



Retail Council of Canada

1255 Bay Street, Suite 800

Toronto, Ontario M5R 2A9

Telephone (416) 922-6678 Fax (416) 922-8011

www.retailcouncil.org

February 15, 2013

Dr. Steve Crocker, Chairman of the Board
Ms. Fadi Chehadé, President & CEO
Mr. Cherine Chalaby, Chair of the New gTLD Committee
Ms. Karen Lentz, Manager, Business, Research & Content
Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Dear Dr. Crocker, Ms. Chehadé, Mr. Chalaby, and Ms. Lentz:

Re: Objection to closed gTLDs for important industry terms

The Retail Council of Canada (RCC) is a not-for-profit, industry-funded association representing more than 45,000 store fronts of all retail formats across Canada, including department, specialty, discount, and independent stores, and online merchants. RCC has been the voice of retail in Canada since 1963. RCC is a strong advocate for retailing in Canada and works with all levels of government and other stakeholders to enhance consumer choice and industry competitiveness. More information about the RCC can be found on its website at retailcouncil.org.

RCC has recently become aware that applications have been filed for generic top-level domains (gTLDs) that comprise important industry terms, and that are intended for use on a restricted or closed basis. For example, Amazon has applied for closed gTLD strings that are important to the entire retail industry (e.g. .buy, .shop, .save, .deal and .coupon), or to segments of the retail industry such as book sellers (e.g. .book, .author and .read). Given its mandate, RCC believes that these gTLD strings should be open and unrestricted since generic words used in a generic way belong to everyone.

RCC also believes that competition will suffer if gTLDs that comprise important industry terms are granted. In particular, important pathways between retailers and online customers will be unavailable to competitors, and the registry operator will gain an unfair advantage in direct navigation and online search. It will also effectively gain exclusive rights to be associated with the kind of products or services they offer, which is something that could not be achieved through trade mark laws in Canada.

For example, Amazon's publishing and distribution rights, combined with its marketing strengths, empower it to make .book, .read, and other gTLDs a success and the key internet destinations and search engine for books. This would put Amazon's competitors at a disadvantage. No other member of the book industry would benefit from such gTLDs.

Nor will consumers benefit from the delegation of generic closed gTLDs, since they will be presented with limited choice (namely, the offerings of only one competitor). Consumers may also may be confused, since some gTLDs will be open and others closed.

If an independent party holds the rights over such gTLDs, and provides non-exclusive access through licensing or other arrangements, there is little reason for concern. Such an alternative would encourage competition by allowing a wide range of parties to access gTLDs that are based on common, descriptive terms, rather than allowing one dominant retailer to exclusively control such gTLDs. Registrations would be made on a first-come, first-served basis, subject to a sunrise period for trade mark holders.

Finally, once closed gTLDs are delegated, it would likely be very difficult if not impossible to reverse such grants in the future. Further, the registry operator would be able to control gTLDs delegated to it perpetually and thereby be able to prevent others from operating a similar gTLD in the future (based on string confusion).

RCC is concerned that the delegation of such gTLDs may violate ICANN's by-laws and the New gTLD Registry Operator Code of Conduct. It is RCC's understanding that the exemption that permits closed gTLDs was intended for brand TLDs, not generic words that are common industry terms. We also understand that ICANN's core values include promoting competition in the registration of domain names.

In short, RCC considers the delegation of closed gTLDs for generic industry terms (such as .book) to be a threat to the openness and freedom of the internet. We urge ICANN to intervene to prevent the delegation of closed gTLDs for common industry terms, and we have copied Industry Canada with the hope that it will intervene through the Government Advisory Committee.

Yours truly,



Dave Wilkes
Senior VP, Government Relations & Grocery Division
Retail Council of Canada
1255 Bay Street, Suite 800
Toronto ON M5R 2A9
(416) 922 - 0553, ext. 251

cc:

Heather Dryden
Chair of ICANN's Governmental Advisory Committee
Senior Policy Advisor, Industry Canada
International Telecommunications Policy and Coordination
235 Queen Street
Ottawa, Ontario K1A 0H5

Jim MacKenzie
Senior Policy Advisor
Industry Canada
International Telecommunications Policy and Coordination
235 Queen Street
Ottawa, Ontario K1A 0H5