

February 15, 2008

**Government of Canada Submission
to the National Telecommunications and Information Administration on the Notice of
Inquiry:**

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
Docket No. 071023616-7617-01

The Government of Canada welcomes this opportunity to comment on the Midterm Review of the Joint Project Agreement (JPA). Canada continues to support the ICANN model. Canada remains of the view that the technical coordination of the Internet should remain private sector-led and supported by multi-stakeholder participation in its bottom-up policy development processes. At this juncture, it is appropriate to recall comments provided with respect to accountability and the role of governments from Industry Canada's September 1998 paper entitled *Reform of the Domain name System: Current Developments & Statement of Principles*:

“From the perspective of the Government of Canada, one of the most important goals of the reform process continues to be the creation of a DNS coordinating body, the “new corporation”, that will at a minimum be truly accountable and representative. It is clearly not enough for the U.S. government to ensure merely that it has “privatized” the DNS – i.e. divested U.S. government agencies of control of DNS functions and placed control in the hands of a “private sector” group. The White Paper itself set a higher standard than this, and such bare-bones privatization will certainly not meet the needs of most end-user groups or of the international community...

Given the basic goal of privatization, the role of governments in the transition process to a new governing body is naturally fairly limited (though it should be noted that the ICANN proposal contains a provision for creation of a Governmental Advisory Committee)....”

Canada has continued to focus on these two areas in subsequent discussions on the evolution of ICANN and actively participate in the Governmental Advisory Committee. We have been consistent in communicating the views expressed in its initial paper. The current comments focus again on these two key areas.

Accountability and Transparency

The ICANN Board has highlighted, via its own submission to this Notice of Inquiry process, a number of measures which ICANN has undertaken to improve both the transparency and accountability of the organization. There is also a recognition in its submission that continuous improvement would be a worthwhile underpinning to its work, as ICANN continues to evolve.

Clearly, ICANN has implemented a number of concrete measures to improve the transparency of the organization. Publishing the minutes of Board meetings in a timely fashion, making improvements to the ICANN website and developing “issues papers” are clear and commendable examples of improvement. Canada has noted, however, that key consultations within ICANN are still sometimes undertaken with insufficient notice or awkward timing. Consistent with suggestions which Canada has made in the past, this is an area for further improvement, aiming to better enable

appropriate, sustained and meaningful participation.

Accountability is a more complex matter. ICANN should also be commended for pursuing greater understanding of concepts of accountability as they apply to an organization with its particular and unique characteristics as a private-sector, not-for-profit corporation with responsibility for coordinating the Internet's naming and addressing. ICANN has taken important steps toward determining how ICANN's accountability can be reflected in its structure, and where its accountability can be strengthened. However, Board accountability is an area where additional consideration could render further positive results, for example with respect to a more robust mechanism to seek redress.

The *ICANN Accountability & Transparency Frameworks and Principles* document of January 2008 can provide the global Internet community with a useful point of reference and so further work in support of transparency and accountability.

In Canada's view, putting these accountability and policy measures and principles into practice is the most important next step. Confidence and credibility for the organization as a whole, and among its various constituent parts, could be enhanced through rigorous, appropriate and predictable application of these measures and principles over time.

GAC's role within ICANN

Canada has been an active and regular participant in the Governmental Advisory Committee (GAC) to ICANN. Canada believes that the GAC should continue its own reform efforts, keeping an eye to its *advisory* role, consistent with the objective of privatizing the coordination of the internet's naming and addressing.

In previous submissions, Canada has raised the possibility of more senior-level participation in the GAC with a view to providing guidance to the GAC's work and raising the profile of ICANN issues within governments. As privatization is pursued, this concept could be explored as part of ICANN's accountability framework or as a means to help ensure engagement of governments at a more strategic level. However, Canada remains of the view that, given the goal of privatization, the role of governments in ICANN should be limited and focused on two key functions:

- to serve as an information conduit between governments from around the world and ICANN – providing advice on issues which give rise to broad public policy concerns and enabling GAC members to share information and opinions on relevant current issues in the process of developing advice to ICANN and to take back information and intelligence about ICANN's deliberations to relevant authorities in their respective governments; and
- to contribute to building capacity among governments to contribute to the informed discussion of issues arising within the ICANN process.

Consistent with this perspective, the GAC should not be viewed as a decision-making body, nor should it be expected to routinely provide a consensus view on issues, or "official" government "positions" or "directions".

Accordingly, Canada appreciates the creation of the ICANN fellowship fund, allowing additional

participants to attend GAC meetings. Capacity-building and participation from developing countries is an ongoing concern and this represents a clear measure to help address this.

Regardless of how ICANN evolves in the future, governments can be expected to maintain an interest in issues related to the management of the Internet's critical functions. As with all stakeholders, governments will need a way to participate within ICANN and address ICANN-related issues in an appropriate manner. Canada believes that a GAC focused on the objectives noted above can fulfill this requirement going forward.

Consideration of a post-JPA ICANN

While Canada is not in a position to declare that the JPA should be the final formal tie between the NTIA and ICANN, the progress made toward increased accountability and transparency within ICANN suggests that there is value in beginning multi-stakeholder discussions on what ICANN could or should “transition to”.

With this in mind, the NTIA should initiate discussions with ICANN, in the context of the current JPA, on issues associated with the next steps in ICANN’s transition to privatization. The ICANN President’s Strategy Committee could be identified to help facilitate such discussions and to provide support, although broader outreach and more open processes would be helpful. The NTIA might also wish to consult the wider community directly. There needs to be an understanding of, and buy-in for, how ICANN is to operate and evolve in the absence of the current form of U.S. government oversight. A clearer vision is required of what ICANN will look like and how it will work, and a plan developed on how to get there from where we are today, with appropriate targets and benchmarks.

The goal of privatization must be coupled with corresponding measures that will ensure ICANN continues to pursue realization of the objectives of being, and being seen to be, an accountable, transparent and representative coordinator of the naming and addressing for the internet. This process must, itself, include accountability, transparency and meaningful multistakeholder participation.

Canada believes that the continued security and stability of the Internet must remain a central consideration into the future. ICANN must also remain ever-careful to not exceed its technical coordination mandate. Given the organizational complexity of ICANN, care should also be taken so that no one part of ICANN has undue influence over the others.

The Government of Canada remains committed to working within ICANN, through the Governmental Advisory Committee, and with the government of the United States, to ensure the continued security and stability of the Internet.