

# Staff Report of Public Comment Proceeding

Proposed .info Renewal Registry Agreement			
<b>Publication Date:</b>	3 June 2019		
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<b>Public Comment Proceeding</b>		<b>Important Information Links</b>	
Open Date:	18 March 2019		
Close Date:	29 April 2019		
Staff Report Due Date:	13 May 2019 3 June 2019 (extended)		
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<b>Section I: General Overview and Next Steps</b>			
<b>General Overview</b>			
<p>ICANN organization posted for public comment the proposed agreement for the renewal of the .info Registry Agreement, which expires on 30 June 2019. The proposed .info Registry Agreement is the result of discussion and agreement between ICANN and Afilias Limited – the Registry Operator for the .info top-level domain (TLD).</p> <p>The proposed .info Registry Agreement is based on the current .info Registry Agreement and incorporates various terms of the approved Base gTLD Registry Agreement modified for a legacy Top-Level Domain (TLD). The proposed changes to the .info Registry Agreement are similar to those made in several recently renewed “legacy” gTLD agreements, namely .cat, .jobs, .mobi, .pro, .tel and .travel.</p> <p>ICANN org posted the proposed renewal of the .info Registry Agreement for public comment from 18 March 2019 through 29 April 2019. ICANN received over 500 submissions during the public comment period.</p>			
<b>Next Steps</b>			
<p>ICANN org will consider the public comments received and, in consultation with the ICANN Board of Directors, make a decision regarding the proposed registry agreement.</p>			

## Section II: Contributors

At the time this report was prepared, a total of five-hundred and fourteen (514) community submissions had been posted to the forum. Due to the large number of comments received, not all contributors are identified by name in this report. Contributors consisted of small businesses, individual registrants, and various community stakeholders and groups. Below is a sampling of organizations and groups that submitted comments, as well as a list of individual contributors whose submissions are quoted in this report. A complete list of the contributors and comments can be found at the [View Comments Submitted](#) link. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor by their initials as indicated in the below tables.

### Organizations and Groups:

<b>Name</b>	<b>Submitted by</b>	<b>Initials</b>
Internet Commerce Association	Zak Muscovitch	ICA
ICANN Business Constituency	Steve DelBianco	BC
Infrared Cameras Inc	Merissa Kelly	ICI
Intellectual Property Constituency	Brian Scarpelli	IPC
Internet Domain Owners Association	Matt Hooker	IDOA
International Trademark Association	Lori Schulman	INTA
BTW Design Inc.	Becky Ward	BTWD
Registrar Stakeholder Group	Zoe Bonython	RrSG
Tucows Inc.	Graeme Bunton	TC
ICANN At-Large Advisory Committee	Submitted by ICANN Policy Staff in support of the At-Large Community	ALAC
Summit Solutions Ltd	Brian Stein	SSL
Strategic Investment Management Ltd. Corporate	Matt Hooker	SIM
Leap of Faith Financial Services Inc.	George Kirikos	LFFS

### Quoted Individuals:

<b>Name</b>	<b>Affiliation (if provided)</b>	<b>Initials</b>
Brian Stein	Summit Solutions Ltd.	BS
Paul Tattersfield	GPM Group	PT
Charles (Chuck) Hagelgans	NA	CH
Michael Neuffer	NA	MN
Shane Bill	NA	SB
A submission from AT Domain Admin	Anonymous Contributor	ATDA
Daniel Feenberg	National Bureau of Economic Research	DF
Martin Houlden	NA	MH
Dan Carew	NA	DC
Rios Wendell	NA	RW
George Kirikos	Leap of Faith Financial Services Inc.	GK
Steven Sun	NA	SS

### Section III: Summary 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 in the “Important Information Links” section (View Comments Submitted). Comments received after the closing date of 29 April 2019, may not have been included in the summary and analysis of this report.*

ICANN org received over 500 comments concerning the proposed renewal of the .info Registry Agreement. ICANN org appreciates the considerable amount of participation in this proceeding and is grateful to those who provided their feedback and suggestions.

Given the amount of feedback received, it is not practical to capture every comment or theme of agreement, opposition or new ideas. As such, this public comment summary and analysis only identifies areas with a substantial number of similar comments and excludes comments unrelated to the proposed renewal.

A complete list of the public comments received can be found via the [View Comments Submitted](#) link.

Comments submitted generally relate to the following themes: (i) removal of the price cap provision, (ii) inclusion of Rights Protection Mechanisms (RPMs), and (iii) the registry agreement renewal process.

#### **The Removal of the Price Cap Provision**

A primary concern voiced in the comments was with respect to the proposed removal of the price cap provisions. This provision in the current .info registry agreement limits the wholesale price of domain name registrations and the allowable price increases for domain name registrations by the registry operator to the registrars. Commenters with this concern largely consisted of individual registrants, registrants writing on behalf of small businesses and informational sites, and organizations who serve the interest of registrants.

Commenters provided a variety of reasons for concern about the price cap provision removal. Many commenters indicated the existing pricing protections should remain in part because they believed legacy TLDs are unique and should be treated differently than new gTLDs. They expressed that legacy TLDs, such as .info, are viewed as a public trust and should be protected and managed as such.

*“The logic to run older top level domains should be the same as those running new top level domain names is flawed. There is a long history of the legacy top level domains and how the contracts to the registries were awarded. With the new top level domains, companies risked their own money to introduce the new domains. The registries running .info & .org are merely stewards for what should be considered a resource to the web. As an early adopter of the .info domain and holder of some .info domain names dating back to 2002, ICANN must come to the realization that price cap provisions in the current .info agreement must not change going forward.” – BS*

In addition to its history as a legacy TLD, commenters noted that the .info TLD is also unique in that .info was developed, and over time has been established internationally, as catering to trade and the dissemination of business-related information for smaller businesses.

*“The .info TLD is a legacy TLD recognised internationally for trade and business related information, and an essential commodity for small businesses trying to break into international markets with the strong local content focus of search [engines]. Country TLDs merely limit business opportunities to local markets via the most prominent search [engines], while alternative international TLDs are often taken or prohibitively expensive.” – ATDA*

Furthermore, commenters indicated that with legacy gTLDs, organizations and individuals who have historically registered domain names did so under the assumption that prices would not suddenly increase. There was also a concern that without price controls, prices to renew domain names could become prohibitively expensive, raising the barrier to entry for individuals and small entities and leading to a negative impact on the .info TLD registrants. Commenters also brought up the burden and costs associated with moving their web presence to another TLD, which could potentially be capitalized on by the registry operator with higher renewal prices without a price cap.

*“I use a .info domain for personal use. One primary reason I chose .info was because it was affordable and would remain as such. Please do not permit the .info TLD to allow large price increases, at least not for existing customer. Identities are built on domain names, and many would be hurt if they had to change their domain or face price extortion.” – DC*

*“This is quite simply because domains are not substitutable. The disruption cost to move to an alternative far outweighs the cost to provide the service, so rather than creating the required competition ICANN is simply creating a series of non-competing private monopolies and the removal of prices caps will simply compound this policy failure.” – PT*

Additionally, commenters expressed their perception that the .info TLD’s registry operator is inherently positioned as a monopoly, and because of this environment, consumers require regulatory pricing protections.

*“I am opposed to the removal of the INFO domain name price cap. ICANN grants Afiliis Limited a \*de facto\* monopoly on domain names. ICANN therefore has a public responsibility to impose limits of the use of that monopoly. ICANN’s abrogating of that responsibility would give Afiliis Limited free rein to charge any amount they wished... Please do not create another unlimited monopoly by removing the INFO domain name price cap.” – CH*

Commenters also conveyed their concern that ICANN org is only acting in the interest of contracted parties by removing the price cap provision. Some suggested that ICANN org may also be benefitting financially from the removal of the price cap provision.

*“ICANN needs to decide if it wishes to be a bottom-up consensus driven governance organization or simply a trade organization looking after its own contracted parties from which it derives its own revenue... Whilst this approach has provided substantial*

*benefits for ICANN[']s contracted parties this approach has provided very few tangible consumer benefits.” – PT*

*“The proposed removal of the caps on the gTLDs (biz/info/org) would only drive up prices for all users and line the pockets of ICANN and the owners of the privatized registries while ignoring the long history of those TLDs. The gTLDs are [our] common resource the current registries are just their Stewards.” – MN*

Commenters also expressed concerns about how the removal of the price cap provision would potentially impact international registrants and communities from developing and underdeveloped regions.

*“I would be concerned that ICANN is going to open up .org, .info, and .biz into a realm of no price restrictions. This could have massive impacts on organizations, small businesses, and other groups who are trying to get online and start out. I’m even thinking beyond first-world countries, and thinking towards third-world or others who may not have the same income level or accessibility.” – SB*

*“Being a small business owner in Brazil is already hard enough. I provide an .info domain for historic reasons, since at the time we’re unable to purchase the related .com domain. The business is still small and we have no venture capitalists backing it. Besides that our currency market value is ¼ of U\$.” – RW*

Commenters questioned whether ICANN org had conducted any research or commissioned an economic study of the potential market implications of removing the current price cap provision.

*“I [can’t] find any justification or reasoning behind the proposal to uncap registry fees. Without such material, how can interested parties make comments that are relevant to the proposal? Hence I must oppose the proposal as without merit.” – DF*

Comments in favor of the removal of the price cap provision in the .info Registry Agreement cited the belief that removing price restrictions would lead to a reduction in domain name squatting. They also indicated that ICANN org is not and should not be a price regulator.

*“I think this is a good idea. Something needs to be done to stop Domain name squatters sitting on good names for years and demanding outrageous sums for their release and sale. Vastly increasing the prices of domains would go a long way to stopping this practice.” – MH*

*“Given the BC’s established position that ICANN should not be a price regulator, and considering that .ORG and .INFO are adopting RPMs and other registrant provisions we favor, the BC supports broader implementation of the Base Registry Agreement, including the removal of price controls.” – BC*

### **The Inclusion of Rights Protection Mechanisms (RPMs) in legacy gTLDs**

Commenters including registrants and organizations who advocate on behalf of registrants expressed concern over the addition of RPMs, including Uniform Rapid Suspension (URS),

into legacy gTLD registry agreements on various grounds. Those who were opposed to including the RPMs pointed out that RPMs are not consensus policy for legacy gTLDs, and they believed that incorporating RPMs into legacy gTLD registry agreements should be halted until the RPM working group completes its review of the RPMs and comes to its final recommendations. These commenters also expressed the concern that ICANN org is setting substantive policy for gTLDs by adopting elements of the Base gTLD Registry Agreement into amended and renewed registry agreements for legacy gTLDs.

*“Given that the RPM PDP of the GNSO is actively reviewing the URS, including determining whether or not it should be a consensus policy, no steps should be taken by ICANN staff and/or the registry operators to unilaterally impose it upon registrants. Indeed, there are numerous proposals to actively change the URS (including a proposal to explicitly eliminate it)... Such flawed RPMs whose creation was rushed before the launch of new gTLDs, and which are tilted in favour of large multinational companies, need to be reviewed and corrected before they are ever adopted for legacy gTLDs like .com/net/org.” – GK*

Commenters in favor of the adoption of enhanced rights protection mechanisms in the .info Registry Agreement renewal proposal were encouraged that Afilias Limited elected to include the provisions.

*“INTA is encouraged to see that ICANN and Afilias Limited used the new RA as a basis for their negotiations for the renewal of the .INFO registry agreement. Obviously, there are parts of the New RA that are simply inapposite for a legacy gTLD like .INFO. For example, it makes sense that the .INFO registry agreement would not include those provisions from the New RA that were developed for as-yet-to-be-launched gTLDs, and don't apply for a gTLD that has been in operation for some time. That distinction does not hold equally true for other provisions from the New RA such as the Uniform Rapid Suspension (URS) policy from Specification 7 § 2(b), or the Public Interest Commitments (PICs) from Specification 11 §§ 3(a) and (b) which are as beneficial for protecting consumers in new gTLDs as in legacy TLDs. INTA is pleased to see that the new tools that have been developed to help protect consumers and help to preserve the security, stability, and resiliency of the DNS will be employed by .INFO. Moreover, the URS and Spec. 11 PICs carry important substantive benefits in this context because they carry the added procedural benefit of consistency.” – INTA*

### **The Registry Agreement Renewal Process**

Another concern raised by commenters was the process ICANN org has followed to renew legacy registry agreements. Specifically, commenters suggested that a competitive registry operator bidding process should be instated in place of presumptive renewal of the agreement.

*“ICANN should actively seeking new providers who can lower the cost of the .info domain names and award the agreement to a winning bidder, for the public's benefit. An open, fair and competitive process should be taken to procure the .info domain name operator before renewing any agreement.” – SS*

## 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.*

As the .info Registry Agreement neared its expiration, ICANN org followed the established practice of offering the Registry Operator the option of migrating to the Base gTLD Registry Agreement for the legacy gTLD. Recent legacy gTLDs that renewed according to the Base gTLD Registry Agreement include .cat, .jobs, .mobi, .pro, .tel and .travel. ICANN org migrates legacy TLDs to the Base gTLD Registry Agreement as it provides additional safeguards and security and stability requirements which are more robust than what exists in legacy agreements. Additionally, the Base gTLD Registry Agreement lays the framework for consistency for registries, registrars and registrants, and provides for operational efficiencies for ICANN org.

### **The Removal of the Price Cap Provision**

The Base gTLD Registry Agreement does not include the price cap provisions which are in the current .info agreement. The price controls for .info have been in place since the inception of its ICANN org contract, when the domain name market consisted only of a handful of top-level domains. There are now over 1200 generic top-level domains available, and all but a few adhere to a standard contract that does not contain price regulation. Removing the price cap provisions in the .info Registry Agreement is consistent with the Core Values of ICANN org as enumerated in the Bylaws approved by the ICANN community. These values guide ICANN org to introduce and promote competition in the registration of domain names and, where feasible and appropriate, depend upon market mechanisms to promote and sustain a competitive environment in the DNS market.

Aligning with the Base gTLD Registry Agreement would also afford protections to existing registrants. The registry operator must provide six months' notice to registrars for price changes and enable registrants to renew for up to 10 years prior to the change taking effect, thus enabling a registrant to lock in current prices for up to 10 years in advance of a pricing change. Enacting this change will not only allow the .info renewal agreement to conform to the Base gTLD Registry Agreement, but also takes into consideration the maturation of the domain name market and the goal of treating the Registry Operator equitably with registry operators of new gTLDs and other legacy gTLDs utilizing the Base gTLD Registry Agreement.

ICANN org will consider the feedback from the community on this issue

### **Registry Fees**

ICANN org would also like to clarify a few points raised in the comment forum. The registry fees paid to ICANN org are not directly tied to the domain name registration price. The proposed registry fees include a fixed amount of US\$6,250.00 per calendar quarter and a fixed transaction fee of US\$0.25 multiplied by the number of annual increments of an initial or renewal domain name registration without regard to the specific pricing of .info domain name registrations.

## **The Inclusion of Rights Protection Mechanisms (RPMs) in legacy gTLDs**

In the case of the proposed renewal of the .info Registry Agreement, as well as other legacy gTLD registry agreement renewals (namely, cat, .jobs, .mobi, .pro, .tel, and .travel) inclusion of the URS was agreed to via bilateral negotiations between the applicable Registry Operator and ICANN org. ICANN org has not moved to make the URS mandatory for any legacy gTLD. Additionally, there is nothing restricting registry operators from imposing additional RPMs in other ways.

## **The Registry Agreement Renewal Process**

In the registry agreement renewal process, negotiations are initiated between the two contracted parties. ICANN org and the registry operator engage in renewal discussions, where both parties consider whether to renew the agreement in its current form or transition all or part of it to the Base gTLD Registry Agreement. Once the parties are in alignment on the form of agreement, a draft renewal agreement is produced by ICANN org for the review and comment of the registry operator. After both parties agree on the terms of the proposed renewal registry agreement, ICANN org invites the community to comment on the agreement, through the public comment process, in order to collect valuable community input before proceeding. The proposed renewal of the .info Registry Agreement is a result of this established process. The Base gTLD Registry Agreement, which the proposed .info Registry Agreement renewal is proposed to align with, was developed with substantial community input via the open and transparent multi-stakeholder approach.

## **Next Steps**

ICANN org will consider the public comments received and, in consultation with the ICANN Board of Directors, make a decision regarding the proposed registry agreement.