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Suzanne R. Sene
Office of International Affairs
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Room 4701
Washington, DC 20230

Submitted via email to JPAMidTermReview@ntia.doc.gov; ssene@ntia.doc.gov

Re: **Continued Transition of the Technical Coordination and Management of the
       Internet's Domain Name and Addressing System: Midterm Review of the Joint
       Project Agreement, Docket No. 071023616-7617-01**

Dear Ms. Sene:

        AT&T Inc., on behalf of its affiliates, ("AT&T") is pleased to provide these
comments to NTIA in response to the above-referenced Notice of Inquiry.[1]

        AT&T supports the Department of Commerce's Joint Project Agreement midterm
review as an effective and transparent opportunity for all interested stakeholders to comment
on ICANN's progress in its evolution toward more stable performance and readiness for
increased independence. AT&T believes that ICANN is making progress in many important
areas that were the subject of the 2006 Memorandum of Understanding public comment
process. AT&T's comments recognize that ICANN is making progress, and also identify
several critical areas where ongoing work at ICANN is necessary. As such, ICANN and the
Department of Commerce should continue to work together under the Joint Project
Agreement. AT&T further believes that it is critical to ICANN's next stage of development
for the U.S. Department of Commerce, ICANN, and its diverse group of stakeholders to

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[1] 72 Fed Reg. 62220 (2007).

identify and address what will be needed over the long term to ensure a globally trusted, stable, private sector-led ICANN.

To summarize AT&T's views:

- ICANN should maintain its narrow, technically oriented mission and focus and avoid to the greatest extent possible establishing economic interests in its DNS policies.

- Stability and security of the Domain Name System ("DNS") and its impact on the Internet should be the primary and overriding priority in all decisions and activities undertaken by ICANN.

- ICANN is making progress in many areas. Significant further work should continue, especially in the areas of accountability mechanisms that ensure the opportunity for review and redress of Board decisions that affect the broader Internet/ICANN community.

- ICANN should enhance its mechanisms to ensure the participation and support of the business user/IP networking community. These parties should be encouraged to have broader involvement in ICANN.

- ICANN should fulfill its role as the 'self governance' mechanism for the global top level domain ("gTLD") names space by maintaining and enforcing contractual governance of the gTLD registries and registrars.

- ICANN should ensure operational stability throughout the upcoming introduction of internationalized domain names ("IDNs") and increasing numbers of new gTLDs by, among other things, adopting appropriate safeguards for registry failures, registrar failures, and disputes between trademark holders. ICANN should also address the concerns of national governments regarding registry applications for potentially infringing names. In all events, ICANN should use a transparent, legally sustainable and credible set of dispute resolution mechanisms.

- The US Department of Commerce, ICANN, and its diverse group of relevant stakeholders should begin to identify and address what more will be needed to ensure a globally trusted, stable, private sector led ICANN for the future.

1.   ICANN's Role in Promoting Stability and Security of the Internet

E-commerce was at an incipient stage when AT&T and many others worked together to support the creation of ICANN. Since then, the range of services, applications and devices that will rely upon the Internet as a transport mechanism has evolved rapidly. Today, the Internet has over a billion users, and the ongoing potential for further growth in the number and diversity of users is well documented. As a major provider of global IP communications and Internet transport services that reach all regions of the world, AT&T understands that the future uses of the Internet rely upon its stable and reliable functionality. Thus, AT&T believes that ICANN's responsibilities for ensuring stability and security of the DNS should remain an imperative that drives all other activity.

2.   Maintaining a Narrow, Technologically Oriented Focus for ICANN

ICANN was founded with a narrow, technologically oriented mission. AT&T continues to believe that this should be ICANN's focus, and that ICANN staff and Board should resist expansion of ICANN purpose, mission, and activities.   Through adhering to its narrow technically oriented mission and activities, ICANN can avoid some of the areas that might lead to increased interest by any government or international body to take a stronger oversight role in its core functions.   In particular, any establishment by ICANN of an economic interest in its policy decisions is likely to be detrimental to this goal.   AT&T agrees that ICANN should have an educational role in creating awareness about ICANN's role and functions, and ensuring that all parties understand its narrow, technical focus in various international fora.

3.   Transparency and Accountability

ICANN has recently announced a number of significant changes, including new programs and enhanced services to improve transparency as called for by the ICANN community in the 2006 MOU review.   In AT&T's view, transparency and accountability are interlinked, because transparency of activities, deliberations, and decisions made in policy councils and Board meetings can contribute to informing ICANN's community.   However, transparency and accountability are not synonymous.   Separate accountability mechanisms are needed that can provide recourse with respect to Board and staff decisions and actions if these decisions impact the core mission, activities, or vast majority of ICANN's stakeholders.   At present, there are no practical, effective, and binding mechanisms within ICANN to allow for independent review and reformation of Board decisions.

While improvements in transparency have been made, and more are under development, ICANN should now work to increase visibility into its Supporting Organizations, especially the Policy Councils, Advisory Committees, and subcommittees of the Board, as well as the various ad hoc board working groups that are created.   The majority of ICANN's work is still undertaken without publication of detailed minutes or other notification, and consultants are actively engaged in interactions and consultations or advice to the Board without sufficient transparency.   Greater transparency in these regards would assist in creating informed and meaningful participation by the broader community of relevant stakeholders.

Although ICANN has announced a number of new ideas regarding accountability, AT&T notes that this is an area where there is still need for mechanisms providing additional recourse to challenge Board actions or decisions, when there is sufficient cause.   For example, this would be the case were the Board to revise the bylaws to change the scope or mission of the organization without broad stakeholder agreement or to make significant structural changes in the nature of the organization.   Only when robust, sustainable, and independent accountability mechanisms are in place can ICANN evolve further toward more independence.

4.   Multi-stakeholder Model

The multi-stakeholder model established within ICANN provides for private sector leadership, with the advice and participation of governments via an advisory committee. This model should be maintained and strengthened by increasing participation of relevant stakeholders. At present, ICANN has devoted extensive resources to establishing outreach mechanisms to interact with individual users, country code managers, and governments. Significant progress is being made on increasing participation of these parties in ICANN's multi-stakeholder model. However, much more needs to be done to ensure that the business community is aware of, and able to participate meaningfully in, ICANN, in order to ensure the needed private sector leadership and to ensure ICANN's continued stable evolution and support. Expanding the outreach and participation of the broader business user community will strengthen and enhance ICANN's own stability, and will help to ensure the success of a balanced multi-stakeholder model.

Governments are an important element of the multi-stakeholder model within ICANN, and their role and participation via the Government Advisory Committee ("GAC") should be promoted by appropriate supportive mechanisms and staffing. Recently, governments have indicated their interest in increased involvement in discussions related to domain name policy and are seeking increased interaction regarding policy discussions with the Supporting Organizations. Such exchanges of perspective and sharing of information and views with the Supporting Organizations should be welcomed as part of ICANN's process. AT&T believes that the advisory role of governments within ICANN should continue, and that outreach and encouragement of broader attendance and participation in the GAC should be encouraged.

5.   Planning for Future Increased and Sustainable Independence

AT&T agrees that notable growth has taken place during the several years since ICANN's formation. ICANN's board, staff, and the community of stakeholders have all worked diligently to bring ICANN to the level it is at today. AT&T agrees that it is now important to undertake discussions concerning a well-documented, stable transition plan towards a more independent, private sector ICANN that is accountable and can remain independent. These discussions should become an additional priority for the relevant stakeholders, ICANN, and the Department of Commerce.

AT&T would be pleased to answer any questions concerning these comments.

Respectfully submitted,