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Before the

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Mr. Chairman,

Thank you and the members of the Committee for this opportunity to testify on the progress of the Internet Corporation for Assigned Names and Numbers (ICANN) under the Memorandum of Understanding (MOU) between ICANN and the Department, and international discussions on Internet governance.

The Administration has been engaged in laying out its vision for future telecommunications and information services. The President announced the goal of universal and affordable broadband services for all Americans by 2007. In furtherance of this goal, the Administration has pursued a comprehensive set of policies, including spectrum reform, deregulation, and financial incentives, that have been demonstrably effective. Since the President took office, broadband has nearly tripled with the number of high speed lines growing from 9.6 million to 28.2 million. More Americans today access the Internet through broadband than narrowband connections.

While the Administration is committed to the future growth of this important industry, the Department has also continued to devote significant effort to ensure that the existing foundation of the Internet - - the domain name and addressing system - - remains stable and secure. It was a little over a year ago that Assistant Secretary Victory testified before you about the state of the Administration's privatization efforts for the Internet domain name and addressing system (DNS) and the Department's plans for amending the ICANN MOU to further this goal. Today I would like to focus my testimony on the progress made over this past year and the challenges we see for the future.

The Department's Role and Relationship with ICANN

The Department continues to believe that the stability and security of the DNS can best be achieved through the privatization of and broad, international participation in the technical management of the system. The vehicle for achieving this goal is the Memorandum of Understanding (MOU) between the Department and ICANN. ICANN, the entity responsible for day-to-day technical DNS management issues, was formed in response to the Department of Commerce's call for a partner to lead the transition to private sector management of the DNS.

The relationship between the Department and ICANN is defined by contract, not regulation. The Department plays no role in the internal governance or day-to-day operations of the organization. However, under the terms of the MOU, the Department provides oversight to ensure that ICANN performs the MOU tasks and offers expertise and advice on certain discrete issues.

Last year the Department and ICANN agreed to renew the MOU for a period of three years, substantially longer than previous renewals, and included several date-certain milestones aimed at guiding ICANN towards becoming a stable, independent, and sustainable organization. The expectation of the Department is that this three-year time frame allows ICANN sufficient opportunity to:

- **Complete the remaining MOU tasks:** Complete privatization, the ultimate goal of the Department, is dependent upon ICANN fulfilling the terms of the MOU by finalizing the appropriate relationships with the organizations that form the technical underpinnings of the Internet DNS. These include securing stable agreements with the Regional Internet Registries (RIRs) so ICANN is able to perform its address allocation responsibilities; solidifying relationships with the root server system operators that guarantee the security of this resource; and developing and implementing framework agreements with country code top-level domain (ccTLD) operators that recognize national sovereignty and international law. Also critical in this area is the need to finalize a long-term, predictable, transparent and objective process for introducing new top-level domains (TLDs).
- **Secure resources critical to long-term independence:** To become fully independent, ICANN must identify and secure the resources, both financial and personnel, necessary to carry out its core mission. ICANN's financing model must demonstrate a strong value proposition to its various constituencies such that they are convinced of the on-going benefit of supporting ICANN financially.
- **Enhance participation of all Internet stakeholders:** For ICANN to be a sustainable organization into the future, the Internet stakeholder community must recognize ICANN as the essential forum for decision-making on the technical functions of the Internet DNS and related policy discussions. The Department believes that ICANN should continue to improve its mechanisms that allow for the opinions of all stakeholders to be heard and considered.
- **Continue to improve its decision-making processes:** ICANN must have transparent, predictable, and timely working methods, which must also be flexible to adapt to innovations in the Internet DNS.

Progress to Date

It is now one year into the agreed three-year renewal period and the Department can report that ICANN has made progress during the past year towards meeting the MOU objectives. Specifically, ICANN is continuing discussions with the RIRs toward formalizing their relationship and is in the process of developing new framework agreements for ccTLD operators. In addition, ICANN, working collaboratively with the Department, completed a contingency

plan to ensure continuity of operations in the event the corporation incurs a severe disruption of operations, or the threat thereof, by reason of its bankruptcy, corporate dissolution, a natural disaster, or other financial, physical or operational event. Further, ICANN has opened an office in Europe and is engaging in outreach with local Internet communities in other regions to determine how it can best respond to their needs. ICANN is also continuing to implement its past reform effort which focused on structural adjustments aimed at further enhancing constituency representation in ICANN decisions. Finally, ICANN has successfully met the MOU milestones addressing development of a strategic plan and corporate administrative, financial, and compliance reviews.

While ICANN has made progress, both the Department and ICANN recognize that much remains to be accomplished in order for ICANN to evolve into the fully stable and sustainable organization that it must be. In this regard, it is critical that ICANN clearly focus on its core competencies and the need to execute the outstanding tasks in the MOU within the remaining timeframe. In addition to making visible and measurable progress on the fundamental MOU tasks (i.e., securing relationships with the RIRs, root server system operators and ccTLD operators), the Department will be expecting ICANN to:

- publish a report on the implementation of the ICANN WHOIS Data Reminder Policy by *November 30, 2004* including statistics on registrar compliance with the policy;
- implement its financial strategy which details predictable and sustainable sources of revenue by *December 31, 2004*;
- complete and implement a predictable strategy for selecting new TLDs by *December 31, 2004*; and,
- commence implementation of their multi-lingual communications strategy by *December 31, 2004*.

International discussions on Internet governance

The Department is aware that many in the Internet community are participating in and closely following the discussions in the United Nations (UN) World Summit on the Information Society (WSIS) process related to Internet governance. The Department is fully engaged in this activity through the U.S. coordination process that Ambassador Gross oversees. While he will provide more detailed information on the process to date and the broad principles that guide the Administration's thinking, the Department offers a few points of clarification with respect to the role of ICANN and DNS issues in this debate.

First, it has been suggested that the responsibility for DNS technical management may shift to a UN agency as a result of WSIS. Let me take this opportunity to clarify that neither the WSIS nor the subsidiary discussions regarding Internet governance are chartered to take action or to yield an international treaty with binding obligations. Rather, the WSIS is a forum for discussions among interested parties that may yield proposals in the area of Internet governance. Further, the Department does not believe that any existing UN body, such as the International

Telecommunication Union (ITU) or the UN ICT Task Force, is qualified to assume the responsibilities currently held by ICANN for the technical coordination and management of the Internet domain name system.

Second, the Department does not approach discussions on Internet governance premised on a debate between the importance of the various stakeholders. Rather governments, the private sector and civil society each has a role to play in advancing Internet development and deployment and should seek to work together cooperatively and productively. For example, private sector entities such as ICANN, the Internet Engineering Task Force (IETF), the Internet Architecture Board (IAB) and the World Wide Web Consortium (W3C) have important technical contributions to make to this dialogue based on their respective expertise and competencies. Governments represent the collective interests of their citizens when it comes to the broader public policy concerns and user communities often voice their opinion through civil society organizations.

Third, the United States has taken domestic actions with respect to some Internet-related public policies (e.g., we have enacted an anti-spam law and developed a national strategy to secure cyberspace). Given that the Internet is borderless and global in nature, the Department recognizes that some Internet-related public policy issues may call for some form of international cooperation to be effective (e.g., the need for cooperation amongst enforcement authorities to combat spam). Broad international Internet-related public policy issues, which may fall under the rubric of Internet governance, are not within the mandate or the competencies of ICANN. With this in mind, the Department will continue to work closely with the international community and private sector and civil society stakeholders to find appropriate solutions as situations warrant.

Conclusion

In conclusion, the Department continues to be supportive of privatization of the technical management of the domain name system as envisioned in the ICANN multi-stakeholder, public-private partnership model. Within the next two years, ICANN must execute the remaining tasks in the MOU and reach full corporate maturity to assure the Department and the Internet community that it is able to effectively carry out its important core technical missions - in a stable and sustainable manner - into the future.

Thank you and I would be happy to answer any questions that you may have.