

Questions for the ICANN Board of Directors

1. Does ICANN have any legal impediments to delaying its January 12, 2011 date for the start of applications to the new gTLD program? If so, what are the impediments?
2. In Congressional testimony before the Senate and House, ICANN's Senior Vice President (Kurt Pritz) asserted that it was unlikely that brand holders would need to engage in defensive actions to protect their brands because ICANN has included protections to ensure that brands are safeguarded. However, universities, companies, non-profit organizations and others continue to state that they are taking – and will be forced to take these types of defensive steps. How can ICANN continue to make its assertions that no defensive activity is needed?
3. ICM Registry, Inc., which operates the registry for the “.xxx” adult-level top-level domain, had nearly 80,000 Sunrise registrations. The majority of these appear to have been purchased to reserve the domain name and keep brands out of the .XXX world. Isn't this a kind of “protection tax” that trademark owners are forced to incur, without any real benefits – that will only increase across hundreds of new domains with the new gTLD program (and each new registry potentially developing its own sunrise reservation procedures)?
4. The Chairman of the Federal Trade Commission has stated that this proposed expansion could be a “disaster” for businesses and consumers. In addition, all members of the Commission have communicated to ICANN their concerns regarding authentication deficiencies associated with even thick WHOIS data. The Commissioners asserted that WHOIS today often contains incomplete or inaccurate data, and they believe that a rapid, exponential expansion has the potential to magnify greatly both the abuse of the domain name system and challenges faced by law enforcement to track down those who perpetrate fraud through the Internet. ICANN's own WHOIS Review Team recently found extremely serious deficiencies stating as quoted by the FTC that “We find that ICANN has neglected to respond to the needs of this community both in the accuracy of the WHOIS data and in response times for access and action.” In the face of the Federal Trade Commissions' concerns, how can ICANN justify proceeding with new gTLDs (especially since authentication of domain name ownership data on the thick WHOIS is an extra point within the application process and not a requirement within the ICANN application)?
5. Increasingly, international entities are expressing their concerns that ICANN's proposal is ill-conceived and will be harmful. Thirty-four of the most important IGOs from the United Nations to NATO to the WHO Internet stakeholders globally are stating that ICANN should not proceed with its proposal as contemplated. What is ICANN's response to the concerns of the Intergovernmental Organizations?
6. During the December 8, 2011 hearing before the Senate Committee on Commerce, Science and Transportation, Angela Williams, on behalf of Not-for-Profit Organizations Constituency (“NPOC”) and the YMCA, testified that ICANN did not invite the non-profit constituency to the policy development table until June 2011. In light of this fact, how can ICANN claim that it has already considered all relevant issues and that the Applicant Guidebook stemmed from a multi-stakeholder, consensus-based approach?
7. If post-implementation analysis demonstrates that the costs of the new gTLD program exceed the benefits, isn't it true that the damage from the new gTLDs would already have taken place and that there is no provision to undo these decisions (or recover monies lost by brands in the interim)?