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**Comments 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 to  
The National Telecommunications and Information Administration  
U.S. Department of Commerce**

Dear Ms. Sene

I welcome the opportunity to offer these comments. I have been an active participant in Internet Governance processes for some years (having served as the Chair of the ICANN At Large Advisory Committee and having been involved in the WSIS and WGIG).

ICANN has made remarkable progress in all of the areas covered by the JPA. In almost all areas, ICANN has already more than met the requirements imposed by the JPA.

However, ICANN still falls far short in some areas, as does the JPA itself. In particular, with respect to the multistakeholder model, the JPA requires that ICANN "facilitate effective consideration of GAC advice". There is no comparable requirement with regard to the Internet users nor indeed to any of ICANN's many stakeholder groups. This imbalance in the implementation of the multistakeholder model needs to be reconsidered. Why should one Advisory Committee (the GAC) have a special relationship with the Board that other Advisory Committees (SSAC and ALAC) do not?

Additionally, ICANN's activities in global outreach and approach to diversity are still falling short, even while showing great improvement. ICANN has made progress by implementing the Fellowship programme, and the At Large system is making headway and is appreciated, at least in the developing world. But in total, these programmes only add about 50 participants (non-white, non-male, non-US/EU) to the 1000+ attendees of the ICANN face to face meetings. Translations are wonderful, and ICANN is spending a lot on its translation programme, but the material that is being produced in 6 languages is still too often impenetrable in ANY language. Online participation is great, but few are totally comfortable jumping in online if they haven't "met" the participants previously. And in the past, ICANN's own meeting Internet access has not been all that reliable to ensure that the remote participation works.

ICANN already has therefore a lot of work to do in the next 18 months before the expiry date of the JPA. However I would like to give it even more.

I would like ICANN to commit even more towards ensuring that any policies that are drafted and implemented will reflect and serve all 6 billion people. ICANN cannot make policy only for today, it must stand for a long time into the future. These 4+ billion potential users must be considered in any policy development since in a reasonably short time they will be users.

It is a fact that ICANN is maturing as an organization. The JPA WILL end. It has to. ICANN needs to move beyond the oversight of the United States Department of Commerce. As a trustee of a global resource, oversight cannot remain in the hands of one government alone. But accountability needs to exist.

ICANN's Board cannot exist and be accountable only to itself. There is currently no recall mechanism, no independent party to whom to apply for redress, and only oversight from the DoC. ICANN now wants us to remove this single oversight mechanism and there is not yet anything in place as substitute. It would be irresponsible to propose that the organization that runs a resource that is as vital to the global public as the Internet could function totally free of any independent oversight and or external accountability. There is a proposal very recently presented by ICANN that would allow for removal of Directors in cases of egregious misbehaviour. Let us see how it will be implemented.

I totally agree with ICANN that a firm date needs to be set for the transition, in order for the management of internet resources to continue to move forward. What is necessary, and what I have not yet seen from ICANN is a proposal to replace the JPA and DoC oversight. I like and respect the ICANN Board, Executive and Staff, but I cannot put my hand in theirs and blindly trust that in 18 months, when the JPA ends, they will magically have put a workable oversight system in place that is ready to swing into action as the DoC oversight ends.

So I propose that ICANN spend a LOT of time in the next 18 months working with stakeholders, consultants, whoever necessary, to build a multistakeholder mechanism for oversight, and implement it in an open and transparent fashion. If this isn't ready in 18 months when the JPA expires, then the DoC oversight needs to be extended until it is. If it is ready before, then I would be the first one to agree to end the JPA with immediate effect at that time.

I have no suggestions at this time for the form such oversight might take – several suggestions have been made by others already. But the JPA cannot end without another mechanism for oversight being in place.

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