

May 15, 2009

Peter Dengate Thrush
Chairman, ICANN Board of Directors

Dear Peter,

On behalf of Network Solutions and Central Registry Solutions, I would like to respond to the letter from Alexa Raad dated May 5, 2009 on behalf of PIR, NeuStar and Afilias (the "Incumbent Registries"). Having just seen the letter yesterday and knowing that you are discussing this matter tomorrow, I am constrained to limit this response as follows. I am available at your convenience to discuss these issues in more depth.

The Incumbent Registries advocate for a market that limits their competition by restricting new competitors from entering. Therefore, their arguments are completely self-serving and anti-competitive. Not only do they argue that registrars or registrar affiliates should not be permitted to be Registry Operators (the entities that have contracts with ICANN), they also go so far to argue that registrar or registrar affiliates shouldn't even be permitted to supply Registry Operators with back-end registry services. In their protectionist letter, they seek to constrain the supplier model for New TLDs and thus merely advance their narrow self-interest at the expense of competition. Unfortunately, they choose to do so via unsupported factual allegations, blanket statements, and innuendo.

Registry Competition is ICANN's Stated Goal for Introducing New TLDs

Promoting competition in the provision of registry services is a stated principle for the introduction of New TLDs. ICANN states that "one of its foundational principles has been to promote competition in the domain-name marketplace while ensuring Internet security and stability. The [New TLD] expansion will allow for more innovation, choice and change to the Internet's addressing system, now constrained by only 21 generic top-level domain names."¹ ICANN has achieved significant competition in the registrar space, and is now trying to increase competition at the registry level. It is this promotion of competition at the registry level that caused the Incumbent Registries to "circle the wagons" and to send its letter.

ICANN's Proposed Safeguards are Appropriate

We support ICANN's position on these issues in the Draft Applicant Guidebook (v.2). It strikes the right balance between protecting the marketplace and addressing long-standing market demands by bringing additional needed competition to the market for registry services. ICANN's proposal would encourage competition in a fair and responsible manner by including the following market protections for New TLDs:

- Registry Operators must distribute through ICANN-accredited registrars, which are bound by the terms and protections of the Registrar Accreditation Agreement;

¹ See <http://www.icann.org/en/topics/new-gtld-program.htm>.

- Registry Operators themselves could not sell registration services directly to consumers (i.e. there should be structural separation between the registry and registrar functions);
- Registry Operators may distribute through affiliated registrars, but not after the size of the registry exceeds 100,000 names, thereby permitting smaller Registry Operators to ensure that their names would be distributed by registrars; and
- Registry Operators may not discriminate among registrars.

The CRAI Report Supports Competition

As noted in the CRAI Report, “additional competition in the registry and registrar functions could help reduce prices and better support the continued development of the public internet.” The CRAI experts also noted that “economic theory and practical experience in many other industries have shown that *mandating* ownership separation can sometimes hinder, rather than foster, effective market competition,” (emphasis original) and that “the experimentation and innovation that often result when firms are free to operate without vertical restrictions can produce significant benefits for consumers.”²

Registry Operators are Different than Back-End Registry Services Providers

Based on their own self interest, the Incumbent Registries seek to limit their competition for Back-End Registry Services by asserting that registrars or their affiliates shouldn't be permitted to provide Registry Operators with technical services. Cross ownership rules between Registry Operators and registrars should not be extended to Back-End Registry Services Providers because:

- The Back-End Registry Service Provider offers technical services to a Registry Operator through a contractual relationship;
- It is the Registry Operator and not its suppliers that have the agreement with ICANN;
- Registry Operators are the parties responsible for pricing and policy-making for the TLD;
- Back-End Registry Service Providers would not be incented to discriminate against any registrar(s) because they want to see as many registrars as possible distribute the names in the relevant extensions; and
- As a practical matter, relevant contractual terms from the ICANN registry agreements would “flow through” to the Back-End Registry Service Provider because the Registry Operator would not want or permit its suppliers to act in ways that are not compliant with such agreements.

² CRA International, “[Revisiting Vertical Separation of Registries and Registrars](#),” October 24, 2008.

Existing Market Realities Uphold Competition and Highlight the Incumbent Registries' Hypocrisy

The current marketplace has numerous examples of registrars or their affiliates owning or providing services to Registry Operators without **any** allegations of discrimination. These include:

- The Registry Operator for the .pro registry is an affiliate of a registrar that distributes the domain name³;
- CORE, an ICANN-accredited registrar, provides both registrar services as well as Back-End Registry Services for the .cat and .museum Registry Operators⁴;
- For .coop, an ICANN accredited registrar provides Back-End Registry Services to the Registry Operator and also sells the extension as a registrar⁵; and
- Indeed, an Afilias and GoDaddy partnership operates the .me registry⁶ and also applied to operate the .us registry⁷, and it has been reported that NeuStar joined with a registrar to bid on the .me registry.⁸

It is entirely hypocritical that Afilias and Neustar assert here that such arrangements now are inappropriate and harm competition, when they both are involved in or have proposed partnerships in which partner registrars distribute domain names in registries supported by Back-End Registry Operators affiliated with such registrars. It appears that such competition only is "ok" when they do it.

Central Registry Solutions Partnership Improves Competition

Central Registry Solutions is a partnership between Network Solutions and CentralNIC, the registry operator for the .la ccTLD and other third level names. Our intention is to provide Registry Operators with a world-class registry, distribution through at least Network Solutions, distribution through other registrars, as well as other value-added services. CRS will provide our services in a non-discriminatory manner because we are incented to do so and the Registry Operator market would demand nothing less. Our partnership and product set is in the end-user consumer interest and in the interest of potential Registry Operators. Limiting the choice of Registry Operators to select from whom they want to receive services is in the interest of neither consumers nor potential Registry Operators.

If the restrictions on competition offered by the Incumbent Registries are adopted, registrars or their affiliates would not be permitted to provide Back-End Registry Services, but the Incumbent Registries would be able to provide distribution services through marketing arrangements with unaffiliated registrars – effectively creating the same type of Registry/Registrar relationship that the Incumbent Registries deem to be "anti-competitive."

³ See "[Hostway to Acquire RegistryPRO](#)" and "[Hostway Completes Merger with NetNation](#)."

⁴ See "[CORE TLD Registry Back-End Solutions](#)."

⁵ See "[About .coop](#)" and [The Midcounties Co-Operative Ltd.](#)

⁶ ".ME – It's All About You," [Go Daddy in the News](#), January 18, 2008.

⁷ "GoDaddy and Afilias Created Joint Venture in Order to Bid for .us TLD," [Domain Name News](#), July 31, 2007.

⁸ See <http://blog.jothan.com/icann/domainname/industry/registry/icann/cctlds/>.

The Incumbent Registries inappropriately are trying to prevent the emergence of competitors to the Back-End Registry Services market and create confusion in the marketplace in order to secure an unfair competitive advantage either permanently or at least during current business development activities.

Best regards,

Jonathon L. Nevett
Senior Vice President