

EXHIBIT 4

From: Meredith Attwell
To: Michael Gallagher
Date: 6/2/2005 1:44 PM
Subject: Re: Fwd: ICANN

5 USC § 552 (b) 5

>>> "Michael Gallagher" <mgallagher@ntia.doc.gov> 6/2/2005 1:36 PM >>>

5 USC § 552 (b) 5

5 USC § 552(b) 5

>>> Meredith Attwell 06/02/05 1:33 PM >>>

5 USC § 552(b) 5

ICANN OKs 'XXX' Web Addresses

The Internet's primary oversight body approved a plan Wednesday to create a virtual red-light district, setting the stage for pornographic Web sites to use new addresses ending in "xxx."

The Internet Corporation for Assigned Names and Numbers said it would begin negotiations with ICM Registry Inc., run by British businessman Stuart Lawley, to iron out technical issues and prices for the new Web addresses.

Adult-oriented sites, a \$12 billion industry, probably could begin buying "xxx" addresses as early as fall or winter, depending on ICM's plans, ICANN spokesman Kieran Baker said. The new pornography suffix was among 10 under consideration by the regulatory group, which also recently approved addresses ending in "jobs" and "travel."

ICM contends the "xxx" Web addresses, which it plans to sell for \$60 a year, will protect children from online smut if adult sites voluntarily adopt the suffix so filtering software used by families can more effectively block access to those sites. The \$60 price is roughly 10 times higher than prices other companies charge for dot-com names.

"It will further help to protect kids," said John Morris, staff counsel at the Washington-based Center for Democracy and Technology. Morris predicted some adult sites will choose to buy "xxx" Web addresses but others will continue to use ".com."

>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>

5 USC § 552 (b)5

Thanks.

Mike

From: <FSchwien@doc.gov>
To: "Meredith Attwell" <mattwell@ntia.doc.gov>
Date: 6/2/2005 3:43 PM
Subject: Re: Fwd: ICANN

5 USC § 552 (b) 5

"Meredith Attwell" <mattwell@ntia.doc.gov>
06/02/2005 03:39 PM

To
<fschwien@doc.gov>
cc

Subject
Fwd: ICANN

Fred-

5 USC § 552 (b) 5

>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>

5 USC § 552 (b) 5

Thanks.

Mike

----- Message from <FSchwien@doc.gov> on Thu, 02 Jun 2005 10:29:06 -0400

To:
"John Kneuer" <JKneuer@ntia.doc.gov>, "Michael Gallagher "

<MGallagher@ntia.doc.gov>

Subject:

ICANN

Mike, think this will cause us any problems?

<http://www.newsmax.com/archives/ic/2005/6/2/90539.shtml>

EXHIBIT 5

From: Meredith Attwell
To: Cathy Handley; Robin Layton; Suzanne Sene
Date: 6/16/2005 4:05:42 PM
Subject: Fwd: .XXX

just an fyi

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

§ U.S.C. § 552(b)(5)

Background:

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

Key .XXX Dates:

12/15/03: ICANN Releases Request for Proposals for Sponsored Top Level Domain Names

3/19/04: New Application for .XXX

3/31/04: Public Comment Forum for Proposed Sponsored Top-Level Domains

6/1/05: Board passed Resolution authorizing ICANN to enter into negotiations with .XXX Applicant

Although there is no remaining public comment process formally contemplated, the ICANN Board will still consider any additional comments or letters received regarding this before approval of the final contract.

If the pornography industry is willing to adopt industry lead standards and encourage their colleagues to authenticate adults only on to their website, many applaud their efforts. Further, a previous Supreme Court case in 2003 regarding the Children's Internet Protection Act of 2000 (CIPA) makes it very unlikely that any ban of pornography could be sustained. Practically speaking, the Internet is a global medium with international laws and differing cultures. Since what is illegal in the United States may be legal in Germany or Turkey, ICANN must consider what works in one country may not work in another.

Support for .XXX

The ICM Registry application for .XXX has strong support from the child advocacy community because they feel that that ICM's approach to the .xxx puts into place best practices that would not be achievable in the dot com space. Wired Safety and Wired Kids (www.wiredsafety.org) supported the application as did the Internet Content and Rating Association (ICRA). In addition there is strong support out of the UK child advocacy community (John Carr) - Children's Charities Coalition for Internet Safety. Charles Jennings, a founder of Trustee, voiced his support for this approach.

§ U.S.C. § 552(b)(5)

Attached: Fact sheet (Source: ICM Registry); News.com article 6/15/05

EXHIBIT 6

From: Meredith Attwell
To: Jeffrey Joyner; Robin Layton; Suzanne Sene
Date: 6/14/05 2:05:15 PM
Subject: Fwd: Call from Family Research Council

Guys- We also got a call from upstairs and Chip Pickering's office on this which says the Hill is looking at their options and wants a meeting in the next 2 days. Can we please get some talking points on why this is a good thing and why we support it.

Thanks.

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

The fifth floor Office of Public Affairs transferred a call to me from Patrick Trueman, senior legal counsel for the Family Research Council. He had read that the DoC must approve .xxx and said he wanted to be able to comment. I explained that our role is to "authorize any addition, deletion or change to the authoritative root zone file" [precise language from Kathy Smith] and he said that's what he meant and he would just like to know the best way to comment. Mr Trueman told me he had worked in the Dept of Justice in Reagan and Bush administrations. I can refer this call to someone in the front office or to OCC but I wanted to let you know this call had come in.

Clyde Ensslin x0019

From www.frc.org:

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

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EXHIBIT 7

From: "Hurst, Mike" <Mike.Hurst@mail.house.gov>
To: Jim Wasilewski <jwasilewski@ntia.doc.gov>
Date: 6/14/2005 10:13:07 AM
Subject: ICANN

Was,

Can you guys come up sometime this week and give me a briefing on ICANN's recent decision to authorize the ".xxx" domain name, and what the role of the Commerce Dept will be in light of this decision (I had read that you guys will have to approve)? We're reviewing our options here on the Hill. I'm pretty open the next 2 days. Thanks.

D. Michael Hurst, Jr.

Legislative Director/Counsel

Congressman Chip Pickering (R-MS)

229 Cannon House Office Building

Washington, DC 20515

(202) 225-5031 (phone)

(202) 225-5797 (fax)

From: "Meredith Attwell" <mattwell@ntia.doc.gov>
To: <jwasilewski@ntia.doc.gov>
Date: 6/14/2005 3:02:47 PM
Subject: Re: Fwd: Call from Family Research Council

>>> Jeffrey Joyner 6/14/2005 2:34 PM >>>

← U.S.C. § 552(b)(3)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

Guys- We also got a call from upstairs and Chip Pickering's office on this which says the Hill is looking at their options and wants a meeting in the next 2 days. Can we please get some talking points on why this is a good thing and why we support it.
Thanks.

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Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

EXHIBIT 8

From: "Hurst, Mike" <Mike.Hurst@mail.house.gov>
To: "Pat Trueman (p.trueman@verizon.net)" <p.trueman@verizon.net>, "Don Wildmon (dwild@afa.net)" <dwild@afa.net>, "Janet M. LaRue (jlarue@cwfa.org)" <jlarue@cwfa.org>, "Donna Rice Hughes (RICEHUGHES@aol.com)" <RICEHUGHES@aol.com>
Date: 6/16/2005 3:46 PM
Subject: FW: fyi...

Pat,

I met with the Commerce Dept. folks today, and they relayed to me that they do not have authority to approve the substance of domain names - only the technical aspects of it (see below; i.e., if a domain name meets the technical aspects under IANA, then Commerce will approve without regard to substance/content of domain).

If groups are going to oppose the approval of .xxx domain name, then maybe we should be focusing our attention and resources on ICANN, who - as I understand it - still has the ultimate say in this thing going forward (their Board still must approve this domain name - see very last paragraph below). Maybe we can marshal all our resources toward ICANN?

In any event, let me know how we can be helpful. Thanks Pat.

-Mike

-----Original Message-----

Sent: Thursday, June 16, 2005 2:25 PM
To: Hurst, Mike
Subject: fyi...

Q: What role does the Department of Commerce play with respect to ICANN's selection of new sponsored top level domains (sTLDs)?

A: The Department does not participate in the selection process or advocate for the creation of specific top level domains. The Department has long recognized that the selection of new TLDs should be conducted by the private sector through a not-for-profit organization, globally representative of the Internet stakeholder community.

Background:

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

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Although there is no remaining public comment process formally contemplated, the ICANN Board will still consider any additional comments or letters received regarding this before approval of the final contract.

CC: "Neville, Gabe" <Gabe.Neville@mail.house.gov>

EXHIBIT 9

From: Meredith Attwell
To: Cathy Handley; rlayton@ntia.doc.gov; Suzanne Sene
Date: 6/16/2005 4:50 PM
Subject: Fwd: Michael Reagan supports .xxx

just more fyi

>>> Meredith Attwell 6/16/2005 4:07 PM >>>

>>> Meredith Attwell 6/16/2005 1:12 PM >>>

SUSC § 552(b)(5)

Attached is a document that incorporates the comments of Members who have spoken publicly about the .xxx. I'm not sure that Members "support it" other than those that have made statements. Most Members don't want to be identified as "supporting porn." So far ICM Registry has reached out to the following:

Rep. Bob Goodlatte
Rep. Fred Upton
Rep. Cliff Stearns
Rep. John Shimkus
Rep. Mike Pence
Sen. Ted Stevens
Sen. John Ensign
Sen. Conrad Burns
Sen. Joseph Lieberman
Sen. George Allen

None of these Members have been indicated they are opposed.

Michael Reagan has noted his support (but also looking for .xxx to be mandatory). If you haven't seen this article already, take a look:

http://worldnetdaily.com/news/article.asp?ARTICLE_ID=44805

After meeting with Chip Pickering, I would assess Chip would be a lead sponsor for his bill. Chip was not against .xxx (although his staff was), but wanted to force the entire industry to .xxx. A bill like that faces definitional and jurisdictional problems... but those aren't ours.

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."

Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress,

when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

2 Pages Withheld
under
5 U.S.C. § 552(b)(5)

EXHIBIT 10

From: Clyde Ensslin
To: jlarue@cwfa.org; ptrueman@frc.org
Date: 6/20/2005 10:38:11 AM
Subject: Meeting at NTIA set for 11 am Tuesday June 21 room 4898 B

Deputy Asst Secretary of Commerce John Kneuer is planning to host our meeting tomorrow in his office at 11 am. John's office phone is 202-482-1830 and his room number is 4898 B. He is the second ranking official at NTIA behind Asst Sec Michael Gallagher. It may take 10 to 15 minutes for you to get through security into the building, so I suggest you arrive around 10:45 am at the main entrance on 14th Street, and the guard will have someone escort you to John's office. I am planning to attend and I look forward to meeting you both.

Clyde Ensslin NTIA Director of Communications 202-482-0019

CC: p.trueman@verizon.net

EXHIBIT 11

Clyde Ensslin - RE: Update on public reaction to ICANN and .xxx

From: <CGunderson@doc.gov>
To: <censslin@ntia.doc.gov>
Date: 6/20/2005 8:44 AM
Subject: RE: Update on public reaction to ICANN and .xxx

5 USC §552 (b)5

-----Original Message-----

From: "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]
Sent: Monday, June 20, 2005 7:32 AM
To: <MGallagher.NTIAHQ.NTIA@ntia.doc.gov>
Cc: <cfuqua@doc.gov>; <CGunderson@doc.gov>; "John Kneuer" <JKneuer@ntia.doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Ranjit deSilva" <RDesilva@ntia.doc.gov>
Subject: Update on public reaction to ICANN and .xxx

As of midnight Sunday night June 19, by my count, the publicaffairs@ntia.doc.gov account set up on Friday June 16 to accept emails regarding .xxx had received 2,567 messages. Between midnight and 8 am this morning, another 79 came in. Most have an identical text and came from an "Alert" on the Family Research Council home page. If you go to www.frc.org and scroll to the bottom of a story titled "Stop the Porn Industry from Expanding" and fill in name and address fields, FRC will automatically send messages to both ICANN and Commerce with the subject line "Stop the Establishment of the .xxx domain."

The text is: "I oppose the establishment of the .XXX domain. I do not want to give pornographers more opportunities to distribute smut on the Internet. By establishing this new .XXX domain, you would be giving false hope to parents who want to protect their families from pornography. You would also be lending legitimacy to the hardcore pornography industry. Please stop this effort now."

Two other conservative Web sites have stories that suggest people should contact Commerce in opposition to .xxx. Both www.humaneventsonline.com and www.cwfa.org have the publicaffairs@ntia.doc.gov address and both encourage people to contact ICANN and provide email address and phone for ICANN.

Focus on the Family has archived its report on .xxx and removed the contact information for DoC and replaced it with an offer to send a message to ICANN on the behalf of the reader.

One conservative Web at www.ProtectEveryChild.org supports .xxx because ICANN approval of .xxx "is only half the battle. There must be a mandatory movement to .xxx." They urge people to contact DoC in support of a mandatory .xxx and provide the NTIA e-mail address.

Media reaction: Based on my Lexis-Nexis search, which may not capture every story, only a handful of stories have run since the AP story a week ago. The Dubuque Telegraph-Herald ran the week-old AP story yesterday.

Other reports/op-eds in the media:

On June 15, the Hunteington West Virginia Herald-Dispatch ran an unscientific poll that asked:

"Backers of a proposed .xxx domain say it will help keep Internet users from accidentally stumbling upon porn sites. Do you agree?" Yes 65.5 percent; No, 25.5 percent, Undecided 8.9 percent, total 3236 surveyed.

The Stanton Virginia Daily News Leader ran a negative op-ed on June 14 titled "Smoke and Mirrors."

A student newspaper at the University of Northern Illinois said in an op-ed that .xxx should not be mandatory as that would be unconstitutional.

Internationally, an op-ed in New Straits Times in Malaysia weighed the pros and cons evenly; and an op-ed in the New Zealand Herald predicted that a voluntary .xxx would be "ineffectual."

I will continue to search for stories in the media and will keep you posted.

Clyde Ensslin NTIA Director of Communications x0019

EXHIBIT 12

Clyde Ensslin - xxx domain

From: <FSchwien@doc.gov>
To: <CGunderson@doc.gov>, <cbuchan@doc.gov>
Date: 6/16/2005 5:54:13 PM
Subject: xxx domain
CC: <sreilly@doc.gov>, <elevy@doc.gov>, <matwell@ntia.doc.gov>, <mgallagher@ntia.doc.gov>

Who really matters in this mess is Jim Dobson. What he says on his radio progarm in the morning will determine how ugly this really gets--if he jumps on the bandwagon, our mail server may crash. My suggestion is that someone from the White House ought to call him ASAP and explain the situation, including that the White House doesn't support the porn industry in any way, shape, or form, including giving them their own domain.

My thoughts, Fred

Fred L. Schwien
Executive Secretary
United States Department of Commerce
Room 5838, 14th & Constitution Ave, NW
Washington, DC 20230
Telephone: (202) 482-3035
Cell: (202) 550-9637
E-mail: fschwien@doc.gov

EXHIBIT 13

From: Clyde Ensslin
To: Meredith Attwell
Date: 6/22/2005 12:26 PM
Subject: Re: Status report: no updates/changes on Web sites objecting to .xxx

Right now 3584 but this is a number I am keeping very close. You will recall the folks we met with yesterday were very interested in these numbers. Clyde

>>> Meredith Attwell 6/22/2005 12:17 PM >>>
what's the email total now?

>>> Clyde Ensslin 6/22/2005 11:13 AM >>>

No changes to the three Web sites that put DoC contact information online last week. Nothing relative to .xxx has changed on these sites since my report to you Monday morning. If it does, I'll let you know as soon as I learn of the change.

In summary: Family Research Council has not updated its story dated Friday June 17; Concerned Women for America has not updated its opinion piece dated Thursday June 16; Human Events has not updated its report dated June 15.

In terms of new developments, [www.Protect Every Child](http://www.ProtectEveryChild.org) has added the following text, and asks concerned readers to contact Congress and the FCC as well as our NTIA e-mail address to make .xxx mandatory. See below:

"The 1st Amendment gives us the right to be heard & to petition Congress to right a wrong. Join our campaign by contacting your members of Congress, see Contact Congress above; Kevin Martin, Chairman of the FCC, 202-418-1000 or fax 1-866-418-0232 or email www.fcc.gov; and The Department of Commerce, at publicaffairs@ntia.doc.gov. Ask them to protect your child from innocently entering the world of Internet pornography by sponsoring legislation limiting all pornographic material to the .XXX Top-Level Web Domain Extension! Pornography is not going away. It is just like someone who discovers they have cancer. They can use medication and treatments to control it or they can allow it to continue to grow by leaving it alone to fester and spread. Without .XXX and a mandatory movement to this TLD, children and families will continue to be devastated by the pornography that threatens their existence when they stumble across it through deceptively named websites. .XXX will protect the 1st Amendment rights of the majority--every child, every adult--while continuing to protect the rights of the few, the pornographers. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances, www.house.gov/Constitution/Amend.html. Make sure YOUR voice is heard in Congress."

(Note: I am in email contact with editor of this Web page. She understands that decision to move forward on this was made by ICANN and that DoC does not participate in selection process for creating new domains. She has the ICANN contact info but is not using it.)

Clyde Ensslin NTIA Director of Communications 202-482-0019

From: <FSchwien@doc.gov>
To: <CGunderson@doc.gov>, <MGALLAGHER@NTIA.DOC.GOV>, <CBuchan@doc.gov>
Date: 6/17/2005 9:13 AM
Subject: Fw: Xxx

The count is 750, fewer than I thought would be there this morning.

Fred L. Schwien
 Executive Secretary
 United States Department of Commerce
 Room 5838, 14th & Constitution Ave, NW
 Washington, DC 20230
 Telephone: (202) 482-3035
 Cell: (202) 550-9637
 E-mail: fschwien@doc.gov
 ----- Forwarded by Fred Schwien/HCHB/Osnet on 06/17/2005 09:13 AM -----

Matthew Healy/HCHB/Osnet
 06/17/2005 09:09 AM

To
 Fred Schwien/HCHB/Osnet@osnet
 cc

Subject
 Re: Xxx

750, not too bad since yesterday.

Matt Healy
 Executive Secretariat
 Office of the Secretary
 U.S. Department of Commerce
 Washington, D.C. 20230
 phone: (202) 482-3660
 fax: (202) 482-4090

Fred Schwien/HCHB/Osnet
 06/17/2005 08:35 AM

To
 Matthew Healy/HCHB/Osnet@osnet
 cc

Subject
 Re: Xxx

Matt, what is the count now?

Fred L. Schwien
Executive Secretary
United States Department of Commerce
Room 5838, 14th & Constitution Ave, NW
Washington, DC 20230
Telephone: (202) 482-3035
Cell: (202) 550-9637
E-mail: fschwien@doc.gov

Matthew Healy/HCHB/Osnet
06/16/2005 03:12 PM

To
Fred Schwien/HCHB/Osnet@osnet
cc

Subject
Re: Xxx

635 and still going strong.

Matt Healy
Executive Secretariat
Office of the Secretary
U.S. Department of Commerce
Washington, D.C. 20230
phone: (202) 482-3660
fax: (202) 482-4090

Fred Schwien/HCHB/Osnet
06/16/2005 03:08 PM

To
"Matthew Healy" <MHealy@DOC.GOV>, "Ed Levy" <elevy@doc.gov>
cc

Subject
Xxx

What are the current numbers?

Sent from my BlackBerry Wireless Handheld

CC: <mattwell@ntia.doc.gov>, <CENSSLIN@ntia.doc.gov>

EXHIBIT 14

From: "Suzanne Sene" <ssene@ntia.doc.gov>
To: "Meredith Attwell" <MAttwell@ntia.doc.gov>
Date: 6/24/2005 12:43:19 PM
Subject: Re: .XXX

** High Priority **

hi meredith, let me know if the following list seems complete enough for their purposes:

icann staff:

paul twomey, president and ceo: twomey@icann.org, 310-823-9358
john jeffrey, general counsel: jeffrey@icann.org, 310-301-5834
kurt pritz, vp business operations, pritz@icann.org, 310-301-5809

YES

icann's mailing address is: 4676 admiralty way, suite 330
marina del rey, ca 90292-6601

the primary u.s. reps on the board are:

vint cerf
michael palage
tom niles
steve crocker
suzanne woolf

YES

ABSENT

ABSENT

their names are found on the icann website, and i believe their email addresses show up once you click on each individual name. if you'd like me to locate their mailing addresses, let me know.

cheers, suz.

Suzanne R. Sene
Senior Policy Advisor
NTIA/OIA
202-482-3167 (ph)
202-482-1865 (fax)

>>> Meredith Attwell 6/23/2005 1:56 PM >>>

Suzanne -

We promised the Family Research Council (the conservatives who are sending their emails to us) that we would facilitate getting a meeting with ICANN and possibly directing them to American based Board members. Who at ICANN should we direct them to and which Board members? Could you also send contact information. Thanks!

CC: <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>

From: Kathy Smith
To: John Kneuer; Meredith Attwell
Date: 7/11/2005 12:08 PM
Subject: Re: .xxx contact at ICANN

Dear Meredith: I suspect that John Jeffrey is the best point of contact. He is at the ICANN Board meeting this week, but I would be happy to email him and try to confirm if he is the person whose name we should give to Pat Trueman. Let me know if that works for you. Kathy

>>> "John Kneuer" <jkneuer@ntia.doc.gov> 7/11/2005 11:59 AM >>>
Meredith/Kathy

I received a call from Pat Trueman at FRC asking for the best contact information at ICANN for them to discuss their views on the .xxx tld. I raised the issue with ICANN's GC when he was here last week and he assured me that there was still an opportunity for interested parties to voice their opinions. Can you two coordinate on the best point of contact and forward that information to Pat Trueman at p.trueman@verizon.net.

Thanks.

EXHIBIT 15

MEMORANDUM FOR: Michael Gallagher
ASSISTANT SECRETARY FOR
COMMUNICATIONS AND INFORMATION/NTIA

FROM: Maureen Lewis, OPAD

SUBJECT: Response to .xxx Correspondence

The enclosed correspondence uses previously approved text in response to letters about the proposed .xxx domain. Please note that the response to a proponent of the domain deletes the reference to shared concerns about the proliferation of pornography.

CORRESPONDENCE CLEARANCES

Prepared by:	Associate* Administrator	Chief Counsel	Congressional Affairs	Senior Advisor	Deputy Assistant Sec'y	Assistant Secretary
M. Lewis	E. Stark	K. Smith	J. Wasilewski	M. Atwell	J. Kneuer	
Ext.:2-1892	2-1880	1864		29122		
Initial: <i>ML</i>	<i>ES</i>	<i>KS for 10/11/05</i>		<i>TSR</i>		
Date: 10/11/05	6/11/05	10/12/05		10/12/05		

* The Associate Administrator is responsible for ensuring that correspondence is routed appropriately and should add the appropriate formal clearance blocks to the form, depending on the issue. Clearances from another Associate Administrator, Congressional Affairs, Public Affairs and/or others may be added as appropriate.

265

EXHIBIT 16

From: Tracey Rhoades
To: Lewis, Maureen
Date: 9/29/2005 10:15:50 AM
Subject: Re: Fwd: Webcims 05-003547

thank you!

>>> Maureen Lewis 9/29/2005 10:12 AM >>>
Good morning all:

As requested, here's the template for the .xxx responses with the addition of the reference to the new FBI unit.

Maureen

>>> Tracey Rhoades 9/29/2005 9:53 AM >>>

I left a message for Ed a while ago, but he is not in the office yet. That said though, if the Sec. office feels that the level of sender requires the Secretary to sign the response, then that is probably what will end up happening, and the letter will be due TODAY. We will not be granted an extension based on our own internal delays. Eric and Maureen, I know a recent edit was made to the .xxx letter template -- please provide the revised template to Robin so that she can put the letter through clearance ASAP. Thanks!
Tracey

>>> Geraldine Moody 9/29/2005 9:30 AM >>>
Hi Suzanne,

I received the "A" Priority on September 21, I stamped it in and walked it around to OIA on the same day. All of the "A" are treated that way. What happened after that, I have no ideal. I stopped putting the "A" in the front office boxes because of that reason. Tracey will be talking to Ed to see what route we will be taking. Thanks.

>>> Suzanne Sene 9/29/2005 8:48 AM >>>

geraldine, i am going to be in training all day today and tomorrow, so it may be preferable for tracy or robin to make this call to ensure we have the exchange with the fifth floor. it was meredith's call on the very first exec sec that was assigned an "a" who noted that all of the .xxx letters to date have been a "b", with mike's signature.

also fyi, the letter is stamped September 21 with a due date of yesterday; however, i didn't get it until yesterday. so at a minimum, i think we'll need an extension. thanks, suz.

>>> Geraldine Moody 9/28/2005 5:14 PM >>>

Hi Suzanne,

I just received this e-mail from Matt, even though Matt told me to downgrade this correspondence this morning, Ed Levy would like for you to give him a call. You can reach Ed Levy on x-3934.

>>> <MHealy@DOC.GOV> 9/28/2005 4:57 PM >>>

I talked to Ed and he actually wants to keep that particular letter an A. If the person who wanted to downgrade it to a B over there in NTIA wants to talk to him I'm sure he wouldn't mind. Thanks.

Matt Healy
Executive Secretariat
Office of the Secretary
U.S. Department of Commerce
Washington, D.C. 20230
phone: (202) 482-3660
fax: (202) 482-4090

CC: Stark, Eric

«Title» «First_Name» «Last_Name»
«Address_Line_1»
«City», «State» «ZIP_Code»

Dear «Title» «Last_Name»:

Thank you for your letter to Secretary Gutierrez sharing your views on the creation of a new .xxx top level domain. Your letter was forwarded to the National Telecommunications and Information Administration (NTIA) for response. NTIA serves as the President's primary advisor on communications and information policies. I share your concerns about the proliferation of pornography on the Internet and the victimization of children. It is the policy and the track record of this Administration to protect children online, to provide a safe place for children online, and to combat child pornography. **For example, recognizing that pornography may threaten families and children, Attorney General Alberto Gonzalez recently ordered the Federal Bureau of Investigation to establish an anti-obscenity squad to combat pornography.** While the Department of Commerce does not make policy decisions with regard to domain names or Internet content, we remain committed to combating child pornography and other abuses of the Internet.

Accordingly, on August 11, 2005, I wrote to the Internet Corporation for Assigned Names and Numbers (ICANN), the organization responsible for creating top-level domains. The letter urged ICANN to provide adequate additional time for concerns to be voiced and a proper process to address the unprecedented opposition to establishing the .xxx top level domain devoted to adult content. ICANN has since postponed consideration of this matter. Therefore, if you have concerns regarding the .xxx domain, you can submit them to:

Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, California 90292
Phone: 310-823-9353
Fax: 310-823-8649
Email: icann@icann.org

Thank you for sharing your concerns.

Sincerely,

Michael D. Gallagher

EXHIBIT 17

Editorials and Opinions re Internet Governance as of 10-19-05

Editorials about proposal for UN control of Internet (9 Against, 1 For)

Riverside (CA) Press-Enterprise, Oct 18 (Anti-UN)

"...government by international committee...is a terrible idea, and one the United States is right to oppose."

Wall Street Journal, Oct 17 (Anti-UN)

"Perhaps our friends at the European Union, who last month turned against the U.S., will realize that their sudden push for 'control' over the Net carries a high price."

The Nation (Thailand), Oct 17 (Anti-UN)

"...it would be wise for Thailand to support an Internet that is open and free of the bureaucratic control of any organization."

Ottawa Citizen (Canada), Oct 17 (Anti-UN)

"Many Canadians might dislike many U.S. policies, but when it comes to control of the Internet, the fundamental medium of the information age, we must stand with it against dictators and encourage the EU to do the same."

The Guardian (London), Oct 11 (Pro-UN)

"There is a need for a separate body to deal with global issues such as spamming, child pornography, intellectual property and abuses of democratic rights. The UN would be good for this role..."

The Gazette (Montreal), Oct 10 (Anti-UN)

"...the statist busybodies at the UN are determined to get their hands on the Internet."

The Roanoke Times, Oct 9 (Anti-UN)

"American delegates should at least avoid unyielding, unilateral posturing that may provoke the rest of the world to split the Internet."

The Economist (London), Oct 8 (Anti-UN)

"...ICANN's stewardship has succeeded because its focus has been not on politics, but on making the network as efficient as possible."

Christian Science Monitor, Sep 16 (Anti-UN)

"...it's far from clear a body established by the UN is ready to become an able administrator for the Internet."

The Washington Times, July 21 (Anti-UN)

"UN bureaucrats see the Internet as a resource to be plundered and distributed like government-funded aid programs."

Editorials about proposal for .XXX top level domain (2 Against, 3 For)

USA TODAY, Sep 15

(Pro-XXX)

"...trying to improve protections for parents is a good idea -- including a .xxx domain experiment."

San Jose Mercury News, Aug 22

(Pro-XXX)

"Triple-X will do no harm. It may do some good in screening and regulating porn."

Los Angeles Times, Aug 21

(Anti-XXX)

"Whatever the reasons, the group [ICANN] should resist the temptation to create a pornography-only zone on the Web."

Ft. Laud. Sun-Sentinel, Aug 21

(Anti-XXX)

"Of about 250 domain designations, .xxx would be the only one that would be content-specific, and we thus worry that it would set the stage for censorship imposed by governments." (attributed to Baltimore Sun)

Myrtle Beach Sun-News, Aug 11

(Pro-XXX)

".xxx will improve the Web." (attributed to San Jose Mercury News)

Opinion columns about proposal for UN control of Internet (8 Anti, 2 Pro)

Hiawatha Bray in the Boston Globe, Oct 17

(Anti-UN)

Harold Furchtgott-Roth in the New York Sun, Oct 11

(Anti-UN)

Jonathan Zuck in the Financial Times, Oct 7

(Anti-UN)

Simon Newsam in the Western Mail (Cardiff, Wales)

(Pro-UN)

Russ Kent in the Mansfield Ohio News Journal, Oct 2

(Anti-UN)

Ramos-Mrosovsky & Barillari, National Review, Sep 28

(Anti-UN)

Richard Lessner in the New York Sun, Sep 26

(Anti-UN)

Michael Geist in the Toronto Sun, Sep 19

(Pro-UN)

David Holman in the American Spectator, Aug 10

(Anti-UN)

Peter Griffin in the New Zealand Herald, July 22

(Anti-UN)

Opinion columns about .XXX (2 Anti, 2 Pro)

Patrick Trueman in USATODAY, Sep 15 (Anti-XXX)

Shaunti Feldhahn in the Chicago Tribune, Sep 14 (Anti-XXX)

Diane Glass in the Chicago Tribune, Sep 14 (Pro-XXX)

Paul McMasters in the Charleston (WV) Gazette, Sep 4 (Pro-XXX)

EXHIBIT 18

Clyde Ensslin - RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

From: <CGunderson@doc.gov>
To: <censslin@ntia.doc.gov>
Date: 6/17/2005 8:05 AM
Subject: RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

that language is really awful. hopefully today we can come up with something better we can use.

-----Original Message-----

From: "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]
Sent: Friday, June 17, 2005 6:49 AM
To: <CGunderson@doc.gov>
Subject: Re: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

5 USC 552(b)(5)

>>> 6/16/2005 7:15 PM >>>

Did anyone call the ap to correct the dept of commerce approval language?

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Clyde Ensslin" [censslin@ntia.doc.gov]
Sent: 06/16/2005 06:42 PM
To:
Subject: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

Christine:

I can't find this online anywhere, but I have a hard copy. I saw it and printed it on Monday June 6. The key statement is

"For .xxx to go into the root is going to require positive action on the part of the United States government," said Karl Auerbach, a former ICANN board member and frequent critic of the organization. "That would constitute an endorsement of a red-light district on the Internet."

This was followed by a June 12 AP report by Anick Jesdanun that read:

"If the board and ultimately the U.S. Commerce Department approve it, ".xxx" names could appear in use by the year's end."

Clyde Ensslin 202-482-0019

EXHIBIT 19

From: Clyde Ensslin
To: CGunderson@doc.gov
Date: 6/17/2005 11:39:20 AM
Subject: RE: CNN has edited AP story by removing DoC reference from paragraph 6

Correct because I only saw one reference to DoC in original report. Clyde

>>> <CGunderson@doc.gov> 6/17/2005 11:41 AM >>>
excellent. it looks like all references to dept of commerce are now removed...

-----Original Message-----

From: "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]
Sent: Friday, June 17, 2005 10:33 AM
To: <cfuqua@doc.gov>
Cc: <CGunderson@doc.gov>
Subject: CNN has edited AP story by removing DoC reference from paragraph 6

I asked them to change the "tech template" which serves CNN International as well as other CNN sites. AP stories can last up to 30 days on CNN's online sites. Clyde x0019

As it now appears:

Will '.xxx' domain help parents curb online porn?
Friday, June 17, 2005 Posted: 1515 GMT (2315 HKT)

NEW YORK (AP) -- A red-light district tentatively cleared for construction on the Internet -- the ".xxx" domain -- is being billed by backers as giving the \$12 billion online porn industry a great opportunity to clean up its act.

A distinct online sector for the salacious, one with rules aimed at forbidding trickery, will reduce the chances of Internet users accidentally stumbling on porn sites, they argue.

If only it were so simple:

Zoning in cyberspace has always been a daunting proposition, and participation in the porn domain will be voluntary. Critics wonder why ".xxx" got the OK at all when so many other proposals sit unaddressed, some for years.

Nearly five years after rejecting a similar proposal, the Internet's key oversight body, the Internet Corporation for Assigned Names and Numbers, voted 6-3 this month to proceed with ".xxx."

ICANN staff will now craft a contract with ICM Registry Inc., the Jupiter, Florida, company that made the bid. If the board approves it, ".xxx" names could appear in use by the year's end.

The market unquestionably exists: Two in five Internet users visited an adult site in April, according to tracking by comScore Media Metrix. The company said 4 percent of all Web traffic and 2 percent of all surfing time involved an adult site.

As envisioned, ICM would charge \$60 for each of up to 500,000 names it expects to register, \$10 of which would go to a nonprofit organization that would, among other things, educate parents about safe surfing for children.

The nonprofit, run by representatives of adult Web sites, free-speech, privacy and child-advocacy concerns, would determine registration eligibility.

Skeptics argue, however, that porn sites are likely to keep their existing ".com" storefronts, even as they set up shop in the new ".xxx" domain name. And that will reduce the effectiveness of software filters set up to simply block all ".xxx" names.

The ".xxx" domain "legitimizes this group, and it gives false hope to parents," said Patrick Trueman, senior legal counsel at the Family Research Council and a former Justice Department official in charge of obscenity prosecutions.

The adult entertainment industry is also hardly behind ".xxx" as a group. Many of its webmasters consider the domain "the first step toward driving the adult Internet into a ghetto very much like zoning laws have driven adult stores into the outskirts," said Mark Kernes, senior editor at the trade monthly Adult Video News.

ICM insists it would fight any government efforts to compel its use by adult Web sites, but the existence of ".xxx" would certainly make the prospect easier.

"There are going to be pressures" to mandate it once available, said Marjorie Heins, coordinator of the Free Expression Policy Project at New York University's law school. Federal lawmakers have proposed such requirements in the past.

Robert Corn-Revere, a lawyer hired by ICM to address free-speech issues, said the company has pledged \$250,000 for a legal defense fund to keep ".xxx" voluntary, and he notes that courts have struck down efforts to make movie ratings mandatory.

"Where governments have tried to use private labeling systems as proxies for regulation, courts have always held those measures unconstitutional," he said.

Even if it's voluntary, supporters say, adult sites will have incentives to use ".xxx."

"If the carrot's big enough, you're going to get sites in there," said Parry Aftab, an Internet safety expert who served as an informal adviser on ".xxx."

Stuart Lawley, ICM's chairman and president, said use of ".xxx" could protect companies from prosecution under a 2003 federal law that bars sites from tricking children into viewing pornography -- as ".xxx" would clearly denote an adult site.

All sites using ".xxx" would be required to follow yet-to-be-written "best practices" guidelines, such as prohibitions against trickery through spamming and malicious scripts.

Lawley said those requirements could make credit-card issuers more confident about accepting charges. The online porn industry currently faces higher fees because some sites engage in fraud and customers often deny authorizing payments.

But given the limited effectiveness of a voluntary ".xxx" for filtering, Internet filtering expert Seth Finkelstein calls ".xxx" no more than a mechanism "to extract fees from bona fide pornographers and domain name speculators." (ICANN also gets an unspecified cut of each registration fee.)

Even if it were mandatory, it wouldn't be foolproof.

A domain name serves merely as an easy-to-remember moniker for a site's actual numeric Internet address. David Burt, a spokesman for filtering vendor Secure Computing Corp., said a child could simply use the numeric address when the ".xxx" equivalent gets blocked.

Better technologies exist, he said, including a little-used self-rating system that lets Web sites broadcast whether they contain nudity, violence or foul language, along with the specific forms, such as presence of genitals or passionate kissing.

Burt also favors a ".kids" domain that would serve as a safe haven for children. The U.S. government has approved one under ".us," but support has been cool, with only about two dozen ".kids.us" sites listed.

ICM proposed both ".xxx" and ".kids" in 2000, but ICANN board members resisted them for fear of getting into content control. Instead, ICANN approved ".info," ".biz," and ".museum" and four others.

But pressure has continued to mount for ICANN to expand the number of domain names, and last year it reopened bidding.

ICM resubmitted its application for ".xxx" only, this time structuring it with a policy-setting organization to free ICANN of that task.

That did the trick.

ICANN board member Joichi Ito, who backed ".xxx," wrote in his Web journal that the decision wasn't an endorsement of any type of content or moral belief but a chance for "creating incentives for legitimate adult entertainment sites to come together and fight 'bad actors.'"

Anti-porn activist Donna Rice Hughes, however, remains unconvinced.

"They are not going to give up their '.com' addresses," she said of porn sites. "It doesn't take a brain surgeon to figure that one out.

###

From: Clyde Ensslin
To: robert.macmillan@washingtonpost.com
Date: 6/17/2005 4:01:28 PM
Subject: Re: Robert: Would you correct a June 12 AP story on your Web site?

Robert, thanks for your reply. I hear you!
Clyde Ensslin 202-482-0019

>>> <robert.macmillan@washingtonpost.com> 6/17/2005 3:09 PM >>>

I can't do that, and I don't know what our wire story correction policy is. My editor is Bob Greiner - bob.greiner@washingtonpost.com - and might have an idea of how this works. I'm sorry I can't help you on this one...

R

----- Original Message -----

From: Clyde Ensslin <censslin@ntia.doc.gov>
Date: Friday, June 17, 2005 12:21 pm
Subject: Robert: Would you correct a June 12 AP story on your Web site?

> Robert, would you be able to edit a June 12 AP story about .xxx,
> still posted on your Web site, that refers to the role of the
> Commerce Department in the implementation of new top level
> Internet domains? The Department has a strictly technical role in
> the implementation of new top level domains, but we do not make
> policy decisions with respect to domain names or Internet content.
> Accordingly, I would ask you to delete the words "and ultimately
> the U.S. Commerce Department" so that the sentence in the 5th
> paragraph reads:
> "If the ICANN board approves it, .xxx names could appear in use by
> the year's end." Thanks for your help!
>
> Clyde Ensslin
> NTIA Director of Communications
> U.S. Department of Commerce
> 202-482-0019
>
>

EXHIBIT 20

From: Fiona Alexander
To: Meredith Attwell; Robin Layton; Suzanne Sene
Date: 7/13/2005 6:39 AM
Subject: Re: gac communique

Suzanne

Non-Responsive

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 07/13/05 6:12 AM >>>

i don't know if my email yesterday a.m. got through, as my online access shut down suddenly. my voice mail to robin has been happily overtaken by events -- there is no mention of the u.s. statement or .xxx in the final gac communique. lots of side bar conversations, of course, re the statement but nothing overly hostile; primarily questions as to why the statement didn't refer to the mou, etc. the most difficult piece for us in the communique related to the whois workshop, because the europeans and canada wanted to emphasize privacy to counter the u.s./australia emphasis on law enforcement.....despite the fact that the latter was the focus of the gac workshop (!).

the uk's attempts to criticize the ccnsa/praise centr and advance paul kane's iana proposal failed to win over enough gac members, so no worries there for the time being.

there is a general sense around the gac table that the board is giving gac short shrift, which is not helpful in the wgig/wsis context. for example, there's general agreement (not shared by the u.s.) that the board should have asked the gac for its views prior to giving staff the ok to start negotiations with .xxx, and

general unhappiness with icann's response to questions on the subject; also concern that the board didn't warn the gac that tralliance would impose strict deadlines for countries to pre-register place names in the .travel name; finally, irritation that the icann staff report to the board on wipo 2 has not been circulated. all of the above is leading several gac members to question the role and function of the gac. at the same time, however, there's been agreement that the gac paper to wgig should also be forwarded to prepcom. fyi, karklins briefed the gac on wsis and stressed his sense that there must be a "satisfactory" outcome on internet governance, or the summit will be a failure.

finally, wilkinson announced his impending retirement at the end of september; niebel cannot tell us anything about the commission's intentions re the secretariat. he expressed a preference for icann support but many eu member states oppose that, so it's not likely. i will follow up with him once he returns to brussels.

let me know if you have any questions. cheers, suz

Suzanne R. Sene
Senior Policy Advisor
NTIA/OIA
202-482-3167 (ph)
202-482-1865 (fax)

CC: Cathy Handley

EXHIBIT 21



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

EXHIBIT 22

From: Suzanne Sene
 To: Fiona Alexander; Meredith Attwell; Robin Layton
 Date: 8/10/2005 12:46:49 PM
 Subject: Re: outreach with other govt's re ntia letter on .xxx

i agree with your assessment re brazil; we could leave it to his gac colleagues to forward our letter. s.africa has been active of late in recent gac meetings, but michael has been in and out. in any event, both he and ingrid will get a copy as gac reps.

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC § 552(b) 5

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 08/10/05 12:03 PM >>>
 meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi
 Special Advisor, Office of the Chairman
 Malaysian Communications and Multimedia Commission
 and Chairman of the ICANN Government Advisory Committee
 Level 11, Menara Dato' Onn, PWTC
 45, Jalan Tun Ismail
 50480 Kuala Lumpur, Malaysia

5 USC § 552(b) 5

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

CC: Cathy Handley

From: "Kathy Smith" <ksmith@ntia.doc.gov>
To: <FAlexander.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>, <SSene.NTIAHQ.NTIA@ntia.doc.gov>
Date: 8/11/05 5:46:07 PM
Subject: PDF File of Asst. Sec. Gallagher's Letter to Dr. Cerf (8-11-2005) Attached

For your contacts with the GAC and other international contacts, please find an electronic file in pdf format of the letter from Asst. Secretary Gallagher to Dr. Cerf regarding the proposed new .xxx top level domain dated August 11, 2005.

CC: <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, <JKneuer.NTIAHQ.NTIA@ntia.doc.gov>, <MAttwell.NTIAHQ.NTIA@ntia.doc.gov>, <TRhoades.NTIAHQ.NTIA@ntia.doc.gov>



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

EXHIBIT 23

MEETING WITH MIKE BINDER, INDUSTRY CANADA ON WSIS AND INTERNET GOVERNANCE, STATE RM. 4826, 3:00-4:00 PM, AUGUST 25, 2005

PURPOSE

Mike Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications from Industry Canada is coming to Washington to strategize with USG on WSIS/Internet governance and meet with other DOC officials on the Security Prosperity and Partnership (SPP) Initiative. As David Gross is friendly with Mike Binder, he is likely to use the meeting as a brainstorming exercise on positioning in the WSIS negotiations.

BACKGROUND/LIKELY TOPICS

Bill Graham from Binder's staff has been a staunch ally in the WSIS process. *It is critical for you to thank them for their support.* Unlike most meetings where Canada silently agrees with USG, in the WSIS process they have very vocal in their agreement with our position and a key collaborator in the negotiation process

5 USC § 552(b)(5)

5 USC § 552(b)(5)

- **SPP:** Binder will be meeting with Michelle O'Neill to discuss continued cooperation under the SPP and how to achieve the already agreed to deliverables. It is expected their meeting will focus on agreeing to the dates of the next Senior officials meeting of the ICT Working Group (you participated in the previous one that Phil Bond hosted). That meeting is likely to be in October in Ottawa.
- **Speaking Invitation:** A member of Binder's staff contacted Sheila on 8/17 seeking your participation in a Canadian Spectrum Summit on 12/1. They have invited you to participate in a panel of various international participants focused on regulating spectrum to serve the public interest. No commitment had been made at this time.

PARTICIPANTS

- NTIA: You, Cathy Handley, Suzanne Sene
- State: David Gross, Sally Shipman
- Industry Canada: Mike Binder, Bill Graham (WSIS Rep.), Malcolm Andrew (GAC Rep.)

ATTACHMENTS

- Mike Binder Bio
- Canadian Comments on the WGIG Report
- Details of a Canadian Invite for Oct. Spectrum Symposium

MICHAEL BINDER

Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications
Industry Canada

Michael Binder is the Assistant Deputy Minister of Spectrum, Information Technologies and Telecommunications, Industry Canada. He is responsible for overseeing the implementation of the Federal Government's "Connectedness Agenda" that commits to connecting all Canadians to an accessible and affordable high speed information highway (Broadband).

He is also in charge of telecommunications and electronic commerce policies; the allocation of spectrum, licensing of the wireless industries; and the promotion of growth & international competitiveness of the Information and Communication Technologies industries.

Mr. Binder holds a Ph.D. in Physics from the University of Alberta.

CANADA

COMMENTS ON THE REPORT OF THE WGIG

CANADIAN SUBMISSION ON INTERNET GOVERNANCE

Introduction

Canada is pleased to submit the following paper outlining its position on the report of the United Nations Working Group on Internet Governance (WGIG), in preparation for discussions at the third meeting of the Preparatory Committee for the World Summit on the Information Society (WSIS).

Canada has been a strong supporter of the WSIS from its inception. Canada's original vision statement for this UN initiative was that the "WSIS is about development". Our support has been based on our belief in the importance of information and communications technologies as a tool for creating the information society. Central to this belief is our understanding that all the peoples of the world must truly have the opportunity to participate in the information society, if we are to achieve the maximum benefits for mankind. For that reason, we continue to believe that the WSIS must strive to raise awareness of the potential of information and communication technologies for development at the highest political levels. Canada reaffirms its support for UNGA Resolution 56/183 on the WSIS which recognizes "... the urgent need to harness the potential of knowledge and technology ... and to find effective ... ways to put this potential at the service of development for all". Canada's contribution to the discussion of Internet governance in the WSIS context is conditioned by this development perspective.

The Internet is a central element of the emerging global information society. Thus, its security, stability, reliability and sustainability as a global network are of paramount importance for Canada in all discussions of Internet governance. To make governance effective however, we must also put capacity building at the centre of our efforts, so that all countries and all stakeholders are able to play their respective roles in an effective and responsible manner. These principles underlie the Canadian position on Internet governance.

Canada agrees with the WGIG that consideration of Internet governance in the WSIS context will benefit by separating the discussion of the broad policy issues categorized by the WGIG

from discussion of the management of critical Internet resources. This paper considers each in its turn.

Addressing Policy Issues Broader than the Internet

Turning first to broad policy issues, including those related to the use of the Internet, issues whose impact is broader than the Internet, and issues related to development and capacity building:

- In principle, Canada supports the idea of creating a multi-stakeholder forum to discuss a broad range of public policy issues related to the Internet. We believe it is desirable to build upon the dialogue established by the WGIG and its public consultations.
- We agree with the WGIG Report that the forum for dialogue should not be a continuation of the WGIG itself. As well, the forum should not be a permanent institution. It should be established for not more than five years, and its operation should make maximum use of ICTs to operate in a cost-effective and inclusive fashion.
- The forum should focus on capacity building, particularly to develop the knowledge and experience necessary for developing countries to be able to participate effectively in the discussion of Internet issues. The forum could encourage examination of a range of public policy options which may be useful for interested countries.
- The forum should not be involved in day-to-day operations of the Internet, nor distract from discussions taking place in existing organizations.
- Adequate resources must be identified to ensure that all stakeholders (including developing countries, SMEs and civil society) are able to participate. The forum should be supported by a very light organization, with a focus on development.
- Canada does not support the creation of a new treaty organization for the purposes of Internet governance.
- Canada notes that many of the broad policy issues raised in the WGIG discussions have been, or are being addressed, by existing government-funded international and multilateral organizations, including those of the UN system. These organizations bring to bear considerable experience and research capacity for international policy development, and have established public processes and consultation mechanisms capable of canvassing a broad spectrum of facts and opinion. We believe that each can make informed contributions to the discussion of broad policy issues related to the Internet, and to the need for capacity building identified in the Report. Given the significant global public investment already made in these agencies, this international resource should be fully engaged by member states in the continuing public discussion of policy issues related to the Internet, whether or not a forum is established, if only to conserve resources. Their engagement should also serve to avoid duplication of efforts.

Addressing Issues Related to Core Internet Technical Resources

Second, concerning issues of critical Internet resources: in this paper, primarily those dealt with by the Internet Corporation for Assigned Names and Numbers (ICANN):

- Canada wishes to underscore the technical nature of ICANN as a body responsible for the administration of Internet names and IP addresses.
- While recognizing that these technical issues give rise, from time to time, to policy considerations, Canada is of the view that the short history of ICANN has seen a tendency by many stakeholders to seek to have ICANN address policy issues which are not dependent on its core technical responsibilities. This has led to confusion about ICANN's role and sometimes distracted the organization from its core mandate. By helping to disaggregate broader policy issues from those specifically arising from ICANN's primary technical functions, the WGIG has made an important contribution to delineating those matters for which ICANN should be held responsible and those which should be addressed elsewhere. Canada is of the view that, going forward, ICANN and its stakeholders should be scrupulous in taking a very narrow view of ICANN's policy functions, ensuring that any policy issues dealt with arise directly from and/or are inextricably linked to its core technical functions. Any other policy issues should be referred to other more appropriate bodies, or to the forum suggested by the WGIG, should it be created.
- Canada has been a long-time and strong supporter of the ICANN model, as a private, not-for-profit, bottom-up entity. This support is fully consistent with the views expressed above. Indeed, it is because of the primarily technical nature of ICANN's mandate that Canada has long supported this approach.
- Canada supports the continuing evolution and reform of ICANN in the post-2006 environment.
- Canada acknowledges the vital role that the United States government has played in the development of the Internet itself and, through the establishment of ICANN, in initiating a process aimed at increasing competition, privatization, and enabling international participation in the management of the Internet's technical functions. We also applaud the arm's length, light-touch approach which the United States government has adopted in its oversight of ICANN itself. Like the vast majority of participants in the WGIG, Canada agrees that the path of increasing competition, privatization and internationalization should be pursued.
- Canada supports the continued participation of governments in ICANN through the Governmental Advisory Committee (GAC). Outside the WSIS context, it may be worth exploring the establishment of mechanisms to help focus the GAC's agenda, and governments' relationship with ICANN, in a manner consistent with the narrow policy role foreseen for ICANN itself, and supportive of the goals of increasing competition, privatization and internationalization.

- The GAC's effectiveness could be enhanced by the establishment of a permanent GAC Secretariat which would focus on providing necessary logistical support to the GAC, and contribute to capacity development aimed at improving GAC participation by developing countries. A secure funding mechanism would have to be found, perhaps via an untied contribution from ICANN itself. Canada does not believe there is a need for such a secretariat to provide policy research capability. Instead, the GAC should draw on the expertise of its membership, including that of other international organizations.

Conclusion

Finally, Canada would like to congratulate and thank the Chairman and members of the WGIG, as well as the Executive Director and members of the Secretariat, for their work and the Working Group report. The WGIG process has provided an example of how a diverse multi-stakeholder group can work together to dramatically elevate the level of discussion of an important issue, and to produce a valuable outcome.

EXHIBIT 24

From: "Suzanne Sene" <ssene@ntia.doc.gov>
To: <Mattwell.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>
Date: 9/16/2005 2:32 PM
Subject: icann/gac update in wsis context

just a note from phonecons and email exchanges with the eu commission, japan and canada, fyi:

1. the eu will be sending a letter to the icann board re .xxx, noting that the board shared an evaluation of the original proposal in 2000 and the gac had expected the same this time around. the letter, which has not yet been finalized, is also likely to ask for a deferral until the gac can see the evaluation report for the .xxx application. if we don't get a copy directly, we will get it via the chair of the gac.

N R

EXHIBIT 25

From: "Fiona Alexander" <faalexander@ntia.doc.gov>
To: <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>, "Eric Stark" <EStark@ntia.doc.gov>, "John Kneuer" <JKneuer@ntia.doc.gov>, "James Wasilewski" <JWasilewski@ntia.doc.gov>, "Kathy Smith" <KSmith@ntia.doc.gov>, "Meredith Attwell" <MAttwell@ntia.doc.gov>, "Michael Gallagher" <MGallagher@ntia.doc.gov>, <RDesilva.NTIAHQ.NTIA@ntia.doc.gov>, "Robin Layton" <RLayton@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>
Date: 8/16/2005 12:37:10 PM
Subject: Re: BBC Article on .xxx delay

Suzanne

5 USC § 552 (b)(5)

Fiona

>>> Suzanne Sene 08/16/05 9:40 AM >>>

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I foresee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

5 USC § 552 (b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>

Bush administration objects to .xxx domains

By Declan McCullagh

http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

At the time, politicians lambasted ICANN's move. Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., told (click for PDF) a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater."

A government report from a few years ago hints that the Bush administration could choose unilaterally to block .xxx from being added to the Internet's master database of domains. The report notes that the Commerce Department has "reserved final policy control over the authoritative root server."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>
BBC NEWS

Delay for .xxx 'net sex' domain

The plan for a virtual red light district through the creation of a .xxx net domain name has hit delays after concern from government officials. An official from President George Bush's administration has asked for the brakes be put on the planned domain name until its impact is studied more.

The domain was given the go-ahead by Icann (Internet Corporation for Assigned Names and Numbers) in June.

But some are concerned that it would encourage more porn on the net.

The domain name was expected to get final approval by the net's supervisory body, Icann (Internet Corporation for Assigned Names and Numbers), on Tuesday.

Net domains such as .com. and org. are overseen by Icann. It polices the companies that run the different domains and approves the expansion of the different net names that can be bought and used.

The ICM Registry, the not-for-profit group which would operate the .xxx domain name, said it would agree to a month's delay in order to explore some of the concerns which have been voiced.

Easy filter?

The .xxx domain name was approved five years after it was first proposed.

The idea is that sexually-explicit sites will move to the new domains to make it easier for people to filter and avoid them.

In a statement, the ICM Registry which originally proposed the idea said it would "help protect children from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Icann's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Icann "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "Cathy Handley" <CHandley@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, "Tracey Rhoades" <TRhoades@ntia.doc.gov>

EXHIBIT 26

From: "Meredith Attwell" <mattwell@ntia.doc.gov>
To: <rlayton@ntia.doc.gov>
Date: 8/5/05 2:21:02 PM
Subject: Fwd: RE: History of the Internet

>>> "Goitein, Evan" <Evan.Goitein@mail.house.gov> 8/5/2005 10:44 AM >>>
I left you a voicemail and, if you could call me back that would be great,
but I wanted to run this by you as well. I have to put all this on less
than a page, which is a daunting task as you well know. My only request
would be that you tell me if anything is inaccurate. (I know I left a lot
out, which I can fill in verbally.)

Thanks again for all your help!!!

Evan

-----Original Message-----

From: Meredith Attwell [mailto:mattwell@ntia.doc.gov]
Sent: Thursday, August 04, 2005 4:56 PM
To: Goitein, Evan
Cc: jwasilewski@ntia.doc.gov
Subject: History of the Internet

for your bedside table... zzzzzz.
Good to talk to you today. Call if you have any further questions.
Thank,
Meredith

United States Control of the Domain Name System

Background

More than 25 years ago, the United States began funding research which led to the creation of the Internet. Initially, there were a small number of domain names, which were managed by Dr. Jon Postel at UCLA, as the result of a contract with DoD. Over time, as more host sites and addresses were added, the Domain Name System (DNS) was created to better manage this information. Eventually, the Internet Assigned Names Authority (IANA) was created which is responsible for the technical component of assigning new Internet-wide IP addresses.

After it became clear that the Internet was headed in the direction of its present state, control of IANA and DNS was given to the Department of Commerce. In 1998, the Department entered into a Memorandum of Understanding (MOU) with a new, not-for-profit corporation called the Internet Corporation for Assigned Names and Number (ICANN). This MOU provided the parameters for shifting control of the DNS to the private sector. The MOU has been extended several times and is currently set to expire on September 30, 2006.

Because ICANN's role is dependant upon its contract with Commerce, the Department maintains the ultimate control of the IANA. This gives the U.S. the ability to implement any decision made by the international community regarding the internet. For example, if the international community decides to develop an .XXX domain for adult material, it will not go on the Top Level Domain (TLD) registry if the U.S. does not wish for that to happen.

Status

Because the U.S. maintains this authority over the Internet, which is now commonly accepted as a global entity, there are calls for the U.S. to hand control of the IANA over to an international body such as the United Nations. The Bush Administration is unwilling to do this, as it puts our national security at risk by ceding control of such a powerful tool. In addition, there is no sound reasoning for the U.S. to transfer this authority. The U.S. invented the Internet and, because of that fact, historically has had control over its functions. However, the other countries in the world do have the option of taking the control from the U.S., but it would require redirecting all of the TLD sites to a different route server.

Options

The most likely course of action would be for Congress to pass a resolution urging the Administration to retain control of IANA, as well as showing support for the current partnership between Commerce and ICANN.

EXHIBIT 27

From: Suzanne Sene
To: Fiona Alexander; Meredith Attwell; Robin Layton
Date: 8/10/2005 12:46:49 PM
Subject: Re: outreach with other govt's re ntia letter on .xxx

i agree with your assessment re brazil; we could leave it to his gac colleagues to forward our letter. s.africa has been active of late in recent gac meetings, but michael has been in and out. in any event, both he and ingrid will get a copy as gac reps.

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC § 552(b) 5

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 08/10/05 12:03 PM >>>
meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi
Special Advisor, Office of the Chairman
Malaysian Communications and Multimedia Commission
and Chairman of the ICANN Government Advisory Committee
Level 11, Menara Dato' Onn, PWTC
45, Jalan Tun Ismail
50480 Kuala Lumpur, Malaysia

5 USC § 552(b) 5

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

CC: Cathy Handley

EXHIBIT 28

From: Fiona Alexander
To: Kathy Smith; Robin Layton; Suzanne Sene
Date: 8/11/05 5:52:56 PM
Subject: Re: PDF File of Asst. Sec. Gallagher's Letter to Dr. Cerf (8-11-2005) Attached

Thanks Kathy.

5 USC § 552 (b)(5)

>>> "Kathy Smith" <ksmith@ntia.doc.gov> 08/11/05 5:44 PM >>>

For your contacts with the GAC and other international contacts, please find an electronic file in pdf format of the letter from Asst. Secretary Gallagher to Dr. Cerf regarding the proposed new .xxx top level domain dated August 11, 2005.

CC: Cathy Handley; Clyde Ensslin; Jeff Joyner

EXHIBIT 29

From: Cathy Handley
To: Meredith Attwell
Date: 7/22/2005 6:40 PM
Subject: Re: Fwd: NON RESPONSIVE

I checked with John and he said no, he believes it is scheduled for the next regular board meeting on Aug 16th. He also indicated that Vint is trying to reschedule the Aug 9 meeting back to next week and we should know the being of next week if Vint was successful.

>>> mattwell@mycingular.blackberry.net 7/22/2005 5:58 PM >>>
We need to know if they plan on approving .xxx at that meeting as well...

-----Original Message-----

From: "Cathy Handley" <chandley@ntia.doc.gov>
Date: Fri, 22 Jul 2005 15:11:09
To: <MAttwell@ntia.doc.gov>
Subject: Fwd: Re-delegation

Meredith,
This ICANN Board meeting has been resecheduled for the morning of August 9, 2005.
Cathy

>>> Cathy Handley 7/19/2005 4:47 PM >>>
Meredith

NON RESPONSIVE

Cathy

Meredith Attwell
Sent via BlackBerry - a service from AT&T Wireless.

EXHIBIT 30

From: Fiona Alexander
To: shipmansa@state.gov
Date: 8/31/05 1:35:38 PM
Subject: Fwd: Draft WSIS Briefing Invite

Sally

5 USC § 552 (b)(5)

Tim - in terms of the event, my understanding is that David will want to do the usual tag team of the issue that he and Mike having been doing. Mike explaining the principles, why we issued them, then David going into WSIS specific. Can you check with David and let me know so I can pull together the necessary briefing material for Mike. Hope you had a good vacation.

Fiona

>>> "Tracey Rhoades" <trhoades@ntia.doc.gov> 08/31/05 8:13 AM >>>
Hello -- Internet Caucus lunch w/ Mike and Amb. Gross has been confirmed for 9/12. Please review the attached draft invite and let me know if you recommend any edits. I will forward your comments or approval back to Tim Finton and request further information regarding the format for remarks. I will forward that info to you when I receive it -- Please coordinate w/ Tim Finton on development of Mike's talking points/remarks. thanks!

>>> Tim Lordan <tim@netcaucus.org> 8/30/2005 2:46 PM >>>
Tim/Tracey:

I have attached a draft invitation to the briefing by Ambassador Gross and Assistant-Secretary Gallagher schedule for September 12. This is just a draft and we welcome your comments, edits and suggestions. We have reserved Rayburn B339 at noon on September 12. We had hoped for a Capitol Building room but they seem to be all booked on that day. If nothing develops on that front we'll go with B339 over lunch.

So, please take a look at the attached draft invite (I have pasted it below for those of you on Blackberry).

- Tim Lordan

--

Tim Lordan
Executive Director
Internet Caucus Advisory Committee
c/o Internet Education Foundation
202-638-4370
tim@netcaucus.org
<http://www.netcaucus.org>

Draft Invite, August 30, 2005

You are cordially invited to attend a briefing by ...

Ambassador David Gross and Assistant Secretary Michael Gallagher on ...

Negotiating Control Of the Internet With the U.N.: Keeping Security.

Stability and .XXX In Focus.

Monday, September 12, 2005, Noon
Rayburn HOB, Room B339

U.N. Secretary-General Kofi Annan's Working Group on Internet Governance (WGIG) has recommended four new models for governing the Internet - any of which strip the U.S. government of its historic role in controlling fundamental Internet operations. The recent request by U.S. Assistant Secretary Michael Gallagher to hold off on activating the pornographic .XXX domain has illuminated the important intersection between technical management and policy. In a meeting planned for September 19 in Geneva, U.S. Ambassador Gross will implore the WGIG to allow the U.S. to "maintain its historic role in authorizing changes or modifications to the authoritative root zone file." Absent any changes, the U.N.'s World Summit on the Information Society (WSIS) will approve one of the four models at its meeting in Tunis in November.

Ambassador Gross and Assistant Secretary Gallagher have agreed to brief congressional staff on this timely and important issue as they prepare for their negotiations. The ambassador will lead the delegation to the Geneva meeting and to the culminating Summit in Tunis. Mr. Gallagher is the Assistant Secretary of Commerce for Communications and Information and through the Secretary of Commerce he is the President's principal adviser on telecommunications policy.

Please join the ambassador and the assistant secretary for this briefing on control of the Internet on Monday, September 12, at noon. A boxed lunch will be served.

Location: Rayburn House Office Building, Room B339

RSVPs: Required, please send e-mail to rsvp@netcaucus.org or via phone at 202.638.4370 to attend the event.

This event is hosted in conjunction with the Internet Caucus and its Co-chairs - Senators Burns and Leahy, and Congressmen Goodlatte and Boucher.

Boxed lunch will be served. For more information, please visit www.netcaucus.org.

CC: fintontc@state.gov; Tracey Rhoades

**ADVISORY COMMITTEE TO THE
CONGRESSIONAL
INTERNET CAUCUS**

You are cordially invited to attend a briefing by ...

**Ambassador David Gross and Assistant Secretary Michael
Gallagher on ...**

**Negotiating Control Of the Internet With the U.N.:
Keeping Security, Stability and .XXX In Focus.**

**Monday, September 12, 2005, Noon
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