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gTLD Marketplace Health Index Proposal

Valideus provides new gTLD consultancy and registry management services to prospective and existing new gTLD registry operators, and co-ordinated over 120 applications for new gTLDs, on behalf of a number of applicants all of whom are owners of global brands. Valideus also works with Geo and Community registries to “get the right names into the right hands” through the provisions of registrant validation services.

We welcome the opportunity to comment on the gTLD Marketplace Health Index Proposal (the Proposal).

In seeking to track gTLD marketplace health it is important that there should be clarity on what the relevant market is.

Legacy gTLDs vs New gTLDs

The Proposal refers to analysing the “overall health and diversity of the global gTLD marketplace”. We infer therefore that you intend to track both legacy TLDs and new gTLDs in the various KPIs. Certainly, new gTLDs do compete with legacy TLDs, as they do with ccTLDs in particular territories. However factors which will need to be taken into account when setting and tracking KPIs in order to measure marketplace health include that:

- legacy gTLDs contract with ICANN on different terms, and thus there are different obligations on the registry operators, and different obligations which must be passed down to registrants;
- .com and other legacy gTLDs are longstanding and well-established, whereas the market for new gTLDs could be considered to be immature;
- in relation to a number of the proposed KPIs, the inclusion of legacy gTLDs in the assessment will have a significant impact on the outcome. For example, most registrars offer .com and other legacy TLDs so any assessment of the average number of registrars per gTLD will likely be higher when including legacy gTLDs than if they were excluded.

It may be necessary to exclude the legacy gTLDs from some of the KPIs, or to include a measure of the new gTLDs and legacy gTLDs separately.

Brand TLDs vs Open TLDs

It will also be important to consider and take into account the impact of closed Brand registries qualifying for specification 13, and potentially also those registries which have been granted an exemption from the Registry Operator Code of Conduct, when applying these KPIs. A number of

them are either irrelevant or inapplicable to Brand registries, and the inclusion of those registries in any assessment will impact on the outcome, for example:

- Brand registries are only permitted to have three registrars, so numbers of registrars per TLD are not relevant;
- where a Code of Conduct exemption has been granted names may only be registered to the Registry Operator. In the case of Specification 13 Brand registries, names may only be registered to the Registry Operator, its Affiliates and trademark licensees. In both cases, whilst disputes under the UDRP and URS are possible, they are likely to be significantly less common than in open registries;
- complaints regarding inaccurate, invalid or suspect WHOIS records are also likely to be significantly less common;
- domain registration and renewal rates may also be substantially different in Brand registries, where those names are not being sold commercially.

It will be necessary to exclude the Brands from some of the KPIs, or to track them separately.

Thank you for considering these points.

Yours sincerely,

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