



STATE OF DELAWARE
DEPARTMENT OF STATE

JEFFREY W. BULLOCK
SECRETARY OF STATE

March 5, 2013

Heather Dryden
Governmental Advisory Committee
Attn: GAC Secretariat
ICANN
12025 Waterfront Drive #300
Los Angeles, CA 90094

Suzanne Radell
Senior Policy Advisor
National Telecommunications and Information Administration (NTIA)
Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230
SRadell@ntia.doc.gov

Dear Ms. Dryden and Ms. Radell:

As Delaware's Secretary of State, I administer the State's company registry, and am responsible for protecting the integrity of Delaware's legal entity registration system. Nearly one million legal entities such as corporations and limited liability companies (LLC) are organized in the United States under the laws of the State of Delaware.

The State of Delaware is the legal domicile of 64% of Fortune 500 companies, 55% of the firms listed on the two major U.S. stock exchanges, and 80% of new initial public offerings in the United States. Delaware is also the legal home to many of America's largest private-held and non-profit companies and hundreds of thousands of subsidiaries and affiliates of major companies in North America and around the world.

In March of 2012, I imparted my concerns about ICANN's application review process for generic Top Level Domain (gTLDs) name extensions defined by state and provincial registries as "company endings". Such company endings include, but are not limited to, ".INC", ".CORP", ".LLP", ".LTD", ".GMBH", ".COMPANY" and "LLC". At that time, I joined a chorus of federal and state officials in the United States who had urged ICANN to proceed cautiously and deliberately in any approvals of new gTLDs. Delaware's view is that the granting of such name extensions creates a number of public policy issues and concerns – not the least of which is increasing the potential for fraud and abuse.

Since expressing my initial concerns, I have followed the application and early warning process closely. More recently, I've learned of ICANN's new "Public Interest Commitments" (PIC) process and its associated "Public Interest Commitment Dispute Resolution Process" (PICDRS). Having the benefit of ICANN's response to my initial concerns and having reviewed the applications that have been submitted, I have no confidence that ICANN is interested in or capable of putting a system of clear and transparent enforcement mechanisms in place to ensure that "company endings" are not used for fraudulent or misleading purposes.

The responses I have received from ICANN and others have failed to acknowledge in any way the complex public policy questions raised by allowing gTLDs that use company endings. Instead, the responses have focused entirely on the process for filing objections to applications. The singular focus on an approval process rather than recognizing the serious policy implications associated with its granting of certain gTLDs calls into question whether ICANN is capable of evaluating, instituting and enforcing meaningful measures to protect consumers and legitimate legal entities from fraud and abuse.

Over 30 applications were submitted for various company endings, and while some of the applications include a proposed verification process, many do not. Only one applicant sought any input whatsoever from the affected community in my state and nationally. So it is no surprise that applicants that did propose a verification system failed to propose systems with enforceable mechanisms for safeguarding consumers, the public at large, state regulators, and the Internet itself from the types of fraud and abuse that are likely to occur in the absence of specific safeguards.

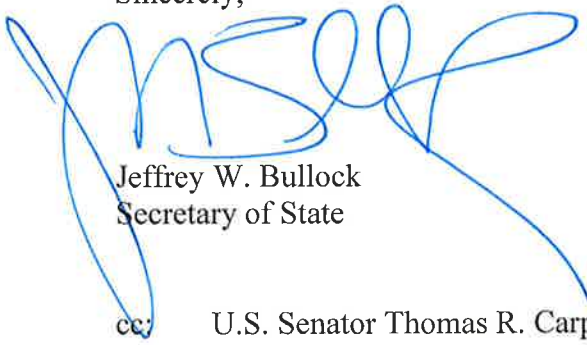
At this stage of the gTLDs process, I continue to believe that the public is best served if these company endings are not made available for use. I do not see an overriding public policy purpose or strong business case for ICANN to make them available – especially when hundreds of additional gTLDs are soon to become available.

It is also clear to me that any enforcement mechanism administered through ICANN is unlikely to provide the appropriate level of ongoing enforcement over the use of these sensitive gTLDs. The new PICDRS process, while no doubt well-intentioned, requires constant vigilance by the impacted community of company registrars. Not awarding these gTLDs is the preferred alternative. However, if such gTLDs are to be awarded and if there is going to be an effective and real-time enforcement mechanism, it must originate from the community with the greatest interest – namely, the company registrar

community represented in North America by organizations such as the International Association of Commercial Administrators (IACA) and the National Association of Secretaries of States (NASS) or in the case of non-U.S. endings such as .GMBH and .LTD with similar registrar communities elsewhere.

I am pleased to share these concerns and recommendations with you and I would welcome the opportunity to discuss them in greater detail. I am hoping that the GAC may be the appropriate vehicle for blocking the award of such gTLDs and assuring that adequate protections for consumers and businesses are put in place. If you have any questions, please contact me or Richard J. Geisenberger, Chief Deputy Secretary of State, at 302-739-4111. Thank you for your consideration.

Sincerely,



Jeffrey W. Bullock
Secretary of State

cc: U.S. Senator Thomas R. Carper
U.S. Senator Christopher A. Coons
U.S. Congressman John C. Carney, Jr.
Richard J. Geisenberger, Chief Deputy Secretary of State
Leslie Reynolds, Executive Director, NASS