**COMMENTS OF CONSUMER REPORTS WEBWATCH,**

**Consumers Union of the U.S.,** On ICANN Joint Project Agreement with U.S. Commerce Department

February 14, 2008

Consumer Reports WebWatch of the Consumers Union, representing 9 million consumers in the United States and Canada, supports ICANN's efforts to evolve and move forward toward an existence apart from the JPA agreement with the U.S. Department of Commerce. However, at this mid-term review phase, we do not believe the organization is ready to function without a similar accountability mechanism to the JPA in place. Major changes need to occur within the organization to assure more efficient and meaningful user community representation, with long-term guarantees that such representation would endure unforeseen scenarios in the future.

Our justifications for this position are simple: First, we do not believe the structure of ICANN as it exists today sufficiently takes into account the needs and opinions of end-users. Based on a review of operational documents and bylaws, we do not see any sort of language guaranteeing meaningful user participation into the future. To address this issue, Consumers Union believes the at-large community needs multiple seats on the ICANN board; the initial bylaws, in fact, called for fully half the board to be elected by the at-large. We base this opinion on Consumer Reports WebWatch's own 11-month experience as an "at-large structure" recruited by ICANN, and our eight months' experience as an elected representative to the at-large advisory committee.

Second, though the outreach work of ICANN at-large staff Nick Ashton-Hart and Kieran McCarthy is commendable, ICANN's staff and public communications budget is insufficient to address a much larger problem of outreach. To elaborate: Currently, the NA-RALO is made up of a scant handful of organizations. While these are valuable partners, in no way could the NA-RALO be characterized as a viable representation of a broad-based user community in the United States and Canada. Further, many consumer organizations in the United States with a mission that includes the intersection of technology and consumer issues, remain skeptical of ICANN's intentions and its viability as an organization that takes consumer views into account. Until something is done to bridge this gap and ICANN demonstrates its good intentions and long-term structural viability to organizations such as the Electronic Frontier Foundation, Privacy Rights Clearinghouse and others, we do not believe ICANN can be considered to be acting in accordance with the concerns of the user community in North America.

In addition, there are no guarantees beyond mention in the bylaws that the "at-large community," itself currently under review, would remain a part of the ICANN structure 20 or even 10 years from now. The at-large advisory committee is without a vote in any meaningful policy forum. Without direct user community representation on the ICANN board, we do not believe ICANN is truly acting as a "multi-stakeholder" organization. We are concerned, in fact, that ICANN does sees itself as a multi-stakeholder

organization, with industry, government, and industry groups as the stakeholders. It does not help matters much that many within the ICANN community view domain name registrants as the Internet's "end-users," and therefore the farthest realm the ICANN needs to reach.

Until these issues are addressed we do not believe the organization is ready to progress beyond the JPA, which refers to "the global participation of all stakeholders" and "mechanisms for involvement of those affected by the ICANN policies." As the Internet-using public is a key set of stakeholders affected by ICANN's policies, it is critical, including for Internet security and stability, that the organization be accountable to the public and account effectively for its input.

We believe the following three things need to happen in order for ICANN to move forward beyond the JPA:

1. Address lack of meaningful user representation, and assure its long-term viability within the organization, by creating multiple "user community" seats on the ICANN board.
2. Allocate significant budget to get the message that it has done so, out to civil society stakeholder groups in North America and the global user community.
3. Take administrative steps to ensure the long-term structural existence of user community presence and participation in decision-making.

We appreciate the opportunity to comment.

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