



Leading the Marketing Community

Open Letter to ICANN Board: Answers Needed as Objections Mount

Via Email, Post, and Fax

To: Board of Directors, Internet Corporation for Assigned Names and Numbers

We are confident you are aware of the rising opposition to ICANN's plan to open the DNS to an unlimited number of new gTLDs. The purpose of this letter is to provide the full ICANN Board with the objections and open questions being raised by those speaking out and to respectfully suggest that as a Board, you should reverse or, at the very least, substantially delay accepting any applications until the collective concerns voiced repeatedly by the growing number of constituencies that ICANN is required to protect are all resolved.

To date, representatives of many key constituencies have raised serious objections to ICANN's planned expansion of the DNS. The documents can be found at www.ana.net/content/show/id/22674. These include:

- **Coalition for Responsible Internet Domain Oversight (CRIDO)**, a coalition of more than **160 global trade associations and brands** — see the list of CRIDO members, CRIDO's petition to the United States Department of Commerce, and the testimony of Daniel Jaffe, on behalf of CRIDO, before Committees of the United States House of Representatives and Senate;
- **Consumer Protection Agencies** — see the letter from the United States Federal Trade Commission;
- **Law Enforcement** — see law international enforcement recommendations to ICANN and Dakar Communiqué showing that none of the 12 recommendations were adopted and only three were discussed;
- **Intergovernmental Organizations** — see the *Open Letter from Intergovernmental Organizations on the Expansion of Generic Top Level Domains* representing a collection of over thirty key global organizations including the OECD, the United Nations, the North Atlantic Treaty Organization, the International Monetary Fund, and the World Intellectual Property Organization;
- **Members of the United States Congress** — see the transcript excerpts from hearings before the United States House of Representatives and Senate, and a letter from Congressmen Bob Goodlatte (R-VA) and Howard Berman (D-CA);
- **Nonprofit Organizations** — see the testimony of Angela F. Williams, General Counsel, YMCA, before the United States Senate and testimony of Anjali Hansen, on behalf of the Council of Better Business Bureaus, before the United States House of Representatives;
- **Labor** — see the letters from the Screen Actors Guild and the American Federation of Television and Radio Artists;
- **ICANN Founders** — see the testimony before the United States Senate Commerce Committee and editorial appearing in Project Syndicate by Esther Dyson, (one of the



- founders of ICANN and the first Chairperson of its Board of Directors) and the concerns expressed by Vint Cerf, former ICANN Chair and recognized as one of the "fathers of the Internet", reported in Tech Daily Dose;
- **Marketers** — see the editorials in *Advertising Age* by Gary Elliot, Chief Marketing Officer, Hewlett Packard, editorial in *forbes.com* by Robert Liodice, President and CEO, Association of National Advertisers, and columns in *Corporate Counsel* by Douglas Wood, General Counsel, Association of National Advertisers;
 - **Editorial Boards** — see the editorials from the *Washington Post* entitled, "What's the .Rush" and the *San Francisco Chronicle* entitled, "Why .xxx And Other New Top Level Domains Are A Terrible Idea";
 - **Economists** — see the letter from Robert E. Hall, Robert and Carole McNeil Joint Professor of Economics at Stanford University and Senior Fellow at Stanford's Hoover Institution, and Michael Flynn of AFE Consulting; and
 - **European Commission** — see the paper entitled, "EC paper on ICANN: New gTLD process".

In addition, questions have been raised regarding potential conflicts of interest that now place a cloud over the independence of the Board's decision to expand the DNS — see the letter from United States Senator Ron Wyden (D-OR), the letter from NTIA to Sen. Wyden, the excerpt from the United States Department of Commerce Request for Proposals on the IANA Contract, the European Commission paper entitled "EC paper on ICANN: Corporate governance", and the European Commission report entitled, "Digital Agenda: Commission welcomes improvements in new IANA contract".

There remain many unanswered questions and unfulfilled requests. Spokespersons for ICANN have failed to answer questions directly and instead continuously justify proceeding with the expansion based upon a process that has proven to be flawed. We now ask that the Board answer these questions. Given the time constraints, we request that the Board not refer this request to ICANN for handling. The issues involved are far too important to allow for any further delays. We look forward to your written response, either individually or collectively, by January 7, 2012. Please address your responses to Robert Liodice, Association of National Advertisers, 708 Third Avenue, New York, NY 10017; email: bob.liodice.ceo@ana.net.

The only conclusion one can draw from this rising tide of global objections is that the Board (on which we understand that a number of members are compensated for serving), has not properly taken into account the concerns of key constituencies and thereby did not reach its decision through consensus. Moreover, the Board's June vote failed to satisfy key obligations prior to authorizing implementation of the program; specifically, that its decisions

1. are made in the public interest and are accountable and transparent,
2. preserve the security, stability and resiliency of the DNS,



3. promote competition, consumer trust and consumer choice in the DNS marketplace,
4. address malicious abuse issues, sovereignty concerns, and rights protection, and
5. comport with ICANN's obligations under the Affirmation of Commitments.

All of the above mandates that the Board reconsider its decision and not move forward with any expansion of the DNS until a full review and analysis of the merits of any expansion is undertaken and resolved.

Respectfully Submitted,
The Association of National Advertisers

cc

- Ms. Victoria Espinel, U.S. Intellectual Property Rights Enforcement Coordinator, The White House
- The Honorable John E. Bryson, U.S. Secretary of Commerce
- The Honorable Jon Leibowitz, Chairman of the Federal Trade Commission
- The Honorable Robert S. Mueller, III, Director of the Federal Bureau of Investigation
- The Honorable Julius Genachowski, Chairman of the Federal Communications Commission
- Mr. Lawrence E. Strickling, Administrator, National Telecommunications and Information Administration, U.S. Department of Commerce
- Ms. Suzanne Radell, Senior Policy Adviser, NTIA, U.S. Department of Commerce
- Ms. Fiona M. Alexander, Associate Administrator, Office of International Affairs, National Telecommunications and Information Administration
- Cameron F. Kerry, General Counsel, U.S. Department of Commerce
- John D. Rockefeller, Chairman, Committee on Commerce, Science and Transportation, U.S. Senate
- Patrick J. Leahy, Chairman, Committee on the Judiciary, U.S. Senate
- Thad Cochran, Ranking Member, Committee on Appropriations, U.S. Senate
- Kay Bailey Hutchison, Ranking Member, Committee on Commerce, Science and Transportation, U.S. Senate
- Charles E. Grassley, Ranking Member, Committee on the Judiciary, U.S. Senate
- Barbara Mikulski, Chair, Subcommittee on Commerce, Justice, Science and Related Agencies, Committee on Appropriations, U.S. Senate
- Al Franken, Chairman, Subcommittee on Privacy, Technology and the Law, Committee on the Judiciary, U.S. Senate
- Tom Coburn, Ranking Member, Subcommittee on Privacy, Technology and the Law, Committee on the Judiciary, U.S. Senate
- Ron Wyden, Chairman, Subcommittee on International Trade, Customs, and Global Competitiveness, Committee on Finance, U.S. Senate



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- Harold Rogers, Chairman, Committee on Appropriations, U.S. House of Representatives
- Fred Upton, Chairman, Committee on Energy and Commerce, U.S. House of Representatives
- Lamar Smith, Chairman, Committee on the Judiciary, U.S. House of Representatives
- Norm Dicks, Ranking Member, Committee on Appropriations, U.S. House of Representatives
- Henry A. Waxman, Ranking Member, Committee on Energy and Commerce, U.S. House of Representatives
- John Conyers, Ranking Member, Committee on the Judiciary, U.S. House of Representatives
- Bob Goodlatte, Chairman, Subcommittee on Intellectual Property, Competition and the Internet, Committee on the Judiciary, U.S. House of Representatives
- Howard Berman, Ranking Member, House Committee on Foreign Affairs
- Frank Wolf, Chairman, Subcommittee on Commerce, Justice, Science and Related Agencies, Committee on Appropriations, U.S. House of Representatives
- Mel Watt, Ranking Member, Subcommittee on Intellectual Property, Competition and the Internet, Committee on the Judiciary, U.S. House of Representatives
- Chaka Fattah, Ranking Member, Subcommittee on Commerce, Justice, Science and Related Agencies, Committee on Appropriations, U.S. House of Representatives
- Gregory P. Walden, Chairman of the House Energy and Commerce Subcommittee on Communications and Technology
- Anna G. Eshoo, Ranking Member, Communications Subcommittee of the House Energy and Commerce Committee