



February 14, 2020

Internet Corporation for Assigned Names and Numbers
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Re: Troubling Efforts to Distort and Undermine the Multistakeholder Process

We write regarding ICANN's request for public comment on the Proposed Amendment 3 to the .com Registry Agreement and the Letter of Intent.

As a party to the proposed Amendment 3 to the .com Registry Agreement, and the proposed binding Letter of Intent, Verisign has already made clear that we believe the changes to the .com Registry Agreement are consistent with those approved by the United States Government. Together with the Letter of Intent, these changes will strengthen the security, stability and resiliency of the Domain Name System, while respecting ICANN's role as the *coordinator* of the DNS, and not as a price regulator. This comment addresses the troubling attempt by a small but vocal group that sought to hijack ICANN's processes, distort the outcome of this open public comment period, and undermine ICANN's legitimacy, solely to further its own undisclosed pecuniary interests.

The Internet Commerce Association ("ICA") and other allies in the domain name speculation business including registrars like Namecheap and Dynadot, have made a concerted effort to distort this public comment period. They have distorted the facts in a campaign-style effort to flood ICANN with public comments created by form-letter generators and templates created for the sole purpose of protecting their own financial stake in the speculation business.

The ICA represents domain name speculators that now align with certain registrars like Namecheap. More than any other group engaged in the ICANN multistakeholder process, these speculators are highly sensitive to even the smallest wholesale price changes because of the enormous portfolios of .com domain names they control. They register these .com domain names almost exclusively for the purpose of selling them at a markup that can be thousands, and in some cases millions,¹ of dollars higher than the highest advertised retail price in the

¹ *Domain Name Wire*: Record breaker: Voice.com domain sells for staggering \$30 million
<https://domainnamewire.com/2019/06/18/record-breaker-voice-com-domain-name-sells-for-staggering-30-million/>

marketplace. As a recent example, moments before the World Health Organization announced the official name of the coronavirus, Namecheap [registered](#) the name (covid-19.com) to a domain name speculator, presumably unassociated with the public health mission of the WHO.² Speculators sometimes sell these domain name registrations to other speculators, but more often they pass these costs along when they sell the domain names to legitimate internet users who wish to use .com domain names to build websites. We believe this resale activity adds little value to the DNS.

The stakes are high for these speculators. In 2018 correspondence with the U.S. National Telecommunications and Information Administration, ICA claimed that its small membership (a total of 85 companies and individuals according to its website) controlled more than 10 million domain names.³ While they deliberately obfuscate this fact in their public communications, the ICA-led campaigns are designed solely to keep the costs of their domain name portfolios as low as possible. Because this secondary market activity is lucrative, those engaged in it are incentivized to say and do whatever it takes to keep the status quo, including, unfortunately, launching deceptive campaigns to distort a public comment process intended for the legitimate use of the global internet community.

The campaign efforts to flood the comment period are obvious. From January 3, 2020, when the comment period opened, until February 6, only 16 comments had been filed. Then, on February 7, the ICA launched its automated comment [generator](#),⁴ promoting it on a network of blogs popular with speculators, while other speculators like Namecheap and Dynadot launched similar coordinated campaigns with their customers. These campaigns are based on distortions and misleading omissions which should be understood by ICANN and the community.

For example, in order to generate public comments, ICA falsely asserted that “ICANN sets the price for .com names,” despite the fact that ICANN has made clear that it is not a price regulator. ICA also omits the key fact in any discussion about .com pricing: the U.S. Department of Commerce found that the terms in Amendment 35 to Cooperative Agreement *including the pricing terms* were in the public interest.⁵ ICA also omits another key fact which is that neither ICANN nor Verisign can set the retail prices for .com domain names. The speculators themselves and their registrars, like Namecheap, set the prices—a fact which these campaigns have failed to disclose to the very people they urge to submit public comments. Indeed, while the misleading campaigns are ongoing, the speculators continued to revel in the exorbitant prices

² *Domain Incite: Covid-19: It’s official, domainers are faster than journalists* <http://domainincite.com/25243-covid-19-its-official-domainers-are-faster-than-journalists>

³ Internet Commerce Association letter to the National Telecommunications and Information Administration https://www.ntia.doc.gov/files/ntia/publications/ica_comment_-_july_17_2018.pdf

⁴ Internet Commerce Association comment generators <https://www.internetcommerce.org/comment-com/>

⁵ Amendment 35 to the Cooperative Agreement https://www.ntia.doc.gov/files/ntia/publications/amendment_35.pdf

they themselves set and obtained for .com domain names.⁶ Namecheap, discussed next, is still selling .com domain names on their website for tens of thousands of dollars.⁷

Namecheap's campaign was similarly full of mischaracterizations. In a [blog](#)⁸ timed to coincide with the ICA comment-generation effort, Namecheap omitted the same key facts that ICA omitted and added new mischaracterizations. For example, Namecheap characterized the discussion between ICANN and Verisign as held "in secret," a point that can be refuted with a simple internet search but was clearly intended to raise a baseless appearance of collusion. The simple truth is that the discussions were just like all discussions with ICANN and contracted parties, including Namecheap itself. As a matter of fact, the pricing terms of the proposed amendment to the .com Registry Agreement flow from the Cooperative Agreement between Verisign and the U.S. Department of Commerce. They were never secret and have remained a constant discussion topic, including on [speculator blogs](#) for years.⁹ The Namecheap blog also contained detailed instructions on how to file a public comment, essentially a toolkit or template, based on this false and misleading narrative.

The campaigns by the speculators created the tools and templates that drove end users to flood ICANN with public comments but they did so without disclosing key information from the documents themselves or from ICANN's detailed description of them. In this way, the speculators have attempted to hijack the legitimate public comment period for their own undisclosed and self-interested purposes.

We understand that best practices require that even form-letters and campaign-generated public comments must be reviewed. We also understand that [best practices](#)¹⁰ recognize that such comments cannot and should not represent a "vote," especially when they have been generated based on deception. Given the wide-spread recognition of such best practices, it raises the question of why ICA and their registrars engaged in this campaign activity in the first place. Based on recent observations in similar public comment periods, it would appear that these groups intend to weaponize the public comments in the following way: if ICANN conducts a review of the public comments and reaches a reasoned decision against the positions taken by the speculators, then the speculators intend to accuse ICANN of "ignoring thousands of public comments." Thus, it would appear that the purpose of the campaigns is to de-legitimize ICANN

⁶ *Domain Name Wire*: Profitable.com domain name sells for \$200,000

<https://domainnamewire.com/2020/02/11/profitable-com-domain-name-sells-for-200000/>

⁷ Namecheap results page for the name "Blackburn"

<https://www.Namecheap.com/domains/registration/results.aspx?domain=blackburn>

⁸ Namecheap blog <https://www.Namecheap.com/blog/icann-allows-com-price-increases-gets-more-money/>

⁹ *Domain Name Wire* (2018): Breaking: U.S. Gov Grants Verisign .Com Price Hikes

<https://domainnamewire.com/2018/11/01/breaking-u-s-gov-grants-verisign-com-price-hikes/>

¹⁰ U.S Government recommendations on effective comments, and guidance on form letters

https://www.regulations.gov/docs/Tips_For_Submitting_Effective_Comments.pdf

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and its public comment process. This is grossly unfair to ICANN and to the ICANN community's public comment process, and it serves only the narrow, pecuniary interests of the unregulated speculation business.

We look forward to working with ICANN and the community to consider the extent to which new processes, rules and oversight can be employed to prevent groups like ICA and their registrars from continuing to distort and undermine the multistakeholder process in the future.
