

# ETNO Reflection Document – Response to Notice of Inquiry from the U.S. Department of Commerce on the Transition of the Technical Coordination and Management of the Internet Domain Name and Addressing System

## Executive Summary

ETNO<sup>1</sup> strongly supports the private multi-stakeholder model ICANN is built on. While ICANN has undertaken major improvement in order to respond to the issues and concern of its stakeholders, ETNO is confident that ICANN is maturing as an organisation to address the future and that the goal should be to transition as soon as possible to an International Organisation in its own right.

## 1. Introduction

ETNO welcomes the opportunity to respond to the consultation conducted by the Department of Commerce on the ICANN evolution.

## 2. Rational

ETNO expresses its support to the continued existence of the private multi-stakeholder bottom up model ICANN is built on. Given the nature and the dynamics of the Internet, ETNO is of the opinion that this model is the best one to allow adequate and consistent participation of the multi-stakeholders.

---

<sup>1</sup> The European Telecommunications Network Operators' Association is representing 40 major companies from 34 European countries, providing electronic communications networks over fixed, mobile or personal communications systems. ETNO's primary purpose is to establish a constructive dialogue between its member companies and actors involved in the development of the European Information Society to the benefit of users. More information on ETNO can be found at: [www.etno.be](http://www.etno.be)

The MoU with the United States Government has been successful, as it has allowed ICANN to develop to a mature organisation with clear mission and objectives. During the eight years of its existence, ICANN has been able to adapt itself through reorganisation, to respond to the issues and concerns of its stakeholders.

ICANN's achievements to date have been to:

- introduce competition in the registration of domain names,
- define policies in the field of the registration of Domain Names,
- put in place a Uniform Dispute Resolution Policy, for the benefit of end users,
- develop appropriate relations with the ccTLDs community and with the addressing community, while respecting regional and national responsibilities in these areas.

Recently ICANN was able to define, get support and have approved its Strategic Plan for the next three years, in a way fully consistent with its core principle of bottom up approach, and this is to be seen a very positive and promising evolution.

Further issues still remain, which require ICANN to resolve. One issue is the improvement of the Governmental Advisory Committee Function, and its relation to the other ICANN bodies. The different aspects of ICANN's activities, e.g. rules, decisions or orientations may have varying elements of "public policy" content. It is therefore important that the governments can express themselves in an effective way, and their views be taken into account in an appropriate manner. This should be achieved by a more defined role of the governments within ICANN to enable them, in close relation with the other multi-stakeholders, appropriate participation in the policy development process. The joint Working Group between the GAC, the ICANN staff and the ICANN Board, is currently addressing the issue, and is to be seen as a good example of enhanced cooperation as requested in the WSIS Tunis Agenda. A second issue is the weighted voting system in the Generic Name Supporting Organisation (GNSO) council. The GNSO review mechanism, consistent with the ICANN bylaws is a way to improve the situation on the second example.

ETNO is confident that ICANN is now able to improve, and to address these issues through existing internal mechanisms.

### **3. Discussion**

An oversight function has previously been justified as a guarantee of stability for the system, from both the economic and the security point of view or as an insurance against a possible drift of the private structure. Such an oversight function exercised by a single Government would contradict the Decision made during the WSIS in Tunis<sup>2</sup>, and would be a serious

---

<sup>2</sup> Article 68 of WSIS-05/TUNIS/DOC/6(Rev.1)-E

handicap for ICANN to be seen as a International Organisation in its own right for the benefit of the global stakeholders, and to fulfil its mission.

A real internationalisation of the ICANN structure is indispensable. A new framework should therefore be defined. ICANN has reached a sufficient maturity so that its strategic orientations and priorities can be defined by a strategic plan elaborated by all the concerned actors and approved by the Board. The work conducted in 2004, 2005 and 2006 in developing and agreeing this strategic plan shows that this objective is reachable. A way forward would be to describe explicitly its mission and values in a reference document, which could be approved following ICANN bottom up processes and supported by Governments. The ICANN mandate could be defined that way, and an independent periodical Audit function could be put in place in order to verify that ICANN fulfil in an appropriate way its mission.

#### **4. Position**

ETNO's position is to specify the mechanisms and the milestones that have to be met such that ICANN could be considered as soon as possible as an International Organisation responsible to its multi-stakeholder community and ETNO has responded to the DoC questions on that premise.

## Response to questions from the U.S Department of Commerce

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? 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)?*

ETNO believes that the principles articulated in the DNS White paper are still relevant and are essential elements in the process. Eight years after the white paper was published, the number of Internet users has dramatically grown, especially with new technologies, such as high speed ADSL and mobile connectivity. The multi-stakeholder bottom-up development process, within ICANN, underpins the essential goals of an open, competitive market place and reinforces the necessity to have more coordination. The ICANN model embraces these key requirements. Any review of its performance to date must recognise that ICANN has already undertaken an extensive review and reform process. In such a complex and fast evolving area this approach needs to be maintained but the need for constant review and resultant fine tuning will persist as the market place evolves.

Additional regulation focusing on areas covered by ICANN's core mission is not required and any imposition of this is likely to stifle innovation and growth. The WSIS process concluded that core functions of the Internet (management of IP addresses, Root Server operations etc) were being managed appropriately and fairly and did not require replacement by new or alternate entities. This conclusion is fully supported by ETNO.

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?*

ETNO believes that ICANN has achieved progress on its tasks as agreed in the MoU and has clearly demonstrated a willingness and desire to take positive actions.

ICANN has demonstrated that it can implement improvements. Some examples of recent improvement have already been seen, such as:

- The recent staff appointments that have greatly increased the pool of expertise, which is an essential element in achieving this.

- A review of the IANA function demonstrates a clear improvement over the last six months.
- The agreement on an accountability framework for ccTLD operators, which recognises the very diverse nature of ccTLD operations and the difficulties contractual obligations, would pose in a number of cases.

ETNO believes that issues still remain, e.g.:

- the improvement of the Governmental Advisory Committee Function, and its relation to the other ICANN bodies;
- the weighted voting system in the GNSO council, giving undue power to particular commercial entities at the expense of the rest of the worldwide internet community.

ICANN has to deal with difficult and complex issues i.e. the number of stakeholders implied and the unique character of that body as an organisation and its decisions are based on compromises. It has made a number of improvements in its functioning but there is always room for further refinement and evolution. ETNO is confident that ICANN is now in a position to continue to improve and address pending issues through its existing mechanisms and suggests that this transition must take place as soon as possible.

*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?*

The core tasks and milestones originally set for ICANN will remain relevant. Any discussion should focus on the move towards full transition. It is imperative that a timetable for completion of transition is set and adhered to.

Any transition, activity and plans must recognise the output of the WSIS process and the need to continue to support existing recognised bodies and procedures on which the current core functions are based. The arrangements to complete transition should be developed in conjunction with the ICANN community and relevant stakeholders, using ICANN's existing internal mechanisms (strategic plan, review of supporting organisations) in coherence with the White Paper principles.

*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?*

ETNO believes that all key stakeholders can find representation within the existing ICANN structure. Parties who have sometimes claimed they are not represented normally represent sectors that prefer to see ICANN organised in a slightly different way, as opposed to being excluded, for instance a web hosting/content provider category currently embraced by the ISP, Registry or Registrar communities.

Co-ordination and management of number, names and identifiers must remain technology and infrastructure neutral. Security is an issue that is important to all stakeholder groups and is dealt with on that basis, often with the assistance of the ICANN Security and Stability Advisory Committee (SSAC).

One of the greatest threats to the stability of the Internet is its fragmentation at any level, be it on a geographic basis or infrastructure basis and any such proposals must be opposed. ICANN should not fragment further to focus on security or infrastructure technologies.

*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?*

ETNO is a member of the Internet Service Providers and Connectivity Providers (ISPCP) Constituency, and has been fully participating to the ICANN processes. Participation of organisations like ETNO, representing a wider community of interests, is essential.

ICANN has already undertaken major reform at its own behest and ETNO believes that further change is required. ICANN needs to weigh the demands imposed by those parties with whom it has a contractual obligation, far more evenly with the views of other stakeholders.

Examples of where ICANN needs to balance the views of all stakeholders include:

- the recent decisions taken by the ICANN Board over the dot com renewal. This is a clear example of where the outside world (and to some degree other ICANN Constituencies) considers ICANN to be unduly influenced. If this perception persists it will challenge the effectiveness of ICANN in the competitive arena and it will come under the increasing focus of regulatory authorities and governments.

- unbalanced power given to certain ICANN's member constituencies has been demonstrated in the recent GNSO vote on the definition of WHOIS purpose. The ICANN Constituencies were split 50:50 over this issue but the weighted voting arrangements within the GNSO (both Registry and Registrar representatives are given double votes) saw them vote through a proposal that resulted in a serious push back from other parties world-wide, including the GAC.

Weighted voting within the GNSO is a failed experiment (it was introduced as part of the ICANN reform process in order to achieve Registry and Registrar support) and needs to be withdrawn. It seriously inhibits the ability to achieve consensus policy in an acceptable manner and argues against full stakeholder participation. Some parties feel excluded as they can fully participate in discussions on policy, but when it comes to the vote their views count for half of those held by parties who have contracts with ICANN. This is NOT a good example of full stakeholder participation, or of a bottom-up policy development process.

More interaction is required between the ICANN Supporting Organisations (GNSO/ccNSO/ASO) on matters of common concern.

The difficulty that GAC experiences in keeping in step with the rest of the ICANN community on key issues is a serious concern. It is accepted that they must take a lead role on issues of public policy, in a timely manner to meet the demand of all stakeholders.

ICANN should be encouraged to continue their program of workshops at ICANN meetings on topics that impact the wider community. IDNs, WHOIS and issues related to the domain name market place have all featured and should continue to do so. To maximise benefits such agenda items should be programmed and advertised well in advance. It is essential that the agenda for ICANN meetings is finalised at least 1 month prior to each meeting.

The development of the next version of the ICANN strategic plan along with approval of the operational plan must be undertaken with the full participation of all stakeholders and be subject to independent audit.

*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?*

Recent changes in working practices and personnel should result in greater efficiency and responsiveness in processing root management requests. Continued improvement remains an essential requirement.

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?*

Enhanced cooperation, as decided in Tunis, concerns many different bodies. As far as ICANN is concerned, the joint Working Group between the GAC, the ICANN staff and the ICANN Board, is to be seen as a good example of enhanced cooperation as requested in the WSIS Tunis Agenda. Information exchange and collaboration with other relevant organisations is essential. ICANN must allocate budget and resource to facilitate this, but should not look to dedicate specific staff to this function.

ICANN should achieve a more defined role of governments, in close relation with the other multi-stakeholders, to enable their appropriate involvement in the policy development process. Outreach and information should be accommodated through the use of ICANNs broad membership e.g. by working closely with the RIRs, ISPs, and various other groupings represented within the ICANN community. Funding support and the submission of material for that use should be considered by ICANN as part of their operational plan and budget.