

Regarding:

Department of Commerce NTIA Docket 060519136-6136-01

1. Introductory Note

The Internet Service and Connectivity Provider Community within ICANN thanks the Department of Commerce for the opportunity to comment these important issues. Our customers, the people who power, innovate and use the public Internet, are dependent on fair and transparent technical coordination of the Internet's core functions. The effective coordination of those functions is even more important today than it was eight years ago when the White Paper considered the possibility of a transition of the management of those functions to the private sector.

2. The Response of the ISPCP

The ISPCP continues to support ICANN and the private, multi-stakeholder model it represents. We are taking this opportunity to respond to the Notice of Inquiry by using the seven questions in the Request for Comment as a guide.

2.1 Fundamental Principles

Question 1: The DNS White Paper articulated principles (i.e., stability; competition; private, bottom-up coordination; and representation) necessary for guiding the transition to private sector management of the Internet DNS. Are these principles still relevant? Should additional principles be considered in light of: the advance in Internet technology; the expanded global reach of the Internet; the experience gained over the eight years since the Department of Commerce issued the DNS White Paper; and the international dialogue, including the discussions related to Internet governance at the United Nations World Summit on the Information Society (WSIS)?

The eventual transition to private sector management of the Internet's DNS will be a critical moment in the history of the Internet. We believe that the fundamental principles defined by the original White Paper – stability, competition, private sector participation, bottom-up coordination and multi-stakeholder representation – are the essential guidelines for an unbiased, fair, and innovative Internet. The multi-stakeholder, bottom-up, policy development process used at ICANN has ensured that DNS policy has had input from all voices and that a competitive, open marketplace has been established.

The ISPCP believes that these principles are still relevant and critical.

Over time any organization will find ways of improving its performance. The ISPCP has welcomed, and actively participated in, the recent reform and reorganization of ICANN. We believe that one of the goals of reform was to make better progress toward meeting the goals set forth in the White Paper.

That reform was a thoughtful, careful assessment of ICANN's organization and processes. Reform was also a direct result of the crucial experience that ICANN participants had in the early

years of the organization. Through an ongoing self-examination of its internal operation, ICANN has found the correct balance between radical reform and gradual evolution. Drastic action, in today's Internet is inappropriate – enormous changes to ICANN, or the underlying technical coordination of basic features of the Internet, would lead to a decrease in security and undoubtedly risk the bottom-up, multi-stakeholder policy development process.

Last year, The United Nations World Summit on the Information Society noted that the core functions of the Internet (management of IP addresses, Root Server operations, etc.) were being managed appropriately and fairly. This conclusion may have come as a surprise to some, but for those participating actively in the work of ICANN it was a natural conclusion. ***The WSIS process concluded that these core functions did not require the replacement of any of the existing organizations, including ICANN.***

2.2 ICANN's Progress

Question 2: The DNS White Paper articulated a number of actions that should be taken in order for the U.S. Government to transition its Internet DNS technical coordination and management responsibilities to the private sector. These actions appear in the MoU as a series of core tasks and milestones. Has ICANN achieved sufficient progress in its tasks, as agreed in the MoU, for the transition to take place by September 30, 2006?

The ISPCP believes that most of the core tasks and milestones laid out in the MoU have seen satisfactory progress. We believe that the authors of the original MoU could have never foreseen the complexity of the tasks they were describing. While it may be possible to find some fault on some individual tasks, ICANN's overall record has been good.

The ISP community notes, as a clear example, the progress and professionalism at the Internet Assigned Numbers Authority (IANA). The rapid growth of the Internet during the period covered by the MoU, along with the increased complexity of relationships between IANA and the customers it serves, raised concerns about IANA's ability to cope. However, IANA's performance in the last nine months has greatly improved – this is largely due to getting experienced and competent staff into executive and operational management positions.

While there may be small details in the MoU timeline that have been postponed or reconsidered, any reasonable evaluation of the core tasks set out for ICANN would show that the ICANN has made excellent progress toward its milestones.

We believe that the remaining milestones should provide a firm foundation for an orderly and systematic transition to the private sector at an agreed time in the coming 24 months.

2.3 Transition Timeline

Question 3: Are these core tasks and milestones still relevant to facilitate this transition and meet the goals outlined in the DNS White Paper and the U.S. Principles on the Internet's Domain Name and Addressing System? Should new or revised tasks/methods be considered in order for the transition to occur? And on what time frame and by what method should a transition occur?

The core tasks and milestones in the MoU remain relevant to the Domain Name System's operation. However, a climate of doubt and uncertainty over the US Government's intentions has made it difficult to make ICANN's successes congruent with goals in the MoU.

As a result, the ISP community believes that a new timetable for transition to private sector management – with clearly stated and measurable goals and milestones -- must be established, published and adhered to. That new timetable should act as the foundation for a transition plan that ends 24 months after the expiration of the current MoU.

The transition plan should be developed through a work effort that is consistent with ICANN's own principles: open, multi-stakeholder development of a transition mechanism produced by the ICANN community and relevant stakeholders. ***That transition plan must include, at the minimum, the following components:***

- ***A clear timetable for all milestones on the path to completed transition;***
- ***Clear metrics for the evaluation of whether the milestones have been successfully met; and,***
- ***Identification of who will be the arbiter in the event there is disagreement over whether or not a particular milestone has been met.***

2.4 Stakeholder Involvement in ICANN

Question 4: The DNS White Paper listed several key stakeholder groups whose meaningful participation is necessary for effective technical coordination and management of the Internet DNS.

Are all of these groups involved effectively in the ICANN process? If not, how could their involvement be improved? Are there key stakeholder groups not listed in the DNS White Paper, such as those with expertise in the area of Internet security or infrastructure technologies that could provide valuable input into the technical coordination and management of the Internet DNS? If so, how could their involvement be facilitated?

The ISP community believes that all groups with real and meaningful interests in the public DNS have a way to be involved in ICANN. There is no need to change the structure of ICANN or its supporting organizations to include organizations whose involvement would be artificial or counter-productive to the interests of a secure, stable and innovative DNS.

In particular, technical experts are already a meaningful part of the ICANN structure. Important liaison positions have been created that address the need for the injection of technical expertise and competence. Some have argued that the emergence of new technologies or global issues requires ICANN to adapt and address new groups of stakeholders. As an example, in the post-terrorism environment, security and stability of the DNS became a critical issue. Are those who focus on security and stability a separate stakeholder group that must be somehow incorporated into or grafted onto ICANN's structure?

The ISPCP believes that they are already part of the ICANN structure. It is counter-productive to change the organization each time a new technical issue arises. Instead, those people and organizations who can meaningfully contribute to the bottom-up policy development process are involved directly in ICANN's existing organization. ICANN has been very effective in identifying new challenges and responding by incorporating needed expertise into its existing organization.

2.5 ICANN's Stakeholders and Committees

Question 5: The DNS White Paper listed principles and mechanisms for technical coordination and management of the Internet DNS to encourage meaningful participation and representation of key stakeholders. ICANN, in conjunction with

many of these key stakeholders, has created various supporting organizations and committees to facilitate stakeholder participation in ICANN processes. Is participation in these organizations meeting the needs of key stakeholders and the Internet community? Are there ways to improve or expand participation in these organizations and committees?

The ISPCP is a fundamental part of ICANN's Generic Names Supporting Organization. As a constituency we have worked to involve ISPs and connectivity providers from around the world in the work of ICANN. We recognize that there are many dimensions to participation in the work of ICANN and we have worked hard to involve those people from our own industry in the work of ICANN.

We also recognize that there are other people and organizations that have a meaningful role in the technical coordination work of ICANN. As we have said before, ***The ISP community believes that all groups with real and meaningful interests in the public DNS have a way to be involved in ICANN. There is no need to change the structure of ICANN or its supporting organizations to include organizations whose involvement would be artificial or counter-productive to the interests of a secure, stable and innovative DNS.***

We do believe there are flaws in some of the relationships of stakeholders within ICANN. As part of the timeline we have suggested in our answer to question three, ICANN needs to weigh the demands imposed by those parties with whom it has a contractual obligation, far more evenly with the views of other stakeholders.

Part of the work that needs to be done in the upcoming transition is to reverse the dangerous trend toward having those who pay the largest portion of ICANN's annual revenue have the largest say in its ongoing operation. The ISP community believes that this tragic attempt to mollify rich constituencies must be reversed in the 24 month transition period.

An example of what needs to be repaired can be seen in the recent GNSO vote on WHOIS. The ICANN Constituencies were split 50:50 over this issue but the weighted voting arrangements within the GNSO (both Registry and Registrar representatives are given double votes) saw them carry the day and vote through a proposal that resulted in a serious push back from other parties world-wide, including the GAC.

Weighted voting within the GNSO is a failed experiment (it was introduced as part of the ICANN reform process in order to achieve Registry and Registrar buy-in) and the ISPCP believes that it needs to be withdrawn as soon as possible. It seriously inhibits the ability to achieve consensus policy in an acceptable manner and argues against full stakeholder participation. Some parties feel particularly disenfranchised as they can fully participate in discussions on policy, but when it comes to the vote their views count for half of those held by parties who have contracts with ICANN. This is not a good example of full stakeholder participation, or of a bottom-up policy development process.

Another area of needed evolutionary improvement is in the relationship between the existing ICANN Support Organizations. More interaction is required between the ICANN Support Organizations (GNSO/ccSO/NSO) on matters of common concern.

The introduction of the NRO, replacing the ASO as the focal point for IP addressing issues, has replaced a body where global policy issues could be raised and discussed by direct representation through elected representatives, with an organization that is dominated and directly controlled by the RIRs management teams. This has been one of the most negative steps that came about through the ICANN reform process and the implications of this should be reassessed.

The ISP community believes that ICANN must take time for a complete re-evaluation of its relationship with the NRO during the 24 month transition period.

2.6 Efficiency/Responsiveness – ccTLD/Governmental Issues

Question 6: What methods and/or processes should be considered to encourage greater efficiency and responsiveness to governments and ccTLD managers in processing root management requests to address public policy and sovereignty concerns? Please keep in mind the need to preserve the security and stability of the Internet DNS and the goal of decision-making at the local level. Are there new technology tools available that could improve this process, such as automation of request processing?

The ISP community is convinced that recent changes in IANA and ICANN's operations have improved the relationships between ICANN and governments. ccTLD managers have had far more access and involvement in ICANN and IANA processes than they ever have in the past. As an example, the ISP community points to the improved documentation for redelegation of root zones. While the concerns of ccTLD managers may not yet be a thing of the past, we see ample evidence that recent operational and policy changes within IANA have made root zone management more predictable, more secure and more reliable.

We think that concentration on technology tools to address root management issues is often over-emphasized. While automation of some of the root zone tasks has been an important activity, we believe that effective staffing of IANA and ICANN's ccTLD liaisons has been central to addressing ccTLD and sovereign nation concerns.

The ISPCP believes that this is a measurable objective and continued improvement in this area remains essential. Firm requirements, goals and milestones should be a part of any published transition plan.

2.7 Information Exchange

Question 7: Many public and private organizations have various roles and responsibilities related to the Internet DNS, and more broadly, to Internet governance. How can information exchange, collaboration and enhanced cooperation among these organizations be achieved as called for by the WSIS?

The ISPCP believes that enhanced cooperation between those organizations involved in Internet governance is essential. ICANN has taken steps in this direction – for instance in the joint Working Group between the GAC, the ICANN staff and the ICANN Board, or the IANA/IETF informal working group.

ICANN must ensure that it continues a public outreach program that targets not only users of the Internet, but other organizations that help coordinate and facilitate the technical operation of the Internet. This goal should be set into the timeline for transition to public sector management, with appropriate metrics and evaluation criteria.

The US Government, where it can, must ensure that other organizations are supportive of ICANN's efforts toward collaboration. While the ISPCP believes that further governmental intervention is unwarranted in many ways, ***the US Government could help to promote a more collaborative atmosphere among the many organizations that have roles in the technical operation of the Internet.***