

Proposed ICANN Top-Level Domain Program

Background Information

Who is ICANN?

The Internet Corporation for Assigned Names and Numbers (ICANN) is a non-profit organization responsible for coordinating the technical management of the Internet's domain name system and for ensuring its continued security, stability and integrity under a contract with the National Telecommunications and Information Administration (NTIA), an agency within the U.S. Department of Commerce. ICANN is scheduled to launch a new program in January of 2012 that will permit applicants to claim virtually any word, generic or branded, as an Internet top-level domain.

What is a Top-Level Domain?

Top-level domain names are the ones that appear to the right of the "dot" in Internet addresses, e.g., "com" as in .com. In the first year alone, ICANN estimates that its plan will allow up to several hundred new top-level domain names, with many more to follow in the years ahead. Thus, in addition to addresses that end with ".com," there could be new ones that end with generic terms like ".bank," geographic terms like ".paris," brand names such as ".hitachi" or whatever one's imagination can create.

Why/How is ANA Objecting?

ANA has detailed major flaws in the proposed ICANN program. Specifically, ANA cites ICANN's lack of a bottom-up input process involving the global Internet community, insufficient research and guidance from expert authorities, inadequate oversight by the U.S. Department of Commerce and potentially disastrous consequences if the program is implemented, as planned.

ANA objected to the program twice – on December 15, 2008, and April 12, 2009. So did many brands and groups representing brands. ANA's decision to vigorously oppose the implementation of the ICANN program came on June 20, 2011 when ICANN's Board of Directors, ignoring all the objections and failing to find true consensus, finally decided its program would be launched in January 2012. At that point, ANA believed it had no alternative but to move "outside" the box of ICANN's processes. As such, ANA submitted its detailed objections to the Department of Commerce on July 27, 2011 and directly to ICANN's president, Rod Beckstrom, on August 4, 2011.

Numerous trade associations across the marketing / media spectrum have joined ANA in opposing the ICANN program. These include The Internet Advertising Bureau (IAB), American Advertising Federation (AAF), Direct Marketing Association (DMA), American Association of Advertising Agencies (4A's) and World Federation of Advertisers (WFA).

Key Reasons the ICANN Program Must Be Stopped

Flawed Justification

ICANN's justification for its proposed program – increasing competition, promoting innovation, addressing an alleged shortage of Internet addresses and helping differentiate products and services – is deeply flawed. There is no demonstrable need to increase top-level domain names. A wide array of suffixes such as “.biz,” “.info,” “.jobs,” “.travel,” “.aero,” and “.museum” currently exist, most of which are minimally utilized but nonetheless policed by brand owners concerned about trademark dilution and cybersquatting. The ICANN-assumed gains via increased commerce, competition and innovation are completely unsubstantiated. In contrast, their program will throw the domain name universe into widespread confusion while generating untold costs to domestic and international businesses and harm to consumers.

Excessive Costs and Harm to Brands

Applying for a new top-level domain name will require an extraordinarily expensive registration fee of \$185,000, as well as a minimum cost of \$25,000 paid annually to ICANN over the ten-year contractual commitment that successful applicants must make. Costs will further escalate at the second level of naming – the word to the left of the “dot” – as brand owners will have to consider registering each of their brand-related terms, for either commercial or defensive purposes, just as they do today, in many, if not all, of the new top-level domains.

Some have estimated that, for a typical company, the cost of acquiring a single top-level domain and managing it over the initial commitment of ten years could easily exceed \$2 million, including expenses for the application process, operations, disputes, legal services, trademark monitoring and protection. Brand owners will face a Hobson's choice of either being compelled to divert valuable marketing, legal, financial and technical resources to acquiring and managing these new top-level domains or risking brand harm that would occur if they take no action and another company with rights to the same brand applies for its own top-level domain. Each choice carries its own costs and harms. Furthermore, the incremental expenses related to applying for and operating a top-level domain will divert scarce corporate resources that could otherwise be deployed for job creation and capital investment.

Consumer Risks

For consumers, adoption of the new program poses significant risks. The Internet will turn into a veritable minefield for criminal activity when the proliferation of top-level domains makes it easier for online felons to cybersquat by cloaking themselves in the names of trusted brands. Indeed, the ICANN program will exacerbate the already challenging problem of protecting consumers from online confusion and unlawful invasion of their personal privacy, diminish cybersecurity and increase the likelihood of predatory cyber harm. While such risks are more manageable today because there are now fewer than two dozen generic top-level domains, those risks stand to increase exponentially as hundreds upon hundreds of new top-level domains are approved and introduced by ICANN.

If ICANN's new program proceeds, the damage to consumer trust in Internet transactions is incalculable. For example, as security vulnerabilities and phishing spread across hundreds of new top-level domains, consumer confidence in online financial transactions will greatly diminish. A similar crisis of confidence will impact other sectors

of the economy, such as the pharmaceutical and consumer products industries – all of which increasingly and efficiently interact with consumers electronically. The potential costs of this program, which will ultimately be passed on to consumers, are staggering and completely unnecessary.

Lack of Consensus

The objections of industry sectors most affected have not been adequately addressed. In seeking to implement a change in top-level domains, ICANN has failed to reach stakeholder consensus, a requirement of its contract with the NTIA. Decision-making regarding this program appears to have been unduly influenced by parties standing to directly benefit financially from an increase in domains, namely the commercial companies that charge fees to register new addresses and manage top-level domains. An entire constituency – the one required to fund the new names and maintain the Internet's economic model – has been largely ignored.

###