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PRESERVING THE MULTISTAKEHOLDER MODEL OF INTERNET GOVERNANCE

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

FEBRUARY 25, 2015

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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PRESERVING THE MULTISTAKEHOLDER MODEL OF INTERNET GOVERNANCE

WEDNESDAY, FEBRUARY 25, 2015

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m. in room SR–253, Russell Senate Office Building, Hon. John Thune, Chairman of the Committee, presiding.

Present: Senators Thune [presiding], Ayotte, Fischer, Sullivan, Gardner, Daines, Nelson, Cantwell, McCaskill, Klobuchar, Markey, and Peters.

OPENING STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

The CHAIRMAN. Good morning. This hearing of the Commerce, Science, and Transportation Committee will get underway.

Today we convene the Committee to evaluate the multistakeholder system of Internet governance. There has been no shortage of activity in this space in recent years, as I am sure each of our panelists can attest. The goal of everyone here is the same. We want one, global Internet that is not fragmented nor hijacked by authoritarian regimes. The question is how do we get there.

This is the Commerce Committee's first hearing on Internet governance in quite some time but this is not the beginning of our oversight on this issue.

Following last year's announcement by the National Telecommunications and Information Administration of its intent to transfer the Internet Assigned Numbers Authority, or IANA, functions to the global multistakeholder community, Senator Rubio and I led 33 of our Senate colleagues on an oversight letter to NTIA about the proposed transition.

We stated our support for the current bottom up, multistakeholder approach to Internet governance and stressed the importance of standing firm on the Administration's promise that it would not accept a proposal that replaces NTIA's role with a government led or inter-governmental solution.

We encouraged the multistakeholder community to act deliberately and transparently as it puts together a transition proposal. That remains as true today as when we first said it.

In July, Senator Rubio and I weighed in on proposals to reform ICANN via the "Enhancing ICANN Accountability" work stream, to support specific accountability measures that we believe must be achieved before any transition of the IANA functions.

We continue to believe the stakeholder community should demand robust and significant accountability reforms, such as curtailing governmental involvement in apolitical governance matters, requiring a higher vote threshold for the ICANN Board when making major decisions, providing additional oversight tools to the multistakeholder community, and adopting an independent dispute resolution process.

Administrator Strickling has encouraged the multistakeholder community to address how to remove Board members and how to incorporate current accountability tools like the Affirmation of Commitments reviews. I completely agree.

This morning we will hear from a mostly government panel about how best to ensure the multistakeholder model, but the private sector and civil society are active on this issue as well, and as the IANA transition process moves forward, it may be appropriate for the Committee to dive deeper and to hear from stakeholders who require an open and secure Internet to create jobs and to grow our economy.

If an IANA transition plan is presented to NTIA, I will scrutinize that plan to make sure it both meets the requirements laid out by NTIA and adopts meaningful accountability reforms that Senator Rubio and I have called for.

Administrator Strickling has been very clear that accountability reforms go hand and glove with a transition plan. I pledge that I will hold the Administration accountable for the red lines it has established throughout this process.

In particular, I will be interested to see whether the stakeholder community can deliver a proposal that allows Internet users to continue to have faith the IANA functions are carried out effectively and seamlessly, and I will focus on the adequacy of the accountability reforms in any proposal.

Some worry that in the absence of U.S. involvement in the IANA functions ICANN may be subject to capture by authoritarian regimes, and these are valid concerns. I also worry that in the absence of a contract with the U.S. Government ICANN could become an organization like FIFA, the international soccer organization that is flush with cash, unresponsive to those it supposedly serves, and I should say unaccountable to no one.

The ICANN Board can demonstrate its own commitment to the multistakeholder model by accepting the stakeholder community's proposed reforms even if that means lessening the Board's powers in some areas.

The multistakeholder community has one opportunity to get this right because the Internet is too important for democracy, for world culture, and the interconnected global economy to allow poor governance to jeopardize its future.

The mantra for all of us should be measure twice, cut once.

We have a distinguished panel here before us today to share their experiences and views, and I am looking forward to hearing from each of you.

In the absence of our Ranking Member being here at the moment, we will skip right to opening statements from our panel. I want to welcome them here. We will start on the left with Mr. Strickling.

Lawrence Strickling is the Assistant Secretary for Communications and Information and the Administrator of the National Telecommunications and Information Administration under the Department of Commerce.

He will be followed by Mr. Fadi Chehadé, Chief Executive Officer of the Internet Corporation for Assigned Names and Numbers, and then we will hear from Ambassador David Gross, and he is a partner with Wiley Rein and the former U.S. Coordinator for International Communications and Information Policy at the U.S. Department of State.

We look forward to hearing your comments this morning, and we will start on my left and your right with Mr. Strickling. Welcome.

STATEMENT OF HON. LAWRENCE E. STRICKLING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. STRICKLING. Thank you, Chairman, and members of the Committee. I am very pleased to be here today to testify how the IANA transition will protect and preserve the security and stability of the global Internet.

In 1998, the Department of Commerce launched the process of privatization that is the subject of today's hearing, stating then that the U.S. Government is committed to a transition that will allow the private sector to take over NTIA's limited management role.

I would like to underscore that we are not talking about management of the whole Internet. We are talking about a few technical functions that are necessary to ensure that the plumbing of the Internet is working.

ICANN develops policy through bottom up multistakeholder processes. These efforts are open to all stakeholders whether they are businesses, civil society organizations, technical experts, or governments. It is this global multistakeholder community that makes Internet policy today, whether it be setting domain name policy or developing Internet technical standards. I want to emphasize that NTIA does not exercise any control or oversight over policymaking at ICANN.

The U.S. Government has been a vigorous supporter of the multistakeholder model. Both Republican and Democratic Administrations have consistently emphasized that the multistakeholder process is the best mechanism for making decisions about how the Internet should be managed.

Congress agrees. Earlier this month, the Senate unanimously passed Senate Resolution 71, which states that the United States remains committed to the multistakeholder model of Internet governance in which the private sector works in collaboration with civil society, governments, and technical experts in a consensus fashion. We thank you for that show of support.

In furtherance of this long-standing bipartisan policy of the United States, on March 14 of last year, NTIA announced the final phase of the privatization of the domain name system. We asked ICANN to convene global stakeholders to develop a proposal to

transition the current role played by NTIA in the coordination of the domain name system.

In making this announcement, we stated that the transition proposal must have broad community support and must satisfy four conditions. It must support and enhance the multistakeholder model. It must maintain the security, stability, and resiliency of the Internet domain name system. It must meet the needs and expectations of the global customers of the IANA services, and it must maintain the openness of the Internet.

We made crystal clear, as the chairman mentioned, that we will not accept a proposal that replaces our role with a government led or inter-governmental solution.

The business community, civil society, and other stakeholders responded to our announcement with strong statements of support, and they have responded enthusiastically to our call to develop a transition plan that will ensure the stability, security, and openness of the Internet.

Today, after several months of planning, I want to emphasize the following points. Based on my firsthand observations of the community at work in Singapore earlier this month, I am confident that the global Internet community will work diligently to develop a consensus plan that meets the conditions we have laid out, but until such time, there will be no change in our current role.

I also want to make clear that we have not set any deadline for the transition. September 2015 has been a target date because that is when the base period of our contract with ICANN expires. However, this should not be seen as a deadline.

We have said from the start that if the community needs more time, we have the ability to extend the IANA functions' contract for up to 4 years. It is up to the community to determine a time line that works best for stakeholders as they develop a proposal that meets the conditions but also works.

This transition benefits American interests. Our economic and political interests depend on a growing and innovative global Internet, especially in the developing world. Despite the symbolic role the U.S. Government has played over the years, the fact is that no country controls the Internet today and no country will control the Internet after the transition.

The Internet's continued growth and innovation depends on building trust among all users worldwide and strengthening the engagement of all stakeholders.

Since our announcement, we have seen a growing acceptance of the multistakeholder model around the world, especially in the governments of developing countries. Last April, Brazil hosted the successful NETmundial conference, which brought together a wide range of stakeholders, all on an equal footing with each other. At this meeting, not only did participants agree that Internet governance should be built on democratic multistakeholder processes, the entire meeting was a demonstration of the open participative and consensus driven governance.

Last November at the International Telecommunication Union's Plenipotentiary Conference in Busan, Korea, the United States worked successfully with countries in both the developed and devel-

oping world to avoid expansion of the ITU's mandate into Internet issues.

Building support for the multistakeholder model among other nations is the best strategy to limit the influence of authoritarian regimes and prevent attempts to expand their restrictive policies beyond their own borders. It is also the best strategy for protecting against the possible fragmentation of the Internet that some countries have threatened.

In conclusion, all of these factors give me confidence that when the transition is completed, we will have a stronger and more secure Internet that will continue to grow and thrive throughout the world.

Thank you, and I look forward to answering your questions.

[The prepared statement of Mr. Strickling follows:]

PREPARED STATEMENT OF HON. LAWRENCE E. STRICKLING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Chairman Thune, Ranking Member Nelson, and members of the Committee, thank you for this opportunity to testify on behalf of the National Telecommunications and Information Administration (NTIA) regarding NTIA's role in the Internet's domain name system and the transition of NTIA's stewardship over certain technical functions related to the Internet domain name system to the global multistakeholder community. I am pleased to appear before you to update you on the current status of the transition planning process as the global Internet community works to develop a transition proposal that will ensure the stability, security, and openness of the Internet.

I. Background

The Domain Name System (DNS) is a critical component of the Internet infrastructure. It allows users to identify websites, mail servers, and other Internet destinations using easy-to-understand names (*e.g., www.ntia.doc.gov*) rather than the numeric network addresses (*e.g.,* 170.110.225.163) necessary to retrieve information on the Internet. In this way, it functions similar to an "address book" for the Internet.

On July 1, 1997, President Clinton issued an Executive Memorandum directing the Secretary of Commerce to privatize the Internet DNS in a manner that increases competition and facilitates international participation in its management.[1] In June 1998, following a public comment process, NTIA issued a statement of policy on the privatization of the Internet DNS, known as the DNS White Paper.[2] The White Paper concluded that the core functions relevant to the DNS should be performed under private sector management to promote the development of robust competition and facilitate global participation in Internet management.

NTIA recognized that the Internet has succeeded in great measure because it is a decentralized system that encourages innovation and maximizes individual freedom. Where possible, market mechanisms that support competition and consumer choice should drive the management of the Internet because they lower costs, promote innovation, encourage diversity, and enhance user choice and satisfaction. Moreover, a private sector coordinating process would be more flexible than a government process and more likely to move rapidly enough to meet the changing needs of the Internet and of Internet users.

To accomplish these policy objectives, NTIA stated that it was prepared to enter into an agreement with a new not-for-profit corporation formed by private sector Internet stakeholders to coordinate and manage policy for the Internet DNS. Private sector interests formed NewCo for this purpose, which was subsequently re-named the Internet Corporation for Assigned Names and Numbers (ICANN). In the fall of 1998, NTIA entered into a Memorandum of Understanding (MOU) with ICANN to

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[1] The White House, "Memorandum for the Heads of Executive Departments and Agencies," (July 1, 1997), available at: *Khttp://clinton4.nara.gov/WH/New/Commerce/directive.html.*

[2] NTIA, "Statement of Policy, Management of Internet Names and Addresses," (DNS White Paper), 63 Fed. Reg. 31741 (1998), available at: *http://www.ntia.doc.gov/federal-register-notice/1998/statement-policy-management-internet-names-and-addresses.*

transition technical DNS coordination and management functions to the private sector.

The MOU did not simply turn over management of the DNS to ICANN. Rather, the MOU outlined a process to design, develop, and test mechanisms, methods, and procedures to ensure that the private sector had the capability and resources to assume important responsibilities related to the technical coordination and management of the DNS. The MOU evolved through several iterations and revisions as ICANN tested these principles, learned valuable lessons, and matured as an organization.

II. Internet Assigned Numbers Authority (IANA) Functions

In 1998, NTIA announced its intent to ensure the continued secure and stable performance of the IANA functions until the transition was complete. In 2000, NTIA entered into a sole-source, no-cost-to-the-government contract with ICANN, designating it to perform these functions. NTIA and ICANN have subsequently entered into contracts for the performance of the IANA functions in 2001, 2003, and 2006. On July 2, 2012, NTIA awarded ICANN the current IANA functions contract after conducting a full and open competitive procurement process. The base period of performance for this contract is October 1, 2012, to September 30, 2015. The contract also provides for two option periods of two years each; however, the parties have discretion to extend the contract for a shorter period than two years upon mutual agreement. If no action is taken, the contract will automatically expire on September 30 of this year.

The IANA functions are a set of interdependent technical functions that enable the continued efficient operation of the Internet. The IANA functions include: (1) the coordination of the assignment of technical Internet protocol parameters; (2) the administration of certain responsibilities associated with DNS root zone management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the .ARPA and .INT top-level domains (TLDs).

As the IANA functions operator, ICANN performs administrative responsibilities associated with the registries related to the three primary IANA functions. First, ICANN is the registry for the protocol parameters, as defined by the Internet Engineering Task Force (IETF).[3] Second, ICANN coordinates allocations of IP (Internet Protocol) and AS (Autonomous System) numbers to the Regional Internet Registries (RIRs).[4] Third, ICANN processes root zone file change requests for TLDs and makes publicly available a Root Zone WHOIS database with current and verified contact information for all TLD registry operators. In all three cases, ICANN, as the IANA functions operator, applies the policies developed by the customers of the IANA functions. The ICANN Board does not have authority to make policy decisions or changes on its own.

NTIA's responsibilities under the IANA functions contract are limited and clerical in nature. For example, NTIA does not have an operational role in the management of Internet numbering resources, Internet protocol parameters, the .ARPA TLD, or .INT TLD. In the root zone management function, NTIA verifies that ICANN has followed the policies and procedures established by the community when processing change requests, then authorizes the implementation of those changes. NTIA's role in root zone management does not involve the exercise of discretion or judgment with respect to such change requests.[5] NTIA does not have a similar role in the management of Internet numbering resources, Internet protocol parameters, the .ARPA TLD, or .INT TLD.

From the inception of ICANN, the U.S. Government and Internet stakeholders envisioned that the U.S. Government's role in the IANA functions would be temporary. The DNS White Paper stated that "agreement must be reached between the U.S. Government and the new corporation (ICANN) relating to the transfer of the functions currently performed by IANA."[6]

NTIA has fulfilled this temporary role not because of any statutory or legal responsibility, but as a temporary measure at the request of the President. Indeed, Congress never designated NTIA or any other specific agency responsibility for managing the Internet DNS. Thus, NTIA has no legal or statutory responsibility to man-

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[3] The Internet Engineering Task Force (IETF) is a large open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet. *See, https://www.ietf.org/*.

[4] Regional Internet Registries (RIRs) manage, distribute, and register Internet number resources (IPv4 and IPv6 addresses and Autonomous System Numbers) within their respective regions. *See, https://www.nro.net/about-the-nro/regional-internet-registries.*

[5] For further information on the NTIA role in root zone management and the IANA functions, *see http://www.ntia.doc.gov/other-publication/2014/ntia-s-role-root-zone-management.*

[6] DNS White Paper, *supra* n. 2.

age the DNS. 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.

III. Affirmation of Commitments

Since the formation of ICANN, NTIA has worked diligently with the global Internet community to improve ICANN's accountability and transparency to the community of stakeholders it serves. In 2009, NTIA and ICANN entered into the Affirmation of Commitments (*Affirmation*).[7] The *Affirmation* signified a critical step in the transition to a multistakeholder, private sector-led model for DNS technical coordination, while also establishing an accountability framework of ongoing multistakeholder reviews of ICANN's performance. Key elements of the *Affirmation* include: an endorsement of the multistakeholder, private sector-led model; a commitment by ICANN to act in the interests of global Internet users (or public interest); and the establishment of mechanisms and timelines for continuing reviews of ICANN's execution of core tasks. The four subjects of the ongoing *Affirmation* Reviews are: ensuring accountability, transparency, and the interests of global Internet users; preserving the security, stability, and resiliency of the Internet DNS; promoting competition, consumer trust, and consumer choice in connection with any implementation of generic Top Level Domains (gTLDs); and meeting the needs of law enforcement and consumer protection in connection with WHOIS implementation and recognizing national laws. The success of the framework established by the *Affirmation* depends upon the full participation of stakeholders in reviewing ICANN's performance.

ICANN has made significant progress in fulfilling the commitments established by the *Affirmation.* To date, two iterations of the Accountability and Transparency Review Team (ATRT) have occurred, in 2010 and 2013. The reports of these teams, on which NTIA actively has participated with a broad array of international stakeholders from industry, civil society, the Internet technical community, and other governments, have served as a key accountability tool for ICANN—evaluating progress and recommending improvements. Over time, ICANN has improved its performance by implementing key recommendations from the ATRT.

Throughout the various iterations of NTIA's relationship with ICANN, NTIA has played no role in the internal governance or day-to-day operations of ICANN. NTIA has never had the contractual authority to exercise traditional regulatory oversight over ICANN.

IV. Final Steps in the Privatization of the DNS

The multistakeholder model of Internet governance is the best mechanism for maintaining an open, resilient, and secure Internet because, among other things, it is informed by a broad foundation of interested parties and it is adaptable to innovation and changing conditions. This model includes all parties—including businesses, technical experts, civil society, and governments—arriving at consensus through a bottom-up process regarding policies affecting the underlying functioning of the Internet domain name system.

ICANN and several other technical organizations embrace this model and exemplify what is possible when all stakeholders are able to participate. Specifically, within ICANN's structure, governments work in partnership with businesses, organizations, and individuals to provide public policy input on deliberations related to ICANN's mission of technical coordination, and provide advice directly to the ICANN Board. ICANN holds meetings approximately three times a year, at which global stakeholders meet to develop policies that ensure the Internet's ongoing security and stability. ICANN policy development originates in the three Supporting Organizations (SOs), which work with Advisory Committees composed of governments, individual user organizations, and technical communities in the policy development process. Over one hundred governments, including the United States, and observers

[7] "Affirmation of Commitments by the United States Department of Commerce and the Internet Corporation for Assigned Names and Numbers" (September 30, 2009), available at *http://www.ntia.doc.gov/files/ntia/publications/affirmation__of__commitments__2009.pdf*

from more than 30 international organizations directly advise the ICANN Board of Directors via the Governmental Advisory Committee (GAC).[8]

The 112th U.S. Congress affirmed its support for the multistakeholder model in unanimous resolutions to "preserve and advance the successful multi-stakeholder model that governs the Internet."[9] More recently, a bipartisan group of Congressional leaders reiterated this position in stating that "[t]he multi-stakeholder model for Internet governance must prevail for more countries around the world to realize the transformative benefits of Internet connectivity."[10] I am also pleased to note the recent unanimous passage of S. Res. 71, which stated that "the United States remains committed to the multistakeholder model of Internet governance" and that "the [IANA] transition process demonstrates that the United States supports and is committed to the multistakeholder model of Internet governance."[11]

Demonstrating its commitment to the multistakeholder approach, on March 14, 2014, NTIA announced its intent to complete the privatization of the domain name system first outlined in 1998. NTIA called upon ICANN to convene a multistakeholder process to develop the transition plan.[12] While looking to stakeholders and those most directly served by the IANA functions to work through the technical details, NTIA established a clear framework to guide the discussion. Specifically, NTIA communicated to ICANN that the transition proposal must have broad community support and address four principles.

First, the transition proposal must support and enhance the multistakeholder model. Specifically, the process used to develop the proposal should be open, transparent, bottom-up, and garner broad, international stakeholder 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 IANA functions customer and partner accepted procedures, which are developed through the multistakeholder model.

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, integrity, transparency, and accountability in performing the functions 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.

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.

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 it would not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution.

While the current IANA functions contract expires on September 30, 2015, the contract can be extended for up to four years. Before any transition takes place, the businesses, civil society, and technical experts of the Internet must present a plan that has broad multistakeholder support and reflects the four key principles NTIA outlined in the announcement.

By transitioning its very limited current role in the IANA functions to the global multistakeholder community, the United States is fulfilling objectives outlined more than 17 years ago, demonstrating its commitment to the multistakeholder model,

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[8] *See* ICANN, "Beginner's Guide to Participating in ICANN," available at: *https://www.icann.org/en/system/files/files/participating-08nov13-en.pdf. See also,* ICANN Groups, available at: *https://www.icann.org/resources/pages/groups-2012–02–06-en.*

[9] *See* H.Con.Res. 127 and S.Con.Res. 50.

[10] Reps. Upton (R–MI), Waxman (D–CA), Royce (R–CA), Engel (D–NY), *Re/code,* "Protecting the Internet From Government Control" (Dec. 18, 2014), available at: *http://recode.net/2014/12/18/protecting-the-internet-from-government-control/.*

[11] S. Res. 71 (2015)

[12] "NTIA Announces Intent to Transition Key Internet Domain Name Functions" (Mar. 14, 2014), available at: *http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions.*

and strengthening the engagement of all stakeholders. For years, countries such as Russia, Iran, and China have opposed the multistakeholder model and sought to increase governmental control over the Internet through bodies such as the International Telecommunication Union (ITU) and the United Nations. The United States and likeminded countries, however, have firmly demonstrated our support for the multistakeholder community, and we continue to advocate for broader worldwide acceptance of and participation in the multistakeholder model to ensure that the Internet remains open and interoperable.

The world has witnessed significant progress in its collective efforts to expand support for multistakeholder Internet governance since the division that surfaced in December 2012 at the ITU World Conference on International Telecommunications (WCIT). We believe this is due in part to the transition and our support for the multistakeholder model. In April 2014, Brazil hosted the successful NetMundial conference at which a wide range of participants supported a statement reaffirming that Internet governance should be built on democratic multistakeholder processes.[13] Following NetMundial, a High-Level Panel headed by the president of Estonia released a report once again affirming the power of multistakeholder policy development. The panel said it "recognizes, fully supports, and adopts the IG [Internet governance] Principles produced in the NetMundial Statement. . . ."[14] In the fall of 2014, nations assembled at the ITU Plenipotentiary Conference in Busan, South Korea, rejected all efforts to expand the ITU's role in DNS issues handled by ICANN.[15]

V. Stakeholder Response

Following the March 2014 announcement, a broad array of Internet stakeholders issued public statements that demonstrate the importance of the transition:

- *AT&T: "This is an important step in the ongoing evolution of the global Internet.* NTIA is to be commended for its historical stewardship, its current thoughtful and pro-active approach, and its global leadership throughout. The U.S. is looking to the future, promoting leadership and ideas from the global multi-stakeholder community, and establishing clear criteria to ensure the stability and security of a remarkably well-functioning system. We expect that other governments and stakeholders will join with the U.S. in committing to this vision."[16]
- *Microsoft:* "The U.S. Department of Commerce National Telecommunications and Information Administration's recent announcement of its intent to transition key Internet domain name functions to the global multi-stakeholder community is *a significant and welcome development."*[17]
- *Human Rights Organizations:* "[W]e write to express our support for the Department of Commerce's National Telecommunications and Information Administration (NTIA) announcement of its intent to transition key Internet domain name functions to the global multi-stakeholder community . . . This move would alleviate international pressure on explicit terms, deter government overreach on the issue of Internet governance, and *facilitate the exercise of human rights online."*[18]
- *The Internet Association* (representing Amazon, Facebook, Google, Netflix, Yahoo!, Twitter, Airbnb, and other Internet economy firms): ". . . we support

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[13] Michael Daniel, Lawrence E. Strickling, Daniel Sepulveda, Christopher Painter and Scott Busby, "A Major Win for the Open Internet" (Apr. 30, 2014), available at: *http://www.ntia.doc.gov/blog/2014/major-win-open-internet.*

[14] *See* Panel on Global Internet Cooperation and Governance Mechanisms, "Towards a Collaborative, Decentralized Internet Governance Ecosystem" (May 2014), available at: *http://internetgovernancepanel.org/sites/default/files/ipdf/XPL_ICAN1403_Internet%20Governance%20iPDF_06.pdf.*

[15] U.S. Department of State, "Outcomes from the International Telecommunication Union 2014 Plenipotentiary Conference in Busan, Republic of Korea" (Nov. 10, 2014), available at: *http://www.state.gov/r/pa/prs/ps/2014/11/233914.htm.*

[16] AT&T Public Policy Blog, "The Continuing Evolution of the Global Internet" (Mar. 14, 2014) (emphasis added), available at: *http://www.attpublicpolicy.com/international/the-continuing-evolution-of-the-global-internet/.*

[17] David Tennenhouse, Microsoft on the Issues, "Microsoft Applauds U.S. NTIA's Transition of Key Internet Domain Name Functions" (Mar. 17, 2014) (emphasis added), available at: *http://blogs.microsoft.com/on-the-issues/2014/03/17/microsoft-applauds-us-ntias-transition-of-key-internet-domain-name-functions/.*

[18] Access, Center for Democracy & Technology, Freedom House, Human Rights Watch, The Open Technology Institute at New America Foundation, Public Knowledge, "Congress Should Support U.S. Plan to Alter Administration of Internet" (Apr. 1, 2014) (emphasis added), available at: *https://freedomhouse.org/article/congress-should-support-us-plan-alter-administration-internet#.VJmLdl4AFA.*

the recent announcement regarding the National Telecommunications and Information Administration's (NTIA) oversight authority over important technical Internet functions. . . . For our companies to continue to innovate, to foster development and change, and ultimately to succeed as businesses globally, we need the continuation of the current bottom-up, multi-stakeholder model of Internet governance. However, as the Internet continues to evolve, so too must the models that govern it. . . . [I]t was always envisaged that this oversight role held by the United States would eventually transition to the private sector. The announcement by NTIA is simply the fulfillment of this vision. . . . For these reasons *we encourage you to allow this process to continue toward a successful conclusion."* [19]

- *U.S. Chamber of Commerce:* "NTIA has steadfastly opposed a transition to any mechanism that would deviate from the current multi-stakeholder model of Internet governance and should be allowed to take any needed steps to achieve the cautiousness and transparency that we agree is essential for a safe and smooth transition of the technical functions. *Any hindering of NTIA's ability to conduct the proper levels of due diligence through the use of currently available resources could result in harm to U.S. businesses and Internet users as a whole."* [20]
- *Verizon:* "We applaud NTIA for recognizing the global relevance of the Internet Assigned Numbers Authority (IANA) functions and the current maturity of multi-stakeholder frameworks." [21]
- *Ambassador David Gross, former United States Coordinator for International Communications and Information Policy (George W. Bush Administration):* "We believe that NTIA's decision to initiate a process leading to the possible transition of the IANA functions contract to a multi-stakeholder entity is a critical step. . . . By allowing for the careful transition of the IANA to a bottom-up multi-stakeholder entity, *the United States has affirmed its commitment to the multi-stakeholder model."* [22]
- *Cisco:* "This is a significant milestone in the transition of Internet governance to a global multi-stakeholder model, and *Cisco welcomes this development.* We applaud the NTIA for seeking to complete the final phase of the privatization of DNS management, as outlined by the U.S. Government in 1997. Cisco has long supported an open and innovative multi-stakeholder Internet governance process and this next step in its evolution." [23]
- *USTelecom:* "We applaud NTIA for its responsible stewardship of the Internet's Domain Name System (DNS) over the years and are supportive of its proposal to transition the Internet Assigned Numbers Authority (IANA) functions to the global multi-stakeholder community." [24]
- *Center for Democracy and Technology:* "CDT believes that this transition is an *important part of the evolution* and strengthening of multi-stakeholder governance of the Internet." [25]
- *Internet Technical Organizations:* "The leaders of the Internet technical organizations responsible for coordination of the Internet infrastructure (IETF, IAB, RIRs, ccTLD ROs, ICANN, ISOC, and W3C), welcome the U.S. Government's

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[19] Michael Beckerman, The Internet Association, Letter to Rep. Hal Rogers and Rep. Nita Lowey (May 8, 2014) (emphasis added), available at: *http://internetassociation.org/wp-content/uploads/2014/05/Internet-Association-Letter-on-Future-of-Internet-Governance-Approps-.pdf.*

[20] R. Bruce Josten, U.S. Chamber of Commerce, Letter to U.S. House of Representatives (May 27, 2014) (emphasis added), available at: *https://www.uschamber.com/sites/default/files/140527__hr4660__commercejusticescienceappropriationsact2015__house.pdf.*

[21] Verizon Policy Blog, "Verizon Supports Global Multi-stakeholder Process for Domain Names" (Mar. 14, 2014), available at: *http://publicpolicy.verizon.com/blog/entry/verizon-supports-global-multi-stakeholder-process-for-domain-names.*

[22] Ambassador David A. Gross, Testimony Before the U.S. House Committee on Energy and Commerce (Apr. 2, 2014) (emphasis added), available at: *http://docs.house.gov/meetings/IF/IF16/20140402/102044/HHRG-113-IF16-Wstate-GrossD-20140402.pdf.*

[23] Robert Pepper, "Cisco Supports U.S. Department of Commerce Decision to Transition Internet Management Functions" (Mar. 15, 2014) (emphasis added), available at: *http://blogs.cisco.com/gov/cisco-supports-u-s-department-of-commerce-decision-to-transition-internet-management-functions/.*

[24] Glenn Reynolds, "USTelecom Statement on Global Internet Transition" (Apr. 2, 2014), available at: *http://www.ustelecom.org/news/press-release/ustelecom-statement-global-internet-transition.*

[25] Emma Llanso, Center for Democracy and Technology, "Don't Let Domestic Politics Derail the NTIA Transition" (Apr. 2, 2014) (emphasis added), available at: *https://cdt.org/blog/dont-let-domestic-politics-derail-the-ntia-transition/.*

announcement of the suggested changes related to the IANA functions contract."[26]

- *Computer and Communications Industry Association:* "The technology industry welcomes the news that the U.S. Commerce Department intends to complete the transition of relinquishing its control over key Internet addressing functions to the global multi-stakeholder community. This was a necessary next step in the evolution of the Internet and supports the current multi-stakeholder model of global Internet governance where all stakeholders concerned with the well being and functioning of the Internet help to shape the policies that make a bright online future for everyone possible."[27]

VI. Status of Multistakeholder Process to Develop Transition Proposal

Since NTIA's March 2014 announcement, interested stakeholders have responded with great energy and participation to develop a transition plan. An IANA Stewardship Transition Coordination Group (ICG), representing more than a dozen Internet stakeholder communities, was established as a convener of the process to develop a transition proposal that will ensure the stability, security, and openness of the Internet. As set forth in its charter, the ICG is "conduct[ing] itself transparently, consult[ing] with a broad range of stakeholders, and ensur[ing] that its proposals support the security and stability of the IANA functions."[28] On September 8, 2014, the ICG issued a Request for Transition Proposals to the multistakeholder community, with a proposal submission deadline of January 15, 2015.[29] The ICG requested one proposal for each of the three primary functions, *i.e.,* the protocol parameters, numbering, and domain name-related functions, to be developed by the communities and parties most directly affected by each of the primary functions. Proposal development has to date been open and multistakeholder in participation.

As of February 2015, two of the three community groups have submitted their draft proposals, including the IETF, which is shepherding the protocol parameter proposal, and the five RIRs, which worked collaboratively in developing a draft numbering proposal. The third group, the ICANN Cross Community Working Group (CWG) on the naming related functions, continues to deliberate on how best to assure effective and accountable oversight of these naming functions in NTIA's absence. Upon receipt of the community proposals, the ICG will then work to develop a single consolidated proposal, which will go through various iterations of community review and comment.[30]

On January 27, 2015, I delivered remarks at the State of the Net Conference, where I posed several questions for stakeholders to consider as they continue to develop the naming related proposal, to ensure that it appropriately addresses the principles NTIA established for the transition. I indicated that these questions need to be resolved prior to approval of any transition plan.[31] At the ICANN meeting held in Singapore two weeks ago, I reiterated these remarks and questions. The subsequent community discussions in Singapore give me confidence that the domain name community (through the CWG) is working diligently to develop a proposal that not only considers appropriate accountability, but also what is necessary for the directly affected parties (registry operators) in terms of service levels and processes that preserve and maintain stable DNS root zone management that the community currently enjoys.

ICANN has also launched a parallel process to enhance its accountability to the global Internet community and to strengthen its accountability mechanisms in the absence of a contractual relationship with NTIA.[32] A Cross Community Working

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[26] Internet Society, "Internet Technical Leaders Welcome IANA Globalization Progress" (Mar. 14, 2014), available at: *http://www.internetsociety.org/news/internet-technical-leaders-welcome-iana-globalization-progress.*

[27] Computer and Communications Industry Association, "Tech Industry Praises Liberation Of Internet Governance Functions From U.S.G." (Mar. 17, 2014), available at: *https://www.ccianet.org/2014/03/tech-industry-praises-liberation-internet-governance-functions-u-s-g/.*

[28] Charter for the IANA Stewardship Transition Coordination Group (Aug. 27, 2014), available at: *https://www.icann.org/en/system/files/files/charter-icg-27aug14-en.pdf.*

[29] IANA Stewardship Transition Coordination Group, "Request for Proposals" (Sept. 8, 2014), available at: *https://www.icann.org/en/system/files/files/rfp-iana-stewardship-08sep14-en.pdf.*

[30] *See* IANA Stewardship Transition Coordination Group, "Process Timeline," (Dec. 2014), available at: *https://www.icann.org/en/system/files/files/icg-process-timeline-07jan15-en.pdf.*

[31] Remarks by Lawrence E. Strickling, State of the Net Conference, Washington, DC, (Jan. 27, 2015), available at: *http://www.ntia.doc.gov/speechtestimony/2015/remarks-assistant-secretary-strickling-state-net-conference-1272015.*

[32] *See* Enhancing ICANN Accountability, "Opportunity for public dialogue and community feedback" (May 6, 2014), available at: *https://www.icann.org/resources/pages/enhancing-ac-*

Continued

Group (CCWG) on Accountability, composed of appointed representatives from ICANN's Supporting Organizations (SOs) and Advisory Committees (ACs) and open to all interested parties as participants, is examining accountability mechanisms regarding the entirety of ICANN operations.[33] The CCWG charter identifies two work streams: the first is to identify accountability measures that need to be in place before the IANA transition; and the second to address accountability measures that should be adopted and implemented by ICANN in the longer term. The CCWG identified four distinct work areas: (1) overview of existing accountability mechanisms; (2) review of public comments filed in response to ICANN's proposed accountability process to categorize them as either Work Stream 1 or Work Stream 2 items; (3) review of accountability issues identified by the CWG; and (4) identification of contingencies or threat scenarios.[34] The CCWG adopted an intensive work plan to address the near-term, IANA-specific measures involving weekly meetings in order to progress its work.[35] While it got off to a slower start than the IANA transition process, the CCWG on Accountability is now making considerable progress, as evident at the ICANN Singapore meeting at which the group conducted numerous productive working sessions and meetings with stakeholders. The CCWG on Accountability is also cooperating and coordinating with the CWG working on the domain names transition proposal. This is a good and constructive development as it allows the CWG to return some of its focus on the domain name related functions and a little less on ICANN accountability. NTIA believes that this accountability process needs to include the "stress testing" of solutions to safeguard against future contingencies such as attempts to influence or take over ICANN functions that are not currently possible with the IANA functions contract in place.

These two multistakeholder processes—the IANA stewardship transition and enhancing ICANN accountability—are directly linked, and NTIA has repeatedly said that both issues must be addressed before any transition takes place. ICANN has indicated that it expects to receive both the ICG transition and CCWG accountability proposals at roughly the same time and that it will forward them promptly and without modification to NTIA.[36]

On the subject of timing, NTIA has not set a deadline for the transition. September 2015 has been a target date because that is when the base period of our contract with ICANN expires. However, we have the flexibility to extend the contract if the community needs more time to develop the best plan possible. It is up to the community to determine a timeline that works best for stakeholders as they develop a proposal that meets NTIA's conditions, but also a proposal that works.

The Internet community is undertaking truly historic work. NTIA is confident that engaging the global Internet community to work out these important issues will strengthen the multistakeholder process and will result in ICANN's becoming even more directly accountable to the customers of the IANA functions and to the broader Internet community.

VII. Next Steps

NTIA is committed to continuing to work closely with the stakeholder community as it develops a proposal that fully achieves the goals NTIA established, as well as continue our overarching commitment to strengthening the current multistakeholder model.

In the year ahead, it will be absolutely critical to the interests of the United States that NTIA continue to monitor the discussions within the multistakeholder community as it develops a transition plan and provide feedback where appropriate. Specifically, NTIA will:

- participate in meetings and discussions with other governments, the global stakeholder community, ICANN, and VeriSign with respect to the transition or planning the transition;

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countability-2014-05-06-en; see also, Enhancing ICANN Accountability: Process and Next Steps (Revised Oct. 10, 2104), available at: *https://www.icann.org/resources/pages/process-next-steps-2014-10-10-en.*

[33] *See* ICANN Announcements, "Proposed Charter for Enhancing ICANN Accountability Cross Community Working Group (CCWG) Submitted for Consideration" (Nov. 5, 2014), available at: *https://www.icann.org/news/announcement-2014-11-05-en.*

[34] Cross Community Working Group on Enhancing ICANN Accountability, "Charter" (Last Modified Dec. 11, 2014)(Adopted by 5 organizations), available at: *https://community.icann.org/display/acctcrosscomm/Charter.*

[35] *See* CCWG on Enhancing ICANN Accountability, "Meetings," (last modified Jan. 6, 2015), available at: *https://community.icann.org/display/acctcrosscomm/Meetings.*

[36] ICANN, "ICANN 52 Board Statement on ICANN Sending IANA Stewardship Transition and Enhancing ICANN Accountability Proposals to NTIA" (Feb. 12, 2015), available at: *https://www.icann.org/news/announcement-3-2015-02-12-en*

- if appropriate, amend the IANA functions contract to modify the length of contract renewal option periods; and
- continue to represent the United States at the GAC meetings held at ICANN meetings and intersessionally throughout the year.

Once the community develops and ICANN submits the consolidated proposal, we will ensure that the March 2014 criteria are fully addressed and that the proposal has been adequately "stress tested" to ensure the continued stability and security of the DNS. The community processes used to develop their proposal might also influence the work NTIA will need to undertake. For example, if the community conducts "stress tests" as well as tests and validates any new process or structures included in the proposal prior to submission, well-documented results may facilitate NTIA's review. This will also give confidence that any process, procedure or structure proposed actually works. In addition, NTIA will review and assess the changes made or proposed to enhance ICANN's accountability required in advance of initiating the transition.

VIII. Conclusion

NTIA is cognizant of and appreciates the directive from Congress to inform the relevant Committees in advance of any decision related to the transition. As the proposal continues to take shape, we will update Congress accordingly. NTIA appreciates interest in this important topic and thanks Congress for its continued support for the multistakeholder model of Internet governance.

The CHAIRMAN. Thank you, Mr. Strickling. Mr. Chehadé?

STATEMENT OF FADI CHEHADÉ, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN), A CALIFORNIA PUBLIC BENEFIT NONPROFIT CORPORATION

Mr. CHEHADÉ. Mr. Chairman, Ranking Member, members of the Committee, I am Fadi Chehadé. I am the President and CEO of ICANN. I am very honored to be in front of you today.

Thirty-five years ago, I started my American journey. I was peeling onions in the back of a restaurant and going to community college to learn English. Here I am in front of you. This is the American dream that actually I lived.

The reason I bring it up today is because at the heart of what we are discussing is keeping that dream. What is that dream? It is about values that keep our lives, our system open, inclusive, and really an opportunity for anyone who is really ready to work hard to participate in the system.

The Internet is no different than the system. It is the greatest American invention, and it is an invention that supports these values, the values of openness, of inclusivity, of participatory openness to anyone who is willing to come and make a real difference.

We have taken that Internet to the world and today we look at it driving a $4.2 trillion global digital economy and growing. It is the fastest growing part of the global economy.

I with you agree we must maintain the values of that system. If that system in any way is jeopardized, if its stability is punctured, we all stand to lose, America and the world.

It is based on these values that almost two decades ago this country created the multistakeholder institution called ICANN. We did it because we believed that a private sector-led institution that has the checks and balances and governance of the great institutions of this country can actually govern the Internet.

For 20 years almost, that is what we have done. ICANN has grown to become a global institution that is respected, that is trust-

ed, and it has in its core the values of the American system that I have witnessed personally and that the Internet embodies.

Therefore, I want to give you first an unequivocal assurance that whatever we do here must and will retain the values with which we started this endeavor.

For example, the letter that the chairman and Senator Rubio sent us and prepared on how to strengthen the accountability of ICANN includes six very powerful and very good ideas on how we can take this forward. Frankly, many of these are already in motion at ICANN. Those that are not, the community is now discussing actively.

For example, you mentioned how we can limit the possibility of governance exercising undue influence at ICANN. Already, governments cannot be on our Board. Governments can only give advice. We will strengthen this further, as you suggested in your letter.

Another concrete idea you gave us in your letter is to make sure our Affirmation of Commitments to the world are enshrined in our bylaws. We are very actively looking at doing that right now, and I believe this is a good idea, and I hope our stakeholders will agree with me.

These Affirmation of Commitments by the way are very clear that the jurisdiction of ICANN shall remain in the United States of America, and we stand by this.

I have been in this town now for 24 hours and I heard the same question asked again and again, why. Why is this transition necessary. In a world where cybersecurity and issues of the Internet are growing and on our minds, why give up American oversight now at a time when the world and we need it most.

Some answer this question by saying because if we are true to our beliefs, if we believe in private sector led multistakeholder institutions, we cannot be ourselves as the U.S. Government engaged when we believe in that model. Therefore, we should be an example to the world and let the multistakeholder model thrive, as Senator Rubio and Senator McCaskill's Resolution in 2012 affirms, and we believe in these concepts.

Others say we should do it because if the U.S. does not step back, some governments who do not share our values will step in into inter-governmental bodies and try and force us to control what we do at ICANN and other aspects of Internet governance.

Both of these parties may have a point, but I want to finish by telling you why I believe this is the time to do this transition. Multiple administrations over the last two decades have supported the multistakeholder model. This transition is not a surprise. This is the planned progression we have all believed in and supported for almost two decades.

It is now time to show the world that when we say we believe in private sector led multistakeholder institutions, we do what we say. The world is watching, and I think we will not let them down.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Chehadé follows:]

PREPARED STATEMENT OF FADI CHEHADÉ, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN), A CALIFORNIA PUBLIC BENEFIT NONPROFIT CORPORATION

Mr. Chairman, Ranking Member, and members of the Committee, I am Fadi Chehadé, the President and CEO of ICANN, the Internet Corporation for Assigned Names and Numbers. I am very pleased to be testifying before you today.

The subject of today's hearing, "Preserving the Multistakeholder Model of Internet Governance" comes at a very timely point in the work of ICANN's multistakeholder community. Nearly one year ago, on March 14, 2014, the Department of Commerce's National Telecommunications and Information Administration announced its intent to continue its ongoing transition of Internet governance oversight to the multistakeholder model by calling upon the ICANN community to convene a process to develop a proposal that meets a clear set of criteria for that transition and that will ensure that no government-led solution or intergovernmental organization could gain control of the IANA functions.

The U.S. Government demonstrated great vision in its initial decision so many years ago to privatize the management of the domain name system. Republican and Democratic Administrations have remained true to the vision, gradually reducing government oversight of the ICANN multistakeholder community. In this light, the announcement to complete the privatization and transfer NTIA's stewardship of the IANA functions to the multistakeholder community is the logical extension of the U.S. Government's long-standing support for the multistakeholder model.

How Did We Get Here?: A Brief Background

NTIA's announcement was a long time coming. In 1998, NTIA entered into the IANA (or Internet Assigned Numbers Authority) Functions Contract with ICANN. That same year, ICANN was purpose-built to perform the IANA functions, which consist of the coordination of unique Internet identifiers (domain names, IP numbers and protocol parameters). ICANN has performed the IANA functions pursuant to its no-fee contract with the U.S. Government ever since, while maintaining the security, stability and resiliency of the Internet. This technical mandate does not give ICANN control over content on the Internet; instead it is key to maintaining a single, global, unified and interoperable Internet.

The relationship between ICANN and NTIA has remained strong over the past 17 years. For many reasons, I expect that our relationship with the U.S. Government will remain strong even when the IANA Functions Contract comes to an end. Apart from its stewardship role, NTIA represents the U.S. Government within ICANN's Governmental Advisory Committee. It is also our partner in the Affirmation of Commitments. Further, ICANN has its global headquarters in the United States, and there are no plans for that to change.

At the time of ICANN's formation, it was envisioned that the U.S. Government would transition its stewardship role over the key unique Internet identifier functions within two years. This temporary arrangement lasted far longer than anyone anticipated, but ICANN is now recognized as mature enough to perform its work under a multistakeholder-based stewardship model as opposed to any single government control. The successful completion of the transition is essential to the upholding of the multistakeholder model for Internet policy and governance. The eyes of the world are watching this process and ICANN and the U.S.'s commitment to see this transition through. NTIA's announcement preserves and prolongs the free and open Internet that has brought so much economic growth and social and cultural development.

Both ICANN and the U.S. Government have championed the multistakeholder model, in which standards and policies are developed by large and small businesses, the technical community, not-for-profit organizations, civil society, intellectual property experts, governments, academia, and Internet users from around the globe. American corporations—such as AT&T, Cisco, Google, Microsoft, Neustar, Verisign and Verizon—and the Internet technical community (the Internet Architecture Board, Internet Engineering Task Force, the Internet Society, the Regional Internet Registries and the World Wide Web Consortium) also participate in and demonstrate support for the multistakeholder model. These entities have welcomed the U.S. Government's announcement as the way to bring more countries to support the multistakeholder approach to Internet governance, moving them away from a model in which only governments hold sway.

A few weeks after NTIA's announcement, I was called to testify before the House of Representatives' Energy and Commerce Subcommittee on Communications and Technology on "Ensuring the Security, Stability, Resilience, and Freedom of the Internet." There, Assistant Secretary for Communications and Information Law-

rence Strickling and I testified about the work initiated following NTIA's announcement. Much work has progressed since that time, and I will discuss that below.

There are areas however in which not much has changed. There are still many who challenge multistakeholder governance of the Internet when one single government is seen as exercising control over the IANA functions. There are other governments and intergovernmental organizations that are eager to challenge the U.S.'s unique stewardship role. I testified in March 2014 of the threats posed by governments who seek to use United Nations processes to challenge that singular stewardship model and assert more diverse participation of other governments in Internet governance, and the import of the U.S. stepping out of the stewardship role to diffuse that threat.

If we succeed, we will diffuse arguments that are being strongly used now by governments that seek to expand their perceived limited and advisory role in Internet governance while one other single government enjoys a special role. Success will also lessen support for the creation of intergovernmental mechanisms for Internet policy development at the UN General Assembly, or for governments to expand control over the management of core Internet resources and possibly fragmenting the Internet.

Congress itself recognized the threat by those who argue for increased government control over the Internet, and reaffirmed its commitment to the multistakeholder model of Internet governance, in its 2012 S.Con.Res.50 and H.Con.Res.127. This announcement by NTIA to end its stewardship role over the IANA functions further cements this commitment.

Without a completion of this transition, we risk not only the continued vitality of the multistakeholder model, but the ability to maintain a unified, global Internet free from governmental interference. The global community now sees this transition effort as a fork in the road for the multistakeholder model of Internet Governance; we are being watched closely. The timely transition will encourage governments to participate in the multistakeholder model with the private sector, with the technical community, civil society and academia to keep one, global, non-fragmented, stable and resilient Internet. This will benefit U.S. businesses and end users and will promote the long-standing U.S. objective of maintaining a single open, free, innovative global Internet. As Ambassador David Gross testified at that same March 2014 hearing, the transition will lead to a "better Internet" and "better Internet Governance situation."

Multistakeholder Work Towards the Transition

The multistakeholder community has stepped up to the task that NTIA laid before it. The support for the transition has been broad and deep, with a demonstrated commitment to transparency in the dialogues. After community consultation, an IANA Stewardship Transition Coordination Group, or ICG, was formed with 30 members from across a variety of stakeholders, including not only the customers of the IANA functions, but also representatives from the business community, civil society, governments, root server operators, and security and stability advisory members. The ICG, in turn, submitted a request for proposals from each of the operational communities that are in direct operational or service relationships with ICANN as the IANA functions operator. Each of these three operational communities quickly organized discussions—many happening outside of ICANN—to respond to the ICG:

- The protocol parameters community, through the Internet Engineering Task Force, conducted an open dialogue in which all could participate. This community delivered its response to the ICG in January of this year.
- The numbering community, through a team convened by the five Regional Internet Registries (from North American, Asia-Pacific, Europe, Africa and the Latin American/Caribbean regions), held open dialogues throughout the communities they serve. The team also delivered its proposal in January of this year.
- The naming community formed a Cross-Community Working Group, made up of business, operators, governments and civil society, to develop its proposal. The work is ongoing.

The hallmark of the proposal developments at each stage is open, with global participation across stakeholders.

A tremendous number of hours have been devoted to this work, and I am humbled by the devotion of the volunteers who are working so hard toward this effort. Some highlights include:

- 90 meetings/calls, 5 of which were ICANN-funded face-to-face meetings
- Over 9,700 mailing list exchanges

- 190 hours of meetings/calls, not including drafting/document development
- 7 transition working or engagement sessions at ICANN Meetings
  - This does not include community-run sessions where the transition was discussed, or when members of working groups presented to other parts of the ICANN community
- Over 250 events globally for awareness building and discussion
  - In at least 63 different countries spanning North America, Latin America/Caribbean, Europe, Asia, Africa, the Middle East, and Australasia/Pacific

When all proposals are in, the ICG is charged with assessing them and assembling a complete proposal for the transition. The proposal will be submitted to ICANN, which will in turn submit it (along with the accountability proposal discussed below) to NTIA for consideration. NTIA has specified that the proposal must meet certain criteria, which are:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectation of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

In addition, the NTIA made clear that it will not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution.

It is important to note that within the transition process, each of the communities served by the IANA functions have stated their satisfaction with ICANN's performance of those functions. ICANN has received repeated high marks on an annual IANA Functions Satisfaction Survey. Even as ICANN is facilitating this important process, my key focus remains on maintaining operational excellence and the security, stability and resiliency of the Internet DNS.

ICANN's Performance Standards for timeliness and accuracy of processing stakeholder's requests are published on a monthly basis. In addition, ICANN is subject to an annual audit of the security of the IANA functions systems. Further, after an independent assessment, the IANA Functions Department received recognition from an international organization for its business excellence. We are ready operationally to maintain this quality of work even without NTIA in its stewardship role.

Enhancing ICANN Accountability—A Parallel Process

When NTIA made its announcement, many in the ICANN community questioned whether ICANN could remain accountable without the perceived backstop of NTIA in the absence of the IANA Functions Contract. As a result, ICANN initiated the Enhancing ICANN Accountability process, another cross-community effort, to arrive at recommendations for how ICANN's accountability mechanisms can be enhanced or newly developed to address the community concerns. NTIA is supportive of this effort, and has made clear that the issues of accountability are related to the transition of the stewardship over the IANA functions; NTIA will only consider the stewardship transition proposal alongside recommendations on how ICANN's accountability can be improved.

The group performing the Enhancing ICANN Accountability review has broad representation across the multistakeholder community, with members from business, civil society, governments and others. Asst. Secretary Strickling served as one of the selectors of experts to advise the accountability working group, including experts on global accountability and governance. The group has 25 designated members and over 130 participants from across the globe, and has made substantial progress towards the development of recommendations in the few months it has been active. Their work is open,transparent and fully accessible around the globe.

The work relating to accountability in light of the changing historical relationship with the U.S. is looking at whether and how to enhance opportunities for community input into key processes within ICANN, such as the budget approval and key Bylaws changes. It is also considering enhancing opportunities for review and redress of ICANN decisions. Though the Affirmation of Commitments between ICANN and the Department of Commerce is not impacted by the transition announcement, and no change in that relationship is anticipated, the accountability group is considering if there are some items set out within that Affirmation that are so important that they should be housed within the ICANN Bylaws. The group is aware of the need to "stress test" their proposed solutions against key potential risks, and has been very active in defining those risks.

The community work is very much in line with the ideas put forward by Chairman Thune and Senator Rubio in a July 31, 2014 letter submitted to ICANN on enhancing ICANN accountability. There, six concrete ideas were set forth on how ICANN could enhance its accountability. Some of these protections already exist, and those that do not are already under discussion within the accountability working group. For example:

- The letter discussed the import of limiting possibility of governments exercising undue influence through mechanisms such as not allowing government representatives to sit on the ICANN Board; limiting governments to an advisory role within ICANN through the Governmental Advisory Committee; and amending bylaws to require board to consider only consensus advice issued by the Governmental Advisory Committee.
  - The ICANN Bylaws already prohibit a government representative from holding a voting position on the ICANN Board, and governments hold only an advisory role through the Governmental Advisory Committee. These are important items that need to remain in place.
  - The accountability group is already discussing issues relating to consensus advice from the Governmental Advisory Committee and how to address this concern.
- There was a call to keep the IANA functions operations as separate from the policy-development processes that define those policies that are implemented through the IANA function.
  - That exists today and there are no recommendations to modify that separation.
- The recommendation that major decisions of the Board, including changes to Bylaws, should be increased to 4/5 of all voting members is in line with the community discussions. The community is also considering mechanisms for enhanced community participation in these key decisions.
- In the letter, there is a call for increased oversight tools for the community such as a requirement for an annual audit over the organization and the development of an Inspector General's office to develop reports on the activities of the community; the development of a Freedom of Information Act-like process for document disclosure; and a form of "parliamentarian" to guide people through ICANN processes.
  - Through the Audit Committee of the ICANN Board, ICANN has an independent financial audit performed each year by an external audit firm; these financial audits are available online, and have consistently returned with clean results. If this process can be enhanced, I would be in full support.
  - Similarly, ICANN maintains a document disclosure process (called the Documentary Information Disclosure Policy) through which requests for non-public information are weighed against community-vetted, publicly available conditions for non-disclosure. I understand that the accountability process will likely be suggesting enhancements to this disclosure process.
  - I am in full support of any tools, such as a parliamentarian, that make ICANN's processes easier to follow and more open for participation.
- The recommendation for enhanced, independent dispute resolution processes to provide confidence to community that redress is possible when board or staff errs or fairness of process is called into question is one of the main focuses of the accountability work today, and I expect to see significant progress on this issue.
- Finally, there was a call to amend the ICANN Bylaws to make the Affirmation of Commitments, including the community reviews, a permanent part of ICANN, removing the ability for a 120-day termination of the Affirmation.
  - First, ICANN is deeply committed to the Affirmation of Commitments and has no plans to terminate our obligations under that agreement. Notwithstanding that fact, the accountability group is already working on this exact idea of incorporating the Affirmation of Commitments into the Bylaws, including requirements for higher voting thresholds in the event of future attempts to modify these obligations.

I, along with my fellow Board members, confirmed to the community, and confirm to you today, that we are open to considering any possible recommendations, even if those recommendations result in enhanced community input in the removal of

Board members for cause. We are committed to this process and to a positive outcome.

ICANN's 52nd Public Meeting Focused on Transition Activities

I have just returned from Singapore, where ICANN convened its 52nd public meeting, which we call ICANN52. We had over 1,800 people in attendance at this meeting, including representatives from across business and civil society, including 21st Century Fox, Apple, the Center for Democracy and Technology, Facebook, Google, the Heritage Foundation, the Motion Picture Association of America and others. Volunteers were in sessions starting at 7:00 a.m., often not concluding their meeting days until well into the evening. The week was marked with intense, serious deliberations. Volunteers returned from such an intense week of ICANN52 without pause to continue with rigorous schedules of conference calls to maintain the momentum and bring this work to a close.

Next Steps

Where do we go from here? The base term on the current IANA Functions Contract is set to expire in September of this year. However, I have been clear—as has Asst. Secretary Strickling—that the end of the current contract term is not an artificial deadline. This is the community's process and I am not imposing any deadline on the completion of any of the work underway. It is important to get this done right. Remarkably, the global response to the NTIA announcement has ICANN currently in a place where it is still feasible to deliver a proposal to NTIA in time for a transition to occur at the expiration of the contract. Much work has been completed in a relatively short time. The areas where work is still ongoing, particularly within the names community and the accountability working group, have intensive work schedules over the next few weeks with the hope of having documents available for consultation shortly. Of course, if more time is needed, it can be taken; there are opportunities for extensions under the current IANA Functions Contract, and we are committed to tracking this issue closely with the NTIA to address any timing concerns.

I am aware of the Congressional interest in this topic, both on the Senate and House sides. The February 5, 2015 designation of an "Internet Governance Awareness Week" to correspond to ICANN52 was appreciated in helping to call further attention to the important issues raised through this transition process. As discussed, the ICANN52 participants met your call for focusing on important issues such as accountability and maintaining the global, unified Internet that we have all come to rely on. And we stand with you on this. For example, there remains clear consensus on the need to maintain the IANA functions operations as separate from the policy-development processes that define those policies that are implemented through the IANA function. That exists today and there are no recommendations to modify that separation. I stand with you on making sure that the stewardship role is not now, nor susceptible in the future, to being led by any government, group of governments, or intergovernmental solution. Similarly I stand with you that no other stakeholder or group of stakeholders should be in a position to exercise undue influence over ICANN.

Finally, I wish to assure you that the transition will not take place in the dead of night. The community work is conducted in an open and transparent manner, including calls for public comment on draft proposals. Once the proposals are finalized, there will be ample time for Congress and other interested parties to review them. I look forward to meeting with you again to discuss the final proposals.

Thank you for inviting me to testify. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. Chehadé. Ambassador Gross?

STATEMENT OF DAVID A. GROSS, AMBASSADOR, PARTNER, WILEY REIN LLP, AND FORMER U.S. COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, U.S. DEPARTMENT OF STATE

Ambassador GROSS. Thank you very much, Mr. Chairman, Ranking Member, members of the Committee. It is a great honor and privilege to be back here. Thank you very much for the invitation to testify.

This hearing is a very timely hearing, not only for the reasons that my colleagues up here on the panel have identified, but also for at least two other reasons. One is Internet freedom is on the decline. Freedom House has said for the last 4 years Internet freedom has been declining. This is an issue that concerns everyone and should concern everyone.

Second is we are at a time of a global inflection point with regard to Internet access. The GSMA, the wireless association, the global wireless association, has said that in 2013 there had been about 2.2 billion subscribers for Internet and mobile services, and for most of the world, they get their Internet through wireless technology. That is about a third of the global population.

They estimate that in less than 5 years, by 2020, that there will be an additional 1.6 billion people worldwide who will become mobile Internet subscribers, a total of about 3.8 billion people, about half the world's population, will have Internet access because of that technology.

We are at a time when this is critically important because we are at the cusp not only of ensuring that the world's population has Internet access but will get Internet access for the first time.

The members of the Internet Governance Coalition, of which I have the privilege of leading, has an extraordinary interest in the issues before us today. They are committed fulsomely to the five points that Assistant Secretary Strickling laid out in his announcement in March on behalf of the Administration, including the announcement that any transition will ensure that no government or inter-governmental organization can find a way of controlling these functions.

Our members have been very actively involved in this process from the beginning. Importantly, I am here to tell you that we are not only actively involved in this, but we are watching this process like a hawk to ensure that any proposal that comes out of this process meets the five-part test set forth as the standard by the Administration and by Assistant Secretary Strickling, and we will be amongst the first to say if we do not think it meets that test.

We are optimistic and I am optimistic that it will come forward with a proposal that can be adopted that will meet that test, but time will tell.

Importantly, the Administration has made clear, and we wholeheartedly agree, that there is no rush to a decision. As Assistant Secretary Strickling has indicated, the September 30 date is a date when the current contract expires but it can be automatically renewed.

We believe that it is much more important to get this right than to rush, and we wholeheartedly agree in making sure that the process goes fulsomely to a happy and successful conclusion.

That successful conclusion is affirmance of the role of the private sector in the multistakeholder approach that many administrations have endorsed, that have gone to the mat to defend globally, and importantly, has had the fulsome support of the Congress, especially led by the Senate.

We are greatly appreciative of that. We believe that important involvement is critical to a successful outcome in this process, and we support the process with the hope and expectation that it will

meet not only the needs of our community but importantly the approximately 3.3 billion people around the world who will have or soon will have Internet access.

Thank you very much.

[The prepared statement of Ambassador Gross follows:]

PREPARED STATEMENT OF DAVID A. GROSS, AMBASSADOR, PARTNER, WILEY REIN LLP, AND FORMER U.S. COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, U.S. DEPARTMENT OF STATE

Summary

The Internet Governance Coalition welcomed the opportunity to participate actively in the IANA functions transition process commenced by NTIA last year, and NTIA's affirmation that any transitional proposal must support and address the following four principles:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectations of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

The principles articulated by NTIA and its explicit commitment not to accept proposals replacing its role with a government-led or an inter-governmental organization, together with those found in the Coalition's submission to the 2014 NETmundial conference, are essential for ensuring that all global citizens are able to take advantage of the Internet's full transformative capabilities, both now and in the future.

Coalition members work closely with other stakeholders in the process initiated by NTIA and coordinated by ICANN. Challenges will continue to be faced in the days ahead, and debates on the best form of Internet governance will remain a focus at future meetings, including the Internet Governance Forum and the UN's World Summit on the Information Society review. While the expiration of the current IANA functions contract approaches, it is most important that the transition process not be rushed, and that NTIA take the necessary time to ensure that any proposals ensure the continuation of a safe, secure, open, interoperable, and sustainable Internet, as well as a transparent and accountable ICANN.

Chairman, Ranking Member, Members of the Committee, good morning and thank you for the opportunity to testify before you today.

My name is David A. Gross. Formerly, I had the great honor of serving in the Department of State as the United States Coordinator for International Communications and Information Policy from 2001 to 2009. During this time, I led the United States delegations to the preparatory meetings and I was the co-head of the United States delegations to both actual phases of the United Nations' World Summit on the Information Society (WSIS) in Geneva (2003) and Tunis (2005), which, among other things, focused on the role of governments regarding Internet governance and resulted in the creation of the Internet Governance Forum (IGF). Today I am appearing on behalf of the Internet Governance Coalition, an industry coalition with broad representation from the communications, Internet, and related industries, including Amazon, AT&T, Inc., Cisco Systems, Inc., Comcast NBCUniversal, Facebook, Go Daddy, Google Inc., Juniper Networks Inc., Microsoft Corporation, Telefónica, S.A., The Walt Disney Company, Time Warner Cable Inc., Twenty-First Century Fox Inc., and Verizon Communications Inc.

I am pleased to testify on important issues related to the National Telecommunications and Information Administration (NTIA) process of transitioning key Internet domain name functions to the global multistakeholder community. The primary focus of my testimony is to emphasize our firm belief that a thriving Internet depends on a governance structure that is open, transparent, and representative of all stakeholders. The current multistakeholder model for Internet governance has facilitated the historic Internet-driven economic, social, and political development of the past two decades. The decentralized structure of the Internet has enabled individuals to access information and services, to connect and to communicate, and to share ideas and knowledge globally. By offering new possibilities for entrepreneurial creativity, the Internet has become a powerful engine for unparalleled technological

innovation, economic growth and the preservation and promotion of cultural diversity.

We wish to commend the leadership of Assistant Secretary Strickling and the extraordinary group of professionals at NTIA for their tireless support of the multistakeholder model of Internet governance. The Internet has been allowed to mature into the global "network of networks" that it is today, in large part because of the stewardship by NTIA, ably supported by the Department of State and other Federal agencies. Similarly, ICANN has matured substantially since its inception in 1998, focusing on implementing accountability and transparency mechanisms and practices, such that it is now possible for NTIA to evaluate and possibly approve a transition plan for the further evolution of ICANN.

Indeed, as described in NTIA's recent "Report on the Transition of the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions," as directed by the Consolidated and Further Continuing Appropriations Act, 2015 Public Law 113–235,[1] the process to develop a transition proposal already is well underway. An IANA Stewardship Transition Coordination Group ("ICG"), representing more than a dozen Internet stakeholder communities, has been established to guide the process to develop a transition proposal. On September 8, 2014, the ICG issued a Request for Transition Proposals to the multistakeholder community, requesting one proposal for each of the three primary functions: the protocol parameters, numbering, and domain name-related functions. The Internet community currently is in various states of proposal development. The IETF and the five Regional Internet Registries have submitted final proposals, and a Cross Community Working Group on the domain name-related functions is finalizing its draft proposal. The ICG expects to submit, through ICANN, a final transition proposal to NTIA by the end of July 2015.

ICANN also has launched a parallel process to enhance its accountability to the global Internet community. This process is directly linked to the IANA functions transition process, and NTIA reiterated in its recent Report that both issues must be addressed before any transition takes place. A Cross Community Working Group on Accountability, composed of representatives from ICANN's Supporting Organizations and Advisory Committees, and open to all interested parties, has been established to identify both the accountability measures that need to be in place before the IANA transition as well as measures that should be adopted for the longer term.[2]

We believe that these processes—transitioning the IANA functions and implementing enhanced accountability and transparency—are both critical steps. United States oversight of the IANA functions has long been an issue of concern to the global community. By allowing for the careful transition of the IANA to a bottom-up multistakeholder entity, the United States has affirmed its commitment to the multistakeholder model. Further, the accountability review that is under way must provide ICANN stakeholders additional and robust accountability and transparency mechanisms to ensure future stability in the absence of NTIA's current role, and these additional mechanisms must be in place prior to or simultaneous with the transition. If the principles NTIA identified for the transition are met—which is a critical condition for this process to work—the United States will also succeed in maintaining the freedom, openness, security, and stability of the network we have all enjoyed since its inception.

For these reasons, the Coalition welcomes NTIA's affirmation that any transitional proposal must support and address the following four bedrock principles:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectation of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

These principles, together with NTIA's critically important, explicit commitment not to accept any proposal that could replace its role with a government-led or an inter-governmental organization, are consistent with the statement that the Coalition made in its submission to the April 2014 "Global Multistakeholder Meeting on the Future of Internet Governance," also known as NETmundial, held in Sao Paulo, Brazil. A copy of that statement, entitled "Sustaining Principles for Internet Policy and Governance" is attached to this testimony.

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[1] *http://www.ntia.doc.gov/files/ntia/publications/iana_report_013015.pdf*

[2] *https://community.icann.org/display/acctcrosscomm/CCWG+on+Enhancing+ICANN+Accountability*

To be clear, the principles articulated by NTIA and those found in the Coalition's NETmundial statement are, we believe, essential for ensuring that all global citizens—regardless of their location—are able to take advantage of the Internet's full transformative capabilities, both now and in the future.

Coalition members have been working closely and look forward to continuing to work with other stakeholders involved in the process initiated by NTIA and coordinated by ICANN. But we also wish to underscore the reality of the current international environment: there are great challenges associated with ensuring a safe, secure, open, interoperable, and sustainable Internet that have been faced during numerous international meetings and treaty conferences in recent years. Debates on the best form of Internet governance certainly will be a focus at future meetings, including the 2015 Internet Governance Forum and the United Nation's World Summit on the Information Society review, which is scheduled to conclude in December, 2015.

Through these various processes, we must join together to be vigilant to ensure a safe and open Internet, as well as to ensure that whatever policies and structures are adopted foster innovation and investment in Internet networks, services, and other sectors of the Internet ecosystem, including ensuring the protection of intellectual property and the protection of human rights. We are also resolute that policies must support opening and maintaining international markets in a way that allows for the seamless flow of digital services, applications, products and information.

Similarly, policies must stimulate sustainable investment in and deployment of Internet networks and the industries and services that create demand for those networks. These goals are best advanced through the rule of law, which governments have the primary responsibility for advancing, and establishing predictability in decision-making.

Finally, we urge all governments to adopt policies that support increased transparency and openness in intergovernmental organizations, to promote inclusiveness in existing multistakeholder mechanisms, and to ensure that all stakeholders can participate meaningfully in key Internet policy and governance discussions. The quality of Internet governance decisions increases when diverse stakeholders choose to actively and consistently participate.

We are encouraged by NTIA's and ICANN's commitments to working closely with all stakeholders to ensure that they develop a transition proposal that fully achieves the goals NTIA established and that continues strengthening the multistakeholder model. It will be critical that NTIA continue to engage the multistakeholder community as it develops its transition plan. While the expiration of the current IANA functions contract is approaching, it is important that the transition process not be rushed and that NTIA take the necessary time to ensure that any transition proposals ensure the continuation of a safe, secure, open, interoperable, and sustainable Internet. In this regard, we welcome the commitment of Assistant Secretary Strickling to extend the current contract if the global community requires additional time.

I would like to thank the Committee for allowing me, on behalf of the Internet Governance Coalition, to present our views at a time of great importance for preserving the fundamental principles that have governed the Internet. This is a particularly important period in the Internet's evolution, and re-enforces the timeliness of this hearing. We welcome the initiative undertaken by Assistant Secretary Strickling, and we are prepared to join with others in ensuring that the process that has been initiated continues to affirm these guiding principles that have been at the core of the Internet's extraordinary growth during the past two decades.

ATTACHMENT:
INTERNET GOVERNANCE COALITION SUBMISSION TO NETMUNDIAL, APRIL 2014

Sustaining Principles for Internet Policy and Governance

- Area: SET OF INTERNET GOVERNANCE PRINCIPLES
- Entitled by: David A. Gross Region: Americas
- Organization: Internet Governance Coalition Sector: Private Sector
- Keywords: Internet governance multistakeholder

Abstract

The Internet Governance Coalition extends our sincere appreciation to Brazil for hosting the "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in São Paulo. The Meeting is taking place at a time when the topic of Internet governance is an issue of great interest around the world. The many

major conferences and work efforts scheduled this year exemplify the accelerated pace of Internet governance discussions and make 2014 a particularly important year in the ongoing evolution of the Internet. Indeed, there are a host of institutions, each with different core functions and strengths, that address issues related to Internet governance. We believe that preserving and advancing open and consultative decision-making is essential to ensuring that global citizens are able to take advantage of this transformative platform both now and in the future. As such, we respectfully submit seven principles which we believe are essential to Internet governance.

Document

The Internet Governance Coalition (the "Coalition") extends our sincere appreciation to Brazil for hosting the "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in São Paulo. The Meeting is taking place at a time when the topic of Internet governance is an issue of great interest around the world. The many major conferences and work efforts scheduled this year exemplify the accelerated pace of Internet governance discussions and make 2014 a particularly important year in the ongoing evolution of the Internet. Indeed, there are a host of institutions, each with different core functions and strengths, that address issues related to Internet governance.

The Coalition represents leading international Internet and telecom companies, including: Amazon, AT&T, Inc., Cisco Systems, Inc., Comcast NBCUniversal, Google Inc., Juniper Networks Inc., Microsoft Corporation, Telefónica, S.A., The Walt Disney Company, Time Warner Cable Inc., Twenty-First Century Fox Inc., and Verizon Communications Inc. We believe a thriving Internet depends on a governance structure that is open, transparent, and representative of all stakeholders. The multistakeholder model approach to Internet governance has allowed for the creation of decentralized structures that have resulted in historic economic, social, and political development. This decentralized structure of the Internet has enabled individuals to access information and services, to connect and to communicate, and to share ideas and knowledge globally. By offering new possibilities for entrepreneurial creativity, the Internet has become a powerful engine for technological innovation, economic growth, and the preservation and promotion of cultural diversity. We believe this model, strengthened as necessary, will continue to best serve these shared goals and Internet users far into the future.

These concepts are rooted in the 2005 *Tunis Agenda for the Information Society* that provided the foundational principles for Internet governance, which affirmed the multistakeholder, transparent, and democratic governance of the Internet, while at the same time recognizing the sovereignty of governments and rule of law. It is precisely because of this multistakeholder governance model that the Internet has grown into the transformative platform it is today. To say nothing of the broader social benefits from the Internet, its economic contributions have been astonishing. According to McKinsey Global Institute, the Internet accounts for 21 percent of GDP growth in the last five years in developed countries, and in 30 surveyed developing countries.

We believe that preserving and advancing open and consultative decision-making is essential to ensuring that global citizens are able to take advantage of this transformative platform both now and in the future. As such, we support the following principles which we believe are essential to Internet governance:

- Policies must ensure a safe, secure, open, interoperable, and sustainable Internet.
- Policies must stimulate sustainable investment in and deployment of Internet networks and the industries and services that create demand for those networks.
- Policies must support opening and maintaining international markets in a way that allows for the seamless flow of digital services, applications, products, and information.
- Policies must foster innovation across Internet networks, services, and other sectors in the Internet ecosystem, including ensuring the protection of intellectual property.
- Policies must support increased transparency and openness in intergovernmental organizations and multistakeholder mechanisms, to ensure that all stakeholders can participate meaningfully in key Internet policy discussions. The quality of Internet governance decisions increases when diverse stakeholders choose to actively and consistently participate.

- Policies must support capacity building and implementation of best practices in relation to network security.
- Policies must support the rule of law which governments have primary responsibility for advancing.

The Coalition looks forward to working with all stakeholders to prepare for a successful Meeting in Brazil, and welcomes this opportunity for dialogue on these important issues. International consensus on Internet policies is unlikely to be realized at only one meeting. These debates will continue at future meetings, including the 2014 Internet Governance Forum, WSIS Review, and ITU Plenipotentiary, that, together with the "The Global Multistakeholder Meeting," promise to make significant contributions to the ongoing global dialogue on Internet governance.

The Coalition again extends its appreciation to the host country of Brazil and to CGI.br and/1net for their extraordinary and constructive work in organizing the Meeting.

Respectfully submitted,

INTERNET GOVERNANCE COALITION.

The CHAIRMAN. Thank you, Ambassador Gross. I want to yield now to my partner on this committee, our Ranking Member, the Senator from Florida, Senator Nelson, for an opening statement.

STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

Senator NELSON. Mr. Chairman, I support the multistakeholder model of ICANN. As an institution, it represents one in which the Internet's diverse stakeholders can come together and make sure the Internet remains free, open, secure, and a global network.

Mr. Chairman, I will give you a present today. I will cease my opening comments.

[Laughter.]

Senator NELSON. I will seek permission to enter it into the record so we can get into the questions.

[The prepared statement of Senator Nelson follows:]

PREPARED STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

Thank you Chairman Thune for holding this hearing today.

The Internet is one of our country's great research and development success stories. With the support of the Department of Defense and other U.S. Government agencies, a small community of computer researchers worked for many years to develop the technology and standards necessary to allow computer users on different networks to easily share digital information with each other. Those standards still lie at the heart of the Internet today.

While the Internet may have had its birth here in the United States, it has quickly transformed the entire world. That's why the U.S. Government began nearly two decades ago to take steps to transfer control of the technical and operational aspects of the Internet to the private citizens, businesses, and institutions that were rapidly adopting it across the globe.

It was that effort that led to ICANN. I strongly support the multistakeholder model that ICANN, as an institution, represents: one in which the Internet's diverse stakeholders can come together and make sure that the Internet remains a free, open, and global network.

I also support the National Telecommunications and Information Administration's (NTIA) announcement last year that it would complete the work of privatizing the technical elements of the Internet begun in 1998. I know that there are legitimate concerns about this transition. Many of those will be discussed during this hearing, but NTIA has been handling this transition in the right way. For example, NTIA has made clear that these functions may not be handed over to another government or an inter-governmental body.

That is a critical precondition for the transition. In addition, the transition must preserve and protect the security, the stability and the openness that everyone has come to expect from the Internet. I will be watching this issue closely.

NTIA also has embraced parallel efforts to make sure ICANN remains accountable to the global Internet community. Such efforts will give stakeholders the confidence they need to develop an effective transition plan.

Finally, it is important to note that the United States Congress and the administration have always spoken with a united voice in support of the multistakeholder model to international Internet governance.

We may disagree on how best to protect consumers, ensure public safety, or promote competition in our domestic laws and regulations, but that disagreement should end at our borders.

We must continue to send a powerful signal to the rest of the world that the U.S. is committed to the multistakeholder model of international Internet governance—that we really do believe in a free and open Internet and want to preserve and advance the current multistakeholder model of global Internet governance.

I want to thank the witnesses for appearing before the Committee today and for their thoughtful comments on these issues. I look forward to hearing your testimony.

The CHAIRMAN. I thank the Senator from Florida but would just assure him we always enjoy listening to your wise comments, so free feel to proceed if you want to.

Let me start by asking Mr. Chehadé: ICANN's own governance guidelines state that "The fundamental responsibility of its directors is to act in the best interest of ICANN and in the global public interest, taking into account the interests of the Internet community as a whole, rather than any individual group or interest." That is a quote.

There must be times, however, when what is best for ICANN, the organization or its Board isn't necessarily what is best for the Internet community.

The question is what if the stakeholder community proposes to diminish the power of the Board in some way?

Mr. CHEHADÉ. The stakeholder community already proposed measures to review the decisions of Board members, to make sure they can recall Board members if necessary, and the Board in Singapore at our recent meeting a few weeks ago indicated its openness to all these measures in order to make sure that the community keeps a very close eye on our Board, its decisions, and to ensure that its powers are always bound by the words you read, Mr. Chairman, that our main goal is to ensure the public interest and to have full public responsibility.

Yes, the Board is considering these, and we are looking forward to the stakeholders to come back with proposals. I can assure you we will be taking them very seriously and adopting them where possible.

The CHAIRMAN. Will the ICANN Board send a proposal to NTIA that lessens the Board's power or authority?

Mr. CHEHADÉ. We will if the community and the stakeholders present us with a proposal. We will give it to NTIA, and we committed already that we will not change the proposal, that if we have views on that proposal, we should participate with the community.

Once that proposal comes from our stakeholders, we will pass it on to NTIA as is.

The CHAIRMAN. Thank you. Ambassador Gross, the United Nations' ITU has a broad framework of regulations and tariffs for telecommunication services but not for Internet services.

My understanding is that Democrat and Republican Administrations alike, including the current one, have argued the ITU should not impose similar regulations on the Internet.

In your opinion, will the FCC's reclassifying of the Internet as a telecommunication service for domestic regulation strengthen or weaken our ability to keep the ITU from regulating or tariffing the Internet?

Ambassador GROSS. Thank you very much for that question. I will start with a disclaimer and then perhaps give you an answer.

The disclaimer is, of course, we are all waiting to see what the FCC does, presumably tomorrow, and the details will be important in answering your question fully.

It has been a long policy, starting with the Clinton Administration, and very vigorously pursued by the Bush Administration, and I will say by the first part of the Obama Administration, that is the first term of so, to be very clear that the ITU should have no jurisdiction with regard to Internet and Internet related issues.

We have made the point repeatedly that the Constitution of the ITU sets forth in Article I that its scope is on telecommunications. We have argued consistently that telecommunications is not the same as the Internet, that the Internet is fundamentally different, and therefore, the ITU does not have jurisdiction on Internet related issues.

We will have to see what the FCC does and says tomorrow. If they were to find that the Internet or Internet services are a telecommunication service, that will undoubtedly make the job of my successors much more complicated than it has been in the past in ensuring that the ITU does not seek to have jurisdiction over the Internet.

It is certainly an issue because many governments around the world have sought to have the ITU have such jurisdiction, and to date, we have been very successful in ensuring that the ITU does not.

I hope that will be the same going forward. Clearly, we continue to believe that the multistakeholder approach, which is fundamentally different than an inter-governmental approach, is the appropriate way for dealing with Internet related issues.

The CHAIRMAN. Mr. Strickling, it seems like reclassifying broadband, as the Administration is talking about doing, is losing a valuable argument, as Ambassador Gross just said.

How do you prevent ITU involvement when you are pushing to reclassify the Internet under Title II of the Communications Act, and is the Administration aware of that inherent contradiction?

Mr. STRICKLING. So, I do not think it is quite as stark as your description suggests it is, Senator. First off, the jurisdiction or the activities of the ITU are set in their Constitution, Convention, and in the international telecommunications regulations.

Just last November, we were in Korea, at which point there was an international discussion among governments in terms of whether to modify the Constitution or the Convention to bring in some of these issues.

It is quite typical that at all of these international conferences going back to at least 2006, there are countries that seek to bring

Internet related issues into the Constitution or Convention or ITRs of the ITU. We have opposed that.

Countries in Europe and Canada have opposed it, and interestingly, both Europe and Canada view Internet access as a telecommunication service, and this argument has never come up that because they view it as telecommunications that somehow that answers the question at the ITU.

What matters is what is the right place for these issues to be debated and discussed and resolved, and on that, we have made great progress in the last year with the developing world, the governments of the developing world, in building their support for the multistakeholder model as the right place to deal with these questions.

That was reflected in the outcomes in Korea, where as a group of nations, we rejected proposals of countries such as Russia, as again as they have made in past years to bring these issues into the ITU.

I fundamentally do not think this is going to change going forward. The United States is opposed to an inter-governmental resolution of these Internet issues. We will remain opposed to that. What is key is having the support of governments around the rest of the world to share that view with us.

Today, we are in a good position. That could change in the future, and what is important here, particularly with this transition, is we carry out this transition in a responsible way, in a way that meets our conditions, and demonstrate to countries that might still be somewhat skeptical about this that the process works and it is the superior way of dealing with Internet issues.

The CHAIRMAN. Thank you. I hope you are right, but I think we are sending entirely the wrong message with reclassification. The U.S. obviously is going to be in a very influential role in this process. I would certainly hope that you are correct, that this is not going to be a factor.

I will turn to my colleague, Senator Nelson, and then after that, I have Senator Fischer, Senator Daines, Senator Gardner, Senator Sullivan, and I believe the Senator from Michigan and the Senator from Missouri following.

Senator Nelson?

Senator NELSON. Mr. Chehadé, you know what is on everybody's mind. We have these state actors that are trying to do us in, Russia, China, North Korea, Iran. There are a bunch of non-state actors trying to do us in.

Would you discuss this in light of the proposal, and how is this transition going not to have an adverse effect upon U.S. national security?

Mr. CHEHADÉ. Thank you, Senator Nelson. There is no question that there are countries that do not share our values, and they do not share the values of openness, the values of an Internet that serves everyone, that all of us here share. There is no question.

Boy, would they like to be able to change the nature of the Internet as an open platform. They would like to do that. How would this transition either empower them or weaken them is the real question.

I am here to tell you that after a couple of years of traveling the world and meeting with many global leaders, this transition when it is finished, affirming our belief in the multistakeholder model, will actually turn many, many middle governments on our side. Many governments are looking for a model that they can sell to their own people and say this is a good model, and we have equal participation in it.

I am not going to be able to assure you that those on the edges of this debate are going to walk away and suddenly love our open platform, but I will assure you that I have met tens of governments who are looking for a stable solution that they can tell their people is a good solution.

I believe ICANN, as an open multistakeholder institution, that is inclusive, that allows anyone to participate, we do not have a membership model, anyone is welcome, and where governments have an advisory role but they are all equally at the table rather than having one government have an unique role, is a model we can attract many middle governments to.

That is our best security against the edge governments trying to change this model.

Senator NELSON. Did your consultations include the national security organizations and the Department of Defense?

Mr. CHEHADÉ. Yes, working through NTIA, which has, of course, an interagency process. Everything we have done working with NTIA has been discussed and deliberated across agencies, including those that you bring up.

Senator NELSON. All right. Discuss that internal administration consultation process.

Mr. CHEHADÉ. I think it is best I ask Secretary Strickling to do that because he and his team lead that process today.

Mr. STRICKLING. Yes, Senator. Prior to our announcement last March, this issue had received a tremendous amount of interagency review, including all of the security agencies. We obtained their views and discussed any concerns they might have had prior to proceeding with the announcement we made last March.

Mr. CHEHADÉ. If I may add, Senator Nelson, we have as part of our coordination work 13 root services. These are very important services that are in the plumbing of the Internet. Ten of these are in the United States. The other three are in Sweden, the Netherlands, and Japan.

Of the 10 in the United States, one is with the Department of Defense. They are keenly engaged and aware, and in fact, they participate in the operational aspects of the system ICANN oversees.

Senator NELSON. Mr. Secretary, would you talk about how IANA services can be resistant to attacks?

Mr. STRICKLING. So, what we are talking about are a series of basically data bases that are managed by ICANN. In the case of the root zone file, that is actually managed by Verisign, pursuant to a cooperative arrangement we have with Verisign.

Both ICANN and Verisign engage and employ the most modern and sophisticated of protections against attacks. To date, we have not had an issue with the IANA functions being subjected to a cyber attack of any consequence.

Again, Mr. Chehadé may have more details.

Senator NELSON. Let me ask you, I assume that one of your reasons would be you want to decentralize distributed authority structure so as to avoid single points of failure, manipulation or capture. Describe that to us.

Mr. STRICKLING. I am not sure to what extent that bore into our decision to complete the privatization of ICANN. I think what you are describing is solid practice, and I think Mr. Chehadé again may want to describe how that is put into practice at ICANN.

Again, my understanding is Verisign employs the most modern and up to date principles of how to protect itself against cyber attacks.

Senator NELSON. OK. Mr. Chehadé, stability, security.

Mr. CHEHADÉ. That is our mission and that is all we care about. It is more important than anything else we do. In fact, the record is clear in ICANN's 16 plus years operating what we do. We have not had a single nanosecond of down time, and that is the core mission that we will pursue.

You brought up, Senator Nelson, the concept of distributed management. I think you are spot on, this is actually both from a technical standpoint as well as from an organizational standpoint a very sound approach to stability. If we have a central point of failure, either technically or operationally, I think we are much more prone to be brought down.

From the beginning, the wise architecture of the system we coordinate was to ensure that multiple roots are established, multiple systems are in place, and therefore, of the 13 root services, it will have to have all 13 be down before our services are affected, and that is nearly impossible given that all 13 are operated by different organizations under different rules but common principles that are guided and coordinated by ICANN.

The CHAIRMAN. Thank you, Senator Nelson. Senator Fischer?

STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA

Senator FISCHER. Thank you, Mr. Chairman. Mr. Chehadé, the NTIA stated and Mr. Strickling highlighted this point, that it would not accept a proposal that puts government or intergovernmental organizations in the lead role NTIA has with ICANN.

I want to bring your attention to proposed changes to ICANN's consideration related to the Governmental Advisory Committee's advice. The GAC's advice to ICANN provides a government perspective on policies, and I understand there is a proposal that could increase the likelihood that GAC's advice is taken unless two-thirds of voting members deny it.

If we really are concerned about government getting involved and having government intrude into ICANN, why are some contemplating this move? Why would we give government such power?

Mr. CHEHADÉ. Thank you, Senator, and you are right. This would be congruent with the stated goals. The Board has looked at that matter and has pushed it back, so it is off the table.

Senator FISCHER. It is off the table?

Mr. CHEHADÉ. It is off the table.

Senator FISCHER. Thank you. Mr. Strickling, how would you respond to allegations that the Administration's process and the fac-

tors that weighed even in looking at that procedure and that process—have they been fully disclosed? Where did it come from?

Mr. STRICKLING. I am sorry. Which process?

Senator FISCHER. I am sorry. With the transition.

Mr. STRICKLING. This transition has been planned since 1998, at the time ICANN was formed. It was the decision of the Government that the U.S. Government should get out of this business back in 1998. The original plan was to have it done in 2000. 9/11 intervened, and of course, the transition was not completed at that point in time.

Over the last few years, we have seen ICANN continue to grow and mature as an organization to where we felt they had gotten to a stage at which their level of accountability and transparency, and quite frankly, their performance of the functions, justified proceeding to complete this privatization that had been planned in 1998.

At the same time, we were seeing growing support for the multistakeholder model internationally, which again gave us further encouragement that this was a good time to complete that transition.

Senator FISCHER. I believe it was released to Congress or released on March 14, 2014.

Mr. STRICKLING. That is correct.

Senator FISCHER. Congress was not informed about that. I would question the transparency and the process that is involved.

Mr. STRICKLING. Senator, I was up here briefing many members of Congress prior to the announcement on the 14th, so we did endeavor to brief leadership up here on both sides in terms of what was being planned.

Senator FISCHER. Would you be more open to briefing's in the future where all members could have that information?

Mr. STRICKLING. Absolutely, Senator. As you know, based on the rider in our appropriations last December, Congress has imposed or asked us to report regularly to Congress. We have already submitted the first written report here at the end of January. We will be reporting on a regular basis.

In my meetings with leadership, we have offered to come up here at any time to update staff or members of the progress of the transition plan, so we would be happy to do that directly with you.

Senator FISCHER. I would appreciate it, sir. Thank you. Thank you, Mr. Chairman.

Senator NELSON [presiding]. Thank you, Senator.

Senator Daines?

STATEMENT OF HON. STEVE DAINES,
U.S. SENATOR FROM MONTANA

Senator DAINES. Thank you. Back in the 1990s, I spent six years of my 12 years working for Procter & Gamble in Mainland, China, launching an American business, selling products into that market.

One of our great concerns was protecting American IP. As we consider the transition of IANA from the U.S. Department of Commerce to ICANN, I want to express my concern and serious interest in protecting American intellectual property in this process.

By the way, Mr. Chehadé, I was so struck by your testimony about the American dream, and that resonated with me personally.

As I look at what is going on with IP, in fact, given the nature here of the fact that we can have our Iphones up here on the dais, I did a quick Google search on Pirate Bay. What does it return? It returns to me Proxy Bay because Pirate Bay has been trying to take down, you can hit a list of Pirate Bay proxy sites and mirrors. I tapped that and I can find 35 proxies and mirror redirects right now on Pirate Bay.

The concern is how do we protect American intellectual property, and this is software, music, games, it is the core of IP. I spent 13 years in a software company, a cloud computer company that we took public as well. I have lived in consumer products as well as cloud computing.

We know when you have a cloud company or technology company, if you ever close up the doors and move on, all that is left are cubicles, some computers. Its intellectual property is what you create there, the people.

How do we protect IP in this transition when I am looking right here at real time examples, and in fact, if you look at—it is ".sx." I had to look up where is .sx. Well, it is Sint Maarten in the Netherlands. If you look up ".lu," it is Luxembourg. These are the proxy mobile mirror redirects that we see on Pirate Bay.

Help me out on IP. Please, Mr. Chehadé?

Mr. CHEHADÉ. Thank you, Senator. As the founder of many software companies, one of which was acquired by IBM, I am very, very aware of the importance of protecting our IP. I work very hard to protect my own IP, and I know it is the greatest asset that can be challenged through these open networks.

Let me first be clear that ICANN has nothing to do with content. We do not deal with content. Our work is very limited to the names, numbers, and protocol parameters, which are way down in the plumbing of the Internet.

Therefore, ICANN does not have a particular role in managing or enforcing at a high level IP and content around the world. Having said that, I think the world needs good policies around that to help us and to protect IP, not just American IP but all IP of people who work hard around the world.

I hope these policies will arrive through a multistakeholder process, which brings me back to ICANN. I will answer you directly on two levels.

One, everything we can do on our side to protect IP in the domain name system, we are doing. For example, in partnership with IBM, ICANN launched the first global trademark clearinghouse. Nobody had done that before.

When somebody tries to register, you know, IBM.sx, somewhere, we can actually flag that and make sure we manage that ahead of time before IBM has to go fight for retrieving its name from a domain somewhere in Sint Maarten. We are doing our part as best we can.

The second thing we are doing is we are cooperating with other efforts to protect IP. That is important. We cannot just say we have nothing to do with content, we are going to step back. Where we can, we cooperate, so if law enforcement agencies, within the law, serve us with requests for help to protect IP, we are always doing that in a very active way.

Senator DAINES. Let me follow up on that. Given ICANN's agreements with registrars that include requirements to deter illegal activity on these domains sponsored by the registrar, do you think it is an appropriate response by registrar's to do nothing when informed illegal activity is occurring on a domain they might sponsor?

Mr. CHEHADÉ. Frankly, I assure you that if a registrar is served with legal notice in their country that they are breaching any laws, they are reacting. We are putting them on notice.

I am sure you know, Senator, our new agreements, the new registrar agreement and the new registry agreement, are far stronger, the ones we just enacted recently, than what we had before, making sure that these registrars and registries understand they are part of the system that needs to respect and protect these rights.

It is a complicated issue, and I just appointed a new, very experienced American attorney, Allen Grogan, as head of Compliance, reporting to me. He is also very focused on consumer advocacy and issues of IP. His background is as an IP attorney. Ensuring that ICANN does everything in its power to support these contracts and to enforce them.

Senator DAINES. Thank you very much. Helpful. Mr. Gross, I was struck by a comment you made that I wrote down as "Internet freedom is in decline." How do you measure that?

Ambassador GROSS. Thank you very much, Senator. It is actually not my statistic, it is really from Freedom House. Freedom House, which of course, enjoys bipartisan support and has been around for many, many years, does an annual report on Internet freedom. The statistic I gave you is a basis from their most recent report.

They also do a report, of course, on freedom in the world generally, which was just released as well. I have always found them to be a very useful guide for how those things are measured.

Senator DAINES. What do you think is the greatest threat to Internet freedom?

Ambassador GROSS. I think it is the rise of government control of various aspects of the Internet, particularly content within the borders of those countries. We see the rise of protectionism. We see the rise of control over speech. I think at the core of those, they are probably the primary drivers of that change.

Senator DAINES. Thank you. I am out of time. Thank you, Mr. Chairman.

Senator NELSON. Thank you, Senator Daines. Senator Sullivan?

STATEMENT OF HON. DAN SULLIVAN,
U.S. SENATOR FROM ALASKA

Senator SULLIVAN. Thank you, Mr. Chairman. I want to thank the panelists. In full disclosure, Mr. Chairman, I will let you know that I have worked very closely with Ambassador Gross in previous jobs the two of us have held together, and I can tell you no finer public servant for the United States than ambassador David Gross. It is really wonderful to see him and some of our previous team together.

I would like to put forward these questions really for everybody. Mr. Chairman, you mentioned kind of the elephant in the room here, right, you mentioned what is on everybody's mind.

We have a system, I think, that has been kind of the wonder of the world in many ways. It is very clear we have countries that do not share our interests, particularly with regard to open Internet freedom, Russia, China.

I will be a little bit more frank and a little bit more blunt, I think we have an Administration that with all due respect to what has been said, has not been very adept at global negotiations on some of the key strategic interests to the country, of which an open Internet to me is one.

We have the Chinese and the Russians and others who seem very, very determined on this issue. As you know, they just put forward another proposal last month that looks to be very focused on gaining more control over the Internet.

Again, I worry that we are just going to continue to back pedal the way we have in other areas, like the Iran negotiations going on right now, particularly with a determined group of countries.

I guess I just want to start with some basic questions. Mr. Strickling, I think you mentioned one government having an unique role was not the plan. I am assuming you are referring to the United States.

Mr. STRICKLING. Yes, sir.

Senator SULLIVAN. Is there a problem with one government having an unique role, particularly when that government has done a fantastic job? It goes to the broader issue. If there is not a problem, what are we trying to fix here?

I am not sure I am convinced by hey, we were going to transition in 1998, but 9/11 happened and holy cow, we waited for 15 years. I think we waited for a long time because we did not see there was a problem.

I would be very interested in what is the problem, and finally, there have been a lot of articles in the paper very concerned about this, I certainly am, but one of those actually raised a very important issue that I would also like you to address, your legal authority to do this.

Again, another issue with this Administration I have a problem with is taking action where you have no legal authority under the Constitution. The Congress has the power to transfer Federal Government property. ICANN is Federal Government property, it is valuable property. I do not think you have been authorized by Congress to take this action yet.

I know I have thrown a lot of questions out to you but feel free, all of you, to jump in, please, on these questions. Thank you.

Mr. STRICKLING. So, let me start with your second question, which is there is no Government property that is the subject of this contract. All the contract does is designate ICANN to perform the IANA functions. They were given no assets of the United States with which to perform these functions.

The domain name file——

Senator SULLIVAN. Is there a Commerce Department legal opinion on this issue?

Mr. STRICKLING. Yes, there is, sir.

Senator SULLIVAN. Can we see that?

Mr. STRICKLING. I will take that back. I am not in a position today to say yes or no, but I will take your request back.

Senator SULLIVAN. I think a lot of people would dispute what you are saying right now on that issue.

Mr. STRICKLING. Well, I think the GAO agrees with us as well based on a study they did back in 2000 when they looked at this question. The fact of the matter is all the contract does—for which we receive no compensation, ICANN pays nothing to the United States for this—it simply designated them to perform a role that until 1998 was being performed in the U.S. Government.

So, the question was how do you take this function and now have it performed by somebody outside of the Government?

Senator SULLIVAN. How about the issue of what is the problem. This has done very, very well under an unique government role, our Government, our country. A lot of people do not have a problem with this in this country. What is the problem we are trying to fix?

Mr. STRICKLING. Well, there has been a problem, sir. At the end of 2012, when the world's governments got together in Dubai for the ITU WCIT, the World Conference on International Telecommunications, you had around 80 countries who voted to say the ITU needs to be more involved in Internet governance. These were largely countries in the developing world who were siding with the more authoritarian regimes.

Part of the impetus for this was at that time the continued irritation that many governments feel and which has been exploited by the authoritarian countries that the United States with this special role with ICANN is in a position to control the Internet in these developing countries and to turn it off in these countries, and to otherwise interfere with the ability of countries to manage their own affairs with respect to the Internet.

After this announcement was made, the next two large international meetings at which governments came together, you saw a major change in position among developing countries. We did not see any change in the position of the authoritarian countries, and you are not. They are not going to change their views on this.

The key to succeeding in this on the global stage is to bring the rest of the world along with us, and that is what we saw at the NETmundial Conference in Brazil last April, where the only countries that spoke out in opposition to the multistakeholder model of Internet governance were Russia and Cuba.

We then fast forward to the ITU Plenipotentiary Conference in Busan last November, and again, you had Russia with the same proposals it has been making for 10 years, that these functions ought to be transferred to the ITU and managed by governments, and that was beaten back in a coalition of both developed and developing countries.

So, we have seen immediate results or significant results by the basis of our being able to take this issue off the table for these countries, to get them to look at what is really best for them without this overhang of an U.S. role that was unique among governments and which was a source of irritation to governments, and which was being exploited to our detriment by foreign governments.

The fact of the matter is that the role we play with respect to the IANA functions is a clerical role. It is clearly stewardship. As

I said before, we do not provide any oversight of the policy judgments that ICANN and the multistakeholder community make.

We participate as a government in the Government Advisory Committee, and we will continue to do that in the future, and will be vigorous advocates for a free and open Internet.

The specific role we play with respect to the IANA functions is totally administrative and clerical. Yet, it has been exploited by other governments, authoritarian governments, to our detriment.

We have taken that off the table by announcing the transition, and as we complete it, we will continue to see the benefits of that through the continued adoption and support for this model by the developing world.

Senator SULLIVAN. Thank you. Mr. Chairman, the questions I posed, I know we did not get to them, but I would ask they be submitted for the record so the other witnesses have the opportunity to answer those as well.

The CHAIRMAN. Without objection.

Thank you, Senator Sullivan. Senator Gardner?

STATEMENT OF HON. CORY GARDNER,
U.S. SENATOR FROM COLORADO

Senator GARDNER. Thank you, Mr. Chairman, and thank you to the witnesses for being here.

Mr. Strickling, it is exciting to be here when we are not talking about Eagle Net or anything like that. It is good to be here with you.

Mr. STRICKLING. I have some great statistics for you about Eagle Net.

Senator GARDNER. You are off the hook, at least today, so thanks for the opportunity to visit with all of you. My first question is to you, just to ask about the process and the proposals before us right now and the proposals moving forward.

Who else will examine this proposal?

Mr. STRICKLING. The proposal when it is completed and submitted here, we will put it out and have a large public discussion about it. The Chairman has indicated to me he would like to have a conversation about it back here at some point in the future, so we certainly anticipate and will welcome the opportunity to come up either in briefings or a hearing before any of the committees with jurisdiction to talk about it up here as well.

We want to make sure that the proposal meets our conditions, so we will have a full public explication of what is in the proposal, a demonstration that it supports, and we will invite anyone to respond and react to it.

Senator GARDNER. What would the process with receiving feedback from the multistakeholder community look like? How do you anticipate that part of the process looking?

Mr. STRICKLING. Well, the goal is that the multistakeholder community will have already provided that input before the proposal gets to us.

We have said we want a proposal that has broad community support. The process that the community is engaging in, in addition to having these working groups, pulls in public comment at a num-

ber of points in the process. We would expect again anybody who has ideas in this regard, we encourage them to participate.

As you heard Fadi Chehadé say in his earlier remarks, even some of the matters that have been raised in correspondence from Congress to us or to ICANN has been put into the process to make sure that the community is taking up those issues.

I think all of us have a responsibility between now and the completion of the process to make sure the issues are getting into the groups, to make sure they are able to have a full discussion of them, and we will expect the proposal that comes to us will have the full support of the community.

Senator GARDNER. Ambassador, I believe it was your testimony where we talked about great challenges associated with ensuring a safe, secure, open, interoperable, and sustainable Internet.

From the information that you have gathered, in as simple terms as you can make it for this committee, what could happen if the transition process moves forward too quickly without proper oversight or precaution?

Ambassador GROSS. Thank you very much, Senator. The concern is multiple. One, of course, and I will preface it by saying I have no expectation this will in fact be a problem. We are committed or the Coalition with whom I work is committed to ensuring that if it creates any of the problems I will mention in a moment, that we would be strongly opposed to it, and I have full expectation that such a proposal would be rejected by NTIA and by the Administration.

Having said that, there are key aspects to what it is that is currently being performed that go to the stability and reliability of the Internet. If there are challenges to how that process works, it could undercut the ability to have an Internet that works smoothly, seamlessly, and as Mr. Chehadé said, flawlessly to date.

This is a huge and important set of issues. Similarly, as has often been discussed at the hearing, we are keenly concerned about the ability of governments to directly or indirectly take control. We are assured by the statement by NTIA that they will accept no such proposal, and we will be watching that with great care. That, too, could have an impact on the various things that you listed.

Senator GARDNER. Thank you. Mr. Chehadé, I will give you a chance to answer that question as well, but I want to add another question to it and perhaps Mr. Strickling could follow up on this.

In the Thune and Rubio letter in 2014, it talked about increased oversight tools, annual audits. You have talked a little bit about that. I think you said you would look at additional—be supportive of additional oversights.

In talking about additional oversight and audits that are mentioned in their letter, is there a concern that could be a problem? Would it be helpful?

Mr. CHEHADÉ. Extremely helpful. We have no concern with the six concrete suggestions that came in Senator Thune and Senator Rubio's proposed letter. We have already fed these into the system. This is very welcome.

We hope the Senators will continue to help us in order to make sure we put every possible belt and suspender on this institution

as we move forward, not just to protect it today and after the transition, but for the next decades.

Senator GARDNER. Are there additional audits or additional oversight that might be helpful as well, in addition to those?

Mr. CHEHADÉ. Yes, absolutely. In fact, our community itself is looking at tens of possible different mechanisms in addition to these six concrete ones that came through your letter.

We have experts involved. We have stakeholders of all walks of life, government, as well as businesses involved.

When Ambassador Gross says we are watching, he is right, but many of the members of his Coalition, companies like AT&T and Cisco and others, are all part of the process as well. They are participating today.

They will make sure that we never come back to you with anything that does not take care of these five fundamental principles. These principles are rooted in all the efforts we are undertaking today.

When you ask Secretary Strickling whether you will check them and then Ambassador Gross says we will check them, but the reality is the entire community of stakeholders is checking them because we know that if we do not, it is dead on arrival, we do not have a proposal.

Second, because we believe in them. These are our values. Many of the people at ICANN are the people who created the Internet. We do not want an Internet that is controlled by governments anyway.

On your earlier question, Senator Gardner, I can assure you nothing will happen in the dark here. Everything we are doing today is transparent, open, and when that proposal is ready, we will come back to you, even if Senator Thune does not invite us, we will come back to you.

[Laughter.]

Mr. CHEHADÉ. We will show you these proposals. We will discuss them with you. We need to all have consensus. This is good for America first, and this is good for the Internet, and this is good for the world. I believe all these are the same. What is good for America should be good for the world.

Senator GARDNER. I am out of time. Mr. Secretary, would you want to add to that?

Mr. STRICKLING. In addition to the accountability tools you have talked about, when you talk to the community, what they are really worried about is what happens when the Board does not carry out the views of the community.

What we see in the work to date is discussions of how to create an escalating series of appeal mechanisms to get the Board to do what the community wants. The one piece that is missing in the current structure is the ability to remove Board members if they still fail to act as the community wants.

I think there was a lot of progress made in Singapore at the beginning of February where this issue really was brought out into the open and discussed quite directly with members of the Board, because today, under the by-laws, the community cannot remove a Board member, they can only be removed by vote of other Board members.

There was a direct willingness expressed by members of the Board to see a provision added to their by-laws under which as the final option, when all else fails, the actual removal of Board members in order to make sure ICANN continues to act in the interest of the global Internet community.

I thought that was a very positive advance to see that being discussed and being accepted by Board members, and we will see how that works into the overall community proposal that we get.

Senator GARDNER. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Gardner. Senator Peters?

STATEMENT OF HON. GARY PETERS,
U.S. SENATOR FROM MICHIGAN

Senator PETERS. Thank you, Mr. Chairman. Thanks to the witnesses for being here today and this interesting conversation, appreciate you taking the time to come and talk with us.

Mr. Strickling, NTIA's decision to start the process to transition the IANA functions, certainly, the contract to a multistakeholder entity is a very clear affirmation of the U.S. commitment to a multistakeholder model of Internet governance, and the transition of IANA functions has been certainly a long time coming, but I believe now is the time to get it done. We also have to make sure obviously that we are getting it done correctly and right.

Mr. STRICKLING. We all agree.

Senator PETERS. Right. If you could further expand on what sort of changes you have seen in the past year since your announcement with regard to the international debate on Internet governance, and if you would expand—you have mentioned some of this—expand on the responses of other governments. Importantly, how have perceptions generally changed over this last year?

Mr. STRICKLING. I think our announcement really reverberated through the governments of other countries, particularly those in the developing world. Again, the fact that the U.S. had this unique relationship with ICANN has been a source of irritation, as I described earlier in response to other questions.

What we have seen as a result, and I briefly summarized some of the actions of last year, in particular, the NETmundial Conference in Brazil. That conference was hosted by a nation, Brazil, that until that time had expressed a certain amount of skepticism about ICANN and the multistakeholder model as practice in ICANN, even though in Brazil itself domestically, they were one of the first countries to adopt a multistakeholder model to deal with Internet issues domestically.

Really, it was not that they were hostile on multistakeholder, but I think they could not get past the fact that the United States had this particular relationship with ICANN, which they felt was unfair to other governments, and could be exploited in some fashion to their detriment. In fact, it could not be, but that did not mean they did not have the perception of that.

We saw an immediate change in perception in Brazil and in the countries that attended that conference, as I mentioned before. At the end of that conference, the only two nations that stood up and said we do not like the multistakeholder model were Russia and Cuba. Other governments there, particularly those in the devel-

oping world, all joined in to the final documents of that conference, which expressed very direct support for that.

I think the other key milestone was the Plenipotentiary in Korea. Again, I do not want to repeat all of what I said earlier. A coalition of the United States working with both countries in the developed world and developing world were able to beat back these proposals, largely driven by Russia at that conference, to bring the ITU more into direct Internet governance matters.

I think our announcement as well as other diplomatic efforts over the last year have resulted in very direct benefits to us in terms of the international community's response and reaction to supporting this model.

Senator PETERS. That sounds very positive and we are certainly moving well down the road. I guess that leads to the obvious question. What happens if this transition does not occur? What are the risks involved if this does not occur?

Mr. STRICKLING. I really hesitate to speculate on that because it would really matter why it did not happen. I think it would be tragic though if the community does deliver a proposal that meets all the conditions, that there is consensus it meets the conditions, and we do not proceed with the transition.

I think that would have a very negative impact on our interests internationally. I think all of the good work we have done in the last 2 years with the developing world, we could lose that overnight if something were to intervene to prevent a good proposal from being implemented.

Senator PETERS. Right. Ambassador Gross, NTIA's announcement to transition the IANA contract to a multistakeholder entity has certainly received very broad support from a wide variety of stakeholders. If you could just comment on what United States' corporations and entities participate in this model, and can you describe kind of their feelings with this transition?

Importantly, what would happen to these businesses if a multistakeholder model is somehow undermined in this transition? What would be the response from these businesses?

Ambassador GROSS. Thank you very much. Obviously, I cannot speak on behalf of all corporations, but I will speak on behalf of our Coalition, which, Senator, as you point out, is an extraordinary group of companies, a cross section of those major U.S. and multinational companies that are involved in Internet related issues in one way or another.

They are very comfortable with the approach that is being taken because of the assurances, the strong assurances, that have been made about the five principles we have been talking about this morning.

As Mr. Chehadé has pointed out, many of our members are actively involved in the formulation of the process that will come forward at an appropriate time, and that is a very positive one.

All the companies are very interested, acutely interested, and are supportive as long as it meets that five part test. As I have indicated before, and I have no reason to think it will be anything other than a successful outcome at this stage, but it is far from assured, nevertheless, if it were not to be, we would be amongst the first—I realize Mr. Chehadé believes he will be the first—it does

not matter, there will be many who will be speaking out on what the problems are, and in theory, therefore, how those problems could be solved.

We do think that this would be a productive approach, assuming it meets that five part test.

Senator PETERS. Thank you. I am out of time, Mr. Chairman.

Senator NELSON [presiding]. Thank you. Senator Cantwell?

STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman. Obviously, we are here talking about best practices and how the U.S. can also influence Internet governance. Tomorrow, we are likely to hear from the FCC on its net neutrality rulings, and I hope our strong net neutrality rules can be the basis for an open Internet practice.

I was trying to get, Mr. Strickling, your comments on do you think net neutrality is consistent with good government principles?

Mr. STRICKLING. Absolutely, Senator. In terms of how it relates to what we are doing here, both with the IANA transition and with respect to net neutrality principles, both have as a goal a free and open Internet. I think in that sense, they are both very much aligned.

Senator CANTWELL. What else can we do to promote this idea on a global basis? Obviously, the Europeans are regulated in a different way than we are already. Tomorrow is about us taking a step probably a little closer to their approach. What else do we need to do to promote this?

Mr. STRICKLING. Again, as I said earlier, this transition is really important in terms of being able to demonstrate the values that we hold in terms of a free and open Internet, the multistakeholder model of Internet governance, and proving how it can work.

We are demonstrating that in a most concrete way to other governments around the world. I think the best thing we can do internationally is continue to keep our eye on that target, continue to encourage the community to develop a strong proposal for us, and then if we get a good proposal that meets all the conditions, to proceed with completion of the transition.

That will be as concrete a demonstration to the rest of the world as anything else we can do in this area in the next 12 months.

Senator CANTWELL. What about the threat that we heard some discussions today about, the NSA going back toward a clipper chip proposal?

Mr. STRICKLING. I cannot comment on that. I am not sure exactly what the proposal is you are talking about.

Senator CANTWELL. OK. Obviously, a government back door to encryption products could become a challenge to an open Internet. Maybe we will submit a question for the record. Thank you, Mr. Chairman.

Senator NELSON. Senator Ayotte?

STATEMENT OF HON. KELLY AYOTTE,
U.S. SENATOR FROM NEW HAMPSHIRE

Senator AYOTTE. Hi. I appreciate all of you being here. One thing I am trying to understand, Mr. Strickling, you said you were en-

couraged by the meeting and discussion of the stakeholders about removal of a Board member.

The reason I see this as a critical issue is because I know the actual ICANN by-laws prohibit a government representative from holding a voting position on ICANN, but let's have some straight talk here.

The oligarchs in Russia. They may be technically private citizens, but with much more government beholdenness than our average private representative would be, and even in countries like Argentina, China, Iran. We can go on and on. There are a lot of countries where it is not quite the same thing as us putting a private representative on the Board.

I see this removal provision as critical. You said there was a good discussion, there were a lot of stakeholders saying this is a good thing. How do we come to a decision so that is part of the terms, and if it is not part of the terms, is that a deal breaker?

Mr. STRICKLING. So, on your last point, I would say not necessarily. We need to see the complete proposal and be able to evaluate it in the context of our conditions.

Senator AYOTTE. Just so we are clear in this committee, that is not a deal breaker, from your perspective?

Mr. STRICKLING. I am saying I would have to evaluate that in the total context of the proposal.

Senator AYOTTE. Yes, I take that as an answer that it is not a deal breaker.

Mr. STRICKLING. Right, not necessarily, but we would want to look at it in the total context of the proposal. For us, what is key is does the proposal meet the conditions we described.

On the issue of removal of the Board, the challenge that the community is facing is that when you get to this point where the Board is not being responsive or the institution is not being responsive to the needs, desires, and the goals of the community, there are two choices, at least two choices.

One is let's take the business somewhere else and create a new organization to perform all these same roles, or do we change the people in the organization and maintain the organization as it is.

Because we are so concerned about maintaining security and stability of the Internet along the lines of some of the questions the ranking member asked earlier, I am a little nervous about a proposal that would come to us to say well, if we do not like what ICANN is doing, we will just pick up the business and send it somewhere else, because now potentially you are creating a whole new set of accountability issues that have to be overcome.

Senator AYOTTE. You understand my issue in terms of the concern about this removal provision, it is not insignificant because as you have described it, Mr. Chehadé, we have everyone equally at the table, so the U.S. has this unique role that we are going to be giving up here, and frankly, what you have said about the developing countries, to my knowledge, we do not block access that developing countries have, we have not engaged in behavior that other countries have, like Russia, and some of the other bad players that I have mentioned have engaged in.

We have sort of a track record there. As I look at where we are with everyone equally at the table, it depends on who is at the

table in terms of the outcomes of where you get on important issues that could impact the freedom of the Internet.

Without this mechanism to remove people from the table that truly are not representative, that are really representing a government type position of countries like China, Russia, who block their citizens' access to the Internet and do not have a free and open Internet, and there are a lot of countries in that category, unfortunately, that worries me as I think about the concerns we have going forward about this transition.

Mr. STRICKLING. Senator, it might help if we spend just a minute to talk about the structure of the ICANN Board. It has 16 members. Eight of them come from specific segments of the community.

In other words, the organization that supports generic top level domains, which are large companies. They have two seats on the Board. The registries, the Number Registries have two seats on the Board. Mr. Chehadé gets a seat on the Board.

Half of the Board is designated based on these contingencies and supporting organizations of ICANN. The other eight are put on the Board through an at-large—I am sorry—through a nominating committee process, and no more than three a year can be added through that process. Again, the nominating committee is made up of representatives of the supporting organizations.

There is a prohibition against anybody from a government sitting on the Board, but more importantly, when you look at who is actually putting people on the Board, the likelihood that any of those groups are going to be putting one, two, or certainly a majority of people on the Board who represent the interests of these countries we all are concerned about is virtually zero.

Senator AYOTTE. Then why was it such an important topic of discussion, if it is that insignificant. As I look at this, we have the members who are on the Board now, but who makes these decisions, especially in a decisionmaking process where everyone equally has a seat at the table? Very significant, as we look at this.

My time is up. It seems to me that this issue should be a deal breaker. I think it is something you all should be saying is something that needs to be in the provisions of what the stakeholders agree with.

Senator NELSON. Thank you. Senator McCaskill?

STATEMENT OF HON. CLAIRE MCCASKILL,
U.S. SENATOR FROM MISSOURI

Senator MCCASKILL. Thank you. Senator Rubio and I, as you probably are aware, did a resolution that had no opposition that spoke to the challenges that you all face.

I will tell you the moment of truth came for me, I was in a position that I had heard from some stakeholders here in this country about their concerns about this transition, and I was in an international meeting.

There were representatives of the European Union there that are in charge of this issue for the European Union, and a number of other countries. We are not talking about Russia and China, but our friends.

The negativity toward the United States of America was so thick you could cut it with a knife. I was sitting there, and I thought

what in the world, this is terrible. They were really antagonistic and negative. I was the only one there in the room that was representing the American government, but there were a lot of businesses in the room, small and large, that were American businesses, and none of them said a word.

I was shocked, because I thought surely the American businesses are going to rise up and defend our country. This is awful. Then I gathered them after it was over, and these small and large businesses alike said you need to understand, this is a business issue for us. This is hurting our international business because there is a sense in the world that this is not a true multistakeholder process.

I get the other side of this equation and how important it is for American businesses for us to get this right. I just wanted to get that on the record because I think there is a natural inclination of all of us, we do not want to give up our power, why should we ever give up our power.

Well, in the instance it is going to help American businesses, it might be wise as long as we do it carefully. I certainly understand the point that Senator Ayotte was making, and accountability is incredibly important, and I think you need to go slowly and make sure we get it right.

I think the process for nominating is appropriate enough that I do not think anybody could ever control this Board that was from a country that did not relish the openness of the Internet like we do.

Let me ask you this about the deadline for completing the transition, I know we are running up on the first deadline, and there is a 2-year option to continue the contract.

I am worried that a 2-year option would send the wrong signal to the international community, so could some of you speak to the likelihood of us doing an extension, because I do not want to rush this. I want to make sure we get it right.

What is the possibility of an extension of a matter of months as opposed to a matter of years?

Mr. STRICKLING. So, the way the contract is structured, the U.S. Government can unilaterally extend the contract for 2 years based on an option that is in the contract. Of course, between the contracting parties, ICANN and the United States, we can mutually agree to an extension of a shorter period, and we will certainly take a look at that if and when we need to look at an extension.

Senator MCCASKILL. You do not want to speak to whether or not an extension is going to be necessary because you are afraid if you do, an extension is going to be necessary?

[Laughter.]

Mr. STRICKLING. Thank you, Senator.

[Laughter.]

Senator MCCASKILL. I think this is hard, but we have done it in other places where we have a global interest, certainly in our airways, which this committee is aware of. We have had international organizations with various stakeholders that have allowed us to operate in a truly borderless world that air traffic represents, and so does the Internet.

I wish you well, and we will anxiously await the details of how this is actually going to work, particularly in the area of accountability. Thank you, Mr. Chairman.

The CHAIRMAN. Thanks, Senator McCaskill. My neighbor from across the border, Senator Klobuchar.

STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you very much, Chairman Thune, and thank you for holding this important hearing. As some of you recall, I actually chaired this hearing at one point a few years back and know how important this issue is.

I understand there has been a recent meeting in Singapore to discuss the transition of the handling of the contract for the Internet Assigned Numbers Authority from the NTIA, and I also thank you for the update you have given us today.

I was going to start with you, Mr. Chehadé. I know you were in our office yesterday. In 2011, I sent a letter with Senator Ayotte to ICANN expressing some concerns about the expansion of the top level domain names in the system and asking that ICANN work with all the stakeholders to mitigate some of the challenges and risks to consumers, businesses, and law enforcement that could come in expanding those domain names.

While this is a different issue than today's topic of general governance, it does touch on the need for accountability, which some of the Senators have discussed in coordination.

Can you update me on how ICANN has accounted for some of the concerns that Senator Ayotte and I raised in 2011, and how it is working with law enforcement in protecting consumers and businesses from fraud?

Mr. CHEHADÉ. Thank you, Senator, and thanks for your continued attention to the work of ICANN. I can assure you that we have come a long way since 2011. The new program is now up and running and serving the world.

We have new domain name system activities in multiple scripts, in Arabic, Chinese, Cyrillic. People around the world are benefiting from the diverse system, from a couple dozen top level domains, we now have hundreds in the root, and it is working. Everything is working well.

Yes, are there continued matters we need to attend to, absolutely, but let me give you a couple of examples of things we have done.

We worked very closely with law enforcement to strengthen our agreements with all the registrar's and all the registries. Since your letter, we have now signed new agreements with most of these players. These agreements incorporate many of the law enforcement asks to ensure that all these players participate in a lawful way in the system and give trust to the consumer that the system works well.

That has been done. We have also increased the size of our Compliance Department remarkably. It is now one of our largest departments, led by an attorney who understands IP, understands the law, and is also focused on consumer advocacy. This is new. We did not have that before.

A third example of our attention is the new trademark clearinghouse, which was built in partnership with IBM and others to ensure that trademarks are protected in the domain name system.

Senator KLOBUCHAR. Very good. Thank you. I am also glad you found an attorney that understands the law. There is not that many of them.

I understand ICANN has made significant efforts to improve accountability but in the past it faced some serious problems with this. I know there is an accountability working group working on ways to improve accountability, both before the transition occurs and in the longer term.

Assistant Secretary Strickling, what are the essential aspects of accountability that NTIA would need to see in place before the transition occurs, and then I will turn to Ambassador Gross and ask you what accountability do you and the companies you represent see as necessary prior to the transition.

Mr. STRICKLING. First off, with respect to overall accountability at ICANN, I would say based on my personal experience of having served on the first two accountability and transparency review teams that were convened in 2010 and 2013 under our Affirmation of Commitments with ICANN, that ICANN has made great progress on accountability.

But it is always a situation where the standard is very high and where it can always improve, but I would tell you that based on any similar organization I have ever dealt with, I would say this organization is as accountable and transparent as anything else I have seen out there.

Again, we should not just pause there and say that is good enough, we should not improve, and that is the spirit in which we have worked on these ATRTs the last two times, and it is the spirit in which the community has come together to look at additional accountability measures as part of this transition.

The specific issue that is before the working groups is what does it mean for the U.S. to step away from this historic or traditional stewardship role we have had. There has been a perception that by virtue of this contract, we are kind of the parent in the room in case ICANN starts to do things people are worried about.

As I said earlier in my testimony, that has also been a source of tremendous irritation to a lot of other countries around the world that do not understand why the U.S. should have that particular role.

The accountability team which is working on this, which is made up of people from around the world, is looking at what does it mean for the U.S. not to be there any longer.

From our point of view, we have not specified a particular set of practices that we expect to see in any plan that comes back, but what we do expect is that a plan that comes back will have the broad support of the community, will have considered all the various options, and will have to answer the fundamental question, which is what happens at the end of the day if the ICANN Board is not doing what the community wants.

Senator KLOBUCHAR. Thank you. Ambassador Gross, if you could really briefly answer because I am out of time.

Ambassador GROSS. Yes, very briefly. I would endorse what the Assistant Secretary said. The accountability piece is critically important. It is related obviously to the IANA transition. It is independent of it as well.

It is critically important because the ability for those who feel otherwise aggrieved to come to the U.S. Government or to Congress will no longer be in the same way that it is today. All companies and all individuals need to know that in fact ICANN is accountable in a productive and appropriate fashion.

Senator KLOBUCHAR. Thank you. Mr. Chehadé, I have a question I will put on the record about stress testing. Even hearing those words brings up memories from the past for us with the fiscal crisis, but I will do it on the record, about the accountability process that you are going to put in place with that. I am curious about that.

Thank you very much.

The CHAIRMAN. Thank you, Senator Klobuchar. Senator Markey?

STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS

Senator MARKEY. Thank you, Mr. Chairman, very much. Thank you for being here. Obviously, this is a critical long-term issue. We have to make sure we get it right. We need a decentralized form of open governance, multistakeholder governance, protections which are built in to make sure the system does not get captured, that we still have the capacity for job growth, for freedom of speech, for innovation that has characterized the Internet from its very origins when it did get privatized in 1991.

From 1991 on, we have seen this tremendous change, and of course, the 1996 Act actually spurred the need to have an ICANN in order to have an international governance system.

My first question would be to you, Mr. Strickling. There was a college student from Holliston, Massachusetts who came up with the idea of Instagram but then sold the idea to a Harvard dropout at Facebook, and then boom. Once again, revolutionized the way in which we communicate.

Talk a little bit about how this IANA transition could impact that and what protections we have built in to make sure there is no change in the incentives for innovation in the system.

Mr. STRICKLING. Well, I think you have put your finger on it in the sense that the overall goal here is to have a growing, striving, innovating Internet. Our belief is, and I think the record demonstrates this to be the case, that it is the multistakeholder model of governance that has allowed the Internet to grow and thrive, that under a different model, where governments, for example, were making these choices, we would not see the kind of flexibility, not see the kind of innovation that we have actually been able to see.

Above all, we want to protect that model. I think the IANA transition by being the most direct and concrete demonstration of the multistakeholder model at work on a difficult issue that engages everybody in the community, whether they come from the United States or any other part of the world, whether they come from business or civil society or from the technical community, is the ab-

solute best demonstration we can make that this is a powerful process, that it delivers outcomes, and that it is a model that we all should aspire to and protect.

Senator MARKEY. Thank you. Mr. Chehadé, this new system needs to be stress tested?

Mr. CHEHADÉ. Yes.

Senator MARKEY. In order to make sure that it will work and it cannot be compromised. If you could lay out for us what are the stress tests, how long will they take, and what are the safeguards built in to make sure the reporting back is accurate in terms of the system and its safeguards.

Mr. CHEHADÉ. Absolutely, it must be stress tested, and I must commend many members of our stakeholders, some of them in this room, who have been developing a series of stress tests, without which we are not coming back to you with a complete proposal.

Today, they include about 25 of them that we plan to go through. They come in multiple categories, financial crisis or insolvency, issues of failure to meet operational expectations, legal action stress tests, failure of accountability, failure of accountability to external stakeholders.

They have already outlined every possible scenario that we should be testing for, and ensuring that this institution, which has been built over the last two decades, is ready and able, not just today, but in the future to withstand these stress tests.

We will report on these back to Secretary Strickling as part of our proposal.

Senator MARKEY. OK. Mr. Strickling, without question, human rights and an open Internet are intrinsically linked. Talk, if you would, about the safeguards we are building in to make sure that censorship does not reign in this new era, that we are not opening up a new era where there is a dramatic change in the personality of the Internet, as we are trying to reform its governance, we also want to simultaneously make sure that its essential personality remains the same, and that human rights and free speech and this openness as part of its baked in personality remains intact. Could you talk about that?

Mr. STRICKLING. So, I totally agree with your comment. One of the reasons that we have insisted on there being no government solution or inter-governmental solution is the fear that would bring these extraneous issues into the management of the domain name system in a way that might affect free expression.

As you know, Senator, there is nothing about the system today that prevents individual countries from acting within their own borders to censor or block content. That will not change going forward.

What we are insisting upon is that nothing come out of this process that would allow those countries to be able to extend those beliefs into the domain name system at large, and again, based on what we have seen, I am confident that we will get a proposal that protects against that.

Senator MARKEY. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Markey. Senator Nelson?

Senator NELSON. Thank you, Mr. Chairman. Last year in the omnibus appropriations, a rider was placed that prevents NTIA from

spending funds on the transition to an IANA contract before September 30 of this year, 2015.

Can you explain NTIA's interpretation of that rider, Mr. Secretary?

Mr. STRICKLING. Yes, sir. We have interpreted that resolution or interpreted that language to prevent us from allowing the transition to occur before September 30.

Senator NELSON. And we know——

Mr. STRICKLING. If I can continue, in consultation with members and staffs up here on the Hill, we sought to clarify whether that would in any way restrict our ability to continue to monitor the transition planning process which is going on in the community and is not subject to any restrictions in the legislation, and in fact, as you know, the rider imposes reporting requirements on us, so it is clear that Congress intended us to continue to monitor the process and report back on what is happening.

Within that, we also indicated our need, and I think the needs of serving American interests, that we provide feedback where we thought it was appropriate, and we have engaged in that.

Again, I am very careful not to steer decisionmaking one way or the other, but I think through a series of questions that we have been asking and will continue to ask, we are trying to make sure that the process considers all the issues before reaching a final result.

We take very seriously the fact that no transition will take place before September 30.

Senator NELSON. What happens if that rider is continued?

Mr. STRICKLING. Again, I would not want to speculate on that. I am hoping the process within the community will result in a proposal that will demonstrate to Congress and the valid concerns people have up here about the process, that in fact it is being handled in a responsible fashion, that the transition will meet the conditions and there will be no need to extend that particular provision past September 30.

Senator NELSON. Is the world going to stop revolving if it is extended?

Mr. STRICKLING. I do not like to speculate on what will or will not happen in the future, but I am pretty confident the world will not stop revolving; yes, sir.

[Laughter.]

Senator NELSON. Senator Klobuchar, when she left, talked about stress testing. NTIA favors stress testing any new ICANN accountability measures in order to judge their effectiveness. Why do you think that step is essential?

Mr. STRICKLING. Well, again, we need to have a proposal that has been well thought through, that has considered all the options, that can answer any question anybody might have. I think scenario's, no matter how unlikely they may seem to people, need to be raised.

The stress testing is really a set of kind of scenario planning or contingency planning where you posit possible situations and then evaluate the extent to which the organization and the instruments of accountability allow one to protect against bad things from happening.

So, yes, we have been strong supporters of stress testing from the beginning, and we think a good proposal requires that level of evaluation and testing to ensure that it will survive the kinds of challenges that people worry might happen at some point in the future.

Senator NELSON. Mr. Ambassador, do you want to comment?

Ambassador GROSS. I would be happy to comment. I think the Assistant Secretary stated it very well. Let me just add by saying as a way of reassuring not only this committee but also our members and the population as a whole that they have gone beyond stress testing, or in the process of going beyond stress testing.

For example, one of the issues that has been raised by the Assistant Secretary is implementation, no change should be made, not only in terms of getting it done right, making sure that as part of getting any proposal done right, it is stress tested, and that there is sufficient time for full implementation to ensure that this goes smoothly is taken. Only then is my understanding would a transition take place.

Mr. STRICKLING. That is correct.

Senator NELSON. Thank you.

The CHAIRMAN. Thank you, Senator Nelson. I just have a couple of quick questions here, and I think we will close this out.

Mr. Strickling, you recently gave a speech at the State of the Net Conference in which you raised several questions about draft proposals for the IANA functions. You suggested there was risk in making the proposal too complicated and creating new committees might just lead to new accountability questions.

Were your questions meant to indicate that NTIA is unhappy with the direction the proposals are going?

Mr. STRICKLING. No, sir. We just want to make sure that the community is fully evaluating and understanding the implications of the various proposals it is looking at.

In no way have we said that any particular proposal that either has already been put on paper or might be put on paper would not satisfy the conditions, although as Ambassador Gross just mentioned, implementation is very much part of this.

So, if one is going to propose—if the community is going to propose building new organizations to engage in any of these functions or any of this accountability, there will have to be time put in place to allow those organizations to be constructed, tested, and we need to make sure they do not create new accountability problems of their own.

I viewed my questions as simply trying to make sure the community understood fully the ramifications of the kinds of proposals that it might be looking at, and I encourage this body and everyone else in this process to ask questions, too, because it will only result in a stronger proposal.

The CHAIRMAN. Should your comments there be interpreted by stakeholders as additional requirements in terms of the transition beyond those that were included in NTIA's initial IANA transition announcement?

Mr. STRICKLING. I do not think anything that I raised in my questions goes beyond the conditions. For example, if a new organization were to be proposed, that in my mind directly implicates the condition that we do nothing to disturb the security and stability

of the existing system, it is working well. All of the customers of the IANA functions today, all three of them, say they are getting good service from ICANN.

We want to be very careful that we do not get a proposal that might upset that security or stability that exists today.

The CHAIRMAN. Final question. How will you consult with Congress in the event ICANN presents NTIA with an IANA transition plan this year?

Mr. STRICKLING. As I said earlier in my testimony and as I said to you when we met, we want to work very closely with both houses up here on the Hill in terms of making sure there is a full explication of the proposal and make sure it has the full airing as any of the committees up here would like to pursue.

The CHAIRMAN. I appreciate that. I wanted to get that on the record one more time.

Senator Nelson, anything else from you?

Senator NELSON. No.

The CHAIRMAN. If not, we will wrap this up and keep the record open for a couple of weeks for additional testimony to be provided. And thanks to our panelists today for their great testimony and for their answers to our questions. I am sure this is an issue that we will continue to pay a great deal of attention to going forward.

Thank you all very much. The hearing is adjourned.

[Whereupon, at 11:46 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO HON. LAWRENCE E. STRICKLING

Question 1. The IANA contract with ICANN allows for two, two-year renewals. You have acknowledged that the policy rider in the current appropriations bill bars you from transitioning the IANA functions during this Fiscal Year. If that is the case, why have you not already extended the contract? What are the considerations of NTIA in extending the contract for a period of less than two years?

Answer. The Act restricts NTIA from using appropriated dollars to transition key Internet domain name functions during Fiscal Year 2015, which coincides with the end of the base period of the IANA contract on September 30, 2015. As a contractual matter, the Department may extend the term of the contract by written notice to the Contractor (ICANN) within 15 calendar days before the expiration of the contract, provided we give the Contractor preliminary written notice of our intent to extend at least 30 calendar days before the contract expires.

We have set certain conditions before a transition would be appropriate. The IANA Stewardship Transition Coordination Group (ICG) and the Cross Community Working Group on Enhancing ICANN Accountability (CCWG on Accountability), which represent a broad range of Internet stakeholders, including industry, governments, civil society, and the technical community, have been working diligently through a number of working groups to complete a transition proposal. However, it is becoming increasingly likely that some extension of the contract may be necessary. Accordingly, NTIA is conferring with the working groups to get an update on their progress and the associated timeframes going forward to make a final decision on an extension.

Question 2. Do you believe the "stress tests" developed by the community are adequate to identify problems that could confront ICANN if the U.S. Government relinquishes the IANA functions contract? Specifically, do the stress tests properly assess the risk of governments or government-affiliated individuals gaining a controlling role over ICANN?

Answer. The CCWG on Accountability has identified 26 potential stress tests. The stress tests address a range of potential contingencies, such as a financial crisis; evidence of major corruption or fraud; litigation; the unilateral expansion of ICANN's mandate by its Board; and the failure of the ICANN Board to comply with ICANN's Bylaws. There are also stress tests related to the possibility that ICANN is "captured" by a single stakeholder segment, including governments via the Governmental Advisory Committee (GAC).

While the specific issue you raise has been identified, as have others, it is premature at this time to make judgments about whether the risks have been properly addressed. Thus far, we have been pleased by the diligent efforts to identify and develop a set of stress tests that reflect the broadest range of potential contingencies necessary to protect the future management of the IANA functions and ensure ICANN accountability.

Question 3. I understand there has been some consternation from U.S. stakeholders about Secretary Pritzker's participation in the NetMundial initiative. Please explain why it is in our national interest for Secretary Pritzker to use her valuable time on this endeavor and what her participation will be going forward.

Answer. We take seriously the concerns raised by all stakeholders, including those voiced by the business community regarding the NetMundial Initiative (NMI) initiative. Secretary Pritzker agreed to serve on the NETmundial Initiative (NMI) Coordination Council to explore whether there is a gap in the Internet governance landscape that could be filled by this multistakeholder Initiative, as opposed to having governments take more of a role to solve Internet issues by themselves. That said, the Department has expressed to the other NMI Coordination Council members that the continued lack of industry support and participation needs to be remedied in order to justify proceeding with NMI. The Department plans to review the com-

ments filed by stakeholders in response to a draft "terms of reference" for NMI before determining its future engagement in NMI. *See, http://comments.netmundial.org/*.

Question 4. Proponents of the IANA transition often argue that one of its benefits is it demonstrates U.S. commitment to the multistakeholder model. These proponents believe that by moving forward with the transition the United States deflates attempts to expand the jurisdiction of the International Telecommunications Union or other intergovernmental bodies to include Internet governance. Please share with the Committee any examples of countries or stakeholders having renewed faith in U.S. support for the multistakeholder model due to the IANA transition.

Answer. In 2012, at the ITU World Conference on International Telecommunications (WCIT), despite opposition from the U.S. and a number of likeminded countries, a majority of ITU Member States (*i.e.,* governments) in attendance voted in favor of a stronger role for governments in Internet governance. Since then, there has been significant progress in the support shown by other countries for multistakeholder Internet governance. Specifically, in April 2014, Brazil hosted the successful NetMundial conference at which nearly all countries in attendance supported a statement reaffirming that Internet governance should be built on democratic multistakeholder processes. In the fall of 2014, the Member States assembled at the ITU Plenipotentiary Conference in Busan, South Korea, rejected efforts to expand the ITU's role in DNS issues handled by ICANN and agreed to take steps towards including all stakeholders in previously closed discussions related to Internet issues.

A broad group of stakeholders has also directly expressed its support for NTIA's March 14, 2014, announcement of its intent to complete the privatization of the domain name system. These include Internet technical community leaders, U.S. companies such as AT&T, Verizon, Microsoft, Google, Cisco, and Comcast, and associations like the Chamber of Commerce, USTelecom, the Internet Association, the Computer and Communications Industry Association, and the Software and Information Industry Association. Human rights and Internet freedom organizations, including Freedom House, Human Rights Watch, the Center for Democracy and Technology, and Public Knowledge, also released statements of support.

A number of countries have also taken the opportunity to express their support of the IANA transition and multistakeholder model, either directly or indirectly through their participation in the ongoing transition process. Many governments—including the UK, Germany, Mexico, Netherlands, Republic of Korea, Brazil, Norway, Australia, Denmark, Switzerland, Egypt, and Qatar—voiced their support for the announcement and/or the multistakeholder model at the March 2014 ICANN Governmental Advisory Committee (GAC) meeting in Singapore and the June 2014 ICANN High Level Governmental Meeting in London. Following the inaugural meeting of the U.S.-E.U. Cyber Dialogue in December 2014, the government participants jointly agreed "that no single entity, company, organization or government should seek to control the Internet and expressed their full support for multi-stakeholder governance structures of the Internet that are inclusive, transparent, accountable, and technically sound." They further welcomed the multistakeholder community's engagement and efforts regarding the IANA transition, recognizing the positive progress of the initiative.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROY BLUNT TO HON. LAWRENCE E. STRICKLING

Question 1. Mr. Strickling, on March 14, 2014, NTIA announced its intent to end the U.S. Government's stewardship role over Internet governance, and privatize IANA functions. Although you have not set a deadline, and have mentioned that NTIA can extend the contract, you did say that September 30, 2015, is "a date for the community to use." Thus, ICANN and the stakeholder community have less than two years to design a proposal for the privatization of IANA functions, and transparency and accountability reforms at ICANN. What is NTIA's plan to extend the contract if, in fact, ICANN fails to produce a transition proposal in conjunction with accountability reforms?

Answer. NTIA has not set a deadline for the transition. September 2015 has been a target date because that is when the base period of our contract with ICANN expires. However, we have the flexibility to extend the contract if necessary. The current IANA functions contract contains provisions to extend the contract, including the possibility of exercising two two-year option periods. In order to exercise one of these options to extend the contract, the Department must provide written notice to the Contractor (ICANN) within 15 calendar days before the expiration of the con-

tract, provided that the Government gives the Contractor a preliminary written notice of its intent to exercise an option to extend at least 30 calendar days before the contract expires.

We are committed to providing the time needed to develop the best plan possible to ensure the security and stability of the Internet. The IANA Stewardship Transition Coordination Group (ICG) and the Cross Community Working Group on Enhancing ICANN Accountability (CCWG on Accountability), which represent a broad range of Internet stakeholders, including industry, governments, civil society, and the technical community, have been working diligently through a number of working groups to complete a transition proposal. However, it is becoming increasingly likely that some extension of the contract may be necessary. Accordingly, NTIA is conferring with the working groups to get an update on their progress and the associated timeframes going forward to make a final decision on an extension.

Question 2. You have stated on numerous occasions that September 30 is not a hard deadline, and that NTIA will renew the IANA contract if ICANN fails to produce an acceptable transition proposal in conjunction with transparency and accountability reforms at ICANN. As I understand it, the transparency and accountability reforms are to be "stress tested" by ICANN and the stakeholder community.

Will NTIA evaluate these "stress tests" and factor them into its decision on the overall transition proposal?

If so, what criteria will NTIA use to evaluate these "stress tests?"

How can "stress tests" predict changes in context as the Internet evolves and geopolitics change?

What recourse will NTIA, the global community of stakeholders, or the American people have if circumstances change in the next 5, 10, or 20 years?

Answer. Once we receive a complete consolidated proposal, we will ensure that the proposal fully satisfies the March 2014 criteria and that the proposal has been adequately "stress tested" to ensure the continued stability and security of the DNS.

The CCWG on Accountability has identified 26 potential stress tests. The stress tests assess a range of potential contingencies, such as a financial crisis; evidence of major corruption or fraud; litigation; the unilateral expansion of ICANN's mandate by its Board; and the failure of the ICANN Board to comply with ICANN's Bylaws. There are also stress tests related to the possibility that ICANN is "captured" by a single stakeholder segment, including governments via the Governmental Advisory Committee (GAC). Thus far, we have been pleased by the diligent efforts to identify and develop a set of stress tests that reflects the broadest range of potential contingencies necessary to protect the future management of the IANA functions and ensure ICANN accountability.

The processes used to develop and evaluate the proposal will influence the work NTIA needs to undertake as part of its review. For example, NTIA will review any documented "stress tests" and consider whether new processes or structures address the comprehensive set of contingencies that have been identified. Such stress-testing will also provide confidence that any process, procedure, or structure proposed actually works. In addition, NTIA will review and assess the changes made or proposed to enhance ICANN's accountability in advance of initiating the transition. This will include an assessment of the proposed responses to the contingencies identified in the stress tests and ensuring that they address NTIA's criteria.

NTIA continues to believe that the best mechanism for ensuring an open, secure, and resilient Internet now and into the future is the strength of the multistakeholder model. The real strength lies with the broad group of stakeholders, both within the U.S. and globally, who today are the ones driving the process and have the ability to course-correct should circumstances change in the future. NTIA believes that the successful completion of the privatization of the DNS will only further strengthen the multistakeholder model against challenges it will face tomorrow and far into the future.

NTIA will remain an active participant in ICANN going forward to ensure the continued stability and security of the DNS. In particular, we will continue our active role as a member of the GAC as well as a stakeholder with interests in the IANA functions. NTIA—as well as other U.S. Government agencies—also participates in other multistakeholder bodies with direct ties to the IANA functions, including the Internet Engineering Task Force (the organization directly tied to the protocol parameters function) and the Regional Internet Registries (the organizations most directly tied to the Internet numbering resources function).

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO HON. LAWRENCE E. STRICKLING

Question. In January 2014 the AWS–3 auction was completed. It was the most successful auction of radio spectrum so far, drawing nearly $45 billion in bids for 65 megahertz of spectrum. The auction was an important milestone in the administration's efforts to meet the President's goal of making available 500 megahertz of spectrum for wireless broadband by 2020.

Larry Strickling, the Assistant Secretary of NTIA said that the auction "represents a paradigm shift in our approach to making spectrum available for commercial wireless providers."

He was talking about the growing phenomenon of spectrum sharing and the fact that NTIA has been working with Federal agencies to identify Federal bands that could be repurposed for commercial use.

NTIA is to be commended because we know some Federal users are harder to convince than others.

I am very encouraged that NTIA is continuing to work with government spectrum users to identify spectrum bands for mobile broadband.

What can we in Congress do to encourage Federal spectrum users or Federal agencies to work with NTIA to identify more spectrum for commercial use in light of the impending spectrum crunch?

Answer. I appreciate your recognition of the work that Federal agencies and NTIA have performed towards enabling access to additional spectrum for commercial purposes through a combination of relocation and sharing opportunities.

Drawing more than $40 billion in bids for 65 megahertz of spectrum, the AWS–3 auction was clearly a ringing financial success, but it also is an important milestone in the Obama administration's efforts to meet the President's goal of making available 500 megahertz of spectrum for wireless broadband by 2020. The auction proceeds will help fund the Nation's first nationwide public safety broadband network being established by the First Responder Network Authority (FirstNet), as well as pay for deficit reduction, relocation costs Federal agencies will incur to vacate or share bands for commercial use and other priorities.

The success of the auction was made possible in part by an unprecedented level of collaboration between NTIA, affected Federal agencies, wireless industry representatives, the FCC, and Congress. Congress played an important role in the successful AWS–3 auction in several respects. It passed the Middle Class Tax Relief and Job Creation Act of 2012 that enabled the auction of AWS–3 spectrum and updated the way in which Federal users receive payment for relocation and sharing costs. Congress also worked closely with NTIA, the FCC, and Federal agencies to ensure timely and efficient transition planning in preparation for the auction. This leadership helped all parties work collaboratively and achieve a successful outcome that expanded broadband opportunities and reduced the deficit, while maintaining essential Federal agency missions. As a result, the NTIA is building on the lessons learned from these AWS–3 efforts to establish a repeatable and sustainable collaboration framework between NTIA, FCC, Federal agencies, industry, and Congress to maximize the value and use of this important resource.

We welcome efforts to look at additional reforms that would further expedite and expand these collaborative efforts and maximize the benefits of spectrum access for both government and commercial users. One area for consideration is enhancing the flexibility to utilize the Spectrum Relocation Fund (SRF) for up-front studies and research and development (R&D) activities that are not specifically tied to an eligible frequency band. These enhancements would be in addition to the existing statutory requirements the SRF fulfills. The FY 2016 President's Budget included a proposal that could increase flexibility in the use of the SRF and highlighted that targeted investments can return more than they cost in the form of enhanced auction value or sharing arrangements. We welcome continued dialogue on all innovative ideas to improve upon the already successful collaboration between Federal and commercial entities.

In the meantime, NTIA continues to work closely with the FCC and the Federal agencies towards the Administration's goals of making available 500 megahertz of spectrum for wireless broadband by 2020. We are collaborating with the FCC on making 100 megahertz of spectrum available for small cell mobile broadband use in the 3.5 GHz band on a shared basis with military radar systems. Meanwhile we also are evaluating the feasibility of increased sharing for unlicensed devices in the 5 GHz band while protecting important incumbent systems. NTIA is also working with Federal agencies to quantify their use of nearly 1000 megahertz of spectrum, spanning several key bands. The results of this quantification assessment will help to prioritize these bands for more detailed study, and to ultimately identify addi-

tional Federal spectrum that could potentially be repurposed (with a focus on spectrum sharing) for commercial broadband services. We are also investigating approaches to enhance Federal access to non-federal bands (bi-directional sharing) to the benefit of both. As we move forward, we are cognizant of the growing spectrum needs of both commercial and governmental entities and will work to identify strategies that enhance collaboration and sharing among all parties.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO FADI CHEHADÉ

Question 1. It seems a plurality of the Internet community wants ICANN to stay in the United States, and I am not aware of consensus support for moving to a particular country. Under what circumstances would ICANN move its headquarters outside the United States? Do you need consensus of the community to move to a particular location?

Answer. The Affirmation of Commitments that ICANN holds with the United States Department of Commerce includes a commitment that ICANN will remain headquartered in the United States. As I testified during the hearing before the Committee, ICANN stands by the Affirmation of Commitments and all of the commitments set out within it.

Similarly, ICANN's Bylaws set forth that its principal office is in the County of Los Angeles (Article XVIII). Any change to a provision within ICANN's Bylaws can only occur after public comment, so there would have to be input from the Internet community on that issue if such a change was ever contemplated, as well as a 2/3 majority of the Board voting in favor. The Enhancing ICANN Accountability process that is underway is considering issues such as whether there are particular Bylaws provisions that are so fundamental that a higher voting threshold of directors must be achieved before passage, or that the community may hold a veto power over attempts to change. It remains to be seen whether the community will recommend that additional protections be placed around this Bylaws provision relating to ICANN's headquarters, however, the anticipated enhancements to ICANN's accountability that will be achieved through the Accountability work will only serve to make ICANN more accountable to the Internet community for decisions of this import.

Question 2. I understand ICANN recently commissioned a legal opinion to examine whether California law permits certain accountability reforms. I am concerned this legal opinion may be used to discourage community recommendations on accountability. Will you commit to facilitating the community in getting its own, independent legal opinion?

Answer. Upon request of the Chairs of the Cross-Community Working Group on Enhancing ICANN Accountability, ICANN requested one of its primary law firms, Jones Day, to answer a series of questions relating to proposals to reform ICANN's accountability practices. Responses to the Cross-Community Working Group's questions were delivered during ICANN's 52nd Public Meeting in Singapore in February 2015. Since the Jones Day responses were provided, as was anticipated, the Cross-Community Working Group has now identified not one, but two law firms that ICANN has retained for the provision of open, transparent legal advice to inform the accountability process.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROY BLUNT TO FADI CHEHADÉ

Question 1. Many in the United States fear that once the current relationship with the U.S. Government ends that ICANN will seek to move its headquarters to another jurisdiction under pressure from foreign governments—one not subject to 1st Amendment Rights. Such a move would be exceptionally destabilizing to Internet governance, and would pose a serious threat to free speech. Can you pledge that ICANN will remain incorporated in the United States?

Answer. As noted in my response to Chairman Thune's first question for the record, the Affirmation of Commitments that ICANN holds with the United States Department of Commerce includes a commitment that ICANN will remain headquartered in the United States. As I testified during the hearing before the Committee, ICANN stands by the Affirmation of Commitments and all of the commitments set out within it.

Question 2. Over the past few months, ICANN has been criticized for how it's evaluating community-based applications. Just one example involves the accounting

industry's interest in applying for the .CPA domain. It appears ICANN is denying information on how applications are being reviewed, and has rejected most of the reconsideration requests submitted by applicants.

This one example raises questions of whether ICANN is committed to transparency and accountability. The ideas exist on paper, but they aren't functional or accessible to actual applicants.

Can you explain how you are working with applicants generally, and accountants specifically, to understand the process and how you deal with them as you change your internal criteria?

Answer. While I am not able to discuss the ongoing processing of any specific application for a new generic Top-Level Domain, ICANN has been evaluating applications in accordance with the Applicant Guidebook and the criteria developed through years of public consultation. There is extensive public documentation regarding the Community Priority Evaluation component that is referenced within the question, at *http://newgtlds.icann.org/en/applicants/cpe.*

While the New gTLD Program—after public consultation—was designed to not include the ability to appeal from panel determinations (such as the Community Priority Evaluation), what is being seen now is that the community may deem such an appeals right to be important in future rounds. ICANN has already committed to a group of reviews necessary over the first application round of the New gTLD Program, and any changes that are put in place for subsequent rounds will be part of public consultations. Information about the programmatic reviews, including assessing stakeholder experience in launching and operating the New gTLD Program and applying lessons learned as the Program moves forward, is available at *http://newgtlds.icann.org/en/reviews.* This is how potential changes to criteria for the evaluation of applications will be developed.

The Enhancing ICANN Accountability process may also impact some of the concerns noted within your question. The Cross-Community Working Group on Enhancing ICANN Accountability has highlighted ICANN's Reconsideration Process as an area where improvements may be needed, and efforts are currently underway to identify reforms to the Reconsideration Process (in addition to other accountability mechanisms).

Question 3. In January, at an inter-sessional ICANN meeting, you stated that a contract is an "enforceable instrument," and that ICANN must do more to enforce various contractual provisions with registrars and registries. I agree that ICANN must do more to prohibit illegality online, whether it take the form of illegal drug sales, illegal counterfeit activity, or illegal distributions of copyrighted materials. What is ICANN doing to ensure registrars and registries take action to deter illegal activity over domains they sponsor?

Answer. First, ICANN performs proactive monitoring activities to ensure that its accredited registrars act in compliance with Sections 3.18.1, 3.18.2 and 3.18.3 of the 2013 Registrar Accreditation Agreement, particularly as those sections relate to publishing the registrar's abuse contacts and procedures for handling complaints. These are key provisions through which suspected illegal activity can be raised to registrars. These provisions were incorporated into the Registrar Accreditation Agreement based on recommendations from law enforcement and as a result of negotiations with registrars. The Registrar Accreditation Agreement is available at *https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en.*

As part of the obligations that a registrar undertakes under Section 3.18 of the Registrar Accreditation Agreement, a registrar must have a dedicated abuse point of contact to receive complaints from law enforcement, consumer protection, quasi-governmental or similar authorities and must review complaints from those sources within 24 hours of receipt. What constitutes an appropriate response to a complaint varies based on the facts and circumstances. Registrars are required to comply with court orders from courts of competent jurisdiction, and further, registrars may choose to take action without being compelled to do so by a court order. A number of registrars have suspended or disabled websites because of allegations of illegal activity, including infringement, child pornography, illegal drug sales and other activities. Registrars are not required to respond in a way that would be a contravention of applicable law and are not required to be the arbiter of what constitutes illegal activity in every jurisdiction, which is a function that is typically performed by courts.

When ICANN's Contractual Compliance Department receives a report of potential illegal activity, ICANN forwards the report to the registrar (after confirming that the complainant itself sent the abuse report to the registrar abuse contact). Registrars must take reasonable and prompt steps to investigate and respond appropriately to the abuse report. Generally this requires that the registrar forward the

complaint to the registered name holder or explain why the registrar believes that forwarding the compliant should not be required.

Based on the abuse report and to ensure that the registrars are abiding by their contractual requirements, ICANN requests that the registrar provide: (1) the steps taken to investigate and respond to the abuse report; (2) the time taken to respond to the abuse report; (3) the correspondence with the complainant and the registered name holder; and/or (4) (if applicable) other data or evidence identified based on the registrar's response.

If a registrar fails to fulfill its obligations under Section 3.18, ICANN generally attempts to work constructively with the registrar to bring it into compliance with its contractual obligations. If a registrar continues to fail to fulfill its obligations, ICANN's Contractual Compliance Department can and does impose remedies up to and including suspension or termination of the registrar's accreditation agreement with ICANN. ICANN has no direct relationship with registered name holders and no ability—either technical or legal—to disable or edit the content of a registered name holder's website.

Question 4. Your new gTLD agreements obligate registries to ensure that registrars have a provision in their agreements that prohibits domain name operators from engaging in "piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law," and providing (consistent with applicable law) that registrars include "consequences for such activities including suspension of the domain name." Has ICANN seen procedures from registries or registrars to ensure such illegal activity does not occur, and what consequences do they have in place should such activity occur?

Answer. Yes, some registrars have taken actions to suspend or disable a registered name holder's website as a result of allegations of unlawful activity, including infringement, child pornography, illegal drug sales and other activities. Allegations of illegal activity can raise complex questions of law and fact, and in some cases a registrar may conclude that it is not competent to determine whether illegal activity is occurring. In those cases, a registrar may defer to law enforcement or private parties to seek adjudication from a court of competent jurisdiction as to whether the conduct in question is unlawful.

Question 5. The community group that's designing enhanced accountability measures for ICANN is looking for independent legal advice on how to empower the community to override board decisions and budget proposals.

Is it true that ICANN's legal counsel wrote a memo saying the community could not override board decisions?

Would it be appropriate for the community to seek a second opinion?

Answer. As discussed within my answer to Chairman Thune's Question 2, ICANN provided—at the request of the Cross-Community Working Group on Enhancing ICANN Accountability—responses from Jones Day to a series of accountability-related questions. Since that time, the Cross-Community Working Group has identified two law firms that ICANN has retained, and those law firms are providing legal advice to the Working Group in furtherance of the accountability work. Across Jones Day's advice, as well as the advice that has been provided to date by the two firms reporting to the Cross-Community Working Group (Sidley Austin LLP and Adler & Colvin), each firm has identified that pursuant to the laws under which ICANN is incorporated, it is the Board that bears the ultimate responsibility for corporate decisions. However, each of the firms, including Jones Day, also provided ideas of how the ICANN community could be better empowered to have input into and/or challenge decisions of the Board, as well as how the community can better hold the Board accountable for decisions with which the community does not agree. Counsel have suggested a range of solutions that would be acceptable under law, including providing the community with rights to remove Board members and identifying ways that the community could hold a "veto" right over specific decisions, such as the approval of the annual budget.

The Enhancing ICANN Accountability work is ongoing, and ICANN remains committed to supporting the efforts of the Cross-Community Working Group as it develops recommendations.

Question 6. Earlier this month, the Senate unanimously passed a resolution Senator Hatch and I spearheaded to draw public attention to the very reason you're here today—the transition of key Internet functions away from U.S. oversight. The resolution set forth a series of reforms that should be made before any transfer.

I want to ask you a series of yes or no questions about those reforms—and please limit your answer to yes or no.

Do you agree that ICANN's authority is and should be limited to the coordination of Internet unique identifiers in order to avoid "mission creep?"

Do you agree that there should be a separation of the functions of policy-making, implementation and an independent adjudication or arbitration for dispute resolution?

Do you agree that policy making must remain with the broad multistakeholder community?

Do you agree that ICANN actions must reflect true, if rough, consensus?

Do you agree that the Board of Directors is responsible for policy implementation?

Do you agree that the dispute resolution function must necessarily involve the power to order remedial action?

Do you agree that today there is no truly independent adjudication or arbitration authority with this power?

Do you agree that it is essential ICANN undertake structural reforms to ensure that it is protected against undue influence or capture by one or more governments, multilateral organizations, or a single set of commercial or noncommercial stakeholders?

Do you agree that in the absence of the Affirmation agreement with the U.S. Government that structural changes to reinforce and expand ICANN's transparency and accountability are necessary?

Do you agree that before the transfer occurs all necessary reforms are embedded in ICANN's articles of incorporation and bylaws and subject to independent adjudication or arbitration for dispute resolution?

Answer. Thank you for your continued support of ICANN's multi-stakeholder model, and for keeping these issues front-and-center. Recognizing how busy Congress is (inherent in your request for extreme brevity), I offer these concise answers, constrained only by the need to respond with maximum accuracy.

- Do you agree that ICANN's authority is and should be limited to the coordination of Internet unique identifiers in order to avoid "mission creep?"

Answer. I support the mission of ICANN as set out in the ICANN Bylaws:

The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. In particular, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are
   a. Domain names (forming a system referred to as "DNS");
   b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and
   c. Protocol port and parameter numbers.
2. Coordinates the operation and evolution of the DNS root name server system.
3. Coordinates policy development reasonably and appropriately related to these technical functions.

Adherence to this mission is key to ICANN's continued success.

- Do you agree that there should be a separation of the functions of policy-making, implementation and an independent adjudication or arbitration for dispute resolution?

Answer. Within the IANA Functions Department of ICANN, there already exists today a commitment by ICANN that the IANA functions staff responsible for performing the implementation of community-developed policies are not permitted to participated in the policy development work. This commitment today is embodied in the IANA Functions Contract, is an important part of each the proposals that have been developed to date in the IANA Functions Stewardship Transition process, and is expected to remain in place.

There are, of course, many other policies developed across the ICANN community that don't impact the performance of the IANA functions. Policies related to generic domain names occur within the Generic Names Supporting Organization, or GNSO; those relating to country-code domain names occur within the Country-Code Names Supporting Organization, or ccNSO. These different communities each have expectations on how they then are involved in the implementation of the policies that they develop and are approved by ICANN (as applicable). Often there is a need for coordination with those who develop the policy when it comes time for implementation.

If and when matters are referred to independent adjudication or arbitration, independence from policy development, implementation, or any of the parties within the adjudication or arbitration is an essential factor of assessing those overseeing that adjudication or arbitration.

- Do you agree that policy making must remain with the broad multistakeholder community?

Answer. Yes. Each of the policy bodies I discussed above relies on the multistakeholder model, and I support policy development's remaining within those multistakeholder groups. These policy bodies and how they develop policy are incorporated in the ICANN Bylaws.

- Do you agree that ICANN actions must reflect true, if rough, consensus?

Answer. The Supporting Organizations that are charged with developing policy do so through the submission of consensus-based recommendations to the ICANN Board. The ICANN Board then considers those recommendations, and has specific processes surrounding its approval or rejection of those recommendations, often tied to the level of consensus present within the underlying policy development process. The ICANN Board is not where policies are developed. As President and CEO of ICANN, it is not up to me to define the thresholds or consensus requirements of the policy development groups or advisory committees that have inputs into ICANN's processes.

- Do you agree that the Board of Directors is responsible for policy implementation?

Answer. The ICANN Board of Directors is responsible for the assessment of and approval of policy recommendations that come to it through defined processes. Once approved, the Board retains a general responsibility for the oversight of the affairs of the organization, and that includes oversight of how I, as President and CEO, work with the ICANN staff to implement those approved policies.

- Do you agree that the dispute resolution function must necessarily involve the power to order remedial action?

Answer. The Cross-Community Working Group on Enhancing ICANN Accountability is working on creating refinements to ICANN's accountability mechanisms. They are working closely with their retained legal advisors to identify the full scope of recommended changes to ICANN's accountability measures such as the Reconsideration Process and the Independent Review Process, including what the outcomes of those processes should be. The ICANN Board has expressed support for the Enhancing ICANN Accountability work, and I stand with my colleagues on the Board.

- Do you agree that today there is no truly independent adjudication or arbitration authority with this power?

Answer. There are a variety of dispute mechanisms available throughout ICANN today, as well as the accountability mechanisms such as the Reconsideration Process and the Independent Review Process. Depending on the nature of the issue at hand, remedial powers could be exercised, such as arbitration as required in ICANN's registry and registrar agreements. Existing accountability mechanisms, such as the Reconsideration Process, which can require a "do over" of a decision or action, could also result in remedial action being achieved. Of course, the sufficiency of the Reconsideration and Independent Review Processes and the outcomes of those processes are key items under consideration within the Enhancing ICANN Accountability work and we are awaiting the Cross-Community Working Group's recommendations.

- Do you agree that it is essential ICANN undertake structural reforms to ensure that it is protected against undue influence or capture by one or more governments, multilateral organizations, or a single set of commercial or noncommercial stakeholders?

Answer. I agree that a key question facing ICANN today, as well as a key stress test of any reforms that are being developed through the Enhancing ICANN Accountability process, is how well are we protecting against undue capture or influence by one or more governments, multilateral organizations, or a single set of commercial or noncommercial stakeholders, across the organization. This also includes that the community itself must meet high standards of accountability in any proposed community mechanism, including the development of proper checks and balances to mitigate against the possibility of capture. The Cross-Community Working Group has identified that "the community, however it is constituted, must itself meet high standards of accountability" within the enhancements that are being developed.

As stated in NTIA's original announcement, and as reinforced by the ICANN community and Congress, protections against capture must be a central component of any structural change of the organization.

- Do you agree that in the absence of the Affirmation agreement with the U.S. Government that structural changes to reinforce and expand ICANN's transparency and accountability are necessary?

Answer. ICANN has no plans to withdraw from the Affirmation of Commitments. While there is no suggestion that the Affirmation of Commitments should or will be terminated, ICANN supports the recommendations of Chairman Thune and Senator Rubio to incorporate the provisions of the Affirmation of Commitments into the ICANN Bylaws to help provide assurances of ICANN's intent to maintain its commitments thereunder. This is also a central focus of work within the Enhancing ICANN Accountability process. Further, as indicated above, ICANN supports the work of the Cross-Community Working Group on Enhancing ICANN Accountability and is awaiting its recommendations on how ICANN's accountability and transparency can be enhanced and reinforced.

- Do you agree that before the transfer occurs all necessary reforms are embedded in ICANN's articles of incorporation and bylaws and subject to independent adjudication or arbitration for dispute resolution?

Answer. The final proposals on the stewardship transition and enhancing ICANN accountability will delineate the key enhancements that must be in place or committed before the transition can take place. ICANN is committed to working with the multistakeholder community to achieve this goal prior to a transition.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. STEVE DAINES TO FADI CHEHADÉ

Question. As you mentioned in your testimony, ICANN has contracts with registrars that prohibit illegal activity. Specifically, under section 3.18 of the 2013 registrar accreditation agreement, section registrars must take "reasonable and prompt steps to investigate and respond appropriately to any reports of illegal activity." Please explain what ICANN is doing to ensure registrars abide by this provision, and explain what processes and analysis ICANN performs when it receives a complaint that a registrar has not complied with this obligation.

Answer. Please refer to my answer to Senator Blunt's Question 3, which also was focused on Section 3.18 of the 2013 Registrar Accreditation Agreement and ICANN's enforcement of those requirements.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO FADI CHEHADÉ

Question. Mr. Chehadé, you mentioned stress testing as a way to ensure that accountability processes are structured properly in advance of the transition. Can you expand on how these stress tests would be conducted and analyzed?

Answer. Within the Cross-Community Working Group on Enhancing ICANN Accountability, a sub-group of members has identified 25 different stress tests to date against which the recommended solutions of the CCWG will be tested.[1] These stress tests are grouped into five areas, including Insolvency, Failure to Meet Operational Obligations, Legal/Legislative Action, Failure of Accountability to others within ICANN community (including "capture" by a specific entity or interest group), and Failure of Accountability to External Stakeholders.

For each stress test, the sub-group has identified the specific scenario as an example against which they propose to test, the anticipated consequence (or impact to the community) if the scenario were to occur, structures that are currently in place within ICANN to help mitigate against either the occurrence of the scenario or the severity of the impact, and then a mapping to the proposed accountability enhancements that are currently under discussion within the full Cross-Community Working Group.

Many of the stress tests are related to satisfying the criteria that NTIA set out for the transition:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectation of the global customers and partners of the IANA services;
- Maintain the openness of the Internet; and
- Not replace NTIA's role with a government-led or an inter-governmental organization solution.

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[1] The work of the sub-group addressing the stress tests can be followed at *https://community.icann.org/display/acctcrosscomm/ST-WP+--+Stress+Tests+Work+Party.*

These criteria, against which the transition proposal will be judged, shape the scenarios that are being tested.

An example of where the stress tests align with these criteria are in the series of scenarios focused on the balance of power among the ICANN stakeholder participants. Prior to implementation, proposed accountability enhancements will be tested against the following questions:

- Do they make ICANN more susceptible to "capture" (or the assertion of undue influence) by one stakeholder or group of stakeholders?
- Can any individual or group make use the redress and review processes in a way that paralyzes the work of ICANN?
- Does any group of stakeholders have the ability to modify its internal procedures in a way that shifts how it interacts among the rest of the stakeholders within ICANN?

Thank you for your interest in ICANN. We would be happy to answer any additional questions you may have on this or any other ICANN-related issue.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO AMBASSADOR DAVID A. GROSS

Question. At the recent plenipotentiary in Busan, how did the U.S. Government use the IANA transition to push back on proposals to enhance the role of the International Telecommunications Union over Internet governance?

Answer. I appreciate receiving this question "[a]t the recent plenipotentiary in Busan, how did the U.S. Government use the IANA transition to push back on proposals to enhance the role of the International Telecommunication Union over Internet governance." Because of the significant number of government to government private bilateral meetings during PP–14 that did not include me or any other Internet Governance Coalition member, this question can only be answered by a representative of the United States Government.

Thank you very much.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO AMBASSADOR DAVID A. GROSS

Question. In January 2014 the AWS–3 auction was completed. It was the most successful auction of radio spectrum so far, drawing nearly $45 billion in bids for 65 megahertz of spectrum. The auction was an important milestone in the administration's efforts to meet the President's goal of making available 500 megahertz of spectrum for wireless broadband by 2020.

Larry Strickling, the Assistant Secretary of NTIA said that the auction "represents a paradigm shift in our approach to making spectrum available for commercial wireless providers."

He was talking about the growing phenomenon of spectrum sharing and the fact that NTIA has been working with Federal agencies to identify Federal bands that could be repurposed for commercial use.

NTIA is to be commended because we know some Federal users are harder to convince than others.

I am very encouraged that NTIA is continuing to work with government spectrum users to identify spectrum bands for mobile broadband.

What can we in Congress do to encourage Federal spectrum users or Federal agencies to work with NTIA to identify more spectrum for commercial use in light of the impending spectrum crunch?

Answer. I appreciate receiving the question about what Congress can "do to encourage Federal spectrum users or Federal agencies to work with NTIA to identify more spectrum for commercial use in light of the impending spectrum crunch." The Internet Governance Coalition, which I represent, recognizes the critical importance of spectrum to the current and future communications infrastructure of the United States; however, the Coalition does not have a specific policy position on this matter.

The Coalition does believe that it is vital that additional spectrum be made available to support the continued growth of America's digital economy.

Thank you very much.

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