Amazon Registry Services Inc. ("ARSI") submits this comment in support of the Amendment to the .MOI Registry Agreement, listed by ICANN as "Launch of Registration Authentication Platform for .MOI TLD" ("Amendment"). In sum, our approach to the .MOI TLD is one that seeks to enhance the consumer experience through innovation and product choice and we reject the notion that our approach is in any way "closed." The actions suggested by some submitted comments would stifle innovation and inhibit consumer choice. We urge ICANN to see such comments for what they are – scare tactics used by commenters to support their own business interests, and not the interests of the global internet community and the customers within it.

As background on the events that have led to this submission, ICANN posted the Amendment for public comment on March 2, 2016 for 42 days and, on the 41st day, extended the comment period for 10 days at the request of the Registrar Stakeholder Group.[1] ICANN posted ARSI's RSEP Request to which the Amendment pertains in late December 2015 after determining that it (including our use of tokens) raised no significant competition issues and no significant security and stability issues.

None of the persons or entities that submitted comments contacted ARSI to discuss any concerns during either 1) the three-month period during which ARSI's RSEP was published on ICANN's website or 2) the extended 52-day comment period on the Amendment, which is the subject of this comment period (*not* the substance of the RSEP itself). A number of concerns regarding our approach outlined in the comments submitted could easily have been clarified through direct dialog, particularly the many that are based purely on conjecture.

Unable to receive full support from the Registrar Stakeholder Group, individual registrars ("Individual Registrars") posted a comment ("Comment") on the Amendment. ARSI provides this response to ICANN and to the Individual Registrars. To the extent not otherwise addressed, ARSI also addresses the comments of Konstantinos Zournas and DotMusic ("Zournas comment" and "DotMusic comment", respectively). *None* of the comments stated any concerns regarding the language of the Amendment (the point of the public comment period) and, as such, the Amendment should proceed to execution without delay.

ARSI's Position

As noted a number of times, ARSI entered the TLD space not simply to sell domain names, but rather to create innovative and vibrant new spaces on the internet for end customers seeking to develop new and unique Internet destinations. While some of our TLDs may follow a more "traditional" approach to the registry model (such as those seen in many newly launched TLDs to date), we also plan to pursue novel ideas that we believe create value in the marketplace. In each case, our goal is to develop desirable services for potential customers: domain name registrants.

This does not mean, however, that ARSI plans to keep the domain names registered in these spaces all to itself or its Affiliates. Despite an ongoing assumption in the Comment, the Zournas comment, and the

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[1] Ours appears to be the first new gTLD RSEP for which ICANN has granted a public comment extension.

DotMusic comment, ARSI has no plans to operate its generic TLDs as "closed." The assumption that ARSI will operate its TLDs as closed is based solely on conjecture. Operating a TLD that seeks to offer specific value and additional services to the customer and utilizes a pre-registration policy verification process simply does not create a closed TLD.

In determining how ARSI wanted to launch its TLDs, knowing that we would have registrars offering customers domain names in spaces that span a wide range of business models, ARSI met with 10 registrars – including some of the largest – and asked what they were willing to onboard from new registries. (We reference these conversations in our RSEP.) The registrars told us (a) we don't want to develop anything new, (b) we don't want to have to create stand-alone pages or sites for registries, (c) we don't want to have to collect information and be the conduit for validation or verification, and (d) we don't want to have to distribute forms, templates, or any other content on behalf of the registry. Some even indicated that our RRA should not reference any of these things or they would refuse to sign it. (The Registrar Stakeholder Group's recent communication decrying as too onerous .BANK's request that registrars set up stand-alone sites for .BANK domain names reinforces this feedback.) As a result, ARSI decided to create a customer offering and process flow that took into account this registrar feedback while still providing customers with an excellent overall registration experience. Now, when faced with a customer process flow that the Individual Registrars don't like, they flip back and argue they *should* be developing new features, creating pages or sites for registries, collecting information and serving as a verification conduit, and distributing content on the registry's behalf.

ARSI fundamentally believes that there is value in serving different types of customers. As the needs of new and existing customers in the domain name registration space change, businesses that support these customers – **both** registries and registrars – may choose to address these needs in different ways and must have the ability to innovate in doing so. A number of registrars (including some of the Individual Registrars) have, in connection with other new gTLDs where the registry implemented policies not to their liking, exercised their right to simply NOT sell domain names in those TLDs. While we would like to work with every possible registrar, we acknowledge theirs is the right to determine whether or not to do so.

The Individual Registrars are asking ICANN to disallow ARSI's business model precisely because it is new and does not necessarily support their own business interests. In addition, the Individual Registrars' and DotMusic's demands for information on the workings of ARSI's registry (a) are not required of any other registry, (b) are based on false premises and/or assumptions, and (c) attempt to regulate and inject ICANN and/or the Registrar Stakeholder Group into functions outside the purview of ICANN (and which creates a slippery slope for all contracted parties).

ICANN – as an organization and those that operate within its rules – should not protect a particular interest over any other to the detriment of registrants and innovation in the marketplace. Similarly, ICANN should not go beyond the scope of its Mission to regulate the names and numbers space (in this case, the purchase of the domain name itself) and creep into the realm of determining the validity of specific business models and non-domain name-related services (topics that will affect all contracted parties). To do so will similarly stifle new ideas and innovation, create barriers to entry for new businesses, and destroy potential value to new and existing domain name registrants around the world.

Response to Issues Identified in the Individual Registrars' Comment

The Individual Registrars' Comment raises numerous issues, most of which have little to do with the Amendment's specific language (even though that is the point of the public comment period). Nonetheless, we respond to several issues that are predicated on certain false premises and/or assumptions that must be called out and addressed.

First, as a general comment, ARSI responded to the questions asked by ICANN during the RSEP review process (and found on ICANN's Registry Request Service). This is why we included certain information, which the Individual Registrars and another commenter apparently infer must relate to "closing" the .MOI TLD. They are nothing of the kind, but rather responses to direct questions. Second, ICANN reviewed our RSEP – including our proposed use of tokens – and found it does not raise either (a) significant competition concerns or (b) significant security and stability issues. Third, we object to the Individual Registrars' and DotMusic's demands for information on our specific business models and functionality that is not required as part of the RSEP process.

     a. Premises

Of more concern are certain premises that seem to flow throughout the Comment.

The first is the premise that a registry's "customer" is the registrar and the registrar's "customer" is the registrant and no other interaction or interpretation should be permitted. Indeed, portions of the Comment suggest that the Individual Registrars believe the domain name registrant is a property right of a registrar. For example, the Comment states that the TLD is set up to capture customers "earned via the Registrars marketing efforts to promote its own tools and services." Using this logic, any customer that goes to a registrar as a result of marketing conducted by a registry should also be an ill-gained customer. That would mean, by extension, that customers attracted to a registrar through the use of registry-provided marketing funds or incentives, direct marketing, or by the registry's promotional materials, is solely the registry's customer and thus an ill-gained customer of the registrar. We do not agree with this line of thinking. Both registry and registrar work together to provide the registrant – which is a customer to both parties – with services and an experience optimized for that customer.

By contract, the registry and registrar agree that the registry sets the TLD operating rules and the wholesale domain name price while the registrar sets a retail price, contracts with the registrant, submits to the registry registration information about that registrant, and manages ongoing changes to the registration information. Anything above and beyond that should be a matter of agreement between the registries and registrars. (Or not, in the case of registrars who choose not to sell domain names in a particular TLD, which is true of some registrars in some new TLDs.) ICANN should not dictate that a registry cannot interact with the customer in ways not explicitly circumscribed by the RA and RRA.

The second premise in the Comment is that a registry can operate only as dictated by registrars – not the ICANN Registry Agreement. Taken to its logical conclusion, this premise requires a registry to choose a TLD string and operate it only in the way that is least disruptive to registrar's operations and extended non-domain name business interests. This approach is not workable. It ignores the needs of customers that want something different and it stifles innovation.

Regarding ARSI's proposed use of token system developed by registry operators Neustar and Verisign, we do not understand how the pre-registration use of tokens results in a "closed" TLD whereas post-

registration use of the token does not. ARSI will use the same token system other registries use for post-registration verification. There is no basis for claiming such use is fundamentally different or creates opportunities for abuse that cannot be prevented in similar ways as post-registration verification.

The Comment's characterization of the registry's ability to offer customers a domain name availability search functionality as potentially harmful because it gives insight into domain name queries is puzzling. A number of registries currently offer customers this very same domain name availability search functionality and then redirect customers to registrars from their registry pages.

The final premise is the Individual Registrars' vastly expanded definition of a "closed" TLD. By contract, ICANN prohibits every registry of a "generic" TLD from "impos[ing] eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person's or entities "Affiliates" (as defined in Section 2.9(c) of the Registry Agreement)." Spec. 11, Section 3.d. The Comment ignores (a) ICANN's definition, (b) ARSI's agreement to this contractual prohibition in the .MOI Registry Agreement and (c) that this prohibition does not prevent restrictions to registration per se, only those that limit registration to the registry and its Affiliates.

Indeed, the Amendment and detail set forth in the RSEP make clear that ARSI does not intend to hold all registrations for itself and its Affiliates. We want to create a positive customer experience for domain name registrants. The Individual Registrars' real concern appears to be the proposed presentation of non-domain name related services (such as hosting) to customers, and not that ARSI will limit registration of .MOI domain names to ARSI or an Affiliate. Presenting optional Technology Tools is irrelevant to whether a domain name is "open" or "closed".

The Comment also inaccurately assumes ARSI will "tie" the value-added services to the use of the .MOI Registry. This assumption is false. ARSI will not require—technically or contractually—its customers to use its value-added services as a condition of registering .MOI domains. It will simply offer a new set of service options to those customers, and try to make those services appealing on the basis of quality and value. Ironically, if ICANN were to heed the Comment's misplaced concerns about "competition," it would in fact reduce innovation and competition by preventing ARSI from offering these services. But competition does not protect incumbent firms and business models. Instead, competition enhances consumer welfare. ARSI's model will do just that by offering customers a new suite of value-added services. It is hardly surprising that ICANN found that ARSI's model did not present any competition-related concerns.

Mr. Zournas' comment that "Amazon will only accept as registrants of .MOI domains the individuals or companies that will first purchase products or services offered by Amazon" apparently fails to take into account the following statement on the first page of our RSEP Request, which states exactly the opposite: *"Customers will not be required to purchase Technology Tools or the offered ancillary products or services in order to register and use a .MOI domain name."* For the same reasons, DotMusic's contention that the Amendment "appears to resemble policies for an exclusive access registry" is equally lacking factual support.

Finally, we note the Comments claim that the services outlined in the RSEP are outside of registry services as defined by ICANN and thus should not be subject to an RSEP process. If the Individual Registrars are correct that the Registration Authentication Platform is not a Registry Service, then the RSEP does not apply and, in that event, ARSI can offer the Registration Authentication Platform at any

time. The only services ARSI is required to obtain a Registry Amendment to onboard are those deemed "registry services" – a characterization that ICANN Staff has already determined applies.

b. False Assumption

The Comment clearly assumes that ARSI, and by extension also Amazon Registrar, intends to violate contractual provisions relating to registry/registrar separation. "Another concern is whether an Amazon-related registrar will present a different, more seamless experience for a potential registrant than would any other ICANN-accredited Registrar or whether any Amazon-related registrar would, by nature of the services, be in a position of advantage over all others? In other words […], can Amazon create an experience for potential registrants in this implementation that is superior to, and incapable of being replicated by other Registrars?" Such statements and questions assume that ARSI will violate Section 1(a) of the Registry Operator Code of Conduct (Spec. 9). This assumption requires a direct response.

This assumption is not only false, but also disparaging. ARSI and Amazon Registrar have set up protocols to operate each business independently, under strict firewalls. Both entities: (1) are separate legal entities, (2) maintain separate books and records for their respective operations (3) employ separate technical teams to build out infrastructure (operating under firewalls and on separate systems), (4) employ separate legal and business teams for internal and external – including ICANN – interactions and policy development, (5) have separate internal reporting chains, (6) do not coordinate on and communicate about any business plans or operations, (7) have instituted mandatory notification about separation guidelines to new employees, (8) have set internal policies on separation, and (9) have reached out to ICANN with specific separation policy questions to ensure we meet and exceed our contractual obligations.

Amazon personnel have devoted hundreds of hours to develop and implement separation policies for ARSI and Amazon Registrar that are comprehensive and strict. We strongly object to any unsubstantiated claims or insinuations to the contrary.

Finally, as the Individual Registrars appear to have misunderstood the statement in the first page of our RSEP request that "the customer will select its registrar of choice from among the complete list of .MOI-accredited registrars and be directed to that registrar's site," let us be clear: all participating registrars will be listed so customers can select among them.

In sum:

- ICANN has already reviewed ARSI's RSEP Request and determined that it, including the proposed use of tokens, does not raise significant competition concerns or significant security and stability issues. The Proposed Amendment, which is the true subject of the comment period, resulted from negotiations with ICANN staff and its language is acceptable to both ARSI and ICANN.
- ARSI's proposed token system was developed by other registry operators and is used by other registries for post-registration policy verification.
- Customers are not required to purchase other products or services from ARSI in order to register and use a .MOI domain name.
- All participating registrars will be listed so customers can select among them in deciding which registrar to use.

- ARSI entered the TLD space to create innovative and vibrant spaces for customers seeking to develop new and unique internet destinations. Our approach to the .MOI TLD seeks to enhance the consumer experience through innovation and product choice.
- ARSI disagrees with the suggestion by some registrars that a domain name registrant is a property right of the registrar.
- ARSI has no plans to operate its generic TLDs as "closed" to all except itself and its affiliated companies. Operating a TLD that offers customer value and uses pre-registration policy verification does not create a closed TLD. Concluding otherwise ignores the contractual prohibition in ICANN's Registry Agreement and its scope as well as ARSI's acceptance of that contractual prohibition.
- ICANN's Registry Agreement, not registrars, dictate how a registry may operate. Requiring a registry to operate its TLD in the way least disruptive to registrars ignores the needs of customers and stifles innovation.
- Commenters' demands for information on ARSI's registry operations (a) are not required of any other registry; (b) are based on false premises and assumptions; and (c) attempt to regulate and inject ICANN into functions outside its purview.
- Registrar statements and questions that assume ARSI intends to violate contractual provisions relating to registry-registrar separation are false, disparaging, and completely unsubstantiated. ARSI's separation policies are comprehensive and strict.

As neither the Individual Registrars nor any other posted comment have raised any specific concerns with the language of the Amendment, as ICANN Staff found that there were no significant competition and/or security and stability issues with the plans set forth in the RSEP, and as our request violates no contractual requirements or prohibitions, we ask that the Amendment proceed promptly to execution.

With best regards,

/s/

Stacey King
General Manager, Amazon Registry Services