

Assessing the Benefits and Costs of Expanded Cross Ownership of Registries and Registrars

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Central Question

Should expanded cross ownership of registries and registrars be authorized?

The Answer?

The work required for a definitive answer to this question has not been completed.

The CRA Report

The CRA Report provides useful preliminary observations.

- **Identifies settings in which expanded cross ownership may be particularly problematic.**
- **Notes the problems of reversing expanded cross ownership once it is authorized.**
- **Suggests specific settings in which limited experimentation with expanded cross ownership might be considered on a trial basis.**

Much Work Remains

- **These preliminary observations are valuable.**
- **However, substantial additional study is required before a fully informed decision can be made.**

Determining the Answer

- **The expected benefits of expanded cross ownership should be quantified.**
- **The corresponding expected costs should also be quantified.**
- **These benefits and costs should then be compared.**

The Cost-Benefit Calculation

- **Only if the benefits of expanded cross ownership exceed its costs should the policy be considered further.**
- **The net benefits should also be compared to the corresponding net benefits of other policies that might achieve the same ends.**

Potential Benefits

Increased industry competition?

- **The exact nature and likely consequences of increased competition should be identified and quantified.**
- **Vague appeals to the general merits of competition are difficult to assess.**

Potential Costs

- 1. Reduced industry competition, due to increased discrimination against non-affiliated registries and registrars.**

Increased Discrimination

For example, an integrated registry-registrar might:

- **Limit the access of a non-affiliated registrar to the most highly valued registrations; and/or**
- **Limit the access of non-affiliated registries to prime shelf space.**

Potential Costs

- 2. Harm to registrants due to increased incidence of abuses such as domain name tasting and front running.**
 - Expanded cross ownership can render ineffective the policies (“restocking fees”) that have helped to limit domain name tasting.**

Potential Costs

- 3. The expanded industry oversight required to limit undesirable activities.**
 - **Discrimination against unaffiliated registries and registrars and abuse of registrants can be difficult and costly to detect.**
 - **The costs of the (ongoing) oversight should be accounted for, and the efficacy of the oversight should not be assumed.**

Measuring Market Power

The costs of expanded cross ownership are likely to vary with the prevailing market power.

- Consequently, a thorough assessment of market power is required.**
- Who will undertake this assessment, and what standards will be applied?**

Measuring Market Power

- 1. Relevant markets must be identified.**
 - **This identification requires rigorous studies of the behavior and preferences of registrants.**
- 2. The power to raise price within each of the relevant markets must be assessed.**
 - **Are effective rules in place to limit undue price discrimination?**
 - **How will these rules be enforced?**

Ongoing Oversight

If the extent of permissible cross ownership is linked to prevailing market power, then:

- **Relevant limits on market power must be stated clearly.**
- **Compliance with the stated limits must be monitored and enforced continuously.**

Enforcement

- 1. Can national competition authorities be relied upon to limit anticompetitive behavior, given the prevailing limits on their jurisdictions?**
- 2. Can ICANN deliver the requisite oversight and enforcement?**
 - What institutional capabilities has ICANN developed in this regard?**

Enforcement

When the institutional capabilities required to detect and preclude anticompetitive behavior are limited, restrictions on cross ownership can provide a practical alternative.

Conclusion

- 1. A comprehensive assessment of the expected benefits and costs of expanded cross ownership of registries and registrars remains to be completed.**
- 2. This assessment is a crucial prerequisite to a fully informed decision about whether expanded cross ownership is appropriate.**