

Congress of the United States
House of Representatives

Washington, DC 20515

December 16, 2011

The Honorable John Bryson
Secretary
Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

We write to express serious concerns about the decision by the Internet Corporation for Assigned Names and Numbers (ICANN) to dramatically expand the number of generic Top Level Domain names (gTLDs) without adequate review of the impact of a full implementation.

We urge you to take all steps necessary to encourage ICANN to undertake further evaluation and review before any such robust expansion is permitted to occur. Consistent with the Affirmation of Commitments between ICANN and the National Telecommunications and Information Administration (NTIA), and contracts entered into between the Internet Assigned Numbers Authority (IANA) and the NTIA, the Department has a responsibility to ensure that ICANN's actions further the public interest and promote consumer trust.

We have concerns about the impact this rollout will have on businesses that will be required to defend their intellectual property over an unlimited number of new top level domains, as well as the resulting impact on consumers. Businesses will be forced to engage in widespread brand monitoring and litigation, despite the procedures ICANN has set up through this process. These costs include defensive registrations of subdomains made up of businesses' trademarks - and misspellings of those trademarks - within each new top level domain. According to a recent survey conducted by the Intellectual Property Owners Association of its member companies, 70% of respondents reported that they sought one or more defensive registrations for the .xxx top-level domain alone.

In addition, the costs of defensive registrations will increase dramatically if multiple parties request top level domains that consist of a business' trademarks, because of the potential that an auction will be required. Many of these costs will be passed on to consumers in the form of higher prices. Has the Department of Commerce and/or ICANN quantified all of these costs? If so, please provide the results of that research. If not, why not?

Law enforcement has expressed concern about its ability to locate and prosecute criminals after this rollout. FTC Chairman Liebowitz testified before Congress on December 7, 2011, that he had significant concerns about how the rollout of unlimited gTLDs would affect law enforcement efforts to crack down on fraud and abuse on the Internet. He warned that the rollout could be "disastrous."

As a result of these concerns, we respectfully ask that the Department provide detailed answers to the following questions before January 5, 2012:

- Has the Department made an assessment of whether ICANN has complied with the Affirmation of Commitments? Please explain in detail.
- In the event that the Department determines (or has determined) that there has been non-compliance, what steps will the Department take to ensure compliance?
- What specific action is the Department taking to ensure that American businesses and consumers are protected by any proposed ICANN expansion of top-level domain names, if implemented?
- Has the Department and/or ICANN quantified all of the costs to businesses and consumers that would likely result from this expansion? If so, please provide the results of that research. If not, why not?
- What is the Department's view regarding the potential for cybersecurity threats from this rapid expansion of gTLDs? Please be very specific about the Department's assessment of this possibility and any steps the Department believes are appropriate to forestall such potential threats.

We urge the Department to take steps necessary to delay the rollout of these new gTLDs until a more thorough analysis and evaluation of the potential costs and benefits of all these factors is concluded, and until the Department can assure Congress and the American public with absolute confidence that the benefits of the proposed rollout exceed the costs and risks to consumers, businesses, and the Internet.

If the Department determines, as a result of this analysis, that an expansion should proceed, we believe that it is extremely important that the Department encourage ICANN to initially limit any gTLD expansion to a small pilot project that will enable ICANN, the Department, Congress and all other affected national and international stakeholders to empirically evaluate the effects of the expansion without risking widespread harms for consumers and businesses that could be associated with a more aggressive rollout.

Because at present ICANN plans to begin implementing its expansion early next year, your timely response is requested.



Bob Goodlatte
Chairman, Subcommittee on Intellectual Property,
Competition, and the Internet

Sincerely,



Howard Berman
Ranking Member, House
Committee on Foreign Affairs