

Consumer Metrics – Public Comments Review Tool
14 August 2012

	Comment	Who / Where	WG Response	Recommended Action
Consumer – Definition				
1.	<p>While it is understood that the use of the term "Consumer" was made by the Board using an expression from the "Affirmation of Commitments", the ALAC emphasizes the problem that the use of such a term causes for our community, especially in some of our regions.</p> <p>Refer to Case Study, Reservations regarding the "consumer" term in German</p> <p>Recommendation: Although the report of the Working Group clearly defines the term "Consumer" as "actual and potential Internet users and registrants", the ALAC believes that the correct term to use in all publications instead of "Consumer" should be "Internet User" and "Consumers" as "Internet Users" whether they are registrants or not. The recommendation of the ALAC is for the ICANN Board to use the term "Internet User" in future work and communication referring to "actual and potential Internet users". The ALAC leaves it to the Board to determine how to respond to third parties that use the term "Consumer" in light of the dissociation in the international context, an example of which is provided in this Statement.</p>	ALAC / Public Comment	<p>ALAC Statement on the Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf</p> <p>15 MAY – Should WG change its term or is the advice to the Board to change to Internet User? WG should make it clear that it is ill-conceived in this context.</p> <p>Findings & Recommendations for Consumer – Consumer deemed out of scope but worthy of mention</p>	<p>Add ALAC advice recommendation to notes on Page 4 definition of Consumer to include Internet User.</p> <p>Possible: Create a Findings & Recommendations Annex to Advice letter</p> <p>Added 16 June 2012</p>
2.	Summary of Comment: Distinguish between consumer registrants vs professional registrants	GPM Group / Costa Rica Session	The definition addresses all types of registrants, and does not require the distinction	No Action
Consumer Trust – Definition				
3.	Definition of "Consumer Trust". We believe the definition of this term is fundamentally sufficient. However, in order to clarify its meaning, we suggest changing the word "its" in "its proposed purpose" – which could refer to	INTA / Public Comment	INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf	<p>Change definition to "the Registry's" from its.</p> <p>Added 16 June 2012</p>

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	"confidence" or "name resolution" or "TLD registry operator" – to "the registry's" so that it is clear that the purpose being reviewed is the one set forth by the registry as part of its application and operating agreement with ICANN		15 May - Are there legal issues with changing the language definition to a more clarified entity – No.	
4.	Consumer Trust is defined as the confidence registrants and users have in the consistency of name resolution and the degree of confidence among registrants and users that a TLD registry operator is fulfilling its the Registry's proposed purpose and is complying with ICANN policies and applicable national laws.	INTA / Public Comment	15 May - INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf	Change definition to "the Registry's" from its. Added 16 June 2012
5.	Summary of Comment: degree of confidence and consistency in how the 2nd level names are being used – consumer experiences how the names are used on the internet	Bruce Tonkin / Costa Rica Session	17 APR - Slide 9 of Consumer Trust – Consistency of Consumer Expectation, WG took narrow scope for definition Expectation of function by the Applicant of the gTLD; False expectation by user is not a scope of the gTLD Applicant	Denote some members of the community indicate that consumer expectation should be included, but Applicants only responsible for what they state in the new gTLD applications. Approaching scope boundary of ICANN Q18 Identified as Metric in Consumer Trust Confirmed 7 August 2012
6.	Summary of Comment: Definition is not broad enough, issue that ICANN Policy & Applicable Laws does not directly apply Consumer Trust.	Shandra Locke / Costa Rica Session	17 APR - Threshold issue to cover things outside of scope of ICANN policy – Point to survey of CT to measure consumer's confidence and things like malware. Point to survey included in metrics about confidence, malware, etc.	Communicate better that we are just "measuring", not making recommendation for ICANN to act upon relevant policy response. Work with definition and metrics at the same time. Added 16 June 2012
7.	Summary of Comment: Define CT in context of new gTLDs. Definition on screen is not same on screen vs, draft letter.	Ray Fassett / Costa Rica	17 APR - Metrics are crucial in evaluating the definition	Include Application answers by new gTLD applicants within our

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	Refers to AGB Q18 application. Stay away from subjective words and what is your mission purpose. Promises as referred to in Consumer Metrics should refer to Q18 of AGB; Expanding context of the definition	Session	<p>Q18 will be used to evaluate the Mission and Purpose. All questions are relevant, but may not be included in the Ry agreement.</p> <p>Applicants of standard apps can change their mission and purpose.</p> <p>Review Ry website on what their intended purpose is.</p>	<p>metrics charts. Measure Q18 and others three years out against original mission and purpose</p> <p>Added 16 June 2012</p>
8.	Summary of Comment: Acknowledged limitation of scope within ICANN vs. consideration of other access forms for Internet. In context of Consumer Trust & Choice	Evan Lebovitch / Costa Rica Session	<p>17 APR - How do we measure it, and does it encroach on our scope/threshold for ICANN? Noted in top of Page 3 of Advice</p> <p>Difficult to measure, but could be tracked in the context of Innovation</p>	<p>Modified language in Advice letter and added new metric in Choice</p> <p>Added 7 August 2012</p>
9.	Question: TRUST is a very flexible word : several definitions can be attributed but at the end, what does a consumer get in return if he/she trusts the other party ? Look at how registrants are handled by registrars. Do we need different types of TRUST?	Rudi Vansnick / Costa Rica Session	<p>17 APR & 22 MAY</p> <ul style="list-style-type: none"> •http://reports.internic.net/cgi/registrars/problem-report.cgi •Review Ombudsmen complaints (all requests funneled through Internic). •Briefing from Compliance as to what requirements/what's possible within the new system. •Review of existing ICANN Complaint system data by category to gauge consumer trust, legacy data vs new gTLDs •New Measure CT: Complaints Rr handling, new vs legacy complaint; Source, ICANN; 3 yr target, Comparison of legacy vs new gTLD, rate of complaints •Ry should be part of complaint system going fwd. <p>SDB - complaint "categorization" will need</p>	<p>Create two metrics for general complaints for Rr & Ry submitted to ICANN</p> <p>Added 16 June 2012</p>

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			<p>to be done by ICANN compliance folks, as they do an initial review of a complaint</p> <p>JZ - probably worth noting that asking for data and being refused has some rhetorical value as well</p>	
10.	<p>Summary of Comment: Effect of consumer trust if ICANN should interfere // Jonathon Robinson – Useful perspective for ICANN to fulfill their promise; ICANN is a party</p>	<p>Ray Fassett / Costa Rica Session</p>	<p>29 May – JZ - Are their metrics today?</p> <p>RS – Compliance could be a factor, but may not necessarily apply here.</p> <p>JZ – Consumer facing aspect of ICANN, Compliance, Ombudsman function of organization. Most others are not Registrant facing</p> <p>RS – Make point clear. ICANN point as a party to the contract. Look for those tools of Governance. Annual report by Ombudmen, oversight of compliance activities. AoC metrics.</p>	<p>Make note within next draft, that ICANN is a party to the contract and certain performance metrics may be worthy of review in the context of Trust</p> <p>Added 16 June 2012</p>
11.	<p>Definition of Consumer Trust Proposed Modification: Consumer trust is defined as the confidence registrants and users have in the consistency of name resolution and the degree of confidence among registrants and users that a TLD registry operator is fulfilling its proposed purpose and is complying with ICANN policies and applicable national laws.</p> <p><u>Consumer trust also includes the confidence registrants and users have in the overall domain name system and, in particular, Registry operators' and Registrars' efforts to curtail abuse, including respect for intellectual property rights, avoidance of fraud, crime, or other illegal conduct, as well as confidence in ICANN's ability to enforce</u></p>	<p>USG / Public Comment</p>	<p>USG_comments_text.pdf; Pages 2-3 of PDF page numbers</p> <p>29 May – JZ - Should we restructure what we have or just dive into the metrics themselves?</p> <p>CLO – Don't believe the repetitive sentence does not belong in to definitions themselves. Perhaps include this in overarching statement and that this is the job of the future review team. Formative work of the review team to come. USG input about ICANN activities follow comment 10 above.</p>	<p>Holistic view that this must be <u>assessed together</u> and that it is a future Review Team effort within the summary/introduction of the document. Refer to RS comment</p> <p>1: Summary – portions about assessment together, belong in introduction</p> <p>Use TB version of CT Definition</p> <ul style="list-style-type: none"> • Include table on Trustor, Trustee, & Aspects. • Global replace of Users to Internet Users

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	<p><u>requirements imposed on registrars and registry operators. Consumer trust must be assessed together with consumer choice and competition to aid in determining the overall costs and benefits incurred by consumers and other market participants from the expansion of gTLDs.</u></p> <p>Revisions to Note 1: The Consumer Trust definition has three aspects. * * *[existing text to remain] <u>Third, consumers need to have confidence in the overall domain name system, including the willingness of Registry operators and registrars to curtail abuse and to ensure respect for intellectual property rights, prevent fraud, crime, and other illegal conduct, as well as, confidence that ICANN will enforce requirements imposed on Registry operators and Registrars to prevent these abuses. If consumers believe that new gTLDs are failing to prevent these abuses, then consumers will lose trust in the domain name system.</u></p> <p>Explanation: The proposed definition for consumer trust takes too narrow a focus, and as proposed looks only at the narrow issue of whether a TLD Registry operator is providing services in accordance with its stated offering and in compliance with relevant policies and laws. Consumer trust, however, appropriately takes account of whether the broader system within which consumers are operating is trustworthy. If consumers believe that new gTLDs are increasingly susceptible to fraud, criminal activity, lack of respect for intellectual property rights, and other deceptive conduct, then consumers will lose trust in the domain name system and may decline to participate, or participate at a reduced rate. Likewise, consumers that continue to participate rather than exit will do so while</p>		<p>JZ Abstract evaluations</p> <p>MG – last sentence of modification is ok, but not as part of definition. The details are considerations in determining consumer trust, but may not need to be a part of the definition.</p> <p>RS – Deconstruct Def:</p> <ul style="list-style-type: none"> - looking at overall DNS, and not to narrow of approach; - Ry & Rr to curb abuse, we have those metrics for the examples; - ICANN ability to enforce requirements - Assessed all together, raises question of scope. Costs & Benefits could be out of scope. <p>TM – Review by ICANN should be broader of AoC. If & When new gTLDs op for 1 year. ICANN will organize a review.....In Scope of AoC, but not in scope for this WG.</p> <p>Refer to separate document outlining new versions of definition.</p> <p>TB modification gained consensus</p>	<p>Refer to supplement Revised Proposed Definition_Consumer Trust_CLO_MG_TM.doc for final definition.</p> <p>Added 16 June 2012</p>

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	<p>potentially bearing significant costs.</p> <p>Consistent with previously stated USG and GAC consensus advice, governments are concerned whether the expansion of gTLDs could create greater opportunities for fraud, crime, intellectual property misappropriation, and other conduct harmful to consumers, and whether new gTLD operators or ICANN will be equipped to curtail such abuses. ICANN has yet to demonstrate a rigorous compliance program to enforce these new contracts. The proposed broader definition thus includes a reference both to new gTLD operators' efforts to minimize such abuses as well as ICANN's ability to enforce requirements imposed on gTLD operators and Registrars. Both of these have an effect on whether consumers believe that bad actors who fail to comply with policies and relevant laws are allowed to act with impunity and, consequently, weaken consumer trust, or whether they are terminated as appropriate. This broader definition is intended to take into account these possible negative effects of gTLD expansion to facilitate assessment of whether expansion of the number of gTLDs has been beneficial to consumers.</p>			
	Consumer Trust – Metrics			
12.	<p>Survey of perceived consumer trust in DNS, relative to experiences before the gTLD expansion. Survey could measure experiences with phishing, parking sites, malware and spam; confusion about new gTLDs; user experience in reaching meaningful second-level TLDs; registrant experience in being in a different gTLD; trademark owner experience with regard to cybersquatting (prevalence, cost and satisfaction with results when a resolution is sought)</p> <p>Stated survey criteria are far too narrow. Also, see below for other measures that could be the subject of survey.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.7, metrics #4)</p> <p>15 May - Survey generally targets a specific group. Listing of Trademark may be an issue. Instead of TM Owner, change to Registrant</p> <p>Registrant may not be aware of cybersquatting unless it affects them directly. Last phrase may not be required.</p>	<p>Survey of perceived consumer trust in DNS, relative to experiences before the gTLD expansion. Survey could at least measure experiences with phishing, parking sites, malware and spam; confusion about new gTLDs; user experience in reaching meaningful second-level TLDs; registrant experience in being in a different gTLD; Registrant and Internet User's experience with regard to</p>

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			<p>1st sentence provides the metric, remainder gets to details or suggestions of what the survey may include</p> <p>Survey should take in to consideration of types of internet users and types of experiences</p> <p>Single time survey with their retrospect. Perhaps run survey twice.</p> <ul style="list-style-type: none"> • 1 or 2 polls • Survey Groups • DNS Issues wrt Trust 	<p>cybersquatting.</p> <p>Added 16 June 2012</p>
13.	<p>Relative incidence of notices issued to Registry operators, for contract or policy compliance matters</p> <p>Relative incidence of breach notices issued to Registrars, for contract or policy compliance matters</p> <p>“Lower than incidence in legacy gTLDs” is far too low a bar for a target. This assumes that any improvement over legacy gTLDs is a “success.” For each of these metrics the target should be a stated percentage lower than in legacy gTLDs (e.g., 50% lower).</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.7, metrics #6,7)</p> <p>22 May - Issue was well discussed in WG deliberations.</p> <p>WG should frame question to spark debate about the number itself</p>	<p>Modify the 3 Year target to “Significantly Lower than relative incidence in legacy gTLDs”</p> <p>Added 16 June 2012</p>
14.	<p>Relative incidence of UDRP Complaints, before and after expansion</p> <p>See above. Also, may need to aggregate with URS (or report both separately and in the aggregate) to compare “apples and apples” (since the availability of the URS is intended to reduce the quantity of UDRP cases even where problems are at a same or higher level).</p> <p>Relative incidence” should be calculated by the total number of UDRP or similar domain name proceedings (e.g., usDRP) filed in the legacy gTLDs from 1/1/2000 over the total number of domain name registrations registered in the legacy gTLDs from 1/1/2000.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.7, metrics #8)</p> <p>22 May - Contemporary measurement between URS & UDRP. URS by design is meant to reduce the number of UDRP</p> <p>How to compare the expansion of gTLDs (URS + UDRP)</p> <p>http://www.icann.org/en/help/dndr/udrp/providers</p>	<p>Broadening relative incidence of UDRP & URS Complaints</p> <p>Remove before and after expansion</p> <p>Consolidate UDRP & URS Metrics into one line item</p> <p>Relative incidence of UDRP & URS Domains Registrants Registrars Registries</p>

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				3Yr: Declining over time Added 16 June 2012
15.	<p>Relative incidence of UDRP Decisions against registrant, before and after expansion</p> <p>See above.</p> <p>"Relative incidence" should be calculated by the total number of UDRP or similar domain name proceedings (e.g., usDRP) filed in the legacy gTLDs from 1/1/2000 where the order was against the registrant over the total number of such UDRP proceedings.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.7, metrics #9)</p> <p>22 May – see above</p>	<p>See Above</p> <p>Added 16 June 2012</p>
16.	<p>Quantity & relative incidence of URS Complaints</p> <p>Quantity & relative incidence of URS Decisions against registrant</p> <p>May need to aggregate with UDRP (or report both separately and in the aggregate) to compare “apples and apples” (since the availability of the URS is intended to reduce the quantity of UDRP cases even where problems are at a same or higher level.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.8, metrics #2,3)</p> <p>22 May – see above</p>	<p>See Above</p> <p>Added 16 June 2012</p>
17.	<p>UDRP and URS do not capture a large part of the contentious matters involving domain names. We therefore believe an accurate measurement of conflicts due to the new gTLD program should include this measure as well as that for UDRPs and URS.</p> <p>Measure: Quantity and relative incidence of litigation Complaints</p> <p>Source: Litigants and/or Survey Provider</p> <p>Difficulty: Moderately difficult, as it would require self-reporting. In addition or in the alternative, information could be gathered by survey.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New</p> <p>22 May – Difficulty of getting to source data. INTA may provide some.</p> <p>If there are TM incidents not tracked or submitted in UDRP & URS, this data could be valuable</p> <p>These new metrics compliment UDRP & URS but will create new measurements</p>	<p>Add new measure (will consolidate comments #17 – 20):</p> <p>Measure of Consumer Trust: Quantity and relative incidence of intellectual property claims relating to Second Level domain names, and relative cost of overall domain name policing measured at: immediately prior to new gTLD delegation and at 1 and 3 years after delegation.</p> <p>Source: Independent reporting by or Survey conducted by IP</p>

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				<p>Organization (e.g. INTA, AIPLA, and/or others) or third party of (1) (a) domain name IP cases filed against SLD registrants (not including UDRP or URS actions), (b) domain name IP cases filed against registries regarding SLDs and TLDs (not including UDRP or URS actions), (c) domain name IP cases filed against registrars regarding SLDs (not including UDRP or URS actions), (2) acquisition of SLDs which infringe or otherwise violate IP rights of acquiring parties, and (3) relative cost of domain name policing and enforcement efforts by IP owners.</p> <p>Note: Difficulty would be in determining reliable and trusted source of information for all participants must be statistically significant. May be other reasons for data collection with regards to restrictions on confidentiality</p> <p>Proposal: Poll IP organizations regarding participation and willingness to fund or assist in funding third party survey organization.</p> <p>Added 16 June 2012</p>

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18.	<p>Measure: Quantity and relative incidence of litigation Decisions against registry, registrar or registrant Source: Litigants and/or Survey Provider Difficulty: Moderately difficult, as it would require self-reporting. In addition or in the alternative, information could be gathered by survey.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New 22 May – See Above</p>	<p>See Comment #17 Added 16 June 2012</p>
19.	<p>We believe an accurate measurement of conflicts due to the new gTLD program should include this measure as well as those measuring number of UDRP or URS proceedings, and litigation. Measure: Quantity and relative incidence of acquisitions of infringing domain names (other than by UDRP or litigation) Source: Acquirers and/or Survey Provider Difficulty: Moderately difficult, as it would require self-reporting. In addition or in the alternative, information could be gathered by survey.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New 22 May – See Above</p>	<p>See Comment #17 Added 16 June 2012</p>
20.	<p>This will be directly correlative with “trust” in the new gTLDs Measure: Relative cost of overall domain name policing and enforcement programs by trademark owners Source: Trademark Owners and/or Survey Provider Difficulty: Moderately difficult, as it would require self-reporting. In addition or in the alternative, information could be gathered by survey. 3 Yr Target: Relation between number of domains and cost of policing and enforcement of them (i.e. Enforcement and policing cost /number of Domain names) should decrease.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New 22 May – See Above</p>	<p>See Comment #17 Added 16 June 2012</p>
21.	<p>Quantity of spam received by a "honeypot" email address in each new gTLD “Lower than incidence in legacy gTLDs” is far too low a bar for a target. This assumes that any improvement over</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.8, metrics #6) 22 May – Do honeypots exist in gTLDs</p>	<p>“Significantly Lower than relative incidence in legacy gTLDs” Added 16 June 2012</p>

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	<p>legacy gTLDs is a “success.” For each of these metrics the target should be a stated percentage lower than in legacy gTLDs (e.g., 50% lower).</p> <p>None noted (assuming that there are “honeypot” email addresses in all legacy gTLDs)</p>		Relative % reduction	
22.	<p>With regard to the measures of consumer trust on page 7, the metric “Lower than incidence in legacy gTLDs” may not be realistic for determining “Relative incidence of notices issued to Registry operators, for contract or policy compliance matters”.</p> <p>We believe that the incidence of notices for existing gTLDs has been quite low. We suspect, considering the large number of new players expected to enter the market for new gTLDs, that it might be reasonable to expect a higher incidence of such notices.</p> <p>A better metric might contain a range e.g. ‘+/- 5% of legacy gTLDs’. One way of examining this further would be to request the actual incidence rate for existing gTLDs over the last few years; if it is extremely low (as we suspect), using it might set an unreasonably challenging expectation for new gTLDs. Also, the requirements for existing gTLDs are not the same as for new gTLDs so, at a minimum, any comparison done should note this in interpreting the results.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.7, metrics, ALL)</p> <p>22 MAY – Go back to Registries. One breach notice of 20 legacy gTLDs. Do you think a 100 notices is an reasonable low goal.</p> <p>We did not deliver on consumer trust if we have 100 notices in 2015.</p> <p>Direct outreach explaining the data and if they wish to go with +/- 5%</p> <p>1 Breach notice sent 27 Feb 2011 16 Ry Operators vs 20 gTLDs.</p> <p>Set measures for as many metrics as we can. Concern, that these two breach notice rows. Not to specify a target, and do not create incentive for lack of enforcement.</p> <p>Decreased amount of trust versus increase in compliance. Take in to effect.</p> <p>29 May – based on new numbers. Reg Operators.</p>	<p>Set a direct number of Ry (5%) relative incidents per total gTLDs as compared to legacy TLDs. Point out Moral Hazard of Compliance Program should be balanced by an assessment on the response and execution of the Compliance program (if it is stepped up, it should not necessarily reflect bad back on RO). (Perhaps this general statement go to introduction, ties to ICANN being contracted party)</p> <p>Using 2011, 5% as baseline; allow +/-5%</p> <p>5% metric no longer required. Added Relative</p> <p>Added 16 June 2012</p>

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			<p>Breach notice is based on contract. So # of TLDs. Each is unique.</p> <p>JZ - percentage of "3 warning" issues that result in breach to incent them to take folks over the last hump in enforcement</p>	
23.	<p>Summary of Comment: Page 7 Metrics – “Relative incidence of notices issued to Registry operators, for contract or policy compliance matters” + or – 5% of Legacy gTLDs – being unfair for new gTLDs due to more variation versus legacy TLDs having the advantage Unfair for new player to have too high of standards</p>	<p>Chuck Gomes / Costa Rica Session</p>	<p>More lenient with respect to breach notices and the targets; stating current TLDs have a good head start in positive behavior</p> <p>Relative incidence to a denominator (Operators vs. Registration)</p> <p>CCTC Clarify how we do the math.</p> <p>Use Chg Mgmt to adjust targets based upon real data</p>	<p>Modify 3 Year target; clarify how we “do the math”</p> <p>- SEE ABOVE #22</p> <p>Added 16 June 2012</p>
24.	<p>Finally, in reviewing the overall approach, we note that consumer trust will be based not only on industry participants and their activities within the market, but also on the behavior and operation of ICANN. Industry participants and consumers all need to be able to rely on the stable, secure and predictable governance of the critical internet functions that ICANN is responsible for overseeing. Any additional metrics which can deal with these functions would be welcomed.</p>	<p>RYSG / Public Comment</p>	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc New</p>	<p>Refer to comments 10 & 11 about including the first two sentences of Ry comments to speak to the higher context that ICANN is contracted party.</p> <p>Added 16 June 2012</p>
25.	<p>The USG believes that without revision, the proposed measures will be inadequate to make a proper assessment under either the original proposed definitions of consumer trust, consumer choice, and competition, or under the definitions as we propose they be modified. The USG therefore recommends the expansion of the metrics in a number of ways explained below.</p>	<p>USG / Public Comment</p>	<p>USG_comments_text.pdf; Pages 5-6 of PDF page numbers</p> <p>Survey: CLO - Falling into trap of predicting outcome of survey. All suggestions should belong to the future review team and its decision in how far</p>	<p>Add shopping list of what could be included in survey into current metric, and expanding population. Reiterate before vs. after.</p> <p>Added 18 June 2012</p>

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	<p>Overall, the metrics for each of the three definitions are interrelated and should be considered comprehensively to determine whether the benefits of gTLD expansion outweigh the costs.</p> <p>Consumer Trust Measures The scope of the survey that is proposed in the table of measures on consumer trust should be significantly expanded. First, the survey should not be limited to consumers and should not be limited to information before the new gTLD expansion. Rather, the survey should also include Registry operators, and Registrars, as well as other entities, such as law enforcement entities, which may incur costs as a result of the introduction of new gTLDs. Second, the survey also should request information about the experience of consumers and the other included entities both before and after the introduction of new gTLDs. The survey should seek information about specific costs respondents have incurred because of new gTLDs due to cybercrimes and other fraud, the reduced value of intellectual property, and the expense of actions taken to safeguard intellectual property (including defensive registrations) or protect against crimes. Third, the survey should be expanded to seek information about rivalry among TLDs, registry operators, or registrars that has produced better service, higher quality or more secure products, or lower prices, both before and after the introduction of new gTLDs.</p> <p>Lastly, the Working Group's draft advice document includes some useful metrics on the incidence of domain takedowns, the quantity and relative incidence of fraudulent transactions caused by phishing sites in new gTLDs, and the quantity and relative incidence of complaints regarding inaccurate, invalid, or suspect Who is records in the new gTLDs, among others. We</p>		<p>the scope of the survey. We accept that the survey needs to be comprehensive and include many participants. Survey, if and when undertaken, could reference highlights as suggested by USG</p> <p>SDB – cost vs. benefit in this exercise and expansion of scope. Incorporate for substantive value. We already measure before and after. Survey consumer population is a defined term. USG wants us to include Law Enforcement and Contracted parties. Scope of survey questions, we only have a partial list. We did not flush out all things in our statement, even though survey.</p> <p>Metrics: OCL: Can all these be collected? Seem to be difficult to collect, while may be useful.</p> <p>Concern that they cant be collected to show relative incidence.</p> <p>Most already included in the WG identified metrics. Other may be difficult to collect.</p> <p>3 Year targets are meant show improvement over time. Some metrics are individual metrics while others are part of a Survey.</p> <p>INTA: The previously set forth Survey could be expanded to include many of these topics. However, sources of</p>	

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	<p>recommend inclusion of several specific additional measures that will facilitate the evaluation of whether the expansion of gTLDs has improved consumer trust:</p> <ul style="list-style-type: none"> • Relative incidence of complaints received by ICANN involving the new gTLDs, as well as for existing TLDs; • Quantity and relative incidence of mal ware sites in the new gTLDs, as well as for existing TLDs; • Quantity and relative incidence of domain names in new gTLDs used in botnets, as well as for existing TLDs; • Quantity and relative incidence of domain names in the new gTLDs associated with identity theft, as well as for existing TLDs; • Quantity and relative incidence of domain names in the new gTLDs associated with spam, as well as for existing TLDs; • Quantity and relative incidence of breach notices, suspensions, and terminations related to legal misconduct of officers of new gTLD registry operators, as well as for existing TLDs; • Quantity and relative incidence of security breaches in new gTLDs, as well as for existing TLDs; and • Conducting multiple surveys of consumer confusion (rather than conducting a one-time survey as initially proposed). <p>With respect to the 3-year targets in most of the measures of Consumer Trust on pages 6 and 7, the USG questions whether the target levels relating to problems or performance issues associated with new gTLDs should be set at rates that are lower than the comparable rates that existed before the gTLD expansion, regardless of the amounts of the reductions. The number of problems or issues that must be addressed could grow with an increase in new gTLDs, which could overload the systems that are designed to deal with these issues. The USG believes that</p>		<p>empirical data would have to be located for the following: mal ware sites, botnets, identity theft, spam, legal misconduct of officers of new gTLD registry operators, and security breaches.</p> <p>13 JUN – Refer to end of document for detailed responses.</p>	

	Comment	Who / Where	WG Response	Recommended Action
	the targets and tolerance for problems or performance issues should decline substantially with a significant expansion of new gTLDs.			
Consumer Choice – Definition				
26.	<p>Definition of “Consumer Choice”. We believe the definition of “consumer choice” should be expanded. “Consumer” is defined in the Advice as “actual and potential Internet users and registrants.” We understand this to mean not only parties which register or may register domain names, or users of the new gTLD program, but the entire range of users of the Internet itself. This includes companies, consumers, children, and others. However, the proposed definition of “Consumer Choice” appears not to relate to the experience of or choice enjoyed by users. The Advice defines “Consumer Choice” as “the range of options available to registrants and users of domain scripts and languages, and for TLDs that offer choices as to the proposed purpose and integrity of their domain name registrants.” Contrary to the definition of “Consumer” then, this definition does not relate to the experience of or choices of “users” in the scope of domain names, but only to the availability of domain names to potential registrants and the integrity of registries to their contracted-for purposes.</p> <p>We do not believe that it is enough to consider whether the new gTLDs give users a greater choice of domains and sites within domains to turn to. In order to determine whether the expected expansion of the number new gTLDs provides a meaningful choice, we believe metrics should be considered that measure the positive and negative aspects of presenting users with a broader selection, their ability to determine trustworthy domains as opposed to others, and the ability to find the sites and resources that they are seeking. This would inevitably include consideration of the ability of search engines to find and link consumers to the sites and resources for</p>	INTA / Public Comment	<p>INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf</p> <p>5 June – We change Registrants and Users to Consumers Or – Put full definition of consumer within</p> <p>Last paragraph - Search engine analysis encroach on scope creep</p> <p>Search is just one method of many in which URLs are presented to users.</p> <p>Visual elements are intended to offer meaningful choice. Confidence and Innovation.</p> <p>Our definition gets to proposed purpose and integrity.</p> <p>Not expand scope, but expand definition choices that they have to be meaningful choices</p> <p>Is INTA pointing to brand dilution?</p> <p>Explain that we do not believe innovations of search engines does not fall within ICANN scope</p>	<p>Use defined term of Consumer to replace Registrants and Users</p> <p>Add MEANINGFUL before choices in definition</p> <p>Expand Survey from Consumer Trust to also include Consumer Choice elements. Survey of same population.</p> <p>Add explanation of search engines out of scope within Out of Scope section. (search engine already mentioned in scope section)</p> <p>Added 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>which they are searching.</p> <p>From a trademark standpoint, we believe this search engine analysis should include an analysis of the accuracy of search engine results both before and after the new gTLDs are introduced, along with an analysis of the ability of search engines to discriminate between sites which meet the proposed purposes for which they were established as opposed to those that do not. Another possible area of inquiry might be whether new gTLDs provide a greater range of sites, registrants, and resources than existed prior to the program.</p>			
27.	<p>Consumer Choice is defined for registrants and users as the range of options available to registrants and users for domain scripts and languages, and for TLDs and for users as the range of options for users to access and use websites and resources in both legacy and new TLDs that offer choices as to the proposed purpose and integrity of their domain name registrants.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf</p> <p>5 June - Discussion if this incorporated the non-use of DNS and Evan's comments / Encroaches scope issue</p> <p>Legacy and new TLDs has a risk of expanding scope</p> <p>The use of users may not advance the definition further</p>	<p>Refer back to #26 for definition change in use of Consumer.</p> <p>Added 18 June 2012</p>
28.	<p>Andy Mack – Outreach necessary to urge ICANN to spread the word more, and somehow measure that. No explicit measures of communications program. If we wait two to three years down the line. Andy to provide metric</p> <ul style="list-style-type: none"> • Jonathon Zuck – Aim Andy's question to Bruce – How ICANN might manage these metrics? • Bruce Tonkin – ICANN Community accept the definitions of these terms. ICANN approve the policy that defines those terms. 2nd issue – Metrics – Cost of Delivering them; degree of resource implications; Targets part of strategic planning; Consumer Trust part of Strategic Plan; # of uses of Consumer is large. Should have a 	Andy Mack / Costa Rica Session		<p>Incorporate Outreach/Awareness of new TLDs questions in to survey</p> <p>Will add new row of Consumer Choice survey, and include outreach and awareness</p> <p>Added 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	shared definition of Consumer			
29.	<p>Consumer choice is defined as the range of meaningful options (taking into account price, quality, and product diversity) available to registrants and users for domain scripts and languages, and for TLDs that offer choices as to the proposed purpose and integrity of their domain name registrants. Consumer choice must be assessed together with consumer trust and competition to aid in determining the overall costs and benefits incurred by consumers and other market participants from the expansion of gTLDs.</p> <p>Explanation: The proposed modification would clarify some of the bases for assessing the range of options available to consumers in order to determine whether consumer choice has increased meaningfully. The USG believes that when consumers have different options across a range of prices, quality, and product diversity, then consumer choice is increased. Merely having more options does not necessarily meaningfully improve consumer choice. Rather, for consumer choice to have been expanded, consumers must have a variety of options offering different combinations of price, quality, and product diversity. This proposed refined definition would help focus the assessment of whether consumer choice has been enhanced through the expansion of gTLDs. The modified definition will also better facilitate the overall assessment of the net benefits of expanding gTLDs, involving a comparison of increased consumer choice with any increased costs.</p>	USG / Public Comment	<p>USG_comments_text.pdf; Pages 6-7 of PDF page numbers</p> <p>5 June – Covered in</p> <p>Only use meaningful</p> <p>INTA: Add to 27 and/or to 54 and 55. Delete from “Competition must . . . “ to end of addition.</p>	<p>Refer to use 26 for inclusion of MEANINGFUL.</p> <p>Add a note 2: “Meaningful options will include price, quality, and product diversity.</p> <p>Include, this general note of assessment for all definitions. Refer to TB note 5.</p> <p>Moreover, Consumer choice must be assessed together with consumer trust and competition to aid in determining the overall costs and benefits incurred by consumers and other market participants from the expansion of gTLDs.</p> <p>Added 18 June 2012</p>
Consumer Choice - Metrics				
30.	CBBB requests that the costs of trademark abuse be tracked by calculating the number of defensive registrations that will follow in the new gTLD registries, as well as calculating the number of blocking of trademarks that will occur during sunrise periods in the new gTLDs.	CBBB/Public Comment	<p>Advice Ltr - (p.10, metrics #1,2, 3)</p> <p>Policy advice is out of scope</p> <p>Map to page 10, suggest to ICANN</p>	No action.

	Comment	Who / Where	WG Response	Recommended Action
	<p>Such costs are adverse to the public interest and ultimately consumers. To minimize such costs, CBBB strongly urges ICANN to put in place a central trademark clearinghouse for valid trademark holders to block registries and registrars from sales of such valid trademarks to registrants. This will reduce the amount of profiteering that has taken place in the past when registrars are allowed to sell others' trademarks, which does nothing to increase competition on the Internet. ICANN has essentially allowed the blatant violation of others trademark rights for too long and if it continues to allow this, it should document the amount of such illegal activity.</p>		<p>measure quantity of defensive registration. Most did not quibble on metric, but the target.</p> <p>We are advising the Board to attempt to measure the quantity.</p> <p>WG already identified quantity. CBBB wants to identify cost.</p> <p>Do not see a mechanism in how to measure across market. Estimates on the aggregate number</p> <p>WG acknowledges quantity of defensive registrations.</p> <p>INTA: Appears to be beyond the scope to respond to request to include a blocking function to TMCH.</p>	
31.	<p>Measure the increased geographic diversity of registrants across all new gTLDs, as an indication of new choices presented by gTLDs expansion. (do not count privacy/proxy registrations) Geographic diversity of registrants actually using the new gTLDs. Is there widespread adoption of new gTLDs in regions around the world that are representative of the Internet's reach? Has the program been accepted and understood across the regions? Is there evidence that new gTLDs (as a general group) are being registered and used across the world? (Note: this is different that diversity in who is managing the new gTLDs)</p> <p>Ability of new gTLDs to empower communities, regions, brands and people. Consider doing a study of a group of communities (around delegated new gTLD strings) before</p>	Annalisa Roger/Public Comment	<p>Advice Ltr - (p.10, metrics #4)</p> <p>5 June - Privacy & Proxy – can we identify location of Rt?</p> <p>Discussion of JAS. Do not have details, but hope for geographic diversity. May not have to consider qty of domains registered.</p> <p>May involve actual use. Register, but not USE. (do not count registrations that fail to resolve)</p> <p>INTA: See #37 & 38</p>	<p>Will keep “do not count Privacy/Proxy data”</p> <p>Add to parenthetical “(do not count registrations that fail to resolve)”</p> <p>Measuring UNDERSTOOD back to Andrew Mack statement on Survey to include OUTREACH & AWARENESS (refer back to change to include survey in Consumer Choice)</p> <p>Added 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	and after they launch their gTLD, compared to similar communities who do not have gTLDs strings.			
32.	<p>As noted above, we believe that the definition of “Consumer Choice” should include consideration of the experience of Internet and DNS users. The CTWG should consider including the following description of a survey measure in the section on “Consumer Choice” metrics: Survey of consumer experience and ability to locate sites offering information, products, or services for which they have searched the Internet, relative to their ability to do so before the gTLD expansion. The survey could measure consumers’ ability to locate sites utilizing domain name searches rather than keyword searches.</p> <p>Although the measures include several that analyze the quantities of TLDs using IDNs or languages other than English, these do not provide a satisfactory measure of the relative success of the opening of the DNS to IDNs. Clearly, by permitting the establishment of new gTLDs using non-English, and non-Latin characters and scripts the DNS is offering a greater choice. However, in addition to demonstrating that such domains are being registered, we believe the relative success of allowing such domains should be tested as part of the analysis. We therefore propose that another measure be included which compares the percentage of IDNs in each script or language to the percentage of people who speak or utilize each particular language or script. These percentages should converge over time.</p> <p>Determining whether new gTLDs actually provide for greater consumer choice or merely a proliferation of new domain names is an important measure. Thus, the measure of the number of defensive registrations is an important metric for consumers who rely on trademarks and trademark owners who protect their respective marks. In this regard, we note that the “defensive registration” measure includes not only top level domains, but second level domains. We do not, however, believe that</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New</p> <p>5 June – Add metric of Consumer Choice Survey – 1st metric should be the survey. Measure the meaningfulness will be ascertained with the consumer survey. Consumer choice survey elements will include (confusion, search engine...USG comments)</p> <p>This is the same survey, just adding much more to Trust survey.</p> <p>Defensive registrations and WG agreed that we will remove the reference to privacy/proxy</p> <p>INTA: INTA proposal – combine with Trust survey and add 36 and 42.</p>	<p>Make new row, Consumer Choice Survey and include INTA details, in combination with #28 & 29</p> <p>Added from PC#28 above 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	privacy/proxy registrations should be excluded from the numerator in this calculation.			
33.	<p>Survey a sample of “duplicate” registrations in new gTLDs. For purposes of this measure, “duplicate” registrations are those where registrant reports having (and still maintaining) the same domain name in a legacy gTLD.</p> <p>As for the measure of duplicate registrations in new gTLDs, we note that this measure is to be based on a survey of registrations of second level domain names in both a new gTLD and in legacy TLDs to determine a relative percentage of domains which do not increase the amount of consumer choice. Although described as a survey, we believe a better measure could be obtained by suggesting that the Review Team develop online searches and analysis of actual online sites rather than relying on a survey of site owners. Additionally, similar studies have already been undertaken, including several relied upon by ICANN's economic experts.</p> <p>1.This may be the intent of the measure, but this is not clear from the draft Advice.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.10, metrics #3)</p> <p>5 June – Online survey &/or automated analysis of actual registration. Consider one or both ways.</p> <p>INTA Footnote, need to clarify on practical difficulty</p> <p>INTA: Development of searches of actual sites desirable – but is it possible?</p>	<p>Modify metric to include Online Survey &/or automated analysis of actual registrations. Consider one or below.</p> <p>Added 18 June 2012</p>
34.	<p>Registrars' websites should clearly disclose gTLD benefits and restrictions in the terms & conditions for each respective TLD they offer.</p> <p>We also suggest that, in addition to determining whether registry websites “clearly disclose benefits and restrictions” of the particular registry, there should be an empirical determination made whether such community-based websites actually meet the proposed purpose of the registry. Only if they meet their proposed purposes by providing the disclosed benefits and restrictions should they be considered as increasing consumer choice.</p> <p>The ease of locating and accessing Terms and Conditions</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.9, metrics #2)</p> <p>5 June – WG thought it was enough to measure intended restrictions. Only community based TLDs contain restrictions. If standard, ICANN cannot enforce if gTLD changes its restrictions.</p> <p>Consider adding a row on P.9 for non-community TLDs it would be useful if ROs are enforcing their stated restriction.</p>	<p>Add a row on Page 9. Append to end. 4th row, non-community based TLDs actually being bound to stated restrictions.</p> <p>Emphasize BOLD Combine “whether such community-based websites actually meet the proposed purpose of the registry”</p> <p>Added 18 June 2012</p> <p>Removed line 19 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	should be considered.		INTA: Combine “whether such community-based websites actually meet the proposed purpose of the registry” with bold text.	
35.	gTLD registry benefits and restrictions should be clear and understandable to registrants and users. Both “plain language” and clarity of benefits and restrictions should be measured and rated.	INTA / Public Comment	INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.9, metrics #3) 5 June – Doesn’t align with the survey noted above. Rt & Users can assess clarity and benefits	Add this to survey including Benefits and Restrictions. Refer to above. Added from PC#28 above 18 June 2012
36.	<u>Measure: Accuracy of search engines in locating and linking to pages offering goods or services or information being sought by internet users.</u> <u>Source: User survey, study of search results for trademark and generic term searches or feedback from search engines</u> <u>Difficulty: Could be difficult to obtain empirical data unless a study is conducted using trademark and generic search terms to obtain statistically significant data</u> <u>3 Yr Target: Sites featuring trademarked goods or services, or the goods or services represented by generic terms are accurately listed in search results in hierarchical order.</u>	INTA / Public Comment	INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New 5 June – Search engines is out of scope. We did state early about satisfaction of surveys, not accuracy. INTA: Add to survey if possible – is there an industry measure?	No action. Covered in survey of Consumer Choice.
37.	<u>Measure: The percentage of IDNs in each script or language should be compared to the percentage of people who speak or utilize each particular language or script</u> <u>Source: Registry websites and statistical determination of number of speakers or script users</u> <u>Difficulty: Must identify reliable source of number of speakers or users of each language or script.</u> <u>3 Yr Target: This percentage should increase over time.</u>	INTA / Public Comment	INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New 12 JUN – CLO: A number of resources or benchmarks of data sets to determine % of people who speak a particular lang. or script. Use of Country and Territory Names, may have history of sources used.	Add new measure <u>Measure: The percentage of IDNs as compared to the total gTLDs in each script or language should be compared to the percentage of people who speak or utilize each particular language or script</u> <u>Source: Registry websites and</u>

	Comment	Who / Where	WG Response	Recommended Action
			<p>MG: Compare against total number of TLD vs of IDNs as compared to the total population. The anticipation is that the number will grow over time.</p> <p>CLO: Refer to ccTLD IDN Fast Track for examples and determine baseline</p> <p>RS: Growth in IDNs is an effective measure of Consumer Choice</p>	<p>statistical determination of number of speakers or script users Difficulty: Must identify reliable source of number of speakers or users of each language or script. 3 Yr Target: The percentage of IDNs should trend closer to the percentage of the population that speaks that script over time.</p> <p>Added from PC#28 above 18 June 2012</p>
38.	<p>Measure: Quantity of TLDs using IDN scripts or languages other than English which are independent of national governments or government control. Source: Registry and registrar websites Difficulty: Presume TLDs not owned by government or government agency qualify; More difficult to determine government control unless self-identified in Terms of Use 3 Yr Target: Increase in number of independent IDN TLDs over time – measure at first round, second round, etc.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New</p> <p>CLO: WHY?</p> <p>MG: Is this a proviso to counting number of IDNs in previous metric. Measuring choice of govt sites vs, non-govt sites.</p> <p>CLO: Draw out IDNs vs ccTLD operations vs a gTLD operation</p> <p>OCL: New geographic TLDs will require state sponsoring. This a metric that may point in that direction. Involvement of govt in growth of TLDs in some parts of the world. How much growth supported by govt vs. private enterprise. Question about mission of ICANN to go this far.</p> <p>MG: Could be an interesting statistic....this sort of information better suited for independent study.</p>	No action. Considered by WG. the metrics will be captured within Competition. It will be a later choice in how to interpret.

	Comment	Who / Where	WG Response	Recommended Action
39.	<p>A defensive registration is not seen as an improvement in choices available to registrants. For purposes of this measure, “defensive registrations” are Sunrise registrations & domain blocks. Measure share of (Sunrise registrations & domain blocks) to total registrations in each new gTLD. (do not count privacy/proxy registrations)</p> <p>Percentage change should be considered indicative of degree of success. Since blocks and sunshine registrations require a registered trademark, there is no need to exclude privacy/proxy registrations from the numerator.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.10, metrics #1)</p> <p>INTA: Suggest that Proxy/Privacy registrations be included as Defensive Registrations if they resolve to same server?</p> <p>12 JUN – WG agreed.</p>	<p>WG agreed to remove Privacy/Proxy Registration from CT metrics. Refer above.</p> <p>Tone down language to state that Sunrise may not mean defensive...</p> <p>Edit bold state, 2nd sentence. Sunrise registration and domain blocks are potential indicators of “defensive registration.</p> <p>Added 18 June 2012</p>
40.	<p>Relative share of registrations already having the same domain in legacy gTLDs. For this measure, count all registrations that redirect to domains in legacy gTLDs. (do not count privacy/proxy registrations)</p> <p>We asserts that 15% is too great of a percentage and that the survey of defensive registrations referenced in "An Economic Framework for the Analysis of the Expansion of Generic Top-Level Domain Names" would support a percentage between 3% and 9%.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.10, metrics #2)</p> <p>12 JUN – SDB – Why would add the g? If we look at registration in all TLDs left of the dot.</p> <p>MG: Agreed. Reference to 3 yr. Target.</p> <p>Important that ICANN begin to measure, Unclear whether this number should change based on one comment</p> <p>This point is only targeting on Redirects</p>	<p>Will not add the “g” to metric description</p> <p>Add.. “Relative share of <u>new gTLD</u> registrations already having the same domain in legacy TLDs prior to expansion” to description</p> <p>Remove “(do not count privacy/proxy registrations)”</p> <p>Added 18 June 2012</p>
41.	<p>Survey a sample of “duplicate” registrations in new gTLDs. For purposes of this measure, “duplicate” registrations are those</p>	INTA / Public	INTA Internet Committee comments on	Noted. No Action

	Comment	Who / Where	WG Response	Recommended Action
	<p>where registrant reports having (and still maintaining) the same domain name in a legacy gTLD.</p> <p>NOTE: This would appear to remove from computation information regarding registrants that have a policy of cross-registration of domain names and trademarks. Would weigh against finding of choice.</p>	Comment	<p>Metrics Chart 17 Apr 2012.pdf Advice Ltr - (p.10, metrics #3)</p> <p>12 JUN –</p> <p>MG: Approach to duplicates. Understand now it is three fold analysis with 39, 40, & 41</p> <p>SDB: Considered all together. Redirect or maintain content in both. Might not be same content. If this were a survey, not an automated analysis. Rt gets to indicate its use.</p>	
42.	<p>We support, provided that the survey includes the consumer accurately locating sites and screening out cybersquatting and parked domain names. See above-survey recommended in consumer choice.</p> <p>Measure: Survey of consumer ability to accurately locate sites offering information, products, or services for which they have searched the internet, relative to their ability to do so before the gTLD expansion. Survey could measure their ability to locate sites utilizing domain name searches rather than keyword searches.</p> <p>Source: Online survey or empirical study</p> <p>Difficulty: User survey may be too subjective to provide data;</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf New</p> <p>INTA: Include in Survey</p> <p>12 JUN –</p> <p>INTA – akin to measure of Trust, not choice.</p> <p>SDB did not increase choice</p> <p>MG, item pointing that any consumer survey point to Trust & Choice</p> <p>RS: Are consumers satisfied that they are getting to right information.</p> <p>MG: Company or place,</p>	<p>Add new metric, but combined with surveys in CT & CC</p> <p>Measure: Survey of perceived ease by which users locate desired content and websites, relative to pre-expansion TLD space.</p> <p>Source: Online survey or empirical study</p> <p>Difficulty: User survey may be too subjective to provide data;</p> <p>Added 18 June 2012</p>
43.	<p>Measure: Measure actual internet traffic to legacy TLDs</p>	INTA / Public	INTA Internet Committee comments on	Measure: website traffic is a

	Comment	Who / Where	WG Response	Recommended Action
	<p>and new TLDS Zone and root server use data Source: The intent is to determine if there has been an increase in traffic to new TLDS. May want to exclude redirected traffic if possible. Difficulty: Traffic to new TLDS should increase proportionally as compared to traffic to legacy TLDS</p>	<p>Comment</p>	<p>Metrics Chart 17 Apr 2012.pdf New</p> <p>12 JUN –</p> <p>MG – Difficulty of obtaining traffic data.</p> <p>SDB: Most resolutions through Cache or the Zone to acquire IP address.</p> <p>OCL: Apples & Oranges. Internet Traffic owned by ISPs vs. Hits to site based on DNS Resolution</p> <p>SDB: How is traffic an indication of Choice?</p> <p>MG: Testing an indication of Choice. Are consumers utilizing that space? Choice not taken. Offering consumers not interested in. Qualitative analysis, thru empirical data.</p> <p>OCL: Worthy of determining usefulness of choice. Alexa stats traffic.</p> <p>SDB: Traffic could be a stat for Competition</p> <p>13 Jun –</p> <p>SDB: Count on Data Reporting Service</p> <p>RS: Only reason we care about measure, that enough trust exists with end user to migrate to new gTLDs</p> <p>BC: Need to use DNS Scrubbers & combo</p>	<p>potential indicator of trust, exercised choice, and effective competition. User traffic in new gTLDs should be compared to user traffic in legacy gTLDs (Sampling)</p> <p>Source: DNS Scrubber / ALEXA</p> <p>Target: Compare to show growth in new gTLD traffic relative to the growth in the legacy gTLD</p> <p>Added 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			w/ Alexa	
44.	<p>Quantity of TLDs using IDN scripts or languages other than English.</p> <p>Under ‘Measure of Consumer Choice’ on page 9, we believe that the meaning of “Quantity of TLDs using IDN scripts or languages other than English” should be made clearer. We understand that the metric, “Increase in number of TLDs offering these choices, relative to 2011” refers to the quantity of operators offering actual IDN gTLDs; if this understanding is correct, we believe it will be clearer with revised wording along the lines of “Increase in the number of TLDs in IDN scripts or languages other than English, relative to 2011” since the current wording could be interpreted to cover only the use of IDN scripts on websites or in promotions, etc., but not in the TLD string itself. The same point probably applies to the next measure: “Quantity of Registrar websites offering IDN scripts or languages other than English.”</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.9, metrics #4)</p> <p>13 JUN – SDB – Propose changing what we had. Matches the language of the target to that of the metric.</p>	<p>Change 3 YR target to “Increase in the number of TLDs in IDN scripts or languages other than English, relative to 2011”</p> <p>Change next Measure for Registrars too.</p> <p>Added 18 June 2012</p>
45.	<p>Quantity of different national legal regimes where new gTLD registries are based.</p> <p>The last measure on page 9 is “Quantity of different national legal regimes where new gTLD registries are based.” We believe that this refers to the regimes in which new gTLD registry operators (the ICANN contracted parties) are located, not the regimes where new gTLD registry service providers might be located when the operator and service provider are not one and the same entity. We believe it would be helpful to make this explicit.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.9, metrics #6)</p> <p>13 JUN – SDB: Where Rys are based. Need to be specific. Explicit and say Operators are based. Who we hold accountable. Not the same thing as the service provider.</p>	<p>Change Metric to “Registry Operators are based”</p> <p>Added 18 June 2012</p>
46.	<p>A defensive registration is not seen as an improvement in choices available to registrants. For purposes of this measure, “defensive registrations” are Sunrise registrations & domain blocks. Measure share of (Sunrise registrations & domain blocks) to total registrations in</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.10, metrics #1)</p>	<p>Make Changes to Italics bar,</p> <p>Added 18 June 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>each new gTLD. (do not count privacy/proxy registrations)</p> <p>We do not believe that it is accurate to conclude that a sunrise registration is necessarily a defensive registration. If a mark holder registers a name in a sunrise period and then goes on to utilize the same name on a website or in another way, that should not be counted as a defensive registration. Additional sophistication is required here in order to determine the fraction of the registry given over to purely defensive registrations.</p>		<p>13 JUN – SDB, Rys are saying that a registration in sunrise is not necessarily a defensive registration. There are three measures for Def. Reg. **Header row, measures taken jointly, not individually. Targets to accommodate to potential over counting</p>	
47.	<p>Relative share of new gTLD registrations held by “new entrants”. For purposes of this measure, “new entrants” are gTLDs run by Registry Operators that did not operate a legacy gTLD.</p> <p>Does this count existing ccTLD operators who become gTLD operators as new entrants? We believe it should, and that this should be explicit.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.11, metrics #6)</p> <p>13 JUN – Yes! We did make it explicit in the 2nd sentence.</p> <p>Endnote #3, on 16 Operators</p>	<p>Agree w/ Ry, and clarify by endnotes denotation.</p> <p>Added 18 June 2012</p>
48.	<p>Chuck Gomes – Equate sunrise registrations to defensive registrations.....Registrations by Rights Holders b/c they will use the name. IDN version of .com, brand will not register in scripts to defend, but to use. Not so complicated to measure but may provide false results</p> <ul style="list-style-type: none"> • Steve DelBianco – might have to restrict this measure only TLDs open to general public....“redirected registrations” • Chuck Gomes – Redirected does not necessarily mean defensive either • Jonathan Zuck – Start tracking data. How it get interpreted and evaluated does not need to be pre-determined 	Chuck Gomes / Costa Rica Session	<p>Determine criteria of defensive registrations, b/c sunrise may not necessarily mean a defensive registration, but 1st chance opportunity to acquire domain. Redirects do not necessarily mean redirect either.</p> <p>Don’t want to set aggressive 3yr. targets</p> <p>INTA: Separate numbers should be developed for Sunrise and Defensive registrations as many Sunrise sites are not merely defensive.</p>	<p>Cross out (do not count privacy/proxy registrations) from first & second row on page 10. For Sunrise.</p> <p>Restated in Italicized bar for the three measures.</p> <p>Refer to PC#40</p> <p>Added 18 June 2012</p>
49.	[refer to section introduction included in Consumer Trust Metrics Section]	USG / Public Comment	USG_comments_text.pdf; Pages 6-7 of PDF page numbers	rephrase measure of survey Rt in new gTLD. Survey questions

	Comment	Who / Where	WG Response	Recommended Action
	<p>Consumer Choice Measures</p> <p>Consistent with our proposed revisions to the definition of "Consumer Choice," measures of consumer choice should include measures of price, which is an important dimension of consumer choice, as well as quality and diversity of offerings. Seeking information on these factors will help determine whether consumers have meaningfully expanded choices on various dimensions, including price, quality, and diversity of product offerings.</p> <p>The proposed criteria for evaluating defensive registrations should be modified. First, calculating defensive registrations (page 10) is too narrow to the extent it focuses only on registrations of domains that were previously registered in "legacy TLD" (gTLDs in service before the planned expansion). Defensive registrations could also follow from, among other things, domains that were previously registered in ccTLDs or new gTLDs that were introduced before another new gTLD commences operations; the criteria to quantify defensive registrations should be expanded to include those possibilities. Conversely, the proposed criteria for defensive registrations may be too broad because it is unlikely that every registration in a new gTLD of a domain that is already registered in another TLD will be for defensive purposes. We suggest that the survey proposed in the table on pages 6 and 7 seek data on this issue so that an adjustment might be developed to take account of duplicative domain registrations that are not for defensive purposes.</p> <p>With respect to the 3-year targets for the various measures of defensive registrations (page 10) proposing that such registrations should not exceed 15% of total registrations, it would be more appropriate to measure the cost of defensive registrations than simply to calculate</p>		<p>13 JUN –</p> <p>SDB: Do what we can to Survey row</p> <p>SDB: Does not reference cost vs. benefit. Survey will include questions on duplicates. Was it for defensive purposes or to acquire new traffic.</p> <p>Survey on CT will include these types of questions.</p> <p>RS: Should be more expansive in the survey</p> <p>SDB: Survey a sample of duplicate registration. Don't want to say survey vendor will restrict themselves. Statistical sample and ask Rt on why they registered the domain in the new TLD. Did they have an effective choice?</p> <p>MG: Survey an example of new registrations in new TLDs. Response, what you surveying, what are you trying to find. Narrowly defined on defensive registrations. If defensive, was it duplicate or new traffic capture. % defensive, % not defensive.</p> <p>SDB: rephrase measure to survey Rt in new gTLD. Survey questions would include motivations of registrations, intent, and satisfaction. Respond to USG, advice on survey on survey expansion.</p> <p>MG: USG Raises prices. Prices on Domain Names</p>	<p>would include motivations of registrations, intent, and satisfaction.</p> <p>Include footnote for Consumer Choice (performed in PC#29)</p> <p>Add caveat to Scope, that Cost vs. Benefit is out of scope for this WG (SDB)</p> <p>Added 18 June 2012 SDB Added 8 Aug 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>the quantity of such registrations. Without more information, it is impossible to determine the overall effect of a defensive registration rate of 15% (or, for that matter, any other specific rate) on whether the introduction of new gTLDs will produce benefits in excess of costs.</p> <p>Finally, the disclosures on Registry and Registrar websites that are listed as Consumer Choice measures of the "Transparency and clarity of gTLD registry benefits and restrictions, so that registrants and users can make meaningful distinctions when choosing TLDs"² should clearly disclose the owners of the Registry operator or Registrar as well as the name of each affiliated entity that operates a Registry or conducts business as a Registrar. For Registry operators, the websites should clearly identify each TLD for which the owners or any of its affiliates serve as the Registry operator. For Registrars, the websites should clearly disclose each of the TLDs sold by the Registrar, and for each such TLD, disclose whether the Registrar has an ownership interest in the TLD or is otherwise affiliated in any way with the Registry operator. The foregoing disclosures will assist registrants and other interested parties in learning the full range of consumer choice and whether they are in fact dealing with different parties when they elect to purchase domains in a different TLD or deal with a different Registrar.</p> <p>² We agree that truthful disclosures serve an important function in identifying the choices available to consumers, but we note that, while disclosures may be indicative of whether meaningful consumer choice exists, disclosures do not by themselves create consumer choice.</p>		<p>SDB: Do any of our Choice measures getting to price</p> <p>RS: Hold discussion of Price in Competition.</p> <p>SDB: Could concede that price does matter in choice. Value to consider price on whether effective choice is delivered.</p> <p>GS: Include range of meaningful options (added as note instead of changing definition)</p> <p>SDB: Not part of AoC for cost and benefit. Fine tuning of RPMs, it could be constructive to know total costs of defensive registration. Does not mean we have to get all costs and find all benefits. DRs are at the core of the most legitimate objections. Two rows for DR costs. See if we can capture enough data on domains sold in new space, multiply it by % assumed to be defensive. Get registration costs. It wont be easy to acquire how many are sold at one price. Registrars will have to report qty and cost of domains sold. Registration revenue. Only counts explicit cost of registrations. Does not account for internal costs in legal fees, monitoring, etc. Can add questions to survey to determine internal costs.</p> <p>RS: Continuation discussion on Economic framework study. Not only costs of people defending. Costs to consumers, confusion, ...very broad process. Still have</p>	

	Comment	Who / Where	WG Response	Recommended Action
			<p>not done cost/benefit analysis of new gTLDs. Beyond our scope. Cost in the sense of price (only one element)</p> <p>MG: Cost benefit analysis is beyond scope of what this WG was asked to do.</p> <p>RS: explain that cost vs benefit is out of scope.</p> <p>SDB: explain that cost vs benefit was not defined in AoC. Retail prices of registration revenues to ICANN. Largest single cost is the defensive registrations. Elephant in the room.</p> <p>RS: Contribution is partial.</p>	
	Competition - Definition			
50.	<p>Between the final draft (dated 22 February 2012) of the Advice Letter and ICANN's February 23rd posting, there was an interesting switch in emphasis that suggests ICANN now is trying to minimize the role of competition as a justification for introducing new gTLDs. The title of the final draft ("Advice requested by ICANN Board regarding definitions, measures, and targets for COMPETITION, consumer trust and consumer choice" has now become ""Draft Advice Letter on Consumer Trust, Consumer Choice, and COMPETITION [emphases added]</p> <p>This potentially is significant, because it is COMPETITION that is the necessary condition - the guarantor - of the other values (consumer trust and consumer choice) that ICANN seeks to advance and evaluate. And it was ICANN's inability to provide a sufficient competitive justification for its gTLD expansion that has drawn the fire of many</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf</p> <p>17 July – Note explanation of the specific order defined by WG in that Choice and Competition overlap.</p> <p>SDB: Switching of order possible change in focus?</p> <p>BC – overlap of choice in competition and choice and that dictate the WG order of the definitions</p>	None

	Comment	Who / Where	WG Response	Recommended Action
	<p>stakeholders, including the U.S. Departments of Commerce and Justice. The existence of genuine competition - properly defined and understood - is a NECESSARY condition for the realization of consumer trust, consumer choice and innovation. It should be the primary concern.</p> <p>.....</p> <p>"Competition" can be assessed only within the context of a properly defined "relevant product market", as that term is understood by economists, competition authorities and the courts, to comprise the products (and their producers) that are deemed by consumers to be acceptable substitutes, and to exclude those products that are not seen as potential substitutes. "Competition" occurs only between and among goods (including services) that are substitutes; producers of COMPLEMENTARY goods do not "compete" with each other.</p>			
51.	<p>ICANN should follow up on the suggestion by Dennis Carlton—a leading authority on competition economics that ICANN itself hired by ICANN to assess the economic impact of the proposed new gTLDs—that the competitive significance of the new gTLDs should be measured by their success in competition with .com, .net and .org for new registrants of second-level domains, and that this could be done for the gTLDs (such as .biz, .info, and others) introduced by ICANN since 2000.</p> <p>.....</p> <p>He[Dennis] argued, the best evidence of the “competition” generated by new gTLDs would be their ability to induce de novo (i.e., “new”) second-level domain registrants to register under one of their new gTLDs, rather than .com, .net or .org.</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf</p> <p>17 July – we added a new metric of weekly registrations of domains within each TLD (See US Govt Response action at bottom of this document)</p> <p>MG: How do we factor in those TLDs that are closed?</p> <p>SDB: along with each data point, attributes of TLD will be carried over based on TLD Type</p> <p>No restrictions on third level registrations, and outside realm of ICANN contract.</p> <p>JZ,by definition should only be 2nd level.</p> <p>JR: Agrees</p>	<p>Add note under definition or somewhere add that scope is only at 2nd level registrations, not 3rd [Geo Names]</p> <p>Added 8 Aug 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>SDB:</p> <p>JR: # of restriction at what can be registered. IR country codes. No other restrictions</p> <p>SDB: Affirmative state # of 2nd level registrations</p>	
52.	<p>“Competition is defined as the quantity, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars.”</p> <p>I have no idea where this came from. But as stated, it’s naïve, incomplete and unhelpful. An increase in the number of gTLDs hoping to sell second-level domains to registrants does not—in and of itself—amount to an increase in competition. And please, what does “potential for market rivalry” mean?</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf</p> <p>17 July – SDB, potential for rivalry begins with the introduction of new competition, such as new tlds. Qty of new TLD is necessary prereq as for the completion is exercise to consumers. Within definition, no potential, but also actual market rivalry. Registration and prices are actual rivalry.</p> <p>OCL: Enlarge number of suppliers will increase competition.</p>	None
53.	<p>Definition of “Competition”. Similar to our concern with the definition of “Consumer Choice”, we are concerned that the definition of “Competition” focuses solely on the diversity of and marketplace for TLDs, and not competition on the Internet itself. The proper focus for competition is more than just an increase in domain names and registries. The quality of competition resulting from the new gTLDs should also be taken into consideration in the proposed analysis. For instance, there should be an analysis of the number of deadlinks and redirects of second-level domain names in newly delegated TLDs. Development of baseline values. The CTWG Advice requests that the ICANN staff “develop baseline values for</p>	INTA / Public Comment	<p>INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf</p> <p>17 July – MG: Change in terms of improvements. Most dealt with in Trust. 1) Bias in language 2) Clarification measures are made using same databases and analysis</p> <p>SDB: INTA concerns reflected under Choice metrics. Same respect, Choice, when it comes to Competition. 1st week</p>	<p>Modify Page 7 Paragraph 3, change improvements to “any changes”</p> <p>Added 21 July 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>any measure that applies to the pre-expansion gTLD space, so that future targets can be stated in terms of improvements relative to present performance.” First, we are somewhat concerned that the request only refers to staff developing a baseline which can be used to show “improvements relative to present performance.” This presupposes that there must be improvement and could be taken at a later time as evidence of bias in both the metrics and baseline values. We believe it would be better if “improvements” were changed to read “changes” or some similar, nonbiased term. Second, in order to be meaningful, both the baseline values and the statistics used in the metrics must be based on empirically similar data and utilize the same means for determining and comparing the data. This should be expressly noted in both the request to the staff and advice.</p>		<p>domain is registered, although Rt intends to deploy special content. Too early to tell. Point back to fact that we modified metrics on choice to discern differences of registrations being used, vs deadlinks, etc. Modified metrics under Choice covered this.</p> <p>MG: Agrees. Metrics in Choice section deal with this. Current definition is not biased</p> <p>SDB: Wanted to strike out key terms.</p> <p>MG: Term, on 3 Year Targets, P.7, p 3. “Improvements” saying that is evidenced basis for criticizing the study</p>	
54.	<p>We also compliment the CCM WG on its recognition of the complete competitive landscape. In the definition on page 5, Note 4, the WG states: <i>“The definition of Competition looks at all TLDs, not just gTLDs. The working group recognizes that ccTLDs are competitors to gTLDs, particularly where the ccTLD is marketed to registrants around the world (e.g. .me and .co).”</i></p> <p>However, we note that there is only one metric that includes ccTLDs (see the first metric under Competition on page 11). We would welcome further metrics in order to recognize this issue more fully.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc</p> <p>17 July – SDB Metric for weekly registrations, may need to include ccTLD registrations. ccTLDs are in direct competition. WG recommends that ICANN capture weekly registration data if available to ICANN.</p> <p>CLO: Does it need to be weekly? Tends to be on monthly or quarterly cycle.</p> <p>SDB: USG, weekly or other regular intervals</p> <p>JZ: Should ccTLDs registrations be tracked?</p>	<p>For new metric of domain registration tracking, include ccTLD numbers too.</p> <p>Appended to Action ITEM in USG Comment in #55 below Added 23 July 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>CLO:</p> <p>JZ: Hesitant to recognize how new gTLD program is to influence completion in the ccTLD space.</p> <p>CLO: ccTLDs now see new G space now recognize importance of expansion. New track on marketing and approach within ccTLD space.</p> <p>JZ: Withdraws objections</p> <p>SDB: other metrics that should include ccTLDs? Pricing of domains in ccTLDs? Are the likely to respond?</p> <p>CLO: Easy to obtain pricing data of ccTLD. Comparative pricing data compared to Gs.</p>	
55.	<p>Definition of Competition Proposed Modification: Competition is defined as the quality, quality, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars <u>as the actual (or potential) market rivalry between various TLDs, TLD registry operators, and registrars, considering such factors as the quantity, quality, price, and diversity of offerings provided by each of those types of entities. Competition must be assessed together with consumer choice and consumer trust to aid in determining the overall costs and benefits incurred by consumers and other market participants from the expansion of gTLDs.</u></p> <p>Revision to Note 4: Note 4. The definition of Competition/oaks at all TLDs, not gTLDs. The working group recognizes that ccTLDs are</p>	USG / Public Comment	<p>USG_comments_text.pdf; Pages 3-4 of PDF page numbers</p> <p>17 July SDB: Note 4 only include potential, good addition. Note 5 is brand new? Note 5 – to determine the net effect. Implied that WG net of Cost & Benefit goes beyond scope.</p> <p>SDB Accept word of potential for note 4. Issue with note 5. Determine net effect. Accept note 5. Stopping at cost.</p> <p>OCL: Comfortable with note. Don't agree with point, in how to measure cost vs benefit on world-wide basis. For each</p>	<p>Add term “for or actual” to definitions. Added 23 July 2012</p> <p>Add “potential” to note 4 (6) Added 23 July 2012</p> <p>Add Note 5. Note 5. Competition leads to more efficient production and provides consumer benefits, such as improvements in pricing, operating quality, service, and consumer choice. However, the proliferation of new gTLDs may also impose costs on consumers and other market participants in</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>potential competitors to gTLDs, particularly where the ccTLD is marketed to registrants around the world (e.g .. me and .co).</p> <p>Addition of Note 5: Note 5. Competition leads to more efficient production and provides consumer benefits, such as improvements in pricing, operating quality, service, and consumer choice. However, the proliferation of new gTLDs may also impose costs on consumers and other market participants in the form of cybercrimes, fraud, consumer confusion, and defensive registrations, and it is not yet certain whether competition, or other controls, will eliminate or materially reduce these costs. To determine the net effect of the introduction of new gTLDs, any costs to consumers and other market participants would need to be carefully weighed against estimated benefits that arise from increased competition.</p> <p>Explanation: Increasing the quantity of TLDs, TLD registry operators, and registrars does not necessarily increase competition or market rivalry. Accordingly, the proposed modification and the new Note 5 are intended to clarify that competition is the rivalry between market participants, and may be measured by considering data and other information that will help to show the extent to which rivalry has any effect on such factors as the quantity, quality, price, and diversity of offerings provided by those participants. Serious questions exist as to: (1) whether competition among existing TLDs has effectively constrained the exercise of persistent market power by TLD registry operators and (2) whether market rivalry resulting from the introduction of new gTLDs will prevent, or at least reduce, the ability of operators of existing or new TLDs to exercise market power¹. The modified definition would ensure that the</p>		<p>country? Narrows down focus.</p> <p>SDB: CT measures, spam fraud, that ALAC submitted are consistent with note 5</p> <p>SDB: Expanded definition? Accept improvements. Potential vs. actual</p> <p>17 JUL weekly or other interval Quantity of registrations (add new line item)</p> <ul style="list-style-type: none"> - capture TLD attributes, open, closed single tld, etc.. - mention scope is only 2nd level domains - weekly or other regular intervals - should include ccTLDs registration numbers <p>prices paid - retail from registrars - Consumer Prices paid for new registration (data source??)</p> <p>-significant difficulty; revenue side of Ry to Ican not</p> <p>traffic to domains</p>	<p>the form of cybercrimes, fraud, consumer confusion, and defensive registrations, and it is not yet certain whether competition, or other controls, will eliminate or materially reduce these costs. (added as note #7) Added 23 July 2012</p> <p>Add metric Qty Registrations of gTLD & ccTLD</p> <p>← added to row 7 of Competition Added 23 July 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>assessment criteria focus on developing information and data to identify and measure the existence and effect of rivalry among operators of existing and new TLD registries. Based on these factors, as well as others, ICANN may undertake a meaningful assessment of whether the expansion of gTLDs has increased competition, and whether, considering consumer choice and consumer trust, this expansion has been of net benefit to consumers.</p> <p>Note 4 has been revised to suggest that ccTLDs may be potential competitors to gTLDs because it should not be assumed that ccTLDs and gTLDs generally compete for the same registrants. Different TLDs may be attractive to different consumers, and while in some cases a consumer may be equally happy with any of a number of TLDs, others may seek a specific TLD or be willing to use only a few possible TLDs. The degree to which one TLD is a substitute for another can be evaluated empirically, and it is important to be able to assess the degree of competition between TLDs as part of an assessment of whether competition has been increased through the introduction of new gTLDs.</p> <p>¹ It is also uncertain whether the introduction of new gTLDs will cause any erosion in the persistent market power in some existing TLDs, such as .com. It is important to study this question in connection with the examination of the impact of new gTLDs, so that informed decisions can be made with respect to such issues as the need for continuing price regulation of existing gTLDs. We acknowledge, however, that new gTLDs might provide a net enhancement to consumer welfare even if they have no effect on the persistent market power in .com or other existing TLDs.</p>			
	Competition - Metrics			

	Comment	Who / Where	WG Response	Recommended Action
56.	<p>Absolute number and growth rate of registrations of new gTLDs as a group, compared to registrations of the 21 earlier gTLDs as a group. Are both groups increasing in registrations? At what relative rates are they growing? Launch phase success vs. on-going growth? Adjustments can be made for global population and Internet penetration figures, perhaps also adjusted to relative launch eras to form a study of the two groups: the performance of new gTLDs and the performance of former gTLDs, instead of looking at individual TLDs.</p>	Annalisa Roger/Public Comment	<p>New</p> <p>17 July: SDB – covered this, weekly registration volume data noted in #55 above. How it is analyzed is TBD later.</p>	None
57.	<p>Percentage of new gTLD applications in both standard and community application groups that were submitted and were able to pass evaluations (by remaining in their designations).</p> <p>Percentage of new gTLD applications in standard, community, and brand application groups that met with considerable objection, and how often the objections prevailed.</p>	Annalisa Roger/Public Comment	<p>New</p> <p>17 July: SDB: - look at Affirmation 9.3 review. Two kinds of reviews, 1) eval process 2) results of new gTLD expansion. Board resolution only charged WG with #2. Separate review will review evaluation process. This WG not charted to perform that review</p> <p>WG Agrees</p>	None
58.	<p>Compare many groups of applicants regarding *long term *success of new gTLDs delegated. This may measure the importance and relevance of components of the program that could influence the long term success of new gTLDs. Groups to be tracked might be described as how they won delegation:</p> <ul style="list-style-type: none"> • The winners of duplicate new gTLD applications that passed technical and financial evaluations, passed public objections, and won their delegation through the auction process. • The group of successful community applicants who won delegation over a standard applicant of the same string due to their application community status. • A group comprised of single applicants of a string who made it to the first batch. (tougher odds than strings 	Annalisa Roger/Public Comment	<p>New</p> <p>17 July: SDB, same as above in #57. All application processes.</p> <p>OCL: Agrees. Unsure if ICANN is tracking Application/Eval processes. Not a case of dismissing, but outside of scope for WG.</p> <p>We will inquire internal to ICANN as data points and metrics are captured.</p> <p>OCL: Agree these are valuable metrics, just fall outside remit of this WG.</p>	None

	Comment	Who / Where	WG Response	Recommended Action
	<p>with multiple applicants with multiple chances to enter the first batch.)</p> <ul style="list-style-type: none"> • How many in each group received the most public objections? • How many strings with at least one successful application made it to launch? • What is the number of successful strings who didn't make it to launch? • Which batches produced to most of each of the above two groups? 			
59.	<p>Quantity of unique gTLD Registry Service Providers before and after expansion</p> <p>Is a ccTLD operator that becomes a gTLD operator considered a unique provider? We believe it should be. If this is the case, the metric of '2x' might be achievable; if not, it might be hard to achieve because of the cost of becoming a new registry service provider.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc Advice Ltr - (p.11, metrics #4)</p> <p>13 JUN – We concur with registry content, and the Footnotes make it clear.</p> <p>Footnotes 3 & 4 draw distinction of Operators & Providers</p> <p>ccTLD providers will participate in generic space. (experience service providers)</p> <p>Not concerned where the providers came from.</p>	<p>Moved this comment to Competition Remove “and after” from footnotes End note should be explicit</p> <p>18 June 2012</p>
60.	<p>The proposed measures naively regard an increase in the number of supposed rivals for the business of a second-level domain registrant as the equivalent of an increase in “competition”.</p> <p>.....</p> <p>A simplistic count of the number of gTLD rivals for a would-be registrant's business is not an economically meaningful measure of the “competition”—if any—among</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf Advice Ltr - (p.10, metrics #1-4+)</p> <p>31 July JZ – Large task SDB – Choice and Competition closely related. Choice is from Rt and Users and</p>	<p>Create additional note on “Relevant Choices” to supplement Choice definition [SDB].</p> <p>Added 8 Aug 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>the gTLDs the registrant faces. It follows that an increase in the number of such rivals for a registrant’s business does not amount to increased “competition”.</p> <p>The proposed measures assume that would-be registrants of second-level domains regard all unsponsored gTLDs (as well as some ccTLDs) as actual or potential substitutes.</p> <p>.....</p> <p>Before undertaking to measure anything, what is needed first is a complete, professional delineation of the “relevant product market(s)” that are at issue, including a determination of which gTLDs (and ccTLDs, if any) are economic substitutes and which are complements, as seen by would-be registrants.</p>		<p>Competition from contracted parties. Rt choosing among gTLDs are only going to choose those appropriate. .brand, or other closed Registries. WG acknowledged difference. Range of Relevant options.</p> <p>CLO – meaningful choices is key term.</p> <p>SDB – Include relevant; our metrics do not categorize from Registrant perspective. Don’t want to add a lot of metrics.</p> <p>JZ – One of many metrics. Future review team will deliberate final metrics.</p> <p>SDB – add another note to definition. Relevant choice.</p> <p>CLO – Agrees with addition of note to definition. Definition work is primary task</p> <p>JZ – Comment not wrong. Note will clarify.</p>	
61.	<p>The total number of second-level domains registered under that gTLD.</p> <ul style="list-style-type: none"> • The total number of second-level domains that are unique to that gTLD. • The total web traffic (measured, say, by the number of unique visitors per time period) that is generated by all of the second-level domains registered under that gTLD. <p>The proposed measures of competition fail to recognize that ICANN’s imminent introduction of new gTLDs likely will increase—not reduce—the market power of some gTLDs.</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf Advice Ltr - (p.10, metrics #1-4+)</p> <p>31 July</p> <p>SDB: Referring to two new metrics Referring to 2nd level metrics?</p> <p>MG: Echos traffic metric within Choice.</p> <p>JZ – Redirects; not a unique name, and value</p>	<p>Add Unique 2nd Level Registrations of new open gTLDs as compared in legacy G & CC TLDs. Refer to website traffic metric identified under Choice</p> <p>Add to advice letter, that metrics do not consider potential consequence of the metrics, but only measured. <add to sentence in paragraph 3></p> <p>Added 4 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>SDB – new vs legacy. More nuance by how much competition they are providing by looking at registrations as well as traffic. Could add to competition.</p> <p>SDB – user traffic under choice. could add metrics to Competition as a comparison for 2nd level. New gTLD registrations of domains open to the public vs closed</p> <p>CLO – support SDB, recognition on new gTLDs likely increase to market power. Reasonable to recognize marketing and outreach.</p> <p>JZ – Not sure that is clear. Look at other metrics. Doesn't hurt to track metrics. Web traffic already recognized.</p> <p>SDB – We are not economist. Not in our purview to likely increase market power. AOC or resolution did not ask us to.</p> <p>CLO – recognized that may be in effect. That is the role of the analysis. Not of the definition and metrics</p> <p>SDB – no where else do we discuss potential implications with other metrics.</p> <p>Responding to Comment. Advice letter not changed, but is a relevant comment.</p> <p>SDB – Merit in these two bullets. recommend that the two bullets added to Competition. Eval of Open to public new</p>	

	Comment	Who / Where	WG Response	Recommended Action
			<p>gTLDs to legacy</p> <p>OCL – Is it worth adding to advice letter, not looking at consequence of the metrics. Not obvious that it is part of remit. Just one line explain that these metrics are</p> <p>JZ – No targets based on these two</p> <p>SDB measure related to suppliers & prices. Modified definition of competition to incld. market rivalry. Do not have metrics to measure rivalry outcomes. Unique 2nd levels may exist in one TLD and no where else. Simple measure snapshot of domains at end of year or some level. Snapshot of registrations where it does not appear in any zone of the legacy space</p> <p>MG – we have qty of total 2nd level registrations and qty of gTLDs. Suppose, and qty of gTLDs before and after expansion. Unique 2nd level. After qty of total 2nd level registration, and qty of unique. Unser of interval</p> <p>SDB – Agree to no targets</p> <p>CLO – Other interval; WG Agrees</p>	
62.	<p>In fact, all of the Measures of Competition (including Innovation) that finally are adopted should be applied immediately—without waiting for the accumulation of one year’s experience under the latest gTLDs—to ICANN’s two earlier gTLD expansions.</p> <p>This would accomplish three things: First, it would provide the “snapshot” of the gTLD system “prior to the launch of the new gTLDs”, as proposed by the INTA.3 Second, it</p>	Michael Flynn/Public Comment	<p>Reply Comments of Michael Flynn re Competition.pdf</p> <p>31 July –</p> <p>SDB – WG recommends that ICANN staff begin already collecting appropriate measures and baseline data.</p>	None

	Comment	Who / Where	WG Response	Recommended Action
	would allow the testing (and refinement, if indicated) of the proposed Measures of Competition (and Innovation), using actual, currently available data on the past decade's new gTLDs (that ICANN also claimed would increase competition and innovation). Third, it would provide immediate evidence bearing on the likelihood that ICANN's claims in support of its most recent gTLD expansion will be vindicated.		WG Acknowledged and listed as recommendation.	
63.	<p>Quantity of total TLDs before and after expansion, assuming that gTLDs and ccTLDs generally compete for the same registrants</p> <p>In addition to the number of TLDs before and after expansion, there should be an accounting of the number of second-level domains in each new gTLD, and of those second-level registrations, how they are used (e.g., redirected to registrations in legacy TLDs, inactive or dead, or parked pages -- anything that resolves to a page that says parked or that is simply advertising links).</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf (p.11, metrics #1)</p> <p>31 July – MG – Two basic points have been addressed. 2nd level domains included in new qty of total, & parked, inactive under Choice.</p> <p>JZ – Agreed that these are covered</p> <p>CLO – Agrees.</p>	None
64.	<p>Quantity of unique gTLD Registry Operators before and after expansion</p> <p>2x seems low. We believe this metric would only measure the expansion of the DN space, not the extent to which actual competition increased. We suggest the following target: "Ratio of unique gTLD registry operators (i.e. operators who own only one gTLD) to total number of gTLDs before expansion and after expansion, should at least double at 1 year and three years from expansion."</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf (p.11, metrics #3)</p> <p>31 July –</p> <p>MG – 3yr target, Incr 2x over 2011 (16 footnote3) Develop argument on straight number here but ratio of operators to total #of TLDs</p> <p>SDB Increase of 2x will imply that the target is 2x over the 2011 number.</p> <p>SDB: Supplier competition. Not relative</p>	None

	Comment	Who / Where	WG Response	Recommended Action
			<p>to target. If you double the number of suppliers in a market, you promoted Competition. Suspected it would be easy. 2X shows. Asked only for 3 year targets.</p> <p>MG – if this increases completion, could this not be a comparison three years out to what it was before, but 3 years out from the initial delegation.</p> <p>SDB – measuring expansion of gTLD program. Three years out, 30 Operators still surviving. Compare to ICANN in 2011. Did gTLD expansion promoted competition. Promoted competition if suppliers double 3 years out</p> <p>MG – Creates competition, but if it only exists at the 3rd year. If # decreases dramatically from 1 year to 3 years out, doesn't that reflect negative competition? Was it encouraged</p> <p>SDB – as with any metric, hope that it is performed at regular interval.</p> <p>MG – Thinking about language to be assessed at interval. Is it appropriate. Able to measure over time.</p> <p>SDB – one metric of many. No success or failure. Didn't fail b/c u missed x metric. Evidence or promoted competition.</p> <p>MG – Don't want to add a line, but acknowledgement. Appropriate to measure competition in a snapshot. Does</p>	

	Comment	Who / Where	WG Response	Recommended Action
			not look at long term trends. Did new gTLDs increase competition. One place, one time.	
65.	<p>Quantity of unique gTLD Registry Service Providers before and after expansion</p> <p>2x seems low. We believe this metric would only measure the expansion of the DN space, not the extent to which actual competition increased. We suggest the following target: "Ratio of unique gTLD registration Service Providers (i.e. operators who own only one gTLD) to total number of gTLDs before expansion and after expansion, should at least double at 1 year and three years from expansion."</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf (p.11, metrics #4)</p> <p>31 July – SDB – Same rationale in previous set. Doubling would take us to 12</p> <p>MG – seek definition of Operator vs Provider</p> <p>SDB – Example than by definition. RSP used in new gTLD provider. Operator signs the contract.</p> <p>MG – Backend Service Provider</p> <p>MG – No change</p>	None
66.	<p>Relative share of new gTLD registrations held by "new entrants". For purposes of this measure, "new entrants" are gTLDs run by Registry Operators that did not operate a legacy gTLD.</p> <p>We believe this metric might not adequately measure the expansion of the DN space nor the extent to which actual competition has increased, it also appears to be quite low a target. We suggest the following target: "Number of gTLDs owned by new entrants should represent more than 85% of total new gTLD registrations."</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf (p.11, metrics #6)</p> <p>31 July – CLO – Response to matrix. Encourage to set three year targets, but not attempting to create set of aspiration models nor set what would be a success or failure. We are setting definitions and metrics that may be meaningful for the use in the analysis.</p> <p>JZ – argument may take place, RT can</p>	<p>Change Figure of 20% in 3yr Target - significant No target, but new entrants should constitute a significant percentage of total Registry Operators.</p> <p>From AC Chat: OCL: #66: we could define a "new entrant", as being one whose holding company is not related to the legacy gTLD registries. Alternatively, we could also define the fact that all</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>override what WG creates by Review Team</p> <p>MG – new entrants should have 20%, at least. Feel target is low.</p> <p>MG – Appeared to be an aspirational figure. 5% instead of 20%</p> <p>MG Suggestion: No target, but new entrants should constitute a significant percentage of total Registry Operators. Remove aspirational metric. Not looking at change but increase.</p> <p>JZ - # will be subject for public debate and RT.</p> <p>MG – three year target, instead of figure, proposal to RT to establish reasonable figure. Realistic. If we wait for that team, they can setup a figure that might be appropriate. Letter itself, targets are only suggestions and review by RT.</p> <p>JZ – RT pick and choose metrics for the framework for their review. Targets don't exist yet. Optics on success or no success of program.</p> <p>MG – Replace the number with term, like meaningful or significant % of new gTLD registrations owned by new entrants.</p> <p>SDB – take a # out. Meaningful and significant is same as nothing at all. Contradictory if we set a high target.</p>	<p>applications from new entrants which are part of a conglomerate cannot be established as being accounted each as one more new entrant, or as a single new entrant.</p> <p>MG: I think Olivier's suggestions (2 as I count them) are right on point and should be incorporated and set forth in definition -- which may have to be placed in letter text, as well.</p> <p>Added 4 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>Raise bar to have proven and experience Ry Operators. Scoring system experience to run backend; financial strength. Lots of new entrants. High number will penalize for choosing experience operators.</p> <p>MG – Pressed for experience service providers so that new entrant could be operators that depended on experienced providers. Able to be new entrants. What is a new entrant? Meaningful and significant may mean little. More than nothing at all.</p> <p>MG – what is meant by new entrants. Look at def in metric. Figure of 20%, should be as low as two times. Criticized going forward. We used “Significant” in other metrics</p> <p>OCL – New gTLD applicants created shell companies. Each one new Ry Operator. Entity or company, or people, or holding company. Unsure of definition for this. If we don’t define Operator, metric may be worthless, given # of applicants that created single purpose vehicles. Mitigate risks.</p> <p>JZ – will be confusing to identify</p>	
67.	<p>Wholesale price of new gTLD domains offered to the general public. (do not evaluate gTLDs with registrant restrictions).</p> <p>3 Yr. Target: No target; compare Comparison to 2011 and to unrestricted legacy gTLDs – prices after expansion should decrease.</p>	INTA / Public Comment	<p>INTA Internet Committee comments on Metrics Chart 17 Apr 2012.pdf (p.11, metrics #7, 8)</p> <p>31 July – MG – Completion should have read competition</p>	Response: competition can take many forms only one of which is price and we should not start out with the expectation that the principle competition in a new gTLD space will be based on price, in addition

	Comment	Who / Where	WG Response	Recommended Action
	Essential that comparative information be obtained before expansion, as well as at 1 and 3 years after expansion. If possible, a survey of prices from before the announcement of the expansion (i.e. prior to June 20, 2011) should also be obtained and compared. While lack of target is understandable, we believe the sign of completion would be a steady decrease in price, and this is generally what should be targeted to determine success.		<p>JZ – Gone around on pricing. Nature of competition may not be price. It may be offerings. Excluding Rt restrictions.</p> <p>MG – Expressed in response will be appropriate. Suggests a way in changes in price.</p> <p>JZ – competition can take many forms only one of which is price and we should not start out with the expectation that the principle competition in a new gTLD space will be based on price but could instead be based on security, abuse protection and other differentiators that registries choose to offer.</p> <p>MG – In addition to changes in price</p> <p>14 Aug – JB: Where to place comment? Placed at top, or exposes criticism about establishing metrics.</p> <p>SDB – Note 5 get to non-price means aspects of competition.</p> <p>MG Agrees; metrics 3.11 qualitative aspects</p>	<p>to changes in price, but could instead be based on security, abuse protection and other differentiators that registries choose to offer.</p> <p>Added to Note5 of definitions</p> <p>Added 14 August 2012</p>
68.	While I think the definition of competition offered by the Working Group is adequate, the measures that are then offered fail to reflect fully the benefits of competition. The measures outlined on page 11 of the Draft Report focus on market share and price impacts. But the economic literature on the benefits of competition also stresses its role in driving innovation and the emergence of improved or new products and services.	Dr. Paul Twomey / Public Comment	<p>(p.11, metrics #ALL) New</p> <p>31 July – SDB – a note to definitions. Could add a row to Competition metrics; qualitative assessments of innovations serving all or segments of the Consumer market.</p>	<p>Add new metric: Measure: Qualitative assessment of non-price competition through innovations that benefit registrants and users, particularly for new market segments</p> <p>Source: Study</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>The US Federal Communications Commission outlines this economic analysis pithily: "Free and open competition benefits individual consumers and the global community by ensuring lower prices, new and better products and services, and greater consumer choice than occurs under monopoly conditions. In an open market, producers compete to win customers by lowering prices, developing new services that best meet the needs of customers. A competitive market promotes innovation by rewarding producers that invent, develop, and introduce new and innovative products and production processes. By doing so, the wealth of the society as a whole is increased." / (Connecting the Globe: V. Competition in Telecommunications/ www.fcc.gov/connectglobe/sec5.html)</p> <p>I strongly recommend that the Working Group develop some measures which focus on innovation and on new products or services.</p> <p>In my mind, one example of the innovation benefits of the previous rounds of introducing new gTLDs is the new use of the DNS by .tel(although I recognize it was not initially welcomed by all members of the technical community). While the TLD is controversial for other reasons, the representation and warranty provisions of registration under .xxx (relating to invalidation if for use or promotion of certain "illegal purposes") may also be another example.</p> <p>Limiting registration to ensure authoritative expression of identity, as is the case in .cat, is another.</p> <p>These are benefits which may benefit various and smaller segments of the user base. This is a valid outcome of competition. Indeed, one of the positive outcomes of open, competitive markets is the focus of producers on the needs of more specific segments of the broader</p>		<p>Source – Study Target – none Will serve explicit recognition that non price factors like innovation to serve a segment. Below Price</p> <p>JZ – measuring innovation is difficult to do. Will have to be a study reviewing different segments.</p> <p>MG – Agrees ; what is being looked is important. Not survey worthy.</p> <p>SDB – not survey, but a study; proposed a measure of competition</p> <p>JZ – Overt attempt to capture non-price competition. Be a factor in attempting to get people to shop one TLD over another.</p> <p>SDB – support for adding the new metric – Added a competition metric in response to innovation.</p>	<p>Target: No target Added 4 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	consumer base. Monopoly markets tend to talk of users; competitive markets tend to talk of market segments. The measurement of competition should also seek to capture that development.			
69.	<p>Chuck Gomes – “Quantity of unique gTLD Registry Service Providers before and after expansion” – is ccTLD operator becoming a gTLD provider counted? If you include ccTLD operators, just be clear on it. Affects reality of the goal</p> <ul style="list-style-type: none"> Bruce Tonkin – Macro view of organization and talking about market place. Whole market place is one review, 2nd review is the gTLD market place. 	Chuck Gomes / Costa Rica Session	<p>31 July –</p> <p>SDB - ccTLD operators are not counted in the before or after. New Entrants But in new gTLD...Not new if they were already running a ccTLD. If you already ran one, you would not be counted as new. 2011 unique ccTLD operators, what would metric be (2x of 270) no change from before to after. ccTLDs are not counted in the before or after. In measuring new entrants a previous ccTLD operator would not be considered new entrant if they already ran a gTLD</p> <p>JZ – Addressed question of counting ccTLDs</p>	None
70.	<p>[refer to section introduction included in Consumer Trust Metrics Section]</p> <p>Competition Measures We have proposed that the definition of "Competition" focus on the actual effect of market rivalry between TLDs, TLD Registry operators, and Registrars resulting from the introduction of new gTLDs. We do not believe that any of the proposed criteria included in the table containing measures of Competition will be very useful in meaning such Rivalry. The three-year quantity targets are not based on any assessment or prediction of the effect of market rivalry and seem to relate more to the goal of increasing the nominal amount of consumer choice. However, quantity data alone-without information about price and</p>	USG / Public Comment	<p>USG_comments_text.pdf; Pages 7-8 of PDF page numbers</p> <p>31 July – SDB – agreed on definition change to competition and “or actual” Definition Potential and actual – change to definition Recognize potential alone is not adequate.</p> <p>WG added measures for weekly data on qty of registration in every zone. Debated on pricing. USG asking for both. They agreed non price factors mater. Switching costs. USG recommend that the data be</p>	<p>Update definition from “or” to “and”</p> <p>Change source on metric to or 3rd Party Vendor Added 4 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	<p>quality, as well as information about how changes in each of these three factors have been motivated by rivalry among market participants-provide little information about the degree of rivalry and competition among market participants. Without further study and more information, it will be impossible to determine if success in meeting the quantities proposed in the table will produce benefits in excess of costs, which, as we discuss in the introduction, should be the pre-eminent issue in any assessment of the effects of new gTLDs.</p> <p>Evidence of market rivalry would tend to show that a competitive act by one or a group of competitors had an adverse effect on the demand for another competitor's product. For example, if a Registry operator were to lower its price or introduce a new service, an examination of whether that action resulted in a lower demand for the domains sold by another Registry operator should be conducted. It would also be relevant to learn if other Registry operators lowered their prices or introduced new services in response to the actions of the first Registry operator. To obtain evidence that would permit an evaluation of market rivalry, we would like to see a time series of price and quantity sold data for each TLD. Ideally, the data would cover sales and prices at the Registry and Registrar levels, although we recognize that compiling such information at the registrar level would be more difficult. In addition, data should be collected showing the dates on which new products or services were introduced and sales data for such products and services. These data could be supplemented by survey data in which Registries and Registrars can be asked about the effect on their sales of the conduct of their competitors and the actions they took in response to competitor conduct. A review of the data and survey information could reveal the extent to which competitive conduct serves to constrain the exercise of market power by other firms.</p>		<p>captured.</p> <p>JZ – how do make it into our recommendation.</p> <p>SDB – add a row, weekly data on qty of registrations. Measure, source difficult, 3 year target should be ignored. <row is added> Pricing data could be obtained. If they learned the total amount of revenue. P17, qty of total 2nd level registration, we already capture wholesale and retail pricing. That data does not corresponding to weekly captures. At the week snapshot, possible to capture weekly prices. USG want to observe price and qty. .com to keep registrations up, may cut their prices. New gTLDs will not have to report prices. USG, cover anti-trust issue. Price data could be captured by third party so that ICANN does not have access to the information.</p>	

	Comment	Who / Where	WG Response	Recommended Action
	<p>Finally, the measures of "unique" operators should exclude closely related operators, such as subsidiaries, affiliates, and others related through service contracts.</p> <p>AppendixB Although we share the concerns that the exchange of price or output information among competitors can facilitate collusion, we disagree with any suggestion that the competitive effects of the expansion of TLDs can be adequately assessed without collecting and studying price data. A properly designed study that includes safeguards on the collection, processing, and publication of the data should allow ICANN to conduct such a study without increasing the likelihood of successful coordination among competitors. Among the safeguards that may be appropriate to prevent misuse of such data by competitors are (1) having a third party manage and collect the data; (2) publishing only data that is not competitively sensitive because it is sufficiently historical as to be of no use in facilitating collusion; and (3) aggregating the results of any study so that pricing by individual competitors cannot be determined. Other safeguards, such as limiting access to the data collected to non-competitors may also be appropriate and help to prevent anticompetitive effects.</p>			
	General Comments			
71.	In addition, ICANN should develop mechanisms with law enforcement and the GAC that will allow the prosecution and punishment of rampant cyber criminals that are increasingly brazen in their email spoofing, spamming, database infiltration, and malware downloads. While CBBB recognizes the need for an unencumbered Internet space, free from excessive regulatory control, there does	CBBB/Public Comment	7 Aug – OCL – out of scope for this WG SDB – correct, we can acknowledged the concerns are important to promoting consumer trust. We have several metrics that enable the AoC RT to assess the relative level of consumer trust:	Forward to RAA negotiators Sent 7 August 2012

	Comment	Who / Where	WG Response	Recommended Action
	need to be significant international prosecution of e-commerce crime and fraud that is taking place on the Internet.		<ul style="list-style-type: none"> - Domain takedowns - Phishing - Etc. <p>Not going to recommend a solution, but the metrics. We've incorporate the concerns raised through metrics. OCL – not playing down importance. Channel these comments to the right part of ICANN to pick up SDB – indicate on how we respond to the comment CLO – relevant to end users not just Rt, At-Large should take note of as well. SDB – refer comment to RAA negotiation</p>	
72.	<p>In my opinion, the most important measures of success demonstrate service to the global Internet community. Are there accessible choices for Internet users with a wide range of options such as IDNs, communities, industry-specific options, easy to remember TLDs, and identifiable TLDs that benefit people in some way? Do new gTLDs invite global Internet users, no matter who they are and where they live, to feel the Internet can serve them in a familiar and friendly manner, bringing them ideas, innovation, advancement, economic opportunity, and a better life?</p> <p>The new gTLD program should also be measured for success if executing its program for global multi-stake holders turned out new gTLD delegations from applicants representing the makeup of a global population of men and women, Corporates and NGOs, Civil Societies and Business Associations. And given the ICANN global multi-stakeholder process, were all of ICANN's five regions of the world and multiple languages represented? Future ICANN meetings should benefit from all its new gTLD registry and industry members and they should be encouraged to join</p>	Annalisa Roger/Public Comment	<p>7 Aug CLO – Well said. Basic tenant of the AoC for future Review Team. Acknowledged, ICANN to follow up. Many measures identified cover this comment.</p> <p>SDB – refer to metrics of Consumer Choice. # metrics in table. Sectional numbering Refer commenter, to metrics by number We did not identity new ID representing new industries. Difficult to assess a specific economic interest or not.</p> <p>CLO – review team may be able to use survey to determine economic interest.</p>	<p>Create count column 1.1, etc.. 2.1, 3.1</p> <p>Added 7 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
	the global multi-stakeholder processes of policy and governance going forward.			
73.	<p>We compliment the CCM WG on the broad definition included in the first full paragraph on page 3 as follows: “. . . a full examination of choice should not only measure the diversity within registries and registrars, but also examine options that allow users to avoid direct use of the DNS altogether. Alternate methods of accessing Internet content and services (mobile apps, search engines, social portals, QR codes, etc.) are growing in popularity and themselves present innovative and competitive threats to ICANN-regulated TLDs. As such, they should be considered in any complete evaluation of consumer choice and trust related to ICANN in general and new gTLDs specifically.” However, we also suggest that additional metrics be developed to ensure that this point is not overlooked in the evaluation.</p>	RYSG / Public Comment	<p>RySG Comments Consumer_Trust,_Choice_&Competition Final.doc 7 Aug – SDB – Evan L. prompted this topic and listed in Advice Letter. Could create a metric a survey or a study, to use internet resources without using the DNS. Could be performed online. Can we lump it in with online surveys, CT metrics (survey of consumers). Add single question to survey level of awareness and use of internet access that does not use the DNS. OCL – QR code can resolve to whatever you want. IP address SDB – End user will not even know. OCL – B/C end user does not know, it does not matter new or old gTLDs. Significance of using new gTLDs becomes mute at that point. SDB – survey extent to which consumers are accessing internet websites where the TLD is not evident to the user. QR code does not display TLD. Survey should include frequency user access internet content where the top level domain is not revealed. CLO- supports; respond to comment by inclusion in the survey. TM – not sure if this type of information is available. Do they have the necessary understanding to answer this. CLO – drill down survey; please fill in % up to 100. Snapshot and compare later. OCL – question is important. Worth</p>	<p>Add a survey question in Choice; asking users the frequency with which they access internet resources via tools that do not reveal the TLD. (e.g. QR Codes, search results, apps, etc. that do not display URLs)</p> <p>create new row in last section next to survey of consumer choice</p> <p>Added 7 August 2012</p>

	Comment	Who / Where	WG Response	Recommended Action
			<p>asking. Apps, might use DNS, but not require the creation of choice for new TLDs. How well connect users are to the DNS as a measure of choice.</p> <p>SDB – has to do with visible. if more users are not familiar with DNS, how can we measure choice of new gTLDs.</p> <p>TM – in between trust and choice; prefer to leave what is in there now. Visibility of DNS vs using the DNS or not. Open to changes in technology.</p>	

- **Page xx** – USG
- **Page xx** – SPAM
- **Page xx** – The Council of Better Business Bureaus (CBBB)
- **Page xx** – Annalisa Roger, Founder/CEO, DotGreen Community, Inc.
- **Page xx** – Michael A. Flynn, Director, AFE Consulting
- **Page xx** – Claudio DiGangi, Manager, External Relations, INTA Internet Committee
- **Page xx** – ALAC
- **Page xx** – RYSG
- **Page xx** – Dr. Paul Twomey, Managing Director, Argo P@cific
- **Page xx** – Costa Rica Public Session Comments

United States Government Comments - "Advice requested by ICANN Board regarding definitions, measures, and targets for competition, consumer trust and consumer choice"

- *To:* "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* United States Government Comments - "Advice requested by ICANN Board regarding definitions, measures, and targets for competition, consumer trust and consumer choice"
- *From:* "Vernita D. Harris" <vharris@xxxxxxxxxxxx>
- *Date:* Tue, 15 May 2012 16:09:14 -0400

Enclosed are the comments of the United States Government on the various proposals included in the February 22, 2012, draft "Advice requested by ICANN Board regarding definitions, measures, and targets for competition, consumer trust and consumer choice, prepared by the Generic Names Supporting Organization (GNSO) Council's Consumer Trust, Choice, and Competition Working Group."

Vernita

Vernita D. Harris

Deputy Associate Administrator | Contracting Officer's Representative

Office of International Affairs | NTIA | U.S. Department of Commerce

Attachment: [USG comments text.pdf](#)

Description: USG Comments

Comment [bac1]: Refer to PDF Attachment for inventory of inclusion the matrix.

Penguin Proof Link Pyramid

- *To:* "cctc-draft-advice-letter" <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* Penguin Proof Link Pyramid
- *From:* "Rose Byrd" <rosec.byrd@xxxxxxxx>
- *Date:* Fri, 4 May 2012 02:03:23 +0300

Hello Friend,

<< SPAM >>

Date: Tue, 17 Apr 2012 19:40:36 -0400

comments

- *To:* <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* comments
- *From:* "Anjali K. Hansen" <anjali@xxxxxxxxxxxxxxxxxxxx>
- *Date:* Tue, 17 Apr 2012 19:40:36 -0400

The Council of Better Business Bureaus (CBBB) would like to comment on the ICANN Board request for definitions, measures, and targets for competition, consumer trust and consumer choice.

CBBB concurs with the recommendations of the Consumer Trust Working Group for ALAC, ccNSO, and GNSO and would like to provide the context for its views in support of the Consumer Trust Working Group.

As CBBB has stated prior to the opening of the new gTLD application period, there is far too little control over the rampant crime that takes place via the Internet in the form of pirating of intellectual property, identity theft, phishing scams and other types of brand infringement and consumer fraud. CBBB and its constituents - small and medium business, nonprofits and consumers - are victimized by Internet crime on a daily basis.

CBBB believes that tracking of these issues via the metrics and methods set forth by the Consumer Trust Working Group will be essential. In particular, CBBB requests that the costs of trademark abuse be tracked by calculating the number of defensive registrations that will follow in the new gTLD registries, as well as calculating the number of blocking of trademarks that will occur during sunrise periods in the new gTLDs. Such costs are adverse to the public interest and ultimately consumers. To minimize such costs, CBBB strongly urges ICANN to put in place a central trademark clearinghouse for valid trademark holders to block registries and registrars from sales of such valid trademarks to registrants. This will reduce the amount of profiteering that has taken place in the past when registrars are allowed to sell others' trademarks, which

does nothing to increase competition on the Internet. ICANN has essentially allowed the blatant violation of others trademark rights for too long and if it continues to allow this, it should document the amount of such illegal activity.

Comment [bac2]: Added to Consumer Trust / Metrics

In addition, ICANN should develop mechanisms with law enforcement and the GAC that will allow the prosecution and punishment of rampant cyber criminals that are increasingly brazen in their email spoofing, spamming, database infiltration, and malware downloads. While CBBB recognizes the need for an unencumbered Internet space, free from excessive regulatory control, there does need to be significant international prosecution of e-commerce crime and fraud that is taking place on the Internet.

Comment [bac3]: Added to General Comments

If there is to be consumer trust on the Internet, there needs to be meaningful consumer protection.

Sincerely,

Anjali Karina Hansen

Associate General Counsel

Council of Better Business Bureaus

Date: Tue, 17 Apr 2012 16:19:01 -0700

Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition

- *To:* cctc-draft-advice-letter@xxxxxxxx
- *Subject:* Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition
- *From:* Annalisa Roger <annalisaroger@xxxxxxxxxxxx>
- *Date:* Tue, 17 Apr 2012 16:19:01 -0700

*
*
**

Thank you for this opportunity to post comments to the Consumer Trust Working Group, as I believe the work prepared by this group is very important for the review process that will follow the launch of new gTLDs. I wish to recommend the search for measurements to depict areas of success realized by both the new gTLD program.

Suggestions of metrics to measure:

Geographic diversity of registrants actually using the new gTLDs. Is there widespread adoption of new gTLDs in regions around the world that are representative of the Internet's reach? Has the program been accepted and understood across the regions? Is there evidence that new gTLDs (as a general group) are being registered and used across the world? (Note: this is different that diversity in who is managing the new gTLDs)

Ability of new gTLDs to empower communities, regions, brands and people. Consider doing a study of a group of communities (around delegated new gTLD strings) before and after they launch their gTLD, compared to similar communities who do not have gTLDs strings.

Absolute number and growth rate of registrations of new gTLDs as a group, compared to registrations of the 21 earlier gTLDs as a group. Are both groups increasing in registrations? At what relative rates are they growing? Launch phase success vs. on-going growth? Adjustments can be

Comment [bac4]: Added to Consumer Choice metrics

made for global population and Internet penetration figures, perhaps also adjusted to relative launch eras to form a study of the two groups: the performance of new gTLDs and the performance of former gTLDs, instead of looking at individual TLDs.

Comment [bac5]: Added to Competition Metrics

• Internet user and registrant behaviors around two groups: the former gTLDs and the new gTLDs. The new implementations, safeguards and protective mechanisms introduced in the new gTLD program could be monitored in various ways to calculate the incidences of malicious activity, trademark infringements, etc.

Comment [bac6]: No specific measurement here, Encapsulated within the Consumer Trust section

• Percentage of new gTLD applications in both standard and community application groups that were submitted and were able to pass evaluations (by remaining in their designations).

• Percentage of new gTLD applications in standard, community, and brand application groups that met with considerable objection, and how often the objections prevailed.

Comment [bac7]: Added to Competition metrics

• Compare many groups of applicants regarding *long term *success of new gTLDs delegated. This may measure the importance and relevance of components of the program that could influence the long term success of new gTLDs. Groups to be tracked might be described as how they won delegation:

- The winners of duplicate new gTLD applications that passed technical and financial evaluations, passed public objections, and won their delegation through the auction process.
- The group of successful community applicants who won delegation over a standard applicant of the same string due to their application community status.
- A group comprised of single applicants of a string who made it to the first batch. (tougher odds than strings with multiple applicants with multiple chances to enter the first batch.)
- How many in each group received the most public objections?
- How many strings with at least one successful application made it to launch?
- What is the number of successful strings who didn't make it to launch?
- Which batches produced to most of each of the above two groups?

Comment [bac8]: Added to Competition Metrics

In my opinion, the most important measures of success demonstrate service to the global Internet community. Are there accessible choices for Internet users with a wide range of options such as IDNs, communities, industry-specific options, easy to remember TLDs, and identifiable TLDs that benefit people in some way? Do new gTLDs invite global Internet

users, no matter who they are and where they live, to feel the Internet can serve them in a familiar and friendly manner, bringing them ideas, innovation, advancement, economic opportunity, and a better life?

The new gTLD program should also be measured for success if executing its program for global multi-stake holders turned out new gTLD delegations from applicants representing the makeup of a global population of men and women, Corporates and NGOs, Civil Societies and Business Associations. And given the ICANN global multi-stakeholder process, were all of ICANN's five regions of the world and multiple languages represented? Future ICANN meetings should benefit from all its new gTLD registry and industry members and they should be encouraged to join the global multi-stakeholder processes of policy and governance going forward.

Sincerely,

Annalisa Roger, Founder/CEO
DotGreen Community, Inc.
www.dotgreen.org

Comment [bac9]: Added to General comments

Date: Tue, 17 Apr 2012 22:58:26 +0000

The proposed Measures of Competition are economically meaningless

- ~~• To: "ectc-draft-advice-letter@xxxxxxxx" <ectc-draft-advice-letter@xxxxxxxx>~~
- ~~• Subject: The proposed Measures of Competition are economically meaningless~~
- ~~• From: Michael Flynn <MFlynn@xxxxxxxxxxxxxxxx>~~
- ~~• Date: Tue, 17 Apr 2012 22:58:26 +0000~~

~~— The proposed definitions, measures and targets are completely inappropriate for assessing competition.~~

~~— Between the final draft (dated 22 February 2012) of the Advice Letter and ICANN's February 23rd posting, there was an interesting switch in emphasis that suggests ICANN now is trying to minimize the role of competition as a justification. The title of the final draft ("Advice requested by ICANN Board regarding definitions, measures, and targets for competition, consumer trust and consumer choice" became "Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition" [emphases added]~~

~~— This potentially is significant, because it is competition that is the necessary condition the guarantor of the other values that ICANN claims to be promoting. It was ICANN's inability to provide a sufficient competitive justification for its expansion plans that has drawn the fire of many, including the U.S. Departments of Commerce and Justice. The existence of competition properly defined and understood is a necessary condition for the realization of consumer trust, consumer choice and innovation. It should be the primary concern.~~

~~— But vague invocations of "competition", without more, are meaningless, just as are its purported definition ("Competition is defined as the quantity, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars") and the "Measures of Competition" that have been advanced at p. 11 by ICANN.~~

~~— "Competition" can be assessed only within the context of a properly defined "relevant product market", as that term is understood by economists, competition authorities and the courts to comprise the products (and their producers) that are deemed by consumers to be acceptable substitutes, and to exclude those products that are not so perceived. "Competition" occurs only between and among goods (including services) that are substitutes; producers of complementary goods do not compete with each other in any meaningful sense.~~

~~———— This is not just relevant to any discussion of "definitions, measures, and targets" for "competition"; it's critical.~~

~~The fundamental flaw in ICANN's entire rationale for its plans to increase in number of gTLDs is that it has never offered any satisfactory analysis of the threshold question: Do gTLDs even compete with each other? Put differently, does ICANN or anyone else seriously contend that registrants of second level domains generally are content to register their domains under one and only one of the available gTLDs, and that they are largely indifferent as to which they align with?~~

~~To anyone familiar with the actual demand by registrants of second level domains, the question answers itself: These registrants overwhelmingly prefer the .com gTLD. To the extent they undertake registrations under any of the other gTLDs, it is in addition to their .com domains. In other words, these registrations under the other non .com gTLDs are complements rather than substitutes that are generally undertaken for defensive purposes. Despite the prodding of U.S. government agencies and others, ICANN has never undertaken a proper delineation of the relevant product markets at issue in connection with its three campaigns (in 2000, 2003-2004 and the present). Its currently proposed measures of "competition" reflect that failure. They are meaningless, because they are not based on a clear delineation of the economic markets relevant to gTLDs.~~

~~Michael A. Flynn
Director~~

- ~~To: "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>~~
- ~~Subject: The proposed Measures of Competition are economically meaningless [CORRECTED]~~
- ~~From: Michael Flynn <MFlynn@xxxxxxxxxxxxxxxx>~~
- ~~Date: Wed, 18 Apr 2012 13:58:18 +0000~~

The proposed definitions, measures and targets are largely inappropriate and unhelpful for assessing competition. Moreover, ICANN now appears to be deemphasizing competition itself as a criterion when reviewing the performance of the new gTLDs.

Between the final draft (dated 22 February 2012) of the Advice Letter and ICANN's February 23rd posting, there was an interesting switch in emphasis that suggests ICANN now is trying to minimize the role of competition as a justification for introducing new gTLDs. The title of the final draft ("Advice requested by ICANN Board regarding definitions, measures, and targets for COMPETITION, consumer trust and consumer choice" has now become "Draft Advice Letter on Consumer Trust, Consumer Choice, and COMPETITION [emphases added]

This potentially is significant, because it is COMPETITION that is the

necessary condition - the guarantor - of the other values (consumer trust and consumer choice) that ICANN seeks to advance and evaluate. And it was ICANN's inability to provide a sufficient competitive justification for its gTLD expansion that has drawn the fire of many stakeholders, including the U.S. Departments of Commerce and Justice. The existence of genuine competition - properly defined and understood - is a NECESSARY condition for the realization of consumer trust, consumer choice and innovation. It should be the primary concern.

But vague invocations of "competition", without more, are economically meaningless. So also are the definition supplied for it ("Competition is defined as the quantity, diversity, and the potential for market rivalry of TLDs, TLD registry operators, and registrars") and the "Measures of Competition" that have been proposed at p. 11.

"Competition" can be assessed only within the context of a properly defined "relevant product market", as that term is understood by economists, competition authorities and the courts, to comprise the products (and their producers) that are deemed by consumers to be acceptable substitutes, and to exclude those products that are not seen as potential substitutes.

"Competition" occurs only between and among goods (including services) that are substitutes; producers of COMPLEMENTARY goods do not "compete" with each other.

This is not just relevant to any discussion of "definitions, measures, and targets" for "competition"; it's critical. Unless restricted to just those alternatives that have been shown to be economic substitutes, such measurements would be meaningless.

The fundamental flaw in ICANN's entire rationale for its plans to increase in number of gTLDs is that it has never offered any satisfactory analysis or answer for the threshold question: Do gTLDs actually compete with each other? Put differently, does ICANN - or anyone else - seriously contend that registrants of second-level domains generally are content to register their domains under one - and only one - of the available gTLDs?

To anyone familiar with the actual demand by registrants of second-level domains, the question answers itself: Most registrants overwhelmingly prefer to register their second-level domains under the .com gTLD. To the extent they undertake registrations under any of the other gTLDs, this is IN ADDITION TO their .com domains, usually for defensive reasons. In other words, these registrations under the other non-.com gTLDs are COMPLEMENTS rather than SUBSTITUTES.

Despite prodding by U.S. government agencies and others, ICANN has never been willing to undertake a proper delineation of the relevant product markets at issue in connection with any of its three campaigns (in 2000, 2003-2004 and the present) to increase the number of gTLDs. Its currently proposed measures of "competition" reflect that failure. They are economically meaningless, because they would not be taken within the confines of a properly-defined relevant product market. As a result, they cannot provide meaningful measures of the competitive significance of the new gTLDs, and likely will wrongly suggest that some new gTLDs have enhanced competition when in reality they have done nothing

Comment [bac10]: Added to Competition Definition

Comment [bac11]: Added to Competition Definition

of the sort.

Michael A. Flynn
Director

[AFEConsultingLogo021411-1000 Small.JPG]

AFE Consulting
1999 Harrison Street, Suite 2700
Oakland, California 94612

Please substitute this .pdf file for the .bin version posted earlier

- *To:* "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* Please substitute this .pdf file for the .bin version posted earlier
- *From:* Michael Flynn <MFlynn@xxxxxxxxxxxxxxxx>
- *Date:* Wed, 9 May 2012 05:19:11 +0000

Michael A. Flynn
Director

[AFEConsultingLogo021411-1000 Small.JPG]

AFE Consulting
1999 Harrison Street, Suite 2700
Oakland, California 94612

Attachment: [Reply Comments of Michael Flynn re Competition.pdf](#)

Description: **Reply Comments of Michael Flynn re Competition.pdf**

Comment [bac12]: Rationale not added to Summary matrix to minimize length.

Comment [bac13]: Refer to comments in PDF attachment

Date: Tue, 17 Apr 2012 17:38:48 -0400

Comments of the INTA Internet Committee

- ~~• To: "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>~~
- ~~• Subject: Comments of the INTA Internet Committee~~
- ~~• From: Claudio Di Gangi <cdigangi@xxxxxxxx>~~
- ~~• Date: Tue, 17 Apr 2012 17:38:48 -0400~~

~~Please find attached the comments of the INTA Internet Committee.~~

~~Respectfully submitted,~~

~~Claudio DiGangi
Manager, External Relations~~

~~**Attachment:** [INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf](#)~~

~~Description: INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf~~

~~**Attachment:** [INTA Internet Committee comments on Metrics Chart.docx](#)~~

~~Description: INTA Internet Committee comments on Metrics Chart.docx~~

Resubmitted comments of the INTA Internet Committee

- To: "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>
- Subject: Resubmitted comments of the INTA Internet Committee
- From: Claudio Di Gangi <cdigangi@xxxxxxxx>
- Date: Tue, 17 Apr 2012 21:40:52 -0400

This is to resubmit the comments of the INTA Internet Committee.

Respectfully,

Claudio DiGangi
Manager, External Relations

Attachment: [INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf](#)

Description: INTA Internet Committee Comments on Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf

Attachment: [INTA Internet Committee comments on Metrics Chart.pdf](#)

Description: INTA Internet Committee comments on Metrics Chart.pdf

Comment [bac14]: Refer to comments in attached INTA PDFs

Date: Tue, 17 Apr 2012 13:56:55 -0700

ALAC Statement on the Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition

- *To:* "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* ALAC Statement on the Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition
- *From:* ICANN At-Large Staff <staff@xxxxxxxxxxxxxxxxxxxx>
- *Date:* Tue, 17 Apr 2012 13:56:55 -0700

Dear All,

Please find attached the ALAC Statement on the Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.

Please note that the document is currently undergoing ALAC ratification, with the vote having already achieved quorum in favor of passing the Statement. We will be updating you with a final vote count once the vote is closed.

Regards,

Heidi Ullrich, Silvia Vivanco, Matt Ashtiani, Gisella Gruber, and Nathalie Peregrine
ICANN Policy Staff in support of ALAC

See: ALAC Statement on the Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition.pdf

Comment [bac15]: Refer to attached PDF for comments

Date: Mon, 16 Apr 2012 10:01:52 -0400

RySg Comments - Draft Advice Letter on Consumer Trust, Consumer Choice and Competition

- *To:* "cctc-draft-advice-letter@xxxxxxxx" <cctc-draft-advice-letter@xxxxxxxx>
- *Subject:* RySg Comments - Draft Advice Letter on Consumer Trust, Consumer Choice and Competition
- *From:* "David W. Maher" <dmaher@xxxxxxxx>
- *Date:* Mon, 16 Apr 2012 10:01:52 -0400

On behalf of the Registries Stakeholder Group (RySG), attached please find the comments of the Stakeholder Group on the Draft Advice Letter on Consumer Trust, Consumer Choice and Competition. These comments have the support of a majority of the members of the Stakeholder Group.
Respectfully submitted,

David W. Maher
Chair, Registries Stakeholder Group
Senior Vice President - Law & Policy
Public Interest Registry

See:

[RySG Comments Consumer_Trust,_Choice_&Competition Final.doc](#)

Comment [bac16]: Refer to attached Word doc for comments

Date: Sat, 25 Feb 2012 09:28:00 +1100

Expand the measurement of Competition to include impacts on innovation

- *To:* cctc-draft-advice-letter@xxxxxxxx
- *Subject:* Expand the measurement of Competition to include impacts on innovation
- *From:* Paul Twomey <paul.twomey@xxxxxxxxxxxxxxxx>
- *Date:* Sat, 25 Feb 2012 09:28:00 +1100

I congratulate the Consumer Trust Working Group on their important work.

I wish to make one observation, related particularly to the benefits and measurement of competition.

While I think the definition of competition offered by the Working Group is adequate, the measures that are then offered fail to reflect fully the benefits of competition.

The measures outlined on page 11 of the Draft Report focus on market share and price impacts.

But the economic literature on the benefits of competition also stresses its role in driving innovation and the emergence of improved or new products and services.

The US Federal Communications Commission outlines this economic analysis pithily:

"Free and open competition benefits individual consumers and the global community by ensuring lower prices, new and better products and services, and greater consumer choice than occurs under monopoly conditions. In an open market, producers compete to win customers by lowering prices, developing new services that best meet the needs of customers. A competitive market promotes innovation by rewarding producers that invent, develop, and introduce new and innovative products and production processes. By doing so, the wealth of the society as a whole is increased." /(Connecting the Globe: V. Competition in Telecommunications/ www.fcc.gov/connectglobe/sec5.html)

I strongly recommend that the Working Group develop some measures which focus on innovation and on new products or services.

In my mind, one example of the innovation benefits of the previous rounds of introducing new gTLDs is the new use of the DNS by .tel (although I recognize it was not initially welcomed by all members of the technical community).

While the TLD is controversial for other reasons, the representation and warranty provisions of registration under .xxx (relating to invalidation if for use or promotion of certain "illegal purposes") may also be another example.

Limiting registration to ensure authoritative expression of identity, as is the case in .cat, is another.

These are benefits which may benefit various and smaller segments of the user base. This is a valid outcome of competition. Indeed, one of the positive outcomes of open, competitive markets is the focus of producers on the needs of more specific segments of the broader consumer base. Monopoly markets tend to talk of users; competitive markets tend to talk of market segments. The measurement of competition should also seek to capture that development.

I look forward to the Working Group considering this comment, and developing further measures of competition.

Your sincerely,

Paul

--

Dr Paul Twomey
Managing Director
Argo P@cific

Comment [bac17]: Added to the Competitions Measures Section

Consumer Metrics – Costa Rica Public Session Feedback Summary

Consumer Trust

- Definition of
 - Bruce Tonkin – degree of consistency in how the 2nd level names are being used – consumer experiences how the names are used
 - Shandra Locke – Definition is not broad enough, issue that ICANN Policy & Applicable Laws does not directly apply Consumer Trust.
 - Jonathan Zuck – Maybe working definitions change, utmost important to internet users. Function as to what Registries are offering out to the world.
 - Ray Fassett - .job – Define CT in context of new gTLDs. Definition on screen is not same on screen vs, draft letter. Refers to AGB Q18 application. Stay away from subjective words and what is your mission purpose. Promises as referred to in Consumer Metrics should refer to Q18 of AGB
 - Expanding context of the definition
 - Evan Lebovitch – Acknowledged limitation of scope within ICANN vs. consideration of other access forms for Internet. In context of Consumer Trust & Choice
 - Rudi Vansnick: <question> TRUST is a very flexible word : several definitions can be attributed but at the end, what does a consumer get in return if he/she trusts the other party ? Look at how registrants are handled by registrars. Do we need different types of TRUST ?</question>
- Metrics
 - Chuck Gomes – Page 7 Metrics – “Relative incidence of notices issued to Registry operators, for contract or policy compliance matters” + or – 5% of Legacy gTLDs – being unfair for new gTLDs due to more variation versus legacy TLDs having the advantage Unfair for new player to have too high of standards
- Misc:
 - Ray Fassett – Effect of consumer trust if ICANN should interfere
 - Jonathon Robinson – Useful perspective for ICANN to fulfill their promise; ICANN is a party

Consumer

- GPM Group: Distinguish between consumer registrants vs professional registrants

Consumer Choice

- Andy Mack – Outreach necessary to urge ICANN to spread the word more, and somehow measure that. No explicit measures of communications program. If we wait two to three years down the line. Andy to provide metric
 - Jonathon Zuck – Aim Andy’s question to Bruce – How ICANN might manage these metrics?

Comment [bac18]: Consumer Expectation, WG took narrow scope.

Comment [bac19]: Threshold issue to cover things outside of scope of ICANN policy – Point to survey of CT to measure consumer’s confidence and things like malware.

Communicate better that we are just “measuring”, not acting upon relevant policy response.

Comment [bac20]: No Action

Comment [bac21]: Metrics are crucial in evaluating the definition

Comment [bac22]: How do measure, and does it encroach on our scope/threshold

Comment [bac23]: •Create two metrics for general complaints for Rr & Ry.

•<http://reports.internic.net/cgi/registrars/problem-report.cgi>

•Review Ombudsmen complaints.

•Briefing as to what requirements/whats possible within the new system.

•Review of existing ICANN Complaint system data by category to gauge consumer trust, legacy data vs new gTLDs

•New Measure CT: Complaints Rr handling, new vs legacy complaint; Source, ICANN; 3 yr target, Comparison of legacy vs new gTLD, rate of complaints

•Ry should be part of complaint system going fwd.

Comment [bac24]: More lenient with the targets; stating current TLDs have a good head start in positive behavior

CCTC Clarify how we do the math.

Comment [bac25]: Added to Matrix

Comment [bac26]: The definition address all types of registrants, and does not require the distinction

- Bruce Tonkin – ICANN Community accept the definitions of these terms. ICANN approve the policy that defines those terms. 2nd issue – Metrics – Cost of Delivering them; degree of resource implications; Targets part of strategic planning; Consumer Trust part of Strategic Plan; # of uses of Consumer is large. Should have a shared definition of Consumer
- Metrics:
 - Chuck Gomes – Equate sunrise registrations to defensive registrations.....Registrations by Rights Holders b/c they will use the name. IDN version of .com, brand will not register in scripts to defend, but to use. Not so complicated to measure but may provide false results
 - Steve DelBianco – might have to restrict this measure only TLDs open to general public...."redirected registrations"
 - Chuck Gomes – Redirected does not necessarily mean defensive either
 - Jonathan Zuck – Start tracking data. How it get interpreted and evaluated does not need to be pre-determined

Comment [bac27]: Incorporate Outreach/Awareness of new TLDs questions in to survey

Competition

- Metrics
 - Chuck Gomes – “Quantity of unique gTLD Registry Service Providers before and after expansion” – is ccTLD operator becoming a gTLD provider counted? If you include ccTLD operators, just be clear on it. Affects reality of the goal
 - Bruce Tonkin – Macro view of organization and talking about market place. Whole market place is one review, 2nd review is the gTLD market place.
 - Marilyn Cade - Increasing number of Registry Service providers and expanding geographic distribution of Ry & Rr

Comment [bac28]:
Determine criteria of defensive registrations, b/c sunrise may not necessarily mean a defensive registration, but 1st chance opportunity to acquire domain. Redirects do not necessarily mean redirect either. -Don't want to set aggressive 3yr. targets

Cross out (do not count privacy/proxy registrations) from first & second row on page 10. For Sunrise.

Comment [bac29]: Added to matrix

USG comment	WG response
<p>Relative incidence of complaints received by ICANN involving the new gTLDs, as well as for existing TLDs;</p>	<p>The WG recommended several types of public complaints received by ICANN, with respect to both new and existing gTLDs.</p> <ol style="list-style-type: none"> 1. Proposed metrics include cybersquatting complaints, whether by UDRP or URS. We also proposed measuring decisions against registrants that arise from UDRP and URS complaints. For these metrics we proposed that new gTLDs should have relative complaint incidence that is lower than for legacy gTLDs during the same year. 2. We proposed an additional metric to assess complaints filed with ICANN by Law Enforcement Agencies and Governments, regarding failure of new gTLD registries to comply with applicable national laws. 3. We proposed a metric for “Quantity and relative incidence of detected phishing sites using new gTLDs” and suggest that this measure be less than for legacy gTLDs. 4. We proposed a metric for “Quantity and relative incidence of <u>complaints</u> regarding inaccurate, invalid, or suspect WHOIS records in new gTLD”, and suggest that this measure be less than for legacy gTLDs. <p>Given the above metrics, the WG believes we have already addressed this comment.</p> <p>13 JUN – Already addressed</p>
<p>Quantity and relative incidence of malware sites in the new gTLDs, as well as for existing TLDs;</p>	<p>The WG recommended metrics for two specific types of malware, and suggested that new gTLDs should have lower relative incidence than legacy gTLDs:</p> <p>“Quantity and relative incidence of Domain Takedowns”</p> <p>“Quantity and relative incidence of detected phishing sites using new gTLDs” as reported by Anti-Phishing Working Group.</p>

USG comment	WG response
	<p>The WG asks whether there are other instances of malware other than phishing fraud and those that result in takedowns. If so, these could be additional metrics.</p> <p>13 JUN – Other instances of abuse that require take-downs?</p> <p>CLO – Malware, false re-delegation of domains offered by malware. Review Spec 5 of guidebook</p> <p>18 June 2012 – Reviewed Ry Agreement and not mention of specific abuses like malware/botnets</p> <p>Added 18 June</p>
<p>Quantity and relative incidence of domain names in new gTLDs used in botnets, as well as for existing TLDs;</p>	<p>The WG agrees that a metric should be added for relative incidence of botnets in new and legacy gTLDs.</p> <p>“Quantity and relative incidence of detected botnet sites using new gTLDs”</p> <p>Government and law enforcement authorities could be very helpful in providing data on botnet frequency, since there is no obvious source of information on this metric.</p> <p>We assume that the target for new gTLDs would be lower relative incidence than legacy gTLDs.</p> <p>13 JUN – Add general point of Registration Abuses, callout specific measures</p> <p>Qty and relative incidence of detected botnets, malware, and other abuses.</p> <p>Included in but not limited to</p> <p>Combine this metric, and prev</p> <p>18 JUN could not find RAP statement that generalizes abuse in registrations vs. abuse. Strike action to refer to RAP.</p>

USG comment	WG response
	<p>Added 18 June</p>
<p>Quantity and relative incidence of domain names in the new gTLDs associated with identity theft, as well as for existing TLDs;</p>	<p>The WG agrees that a metric should be added for relative incidence of identity theft in new and legacy gTLDs.</p> <p>“Quantity and relative incidence of sites found to be dealing or distributing identities and account information used in identity fraud.”</p> <p>Government and law enforcement authorities could be very helpful in providing data on identity fraud, since there is no obvious source of information on this metric.</p> <p>We assume that the target for new gTLDs would be lower relative incidence than legacy gTLDs.</p> <p>13 JUN – SDB: Stolen ID is specifically illegal. Often traded on websites RS: Very hot topic. Should be very specific, doing it b/c we are assessing consumer trust, not just because it is just considered illegal SDB: Applicable National Laws covers this</p> <p>Added 18 June</p>
<p>Quantity and relative incidence of domain names in the new gTLDs associated with spam, as well as for existing TLDs;</p>	<p>The WG recommended a metric for spam, and suggested that new gTLDs should have lower relative incidence than legacy gTLDs:</p> <p>“Quantity of spam received by a "honeypot" email address in each new gTLD”</p> <p>The WG assumed that this data could be obtained from SpamHaus. Suggestions for other data sources are welcome.</p> <p>13 JUN – Already addressed</p>
<p>Quantity and relative incidence of breach notices, suspensions, and terminations related to legal misconduct of officers of new gTLD</p>	<p>The WG recommended XX metrics for breach notices</p> <p>We assume that any “legal misconduct of officers” for a registry would generate a notice for breach of contract.</p>

USG comment	WG response
<p>registry operators, as well as for existing TLDs;</p>	<p>[Check this with ICANN legal]</p> <p>13 JUN – SDB: Rel incidence of breach notices. Already asked for metric of breach. Don't think we need to add a specific metric. MG: Less on breach, more on incidence on particular notice SDB: Notice, suspension, and termination CLO: Add on not embellish. Overreach looking at conduct of officers SDB: asking for count, not asking to tally incidents CLO: Conduct business RS: Context of ICANN language. Take narrow focus. Could get us in to corporate law CLO: we don't do anything in context RS: Captured breach notices CLO: do we need to get ICANN legal if we will not change metric SDB: 2 Metrics for breach notices (Ry Rr). BAC: will take action CLO: ALAC hot topic</p> <p>22 JUL: Conference with legal flushed out the following provisions already included in existing agreements and the new gTLD. Note, that failure to comply equals a breach notice only, and not delivered in terms of "suspensions, and terminations" as suggested. However, breach notices from Compliance will be categorized. Thus it is suggested that current metric as defined by WG, "Quantity and relative incidence of breach notices" should remain intact.</p> <p>From Ry Agreement: (d) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator makes an assignment for the benefit of creditors or similar act, (ii) attachment, garnishment or similar proceedings are commenced against Registry Operator, which proceedings are a material threat to <u>Registry Operator's ability to operate the registry for the TLD</u>, and are not dismissed within sixty (60) days of their commencement, (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registry Operator or maintains control over any of Registry Operator's property, (iv) execution is levied upon any property of Registry</p>

USG comment	WG response
	<p data-bbox="436 258 1010 483"><u>Operator, (v) proceedings are instituted by or against Registry Operator under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within thirty (30) days of their commencement, or (vi) Registry Operator files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations or the operation of the TLD.</u></p> <p data-bbox="436 537 995 1068">(f) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) <u>Registry Operator knowingly employs any officer that is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such officer is not terminated within thirty (30) calendar days of Registry Operator’s knowledge of the foregoing,</u> or (ii) any member of Registry Operator’s board of directors or similar governing body is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such member is not removed from Registry Operator’s board of directors or similar governing body within thirty (30) calendar days of Registry Operator’s knowledge of the foregoing.</p> <p data-bbox="436 1094 963 1143">24 Jul – WG agreed this metric is covered within the Consumer Trust metric of Ry Breach notices from ICANN</p>
<p data-bbox="75 1174 401 1243">Quantity and relative incidence of security breaches in new gTLDs, as well as for existing TLDs; and</p>	<p data-bbox="436 1174 995 1320">The WG recommendations did not include an explicit metric for data security breaches. However, the WG recommended this metric that would include any data security breach that violates national laws: “Quantity of Compliance Concerns w/r/t Applicable National Laws”</p>

USG comment	WG response
	<p>The WG recommends changing this metric to include security breaches that must be reported to legal authorities, although not all breaches are necessarily “compliance concerns”. “Quantity of Compliance Concerns w/r/t Applicable National Laws, including reported data security breaches.”</p> <p>13 JUN –</p> <p>SDB: Security breach is not a crime. Bad actor hack into system. Specific metric for Data Security breach that did violate applicable national law. Did not have specific metric for applicable national laws. Many nations have laws where reporting is required by law in some jurisdictions. Reporting covers threshold of law RS: Supports; critical infrastructure WG. Issue of phone hacking, might see new laws on mobile security TM: Problem comparing with different countries. Europe, telco has to, otherwise they don’t. SDB: anticipates every applicable national law anticipates the variety. Compare legacy to new gTLDs. TM: Existing gTLD reside in US jurisdiction. SDB: Locus of Ry is not important. We are only trying to capture metric. MG: Supports amendment SDB: LEA&Govt may not report on this data</p> <p>Change to new defined metric</p> <p>Different thresholds for applicable national laws</p> <p>Added 18 JUN 2012</p>
<p>Conducting multiple surveys of consumer confusion (rather than conducting a one-time survey as initially proposed)</p>	<p>The WG proposed that ICANN conduct this survey of Consumers (defined as actual and potential Internet users and registrants):</p> <p>“Survey of perceived consumer trust in DNS, relative to experiences before the gTLD expansion. Survey could measure experiences with malware and spam; confusion about new gTLDs”</p> <p>The WG agrees that this survey should be conducted each</p>

USG comment	WG response
	<p>year, and not just in the third year when targets were requested by the Board resolution.</p> <p>13 JUN - SDB: Looks like we're being asked to do surveys than one time. Surveys on page 7. Trust and Choice, performed annually.</p> <p>Emergence of new TLD...take some time.</p> <p>Added 18 JUN 2012</p>

From 19 June 2012 Email – James Tiemey to Steve DelBianco

Comment [bac30]: Added to #54, & #55

Steve, it was a pleasure meeting with you and we appreciate the willingness of the working group to address the issues raised by the DOJ and FTC. We have coordinated with the FTC and below is our joint response to the questions and issues your raised. Please don't hesitate to contact us if you have any other questions.

The introduction of new TLDs may benefit consumers through increased output (e.g., increase in the number of registrations), lower prices and increased innovation. To assess the potential benefits of the introduction of new TLDs, ICANN should seek to measure each of these criteria. Increased "output" is an important metric because it helps determine whether the expansion of TLDs has allowed more consumers to enter the market or existing consumers to benefit from increased options in the market. Increased output may be measured by the number of new domain registrations that would not have taken place had new TLDs not been created. Output in the form of domain registrations in new TLDs must be adjusted to account for expected registrations in existing TLDs (including any projected growth) and defensive registrations. Many different facts may be pertinent to an evaluation of whether new TLDs have spurred innovation, but data showing the number of registrants that have switched registrations from existing TLDs to new TLDs could provide one measure of perceived differences in quality between existing TLDs and new TLDs. We do not propose specific targets; however, consumers may benefit from any measurable decrease in price or any measurable increase in output or the offering of new technologies or improved services.

We also agree with your suggestion that an assessment of user traffic may provide some evidence regarding the quality the new TLDs.

The price/quality time series and expanded surveys that we have recommended will provide evidence to measure consumer benefits. When collecting data, ICANN should ask the surveyed registries and registrars to state, separately for each week and each TLD, the number of

domain names registered, the number of defensive/duplicate registrations, total revenues for registry or registrar services, and the average price per registration at both the registry and registrar level. Data should be collected for at least one year before the introduction of any new TLDs. The surveys that we have recommended for individual registrants could be expanded to seek traffic data.

Finally, we offer the following comments regarding the consumer trust metrics:

-In regard to the relative incidence of complaints, we believe the metric is appropriate as a catchall to address any issues that might be relevant that do not fall in the limited specific categories identified in the current metrics (e.g., complaint against a registrar for misconduct, complaints regarding abuse within the TLD).

-In regard to malware sites, the scope of the proposed metrics does not cover all potential incidences of malware. For example, it appears that the metrics would not include malware downloads that occur on sites other than those that were set up as imposter sites (e.g., consumer visits site to download music files and also gets malware vs. a site posing as the consumer's financial institution).

-In regard to spam, it seems as though limiting the metric of spam solely to honeypot e-mails might be too narrow. Our proposed formulation would broaden it to encompass any other possible measures of spam, e.g., number of consumer complaints received (Several countries are developing spam reporting centers, e.g., Canada.)

-In regard to breach notices, the proposed metric does not adequately capture the incidence of sanctions imposed as a result of breach notices, as registrars have an opportunity to cure breaches before suspensions or terminations are sought. Our metric would capture these additional scenarios.

-In regard to data breaches, this metric does not need to be linked to national laws, as they vary widely and are at developing stages in some countries. We do not need to analyze whether there was a legal violation in a specific jurisdiction to know whether there was a security breach and a loss of data or some other harm. In addition, as noted, it may not always be a compliance issue. Finally, if linked with the national law provision, then others might want to see an enumerated list of all of the high priority concerns, not just data breach.