March 8, 2002

The Honorable Donald L. Evans  
Secretary  
United States Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  

Re: ICANN Reform

Dear Mr. Secretary:

We reviewed with great interest the report recently issued by the CEO of the Internet Corporation for Assigned Names and Numbers (ICANN) that describes ICANN’s significant shortcomings historically and proposes dramatic reforms that effectively would turn ICANN into an international regulatory body with substantially more duties, governmental funding and expansive authority. While we agree with the report’s dim assessment of ICANN’s success to-date, we believe that the proposed reforms, if implemented, would be very bad for the domain name industry, users of the Internet generally and the overall interests of the United States. Moreover, we think that the proposed reforms are predicated on a utopian vision of world government that is entirely inconsistent with the views of the current Administration that tend to favor localized and market-based approaches over centralized regulation.

As the Department of Commerce considers what position it will take with respect to such reforms, we offer a substitute proposal for reforming governance of Internet domain names and addresses set forth in the attached paper entitled “A Proposal for More Realistic Domain Name Governance.” Our proposal contemplates:

- **Limit ICANN Role to Consensus-Based Trade Association**

  New.net proposes that ICANN continue to do much of what it currently does well in its capacity as a trade association for parties interested in issues related to domain names, IP addresses and Internet protocols instead of trying to become a powerful, global quasi-governmental regulator. As a trade association, ICANN would be able to continue serving its educational and advisory functions, but with no pretense of authority over U.S. or international Internet infrastructure assets.
• Greater Reliance on Market Forces Instead of Regulation

New.net proposes that market forces should be the dominant factor in regulating the conduct of persons buying, selling and using Internet-related products and services. New.net believes that the market, and not centralized regulation, is the most efficient means to drive persons and companies to innovate and introduce new products and services using the Domain Name System (DNS), and regulate their conduct, much in the same manner that market forces drive innovation and regulate conduct in virtually every other industry.

• Local vs. Global Regulatory Decision Making

New.net proposes that where formal governmental regulation is needed to supplement industry practices and market forces, such regulation already occurs at the national or local level in the same way that existing laws regulate most businesses. Prior to the advent of ICANN, few bodies had sought to be international regulators without the establishment of treaties, and formation of a special private or governmental global regulator of Internet naming and addressing matters simply is not needed.

• Continued Control of Legacy DNS Root by U.S. Government

New.net proposes that the U.S. Government continue to maintain control over the legacy DNS root and not ever cede control to an organization with ICANN’s characteristics. By maintaining control over the legacy DNS root, the United States would be assured that its national interests are protected, and the legacy DNS root likely would continue to be the most widely used root.

• Recognize Country Code Operators’ Unique Issues in Relation to the Legacy DNS Root

New.net proposes that country code top-level domain (ccTLD) operators form a new organization to represent their interests vis-à-vis ICANN, the U.S. Government and other entities involved in Internet addressing matters. New.net believes that any reform of the current process for managing the DNS needs to acknowledge the legitimacy of the interests of non-U.S. country code top-level domain operators and must do a better job of addressing their concerns.

Overall, we think that our proposal much more realistically balances the divergent interests of the numerous parties affected by domain name and addressing governance issues. Our proposal would protect vital U.S. interests in the domain name system, streamline the coordination of international domain name issues, and support private sector innovation and flexibility in this sector. Moreover, this proposal is more consistent with the original goals of the “White Paper” that led to the creation of ICANN of truly privatizing management of the DNS, involving international interests and promoting competition, increased consumer choice and continued innovation. Ours is not a perfect solution, but one that is significantly better than perpetuating a regulatory regime
under ICANN that has proven unworkable or exacerbating ICANN’s poor track record by giving it more power, money and scope.

If you or any other Department of Commerce officials would like to discuss any of these or other issues with us, please do not hesitate to contact me.

Sincerely,

David Hernand
CEO, New.net, Inc.

cc: Members of the U.S. House of Representatives Committee on Energy and Commerce
    Members of the U.S. Senate Committee on Commerce, Science and Transportation
    Hon. Nancy J. Victory