August 10, 2003

The Honorable Donald Evans  
Secretary  
Department of Commerce  
Washington, D.C.

Dear Secretary Evans

In September, 2002, a group of international private industry, professional organizations and trade associations sent letters to you and to members of the U.S. Congress, describing our support and commitment to ICANN as the global coordinator and manager of key aspects of the global Internet and related policies. ICANN has recently completed a significant effort of reform. Today, we affirm our continued support for ICANN and advise you of two key areas of concern, described below.

First, however, we thank Nancy Victory, Assistant Secretary, NTIA, Department of Commerce, for her leadership and support to ICANN’s role during her tenure at NTIA. The broad support of the US Department of State, US Federal Communications Commission, and the US Department of Commerce, to private sector leadership of the Internet has been essential in a wide number of fora, from participation in the ICANN Governmental Advisory Committee, to the ITU Plenipotentiary, to APEC, to CITEL, to the World Summit on the Information Society. We appreciate Ms. Victory’s participation in ensuring private sector leadership of the Internet.

As a fundamental priority, ICANN must be a stable organization in order to fulfill its critical, though limited functions. We believe there are two key areas that need addressing now:

- ICANN must have stable, broadly distributed funding support. We describe our recommendation to ICANN on this issue below.

- ICANN should be given a multi-year extension to the existing Memorandum of Understanding with the Department of Commerce, in order to enable the Internet community, and ICANN to focus on completing key tasks.

While we largely support the outcomes of ICANN’s Evolution and Reform process, there are areas where we will continue to seek further change, particularly in the areas of enforcement of existing contracts, and in the issues of representation in the gNSO Council. We fully appreciate that ICANN has further work to do in other areas, as it builds the At Large Advisory Organization to provide informed participation mechanisms for individuals. And, we support development of mutually acceptable agreements in the relationships with the ccTLDs, the Regional Addressing Registries, and the Root Server Operators. We applaud the recent very positive steps forward with the ccTLDs, which is leading to the launch of a cc Names Supporting Organization.
However, while there are some who define themselves as critics of ICANN, we are among those who chose to build, improve, change, and support ICANN. Even as we have areas of disagreement, we are in full support of ICANN’s role and responsibilities, as defined by its mission and key activities. We believe that ICANN has made appropriate and significant change and improvement. We are fully committed to continue our support and work at ICANN and to ensure its success as the private sector led approach to coordinating and managing key technical aspects of the Internet.

**Stability of funding through an acknowledged assessment per registered gTLD name:** We have championed the concept of a gTLD user fee, assessed on an annual basis, for each and every registration, to ensure a broad, widely distributed base of funding for ICANN. The gTLD registries and registrars should act as the aggregators and pass along the user-based fee to ICANN. They should be able to reference this with a line item identifying this fee as an ICANN assessment, and the fee should be standard for all registrations in the gTLDs.

**Why the funding focus on the gTLD registrants and the role of the gTLD registries and registrars in aggregating the contributions:** The Regional Addressing Registries (RIRs) and the Country Code Registries (ccTLDs) should make a contribution, which they do today. However, these relationships are emerging and are different from the gTLD registry/registrar/registrant relationships. The majority of ICANN’s funding must come from those who receive the greatest value from ICANN – those who register for and use the DNS as gTLD registrants, through the collection mechanism provided by the gTLD registrars and registries who are accredited by ICANN.

Registrants of the gTLD domain names are the ultimate funders of ICANN’s services. The charge for a registration must include the cost of oversight, accreditation, enforcement of agreements, dealing with violations (which harm users or competitors within the scope of the contractual agreements), and with external audit, among other administrative costs. Those who register domain names, especially in the generic TLD space should, and do, fund ICANN’s activities, including outreach and participation mechanisms.

The gTLD registries and registrars play an aggregation and collection role, and this is an appropriate aspect of their function. A stable and effective ICANN is an essential element of stability to the gTLD registries and registrars’ business success. They are able to operate under contract to ICANN, rather than having to be licensed to provide registry or registrar services on a country-by-country basis; national licensing would undoubtedly incur costs of country specific business licensing, liability insurance, and other typical nationally specific business expenses.

GTLD registries and registrars operate under the umbrella of ICANN’s public trust through a contractual agreement, which gives the gTLD registry the right to manage a generic TLD registry as a sole source, and gTLD accredited registrars, the rights to provide registration services in the gTLD space.
The signatories to this letter are registrants. They include a wide and diverse set of entities—including multi-national corporations, small businesses, IT and marketing trade associations, scientific and research organizations, educational research leadership and nonprofit organizations. This diverse set of entities represents global users—both commercial and non-commercial, ISPs, connectivity providers, intellectual property stakeholders, and the legal community representing clients’ concerns about jurisdiction, piracy, and trademark recognition. Participants in this group bridge geographic regions and industry sectors, and represent individuals, corporations, and associations with a national, regional, and global presence. The signatories are actively involved in ICANN.

As registrants, we stand ready to assist in the outreach and educational and informational effort needed to inform other registrants of this change through our own outreach to the large segments of registrants represented by the signatories to this letter.

**Increase in the assessment and identification of the assessment as an ICANN charge:**

We believe that an increase in the annual assessment is necessary to give ICANN the stability it needs; adequate funding to fulfill day-to-day tasks; undertake needed outreach; and provide a reserve. Therefore, we support an increase in the user registration assessment, based on a clearly defined and documented budget that supports ICANN’s mission and key activities, including outreach and participatory mechanisms. If growth in the gTLD registration of gTLD names continues, then the assessment can remain stable or even decrease. If the registrations do not increase, it may be necessary to raise the assessment again at some later date.

We are aware that registrars are reluctant to raise their fees; we support the importance of advising all registrants that this assessment is an ICANN assessment. In fact, we recommend that the registrant be advised in the registration process, and on the registrant bill from the registrar, that this is an “ICANN assessment”. ICANN should publish on its web site, simple, easy to understand explanations of the change in the approach to billing so that registrants can seek independent verification of the amount of this fee. Although the 31 million registrants of gTLDs today may be unaware of ICANN’s critical role in the Internet, they are the ultimate beneficiaries of the stability that ICANN ensures.

**ICANN must have stable funding in order to fulfill its mission:** Along with others in the ICANN community, we support the need for broad and geographically diverse outreach on ICANN’s part. And, we strongly support the need for effective service delivery. IANA must be a priority. But there are many other services that ICANN must deliver. There must be communication, outreach, and problem resolution when problems arise. There must be enforcement of existing contracts and timely responsiveness to requests for information.

There must be sufficient staff, with broad global representation, to deal with the geographic diversity of ICANN’s stakeholders. There must be senior and stable staff resources to support policy development by the gNSO Council. And, there must be a variety of participation mechanisms, so that those who do not have sufficient time or
funding to travel to ICANN meetings can use the various online mechanisms, remote participation, and comment processes to provide input and participate.

We support the importance of broad and diverse and geographically distributed participation by a wide range of stakeholders. We support the development of the At Large Organization as a key way to ensure such broad and diverse participation.

All of these expectations come with a price tag. And, they cannot be run on a stop-start-stop basis when funding gets tight or when the registrars for some reason must delay payments.

Stable funding is critical to enable the ICANN that the community needs – and has said over and over – that it wants. We cannot expect ICANN to fulfill the expectations of broader and more diverse participation, without providing stable funding resources.

Growth of domain name registration in the gTLDs is relatively stable, and as e-commerce grows globally, so will domain name registrations. It is important to remember that revenue related to registrations is reoccurring revenue. Renewals of domain names seem to be almost automatic for those who actually use the registered name. Web sites do come and go on the Internet, but millions of domain names are registered and renewed annually. GTLD registrants themselves are a widely distributed, geographically diverse funding base who are benefiting from the stable operation of ICANN.

Our second recommendation is that the Memorandum of Understanding (MoU) be extended for a multi-year term with semi annual reports on key tasks:

The ICANN Evolution and Reform process has committed to many changes that will address the criticisms from stakeholders regarding transparency, process, and participation. ICANN has a new CEO, whose background includes management and government leadership. It has established documented procedures on policy development for the gTLDs. It has developed a number of advisory committees to ensure access to experts. And, it has established a firm commitment to support for the At Large Organization to ensure broad informed participation by interested individuals in ICANN’s processes. It has, finally, after much support from a broad set of stakeholders who supported the ccTLDs, achieved significant progress on the establishment of a ccNSO.

ICANN deserves the opportunity to focus on the work needed to fulfill its commitments, which we have described above. We urge you to approve a multi-year MOU. Ideally, the DoC would establish a three-year time frame with 6-month reports and identifiable tasks. Stakeholders will be able to focus on achieving work within ICANN, rather than being diverted to arguing about its existence.

At the same time, we are well aware that there are various international events where the role of ICANN and its responsibilities are being discussed. Certainly, there are other governments who seek a larger role in the Internet than the private sector supports. We
believe that the commitment of the Department of Commerce to a long-term supportive role with ICANN is essential to deal with efforts to encroach into the Internet.

The private sector’s coordination and management of the technical functions of the global Internet, combined with the development of associated polices, offers the best possible solution for all – users, suppliers/providers, and governments.

To this end, just as we continue to lend our support and participation to ICANN, we look forward to further dialogue with you and to working together, with others from the private sector and from governments, to ensure ICANN’s success. And, we welcome any questions regarding our recommendations to address the assurance of stable and sufficient funding for ICANN and the benefits of a multi-year extension of the MOU with the Department of Commerce.

Company/Association/Group endorsers:

PLEASE CHECK THE WAY YOUR COMPANY/ORGANIZATION NAME APPEARS—some verification still needed.

AT&T
CIGREF
Direct Marketing Association (DMA)
Educause
Global Information Infrastructure Commission (GIIC)
LexisNexus {to be verified by John}
LYCEUM Services
Nixon Peabody {has to be verified by David Safran}
ReedElsevier {to be verified by John}
RNA Partners
The Darwin Group
MCI
US Internet Industry Association
Verizon Communications {to be verified}

CC:
Nancy Victory, Assistant Secretary, Department of Commerce
Ambassador David Gross, U.S. State Department
European Commission
Paul Twomey, President and CEO, ICANN
ICANN Board