Response to the United States Department of Commerce, National Telecommunications and Information Administration, Docket No. 071023616-7617-01 on "The Continued Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System: Midterm Review of the Joint Project Agreement"

Submitted by the Internet Society
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In 2006, the Internet Society (ISOC) made a contribution to the 2006 Department of Commerce Notice of Inquiry. At that time, we urged the Government of the United States to take a more hands-off approach in its relationship to ICANN, consistent with the original intent of the White Paper, and to give ICANN more freedom, following the model that had been nurtured since its creation. ISOC further encouraged ICANN to be more responsive to the needs of its various constituencies, especially those of end users, by working more closely with organizations that represent end-user interests, and the Internet community organizations, among others, to ensure their views are taken into account in ICANN decisions. The full text of the written comments, and of the oral comments delivered at the public meeting, are posted on the ISOC web site.

ISOC was pleased to see that the approach the DOC took following the public consultations addressed many of the concerns expressed by ISOC. The Joint Project Agreement instituted in 2006 represents a more hands-off approach in the government's relationship to ICANN. Indeed, the undertakings made in the JPA were not requirements imposed by the USG, but rather were commitments freely made by the ICANN Board of Directors in response to comments from their community.

At this mid-point in the JPA, ISOC believes that ICANN has made remarkable progress in meeting its commitments, many of which are among those recommended by ISOC in its 2006 comments. We commend ICANN for laying these out clearly in its January 9, 2008, submission to this proceeding.

ICANN's progress would be a significant achievement for any organization to have made in the short period of only 15 months. It is particularly so for a relatively young organization. ICANN is to be commended for the energy and commitment they have shown. Two key points warrant consideration now: (1) implementation and (2) planning for the post-JPA period. ISOC contends that it is in ICANN's own interest to demonstrate that it can practically deliver on the considerable new work it has done since 2006, and that it has a workable plan for its post-JPA future. Without both, the road to independence will not have been sufficiently prepared.

Implementation:

In ISOC's view, ICANN has met the task of developing new processes, procedures and mechanisms, particularly to improve transparency and accessibility in its processes, and improving its accountability mechanisms to become increasingly responsive to global stakeholders. Now, as the JPA draws to a close, ICANN will have the opportunity to put these new mechanisms to the test, to demonstrate that the newly developed processes, procedures and mechanisms are sufficient to the task, that they do work well in practice, and to continuously improve those mechanisms to meet the strains placed on them when operating in the real world.

Planning for Post-JPA:

ISOC continues to be concerned by the question of whether the current governance model is appropriate to address the full range of responsibilities undertaken by ICANN. For example, is there adequate and appropriate participation from all the required communities? If not, how should the model be changed to ensure ICANN has access to the information it needs; for example, informed inputs from a broad spectrum of end users and the business community? The original "constituency model" was conceived to obtain inputs, but the current model does not always provide the necessary range of stakeholders' perspectives.

Now is the time to re-examine how stakeholders' views are solicited and considered so that ICANN has the information it requires, leading to a stronger more stable organization. The increasing preponderance of views representing specific economic interests creates a danger that ICANN's process may not be sufficiently inclusive in future. ISOC recommends that ICANN expend further efforts in a review of ICANN's consultation and decision making, in order to ensure adequate input from all the appropriate quarters and to review its policies

and policy development processes to avoid what seems now to be a real possibility of capture. No one stakeholder should have dominant control.

It is vital that ICANN ensure that "the model ICANN represents of coordination – not control – of multi-stakeholder participation and led by the private sector needs to be confirmed once and for all" as Paul Twomey says in his video presentation on the JPA, posted on the ICANN web site.

In addition, ISOC strongly supports the Internet Architecture Board (IAB) contribution to this NOI, concerning the IETF role *vis à vis* the IANA function. Before completing the transition to private sector leadership in ICANN and bringing the JPA to its successful closure, the rightful role of the IETF must be clearly articulated and addressed.

To reiterate, we are eager to see ICANN transition to a private sector-led model involving all stakeholders. We believe that having a clear, community-agreed organizational endpoint is critical to ICANN's future success, and to the stability and security of the global Internet. We would strongly urge that ICANN devote its efforts in the coming months to three things: (1) demonstrating the effectiveness in action of the principles it has created for itself during the first half; (2) taking careful steps to ensure the appropriate inclusion of all stakeholders perspectives in the development of balanced and widely supported recommendations and decisions, (note: this will likely require changes to its consultation and decision-making model); and (3) developing, consulting on, and articulating an organizational and governance model for ICANN after the JPA. This endpoint should be developed through an open, inclusive and transparent process, drawing on the considerable expertise available to the organization, and proceeding on the assumption that governments will continue to provide advice, but not oversight.

In our 2006 submission to the Department of Commerce Notice of Inquiry, ISOC's comments focused on the need for a new, lighter relationship between the Department and ICANN. By creating the JPA, we see that the DoC has effectively done what was needed to provide ICANN with the wherewithal to take the next steps, and has largely stood by its decision. ICANN rose to the challenge, and has made good progress on the commitments its Board freely made in the JPA. Now, with the agreement about to enter its second half, it is time for ICANN to show that it can make the new mechanisms work effectively in practice. If ICANN wishes to end its ties to the US government prior to the JPA expiring in September 2009, a goal strongly shared by ISOC and others in the community, it must strengthen its already credible track record. It must present to its community, in the broadest sense, a convincing vision of how it will continue to embody Internet principles in an inclusive and balanced way. At the same time, ICANN must remain responsible and responsive to the community. ISOC

remains committed to playing a supportive role in this ongoing evolutionary process now and after the expiration of the JPA.

We thank you for this opportunity to comment.

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About the Internet Society

Founded in 1992, the Internet SOCiety (ISOC) is a professional membership society with more than 80 organizations and over 28,000 individual members in over 90 chapters around the world. It provides leadership in addressing issues that confront the future of the Internet, and is the organization home for the groups responsible for Internet infrastructure standards, including the Internet Engineering Task Force (IETF) and the Internet Architecture Board (IAB). In 2002, ISOC was given the privilege of operating the .ORG domain name as a result of a competitive open bid process conducted by ICANN; and a subsidiary organization, called Public Interest Registry (PIR), was established for this purpose.

The mission of ISOC is to promote the open development, evolution, and use of the Internet for the benefit of people throughout the world—to ensure that "The Internet is for Everyone".