to Fiona Alexander, Office of International
Affairs, National Telecommunications and Information
Administration, 1401 Constitution Avenue, N.W., Room
4701, Washington, DC 20230.

Comments on The Continued Transition of the Technical Coordination and Management of the Internet Domain Name and Addressing System by ICANN.

From; Chris McElroy AKA NameCritic, former member of the General Assembly, former member of the DNSO mailing list and Working Groups, Current participant in the GNSO mailing list. Also CEO for the Kidsearch Network, a nonprofit missing children organization. Involved in Internet Marketing since 1995. Participating in Internet Governance since 1998.

Out of frustration for all of the time that others and I have spent attempting to get ICANN to listen to individual users of the Internet and to small businesses VS large multi-national corporations and IP interests, I decided the only way to make my appeal heard is to address it to the governmental bodies that give ICANN it's charter.

We will start with the questions you posed;

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?

The principles are still relevant. ICANN has yet to implement them and they have had sufficient time to do so. There is no bottom-up coordination and no representation for individual users or small business owners and domain holders yet. ICANN eliminated even the appearance of representation when they refused to hold elections for board members, eliminated the General Assembly and the DNSO working groups. ICANN has continually stifled any process that allows individual participation. They will claim that ALAC and the GNSO does this, yet an individual cannot join these groups at all. They require you form an organization and the organization can join.

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)?

As I stated above, the principles were sound, however no enforcement of those provisions has existed. ICANN has ignored the bottom-up consensus principle and the principle of representation for individual users and small business. The only additional principle I would suggest is the restructuring of the ICANN Board of Directors. If you look at the background of each board member, you will find they represent Telcos, IP Interests, Registrars and Registries, ISPs, and Computer Companies like IBM. No voting member of the board lacks a connection to big business agendas/ No voting member is one that has a history of representing individuals or small businesses. Also that elections be resumed for board members. That is a fundamental principle if you are to achieve bottom-up consensus. More than half of the board of directors for ICANN should be elected by individuals. The Internet was given to society as a whole by the US government, not to big business. ICANN gave it to them.

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?

Again only if you can honestly say that ICANN has created a way to achieve one of it's core goals; that individual users be represented on the board, that the public could participate in the process, and that they use the bottom-up consensus methods they were mandated to implement. They have not done so and that is apparent by just looking at the structure of the board of directors.

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?

Unless more than half of ICANN's board of directors are elected to the position I do not believe the transition should occur at all and that other bodies be allowed to submit a proposal to take over ICANN's duties if they cannot make that transition. ICANN has been given sufficient time to do this and has even held successful elections in the past. Karl Auerbach comes to mind. However, the elected members like Karl tried to represent individual users and small business. After ICANN's experience having to deal with someone who truly wanted to reach a bottom-up consensus, they eliminated elections. The very first ICANN board was to serve a year, then hold elections. Those board members instead kept their positions for years and all represented big business.

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 confusion lies in the fact that the government assigned the technical operation of the Internet to ICANN, but then also threw in that little bit about policy. I believe ICANN is capable of providing for technical stability and coordination. However, a new body needs to be given the policy portion. ICANN has proven entirely incapable of developing policy for the Internet. They have failed miserably in the decisions regarding the introduction of new TLDs. They have failed to create a bottom-up consensus that involves individual users. They have failed to hold elections. They have failed to deal with any issues that involve individual user participation and representation. As a technical body alone ICANN can continue to develop and even the make-up of the board and the constituencies and support groups make sense. They are incapable of handling policy issues and it was unfair of the government to expect that a technical body can do so. I suggest you consider leaving ICANN as the technical coordinator, but form a new organization that is more representative of society as a whole to handle policy issues.

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 only stakeholders that have had representation are companies like Verisign, IBM, and other multi-national corporations. If that is what is meant by "KEY" then they got it right. If you mean that ICANN

be representative of society, individual users, and small business, then no, NONE of those Goals has been reached. The supporting organizations that were in place such as the DNSO and the AT Large that did have even a hint of user participation were disbanded by ICANN because it was exposing their poor policy decisions. In other words the users did not agree with ICANN and the favoritism they show to large corporate and IP interests. That made those decisions too public so ICANN eliminated the public side and held closed meetings instead. Even when they did put up public forums and the obvious consensus was against what the board wanted to do, the ICANN board ignored the consensus and went their own way.

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?

Maybe others more technical than I am will suggest new technologies that can facilitate that. However I would like to suggest an older technology for resolving the policy issues. Take the fox out of the henhouse. ICANN should be split in two, with one organization dealing with technical issues and another making policy decisions. If you want to leave ICANN whole and allow them to handle both, then the board has to be restructured so that more than half of it represent the interests of individual Internet users worldwide.

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?[8]

Asked and answered above, but worth repeating here. ICANN is not currently structured properly to handle policy and Internet Governance issues at all. They are structured as a technical body and should remain so. We need individual representation and that needs to come from elsewhere.

Additional Statements;

Non profit Issues: I manage a nonprofit organization that searches for missing children. Due to the mismanagement of the domain name system by ICANN, nonprofit organizations face a problem. ICANN has not shown they can oversee the issue of creating or managing policy decisions within TLD creation or management.

Dot Org was intended for organizations. We all know that. Yet there are great dot org domain names that would be perfect for those organizations that want to do public service that are being held by companies such as BuyDomains.com and others that wish to sell those names for a profit. BuyDomains.com is a business and as such are in business to make a profit, so I do not fault them. I fault ICANN for not implementing policy such as a legitimate nonprofit organization only be able to register dot org domain names.

In addition to that, there is no board representation for NGOs and other not for profit public good organizations. No policy body that purports to represent society can exist without that representation on the Board that makes those policy decisions.

Domain – TLD Space Issues: Vint Cerf and the other board members continually deny there is a shortage of commercially viable TLDs. They claim they see no shortage of domain names and recently on a public website, when I questioned Vint Cerf on this issue, he claimed that he did not think that a company with a one-word domain name had any advantage over one that had a long four word domain name.

Now either the ICANN board does not know enough about domain names to be making policy decisions on them or they are lying and know very well that there is a shortage but are unwilling to acknowledge it. Either way it makes them unfit to serve on a board that makes policy decisions about domain names.

It has been proven beyond the shadow of a doubt the Internet is capable of introducing thousands of new TLDs without any threat to the stability of the Internet. It would not be in the best interest of a few major corporations or those who represent Intellectual Property Interests to do so. It would benefit users to have more. Thousands are not needed, but at least 100 new TLDs are needed.

Try registering a domain name that is generic in nature, that makes sense, is commercially viable to use, that contains keywords people search for, and is shorter than 3 words. Sounds easy? It isn't anymore thanks to ICANN's policy of maintaining a shortage of commercially viable TLDs. They approve dot aero and dot museum, etc. because those don't cut into the agenda of the corporations that wish to keep the shortage going.

Intellectual Property Issues: WIPO and The UDRP that ICANN anointed as the arbitrator of domain name disputes has consistently expanded trademark law way beyond what the USPTO and other granters of trademarks in other countries would ever allow. Have any unbiased law review of all UDRP cases and they will see this is true.

The UDRP needs to be revised and WIPO, who represents IP interests needs to be taken off the job.

The biggest problem with trademarks VS domain names does not lie with the UDRP or WIPO however. It goes back to ICANN's inability to create good policy decisions in regards to TLDs. A simple way to eliminate most of the trademark disputes would be to create a TLD that matches each class that a trademark can be registered in.

In this way Apple Computers would definitely be entitled to the domain name apple.pc, while Apple Records would definitely be entitled to apple.music or something that represents the class they each hold trademarks in. However, neither of them would be inherently entitled to apple.com, apple.net, etc.

By creating new TLDs that make sense and that resolve problems, the Internet would be a better place and would be more representative of it's users. I do not believe ICANN capable of handling that so again I recommend that all policy decisions be allotted to a separate organization or that ICANN be forced to hold elections so that over half the board is elected by the Internet users. Bring back the At Large!