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Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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July 25, 2024

The Honorable Alan Davidson
Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration
Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Assistant Secretary Davidson,

We write to you concerning the National Telecommunications and Information Administration's (NTIA) Internet domain name registry agreement with Verisign, Inc. (Verisign).

The NTIA represents the United States government on the Governmental Advisory Committee of the Internet Corporation for Assigned Names and Numbers (ICANN), the multi-stakeholder, not-for-profit entity that was founded in 1998 to coordinate the Internet domain name system, among other Internet management-related activities.¹ Since 2001, Verisign has operated the .com and .net domain name registries.² Verisign manages the .com registry under two agreements—a .com Registry Agreement between ICANN and Verisign and a Cooperative Agreement between the NTIA and Verisign.³

Both of these agreements are in place through November 30, 2024.⁴ As the expiration dates of these agreements approach, some have suggested that the NTIA should reassess certain

¹ NAT'L TELECOMM. AND INFO. ADMIN., DEP'T OF COMMERCE, *ICANN*, [https://www.icann.org/history](https://www.ntia.gov/category/icann#:~:text=NTIA%20represents%20the%20U.S.%20government,of%20issues%20pending%20before%20ICANN;INTERNET CORP. FOR ASSIGNED NAMES AND NUMBERS, <i>ICANN History</i>, <a href=) (last visited June 18, 2024).

² Nat'l Telecomm. and Info Admin and Verisign, *.Com Registry Agreement*, Dec. 1, 2012 (last amended June 30, 2023); U.S. Dep't of Commerce, *Cooperative Agreement No. NCR 92-18742* (last amended Oct. 26, 2018) [hereinafter *Cooperative Agreement*]. See, e.g., JD SUPRA, *Antitrust Advisory: VeriSign Still On the Hook for Antitrust Allegations* (June 10, 2009), <https://www.jdsupra.com/legalnews/antitrust-advisory-verisign-still-on-th-04725/>.

³ See, e.g., INTERNET CORP. FOR ASSIGNED NAMES AND NUMBERS, *ICANN and Verisign Announce Proposed Amendment to .COM Registry Agreement* (Jan. 3, 2020), <https://www.icann.org/en/announcements/details/icann-and-verisign-announce-proposed-amendment-to-com-registry-agreement-3-1-2020-en>.

⁴ U.S. Dep't of Commerce, *Amendment 35, Cooperative Agreement No. NCR 92-18742* (Oct. 26, 2018) [hereinafter *Amendment 35*]; Nat'l Telecomm. and Info Admin and Verisign, *Third Amendment to the .COM Registry Agreement*, (Mar. 27, 2020).

aspects of both agreements. Under the Cooperative Agreement's terms, it will automatically renew on November 30, 2024, unless Verisign provides written notice of non-renewal within 120 days of its expiration.⁵ That date is approaching.

Beginning with a 2006 agreement that extended the original .com Registry Agreement for six years, Verisign has had a right of renewal,⁶ rather than ICANN holding a competitive bidding process for managing the .com registry at the expiration of each agreement. Similarly, the Cooperative Agreement has also granted Verisign a right of renewal since 2006.⁷ The Department of Justice has previously recommended ICANN hold a competitive bidding process for renewals of registry agreements.⁸ Members of Congress have also noted that Verisign's exclusive control of .com allows it to operate as a monopoly over the .com registry.⁹

The current agreement, as amended, has allowed Verisign, with ICANN's agreement, in each of the last four years of every six-year contract period, to increase the maximum price Verisign charges for yearly registration or renewal of a .com name by up to seven percent over the maximum price it charged in the previous year.¹⁰ Verisign has since instituted a price increase of the maximum amount in every year it was allowed to do so.¹² Some have argued that Verisign enjoys considerable profit margins from managing the registry, charging far more than it costs to operate it.¹³

With both a role in advising ICANN and as a party to the Cooperative Agreement, the NTIA bears responsibility for supporting a domain name system that enables the growth of online commerce. Both individual consumers and businesses depend on responsible management of the .com system. Monopolistic elements and excessive domain name price increases stifle the ability of potential .com registrants to conduct business online.

As such, we seek more information about the NTIA's process in considering the renewal of both the Registry Agreement and the Cooperative Agreement. Please answer the following questions by no later than August 8, 2024:

⁵ Amendment 35, *supra* note 4, at 6(a).

⁶ Internet Corp. for Assigned Names and Numbers and Verisign, .Com Registry Agreement § 4.2., Mar. 1, 2006.

⁷ U.S. Dep't of Commerce, Amendment 30, Cooperative Agreement No. NCR 92-18742 (Nov. 29, 2006).

⁸ *See* Letter from Deborah Garva, Acting Assistant Attorney General, Department of Justice, to Meredith A. Baker, Acting Assistant Secretary for Communications and Information, National Telecommunications and Information Administration, Dep't of Commerce 7 (Dec. 3, 2008).

⁹ *See, e.g.*, Letter from Senator Ted Cruz, Chairman, Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, Senate Committee on the Judiciary, to Renata B. Hesse, Acting Attorney General, Antitrust Division, Department of Justice (Aug. 12, 2016).

¹⁰ Amendment 35, *supra* note 4, at 2.

¹¹ U.S. Dep't of Commerce, Amendment 30, Cooperative Agreement No. NCR 92-18742 § 2 (Nov. 29, 2012).

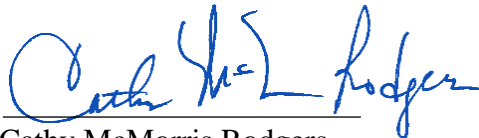
¹² *E.g.*, THE CAPITOL FORUM 1, vol. 12, No. 289, May 14, 2024.

¹³ *See, e.g.*, Letter from Zak Muscovitch, General Counsel, Internet Commerce Association, to Technology and Digital Platforms Service (Aug. 21, 2021), *available at* <https://subscriber.politicopro.com/f/?id=00000180-0057-dbc2-a7c6-697731f40002>.

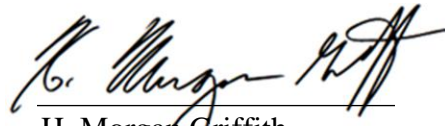
1. Has the NTIA engaged in any negotiations with Verisign regarding the modification or renewal of the Cooperative Agreement? If so:
 - a. When did these begin?
 - b. When does the NTIA anticipate they will conclude?
2. Has the NTIA conducted or commissioned any studies on the following:
 - a. The effect of the recent price increases implemented by Verisign on the .com domain name marketplace; or
 - b. the impact of potential registration price increases on the .com domain name market?
3. Has the NTIA consulted with the Department of Justice or any other federal agencies regarding renewal of the Cooperative Agreement or the Registry Agreement?
4. Has the NTIA provided any opportunities for public feedback or comment on the Cooperative Agreement or Registry Agreement? If so, please provide the dates and method used.
5. Has the NTIA consulted or sought feedback from any other stakeholders or entities involved with the management of ICANN? If so, please provide the dates and parties consulted?

Thank you for your prompt cooperation with this matter. If you have any questions regarding this request, please contact the Committee Majority staff at (202) 225-3641.

Sincerely,



Cathy McMorris Rodgers
Chair
Energy and Commerce Committee



H. Morgan Griffith
Chair
Subcommittee on Oversight
and Investigations



Robert E. Latta
Chair
Subcommittee on Communications
and Technology