

Reservations of nic, www, and whois for Registry Operations

Report for RN-WG

Prepared by Timothy Denton, 1 March 2007

1. Background

The following three names are reserved for use in connection with the operation of the registry for the Registry TLD.

nic
whois
www

All 16 of the current gTLD registry agreements prohibit these from being used by any other gTLD registry at the second-level .aero, asia, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, .tel and .travel

Fourteen (14) out of 16 agreements specify that the Registry Operator may use them, but upon conclusion of the Registry Operator's designation as operator of the registry for the Registry TLD, they shall be transferred as specified by ICANN. These include the following 14 agreements: .aero, asia, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .pro, .tel and .travel. The successor rights clause does not appear in the cases of: .biz, .org.

Names	Registries affected	Successor Rights clause not found in	Who may use the names
Nic Whois www	.aero, asia, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, .tel and .travel	.biz, .org	Only the registries in question, no one else

2. Role of the Reservation of these three names

The rationale for these names being reserved appears to be that registry operations require them, and that users should not be confused as to which sources of nic, whois, and www are authoritative.

3. Straw recommendations

Given that:

- A) These three names relate to essential functions and attributes of registries,
- B) Their use by others as domain names could entail unnecessary confusion and possibly inappropriate uses;
- C) Registries would be reluctant to tolerate their use by others,
- D) Only a few of the 16 registries have had the opportunity to be consulted, and
- E) These names could be renegotiated between ICANN and registries in due course, outside this process,

It is recommended that:

- these three names should stay reserved at the top, the second and, if applicable, the third levels;
- At the second level, and if applicable, the third levels, the existing contract language in registry agreements should continue to apply; and
- If the registry operator changes, the three names should be reserved for the use of the new registry operator.

4. Consultation with Experts

Two kinds of question arose in connection with these names: first, why the difference in the reservation of names for dot biz and dot org, and second, the general question of principle as to whether these names should be reserved.

a) successor rights clause

The successor rights clause does not appear in the registry agreements of dot biz and dot org. Upon inquiry of Jeff Neuman, Senior Director, Law and Advanced Systems, of Neustar, operator of .biz, he replied that:

“To tell you the truth, we did not focus on this exhibit at all during the renegotiation and did not realize that this was any different than the other operators. Any deviation from the original 2001 agreement we signed was inadvertent and missed by both us and ICANN during the renegotiations.”

David Maher, Senior Vice President, Law and Policy, of the Public Interest Registry, wrote as follows:

“The answer appears to be that these 2d level names are in use. They were registered before there was a policy limiting their use. If the registrations were ever terminated, then they would become reserved.”

b) reservations of these names in principle

The official contact people within top-level and country code registries were consulted via email and in one case by telephone this past week. We heard from dot aero, dot org, dot name and dot travel.

David Maher of dot org responded: “Yes, the names should be kept reserved.”

Marie Zitkova of dot aero responded as follows:

1) As a registry, do you wish to keep those names reserved?

Yes, these name are traditionally used by TLDs to designate specific functions key to the operation of registry and it makes sense for ICANN to maintain a certain standard across the board.

2) If they were not reserved, what actions would you take to protect your interests in those names?

I am not sure I understand the question. First, these names were reserved from day 1 so no such question ever came up and it cannot come up anymore because the names are in use.

Second, I certainly do not understand what is implied by "our interest" in those names. We are not talking about tradenames or trademarks. Surely, the reservation above was mandated not because of an interest of any individual sponsor or registry operator but because it makes sense for the entire system of TLDs to have some minimum level of predictability to locate elementary functions associated with the operation of the TLD.

Third, and that is answering the very hypothetical question what would happen before the launch of our TLD if these three names were not reserved by ICANN. We are a Sponsor of a sponsored TLDs, availability of names and eligibility criteria for the registration would be determined by the policies set by the Sponsor in consultation with the sponsored community and in the best interests of the aviation community, same process as we follow in all other cases, and the Registry Operator would implement those

policies upon the request from the Sponsor.

Hakon Haugnes of dot name responded:

- 1) yes, they are in use and are expected to exist by the community.
- 2) They are in use by the Registry so I guess that would be protection enough. It would be silly to have to defend them under UDRP, for example. We believe, though, that they belong to the Registry and not to the Company, of course.

I must admit I am not fully aware of the work of the WG, but what would be the purpose of not making them reserved?

Cherian Mathai of dot travel could only be reached by telephone, owing to a computer failure in his office. When asked whether he wanted those three names reserved, he responded “yes”.

Eric Brown of Neulevel responded as follows:

- “1. We believe that NIC and WHOIS should remain reserved. They are used to denote functionality to the .BIZ registry. For example, if one types in WHOIS.BIZ, they will be taken to our official WHOIS website for .BIZ domain names. In addition, with respect to NIC.BIZ, this is essential to keep reserved as well. This is because there are a number of people that do not know who a particular registry operator is and therefore have no way to get to the official registry site. NIC.TLD is important because it is a predictable place that one could (and should) always go when they know the TLD, but not the operator.
2. It is not that we believe we have some sort of intellectual property rights in the names so there are no actions we would take to protect it from an IP perspective. However, to not reserve these names (at least NIC and WHOIS), would cause confusion among consumers looking for the official WHOIS database of the TLD or looking for the official website of the registry (when they do not know the name).”

It is likely that these names could be removed from the reserved list by negotiation between each registry and ICANN, if they thought this was to their respective advantages. Second, the fact that these names were not in contention suggests that the reservation of these names is not controversial.

To generalize from very little data, it appears that country codes are rather freer to follow less consistent policies. Michael Haberler of dot at wrote:

“what we did in the past is register "interesting" (which might be contentious if held by the wrong party) names like www.at, internet.at etc on trustworthy registrants, like ourselves, or the ISP association. We do register others for our own purposes or likely fields of activity. But conceptually that's just a registration, not a reservation. We had the issue come up with registrars bitching about it and I just told them that we reserve the right to acquire names for our own purposes, and that's it, period.”

Sabine Dolderer responded as follows:

1) does dot de have reserved names?

We have only some minor restrictions for domains which could not be registered but that are no real reservations. It is

- no domainname with less than 3 characters is allowed
- no domainname which is equal to an existing TLD is allowed (actually only com/net/org/edu/int) because of problems related to rfc 1535
- no domains which are equal to local community carplate numbers are allowed. This is done because when the rule was created it was unclear if one would need a future structuring mechanism.

> 2) Does it reserve /nic, www/, and or /whois/?

No.

> 3) Does it give a reason for these reservations, if it has them?

- 2-character and existing TLDs has the reason because of problems with TLD.TLD as described in rfc 1535
- carplate numbers because of the potential structuring-issue - not longer really valid but there are only view with 3-characters most have 1- or 2-character abbreviations

Canada's Bernard Turcotte wrote back in relation to dot ca:

Does CIRA have a reserved names policy?

Yes

Does CIRA reserve those particular names (nic, whois, www)?

No, but we should have.

Inquiries of a few other country codes are being pursued.

5. Summary of Relevant Information Resources

The primary source is the set of ICANN-registry agreements, found at <http://www.icann.org/registries/agreements.htm>

I am unaware of other official rationales or explanations than those reported in this document.