



25 March 2006

VIA ELECTRONIC MAIL

Mr. Sharil Tarmizi
Senior Advisor, Office of the Chairman
Malaysian Communications and Multimedia Commission
Chairman, Government Advisory Committee
Internet Corporation for Assigned Names and Numbers

Re: Letter From Acting Assistant Secretary John Kneuer, US Dept. of Commerce
Dated 20 March 2006

Dear Chairman Tarmizi:

We have reviewed the letter sent to you by Acting Assistant Secretary John Kneuer, which was copied to the ICANN Board of Directors and posted today. Secretary Kneuer's letter alleges that the proposed registry agreement between ICM and ICANN does not obligate ICM to undertake a number of commitments contained in ICM's application, and in various other documents.

This is simply incorrect.

First, the proposed registry agreement obligates ICM to certify to and confirm the continuing validity of all material statements contained in its application. ICM fully accepts its responsibility to live up to the commitments made with respect to the TLD.

Second, and more to the point, last September the ICANN Board specifically directed ICANN staff "to discuss possible additional contractual provisions or modifications for inclusion in the .XXX Registry Agreement, to ensure that there are effective provisions requiring development and implementation of policies consistent with the principles in the ICM application."

ICM welcomed the Board's request for further assurances, and immediately provided such assurances. Under the proposed language, submitted to ICANN in advance of the Wellington meeting, ICM has specifically reiterated its commitments to:

- Develop policy through IFFOR, in the manner set forth in the application;
- Fund IFFOR’s policy development, at the levels set forth in the application;
- Fund IFFOR’s grant-making activities to promote child protection technologies, hotlines, and anti-child pornography efforts, again as set forth in the application;
- Obligate xxx registrants to verify registrant eligibility and adhere to best practices prohibiting:
 - a. Illegal content;
 - b. Unfair, deceptive, or fraudulent marketing practices;
 - c. The use of malware, malicious code, spoofing, phishing;
 - d. Practices designed to attract children or suggest the presence of child pornography;
 - e. Unauthenticated use of credit cards; and
 - f. Violations of law regarding the sending of unsolicited promotional email; or misuse of personal data.

In addition, ICM has agreed to:

- Implement all other policies and procedures contained in the application and all other documents submitted to ICANN, including, without limitation:
 - a. Application dated 16 March 2004;
 - b. Responses to Supplemental Questions of the Sponsorship and Other Issues Evaluation Team;
 - c. ICM Letter to ICANN dated 9 October 2004;
 - d. Memorandum to the Board of Directors dated 2 November 2004; revised 7 December 2004;
 - e. “The Sponsored .xxx TLD Proposal: Executive Summary for the ICANN Board of Directors;
 - f. Presentation to the ICANN Board of Directors (2 April 2005): “The Sponsored .xxx TLD: Promoting Online Responsibility; and
 - g. ICM Letter to ICANN dated 15 August 2005.

Moreover, ICM has also committed in writing, to be included in the registry agreement, to:

- Create a mechanism whereby the GAC and/or GAC members can identify names of cultural and/or religious significance to be reserved;
- Notify ICANN in advance, and give ICANN the right to disapprove, any change in control of the registry operator;
- Present a contract between ICM and IFFOR for ICANN review prior to the limited launch date; and
- Report regularly on its progress in fulfilling its policy obligations.

ICM understands that much of the hard work of building a sponsored top-level domain for responsible adult webmasters lies ahead. It is, however, unrealistic to expect the community to undertake this significant work, and for ICM to fund it, in advance of ICANN's ratification of the proposed registry agreement. No other sTLD has been asked to do so.

Throughout this process, however, ICM Registry has sought out and responded to input from the ICANN community. We have reached out on several occasions to the GAC and its members. You have had an opportunity, along with the ICANN Board and community, to observe firsthand the constructive and responsible manner in which we participate in this community. We trust that the contractual undertakings we have proposed to ICANN and described in this letter will provide tangible evidence of our commitment to this project.

Sincerely,

A handwritten signature in blue ink, appearing to be "S. Lawley", with a small blue dot to the right of the signature.

Stuart J. Lawley
President and CEO

cc: Members of the GAC
Members of the ICANN Board of Directors
John O. Jeffrey, Esq.