



Response to ICANN's "Improving Institutional Confidence" consultation

Submitted by the Internet Society

The Internet Society is pleased to respond to ICANN's consultation on improving institutional confidence. ISOC continues to be a strong supporter of ICANN and its multi-stakeholder model, and has contributed actively to all public discussions on the topic. Most recently, ISOC submitted comments to the United States government's mid-term review of its Joint Project Agreement (JPA) with ICANN (available at <http://www.isoc.org/pubpolpillar/issues/dns.shtml>), as did several ISOC chapters and individual members from the ISOC community.

The President's Strategy Committee (PSC) documents identify five key requirements for ICANN to fulfill its mandate, and recommends a series of actions under each. In this response ISOC focuses on the recommendations the PSC makes for action by ICANN itself. But ISOC believes it is important to remember that as ICANN moves toward the end of the term of the JPA, the responsibility to act to ensure a smooth transition is shared by many parties and stakeholders. ISOC believes that ICANN and those involved in its processes are now in a new and delicate phase. ISOC continues to support the original vision of ICANN, and we are eager to see ICANN make a successful transition to a private sector-led model involving all stakeholders.

Developing a shared understanding of the appropriate set of safeguards for a post-JPA organization will require open, transparent, public engagement to develop and discuss appropriate institutional design. It will equally require a careful, diplomatic, approach to the terms of the Agreement and other contractual relationships with the United States government. ISOC therefore reiterates the call for all stakeholders in ICANN to work together on developing, consulting on, and articulating an organizational and governance model for a stable, independent and effective ICANN after the JPA. And, as we said in February, this end point should be developed by drawing on the considerable expertise available to the organization, and proceed on the assumption that governments will continue to provide advice, but not oversight.

ISOC's comments on the PSC recommendations are grouped under the headings used in the posted documents:

1. ICANN will be sufficiently safeguarded against capture.

ISOC made the case that ICANN must guard against capture in our comments to the US government's Mid-term Consultation on the JPA. It is ISOC's view that this remains a basic condition for ICANN's future development. We believe that the PSC report proposes a number of mechanisms that have the potential to provide the necessary safeguards against capture by any particular group or interest. In ISOC'S view, one positive approach ICANN should take is to ensure the ongoing development and maintenance of healthy, active and diverse communities participating in its processes. In particular:

- ICANN should continue and expand its outreach programs, such as its fellowship program to increase participation by developing countries, and the strengthening of ALAC to reach the broad community of people interested in policy areas pertinent to Internet names and numbers,
- Work must be done to address the concerns of any community that their voices are not adequately heard (at present, examples are the business and at-large communities), and
- ICANN must continue to improve and safeguard transparency and accountability in its processes if it is to avoid capture. Significant progress has been made on this front, but it remains central to ICANN's ability to function as an effective, independent, multi-stakeholder organization.

All stakeholders interested in ICANN must continually strive to expand and publicly demonstrate their ability to represent their international constituent communities in a responsible manner. This cannot be merely an abstract commitment for those participating in ICANN. In parallel, ICANN must have consistent mechanisms to respond effectively when questions arise about whether a constituencies' leadership has adequate support, or about the legitimacy of positions put forward by them. Constituency leaders must work to broaden and improve transparency and accountability in their actions, even as the constituencies themselves are transformed in the successive reviews of their structure and function.

2. ICANN will be sufficiently accountable to its multi-stakeholder community and will preserve the principles of bottom-up development of policies by those parties affected, and will maintain the structures, practices and bylaws of the ICANN model that have been developed by the community – including their regular review.

The actions proposed by the PSC report in this area are sensible, and essential to the future health of ICANN. One area that still needs work is the issue of providing sufficient time for communities to work with the ICANN policy development process. Often time for comment is very short, and so may limit the participation of some interested parties. That is particularly true for smaller organizations, and those new to or unfamiliar with ICANN processes.

3. ICANN will be internationalized, to allow it to meet the needs of the global Internet Community of the future.

ISOC strongly agrees that ICANN should proceed with its proposals to continue its internationalization, consistent with the original vision for ICANN. But this process needs to be undertaken carefully to avoid creating any uncertainty, and particularly to avoid any possible confusion that could arise among different legal regimes. As part of ICANN's internationalization efforts, it should continue to advance awareness of its activities, and encourage participation by appropriate parties from developing countries. This topic should be the subject of further discussion by the PSC, and in future rounds of consultation.

4. ICANN will be financially and operationally secure.

The steps the PSC proposes in this important area are prudent and, in combination with the other steps proposed, will assist in assuring the security and stability of the Internet's essential naming and numbering systems. One area of concern here is closely related to the fifth area below. While seeking alternative sources of funding, ICANN must take care that its operations stay focused on its narrow technical mission and mandate, rather than straying into areas where even though opportunities may exist for revenue generation, they would also bring with them a danger of "mission creep."

5. ICANN will maintain its focus on organizational and operational excellence in performing its technical mission of ensuring safe and stable operations relating to the unique identifiers of the Internet, and of the IANA functions.

This initiative is, of course, paramount in the view of ISOC. We believe it is important for ICANN to focus itself clearly on its technical mission. Keeping that focus will be especially helpful during this transitional period, by making it clear what is the purpose and contribution of the organization. Clarity will aid people in their understanding of ICANN and the importance of completing its transition to a private sector-led model involving all stakeholders.

In addition, consistent with comments made by ISOC and others in the JPA mid-term review, we believe that ICANN should rephrase this reference to "the IANA functions." Specifically, the technical mission consists of three parts. One is the management of domain names and the root zone, which most people think of in connection with ICANN. The second includes "the other" identifiers of the Internet and IANA functions; for example, its responsibilities with regard to the technical protocol parameters established by the IETF. The third concerns the address registry, another technical registry where the IETF designates blocks available for allocation by the registries (specifically for IPv6). These latter two functions are as essential as the first for the ongoing stable and secure operation of the Internet and should be explicitly recognized, along with the need to protect these functions through the mechanism of the IANA contract.

We hope that these comments are helpful to the President's Strategy Committee and to the ICANN community as work progresses on this important initiative. We at ISOC believe the PSC has proven to be an innovative and productive addition to the ICANN process, bringing fresh input to the examination of strategic issues at a very high level. ISOC hopes that the PSC will be continued as an integral part of ICANN's structure to provide guidance and advice to ICANN and its community.

ISOC will be pleased to continue to contribute and to discuss these and other issues with our ICANN colleagues at any time. ISOC believes the PSC's recommendation to form a

special Expert Advisory Group to assist with consultations on the Analysis and Design project has merit. ISOC would be pleased to assist by participating in that group, and by making recommendations of possible members from the ISOC community.

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31 July 2008