



Singular and Plural New gTLDs: Costly Headaches

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August 1, 2013

ICANN has recently stated that it will allow the public to register plural and singular gTLDs that are variants of words already registered as domain names. .Books will be able to join the currently allocated .book, and .pet will be able to join .pets. Of course, a pair like .blue and .blues, two words that look alike but have different meanings, isn't at issue here. The focus is just plurals and singulars. But that leaves plenty of room for trouble, and ICANN has to tackle some tough questions now, before the policy launch.

Somebody who owns, say, .car has to wonder if Internet users will be confused when .cars comes along. The same applies to the owner of .bikes, suspiciously eyeing the newly created .bike. Whoever owns the original word stands to lose business when the variant word pops up. This poses an unintended harm (negative externality) to the Internet. To compensate for the harm, ICANN would have to charge the variant name's owner. If ICANN doesn't, the government can levy some kind of tax on the variant's owner and raise the money that way. Although there might be other sources of harm caused by the introduction of the new gTLDs, there isn't much that ICANN can do now, given that it did not impose any such penalties in the first round of new gTLD allocations.

I don't know the terms that current gTLD owners have signed with ICANN. But when it comes to owners of variant words, the first-round winner of a new gTLD can claim breach of contract and sue if ICANN allows any further variations on the gTLD.

If the owner of .book wants to buy .books, the key is to calculate the additional value that the variant will bring. Buy the variant for a penny over this figure and money is being wasted. Of course, the calculus has to factor in how much revenue will be lost if the variant belongs to somebody else.

For somebody who doesn't own .book but does want to buy .books, a key point to remember is that the word has a built-in competitor. Revenues have to be estimated in the presence of this competitor, with due attention to closed versus open environments,

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the value of the option to open up an initially closed gTLD and vice versa, the possibility of an externality tax, and the chance of legal costs if the owner of the original word sees reason to sue.

It has been suggested that current owners should have right of first refusal of any gTLDs that are variants of words they already own. Hypothetically, this could create a dilemma for ICANN if allocation was done by beauty contest instead of auction. In the second round, a bidder might be more “qualified,” based on published requirements. If the owner of a current word turns down a variant, buying it would probably not have added value. With an auction, of course, right-granting issues would not exist, and the entity that won the bid would be the one that valued it the most. Under a non-auction sale, ICANN would need to prohibit current owners from abusing their first-refusal right through buying them only to flip them.

The upcoming new policy on variant words poses complications for ICANN and for whoever wins a variant word that they didn't own in the first round. ICANN needs to deal with possible externalities that arise from user confusion, while the first-time winners of the variant gTLDs need to be on guard against possible law suits from the owners of the original words — which, in turn, presents a headache for ICANN. ■