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**SENT VIA E-MAIL, U.S. MAIL, AND BY FAX TO (310) 823-8649**

13 December 2001

Louis Touton, Esq.  
Vice President and General Counsel  
Administrator of the IANA Function  
Internet Corporation for Assigned Names & Numbers  
4676 Admiralty Way, Suite 330  
Marina Del Rey, CA 90292-6601

**Re: <.cx> Nameserver Changes and IANA Database  
Correction**

Dear Mr. Touton:

As you are aware, this firm represents Dot CX Limited ("Dot CX"), which is currently responsible for the administration of the <.cx> country code top-level domain name (the "CX ccTLD").

Dot CX requests that the Internet Assigned Numbers Authority ("IANA") change all of the CX ccTLD nameservers in accordance with the Nameserver Modification Request attached to this letter.

Additionally, Dot CX would like to follow up my letter of July 5, 2001, in which we asked for clarification regarding IANA and the Internet Corporation for Assigned Names & Numbers ("ICANN")<sup>1</sup> procedures and process related to updating IANA's database of ccTLD administrators (the "Database").

**NAMESERVER UPDATES**

Under separate cover by e-mail to root-mgmt@iana.org, Dot CX requests the nameserver changes also attached to this letter. Dot CX has recently invested in new equipment, better more secure technology, and made new arrangements for the housing of nameservers and other equipment. Until IANA changes the nameservers, however, Dot CX cannot take advantage of these security upgrades. Consequently, it cannot be

<sup>1</sup>

We use "ICANN" and "IANA" synonymously herein because ICANN administers the IANA function.

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assured of on-demand access to apply the latest security patches and software updates. Moreover, it cannot ensure the security of the CX ccTLD nameservers to prevent hacking or disruption due to financial or other occurrences.

Thank you in advance for your prompt attention to these nameserver changes.

## **DATABASE UPDATE; RECENT ICANN PRECEDENT**

As you know, the IANA Database does not properly reflect Dot CX and its contact information in connection with the CX ccTLD. Rather, the Database reflects Planet Three as the CX ccTLD manager. Planet Three is insolvent and was dissolved some time ago.

We wish to commend ICANN on its decision to properly reflect Neustar, the manager of the <.us> country code top-level domain name (“the US ccTLD”), in the Database. Specifically, ICANN announced that the true contacts for the US ccTLD would be listed in the Database because ICANN would not “[create] a situation where [a new party would manage the US ccTLD] but there would be inconsistent data in the IANA database.” ICANN logically explained its rationale for this decision: “Given ICANN’s primary mission focus on stability (and security as part of achieving stability), ICANN authorized an emergency redelegation prior to an appropriate contract.” ICANN’s decision concerning the US ccTLD is important precedent, which we hope IANA will apply to the CX ccTLD situation.

Like Neustar with respect to the US ccTLD, Dot CX is the true manager of the CX ccTLD. Indeed, the facts underlying the transfer of management of these two ccTLDs are analogous. The only distinction between the two managers is that the predecessor in interest to Dot CX agreed with the transfer of the CX ccTLD management responsibilities to Dot CX in accordance with RFC 1591; whereas, there is no public record as to whether the predecessor in interest to Neustar approved of the transfer of the US ccTLD.

Unlike the US ccTLD situation, however, Dot CX notified IANA almost two years ago that Dot CX had assumed responsibility for the management of the CX ccTLD pursuant to a formal assignment and delegation agreement between Planet Three and it. Then, Dot CX delivered to you seven (7) formal requests to IANA, and countless informal requests, to properly reflect the contact details for the CX ccTLD in the Database.

Though you have acknowledged receipt of Dot CX’s notices and requests, ICANN has never responded to them.

For your reference, the following is a review of some of the communications between Dot CX and ICANN:

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## **HISTORY OF DOT CX COMMUNICATION WITH IANA**

In a letter dated 5 March 2000, Planet Three and Dot CX jointly notified IANA of the change in control of the CX ccTLD from Planet Three to Dot CX, and requested a re-delegation of the CX ccTLD to Dot CX.

In July 2000, Dot CX, its Australian counsel, and representatives of the Christmas Island community, met with you at the ICANN meeting in Yokohama and presented documentation supporting the transfer of the administration of the CX ccTLD to Dot CX (including several letters of endorsement, Dot CX's constitution, and copies of Dot CX's policies and relevant agreements).

In January 2001, this firm contacted you and again, on behalf of the parties, requested the re-delegation be reflected in the IANA Database. You advised that no re-delegation would occur until ICANN developed a standardized contract and procedure for re-delegations in general.

On Friday, 2 February 2001, Dot CX and Planet Three jointly and formally requested that IANA cause the Authoritative Root to reflect certain nameservers and IP Addresses with respect to the CX ccTLD, including a change to the primary nameserver.

On Sunday, 4 February 2001, you sent me a message by e-mail which stated "Thanks for your message. I have forwarded it to <root-mgmt@iana.org> for processing. In looking it over quickly, it appears that it will take significantly longer than the timeframe you mention to obtain the necessary approvals and make the necessary inquiries to process this request."

On Friday, 9 February 2001, you advised that IANA refuses to change the primary nameservers relating to the CX ccTLD unless the Commonwealth of Australia approves of the request. You further advised that a re-delegation of the CX ccTLD would "take several months" and that no re-delegation will occur until ICANN develops a uniform process and contract for re-delegations.

On 28 June 2001, this firm contacted you and again urgently requested that ICANN reflect the accurate contact parties for the CX ccTLD in the IANA Root-Zone Whois Information database.

On 5 July 2001, you sent me an email that stated, "We have made a request to change the nameservice for the .cx top-level domain. This may be implemented on Friday, but it is more likely not to occur until early next week. Please note that this request is being made only to enhance the quality of the nameservice. The sponsoring organization, administrative contact, and technical contact for .cx remain as listed at <<http://www.iana.org/root-whois/cx.htm>> while the IANA continues its review of the

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pending redelegation request. The IANA's making of the request for change of nameservice has no effect on that review.”

On 5 July 2001, this firm sent you a letter requesting clarification of your advice. We were pleased IANA had begun “review of the pending redelegation request”, but Dot CX had not been contacted regarding such review. We requested information relating to such review process, both generally as to redelegations, and specifically as to Dot CX's case.

Again, IANA did not respond to our request.

### **ICANN THREATENS THE STABILITY OF THE INTERNET**

The reasons supporting correction of the Database are multiple and have been well chronicled in correspondence to you (*e.g.*, IANA's refusal to maintain an accurate Database threatens the stability of the Internet, violates the policies of IANA and ICANN, violates ICANN's agreement with the United States government, and interferes with the businesses of various parties). Furthermore, ICANN acknowledged in its public statements concerning the US ccTLD the precarious effects of improperly reflecting a defunct ccTLD administrator (*i.e.*, threat to Internet stability and security).

Accordingly, we again respectfully request that IANA update the Database to properly reflect management of the CX ccTLD. Attached to this letter, please find the specific contact details which should be included in the Database.

### **ACCURATE IANA DATABASE SUPPORTED BY ALL RELEVANT PARTIES**

Recognition of Dot CX as the CX ccTLD administrator is universal and uncontested. All relevant parties have endorsed Dot CX as the manager of the CX ccTLD. By way of example, and certainly not limitation, the Australian Federal Police, the Business Software Alliance, and the ccTLD constituency of ICANN's Domain Name Supporting Organization all recognize Dot CX as the CX ccTLD administrator and endorse proper reflection of the same in the IANA Database.

Obviously, until the Database is corrected, Dot CX is unable in many circumstances to implement policies which reflect the values and laws of Christmas Island, such as regulations aimed at protecting intellectual property and restricting the spread of child pornography. Law enforcement agencies around the world are largely unable to contact Dot CX because IANA lists a non-existent company as the manager of the CX ccTLD. Parties with grievances against registrant uses of domain names are unable to follow Dot CX's procedures for complaints because those parties are searching for Planet Three, a United Kingdom firm, which ceased to administer the CX ccTLD in

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March of 2000 and which closed its doors earlier this year due to insolvency.

## **CONCLUSION**

As ICANN's memoranda regarding the redelegation of the US ccTLD correctly note, the integrity and stability of the Internet is at stake as a result of an inaccurate IANA Database. It is regrettable, but curable, that IANA has made a deliberate decision to list an insolvent company as the administrator of the CX ccTLD. This decision is clearly contrary to the wishes of Christmas Island Community and sound management of the domain name system.

Please amend the Database to properly reflect Dot CX, and its contact details, in connection with the administration of the CX ccTLD.

If ICANN does not intend to promptly grant Dot CX's requests, we respectfully request a substantive response to this letter by Friday, 21 December 2001.

Dot CX and all related parties reserve their respective rights and claims against ICANN.

Should you have any questions or concerns, or wish to discuss the issues described above, please do not hesitate to contact me at anytime. My direct dial telephone number is (206) 695-4747.

Thank you for your consideration.

Very Truly Yours,

NEWMAN & NEWMAN,  
ATTORNEYS AT LAW, LLP



Derek A. Newman

cc: Dot CX Limited



## PROPER ROOT-ZONE WHOIS INFORMATION FOR THE <.CX> ccTLD

### Sponsoring Organization:

Dot CX Limited  
Christmas Island Technology Centre (VLU2)  
Nursery Road, Drumsite  
Christmas Island  
Indian Ocean, 6798  
Voice: + 61 (0)8.9164.8808  
Fax: + 61 (0)8.9164.8879

### Administrative Contact:

Alan Fealy, Managing Director  
Dot CX Limited  
Christmas Island Technology Centre (VLU2)  
Nursery Road, Drumsite  
Christmas Island  
Indian Ocean, 6798  
E-mail: [alan.fealy@nic.cx](mailto:alan.fealy@nic.cx)  
Voice: + 61 (0)8.9164.8808  
Fax: + 61 (0)8.9164.8879

### Technical Contact:

Brad Waugh, Technology Manager  
Dot CX Limited  
Christmas Island Technology Centre (VLU2)  
Nursery Road, Drumsite  
Christmas Island  
Indian Ocean, 6798  
E-mail: [brad.waugh@nic.cx](mailto:brad.waugh@nic.cx)  
Voice: + 61 (0)8.9164.8808  
Fax: + 61 (0)8.9164.8879

URL for Registration Services: <http://www.nic.cx>



## NAMESERVER MODIFICATION REQUEST

POSITION	EXISTING HOST	IP	INSTRUCTION	NEW HOST	NEW IP
Primary	NS5.NETDNS.CO.NZ	206.253.214.140	<b>REPLACE</b>	NS1.CX-NIC.ORG	206.253.214.136
Secondary	NS0.FLIRBLE.ORG	195.40.6.20	<b>REPLACE</b>	NS2.CX-NIC.ORG	206.253.214.122
Secondary	NS.CIX.CX	195.222.235.217	<b>REPLACE</b>	NS.CX-NIC.ORG.NZ	210.54.90.174
Secondary	NS2.CCSRS.NET	206.253.214.73	<b>REPLACE</b>	NS.CX-NIC.CC	206.191.159.222
Secondary	NS1.CCSRS.NET	206.191.159.73	<b>REPLACE</b>	NS1.CX-NIC.CX	203.132.96.8
Secondary	NS2.COCONUTCOMPUTING.NET	203.132.88.17	<b>REMOVE</b>		