



June 12, 2015

TO: Members, Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: Full Committee Markup

I. INTRODUCTION

The Committee on Energy and Commerce will meet in open markup session on June 16, 2015, in 2123 Rayburn House Office Building.

On Tuesday, June 16, 2015, at 5:00 p.m. the Committee will convene for opening statements only. The Committee will reconvene on Wednesday, June 17, 2015, at 10:00 a.m. to consider the following:

- H.R. 805, the “Domain Openness Through Continued Oversight Matters Act of 2015” or the “DOTCOM Act of 2015.”

In keeping with Chairman Upton’s announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment’s parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. BACKGROUND

On March 14, 2014, National Telecommunications and Information Administration (NTIA) announced its intention to transition the Internet Assigned Numbers Authority (IANA) functions to the global multistakeholder community at the end of the existing contract, in September 2015.¹ NTIA characterized the move as a step to “support and enhance the multistakeholder model,” asking Internet Corporation for Assigned Names and Numbers (ICANN) to convene global stakeholders to develop a transition proposal. NTIA asserted that the intent of the U.S. Government and other Internet architects was always to transition the role away from the U.S. Department of Commerce and that the growing global support for a multi-stakeholder model made this the appropriate time to do so.

Perhaps the most vital part of this process will be the criteria used to assess any potential transition proposal. NTIA, in their announcement of the transfer, asserted that any acceptable proposal would garner wide community support and satisfy the following principles:

¹ NTIA is prohibited from spending appropriated funds to relinquish its role in IANA during FY 2015. *See* “Consolidated and Further Continuing Appropriations Act, 2015,” Sec. 540(a), P.L. 113-235 (Dec. 12, 2014).

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet Domain Name System (DNS);
- Meet the needs and expectations of the global customers and partners of the IANA services; and
- Maintain the openness of the Internet.

NTIA has repeatedly stated that they will not accept any proposal that does not meet these criteria or that would replace its role with a government-led or inter-governmental organization solution.

The Subcommittee on Communications and Technology held a hearing on April 2, 2014, to discuss the NTIA announcement and efforts by the multistakeholder community to meet the terms set forth by NTIA. At the hearing, the Subcommittee heard from NTIA and ICANN, as well as a panel of stakeholder witnesses. The discussion with stakeholder witnesses generated significant discussion around ICANN accountability and the topic of “stress tests,” – a series of tests designed to simulate a set of “plausible, but not necessarily probable, hypothetical scenarios” in an effort to determine the resiliency of ICANN under any proposed solution.

Additionally, on June 5, 2014, Chairman Fred Upton led a group of six Republican Members in asking the Government Accountability Office (GAO) to examine specific aspects of any IANA transition, including the national security implications for the United States, how to retain and enforce the Affirmation of Commitments, and whether NTIA should require ICANN to meet any additional criteria before NTIA approves a transition.

III. H.R. 805, DOTCOM ACT OF 2015

On February 5, 2015, Representative John Shimkus, along with thirteen co-sponsors, introduced H.R. 805, the “DOTCOM Act of 2015.” The Subcommittee on Communications and Technology held a legislative hearing on H.R. 805 entitled “Stakeholder Perspectives on the IANA Transition” on Wednesday, May 13, 2015. On Wednesday, June 10, 2015, the Subcommittee on Communications and Technology forwarded H.R. 805, as amended, to the full Committee by voice vote. The following is a summary of H.R. 805, as amended.

Section 1. Short Title.

This section provides that the bill may be cited as the “Domain Openness Through Continued Oversight Matters Act of 2015” or the “DOTCOM Act of 2015.”

Section 2. Requirements for IANA Stewardship Transition.

Subsection (a) requires the NTIA to continue to serve in its role as steward of the IANA functions in the Internet’s DNS until 30 legislative days after the Assistant Secretary of Commerce for Communications and Information submits the report required by subsection (b) of the Act.

Subsection (b) requires the Assistant Secretary to submit a report to Congress that contains two certifications. First, the Assistant Secretary must certify that the proposal for transition that was submitted to NTIA by ICANN meets NTIA's stated criteria for a successful successor to the U.S. government's role in IANA. Specifically, that the proposal:

- Supports and enhances the multi-stakeholder model of Internet governance;
- Maintains the security, stability, and resiliency of the Internet domain name system;
- Meets the needs and expectations of the global customers and partners of the Internet Assigned Numbers Authority services;
- Maintains the openness of the Internet; and
- Does not replace the role of the NTIA with a government-led or intergovernmental organization solution.

Second, the Assistant Secretary must certify that the changes to ICANN's bylaws that are required by the multistakeholder community as prerequisites to the IANA transition have been implemented by ICANN.

IV. STAFF CONTACTS

If you have any questions, please contact David Redl of the Committee staff at (202) 225-2927.