



November 3, 2010

VIA EMAIL

Mr. Peter Dengate Thrush
Chairman of the Board of Directors
Mr. Rod Beckstrom
President and CEO
ICANN
4676 Admiralty Way, Suite 330
Marina del Ray, CA 90292

Re: Comments of Microsoft Corporation on Plan for Enhancing Internet Security, Stability, and Resiliency (FY 11)

Dear Messrs. Dengate Thrush and Beckstrom:

Microsoft Corporation ("Microsoft") welcomes this opportunity to provide its comments to ICANN on the Plan for Enhancing Security, Stability, and Resiliency (FY 11) (hereinafter "the SSR Plan").

Microsoft is a worldwide leader in the IT industry, with a mission to enable people and businesses throughout the world to realize their full potential. Since the company was founded in 1975, it has worked to achieve this mission by creating technology that transforms the way people work, play, and communicate. Microsoft is also an owner and champion of intellectual property rights. It maintains sizable trademark and domain name portfolios and takes pride in the worldwide recognition of multiple of its trademarks. Further, Microsoft's businesses rely heavily on the Internet and the current system of top level domains, and Microsoft is an ICANN-accredited registrar. Microsoft has provided extensive and meaningful comments to ICANN on several issues that have security, stability, and resiliency implications and remains well positioned to do so on the SSR Plan.

Executive Summary. While Microsoft applauds ICANN's recognition in the SSR Plan that "ICANN has a mission of public trust regarding its role in coordinating the Internet's unique identifier systems," it is disappointing that the SSR Plan fails to afford this mission the emphasis and attention that it warrants. The SSR Plan delineates several important contractual compliance activities. However, the facts that ICANN has not had since early July a Senior Director of Contractual Compliance, that it is unlikely a new Senior Director will be in place before the end of the year, and that both existing and new auditor positions remain open do not

Mr. Peter Dengate Thrush
Mr. Rod Beckstrom
November 3, 2010
Page 2

bode well for ICANN's ability to conduct these activities effectively. Searchable Whois and Whois accuracy have significant SSR implications and further progress in these areas is important. With regard to the introduction of new gTLDs, the SSR Plan seems to understate the security, stability, and resiliency implications of the planned introduction while simultaneously overstating the scope and anticipated efficacy of ICANN's efforts to mitigate these implications. Finally, ICANN has not sufficiently included key stakeholders such as enterprises and users in its security, stability, and resiliency initiatives, and the SSR Plan indicates that ICANN will continue to focus on the contracted parties in such initiatives.

We provide below our comments on the SSR Plan.

Mission of Public Trust. Microsoft applauds ICANN's recognition in the SSR Plan that "ICANN has a mission of public trust regarding its role in coordinating the Internet's unique identifier systems." This mission of public trust is extraordinarily important. It is disappointing, however, that the SSR Plan does not more clearly reflect this public trust responsibility.

Contractual Compliance. We note with interest ICANN's stated plans to initiate audits of contracting parties as part of implementing the 2009 RAA amendments, to identify potential involvement of contracted parties in malicious activity for compliance action, and to develop a "system to publically [sic] identify compliant parties." The comments of the Coalition for Online Accountability raise important questions about this proposed system. Unfortunately, however, the ongoing vacancy of the Senior Director of Contractual Compliance position, along with the vacancy of existing and new auditor positions, calls into question ICANN's ability to effectively enforce its current contracts. To the extent that the SSR Plan's use of words such as "collaborate", "enable," and "facilitate" suggest ICANN's intention to distance itself from its contractual compliance obligations, such an intention is troubling.

Whois. As noted in its comments on DAG4, Microsoft strongly supports the proposed requirement for a fully searchable Whois service. Having access to such searchable Whois data will be of great assistance to those entities, including Microsoft, that combat online fraud, abuse, and infringement. The benefit would be even greater if registries were required to require their registrars to also provide fully searchable Whois. It will be essential that ICANN continue its efforts to improve Whois accuracy and compliance efforts.

New gTLDs. Given the tremendous implications of the introduction of new gTLDs, the SSR Plan contains relatively little discussion of the planned introduction. It implicitly understates the security, stability, and resiliency implications of the planned introduction while simultaneously overstating the scope and anticipated efficacy of ICANN's efforts to mitigate these implications. The SSR Plan activities and initiatives do not address the widely anticipated increase in malicious conduct associated with the introduction of new gTLDs. The information it does contain is inconsistent with ICANN's other statements. For example, the SSR Plan states that ICANN "will continue to pursue implementation of measures to combat potential for malicious conduct arising from the establishment of new gTLDs" yet the Board's

Mr. Peter Dengate Thrush
Mr. Rod Beckstrom
November 3, 2010
Page 3

September 25 resolution states that “the implementation work completed to date by the community and staff to address the mitigation of malicious conduct issue is sufficient to proceed to launch the first new gTLD application round.”

Microsoft respectfully disagrees with the Board. We voiced in our DAG1 comments our grave concerns that the “introduction [of potentially hundreds of new ASCII gTLDs] will expand the environment and opportunities for online fraud, an environment and opportunities that will most certainly be seized upon by criminals and their enterprises.” The proposed mechanisms to mitigate malicious conduct fall short. Indeed, the scale and scope of malicious conduct in existing gTLDs is so enormous that Microsoft has been forced to go to unprecedented lengths and incur tremendous expense to combat such conduct, including obtaining a temporary restraining order in an ex parte “John Doe” action in U.S. federal court to shut down more than 270 domain names linked to the Waldec botnet.

In addition, the introduction of new gTLDs -- more specifically, the predicted increase in contracts and contracted parties -- magnifies existing concerns about ICANN’s ability to ensure contractual compliance that are noted above.

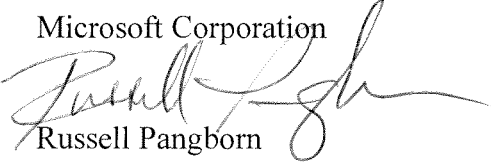
Collaboration with Stakeholders. Finally, ICANN has not sufficiently included key stakeholders such as enterprises and users in its security, stability, and resiliency initiatives, and the SSR Plan indicates that ICANN will continue to focus on the contracted parties in such initiatives. Although the SSR Plan contains numerous references to “core stakeholders,” it is clear that ICANN considers gTLD registries and registrars, not users and enterprises, to be these core stakeholders. For example, the SSR Plan describes ICANN regional registry/registrar workshops as “efforts to encourage community collaboration and use of best practices related to security stability and resiliency” even though ICANN’s own budget documents identify these workshops as being for “constituency support.” The “key partners” identified as the subjects of ICANN’s global security outreach do not represent users and enterprises and the referenced Kyoto and Georgia Tech symposia did not include numerous users and enterprises. To the contrary, for example, many of the attendees at the Symposia were employees of gTLD and ccTLD registries. ICANN must further engage users and enterprises in collaborative efforts to enhance security, stability and resiliency. Microsoft personnel are ready and willing to engage in such collaborative efforts.

* * *

Mr. Peter Dengage Thrush
Mr. Rod Beckstrom
November 3, 2010
Page 4

Thank you for your consideration. If you have questions or wish to discuss any of the points raised herein, please contact Russell Pangborn (russpang@microsoft.com)

Respectfully submitted,

Microsoft Corporation

Russell Pangborn
Associate General Counsel – Trademarks