in the domain name system. This includes (i) trust in the consistency of name resolution (ii) confidence that a TLD registry operator is fulfilling the Registry's proposed purpose and is complying with ICANN policies and applicable national laws and (iii) confidence in ICANN's compliance function.

**Consumer Choice** is defined as the range of options available to Consumers for domain scripts and languages, and for TLDs that offer meaningful choices as to the proposed purpose and integrity of their domain name registrants.

**Competition** is defined as the quantity, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars.

*Notes on these definitions:*

*Note 1. Although the report of the Working Group clearly defines the term "Consumer" as "actual and potential Internet users and registrants", some members of the community believe that the correct term to use in all publications instead of "Consumer" should be "Internet User" and "Consumers" as "Internet Users" whether they are registrants or not.*

*Note 2. The Consumer Trust definition has three aspects:*

*First, Internet users need confidence in the reliability and accuracy of the resolution of domain names they reference in email addresses, apps, and web browsing.*

*Second, registrants of domain names need confidence that the TLD registry they have selected will actually fulfill its proposed purpose and promises that drove their selection. For example, a bank that invests in moving its registrations to the .bank gTLD wants to be able to trust that .bank will honor its promise to allow only legitimate banks to hold domain names. The registrant will also trust that ICANN will hold the gTLD operator to its promises, ICANN policies, and any applicable national laws.*

*Third, consumers need to have confidence in the efforts of registry operators and registrars to curtail abuse and to ensure respect for intellectual property rights, prevent fraud, crime, and other illegal conduct, as well as confidence that ICANN will enforce requirements imposed on Registry operators and Registrars to prevent these abuses. If consumers believe that new gTLDs are failing to prevent these abuses, then consumers will lose trust in the domain name system.*

Trustor (who trusts)	Trustee (who/what is trusted)	Aspects (trust with respect to)
Registrants and users (referred to as "consumers" in AOC)	The overall domain name system	All aspects, including consistency of name resolution
	TLD registry operator	<ol style="list-style-type: none"> <li>1. Fulfilling its proposed purpose and</li> <li>2. Complying with ICANN policies and applicable national laws</li> </ol>
	ICANN, Registry operators and Registrars	Efforts to curtail susceptibility to abuse of the domain name system
	ICANN	Ability to enforce requirements imposed on registrars and registry operators, including respect for intellectual property rights and avoidance/minimization efforts relating to fraud, crime, or other illegal conduct.

*Note 3. "Meaningful" options include price, quality, and product diversity.*

*Note 4. Competition is closely related to the idea of consumer choice. In fact, competition and consumer choice can be seen as two parts of the same whole, since both touch providers and consumers of services. All stakeholders should have an interest in providing choice and in avoiding monopoly in order to create an open and informed market for all participants.*

*Note 5. A minority of WG members objected to the inclusion of "national laws" in the definition of Consumer Trust. Advocates of including the term argued that governments and the GAC expect ICANN and its contract parties to respect applicable national laws, citing several of ICANN's foundational documents:*

- *Articles of Incorporation: "The Corporation shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law"*
- *Applicant Guidebook: "National Law" is cited as potential basis for Government objections, GAC Early Warning, and/or GAC advice*
- *Affirmation of Commitments: "9.3.1 ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws"*
- *Bylaws: regarding ccTLDs: "provided that such policies do not conflict with the law applicable to the ccTLD manager"*

*In addition, a set of 2011 working papers from the European Commission also cited the importance of national laws, indicate the political lens through which the new gTLD program will be judged by governments.*

*Note 6. The definition of Competition looks at all TLDs, not just gTLDs. The working group recognizes that ccTLDs are competitors to gTLDs, particularly where the ccTLD is marketed to registrants around the world (e.g. .me and .co).*

*Note 7. All definitions are presented individually. However, these definitions need to be considered holistically in order to determine "the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust, and consumer choice" (Affirmation Para 9.3)*

### **Advice on Measures and 3-Year Targets for Defined Terms**

The board resolution requests advice on measures for each of the three defined terms. Below are the working group's recommended measures, including columns indicating an assessment of difficulties in obtaining and reporting each measure, along with the source of data.

The Board resolution also requested advice on 3-year targets for these measures. For some measures, an appropriate target would be an improvement on performance in the pre-

expansion gTLD space. For other measures, such as URS complaints, there is no equivalent data in the pre-expansion gTLD environment.

The Working Group suggests that the Board ask ICANN staff to develop baseline values for any measure that applies to the pre-expansion gTLD space, so that future targets can be stated in terms of improvements relative to present performance.

For example, a 3-year target for UDRP Complaints in new gTLDs could be any of these:

Type of Target	Example of target for UDRP complaints
Annual total for all new gTLDs	Total UDRP complaints regarding new gTLDs should be fewer than 1000 per year.
Rate of incidence for new gTLDs (per 1000 registrations)	The rate of UDRP complaints in new gTLDs should be less than 1 for every 1000 registrations.
Relative to prior periods	The number of URS complaints for new gTLDs in 2015 should be less than 10% of the number of URS complaints in 2014.
Relative to legacy gTLDs	In 2015, the rate of UDRP complaints (per 1000 registrations ) in the new gTLDs should be 50% lower than the rate in legacy gTLDs

Per the Board resolution request, the working group also recommended 3-year targets for measures where we had sufficient information to suggest applicable targets.

Notes about terms used in the tables of measures:

“Legacy gTLDs” refers to gTLDs that were in operation before the present expansion. (i.e., before Jan-2012)

“Registry Operator” refers to the entity holding the contract with ICANN to operate a gTLD.

“Registry Service Provider” refers to a third-party entity providing comprehensive back-end technical operations for a Registry Operator. This term is not meant to include an Emergency Back End Registry Operator (EBERO).

“Relative incidence” of a particular measure would divide the raw data by the total number of registrations in each gTLD zone evaluated. This is intended to put small or new gTLDs on a comparable basis with experience in larger or more established gTLDs.

“Obtaining” refers the availability and level of effort to gather raw data needed for each measure in the table.

“Reporting” refers to any challenges in compiling and publicly disclosing each measure in the table.

## Measures of Consumer Trust

For reference, the definitions of Consumer and Consumer Trust are repeated here:

**Consumer** is defined as actual and potential Internet users and registrants.

**Consumer Trust** is defined as the confidence Consumers have in the domain name system. This includes (i) trust in the consistency of name resolution (ii) confidence that a TLD registry operator is fulfilling the Registry’s proposed purpose and is complying with ICANN policies and applicable national laws and (iii) confidence in ICANN’s compliance function.

Measure of Consumer Trust	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
<i>Measures related to confidence in registrations and resolutions:</i>			
% DNS Service Availability (present SLA is 100%)	ICANN	None noted	100%
% Availability for Registration Data Directory Services (RDDS). (SLA is 98%)	ICANN	None noted	98%
% of Service Availability for Extensible Provisioning Protocol (EPP). (SLA is 98%)	ICANN	None noted	98%
Survey of perceived consumer trust in DNS, relative to experiences before the gTLD expansion. Survey could at least measure experiences with phishing, parking sites, malware and spam; confusion about new gTLDs; user experience in reaching meaningful second-level TLDs; registrant experience in being in a different gTLD; Registrant and Internet User’s experience with regard to cybersquatting. Survey to be conducted at least annually.	Survey Vendor	Moderate difficulty to gain consensus on survey questions. Survey cost is approx. \$100K.	Should show improvement on all survey measures
% Uptime for Registrar services such as WHOIS, contact info, and complaints, assuming that SLAs are established for these measures in the new RAA	Registrar	Doubtful that Registrars will compile and disclose uptime stats unless required by RAA	SLA in RAA
<i>Measures related to confidence that TLD operators are fulfilling promises and complying with ICANN policies and applicable national laws:</i>			
Relative incidence of notices issued to Registry operators, for contract or policy compliance matters	ICANN	None noted	Significantly Lower than incidence in legacy gTLDs
Relative incidence of breach notices issued to Registrars, for contract or policy compliance matters	ICANN	None noted	Significantly Lower than incidence in



Measure of Consumer Trust	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
			legacy gTLDs
Quantity of Registry & Registrar general complaints submitted to ICANN's Internic System	ICANN	Maybe difficult to establish baseline on existing Internic data versus new system	Lower than incidence in legacy gTLDs
Relative incidence of UDRP & URS <i>Complaints</i>	RPM Providers	Moderate difficulty obtaining data	[Lower than relative incidence of UDRPs in legacy gTLDs during same period]
Relative incidence of UDRP & URS <i>Decisions against registrant</i>	RPM Providers	Moderate difficulty obtaining data	[Lower than relative incidence of UDRPs in legacy gTLDs during same period]
Quantity and relative incidence of intellectual property claims relating to Second Level domain names, and relative cost of overall domain name policing measured at: immediately prior to new gTLD delegation and at 1 and 3 years after delegation.	IP Organizations	<p>[Independent reporting by or Survey conducted by IP Organization (e.g. INTA, AIPLA, and/or others) or third party of (1) (a) domain name IP cases filed against SLD registrants (not including UDRP or URS actions), (b) domain name IP cases filed against registries regarding SLDs and TLDs (not including UDRP or URS actions), (c) domain name IP cases filed against registrars regarding SLDs (not including UDRP or URS actions), (2) acquisition of SLDs which infringe or otherwise violate IP rights of acquiring parties, and (3) relative cost of domain name policing and enforcement efforts by IP owners.</p> <p>Difficulty would be in determining reliable and trusted source of information for all participants must be statistically significant. May be other reasons for data</p>	Declining over time

Measure of Consumer Trust	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
		<p>collection with regards to restrictions on confidentiality</p> <p>Proposal: Poll IP organizations regarding participation and willingness to fund or assist in funding third party survey organization.]</p>	
Decisions against Registry Operator arising from Registry Restrictions Dispute Resolutions Procedure (RRDRP)	RRDRP Providers	None noted	No adverse decisions
Quantity of Compliance Concerns w/r/t Applicable National Laws, including reported data security breaches	LEA/GAC	Difficult, because law enforcement and governments may not report this data	Declining incidence from Year 2 to 3
Quantity and relative incidence of Domain Takedowns	Registry	Moderately difficult to obtain and report	Significantly Lower than incidence in legacy gTLDs
Quantity of spam received by a "honeypot" email address in each new gTLD	SpamHaus	None noted	Significantly Lower than incidence in legacy gTLDs
Quantity and relative incidence of fraudulent transactions caused by phishing sites in new gTLDs	APWG	None noted	Significantly Lower than incidence in legacy gTLDs
Quantity and relative incidence of detected phishing sites using new gTLDs	APWG	None noted	Significantly Lower than incidence in legacy gTLDs
Quantity and relative incidence of detected botnets and malware using new gTLDs	APWG	Not clear on source of data. May require LEA contribution in addition to APWG	Significantly Lower than incidence in legacy gTLDs
Quantity and relative incidence of sites found to be dealing in or distributing identities and account information used in identity fraud	LEA/Govt	Will require Govt/LEA contribution	Significantly Lower than incidence in legacy gTLDs
Quantity and relative incidence of complaints regarding inaccurate, invalid, or suspect WHOIS records in new gTLD	ICANN	None noted	Significantly Lower than incidence in legacy gTLDs

Measure of Consumer Trust	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
Relative incidence of errors in new gTLD zones (such as commas instead of dots, bad IP addresses, malformed domains, etc.)	ICANN	Moderately difficult to obtain and report	Significantly Lower than incidence in legacy gTLDs
Qualitative comparison of mission and purpose set forth in the Question 18 of the new gTLD Application with current actual use of the gTLD	ICANN	None noted	No target; comparison only

It should be noted that during the public comment review, some members of the community recognized that ICANN is also counterparty to the Registry and Registrar contracts. Consumer Trust will be based not only on industry participants and their activities within the market, but also on the behavior and operation of ICANN. Industry participants and consumers all need to be able to rely on the stable, secure and predictable governance of the critical internet functions that ICANN is responsible for overseeing. Thus ICANN’s performance for managing the DNS and its compliance efforts could have an impact on Consumer Trust. Certain ICANN performance metrics may be worthy of review and inclusion into the overall metrics framework.

## Measures of Consumer Choice

For reference, the definitions of Consumer and Consumer Choice are repeated here:

**Consumer** is defined as actual and potential Internet users and registrants.

**Consumer Choice** is defined as the range of options available to Consumers for domain scripts and languages, and for TLDs that offer meaningful choices as to the proposed purpose and integrity of their domain name registrants.

Measure of Consumer Choice	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
<i>Transparency and clarity of gTLD registry benefits and restrictions, so that registrants and users can make meaningful distinctions when choosing TLDs.</i>			
Registry website should clearly disclose benefits and restrictions.	Audit of Registry websites	Moderate difficulty in auditing registry's display of terms and conditions for each gTLD they offer.	All Registries should disclose (e.g. ICM's <a href="#">disclosure</a> <sup>5</sup> for .xxx )
Registrars websites should clearly disclose gTLD benefits and restrictions in the terms & conditions for each respective TLD they offer.	Audit of Registrar websites	Moderate difficulty in auditing registrars' display of terms and conditions for each gTLD they offer.	All Registrars should disclose for all offered TLDs
gTLD registry benefits and restrictions should be clear and understandable to registrants and users.	Ry and Rr websites; surveys	A survey of registrants and users could assess clarity.	All disclosures should use "plain language"
[Survey of perceived consumer choice in DNS, relative to experiences before the gTLD expansion (to be performed in conjunction with Consumer Trust survey noted in above section). Survey questions could at least measure outreach and awareness. Questions should also measure defensive or duplicate registrations to measure internal costs, motivation, intent, and satisfaction. Survey to be conducted at least annually.]	[Survey Vendor]	[Moderate difficulty to gain consensus on survey questions. Survey cost is approx. \$100K.]	[Should show improvement on all survey measures]
<i>Range of options available to registrants and users in terms of scripts and applicable national laws</i>			
Quantity of TLDs using IDN scripts or languages other than English	Registry websites	None noted	Increase in the number of TLDs in IDN scripts or languages other

<sup>5</sup> ICM's Disclosure: <http://www.icmregistry.com/about/sponsored-community/>

Measure of Consumer Choice	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
			than English, relative to 2011
Quantity of Registrar websites offering IDN scripts or languages other than English	Registrar websites	None noted	Increase in the number of Registrars in IDN scripts or languages other than English, relative to 2011
The percentage of IDNs as compared to the total gTLDs in each script or language should be compared to the percentage of people who use each particular language or script	Registry websites and statistical determination of number of speakers or script users	Must identify reliable source of number of speakers or users of each language or script	The percentage of IDNs should trend closer to the percentage of the population that uses that script over time
Quantity of different national legal regimes where new gTLD Registry Operators are based	Registry websites	Not difficult, if each nation is counted as a separate legal regime	Number of choices in new gTLDs > number in legacy gTLDs

<i>Measures designed to assess whether prior registrants chose new gTLDs for primarily defensive purposes. All the measures here must be considered jointly, not separately. Each is a potential indicator to defensive registration and not precise. The targets accommodate potential over counting of defensive registrations.</i>			
Measure of Consumer Choice	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
A defensive registration is not seen as an improvement in choices available to registrants. <b>For purposes of this measure, “defensive registrations” are Sunrise registrations &amp; domain blocks.</b> Measure share of (Sunrise registrations & domain blocks) to total registrations in each new gTLD	Zone snapshot at end of Sunrise	Obtainable, since Registries must publish zone before open registration begins.	Post-Sunrise registrations > 85% of total registrations. Post-sunrise registrations should increase over time.
Relative share of new gTLD registrations already having the same domain in legacy TLDs prior to expansion For this measure, count all registrations that redirect to domains in legacy TLDs.	Zone data	Moderate difficulty to snapshot each new gTLD zone	“Redirected” registrations < 15% of all new registrations; This % should decline over time

Automated analysis or online survey of sample of “duplicate” registrations in new gTLDs. For purposes of this measure, “duplicate” registrations are those where registrant reports having (and still maintaining) the same domain name in a legacy gTLD.	Online Survey	Obtainable, using either ICANN or external survey tools and advice	“Duplicate” registrations < 15% of all new registrations; This % should decline over time
<i>Other measures of Consumer Choice in new gTLDs</i>			
Measure the increased geographic diversity of registrants across all new gTLDs, as an indication of new choices presented by gTLDs expansion. (do not count privacy/proxy registrations or registrations that fail to resolve)	Zone and WHOIS data	The working group is seeking an index or statistical measure of geographical diversity	Diversity should be greater than in legacy gTLDs; Diversity should increase from previous year.
[Survey of perceived consumer choice relative to experiences before the gTLD expansion (to be performed in conjunction with Consumer Trust survey suggested on page [x]. Survey awareness of new gTLDs. Questions should also measure defensive or duplicate registrations to measure internal costs, motivation, intent, and satisfaction. Survey to be conducted at least annually.)]	Online survey or empirical study	User survey may be too subjective to provide data; Refer to Consumer Choice survey of users noted above of (page 13) and combine together	[Should show improvement on all survey measures]
Website traffic is a potential indicator of trust, exercised choice, and effective competition. User traffic in new gTLDs should be compared to user traffic in legacy gTLDs (Sampling)	DNS Scrubbers / ALEXA	[Data sources need to be researched and confirmed]	Compare to show growth in new gTLD traffic relative to the growth in the legacy gTLD

## Measures of Competition

For reference, the definition of Competition is repeated here:

**Competition** is defined as the quantity, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars.

**\*\* Working Group is still in the process of analyzing Definition and Metrics of Competition**

Measure of Competition	Source	Anticipated Difficulties in Obtaining and/or Reporting	3-year Target
Quantity of total TLDs before and after expansion, assuming that gTLDs and ccTLDs generally compete for the same registrants	ICANN	None noted	Increase of 2x over 2011 (311 <sup>1</sup> )
Quantity of gTLDs before and after expansion	ICANN	None noted	Increase of 10x over 2011 (18 <sup>2</sup> )
Quantity of unique gTLD <i>Registry Operators</i> before and after expansion	ICANN	None noted	Increase of 2x over 2011 (16 <sup>3</sup> )
Quantity of unique gTLD <i>Registry Service Providers</i> before and after expansion	ICANN and Ry Operators	None noted	Increase of 2x over 2011 (6 <sup>4</sup> )
Quantity of Registrars before and after expansion, along with indication of country where Registrar is based.	ICANN	None noted	No target; compare to 2011 ( 1000 <sup>5</sup> )
Relative share of new gTLD registrations held by “new entrants”. For purposes of this measure, “new entrants” are gTLDs run by <i>Registry Operators</i> that did not operate a legacy gTLD.	ICANN; Zone files for new gTLDs	Moderately difficult to obtain.	“New Entrants” should have at least 20% of total new gTLD registrations (16 <sup>6</sup> )
<i>Measures related to prices for domain registrations (see legal note in Appendix B)</i>			
<i>Wholesale</i> price of new gTLD domains offered to the general public. (do not evaluate gTLDs with registrant restrictions).	Registries	Difficult to obtain. (see legal note in Appendix B)	No target; compare to 2011 and to unrestricted legacy gTLDs
<i>Retail</i> price of new gTLD domains offered to the general public. (do not evaluate gTLDs with registrant restrictions).	Registries and Registrars	Difficult to automate collection. (see legal note in Appendix B)	No target; compare to 2011 and to unrestricted legacy gTLDs

## Appendix A

### Working Group members:

Rosemary Sinclair - NCSG / *WG Chair*  
John Berard - CBUC / *GNSO Liaison for WG*  
Alex Gakuru – NCSG  
Cheryl Langdon-Orr - ALAC  
Olivier Crepin-Leblond – ALAC  
Carlos Dionisio Aguirre - NCA  
Steve DelBianco – CBUC  
Wendy Seltzer - NCSG  
Jonathan Zuck - IPC  
Jonathan Robinson - RySG  
Tim Ruiz - RrSG  
Evan Leibovitch – ALAC  
Tobias Mahler – Individual

### ICANN Staff:

Berry Cobb  
Julie Hedlund  
Michael Salazar  
Paul Redmond  
Maguy Serad  
Nathalie Peregrine  
Gisella Gruber-White



## Appendix B

### **Note from ICANN Legal Department, regarding collection of non-public data on domain prices.**

As part of devising measures for Competition, the Working Group sought advice from ICANN's Legal Department on the collection and publishing data on domain name prices, at both wholesale and retail level. The response from ICANN legal is shown below.

Thank you for the constructive work underway to meet the Board's request for community assistance on this consumer metrics issue. The team has clearly considered many aspects of consumer choice and the breadth of proposed metrics appears to be well thought out. While we do not wish to constrain the work proposed, the office of the General Counsel has expressed concerns regarding the collection of price-related information as part of the consumer metrics. Collection and comparison of non-public price-related information raises antitrust concerns in this context, particularly where market participants may have access to the collected information. This is not meant to restrict the Working Team from reviewing how competition may have been created through the introduction of new gTLDs, but rather to avoid the expansion of a community discussion into areas that may raise questions of anti-competitive conduct, or lead to outcomes that could impose anti-competitive restrictions.

ICANN is not currently in the position of collecting non-public price information from its registries and registrars. Requiring submission of non-public pricing information from its contracted parties would represent a change to ICANN's relationships with its contracted parties, and imposes risks to ICANN as the holder of this compiled confidential information. In addition, it is not only ICANN that comprises the review teams required under the Affirmation of Commitments. There is the possibility that those with existing or future interests in the TLD industry are members of the team. Providing persons on a review team with non-public pricing information across an entire industry (information that is not ICANN's to begin with) provides the possibility for anti-competitive conduct, even if there are restrictions in place for the use of the information, creates a significant risk to ICANN as a whole.

One of the concerns regarding the consideration of price-related information - whether it is publicly available or not - is the possibility that an outcome of a future review results in a price-related recommendation. To that extent, any consideration of price-related recommendations is not recommended, as it would raise both legal and accountability issues. ICANN does not wish to encourage the creation of recommendations that are legally not feasible to implement. That outcome is not desirable for your team, for the review team, or for ICANN. We look forward to working with you to continue to provide guidance on this issue as you complete your work.

*Note: While this legal concern is appreciated, the Working Group notes that none of the measures suggested in this draft advice document would require ICANN to issue any recommendations for how registrars and registries price their domain names.*

## Endnotes

<sup>1</sup> IANA.org db (<http://www.iana.org/domains/root/db>). There were 311 TLDs before expansion, assuming that gTLDs and ccTLDs generally compete for the same registrants. Of 326 TLDs delegated at the root, we counted 311 as of Jan-2012:

293 Country Code TLDs (38 were IDN)

18 Generic TLDs (4 generic, 3 generic-restricted, 11 sponsored); omitting .gov, .mil, .int

<sup>2</sup> gTLDs before expansion, including 4 generic, 3 generic-restricted, 11 sponsored (omit.gov, .mil, .int) - **18**:

AERO	ASIA
BIZ	CAT
COM	COOP
EDU	INFO
JOBS	MOBI
MUSEUM	NAME
NET	ORG
PRO	TEL
TRAVEL	XXX

<sup>3</sup> Quantity of unique Generic Registry Operators before expansion – **16**:

VeriSign Global Registry Services

Telnic Ltd.

NeuStar, Inc.

DotAsia Organisation Ltd.

DotCooperation LLC

Afilias Limited\*\*\*

mTLD Top Level Domain Limited dba dotMobi\*\*\*

Registry Services Corporation dba RegistryPro\*\*\*

EDUCAUSE

Museum Domain Management Association

Employ Media LLC

Public Interest Registry (PIR)

Fundacio puntCAT

Societe Internationale de Telecommunications Aeronautique (SITA INC USA)

Tralliance Registry Management Company, LLC.

ICM Registry LLC

\*\*\*The total count of RO should be listed at 14, because dotMobi & RegistryPro are wholly owned by Afilias. However, the WG did not have time to determine the affiliate count for Registrars and to maintain consistency for this draft, dotMobi and RegistryPro will count as unique

<sup>4</sup> Quantity of Generic Registry Service Providers before expansion – **6**:

VeriSign Global Registry Services

Afilias Limited

NeuStar, Inc.

CORE Internet Council of Registrars

Public Interest Registry (PIR)

Midcounties Co-operative Domains Ltd

<sup>5</sup> ICANN Accredited Registrars List (<http://www.icann.org/en/registrars/accredited-list.html>)

**1000** Registrars before Jan-2012 \*\*\*\*

\*\*\*\* This number reflects all accredited Registrars and does not represent affiliated entities

<sup>6</sup> Quantity of unique Generic Registry Operators before expansion – **16**:

VeriSign Global Registry Services

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Telnic Ltd.  
NeuStar, Inc.  
DotAsia Organisation Ltd.  
DotCooperation LLC  
Afilias Limited\*\*\*  
mTLD Top Level Domain Limited dba dotMobi\*\*\*  
Registry Services Corporation dba RegistryPro\*\*\*  
EDUCAUSE  
Museum Domain Management Association  
Employ Media LLC  
Public Interest Registry (PIR)  
Fundacio puntCAT  
Societe Internationale de Telecommunications Aeronautique (SITA INC USA)  
Tralliance Registry Management Company, LLC.  
ICM Registry LLC

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