

Sale of '.hiv' raises awkward questions as to success of new gTLD programme International - Hogan Lovells LLP

gTLDs

May 27 2015

The first auction of a live new gTLD took place in February. The gTLD, '.reise' (which means 'travel' in German), had a minimum starting bid of \$400,000. It was eventually purchased by [Donuts](#), the company which operates the gTLD '.reisen' (which also means 'travel' in German).

The auction of a live gTLD registry with active domain name registrations under management was an historic first for the new gTLD programme. While auctions had been conducted under the new gTLD programme previously, they had only been used to settle contention sets of competing applications or for the sale of gTLD registries that had not yet started to accept domain name registrations.

Now it is the turn of another live gTLD, '.hiv', to test the auction system, but this auction is likely to be a very different beast from the '.reise' auction. This is due to the status of the '.hiv' TLD as a charitable TLD that has been set up to raise awareness of HIV and to raise funds to support various initiatives to combat HIV and AIDS with a view to eradicating them.

The '.hiv' registry is operated by [dotHIV gemeinnuetziger eV](#), a German registered charity. Built into its registry agreement with [ICANN](#) is the following public interest commitment:

"Registry operator commits to implementing and performing the following protections for the TLD: registry operator, as a social enterprise, is driven by its sole mission to support the global HIV response. Therefore, registry operator will reinvest all excess profits in projects serving this mission."

As such, any potential purchaser of the '.hiv' registry will be obligated to respect this public interest commitment in their business model and the operation of the '.hiv' TLD. In addition to the fact that the '.hiv' gTLD has just over 2,000 domain names under management, of which it has been revealed that roughly 1,700 are reserved names by the '.hiv' registry, it does not seem to be a particularly inviting prospect to third parties seeking to get a healthy return on their investment.

However, according to the CEO of the '.hiv' registry, the aim of the auction is to find a new registry operator who will be able to raise the profile of '.hiv' and to achieve higher uptake of '.hiv' domain name registrations. Accordingly, the auction appears to be more pitched at large corporations who may be interested in embarking on philanthropic project, rather than a third party seeking to turn a profit.

In the promotional statements concerning the auction of the '.hiv' TLD, the CEO of dotHIV claimed that, after eight months of operating the '.hiv' TLD, they had seen "how successful it could be", but one of the lessons they had learned is that "dotHIV is not the right vehicle for the next phase - the TLD needs a bigger and more international home to truly spread its wings".

The '.hiv' TLD has previously been described as one of the gTLDs that justified the launch of the new gTLD programme, with Peter Dengate Thrush, former chairman of the ICANN Board, describing it as "giving the whole [gTLD] process a reason". Indeed, the TLD describes itself as "one of the poster children of ICANN's New gTLD Programme".

As such, the sale of this gTLD via auction after only eight months of operation could potentially pose some awkward questions with regard to the success of the new gTLD programme as a whole and the relevance of the new gTLDs in general. If a charity-orientated TLD with such noble intentions as '.hiv' has failed to generate significant volume of domain name registrations and is now being sold off to the highest bidder, what does the future hold for other such TLDs? Will the new owner of the '.hiv' gTLD seek to renegotiate its public interest commitments in order to fully exploit the TLD commercially?

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