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ABSTRACT

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INTERNET GOVERNANCE

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- *ICANN needs a strong form of internal government to insulate it from being taken over by the various participating parochial and special interests. ICANN needs to adopt a strong commitment to civil liberties and Internet freedom.*
- *CCIA opposes in the strongest terms any attempt to limit anonymity for purely political speech. We urge caution to requests by other interest groups that reduce anonymity.*
- *The WHOIS database requires submission of accurate data, but operators should also shield that data from public view, as requested, and subject it to due process provisions governing law-enforcement activities.*

Background and Key Players: The Internet address system, or domain name system, serves as the principal starting point for nearly every Internet transaction. The Internet Corporation for Assigned Names and Numbers (ICANN) is a non-profit corporation headquartered in California that was created in 1998 to manage both the IP address space and the domain name space. Before the creation of ICANN, the U.S. Commerce Department handled this. ICANN was meant to be a step toward removing U.S. control over the Internet infrastructure. A full break with the U.S. Commerce Department was originally scheduled for September 2009. ICANN did not entirely separate from the Commerce Department as scheduled, but instead developed an agreement that provided more input from other stakeholders around the world and gave ICANN more independence.

Current Issues:

New Domains/Non-Latin Character Domain Names

In January 2010, ICANN paved the way for an entire domain name to appear in Cyrillic for use in Russia and Arabic for use in Egypt, Saudi Arabia and the United Arab Emirates. In March, ICANN approved suffixes in Chinese for use in Hong Kong; Sinhalese and Tamil for use in Sri Lanka; Thai for use in Thailand; and Arabic for use in Qatar, Tunisia and the Palestinian territories.

WHOIS

The DNS' WHOIS database catalogues the person who has the responsibility of responding to technical inquiries regarding a given domain name, yet many people, including law enforcement officials, use the database to investigate copyright infringement and criminal acts such as phishing and hacking. Now there is a push to improve the accuracy of all WHOIS registrations to reduce illegal activity. But the desire for immediately accessible data conflicts with respect for anonymous political speech in the U.S., and indiscriminate distribution of such data would likely run afoul of data protection laws in Europe and elsewhere.

CCIA's Position: CCIA supports increased accuracy, but we believe that proxy services play an important role in preserving the privacy and personal safety of human rights workers, political activists and ordinary individuals. Some substantial legal standard, such as a subpoena, should be required for access to data when rights holders and law enforcement wish to pursue wrongdoers.

CCIA strongly opposes any initiative that could unmask people engaged in strictly political speech or otherwise invade the privacy of law-abiding people. The long-term value of an open and free Internet cannot be overemphasized.

Domain Registration Anonymity

This spring, law enforcement officials in the U.S. and the U.K. lobbied ICANN for stronger rules on registrars for generic top-level domains such as .com. They want ICANN to require its vetted registrars to check that the information used to register domains isn't fraudulent.

CCIA's Position: Much of the success of the Internet has been due to low cost barriers to entry. All involved in this proposal acknowledge this will increase costs and that criminals would simply find a way to thwart the extra checkpoint. We strongly question the value of this change with regards to the cost to Internet freedom by giving up the anonymity that helps free speech and political expression flourish.

The Appropriate Role of Governments in ICANN

Governments around the world have taken note of ICANN activities. The United Nations World Summit on Information Society and Internet Governance Forum were in many ways a response to ICANN, which some maintain runs the Internet. China and Saudi Arabia, among others, appear to be "splitting the root," operating parallel networks based on their own DNS servers. They do this to keep out foreign influences and control information within their borders.

CCIA's Position: Developments that threaten to balkanize the Internet continue to be a concern. Dissatisfaction with ICANN only increases pressure to look for alternatives to private sector leadership of the root.

Some critics complained that ICANN had failed to insulate itself from interests that continue to reject anonymity in the WHOIS database. Others objected to what they saw as an insufficient attention to business interests. Still others complained that other, less-free countries could take control of ICANN via their positions on the Governmental Advisory Committee. Most parties across the spectrum seemed united in one thing: ICANN still lacks sufficient institutional governance to avoid capture by various interests, both commercial and governmental. ICANN needs a stronger form of governance and a more aggressive and explicit commitment to civil liberties and economic freedom.

CCIA believes Internet governance is best left to multi-stakeholder private sector organizations with a formal and regular process for input from governments, rather than given over to any international body of nation-states. Governments will tend toward conflicting regulation, filtering and censorship, whereas private sector technical innovation and business development is what has led to the Internet freedom of expression and online commerce that most of the developed world enjoys today.