



EUROPEAN COMMISSION

Information Society and Media Directorate-General

Audiovisual, Media, Internet
The Director

DG Competition

Markets and cases II: Information, Communication and
Media
Acting Director

Brussels,

Rod Beckstrom, CEO
Internet Corporation for Assigned
Names and Numbers

Dr Steve Crocker, Chair of the
Board of Directors
Internet Corporation for Assigned
Names and Numbers

Subject: Your letter of 25 October 2011 to Commissioner Kroes - Vertical separation between registries and registrars -

Dear Mr Beckstrom,

Thank you for your letter of 25 October 2011 to Commissioner Kroes, in which you reply to the joint non-paper of the Commission's Directorates-General of Information Society (DG INFSO) and Competition (DG COMP) of 15 June 2011 concerning the issue of vertical separation between registries and registrars.

We have taken good note of the comments you provided on the concerns raised in our non-paper. We believe, however, that your reply does not address these issues in an exhaustive manner.

We would first like to note that there appears to be a misunderstanding as to the overall purpose of our non-paper and the issues raised therein. Contrary to what your letter appears to suggest, we do not oppose the removal of vertical separation as a matter of principle. On the contrary, we fully understand that there may be a need to revise and to possibly relax the previous set of rules with a view to fostering competition at registry level. However, based on the publicly available information on this issue (including the expert reports mentioned in your letter), we are currently not convinced that the full removal of vertical separation for generic Top-Level Domains (gTLDs), particularly for existing ones such as .com, is the most appropriate solution from a competition point of view.

Given that your reply does not contain any information going beyond the already publicly available information on this issue, it does unfortunately not allow us to properly assess the competitive impact of a full removal of vertical separation. To be in a position to do so, we would need additional information on the different aspects mentioned in our non-paper. We

therefore kindly request you to provide us, at your earliest convenience, with the following information:

- (1) recent figures on competition at registry and registrar level, in particular (i) the total number of currently active registries and registrars accredited by ICANN, (ii) the total number of domain name registrations up to now, (iii) the distribution of domain name registrations by gTLD in terms of numbers and percentages, and (iv) the share of the twenty largest registrars of the total number of domain name registrations (see paragraphs 14 and 15 of our non-paper);
- (2) a list of all currently active registries and registrars accredited by ICANN as well as exhaustive information on existing cross-ownerships between both levels (see paragraph 15 of our non-paper);
- (3) a detailed and up to date economic assessment of why ICANN is convinced that the benefits of vertical integration are likely to outweigh the potential drawbacks identified in the reports it has commissioned in this regard during the last years, such as higher prices, lower quality levels, too little product variety, or less innovation (see paragraphs 11 to 13 of our non-paper);
- (4) an explanation of the rules and the procedures on the basis of which ICANN intends to decide whether a request to remove cross-ownership restrictions (i) raises competition concerns (including the choice of law), (ii) should be referred to the competent competition authorities and (iii) should be granted absent a timely response from the competent competition authority (see paragraph 18 of our non-paper);
- (5) an explanation of the rules and procedures on the basis of which ICANN intends to ensure the impartiality of the decisions mentioned in point (4) above (see paragraph 19 of our non-paper); and
- (6) an explanation of how ICANN intends to ensure an efficient monitoring of compliance with and a timely sanctioning of breaches of its new Code of Conduct (see paragraph 20 of our non-paper).

Should you require any further clarification on the above, please do not hesitate to contact us.

We thank you in advance for your cooperation.

Your sincerely,

Gerard de Graaf
(*e-signed*)

Director

Linsey McCallum
(*e-signed*)

Acting Director

CC:

Larry Strickling

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