**Internet Commerce Association**
**1155 F Street, NW**
**Suite 1050**
**Washington, DC 20004**

May 30, 2017

By E-Mail to comments-net-renewal-20apr17@icann.org

Internet Corporation for Assigned Names and Numbers

12025 Waterfront Drive, Suite 300

Los Angeles, CA 90094-2536

Re:  Proposed Renewal of .NET Registry Agreement

Dear ICANN:

I am writing on behalf of the members of the Internet Commerce Association (ICA). ICA is a not-for-profit trade association representing the domain name industry, including domain registrants, domain marketplaces, and direct search providers. Its membership is composed of domain name registrants who invest in domain names (DNs) and develop the associated websites, as well as the companies that serve them. Professional domain name registrants are a major source of the fees that support registrars, registries, and ICANN itself. ICA members own and operate approximately ten percent of all existing Internet domains on behalf of their own domain portfolios as well as those of thousands of customers. ICA is a longstanding member of the GNSO's Business Constituency.

This letter addresses the Proposed Renewal of .NET Registry Agreement published for public comment on April 20, 2017.

**Executive Summary**

The main points made in this comment letter are:

- We are pleased that this proposed renewal RA does not seek to make policy decisions by contract and refrains from imposing URS on .Net, preserving that issue for the Working Group that is presently reviewing all RPMs at all gTLDs.
- We do not object to the continued ability to raise .Net wholesale prices by ten percent annually as we understand that Verisign has a presumptive contractual right to retain this pricing ability. However, our position on .Net pricing should not be viewed as indicative of what our view will be regarding modification of the .Com Cooperative Agreement's price cap when it is reviewed by the U.S. government in 2018.
- We believe that ICANN should provide detailed public disclosure of the use of the additional domain fee paid to it by .Net to assure that these additional sums are being used for their intended purpose, especially as this extra charge is passed on to domain registrants.
- We do not object to the technical amendments that bring the .Net RA into greater conformity with the standard new gTLD RA as all these amendments relate to technical and operational matters that do not raise policy concerns.
- We urge that the proposed renewal RA be amended to permit the availability of single character domains at .Net

## Comments on Specific RA Provisions

URS

We are pleased to note that, unlike other legacy gTLD RAs that have been renewed over the past two years, this proposed RA does not contain any provision mandating that the Uniform Rapid Suspension (URS) Rights Protection Mechanism (RPM) created for the new gTLD program be implemented at .Net.

We have previously protested the inclusion of the URS in such legacy gTLD renewal RAs because the question of whether to recommend that new gTLD RPMs be made Consensus Policy applicable to legacy gTLDs has been clearly delegated as a policy issue to be determined pursuant to the Charter of the ongoing PDP Working Group (WG) that is reviewing all RPMs at all gTLDs. We were joined in those concerns by both ICANN's Business Constituency and its Non-Commercial Stakeholders Group. It would have been massively inappropriate to impose URS on the second largest gTLD, with approximately 15.2 million registered domains, through the contract renewal process.

While we do not have any knowledge of the bilateral negotiations that resulted in the proposed .Net renewal RA, we commend both parties for respecting the sanctity of the policy process in this instance. That forbearance will allow the RPM Review WG to address the matter of whether certain new gTLD RPMs should become Consensus Policy without undue pressure or prejudice.

Continued ability to raise wholesale prices by ten percent annually

We recognize that this provision is a carryover from the current RA and that, under the presumptive renewal provision of that RA, Verisign has a clear contractual right to retain this pricing power going forward. We do note that Verisign has made use of this price increase authority in each year of the current RA, and that regular imposition of a ten percent annual wholesale price increase will result in a doubling of the wholesale price of .Net domains every seven years. We presume that Verisign is testing the acceptable price level for .Net domains and may reduce or forego an annual price increase if total .Net registrations begin to decline in response to additional future price increases.

Our non-objection to this provision is based on Verisign's .Net contractual rights and should not be viewed as indicative of what our position may be in 2018 when the U.S. government and Verisign enter into discussions regarding whether to modify or terminate the .Com Cooperative Agreement (CA)   which contains the 2012 wholesale price freeze. We further note that, while we did not object to the 2016 extension of the .Com renewal RA through 2024,  its terms require  Verisign and ICANN to enter into negotiations to modify the .Com RA to render it consistent with any changes to the CA that may occur in 2018.

While they are both operated by Verisign, the .Com registry is objectively different from .Net. Total .Com domain registrations now stand at more than 127 million. Based upon both its dominant position among gTLDs and the pricing of meaningful .Com domains on the secondary market it seems clear that, notwithstanding the availability of new gTLDs, Verisign likely enjoys a pricing power advantage in regard to .Com that is far superior to that of .Net or any other gTLD.

Continuation of $0.75 domain fee to ICANN

We note that .Net will continue to pay a per domain fee to ICANN that is 50 cents higher than the standard fee of 25 cents paid by other registries. The ostensible purpose of this additional fee is that it be dedicated to developing country Internet communities' participation in ICANN, and to enhancing and facilitating the security and stability of the domain name system (DNS).

Given that this additional fee is inevitably passed on to domain registrants, we are concerned that these substantial funds ($7.6 million per year at current .Net registration levels) are not separately accounted for but intermixed with ICANN's general revenues. This practice makes it impossible to ascertain that the additional sums are actually being used for their intended purposes. We therefore ask that ICANN begin providing detailed and publicly disclosed information documenting how these funds are actually used; noting further that this requested disclosure would be consistent with ICANN's post-transition commitments to enhanced transparency and informed community review of its budget.

Amendments bringing the .Net RA into greater conformity with the new gTLD RA

We do not object to the inclusion of those amendments in the proposed RA intended to bring it into greater conformity with the RA applicable to new gTLDs as well as certain other legacy gTLDs. Those amendments relate to such technical and operational matters as bulk zone files access; monthly reporting; functional and performance specifications; contractual and operational compliance audits; bankruptcy; and compliance actions. None of these matters rise to the level of being a policy decision and therefore can be differentiated from the imposition of URS and other new gTLD RPMs on this or other legacy gTLDs.

Single Character Domains

We note that on August 12, 2010 Verisign filed ICANN Registry Request Service Ticket ID: X2A2P-4O7C4 consisting of "Single Character Release Proposal - .NET". While two character domains have been made available at .Net, the referenced 2010 proposal for the release of single character domains has never been acted upon by ICANN.

We further note that the GNSO's Reserved Names Working Group Final Report of May 23, 2007 ("RN-WG Report") stated "[it] appears that the original purpose for reserving the single characters was driven by technical concerns," which the Report concluded were no longer applicable. That Report therefore recommended "that single letters and digits be released at the second level in future gTLDs, and that those currently reserved in existing gTLDs should be released"; and noted that all constituencies within the GNSO support the registration of single character domain names.

While single character domains are now available at all new gTLDs, and the release of two character domains in them has been approved by ICANN's Board, single character domains remain unavailable at .Net. Given those background facts, and the likely high interest in the release of single character .Net domains, we urge that the proposed renewal RA be amended to authorize their release.


**Conclusion**

We appreciate the opportunity to provide these comments on the proposed .Net renewal RA. We hope they are helpful to the further consideration of this matter by ICANN and its community.


Sincerely,

Philip S. Corwin

Counsel, Internet Commerce Association