

BITS

FINANCIAL SERVICES
R O U N D T A B L E

February 10, 2010

RE: BITS Comments on Affirmation Reviews Proposal

Via email: affrev-draft-processes@icann.org

To: Internet Corporation for Assigned Names and Numbers

Dear Sir/Madam:

BITS, the technology policy division of The Financial Services Roundtable (“Roundtable”), appreciates the opportunity to comment on the Affirmation Reviews Requirements and Implementation Processes draft proposal, which was published on December 26, 2009 for public comment.¹ Over the past four years, we have submitted numerous comment letters to ICANN and the U. S. Commerce Department. Our previous comment letters are available on our website at http://www.bits.org/p_comment_lettersICANN.html.

We support ICANN’s efforts to increase involvement of experts and leaders from the business community while at the same time encourage ICANN to reform its governance model so that it is more efficient for individual and organizations to participate. We also support the goal of creating effective review teams. However, we believe the draft may approach governance issues from a too “academic” perspective without adequate regard for how the proposed process changes will be implemented in a practical manner, taking into account the impact on various stakeholders, including financial institutions and the overall business community.

We believe the process needs further clarification on the method for selecting supporting organizations and advisory committees (SO/AC) representatives to ensure they are representative of the community’s opinion. The draft proposal does not identify how seven or eight SO/AC representatives will represent the community’s viewpoints. The active participation of the community is essential to the overall success of ICANN. If necessary, the number of participants should be increased beyond seven or eight to ensure the community’s opinion is recognized to serve the overarching goal of balance, diversity and expertise. While we understand the dynamics of a larger review team may be more unwieldy, we nevertheless believe that inadequate representation of affected stakeholders is a greater concern. We also support efforts to analyze the findings and fine-tune the methodology. We recommend that this evaluation be extended for review of the community.

In the creation of review teams, the key issue is to have knowledgeable, community representatives participate. We question the value of prohibiting “double membership” as outlined in section 3.1.3. The primary goal in the selection of review team participants is to involve the most knowledgeable individuals

¹ BITS provides intellectual capital and fosters collaboration to address emerging issues where financial services, technology, and commerce intersect for the member companies of The Financial Services Roundtable (Roundtable). The Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through their Chief Executive Officers and other senior executives nominated by those CEOs. Roundtable member companies provide fuel for America's economic engine, accounting directly for \$84.7 trillion in managed assets, \$948 billion in revenue, and 2.3 million jobs.

who can best represent the community. In some instances, this may require individuals to serve on multiple review teams.

To make the process more transparent, we encourage ICANN to outline the process to identify and select independent experts. In order to ensure the review teams successfully complete their task, it is necessary to develop objective measures and indicators. These should be specific to each review team and be developed with input from the community.

Further, we believe ICANN should adopt as disciplined and structured a model as possible taking into account the concerns and views of all its constituencies, enabling busy professionals to participate.

We strongly agree with the proposal to perform periodic reviews of the four ICANN key objectives:

1. Ensuring accountability, transparency and the interests of global Internet users;
2. Preserving security, stability and resiliency of the DNS;
3. Promoting competition, consumer trust and consumer choice; and
4. Whois policy.

We encourage evaluations on the following dimensions of ICANN's work:

- ***Security and stability issues of the DNS.*** This is of particular importance to the financial services industry, a major target of cyber crime, and the broader business community. We believe that ICANN should not sacrifice this priority to the ambitious roll-out of new generic top level domains (gTLDs). We strongly encourage ICANN to work closely with industry sectors, including especially financial services, which have broad experience with online user acceptance, consumer perception, and online security risk. We strongly believe ICANN must take a consistently strong leadership role on security and stability of the DNS.
- ***Organization transparency and accountability to the multi-stakeholder community.*** In order to fulfill ICANN's responsibilities, we believe ICANN must continue to improve efficiency, require greater accountability of the registrars, and strengthen the multi-stakeholder model. ICANN's accountability in this regard should be measured by its ability to take into account the concerns of the user community that often bears the cost and burden of operational failures, growth in on-line fraud, and violations in intellectual property protection. We encourage greater accountability and responsibility by ICANN for the companies that manage information and security associated with the domain name and addressing system.

As part of the evaluation, we urge ICANN to review its process to enforce contractual agreements with providers of domain name services, as effective and timely enforcement is essential to ICANN's legitimacy and credibility. We believe that ICANN should continue to step up its vigilance and enforcement against registrars who willfully violate their contracts by continued registration of domain names that infringe on the rights of rightful trademark owners (i.e., cyber squatting). A key part of these enforcement efforts should be the development of a more rapid domain takedown process for clearly fraudulent websites and a more stringent process for requesting domain names to inhibit fraudsters from registering a legitimate brand. Some of our member companies perceive that registrars and registries have a disproportionate amount of influence and decision-making control over the actions and priorities of ICANN, despite the fact that other constituencies represent a larger segment of ICANN's stakeholder community and, as the users of the Internet and DNS, have vital interests in their proper, stable and secure functioning. ICANN needs to focus on this imbalance and neutralize the unfavorable perceptions that it creates.

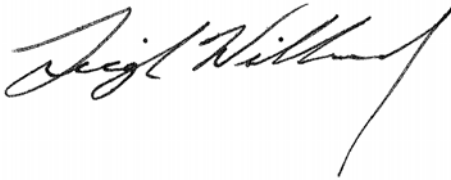
- **Whois Policy.** Financial institutions utilize the Whois database as a tool to respond to fraudulent activity such as identity theft, “phishing” attacks, and domain name infringement. In particular, we strongly encourage ICANN to improve accuracy of the Whois database, continue to provide responsible parties with access to this information, and improve the Whois directory to make it easier to research fraudulent websites.

We support the evaluation of ICANN’s transparency as outlined in the section on ICANN’s Accountability, Transparency and Decision Making Processes. We believe the December 2010 deadline may not allow for adequate community participation in the process as it requires multiple quick comment periods for community participation. We believe the opportunity for public comment is essential for the success of the ICANN process. In addition, it is important to outline how ICANN will respond to these comments.

In summary, we believe ICANN to be a responsible, critically important organization and we strongly agree with the proposal to perform periodic reviews of the four ICANN key objectives. We offer these comments in the spirit of making ICANN more representative and effective in meeting the needs of its many, diverse constituencies.

Thank you for your consideration. If you have any further questions or comments on this matter, please do not hesitate to contact me or John Carlson, BITS’ Senior Vice President for Regulatory Affairs at John@fsround.org or (202) 289-4322.

Sincerely,

A handwritten signature in black ink, appearing to read "Leigh Williams". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Leigh Williams
BITS President