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

February 13, 2001  
Christmas Island Date: 14 February 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> Primary Nameserver Changes and Correction to  
Contact Database**

Dear Mr. Touton:

As you are aware, we represent Dot CX Limited ("Dot CX"), the party currently responsible for the administration of the <.cx> country code top-level domain name (the "CX ccTLD"). The CX ccTLD identifies Christmas Island. Dot CX is a not-for-profit corporation formed under the laws of the Commonwealth of Australia operated by and for the community of Christmas Island.

Thank you for taking the time to speak with me on Friday, 9 February 2001 regarding Dot CX's request for changes to the CX ccTLD nameservers. We also advised you that IANA maintains an incorrect database which provides that Karinna Love and Chris Love are the administrative and technical contacts, respectively, for the CX ccTLD. In fact, on 26 June 2000, Planet Three Ltd. assigned all of its rights and delegated all of its duties with respect to the management of the CX ccTLD to Dot CX. Mr. and Mrs. Love, and their company Planet Three Ltd., have expressed that they want to be disassociated with the management of the CX ccTLD registry.

In summary, you advised that IANA would not make the requested nameserver changes, nor will IANA correct its database of ccTLD administrators. We respectfully request that you reconsider that decision.

For the reasons described below, we believe IANA's refusal to modify nameservers and update the CX ccTLD contact information threatens the stability of the Internet, violates the policies of IANA and ICANN, and

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violates ICANN's agreement with the United States government.

## **BRIEF SUMMARY OF DOT CX LIMITED COMMUNICATION WITH IANA**

In or around July, 2000, you met with representatives of Planet Three and Dot CX who advised you that Dot CX had assumed responsibility for the management of the CX ccTLD.

In a letter dated 14 July 2000, Dot CX advised IANA in writing of the correct contact information for Dot CX, but IANA did not reflect the correct information in its database of contacts. That letter is attached hereto.

In January, 2001, this firm contacted you and again, on behalf of the parties, requested the nameserver changes and proper reflection of Dot CX contact details. However, IANA did not even attempt to confirm the urgent request despite representations that the primary nameserver was experiencing difficulties.

On 2 January 2001, Chris Love of Planet Three again notified you that all instructions relating to the CX ccTLD should come from Dot CX, and not Planet Three. Specifically, Mr. Love wrote: "Dear Louis, The technical management, trustee and policy setting functions for the cx ccTLD have been transferred to Dot CX Limited, if you have received a request from either Alan Fealy, Garth Miller or their legal counsel in the US or Australia then please act on that request."

On Friday, 2 February 2001, Dot CX and Planet Three, through a letter from this firm, 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 nameservers relating to the CX ccTLD unless the Commonwealth of Australia approves of the request. You further advised that IANA refuses to correct its database of ccTLD administrators and reflect the correct administrators for the CX ccTLD.

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

Currently, Dot CX is operating the CX ccTLD. It is the designated manager *de facto* for

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the CX ccTLD, meaning it is responsibly performing all of the obligations of the designated manager and no other party is doing the same. Currently, Dot CX is operating a shared registry system, propagating the zone files from the CX ccTLD shared registry database, routing traffic, facilitating the registering of domain names by accredited registrars, and answering root queries. IANA's failure to modify the nameservers for the CX ccTLD threatens the technical function of the CX ccTLD and the stability and integrity of the DNS in general.

Dot CX and the administrators it appointed should be properly reflected in the database of ccTLD administrators. Until IANA causes the correction of that database, persons wishing to contact the party responsible for the CX ccTLD will not be able to find Dot CX. Likewise, Dot CX is unfairly burdened in its efforts to responsibly and properly administer the CX ccTLD because, in contravention to IANA's own policies, IANA fails to recognize Dot CX's authority.

IANA can cure this serious problem by simply causing the requested nameserver changes and by properly reflecting the correct contact information for the CX ccTLD administrative and technical contacts.

## **VIOLATIONS OF ICANN AND IANA POLICIES**

ICANN serves the function of the Internet Assigned Numbers Authority (*i.e.*, the IANA function). The IANA function existed before ICANN's formation. Ostensibly, ICANN undertakes the IANA function pursuant to (i) RFC 1591; (ii) the document known as ICANN IANA Internet Domain Name System Structure and Delegation ("ICP-1"); and (iii) Contract Between ICANN and the United States Government for Performance of the IANA Function. RFC 1591 was the internal and public policy document which IANA promulgated before ICANN's formation. ICP-1 is the internal and public policy document which ICANN promulgated to summarize ICANN's administration of RFC 1591 and the administration of DNS delegations. ICP-1 includes substantially the same provisions as RFC 1591, and by its own terms does not modify nor supersede RFC 1591.

RFC 1591 provides with respect to ccTLDs and ccTLD administrators, among other things, that [with emphasis added]:

1. "... For top-level domains that are country codes at least the administrative contact must reside in the country involved . . ."
2. "... These designated authorities are trustees for the delegated domain, and have a duty to serve the community . . ."
3. "The designated manager must "[respond] to requests in a timely manner,

and [operate] the database with accuracy, robustness, and resilience.”

4. “There must be a primary and a secondary nameserver that have IP connectivity to the Internet and can be easily checked for operational status and database accuracy by the IR and the IANA.”

However, because of IANA’s inaction, in the case of the CX ccTLD, the above quoted ccTLD requirements cannot be completely met. Specifically:

1. The administrative contact IANA improperly lists for the CX ccTLD lives in the United Kingdom, and not on Christmas Island. The administrative contact selected by the relevant local community lives on Christmas Island and is accountable to the Christmas Island community, but IANA refuses to correct its database to so reflect that person.

2. The administrative and technical contacts for the CX ccTLD that IANA incorrectly lists are not performing as trustee for the CX ccTLD. In fact, the contacts IANA incorrectly reflects, on or about 14 August 2000, wrote to ICANN and advised that, at the request of the relevant local community, they transferred all policy and trustee functions of the CX ccTLD to Dot CX. Dot CX is founded upon the principal of serving the local community and the Internet community at large. Dot CX is a non-profit community owned corporation established to serve as the trustee for the CX ccTLD and manage the Christmas Island Information Economy Development Trust.

3. Until IANA’s database reflects them, the contact persons for the CX ccTLD cannot respond to requests. Moreover, IANA’s failure to properly reflect the primary nameserver in the A Root threatens the accuracy, robustness, and resilience of the operation of the CX ccTLD.

4. IANA will not reflect the correct identity of the primary nameserver for the CX ccTLD.

ICANN is interfering with its own RFC 1591 and ICP-1 policies. At the sole fault of IANA, none of the above criteria are met.

## **VIOLATION OF AGREEMENT WITH UNITED STATES GOVERNMENT**

The 8 February 2000 agreement between ICANN and the United States government requires ICANN to undertake

“[a]dministrative functions associated with root management. This function involves facilitation and coordination of the root zone of the domain name system. It includes receiving requests for and making routine updates of

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ccTLD contact and nameserver information.”

Therefore, it is ICANN's duty to make nameserver changes when the proper authority so requests the same. In this case, both the former administrative and technical contacts (*i.e.*, the Loves), as well as the *de facto* designated manager (*i.e.*, Dot CX), have together requested certain routine changes to the record for the CX ccTLD. ICANN refuses to cause the changes and does not provide any basis for its decision. Accordingly, ICANN is in violation of a material term of its agreement with the United States government.

## CONCLUSION

Dot CX is the trustee, technical administrator, and policy setting body for the CX ccTLD. Its appointed administrative and technical contacts should be reflected in IANA's database of contacts. The integrity and stability of the Internet is at stake as a result of ICANN's refusal to undertake the simple nameserver modification and contact update.

We again request the nameserver changes, and that IANA update the administrative and technical contacts for Dot CX to reflect the actual administration of the CX ccTLD.

Dot CX and all related parties reserve their respective rights and claims against ICANN and persons working in concert therewith.

Should you have any questions, please do not hesitate to contact the undersigned by direct dial at (206) 381-0840.

Very Truly Yours,

NEWMAN & NEWMAN,  
ATTORNEYS AT LAW, LLP



Derek A. Newman

cc: Dot CX Limited