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Comment on NTIA Notice of Inquiry regarding expiration of JPA with ICANN and DoC.

With this letter we intend comment on the upcoming expiration of the Joint Project Agreement (JPA) with the Internet Corporation for Assigned Names and Numbers (ICANN), your docket No. 090420688-9689-01.

SWITCH, the Swiss Academic Network, is the registry for top level domains CH and LI and this function is being performed since 1987. We follow international developments in the domain name field since ca. 1990 actively and passively and are taking part in CENTR as founding member, in ICANN since its establishment, in ITU-T, WIPO, IETF and other organizations that are involved in Internet issues. We therefore are aware of the important contributions from many sectors in the US to the development of the Internet and very much appreciate these efforts. We have followed with great respect the Clinton/Gore administrations Framework for Global Electronic Commerce in 1997 and the following Green and White Papers in 1998 which enabled the US Department of Commerce to enter into a project agreement with ICANN in 1998. We are also aware of more recent NTIA releases namely the "US Principles on the Internet's Domain Name [DNS] and Addressing System" (June 2005) and others.

The United States Government has done a great job to preserve the continuity, security and stability of the Internet in this - as we see it - pioneering phase of the Internet. This pioneering phase was and still is marked by important technical inventions; the inclusion of all stakeholders is, however, still "under construction".

We also regard the management of the DNS as a two tier process: the executive side currently maintained by the IANA as purchase order of the Department of Commerce and the legislative side currently performed by ICANN as joint project. We would consider it unfortunate if both functions would remain under one single chain of supervision (US DoC - NTIA - ICANN), the functions are different and this should be reflected in the organizational structure. We as ccTLD registry are mostly concerned with the IANA function and recommend this function to remain a purchase order by the DoC or similar attachment, because the IANA as an executive function requires strong and efficient backing.

A note to the economic side of the IANA: It should be paid by all those parties benefiting from its activities, i. e. the RIR's, gTLD's, ccTLD's etc. and the IANA function should be tendered and operate as not-for profit body.

The other, the legislative side, should include all relevant stakeholders on an equal footing, following open, transparent and democratic principles and could be organized different to the current situation. We would recommend an organization along the lines of the Internet Governance Forum, but with the objective of setting policies more or less exclusively for the IANA function. In our opinion this could be performed by a more streamlined body as the current one.

Below some of our reservations with regard to the current ICANN structure:

- 1) Largely dominated by American interests
- 2) Since ca. 3 years driven by entities seeking financial benefits (for themselves), they see ICANN solely as cash cow
- 3) ICANN has become over the years a “Shadow Internet Government”; a private body in California is neither prepared nor capable to perform such powerful activities
- 4) The roles of governments, civil and academic sectors are underdeveloped in ICANN
- 5) ICANN has been setup to preserve the dominance of certain interests. This has been understood and respected by the stakeholders but should no longer be necessary
- 6) ICANN needs greater transparency and accountability, most importantly it lacks trust by its stakeholders
- 7) From a legal standpoint it is difficult for us to participate in ICANN: On one hand we have to abide by Swiss national law and on the other by contractually enforced international standards set by ICANN. In case of conflict we have to quit any participation in ICANN.

Let us just add that since 2004 SWITCH operates the registry for CH under license by the Swiss Federal Office of Communications.

We would like to thank the American Government for the opportunity to comment on the ICANN JPA.

Best regards,

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