

## **[council] Response from ICANN Board chair with regard to the proposed .biz, .info and .org agreements**

- *To:* "Council GNSO" <council@xxxxxxxxxxxxxxxx>
- *Subject:* [council] Response from ICANN Board chair with regard to the proposed .biz, .info and .org agreements
- *From:* "Bruce Tonkin" <Bruce.Tonkin@xxxxxxxxxxxxxxxx>
- *Date:* Tue, 21 Nov 2006 11:54:05 +1100
- *Sender:* owner-council@xxxxxxxxxxxxxxxx
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- *Thread-topic:* Response from ICANN Board chair with regard to the proposed .biz, .info and .org agreements

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From: Chair, ICANN Board

To: GNSO Council

20 November 2006

To GNSO Council Members:

As we approach the meeting in Sao Paulo, I wanted to briefly report to you on Board discussions that have occurred during the past several months - especially with regard to the proposed .biz, .info and .org agreements. I thought that a communication at this point would be useful given the amount of discussion that is taking place in many quarters surrounding these agreements, registry agreements in general and the domain markets.

The Board has paid careful attention to the discussions reported to us of the GNSO Council members (and also among the constituency groups) regarding the various gTLD agreements. We have followed the progress of the committee work on the PDP that discusses the terms of registry agreements (the "Feb 06 PDP") and also the work occurring on the PDP for new gTLDs (including the term of reference having to do with contractual terms). The Board appreciates that the GNSO is considering many complex issues. Recognizing this, the Board asked staff to fund expert financial analysis to examine the market and answer questions such as whether a medium sized registry such as .org or .info has monopoly power under any practical definition.

We have also read all the community comment concerning the recent registry agreements. The Board has engaged in many detailed discussions that carefully considered exchanges on the council list and in on-line forums.

We have also read, considered carefully and debated whether the GNSO resolution that the vote on these latest registry agreements be postponed should be adopted also as Board policy.

Our discussions lead me to a conclusion that a delay in a vote is not justified by either a pending policy development process or awaiting additional public comment. ICANN is compelled to implement a Board-approved consensus policy but is also compelled to carry on business as new policy is being developed. The timeline for approval of the pending agreements cannot, in fairness to the parties, carry on up to the last months of an existing agreement. The process has to conclude sometime before the termination date.

Given that the Board may vote against the presently proposed agreement (and therefore additional time might be required to settle the issue), a vote should be taken as soon as the Board has the information it feels

\vote should be taken as soon as the Board has the information it feels is required and is ready to vote on the proposals.

Having said that, there is no firm plan to taken a vote at the 22 November meeting. As you know, the Board has scheduled and discussed the proposed agreements at previous meetings. At each meeting, in response to Council and other discussion, the board opted for additional time for consideration of comment and discussion of the proposed agreements between the parties and to allow further public comment to be heard and considered. As a result, there have been changes made to the proposed agreements. Votes are not taken until there is a sense that the Board is prepared to do so. That sense is developed through discussion on email lists and during meetings.

There may or may not be a vote on these agreements at the upcoming meeting.

Neither outcome should be a surprise. I wished to write, however, to tell you that the Board (including me) consider input from the Council carefully. A conclusion that differs from council member advice does not indicate the Board "ignored" the advice. The Board receives inputs from many sources and these inputs are frequently conflicting in their character. The Board is obligated to reach conclusions despite variations in the recommendations it receives. If the Board conclusions differ from recommendations of the GNSO, it will be a consequence of considering all advice received including that of the GNSO Council.

The Board looks forward to the conclusion of the Council's work on the very important PDPs now underway. Of course, the Board also continues to be interested in your individual perspectives on these issues. Please let Denise Michel know if there is any further information or support required. She will ensure that you are kept closely apprised of our actions.

Sincerely,

Vint Cerf  
ICANN Board Chair