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29 August 2002

.org reassignment

Dear Mr Lynn,

We appreciate the opportunity to comment on ICANN's preliminary staff report and the related assessments of the .org bids by the various evaluation teams.

While we recognize some of the challenges associated with judging various proposals, we do have a series of concerns associated with the evaluations. These concerns fall into three major categories:

1. Setting the record straight: basic inaccuracies in the evaluations that may have affected our rankings;

2. Issues related to fundamental flaws in the process and methodologies employed, which have resulted in a number of the evaluation teams falling back upon highly subjective approaches also detrimental to our evaluation; and

3. General concems for the future democratic governance of the internet.

It is no simple matter to recombine our observations on four disaggregated evaluation reports. We have indicated, therefore, which type of category each matter refers to by placing the category number in curly brackets after the text, eg {2} refers to category 2.

Below is a list of our major concerns. We have also posed a number of questions related to the evaluations to which we would appreciate answers.

1. We believe that it would have allowed for a more fair and transparent process had ICANN indicated up front to the bidders how the criteria would be weighted so that we could have all prepared our bids with this knowledge in mind {2}. We believe that this was the biggest inherent flaw in ICANN's approach to the .org bid, and probably is the root cause of the plethora of problems associated with the evaluations. It has exposed the process to criticism and gives the impression that the decision has been "reverse engineered".

2. We find it surp rising that the full details of the bid process were not laid out up front by ICANN {2}. For example, it was not clear to us that endorsements arriving after the application deadline would be counted in the same way as those arriving by the deadlines (indeed the opposite was assumed). The applicant that ranked in the highest category in this criterion had virtually no support at the time of the application deadline, and had virtually zero organizational support before the deadline as well as after the deadline! To what degree are inputs after the bid deadline counted? Are they equivalent to the

proposals, less, more? For example were the responses to the NCDNHC questions considered equivalent to the text in the bids? Were support letters received at ICANN after the bid deadline counted? The issue here is that selective sourcing can bias the evaluations. {3}

3. We regret that more attention was not given to the confidentiality of the bid process and its disassociation from ICANN politics {2}. It would have been preferable to have the sealed bids handled by an independent body rather than give rise to situations in which ICANN is seen to be so intimately associated with the lead candidate.

Under such circumstances, it is also unfortunate that two of the bids were posted some days after the deadline for unexplained reasons. We would like to know the detailed reasons for the delay in posting two bids after all the others. Why were not all the postings delayed?

4. The non-commercial domain names holder constituency (NCDNHC) evaluation contains a number of plain inaccuracies concerning our bid {1}, as following remarks reveal.

5. Support: We are given no credit whatsoever for endorsements from two "A" category organizations, the International Development Research Corporation (IDRC) and the London School of Economics programme on civil society. {1} Nor for the fact that we operate our non-commercial organization registry with the endorsement of a formal resolution from UN/ECOSOC, which, to anyone who knows the global non-commercial world, has consultative status with at least 1,539 international membership organizations (at 2001: 113 (General), 674 (Special, of which UIA is one), 752 (Roster). Nor that the UIA undertakes its mandate with the support of over 150 esteemed members of global civil society. Nor that for 30 years we have corresponded with and catalogued the concerns of organizations around the world. Nor that for 80 years we have published extensively on the nature, challenges, hazards, legal status etc of non-governmental organizations and provided them with a variety of services (reference publications, publication space, meetings, facilitation and advice to name but a few). These were all referenced in our bid document and to ensure that we received credit for such endorsements and long-standing effort, we posted a link on the ICANN public discussion list in response to NCDNHC questions (5 August): see link at http://forum.icann.org/cgi-bin/rpgmessage.cgi?org:3D4F0D28000001CA which refers on to http://www.diversitas.org/diversitas.org/ncdnhc.php.

Further, if we had known that individual endorsements would constitute 20% of a major organizational endorsement, we could have conducted a different kind of campaign. We believe that the basic approach here was fundamentally flawed, as our posting of 5 August indicates. {2}

6. The NCDNHC evaluation uses a methodology that we find highly subjective {2}; also, mistakes in one criterion produce interference effects with others. {2} For example, we are given little credit for the fact that we maintain very thick registries/databases on 50,000 non profit and civil society organizations around the world and have regular contact with them. Our extensive work with these organizations should have had a significant impact on criteria 4, 5 and 6. Instead, this background and experience was largely rejected as a relevant factor in the NCDNHC's assessment and this ricocheted on. Why?

7. With respect to the evaluation of support, we naturally regret that no account was taken of the long-established pattern of support in practice for our registry activity, despite our presentation of arguments to that effect both in our proposal and in the forum. {2} The view of the NCDNHC is that "[b]ecause the working relationship of UIA with the international non-commercial community is of a fundamentally different nature than what is at issue here, the Committee has given UIA only a "moderate" rating in its relationship to the noncommercial community". What *is* at issue here and why did other bidders with much less in the way of prior working relationships with non-commercials rate higher?

8. The NCDNHC's seems to have ignored its own arguments. {1} It stated in its report that because "...*past performance may prove to be an important indicator of future performance and commitment*,... longstanding relationships between the bidders (whether for-profit or non-profit) and the non-commercial community available in the public record" are important, and cites by way of illustration that "a for-profit retailer *specializing in servicing non-commercial organizations* could be judged by the character of this long-standing business relationship" (emphasis added). It may have slipped by the NCDNHC and others that the *UIA does nothing other than service non-commercial organizations*. The

fact that we take a non-partisan approac h to all parties, and that we do not cultivate followers from a particular sector, is but one feature of the fact that all are served equally, whether they like our faces, our language, our politics or not. We believe this background of neutral and compet ent services delivery is a fine background for a registry operator.

We note in particular the following contradiction in the NCDNH's report: "UIA is a non-profit with *an extensive history of working with non-commercial organizations as a registry.* While this function has brought UIA into contact with many non-profits, *it does not indicate that it has extensive working relationships with these non -profits.*" {2}

We are dismayed that by its own assessment the NCDNHC has effectively discounted an entire stakeholder constituency ("not -profit" or otherwise[1]) who are not .org – a constituency that UIA endeavoured to fully include in its proposal. We believe this act disenfranchises from this decision -making process the non-commercial constituency that use other domains (see our market research to this end on the Diversitas website, eg http://www.diversitas.org/diversitas.org/tld_domain_assignments.php) and patronises the interests of those who do not have websites (over two-thirds of our registry with which UIA maintains regular slow-mail communication). We believe many of these groups will one day use the .org domain if it is positioned properly. {3}

9. We believe that the ICANN methodology overall reflects assumptions about the homogeneity of civil society that do not correspond to the reality of its heterogeneity -- that we presented in supporting documents (market research). {2} Such assumptions, played out, will undermine the capacity of any bidder to respond to the .org community as a whole and squeeze .org registrants into "sausage skins" indistinguishable from other TLDs.

10. We regret the weighting attached to polling for support on a body-count basis. {2} Our reluctance to engage in an unsolicited poll of organizations that tend to suffer from a high degree of message overload is a reflection of where we are coming from -- despite our capacity to do those polls. It is curious that we should be penalized for such reluctance by the NCDNHC.

11. Further, we made a commitment in our application to set up a governance structure in which civil society organizations would actually run the .org domain and have a management stake in Diversitas. Yet we were given one of the lowest rankings (a "2") for our input/governance structure. {1} Our approach stands in contrast to many of the bidders who talked about setting up a separate advisory entity with no actual governance authority. In fact, we ranked lower in "input/governance" than a for profit bidder (bereft of any of our 100 year experience dedicated to working with civil society) who agreed to set up a "global advisory council" that would have no authority whatsoever beyond the ability to make recommendations. If "input/governance" from the .org community is a factor in judging the evaluations – and more input and greater governance authority from this segment is considered something positive – can someone please explain this discrepancy to us?

12. We received a "0" ranking for "Good works" when we were quite specific that we would be setting aside funds from the endowment that would be used to help address the digital divide. {1} We also provided some examples of how the funds would be used. We provided a specific budget with hard numbers which indicated clearly that a portion of the endowment would be used for these "good works." Why did we then receive a "0?"

13. We received a "0" ranking for "Market research" when we had conducted extensive research upon our own registry of over 50,000 non -commercial organizations (eg start at http://www.diversitas.org/diversitas.org/uia_website_domains.php). {1} We explored the extent of domain regist ration in this sample of the non-commercial community, (estimated to represent over 10% of the *active* domains in .org), their domain choices and the geographic distribution of the registered entities. The conclusions of this research were presented in the bid document and the detailed data were presented on the Diversitas site and highlighted in our response to the NCDNHC questions in the Forum. We also said in the proposal that we would conduct specific market research in the future in

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[1] We anticipated the definitional gameplaying indulged in by the NCDNHC at http://www.diversitas.org/diversitas.org/defin_gameplay.php

consultation with the constituency and in response to its stated needs. The point here is that we did not assume we fully understood the needs. This democratic stance was seen as a deficiency in our approach. {3} We suspect this attitude also influenced our scoring on "Services targeted at community" ("2").

14. We received "2" out of "5" for "keeping .org unrestricted and open", when there was absolutely nothing in our bid document to indicate that we would restrict registration in .org and in response to Forum questions from Clint White we stated that ".org is an open registration domain and would remain so. We would not apply conditions for new or renewed registrations." Why were we judged so low? {1}

15. From what we understand, the Names Council – based on a recommendation from its non-commercial constituency -- passed a resolution advising ICANN that the .org award should go to a non profit organization. From what we can tell, this preference was not included as a factor in the assessment by the non-commercial constituency. Is this the case? {3}

16. We would like to better understand the technical expertise of the members of the Gartner team doing the primary technical assessment. What are their backgrounds, and how much specific technical training and expertise do they have? Can we have a list of all those who participated in the technical assessment? {2}

17. In the Gartner report, we cannot understand how the current registry operator of .org (our subcontractor) could have rated third in terms of providing "stability" to the domain, and 7$^{th (!)}$ in terms of "transition" considerations (all the other applicants would have to engage in extensive transfers of data and processes from VeriSign servers to other servers; how could the risk to the stable functioning of .org be greater than six other bidders with VeriSign as our subcontractor and no movement of data!?). In addition, we clearly indicated in the bid document and responses to the NCDNHC questions that we would maintain a stable registration fee (indicating price flexibility under favourable conditions in the future). Regarding business processes, Section 17.6 of the proposal indicated that VeriSign would continue to provide continuity of billing and associated services. Where is the instability or difficulty of transition? Were we penalized because we chose the simplest and safest option for transitioning .org by changing the operator first and the equipment later? Could you please provide some further detail on these parts of the assessment? {2}

We are pleased to note that we are one of four bidders who were never placed in the lowest category by one of the evaluation teams. However, we believe our bid was more than just satisfactory and request you reconsider our evaluation in the light of the points made above.

We continue to believe that the UIA/Diversitas bid will provide the most stability to the .org domain, and that we are the bidders with the most familiarity with the global non profit/civil society based on our work developing a thick registry of these organizations and our extensive study of these groups over the last 100 years.

Thank you for your willingness to respond to our questions related to the bid evaluations.

Sincerely,

A J N (Tony) Judge
Assistant Secretary General
Director Communications and Research