

# THE FINANCIAL SERVICES ROUNDTABLE



1001 PENNSYLVANIA AVE., NW  
SUITE 500 SOUTH  
WASHINGTON, DC 20004  
TEL 202-289-4322  
FAX 202-628-2507

# BITS

FINANCIAL SERVICES  
R O U N D T A B L E

February 15, 2008

VIA Email to: JPAMidTermReview@ntia.doc.gov

Ms. Suzanne E. Sene  
Office of International Affairs  
National Telecommunications and Information Administration  
1401 Constitution Ave., N.W., Room 4701  
Washington, DC 20230

RE: Notice of Inquiry, 72 Fed. Reg. 62220 (Nov. 2, 2007) Docket No. 071023616-7617-01

Dear Ms. Sene:

The Financial Services Roundtable, including BITS, (“Roundtable”) appreciates the opportunity to comment on the National Telecommunications and Information Administration’s (“NTIA”) Notice of Inquiry on the interim performance of the Internet Corporation for Assigned Names and Numbers (“ICANN”).<sup>1</sup> As noted in the public notice, the NTIA and ICANN signed a Joint Project Agreement (“JPA”) extending their current Memorandum of Understanding. The JPA called for a midpoint review of ICANN’s progress towards becoming a more stable organization with greater transparency and accountability in its procedures and decision making.

By way of background and in response to the notice’s item #5, our primary means of engagement with ICANN in recent years has been in urging ICANN to preserve financial institutions’ access to the WHOIS database. We have submitted three comment letters during the past two years and several member company executives have participated in the task force or in ICANN meetings on the topic.<sup>2</sup>

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<sup>1</sup> The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, investment products and services to the American consumer. Roundtable member companies provide fuel for America’s economic engine accounting directly for \$18.3 trillion in managed assets, \$678 billion in revenue and 2.1 million jobs. BITS is a division of the Roundtable, leveraging intellectual capital to address issues at the intersection of financial services, operations and technology. BITS focuses on strategic issues where industry cooperation serves the public good, such as fraud prevention, critical infrastructure protection, and the safety of financial services.

<sup>2</sup> The Roundtable submitted three comments letters in April 2006 (<http://www.bitsinfo.org/downloads/Comment%20letters/WHOISCommentBITSFINALApr06.pdf>), January 2007 (<http://www.bitsinfo.org/downloads/Comment%20letters/BITSFSRWHOISCommentLetterJan122007.pdf>), and October 2007 (<http://www.bitsinfo.org/downloads/Comment%20letters/WHOISCommentBITSFINALOct07.pdf>). U.S. financial institutions use the publicly available domain name registration database known as WHOIS as an important tool to respond to fraudulent activity such as identity theft, “phishing” attacks, and domain name infringement. Based on a survey of our members companies in May 2007, Roundtable member companies use WHOIS data to: investigate and take down fraudulent phishing websites by providing key information in approximately half of our industry’s website take-down requests; identify repeat

Overall, there was some frustration with the process of the WHOIS Task Force even though we are satisfied with the initial outcomes. We believe before making any proposed changes in access to the WHOIS data, there should be more quantitative analysis and a better understanding of any problematic issues with the existing WHOIS database, and a more detailed understanding of the consequences of any proposed changes, including the characteristics of generic top level domain registrants, the uses and abuses of WHOIS data, and a review and analysis of the different proxy services available today. We support efforts to strike the right balance between privacy interests and the legitimate needs of those who rely on WHOIS to protect consumers against fraud and other illegal acts by registered name holders. However, we believe it is important for ICANN to develop governance processes that ensure that the views of organizations that rely on the Internet, but that do not have a contractual relationship with ICANN, are fully considered. These experiences have informed our opinions.

We offer the following comments on some of the ten items in the public notice. We support the important work of ICANN and recognize the competing and difficult challenges facing the organization, given its mission and many competing interests of stakeholders around the globe and in the private and public sectors. We appreciate efforts by ICANN leadership to reach out directly to BITS and through our member operations and technology executives over the past two years. We offer these comments as a means of improving the process of engaging experts from financial institutions and others from the private sector who are dealing with significant security, privacy, and business continuity challenges associated with the Internet.

With regard to items #2, #3 and #6 in the notice, which address issues of transparency, accountability, and improving the multi-stakeholder model, we appreciate efforts by ICANN to improve transparency and to respond to changing security and consumer protection challenges. As noted above, given our experience with the WHOIS Task Force, we believe that more progress should be made to improve efficiency and timeliness, deepen the multi-stakeholder model and to require greater accountability of the registrars. Another critical need is to ensure that private sector entities that are significantly affected by ICANN decisions, but which do not have a contractual relationship to ICANN, play a leadership role in the organization. We urge ICANN to continue to reach out to leaders in the private sector to ensure greater participation. We also believe that ICANN could do a better job of analyzing the current use of resources such as the WHOIS service, as well as studying the potential significant consequences of any changes.

With regard to item #5, concerning top level domain (“TLD”) management, we believe ICANN has done an effective job of reaching out to leaders in the financial services industry to consider establishing a TLD for specific sectors such as financial services. Leaders from the financial services industry are currently exploring this possibility and weighing the costs and benefits of such a proposal.

With regard to #7, concerning the role of the Government Advisory Committee within ICANN, we have seen some movement to be more inclusive of the Government Advisory Committee positions. However, we believe that more work can be done in this area.

With regard to item #9, concerning corporate responsibility, we urge ICANN to continue to make progress in promoting best practices among industry segments and to ensure that key stakeholders are

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offenders so that the seriousness of an attack can be gauged and cease and desist letters can be modified when appropriate; contact owners of hacked or compromised sites, particularly when the attack is timed to coincide with low technical staffing levels at the Internet Service Provider (“ISP”); and perform forensic research in fraud investigations and link analysis for fraud detection purposes. WHOIS information is critical to the timely resolution of phishing and other fraudulent events targeted at customers of U.S. financial institutions since such information is not available from any other source.

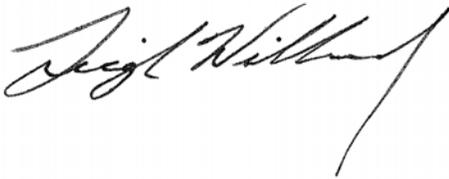
involved in the decision making. Active engagement of corporate stakeholders will significantly enhance the exchange of best practices with ICANN and among its constituents.

In summary, we believe that ICANN has made substantial progress on several fronts, including several of the items cited in the Notice of Inquiry. However, with the significant growth and wide-spread reliance on the Internet Domain Name System, ICANN now needs to carefully study the potential effects of any proposed changes to the system that could impair its effectiveness. With continued commitment to engaging ICANN's corporate stakeholders, and those stakeholders' active involvement, we hope to see further progress on these important dimensions.

Thank you for your consideration. If you have any further questions or comments on this matter, please do not hesitate to contact us or John Carlson, BITS' Senior Vice President for Regulatory Affairs at [john@fsround.org](mailto:john@fsround.org) or (202) 289-4322.

Sincerely,

Leigh Williams  
President  
BITS



Richard M. Whiting  
Executive Director and General Counsel  
The Financial Services Roundtable

