



March 7, 2013

Via Electronic Mail

comments-closed-generic-05feb13@icann.org

Re: Public Comment on Closed Generic Top Level Domains by Google Inc.

We are grateful for the opportunity to comment on the topic of closed generics; it's a matter that is important not just to Google but to applicants, and, especially, end users.

Google's goal for the gTLD program has always been to increase innovation and competition in the area of TLDs through new ways of expanding the utility of the Domain Name System. Those new forms of innovation and competition require that registry operators be allowed to experiment with a variety of business models, from the current pure open model to the single registrant "brand TLD", and everything between them.

Current Market and the Need for Innovation in TLD Space

By creating new opportunities for Internet domain names, we believe people will invent more diverse signposts in cyberspace, including opportunities to register new names in new languages and characters. We are confident that the introduction of new gTLDs will improve the usability of the Internet for the international community and create opportunities for greater innovation in a space that has hardly changed since its inception.¹

One of the most important mandates of the new gTLD program is to increase competition at the TLD level. The Applicant Guidebook states the overarching mission of the program is "to promote competition in the domain name market."² Today, most Internet users have only one practical choice when it comes to how their TLDs are managed: a completely unrestricted model environment in which any registrant can register any name for any purpose and use it as they see fit. The registry serves only as a delegation point in the DNS hierarchy and does not provide any content hosting or other additional services. Registrants in a handful of communities have had the opportunity to register domain names in a TLD restricted to their community, but with the exception of a handful of US-centric TLDs (.edu, .gov and .mil) none of these has gained

¹ *That being said, Google has a lot of experience in returning relevant web pages, regardless of the TLD. We will rank new TLDs appropriately, but we do not expect a new TLD to get any kind of preference over .com. See: <https://plus.sandbox.google.com/+MattCutts/posts/4VaWg4TMM5F?e=PlusPageAnalytics>*

² *See: <http://newgtlds.icann.org/en/about/program>*

widespread use or awareness.

Apart from the question of who is allowed to register in a TLD, almost all today's gTLDs (with the limited exceptions of .mobi and .tel) offer identical technical and functional models, which have not changed dramatically in almost 30 years: the registry delegates DNS requests to name servers designated by the registrant, and the registrant is responsible for obtaining both DNS hosting as well as linking the domain to the Internet services they wish to provide. This model provides maximum flexibility to registrants but it requires significant technical sophistication for the average user.

But it's hardly a surprise that new technical models have not emerged. In an economic analysis commissioned by ICANN, Dennis Carlton wrote: "In the absence of competition from new gTLDs, registries and registrars that serve .com and other major TLDs face limited incentives to develop new technologies and/or improved services that may help attract new customers."³

Restrictions Already Exist within TLD Space and Result in Well-Understood Communities

The Internet has had restricted domains for a very long time. The concept of a single-registrant model where the registry, registrar, and registrant are all unified dates back to the initial introduction of the .mil TLD in 1984.⁴ Today, there are many TLDs with registry restrictions of some sort in place. These restrictions foster (rather than restrict) innovation because the restrictions are largely intended to create a sense of identity and community. Four examples include:

- **.CAT**, which is a highly restrictive sponsored TLD limited only to the "Catalan linguistic and cultural community in the Internet."⁵ This TLD cannot be used for any other purpose even though the term has multiple meanings in the English language. This restriction allows for the TLD itself to be more meaningful and creates a unique place for the Catalan community and allows for innovation within that space.⁶
- **.MIL**, a "closed generic" TLD that provides second level registrations for the sole use by the US military. The use of a single-registrant namespace allows the military a custom-fit TLD highly tailored to meet its specific needs (for example, there is no WHOIS service provided for .mil domain names).
- **.GOV and .EDU**, which are two TLDs that offer a highly restricted namespace for the use by federal, state, and local governments within the United States (.gov) and for accredited, post-secondary institutions within the United States (.edu). As a recent paper

³ <http://archive.icann.org/en/topics/new-gtlds/prelim-report-consumer-welfare-04mar09-en.pdf> (pg 11)

⁴ See RFC 920, <http://tools.ietf.org/html/rfc920>

⁵ See <http://en.wikipedia.org/wiki/.cat>

⁶ See: http://www.circleid.com/posts/who_cares_about_50000_cat_domains/

by Fairwinds notes, these restrictions have helped to build trust with the Internet user community:

Both gTLDs have a clearly defined purpose from which their operators have not deviated; registrations in these gTLDs are restricted to specific entities. These purposes have remained clear and consistent, and as a result, Internet users know exactly what to expect when they navigate to websites whose addresses end in .GOV or .EDU. As such, they trust these namespaces. This trust has gone a long way in leading Internet users to adopt these gTLDs.⁷

Different Business Models Lead to Diversified User Choice

It's impossible to meaningfully generalize about closed generics; there are too many business models, industries, and applicants involved, and furthermore, the phrase itself is subject to many valid interpretations. Many of the innovations that we expect to arise from the new gTLD program will emerge from single-registrant models. This is mainly because purely open registries have one function: selling domains. There is nothing wrong with that, but it is neither new nor unique, and there will be hundreds of new TLDs with this same model that will create a huge variety of new terms in this round of gTLD expansion. In contrast, there are many creative models for TLDs that serve a more curatorial purpose, and we believe it is these models that will make the Internet better for both users and brand owners.

User choice is not simply a matter of creating more namespace. In an economic study commissioned by ICANN, Michael Katz, Gregory Rosston, and Theresa Sullivan note: "...past gTLD introductions have not seriously impacted .com's dominance. For commercial applications, .com has remained dominant even as new gTLDs such as .biz and .info have been added." As a community, we need to think more broadly, beyond the idea of competition as being merely between multiple TLDs with the same business model to include new business models not yet tested by the market. In order to encourage competition we need to include the entire spectrum of options from pure open models, restricted models, and closed models.

As Katz et al. write, "the situation, however, might be very different if a new gTLD registry offered an innovative service that significantly differentiated that gTLD in terms of the user benefits offered. Such an entrant might provide strong competition to .com, at least from the perspective of some groups of users."⁸ By allowing registry operators flexibility in their business models, ICANN will maximize the opportunity for innovation to develop real competition and choice for users. As Carlton notes: "...absent restriction on new gTLDs, potential new entrants will be motivated to develop new technologies and methods as a way to overcome .com's first mover

⁷ Fairwinds Partners, "2013: The Year of The Address Bar" (pg 8), see

<http://www.fairwindspartners.com/Our-Resources/Perspectives/2013-The-Year-of-the-Address-Bar/>

⁸ See: <http://archive.icann.org/en/topics/new-gtlds/economic-analysis-of-new-gtlds-16jun10-en.pdf> (pg 19)

advantage. This, in turn, increases the incentives to innovate faced by registrars of .com and other incumbent registries.”

Single-Registrant Model Allows for Innovation and User-Friendly Solutions

Since its inception, Google has strived to develop technology that improves upon existing ways of exploring the Internet and doing business online. For many users, domain names remain decidedly difficult to use and manage. In order to link a domain with a platform or service not offered by a Registrar, an end user needs to be able to manually change the DNS settings and make other provisioning changes that are beyond the expertise of a typical Internet user. Take the example of linking a custom domain name to a blog. Using a traditional domain name, a user needs to complete the registration process through the registrar, obtain the proper A or CNAME records for the server(s) that host the blog, configure name servers with the relevant zone information, provide the IP addresses of the name servers to the registrar, and, finally, update the configuration of the blogging platform to be aware of the new domain name. This process can serve as a barrier to entry for users to register their own domain names and get online.

Due to the opportunities for competition and innovation on the part of registrars, some of these steps may be simplified or eliminated, but a registrant will generally still need more than casual technical knowledge in order to complete the process. By contrast, our application for the .blog TLD describes a new way of automatically linking new second-level domains to blogs on our Blogger platform - this approach eliminates the need for any technical configuration on the part of the user and thus makes the domain name more user friendly; it matches the use of third-level domains within the blogspot.com second-level domain today, and is intended to create a seamless user experience within a rich new namespace.

The ability to associate a TLD to a specific service creates opportunities for technical innovation and simplification. That opportunity will be all but lost if the rules change to make the new TLD program more restrictive. Although such a result might benefit the business interests of today's incumbents, and competitors uninterested in a compelling user experience, it does so at the expense of the Internet's users, especially those who are less technically savvy and may be interested in registering a domain name for the first time.

New Top-Level Domains Do Not Convey A Competitive Advantage to Applicants

Much of the discussion surrounding competition has to do with whether new gTLDs or rather specific strings have an inherent value from which applicants can somehow create competitive advantage. We know from previous expansion rounds that this is not so. In reality, Internet users tend to use the top-level domain names that they are already comfortable with, particularly .com. ICANN's economic study offers some evidence on this issue:

...past gTLD introductions have not seriously impacted .com's dominance. For commercial applications, .com has remained dominant even as new gTLDs such as

*.biz and .info have been added. A broad look at the evidence to date suggests that other gTLDs provide little competition for .com as those gTLDs have neither attracted a large number of domains nor shown any signs of catching up with .com.*⁹

In fact, a recent experience with a marketing campaign operated by ICM registry for the .xxx TLD demonstrates the difficulty that new registry operators have in moving traffic away from .com to their own TLD. Beginning in November 2011, ICM ran a television advertising campaign to raise awareness of their .xxx TLD and to direct potential registrations to www.buy.xxx in order to register domain names. However, many users did not realize that .xxx was a valid TLD and instinctively appended .com to the domain, resulting in significant amounts of traffic to other domains such as buyxxx.com. Domain Name Wire search data at the time indicated that over 25% of users searching for the domain name searched for various terms ending with xxx.com rather than .xxx.¹⁰

Because of the strong user bias toward domains within .com, today a generic .com domain name (e.g., jewelry.com or book.com) is likely to produce more traffic and to be more valuable for a business than a generic TLD. Despite this, it is quite common and uncontroversial for large brands to use these generic second-level domains as part of their online presence.

In order to overcome users' propensity to use .com domains, a new gTLD operator will need to make significant investments to raise awareness of the TLD and make the case to users to change their behavior. If these TLDs are successful, it will not be due to the inherent value of a generic term, but rather because users are persuaded to make use of these domains. Finally, it is impossible to consider whether new TLDs will provide applications with unfair advantage without also studying the concept of substitutes. We believe this topic has not been adequately discussed in the debate on generic single-registrant business models. While terms may be unique (.movie), concepts around those terms are not (e.g. .film, .cinema, .flick, .media, and movie.com). While some are concerned by allowing one entity to manage a generic term for that company's sole use, even within the current pool of applications many of the concepts contained within the strings overlap, allowing for user choice and business case diversity in the marketplace.

ICANN Must Maintain the Integrity of the New gTLD Program

Applicants have read the guidebook and relied on the policies contained within to guide their applications. They spent considerable time and money on their applications in the hopes they would be granted the applied-for string. At best, retroactively deciding to allow a more restrictive interpretation of the guidebook and at worst going back and "adding in" policy runs the risk of

⁹ See: <http://archive.icann.org/en/topics/new-gtlds/economic-analysis-of-new-gtlds-16jun10-en.pdf> (pg 18). For further information, see <http://cseweb.ucsd.edu/~klevchen/hsmfkwlp-pam12.pdf>, which is specific to the roll out of .biz.

¹⁰ <http://domainnamewire.com/2012/01/23/buy-xxx-a-case-study-of-consumer-awareness-of-tlds/>

appearing capricious and eroding trust in the process. That perception would be detrimental to the success of the entire program and any action in this space should be carefully weighed.

In situations where competition and market forces are at stake, it is *paramount* that the principles and policies around such a process remain consistent. Even small changes in the process create winners and losers and allow those participating (either directly as applicants or indirectly as members of the community) to game the system and/or change outcomes. ICANN's role is not to pick winners and losers, but to establish processes that mitigate concerns as they arise through the implementation of the program. In the case of closed generics there are multiple checks built into the system that provide the correct balance between an unfettered application process and the protection of end users. The four objection options detailed in the Applicant Guidebook, coupled with the GAC advice process and the national competition authorities, whose mission is to champion the rights of consumers, serve as a final check on the process.

When deciding how to address the closed generic concerns, we must remember that changing the process mid-stream will have real and practical consequences for businesses and end users alike. ICANN's role here is to remain neutral and to provide a consistent, transparent process.

Terms in Question are Difficult to Define

In the request for public comments, ICANN asks for perspectives on the definitions of the term "closed generic". In reality, neither of the two words have a contextually appropriate objective definition, and the combined term has no meaning other than what has been invented in recent discussions about the gTLD program.

A brief discussion on how to define the term "closed generic" quickly demonstrates how difficult it is. The term, "generic", is particularly difficult to demarcate reasonably for two primary reasons. First, words are generally only meaningful or generic in a specific language. For example, the word "clinique" is a well-known cosmetics and skincare brand (and applicant for the TLD .clinique) based in the United States. In English, the word "clinique" has no "generic" meaning; however, in French the string is a common dictionary word meaning "clinic". Thus, French speakers may consider this term "generic" while English speakers may simply think of it as a brand.

Second, there is considerable overlap between what many people think of as brands and so-called "generic" terms. Many famous brands are generic terms in other industries; amongst the current crop of "brand" TLD applications consider terms such as "boots", "brother", and "live", all of which represent famous brands that also contain significant and unrelated meanings in the English language. Some within the community have attempted to distinguish between "brands" and "generics" strictly based on whether or not the branded term is backed by a trademark. Not only does this analysis fail to explain why, for example, global boot manufacturers should be satisfied that they cannot use their TLD of choice because a UK-based pharmacy

chain registered a related trademark, but many of the trademarks in question do not protect the specific TLD strings for which applicants have applied. For example, iSelect has applied for the .select TLD in conjunction with a number of related, but not identical marks such as “HealthSelect” and “InsuranceSelect”.

In addition to the difficulty in arriving at a reasonable definition of the term “generic”, there is a broad spectrum of possible policies around the concept of restricted or “closed” TLDs as well. It is easy to only focus on the two extremes - either TLDs that allow any registrant to register any domain for any purpose *or* single-registrant TLDs where the only purpose is to host content provided by a single organization - and consider these as “open” or “closed”. However, in reality there are a variety of registration policies between these two extremes. Just within Google’s applications, we propose policies that limit registrations to registrants with certain credentials (e.g., .esq or .phd), to use with specific types of services (e.g., .docs or .map), to registrants with rights to relevant content (e.g., .movie or .music), to those in a specific trade association (.android) and to use in conjunction with specific Google products (e.g., .drive or .plus). We believe that these restrictions allow for the creation of stronger semantic meaning in conjunction with TLDs. For example, when you go to a .map domain name you will be confident that you will see some sort of map. This will allow for the creation of more vibrant communities, allow for the construction of stronger online identity, and in all cases allow for involvement by a broad range of Internet users.

Addressing Concerns Raised about Specific Applications

All of this being said, Google remains very committed to the success of the new gTLD program. While we believe that restricted and single-registrant models allow significant opportunities for innovation that are not possible with a traditional open registry business model, we understand that there is particular sensitivity within the Internet community about certain broad terms that serve as industry descriptors. Neither the guidebook nor the law require special treatment of these terms, but the success of the gTLD program also relies on user and community support for new gTLDs, and the best user experience for these broad industry terms likely include the opportunity for users to access a variety of service providers.

After careful analysis, Google has identified four of our current single registrant applications that we will revise: **.app**, **.blog**, **.cloud** and **.search**. These terms have been identified by governments (via Early Warning) and others within the community as being potentially valuable and useful to industry as a whole. We also believe that for each of these terms we can create a strong set of user experiences and expectations without restricting the string to use with Google products.

With this in mind, we intend to work with ICANN, the Government Advisory Committee (GAC), and other members of the relevant communities to amend our applications with new registration policies (and, in some cases, new registry services) to achieve these aims. Details of these plans will be forthcoming in the near future.

Conclusion

ICANN should allow closed generic string applications to move proceed. We believe an unfettered process is paramount in opening up the domain name space and increasing innovation in a market that has always been, effectively, stagnant. We are just beginning to explore this source of innovation on the web, and we are excited to see how these new TLDs may fare. We hope that offering new and different TLD choices will be interesting and meaningful to the public and generate excitement about the new TLD program.

Sincerely,

A handwritten signature in blue ink that reads "Benjamin Fried". The signature is written in a cursive, flowing style.

Ben Fried
Vice President and Chief Information Officer
Google Inc.