

15 February 2008

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National Telecommunications and
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Re: Docket No. 071023616-7617-01

Dear Ms. Sene,

1. InternetNZ, the Internet Society of New Zealand (Inc) is pleased to submit comments to the United States' Department of Commerce's National Telecommunications and Information Administration (NTIA) in response to its request for comments on "The Continued Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System: Midterm Review of the Joint Project Agreement", reference Docket No. 071023616-7617-01.
2. In this submission, the Joint Project Agreement is referred to as the "JPA". The United States Government is referred to as "USG". The Department of Commerce is referred to as "DOC".

About InternetNZ

3. InternetNZ is the ccTLD manager for the .nz domain. It is a membership based, non-profit society established under New Zealand law in 1995 to protect and promote the Internet for New Zealand. Membership is open to any person or organisation that wishes to support InternetNZ's objectives.

InternetNZ involvement in ICANN

4. InternetNZ people have been involved in the discussions that led to ICANN's formation in the late 1990s and have attended every meeting of ICANN since it was founded. We have a broad and deep understanding of ICANN's role, the aims at its establishment, its successes and failures to date, and a clear vision of where it ought to go in future.
5. InternetNZ is committed to supporting ICANN's evolution into an independent organisation, capable of fulfilling its limited technical mandate and mission in line with its vision of a bottom-up, transparent, multi-stakeholder way of working.

InternetNZ's position

6. InternetNZ has consistently supported the vision set out in the Department of Commerce's White Paper of 1998, to see the eventual transition of the technical coordination of the Internet's name and numbering resources from the Department to the Private Sector.
7. In supporting this vision, InternetNZ has supported ICANN's evolution from a start-up organisation into a professional, capable organisation that lives up to its principles of a bottom-up, transparent, multi-stakeholder-driven entity that brings all the participants in the DNS space into the room to develop policies and practice which supports a secure and stable DNS.
8. The JPA, established in 2006 for a three-year term, was the end point of a long series of memoranda of understanding between DOC and ICANN to shape and monitor the organisation as it passed through start-up and establishment into a more stable operating phase where it could meet the expectations of its diverse stakeholders.
9. At the end of the JPA, InternetNZ's current view is that ICANN will have substantively arrived at a position where the vision at establishment – a multistakeholder organisation capable of fulfilling its limited mandate of technical coordination of the Internet's naming and numbering resources in a bottom-up, transparent manner using consensus based globally representative decision making – has largely been met. While in every area set out in the JPA further progress can, should and will be made, there is no clear evidence to suggest that maintaining the JPA or any other Government-centric framework would lead to any greater progress in meeting the goals set out in the JPA than can be achieved without such a framework.
10. As such, there will be no need to renew the JPA nor to replace it with any other framework of governmental oversight. ICANN now has in place, and will continue to refine and improve, the mechanisms that enable its stakeholders – including the USG – to hold it accountable for its performance. The issue at hand is how to achieve the transition to the post-JPA environment.

ICANN's Submission

11. InternetNZ appreciates the effort ICANN has taken to document its record of achievement under the Joint Project Agreement to date. The record of work submitted to NTIA reflects the improvements ICANN has achieved through commitment by its staff and stakeholders.
12. The appearance of this submission, which was drafted by staff and signed by the ICANN Board Chair, after review by the Board of Directors, has provided a useful spur to discussion among ICANN's stakeholders on where to go next. This is notwithstanding ICANN's failure to follow its own bottom-up, inclusive and transparent ambitions in its development of its submission on the JPA. Given the lack of such a bottom-up process, the submission should clearly have noted that it was on behalf of the ICANN Board, and not on behalf of the whole ICANN community.
13. InternetNZ agrees with the basic thrust of the ICANN submission: that the organisation must always strive to improve, but that the JPA framework has achieved its objective and that the discussion now needs to focus on the transition.

Transition process

14. Allowing the expiry and non-replacement of the JPA is not the only step required in achieving the privatisation of the DNS. Also required is a consideration of what should occur with the IANA – DOC relationship, and the relationship between ICANN/IANA, the DOC and Verisign in dealing with the root servers.
15. InternetNZ believes that ICANN working with DOC should establish a process that allows for a broad-based development of the post-JPA framework and the transition to that new framework, including:
 - a. General ICANN accountabilities and transparencies
 - b. Consideration of the IANA-DOC and the IANA-DOC-Verisign relationships
 - c. Accountability and transparency requirements
 - d. Any other matters affecting transition.
16. Dedicated and senior staff resources would be required within ICANN to develop a process by which ICANN can develop a post-JPA framework and the transition to this framework, and to provide intellectual input into the discussions of the ICANN stakeholders that would assist in the development of the framework and the transition plan.
17. ICANN's ability to manage the development of a transition plan that achieves consensus with ICANN's stakeholders, through intensive discussion, deliberation, debate and iteration, will be a crucial demonstration of its ability to achieve the accountability frameworks that post-JPA ICANN will be obliged to uphold. In other words, InternetNZ considers the process of developing the transition to be as important as the outcome.
18. Given that there are only 18 months available until the end of the transition, a clear plan for the above process needs to be developed and signed off by the ICANN Board and DOC no later than the time of the ICANN Meeting in Paris in June 2008, after consultation with ICANN stakeholders.
19. Even such rapid progress will allow only fifteen months for a transition outcome to be decided and agreed. Speed now will allow the fullest consideration and debate to occur before the end of the JPA.
20. If it proved impossible to develop an agreed transition plan before the end of the JPA's current term, InternetNZ's view is that DOC and ICANN could agree to extend the JPA for a limited, one-off period (perhaps 12 months). This would avoid undue pressure to push a transition plan into operation if consensus for ICANN stakeholders has not been achieved within the time-frame, and avoid a situation where there was a vacuum between the end of the JPA and the commencement of the transition plan.
21. InternetNZ reiterates the importance of ICANN's focus on security and stability, and particularly the critical importance of IANA's services for the .nz ccTLD in that respect. While the IANA contract is not a consideration for this mid-term review, the IANA function is critical to ICANN achieving its mission.

22. InternetNZ understands the USG's current policy of retaining control of the IANA function. However, InternetNZ asserts that the future of the USG's role in the IANA function should be discussed in the development of the post-JPA framework, given its importance to ICANN's mission and the utility of developing a framework that covers all pertinent issues. It should be possible to assess the status quo and determine whether any changes are desirable to the current arrangement, and it is possible that a consensus emerges that can move towards privatisation while being consistent with current USG policy.

Conclusion and Recommendations

23. InternetNZ continues to support the privatisation of the DNS, and believes that ICANN today provides the appropriate location for these functions, independent of direct control by the United States Government.
24. ICANN and DOC should establish a process for transition to a post-JPA framework which reflects the way that ICANN will be expected to operate post-JPA: in a transparent, multi-stakeholder bottom-up consensus driven way.
25. With a transition plan developed and accepted by all stakeholders, the JPA should be concluded at the end of its term.
26. Thank you for the opportunity to make this submission.

Yours sincerely



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