

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 21, 2017

Mr. Goran Marby
President and Chief Executive Officer
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive
Suite 300
Los Angeles, CA 90094

Dear Mr. Marby:

The House Committee on Energy and Commerce has had a longstanding oversight interest in how the Internet Corporation for Assigned Names and Numbers (ICANN) manages its responsibilities, including how generic top-level domain names (gTLDs) are awarded and managed. As the Chairman of the Subcommittee on Digital Commerce and Consumer Protection, I am particularly interested in how ICANN's process impacts consumers around the nation and the world and am especially concerned about how the gTLD, .CPA, has been managed. I am primarily concerned about the potential for unfair or deceptive practices to arise.

In May 2012, the Association of International Certified Public Accountants (AICPA)—the world's largest member organization representing the certified public accountants (CPA) profession—filed an initial application to ICANN for the .CPA gTLD. Founded in 1887, the AICPA has represented the CPA profession nationally and has been an advocate in protecting the brand and association of CPAs globally. On April 11, 2013, ICANN's Governmental Advisory Committee (GAC) issued a communique (hereinafter known as the "Beijing Communique") that identified specific safeguards and procedures that should be considered for implementing a gTLD in a regulated or professional sector.

In its Beijing Communique, the GAC specifically recognized that these gTLDs "are likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm."¹ Furthermore, the Communique, advised ICANN to apply

¹ GAC Communique—Beijing, People's Republic of China, Internet Corporation for Assigned Names and Numbers, Governmental Advisory Committee (Apr. 11, 2013), at p. 8, <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>

safeguards to new gTLDs such as .CPA to mitigate against “fraudulent or deceptive practices,” in this against consumers of CPA services in the U.S. and around the world.² Among other requirements, the Beijing Communique advised ICANN to “[e]stablish a working relationship with the relevant regulatory, or industry self-regulatory, bodies, including developing a strategy to mitigate as much as possible the risks of fraudulent, and other illegal, activities,”³ and specifically cited .CPA as requiring “Category 1” safeguards.⁴

In December 2014, the AICPA submitted a change request to its original application to conform with the ICANN’s guidance under the Beijing Communique and to reflect the agreement between the AICPA with CPA Australia⁵ to distribute .CPA domain names to their community members, should the U.S. organization’s bid be successful. The two groups agreed to work together because of their common goal of promoting trust in CPAs worldwide.

On September 3, 2015, the Economic Intelligence Unit, a panel within ICANN, rejected the AICPA’s application, principally because it found no nexus between the AICPA and the CPA community at large. Subsequently, on September 18, 2015, the AICPA filed for reconsideration, and ICANN rejected the reconsideration request on June 26, 2016. Since July 11, 2016, the AICPA has been engaged in cooperative engagement process and is hopeful for a successful resolution of all outstanding issues.

The potential for confusion, misuse, and abuse with gTLDs may pose a far greater risk to public than standard Internet domains previously registered. Specifically, a gTLD that has a strong connection to a regulated industry, such as .CPA, has with the Certified Public Accountant community, the protection of the public against fraud or other illegal activities should have been of paramount concern to ICANN. However, I understand that ICANN chose not to prioritize that concern and will likely be auctioning the domain name soon. Strong, reliable verification procedures for domains that impact regulated industries are essential to protect the public interest as they rely upon the Internet.

It is my understanding that verification of regulated users is not a simple task, but is a vitally important one and one that the eventual holder of the domain should be positioned and committed to undertake. In the United States, requirements for CPAs are set by each state board of accountancy, and differ state-by-state. Requirements may include passing the Uniform CPA exam, and could also require certain work experience. Thus, verification should require knowledge of the current requirements in each state, whether the applicant has met those requirements and whether the applicant is currently in good standing. The task becomes more complex when verifying that applicants from around the world are part of the global CPA community, and would require familiarity with international CPA certifications, international accounting standards and norms, as well as contacts with international CPA and accounting organizations who can participate in the verification.

² Id., at pp. 7-8.

³ Id., at p. 8.

⁴ Id., at p. 9.

⁵ CPA Australia is one of the world's largest accounting bodies with a global membership of more than 160,000 members (as at 31 December 2016) working in 118 countries around the world, with more than 25,000 members working in senior leadership positions. <https://www.cpaaustralia.com.au/about-us>

For a gTLD that has a strong connection to a regulated industry and the ability to ensure such verification can take place, the protection of the public against fraud or other illegal activities should be of paramount concern to ICANN. Therefore, I strongly encourage ICANN, at minimum, to develop and promulgate verification procedures for gTLDs that pertain to authorizations, charters, or licenses to better serve the interests of consumers globally. It is inexplicable that ICANN could conclude that to combat fraud it will simply require applicants to make a representation, without any verification.

For the .CPA gTLD, it seems beyond question that ICANN should work with the appropriate organizations to verify that an applicant for a .CPA domain is a member of the global CPA community. Developing an appropriate verification procedure for .CPA in consultation with these entities is consistent with ICANN's public interest commitment, consistent with ICANN's adoption of the Communique, is well within ICANN's power and authority, and is the right thing to do.

I look forward to hearing from you about your decision on this case as soon as possible but no later than January 12, 2018. If you have any questions regarding this letter, please contact Madeline Vey at 202-225-6405 or Paul Jackson at 202-225-2927.

Sincerely,



Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection