

World Trademark Review Daily

**Further Notice of Inquiry on IANA's future contract published
United States - Hogan Lovells**

**Internet issues
Government/policy**

July 08 2011

The [National Telecommunications and Information Administration](#) (NTIA), whose mission purpose describes it as "an agency in the US Department of Commerce... principally responsible for advising the president on telecommunications and information policies", has published a [Further Notice of Inquiry](#) that includes a Draft Statement of Work intended to "detail the work requirements" for the functions of the [Internet Assigned Numbers Authority](#) (IANA) and, effectively, to form the basis for IANA's future contract.

IANA is the entity that oversees global IP address allocation, root zone management in the Domain Name System (DNS) and other related functions. IANA is currently operated by the [Internet Corporation for Assigned Names and Numbers](#) (ICANN), but was originally run by the [Information Sciences Institute of the University of Southern California](#) under a contract with the [US Department of Defence](#). As such, it has always been under US control. IANA's contract is next up for renewal on September 30 2011.

In a section entitled "Responsibility and Respect for Stakeholders", the Draft Statement of Work stipulates that, in processing requests relating to new generic top-level domains (gTLDs):

"the contractor shall include documentation to demonstrate how the proposed string has received consensus support from relevant stakeholders and is supported by the global public interest."

This has been interpreted by some as an attempt by NTIA to establish veto powers for [ICANN's Government Advisory Committee](#) (GAC), which is a policy advisory body composed of the representatives of various governments from around the world.

ICANN's Applicant Guidebook is a document that sets out the rules and mechanisms for all aspects of the new gTLD application process. In its seventh iteration, and still a work in progress in spite of the fact that the new gTLD programme was approved by the ICANN board on June 20 2011, it does not require "consensus support from relevant stakeholders" in order for a new TLD to be approved. It provides the GAC with various mechanisms to highlight problematic new gTLDs, such as the GAC early warning notice and the GAC advice process, but the ICANN board can simply choose to brush off the GAC's concerns, as it did recently in relation to the approval of both '.xxx' and the new gTLD programme.

In the run-up to the approval of '.xxx', US government reservations concerning the approval of this controversial TLD were expressed by the administrator of NTIA, Laurence Strickling. However, these objections emphasised perceived risks to the stability of the internet rather than on any moral objections to the TLD, and they stopped short of any kind of strong-arm tactics that might invite the ire of those who would like to wrest control of internet governance out of US hands and place it under the auspices of a UN-controlled body. NTIA's latest action would thus seem to be a cunning ploy to discretely re-empower the GAC and its constituents, including the United States.

The United States found one of its most fervent allies in its resistance to both the new gTLD approval process and the approval of '.xxx' in European Commission vice president and digital agenda commissioner Neelie Kroes. Kroes and Strickling met on May 12 2011 after Kroes had gone so far as to write to US Secretary of Commerce Gary Locke, subsequent to approval of '.xxx', requesting that he block its addition to the DNS root in order to allow for more time for the concerns of the GAC and other parties to be heard. Strickling responded in a letter dated April 20 2011 to Kroes stating that, while the Obama administration did not support ICANN's decision on '.xxx', he did "not think it is in the long-term best interest of the United States or the global internet community for us unilaterally to reverse the decision".

In any event, all of this may be only a taster for the ructions to come when ICANN is faced with approving controversial new gTLDs, such as '.gay' and '.porn'.

David Taylor and Cindy Mikul, Hogan Lovells LLP, Paris

World Trademark Review *Daily*

World Trademark Review (www.worldtrademarkreview.com) is a subscription-based, practitioner-led, bi-monthly publication and daily email service which focuses on the issues that matter to trademark professionals the world over. Each issue of the magazine provides in-depth coverage of emerging national and regional trends, analysis of important markets and interviews with high-profile trademark personalities, as well as columns on trademark management, online issues and counterfeiting.