

The case for a registry owning a registrar in its TLD

**Richard Tindal, SVP Registry
eNom/ Demand Media**

What this debate is about:

To simplify terminology let's call registries '**producers**' and registrars '**retail stores**'

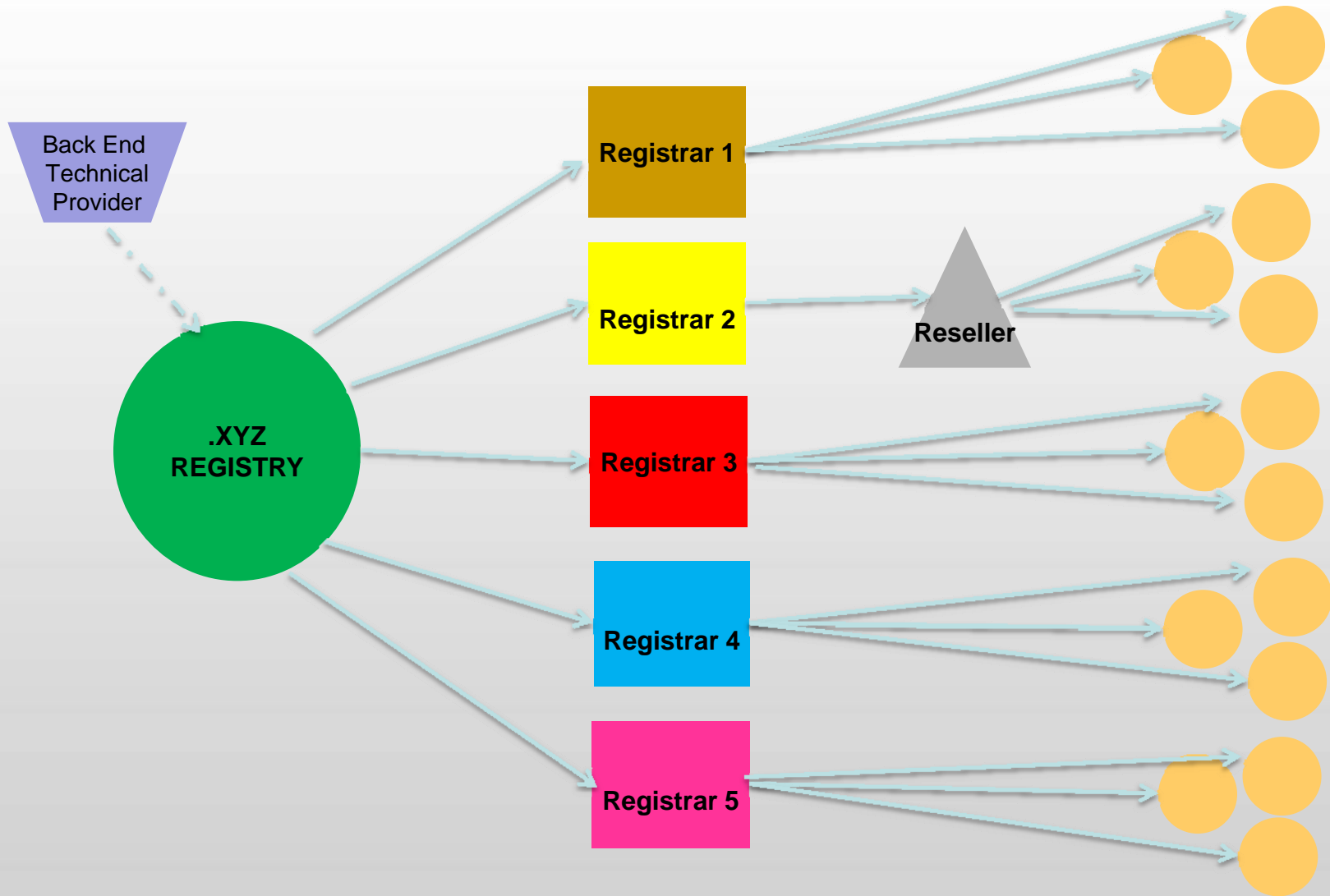
We're debating – Should a producer be allowed to own one of the retail stores that sells its product to the public

When the producer can own a retail store it's called Vertical Integration

Example of this using Apple Computer --- *Apple Inc. produces computers and sells them through hundreds of retail stores like Staples, Amazon, CostCo and your neighborhood computer store. They also sell Apple products through their own, Apple retail stores.*

THE QUESTION. *Should Apple be allowed to also use its own retail stores? OR Should Apple be forced to sell its product only through other peoples' stores?*

Current Model for TLD



Where we both agree in the debate:

1. **TLD MODEL:** Current model on the previous page will be the future model – NO CHANGE
2. **REGISTRY CAN'T SELL DIRECT:** The corporate entity that holds the registry contract (.XYZ Registry) cannot sell 2nd level .XYZ domains direct.
3. **OPEN ACCESS TO ALL REGISTRARS:** .XYZ Registry must provide access to any registrar that wants to offer its names.
4. **NON-DISCRIMINATORY TREATMENT:** Registry must treat all registrars equally
5. **REGISTRY CAN OWN PART OF A REGISTRAR IN ITS TLD:** Cross ownership between registry and registrar is allowed



So what's the difference in our positions?

2%

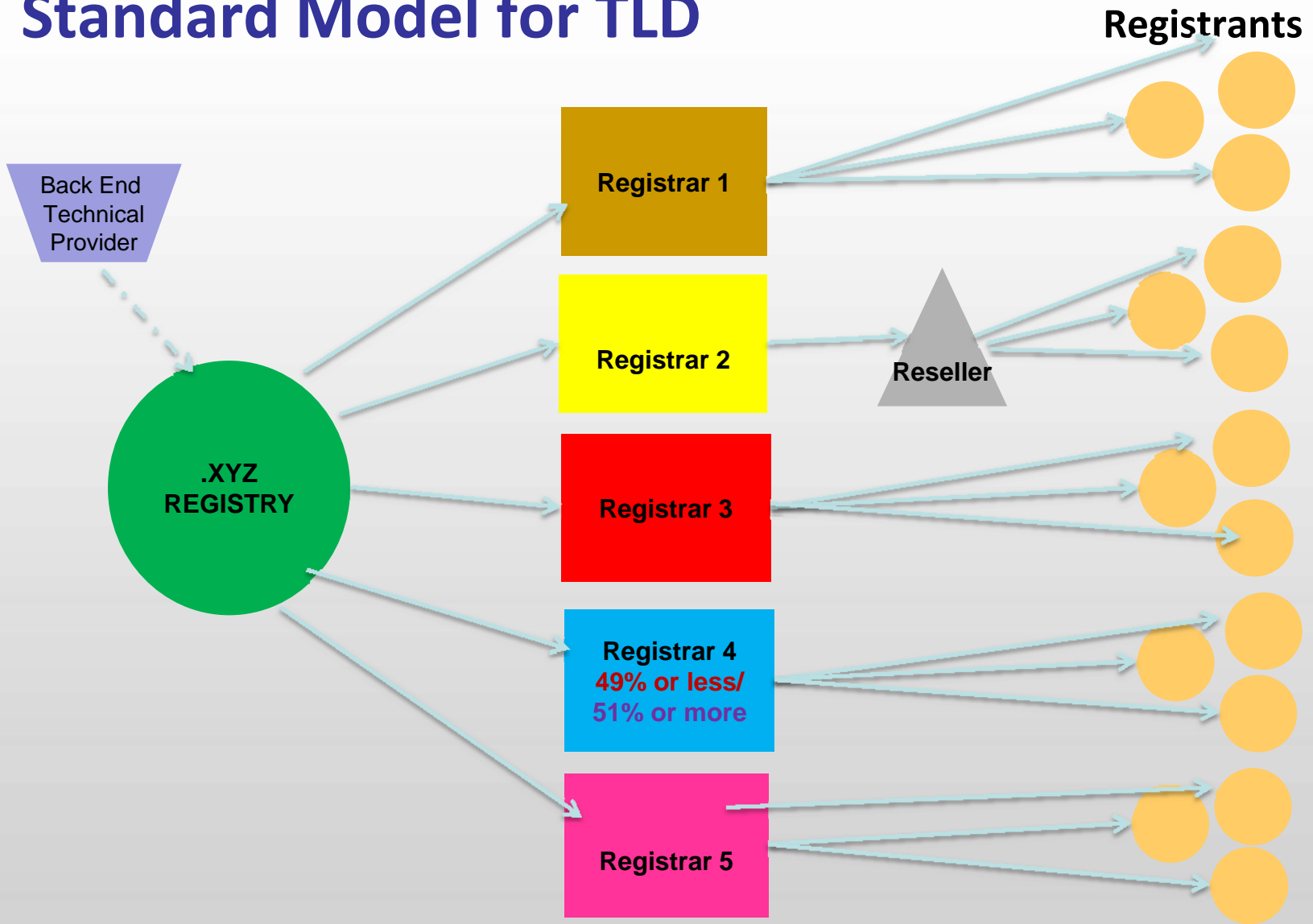
Difference in positions:

2%

Their position is that the Registry must own 49% or less of a Registrar in that TLD

Our position is that the Registry can choose to own 51% or more of a Registrar in that TLD

Standard Model for TLD



We're asking for:

Vertical Integration so a registry can control (own 51% or more) of a registrar that sells names in its TLD

Unless:

The registry has market power or is price capped

Are we asking for something new?

No

The provision we are asking for, Vertical Integration, was explicitly in the following contracts:

2001 to 2006 BIZ agreement

2003 to 2006 ORG agreement

2001 to 2006 INFO agreement

2002 and still current PRO agreement

2001 to 2009 AERO agreement

2001 to 2007 COOP agreement

2001 to 2007 NAME agreement

2001 to 2007 MUSEUM agreement

Here's what the INFO agreement said

*“Section 3.5. Fair Treatment of ICANN-Accredited Registrars.
.....This also shall not preclude an affiliate of Registry Operator
from acting as a registrar with respect to the Registry TLD”*

(<http://www.icann.org/en/tlds/agreements/unsponsored/registry-agmt-11may01.htm>)

Their contract also contained the safeguards from slide 4 --
which we support

Here's what ICANN said about Vertical Integration in 2001.....

<http://www.icann.org/en/announcements/icann-pr01mar01-1.htm>

“This reflects ICANN's belief that there is little if any additional competitive value under today's market circumstances in forbidding the registry operator from also being a registrar, so long as it is done in such a way so as not to discriminate against other competitive registrars”

There is a long and deep history of registry contracts with Vertical Integration. Have we seen problems in these registries?

- abuse of registrants?
- predatory pricing?
- misuse of data?
- discrimination against other registrars?

I think the answer is that we have not

Is the model we're proposing unusual in other industries?

No. Vertical Integration is the norm in almost every other industry

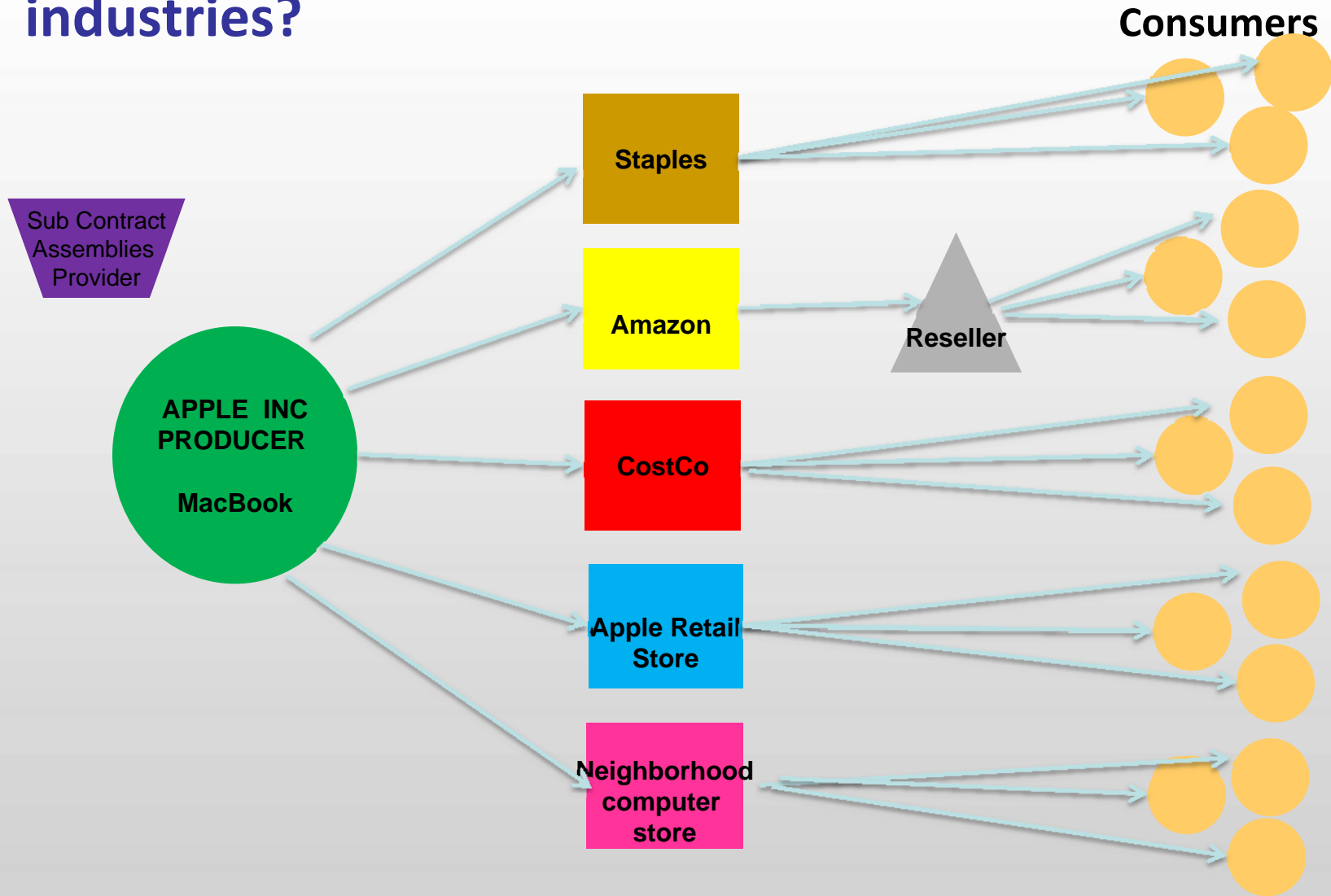
Producers of medical equipment, software, televisions, toothpaste and thousands of other products are allowed to own a store that sells their product direct to consumers

Typically these producers also sell through independent retail stores because that helps them sell more product

We don't give this Vertical Integration a second thought with other industries, in fact we would typically think it odd if a producer couldn't own a store and sell his own product

Vertical Integration is less common in the domain industry because our industry is evolving from markets with monopoly suppliers and price caps --- so there have been some controls on producers owning a retail store, but there have also been many contracts with no such controls

Is the model we're proposing unusual in other industries?



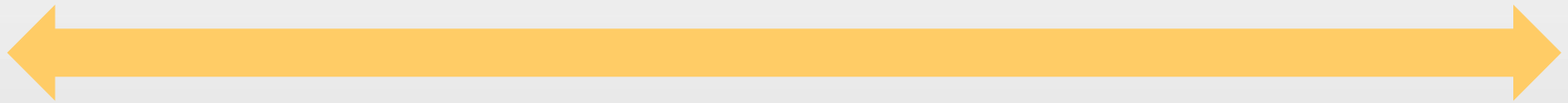
How does Vertical Integration benefit consumers?

- **PRICE:** When a producer owns a retail store there is greater distribution efficiency and greater competition, both of which benefit consumers with lower prices
- **INNOVATION:** Producers who own a retail store are more likely to innovate new services as they have more control over the delivery of those services
- **SERVICE and SAFETY:** Manufacturers tend to be more interested in the value and safety of their brand than other parties. For example Apple probably cares more about the perceived value/safety of Apple products than CostCo does
- Caveat – if there is market power or price caps this could change

Why has this become an issue now?

Years of Vertical Integration with no problems - what's the push back now?

Answer: We're competing for new TLD back-end registry deals



Let's say NSI is competing with Neustar to get a back-end registry deal with a party who plan to apply for .MOVIE

If the Afilias/ Neustar plan for Vertical Separation becomes policy --- the MOVIE folks know that selecting NSI as their back-end registry operator means MOVIE names cannot be sold through the NSI Registrar

NSI is a great registrar and MOVIE knows that. MOVIE really want to have their names sold by NSI --- so MOVIE is more likely to choose Neustar as their back-end operator

Claims being made.....

- *'the registry will discriminate against unaffiliated registrars.....'*
- *'there will be a misuse of data and insider trading.....'*
- *'Registry will use traffic and lookup data to increase prices and engage in abuse.....'*

Let's deep dive on these claims

For every claim let's look at:

- What's the specific allegation against the registry?*
- How would the registry do what's alleged?*
- Why would they do it?*
- Could it be done with or without Vertical Integration?*
- Did it happen when BIZ/ INFO/ORG/PRO/MUSEUM/ AERO/ COOP/ NAME had Vertical Integration?*
- Does it happen in other industries where there is Vertical Integration?*

Concluding thoughts

- Conventional economic theory believes Vertical Integration benefits consumers
- Historical precedent within ICANN permits Vertical Integration without restrictions
- It is the norm in most other industries
- Safeguards such as separation of registry and registrar, open access to all registrars and non-discriminatory treatment of registrars will remain in place
- Allegations that additional abuse will occur are unsubstantiated
- Without Vertical Integration some new registries will be severely hindered
- Market power changes all this – so let's put safeguards in contracts in the event market power occurs