

ANA Cites Major Flaws in ICANN's Proposed Top-Level Internet Domain Program

Letter to ICANN President Calls for Abandoning Program

Public Comments Provided to Department of Commerce Reinforce ICANN's Lack of Input from Global Internet Community, Overstepping its Mandate

New York, NY – August 4, 2011 – In a [letter](#) to Mr. Rod Beckstrom, President, Internet Corporation for Assigned Names and Numbers (ICANN), the [ANA \(Association of National Advertisers\)](#) today detailed major flaws in the proposed ICANN program that would permit applicants to claim virtually any word, generic or branded, as Internet top-level domains. In the first year alone, the ICANN plan would allow as many as 1,000 new top level domains with the same cap every year thereafter.

Specifically, the ANA cites ICANN's lack of a bottom-up input process involving the global Internet community, insufficient research and guidance from expert authorities, inadequate oversight by the U.S. Department of Commerce (DOC) and potentially disastrous consequences if the program is implemented in January 2012, as planned. The ANA has outlined similar criticisms in its [public comments to the DOC](#), submitted July 29, 2011.

Acting on behalf of its members – the more than 400 companies, representing in excess of 10,000 brands that collectively spend over \$250 billion in marketing, communications and advertising each year – the ANA argues that implementation of the ICANN program is economically unsupportable and is likely to cause irreparable harm and damage to its membership and the Internet business community in general. At the same time, according to the ANA, the program contravenes the legal rights of brand owners and jeopardizes the safety of consumers.

“By introducing confusion into the marketplace and increasing the likelihood of cybersquatting and other malicious conduct, the ICANN top-level domain program diminishes the power of trademarks to serve as strong, accurate and reliable symbols of source and quality in the marketplace,” says Bob Liodice, President and CEO, ANA. “Brand confusion, dilution and other abuses also pose risks of cyber predator harms, consumer privacy violations, identity theft and cyber security breaches. The decision to go forward with the program also violates sound public policy and contravenes ICANN's Code of Conduct and its undertakings with the United States Department of Commerce.”

The ANA letter explicitly contends that material gains are sorely lacking for commerce, competition and innovation. In contrast, the ICANN program would throw the domain name universe into substantial confusion while generating untold costs to domestic and international businesses and consumers.

“In our research, we have found no consensus for support for the program among businesses, consumers, academics, researchers, agencies or government,” explains Douglas J. Wood, ANA's General Counsel and a partner with Reed Smith LLP. “The paucity of support suggests an

overwhelming rejection of ICANN's assertions that there would be 'benefits...' for business and industry at large."

"These concerns are especially heightened in an economy that day-by-day continues to pose ever-increasing challenges and unprecedented uncertainties for businesses and consumers worldwide," warns Liodice. "Another layer of unnecessary costs is the last thing the buying and selling public need in the middle of the worst economic crisis since the Great Depression."

ICANN's justification for its proposed program – increasing competition, promoting innovation, addressing the shortage of second-level addresses and helping differentiate products and services – is flawed, according to the ANA, and fails to represent a consensus approach.

The ANA further contends the program will divert scarce corporate resources that could otherwise be deployed for job creation, capital investment and economic expansion; contravene the legal rights of brand owners, such as those which belong to ANA members; exacerbate the already challenging problem of protecting consumers from online confusion and unlawful invasions of their personal privacy; diminish cyber security and increase the likelihood of predatory cyber harm.

For consumers, adoption of the new program poses significant risks. "The Internet can turn into a veritable minefield for criminal activity when it becomes easier for online felons to cloak themselves in the name of a trusted brand. One can only imagine the harm such operators could have if they owned sites with top-level domains attractive to children, to the aged or to otherwise vulnerable citizens," explains Liodice.

For marketers, there are potentially equally serious risks, according to the ANA. "Brand owners will face a 'Hobson's choice.' They will feel compelled to divert valuable marketing, legal, financial and technical resources to managing top-level domains or risk brand dilution," says Liodice. "They are essentially being forced to buy their own brands from ICANN at an initial price of \$185,000."

The ANA asserts that ICANN is now moving forward with the program despite the conclusions of its own experts, ignoring studies in its own report entitled "[Rationale for Board Decision on Economic Studies Associated with the New gTLD Program](#)." Wood noted, "This so-called 'rationale' falls short of ICANN's own mandate to conduct economic studies. Rather than calling for further expert analysis, ICANN dismisses the economic evidence in its own studies and opts for a default justification of 'competition' in which any top-level domain may be adopted. That's a circular argument that lacks foundation."

The ANA concludes that ICANN's program is an example of public policy gone awry. "On behalf of our members, and with input from our global partners in the marketing community, we have no choice but to vigorously oppose implementation of this program," says Liodice. "We have asked ICANN to sit down with us and work this out, but abandoning the proposed program is a necessary first step and then if any change in the top-level domain architecture is to be adopted, it should be justified by sound research, compliance with ICANN's legal and contractual obligations and with a true

consensus process.” The ANA has requested a written response from ICANN to its letter by August 22, 2011.

About the ANA

Founded in 1910, the ANA (Association of National Advertisers) leads the marketing community by providing its members with insights, collaboration, and advocacy. ANA's membership includes 400 companies with 10,000 brands that collectively spend over \$250 billion annually in marketing communications and advertising. The ANA strives to communicate marketing best practices, lead industry initiatives, influence industry practices, manage industry affairs and advance, promote, and protect all advertisers and marketers. For more information, visit www.ana.net, follow us on Twitter, join us on Facebook, or visit our YouTube channel.

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