

February 15, 2008

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National Telecommunications and Information Administration
1401 Constitution Avenue
N.W., Room 4701
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(MS word Via Email to JPAMidTermReview@ntia.doc.gov)

Dear Ms. Sene:

This letter contains our comments, as per your request, to the letter submitted January 9, 2008 by the chairman of ICANN, Mr Peter Dengate Thrush pertaining to the Midterm Review of the Joint Project Agreement to the Department of Commerce

In his conclusion, Mr. Dengate Thrush, states “... *the JPA contributes to a misperception that the DNS is managed and overseen on a daily basis by the U.S. government. Ending the JPA will provide long-term stability and security for a model that works.*”

If the above referenced letter had been dated, January 9, 2002, 2003 or 2004, my response to the letter would have been one of unequivocal support. I always believed that to be the case and my position on the US Government’s oversight of ICANN is well known and is of public record in my other capacity over the years as Chairman and CEO of MINC, the Multilingual Internet Names Consortium.

However, at this late stage in 2008, a release of ICANN from U.S. Government oversight has nothing to do with providing long-term stability and security in the eyes of the international community that would singularly fix these misperceptions. Furthermore, if the intent of the chairman’s letter is to make ICANN palatable and more accepted in the eyes of the international community it would be imperative for ICANN to address the real issues that are at the heart of these perceptions and misperceptions. And ICANN would be expected to make its case directly to the International community.

The delays and lack of ICANN’s prioritizing of Internationalized Domain Names “IDNs” to empower local non English speaking communities as a top priority have seriously damaged potential good faith, trust, and belief in ICANN’s competence in the eyes of the very people ICANN is seeking to

appeal to today. ICANN had not responded to the needs or aspirations of the international community for many years.

ICANN must take responsibility for its failures which hold a far greater impact today in creating this “misperception in its image” than the U.S. oversight alone. ICANN and the U.S. Government need to recognize that the mere lifting of the US oversight WILL NOT automatically deliver trust, good faith and belief in the eyes of those who feel they have been ignored, or those who believe they were obstructed.

At the heart of this argument is a simple fact. ICANN chairman’s conclusion wants to tell the world that ICANN IS NOT managed by the US Government on daily basis. And I would agree with that. But this can only conclude that the failures by ICANN to address the needs and aspirations of the international community and prioritizing them over the years must be owned by ICANN and its management, or in this case its mismanagement, and not by the US government.

What should ICANN really do to gain respect, acceptance and recognition from the international community?

If ICANN is truly committed to gaining respect and recognition from the international community to expand its “public good” role into their jurisdictions and wants to dispel perceptions and misperceptions that apply to all communities, it behooves ICANN and its board to adopt and undertake the following recommendations as a mean to reform itself:

1. ICANN needs to become significantly more transparent in all its processes to instill renewed trust, confidence and good faith in the international community; this will eventually serve all without exception. And it will help dispel many perceptions and misperceptions that exist in this space.
2. Clearer policies over conflicts of interest must be created regarding participants and volunteers who contribute to ICANN processes and policy formations to dispel the perception of favoritism towards the ICANN’s traditional players, supporters and benefactors. This will help dispel many perceptions and misperceptions that exist in this space.
3. The ICANN Nominating Committee which is given the huge responsibility of selecting and appointing ICANN Board members should be revamped or replaced by a system that is significantly more transparent, more equitable, less subjective and more representative of the all the communities ICANN aspires to serve. Functions and process such as how members are added, appointed or elected to the

- Nominating Committee should be of the highest transparency. This will help dispel many perceptions and misperceptions that also exist in this space.
4. The number of ICANN board members should be expanded allowing for representations from other communities or jurisdictions and include new members from beyond the scope of the standard ICANN supporting organizations. This will help dispel many other perceptions and misperceptions that exist in this space.
 5. The ICANN Board needs to prioritize the issues important to the International Community as diligently as they have to those pertaining to the ASCII (English) Internet. This will help dispel many perceptions and misperceptions that exist in this space.
 6. ICANN needs to come to terms with and address that it will fail to deliver IDNs in a manner that would satisfy the people of the international community unless it recognizes that languages and cultures are fundamental to IDNs as fundamental as code is to technologists for future IDN deployments. It must not, like it has in the past, avoid these debates and discussion just because they are controversial. This will help dispel current perceptions and future misperceptions that will come up in this space.
 7. ICANN needs to come to terms with and address that there can be no single universal policy solution like a one size fits all for IDNs for the whole world that can be controlled. And that the only remaining solution is to empower local communities to be part of the decision making process of authorizing and deploying IDNs, thru a new decentralized system and mechanism. This will help dispel current perceptions and future misperceptions that will come up in this space.
 8. ICANN needs to also realize and look for alternatives to the processes of authorizing future IDN gTLDs. The “applicant-respondent” style of management that is used in ASCII would not work on cultures and communities. It would be seen in the eyes of the international community as autocratic and Top-down. This will help dispel current perceptions and future misperceptions that will come up in this space.
- And finally,
9. ICANN needs to start listening and not just hearing.

What the U.S. Government should consider with regards to releasing ICANN from U.S. oversight.

1. The US government has to accept some of the responsibility for these failures by ICANN. It created a monopolistic structure instead of a competitive system for naming; addressing and numbering that

- could still be mandated to maintain stability and integrity of the system.
2. The release from ICANN from US oversight should only be considered in a transitional mode to a new oversight that is responsible to the international community, which would include the United States Government as a significant player.
 3. If this cannot be done by 2009 when the JPA expires, then ICANN should not be released on its own accord based on its passed performance.

In conclusion, I believe that the issue at the heart of the matter is not whether to release or Not to release but whether ICANN is capable to turn the tide this late in the game and undo the accumulated disenchantment from the intentional community. A release would not solve many of ICANN's huge challenges as ICANN appears stuck in its conventional ways of doing things that have led to these failures. It needs to start looking at things from fresh new perspectives.

On the other hand, I believe Chairman Dungate Thrush in of the highest professionalism and integrity and believe him to be genuine. ICANN under his new chairmanship has a unique but scarce opportunity to make a solid whole hearted attempt to reform itself, but only if it listens. Whether he has the ability to lead this reform and succeed; only time will tell. I hope it will not be too late by then. He will need all the fresh help he can get and which clearly cannot come from the conventional sources at ICANN. He will need to also posses great humility to ask for this help which will attest to his leadership sooner than later.

Sincerely,

(Via Email)

Khaled Fattal

Chairman and CEO
Live Multilingual Translator

Other Designations

Chairman & CEO, Multilingual Internet Names Consortium, (MINC)

ICANN President's Advisory Committee Member on IDNs (ICANN)

Chairman Arabic language and script working group

Acting Executive Director, Arabic Internet Names Consortium (AINC)