

Appendix E – Supplemental Documents

- Updated 30 November 2005 (additional materials on .xxx added)
- Originally posted 28 November 2005

ASIA

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Applicant's Response to GAC Issue & Sponsorship Evaluation (Sept. 15, 2004)
 - "Clarifications and Response on: Principles for Delegation and Administration of ccTLD Principles Presented by GAC"
 - "Response & Clarifications on Sponsorship and Other Issues"
- Applicant's Supplemental Information for Board (Oct. 26, 2004)
 - "Executive Summary"
 - "Clarifications and Response on: Principles for Delegation and Administration of ccTLDs Presented by GAC"
 - "Further Discussions on Appropriateness and Representativeness of the DotAsia Framework"
- Mitigating Concerns Regarding GAC ccTLD Principles (Dec. 10, 2004)
- Letters of Intent and Support Letters for the .ASIA Organization (Jan. 20, 2005)
at <http://www.dotasia.org/about/members.html>
 - Update Letter to ICANN Board Describing Support for .ASIA (Jan. 24, 2005)
- Concise Summary of DotAsia Proposal (Mar. 8, 2005)
- Clarifying Letter from DotASIA (Apr. 19, 2005)
- Letter to GAC Members (Jun. 6, 2005)
- Update Report in Response to ICANN Board Resolution 05.29 (Aug. 5, 2005)
- Letter from Howard C. Dickson, the GAC Representative for the Hong Kong SAR (Aug. 2, 2005)
- Letter from Che-Hoo Cheng to Howard C. Dickson, , the GAC Representative for the Hong Kong SAR (Aug. 11, 2005)

CAT

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- ICANN's Letter to Government of Spain (Oct. 5, 2004)
- ICANN's Letter to Government of Andorra (Oct. 22, 2004)
- Government of Andorra's Letter to ICANN (Nov. 15, 2004)
- Government of Spain's Letter to ICANN (Nov. 24, 2004)

JOBS

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Oct 14 Teleconference w/ Technical Team & Meeting Notes

- Technical Team Comments (Nov. 26, 2004)

MAIL

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Business and Financial Evaluation Team's Supplemental Questions for Applicant (Feb. 28, 2005)

MOBI

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Applicant's Response to Sponsorship Evaluation (Sep. 13, 2004)
- Oct 4 & 15 Teleconferences w/ Technical Team & Agreed Notes
- Technical Team's Additional Questions (Oct. 12, 2004)
- Technical Team's 2nd Additional Questions (Oct. 22, 2004)
- Applicant's Answers to Technical Team's 2nd Additional Questions (Oct. 28, 2004)
- Applicant's Response to Technical Team's Additional Questions (Oct. 29, 2004)
- Technical Team Comment (Nov. 26, 2004)

TEL (PULVER)

- ICANN's Letter (Jul. 31, 2004) (notification & status update)

TEL (TELNIC)

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Applicant's Response to Evaluators' Reports (Aug. 25, 2004)
- Technical Team Comments (Nov. 27, 2004)
- ICANN Board Questions for the Technical Evaluation Team (Apr. 14, 2005)
- Applicant's Technical Clarifications (May 24, 2005)
- Technical Team Response to Board Queries (Jun. 3, 2005)

XXX (Material added to this list 30 November 2005)

- ICANN's Letter (Jul. 31, 2004) (notification & status update)
- Applicant's Response to Sponsorship Evaluation Report (Oct. 9, 2004)
- Sponsorship Memorandum regarding ICM and International Foundation for Online Responsibility (Dec. 7, 2005)
- Presentation to ICANN Board: "The .XXX TLD, Promoting Online Responsibility (Apr. 3, 2005)
- The Sponsored .XXX TLD Proposal: Executive Summary for the ICANN Board (Apr. 3, 2005)
- Letter from Michael D. Gallagher to Vinton Cerf (Aug. 11, 2005)
- Correspondence from GAC Chairman to ICANN Board regarding .XXX TLD (Aug. 12, 2005)

- Letter from Stuart Lawley to Paul Twomey (Aug. 15, 2005)
- Letter from Marcelo de Carvalho Lopes to Mohamed Sharil Tarmizi (Sep. 6, 2005) (Added to this list 30 November 2005)
- Message from Jonas Bjelfvenstam to Paul Twomey (Sep. 13, 2005) (Added to this list 30 November 2005)
- Letter from Peter Zangl to Vinton Cerf (Sep. 16, 2005) (Added to this list 30 November 2005)
- Letter from Stuart Lawley to Peter Zangl (Nov. 8, 2005) (Added to this list 30 November 2005)
- Letter from Paul Twomey to Jonas Bjelfvenstam (Nov. 23, 2005) (Added to this list 30 November 2005)



Internet Corporation for Assigned Names and Numbers

31 July 2004

Mr. Che-Hoo Cheng
DotAsia Organisation Limited
Unit A, 20/F, 128 Wellington Street
Central
Hong Kong SAR
China

via email: chcheng@dotasia.org

Re: New sTLD Applications: Status Report

Dear Mr. Cheng:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The DotAsia application was found by the evaluators to satisfy the baseline criteria in the RFP relating to technical and to business/financial issues. With respect to sponsorship criteria, an initial report has been written but there are additional steps required before the evaluation will be considered completed.

We would also like to take this opportunity to note that, as you are probably aware, the Governmental Advisory Committee (GAC) has asked us to “avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.” (See section 8.3 of the “Principles for the Delegation and Administration of Country Code Top Level Domains, at <http://www.icann.org/committees/gac/gac-cctldprinciples-23feb00.htm>)(February 2000). In the application you submitted to ICANN, you agreed that we may request “any documentation or other information that, in ICANN’s sole judgment, may be pertinent to [your] application.” If the outcome of the review of sponsorship issues is positive, we shall ask you to obtain letters indicating agreement for .asia sponsored top level domain from the appropriate Ministers or Heads of Agencies of the Governments of the countries in the region that constitutes the community you seek to represent.

You shall be contacted as soon as possible with any additional information. In the meantime, please do not hesitate to contact me if you have any questions.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Ms. Agnes Wong
John Jeffrey, ICANN General Counsel

Clarifications and Response on: Principles for Delegation and Administration of ccTLDs Presented by Governmental Advisory Committee (GAC ccTLD Principles) and Its Relevance with the “.ASIA” Sponsored gTLD Proposal by the DotAsia Organisation

September 15, 2004

1. Premise

This document is prepared in response to clarifications requested by ICANN in the evaluation of the delegation of the “.ASIA” TLD application. The terms and specific phrases used in this document should be interpreted within the context of the DotAsia initiative and ICANN.

The DotAsia Organisation wishes to maintain the confidentiality of this report where appropriate.

2. The DotAsia Initiative

2.1 Relevant fundamentals and perspectives of the DotAsia initiative:

- DotAsia does not intend to and does not represent a country, territory or place
- DotAsia does not intend to and does not represent a language or a people
- DotAsia does not intend to and does not represent the collective or partial of any cross-jurisdictional governments or public authorities
- DotAsia intends to be a membership-based not-for-profit corporation
- DotAsia intends to operate under a community-based bottom-up framework for policy making procedures to ensure broad representation and consultation from the community, consistent with the ICANN Sponsored TLD requirements and the corresponding RFP
- DotAsia will leverage its membership base, which ensures appropriate expertise and knowledge to operate in the best interests of the community it serves and the Internet community at large
- DotAsia will respect the authorities of respective jurisdictions
- DotAsia understands the importance of consideration for governments and public authorities
- DotAsia intends to work closely with the relevant organisations and groups such as the GAC, the APT (Asia Pacific Telecommunity) and the UNDP-APDIP (United Nations Development Programme – Asia Pacific Development Information Programme) to ensure an open channel for communication (See also Section 2.3)

2.2 According to The Encyclopaedia of Modern Asia: *“Asia” is an imagined concept... The idea of... Asia ... was the product of a Western worldview in which the peoples and nations of Asia were perceived as fundamentally different from the peoples and nations of the Western world.*

“Asia” as a term can be found in literature as early as the Old Testament Bible. Based on “Hitchcock's Bible Names Dictionary”, “Asia” for a time, also meant: muddy and boggy. Perhaps it is not surprising given the vast economical, political, social and cultural diversity observed in Asia.

Nevertheless, while “Asia” was initially loosely defined and foreign in origin, the subject community has not only accepted, welcomed and embraced the term “Asia” as a unifying concept, but also has become a coherent and thriving whole over the years. This is especially true in the Internet community, as illustrated by the well coordinated and successful Asia Pacific Internet groups, such as APNG, APNIC and APTLD. “Asia” as a term is also widely used in the region and around the world as a recognisable and meaningful concept. Most importantly, at the heart, “Asia” is not a single jurisdiction, nor a collection of jurisdictions, but rather a concept that is embraced by the community as a unifying identity.

The best way to describe it is perhaps that “Asia” categorizes a broad and lasting area of social activity, with the term itself being used as a tag or identifier for such.

Even though Asia continues to be a tremendously diverse community, “Asia” as a unifying term and concept is well rooted in the community. This is demonstrated by the many Asia oriented business entities / initiatives (e.g. Air Asia, Asian Wall Street Journal, CNN Asia, Time Asia, etc.), conferences (e.g. CeBIT Asia, ITU Telecom Asia, CommunicAsia, etc.), and sporting events (e.g. Asian Cup, Asian Games, etc.) where participation from all around the Asia community, East, West, North, South can be found. The DotAsia initiative aspires to exemplify this collaborative spirit, leveraging the unifying concept of “Asia” to provide a meaningful online identity for the community.¹

2.3 The DotAsia initiative believes in the importance of including governmental and jurisdictional considerations in its operational and policy making processes. Sponsor Members of the DotAsia Organisation are ccTLDs in the region. These entities maintain a close and positive relationship with their respective governments and are directly subject to the GAC ccTLD Principles. These members allow DotAsia to leverage the experience and expertise in operating a TLD in a manner that balances the interests of governments and the community at large.

Furthermore, to facilitate a more direct relationship and to maintain an open communication channel with relevant governments, the DotAsia Organisation is committed to establishing a meaningful relationship with relevant organisations and groups such as the GAC, the APT and the UNDP-APDIP. This will allow DotAsia to leverage a broad, relevant and knowledgeable assembly of governmental representatives to ensure complete representation of this segment of the community.

Based on our discussions with representatives of these groups as well as some government representatives in the region, we have come to understand that it is unrealistic and inappropriate to ask governments to be directly involved in the current process. The underlying issue is that most governments would not have a directly relevant ministry or department responsible for an initiative such as the DotAsia proposal, which is not under the direct jurisdiction of any country, economy, nation or regional organisation, neither is it appropriate as such.

Furthermore, because most ccTLDs in the region are endorsed by their respective governments, and ccTLDs are experienced with managing a TLD in the interest of the public at large balanced with the interests of public authorities, we believe that the proposed DotAsia membership structure helps ensure that the .ASIA TLD operations and policies take into account governmental concerns.

Given the proposed governance framework, together with the above considerations, the DotAsia initiative believes that it is well positioned to operate in a manner that is responsible to the community it serves, including the different governments and public authorities.

3. Response to the Inquiry Regarding Relevance with the GAC ccTLD Principles

3.1 The following is the extract from Section 8.3 in the “Principles for Delegation and Administration of ccTLDs Presented by Governmental Advisory Committee” (“GAC ccTLD Principles”)
<http://www.icann.org/committees/gac/gac-cctldprinciples-23feb00.htm>:

8.3 Recognising ICANN's responsibilities to achieve consensus in the creation of any new generic TLDs, ICANN should avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.

3.2 In response specifically to the GAC ccTLD Principles as articulated above, the DotAsia Organisation believes that:

- The GAC ccTLD Principles were drafted under the spirit of protecting the rights of individual countries or economies, not the collective of them, as ccTLDs is the primary subject of the document.
- In the context of the GAC ccTLD Principles as presented and written, a country or territory is relevant to an entity based on the ISO 3166 standards referred by RFC 1591. A “place”, in the context of this discussion, is therefore logically interpreted as a counterpart of or a locality within a country or territory. As an example: the United States of America would be categorized as a “country”; Guam, would be categorized as a “territory”; and, “Central Park” is a good example of a well known and famous “place” in New York.

In the context of the GAC ccTLD Principles (See also Section 2.2 and 2.3):

- “ASIA” is not a “country”
- “ASIA” is not a “territory”
- “ASIA” is not a “place”
- The GAC ccTLD Principles also spoke to “well known and famous country, territory or regional language or people descriptions”
 - “ASIA” is not a (country, territory or regional) language description
 - “ASIA” is not a (country, territory or regional) people description
- “ASIA” is not an assigned ISO 639 code for representation of languages

3.3 Most importantly, the DotAsia Organisation and the proposed .ASIA TLD does not and will not challenge the sovereignty of any nation, country, economy or jurisdiction. The DotAsia Organisation is also not proposing a ccTLD, a direct equivalent of any existing ccTLD or any TLD string that may be confusingly similar with existing ccTLDs (or gTLDs for that matter). Therefore, the Organisation believes that the GAC ccTLD principles and its cautionary note for ICANN should not apply to the context of the DotAsia proposal.

ⁱ As explained in other materials, the DotAsia Organisation will utilize the ICANN Asia / Australia / Pacific Region definitions for its Charter Eligibility requirements. This ensures an appropriate inclusive approach for the community, balanced with a reasonable and precisely definable boundary that enables effective administration of the registry.



Response and Clarifications on Sponsorship and Other Issues Evaluation Team (S&OI ET) Report of the New sTLD Applications Independent Evaluation Report for the DotAsia Proposal

September 15, 2004

This document is prepared as a response by the DotAsia Organisation to the Independent Evaluation Report of New Sponsored TLD (sTLD) Applications. The document will focus on the few areas the Evaluation Team (ET) has identified concern with. For each area, the Selection Criteria as established by the ET as well as presented in the RFP will be included, followed by the Analysis of the ET. Response and clarifications by the DotAsia team will then be presented.

The DotAsia Organisation wishes to maintain the confidentiality of this report where appropriate.

SECTION III: SPONSORSHIP AND OTHER ISSUES TEAM REPORT

I. SPONSORSHIP INFORMATION

A. Definition of Sponsored TLD Community

Selection Criteria established by Evaluation Team:

The first section revolved around the notion of sponsored communities; appropriate sponsorship arrangements and an understanding of how common needs and interests of the applicant group could be differentiated from the global Internet community. The RFP required precise definition of a sponsored community; evidence that that community would benefit from the establishment of an sTLD and evidence that the community would be involved in policy formulation.

RFP: The proposed sTLD must address the needs and interests of a clearly defined community (the Sponsored TLD Community), which can benefit from the establishment of a TLD operating in a policy formulation environment in which the community would participate. Applicants must demonstrate that the Sponsored TLD Community is: precisely defined, so it can readily be determined which persons or entities make up that community; and comprised of persons that have needs and interests in common but which are differentiated from those of the general global Internet community.

Evaluation Team Analysis:

The ET was of the view that the community was not clearly defined on a number of levels. Whilst the region is reasonably well defined geographically (particularly according to ICANN's five regional definitions), it was not clear whether registrants would be limited to that region. The ET was of the view that the diversity within the region (from the Middle East to the South Pacific) was so great as to make it difficult to define a community of common interests.

The poor to non-existent representation of some parts of the community in the application also cast doubt on the likelihood of being able to meet the criteria.

On balance, the application does not meet the selection criteria.

As described by the ET, the DotAsia Organisation has adopted a reasonably well defined boundary based on ICANN's five regional definitions. Furthermore, in our proposal, we also clarified that registrants would be limited to legal entities within this boundary:

[Part B, Section C] ...To ensure that only charter-compliant persons or entities may register domains in the DotAsia registry, registrants will be required to declare a "proof-of-presence" stating that they are a legal entity within the Pan-Asia and Asia Pacific region...

As a further clarification, "legal entity" is a well-understood legal term that is unambiguously defined. A "legal entity" is a legal construct that could be a natural person, proprietorship, partnership or corporation which has the legal capacity to enter into an agreement or contract, and therefore can sue or be sued for non-performance in accordance with the contract.

Most importantly, coupled with the geographical boundary as mentioned by the ET, we believe that the Pan-Asia and Asia Pacific community as presented by the DotAsia proposal is therefore "precisely defined, so [that] it can readily be determined which persons or entities make up [the] community". A complete study of the region on regarding entities that are legal entities of the corresponding jurisdiction will be prepared, verified and published on the DotAsia registry website before the launch of the TLD to ensure non-ambiguity, enforceability and stability of the charter eligibility requirements.

The ET remarked that the region was so great as to make it difficult to define a community of common interests. As a response to this concern, it is important to appreciate the historical and cultural context of the Asia community. According to The Encyclopaedia of Modern Asia: "'Asia' is an imagined concept... The idea of... Asia ... was the product of a Western worldview in which the peoples and nations of Asia were perceived as fundamentally different from the peoples and nations of the Western world."

"Asia" as a term can be found in literature as early as the Old Testament Bible. Based on "Hitchcock's Bible Names Dictionary", "Asia" for a time, also meant muddy and boggy. Perhaps it is not surprising given the vast economical, political, social and cultural diversity observed in Asia. Furthermore, it is also important to note that the word "Asia" historically had its origin in the Greek language and meant East (East of Greece) and is used to denote the "region" of what is now "West Asia". Over the hundreds of years, the concept of "Asia" has grown to include many more "regions".

Nevertheless, while "Asia" was initially loosely defined and foreign in origin, the subject community has not only accepted, welcomed and embraced the term "Asia" as a unifying concept, but also has become a coherent and thriving whole over the years. This is especially true in the Internet community, as illustrated by the well coordinated and successful Asia Pacific Internet groups, such as APNG, APNIC and APTLD. "Asia" as a term is also widely used in the region and around the world as a recognisable and meaningful concept. Most importantly, at the heart, "Asia" is not a singularity, but rather a concept that is embraced by the community as a unifying identity.

Even though Asia continues to be a tremendously diverse community, "Asia" as a unifying term and concept is well rooted in the community and around the world. This is demonstrated by the many Asia oriented business entities / initiatives (e.g. Air Asia, Asian Wall Street Journal, CNN Asia, Time Asia, etc.), conferences (e.g. CeBIT Asia, ITU Telecom Asia, CommunicAsia, etc.), and sporting events (e.g. Asian Cup, Asian Games, etc.) where participation from all around the Asia community,

East, West, North, South can be found. The DotAsia initiative aspires to exemplify this collaborative spirit, leveraging the unifying concept of “Asia” to provide a meaningful online identity for the community.

Specifically regarding the Selection Criteria established, the DotAsia organisation believes that the Pan-Asia and Asia Pacific community is “comprised of persons that have needs and interests in common but which are differentiated from those of the general global Internet community”, with the crucial unifying need and Interest in this context to be able to have an online identity in the form of a meaningful domain name that reflects the identifiable context of activities, whether it is market, cultural or otherwise oriented, in the everyday lives of the people in Asia. More discussion on the widespread usage of the term “Asia” in the region and the value it brings to the community as well as the global Internet at large will be discussed in Part II, Section A: Addition of new value to the Internet name space.

The DotAsia Organisation is committed to maintaining a balanced representation from all parts of the community. To that regard, in the description of the proposed the governance structure of the DotAsia Organisation, we have specifically determined the need and mechanism to ensure geographical diversity of the Board of Directors:

[Part B, Sponsoring Organisation Structure] ...To ensure that the Board of Directors is relevant and representative of the multicultural Pan-Asia and Asia Pacific region, geographical diversity will be an important criterion for the selection of the Directors... A Geographical Diversity Consideration Liaison to the Board of Directors may be established to conduct outreach that can help ensure this requirement is met...

Four sub-regions have also been drafted based on the United Nations Statistics Division categorizations (<http://unstats.un.org/unsd/methods/m49/m49regin.htm> and <http://www.un.org/Depts/Cartographic/english/htmain.htm>): North East Asia, Middle East & West Asia, Central & South East Asia, and Australasia and Pacific Asia (a draft listing is provided in Appendix A). Discussions are beginning within the Organisation and broader consultation will be sought to finalize the first version.

[Part B, Sponsoring Organisation Structure] ...at least one individual from each region will be represented on the Board. Geographical representation will be based on demonstrable heritage or inhabitant or citizenship of each Board candidate....

As explained above, the DotAsia Organisation has also committed to continued outreach to ensure that representation from all parts of the community is furthered as the initiative grows. More discussion on the outreach commitments will be discussed on Part I, Section D: Level of support from the Community.

The structure of the DotAsia Organisation further ensures representation from different parts of the community beyond geographical diversity. The core structure of including Co-Sponsor Members which are pan-regional groups representing different facets of the community, such as ISPs, businesses, and individuals, as well as the establishment of the Advisory Council not only furthers the bottom-up processes, but also provides an overseeing role that includes solid representation from the broader community.

Besides the specific items addressed by the ET, we would like to add further clarification to the discussion regarding the characterization of a Sponsored gTLD as defined by ICANN

(<http://www.icann.org/tlds/> and further explained in the answer for Question #18 at <http://www.icann.org/tlds/new-sld-rfp/questions.htm>):

“Generic TLDs

...Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.

A Sponsor is an organization to which is delegated some defined ongoing policy-formulation authority regarding the manner in which a particular sponsored TLD is operated. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. The Sponsor also is responsible for selecting the registry operator and to varying degrees for establishing the roles played by registrars and their relationship with the registry operator. The Sponsor must exercise its delegated authority according to fairness standards and in a manner that is representative of the Sponsored TLD Community....”

Based on the description, we understand that both “unsponsored” and “sponsored” TLDs are by definition “generic” TLDs. Therefore, we believe that the nature of “generic-ness” of a proposed sTLD should not affect the fulfilment of the selection criteria. More discussion on the importance and effectiveness of a Sponsorship structure for the DotAsia registry will be presented in Section I, Part C: Appropriateness of the Sponsoring Organization and the policy formulation environment and Section II, Part C: Assurance of charter-compliant registrations and avoidance of abusive registration practices.

We would like to bring particular attention to: “A Sponsor is an organization to which is delegated some defined ongoing policy-formulation authority regarding the manner in which a particular sponsored TLD is operated. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD.”

The DotAsia Organisation proposes delegation of only a very manageable scope of defined ongoing policy-formulation authority focused on the manner in which the Organisation will be operated (more discussions in response to Part II, Section C). The DotAsia registry has a well defined Charter as specified in its vision and mission statement, defining the purpose for which the TLD has been created and will be operated. This Charter mandates it to develop policies and operate in the best interests and benefit of the Sponsored TLD Community:

[Part B, Appropriateness of Sponsored TLD Community] ... The vision of the DotAsia Organisation is to create a globally visible domain that embodies the successful, cooperative atmosphere established within the Pan-Asia and Asia Pacific Internet community to accelerate the overall growth of the region...

[Part B, Sponsoring Organization Structure] ...The mission of the DotAsia Organisation is:

- To sponsor, establish and operate a regional Internet namespace with global recognition and regional significance, dedicated to the needs of the Pan- and Asia Pacific Internet community.
- To reinvest surpluses in socio-technological advancement initiatives relevant to the Pan-Asia and Asia Pacific Internet community; and
- To operate a viable not-for-profit initiative that is a technically advanced, world-class TLD registry for the Pan-Asia and Asia Pacific community...

Finally, we note that the RFP specifically states that "Significant consideration will be given to sTLDs that serve larger user communities and attract a greater number of registrants." (which we will further respond to in Part II, Section A: Addition of new value to the Internet name space). It is natural that an appropriate TLD for a larger user community may seem "more generic," and we believe that it is important to consider the DotAsia proposal in this context.

Nevertheless, as illustrated above, we believe that: 1) the boundary of the community described is precisely defined; 2) eligibility for registration is clear and unambiguous; and 3) there are common interests from persons in the community that are distinctly differentiated from those of the general global Internet community.

C. Appropriateness of the Sponsoring Organization and the policy formulation environment

Selection Criteria established by Evaluation Team:
<p>The third section of the RFP required the evaluators to judge whether the Sponsoring Organization's policy formulation procedures and structures would successfully demonstrate a robust and effective policy formulation and implementation organisation. This is a critical section of the RFP because, in delegating the policy formulation and implementation function, ICANN has to be assured that any successful applicant has the capacity to create and deliver policy on a wide range of issues, consistent with ICANN's technical regulatory remit.</p> <p>RFP: Applicants must provide an explanation of the Sponsoring Organization's policy-formulation procedures demonstrating:</p> <ul style="list-style-type: none">• Operates primarily in the interests of the Sponsored TLD Community;• Has a clearly defined delegated policy-formulation role and is appropriate to the needs of the Sponsored TLD Community; and• Has defined mechanisms to ensure that approved policies are primarily in the interests of the Sponsored TLD Community and the public interest. <p>The scope of delegation of the policy formulation role need not be (and is not) uniform for all sTLDs, but is tailored to meet the particular needs of the defined Sponsored TLD Community and the characteristics of the policy formulation environment.</p>
Evaluation Team Analysis:

The application demonstrated significant experience and commitment to policy formulation in the DNS governance environment. However, the application does not demonstrate that there is a clearly defined policy formulation environment for .asia that would operate in the interests of both the sTLD and the public interest.

It was also not clear that the proposed policy formulation environment reflected the diversity of views within the region, nor how such a broadly defined community could be brought together in an effective policy making organisation.

On balance, the application does not meet the selection criteria.

As described by the ET Analysis, the DotAsia proposal has demonstrated significant experience and commitment to policy formulation in the DNS governance environment. Furthermore, the proposal also described a number of measures and procedures to ensure an appropriate policy formulation environment. For example, the DotAsia Organisation is committed to open and transparent governance that allows bottom-up participation to ensure community-based interests are taken into consideration:

[Part B, Openness and Transparency] The DotAsia Organisation intends to operate in an open and transparent manner. The DotAsia Organisation will maintain a public Web site to post policies and news of relevance to the community.

All Board meeting minutes will be publicly posted online. Formal Board meetings will also be open for observation by the public. The DotAsia Organisation intends to hold its Board meetings in conjunction with the ICANN and APRICOT meetings for the convenience of participants and to further encourage the participation of interested observers.

An open Annual General Meeting (AGM) will be held during the annual APRICOT meetings, which are attended by many leaders and active participants from the Internet community in the Pan-Asia and Asia Pacific region. This meeting will include an open comment session. Minutes of the AGM will also be made publicly available. Critical issues that affect the community (e.g. decision on surplus allocation) may also be open for public commenting.

Notice for policy changes will be made to parties affected and to the public where appropriate. Adequate commenting and consultation periods to obtain input from different constituencies, membership groups or from the public at large will be provisioned.

Besides commitment to openness and transparency, the DotAsia proposal also described specific policy-making processes that will ensure a policy formulation environment that takes into consideration the interests of the sTLD as well as the public at large:

[Part B, Policy-Making Process] ...three main types of policy-making processes are proposed:

- Normal policy creation and amendments
- Extraordinary policy creation and amendments
- Reconsideration and policy review...

[Part B, Proposed Extent of Policy Making Authority] ... Under normal circumstances, for the adoption of policies and policy changes, consultation of the Advisory Council will be sought, followed by a resolution of the Board of Directors. Broader consultation may be sought on material changes to membership, election and governance policies, as well as for the allocation of any surplus proceeds...

In each of the drafted processes in the proposal, a bottom up oriented channel is supported. More extensive items would also include public commenting and broader consultation. It is important to emphasize again that the governance structure of the DotAsia Organisation is designed to attract and retain individuals who are highly qualified and experienced in running a TLD registry in a way that balances registry and public interests.

In the mission statement as well as in many discussions in the proposal submitted, the DotAsia Organisation is also committed to re-investing its surplus proceeds into the development of the region:

[Part B, Sponsoring Organisation Structure] ... As part of the mission, an important philosophy of the DotAsia Organisation is to be able to reinvest back into the social and technological advancement initiatives within the community. Based on the revenue allocation structure of the DotAsia registry, a guaranteed portion of revenues will be directly re-invested into the community... This ensures that the DotAsia Organisation will immediately contribute to its sponsored community...

We believe this speaks volumes to the commitment of the Organisation to operate in the best interests of the public at large, as a key measure of success for the .ASIA TLD would be how much contribution it would be able to make to the socio-technical advancement initiatives in the region.

As mentioned under Section A. Definition of Sponsored TLD Community above, geographical diversity of the representatives at the Board of Directors of the Organisation will be maintained. This, along with the open, transparent and bottom-up process ensures that even though the described community is broad and diverse, there are clear channels where diversity of perspectives of its stakeholders could be represented and heard.

As also mentioned, the structure of the Co-Sponsor Membership and the Advisory Council also ensures and encourages participation from a diverse group of interest, including for example ISPs, network operators, businesses, not-for-profit initiatives and individuals.

In terms of demonstrating that the Organisation is structured and positioned well to bring together these diverse views in an effective policy making organisation, it is important to look at: 1. the proposed scope; 2. the exemplary experience at existing regional organisations in Asia; and, 3. the expertise within the Organisation to execute.

In the submitted proposal, the DotAsia Organisation intended to have a well defined scope of policy making authority:

[Part B, Proposed Extent of Policy Making Authority] ... Organisational governance policies will be formulated and maintained by the DotAsia Organisation. These would include for example:

- Membership Policies
- Election Policies
- Governance Structure Policies

- Surplus Proceeds Allocation Policies...

This will allow the Organisation to be able to operate the DotAsia registry effectively while being able to obtain and absorb the diverse views of the community in a manageable scope. In the submitted proposal, the DotAsia Organisation has also committed to comply with ICANN technical and consensus policies:

[Part B, Proposed Extent of Policy Making Authority] ... As a sponsored TLD, the DotAsia registry intends to comply with ICANN recommendations and ICANN Consensus Policies as they become established. For example the DotAsia registry will be implementing the domain expiration and redemption grace period (RGP) policies as well as other current ICANN recommendations, such as the GAC recommendation for country names reserved list and the anticipated WHOIS policies... For registration and registrar policies, the DotAsia registry intends to comply with ICANN policies as well as best practices in the industry and in the sponsored community...

This ensures that the DotAsia registry will be operated in a manner consistent with ICANN's technical regulatory remit. Furthermore, by taking into consideration relevant best practices, it ensures that the registry will be operated in the best interests of the community.

As an example, APNIC (Asia Pacific Network Information Centre) has been operating successfully for many years and has won many accolades within the community and around the world. APNIC's policy development process can be found at <http://www.apnic.net/docs/policy/policy-development.html>. APNIC holds its Open Policy Meeting two times a year and maintains open policy mailing lists. Everybody is allowed to participate in this open process, which ensures that broad views can be heard and effectively managed. DotAsia Organisation intends to establish a similar policy development process.

The DotAsia Organisation has structured itself to repeat and further the success experienced by APNIC. In fact, APNIC is a Member of the DotAsia initiative, with Paul Wilson, the Director General on the Advisory Council. The DotAsia Organisation has also been able to attract and retain, currently on a voluntary basis, Che-Hoo Cheng, who is a long-standing Executive Council member and former Chairman of the APNIC, as the Interim CEO.

These individuals and the governance structure of the DotAsia Organisation provide a wealth of knowledge and expertise in managing and balancing the broad scope of interests and executing effectively as a policy making organisation.

The construct of the DotAsia Organisation is also similar to the ICANN approach, as well as the approach of many successful regional and international organisations such as APNIC in the Asia region. Taking into consideration the spirit of "self-preservation" balanced with public interest and working with and accepting a less than perfect system of getting representation from the community to allow the startup and launching of the initiative into reality for the benefit of the community at large. Ultimately, full participation from the community would be ideal, however, as mentioned we believe that at this stage, it is most important to ensure a transparent and open framework along with evidence of broad-based support from well-established players in the community.

In summary, we believe that the DotAsia Organisation is well structured and positioned to operate in the interests of the Sponsored TLD Community. This is demonstrated by its open and transparent processes as well as its dedication to re-investments back to the growth of the community. Also, we believe that the scope of the delegated policy formulation role proposed by the DotAsia Organisation

is well defined, manageable, and sensitive to the needs of the Sponsored TLD Community. This is supported by a knowledgeable and experienced governance and executive team. Finally, the DotAsia Organisation has defined open and clear mechanisms and channels to ensure a bottom-up policy formulation environment that takes into consideration the diverse views from different parts, geographically and functionally, of the community, which thereby ensures that approved and implemented policies are in harmony with the interests of the Sponsored TLD community while balanced with public authority and at large interests.

D. Level of support from the Community

Selection Criteria established by Evaluation Team:

The fourth section of the RFP required the ET to assess whether the applicants had demonstrated sufficient levels of support from the community. This was a particularly subjective judgment which relied upon assessment of evidence provided by the applicants, in addition to analysis of the ICANN public comment forum to ascertain whether the application had sufficient support. The ET required signed evidence of support for the application. Copies of letters of support provided by applicants were uploaded to the evaluation website as supplementary materials and read carefully.

RFP: A key requirement of a sTLD proposal is that it demonstrates broad-based support from the community it is intended to represent.

Applicants must demonstrate that there is:

- Evidence of broad-based support from the Sponsored TLD Community for the sTLD, for the Sponsoring Organization, and for the proposed policy-formulation process; and
- An outreach program that illustrates the Sponsoring Organization's capacity to represent a wide range of interests within the community.

Evaluation Team Analysis:

Measuring levels of support from the community is a particularly difficult task and the ET recognized and valued the strong support from several important groups.

The ET took into consideration the level of support demonstrated in the application itself; the provision of support letters from the applicant and other entities (such as regional organizations) from which we could reasonably have expected support for the application. Answers to the supplementary questions the ET posed were not sufficient to demonstrate that the application had formalized support from a diversity of groups in the region. The support for the application is limited to a range of ccTLDs, albeit important and well-established ones. The ET was concerned about the absence of even a majority of regional ccTLDs and questioned whether it would be possible to gain support from additional ccTLDs administrations at least those that appear concerned .asia may compete with them for recognition in the domain name space.

The ET is aware that there is not comprehensive support from the APTLD and from a range of other interests outside of North Asia. The representation is heavily skewed to North Asia, with little or no representation from other areas within the region. Furthermore, it appears that the applicant did not seek support from pan-regional organizations such as ASEAN, APEC or the Pacific Island Forum Secretariat. The application does not demonstrate broad based support from the community, either through the evidence supplied in the application or from the public comment forum.

As an evidence of the continued momentum of the DotAsia initiative in gaining support from the community, since the submission of our proposal in March 2004, 7 more organisations have joined the initiative as members (adding to the 9 organisations that have joined before the submission – a total of 16¹) of the DotAsia Organisation, and we continue to work with others who may join soon or once the DotAsia initiative have obtained formal delegation from ICANN to start up the .ASIA TLD.

The DotAsia Organisation have also received 15 signed support letters (plus the 16 members to a total of 31; see <http://www.dotasia.org/letters/>) as well as about 30 emails to the public forum from a broad spectrum of well respected individuals and well established organisations around the world supporting the initiative. Furthermore, we have obtained 11 more in depth letters of support (in the own words of the individuals and organisations) in response to further clarifications sought previously.

To further illustrate the broadness of the expressed support that the DotAsia initiative has been able to formally obtain, we present them geographically and functionally (note that these parties include individuals, for-profit companies, not-for-profit groups as well as governmental organisations):

- (i) Geographical:
 - a. **North and North East Asia:** CNNIC, JPRS, KRNIC, MONIC (Macau), HKISPA, etc.
 - b. **Middle East and West Asia:** IRNIC (Iran, .IR) and AINC (Arabic Internet Names Consortium)
 - c. **Central and South East Asia:** INNIC (India Network Information Centre – .IN), SGNIC (Singapore), VNNIC (Vietnam), ccTLD-ID (Indonesia), PISO (Philippines), etc.
 - d. **Pacific Asia:** InternetNZ (.NZ), IUSN (Internet Users Society of Nue – .NU), PICISOC (Pacific Islands Chapter of the Internet Society)
 - e. **International (non-Asia):** Antonio Harris (CABASE, Latin America), Paul Hoffman and NAAAP Toronto (North American Association of Asian Professionals - Toronto)

- (ii) Functional:
 - a. **ccTLDs:** (see <http://www.dotasia.org/about/members.html>)
 - b. **Regional Internet Organisations:** APNIC, APNG, APTLD, AINC and PAN
 - c. **End-user / At Large:** ALAC members, APNG, NAAAP Toronto, PICISOC
 - d. **ISP Associations:** PISO (Philippine Internet Services Organisation) and HKISPA (Hong Kong Internet Service Providers Association)
 - e. **Governmental Initiatives:** IDRC (International Development Research Centre)
 - f. **Government Departments:** Invest Hong Kong, HKSAR
 - g. **Statutory Organisations:** HKPC (Hong Kong Productivity Council)
 - h. **Registrars:** WebCC, Netpia and IP Mirror
 - i. **Respectable Individuals:** Kilnam Chon, Antonio Harris, Akinori Maemura, Suresh Ramasubramanian, Kenny Huang, etc.

Beyond the expressed support from the community, it is also important to appreciate the distinguished individuals that the DotAsia Organisation has been able to attract to serve on its initial Board and Advisory Council (<http://www.dotasia.org/about/initialboard.html>). More noteworthy is that all three of the current ICANN appointed ALAC representatives from the Asia/Australia/Pacific region are on the Board (Tommy Matsumoto), and Advisory Council (Izumi Aizu and Xue Hong) of the DotAsia Organisation. This speaks volumes to the knowledge, support and commitment the DotAsia

¹ There are currently 8 members from AP in the ccNSO (5 overlap with DotAsia) and 21 members in APTLD (9 overlap with DotAsia).

Organisation has obtained in outreach, community-based and operating in the interests of users at large.

The DotAsia Organisation is committed to continued outreach to further participation from around the region both for the Organisation itself as well as to encourage participation and facilitate exchange of the region's stakeholders with other regional and international initiatives such as ICANN, ccNSO, APTLD, APNIC and other forums. This we believe will be especially valuable for currently less active members within the community.

Two important elements of the DotAsia proposal are the establishment of: 1. an inclusive, comprehensive and open framework; along with, 2. a clear and transparent set of processes and channels through which participation is sought and received.

The DotAsia proposal takes an "inclusive approach" with a precise boundary for membership and definition of the Community it intends to serve. As discussed above in Section A. Definition of Sponsored Community, the history and culture as well as the tremendous diversity of "Asia" means that the most prudent approach is to be inclusive and to uphold the spirit of Asia in embracement of diversity and tolerance.

At the same time, in order to ensure that the DotAsia initiative can be effective in its operations and policy making responsibilities (focused around the management of the TLD registry), a precisely defined boundary is necessary. To assure this, the DotAsia proposal leverages the well defined boundary based on the ICANN geographical regions. This boundary is particularly appropriate for the DotAsia initiative; not only because of the context of ICANN, but also that it provides a comprehensive and inclusive constitution that is reflective of the Asia Internet community today. On one hand, historically and culturally, "Asia" as a continent spans from West Asia in the Middle East to South East Asia and Pacific islands; on the other hand, due to economical and other existing realities the active Internet community in "Asia" today is relatively skewed towards the Asia Pacific region, which includes the Australasia and Pacific Asia region. The ICANN boundary therefore provides a well balanced approach that is consistent with the inclusive principle accepted and expected by the community.

To establish a comprehensive framework consistent with the inclusive approach, the proposed organisational and governance architecture is comprised of a balance of expertise in the immediate industry, broad perspective Internet groups and pan-regional Internet organisations. The membership structure of Sponsor Members and Co-Sponsor Members, along with the Board and Advisory Council ensures a geographically and functionally comprehensive organisational and governance construct. It also ensures continued and refreshed knowledge and expertise from individuals in the governance of the Organisation.

The proposed framework is also open and continues to be open to all relevant organisations and stakeholders to join and participate in the initiative at the pace and extent that is appropriate and comfortable for their individual circumstances. Membership for Sponsor Members will continue to be open for any ccTLD in the Pan-Asia and Asia Pacific region. Similarly, membership for Co-Sponsor Members will continue to be open for any Internet, IT and community groups with geographically diverse membership in the region. This is particularly important in the context of this discussion. More specifically, it is essential to understand the importance of the establishment of a well-rounded framework that is open and amenable, with clear channels for further participation from all stakeholders in the community, and the demonstration of broad based support from well-established, and active organisations and individuals in the community specifically on the vision, mission and framework of the initiative.

It is the proposed framework and the support from key players in the community that is most important to ensure that the initiative and participation can grow together, and that the initiative may get started effectively and meaningfully. This is not dissimilar to the ICANN approach, as well as the startup (such as that of ccNSO and ALAC) and continuing approach of many successful community-based Internet organisations, such as APNIC, in the region and around the world.

Specifically about the concern of competition expressed in the Evaluation Team report, we believe that it is important that a key objective of the introduction of new TLDs is to introduce constructive competition to the domain name space. As such, the concern presented in the ET report would not be a meaningful argument and direction of discussion because it in essence conflicts with a fundamental objective of ICANN.

Nevertheless, the DotAsia Organisation is sensitive and understanding about the expressed concern. The Organisation is committed to and believes wholeheartedly in working with ccTLDs to create win-win situations and constructive competition in establishing more of a complementary role rather than a destructive competitive stance. This explains the very membership structure of the DotAsia Organisation of being driven by ccTLDs in the region. Furthermore, we are confident that as we begin and continue our business operations, the currently perhaps more sceptical parties will begin to understand and appreciate the approach.

The DotAsia Organisation understands that the APTLD is supportive of the initiative. In terms of other regional organisations, the DotAsia initiative proposes to be a community-based bottom-up organisation focused on the boundary described in its Sponsored Community. The DotAsia initiative continues dialogues with different regional Internet, IT and community organisations as the initiative progresses. It should also be pointed out that there exist a chicken-and-egg issue with some of these organisations with regards to their participation, as the DotAsia initiative have not obtained the delegation from ICANN to startup the TLD yet. Nonetheless, the DotAsia Organisation is committed to continued outreach to the community. For example, we have been communicating with the PICISOC (The Pacific Islands Chapter of the Internet Society – who has recently extended the Organisation a support letter indicating full support to the initiative), UNDP-APDIP (Asia Pacific Development Information Programme), APT (Asia Pacific Telecommunity) and GAC representatives in the region to explore channels of closer cooperation. The initial conversations are very positive and encouraging.

As explained, the DotAsia Organisation is committed to maintaining a balanced representation from all parts of the community. Specific Geographical Diversity requirements will be observed in the formation of the elected Board of Directors. Furthermore, as illustrated above, we believe that there is demonstrated support from a broad geographical base and not highly skewed towards North Asia.

In order to reach even more people and to encourage more participation, especially from regions that are currently less active in the regional and global Internet community, the DotAsia Organisation will devote considerable effort towards outreach. A portion of the operating budget is allocated specifically for the outreach program. Besides general outreach to the community, outreach for recruiting new members, and outreach for soliciting participation in the governance of the Organisation, a special outreach program through the proposed Geographical Diversity Consideration Liaison may be established to ensure that the diverse views from the community will be obtained and heard.

A very important objective for the outreach program is to connect with, encourage and help stakeholders from around the region, especially from the less-active and underdeveloped areas, to participate in the regional collaborative initiatives, such as APTLD, APNIC, etc. (and of course

DotAsia), as well as to enter and engage in global initiatives such as the ICANN, ALAC, ccNSO, ISOC and others. In this regard, through our initial outreach, we have already helped to bring people, for example from Iran (IRNIC), Indonesia and India, to the ICANN, ccNSO, ALAC and APTLD meetings.

Not only will this provide value to the global Internet community, these outreach programs will also directly contribute to the success of the .ASIA TLD by ensuring more broadly representative policy making, as well as an improved bottom-line due to the promotional effects. In parallel, a key aspect in our marketing efforts would be to educate the general user community about the choice in domain names (i.e. that there is more choice beyond .com), which we believe will help to raise the level of awareness and usage of the ccTLDs in the region as well. This is the synergistic win-win situation we believe in, and will work towards through close relationships with ccTLDs and local Internet stakeholders in the region.

Besides the outreach programs, the DotAsia Organisation also proposes to hold its Board and Annual General Meetings at and in conjunction with relevant and well attended regional and international conferences:

[Part B, Openness and Transparency] ... The DotAsia Organisation intends to hold its Board meetings in conjunction with the ICANN and APRICOT meetings for the convenience of participants and to further encourage the participation...

This will complement the outreach efforts and vision by making it convenient for interested stakeholders to participate in the DotAsia initiative, as well as providing another reason for stakeholders to participate in meetings of the regional and international initiatives.

In summary, we believe that the DotAsia proposal, the framework it has presented, along with the distinguished individuals and well-established organisations that have joined the organisation so far, demonstrates that there is:

- Evidence of broad-based support, geographically and functionally, and enthusiasm from the Sponsored TLD Community for: the creation of the sTLD; the inclusive, comprehensive and open framework of the Organisation; and, the clear and transparent policy-formulation processes that invite bottom-up participation from the community; and
- An outreach program backed by knowledgeable individuals with extensive track-records of success in the management of key public resources in the interests of the public at large in the community, that illustrates the Organisation's capacity and commitment to obtain and hear from a wide range of interests within the community.

Finally, the DotAsia Organisation strongly believes that the Sponsorship structure, the outreach efforts, and the commitments to re-invest surplus operating proceeds in regional initiatives will bring significant positive impacts to both the regional and global the Internet communities. Even though the DotAsia initiative is merely a project to establish a new Sponsored TLD today, it aspires to be a catalyst for furthering growth, capacity building and bridging of the digital divide in the region. The DotAsia Organisation is focused on the management and operation of the proposed TLD registry; nevertheless, it envisions that its activities will help bring together closer and more extensive participation in the regional Internet community, in turn contributing to the global Internet initiatives.

The evidence of broad-based support, geographically and functionally, from the community, the open and transparent framework for participation and the distinguished and knowledgeable individuals and organisations that support the initiative will allow the DotAsia Organisation to work closely with ICANN to ensure responsible, representative and stable operations of the .ASIA TLD registry.

II. COMMUNITY VALUE

A. Addition of new value to the Internet name space

Selection Criteria established by Evaluation Team:

RFP: Applicants must demonstrate the value that will be added to the Internet name space by launching the proposed sTLD by considering the following objectives:

(i) Name value

A top-level sTLD name must be of broad significance and must establish clear and lasting value. The name must be appropriate to the defined community. Applicants must demonstrate that their proposal:

- Categorizes a broad and lasting field of human, institutional, or social endeavor or activity;
- Represents an endeavor or activity that has importance across multiple geographic regions;
- Has lasting value; and
- Is appropriate to the scope of the proposed Sponsored TLD Community

(ii) Enhanced diversity of the Internet name space

The proposed new sTLD must create a new and clearly differentiated space, and satisfy needs that cannot be readily met through the existing TLDs. One purpose of creating new TLDs is to enhance competition in registry services and applicants must demonstrate that their proposal:

- Is clearly differentiated from existing TLDs;
- Meets needs that cannot reasonably be met in existing TLDs at the second level;
- Attracts new supplier and user communities to the Internet and delivers choice to end users; and
- Enhances competition in domain-name registration services, including competition with existing TLD registries.

(iii) Enrichment of broad global communities

- One of the reasons for launching new sTLDs is to introduce sTLDs with broad geographic and demographic impact.
- Significant consideration will be given to sTLDs that serve larger user communities and attract a greater number of registrants.
- Consideration will also be given to those proposed sTLDs whose charters have relatively broader functional scope.

Evaluation Team Analysis:

The ET was not persuaded that the .asia string would have broad recognition across such a wide region, especially in the Middle East and the South Pacific, where potential registrants may have difficulty relating to the “asia” tag. As such, the ET could not conclude that the application adds new value to the name space.

Aside from the question of whether the application demonstrates lasting value, the application does

not meet the other criteria for this section because the name string proposed does not align with the community assembled so far. The applicant may wish to consider a TLD that is more descriptive of the group it has assembled, as a .asia sTLD seems too broad for the group described in application.

Based on the global recognition and usage of the term “Asia” in company and initiative names as well as categorization of activity, the DotAsia Organisation believes that “.Asia” has the potential for broad immediate global recognition because of the alignment of its common use as an identifying term and concept (i.e. used in real world names / identifiers), which is consistent with domain names (which provide an Internet identity).

Not only does the diversity of the community not take away from the name value of “.Asia”, rather, it adds tremendous value to it and the term, tag and identifier “Asia” in turn, helps bring together this diverse and dynamic region to foster constructive and collaborative growth in this global economy today.

We believe that an important aspect of the name value of the proposed TLD is derived from the global familiarity of the TLD string. This depends on a globally identifiable term. “.Asia” is a globally recognized and regionally significant term that is widely used in company and initiative names. Another important aspect of the DotAsia proposal is the “inclusive approach”, rather than an “exclusive approach” that constrains to a narrow boundary and risk omission of interested stakeholders. More discussions on this “inclusive approach” based on ICANN’s five regions can be found in Section I, Part D. Level of support from the Community.

We believe that West Asia and Middle Eastern countries do align themselves with “Asia” as can be evidenced in their participation in the Asian Cup and the Asian Games, as well as other regional forums and events, even if certain individuals or isolated groups do not feel completely aligned with “Asia”, that should not take away from value that a “.Asia” TLD would bring to the community and the global Internet community at large. Furthermore, the establishment of the “.Asia” TLD would also provide them the online identity that would allow them to appeal well to the regional marketplace that is relevant to them regardless of their personal opinion.

The DotAsia Organisation has recently received a signed support letter from the Pacific Islands Chapter of the Internet Society (PICISOC), indicating their full support for the DotAsia initiative. This further demonstrates the broad support and the relevance DotAsia has in the Pacific Asia region.

In addition, it is important to distinguish that the DotAsia initiative proposes to be a TLD registry in the context of ICANN’s technical coordination role on the Internet. The initiative proposes to provide a namespace that allows individuals and entities who believe there is value to have an online identity in the form “Domain.Asia” to have the chance to use, market and establish their Internet presence with such a name. The proposal of a .ASIA TLD does not take away or challenge the sovereignty of any nation, economy or jurisdiction, therefore the inclusive approach is especially appropriate. The participation in governance is open, transparent and voluntary, and supports diversity and tolerance. An inclusive approach ensures that any interested stakeholder may participate.

With regard to the selection criteria, we believe that the “.Asia” TLD is consistent and a well suited candidate based on the RFP requirements:

(i) Name value

“Asia” is a term with broad significance and has a clear and lasting value. Many companies, initiatives, events and organisations use “Asia” as a defining element of the core values or sectional aspect in their name. For example, regional initiatives such as, Asian Cup (soccer), Asian Games, and CommunicAsia, etc., or Asian section or subsidiaries of global businesses, such as Asian Wall Street Journal, CNN Asia, Time Asia and Microsoft Asia Pacific. Local newspapers and magazines in the region also often have Asia section (along with local and global sections). Being able to use a domain name such as “Name.Asia” is therefore going to add a lot of value to the registrant as well as the general Internet user.

- As demonstrated by the widespread use of the term for names of companies, organisations and initiatives across hundreds of years in the history of the world, “Asia” categorizes a broad and lasting field of human, institutional, and social endeavor and activity;
- “Asia” also has importance in a global level as well as in the local level. “Asia” as a tag and term is used by global initiatives and company focusing on the regional aspect as well as local companies and programs targeted for the regional appeal.
- From the use of the term in the Old Testament Bible to today’s news paper and magazines as well as companies, “Asia” as a term has demonstrated its lasting value; and
- “Asia” as a term not only signifies a region but is really the unifying conceptual term that from its origins unites this vastly diverse community. Therefore the term “Asia” is very appropriate to the scope of the proposed Sponsored TLD Community.

(ii) Enhanced diversity of the Internet name space

The DotAsia registry will immediately create a new and clearly differentiated space and satisfy needs that cannot be readily met through existing gTLDs or ccTLDs. The DotAsia registry will create constructive competition by developing the marketplace to become more knowledgeable about TLDs and domain name usage, and providing a new choice for registry services. The DotAsia registry will also complement existing TLDs by allowing local initiatives to establish a regional online identity and global organisations to focus on the regional space with a matching online name.

- DotAsia is clearly differentiated from existing gTLDs and ccTLDs;
- DotAsia will meet needs that cannot reasonably be met in existing TLDs at the second level;
- DotAsia enhances competition in domain-name registration services including competition with existing gTLDs and ccTLDs.

(iii) Enrichment of broad global communities

The “.Asia” domain will not only be meaningful to Internet users in the Community, but also will be recognisable and meaningful for the general global internet user community at large. “Asia” as a term and tag is a useful, informative and expressive identifier for names and therefore its use as a TLD will enrich the broad global community by allowing registrants to express themselves and their identity with a globally recognisable and regionally significant online identity.

- DotAsia will be an sTLD with broad geographic and demographic impact. The Asia community spans over 70 economies and over 60% of the world’s population, having the possibility of expressing the region in a domain will introduce broad and constructive impact. As explained in previous sections, the DotAsia initiative is also committed to re-investing into the socio-technical development in the community through funding as well as outreach activities. These activities such as capacity building and training will in turn further the Internet penetration and bridge the digital divide in the region.

- DotAsia will be an sTLD that serves a large user community and will potentially attract a greater number of registrants than existing sTLDs. More importantly, it will attract and be able to reach registrants from regions that may have “lost out” on the “.com” rush or find it harder now to align with existing gTLDs. The commitment to outreach by the DotAsia organisation will also in turn bring the TLD to new potential registrants of domain names.
- The DotAsia Organisation has a focused mission and a broad functional scope which is consistent and embraces the diversity within the community it serves. The mission of DotAsia will also mandate it to dedicate to re-investing its surplus proceeds to the community as well as outreach activities that will help bring the ICANN message as well as other relevant global internet initiatives to the local community, and vice versa.

B. Protecting the rights of others

Selection Criteria established by Evaluation Team:

This section of the RFP focused on the protection of the rights of others. The applications were assessed on their ability to meet other ICANN policies designed to protect registrants’ interests and those of intellectual property and trademark owners.

RFP: New sTLD registries will be responsible for creating policies and practices that minimize abusive registration activities and other activities that affect the legal rights of others. sTLD registries are required to implement safeguards against allowing unqualified registrations, and to ensure compliance with other ICANN policies designed to protect the rights of others.

Evaluation Team Analysis:

The applicant has shown a strong will to protect the rights of others through sunrise registration periods, commitment to ICANN’s Uniform Dispute Resolution Policy (UDRP) policies and a special Charter Eligibility Dispute Resolution Policy (CEDRP).

However, the application was not very clear in sections under these categories relating to the protection of rights adapted to the specifics of local communities and the nations that composed the region. Considering the variety of cultures and languages in the region, the ET was not convinced that the application sufficiently met the criteria.

As identified by the Evaluation Team, the DotAsia Organisation is very committed to protecting the rights of others through different mechanisms and channels. Furthermore, in the submitted proposal, the Organisation has identified a couple of areas that it will immediately work on to ensure that these measures are adapted to the specifics of local communities and economies within the region:

[Part B, Section B: Protecting the Rights of Others] ... the DotAsia registry will consider a reserved domain lists from participating ccTLDs (Sponsor Members). The reserved lists submitted by the local ccTLDs will serve to ensure best relevance of these names to protect the rights of others within the community. The DotAsia registry is also committed to continually review and update these lists to best reflect and protect the rights of the entities in the community...

...the DotAsia registry will also explore the usefulness of incorporating the choice of local DRP forums for complainants and respondents, to provide additional protection for entities within the community...

The extensive reserved domain list will add to the protection of rights of others, especially those most relevant to the community. The possible augmentation of the UDRP with Local DRPs potentially provides three additional measures that adapt to the specifics of the local communities:

- Improved convenience and choice of well established DRP forums
- Increased priority for local IPR owners relevant to the context of the .ASIA TLD
- Language and IDN knowledge from local expertise and panels

When IDNs (Internationalized Domain Names) are introduced, the Organisation will also leverage its Membership, of whom many are pioneers of the field and have gained considerable knowledge and expertise, to continue in its dedication to protecting the rights of others relevant to their respective native languages. Again, these measurements and processes are backed up by a knowledgeable governance and executive team, with extensive experience in these aspects of operating a registry through their activities in TLDs and other public resource operations. This knowledge-base will guide the DotAsia Organisation to adopt policies and measures that best protect the rights of others most relevant to the community, while balancing the interests of the TLD registry itself, the public authorities and the public at large.

These measures will be very important to the Community and illustrates the need for the DotAsia Organisation to have some delegated responsibility on policies to be able to implement and operate the registry in the best interests of the community it serves.

In conclusion, we believe that the structure of and expertise retained in the DotAsia Organisation allows it to be well positioned to be responsible for creating policies and practices that minimize abusive registration activities and other activities that affect the legal rights of others. The DotAsia proposal have also identified and committed to implementing a comprehensive set of safeguards against allowing unqualified registrations, and to ensure compliance with other ICANN policies designed to protect the rights of others. In addition, it has also identified concrete processes to adapt these measurements to the specifics of local communities and economies within the region.

C. Assurance of charter-compliant registrations and avoidance of abusive registration practices

Selection Criteria established by Evaluation Team:

This section of the RFP was used to assess whether registry operators could ensure the veracity of registrants within their community and protect the rights of intellectual property holders. It was a particularly difficult section to examine given the diversity of applications and the diversity of jurisdictions in which the applicants proposed to operate. In addition, some applications had not fully formed their organizations and were unable to give sufficient information about the selection criteria.

RFP: Operators of sTLDs must implement safeguards to ensure that noncompliant applicants cannot register domain names. Applicants must demonstrate that their proposals address and include precise measures that:

- Discourage registration of domain names that infringe intellectual property rights;

- Ensure that only charter-compliant persons or entities (that is, legitimate members of the Sponsored TLD Community) are able to register domain names in the proposed new sTLD;
- Reserve specific names to prevent inappropriate name registrations;
- Minimize abusive registrations;
- Comply with applicable trademark and anti-cybersquatting legislation; and
- Provide protections (other than exceptions that may be applicable during the start-up period) for famous name and trademark owners.

Evaluation Team Analysis:

The application provided general discussion around these parts of the selection criteria. It did not, however, demonstrate that it met the criteria.

Again, the diversity of the region; the difference in approach to these issues with respect to the policy formulation environment and the lack of clarity about how to ensure charter and name registration policy compliance were problematic.

On balance, the application does not meet the criteria.

The DotAsia proposal included specifics of a number of measures and processes to ensure charter-compliant registrations and to curb abusive registration practices:

[Part B, Section C: Assurance of charter-compliant registrations and avoidance of abusive registration practices] ... To assure charter-compliant registrations and avoid abusive registration practices, the DotAsia registry will implement a number of preventive and remedial measures and policies in the following four main areas of concerns:

- Start-up Considerations
- Reserved Domain List
- Proof-of-Presence Requirements
- Domain Dispute Resolution Policy...

Details for each of the above 4 identified areas were provided in the submitted proposal, including trademark cut-off dates, sunrise arrangements, extensiveness of the reserved domain list, proof-of-presence requirement definition and domain dispute resolution policy adopted and additional studies for augmentation of the UDRP that may be relevant to the community.

Even though the Community represents diverse interests and policies, it should not imply that a consistent and amenable approach for DotAsia cannot be established. The same or even more severe diversity with respect to policy formulation have not presented a prohibitive operational environment for other gTLDs offering services in the region. Therefore we are confident that a new TLD designed for the community and one which encourages and provides clear channels for the participation from the community should be welcomed by the end-users of the community.

Additionally, looking at and learning from the success at APNIC in policy making, along with the expertise inherited from the experience of operating ccTLDs in the region from members of the Board and Advisory Council, the DotAsia Organisation is confident that it could leverage this collaborative platform in the Internet community in the region to establish a successful policy making organisation that will be able to enforce charter-eligible registrations and curb abusive registration activities.

Furthermore, as the Evaluation Team described earlier, the DotAsia Organisation is very committed to protecting the rights of others and to curb abusive registrations. The DotAsia proposal has also described precise measures and safeguards against the 6 areas identified in the selection criteria:

- *Discourage registration of domain names that infringe intellectual property rights*
During the sunrise period, the registry will accept registrations only from legitimate trademark and intellectual property rights (IPR) owners who also meet the charter eligibility requirements. The DotAsia Organisation will examine and verify each registration and their IPR claims. The Organisation will also adopt the UDRP as well as explore the feasibility, value and applicability of local DRP to augment the UDRP to further discourage registration of domain names that infringe IPRs.
- *Ensure that only charter-compliant persons or entities (that is, legitimate members of the Sponsored TLD Community) are able to register domain names in the proposed new sTLD*
Registrants must be a legal entity within the economies in the Pan-Asia and Asia Pacific community based on the boundary consistent with the ICANN geographical region for Asia/Australia/Pacific. All registrants must declare the economy for which they are a legal entity of and what form of legal entity they are. During the sunrise period, the DotAsia Organisation will examine and verify each registration and their proof-of-presence declaration. The Organisation will also adopt the CEDRP to further ensure that only charter-compliant persons or entities are able to register and retain domain names in the .ASIA TLD.
- *Reserve specific names to prevent inappropriate name registrations*
The DotAsia Organisation will reserve all country names according to the ISO-3166-1 list as well as ICANN requirements for the reservation of country codes and other second level domains similar to those reserved in the current Appendix K of ICANN's agreement with new TLD registries. In addition, the DotAsia registry will obtain and implement an extensive reserved domain list from local ccTLDs which will serve to ensure best relevance of these names to protect the rights of others within the community. The DotAsia registry is also committed to continually review and update these lists to best reflect and protect the rights of the entities in the community and to prevent inappropriate name registrations
- *Minimize abusive registrations;*
The DotAsia Organisation is committed to minimizing abusive registrations. Besides the measures described, if demand arises from the community, the Organisation will be prepared to engage in more pro-active policing of registrations.
- *Comply with applicable trademark and anti-cybersquatting legislation; and*
The DotAsia Organisation will comply with applicable trademark and anti-cybersquatting legislation relevant with the community it serves as well as the global internet community (with respect to the DotAsia registry operations). For example, the registry will adopt UDRP as well as explore the feasibility, value and applicability of local DRP forums to augment the UDRP to improve the protection of IPR most relevant in the region.
- *Provide protections (other than exceptions that may be applicable during the start-up period) for famous name and trademark owners*
The extensive reserved domains list along with the adoption of relevant DRP will work to provide protections for famous name and trademark owners, especially with relevance to famous name and trademark owners relevant to the community.



In addition to these measures, the governance and executive team of the DotAsia Organisation brings with them considerable knowledge and experience in the management of TLDs with rigorous measures to ensure that registrations are legitimate and to avoid abusive registrations. Therefore, we believe that the Organisation is well positioned to deliver and implement these measurements precisely and successfully. Finally, while the Organisation feels comfortable with its proposed approach, it will continue to remain open and dedicated to even further measurements to address these issues, and welcome suggestions and proposals to further improve the proposed mechanisms.

Appendix A: Proposed DotAsia Sub-Regions

Economy*	TLD	DotAsia Sub-Region	UN**	Middle East***
China	CN	North East Asia	Eastern Asia	
Hong Kong	HK	North East Asia	Eastern Asia	
Japan	JP	North East Asia	Eastern Asia	
Macau	MO	North East Asia	Eastern Asia	
Mongolia	MN	North East Asia	Eastern Asia	
North Korea	KP	North East Asia	Eastern Asia	
South Korea	KR	North East Asia	Eastern Asia	
Taiwan	TW	North East Asia	N/A	
Afghanistan	AF	Middle East & West Asia	South-Central Asia	Middle East
Armenia	AM	Middle East & West Asia	Western Asia	
Azerbaijan	AZ	Middle East & West Asia	Western Asia	
Bahrain	BH	Middle East & West Asia	Western Asia	Middle East
Cyprus	CY	Middle East & West Asia	Western Asia	Middle East
Georgia	GE	Middle East & West Asia	Western Asia	
Iran	IR	Middle East & West Asia	South-Central Asia	Middle East
Iraq	IQ	Middle East & West Asia	Western Asia	Middle East
Israel	IL	Middle East & West Asia	Western Asia	Middle East
Jordan	JO	Middle East & West Asia	Western Asia	Middle East
Kuwait	KW	Middle East & West Asia	Western Asia	Middle East
Lebanon	LB	Middle East & West Asia	Western Asia	Middle East
Oman	OM	Middle East & West Asia	Western Asia	Middle East
Palestinian Territories	PS	Middle East & West Asia	Western Asia	Middle East
Qatar	QA	Middle East & West Asia	Western Asia	Middle East
Saudi Arabia	SA	Middle East & West Asia	Western Asia	Middle East
Syria	SY	Middle East & West Asia	Western Asia	Middle East
Turkey	TR	Middle East & West Asia	Western Asia	Middle East
U.A.E.	AE	Middle East & West Asia	Western Asia	Middle East
Yemen	YE	Middle East & West Asia	Western Asia	Middle East
Bangladesh	BD	Central & South East Asia	South-Central Asia	
Bhutan	BT	Central & South East Asia	South-Central Asia	
Brunei	BN	Central & South East Asia	South-Eastern Asia	
Burma (Myanmar)	MM	Central & South East Asia	South-Eastern Asia	
Cambodia	KH	Central & South East Asia	South-Eastern Asia	
India	IN	Central & South East Asia	South-Central Asia	
Indonesia	ID	Central & South East Asia	South-Eastern Asia	
Kazakhstan	KZ	Central & South East Asia	South-Central Asia	
Kyrgyzstan	KG	Central & South East Asia	South-Central Asia	
Laos	LA	Central & South East Asia	South-Eastern Asia	
Malaysia	MY	Central & South East Asia	South-Eastern Asia	
Maldives	MV	Central & South East Asia	South-Central Asia	
Nepal	NP	Central & South East Asia	South-Central Asia	
Pakistan	PK	Central & South East Asia	South-Central Asia	
Philippines	PH	Central & South East Asia	South-Eastern Asia	
Singapore	SG	Central & South East Asia	South-Eastern Asia	
Sri Lanka	LK	Central & South East Asia	South-Central Asia	
Tajikistan	TJ	Central & South East Asia	South-Central Asia	



Economy*	TLD	DotAsia Sub-Region	UN**	Middle East***
Thailand	TH	Central & South East Asia	South-Eastern Asia	
Timor-Leste	TL	Central & South East Asia	South-Eastern Asia	
Turkmenistan	TM	Central & South East Asia	South-Central Asia	
Uzbekistan	UZ	Central & South East Asia	South-Central Asia	
Vietnam	VN	Central & South East Asia	South-Eastern Asia	
Antarctica	AQ	Australasia & Pacific Asia	N/A	
Australia	AU	Australasia & Pacific Asia	Oceania	
Christmas Island	CX	Australasia & Pacific Asia	N/A	
Cocos (Keeling) Islands	CC	Australasia & Pacific Asia	N/A	
Cook Islands	CK	Australasia & Pacific Asia	Oceania	
Fiji	FJ	Australasia & Pacific Asia	Oceania	
Heard Island and McDonald Islands	HM	Australasia & Pacific Asia	N/A	
Kiribati	KI	Australasia & Pacific Asia	Oceania	
Marshall Islands	MH	Australasia & Pacific Asia	Oceania	
Micronesia, Federated States of	FM	Australasia & Pacific Asia	Oceania	
Nauru	NR	Australasia & Pacific Asia	Oceania	
New Zealand	NZ	Australasia & Pacific Asia	Oceania	
Niue	NU	Australasia & Pacific Asia	Oceania	
Norfolk Island	NF	Australasia & Pacific Asia	Oceania	
Palau	PW	Australasia & Pacific Asia	Oceania	
Papua New Guinea	PG	Australasia & Pacific Asia	Oceania	
Samoa	WS	Australasia & Pacific Asia	Oceania	
Solomon Islands	SB	Australasia & Pacific Asia	Oceania	
Tokelau	TK	Australasia & Pacific Asia	Oceania	
Tonga	TO	Australasia & Pacific Asia	Oceania	
Tuvalu	TV	Australasia & Pacific Asia	Oceania	
Vanuatu	VU	Australasia & Pacific Asia	Oceania	

*Economies in ICANN AP Region (<http://www.icann.org/montreal/geo-regions-topic.htm>)

**Based on: <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

***Middle East based on: <http://www.un.org/Depts/Cartographic/english/htmain.htm>



Date: October 26, 2004

RE: An Executive Summary for the DotAsia Proposal

Dear ICANN Board Members,

This letter is intended to be an Executive Summary for you as you consider the extensive materials prepared for the DotAsia Sponsored gTLD initiative.

The DotAsia Organisation is a membership-based not-for-profit initiative with a mission to: 1. Sponsor, establish and operate an Internet namespace with global recognition and regional significance, dedicated to the needs of the Pan-Asia and Asia Pacific Internet community; 2. Reinvest surpluses in socio-technological advancement initiatives relevant to the Pan-Asia and Asia Pacific Internet community; and, 3. Operate a viable not-for-profit initiative that is a technically advanced, world-class Top-Level Domain (TLD) registry for the Pan-Asia and Asia Pacific community.

The vision of the DotAsia Organisation is to create a globally visible domain that embodies the successful, cooperative atmosphere established within the Pan-Asia and Asia Pacific Internet community to accelerate the overall growth of the region.

A key concept of the initiative is to leverage its operations to put itself into a position to contribute financially to socio-technological advancement initiatives, such as capacity building, innovative research, knowledge sharing and outreach. These in turn will help to bridge the digital-divide, promote access to information and support sustainable development in the sponsored community. These will also in turn help further the ICANN efforts of outreach and mutual communication in the region. To this regard, we believe we have already started contributing to the community by bringing new faces from the region to the recent Kuala Lumpur meetings.

The DotAsia Organisation will embrace a community-based bottom-up governance structure as a not-for-profit corporation. Following the footsteps of successful Asia Internet organisations such as APNIC, APNG and APTLD, and supported by the talent and expertise from these well-established initiatives as well as respected individuals in the region, the DotAsia Organisation is confident that it is well positioned and capable of building and maintaining a DotAsia Sponsored gTLD registry in a stable, open and transparent policy and operations platform that takes into consideration the broad perspectives from the community along with balanced and best interests of the public authorities and the public at large.

The following are included in this DotAsia Proposal Package for the consideration of the ICANN Board:

- Original Criteria & RFP from ICANN
- DotAsia Proposal Submitted on March 16, 2004
- Support Letters Received from the Community
- Responses to Additional Questions raised by Technical Evaluation Team
- Responses to Additional Questions raised by Business / Financial and Sponsorship & Other Issues Evaluation Teams
- Independent Evaluation Teams Reports
- **Response and Clarifications to the S&OI ET Report**
- **Clarifications and Response on GAC ccTLD Principle**
- **Further Discussions on Appropriateness and Representative-ness of the DotAsia Framework**

The DotAsia proposal received favourable reports from the Business / Financial as well as the Technical Evaluation Teams (ET). Both concluded that the DotAsia proposal has met the requirements set forth in the criteria and RFP for this round of Sponsored gTLD delegations. Furthermore, the Business / Financial ET also

provided an invaluable discussion on the representative-ness and appropriateness of the sponsorship and governance framework of the DotAsia proposal:

“An impressive regional community effort, an experienced RO (Afilias), and state of the art facilities for a dot-asia operation in Hong Kong support the methodology proposed in the dot-asia application. There is a clear logic to the methodology, and a good link is demonstrated between ensuring the fiscal stability of dot-asia and securing buy-in from the membership by means of re-investment in socio-technological projects/initiatives. This is an important consideration and a good strategy in this region where there is a discernible gap between the 'have' and 'have-not' countries/registries...

... The concept is clear, as is the way the applicant intends to organize the Supporting Organization (SO), and to manage the registry...

...The Evaluation Team recognizes the value of ccTLD participation as fundamental to this sTLD's success. There are some very strong players in the Asia-Pacific ccTLD community with significant experience and good business savvy. Not all are or will be supporters; however, the applicant has identified some important supporters/participants. This level of buy-in contributes to the credibility of the organization, and indicates a good chance of successful implementation...”

The Sponsorship & Other Issues Evaluation Team (S&OI ET) report raised a number of further items to be considered. To address the specific concerns, the DotAsia Organisation has provided clear considerations in the document: “Response and Clarifications to the S&OI ET Report”. The DotAsia Organisation believes that these clarifications further explains the DotAsia initiative and demonstrates that the proposal meets the sponsorship criteria set forth. The following are highlights of the 6 main items raised by the S&OI ET and our clarifications:

1. I. Sponsorship Information: A. Definition of Sponsored TLD Community
 - **S&OI ET:** Whilst the region is reasonably well defined geographically (particularly according to ICANN’s five regional definitions), it was not clear whether registrants would be limited to that region...
 - **Response:** Registrants would be limited to Legal Entities within the region [Original Proposal – Part B, Section C]
2. I. Sponsorship Information: C. Appropriateness of the Sponsoring Organisation and the Policy Formulation Environment
 - **S&OI ET:** The application demonstrated significant experience and commitment to policy formulation in the DNS governance environment. However, the application does not demonstrate that there is a clearly defined policy formulation environment for .asia that would operate in the interests of both the sTLD and the public interest...
 - **Response:** The DotAsia proposal committed to an open and transparent environment, and included specifics on Board Meeting processes as well as policy formulating procedures that ensure broad bottom-up participation. Specific extent of policy making authority and mechanisms were also laid out, including geographical diversity requirement for the serving Board of Directors to ensure representation from all parts of the region. [Original Proposal – Part B, Openness and Transparency; Policy-Making Process; Proposed Extent of Policy Making Authority; and, Sponsoring Organisation Structure]
3. I. Sponsorship Information: D. Level of Support from the Community
 - **S&OI ET:** Measuring levels of support from the community is a particularly difficult task and the ET recognized and valued the strong support from several important groups... The support for the application is limited to a range of ccTLDs, albeit important and well-established ones... [The ET] questioned whether it would be possible to gain support from additional ccTLDs administrations at least those that appear concerned .asia may compete with them...

- **Response:** The DotAsia proposal has demonstrated evidence of broad support from the community. Supporters include well-respected individuals and organisations from a broad diversity geographically and functionally (Geographically: North and North East Asia, Middle East and West Asia, Central and South East Asia, Pacific Asia as well as Internationally (non-Asia); Functionally: ccTLDs, Regional Internet Organisations, End-user / At Large groups, ISP Associations, Government Initiatives and Departments, Statutory Organisations, Registrars as well as well-respected Internet pioneers in the region – including all 3 appointed ICANN ALAC members for the Asia/Australia/Pacific region). Since the submission of the proposal in March 2004, 7 more organisations have joined the initiative as Sponsor and Co-Sponsor Members. DotAsia Organisation is committed to continue to recruit members even after the delegation is approved and has a comprehensive outreach framework. Specifically on the concern of competition to the ccTLDs, we believe that the introduction of constructive competition in the domain namespace is an important objective of ICANN’s initiative to introduce new TLDs. As such, the issue presented would not be a meaningful argument, cause for concern or a direction for discussion because it conflicts with a fundamental objective of ICANN.
4. II. Community Value: A. Addition of new value to the Internet Namespace
- **S&OI ET:** The ET was not persuaded that the .asia string would have broad recognition...
 - **Response:** The term “ASIA” is used and recognized globally, especially as a label or identifier for a scope of activity. This lends very well to its use as a meaningful TLD string for the sponsored community and could immediately bring value to the global Internet namespace. “ASIA” is a long-lasting and viable term and phrase. As a not-for-profit organisation, the DotAsia proposal is also committed to re-investing its surpluses to the socio-technical initiatives of the Internet community in the region, including capacity building, bridging of the digital divide and other innovative researches.
5. II Community Value: B. Protecting the Rights of Others
- **S&OI ET:** The applicant has shown a strong will to protect the rights of others through sunrise registration periods, commitment to ICANN’s Uniform Dispute Resolution Policy (UDRP) policies and a special Charter Eligibility Dispute Resolution Policy (CEDRP). However, the application was not very clear in sections under these categories relating to the protection of rights adapted to the specifics of local communities and the nations that composed the region...
 - **Response:** The DotAsia registry will maintain an extensive reserved domain names list obtained through participating ccTLDs as well as abide by the GAC recommendations on reservation of country names and codes based on the ISO 3166 list [Original Proposal – Part B, Section B]. This ensures that the rights-of-others most relevant to the community is given special consideration. To further adapt policies to protect the rights of others to the specifics of local communities, the proposal also described specific consideration for feasibility, appropriateness and value of using Local DRPs to augment the UDRP. Additionally, the DotAsia registry also proposes to extend the solicitation of reserved domain names to the governments of economies that do not have a participating Sponsor Member ccTLD, through the GAC, where appropriate.
6. II Community Value: C. Assurance of Charter-Compliant Registrations and Avoidance of Abusive Registration Practices
- **S&OI ET:** The application provided general discussion around these parts of the selection criteria. It did not, however, demonstrate that it met the criteria...
 - **Response:** The DotAsia Proposal included specifics of a number of measures, including: Startup Considerations; Reserved Domain Lists; Proof-of-Presence Requirements; and, Domain / Charter Eligibility Dispute Resolution Policy; to ensure charter-compliant registrations and to curb abusive registration practices [Original Proposal – Part B, Section C]. All registrations will be verified for trademark claims as well as charter-eligibility requirements during the sunrise period. Proof-of-Presence requirements will continue to be in force and the CEDRP will be adopted.

More in-depth discussions on each item are provided along with their relevance with the criteria set out in the RFP in the document: “Response and Clarifications on S&OI ET Report”.

The document: “Further Discussions on Appropriateness and Representative-ness of the DotAsia Framework” aggregates a set of comments from various sources, including the OECD gTLD report, on their perspectives of the DotAsia proposal. We believe that this, along with the support letters provided officially in the original proposal and responses would help provide an even more meaningful picture of the broad community support for the creation of the “.Asia” TLD.

The document also provides an additional addendum to the DotAsia proposal to improve and further the involvement from different localities of the community, as well as to advance the protection of rights of others most relevant to the community, by extending the creation and maintenance of the reserved domain names list to governments of the economies of non-participating ccTLDs in the region (e.g. for governments to ensure that their country names and corresponding variants are protected). The DotAsia Organisation envisions working cooperatively with the GAC to facilitate this process where appropriate.

In addition to the Sponsorship criteria, the ICANN staff, in their correspondence with us has raised a concern regarding the GAC ccTLD principles. More specifically, the ICANN staff pointed to section 8.3 of the GAC ccTLD principles. The DotAsia Organisation believes that:

- In the context of the GAC ccTLD Principles: “ASIA” is not a “country”, “ASIA” is not a “territory”, and, “ASIA” is not a “place” (where “country”, “territory” and “place, within the context relates to ccTLDs – country code top-level-domains)
- “ASIA” is not a language description; and, “ASIA” is not a people description
- “ASIA” is not an assigned ISO 639 code for representation of languages

It is important to note that this concern was not raised by the S&OI ET. Furthermore, according to our understanding, the GAC ccTLD principles have not been formally adopted as an ICANN policy, and are still undergoing discussion and review by the GAC. Nevertheless, based on the discussion in the GAC ccTLD principles, which were drafted in the spirit of protecting the rights of individual countries or economies, with ccTLDs as the primary subject of the document, and that the DotAsia proposal does not and will not challenge the sovereignty of any nation, country, economy or jurisdiction, we believe that the GAC ccTLD principles and its cautionary note for ICANN does not apply to the context of the DotAsia proposal. For further details on the discussion please refer to the document: “Clarifications and Response on GAC ccTLD Principles”.

The DotAsia Organisation is confident that the presented materials demonstrate that our proposal meets the criteria set forth by ICANN in the RFP and is open and welcomes further discussions and clarifications to ICANN. The DotAsia Organisation believes that the initiative not only fulfils the ICANN RFP criteria, but is also synergistic to the ICANN efforts and many other regional capacity building, digital divide bridging and outreach efforts.

The DotAsia Organisation is excited and looks forward to a positive response from ICANN to further the initiative to bring meaningful value to the Internet community in Asia, the international domain namespace and the global digital community at large.

Sincerely,

Che-Hoo Cheng
Interim CEO
DotAsia Organisation

Clarifications and Response on: Principles for Delegation and Administration of ccTLDs Presented by Governmental Advisory Committee (GAC ccTLD Principles) and Its Relevance with the “.ASIA” Sponsored gTLD Proposal by the DotAsia Organisation

October 26, 2004

1. Premise

This document is prepared in response to clarifications requested by ICANN staff in the process of the delegation of the “.ASIA” TLD application. The terms and specific phrases used in this document should be interpreted within the context of the DotAsia initiative and ICANN.

The DotAsia Organisation wishes to maintain the confidentiality of this report where appropriate.

2. Response to the Inquiry Regarding Relevance with the GAC ccTLD Principles

2.1 The following is the extract from Section 8.3 in the “Principles for Delegation and Administration of ccTLDs Presented by Governmental Advisory Committee” (“GAC ccTLD Principles”)
<http://www.icann.org/committees/gac/gac-cctldprinciples-23feb00.htm>:

8.3 Recognising ICANN's responsibilities to achieve consensus in the creation of any new generic TLDs, ICANN should avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.

2.2 In response specifically to the GAC ccTLD Principles as articulated above, the DotAsia Organisation believes that:

- The GAC ccTLD Principles were drafted in the spirit of protecting the rights and issue of sovereignty of individual countries or economies, not the collective of them, as ccTLDs is the primary subject of the document.
- In the context of the GAC ccTLD Principles as presented and written, a country or territory is relevant to an entity based on the ISO 3166 standards referred by RFC 1591. A “place”, in the context of this discussion, is logically interpreted as a counterpart of or a locality within a country or territory (represented by the ISO 3166 standard). As an example: the United States of America (US) would be categorized as a “country”; Guam (GU), would be categorized as a “territory”; and, “The Grand Canyon” is a good example of a well known and famous “place” in the US.

In the context of the GAC ccTLD Principles:

- “.ASIA” is not a “country”
- “.ASIA” is not a “territory”
- “.ASIA” is not a “place”

- The GAC ccTLD Principles also spoke to “well known and famous country, territory or regional language or people descriptions”
 - “ASIA” is not a (country, territory or regional) language description
 - “ASIA” is not a (country, territory or regional) people description
- “ASIA” is not an assigned ISO 639 code for representation of languages

2.3 Most importantly, the DotAsia Organisation and the proposed .ASIA TLD does not and will not challenge the sovereignty of any nation, country, economy or jurisdiction. The DotAsia Organisation is also not proposing a ccTLD, a direct equivalent of any existing ccTLD or any TLD string that may be confusingly similar with existing ccTLDs (or gTLDs for that matter). Therefore, the Organisation believes that the GAC ccTLD principles and its cautionary note for ICANN does not apply to the context of the DotAsia proposal.

3. Fundamental Principles of the DotAsia Initiative

Further to the above discussion, the DotAsia Organisation would also like to bring to the attention of the ICANN Board some relevant fundamentals and perspectives of the DotAsia initiative. We believe that these principles will help further clarify the focus of the DotAsia initiative as a facilitator and operator of the “.Asia” TLD, as a public Internet resource, similar to the responsibility of APNIC as an RIR in the coordination of IP addresses, as a public Internet resource, in the region.

3.1 Relevant fundamentals and perspectives of the DotAsia initiative:

- DotAsia does not intend to and does not represent a country, territory or place
- DotAsia does not intend to and does not represent a language or a people
- DotAsia does not intend to and does not represent the collective or partial of any cross-jurisdictional governments or public authorities
- DotAsia intends to be a membership-based not-for-profit corporation
- DotAsia intends to operate under a community-based bottom-up framework for policy making procedures to ensure broad representation and consultation from the community, consistent with the ICANN Sponsored TLD requirements and the corresponding RFP
- DotAsia will leverage its membership base, which ensures appropriate expertise and knowledge to operate in the best interests of the community it serves and the Internet community at large
- DotAsia will respect the authorities of respective jurisdictions
- DotAsia understands the importance of consideration for governments and public authorities
- DotAsia intends to work closely with the relevant organisations and groups such as the GAC, the APT (Asia Pacific Telecommunity) and the UNDP-APDIP (United Nations Development Programme – Asia Pacific Development Information Programme) to ensure an open channel for communication

2.2 According to The Encyclopaedia of Modern Asia: *“Asia” is an imagined concept... The idea of... Asia ... was the product of a Western worldview in which the peoples and nations of Asia were perceived as fundamentally different from the peoples and nations of the Western world.*

"Asia" as a term can be found in literature as early as the Old Testament Bible. Based on "Hitchcock's Bible Names Dictionary", "Asia" for a time, also meant: muddy and boggy. Perhaps it is not surprising given the vast economical, political, social and cultural diversity observed in Asia.

Nevertheless, while "Asia" was initially loosely defined and foreign in origin, the subject community has not only accepted, welcomed and embraced the term "Asia" as a unifying concept, but also has become a coherent and thriving whole over the years. This is especially true in the Internet community, as illustrated by the well coordinated and successful Asia Pacific Internet groups, such as APNG, APNIC and APTLD. "Asia" as a term is also widely used in the region and around the world as a recognisable and meaningful concept. Most importantly, at the heart, "Asia" is not a single jurisdiction, nor a collection of jurisdictions, but rather a concept that is embraced by the community as a unifying identity.

The best way to describe it is perhaps that "Asia" categorizes a broad and lasting area of social activity, with the term itself being used as a tag or identifier for such.

Even though Asia continues to be a tremendously diverse community, "Asia" as a unifying term and concept is well rooted in the community. This is demonstrated by the many Asia oriented business entities / initiatives (e.g. Air Asia, Asian Wall Street Journal, CNN Asia, Time Asia, etc.), conferences (e.g. CeBIT Asia, ITU Telecom Asia, CommunicAsia, etc.), and sporting events (e.g. Asian Cup, Asian Games, etc.) where participation from all around the Asia community, East, West, North, South can be found. The DotAsia initiative aspires to exemplify this collaborative spirit, leveraging the unifying concept of "Asia" to provide a meaningful online identity for the community.¹

2.3 The DotAsia initiative believes in the importance of including governmental and jurisdictional considerations in its operational and policy making processes. Sponsor Members of the DotAsia Organisation are ccTLDs in the region. These entities maintain a close and positive relationship with their respective governments and are directly subject to the GAC ccTLD Principles. These members allow DotAsia to leverage the experience and expertise in operating a TLD in a manner that balances the interests of governments and the community at large.

Furthermore, to facilitate a more direct relationship and to maintain an open communication channel with relevant governments, the DotAsia Organisation is committed to establishing a meaningful relationship with relevant organisations and groups such as the GAC, the APT and the UNDP-APDIP. This will allow DotAsia to leverage a broad, relevant and knowledgeable assembly of governmental representatives to ensure complete representation of this segment of the community.

Based on our discussions with representatives of these groups as well as some government representatives in the region, we have come to understand that it is unrealistic and inappropriate to ask governments to be directly involved in the current process. The underlying issue is that most governments would not have a directly relevant ministry or department responsible for an initiative such as the DotAsia proposal, which is not under the direct jurisdiction of any country, economy, nation or regional organisation, neither is it appropriate as such.

Furthermore, because most ccTLDs in the region are endorsed by their respective governments, and ccTLDs are experienced with managing a TLD in the interest of the public at large balanced with the interests of public authorities, we believe that the proposed DotAsia membership structure helps ensure that the .ASIA TLD operations and policies take into account governmental concerns.

Given the proposed governance framework, together with the above considerations, the DotAsia initiative believes that it is well positioned to operate in a manner that is responsible to the community it serves, including the different governments and public authorities.

ⁱ As explained in other materials, the DotAsia Organisation will utilize the ICANN Asia / Australia / Pacific Region definitions for its Charter Eligibility requirements. This ensures an appropriate inclusive approach for the community, balanced with a reasonable and precisely definable boundary that enables effective administration of the registry.

Further Discussions on Appropriateness and Representative-ness of the DotAsia Framework

October 26, 2004

This document is prepared for the purpose of providing further clarifications and additional background to the ICANN staff and Board of Directors in considering the DotAsia proposal for a new Sponsored gTLD. The DotAsia Organisation wishes to maintain the confidentiality of this document.

Perspectives from the Global Internet Community

Beyond the materials that have been presented in previous correspondences and documents, describing how the DotAsia Organisation believes that it is positioned and structured appropriately to serve and operate the DotAsia registry, and to ensure that it caters to the sponsored community in a stable, responsible and open manner in the best interests of the community at large, we would like to bring the attention of the ICANN staff and board to some quotes and discussions about the DotAsia initiative from different external sources. These include entities and individuals that the DotAsia Organisation has not had direct communication with, yet nevertheless are supportive of the concept and framework for which the DotAsia Organisation is setup:

Organisation for Economic Co-operation and Development (OECD)

Generic Top Level Domain Names: Market Development and Allocation Issues

<http://www.oecd.org/dataoecd/56/34/32996948.pdf>

...It might be argued that by opening up a wider variety of gTLDs greater competition will be provided to ccTLDs. The proposed .asia, if approved, would provide a new option for users of ccTLDs in that region... On the other hand, some registries may see names such as .asia, as complementary to their businesses rather than competitive. Most of the ccTLD registries in the Asian region welcome the creation of .asia...

...While many business users are opposed to the creation of new gTLDs where the cost of defensive registrations would outweigh the potential benefits, there is also support amongst business for some new names where new business opportunities are envisioned... The proposed .asia domain has the support, for example, of the Hong Kong Telecommunication Users Group...

...the question which needs to be asked is whether creating gTLDs reserved for developing countries would be the best use of such resources. What needs to be remembered is that each country has a ccTLD and it might be better to allocate resources to capacity building among those domains. On the other hand, it might be possible for some gTLDs to complement the operations of ccTLDs. If ccTLD registries in a particular region form a partnership, as occurred with the proposed .asia, this can potentially provide an additional choice for users and generate revenue for ccTLD operators acting as registrars...

From the discussions, we understand that the OECD report is supportive of the DotAsia initiative. More importantly, it spoke to the core framework of the DotAsia Organisation of involving ccTLDs in a win-win partnership, both in support of the DotAsia registry as well as to further promote capacity building and Internet adoption in the region. We believe this in turn will also contribute to bringing the currently less active localities to the international forums such as the ICANN community. In fact, we believe, through the DotAsia initiative, we have already helped bring to the ICANN meetings (in Kuala

Lumpur) some new faces, including representatives from Indonesia, India, and Iran. The DotAsia Organisation looks forward to continuing and furthering this outreach effort alongside ICANN.

New sTLD Applications Independent Evaluation Report

Business / Financial Evaluation Team Report

...An impressive regional community effort, an experienced RO (Afilias), and state of the art facilities for a dot-asia operation in Hong Kong support the methodology proposed in the dot-asia application. There is a clear logic to the methodology, and a good link is demonstrated between ensuring the fiscal stability of dot-asia and securing buy-in from the membership by means of re-investment in socio-technological projects/initiatives. This is an important consideration and a good strategy in this region where there is a discernible gap between the 'have' and 'have-not' countries/registries...

...Emerging economies may also see a regional domain identity as strategically important, and thus the potential for increased market share is likely. The concept is clear, as is the way the applicant intends to organize the Supporting Organization (SO), and to manage the registry...

...The Evaluation Team recognizes the value of ccTLD participation as fundamental to this sTLD's success. There are some very strong players in the Asia-Pacific ccTLD community with significant experience and good business savvy. Not all are or will be supporters; however, the applicant has identified some important supporters/participants. This level of buy-in contributes to the credibility of the organization, and indicates a good chance of successful implementation...

The above quote is taken directly from the Business / Finance Evaluation Team report.

Various Blog Posts

.ASIA sTLD looks hopeful on distant horizon

<http://domainfood.com/archives/000089/>

...Last week (7/19) the "DotAsia Organization Limited" (www.dotAsia.org) presented a very solid proposal that has impressed professionals in the domain industry, making it a new hopeful and shining star among the new sTLDs ...

.ASIA Proposal by Bret Fausett at 04:15PM (PDT) on July 22, 2004

http://blog.lextext.com/blog/_archives/2004/7/22/110236.html

...I've reviewed most of the new gTLD proposals and this one continues to strike me as "best in show."...

ICANN's proposed new TLDs, Paul Hoffman

<http://lookit.proper.com/archives/000211.html#000211%22>

... .asia -- This is probably the strongest of the proposals. The sponsoring group has many leaders from the Asian ccTLD community, it is clearly set up for a particular group, and many members of the group want to be associated with the group (that is, they want to emphasize their Asia-ness). This is also probably the best way to get internationalized domain names (IDNs) deployed on a large scale...

Besides these supportive statements and discussions from respected entities and individuals around the world, whom the DotAsia Organisation has not reached out to, we also asked our supporters, who are also well respected individuals in the Internet community in Asia, to express their perspectives on

the DotAsia Organisation and why they support the initiative in their own words. Here are some quotes from our correspondence:

From: Hiro Hotta [hotta@jprs.co.jp], JPRS

...First of all, Asia is a social space in the real world and is already established as a brand in itself. A lot of entities and activities exist associated with the concept of Asia, and their Internet usage is rapidly growing. Therefore, .asia TLD must be very useful for these entities and activities...

...The governance structure of the sponsoring organization, DotAsia Organization, is sound. ccTLDs are the most appropriate organizations to lead this initiative, because they are tasked with serving the local community, knowing its needs very well. Proposed structure of DotAsia Organization has a mechanism that can reflect community's interests...

From: Charles Mok [charles.mok@halogroup.com.hk], President, Hong Kong Information Technology Federation (HKITF)

...It will also be a forum for better and more concrete cooperation for various parts of the Asian Internet community. DotAsia's suggested model allows for participation from the Asian Internet community. It has the chance to develop into a platform for regional cooperation and to arrive at a win-win situation...

From: Sin Chung Kai [cksin@sinchungkai.org.hk], Legislative Councillor (Information Technology Functional Constituency), Hong Kong SAR

...The sponsoring organisation of .ASIA will be a not-for-profit organisation based in Hong Kong with community-based, bottom-up structure which allows all stakeholders around Asia to participate. The surpluses of the operations will be re-invested back to the community which is very important to the Internet development in Asia. I think it is the most appropriate structure for running .ASIA...

From: Yang (Leo) Yu [leo@cnnic.cn], CNNIC

...We are aware of the rapid development of the Internet in Asia and the increasingly close cooperation among Asian countries and regions. There are so many multinational corporations or organizations in Asia...

From: Paul Wilson [pwilson@apnic.net]. Director General, APNIC

...I support the establishment of ".asia" because I believe that there is sufficient demand to justify the domain. I support the DotAsia bid because it is a strong, responsible and well-supported bid which will provide direct benefits to Internet development in Asia through the accountable distribution of the financial surplus to be generated by the registry...

...asia is unique, having no direct intersection with other gTLDs (as there is for instance between ".com" and ".biz") the demand for this gTLD should be sustained in the long term, beyond short-term market or trend based influences...

...Furthermore, the value of any particular gTLD registry lies in the specific benefits which are "given back" to the Internet community through the operation of the gTLD. In the case of .asia

there is a clear intent as well as accountable mechanisms to ensure that benefits do accrue, and are distributed efficiently and appropriately for the benefit of Internet development in Asia.

...There is a great need for Internet developmental activities in many parts of the Asia Pacific region, in the areas of technical Internet operations training, Internet infrastructure support, building of indigenous research and development capabilities, and education in aspects of Internet governance (to name a few). In meeting these needs, it is very important for funding and decision-making structures to be based in the Internet community itself, rather than in Government, Intergovernmental, academic, international development sectors. The "DotAsia" bid represents such an outcome, and as such has great promise the uniquely address important regional needs...

From: Lim Choon Sai [LIM_Choon_Sai@ida.gov.sg], SGNIC

...DotAsia represents a collective effort of ccTLDs in Asia and Asia-based organisations interested in domain names developments...

...Asia is a fast growing area and if we can create a registry or forum with Asian characters, features and cultural links to serve business community while supporting ICANN broad objectives, it's a worthwhile effort and deserves serious consideration...

...It's hoped that DotAsia can function and develop into trustworthy partner with other ICANN stakeholders jointly to promote missions and objectives of ICANN...

From: Yiu Kwok Tham [yktham@umac.mo], Administrative Contact, Macao Network Information Centre

...The plan is well conceived, which will serve the needs and aspirations of the growing local Internet communities in Asia in years to come. .Asia will give Asia's Internet users a potent, relevant top-level identification and recognition on the Internet.

...The DotAsia Organisation has achieved broad representation of the local Internet communities in Asia and I trust it will serve its constituencies well...

From: Indra K. Hartono [indrakh@idnic.net.id], MMIS, Country Code Top Level Domain Indonesia (ccTLD-ID)

...Because it is created as a non-profit service to the community, and whatever excess money it has will be used to develop the internet community in the region...

...A pan-asia identity is good to strengthen the region's socio-economic development and DotAsia can be cooperative forum among ccTLDs in Asia region...

...Hopefully this will help create cohesiveness in the region, a domain where people can work together regardless of nationality background...

From: Kenny Huang [huangk@alum.sinica.edu], Board of PIR

...Global competition is forcing local industry to continuously improve their operations, technology and product quality. There are more and more e-business collaborations in Asia. The Internet naturally becomes the excellent platform for electronic data interchange. With

DotAsia, that strengthens the bundle of business collaboration, and brings new value to Asia...

From: Izumi Aizu [izumi@anr.org], Deputy Director, Institute for HyperNetwork Society and a member of ALAC, from AP region

...As Asia and Pacific region has a very strong history of cooperation for the development of Internet, this "regional" namespace approach rides on this tradition and will further extend this spirit of cooperation to the future.

...And, as is stated in the proposal, the intention to use the surpluses of operation to "reinvest" for the advancement of Internet initiatives of the region, is a very unique and much needed approach for the region where many are still very poor and yet trying to use the potential of ICT and that of Internet to the socio-economic development. If approved, this approach will show a great precedence for the use of Internet resources for the larger social development, which we believe will be an important component of achieving the "Internet for all" objective we all share...

Extending the Reserved Domains Solicitation to Involve the GAC and Local Governments

The DotAsia Organisation intends to be a community-based, bottom-up, not-for-profit organisation. The DotAsia Organisation does not represent the collective of jurisdictions and/or economies of the Pan Asia and Asia Pacific region. The DotAsia Organisation is a facilitator and operator of a public Internet resource for the benefit of the Pan Asia and Asia Pacific region (much like APNIC is the facilitator and coordinator of the allocation IP addresses – as a public Internet resource – in the region). It is therefore inappropriate to involve as a direct responsibility individual governments or government agencies in the normal operations of the Organisation.

As the many Asia and Pacific Internet initiatives (especially as experienced in APNIC) have shown convincingly in the past, a community-based framework is an approach that best positions the organisation to become successful. Not only because that there is simply no broad-based inter-governmental agency in the region appropriate for direct involvement in such initiatives, but it also speaks to the close and positive relationships the community has with their respective governments and the maturity of self-governance within the region's community-based Internet initiatives.

Nevertheless, the DotAsia Organisation is committed, prepared and has the expertise to manage and balance its operations in the interests of both the community at large and the respective public authorities. Also, the DotAsia Organisation proposes to expand its solicitation of reserved domain names list to the governments of the economies where the ccTLD is not a participating Sponsor Member in the DotAsia Organisation.

The DotAsia Organisation will also explore appropriate relationship with the GAC to facilitate this initiative.

We believe this will further the protection for the community to avoid abusive registrations as well as to ensure that interests of the local governments are addressed in a balanced approach to the interests of the community at large. The initiative will also assist the DotAsia Organisation in establishing positive relationships with respective GAC representatives and governments. This in turn, we believe, will also contribute to raising the awareness and bringing the region closer to the ICANN community.



Date: December 10, 2004

RE: Mitigating Concerns Regarding GAC ccTLD Principles

Dear ICANN Board Members,

First of all, we are very excited to say that since our last letter to the Board, dated October 26, 2004, 2 more organizations have joined the DotAsia initiative as Sponsor Members – Afghanistan Network Information Center (AFNIC – .AF) and Bhutan Communications Authority (BTNIC – .BT), bringing the total number of members to 18. We have also obtained 2 additional support letters, from Gabia Inc. and WooHo T&C Ltd. (d.b.a. RGNames.com), bringing the number of support letters and emails to a total of almost 50, and coming from a very broad range, geographically and functionally, of individuals and organisations in the community.

From our correspondence with the ICANN staff, we understand that there may be a concern regarding the GAC ccTLD Principles, section 8.3, where it cautions ICANN “*in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.*”

As explained in our previous document to ICANN, “Clarifications and Response on GAC ccTLD Principles”, we believe the cautionary note should not apply to the context of the .Asia application. Furthermore, we understand that it may not be appropriate for particular government representatives to respond to the matter because it is not a matter of sovereignty issue and that “.Asia” is not a sub-territory or place directly within any governmental jurisdiction.

Nevertheless, the DotAsia Organisation understands and acknowledges the concern that ICANN may have in a prudent and careful approach for the establishment of new Sponsored gTLDs. In order to mitigate your concerns on this matter, we would be willing to adopt a Waiting Period to allow governments within the Pan-Asia and Asia-Pacific region to register their objections, if any, via GAC.

This we believe will allow us to proceed into the technical and business negotiations, without compromising the due considerations for respective governments. The contract will not be executed or become effective until the end of the Waiting Period, and that no substantive objection from governments in the Pan-Asia and Asia-Pacific region has been received or remains outstanding. During the Waiting Period (of perhaps 60 days), we could also coordinate with the GAC to introduce the initiative to the respective government representatives.

The DotAsia Organisation is confident that our proposal, together with additional materials, meets the evaluation criteria set-out by ICANN for this round of new Sponsored gTLDs, is amenable to the respective governments, and is well positioned to operate in the best interests of the sponsored community and the global Internet community at large. We look very much forward to working even more closely together with ICANN to make the DotAsia initiative a success, and contribute to the outreach for the Internet community in the Pan-Asia and Asia-Pacific region.

Sincerely,

A handwritten signature in black ink, appearing to read "Che Hoo Cheng".

Che Hoo CHENG
Interim CEO
DotAsia Organisation Limited

Date: January 24, 2005



RE: Update on the DotAsia Initiative

Dear ICANN Board Members,

Happy New Year! First of all, we applaud and congratulate the ICANN board on moving forward 4 applicants into commercial and technical negotiations. We feel confident that the DotAsia application is equally qualified against the criteria set forth by ICANN in the RFP.

This letter provides a brief update on the DotAsia initiative. Since our last letter to you on December 10, 2004, 5 more ccTLDs have joined DotAsia Organization, including: .KH (Cambodia), .KZ (Kazakhstan), .MN (Mongolia), .TJ (Tajikistan) and .UZ (Uzbekistan). There are now a total of 23 members in DotAsia Organization from a diverse spectrum of organizations, geographically and functionally. This further demonstrates the broad support from the community.

Sponsor Members (20):

- .AF - Afghanistan Network Information Center (AFGNIC)
- .BT - Bhutan Communications Authority
- .CN - China Internet Network Information Center (CNNIC)
- .ID - Country Code Top Level Domain Indonesia (ccTLD-ID)
- .IN - .IN ccTLD Registry (India)
- .IR - .IR ccTLD Registry (Iran)
- .JP - Japan Registry Service Co., Ltd. (JPRS)
- .KH - .KH, Cambodia
- .KR - Korea Network Information Center (KRNIC)
- .KZ - Kazakhstan Network Information Center
- .MN - Mongolia ccTLD Registry
- .MO - Macau Network Information Center (MONIC)
- .NU - Internet Users Society – IUSN (Niue)
- .NZ - The Internet Society of New Zealand (InternetNZ)
- .PH - PH Domain Foundation (Philippines)
- .SG - Singapore Network Information Centre (SGNIC)
- .TJ - Information Technology Center, .TJ ccTLD Manager (Tajikistan)
- .TW - Taiwan Network Information Center (TWNIC)
- .UZ - Computerization and Information Technology Developing Center, "UzInfoCom", .UZ ccTLD
- .VN - Vietnam Internet Network

Co-Sponsor Members (3):

- APNG - Asia Pacific Networking Group
- APNIC - Asia Pacific Network Information Center
- PAN - Pan Asia Networking, International Development Research Centre

* You may view the signed LOIs from the organizations at: www.dotasia.org/letters/

Part of DotAsia Organisation's mission is to directly reinvest surpluses in socio-technological advancement initiatives relevant to the Pan-Asia and Asia Pacific Internet community. The vision of the organisation is also to leverage the cooperative atmosphere of the Internet community in the region to encourage and accelerate overall growth in the region. In the wake of the catastrophe, we have seen the community come together even closer with compassion and dedication.

We believe that as DotAsia Organisation becomes better established, we will be able to bring even further contribution to these and other preventive and proactive regional efforts in the future. DotAsia Organisation looks very much forward to hearing from you and working with ICANN closely to move forward the DotAsia initiative in a positive and constructive manner for the community at large.

Sincerely,

Che-Hoo Cheng
Interim CEO
DotAsia Organisation

Concise Summary of the DotAsia Proposal



Describing the DotAsia Community

- The boundaries of the DotAsia community are clearly defined based on the ICANN Asia / Australia / Pacific region. Eligibility of domain registrations is restricted to legal entities within the boundary.
- The Asia Pacific Internet community is a thriving community and has seen many successful bottom up community based collaborative initiatives in the past and continuing forward. Examples include APNG, APNIC, APTLD and etc.

Appropriateness of the proposed governance structure of the DotAsia Organisation

- The DotAsia Organisation will be a not-for-profit, membership based organisation. Sponsor members are ccTLDs in the region, while Co-Sponsor members will be regional community based Internet / IT / Telecom organizations.
- A feature of the Pan-Asia and Asia Pacific Internet community is that ccTLDs are particularly involved in the promotion and advocacy of Internet usage and adoption in the local community. Moreover, many of the ccTLDs have a close and positive relationship with their respective local authorities and government.
- The proposed governance structure therefore is appropriate and balanced given the circumstances in Asia.

Support for the DotAsia Organisation and “.Asia” as a Sponsored gTLD

- The DotAsia Organisation has received a signed LOI from 23 members to join the initiative including 20 ccTLDs and 3 regional organizations. Many of the participating ccTLDs have direct or indirect relationships with the respective ministry or relevant authority. Examples include .af (Afghanistan), .bt (Bhutan), .cn (China), .in (India), .jp (Japan), .kh (Cambodia), .kr (Korea), .sg (Singapore), .tw (Taiwan), .vn (Vietnam), etc.
- Among the 20 ccTLDs that have joined the DotAsia initiative more than a handful have not participated previously at ICANN nor have they joined regional groups or even the GAC. The DotAsia initiative has already contributed to bringing them to the international forums to become more active in the community.
- The DotAsia Organisation have received in total more than 50 letters of support (signed or emailed) from a broad spectrum of organizations, including government departments (of special note is the support from HK), end-user groups, ISP associations and other community groups and respectable individuals.
- The governance structure for DotAsia is sound and well balanced with tremendous knowledge and expertise to manage a TLD registry in the interests of the community at large. The DotAsia community can be deterministically defined and the proposal meets the requirements set forth by ICANN in the RFP. The DotAsia community will benefit from a governing body that retains certain policy functionality that is most relevant to the stakeholders.

GAC ccTLD principles, government relations and DotAsia initiative

- The DotAsia initiative intends to take a bottom-up community based approach that is consistent with the successful Internet community initiatives in the Asia Pacific region.
- The DotAsia organisation welcomes participation and liaison from the GAC and believes in a coordinated and positive relationship.
- The DotAsia organisation does not believe that the initiative is in conflict with the GAC ccTLD principles or that the initiative would threaten the sovereignty of any economy in the region.

The mission and vision of the DotAsia Initiative

- The vision is to create a globally visible domain that embodies the successful, cooperative atmosphere established within the Pan-Asia and Asia Pacific Internet community to accelerate the overall growth of the region.
- The mission is to: establish and operate a regional Internet namespace with global recognition and regional significance, dedicated to the needs of the Pan-Asia and Asia Pacific Internet community; reinvest surpluses in socio-technological advancement initiatives; and, operate a viable not-for-profit initiative that is a technically advanced, world-class TLD registry.

Date: 19 April 2005

Dear ICANN Board Members,

In response to some recent confusing comments regarding .ASIA initiative, this is a short note of clarification.

.ASIA initiative is a membership-based not-for-profit organisation, not a “joint venture”. Membership is and will continue to be open to eligible organisations within the community on an inclusive and voluntary basis. .ASIA initiative is a bottom-up community initiative in Asia, with its humble beginnings attributable back to discussions since the turn of the millennium, through continued albeit intermittent efforts, leading up to the recent momentum to establish the .ASIA Sponsored gTLD. The community has embraced this initiative through tremendous support from a broad spectrum, functionally and geographically, of organisations (including some government related ones) and respectable individuals in the region.

Since the establishment of the initial board and initial advisory council by well-respected individuals from different areas of our community (see <http://www.dotasia.org/about/initialboard.html>), all are actively updated and involved, along with members and potential members, in the activities of .ASIA. It is worth to note that Afilias’ involvement as a registry services and technology provider is well defined and well understood, and it does not and will not interfere with policy formulation functions of the .ASIA registry (DotAsia Organisation Limited). The proposed policy formulation processes have also been well described in the .ASIA proposal to ICANN.

It is also worth to note that we have had and will continue to have communications with governments such as GAC members from our region so that they can understand .ASIA initiative more and we can address their concerns if any. So far, our communications with them are proven useful and we have received no objection from them. We will also continue to reach out and establish appropriate channels to facilitate regular communications with government representatives.

Our members and supporters share the dream of having an Asia-focus TLD. And, we want to leverage and bring together the collaborative spirit of the Internet community in Asia to further the continued growth in and around the region. We look very much forward to a positive decision from the ICANN board to progress the initiative, and to contribute in furthering the ICANN vision and reach in the Pan Asia and Asia Pacific region.

Sincerely,

A handwritten signature in black ink, appearing to be 'Afilias', written over a light blue horizontal line.

DotAsia Organisation Limited

Initial Board

Indra K. HARTONO
Hirofumi HOTTA
LIM Choon Sai
Tommy MATSUMOTO
Dr. SIR Jae-Chul
Richard ST. CLAIR
Dr. THAM Yiu Kwok
Prof. TSENG Shian-Shyong
YU Yang

Interim CEO

Che-Hoo CHENG

Initial Advisory Council

Izumi AIZU
R.K. ARORA
Prof. Vincent CHEN
Prof. Kilnam CHON
Khaled FATTAL
Dr. Kenny HUANG
Maria NG Lee Hoon
Paul WILSON
Prof. XUE Hong

6 June 2005

Dear GAC member:

We are writing to introduce to you the .ASIA initiative and to invite your thoughts and participation, especially from a governmental perspective.

The .ASIA initiative was established to bid for and create a new Sponsored gTLD called .ASIA through the ICANN process. As Asia emerges from the economic setbacks in previous years, and as local companies continue to expand their presence in the regional and global market place, we believe that the Internet will play an increasing and positive role towards sustained growth across Asia. A domain namespace that has global recognition with regional significance therefore would provide good value to the community at large.

DotAsia Organisation, the registry of .ASIA domain, will be a membership-based not-for-profit company incorporated in Hong Kong (for more information please refer to: <http://www.dotasia.org/>). The governance structure of DotAsia Organisation will take a community-based bottom-up approach, driven by ccTLDs (Sponsor Members) in the Pan-Asia and Asia-Pacific region and augmented by regional based Internet, telecom, IT or relevant community groups (Co-Sponsor Members, e.g. APNIC, APNG, etc.). Surplus proceeds will be reinvested back into socio-technical advancement initiatives such as capacity building, bridging of digital divide and other meaningful projects in the region. Currently, we have 23 members from around Asia, along with close to 50 support letters from a broad spectrum of respectable organisations and individuals in the region (for a list of our current members, please see: <http://www.dotasia.org/about/members.html>). The organisation is committed to continue to outreach and recruit new members to encourage even broader participation.

We believe that the involvement of ccTLDs provides strong expertise and experience with management of a TLD registry, especially in balancing the interests of public authorities and the public at large, while regional groups will provide tremendous value and knowledge with an international perspective within the community being served. Our initial board and initial advisory council are constituted of highly respectable individuals in the region (please see: <http://www.dotasia.org/about/initialboard.html>).

In order to further the relevance of the .ASIA initiative, we are working to establish an appropriate channel to facilitate communications with local governments in the region. In the recent ICANN Meeting in Mar del Plata, through the facilitation by the GAC Chair, an informal meeting with GAC members from the region was held, which led subsequently to the creation of a mailing-list where discussions could start to evolve. DotAsia Organisation would like to expand this forum to invite all GAC members from the region to continue the dialogue and communication channel with governments from the region. Your participation would be greatly appreciated and will help the .ASIA initiative to become more successful.

As part of the ongoing process, ICANN has asked us to study whether the .ASIA initiative complies with the recently revised "Principles and Guidelines for the Delegation and Administration of ccTLDs". DotAsia Organisation believes that the .ASIA domain does not challenge the sovereignty of any government, nor does it conflict with the provisions described in the GAC ccTLD principles for due consideration of local governments and national laws. Furthermore, DotAsia Organisation intends to solicit inputs through ccTLDs and GAC members in the region for an expanded reserved domain list to best serve the interests of and protect the rights of others in the community. Also, DotAsia Organisation will study the value and feasibility of augmenting the UDRP with local forums and how they relate internationally and with national laws. Nevertheless, we seek your feedback directly on the matter to ensure thorough and diligent consideration. Your comments and thoughts on this matter are greatly appreciated. We understand that your busy schedule and priorities may not allow you to respond in depth. But as we have to fulfil the timing and requirements imposed by ICANN, it will be much preferable and highly appreciated if you could respond by 31 July 2005. Please kindly let us know even if you have no comments or concerns at the moment.

We are also planning to hold another informal meeting with GAC members from the region at the Luxembourg ICANN Meeting held in July 2005. Details of the meeting will be announced later. We sincerely hope that you or any representative from your government will attend the meeting.

We look forward to hearing from you and discussing with you more about the .ASIA initiative. Meanwhile, please do not hesitate to connect with us should you have any concerns or comments regarding the initiative.

Sincerely,



Che-Hoo CHENG (Mr)
Interim CEO
DotAsia Organisation Limited

Address: Flat B, 19/F, Block 6, Villa Oceania, Ma On Shan, Hong Kong
Email: chcheng@dotasia.org
Phone: +852 9468-4252
Fax: +852 2124-8801



Date: 5 August 2005

RE: Update of the DotAsia Initiative on the Subject of Communications with Governments in the Region

Dear ICANN Board Members,

It is our pleasure to communicate with you again to provide updates on the DotAsia initiative. We believe that the initiative has come a long way since its former nascence back in year 2000. The community has matured further, has seen many successful initiatives being formed and executed, and came to understand the best way to pull together a TLD for the community. We believe that the DotAsia registry, leveraging the extensive knowledgebase in the community and based on its proposed structure, will be capable of continuing the successful tradition of a bottom-up organisation that maintains positive relations with governments in the region.

On 3 May 2005, the ICANN board passed a resolution to obtain further information from the DotAsia Organisation to explain its work and activities to involve governments of the region in its process and more importantly to avoid conflicting with the GAC ccTLD principles. Although we have not obtained official directives from the ICANN staff, the DotAsia organisation is proactively acting on this published resolution to provide you with this letter as an update for you with further information regarding the DotAsia initiative and its communications and activities with respective governments in the community.

As mentioned in previous updates to the ICANN board, the DotAsia initiative believes in the importance of maintaining communications with corresponding governments of economies in the region. This is in fact reflected in the construct of the DotAsia Organisation to ensure that governments of different economies will be able to participate in the process. More specifically that the DotAsia membership is driven by ccTLDs rather than economies. This is augmented by regional groups, and both core membership constituencies are knowledgeable and experienced in working alongside governments and operating in the balanced interests of public authorities and the public at large. Moreover, for most of the ccTLDs that have joined the initiative as members, we understand that the respective governments have been notified and positive communication established.

During the ICANN Meeting in Mar del Plata, an inaugural informal meeting between the DotAsia Organisation and GAC representatives in the region was convened. The meeting was facilitated by the GAC Chair and the GAC Secretariat and the response was encouraging (Note that this is prior to the board resolution on 3 May 2005). Subsequently, a mailing-list was created to allow for updates from the DotAsia Organisation and for discussion. Since then many more GAC representatives have been added to the mailing-list. An informal meeting with GAC representatives was also held during the Luxembourg ICANN Meeting. The meeting was very positive and constructive, and issues including reserved names, start-up of the registry were being discussed. There was a consensus around the room that it is an appropriate channel for the DotAsia Organisation to communicate with governments through GAC representatives in the region and that it is a suitable forum to continue to hold these communication meetings between the DotAsia Organisation and GAC representatives from the region in conjunction with future ICANN Meetings.

Upon reading the board resolution from the ICANN website, the DotAsia Organisation connected with the GAC Chair for further advice on how best to address the issue tabled. The GAC Chair, through the GAC Secretariat, subsequently initiated a communication in early June 2005 to GAC members, formally introducing the DotAsia initiative and providing materials describing the application (the previous document titled "Concise Summary of the DotAsia Proposal" that was presented to the board was circulated to GAC members). The note encouraged members to register their objection towards the DotAsia application should there be strong concerns from any government. No objection from any GAC member has been received.

Following up on the note, the DotAsia Organisation also took the initiative to proactively contact all GAC representatives of the region, through email, fax and phone, to further discuss with and explain to them the initiative (see attached letter from DotAsia Organisation to all GAC members from the region dated 6 June 2005). In response, we have received acknowledgements from many government representatives and have had positive correspondence with all whom communication was established. Furthermore, we have received formal letters from New Zealand, Iran, Afghanistan, Taiwan, Fiji, Georgia and Tajikistan stating that they do not have any objections to the proposal. Through our conversations, many other government representatives have also expressed that they are neutral to or see no matter for concern with regards to the DotAsia initiative. Most important of all, throughout the entire process, we have received no objection from any GAC member.

The DotAsia Organisation believes that the outreach and communications with governments in the community are ongoing efforts. The fact that the DotAsia application has been published publicly since March 2004 (for 17 months), that the board resolution has been published since May 2005 (for >90 days), that official communication to GAC members from both the GAC Chair and DotAsia Organisation have been sent since early June 2005 (for >60 days), and no objection from any government representative was received clearly demonstrates and reconfirms the non-threatening nature of the DotAsia proposal to governments in the region. We therefore strongly believe that the DotAsia initiative does not conflict with the GAC ccTLD principles and that it does not threaten the sovereignty of any government in the region.

Finally, the DotAsia Organisation believes that the most important aspect is that the Organisation has proactively reached out to the governments in the community and is committed to continue to do so to allow for a proper and accessible channel of communication between government representatives and the Organisation. This ensures concerns from respective governments can be heard and addressed by the DotAsia registry. The DotAsia Organisation is also proud to note that we have received formal correspondence from governments in the region that have not yet joined the GAC, including Afghanistan and Tajikistan, and we encourage them to join the GAC and the ICANN process.

As a brief conclusion on the matter, the Organisation believes that it is compliant with the fundamental premise of the GAC ccTLD principles (including section 8.3) of “selecting a designated manager for a domain that [is] able to do an equitable, just, honest, and competent job” and its core intent to provide a “framework which the different parties can use to help define the way they [the registry, the relevant government or public authority, and ICANN] work together”. Furthermore:

- The DotAsia Organisation has used all reasonable efforts to inform corresponding governments of the initiative and commits to continue to do so as the initiative progresses
- There have been no objections received from any relevant government representative for 17 months since the application was publicly published from the ICANN website
- Given the level of discussion regarding some other TLD applications when they are brought to the GAC, it is unreasonable to say that if there may be strong objections or concerns for the DotAsia application they may have been missed by representatives, especially since the initiative has been formally introduced to GAC members by the GAC Chair and DotAsia Organisation
- The DotAsia Organisation has established an appropriate channel and forum for continual dialogue with governments in the region (through meetings in conjunction with ICANN meetings and a mailing-list that currently includes GAC members from 16 economies in the region)
- The DotAsia Organisation believes that its bottom-up approach, along with close and cooperative government input and participation, is the best architecture for a “.ASIA” registry given the unique circumstances and dynamics of the community, and proven to be a successful model by well established regional groups in the community, such as APNIC, APTLD, APNG, etc.

The DotAsia Organisation is a membership based not-for-profit corporation. Its surplus proceeds will be reinvested back to the community for capacity building and other socio-technical initiatives. The Organisation embraces an inclusive approach for its membership and will remain open to constituent members to join and

participate. The DotAsia Organisation is also dedicated to continued outreach to the region and has geographical diversity requirements on the construct of its board of directors to ensure that a broad and inclusive perspective of the region. In fact, the DotAsia Organisation is proud to mention that it has through its startup activities so far brought participants from the region who has not previously participated in ICANN or other regional forums to these meetings and starting to contribute to these international efforts.

We urge the ICANN board to consider the tremendous expressed support the DotAsia initiative has in the community, the willingness and openness of the Organisation in working closely with ICANN and its constituencies (e.g. our proactive communication with the GAC, ALAC, GNSO, Registrar Constituency, etc. have been very well received by the respective constituencies), and most importantly, the true lasting value of a “.ASIA” domain for the community and for the Internet at large, as you continue your evaluation of the application. We are confident that you will find that the DotAsia initiative has been put together through a thorough and well thought process, with a structure that is reflective of the realities of the region and sensitive to the dynamics within the community.

The DotAsia Organisation believes that it has demonstrated an all-round competence of overseeing and involving relevant constituencies to ensure the successful operation and maintenance of the “.ASIA” TLD registry and looks very much forward to working closely with ICANN to move into contract and business negotiations phase of the application process.

Sincerely,



Che-Hoo CHENG
Interim CEO
DotAsia Organisation

Encl.

6 June 2005

Dear GAC member:

We are writing to introduce to you the .ASIA initiative and to invite your thoughts and participation, especially from a governmental perspective.

The .ASIA initiative was established to bid for and create a new Sponsored gTLD called .ASIA through the ICANN process. As Asia emerges from the economic setbacks in previous years, and as local companies continue to expand their presence in the regional and global market place, we believe that the Internet will play an increasing and positive role towards sustained growth across Asia. A domain namespace that has global recognition with regional significance therefore would provide good value to the community at large.

DotAsia Organisation, the registry of .ASIA domain, will be a membership-based not-for-profit company incorporated in Hong Kong (for more information please refer to: <http://www.dotasia.org/>). The governance structure of DotAsia Organisation will take a community-based bottom-up approach, driven by ccTLDs (Sponsor Members) in the Pan-Asia and Asia-Pacific region and augmented by regional based Internet, telecom, IT or relevant community groups (Co-Sponsor Members, e.g. APNIC, APNG, etc.). Surplus proceeds will be reinvested back into socio-technical advancement initiatives such as capacity building, bridging of digital divide and other meaningful projects in the region. Currently, we have 23 members from around Asia, along with close to 50 support letters from a broad spectrum of respectable organisations and individuals in the region (for a list of our current members, please see: <http://www.dotasia.org/about/members.html>). The organisation is committed to continue to outreach and recruit new members to encourage even broader participation.

We believe that the involvement of ccTLDs provides strong expertise and experience with management of a TLD registry, especially in balancing the interests of public authorities and the public at large, while regional groups will provide tremendous value and knowledge with an international perspective within the community being served. Our initial board and initial advisory council are constituted of highly respectable individuals in the region (please see: <http://www.dotasia.org/about/initialboard.html>).

In order to further the relevance of the .ASIA initiative, we are working to establish an appropriate channel to facilitate communications with local governments in the region. In the recent ICANN Meeting in Mar del Plata, through the facilitation by the GAC Chair, an informal meeting with GAC members from the region was held, which led subsequently to the creation of a mailing-list where discussions could start to evolve. DotAsia Organisation would like to expand this forum to invite all GAC members from the region to continue the dialogue and communication channel with governments from the region. Your participation would be greatly appreciated and will help the .ASIA initiative to become more successful.

As part of the ongoing process, ICANN has asked us to study whether the .ASIA initiative complies with the recently revised "Principles and Guidelines for the Delegation and Administration of ccTLDs". DotAsia Organisation believes that the .ASIA domain does not challenge the sovereignty of any government, nor does it conflict with the provisions described in the GAC ccTLD principles for due consideration of local governments and national laws. Furthermore, DotAsia Organisation intends to solicit inputs through ccTLDs and GAC members in the region for an expanded reserved domain list to best serve the interests of and protect the rights of others in the community. Also, DotAsia Organisation will study the value and feasibility of augmenting the UDRP with local forums and how they relate internationally and with national laws. Nevertheless, we seek your feedback directly on the matter to ensure thorough and diligent consideration. Your comments and thoughts on this matter are greatly appreciated. We understand that your busy schedule and priorities may not allow you to respond in depth. But as we have to fulfil the timing and requirements imposed by ICANN, it will be much preferable and highly appreciated if you could respond by 31 July 2005. Please kindly let us know even if you have no comments or concerns at the moment.

We are also planning to hold another informal meeting with GAC members from the region at the Luxembourg ICANN Meeting held in July 2005. Details of the meeting will be announced later. We sincerely hope that you or any representative from your government will attend the meeting.

We look forward to hearing from you and discussing with you more about the .ASIA initiative. Meanwhile, please do not hesitate to connect with us should you have any concerns or comments regarding the initiative.

Sincerely,



Che-Hoo CHENG (Mr)
Interim CEO
DotAsia Organisation Limited

Address: Flat B, 19/F, Block 6, Villa Oceania, Ma On Shan, Hong Kong
Email: chcheng@dotasia.org
Phone: +852 9468-4252
Fax: +852 2124-8801

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政府資訊科技總監
辦公室

香港中環花園道
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OFFICE OF THE
GOVERNMENT CHIEF INFORMATION OFFICER

THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

1/F, 2/F and 3/F, Murray Building,
Garden Road, Central, Hong Kong

本函檔號 Our Ref.: GCIO 1/55/27
來函檔號 Your Ref.: The .ASIA Initiative
電話 Tel: 2189 2228
圖文傳真 Fax 2511 5359

AUG 16 2005

2 August 2005

The Interim CEO
DotAsia Organisation Limited
Flat B, 19/F, Block 6, Villa Oceania
Ma On Shan, Hong Kong

Dear Mr. CHENG,

The .ASIA Initiative

We write in response to the ICANN's request for input from the GAC Members of the Asia Pacific on the .ASIA initiative.

We observed that there are different opinions and comments, both favourable and unfavourable, among the Internet community, governments and ccTLD registries concerned on the approaches and mechanisms for introducing the .ASIA top level domain namespace. We think that ICANN and DotAsia should address the issues and considerations before governments could take a definitive view on the support or otherwise for the proposal.

While we note the interest in the creation of a TLD for the Asian Internet community, we think that the .ASIA TLD should be regarded as a regional TLD and we have reservation for a private company to oversee and administer a regional TLD in general. Having said that, we do not have sufficient grounds to respond in the format as DotAsia proposed, that is support, have no objection, or object to, the Proposal.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Howard C. Dickson'.

(Howard C. DICKSON)

GAC Representative for Hong Kong SAR

c.c. Dr. Paul Twomey, President & CEO of ICANN



By Email & Fax

Office of the Government Chief Information Officer
The Government of the Hong Kong Special Administrative Region
1/F, 2/F and 3/F, Murray Building
Garden Road, Central
Hong Kong

Attn: Mr. Howard Dickson, Government Chief Information Officer

Email: hdickson@ogcio.gov.hk

Fax: +852-2511-5359

Date: 11 August 2005

RE: The .ASIA Initiative (Your Ref: GCIO 1/55/27)

Dear Mr. Dickson,

It is very good to hear from you about your thoughts on the .ASIA initiative. DotAsia Organisation believes in continuing this constructive discussion with yourself and other government representatives around the region to ensure the success of and the reflection of government perspectives in the ongoing policy development for the .ASIA registry. We view this as an ongoing process and look forward to your continued participation.

Towards this regard, we will continue to hold meetings with GAC members in the community in conjunction with ICANN meetings and host a mailing list for government representatives to voice and discuss issues regarding the registry. We welcome your participation in the meetings and will add you to our mailing list to provide you with updates from the Organisation as we progress.

From your letter, it seems that you have reservations for DotAsia Organisation being a private company. Would the concern perhaps be in the nature of understanding the constitution, membership openness and the governance of the Organisation more so than the technical registration structure? For example, in fact many international and local organisations participating in the management of Internet resources such as domain names and IP addresses are based on a private not-for-profit company structure, these include ICANN, successful Asia Pacific initiatives such as APNIC, APTLD, and also the .HK registry (HKIRC) among many others.

DotAsia Organisation will be a membership-based, not-for-profit, limited-by-guarantee company registered in Hong Kong with no shareholders. In the current proposed constitution, the Organisation will be comprised of 2 types of membership: Sponsor Members – ccTLDs in the community; and, Co-Sponsor Members – regional based Internet / telecom / IT related organisations in the community (e.g. APNIC, APNG, etc.). Membership will continue to be open for constituent organisations. Furthermore, the board of directors of the Organisation will be elected from the members and geographical diversity of board members will also be observed.

For a set of FAQ on the .ASIA initiative, please check out: <http://www.dotasia.org/about/faq.html>. For more detailed explanation of the proposed structure and governance of the Organisation, we encourage you to review the descriptions published as part of our application to ICANN at: <http://www.icann.org/tlds/stld-apps-19mar04/asia.htm>, especially the sections for “Sponsoring Organisation Structure”, “Openness and Transparency”, “Selection of Directors, Officers, Members, Staff”, Meetings and Communication, as well as “Policy-Making Process”. We are confident that you will find that the architecture is well thought and ensures

that the Organisation will not be unduly jeopardised due to its private-sector nature. Of course, there may be further room for improvement and therefore we continue to be open to comments from different constituencies of the community.

As a not-for-profit organisation, the company will have no shareholders per se, and will not issue dividends of any sort. This will be monitored in a transparent manner as described in the application by all stakeholders in the community. Surplus proceeds will be reinvested back into socio-technological advancement initiatives relevant to the Pan-Asia and Asia Pacific Internet community. A Proceeds Steering Committee will be appointed by the board of directors. In order for the funds to be effectively administered, DotAsia Organisation does not intend to create other initiatives on its own, but will look to leverage already well established initiatives to provide funding and sponsorship (e.g. UNDP-APDIP activities, IDRC-PAN, and other regional, international or local organisations).

We hope that this clarification alleviates your concern about DotAsia Organisation being a private company. Following the footsteps of very successful private-sector initiatives, especially as we have seen in the Asian community, we are confident that a bottom-up approach with due considerations and communications with corresponding governments will be an appropriate and sustainable architecture for the .ASIA registry. We would also like to take the opportunity to meet with you in person to further explain the initiative and to solicit feedback from the HKSAR Government to further improve on the .ASIA initiative.

Finally, it is good for us to understand that you are neutral to the initiative. We are also confident that through continued communication with open and transparent due process, we will be able to address your concerns and provide you with ongoing information about the Organisation to allow you to feel comfortable that your concerns from the HKSAR Government perspective are being addressed appropriately.

Again, we are glad to hear from you and are enthusiastic to see to it that your concerns are addressed. We look forward to meeting with you as well as to further explain to you the initiative to further coordinate and cooperate with the HKSAR Government as we embark on this remarkable journey to create a meaningful TLD for the Pan-Asia and Asia Pacific Internet community.

Sincerely,



Che-Hoo Cheng
Interim CEO
DotAsia Organisation

cc: Dr. Paul Twomey, President & CEO, ICANN
Mr. Stephen Mak, Deputy Government Chief Information Officer, OGCI



Internet Corporation for Assigned Names and Numbers

31 July 2004

Amadeu Abril i Abril
Associació puntCAT
Carrer Girona, 63; 2on., 1a.
Barcelona E-08009
Catalonia
Spain

via email: amadeu@abril.info

Re: New sTLD Applications: Status Report

Dear Amadeu:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The .cat application was found by the evaluators to satisfy the baseline criteria in the RFP in terms of technical, business/financial and sponsorship issues. As you are aware, however, the Governmental Advisory Committee (GAC) has asked ICANN to “avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.” (See section 8.3 of the “Principles for the Delegation and Administration of Country Code Top Level Domains, at <http://www.icann.org/committees/gac/gac-ccldprinciples-23feb00.htm>) (February 2000). You will recall that the questions posed to you during the evaluation asked you to describe any approaches to regional or national governments for support, and their reactions to your request. While you helpfully provided some information, it does not meet the standard of “agreement with the relevant governments or public authorities.”

Pursuant to your agreement in your application that ICANN may request “any documentation or other information that, in ICANN’s sole judgment, may be pertinent to [your] application,” we are requesting you to obtain letters from the appropriate Ministers or Heads of Agencies of the Government of Spain and the Government of Andorra indicating if they are “in agreement” with the designation of an sTLD for the “Catalan Linguistic and Cultural Community.” This request is based on the statement in your application that Catalan is spoken predominantly in Spain, and that it is also the sole official language of Andorra.

Once you are able to obtain the agreement of these governments, ICANN would be in a position to enter into technical and commercial negotiations with respect to the new sponsored top-level domain. After the successful conclusion of such negotiations, the ICANN Board of Directors would be requested to authorize the ICANN President and General Counsel to conclude and implement a TLD Sponsorship Agreement.

You shall be contacted as soon as possible with any additional information. In the meantime, please do not hesitate to contact me if you have any questions.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Manuel Sanromà i Lucia
John Jeffrey, ICANN General Counsel



The Internet Corporation for Assigned Names and Numbers

5 October 2004

Excmo. Sr. D. Francisco Ros Perán
Secretario de Estado de Telecomunicaciones y para la Sociedad de la Información
Palacio de Comunicaciones
C/ Alcalá,50
E-28071 Madrid
Spain

VIA FACSIMILE and E-MAIL: +34 91 346 27 77
Email: Elena.Lorente@setsi.min.es

Dear Excmo Dr. D. Francisco Ros Perán,

I am writing to you on behalf of the Internet Corporation of Assigned Names and Numbers (ICANN), with regard to the application for the sponsored Top-Level Domain (sTLD) .cat.

As you may be aware, ICANN is selecting a series of sTLDs. By sTLD, we mean a sponsored Top Level Domain, which reflects support from the audience it is seeking to serve. As stated in ICANN's request for proposals for sTLDs:

The proposed sTLD must address the needs and interests of a clearly defined community (the Sponsored TLD Community), which can benefit from the establishment of a TLD operating in a policy formulation environment in which the community would participate.

Applicants must demonstrate that the Sponsored TLD Community is:

- Precisely defined, so it can readily be determined which persons or entities make up that community; and
- Comprised of persons that have needs and interests in common but which are differentiated from those of the general global Internet community.

[The ICANN selection process and criteria for new sTLDs can be found at: <http://www.icann.org/tlds/new-stld-rfp/new-stld-application-part-15dec03.htm>.]

As you know, Associació puntCAT has applied for a .cat TLD for the Catalan linguistic and cultural community. The publicly disclosed portion of the puntCAT application can be found at: <http://www.icann.org/tlds/stld-apps-19mar04/cat.htm>.

We are currently in the midst of this selection process. The .cat application was found to have successfully met the baseline criteria described in the application information by a team of independent evaluators.

I am writing to you concerning advice received from ICANN's Government Advisory Committee (GAC), in particular the *GAC Principles for the Delegation and Administration of Country Code Top Level Domains*. (The principles can be found at: <http://194.78.218.67/web/docs/cctld/cctld.txt>.)

Section 8 of those principles, *Principles Concerning the Communication between the Relevant Government or Public Authority and ICANN*, and in particular, section 8.3 states that:

Recognising ICANN's responsibilities to achieve consensus in the creation of any new generic TLDs, ICANN should avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well-known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.

Given this Principle, and that ICANN takes the guidance of the GAC seriously, a formal letter stating from your government that there is no opposition or reservations regarding the creation of the new TLD .cat is important.

We would request that you provide your position, in agreement or in objection, opposition, or concern, about the proposed new TLD, .cat. Please respond directly to me via the contact details provided below. Thank you in advance for taking the time to consider this matter.

Sincerely,



Dr. Paul Twomey
President and CEO
ICANN
4676 Admiralty Way, #330
Marina del Rey, California 90292
USA

Email: Twomey@icann.org
Facsimile: +1.310.823.8649



The Internet Corporation for Assigned Names and Numbers

22 October 2004

Sr. Daniel Bastida
Director del Departament de la Societat de la Informació i Projectes Estratègics
Govern d'Andorra
Av. Sta. Coloma 91
AD-500 Andorra la Vella
Andorra

VIA FACSIMILE: +376 729 401, and EMAIL: dbastida@andorra.ad

Dear Sr. Daniel Bastida:

I am writing to you on behalf of the Internet Corporation of Assigned Names and Numbers (ICANN), with regard to the application for the sponsored Top-Level Domain (sTLD) .cat.

As you may be aware, ICANN is selecting a series of sTLDs. As definition, an sTLD reflects and supports the audience it is seeking to serve. As stated in ICANN's request for proposals for sTLDs:

The proposed sTLD must address the needs and interests of a clearly defined community (the Sponsored TLD Community), which can benefit from the establishment of a TLD operating in a policy formulation environment in which the community would participate.

Applicants must demonstrate that the Sponsored TLD Community is:

- Precisely defined, so it can readily be determined which persons or entities make up that community; and
- Comprised of persons that have needs and interests in common but which are differentiated from those of the general global Internet community.

(The ICANN selection process and criteria for new sTLDs can be found at: <http://www.icann.org/tlds/new-stld-rfp/new-stld-application-parta-15dec03.htm>.)

As you know, Associació puntCAT has applied for a .cat TLD for the Catalan linguistic and cultural community. The publicly disclosed portion of the puntCAT application can be found at: <http://www.icann.org/tlds/stld-apps-19mar04/cat.htm>.

We are currently in the midst of this selection process. The .cat application was found to have successfully met the baseline criteria described in the application information by a team of independent evaluators.

The reason I write to you concerns ICANN's Government Advisory Committee (GAC) and the *GAC Principles for the Delegation and Administration of Country Code Top Level Domains*. (The principles can be found at: <http://194.78.218.67/web/docs/cctld/cctld.txt>.)

Section 8 of those principles, *Principles Concerning the Communication between the Relevant Government or Public Authority and ICANN*, and in particular, section 8.3 states that:

Recognising ICANN's responsibilities to achieve consensus in the creation of any new generic TLDs, ICANN should avoid, in the creation of new generic TLDs, well known and famous country, territory or place names; well-known and famous country, territory or regional language or people descriptions; or ISO 639 Codes for representation of languages unless in agreement with the relevant governments or public authorities.

ICANN seriously considers the guidance provided by the GAC. Given this Principle, a formal letter from your government stating whether there is any reservation or opposition regarding the creation of the new TLD .cat is useful for a determination of whether the .cat application conforms to section 8.3 above.

We would request that you provide your position, in agreement or in objection, opposition, or concern, about the proposed new top-level domain .cat. Please respond directly to me at the information provided below. Thank you in advance for taking the time to consider this matter.

Sincerely,



Dr. Paul Twomey, CEO
ICANN
4676 Admiralty Way, #330
Marina del Rey, California 90292
USA

Email: Twomey@icann.org
Facsimile: +1.310.823.8649

cc: Sr. Amadeu Abril i Abril



Govern d'Andorra
**Dept. de la Societat de la Informació i
Projectes Estratègics**

Dr. Paul Twomey, CEO
ICANN
4676 Admiralty Way, #330
Marina del Rey, California 90292
USA

Dear Dr. Paul Twomey,

In reply to your letter dated the 22nd of October 2004, requesting our position about the proposed new top-level domain *.cat*, we are pleased to inform you that the Government of Andorra do not have any objection to grant the TLD *.cat* domain to use it for the Catalan linguistic and cultural community.

Sincerely,

Daniel Bastida
Director
Departament de la Societat de la Informació i Projectes Estratègics
Govern d'Andorra
Av. Santa Coloma, 91
AD500 Andorra la Vella
Andorra

Email: dbastida@andorra.ad
Fax: +376.729.401

Andorra la Vella, November 15, 2004



Dr. Paul Twomey
President & CEO
ICANN
4676 Admiralty Way, 330
Marina del Rey, CA 90292
Estados Unidos de América

Madrid, 24 de noviembre de 2004

Muy Sr. mío:

Hago referencia a su carta de fecha 5 de octubre de 2004, en la que solicita conocer la opinión del Gobierno de España en relación con la creación de un nuevo dominio de primer nivel ".cat".

Desde la perspectiva del desarrollo de la Sociedad de la Información en España, entendemos que la existencia de un nuevo dominio en Internet ".cat" resulta neutral.

Por lo tanto, se comunica que no existen objeciones por las que el Gobierno de España deba oponerse a la creación de un nuevo dominio de Internet ".cat".

Atentamente,



Internet Corporation for Assigned Names and Numbers

31 July 2004

Brian Johnson
Employ Media LLC
3029 Prospect Avenue
Cleveland, Ohio 44115

via email: bjohnson@calfee.com

Re: New sTLD Applications: Status Report

Dear Mr. Johnson:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The .jobs application was found by the evaluators to satisfy the baseline criteria in the RFP relating to business/financial issues. The evaluators have raised questions regarding the technical criteria that will need to be addressed with you. ICANN is preparing the report so that you may review and address any remaining technical issues in order for the application to move forward. With respect to sponsorship criteria, an initial report has been written but there are additional steps required before the evaluation will be considered completed. If it is determined that the technical and sponsorship criteria have been met, the application will proceed immediately into technical and commercial negotiation. We shall be in contact with you during the next four weeks to discuss these issues and the progress of your application.

Thank you for your patience and understanding as we work diligently to examine them.

You shall be contacted as soon as possible with additional information. In the meantime, please do not hesitate to contact me with any questions.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Scott Finerman
John Jeffrey, ICANN General Counsel

Teleconference Meeting re: .jobs sTLD Application

Date: October 14, 2004

Subject: .jobs Application, Technical Report and .jobs Response

Participants, Discussion & Conclusions

Participants

JOBS Team: Brian Johnson, Ray Fassett, Scott Finerman & Joe Waldron

ICANN: Kurt Pritz

Evaluation Team: 3 Technical Team Evaluators

Project Manager & Call leader: Miriam Sapiro

Discussion

1. Technical Validation Process

JOBS explained that it determines (i) first whether an applicant is a “qualified applicant” and (ii) then whether the potential registrant is an employer. The applicant must provide a “qualification document” to support a claim that the registrant is an employer (e.g., payroll receipts, list of employees, newspaper advertisement). The Technical Team pointed out that the concept of “employment” is not well defined in all countries, and JOBS agreed. JOBS responded that it will require appropriate documentation from an applicant and will ask a “Verification Partner” for assistance in evaluating employer status in some cases. JOBS expects that most (80%) applicants can be verified within a few days. The Technical Team pointed out that SMEs may not be able to produce proof of employer status. JOBS agreed to be flexible and to work with such applicants. JOBS confirmed that it is not/not looking to governments or official entities for evidence of validation, although such documentation is acceptable.

The Technical Team asked how the registrant, reseller, registrar and registry will communicate, noting that there was no such description in the proposal. JOBS explained that:

- 1 The only possible answer with respect to validation will be “yes” or “no.”
- 2 Employ Media is the sole external validator both during and after start-up, although after start-up some registrars may wish to be able to receive a “qualification document” and pass it to Employ Media for validation.
- 3 Employ Media has the resources to have someone communicate in languages other than English (e.g., Tamil) if that is necessary to validate employer status.
- 4 Employ Media will maintain an external database and data center for documentation
- 5 Validation information will not be held at the registry; it will be escrowed and maintained in multiple places.
- 6 Employ Media may communicate with the applicant by telephone, fax or regular mail.

JOBS agreed to clarify precisely how it will communicate with applicants, including the level of security for such channels, and the hard timers that it will use to deter abuse of the validation

system (e.g., how long each side can take to respond and progress through each step, and how long someone can hold a lock on a name with limited progress).

JOBS confirmed that there is no/no correlation between a .jobs registration and registration in another TLD, i.e. no “inheritance.”

2. Reserved List

JOBS agreed to describe the process to be used to produce reserved lists on a global basis, particularly lists that include non-English terms. It will provide more information on how it will reach out to the global community to determine how best to develop a list of reserved names to propose to ICANN.

Conclusions:

1. JOBS will specify in writing how it will address the question of validation of employers on a global basis when the applicant is not readily able to obtain a valid “qualification document,” including, for example, small and medium enterprises from the developing world.
2. JOBS will clarify in writing precisely how it will communicate with an applicant and/or the applicant’s registrar, and specify the level of security for all such channels, and the hard timers that it will use, including to deter abuse of the validation system.
3. JOBS agreed to provide more information about the process that would be used to produce lists of reserved names, including non-English terms, to propose to ICANN.

Drafted: MSapiro (10/14/04)

Approved: BJohnson (10/27/04)

TECHNICAL TEAM COMMENTS

ON .jobs SUPPLEMENTAL MATERIALS

Since we issued our Evaluation Report in July, we have had a number of document exchanges, and one teleconference, with the JOBS team.

During this process the applicant has been able to address a number of the issues we raised in our July report. In particular, the applicant has laid to rest the issue of global verification. The JOBS team has provided a description of a globally based, fair and reliable process that is not biased against any region of the globe. The applicant has also convinced the Evaluation Team that it understands the complexities of dealing with entities in different countries, cultures and languages.

We want to compliment the applicant on the high level of detail provided in the supplemental material, and its willingness to provide it. Many of the original omissions may have been caused by the size and other limitations of the RFP. It was quite helpful to the evaluators to review internal processes in a diagram rather than text format.

With respect to the task of managing the creation of reserved lists in multiple languages, the applicant intends to use the services of a well-known international human resources consultant firm and work closely with ICANN. This satisfies the concerns stated in our July report about this issue.

At this point the Evaluation Team has two remaining concerns about the JOBS application: [A] namespace use and [B] data transfer technology between the registry and the external applicant validator. On the second issue, the data transfer mechanism currently proposed involves a daily batch file of registration requests, and the external validator using a web form to approve or reject each application. We are concerned that this process is prone to errors and therefore recommend that, in any negotiations with the applicant, ICANN require the external validator to use bi-directional EPP to communicate with the registry.

With respect to the first issue of [A] namespace use, it is non-technical. As we noted in our July report:

This proposal for a sponsored TLD intertwines content with the right most label of the domain name (i.e. making it clear the domain name is related to things which have to do with "jobs" for an already existing domain name <existing-domain>.jobs). The team has some concern that the proposed change in how the job market operates may be confusing or disruptive for job seekers. The activity of searching for a job is frequently aimed at the websites of the target companies. In this case, creating a new namespace may actually make it harder for those in

search of a job to find one. While this is not primarily a technical concern, it would constitute a use of the DNS that could complicate, rather than simplify, use of the Internet

Our conclusion is therefore that the JOBS application meets all technical criteria for approval. We leave it to the ICANN Board the task of determining if the issue of [A] namespace use is a “showstopper” or not. The Evaluation Team believes that the .JOBS admission criteria and the high cost of registrations are mitigating factors.

Summary

The Technical Team views the .JOBS application as complete and sufficient from a technical standpoint. The single explicitly technical issue raised above can be handled during contract negotiations. The other issue mentioned above raises larger issues that we do not view as strictly within our mandate. For these reasons, we conclude that the application is technically sound and meets the RFP criteria for technical approval.



Internet Corporation for Assigned Names and Numbers

31 July 2004

Steve Linford
The Anti-Spam Community Registry
Phoenix, Taggs Island
London, TW122HA
United Kingdom

via email: linford@spamhaus.org

Re: New sTLD Applications: Status Report

Dear Mr. Linford:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The independent evaluators concluded that the .mail application did not satisfy the business/financial or sponsorship criteria of the RFP, and that additional review would be necessary before it could be determined whether the proposal meets the technical criteria. ICANN will provide a copy of the evaluators' reports to you within one week, so that you may review them. After that review, ICANN would be pleased to conduct a follow-up meeting with you to discuss your application in more detail so that you may express plans to remedy non-compliant portions of the application. Since portions of the report will be published at the culmination of the process with all ten applicants, we will also request you indicate any information relating to technical or business/financial issues that you have already designated as confidential/propriety, so that we may take that into account in preparing the reports for publication.

As you may know, ICANN is undertaking a targeted development of strategy directed toward a streamlined process for the introduction of new gTLDs. You are most welcome to consider whether the issues identified as concerns could be addressed before any new gTLD round, and whether you would therefore like to be considered again at that time.

Please do not hesitate to contact me if you have any questions. I sincerely regret that I cannot provide you with better news at this time.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: John Jeffrey, ICANN General Counsel

Business and Financial Evaluation Team – Supplementary Questions

The Business and Financial Evaluation Team has carefully reviewed the supplementary information provided by the .MAIL Applicant, Spamhaus, on December 16, 2004. There are some questions that remain unanswered, or which have not been answered fully. These questions fall into four categories.

- A. Capital To Sustain The Operation**
- B. Management Commitment And Capabilities**
- C. Demand For The Domain**
- D. Pricing And Revenue Projections**

The Team's specific questions are:

A. Capital - Does Spamhaus have sufficient capital to sustain the operation?

1. One of our questions last year asked for evidence that eNom has sufficient financial resources to be in existence five years from now. Part of the answer was provided by eNom directly to us at Spamhaus' request. It is unclear to us whether that information remains valid. Please update the information that was provided at the time and provide us with any new evidence that would clearly indicate eNom's projected financial stability.
2. The supplementary information indicates that if the \$500,000 due to VeriSign for the first year of operation is not met by paid registrations, eNom has agreed to pay any shortfall. Please provide documentation from eNom that clearly indicates they have made this commitment.

B. Management - Does Spamhaus have sufficient management commitment and capabilities to run the operation?

3. The supplementary information refers to "commitments" and support from "most of the entities listed under the proposal's 'Initial Directors, Officers, and Other Staff'" paragraph," Bell Canada, Nortel, Open Wave, "producers of major email software and hardware" and others. Please provide us with documentation from these entities that indicates what they have committed to do.
4. Please provide documentation that clearly states the commitments you have received from VeriSign and eNom that they would be willing to take over and run the .mail domain in the event of a failure of the Sponsoring Organization (SO). We are interested specifically in who would take over the "vetting" functions of the SO in the event that the SO ceases to exist.
5. The original application states that the SO staff will be drawn initially from Spamhaus' current volunteer staff. Which specific people will be the initial staff of the SO? Who, within the SO, will be responsible for which functions? How will these SO staff manage coordination between the RO and the XO? What are the relevant backgrounds and expertise of these people, as they relate to the management and operation of this new TLD? What level of commitment will they make to this endeavor prior to funds being available to pay their salaries? Please specifically address the question of how we can be assured that a staff of volunteers will give this endeavor sufficient time and priority relative to their other commitments.

C. Demand - Will there be sufficient demand for this domain to make it financially viable?

6. All of the application materials make the argument that this domain will be of great value to large senders of e-mail, and specifically mention companies such as Amazon. Have you been able to obtain letters of support or evidence of demand for this domain from such large senders of e-mail? If so, please provide them. If not, please explain why.
7. The supplementary material mentions that you have commissioned a report from an independent 3rd party consulting firm to support your assessment of market demand. What firm has been

engaged to do this work? What is the methodology they are employing? When will their work be completed and the results shared with the Team?

8. There is increasing awareness among messaging providers about taking responsibility for setting up their email systems using better security and authentication systems on their networks so that they will not be overrun by spammers, for example AOL has published details about its approach in ASTA (Anti-Spam Technical Alliance) documents at <http://postmaster.info.aol.com/asta/proposal.html>. Do you believe this trend will have an impact on demand for the .mail domain? Please explain why or why not.
9. We understand your assessment of why you believe the objectives of .mail could not be achieved using a DNS blocking system or a whitelist system. More and more registrars are, nonetheless, moving toward using them. Will this move not affect your potential market? You have stated “The use and worldwide acceptance of a DNSWL would also be far slower than use and worldwide acceptance of a widely known and recognizable concept such as a .mail TLD.” What do you base this prediction on?

D. Pricing – Does your proposed pricing support Spamhaus’ projections for revenue for the .mail domain?

10. The .mail application indicated that the price for service would be \$1995 per name per year. The Frequently Asked Questions document included with the supplementary information indicates that domains will cost approximately \$400 per domain per year, with a five year required registration period. Which of these numbers represents the price you plan to initially charge? If the latter, please provide us with the anticipated changes to the revenue projections for years after the first year and to the budget originally submitted with your application.
11. Your FAQ document states “The price may vary depending on the Registrar one uses.” Is the \$400 per domain per year the cost to the Registrar?



Internet Corporation for Assigned Names and Numbers

31 July 2004

Ritva Siren
Nokia Corporation
P.O. Box 226
Keilalahdentie 2-4
Helsinki, Province FIN-00045
Finland

Via Email: ritva.siren@nokia.com

Re: New sTLD Applications: Status Report

Dear Ms. Siren:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The .mobi application was found by the evaluators to satisfy the baseline standards in the RFP relating to business/financial criteria. The evaluators have raised questions regarding the technical criteria that will need to be addressed with you. ICANN is preparing the report so that you may review and address any remaining technical issues in order for the application for .mobi to move forward.

With respect to sponsorship criteria, an initial report has been written but there are additional steps required before the evaluation will be considered completed. If it is determined that the technical and sponsorship criteria have been met, the application will proceed immediately into technical and commercial negotiation. We shall be in contact with you during the next four weeks to discuss these issues and the progress of your application.

Thank you for your patience and understanding as we work diligently to examine them.

You shall be contacted as soon as possible with additional information. In the meantime, please do not hesitate to contact me with any questions.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Reinhard Kreft, Vodafone
Rick Fant, Microsoft
Lauri Hirvonen, Nokia
Christian Mueller-Tracht, Vodafone
Mike Weirs, Microsoft
John Jeffrey, Esq., ICANN General Counsel

mTLD Consortium response to ICANN evaluation report

Sponsorship Section

I. Introduction

The mTLD Consortium (the “Consortium”), which consists of 3, Telecom Italia Mobile, T-Mobile, Orange, the GSM Association, Ericsson, Samsung, Panasonic, HP, Sun, Nokia, Vodafone, and Microsoft, has reviewed the ICANN independent evaluator report of 10 August 2004. We concur with the premise that effective sponsorship is critical to the success of the proposed TLD, and we are therefore pleased to have this opportunity to respond to the questions raised by the evaluators and to clarify our previous submissions in response to the evaluation.

Some of the information contained in this response is proprietary and confidential, and we respectfully request that ICANN and its evaluators maintain in confidence appropriately marked portions of this text.

II. Response Scope

ICANN requested the evaluation team to apply 9 selection criteria, divided into two major sections (“Sponsorship Information” and “Community Value”), to the materials submitted by applicants for a sponsored top level domain (“sTLD”). The evaluators concluded that the materials submitted by the Consortium met 5 of the 9 criteria (1B, 2B, 2C, 2D & 2E) and in this response, therefore, we address these only briefly. This response focuses on the remaining four criteria, about which the evaluators raised questions:

- 1A. Definition of a Sponsored TLD Community;
- 1C. Appropriateness of the Sponsoring Organization and the policy formulation environment;
- 1D. Level of Support from the Community; and
- 2A. Addition of New Value to the Internet name space.

We also address two areas that we consider as important for our application and the evaluation of new TLDs.

- Rationale for our request for a Sponsored rather than a Generic TLD; and
- The availability of alternative technical solutions to meet the customer need.

III. Executive Summary

The attached document addresses the evaluators’ specific comments and questions in detail. Our key issues are discussed below:

1. Sponsored Versus Generic TLD

The evaluators did not specifically discuss the relative merits of a generic TLD over a sponsored TLD for the mobile communications industry. We understand, however, that this issue may be of general interest to the ICANN Board, which is ultimately responsible for the selection of new

sTLDs. Whilst it might seem attractive to postpone consideration of TLDs proposed by commercially oriented communities to a generic round, we believe that this would be a mistake. The interests of our distinct and well defined community, and the consumers who use services and products provided by that community, will be far better addressed in an sTLD setting. This is because policy requirements, which cannot reasonably be met in existing TLDs at the second level or in new generic TLDs, can be enforced by way of a charter with ICANN for the benefit of consumers. The fact that the sponsored community is potentially a large one does not undermine the value of collective policy development. By “going generic,” the TLD would lose the capacity and commitment needed to address pressing needs of this major community. Moreover, as active participants in the mobile communications market, Consortium members are especially qualified to understand the status and future of mobile technologies and services required to keep necessary definitions and policies up to date and functional without stifling competition.

2. Alternative Technical Solutions to Meet Customer Needs and Addition of New Value to the Internet Name Space

The Sponsorship ET appears to believe that existing technical solutions could eventually provide equally valid options to serve customers and that “.mobi” is not needed. This point is used to argue that there is insufficient new community value through the “.mobi” name space.

Regarding the future and use of top level domains, there are many visions. ICANN and the Internet community as a whole have so far, to its credit, refused to permit the domain name system to become the captive of any one vision or actor. Instead, ICANN has championed the right of customers to choose solutions that meet their needs, and has encouraged innovation through robust competition. There is no need to make an either/or choice.

We believe that the mobile TLD offers consumers a legitimate and appropriate choice, consistent with recognized industry standards, by creating a clearly recognizable designation for enhanced services that can be implemented today and be easily understood by our customers. The sponsoring community envisions the “.mobi” designation as a widely recognized indicator of readily available enhanced services dedicated to the needs of mobility-enabled users, for a broad variation of user interface capabilities, and dynamically changing user situations. This benefits the mobile sponsored community and the Internet as a whole, while conforming to established technical and policy standards in the Domain Name System.

Altogether, the purpose and the promise of a “.mobi” domain is to bring the benefits of the Internet, within the easy reach of mobile customers, a very large proportion of whom are not well served by the current PC supporting Internet. A considerable percentage of mobile subscribers do not own and are not expected to own PCs in the near future. This situation is especially prevalent in developing countries, where Internet access may be especially important to industry and consumers. We believe that the new value of “.mobi”, in addressing these needs, and the resulting benefit to both the sponsoring community and consumers of mobile communications are substantial and meaningful.

3. Definition of the Sponsored Community.

The evaluations raised questions about how the definition of the sponsoring community would deal with new and emerging stakeholders in the mobile communications industry. Such stakeholders are virtually certain to emerge as a consequence of changing technology. It is important to repeat that day-to-day decisions are the responsibility of the Registry Company in accordance with the rules & procedures set by the Registry Company with ICANN. Should the board fail to accommodate the participation of emerging members of the mobile communications industry, it will be accountable to ICANN for charter violations and to competition authorities for anti-competitive behaviour.

Given these accountability obligations, the mechanism of the MAG permits total flexibility and the continuous ability to evolve. For example, membership in the MAG, which embodies the sponsoring community, is intended to be open to all self-identified participants in the mobile industry - operators, equipment providers, content and application providers, not-for-profit associations, entrepreneurs, academics, university consortia, researchers, and sole proprietors. While the entry barriers for MAG participation are reasonably low - requiring, for the most part, little more than a commitment of time and communications related costs - members of this community are all economic actors who must make rational choices about where they allocate resources. The fact that community members are self-identified does not, in our view, undermine the precision of the definition of the sponsored community. Rather, it recognizes and embraces the fact that as technology changes new industry stakeholders will emerge and that if it is in their interests to do so, they will participate in the MAG as members of the sponsoring community. It is also the best way to guarantee that new views will find their way into the Registry Company development process.

4. Policy Formulation Environment

The evaluators questioned the allocation of decision-making authority among members of the sponsoring community. Implicit in this concern seems to be a fear of ceding - at least at a theoretical level - final decision-making to a private investor group. The evaluators ask how the board can be held accountable to its sponsoring community when policy development mechanisms like the Membership Advisory Group (MAG) and the Policy Advisory Board (PAB) ultimately have only advisory authority. According to the report, the evaluators wondered whether there could be a bias in favour of the financial backers of the joint venture, how the decision-making structure would promote innovation and benefit consumers, and whether the ultimate authority of the board would discourage community participation in the policy development process or cast doubt on the fairness of decisions made by the board.

These are fair - and indeed important - questions. They are, in fact, the very questions that ICANN wrestled with in the course of its evolution and reform process - how to balance the organization's commitment to bottom-up decision-making and consensus building with the realistic need to reach closure on issues and move forward. In addition, the ICANN RFP reasonably demanded that prospective sTLD operators agree to accept liability for their operations, and to protect ICANN from liability for these operations. It is incumbent on prudent operators to demand a certain level of control in order to minimize its liability. In striking the right balance here, the Consortium consciously adopted the model embraced by ICANN in the course of its evolution and reform activities. The ".mobi" charter grants authority to the MAG and PAB to initiate policy development and to comment on all board-initiated policy development. Under the charter, the board cannot adopt policy that is inconsistent with the advice of the PAB without first publicly and transparently explaining its decision to do so, and

engaging in further discussions with the advisory board before acting. In the ICANN process, an individual or entity adversely affected by a Board decision can request reconsideration and ultimately appeal to a national court to intervene. In the case of “.mobi”, ICANN itself serves as a check on the board's decision-making authority in so far as ICANN typically grants rights to operate a sponsored TLD conditional upon the applicants' commitment to remain responsive to its sponsoring community.

In keeping with the ICANN model, the activities of the Registry Company would clearly be subject to the authority of national and multinational competition bodies. Countries in Europe, Asia, and the Americas have well-developed views on the permissible scope of industry standard-setting activities, and have shown plenty of enthusiasm for enforcing these rules.

On governance issues there are some very important aspects of the Consortium's proposal related to control and policy development. We have shared, in the past, certain confidential materials (with the reservation to request these remain confidential) about our shareholder agreement to demonstrate that the Board will be balanced and that no single investor will have the ability to control the joint venture board. Nor will the current Consortium as a group be able to control the joint venture board. Likewise, the governance documents ensure that no single investor sector (e.g. mobile operators or equipment providers) will be able to dominate the board. In our application we have provided detailed information of the extent to which the members of the Consortium include a wide diversity with respect to industry sector, functionally, and geographically.

IV. Summary

In summary, we are grateful for the opportunity to address here all the issues raised by the evaluators, as well as any other questions or concerns the ICANN staff or board may have with respect to our application for the “.mobi” sTLD. In this executive summary, and in the detailed responses that follow, we hope that we have clearly articulated our strong beliefs that:

- The “.mobi” TLD will add substantial new value to the Internet, to the Internet name space, to consumers of mobile communications, and to the Internet as a whole. It will remedy the current failure of “Internet over mobile” to live up to consumer.
- The “.mobi” TLD is a key to unlocking that value. Whilst other ways of unlocking that value may emerge, they have yet to do so, and we are not persuaded that this situation will change in the near term. Moreover, the “.mobi” approach does not preclude any such solution, and we urge ICANN to remain committed to the principle it has long embraced to encourage open innovation and facilitate customer choice. The mobile communications marketplace has the clear potential to support a variety of competing approaches, and consumers will benefit from the existence of such alternatives.
- A Sponsored TLD is necessary to achieve the desired consumer benefits efficiently. Whilst participation in the sponsoring community may change over time, this does not distinguish the mobile community from any other industry or even from the industry groups to whom ICANN has already delegated sTLDs. The “.mobi” application should not, therefore, be rejected for that reason.
- The Registry Company will conduct its policy development activities in an open and transparent manner, similar to the manner in which ICANN itself operates. The board will be accountable to the MAG and PAB, to ICANN itself, and to competition authorities around the world with respect to its compliance with the JV charter and to competition law. The fact

that the charter identifies the board as the ultimate decision-making authority merely reflects the realization that ICANN previously reached that the need to move forward should not be held hostage to the sometimes elusive - but always sought-after - goal of reaching consensus.

- The trust issues are largely resolved by Board accountability (above). In addition, the structure of the MAG facilitates the participation of all members of the sponsoring community, including emerging stakeholders in this community, whether they are commercial or non-commercial.
- Furthermore, as previously indicated, the Consortium is committed to looking beyond the sponsoring community to engage the consumers of mobile services directly. In this respect, the Consortium will reach out to identified independent consumer organizations, and will also leverage and support the activities of ICANN's at-large advisory committee process in this cause. Specifically, the Consortium proposes to underwrite the cost of independently-appointed consumer and ALAC participants in the PAB process. We strongly believe that this will strengthen the JV decision-making process, while providing both an important function and needed funding for ICANN's ALAC activities.

The Consortium urges the ICANN Board, in the strongest possible terms, to evaluate the “.mobi” application against the criteria set forth in the RFP (which have been refined and improved through community “input” Activities). In this regard, Vint Cerf (“On the Evolution of Internet Technologies” Proceedings of the IEEE, Volume: 92, Issue: 9, Year: Aug. 2004) said: "Though the author is likely biased as a consequence of service as Chairman of the Board of ICANN, it seems important that ICANN not be forced to increase the scope of its responsibilities. It already has a significant mandate that is hard to fulfil. Rather, it will need to work with interested constituencies to find appropriate venues in which to cope with governance matters associated with the Internet." Sponsored TLDs are clearly an effective mechanism to devolve appropriate policy making authority from ICANN down to the communities impacted by specific TLD policies. The mobile TLD is an important example of the possibility.

In closing, the Consortium wishes to make the strongest possible case as to the need for “.mobi”, for the value that it can bring and the merits of the Consortium and the specifics of our bid. We have always been and, of course, will remain open to feedback and constructive suggestions on how we can improve. Some of the feedback has already been reflected in our approach, and we are open to further dialogue at any time. The “.mobi” domain represents an enormous opportunity to extend the reach of the Internet, serve a whole segment of customers under-served today, and add substantial value to the Internet Name Space. We should not allow this opportunity to be missed.

Specific Issues, Questions and Answers –

VI. In response to ICANN evaluation report (Sponsorship Section)

In this document, we address in detail, the three general issues first followed by detailed feedback from the Sponsorship evaluation report, section by section:

- General Issues: Rationale for a Sponsored rather than a Generic TLD, alternative technical solutions to meet the customer need, and trust.
- 1A. Definition of a Sponsored TLD Community
- 1C. Appropriateness of the Sponsoring Organization and the policy formulation environment
- 1D. Level of Support from the Community
- 2A. Addition of New Value to the Internet name space.

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Detailed Responses to General Issues

Sponsored versus a Generic TLD

The cover letter from ICANN staff conveying the evaluation report suggests that ICANN may be wondering if the “.mobi” application would be more appropriately considered in connection with the addition of new generic TLDs (rather than sponsored TLDs). Whilst the basis for this question is not clear, this concern may reflect the following questions/considerations expressed by the evaluators:

1. That the potential size of the mobile community argues that policy control must be handled centrally by ICANN.

Applicant’s comment: The evaluators argued on the one hand that the sponsored community is too large for the proposed policy development process to work. At the same time, the evaluators claimed that there was no evidence of a significant market for the “.mobi” domain. The mTLD Consortium (the “Consortium”), which consists of 3, Telecom Italia Mobile, T-Mobile, Orange, the GSM Association, Ericsson, Samsung, Panasonic, HP, Sun, Nokia, Vodafone, and Microsoft, of course, thinks that there is a substantial market for “.mobi” registrations, as evidenced in the application. The Consortium does not, however, think that the size of the sponsoring community should be determinative. Rather, the criterion should be whether there are enough interests and concerns shared by members of the community so as to make joint decision-making workable and desirable.

2. That the needs of the mobile community can be equally well served by existing technologies and without reliance on a TLD

Applicant’s comment: This argument is equally applicable to all new top level domains due to the nature of the DNS technology.

3. That the JV’s board of directors cannot be trusted to take the right decisions on behalf of the community

Applicant’s comment (Confidential): Deleted as confidential

We address both 2 and 3 in greater detail below. With respect to the argument that the “.mobi” domain should be a generic rather than a sponsored TLD because of its potential size, diversity, and the pervasiveness of mobile communications, the Consortium believes:

1. The fact that our target community is potentially quite large does not support the argument that it would be more valuable to the sponsoring community, the community of mobile communications users, or the Internet community as a whole as a gTLD. As further explained below, we believe that our sponsoring community meets the RFP requirements for being susceptible to reasonably precise definition. In fact, the evaluators apparently accepted the adequacy of the currently identified community participants, and questioned only how new and emerging community participants would be

accommodated. Our definition of the sponsored community, as well as the mechanisms in place to identify and accommodate the involvement of sponsored community members is specifically designed to reflect the fact that our proposed sTLD relates to a rapidly evolving technology, and that new players will emerge in response to changes in technology. First, the sponsoring community consists of industry participants that are providing service to mobile users, wirelessly and on the move, across a variety of devices. This is a distinct need that can be defined: it does not describe the whole of the Internet and is in no way generic. Second, self-identified members of the community are welcome to participate in the MAG. Participants in consumer facing industry sectors such as the mobile industry have legal and ethical obligations to their investors to allocate resources - human and financial - in a rational way. Should a broadcaster determine that its interests could be served by participating in the MAG, then they could do so.

2. Although the sponsored community's user group potentially encompasses several billion consumers of mobile services, the size of this potential market *does not guarantee* fast, widespread and ubiquitous take-up. In recognition of this business reality, we have been deliberately conservative in our business plan about projecting consumer up-take, as acknowledged and accepted by the business evaluation team. Equally, though, we do not believe the other extreme - a scenario in which the industry achieves massive, instantaneous consumer penetration to the degree that it overwhelms the Internet. (Although, we note that if such rapid up-take did occur, the existence of a separate domain could serve as a pressure valve and thereby preserve Internet stability.) It is an undeniable fact that bandwidth, power and form factor constraints inherent to mobile networking will constrain mobile access to Internet services for the foreseeable future. At the same time, in many regions of the world, wireline access is out of reach, and in these regions it is the mobile community that will grow Internet reach and bring in new users. In both cases, the existence of a ".mobi" domain adds value to the Internet.
3. For the foreseeable future, the characteristics of mobility devices and systems will require that mobile device users be distinguishable from fixed device users. In this regard, the sponsoring community sees that the creation of voluntary standards for usability and quality will enhance the online experience of mobile device users. The development of such standards, including style guidelines, is an important role that is best performed by an sTLD with an enforceable charter in order to deliver a consistent user experience. The need that this community has for an effective policy development and implementation mechanism is as strong, if not stronger, than sTLDs already approved by ICANN. Fulfilling these roles will enable the building of consumer trust in the use of Internet over mobile.
4. Finally, there has been considerable hype about the potential of mobile Internet access, but the reality has, to date, failed to live up to the expectations of the industry, industry analysts, or the consuming public. As a result, the majority of consumers have yet to gain similar positive experience and trust in Internet services over mobile as they have gained in current mobile voice and short messaging services. A strong Consortium with sufficient resources and policy input from all industry stakeholders can help create critical mass for to support technology innovation. This Consortium represents a level of capability and commitment to grow the market fastest possible and provide an open environment on which all players may compete. Moreover, a successful mTLD will benefit the naming business community considerably.

In summary, the Consortium believes that only this sponsored mTLD can deliver the market benefits and user experience in a rapid timeframe.

Alternative Technical Solutions to Meet the Customer Need

Some technologists, including Sir Tim Berners Lee of the World Wide Web Consortium (W3C), argue that there is simply no need for additional TLDs in general or for sTLDs like ".mobi" (and others) in particular. ICANN has, however, already made a policy determination that it is appropriate to expand the top level domain space in a measured and controlled way to the extent that a proposed new TLD "meets needs that cannot reasonably be met in existing TLDs at the second level." We respectfully submit that the evaluators did not apply this criterion in their review of the ".mobi" proposal. Rather, the theoretical availability, down the road, of alternative technical solutions at the second level and elsewhere, seems to have raised questions in the evaluators' minds regarding the need for the approach proposed by the Consortium. The fact that a solution may someday be available at the second level, or that alternative solutions in other parts of the DNS may also provide means to serve customers does not undermine the validity of the Consortium's approach,

and the evaluators reliance on these possibilities is inappropriate for several reasons.

1. Even if one accepts the argument that it is theoretically possible to meet the needs cited by the Consortium through existing technical solutions and existing TLDs at the second level, it is a fact that customer expectations (in relation to mobile Internet use) are not being met and have not been met for several years. Therefore, we do not accept the above argument, for the reasons discussed below. The best judges of whether customers are reasonably being served are not technicians or service providers or the Consortium – it is customers themselves. Consumers are perfectly able to decide what is in their best interests and at present they are telling us clearly - by opting not to participate in the mobile Internet - that their needs are not being met.
2. The evaluators seem to believe that there is a black or white choice between the “.mobi” approach and other approaches. This is not self-evident to members of the mobile industry supporting this application, nor is it consistent with generally accepted views about the positive effect of competing approaches on innovation. We fully expect that the market will develop solutions for customers that combine both visions in coming years.

Trust and Accountability

The evaluators suggest in a number of ways that the JV board of directors cannot be trusted to take the right decisions on behalf of the community, may be biased by their own self-interests, or could discourage innovation and/or participation in policy development.

The evaluators’ questions about the appropriateness of the sponsoring organization and the policy formulation environment, in particular, seem to refer to this issue. Unfortunately, these concerns appear to be based in large part on the misapprehension that the initial applicants (Nokia, Vodafone, and Microsoft) are still the only applicants and/or will have the ability to dominate the joint venture activities and the JV board of directors. This is simply not the case, as information provided by the Consortium has made clear on numerous occasions including in the response given to the evaluators’ questions. To the extent the evaluation report is made public, it creates an inaccurate and seriously misleading impression about the Consortium and JV. Assuming that the evaluators had access to all of the materials provided by the Consortium, it is hard to see how they came to be under this misapprehension.

The evaluation team offers no basis for its concern that the mix of planned investors is not representative of the community or that, guided by policy input from the MAG and the PAB, the board will make decisions that are not in the interests of the sponsored community. They offer no specific criticisms of the MAG/PAB structure other than, like the ICANN supporting organizations, these bodies do not have final power over policy. It is difficult to respond in a constructive way to concerns that are offered without specifics. We attempt to respond to this here, but would be happy to respond further to any specific concerns that the evaluators or the ICANN staff or board might be interested in. We reiterate our view, which is the view adopted by ICANN in the evolution and reform process, that an organization must have the ability to act on less than perfect consensus, but that any excesses that might stem from granting the board authority to act in this situation can be flagged, if not checked, by transparency and accountability. It is impossible for any operating business to take responsibilities for liabilities without the ability to manage them and, at the same time, meet its fiduciary responsibilities to investors, its obligations under contract to ICANN, as an employer, and as an institution subject to the laws and regulation of various sovereign authorities. In accordance with the proposal, the JV board must publicly issue a written justification of any decision taken that is inconsistent with the policy recommendations of the PAB.

Two issues related to this concern deserve elaboration:

1. It has always been understood by the Consortium that whilst the JV board will have final authority on all day-to-day issues, it will, nonetheless, be accountable to ICANN for the fulfilment of its charter. There will be mechanisms to reopen Board decisions if they are in conflict with its charter (e.g. inhibiting reasonable extensions of community). This accountability, coupled with the transparency requirements of public explanations for board action, substantially reduce the risk that board decision-making might be abused or used in a manner that undermines important issues of public good, community definition, or policy. We have outlined the basic transparency and accountability mechanisms in our submissions to ICANN, but are open to exploring further mechanisms with ICANN, the MAG, or the PAB.

2. *DELETED AS CONFIDENTIAL*

3. With the significant exception of the GSM Association, the planned investors represent commercial entities. We do not see this as a disqualification, inasmuch as the sponsored community consists of participants in the mobile communications industry who share a common interest in meeting customer needs and expectations to expand the market. All of these industry players benefit from the expansion of this market, which provides an incentive to embrace new technologies and encourage rather than stifle competition. In fact, improving the uptake of the data services over mobile can only improve the competitive situation of e.g. current PDA manufacturers.
4. The MAG/PAB policy development structures were described in the sTLD application, and have been elaborated upon, refined, and further detailed in subsequent submissions. We would like to clarify, in this connection, that participation in the MAG is not limited to commercial or for-profit industry participants. Trade groups, universities, research institutions, standards bodies, and individual entrepreneurs will be welcome participants in the MAG. Whilst there are the normal entry barriers, consisting mainly of the need to dedicate human resources and to cover costs associated with participation in conference calls, these costs are reasonable and should be within the reach of any of the interested stakeholders.
5. With respect to the participation of consumer advocates and ALAC representatives in the PAB, the JV reiterates its commitment to fund meaningful participation in policy development by these participants to guarantee that consumers' and general Internet viewpoints are fully considered.

We would hope that these three points significantly assist in resolving the trust issue. We remain open to dialogue on how this may be improved further to the satisfaction of ICANN.

Detailed Responses:

1. Sponsorship Information

1A Definition of the community

The sTLD RFP requires the sponsored community to be “precisely defined, so it can readily be determined which persons or entities make up that community” and “comprised of persons that have needs and interests in common but which are differentiated from those of the general global Internet community.” The “.mobi” application fully meets these requirements.

1. The fundamental basis of the application is, as described in the original application and the responses to questions posed by the evaluators, that mobility and the use of mobile devices to access Internet content creates needs that are different from those of the general Internet community. The evaluators did not question this point, so we assume here that they agree. For further information with respect to differentiated needs, please see our response in section 2A (Community Value) below.
2. The evaluators did raise a question about the clarity of the definition of the “.mobi” sponsoring community.
 - a. As a starting point, the evaluators did not take issue with the clarity of the definition of the sponsoring community in relation to the mobile communications industry of today.
 - b. The evaluators did, however, raise questions about how the definition of the sponsored community would map to relevant stakeholders as the mobile communications technology evolves and changes over time. The evaluators posed this question using the example of radio broadcasting spectrum and computing devices. In response to this question, we want to reiterate several points from our application and supplemental answers here:
 - i. Change is inevitable for all communities seeking sTLDs; to take a trivial example, if all cars became flying cars, the definition of “.aero” would be affected, as would the concept of a pilot, and the roles of numerous other travel industry stakeholders. Indeed, it would be short-sighted to define a sponsoring community in a manner that “froze” the organization at a fixed point in time, particularly if the shared community interest was related to technology of any sort.
 - ii. Given the inevitability of change, the key is to define the functions of members of the sponsored community in technology neutral terms that permit the organization to accommodate inevitable changes in technology. This was the approach used to define the “.mobi” community, which rests on three key pillars:
 - We understand "mobility" as the access to the internet over a device that is connected wirelessly with the connection being managed while "on the move", with management of changing locations delivered through service providers by same and different access technologies, and in such way, that it is not dependent upon specific access or transport technologies or IP versions. This is a functional definition that can incorporate technological change either with devices (from mobile computers and handsets today to wristwatches and other devices tomorrow) or access (from radio spectrums used today to new radio spectrums tomorrow). Our application explicitly includes WiFi for precisely this reason, and contemplates that new technologies as well as existing technologies serving new purposes will become part of the policy development process in the ordinary course.
 - To the extent that new or different technologies are used to deliver aspects of mobility, the need for policy changes should be minimal in as much as the goal of the sponsored community is to create technology neutral policies. To the extent that policy changes are required, or new policy is needed, these would be considered in the policy development

	<p>process as well as normal change control processes.</p> <ul style="list-style-type: none"> Given the protections described above, any remaining concerns would rest on the unspoken fear that existing Consortium members would engage in activities to block the participation of stakeholders seeking to deploy new technologies. Any such efforts would be (1) likely illegal under any competition laws with which we are familiar, and (2) swiftly brought to light by the transparency and accountability mechanisms described above. This would also be against the interests of the Consortium members, who also seek additional business potential from new technologies. This is addressed above in the section on trust, but to briefly summarize, we have established balance within the Consortium, envisioned a strong and vibrant MAG/PAB structure, developed transparency and accountability mechanisms, and recognize that the JV will also remain accountable to ICANN for charter compliance and to national sovereigns for compliance with law. We believe that there the strong failsafe mechanisms protect against the negative outcome that apparently concerned the evaluators.
1B	<p>(The complete section 1B is confidential) Evidence of Support from the Sponsoring Organization</p>
	<p>Deleted as confidential</p>

1C	<p>(The complete section 1C is confidential)</p> <p>Appropriateness of the Sponsoring Organization and the Policy Formulation Environment</p>
	Deleted as confidential
1D	<p>Level of Support from the Community</p>
	<p>Some evaluators complained about their inability to assess the level of support to be offered since the sponsoring organization has not yet been formed. It is not clear from the evaluators' feedback if this is a material issue or not. For the avoidance of doubt, the level of support from the "Sponsoring Organisation" (meaning the Consortium that is seeking to participate in the Registry Company) is clear. It comprises 13 members, including the three initial applicants, 11 of which have sent direct letters to ICANN in support of the bid (see Question 1B above).</p> <p>All these entities intend to be registrants in their own right. Moreover, the GSM Association's participation was approved unanimously by its Board, all of whom are in support of the bid. For reference, the GSM Association Board is comprised of 21 members, including AT&T Wireless, NTT DoCoMo (Japan), China Mobile, China Unicom, Sunday (Hong Kong), Taiwan Cellular, Maxis (Malaysia), Singtel (Singapore), KTF (Korea), Telenor Mobile (Norway), Telia Sonera (Sweden/Finland), Turkcell (Turkey), SFR (France), O2 (UK), Telefonica (Spain), Orascom (Egypt).</p> <p>Some of these companies have explicitly written letters of support directly to ICANN. In addition, there have been support letters from organizations like the CTIA that has strong participation from companies in the USA, as well as several independent letters from a broad range of organisations.</p> <p>It is the only the formal Supporter Organisation structured as MAG/PAB that has yet to be formed. It was always envisaged that it will only be formed if the bid is successful and, presumably, this is a viable and reasonable approach that is fully conformant with ICANN policy.</p>
<p>2. Community Value</p>	
2A	<p>Addition of New Value to the Internet Name Space.</p>
	<p>The essence of the evaluation team's criticism is threefold:</p> <ol style="list-style-type: none"> 1. That the benefits of the TLD must be "provided at least as effectively with existing technologies and without reliance on a new TLD....through existing content negotiation and device capability negotiation technologies." 2. That it might create confusion as to where to find a particular service and whether there is any difference between *.com/org/ccTLD and *.mobi 3. That, as a consequence, the "ET was not convinced that the ".mobi" application "would bring new user communities to the internet" <p>These three statements have been made without any evidence to substantiate them and don't fit to the facts presented. The reality is that:</p> <ol style="list-style-type: none"> 1. There is substantial latent demand for mobile Internet services, as evidenced by trial of WAP based services when they were first launched. 2. That latent demand notwithstanding, the fact is that the vast majority of mobile users today simply do not use the Internet in any way, despite many of them having access to the Internet over various forms of data connectivity. Feedback from customers has consistently been that customer experience is simply not strong enough to sustain usage. This is despite all the technical solutions available today. It is our strong belief that relying solely on technical solutions (which is what we have done so far) will not work quickly and that the weight of market experience supports this. We are proposing a commercial

	<p>solution that will work today.</p> <ol style="list-style-type: none"> 3. If the right customer experience could be delivered, the Internet would be available to a whole generation of new users. They would comprise two sets of users: <ol style="list-style-type: none"> a. There are many users who have access to the Internet through PCs and fixed access. Extending their usage of the Internet over mobile devices would comprise substantial extension of the Internet. b. Equally important are the users who do not access the Internet today and will only be able to access the Internet over mobile. This applies especially to developing economies where mobile access will substantially exceed fixed access. Our July 30 posting to the evaluators showed the example of India. Today, India, with a population well of over 1bn, has less than 40m lines for fixed and mobile each, where mobile will pass fixed by the end of this year. The Telecoms Regulatory Authority of India (TRAI) has estimated that by 2007, mobile lines will grow to 100m, while fixed access will grow at a significantly lower pace. Their reality, as that of many other developing markets, is that the “universal” connection will not be fixed but rather mobile. These user communities can only be reached through a differentiated experience that “.mobi” is trying to create. 4. We disagree with the assertion of the evaluation team that “the existence of the TLD is likely to create confusion ...”. The “.mobi” TLD provides an instantly human recognizable distinction of services that will work on a mobile device and by providing a clear suffix aids in discoverability rather than diminishes. There is no confusion today about what one can find in .aero as opposed to .com sites of commercial participants or .org sites of regulatory authorities. Moreover search tools today are able to search for content independently of the TLD. All that the TLD will signify is that a particular site or service has been configured for a good customer experience so that a user can establish and effect preferences. This warrants further investigation. 5. We would like to make one point in addition. There have been statements made to the effect that “.mobi” users would somehow not be given access to non- “.mobi” sites and services. As we stated in our application and the June 28 response, “.mobi” is intended to be additive to the Internet without taking anything away. PC users and other existing Internet users will be able to use “.mobi” content in an un-restricted manner as “.mobi” users will be able to access services under other TLDs. There will be no policies in the Registry Company restricting access between “.mobi” and the wider Internet. <p>The ET Teams response has debated the competing claims of existing technical solutions versus a new “.mobi” TLD as if they are competing options only one of which can be chosen to serve customers. It is our strong belief that this is itself a flawed view that ignores one of the main properties of the Internet itself, which is to provide room for a variety of competing approaches. We fully expect that the market will develop solutions that combine both visions in coming years and that it will be the customers wish and capacity to decide which approach will best reflect his demands.</p>
2B	Protecting the Rights of Others
	<p>The evaluation team stated that the application met the selection criteria, but had questions about the ability of the SO to implement these policies. As the application has met the selection criteria, we will not make any further comment in this response. On the issue of implementation, we remain confident that the policies can be implemented, but are open to feedback and concerns and always happy to strengthen aspects if required.</p>
2C	Assurance of Charter Compliant Registrations and Avoidance of Abusive Registration Policies
	<p>As with 2B, the evaluation team stated that the application met the selection criteria, but stated that further work was required. As with 2B, are open to feedback and concerns and always happy to strengthen aspects and undertake further work as required.</p>
2D	Assurance of Adequate Dispute-Resolution Mechanisms

	The evaluation team stated that the application met the selection criteria with no qualifications.
2E	Provision of ICANN Policy Compliant WHOIS service.
	The evaluation team stated that the application met the selection criteria with no qualifications.

Appendix:
An extract from Consortiums SO related answers to Evaluators Additional Questions Statements.

Answers were provided in full due agreement with ICANN on process between June, 24th and June 28th 2004. The mentioned letters of support were attached to the response and can be re-submitted if desired.

Qu2	Please provide signed letters that are representative of all parts of the Community that you propose to represent, detailing the particular reasons for their support. You should include similar letters from all supporters mentioned in your application. (Note: We wish to assess the breadth as well as the depth of support.)
Ans2	We will provide signed letters from investors and supporters on Monday 28th June as agreed. Below is a summary of already expressed support as posted on the ICANN web site or as represented by investors in the Consortium.

	Operator	Mobile Equipment Vendors & Terminals Manufacturers	Internet companies (Technology companies, ISPs, Content Companies)
I. <u>Investors</u>			
Vodafone	X		X
T-Mobile	X		X
Telecom Italia Mobile	X		X
Orange	X		X
3 (Hutchison)	X		X
GSM Association	X	X	X
Microsoft		X	X
Hewlett Packard		X	X
Sun		X	X
Nokia		X	X
Ericsson		X	X
Samsung		X	X
Panasonic		X	X
II. <u>Supporters</u>			
KidsWebTV Inc			X
Norbelle LLC			X
Forschungsverein EC3			X
SurfControl			X
Cash-U Mobile Technologies			X
Zone 4Play			X
Lunagames International BV			X
FindWhat.com			X
Infocomm			X
SFR - France	X		
Orascom Telecom	X		
TurkCell	X		
Telefonica Moviles	X		
Telenor Mobile	X		
Smart Communications	X		
CTIA	X	X	X
Valeria Marques			X
Beta Lee		Independent Consumer	
Tom Swan		Independent Consumer	

As you see from the table, the ".mobi" Consortium comprises a balance between operators, vendors and internet companies (which include technology companies, ISPs and content companies). The structure of Consortium is such that no single constituency/sector will have a majority and the intention is to have up to 17 shareholders so that no single company has dominance. Currently we have 13 signed up investors to our memorandum of understanding and we have kept open 4 further slots to accommodate additional players that would add to the balance and representativeness of the Consortium.

It is important to note that while most investors have primary focus on one sector, they typically have

	<p>important stakes for other sectors also. Most operators are building offerings in content services, web portals and IP networks to complement their network services offerings and see those as critical to their future. Most are also part of larger groups comprising fixed operators (with participation in IP networks, ISP services and web services). Similarly, Microsoft, HP and Sun have broad portfolios, which include interests in the ISP space (MSN, Hotmail), core technologies (e.g. IPv6), IT hardware and terminals, software (e.g. Java) and content (e.g. MSNBC). All of the mobile equipment vendors have substantial interests not only in handsets but also core technologies (e.g. compression technologies, security, mobile internet).</p> <p>It is also important to note that the GSM Association represents over 640 individual operators globally and more than 1 billion mobile users in GSM technologies alone (substantially more if one counts the non-GSM interests of the mobile operators such as Vodafone, NTT DoCoMo and China Unicom, with its CDMA network). In aggregate the GSM Association's members represent more than 70% of all mobile users globally. The membership of the GSM Association also includes many equipment manufacturers, technology, application and services companies and also government departments/regulators.</p> <p>All these investor companies have substantial customer bases and are driven by the desire and requirement to serve end-users. In addition, the Registry Company will have a supporter organisation, which will embrace the broader community, including consumer groups, ICANN at large, and non-profit organisations.</p> <p>In summary, between the current investors, the users they serve, and the supporter organisation, there is strong representation of most of the important stakes in the evolution of the internet to mobile. There is structural protection against overall imbalance and against dominance by any individual player. The Consortium is representative of all parts of the community.</p> <p>The same balance can be seen from the supporter list with all the sectors and constituents represented. In addition the supporter list includes smaller companies that do not have the capacity to participate in such a consortium but have a strong desire to see the creation of a mobile TLD. They also include some independent consumers and therefore potential registrants providing some indication of the potential interest in the marketplace.</p> <p>Two further points are worth mentioning. Both the investor list and the supporter list include non-profit as well as for-profit organisations. The GSM Association, the CTIA and Forschungsverein EC3 are all non-profit organisations with a primary motive to grow the overall mobile and internet sectors while serving customers in the best possible way. For information Forschungsverein EC3 is non-profit research centre funded by private companies, 5 universities and the Austrian Federal Ministry for Labour and Economic Affairs and by the City of Vienna.</p> <p>Finally, these investors and supporters are truly globally representative and will substantially increase the outreach to markets outside the US and Europe, especially in developing markets. The answers to questions 3 and 4 further elaborate on these points.</p>
Qu3	Do you have any plans to involve industry participants outside of the United States and Europe?
Ans3	<p>Both the investor group and the supporter list are highly representative of the global community as shown in the table below.</p> <p>First of all, the Consortium includes 3 companies headquartered outside the US and Europe; the company "3" (Hutchison) headquartered in China, Panasonic, in Japan and Samsung in Korea.</p> <p>These three markets are critical and the participation of strong companies headquartered there will substantially help the Consortium. All the vendors, terminal manufacturers, technology companies (hardware and software) and service providers are clearly global and have both sales and local operations in all regions.</p> <p>The operator members of the Consortium are also global and have substantial local operations outside</p>

the US and Europe. As stated above, the GSM Association also represents operators globally.

The supporter list complements and re-enforces this global representation. Their geographic focus is specified below but we would highlight several key companies.

- Orascom Telecom is a mobile company with operations in Egypt, Algeria, Pakistan, Tunisia, Congo, Chad, Zimbabwe, and Iraq which all represent the kinds of geographies that we are very motivated to reach.

The same can be said for

- Smart Communications (an operator based in the Philippines),
- Telenor Mobile (which has direct operations in Russia, Ukraine, Hungary, Thailand, Malaysia, Bangladesh and Pakistan as well in European territories such as Norway, Denmark, Sweden and Austria),
- Telefonica Moviles (with operations in Brazil, Mexico, Puerto Rico, Peru, Argentina, Chile, Guatemala, El Salvador and Morocco as well as Spain), and
- Turkcell (Azerbaijan, Georgia, Kazakhstan, Moldova, Northern Cyprus as well as Turkey).

All these operators see an enormous scope for serving customers, and promoting the economic and social development of developing countries through provision of the internet over mobile.

The rationale is further elaborated below in Qu4.

	North America	Western Europe	E. Europe/ Russia/ Middle East	South America	Asia / Australia	Africa
<u>Investors</u>						
Vodafone	X	X	X		X	X
T-Mobile	X	X	X			
Telecom Italia Mobile		X		X		
Orange		X	X		X	X
3 (Hutchison)		X			X	
GSM Association	X	X	X	X	X	X
Microsoft	X	X	X	X	X	X
Hewlett Packard	X	X	X	X	X	X
Sun	X	X	X	X	X	X
Nokia	X	X	X	X	X	X
Ericsson	X	X	X	X	X	X
Samsung	X	X	X	X	X	X
Panasonic	X	X	X	X	X	X
<u>Supporters</u>						
I.						
KidsWebTV Inc	X					
Norbelle LLC	X					
Forschungsverein EC3		X				
SurfControl		X				
Cash-U Mobile Technologies		X	X			
Zone4Play	X	X	X			
Lunagames International BV		X				
FindWhat.com	X					
Infocomm	X					

	SFR - France		X				
	Orascom Telecom			X		X	X
	TurkCell		X	X			
	Telefonica Moviles		X	X	X		X
	Telenor Mobile		X	X		X	
	Smart Communications					X	
	CTIA	X					
Qu4	Do you have any plans for outreach to less developed countries to make the sTLD more global? How can the sTLD improve use of the Internet in developing countries?						
Ans4	<p>There are four critical considerations:</p> <ol style="list-style-type: none"> 1. In most developing markets, there is a substantial issue of tele-density and data network access. Most governments have a strong policy to increase access and many have come to the conclusion that the fastest way to increase tele-density and data access is through wireless. India is a good example. According to TRAI (Telecom Regulatory Authority of India) in its consultation paper, 31st May 2004, mobile tele-density has already exceeded fixed (22m versus 19m in 2003) and to quote "today, the country is witnessing tremendous growth in mobile wireless...About 2 million wireless subscribers are being added every month...it is expected that there would be about 100 million wireless subscribers by the end of 2005." <p>If we wish to expand the footprint of the Internet to the developing countries, it is essential to ensure availability over mobile.</p> 2. The second major consideration is availability of Internet enabled devices and total cost of ownership for consumers in countries where affordability is lower. Mobile offers the opportunity to create hybrid devices (e.g. combined phone/internet functionality on a mobile phone) at low incremental cost to customers if they are already subscribing to mobile services. It is our expectation that mobile devices represent the early mass market for personal (as opposed to shared) Internet devices in these markets. It is our belief that these mobile Internet devices will substantially increase the reach of the Internet. 3. The third issue is language capability (e.g. on devices), content and services. The Consortium members and supporters already have programmes in place for the development and extension of character table support for devices and services to create an adequate representation of a broad cultural diversification in the ".mobi" namespace. Content and services will come through critical mass of customers which we are motivated to support, but it will also be substantially accelerated through local services which the ".mobi" TLD will explicitly support and promote. 4. The final consideration is the motivation of the investors and supporters as an indication of the overall outreach and promotion of the ".mobi" TLD. All the companies listed have substantial operations in developing markets, and substantial existing outreach and promotion activities. The ".mobi" offering can be added to these existing programmes without substantial incremental cost. The outreach commitment and capability of investors and supporters will not only support this aim directly but also create a competitive dynamic that makes ".mobi" offerings widely available. 						

Teleconferences re: .mobi sTLD Application

Meeting Notes

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Participants, Discussion & Conclusions

Participants

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enforcement procedures in detail, particularly from a technical perspective. Will also confirm whether current business plan supports validation and enforcement plan, or requires revision.

2. “Content Negotiation”

During the October 4 call:

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- According to MOBI, there is no mechanism in any of the current TLDs to mandate specific content styles, which are a basic requirement for user friendliness for mobile users. Also, mandates and polices cannot be provided for random sub-domains either (see below).
- MOBI stated that the proposed sTLD is not about browsing, i.e., the sTLD is not a substitute for content negotiation protocols now in effect. It noted that proposal is “beyond browsing” in that it represents a complementary mechanism to content negotiation. MOBI said it was innovative in thinking beyond to future services, i.e., a domain name is used for more than just website navigation, such as SIP-based applications, various versions of messaging, push-to-talk, mail gateway identification (e.g., SFP), among others.
- Evaluators asked whether “.mobi” as a prefix would operate better than as a suffix. MOBI said that it would be hard to enforce a prefix solution. MOBI added that the current user experience has not been positive, and no one had thought a prefix would improve it.
- Evaluators asked about why MOBI thought the user experience currently is so “terrible.” MOBI mentioned the current non-use of content negotiation by .com and other TLD registrants, and especially a lack of support for small devices.
- Evaluators asked about the exit plan if the experiment failed. MOBI stated that it had resources in the business plan to make it work, and that its estimates had been conservative.
- MOBI said there would be no “balkanization” of the Internet: .mobi TLDs would be available to any device, and anyone on a mobile device can get to any TLD. (Would this mean [5], e.g., that the devices – to the extent the members of the JV Consortium manufacture or provide services to them -- would not preclude browsing to “icann.org,” i.e., securing “icann.org.mobi” or “icann.mobi” would not be necessary to ensure access?) MOBI had stated earlier that the JV represents lots of small device manufacturers, and that these manufacturers will not be allowed to override user choice. It was not yet clear whether this would be enforceable with respect to roaming. [2]
- MOBI further stated a desire that all devices have access to the Internet. It stated that it was important that all Internet content would be functional on small devices, although not always optimized. MOBI stated that it would not override user choice. [2]

During the October 15 call, discussion focused on specific questions the Evaluators had provided in advance (see bullets below). In general, MOBI said that it would be up to the user, not the device, to determine whether it would access a .mobi or another TLD.

- 1. *“Given the following scenarios:
(a) A web browser on a phone is connecting to a website;
(b) A browser on a computer is using the phone as a modem and connecting to a website;
(c) A web browser on a phone is connecting via 802.11 to a computer that is connected via broadband to the Internet; and
(d) A browser on a computer is connecting via broadband to the Internet –
Please explain which scenario .MOBI is trying to address and the rationale for doing so.”*

MOBI indicated it would add value in (a), (b) and (c). It indicated it would not add value to (d). MOBI promised to provide further answers in writing.

- 2. *“Mobile devices have different capabilities, ranging from cell phones that can only do TXT to laptops that are full-fledged computers. Please state what limitations to mobile devices .MOBI will assume, with respect to:
- bandwidth
- screen size
- computational power
- memory footprint
- transfer cost of bits”*

MOBI agreed to address this question in writing. It noted that it expects operators of .mobi sites to assume support for the mainstream handheld devices of the time as well as the typical mobile network speeds as guidance and would use content negotiation mechanisms to achieve support for sufficient selection of devices. Building these services, it said, is not the task of the Registry.

- 3. *“Is .MOBI intended as a permanent TLD or as a transition TLD? Could .MOBI become obsolete as the difference between mobile devices and laptops diminishes? (The Sun-3/50 introduced in 1987, for example, had the same computing power and memory as the Palm-Vx introduced in 2000).”*

MOBI said it would be a permanent TLD, stressing that the market is unique, even if large. The proposed sTLD is designed for people “on the move.” Evaluators stressed that it was extremely important that an end-user be able to access a service from anywhere, whenever, and from whatever device, which implies the same Uniform Resource Identifier (URI). MOBI said its goal is to allow user choice in selection of URIs, and it pointed out that same information can have multiple sources and/or URIs, all of them accessible by all of the devices. It further noted that a separate namespace allows content providers a choice of making available two versions, both accessible by all devices. [3]

- 4. *“Can you please clarify what exactly is “more than web browsing?” In the 10/4 call, .MOBI representatives talked about “new applications and*

protocols." Can you please provide examples of applications that REQUIRE and CAN ONLY be deployed using a .MOBI TLD?"

MOBI said one advantage of a .mobi sTLD would be “discoverability” and “mobility.”

Evaluators had questions, in part because some MOBI answers were not clear on the interplay with DNS operations. (These questions are listed in the Conclusions section.) MOBI reiterated that the sTLD will not override what comes back from content negotiation protocols.

MOBI “continued to claim, that 1) end user site selections would be respected and 2) content negotiation technologies will be needed, used and co-operation is targeted between .mobi and standards bodies. However, end users don’t ‘see’ content negotiation. Gaining their trust requires visible, short, simple ‘branding.’ MOBI also stated that, for example, frequently changing location is something that is special to mobility and combining location aware naming with location discovery technologies, like GPS, brings a wide new set of business possibilities.”

3. Mobile Device Restrictions

- 5. *“What specific measures could prevent the imposition of “MOBI-only” browsing on mobile devices?”*
- MOBI stressed that there would be no “lock-in” or “exclusion,” and that they wanted the user to select the TLD it was seeking. MOBI believed that the market would hurt any manufacturer or service provider that tried to limit user choice. At the same time, it said that the Registry was separate from the companies forming the MOBI JV team. Those companies, they thought, might find it difficult to make a commitment never to limit access to other TLDs if that was what the user preferred.
- There was discussion of whether the companies would commit to letting the user decide if it wanted to limit access, and not to do so unless that occurred. MOBI was asked to answer the question of “What is your process to put pressure on Carriers to allow access to all TLDs from all devices connected to their network?”
- MOBI said that “any prioritization like this would be technically outside the scope of a DNS registry company and is outside of any recognized scope of the mTLD Consortium.” It further stated that “corporate customers or government bodies may have the right to require preventing their devices from access to outside-business Internet sites. It is not in the spirit of Internet that those devices would be blocked from using services, if somebody wants to use them (according to user’s choice).” MOBI further stated that “it believed end users do not want to have limitations, but the customers paying the bill might have, such as an employer paying the employee’s bill or a parent wanting to keep child’s use in control.”
- The Evaluators noted that it was extremely important that a .mobi TLD did not create a “walled garden.” [2]
- The Evaluators also asked MOBI to describe the technical reasons to have a .mobi TLD. MOBI responded that “the new domain name is the single best way to improve the sponsored

community's user experience when using mobile devices to access the Internet, due to the combination of contractual and style guide rules." MOBI also noted "that it was not aware a technical reason was required to launch a new TLD."

Conclusions:

- o MOBI agreed to provide a detailed technical description of the validation and enforcement process it will use, including means of communication between parties, process for bringing registrants into compliance with the style guide, rights of registrants, and other specific steps, as well as confirm whether the processes are supported by the current business plan.
- o MOBI undertook to explore whether members of the Consortium could pledge that small devices they manufacture or provide services for would not be allowed to override user choice (i.e., access to non-.mobi TLDs).

MOBI concluded by stating that it wanted to let the user decide whether to access a .mobi sTLD or a "non-optimized" TLD. MOBI wanted to offer a TLD that would not override existing protocols, but provide the user with an additional choice and the option of a more consistent user experience.

The Evaluators agreed to confer and pose any follow up questions to MOBI concerning content negotiation in writing, in addition to Question 2, above. The additional questions posed are:

- (i) As mobile devices have different and changing capabilities, how will your proposed style guide take that into account? How do you plan to update it to reflect changes without rendering old devices immediately obsolete?
- (i) You said you will acknowledge the protocol content negotiation, but at the same time you said you will have a style guide for .mobi. Please explain in technical terms what happens in the scenarios (a) through (d) in question 1 above, in terms of the user experience.
- (iii) You stated that "discoverability and mobility" is something that differentiates .mobi from other TLDs. How will you use DNS and other standard protocols to support mobility and roaming? Do you plan on modifying DNS queries or regular protocol content? If so, when?
- (iv) Please explain why Dynamic DNS and/or Mobile IP are not complete solutions to mobility issues.
- (v) You mentioned several times utilizing roundtrips in DNS for various protocols using SRV, NAPTR and other Non-terminal RR types, which leads to more lookups in DNS. Please explain (a) what is the problem you are trying to address and how .mobi will assist; and (b) whether your style guide will include suggested use of DNS RR types and, if so, how you would enforce that.

Drafted: sTLD Project Manager (MSapiro), based on input from the Evaluation Team (10/4/04, 10/18/04 & 10/21/04) and the MOBI JV Team (LHirvonen & Ritva Siren) (10/29/04) (12/7/04).

The MOBI JV Team wished to supplement the agreed Meeting Notes with the following additional points about its proposal:

[JV Team – If you believe that additional information is important, you may add it below:]

[1] MOBI team has said, that only an sTLD based solution can guarantee a user friendly service provisioning due to the possibility of special agreements with registrants. MOBI team has not said, that ONLY this team can guarantee that.

[2] In the discussion about roaming and browsing limitations MOBI team reminded, that there is no evidence, that mobile operators or manufacturers would wish to limit access. The industry has quite contrary invested large sums into standards creation and recent implementations of all parties have targeted more and more open and standard solutions. There would not be any reason to apply for a TLD, if a closed system would be targeted.

[3] From the October 15th call we like to add the following related to the issue of technology gap between the mobile/wireless and the wireline:
The MOBI team noted that comparing year 1987 and 2000 devices proves the case for the ongoing need to create the mobile TLD. This example shows the significant gap between wireline networks /mainstream IT and wireless networks/handhelds development. Year 2000 services were developed keeping in mind the mainstream workstations and end user access speeds of that time, in fact not that much content was developed for Palm-Vx. There is no evidence that the gap is closing.

As an example of ongoing difference, certain Asian markets and service pockets also elsewhere are actually already targeting very high access speeds. In the recent news a story of, how operators in Japan are targeting fiber access to more than half of the homes in a few years is a good example. That level of network capacity will not be available for mobile any time soon and the item is descriptive of the persistence of the fundamental difference in the technical characteristics of the mobile business

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(iv) Please explain why Dynamic DNS and/or Mobile IP are not complete solutions to mobility issues.

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MOBI: Technical Team's 2nd Additional Questions (Oct 22)

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- (iv) Please explain why Dynamic DNS and/or Mobile IP are not complete solutions to mobility issues.

- (v) You mentioned several times utilizing roundtrips in DNS for various protocols using SRV, NAPTR and other Non-terminal RR types, which leads to more lookups in DNS. Please explain (a) what is the problem you are trying to address and how .mobi will assist; and (b) whether your style guide will include suggested use of DNS RR types and, if so, how you would enforce that.

Additional Mobi JV answers to evaluators' questions in ICANN Technical ET Teleconference on October 4 and October 15, 2004

Question 1: Browsing scenarios

During the October 15 call, discussion focused on specific questions the Evaluators had provided in advance (see bullets below). MOBI promised to provide a written response with detailed answers to those questions. In general, MOBI said that it would be up to the user, not the device, to determine whether it would access a .mobi or another TLD.

- 1. *“Given the following scenarios:
(a) A web browser on a phone is connecting to a website; (b) A browser on a computer is using the phone as a modem and connecting to a website; (c) A web browser on a phone is connecting via 802.11 to a computer that is connected via broadband to the Internet; and (d) A browser on a computer is connecting via broadband to the Internet –
Please explain which scenario .MOBI is trying to address and the rationale for doing so.”*

MOBI indicated it would add value in (a), (b) and (c). MOBI indicated it would not add value to (d). MOBI promised to give the response also in writing.

1. Given the following scenarios:
a) A web browser on a phone is connecting to a website;
This is the core use case for .mobi. Mobi adds considerable value. Our first target in this scenario is to support optimized content services for the mobile device that takes into account the current device and network characteristics as well as characteristics of technologies meant to implement applications and evolve, when those characteristics evolve. Our second target is that content provided within other TLDs will be usable by the mobile device owners in the fullest capacity possible given the constraints of the mobile device. We believe that it should be the device's owner's decision to select between the full (non-optimized) version and the mobile-optimized one.
b) A browser on a computer is using the phone as a modem and connecting to a website;

Not just a transparent modem.

.mobi sites can help to give a better user experience for the restricted (and constantly changing) bandwidth that the computer encounters.

The browsing user can also be made aware of the traffic load and cost – and thus may prefer to use the mobile-optimized version.

Therefore it is sensible that mobile TLD sites can be accessed by any PC on equal terms, but our special concern is in supporting small, mobile devices.

c) A web browser on a phone is connecting via 802.11 to a computer that is connected via broadband to the Internet;

This is a subset of example a).

Mobi still adds value in this different mobility scenario, because the screen and processing limitations of the device are still supported.

It should be the decision of the phone owner to select between a more phone-friendly .mobi version or the full version, which often consists of a multitude of pictures, advanced Java etc.

We expect that users of smart phones and PDAs will still prefer the more concise version when connected across the WAN, and are likely to delay browsing to non-.mobi sites in situations where potentially cheaper and faster connection is available (e.g. WLAN).

) A browser on a computer is connecting via broadband to the Internet:

Mobi adds no value, but users can still do this if they wish.

The Mobi JV respects the highest principle of users' choice and the different approaches incl. business models of service providers to service the users' needs.

The user must have the possibility to choose the best offering from his point of view.

Please explain which scenario .MOBI is trying to address and the rationale for doing so.

MOBI is not excluding any of these cases, but clearly we wish to improve the user experience for the scenarios that are closely linked to our mobility definition. That is, in any of the scenarios, a user could use a .mobi name and get appropriate, optimized content (through a device interrogation and content negotiation process, or otherwise optimized content).

Question 2: What limitations are going to be used for various capabilities to define mobile devices

- 2. *“Mobile devices have different capabilities, ranging from cell phones that can only do TXT to laptops that are full-fledged computers. Please state what limitations to mobile devices .MOBI will assume, with respect to: - bandwidth - screen size - computational power - memory footprint - transfer cost of bits”*

MOBI agreed to address this question in writing and the answer is below:

First, the evaluators make a statement that we wish to clarify – the above statement does not differentiate between mobility and portability.

- Device portability has been solved as regards to support for laptops accessing the Internet from different sites. It may still benefit from evolution of some characteristics, but that is not a concern of .mobi

Second, we do not believe that stating here a particular limiting marker in terms of capability is useful as such parameters are continually changing as also the evaluators are stating.

- Professionally built .mobi sites will assume support for the mainstream handheld devices of the time as well as the typical mobile network speeds as guidance and will obviously use content negotiation mechanism to achieve the support for sufficient selection of devices.

- There are applications, where attention is more in the user mode/context (e.g. services for the user on the move wanting content more appropriate when mobile, accessing local news, accessing home services, getting a concise selection of news).

However, building these services is not a task of the registry; it belongs to registrants, who are interested in offering mobile specific services.

Experience of the mobile industry shows that business success in any larger scale requires that the mainstream selection of mobile devices be properly supported at any one time.

Question 3: What specific measures could prevent the imposition of "MOBI-only" browsing on mobile devices?

- ~~A previously deleted comment deleted again by consortium~~
 - MOBI promised to verify the consequences with the competition lawyers but were skeptical of the value, success and legality of such an effort. MOBI also expressed its concern of unfairness of such a request due to the lack of any possibility of verification by a DNS registry on the network side that limitations were not placed in the handset

Here is the response from Mobi JV partners' competition lawyers:

The joint-venture investors and the mobi JV will – and this is the common case – proactively communicate with respective anti-trust authorities and are under constant close monitoring of these.

MOBI conclusion:

If this point is still considered not closed by our reply, we kindly request from ICANN to acknowledge that

A) Any measures on top of the already agreed commitment would in fact exceed the level of public commitment considered to be necessary under these circumstances.

B) The respective issue - while we provided a fully transparent answer in the best interest of our customers - is outside the scope of a technical evaluation discussion.

A note to Conclusions section:

Evaluators asked MOBI “What is the technical reason to have the MOBI TLD”. MOBI responded that the new domain name is the single best way to improve the sponsored community’s user experience when using mobile devices to access the Internet.

MOBI is not aware as to why a technical reason is necessary in order to create a new TLD.

Complementary Comments:

MOBI is not talking about, whether to have mobile devices in the Internet or not. We are rather talking about terms and practices, which will be applied, when they are there. Those terms and practices can only be enhanced and secured by having a mobile sTLD both from the point of view of mobility and of Internet. That increases the success of both, the overall Internet and as part of that Mobile Internet businesses.

This is also not about exclusion, it is about enabling and fostering mobility within the Internet. It's about a shared and enforceable commitment of registry, registrar and registrant to support mobility relevant policies including technical standards such content negotiation in line with best practices.

Our philosophy

- Optimized content delivery taking into account the current user situation and user preferences as far as possible.*

About mobility

- We should not forget the fundamental issue - we need to be able to differentiate mobility from portability, in other words the difference between nomadic devices versus truly mobile devices.*

- Mobility is not primarily a matter of device restrictions (i.e. a time variant function of technology "state of art").*

Additional points on innovation:

- .mobi is an innovation because it proposes that a TLD can be an "ingredient brand" and also that it can contractually obligate organizations to follow open standards and specified functionality.*

- An inherent part of mobility is location-awareness. Tying DNS innovatively into location discovery technologies is an important aspect. We will further study and develop this in co-operation with the relevant Internet standards workgroup members.*

Please find below an extract from the conclusion section of the Meeting Minutes document and Mobi JV’s response to the questions in that section. Answers to questions embedded in the minutes is provided as part of the meeting minutes document:

The Evaluators agreed to confer and pose any follow up questions to MOBI concerning content negotiation in writing, in addition to Question 2, above. The additional questions posed are:

(i) As mobile devices have different and changing capabilities, how will your proposed style guide take that into account? How do you plan to update it to reflect changes without rendering old devices immediately obsolete?

All the Mobi JV partners are actively engaged in businesses and technologies where backwards compatibility is critical; we will use well-established software and protocol principles for accommodating change and maintaining support.

As stated earlier both in our verbal and written responses, the style guides will evolve in response to, and in anticipation of changes. We expect style guide development and evolution to be done primarily in the relevant standards bodies, in co-operation with the Mobi JV.

(ii) You said you will acknowledge the protocol content negotiation, but at the same time you said you will have a style guide for .mobi. Please explain in technical terms what happens in the scenarios (a) through (d) in question 1 above, in terms of the user experience.

As a domain registry, the .mobi domain will do nothing technically different than any other top level domain today. In each of the scenarios (a) through (d) in question 1, the user’s device will access the .mobi URL in the same way it would other TLDs.

As a sponsored domain registry, we intend to use the style guides to ensure that human-mobile service interactions would clearly improve from what exists today. These interactions include, but are not restricted to, users accessing web sites on their mobile device.

As we have stated earlier – there is no way to mandate the use of a <mobi> prefix for existing domains to ensure that the user experience is positively affected. The sTLD approach, in conjunction with contractually enforced conformance to the style guides, verified by the registry, should result in improved user experience.

Enforcement of adherence to the style guides does not replace adherence to content negotiation protocols; each is necessary to ensure that mobile device users experience is augmented.

(iii) You stated that “discoverability and mobility” is something that differentiates .mobi from other TLDs. How will you use DNS and other standard protocols to support mobility and roaming? Do you plan on modifying DNS queries or regular protocol content? If so, when?

We have a firm belief that a mobile TLD name will improve discoverability of mobile aware services. It will do so by creating an association between those services to a memorable name. This is not a technical issue.

We have stated several times, that mobility support is defined in the mobile industry's interoperability planning. Standard protocols, Mobile IP, for example, will be used. Mobile devices will connect to the Internet using standards-based definitions, regardless of the TLD in use. The use of .mobi is not going to change this behavior, and therefore this question does not belong in the technical evaluation.

Instead of taking proprietary approaches, as is the case in many services today (Google, Akamai, etc.), we intend to take a standards-driven approach when we find areas that require development for how mobile device users experience the Internet.

We state once more, and emphatically, for the record: We do not plan on special DNS queries or modifying established protocols for mobility support.

Based on these grounds, we consider this concern to be unfounded.

(iv) Question and answer redacted as non-specific to having a mobile TLD

(v) Question and answer redacted as non-specific to having a mobile TLD



TECHNICAL TEAM COMMENTS

ON .mobi SUPPLEMENTAL MATERIALS

Since we issued our Evaluation Report in July, we have had a number of document and teleconference exchanges with the MOBI team.

In these exchanges, the MOBI team has not been able to convince us of the technical merit of its application beyond the criteria specified in the RFP. It is of concern to us that the MOBI technical team seems to be unable or unwilling to acknowledge that there are arguments that run counter to the ideas in its application. That team also has not convinced us that there are valid or sound technical reasons why .MOBI is required in the first place (although we acknowledge that is not a specific requirement of the RFP as drafted).

.MOBI has repeatedly stated that currently mobile devices are not well served by standard content sites. It claims the best way to address this issue is to create a new TLD. But no technical arguments have been given by the MOBI team to the Evaluation Team to support this position. For example, there was no clear definition of what a “mobile device” is to mean in this context. Is it a computer connected via a cell phone (potentially a connection with limited bandwidth), or a browser on a phone (with small screen and limited memory), or other definition? The MOBI team’s response has been that a “style guide” is to be created that addresses all issues (see below). Because no clear technical description of the problem has been presented, it has not been possible to fully evaluate from a technical perspective the claim that a style guide is the correct solution.

The only use for the TLD that MOBI was able to articulate was content negotiation, with an explicit reference to the HTTP protocol and implicit reference to “other services” (without them being specified). Everything else that the MOBI team claimed supported or required a TLD was a misunderstanding of underlying technologies, such as the location of root name servers and how the DNS system works globally. Because of this, evaluating from a technical perspective whether .MOBI will be able to solve the problems it described has not been possible, as the problem has not been described in enough technical detail.

After our discussions MOBI amended its application with the following additions:

1. A registrant must sign an agreement to comply with the .MOBI style guide. This agreement will state that the registrant understands that the registration will be revoked if the registrant does not adhere to the style guide.
2. MOBI provided an outline of a compliance checking process, and an outline of how the registrant will be contacted when not in compliance.

These amendments satisfy our concerns regarding validation (i.e., compliance) and describe how the MOBI team will talk with registrants. The MOBI team also made statements that .MOBI will not tolerate any locking in of users or redirections to connection provider approved content sites, although they declined to provide them in writing.

While the amendments address some of our concerns, they do not address them all, as described in more detail below. MOBI has proposed no admission criteria per se for registrations other than the existence of a style guide. MOBI proposes to monitor websites in .MOBI for compliance with this style guide. There have been no statements about any other protocols beside HTTP, with the exception of "uses beyond browsing," and there was no articulation of what that means.

The Technical Team's recommendation therefore remains that there are valid technical reasons for not approving a .MOBI sTLD. Our reasoning is divided into three categories:

- (1) Issues that risk breaking the Internet;
- (2) Issues that do not pose a risk of breaking the Internet, but are "not the way one does things;" and
- (3) Issues that might lead to breaking the Internet in the longer run.

Certain arguments will be found in multiple categories.

Rationale:

Issues that risk breaking the Internet

[A] Content negotiation in the form of use of a domain name:

Currently, clients and servers negotiate in, for example, the HTTP protocol what content they can manage. The client indicates what content it can manage, what browser version it is, etc., and the server can choose to send whatever data it finds appropriate back to the client. This is what we call "in-band communication" between server and client in the protocol used.

.MOBI wants to migrate some of this content negotiation to the DNS via domain names. This makes it unclear what happens if the content negotiation in the protocol is violating the style guide regarding mobile content and the domain name used is in the .MOBI TLD. This question was brought up during teleconferences with the MOBI team, and on one occasion the response was that the style guide had higher priority than the protocol negotiation. At other times,

the .MOBI team claimed that the style guide would not override the protocol negotiations. The Technical Team does not believe that it is possible to guarantee this will not happen.

Issues that do not pose the risk of breaking the Internet, but are “not the way one does things”

[B] Preferable to create .MOBI as a prefix instead of a suffix:

Providing mobile (small device) content is much simpler via a MOBI prefix than a suffix. The idea that only a TLD can address the problem is more of a problem of perception or ignorance among content providers. Currently a large number of web sites refuse to provide content unless "approved browsers" are used. Getting this changed is a question of education and tools, not a reason for creating new TLDs for the users of the rejected browsers. If ICANN approves .MOBI, then the next round may contain: .Opera, .Firefox, .InternetExplorer, .Konquerer, .Safari, etc., depending on which ones are the most frequently rejected browsers. In the connectivity realm, strong arguments can be made for addressing access speed (an end-user is normally tired of waiting for a webpage to be opened after, say, 25 seconds, so if a slow connection is used, less complicated data is preferred by the client, and vice versa for fast connections). This might create requirements for new TLDs of the form .dialup, .slowpipe, .ultrafast, etc., which would be the next logical candidates. General arguments against creation of a suffix of a domain name can be found in draft-iab-dns-choices-00.txt (<http://www.iab.org/documents/drafts/draft-iab-dns-choices-00.txt>), section 3.3:

3.3 Add a suffix to the owner name

Adding a suffix to a domain name changes the name/class/type triple, and therefore the RRset. The query name can be set to exactly the data one wants, and the size of the RRset is minimized. The problem with adding a suffix is that it creates a parallel tree within the IN class. There will be no technical mechanism to ensure that the delegation for "example.com" and "example.com._bar" are made to the same organization. Furthermore, data associated with a single entity will now be stored in two different zones, such as "example.com" and "example.com._bar", which, depending on who controls "_bar", can create new synchronization and update authorization issues.

Even when using a different name, the data will still have to be stored in some RR type. This RR type can either be a "kitchen-sink record" or a new RR type. This implies that some other mechanism has to be applied as well, with implications detailed in other parts of this note.

In RFC 2163 [RFC2163] an infix token is inserted directly below the TLD, but the result is the same as adding a suffix to the owner name (and because of that creation of a new TLD).

Many arguments under [A] apply here as well (the reasons do not change because one uses a prefix instead of a suffix), but the fact that

two domain names (www.example.com and mobi.example.com) are rooted in the same domain (example.com) makes problem [C] go away.

Issues that might lead to breaking the Internet in the longer run.

[C] Content negotiation via domain name forces domain owners to have two domain names registered:

If a domain name holder has, for example, the domain name “example.com” and a second “example.net,” will they register example.com.mobi and example.net.mobi, or will only one of them get example.mobi? The .MOBI team has stated this (a) is not a technical evaluation issue and (b) there is no connection between the existing domain names and the domain names in .MOBI. While acknowledging that management of intellectual property disputes over domain names is not within its mandate, the Technical Team does not agree that there is no technical impact, as the lack of connection between existing domain names and domain names in .MOBI might lead to problems with implicit or explicit trust in X.509 certificates, etc. This might be said to be a problem for every new TLD created, but the Technical Team sees it as a particular problem for .MOBI because it is a domain that explicitly is for a specific kind of content, while “normal” content is to be provided at a different domain name. If .MOBI was, for example, for the cell phone industry (manufacturers of cell phones or radio equipment, cell phone providers, etc.) this problem would not exist, but, the .MOBI TLD is explicitly for users of mobile devices, not for providers of information about mobile equipment. This is especially a problem when/if one of two domain names is no longer active by the owner, and another owner takes over the domain name, for example at the end of the contract period.

[D] Need for two bookmarks, email addresses etc:

If an organisation has two domain names that they are using for the same service, the end-user wanting to contact the organization will need to have two bookmarks or address book entries, and use the correct one depending on what device is used to access the web server or send the email. If the owner of example.com also has the domain name example.com.mobi, then the browser bookmark list on his laptop (for example) has to have the two domain names in two different bookmarks, and then select the correct bookmark depending on whether the laptop is connected via a fast or slow link. Similar examples can be discussed around email, where the correct email address for the receiver is chosen depending on whether the sender uses a cellphone or computer to send the email. Given the two bookmarks, issues under [C] can come up as well.

[E] Creating .MOBI sets an inadvisable precedent:

The .MOBI sTLD says that the DNS is for technical content negotiation. The only content negotiation that DNS can be accused of providing today is cultural, as

ccTLDs exist and are often populated by local cultural issues. .MOBI may actually cause difficulties for users of languages other than English, as various .MOBI sites might only provide content in the most frequently used languages. Today, language negotiation is part of the HTTP protocol (see [A] about inband negotiation) but localized content is managed by use of ccTLDs. For example, having “example.fr” for a French version or “example.se” for a Swedish version of the same site is common. Getting a good domain name for the French version of example.mobi might be difficult, if not impossible.

Summary

Approving .MOBI is harmful to the Internet in the short term as it creates fragmentation in content access, depending on which device a user has. In the medium term it will make it hard to reject other proposals that risk fragmentation of the Internet. In the longer term, the effect of Internet content fragmentation may lead to connectivity fragmentation, depending on what kind of link is used.

The Technical Team views the .MOBI application as fulfilling all of the requirements in section [A] of its July report but still has significant concerns about deployment of a TLD for content negotiation reasons. Most of the issues described in the July report from the Technical Team remain valid.

The correct solution to the problem identified by the MOBI team is for people that worry about "support for mobile devices" to create a consortium that works on guidelines for design and access, similar to what has been under way to provide accessibility for disabled people.



Internet Corporation for Assigned Names and Numbers

31 July 2004

Jeffrey Pulver
Pulver.com
115 Broadhollow Road, Suite 225
Melville, NY 11747

via email: jeff@pulver.com

Re: New sTLD Applications: Status Report

Dear Mr. Pulver:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

Unfortunately, the independent evaluators concluded that this .tel application, as currently written, did not satisfy any one of the categories of criteria: technical, business/financial, or sponsorship. ICANN will provide a copy of the evaluators' reports to you within one week, so that you may review them. After that review, ICANN would be pleased to conduct a follow-up meeting with you to discuss your application in more detail so that you may express plans to remedy non-compliant portions of the application. Since portions of the report will be published at the culmination of the process with all ten applicants, we will also request you indicate any information relating to technical or business/financial issues that you have already designated as confidential/propriety, so that we may take that into account in preparing the reports for publication.

As you may know, ICANN is undertaking a targeted development of strategy directed toward a streamlined process for the introduction of new gTLDs. You are most welcome to consider whether the issues identified as concerns could be addressed before any new gTLD round, and whether you would therefore like to be considered again at that time.

Please do not hesitate to contact me if you have any questions. I sincerely regret that I cannot provide you with better news at this time.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Douglas J. Ranalli
John Jeffrey, ICANN General Counsel



Internet Corporation for Assigned Names and Numbers

31 July 2004

Alan Price
Telnix Limited
8 Wilfred Street
London, SW1E 6PL
United Kingdom

via email: aprice@telnix.org

Re: New sTLD Applications: Status Report

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Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Benjamin Blumenthal
John Jeffrey, ICANN General Counsel

August 25, 2004

Kurt Pritz
VP, Business Operations
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292

Re: Telnic's Response to the Evaluators' Reports

Dear Mr. Pritz:

Telnic has now completed a full review of the reports that were written by the three evaluation teams.

We appreciate that the evaluators have had a difficult task in terms of: (i) reading multiple TLD applications simultaneously, (ii) evaluating new concepts that, in the case of .tel, bridge the Internet and telephony sectors, and (iii) completing all evaluations within a pressured timeframe.

Notwithstanding these challenges, Telnic has found that the evaluators conclusions in all three reports are, in several instances, based upon factual inaccuracies and premises nowhere to be found in our application. In our response here below, we have highlighted many examples where the evaluation teams seem to fault Telnic on fundamental issues which either (i) simply do not apply to our application, or (ii) have been fully answered in submitted supporting documentation that appears not to have been reviewed or understood.

We are not certain how these oversights arose. Perhaps the evaluators did not receive the documents or perhaps the time pressure may have inadvertently led to a confusion between one or more of the competing applications. Regardless of the reasons, fundamental misreadings of our .tel application and misinterpretations of our supporting documents have culminated in conclusions based upon false premises.

Telnic believes that most of the issues raised by the evaluators can be resolved quickly and satisfactorily. As such, we are asking both ICANN and the evaluators to review our detailed response to their reports provided below. Moreover, we kindly request that ICANN organize a meeting with the evaluators in order to resolve all outstanding issues and concerns so that Telnic may proceed with the RFP process.

Please do not hesitate to contact us if you have any questions. We look forward to hearing from you.

Yours sincerely,

Telnic Limited

cc: John Jeffrey, ICANN General Counsel
Rita Rodin, Skadden, Arps, Slate, Meagher & Flom LLP

TELNIC'S REPOSE TO EVALUATORS' REPORT

REPORT 1: TECHNICAL TEAM REPORT

Telnic sent ICANN the following documents that should have been made available to the technical evaluation team:

- The original ICANN application, including Parts B, C, D, and particularly E (the technical section).
- A set of 11 answers and 3 annexes (“Response to Telefonica”, “Boston Response”, “Why Telnic’s .tel is an sTLD”) sent to Miriam Shapiro in response to the technical evaluation team’s questions.

Introduction

In order to set the record straight, Telnic is proposing a .tel sTLD with the following features:

- Technically and operationally, Telnic proposes a standard TLD, using standard protocols (EPP, WHOIS and IRIS, when standardized).
- The TLD will use a Thick Registry model (i.e. full WHOIS service is provided directly by the Registry). Individual registrants have the option to “opt-out” of public WHOIS contact publication.
- The TLD is configured as a standard “delegation only” system (i.e. Registry holds only NS records).
- The sTLD is intended to hold personal contacts for individuals and companies. The sTLD is not intended to hold machine contacts. It is restricted by intended use. Personal contacts are to be stored in the delegated (authoritative) servers selected by the registrant using NAPTR, SRV, and MX resource records. No A/AAAA records are to be used (as they identify machines, not people).
- Usage control is agreed explicitly by each potential registrant as part of the registration process. Usage policing is triggered in response to challenge/report from 3rd parties, plus basic randomised zone checks to ensure A records are not returned by authoritative servers for a .tel domain.
- The Sponsoring Organization will issue an open RFP for a Registry Operator contractor. Performance and operational requirements for the Registry Operator are included in our application (Part E).

- The TLD will support reserved domains. A discrete “Registrar of last resort” will arrange this, and that Registrar will also be responsible for making reservations for blocked domain name spaces. Note that other Registrars are not involved in domain reservation (other than by transfer on transition to full registration). Also note that a reservation will appear to be a standard delegation, but with empty zone.

The technical evaluation team in this report seemed concerned about three issues:

1. Whether or not the proposed .tel registry would be a delegation only system.
2. The absence of a pre-defined .tel Registry Operator.
3. Domain Name Inheritance.

Detailed Review

Issue #1: Delegation Only System

On the first point concerning the issue of delegation, the report is a significant misapprehension of the proposed .tel registry. The comments set forth by the technical evaluation team directly diverge from and contradict Telnic’s statements made in its response to the team's questions.

The evaluation team asked a direct question on this topic: *“Is this TLD going to be “delegation only”?”*

Telnic responded, *“The short answer is “yes”.*

This unambiguous response made clear that the .Tel Registry is a “delegation only” system, yet the technical evaluation team has decided that it is not a “delegation only” system and that the Registry “publishes” registered domain content Resource Records directly.

For example, the team starts its comments with the statement that:

“This proposal is for a non-delegation registry where pointers to registrants are stored (NAPTR, SRV etc). As registrars are not used to dealing with registrations of this kind, startup problems could occur because of the high load during start up, including support for and information to end-users – a load normally registrars share between themselves”.

Later, the team recommends that:

“The contents proposed to be stored in the DNS are sufficiently different from what is stored in current TLDs that a detailed technical analysis of the registry-registrar relationship is needed before approval can happen. Otherwise, there is a high risk of problems for registrars. For example, do registrars in general have support for this kind of data in their existing systems, or do the registrars have to develop such support before registration starts”?

Telnic cannot understand how this arose, and cannot find text in any part of the application nor in the answers to the technical evaluation team's questions that might have lead to this allegation. The team seems to confuse the Resource Records stored in a Registrant's chosen authoritative name servers with the information stored in the Registry. Whilst the former are certainly different from traditional zones, the latter is exactly the same as any other TLD; to do otherwise would indeed require Registrars to modify their systems, but nowhere does this application suggest this.

The technical evaluation team continues its comments with:

“Some answers to the follow up questions from the Team (such as the question on whether the domain is delegation-only) have one answer, but then the description of how the domain operates describes functionality which is not coherent with the answer. This has left the Team feeling uneasy about the Applicant's technical understanding of DNS and Registry principles and operations. The Team therefore sees the potential for an increase in operational instability when the registry starts up, as compared with an experienced registry”.

Given that this misinterpretation forms the core of the technical evaluation team's comment on the .tel proposal, we are surprised that the team did not request further clarification from us over what would have been a radical change from a standard TLD. The registry is, technically, similar to those proposed for the “Tier 1” ENUM Registries. These National Registries hold only NS records pointing to the authoritative servers for a delegated ENUM domain. The team's comments seem to be based on a misunderstanding of the way that NAPTRs are used for personal contacts not only in the .tel-Telnic application but also in all existing ENUM deployments.

It would have been easy for the team to request further clarification, as we invited it to do. In the introduction to our technical responses, we stated:

“Please note that, due to the time constraints that have been imposed, these should be considered our initial responses. Whilst we understand the time demands of the ICANN process, the three working days response time required is quite short for a considered and detailed response. Given the time constraints, these responses are not perfunctory, but we are happy to engage in a dialogue if you have further questions or require further clarifications”.

However, the team chose not to do this but instead assumed that we misunderstood the mechanisms it believed were involved.

Most importantly, due to the significant misreading of our application and our specific responses, the subsequent analysis is flawed to the point where we do not recognize the system being evaluated, and do not consider the recommendation reasonable. It seems as if the technical evaluation team was not actually reading our application and our answers but had pictured a system of its own, or perhaps was addressing other proposals.

Issue #2: The Absence of a .tel Registry Operator

On the second point concerning the absence of a .tel Registry Operator, the technical evaluation team appears to have adopted an excessively narrow interpretation of the RFP process and subsequently determined that because Telnic did not have a pre-selected Registry Operator, it failed to meet the four criteria relating to registry operations: (1) Evidence of ability to ensure stable registry operation, (2) Evidence of ability to ensure that the registry conforms with best practice technical standards for registry operations, (3) Evidence of a full range of registry services, and (4) Assurance of continuity of registry operation in the event of business failure of the proposed registry.

Telnic does not understand why the evaluation team would not recognize a competitive RFP for a Registry Operator as a valid course of action. In the 2000 round, Telnic partnered with CentralNIC as the Registry Operator. From experience and discussions with other Registry Operators since, Telnic has determined that the best quality of service and pricing can be obtained by an open RFP for this contract.

If it is a requirement that a pre-determined Registry Operator must be specified, as implied by the evaluation team's statement:

"A number of the proposals use established Registry, DNS and Whois providers. In these cases, the Team examined evidence of compliance with ICANN standards and operating history. In all such cases, the operators passed"

then this puts Registry Operators in a very good bargaining position to extract unfavorable terms from the SO. Thus, we intentionally did not seek this pre-arrangement, especially as the services required are standardized commodities.

The ICANN sTLD RFP criteria ask for evidence that the Applicants have the ability to ensure that stable registry operation continues and that the registry conforms to best practice. It does not require that the Applicant (or a pre-selected, named, contractor) actually runs a Registry already, but instead that the Applicant can show that they will be able to oversee the Registry Operation competently.

However, the technical evaluation team concludes its recommendations with:

"In light of these factors and insufficient details about registry operation of .tel, we believe .tel (Telnic) does not meet the technical selection criteria set forth in the RFP".

We are concerned that the team has not considered Part E of the application, in which there are detailed analyses of performance and operational requirements to be used in assessment of Registry Operator responses to the open RFP Telnic specified. It seems instead to have ignored the application and has concluded that, for example:

"The applicant did not propose an operator, and therefore the Team could not do an evaluation of stability of the registry operation".

We are led to wonder whether or not the technical evaluation team had access to Part E of the application; without it (and the checklist included in part C2) its conclusion is

understandable. With access to the full application (including these materials), it is not.

Issue #3: Domain Name Inheritance

This discussion of name space inheritance was surprising, as it does not appear to be one of the RFP criteria. However, the team asked in its question 3, part (iii):

“Please clarify ... (iii) how you would address any situations where there are identical registrations in country code domains”.

Telnic responded with:

“Given that the aim of the .tel sTLD is to provide a name space for people or companies to publish their contacts, the domains registered are expected to reflect names to which they have a right (i.e. by which they are to be known). If there is a registration within another TLD (either global or country code based), we consider this completely orthogonal to a registration within .tel. Thus we will take no action to address registrations for the same domain label in another Registry, other than the standard procedures for trademark protection. We do expect the PAG to address the issue of "Famous Names", but that is not directly related to other Registries”.

The terms “orthogonal” and “no action” should be clear – there is no correlation between other domain registrations and those in .tel. Of course, the UDRP applies in all cases, so that a challenge in one TLD for a given name may run in parallel with a challenge in the .tel TLD. However, this is the same situation as any other TLD.

Thus Telnic simply do not understand how, from this, the team can conclude:

“But the Team is not convinced existing registrations in other TLD’s will not be used as evidence in, for example, dispute resolution processes in .tel more than existing registrations in one gTLD are used when disputing a registration in another gTLD”.

TELNIC'S REPOSE TO EVALUATORS' REPORT

REPORT 3: SPONSORSHIP AND OTHER ISSUES TEAM REPORT

Telnic sent ICANN the following documents that should have been made available to the sponsorship evaluation team:

- The original ICANN application, including Parts B, C, D, and E.
- A set of 15 answers (of which the last 5 were responses to the sponsorship team's questions) and 7 annexes ("Marketing Plan", "Financial Model", "Financial Model Executive Overview", "Financial Model Users Guide", "Letters of Support", "Letters of Financial Commitment", and "Why Telnic's .tel is an sTLD") sent to Miriam Shapiro in response to the business/financial and sponsorship evaluation teams' questions.

Introduction

The sponsorship evaluation team in this report seemed concerned about five issues:

1. Whether or not the proposed .tel TLD is unrestricted or instead has a defined community.
2. Whether or not the Investors maintain control over policy making in the sTLD
3. Lack of support from a broad spectrum of the served Community.
4. Whether or not this proposal adds value to the Internet name space.
5. Whether the rights of others are protected by the application's procedures.

There is a recurring theme throughout this section of the evaluation report: the team has assumed that the .tel-Telnic application is for an unrestricted TLD. It is as if the team has discarded the material it was sent, especially the text of Annex 7 ("Why Telnic's .tel is an sTLD") that was referred to as the answer to 3 out of the 5 questions received. The sponsorship team's assumption is, at best, a major misinterpretation of our application, and their ensuing evaluation is thus ill-founded.

Detailed Review

Issue #1: Defined Community

As stated in our response to the sponsorship team's questions concerning the definition of the community, we wrote (in section 3 of the "Why Telnic's .tel is an sTLD" document):

"In the case of .tel-Telnic, registrations are open to individuals and companies that wish to store personal or corporate communications contacts. It excludes use to identify machine node addresses".

Later, in section 5 of that document, we state that:

".tel is a Name based system. Our goal is to provide domains that are exclusively tied to person or company's name, and are used to hold contact information associated with the registrant rather than their machines. This is a specialised use of the domain name system, and introduces new possibilities. For example, it is now practical for a registrant to store "non-Internet" contacts in their zone (e.g. telephone numbers) alongside links to their web sites".

Finally, section 2.5 of Part A of the .tel-Telnic application begins:

"Individuals could use their name as a personal "brand" or a universal identity accessible from any Internet-enabled communications device to publish their contact information or other personal data".

However, the sponsorship evaluation team has mischaracterized the application and the responses we sent to it as a general "unrestricted use" TLD and has based the subsequent evaluation on that mischaracterization. As the material includes these clear statements to the contrary it raises a concern over whether or not all of our responses to the sponsorship questions were actually forwarded to the team by Summit.

In their comments (part 1A of section III of the evaluation report), the sponsorship evaluation team state:

"In sum, the community appears to be anyone who has a phone or seeks to disseminate telecommunications routing information about how to reach them. Given the intent to include other forms of messaging, it may progress even beyond just telephone numbers. The ET understands the goal of the RFP is to open up new sTLDs to well defined communities that can be differentiated from others in the existing TLD namespace and assume certain of ICANN's policy-making authority on issues relating to the sTLD. This application seems to sweep almost all existing registrants (at least those who have a phone number or other messaging address) under its ambit".

Similarly, at the start of their comments in part 1D the sponsorship team reiterates:

"As noted in 1A, the defined community includes all users of the "fixedline and wireless Internet-Communications namespace.""

If this were an unrestricted TLD proposal then this comment would be reasonable, but it is not; the team has selected the quote from section 2.3 of the application without the context that follows at the start of 2.5.

Issue #2:Investor Control over Policy Making

Telnic has spent a great deal of time and effort designing an SO structure to support the community, ensuring neutrality and inclusiveness in policy setting, and to arrange for primacy of the policy setting role in any conceivable situation. Part A, section 4.6.1 of the .tel-Telnic application states for the SO Board of Directors that:

"There will be a minimum of five Board members. The majority of Board members will be appointed by the shareholders. Two Board members will be appointed by the PAG".

Given the above and the fact that the sponsorship team has quoted one sentence but ignored the next, the following comment from the evaluation team in section 1C is bewildering:

"The SO is a self-perpetuating Board initially made up of the management and financial backers of the effort. As the application declares, "The majority of the SO Board members will be selected and appointed by the investors." The SO has no obligation to include representation from any portion of the community to be served by the sTLD. We can imagine that there would be some pressure on the SO to be inclusive in its appointments, but there is no requirement that they do so".

These comments appear more applicable to other applications (for example to .mobi). It is an inexplicable misrepresentation of the .tel-Telnic application.

The team concludes with: *"We do not believe that it would be appropriate for ICANN to delegate such broad policy authority to an inherently closed process such as that one described in the application"*.

The evaluation team's suggestion that this is an inherently closed process is misplaced. Telnic included as part of its responses to the team's questions the document "Why Telnic's .tel is an sTLD" as Annex 7. This devotes section 5.3 to building on the statements made in the application, clarifying the structure of the SO, the PAG, the interim PAG, their roles and interactions. As an example from this, we state that:

"The PAG will exert effective control over policy, and is not merely a source of proposals without power. This will guide the sTLD and specify all policies to be carried out. Only in the case where policies proposed by the PAG will directly damage the stable operation of the sTLD, or are in direct conflict with ICANN agreements, can the Sponsoring Organization refuse to implement the proposals. In effect, the PAG will control all policy issues in the .tel sTLD".

Recalling that the PAG has two board members, and taken together with the application text itself (in section 6.1.5.4 of which we state: *"The SO Board will be unable to overrule policy recommendations made by unanimous votes of the PAG unless the Board itself is unanimous in its decision"*), we cannot understand how the sponsorship evaluation team can infer its conclusion from the materials provided.

Issue #3: Lack of Support from a Broad Spectrum of Served Community

The evaluation team states, in part 1D (on community support), that *"with a few notable exceptions, the bulk of the support for this proposal comes from researchers and developers in the field, some of whom are under contract with the Telnic organization"*.

Of the eleven letters of support provided, one came from a company that has been under contract, as stated in their letter. Of the others, they include some very large fixed-line operators, mobile operators and ISPs, such as: Deutsche Telekom, LDCOM/Jet Multimedia, MegaFon and Portugal Telecom. Deutsche Telekom alone has over 10 million customers for its Internet services, so the team's categorization is, at best, unfair.

As we stated in our answer to the team's question 3:

"The examples of Letters of Support we have included (see Annex 5) reflect the service providers who in practice will act as agents for the Registrants and end users, the value-added service providers who will support these users, the vendors who will implement systems using this contact data, the Registrars who will provide systems to manage registrations and to populate these zones with contacts, plus potential commercial Registrant".

In practice, the ISPs who provide services to their customers will represent those customers and will be an important partner in marketing .tel to them - they believe that this is a "differentiating service" that is of use to their customers. These ISPs will certainly get support calls and so have a clear interest in setting policies that are to their customers' advantage, which is why we see them as important members of the PAG. They are hardly researchers or developers.

Issue #4: Addition of New Value to Internet Name Space

Considering first the "Addition of New Value to the Internet Name Space" section, under the sponsorship team's own interpretation of the RFP criteria (as stated on pages 20-21 of the evaluation report), it is difficult to understand how the evaluation team arrived at its conclusion.

Examining each of the points in the criteria in turn, the term "tel" has recognition across the World as being associated with Communications. Personal Communications is certainly a significant field of human endeavor, and is important worldwide. We believe that storing personal contacts to facilitate such communications gives the sTLD significant utility, and it is hard to see how this could be other than of lasting use; it isn't a fashion. Finally, the name of the proposed sTLD (.tel) fits with the purpose to which it is used and thus to that aspect of life that makes someone a member of that community.

No existing gTLD is focused exclusively on providing a name space for personal or corporate contacts - all others have been used for machine contacts. This is a new use that (from our market testing) is also of interest to people who are not currently Registrants in other domains. We believe that, to support such new users, it is important to work with ISPs, thus increasing the total market size for the registration business and giving customers more options for a retail relationship in the process. As we describe in our response to the evaluation team's question 4 (on outreach) we expect this to be especially important in less developed countries and regions.

However, the team describes the .tel concept (at the start of part 2A) as a "*speculative use*". This is a surprising characterization for a novel proposal that is designed to meet the RFP criteria to "*enhance the diversity of the Internet name space*" and that supports "*enrichment of broad global communities*".

The evaluation team continues its comments by stating that "*The argument supporting the view that this sTLD adds value to the Internet name space is offered largely from researchers and advanced service developers...*".

The team conclude part 2A with the statement that "*We see at least as much downside potential for confusion with the addition of this TLD as upside potential for valuable new services*".

This again seems to be based on the misapprehension that .tel-Telnic is yet another unrestricted TLD, when it has a clear focus on people rather than machines. Adding personal or corporate contacts to existing "multiple use" TLDs would cause the confusion that this proposal intends to remove.

The key concept of this application is that domain name space can be used to store personal or corporate contacts, rather than machine contacts. As we mention in sections 4 and 5.1 of Annex 7 of our responses, the very same concept (but using E.164 numbers as an input term) is in place for ENUM. Much of the technology "under the hood" is identical, and the spread of ENUM support within VoIP systems is rapid. Merely because a DNS use is absent in the existing gTLD space does not mean that it has no value, nor does the fact that advanced applications use this system mean that they are any less useful to people.

Finally, in the evaluators' report of Telnic's .tel application in 2000, it was written: "*Thus, of the four proposals in this [communications] group, the evaluation team concludes that the Telnic proposal is strongest in meeting unmet needs.*" (for the full report, see <http://www.icann.org/tlds/report/report-iiib3-09nov00.htm>)

We are puzzled to see how the evaluators' opinion in this round could differ so substantially from ICANN's initial assessment while the demand for a communication-based TLD has only increased since that time.

Issue #5: Protection of the Rights of Others

We are again at a loss to understand the evaluation team's conclusion in part 2B given the material that should have been available to it. The evaluation team states that:

[the] "*Applicants promise to "employ and use a procedure that will enable intellectual property owners to protect their valuable property." While we accept this statement at face value, we do not believe that it constitutes full protection for all of the rights that individuals and businesses may require. In particular,*

individuals who would depend on this TLD for routing personal communications will have distinct needs, separate from those of intellectual property holders".

In Annex 7 of our responses to the Business and Sponsorship teams' questions (in section 5.2 on representation in the .tel served community) we state:

"The use of .tel as a prelude to communications means that third party communications service providers have legitimate interests in the performance provided by the DNS servers, not only of the Registry itself but also those Authoritative servers that host a registrant's zone. Providers of such Authoritative DNS hosting service will need to be represented so that reasonable recommendations can be agreed. As a holder for contact information the Sponsoring Organization has a responsibility to guarantee fair access, use, and publication. Thus, the communications service providers who use the data will need to be represented in the policy setting process".

In short, we have indeed considered this very point, and the evaluation team has ignored what is a clear statement.

The team then states that *"we consider the absence of careful treatment of data protection and law enforcement access issues to be a substantial gap in the application"*.

We are a UK-based (and thus EU-based) company, and so are well aware of the requirements for data protection and for support of government mandated access, and the sensitivity of this topic. We answered the questions posed by the evaluation team, and there was no question on this topic, which is surprising considering its subsequently expressed concerns.

We did address this point not only in our answers to technical questions (on the use of CRISP/IRIS, we stated that *"However, this is a matter for the Registry Operator subcontractor, with the possible exception of a mandatory requirement being placed by Government agencies"*) but also in our response on the public forum to the concerns of Telefonica. In the latter, (in our response to their section 5.1) we stated:

"Telnor is based in the EU, and so is sensitive to the data privacy concerns of its Registrants. As it will operate a sTLD, the kind of data it holds is the same as the data used by any other registry, and so is subject to ICANN guidelines. However, we understand that provision of a WHOIS (or CRISP) service is, of course, subject to data privacy concerns. Furthermore, we are sensitive to concerns on a 'Thin Registry' model, where personal information may be made available by a Registrar operating in one legislative jurisdiction on behalf of a customer who lives in another (and may expect different levels of control over accessibility to their personal information). We expect to work within ICANN guidelines, and will protect Registrant's personal information where possible".

Following from this, in our response to their section 5.2 on provision of telecommunications service and data privacy laws in different jurisdictions, we stated:

"Telnic Limited is a UK-based company, as mentioned in the proposal. We are fully aware of the differences in Data Privacy regulations between the EU and other jurisdictions. In terms of the specific case of court-ordered access or interception of telecommunications, this would be an issue if Telnic were intending to provide Telecommunications service; as it does not, this is irrelevant".

Thus, we explicitly mentioned a requirement for release of information to government agencies, and the special need for data protection. This is a personal and corporate contact name space, and this is one of the key reasons why we believe that .tel must be an sTLD, and one of the main reasons why we believe that a “thick registry” model is appropriate so that the Registry can ensure control over personal data held on its Registrants.

The team appears not to have read the material available to it, and did not raise this as a concern and ask questions on it. If this is common to its treatment of all of the proposals, then we would be surprised to see that any application was evaluated as meeting the criteria.

TECHNICAL TEAM COMMENTS

ON .tel (Telnic) SUPPLEMENTAL MATERIALS

Since we issued our Evaluation Report in July, we have had a number of document exchanges, and one teleconference, with the TELNIC team.

During this process the applicant responded to all RFP-related issues the Technical Team had raised earlier. Our conclusion is that TELNIC has satisfied our concerns, with our comments found below.

Evaluation

The Technical Team raised issues with the TELNIC application within the following areas related to the RFP:

- (1) The policy related to registration of address records;
- (2) How the policy (1) was to be enforced;
- (3) The performance of CORE as the selected backend registry, and scaling issues related to CORE; and
- (4) Backup and stability of CORE in the face of a complete failure of one of the sites used.

All of these issues are resolved given the TELNIC responses and the discussion during the teleconference. The process described to examine if registrants were following the sTLD rules was deemed fair and non-discriminatory.

A. Evidence of ability to ensure stable registry operation

Telnic proposes to use an established registry and DNS operator – CORE. This operator does not have a track record of operating a large-scale DNS operation, but information provided by CORE showed evidence that their operation can scale to a size larger than .TEL expects to reach in 3-5 years. The Evaluation Team is thus satisfied with the operational aspects of the proposal and expects the operations to meet or exceed all ICANN standards.

The Sponsoring Organization and the validation organization have to be set up. In any new process, some glitches are to be expected. But this proposal has explained the processes and procedures in detail to the Evaluation team, thereby minimizing any concerns of the Team. As this sTLD has requirements on registrants to adhere to the rules of the sTLD, there are bound to be some problems with registrants not following the rules and complaining when suspended, but this is not a major issue.

B. Evidence of ability to ensure that the registry conforms with best practice technical standards for registry operations

Geographical distance between the data sites is lower than the Team would like to see. As noted in our July report, this is a subject ICANN should issue guidelines on. The registry indicated that it is aware of the issue and is working on potential solutions, but due to legal issues (i.e., EU data protection rules) establishing a different site outside of Germany requires approval.

C. Evidence of a full range of registry services

The Evaluation Team did not see any issues of concern with respect to these criteria.

D. Assurance of continuity of registry operation in the event of business failure of the proposed registry

The Evaluation Team did not see any issues of concern with respect to these criteria.

Comments

The Technical Team has additional comments on the application:

[A] The policy presented indicates no address records (A, AAAA, X25 etc) are allowed in the zone the registrant creates and, because of this, it will be the first TLD where it will be against the policy to have nameservers located in the zone itself. We do not foresee any problems with such a policy, and it might even be quite interesting to see the result.

For example, the following will not be allowed:

```
example.tel.  IN NS ns.example.tel.  
example.tel.  IN NS example.tel.  
example.tel.  IN A 192.168.1.1  
ns.example.tel. IN A 192.168.2.1
```

[B] The Technical Team is somewhat concerned when TLDs are created that have special functional implications for a domain. In this situation, the TLD .TEL is for getting information about something. The string .TEL is a suffix for a name, an identifier and, most certainly in some cases, an existing domain name. If a special domain name is needed for a feature, then a prefix is better than a suffix, but the best solution is to use a special resource record -- like .TEL does with rewrite and indirections using the NAPTR DNS RR. That said, the .TEL domain targets individuals and organizations that in most cases do not have other domain names, so we do not see any great risk for "inheritance issues" that might have existed if the policy were different. See [draft-iab-dns-choices](#), "Design

Choices When Expanding DNS” (<http://www.iab.org/documents/drafts/draft-iab-dns-choices-00.txt>) for more information about this suffix/prefix issue.

Summary

The Technical Team views the .TEL application as complete and sufficient from a technical standpoint. The explicit technical comments mentioned above can be addressed properly in the event there will be any contract negotiations, in order to protect all parties involved (i.e., registry, registrars and registrants). For these reasons, we conclude that the application is technically sound and meets the RFP criteria for technical approval.

ICANN Board Questions for the Technical Evaluation Team

(1) Scaling

The TELNIC proposal appears to define its community as any person, business, or other entity on the Internet who wants to be reached through their service. Assume they are wildly successful:

(i) Are their planned technical and operational arrangements adequate to deal successfully with a domain that contains records (either delegation or NAPTR, depending on how the proposal is read) at the level of one or more records for every business, man, woman, child, and possibly dog on the planet? Do you believe that other Internet servers, caches, etc., would work well under that sort of load and size of zone?

(ii) Their description of their intent, and the little movie, seem to be under the impression that the number of people with the name, e.g., JoeSmith in the world is one. Since that belief is clearly incorrect, do you consider their techniques for resolving the issue of multiple Joe Smiths and then finding them to be adequate, noting that a "first come first served" model will rapidly break the claims that they make for the system and application and probably mire them, and ICANN, in disputes over name conflicts?

(iii) Insofar as there are multiple people with the name "Joe Smith", or businesses with the name "Joe's Pizza", and assuming that they have some mechanism for registering all of them in the domain, do you consider their model for letting the user find the right "Joe Smith" adequate given the "lookup" limitations of the DNS, or do you see them depending on trick servers? If they latter, do you consider their model for handling caching adequate?

(iv) Given some of those restrictions and the special application (see below), do you see their ideas working well with the DNS's caching environment and, if not, do you believe that the load that would be imposed by prohibiting caching will be acceptable?

(2) Operation, name conflicts, and the special application.

(i) Their proposal seems to depend on a specialized application being installed on user machine to offer the menu choices of ways of reaching the target and so on. How do you see the proposed system

working, if at all, in the absence of such an application?

(ii) That application is expected to lexically canonicalize whatever name is given to it, and then to append .TEL. to the name given to form an FQDN, which is then looked up in the DNS. Since such an application could as easily append .TEL.FREEDONIA., is there any possible justification for a TLD (other than, perhaps, some presumed marketing cachet) in your understanding of this proposal? Along the same lines, some of the scaling issue referred to above could presumably be dealt with by using the application and name-appending to impose deep structure, e.g., by appending A.TEL. to a name starting with "A", B.TEL. to a name starting with "B", and so on. Do you find it problematic that they have apparently not considered something along those lines and, if not, why not?

(iii) The Internet has had relatively poor experience with name-appending mechanisms, to the extent that doing such things is criticized explicitly in RFC 1123 and elsewhere. When the labels to be appended are hidden from the user (rather than being known to the user and supplied as a typing convenience), there is the additional issue of domain names and URIs appearing to work in one environment and not in another. That situation is often considered to be a threat to the integrity of global references on the Internet. How do you see this proposal as escaping those threats and criticisms?

(3) Registrar-registry protocols and interactions.

(i) Unless it is even more dependent on the specialized application than seems apparent, the proposal appears to call for registering NAPTR records at the second level. We have had serious problems with registrar implementations of RRP and EPP handling simple third-level registrations (e.g., of bozo.clown.name). Are you satisfied that similar problems will not arise in registering non-delegation records and, if they do, that they will not become a technical barrier to entry into the registrar market for this domain?

(ii) In the aftermath of the "SiteFinder" incident, patches were widely deployed that restrict the use of non-delegation records in TLDs. If this proposal in fact involves such non-delegation records, do you see those patches becoming an impediment to successful deployment and use and, if not, why not? Of course, if the specialized application is always used, and contains its own resolver, that would presumably not be a problem. Is that true and, if so, how do you feel about that solution?

Technical clarifications concerning .tel

Introduction

The following note will address four issues that concern (i) the **.tel** Registry's capability to scale to large size without problem, (ii) the registration process, (iii) the Registrar-Registry Agreements needed for this sTLD, and finally (iv) the Registrar-Registry Interface required for **.tel**.

1. The .tel Registry DNS Model

The **.tel** Registry will operate using the standard "Delegation Only" model. The **.tel** Registry servers do not hold or use NAPTRs internally, and so will never return NAPTRs in response to any query.

The **.tel** Registry will implement a "Delegation Only" model, using NS records to refer queries to the external servers authoritative for the queried domain. It will not store and return records holding people's contacts, nor does it use NAPTR-based alternatives to delegation. In short, it operates just like other TLDs.

In more detail, the "normal" delegation-only model adopted for **.tel** operates in the following way:

Only NS records (and supporting records directly related to those NS records) are held by the Registry Name Server cloud. Thus only these NS records will ever appear in the Answer section of a successful (NOERROR) referral response.

"Glue" records showing the Address record(s) directly associated with an NS record are held by the Registry if they are "in-bailiwick" for the TLD, and will be returned in the Additional Section of any successful DNS response, but no other information is stored or returned.

This model has been demonstrated to scale in all other TLDs, and Telnic has no reason to choose any alternative – this model works.

2. The .tel Registration Procedures

The **.tel** Registry will provide a standard "first come, first served" Registration process, akin to other TLDs. It will not require involvement of the Sponsoring Organisation to pre-approve any registration request.

With the exception of "reserved" domain names that are blocked from registration, and those registrations reserved by copyright/trademark holders during the sunrise period, **.tel** domain names will be open to all and no one group or individual will have priority over another. In common with the other TLDs, the **.tel** Registry will accept the WIPO arbitration system for domain name disputes. There are no other limits currently envisaged to control registrations requests for **.tel** domain names.

Where matters of policy arise concerning this topic, the Policy Advisory Group within the **.tel** Sponsoring Organisation will be asked to consider them. This may well happen as experience grows in the process of IDN registration. However, any such policy development work will, of course, be done in conjunction with the GNSO constituencies, as it will affect all TLDs and their customers.

3. The .tel Registrar-Registry Agreements

As .tel uses a “first come, first served” process for domain registration, there is no need for pre-approval procedures by the Sponsoring Organisation, as is done in other sTLDs. This greatly simplifies the registration process, and is designed to maintain as wide a range of Registrars as possible, whilst minimising the cost of Registration.

The main addition to the standard Registrar-Registry Agreement will include a requirement on the Registrar to ensure that any Registration request that is passed to the .tel Registry will happen only after the potential Registrant has been informed of the “restrictions on use” affecting his or her delegated zone’s content, and that the Registrar has the explicit agreement on the part of the Registrant to be bound by this restriction.

On a related note, the .tel Registry will police this restriction by scanning delegated domains, sending queries to the authoritative servers for those zones and checking for embargoed resource types – specifically, for the presence of A, AAAA, or A6 resource records returning in the Answer section of a response. If such content is found, the Registrant (and the Registrar) will be informed that this is in breach of the initial registration agreement, and that the domain will be suspended unless this breach is rectified.

4. The .tel Registrar-Registry Interface

The .tel Registry will support EPP for Registration processing. This means that Registrars can use EPP to place registration requests and to modify existing registrations.

Please note that, as this is a “delegation only” Registry, the *EPP-NAPTR* extension proposed within the IETF **will not** be used between the .tel Registry and Registrars – it is not needed for a typical delegation-only Registry. This also means that all Registrars who support EPP for their Registry transactions will be able to interact with the .tel Registry in exactly the same way – no specialised EPP extension or special transaction processing is needed across this interface.

This also ensures that there will be no restriction on Registrars and so no reduction in potential competition for Registration services; this is similar to a traditional TLD. Of course, we expect new specialists (Registrars or dedicated authoritative/delegated name service providers) to enter the market who provide rich customer support for provisioning NAPTRs. However, providing such support is not difficult, and the Sponsoring Organisation expects to work with all Registrars to ensure widespread knowledge of these support techniques.

TECHNICAL TEAM ANSWERS TO
ICANN BOARD'S QUESTIONS re: .TEL (Telnic)

(1) Scaling

The TELNIC proposal appears to define its community as any person, business, or other entity on the Internet who wants to be reached through their service. Assume they are wildly successful:

(i) Are their planned technical and operational arrangements adequate to deal successfully with a domain that contains records (either delegation or NAPTR, depending on how the proposal is read) at the level of one or more records for every business, man, woman, child, and possibly dog on the planet? Do you believe that other Internet servers, caches, etc., would work well under that sort of load and size of zone?

The proposed TLD is no different than .COM in this respect. The problem is that there are certain break-points in the growth curve. As a result, problems can arise if everyone decides to register on the first day. But growth is typically linear, and we believe that the Registry Operator has the competence to grow in that manner. We also do not believe that growth would have any effect on the rest of the DNS infrastructure.

Resolution problems related to the use of NAPTR are independent of the size of the zone. Any name registered in .TEL will require more space than a .COM name.

(ii) Their description of their intent, and the little movie, seem to be under the impression that the number of people with the name, e.g., JoeSmith in the world is one. Since that belief is clearly incorrect, do you consider their techniques for resolving the issue of multiple Joe Smiths and then finding them to be adequate, noting that a "first come first served" model will rapidly break the claims that they make for the system and application and probably mire them, and ICANN, in disputes over name conflicts?

A first-come, first-served approach to registration does not seem appropriate to a TLD of this potential size, but that issue was not considered to be technical, but rather within the purview of the Sponsorship & Other Issues Team.

(iii) Insofar as there are multiple people with the name "Joe Smith", or businesses with the name "Joe's Pizza", and assuming that they have some mechanism for registering all of them in the domain, do you consider their model for letting the user find the right "Joe Smith" adequate given the "lookup" limitations of the

DNS, or do you see them depending on trick servers? If the latter, do you consider their model for handling caching adequate?

The look-up problem cannot be resolved by using DNS because one cannot add enough information to the NAPTR record to distinguish such registrations. Put simply, there is no known technical mechanism whereby different users in different locations can get different responses from DNS.

If Telnic plans to allow for locality registrations, then they must depend on “trick” servers. It is not clear, however, how they would work within the model described, particularly when the larger ISPs utilize caching.

(iv) Given some of those restrictions and the special application (see below), do you see their ideas working well with the DNS's caching environment and, if not, do you believe that the load that would be imposed by prohibiting caching will be acceptable?

We do not foresee a problem with DNS, for DNS traffic is relatively small. If caching is limited, then any burden will be on the registry operator in the form of high traffic (i.e. a DDOS attack on itself). Users are likely to experience long latency in lookups, which can result in less usage and the abandonment of searches. It is therefore in the interest of the registry operator to fix any such problem.

(2) Operation, name conflicts, and the special application

(i) Their proposal seems to depend on a specialized application being installed on user machine to offer the menu choices of ways of reaching the target and so on. How do you see the proposed system working, if at all, in the absence of such an application?

There will no doubt be some problems in this area, as the TLD will ultimately succeed or fail based on the availability of applications. If Telnic publishes a library that implements the functionality, then this can be embedded in applications directly without a special application on each host (as in the NEW.NET model).

Another important question is the Sponsor's exit strategy, i.e., what happens to the TLD and its registrants if it were it to fail.

(ii) That application is expected to lexically canonicalize whatever name is given to it, and then to append .TEL. to the name given to form an FQDN [fully qualified domain name], which is then looked up in the DNS. Since such an application could as easily append .TEL.FREEDONIA., is there any possible justification for a TLD (other than, perhaps, some presumed marketing cachet) in your

understanding of this proposal? Along the same lines, some of the scaling issue referred to above could presumably be dealt with by using the application and name-appending to impose deep structure, e.g., by appending A.TEL. to a name starting with "A", B.TEL. to a name starting with "B", and so on. Do you find it problematic that they have apparently not considered something along those lines and, if not, why not?

We considered this question in our evaluation reports on some of the proposed sTLDs, such as .JOBS and .MOBI. We expressed the view that a prefix would raise fewer issues than a suffix. See, e.g., "Design Choices When Expanding DNS draft-iab-dns-choices-01.txt" at <http://www.ietf.org/internet-drafts/draft-iab-dns-choices-01.txt>. Obviously, proposals for prefixes were not the ones presented to us for evaluation.

(iii) The Internet has had relatively poor experience with name-appending mechanisms, to the extent that doing such things is criticized explicitly in RFC 1123 and elsewhere. When the labels to be appended are hidden from the user (rather than being known to the user and supplied as a typing convenience), there is the additional issue of domain names and URIs appearing to work in one environment and not in another. That situation is often considered to be a threat to the integrity of global references on the Internet. How do you see this proposal as escaping those threats and criticisms?

We do not believe that it "escapes those threats and criticisms," but that it raises the same issues as other TLDs that have special meanings or uses. We would characterize .TEL as a "general admission TLD" that requires some guesswork to determine whether "icann.tel" is for "icann.org" or "icann.ru." Holders of well-known domain names will no doubt feel great pressure to register early so as to minimize confusion and guesswork.

(3) Registrar-registry protocols and interactions

(i) Unless it is even more dependent on the specialized application than seems apparent, the proposal appears to call for registering NAPTR records at the second level. We have had serious problems with registrar implementations of RRP and EPP handling simple third-level registrations (e.g., of bozo.clown.name). Are you satisfied that similar problems will not arise in registering non-delegation records and, if they do, that they will not become a technical barrier to entry into the registrar market for this domain?

The latest proposal for the .TEL TLD is delegation only, but registrant use of DNS record types is restricted. We asked the applicant many questions about enforcement, and how registrars are intended to function. As noted in our evaluation report last summer, there is a high risk of problems for registrars if

there is no preliminary detailed analysis of the registry-registrar relationship, including consideration of the different technical abilities of different registrars.

(ii) In the aftermath of the "SiteFinder" incident, patches were widely deployed that restrict the use of non-delegation records in TLDs. If this proposal in fact involves such non-delegation records, do you see those patches becoming an impediment to successful deployment and use and, if not, why not? Of course, if the specialized application is always used, and contains its own resolver, that would presumably not be a problem. Is that true and, if so, how do you feel about that solution?

Despite initial confusion, Telnic clarified in fall 2004 that the .TEL sTLD would be "delegation-only." This question is therefore no longer applicable.



Internet Corporation for Assigned Names and Numbers

31 July 2004

Stuart Lawley

[REDACTED]

Re: New sTLD Applications: Status Report

Dear Mr. Lawley:

ICANN is pleased to provide this status report concerning your application for designation of a new Sponsored Top-Level Domain (sTLD). As you know, applications for new sTLDs were submitted in response to ICANN's Request for Proposal (RFP) issued on December 15, 2003.

After initial review of the applications for completeness by ICANN, we requested that an independent panel of experts convene to evaluate them against the criteria established by the RFP. The Evaluation Team that was formed consisted, respectively, of three internationally diverse panels of experts to examine the applications on technical; business/financial; and sponsorship/other issues. To be clear, panel members are not from ICANN staff or Board; they are independent experts. Each panel met formally six to eight times by teleconference. Between each formal meeting, the teams worked diligently and thoroughly to discuss the selection criteria, analyze the applications, review public comments and assess the extent to which each proposal satisfied the different parts of the RFP. Additionally, as you know, the teams posed a series of questions to each applicant in an effort to obtain additional information or to clarify points within the application. At every step, the applications were evaluated on their own merits, in an objective and fair manner.

ICANN has received initial reports from the three panels of evaluators. A status report based upon those findings will be provided to each applicant within the next four weeks. The extent to which any clarifications may be necessary depends on the nature of each proposal. For this reason, we have decided to allow each proposal to progress on its own timetable. In order to enhance transparency and understanding of the sTLD selection process, the evaluation reports will be released publicly, as soon as all applicants have concluded the process and applicants have been given an opportunity to reasonably redact proprietary information.

The .xxx application was determined by the evaluators to satisfy the baseline criteria in the RFP relating to technical and to business/financial issues. With respect to sponsorship criteria, an initial report has been written but there are additional steps required before the evaluation will be considered completed. If it is determined that the sponsorship criteria have been met, the application will proceed immediately into technical and commercial negotiation.

You shall be contacted as soon as possible with additional information. In the meantime, please do not hesitate to contact me with any questions.

Sincerely,

Kurt Pritz
V.P., Business Operations

cc: Stuart Duncan
John Jeffrey, ICANN General Counsel

ICM REGISTRY
the .xxx top-level domain



October 9, 2004

Kurt Pritz
ICANN
4676 Admiralty Way
Suite 330
Marina del Rey, California 90292-6601
USA

Via email : pritz@icann.org

Re: Formal Response to ICANN's Independent Evaluation Report on .xxx sTLD

Dear Mr Pritz,

ICM Registry and IFFOR (collectively, the "Applicants") appreciate this opportunity to respond to the issues identified in the Sponsorship and Other Issues Evaluation Team (S&OI ET) report (the "ET Report" or the "Report") in relation to our proposal to accredit .xxx as a sponsored top-level domain for the responsible online adult-entertainment community (the "Proposal"). As one of the largest and most popular segments of e-commerce, .xxx is clearly an obvious choice to add to the Internet. In your letter dated, 31st August 2004, you encouraged us to suggest "how the issues reported by the Sponsorship Evaluation Team may be addressed." ICM Registry and IFFOR submit that the response herewith, in conjunction with the original Proposal and supplementary questions and answers (the "Supplementary Material"), clearly and unequivocally satisfies *all* the original criteria set forth in the RFP. Please find below our responses to the ET Report, as well as a point by point discussion of issues raised by the evaluators.

I. BACKGROUND AND INTRODUCTION

1. The Proposal Represents a Historic Opportunity

ICM Registry and IFFOR have succeeded in developing a unique solution that promises to address many of the concerns about adult domains while at the same time providing innovative new tools, technology, and programs to protect Internet users, including children, from irresponsible adult sites. The .xxx Proposal offers a historic opportunity to make a positive contribution to the responsible growth of the Internet. ICM Registry has worked diligently for nearly seven years and, with this Proposal, ICM and IFFOR have succeeded for the first time in bringing relevant stakeholders together on the same page. The Applicants have communicated

with a broad coalition of Internet stakeholders, including the online adult industry, child-protection organizations, parents' groups, privacy and security groups and free-speech advocates, to successfully formulate an industry-led, market-driven, non-regulatory solution for the creation of an adult TLD registry. We urge ICANN not to underestimate the importance of this Proposal, or fail to take advantage of this opportunity to act constructively.

2. Adult Entertainment on the Internet Is, For Many, an Uncomfortable Discussion Topic

There continues to be reluctance in many quarters to discuss the subject of adult entertainment on the Internet. A quote from the *New York Times* illustrates this point and underscores the unique challenges confronting the .xxx Proposal. Explaining why none of the corporate leaders of AT&T, Time Warner, General Motors, etc. — companies with a big financial stake in adult films — was willing to speak publicly about the sex side of their businesses, an AT&T official said, “How can we? It’s the crazy aunt in the attic. Everyone knows she is there, but you can’t say anything about it.”¹

The universally well-known but, in certain circles, little-discussed fact is that there is a huge amount of adult-entertainment material on the Internet. Internet aficionados understandably prefer not to focus on this, lest it become fodder for ill-conceived efforts to control or regulate Internet content. This uneasiness about the prevalence of adult entertainment online colored the evaluation by ICANN staff and consultants of ICM’s proposal four years ago.² However, we had hoped, given the care taken by the Board in vetting the evaluation criteria, that a proposal submitted in the 2004 round would be evaluated objectively and on its own merits. The evaluation teams faced an enormous challenge in having to quickly analyze the breadth and depth of the ten proposals submitted in response to ICANN’s RFP, and the Applicants appreciate, first hand, the level of effort involved³. While we very much welcomed the enthusiastic reviews of the Proposal by the Technical and Business & Financial Evaluation Teams,⁴ we can only conclude that the S&OI ET lacked the time needed to overcome the all too common preconceptions, misunderstanding, and misguided policy concerns that prompt concerns about a proposal of this sort.

¹ “Wall Street Meets Pornography” *New York Times* (October 23, 2000) available at: <http://www.nytimes.com/2000/10/23/technology/23PORN.html?ex=1096603200&en=7e66d090539277c5&ei=5070>

² This was amply demonstrated by ICM in its reconsideration request. See, ICM Request for Reconsideration (15 December 2000), available at <http://www.icann.org/committees/reconsideration/icm-request-16dec00.htm>

³ By comparison, prior to becoming personally involved with this initiative, I spent a full year reviewing the technical, business, and policy issues raised by this Proposal.

⁴ Although ICM Registry and IFFOR appreciate the extremely positive review by the technical evaluation team, it is important to begin by clarifying one point. On page six (6) of the compiled evaluation team report, it states that “[t]he aim of this TLD is to sponsor the migration of responsible adult entertainment web sites.” Although it is the goal of ICM Registry and IFFOR for .xxx to be the preferred TLD of choice for the responsible online adult entertainment community, any migration from existing TLDs will be voluntary and market driven. This clarification may appear minor, but the Applicants believe that it is critical to dispel any misunderstanding on this point lest they be exploited in support of otherwise unsubstantiated critiques of the Proposal.

3. The Proposal is Consistent with the Globally Recognized Goal of Promoting Responsible Self-Regulation in the Digital Environment

At this point, it seems appropriate to consider how the creation of an sTLD for adult-entertainment websites would significantly contribute to the success of ICANN and to furthering ICANN's mission. In 1997, governments around the world focused on the potential impact of the Internet and electronic commerce on traditional notions of sovereignty and governance. In this context, world governments recognized that industry self-regulation would play a critical role in this inherently global environment.⁵ The idea of ICANN was conceived at this time, and the promotion of global, bottom-up, industry-led self-regulation was its centerpiece.⁶

Considered in this historical and governmental context, it is hard to imagine a proposal that could be more appropriate for ICANN's approval than ICM Registry's.⁷

⁵ See, e.g., A European Initiative in Electronic Commerce, COM (97) 157 (12 April 1997); *Towards the Age of the Digital Economy*, Japan (MITI) (May 1997); *A Framework for Global Electronic Commerce*, issued by the White House (1 July 1997); *Bonn Declaration on Global Information Networks*, issued by ministers from 29 European countries (July 1997); APEC Leaders Declaration, Vancouver Canada (25 November 1997); *OECD Action Plan for Electronic Commerce*, Ottawa (October 1998).

⁶ See, [Management of Internet Names and Addresses \(White Paper\)](#), 63 Fed. Reg. 31741, 31742 (10 Jun. 1998).

⁷ Indeed, in the U.S., in hearings held by the bi-partisan commission established by the Children's Online Protection Act (COPA), Senator Joseph Lieberman urged industry to: "adopt a common, self enforcing code of conduct. I know the international online community is still having trouble settling on a governing structure, let alone reaching agreement on shared standards of conduct. But if the Internet is going to continue to grow, it must self-regulate, and if it self-regulates, it must start with some basic principles." In hearings held by the House Energy and Commerce Committee in February of 2001, members of the telecom subcommittee expressed disappointment in ICANN's decision not to award .xxx to ICM. The following exchange, which took place between Congressman Christopher Cox (R-CA) and Dr. Vinton Cerf, ICANN Chair, is interesting in that Dr. Cerf identifies the need for a global approach.

Congressman Cox: "One of the policy issues that I would like to use as the basis for furthering our discussion in just a few minutes; that we've discussed here in this committee and also throughout the House and the Senate, is what to do about pornography on the Internet. One of several ideas that have been discussed is the creation of a top-level domain that would essentially zone the Internet voluntarily. We rejected early on of the idea of a government mandate for this to occur, but we have been very interested in whether the private sector might migrate in that direction, because, if it did, it might them be possible for Congress to offer incentives, not penalties, which would run afoul of the First Amendment guarantees, but incentives for people to list in that adult only top-level domain. Obviously, the most primitive screening software, indeed no screening software at all, virtually would be needed to the extent that this were successful in the marketplace for people to discriminate among the content that they were seeking. Indeed if you are an aficionado pornography type it would simplify your life, but for everyone else who wished to avoid it, it would also simplify theirs. So I begin by putting that question to you Dr. Cerf and perhaps ought to know the answer to this question but I haven't found it in what's gone by thus far. Were any of the 44 applications that you reviewed for such a top-level domain name?"

Dr. Vinton G. Cerf: "Indeed one of the applications (ICM Registry's) proposed to operate .xxx. The discussions that issued among the board on this point turned in large measure uncertainty on how to enforce such movement or registration of those pornographic sites to that top-level domain. We all know that you can reach literally every domain on the Internet by using the domain name system so everywhere in the world, not just the United States one would need to create the incentives that you mentioned in order to persuade these purveyors to move over into this single global top-level domain."

In the same hearing **Congressman Fred Upton**, Michigan, Chairman of the Subcommittee on Telecommunications and the Internet, is on the record as saying, "We should strongly encourage the use of technology to protect our kids, and special top-level domain names may be just exactly the dose of medicine that is needed." **Congressman Christopher Cox** said, "We rejected early on the idea of a government mandate for this [an adult-entertainment TLD] to occur, but we have been very interested in whether the private sector might migrate in that direction." **Congressman John Shimkus**, Illinois, is also on record saying, "Politically, you would have had a stronger, favorable reception from this committee had you used your position to address pornographic material on the Internet. I understand that—and many of us feel that you have failed in a great opportunity. Especially us politicians, when we are addressing this, you invite us now to legislatively get involved in forcing this issue."

II. GENERAL COMMENTS ON THE ET REPORT

1. The S&OI ET Process Did Not Permit Direct Interaction with the Evaluators.

ICANN stated in the 2004 RFP that applicants would have the opportunity to interact on a "one-on-one" basis with the evaluators.⁸ ICM Registry and IFFOR welcomed this commitment, as we have repeatedly experienced the discomfort — and the resulting misunderstandings — that many people have when first presented with this Proposal. To date, we have invested heavily in educating the relevant stakeholders and policy-makers about the exact nature of the Proposal, and have learned that face-to-face discussions are the best way to convey the virtues of the Proposal and dispel knee-jerk reactions to the idea of a top-level domain for adult-entertainment websites.

The promised opportunity to meet with evaluators also offered a mechanism to compensate for the 10,000-character text box limitation built into the web based submission method. While the evaluators' questions provided a welcome opportunity to elaborate upon the Proposal, the S&OI ET took less than a week to consider the supplementary answers submitted by all ten applicants and, not surprisingly, the responses and supplementary material appeared to have little impact on the conclusions of the S&OI ET. Unfortunately, the evaluators, despite evident confusion, did not avail themselves of our repeated offers to provide additional information and respond to follow-up inquiries.⁹

We believe that the opportunity to meet directly with truly independent evaluators would have materially altered the outcome of the S&OI ET's conclusions.

2. The S&OI ET Report Inappropriately Relied on RFC 3675.

Although not cited in its report, the S&OI ET appears to be significantly influenced by RFC 3675, entitled ".SEX Considered Dangerous," in its evaluation of the Proposal. While the Technical ET correctly concluded that the .xxx Proposal meets the technical selection criteria set forth in the RFP, the S&OI ET neither referenced the document nor acknowledged the supplemental public comment submitted by Mr. Eastlake to the .xxx public comment board.

The original Internet-draft entitled ".xxx Considered Dangerous" was issued in February 2001 shortly after ICM Registry's original submission of the .xxx Proposal to ICANN in November, 2000. Three years later, and — coincidentally — a mere six weeks before the submission deadline for the 2004 round of sTLD proposals, the RFC was distributed in final form. When this informational RFC was issued, representatives of ICM Registry contacted its principal author, Mr. Donald Eastlake, to discuss his concerns and to determine whether these concerns extended to TLDs offered as a completely voluntary alternative to existing top-level domains.

⁸ See ICANN RFP, FAQs, Question #14 - <http://www.icann.org/tlds/new-stld-rfp/questions.htm>. ICM and IFFOR welcomed this commitment as an improvement in the procedures employed in the 2000 round, where ICANN told applicants "after the application period is concluded the ICANN staff may gather additional information by ... in-person interviews with applicants." Unfortunately, because of missed deadlines, these in-person interviews never happened. [REDACTED]

⁹ See for example, the following excerpt from ICM Registry's Supplementary Materials, "if further clarification on this issue is required ICM and IFFOR would welcome any supplemental questions to help clarify this issue."

Our discussions with Mr. Eastlake were constructive, and Mr. Eastlake subsequently posted public comments on ICANN’s sTLD forum clarifying the inapplicability of his RFC to the Applicants’ .xxx Proposal. In this public posting, Mr. Eastlake wrote that the .xxx Proposal:

... does a reasonable job of addressing many of my concerns and will hopefully preserve a voluntary system, in keeping with the purpose and history of the DNS. The ICM/IFFOR proposal is fashioned as a voluntary system and it shows a commitment to defend the voluntary nature of the domain legally. In that regard, the proponents have undertaken a legal analysis to demonstrate that efforts to mandate use of the domain would be unconstitutional. Assuming that a zone of this type, whether it be .xxx, .sex, or whatever, is approved, I think it is unlikely that it would be under better arrangements than in this proposal.¹⁰

Mr. Eastlake acknowledged that the concerns he identified are relevant to proposals to create a mandatory TLD for adult material and posted his comments on the ICANN website, which the S&OI ET claims to have reviewed, but neither the comment itself nor the underlying facts are reflected in the evaluation report.

3. Neither the Facts nor the Report Support the S&OI ET’s “Subjective” and “Futuristic” Judgments

In its introductory remarks, the S&OI ET asserted that it had the most complex of the evaluation tasks, and that some of the criteria required “subjective” and “futuristic” judgments by the evaluators.¹¹ The Applicants agree that these evaluators had a difficult task, which may have called for subjective, predictive judgments. Even so, the S&OI ET made no effort to support its judgments, or even to describe the standard on which they were based. Where the Applicants provided relevant third-party evidence to support their representations, the S&OI ET simply made assertions.

The S&OI ET did not even pretend to base its judgments on the ICANN-established criteria, reporting that they considered “factors” outside the direct scope of the RFP such as “social policy” and “global DNS governance.” Neither ICM Registry nor IFFOR proposes to engage in “social policy” or “global DNS governance,” and we have repeatedly articulated the steps taken to preserve .xxx as a purely voluntary domain. Similarly, ICANN has clearly stated that its mission does not encompass social policy or global DNS governance.

III. SPECIFIC ET REPORT COMMENTS DEFINITION OF THE SPONSORING COMMUNITY

1. The Proposal Identifies a Clearly Defined Sponsoring Community

While the Business Evaluation Team concluded that the “target community is precisely defined” in the Proposal, the S&OI ET asserted that the Proposal failed to identify a “clearly defined

¹⁰ <http://forum.icann.org/lists/stld-rfp-xxx/msg00024.html>.

¹¹ Evaluation Report, p. 16.

community.”¹² This difference is easily explained by the fact that the S&OI ET mistakenly assumed such a community of shared interest could not exist in the absence of a global agreement as to what constitutes adult-entertainment content. However, lack of a single, universally accepted, and legally robust definition of adult content is, quite frankly, irrelevant. The real question is whether or not there is a community of online providers (1) of material that is sexually explicit as judged by common sense and the providers themselves, and (2) who are committed to working together, and with public-interest and civil-liberties organizations, to identify and implement industry best practices.

The ICM/IFFOR Proposal precisely defines the sponsoring community as providers of online adult entertainment who desire to work collectively to develop industry guidelines and best practices and who desire to establish a space on the Internet where those guidelines and best practices can be implemented. This definition is based on extensive consultation with various experts, legal advisers, members of the proposed community, and interested stakeholders from the wider Internet community. The Applicants found a Reuters Business Insight, Technology & eCommerce Report (2002), authored by Datamonitor and entitled “Online Adult Entertainment,” especially helpful in this task. This well-documented report provided an objective and independent overview of the space occupied by the online adult-entertainment community in the broader adult-entertainment industry. It also provided truly independent verification of the facts and statistics the Applicants had separately unearthed. ICM/IFFOR used the Reuters Report, along with our own research and that of others, to identify clear and distinct business interests within the online sector.

2. The S&OI ET Inappropriately Substituted Its Own Definition.

Notwithstanding the definition of the sponsoring community contained in the Proposal, and justified on the basis of independent research, the S&OI ET substituted its own description: a community of registrants that provides content universally considered and regulated as “adult-oriented.”¹³ This definition is not only broader than our Proposal but, at the same time, introduces legal and regulatory concepts that render the community far less easy to define. The ET incorrectly assumed the .xxx community should be defined in the same way a group might be delimited for regulatory purposes, which is a framework that makes little sense in the context of ICANN¹⁴. As a result, the S&OI ET’s conclusion that there is no properly defined community is based on the irrelevant fact that there is no globally understood, objective definition of pornography that could be used in a regulatory setting. This entirely misses the point.¹⁵ It also,

¹² See, Evaluation Report p. 23.

¹³ See, Evaluation Report p. 23-24.

¹⁴ This kind of approach also creates another red herring - the notion that by approving .xxx, ICANN could somehow be held liable for adult content that was not located in .xxx. According to Dr. Vinton G. Cerf, this concern is what led the ICANN Board to reject the ICM proposal in 2000. At Congressional hearings, Dr. Cerf said: “I don't think that the board was able to conclude that they could guarantee that everyone would move over even though as you say there might be some incentive and so, in the absence of knowing for sure that it could be guaranteed we also ran into the question whether someone would then complain or in fact take legal action if in fact not everyone did move over. So enforcement was a principal concern.” THERE IS NO PRECEDENT OR OTHER BASIS IN THE LAW FOR THIS CONCERN. ICM Registry would be happy to elaborate if ICANN counsel is in any doubt on this point.

¹⁵ The extent to which references to regulatory categories and differing national standards is a red herring may be illustrated by considering another TLD proposal. The Sponsoring Organization of the .aero TLD intended its definition of the relevant community as a broad-brush stroke to describe stakeholders within the aviation community who would be served by the proposed TLD and might therefore be interested in registering a domain name. To further illustrate the co-coordinating – that is, non-

apparently confuses the Proposal with discussions that have taken place in other contexts about the applicability of zoning principles, which are never voluntary, to the Internet.¹⁶

Contrary to regulatory proposals that have been debated in other settings, the Proposal makes quite clear that ICM Registry's Proposal is entirely voluntary and non-regulatory. It seeks to provide an easily identifiable virtual marketplace for the global online adult-entertainment community to offer their goods and services, while providing a forum for the industry to interact with the various stakeholders impacted, directly or indirectly, by their industry. As a voluntary community, there is no need to identify participants as if they were objects of regulatory activity, i.e., in a manner that can survive a legal challenge in a court of law.¹⁷

ICM Registry and IFFOR could not have been more plain in describing the community to be served and how such a self-defined community differs from the top-down regulatory approach the S&OI ET improperly assumed ICM Registry would establish. Indeed, ICM's Proposal expressly stated that "[t]he terms 'adult entertainment' and 'sexually oriented' are intended to be understood broadly for a global medium, and are not to be construed as legal or regulatory categories."

Moreover, the definition of the sponsored community adopted by the S&OI ET ignored two important limitations clearly set forth in the Proposal: first, as proposed, the sponsored community is limited to online providers of adult material intended for entertainment purposes, and second, it is limited to providers interested in working with each other to develop and implement best practices.

The Applicants anticipated that this confusion might arise, and specifically addressed the issue in a White Paper submitted for the record by ICM Registry's counsel. Among other things, this White Paper noted:

As proposed by ICM, the purpose of the .xxx top-level domain is to create a clearly identifiable area of the Internet for sexually oriented websites that will

regulatory – nature and role of a sponsored TLD, one might consider the definition of "pilot" in the .aero charter. In the United States, someone can pilot a single-seat ultra light with no pilot's license, no medical exam and no airplane certification. However, other countries such as England, Canada and Australia require extensive training and licensing requirements. Just as .aero is not in the regulatory position to make cultural or legal judgments as to who is or is not a pilot, ICM and IFFOR are similarly not assuming a regulatory role to define sexually explicit material. Fortunately, there is no need to do so here.

¹⁶ Perhaps the ET members were thinking of the testimony against zoning given to the commission constituted under the Child Online Protection Act (the COPA Commission). This testimony objected to zoning proposals because they cannot "define with precision what content is to be included or excluded from a particular zone." Given the extent to which the ET failed to consider the true nature of the ICM Registry Proposal, it is only reasonable to assume it was reacting more to the hypothetical, regulatory-type zoning proposals discussed before the COPA Commission in 2000 than to the .xxx Proposal in the application before it. The ET members may have been thinking about additional testimony on the same subject, which included remarks such as "Zoning approaches suffer from many of the same problems that plague the general category of publisher-controlled content screening: first, it will be necessary to define with precision what content is to be included or excluded from a particular zone. And second, the zone will be insufficiently flexible to accommodate the diversity of laws and cultural norms on the Web. Just as the different legal jurisdictions differ on the legality of a particular kind of content, they will also differ on what material belongs in which zone." < <http://www.w3.org/2000/08/03-COPA-Commission-Testimony.html> > Testimony of Daniel J. Weitzner, World Wide Web Consortium, before the COPA Commission, Aug. 3, 2000.

¹⁷ At the same time, we are not concerned that self-identification leads to an overly inclusive sponsoring community. We are, in fact, hard-pressed to point to any incentive that online content providers might have to identify themselves as members of the sponsored community if, in fact, they are not.

enable responsible adult-entertainment website operators to *self-organize and self-regulate on a voluntary basis*. The proposal is based on the natural utility of the domain-name system to allow content-providers to organize their activities based on an Internet “address.” There is a recognized need for such a domain, based on the fact that 10 percent of all online traffic and 25 percent of all global Internet searching is adult-entertainment oriented. The number of sexually oriented websites has grown 18-fold during the past six years, and there are now more than 100,000 adult webmasters worldwide and well over a million adult domains. *Providing a .xxx address would support the Internet’s self-organizing principles*, and, at the same time, would assist families in their employment of user-empowerment tools to select or reject content they consider suitable for their households. (Emphasis added.)

Given the effort and attention paid to this in the Proposal, it is particularly difficult for the Applicants to understand why the S&OI ET was unable to tackle its assigned task — of considering whether the community identified in the Proposal was capable of sufficiently precise definition.

IV. COMMENTS ON ET REPORT SECTION I-C: SPONSORSHIP INFORMATION - APPROPRIATENESS OF THE SPONSORING ORGANIZATION AND THE POLICY-FORMULATION ENVIRONMENT

1. The Sponsored Community Supports Collective Action to Achieve a Common Interest

The S&OI ET evaluation begins from the premise that successful policy formulation requires the effective co-ordination of a community that shares a common interest and the promise of working together in a cohesive, even if confrontational, style. We agree completely.

The S&OI ET then goes on to assert, without explanation, that the common interests of the online adult-entertainment industry are “unclear” and purely “hypothetical.” We vehemently disagree.

Our extensive outreach effort provided ample evidence that online providers of adult entertainment have a common interest in providing a mechanism that permits:

- (1) Adult consumers of adult entertainment to take advantage of their offerings without undue concern about deceptive marketing practices;
- (2) Delivery of their online content only to those adult Internet users who are actually interested in that content, and
- (3) The voluntary, collective development of responsible business practices based on interaction among traditionally isolated stakeholders, including responsible operators and advocates of children and civil liberties, to empower parents, schools, and others to reduce the risk of children being exposed to inappropriate website content.

This common interest is repeatedly identified in the letters of support from leaders in the online adult-entertainment industry that were included in the Proposal and Supplementary Material. These letters attest to the fact that responsible providers of online adult entertainment welcome the .xxx sTLD, and also demonstrate that providers welcome the governing principles laid out by

IFFOR for that TLD. It is clear from these letters of support that the members of the adult-entertainment community are both willing and able to work toward a common goal — that of organizing globally to act responsibly without regulation.¹⁸

2. Other Stakeholders Support the Proposal

The S&OI ET sought to undermine the Proposal by asserting that the record showed “insufficient support” for the proposed policy environment from relevant stakeholders such as the child-protection, freedom-of-expression, privacy, and law-enforcement communities. This is plainly contradicted by the facts.

Below is a partial list of organizations and individuals that have been briefed and consulted in connection with the Proposal:

- The leading child-protection advocates in the United States, United Kingdom, Australia, New Zealand, India, continental Europe, Canada, Hong Kong, and Singapore;
- ICRA
- UNESCO’s Innocence in Danger Program;
- Government representatives in the United States, Europe, and the Far East;
- Leading free-expression organizations;
- Privacy watchdog groups; and
- United States and European law-enforcement agencies.

Many of these and other organizations have signed on to the best-practices concept embodied in the Proposal in a White Paper submitted to ICANN, and none has stepped forward to oppose our Proposal. As described by Dr. Parry Aftab, head of Wired Safety and a worldwide leader in the area of online safety and parent and child Internet education, these groups should not be expected to endorse any specific Proposal:

Some of the individuals and groups have contributed to the White Paper and its conclusions yet have elected not to be identified as supporting any specific application. While they have supported the concept of a .xxx that includes best practice guidelines along the lines of those recommended by the .xxx sponsor they are reluctant to identify themselves with anything that could be considered supporting the pornography industry.... Even those not supporting the concept of a .xxx TLD have uniformly agreed that “it can’t hurt” and “might help” and taken a wait and see approach. All of these groups want to be involved in the process, presumably through the advisory, supporting and constituencies of IFFOR.¹⁹

¹⁸ The Proposal identified over twenty major organizations supporting the Proposal, and the Supplementary Material included letters from approximately the same number of organizations. In addition, certain relevant individuals and organizations posted comments in support of the Proposal on the ICANN Forum.

¹⁹ See, Aftab supplemental letter of support dated 23 June 2004.

The public record contains a number of endorsements for the .xxx Proposal from leading organizations such as ICRA²⁰ (whose PICS based system we support) and individuals such as Charles Jennings, a founder of TRUSTe²¹ and other well-respected experts and advocates.²² These leading individuals and organizations, all of whom are well respected for their expertise on child protection issues, understand, at close hand, the complex and important issues surrounding this application

3. The Proposed Policy-Development Process Will Be Successful

We agree that an sTLD proposal should set out a thoughtful, workable, and practicable policy-development process. It is interesting that the Business and Finance ET reached a completely different conclusion on this point than the S&OI ET, saying: “the SO [IFFOR] has a complex organization structure, but seems well thought out and appears to have enough traction to be implementable” and “extensive information has been provided on the structure of IFFOR and its engagement/input mechanisms.”

The S&OI ET went well beyond this question, however, to speculate as to whether providers of online adult entertainment can operate successfully in a collective policymaking environment and to worry that “the co-location of privacy and child advocacy interests in the same SO may lead to the dilution of one or the other interests.”²³ These concerns are completely speculative, far beyond the expertise of the evaluators. Equally important, they arbitrarily impose a requirement on the Applicants (an assurance that collective policy-development efforts will be successful) that does not appear in the Board’s requirement of a clearly defined community. Nor did the RFP contain a prohibition on “co-location” of public-interest groups with potentially competing interests, and the worry that such co-location might dilute one or the other of these interests is clearly beyond the scope of ICANN’s charge to the evaluation teams. We have no reason to believe that the S&OI ET evaluators have greater expertise in protecting the interest of public interest organizations than do the organizations themselves, many of whom have publicly supported the Proposal and the policy-making structure set forth within the Proposal.

Ironically, using the criteria that the S&OI ET proposed to apply to the Proposal, ICANN itself would not have met the test, nor would its GNSO, currently composed of six constituencies that, as the evaluators unfortunately described the .xxx stakeholders, prior to the recognition of ICANN had “no experience operating successfully in a collective policy making body.”²⁴ ICANN’s ALAC contains representatives of a large number of single-issue public-interest groups, but dilution of the individual message has never been a concern for ICANN. In fact,

²⁰ See, <http://forum.icann.org/lists/stld-rfp-xxx/msg00032.html>

²¹ See, <http://forum.icann.org/lists/stld-rfp-xxx/msg00042.html>

²² Supporting individuals and organizations who have publicly endorsed ICM’s application or contributed to Wired Safety’s white paper “Thinking Outside the Porn Box ... separating the sexual content debate from issues relating to marketing, commercial practices and child exploitation” (http://www.wiredsafety.org/resources/pdf/xxx_whitepaper.pdf) include: Homayra Sellier (president and founder of UNESCO’s worldwide online child-protection program); John Carr (child advocate and the leading Internet advisor to online U.K. charities); Debbie Mahoney (Safeguarding Our Children United Mothers, soc-um.org); Jack Meyers (broadcast-media advisor); Joshua Finer (founder and president of software4parents.com), E-Pals.com (the worldwide electronic-pen-pal program); Robin Raskin (Family PC Magazine); and Dr. Janet Stanley (world-wide Australia-based expert on children).

²³ See, Evaluation Report, p.24.

²⁴ See, Evaluation Report, p.25.

ICANN exists to bring these disparate views together under one tent to make the entire process work successfully. This has been consistently acknowledged by ICANN's CEOs. For example, Stuart Lynn in his Congressional testimony provided on July 12,2002 stated:

Thus, ICANN is intended to be a lightning rod for loud and noisy debates, and considerable contention. In fact, in a very real sense that is a principal reason ICANN was created — to establish a single forum in which all these varied interests, from around the globe, could come together and, where possible, arrive at consensus solutions to complex technical and policy issues essential to the continued stable operation of the Internet.²⁵

ICANN's current CEO, Paul Twomey, echoed these same sentiments:

It's bringing together a model for co-ordination and co-operation of all of these various interest groups. It is inherently noisy, because they have to fight about things they think are important to their interest groups, but it is a model to ensure all these people, and others, are represented.²⁶

The fact that leading members of the online adult-entertainment community, privacy, child-advocate, and free-expression groups have expressed interest in participating in the policy-development framework of IFFOR speaks for itself as to the cohesiveness of the stakeholders and their genuine interest in wanting to collaborate on this initiative. The Proposal sets forth a practicable framework in which this desire to collaborate can be achieved.

IV. COMMENTS ON ET REPORT SECTION I-D: SPONSORSHIP INFORMATION LEVEL OF SUPPORT FROM THE COMMUNITY

1. The Proposal Demonstrates Ample Support from the Sponsoring Community.

The S&OI ET wrote that there was inadequate evidence of support both in the Proposal and from the Supplementary Material. Specifically, the S&OI ET cited the lack of support from the online adult-entertainment community outside of North America, as well as a lack of support from child-advocacy and major law-enforcement organizations. Simply put, this assertion is factually wrong.



²⁵

See, <http://www.icann.org/correspondence/lynn-testimony-12jun02.htm>

²⁶

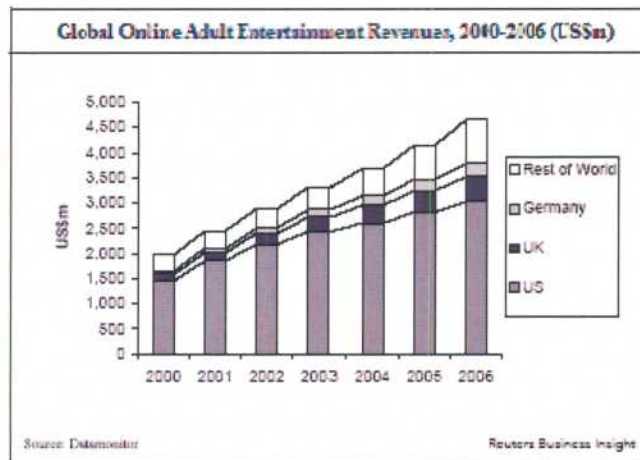
See, <http://www.icann.org/meetings/kualalumpur/captioning-public-forum-23jul04.htm>

2. The Preponderance of North American Support is Appropriate

It is preposterous to conclude, as the S&OI ET apparently did, that the Proposal fails to provide sufficient evidence of community support simply because the majority of industry supporters hail from North America. This conclusion displays a basic lack of understanding of the real-life dynamics of the online adult-entertainment community, notwithstanding the Applicants' submission of detailed information on this subject.²⁷ As previously demonstrated, in 2001, the U.S., U.K., and continental Europe accounted for over 86% of the overall adult-entertainment industry. In that same year, revenues for this industry sector reached \$2.1 billion; this figure is expected to reach \$3.8 billion by 2006, representing an 81% increase over the period.²⁸

Country	2000	2001	2002	2003	2004	2005	2006
US	1462.0	1858.0	2190.0	2437.0	2602.0	2822.0	3028.0
UK	132.3	164.7	216.5	289.4	351.5	420.8	488.2
Germany	65.5	85.7	108.3	150.5	187.0	227.3	266.6
Rest of World	320.20	351.60	385.20	443.10	544.70	675.75	864.70
TOTAL	1,980.00	2,460.00	2,900.00	3,320.00	3,685.20	4,145.85	4,647.50

Source: Datamonitor Reuters Business Insight



A small number of U.S. companies, each operating huge numbers of websites, generate over 70% of that revenue. [REDACTED]

[REDACTED] It is hardly surprising, then, that the largest support for the proposed adult-entertainment community comes from North America.

3. Industry Outside of North America Supports the Proposal

²⁷ See, Application Part C; Business Plan, and the Supplementary Materials submitted in response to the Evaluation Team's questions.

²⁸ See, Reuters, Business Insight, Technology & Commerce, Online Adult Entertainment, Published by Datamonitor PLC, 2002.

²⁹ [REDACTED]

While the vast majority of online adult-entertainment activity is generated from North America, the Applicants understood the need to document community support from multiple geographic regions.³⁰ Our representative list of supporters from the adult-entertainment community outside of North America includes members from the United Kingdom, Australia, Netherland Antilles, Spain and the Caribbean. It would be odd, indeed, to require a showing of support from developing nations where the Internet is either non-existent, in its infancy, often limited to narrow-band delivery, and where adult-content sites rarely exist.³¹

4. Support from Child Advocacy, Free Expression, and Law Enforcement

The S&OI ET also cited an alleged lack of documented support from child-advocacy groups, free-expression advocates, and law enforcement as a basis for its negative evaluation of the Proposal. This allegation is unjustified and, even if it were true, would not support the ET's conclusion.

First, although child advocates will play a significant role in the IFFOR policy-development framework, they are not in fact part of the sponsored community. The Applicants repeatedly defined the sponsored community quite precisely as the responsible online adult-entertainment sector.³²

Nonetheless, ICM Registry and IFFOR strongly believe that child-advocacy groups have important collateral interests in this effort and must play a very significant role in the policy-development process. That is why we worked closely throughout the proposal process with Dr. Parry Aftab, head of Wired Safety. Founded in 1995, Dr. Aftab's organization was the first cyber-neighborhood watch and remains one of the oldest and largest in online safety education. Through Wired Safety, IT professionals and law-enforcement officers from around the world work together to combat Internet crime, and Wired Safety volunteers have a close working relationship with law-enforcement agencies globally. Wired Safety was the recipient of a 1998 Presidential Service Award.³³

Not only did the S&OI ET fail to recognize the strong and public support of Dr. Aftab and Wired Safety, the evaluators apparently completely ignored her well-documented outreach to other leading child-advocacy organizations from U.K., Australia, New Zealand, India, across Europe,

³⁰ This is not window-dressing: IFFOR by-laws mandate such geographic diversity, similar to ICANN's own by-laws.

³¹ Additional information on this topic is included in Supplementary Materials, responses to questions 4 and 7.

³² This is another example of how the S&OI ET's mischaracterization of the sponsored community distorts its critique and makes it impossible to evaluate fairly whether or not the Applicants have met the ICANN criteria.

³³ See, 1998 President's Service Award, <http://www.cyberangels.org/mission/award.html>

Canada, Hong Kong, and Singapore.³⁴ This omission is stunning, inasmuch as Dr. Aftab is widely recognized and respected within the global community.³⁵

With respect to input from the law-enforcement community, we were unaware of any requirement that a sponsoring organization engaged in lawful private activities should secure the affirmative support of major law-enforcement bodies. To the best of our knowledge, this requirement has not been applied to any other applicant for any kind of top-level domain.³⁶ Of course, law enforcement is free to participate in IFFOR's policy development, much as it has participated in the current ICANN Whois debate. Moreover, we are quite confident that law enforcement knows how to make its views known to ICANN. Had it opposed the creation of a top-level domain for adult entertainment, ICANN would certainly have been contacted.

Noted civil liberties and free-expression experts Robert Corn-Revere and Lawrence Walters also publicly supported the Proposal, notwithstanding the fact that, like child advocates and law enforcement, they are not a part of the sponsored community. In particular, Mr. Corn-Revere, legal counsel to IFFOR and a noted free-speech advocate, conducted, in tandem with ICM Registry and IFFOR, an extensive education and outreach program among some of the leading free-speech organizations within the United States.³⁷ Having considered the responses he received from this community, including in several face-to-face meetings, Mr. Corn-Revere stated he was "convinced that organizations involved in free-expression issues would provide input into the Free Expression Supporting Organization when First Amendment issues arise."³⁸ Similarly, Mr. Walters, a noted expert on issues at the intersection of the Online Adult Entertainment Industry and Free Speech, concluded he could "without hesitation, opine that there will be a host of willing participants in all four of the supporting organizations."³⁹ We can find no explanation for the ET's failure to consider these two leading advocates' support letters, submitted in response to the evaluators' questions.

VI. COMMENTS ON ET REPORT SECTION II-A: COMMUNITY VALUE ADDITION OF NEW VALUE TO THE INTERNET NAME SPACE

ICM Registry and IFFOR submitted lengthy and detailed documentation setting forth compelling arguments for how the proposed .xxx sTLD would add new value to the Internet name space.⁴⁰

³⁴ Supporting individuals and organizations who have publicly endorsed ICM's application and/or Wired Safety's white paper "Thinking Outside the Porn Box ... separating the sexual content debate from issues relating to marketing, commercial practices and child exploitation" (http://www.wiredsafety.org/resources/pdf/xxx_whitepaper.pdf) include: Homayra Sellier (president and founder of UNESCO's worldwide online child protection program); John Carr (child advocate and the leading Internet advisor to online U.K. charities); Debbie Mahoney (Safeguarding Our Children United Mothers, soc-um.org); Jack Meyers (broadcast-media advisor); Joshua Finer (founder and president of software4parents.com), E-Pals.com (the worldwide electronic-pen-pal program); Robin Raskin (Family PC Magazine); and Dr. Janet Stanley (world-wide Australia-based expert).

³⁵ Indeed, in Rome earlier this year, ICANN Board Chair Vint Cerf publicly recognized Dr. Aftab <http://www.icann.org/meetings/rome/captioning-forum2-05mar04.htm>

³⁶ The U.S. [Intelligence Authorization Act for Fiscal Year 2004](#) permits the FBI to obtain records without judicial approval from car dealers, pawnbrokers, **travel agents**, casinos, **and other businesses**. We would be surprised to learn that the applicant for the .TRAVEL TLD was required to document the support of and ability to co-operate with United States law enforcement.

³⁷ See, <http://www.dwt.com/lawdir/attorneys/CornRevereRobert.cfm>

³⁸ See, posting of Robert Corn-Revere to ICANN forum 30 April 2004, and letter to ICANN 24 June 2004.

³⁹

⁴⁰ See, Original Application Part B and Supplementary Materials, document xxx-sponsorshipresponse.pdf

Once again, however, the S&OI ET appear to have summarily ignored our evidence and relied, instead, entirely on their own subjective opinions.

1. Broad Significance and Global Recognition

After first acknowledging the possibility that this Proposal would add new value to the name space, the S&OI ET concluded, on the other hand, that it was not convinced the name itself had global value. This claim is perhaps the strangest statement made in the S&OI ET report, given the documentation of the global value of .xxx submitted over the course of this proposal process together with plain common knowledge and common sense.

In terms of cultures other than Western ones, every TLD approved to date by ICANN uses Western alphabet characters. And while there may not be a global definition of what constitutes adult entertainment, xxx is universally recognized as a symbol of sexually oriented material and, by extension, of the community that provides it. In fact, ICM Registry can conceive of no single sTLD that could be more readily recognizable by all cultures or countries. The letters xxx universally connote sexually explicit material, regardless of the specific language of the user.

ICM Registry and IFFOR respectfully refer ICANN to our Proposal, as well as to our Supplemental Material.⁴¹ However, despite having provided ample material, we offer the following additional, independent evidence to address this concern yet again.

The National Internet Development Agency of Korea (NIDA), which serves as the administrator of the .KR TLD, recently utilized a lottery mechanism in connection with delegating some premium second-level domain names. In total, there were 158,528 applications for the 8,110 subscribed domains. When all was said and done, 15% of the lottery applications sought sex.co.kr, and 7% sought xxx.co.kr. Clearly, a significant number of people in Korea believe the .xxx string is recognized by Koreans (and is therefore a valuable asset), notwithstanding the fact that the string is not rendered in the Korean language character set.⁴²

In October 2004, “xxx” was searched more than 753,511 times, making it one of the Internet’s most popular search terms.⁴³ More than 200,000 domain names currently include the terms “sex” and “xxx.”⁴⁴ In non-Western cultures, xxx is widely recognized as a symbol of sexually oriented content and, by extension, of the community that provides it.

2. The Proposal Sets Forth a Viable Internationalization Strategy

The S&OI ET claimed, flatly ignoring the facts, that the Proposal did not propose an internationalization strategy. The Proposal itself addresses diversity and internationalization issues, as does our very detailed answer to Policy Supplemental Question #7. Additionally, the geographic diversity requirements contained in the IFFOR by-laws at a Board, Supporting

⁴¹ See, Original Application Part B and Supplementary Materials document xxx-sponsorshipresponse.pdf

⁴² See,

http://www.nic.or.kr/center/english/epress1_view.htm?page=6&mode=&seek=&s=&vtrec=89&count=140&num=89&pos=1&kinds=epress1

⁴³ Source: Overture (<http://inventory.overture.com/d/>)

⁴⁴ Source: Domainsurfer (<http://www.domainsurfer.com/>)

Organization, and Constituency level, which were submitted with the Proposal, are a further safeguard to ensure broad geographic representation.⁴⁵ Finally, any questions regarding ICM Registry and IFFOR's commitment to broad geographic representation are put to rest when one looks at the comprehensive list of countries visited as part of the Applicants' outreach and education efforts.⁴⁶

3. .xxx As Second- or Third-Level Registrations

The S&OI ET also opined that the use of second- and third-level domains within local ccTLDs such as xxx.us would be more appropriate to "solve the question of content localization which is adapted to national laws." Again, this view reflects the S&OI ET's attempt, discussed at length above, to redefine the sponsoring community based on content. Oddly, the S&OI ET failed to realize that its own suggestion actually supports the Proposal by highlighting the need for .xxx TLD. Today, .xxx strings are currently registered to numerous third parties at either a second-level (xxx.us) or third-level (xxx.co.uk). Even if the existing registrants were to permit fourth-level registrations, such registrations would not respond to the desire of the global responsible online adult-entertainment community to work together to develop best practices.⁴⁷

4. Truth in Domain Names Act

The S&OI ET dismissed the benefit of access to a legal defense under U.S. law on the basis that the Truth in Domain Names Act (part of the PROTECT Act) already contains a safe harbor for domain names that contain the words "sex" or "porn." That is an accurate statement about the law's safe harbor, but ignores the fact that no such protection is offered for domains that contain a myriad of other presumptively sexually oriented terms, such as "adult, hardcore, lust, intercourse" or a host of other sexual terms that are too graphic to reproduce here. Inasmuch as it would be impractical to create a safe harbor for the long list of possible registrations, our Proposal permits any adult-entertainment site to potentially take advantage of the law's safe harbor. Moreover, creation of an .xxx sTLD is clearly consistent with the intent of Congress, evidenced by its creation of the safe harbor, to encourage providers of online adult-entertainment content to voluntarily label their sites as such.⁴⁸ Moreover, the potential benefit of providing a safe harbor or affirmative defense to the Truth in Domain Names Act is only provided as an *example* of the type of benefit that may be obtained from approval of the .TLD.

5. Other Benefits to the Community

The IFFOR charter enumerates a broad range of benefits that would flow from creation of an .xxx sTLD, all of which were ignored by the S&OI ET. These potential benefits are made concrete by various commitments contained in the charter, including, but not limited to, commitments to:

⁴⁵ See the IFFOR Charter, <http://www.iffor.org> and IFFOR Bylaws, available on request.

⁴⁶ United Kingdom, Canada, Portugal, France, Italy, Germany, Poland, Greece, Australia, New Zealand, Malaysia, Singapore, Hong Kong.

⁴⁷ As ICANN has seen in several situations, third-level registrations have met considerable market resistance.

⁴⁸ Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003" (the PROTECT Act)

- Promote the development of responsible business practices and conduct within the online adult-entertainment community to be incorporated into the registrant agreement of all .xxx domain names via a Declaration of Best Business Practices;
- Encourage the adoption of the .xxx TLD amongst the responsible online adult-entertainment community;
- Endeavor to foster communication between the responsible online adult-entertainment community and the broader Internet community;
- Promote the principles set forth in the United Nations Declaration of Human Rights related to free expression;
- Protect the privacy and security of consenting adult consumers of online adult-entertainment goods and services, consistent with ICANN policies;
- Promote the development of business practices to safeguard children online and combat child pornography, including by funding the participation of independent advocates for children;
- Seek and support informed participation reflecting the functional, geographic, and cultural diversity of the responsible online adult-entertainment community and the broader Internet stakeholders at all levels of policy development and decision making; and
- Employ open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

As a non-profit organization funded annually by domain-registration revenue, IFFOR will be well positioned to execute its charter. While there can be no perfect solution, significant progress can be made by encouraging communication and bottom-up, consensus-based processes between the online adult-entertainment community and the broader Internet community.

While one might argue that it is possible to secure all of these benefits through solutions based upon existing TLDs, such an argument would be entirely theoretical and absolutely impractical. The S&OI ET completely missed the point that the proposed .xxx sTLD provides a hub to facilitate and expedite these individual efforts in a cohesive framework.

VII. CONCLUSION

As we previously indicated, the conclusions of the S&OI ET cannot be squared with the facts presented in the ICM/IFFOR Proposal and the Supplementary Material submitted in response to the evaluators' questions, which have been reiterated and expanded upon here. We can only conclude that the evaluators fundamentally misunderstood, or elected to ignore, significant portions of the Proposal. The evaluators also apparently brought strongly held personal views and preconceptions about this Proposal to the table. One would also expect independent evaluators chosen by ICANN for this task to be able to put personal biases aside to the extent necessary to give the Proposal a fair hearing. Based on the report of the S&OI ET, that clearly did not happen here. The Proposal submitted by ICM and IFFOR, further detailed in the Supplementary Materials provided by the Applicants, clearly and unequivocally meets the criteria for an sTLD laid out by the ICANN Board, and should be approved on that basis.

Voluntary self-regulation by responsible representatives of the online adult entertainment industry is critical to the responsible growth of the Internet. This can only be achieved by creating a forum allowing stakeholders beyond the sponsoring community to participate in both developing and agreeing to abide by best practices appropriate to the IFFOR charter through consensus-based processes. These goals cannot be accomplished through an industry trade association, despite the evaluators' condescending dismissal of the Proposal on that basis. Moreover, these goals cannot be accomplished by a generic TLD as we currently understand them.

The Proposal now before ICANN is thoughtful, well-reasoned, and highly developed. It offers ICANN a unique opportunity to promote the voluntary, bottom-up development of industry best practices on the global Internet. In reviewing our Proposal, ICM Registry and IFFOR urge ICANN to keep in mind that it took a bit of nerve to launch the ICANN experiment itself, but no one has thought of a better way to approach management of the global DNS system. ICANN, of all organizations, should not stand in the way of innovative approaches to address global concerns in a non-regulatory manner.

We remain committed to moving forward with this initiative in a constructive and unbiased manner, and look forward to meeting with ICANN staff in the near future to resolve the issues identified by the S&OI ET. We respectfully request an in-person interview with the ICANN staff in the very near future to discuss the Proposal, identify and resolve any remaining concerns, and establish a timeline for completing the entire process.

Stuart Lawley
President
ICM Registry, Inc.

Cc : John Jeffrey, ICANN General Counsel
Stuart Duncan

to date suggests that dot-xxx has the staying power to see this initiative through to successful implementation.²

ICM Registry's management team has significant experience and expertise in building and operating the business infrastructures, including the creation of a field sales force, sales support teams and the administration and finance functions needed to make this proposed sTLD a success. Both the technical evaluation team and the business and finance evaluation team determined that the proposal complied fully with the relevant RFP criteria. In the words of the business and finance evaluation:

Ability to implement is well demonstrated. The plan reflects a significant amount of background work and detailed thinking about how to establish the business. Its clear focus bodes well for implementation . . . Solid contingency plans are in place. Management has strong relevant experience in growing related businesses.

Full biographies of the management team have been submitted to ICANN, but it is important to note that the team's expertise was developed over years of work in the online business world. Stuart Lawley (Chairman and President) has conceived, developed, and managed several businesses in the office technology and Internet industries. These have included significant private and public companies with hundreds of employees. Stuart Duncan (Chief Operating Officer) is an experienced Chief Executive officer in the Internet, telecoms and finance industries. He also led several public and major private companies. No member of the management team has participated, financially or otherwise, in any online adult entertainment business.

2. The ICM/IFFOR Proposal Reflects the Input and Support of Stakeholders Outside the Online Adult Entertainment Industry.

Children's Advocates. ICM Registry took special note of the sound advice it received in 2000 from a member of the ICANN Board to seek the support and participation of credible and well-respected child safety advocates, including, in particular, Parry Aftab. Based on this recommendation, we sought out Ms. Aftab, the founder and executive director of Wired Safety and a leading expert on children and the Internet.³ Ms. Aftab has publicly supported our

² See, Independent Evaluation Report Prepared for the Internet Corporation for Assigned Names and Numbers; compiled: 27 August 2004 (the ET Report), p. 12.

³ In addition to serving as the Executive Director of Wired Safety, Ms. Aftab has: Received the Activist of the Year Award (2002) from the Media Ecology Association, the Internet Pioneer of the Year (2001) from Family PC Magazine, and the President's Service Award (1998) from President William J. Clinton; Held the following positions:

- Member, Home Office, U.K. Child Protection, Criminal Laws and Law Enforcement Task Forces;
- Member, PAGi Advisory Board and founder of Cybermums and Dads, Singapore Broadcasting Authority,
- Member, TRUSTe Board of Directors (December 2002 to present)
- Advisory Committee member, Ad Council (1999 - 2003)
- Advisory Board Member, Children's Television Workshop Online (Sesame Workshop) (1998 – present)
- President, U.S. National Action Committee, for UNESCO's Innocence in Danger project (1998-present);
- Chair, ISOC Internet Societal Task Force and Societal Steering Group worldwide (2001);
- Member of ISOC Public Policy Committee (2001–present);
- ISOC Task Force Privacy and Security Working Group (Appointed 1999, Chair 2000-2001);
- Executive Director, Cyberlawenforcement (cyberlawenforcement.com) the group for law enforcement volunteers and networks on cybercrime investigations and prevention (2000-present);

proposal, as have a number of other prominent advocates including the Internet Content Rating Association (ICRA), the founder of TRUSTe, and leading child protection organizations around the world.⁴ The founder of Net Mom, Jean Armour Polly, has also endorsed the proposal.⁵ Ms. Aftab has engaged in outreach to secure the support of fellow advocates from around the world who have publicly endorsed our Proposal specifically or have endorsed the Wired Safety white paper, entitled Thinking Outside of the Porn Box, which calls for the creation of a top level domain for adult content.⁶

Free Expression. We also noted following the 2000 round of TLD applications that evaluators were concerned that the ICM proposal would create a slippery slope toward mandatory content regulation or zoning. For this reason, we sought advice from the well-known and highly accomplished free speech advocate, Robert Corn-Revere.⁷ Mr. Corn-Revere supported our Proposal, and, on the basis of extensive outreach with members of the free

-
- Executive Director, K-9 Angels (k9angels.org) a September 11th relief program for search and rescue dogs (2001-present);
 - Member, Technology Advisory Committee of The National Urban League (1997 present); and
 - Member, New York State Bar Association Committee on Internet and Litigation of the Commercial and Federal Litigation Section.

And Published: *The Parent's Guide to Protecting Your Children in Cyberspace*, McGraw-Hill, (U.S. edition, January 2000; UK edition, March 2000; Singapore edition May 2000 and Spanish language US edition November 2000); *A Parents' Guide to the Internet*, SC Press (October 1997); *The Technical Response: Blocking, Filtering And Rating* appearing in *Child Abuse on the Internet. ... Ending the Silence* (2001) Carlos A. Arnaldo, Editor; and *Children's Online Privacy Law* appearing in *The Best In E-Commerce Law* (2001) Warren E. Agin, Editor.

⁴ See, e.g., Supporting comments from: Parry Aftab (Wired Safety) <http://forum.icann.org/lists/stdl-rfp-xxx/msg00038.html>; Mary Lou Kenny (ICRA): <http://forum.icann.org/lists/stdl-rfp-xxx/msg00032.html>; John Carr (UK Childrens Charities): <http://forum.icann.org/lists/stdl-rfp-xxx/msg00027.html>; Robin Raskin (Family PC Magazine): <http://forum.icann.org/lists/stdl-rfp-xxx/msg00039.html>; Sherry Lamoreaux (TRUSTe): <http://forum.icann.org/lists/stdl-rfp-xxx/msg00042.html>.

⁵ See <http://www.netmom.org/>, and comments of Ms. Polly during ICANN's public forum in Cape Town.

⁶ The White Paper is available at: http://www.wiredsafety.org/resources/pdf/xxx_whitepaper.pdf.

⁷ Among his other distinctions, Mr. Corn-Revere has:

- Served as counsel in litigation involving the Communications Decency Act, the Child Online Protection Act, Internet content filtering in public libraries, public broadcasting regulations and export controls on encryption software;
- Argued *United States v. Playboy Entertainment Group, Inc.*, in which the U.S. Supreme Court invalidated Section 505 of the Telecommunications Act of 1996 as a violation of the First Amendment;
- Successfully petitioned Governor George E. Pataki to grant the first posthumous pardon in New York history to the late comedian Lenny Bruce;
- Served as lead counsel in *Mainstream Marketing Services, Inc. v. FTC*, challenging the constitutionality of the national "do-not-call" telemarketing regulation;
- Served as lead counsel in *Motion Picture Association v. FCC*, in which the U.S. Court of Appeals for the District of Columbia vacated video description rules imposed on networks by the FCC; and
- Served as lead counsel in *Mainstream Loudoun v. Loudoun County Library Board of Trustees*, in which the U.S. District Court for the Eastern District of Virginia held that mandatory content filtering of public library Internet terminals violates the First Amendment.

expression community, confirmed that these organizations would participate in the Free Expression Supporting Organization.⁸

In addition, when the final draft of RFC 3675 ".sex Considered Dangerous" issued six weeks before the submission deadline this year, ICM contacted the RFC's author, Donald Eastlake, to discuss his conclusions. Shortly thereafter, Mr. Eastlake publicly stated that his critique was aimed at a mandatory registration regime, that many of his concerns were addressed by the Proposal and that he thought it unlikely that any such TLD could be operated under better arrangements than in this proposal.⁹

Law Enforcement. Finally, although the law enforcement community is not in the habit of endorsing proposals of any sort, let alone a proposal to create a new top level domain, our experience is that this community knows how to communicate its concerns and objections to proposals that might hamper law enforcement efforts. The Applicants conducted extensive outreach with governments around the world and with law enforcement agencies. Their input is reflected in our Proposal and, again, we received no objections from government or law enforcement.

3. The Sponsoring Community Supports this Proposal.

More than 10% of all online traffic, and 25% of all global Internet searching is adult-entertainment oriented. Various industry publications have estimated that there are 100,000 web masters providing online adult entertainment, each responsible for an average of 10 - 20 domains, and collectively some 260 million web pages.

Following the 2000 round of applications, ICM Registry set out to forge a workable agreement among members of the online adult entertainment community. As is evident from the letters of support included in the original application, the supplementary materials, and the public comments, the sponsoring community has come together.¹⁰ Webmasters, affiliate program providers, content providers, distributors and portal sites, traffic generators and other industry participants accounting for the majority of the annual revenue generated by the online adult entertainment industry have publicly supported the ICM/IFFOR Proposal. No major provider or participant in the online adult entertainment community has expressed opposition to the proposal. ICANN has received letters of support for our proposal from organizations and webmasters accounting for revenues of over US\$ 2.5 billion annually, well over 50% of the global annual total.

While it has obviously flourished on the Internet, the online adult entertainment industry faces a number of important challenges and sees an important role for self-regulation and collaborative policy development and enforcement. For example, webmasters are now strictly liable under anti-spam legislation for the acts of their affiliates, even if the Webmaster has

⁸ Mr. Corn-Revere's endorsement is available on the ICANN Comment Forum at: <http://forum.icann.org/lists/stld-rfp-xxx/msg00043.html>. His analysis of legal safeguards that will protect the voluntary nature of the domain is available at: <http://www.icmregistry.com/legalprotections.pdf>.

⁹ ICANN forum list submission of Donald Eastlake available at: <http://forum.icann.org/lists/stld-rfp-xxx/msg00024.html>.

¹⁰

[REDACTED]

[REDACTED]

[REDACTED]

specifically prohibited unsolicited email promotions. Moreover, new legislation provides incentives for clearer labeling of adult entertainment sites. For example, under legislative schemes that impose labeling and disclosure obligations, registration in a domain such as .xxx provides a compliance safe harbor. Credit card issuers are pressuring webmasters to reduce the charge-back rate and associated friendly fraud through stronger notice and consent practices. Anti-fraud, authentication and consent requirements will address concerns of credit card companies, data protection authorities, and law enforcement.

Responsible webmasters recognize that their profits are derived from the sale of legal entertainment to consenting adults. Their ability to continue to operate successfully is undermined by the illegal and irresponsible behavior of a relatively small minority of other, less responsible, operators.

4. The sTLD Can Be Effective Even if Webmasters Retain Their Existing Domains.

We do not expect webmasters to give up their existing registrations any time soon, but, as discussed above, providers will have strong regulatory and commercial incentives to register in .xxx. Nonetheless, a .xxx domain can successfully address concerns about inadvertent access to unwanted content even if current operators continue to operate their existing domain names. Over time, .xxx should become the domain name of choice within the adult industry, and we expect that other domains will mainly become pointers to .xxx compliant sites. As that transition takes place, Internet users will get all of the user-empowerment benefits of the existence of specialized domain and users in other domains will immediately benefit of the upgrade of existing sites to .xxx compliance in instances where both .com and .xxx domains point to the same site.

5. The proposed sTLD for online adult entertainment Will Enhance the Internet and Combat Child Pornography

IFFOR and ICM have committed to use the proposed sTLD to:

- Develop, implement, and enforce responsible business practices and conduct within the online adult-entertainment community including practices to safeguard children, combat child pornography online, and empower user choice;
- Foster communication among, and support the informed participation in all levels of policy development and decision making by responsible online adult-entertainment community and the broader Internet stakeholders, in an environment reflecting the functional, geographic, and cultural diversity of these communities and;
- Promote the principles set forth in the United Nations Declaration of Human Rights related to free expression and protect the privacy and security of consenting adult consumers of online adult-entertainment goods and services.

The creation of .xxx would not legalize or protect currently illegal content. Law enforcement will have all the rights it currently has in this area. Child pornography is illegal and despised as much by the responsible adult entertainment community as it is by the general public. IFFOR and ICM have a strong anti child pornography stance and, under the IFFOR charter, have committed to work to eradicate child pornography. ICM will contribute \$10 of every domain name registration to IFFOR, a significant portion of which will be used for this cause. This uncapped funding could have a significant impact on the global effort to eradicate child pornography online.

6. A Generic TLD Will Not Deliver the Benefits of an sTLD.

Voluntary self-regulation by responsible representatives of the online adult entertainment industry is critical to the responsible growth of the Internet. This can only be achieved by creating a forum that allows the sponsoring community and other stakeholders to participate in the development, implementation, and enforcement of best practices appropriate to the IFFOR charter through consensus-based processes. These goals cannot be accomplished through an industry trade association. Nor can these goals be accomplished by a generic TLD. The purpose of the .xxx top-level domain is to create a clearly identifiable area of the Internet for sexually oriented websites that will enable responsible adult-entertainment website operators to self-organize and self-regulate on a voluntary basis. As Robert Corn-Revere previously said, The proposal is based on the natural utility of the domain-name system to allow content-providers to organize their activities based on an Internet address. . . . Providing a .xxx address would support the Internet's self-organizing principles, and, at the same time, would assist families in their employment of user-empowerment tools to select or reject content they consider suitable for their households.

7. The Proposal Meets the Board-Approved Selection Criteria.

ICANN's independent evaluators recommended that the ICM/IFFOR Proposal be approved, without reservation, on technical grounds. The Business/Financial Team Report noted that the financial model is strong. The Proposal, according to evaluators, reflects a significant amount of background work and detailed thinking about how to establish the business. They concluded that the Proposal's clear focus bodes well for implementation. Like the technical team, these evaluators recommended without reservation, that the application be approved from the business/financial perspective.

The Sponsorship and Other Issues Evaluation Team (the S&OI ET) agreed that the Proposal met the selection criteria with respect to (1) evidence of support from the Sponsoring Organization, (2) protecting the rights of others, (3) assurance of charter-compliant registrations and avoidance of abusive registration practices, and (4) provision of an ICANN-policy compliant WHOIS service.

The S&OI ET report, however, faulted the Proposal for allegedly failing to (1) adequately define the sponsoring community, (2) identify sufficient commonality of interests among community members necessary for effective policy development¹¹, (3) demonstrate adequate support from representatives of the sponsoring community outside North America or from child or free expression advocates, or (4) demonstrate global recognition of the .xxx string. All of these critiques, as we demonstrated in detail in our response dated 9 October 2004, and as we summarize below, are without merit.

8. The S&OI ET Report Contains Numerous Factual Errors and its Conclusions are Unfounded.

Definition of Community. As amply demonstrated in our response to the S&OI ET report, the ICM/IFFOR proposal contains a precise definition of the sponsoring community as the

¹¹ This concern is directly contradicted by the business and financial evaluators who concluded that the policy development organization seems well thought through and appears to have enough traction for it to be implementable. ET Report at p. 12.

providers of online adult entertainment who desire to work collectively to develop industry guidelines and best practices and who desire to establish an Internet space where those guidelines can be implemented. The S&OI ET report attempted to substitute its own definition, which was both unworkable and over-broad, but that should not be permitted to obscure the fact that our Proposal met this requirement.

Common Interests. As amply demonstrated by the letters of support from members of the sponsoring community, responsible providers of adult online content share an interest in providing a mechanism that permits:

- a. Adult consumers of adult entertainment to take advantage of their offerings without undue concern about deceptive marketing practices;
- b. Delivery of their online content only to those adult Internet users who are actually interested in that content, and
- c. The voluntary, collective development of responsible business practices based on interaction among traditionally isolated stakeholders, including responsible operators and advocates of children and civil liberties, to empower parents, schools, and others to reduce the risk of children being exposed to inappropriate website content.

Global Support. As previously demonstrated, members of the sponsoring community from the United Kingdom, Australia, Netherland Antilles, Spain, and the Caribbean publicly supported our Proposal.¹² It is hardly surprising that there was not more support from providers in developing nations where Internet is largely unavailable, limited to narrow-band delivery, or where adult-content sites rarely exist.

Global Recognition of the .xxx String. The assertion contained in the S&OI ET report to the effect that .xxx is not a universally recognized string is plainly silly. While there may not be a global definition of what constitutes adult entertainment, xxx is universally recognized as a symbol of sexually oriented material. The recognition power of this string is clearly demonstrated by the recent experience of the National Internet Development Agency of Korea, which received over 35,000 applications for sex.co.kr or xxx.co.kr.¹³

9. Approving the ICM/IFFOR Proposal Does Not Involve ICANN in Internet Content Regulation.

Approving the ICM/IFFOR proposal does not put ICANN in the content regulation business. By approving the proposal, ICANN is simply allowing a clearly defined online community the opportunity to come together on a voluntary basis to create best practices for industry conduct on the Internet, just as it has for the travel business, the museum business, and coops. Members of the sponsoring community together with impacted stakeholders - and not ICANN - will set the rules for registration in the .xxx domain. The content of any site registered in the .xxx domain will continue, as it is today, to be governed by the applicable laws and regulations of sovereign governments, and not by ICANN.

¹² See, Proposal (Section xx); Supplementary Materials (Section xx); and Applicant s Response to the ET Report.

¹³ See,
http://www.nic.or.kr/center/english/epress1_view.htm?page=6&mode=&seek=&s=&vtrec=89&count=140&num=89&pos=1&kinds=epress1

We are mindful that it took a bit of nerve to launch the ICANN experiment itself, but no one has thought of a better way to approach management of the global DNS system. ICANN, of all organizations, should not stand in the way of innovative approaches to address global concerns in a non-regulatory manner.

For the reasons contained in this memorandum, and as detailed in all of the documentation referenced herein, we urge the ICANN Board of Directors to approve the Proposal submitted by ICM and IFFOR to create a sponsored top-level domain for responsible online providers of adult entertainment.





The Sponsored .xxx TLD

Promoting Online Responsibility



ICM REGISTRY
the .xxx top-level domain



International Foundation
for Online Responsibility



Overview & Potential Benefits

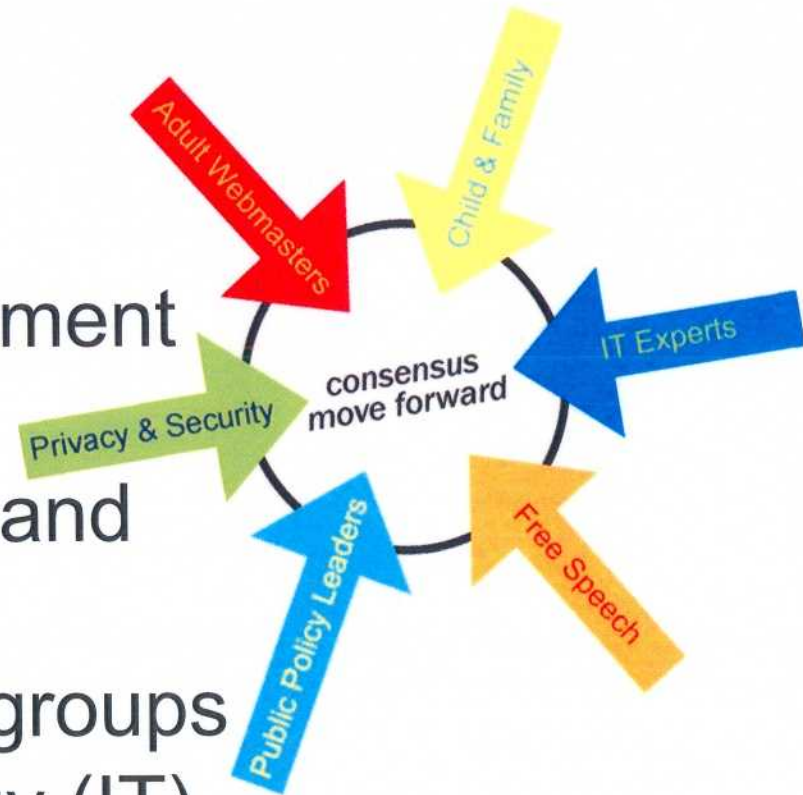
- ✦ **US \$1+ million, 7 year** global outreach
- ✦ **Bridges the gap** between impacted online communities
- ✦ **Promotes responsible business practices** incorporated into the .xxx registrant agreement
- ✦ **Fosters communication** between the responsible online adult-entertainment & the broader Internet community
- ✦ **Promotes free expression** world-wide
- ✦ **Offers new tools and technology** to combat child pornography & empower both users & parents online
- ✦ **Consumer privacy and security** protections

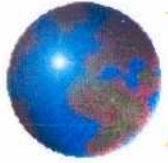
market-driven
broad coalition of internet stakeholders
voluntary
STLD
non-regulatory
industry supported



Global Outreach

- ✦ Online adult-entertainment industry leaders
- ✦ Free speech, privacy and security advocates
- ✦ Child & family safety groups
- ✦ Information technology (IT) experts
- ✦ Public policy leaders





Introductions



- ✦ **Stuart Lawley** – *President, ICM Registry*
- ✦ **Stuart Duncan** – *CEO, ICM Registry*
- ✦ **Bob Corn-Revere** – *Partner, Davis Wright Tremaine*
- ✦ **Becky Burr** – *Partner, Wilmer Cutler Pickering Hale & Dorr*
- ✦ **Lawrence G. Walters** – *Partner, Weston Garrou, DeWitt & Walters*
- ✦ **Parry Aftab** – *Executive Director, Wired Safety*



IFFOR Charter

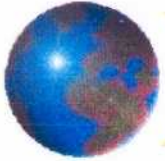


- ✦ promote the development of responsible business practices and conduct
- ✦ promote free expression globally
- ✦ promote the development of business practices to empower users and parents online
- ✦ protect the privacy and security of consenting adult consumers
- ✦ endeavor to foster communication between the responsible online adult entertainment community and the broader Internet community
- ✦ seek and support informed participation reflecting the diversity of the responsible online adult entertainment community and the broader Internet stakeholders
- ✦ employ an open and transparent policy development process.



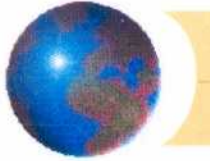
Public Comments & Responses

- ✦ “ICRA is supportive of additional tools, like the proposed .xxx TLD” **Mary Lou Kenny (ICRA)**
- ✦ “Best practice codes which would apply to all web sites utilizing the .xxx domain could help to protect children.” **John Carr (UK Children’s Charities’ Coalition for Internet Safety)**
- ✦ “It is unlikely that “.xxx” would be under better arrangements than in this proposal.” **Donald Eastlake 3rd (RFC 3675 author)**
- ✦ “Rarely does one get a clear chance to do great good in one small step. Your decision regarding the proposed .xxx domain is one such chance.” **Charles Jennings (founder of TRUSTe)**
- ✦ “I also support the online adult industry developing their own credible business practices.” **Joan Irvine (ASACP)**
- ✦ “I want to just stand here and encourage the board to really look at this latest .xxx proposal. I think it has a lot to recommend it as a sponsored TLD.” **Jean Amour Polly (Netmom)**



Business & Technical Evaluation Team Comments

- ✦ “Investment of money and time to date suggest that .xxx has the staying power to see this initiative through to successful implementation.”
- ✦ “Target community is precisely defined.”
- ✦ “Ability to implement is well demonstrated.”
- ✦ “It’s clear focus bodes well for implementation.”



Definition of sTLD Community

- ✦ The ICM and IFFOR proposal is intended to serve the global responsible online adult-entertainment community, consisting of:

“[T]hose individuals, businesses, and entities that provide sexually-oriented information, services, or products intended for consenting adults or for the community itself. The terms “adult-entertainment” and “sexually-oriented” are intended to be understood broadly for a global medium, and are not to be construed as legal or regulatory categories.”



Conflicting Definitions of the ET Report

✦ **Business/Financial Team:**

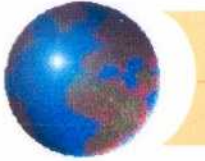
“The target community is precisely defined. . . . Ability to implement is well demonstrated. The plan reflects a significant amount of background work and detailed thinking about how to establish the business. Its clear focus bodes well for implementation.” “Target community is precisely defined.”

✦ **Sponsorship/Other Issues Team:**

“The ET does not believe that the .xxx application represented a clearly-defined community. . . . The ET began with the assumption that moral and political judgments as to *the appropriate public policy response* to the availability of ‘adult information’ vary.” Different communities “have come to their own conclusions about *what type of content to regulate*.” This content category “is simply not susceptible to [an] objective, globally-applicable definition.”



*Appropriateness of the
Sponsoring Organization &
Policy Formulation
Environment*



RFP Requirement: Sponsor Must

Operate primarily in the interests of the Sponsored TLD Community;

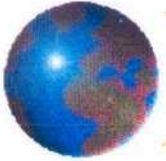
Have a clearly defined delegated policy-formulation role and is appropriate to the needs of the Sponsored TLD Community; and

Have defined mechanisms to ensure that approved policies are primarily in the interests of the Sponsored TLD Community and the public interest.



Business and Finance ET:

. . . the SO [IFFOR] has a complex organization structure, but seems well thought out and appears to have enough traction to be implementable” and “extensive information has been provided on the structure of IFFOR and its engagement/input mechanisms



The Sponsorship ET:

Premise:

Successful policy formulation requires the effective co-ordination of a community that shares a common interest and the promise of working together in a cohesive, even if confrontational, style.

Assertion:

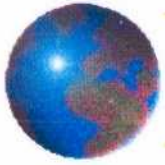
The common interests of the online adult-entertainment industry are "unclear" and purely "hypothetical."



Objection #1: Interests of this community are unclear.

Not true. Application demonstrates that community has a common interest in:

- ✦ Addressing concerns about deceptive marketing practices;
- ✦ Delivering products/services only to those adults who want them;
- ✦ Facilitating collaboration among traditionally isolated stakeholders;
- ✦ Implementing informed, innovative approaches to reduce the incidence of children being exposed to inappropriate website content.



Sponsorship ET objection #3: Not a cohesive community.

Evidence?

- ✦ Lack of historical organization, collective policymaking experience, and interest “dilution” through co-location.

Is ICANN cohesive under this definition?

- ✦ Co-location of registries/registrars/IP holders/business/at-large?
- ✦ Product of emerging diversity of interests
- ✦ No model



Consider:

. . . ICANN is intended to be a lightning rod for loud and noisy debates, and considerable contention. In fact, in a very real sense that is a principal reason ICANN was created — to establish a single forum in which all these varied interests, from around the globe, could come together and, where possible, arrive at consensus solutions to complex technical and policy issues essential to the continued stable operation of the Internet.

Stuart Lynn's Congressional testimony (12 July 02)



Paul Twomey:

It's bringing together a model for co-ordination and co-operation of all of these various interest groups. It is inherently noisy, because they have to fight about things they think are important to their interest groups, but it is a model to ensure all these people, and others, are represented.



IFFOR Governance Structure

IFFOR Board of Directors - 7 members

4 members

selected by supporting
organizations (1 per SO)

2 members

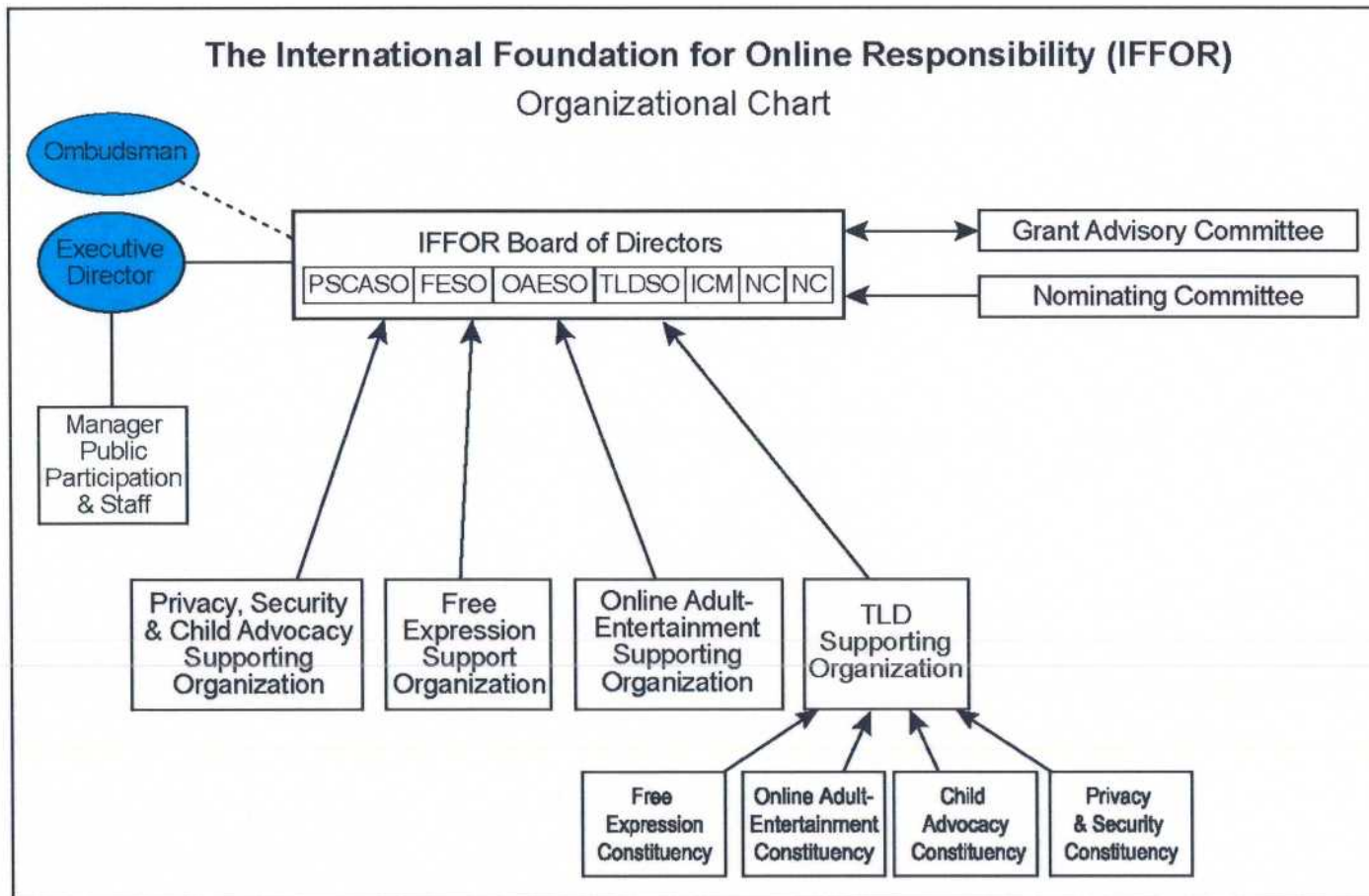
selected by Nominating Committee

1 member

selected by ICM



Policy Development Structure





Policy Development Process (1)

INITIATION OF POLICY-DEVELOPMENT PROCEDURE ('PDP')

Issue raised by a board member, SO Council, or advisory committee.
Staff Manager creates issue report.
TLDSO votes to initiate PDP

PUBLIC NOTIFICATION: PDP initiation posted for comment

INVESTIGATION

TLDSO Council appoints task force to gather information, ascertain positions of constituencies and relevant 3rd parties, TF reports; or
Council asks each constituency to appoint a representative to solicit the constituency's views and submit constituency statement. Staff Manager creates and posts report.



Policy Development Process (2)

PUBLIC COMMENT PERIOD

Reports posted for public comment.
Staff Manager reviews comments and creates final report for Council.

COUNCIL DELIBERATION AND REPORT TO BOARD

Council reviews final report, if 2/3 support PDP recommendation, it is presented to the IFFOR Board.

BOARD VOTE

Adoption/Rejection by 2/3 majority.
Statement of reasons for rejection.

IMPLEMENTATION OF THE POLICY



Sponsorship ET objection #4: Just create a trade association.

Voluntary self-regulation by responsible representatives of the online adult entertainment industry is critical to the responsible growth of the Internet.

Trade associations are advocacy forums

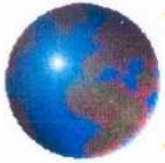
gTLDs do not support self-regulation (except in connection with safety and security).

Requires a forum that brings the sponsoring community and other stakeholders together to participate in the development, implementation, and enforcement of best practices appropriate to the IFFOR charter through consensus-based processes.



In the best tradition of ICANN

The proposal is based on the natural utility of the domain-name system to allow content-providers to organize their activities based on an Internet "address." . . . Providing a .xxx address would support the Internet's self-organizing principles, and, at the same time, would assist families in their employment of user-empowerment tools to select or reject content they consider suitable for their households. Robert Corn-Revere



Online Adult Industry Stats

- ✦ **34 M US surfers visit** adult-entertainment sites monthly, 1 in 4 users (Nielsen/NetRatings)
- ✦ **1.3 M adult sites** serve up 260 M pages adult content (N2H2)
- ✦ online adult entertainment is expected to continue to experience double-digit growth to **US \$4.6 billion industry** by 2006 (Reuters)
- ✦ **25-35% of the most popular search engine terms** are adult-entertainment oriented (WORDTRACKER)
- ✦ **100,000 adult webmasters** offer services globally (GEC MEDIA)



.xxx Sponsored Community

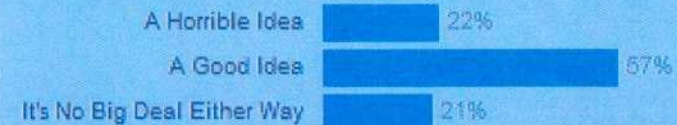
- AVN & XBiz (community's leading trade magazines and portals) have more than **35,000 subscribers** combined and generate more than **430,000 unique hits per month**

- Internext-Expo, Webmaster Access, Forum & AOE (host to the community's leading 10 tradeshow) are attended by more than **15,000 webmasters** annually

- GFY & AdultNetSurprise (community's leading bulletin boards) have to date generated **more than 1 M postings**

Poll Results

What do you think of Internet suffixes (.sex, .xxx) to designate adult sites?



XBiz, Feb, 2005

[X] close window



.XXX and Child Advocacy

Dr. Parry Aftab,
Executive Director
Wired Kids and
the Wired Safety Group

Who are we? Who am I?

- Thousands of volunteers in 76 countries around the world
 - Operating virtually
 - Oldest and largest Internet safety and help site
 - We are all unpaid volunteers
 - I am a privacy and security lawyer, and was compensated for a brief consulting period
 - My consulting term expired a year ago and I have no stake in the outcome, other than protecting children and all netizens
-
- I am not compensated for making this presentation

My previous opposition

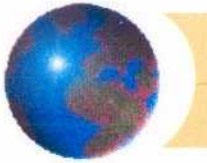
- Communicated my position to the ICANN Board
- There were enough porn sites without giving them another gTLD
- Insufficient outreach
- Legal unenforceability
- I didn't see any value to kids or adults in gTLD approach

My change in position

- I now support this application, which includes conditions I helped propose.
- sTLD also allows non-profit oversight and enforcement of conditions
- I spoke with worldwide leaders in child protection
 - John Carr in the UK
 - Janet Stanley in Australia
- **Governmental agencies**
 - Singapore MDA
 - EU Safer Internet group

It's a Win/Win

- Voluntary responsible marketing practices
- Protection of users' privacy
- Safeguards against credential and ID theft
- No child sexual exploitation
- Proof of age of actors
- Commercial normalization
- No country or value-centric standards
- All stakeholders have a say



Substantial added value to namespace

- ✦ .xxx has broad significance and global recognition
- ✦ ICM has clearly demonstrated a comprehensive internationalization strategy
- ✦ None of the significant global potential benefits of .xxx can be realized as a third-level domain within the ccTLDs
- ✦ Significant potential benefits are offered to the broader Internet community



.xxx clearly and unequivocally satisfies all the sponsorship criteria

- ✦ .xxx is globally recognizable, even by non-western languages
- ✦ leading Child Advocacy, Privacy & Free Expression representatives globally have documented their support
- ✦ .xxx has demonstrated support from the most prominent, responsible and successful adult companies world-wide
- ✦ online adult entertainment companies & websites rarely exist in developing nations or countries that do not support free expression
- ✦ .xxx is as clearly defined community as .jobs or .travel, voluntary registration demonstrates self-identification



The Sponsored .xxx TLD

Promoting Online Responsibility



The Sponsored .xxx TLD Proposal: Executive Summary for the ICANN Board

ICM Registry submitted its application for the .xxx application for a voluntary sponsored top-level domain (sTLD) in March 2004, and in August 2004, ICANN's staff provided ICM with the evaluators report concerning the application. The evaluators determined that the .xxx application satisfied the baseline criteria in the RFP relating to technical and business/financial issues. The Sponsorship and Other Issues evaluation team, however, did not understand how our proposal demonstrated compliance with 4 of the criteria. We are pleased to have this opportunity to discuss our application directly with the ICANN Board, and we are confident that we can demonstrate compliance with all of the RFP criteria approved by the Board.

To that end, what follows is an executive summary of our application for your review. We strongly encourage you to also review the document "ICM Response to ET Report" (which can be found in Section 4 of this Binder), which offers a detailed and comprehensive response to the concerns expressed by the sponsorship evaluation team.

.XXX OVERVIEW

- ***ICM Registry and IFFOR have succeeded in developing a unique solution*** that promises to address concerns about online adult entertainment, while at the same time providing innovative new tools, technology, and programs to protect Internet users.
- ***ICM Registry has worked diligently for nearly seven years and invested over US\$1 million*** in developing consensus in support of .xxx. With this Proposal, ICM and IFFOR have succeeded for the first time in bringing relevant stakeholders together to address these important issues. The applicants have communicated with a broad coalition of Internet stakeholders, including the online adult industry, child-protection organizations, parents' groups, law enforcement agencies, government representatives, privacy and security groups, and free-speech advocates, to successfully formulate an industry-supported, market-driven, non-regulatory solution for the creation of an adult TLD registry.
- ***Online adult-entertainment undoubtedly represents one of the largest sectors of Internet activity.*** With well over 1 million adult domains serving up over 260 million web pages, online adult-entertainment generates more than US \$4 billion dollars per year

We urge ICANN not to underestimate the importance of this Proposal, or fail to take advantage of this opportunity to act constructively. The .xxx Proposal offers an opportunity to make a positive contribution to the responsible growth of the Internet and to support ICANN's mission of developing technical policy appropriate to the domain-name system through a fair and transparent process.

.XXX CLEARLY AND UNEQUIVOCALLY SATISFIES ALL THE SPONSORSHIP CRITERIA

- ***.xxx is globally recognizable***, even by non-Western languages.
- ***.xxx has demonstrated that it has global support*** from the most prominent, responsible, and successful online adult-entertainment companies, organizations, and individuals worldwide.
- ***.xxx is as clearly defined a community as .aero, .mobi, .jobs or .travel.*** There is no difference between those applications and that of .xxx. Voluntary registration permits members of the community to self-identify and to commit to participating in the development of, and abiding by, consensus-driven business practices established in the .xxx registration agreement and further defined below.



- ***Our constituency of industry-leading adult-entertainment companies*** generated over US\$2.5 B in gross revenue in 2003 and on average is growing at a double-digit rate.
- ***Our constituency provides services to the majority of adult sites*** — more than 50,000 webmasters globally — and has points of presence in more than 35 countries.
- ***Most online adult-entertainment companies and websites are based in North America and Europe***, and they are rarely found in developing nations, or countries that do not support free expression.

A BROAD COALITION OF INTERNET STAKEHOLDERS SUPPORT THIS PROPOSAL

The .xxx TLD is industry-supported, market-driven and non-regulatory, and has drawn the support of a broad coalition of prominent Internet stakeholders, including:

- World renowned child-and family-safety groups globally;
- Top free speech, privacy and security advocates;
- Leading information technology (IT) experts;
- Senior public-policy leaders.

“ICRA is supportive of additional tools, like the proposed .xxx TLD.” ***Mary Lou Kenny (ICRA)***

“ICM and IFFOR will make a difference in the battle against child pornography by sponsoring programs to safeguard children.” ***Parry Aftab (Wired Safety)***

“Best-practice codes which would apply to all websites utilizing the .xxx domain could help to protect children.” ***John Carr (UK Children’s Charities’ Coalition for Internet Safety)***

“It does a reasonable job of addressing many of my concerns and will hopefully preserve a voluntary system, in keeping with the purpose and history of the DNS. I think it is unlikely that it would be under better arrangements than in this proposal.” ***Donald Eastlake 3rd (author of RFC 3675)***

.xxx WILL CREATE NEW VALUE FOR THE NAME SPACE AS A SPONSORED TLD

- ***Online child safety and anti-child-pornography will be promoted*** through best-practice guidelines promulgated by IFFOR, a not-for-profit, cross-sector, and international foundation. IFFOR will provide assistance through various online support organizations and by sponsoring development of technology tools and education programs for parents.
- ***ICM and IFFOR will make a difference in the battle against child pornography*** by contributing \$10 per registration per year towards sponsoring programs, including those to safeguard children.
- ***These benefits are dependent upon voluntary self-regulation by industry*** in collaboration with other stakeholders, and may not be possible in a gTLD.

- ***The online adult-entertainment industry wants to responsibly self-organize*** by creating an identifiable space with which its members can elect to associate themselves and create guidelines to promote responsible business practices.
- ***The voluntary .xxx sTLD will protect and preserve free speech*** – both for content-providers and Internet users.
- ***IFFOR will promote responsible data protection and information security*** for online consumers.
- ***The .xxx sTLD has the potential to regularize business processes*** such as search-engine functionality, privacy, anti-identity-theft prevention measures, and security.
- ***The .xxx sTLD creates a credible forum for representation and self-regulation*** where all stakeholders are able to discuss and actively respond to concerns about online adult entertainment.

CONCLUSIONS AND NEXT STEPS

Voluntary self-regulation by responsible representatives of the online adult entertainment industry can support the responsible growth of the Internet. This can only be achieved by creating a forum that allows the sponsoring community and other stakeholders to participate in the development, implementation, and enforcement of best practices appropriate to the IFFOR charter through consensus-based processes. These goals cannot be uniformly accomplished through an industry trade association. Nor can these goals be accomplished by a generic TLD. The purpose of the .xxx top-level domain is to create a clearly identifiable area of the Internet for responsible adult-entertainment website operators to self-label, self-organize and self-regulate on a voluntary basis. As Robert Corn-Revere commented in our application:

“The proposal is based on the natural utility of the domain-name system to allow content-providers to organize their activities based on an Internet ‘address.’ . . . Providing a .xxx address would support the Internet’s self-organizing principles, and, at the same time, would assist families in their employment of user-empowerment tools to select or reject content they consider suitable for their households.”

The Proposal now before the ICANN board is thoughtful, well reasoned, and highly developed. It offers ICANN an opportunity to promote the voluntary, bottom-up development of industry best practices on the global Internet. Approving the ICM/IFFOR proposal will not put ICANN in the content regulation business. By approving the proposal, ICANN is simply giving a clearly defined online community the opportunity to come together on a voluntary basis to create best practices for industry conduct on the Internet, just as it has for the travel business, the human resource industry amongst others.

In reviewing our Proposal, ICM Registry and IFFOR urge ICANN to keep in mind that it took a bit of nerve to launch the ICANN experiment itself, but no one has thought of a better way to approach management of the global DNS system. Given its own history, ICANN should support innovative approaches to address global concerns in a non-regulatory manner.

We remain committed to moving forward with this initiative in a constructive and unbiased manner, and therefore we urge the ICANN Board to allow the staff the opportunity to engage ICM in technical and financial negotiations with IFFOR expeditiously.

Correspondence from GAC Chairman to ICANN Board regarding .XXX TLD

12 August 2005

From: Mohd Sharil Tarmizi
To: ICANN Board of Directors
Cc: Government Advisory Committee
Subject: Concerns about contract for approval of new top level domain
Date: Friday, August 12, 2005

Dear Colleagues,

As you know, the Board is scheduled to consider approval of a contract for a new top level domain intended to be used for adult content. I am omitting the specific TLD here because experience shows that some email systems filter out anything containing the three letters associated with the TLD.

You may recall that during the session between the GAC and the Board in Luxembourg that some countries had expressed strong positions to the Board on this issue. In other GAC sessions, a number of other governments also expressed some concern with the potential introduction of this TLD. The views are diverse and wide ranging. Although not necessarily well articulated in Luxembourg; as Chairman, I believe there remains a strong sense of discomfort in the GAC about the TLD, notwithstanding the explanations to date.

I have been approached by some of these governments and I have advised them that apart from the advice given in relation to the creation of new gTLDs in the Luxembourg Communiqué that implicitly refers to the proposed TLD, sovereign governments are also free to write directly to ICANN about their specific concerns.

In this regard, I would like to bring to the Board's attention the possibility that several governments will choose to take this course of action. I would like to request that in any further debate that we may have with regard to this TLD that we keep this background in mind.

Based on the foregoing, I believe the Board should allow time for additional governmental and public policy concerns to be expressed before reaching a final decision on this TLD.

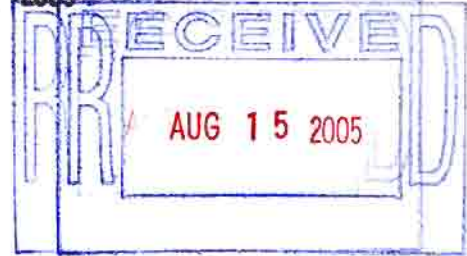
Thanks and best regards,

Mohamed Sharil Tarmizi
Chairman, GAC
ICANN



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

AUG 11 2005



Dr. Vinton Cerf
Senior Vice President, Technology Strategy
MCI
2201 Loudon County Parkway, F2-4115
Ashburn, VA 21047

Dear Dr. Cerf:

I understand that the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) is scheduled to consider approval of an agreement with the ICM Registry to operate the .xxx top level domain (TLD) on August 16, 2005. I am writing to urge the Board to ensure that the concerns of all members of the Internet community on this issue have been adequately heard and resolved before the Board takes action on this application.

Since the ICANN Board voted to negotiate a contract with ICM Registry for the .xxx TLD in June 2005, this issue has garnered widespread public attention and concern outside of the ICANN community. The Department of Commerce has received nearly 6,000 letters and emails from individuals expressing concern about the impact of pornography on families and children and opposing the creation of a new top level domain devoted to adult content. We also understand that other countries have significant reservations regarding the creation of a .xxx TLD. I believe that ICANN has also received many of these concerned comments. The volume of correspondence opposed to creation of a .xxx TLD is unprecedented. Given the extent of the negative reaction, I request that the Board will provide a proper process and adequate additional time for these concerns to be voiced and addressed before any additional action takes place on this issue.

It is of paramount importance that the Board ensure the best interests of the Internet community as a whole are fully considered as it evaluates the addition of this new top level domain. Thank you for your attention to this matter.

Sincerely,

Michael D. Gallagher

cc: Dr. Paul Twomey



August 15, 2005

Dr. Paul Twomey
Chief Executive Officer
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, California 90292

Dear Dr. Twomey:

We have reviewed the communication from Government Advisory Committee (GAC) Chairman Tarmizi regarding the ICANN Board's approval, scheduled for Tuesday, 16 August, of ICM Registry's agreement with ICANN for a sponsored top-level domain for the community of responsible webmasters in the online adult entertainment industry. We also understand that the United States Department of Commerce (DOC) recently expressed a concern that certain points of view may not have received adequate consideration in this process.

The ICANN Board's determination, on 1 June 2005, that the ICM Registry application met the Board-issued eligibility criteria for a sponsored top-level domain (sTLD), was the culmination of a long and thorough review process. This matter has been before ICANN for five years, and very actively and publicly debated for the past 18 months. Before the Board instructed the staff to enter into contract negotiations with ICM Registry, ICANN solicited views on our application and provided many opportunities for concerned stakeholders to express their views on it. We are, to say the very least, disappointed that concerns that should have been raised and addressed weeks and months ago are being raised in the final days before the Board is scheduled to approve the agreement negotiated with staff. We offered, in connection with the ICANN meeting in December of last year, the Spring meeting in Argentina, and the most recent meeting in Luxembourg, to meet with the GAC and/or interested members of the GAC to discuss the sTLD. We also understand that the DOC received the bulk of the emails that underlie the Department's concerns many weeks ago.

Nevertheless, we are keenly aware of the need for all stakeholders to feel that they have had an adequate and meaningful opportunity to express their views, and to know that these views have been carefully considered. Therefore, to preserve the integrity of the ICANN process, we request that the Board defer final approval of the ICM Registry

Agreement until its September board call, during which time ICM commits to address the concerns expressed by the DOC and Mr. Tarmizi.

To that end, ICM Registry renews its offer to meet with the GAC, or with individual countries to discuss and resolve the concerns that Chairman Tarmizi anticipates will be expressed shortly. ICM Registry has formally requested a meeting with senior officials in the US Department of Commerce, including Assistant Secretary Michael D. Gallagher and newly appointed Secretary David A. Sampson, to discuss any concerns they are hearing, and to provide information on the ways in which the sTLD will contribute to making the Internet a more family-friendly environment. And, of course, ICM Registry will, as it has done throughout this process, respond fully and in detail to any questions from ICANN.

The instantly recognizable label of the new TLD permit responsible members of the online adult-entertainment community to engage in self-regulation to make the Internet safer for families, children, and consumers. The TLD will help Internet users avoid sites that do not interest them. We very much regret that further delay will consume resources that would otherwise be available to support the International Foundation for Online Responsibility's commitment to bring together child safety experts, the sponsored community, and those concerned with free expression in order to provide families, children and consumers with more new tools, technology and educational resources to support them online; to develop and implement best practices for responsible webmasters, and to provide additional funding and tools to combat online child pornography.

The voluntary labeling of adult-oriented websites is critical to the responsible growth of the Internet. The TLD to be operated by ICM Registry unquestionably meets the criteria established by ICANN for new sponsored top-level domains. Creation of a TLD for responsible adult webmasters is also fully consistent with ICANN's mandate, articulated both in the ICANN mission statement and the MOU with the Commerce Department, to promote innovation and competition, and to facilitate bottom-up decision-making while maintaining the stability and security of the domain name system. Nonetheless, ICM Registry believes that it is appropriate to take the above-mentioned steps to respond to the concerns now being expressed before the .xxx sTLD is included in the Internet's authoritative root.

Sincerely,

Stuart Lawley
Chairman of the Board



MINISTÉRIO DA CIÊNCIA E TECNOLOGIA
SECRETARIA DE POLÍTICA DE INFORMÁTICA

Esplanada dos Ministérios, Bloco E - 3º andar - sala 317 - CEP 70057-900 - Brasília-DF, Brasil
Telefone: 55 61 3317-7800 / 7532 - Fax: 55 61 3317-7865

OFÍCIO/GAB/SEPIN/Nº 672/2005

Brasília, 6 de setembro de 2005

To: **Mohamed Sharil Tarmizi**
Chairperson of the Governmental Advisory Committee - GAC

Dear Mr. Tarmizi,

On behalf of the Brazilian Government, I would like to express our concern with the procedures that Internet Corporation for Assigned Numbers and Names - ICANN has been following in the processes of introducing new sTLDs and gTLDs. In this regard, we would like to draw attention to the '.XXX' and '.TRAVEL' cases that despite having significant impacts in local concerns have been introduced without adequate consultation with national governments. The potential ethical problems that might arise due to '.XXX' and the insufficient protection allowed to local geographical names in the case of '.TRAVEL' endanger national interests that we seek to protect.

Therefore, we would like to request that any new decision concerning the introduction of any other TLDs should be taken only after a careful analysis of the real need for such introduction within the Internet environment and due consultation with all parties that may be directly affected by them, particularly national governments.

Yours,

A handwritten signature in black ink, appearing to read 'Marcelo de Carvalho Lopes', written over a faint circular stamp.

Marcelo de Carvalho Lopes
Secretary of Information Technology Policy
Ministry of Science and Technology of Brazil

Via Email: 13 September 2005

REGERINGSKANSLIET
Ministry of Industry, Employment and
Communications

State Secretary for Communications and Regional Policy
Jonas Bjelfvenstam

N2005/7175/ITFOU

Dear Dr. Twomey,

First, let me thank you for the opportunity to discuss Internet matters with you at our meeting here in Stockholm October 6, 2003. Internet matters are also the reason for me addressing you now.

I have followed recent discussions by the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) concerning the proposed top level domain (TLD) .xxx. I appreciate that the Board has deferred further discussions on the subject to its next meeting on September 15, 2005, taking account of requests from the applicant ICM, as well as the ICANN Governmental Advisory Committee (GAC) Chairman's and the US Department of Commerce's request to allow for additional time for comments by interested parties.

Sweden strongly supports the ICANN mission and the process making ICANN an organisation independent of the US Government. We appreciate the achievements of ICANN in the outstanding technical and innovative development of the Internet, an ICANN exercising open, transparent and multilateral procedures.

The technical development has also been a prerequisite to the enormous expansion of the quantity of pornography. This has made it easier to mainstream and normalize pornography and references to it in public spaces, like the Internet, in commercials and in the media in general. If pornographic material was hard to find earlier the situation is the opposite today – people have difficulties avoiding it.

The Swedish line on pornography is that it is not compatible with the gender equality goals. The constant exposure of pornography and degrading pictures in our everyday lives normalizes the exploitation of women and children and the pornography industry profits on the documentation.

A TLD dedicated for pornography might increase the volume of pornography on the Internet at the same time as foreseen advantages with a dedicated TLD might not materialize. These and other comments have been made in the many comments made directly to ICANN through the ICANN web site. There are a considerable amount of negative reactions within and outside the Internet community.

I know that all TLD applications are dealt with in procedures open to everyone for comment. However, in a case like this, where public interests clearly are involved, we feel it could have been appropriate for ICANN to request advice from GAC. Admittedly, GAC could have given advice to ICANN anyway at any point in time of the process and to my knowledge, no GAC members have raised the question before the GAC meeting July 9–12, 2005, in Luxembourg. However, we all probably rested assured that ICANN's negative opinion on .xxx, expressed in 2000, would stand.

From the ICANN decision on June 1, 2005, there was too little time for GAC to have an informed discussion on the subject at its Luxembourg summer meeting. One month would be too short time for governments independently on the subject matter. In this specific case, several countries raised serious concerns at the GAC meeting. However, there was too little information at hand to have an informed and fruitful discussion and hence no conclusions were reached on the subject.

Therefore we would ask the ICANN Board to postpone conclusive discussions on .xxx until after the upcoming GAC meeting in November 29–30, 2005, in Vancouver. That would give the GAC an opportunity to have an informed discussion on the subject. In due time before that meeting it would be helpful if ICANN could present in detail how it means that .xxx fulfils the criteria set in advance (“criteria for Independent Evaluators”).

Sincerely,

Jonas Bjelfvenstam

cc: Dr. Vinton Cerf (Senior Vice President, Technology Strategy, MCI)
Mohamed Sharil Tarmizi (GAC Chairman)

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E-mail: registrator@industry.ministry.se
Web: <http://www.regeringen.se/naring>



EUROPEAN COMMISSION
Information Society and Media Directorate-General

The Deputy Director-General

Brussels, **16 SEP. 2005**
DG/PZ/wd/2005/D/639164

Dear Mr. Cerf,

I am writing to you in regard to the decision of the Board of ICANN on 1 June to enter into commercial and technical negotiations with the candidate registry, ICM Registry, Inc, for a new generic Top Level Domain (.XXX).

As you know, during the session between the GAC and the Board in Luxembourg in July, the Commission as well as several government representatives expressed concern to the Board on the procedure followed in this application. In particular, several representatives were concerned about the fact that the decision to proceed on 1 June was taken before the publication of the evaluation report and any opportunity to discuss this report in the GAC. You will recall that in the previous selection procedure in 2000, the report had been published and the GAC consulted by the ICANN CEO prior to the Board decision on 16 November 2000. Such an approach is of course consistent with the provisions of the ICANN by-laws (Article XI, section 2.h) For this reason, there was an expectation on our part (and it seems many other GAC members) that a similar opportunity would have arisen to comment at the same stage of the application procedure.

Moreover, while the .xxx TLD raises obvious and predictable public policy issues, the fact that a similar application from the same applicants had been rejected in 2000 (following a negative evaluation) had, not surprisingly, led many GAC representatives to expect that a similar decision would have been reached on this occasion. While there may be very good reasons why ICANN have decided otherwise on this occasion, such a change in approach would benefit from an explanation to the GAC.

I would therefore ask ICANN to reconsider the decision to proceed with this application until the GAC have had an opportunity to review the evaluation report.

Yours sincerely,



Peter Zangl

Mr. Vinton Cerf
Chairman of the Board
Internet Corporation for Assigned names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601
USA



Dr. Peter Zangl
Deputy Director General
Information Society and Media Directorate
European Commission
B-1049
Brussels
Belgium

8th November 2005

Dear Dr. Zangl,

I have received a copy of your letter to Dr. Vinton Cerf of 16 September 2005 concerning our application for the .xxx Sponsored TLD. I am writing because your letter suggests that you may have some misunderstandings about our proposal and the ICANN process through which it has been vetted.

ICANN's 'Proof of Concept' Round (the "2000 round")

In 2000, ICANN invited applications for new Top Level Domains (TLDs) as a "*proof of concept*" exercise. In other words, the 2000 TLD round served as a "test run" of a procedure for adding new top-level domains. The procedure itself was untried, and no new top-level domains had been added to the DNS in its history. ICANN stated from the outset that it would select only a limited number of applicants, and established criteria designed to ensure that its test bed included a variety of approaches to new TLDs.

Contrary to your letter to Dr. Cerf, ICM Registry's application was not rejected in 2000. Rather, it was not among the limited number chosen to participate in the test bed. Nonetheless, evaluators praised the ICM application for its "well-developed marketing strategy ... strong financial support, intellectual property expertise, and technical partnerships with leaders in the registry/registrar business." Ultimately, as the record demonstrates, the evaluation team simply concluded that there were better candidates for the test bed, saying "at this early "proof of concept" stage with a limited number of new TLDs contemplated, other proposed TLDs without the controversy of an adult TLD would better serve the goals of this initial introduction of new TLDs."

Process and Timescale

The current round of sTLD applications (the "2004 round") bears little similarity to its predecessor. In 2000, for example, the application and selection process was concentrated into a very short time. ICANN published a request for applications in mid August; applications were due approximately six weeks later on October 1st. ICANN staff conducted the evaluations of the almost 50 applications, with input from various consultants, and issued a report on November 10th. The following week, on November 16th, the ICANN Board selected the applications to take to contract. From start to end, this process lasted less than 3 months.

It was clear from the outset that the process adopted for the 2004 round was to be altogether different. First, ICANN announced its intent to undertake a fair and objective assessment,

measuring each application against detailed criteria, with insight gained in the 2000 round. Further, there would be no limit to the number of new TLDs selected - each applicant that met the Board criteria would be accepted.

In addition, the application and selection processes were laid out in great detail. The eligibility criteria and the selection criteria were publicly posted and debated over the course of nearly a full year before adoption by the ICANN Board. ICANN posted the final RFP in December of 2003, accepted applications in March of 2004, and posted those applications for public comment for more than six weeks beginning on the first of April.¹

The Governmental Advisory Committee (GAC) was unquestionably aware of our application and had numerous opportunities to comment throughout the process. Clearly, if either the GAC or any government had concerns about the proposal, they chose not to make them known in a timely manner.

- First, ICM offered to meet to discuss the proposal with the GAC, or any individual members at the public ICANN meetings in Cape Town (Dec 2004), Mar del Plata (April 2005) and Luxembourg City (July 2005). On each occasion the GAC elected not to meet with us.²
- Second, as required by Article XI, Section 2.1.h. of the ICANN by-laws, the ICANN Board fulfilled its obligation to “notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues on which it or any of ICANN’s supporting organizations or advisory committees seeks public comment, and shall take duly into account any timely response to that notification prior to taking action.”

Your letter to Dr. Cerf suggests that you may not be aware that ICANN’s CEO, Paul Twomey, wrote to the GAC in December 2004, requesting input on the “public policy elements of a number of issues before [ICANN].” The third item in Dr. Twomey’s list of “issues with public policy aspects for GAC consideration” specifically references the 10 applications for new sTLDs. In his March 2005 response to Paul Twomey’s letter, GAC Chair Sharil Tarmizi said: **“No GAC members have expressed specific reservations or comments, in the GAC, about the applications for sTLDs in the current round.”**

- We are told that at the Luxembourg meeting, one month after ICANN had publicly declared that the ICM proposal met the eligibility criteria, two or three GAC members voiced concerns about .xxx. Again, we offered to brief the GAC or its members, and spoke with several participants, including participants from the Commission and from EU Member States. Again, our offer was declined. The GAC communiqué issued in Luxembourg made no mention of the proposal.

¹ The public comments about ICM’s application were numerous relative to the other applications, and overwhelmingly positive. .xxx received 63 comments, approximately 7 of which were concerned with intellectual property issues. Twelve of the fifteen negative comments came from three individuals (Bauser, Tobias, and Cabanas), each of whom also submitted negative comments on virtually every one of the other nine proposals.

² In contrast, in Mar del Plata, ICM’s Directors and advisors made a detailed presentation to the ICANN Board, explaining the application and answering their questions. GAC’s liaison to the ICANN Board was present for at least some of our presentation. Once again, in advance of the Vancouver meeting next month, we have offered to meet the GAC. We are hopeful that this meeting will finally take place.

Applications Common to 2000 and 2004

In your letter to Dr. Cerf, you express surprise that ICM's application was accepted, given "that a similar application from the same applicant had been rejected in 2000 (following a negative evaluation)". As stated above, ICM's application was not rejected in 2000. At one point in the process, ICANN even considered *limiting* new applications to participants in the 2000 round. Ultimately, five applicants that were not successful in the 2000 round applied in 2004 and were successful, including:

- Telnic Ltd for .tel
- Tralliance (acting as successors to IATA) for .travel
- Universal Postal Union for .post
- Nokia for .mobi (applied alone in 2000, as part of a consortium in 2004)
- ICM for .xxx (applied for a combined .kids and .xxx in 2000)

The 2000 round evaluations on these applications are quite consistent with ICM's review in that year. Any surprise about ICANN's selection of previously unsuccessful applicants should have been dispelled in October 2004, when ICANN approved .travel and .post, and certainly by December, when ICANN approved .mobi.

Differences Between ICM's Applications in 2000 and 2004

The application submitted by ICM in the 2004 round reflects what we learned in the 2000 round and is, as a result, significantly different from its predecessor.

- First, we proposed in 2000 to operate both the .kids and .xxx registries. Because some of the public comments suggested that it would be a mistake to permit one organization to run both registries, we did not apply for .kids in 2004.
- We proposed in 2000 to operate a **generic** Top Level Domain (gTLD). In this round, however, following extensive research and consultation, ICM proposed a **sponsored** TLD. The nature of a sponsored TLD is much more conducive to responsible industry self-regulation based on policies and practices developed with input from all stakeholders.
- ICM also partnered with IFFOR (the International Foundation for Online Responsibility) as the sponsoring body. IFFOR will bring industry participants together with independent experts in online child safety, privacy, and free expression to forge policies for the sTLD that:
 - Promote the development of responsible business practices and conduct
 - Promote free expression globally
 - Promote the development of business practices to empower users and parents online
 - Protect the privacy and security of consenting adult consumers

- Foster communication between the responsible online adult entertainment community and the broader Internet community
- Seek and support informed participation reflecting the diversity of the responsible online adult entertainment community and the broader Internet stakeholders; and
- Employ an open and transparent policy development process.

IFFOR's structure is consciously modeled on the ICANN policy development process. It is designed to facilitate an open and dynamic consensus-building process that actively encourages participation by all interested stakeholders. Supporting organisations (SO's) reflecting the major constituencies (child safety and privacy, free expression, Internet users in general, and industry) will provide a framework for identifying policy issues and a conduit for receiving and addressing public comment.

In addition to the creation of a sponsoring organization, ICM also strengthened its management team and conducted greater research into the Adult Entertainment market, making its proposal more robust, financially and technically.

Evaluations

Your letter to Dr. Cerf protests ICANN's decision to approve ICM's application before publishing the evaluation reports. That is accurate, but does not constitute a procedural foul. ICANN has, in fact, proceeded in accordance with its published process. It has, in addition to .xxx, approved .post, .travel, .mobi, .jobs, .cat, and .tel. In none of these cases did ICANN release the evaluators' reports before approval, nor did ICANN promise to do so. ICANN staff has, however, reported on the evaluation process in increasing detail at each ICANN meeting since the RFP was issued. In all cases, ICANN has stated its intention to protect the confidential and proprietary information of applicants. We understand that ICANN may make redacted copies of the evaluation reports available at some point, but it is our view that to do so now would violate ICANN's bylaws, which prohibits ICANN from applying its standards, policies, procedures, or practices inequitably or singling out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition.

In the 2000 round, the staff-drafted reports consisted of little more than a high level summary of the proposals with two or three sentences of analysis. These "reports" were released at the beginning of an ICANN annual meeting, and the Board made final selection decisions on all of the applicants at the end of the meeting, one week later. In contrast, in this round, each application has progressed at its own pace. I can assure you that the ICANN review has been iterative, rigorous, thorough, and extended - indeed the whole process has taken almost two years. There can be no question that the process employed in this round has been emphatically more thorough than the 2000 round.

European Commission Concerns

Your letter to Dr. Cerf states "the .xxx TLD raises obvious and predictable public policy issues". While it is certainly the case that our proposal is contentious, we have addressed each and every public policy concerns in detail in our application, in our responses to questions, and in our meetings with everyone and anyone willing to meet with us (which to date, has not included the GAC). In October 2005, we offered to brief the Commission's "Informal Internet Group", but were denied the opportunity to do so. We believe that we will have addressed al-

ready all of the unspecified public policy concerns you might identify. It is a source of enormous frustration to us that had the GAC or any member of the GAC been willing to articulate their concerns, we could have addressed them.

The first government we heard from was the United States - some 18 months after our application was submitted, on the eve of our final ICANN Board contract review. The US government was specifically concerned about whether the views of Americans who would prefer to outlaw all adult content received adequate consideration. Certainly this view was expressed and considered, as early as the first public comment period. ICANN ultimately determined to proceed with the application through to contract. Presumably, the Board concluded, as we did, that this perspective is unrealistic and unconstructive. The US Supreme Court has, for example, repeatedly held that the protections of the First Amendment to the United States Constitution extend to non-obscene adult material. We also know that most of the legal adult content readily available on the Internet today is produced and consumed in North America and Europe. Under the circumstances, ignoring, deploring, or denying the reality of adult content on the Internet simply ensures that Internet users are deprived of technology that would give them greater control over their online experience.

To the extent that the European Commission has other public policy concerns about ICM's proposal, we would ask you to identify those issues with specificity.

We learned of the existence (but not the content) of your letter in late September, and since that time we have telephoned and written to you on several occasions. We have repeatedly offered to meet you and discuss ICM's application, most recently by e-mail on October 26th, 2005. We urge you to meet us, put to us your concerns and discuss with us ICM's application for the .xxx TLD. We have found that, in all cases, a face-to-face discussion improves the understanding of the application and the benefits of its multi stakeholder approach.

Council of Europe Forum

Your counterparts in the Council of Europe recently invited us to participate in its forum on "Human Rights in the Information Society: Responsible Behaviour by Key Actors". The forum, which was held in Strasbourg in September, was attended by nearly 100 distinguished delegates from around thirty member countries. The summary in the final report states:

The discussions during the Forum demonstrated the need for:

- (i) Greater protection and promotion of human rights in the Information Society based on a multi-stakeholder and multi-layered approach.*
- (ii) Development of a deeper understanding of how children and young people interpret and respond to perceived risk of harm from online and related offline activities within the context of their everyday lives and their utilisation of new and emerging social networking and communications technologies.*
- (iii) Human rights "proofing" of all key actions, decisions and technologies influencing the Information Society.*
- (iv) Increased provision of media literacy initiatives to minimise the risk of harm from online and related offline activities (intimately linked with member State responsibilities to protect and promote human rights under the European Convention on Human Rights), coupled with better use of civil society and the*

Dr. Peter Zangl
8th November 2005
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media to develop clear systems of evaluation of the efficacy of educational initiatives.

The report contains the following comment: **'The work of the International Foundation for Online Responsibility and the development of the ".xxx" domain for adult entertainment services is another good example of relevant industry actors assuming responsibility for self-regulation and labeling through collaboration with human rights organisations, child welfare advocates and government and enforcement agencies.'**

I hope the foregoing information helps clarify your understanding of our proposal and the ICANN sTLD selection process. I reiterate our offer to meet with you and discuss any remaining concerns you may have with the TLD.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'SL', with a small dot at the end.

Stuart Lawley
President
ICM Registry LLC

cc: Dr. Vinton Cerf
Dr. Paul Twomey



Internet Corporation for Assigned Names and Numbers

23 November 2005

Mr Jonas Bjelfvenstam
State Secretary for Communications and Regional Policy
REGERINGSKANSLIET
Ministry of Industry, Employment and Communications
SE-103 33 Stockholm
SWEDEN

Dear State Secretary for Communications and Regional Policy,

Thanks for meeting with me regarding ICANN and for your statement of support for the ICANN model. Also, thank you for the time that you spent meeting with me in Stockholm during September.

We appreciate your concerns regarding the application for .XXX top-level domain from ICM that is currently pending before the ICANN Board. As you are aware and have mentioned, we have followed a long process of evaluation with multiple opportunities for public comment and an open and transparent discussion regarding the merits and detriments associated with this application.

The expression of your interest in extending the time for review, to allow for additional time for further public policy review by ICANN's GAC was noted. Your request as well as those from other governmental and non-governmental interests, have resulted in ICANN's Board putting off any decision on this application until at least the ICANN Board Meeting on 4 December 2005. Additionally, we have posted additional materials regarding the independent review criteria and the materials provided by ICM relating to their application which the ICANN Board has taken into consideration.

I believe that this will meet with your request and encourage you to raise your concerns at the GAC Meeting and to request that the GAC provide any advice deemed appropriate relating to this application at that time. If you have any additional questions or concerns, please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink that reads "Paul Twomey". The signature is written in a cursive, flowing style.

Paul Twomey
President and CEO

cc: Dr. Vinton Cerf (Senior Vice President, Technology Strategy, MCI)
Mohamed Sharil Tarmizi (GAC Chairman)