

5 June 2009

Fiona M Alexander
Associate Administrator
Office of International Affairs
National Telecommunications and
Information Administration
U.S. Department of Commerce
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Re: Docket No. 090420688-9689-01

Dear Ms Alexander,

1. InternetNZ (Internet New Zealand Inc) is pleased to submit comments to the United States' Department of Commerce's National Telecommunications and Information Administration (NTIA) in response to its request for comments on "Assessment of Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System", reference Docket No. 090420688-9689-01.
2. In this submission, the Joint Project Agreement is referred to as the "JPA".

About InternetNZ

3. InternetNZ is the ccTLD manager for the .nz domain. It is a membership-based non-profit society established under New Zealand law in 1995 to protect and promote the Internet for New Zealand. Membership is open to any person or organisation that wishes to support InternetNZ's objectives.

InternetNZ involvement in ICANN

4. InternetNZ people were involved in the discussions that led to ICANN's formation in the late 1990s and have attended every meeting of ICANN since it was founded. We have a broad and deep understanding of ICANN's role, the aims at its establishment, its successes and failures to-date, and a clear vision of where it ought to go in future.
5. InternetNZ is committed to supporting ICANN's evolution into an independent organisation, capable of fulfilling its limited technical mandate and mission in line with its vision of a bottom-up, transparent, multi-stakeholder way of working.

InternetNZ's position

6. InternetNZ has consistently supported the vision set out in the Department of Commerce's White Paper of 1998, to see the eventual transition of the technical coordination of the Internet's name and numbering resources from the Department to the Private Sector.

7. In supporting this vision, InternetNZ has supported ICANN's evolution from a startup organisation into a professional, capable organisation that enshrines its principles of a bottom-up, open and transparent, multi-stakeholder-driven entity that brings all the participants in the DNS space into the room to develop policies and practices that support a secure and stable DNS.
8. The JPA, established in 2006 for a three-year term, was the end point of a long series of memoranda of understanding between the Department of Commerce and ICANN to shape and monitor the organisation as it passed through start-up and establishment into a more stable operating phase where it could meet the expectations of its diverse stakeholders.
9. At the time of the last JPA (mid-term) review, InternetNZ submitted that it believed ICANN was not sufficiently mature and its core principles not sufficiently enshrined into its business practice, and we therefore recommended a continuation of the JPA for its original term.
10. InternetNZ has formed the view that substantial progress has been made and expiry of the JPA at the end of the current term is appropriate.

Specific Responses

Question 1. *The DNS White Paper articulated four principles (i.e., stability; competition; private, bottom-up coordination; and representation) necessary for guiding the transition to private sector management of the DNS. Are these still the appropriate principles? If so, have these core principles been effectively integrated into ICANN's existing processes and structures?*

11. InternetNZ maintains that these principles remain the core requirements for ICANN. We believe that as ICANN has matured it has effectively integrated these principles into its processes and structures. Much is still a "work in progress" which continues developing as ICANN completes the various stages of its structural reviews of its supporting organisations, advisory committees and the board. There is sufficient understanding within the ICANN constituencies to ensure that ongoing development must adhere to the core principles.

Q2. *The goal of the JPA process has been to transition the coordination of DNS responsibilities, previously performed by the U.S. Government or on behalf of the U.S. Government, to the private sector so as to enable industry leadership and bottom-up policy making. Is this still the most appropriate model to increase competition and facilitate international participation in the coordination and management of the DNS, bearing in mind the need to maintain the security and stability of the DNS? If yes, are the processes and structures currently in place at ICANN sufficient to enable industry leadership and bottom-up policy making? If not, what is the most appropriate model, keeping in mind the need to ensure the stability and security of the Internet DNS?*

12. InternetNZ believes that ICANN is the appropriate structure for the coordination of the unique identifiers at the core of the Internet, and that ICANN is now at a point of maturity that the transition from US Government control should occur. ICANN has sufficient budget from its own revenue sources to maintain and grow its global presence and engage sufficient staff and contractors to undertake the requirements to develop international policies relating to the Internet's unique identifiers. Considerable progress has been made by ICANN in gaining agreements with ccTLD operators, RIRs, Root Server Operators etc and a clear threshold of support from the global Internet community exists.

Q3. *The original agreement and the first six amendments to the JPA contained a series of core tasks, and in some cases, date-specific milestones. Have these tasks been accomplished and have these milestones*

been met? If not, what remains and what steps should be taken to successfully address them?

13. ICANN has achieved, or made significant progress towards achieving the key milestones.

Q4. *In 2006, the focus on specific milestones was adjusted to a series of broad commitments endorsed by the ICANN Board as an annex to the JPA. Specifically, ICANN committed to take action on the responsibilities set out in the Affirmation of Responsibilities established in ICANN Board Resolution 06.71, dated September 25, 2006. Those responsibilities included activities in the following categories: security and stability, transparency, accountability, root server security and relationships, TLD management, multi-stakeholder model, role of governments, IP addressing, corporate responsibility, and corporate administrative structure. What steps has ICANN taken to meet each of these responsibilities? Have these steps been successful? If not, what more could be done to meet the needs of the community served in these areas?*

14. ICANN has:

1. Adopted its “Accountability & Transparency Framework and Principles” in 2008.
2. Signed agreements with some 80 ccTLD Managers.
3. Created a methodology of review of its constituencies, supporting organisations, advisory committees and its operations and management, with much of the review to date resulting in enhanced obligations to the principles of the JPA.
4. Made significant progress in enabling applications for new gTLD’s and Internationalised Domain Names in the gTLD and ccTLD spaces.
5. Made its processes for strategic planning and budgeting an inclusive, open and transparent process.
6. Released for consultation its framework for Enhancing Internet Security, Stability and Resiliency
7. Continued to progress formalizing relationships with Root Server operators and RIRs.
8. Progressed significantly towards implementation of enhanced security and signing of the Root.
9. Made useful progress towards the milestones, or achieved the thresholds established as milestones, in the JPA.

Q5. *The current JPA called for NTIA to conduct a mid-term review. That review revealed that ICANN needed to take further steps to increase institutional confidence related to long-term stability, accountability, responsiveness, continued private sector leadership, stakeholder participation, increased contract compliance, and enhanced competition. What steps has ICANN taken to address the concerns expressed in the mid-term review process? Have these steps been successful? If not, what more could be done to meet the needs of the community served in these areas?*

15. ICANN has been consulting broadly, particularly through the President’s Strategy Committee, in developing its very recently released framework “Improving Institutional Confidence: The Way Forward” with a view to further consultation and input from its community. This remains a “work in progress” but ICANN clearly understands that this is an essential and urgent work stream.

Q6. *The JPA between the Department of Commerce and ICANN is an agreement by mutual consent to effectuate the transition of the technical coordination and management of the Internet DNS in a manner that ensures the continued stability and security of the Internet DNS. Has sufficient progress been achieved for the transition to take place by September 30, 2009? If not, what should be done? What criteria should be used to make that determination?*

16. InternetNZ contends that sufficient progress has been achieved, and sufficient processes are in place for the transition to occur by 30 September 2009.

Q7. *Given the upcoming expiration of the JPA, are there sufficient safeguards in place to ensure the continued security and stability of the Internet DNS, private sector leadership, and that all stakeholder interests are adequately taken into account? If yes, what are they? Are these safeguards mature and robust enough to ensure protection of stakeholder interests and the model itself in the future? If no, what additional safeguards should be put in place?*

17. ICANN appears sufficiently mature, robust, global, and well financed to be assured it is not able to be captured, and that its stakeholders are sufficiently aware, diverse and committed to the ongoing security and stability of the Internet and can therefore act collectively towards ensuring ICANN is the responsible steward of the unique identifiers for the Internet.

Q8. *The JPA provides that before its termination, NTIA and ICANN are to collaborate on a DNS Project Report that will document ICANN's policies and procedures designed and developed pursuant to the agreement. What should be included in this report?*

18. The Project Report will need to document the specific processes and policies that relate to the milestones included in the MoU and JPA, the state of completion, and the plan and timeline for completion of these processes.

Recommendation

19. The JPA should be terminated by its conclusion at 30 September 2009 and ICANN should be empowered to continue fulfilling its mission as the private sector steward of the Internet's unique identifiers.

Yours sincerely



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