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

Re: Demand Media's Comment on Module 4

Dear Mr. Twomey:

This RFP will initiate the first truly open round of TLDs since ICANN was established ten years ago. We believe these TLDs will inject innovation, investment, and new competition to the DNS to the strong benefit of consumers, businesses, Governments and the DNS itself.

Some have asked why we need new TLDs at all, suggesting that consumers are not clamoring for them. We think such arguments display a misunderstanding of the nature of innovation. The most productive and beneficial developments in science and business have rarely been the result of broad public demand for a specific development. Rather, the very concept of innovation means that most people did not think of the idea until after its introduction.

We are reminded of the introduction of FM radio when some questioned the need for change on the grounds 'we already have radio', since AM already existed. We believe just as FM and its following technologies resulted in higher quality service and choice for consumers, new TLDs will also begin a second phase of innovation and service improvement for DNS users.

We also think it is illogical to argue against TLDs because they might result in consumer confusion. Using this approach we would stop all new services and brands in other industries. No one can predict what improvements will come as a result of new TLDs and the products bundled with them, but history indicates there will be improvements. The process of achieving this innovation will not be a free-for-all. ICANN has balanced innovation with strong contractual and technical safeguards to protect registrants and trademark holders, and to ensure DNS security and stability.

This RFP has been in development a long time. Over the past months and years there has been a huge amount of input, discussion and study resulting in the document we now all see. We believe the document is a very well crafted synthesis of the inputs received. It proposes strong and practical solutions to the many issues raised during the process.

We think the RFP is solid in almost all respects and we encourage ICANN to not let perfection become the enemy of good. We encourage the timely review of comments on this current draft, prompt issue of the final version and swift progress to the bid submission phase. In particular, we recommend the four month 'global communications campaign' start concurrent with issue of the next RFP draft (planned for February 2009). Some argue that this communications campaign should not start until after the RFP is finalized in May 2009. We believe this would unnecessarily delay the process by four months, as well as denying the audience for the campaign an opportunity to meaningfully comment on the RFP.

Failure to stick with a Q2 2009 commencement for application submission will put some of the anticipated competition and innovation benefits to consumers at-risk. Like many others we have investors and business plans that rely on timely implementation of this process.

Comments on Module 4

4.1.3 Self-Resolution of String Contention

"Applicants may not resolve a case of string contention by.....creating a joint venture as a means to resolve the contention case."

We understand ICANN's objective with this requirement. However, if the Joint Venture is only owned by the original applicants, and if these applicants commit no less financial and technical resources than any of the original bids, we think the JV will represent a solid registry operator. We are proposing that the JV must proceed with one of the existing bids in all respects, except for the new ownership structure of that bid.

4.2 Comparative Evaluation

"The comparative evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the comparative evaluation. Each applicant participating in the comparative evaluation begins with a score of zero."

We are pleased to see this explicit statement that assessments made in the Initial Evaluation will not, in any way, factor into future contention evaluation. If two applications are in contention, technical capability, financial strength, marketing plans, new services or any factor other than Community must be irrelevant to selection.

4.2.3 Comparative Evaluation Criteria

This process is primarily about creating gTLDs – GENERIC TLDs and true competition, and is not about creating name space silos. There exist certain high-value generic strings of benefit to all internet users. The Comparative Evaluation process in this RFP must not be used to capture these generic words for the benefit of one group. ICANN has a duty to allow these generic words to be shared among all interested internet users – just as .COM is.

If an applicant is the only applicant for the string, that applicant, barring Objections, gets it. Therefore, the Comparative Evaluation will only be used when there is more than one applicant for a string. Given this there must be a very high bar for Community because the process will take a string "off the table" when there are other applicants who would have used the string in a generic and open manner, helping to bring competition and innovation to the namespace benefitting all internet users not just a few.

The 12 point scoring methodology described in this section does a superb job of defining and ranking the important characteristics of a Community TLD. A score of 11 or 12 results in a successful Community bid, and a score of 10 or below does not. Achieving Community is a very powerful thing in the TLD process as Community bids beat non-Community bids for the same string. Said another way, having

Community can be worth many millions of dollars to an applicant, especially for a generic string. This creates a powerful incentive to game the process.

We believe the interests of competition, consumer choice and the rights of legitimate Communities are best served by a scoring threshold that is high (an 11 minimum). Lowering this threshold by even one point would result in the capture of many generic terms by Communities who have, at best, a shared connection to the string in question. Also, it could result in multiple Communities bidding for the same string, some of whom may have been engineered for this process because the incentives are so high for generic strings. Legitimate Communities always have the option of selecting a unique string that specifically describes themselves. For example, if the Southern Baptists and the Northern Baptists are two separate communities they can respectively apply for .SOUTHERNBAPTIST and .NORTHERNBAPTIST.

If the scoring threshold is reduced to '10', established communities with restrictive policies could obtain any string they wished. If their Dedicated Registration Policies, Community Establishment and Community Endorsement all scored a '3', then their Nexus Between Proposed String and Community would only need a '1' – 'No connection'. For illustrative purposes let's assume there is a well defined and established community of 'BLUE'. By scoring three on the other criteria this Community would only need a '1' on Nexus ('no connection') so they could successfully exert Community rights over the string 'RED', or for that matter 'SHOP', 'CAR' or 'SPORT'.

The scoring threshold must remain at 11 otherwise Communities will be used to obtain all generic words, even if the words are only peripherally related to the Community. If the threshold is looser it will allow Ford, Toyota and GM to obtain .CAR. It will allow DELL, HP and Apple to obtain .COMPUTER. Generic strings thus obtained would be strictly limited to members off the community in question, forever shutting out all other potential users and uses. We think such an outcome will greatly harm consumer choice as well as the creation of truly competitive, generic TLDs. We also believe it undermines the original concept of Community (which was primarily for ethnic, regional or religious groups who could not afford to out-bid others for their community identity). It was not intended for large and well funded groups to avoid paying market prices for a generic string, or in some other way avoiding competition for it.

We believe that when a Community string is stated there should be no ambiguity about which group the string refers to. If multiple possible groups come to mind then the string in question is too broad and needs to be narrowed. In our view the scoring threshold should not just remain at 11 but also the scoring definitions for Nexus should be tightened. We urge ICANN to change the nexus scoring to the following:

1 = some connection between the string and the community name
2 = close connection between the string and the community name
3 = identical and unique connection between the string and the community name

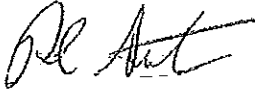### 4.3 Efficient Mechanism for Contention Resolution

We agree with the RFP that contention between Open bids will be decided in the large majority of Cases by cooperation between applicants, but only if the 'efficient allocation method' is auction. If the efficient allocation method is chance there will be less cooperation as many applicants will take their chances with random selection. Some applicants will also submit multiple bids for the same string with a view to maximizing their selection chance. If there is a rule that 'each applicant can submit only one bid' they will establish multiple entities and have each entity bid for the string. This will result in significantly higher funds flowing to ICANN. In addition, many random allocation winners will then
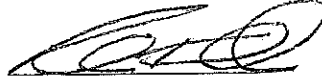
privately sell their TLD to the highest bidder – resulting in an outcome similar to auction.

Regards,

Paul Stahura
Chief Strategy Officer
Demand Media, Inc.

Richard Tindal
Senior Vice President, Registry
Demand Media, Inc.