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THE SECRETARY OF COMMERCE
Washington, D.C. 20230

May 20, 2008

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for sharing your concerns regarding potential changes to the Department of Commerce's relationship with the Internet Corporation for Assigned Names and Numbers (ICANN). As you are aware, in the first quarter of 2008 the National Telecommunications and Information Administration (NTIA), on behalf of the Department, conducted a mid-term review of ICANN's progress to date in meeting the activities and responsibilities identified in the Joint Project Agreement. This review, while acknowledging that ICANN has made some progress, noted that important work remains. I enclose our answers to the four specific questions raised in your letter.

I hope the enclosed information is helpful in understanding the Department of Commerce's relationship with ICANN. If you have any further questions, please contact me or Nat Wienecke, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Gutierrez".

James M. Gutierrez

Enclosure

Responses to Questions Regarding Potential Changes to the Department of Commerce's Relationship with the Internet Corporation for Assigned Names and Numbers

1. *Does the Department of Commerce intend to continue its oversight role of ICANN to ensure the stability and security of the core Internet infrastructure?*

Consistent with the Statement of *U.S. Principles on the Internet Domain Name and Addressing System*, the Department remains committed to preserving the security and stability of the domain name and addressing system (DNS).¹ As such, the Department will take no action that would have the potential to adversely impact the effective and efficient operation of the DNS and will continue to provide oversight so that ICANN, the appropriate technical coordinator of the DNS, maintains its focus and meets its core technical mission.

2. *In what way does the Department intend to continue that role?*

The relationship between the Department and ICANN is defined by two distinct legal arrangements. A Joint Project Agreement (JPA), which expires September 30, 2009, and a contract to perform the Internet Assigned Numbers Authority (IANA) functions, which expires September 30, 2011, if all options are exercised.² The Department does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of ICANN. However, as called for under the JPA, the Department will continue to monitor ICANN's performance of activities and responsibilities identified in the agreement. The Department has no intention of prematurely terminating the JPA. Additionally, the Department will continue its oversight role through the IANA functions contract.

3. *Does the Department intend to ensure that the key facilities of the root server system continue to be housed in the United States?*

Performance of the administrative functions associated with the management of the authoritative root zone file, a critical component of the root server system, are part of the IANA functions contract. Contained in this contract is a requirement for the contractor to possess and maintain throughout the performance of the contract a physical address within the United States. In addition, a majority of the 13 root servers are physically located in the United States. However, many of these sites are replicated or mirrored throughout the world to provide process efficiency and additional security. A complete list of the root servers is available at <<http://www.root-servers.org/>>.

4. *The Chairman of ICANN said in February 2008, at the Department's public meeting, "Among the respondents there were concerns expressed that ICANN will leave the United States and seek broad immunities from legal process by third parties or contracting parties. Let me be loud and clear on this. That will not happen. The U.S. for historic and practical reasons will remain ICANN's headquarters." How does the Department intend to ensure that ICANN fulfills this commitment?*

The Department does not have the regulatory authority to dictate the physical location of ICANN, a not-for-profit corporation based in California. However, we have required that the IANA functions be performed by a contractor physically located in the United States.

¹ See <http://www.ntia.doc.gov/ntiahome/domainname/USDNSprinciples_06302005.htm>

² See <http://www.ntia.doc.gov/ntiahome/domainname/agreements/jpa/ICANNJPA_09292006.htm> and <http://www.ntia.doc.gov/ntiahome/domainname/iana/ianacontract_081406.pdf>