



The Internet Corporation for Assigned Names and Numbers

10 June, 2009

Mr. Edouard Dayan
Director General
Universal Postal Union
Weltpoststrasse 4
3000 Berne 15
Switzerland

Dear Mr. Dayan,

Thank you for your letter of 11 February, 2009 and 8 April, 2009, describing progress in the negotiations for the .POST sponsored top-level domain, and your suggestions regarding the steps that we should take to conclude this process. We believe that it is important to resolve the outstanding issues in order for there to be a successful conclusion of the agreement for .POST.

I am informed that the primary remaining issue to the successful conclusion of the contract is ICANN's requirement for the UPU to comply with Temporary Specifications and Consensus Policies in the standard gTLD registry agreement. The applications process, to which the UPU responded in seeking the .POST top-level domain, was for a generic top-level domain of the sponsored variety (a "sponsored top-level domain" or "sTLD"). The sTLD round applications material that the UPU applied under clearly indicated the requirement for an agreement. The requirement for ICANN's contracted parties to comply with Temporary Specifications and Consensus Policies is one of the core principles of the generic registry and sponsor agreements, and those agreements contribute to the overall security and stability of the Domain Name System.

As you are aware, these policies are developed through input from all relevant stakeholders, including many participating governments and International organizations, which are then adopted by the ICANN Board of Directions. All these processes relating to the policies and positions are open and transparent. As such, in all sTLD registry agreements (including for example that for .AERO with SITA), ICANN has not entered into any registry agreement which modifies the Temporary Specifications and Consensus Policies provisions, and our stability and security mission requires that we adhere to these principles and continue to require compliance.

I was informed that at ICANN's meeting in Mexico City, ICANN's staff met briefly with UPU representatives and discussed alternative contract language. As I understand it, that solution provided that the term describing consensus policy compliance would remain in the agreement, modified by a term along the lines of: "...nothing in this Agreement shall be construed to require the parties hereto to violate any applicable law or legal requirements, nor prevent compliance therewith."



This language was also discussed during the Registry Constituency meeting and other sessions during the Mexico City meetings. I had found this latest development to be encouraging, but was disappointed to learn that we have been informed that this position will not solve the UPU's concerns. I hope that you and your team might continue to consider that and other alternatives so that we can arrive at an agreement.

We view the UPU's comments seriously and note that the UPU has expressed an interest in concluding the negotiations as soon as possible and has requested the ICANN Board to reconsider its position on adherence to Temporary Specifications and Consensus Policies called out in the agreement between the parties. I do not expect such a review to be successful and wonder whether there is any other approach that might be more beneficial. The requirement to comply with consensus policy, formed by through the multi-stakeholder model in which the UPU participates, goes to the very heart of the organisation's Bylaws. ICANN's DNS Stability mandate requires us to ensure compliance with these proposed contractual terms, and this is fundamental to ICANN performing its mission. Please let me know if there is another way to approach this or if we can provide additional information. Just as the bottom-up process would never seek to breach policies of the UPU in setting rules and making recommendations, the process does seek to accomplish ICANN's goal to maintain a single, interoperable Internet.

If you believe it would be useful to engage in another round of discussions, I will instruct ICANN Management to schedule a meeting with your team to review these provisions once more, in a face-to-face meeting, to see if there is anyway to reach accommodation, within law and within ICANN's policy mandates.

Sincere regards,

A handwritten signature in blue ink, appearing to read "Peter Thrush", is written over a light blue horizontal line.

Peter Dengate Thrush
Chairman, Board of Directors
ICANN

cc: Paul Twomey, President and CEO
John Jeffrey, General Counsel & Secretary
Kurt Pritz, Senior Vice President Services
Craig Schwartz, Chief gTLD Registry Liaison