

From: <Contact Information Redacted> on behalf of John Poole Contact Information Redacted
Date: Friday, June 2, 2017 at 11:55 AM
To: ICANN Engagement <engagement@icann.org>, Mia Crampton Contact Information Redacted
Cc: Herb Wayne Contact Information Redacted, ombudsman <ombudsman@icann.org>, ICANN Complaints Office <complaints@icann.org>
Subject: [Ext] Re: Quarterly Stakeholder Call Response

I have reviewed the [document signed by Cyrus Namazi\[drive.google.com\]](#) and sent May 26, 2017 in response to the first three pages of [my questions\[drive.google.com\]](#) submitted on April 26, 2017, in advance of the ICANN Quarterly Stakeholder Call on April 27, 2017, and directed to the ICANN President & CEO, ICANN Chairman (& Board), and GDD President. While Mr. Namazi failed to address many of my questions. I am nevertheless most interested (and persistent) in having ICANN's response to the question below which is on p.3 of my questions which Mr. Namazi failed to address, and I have again set out below:

In December, 2008, the U.S. Department of Justice Antitrust Division told ICANN:

*“ICANN is obligated to manage gTLDs in the interests of registrants and to protect the public interest in competition. ICANN appears to have assumed that the introduction of new gTLDs necessarily will enhance competition and promote choice and innovation, without offering any evidence to support that assumption **The Division makes two specific recommendations. First, ICANN’s general approach to new gTLDs should be revised to give greater consideration to consumer [registrant] interests. ICANN should more carefully weigh potential consumer harms against potential consumer benefits before adding new gTLDs and renewing new gTLD registry agreements. Second, the RFP process and proposed registry agreement should include provisions that would enable ICANN to constrain new registry operators from exercising market power. In particular, ICANN should establish competitive mechanisms for authorizing new gTLDs and renewals of gTLD registry agreements whereby prospective gTLD operators would compete for gTLDs by proposing registry terms – including maximum fee schedules – that would provide consumer [registrant] benefits.”***—[U.S. Department of Justice, Antitrust Division, December 3, 2008\[drive.google.com\]](#) (pdf) (read the entire letter!) via a [U.S. Department of Commerce \(NTIA\) letter\[icann.org\]](#) (pdf) in December, 2008.

Why did ICANN reject (and to this day continues to reject) the wise, experienced, expert advice of the U.S. Department of Justice Antitrust Division, which is among the world’s foremost authorities on “consumer choice and competition” issues?

I note that the correspondence I referenced above appears in ICANN's records at <https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf>[\[icann.org\]](#). I have searched and have not found any response from ICANN to the December 2008 correspondence from NTIA and DOJ referenced above. I find a response in April 2009 from [ICANN Sr. V.P. Kurt Pritz to NTIA\[icann.org\]](#) but that letter specifically states it is responding to correspondence from NTIA of August 1, 2008, NOT the correspondence I referenced above. I know Mr. Namazi was not employed by ICANN until 2013, but my questions were not directed

to him. They were specifically directed to the ICANN President & CEO Goran Marby, ICANN Chairman Steve Crocker (& Board), and Global Domains Division President Akram Atallah. Mr. Atallah worked alongside Kurt Pritz, both before and after Mr. Pritz resigned due to an [undisclosed "conflict of interest" in late 2012\[domainmondo.com\]](#). In addition, the current ICANN Chairman has been on the ICANN Board from late 2008 to present. Since the the new gTLDs program is currently being reviewed and initial planning is underway for the "next round(s)," it would be helpful to understand whether ICANN, its community, its management and staff, and its Board of Directors, ever responded, discussed, or otherwise seriously considered the specific recommendations from the U.S. Department of Justice Antitrust Division dealing with new gTLDs, "consumer choice and competition," and consumer (registrants) protection, as set forth specifically in DOJ's letter of December 3, 2008, and if not, why not? If there are documentary records specifically applicable in answering this, it would be helpful if you could provide direct links to those documents since the ICANN website is a "mess" and has **many** broken links.

Note that I deferred having an answer given to these questions during the stakeholder call on April 27, 2017, in response to Mia Crampton's request at that time in Adobe private chat: "We'd like to get back to you offline so we can be as thorough as possible to your many questions."

I look forward to your response.

John Poole
Contact Information Redacted