



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

JAN 3 2012

Dr. Stephen D. Crocker
Chairman of the Board of Directors
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601

Dear Dr. Crocker:

On January 12, 2012, the Internet Corporation for Assigned Names and Numbers (ICANN) will begin accepting applications from parties interested in operating a new generic top level domain (gTLD). The National Telecommunications and Information Administration (NTIA) recognizes that this program is the product of a six-year international multistakeholder process and we do not seek to interfere with the decisions and compromises reached during that process. However, in meetings we have held with industry over the past weeks, we have learned that there is tremendous concern about the specifics of the program that may lead to a number of unintended and unforeseen consequences and could jeopardize its success. Accordingly, as ICANN moves forward, I urge you to consider implementing measures: (i) to minimize the perceived need for defensive registrations; (ii) to implement promptly ICANN's existing commitments for law enforcement and consumer protection; and (iii) to ensure better education of stakeholders.

First, in our recent discussions with stakeholders, it has become clear that many organizations, particularly trademark owners, believe they need to file defensive applications at the top level. It appears that this possibility might not have been fully appreciated during the multistakeholder process on the belief that the cost and difficulty of operating a top-level registry would constrain companies from filing defensive registrations. We think, and I am sure ICANN and its stakeholders would agree, that it would not be healthy for the expansion program if a large number of companies file defensive top-level applications when they have no interest in operating a registry. I suggest that ICANN consider taking some measures well before the application window closes to mitigate against this possibility.

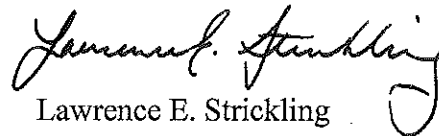
Second, after the application window closes and ICANN publishes details about the pool, facts will be available to determine the potential scope of this gTLD expansion. At that time, it would be useful for ICANN to assess whether there is a need to phase in the introduction of new gTLDs. In addition, prospective gTLD operators have the ability to offer additional protections beyond those required in the Applicant Guidebook. Once the list of strings is made public, NTIA, soliciting input from stakeholders and working with colleagues in the Governmental Advisory Committee (GAC), will evaluate whether additional protections are warranted at the second level. Having the ability to evaluate the actual situations or conflicts presented by the applied for strings, rather than merely theoretical ones, will certainly assist and focus everyone's efforts to respond to problems should they arise.

Third, it has become apparent that some stakeholders in the United States are not clear about the new gTLD program. I urge you to engage immediately and directly with these and other stakeholders to better educate them on the purpose and scope of the program as well as the mechanisms available to address their concerns. Detailed explanations on the rules and procedures created by the Applicant Guidebook will be critical to this enhanced outreach effort that ICANN needs to begin before January 12, 2012, and sustain throughout the application window.

Finally, I would like to reiterate the need for ICANN to complete three work streams that, while not directly tied to the Applicant Guidebook, will further enhance the tools available to law enforcement and consumer protection officials as the new gTLD program unfolds. The first of these is a strengthened registrar accreditation agreement that takes into account the proposals of law enforcement agencies as endorsed by the GAC. I applaud your leadership at the Dakar meeting in October 2011 to put this on a path to be resolved at the March 2012 ICANN meeting. Second is the need for ICANN to address apparent deficiencies in the implementation of WHOIS policy, including the need to authenticate WHOIS entries. The posting in early December of the Affirmation of Commitments WHOIS Review Team report is a welcome development and, consistent with past practice, I expect the Board to take the recommendations seriously and act on them at its June 2012 meeting. Third is the need for ICANN to fully staff and enhance ICANN's contract compliance division. Among other things, ICANN needs to take steps to centralize and automate the complaint process as well make it more transparent by the end of the third quarter 2012.

NTIA is dedicated to maintaining an open, global Internet that remains a valuable tool for economic growth, innovation, and the free flow of information, goods, and services online. We believe the best way to achieve this goal is to continue to actively support and participate in multistakeholder Internet governance processes such as ICANN. How ICANN handles the new gTLD program will, for many, be a litmus test of the viability of this approach. For its part, NTIA is committed to continuing to be an active member of the GAC and working with stakeholders to mitigate any unintended consequences of the new gTLD program.

Sincerely,


Lawrence E. Strickling

cc: Mr. Rod Beckstrom, President and CEO, ICANN