

**APPENDIX E**



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December 2, 2005

VIA FACSIMILE - (202) 482-2552  
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Assistant General Counsel for Administration  
United States Department of Commerce  
1401 Constitution Avenue, N.W., Room 5898-C  
Washington, DC 20230

**Re: CRRIF 06-068  
Freedom of Information Act Appeal**

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended ("FOIA"), your agency's implementing regulations and policies, including but not limited to 15 C.F.R. § 4.10, and the National Telecommunications and Information Administration's ("NTIA") letter of November 18, 2005, responding to the above-referenced FOIA request, ICM Registry, LLC ("ICM Registry"), by counsel, hereby submits its appeal of agency action in response to its FOIA request. A copy of the FOIA request and the NTIA response are attached as Exhibits 1 and 2.

### Introduction

ICM Registry filed FOIA request CRRIF 06-068 on October 18, 2005 (the "FOIA Request"), to ask the Department of Commerce ("DoC") or any Bureau or component thereof, including but not limited to NTIA, to provide ICM Registry with copies of the following records:

All records, correspondence, memoranda, transcripts, notes, documents, reports, emails or audiovisual or other materials consisting of or reflecting, representing, recording or otherwise disclosing communications, written or oral, between March 1, 2005 and the present, regarding approval by the Internet Corporation for Assigned Names and Numbers ("ICANN"), and/or by its Board of Directors, of the new ".xxx" sponsored top-level domain ("sTLD"), and/or ICANN's or its Board's approval of ICM Registry's contract to operate the .xxx sTLD [other

December 2, 2005

Page 2



than] documents submitted to the agency by the general public as part of any mass mailing campaign(s) or similarly duplicative emails/documents.

All records, correspondence, memoranda, transcripts, notes, documents, reports, emails or audiovisual or other materials consisting of or reflecting, representing, recording or otherwise disclosing communications, written or oral, between March 1, 2005 and the present, between any personnel at the Department of Commerce, or any Bureau or other component thereof, and the ICANN Board of Directors and its staff, ICANN's Governmental Advisory Committee ("GAC"), any GAC member country, or any individuals or agency in a GAC member country, regarding the .xxx sTLD.

*See Ex 1.* The FOIA Request also asked that if any of the foregoing information was withheld, ICM Registry should receive copies of all non-exempt, reasonably segregable portions of such material, as well as a detailed statement of the statutory basis and reasons for each instance of withholding, and an index or similar statement of the nature of any withheld materials. *Id.* at 2.

NTIA responded to the FOIA Request by letter of November 18, 2004, by which it transmitted approximately 1,600 pages of documents and claimed an exemption to withhold "certain documents in whole or in part under 5 U.S.C. § 552(b)(5) as predecisional or privileged" (the "FOIA Response").<sup>1</sup> Of those 1,600 pages, 120 contained redactions obscuring parts of the document with a notation to Section 552(b)(5), and 98 consisted solely of pages that were blank save for a reference to Section 552(b)(5), indicating that documents consisting of one or more pages had been withheld in full. Copies of the redacted and/or withheld documents are attached as Exhibit 3.<sup>2</sup>

Other than the statement in the FOIA Response and handwritten notations on the documents, NTIA provided no explanation of the statutory basis and reasons for redacting/withholding the documents, nor did it provide any index or other statement indicating the nature of the materials withheld. In virtually all cases of redaction, it is impossible to determine from con-

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<sup>1</sup> *See Ex. 2* at 1. The letter also indicated that NTIA identified additional documents from other agencies which may be responsive to the FOIA Request, that NTIA was in the process of coordinating with the other agencies "to accord them proper treatment under FOIA," and that NTIA would forward the documents upon completion of the inter-agency coordination effort. *Id.* ICM Registry has not received those documents, and hereby reserves all rights with respect to them pending their receipt.

<sup>2</sup> For ease of reference, we have added consecutive page numbers to the records included at Exhibit 3. These did not appear on the documents as received with the FOIA Response. It should be noted that Exhibit 3 contains substantially more than 218 pages (the combined number of redacted and withheld pages referenced in the text), because in each case of a document that was redacted, Exhibit 3 contains the whole of the document and not just the redacted page(s).

December 2, 2005

Page 3



text the nature of the material withheld and, of course, in cases where a document was withheld in full, it is not possible to determine its nature or the specific reasons that might have lead to its nondisclosure. However, the nature of DoC's role in ICANN's process for approving new domains, and the content of the documents disclosed thus far, make application of any FOIA exemption highly doubtful.

### Background

Documents released thus far in response to the FOIA request, either in whole or in part, paint a picture of the nature of the activities that took place within DoC after the ICANN Board announced that it had approved ICM Registry's proposal for a sponsored .xxx domain. They suggest that DoC immediately focused on political reactions to ICANN's announcement – not on any regulatory activity – and confirmed DoC's view that it lacked any official decisional role in approving new domain names. Nevertheless, DoC decided to intervene in the ICANN process. The documents further indicate that the United States Government consulted with foreign representatives in an attempt to solicit foreign governmental intervention to achieve DoC's domestic political goals.

The leadership of NTIA began discussions of .xxx in response to news stories the day after ICANN's Board decision to commence negotiations with ICM Registry. Although the substance of various email exchanges was redacted under assertions of FOIA Exemption 5 relating to executive privilege for "predecisional" discussions (see discussion below), the documents that were released show that the correspondents (including DoC Assistant Secretary for Communications and Information Michael D. Gallagher) exchanged a news story on ICANN's decision. The only non-redacted text from the exchange says, "Mike, think this will cause us any problems?" Email from Meredith Attwell to Michael Gallagher, June 2, 2005; Email from John Kneuer to Michael Gallagher, June 2, 2005 (Exhibit 4, attached).

It is not evident that any policy decision was discussed in the ensuing email exchanges within NTIA, and in fact, some of the participants acknowledged the absence of a legitimate official role for the United States government in ICANN's decisionmaking process. This fact was underscored in an email sent two weeks after the initial exchange:

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure the completion of tasks set forth by the MOU. *DoC does not exercise*

December 2, 2005

Page 4



*oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.*

Email from Meredith Attwell to Cathy Handley, *et al.*, June 16, 2005 (emphasis added) (Exhibit 5, attached). Indeed, early discussions by at least some participants within DoC suggest that they supported the concept of a .xxx domain (notwithstanding the absence of a policy role for DoC). As one staff member wrote after DoC was asked to provide a briefing on the situation, "Can we please get some talking points on why this is a good thing and why we support it?" Email from Meredith Attwell to Jeffrey Joyner, *et al.*, June 14, 2005 (Exhibit 6, attached). *See also* Ex. 5 ("The ICM Registry application for .XXX has strong support from the child advocacy community because they feel that ICM's approach to the .xxx puts into place best practices that would not be achievable in the dot com space.").

The documents indicate that DoC's position began to change not because of any management concerns related to the United States government role under the MOU, but for domestic political reasons coming from outside DoC. A number of politically active domestic special-interest groups, that had declined for reasons of their own to participate in ICANN's public comment process, began to seek U.S. government intervention in the weeks following ICANN's decision that ICM Registry's .xxx application met ICANN's published eligibility criteria. They also contacted key legislators to seek briefings from DoC on the .xxx issue. Email from Mike Hurst, Office of Rep. Chip Pickering, to Jim Wasilewski, June 14, 2005; Email from Meredith Attwell to Jim Wasilewski, *et al.*, June 14, 2005 (Exhibit 7, attached). DoC staff members informed congressional staff that "DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization." These briefing points were forwarded directly to the political advocacy groups. Email from Mike Hurst to Patrick Trueman, Family Research Council; Donald Wildmon, American Family Association; Janet M. LaRue, Concerned Women for America; and Donna Rice Hughes, Enough is Enough, June 16, 2005 (Exhibit 8, attached). At about this time, DoC's staff began to compile background information on legislators who appeared to favor creation of a .xxx domain and those who likely opposed it, based on questions related exclusively to domestic political agendas. Email from Meredith Attwell to Cathy Handley, *et al.*, June 16, 2005 (Exhibit 9, attached).

The pressure groups also focused their attentions on DoC and arranged meetings with top-level staff members. Email from Clyde Ensslin to Janet LaRue and Patrick Trueman, June 20, 2005 (Exhibit 10, attached) They additionally devised email campaigns to flood DoC with identical emails calling for U.S. government intervention in the ICANN process. By mid-June, DoC established a system to maintain a running tally of the emails on .xxx. In an email titled "Update on public reaction to ICANN and .xxx." staff members noted that "[m]ost have an identical text and came in from an 'Alert' on the Family Research Council home page." They also became aware that "[t]wo other conservative Web sites have stories that suggest people should contact Commerce in opposition to .xxx." Email from Clyde Ensslin to Michael Gallag-

December 2, 2005

Page 5



her, June 20, 2005 (Exhibit 11, attached). Such external campaigns increasingly appeared to drive political discussions within DoC. As DoC's Executive Secretary wrote on June 16, 2005:

Who really matters in this mess is Jim Dobson. What he says on his radio program in the morning will determine how ugly this really gets -- if he jumps on the bandwagon our mail server may crash. My suggestion is that someone from the White House ought to call him ASAP and explain the situation, including that the White House doesn't support the porn industry in any way, shape, or form, including giving them their own domain.

Email from Fred Schwien to C. Gunderson, *et al.*, June 16, 2005 (Exhibit 12, attached). All the while, NTIA staff kept close tabs on the number of emails pouring in because the activist groups they met with "were very interested in these numbers." Email from Clyde Ensslin to Meredith Attwell, June 22, 2005 (Exhibit 13, attached).

Although the staff attempted to direct the political focus away from DoC because the "decision to move forward on this was made by ICANN and ... DoC does not participate in the selection process for creating new domains," it was not successful. *Id.* DoC staff members promised the Family Research Council that they would facilitate a meeting between the conservative group and ICANN, and they compiled names and contact information of ICANN staff and North American Board members to be provided to the outside group. Email from Suzanne Sene to Meredith Attwell, June 24, 2005; Email from Kathy Smith the John Kneuer, *et al.*, July 11, 2005 (Exhibit 14, attached).

The documents produced thus far indicate that much of DoC's attention was devoted to devising a response to the organized email campaigns, initially to deflect criticism of a proposed .xxx sTLD and, in fact, to develop background material to justify DoC support for the proposal. Attention was devoted to word-smithing proposed responses to email based on the views of the commenter rather than on any actual administrative decisions. For example, the form letter prepared by the staff differed depending on whether incoming correspondence supported or opposed the .xxx proposal. For the identical form letters asking the United States government to block ICANN's approval of the new domain, responses included the line "I share your concern about the proliferation of pornography." For those who wrote to support .xxx, the DoC response deleted that line. Memo from Maureen Lewis to Michael Gallagher (undated) (Exhibit 15, attached). Responses also were prioritized based on the perceived political importance of the correspondent. Writers on an "A" list would get a response signed by the Secretary of Commerce, while those on the "B" list would get a letter from the Assistant Secretary. Email from Geraldine Moody to Suzanne Sene, Sept. 29, 2005 (Exhibit 16, attached).

Throughout these developments, the DoC's staff closely monitored press coverage of the ICANN process, and classified stories as "pro" and "con" the .xxx proposal. Editorials and Opinions re Internet Governance as of 10-19-05 (Exhibit 17, attached). *See also* Ex. 11. In response to one article circulated among NTIA staff, one participant wrote, "that language is

December 2, 2005

Page 6



really awful. [H]opefully today we can come up with something better we can use.” Email from C. Gunderson to Clyde Ensslin, June 17, 2005 (Exhibit 18, attached). In at least two instances, NTIA staff contacted news organizations (CNN and the Washington Post) in an effort to revise stories after they were published. Email from Clyde Ensslin to C. Fuqua, June 17, 2005; Email from Clyde Ensslin to Robert MacMillan, June 17, 2005 (Exhibit 19, attached). The documents suggest that many of the staff interactions focused on how DoC was portrayed in press reports, not on deliberations relating to any agency decision.

In the last two weeks of June, DoC received nearly 4,000 pieces of correspondence on the ICANN Board’s decision to move into contract negotiations with ICM Registry. Nonetheless, DoC participants in the mid-July ICANN meeting in Luxembourg City reported “happily” that the GAC communiqué contained no mention of .xxx. Email from Suzanne Sene to Meredith Attwell, July 13, 2005 (Exhibit 20, attached). In addition, DoC staff in Luxembourg reported that some GAC members held a view – “not shared by the U.S.” – that ICANN did not adequately consult before directing the staff to enter into negotiations with ICM Registry. *Id.* At some point in the following weeks, however, NTIA reversed itself completely and decided to intervene in the ICANN process to delay its Board’s final consideration of the ICM Registry contract.

On August 11, 2005, DoC’s Assistant Secretary for Communications and Information, Michael D. Gallagher, sent a letter to the Chairman of ICANN’s Board of Directors, Dr. Vinton Cerf, asking ICANN’s Board not to act on ICM Registry’s contract until after “all members of the Internet community on this issue have been adequately heard.” (Exhibit 21, attached). Without mentioning DoC’s limited role under the MOU or ICANN’s lengthy evaluation process over a period of 18 months, the letter said DoC had received “nearly 6,000 letters and emails from individuals expressing concern about the impact of pornography” and urged ICANN’s Board to “provide a proper process and adequate additional time for these concerns to be voiced and addressed.” In fact, however, the documents released thus far demonstrate conclusively that DoC had received a vast majority of those letters and emails before the meeting in July, where DoC participants “happily” reported that the GAC communiqué did not mention the .xxx sTLD.

Assistant Secretary Gallagher’s letter also suggested that “other countries have significant reservations” about the .xxx proposal. Contrary to that assertion, however, documents suggest the United States government embarked on a campaign after the fact to persuade other governments to contact ICANN about .xxx. Email from Suzanne Sene to Fiona Alexander, *et al.*, August 10, 2005; Email from Kathy Smith to Fiona Alexander, *et al.*, August 11, 2005 (Exhibit 22, attached). For example, in briefing papers prepared in advance of a meeting with a representative of the Canadian government, NTIA staff suggested that U.S. Officials take advantage of the meeting as an opportunity to “encourage” Canada to send a letter. Memo by Fiona Alexander, August 22, 2005 (Exhibit 23, attached). NTIA staff members were in contact with various members of the GAC in an effort to develop a coordinated response, including Japan, the European Commission, and others. Email from Suzanne Sene to Meredith Attwell, Sept. 16, 2005 (Exhibit 24, attached). These emails demonstrate that NTIA actively orchestrated a GAC reaction to the ICANN Board decision regarding .xxx. For example, one email from August 16,

December 2, 2005  
Page 7



2005, written by GAC Chairman Mohamed Sharil Tarmizi and forwarded by NTIA staff contains the following discussion:

I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not mean just the USG) want to go down the path of "auditing" the contract and make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. *I need to know what the acceptable future course of action might be so that we can do some strategizing.*

Email from Fiona Alexander to Clyde Ensslin, *et al.*, June 16, 2005 (emphasis added) (Exhibit 25, attached).

The DoC actions in this regard clearly raise the question whether the U.S. government intends to exert regulatory control over the domain name system, thus contradicting its official position that the domain name system is a private system not under control of any government. Clarification of this point is necessary to determine whether the DoC was deliberating on some policy on which it exerts decisionmaking authority. As one document released by NTIA noted:

Because ICANN's role is dependent upon its contract with Commerce, the Department maintains the ultimate control of the IANA. This gives the U.S. the ability to implement any decision made by the international community regarding the internet. For example, if the international community decides to develop an .XXX domain [*sic*] for adult material, it will not go on the Top Level Domain (TLD) registry if the U.S. does not wish for that to happen.

United States Control of the Domain Name System, attached to Email from Meredith Attwell to Robin Layton, August 5, 2005 (Exhibit 26, attached). Absent some clarification, it is difficult to evaluate NTIA's assertion that any FOIA exemption applies.

#### Analysis

The redactions and withheld documents contained in NTIA's FOIA Response are inconsistent with the law. As noted, in each case where NTIA withheld all or part of a document, it provided nothing more than handwritten citations to 5 U.S.C. § 552(b)(5), *i.e.*, FOIA Exemption 5, which exempts from disclosure records that are "inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an



December 2, 2005  
Page 8



agency in litigation with the agency.” However, federal administrative agencies bear the burden of justifying any exemptions under the FOIA, *Campbell v. DOJ*, 164 F.3d 20, 31 (D.C. Cir. 1999), and “[c]onclusory and generalized” explanations are “unacceptable as a means of sustaining the burden of nondisclosure.” *National Parks and Conserv. Ass’n v. Klepper*, 547 F.2d 673, 680 (D.C. Cir. 1976). The requirement that agencies provide meaningful explanation for withholding records that are presumed disclosable unless fitting within a specific FOIA exemption is critical, since “Congress enacted FOIA to promote a policy of broad disclosure of Government documents” and to “ensure an informed citizenry, vital to the functioning of a democratic society.” *Center for Public Integrity v. Department of Energy*, 191 F.Supp.2d 187, 189 (D.D.C. 2002). In this regard, the “limited exceptions” in § 552(b) “do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of” the FOIA. *Department of the Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001). The FOIA Response neither satisfies NTIA’s burden of providing a meaningful explanation for its withholdings, nor adheres to FOIA’s spirit of openness and disclosure.

With respect to Exemption 5, the Supreme Court has held that the exemption protects from disclosure “those documents, and only those documents, normally privileged in the civil discovery context.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). This includes records created during agency consideration of proposed action as part of the decision-making process, *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980) (agency record is “deliberative” if it weighs “pros and cons of agency adoption of one viewpoint or another”), or, as NTIA put it, agency records that are “predecisional.” However, to withhold intra- or inter-agency records, they must be both predecisional, *i.e.*, “antecedent to the adoption of agency policy,” and deliberative, *i.e.*, “actually ... related to the process by which policies are formulated.” *Jordan v. DOJ*, 591 F.2d 753, 773 (D.C. Cir. 1978); *Formaldehyde Inst. v. HHS*, 889 F.2d 1118, 1121 (D.C. Cir. 1989). It is not enough that a document simply is prepared as part of agency consideration of some matter – it also must “bear on the formulation or exercise of policy-oriented judgment.” *Ethyl Corp. v. EPA*, 25 F.3d 1241, 1248 (4th Cir. 1994) (quoting *Petroleum Info. Corp. v. Department of Interior*, 976 F.2d 1429, 1435 (D.C. Cir. 1992)).

As a threshold matter, because NTIA has not provided any detailed explanation of how the records it redacted and withheld satisfy Exemption 5, or any insight into the nature of those documents, it is impossible to assess the validity of its claims of exemption. *See National Parks and Conserv. Ass’n, supra* (conclusory and generalized explanations are unacceptable). In this regard, it is incumbent upon an agency making an Exemption 5 claim to specify the agency action to which redacted/withheld predecisional records relate in order to sustain nondisclosure. *Senate of the Commonwealth of Puerto Rico v. DOJ*, 823 F.2d 574, 585 (D.C. Cir. 1987). In so doing, the action must represent the agency’s “final decisions or final actions,” *Vaughn v. Rosen*, 523 F.2d 1136, 1145 (D.C. Cir. 1975), and the documents must relate to the “process of working out ... policy and determining what [the] law shall be,” *Arthur Andersen & Co. v. IRS*, 679 F.2d 254, 257 (D.C. Cir. 1982), or the “formulation” of a “position or policy.” *Schell v. HHS*, 843 F.2d 933, 936 (6th Cir. 1988). In short, the records must relate to the creation of “governmental

December 2, 2005  
Page 9



decisions and policies.” *Playboy Enters., Inc. v. DOJ*, 677 F.2d 931, 935 (D.C. Cir. 1982); *Southam News v. INS*, 674 F.Supp. 881, 886 (D.D.C. 1987)).

Here, not only did NTIA not indicate to what agency action the redacted/withheld records pertain, there are no plausible governmental “decisions” that would suffice for Exemption 5 purposes. The FOIA Request has its origins in the August 11, 2005, letter from DoC Assistant Secretary Gallagher to Dr. Cerf, urging the ICANN Board to allow additional time before taking further action on the .xxx sTLD. For a variety of reasons, this does not qualify as a final agency action sufficient to support an Exemption 5 claim.

First, the letter does not – on its face – appear to represent a governmental position, policy, or statement of law or regulation as contemplated by Exemption 5 precedent such as that cited above. Indeed, DoC has reiterated several times that the letter was merely a request for further “process.” More importantly, by its own terms and as asserted by DoC, the letter from Assistant Secretary Gallagher to Dr. Cerf pertains not to any *Commerce Department* action, but rather action to be taken by ICANN. *Unless NTIA seeks to claim that ICANN is an administrative agency of the federal government and/or is under DoC control to bring it within the bodies to which Exemption 5 applies, the letter cannot represent agency action.* Even if the letter were a manifestation of DoC “action” of some kind, it clearly is not a “final” action or policy, or the formulation of anything tangible. Rather, it is an intermediary step seeking additional time in anticipation of future action by ICANN. The only way the letter might be a predecisional action of any sort is if NTIA’s position rests on DoC intentions to take further action with respect to the .xxx sTLD. But if so, the agency must declare as much now and identify the action to be taken, or at the very least describe the nature of action under deliberation. *Wilderness Society v. Department of the Interior*, 344 F.Supp.2d 1, 12 (D.D.C. 2004). *See also Ethyl Corp., supra.*

Even if the August 11, 2005, letter to ICANN’s Board were agency action sufficient to support NTIA’s claim of Exemption 5 nondisclosure, that explanation would not justify much of the redaction and withholding that occurred here. As the FOIA Response recites, Exemption 5 applies to *predecisional* agency records, and many of the records redacted or withheld here postdate Assistant Secretary Gallagher’s letter to Dr. Cerf. In addition to being well-established that agency records are “predecisional” only if a specific decision to which they relate can be identified, *see, e.g., Senate of Puerto Rico v. DOJ, supra*, it is well-settled that a distinction exists between predecisional records that assist an agency in arriving at decision, which are exempt from disclosure, and post-decisional records, which are not. *Renegotiation Bd. v. Grunman Aircraft Eng’g Corp.*, 421 U.S. 168, 184 (1975); *Bristol-Myers Co. v. FTC*, 598 F.2d 18, 23 (D.C. Cir. 1978). *Cf. Ryan v. DOJ*, 617 F.2d 781, 791 (D.C. Cir. 1980). As even a cursory review of Exhibit 3 reveals, among the records for which NTIA claims an Exemption 5 privilege (among those for which a date can be discerned – in some cases whole documents were redacted, including their dates), many were created *after* August 11, 2005. Again, unless NTIA and/or other DoC components anticipate additional activity with respect to the .xxx sTLD that will comprise final agency action – which activity must be identified, as noted above, to support the Exemption 5 claim – the redaction and withholding of records post-dating August 11, 2005, is unlawful.

December 2, 2005  
Page 10



For example, NTIA redacted information from the August 16, 2005, email chain discussing GAC Chairman Tarmizi's inquiry into "how far" the U.S. government "is going to take this issue." Ex. 25. It also redacted information from email chains dated September 9 and 12, 2005, discussing the subject "pto needs background/talking points re wsis and .xxx." Ex. 3 at 65-71, 107-112, 129, 146, 161-164. And it redacted as somehow "non-responsive" information from a September 16, 2005, email chain discussing "phonecons and email exchanges with the eu commission, japan and canada" [sic] regarding potential letters from those countries to ICANN's Board of Directors. Ex. 24. NTIA also redacted material from an August 22, 2005, briefing outline for an upcoming August 25, 2005, meeting with Mike Binder of Industry Canada. Ex. 23. These are but several of many examples.

There is yet another reason why many of the records that were redacted or withheld are not subject to Exemption 5, regardless of whether they pertain to relevant agency "action" and/or post-date such action. Specifically, it appears that many of the documents that were withheld have been shared with parties outside DoC. As a general matter, the protection of FOIA Exemption 5 is waived if an agency has disclosed the records to third parties or non-federal agencies. *Chilivis v. SEC*, 673 F.2d 1205, 1212 (11th Cir. 1982). While this principle may not apply to disclosures to Congress, other federal agencies, and/or in court proceedings, the records produced in response to the FOIA Request indicate that this exception does not apply here.

For example, the August 16, 2005, email referenced above regarding Chairman Tarmizi's inquiry into "how far" the U.S. government "is going to take this issue" is one of many indicating a significant level of communication between DoC and foreign governments regarding the .xxx sTLD, yet these documents contain redactions of information that likely traveled outside not only the agency, but across U.S. borders. Ex. 25. The September 16, 2005, email cited above about letters from other countries to ICANN's Board, which appears to have had significant material redacted as "non-responsive," discusses "phone cons and email exchanges with" individuals in those countries. Ex. 24. Another example is the email chain suggesting contact with Brazil, Denmark and South Africa to encourage them to "speak up" about .xxx. See Email from Suzanne Sene to Fiona Alexander, *et al.*, August 10, 2005 (Exhibit 27, attached). An August 11, 2005, email similarly discusses prospective "contacts with the GAC and other international contacts" with whom discussion of the information redacted from the documents here removes them from the purview of Exemption 5. Email from Fiona Alexander to Katy Smith, *et al.*, August 11, 2005 (Exhibit 28, attached).

Information also was redacted from the "likely topics" section of the above-cited backgrounder entitled "Meeting with Michael Binder, Industry Canada on WSIS and Internet Governance." Ex. 23. Not only does this reveal DoC coordination with foreign governments on initiation of the .xxx sTLD, which communiqués do not fall within any exception to Exemption 5 waiver, it indicates NTIA withheld information it specifically targeted for sharing with such foreign nationals, who by definition are parties outside the agency. In addition, the documents

December 2, 2005  
Page 11



reveal that NTIA briefing papers prepared for congressional staff members were disseminated to outside activist groups who are leading the campaign against the .xxx proposal. See Ex. 8.

One email that was redacted as “non-responsive” refers to discussions between DoC personnel and Dr. Cerf which, again, unless NTIA claims ICANN as a federal agency, suggests regular communication of the matters redacted with persons outside DoC. Email from Cathy Handley to Meredith Attwell, July 22, 2005 (Exhibit 29, attached). A June 16, 2005, email purports to have “attached ... a document that incorporates ... comments of “Members [of Congress] who have spoken publicly about the .xxx,” yet withholds the attachment (and redacts material in the email). Ex. 9 This begs the question of how an agency record that contains information discussed openly by Members of Congress can be withheld as non-publicly disclosed information for which confidentiality may be sustained under Exemption 5. Similarly, another email chain indicates NTIA personnel coordinated with the non-governmental Internet Caucus Advisory Committee regarding remarks to be made by DoC and State Department personnel, yet information pertaining to these prospective *public* comments was redacted. Email from Fiona Alexander to S. Shipman, August 30 and 31, 2005 (Exhibit 30, attached).

#### Conclusion

ICM Registry appreciates the effort NTIA put into responding to the FOIA Request, compiling the responsive records and processing the documents for disclosure. It is our hope this appeal can be resolved quickly and without the expenditure of substantial additional resources. However, it is imperative that ICM Registry receive all the documents – and parts of them – that it sought in its FOIA Request and to which it is entitled. If there are any questions regarding this matter, or there is any information we can provide to bring it to an expeditious resolution, please do not hesitate to contact me. We will look forward to your response within the twenty working days specified by the FOIA and your agency’s rules.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink that reads "Robert Corn-Revere". The signature is written in a cursive style with a large initial 'R'.

Robert Corn-Revere  
Counsel for ICM Registry

**EXHIBIT 1**



LAWYERS



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October 18, 2005

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Brenda Dolan  
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**Re: Freedom of Information Act Request**

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended ("FOIA"), and your agency's implementing regulations and policies, including but not limited to 15 C.F.R. Part 4, ICM Registry, LLC, by counsel, hereby requests that you provide us with copies of the following documents held by any Bureau or component of your agency, including but not limited to your office and the National Telecommunications & Information Administration:

All records, correspondence, memoranda, transcripts, notes, documents, reports, emails or audiovisual or other materials consisting of or reflecting, representing, recording or otherwise disclosing communications, written or oral, between March 1, 2005 and the present, regarding approval by the Internet Corporation for Assigned Names and Numbers ("ICANN"), and/or by its Board of Directors, of the new ".xxx" sponsored top-level domain ("sTLD"), and/or ICANN's or its Board's approval of ICM Registry's contract to operate the .xxx sTLD. This request does not encompass documents submitted to the agency by the general public as part of any mass mailing campaign(s) or similarly duplicative emails/documents.

All records, correspondence, memoranda, transcripts, notes, documents, reports, emails or audiovisual or other materials consisting of or reflecting, representing,

October 18, 2005

Page 2

recording or otherwise disclosing communications, written or oral, between March 1, 2005 and the present, between any personnel at the Department of Commerce, or any Bureau or other component thereof, and the ICANN Board of Directors and its staff, ICANN's Governmental Advisory Committee ("GAC"), any GAC member country, or any individuals or agency in a GAC member country, regarding the .xxx sTLD.

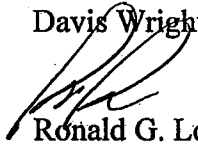
If any information described above is withheld, ICM Registry requests copies of all non-exempt, reasonably segregable portions of such materials, as well as a detailed statement of the statutory basis and reasons for each instance of withholding, including specifically but not limited to the FOIA exemption relied upon for such withholding, and an index or similar statement of the nature of any materials withheld. If any of the requested documents require pre-release processing, we ask that the remaining documents be made available in advance of processing the entire request.

To expedite this request, ICM Registry is willing to discuss any questions you may have concerning this request and any specific instances of deletion or claims of exemption from disclosure in advance of a final determination on these issues. ICM Registry is prepared to pay all proper fees for document searching and duplication up to \$5000.

We look forward to your response within twenty (20) working days from the date you receive this request, as required by 5 U.S.C. § 552(a)(6)(A)(i). Please call the undersigned if you have any questions concerning this request. Thank you for your attention in this matter

Very truly yours,

Davis Wright Tremaine LLP



Ronald G. London  
Counsel for ICM Registry, LLC.



\* \* \* COMMUNICATION RESULT REPORT ( OCT. 18. 2005 4:29PM ) \* \* \*

FAX HEADER 1: DAVIS WRIGHT TREMAINE LLP  
FAX HEADER 2:

TRANSMITTED/STORED FILE MODE	OCT. 18. 2005 4:29PM OPTION	ADDRESS	RESULT	PAGE
2957 MEMORY TX		92198979	OK	3/3

REASON FOR ERROR  
 E-1) HANG UP OR LINE FAIL  
 E-3) NO ANSWER  
 E-2) BUSY  
 E-4) NO FACSIMILE CONNECTION

LAWYERS

**Davis Wright Tremaine LLP**



ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE WASHINGTON, D.C. SHANGHAI

SUITE 450  
 1500 K STREET NW  
 WASHINGTON, D.C. 20005-1262  
 TEL (202) 508-6600  
 FAX (202) 508-6699  
 www.dwt.com

FAX COVER SHEET

PLEASE DELIVER THE FOLLOWING MATERIAL AS SOON AS POSSIBLE.  
PLEASE NOTIFY US IMMEDIATELY AT (202) 508-6600 IF NOT RECEIVED PROPERLY.  
THANK YOU!

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED BELOW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT IF NECESSARY) AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. MAIL.  
THANK YOU!

Date: October 18, 2005	Time (n): 4:09 PM	Total Pages To Be Sent: 3 (including cover page)
------------------------	-------------------	---

FROM: Ronald G. London TELEPHONE: (202) 508-6635 FAX: (202) 508-6689

SEND TO: NAME	COMPANY	FAX NUMBER
Brenda Dolan	U.S. Department of Commerce	(202) 219-8979
Departmental FOI Officer		

COMMENT /SPECIAL INSTRUCTIONS:

**EXHIBIT 2**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Telecommunications and**  
**Information Administration**  
Washington, D.C. 20230

November 18, 2005

Ronald G. London  
Davis Wright Tremaine LLP  
Suite 450  
1500 K Street, N.W.  
Washington, DC 20005

RE: Freedom of Information Act Request (CRRIF 06-068)

Dear Mr. London:

On October 20, 2005, the National Telecommunications and Information Administration (NTIA) received your request under the Freedom of Information Act (FOIA), as amended, 5 U.S.C. § 552. You requested documents from the Department of Commerce, including documents from March 1, 2005 regarding approval by the Internet Corporation for Assigned Names and Numbers (ICANN) and/or its Board of Directors of a .xxx sponsored top level domain or of ICM Registry's contract to operate the .xxx domain. You also requested documents from the Department of Commerce, including documents from March 1, 2005 between Departmental personnel and the ICANN Board, its staff, its Governmental Advisory Committee (GAC), any GAC member country, or individual or agency of a GAC member country regarding the .xxx domain. Your request excluded documents submitted to the Department by the general public as part of any mass mailing campaign or similarly duplicative emails or documents.

Documents responsive to your request are enclosed. NTIA has withheld certain documents in whole or in part under 5 U.S.C. § 552(b)(5) as predecisional or privileged. NTIA also identified certain documents from other agencies which may be responsive to your request and is in the process of coordinating with those agencies to accord them proper treatment under FOIA. We will forward those documents to you upon successful completion of that coordination.

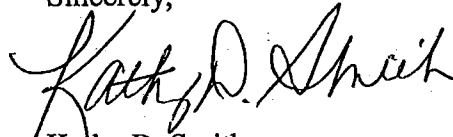
In accordance with the Department of Commerce's FOIA regulations, fees associated with the processing of your request are \$ 4,956.51.00, which includes the cost of the agency's search and review (\$2,481.51.00) and duplication (\$ 2,475.00). Please make your check payable to the U.S. Treasury and forward it to our office at the U.S. Department of Commerce, National Telecommunications and Information Administration, Office of the Chief Counsel, 1401 Constitution Avenue, N.W., Room 4713, Washington, DC 20230. See 15 C.F.R. § 4.9.

This concludes the initial determination by the Department. You have the right to administratively appeal this decision within 30 calendar days of the date of this letter. The appeal must include a copy of your request, this letter, a statement of the reasons why the records

requested should be made available, and why the initial denial was in error. This appeal must be addressed to the Assistant General Counsel for Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 5898-C, Washington, DC 20230. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." 15 C.F.R. § 4.9. Your appeal may also be sent by electronic mail to FOIAAppeals@doc.gov or by facsimile to (202) 482-2552.

If you have any questions regarding the processing of your request, please contact Denise Marshall at (202) 482-1030.

Sincerely,



Kathy D. Smith  
Chief Counsel

Enclosures

**[ATTACHMENTS OMITTED]**

---

**EXHIBIT 3**

**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** <THawkins.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 9/30/05 12:42:35 PM  
**Subject:** revised exec sec

is attached electronically, and will need to be printed out again on letterhead.

robin, i'd like to propose a slight change in the way we handle front office edits, such that tanika can make whatever changes when a letter is returned for the second time. i had saved the version that went forward on letterhead on the shared drive, so it should be fairly easy to make whatever final edits the front office asks for. it would save time as well, as the folder wouldn't have to wait until the original drafter could get to it.

i understand, however, that this hinges on what other work items are pending for tanika. thanks for considering this approach, suz.

**CC:** <RLayton.NTIAHQ.NTIA@ntia.doc.gov>

/        Pages Withheld  
under  
5 U.S.C. § 552(b)(5)



**From:** Ashley Heineman  
**To:** Robin Layton; Suzanne Sene  
**Date:** 8/31/05 4:05:19 PM  
**Subject:** Re: oia briefing paper for japanese visitors sept. 6

It isn't brilliant, but I inserted some background and TPs for ITA's standards dialogue proposal.

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 8/31/2005 3:11 PM >>>  
is attached for your review and comments. ashley, i set up the final talking point on an "if asked" basis and only need some background info on the proposal as well as a talker.

please provide your suggested edits by noon, Friday, sept. 2 so the paper can go forward by cob. i will be out of the office next week until the 8th, and want to get the paper to mike in advance of his deadline. thanks.

**CC:** Cathy Handley; Fiona Alexander

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Tracey Rhoades  
**To:** Attwell, Meredith  
**Date:** 8/2/2005 4:04 PM  
**Subject:** initiatives for promoting child safety online

Hello Meredith,

See attached for ideas Missi's developed in regard to initiatives for promoting child safety online for the .xxx brief. Feel free to pare down the list as appropriate for your purpose. Please let me know if you need further information on any areas.

Thanks,  
Tracey

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Kathy Smith  
**To:** Robin Layton  
**Date:** 8/2/2005 11:54:46 AM  
**Subject:** Re: Draft Letter from Mike to ICANN re .xxx

My rewrite is attached. Can we get this out of here this week, please?

>>> Robin Layton 8/2/2005 10:26 AM >>>

Per a conversation with Meredith this am, I took a stab at a first draft of this letter. It is coming your way in a yellow folder and an ecopy is attached as well.

Best,  
Robin

**CC:** Clyde Ensslin; Jeffrey Joyner; Meredith Attwell; Milton Brown

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under  
5 U.S.C. § 552(b)(5)

**From:** Robin Layton  
**To:** Kathy Smith  
**Date:** 8/2/2005 10:27:07 AM  
**Subject:** Draft Letter from Mike to ICANN re .xxx

Per a conversation with Meredith this am, I took a stab at a first draft of this letter. It is coming your way in a yellow folder and an ecopy is attached as well.

Best,  
Robin

**CC:** Jeffrey Joyner; Meredith Attwell; Milton Brown

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under  
5 U.S.C. § 552(b)(5)



/     Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Kathy Smith  
**To:** Clyde Ensslin  
**Date:** 8/2/2005 11:14:04 AM  
**Subject:** Fwd: Draft Letter from Mike to ICANN re .xxx

>>> Robin Layton 8/2/2005 10:26 AM >>>

Per a conversation with Meredith this am, I took a stab at a first draft of this letter. It is coming your way in a yellow folder and an ecopy is attached as well.

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Robin

/   Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

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**To:** Robin Layton  
**Date:** 8/2/2005 11:54:30 AM  
**Subject:** Re: Draft Letter from Mike to ICANN re .xxx

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Best,  
Robin

**CC:** Clyde Ensslin; Jeffrey Joyner; Meredith Attwell; Milton Brown

/        Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Jeffrey Joyner" <jjoyner@ntia.doc.gov>  
**To:** <KSmith.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 8/1/2005 5:40:38 PM  
**Subject:** Fwd: .xxx discussion paper

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...

**CC:** <RLayton.NTIAHQ.NTIA@ntia.doc.gov>

2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Kathy Smith  
**To:** John Kneuer  
**Date:** 8/2/2005 12:13:57 PM  
**Subject:** Draft Letter Attached



/      Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 8/12/2005 1:44:04 PM  
**Subject:** Background and Q & A: ICANN's consideration of .xxx top level domain

Mike, the information in the attached memo will be the basis for our external communications on this issue. I have also attached a file with your letter.

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton



UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Communications  
and Information  
Washington, D.C. 20230

AUG 11 2005

Dr. Vinton Cerf  
Senior Vice President, Technology Strategy  
MCI  
2201 Loudon County Parkway, F2-4115  
Ashburn, VA 21047

Dear Dr. Cerf:

I understand that the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) is scheduled to consider approval of an agreement with the ICM Registry to operate the .xxx top level domain (TLD) on August 16, 2005. I am writing to urge the Board to ensure that the concerns of all members of the Internet community on this issue have been adequately heard and resolved before the Board takes action on this application.

Since the ICANN Board voted to negotiate a contract with ICM Registry for the .xxx TLD in June 2005, this issue has garnered widespread public attention and concern outside of the ICANN community. The Department of Commerce has received nearly 6,000 letters and emails from individuals expressing concern about the impact of pornography on families and children and opposing the creation of a new top level domain devoted to adult content. We also understand that other countries have significant reservations regarding the creation of a .xxx TLD. I believe that ICANN has also received many of these concerned comments. The volume of correspondence opposed to creation of a .xxx TLD is unprecedented. Given the extent of the negative reaction, I request that the Board will provide a proper process and adequate additional time for these concerns to be voiced and addressed before any additional action takes place on this issue.

It is of paramount importance that the Board ensure the best interests of the Internet community as a whole are fully considered as it evaluates the addition of this new top level domain. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael D. Gallagher".

Michael D. Gallagher

cc: Dr. Paul Twomey

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under  
5 U.S.C. § 552(b)(5)

**From:** Meredith Attwell  
**To:** Jeffrey Joyner; Milton Brown  
**Date:** 7/29/2005 1:59:47 PM  
**Subject:** .xxx discussion paper

a start...

**From:** Robin Layton  
**To:** Kathy Smith  
**Date:** 8/2/2005 10:27:07 AM  
**Subject:** Draft Letter from Mike to ICANN re .xxx

Per a conversation with Meredith this am, I took a stab at a first draft of this letter. It is coming your way in a yellow folder and an ecopy is attached as well.

Best,  
Robin

**CC:** Jeffrey Joyner; Meredith Attwell; Milton Brown

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under  
5 U.S.C. § 552(b)(5)

**From:** Jeffrey Joyner  
**To:** Kathy Smith  
**Date:** 8/1/2005 5:39:25 PM  
**Subject:** Fwd: .xxx discussion paper

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...

**CC:** Robin Layton



2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <jwasilewski@ntia.doc.gov>  
**Date:** 6/17/2005 12:42:38 PM  
**Subject:** Fwd: Draft Talkers and Email Response

Waz-

sorry I forgot to forward to you. sent to Strudwick, Clare, Christine...

>>> Meredith Attwell 6/17/2005 12:38 PM >>>

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

4 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 8/12/05 1:44:04 PM  
**Subject:** Background and Q & A: ICANN's consideration of .xxx top level domain

Mike, the information in the attached memo will be the basis for our external communications on this issue. I have also attached a file with your letter.

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton

2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 8/12/05 2:01:28 PM  
**Subject:** Revised .xxx Q & A

Please use this version instead of the first one I sent. The only revision is that Secretary Evans' name does not appear in this version.

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton

5 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** Fri, Aug 12, 2005 1:44:04 PM  
**Subject:** Background and Q & A: ICANN's consideration of .xxx top level domain

Mike, the information in the attached memo will be the basis for our external communications on this issue. I have also attached a file with your letter.

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton



2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Tracey Rhoades  
**To:** Attwell, Meredith; deSilva, Ranjit; Ensslin, Clyde; Kneuer, John; Stark, Eric; Wasilewski, Jim  
**Date:** 7/19/2005 5:25:08 PM  
**Subject:** Notes from NTIA planning meeting

Hello All,

Attached are the notes from the NTIA planning meeting. For sections where we referred back to the notes from the 12/10/04 meeting, I inserted those notes and put our comments in blue caps. Under "Goals", the task leads are in [brackets]. Regarding the assignment of duties for "What needs to be done to achieve an A" -- I will work with John to assign people to those tasks and send out an updated work plan.

If you have any questions or feedback regarding the meeting, please let me know.

Thanks!  
Tracey

Tracey Rhoades  
NTIA/U.S. Department of Commerce  
202-482-9122 ph  
202-501-0536 fax  
trhoades@ntia.doc.gov

**CC:** Gallagher, Michael

6 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Tracey Rhoades  
**To:** deSilva, Ranjit; Ensslin, Clyde  
**Date:** 9/30/2005 11:16:09 AM  
**Subject:** updated email reponse templates for ICANN ph#

Please delete your previous version and use the attached files. thanks.

2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Jeffrey Joyner" <jjoyner@ntia.doc.gov>  
**To:** <KSmith.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 8/1/05 5:40:38 PM  
**Subject:** Fwd: .xxx discussion paper

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...

**CC:** <RLayton.NTIAHQ.NTIA@ntia.doc.gov>

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Robin Layton  
**To:** Kathy Smith  
**Date:** 8/2/05 10:26:48 AM  
**Subject:** Draft Letter from Mike to ICANN re .xxx

Per a conversation with Meredith this am, I took a stab at a first draft of this letter. It is coming your way in a yellow folder and an ecopy is attached as well.

Best,  
Robin

**CC:** Jeffrey Joyner; Meredith Attwell; Milton Brown



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under  
5 U.S.C. § 552(b)(5)

**From:** Kathy Smith  
**To:** Robin Layton  
**Date:** 8/2/05 11:54:46 AM  
**Subject:** Re: Draft Letter from Mike to ICANN re .xxx

My rewrite is attached. Can we get this out of here this week, please?

>>> Robin Layton 8/2/2005 10:26 AM >>>

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Best,  
Robin

**CC:** Clyde Ensslin; Jeffrey Joyner; Meredith Attwell; Milton Brown

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under  
5 U.S.C. § 552(b)(5)

Robin Layton - my edits

**From:** Robin Layton  
**To:** Suzanne Sene  
**Date:** 8/5/05 5:24:38 PM  
**Subject:** my edits

here's a first stab - see what you think.

/        Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** <AHeineman.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 8/31/05 3:13:50 PM  
**Subject:** oia briefing paper for japanese visitors sept. 6

is attached for your review and comments. ashley, i set up the final talking point on an "if asked" basis and only need some background info on the proposal as well as a talker.

please provide your suggested edits by noon, Friday, sept. 2 so the paper can go forward by cob. i will be out of the office next week until the 8th, and want to get the paper to mike in advance of his deadline. thanks.

**CC:** <CHandley.NTIAHQ.NTIA@ntia.doc.gov>, <FAlexander.NTIAHQ.NTIA@ntia.doc.gov>

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Fiona Alexander  
**To:** Robin Layton  
**Date:** 9/1/05 12:58:31 PM  
**Subject:** Revision of Congressional Internet Caucus Invite

Here's an attempt to revise this Congressional Internet Caucus invite. Please let me know if this looks good and I'll forward to State for comment. The idea is for us to send a DOC-State joint revision.

Fiona

>>> "Tracey Rhoades" <[trhoades@ntia.doc.gov](mailto:trhoades@ntia.doc.gov)> 08/31/05 8:13 AM >>>

Hello -- Internet Caucus lunch w/ Mike and Amb. Gross has been confirmed for 9/12. Please review the attached draft invite and let me know if you recommend any edits. I will forward your comments or approval back to Tim Finton and request further information regarding the format for remarks. I will forward that info to you when I receive it -- Please coordinate w/ Tim Finton on development of Mike's talking points/remarks. thanks!

>>> Tim Lordan <[tim@netcaucus.org](mailto:tim@netcaucus.org)> 8/30/2005 2:46 PM >>>

Tim/Tracey:

I have attached a draft invitation to the briefing by Ambassador Gross and Assistant-Secretary Gallagher schedule for September 12. This is just a draft and we welcome your comments, edits and suggestions. We have reserved Rayburn B339 at noon on September 12. We had hoped for a Capitol Building room but they seem to be all booked on that day. If nothing develops on that front we'll go with B339 over lunch.

So, please take a look at the attached draft invite (I have pasted it below for those of you on Blackberry).

- Tim Lordan

--

Tim Lordan  
Executive Director  
Internet Caucus Advisory Committee  
c/o Internet Education Foundation  
202-638-4370  
[tim@netcaucus.org](mailto:tim@netcaucus.org)  
<http://www.netcaucus.org>

Draft Invite, August 30, 2005

You are cordially invited to attend a briefing by ...

Ambassador David Gross and Assistant Secretary Michael Gallagher on ...

Negotiating Control Of the Internet With the U.N.: Keeping Security,  
Stability and .XXX In Focus.

Monday, September 12, 2005, Noon  
Rayburn HOB, Room B339

U.N. Secretary-General Kofi Annan's Working Group on Internet Governance (WGIG) has recommended four new models for governing the Internet - any of which strip the U.S. government of its historic role in controlling fundamental Internet operations. The recent request by U.S. Assistant



Secretary Michael Gallagher to hold off on activating the pornographic .XXX domain has illuminated the important intersection between technical management and policy. In a meeting planned for September 19 in Geneva, U.S. Ambassador Gross will implore the WGIG to allow the U.S. to "maintain its historic role in authorizing changes or modifications to the authoritative root zone file." Absent any changes, the U.N.'s World Summit on the Information Society (WSIS) will approve one of the four models at its meeting in Tunis in November.

Ambassador Gross and Assistant Secretary Gallagher have agreed to brief congressional staff on this timely and important issue as they prepare for their negotiations. The ambassador will lead the delegation to the Geneva meeting and to the culminating Summit in Tunis. Mr. Gallagher is the Assistant Secretary of Commerce for Communications and Information and through the Secretary of Commerce he is the President's principal adviser on telecommunications policy.

Please join the ambassador and the assistant secretary for this briefing on control of the Internet on Monday, September 12, at noon. A boxed lunch will be served.

Location: Rayburn House Office Building, Room B339

RSVPs: Required, please send e-mail to [rsvp@netcaucus.org](mailto:rsvp@netcaucus.org) or via phone at 202.638.4370 to attend the event.

This event is hosted in conjunction with the Internet Caucus and its Co-chairs - Senators Burns and Leahy, and Congressmen Goodlatte and Boucher.

Boxed lunch will be served. For more information, please visit [www.netcaucus.org](http://www.netcaucus.org).

CC: James Wasilewski; Meredith Attwell; Tracey Rhoades

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**under**  
**5 U.S.C. § 552(b)(5)**

**From:** Maureen Lewis  
**To:** Clyde Ensslin; Tracey Rhoades  
**Date:** 7/21/2005 3:42:17 PM  
**Subject:** .xxx response

You'll find attached the proposed draft response to the .xxx complaints. This draft is awaiting final clearance.

1   Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Sheree Cheung  
**To:** Maureen Lewis  
**Date:** 7/21/2005 3:36:22 PM  
**Subject:** .xxx letter (Wanda Adair)

/        Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Jeffrey Joyner" <jjoyner@ntia.doc.gov>  
**To:** <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 6/15/2005 3:15:05 PM  
**Subject:** Fwd: Talking points/Process Description for Pickering meeting

Clyde,

The attached document contains talking points for Meredith's meeting tomorrow. I understand that OIA is preparing additional materials to supplement these points.

Jeff

>>> Jeffrey Joyner 6/15/2005 2:47 PM >>>  
Per Kathy's instructions ...

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under  
5 U.S.C. § 552(b)(5)



**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 8/12/2005 1:43:44 PM  
**Subject:** Background and Q & A: ICANN's consideration of .xxx top level domain

Mike, the information in the attached memo will be the basis for our external communications on this issue. I have also attached a file with your letter.

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton

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5 U.S.C. § 552(b)(5)

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <astrudwick@doc.gov>, <cbuchan@doc.gov>, <cfuqua@doc.gov>, <cgunderson@doc.gov>, <CIsrael@DOC.GOV>, <JBailey@doc.gov>, <censslin@ntia.doc.gov>, "Michael Gallagher" <MGallagher@ntia.doc.gov>  
**Date:** 6/17/2005 12:39:54 PM  
**Subject:** Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

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under  
5 U.S.C. § 552(b)(5)

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>, <jwasilewski@ntia.doc.gov>  
**Date:** 6/17/2005 11:41:54 AM  
**Subject:** you guys want to take a look

before I hand to Mike

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5 U.S.C. § 552(b)(5)

From: Robin Layton  
To: amy.cotton@uspto.gov; Cathy Handley; Fiona Alexander; Suzanne Sene  
Date: 9/12/2005 10:18:38 AM  
Subject: Fwd: RE: pto needs background/talking points re wsis and .xxx

Here is the press clip, US Contribution to WSIS on the WGIG report, the Internet DNS principles and the Final Q&A's prepared for in-house use (ie for your background). I also attached the .xxx Q&A. Let me know if you need anything else! Best, Robin

>>> Fiona Alexander 9/12/2005 10:03 AM >>>  
Robin

I'm happy to provide Amy something if/when I have time later today but perhaps to be on the safe side, in addition to a copy of the US contribution to WSIS on the WGIG report and a copy of the principles you could also forward her the press clip that Clyde sent over on Friday from Tech Daily which was a summary of the US WSIS Prep open meeting. I've cut and paste it below for ease but it answers the question on a new forum as well as restating our position on ICANN.

Copyright 2005 National Journal Group, Inc.  
National Journal's Technology Daily  
PM Edition  
September 8, 2005 Thursday

HEADLINE: NET GOVERNANCE: United States Will Stand Firm On Icann's; Authority

BYLINE: Danielle Belopotosky

The United States will maintain its stance on keeping intact the international body that oversees the Internet-addressing system when governmental delegations meet in Geneva later this month, government officials said Thursday.

"The U.S. position is that no new organization should be created" as a result of the summit, said Dick Baird of the State Department, who chaired an International Telecommunication Advisory Committee (ITAC) meeting as the U.S. delegation readies for a Sept. 19-30 global meeting. The committee advises State on international treaties and organizational meetings.

"We will begin with and end with" the position that the Internet Corporation for Assigned Names and Numbers (ICANN) should not be replaced or governed by the United Nations or any other body, Baird added.

The Working Group on Internet Governance (WGIG) issued a report in August that called for dismantling or modifying ICANN. The report serves as the groundwork for an action plan on Internet governance that will be delivered at the U.N. World Summit on the Information Society (WSIS) November meeting in Tunis, Tunisia.

The United States is reworking operational documents for the summit. In reference to the sustainability of WSIS, the United States is recommending that action plans be implemented nationally, regionally and internationally rather than through the United Nations.

"Organizations should stay within their respective mandates" at the regional and international levels, Baird said, because governments have entered into treaties, charters and agreements that interweave those mandates.

The United States also called for the evaluation and policy formulation to remain the "prerogative of governments" rather than moving those mechanisms to the United Nations. While Internet governance is expected to dominate the agenda at the September meeting, other forums could be created on "open source" software, cyber security, unsolicited commercial e-mail, freedom of expression and data protection. Promoting the continued development of the Internet and current financing mechanisms also are expected to be reviewed.

But Marilyn Cade, who chairs the global policy committee of the Information Technology Association of America, warned against the creation of new forums at this time. The chief concern should be completing the work at hand, she said.

>>> "Suzanne Sene" <[ssene@ntia.doc.gov](mailto:ssene@ntia.doc.gov)> 09/12/05 9:54 AM >>>

i would think the statement of usg principles, plus a sentence or two from fiona re the usg perspective on some kind of international dialogue or discussion forum (which is of course preliminary) would do it for amy on wgif/wsis.

re .xxx, do we want to amend/shorten the q's and a's that were produced for the front office?

>>> "Cotton, Amy" <[Amy.Cotton@USPTO.GOV](mailto:Amy.Cotton@USPTO.GOV)> 9/12/2005 9:25 AM >>>

Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

I really don't need much at all, and it is not on the program specifically. Mike Heltzer asked me to speak a little (I only have 10 minutes total to talk about international IP issues in general) on "Internet Governance" - the issue he raised with me was something to the effect that a USG official made some statement somewhere suggesting that the USG would not hand over control of the Internet/Governance/A Root? He wasn't very specific. I think he is looking for me to say what the USG plans to do about ICANN's MOU and about WSIS, perhaps?

5 USC § 552 (b) 5

-----Original Message-----  
From: Layton, Robin



Sent: Friday, September 09, 2005 6:06 PM

To: Alexander, Fiona; Suzanne Sene; Cotton, Amy

Cc: Handley, Cathy

Subject: Re: pto needs background/talking points re wsis and .xxx

Amy,

Suzanne just told us about your call.

Re .xxx - Suzanne can send you a briefing sheet we have.

Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.

Have a great weekend.

Best,

Robin

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under  
5 U.S.C. § 552(b)(5)

**From:** Fiona Alexander  
**To:** Cathy Handley; Robin Layton; Suzanne Sene  
**Date:** Mon, Sep 12, 2005 10:03:13 AM  
**Subject:** Fwd: RE: pto needs background/talking points re wsis and .xxx

Robin

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>>> "Suzanne Sene" <ssene@ntia.doc.gov> 09/12/05 9:54 AM >>>

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5 USC §552 (b) 5

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Sent: Friday, September 09, 2005 6:06 PM

To: Alexander, Fiona; Suzanne Sene; Cotton, Amy

Cc: Handley, Cathy

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Have a great weekend.

Best,

Robin

**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** <mattwell@ntia.doc.gov>, <rayton@ntia.doc.gov>  
**Date:** 7/13/05 6:13:10 AM  
**Subject:** gac communique

i don't know if my email yesterday a.m. got through, as my online access shut down suddenly. my voice mail to robin has been happily overtaken by events -- there is no mention of the u.s. statement or .xxx in the final gac communique. lots of side bar conversations, of course, re the statement but nothing overly hostile; primarily questions as to why the statement didn't refer to the mou, etc. the most difficult piece for us in the communique related to the whois workshop, because the europeans and canada wanted to emphasize privacy to counter the u.s./australia emphasis on law enforcement.....despite the fact that the latter was the focus of the gac workshop (!).

the uk's attempts to criticize the ccns0/praise centr and advance paul kane's iana proposal failed to win over enough gac members, so no worries there for the time being.

5 USC § 552 (b)5

finally, wilkinson announced his impending retirement at the end of september; niebel cannot tell us anything about the commission's intentions re the secretariat. he expressed a preference for icann support but many eu member states oppose that, so it's not likely. i will follow up with him once he returns to brussels.

let me know if you have any questions. cheers, suz

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

**CC:** <chandley@ntia.doc.gov>, <falexander@ntia.doc.gov>

**From:** Fiona Alexander  
**To:** Robin Layton  
**Date:** 8/1/05 2:49:28 PM  
**Subject:** Notes from 8/1 Senior Staff Meeting

N/R

N/R

Clyde - thanked Tracey and OCC for help in getting response e-mails out to the 4000 or so e-mail received by the Secretary (I think this was on .xxx but it wasn't specifically mentioned). Our new website is expected to go live on August 15.

N/R

**From:** Meredith Attwell  
**To:** Suzanne Sene  
**Date:** 8/3/05 11:34:55 AM  
**Subject:** Re: Fwd: sTLD Update - Luxembourg.ppt

this still does not state what the criteria are that the 3 panels - technical; business/ financial and sponsorship/ community evaluate the proposals under. Are there criteria? Is it true that this is the very first controversial that has been submitted? Have we DoC ever submitted a comment on a pending application? Contrary to your information, John Jeffrey has informed me on numerous occasions this is set for an Aug. 16th vote. thanks

>>> Suzanne Sene 8/3/2005 10:10 AM >>>

5 USC § 552(b)5

using the .travel and .jobs applications as models, the board first approved the evaluations and requested icann to enter into negotiations. once icann presented the board with the contracts, the board then approved them. in these two cases, the contracts were posted for public comment (in advance of the argentina meeting) prior to the board's final approval. i would imagine the same process would be used in the case of .xxx. kurt told me the negotiations were just getting underway, and since icann now has some contracts as models, the negotiations could proceed fairly quickly. the contract will then go to the board, will presumably also be posted for public comment in advance, and will then be voted on. there does not appear to be a fixed timeframe for either the negotiations or final board approval.

i hope this information is helpful, and please let me know if you have any other questions or would like additional information. suz

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

**CC:** Robin Layton



From: Tracey Rhoades  
To: Sene, Suzanne  
Date: 8/11/2005 4:37 PM  
Subject: Re: .xxx letter to ICANN  
CC: Attwell, Meredith; Layton, Robin

5 U.S.C. § 552(b)(5)

>>> Suzanne Sene 8/11/2005 3:20 PM >>>

5 U.S.C. § 552(b)(5)

>>> Meredith Attwell 8/10/2005 4:12 PM >>>

5 U.S.C. § 552(b)(5)

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

Thanks!!!

5 U.S.C. § 552(b)(5)

**From:** Meredith Attwell  
**To:** Tracey Rhoades  
**Date:** 8/10/2005 4:12:53 PM  
**Subject:** .xxx letter to ICANN

5 U.S.C. § 552(b)(5)

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

5 U.S.C. § 552(b)(5)

**CC:** Robin Layton; Suzanne Sene

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5 U.S.C. § 552(b)(5)

**From:** Cathy Handley  
**To:** Meredith Attwell  
**Date:** 6/16/2005 4:39 PM  
**Subject:** Re: Fwd: .XXX

thanks, I will be out next week, but if you need anything else just call my cell phone (202-415-4920)  
C

>>> Meredith Attwell 6/16/2005 4:05:41 PM >>>  
just an fyi

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

5 U.S.C. § 552 (b)(5)

**Background:**

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

**Key .XXX Dates:**

12/15/03: ICANN Releases Request for Proposals for Sponsored Top Level Domain Names

3/19/04: New Application for .XXX

3/31/04: Public Comment Forum for Proposed Sponsored Top-Level Domains

6/1/05: Board passed Resolution authorizing ICANN to enter into negotiations with .XXX Applicant

Although there is no remaining public comment process formally contemplated, the ICANN Board will still consider any additional comments or letters received regarding this before approval of the final contract.

If the pornography industry is willing to adopt industry lead standards and encourage their colleagues to authenticate adults only on to their website, many applaud their efforts. Further, a previous Supreme Court case in 2003 regarding the Children's Internet Protection Act of 2000 (CIPA) makes it very unlikely that any ban of pornography could be sustained. Practically speaking, the Internet is a global medium with international laws and differing cultures. Since what is illegal in the United States may be legal in Germany or Turkey, ICANN must consider what works in one country may not work in another.

**Support for .XXX**

The ICM Registry application for .XXX has strong support from the child advocacy community because they feel that that ICM's approach to the .xxx puts into place best practices that would not be achievable in the dot com space. Wired Safety and Wired Kids ([www.wiredsafety.org](http://www.wiredsafety.org)) supported the application as did the Internet Content and Rating Association (ICRA). In addition there is strong support out of the UK child advocacy community (John Carr) - Children's Charities Coalition for Internet Safety. Charles Jennings, a founder of Trustee, voiced his support for this approach.

I'm also attaching the News.com article referencing the Upton and Lieberman support for a .xxx when it

was rejected in November of 2000.

Attached: Fact sheet (Source: ICM Registry); News.com article 6/15/05

From: Meredith Attwell  
To: jbailey@doc.gov  
Date: 6/16/2005 4:07 PM  
Subject: Fwd: Michael Reagan supports .xxx

>>> Meredith Attwell 6/16/2005 1:12 PM >>>  
Christine-

5 U.S.C. § 552 (b)(5)

Michael Reagan has noted his support (but also looking for .xxx to be mandatory). If you haven't seen this article already, take a look:

[http://worldnetdaily.com/news/article.asp?ARTICLE\\_ID=44805](http://worldnetdaily.com/news/article.asp?ARTICLE_ID=44805)

After meeting with Chip Pickering, I would assess Chip would be a lead sponsor for his bill. Chip was not against .xxx (although his staff was), but wanted to force the entire industry to .xxx. A bill like that faces definitional and jurisdictional problems... but those aren't ours.

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."

Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress, when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their

own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

**From:** Meredith Attwell  
**To:** cgunderson@doc.gov  
**Date:** 6/15/2005 9:47:33 PM  
**Subject:** .XXX

5 USC 552(b)(5)



**CC:** censslin@ntia.doc.gov; John Kneuer; Michael Gallagher



## FACT SHEET

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### **VOLUNTARY ADULT .XXX TOP-LEVEL DOMAIN (TLD)**

The Board of the Internet Corporation for Assigned Names and Numbers (ICANN) has determined that ICM Registry's application meets the eligibility criteria established by ICANN and directed its staff to enter into negotiations with ICM Registry to develop the commercial and technical terms under which the .xxx sponsored top-level domain (sTLD) would launch. The ICANN Board's action is another step forward in expanding the top level domain space responsibly, inspiring global innovation and competition online, and facilitating the kind of bottom-up decision-making that has characterized the growth of the Internet. The sponsor of the proposed TLD is the International Foundation for Online Responsibility (IFFOR), an independent Canadian non-profit entity. IFFOR will be governed by a board of directors that reflects the various stakeholder groups, and will remain independent of ICM Registry.

The .xxx sponsored top-level domain will create a clearly identifiable area of the Internet that will empower families and help protect children and others from unwanted or inappropriate content. The existence of the sponsored TLD would facilitate meaningful, voluntary self-organization and self-regulation by responsible adult-entertainment website operators.

### **WHY IS A VOLUNTARY .XXX TLD NEEDED?**

- The online adult-entertainment industry is one of the largest and fastest growing sectors of the Internet.
- The Internet and the various stakeholders will benefit greatly from responsible self-regulation.
- According to Reuters, online adult-oriented ecommerce is worth more than \$3 billion USD globally and is growing at a double-digit rate. The number of adult websites has grown 18-fold over the last six years alone.
- More than 10% of all online traffic and 25% of all global Internet searching is adult-content oriented with more than 100,000 adult webmasters worldwide and well over one million adult domains.
- Responsible members of the adult entertainment industry have identified a need to work together to:
  - o Develop mechanisms to reach only those online users who want to use their products or services;
  - o Respond to the growing demand from child and family safety groups to ensure the Internet is safer; and
  - o Respond to the privacy, security, and consumer protection concerns of their audience.

### **WHAT ARE THE BENEFITS OF A .XXX TLD?**

- Online child safety and efforts to combat child pornography and other abuses will be promoted through best practice guidelines that will be promulgated by a non-profit, cross-stakeholder foundation. IFFOR will provide financial and other

- assistance to various online support organizations and will develop technology tools and sponsored education programs for parents and families.
- The online adult-entertainment industry wants to create an identifiable space with which its members can elect to associate themselves and wherein they can responsibly self-organize and create guidelines to promote credible self-regulation.
  - The voluntary .xxx TLD will facilitate and protect free expression rights – both for content providers and Internet users.
  - Privacy, security, and responsible retail practices will be promoted to protect online consumers.
  - The .xxx TLD has the potential to regularize business processes such as search-engine functionality, privacy, identity theft prevention measures, and security.
  - The .xxx TLD creates a credible forum for representation and self-regulation where all stakeholders are able to discuss and actively respond to concerns about adult entertainment sites on the Internet.

#### WHERE IS THE SUPPORT FOR A .XXX TLD?

The .xxx TLD is a voluntary, industry-led, market-driven and non-regulatory effort. It has drawn support from a broad spectrum of Internet stakeholders, including:

- Child and family safety groups;
- Leaders/members of the global adult-entertainment industry who have agreed to voluntarily participate;
- Free speech, privacy and security advocates;
- Information Technology (IT) experts; and
- Public policy leaders.

#### WHO WILL OPERATE AND SPONSOR THE .XXX TLD?

- ICM Registry will operate the registry. ICM is a financially stable technology company, independent of IFFOR and unaffiliated – either currently or in the past – with the adult-entertainment industry. ICM will provide the registry's management, supporting infrastructure, and back-end functionality.
- The International Foundation for Online Responsibility (IFFOR), a Canadian not-for-profit organization, will sponsor and serve as the policy-making authority for the .xxx TLD. IFFOR will contract with ICM for registry services, and will be funded, primarily, through registration activities.
- IFFOR will have its own board of directors, representing the various stakeholders, including child-safety representatives, members of the free-speech community and adult-entertainment industry leaders.
- IFFOR's mission is to participate in and support the development of programs and tools to fight child pornography, and to serve as a forum for the online adult-entertainment community to communicate with and pro-actively respond to the needs and concerns of the broader Internet community.
- IFFOR's Mission will include:
  - Supporting free expression and other efforts to protect the right of Internet users to choose the online content they desire;
  - Promoting public awareness of technologies, programs, organizations and methods available to protect children online;
  - Supporting the development and proliferation of voluntary, user-friendly systems that enable Internet users to identify content;

- o Sponsoring child safety and anti-child pornography organizations and programs;
- o Protecting consumers by raising awareness of deceptive or unfair business practices, and creating a safer environment for consumers within the domain;
- o Increasing credibility and predictability; and
- o Supporting efforts to protect intellectual property rights.

#### **WHAT WILL BE THE OBLIGATIONS OF .XXX TLD REGISTRANTS?**

Participating adult Internet content and service providers believe that responsible self-regulation is essential to the industry's continuing viability in the global marketplace. Those that voluntarily register for .xxx TLD names will adhere to a set of business practices, embodied in an enforceable contract between the Registrant and ICM Registry. The credibility of such practices cannot be preserved by the one time creation of a set of responsible business practices. Neither will a participant be able to revise its practices after an initial review. IFFOR will revise, review and continually update its established practices to accommodate developments in technologies and societal expectations.

.xxx TLD name registrants will be expected to adhere to a set of best business practices that will include:

- Safeguarding children from being marketed to or targeted online by adult webmasters;
- Defending customer privacy;
- Deploying accurate meta-tagging;
- Ensuring the clear and accurate disclosure of relevant practices, security of information and transactions, and accountability through the provision of accurate contact information;
- Protecting intellectual property rights;
- Combating the use of unlawful malicious codes and technologies, including spoofing and phishing;
- Not engaging in fraudulent, anonymous, unsolicited or illegal commercial email advertising their products and services; and
- Avoiding the use of misleading domain names or domain names intended to attract child pornography consumers.

In addition, ICM and IFFOR will make a difference in the battle against child pornography by sponsoring programs to safeguard children.

#### **CONTACT INFO**

Stuart Lawley, Chairman & President -- [silawley@icmregistry.com](mailto:silawley@icmregistry.com)

or

Marc Pearl or Kelli Emerick -- IT Policy Solutions | Washington, DC  
[mpearl@itpolicysolutions.com](mailto:mpearl@itpolicysolutions.com) or [kemerick@itpolicysolutions.com](mailto:kemerick@itpolicysolutions.com)

Telephone: 202 464 4000



<http://www.news.com/>

## Porn-friendly '.xxx' domains approved

By Declan McCullagh

[http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030\\_3-5728713.html](http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030_3-5728713.html)

Story last modified Wed Jun 01 20:10:00 PDT 2005

**Pornographers and their customers soon will have a virtual red light district reserved just for them.**

The nonprofit organization responsible for Internet addresses on Wednesday approved ".xxx" domains, a move that reverses the group's earlier position and heads off a potential political spat with conservative U.S. politicians.

The Internet Corporation for Assigned Names and Numbers (**ICANN**) said it's working with the **ICM Registry** to finalize remaining details, meaning the porn-friendly set of .xxx domains should be available by the end of the year. Other top-level domains still awaiting a decision from ICANN are .asia, .mail and .tel.

Stuart Lawley, chairman of the ICM Registry, could not be immediately reached for comment. In an **interview** last year, Lawley said that .xxx domain names would cost around \$75 and come with no restrictions except that any sexually explicit content feature only adults. "Apart from child pornography, which is completely illegal, we're really not in the content-monitoring business," Lawley said.

The ICM Registry plans to handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation For Online Responsibility will be in charge of setting the rules for .xxx. It's intended to have a seven-person board of directors, including a child advocacy advocate, a free-expression aficionado and someone from the adult entertainment industry.

ICANN's vote represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff **objected** to the .xxx domain and rejected ICM Registry's first application.

Politicians quickly lambasted the 2000 decision. At a hearing a few months later, Rep. Fred Upton, R-Mich., **demand**ed to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., complained to a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater." (Click [here](#)

for a PDF of Lieberman's testimony.)

Even though the ICM Registry's approach is designed to be free-speech-friendly, the American Civil Liberties Union has expressed concern about .xxx domains. One worry is that some nations may force sites dealing with sensitive topics like homosexuality or birth control into the .xxx zone, where they can be easily blocked.

From: Suzanne Sene  
To: John Kneuer  
Date: 8/16/2005 2:46:44 PM  
Subject: Re: BBC Article on .xxx delay

5 USC 552(b)(5)

>>> John Kneuer 8/16/2005 2:42 PM >>>

5 USC 552(b)(5)

>>> Suzanne Sene 08/16/05 9:40 AM >>>

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5 USC 552(b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>

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By Declan McCullagh

[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
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Published: 2005/08/16 10:29:24 GMT

**From:** Suzanne Sene  
**To:** "CEnsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
"RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; Fiona Alexander; James Wasilewski;  
John Kneuer; Kathy Smith; Meredith Attwell; Michael Gallagher ; Robin Layton  
**Date:** 8/16/2005 9:40:45 AM  
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Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades



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Government Representatives  
ICANN Info  
ISPs  
Individual Users  
Intellectual Property Interests  
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Correspondence from GAC Chairman to ICANN Board regarding .XXX TLD

12 August 2005

From: Mohd Sharil Tarmizi

To: ICANN Board of Directors  
Cc: Government Advisory Committee  
Subject: Concerns about contract for approval of new top level domain  
Date: Friday, August 12, 2005

Dear Colleagues,

As you know, the Board is scheduled to consider approval of a contract for a new top level domain intended to be used for adult content. I am omitting the specific TLD here because experience shows that some email systems filter out anything containing the three letters associated with the TLD.

You may recall that during the session between the GAC and the Board in Luxembourg that some countries had expressed strong positions to the Board on this issue. In other GAC sessions, a number of other governments also expressed some concern with the potential introduction of this TLD. The views are diverse and wide ranging. Although not necessarily well articulated in Luxembourg; as Chairman, I believe there remains a strong sense of discomfort in the GAC about the TLD, notwithstanding the explanations to date.

I have been approached by some of these governments and I have advised them that apart from the advice given in relation to the creation of new gTLDs in the Luxembourg Communique that implicitly refers to the proposed TLD, sovereign governments are also free to write directly to ICANN about their specific concerns.

In this regard, I would like to bring to the Board's attention the possibility that several governments will choose to take this course of action. I would like to request that in any further debate that we may have with regard to this TLD that we keep this background in mind.

Based on the foregoing, I believe the Board should allow time for additional governmental and public policy concerns to be expressed before reaching a final decision on this TLD.

Thanks and best regards,

Mohamed Sharil Tarmizi  
Chairman, GAC  
ICANN

This file last modified 12-Aug-2005 © 2005 Internet Corporation For Assigned Names and Numbers



**From:** Fiona Alexander  
**To:** "CEnsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
"RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Michael Gallagher; Robin Layton; Suzanne Sene  
**Date:** Tue, Aug 16, 2005 12:35:30 PM  
**Subject:** Re: BBC Article on .xxx delay

Suzanne

5 USC 552(b)(5)

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Last week, a letter from Mohamed Sharil Tarmizi, chairman of Ican's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Ican "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/1/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <jwasilewski@ntia.doc.gov>  
Date: 6/14/2005 3:02:47 PM  
Subject: Re: Fwd: Call from Family Research Council

>>> Jeffrey Joyner 6/14/2005 2:34 PM >>>

← U.S.C. § 552 (b)(3)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

Guys- We also got a call from upstairs and Chip Pickering's office on this which says the Hill is looking at their options and wants a meeting in the next 2 days. Can we please get some talking points on why this is a good thing and why we support it.  
Thanks.

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

The fifth floor Office of Public Affairs transferred a call to me from Patrick Trueman, senior legal counsel for the Family Research Council. He had read that the DoC must approve .xxx and said he wanted to be able to comment. I explained that our role is to "authorize any addition, deletion or change to the authoritative root zone file" [precise language from Kathy Smith] and he said that's what he meant and he would just like to know the best way to comment. Mr Trueman told me he had worked in the Dept of Justice in Reagan and Bush administrations. I can refer this call to someone in the front office or to OCC but I wanted to let you know this call had come in.  
Clyde Ensslin x0019

From www.frc.org:

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <jwasilewski@ntia.doc.gov>  
Date: 6/15/2005 4:25:23 PM  
Subject: Fwd: Background information for .XXX and sTLD Round

>>> "John Jeffrey" <jeffrey@icann.org> 6/15/2005 3:33 PM >>>  
Meredith and Suzanne,

In follow up to my conversation early We received the application for .XXX in March 2004 as part of the process for a round of Sponsored top level domains that commenced in 2003. I have attached a number of links below regarding the announcement of the proposal for the sTLD round process (which commenced during the ICANN Meeting in Tunis in 2003), the sTLD RFP, the applications that were submitted, and the board's recent decisions regarding this. I will be happy to discuss this with you if you have any questions.

This year, we have signed deals with .JOBS and .TRAVEL.  
<http://www.icann.org/announcements/announcement-08apr05.htm>

Additionally, we have finalized an agreement with .MOBI, which was created from a mobile top level Domain initiative by 3, Ericsson, GSM Association, HP, Microsoft Corp., Nokia, Orange, Samsung Electronics Co, Ltd., Sun Microsystems, TIM, T-Mobile International and Vodafone. The board will consider approval of that agreement in a few weeks.  
<http://www.icann.org/announcements/announcement-03jun05.htm>

We are in negotiations currently or have been approved to negotiate with the applicants for .POST, .CAT, and most recently .XXX.

Here is the relevant statements regarding the sTLD Round from the Tunis Meeting:  
ICANN Launches Broad Strategic Initiative for New Generic Top-Level Domains, 31 October 2003 [Excerpted]

Carthage, Tunisia - ICANN announced it will launch a broad strategic initiative to enable new generic top level domains (gTLDs). The strategic initiative will include a two-stage approach to move to the full globalization of the market for top-level domains. ICANN concluded its week long meeting today which was held in Tunisia, with ICANN's Board making this historic announcement.

ICANN's CEO and President, Dr. Paul Twomey has committed ICANN's resources to this critical issue facing the world Internet community. "ICANN has now moved forward with a program to introduce further competition and choice in the top-level domain markets." Today's Board announcement came after a long process of consultation among ICANN and the Internet community, in cooperation with the business communities, technical communities, intellectual property communities and governments.

ICANN simultaneously announced an expedited process for a round of new sponsored generic top level domains (sTLDs), which will result in new sTLD's in 2004. sTLD serve specific communities. Examples of current sTLDs (include .museum, .coop, and .aero) "ICANN is working hard to listen and be responsive to the Internet community's needs and they have asked for us to

address the issues regarding new sTLDs" stated Dr. Twomey, who introduced the resolutions to the Board.

Twomey further indicated that "We will engage in this directive in order to develop a streamlined process for the introduction of gTLDs. We will be using the early sTLD round to help us engage the community in the process and to further evaluate the best manner to achieve the appropriate balance between corporate/sponsor control of TLD's and ICANN's role of 'management on behalf of the Internet community'."

Here are some other links to the process for the sTLD round:

ICANN Releases Request for Proposals for Sponsored Top Level Domain Names,  
15 December 2003

<http://www.icann.org/announcements/announcement-15dec03.htm>

New sTLD Request for Proposals

<http://www.icann.org/tlds/new-stld-rfp/new-stld-application-part-15dec03.htm>

Criteria for Independent Evaluators for sTLD RFP Process --

<http://www.icann.org/tlds/new-stld-rfp/panel.htm>

New sTLD Application for .XXX, 19 March 2004

<http://www.icann.org/tlds/stld-apps-19mar04/xxx.htm>

Public Comment Forum for Proposed Sponsored Top-Level Domains, 31 March 2004

<http://www.icann.org/tlds/stld-apps-19mar04/stld-public-comments.htm>

Board passed Resolution authorizing ICANN to enter into negotiations with  
.XXX Applicant

<http://www.icann.org/minutes/resolutions-01jun05.htm>

Although there is no remaining public comment process formally contemplated, the board will still consider any additional comments or letters received regarding this before approval.

If you would like additional details or other information, please let me know.

John O. Jeffrey  
General Counsel  
ICANN  
Jeffrey@ICANN.org  
+1.310.301.5834 direct  
+1.310.404.6001 mobile

Internet Corporation for Assigned Names and Numbers (ICANN)  
4676 Admiralty Way  
Marina Del Rey, CA 90292-6601  
www.ICANN.org  
+1.310.823.9358 main

+1.310.823.8649 fax



From: "Suzanne Sene" <ssene@ntia.doc.gov>  
To: <CHandley.NTIAHQ.NTIA@ntia.doc.gov>, <FAlexander.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>  
Date: 9/12/05 9:56:22 AM  
Subject: Fwd: RE: pto needs background/talking points re wsis and .xxx

i would think the statement of usg principles, plus a sentence or two from fiona re the usg perspective on some kind of international dialogue or discussion forum (which is of course preliminary) would do it for amy on wgig/wsis.

re .xxx, do we want to amend/shorten the q's and a's that were produced for the front office?

>>> "Cotton, Amy" <Amy.Cotton@USPTO.GOV> 9/12/2005 9:25 AM >>>  
Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

I really don't need much at all, and it is not on the program specifically. Mike Heltzer asked me to speak a little (I only have 10 minutes total to talk about international IP issues in general) on "Internet Governance" - the issue he raised with me was something to the effect that a USG official made some statement somewhere suggesting that the USG would not hand over control of the Internet/Governance/A Root? He wasn't very specific. I think he is looking for me to say what the USG plans to do about ICANN's MOU and about WSIS, perhaps?

§ USC § 552(b)(5)

Sorry for the fire drill...Thanks very much for accommodating!

Amy  
571 272-8467

-----Original Message-----

From: Layton, Robin  
Sent: Friday, September 09, 2005 6:06 PM  
To: Alexander, Fiona; Suzanne Sene; Cotton, Amy  
Cc: Handley, Cathy  
Subject: Re: pto needs background/talking points re wsis and .xxx

Amy,  
Suzanne just told us about your call.  
Re .xxx - Suzanne can send you a briefing sheet we have.  
Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.  
Have a great weekend.  
Best,  
Robin

**From:** Fiona Alexander  
**To:** Cathy Handley; Robin Layton; Suzanne Sene  
**Date:** 9/12/05 10:03:13 AM  
**Subject:** Fwd: RE: pto needs background/talking points re wsis and .xxx

Robin

I'm happy to provide Amy something if/when I have time later today but perhaps to be on the safe side, in addition to a copy of the US contribution to WSIS on the WGIG report and a copy of the principles you could also forward her the press clip that Clyde sent over on Friday from Tech Daily which was a summary of the US WSIS Prep open meeting. I've cut and paste it below for ease but it answers the question on a new forum as well as restating our position on ICANN.

Copyright 2005 National Journal Group, Inc.  
National Journal's Technology Daily  
PM Edition  
September 8, 2005 Thursday

**HEADLINE: NET GOVERNANCE: United States Will Stand Firm On Icann's; Authority**

**BYLINE: Danielle Belopotosky**

The United States will maintain its stance on keeping intact the international body that oversees the Internet-addressing system when governmental delegations meet in Geneva later this month, government officials said Thursday.

"The U.S. position is that no new organization should be created" as a result of the summit, said Dick Baird of the State Department, who chaired an International Telecommunication Advisory Committee (ITAC) meeting as the U.S. delegation readies for a Sept. 19-30 global meeting. The committee advises State on international treaties and organizational meetings.

"We will begin with and end with" the position that the Internet Corporation for Assigned Names and Numbers (ICANN) should not be replaced or governed by the United Nations or any other body, Baird added.

The Working Group on Internet Governance (WGIG) issued a report in August that called for dismantling or modifying ICANN. The report serves as the groundwork for an action plan on Internet governance that will be delivered at the U.N. World Summit on the Information Society (WSIS) November meeting in Tunis, Tunisia.

The United States is reworking operational documents for the summit. In reference to the sustainability of WSIS, the United States is recommending that action plans be implemented nationally, regionally and internationally rather than through the United Nations.

"Organizations should stay within their respective mandates" at the regional and international levels, Baird said, because governments have entered into treaties, charters and agreements that interweave those mandates.

The United States also called for the evaluation and policy formulation to remain the "prerogative of governments" rather than moving those mechanisms to the United Nations. While Internet governance is expected to dominate the agenda at the September meeting, other forums could be created on "open source" software, cyber security, unsolicited commercial e-mail, freedom of expression and data protection. Promoting the continued development of the Internet and current financing mechanisms also are expected to be reviewed.

But Marilyn Cade, who chairs the global policy committee of the Information Technology Association of America, warned against the creation of new forums at this time. The chief concern should be completing the work at hand, she said.

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 09/12/05 9:54 AM >>>

i would think the statement of usg principles, plus a sentence or two from fiona re the usg perspective on some kind of international dialogue or discussion forum (which is of course preliminary) would do it for amy on wgif/wsis.

re .xxx, do we want to amend/shorten the q's and a's that were produced for the front office?

>>> "Cotton, Amy" <Amy.Cotton@USPTO.GOV> 9/12/2005 9:25 AM >>>

Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

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5 USC 552(b)(5)

Sorry for the fire drill...Thanks very much for accommodating!

Amy  
571 272-8467

-----Original Message-----

From: Layton, Robin  
Sent: Friday, September 09, 2005 6:06 PM  
To: Alexander, Fiona; Suzanne Sene; Cotton, Amy  
Cc: Handley, Cathy  
Subject: Re: pto needs background/talking points re wsis and .xxx

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Suzanne just told us about your call.

Re .xxx - Suzanne can send you a briefing sheet we have.

Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.

Have a great weekend.

Best,

Robin

From: "Cotton, Amy" <Amy.Cotton@USPTO.GOV>  
 To: "Layton, Robin" <RLAYTON@ntia.doc.gov>  
 Date: 9/15/05 8:57:44 AM  
 Subject: RE: pto needs background/talking points re wsis and .xxx

It went just fine. Lucy Nichols is on the INTA Board and participates in the GNSO. She asked what the greatest threat to ICANN was. I said "WIPO-2" - she agreed. I said that we were doing all that we could in the GAC but that this was a political issue and governments couldn't really back down publicly. I said that continued assistance from INTA in pushing back WIPO-2 and showing how it just won't work would be helpful. But the fact is, the US is walking a fine line between governments/WSIS and private sector/ICANN and we were having to be very careful. Bottom line is that the USG supports ICANN and sees it still standing in 5-10 years (she asked if we thought ICANN would continue to be around in 5 years). We support private sector development and are encouraging other governments to clean their own houses and ensure an enabling environment for Internet development and diffusion at home, rather than attempting to force something through some UN organization which would invariably foul up the Internet system that is CURRENTLY WORKING!!! I talked about how Internet Governance is a very broad topic and ICANN only addresses one piece - so ICANN shouldn't be taking all the hits on this issue. Ongoing dialog in all UN bodies with competence is important. ITU does not have competence on DNS management so we don't think ITU is where anything more should go.

I followed all of the papers you gave me to the letter. They were very helpful in catching me up on the latest! Thanks much.

-----Original Message-----

From: Layton, Robin  
 Sent: Wednesday, September 14, 2005 5:29 PM  
 To: Cotton, Amy  
 Subject: RE: pto needs background/talking points re wsis and .xxx

Amy, how did it go? Did you get any questions? Best, Robin

>>> "Cotton, Amy" <Amy.Cotton@USPTO.GOV> 9/12/2005 9:25:38 AM >>>

Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

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5 USC 552(b)(5)

Sorry for the fire drill...Thanks very much for accommodating!

Amy  
 571 272-8467

-----Original Message-----

From: Layton, Robin

Sent: Friday, September 09, 2005 6:06 PM

To: Alexander, Fiona; Suzanne Sene; Cotton, Amy

Cc: Handley, Cathy

Subject: Re: pto needs background/talking points re wsis and .xxx

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Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.

Have a great weekend.

Best,  
Robin

**NTIA OFFICE OF INTERNATIONAL AFFAIRS  
WEEKLY REPORT FOR SEPTEMBER 23, 2005**

**A. Week in Review**

*Non-Responsive*

*Non-Responsive*



**ICANN/GAC:** In its capacity as GAC liaison to the Generic Names Supporting Organization (GNSO), OIA participated in the GNSO Council meeting on September 22. Key issues on the GNSO's agenda include: a review of the GNSO in accordance with ICANN's By Laws; the initiation of a Policy Development Process regarding the introduction of new generic top level domains; and the internationalization of domain names. Each of these issues has implications for the future work and structure of the GAC. OIA also forwarded a copy of a letter from the EU Commission to ICANN regarding the .xxx application to NTIA management. (Sene)

*Non-Responsive*

*Non-Responsive*

*Non-Responsive*

**From:** Jeffrey Joyner  
**To:** Meredith Attwell; Milton Brown  
**Date:** 7/29/2005 2:45:24 PM  
**Subject:** Re: .xxx discussion paper

5 USC 552 (b)(15)

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <jwasilewski@ntia.doc.gov>  
Date: 6/16/2005 1:18:20 PM  
Subject: Fwd: Michael Reagan supports .xxx

5 USC § 552 (b) 5

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."

Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress, when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their

own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

**From:** Meredith Attwell  
**To:** Tracey Rhoades  
**Date:** 8/10/05 4:12:53 PM  
**Subject:** .xxx letter to ICANN

5 USC § 552 (b) 5

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

5 USC § 552 (b) 5

**CC:** Robin Layton; Suzanne Sene

**From:** Jeffrey Joyner  
**To:** Meredith Attwell; Milton Brown  
**Date:** 7/29/2005 3:10:18 PM  
**Subject:** Re: .xxx discussion paper

Great ... thanks

>>> Meredith Attwell 7/29/2005 3:00 PM >>>

5 USC § 552 (b) 5

>>> Jeffrey Joyner 7/29/2005 2:45 PM >>>

5 USC § 552 (b) 5

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...



**From:** "Michael Gallagher " <mgallagher@ntia.doc.gov>  
**To:** "Clyde Ensslin" <CEnsslin@ntia.doc.gov>  
**Date:** 8/12/2005 12:26:37 PM  
**Subject:** Re: Draft .xxx Q & A

5 USC § 552(b) 5

>>> "Clyde Ensslin" <censslin@ntia.doc.gov> 08/12/05 12:13 PM >>>  
Mike, I reformatted this as a Q & A per your last message to me. Clyde

**CC:** <JKneuer.NTIAHQ.NTIA@ntia.doc.gov>

**From:** Suzanne Sene  
**To:** Meredith Attwell; Tracey Rhoades  
**Date:** 8/11/05 8:50:50 AM  
**Subject:** Re: .xxx letter to ICANN

fyi, here are the fax numbers for sharil, paul twomey and vint cerf:

sharil: 011 60 3 2694 0943

paul twomey: 1 310-823-8649

vint cerf: 703-886-0047

let me know if you need any other contact info. cheers, suz.

>>> Meredith Attwell 8/10/2005 4:12 PM >>>

5 USC § 552 (b) 5

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
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45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

5 USC § 552 (b) 5

**CC:** Robin Layton

**From:** Fiona Alexander  
**To:** Kathy Smith; Robin Layton; Suzanne Sene  
**Date:** 8/11/05 5:52:56 PM  
**Subject:** Re: PDF File of Asst. Sec. Gallagher's Letter to Dr. Cerf (8-11-2005) Attached

Thanks Kathy.

5 USC § 552(b)(5)

>>> "Kathy Smith" <ksmith@ntia.doc.gov> 08/11/05 5:44 PM >>>

For your contacts with the GAC and other international contacts, please find an electronic file in pdf format of the letter from Asst. Secretary Gallagher to Dr. Cerf regarding the proposed new .xxx top level domain dated August 11, 2005.

**CC:** Cathy Handley; Clyde Ensslin; Jeff Joyner

**From:** Suzanne Sene  
**To:** Meredith Attwell; Robin Layton  
**Date:** 8/10/2005 12:03:39 PM  
**Subject:** outreach with other gov'ts re ntia letter on .xxx

meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
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50480 Kuala Lumpur, Malaysia

5 USC § 552 (b) 5

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

**CC:** Cathy Handley

From: Robin Layton  
To: Suzanne Sene  
Date: 8/10/2005 12:08:34 PM  
Subject: Re: outreach with other govt's re ntia letter on .xxx

thanks for the quick response!

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 8/10/2005 12:03 PM >>>  
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5 USC § 552 (b)5

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From: Suzanne Sene  
To: Fiona Alexander; Meredith Attwell; Robin Layton  
Date: 8/10/2005 12:46:49 PM  
Subject: Re: outreach with other govt's re ntia letter on .xxx

i agree with your assessment re brazil; we could leave it to his gac colleagues to forward our letter. s.africa has been active of late in recent gac meetings, but michael has been in and out. in any event, both he and ingrid will get a copy as gac reps.

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC § 552(b) 5

Fiona

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CC: Cathy Handley

**From:** "Cotton, Amy" <Amy.Cotton@USPTO.GOV>  
**To:** "Layton, Robin" <RLAYTON@ntia.doc.gov>, "Alexander, Fiona" <FALEXANDER@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>  
**Date:** 9/12/2005 9:24:02 AM  
**Subject:** RE: pto needs background/talking points re wsis and .xxx

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5 USC §552(b)5

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**CC:** "Handley, Cathy" <CHANDLEY@ntia.doc.gov>

**From:** Suzanne Sene  
**To:** "CEsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
 "RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; Fiona Alexander; James Wasilewski;  
 John Kneuer; Kathy Smith; Meredith Attwell; Michael Gallagher; Robin Layton  
**Date:** Tue, Aug 16, 2005 9:40:45 AM  
**Subject:** Re: BBC Article on .xxx delay

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

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thanks"

5 U.S.C § 522(b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>  
 Bush administration objects to .xxx domains

By Declan McCullagh

[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.



"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain

names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

At the time, politicians lambasted ICANN's move. Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., told (click for PDF) a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater."

A government report from a few years ago hints that the Bush administration could choose unilaterally to block .xxx from being added to the Internet's master database of domains. The report notes that the Commerce Department has "reserved final policy control over the authoritative root server."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

Delay for .xxx 'net sex' domain

The plan for a virtual red light district through the creation of a .xxx net domain name has hit delays after concern from government officials.

An official from President George Bush's administration has asked for the brakes be put on the planned domain name until its impact is studied more.

The domain was given the go-ahead by Icann (Internet Corporation for Assigned Names and Numbers) in June.

But some are concerned that it would encourage more porn on the net.

The domain name was expected to get final approval by the net's supervisory body, Icann (Internet Corporation for Assigned Names and Numbers), on Tuesday.

Net domains such as .com. and org. are overseen by Icann. It polices the companies that run the different domains and approves the expansion of the different net names that can be bought and used.

The ICM Registry, the not-for-profit group which would operate the .xxx domain name, said it would agree to a month's delay in order to explore some of the concerns which have been voiced.

Easy filter?

The .xxx domain name was approved five years after it was first proposed.

The idea is that sexually-explicit sites will move to the new domains to make it easier for people to filter and avoid them.

In a statement, the ICM Registry which originally proposed the idea said it would "help protect children from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Ican's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Ican "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/1/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

**MEETING WITH MIKE BINDER, INDUSTRY CANADA ON WSIS AND INTERNET GOVERNANCE, STATE RM. 4826, 3:00-4:00 PM, AUGUST 25, 2005**

**PURPOSE**

Mike Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications from Industry Canada is coming to Washington to strategize with USG on WSIS/Internet governance and meet with other DOC officials on the Security Prosperity and Partnership (SPP) Initiative. As David Gross is friendly with Mike Binder, he is likely to use the meeting as a brainstorming exercise on positioning in the WSIS negotiations.

**BACKGROUND/LIKELY TOPICS**

Bill Graham from Binder's staff has been a staunch ally in the WSIS process. *It is critical for you to thank them for their support.* Unlike most meetings where Canada silently agrees with USG, in the WSIS process they have very vocal in their agreement with our position and a key collaborator in the negotiation process

- **WSIS:** Canada shares our commitment to the stability and security of the Internet's DNS, the need for capacity building, and a multi-stakeholder approach. In their comments, Canada has signaled support for the creation of a new multi-stakeholder forum to discuss Internet related public policy issues. Binder will want to understand USG views on the forum proposal and how to move forward in the Sept. Precom. USG has neither opposed nor supported the idea of a forum publicly. While committing to dialogue on Internet governance issues (see Principle 4), USG has focused on the need to use existing institutions and not create further bureaucracy. If there are gaps in existing institutions, USG agreement to the creation of any new dialogue venue will be based on the terms of reference of that dialogue. It would need to be term limited, issue specific, multi-stakeholder in nature, informationally based with non-binding outcomes and not include the standing up of a bureaucratic Secretariat.
- **.xxx:** Given the level of press attention on .xxx and the characterization of the DOC letter to ICANN, Binder is likely to seek some clarification on what the letter means. In addition to clarifying that the DOC intent was to inform ICANN of some of our constituency concerns and encourage a full consideration of government views, not exert US unilateral control, this is a good opportunity to encourage Canada to send a letter of their own if they have concerns.
- **SPP:** Binder will be meeting with Michelle O'Neill to discuss continued cooperation under the SPP and how to achieve the already agreed to deliverables. It is expected their meeting will focus on agreeing to the dates of the next Senior officials meeting of the ICT Working Group (you participated in the previous one that Phil Bond hosted). That meeting is likely to be in October in Ottawa.
- **Speaking Invitation:** A member of Binder's staff contacted Sheila on 8/17 seeking your participation in a Canadian Spectrum Summit on 12/1. They have invited you to participate in a panel of various international participants focused on regulating spectrum to serve the public interest. No commitment had been made at this time.

**PARTICIPANTS**

- NTIA: You, Cathy Handley, Suzanne Sene
- State: David Gross, Sally Shipman
- Industry Canada: Mike Binder, Bill Graham (WSIS Rep.), Malcolm Andrew (GAC Rep.)

**ATTACHMENTS**

- Mike Binder Bio
- Canadian Comments on the WGIG Report
- Details of a Canadian Invite for Oct. Spectrum Symposium

**From:** Robin Layton  
**To:** Clyde Ensslin  
**Date:** 8/12/05 3:44:25 PM  
**Subject:** Re: Revised .xxx Q & A

Clyde/Ranjit

I suggest one change - but it's only in the background. I dropped off a copy with Ranjit and explained.  
Best, Robin

>>> Clyde Ensslin 8/12/2005 2:01 PM >>>

-----  
S U.S.C. § 522 (b)(5)

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** Kathy Smith; Ranjit deSilva

From: Meredith Attwell  
 To: Cathy Handley; Robin Layton; Suzanne Sene  
 Date: 6/16/2005 4:05:42 PM  
 Subject: Fwd: .XXX

just an fyi

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

5 U.S.C. § 552 (b)(5)

**Background:**

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

**Key .XXX Dates:**

12/15/03: ICANN Releases Request for Proposals for Sponsored Top Level Domain Names

3/19/04: New Application for .XXX

3/31/04: Public Comment Forum for Proposed Sponsored Top-Level Domains

6/1/05: Board passed Resolution authorizing ICANN to enter into negotiations with .XXX Applicant

Although there is no remaining public comment process formally contemplated, the ICANN Board will still consider any additional comments or letters received regarding this before approval of the final contract.

If the pornography industry is willing to adopt industry lead standards and encourage their colleagues to authenticate adults only on to their website, many applaud their efforts. Further, a previous Supreme Court case in 2003 regarding the Children's Internet Protection Act of 2000 (CIPA) makes it very unlikely that any ban of pornography could be sustained. Practically speaking, the Internet is a global medium with international laws and differing cultures. Since what is illegal in the United States may be legal in Germany or Turkey, ICANN must consider what works in one country may not work in another.

**Support for .XXX**

The ICM Registry application for .XXX has strong support from the child advocacy community because they feel that that ICM's approach to the .xxx puts into place best practices that would not be achievable in the dot com space. Wired Safety and Wired Kids ([www.wiredsafety.org](http://www.wiredsafety.org)) supported the application as did the Internet Content and Rating Association (ICRA). In addition there is strong support out of the UK child advocacy community (John Carr) - Children's Charities Coalition for Internet Safety. Charles Jennings, a founder of Trustee, voiced his support for this approach.

5 U.S.C. § 552 (b)(5)

Attached: Fact sheet (Source: ICM Registry); News.com article 6/15/05

From: Meredith Attwell  
To: Jeffrey Joyner; Milton Brown  
Date: 7/29/2005 3:00:03 PM  
Subject: Re: .xxx discussion paper

← U.S.C. § 552(b)(5)

>>> Jeffrey Joyner 7/29/2005 2:45 PM >>>

5 U.S.C. § 552(b)(5)

>>> Meredith Attwell 7/29/2005 1:59 PM >>>

5 U.S.C. § 552(b)(5)



From: Meredith Attwell  
To: AStrudwick@doc.gov; CBuchan@doc.gov; CFuqua@doc.gov;  
CGunderson@doc.gov; CIsrael@doc.gov; Clyde Ensslin; JBailey@doc.gov; Michael Gallagher  
Date: 6/17/05 3:01PM  
Subject: Re: Draft Talkers and Email Response

5 USC § 552(b)(5)

>>> <AStrudwick@doc.gov> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Meredith Attwell" [mattwell@ntia.doc.gov]

Sent: 06/17/2005 12:38 PM

To: <astrudwick@doc.gov>; <cbuchan@doc.gov>; <cfuqua@doc.gov>; <cgunderson@doc.gov>;  
<CIsrael@doc.gov>; <JBailey@doc.gov>; <censslin@ntia.doc.gov>; "Michael Gallagher "

<MGallagher@ntia.doc.gov>

Subject: Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

**From:** "Clyde Ensslin" <censslin@ntia.doc.gov>  
**To:** <MGallagher.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 8/12/05 2:02PM  
**Subject:** Revised .xxx Q & A

5 U.S.C. § 552 (b) (5)

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** <cfuqua@doc.gov>, <dnelson@doc.gov>, "Fiona Alexander"  
<FAlexander@ntia.doc.gov>, "John Kneuer" <JKneuer@ntia.doc.gov>, "James Wasilewski"  
<JWasilewski@ntia.doc.gov>, "Kathy Smith" <KSmith@ntia.doc.gov>, "Meredith Attwell"  
<MAttwell@ntia.doc.gov>, "Ranjit deSilva" <RDesilva@ntia.doc.gov>, "Robin Layton"  
<RLayton@ntia.doc.gov>

2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

From: Fiona Alexander  
To: "CEsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
"RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; James Wasilewski; John Kneuer; Kathy  
Smith; Meredith Attwell; Michael Gallagher ; Robin Layton; Suzanne Sene  
Date: 8/16/2005 12:35:49 PM  
Subject: Re: BBC Article on .xxx delay

Suzanne

§ USC § 552(c)(5)

Fiona

>>> Suzanne Sene 08/16/05 9:40 AM >>>

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By Declan McCullagh

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Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

From: Suzanne Sene  
To: Cathy Handley; Fiona Alexander; Robin Layton  
Date: 9/12/2005 9:54:46 AM  
Subject: Fwd: RE: pto needs background/talking points re wsis and .xxx

i would think the statement of usg principles, plus a sentence or two from fiona re the usg perspective on some kind of international dialogue or discussion forum (which is of course preliminary) would do it for amy on wgig/wsis.

re .xxx, do we want to amend/shorten the q's and a's that were produced for the front office?

>>> "Cotton, Amy" <Amy.Cotton@USPTO.GOV> 9/12/2005 9:25 AM >>>  
Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

I really don't need much at all, and it is not on the program specifically. Mike Heltzer asked me to speak a little (I only have 10 minutes total to talk about international IP issues in general) on "Internet Governance" - the issue he raised with me was something to the effect that a USG official made some statement somewhere suggesting that the USG would not hand over control of the Internet/Governance/A Root? He wasn't very specific. I think he is looking for me to say what the USG plans to do about ICANN's MOU and about WSIS, perhaps?

5 USC § 552(b)(5)

modating!

-----Original Message-----

From: Layton, Robin  
Sent: Friday, September 09, 2005 6:06 PM  
To: Alexander, Fiona; Suzanne Sene; Cotton, Amy  
Cc: Handley, Cathy  
Subject: Re: pto needs background/talking points re wsis and .xxx

Amy,  
Suzanne just told us about your call.  
Re .xxx - Suzanne can send you a briefing sheet we have.  
Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.  
Have a great weekend.  
Best,  
Robin



From: Suzanne Sene  
 To: "CEsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
 "RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; Fiona Alexander; James Wasilewski;  
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also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I foresee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

S USC § 552(b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>  
 Bush administration objects to .xxx domains

By Declan McCullagh  
[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic

domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

At the time, politicians lambasted ICANN's move. Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., told (click for PDF) a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater."

A government report from a few years ago hints that the Bush administration could choose unilaterally to block .xxx from being added to the Internet's master database of domains. The report notes that the Commerce Department has "reserved final policy control over the authoritative root server."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

Delay for .xxx 'net sex' domain

The plan for a virtual red light district through the creation of a .xxx net domain name has hit delays after concern from government officials.

An official from President George Bush's administration has asked for the brakes be put on the planned domain name until its impact is studied more.

The domain was given the go-ahead by Icann (Internet Corporation for Assigned Names and Numbers) in June.

But some are concerned that it would encourage more porn on the net.

The domain name was expected to get final approval by the net's supervisory body, Icann (Internet Corporation for Assigned Names and Numbers), on Tuesday.

Net domains such as .com. and org. are overseen by Icann. It polices the companies that run the different domains and approves the expansion of the different net names that can be bought and used.

The ICM Registry, the not-for-profit group which would operate the .xxx domain name, said it would agree to a month's delay in order to explore some of the concerns which have been voiced.

Easy filter?

The .xxx domain name was approved five years after it was first proposed.

The idea is that sexually-explicit sites will move to the new domains to make it easier for people to filter and avoid them.

In a statement, the ICM Registry which originally proposed the idea said it would "help protect children from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Icann's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Icann "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <jwasilewski@ntia.doc.gov>  
Date: 6/16/2005 2:18:02 PM  
Subject: Fwd: .XXX

here is the one I was talking about

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

5 USC § 552(b)(5)



## FACT SHEET

### VOLUNTARY ADULT .XXX TOP-LEVEL DOMAIN (TLD)

The Board of the Internet Corporation for Assigned Names and Numbers (ICANN) has determined that ICM Registry's application meets the eligibility criteria established by ICANN and directed its staff to enter into negotiations with ICM Registry to develop the commercial and technical terms under which the .xxx sponsored top-level domain (sTLD) would launch. The ICANN Board's action is another step forward in expanding the top level domain space responsibly, inspiring global innovation and competition online, and facilitating the kind of bottom-up decision-making that has characterized the growth of the Internet. The sponsor of the proposed TLD is the International Foundation for Online Responsibility (IFFOR), an independent Canadian non-profit entity. IFFOR will be governed by a board of directors that reflects the various stakeholder groups, and will remain independent of ICM Registry.

The .xxx sponsored top-level domain will create a clearly identifiable area of the Internet that will empower families and help protect children and others from unwanted or inappropriate content. The existence of the sponsored TLD would facilitate meaningful, voluntary self-organization and self-regulation by responsible adult-entertainment website operators.

### WHY IS A VOLUNTARY .XXX TLD NEEDED?

- The online adult-entertainment industry is one of the largest and fastest growing sectors of the Internet.
- The Internet and the various stakeholders will benefit greatly from responsible self-regulation.
- According to Reuters, online adult-oriented ecommerce is worth more than \$3 billion USD globally and is growing at a double-digit rate. The number of adult websites has grown 18-fold over the last six years alone.
- More than 10% of all online traffic and 25% of all global Internet searching is adult-content oriented with more than 100,000 adult webmasters worldwide and well over one million adult domains.
- Responsible members of the adult entertainment industry have identified a need to work together to:
  - o Develop mechanisms to reach only those online users who want to use their products or services;
  - o Respond to the growing demand from child and family safety groups to ensure the Internet is safer; and
  - o Respond to the privacy, security, and consumer protection concerns of their audience.

### WHAT ARE THE BENEFITS OF A .XXX TLD?

- Online child safety and efforts to combat child pornography and other abuses will be promoted through best practice guidelines that will be promulgated by a non-profit, cross-stakeholder foundation. IFFOR will provide financial and other

assistance to various online support organizations and will develop technology tools and sponsored education programs for parents and families.

- The online adult-entertainment industry wants to create an identifiable space with which its members can elect to associate themselves and wherein they can responsibly self-organize and create guidelines to promote credible self-regulation.
- The voluntary .xxx TLD will facilitate and protect free expression rights – both for content providers and Internet users.
- Privacy, security, and responsible retail practices will be promoted to protect online consumers.
- The .xxx TLD has the potential to regularize business processes such as search-engine functionality, privacy, identity theft prevention measures, and security.
- The .xxx TLD creates a credible forum for representation and self-regulation where all stakeholders are able to discuss and actively respond to concerns about adult entertainment sites on the Internet.

#### **WHERE IS THE SUPPORT FOR A .XXX TLD?**

The .xxx TLD is a voluntary, industry-led, market-driven and non-regulatory effort. It has drawn support from a broad spectrum of Internet stakeholders, including:

- Child and family safety groups;
- Leaders/members of the global adult-entertainment industry who have agreed to voluntarily participate;
- Free speech, privacy and security advocates;
- Information Technology (IT) experts; and
- Public policy leaders.

#### **WHO WILL OPERATE AND SPONSOR THE .XXX TLD?**

- ICM Registry will operate the registry. ICM is a financially stable technology company, independent of IFFOR and unaffiliated – either currently or in the past – with the adult-entertainment industry. ICM will provide the registry's management, supporting infrastructure, and back-end functionality.
- The International Foundation for Online Responsibility (IFFOR), a Canadian not-for-profit organization, will sponsor and serve as the policy-making authority for the .xxx TLD. IFFOR will contract with ICM for registry services, and will be funded, primarily, through registration activities.
- IFFOR will have its own board of directors, representing the various stakeholders, including child-safety representatives, members of the free-speech community and adult-entertainment industry leaders.
- IFFOR's mission is to participate in and support the development of programs and tools to fight child pornography, and to serve as a forum for the online adult-entertainment community to communicate with and pro-actively respond to the needs and concerns of the broader Internet community.
- IFFOR's Mission will include:
  - o Supporting free expression and other efforts to protect the right of Internet users to choose the online content they desire;
  - o Promoting public awareness of technologies, programs, organizations and methods available to protect children online;
  - o Supporting the development and proliferation of voluntary, user-friendly systems that enable Internet users to identify content;

- o Sponsoring child safety and anti-child pornography organizations and programs;
- o Protecting consumers by raising awareness of deceptive or unfair business practices, and creating a safer environment for consumers within the domain;
- o Increasing credibility and predictability; and
- o Supporting efforts to protect intellectual property rights.

#### WHAT WILL BE THE OBLIGATIONS OF .XXX TLD REGISTRANTS?

Participating adult Internet content and service providers believe that responsible self-regulation is essential to the industry's continuing viability in the global marketplace. Those that voluntarily register for .xxx TLD names will adhere to a set of business practices, embodied in an enforceable contract between the Registrant and ICM Registry. The credibility of such practices cannot be preserved by the one time creation of a set of responsible business practices. Neither will a participant be able to revise its practices after an initial review. IFFOR will revise, review and continually update its established practices to accommodate developments in technologies and societal expectations.

.xxx TLD name registrants will be expected to adhere to a set of best business practices that will include:

- Safeguarding children from being marketed to or targeted online by adult webmasters;
- Defending customer privacy;
- Deploying accurate meta-tagging;
- Ensuring the clear and accurate disclosure of relevant practices, security of information and transactions, and accountability through the provision of accurate contact information;
- Protecting intellectual property rights;
- Combating the use of unlawful malicious codes and technologies, including spoofing and phishing;
- Not engaging in fraudulent, anonymous, unsolicited or illegal commercial email advertising their products and services; and
- Avoiding the use of misleading domain names or domain names intended to attract child pornography consumers.

In addition, ICM and IFFOR will make a difference in the battle against child pornography by sponsoring programs to safeguard children.

#### CONTACT INFO

Stuart Lawley, Chairman & President – [sjlawley@icmregistry.com](mailto:sjlawley@icmregistry.com)

or

Marc Pearl or Kelli Emerick – IT Policy Solutions | Washington, DC  
[mpearl@itpolicysolutions.com](mailto:mpearl@itpolicysolutions.com) or [kemerick@itpolicysolutions.com](mailto:kemerick@itpolicysolutions.com)

Telephone: 202 464 4000





<http://www.news.com/>

## Porn-friendly '.xxx' domains approved

By Declan McCullagh

[http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030\\_3-5728713.html](http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030_3-5728713.html)

Story last modified Wed Jun 01 20:10:00 PDT 2005

**Pornographers and their customers soon will have a virtual red light district reserved just for them.**

The nonprofit organization responsible for Internet addresses on Wednesday approved ".xxx" domains, a move that reverses the group's earlier position and heads off a potential political spat with conservative U.S. politicians.

The Internet Corporation for Assigned Names and Numbers (**ICANN**) said it's working with the **ICM Registry** to finalize remaining details, meaning the porn-friendly set of .xxx domains should be available by the end of the year. Other top-level domains still awaiting a decision from ICANN are .asia, .mail and .tel.

Stuart Lawley, chairman of the ICM Registry, could not be immediately reached for comment. In an **interview** last year, Lawley said that .xxx domain names would cost around \$75 and come with no restrictions except that any sexually explicit content feature only adults. "Apart from child pornography, which is completely illegal, we're really not in the content-monitoring business," Lawley said.

The ICM Registry plans to handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation For Online Responsibility will be in charge of setting the rules for .xxx. It's intended to have a seven-person board of directors, including a child advocacy advocate, a free-expression aficionado and someone from the adult entertainment industry.

ICANN's vote represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff **objected** to the .xxx domain and rejected ICM Registry's first application.

Politicians quickly lambasted the 2000 decision. At a hearing a few months later, Rep. Fred Upton, R-Mich., **demand**ed to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., complained to a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater." (Click **here**

for a PDF of Lieberman's testimony.)

Even though the ICM Registry's approach is designed to be free-speech-friendly, the American Civil Liberties Union has expressed concern about .xxx domains. One worry is that some nations may force sites dealing with sensitive topics like homosexuality or birth control into the .xxx zone, where they can be easily blocked.

**From:** Meredith Attwell  
**To:** John Kneuer; Michael Gallagher  
**Date:** 6/16/05 1:18PM  
**Subject:** Fwd: Michael Reagan supports .xxx

fyi.

>>> Meredith Attwell 6/16/2005 1:12 PM >>>  
Christine-

5 USC § 552(b)(5)

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."  
Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress, when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <CFuqua@doc.gov>  
Date: 6/17/05 3:49PM  
Subject: RE: Draft Talkers and Email Response

SUSC § 552(b)(5)

>>> <CFuqua@doc.gov> 6/17/2005 3:23 PM >>>

SUSC § 552(b)(5)

-----Original Message-----

From: "Meredith Attwell" <mattwell@ntia.doc.gov> [mailto:"Meredith Attwell" <mattwell@ntia.doc.gov>]  
Sent: Friday, June 17, 2005 3:01 PM  
To: <AStrudwick@doc.gov>; <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>;  
<CIsrael@doc.gov>; <JBailey@doc.gov>; "Clyde Ensslin" <CEnsslin@ntia.doc.gov>; "Michael Gallagher"  
<MGallagher@ntia.doc.gov>  
Subject: Re: Draft Talkers and Email Response

SUSC § 552(b)(5)

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Meredith Attwell" [mattwell@ntia.doc.gov]  
Sent: 06/17/2005 12:38 PM  
To: ; ; ; ; ; "Michael Gallagher "  
Subject: Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

CC: <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>, <MGallagher.NTIAHQ.NTIA@ntia.doc.gov>

**From:** "Cotton, Amy" <Amy.Cotton@USPTO.GOV>  
**To:** "Layton, Robin" <RLAYTON@ntia.doc.gov>, "Handley, Cathy" <CHANDLEY@ntia.doc.gov>, "Alexander, Fiona" <FALEXANDER@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>  
**Date:** 9/12/05 10:53:22 AM  
**Subject:** RE: RE: pto needs background/talking points re wsis and .xxx

These are great. Thanks so much everyone!

Best,  
Amy

-----Original Message-----

**From:** Layton, Robin  
**Sent:** Monday, September 12, 2005 10:19 AM  
**To:** Handley, Cathy; Alexander, Fiona; Suzanne Sene; Cotton, Amy  
**Subject:** Fwd: RE: pto needs background/talking points re wsis and .xxx

Here is the press clip, US Contribution to WSIS on the WGIG report, the Internet DNS principles and the Final Q&A's prepared for in-house use (ie for your background). I also attached the .xxx Q&A. Let me know if you need anything else! Best, Robin

>>> Fiona Alexander 9/12/2005 10:03 AM >>>  
Robin

I'm happy to provide Amy something if/when I have time later today but perhaps to be on the safe side, in addition to a copy of the US contribution to WSIS on the WGIG report and a copy of the principles you could also forward her the press clip that Clyde sent over on Friday from Tech Daily which was a summary of the US WSIS Prep open meeting. I've cut and paste it below for ease but it answers the question on a new forum as well as restating our position on ICANN.

Copyright 2005 National Journal Group, Inc.  
National Journal's Technology Daily  
PM Edition  
September 8, 2005 Thursday

**HEADLINE:** NET GOVERNANCE: United States Will Stand Firm On Icann's; Authority

**BYLINE:** Danielle Belopotosky

The United States will maintain its stance on keeping intact the international body that oversees the Internet-addressing system when governmental delegations meet in Geneva later this month, government officials said Thursday.

"The U.S. position is that no new organization should be created" as a result of the summit, said Dick Baird of the State Department, who chaired an International Telecommunication Advisory Committee (ITAC) meeting as the U.S. delegation readies for a Sept. 19-30 global meeting. The committee advises State on international treaties and organizational meetings.

"We will begin with and end with" the position that the Internet Corporation for Assigned Names and Numbers (ICANN) should not be replaced or governed by the United Nations or any other body,

Baird added.

The Working Group on Internet Governance (WGIG) issued a report in August that called for dismantling or modifying ICANN. The report serves as the groundwork for an action plan on Internet governance that will be delivered at the U.N. World Summit on the Information Society (WSIS) November meeting in Tunis, Tunisia.

The United States is reworking operational documents for the summit. In reference to the sustainability of WSIS, the United States is recommending that action plans be implemented nationally, regionally and internationally rather than through the United Nations.

"Organizations should stay within their respective mandates" at the regional and international levels, Baird said, because governments have entered into treaties, charters and agreements that interweave those mandates.

The United States also called for the evaluation and policy formulation to remain the "prerogative of governments" rather than moving those mechanisms to the United Nations. While Internet governance is expected to dominate the agenda at the September meeting, other forums could be created on "open source" software, cyber security, unsolicited commercial e-mail, freedom of expression and data protection. Promoting the continued development of the Internet and current financing mechanisms also are expected to be reviewed.

But Marilyn Cade, who chairs the global policy committee of the Information Technology Association of America, warned against the creation of new forums at this time. The chief concern should be completing the work at hand, she said.

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 09/12/05 9:54 AM >>>

i would think the statement of usg principles, plus a sentence or two from fiona re the usg perspective on some kind of international dialogue or discussion forum (which is of course preliminary) would do it for amy on wgif/wsis.

re .xxx, do we want to amend/shorten the q's and a's that were produced for the front office?

>>> "Cotton, Amy" <Amy.Cotton@USPTO.GOV> 9/12/2005 9:25 AM >>>

Robin - I am talking to the International Trademark Association Board of Directors (about 20 people) tomorrow at 9:45 am - remember when you, Maneesha, and I did this about 3 years ago?

I really don't need much at all, and it is not on the program specifically. Mike Heltzer asked me to speak a little (I only have 10 minutes total to talk about international IP issues in general) on "Internet Governance" - the issue he raised with me was something to the effect that a USG official made some statement somewhere suggesting that the USG would not hand over control of the Internet/Governance/A Root? He wasn't very specific. I think he is looking for me to say what the USG plans to do about ICANN's MOU and about WSIS, perhaps?

5 USC § 552(b)(5)



Amy  
571 272-8467

-----Original Message-----

From: Layton, Robin

Sent: Friday, September 09, 2005 6:06 PM

To: Alexander, Fiona; Suzanne Sene; Cotton, Amy

Cc: Handley, Cathy

Subject: Re: pto needs background/talking points re wsis and .xxx

Amy,

Suzanne just told us about your call.

Re .xxx - Suzanne can send you a briefing sheet we have.

Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.

Have a great weekend.

Best,

Robin

From: "Cotton, Amy" <Amy.Cotton@USPTO.GOV>  
To: "Layton, Robin" <RLAYTON@ntia.doc.gov>, "Alexander, Fiona" <FALEXANDER@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>  
Date: 9/12/05 9:24:02 AM  
Subject: RE: pto needs background/talking points re wsis and .xxx

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5 USC § 552(b)(5)

-----Original Message-----

From: Layton, Robin  
Sent: Friday, September 09, 2005 6:06 PM  
To: Alexander, Fiona; Suzanne Sene; Cotton, Amy  
Cc: Handley, Cathy  
Subject: Re: pto needs background/talking points re wsis and .xxx

Amy,

Suzanne just told us about your call.

Re .xxx - Suzanne can send you a briefing sheet we have.

Re WSIS - Is it on the program or are you just expecting to get a question? Who is on the association and what level of detail do you need? Broad overview or more specific? Depending, Fiona can send you something early next week.

Have a great weekend.

Best,  
Robin

CC: "Handley, Cathy" <CHANDLEY@ntia.doc.gov>

Clyde Ensslin - RE: Draft Talkers and Email Response

From: <astrudwick@doc.gov>  
To: <CFuqua@doc.gov>  
Date: 6/17/2005 5:21:42 PM  
Subject: RE: Draft Talkers and Email Response

Is your version of the document the FINAL draft for me to send home with DAS?

Chuck Fuqua/HCHB/Osnet  
06/17/2005 03:23 PM

To  
mattwell@ntia.doc.gov, AStrudwick@doc.gov, CBuchan@doc.gov,  
CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov,  
CEnsslin@ntia.doc.gov, MGallagher@ntia.doc.gov  
cc

Subject  
RE: Draft Talkers and Email Response

5 USC § 552(b)(5)

-----Original Message-----

From: "Meredith Attwell" <mattwell@ntia.doc.gov> [mailto:"Meredith Attwell" <mattwell@ntia.doc.gov>]  
Sent: Friday, June 17, 2005 3:01 PM  
To: <ASTrudwick@doc.gov>; <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>; <CIsrael@doc.gov>; <JBailey@doc.gov>; "Clyde Ensslin" <CEnsslin@ntia.doc.gov>; "Michael Gallagher" <MGallagher@ntia.doc.gov>  
Subject: Re: Draft Talkers and Email Response

5 USC § 552(b)(5)

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Meredith Attwell" [mattwell@ntia.doc.gov]

Sent: 06/17/2005 12:38 PM

To: ; ; ; ; ; ; "Michael Gallagher "

Subject: Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

CC: <CBuchan@doc.gov>, <CEnsslin@ntia.doc.gov>, <CFuqua@doc.gov>, <CGunderson@doc.gov>, <CIsrael@doc.gov>, <JBailey@doc.gov>, <mattwell@ntia.doc.gov>, <MGallagher@ntia.doc.gov>

1   Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

From: <FSchwien@doc.gov>  
To: "Meredith Attwell" <mattwell@ntia.doc.gov>  
Date: 6/2/2005 3:43 PM  
Subject: Re: Fwd: ICANN

?

5 USC § 552 (b) 5

"Meredith Attwell" <mattwell@ntia.doc.gov>  
06/02/2005 03:39 PM

To  
<fschwien@doc.gov>  
cc

Subject  
Fwd: ICANN

Fred-  
...

FW

5 USC § 552 (b) 5

>>> "Michael Gallagher" <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>

5 USC § 552 (b) 5

Thanks.

Mike

----- Message from <FSchwien@doc.gov> on Thu, 02 Jun 2005 10:29:06 -0400

-----  
To:  
"John Kneuer" <JKneuer@ntia.doc.gov>, "Michael Gallagher "

<MGallagher@ntia.doc.gov>

Subject:

ICANN

Mike, think this will cause us any problems?

<http://www.newsmax.com/archives/ic/2005/6/2/90539.shtml>

**Tracey Rhoades - Re: .xxx response letter template**

---

**From:** Tracey Rhoades  
**To:** Stark, Eric  
**Date:** 9/26/2005 3:36 PM  
**Subject:** Re: .xxx response letter template

---

5 USC § 552  
(b) 5



Meredith Attwell - draft

**From:** James Wasilewski  
**To:** mattwell  
**Date:** 6/16/2005 6:12 PM  
**Subject:** draft

Earlier this month, the Board for the Internet Corporation for Assigned Names and Numbers (ICANN), the organization responsible for Internet addresses, approved a new top-level domain, .xxx.

Over the last two days, the Department has received over 600 emails and numerous phone calls as a result of the attached article posted on "Human Events Online" asking that you refuse to approve the .xxx top level domain. At this point, there is nothing before the Department to act on, except the calls and emails that we are receiving.

You probably know that the Department does not participate in the selection process or advocate for the creation of specific top level domains. The Department has long recognized that the selection of new top level domains should be conducted by the private sector through a not-for-profit organization, globally representative of the Internet stakeholder community.

5 USC 552(b)(5)

The staff at NTIA along with DoC public affairs are working closely on responding to these inquiries in conjunction with the Chief of Staff and the Deputy Secretary's office.

From: Meredith Attwell  
To: Suzanne Sene  
Date: 8/3/2005 11:34 AM  
Subject: Re: Fwd: sTLD Update - Luxembourg.ppt

5 USC 552(b)(5)

>>> Suzanne Sene 8/3/2005 10:10 AM >>>

meredith, i'm forwarding an overview of the sponsored tld process, and status of different applications, that kurt pritz developed for luxembourg. as i understand the process, the board decisions to approve the entry into negotiations between icann and individual applicants were based on information provided by the outside evaluators. for many of the applications, icann set up a password protected site for board members to review all of the documentation, as the evaluations sometimes revealed questions regarding sponsoring organizations that required further exchanges between the applicants and the evaluators. at any rate, each of the applications was assessed against the criteria laid out in the original rfp, and as each one was evaluated, the board was provided with the necessary information to either approve the start of contract negotiations or to consider any outstanding questions.

using the .travel and .jobs applications as models, the board first approved the evaluations and requested icann to enter into negotiations. once icann presented the board with the contracts, the board then approved them. in these two cases, the contracts were posted for public comment (in advance of the argentina meeting) prior to the board's final approval. i would imagine the same process would be used in the case of .xxx. kurt told me the negotiations were just getting underway, and since icann now has some contracts as models, the negotiations could proceed fairly quickly. the contract will then go to the board, will presumably also be posted for public comment in advance, and will then be voted on. there does not appear to be a fixed timeframe for either the negotiations or final board approval.

i hope this information is helpful, and please let me know if you have any other questions or would like additional information. suz

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

CC: Robin Layton

From: Clyde Ensslin  
To: CGunderson@doc.gov  
Date: 6/17/2005 8:14:24 AM  
Subject: RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

5 USC 552(b)(5)

>>> <CGunderson@doc.gov> 6/17/2005 8:08 AM >>>

that language is really awful. hopefully today we can come up with something better we can use.

-----Original Message-----

From: "Clyde Ensslin" <censsln@ntia.doc.gov> [mailto:"Clyde Ensslin" <censsln@ntia.doc.gov>]  
Sent: Friday, June 17, 2005 6:49 AM  
To: <CGunderson@doc.gov>  
Subject: Re: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

5 USC 552(b)(5)

>>> 6/16/2005 7:15 PM >>>

Did anyone call the ap to correct the dept of commerce approval language?

-----  
Sent from my BlackBerry Wireless Handheld.

----- Original Message -----

From: "Clyde Ensslin" [censsln@ntia.doc.gov]  
Sent: 06/16/2005 06:42 PM  
To:  
Subject: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

Christine:

I can't find this online anywhere, but I have a hard copy. I saw it and printed it on Monday June 6. The key statement is

"For .xxx to go into the root is going to require positive action on the part of the United States government," said Karl Auerbach, a former ICANN board member and frequent critic of the organization. "That would constitute an endorsement of a red-light district on the Internet."

This was followed by a June 12 AP report by Anick Jesdanun that read:

"If the board and ultimately the U.S. Commerce Department approve it, ".xxx" names could appear in use by the year's end."

Clyde Ensslin 202-482-0019

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <acohen@doc.gov>, <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>  
Date: 8/3/2005 2:44:20 PM  
Subject: Fwd: RE: .xxx

we've moved to 4:30...

>>> <DBohigian@DOC.GOV> 8/3/2005 2:24 PM >>>

Great, sorry. Thanks.

-----Original Message-----

From: "John Kneuer" <jkneuer@ntia.doc.gov> [mailto:"John Kneuer" <jkneuer@ntia.doc.gov>]  
Sent: Wednesday, August 03, 2005 2:06 PM  
To: <dbohigian@doc.gov>; <JBailey@doc.gov>; <dbearden@eda.doc.gov>; "Kathy Smith"  
<KSmith@ntia.doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>  
Subject: RE: .xxx

That works for me. If it works for everyone else ;lets plan on 4:30 in 4898. Thanks everyone.

>>> 08/03/05 2:00 PM >>>

A 2:45 meeting with the Secretary just popped up on David's schedule. I have a 3pm meeting with NAM.  
Any chance of us moving this meeting to 4:30?

-----Original Message-----

From: "John Kneuer" [mailto:"John Kneuer" ]  
Sent: Tuesday, August 02, 2005 3:28 PM  
To: ; ; ; "Kathy Smith" ; "Meredith Attwell"  
Subject: .xxx

All . . . I'd like to try and schedule a meeting tomorrow afternoon, if possible, to discuss our  
approach/response to developments on .xxx.

5 USC 552(b)(5)

Please let me know if you are available. For

planning purposes I suggest 3 pm.

Thanks.

Best,

John M. R. Kneuer  
Deputy Assistant Secretary  
Communications and Information  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W., Rm. 4898  
Washington, D.C. 20230  
Phone: (202) 482-1840  
jkneuer@ntia.doc.gov

**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** Fri, Aug 12, 2005 2:01:28 PM  
**Subject:** Revised .xxx Q & A

Please use this version instead of the first one I sent. .... 5 USC 552(b)(5)

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton

2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**Clyde Ensslin - RE: Draft Talkers and Email Response**

---

**From:** <CFuqua@doc.gov>  
**To:** <censslin@ntia.doc.gov>, <astrudwick@doc.gov>  
**Date:** 6/20/2005 9:38 AM  
**Subject:** RE: Draft Talkers and Email Response  
**CC:** <CBuchan@doc.gov>, <CFuqua@doc.gov>, <CGunderson@doc.gov>, <CIsrael@doc.gov>, <JBailey@doc.gov>, <MAttwell@ntia.doc.gov>, <MGallagher@ntia.doc.gov>

---

I haven't seen any edits to the email response draft that Meredith sent, so I assume that language is okay with the group. If not, please let us know.

Also, do we have resolution from whom the email should be sent? Am I correct that it should come from A/S Gallagher? This would be used to respond to the emails sent to the Secretary's email address and now those sent to the NTIA email address. Please let us know. Thanks.  
-Chuck

-----Original Message-----

**From:** "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]  
**Sent:** Friday, June 17, 2005 5:30 PM  
**To:** <astrudwick@doc.gov>  
**Cc:** <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>; <CIsrael@doc.gov>; <JBailey@doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Michael Gallagher " <MGallagher@ntia.doc.gov>  
**Subject:** RE: Draft Talkers and Email Response

Amie: We sent our suggestions to Chuck and discussed them with him so his version is the final. Have a good weekend! Clyde

>>> 6/17/2005 5:24 PM >>>

Is your version of the document the FINAL draft for me to send home with DAS?

Chuck Fuqua/HCHB/Osnet  
06/17/2005 03:23 PM

To  
mattwell@ntia.doc.gov, Astrudwick@doc.gov, CBuchan@doc.gov,  
CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov,  
CEnsslin@ntia.doc.gov, MGallagher@ntia.doc.gov  
cc

Subject  
RE: Draft Talkers and Email Response

5 USC 552 (b)(5)

-----Original Message-----

From: "Meredith Attwell" [mailto:"Meredith Attwell" ]

Sent: Friday, June 17, 2005 3:01 PM

To: ; ; ;

; ; ; "Clyde

Ensslin" ; "Michael Gallagher "

Subject: Re: Draft Talkers and Email Response

Try this paragraph instead. New version attached.

5 USC 552 (b)(5)

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Meredith Attwell" [mattwell@ntia.doc.gov]

Sent: 06/17/2005 12:38 PM

To: ; ; ; ; ; ; "Michael Gallagher "

Subject: Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith



From: Meredith Attwell  
To: Jeffrey Joyner  
Date: 6/14/2005 4:10 PM  
Subject: Re: Fwd: Call from Family Research Council

5 USC 552(b)(5)

>>> Jeffrev Jovner 6/14/2005 3:15 PM >>>

5 USC 552(b)(5)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 USC 552(b)(5)

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

The fifth floor Office of Public Affairs transferred a call to me from Patrick Trueman, senior legal counsel for the Family Research Council. He had read that the DoC must approve .xxx and said he wanted to be able to comment. I explained that our role is to "authorize any addition, deletion or change to the authoritative root zone file" [precise language from Kathy Smith] and he said that's what he meant and he would just like to know the best way to comment. Mr Trueman told me he had worked in the Dept of Justice in Reagan and Bush administrations. I can refer this call to someone in the front office or to OCC but I wanted to let you know this call had come in.

Clyde Ensslin x0019

From [www.frc.org](http://www.frc.org):

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

CC: Robin Layton

From: "Michael Gallagher " <mgallagher@ntia.doc.gov>  
To: <MAttwell@ntia.doc.gov>  
Date: 6/2/2005 1:38:28 PM  
Subject: Re: Fwd: ICANN

5 USC 552(b)(5)

Mike

>>> Meredith Attwell 06/02/05 1:33 PM >>>  
sure-  
It is about .xxx

ICANN OKs 'XXX' Web Addresses

The Internet's primary oversight body approved a plan Wednesday to create a virtual red-light district, setting the stage for pornographic Web sites to use new addresses ending in "xxx."

The Internet Corporation for Assigned Names and Numbers said it would begin negotiations with ICM Registry Inc., run by British businessman Stuart Lawley, to iron out technical issues and prices for the new Web addresses.

Adult-oriented sites, a \$12 billion industry, probably could begin buying "xxx" addresses as early as fall or winter, depending on ICM's plans, ICANN spokesman Kieran Baker said. The new pornography suffix was among 10 under consideration by the regulatory group, which also recently approved addresses ending in "jobs" and "travel."

ICM contends the "xxx" Web addresses, which it plans to sell for \$60 a year, will protect children from online smut if adult sites voluntarily adopt the suffix so filtering software used by families can more effectively block access to those sites. The \$60 price is roughly 10 times higher than prices other companies charge for dot-com names.

"It will further help to protect kids," said John Morris, staff counsel at the Washington-based Center for Democracy and Technology. Morris predicted some adult sites will choose to buy "xxx" Web addresses but others will continue to use ".com."

© 2005 The Associated Press

>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>  
Could you get back to Fred? I can't open the link from here.

Thanks.

Mike

**Clyde Ensslin - RE: Draft Talkers and Email Response**

---

**From:** <CFuqua@doc.gov>  
**To:** <mattwell@ntia.doc.gov>, <AStrudwick@doc.gov>, <CBuchan@doc.gov>, <CFuqua@doc.gov>, <CGunderson@doc.gov>, <CIsrael@doc.gov>, <JBailey@doc.gov>, <CEnsslin@ntia.doc.gov>, <MGallagher@ntia.doc.gov>  
**Date:** 6/17/2005 3:20 PM  
**Subject:** RE: Draft Talkers and Email Response

---

I would recommend the following for that graph. Do we need to put that last sentence in the talkers? I've attached the talking points with some other minor edits in the graphs just above the one mentioned below.

5 USC 552(b)(5)

-----Original Message-----

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov> [mailto:"Meredith Attwell" <mattwell@ntia.doc.gov>]  
**Sent:** Friday, June 17, 2005 3:01 PM  
**To:** <AStrudwick@doc.gov>; <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>; <CIsrael@doc.gov>; <JBailey@doc.gov>; "Clyde Ensslin" <CEnsslin@ntia.doc.gov>; "Michael Gallagher" <MGallagher@ntia.doc.gov>  
**Subject:** Re: Draft Talkers and Email Response

Try this paragraph instead. New version attached.

5 USC 552(b)(5)

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope this makes sense as we are out of pocket at a NOAA facility.

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**To:** ; ; ; ; ; "Michael Gallagher"  
**Subject:** Draft Talkers and Email Response

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Thanks,  
Meredith

**From:** <astrudwick@doc.gov>  
**To:** <CIsrael@DOC.GOV>  
**Date:** 6/20/2005 2:42:42 PM  
**Subject:** RE: Draft Talkers and Email Response

He reviewed on Friday and read changes over the weekend and didn't have new comments.

Chris Israel/TA/Osnet  
06/20/2005 02:43 PM

To  
Aimee Strudwick/HCHB/Osnet@osnet  
cc  
CBuchan@doc.gov, censslin@ntia.doc.gov, CFuqua@doc.gov,  
CGunderson@doc.gov, Chuck Fuqua/HCHB/Osnet@osnet, JBailey@doc.gov,  
MAttwell@ntia.doc.gov, MGallagher@ntia.doc.gov  
Subject  
RE: Draft Talkers and Email Response

Not sure if this has been finalized thru DAS and Claire yet, but I had a few comments.

Aimee Strudwick/HCHB/Osnet  
06/20/2005 09:27 AM

To  
Chuck Fuqua/HCHB/Osnet@osnet  
cc  
CBuchan@doc.gov, censslin@ntia.doc.gov, CFuqua@doc.gov,  
CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov,  
MAttwell@ntia.doc.gov, MGallagher@ntia.doc.gov  
Subject  
RE: Draft Talkers and Email Response

It was my understanding that the e-mail response would come from Gallagher at this stage. I will verify that DAS didn't have further comment from his review over the weekend.

Chuck Fuqua/HCHB/Osnet  
06/20/2005 09:24 AM

To  
censslin@ntia.doc.gov, astrudwick@doc.gov  
cc  
CBuchan@doc.gov, CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov,  
JBailey@doc.gov, MAttwell@ntia.doc.gov, MGallagher@ntia.doc.gov  
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Cc: <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>; <CIsrael@doc.gov>; <JBailey@doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Michael Gallagher" <MGallagher@ntia.doc.gov>  
Subject: RE: Draft Talkers and Email Response

Amie: We sent our suggestions to Chuck and discussed them with him so his version is the final. Have a good weekend! Clyde

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06/17/2005 03:23 PM

To  
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CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov,  
CEnsslin@ntia.doc.gov, MGallagher@ntia.doc.gov  
cc

Subject  
RE: Draft Talkers and Email Response

5 USC § 552(b)(5)

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Sent: Friday, June 17, 2005 3:01 PM

To: ; ; ;

; ; ; "Clyde

Ensslin" ; "Michael Gallagher "

Subject: Re: Draft Talkers and Email Response

5 USC § 552(b)(5)

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From: Meredith Attwell  
To: AStrudwick@doc.gov; CBuchan@doc.gov; CFuqua@doc.gov;  
CGunderson@doc.gov; Clsrael@doc.gov; Clyde Ensslin; JBailey@doc.gov; Michael Gallagher  
Date: 6/17/2005 3:01:23 PM  
Subject: Re: Draft Talkers and Email Response

5 USC § 552 (b) 5

>>> <AStrudwick@doc.gov> 6/17/2005 2:07 PM >>>

5 USC § 552 (b) 5

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Meredith

1 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Suzanne Sene  
**To:** Robin Layton  
**Date:** 9/2/05 5:32:15 PM  
**Subject:** Re: oia briefing paper for japanese visitors sept. 8

5 USC § 552 (b) 5

>>> Robin Layton 9/2/2005 3:02 PM >>>

5 USC § 552 (b) 5

>>> "Suzanne Sene" <[ssene@ntia.doc.gov](mailto:ssene@ntia.doc.gov)> 8/31/2005 3:11 PM >>>

5 USC § 552 (b) 5

**CC:** Ashley Heineman; Cathy Handley; Fiona Alexander; Tanika Hawkins

5 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** "Suzanne Sene" <ssene@ntia.doc.gov>  
**To:** <MAttwell.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 9/16/2005 2:32 PM  
**Subject:** icann/gac update in wsis context

just a note from phonecons and email exchanges with the eu commission, japan and canada, fyi:

1. the eu will be sending a letter to the icann board re .xxx, noting that the board shared an evaluation of the original proposal in 2000 and the gac had expected the same this time around. the letter, which has not yet been finalized, is also likely to ask for a deferral until the gac can see the evaluation report for the .xxx application. if we don't get a copy directly, we will get it via the chair of the gac.

N R

From: Jeffrey Joyner  
 To: Meredith Attwell  
 Date: 6/14/2005 3:15 PM  
 Subject: Re: Fwd: Call from Family Research Council

5 USC 552 (b) 5

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 USC 552 (b) 5

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

5 USC 552 (b) 5

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###

CC: Robin Layton

**Clyde Ensslin - RE: Update on public reaction to ICANN and .xxx**

---

**From:** <CGunderson@doc.gov>  
**To:** <censslin@ntia.doc.gov>  
**Date:** 6/20/2005 8:44 AM  
**Subject:** RE: Update on public reaction to ICANN and .xxx

---

5 USC §552 (b)5

-----Original Message-----

**From:** "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]  
**Sent:** Monday, June 20, 2005 7:32 AM  
**To:** <MGallagher.NTIAHQ.NTIA@ntia.doc.gov>  
**Cc:** <cfuqua@doc.gov>; <CGunderson@doc.gov>; "John Kneuer" <JKneuer@ntia.doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Ranjit deSilva" <RDesilva@ntia.doc.gov>  
**Subject:** Update on public reaction to ICANN and .xxx

As of midnight Sunday night June 19, by my count, the publicaffairs@ntia.doc.gov account set up on Friday June 16 to accept emails regarding .xxx had received 2,567 messages. Between midnight and 8 am this morning, another 79 came in. Most have an identical text and came from an "Alert" on the Family Research Council home page. If you go to www.frc.org and scroll to the bottom of a story titled "Stop the Porn Industry from Expanding" and fill in name and address fields, FRC will automatically send messages to both ICANN and Commerce with the subject line "Stop the Establishment of the .xxx domain."

The text is: "I oppose the establishment of the .XXX domain. I do not want to give pornographers more opportunities to distribute smut on the Internet. By establishing this new .XXX domain, you would be giving false hope to parents who want to protect their families from pornography. You would also be lending legitimacy to the hardcore pornography industry. Please stop this effort now."

Two other conservative Web sites have stories that suggest people should contact Commerce in opposition to .xxx. Both www.humaneventsonline.com and www.cwfa.org have the publicaffairs@ntia.doc.gov address and both encourage people to contact ICANN and provide email address and phone for ICANN.

Focus on the Family has archived its report on .xxx and removed the contact information for DoC and replaced it with an offer to send a message to ICANN on the behalf of the reader.

One conservative Web at www.ProtectEveryChild.org supports .xxx because ICANN approval of .xxx "is only half the battle. There must be a mandatory movement to .xxx." They urge people to contact DoC in support of a mandatory .xxx and provide the NTIA e-mail address.

Media reaction: Based on my Lexis-Nexis search, which may not capture every story, only a handful of stories have run since the AP story a week ago. The Dubuque Telegraph-Herald ran the week-old AP story yesterday.

Other reports/op-eds in the media:

193

On June 15, the Hunteington West Virginia Herald-Dispatch ran an unscientific poll that asked:

Message

Page 2 of 2

"Backers of a proposed .xxx domain say it will help keep Internet users from accidentally stumbling upon porn sites. Do you agree?" Yes 65.5 percent; No, 25.5 percent, Undecided 8.9 percent, total 3236 surveyed.

The Stanton Virginia Daily News Leader ran a negative op-ed on June 14 titled "Smoke and Mirrors."

A student newspaper at the University of Northern Illinois said in an op-ed that .xxx should not be mandatory as that would be unconstitutional.

Internationally, an op-ed in New Straits Times in Malaysia weighed the pros and cons evenly; and an op-ed in the New Zealand Herald predicted that a voluntary .xxx would be "ineffectual."

I will continue to search for stories in the media and will keep you posted.

Clyde Ensslin NTIA Director of Communications x0019



From: Meredith Attwell  
 To: Michael Gallagher  
 Date: 6/2/2005 1:44 PM  
 Subject: Re: Fwd: ICANN

5 USC § 552 (b) 5

>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:36 PM >>>

5 USC § 552 (b) 5

5 USC § 552(b) 5

>>> Meredith Attwell 06/02/05 1:33 PM >>>

5 USC § 552 (b) 5

#### ICANN OKs 'XXX' Web Addresses

The Internet's primary oversight body approved a plan Wednesday to create a virtual red-light district, setting the stage for pornographic Web sites to use new addresses ending in "xxx."

The Internet Corporation for Assigned Names and Numbers said it would begin negotiations with ICM Registry Inc., run by British businessman Stuart Lawley, to iron out technical issues and prices for the new Web addresses.

Adult-oriented sites, a \$12 billion industry, probably could begin buying "xxx" addresses as early as fall or winter, depending on ICM's plans, ICANN spokesman Kieran Baker said. The new pornography suffix was among 10 under consideration by the regulatory group, which also recently approved addresses ending in "jobs" and "travel."

ICM contends the "xxx" Web addresses, which it plans to sell for \$60 a year, will protect children from online smut if adult sites voluntarily adopt the suffix so filtering software used by families can more effectively block access to those sites. The \$60 price is roughly 10 times higher than prices other companies charge for dot-com names.

"It will further help to protect kids," said John Morris, staff counsel at the Washington-based Center for Democracy and Technology. Morris predicted some adult sites will choose to buy "xxx" Web addresses but others will continue to use ".com."

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>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>

5 USC § 552 (b)5

Thanks.

Mike

**From:** <ClIsrael@DOC.GOV>  
**To:** <AStrudwick@doc.gov>  
**Date:** 6/20/2005 2:40:39 PM  
**Subject:** RE: Draft Talkers and Email Response

Not sure if this has been finalized thru DAS and Claire yet, but I had a few comments.

Aimee Strudwick/HCHB/Osnet  
06/20/2005 09:27 AM

To  
Chuck Fuqua/HCHB/Osnet@osnet  
cc  
CBuchan@doc.gov, censsln@ntia.doc.gov, CFuqua@doc.gov,  
CGunderson@doc.gov, ClIsrael@doc.gov, JBailey@doc.gov,  
MAttwell@ntia.doc.gov, MGallagher@ntia.doc.gov  
Subject  
RE: Draft Talkers and Email Response

It was my understanding that the e-mail response would come from Gallagher at this stage. I will verify that DAS didn't have further comment from his review over the weekend.

Chuck Fuqua/HCHB/Osnet  
06/20/2005 09:24 AM

To  
censsln@ntia.doc.gov, astrudwick@doc.gov  
cc  
CBuchan@doc.gov, CFuqua@doc.gov, CGunderson@doc.gov, ClIsrael@doc.gov,  
JBailey@doc.gov, MAttwell@ntia.doc.gov, MGallagher@ntia.doc.gov  
Subject  
RE: Draft Talkers and Email Response

I haven't seen any edits to the email response draft that Meredith sent,

so I assume that language is okay with the group. If not, please let us know.

Also, do we have resolution from whom the email should be sent? Am I correct that it should come from A/S Gallagher? This would be used to respond to the emails sent to the Secretary's email address and now those sent to the NTIA email address. Please let us know. Thanks.

-Chuck

-----Original Message-----

From: "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]  
 Sent: Friday, June 17, 2005 5:30 PM  
 To: <astrudwick@doc.gov>  
 Cc: <CBuchan@doc.gov>; <CFuqua@doc.gov>; <CGunderson@doc.gov>; <CIsrael@doc.gov>; <JBailey@doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Michael Gallagher" <MGallagher@ntia.doc.gov>  
 Subject: RE: Draft Talkers and Email Response

Amie: We sent our suggestions to Chuck and discussed them with him so his version is the final. Have a good weekend! Clyde

>>> 6/17/2005 5:24 PM >>>

Is your version of the document the FINAL draft for me to send home with DAS?

Chuck Fuqua/HCHB/Osnet  
 06/17/2005 03:23 PM

To

mattwell@ntia.doc.gov, AStrudwick@doc.gov, CBuchan@doc.gov, CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov, CEnsslin@ntia.doc.gov, MGallagher@ntia.doc.gov  
 cc

Subject

RE: Draft Talkers and Email Response

§ USC § 552 (b)(5)

-----Original Message-----

From: "Meredith Attwell" [mailto:"Meredith

Attwell" ]  
Sent: Friday, June 17, 2005 3:01 PM  
To: ; ; ;  
; ; ; "Clyde  
Ensslin" ; "Michael Gallagher "

Subject: Re: Draft Talkers and Email Response

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope

this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: "Meredith Attwell" [mattwell@ntia.doc.gov]  
Sent: 06/17/2005 12:38 PM  
To: ; ; ; ; ; ; ; "Michael Gallagher "  
Subject: Draft Talkers and Email Response

I am also attaching a Presidential Proclamation from 2003 outlining efforts to combat pornography. Let me know what else you need.

Thanks,  
Meredith

CC: <CBuchan@doc.gov>, <censsln@ntia.doc.gov>, <CFuqua@doc.gov>, <CGunderson@doc.gov>, <CFuqua@doc.gov>, <JBailey@doc.gov>, <MAttwell@ntia.doc.gov>, <MGallagher@ntia.doc.gov>

From: Clyde Ensslin  
To: Michael Gallagher  
Date: 8/11/2005 5:37:14 PM  
Subject: .XXX messaging

Mike: My guidance from fifth floor OPA is not to publicize the letter but we may fax it to people who request it.

With your approval, I will distribute the following talking points to OPA and State Dept.

Draft talking points on .XXX letter Aug 11

5 U.S.C. § 552(b)(5)

A/S Gallagher's request is wholly consistent with announced U.S. principles on the Internet's Domain Name and Addressing System:

Principle 3: The United States continues to support the ongoing work of ICANN as the technical manager of the DNS and related technical operations.

Principle 4: We encourage an ongoing dialogue with all stakeholders around the world in the various fora as a way to facilitate discussion and to advance our shared interest in the ongoing robustness and dynamism of the Internet.

###

CC: John Kneuer; Ranjit deSilva

**From:** Meredith Attwell  
**To:** Jeffrey Joyner; Milton Brown  
**Date:** 7/29/2005 3:00 PM  
**Subject:** Re: .xxx discussion paper

§ U.S.C. § 552 (b)(5)

>>> Jeffrey Joyner 7/29/2005 2:45 PM >>>  
Just so we are all on the same page ...

You need for us to take the outline and flesh it out (pardon the pun), providing you with additional options for this process (if any); Appendix A and Appendix B; and the text of a proposed letter.

>>> Meredith Attwell 7/29/2005 1:59 PM >>>  
a start...

**From:** John Kneuer  
**To:** dbearden@eda.doc.gov; dbohigian@doc.gov; JBailey@doc.gov; Kathy Smith; Meredith Attwell  
**Date:** 8/2/2005 3:28 PM  
**Subject:** .xxx

All . . . I'd like to try and schedule a meeting tomorrow afternoon, if possible, to discuss our approach/response to developments on .xxx.

5 USC § 552(b)(5)

Please let me know if you are available.

For planning purposes I suggest 3 pm.

Thanks.

Best,

John M. R. Kneuer  
Deputy Assistant Secretary  
Communications and Information  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W., Rm. 4898  
Washington, D.C. 20230  
Phone: (202) 482-1840  
jkneuer@ntia.doc.gov



From: Clyde Ensslin  
To: Meredith Attwell  
Date: 6/16/2005 8:20 AM  
Subject: Suggested talking points on .xxx

§ U.S.C. § 552(b)(5)

###

NON RESPONSIVE

From: Cathy Handley  
To: Meredith Attwell  
Date: 7/22/2005 6:40 PM  
Subject: Re: Fwd: NON RESPONSIVE

I checked with John and he said no, he believes it is scheduled for the next regular board meeting on Aug 16th. He also indicated that Vint is trying to reschedule the Aug 9 meeting back to next week and we should know the being of next week if Vint was successful.

>>> mattwell@mycingular.blackberry.net 7/22/2005 5:58 PM >>>  
We need to know if they plan on approving .xxx at that meeting as well...

-----Original Message-----

From: "Cathy Handley" <chandley@ntia.doc.gov>  
Date: Fri, 22 Jul 2005 15:11:09  
To: <MAttwell@ntia.doc.gov>  
Subject: Fwd: Re-delegation

Meredith,  
This ICANN Board meeting has been resecheduled for the morning of August 9, 2005.  
Cathy

>>> Cathy Handley 7/19/2005 4:47 PM >>>  
Meredith

NON RESPONSIVE

Cathy

Meredith Attwell  
Sent via BlackBerry - a service from AT&T Wireless.

From: Fiona Alexander  
To: Meredith Attwell  
Date: 8/5/2005 11:56 AM  
Subject: Fwd: RE: History of the Internet

odd paragraph on .xxx which i'm sure caught your attention.

5 U.S.C. § 552(b)(5)

Fiona

>>> Meredith Attwell 08/05/05 11:12 AM >>>

ummm.... wow. check this out. We need to maybe think this thru to figure out who's driving this and how bad of an idea it is. I bet State would hate it in the middle of the WSIS process?

>>> "Goitein, Evan" <Evan.Goitein@mail.house.gov> 8/5/2005 10:44 AM >>>

I left you a voicemail and, if you could call me back that would be great, but I wanted to run this by you as well. I have to put all this on less than a page, which is a daunting task as you well know. My only request would be that you tell me if anything is inaccurate. (I know I left a lot out, which I can fill in verbally.)

Thanks again for all your help!!!

Evan

-----Original Message-----

From: Meredith Attwell [mailto:mattwell@ntia.doc.gov]

Sent: Thursday, August 04, 2005 4:56 PM

To: Goitein, Evan

Cc: jwasilewski@ntia.doc.gov

Subject: History of the Internet

for your bedside table... zzzzzz.

Good to talk to you today. Call if you have any further questions.

Thank,

Meredith

From: Robin Layton  
 To: Jeffrey Joyner; Meredith Attwell  
 Date: 6/14/2005 5:23 PM  
 Subject: Re: Fwd: Call from Family Research Council

I asked Suzanne and Cathy to work with Jeff on points at our staff meeting which just got over.

>>> "Meredith Attwell" <mattwell@ntia.doc.gov> 6/14/2005 4:10 PM >>>  
 5 USC § 552(b)(5)

>>> Jeffrey Joyner 6/14/2005 3:15 PM >>>

5 USC § 552(b)(5)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 USC § 552(b)(5)

Thanks.

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

5 USC § 552(b)(5)

From [www.frc.org](http://www.frc.org):

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

06/17/2005 03:23 PM

To  
mattwell@ntia.doc.gov, AStrudwick@doc.gov, CBuchan@doc.gov,  
CFuqua@doc.gov, CGunderson@doc.gov, CIsrael@doc.gov, JBailey@doc.gov,  
CEnsstin@ntia.doc.gov, MGallagher@ntia.doc.gov  
cc

Subject  
RE: Draft Talkers and Email Response

SUSC § 552(b)(5)

-----Original Message-----

From: "Meredith Attwell" [mailto:"Meredith  
Attwell" ]

Sent: Friday, June 17, 2005 3:01 PM

To: ; ; ;

; ; ; "Clyde

Ensslin" ; "Michael Gallagher "

Subject: Re: Draft Talkers and Email Response

SUSC § 552(b)(5)

>>> 6/17/2005 2:07 PM >>>

DAS has reviewed the attached. He would like the last paragraph reworked after the bold sentence. He thinks it could read a little smoother. I hope

this makes sense as we are out of pocket at a NOAA facility.

-----  
Sent from my BlackBerry Wireless Handheld

**From:** Meredith Attwell  
**To:** hdomenici@ostp.eop.gov; rrussell@ostp.eop.gov  
**Date:** 8/1/2005 5:32 PM  
**Subject:** .xxx

Here is the paper that we did when .xxx emails began flooding, as well as a the beginning of a draft discussion paper. I am working on a draft letter to send to ICANN, a draft protecting children online paper as well as a legislative paper. They should be ready by Wednesday.

5 USC § 552(b)(5)

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

From: Meredith Attwell  
To: acohen@doc.gov; Clyde Ensslin  
Date: 8/3/2005 2:43 PM  
Subject: Fwd: RE: .xxx

we've moved to 4:30...

>>> <DBohigian@DOC.GOV> 8/3/2005 2:24 PM >>>

Great, sorry. Thanks.

-----Original Message-----

From: "John Kneuer" <jkneuer@ntia.doc.gov> [mailto:"John Kneuer" <jkneuer@ntia.doc.gov>]  
Sent: Wednesday, August 03, 2005 2:06 PM  
To: <dbohigian@doc.gov>; <JBailey@doc.gov>; <dbearden@eda.doc.gov>; "Kathy Smith" <KSmith@ntia.doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>  
Subject: RE: .xxx

That works for me. If it works for everyone else ;lets plan on 4:30 in 4898. Thanks everyone.

>>> 08/03/05 2:00 PM >>>

A 2:45 meeting with the Secretary just popped up on David's schedule. I have a 3pm meeting with NAM. Any chance of us moving this meeting to 4:30?

-----Original Message-----

From: "John Kneuer" [mailto:"John Kneuer" ]  
Sent: Tuesday, August 02, 2005 3:28 PM  
To: ; ; "Kathy Smith" ; "Meredith Attwell"  
Subject: .xxx

All . . . I'd like to try and schedule a meeting tomorrow afternoon, if possible, to discuss our approach/response to developments on .xxx.

50506 5526)(5)

Please let me know if you are available. For

planning purposes I suggest 3 pm.

Thanks.

Best,

John M. R. Kneuer  
Deputy Assistant Secretary  
Communications and Information  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W., Rm. 4898  
Washington, D.C. 20230  
Phone: (202) 482-1840  
[jkneuer@ntia.doc.gov](mailto:jkneuer@ntia.doc.gov)



**From:** Clyde Ensslin  
**To:** cgunderson@doc.gov  
**Date:** 6/16/2005 4:26 PM  
**Subject:** Draft language to reply to e-mails to Secretary Gutierrez

Christine: Here's draft language that has been cleared through the NTIA Office of Chief Counsel. You may want this to be sent from someone at NTIA or Exec Sec.

5 USC § 552(b)(5)

**CC:** Meredith Attwell; Milton Brown

From: Meredith Attwell  
To: Jeffrey Joyner  
Date: 6/14/2005 4:10:27 PM  
Subject: Re: Fwd: Call from Family Research Council

5 U.S.C. § 552(b)5

>>> Jeffrev Jovner 6/14/2005 3:15 PM >>>

5 U.S.C. § 552(b)5

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 U.S.C. § 552(b)5

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

5 U.S.C. § 552(b)5

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Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

CC: Robin Layton

From: Jeffrey Joyner  
To: Meredith Attwell  
Date: 6/14/2005 2:34:40 PM  
Subject: Re: Fwd: Call from Family Research Council

5 U.S.C. § 552 (b) 5

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 U.S.C. § 552 (b) 5

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

5 U.S.C. § 552 (b) 5

From [www.frc.org](http://www.frc.org):

.XXXercise in Futility

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Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

CC: Robin Layton

From: "Suzanne Sene" <ssene@ntia.doc.gov>  
 To: <CEsslins.NTIAHQ.NTIA@ntia.doc.gov>, "Eric Stark" <EStark@ntia.doc.gov>, "Fiona Alexander" <FAlexander@ntia.doc.gov>, "John Kneuer" <JKneuer@ntia.doc.gov>, "James Wasilewski" <JWasilewski@ntia.doc.gov>, "Kathy Smith" <KSmith@ntia.doc.gov>, "Meredith Attwell" <MAttwell@ntia.doc.gov>, "Michael Gallagher" <MGallagher@ntia.doc.gov>, <RDesilva.NTIAHQ.NTIA@ntia.doc.gov>, "Robin Layton" <RLayton@ntia.doc.gov>  
 Date: 8/16/2005 9:42:07 AM  
 Subject: Re: BBC Article on .xxx delay

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I forsee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

5 USC 552 (b) 5

>>> James Wasilewski 8/16/2005 9:22 AM >>>  
 Bush administration objects to .xxx domains

By Declan McCullagh  
[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The

domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go

very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

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from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Icann's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Icann "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "Cathy Handley" <CHandley@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, "Tracey Rhoades" <TRhoades@ntia.doc.gov>

From: Suzanne Sene  
To: Fiona Alexander; Meredith Attwell; Robin Layton  
Date: 8/10/05 12:46:52 PM  
Subject: Re: outreach with other gov'ts re ntia letter on .xxx

5 USC. § 552 (b) 5

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC. § 552 (b) 5

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 08/10/05 12:03 PM >>>  
meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

i would propose sending sharil an email as a heads up, even though paul twomey says he's already alerted him to the letter. following that, i can send ntia's letter to the entire gac list on an fyi basis. i will be happy to draft an outgoing email for your review (and occ's?) prior to sending the letter as an attachment.

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

CC: Cathy Handley



From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: "Jeffrey Joyner" <JJoyner@ntia.doc.gov>, <jwasilewski@ntia.doc.gov>  
Date: 7/29/2005 2:22:46 PM  
Subject: PFF blog on Porn Tax

5 USC § 552 (b)(5)

A Sin Tax for Online Porn? (previous | next)

We all know how governments enjoy levying "sin taxes" on alcohol and tobacco, so it shouldn't be at all surprisingly that someone is now proposing to impose one on online porn viewing. Sen. Blanche Lincoln, (D-Ark.) is apparently going to drop a bill next week that would impose a federal excise tax on transactions with for-profit adult Web sites.

I am not about to pen a defense for those people who spend endless hours looking at dirty pictures online, but I really do believe this bill has got to be the silliest idea to come out of Congress in a long time. Specifically, it once again proves that most members of Congress have absolutely no appreciation for what sort of enforcement difficulties they are up against in terms of regulating the Net and online content.

After all, just because a website is for-profit, it doesn't mean it will be easy to impose such a tax scheme. The tax evasion possibilities here are endless, especially considering how much activity originates overseas. How will the tax be reported? What kind of enforcement regime will be necessary to even collect a small percentage of these taxes? In a world of anonymous electronic transactions, I just can't see how enforcement would work. I guess Congress could force credit card companies to somehow become their deputized policemen and make them figure out when people are viewing online porn. Of course, there are some serious privacy issues at stake there and there's still little chance that even the financial intermediaries will be able to track everybody down. Moreover, why should financial intermediaries be forced to become the henchmen of the State in terms of enforcing morality?

Of course, I'm just focusing on the enforcement problems with this measure. I haven't said a word about the many ways in which this is likely unconstitutional as well. The courts have struck down just about every other effort to regulate online content, so I have a difficult time believing that they'll allow this one to stand for very long. Taxes on speech have been found to be every bit as unconstitutional as direct speech controls. So this bill is doomed in my opinion.

(By the way, time for a shameless plug... This issue was the subject of my fourth book, *Who Rules the Net? Internet Governance and Jurisdiction*. Make sure to check our Robert Corn-Revere's chapter in this book if you are interested in learning more about this subject: "Caught in the Seamless Web: Does the Internet's Global Reach Justify Less Freedom of Speech?" Here's another version of it online.)

posted by Adam Thierer @ 8:58 AM | Free Speech

**From:** Fiona Alexander  
**To:** "CEnsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
 "RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Michael Gallagher; Robin Layton; Suzanne Sene  
**Date:** 8/16/2005 12:35:49 PM  
**Subject:** Re: BBC Article on .xxx delay

Suzanne

5 USC §552 (b) 5

>>> Suzanne Sene 08/16/05 9:40 AM >>>

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I foresee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

5 USC 552 (b) 5

>>> James Wasilewski 8/16/2005 9:22 AM >>>

Bush administration objects to .xxx domains

By Declan McCullagh

[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Fromkin, a law professor at the University of Miami, said it's not surprising ICANN's board has

found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

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<http://news.bbc.co.uk/1/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

**From:** Maureen Lewis  
**To:** Meredith Attwell  
**Date:** 6/28/2005 4:11:21 PM  
**Subject:** Re: Fwd: Draft text of e-mail reply to .xxx messages

Yes, I understand. thx

>>> Meredith Attwell 6/28/2005 4:10 PM >>>  
yes, except that they should be personalized, not dear concerned citizen.

>>> Maureen Lewis 6/28/2005 4:09:17 PM >>>

5 USC § 552 (b)5

>>> Clyde Ensslin 6/28/2005 4:05 PM >>>

>>> Clyde Ensslin 6/28/2005 11:06:18 AM >>>

>>> Clyde Ensslin 6/24/2005 9:32:30 AM >>>

Chuck: Mike Gallagher has approved the following text to go out over his name in an e-mail response to the people who have e-mailed about the .xxx domain. NTIA is in the process of installing software that will enable us to send a group reply as opposed to migrating the names and addresses individually, which will save us considerable time. I will coordinate with Exec Sec regarding a response to the messages they received before we activated the NTIA account for these messages. Would you advise me as to the best way for NTIA to obtain fifth floor clearance to proceed to send this response out?  
Thanks! Clyde Ensslin x0019

Dear Concerned Citizen:

I share your concerns about the proliferation of pornography on the Internet and the victimization of children. It is the policy and the track record of this Administration to protect children online, to provide a safe place for children online, and to combat child pornography. While the Department of Commerce does not make policy decisions with regard to domain names or Internet content, we remain committed to combating child pornography and other abuses of the Internet. If you have concerns regarding the .xxx domain, you can submit them to the organization that creates top-level domains:

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
Phone: 310-823-9353  
Fax: 310-823-8649  
Email: [icann@icann.org](mailto:icann@icann.org)

Sincerely,

Michael D. Gallagher  
Assistant Secretary for Communications and Information  
U.S. Department of Commerce  
Washington, D.C. 20230

From: Maureen Lewis  
To: Eric Stark  
Date: 9/29/2005 4:49:22 PM  
Subject: Re: Fwd: Draft text of e-mail reply to .xxx messages

Eric:

A  
F

5 USC § 552 (b)5

>>> Meredith Attwell 6/28/2005 4:10 PM >>>

y

5 USC § 552 (b)5

>>> Maureen Lewis 6/28/2005 4:09:17 PM >>>

5 USC § 552 (b)5

>>> Clyde Ensslin 6/28/2005 4:05 PM >>>

>>> Clyde Ensslin 6/28/2005 11:06:18 AM >>>

>>> Clyde Ensslin 6/24/2005 9:32:30 AM >>>

5 USC § 552 (b)5

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <cgunderson@doc.gov>  
**Date:** 6/15/2005 9:49:13 PM  
**Subject:** .XXX

5 USG § 552(b)5





## **FACT SHEET**

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### **VOLUNTARY ADULT .XXX TOP-LEVEL DOMAIN (TLD)**

The Board of the Internet Corporation for Assigned Names and Numbers (ICANN) has determined that ICM Registry's application meets the eligibility criteria established by ICANN and directed its staff to enter into negotiations with ICM Registry to develop the commercial and technical terms under which the .xxx sponsored top-level domain (sTLD) would launch. The ICANN Board's action is another step forward in expanding the top level domain space responsibly, inspiring global innovation and competition online, and facilitating the kind of bottom-up decision-making that has characterized the growth of the Internet. The sponsor of the proposed TLD is the International Foundation for Online Responsibility (IFFOR), an independent Canadian non-profit entity. IFFOR will be governed by a board of directors that reflects the various stakeholder groups, and will remain independent of ICM Registry.

The .xxx sponsored top-level domain will create a clearly identifiable area of the Internet that will empower families and help protect children and others from unwanted or inappropriate content. The existence of the sponsored TLD would facilitate meaningful, voluntary self-organization and self-regulation by responsible adult-entertainment website operators.

### **WHY IS A VOLUNTARY .XXX TLD NEEDED?**

- The online adult-entertainment industry is one of the largest and fastest growing sectors of the Internet.
- The Internet and the various stakeholders will benefit greatly from responsible self-regulation.
- According to Reuters, online adult-oriented ecommerce is worth more than \$3 billion USD globally and is growing at a double-digit rate. The number of adult websites has grown 18-fold over the last six years alone.
- More than 10% of all online traffic and 25% of all global Internet searching is adult-content oriented with more than 100,000 adult webmasters worldwide and well over one million adult domains.
- Responsible members of the adult entertainment industry have identified a need to work together to:
  - Develop mechanisms to reach only those online users who want to use their products or services;
  - Respond to the growing demand from child and family safety groups to ensure the Internet is safer; and
  - Respond to the privacy, security, and consumer protection concerns of their audience.

### **WHAT ARE THE BENEFITS OF A .XXX TLD?**

- Online child safety and efforts to combat child pornography and other abuses will be promoted through best practice guidelines that will be promulgated by a non-profit, cross-stakeholder foundation. IFFOR will provide financial and other

assistance to various online support organizations and will develop technology tools and sponsor education programs for parents and families.

- The online adult-entertainment industry wants to create an identifiable space with which its members can elect to associate themselves and wherein they can responsibly self-organize and create guidelines to promote credible self-regulation.
- The voluntary .xxx TLD will facilitate and protect free expression rights – both for content providers and Internet users.
- Privacy, security, and responsible retail practices will be promoted to protect online consumers.
- The .xxx TLD has the potential to regularize business processes such as search-engine functionality, privacy, identity theft prevention measures, and security.
- The .xxx TLD creates a credible forum for representation and self-regulation where all stakeholders are able to discuss and actively respond to concerns about adult entertainment sites on the Internet.

#### **WHERE IS THE SUPPORT FOR A .XXX TLD?**

The .xxx TLD is a voluntary, industry-led, market-driven and non-regulatory effort. It has drawn support from a broad spectrum of Internet stakeholders, including:

- Child and family safety groups;
- Leaders/members of the global adult-entertainment industry who have agreed to voluntarily participate;
- Free speech, privacy and security advocates;
- Information Technology (IT) experts; and
- Public policy leaders.

#### **WHO WILL OPERATE AND SPONSOR THE .XXX TLD?**

- ICM Registry will operate the registry. ICM is a financially stable technology company, independent of IFFOR and unaffiliated – either currently or in the past – with the adult-entertainment industry. ICM will provide the registry's management, supporting infrastructure, and back-end functionality.
- The International Foundation for Online Responsibility (IFFOR), a Canadian not-for-profit organization, will sponsor and serve as the policy-making authority for the .xxx TLD. IFFOR will contract with ICM for registry services, and will be funded, primarily, through registration activities.
- IFFOR will have its own board of directors, representing the various stakeholders, including child-safety representatives, members of the free-speech community and adult-entertainment industry leaders.
- IFFOR's mission is to participate in and support the development of programs and tools to fight child pornography, and to serve as a forum for the online adult-entertainment community to communicate with and pro-actively respond to the needs and concerns of the broader Internet community.
- IFFOR's Mission will include:
  - Supporting free expression and other efforts to protect the right of Internet users to choose the online content they desire;
  - Promoting public awareness of technologies, programs, organizations and methods available to protect children online;
  - Supporting the development and proliferation of voluntary, user-friendly systems that enable Internet users to identify content;

- o Sponsoring child safety and anti-child pornography organizations and programs;
- o Protecting consumers by raising awareness of deceptive or unfair business practices, and creating a safer environment for consumers within the domain;
- o Increasing credibility and predictability; and
- o Supporting efforts to protect intellectual property rights.

#### **WHAT WILL BE THE OBLIGATIONS OF .XXX TLD REGISTRANTS?**

Participating adult Internet content and service providers believe that responsible self-regulation is essential to the industry's continuing viability in the global marketplace. Those that voluntarily register for .xxx TLD names will adhere to a set of business practices, embodied in an enforceable contract between the Registrant and ICM Registry. The credibility of such practices cannot be preserved by the one time creation of a set of responsible business practices. Neither will a participant be able to revise its practices after an initial review. IFFOR will revise, review and continually update its established practices to accommodate developments in technologies and societal expectations.

.xxx TLD name registrants will be expected to adhere to a set of best business practices that will include:

- Safeguarding children from being marketed to or targeted online by adult webmasters;
- Defending customer privacy;
- Deploying accurate meta-tagging;
- Ensuring the clear and accurate disclosure of relevant practices, security of information and transactions, and accountability through the provision of accurate contact information;
- Protecting intellectual property rights;
- Combating the use of unlawful malicious codes and technologies, including spoofing and phishing;
- Not engaging in fraudulent, anonymous, unsolicited or illegal commercial email advertising their products and services; and
- Avoiding the use of misleading domain names or domain names intended to attract child pornography consumers.

**In addition, ICM and IFFOR will make a difference in the battle against child pornography by sponsoring programs to safeguard children.**

#### **CONTACT INFO**

---

Stuart Lawley, Chairman & President – [sjlawley@icmregistry.com](mailto:sjlawley@icmregistry.com)

or

Marc Pearl or Kelli Emerick – IT Policy Solutions | Washington, DC

[mpearl@itpolicysolutions.com](mailto:mpearl@itpolicysolutions.com) or [kemerick@itpolicysolutions.com](mailto:kemerick@itpolicysolutions.com)

Telephone: 202 464 4000

**From:** Clyde Ensslin  
**To:** kcpullen@doc.gov  
**Date:** 10/19/2005 12:26:28 PM

5 U.S.C § 552(b)5

Editorials and Opinions re Internet Governance as of 10-19-05

Editorials about proposal for UN control of Internet (9 Against, 1 For)

Riverside (CA) Press-Enterprise, Oct 18 (Anti-UN)

"...government by international committee...is a terrible idea, and one the United States is right to oppose."

Wall Street Journal, Oct 17 (Anti-UN)

"Perhaps our friends at the European Union, who last month turned against the U.S., will realize that their sudden push for 'control' over the Net carries a high price."

The Nation (Thailand), Oct 17 (Anti-UN)

"...it would be wise for Thailand to support an Internet that is open and free of the bureaucratic control of any organization."

Ottawa Citizen (Canada), Oct 17 (Anti-UN)

"Many Canadians might dislike many U.S. policies, but when it comes to control of the Internet, the fundamental medium of the information age, we must stand with it against dictators and encourage the EU to do the same."

The Guardian (London), Oct 11 (Pro-UN)

"There is a need for a separate body to deal with global issues such as spamming, child pornography, intellectual property and abuses of democratic rights. The UN would be good for this role..."

The Gazette (Montreal), Oct 10 (Anti-UN)

"...the statist busybodies at the UN are determined to get their hands on the Internet."

The Roanoke Times, Oct 9 (Anti-UN)

"American delegates should at least avoid unyielding, unilateral posturing that may provoke the rest of the world to split the Internet."

The Economist (London), Oct 8 (Anti-UN)

"...ICANN's stewardship has succeeded because its focus has been not on politics, but on making the network as efficient as possible."

Christian Science Monitor, Sep 16 (Anti-UN)

"...it's far from clear a body established by the UN is ready to become an able administrator for the Internet."

The Washington Times, July 21 (Anti-UN)

"UN bureaucrats see the Internet as a resource to be plundered and distributed like government-funded aid programs."

**Editorials about proposal for .XXX top level domain (2 Against, 3 For)**

USA TODAY, Sep 15

(Pro-XXX)

"...trying to improve protections for parents is a good idea – including a .xxx domain experiment."

San Jose Mercury News, Aug 22

(Pro-XXX)

"Triple-X will do no harm. It may do some good in screening and regulating porn."

Los Angeles Times, Aug 21

(Anti-XXX)

"Whatever the reasons, the group [ICANN] should resist the temptation to create a pornography-only zone on the Web."

Ft. Laud. Sun-Sentinel, Aug 21

(Anti-XXX)

"Of about 250 domain designations, .xxx would be the only one that would be content-specific, and we thus worry that it would set the stage for censorship imposed by governments." (attributed to Baltimore Sun)

Myrtle Beach Sun-News, Aug 11

(Pro-XXX)

".xxx will improve the Web." (attributed to San Jose Mercury News)

**Opinion columns about proposal for UN control of Internet (8 Anti, 2 Pro)**

Hiawatha Bray in the Boston Globe, Oct 17

(Anti-UN)

Harold Furchtgott-Roth in the New York Sun, Oct 11

(Anti-UN)

Jonathan Zuck in the Financial Times, Oct 7

(Anti-UN)

Simon Newsam in the Western Mail (Cardiff, Wales)

(Pro-UN)

Russ Kent in the Mansfield Ohio News Journal, Oct 2

(Anti-UN)

Ramos-Mrosovsky & Barillari, National Review, Sep 28

(Anti-UN)

Richard Lessner in the New York Sun, Sep 26

(Anti-UN)

Michael Geist in the Toronto Sun, Sep 19

(Pro-UN)

David Holman in the American Spectator, Aug 10

(Anti-UN)

Peter Griffin in the New Zealand Herald, July 22

(Anti-UN)

**Opinion columns about .XXX (2 Anti, 2 Pro)**

Patrick Trueman in USATODAY, Sep 15 (Anti-XXX)

Shaunti Feldhahn in the Chicago Tribune, Sep 14 (Anti-XXX)

Diane Glass in the Chicago Tribune, Sep 14 (Pro-XXX)

Paul McMasters in the Charleston (WV) Gazette, Sep 4 (Pro-XXX)

From: Meredith Attwell  
To: CHandley@ntia.doc.gov  
Date: 7/26/2005 1:33 PM  
Subject: Re: TLD Status follow-up

thanks

>>> Cathy Handley 07/26/05 9:47 AM >>>  
John,

*NON-RESPONSIVE*

Slight change in dates, according to ICANN .xxx will be addressed at the August 16 Board meeting not the 26th as earlier indicated.

*NON-RESPONSIVE*

Cathy



**Clyde Ensslin - USA Today Q&As**

---

**From:** <CFuqua@doc.gov>  
**To:** <censslin@ntia.doc.gov>  
**Date:** 11/3/2005 5:31 PM  
**Subject:** USA Today Q&As  
**CC:** <kCowles@doc.gov>

---

Clyde,  
as discussed, we're okay to proceed, but stick to the talkers below. Please let me know how it goes. Thanks  
-Chuck

JUSC § 552(b)(5)

From: Clyde Ensslin  
To: cfuqua@doc.gov  
Date: 6/16/2005 5:19:13 PM  
Subject: Fwd: Michael Reagan supports .xxx

>>> "Meredith Attwell" <mattwell@ntia.doc.gov> 6/16/2005 1:12 PM >>>  
Christine-

5 USC § 552(b)(5)

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."  
Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress, when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their

own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

From: Fiona Alexander  
To: shipmansa@state.gov  
Date: 8/31/05 1:35:38 PM  
Subject: Fwd: Draft WSIS Briefing Invite

Sally

5 USC § 552 (b)(5)

Tim - in terms of the event, my understanding is that David will want to do the usual tag team of the issue that he and Mike having been doing. Mike explaining the principles, why we issued them, then David going into WSIS specific. Can you check with David and let me know so I can pull together the necessary briefing material for Mike. Hope you had a good vacation.

Fiona

>>> "Tracey Rhoades" <lrhoades@ntia.doc.gov> 08/31/05 8:13 AM >>>  
Hello -- Internet Caucus lunch w/ Mike and Amb. Gross has been confirmed for 9/12. Please review the attached draft invite and let me know if you recommend any edits. I will forward your comments or approval back to Tim Finton and request further information regarding the format for remarks. I will forward that info to you when I receive it -- Please coordinate w/ Tim Finton on development of Mike's talking points/remarks. thanks!

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So, please take a look at the attached draft invite (I have pasted it below for those of you on Blackberry).

- Tim Lordan

--  
Tim Lordan  
Executive Director  
Internet Caucus Advisory Committee  
c/o Internet Education Foundation  
202-638-4370  
[tim@netcaucus.org](mailto:tim@netcaucus.org)  
<http://www.netcaucus.org>

Draft Invite, August 30, 2005

You are cordially invited to attend a briefing by ...

Ambassador David Gross and Assistant Secretary Michael Gallagher on ...

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Stability and .XXX In Focus.

Monday, September 12, 2005, Noon  
Rayburn HOB, Room B339

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Please join the ambassador and the assistant secretary for this briefing on control of the Internet on Monday, September 12, at noon. A boxed lunch will be served.

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CC: [fintontc@state.gov](mailto:fintontc@state.gov); Tracey Rhoades

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**From:** Maureen Lewis  
**To:** Eric Stark  
**Date:** 9/26/2005 4:02:19 PM  
**Subject:** Re: Fw: .xxx response letter template

I'll take care of it. - Maureen

>>> "Eric Stark" <estark@ntia.doc.gov> 9/26/2005 3:51 PM >>>  
Maureen,  
FYI. Action required. Thanks.  
Eric

-----Original Message-----

**From:** "Tracey Rhoades" <trhoades@ntia.doc.gov>  
**Date:** Mon, 26 Sep 2005 15:36:10  
**To:** "Eric Stark" <EStark@ntia.doc.gov>  
**Subject:** Re: .xxx response letter template

JUSC 3552(b)(5)

Sent from my Verizon Wireless BlackBerry

**CC:** Sheree Cheung

**From:** "Eric Stark" <estark@ntia.doc.gov>  
**To:** "Maureen Lewis" <MLewis@ntia.doc.gov>  
**Date:** 9/26/2005 3:49:05 PM  
**Subject:** Fw: .xxx response letter template

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FYI. Action required. Thanks.  
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**From:** "Tracey Rhoades" <trhoades@ntia.doc.gov>  
**Date:** Mon, 26 Sep 2005 15:36:10  
**To:** "Eric Stark" <EStark@ntia.doc.gov>  
**Subject:** Re: .xxx response letter template

5 USC § 552(b)(5)

Sent from my Verizon Wireless BlackBerry

**CC:** "Sheree Cheung" <scheung@ntia.doc.gov>



From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: "Eric Stark" <EStark@ntia.doc.gov>, <MLewis.NTIAHQ.NTIA@ntia.doc.gov>  
Date: 7/29/2005 2:43:13 PM  
Subject: Fwd: PFF blog on Porn Tax

fyi

>>> Meredith Attwell 7/29/2005 2:21 PM >>>

5 USC § 552(b)(5)

A Sin Tax for Online Porn? (previous | next)

We all know how governments enjoy levying "sin taxes" on alcohol and tobacco, so it shouldn't be at all surprisingly that someone is now proposing to impose one on online porn viewing. Sen. Blanche Lincoln, (D-Ark.) is apparently going to drop a bill next week that would impose a federal excise tax on transactions with for-profit adult Web sites.

I am not about to pen a defense for those people who spend endless hours looking at dirty pictures online, but I really do believe this bill has got to be the silliest idea to come out of Congress in a long time. Specifically, it once again proves that most members of Congress have absolutely no appreciation for what sort of enforcement difficulties they are up against in terms of regulating the Net and online content.

After all, just because a website is for-profit, it doesn't mean it will be easy to impose such a tax scheme. The tax evasion possibilities here are endless, especially considering how much activity originates overseas. How will the tax be reported? What kind of enforcement regime will be necessary to even collect a small percentage of these taxes? In a world of anonymous electronic transactions, I just can't see how enforcement would work. I guess Congress could force credit card companies to somehow become their deputized policemen and make them figure out when people are viewing online porn. Of course, there are some serious privacy issues at stake there and there's still little chance that even the financial intermediaries will be able to track everybody down. Moreover, why should financial intermediaries be forced to become the henchmen of the State in terms of enforcing morality?

Of course, I'm just focusing on the enforcement problems with this measure. I haven't said a word about the many ways in which this is likely unconstitutional as well. The courts have struck down just about every other effort to regulate online content, so I have a difficult time believing that they'll allow this one to stand for very long. Taxes on speech have been found to be every bit as unconstitutional as direct speech controls. So this bill is doomed in my opinion.

(By the way, time for a shameless plug... This issue was the subject of my fourth book, *Who Rules the Net? Internet Governance and Jurisdiction*. Make sure to check our Robert Corn-Revere's chapter in this book if you are interested in learning more about this subject: "Caught in the Seamless Web: Does the Internet's Global Reach Justify Less Freedom of Speech?" Here's another version of it online.)

posted by Adam Thierer @ 8:58 AM | Free Speech

From: Meredith Attwell  
To: Clyde Ensslin; Maureen Lewis  
Date: 6/28/2005 4:10:36 PM  
Subject: Re: Fwd: Draft text of e-mail reply to .xxx messages

yes, except that they should be personalized, not dear concerned citizen.

>>> Maureen Lewis 6/28/2005 4:09:17 PM >>>

5 USC 552(b)(5)

>>> Clyde Ensslin 6/28/2005 4:05 PM >>>

>>> Clyde Ensslin 6/28/2005 11:06:18 AM >>>

>>> Clyde Ensslin 6/24/2005 9:32:30 AM >>>

Chuck: Mike Gallagher has approved the following text to go out over his name in an e-mail response to the people who have e-mailed about the .xxx domain. NTIA is in the process of installing software that will enable us to send a group reply as opposed to migrating the names and addresses individually, which will save us considerable time. I will coordinate with Exec Sec regarding a response to the messages they received before we activated the NTIA account for these messages. Would you advise me as to the best way for NTIA to obtain fifth floor clearance to proceed to send this response out?  
Thanks! Clyde Ensslin x0019

Dear Concerned Citizen:

I share your concerns about the proliferation of pornography on the Internet and the victimization of children. It is the policy and the track record of this Administration to protect children online, to provide a safe place for children online, and to combat child pornography. While the Department of Commerce does not make policy decisions with regard to domain names or Internet content, we remain committed to combating child pornography and other abuses of the Internet. If you have concerns regarding the .xxx domain, you can submit them to the organization that creates top-level domains:

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
Phone: 310-823-9353  
Fax: 310-823-8649  
Email: [icann@icann.org](mailto:icann@icann.org)

Sincerely,

Michael D. Gallagher  
Assistant Secretary for Communications and Information  
U.S. Department of Commerce  
Washington, D.C. 20230

CC: Sheree Cheung

From: Fiona Alexander  
To: Robin Layton; Tracey Rhoades  
Date: 8/31/05 9:01:29 AM  
Subject: Re: Fwd: Draft WSIS Briefing Invite

Hi Tracey

welcome back. I'll chat with Robin about this, this morning and get back to you but what's the protocol on editing this sort of Congressional thing. (I've cc'd Jim Waz for his thoughts as well).

5 USC § 552 (b) (5)

Fiona

>>> "Tracey Rhoades" <trhoades@ntia.doc.gov> 08/31/05 8:13 AM >>>

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CC: James Wasilewski

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From: Jeffrey Joyner  
To: Meredith Attwell  
Date: 7/29/2005 2:36:03 PM  
Subject: Re: PFF blog on Porn Tax

This is getting really scary.

>>> Meredith Attwell 7/29/2005 2:21 PM >>>

.....  
S USC § 552(b)(5)

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posted by Adam Thierer @ 8:58 AM | Free Speech

From: Meredith Attwell  
To: Jeffrey Joyner; Robin Layton; Suzanne Sene  
Date: 6/14/2005 2:05:15 PM  
Subject: Fwd: Call from Family Research Council

5 USC § 552(b)(5)

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

5 USC § 552(b)(5)

From [www.frc.org](http://www.frc.org):

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

From: Jeffrey Joyner  
To: Meredith Attwell  
Date: 6/14/2005 3:15:31 PM  
Subject: Re: Fwd: Call from Family Research Council

5 USC § 552(b)(5)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

5 USC § 552(b)(5)

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

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Additional Resources

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###

CC: Robin Layton



**From:** Clyde Ensslin  
**To:** Michael Gallagher  
**Date:** 8/12/2005 2:01:28 PM  
**Subject:** Revised .xxx Q & A

Please use this version instead of the first one I sent.

5 USC 552(b)(5)

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** cfuqua@doc.gov; dnelson@doc.gov; Fiona Alexander; James Wasilewski; John Kneuer; Kathy Smith; Meredith Attwell; Ranjit deSilva; Robin Layton

3 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Robin Layton  
**To:** Clyde Ensslin  
**Date:** 8/12/2005 3:44:25 PM  
**Subject:** Re: Revised .xxx Q & A

Clyde/Ranjit

I suggest one change - but it's only in the background. I dropped off a copy with Ranjit and explained.  
Best, Robin

>>> Clyde Ensslin 8/12/2005 2:01 PM >>>  
Please use this version instead of the first one I sent.

5 USC § 552(b)(5)

Clyde Ensslin  
NTIA Director of Communications  
202-482-0019

**CC:** Kathy Smith; Ranjit deSilva

3 Pages Withheld  
under  
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**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <cgunderson@doc.gov>, <CEnsslin.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 6/16/2005 1:13:34 PM  
**Subject:** Fwd: Michael Reagan supports .xxx

Christine-

5 USC § 552(b)(5)

**From the article:**

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."  
Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

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"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

From: Meredith Attwell  
To: Cathy Handley; rlayton@ntia.doc.gov; Suzanne Sene  
Date: 6/16/2005 4:50 PM  
Subject: Fwd: Michael Reagan supports .xxx

just more fyi

>>> Meredith Attwell 6/16/2005 4:07 PM >>>

>>> Meredith Attwell 6/16/2005 1:12 PM >>>

SUSC § 552(b)(5)

Attached is a document that incorporates the comments of Members who have spoken publicly about the .xxx. I'm not sure that Members "support it" other than those that have made statements. Most Members don't want to be identified as "supporting porn." So far ICM Registry has reached out to the following:

Rep. Bob Goodlatte  
Rep. Fred Upton  
Rep. Cliff Stearns  
Rep. John Shimkus  
Rep. Mike Pence  
Sen. Ted Stevens  
Sen. John Ensign  
Sen. Conrad Burns  
Sen. Joseph Lieberman  
Sen. George Allen

None of these Members have been indicated they are opposed.

Michael Reagan has noted his support (but also looking for .xxx to be mandatory). If you haven't seen this article already, take a look:

[http://worldnetdaily.com/news/article.asp?ARTICLE\\_ID=44805](http://worldnetdaily.com/news/article.asp?ARTICLE_ID=44805)

After meeting with Chip Pickering, I would assess Chip would be a lead sponsor for his bill. Chip was not against .xxx (although his staff was), but wanted to force the entire industry to .xxx. A bill like that faces definitional and jurisdictional problems... but those aren't ours.

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."  
Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress,

when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.



2 Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**From:** Clyde Ensslin  
**To:** Meredith Attwell  
**Date:** 6/16/2005 8:00 AM  
**Subject:** Re: .XXX

Thanks Meredith, this is very helpful! Good work. Clyde

>>> "Meredith Attwell" <mattwell@ntia.doc.gov> 6/15/2005 9:47 PM >>>

5 USC § 552(b)(5)

**From:** Maureen Lewis  
**To:** Sheree Cheung  
**Date:** 9/29/2005 5:36:25 PM  
**Subject:** .xxx response letters

Sheree:

§ USC § 552(b)(5)

Maureen

**From:** Clyde Ensslin  
**To:** Maureen Lewis  
**Date:** 6/28/2005 4:05:02 PM  
**Subject:** Fwd: Draft text of e-mail reply to .xxx messages

>>> Clyde Ensslin 6/28/2005 11:06:18 AM >>>

>>> Clyde Ensslin 6/24/2005 9:32:30 AM >>>

5 USC § 552(b)(3)

Dear Concerned Citizen:

I share your concerns about the proliferation of pornography on the Internet and the victimization of children. It is the policy and the track record of this Administration to protect children online, to provide a safe place for children online, and to combat child pornography. While the Department of Commerce does not make policy decisions with regard to domain names or Internet content, we remain committed to combating child pornography and other abuses of the Internet. If you have concerns regarding the .xxx domain, you can submit them to the organization that creates top-level domains:

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
Phone: 310-823-9353  
Fax: 310-823-8649  
Email: [icann@icann.org](mailto:icann@icann.org)

Sincerely,

Michael D. Gallagher  
Assistant Secretary for Communications and Information  
U.S. Department of Commerce  
Washington, D.C. 20230

**CC:** Meredith Attwell

NTIA Use Only

August 22, 2005

**MEETING WITH MIKE BINDER, INDUSTRY CANADA ON WSIS AND INTERNET GOVERNANCE, STATE RM. 4826, 3:00-4:00 PM, AUGUST 25, 2005**

**PURPOSE**

Mike Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications from Industry Canada is coming to Washington to strategize with USG on WSIS/Internet governance and meet with other DOC officials on the Security Prosperity and Partnership (SPP) Initiative. As David Gross is friendly with Mike Binder, he is likely to use the meeting as a brainstorming exercise on positioning in the WSIS negotiations.

**BACKGROUND/LIKELY TOPICS**

Bill Graham from Binder's staff has been a staunch ally in the WSIS process. *It is critical for you to thank them for their support.* Unlike most meetings where Canada silently agrees with USG, in the WSIS process they have very vocal in their agreement with our position and a key collaborator in the negotiation process

↳ USC § 552(b)(5)

↳ USC § 552(b)(5)

- **SPP:** Binder will be meeting with Michelle O'Neill to discuss continued cooperation under the SPP and how to achieve the already agreed to deliverables. It is expected their meeting will focus on agreeing to the dates of the next Senior officials meeting of the ICT Working Group (you participated in the previous one that Phil Bond hosted). That meeting is likely to be in October in Ottawa.
- **Speaking Invitation:** A member of Binder's staff contacted Sheila on 8/17 seeking your participation in a Canadian Spectrum Summit on 12/1. They have invited you to participate in a panel of various international participants focused on regulating spectrum to serve the public interest. No commitment had been made at this time.

NTIA Use Only

August 22, 2005

**PARTICIPANTS**

- NTIA: You, Cathy Handley, Suzanne Sene
- State: David Gross, Sally Shipman
- Industry Canada: Mike Binder, Bill Graham (WSIS Rep.), Malcolm Andrew (GAC Rep.)

**ATTACHMENTS**

- Mike Binder Bio
- Canadian Comments on the WGIG Report
- Details of a Canadian Invite for Oct. Spectrum Symposium

NTIA Use Only

August 22, 2005

**MICHAEL BINDER**

Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications  
Industry Canada

Michael Binder is the Assistant Deputy Minister of Spectrum, Information Technologies and Telecommunications, Industry Canada. He is responsible for overseeing the implementation of the Federal Government's "Connectedness Agenda" that commits to connecting all Canadians to an accessible and affordable high speed information highway (Broadband).

He is also in charge of telecommunications and electronic commerce policies; the allocation of spectrum, licensing of the wireless industries; and the promotion of growth & international competitiveness of the Information and Communication Technologies industries.

Mr. Binder holds a Ph.D. in Physics from the University of Alberta.



world summit  
on the information society  
Geneva 2003 - Tunis 2005

August 22, 2005



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Document WSIS-II/PC-3/CONTR/042-E  
17 August 2005  
Original: English

## CANADA

### COMMENTS ON THE REPORT OF THE WGIG

#### CANADIAN SUBMISSION ON INTERNET GOVERNANCE

##### Introduction

Canada is pleased to submit the following paper outlining its position on the report of the United Nations Working Group on Internet Governance (WGIG), in preparation for discussions at the third meeting of the Preparatory Committee for the World Summit on the Information Society (WSIS).

Canada has been a strong supporter of the WSIS from its inception. Canada's original vision statement for this UN initiative was that the "WSIS is about development". Our support has been based on our belief in the importance of information and communications technologies as a tool for creating the information society. Central to this belief is our understanding that all the peoples of the world must truly have the opportunity to participate in the information society, if we are to achieve the maximum benefits for mankind. For that reason, we continue to believe that the WSIS must strive to raise awareness of the potential of information and communication technologies for development at the highest political levels. Canada reaffirms its support for UNGA Resolution 56/183 on the WSIS which recognizes "... the urgent need to harness the potential of knowledge and technology ... and to find effective ... ways to put this potential at the service of development for all". Canada's contribution to the discussion of Internet governance in the WSIS context is conditioned by this development perspective.

The Internet is a central element of the emerging global information society. Thus, its security, stability, reliability and sustainability as a global network are of paramount importance for Canada in all discussions of Internet governance. To make governance effective however, we must also put capacity building at the centre of our efforts, so that all countries and all stakeholders are able to play their respective roles in an effective and responsible manner. These principles underlie the Canadian position on Internet governance.

Canada agrees with the WGIG that consideration of Internet governance in the WSIS context will benefit by separating the discussion of the broad policy issues categorized by the WGIG



from discussion of the management of critical Internet resources. This paper considers each in its turn.

### Addressing Policy Issues Broader than the Internet

Turning first to broad policy issues, including those related to the use of the Internet, issues whose impact is broader than the Internet, and issues related to development and capacity building:

- In principle, Canada supports the idea of creating a multi-stakeholder forum to discuss a broad range of public policy issues related to the Internet. We believe it is desirable to build upon the dialogue established by the WGIG and its public consultations.
- We agree with the WGIG Report that the forum for dialogue should not be a continuation of the WGIG itself. As well, the forum should not be a permanent institution. It should be established for not more than five years, and its operation should make maximum use of ICTs to operate in a cost-effective and inclusive fashion.
- The forum should focus on capacity building, particularly to develop the knowledge and experience necessary for developing countries to be able to participate effectively in the discussion of Internet issues. The forum could encourage examination of a range of public policy options which may be useful for interested countries.
- The forum should not be involved in day-to-day operations of the Internet, nor distract from discussions taking place in existing organizations.
- Adequate resources must be identified to ensure that all stakeholders (including developing countries, SMEs and civil society) are able to participate. The forum should be supported by a very light organization, with a focus on development.
- Canada does not support the creation of a new treaty organization for the purposes of Internet governance.
- Canada notes that many of the broad policy issues raised in the WGIG discussions have been, or are being addressed, by existing government-funded international and multilateral organizations, including those of the UN system. These organizations bring to bear considerable experience and research capacity for international policy development, and have established public processes and consultation mechanisms capable of canvassing a broad spectrum of facts and opinion. We believe that each can make informed contributions to the discussion of broad policy issues related to the Internet, and to the need for capacity building identified in the Report. Given the significant global public investment already made in these agencies, this international resource should be fully engaged by member states in the continuing public discussion of policy issues related to the Internet, whether or not a forum is established, if only to conserve resources. Their engagement should also serve to avoid duplication of efforts.

### Addressing Issues Related to Core Internet Technical Resources

Second, concerning issues of critical Internet resources: in this paper, primarily those dealt with by the Internet Corporation for Assigned Names and Numbers (ICANN):

- Canada wishes to underscore the technical nature of ICANN as a body responsible for the administration of Internet names and IP addresses.
- While recognizing that these technical issues give rise, from time to time, to policy considerations, Canada is of the view that the short history of ICANN has seen a tendency by many stakeholders to seek to have ICANN address policy issues which are not dependent on its core technical responsibilities. This has led to confusion about ICANN's role and sometimes distracted the organization from its core mandate. By helping to disaggregate broader policy issues from those specifically arising from ICANN's primary technical functions, the WGIG has made an important contribution to delineating those matters for which ICANN should be held responsible and those which should be addressed elsewhere. Canada is of the view that, going forward, ICANN and its stakeholders should be scrupulous in taking a very narrow view of ICANN's policy functions, ensuring that any policy issues dealt with arise directly from and/or are inextricably linked to its core technical functions. Any other policy issues should be referred to other more appropriate bodies, or to the forum suggested by the WGIG, should it be created.
- Canada has been a long-time and strong supporter of the ICANN model, as a private, not-for-profit, bottom-up entity. This support is fully consistent with the views expressed above. Indeed, it is because of the primarily technical nature of ICANN's mandate that Canada has long supported this approach.
- Canada supports the continuing evolution and reform of ICANN in the post-2006 environment.
- Canada acknowledges the vital role that the United States government has played in the development of the Internet itself and, through the establishment of ICANN, in initiating a process aimed at increasing competition, privatization, and enabling international participation in the management of the Internet's technical functions. We also applaud the arm's length, light-touch approach which the United States government has adopted in its oversight of ICANN itself. Like the vast majority of participants in the WGIG, Canada agrees that the path of increasing competition, privatization and internationalization should be pursued.
- Canada supports the continued participation of governments in ICANN through the Governmental Advisory Committee (GAC). Outside the WSIS context, it may be worth exploring the establishment of mechanisms to help focus the GAC's agenda, and governments' relationship with ICANN, in a manner consistent with the narrow policy role foreseen for ICANN itself, and supportive of the goals of increasing competition, privatization and internationalization.

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August 22, 2005

- The GAC's effectiveness could be enhanced by the establishment of a permanent GAC Secretariat which would focus on providing necessary logistical support to the GAC, and contribute to capacity development aimed at improving GAC participation by developing countries. A secure funding mechanism would have to be found, perhaps via an untied contribution from ICANN itself. Canada does not believe there is a need for such a secretariat to provide policy research capability. Instead, the GAC should draw on the expertise of its membership, including that of other international organizations.

### Conclusion

Finally, Canada would like to congratulate and thank the Chairman and members of the WGIG, as well as the Executive Director and members of the Secretariat, for their work and the Working Group report. The WGIG process has provided an example of how a diverse multi-stakeholder group can work together to dramatically elevate the level of discussion of an important issue, and to produce a valuable outcome.

**Canadian Invite for December Spectrum Symposium**

SENT 8/17/05

Dear Ms. Williams:

It was a pleasure to speak to you today. As I mentioned on the telephone, I spoke to Mr. Gallagher during the ITU-R TG1-8 meeting held in San Diego last May. At that time, I mentioned that we were holding a one-day symposium in Ottawa on December 1st and he seemed interested in attending as a speaker.

The purpose of this E-mail is to invite Mr. Gallagher to participate in the symposium called Spectrum 20/20. It is co-hosted by Industry Canada, the national spectrum regulatory authority, specifically the Spectrum Engineering branch and the Radio Advisory Board of Canada, our principle national, non-government advisory group.

Each year we invite experts from academe, government and industry, from around the world to discuss issues of importance in a panel format which, we hope, provokes both immediate discussion and longer term thought.

We would like to invite him to participate in a session called "Fooling Mother Nature in 2020 - Making More/New Spectrum Available" where we will be asking regulatory people from Asia-Pacific, Europe, the USA and Canada to discuss how they are trying to make regulation serve the public interest.

You can find out a bit more about Spectrum 20/20 on the RABC web site at: <  
[http://www.rabc.ottawa.on.ca/e/spectrum2020\\_program.cfm](http://www.rabc.ottawa.on.ca/e/spectrum2020_program.cfm) > but the basics are:

\*When: Thursday, 1 December 2005 - Session 3 is from 14:05 to 15:25

\*Where: Ottawa, at the Ottawa Congress Centre

\*What: Panel discussion - with a fairly large (150+/-), fairly technical (most are RABC members) audience

Please let me know if Mr. Gallagher will be able to participate. We can provide more information on the format of this symposium upon request. Please feel free to contact me at anytime should you require further information.

Yours truly,

Marc Dupuis  
Director, New Wireless Services and Technology  
Spectrum Engineering Branch  
Industry Canada

From: "Fiona Alexander" <falexander@ntia.doc.gov>  
To: <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>, "Eric Stark" <EStark@ntia.doc.gov>, "John Kneuer" <JKneuer@ntia.doc.gov>, "James Wasilewski" <JWasilewski@ntia.doc.gov>, "Kathy Smith" <KSmith@ntia.doc.gov>, "Meredith Attwell" <MAttwell@ntia.doc.gov>, "Michael Gallagher" <MGallagher@ntia.doc.gov>, <RDesilva.NTIAHQ.NTIA@ntia.doc.gov>, "Robin Layton" <RLayton@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>  
Date: 8/16/2005 12:37:10 PM  
Subject: Re: BBC Article on .xxx delay

Suzanne

← USC § 552 (b)(5)

Fiona

>>> Suzanne Sene 08/16/05 9:40 AM >>>

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I forsee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

← USC § 552 (b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>

Bush administration objects to .xxx domains

By Declan McCullagh

[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

At the time, politicians lambasted ICANN's move. Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., told (click for PDF) a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater."

A government report from a few years ago hints that the Bush administration could choose unilaterally to block .xxx from being added to the Internet's master database of domains. The report notes that the Commerce Department has "reserved final policy control over the authoritative root server."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

Delay for .xxx 'net sex' domain

The plan for a virtual red light district through the creation of a .xxx net domain name has hit delays after concern from government officials.

An official from President George Bush's administration has asked for the brakes be put on the planned domain name until its impact is studied more.

The domain was given the go-ahead by Icann (Internet Corporation for Assigned Names and Numbers) in June.

But some are concerned that it would encourage more porn on the net.

The domain name was expected to get final approval by the net's supervisory body, Icann (Internet Corporation for Assigned Names and Numbers), on Tuesday.

Net domains such as .com. and .org. are overseen by Icann. It polices the companies that run the different domains and approves the expansion of the different net names that can be bought and used.

The ICM Registry, the not-for-profit group which would operate the .xxx domain name, said it would agree to a month's delay in order to explore some of the concerns which have been voiced.

Easy filter?

The .xxx domain name was approved five years after it was first proposed.

The idea is that sexually-explicit sites will move to the new domains to make it easier for people to filter and avoid them.

In a statement, the ICM Registry which originally proposed the idea said it would "help protect children from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Icann's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Icann "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "Cathy Handley" <CHandley@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, "Tracey Rhoades" <TRhoades@ntia.doc.gov>



**From:** Meredith Attwell  
**To:** Jeffrey Joyner, jwasilewski@ntia.doc.gov  
**Date:** 7/29/2005 2:21:42 PM  
**Subject:** PFF blog on Porn Tax

5 USC § 552(b)5

A Sin Tax for Online Porn? (previous | next)

We all know how governments enjoy levying "sin taxes" on alcohol and tobacco, so it shouldn't be at all surprisingly that someone is now proposing to impose one on online porn viewing. Sen. Blanche Lincoln, (D-Ark.) is apparently going to drop a bill next week that would impose a federal excise tax on transactions with for-profit adult Web sites.

I am not about to pen a defense for those people who spend endless hours looking at dirty pictures online, but I really do believe this bill has got to be the silliest idea to come out of Congress in a long time. Specifically, it once again proves that most members of Congress have absolutely no appreciation for what sort of enforcement difficulties they are up against in terms of regulating the Net and online content.

After all, just because a website is for-profit, it doesn't mean it will be easy to impose such a tax scheme. The tax evasion possibilities here are endless, especially considering how much activity originates overseas. How will the tax be reported? What kind of enforcement regime will be necessary to even collect a small percentage of these taxes? In a world of anonymous electronic transactions, I just can't see how enforcement would work. I guess Congress could force credit card companies to somehow become their deputized policemen and make them figure out when people are viewing online porn. Of course, there are some serious privacy issues at stake there and there's still little chance that even the financial intermediaries will be able to track everybody down. Moreover, why should financial intermediaries be forced to become the henchmen of the State in terms of enforcing morality?

Of course, I'm just focusing on the enforcement problems with this measure. I haven't said a word about the many ways in which this is likely unconstitutional as well. The courts have struck down just about every other effort to regulate online content, so I have a difficult time believing that they'll allow this one to stand for very long. Taxes on speech have been found to be every bit as unconstitutional as direct speech controls. So this bill is doomed in my opinion.

(By the way, time for a shameless plug... This issue was the subject of my fourth book, *Who Rules the Net? Internet Governance and Jurisdiction*. Make sure to check our Robert Corn-Revere's chapter in this book if you are interested in learning more about this subject: "Caught in the Seamless Web: Does the Internet's Global Reach Justify Less Freedom of Speech?" Here's another version of it online.)

posted by Adam Thierer @ 8:58 AM | Free Speech

From: Robin Layton  
To: Jeffrey Joyner; Meredith Attwell  
Date: 6/14/2005 5:23:25 PM  
Subject: Re: Fwd: Call from Family Research Council

§ 5 USC § 552(b)(5)

>>> "Meredith Attwell" <mattwell@ntia.doc.gov> 6/14/2005 4:10 PM >>>

§ 5 USC § 552(b)(5)

>>> Jeffrey Joyner 6/14/2005 3:15 PM >>>

§ 5 USC § 552(b)(5)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

§ 5 USC § 552(b)(5)

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

§ 5 USC § 552(b)(5)

From [www.frc.org](http://www.frc.org):

.XXXercise in Futlity

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

From: Fiona Alexander  
 To: "CEnsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
 "RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; James Wasilewski; John Kneuer; Kathy  
 Smith; Meredith Attwell; Michael Gallagher ; Robin Layton; Suzanne Sene  
 Date: 8/16/2005 12:35:49 PM  
 Subject: Re: BBC Article on .xxx delay

Suzanne

5 USC 552(b)(5)

Fiona

>>> Suzanne Sene 08/16/05 9:40 AM >>>

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thanks"

5 USC 552(b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>

Bush administration objects to .xxx domains

By Declan McCullagh

[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

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ICM Registry--the for-profit company in Florida that plans to operate the .xxx registry--has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

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The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference--but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

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Story from BBC NEWS:

<http://news.bbc.co.uk/1/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

From: Suzanne Sene  
 To: "CEnsslin.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia;  
 "RDesilva.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Eric Stark; Fiona Alexander; James Wasilewski;  
 John Kneuer; Kathy Smith; Meredith Attwell; Michael Gallagher ; Robin Layton  
 Date: 8/16/2005 9:40:45 AM  
 Subject: Re: BBC Article on .xxx delay

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

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Published: 2005/08/16 10:29:24 GMT

CC: "JJoyner.NTIAHQ.NTIA@ntia.doc.gov".gwia.ntia; Cathy Handley; Tracey Rhoades

From: Maureen Lewis  
To: Eric Stark  
Date: 9/26/2005 4:02:19 PM  
Subject: Re: Fw: .xxx response letter template

I'll take care of it. - Maureen

>>> "Eric Stark" <estark@ntia.doc.gov> 9/26/2005 3:51 PM >>>  
Maureen,  
FYI. Action required. Thanks.  
Eric

-----Original Message-----  
From: "Tracey Rhoades" <trhoades@ntia.doc.gov>  
Date: Mon, 26 Sep 2005 15:36:10  
To: "Eric Stark" <EStark@ntia.doc.gov>  
Subject: Re: .xxx response letter template

5 USC 552(b)(5)

Sent from my Verizon Wireless BlackBerry

CC: Sheree Cheung

**From:** Meredith Attwell  
**To:** jbailey@doc.gov  
**Date:** 6/16/2005 4:06 PM  
**Subject:** Fwd: .XXX

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

5 USC 552(b)(5)



## FACT SHEET

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### **VOLUNTARY ADULT .XXX TOP-LEVEL DOMAIN (TLD)**

The Board of the Internet Corporation for Assigned Names and Numbers (ICANN) has determined that ICM Registry's application meets the eligibility criteria established by ICANN and directed its staff to enter into negotiations with ICM Registry to develop the commercial and technical terms under which the .xxx sponsored top-level domain (sTLD) would launch. The ICANN Board's action is another step forward in expanding the top level domain space responsibly, inspiring global innovation and competition online, and facilitating the kind of bottom-up decision-making that has characterized the growth of the Internet. The sponsor of the proposed TLD is the International Foundation for Online Responsibility (IFFOR), an independent Canadian non-profit entity. IFFOR will be governed by a board of directors that reflects the various stakeholder groups, and will remain independent of ICM Registry.

The .xxx sponsored top-level domain will create a clearly identifiable area of the Internet that will empower families and help protect children and others from unwanted or inappropriate content. The existence of the sponsored TLD would facilitate meaningful, voluntary self-organization and self-regulation by responsible adult-entertainment website operators.

### **WHY IS A VOLUNTARY .XXX TLD NEEDED?**

- The online adult-entertainment industry is one of the largest and fastest growing sectors of the Internet.
- The Internet and the various stakeholders will benefit greatly from responsible self-regulation.
- According to Reuters, online adult-oriented ecommerce is worth more than \$3 billion USD globally and is growing at a double-digit rate. The number of adult websites has grown 18-fold over the last six years alone.
- More than 10% of all online traffic and 25% of all global Internet searching is adult-content oriented with more than 100,000 adult webmasters worldwide and well over one million adult domains.
- Responsible members of the adult entertainment industry have identified a need to work together to:
  - Develop mechanisms to reach only those online users who want to use their products or services;
  - Respond to the growing demand from child and family safety groups to ensure the Internet is safer; and
  - Respond to the privacy, security, and consumer protection concerns of their audience.

### **WHAT ARE THE BENEFITS OF A .XXX TLD?**

- Online child safety and efforts to combat child pornography and other abuses will be promoted through best practice guidelines that will be promulgated by a non-profit, cross-stakeholder foundation. IFFOR will provide financial and other

assistance to various online support organizations and will develop technology tools and sponsor education programs for parents and families.

- The online adult-entertainment industry wants to create an identifiable space with which its members can elect to associate themselves and wherein they can responsibly self-organize and create guidelines to promote credible self-regulation.
- The voluntary .xxx TLD will facilitate and protect free expression rights – both for content providers and Internet users.
- Privacy, security, and responsible retail practices will be promoted to protect online consumers.
- The .xxx TLD has the potential to regularize business processes such as search-engine functionality, privacy, identity theft prevention measures, and security.
- The .xxx TLD creates a credible forum for representation and self-regulation where all stakeholders are able to discuss and actively respond to concerns about adult entertainment sites on the Internet.

#### **WHERE IS THE SUPPORT FOR A .XXX TLD?**

The .xxx TLD is a voluntary, industry-led, market-driven and non-regulatory effort. It has drawn support from a broad spectrum of Internet stakeholders, including:

- Child and family safety groups;
- Leaders/members of the global adult-entertainment industry who have agreed to voluntarily participate;
- Free speech, privacy and security advocates;
- Information Technology (IT) experts; and
- Public policy leaders.

#### **WHO WILL OPERATE AND SPONSOR THE .XXX TLD?**

- ICM Registry will operate the registry. ICM is a financially stable technology company, independent of IFFOR and unaffiliated – either currently or in the past – with the adult-entertainment industry. ICM will provide the registry's management, supporting infrastructure, and back-end functionality.
- The International Foundation for Online Responsibility (IFFOR), a Canadian not-for-profit organization, will sponsor and serve as the policy-making authority for the .xxx TLD. IFFOR will contract with ICM for registry services, and will be funded, primarily, through registration activities.
- IFFOR will have its own board of directors, representing the various stakeholders, including child-safety representatives, members of the free-speech community and adult-entertainment industry leaders.
- IFFOR's mission is to participate in and support the development of programs and tools to fight child pornography, and to serve as a forum for the online adult-entertainment community to communicate with and pro-actively respond to the needs and concerns of the broader Internet community.
- IFFOR's Mission will include:
  - Supporting free expression and other efforts to protect the right of Internet users to choose the online content they desire;
  - Promoting public awareness of technologies, programs, organizations and methods available to protect children online;
  - Supporting the development and proliferation of voluntary, user-friendly systems that enable Internet users to identify content;

- o Sponsoring child safety and anti-child pornography organizations and programs;
- o Protecting consumers by raising awareness of deceptive or unfair business practices, and creating a safer environment for consumers within the domain;
- o Increasing credibility and predictability; and
- o Supporting efforts to protect intellectual property rights.

#### **WHAT WILL BE THE OBLIGATIONS OF .XXX TLD REGISTRANTS?**

Participating adult Internet content and service providers believe that responsible self-regulation is essential to the industry's continuing viability in the global marketplace. Those that voluntarily register for .xxx TLD names will adhere to a set of business practices, embodied in an enforceable contract between the Registrant and ICM Registry. The credibility of such practices cannot be preserved by the one time creation of a set of responsible business practices. Neither will a participant be able to revise its practices after an initial review. IFFOR will revise, review and continually update its established practices to accommodate developments in technologies and societal expectations.

.xxx TLD name registrants will be expected to adhere to a set of best business practices that will include:

- Safeguarding children from being marketed to or targeted online by adult webmasters;
- Defending customer privacy;
- Deploying accurate meta-tagging;
- Ensuring the clear and accurate disclosure of relevant practices, security of information and transactions, and accountability through the provision of accurate contact information;
- Protecting intellectual property rights;
- Combating the use of unlawful malicious codes and technologies, including spoofing and phishing;
- Not engaging in fraudulent, anonymous, unsolicited or illegal commercial email advertising their products and services; and
- Avoiding the use of misleading domain names or domain names intended to attract child pornography consumers.

**In addition, ICM and IFFOR will make a difference in the battle against child pornography by sponsoring programs to safeguard children.**

#### **CONTACT INFO**

---

Stuart Lawley, Chairman & President – [slawley@icmregistry.com](mailto:slawley@icmregistry.com)

or

Marc Pearl or Kelli Emerick – IT Policy Solutions | Washington, DC

[mpearl@itpolicysolutions.com](mailto:mpearl@itpolicysolutions.com) or [keimerick@itpolicysolutions.com](mailto:keimerick@itpolicysolutions.com)

Telephone: 202 464 4000



<http://www.news.com/>

## Porn-friendly '.xxx' domains approved

By Declan McCullagh

[http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030\\_3-5728713.html](http://news.com.com/Porn-friendly+.xxx+domains+approved/2100-1030_3-5728713.html)

Story last modified Wed Jun 01 20:10:00 PDT 2005

**Pornographers and their customers soon will have a virtual red light district reserved just for them.**

The nonprofit organization responsible for Internet addresses on Wednesday approved ".xxx" domains, a move that reverses the group's earlier position and heads off a potential political spat with conservative U.S. politicians.

The Internet Corporation for Assigned Names and Numbers (ICANN) said it's working with the ICM Registry to finalize remaining details, meaning the porn-friendly set of .xxx domains should be available by the end of the year. Other top-level domains still awaiting a decision from ICANN are .asia, .mail and .tel.

Stuart Lawley, chairman of the ICM Registry, could not be immediately reached for comment. In an interview last year, Lawley said that .xxx domain names would cost around \$75 and come with no restrictions except that any sexually explicit content feature only adults. "Apart from child pornography, which is completely illegal, we're really not in the content-monitoring business," Lawley said.

The ICM Registry plans to handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation For Online Responsibility will be in charge of setting the rules for .xxx. It's intended to have a seven-person board of directors, including a child advocacy advocate, a free-expression aficionado and someone from the adult entertainment industry.

ICANN's vote represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

Politicians quickly lambasted the 2000 decision. At a hearing a few months later, Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx



"as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., complained to a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater." (Click [here](#) for a PDF of Lieberman's testimony.)

Even though the ICM Registry's approach is designed to be free-speech-friendly, the American Civil Liberties Union has expressed concern about .xxx domains. One worry is that some nations may force sites dealing with sensitive topics like homosexuality or birth control into the .xxx zone, where they can be easily blocked.

**From:** Clyde Ensslin  
**To:** Meredith Attwell  
**Date:** 6/16/2005 8:20:44 AM  
**Subject:** Suggested talking points on .xxx

5 USC 552(b)(15)

###

/        Pages Withheld  
under  
5 U.S.C. § 552(b)(5)

**Clyde Ensslin - RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP**

---

**From:** <CGunderson@doc.gov>  
**To:** <censslin@ntia.doc.gov>  
**Date:** 6/17/2005 8:05 AM  
**Subject:** RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

---

that language is really awful. hopefully today we can come up with something better we can use.

-----Original Message-----

**From:** "Clyde Ensslin" <censslin@ntia.doc.gov> [mailto:"Clyde Ensslin" <censslin@ntia.doc.gov>]  
**Sent:** Friday, June 17, 2005 6:49 AM  
**To:** <CGunderson@doc.gov>  
**Subject:** Re: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

5 USC 552(b)(5)

>>> 6/16/2005 7:15 PM >>>

Did anyone call the ap to correct the dept of commerce approval language?

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** "Clyde Ensslin" [censslin@ntia.doc.gov]  
**Sent:** 06/16/2005 06:42 PM  
**To:**  
**Subject:** Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

Christine:

I can't find this online anywhere, but I have a hard copy. I saw it and printed it on Monday June 6.  
The key statement is

"For .xxx to go into the root is going to require positive action on the part of the United States government," said Karl Auerbach, a former ICANN board member and frequent critic of the organization. "That would constitute an endorsement of a red-light district on the Internet."

This was followed by a June 12 AP report by Anick Jesdanun that read:

"If the board and ultimately the U.S. Commerce Department approve it, ".xxx" names could appear in use by the year's end."

Clyde Ensslin 202-482-0019

294

**From:** Clyde Ensslin  
**To:** CGunderson@doc.gov  
**Date:** 6/17/2005 7:49:28 AM  
**Subject:** Re: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

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Christine:

I can't find this online anywhere, but I have a hard copy. I saw it and printed it on Monday June 6. The key statement is

"For .xxx to go into the root is going to require positive action on the part of the United States government," said Karl Auerbach, a former ICANN board member and frequent critic of the organization. "That would constitute an endorsement of a red-light district on the Internet."

This was followed by a June 12 AP report by Anick Jesdanun that read:

"If the board and ultimately the U.S. Commerce Department approve it, ".xxx" names could appear in use by the year's end."

Clyde Ensslin 202-482-0019

From: Fiona Alexander  
To: Meredith Attwell; Robin Layton; Suzanne Sene  
Date: 7/13/2005 6:39 AM  
Subject: Re: gac communique

Suzanne

*Non-Responsive*

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 07/13/05 6:12 AM >>>

i don't know if my email yesterday a.m. got through, as my online access shut down suddenly. my voice mail to robin has been happily overtaken by events -- there is no mention of the u.s. statement or .xxx in the final gac communique. lots of side bar conversations, of course, re the statement but nothing overly hostile; primarily questions as to why the statement didn't refer to the mou, etc. the most difficult piece for us in the communique related to the whois workshop, because the europeans and canada wanted to emphasize privacy to counter the u.s./australia emphasis on law enforcement.....despite the fact that the latter was the focus of the gac workshop (!).

the uk's attempts to criticize the ccns0/praise centr and advance paul kane's iana proposal failed to win over enough gac members, so no worries there for the time being.

there is a general sense around the gac table that the board is giving gac short shrift, which is not helpful in the wgig/wsis context. for example, there's general agreement (not shared by the u.s.) that the board should have asked the gac for its views prior to giving staff the ok to start negotiations with .xxx, and

general unhappiness with icann's response to questions on the subject; also concern that the board didn't warn the gac that tralliance would impose strict deadlines for countries to pre-register place names in the .travel name; finally, irritation that the icann staff report to the board on wipo 2 has not been circulated. all of the above is leading several gac members to question the role and function of the gac. at the same time, however, there's been agreement that the gac paper to wbig should also be forwarded to prepcom. fyi, karklins briefed the gac on wsis and stressed his sense that there must be a "satisfactory" outcome on internet governance, or the summit will be a failure.

finally, wilkinson announced his impending retirement at the end of september; niebel cannot tell us anything about the commission's intentions re the secretariat. he expressed a preference for icann support but many eu member states oppose that, so it's not likely. i will follow up with him once he returns to brussels.

let me know if you have any questions. cheers, suz

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

CC: Cathy Handley

From: Michael Gallagher  
To: Clyde Ensslin  
Date: 8/12/2005 12:25:11 PM  
Subject: Re: Draft .xxx Q & A

5 USC 552(b)(5)

>>> "Clyde Ensslin" <censslin@ntia.doc.gov> 08/12/05 12:13 PM >>>  
Mike, I reformatted this as a Q & A per your last message to me. Clyde

CC: John Kneuer



**From:** Suzanne Sene  
**To:** Fiona Alexander; Meredith Attwell; Robin Layton  
**Date:** 8/10/2005 12:46 PM  
**Subject:** Re: outreach with other gov'ts re ntia letter on .xxx

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

Fiona

>>> "Suzanne Sene" <[ssene@ntia.doc.gov](mailto:ssene@ntia.doc.gov)> 08/10/05 12:03 PM >>>  
meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

**CC:** Cathy Handley

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**EXHIBIT 4**

From: Meredith Attwell  
To: Michael Gallagher  
Date: 6/2/2005 1:44 PM  
Subject: Re: Fwd: ICANN

5 USC § 552 (b) 5

>>> "Michael Gallagher " <mgallagher@ntia.doc.gov> 6/2/2005 1:36 PM >>>

5 USC § 552 (b) 5

5 USC § 552(b) 5

>>> Meredith Attwell 06/02/05 1:33 PM >>>

5 USC § 552 (b) 5

ICANN OKs 'XXX' Web Addresses

The Internet's primary oversight body approved a plan Wednesday to create a virtual red-light district, setting the stage for pornographic Web sites to use new addresses ending in "xxx."

The Internet Corporation for Assigned Names and Numbers said it would begin negotiations with ICM Registry Inc., run by British businessman Stuart Lawley, to iron out technical issues and prices for the new Web addresses.

Adult-oriented sites, a \$12 billion industry, probably could begin buying "xxx" addresses as early as fall or winter, depending on ICM's plans, ICANN spokesman Kieran Baker said. The new pornography suffix was among 10 under consideration by the regulatory group, which also recently approved addresses ending in "jobs" and "travel."

ICM contends the "xxx" Web addresses, which it plans to sell for \$60 a year, will protect children from online smut if adult sites voluntarily adopt the suffix so filtering software used by families can more effectively block access to those sites. The \$60 price is roughly 10 times higher than prices other companies charge for dot-com names.

"It will further help to protect kids," said John Morris, staff counsel at the Washington-based Center for Democracy and Technology. Morris predicted some adult sites will choose to buy "xxx" Web addresses but others will continue to use ".com."

>>> "Michael Gallagher" <[mgallagher@ntia.doc.gov](mailto:mgallagher@ntia.doc.gov)> 6/2/2005 1:29 PM >>>

5 USC § 552 (b)5

Thanks.

Mike

From: <FSchwien@doc.gov>  
To: "Meredith Attwell" <mattwell@ntia.doc.gov>  
Date: 6/2/2005 3:43 PM  
Subject: Re: Fwd: ICANN

?

5 USC § 552 (b) 5

"Meredith Attwell" <mattwell@ntia.doc.gov>  
06/02/2005 03:39 PM

To  
<fschwien@doc.gov>  
cc

Subject  
Fwd: ICANN

Fred-

FW

5 USC § 552 (b) 5

>>> "Michael Gallagher" <mgallagher@ntia.doc.gov> 6/2/2005 1:29 PM >>>

5 USC § 552 (b) 5

Thanks.

Mike

----- Message from <FSchwien@doc.gov> on Thu, 02 Jun 2005 10:29:06 -0400

To:  
"John Kneuer" <JKneuer@ntia.doc.gov>, "Michael Gallagher "

<MGallagher@ntia.doc.gov>

Subject:

ICANN

Mike, think this will cause us any problems?

<http://www.newsmax.com/archives/ic/2005/6/2/90539.shtml>

**EXHIBIT 5**

**From:** Meredith Attwell  
**To:** Cathy Handley; Robin Layton; Suzanne Sene  
**Date:** 6/16/2005 4:05:42 PM  
**Subject:** Fwd: .XXX

just an fyi

>>> Meredith Attwell 6/15/2005 9:47 PM >>>

§ U.S.C. § 552(b)(5)

**Background:**

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

**Key .XXX Dates:**

12/15/03: ICANN Releases Request for Proposals for Sponsored Top Level Domain Names

3/19/04: New Application for .XXX

3/31/04: Public Comment Forum for Proposed Sponsored Top-Level Domains

6/1/05: Board passed Resolution authorizing ICANN to enter into negotiations with .XXX Applicant

Although there is no remaining public comment process formally contemplated, the ICANN Board will still consider any additional comments or letters received regarding this before approval of the final contract.

If the pornography industry is willing to adopt industry lead standards and encourage their colleagues to authenticate adults only on to their website, many applaud their efforts. Further, a previous Supreme Court case in 2003 regarding the Children's Internet Protection Act of 2000 (CIPA) makes it very unlikely that any ban of pornography could be sustained. Practically speaking, the Internet is a global medium with international laws and differing cultures. Since what is illegal in the United States may be legal in Germany or Turkey, ICANN must consider what works in one country may not work in another.

**Support for .XXX**

The ICM Registry application for .XXX has strong support from the child advocacy community because they feel that that ICM's approach to the .xxx puts into place best practices that would not be achievable in the dot com space. Wired Safety and Wired Kids ([www.wiredsafety.org](http://www.wiredsafety.org)) supported the application as did the Internet Content and Rating Association (ICRA). In addition there is strong support out of the UK child advocacy community (John Carr) - Children's Charities Coalition for Internet Safety. Charles Jennings, a founder of Trustee, voiced his support for this approach.

§ U.S.C. § 552(b)(5)

Attached: Fact sheet (Source: ICM Registry); News.com article 6/15/05

**EXHIBIT 6**



**From:** Meredith Attwell  
**To:** Jeffrey Joyner; Robin Layton; Suzanne Sene  
**Date:** 6/14/05 2:05:15 PM  
**Subject:** Fwd: Call from Family Research Council

Guys- We also got a call from upstairs and Chip Pickering's office on this which says the Hill is looking at their options and wants a meeting in the next 2 days. Can we please get some talking points on why this is a good thing and why we support it.  
Thanks.

>>> Clyde Ensslin 6/14/2005 11:46 AM >>>

The fifth floor Office of Public Affairs transferred a call to me from Patrick Trueman, senior legal counsel for the Family Research Council. He had read that the DoC must approve .xxx and said he wanted to be able to comment. I explained that our role is to "authorize any addition, deletion or change to the authoritative root zone file" [precise language from Kathy Smith] and he said that's what he meant and he would just like to know the best way to comment. Mr Trueman told me he had worked in the Dept of Justice in Reagan and Bush administrations. I can refer this call to someone in the front office or to OCC but I wanted to let you know this call had come in.  
Clyde Ensslin x0019

From [www.frc.org](http://www.frc.org):

.XXXercise in Futility

Last week the Internet Corporation for Assigned Names and Numbers announced an ".xxx" tag for Web sites that the company thinks will help keep children away from online pornography by making it easier for web filters to block these sites. While the proposal is well intentioned, it is likely to do more harm than good. There are no incentives for pornographers who use the ".com" address to switch to the new ".xxx."

Pornographers will keep their x-rated sites in the normal domain, and the more enterprising purveyors will create new web sites for the virtual red light district created by an ".xxx" domain. This red light district would further legitimize the \$12 billion a year online porn industry by giving pornographers a place at the table in developing and maintaining their new property. ".XXX" domains should be discouraged. It's not pornographers that need a safe harbor, it's children and families that do. Aggressive prosecution of the obscenity industry remains the most urgent need. To receive FRC's pamphlet on how you can fight pornography, click on the link below.

Additional Resources

Dealing With Pornography: A Practical Guide For Protecting Your Family and Your Community

###

**EXHIBIT 7**

**From:** "Hurst, Mike" <Mike.Hurst@mail.house.gov>  
**To:** Jim Wasilewski <jwasilewski@ntia.doc.gov>  
**Date:** 6/14/2005 10:13:07 AM  
**Subject:** ICANN

Was,

Can you guys come up sometime this week and give me a briefing on ICANN's recent decision to authorize the ".xxx" domain name, and what the role of the Commerce Dept will be in light of this decision (I had read that you guys will have to approve)? We're reviewing our options here on the Hill. I'm pretty open the next 2 days. Thanks.

D. Michael Hurst, Jr.

Legislative Director/Counsel

Congressman Chip Pickering (R-MS)

229 Cannon House Office Building

Washington, DC 20515

(202) 225-5031 (phone)

(202) 225-5797 (fax)

From: "Meredith Attwell" <mattwell@ntia.doc.gov>  
To: <jwasilewski@ntia.doc.gov>  
Date: 6/14/2005 3:02:47 PM  
Subject: Re: Fwd: Call from Family Research Council

>>> Jeffrey Joyner 6/14/2005 2:34 PM >>>

§ U.S.C. § 552 (b)(5)

>>> Meredith Attwell 6/14/2005 2:05 PM >>>

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Thanks.

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Clyde Ensslin x0019

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Additional Resources

Dealing With Pomography: A Practical Guide For Protecting Your Family and Your Community

###

**EXHIBIT 8**

**From:** "Hurst, Mike" <Mike.Hurst@mail.house.gov>  
**To:** "Pat Trueman (p.trueman@verizon.net)" <p.trueman@verizon.net>, "Don Wildmon (dwild@afa.net)" <dwild@afa.net>, "Janet M. LaRue (jlarue@cwfa.org)" <jlarue@cwfa.org>, "Donna Rice Hughes (RICEHUGHES@aol.com)" <RICEHUGHES@aol.com>  
**Date:** 6/16/2005 3:46 PM  
**Subject:** FW: fyi...

Pat,

I met with the Commerce Dept. folks today, and they relayed to me that they do not have authority to approve the substance of domain names - only the technical aspects of it (see below; i.e., if a domain name meets the technical aspects under IANA, then Commerce will approve without regard to substance/content of domain).

If groups are going to oppose the approval of .xxx domain name, then maybe we should be focusing our attention and resources on ICANN, who - as I understand it - still has the ultimate say in this thing going forward (their Board still must approve this domain name - see very last paragraph below). Maybe we can marshal all our resources toward ICANN?

In any event, let me know how we can be helpful. Thanks Pat.

-Mike

-----Original Message-----

Sent: Thursday, June 16, 2005 2:25 PM  
To: Hurst, Mike  
Subject: fyi...

**Q:** What role does the Department of Commerce play with respect to ICANN's selection of new sponsored top level domains (sTLDs)?

**A:** The Department does not participate in the selection process or advocate for the creation of specific top level domains. The Department has long recognized that the selection of new TLDs should be conducted by the private sector through a not-for-profit organization, globally representative of the Internet stakeholder community.

**Background:**

The relationship between DoC and ICANN is defined by two separate agreements and is not one of regulator and regulated. One agreement is a joint partnership agreement in the form of a Memorandum of Understanding (MOU) which outlines a transition to private sector-led technical management of the Internet Domain Name System. The second agreement is the IANA functions contract which includes performance of the administrative functions associated with root management. Under the terms of the MOU, DoC reviews ICANN's performance to ensure completion of tasks set forth by the MOU. DoC does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization.

**Key .XXX Dates:**

12/15/03: ICANN Releases Request for Proposals for Sponsored Top Level Domain Names

3/19/04: New Application for .XXX

3/31/04: Public Comment Forum for Proposed Sponsored Top-Level Domains



**EXHIBIT 9**



From: Meredith Attwell  
To: Cathy Handley; rlayton@ntia.doc.gov; Suzanne Sene  
Date: 6/16/2005 4:50 PM  
Subject: Fwd: Michael Reagan supports .xxx

just more fyi

>>> Meredith Attwell 6/16/2005 4:07 PM >>>

>>> Meredith Attwell 6/16/2005 1:12 PM >>>

SUSC § 552(b)(5)

Attached is a document that incorporates the comments of Members who have spoken publicly about the .xxx. I'm not sure that Members "support it" other than those that have made statements. Most Members don't want to be identified as "supporting porn." So far ICM Registry has reached out to the following:

- Rep. Bob Goodlatte
- Rep. Fred Upton
- Rep. Cliff Stearns
- Rep. John Shimkus
- Rep. Mike Pence
- Sen. Ted Stevens
- Sen. John Ensign
- Sen. Conrad Burns
- Sen. Joseph Lieberman
- Sen. George Allen

None of these Members have been indicated they are opposed.

Michael Reagan has noted his support (but also looking for .xxx to be mandatory). If you haven't seen this article already, take a look:

[http://worldnetdaily.com/news/article.asp?ARTICLE\\_ID=44805](http://worldnetdaily.com/news/article.asp?ARTICLE_ID=44805)

After meeting with Chip Pickering, I would assess Chip would be a lead sponsor for his bill. Chip was not against .xxx (although his staff was), but wanted to force the entire industry to .xxx. A bill like that faces definitional and jurisdictional problems... but those aren't ours.

From the article:

"Talk-show host Michael Reagan, who says he recently came to terms with his own childhood experiences with sexual abuse and child pornography as described in his book 'Twice Adopted,' strongly supports creation of the .xxx domain, seeing it as the first step toward forcing all porn sites to use the new extension.

"There's nothing wrong with letting them have their own domain," Reagan told WND, "but if I want to block it, then I can block anything that is .xxx coming into my home."

Reagan would like to see Congress get involved by making a law requiring all pornographic sites to use the new domain.

"I don't think it should be voluntary," he said. "I think it's something Congress can actually pass into law."

Comparing Federal Communications Commission regulations of TV and movies to the Internet, Reagan commented: "Through the FCC and through Congress,

when I turn on my TV now I find out what the rating is. When I go to a movie I get to see what the rating is.

"Why not have [pornographers] have their own domain - and make it a law - so they have to stay in their own domain?"

Reagan says he is working with federal lawmakers to introduce such a law.

"We're hoping to write what is ultimately going to be the Michael Reagan Online Child Protection Act," he said.

2 Pages Withheld  
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5 U.S.C. § 552(b)(5)

**EXHIBIT 10**

**From:** Clyde Ensslin  
**To:** jlarue@cwfa.org; ptrueman@frc.org  
**Date:** 6/20/2005 10:38:11 AM  
**Subject:** Meeting at NTIA set for 11 am Tuesday June 21 room 4898 B

Deputy Asst Secretary of Commerce John Kneuer is planning to host our meeting tomorrow in his office at 11 am. John's office phone is 202-482-1830 and his room number is 4898 B. He is the second ranking official at NTIA behind Asst Sec Michael Gallagher. It may take 10 to 15 minutes for you to get through security into the building, so I suggest you arrive around 10:45 am at the main entrance on 14th Street, and the guard will have someone escort you to John's office. I am planning to attend and I look forward to meeting you both.

Clyde Ensslin NTIA Director of Communications 202-482-0019

**CC:** p.trueman@verizon.net

**EXHIBIT 11**

**Clyde Ensslin - RE: Update on public reaction to ICANN and .xxx**

---

**From:** <CGunderson@doc.gov>  
**To:** <censsln@ntia.doc.gov>  
**Date:** 6/20/2005 8:44 AM  
**Subject:** RE: Update on public reaction to ICANN and .xxx

---

5 USC §552 (b) 5

-----Original Message-----

**From:** "Clyde Ensslin" <censsln@ntia.doc.gov> [mailto:"Clyde Ensslin" <censsln@ntia.doc.gov>]  
**Sent:** Monday, June 20, 2005 7:32 AM  
**To:** <MGallagher.NTIAHQ.NTIA@ntia.doc.gov>  
**Cc:** <cfuqua@doc.gov>; <CGunderson@doc.gov>; "John Kneuer" <JKneuer@ntia.doc.gov>; "Meredith Attwell" <MAttwell@ntia.doc.gov>; "Ranjit deSilva" <RDesilva@ntia.doc.gov>  
**Subject:** Update on public reaction to ICANN and .xxx

As of midnight Sunday night June 19, by my count, the publicaffairs@ntia.doc.gov account set up on Friday June 16 to accept emails regarding .xxx had received 2,567 messages. Between midnight and 8 am this morning, another 79 came in. Most have an identical text and came from an "Alert" on the Family Research Council home page. If you go to [www.frc.org](http://www.frc.org) and scroll to the bottom of a story titled "Stop the Porn Industry from Expanding" and fill in name and address fields, FRC will automatically send messages to both ICANN and Commerce with the subject line "Stop the Establishment of the .xxx domain."

The text is: "I oppose the establishment of the .XXX domain. I do not want to give pornographers more opportunities to distribute smut on the Internet. By establishing this new .XXX domain, you would be giving false hope to parents who want to protect their families from pornography. You would also be lending legitimacy to the hardcore pornography industry. Please stop this effort now."

Two other conservative Web sites have stories that suggest people should contact Commerce in opposition to .xxx. Both [www.humaneventsonline.com](http://www.humaneventsonline.com) and [www.cwfa.org](http://www.cwfa.org) have the publicaffairs@ntia.doc.gov address and both encourage people to contact ICANN and provide email address and phone for ICANN.

Focus on the Family has archived its report on .xxx and removed the contact information for DoC and replaced it with an offer to send a message to ICANN on the behalf of the reader.

One conservative Web at [www.ProtectEveryChild.org](http://www.ProtectEveryChild.org) supports .xxx because ICANN approval of .xxx "is only half the battle. There must be a mandatory movement to .xxx." They urge people to contact DoC in support of a mandatory .xxx and provide the NTIA e-mail address.

Media reaction: Based on my Lexis-Nexis search, which may not capture every story, only a handful of stories have run since the AP story a week ago. The Dubuque Telegraph-Herald ran the week-old AP story yesterday.

Other reports/op-eds in the media:

On June 15, the Hunteington West Virginia Herald-Dispatch ran an unscientific poll that asked:

Message

Page 2 of 2

"Backers of a proposed .xxx domain say it will help keep Internet users from accidentally stumbling upon porn sites. Do you agree?" Yes 65.5 percent; No, 25.5 percent, Undecided 8.9 percent, total 3236 surveyed.

The Stanton Virginia Daily News Leader ran a negative op-ed on June 14 titled "Smoke and Mirrors."

A student newspaper at the University of Northern Illinois said in an op-ed that .xxx should not be mandatory as that would be unconstitutional.

Internationally, an op-ed in New Straits Times in Malaysia weighed the pros and cons evenly; and an op-ed in the New Zealand Herald predicted that a voluntary .xxx would be "ineffectual."

I will continue to search for stories in the media and will keep you posted.

Clyde Ensslin NTIA Director of Communications x0019

10/24/2005



**EXHIBIT 12**

**Clyde Ensslin - xxx domain**

---

**From:** <FSchwien@doc.gov>  
**To:** <CGunderson@doc.gov>, <cbuchan@doc.gov>  
**Date:** 6/16/2005 5:54:13 PM  
**Subject:** xxx domain  
**CC:** <sreilly@doc.gov>, <elevy@doc.gov>, <matwell@ntia.doc.gov>, <mgallagher@ntia.doc.gov>

---

Who really matters in this mess is Jim Dobson. What he says on his radio program in the morning will determine how ugly this really gets--if he jumps on the bandwagon, our mail server may crash. My suggestion is that someone from the White House ought to call him ASAP and explain the situation, including that the White House doesn't support the porn industry in any way, shape, or form, including giving them their own domain.

My thoughts, Fred

Fred L. Schwien  
Executive Secretary  
United States Department of Commerce  
Room 5838, 14th & Constitution Ave, NW  
Washington, DC 20230  
Telephone: (202) 482-3035  
Cell: (202) 550-9637  
E-mail: [fschwien@doc.gov](mailto:fschwien@doc.gov)

**EXHIBIT 13**

**From:** Clyde Ensslin  
**To:** Meredith Attwell  
**Date:** 6/22/2005 12:26 PM  
**Subject:** Re: Status report: no updates/changes on Web sites objecting to .xxx

Right now 3584 but this is a number I am keeping very close. You will recall the folks we met with yesterday were very interested in these numbers. Clyde

>>> Meredith Attwell 6/22/2005 12:17 PM >>>  
what's the email total now?

>>> Clyde Ensslin 6/22/2005 11:13 AM >>>

No changes to the three Web sites that put DoC contact information online last week. Nothing relative to .xxx has changed on these sites since my report to you Monday morning. If it does, I'll let you know as soon as I learn of the change.

In summary: Family Research Council has not updated its story dated Friday June 17; Concerned Women for America has not updated its opinion piece dated Thursday June 16; Human Events has not updated its report dated June 15.

In terms of new developments, [www.Protect Every Child](http://www.ProtectEveryChild.org) has added the following text, and asks concerned readers to contact Congress and the FCC as well as our NTIA e-mail address to make .xxx mandatory. See below:

"The 1st Amendment gives us the right to be heard & to petition Congress to right a wrong. Join our campaign by contacting your members of Congress, see Contact Congress above; Kevin Martin, Chairman of the FCC, 202-418-1000 or fax 1-866-418-0232 or email [www.fcc.gov](http://www.fcc.gov); and The Department of Commerce, at [publicaffairs@ntia.doc.gov](mailto:publicaffairs@ntia.doc.gov). Ask them to protect your child from innocently entering the world of Internet pornography by sponsoring legislation limiting all pornographic material to the .XXX Top-Level Web Domain Extension! Pornography is not going away. It is just like someone who discovers they have cancer. They can use medication and treatments to control it or they can allow it to continue to grow by leaving it alone to fester and spread. Without .XXX and a mandatory movement to this TLD, children and families will continue to be devastated by the pornography that threatens their existence when they stumble across it through deceptively named websites. .XXX will protect the 1st Amendment rights of the majority--every child, every adult--while continuing to protect the rights of the few, the pornographers. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances, [www.house.gov/Constitution/Amend.html](http://www.house.gov/Constitution/Amend.html). Make sure YOUR voice is heard in Congress."

(Note: I am in email contact with editor of this Web page. She understands that decision to move forward on this was made by ICANN and that DoC does not participate in selection process for creating new domains. She has the ICANN contact info but is not using it.)

Clyde Ensslin NTIA Director of Communications 202-482-0019

**From:** <FSchwien@doc.gov>  
**To:** <CGunderson@doc.gov>, <MGALLAGHER@NTIA.DOC.GOV>, <CBuchan@doc.gov>  
**Date:** 6/17/2005 9:13 AM  
**Subject:** Fw: Xxx

The count is 750, fewer than I thought would be there this morning.

Fred L. Schwien  
Executive Secretary  
United States Department of Commerce  
Room 5838, 14th & Constitution Ave, NW  
Washington, DC 20230  
Telephone: (202) 482-3035  
Cell: (202) 550-9637  
E-mail: fschwien@doc.gov  
----- Forwarded by Fred Schwien/HCHB/Osnet on 06/17/2005 09:13 AM -----

Matthew Healy/HCHB/Osnet  
06/17/2005 09:09 AM

To  
Fred Schwien/HCHB/Osnet@osnet  
cc

Subject  
Re: Xxx

750, not too bad since yesterday.

Matt Healy  
Executive Secretariat  
Office of the Secretary  
U.S. Department of Commerce  
Washington, D.C. 20230  
phone: (202) 482-3660  
fax: (202) 482-4090

Fred Schwien/HCHB/Osnet  
06/17/2005 08:35 AM

To  
Matthew Healy/HCHB/Osnet@osnet  
cc

Subject  
Re: Xxx

Matt, what is the count now?

Fred L. Schwien  
Executive Secretary  
United States Department of Commerce  
Room 5838, 14th & Constitution Ave, NW  
Washington, DC 20230  
Telephone: (202) 482-3035  
Cell: (202) 550-9637  
E-mail: fschwien@doc.gov

Matthew Healy/HCHB/Osnet  
06/16/2005 03:12 PM

To  
Fred Schwien/HCHB/Osnet@osnet  
cc

Subject  
Re: Xxx

635 and still going strong.

Matt Healy  
Executive Secretariat  
Office of the Secretary  
U.S. Department of Commerce  
Washington, D.C. 20230  
phone: (202) 482-3660  
fax: (202) 482-4090

Fred Schwien/HCHB/Osnet  
06/16/2005 03:08 PM

To  
"Matthew Healy" <MHealy@DOC.GOV>, "Ed Levy" <elevy@doc.gov>  
cc

Subject  
Xxx

What are the current numbers?

-----  
Sent from my BlackBerry Wireless Handheld

CC: <mattwell@ntia.doc.gov>, <CENSSLIN@ntia.doc.gov>

**EXHIBIT 14**



From: "Suzanne Sene" <ssene@ntia.doc.gov>  
To: "Meredith Attwell" <MAttwell@ntia.doc.gov>  
Date: 6/24/2005 12:43:19 PM  
Subject: Re: .XXX

\*\* High Priority \*\*

hi meredith, let me know if the following list seems complete enough for their purposes:

icann staff:

paul twomey, president and ceo: twomey@icann.org, 310-823-9358  
john jeffrey, general counsel: jeffrey@icann.org, 310-301-5834  
kurt pritz, vp business operations, pritz@icann.org, 310-301-5809

icann's mailing address is: 4676 admiralty way, suite 330  
marina del rey, ca 90292-6601

the primary u.s. reps on the board are:

vint cerf  
michael palage  
tom niles  
steve crocker  
suzanne woolf

YES  
ABSTAIN  
ABSENT

their names are found on the icann website, and i believe their email addresses show up once you click on each individual name. if you'd like me to locate their mailing addresses, let me know.

cheers, suz.

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

>>> Meredith Attwell 6/23/2005 1:56 PM >>>  
Suzanne -

We promised the Family Research Council (the conservatives who are sending their emails to us) that we would facilitate getting a meeting with ICANN and possibly directing them to American based Board members. Who at ICANN should we direct them to and which Board members? Could you also send contact information. Thanks!

CC: <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>

**From:** Kathy Smith  
**To:** John Kneuer; Meredith Attwell  
**Date:** 7/11/2005 12:08 PM  
**Subject:** Re: .xxx contact at ICANN

Dear Meredith: I suspect that John Jeffrey is the best point of contact. He is at the ICANN Board meeting this week, but I would be happy to email him and try to confirm if he is the person whose name we should give to Pat Trueman. Let me know if that works for you. Kathy

>>> "John Kneuer" <jkneuer@ntia.doc.gov> 7/11/2005 11:59 AM >>>  
Meredith/Kathy

I received a call from Pat Trueman at FRC asking for the best contact information at ICANN for them to discuss their views on the .xxx tld. I raised the issue with ICANN's GC when he was here last week and he assured me that there was still an opportunity for interested parties to voice their opinions. Can you two coordinate on the best point of contact and forward that information to Pat Trueman at [p.trueman@verizon.net](mailto:p.trueman@verizon.net).

Thanks.

**EXHIBIT 15**

MEMORANDUM FOR: Michael Gallagher  
 ASSISTANT SECRETARY FOR  
 COMMUNICATIONS AND INFORMATION/NTIA

FROM: Maureen Lewis, OPAD

SUBJECT: Response to .xxx Correspondence

The enclosed correspondence uses previously approved text in response to letters about the proposed .xxx domain. Please note that the response to a proponent of the domain deletes the reference to shared concerns about the proliferation of pornography.

CORRESPONDENCE CLEARANCES

Prepared by:	Associate* Administrator	Chief Counsel	Congressional Affairs	Senior Advisor	Deputy Assistant Sec'y	Assistant Secretary
M. Lewis	E. Stark	K. Smith	J. Wasilewski	M. Atwell	J. Kneuer	
Ext.:2-1892	2-1880	1864		29122		
Initial: <i>ML</i>	<i>ES</i>	<i>KS</i>		<i>MA</i>		
Date: 10/11/05	6/11/05	10/12/05		10/12/05		

*T. Rhoades*

\* The Associate Administrator is responsible for ensuring that correspondence is routed appropriately and should add the appropriate formal clearance blocks to the form, depending on the issue. Clearances from another Associate Administrator, Congressional Affairs, Public Affairs and/or others may be added as appropriate.

*265*

**EXHIBIT 16**

**From:** Tracey Rhoades  
**To:** Lewis, Maureen  
**Date:** 9/29/2005 10:15:50 AM  
**Subject:** Re: Fwd: Webcims 05-003547

thank you!

>>> Maureen Lewis 9/29/2005 10:12 AM >>>  
Good morning all:

As requested, here's the template for the .xxx responses with the addition of the reference to the new FBI unit.

Maureen

>>> Tracey Rhoades 9/29/2005 9:53 AM >>>

I left a message for Ed a while ago, but he is not in the office yet. That said though, if the Sec. office feels that the level of sender requires the Secretary to sign the response, then that is probably what will end up happening, and the letter will be due TODAY. We will not be granted an extension based on our own internal delays. Eric and Maureen, I know a recent edit was made to the .xxx letter template -- please provide the revised template to Robin so that she can put the letter through clearance ASAP. Thanks!  
Tracey

>>> Geraldine Moody 9/29/2005 9:30 AM >>>  
Hi Suzanne,

I received the "A" Priority on September 21, I stamped it in and walked it around to OIA on the same day. All of the "A" are treated that way. What happened after that, I have no ideal. I stopped putting the "A" in the front office boxes because of that reason. Tracey will be talking to Ed to see what route we will be taking. Thanks.

>>> Suzanne Sene 9/29/2005 8:48 AM >>>

geraldine, i am going to be in training all day today and tomorrow, so it may be preferable for tracy or robin to make this call to ensure we have the exchange with the fifth floor. it was meredith's call on the very first exec sec that was assigned an "a" who noted that all of the .xxx letters to date have been a "b", with mike's signature.

also fyi, the letter is stamped September 21 with a due date of yesterday; however, i didn't get it until yesterday. so at a minimum, i think we'll need an extension. thanks, suz.

>>> Geraldine Moody 9/28/2005 5:14 PM >>>

Hi Suzanne,

I just received this e-mail from Matt, even though Matt told me to downgrade this correspondence this morning, Ed Levy would like for you to give him a call. You can reach Ed Levy on x-3934.

>>> <MHealy@DOC.GOV> 9/28/2005 4:57 PM >>>

I talked to Ed and he actually wants to keep that particular letter an A. If the person who wanted to downgrade it to a B over there in NTIA wants to talk to him I'm sure he wouldn't mind. Thanks.

Matt Healy  
Executive Secretariat  
Office of the Secretary  
U.S. Department of Commerce  
Washington, D.C. 20230  
phone: (202) 482-3660  
fax: (202) 482-4090

CC: Stark, Eric

«Title» «First\_Name» «Last\_Name»  
«Address\_Line\_1»  
«City», «State» «ZIP\_Code»

Dear «Title» «Last\_Name»:

Thank you for your letter to Secretary Gutierrez sharing your views on the creation of a new .xxx top level domain. Your letter was forwarded to the National Telecommunications and Information Administration (NTIA) for response. NTIA serves as the President's primary advisor on communications and information policies. I share your concerns about the proliferation of pornography on the Internet and the victimization of children. It is the policy and the track record of this Administration to protect children online, to provide a safe place for children online, and to combat child pornography. **For example, recognizing that pornography may threaten families and children, Attorney General Alberto Gonzalez recently ordered the Federal Bureau of Investigation to establish an anti-obscenity squad to combat pornography.** While the Department of Commerce does not make policy decisions with regard to domain names or Internet content, we remain committed to combating child pornography and other abuses of the Internet.

Accordingly, on August 11, 2005, I wrote to the Internet Corporation for Assigned Names and Numbers (ICANN), the organization responsible for creating top-level domains. The letter urged ICANN to provide adequate additional time for concerns to be voiced and a proper process to address the unprecedented opposition to establishing the .xxx top level domain devoted to adult content. ICANN has since postponed consideration of this matter. Therefore, if you have concerns regarding the .xxx domain, you can submit them to:

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, California 90292  
Phone: 310-823-9353  
Fax: 310-823-8649  
Email: [icann@icann.org](mailto:icann@icann.org)

Thank you for sharing your concerns.

Sincerely,

Michael D. Gallagher



**EXHIBIT 17**

Editorials and Opinions re Internet Governance as of 10-19-05

Editorials about proposal for UN control of Internet (9 Against, 1 For)

Riverside (CA) Press-Enterprise, Oct 18 (Anti-UN)

"...government by international committee...is a terrible idea, and one the United States is right to oppose."

Wall Street Journal, Oct 17 (Anti-UN)

"Perhaps our friends at the European Union, who last month turned against the U.S., will realize that their sudden push for 'control' over the Net carries a high price."

The Nation (Thailand), Oct 17 (Anti-UN)

"...it would be wise for Thailand to support an Internet that is open and free of the bureaucratic control of any organization."

Ottawa Citizen (Canada), Oct 17 (Anti-UN)

"Many Canadians might dislike many U.S. policies, but when it comes to control of the Internet, the fundamental medium of the information age, we must stand with it against dictators and encourage the EU to do the same."

The Guardian (London), Oct 11 (Pro-UN)

"There is a need for a separate body to deal with global issues such as spamming, child pornography, intellectual property and abuses of democratic rights. The UN would be good for this role..."

The Gazette (Montreal), Oct 10 (Anti-UN)

"...the statist busybodies at the UN are determined to get their hands on the Internet."

The Roanoke Times, Oct 9 (Anti-UN)

"American delegates should at least avoid unyielding, unilateral posturing that may provoke the rest of the world to split the Internet."

The Economist (London), Oct 8 (Anti-UN)

"...ICANN's stewardship has succeeded because its focus has been not on politics, but on making the network as efficient as possible."

Christian Science Monitor, Sep 16 (Anti-UN)

"...it's far from clear a body established by the UN is ready to become an able administrator for the Internet."

The Washington Times, July 21 (Anti-UN)

"UN bureaucrats see the Internet as a resource to be plundered and distributed like government-funded aid programs."

**Editorials about proposal for .XXX top level domain (2 Against, 3 For)**

USA TODAY, Sep 15

(Pro-XXX)

“...trying to improve protections for parents is a good idea – including a .xxx domain experiment.”

San Jose Mercury News, Aug 22

(Pro-XXX)

“Triple-X will do no harm. It may do some good in screening and regulating porn.”

Los Angeles Times, Aug 21

(Anti-XXX)

“Whatever the reasons, the group [ICANN] should resist the temptation to create a pornography-only zone on the Web.”

Ft. Laud. Sun-Sentinel, Aug 21

(Anti-XXX)

“Of about 250 domain designations, .xxx would be the only one that would be content-specific, and we thus worry that it would set the stage for censorship imposed by governments.” (attributed to Baltimore Sun)

Myrtle Beach Sun-News, Aug 11

(Pro-XXX)

“.xxx will improve the Web.” (attributed to San Jose Mercury News)

**Opinion columns about proposal for UN control of Internet (8 Anti, 2 Pro)**

Hiawatha Bray in the Boston Globe, Oct 17

(Anti-UN)

Harold Furchtgott-Roth in the New York Sun, Oct 11

(Anti-UN)

Jonathan Zuck in the Financial Times, Oct 7

(Anti-UN)

Simon Newsam in the Western Mail (Cardiff, Wales)

(Pro-UN)

Russ Kent in the Mansfield Ohio News Journal, Oct 2

(Anti-UN)

Ramos-Mrosovsky & Barillari, National Review, Sep 28

(Anti-UN)

Richard Lessner in the New York Sun, Sep 26

(Anti-UN)

Michael Geist in the Toronto Sun, Sep 19

(Pro-UN)

David Holman in the American Spectator, Aug 10

(Anti-UN)

Peter Griffin in the New Zealand Herald, July 22

(Anti-UN)

Opinion columns about .XXX (2 Anti, 2 Pro)

Patrick Trueman in USATODAY, Sep 15 (Anti-XXX)

Shaunti Feldhahn in the Chicago Tribune, Sep 14 (Anti-XXX)

Diane Glass in the Chicago Tribune, Sep 14 (Pro-XXX)

Paul McMasters in the Charleston (WV) Gazette, Sep 4 (Pro-XXX)

**EXHIBIT 18**

**Clyde Ensslin - RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP**

---

**From:** <CGunderson@doc.gov>  
**To:** <censsln@ntia.doc.gov>  
**Date:** 6/17/2005 8:05 AM  
**Subject:** RE: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

---

that language is really awful. hopefully today we can come up with something better we can use.

-----Original Message-----

**From:** "Clyde Ensslin" <censsln@ntia.doc.gov> [mailto:"Clyde Ensslin" <censsln@ntia.doc.gov>]  
**Sent:** Friday, June 17, 2005 6:49 AM  
**To:** <CGunderson@doc.gov>  
**Subject:** Re: Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

5 USC 552(b)(5)

>>> 6/16/2005 7:15 PM >>>

Did anyone call the ap to correct the dept of commerce approval language?

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** "Clyde Ensslin" [censsln@ntia.doc.gov]  
**Sent:** 06/16/2005 06:42 PM  
**To:**  
**Subject:** Quote from June 6 Cnet news report by Declan McCullagh, June 12 AP

Christine:

I can't find this online anywhere, but I have a hard copy. I saw it and printed it on Monday June 6.  
The key statement is

"For .xxx to go into the root is going to require positive action on the part of the United States government," said Karl Auerbach, a former ICANN board member and frequent critic of the organization. "That would constitute an endorsement of a red-light district on the Internet."

This was followed by a June 12 AP report by Anick Jesdanun that read:

"If the board and ultimately the U.S. Commerce Department approve it, ".xxx" names could appear in use by the year's end."

Clyde Ensslin 202-482-0019

**EXHIBIT 19**

**From:** Clyde Ensslin  
**To:** CGunderson@doc.gov  
**Date:** 6/17/2005 11:39:20 AM  
**Subject:** RE: CNN has edited AP story by removing DoC reference from paragraph 6

Correct because I only saw one reference to DoC in original report. Clyde

>>> <CGunderson@doc.gov> 6/17/2005 11:41 AM >>>  
excellent. it looks like all references to dept of commerce are now removed...

-----Original Message-----

**From:** "Clyde Ensslin" <censsln@ntia.doc.gov> [mailto:"Clyde Ensslin" <censsln@ntia.doc.gov>]  
**Sent:** Friday, June 17, 2005 10:33 AM  
**To:** <cfuqua@doc.gov>  
**Cc:** <CGunderson@doc.gov>  
**Subject:** CNN has edited AP story by removing DoC reference from paragraph 6

I asked them to change the "tech template" which serves CNN International as well as other CNN sites. AP stories can last up to 30 days on CNN's online sites. Clyde x0019

As it now appears:

Will '.xxx' domain help parents curb online porn?  
Friday, June 17, 2005 Posted: 1515 GMT (2315 HKT)

NEW YORK (AP) -- A red-light district tentatively cleared for construction on the Internet -- the ".xxx" domain -- is being billed by backers as giving the \$12 billion online porn industry a great opportunity to clean up its act.

A distinct online sector for the salacious, one with rules aimed at forbidding trickery, will reduce the chances of Internet users accidentally stumbling on porn sites, they argue.

If only it were so simple:

Zoning in cyberspace has always been a daunting proposition, and participation in the porn domain will be voluntary. Critics wonder why ".xxx" got the OK at all when so many other proposals sit unaddressed, some for years.

Nearly five years after rejecting a similar proposal, the Internet's key oversight body, the Internet Corporation for Assigned Names and Numbers, voted 6-3 this month to proceed with ".xxx."

ICANN staff will now craft a contract with ICM Registry Inc., the Jupiter, Florida, company that made the bid. If the board approves it, ".xxx" names could appear in use by the year's end.

The market unquestionably exists: Two in five Internet users visited an adult site in April, according to tracking by comScore Media Metrix. The company said 4 percent of all Web traffic and 2 percent of all surfing time involved an adult site.

As envisioned, ICM would charge \$60 for each of up to 500,000 names it expects to register, \$10 of which would go to a nonprofit organization that would, among other things, educate parents about safe surfing for children.

The nonprofit, run by representatives of adult Web sites, free-speech, privacy and child-advocacy concerns, would determine registration eligibility.



Skeptics argue, however, that porn sites are likely to keep their existing ".com" storefronts, even as they set up shop in the new ".xxx" domain name. And that will reduce the effectiveness of software filters set up to simply block all ".xxx" names.

The ".xxx" domain "legitimizes this group, and it gives false hope to parents," said Patrick Trueman, senior legal counsel at the Family Research Council and a former Justice Department official in charge of obscenity prosecutions.

The adult entertainment industry is also hardly behind ".xxx" as a group. Many of its webmasters consider the domain "the first step toward driving the adult Internet into a ghetto very much like zoning laws have driven adult stores into the outskirts," said Mark Kernes, senior editor at the trade monthly Adult Video News.

ICM insists it would fight any government efforts to compel its use by adult Web sites, but the existence of ".xxx" would certainly make the prospect easier.

"There are going to be pressures" to mandate it once available, said Marjorie Heins, coordinator of the Free Expression Policy Project at New York University's law school. Federal lawmakers have proposed such requirements in the past.

Robert Corn-Revere, a lawyer hired by ICM to address free-speech issues, said the company has pledged \$250,000 for a legal defense fund to keep ".xxx" voluntary, and he notes that courts have struck down efforts to make movie ratings mandatory.

"Where governments have tried to use private labeling systems as proxies for regulation, courts have always held those measures unconstitutional," he said.

Even if it's voluntary, supporters say, adult sites will have incentives to use ".xxx."

"If the carrot's big enough, you're going to get sites in there," said Parry Aftab, an Internet safety expert who served as an informal adviser on ".xxx."

Stuart Lawley, ICM's chairman and president, said use of ".xxx" could protect companies from prosecution under a 2003 federal law that bars sites from tricking children into viewing pornography -- as ".xxx" would clearly denote an adult site.

All sites using ".xxx" would be required to follow yet-to-be-written "best practices" guidelines, such as prohibitions against trickery through spamming and malicious scripts.

Lawley said those requirements could make credit-card issuers more confident about accepting charges. The online porn industry currently faces higher fees because some sites engage in fraud and customers often deny authorizing payments.

But given the limited effectiveness of a voluntary ".xxx" for filtering, Internet filtering expert Seth Finkelstein calls ".xxx" no more than a mechanism "to extract fees from bona fide pornographers and domain name speculators." (ICANN also gets an unspecified cut of each registration fee.)

Even if it were mandatory, it wouldn't be foolproof.

A domain name serves merely as an easy-to-remember moniker for a site's actual numeric Internet address. David Burt, a spokesman for filtering vendor Secure Computing Corp., said a child could simply use the numeric address when the ".xxx" equivalent gets blocked.

Better technologies exist, he said, including a little-used self-rating system that lets Web sites broadcast whether they contain nudity, violence or foul language, along with the specific forms, such as presence of genitals or passionate kissing.

Burt also favors a ".kids" domain that would serve as a safe haven for children. The U.S. government has approved one under ".us," but support has been cool, with only about two dozen ".kids.us" sites listed.

ICM proposed both ".xxx" and ".kids" in 2000, but ICANN board members resisted them for fear of getting into content control. Instead, ICANN approved ".info," ".biz," and ".museum" and four others.

But pressure has continued to mount for ICANN to expand the number of domain names, and last year it reopened bidding.

ICM resubmitted its application for ".xxx" only, this time structuring it with a policy-setting organization to free ICANN of that task.

That did the trick.

ICANN board member Joichi Ito, who backed ".xxx," wrote in his Web journal that the decision wasn't an endorsement of any type of content or moral belief but a chance for "creating incentives for legitimate adult entertainment sites to come together and fight 'bad actors.'"

Anti-porn activist Donna Rice Hughes, however, remains unconvinced.

"They are not going to give up their '.com' addresses," she said of porn sites. "It doesn't take a brain surgeon to figure that one out.

###

**From:** Clyde Ensslin  
**To:** robert.macmillan@washingtontpost.com  
**Date:** 6/17/2005 4:01:28 PM  
**Subject:** Re: Robert: Would you correct a June 12 AP story on your Web site?

Robert, thanks for your reply. I hear you!  
Clyde Ensslin 202-482-0019

>>> <robert.macmillan@washingtontpost.com> 6/17/2005 3:09 PM >>>

I can't do that, and I don't know what our wire-story correction policy is. My editor is Bob Greiner - [bob.greiner@washingtontpost.com](mailto:bob.greiner@washingtontpost.com) - and might have an idea of how this works. I'm sorry I can't help you on this one...

R

----- Original Message -----

**From:** Clyde Ensslin <[censslin@ntia.doc.gov](mailto:censslin@ntia.doc.gov)>

**Date:** Friday, June 17, 2005 12:21 pm

**Subject:** Robert: Would you correct a June 12 AP story on your Web site?

> Robert, would you be able to edit a June 12 AP story about .xxx,  
> still posted on your Web site, that refers to the role of the  
> Commerce Department in the implementation of new top level  
> Internet domains? The Department has a strictly technical role in  
> the implementation of new top level domains, but we do not make  
> policy decisions with respect to domain names or Internet content.  
> Accordingly, I would ask you to delete the words "and ultimately  
> the U.S. Commerce Department" so that the sentence in the 5th  
> paragraph reads:  
> "If the ICANN board approves it, .xxx names could appear in use by  
> the year's end." Thanks for your help!

>

> Clyde Ensslin  
> NTIA Director of Communications  
> U.S. Department of Commerce  
> 202-482-0019

>

>

**EXHIBIT 20**

**From:** Fiona Alexander  
**To:** Meredith Attwell; Robin Layton; Suzanne Sene  
**Date:** 7/13/2005 6:39 AM  
**Subject:** Re: gac communique

Suzanne

*Non-Responsive*

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 07/13/05 6:12 AM >>>

i don't know if my email yesterday a.m. got through, as my online access shut down suddenly. my voice mail to robin has been happily overtaken by events -- there is no mention of the u.s. statement or .xxx in the final gac communique. lots of side bar conversations, of course, re the statement but nothing overly hostile; primarily questions as to why the statement didn't refer to the mou, etc. the most difficult piece for us in the communique related to the whois workshop, because the europeans and canada wanted to emphasize privacy to counter the u.s./australia emphasis on law enforcement.....despite the fact that the latter was the focus of the gac workshop (!).

the uk's attempts to criticize the ccns0/praise centr and advance paul kane's iana proposal failed to win over enough gac members, so no worries there for the time being.

there is a general sense around the gac table that the board is giving gac short shrift, which is not helpful in the wgig/wsis context. for example, there's general agreement (not shared by the u.s.) that the board should have asked the gac for its views prior to giving staff the ok to start negotiations with .xxx, and

general unhappiness with icann's response to questions on the subject; also concern that the board didn't warn the gac that tralliance would impose strict deadlines for countries to pre-register place names in the .travel name; finally, irritation that the icann staff report to the board on wipo 2 has not been circulated. all of the above is leading several gac members to question the role and function of the gac. at the same time, however, there's been agreement that the gac paper to wvig should also be forwarded to prepcom. fyi, karklins briefed the gac on wsis and stressed his sense that there must be a "satisfactory" outcome on internet governance, or the summit will be a failure.

finally, wilkinson announced his impending retirement at the end of september; niebel cannot tell us anything about the commission's intentions re the secretariat. he expressed a preference for icann support but many eu member states oppose that, so it's not likely. i will follow up with him once he returns to brussels.

let me know if you have any questions. cheers, suz

Suzanne R. Sene  
Senior Policy Advisor  
NTIA/OIA  
202-482-3167 (ph)  
202-482-1865 (fax)

CC: Cathy Handley

**EXHIBIT 21**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Communications**  
**and Information**  
Washington, D.C. 20230

AUG 11 2005

Dr. Vinton Cerf  
Senior Vice President, Technology Strategy  
MCI  
2201 Loudon County Parkway, F2-4115  
Ashburn, VA 21047

Dear Dr. Cerf:

I understand that the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) is scheduled to consider approval of an agreement with the ICM Registry to operate the .xxx top level domain (TLD) on August 16, 2005. I am writing to urge the Board to ensure that the concerns of all members of the Internet community on this issue have been adequately heard and resolved before the Board takes action on this application.

Since the ICANN Board voted to negotiate a contract with ICM Registry for the .xxx TLD in June 2005, this issue has garnered widespread public attention and concern outside of the ICANN community. The Department of Commerce has received nearly 6,000 letters and emails from individuals expressing concern about the impact of pornography on families and children and opposing the creation of a new top level domain devoted to adult content. We also understand that other countries have significant reservations regarding the creation of a .xxx TLD. I believe that ICANN has also received many of these concerned comments. The volume of correspondence opposed to creation of a .xxx TLD is unprecedented. Given the extent of the negative reaction, I request that the Board will provide a proper process and adequate additional time for these concerns to be voiced and addressed before any additional action takes place on this issue.

It is of paramount importance that the Board ensure the best interests of the Internet community as a whole are fully considered as it evaluates the addition of this new top level domain. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael D. Gallagher".

Michael D. Gallagher

cc: Dr. Paul Twomey



**EXHIBIT 22**

From: Suzanne Sene  
To: Fiona Alexander; Meredith Attwell; Robin Layton  
Date: 8/10/2005 12:46:49 PM  
Subject: Re: outreach with other govt's re ntia letter on .xxx

i agree with your assessment re brazil; we could leave it to his gac colleagues to forward our letter. s.africa has been active of late in recent gac meetings, but michael has been in and out. in any event, both he and ingrid will get a copy as gac reps.

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC § 552(b) 5

Fiona

>>> "Suzanne Sene" <ssene@ntia.doc.gov> 08/10/05 12:03 PM >>>  
meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

5 USC § 552(b) 5

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

CC: Cathy Handley

**From:** "Kathy Smith" <ksmith@ntia.doc.gov>  
**To:** <FAlexander.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>, <SSene.NTIAHQ.NTIA@ntia.doc.gov>  
**Date:** 8/11/05 5:46:07 PM  
**Subject:** PDF File of Asst. Sec. Gallagher's Letter to Dr. Cerf (8-11-2005) Attached

For your contacts with the GAC and other international contacts, please find an electronic file in pdf format of the letter from Asst. Secretary Gallagher to Dr. Cerf regarding the proposed new .xxx top level domain dated August 11, 2005.

**CC:** <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, <JKneuer.NTIAHQ.NTIA@ntia.doc.gov>, <MAttwell.NTIAHQ.NTIA@ntia.doc.gov>, <TRhoades.NTIAHQ.NTIA@ntia.doc.gov>



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Communications**  
**and Information**  
Washington, D.C. 20230

AUG 11 2005

Dr. Vinton Cerf  
Senior Vice President, Technology Strategy  
MCI  
2201 Loudon County Parkway, F2-4115  
Ashburn, VA 21047

Dear Dr. Cerf:

I understand that the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) is scheduled to consider approval of an agreement with the ICM Registry to operate the .xxx top level domain (TLD) on August 16, 2005. I am writing to urge the Board to ensure that the concerns of all members of the Internet community on this issue have been adequately heard and resolved before the Board takes action on this application.

Since the ICANN Board voted to negotiate a contract with ICM Registry for the .xxx TLD in June 2005, this issue has garnered widespread public attention and concern outside of the ICANN community. The Department of Commerce has received nearly 6,000 letters and emails from individuals expressing concern about the impact of pornography on families and children and opposing the creation of a new top level domain devoted to adult content. We also understand that other countries have significant reservations regarding the creation of a .xxx TLD. I believe that ICANN has also received many of these concerned comments. The volume of correspondence opposed to creation of a .xxx TLD is unprecedented. Given the extent of the negative reaction, I request that the Board will provide a proper process and adequate additional time for these concerns to be voiced and addressed before any additional action takes place on this issue.

It is of paramount importance that the Board ensure the best interests of the Internet community as a whole are fully considered as it evaluates the addition of this new top level domain. Thank you for your attention to this matter.

Sincerely,  
A handwritten signature in black ink that reads "Michael D. Gallagher". The signature is written in a cursive, flowing style.

Michael D. Gallagher

cc: Dr. Paul Twomey

**EXHIBIT 23**

**MEETING WITH MIKE BINDER, INDUSTRY CANADA ON WSIS AND INTERNET GOVERNANCE, STATE RM. 4826, 3:00-4:00 PM, AUGUST 25, 2005**

**PURPOSE**

Mike Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications from Industry Canada is coming to Washington to strategize with USG on WSIS/Internet governance and meet with other DOC officials on the Security Prosperity and Partnership (SPP) Initiative. As David Gross is friendly with Mike Binder, he is likely to use the meeting as a brainstorming exercise on positioning in the WSIS negotiations.

**BACKGROUND/LIKELY TOPICS**

Bill Graham from Binder's staff has been a staunch ally in the WSIS process. *It is critical for you to thank them for their support.* Unlike most meetings where Canada silently agrees with USG, in the WSIS process they have very vocal in their agreement with our position and a key collaborator in the negotiation process

↳ USC § 552(b)(5)

↳ USC § 552(b)(5)

- **SPP:** Binder will be meeting with Michelle O'Neill to discuss continued cooperation under the SPP and how to achieve the already agreed to deliverables. It is expected their meeting will focus on agreeing to the dates of the next Senior officials meeting of the ICT Working Group (you participated in the previous one that Phil Bond hosted). That meeting is likely to be in October in Ottawa.
- **Speaking Invitation:** A member of Binder's staff contacted Sheila on 8/17 seeking your participation in a Canadian Spectrum Summit on 12/1. They have invited you to participate in a panel of various international participants focused on regulating spectrum to serve the public interest. No commitment had been made at this time.

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August 22, 2005

**PARTICIPANTS**

- NTIA: You, Cathy Handley, Suzanne Sene
- State: David Gross, Sally Shipman
- Industry Canada: Mike Binder, Bill Graham (WSIS Rep.), Malcolm Andrew (GAC Rep.)

**ATTACHMENTS**

- Mike Binder Bio
- Canadian Comments on the WGIG Report
- Details of a Canadian Invite for Oct. Spectrum Symposium

**MICHAEL BINDER**

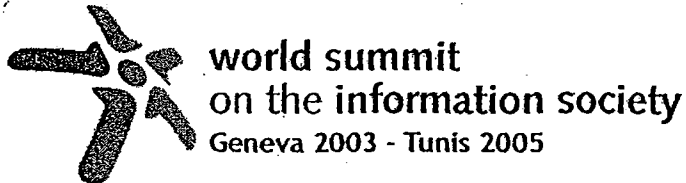
**Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications  
Industry Canada**

Michael Binder is the Assistant Deputy Minister of Spectrum, Information Technologies and Telecommunications, Industry Canada. He is responsible for overseeing the implementation of the Federal Government's "Connectedness Agenda" that commits to connecting all Canadians to an accessible and affordable high speed information highway (Broadband).

He is also in charge of telecommunications and electronic commerce policies; the allocation of spectrum, licensing of the wireless industries; and the promotion of growth & international competitiveness of the Information and Communication Technologies industries.

Mr. Binder holds a Ph.D. in Physics from the University of Alberta.





August 22, 2005



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**Document WSIS-II/PC-3/CONTR/042-E**  
**17 August 2005**  
**Original: English**

## **CANADA**

### **COMMENTS ON THE REPORT OF THE WGIG**

#### **CANADIAN SUBMISSION ON INTERNET GOVERNANCE**

##### **Introduction**

Canada is pleased to submit the following paper outlining its position on the report of the United Nations Working Group on Internet Governance (WGIG), in preparation for discussions at the third meeting of the Preparatory Committee for the World Summit on the Information Society (WSIS).

Canada has been a strong supporter of the WSIS from its inception. Canada's original vision statement for this UN initiative was that the "WSIS is about development". Our support has been based on our belief in the importance of information and communications technologies as a tool for creating the information society. Central to this belief is our understanding that all the peoples of the world must truly have the opportunity to participate in the information society, if we are to achieve the maximum benefits for mankind. For that reason, we continue to believe that the WSIS must strive to raise awareness of the potential of information and communication technologies for development at the highest political levels. Canada reaffirms its support for UNGA Resolution 56/183 on the WSIS which recognizes "... the urgent need to harness the potential of knowledge and technology ... and to find effective ... ways to put this potential at the service of development for all". Canada's contribution to the discussion of Internet governance in the WSIS context is conditioned by this development perspective.

The Internet is a central element of the emerging global information society. Thus, its security, stability, reliability and sustainability as a global network are of paramount importance for Canada in all discussions of Internet governance. To make governance effective however, we must also put capacity building at the centre of our efforts, so that all countries and all stakeholders are able to play their respective roles in an effective and responsible manner. These principles underlie the Canadian position on Internet governance.

Canada agrees with the WGIG that consideration of Internet governance in the WSIS context will benefit by separating the discussion of the broad policy issues categorized by the WGIG

from discussion of the management of critical Internet resources. This paper considers each in its turn.

### Addressing Policy Issues Broader than the Internet

Turning first to broad policy issues, including those related to the use of the Internet, issues whose impact is broader than the Internet, and issues related to development and capacity building:

- In principle, Canada supports the idea of creating a multi-stakeholder forum to discuss a broad range of public policy issues related to the Internet. We believe it is desirable to build upon the dialogue established by the WGIG and its public consultations.
- We agree with the WGIG Report that the forum for dialogue should not be a continuation of the WGIG itself. As well, the forum should not be a permanent institution. It should be established for not more than five years, and its operation should make maximum use of ICTs to operate in a cost-effective and inclusive fashion.
- The forum should focus on capacity building, particularly to develop the knowledge and experience necessary for developing countries to be able to participate effectively in the discussion of Internet issues. The forum could encourage examination of a range of public policy options which may be useful for interested countries.
- The forum should not be involved in day-to-day operations of the Internet, nor distract from discussions taking place in existing organizations.
- Adequate resources must be identified to ensure that all stakeholders (including developing countries, SMEs and civil society) are able to participate. The forum should be supported by a very light organization, with a focus on development.
- Canada does not support the creation of a new treaty organization for the purposes of Internet governance.
- Canada notes that many of the broad policy issues raised in the WGIG discussions have been, or are being addressed, by existing government-funded international and multilateral organizations, including those of the UN system. These organizations bring to bear considerable experience and research capacity for international policy development, and have established public processes and consultation mechanisms capable of canvassing a broad spectrum of facts and opinion. We believe that each can make informed contributions to the discussion of broad policy issues related to the Internet, and to the need for capacity building identified in the Report. Given the significant global public investment already made in these agencies, this international resource should be fully engaged by member states in the continuing public discussion of policy issues related to the Internet, whether or not a forum is established, if only to conserve resources. Their engagement should also serve to avoid duplication of efforts.

**Addressing Issues Related to Core Internet Technical Resources**

Second, concerning issues of critical Internet resources: in this paper, primarily those dealt with by the Internet Corporation for Assigned Names and Numbers (ICANN):

- Canada wishes to underscore the technical nature of ICANN as a body responsible for the administration of Internet names and IP addresses.
- While recognizing that these technical issues give rise, from time to time, to policy considerations, Canada is of the view that the short history of ICANN has seen a tendency by many stakeholders to seek to have ICANN address policy issues which are not dependent on its core technical responsibilities. This has led to confusion about ICANN's role and sometimes distracted the organization from its core mandate. By helping to disaggregate broader policy issues from those specifically arising from ICANN's primary technical functions, the WGIG has made an important contribution to delineating those matters for which ICANN should be held responsible and those which should be addressed elsewhere. Canada is of the view that, going forward, ICANN and its stakeholders should be scrupulous in taking a very narrow view of ICANN's policy functions, ensuring that any policy issues dealt with arise directly from and/or are inextricably linked to its core technical functions. Any other policy issues should be referred to other more appropriate bodies, or to the forum suggested by the WGIG, should it be created.
- Canada has been a long-time and strong supporter of the ICANN model, as a private, not-for-profit, bottom-up entity. This support is fully consistent with the views expressed above. Indeed, it is because of the primarily technical nature of ICANN's mandate that Canada has long supported this approach.
- Canada supports the continuing evolution and reform of ICANN in the post-2006 environment.
- Canada acknowledges the vital role that the United States government has played in the development of the Internet itself and, through the establishment of ICANN, in initiating a process aimed at increasing competition, privatization, and enabling international participation in the management of the Internet's technical functions. We also applaud the arm's length, light-touch approach which the United States government has adopted in its oversight of ICANN itself. Like the vast majority of participants in the WGIG, Canada agrees that the path of increasing competition, privatization and internationalization should be pursued.
- Canada supports the continued participation of governments in ICANN through the Governmental Advisory Committee (GAC). Outside the WSIS context, it may be worth exploring the establishment of mechanisms to help focus the GAC's agenda, and governments' relationship with ICANN, in a manner consistent with the narrow policy role foreseen for ICANN itself, and supportive of the goals of increasing competition, privatization and internationalization.

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August 22, 2005

- The GAC's effectiveness could be enhanced by the establishment of a permanent GAC Secretariat which would focus on providing necessary logistical support to the GAC, and contribute to capacity development aimed at improving GAC participation by developing countries. A secure funding mechanism would have to be found, perhaps via an untied contribution from ICANN itself. Canada does not believe there is a need for such a secretariat to provide policy research capability. Instead, the GAC should draw on the expertise of its membership, including that of other international organizations.

### **Conclusion**

Finally, Canada would like to congratulate and thank the Chairman and members of the WGIG, as well as the Executive Director and members of the Secretariat, for their work and the Working Group report. The WGIG process has provided an example of how a diverse multi-stakeholder group can work together to dramatically elevate the level of discussion of an important issue, and to produce a valuable outcome.

**EXHIBIT 24**

From: "Suzanne Sene" <ssene@ntia.doc.gov>  
To: <MAttwell.NTIAHQ.NTIA@ntia.doc.gov>, <RLayton.NTIAHQ.NTIA@ntia.doc.gov>  
Date: 9/16/2005 2:32 PM  
Subject: icann/gac update in wsis context

just a note from phonecons and email exchanges with the eu commission, japan and canada, fyi:

1. the eu will be sending a letter to the icann board re .xxx, noting that the board shared an evaluation of the original proposal in 2000 and the gac had expected the same this time around. the letter, which has not yet been finalized, is also likely to ask for a deferral until the gac can see the evaluation report for the .xxx application. if we don't get a copy directly, we will get it via the chair of the gac.

Handwritten initials 'NR' in black ink, consisting of a stylized 'N' followed by a stylized 'R'.

**EXHIBIT 25**

From: "Fiona Alexander" <falexander@ntia.doc.gov>  
 To: <CEsslin.NTIAHQ.NTIA@ntia.doc.gov>, "Eric Stark" <EStark@ntia.doc.gov>, "John Kneuer" <JKneuer@ntia.doc.gov>, "James Wasilewski" <JWasilewski@ntia.doc.gov>, "Kathy Smith" <KSmith@ntia.doc.gov>, "Meredith Attwell" <MAttwell@ntia.doc.gov>, "Michael Gallagher" <MGallagher@ntia.doc.gov>, <RDesilva.NTIAHQ.NTIA@ntia.doc.gov>, "Robin Layton" <RLayton@ntia.doc.gov>, "Suzanne Sene" <SSene@ntia.doc.gov>  
 Date: 8/16/2005 12:37:10 PM  
 Subject: Re: BBC Article on .xxx delay

Suzanne

← USC § 552 (b)(5)

Fiona

>>> Suzanne Sene 08/16/05 9:40 AM >>>

thanks. fyi, attached is a copy of the gac chair's letter to icann, which has been posted on the gac and icann websites.

also fyi, the gac chair has sent an email with the following questions:

"I am just wondering if you could share with me how far the USG is going to take this issue. For example, if the Board decides to go ahead in October or November before the Vancouver meeting, what would be USG's reaction?

Is the concern over the content side or the process/procedure side? For example, would governments (and I do not just mean the USG) want to go down the path of 'auditing' the contract to make sure that the contract has followed the appropriate process and procedures?

You can well imagine that there are those on the Board not very happy with this. I need to know what the acceptable future course of action might be so that we can do some strategizing.

If you have been following some of the other lists, you will find that Milton Mueller has started his thing going about this issue. My concern with Milton is that - the way he is driving this issue in some of the lists will only play the issue into the hands of the UN and sideline the GAC or worse, ICANN.

Can we get folks like Perry Aftab to 'evangelise' the other way about the benefits of having this new adult content TLD? I forsee some need for a major counter campaign even right up to Capitol Hill. This is just so that the position is balanced and a decision can be made by the ICANN Board.

thanks"

← USC § 552 (b)(5)

>>> James Wasilewski 8/16/2005 9:22 AM >>>

Bush administration objects to .xxx domains

By Declan McCullagh



[http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028\\_3-5833764.html](http://news.com.com/Bush+administration+objects+to+.xxx+domains/2100-1028_3-5833764.html)

Story last modified Mon Aug 15 16:15:00 PDT 2005

The Bush administration is objecting to the creation of a .xxx domain, saying it has concerns about a virtual red-light district reserved exclusively for Internet pornography.

Michael Gallagher, assistant secretary at the Commerce Department, has asked for a hold to be placed on the contract to run the new top-level domain until the .xxx suffix can receive further scrutiny. The domain was scheduled to receive final approval Tuesday.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," Gallagher said in a letter that was made public on Monday.

The sudden high-level interest in what has historically been an obscure process has placed the Internet Corporation for Assigned Names and Numbers (ICANN) in an uncomfortable position. ICANN approved the concept of an .xxx domain in June and approval of ICM Registry's contract to run the suffix was expected this week.

Other governments also have been applying pressure to ICANN in a last-minute bid to head off .xxx. A letter from ICANN's government advisory group sent Friday asks for a halt to "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision."

ICM Registry—the for-profit company in Florida that plans to operate the .xxx registry—has told ICANN it would agree to a month's delay in the approval process to permit it to "address the concerns" raised by the Bush administration and other governments.

"We're focusing our attention on the Department of Commerce and ensuring that we're building this as a voluntary (top-level domain) for responsible companies," Jason Hendeles, founder of ICM Registry, said in a telephone interview on Monday.

Hendeles said that although the .xxx application is "already approved," his company is willing to try to allay fears about legitimizing pornography. "The industry has existed for a long time and is growing internationally and is doing what it can to fight child porn and to be a responsible industry," he said. "This is an opportunity for all the different voices to come together."

#### ICANN's delicate position

The multinational pressure, unprecedented in ICANN's seven-year history, places the organization in a delicate position. If it backs down, ICANN could be perceived as bowing to political interference—but if not, it could alienate government officials just as the United Nations is becoming more interested in taking over key Internet functions.

ICANN has not said what will happen next. John Jeffrey, ICANN's general counsel, said in an e-mail that "all of this correspondence and any other correspondence received will be given to the board for their consideration relating to this matter."

After ICANN's vote to approve .xxx, conservative groups in the United States called on their supporters to ask the Commerce Department to block the new suffix. The Family Research Council, for instance, warned that "pornographers will be given even more opportunities to flood our homes, libraries and society with pornography through the .xxx domain."

"The volume of correspondence opposed to creation of a .xxx (domain) is unprecedented," according to the Commerce Department's Gallagher. "Given the extent of the negative reaction, I request that the board (provide) adequate additional time for these concerns to be voiced and addressed before any additional action takes place."

Michael Froomkin, a law professor at the University of Miami, said it's not surprising ICANN's board has found itself in a pickle. "They're supposed to be picked for technical competence," Froomkin said. "They're not elected. They're not representative of anything much. Who would pick this group of people to make decisions about how we feel about (domains) with sexual connotations?"

At a recent United Nations summit on the Internet, Brazil's representative charged that ICANN was not responsive enough to the needs of developing countries: "For those that are still wondering what triple-X means, let's be specific, Mr. Chairman. They are talking about pornography. These are things that go very deep in our values in many of our countries. In my country, Brazil, we are very worried about this kind of decision-making process where they simply decide upon creating such new top-level generic domain names."

ICM Registry has proposed that it would handle the technical aspects of running the master database of .xxx sex sites. A second, nonprofit organization called the International Foundation for Online Responsibility would be in charge of setting the rules for .xxx.

ICANN's vote this year represents an abrupt turnabout from the group's earlier stance. In November 2000, the ICANN staff objected to the .xxx domain and rejected ICM Registry's first application.

At the time, politicians lambasted ICANN's move. Rep. Fred Upton, R-Mich., demanded to know why ICANN didn't approve .xxx "as a means of protecting our kids from the awful, awful filth, which is sometimes widespread on the Internet." Sen. Joseph Lieberman, D-Conn., told (click for PDF) a federal commission that .xxx was necessary to force adult Webmasters to "abide by the same standard as the proprietor of an X-rated movie theater."

A government report from a few years ago hints that the Bush administration could choose unilaterally to block .xxx from being added to the Internet's master database of domains. The report notes that the Commerce Department has "reserved final policy control over the authoritative root server."

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>>> Fiona Alexander 08/16/05 8:47 AM >>>  
BBC NEWS

Delay for .xxx 'net sex' domain

The plan for a virtual red light district through the creation of a .xxx net domain name has hit delays after concern from government officials.

An official from President George Bush's administration has asked for the brakes be put on the planned domain name until its impact is studied more.

The domain was given the go-ahead by Icann (Internet Corporation for Assigned Names and Numbers) in June.

But some are concerned that it would encourage more porn on the net.

The domain name was expected to get final approval by the net's supervisory body, Icann (Internet Corporation for Assigned Names and Numbers), on Tuesday.

Net domains such as .com. and org. are overseen by Icann. It polices the companies that run the different domains and approves the expansion of the different net names that can be bought and used.

The ICM Registry, the not-for-profit group which would operate the .xxx domain name, said it would agree to a month's delay in order to explore some of the concerns which have been voiced.

Easy filter?

The .xxx domain name was approved five years after it was first proposed.

The idea is that sexually-explicit sites will move to the new domains to make it easier for people to filter and avoid them.

In a statement, the ICM Registry which originally proposed the idea said it would "help protect children from exposure to online pornography and also have a positive impact on online adult entertainment through voluntary efforts of the industry".

But some are sceptical that it will allow for more controls over sexually-explicit content.

"The Department of Commerce has received nearly 6,000 letters and e-mails from individuals expressing concern about the impact of pornography on families and children," said Mr Michael Gallagher, assistant secretary at the US Commerce Department, in a letter.

There has been growing opposition to the new domain name. In June, concern was expressed by net privacy campaigners who said it could provoke censorship problems for years.

Last week, a letter from Mohamed Sharil Tarmizi, chairman of Icann's Government Advisory Committee, reiterated the concern that several countries had over the decision.

It requested that Icann "allow time for additional governmental and public policy concerns to be expressed before reaching a final decision" on the registration of the domain name.

More than 10% of all online traffic and 25% of all global net searches are for adult content, according to the ICM Registry.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/technology/4155568.stm>

Published: 2005/08/16 10:29:24 GMT

CC: "Cathy Handley" <CHandley@ntia.doc.gov>, <JJoyner.NTIAHQ.NTIA@ntia.doc.gov>, "Tracey Rhoades" <TRhoades@ntia.doc.gov>

**EXHIBIT 26**

**From:** "Meredith Attwell" <mattwell@ntia.doc.gov>  
**To:** <rlayton@ntia.doc.gov>  
**Date:** 8/5/05 2:21:02 PM  
**Subject:** Fwd: RE: History of the Internet

>>> "Goitein, Evan" <Evan.Goitein@mail.house.gov> 8/5/2005 10:44 AM >>>  
I left you a voicemail and, if you could call me back that would be great, but I wanted to run this by you as well. I have to put all this on less than a page, which is a daunting task as you well know. My only request would be that you tell me if anything is inaccurate. (I know I left a lot out, which I can fill in verbally.)

Thanks again for all your help!!!

Evan

-----Original Message-----

**From:** Meredith Attwell [mailto:mattwell@ntia.doc.gov]  
**Sent:** Thursday, August 04, 2005 4:56 PM  
**To:** Goitein, Evan  
**Cc:** jwasilewski@ntia.doc.gov  
**Subject:** History of the Internet

for your bedside table... zzzzzz.

Good to talk to you today. Call if you have any further questions.

Thank,  
Meredith

## United States Control of the Domain Name System

### Background

More than 25 years ago, the United States began funding research which led to the creation of the Internet. Initially, there were a small number of domain names, which were managed by Dr. Jon Postel at UCLA, as the result of a contract with DoD. Over time, as more host sites and addresses were added, the Domain Name System (DNS) was created to better manage this information. Eventually, the Internet Assigned Names Authority (IANA) was created which is responsible for the technical component of assigning new Internet-wide IP addresses.

After it became clear that the Internet was headed in the direction of its present state, control of IANA and DNS was given to the Department of Commerce. In 1998, the Department entered into a Memorandum of Understanding (MOU) with a new, not-for-profit corporation called the Internet Corporation for Assigned Names and Number (ICANN). This MOU provided the parameters for shifting control of the DNS to the private sector. The MOU has been extended several times and is currently set to expire on September 30, 2006.

Because ICANN's role is dependant upon its contract with Commerce, the Department maintains the ultimate control of the IANA. This gives the U.S. the ability to implement any decision made by the international community regarding the internet. For example, if the international community decides to develop an .XXX domain for adult material, it will not go on the Top Level Domain (TLD) registry if the U.S. does not wish for that to happen.

### Status

Because the U.S. maintains this authority over the Internet, which is now commonly accepted as a global entity, there are calls for the U.S. to hand control of the IANA over to an international body such as the United Nations. The Bush Administration is unwilling to do this, as it puts our national security at risk by ceding control of such a powerful tool. In addition, there is no sound reasoning for the U.S. to transfer this authority. The U.S. invented the Internet and, because of that fact, historically has had control over its functions. However, the other countries in the world do have the option of taking the control from the U.S., but it would require redirecting all of the TLD sites to a different route server.

### Options

The most likely course of action would be for Congress to pass a resolution urging the Administration to retain control of IANA, as well as showing support for the current partnership between Commerce and ICANN.

**EXHIBIT 27**

From: Suzanne Sene  
To: Fiona Alexander, Meredith Attwell; Robin Layton  
Date: 8/10/2005 12:46:49 PM  
Subject: Re: outreach with other govt's re ntia letter on .xxx

i agree with your assessment re brazil; we could leave it to his gac colleagues to forward our letter. s.africa has been active of late in recent gac meetings, but michael has been in and out. in any event, both he and ingrid will get a copy as gac reps.

>>> Fiona Alexander 8/10/2005 12:23 PM >>>

5 USC § 552(b) 5

Fiona

>>> "Suzanne Sene" <[ssene@ntia.doc.gov](mailto:ssene@ntia.doc.gov)> 08/10/05 12:03 PM >>>  
meredith, as per our phonecon, sharil's contact info is below for cutting/pasting purposes:

Mohamed Sharil Tarmizi  
Special Advisor, Office of the Chairman  
Malaysian Communications and Multimedia Commission  
and Chairman of the ICANN Government Advisory Committee  
Level 11, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur, Malaysia

5 USC § 552(b) 5

robin, the key countries speaking up during the luxembourg meeting were brazil and denmark, although others also made some interventions regarding the process by which the gac was/was not informed by the board (e.g. less about the substance or merits of .xxx). i think the entire gac membership should be given a copy of ntia's letter, rather than only those who spoke up during the meeting.

let me know if you need any additional information.

CC: Cathy Handley



**EXHIBIT 28**

**From:** Fiona Alexander  
**To:** Kathy Smith; Robin Layton; Suzanne Sene  
**Date:** 8/11/05 5:52:56 PM  
**Subject:** Re: PDF File of Asst. Sec. Gallagher's Letter to Dr. Cerf (8-11-2005) Attached

Thanks Kathy.

5 USC § 552 (b)(5)

>>> "Kathy Smith" <ksmith@ntia.doc.gov> 08/11/05 5:44 PM >>>

For your contacts with the GAC and other international contacts, please find an electronic file in pdf format of the letter from Asst. Secretary Gallagher to Dr. Cerf regarding the proposed new .xxx top level domain dated August 11, 2005.

**CC:** Cathy Handley; Clyde Ensslin; Jeff Joyner

**EXHIBIT 29**

From: Cathy Handley  
To: Meredith Attwell  
Date: 7/22/2005 6:40 PM  
Subject: Re: Fwd: **NON RESPONSIVE**

I checked with John and he said no, he believes it is scheduled for the next regular board meeting on Aug 16th. He also indicated that Vint is trying to reschedule the Aug 9 meeting back to next week and we should know the being of next week if Vint was successful.

>>> mattwell@mycingular.blackberry.net 7/22/2005 5:58 PM >>>  
We need to know if they plan on approving .xxx at that meeting as well...  
-----Original Message-----

From: "Cathy Handley" <chandley@ntia.doc.gov>  
Date: Fri, 22 Jul 2005 15:11:09  
To: <Mattwell@ntia.doc.gov>  
Subject: Fwd: Re-delegation

Meredith,  
This ICANN Board meeting has been resecheduled for the morning of August 9, 2005.  
Cathy

>>> Cathy Handley 7/19/2005 4:47 PM >>>  
Meredith

**NON RESPONSIVE**

Cathy

Meredith Attwell  
Sent via BlackBerry - a service from AT&T Wireless.

**EXHIBIT 30**

From: Fiona Alexander  
To: shipmansa@state.gov  
Date: 8/31/05 1:35:38 PM  
Subject: Fwd: Draft WSIS Briefing Invite

Sally

5 USC § 552 (b)(5)

Tim - in terms of the event, my understanding is that David will want to do the usual tag team of the issue that he and Mike having been doing. Mike explaining the principles, why we issued them, then David going into WSIS specific. Can you check with David and let me know so I can pull together the necessary briefing material for Mike. Hope you had a good vacation.

Fiona

>>> "Tracey Rhoades" <trhoades@ntia.doc.gov> 08/31/05 8:13 AM >>>

Hello -- Internet Caucus lunch w/ Mike and Amb. Gross has been confirmed for 9/12. Please review the attached draft invite and let me know if you recommend any edits. I will forward your comments or approval back to Tim Finton and request further information regarding the format for remarks. I will forward that info to you when I receive it -- Please coordinate w/ Tim Finton on development of Mike's talking points/remarks. thanks!

>>> Tim Lordan <tim@netcaucus.org> 8/30/2005 2:46 PM >>>

Tim/Tracey:

I have attached a draft invitation to the briefing by Ambassador Gross and Assistant-Secretary Gallagher schedule for September 12. This is just a draft and we welcome your comments, edits and suggestions. We have reserved Rayburn B339 at noon on September 12. We had hoped for a Capitol Building room but they seem to be all booked on that day. If nothing develops on that front we'll go with B339 over lunch.

So, please take a look at the attached draft invite (I have pasted it below for those of you on Blackberry).

- Tim Lordan

--

Tim Lordan  
Executive Director  
Internet Caucus Advisory Committee  
c/o Internet Education Foundation  
202-638-4370  
[tim@netcaucus.org](mailto:tim@netcaucus.org)  
<http://www.netcaucus.org>

Draft Invite, August 30, 2005

You are cordially invited to attend a briefing by ...

Ambassador David Gross and Assistant Secretary Michael Gallagher on ...

Negotiating Control Of the Internet With the U.N.: Keeping Security,

Stability and .XXX In Focus.

Monday, September 12, 2005, Noon  
Rayburn HOB, Room B339

U.N. Secretary-General Kofi Annan's Working Group on Internet Governance (WGIG) has recommended four new models for governing the Internet - any of which strip the U.S. government of its historic role in controlling fundamental Internet operations. The recent request by U.S. Assistant Secretary Michael Gallagher to hold off on activating the pornographic .XXX domain has illuminated the important intersection between technical management and policy. In a meeting planned for September 19 in Geneva, U.S. Ambassador Gross will implore the WGIG to allow the U.S. to "maintain its historic role in authorizing changes or modifications to the authoritative root zone file." Absent any changes, the U.N.'s World Summit on the Information Society (WSIS) will approve one of the four models at its meeting in Tunis in November.

Ambassador Gross and Assistant Secretary Gallagher have agreed to brief congressional staff on this timely and important issue as they prepare for their negotiations. The ambassador will lead the delegation to the Geneva meeting and to the culminating Summit in Tunis. Mr. Gallagher is the Assistant Secretary of Commerce for Communications and Information and through the Secretary of Commerce he is the President's principal adviser on telecommunications policy.

Please join the ambassador and the assistant secretary for this briefing on control of the Internet on Monday, September 12, at noon. A boxed lunch will be served.

Location: Rayburn House Office Building, Room B339  
RSVPs: Required, please send e-mail to [rsvp@netcaucus.org](mailto:rsvp@netcaucus.org) or via phone at 202.638.4370 to attend the event.

This event is hosted in conjunction with the Internet Caucus and its Co-chairs - Senators Burns and Leahy, and Congressmen Goodlatte and Boucher.

Boxed lunch will be served. For more information, please visit [www.netcaucus.org](http://www.netcaucus.org).

CC: [fintontc@state.gov](mailto:fintontc@state.gov); Tracey Rhoades

ADVISORY COMMITTEE TO THE  
**CONGRESSIONAL  
INTERNET CAUCUS**

*You are cordially invited to attend a briefing by ...*

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