

September 6, 2006

To the ICANN Board of Directors and Senior Staff

The undersigned companies, organizations, and individuals respectfully urge the ICANN Board not to act on the proposed agreements with .biz; .org and .info until PDP 06, currently underway, is concluded later this year and the Board has had an opportunity to review and consider the Task Force's final work product.

The signatories are all actively engaged in the ICANN process, and fully aware of the challenges ICANN faces. We appreciate that ICANN has been a topic of debate over the course of the WSIS, and that the legitimacy of ICANN's role and authority with respect to managing and coordinating the Internet's unique indicators has been questioned along the way. While all of us emphatically agree that ICANN should not seek to wield "regulatory" authority, we also believe - equally emphatically - that ICANN must also remain accountable to the broad community of users who rely on ICANN to ensure the stability of the DNS through responsible management of the Internet's unique identifiers and coordination of the policy development reasonably and appropriately related to these technical functions. Clearly, ICANN's public trust policy development obligations encompass, consistent with its limited technical functions, policy for the gTLD zone.

Under the ICANN bylaws, the Generic Names Supporting Organization (GNSO) has primary responsibility for developing gTLD policy. In recognition of this fact, the GNSO earlier in 2006 launched a policy development process to identify consensus policy for existing gTLD contracts. That PDP, called PDP 06, is progressing, with recommendations scheduled to be issued by the end of 2006.

The launch of PDP 06 has generated a great deal of discussion, including discussion with the ICANN General Counsel. While the General Counsel recently publicly concluded that the Task Force can not reach consensus, this comment is premature and does not accord with the opinion of the participants within the Task Force. Only one constituency has expressed concerns and under GNSO voting roles, that is far from sufficient to prevent a supermajority consensus vote under either task force or Council voting rules. Until that process is complete, we would expect the ICANN staff and Board to fully support the GNSO process. Those of us who are members of the Task Force certainly intend to devote the necessary time and resources to complete the work of the Task Force. Board consideration of contracts addressing the very same issues that are the subject of an ongoing PDP can only undermine ICANN's policy development process.

While we are sensitive to the business concerns of the registry operators for .biz, .info, and .org, we note that the Board has no reason to act on these agreements as a matter of urgency. The agreements for .info and .biz are not up for renewal until next year, and .org is not up for renewal until 2009.

We also recognize that there are limits to the reach of the PDP process. With respect to any such limits, however, we feel strongly that the community is entitled to understand them, and to debate their validity. This discussion has not taken place, despite obvious and significant issues about which the GNSO Council and Staff appear to have very different views.

Under the circumstances, it seems obvious that the Board should not and need not act unilaterally. For that reason, we urge the Board to support the PDP process to its logical conclusion, and refrain from making policy through contract negotiation.

Signatories:

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