



October 10, 2006

Vinton Cerf
Chairman
ICANN Board of Directors
4676 Admiralty Way, Suite 330
Marina del Rey, California 90292

Dear Vint,

This letter responds to the ICANN Board's recent request that NeuStar address public comments submitted on the proposed .BIZ agreement. We are available to communicate with any or all Board members in advance of, or during, the next scheduled ICANN Board meeting on October 18, 2006.

NeuStar requested a renegotiation of the .BIZ agreement in 2003 to bring .BIZ in line with the 2001 .COM registry agreement, which gave the incumbent, dominant registry operator presumptive renewal. NeuStar has been working with ICANN for the past 18 months to renegotiate the .BIZ agreement. Negotiations were finalized in June 2006 and the proposed agreement was posted for an unprecedented 30-day 'public information' period and for an additional 30-day 'public comment' period.

Our review of the public comments, the September 25 Board meeting Preliminary Report, and the September 27 Secretary's Notice indicates most opposing comments fall into one of the following four categories:

- (1) Differential pricing on a domain-by-domain basis;
- (2) Differential pricing between adds and renewals;
- (3) Presumptive renewal;
- (4) Timing on the .BIZ, .INFO and .ORG registry agreements.

The following is NeuStar's position regarding each of those four categories of public comment:

1. Differential Pricing on a Domain-by-Domain Basis

It has never been the intent of NeuStar to introduce variable pricing on a domain-by-domain basis. We understand the community's concern regarding such an unintended result. Therefore, NeuStar proposed to ICANN staff on August 31, 2006 that the following language be added to the .BIZ agreement to specifically prohibit differential pricing on a domain-by-domain basis:

Registry Operator shall not impose any variable pricing model on any active Registered Name. This restriction shall not apply: (i) to any uniformly applied fee increases imposed on all Registered Name Holders; (ii) to any active Registered Name that was initially registered pursuant to a marketing program employed by Registry Operator; (iii) to any active Registered Name registered through any new Registry Service approved through the process set forth in Section ___ above (Registry Service Process) or (iv) to the extent a variable pricing model for active Registered Names has been implemented in any other new or existing gTLD.

We believe the inclusion of the above clause resolves any concern about differential pricing on a domain-by-domain basis.

2. Differential Pricing – Adds and Renewals

During NeuStar's extensive discussions with ICANN staff on the proposed .BIZ agreement, we were told on numerous occasions that ICANN is committed to the introduction of market-based price controls for top-level domains. Staff acknowledged that ICANN's role is not and should not be that of a global price regulator and that ICANN is neither qualified nor adequately staffed to perform such a role.

We agree that ICANN's market-based approach is appropriate for any TLD, such as .BIZ, that does not have dominant market share and the corresponding ability to control wholesale pricing across the industry. .BIZ has less than 2% market share and operates in a marketplace where a single entity has a combined 85% market share. NeuStar has no ability to charge uncompetitive rates for .BIZ domain names, be it for initial or renewal pricing.

If NeuStar were to charge uncompetitive wholesale rates for adds or renewals, registrars would either refuse to sell .BIZ domain names to their customers, or alternatively choose to promote competing TLDs. Registrant demand for .BIZ domain names would similarly disappear. In either scenario our business would suffer. We have no more ability to charge rates that are unacceptable to our customers than competitive businesses in any other industry. Registrants have a choice of what TLD to use and they are not forced to stay with a particular domain once that selection is made - most TLD registry operators are subject to market forces and would lose customers if their renewal fees were unacceptable or unfair to their customers.

Similar to the ICANN-approved .COM agreement and the executed .NET agreement, the proposed .BIZ agreement requires a six month notice of any price increase, and registrars are required to advise their customers of any such change. Under the same logic ICANN used in approving the .COM and .NET agreements, .BIZ registrants will be guaranteed the opportunity

to renew and lock in their existing registrations for up to 10 additional years at the previous price. We further note that at least one other gTLD registry operator, Afilias, has offered different wholesale prices for adds and renews for the past several years without comment or concern from ICANN or the community. We view this type of variable pricing as a legitimate choice for any business, provided they do not have the price control associated with dominant market share.

3. Presumptive Renewal

NeuStar first requested renegotiation of the .BIZ contract in 2003 to include a presumptive renewal clause that had been awarded to the dominant .COM registry in 2001. Such comparable terms were needed then, and are needed now, to promote competition in the marketplace by ensuring our capacity for long-term investment in .BIZ registry infrastructure and marketing.

In April 2005, NeuStar began working with ICANN to renegotiate the original .BIZ agreement to bring it in line with more recent agreements that included presumptive renewal and to ensure that we were being treated equitably by ICANN. These negotiations have produced an agreement that reflects NeuStar's continued commitment to ICANN and to the long-term security and stability of the DNS. An example of that commitment is NeuStar's agreement to pay significantly higher ICANN fees on a per-domain basis than will be paid by .COM. Presumptive renewal will provide NeuStar with predictability and a reasonable level of business certainty. As a result, NeuStar will be better positioned to make additional long-term investments in registry infrastructure and marketing, which will enhance both the security and stability of the DNS and the competitiveness of the gTLD market.

Without this agreement, NeuStar would be forced to continue operating the .BIZ registry at a competitive disadvantage to the dominant registry operator that has 85% gTLD market share, and our capacity for long-term investment in .BIZ would be compromised. Because ICANN provided presumptive renewal to the dominant registry operator for .COM in 2001, and again for .NET in 2005, but has yet to extend those terms to .BIZ and other gTLDs, it could be argued that ICANN is in violation of its Bylaws and in breach of the equitable treatment terms in the existing .BIZ agreement.

4. Policy Development Process – February 2006 (PDPFEB06)

In December 2005, the GNSO Council initiated a policy development process (PDP) to specifically address what some members of the Council believed were policy issues related to the proposed .COM Agreement. At that time, in compliance with the PDP rules in the ICANN Bylaws, the GNSO Council sought ICANN's General Counsel's (GC) advice on whether those aspects were in fact "in-scope" for a policy development process under the ICANN Bylaws. In response to that request, the GC notified the GNSO that its proposed PDP was procedurally not within the scope of a proper PDP.

On February 6, 2006, in response to the GC's advice, the GNSO Council mistakenly believed that addressing one procedural issue raised by the GC would cure the deficiencies of the December 2005 PDP. However, the GC was not asked to provide advice on whether the

substance of the PDP was in fact properly within the allowable scope of a PDP. Rather than follow the ICANN Bylaws and create a new Terms of Reference (ToR) and submit such new ToR to the GC (as required) for advice on whether the substance of the PDP was “in-scope”, the GNSO Council elected to ignore the rules and initiate the PDP without such required advice.

We believe the items proposed in the February 2006 PDP are not substantively within the scope of ICANN’s policy development process, nor are they properly within the scope of the definition of “Consensus Policies” in any of the existing TLD Agreements. Even if it were in scope, the February 2006 PDP shows no sign of nearing completion and therefore should not be the basis to delay the approval of the .BIZ Agreement. The ICANN staff cannot and should not be prevented from performing its day-to-day responsibilities simply because of the existence of a PDP whose legitimacy and scope is questionable at best.

The ICANN Board has approved two TLD agreements since the initiation of the potentially illegitimate and now stalled February 6, 2006 PDP. On February 28, 2006, the ICANN Board approved the proposed .COM agreement and sent the agreement to the United States Department of Commerce. Later, on May 31, 2006, the ICANN Board approved the .TEL TLD agreement. Both of these agreements contained provisions that are either identical or substantially similar to the terms in the proposed .BIZ agreement but were not subject to the February 2006 PDP. Therefore, we believe it would be inappropriate for ICANN to now subject .BIZ to the questionable February 2006 PDP.

In summary, the proposed .BIZ agreement is the result of extensive good-faith negotiations between ICANN staff and NeuStar. The .BIZ renegotiation process has introduced an unprecedented opportunity for public review, public comment, and registry reaction to public comment. The proposed .BIZ agreement begins to address the need for equitable treatment of all gTLD registries. It helps promote competition in the gTLD market. It provides reasonable business certainty to NeuStar, which will enable long-term investment in registry infrastructure. Ultimately, the proposed .BIZ agreement is good for competition, good for security and stability, and good for the ICANN community.

The .BIZ agreement has now been available for public scrutiny, public comment, and your consideration for more than three months. We look forward to an ICANN Board vote approving the .BIZ agreement on October 18, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Tindal', with a stylized flourish at the end.

Richard Tindal
Vice President
NeuStar, Inc.