

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> 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 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(h)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

2 Pages Withheld
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

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5 USC §552 (b) 5

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Best,
Robin

From: "Suzanne Sene" <ssene@ntia.doc.gov>
To: <mattwell@ntia.doc.gov>, <rlayton@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>

Robin Layton - Notes from 8/1 Senior Staff Meeting

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

Tracey Rhoades - Re: .xxx letter to ICANN

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

§ U.S.C. § 552(b)(5)

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

§ U.S.C. § 552(b)(5)

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

§ 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

§ U.S.C. § 552(b)(5)

Thanks!!!

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

1 Pages Withheld
under
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) 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

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 352(b)(5)

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



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 e-commerce 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

