

October 21, 2011

The Honorable Lawrence E. Strickling  
Assistant Secretary for Communications & Information  
and NITA Administrator  
National Telecommunications and Information Administration  
1401 Constitution Ave., Room 4701  
Washington, D.C. 20230

Re: ICANN and Launch of New Internet gTLDs

Dear Assistant Secretary Strickling:

The National Retail Federation has long been a forceful advocate for robust e-commerce. The explosion in online sales, which vastly outstrips that of every other segment of the retail industry, contributes mightily to job growth and to our nation's economy. Greater flexibility and more focused communications are hallmarks of e-tailing. But these benefits could be thrown into awry if changes to online operations are not implemented in a transparent and predictable manner. It is for this reason that we write to express our industry's concerns as to current plans to introduce new top level domains on the Internet.

As the world's largest retail trade association and the voice of retail worldwide, NRF and our Shop.org and NCCR divisions represent merchants of all types and sizes, including chain restaurants and industry partners, from the United States and more than 45 countries abroad. Retailers operate more than 3.6 million U.S. establishments that support one in four U.S. jobs – 42 million working Americans. Contributing \$2.5 trillion to annual GDP, retail is a daily barometer for the nation's economy. NRF's Retail Means Jobs campaign emphasizes the economic importance of retail and encourages policymakers to support a Jobs, Innovation and Consumer Value Agenda aimed at boosting economic growth and job creation.

As you know, in January, the Internet Corporation for Assigned Names and Numbers ("ICANN") will begin accepting applications for new extensions of generic top-level domains ("gTLDs"). While we understand this pending change was forcefully discussed, especially among segments of the technology community, its scope and consequences have largely flown under the radar of most commercial businesses with an online presence. That would be less of a problem if now, as we approach its official launch, there were concrete accompanying information sufficient to allow businesses to understand ICANN's current intentions, its going forward assumptions and sufficient time to consider both the brand identity and legal consequences of applying (or not) to become a registry.

To adequately plan, businesses need some level of clarity. They must have sufficient information to make informed judgments as to how they and their competitors (not to mention

bad actors) likely will behave in a new environment. While complete certainty is not possible, when an entity, such as ICANN, is operating under government authority or imprimatur, it should not move forward on matters that potentially affect major segments of the nation's economy without providing reasonably circumscribed, up-front guidance. To date, that guidance is lacking.

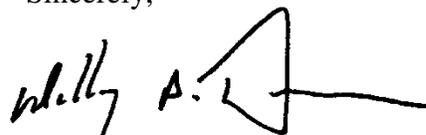
For example, basic information such as how many new extensions will be approved is unknown. If the number of new extensions is small, the likelihood that one's competitor will secure a significant market advantage is reduced because companies can more reasonably adopt a "wait and see" approach. Yet members of the business community have, at various times, been told that ICANN will grant 300 extensions and at other times been told that the number could exceed 1500. The likelihood that better known brands will need to take defensive action is far greater if the latter is the case.

Similarly, some businesses have been led to believe that the number of extensions granted now will be all the gTLDs that are likely to be granted for the foreseeable future, while others have been led to believe that new rounds of grants will occur within very few years. Again, more conservative businesses might prefer to wait, if the consequences of doing so are not too great. But if it turns out they will have ceded a long-term advantage to their competition, the business consequences are potentially dire.

Beyond these direct competitive concerns, the additional costs and intellectual property challenges inherent in multiple "sunrise" offerings of gTLDs consisting of trademarked brand names gives even smaller companies cause for concern. And, especially for multi-branded retail businesses of whatever size, the upfront and ongoing expense is not inconsequential. As opposed to most industries, the net profit margin in the retail industry is approximately 2 percent. Obtaining funds for major new initiatives (and associated marketing and legal costs) only formally announced this summer is not an insignificant hurdle.

In short, while the promise may be great, the lead up to implementation has not. We urge you to take whatever steps are necessary to hold this initiative in abeyance until such time that the business community can be adequately informed of, and digest, its as yet inadequately explained parameters.

Sincerely,

A handwritten signature in black ink, appearing to read "Mallory A. Duncan". The signature is stylized and includes a large, sweeping flourish at the end.

Mallory Duncan  
Senior Vice President, General Counsel

cc: Kathy D. Smith, Chief Counsel