



## Donuts Inc. Comments on JAS Study on Mitigating the Risk of DNS Namespace Collisions

Donuts Inc. appreciates the opportunity to comment on the study of namespace collision (also referred to as “NXD”) and thanks JAS Global Advisors for conducting the study on behalf of the ICANN community.

Notwithstanding some exceptions discussed below, Donuts agrees with and supports the JAS recommendations, and encourages their expeditious approval and implementation.

Donuts agrees with the key finding of the JAS report:

*We **do not find** that the addition of new Top Level Domains (TLDs) fundamentally or **significantly increases or changes the risks** associated with DNS namespace collisions. The modalities, risks, and etiologies of the inevitable DNS namespace collisions in new TLD namespaces will resemble the collisions that **already occur routinely** in the other parts of the DNS. The addition of multiple new TLDs over the past decade (generic and country code) has not suggested that new failure modalities might exist; rather, the indication is that the failure modalities are similar in all parts of the DNS namespace. (Emphasis added.)*

As we have previously stated, little to no demonstrable evidence has been presented that predicts collision as an issue of significant concern to Internet users. In fact, the issue was examined long before the most recent raising of potential alarm. As Donuts noted in its August 5, 2013 comment<sup>1</sup>, the timing of the suddenly renewed interest in this purported crisis, following a previous and thorough technical examination of the issue, is certainly suspect. Significant questions regarding the motives of certain parts of the community are appropriate to call into doubt.

Donuts further highlights from the JAS report:

***Over the course of the study, JAS found no evidence to suggest that the security and stability of the global Internet DNS itself is at risk.** (Emphasis added.)*

*We believe the introduction of new TLDs offers an opportunity to educate operators regarding DNS namespace collisions and help find and remedy potential collision related issues that may be present in their systems.*

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<sup>1</sup> <http://forum.icann.org/lists/comments-name-collision-05aug13/pdfrhC2SvYFxp.pdf>

Donuts believes:

- The JAS study, overall, should be implemented soon;
- .CORP, .HOME and .MAIL should not be needlessly precluded from existence;
- The proposed 120-day “controlled interruption” period should be reduced;
- gTLD operators that have executed contracts *prior* to the approval of the JAS plan should be grandfathered—that is, ICANN should honor its contracts with registry operators that include the Alternative Plan right, at an operator’s option, to block proscribed second-level terms as a mitigation strategy. Any contracts signed after the approval of the JAS plan would not include such ability;
- Registries should not be required to pay ICANN fees during the “controlled interruption” period; and
- The name collision issue is creating an uneven competitive landscape.

Donuts supports the expeditious closure of the name collision issue. We believe name collision is not the threat to the Internet’s infrastructure in the manner in which it has been so negatively portrayed. There is no evidence that name collision is a threat either to Internet stability and security or to human life, as namespace collisions happen every day in hundreds of TLDs without harm, and it is an unnecessary burden to force new gTLD registry operators to implement mitigation efforts for a problem that scarcely exists.

The collision issue, portrayed as it is, is a community issue. Accordingly, the full community, *including all registries*, not simply new registry operators, should so address it.

We agree with the JAS recommendation that ICANN maintain a comprehensive emergency response capability indefinitely, and further the ability for an affected party to report demonstrable harm as a consequence of name collision. These are sufficient mitigations for what is substantially a non-problem. Donuts requests that the ICANN Board of Directors endorse no further name collision-related restrictions applying to only new gTLDs.

### **.CORP, .HOME and .MAIL**

It is premature to preclude altogether the existence of these three gTLDs. Nothing is gained by such an action and preventing an opportunity for study, coordination with the IETF, or other such prudent and reasonable examinations.

Mitigation tactics are available to ensure the operation of these gTLDs in a manner that preserves their utility without permanently withholding them. As we said in our previous comment:

The applied-for .CORP, .HOME and .MAIL gTLDs have been singled out as particularly (potentially) troublesome. Unfortunately, the Interisle report did not examine *second-level names* for either of these gTLDs, which is more likely the source of any issue.

Consider the usage of these names by brand companies. For example, someone searching for Airbus.CORP may have collided already with another TLD, as another TLD could have been in the search suffix list. The existence, therefore, of .CORP *benefits* Airbus by preventing the what may already be leakage of traffic. End-user search via .CORP demonstrates demand for the name’s usage even before its delegation to the root.

New gTLD traffic is similar to NXD traffic in .COM, .UK, and other existing TLDs. In the case of .CORP, some networks append this name in the event of an unsuccessful resolution. For example, if Google.COM weren't to resolve, even temporarily, a network could try Google.COM.CORP.

However, the reverse is not true. If a user typed in Gougle.COM, intending to reach Google, the community does not forbid such names from being registered or receiving NXD traffic. If .CORP were in the search suffix list, then Gougle.COM.CORP must resolve for any harm to occur. Even then, as we said in our prior comment, if the Com.CORP registrant were prohibited from obtaining a certificate, a secure connection to a destination that was unintended would not occur.

In the instance of the term "corp," the Corp.COM registration exists. As its registrant admits, it generates significant error traffic, likely due to ".com" (or "Corp.COM") being in the search suffix list for a large number of users. If Corp.COM were to be deleted, Verisign would allow it to be registered again. This significant error traffic (that would otherwise be NXD traffic) to Corp.COM is not causing harm.

A reasonable alternative is to postpone any decision regarding .HOME, .CORP and .MAIL until the complete report is published, and at such time, open a new comment period exclusively for these three strings and unapplied-for labels to be used as local DNS spaces.

According to the Applicant Guidebook, Section 14, Module 6:

*ICANN reserves the right to make reasonable updates and changes to this applicant guidebook and to the application process, including the process for withdrawal of applications, at any time by posting notice of such updates and changes to the ICANN website, including as the possible result of new policies that might be adopted or advice to ICANN from ICANN advisory committees during the course of the application process. Applicant acknowledges that ICANN may make such updates and changes and agrees that its application will be subject to any such updates and changes. In the event that Applicant has completed and submitted its application prior to such updates or changes and Applicant can demonstrate to ICANN that compliance with such updates or changes would present a material hardship to Applicant, then **ICANN will work with Applicant in good faith to attempt to make reasonable accommodations in order to mitigate any negative consequences for Applicant** to the extent possible consistent with ICANN's mission to ensure the stable and secure operation of the Internet's unique identifier systems. (Emphasis added.)*

Therefore, if the Board should elect with finality to deny these applications at any point in the process, ICANN must ensure that applicants for each are fairly compensated, as the Applicant Guidebook did not list these gTLDs as prohibited.

Finally, ICANN must examine these gTLDs in a manner that is not solely focused on the technical. In accordance with the mandate of the new gTLD program, ICANN must recognize, and not ignore, that these gTLDs likely will have a beneficial competitive marketplace impact.

## **120 days from delegation unnecessarily long to wildcard an entire TLD zone**

With regard to Recommendation 6 of the JAS report:

*ICANN require new TLD registries to publish the controlled interruption zone immediately upon delegation in the root zone. After the 120-day period, there shall be no further collision-related restrictions on the registry.*

Donuts agrees new TLD registries would be responsible for setting up and administering the controlled interruption zone. The responsibility of managing the zone is that of the contracted registry. We also agree that after the controlled interruption period is over, there will be no further name collision restrictions or burdens placed on the registry. Donuts disagrees with the proposed controlled interruption period of 120 days. Although we understand the request to select a conservative time period, JAS itself indicates agreement that 120 days is EXCEEDINGLY conservative and puts an unnecessary burden on TLD operators.

There is no data supporting a 120-day delay. This number was based on the 120 days from contracting provided to certificate authorities to revoke certificates. If there were to be any delay at all, domain name lifecycle standard of a range of 45-90 days should be used.

The 120 days for the undelegated TLDs means that a registry cannot delegate ANY names (including promotional names) for at least 180 days after contract signing (assuming delegation occurs within 60 days of contract signing—the average to date). So, a TLD that signs on June 1, for example, would not be able to delegate ANY names until six months later, in December. Forcing registries to wildcard the zone for 120 days from delegation introduces another 30-60 days of delay to market.

We support comments from the NTAG and others suggesting a shorter time period and other ways to keep the length of the testing period without causing additional and needless delays on new gTLD applicants.

### **ICANN should “grandfather” existing contracts**

As noted above, the existing registry agreements mandate that a registry implement the mitigation strategy approved by the ICANN Board, but also permits an “Alternative Plan” for registry launch that includes the blocking of certain second level domain names in a gTLD. ICANN should honor those agreements with gTLD operators who have executed contracts *prior* to Board approving the JAS plan. In addition to the mitigation strategy in the JAS report, operators under current contract should have the right, at its option, to utilize the “Alternative Plan” and to fall under the JAS Recommendation 7 for gTLDs already delegated. Registry agreements signed after the ICANN Board approves the report should be updated to remove the “Alternative Plan” and operate exclusively under the JAS Recommendation 6.

### **The mitigation proposal and ICANN fees**

A registry operator should not be financially penalized for this name collision mitigation plan. ICANN fees should be waived during the period of controlled interruption. Registry operators are not permitted to provide services during such period and should not have to pay ICANN for a privilege that would not at the time exist. Moreover, it should be made clear that registry operators not pay any Trademark Clearinghouse fees for activity during the controlled interruption period.

## **The burden of an uneven playing field**

It is abundantly clear that collision exists to a far greater degree in .COM and other legacy TLDs than they do or will in new gTLDs in general. The idea that only new gTLD operators, and not legacy operators, should use mitigation as an educational tool for network operators places yet another burden on new gTLDs that is suspiciously not required for existing TLDs.

Unfortunately, ICANN's restrictions on new registry operators only could be conceived as part of a successful anti-competitive campaign by an incumbent to forestall competition through a series of unfortunate and misplaced allegations that traffic in certain gTLDs will threaten human life and wreak other havoc.<sup>23</sup>

There is no empirical or *even anecdotal* evidence that name collisions are a problem necessitating the extensive restrictions, let alone those placed on new gTLD operators only.

## **Conclusion**

Donuts again thanks the ICANN community for the opportunity to comment on this important matter, and encourages further community-wide consultation to ensure the new gTLD program's full range of opportunities can be realized.

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<sup>2</sup> <http://domainincite.com/13221-verisign-says-people-might-die-if-new-gtlds-are-delegated>

<sup>3</sup> <http://domainincite.com/14747-its-official-verisign-has-balls-of-steel>