The ICANN GNSO "Business Constituency"

Comment on New gTLD Marketplace Health Index Proposal

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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.

New gTLD Marketplace Health Index Proposal

The BC agrees with the stated goal of gTLD Marketplace Health Index proposal to evaluate the health of the gTLD marketplace using discrete, measurable criteria.

The BC recognizes that the initiative to establish a gTLD Marketplace Health Index advances ICANN's core mission. The BC supports ICANN's priority attention to the development and implementation of this Index.

The BC encourages ICANN staff and the advisory panel to consider factors that provide solid, objective conclusions as to trust, robustness, and stability, and to view the proposed KPIs with scrutiny against this standard. The proposed KPIs are insufficient at covering all of the gTLD space, as they were selected prior to community discussion. Recognizing that the request for comments to these KPIs is intended to facilitate community discussion, the BC encourages use of the best measures to reach stated conclusions.

For example, are the best measures being used when "robust" is equated with "large," trust is based on fewest complaints, and stability is determined by a low rate of incident/breach reports? These points deserve community discussion and research.

The BC desires that the most appropriate factors are used, despite the fact that they may not be the most easily available, and despite the fact that the data may not currently be collected by ICANN.

For example, we believe that competition should be included as a factor of robustness, and that performance and customer satisfaction be among the components determining consumer trust.

And it should be remembered that the subject of the Index is the marketplace itself, meaning that its stability as a whole, and its dependencies and vulnerabilities should be measures. For example, is the marketplace vulnerable to the failure of a few keys players or systems?

The metric involving WHOIS records and complaints assumes that a low number of complaints is an indication of greater reputation and trust, as opposed to the indication that people have given up on the ICANN WHOIS reporting process.

The proposal suggests that the index be built based on three over-arching themes:

1) Robust and Competitive gTLD Marketplace
2) Trusted gTLD Marketplace
3) Stable gTLD Marketplace

General Comments

1) For the Index to be relevant it will be important to ensure that the measures and metrics are able to evolve pursuant to ongoing community input. At the same time, it will be important to ensure that changes in the measures and metrics over time will still enable rational performance comparisons year-over-year. In this regard, the BC suggests that in addition to regular, dynamic reporting of fresh data, comparative reporting that includes multi-period trend lines also be developed.

2) A focus on metrics that are objectively measureable is important. We suggest clarification of proposed subjective metrics below.

3) For the Index to be useful, ICANN must use the most appropriate factors and focus on solid and objective data.

4) It is important to create well-defined descriptions of gTLD terminology in the marketplace. For example, a more consistent definition of the "General Availability" phase of domain registration would ensure greater accuracy in determining the "Average Pricing" metric, as would clarification of "premium" vs. general marketplace pricing. Additionally, some gTLD registries do not want to be in the marketplace, and have made efforts to avoid the marketplace altogether. We propose that these gTLDs not be included.

5) Overall, the proposed KPIs treat the market as a single entity. Weighting and/or filtering may be appropriate for many KPIs to avoid large entities (such as .COM) from dominating results, and to make KPIs more useful in pinpointing potential problem areas.

6) Segmentation by country could be valuable for many KPIs and the BC suggests that segmentation be applied broadly. (If this is not done, the BC also has specifically recommended a new metric "j" to track new registration geography by country).

7) Sensitivity to brand identification should be applied, anonymizing where appropriate.

We have incorporated our commentary on the proposed text, and the BC's new proposed metrics, into the tables below.

I.   **Robust and Competitive gTLD Marketplace**
      In general, while most of the proposed metrics below will provide a good indication of what is available in the marketplace, none of the proposed metrics would capture direct competitiveness or robustness – both of which relate to the economic activity surrounding the registration and delegation of new domains. The only metric capturing economic activity in the

proposal is the renewal rate. Accordingly, we suggest adding three additional metrics: new registration velocity; average pricing; and a metric related to the ratio of registrar agreements per gTLD. These new metrics are further described below.

The BC asks if IDNs are treated separately (uptake), is there a reason why they should not be treated separately elsewhere? Or, as in the case of a ccTLD like ".de," experience results-skewing measures of adoption? Are there other separations/distinctions that should be made among gTLDs, such as with closed or restricted registry models?

Regarding .COM, aside from it being a gTLD, its economic health is not in question. The economic health of hundreds of other TLDs is not so clear. The BC suggests that this should be considered whenever a metric's inclusion of .COM impacts the numbers greatly.

Among other insights, these reports are intended to inform the community about the degree of trust in the marketplace. This is another place where .COM's marketplace experience may be vastly different than other gTLDs, and may obfuscate needed data on marketplace trust in them.

For these reasons it may be prudent to develop additional reporting that explicitly excludes .COM. Weighting, filtering and/or other mechanisms may be appropriate for many KPIs to ensure .COM and larger TLDs don't obscure potential problems (e.g., segmentation by gTLD or geographic area, weighting of per-gTLD data by that gTLD's # of registrations, etc.).

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
a) Number of countries with at least one ICANN-accredited registrar	ICANN data	A larger number of jurisdictions where registrars are located could demonstrate a more robust and diverse gTLD market. Conversely, a smaller level of geographical diversity might indicate barriers to entry exist that could be addressed.	Agree
b) Average number of registrars offering each gTLD; Number of registrar agreements per gTLD	Monthly registry reports; registry surveys	A larger number might indicate greater technical, operational, legal, etc., accessibility of gTLDs by registrars.

The marketplace for gTLDs begins with registries' agreements with registrars. Therefore, there should be a | Agree. Also, this should be paired with a transaction metric – proposed below – that captures uptake in addition to what is on offer.

We should also account for closed and otherwise restricted models. We should also take into |

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
		measure of the number of registrar agreements per gTLD, or number of registrar agreements per registry.	account for what purpose the domains are actually used for, as part of the "uptake" metric.
c) Number of registrars offering IDN registrations	Registrar or registry surveys	An increase in the number of registrars offering IDN registrations could demonstrate an increasingly diverse and robust market for IDNs.	Agree – however, this should be paired with a transaction metric – proposed below – that captures uptake in addition to what is on offer.
d) Ratio of registrars to registrar "families"	ICANN data	A smaller registrar-to-registrar family ratio (i.e., there are either more distinct, unrelated entities who own registrars or fewer registrars who share a common controlling interest) might tend to indicate greater diversity in the marketplace. A greater registrar-to-registrar family ratio would indicate that existing registrar families have acquired more accreditations.	Agree. We should also review market share broken out across families.
e) Ratio of registries to registry "families"	ICANN data	A smaller registry-to-registry family ratio might tend to indicate greater diversity in the marketplace as it suggests more distinct, unrelated entities are running more gTLDs.	Agree.
f) Ratio of registries "families" market share	ICANN data		Review market share broken out across families.
g) Innovation and introduction of new services	Registrar and possibly reseller surveys; RSEP data	The introduction of new and innovative services would tend to indicate a more competitive marketplace.	Unlike the other metrics proposed, which are objectively measureable, this one can only be measured subjectively unless "innovation" is more specifically defined.

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
h) gTLD renewal rates	Registry surveys and monthly reports	A greater ratio of renewals to deletions of second-level gTLDs might reflect greater actual use or intent to use domains and a greater perception of those domains' intrinsic value by registrants.	Agree – this metric should explicitly capture renewal and deletion rates and be paired with an additional metric that captures new registrations. Agree – but if possible clarify what the "new registrations" are being used for (if at all)
i) New registration velocity	Registry surveys and monthly reports	The monthly net new registrations across all gTLDs/IDNs would yield good insight into the perceived market demand	New Proposal from the BC
j) Average pricing	Registry surveys and monthly reports; additional sources	Price movement up or down is a well-recognized indicator of the degree of competitiveness in a market. This metric would report average pricing and the pricing spread of actual sales transactions. It will also require well-formed definitions of each registration phase – Sunrise, limited registration, general availability - in order to be useful. The BC suggests that this metric would measure average or relative number of sales per price point. Little price diversity can indicate lack of competition. Additionally, mass giveaways of names should be accounted for in this metric.	New Proposal from the BC
k) Spread pricing	Registry surveys and monthly	Price movement up or down is a well-recognized indicator of the	New Proposal from the BC

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
	reports; additional sources	degree of competitiveness in a market. This metric would report the pricing spread of actual sales transactions. It will also require well-formed definitions of each registration phase – Sunrise, limited registration, general availability - in order to be useful. The BC suggests that this metric would measure the spread of prices. Little price diversity can indicate lack of competition.	
l) New registration geography – by country	Registration records	We suggest looking at the volume of registrations across a country, and then cross-segmenting that data by registry/registrar country to see whether there is competition/choice in that particular market.	New Proposal from the BC

II. **Trusted gTLD Marketplace**

The BC agrees with the proposed metrics below. We urge neutral design of the metrics. That is, they should not inadvertently or inappropriately influence the operational implementation of or trust in the RRDRP, UDRP, or URS processes.

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
a) Decisions against registry operators arising from Registry Restrictions Dispute Resolutions Procedure (RRDRP)	ICANN Competition, Consumer Trust, and Consumer Choice (CCT) metrics	A smaller number of decisions against registry operators under the RRDRP could indicate a more healthy and trusted marketplace.	Agree – it is important that this metric not inappropriately impact the implementation of RRDRP

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
	project		
b) Relative incidence of UDRP and URS decisions against registrants	CCT metrics project	A smaller number of decisions against registrants under the UDRP and URS could indicate greater reputation and trust of gTLDs by Internet users.	Agree – however, correctly decided decisions against registrants can increase trust in the gTLD RPMs, so it is important that this metric not inappropriately impact the implementation of UDRP and URS . The KPI should measure not just the total number of decisions in which a registrant is found to be infringing, but should track the total number of decisions as a percentage of total annual domain registrations subject to these RPMs, to better indicate whether infringement is proportionately increasing or declining as total domain registrations increase.
c) Relative incidence of ICANN breach notices issued to registries and registrars.	ICANN data	A smaller number of breach notices could indicate fewer noncompliant registries and registrars, and therefore, a healthier and more trustworthy marketplace.	Agree – it is important that his metric not inappropriately influence breach reporting
d) Breach-related activity that does not involve ICANN compliance			To take into account all of the related actions that do not involve ICANN compliance.
e) Quantity and	ICANN data,	A smaller number of Whois	Agree, so long as the metric is

Proposed KPI	Data Source	Interpretive Criteria	BC Comments
relative incidence of complaints regarding inaccurate, invalid, or suspect Whois records	and additional sources	accuracy complaints could indicate greater reputation and trust of gTLDs.	adjusted to account for complaints that result in decisions against the registrant. This approach has the benefit of consistency with the treatment of URS and UDRP decisions set forth above.
f) Quantity and relative incidence of inaccurate, invalid, or suspect Whois records that does not involve ICANN compliance			To take into account all of the related actions that do not involve ICANN compliance.

III.   **Stable gTLD Marketplace**
    The BC agrees with the proposed metrics and additionally we suggest one new metric related to security that we propose be developed by the SSAC, to report on the relative use of new gTLDs for cybercrime, botnet control, spam, etc.

Proposed KPI	Data Source	Interpretive Criteria	BC Comment
a) Number of data security breach reports made to ICANN (as required by the 2013 RAA).	ICANN/registrar data.	A smaller number of security breach reports could correlate to a stronger perception of marketplace stability among consumers.	
b) Total number of unique phishing reports	Anti-Phishing Working Group quarterly phishing attack trends or other reports	A smaller number of phishing reports could correlate to a stronger perception of stability in the gTLD space.	

Proposed KPI	Data Source	Interpretive Criteria	BC Comment
c) Number of registry service-level compliance issues per TLD detected per calendar month	ICANN's SLA monitoring system, and additional sources	A smaller number of service-level compliance issues detected could correlate to a stronger perception of marketplace stability among consumers.	
d) Cybercrime incidence	ICANN, 3rd party SIRT data, and additional sources	This proposed metric expands on (b) to encompass not just phishing, but other kinds of cybercrime as well. The metric would track the relative incidence of new gTLDs being used for illegal activities such as botnet control, phishing attacks, spam, etc. The metric to be developed by the SSAC would leverage the existing reporting and tracking by the leading cybersecurity tracking organizations.	New proposal from the BC The designated cybersecurity entity needs to be clearly defined and agreed to by the community. This is an extremely challenging proposed metric, and may need to be multiple metrics, averaged across multiple respected data sources for each type of cybercrime.

Community Questions

1. *Are there any additional concepts not identified in this proposal that are vital to a healthy and diverse global gTLD marketplace?*

   Please see our introductory comments on page 1.

   Also, as noted in our response above, we suggest three additional metrics. Two of these are focused on the competitiveness and robustness of the marketplace – measuring transaction velocity and pricing. We also suggest the proposed renewal metric also explicitly track new registrations and deletions. We propose clarifying the subjective innovation metric.

   We also propose an extended metric on cybercrime to more broadly focus on ensuring that the delegated new gTLDs are operated with the highest level of attention to the important issue of limiting use of the Internet for criminal purposes.

2. *Are there any concepts identified in this proposal that are not indicative of gTLD marketplace health and should not be included in the gTLD Marketplace Health Index?*

   We suggest clarifying the proposed innovation metric in order to create more objectivity.

Carefully consider the context of all KPIs for usefulness. Carefully consider the context of all KPIs to separate them from incident reporting, and to not inappropriately influence reporting.

3. *Should ICANN track the impact of resellers on gTLD marketplace health*?

   Resellers are an important channel for economic activity. However, the net effect of resellers in the marketplace should be properly captured through the proposed registry/registrar and transaction velocity and pricing metrics, so additional tracking for the proposed index is not necessary.

4. *Are there additional data sources that ICANN should consult in addition to or instead of the sources identified above*?

   ICANN will need to work with 3rd party cybercrime/cybersecurity organizations, to develop and monitor the proposed cybercrime metric. This list should be developed by the SSAC.

5. *How frequently should ICANN update this data*?

   This data should be published quarterly. In addition, we propose that reporting should incorporate period-over-period trend data.

This comment was drafted by Angie Graves and Paul Mitchell, with edits by Andy Abrams, Olga Yaguez Denise Michel, and Phil Corwin.

It was approved in accordance with our Charter.