



Leading the Marketing Community

January 9, 2012

Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601

Attn: Dr. Stephen D. Crocker
Chairman of the Board of Directors

Dear ICANN and Members of the ICANN Board:

In just five months, since the Association of National Advertisers formed the Coalition for Responsible Internet Domain Oversight (“CRIDO”) and organized the global constituencies that have partnered and irrefutably shown that serious problems with ICANN’s proposal to open the DNS to unlimited TLDs remain unresolved despite years of deliberation by ICANN. It is clear that should ICANN proceed without heeding the calls of these constituencies for improvements and reform, the result will be irreparable damage to countless stakeholders, including the global law enforcement community, NGO’s, IGO’s, consumers and brand owners in the commercial sector. Yet, despite the unprecedented groundswell of objections from these constituencies and others, ICANN remains unwavering in its decision to implement, in just a couple days, the resolution made in June 2011, over vociferous opposition from many within the ICANN community including ICANN’s own Government Advisory Committee

Since CRIDO was formed, the following statements have been made and events have transpired:

Date	Sender	Contents
Nov. 3, 2011	Esther Dyson & Vin Cerf	National Journal story in which both ICANN founders express concern regarding the ICANN gTLD program. See http://techdailydose.nationaljournal.com/2011/11/former-icann-chairs-voice-conc.php .
Nov. 10, 2011	CRIDO (now 161 companies & major trade associations)	Petition to U.S. Commerce Secretary Bryson expressing the need to delay or stop the ICANN gTLD program until it can be reformed in the public interest.
Nov. 14, 2011	Screen Actors Guild	Letter to U.S. Commerce Secretary Bryson expressing the need to delay or stop the ICANN gTLD program until it can be reformed in the public interest.
Nov. 14, 2011	American Federation of Television and Radio Artists	Letter to U.S. Commerce Secretary Bryson expressing the need to delay or stop the ICANN gTLD program until it can be reformed in the public interest.



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Nov. 14, 2011	European Commission	Press Release issued entitled, "Digital Agenda: Commission welcomes improvements in the new IANA contract".
Dec. 7, 2011	Robert E. Hall, Stanford University and Michael Flynn of AFE Consulting	Letter to U.S. Commerce Secretary Bryson expressing that ICANN with its gTLD program is "sponsoring a perversion of the economic analyses that it commissioned by even suggesting that this nuisance has net benefits for the Internet community." Both economists urge the Secretary to delay and or block gTLD expansion efforts until adequate reforms are put in place.
Dec. 7, 2011	National Retail Federation	Letter to Senator John Rockefeller which was read into the record at the Senate Commerce Committee hearing expressing concern that ICANN's gTLD expansion plans do not have adequate consumer and trademark protections in place.
Dec. 8, 2011	Senate Commerce Committee	Held a full committee hearing on ICANN's expansion of top level domains. Sen. Amy Klobuchar, a former prosecutor, and Sen. Kelly Ayotte, a former state attorney general, voiced a number of concerns with the program's potential impact to law enforcement activities.
Dec. 12, 2011	<i>Washington Post</i> Editorial Board	Editorial published entitled, "What's the .rush?" http://www.washingtonpost.com/opinions/whats-the-rush/2011/12/09/gIQA5Ms9nO_story.html
Dec. 13, 2011	<i>San Francisco Chronicle</i>	Editorial published from Boonsri Dickinson entitled "Why .XXX And Other New Top-Level Domains Are a Terrible Idea" http://www.sfgate.com/cgi-bin/article.cgi?f=/g/a/2011/12/13/businessinsiderboonsri-dickinson-es.DTL
Dec. 14, 2011	Intergovernmental Organizations (28 signatories)	Open Letter to ICANN on the expansion of TLDs and the need to protect IGOs against misleading uses of IGO names and acronyms within the new domain name spaces.
Dec. 14, 2011	House Energy & Commerce Committee, Subcommittee on Communications and Technology	Held a robust oversight hearing regarding ICANN's Top-Level Domain Name Program where many Representatives in attendance stated that the ICANN gTLD program was not ready for "prime time."
Dec. 14, 2011	National Restaurant Association	Submitted a statement to the record for the House Energy & Commerce, Subcommittee on Communications and Technology oversight hearing of the ICANN gTLD program, recommending that the Commerce Department urge ICANN to re-evaluate its program.



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Dec. 15, 2011	Online Trust Alliance	Letter to ICANN expressing that the Online Trust Alliance remains concerned that the planned gTLD expansion may create consumer confusion, abuse, brand erosion and other unintended consequences.
Dec. 16, 2011	Federal Trade Commission (all Commissioners signing)	Detailed, 15-page letter to the ICANN Chairman of the Board and its CEO/President expressing great concern about the lack of consumer protection safeguards within the gTLD program.
Dec. 16, 2011	Representatives Bob Goodlatte and Howard Berman	Bipartisan letter to U.S. Commerce Secretary Bryson expressing the need to delay the new gTLD program or reduce it to a small 'pilot project' to study the program's potential costs and benefits.
Dec. 19, 2011	Steve Cox, President and CEO of the Council of Better Business Bureaus	Letter to the editor in the <i>Baltimore Sun</i> entitled "Online fraud puts consumers at risk."
Dec. 21, 2011	Senator Dianne Feinstein	Sent FBI Director Robert S. Mueller questions for the record following up on her questions to him regarding ICANN and controls for Internet fraud.
Dec. 21, 2011	17 members of the House Commerce Committee	Bipartisan letter to ICANN urging it to delay the planned launch of the January 12, 2012 application window to address concerns of law enforcement and the business community, as well as concerns of a lack of transparency within ICANN's processes.
Dec. 21, 2011	CRIDO (now 161 companies & major trade associations)	Letter to ICANN summarizing the key objections to the proposed gTLD expansion by multiple constituencies within the Internet stakeholder community (IGOs, businesses, not-for-profits, editorial boards, legislators, law enforcement and consumer protection authorities).
Dec. 21, 2011	ICANN At-Large Advisory Committee	Advised that the ICANN program's current "implementation would be harmful to the public interest and specifically that of Internet end-users." These concerns were originally stated in Mexico City at the ICANN meeting in March of 2009.
Dec. 22, 2011	Senators Amy Klobuchar and Kelly Ayotte	Sent a letter to ICANN outlining that the plan to expand the number of available Internet domain names could potentially create new opportunities for bad actors to prey on consumers and create unnecessary burdens for businesses. The Senators asked ICANN to meaningfully address law enforcement's concerns before launching any new domain names.



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Dec. 25, 2011	New York Times Editorial Board	Editorial published entitled, “Expanding Internet Domains” urging ICANN to delay the gTLD planned expansion and work out the consumer protection and business issues before moving forward.
Dec. 27, 2011	Senator Patrick Leahy, Senator Charles Grassley, Representative Lamar Smith and Representative John Conyers, Jr.	Letter to ICANN urging ICANN to strengthen protections for consumers and trademark holders in its new gTLD program.
Dec. 28, 2011	Senator John D. Rockefeller	Letter to U.S. Commerce Secretary Bryson and NTIA Administrator Larry Strickling expressing the need to delay the new gTLD program or reduce it to a small ‘pilot project’ to study the program’s potential costs versus its benefits.
Jan. 3, 2012	NTIA Administrator Larry Strickling	Letter to ICANN Chairman of the Board Steve Crocker asking ICANN to remediate the consumer and business harms anticipated from the ICANN program.
Jan. 6, 2012	National Consumers League	Sent a letter to ICANN expressing concern about the potential of the gTLD program to increase Internet fraud, in its present form. Urges delay of the program to vet changes recommended by a wide variety of stakeholders, including the FTC. See http://www.nclnet.org/images/PDF/greenberg_icann_gtld_01062012.pdf .

Never before has ICANN faced this level of public scrutiny and concern by policy makers at the highest levels of government and from stakeholders which have, heretofore, been all but ignored by ICANN, despite ICANN’s insistence that it carefully considered in its own process all of the concerns being expressed now and over the past five months in the court of public opinion. That simply does not comport with the record of ICANN’s deliberations. ICANN clearly did not, and it still has not, adequately addressed, let alone answered, the many questions that remain with respect to its plans for further TLD expansion.

Indeed, we are not aware of a single constituency that has organized to defend ICANN’s plans (except those who are aligned with registries and registrars that will take in millions in registration fees for worthless domain names). The only known support comes from (1) occasional letters to the editor and blog entries by the out-going ICANN President and CEO Rod Beckstrom (for whom a replacement is currently being sought but has not yet been identified)¹ and the former Chairman of the Board of ICANN Peter Dengate Thrush, who

¹ The job description is available on ICANN’s website at: <http://www.icann.org/en/committees/ceo-search/ceo-candidate-profile-01dec11-en.pdf>.



completed his term as Board Chair in June 2011. It is worth noting that within weeks, Mr. Thrush announced his intention to join Minds + Machines' parent company as its Executive Chairman, where his personal fortunes, and the fortunes of the company, are directly tied to ICANN moving forward with its plans to introduce new TLDs²) and (2) blog comments attributed to a few consultants, registries and registrars, the business plans of which are tied to the complexities of the application process and the expected land rush for purchase of second level domain names that they hope will follow an expansion in TLDs.

However, to the best of our knowledge, there has not been a single credible article published or letter written to a Member of the U.S. Congress, to the Obama Administration, to the *NY Times* or the *Washington Post*, the *Wall Street Journal*, *Forbes* or even to the ICANN Board, by an independent expert, rebutting the concerns, still unaddressed, that were expressed directly to ICANN by international law enforcement in its 2009 recommendations regarding cyber security, by the Federal Trade Commission about cyber squatting and consumer protection, or by brands from the global NGO, IGO and business communities decrying the extraordinary costs, in the nature of a brand (new) tax that ICANN is imposing, without any reliable demonstration of offsetting benefit, at a time of severe economic crisis around the world.

Despite all of this compelling evidence condemning ICANN's plans, as evidenced by the recent statements of Dr. Stephen D. Crocker, ICANN apparently remains steadfastly committed to moving forward, on schedule and as planned, without having adopted any of the changes requested by the global community. ICANN's approach -- "pay now and trust us to make some refinements later" -- has failed in the past and is not a workable solution for the future.

However, in the interest of being constructive, and focusing attention on the development of solutions rather than on the discovery of ever more problems, we propose a way forward which, if ACCEPTED IMMEDIATELY, could bring together the parties to address in a positive way the critical concerns that have been aired and acknowledged in a public and transparent fashion over the course of the past five months.

² see http://www.washingtonpost.com/business/icann-departures-draw-criticism/2011/08/19/gIQAzpeDTJ_story.html



PROPOSED WAY FORWARD

1. ICANN will proceed with its plan to begin accepting applications for new TLDs on January 12, as scheduled;
2. Concurrently, all NGOs, IGOs and commercial stakeholders concerned about protecting their brands will be given the opportunity to have those brands registered, without cost, on a temporary “Do Not Sell” list to be maintained by ICANN during the first application round (any interested party which does not want to have its brands on the Do Not Sell list and would rather apply for a TLD would be free to do so). We will assemble a team from the interested constituencies to work with ICANN leadership during the first application round. If this group achieves consensus with respect to any proposals, those proposals will be voted on by the Board. At the end of the first application round, should the parties continue to disagree, all parties will be free to pursue their legal and equitable rights without prejudice.

Destructive and costly litigation can hopefully be avoided if you accept this proposal and if all parties work together in good faith during the first application period to develop practical and reliable solutions to the challenges that have been repeatedly raised over the years (and that have been conceded to exist as recently as January 3 of this year, in NTIA’s letter to ICANN. We are asking ICANN to do nothing more than maintain the status quo for critical groups that have established serious concerns for a limited period of time while the parties work together in good faith and avoid further conflict.

This is an eminently reasonable, simple proposal, consistent with the concerns expressed by the many constituencies noted above and responsive to the January 3, 2012 letter from the NTIA. Moreover, given that there are three ICANN meetings in 2012, there is ample time to debate any proposal(s) fashioned and for the Board to vote on the proposal(s) BEFORE, by ICANN’s own estimates, any new names would be deposited in the authoritative root. In the interim, we must request, whether or not you agree to the way forward we are suggesting, that all documents in ICANN’s possession custody or control relating in any way to the planned expansion of TLDs be preserved and all regularly scheduled document destruction policies be suspended.

In conclusion, we hope that ICANN will accept this proposal and, given the brief period remaining before the scheduled opening of the applications window, get back to us within two business days with its response. It remains our sincere hope that ICANN will accept this simple, temporary solution as the parties put in place the solutions promised by ICANN to address the serious concerns expressed by the many constituencies and that, most recently, were endorsed by NTIA.



We look forward to your immediate response. Please address your response c/o Robert Liodice, Association of National Advertisers, 708 Third Avenue, New York, NY 10017; email: bob.liodice.ceo@ana.net.

Respectfully submitted,

Robert Liodice
The Association of National Advertisers

Accepted by:

Dr. Stephen Crocker
On behalf of ICANN and its Board

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
- Cameron F. Kerry, General Counsel, U.S. Department of Commerce
- Mr. Lawrence E. Strickling, Administrator, National Telecommunications and Information Administration, U.S. Department of Commerce
- Ms. Fiona M. Alexander, Associate Administrator, Office of International Affairs, National Telecommunications and Information Administration
- Ms. Suzanne Radell, Senior Policy Adviser, NTIA, 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
- 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
- Eva Rodriguez, Editorial Writer at *The Washington Post*
- Eduardo Porter, Member, *New York Times* Editorial Board
- Daniel Carney, Editorial Writer at *USA Today*
- Holman W. Jenkins, Jr., Columnist *The Wall Street Journal*