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COVER NOTE

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the implementation and functioning of the .eu Top Level Domain name and repealing Regulation (EC) No 733/2002 and Commission Regulation (EC) No 874/2004

Delegations will find attached document SWD(2018) 121 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**Proposal for a Regulation of the European Parliament and of the Council
on the implementation and functioning of the .eu Top Level Domain name and repealing
Regulation (EC) No 733/2002 and Commission Regulation (EC) No 874/2004**

{COM(2018) 231 final} - {SEC(2018) 205 final} - {SWD(2018) 120 final} -
{SWD(2018) 122 final}

Executive Summary Sheet

Impact assessment on the REFIT Review of Regulation EC 733/2002 establishing the .eu top-level domain (TLD) and Regulation EC 874/2004 laying down public policy rules concerning the implementation and functions of the .eu TLD.

A. Need for action

Why? What is the problem being addressed?

The domain name system (DNS) market and political context have evolved since the entry into force of the .eu Regulations. While the legal framework has been subject to minor amendments, the .eu Regulations have never been fully reviewed to ensure that they still serve their intended goal without cumbersome administrative or implementation costs and that they still effectively deliver their intended benefits of supporting online cross-border activities and promoting EU identity online. The evaluation shows that the current regulatory framework does not sufficiently support the stability and sustainability of the .eu TLD and does not fully exploit its potential within the EU Digital Single Market. The following interrelated problems have been identified: outdated and rigid legislation; deficiencies in governance and accountability; rapid changes to the market.

What is this initiative expected to achieve?

This initiative is expected to ensure the stability and sustainability of the .eu TLD, so as to better enable it to achieve its goals of encouraging online cross-border activities in Europe and of enabling an online European identity. The specific policy objectives (SO) are the following: (SO1) Remove outdated legal/administrative requirements; (SO2) Ensure the rules are future-proof and allow the .eu domain to adapt to rapid changes in the TLD market and the dynamic digital landscape while enabling the use of the .eu TLD to promote EU priorities in the on line world; (SO3) Ensure a governance structure that both reflects technical and governance best practices and serves EU public interest; (SO4) Promote the attractiveness of .eu.

What is the value added of action at the EU level?

The .eu TLD has, by definition, a cross-border dimension. It is the TLD of the European Union and a symbol of the European online identity. The existence of a specific domain name for the European Union under a very clear and identifiable common label is an important and valuable building block for European online identity.

Regulatory action taken at Member States level would not achieve the fundamental objectives behind the creation and management of a trusted and innovative namespace for the EU. The .eu TLD was set up as a country code TLD (ccTLD), rather than as a generic TLD (.com, .berlin). Public policy responsibility for the .eu TLD rests with the European Union.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

This impact assessment (IA) explores a series of policy options which are mainly, but not exclusively, extrapolated from problem drivers relating to the "outdated and rigid legislation" and "governance mechanisms". Two separate cross-cutting issues, which aim to address the issues emerging from the rapid changes to the market", are taken into account horizontally.

OPTION 0: BASELINE SCENARIO: Maintenance of the current regulatory framework for the .eu.

OPTION 1: COMMERCIALISATION: Simplifying the regulatory framework while outsourcing the operation and management of the Registry to an external for-profit service provider.

OPTION 2: MODERNISING THE LEGAL FRAMEWORK: Replacing the current legal framework with one principle-based legal instrument. An external management system for the .eu TLD, based on a contract, would be maintained.

OPTION 3: SEPARATE GOVERNANCE: Combines option 2 with the creation of a multistakeholder body which would have an advisory role. This body would be independent from the .eu Registry.

OPTION 4: INSTITUTIONALISATION: Management and operation of the Registry within a department of the European Commission (a) or an EU Agency (b1: EUIPO, b2: ENISA)

Options 1, Option 4(a) and Option 4(b2) were discarded at an early stage as they do not meet the policy objectives.

In relation to the two cross-cutting issues dealt with separately, the IA analyses both the possibility of the .eu Registry to offer direct registration to registrants given changes in market conditions, and possible changes to the eligibility criteria for obtaining a .eu TLD.

Preferred option: OPTION 3, together with the lifting of strict requirements in relation to direct registration, a citizenship

<p>criterion for natural persons and a residency criterion for organisation/ companies.</p>
<p>Who supports which option?</p>
<p>The vast majority of consulted stakeholders who took part in the consultations welcome the preferred option as they favour a simplification of the legal framework, while slightly relaxing the current eligibility criteria. Views on the governance model were more varied.</p>
<p style="text-align: center;">C. Impacts of the preferred option</p>
<p>What are the benefits of the preferred option (if any, otherwise main ones)?</p>
<p>Under the preferred option, a streamlined, principles-based legal framework would be created. This would provide the necessary flexibility for the .eu TLD to adapt to rapidly changing technical improvements to the DNS, including in terms of security features. End users would be able to enjoy the benefits of technical improvements without being disadvantaged by the time it takes to amend the Regulations. The preferred option would also improve the functioning of the .eu TLD and foster innovation in the .eu ecosystem, both at the level of the Registry and in the downstream markets of registrars and registrants, therefore providing an improved product to the benefit of European citizens and businesses.</p> <p>The .eu TLD would be more attractive in the TLD market, increasing competition between registrars. This, in turn, would be expected to a) potentially reduce prices for end users, b) ensure greater availability of the .eu domain and its benefits to EU society, c) increase registrations and move away from a scenario in which the renewal rate falls below the threshold that would threaten the financial sustainability of the domain name.</p> <p>This option entails a change in governance structure, with a separate body advising on strategic decisions with respect to the functioning of the .eu TLD and oversight over the registry. These changes, by strengthening and widening the input into the good governance of the .eu Registry, are expected to support increased transparency and accountability and to effectively mitigate potential risks of mismanagement in the operation of the .eu TLD.</p> <p>Moreover, the introduction of the citizenship criteria would allow EU citizens living in 3rd countries to also benefit from the advantages brought by the .eu TLD, while lifting strict requirements in relation to direct registration, will be beneficial in terms of a better promotion of the .eu TLD, for instance in scripts other than Latin.</p>

<p>What are the costs of the preferred option (if any, otherwise main ones)?</p>
<p>Compliance costs for the registry are expected to be reduced under the preferred option. However, even if the legal framework is less burdensome, there will still be a need to properly organise, administer and manage the .eu TLD. Nevertheless some of the governance costs for the Registry would be removed. Currently governance costs are budgeted for under general costs and are estimated at €296.000 for 2018.</p> <p>On the European Commission side, the work involved in overseeing the .eu TLD would be reduced thanks to a) the newly created body that is expected to cover some of the tasks that the Commission currently carries out, and b) a lighter and more future-proof legal framework that is able to adapt to market changes without costly amendments to legislative procedures. The multi-stakeholder body needs to be resourced appropriately. It will be supported financially by the Commission.</p> <p>End users and registrars are not expected to be affected (in terms of the price they pay for a .eu TLD).</p>
<p>How will businesses, SMEs and micro-enterprises be affected?</p>
<p>The preferred option would have a positive impact on European businesses, SMEs and micro-enterprises by increasing product innovation, reducing prices and providing greater visibility and availability of the .eu TLD.</p>
<p>Will there be significant impacts on national budgets and administrations?</p>
<p>None are expected.</p>
<p>Will there be other significant impacts?</p>
<p>The initiative can be expected to have a positive impact on the Registry and in the downstream markets of registrars and registrants, including businesses and citizens, by allowing more flexibility and innovation, reducing prices and providing greater availability of the .eu TLD.</p>
<p style="text-align: center;">D. Follow up</p>
<p>When will the policy be reviewed?</p>
<p>Under the preferred option, the new legal framework would allow the required flexibility to cope with market changes without the need for legislative reviews. It would thus create a future-proof legal framework.</p> <p>Nevertheless, the Commission will monitor the application of the new legal framework and submit a report setting out the results of its evaluation to the European Parliament and the Council no later than five years after the date of application of the new framework.</p>