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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEB SITE: <http://commerce.senate.gov>

June 26, 2013

Dr. Stephen D. Crocker
Chairman of the Board of Directors
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Dr. Crocker,

I am writing regarding the ongoing efforts of the Internet Corporation for Assigned Names and Numbers (ICANN) to expand the number of generic top-level domains (gTLDs). I remain concerned that the expansion of gTLDs could have adverse consequences for the millions of consumers who use the Internet on a daily basis, both to engage in commerce and to communicate their thoughts and ideas. I request that you carefully review the concerns that the ICANN Government Advisory Committee (GAC) and other stakeholders have expressed about the gTLD expansion as you move forward with this initiative.

In December 2011, the Senate Committee on Commerce, Science, and Transportation, which I chair, held a hearing on "ICANN's Expansion of Top-Level Domains." Witnesses at the hearing, representing more than a hundred companies and non-profit organizations, testified about their concerns regarding the increased costs from defensive registrations they expect to incur to protect their brands and trademarks. A witness testifying on behalf of non-profit organizations argued that, given limited resources, such groups would be unable to bear the major costs of applications, gTLD operation, and legal defense against unauthorized use of their brands.¹ Witnesses also testified that the proliferation of gTLDs could lead to consumer confusion and an increased vulnerability to scams. The founding Chairman of ICANN testified that the gTLD expansion would cause unnecessary confusion for consumers in the short- and medium-term.²

Following the hearing, I wrote to then-Secretary of Commerce John Bryson and National Telecommunications and Information Administration (NTIA) Administrator Lawrence Strickling acknowledging the economic potential of new gTLDs, but also conveying the concerns expressed at the hearing and encouraging ICANN to move forward slowly and cautiously on this effort.³ In a written response to NTIA, ICANN committed to reviewing possible improvements to the gTLD program including dealing with the perceived need for defensive registration.⁴

¹ Senate Committee on Commerce, Science, and Transportation, Testimony of YMCA Senior Vice President and General Counsel Angela F. Williams, *Hearing on ICANN's Expansion of Top Level Domains*, 112th Cong. (Dec. 8, 2011) (S. Hrg. 112-394).

² *Id.*, Testimony of Esther Dyson.

³ Letter from Chairman John D. Rockefeller, IV to Secretary of Commerce John Bryson and NTIA Administrator Lawrence E. Strickling (Dec. 28, 2011).

⁴ Letter from ICANN CEO Rod Beckstrom to NTIA Administrator Lawrence E. Strickling (Jan. 11, 2012).

Last year, stakeholders publicly provided comments to ICANN regarding the perception that companies and non-profit organizations would need to submit expensive applications for defensive registration. Citing their past experiences in registering domains under the existing domain structure, these organizations commented that ICANN had still not done enough to establish procedures to protect company brands and trademarks and prevent consumer confusion.⁵

Although ICANN committed to addressing these concerns, more than a year later, many of these same issues remain. In April, ICANN's GAC issued a communiqué advising your board to reinforce existing processes for raising and addressing stakeholder concerns. The GAC also asked that ICANN weigh its advice for current and future rounds of gTLD expansion. In public comments to ICANN regarding the GAC communiqué, many stakeholders have expressed support for a full examination and adoption of the GAC-proposed safeguards.⁶

Given these outstanding issues and the advice of your own GAC, I believe ICANN should fully consider and act upon the GAC safeguard advice. ICANN should consider a limited first round of new gTLDs to allow for an effective one-year review, as required under ICANN's Affirmation of Commitments with the Department of Commerce.⁷ This review will be critical to adequately gauging the impact of this expansion on Internet users who are, ultimately, ICANN's greatest stakeholder. Moving forward, I also urge ICANN to apply these new strengthened safeguards to existing top-level domains.

I remain fully committed to the multi-stakeholder approach to Internet governance and ICANN's pivotal role in it. As you proceed with resolving these issues, I ask that you carefully consider the public interest given that any decisions ICANN makes will have a profound impact on how consumers and companies use the Internet.

Sincerely,



John D. Rockefeller IV
Chairman

cc: John Thune
Ranking Member
cc: Penny Pritzker
Secretary of Commerce

⁵ ICANN, *Defensive Applications for New gTLDs* (Feb. 6, 2012) (online at <http://www.icann.org/en/news/public-comment/new-gtlds-defensive-applications-06feb12-en.htm>). (see e.g., letters written by Yahoo!, AT&T, The American Intellectual Property Law Association, the Association of National Advertisers, Gap Inc., General Electric Company, the International Trademark Association, and Microsoft for company and non-profit concerns regarding defensive registrations).

⁶ ICANN, *New gTLD Board Committee Consideration of GAC Safeguard Advice* (Apr. 23, 2013) (online at <https://www.icann.org/en/news/public-comment/gac-safeguard-advice-23apr13-en.htm>). (see e.g., letters written by Verisign, General Electric Company, Time, The Walt Disney Company, Turner Broadcasting System, Comcast NBCUniversal, the Coalition for Online Accountability, the Entertainment Software Association, the Software & Information Industry Association for company and non-profit support for consideration of the GAC safeguards).

⁷ ICANN, *Competition, Consumer Trust and Consumer Choice Review* (online at <http://www.icann.org/en/about/aoc-review/cctcc>).