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INTA Internet Committee Comments
Benchmarking of Registry Operations
April 01, 2010

The Internet Committee of the International Trademark Association (INTA) is pleased to provide the following comments on the KPMG study commissioned by ICANN on the Benchmarking of Registry Operations as pertaining to the new gTLD program, published by ICANN on February 15, 2010 (http://www.icann.org/en/topics/new-gtlds/benchmarking-report-15feb10-en.pdf).

I. Process Concerns

As of the April 1 due date of this submission, ICANN has issued nineteen separate topics for public comment, with nine topics closing for comment on the same day. This overload of information, especially under the short deadlines, has significantly curtailed the public's ability to provide meaningful evaluation and input on the issues under consideration. The Committee continues to strongly encourage ICANN to reassess and restructure its public comment process to enable it to adequately consult the public as it is required to under the Affirmation of Commitments.

II. Introduction

While the Committee appreciates that there was some value in conducting such a study, we believe that the value of the survey would have been far greater if: (1) a larger sample had been used; (2) the data was more clearly presented; and (3) all relevant information collected had been presented.

In addition, we are concerned that the caution regarding extrapolating or drawing conclusions from the study does not appear until page 3 of the executive summary and that, prior to that point, the summary speaks of "findings" and does, in fact, appear to draw conclusions based on admittedly unscientific data.

Finally, the study posits that running a small registry, which most new gTLD registries are likely to be, will cost a higher annual dollar amount than previously stated. If a registry is not adequately funded, it could put the integrity and security of the Internet at risk. It may also have negative implications for brand owners, who lost out on the initial opportunity to obtain their relevant ".brand" TLD because it was awarded to another entity that ultimately could not properly run the TLD. Or it may impact a brand owner who was granted the opportunity, but did not budget enough funds to adequately operate it. We recommend that ICANN consider spending more time to determine the likely costs involved in running a small registry, and once determined, integrate these improved estimates into the application process, both to educate potential applicants as to what is required, as well as to ensure the selection process adequately takes into account the required funding.

Study Results

 The effectiveness of the study would have been greater if a larger and more diverse sample had been used, as well having more data clearly presented. For example, in the survey, KPMG asked the following questions, but did not provide clear answers in the results:

- How many total registrations do you have? (This was not shown for the ccTLDs in the survey).

- What is the current annual cost of operating? (Cost information was provided in a large number of different categories without consolidated information, making total cost information difficult to derive).

- If costs were incorrectly forecast, what were the main drivers of the incorrect forecast?

KPMG also did not provide an overall number for the percentage of respondents that outsourced at least one of the following: network and infrastructure; systems design and development; and/or registry administration. The information was again divided into a large number of categories when it would have been helpful to see an aggregate total. This is an important factor in Internet security and integrity, and thus, more definitive numbers would have been valuable.

In addition, other data indicates that demand for registrations within the new gTLD extensions may not be as high as originally projected. The survey indicates that registration volumes for new gTLDs introduced since 2001 were down an average of 83% by the fourth year of registry operations, relative to their projections (as stated in their original registry applications). Also, a number of the extensions discussed in the report had peak monthly registrations that were quite low; for example, .museum peaked at 554 and .aero peaked at 6707. It would have been more helpful for KPMG to ask for and publish the average monthly registrations, and total overall registrations, rather than the peak. It is unclear why the survey would ask only for the peak number.

The Committee is particularly concerned about the apparent finding of a "strong correlation between [the] relative first month registration volumes and the ultimate peak volume for the most recently observed peak," noted on page 1 of the executive summary. To us, this points to the initial high volume of registrations that has accompanied the introduction of many of the new gTLDs in the past. Many of these registrations may be completed by third parties (non-trademark owners) whose registrations infringe our members' trademarks and harm consumers. Correspondingly, the introduction of new gTLDs may cause trademark owners to register numerous names solely for defensive purposes, at a high cumulative cost to brand owners.

The survey revealed that the costs of keeping a small registry running are much higher than many published estimates, regardless of whether certain functions are outsourced. For example:

- The average registry that does not outsource its back-end has 34 full-time employees, while the average registry that outsources part of its back-end operations still maintains a workforce of 14 full-time employees.

- For small registries (less than 250K registrations), as most new gTLDs are likely to be, the average number of registrations per FTE (full time employee) is 7675

one year after the start of operations and 14,620 after about 5.6 years. For these statistics, the survey did not differentiate between registries that handle the back end in-house versus outsourcing these functions.

- The average annual cost, only related to headcount, was $3.51 million per 100K registrations after one year of operating.

- The average annual capital expenses for registries with less than 250K registrations ranged from $.55 - .69 million, depending on whether or not they outsourced.

- The average annual level of capital expense per 100K registrations for registries with less than 250K registrations ranged from $2.42 – 6.22 million.

In addition, there are risks to the DNS from entities that may choose to run a registry, but may later go bankrupt or cease operations. This is a potential risk with existing registries, and will be a considerable one with the new gTLDs, as well.   Using data from the established registries in the survey, the following is true:

- At the start of operating a registry, 82% of respondents had less than 1 year of reserves, and even today, only 20% of respondents have less than 1 year of reserves.

- Only 27% of respondents identified and contractually engaged a transition services provider.

Conclusion

The Committee appreciates the importance of the goals (establishing benchmarks) sought to be met by the KPMG survey. The study succeeds in raising some important issues to be considered by potential operators of new gTLDs, particularly concerning costs and projected registration volume. However, we advise using caution in trying to extrapolate widespread conclusions from a study of such a limited scope, and recommend that ICANN emphasize that the quantitative data contained within should not be taken as scientific and definitive. Rather, we believe it would be prudent for ICANN to now proceed with a more thorough study that is more representative of the TLD space and looks more closely at answering the issues raised in this study as outlined in these comments.

Thank you for considering our views on these important issues. Should you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio Digangi at: cdigangi@inta.org

About INTA & The Internet Committee

The International Trademark Association (INTA) is a more than 131-year-old global organization with members in over 190 countries. One of INTA's key goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last decade, INTA has served as a leading voice for trademark owners in the development of cyberspace, including as a founding member of ICANN's Intellectual Property Constituency (IPC).

INTA's Internet Committee is a group of over two hundred trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.