



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

APR 28 2014

The Honorable Darrell Issa
House of Representatives
Washington, DC 20515

Dear Representative Issa:

Thank you for your March 25, 2014 letter regarding the announcement by the National Telecommunications and Information Administration (NTIA) of our intent to transition certain Internet domain name functions to the global multistakeholder community. NTIA is dedicated to maintaining an open, resilient, and secure Internet that remains a valuable tool for economic growth, innovation, and the free flow of information, goods and services online. We believe that the multistakeholder model of Internet governance – a system in which the private sector, working with engineers, civil society, and governments, work together to develop consensus – provides the best mechanism for ensuring these goals.

NTIA's announcement marks the final phase of privatization of the Internet domain name system (DNS) first outlined by the U.S. Government in 1998 after broad consultation with stakeholders in the development of Statement of Policy.¹ Our action is fully consistent with the 2012 resolution, H.Con.Res.127, that called on the United States to continue to support a global Internet free from government control and to preserve and advance the successful multistakeholder model that governs the Internet. The transition of the U.S. role to the global multistakeholder community benefits American interests. The continued growth and innovation of the Internet depends on building trust among all users worldwide and strengthening the engagement of all stakeholders. Taking this action is a strong measure to prevent authoritarian regimes from expanding their restrictive policies beyond their own borders at a time when we expect some countries to once again attempt to insert themselves in the middle of decisions impacting the Internet.

NTIA has called upon the Internet Corporation for Assigned Names and Numbers (ICANN) to convene a multistakeholder process to develop a transition plan for NTIA's role in the Internet Assigned Numbers Authority (IANA) functions. NTIA established a clear framework to ensure a successful transition. While our role is largely a clerical one, NTIA specified that the transition proposal must meet four requirements. First, the transition proposal must support and enhance the multistakeholder model. This requirement is consistent with ICANN's current multistakeholder process whereby industry, civil society, the technical community, and governments work together to develop consensus policies. Specifically, the process used to develop the transition proposal should be open, transparent, bottom-up, and garner broad, international stakeholder consensus support. In addition, the proposal should include measures to ensure that changes made to any of the three IANA-administered databases are consistent with the publicly-documented customer and partner-accepted procedures that are developed through the multistakeholder model.

¹ Statement of Policy, Management of Internet Names and Addresses, 63 Fed. Reg. 31741 (1998).

Second, the transition proposal must maintain the security, stability, and resiliency of the Internet DNS. For example, the decentralized distributed authority structure of the DNS needs to be preserved so as to avoid single points of failure, manipulation, or capture. In addition, the integrity, transparency, and accountability of IP numbers, domain names, and Internet protocol assignments must be preserved. The IANA services also need to be resistant to attacks and data corruption, be able to fully recover from degradation, if it occurs, and be performed in a stable legal environment. It is critical to maintain the integrity of the production and distribution of the authoritative root zone file, as VeriSign does today. With this announcement, NTIA has only asked for a plan to remove our clerical role, without prejudice to the existing role of VeriSign in the process.

Third, the transition proposal must meet the needs and expectations of the global customers and partners of the IANA services. For example, mechanisms for the adherence to and development of customer service levels, including timeliness and reliability, should be clear, as should processes for transparency, accountability, and auditability. Consistent with the current system, the separation of policy development and operational activities should continue. Our announcement does not affect relationships between ICANN and its customers. ICANN is, and will continue to be, party to contracts with registries and registrars based on its status as a California-based not-for-profit corporation, making it subject to the jurisdiction of U.S. courts. The IANA transition process will not change this.

Fourth, the transition proposal must maintain the openness of the Internet. The neutral and judgment-free administration of the technical DNS and IANA functions has created an environment in which the technical architecture has not been used to interfere with the exercise of free expression or the free flow of information. Any transition of the NTIA role must maintain this neutral and judgment-free administration, thereby maintaining the global interoperability of the Internet.

In addition, NTIA explicitly stated that we would not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization alternative. It is important to note that ICANN's governance structure prevents any party or set of parties, including governments, from dominating ICANN policy-making. ICANN's bylaws assign a set number of Board seats to each constituency of ICANN, which would impede the ability of any party to take over the Board. Moreover, while governments have played a role in ICANN since 1998, their role is to act only in an advisory capacity to the Board. Neither government officials nor intergovernmental organization officials are allowed to serve as Board directors.² This robust and balanced system ensures that no one stakeholder group or set of interests dominates ICANN.

We asked ICANN to convene the multistakeholder process because it is the current IANA functions contractor and the global coordinator for the DNS. ICANN is working collaboratively with the other Internet technical organizations, including the Internet Society, the Internet Engineering Task Force, the Internet Architecture Board, and the Regional Internet

² See Bylaws for Internet Corporation for Assigned Names and Numbers, A California Nonprofit Public-Benefit Corporation, Article IV, available at <http://www.icann.org/en/about/governance/bylaws#VI>.

Registries. We requested the engagement of these organizations to ensure that the global Internet community would be able to participate in the planning process as well as to act as a check on the remote possibility that ICANN might act to increase its own autonomy and reduce its accountability.

At its recent meeting in Singapore, ICANN, in association with these organizations, convened two public sessions to obtain stakeholder input on how to design the process to develop the transition plan. It collected several hours of public comment, which will help craft a proposal for the process going forward. On April 8, ICANN published a summary of the discussions in Singapore and asked for public comment on a possible framework in which to develop the transition plan.³ We have not set a deadline for the community to complete a plan. We have noted that the existing contract expires on September 30, 2015, but have made clear that we have the option to extend the contract for up to four more years if necessary. Before any transition takes place, the businesses, civil society organizations, and technical experts of the Internet must present a plan that ensures the uninterrupted, stable functioning of the Internet and preserves its openness. Until such time, there will be no change in our current role.

We believe the timing is right to complete the privatization of the DNS for two reasons. First, over the past few years, ICANN has improved its accountability, transparency, and technical competence. I have personally participated in two iterations of Accountability and Transparency Review Teams (ATRTs) with a broad array of international stakeholders from industry, civil society, the Internet technical community, and other governments. These teams have served as a key accountability tool for ICANN by evaluating progress and recommending improvements. We have seen marked improvements in ICANN's performance with the implementation of the 27 ATRT1 recommendations made in 2010 and I have full confidence that this maturation will continue with the ongoing implementation of the 12 recommendations of ATRT2 made last December. Secondly, international support continues to grow for the multistakeholder model of Internet governance, as evidenced by the continued success of the Internet Governance Forum and the resilient stewardship of the various Internet institutions.

Our action in no way is tantamount to "giving away the Internet." There is *no one party*, including the U.S. Government, that controls the Internet. What we have done is demonstrate leadership and strategic vision by laying out a framework with clear conditions to finalize a process that has been ongoing for 16 years. The ICANN-convened process that is currently underway will help prevent authoritarian countries from exerting undue influence over the Internet by promoting the multistakeholder model that has made the Internet the success it is today.

The strongest evidence in support are the many statements from the business and civil society communities commending NTIA's announcement. AT&T called it "an important step in the ongoing evolution of the global Internet" and Microsoft supported it as "a significant and welcome development." U.S. companies such as Verizon, Google, Cisco, and Comcast; and associations like the Chamber of Commerce, USTelecom, the Internet Association, the Computer

³ See Call for Public Input: Draft Proposal, Based on Initial Community Feedback, of the Principles and Mechanisms and the Process to Develop a Proposal to Transition NTIA's Stewardship of the IANA Functions (Apr. 8, 2014), available at <http://www.icann.org/en/about/agreements/iana/transition/draft-proposal-08apr14-en.htm>.

and Communications Industry Association, and the Software and Information Industry Association have commended the announcement. Human rights and Internet freedom organizations, including Freedom House, Human Rights Watch, the Center for Democracy and Technology, and Public Knowledge said “this move could help thwart government overreach in Internet governance, which would have devastating implications for human rights worldwide.”⁴

Your letter raises the question whether the executive branch has the authority to “transfer control over the Internet addresses and root zone management of domains.” In 2000, NTIA did not contract with ICANN to procure the IANA functions services as an assertion of “control” over the Internet DNS. Rather NTIA contracted with ICANN as a temporary measure to carry out the government’s policy to allow the private sector to take leadership for management of the Internet DNS. By performing the IANA functions in a competent manner for almost a decade and half, ICANN has established itself in this role and there is no longer a need to maintain a government contract designating it to perform these functions. Just as federal agencies can enter into contracts they need to fulfill their missions without specific legislative authority, federal agencies can discontinue obtaining such services when they no longer need them. As NTIA made clear at the time of its Statement of Policy, it intended only to procure the IANA functions services until such time as the transition to private sector management of the Internet DNS was complete.⁵

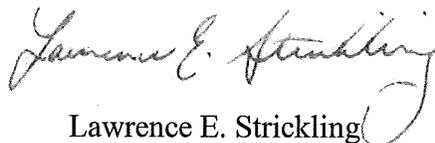
As part of the ICANN multistakeholder community, the United States will have a variety of opportunities to provide input and participate in the development of the transition plan. NTIA will work closely with stakeholders in industry, civil society, and technical organizations to ensure that the process succeeds, that it contains appropriate safeguards, and that it adheres to the four requirements outlined above. I also want to assure you that even as NTIA looks to transition out of the clerical role we play, we will remain strong and vigorous advocates for Internet freedom, growth, and innovation. These are not just American values, but increasingly reflect the views of a growing number of nations. We will continue to play a major role on ICANN’s Governmental Advisory Committee, where governments develop consensus advice to ICANN on public policy matters. And we will continue in our role to enhance the accountability and transparency of ICANN through our participation in the Accountability and Transparency Review Teams established by the Affirmation of Commitments we signed with ICANN in 2009.

⁴ See Remarks by Assistant Secretary Strickling at the Computer and Communications Industry Association Washington Caucus (Apr. 9, 2014), available at <http://www.ntia.doc.gov/speechtestimony/2014/remarks-assistant-secretary-strickling-computer-and-communications-industry-ass>.

⁵ The 2000 Government Accountability Office (GAO) report concluded that the Department of Commerce has the authority to contract with ICANN for the performance of the IANA functions. GAO, Department of Commerce: Relationship with the Internet Corporation for Assigned Names and Numbers, GAO/OGC-00-33R, at 15, 17-19 (July 7, 2000). GAO’s discussion about the need for legislative authority to transfer government property does not concern the provision of the IANA functions under contract since no government property or assets are involved in the contract. Rather, GAO raised the issue of legislative authority solely in relationship to the transfer of policy control over the authoritative root server, which is managed under a cooperative agreement with another private sector entity. GAO Report at 25-30.

In closing, NTIA is confident that the global Internet community will work diligently to develop a plan that has the support of the community and that meets the four requirements we established. I hope this information sufficiently responds to your letter, but please feel free to contact me or James Wasilewski, NTIA's Director of Congressional Affairs, at (202) 482-1830 if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence E. Strickling". The signature is written in dark ink and is positioned above the printed name.

Lawrence E. Strickling