

1. Requestor Information

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(Note: ICANN will publish the Requestor's name on the Reconsideration Website at <https://www.icann.org/resources/pages/accountability/reconsideration-en> in accordance with the ICANN [Privacy Policy](#). Requestor's address, email and phone number will be removed from the publication.)

2. Request for Reconsideration of:

Board action/inaction

Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

I am seeking reconsideration of ICANN's renewal of the .NET registry agreement.

4. Date of action/inaction:

The date of action/inaction was 1-July-2023 the date on which ICANN and Verisign executed the .NET registry agreement.

5. On what date did you become aware of the action or that action would not be taken?

To the best of my recollection, it was during the extended Fourth of July holiday weekend, likely July 3rd or 4th. After re-reading a DomainIncite article¹ about proposed changes to the .NET Registry Agreement, I decided to query the ICANN database² of Generic Top Level Domain (gTLD) Registry Agreements to see what final changes to the .NET agreement may have been made. It was then that I noticed the 1-July-2023 execution date. I immediately checked the ICANN

¹ <https://domainincite.com/28850-icann-actually-changes-verisigns-net-contract-after-public-comments>

² <https://www.icann.org/en/registry-agreements>

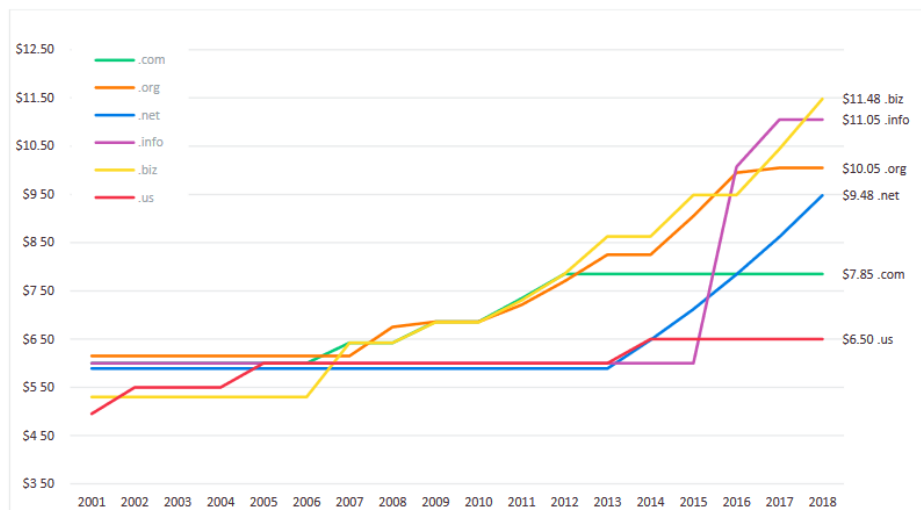
Blog³ and ICANN Announcement⁴ pages to see if I had missed any public announcement by ICANN regarding this renewal of the .NET registry agreement, however, there were none.

6. Describe how you believe you are materially and adversely affected by the action or inaction:

ICANN’s Amended and Restated Articles of Incorporation state that it is a “nonprofit public benefit corporation and is not organized for the private gain of any person.” Privileged and Confidential
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prices in .NET as well as other generic top-level domains (gTLDs) have increased at a significantly higher rate than similarly situated ccTLDs and have financially harmed (e.g. high domain name registration fees) not only myself but tens of millions of other gTLD registrants.

A clear illustration of the rapidly increasing gTLD pricing, as opposed to ccTLD pricing, is illustrated in this graph from Neustar’s .US bid. I am currently undertaking additional research on gTLD v ccTLD pricing which supports this trend.⁶



Every gTLD registry agreement with the exception of .XXX, .POST, .NET and COM contain an affirmative obligation to participate in any economic study ICANN initiates or commissions, see Section 2.15 of Baseline Registry

³ <https://www.icann.org/en/blogs>

⁴ <https://www.icann.org/en/announcements>

⁵ <https://www.icann.org/en/board-activities-and-meetings/materials/minutes-special-meeting-of-the-board-08-02-2005-en>

⁶ https://ntia.gov/files/ntia/publications/technical_proposal_volume_3.pdf

Agreement “Cooperation with Economic Studies.”⁷ The .XXX and .POST are currently in the process of being renewed and upon information and belief will transition to the new baseline registry agreement. It appears that only Verisign in connection with the .COM and .NET Registry Agreements have refused to migrate to the baseline agreement, despite this migration being in “the global public interest.”⁸

Verisign controls approximately 80% of the gTLD market and is positioned to operate the .WEB extension after winning it in an auction of last resort in which ICANN received 130 million dollars. The .WEB extension has been the *most sought-after gTLDs* since before ICANN was even incorporated. In resolution 2023.06.11.07 the ICANN Board directed “directs the Interim President and CEO, or her designee(s), to retain an economist to provide input regarding the current domain name system (DNS) marketplace as it relates to the market power of .INFO and .ORG.”⁹ This analysis will be made substantially easier by the provisions in the .ORG and .INFO Registry Agreements requiring their participation. The failure of ICANN to continue to not contractually require Verisign’s participation in economic studies is eerily similar to the special treatment Verisign received in never having to move to thick registries despite almost every other gTLD operator.

To be clear I am NOT arguing that ICANN should use these economic studies to regulate gTLD pricing. However, the inability of ICANN to undertake a comprehensive economic study of the entire gTLD space will the full cooperation of key Registry Operators impedes ICANN’s ability under Section 1.2 (b)(iii) “to promote and sustain a competitive environment in the DNS market.”¹⁰ The failure of ICANN to zealously advocate for the inclusion of the important economic tool in the .NET Registry Agreement results in additional economic harm to me.

For over 23 years I have successfully owned and operated a company that has provided consultancy services to numerous contracting parties (registrars and registries). The failure of ICANN to have the contractual authority to undertake a full economic study to ensure a “competitive environment in the DNS market” undermines one of its core values. This failure is resulting in a growing consolidation within the industry which is on the precipice of becoming a cartel. One needs to look no further than four US-based companies, Verisign, PIR, GoDaddy, and Identity Digital which currently control almost the entirety of the

⁷ <https://itp.cdn.icann.org/en/files/registry-agreements/base-registry-agreement-30-04-2023-en.html>

⁸ See Reconsideration Request 19-2, “ ICANN org’s transparent processes reflect its continuous efforts to ascertain and pursue the global public interest by migrating the legacy gTLDs to the Base RA.” <https://features.icann.org/consideration-reconsideration-request-19-2-org-and-info-renewal>

⁹ <https://www.icann.org/en/board-activities-and-meetings/materials/preliminary-report-regular-meeting-of-the-icann-board-11-06-2023-en>

¹⁰ <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>

gTLD registry market based on domain names under management. This unchecked consolidation within the industry directly and materially impacts the ability of individual consultants to make a livelihood unless working for one of the dominant market players.

Finally, the action taken by ICANN in renewing the .NET Registry Agreement and failing to migrate it over to the baseline registry agreement Privileged and Confidential
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Privileged and Confidential a provision in the final settlement agreement stating that “Verisign agrees that, effectively immediately upon the execution of this Agreement it will not participate in, contribute monies for, encourage or provide other support for any activities by or for third parties that seek to undermine ICANN’s role as set out in Paragraph 1 A.” While this gag may have been appropriate at the time, its continued existence undermines the legitimacy of the multistakeholder model.

Privileged and Confidential Verisign was paying ICANN a couple of hundred thousand dollars a year in total for both the .COM

¹¹ <https://www.icann.org/en/announcements/details/icann-publishes-telcordia-report-on-their-findings-and-rankings-for-net-28-3-2005-en>

and .NET registries.¹² Today Verisign pays ICANN over 55 million dollars a year. Also noteworthy is the fact that Versign is paying ICANN over 10 million dollars annually above and beyond the required baseline registry fees. Why?

	Domains	Per Domain Name Fee	ICANN fees	Excess Above Baseline
.COM	165,348,678	0.25	\$41,337,169.50	
.NET	13,488,699	0.75	\$10,116,524.25	\$6,744,349.50
Binding LOI			\$4,000,000.00	\$4,000,000.00
Total			\$55,453,693.75	\$10,744,349.50

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While I do not begrudge ICANN staff being adequately compensated there is a shrinking group of volunteers contributing their time and effort to validate the multi-stakeholder ICANN experiment. While I historically have been paid by contracting parties to monitor ICANN policy developments, over the last several years I have largely been volunteering my time as I transition out of ICANN day-to-day domain name-related activities. By way of example, I volunteered over 100 hours chairing the Accuracy Scoping Team to demonstrate the viability of the multi-stakeholder model.

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ICANN has started down the slippery slope of becoming a trade association as the table below demonstrates.

	Gov / IGO	Int Org	End User	Civil Society /NGO	Academia	Technical	Bus/Priv Sector	Domain Sector
ICANN-55 (Morocco)	24	0	6	14	9	19	11	17
ICANN -56 (Helsinki)	19	0	8	12	6	20	12	23
ICANN -57 (Hydrabad)	23	0	7	10	9	17	12	22
ICANN-58 (Copenhagen)	14	0	8	10	8	18	13	29
ICANN-59 (Johannesburg)	19	0	9	14	9	21	10	18
ICANN-60 (Abu Dhabi)	18	0	8	11	8	19	12	24
ICANN-61 (San Juan)	14	0	7	11	13	21	13	21
ICANN-62 (Panama City)	20	0	10	12	8	19	14	17
ICANN-63 (Barcelona)	15	0	7	10	6	17	12	33
ICANN-64 (Kobe)	14	0	11	10	7	20	11	27
ICANN-65 (Marrakesh)	18	4	5	9	8	17	21	18
ICANN-66 (Montreal)	12	4	6	5	5	15	14	39
ICANN-67 (Virtual)								
ICANN-68 (Virtual)								
ICANN-69 (Virtual)								
ICANN-70 (Virtual)								
ICANN-71 (Virtual)								
ICANN-72 (Virtual)								
ICANN-73 (Virtual)								
ICANN-74 (The Hague)								
ICANN-75 (Kuala Lumpur)								

¹² <https://www.icann.org/resources/unthemed-pages/preliminary-budget-2003-03-15-en>

Prior to Covid, ICANN used to provide a detailed breakdown ICANN meeting participants according to various stakeholder groups. These statistics show how the percentage of ICANN attendees from the domain name sector has almost doubled. But for the substantial travel subsidies that ICANN provides to GAC members, ICANN fellows, and non-contracting parties, this disparity would probably be greater.

This growing concern within the ICANN Community about the potential of ICANN becoming a trade association is not an isolated one. Recently Dr. Farzaneh Badii published an article on CircleID entitled *Internet Multistakeholder Model: A Trade Association With Multistakeholder Theater* raising similar concerns.¹³

In summary, ICANN's failure to have the proper contract tools to conduct economic studies and "to promote and sustain a competitive environment in the DNS market"¹⁴ has a material and adverse effect on the countless volunteers like myself that have invested in the viability of the ICANN multistakeholder model.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

There are several communities that are adversely affected by the action or inaction of ICANN Org which I have tried to summarize below. Following the public posting of this reconsideration request, it is my intent to reach out to these groups to solicit their support for this filing.

Registrars – As evidenced by the NameCheap reconsideration request and subsequent Independent Review, Registrars are impacted by the ability of Verisign to increase .NET pricing with no corresponding contractual requirement for them to participate in economic studies. As evidenced by the US Department of Justice's Anti-Trust Division communication forwarded to ICANN back in 2008,¹⁵ "the creation of additional gTLDs is unlikely to constrain the exercise of market power by existing TLDs, especially the com registry operated by Verisign." While this Reconsideration Request is only in connection the .NET registry agreement, the failure of ICANN Org to incorporate the contractual requirement of Verisign to participate in economic studies when they control approximately 80% of the gTLD is market is detrimental to the Registrar community, and this does not even take into account the potential launch of .WEB the most sought-after gTLD extension over the past 25 years.

¹³ <https://circleid.com/posts/20230628-internet-multistakeholder-model-a-trade-association-with-multistakeholder-theater>

¹⁴ <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>

¹⁵ <https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf>

Registries – Unlike Verisign, almost all gTLD Registry Operators are contractually required to participate in an economic study. Additionally, most gTLD Registry Operators are subject to a more expansive scope of the Registry Services Evaluation Policy (RSEP).¹⁶ The RSEP is a consensus policy that Registry Operators are contractually bound to by Paragraph 2.1 of the Baseline Registry Agreement.¹⁷ Paragraph 2.1 references a URL where ICANN has taken an increasingly liberal view of what constitutes a registry service. In contrast, Verisign has the benefit in the .NET and .COM Registry Agreements of having the RSEP process contained in its Registry Agreement. Verisign also has preferential treatment in being exempt from any RSEP fees. Almost every other gTLD Registry Operator, except .COM, .NET, .POST, and .XXX, is required to pay the cost recovery fees for an RSTEP.¹⁸ I have had two experiences in working with Registry Operators submitting RSEPs where ICANN Org raised the threat of an RSTEP and the accompanying cost of approximately \$100,000. Verisign is immune from such economic costs under the current .COM and .NET Registry Agreements.

Registrants – As noted above, Registrants like myself will continue to pay increasing fees associated with gTLD registrations because of the failure of ICANN to have the necessary contractual tools to undertake an economic study of the entire gTLD marketplace.

The Entire Multi-Stakeholder Model – As noted in greater detail in response 7, the inability to ICANN to have the necessary contractual tools to promote and sustain a competitive environment in the DNS market threatens the long-term viability of the ICANN multi-stakeholder experiment.

8. Detail of Board or Staff Action/Inaction – Required Information

There are two main themes upon which I object to ICANN’s action/inaction regarding the .NET Registry Agreement.

The first is a material misrepresentation of the facts by ICANN staff regarding the current contractual obligations of legacy gTLD Registry Operators. In the summary of public comments received, ICANN staff made the following statement in dismissing the need for an economic study provision (Paragraph 2.15) in the .NET Registry Agreement:

In response to the request from commenters to conduct an economic study or to add Section 2.15 of the Base gTLD RA to the proposed .NET RA, it is important to understand that Section 2.15 which addresses

¹⁶ <https://www.icann.org/resources/pages/rsep-2014-02-19-en>

¹⁷ <https://itp.cdn.icann.org/en/files/registry-agreements/base-registry-agreement-30-04-2023-en.html>

¹⁸ See Paragraph 6.2 of the baseline registry agreement

cooperation with economic studies, is intended to “study the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters.” It does not pertain to the overall market with legacy TLDs. In addition, some of these comments suggest that adding the provision would enable ICANN to collect data to determine if the price increases are in the public interest or may have an impact on the DNS marketplace. However, since the pricing for .NET is public and the zone file information is available, conducting a study, if necessary, would not be impeded.

While the statement about Paragraph 2.15 of the baseline registry agreement referencing “new” gTLDs is accurate, ICANN staff (or whoever prepared this summary) seems to have conveniently ignored the fact that every legacy Registry Operator that has transitioned over to the new baseline registry agreement **HAS INCLUDED PARAGRAPH 2.15**. In fact, the addendums for each of these legacy agreements explicitly strike **ONLY** the term “new” NOT the whole provision.

2.15	<p>The following term of the first sentence of Section 2.15 shall be of no force or effect:</p> <p style="text-align: center;">“new”</p>
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See .INFO Addendum (2000 New gTLD) <https://itp.cdn.icann.org/en/files/registry-agreements/info/info-agmt-addendum-html-30jun19-en.htm>

See .ASIA Addendum (2004 New gTLD) <https://itp.cdn.icann.org/en/files/registry-agreements/asia/asia-agmt-addendum-html-30jun19-en.htm>

See .ORG Addendum (Legacy gTLD) <https://itp.cdn.icann.org/en/files/registry-agreements/org/org-agmt-addendum-html-30jun19-en.htm>

Perhaps most concerning was the statement “since the pricing for .NET is public and the zone file information is available, conducting a study, if necessary, would not be impeded.” This statement just shows total ignorance of the domain name ecosystem and Economics 101. In fact, the recent economic studies that the ICANN Board approved in connection with the .ORG and .INFO Independent Review will almost assuredly look at more than just price and domain names under management (DUMs) based upon the economist expert reports produced in the NameCheap Independent Review record. The fact that ICANN has no contractual authority to require Verisign’s participation in an economic study despite Verisign controlling over 80% of the existing gTLD market, impedes its ability to meet a core value under its bylaws “to promote and sustain a competitive environment in the DNS market.”

Another factual omission that does not appear in the record is the basis for why Verisign should be exempt from the RSTEP fee (estimated to be approximately \$100,000). Almost every gTLD Registry Agreement has a Cost Recovery for RSTEP (Section 6.2) except .COM, .NET, .POST and .XXX, although .POST and .XXX will likely have this provision in the renewed Registry Agreement based upon the precedent of legacy gTLDs that have migrated to the baseline registry agreement.

Based on these facts, and the responses set forth in the previous questions, I submit that ICANN's renewal of the .NET Registry Agreement is contrary to the following provisions in the ICANN Bylaws and Amended Articles of Incorporation:

ICANN Amended and Restated Article of Incorporation Section 2.II states in relevant part:

This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable and public purposes. The Corporation is organized, and will be operated, exclusively for charitable, educational, and scientific purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), or the corresponding provision of any future United States tax code. Any reference in these Articles to the Code shall include the corresponding provisions of any future United States tax code. In furtherance of the foregoing purposes, and in recognition of the fact that the Internet is an international network of networks, owned by no single nation, individual or organization, the Corporation shall, except as limited by Article IV hereof, pursue the charitable and public purposes of lessening the burdens of government and promoting the global public interest in the operational stability of the Internet by carrying out the mission set forth in the bylaws of the Corporation ("Bylaws"). Such global public interest may be determined from time to time. Any determination of such global public interest shall be made by the multistakeholder community through an inclusive bottom-up multistakeholder community process.

ICANN Amended and Restated Article of Incorporation Section 2.III states in relevant part:

The Corporation shall operate in a manner consistent with these Articles and its Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law and through open and transparent processes that enable competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations.

ICANN Bylaws Section 1.2 (a) states in relevant part:

In performing its Mission, **ICANN must operate in a manner consistent with these Bylaws for the benefit of the Internet community as a whole**, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law, **through open and transparent processes that enable competition and open entry in Internet-related markets**.(emphasis added)

ICANN Bylaws Section 1.2 (a)(v) states in relevant part:

Make decisions by applying documented policies consistently, neutrally, objectively, and fairly, without singling out any particular party for discriminatory treatment (i.e., making an unjustified prejudicial distinction between or among different parties);

ICANN Bylaws Section 1.2 (b)(iii) states in relevant part:

Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment in the DNS market;

ICANN Bylaws Section 1.2 (b)(iv) states in relevant part:

Introducing and promoting competition in the registration of domain names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process;

ICANN Bylaws Section 1.2 (b)(v) states in relevant part:

Operating with efficiency and excellence, in a fiscally responsible and accountable manner and, where practicable and not inconsistent with ICANN's other obligations under these Bylaws, at a speed that is responsive to the needs of the global Internet community;

ICANN Bylaws Section 3.1 states in relevant part:

ICANN and its constituent bodies shall operate to the maximum extent

feasible in an open and transparent manner and consistent with procedures designed to ensure fairness, including implementing procedures to (a) provide advance notice to facilitate stakeholder engagement in policy development decision-making and cross-community deliberations, (b) maintain responsive consultation procedures that provide detailed explanations of the basis for decisions (including how comments have influenced the development of policy considerations), and (c) encourage fact-based policy development work. ICANN shall also implement procedures for the documentation and public disclosure of the rationale for decisions made by the Board and ICANN's constituent bodies (including the detailed explanations discussed above).

The fact that one of the most important events in ICANN's history continues to be shrouded in confidentiality despite previous attempts to have this information made public is inconsistent with ICANN's requirement to operate in an open and transparent manner.¹⁹ Additionally, the provisions of ICANN Verisign Settlement Agreements Privileged and Confidential limiting Verisign's ability to undermine ICANN's role as the technical coordinator of the DNS do not seem to be consistent with the global multistakeholder model. The global multistakeholder model should be based upon an open marketplace of ideas, even those that may be critical of ICANN's role as a technical coordinating body. ICANN having the potential to silence a key stakeholder in the ICANN community seems contrary to its bylaws and restated articles of incorporation.

- ICANN Amended and Restated Article of Incorporation Section 2.III
- ICANN Bylaws Section 1.2 (a)
- ICANN Bylaws Section 3.1

Exempting Verisign from the baseline Registry Agreements regarding participation in economic studies.

- ICANN Amended and Restated Article of Incorporation Section 2.II
- ICANN Amended and Restated Article of Incorporation Section 2.III
- ICANN Bylaws Section 1.2 (a)
- ICANN Bylaws Section 1.2 (a)(v)
- ICANN Bylaws Section 1.2 (b)(iii)
- ICANN Bylaws Section 1.2 (b)(iv)
- ICANN Bylaws Section 1.2 (b)(v)

The Letter of Intent (LOI) which ICANN originally signed in connection with the .COM Registry Agreement and which was amended as part of the .NET Registry Agreement provides Verisign preferential access to ICANN staff to discuss policy

¹⁹ <https://www.icann.org/en/system/files/files/didp-20160925-1-palage-request-response-25oct16-en.pdf>

related issued for the mere voluntary contribution of \$4 million dollars a year.

- ICANN Amended and Restated Article of Incorporation Section 2.II
- ICANN Amended and Restated Article of Incorporation Section 2.III
- ICANN Bylaws Section 1.2 (a)
- ICANN Bylaws Section 1.2 (a)(v)
- ICANN Bylaws Section 1.2 (b)(iii)
- ICANN Bylaws Section 1.2 (b)(iv)
- ICANN Bylaws Section 1.2 (b)(v)

The RSEP is an ICANN consensus policy. The baseline Registry Agreement contains a specific reference to a URL on the ICANN website, which ICANN is free to update. Over the past several years ICANN has taken an increasingly liberal view of what constitutes a Registry Service. Verisign does not have the same RSEP provision (incorporation by URL). Instead, the RSEP process is specifically delineated in the Verisign .NET and .COM Registry Agreements. Verisign is also exempt from any RSTEP fees which are estimated to run upwards of \$100,000 per review.

- ICANN Amended and Restated Article of Incorporation Section 2.II
- ICANN Amended and Restated Article of Incorporation Section 2.III
- ICANN Bylaws Section 1.2 (a)
- ICANN Bylaws Section 1.2 (a)(v)
- ICANN Bylaws Section 1.2 (b)(iii)
- ICANN Bylaws Section 1.2 (b)(iv)
- ICANN Bylaws Section 1.2 (b)(v)

9. What are you asking ICANN to do now?

I am asking ICANN to undertake the following actions:

- ICANN Org should publicly post a red-line of the proposed 2023 .NET RA against the Base RA. Accompanying this red-line, ICANN Org should also post a separate scorecard document summarizing these differences and detailing any potential global public interest impact(s).
- ICANN should re-engage in bilateral contractual negotiations with Verisign to execute the baseline registry agreement for .NET which is in the global public interest.
- ICANN Org should expand the current .INFO and ORG economic studies to undertake a comprehensive economic analysis of the entire domain name marketplace.

- Privileged and Confidential

- ICANN Org should remove the “gag order” contained in the Paragraph 1.B of the ICANN Verisign Settlement Agreement stating that “Verisign agrees that, effectively immediately upon the execution of this Agreement it will not participate in, contribute monies for, encourage or provide other support for any activities by or for third parties that seek to undermine ICANN’s role as set out in Paragraph 1 A.”
- If Verisign refuses to consent to the inclusion of the same economic and RSEP provisions after negotiations with ICANN, ICANN should post a summary of these negotiations so interested parties can forward this information to relevant competition authorities.
- Disclose whether Verisign as part of the negotiations with ICANN ever threatened to sign the baseline registry agreement and thus deprive ICANN of approximately 7 million dollars annually, e.g the 0.75 per domain name in the current .NET Registry Agreement versus the 0.25 per domain name in the baseline registry agreement.

10. Please state specifically the grounds under which you have the standing and the right to assert this Reconsideration Request, and the grounds or justifications that support your request.

In responding to this question, I would like to incorporate by reference the responses to the previous questions. I believe I have demonstrated standing and the right to assert this Reconsideration Request on the following grounds:

- As a domain name Registrant who will be paying more for domain names based upon ICANN’s failure to incorporate appropriate tools in the Registry Agreement to conduct economic studies to promote and sustain a competitive environment in the DNS market.
- As a domain name industry consultant who has been negatively impacted by consolidation within the industry and ICANN’s failure to incorporate appropriate tools in the Registry Agreement to conduct economic studies to promote and sustain a competitive environment in the DNS market.
- As a long-time volunteer within the ICANN community who fears that the ICANN multistakeholder model is at risk and that ICANN is on the precipice of becoming a de facto trade association.
- As an individual respondent who submitted a response during the .NET public comment period, ICANN staff grossly mischaracterized.

11. Are you bringing this Reconsideration Request on behalf of multiple

persons or entities? (Check one)

Yes

No

I respectfully disagree with the proposed Reconsideration Request Template response that a submitter can only choose one of the options. I am primarily filing this Reconsideration Request in an individual capacity. However, I believe that I have an obligation on behalf of other members of the ICANN Community (Registrars, Registries, Registrants, commercial and non-commercial stakeholders) who have been negatively impacted by ICANN's decision to renew the .NET Registry Agreement without appropriate contractual safeguards incorporated into the baseline registry agreement which the ICANN Board has previously stated are in the global public interest. I also believe I am uniquely positioned to share new information with the ICANN Board regarding the original .NET RFP which likely negatively impacted ICANN decision not to more zealously advocate for these changes, and instead take the 300% premium in domain name registration fees above the baseline registry agreement.²⁰

If ICANN refuses to consider a dual basis for filing this Reconsideration Request, I respectfully request that I be contacted by ICANN so that I can make an election. If ICANN will not afford me that option, then I elect to designate No to preserve my filing.

11a. If yes, is the causal connection between the circumstances of the Reconsideration Request and the harm substantially the same for all of the Requestors? Explain.

Yes. The violations of the Bylaws and Amended and Restatement Articles of Incorporation violations Board regarding the original .NET RFP which likely negatively impacted ICANN decision not to more zealously advocate for these changes, and

12. Are you bringing this Reconsideration Request on an urgent basis pursuant to Article 4, Section 4.2(s) of the Bylaws?

Yes

²⁰ Section 7.2 of the baseline registry agreement calls for a \$0.25 per domain name transaction fee for TLDs with over 50,000 transactions. However, Verisign, a for profit company, has graciously decided to pay a 300% premium of \$0.75 per domain name above the baseline registry agreement.

X No

12a. If yes, please explain why the matter is urgent for reconsideration.

13. Do you have any documents you want to provide to ICANN?

Yes. See the list below:

- ALAC CCWG presentation
- Privileged and Confidential

- ICANN-Verisign Settlement Agreement
- Privileged and Confidential
- Privileged and Confidential
- Privileged and Confidential
- Privileged and Confidential

Terms and Conditions for Submission of Reconsideration Requests

Reconsideration Requests from different Requestors may be considered in the same proceeding so long as: (i) the requests involve the same general action or inaction; and (ii) the Requestors are similarly affected by such action or inaction. In addition, consolidated filings may be appropriate if the alleged causal connection and the resulting harm is substantially the same for all of the Requestors. Every Requestor must be able to demonstrate that it has been materially harmed and adversely impacted by the action or inaction giving rise to the request.

The BAMC shall review each Reconsideration Request upon its receipt to determine if it is sufficiently stated. The BAMC may summarily dismiss a Reconsideration Request if: (i) the Requestor fails to meet the requirements for bringing a Reconsideration Request; or (ii) it is frivolous. The BAMC's summary dismissal of a Reconsideration Request shall be documented and promptly posted on the Reconsideration Website at <https://www.icann.org/resources/pages/accountability/reconsideration-en>.

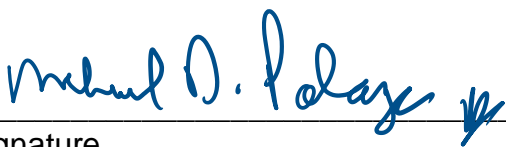
Hearings are not required in the Reconsideration Process; however, Requestors may ask for the opportunity to be heard. The BAMC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing. The BAMC's decision on any such request is final.

For all Reconsideration Requests that are not summarily dismissed, except where the Ombudsman is required to recuse himself or herself and Community Reconsideration Requests, the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request. The BAMC shall make a final recommendation to the Board with respect to a Reconsideration Request following its receipt of the Ombudsman's evaluation (or following receipt of the Reconsideration Request involving those matters for which the Ombudsman recuses himself or herself or the receipt of the Community Reconsideration Request, if applicable).

The final recommendation of the BAMC shall be documented and promptly (i.e., as soon as practicable) posted on the Reconsideration Website at <https://www.icann.org/resources/pages/accountability/reconsideration-en> and shall address each of the arguments raised in the Reconsideration Request. The Requestor may file a 10-page (double-spaced, 12-point font) document, not including exhibits, in rebuttal to the BAMC's recommendation within 15 days of receipt of the recommendation, which shall also be promptly (i.e., as soon as practicable) posted to the ICANN Reconsideration Website and provided to the Board for its evaluation; provided, that such rebuttal shall: (i) be limited to rebutting or contradicting the issues raised in the BAMC's final recommendation; and (ii) not offer new evidence to support an argument made in the Requestor's original Reconsideration Request that the Requestor could have provided when the Requestor initially submitted the Reconsideration Request.

The ICANN Board shall not be bound to follow the recommendations of the BAMC. The ICANN Board's decision on the BAMC's recommendation is final and not subject to a Reconsideration Request.

By submitting my personal data, I agree that my personal data will be processed in accordance with the ICANN [Privacy Policy](#), and agree to abide by the website [Terms of Service](#).



Signature

30-July-2023
Date

Michael D. Palage
Print Name