

February 22, 2007

Dear Mr. Twomey,

We are writing to you regarding the proposed .mobi fee structure amendment posted on the ICANN website. We kindly request the ICANN Board to consider the issues raised here below prior to voting on this issue.

(1) Fee structure parity was never an issue during sTLD negotiations

As you are aware, each applicant in the last sTLD round requested a top level domain that addressed the specific needs of a well defined community. Each applicant independently and freely negotiated its fee structure, with the advice of sophisticated lawyers, to meet its business requirements. As an end result, all applicants negotiated an outcome for their fee structure that was most appropriate for their respective community. No standard fee structure was imposed by ICANN.

Today, the ICANN website states that the ICANN Board is considering an amendment to rectify an "apparent disparity between fees in the .MOBI and the... .TEL agreements."

During Telnic's contract negotiations, there were no discussions with ICANN regarding the need to have similar fee structures between .tel and .mobi nor any other sTLD in that round. In fact, Telnic proposed a variable fee structure because it did not believe that .mobi's fixed fee structure was applicable to .tel, given the significant differences between these two top level domains.

A careful review of the .mobi and .tel proposals indicates that they are, in fact, very different sTLDs. Most notably, .mobi's community is composed of small screen content providers, while .tel's community is composed of individuals and organizations that wish to use the DNS to publish contact information to enable person-to-person communication. Among many other differences between these sTLDs are:

- Intended use – .mobi is intended for web sites and other traditional uses of the DNS, while .tel is intended to allow storage of contact information and may not be used for web sites.
- Data type – .mobi uses standard A records as used in other TLDs, while .tel uses NAPTR records only.
- Numeric only strings – .mobi is permitted to sell names with all numeric strings, while .tel is not permitted to do so.

Seeking fee structure parity between sTLDs without taking into account the requirements of their communities is, we believe, a misguided principle.

However, if specific community requirements of sTLDs are, in fact, irrelevant, why doesn't ICANN implement a standard fee structure across all sTLDs? Why limit the parity of fee structure to .tel and .mobi?

(2) Approving this amendment will set a dangerous precedent

We do not believe it prudent for the ICANN Board to permit a registry operator to execute a contract and at some later date determine that it prefers certain terms given to another registry operator.

There are terms that Telnic did not get in its contract but that .mobi did, such as being allowed to sell all-numeric strings, and there may be terms in other agreements that Telnic or other registry operators might want to add to their contracts.

By approving this amendment, the Board may create a precedent that will require it to entertain continuing requests for amendments from other operators seeking similar parities at any time during their operations.

If this is the case, is ICANN prepared to allow .tel to sell numeric-only strings as permitted under the .mobi agreement?

(3) Notwithstanding the above, setting a cap of \$0.75 per domain contradicts the stated objective of establishing fee structure parity between .tel and .mobi

We understand from the ICANN website that the proposed amendment is intended to provide .mobi with the same fee structure that applies to .tel. Under .mobi's existing agreement, .mobi pays a flat fee of \$0.75 cents per name, whereas .tel's fee structure provides for a variable fee that increases based on the price charged per name.

.Mobi is seeking to adopt .tel's fee structure, but also include a \$0.75 per name cap on the fee that is payable to ICANN. Telnic does not have such a cap. Under .tel's agreement with ICANN, if .tel were to charge more than \$15 per domain name, it would have to pay ICANN more than \$0.75 per name. Under this amendment, .mobi's fee would never exceed \$0.75 per name, regardless of the price charged per .mobi domain. Instead of creating equal terms between the parties (ICANN's stated objective), this amendment, without a simultaneous amendment to the .tel agreement, would simply have the opposite effect.

Is the ICANN Board prepared to simultaneously cap Telnic's fee at \$0.75 per .tel domain name, as offered to .mobi, in order to ensure the stated objective of establishing fee structure parity between .mobi and .tel?

(4) The timing of this amendment appears questionable

.Mobi has been operating under its current fee structure for some time. It remains unclear why .mobi did not alter its fixed fee structure back in April 2006 when ICANN offered to consider revising its agreement prior to commencement of .mobi operations.

Telnic's existing contract calls for a fee to ICANN of 5% of the price it charges for a domain name, including Sunrise and Landrush domain registrations. Therefore, had .mobi adopted .tel's pricing structure prior to its launch (as ICANN said it was willing to consider), it would have paid significantly more per domain name registration than the \$0.75 it actually paid on these more expensive Sunrise, Landrush and Premium Name domain registrations.

In the event that .tel domains are not capped at \$0.75 per domain, is .mobi willing to pay 5% on all Sunrise, Landrush and Premium Name domain registrations retroactively to achieve the same fee structure parity as .tel?

In conclusion, for all the above mentioned reasons, Telnic believes that the proposed .mobi amendment should not be approved. However, if the ICANN Board does approve this amendment on the basis that fee structure parity between .tel and .mobi needs to be established, then we are kindly requesting that the same cap of \$0.75 per domain should equally apply to Telnic.

We thank you for your careful consideration of these issues and would be happy to discuss any of the foregoing with you or the Board at your convenience.

Yours sincerely,

K. Mahdavi
CEO
Telnic Limited