

LETTER TO COMMITTEE ON ICANN EVOLUTION AND REFORM

29 April, 2002

Dear Members of the Committee on ICANN Evolution and Reform,

The Transatlantic Consumer Dialogue is a forum of US and EU consumer organizations that develops and agrees joint consumer policy recommendations to the US government and European Union to promote the consumer interest in EU and US policy making. The TACD includes 45 European and 20 US consumer organizations (<http://www.tacd.org/about/participants.htm>).

In February 2000, TACD adopted Ecom 14-00, which is on the web here: <http://www.tacd.org/docs/?id=43>.

Among the TACD February 2000 recommendations were the following:

1. ICANN's mission should be limited so that it does not become a general purpose Internet governance organization.
2. The records of ICANN should be open to the public, including financial records, and all ICANN contracts. ICANN should be accountable to the public, and the public should be given an annual opportunity to review and comment on the ICANN budget.
3. Fees associated with domain registration should only be spent on activities essential to the management of the DNS system.
4. US and the EU governments were asked to report on the legal mechanics that would limit ICANN's power to address broad Internet content issues, and insure public accountability.

TACD would like to make the following contributions to the discussion over ICANN evolution and reform:

BOUNDARIES FOR ICANN MISSION

1. At present, ICANN is dominated by business interests, and the ICANN board has blocked the election of board members from the general public. The ICANN Domain Name Supporting Organization (DNSO) is greatly biased toward business interests. Individual or non-commercial domain holders have only three of 21 votes in the DNSO governing body, and may lose voting rights to even those three votes in disputes over DNSO fees.
2. A broad range of civil society groups agree that ICANN should not become a general purpose Internet governance organization. To address the issue of mission creep, it is important to have a much clearer statement of what the ICANN mission is, and to have legal mechanisms that would restrain ICANN from inappropriate expansions of that mission.
3. There are many Internet issues that will require greater global cooperation, such as the coordination of efforts to control Internet spam, privacy, the protection of children, securities fraud, cross border marketing practices, and a variety of complex and sometimes controversial areas concerning intellectual property and speech. Many of these topics are more appropriately addressed by national governments or by treaties or agreements between countries. ICANN has neither the competence nor the mandate to address a wide range of issues. ICANN should only address narrow issues involving the assignment of Internet

domain names and numbers, and even here, only those that require global coordination.

4. ICANN should not be empowered to use control over essential Internet name and numbering resources to address broader public policy issues.

5. The International Telecommunications Union has offered to play a role in defining the boundaries of ICANN policy making. The ITU should inform TACD how consumer interests will be able to participate in this process.

DECENTRALIZATION

6. Even in the area of global cooperation, ICANN should not rely upon excessive centralization of decision-making. In the areas of the assignment of Internet names and numbers, ICANN should defer as much as is practical to regional or local decision-making.

7. The functions of the ICANN relating to domain names should be much more decentralized. ICANN can play a useful role in resolving disputes over uniqueness of the top-level domain (TLD) space, assuming it does not act to restrain entry by registries in order to protect incumbents, or prohibit the creation of new TLDs by non-commercial entities. In this respect, we express disappointment and indeed astonishment that ICANN did not approve the application by the World Health Organization to create the .health domain, following objections by the pharmaceutical industry, or that it did not permit the International Federation of Free Trade Unions to create the .union TLD.

8. ICANN should permit national governments to authorize the creation of new TLDs, subject to addressing minimum requirements for global coordination the uniqueness of the TLD name, and other minimum technical requirements that may be essential for Internet stability.

CONSUMER PROTECTION FOR DOMAIN NAME HOLDERS

9. ICANN should follow a two track strategy with respect to consumer protection that relates to persons who register domain names.

10. ICANN should adopt minimum standards for protection of domain name holders, on issues such as abusive registration practices or privacy, that all ICANN approved registrars should follow. The minimum standards for consumer protection should be developed by domain holders, subject to approval by the ICANN Government Advisory Committee (GAC).

11. National government should be free to supplement these minimum levels of protection, for example to provide additional protection in cases of abusive pricing or registration practices, to protect personal privacy, and to protect legitimate trademark concerns.

REPRESENTATION OF CONSUMER INTERESTS

12. Consumer interests should have at least equal representation to provider interests in ICANN decision-making.

13. Consumer interests should not be required to fund ICANN's fixed costs or otherwise pay unreasonable fees to participate in ICANN meetings or decision making bodies. Users have already paid fees to registrars and registries, and should not be required to pay twice to have a voice in ICANN decision making.

14. The global DNSO should be reorganized to ensure that user interests have at least half the votes on the names council, and that individuals, small businesses, and non-commercial domain holders do not face difficult barriers to participate in the DNSO.

TRANSPARENCY AND CONFLICTS OF INTEREST

15. The ICANN board should record all of its board meetings, and provide public access to MP3 files of its meetings,

16. The ICANN DNSO should not permit persons with employment or business relations with registrars or registries to vote in the user constituencies in the DNSO.

17. There should be a "cooling off" period after leaving ICANN staff, before representing an ICANN regulated registry or registrar.

18. ICANN board members should disclose on the ICANN web page any business interests with ICANN regulated registry or registrar interests.

Yours sincerely

Ben Wallis, TACD Coordinator
On behalf of the TACD Steering Committee

Anna Bartolini, President, CNCU (Italian National Council of Consumers and Users)
Benedicte Federspiel, International Director, Forbrugerrådet (Danish Consumer Council)
Jean Ann Fox, Director, Consumer Protection, Consumer Federation of America
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Jim Murray, Director, BEUC (European Consumers Organisation)
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