

Chronological History of ICM's Involvement with ICANN

- ICM Registry, a private company, submitted a proposal in ICANN's 2000 Proof of Concept round, proposing two unsponsored gTLD strings - .KIDS and .XXX, available at <http://www.icann.org/en/tlds/kids3/>. The evaluators in the Proof of Concept round recommended against the inclusion of either the .KIDS or the .XXX TLD strings in the Proof of Concept round. <http://www.icann.org/en/tlds/report/report-iiib1c-09nov00.htm>.
- In December 2000, ICM, along with many other applicants in the Proof of Concept round, filed Reconsideration Requests with ICANN's Board regarding the outcome of the Proof of Concept Round. Part of ICM's Request discussed the lack of uniformity in the adult entertainment community, and raised concerns with the community-based issues raised by the Proof of Concept evaluators. The Reconsideration Committee's 2001 recommendation noted that a failure to be selected in the Proof of Concept round was not a reflection on the proposal, and did not reflect a rejection of that proposal.
- In 2004, ICM submitted a proposal for .XXX as an sTLD string (as opposed to an unsponsored gTLD), after the sTLD application process was launched in December 2003. As an sTLD must have a sponsoring organization to oversee the policy development for the sTLD, ICM stated that the International Foundation for Online Responsibility, or the IFFOR, would serve in that role. The Sponsored Community was defined as "the responsible online adult-entertainment community." The "online adult-entertainment community" is further defined as those individuals, businesses, and entities that provide sexually-oriented information, services, or products intended for consenting adults or for the community itself."
- ICANN's Independent Evaluation Panels reviewed the ICM application throughout 2004. As part of the Evaluation reports, in August 2004, ICANN received a report that ICM's application failed the baseline sponsorship criteria of the sTLD process. Prior to issuing the report, the Independent Evaluation Panel provided a list of questions – focusing on sponsorship issues – to ICM and IFFOR, and ICM and IFFOR provided a joint response to those questions.
- In April 2005, ICM provided a presentation on the proposed .XXX sTLD to the ICANN Board, and the Board continued having discussions on ICM's meeting of the baseline criteria for a "sponsored community."
- On 1 June 2005, the ICANN Board authorized the ICANN President and General Counsel to enter into negotiations with ICM relating to the proposed commercial and technical terms of a Registry Agreement for the .XXX sTLD. The Agreement was to be presented to the Board for approval – as all ICANN gTLD Registry Agreements are.

- In July 2005, ICANN's Governmental Advisory Committee (GAC), in its Luxembourg Communiqué, invited ICANN to hold consultations on the implementation of new Top Level Domains, highlighting the significant public policy issues that arise with the introduction of new TLDs.
- In August 2005, ICANN began receiving individual communications from governmental representatives – including the then-Chair of the GAC – noting concerns over the ICM application and stating that the Board should allow time for additional governmental concerns to be heard before reaching a final decision the proposed .XXX sTLD.
- On 15 August 2005, ICM requested that the ICANN Board defer final approval of the ICM Registry Agreement and Application until a September 2005 meeting of the Board. The Board agreed to defer consideration until 15 September 2005. On 16 August 2005, the Agreement was posted for public comment at <http://forum.icann.org/lists/xxx-comments/mail34.html>, and nearly 2000 comments were received.
- ICANN then started receiving substantial communications both in support and against the creation of the .XXX sTLD. One of these communications was from the Free Speech Coalition; a trade association of the adult entertainment industry, stating the ICM distorts the support received from the adult entertainment industry. Throughout the consideration of ICM's application ICANN would receive additional communications from other participants in the adult entertainment industry indicating that they no longer supported ICM or IFFOR's ability to represent the sponsored community identified in ICM's application.
- At the 15 September 2005 meeting of the Board, the Board expressed concerns about the .XXX sTLD agreement and amount of correspondence received on the issue, and directed the President and General Counsel to discuss possible additional contractual provisions to address the Board's concerns. As requested in a September 2005 letter from member of the GAC reiterating points made in the Luxembourg Communiqué, the ICANN Board agreed to defer any Board decision on the ICM application until at least December 2005, to allow the GAC time to consider the issue further. ICANN also posted a status report on the sTLDs. ICANN continued receiving communications regarding the proposed .XXX sTLDs.
- At the end of November 2005, the GAC held a meeting where both the ICANN Board and ICM made presentations on ICM's application.
- In March 2006, the GAC issued its Wellington Communiqué, noting that insufficient detail was provided by ICANN to support that the Independent Evaluator Team's concerns regarding the failure to meet the sponsorship criteria had been met. The GAC also noted its opposition to the introduction of the .XXX sTLD.
- After the receipt of the Wellington Communiqué, the Board requested a review of all publicly received inputs and to make recommendations to the

Board regarding amendments to the proposed sTLD Registry Agreement to address the concerns raised.

- In April 2006, a revised proposed sTLD Registry Agreement was posted for public comment at <http://forum.icann.org/lists/xxx-tld-agreement/mail11.html>. 632 emails were received on the public comment forum.
- On 10 May 2006, the Board voted against approval of the ICM sTLD Registry Agreement. ICM then initiates a Request for Reconsideration of the denial, which was withdrawn prior to deliberation, in favor of submitting additional information to ICANN in support of ICM's application. While the Reconsideration Request was pending – and without ICANN involvement or approval – ICM begins pre-registration of .XXX domain names.
- On 5 January 2007, another revised proposed sTLD Registry Agreement was posted for public comment. Over 1800 comments were received. <http://forum.icann.org/lists/xxx-icm-agreement/mail31.html>.
- The Board considered the revised sTLD Registry Agreement at its February 2007 meeting. ICM provided additional information for the Board just two days prior to the meeting. At the February meeting, the Board noted concerns over the amount of support from a sponsored community and whether ICM met these criteria of the sTLD process. The Board instructed staff to provide information, as well as the posting for public comment of additional revisions to the proposed sTLD Registry Agreement.
- In March 2007, ICM provided a briefing to the Board and submitted additional material for the Board's consideration on sponsorship issues.
- After receiving notification from the Board that the .XXX sTLD Registry Agreement would be up for Board consideration again, the GAC produced the Lisbon Communiqué, reaffirming the GAC's position against the introduction of the .XXX sTLD.
- On 30 March 2007, the ICANN Board voted to reject the revised proposed sTLD Registry Agreement and deny ICM's application for the .XXX sTLD, based in large part on ICM's failure to meet the sponsored community criteria specified in the sTLD criteria.
- On 6 June 2008, ICM filed a request for Independent Review of the Board's action, initiating the Independent Review process pursuant to ICANN Bylaws, Article IV, section 3 (see <http://www.icann.org/en/general/bylaws.htm#IV>). The papers filed by ICM and ICANN are located at <http://www.icann.org/en/irp/icm-v-icann.htm>.
- The three-member Independent Review Panel held a five-day hearing from 21- 25 September 2009 during which both parties submitted written and live testimony.

- The Independent Review Panel issued its Declaration on 19 February 2010. The Declaration is available at <http://www.icann.org/en/irp/icm-v-icann/irp-panel-declaration-19feb10-en.pdf>.