



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Telecommunications and**  
**Information Administration**  
Washington, D.C. 20230

November 18, 2005

Ronald G. London  
Davis Wright Tremaine LLP  
Suite 450  
1500 K Street, N.W.  
Washington, DC 20005

RE: Freedom of Information Act Request (CRRIF 06-068)

Dear Mr. London:

On October 20, 2005, the National Telecommunications and Information Administration (NTIA) received your request under the Freedom of Information Act (FOIA), as amended, 5 U.S.C. § 552. You requested documents from the Department of Commerce, including documents from March 1, 2005 regarding approval by the Internet Corporation for Assigned Names and Numbers (ICANN) and/or its Board of Directors of a .xxx sponsored top level domain or of ICM Registry's contract to operate the .xxx domain. You also requested documents from the Department of Commerce, including documents from March 1, 2005 between Departmental personnel and the ICANN Board, its staff, its Governmental Advisory Committee (GAC), any GAC member country, or individual or agency of a GAC member country regarding the .xxx domain. Your request excluded documents submitted to the Department by the general public as part of any mass mailing campaign or similarly duplicative emails or documents.

Documents responsive to your request are enclosed. NTIA has withheld certain documents in whole or in part under 5 U.S.C. § 552(b)(5) as predecisional or privileged. NTIA also identified certain documents from other agencies which may be responsive to your request and is in the process of coordinating with those agencies to accord them proper treatment under FOIA. We will forward those documents to you upon successful completion of that coordination.

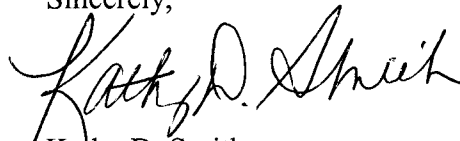
In accordance with the Department of Commerce's FOIA regulations, fees associated with the processing of your request are \$ 4,956.51.00, which includes the cost of the agency's search and review (\$2,481.51.00) and duplication (\$ 2,475.00). Please make your check payable to the U.S. Treasury and forward it to our office at the U.S. Department of Commerce, National Telecommunications and Information Administration, Office of the Chief Counsel, 1401 Constitution Avenue, N.W., Room 4713, Washington, DC 20230. See 15 C.F.R. § 4.9.

This concludes the initial determination by the Department. You have the right to administratively appeal this decision within 30 calendar days of the date of this letter. The appeal must include a copy of your request, this letter, a statement of the reasons why the records

requested should be made available, and why the initial denial was in error. This appeal must be addressed to the Assistant General Counsel for Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 5898-C, Washington, DC 20230. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." 15 C.F.R. § 4.9. Your appeal may also be sent by electronic mail to FOIAAppeals@doc.gov or by facsimile to (202) 482-2552.

If you have any questions regarding the processing of your request, please contact Denise Marshall at (202) 482-1030.

Sincerely,



Kathy D. Smith  
Chief Counsel

Enclosures

**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** "Clyde Ensslin" <CEnsslin@ntia.doc.gov>, <JKneuer.NTIAHQ.NTIA@ntia.doc.gov>, <MAttwell.NTIAHQ.NTIA@ntia.doc.gov>, "Ranjit deSilva" <RDesilva@ntia.doc.gov>  
**Date:** 8/24/2005 1:54 PM  
**Subject:** Special Meeting of the Board

fyi, the preliminary report/minutes of the August 16 board meeting were just posted:

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Special Meeting of the Board  
Preliminary Report

16 August 2005

[Special note from ICANN Secretary: A transcription of the board votes was taken and will be posted when the Board Minutes for this meeting are posted.]

The meeting was called to order by Vinton Cerf at 2:08 PM, Pacific Daylight Time.

Approval of Minutes for the 28 July 2005 Special Meeting of the Board

Resolved [05.\_\_], the minutes of the meeting of the Board on 28 July 2005, are hereby approved and adopted by the Board.

The board approved the resolution by a voice vote of 13-0, with one abstention from Alejandro Pisanty. Mr. Pisanty abstained because he was not present for the subject meeting. Michael Palage was not present for the vote.

Development of Global Policy Proposal on IPv6

Whereas, ICANN has been advised that a Global Policy Proposal on IPv6 is in development in the addressing community.

Whereas, the Board's Review Procedures for Global Internet Number Resource Policies <<http://www.icann.org/general/review-procedures-pgp.html>> provide that the Board is responsible for directing the President to monitor and report to the Board on such global addressing policies as such policies are under development.

Resolved (05.\_\_), the ICANN President is directed to assign staff for the purpose of reporting on development of the Global Policy Proposal on IPv6 in accordance with Article 1 of the Board's Review Procedures for Global Internet Number Resource Policies, and instructs the ICANN President to assign staff for the purposes of informing ICANN's Supporting Organizations and Advisory Committees; establishing an ICANN web page to be kept up-to-date, and compiling a background report to be kept up-to-date on the global policy development. This status will be recorded in the monthly report to the ICANN Board by the ICANN President.

The board approved the resolution by a unanimous vote of the Board Members present, 14-0. Michael Palage was not present for the vote.

Other Matters

The ICANN Board of Directors discussed and then deferred consideration of the .CAT and .XXX sTLD requests until the 15 September 2005 Meeting.

.CAT was deferred to allow for further clarification of the terms of the agreement. .XXX was deferred in response to requests from the applicant ICM, as well as the ICANN Government Advisory Committee Chairman's and the US Department of Commerce's request to allow for additional time for comments by interested parties.

The Meeting was adjourned at 4:22 PM, Pacific Daylight Time.

**CC:** <CHandley.NTIAHQ.NTIA@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, <KSmith.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 6/20/2005 8:32 AM  
**Subject:** Update on public reaction to ICANN and .xxx

As of midnight Sunday night June 19, by my count, the [publicaffairs@ntia.doc.gov](mailto: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](http://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](http://www.humaneventsonline.com) and [www.cwfa.org](http://www.cwfa.org) have the [publicaffairs@ntia.doc.gov](mailto: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](http://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 Herlad 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

**CC:** cfuqua@doc.gov; cgunderson@doc.gov; John Kneuer; Meredith Attwell; Ranjit deSilva

**From:** "Hurst, Mike" <Mike.Hurst@mail.house.gov>  
**To:** Jim Wasilewski <jwasilewski@ntia.doc.gov>  
**Date:** 6/17/2005 5:10 PM  
**Subject:** FW: Stop the Porn Industry from Expanding

Well, looks like I have directed them to ICANN, but not redirected away from DoC (see below, and hold on to your servers). Sorry - I tried.

Pls let Meredith know (for some reason, I don't have her email). Thanks.

-Mike

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

From: Family Research Council [mailto:frcpub@frc.org]  
Sent: Friday, June 17, 2005 5:19 PM  
To: Hurst, Mike  
Subject: Stop the Porn Industry from Expanding

<<http://www.frc.org/index.cfm?%0d%0af=AL05F04&t=e>> Family Research Council  
<<http://www.frc.org/img/PF/shim.gif>>

<<http://www.frc.org/img/PF/shim.gif>>

<<http://www.frc.org/img/PF/shim.gif>>

<<http://www.frc.org/get.cfm?%0d%0ai=AL05F04&f=AL05F04&t=e#FORM>>

<<http://www.frc.org/get.cfm?%0d%0ai=AL05F04&f=AL05F04&t=e#FORM>>  
Pornographers are about to win a big victory but you can stop them.

Stop the Porn Industry from Expanding  
June 17, 2005 | Forward to a  
<<http://www.frc.org/get.cfm?c=REFER&f=AL05F04&t=e>> Friend!

Unless we stop it, hardcore pornographers will soon be allowed to expand their evil empires on the Internet. They will be given even more opportunities to flood our homes, libraries and society with pornography. The Internet Corporation for Assigning Names and Numbers (ICANN), the Internet's governing body, has indicated that it will establish an ".XXX domain" for porn Web sites. This may seem at first like a good idea but it has been considered and rejected as ineffectual for years. Some think is that it will clean up the .com domain where thousands of porn sites are located. But it will NOT require pornographers who are on the .com domain to relocate to the .xxx domain. Instead, they will keep their current .com porn

sites and EXPAND their empires to the .XXX domain.

Others naively suggest that passing a new law to force pornographer to move to .XXX will solve the problem but let me assure you that that won't work either. Law means nothing to hardcore pornographers. There already is a law prohibiting them from selling hardcore porn on the Internet - anywhere on the Internet -- yet they've been doing it for years. They can be prosecuted under federal obscenity or RICO laws which not only provide very heavy fines and jail time but also forfeiture of all their assets. So what is needed is not another new law -- which will likely be tied up in the courts for years -- but vigorous prosecution under current laws, and a good filter on your computer. I just met with Attorney General Gonzales and right now he is launching a major effort to prosecute the porn industry. He intends to smash these criminal enterprises on the Internet and elsewhere with a special new obscenity strike force. That is the only way to handle hardcore pornographers! Also, our legal experts say that a law telling pornographers to move out of .com would be struck down as unconstitutional. The .XXX proposal gives false hope to parents that the problem of Internet porn will be solved. It will increase, not decrease porn, on the Internet.

The .XXX domain must be given final approval by ICANN and the U.S. Department of Commerce before it can be established. You can weigh in with both by clicking here and sending comments to both agencies. I urge you to send your comments today but also to forward this alert to family, friends, church groups and others. We need to educate our neighbors about this false solution to the problem of Internet porn and get .XXX stopped. CLICK BELOW TO SEND YOUR COMMENTS.

<<http://www.frc.org/get.cfm?%0d%0ai=AL05F04&f=AL05F04&t=e#FORM>> Stop the Porn Industry from Expanding

Sincerely,

<[http://www.frc.org/img/email\\_appeal\\_sig.jpg](http://www.frc.org/img/email_appeal_sig.jpg)>  
Tony Perkins  
President

P.S. <<http://www.frc.org/get.cfm?c=REFER&f=AL05F04&t=e>> Please forward this alert to others right away so we can have a major impact before .XXX is approved.

<<http://www.frc.org/img/PF/shim.gif>>

<[http://www.frc.org/img/email\\_imgs/hr.gif](http://www.frc.org/img/email_imgs/hr.gif)>

<<https://www.frc.org/get.cfm?i=PG03G20&f=AL05F04&t=e&t=e>>

<[https://www.frc.org/get.cfm?%0d%0ac=CONTACT\\_FRC&step=2&f=AL05F04&t=e&t=e](https://www.frc.org/get.cfm?%0d%0ac=CONTACT_FRC&step=2&f=AL05F04&t=e&t=e)>

<[http://www.frc.org/img/email\\_imgs/hr2.gif](http://www.frc.org/img/email_imgs/hr2.gif)>

Family Research Council: 801 G Street N.W. Washington, D.C. 20001  
P: 202/393-2100 or 800/225-4008  
<[http://www.frc.org/img/email\\_imgs/bpoint.gif](http://www.frc.org/img/email_imgs/bpoint.gif)> F: 202/393-2134

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<<http://www.frc.org/index.cfm?f=AL05F04&t=e&t=e>> frc.org

You are subscribed to Grassroots Alerts as mike.hurst@mail.house.gov

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<<https://www.frc.org/file.cfm?%0d%0af=OO&e=mike.hurst@mail.house.gov&s=CA&fi=AL05F04&t=e>>

**From:** Meredith Attwell  
**To:** Robin Layton; Suzanne Sene  
**Date:** 6/21/2005 9:28 AM  
**Subject:** Fwd: RE: New gTLD Strategy Implementation - Draft staff paper on "New TLD Questions"

I am clear. 2:30?

>>> Suzanne Sene 6/21/2005 9:27 AM >>>  
sounds good. what time works for both of you? i have a business lunch with neustar at 12:30 and should be back in the office by 2:30.

>>> Meredith Attwell 6/21/2005 9:26 AM >>>  
why don't we move our meeting until this afternoon when Robin can also attend and I will join the Egyptian minister meeting at 10...

>>> "Suzanne Sene" <[ssene@ntia.doc.gov](mailto:ssene@ntia.doc.gov)> 6/21/2005 9:21 AM >>>

fyi and consideration re ntia positions in luxembourg. since this has come in only this a.m., perhaps we can hold a follow up after today's 10 a.m. meeting (which i understand that robin cannot attend due to an unexpected calendar conflict) to cover this issue as well? perhaps later this week, if your schedules permit a meeting on Thursday or Friday? thanks, suz.

>>> "Mohd Sharil Tarmizi" <[sharil@cmc.gov.my](mailto:sharil@cmc.gov.my)> 6/20/2005 10:49 PM >>>

Privately

I think we can use this opportunity to swing out at those who want more governmental oversight to actually step up and respond to this questionnaire, hence my suggestion to send it out to the GAC list. Also I am wondering whether this can be done via snail mail as well. The comments coming in the WGIG is that when ICANN decided on .xxx, governments were never consulted.

Realistically, much of it would depend on our interaction with the GNSO as well. Frankly, I doubt if we will get full answers from all members or for that matter even from WG1 colleagues but I feel that we must not pass up this opportunity to place the responsibility back on the GAC members.

Your view?

thanks

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From: Mohd Sharil Tarmizi [<mailto:sharil@cmc.gov.my>]  
Sent: Tuesday, June 21, 2005 10:42 AM  
To: Exco@Gac. Icann. Org  
Cc: [cvc@gac.icann.org](mailto:cvc@gac.icann.org); [gacsec@cec.eu.int](mailto:gacsec@cec.eu.int)  
Subject: FW: New gTLD Strategy Implementation - Draft staff paper on "New TLD Questions"

For your kind information and consideration.

This document attempts to get as comprehensive as possible responses to better guide the Board. Some have also arisen from the Board members themselves as well as from recent experience in introducing new gTLDs. Please pay particular attention to the Matrix at the end of the document. There are many questions which they would like GAC to respond to and these questions are quite tough.

Timeline required for inputs would be before 22 July 2005.

Might I seek guidance on how this can best be done? For example, would any of you be uncomfortable if GAC provided direct answers to each of the questions that it is asked? How can this best be done in the current timeframe? I am of the view that we can use the entire GAC list for this one and not just confine it to the working group.

Thoughts?

thanks

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From: Olof Nordling [<mailto:olof.nordling@icann.org>]  
Sent: Tuesday, June 21, 2005 9:31 AM  
To: 'Hans Petter Holen'; 'Bruce Tonkin'; [ceo@auda.org.au](mailto:ceo@auda.org.au); Mohd Sharil Tarmizi; [steve@shinkuro.com](mailto:steve@shinkuro.com); [junsec@wide.ad.jp](mailto:junsec@wide.ad.jp); [vb@bertola.eu.org](mailto:vb@bertola.eu.org)  
Cc: 'Kurt Pritz'; 'Paul Verhoef'; 'Paul Twomey'; [jeffrey@icann.org](mailto:jeffrey@icann.org); 'Tina Dam'  
Subject: New gTLD Strategy Implementation - Draft staff paper on "New TLD Questions"

To: ICANN SO and AC chairs

Following the "New gTLD Strategy Implementation", as posted on the ICANN website at:

<http://www.icann.org/topics/gtld-strategy-area.html>

ICANN staff has drafted the attached document for review by the ICANN SOs and ACs.

The paper provides an augmented list of questions needing firm answers for the implementation process and describes the foreseen consultative process.

The very first step is now to verify the completeness of the list of questions. Is the list adequate and sufficiently complete to inform the implementation process in practice? Comments on that aspect are welcome by 22 July, i.e. a week after the end of the ICANN meeting in Luxemburg.

Best regards

Olof

---

Olof Nordling  
Manager, Policy Development Coordination  
ICANN  
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B-1040 Brussels, Belgium  
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**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** <JKneuer.NTIAHQ.NTIA@ntia.doc.gov>, "Michael Gallagher "  
<MGallagher@ntia.doc.gov>, "Ranjit deSilva" <RDesilva@ntia.doc.gov>  
**Date:** 8/17/2005 12:15 PM  
**Subject:** Fwd: FW: Thanks Mr. Tarmizi

fyi. the organization, americans for separating adult content, has also posted a nearly identical letter to the president on their site.

>>> "Mohd Sharil Tarmizi" <sharil@cmc.gov.my> 8/17/2005 10:53 AM >>>

Please note that I have not yet responded to this person. Does anyone have any background on this organisation?

thanks

Secretariat, please note for filing.

thanks

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

From: Joe Salvatore [mailto:joe@afsac.org]  
Sent: Wed 8/17/2005 10:08 AM  
To: Mohd Sharil Tarmizi  
Subject: Thanks Mr. Tarmizi

Dear Mr. Tarmizi,

I would like to thank you for delaying the .xxx domain name.

How did we let things go this far? What does it say about the US to the world (much of which already thinks the US puts out too much smut) by giving special treatment to the pornography industry. What does this say about ICANN?

You know this idea won't protect kids or make it any easier for families to filter adult content.

Pornographers will not give up their high-traffic dot com domains. So all .xxx does is give pornographers a bigger share of the Internet, special treatment, and undeserved recognition.

Having a "virtual red light district" is an idea with merit... But it MUST involve government regulation or it won't do a thing to protect children. And isn't that what is being sold as the objective?

Requiring adult content on a specific tld is the only way to allow for free speech and at the same time to make it easier for common families to opt out.

In 2002, when the President signed the bill to separate kids content, that was a failure. Family, educational, and kids content belong together and in they belong in the mainstream.

There is a chance for us to redeem ourselves with a proposal that would really accomplish something, but it has to be done right and a special tld ALONG WITH a government mandated requirement to locate there is the right way to do it.

It follows the same model that we've used in the physical world for years. You don't put adult establishments near schools, churches, and family neighborhoods. The only reason that the porn industry gets away with this online is because they were there first and that doesn't make it right.

