



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

DEC 2 2010

Mr. Rod Beckstrom
President and CEO
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601

Dear Mr. Beckstrom:

I am writing to express my concern regarding the apparent failure of the Internet Corporation for Assigned Names and Numbers (ICANN) to carry out its obligations as specified in the *Affirmation of Commitments (Affirmation)*. In the development of this agreement, there were lengthy discussions regarding ICANN's plans for introducing new generic top level domain names (gTLDs) and we included specific provisions on this matter in the *Affirmation* that we executed more than one year ago. Our concerns about ICANN's plans are based on long standing U.S. government policy, as detailed by my predecessor Meredith Attwell Baker's December 18, 2008 letter. In that letter, she stated that ICANN needed to complete an economic study evaluating the potential consumer benefits of expansion to potential costs and that the community needed to consider the results prior to implementation. You and I have discussed the importance of performing this comprehensive economic analysis on more than one occasion since we signed the *Affirmation*. Nonetheless, it appears that ICANN has not completed this important analysis. While "An Economic Framework for the Analysis of the Expansion of Generic Top-Level Domain Names" was posted on June 16, 2010, this report confirms that the requisite economic analysis remains, at best, incomplete. This fact is reinforced by the "to be posted" reference to the Economic Study Phase II Report on the ICANN website. I am troubled that despite ICANN's commitments in the *Affirmation* to adequately address this and other issues prior to implementation of an expansion program, you still have not performed the studies to answer the threshold question whether the benefits of expansion outweigh the costs.

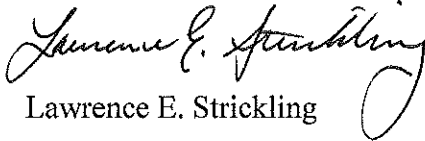
In addition, ICANN agreed in the *Affirmation* "to provide a thorough and reasoned explanation of decisions taken, the rationale thereof and the sources of data and information on which ICANN relied." In the context of the new gTLD program, ICANN is failing to meet this commitment. For example, the ICANN Board on November 5, 2010 adopted a resolution to allow for full cross ownership or vertical integration of registrars and registries. Without prejudice to the decision made by the ICANN Board, the record of this decision fails to provide a thorough and reasoned explanation of how ICANN moved from a position in March 2010, as articulated in a Board resolution, of no cross ownership, to the May 31, 2010 staff proposal contained in draft Applicant Guidebook, version 4 of de minimus (i.e., no more than 2%) cross ownership, to the November 5, 2010 decision allowing full cross ownership. To ensure that the global public interest is in fact being served, ICANN needs to clearly document and explain the

decisions it makes on this and all issues, as recently reaffirmed by the Governmental Advisory Committee in its November 22, 2010 letter.

We take very seriously your commitment in the *Affirmation* to “ensure that as it contemplates expanding the top-level domain space, the various issues that are involved (including competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection) will be adequately addressed prior to implementation.” The U.S. Government is currently evaluating the hundreds of pages that comprise the proposed Final Applicant Guidebook and supporting documentation that was posted less than a month ago to determine if the issues identified in the *Affirmation* as well as those contained in advice of the GAC have been adequately addressed. Given the volume of material posted by ICANN, we anticipate sharing initial reactions with GAC colleagues during the upcoming Cartagena meeting, but a thorough and thoughtful analysis will take more than the twenty working days allotted in the ICANN public comment process. While I am aware of the desire by some to move forward, the suggestion that the ICANN Board could make an informed decision regarding the timing of the launch of the new gTLD program in Cartagena is unrealistic. Not only will participants still be evaluating the proposed Final Applicant Guidebook, the fact that no information on how the required economic studies are to be finished and evaluated calls into question the credibility of establishing a timeline at this juncture.

As a signatory to the *Affirmation*, my expectation was that ICANN would make significant improvements in its operations to meet the obligations identified in the *Affirmation* (e.g., transparency, accountability, fact-based policy development). Over a year later, I am concerned that those improvements have yet to be seen. As such, I urge you to carefully consider the next steps of the new gTLD program and ensure that ICANN meets its obligations as contained in the *Affirmation* prior to implementation.

Sincerely,


Lawrence E. Strickling

cc: Mr. Peter Dengate-Thrush, Chairman of the Board of Directors, ICANN