

Subject: Business Constituency (BC) on Phase 1 Assessment of Competitive Effects of the new gTLD Program
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The Business Constituency (BC) appreciates the opportunity to comment on Phase 1 Assessment of the Competitive Effects Associated with the new gTLD Program.

Background:

The “Phase 1 Assessment” of the Competitive Effects Associated with the new gTLD Program establishes the baseline of the marketplace for domain names both prior to and the initial months following the New gTLD Program. A subsequent “Phase 2 Assessment” will assess the extent to which the New gTLD Program has affected competition in the marketplace in the coming year. In the Phase 1 Assessment Report, pricing and registration volume data from a sample of legacy gTLDs, new gTLDs and ccTLDs were considered in this report.

The report includes several major analyses of pricing, including in the wholesale and retail markets, as well as Sunrise period pricing.

On average, the wholesale price of a new gTLDs is higher than that of a legacy gTLDs, which could be largely due to the price restrictions placed upon legacy TLDs. There is greater wholesale price dispersion among new gTLDs.

Requests for current and historical data were sent to all 54 registrars in the original sample, yet only 6 registrars (all from the Asia Pacific region), provided some form of historical data. These responsive registrars accounted for only 14% of registration volume of new gTLDs being sampled and did not provide any regional geographic variation. As a result, some pricing information was collected from publicly-available websites such as the registrars’ websites.

BC Comments:

This Phase I report is a helpful beginning to a much-needed comprehensive analysis of the domain name market in the wake of the expansion of gTLDs. As the report indicates and the BC agrees, a competitive effects analysis of the new gTLD Program is not feasible at this time as the analysis lacked a rich set of data to review. More thorough analysis is needed and requires detailed transaction-level data from registries, registrars, resellers, and other market-makers. The BC is hopeful that such information will be provided, taking into consideration the confidentially and proprietary nature of the information.

Additional data points should be added to capture additional fees by registries and registrars beyond the wholesale, retail, and Sunrise period pricing. For example, the Donuts Registry offers an “Early Access Program” (EAP), which allows consumers to purchase a domain prior to general availability with tiered fees. These one-time fees can typically reach over \$10,000 in addition to the registration fees. Premium pricing is another fee that is added on to the cost of a domain registration fee. These fees are not always publicly available and are at the discretion of the registry operators and can be in addition to the EAP and registration fees.

There would be great value in charting the percentage of cost and registration made during the Sunrise period against general availability to evaluate if the increases in this report are due largely to defensive registrations by trademark holders. As noted by the Analysis Group who produced this report, when a firm engages in price competition, typically consumers tend to benefit from lowering prices. Understanding that there are multiple factors that affect pricing and competition, the above would provide greater insight in the next phase.

This comment was drafted by Chris Wilson and Cecilia Smith, and was approved in accord with the BC Charter.