TurnCommerce Inc. Public Comment to ICANN's Renewal of the .Com Registry Agreement with Verisign

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TurnCommerce Inc. appreciates the opportunity to provide input and feedback to ICANN on the proposed renewal of the .Com Registry Agreement. We remain committed to ICANN's mission of transparency, fair competition, and the multistakeholder model. However, we have serious concerns that this renewal process is undermining these very values by prioritizing Verisign's financial interests over those of the broader stakeholder community, including the 157 million .Com registrants. The following commentary reflects our concerns regarding the economic impact on registrants, the lack of competitive bidding, ICANN's public comment process, and the need for ICANN to fulfill its commitment to promoting competition in the Domain Name System (DNS).

Economic Impact of the next six-year Term for Verisign

This will be the most lucrative contract that ICANN has ever awarded in its history. But, contrary to ICANN's stated commitment to a multistakeholder model, the contract was negotiated behind closed doors with no input from anyone other than ICANN and Verisign—and it shows.

Verisign is projected to generate **$10.86 billion** of revenue over six years under this deal.[1] By comparison, the total operational costs for both the .Com and .Net registries have never exceeded $500 million per year,[2] yielding an anticipated **$7.86 billion in operating income** from this contract renewal.[3]

In exchange, ICANN will earn **$235.5 million** under the $0.25 per domain fee[4] that it collects from Verisign. In addition, ICANN negotiated the right to raise that fee each year based on CPI index. So, ICANN could collect an additional **$27.82 million** from Verisign.[5] And ICANN will collect an additional **$20 million special payment** from Verisign between the years 2026-2030 **on top of the $20 million** it received between the years 2020-2025.[6] No other registrar pays additional fees of this nature to ICANN.

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[1] 157 million .com registrants times $10.26 in years 2025 and 2026, and fees rising to $10.97, $11.73, $12.55 and $13.42 in years 2027 through 2030. Assumes the base of domains remains the same.
[2] SEC Verisign Annual Reports between years 2009-2023
[3] This $7.86 billion figure is conservative because it takes into account total cost to operate Verisign, which includes other TLD's. If you prorate the total expenses Verisign has between .Com and .Net (92.4% and 7.6%) the .Com contract will likely yield **$8.13 billion in operating income.** Assuming Verisign raises its fees by the maximum amount permitted under the contract, which it has historically done at every opportunity and the base of domains remains the same.
[4] 157 million x $0.25 x 6 years = $235,500,000
[5] Applying a projected 3.2% CPI increase on January 1st of every year results in total fees of $263.32 million dollars.
[6] https://www.theregister.com/2020/03/30/dotcom_price_rises/

In short, the contract delivers great value to Verisign and ICANN. But that value comes at the expense of the 157 million .Com registrants – **who have no choice but to pay higher fees because they are locked into their domain names**.

ICANN was supposed to serve as a steward for all stakeholders in this negotiation. Instead, it put the financial interest of itself and its largest payor ahead of the entire DNS ecosystem. It's apparent that ICANN did no due diligence to determine whether any price increase was warranted. It did not consider market and competition issues; it did not conduct an economic study; and it did not consider Verisign's extraordinary financials, its gross margins, its operating margins, or the cost that other capable registry operators would charge. ICANN simply claimed it is "not a price regulator" despite the fact that ICANN has always and continues to regulate prices today.[7]

No Competitive Bidding

We are deeply concerned by ICANN's decision to once again forgo a competitive bidding process for the .Com Registry Database operations. **Competitive bidding is the most reliable way to achieve fair, market-based pricing for .Com domains.** Instead, ICANN has chosen to renew Verisign's agreement without considering the potential benefits of opening the contract to competition. One of ICANN's founding purposes was to promote competition within the Domain Name System (DNS), a principle that remains enshrined in ICANN's bylaws. In the early 2000s, ICANN opened the .Org and .Net registry contracts to competitive bidding, which led to significant cost reductions. For example, Verisign reduced its fees from $6.00 per domain to $3.50 to secure the .Net contract. Despite this success, the contract for the .Com TLD—by far the most widely used and valuable domain—has never been put out for bid.

In past statements, ICANN has claimed that legal constraints prevent it from initiating competitive bidding with Verisign. In 2011, ICANN stated that "no court has found the renewal provisions to be illegal, and intentionally breaching the renewal provision would not be prudent as it would expose ICANN to liability under the contract."[8] Similarly, in 2017, ICANN asserted that it "**does not have the right under the current .NET Registry Agreement to unilaterally refuse to renew the agreement or to bifurcate registry functions**."[9] It appears ICANN perceives itself as unable to promote competition—which stands in stark conflict with its own bylaws and core values.

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[7] ICANN sets the fees that Verisign is able to charge for 13 million .Net domains under a separate agreement. Thus, how does ICANN claim it does not price regulate? In addition, ICANN just announced it has the option to initiate a fee increase on the $0.25 per domain fee it collects from all TLD registries based on the CPI index each year. Thus, on January 1, 2025, ICANN will charge $0.258 for all domains. In addition, separate from the $0.25 fee increase, ICANN just announced that it will increase the per domain fee it collects from ICANN accredited registrars from $0.18 to $0.20. ICANN's statement that it is not a price regulator is entirely two-faced.

[8] https://forum.icann.org/lists/net-agreement-renewal/pdfKYnNAPw0rB.pdf - .Net Registry Renewal Agreement

[9] https://itp.cdn.icann.org/en/files/registry-agreement/report-comments-net-renewal-13jun17-en.pdf - While this is regarding the .Net Registry Agreement, its renewal provisions are almost identical to the .Com Registry Agreement

If ICANN's hands are, in fact, tied by contractual terms, then how can it fulfill its role as a responsible steward of the DNS? In 2020, the California Attorney General expressed "mounting concern that ICANN is no longer responsive to the needs of its stakeholders."[10] Sadly, that concern appears to be valid but it doesn't have to be. Reversing course and making a commitment to competitive bidding would allow ICANN to negotiate contracts that better serve the public interest and restore stakeholder confidence in its ability to uphold competitive principles.

This lack of competitive bidding goes against the stated view of the Department of Commerce "that competitive systems generally result in greater innovation, consumer choice, and satisfaction in the long run. **Moreover, the pressure of competition is likely to be the most effective means of discouraging registries from acting monopolistically.**"[11]

No Justification for Higher Fees

There is no compelling reason for ICANN to allow Verisign to continue increasing its fees for .Com domains. Verisign consistently ranks among the most profitable companies in the S&P 500,[12] with almost all of its free cash flow allocated to stock buybacks rather than being reinvested.

ICANN benefits financially from maintaining a perpetual, no-bid contract with Verisign, enabling both parties to share in these profits. This arrangement resembles a form of monopoly rent-sharing where a no-bid and sole-sourced contract generates substantial revenues without competitive pricing pressures.

Verisign's Fees are Unrelated to Operational Costs

Because the .Com Registry Database has never been subjected to competitive bidding, Verisign's fees are not aligned with the actual costs of providing registry services. Calculations based on Verisign's 2023 financials reveal that its total expenses for managing both the .Com and .Net registries amounted to $492.5 million, broken down as follows:

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[10] https://oag.ca.gov/news/press-releases/heels-ag-becerra-letter-icann-rejects-transfer-org-registry-private-equity-firm

[11] NTIA (1998) "Statement of Policy on the Management of Internet Names and Addresses," Docket Number 980212036-8146-02, https://www.ntia.gov/federal-register-notice/statement-policy-managementinternet-names-and-addresses - The white paper also noted that some commentators have "suggested that top level domain names are not, by nature, ever truly generic. As such, they will tend to function as 'natural monopolies'").

[12] https://twitter.com/VladBastion/status/1789692616998633875

Cost of Revenues	$ 197.3M
Research & Development	$ 91.0M
General & Administrative	$ 204.2M
Total Operating Expenses	**$ 492.5M**

According to Verisign's Domain Name Industry Brief for Q4 2023, Verisign managed approximately 172.7 million domains, which include 159.6 million .com domains and 13.1 million .net domains.[13]

This yields two ways to measure Verisign's actual costs on a per domain basis:

1. **Direct Cost Model:** Using only the **Cost of Revenues**, the formula is:

   Cost per Domain = $197.3 million / 172.7 million domains = **$1.14 per domain**

2. **Total Cost Model:** Factoring in all operational expenses, the cost is:

   Cost per Domain = $492.5 million / 172.7 million domains = **$2.85 per domain**

Verisign's current wholesale price of **$10.26** per .com domain results in a substantial profit margin under either model. Even after accounting for all operational expenses, **Verisign's earnings before interest and taxes (EBIT) is $7.41 per domain**.

These figures underscore that Verisign's pricing is vastly disconnected from its costs, yielding a margin that is vastly inflated beyond any reasonable justification. With direct costs at just $1.14 per domain and total costs at $2.85 per domain, it's difficult to justify any further fee increases, let alone the 31% increase scheduled over the next six years. And these costs are almost certainly already above the true cost to operate the registry because it has never once faced a competitive bidding process.

If ICANN were acting as a responsible steward of the public interest, it would prioritize reducing Verisign's fees to more closely reflect actual operational costs.

[13] https://dnib.com/articles/the-domain-name-industry-brief-q4-2023

Verisign's Extraordinary Financials

Between 2009 and 2023 Verisign's revenues increased from $615 million to $1.49 billion, while its profit increased from $87.9 million to $817 million. Its operating margins improved significantly. In 2009, Verisign's operating margins were 26%; in 2023 they were 67% with $817 million in profits on $1.493 billion in revenue. This performance is directly attributable to its operation of the .Com registry.

	Verisign Actual Financials						
	Base of Domains (14)	Total Revenue (15)	Total Cost & Expenses (16)	Cost Per Domain	Operating Margins	Profits (17)	Employee Headcount
2009	97,600,000	$ 615,947,000	$ 455,989,000	$ 4.67	$ 159,958,000	$ 87,931,000	1,100
2010	105,200,000	$ 680,578,000	$ 448,295,000	$ 4.26	$ 232,283,000	$ 58,152,000	1,048
2011	113,800,000	$ 771,978,000	$ 442,589,000	$ 3.89	$ 329,389,000	$ 141,141,000	1,009
2012	121,100,000	$ 873,592,000	$ 416,265,000	$ 3.44	$ 457,327,000	$ 322,728,000	1,099
2013	127,200,000	$ 965,087,000	$ 436,855,000	$ 3.43	$ 528,232,000	$ 323,953,000	1,079
2014	130,600,000	$ 1,010,117,000	$ 445,690,000	$ 3.41	$ 564,427,000	$ 355,347,000	1,061
2015	139,800,000	$ 1,059,366,000	$ 453,420,000	$ 3.24	$ 605,946,000	$ 374,241,000	1,019
2016	142,200,000	$ 1,142,167,000	$ 455,595,000	$ 3.20	$ 686,572,000	$ 441,185,000	990
2017	146,400,000	$ 1,165,095,000	$ 457,373,000	$ 3.12	$ 707,722,000	$ 457,760,000	952
2018	153,000,000	$ 1,214,969,000	$ 447,577,000	$ 2.93	$ 767,392,000	$ 582,619,000	900
2019	158,800,000	$ 1,231,661,000	$ 425,534,000	$ 2.68	$ 806,127,000	$ 612,489,000	872
2020	165,200,000	$ 1,265,052,000	$ 440,851,000	$ 2.67	$ 824,201,000	$ 814,888,000	909
2021	173,400,000	$ 1,327,576,000	$ 460,773,000	$ 2.66	$ 866,803,000	$ 784,830,000	904
2022	173,700,000	$ 1,424,900,000	$ 481,800,000	$ 2.77	$ 943,100,000	$ 673,799,000	917
2023	172,700,000	$ 1,493,100,000	$ 492,500,000	$ 2.85	$ 1,000,600,000	$ 817,600,000	908

In 2022 alone, Verisign repurchased $1.05 billion in stock, while only spending $27.4 million on capital expenses. **Why would a company putting all of its free cash flows into stock-repurchase programs be entitled to raise prices on a captive base of users?**

Most troubling, Verisign does not need to do anything to receive these billions in extra profits. It is not required to provide any further investment into its infrastructure or other services. **It can sit back and collect billions in monopoly rents by simply keeping an automated database operational.**

Every new registration for Verisign is pure profit because the marginal cost of a registration—through an entirely automated process—is zero. Consequently, each price hike of .com domains fees translates to massive additional profit for Verisign.

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[14] Actual base of domains soured from Verisign Earnings Release
[15] Total Revenues from Verisign Annual Reports
[16] Total Cost & Expenses from Verisign Annual Reports
[17] Verisign Annual Reports - In 2009 and 2010 - other income includes proceeds from sales from divestiture of other business units. Adjusting for worthless stock deduction, pre-tax non-operating gain from sale of certain cost-method investments and taxable income generated from intended repatriation in 2014 which all collectively decreased net income by $217.8 million per Verisign Annual Report.

Indeed, the Federal Trade Commission staff predicted in 1998 that "purchasers of domain name registration services might be subject to supracompetitive prices in the future if they become 'locked-in' to a particular vendor of those services."[18]

As the Nation reported in 2017:

> "Normally, companies with regulated prices aren't profit-making juggernauts. But in the third quarter of 2017, Verisign's operating income as a percentage of revenue hit 61.9 percent, putting it near the top of all companies in the S&P 500. This number has steadily climbed since 2006. If the trend continues, sometime in the next decade Verisign will post the highest rate of profitability of any public company on earth."[19]

ICANN's has an Obligation to Reduce Verisign's Fees

As we noted before, the only way to achieve market-based pricing is to put the contract out for bid.

ICANN is unwilling to put the contract out for bid, it has an obligation to to determine an appropriate profit margin for managing the .Com registry database. For example, a 10% profit margin on Verisign's total cost would result in a .Com fee of $3.14 per domain and a total savings of $7.90 billion.[20]

Profit Margin	Verisign's Cost	.Com Fee	Consumer Savings
10%	$2.85	$3.14	$7.9 billion
20%	$2.85	$3.42	$7.6 billion
30%	$2.85	$3.71	$7.4 billion
40%	$2.85	$3.99	$7.1 billion
50%	$2.85	$4.28	$6.8 billion

[18] *See* In the Matter of Improvement of Technical Management of Internet Names and Addresses, Comment of the Staffs of the Bureaus of Economics and Competition of the Federal Trade Commission - March 23, 1998, https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-national-telecommunications-and-information-administration-concerning-its-proposal/v980005.pdf

[19] https://www.thenation.com/article/archive/special-investigation-the-dirty-secret-behind-warren-buffetts-billions/

[20] We calculate this savings from the current proposed 31% price increase over the next six years. Verisign's costs do not include tax & interest.

Even if for some crazy reason ICANN believed that a 100% profit margin was appropriate, this would result in a $5.70 .Com fee and a savings of $5.49 billion over the term of the contract. This would allow Verisign to generate incredibly high operating income of $2.85 per domain per year.

Reducing Verisign's fees would still allow Verisign to continue investing the same amount of money each year into research & development and capital expenses. If ICANN had a concern that Verisign would reduce its investments into key functions of the registry database, it can certainly reinsert the contractual provision requiring Verisign to make investments each year. Under the 2001 .com Registry Agreement, Verisign committed "to the investment of at least $200 million in research & development and infrastructure spending."[21]

Bottom line - the fees Verisign charges are completely detached from the actual expenses to operate the registry and there is no justification for higher fees. They only benefit one company - Verisign - at the expense of 157 million worldwide registrants.

ICANN's Approach Ignores Market Realities

Verisign operates as the exclusive registry for the highly sought-after .Com domain under a perpetual, no-bid contract with ICANN, holding 100% market power in the wholesale .Com domain registry services market. As the sole ICANN-contracted operator of .Com, Verisign dominates what is effectively a monopoly in the market for .Com domains.

The .Com extension is the 'gold standard' among top-level domains (TLDs). It is overwhelmingly preferred by consumers, who expect businesses to be found on .Com websites. As of Q3 2004, over 157 million .Com domains were registered, compared to just 12.9 million for .Net, the second most popular gTLD.[22]

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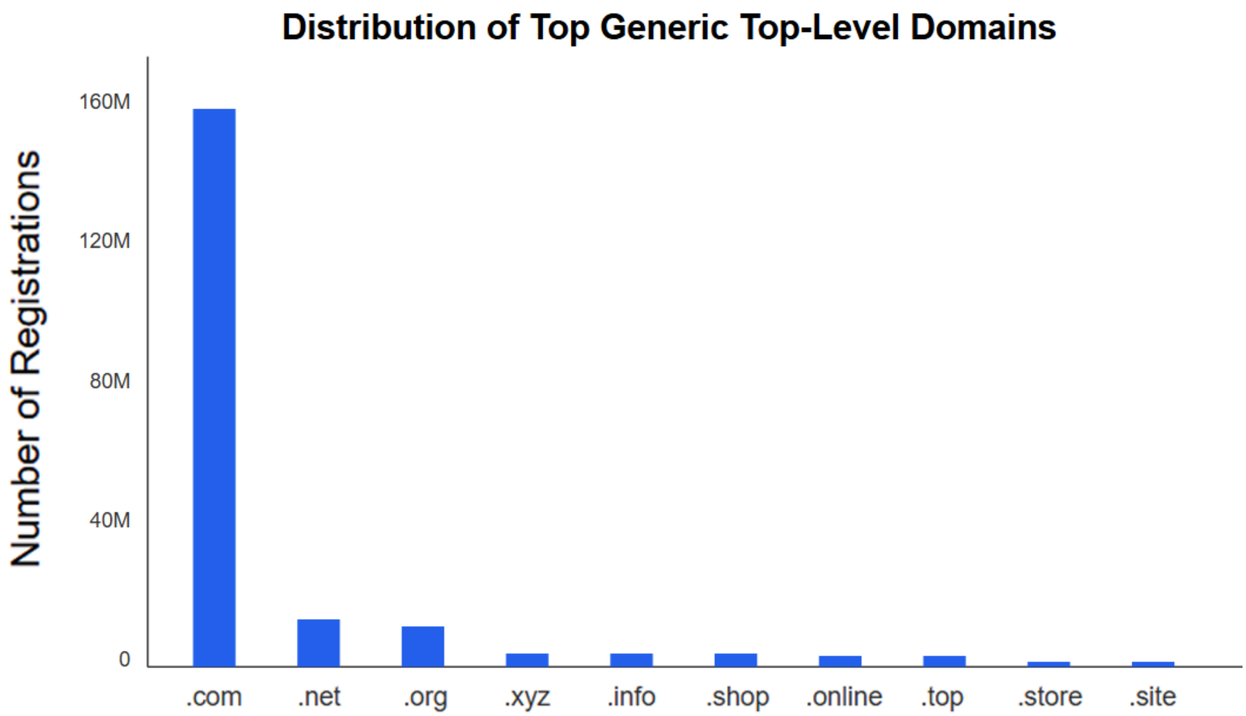
[21] https://www.icann.org/en/announcements/details/icann-announces-decision-on-registry-agreement-for-comnetorg-domains-2-4-2001-en

[22] https://dnib.com/articles/the-domain-name-industry-brief-q3-2024



In fact, .com has become one of the most recognized brands worldwide, with millions of companies promoting .Com in their marketing and advertising. Verisign itself touts .com as "the most universally recognized, and gold standard, in domain names," noting that 97% of the top 100 brands and 93% of Fortune Global 100 companies use .com for their primary websites.[23]

In 2018, NTIA announced[24] that it had entered into Amendment 35 to the Cooperative Agreement which permitted "Verisign to pursue with ICANN an up to 7 percent increase in the prices for .com domain names, in each of the last four years of the six-year term of the .com Registry Agreement." Because "the Department finds that ccTLDs, new gTLDs, and the use of social media have created a more dynamic DNS marketplace."[25] But there is no evidence that .Com was facing any competition that diminished its long-established market power. No study was conducted to reach the conclusion that a "more dynamic DNS marketplace" had emerged. Surely if a "more dynamic" marketplace truly existed, competition would compel Verisign to ***lower fees, not raise them***. Yet even the availability of hundreds of other new domain name extensions, often available for far lower registration and renewal fees than .COM, has had no impact to Verisign's renewal rates and its continual fee increases.

Concerns over this market power and lack of competition have been longstanding. In 1996, Internet pioneer Jon Postel warned:

[23] https://blog.verisign.com/getting-online/your-com-is-waiting/
[24] https://www.ntia.gov/press-release/2018/ntia-statement-amendment-35-cooperative-agreement-verisign
[25] https://www.ntia.gov/sites/default/files/publications/amendment_35_0.pdf

> "Another concern with the current situation in the Domain Name System is that there is one registry for the top-level domain names and it is charging fees apparently unconstrained by effective regulation or competition; it is in a monopoly position . . . . Will people be willing to change their domain name to get better service or lower price? A name acquires substantial value as it is used and it becomes a significant undertaking to change a name. It is unlikely that many companies registered in one domain (for example COM) will change to another (new) domain."[26]

Initially, ICANN shared Postel's concerns. In 2001, it acknowledged that TLD registry operators "will inevitably acquire some attributes of monopoly power" due to technical constraints that prevent multiple operators for a given TLD and the economic "lock-in" effect that deters users from changing domains after establishing their presence. ICANN recognized then that price caps could prevent abuse and recommended downward adjustments, not upward, to protect consumers from excessive fees because "TLD operators will have incentives to use [their] position in abusive ways."[27]

Michael M. Roberts, the first President and Chief Executive Officer of ICANN, testified before the U.S. House of Representatives Committee on Small Business that "ICANN has failed to make any significant effort to subject VeriSign to competition for renewal of its dot com agreement; marking a retrenchment from ICANN's obligation to foster competition in the registry marketplace, for which behavior ICANN has offered no explanation."[28]

And in 2004, an ICANN-commissioned study confirmed that even without price caps, registrant demand would remain relatively inelastic due to the lock-in effect, where high switching costs discourage users from moving to other TLDs.[29]

Former ICANN Board Member Jonathan Cohen described the gTLD registries as "parallel monopolies" and indicated "genuine market-based competition is difficult when the products are different, the prices controlled, and there are switching costs." In the ICANN commissioned report it said "For many existing registrants, substitutability is therefore not a realistic option. Only a party contemplating a new registration has the full freedom to select in which TLD to register."[30] ICANN also stated to prevent abusive behavior from registries that "the price caps on the fee a registry may charge registrars for a registration can be adjusted downwards, but not upwards. Registries, for the most part, have accepted these constraints as part of the privilege of operating a TLD."[31]

Yet two decades later, ICANN treats all TLDs as one product market, asserting that competition among TLDs keeps prices in check. This view ignores the reality that other TLDs are not substitutes

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[26] https://datatracker.ietf.org/doc/html/draft-postel-iana-itld-admin-01
[27] https://www.icann.org/resources/unthemed-pages/report-name-tld-2001-07-31-en
[28] See Testimony of Michael M. Roberts, Principal, The Darwin Group, Inc., Before the House Committee on Small Business, June 7, 2006
[29] https://archive.icann.org/en/tlds/new-gtld-eval-31aug04.pdf
[30] Id.
[31] Id.

for .Com domains, with high switching costs effectively trapping registrants and preventing any real competition.[32]

This lack of market discipline is evident in Verisign's consistent pricing behavior:

- Verisign has never reduced .Com fees to compete with other TLDs. Even with the launch of hundreds of new gTLD's between years 2012 and 2014 priced much lower, Verisign never once responded with lower pricing.
- Verisign consistently raises fees to the maximum allowed under its contract with ICANN.
- Renewal rates for .com domains have remained stable over a decade, indicating that registrants are not switching to other domains, even with fee increases, due to lock-in effects.

If competition truly existed, it would compel Verisign to *reduce* its fees to compete in the market. But Verisign continues to do exactly the opposite. Basic economic theory indicates that competition will tend to lower prices.

ICANN's current approach is fundamentally flawed. The organization continues to assume that issuing numerous monopoly licenses will create a competitive environment. However, as former ICANN CEO Mike Roberts recently noted, "ICANN has actually been handing out monopoly licenses with no price constraints on the dubious theory that many monopolies will promote lower prices… That hasn't happened."[33]

Moreover, ICANN has yet to follow through on its board's 18-year-old resolution to conduct an economic study on whether each TLD functions as a separate market, as requested multiple times by both the DOJ's Antitrust Division and NTIA. ICANN's failure to define the relevant market and undertake this essential study hinders its ability to promote competition and serve the public interest effectively.

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https://www.icann.org/en/system/files/files/irp-namecheap-icann-opp-interim-measures-protection-11mar20-en.pdf - "*But price control provisions are not necessary to constrain pricing in a market saturated with 1,200 other gTLDs that are not subject to price control provisions.*" and
https://www.icann.org/en/system/files/files/irp-namecheap-claimant-rebuttal-to-icann-pre-hearing-expert-report-professor-verboven-langus-redacted-08feb22-en.pdf -
"*By referring to shares of registration in .ORG, .INFO, and .BIZ in total registrations as indicating lack of market power of these TLDs, Prof. Carlton implicitly treats all TLDs as relatively good substitutes of .ORG, .INFO, and .BIZ. This is unfounded for the reasons we have set out at length in our Second Report and restated above.*" and
https://www.icann.org/en/system/files/files/economic-analysis-info-org-14feb24-en.pdf - *"Registrants Have Many Alternatives to .org, and Increasingly Have Chosen Those Alternatives: A firm has no market power when customers have good substitutes, or alternatives, to which they could turn if the firm attempted to increase its price above the competitive level. In the case of .org, alternative TLDs exist to which registrants could turn if the .org price were to increase above the competitive level."*

33 https://circleid.com/posts/20200219_isoc_and_the_pir_sale_lessons_being_learned

Lack of Transparency in ICANN's Economic Study on .Com Price Caps

ICANN's lack of transparency surrounding an economic study on .Com price caps commissioned in 2019 raises serious concerns. In response to the Internet Commerce Association's (ICA) Policy Wash letter, ICANN claimed there was "no basis" to conduct economic studies on domain pricing for .Net domains.[34] In ICANN's decision paper in 2020 to allow Verisign to continue increasing its fees on .Com domains, it said "While some commenters requested market analysis or economic study prior to ICANN taking action on the proposed amendment, ICANN org is not a competition authority or price regulator and ICANN has neither the remit nor expertise to serve as one."[35]

However, it was later discovered that **ICANN had, in fact, engaged economist Dennis Carlton in 2019 to conduct a study on .Com price caps**, which ICANN chose not to share with the community.[36]

While ICANN publicly argued that an economic study would not yield meaningful insight into setting the appropriate wholesale fee for .Com domains, **it privately commissioned Carlton to analyze this very issue.** ICANN subsequently fought hard to withhold the report under claims of privilege, until an Independent Review Panel[37] ordered ICANN to disclose it to opposing counsel.

Given ICANN's commitment to transparency and accountability, this study on .Com price caps should be released immediately for public review prior to ICANN moving forward with a renewal of the .Com TLD. The community has a right to understand the findings in Carlton report, even though ICANN's history[38] with Carlton's work raises questions about Carlton's independence and objectivity. Full disclosure of this report is essential for the community to assess the basis of .Com pricing decisions and ICANN's adherence to its mandate.

Verisign's Monopoly Power and Market Dominance

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34 https://www.icann.org/en/system/files/correspondence/muscovitch-to-sinha-27jun23-en.pdf and https://www.icann.org/en/system/files/correspondence/sinha-to-muscovitch-14aug23-en.pdf

35 https://www.theregister.com/2020/03/30/dotcom_price_rises/

36 https://www.icann.org/en/system/files/files/irp-namecheap-procedural-order-18-04mar22-en.pdf - *"While most of the report discusses the .COM gTLD, it does so in the context of the likely impact of the recent relaxation of controls on prices for the .COM gTLD…… Similarly, the portion of the 2019 Carlton report that addresses the impact of removing price controls on .BIZ, .INFO, and .ORG is relevant to the issues in Dr. Carlton's report in this IRP. Dr. Carlton has opined in this IRP that removing those price controls will likely have no material impact on Namecheap for various reasons. ICANN argues that the 2019 Carlton report supports that position. Regardless of whether that view is correct, Namecheap is entitled to review Dr. Carlton's prior report on a similar topic and draw its own conclusions as to whether the prior report supports or impeaches Dr. Carlton's opinions in this IRP….. Thus, the Panel finds that there is good cause to provide Namecheap with the opportunity to review the 2019 Carlton report. Good cause is underscored by the emphasis in ICANN's Bylaws on a "transparent" decision-making process."*

37 https://www.icann.org/resources/pages/irp-namecheap-v-icann-2020-03-03-en

38 https://domainnamewire.com/2009/03/05/icann-releases-two-whitewash-reports-to-defend-its-positions-on-new-gtlds/ & https://circleid.com/posts/20090304_flawed_economic_report_gtlds_icann/ & https://domainnamewire.com/2009/06/07/dennis-carlton-agrees-with-dennis-carlton-about-new-domain-names/

In 2008, when there were only 79.8 million .com domains, the Department of Justice (DOJ) recognized Verisign's significant market power, noting that other TLDs are complements, not substitutes, for .com domains.[39] Today, with 157 million .com domains registered and a high renewal rate of 73%, Verisign's market power has only increased. This monopoly position, combined with substantial barriers to switching one's domain name, underscores the urgent need for competition-focused oversight.

Financial analysts who have studied Verisign agree, describing it as having "a virtual monopoly on Internet domains" that gives it "unrivaled power" in "the fastest-growing industry in the world - the Internet."[40] Others have said Verisign is "an extremely attractive and enviable competitive position that could be likened to a monopoly" and "the margin on this recurring revenue is extraordinarily high, and there is very minimal need for cash in this business. The high margin recurring revenue and the low capital requirements lead to stable and predictable free cash flow, **which the company uses almost exclusively to buy back stock.**"[41]

Questionable Payments to ICANN

Despite ICANN's goal to treat all registry operators equally, its relationship with Verisign suggests otherwise. ICANN allows Verisign to opt out of economic studies, a privilege not extended to other operators, raising questions about ICANN's commitment to equitable treatment.

Additionally, Verisign makes several special payments to ICANN that deviate from standard practices:

- **Special $0.75 Payment per .Net Domain**: Verisign pays ICANN $0.75 for each .Net domain registration, significantly higher than the typical $0.25 per domain that all other registries pay. This amounts to an additional $6.45 million per year that Verisign directs to ICANN, despite the possibility of negotiating a lower rate.[42]
- **$20 Million Special Payment**: Verisign also pays ICANN an extra $4 million annually, totaling $20 million over a five-year term, through a Letter of Intent tied to the registry renewal agreement. This arrangement is expected to continue in the 2026–2030 term.
- **$135 Million Secret .Web Bid:** Verisign funded an entity Nu Dot Co LLC which forced an auction of last resort, with ICANN receiving the entire proceeds of $135 million rather than the winning bid being split among auction participants.[43]

These payments create a concerning financial interdependence between ICANN and Verisign, which appears to facilitate a sharing of monopoly profits rather than supporting the public interest. While

[39] https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf
[40] https://www.nasdaq.com/articles/profit-monopoly-internet-100-upside-2013-11-06
[41] Verisign: The Toll Road of the Internet - https://sabercapitalmgt.com/wp-content/uploads/2013/03/Verisign-2016-09-02.pdf
[42] With 12.9 million domains multiplied by $0.50 overpayment
[43] https://www.icann.org/resources/pages/irp-afilias-v-icann-2018-11-30-en

substantial funds flow between ICANN and Verisign, the interests of 157 million .com registrants remain sidelined, leaving them without a voice at the table.

Another Sham Public Comment Process?

We expect ICANN will rubber stamp this agreement with Verisign (worth **$10.86 billion**) without making any substantive changes. This is not multi-stakeholderism. In 2020, ICANN chose to ignore the 99.9% of comments opposed to any price increase and the process was labeled as a "sham" within the industry.[44] ICANN chose to completely ignore the two most noteworthy comments (one from an economist) into its summary of public comments.[45]

The community has fatigue. The public comment process continues to **erode trust** within the industry and most have determined that it is not worth the time and effort to submit yet another public comment in which ICANN will not listen. This same exact situation has played out in 2005,[46] 2006,[47] 2011,[48] 2012,[49] 2016,[50] 2017,[51] 2019,[52] 2020,[53] 2023[54] and once again it will play out in 2024.

The timing of this comment period further illustrates ICANN's disregard for genuine stakeholder engagement. ICANN's summary of public comments is due on November 19, 2024, leaving only six business days to consider feedback before finalizing the agreement with Verisign—during the Thanksgiving holiday, no less. **For a $10.86 billion contract, this truncated period for community input is wholly inadequate and suggests that ICANN and Verisign have already determined the outcome.**

ICANN has also overhauled its public comment process which has made it significantly more cumbersome to provide feedback. What was once a straightforward email submission process has

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44 https://www.icann.org/en/system/files/correspondence/muscovitch-to-icann-board-17mar20-en.pdf

45 https://www.icann.org/en/system/files/correspondence/muscovitch-to-botterman-icann-board-02apr20-en.pdf

46 https://forum.icann.org/lists/settlement-comments/

47 https://forum.icann.org/lists/revised-biz-info-org-agreements/ & https://forum.icann.org/lists/org-tld-agreement/

48 https://forum.icann.org/lists/net-agreement-renewal/

49 https://www.icann.org/fr/public-comment/proceeding/com-registry-agreement-renewal-27-03-2012

50 https://forum.icann.org/lists/comments-com-amendment-30jun16/

51 https://www.icann.org/en/public-comment/proceeding/proposed-renewal-of-net-registry-agreement-20-04-2017

52 https://www.icann.org/zh/public-comment/proceeding/proposed-renewal-of-org-registry-agreement-18-03-2019

53 https://www.icann.org/es/public-comment/proceeding/proposed-amendment-3-to-the-com-registry-agreement-03-01-2020

54 https://www.icann.org/ar/public-comment/proceeding/proposed-renewal-of-the-registry-agreement-for-net-13-04-2023

become a cumbersome, seven-step procedure that includes account creation, email verification, selection of a supporting organization, and navigation back to the submission page. For an organization that claims to value public input, these changes make it significantly harder for stakeholders to participate. ICANN should be simplifying public feedback processes, not making them more prohibitive.

Like prior registry agreements, ICANN will likely move forward with Verisign's contract renewal by the November 30, 2024 deadline, disregarding substantive feedback from the community. Even Verisign's CEO, Jim Bidzos, expressed confidence in an "on-time renewal" on October 25, 2024, stating that the renewal process would be complete by November 30, 2024.[55] This apparent certainty on the part of Verisign underscores that ICANN's public comment process is largely procedural and unlikely to influence the final decision.

Conclusion

The proposed fee increases in the .Com registry—from $10.26 to $13.42 over the next six years under a single-supplier contract—represent a 31% rise affecting more than 157 million registrants. This will allow Versigin to increase its already extraordinary profit margins and ICANN will receive more money from its largest ratepayer.

ICANN can offer no legitimate justification to defend its decision to perpetually suppress competition for the management of the .Com registry database, let alone completely disavow pricing authority. ICANN has failed to act consistent with its legal mandate, abusing the public trust by handing a perpetual monopoly to Verisign and consistently agreeing to hand it billions more of other people's money while disclaiming the very authority it was entrusted with.

But the issue is fundamentally a simple one: <u>does ICANN want competition or exploitation?</u>

ICANN essentially has two options:

1. **Option 1**: Follow the advice of the DOJ's Antitrust Division and the demands of thousands of stakeholders to put legacy TLD contracts out for competitive tender. A bidding process would allow market forces to determine appropriate domain registration fees, ensuring that they remain reasonable and fair.
2. **Option 2**: If ICANN is unwilling to open the .Com Registry Agreement to competitive bidding, then it has a duty to conduct a comprehensive economic analysis to determine the appropriate fee and force a reduction in the .Com fee.[56] This would include hiring an independent economist, conducting a full study of registry operating costs, examining fees from other registry operators, and sharing the findings with the global Internet community to ensure transparency.

[55] https://finance.yahoo.com/news/q3-2024-verisign-inc-earnings-102522865.html
[56] Under no circumstance is the current fee cap of $10.26 along with the proposed 31% increase justified.

Failure to pursue either of these options calls into question the integrity of ICANN's multistakeholder model of Internet governance. If ICANN is unwilling or unable to act in the public's interest, it's time to consider whether another organization could better manage registry agreements. Exploitation is not one of ICANN's core values - but this is exactly what ICANN is doing.

ICANN now stands at a crossroads. Will it continue to protect Verisign's monopoly and ignore the voices of the global stakeholder community, or will it finally fulfill its mandate to promote competition within the Domain Name System?