

## Report of Public Comment Proceeding

### Proposed Renewal of .NET Registry Agreement

**Publication Date:** 13 June 2017

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#### Public Comment Proceeding

Open Date: 20 April 2017

Close Date: 30 May 2017

Report Due Date: 13 June 2017

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### Section I: General Overview and Next Steps

#### General Overview

ICANN posted for public comment the proposed agreement for renewal of the 2011 Registry Agreement for .NET, which is set to expire on 30 June 2017. This proposal is the result of bilateral discussions and agreement between ICANN and Verisign, Inc.

The proposed renewal is based on the current .NET Registry Agreement with modifications agreed upon by ICANN and Verisign, and includes certain provisions incorporated into legacy gTLD Registry Agreements (such as from the .ORG Registry Agreement, dated 22 August 2013), as well as certain provisions from the [base New gTLD Registry Agreement](#).

From 20 April 2017 through 30 May 2017, ICANN posted the proposed renewal of the .NET Registry Agreement for public comment. At the time this report was drafted, twenty-three (23) comments were added to the forum.

#### Next Steps

As a next step, ICANN organization intends to consider the proposed renewal of the .NET Registry Agreement taking into account the comments added to the forum. Following the completion of the public comment process, the proposed renewal of the .NET Registry Agreement will be considered by ICANN's Board of Directors.

### Section II: Contributors

*At the time this report was prepared, a total of twenty-three (23) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.*

Organizations and Groups:

<b>Name</b>	<b>Submitted by</b>	<b>Initials</b>
Internet Trademark Association	Lori Schulman	INTA
Centre for Internet and Society	Vidushi Marda, Sunil Abraham and Pranesh Prakash	CIS
Business Constituency	Steve DelBianco	BC
Internet Commerce Association	Phil Corwin	ICA
ALAC	Maureen Hilyard	ALAC
(UK) Children's Charities' Coalition on Internet Safety and The European NGO Alliance for Child	John Carr	CCCIS
Intellectual Property Constituency	Greg Shatan	IPC
Non-Commercial Stakeholder	Rafik Dammak	NCSG

Individuals:

<b>Name</b>	<b>Affiliation (if provided)</b>	<b>Initials</b>
George Kirikos	Leap of Faith Financial Services Inc.	GK
Kelly Pitts	NA	KP
Paul Shaw	NA	PS
Donald Williams	NA	DW
Patrick Quinn	NA	PQ
Donna Mahoney	NA	DM
Bruce Henry Lambert	Helpnet	BHL
Alexander Lerman	NA	AL
Danny Sullivan	NA	DS
Kenneth D. Parks	Namepros	KDP
William Blackwood	First Place Internet	WB
Anonymous registrar	NA	AR
John Poole	DomainMondo.com	JP
Vanda Scartezini	NA	VS

**Section III: Summary and Analysis of Comments**

*General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).*

The ICANN organization received twenty-three (23) comments from the community on the proposed renewal of the .NET Registry Agreement. Comments submitted generally fall into the following categories, each of which is explained in more detail below:

1. **Registry Pricing (Section 7.3)**
2. **Registry Fees to ICANN (Section 7.2)**
3. **Renewal of Agreement (Section 4.2)**
4. **Exclusion of Rights Protection Management**
5. **Negotiation process for the proposed renewal of the .NET Registry Agreement and legacy gTLD Registry Agreement negotiations in general**
6. **Other comments**

#### 1. **Registry Pricing (Section 7.3) – Summary of Comments**

While Section 7.3 of the Registry Agreement did not change, many comments focused on the 10% increase in registration fees scheduled through the term of the Registry Agreement. Most oppose the increase in fees while a few commenters (BC, ICA, and VS) understand ICANN organization is not in the position to be a “price regulator” and don’t object if the price increases as long the annual 10% price cap remains intact and does not apply to the .COM Registry Agreement coming up for renewal in 2018.

- “ICANN should be going to tender with .net, instead we are seeing never ending price increases as Verisign calls the shots. Given the volume of names registered .net should have a wholesale price half of what it now is.” (PS)
- “There is absolutely no reason why .net should be going up in price. To the contrary price should be dropping. It only cost about \$2-\$3 a year to serve as a domain name, which you and everybody in this industry knows. It would probably be even cheaper if you guys didn't pay yourself such high salaries. How many people are now making over \$400,000 and ICANN? Shame on you and your handling of the namespace. I remember when .net was about \$6. There is no justification from you for raising the price. Stop your big government antics and put out .net for a competitive bid and the price will go down, you would be doing your job correctly, and the public would benefit from the new, lower prices. Do what's right for a change ICANN.” (KP)
- “There is no reason for .net prices to continue to raise. Do your job keeping the industry going in the right direction instead of worrying about how you'll raise your own huge salaries again.” (DM)
- “Under the sweetheart deal that ICANN (pretending to negotiate in the public interest) has bestowed upon Verisign, consumers have already been harmed to the extent of tens of millions of dollars per year. And this harm increases year after year with the 10% annual price increases that are permitted, which far exceed inflation. ICANN now proposes to increase this annual harm from tens of millions of dollars per year to hundreds of millions of dollars per year. One need only look at section 7.3 of the red-line version of the agreement where the price used to be \$4.95/yr, and has skyrocketed to \$8.20/yr, a whopping increase of 65.66% during the 6 year term of the prior contract. That's a \$3.25/yr increase in fees, on approximately 15 million .NET domain names, or nearly \$50 million PER YEAR in additional profits for Verisign at the expense of consumers. Obviously these allowed price increases are untenable. Compared to the \$4.95/yr starting point 6 years ago, in 6 years consumers could be facing prices that are 193% higher (i.e. comparing \$14.52/yr to \$4.95/yr), when all other technology costs (hosting, bandwidth, storage costs, computing) have been decreasing. All other technology costs face competition, whereas ICANN protects

Verisign from competition, harming consumers in the process.” (GK)

- “I concur completely with the position so eloquently stated by Mr. Kirikos. Allowing a 10% annual increase of these fees amounts to something more akin to ICANN-endorsed vigorish than anything remotely resembling 'stewardship. Another anti-competitive money-grab by ICANN and registrars. And this on the heels of the recent NTLD debacle. It is truly time for anti-trust intervention.” (PQ)
- “the costs to run such a registry are falling, not rising. The proposed agreement would unfairly line the pockets of Verisign at the expense of the public good and therefore I strongly oppose the renewal.” (AL)
- “There is no reason that the cost of .NET registrations should continue to rise. I would welcome competition for the .NET contract. As I understand it, several other companies would be in a position to provide the same service (Afilias, Neustar, Nominet, Google, Amazon).” (DS)
- “Why in the world would you even think that raising the price of .NET would be of any value to the consumers. Who do you serve with those huge salaries you receive? Apparently the general public is last in your priorities. The .Net needs to be more accessible rather than more expensive if the space is going to flourish and grow and raising the price above the price of COM is counter-productive. As many others have pointed out this proposed increase benefits no-one but yourselves and Verisign and could even be construed to have the appearance of collusion. You need to stop filling your own coffers and get back to doing your job, protect the interests of the public.” (KDP)
- “The Section 7.3(a) provision for 10% compounded annual increases in .NET registration, renewal and transfer fees is unconscionable, particularly considering .NET has approximately 15 million domain name registrations, and the publicly reported profitability of Verisign, and its low cost of operations. It may be easy for ICANN staff to “roll over” and continue using the same boilerplate from previous renewals, but it has no justification based on reality—industry operating costs, market conditions, economic factors, and other relevant financial factors. This “formula” would lead to a doubling of registration fees every 7.2 years (Rule of 72). ICANN legal and GDD staff and management need a refresher course on good public stewardship and how to represent the global internet community in the global public interest. Compare the ccTLD pricing for ccTLD .US (\$6.50) with only about 2.5 million domain name registrations. Approval of this proposed renewal with the \$0.75 ICANN fee and 10% compounded annual increases in registration/renewal/transfer fees intact, will most likely cause renewed calls for government(s) to oversee ICANN, or replace ICANN with a new or existing intergovernmental multi-party or multistakeholder organization which can protect consumers (registrants), and the global public interest.” (JP)
- “The ALAC does not have any comment to make on the changes to the content of the contract overall as we believe that much of it has been predetermined by agreement. However, the increasing cost of .NET domains is a concern as it would make them unaffordable and thus an accessibility issue for end-users, especially for those in already underserved regions. The proposed 10% annual increase which all

goes to the registry is significantly high and should be re-considered (ratified sentence per 06 June request). A query was raised as to whether or how .NET funds are returned to serve the Internet community in line with the redistribution of .org funds into the community by the Internet Society, to support Internet development.” (ALAC)

- “Under the proposed renewal, Verisign remains subject to pricing caps. That is, Verisign may not increase .NET wholesale domain prices by more than 10% each year. While the BC does not believe that ICANN should have the role of price regulator in a competitive market, we are comfortable with extending these price controls into the next term of the .NET contract.” (BC)
- “We do not object to the continued ability to raise .Net wholesale prices by ten percent annually as we understand that Verisign has a presumptive contractual right to retain this pricing ability. However, our position on .Net pricing should not be viewed as indicative of what our view will be regarding modification of the .Com Cooperative Agreement’s price cap when it is reviewed by the U.S. government in 2018.” (ICA)
- “Prices – setting limit for almost 9 US\$, in my opinion does not impact directly registrants due two reasons: registrars will negotiate best prices based on market demand and since Registries had the obligation to sell to all interested certificated registrars makes the basic price be basically the same – to end users the registrar is the key interface to control. Verisign used to be controlled basically due .com by antitrust laws in US ( and so by NTIA) since all registries are, per definition, a monopoly and .com was out of doubt the larger registry under one string. Due such control, I believe, Verisign is also compliance with all requirements under .Net, as stated by ICANN, to avoid any problem with local authorities.” (VS)

## **2. Registry Fees to ICANN (Section 7.2) – Summary of Comments**

- “The proposed .NET renewal agreement keeps the ICANN fees at 75 cents per domain per year, despite those fees being 25 cents per domain name per year in all other registry agreements, e.g. for .org. The extra 50 cents per year per domain per year is a \$7.5 million annual tax on .NET registrants, given there are 15 million .NET domain names at present and those fees are passed on to consumers (registrants). There is no good reason why .NET domain registrants should face this fee discrimination by ICANN. It needs to be reduced to 25 cents per domain per year.” (GK)
- “We believe that ICANN should provide detailed public disclosure of the use of the additional domain fee paid to it by .Net to assure that these additional sums are being used for their intended purpose, especially as this extra charge is passed on to domain registrants.” (ICA)
- “We also note ICANN’s commitment in §7.2 of the Registry Agreement to use a portion of the proceeds of the Registry-Level Transaction Fees to create “a special restricted fund for developing country Internet communities to enable further participation in the ICANN mission by developing country stakeholders’. The NCSG is

supportive of efforts to diversify the ICANN community and applauds this commitment by both Verisign and ICANN. We do note, however, that these funds will not be segregated. In the interest of transparency we would ask the Board to direct staff to annually produce a report detailing how these funds are being used and the amount of money assigned to the restricted funds.” (NCSG)

- “The proposed agreement contemplates using a portion of Registry Level Transaction Fees to create a “special restricted fund for developing country Internet communities to enable further participation in the ICANN mission for these stakeholders.” This form of tokenism to the global south will do little to achieve meaningful participation and diversity of civil society. .NET should instead, be opened to a competitive bid and open tender, in order to encourage innovators from around the world to benefit from it.” (CIS)
- “The Section 7.2 ICANN fee of \$0.75 per .NET domain name is discriminatory and unconscionable to .NET domain name registrants, and ICANN should reduce it to \$0.25 (similar to other gTLDs). What may have been negotiated or appropriate in 2005, is no longer applicable 12 years later. ICANN should be ashamed for being so greedy and unfair to .NET registrants who are the ones bearing this cost.” (JP)
- “The BC notes that Verisign will continue to pay a \$0.75 per domain registration fee, which is 3 times higher than the New gTLD standard fee of \$0.25 per domain. The extra \$0.50 fee is supposed to be dedicated to developing world engagement and to maintaining security/stability of the DNS. However, these funds are not segregated, or separately accounted for or earmarked in ICANN’s budget. The BC requests an annual accounting disclosure by ICANN to demonstrate that this extra fee revenue is spent on the intended activities.” (BC)

### **3. Renewal of Agreement (Section 4.2) – Summary of Comments**

- “It is irregular to award a huge monopoly contract with no open tender. Presumptive renewal of a contract this size is outside standard business practices, and reflects inadequate / substandard oversight, disregarding public interest. Opening this contract to competition will help lower user costs, largely eliminate unjustified windfall profits, and greatly reduce the appearance of potential corruption. The reasoning for many changes in this contract is said to be “Updated for consistency with registry agreements for other gTLDs.” But we understand the .NET Registry Monopoly is fundamentally unlike other registry agreements with the major exception of the .COM Registry Monopoly (also peremptorily arrogated to Verisign). Other commercial gTLDs passed through a competitive proposal & tendering process that both Verisign and ICANN would hereby dodge, giving the appearance of inappropriate collusion. This proposed renewal and its terms promise to harm consumers. The contracting procedure offering the no-bid monopoly to operate .NET & .COM contradicts two of ICANN’s Core Values: [Use market mechanisms to promote a competitive environment] and [Promote competition to benefit the public interest]. ICANN could & should investigate, calculate & publicly reveal alternatives to the costs of continuing the Verisign monopoly.” (BHL)
- “We strongly oppose the Renewal of the .NET Registry Agreement. When ICANN was first created, one of its most important goals was to break up the Verisign/Network

Solutions monopoly. We believe it has failed to do this as both .com and .net are still controlled by that same monopoly. ICANN created the registrar system, but no competition at the registry level. While registrar prices have dropped dramatically and stayed low, registry prices have consistently increased for no reason even as registry costs have declined. Having a separate contracted entity for each TLD, in this case .NET/Verisign, serves no purpose other than to hand a monopoly to that entity - with no competition - so they can collect an ever increasing annuity (due to decreasing costs and guaranteed price increases in the contract with ICANN) for no actual work since ICANN's multi-stake-holder model creates all the policies. This separate registry entity serves no purpose and is not adding any value to the domain ecosystem or registrants. Outsourced registry services by large registry providers can be had for less than \$2 per domain per year. It is our belief that ICANN should take back all GTLDs (.com, .net, new GTLDs, etc.) and outsource the registry function to the many available registry providers at a significantly reduced cost. It can routinely bid out contracts for registry services and even balance load across multiple providers thereby increasing operational resiliency of the TLD. This would significantly simplify the ICANN operating model, would decrease ICANN's footprint, increase the GTLD's stability and resiliency, and would bring competition in pricing for GTLD registry services." (AR)

- "It is important to consider the proposed renewal in light of two Core Values which are meant to guide the decisions and actions of ICANN. Section 1.2.(b)(iii) of the Bylaws contemplates ICANN's responsibility to, "Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment in the DNS market;" and Section 1.2(b)(iv) envisages, "Introducing and promoting competition in the registration of domain names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process;". The presumptive renewal of the .NET Registry agreement precludes an open tender, thereby significantly undermining competition in the DNS market. It ignores the public interest consideration, as the absence of competitive pressure on the contract also means the absence of pressure to lower user costs. Verisign's operations over .NET is a historical accident; one that does not justify its collection of .NET revenues in perpetuity. Policies for Contractual Compliance of Existing Registries [1] was approved in 2007 to include presumptive renewal. However, during the deliberations in that Policy Development Process, there was significant objection to presumption of renewal of registry contracts; with constituencies and individuals pointing out that such renewal was blatantly anti competitive, and allowed for presumption to prevail even in the case of material breaches." (CIS)

#### **4. Exclusion of Rights Protection Management – Summary of Comments**

- "...provisions from the New RA such as the URS from Spec. 7 § 2(b), and the Public Interest Commitments from Spec. 11 §§ 3(a) and (b), are as helpful for protecting consumers in legacy gTLDs as in new gTLDs (if not more so, given the disparities in scale between legacy gTLDs and new gTLDs). Procedurally, transitioning to the New RA provides consistency across all registries, which leads to a more predictable environment for end-users.<sup>1</sup> such consistency also levels the playing field for new gTLD registry operators, allowing them to compete fairly with their legacy gTLD counterparts. It makes no sense that the operational costs of New RA provisions like Specs. 7 and 11 should be borne only by new gTLD registry operators, but not by

legacy gTLD registry operators (or at least, not by all legacy gTLD registry operators). Such barriers to entry distort free competition in the gTLD marketplace – which is why it is not surprising that at least some new gTLD registry operators have advocated for the adoption of at least some of the New RA provisions by legacy gTLDs. If the outcome of the ongoing PDP is that a certain RPM becomes mandatory for both legacy as well as new gTLDs, then there will be nothing left for registries and ICANN to negotiate on that score. But until that happens, there is. INTA's position is simply that for as long as ICANN is still negotiating an issue, it should do so consistently or should at least explain its inconsistency.” (INTA)

- “My company is opposed to any attempt to impose the URS (Uniform Rapid Suspension) policy on .NET registrants. The URS is not a consensus policy that went through the rigorous GNSO PDP process. Instead, it is an implementation detail of the failed new gTLDs program. The implementation details of the failed new gTLDs program should not be mirrored through a back-room bilateral negotiation between ICANN staff and the .NET registry operator. Instead, the multi-stakeholder model demands that only policies that have gone through the GNSO be required to be adopted by registries/registrars/registrants once they are consensus policies.” (GK)
- “RPMs specifically designed, and applicable to new gTLDs, are not appropriate for legacy gTLDs .COM, .NET, and .ORG, and I commend ICANN for resisting pressure from trademark and other special interests who may urge otherwise.” (JP)
- “The BC notes with approval that the .NET renewal RA includes some technical and conforming provisions of new gTLD Registry Agreement and the .ORG Registry Agreement. But unlike some previous renewals of legacy gTLDs, Uniform Rapid Suspension (URS) is not proposed as part of the renewed .NET registry agreement. URS has the potential to give businesses a cost-effective way to stop clear and convincing incidents of trademark infringement by domain registrants, because it is faster and less expensive than the Uniform Domain Name Dispute Resolution Policy (UDRP). Since .NET is the fifth most popular TLD on the Internet2 and the second most used gTLD, the benefits of URS availability could be significant for small businesses and those in developing economies.” (BC)
- “We are pleased that this proposed renewal RA does not seek to make policy decisions by contract and refrains from imposing URS on .Net, preserving that issue for the Working Group that is presently reviewing all RPMs at all gTLDs.” (ICA)
- “To address abusive registrations, the terms of the .NET registry agreement should incorporate the most up-to-date features that will aid in the detection, prevention and remediation of abuses. Enhanced safeguards to combat abusive registrations and protect users, including, among others: 1) Consistent with the IPC's position communicated in response to the last .NET renewal, 2) and with the consensus policy adopted by the ICANN Board on February 7, 2014,<sup>3</sup> a Thick Whois architecture, to ensure the accessibility of registration data across the registry, a key factor for the investigation of a wide range of abuse cases, and to enable quicker response and resolution when domain names are used for illegal, fraudulent or malicious purposes; 3) Enhanced post-registration rights protection mechanisms for trademarks, notably the Uniform Rapid Suspension process, 4) an important supplement to the UDRP for the most clear-cut cases of cybersquatting; 5) Requiring registrars of domain names

within the TLD to impose and enforce anti-abuse obligations on their registrants ; and, 5) Technical analysis and reporting requirements for specified forms of abuse. New gTLD registries have taken on these and other obligations in their agreements with ICANN, including several new gTLD registries operated by Verisign. Even some “legacy” gTLDs have taken on many or all of these safeguards as their registry agreements have come up for renewal.” (IPC)

- “The NCSG has been deeply concerned about the inclusion of the Uniform Rapid Suspension (URS) and Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) rights protection mechanism (RPMs) in renewal agreements (RAs) for legacy gTLDs. The contractual requirements for legacy gTLDs to adopt these RPMs designed for the new gTLD program represent an attempt to create de facto consensus policies by contractual fiat rather than through the Policy Development Process (PDP) required by ICANN’s Bylaws. This is something the NCSG has strongly opposed in our comments on other recent legacy gTLD renewal agreements. We note that the .NET renewal agreement does not contain an attempt to expand the URS or PDDRP to legacy gTLDs under the guise of bilateral contractual negotiations. Indeed, §3.1(b)(iv)(C) of the Proposed Renewal properly places intellectual property protection squarely within the remit of ICANN’s Consensus Policies. We commend both ICANN and Verisign for this aspect of the Agreement and hope this model, one that respects the bottom-up multi-stakeholder policy development process, will be used by ICANN in future RA negotiations.” (NCSG)

##### **5. Negotiation process for the proposed renewal of the .NET Registry Agreement and legacy gTLD Registry Agreement negotiations in general – Summary of Comments**

- “INTA agrees with ICANN that the New RA has important “technical and operational advantages” and “benefits to registrants and the Internet community”<sup>4</sup> over earlier, outdated versions. That is why INTA supports bilateral negotiations with legacy gTLD registry operators to transition (as much as is possible<sup>5</sup>) to the New RA as those legacy registry agreements cycle through their various renewals.” (INTA)
- “The argument that the proposed changes are to bring the contract in line with other gTLD registry agreements doesn't hold because this contract is in itself completely irregular: it was not entered into after a competitive process that other gTLD registry agreements are subject to; and it is not subject to the price sensitivity that other contracts are either.” (CIS)
- “ICANN’s process for gTLD registry renewals is dysfunctional. Before beginning renewal “discussions” or negotiations with any registry operator, ICANN should first solicit comments from registrants, registrars, and other interested parties about the performance of the operator and suggestions for changes in the registry agreement. Only after that initial comment period has concluded should ICANN begin discussions with the registry operator. This is a simple change that will result in ICANN staff being much better informed and prepared to represent registrants, registrars, and the global internet community in renewal discussions with the registry operator.” (JP)

- “Generally, the BC supports the proposed renewal of the .NET Registry Agreement (RA). The BC appreciates that ICANN performed a review of Verisign’s contractual compliance and that “Verisign was found to be in substantial compliance with their contractual requirements for .NET”. That said, the BC requests ICANN to share the data on the compliance review that was performed.” (BC)
- “We urge that before it is approved by ICANN, the draft renewal agreement be revised to bring it into closer harmonization with nearly all other gTLD registry agreements, by incorporating the most up-to-date features to detect, prevent and remediate abusive registrations.” (IPC)
- “We do not object to the technical amendments that bring the .Net RA into greater conformity with the standard new gTLD RA as all these amendments relate to technical and operational matters that do not raise policy concerns.” (ICA)

## 6. Other - Summary of Comments

- **IDNs:** “International domain names (IDN) can be convenient for end-users typically operating in non-English scripts such as Cyrillic, Chinese, Arabic or Hindi, relieving the need to toggle between different text-input keyboards. ICANN oversaw expansion of the gTLD system. ICANN accepted Verisign's applications for transliterations of .com and .net in assorted major languages although Verisign had only temporary time-limited contracts as the "authoritative directory" and "exclusive registry" of all .NET and .COM domain names. Verisign's policy on IDN.IDN implementation, and the rights protection format they proposed to follow, was very explicit, with a key objective: "Avoid costs to consumers and businesses from purely defensive registrations in the new gTLDs." They asserted: "A registrant in one of the IDN TLDs, or a registrant of an IDN.com or IDN.net, will have the sole right, but not be required to register the exact same second level name across all or any of our IDN TLDs, including the .com or .net TLDs as applicable." With this widely publicized explanation, Verisign avoided opposition by .net and .com owners against Verisign's planned offerings. Some of us registered IDN.net and IDN.com domains expecting our positions would be securely protected by Verisign. Instead, Verisign launched the first of the transliterations (also termed "aliasing"), largely unconnected to existing .com ownership, although a Priority Access Program allowed existing registrants early purchase of Verisign's transliteration, typically at premium pricing. It is unclear if changes in plan were initiated by Verisign or ICANN, but both now squeeze added revenues from resulting format changes. Ultimately, if I owned lawyer.com [lawyer.com] -- another person might buy lawyer.コム (or lawyer .kom with Japanese or Russian ".com" and pronounced nearly identically). Defensive registrations are costly, with both Verisign & ICANN reaping benefits from what now appears a collusive relationship undercutting ownership rights in .NET and .COM domain names. This was wholly different from Verisign's long-time presentation: (Verisign quoted below until 'end quote' mention) "In 2012, Verisign applied to operate registries for eight transliterations of .COM and three of .NET (to the right of the dot) as part of ICANN’s new generic top-level domain (gTLD) which

will allow Verisign to bring businesses full domain names in local language characters. Verisign's proposed approach for these new IDN gTLDs will help ensure a ubiquitous end-user experience and helps to protect consumers and business from having to register purely defensive domain names in our TLDs. In practice, Verisign's proposed approach means that the registrant for a second-level domain name in our IDN.IDN, IDN.com or IDN.net will have the sole right (subject to applicable rights protection mechanisms), but not be required to register that identical second-level domain in any of the top-level IDNs, .COM or .NET as applicable" (BHL)

- **Single Character:**

- "Via ICANN's 2007 Reserved Names Working Group, Verisign received permission from ICANN in 2010 to sell its single character label .net domain names. Having achieved this valuable concession, Verisign needs to document and codify it in the Registry Agreement. Failure to do so will be to the significant detriment of Verisign's shareholders and customers." (WB)
- "We urge that the proposed renewal RA be amended to permit the availability of single character domains at .Net" (ICA)

- **Whois Privacy:**

- "In addition to the registry pricing and competition issue, ICANN has done nothing on whois privacy for registrants. Instead, it has launched several initiatives to force domains offline for inaccurate/outdated contact information even while this public information remains greatly abused by spammers and phishers. Some registrars offer their own whois privacy proxy services whereby they list themselves as the public owner of the domain. We believe privacy and audited access should be built into whois and not by the individual registrars that may have different policies and access control. We insist every employee at ICANN be required to own a domain name without registrar whois privacy (since ICANN requires the actual owner to be listed) and across several registrars. Once every ICANN employee feels the pain of having their personal / home contact details published publicly and the rampant abuse of it, they will not need multi-year expensive studies to measure this abuse. Please fix the massive abuse of the whois system and lack of privacy." (AR)
- "Demand for Escrow format, BRDA and API spec as ICANN is demanding for new gTLDs, I see as very positive for end users, as relevant guaranties. New Whois is also relevant for improve data privacy." (VS)

- **Abuse:** "In April, 2017, the Internet Watch Foundation, the UK's hotline for dealing with reports of child abuse images (child pornography) found on web sites, showed that in 2016 20% of all the reports it received came from sites within the .net domain. In previous years similar high proportions of such

images were also found within the .net domain. This shows the problem is chronic and systemic. Verisign should not be awarded or allowed to hold the .net Registry Agreement until such time as they produce a convincing plan to address and put right this scandalous state of affairs.” (CCCIS)

## **Section IV: Analysis of Comments**

*General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.*

The ICANN organization received twenty-three (23) comments from the community on the proposed renewal of the .NET Registry Agreement. Comments submitted generally fall into the following categories, each of which is analyzed in more detail below:

- 1. Registry Pricing (Section 7.3)**
- 2. Registry Fees to ICANN (Section 7.2)**
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- 6. Other comments**

### **1. Registry Pricing (Section 7.3) – Analysis of Comments**

The prices the Registry Operator may charge under the .NET Registry Agreement are capped, subject only to a permitted 10% annual increase. The permitted increase is designed to allow the Registry Operator to increase prices with inflation and increased costs of running a registry. ICANN organization did not highlight pricing in the public comment announcement because the announcement only highlights what has changed. The pricing provision in the agreement was not changed, therefore, it was not highlighted. More information about the economic impact of the domain name space can be found by reviewing the findings from the two-phase study conducted by the Analysis Group in 2015 ([Phase One](#)) and 2016 ([Phase Two](#)).

### **2. Registry Fees to ICANN (Section 7.2) – Analysis of Comments**

In connection with the competitive bidding process held in 2005 for the operation of the .NET TLD, ICANN specified a US \$0.75 registry-level transaction fee for .NET. The additional funds provided by this fee aid ICANN in its mission of enhancing the security and stability of the DNS and the Internet and in improving participation in the Internet community. ICANN utilizes the funds generated by Registry-Level Transaction Fees in accordance with the ICANN Budget, which is developed in consultation with the community and approved by the ICANN Board. ICANN organization is committed to utilize the funds for the purposes set out in the .NET Agreement but does not have a separate accounting or organizational structure to track it. That would be costly and overly complex, outweighing the potential added benefits. ICANN organization has, for example, created the [Fellowship Program](#), sponsored by and participated in many regional meetings, increased the number of languages available in translation services we provide, and fostered participation in new gTLDs. ICANN has also expended significant funds to bolster DNS security and stability, such as signing the root zone and

implementing DNSSEC, participating in cross-industry security exercises, growing the ICANN security-stability-resiliency (SSR) team, and continuing to enhance the operational SSR and global interoperability of the systems and processes that impact the internet's unique identifies.

### **3. Renewal of Agreement (Section 4.2) – Analysis of Comments**

The renewal provisions in the current .NET Registry Agreement are consistent with all other ICANN gTLD agreements. These renewal provisions encourage long-term investment in robust TLD operations, and this has benefitted the community in the form of reliable operation of the registry infrastructure. ICANN does not have the right under the current .NET Registry Agreement to unilaterally refuse to renew the agreement or to bifurcate registry functions.

### **4. Exclusion of Rights Protection Management – Analysis of Comments**

With respect to legacy gTLDs' adopting the Uniform Rapid Suspension (URS) in their renewal Registry Agreements it should be noted that the URS was recommended by the Implementation Recommendation Team (IRT) as a mandatory RPM for all new gTLDs. In [the IRT Final Report](#), the IRT stated that "Therefore, the IRT recommends that ICANN Organization implement the URS, which would be mandatory for all new generic Top Level Domain (gTLDs), implemented through the new gTLD Registry Agreements, which would in turn bind registrars supplying new gTLDs to the marketplace."

Although the URS was developed through the process described above, including public review and discussion in the GNSO, it has not been adopted as a consensus policy and ICANN Organization has no ability to make it mandatory for any gTLDs other than those subject to the base new gTLD Registry Agreement. Accordingly, ICANN has not moved to make the URS mandatory for any legacy gTLD. In the case of the proposed renewal of the .NET Registry Agreement, as well as other legacy gTLD, there is nothing restricting Registry Operators from imposing additional rights protection mechanisms, such as the URS, in other ways, such as through the Registry Services Evaluation Policy (RSEP) process.

### **5. Negotiation process for the proposed renewal of the .NET Registry Agreement and legacy gTLD Registry Agreement negotiations in general – Analysis of Comments**

ICANN organization acknowledges the comments expressing concern over renewal negotiations taking place in a non-transparent manner and how the proposed renewal was arrived at. It should be noted that all registry operators have the ability to negotiate the terms of their Registry Agreement with ICANN, which inherently means discussions are between the two contracted parties – ICANN organization and the applicable Registry Operator. The proposed renewal of the .NET Registry Agreement is the result of this established process. Similarly, registry operators for both new gTLDs and legacy gTLDs may avail themselves of the process. The process itself is straightforward. ICANN organization and the registry operator engage to discuss whether to renew the agreement in its current form or transition all or part of it to the New gTLD base Registry Agreement. Once the parties agree on the form of agreement, a draft renewal is produced by ICANN for the review and comment of the registry operator. Once both parties agree on the terms of the proposed renewal Registry Agreement, ICANN organization invites the community to comment on the agreement, through the public comment

process, in order to collect valuable community input before proceeding.

## **6. Other – Analysis of Comments**

ICANN acknowledges the comments concerning the International Domain Names (“IDN’s”) and release of single character .NET domain names. With regard to IDN’s, ICANN organization works with registry operators to facilitate the release and management of IDN’s per the guidelines written in the IDN registration policies. It is not within ICANN organization’s purview to dictate the release of those names by the registry operator as long as the activities stay within the guidelines of the consensus policy. This release or use of IDN’s is not a negotiable provision in the .NET Registry Agreement Renewal process. As for the release of single character .NET domain names this would be managed via an RSEP and not the Registry Agreement Renewal process.

ICANN organization further acknowledges the comments concerning Whois privacy. Policy relating to Whois and privacy is developed via a multi-stakeholder bottoms-up consensus process and ICANN encourages all community members to participate in the active Policy Development Process regarding Whois.

ICANN organization also acknowledges the comment concerning abuse and the use of domain names for nefarious purposes. This is not an issue ICANN takes lightly. ICANN acts as an administrator of contractual arrangements. ICANN organization cannot unilaterally impose guidelines or requirements on registries, registrars or other stakeholders in a top-down manner. For anything unlawful, we rely on courts and governmental regulatory authorities to police illegal activity.

As an organization, ICANN does not require registries to regulate web content, but some registries have voluntarily promised the community that they would do so and have asked ICANN to make these commitments enforceable via the Registry Agreement. ICANN is cognizant of the seriousness of this issue, which is why we have been working closely, and will continue to work, with the public safety community, including law enforcement, to ensure that they understand and make correct use of policies and processes for new and legacy Registry Operators.

**Next Steps:** Following the completion of the public comment process, the proposed renewal of the .NET Registry Agreement will be considered by ICANN’s Board of Directors.