



May 20, 2016

Internet Corporation for Assigned Names and Numbers ("ICANN")  
Attn: Dr. Stephen D. Crocker, Board Chairman  
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***Re: Public Comments related to ICANN's Draft New Bylaws***

Dear ICANN,

Thank you for the opportunity to provide public comments on the Draft New ICANN Bylaws. Overall, if ICANN is to gain control of the IANA functions, in addition to the naming functions, we understand that the Bylaws must be revised. However, ICANN must be mindful to revise the Bylaws only to address functional changes and not allow itself the opportunity to continue to shield itself even more from liability for its actions or inactions as it's counter-productive to accountability and transparency.

Dot Registry is opposed to, and does not support, the following:

1. A Standing Panel for IRPs. All such additional language should be stricken related to a "Standing Panel";
2. A mandatory Ombudsman's Review of Reconsideration Requests. The Ombudsman is compensated by the ICANN Board and can be terminated at will by the ICANN Board so his judgment is not "independent" of the Board;
3. The Board retaining sole authority and review of the Ombudsman's contract and performance without Community input to ensure the Ombudsman is acting in the best interest of the Community, as well as ICANN;
4. All language contained in the proposed Bylaws which is implied, illusory, subjective and/or are ambiguous to interpretation of Board action such as the repetitive use of the words "may," "could," "reasonably," etc. These words must be replaced with definitive requirements language such as "will," "shall," "must," and "required." In almost all IRP's, ICANN's main defense is "show me where the Board is required act.";
5. ICANN hiding and concealing activity under the guise of overly broad confidentiality provisions contained in agreements with third party contractors;
6. Review cycles longer than one (1) or two (2) year(s) maximum. Five (5) year review cycles are way too long;
7. ICANN continued refusal of requestor action(s) to bring "substantive" reviews of material information or decisions under ICANN's Accountability Mechanisms;
8. ICANN's insistence on trying to slip in additional liability protections under the California Business Judgment Rule where the IRP Panel in .XXX has already stated that it does not apply to ICANN; and
9. ICANN not requiring conflict of interest certifications and verifications on all

vendors, agents, experts and third party contractors to ensure the stakeholder community and contracted parties (i.e., registries and registrars) that no conflicts, either perceived or actual, exist.

In addition, Dot Registry supports the following:

1. Creation of a reasonable timeframe in which to complete the Cooperative Engagement Process (“CEP”) so that it is not open ended and ripe for competing applicants to use it as a mechanism to cause undue delay to other applicants in future New gTLD rounds;
2. To the maximum extent possible, the Board must publish transcription of all Board and Committee meetings and to provide written justification on the record that material which will not be published only for the most narrowly construed reasons of privilege, as qualified under the law, or subject to confidentiality restrictions contained in contract;
3. Require ICANN to define “internet community” (is that contracted parties, members of stakeholders or stakeholder groups, is it the world?);
4. That all ICANN third party contractors are required to comply and be bound by ICANN’s Articles of Incorporation and Bylaws, as implied in the current Bylaws in force;
5. That ICANN allow for IRP Declarations to be binding upon ICANN and appealable to a court of competent jurisdiction; and
6. The current IRP process and that it should remain under ICDR rules, with abolishment of ICANN’s Supplemental Rules, so that the community has a fair opportunity to have their issue(s) heard before a independent neutral third party.

We are attaching an excel spreadsheet of our suggested revisions to the Draft New ICANN Bylaws to add clarity around the above general comments.

In closing, if ICANN is to be truly independent of government oversight, and holds the responsibility as the Internet Regulator of both the naming and numbering function, then ICANN should assume full responsibility and liability for it’s actions or inactions, including the Board, staff, agents and contracted third parties, which contravene the law, the Articles of Incorporation and/or the Bylaws.

Thank you.

DOT REGISTRY, LLC  
Respectfully,



Shaul Jolles  
CEO