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Assessment of the Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System

[Docket No. 090420688-9689-01]

Background

The Internet Corporation for Assigned Names and Numbers (ICANN) was formed almost 11 years ago. I was Chairman of the organization from November 2000 until November 2007.

Its creation followed a period of considerable debate about the institutionalization of the basic functions performed by the Internet Assigned Numbers Authority (IANA). Nearly simultaneous with the inauguration of ICANN in September 1998 came the unexpected and untimely death of the man, Jonathan B. Postel, who had taken responsibility for these functions for over a quarter century.

The organization began with very limited sources of funds, a small and overworked staff, and debate about its organizational structure, policy apparatus, and operational procedures, to say nothing of a persistent impugning of its legitimacy from many quarters.

The Memorandum of Understanding Process

Over those 11 years ICANN has benefited from a memorandum of understanding (MOU) with the United States Department of Commerce. There have been 7 versions of that MOU and thirteen report cards from ICANN over that time. The latest amendment to the original MOU is known as the Joint Project Agreement (JPA).

The ICANN of today is larger, more capable, more international, and better positioned to fulfill its mandate. Its major objective is to maintain one global interoperable Internet. The model of multi-stakeholder representation it introduced to a defined area of responsibility (the coordination of the unique identifiers that computers use to connect with each other on the Internet) has worked.

It is my belief that ICANN has benefited from the stability that the MOU/JPA relationship has provided, but that the time has now come to conclude it.

Future Challenges

Partly owing to the stability afforded by the ICANN model, the Internet and its vast user population have been able to grow during the same time by a factor of over 20 in all dimensions. The 50 million users of 1997 have become approximately 1.6 billion users today. The 22 million hosts on the network have increased to over 625 million today (and many more are “hidden” behind enterprise firewalls). The bandwidth of the core data circuits in the Internet have grown from 622 million bits per second to between 10 and 40 billion bits per second.

But in spite of this growth (or perhaps because of it), the governance structure of the Internet is still today subject to skeptical criticism. Last year ICANN was again fending off suggestions from the International Telecommunications Union that there was not enough government influence at ICANN. Recently there have been proposals floated for a G12 type of governance structure at ICANN as an additional accountability mechanism. The fact is that ever since 1999 there have been challenges to the fundamental ICANN model as originally, thoughtfully devised through the intervention of the United States Government amongst others.

As ICANN moves into its second decade, the Internet will be passing twenty-five years of operation. In the course of its evolution, the Internet has become a global digital canvas on which a seemingly endless array of applications has been painted. Despite the broad swath of its current applications, it is almost certain that many, many more will be invented. All of them will rely, for the foreseeable future, on the basic architecture of the system, including the global Internet address space and Domain Name System.

The Model Works

With all this change and challenge, it is a time for certainty, not the forestalling of a decision about whether this model is the right one for another one, two or three years.

Over the course of the next decade Internet users could conceivably reach 6 billion and they will be depending on ICANN, among many others, to do its part to make the Internet a productive infrastructure that invites and facilitates innovation and serves as a platform for egalitarian access to information. It should be a platform that amplifies voices that might otherwise never be heard and creates equal opportunities for increasing the wealth of nations and their citizens.

That promise will be undermined unless we commit in an un-mistakable way to the ICANN model of decentralized coordination of this important resource.

Accountability at ICANN

ICANN's primary responsibility is to contribute to the security and stability of the

Internet's system of unique identifiers. In the most direct way, it carries out this mandate through its operation of the Internet Assigned Numbers Authority. The United States Government, through the Department of Commerce, contracts that function to ICANN. There can be no doubt that the conduct of this function in an exemplary fashion is essential not only to maintaining the contract but also to inspiring confidence in ICANN as an organization amongst the international community. The performance of that function is a key point of accountability for ICANN.

But these specific IANA functions, whilst crucial, are not the only point of accountability. ICANN balances multiple stakeholder interests in policy about the implementation, operation and use of the Domain Name System and the address spaces of the Internet. There is a whole community of diverse participants in the ICANN process that scrutinizes ICANN very carefully and this structure also applies checks and balances. The ICANN model means that its processes (whilst they can always be improved) are as transparent as one can find in any comparable organization.

It is these elements that provide the real accountabilities where ICANN is concerned - not the JPA. In fact it is arguable that the JPA has started to become a de-stabilizer. Its repetitive renewal and apparent review by one government has lead many to question the model. That will continue until there is closure and certainty that after 11 years the fundamentals of the model are right.

Of course it is not perfect. But that was never the point of the MOU process. As part of its normal operation, ICANN engages in self-examination and external review of the effectiveness of its organizational structure and processes. Improvements in all aspects of ICANN operation and structure increase confidence in the organization and its long-term operation. Rather than less accountability, I know ICANN is actively seeking more.

Declaring What Works

The conclusion of the JPA will not make a difference to the practices that are now etched into the firmament of the Internet. Indeed I believe that the JPA should mark not a declaration of independence as some interpret it to be (ICANN has been an independent organization for its entire eleven years). Instead I believe we need to take this opportunity to make a declaration of another kind altogether.

The MOU/JPA process should be declared a success. That success should be outlined through the writing of a joint report between the US Department of Commerce and ICANN that makes clear the findings of the test that was constructed in the MOU/JPA process.

That test phase has clearly demonstrated that the coordination of the Internet's unique identifiers is best done by an organization that is and always should be:

Multi-stakeholder led;
Independent and private sector operated;
Continually seeking more accountability;
A not for profit corporation;
Committed to the performance of a narrow but critical technical function.

ICANN's foundation has been well and truly fashioned. It is the work of many heads and hands. It represents a long and sometimes hard journey. It has called upon many to transform an idea into a constructive and tested model. ICANN is now an enduring institution with a solid foundation.

On this basis I am confident that conclusion of the JPA is not only possible but that it is now also necessary.

The challenge is to ensure a line is drawn in the sand for those that would use the repetitive renewal of the JPA as an opportunity to question ICANN's worth. The conclusion of the JPA will once and for all ensure ICANN is recognized as having earned its place in the Internet universe while still maintaining important and still relevant accountabilities through the IANA contract and the responsibilities ICANN has to its global stakeholders.

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