



900 17th Street, N.W.
Suite 1100
Washington, DC 20006
Phone: 202.783.0070
Fax: 202.783.0534
Web: www.ccianet.org

ABSTRACT

Computer & Communications Industry Association

INTERNET GOVERNANCE

MAY 2009

- *ICANN's execution of a narrow range of functions is working reasonably well; however, ICANN's duties must not be expanded lest the organization turn into a generalized regulator of the Internet.*
- *CCLIA opposes any attempt to limit anonymity for strictly political speech in the strongest terms.*
- *ICANN is expanding the types of top level domain names available, and making changes to allow domain names that are in languages not based on the Roman alphabet.*
- *The WHOIS database requires submission of accurate data, but operators should also shield that data from public eyes when requested, subject to due process governing law-enforcement activities.*

Background and Key Players: The Internet's addressing system, or domain name system, serves as the principal starting point for nearly every Internet transaction. Governments with their own agendas may try denying access or controlling the network. There is concern that governments may attempt to deny access or control the network to satisfy its own agenda. Thus far, the non-governmental Internet Corporation for Assigned Names and Numbers (ICANN) has resisted such micromanagement.

ICANN is growing rapidly and taking on new issues. It must deal with new character sets outside those used by most Western languages. ICANN must also weigh ever-new threats from system hackers and address questions of privacy.

The domain name system (DNS) was for years run by a handful of government-funded computer scientists. The National Telecommunications and Information Administration moved to privatize the Domain Name System in 1997. The NTIA originally conceived of a domain name system that would preserve the best characteristics of the Internet of the time. Like the Internet itself, the DNS was to be stable, competitive, privately owned and operated and coordinated through "bottom-up" management. It was expected to represent owners, users and society at large.

Basic Principles and Goals for the DNS: The Magaziner White Paper (June 1998) on domain name privatization laid out a number of guiding principles for DNS management, each of which has proven useful, practical and reliable. As it was conceived, the DNS should:

- be operated by the private sector;
- introduce competition in separate markets for registrars and registries;

- “lay out a process” for making the root more reliable, or “robust,” and securing it against intruders and other attacks;
- begin the process of transferring operation and management to the private sector.

CCIA’s Position: ICANN has done a reasonable job managing the DNS, but improvement is needed ahead of a full break with the U.S. Commerce Department.

Under private sector leadership, ICANN has successfully introduced new registries as well as numerous registrars. The end result has been a vigorous market in which the cost of registering a domain name is trivial. ICANN has also convened and consulted with root-server operators to assure that the DNS system remains reasonably secure against foreseeable attacks.

CCIA argued vigorously in 2006 that ICANN needed to involve more parties in its deliberations. Our comments to the U.S. Department of Commerce urged the Department to condition further disengagement from ICANN to allow progress in this area.

ICANN has improved its communications. The organization launched a Web site in 2006 that was easy to navigate. The ICANN Board, once lambasted as entirely closed, now webcasts its proceedings and typically releases transcripts shortly after meetings.

Current Issues:

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 in order to investigate copyright infringement and criminal acts such as phishing and hacking. These secondary uses were never part of the Internet’s original conception but are obviously useful. Thus, the thinking goes, all WHOIS registrations must be accurate in order to reduce illegal activity.

The desire for immediately accessible data conflicts with the United States’ respect for anonymous political speech, 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 within the WHOIS database. At the same time, we believe that proxy services have an important role to play in preserving the privacy and personal safety of human rights workers, political activists and ordinary individuals. Some substantial legal standard should be required for access to data when rights holders and law enforcement wish to pursue wrongdoers. Even the Digital Millennium Copyright Act – a statute that caters to rightsholders’ demands for expedited responses to infringement allegations – carefully balances the various interests of rightsholders, intermediaries and consumers.

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.

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 was 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,” or

operating parallel networks based on their own DNS servers. They do this to keep out foreign influences and control information within their borders.

ICANN has been under control of the U.S. Commerce Department, but it has moved toward more independence with the September 2006 Joint Project Agreement. The JPA expires in August 2009, and some are questioning whether the JPA tie with the U.S. government should be retained.

CCIA's Position: Any dissatisfaction with ICANN only increases pressure to look for alternatives to private sector leadership. CCIA recommends ICANN further engage other governments, bringing them into the discussion while simultaneously rejecting control by them. The U.S. government should remove itself from supervising policy matters that do not deal directly with the stability and security of the root.

In 2008, ICANN suggested abandoning the Joint Project Agreement under which it reports to the U.S. Department of Commerce. The proposal was roundly rejected.

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 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 institutions and governance sufficient to avoid capture by various interests, be they commercial or governmental. Addressing these challenges will take not just time but a more aggressive and explicit commitment to civil liberties and economic freedom.

ICANN should choose a stronger form of governance, and one that by definition will displease oppressive governments hostile to Internet freedom. The Technology Policy Institute released a report in March 2009 asking that the tie to the JPA be retained for now until ICANN can get a system in place in which it is governed more by its direct users – registrars and registries.

CCIA supports the goal of increased private sector management of ICANN, and it would be in the best interest of technology companies if ICANN's form of governance was strong enough to stand up to parochial interests of various special interests ahead of completely ending the JPA tie with the Commerce Department in August. We look forward to seeing what plans ICANN can put in place over the coming months.

New Domains: Competition in the registrar market was one of the prime objectives of the transition to private sector management. ICANN achieved such competition early on, and quickly moved to introduce new top-level domains to compete with .com, .net and .org. In February 2009 ICANN released its revised proposal for the sweeping changes on how top-level domains are assigned.

ICANN made progress at its June 2008 meeting toward implementing internationalized domain names (IDNs), or those that use character sets other than the standard Roman alphabet.

CCIA's Position: CCIA, which was a member of the IDN working group, encourages a redoubling of efforts with regards to IDNs as well as experimentation with other new domains, and is encouraged by the progress with IDNs.