



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

MAY 1 2018

The Honorable Marsha Blackburn
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Chairman Blackburn:

Thank you for the opportunity to testify on March 6, 2018 before the Subcommittee on Communications and Technology at the hearing entitled "Oversight of the National Telecommunications and Information Administration." I appreciate your forwarding additional questions for the record to me on March 22, 2018.

My responses to the questions are enclosed. If you or your staff have any additional questions, please do not hesitate to contact me or James Wasilewski, NTIA's Director of Congressional Affairs, at (202) 482-1840.

Sincerely,

A black rectangular redaction box covering the signature of David J. Redl.

David J. Redl

cc: The Honorable Mike Doyle, Ranking Member, Subcommittee on Communications and Technology

Enclosure

NTIA Reauthorization Hearing Questions for the Record

The Honorable John Shimkus

1. **The NTIA has the important role of representing U.S. interests on Internet governance matters. The Internet is a tremendous resource for people and businesses large and small to communicate, innovate, and conduct commerce. As we are unfortunately witnessing, however, it has become a tool for harassment, criminality, and espionage. Now perhaps more than any other time, we need transparency in the way the Internet operates. Only then can we realize the positive vision we all have for the Internet, while establishing mechanisms to prevent or hold accountable those who would use it for ill. This will require cooperation from online platforms, which have a responsibility – like all legitimate business – to help keep their corners of the neighborhood clean.**
 - a. **What actions can you take in your capacity as the advisor to the White House on information and technology policy and as the head of the NTIA to promote online platform responsibility, transparency, and accountability – including by registries, registrars, and others?**

I appreciate the serious concerns that you have raised. NTIA is actively engaging with stakeholders, both domestic and around the world, on a range of critical policy issues, including cybersecurity, Internet governance and broadband measurement. Among the questions that we will be considering are those relating to platforms as a general matter, and we will keep you informed as our thinking on this issue develops. With respect to registries, registrars and others involved specifically in the Internet's domain name system, a top priority for NTIA at the Internet Corporation for Assigned Names and Numbers (ICANN) is the preservation of the WHOIS service. This information is often the starting point for law enforcement agencies when investigating malicious online activity, and for private-sector and government actors seeking to protect critical systems from dangerous cyberattacks, which are growing more frequent all the time. Those on the front lines of botnet mitigation rely on WHOIS information to do their work effectively. WHOIS information is also valuable for combatting infringement and misuse of intellectual property, and for savvy consumers looking to ensure that the website they are visiting is legitimate. This is a simple service, but it is a cornerstone of trust and accountability for the Internet. As the U.S. Government's representative to the Governmental Advisory Committee (GAC) at ICANN, we have successfully included in GAC advice to the ICANN Board the necessity of DNS providers maintaining an accessible and useful WHOIS for a variety of legitimate purposes including law enforcement, cybersecurity, IP rights protection, and others.

- b. **There is growing concern that ICANN is on the precipice of needlessly diminishing online responsibility, transparency, and accountability in a manner that will threaten internet security and safety. To comply with the EU's General Data Protection Regulation, which takes effect in May, ICANN is proposing to require registrars and registries to remove from public access not just truly sensitive personal information, but also basic information like**

the email addresses that registrants are required to provide to obtain a domain name. This will not only hinder the ability of consumers to obtain responsive customer service on the Internet, but also frustrate even preliminary examinations into illicit online activity, such as cyber-attacks, theft of intellectual property, fraud, unlawful sale of drugs, child sex trafficking, and other criminal behavior. While I would not suggest that ICANN should allow unlimited publication of individual domain name holders' personal data, the GDPR does not require ICANN to withdraw basic information from public view and does not even apply to American registries and registrars offering service in the United States. Nor does it apply to information about companies – as opposed to individuals – yet ICANN is proposing to restrict access to data governing and not just “natural persons,” but also legal entities.

In light of these concerns, I was glad to see you say in your Puerto Rico ICANN 61 speech that “one of the top policy priorities for the United States in ICANN is the preservation of the WHOIS service,” that “the United States would encourage revisions to the model to permit access to the most amount of registration data as possible,” that [p]lans need to be put in place to ensure that users behind the already defined legitimate purposes – such as law enforcement, intellectual property enforcement, and cybersecurity – are not stymied in their efforts to serve the public interest,” and that “[t]he United States will not accept a situation in which WHOIS information is not available or is so difficult to gain access to that it becomes useless for the legitimate purposes that are critical to the ongoing stability and security of the Internet.”

- 2. Do you agree that basic information – like registrant email addresses – should remain in a publicly available WHOIS directory?**
 - a. What steps can you take to ensure that basic WHOIS database information is general remains as robust and publicly accessible as possible?**

Yes, NTIA agrees that basic information should and must remain in a publicly available WHOIS directory. As the U.S. Government's representative to the Governmental Advisory Committee (GAC) at ICANN, we have successfully included in GAC advice to the ICANN Board the necessity of maintaining an accessible and useful WHOIS for a variety of legitimate purposes including law enforcement, cybersecurity, IP rights protection, and others. This message has also been communicated to ICANN as they sought feedback from the community on their proposed GDPR compliance plan. Further, NTIA has engaged directly with the European Commission in expressing its views and concerns pertaining to the potential impact of GDPR on WHOIS and asked for their assistance to address those concerns. We also continue to engage with ICANN directly so that a solution can be found that maintains the WHOIS service to the greatest extent possible in the face of data protection and privacy regulations such as the European General Data Protection Regulation.

The Honorable Pete Olson

While additional spectrum will be critical for 5G and beyond, so will advancements in technology and innovation. Carriers and broadband providers will no doubt need to find creative ways to free up bandwidth to meet consumer needs in a 5G and beyond economy to account for the Internet of Things economy, autonomous vehicles, AR (augmented reality), VR (virtual reality) and new innovations that we have yet to hear about. A realistic 5G and beyond strategy will need to be creative and will not be a 'one-size fits all' solution. A 5G strategy will include spectrum but we know that there is only so much spectrum available for commercial usage. We'll need things like advanced software solutions, chipsets and other innovative technologies.

In addition to freeing up more spectrum, do you think any comprehensive 5G strategy will include other technologies like software and virtualization and advanced chipsets, among others?

Making 5G services a reality, which we all believe is critical for the American people, will require advances in technology and infrastructure availability, in addition to adequate spectrum. 5G networks and the associated applications will continually advance and require increasing performance capabilities. While an overarching strategy may help to facilitate the development of such technologies, the government will likely play less of a direct role and rather work to remove obstacles so the private sector can innovate.

The Honorable Bill Johnson

Assistant Secretary: It has come to my attention that you may be able to help work with ICANN in your capacity in some manner to resolve the long running situation affecting the accounting community and its application for the gTLD “.cpa”.

What insight are you able to share regarding how Congress can help them work through ICANN's arcane rules and procedures that seem to not help the one-time kind of applicant, such as the accountants?

The rules associated with ICANN's third round to expand the number of the new gTLDs in the Internet's domain name system were developed over seven years through its bottom-up multistakeholder process. This public process was open to any and all interested parties. As the U.S. Government's representative to the Governmental Advisory Committee (GAC) at ICANN, NTIA's efforts were focused on ensuring appropriate safeguards were put in place to protect consumers and intellectual property owners and ensure the needs of law enforcement were addressed. The program also included a variety of processes to evaluate applications and adjudicate between competing applicants.

For “.cpa” there were six applications filed by five groups, three of which are U.S. based. These competing applications continue to move through ICANN’s dispute resolution processes. While NTIA has no role in the evaluation of new gTLD applications and no way to adjudicate between competing U.S. based applicants, we continue to make ourselves available to any applicant that needs help or advice understanding the ICANN process.

Was there any progress made on this issue at the recent ICANN meeting in Puerto Rico?

While the “.cpa” issue was not on the official agenda of the recent ICANN meeting, NTIA did raise the need to resolve the issue in meetings with ICANN staff and Board members and met with representatives of the American Institute of Certified Public Accountants.

The Honorable Billy Long

As we discussed at the hearing, many of us on this committee have consistently supported the common-sense policy of auctioning 1675-1680 MHz for shared government-commercial use. We are pleased that this Administration's two proposed budgets both reflect a priority in seeing this policy through. Concerning the status of this effort, would you please clarify where we are in the process to auction this spectrum, beyond just that the National Telecommunications and Information Administration (NTIA) and the Federal Communications Commission (FCC) are coordinating?

Specifically, it is my understanding that the next step in the process is for the FCC to issue a Notice of Proposed Rulemaking (NPRM). As we head further into the second year of this Administration, I would like to understand in detail what concrete steps are required before the FCC can issue an NPRM?

The FCC will need to issue an NPRM to reallocate the band to permit the addition of commercial services. As an independent agency, the FCC controls the timing for any such action, and determines the steps it must take before issuing an NPRM.

And in your view, has NTIA provided the FCC everything it needs to issue an NPRM?

Yes. NTIA has provided its input to the FCC consistent with its spectrum management responsibilities.

Has NTIA signed off on the FCC issuing an NPRM?

NTIA has provided its input on the NPRM to the FCC consistent with its spectrum management responsibilities.

i. If not, has NTIA - under your leadership - received a draft of the NPRM for comment from the current FCC?

N/A

The Honorable Chris Collins

Last week you announced that NTIA, in coordination with the Department of Defense, has identified the 3450-3550 MHz band for potential repurposing for commercial wireless use. This is great news and shows great leadership. The band is particularly valuable because it is adjacent to the 3550-3700 MHz band that the FCC has already designated for mobile wireless use and can potentially be added to the 3700-4200 MHz band, which is also under consideration for commercial wireless operations. Unfortunately, the adjacent 3550-3700 MHz band is saddled with rules - restrictive power levels, among other things – that make it less useful than other commercial bands.

What are the plans that the Commission is looking at for this band, either by itself or in conjunction with other bands?

The work to understand the potential ability to repurpose the 3450 – 3550 MHz band for shared federal and non-federal use has just begun. The results of these initial studies will help inform NTIA and ultimately the FCC in developing any future specific plans for repurposing this band.

NTIA's most critical function is its management of Federal spectrum and the assignment of spectrum to Federal users. With your experience on this Committee, and now at NTIA, are there additional tools that would allow you to better facilitate spectrum negotiations with DOD, FAA, and Homeland Security?

NTIA has several “tools” at its disposal to facilitate its spectrum management and planning responsibilities that include consultative activities with the federal agencies. These include the well-established processes associated with NTIA’s inter-agency advisory bodies—spectrum certification and frequency assignment work performed in conjunction with the Interdepartment Radio Advisory Committee (IRAC) and development of policy-related recommendations from the Policy and Plans Steering Group (PPSG). It also includes the Spectrum Relocation Fund (SRF) that is used to pay for transitions of federal systems in bands already being made available for non-federal use, as well as for forward-looking agency studies to potentially identify additional bands pursuant to the Spectrum Pipeline Act of 2015. NTIA would leverage any additional tools that could help with our federal agency negotiations, including, for example, additional funding for and expansion of permissible uses of the SRF and the ability to lease federal spectrum to non-federal entities.

Ensuring effective, reliable, and interoperable communications between and among first responders was the goal in establishing FirstNet. Public safety's transition to commercial technologies like LTE will certainly help to achieve these goals. However, it is also important that new applications be developed and implemented to meet public safety's unique needs. What is NTIA doing to promote the development of an open, non-proprietary platform for public safety applications that will ensure critical applications are available and interoperable for all first responders regardless of the network they use?

As you know, the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112-96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 et seq.)) (Act) requires that FirstNet ensure the establishment of a nationwide, interoperable public safety broadband network (NPSBN) and authorizes it to take all

actions necessary to meet this obligation. FirstNet must create this network based on a single, national network architecture to advance interoperable communications.

I am following carefully FirstNet's efforts to advance interoperability and will continue to work closely with FirstNet and its contractor, AT&T, to ensure that the NPSBN fulfills its role. With regard to your thoughts about promoting competition and interoperability across FirstNet and other public safety wireless networks, NTIA embraces your goal of making certain that first responders have the communications tools they need to perform their vital jobs, wherever those jobs take them.

While all 56 states and territories, including New York, have adopted FirstNet's plans for deploying its radio access networks within their boundaries, no first responders are obligated to subscribe to FirstNet's services. Thus, AT&T must compete for and retain all of their public safety customers, who have other wireless broadband alternatives from which to choose. In addition, FirstNet's strategy for maximizing interoperability includes leveraging, consistent with its statutory mandate, open, standards-based network solutions. Accordingly, consistent with its enabling statute, FirstNet included terms and conditions in its contract with AT&T to promote competition in both the equipment, applications, software development markets requiring that they be built to open, non-proprietary, commercially available standards. We support and intend to monitor closely the implementation of these contractual requirements to advance an interoperable public safety applications ecosystem.

The Honorable Peter Welch

It has come to my attention that certified public accountants have been struggling to obtain the control of the “.cpa” gTLD. I am concerned about the potential for consumer fraud and deception if such a domain is awarded in a manner that will confuse consumers about finding actual certified public accountants when online.

As the Administrator of the National Telecommunications and Information Administration, can you share your thoughts on this ongoing situation with “.cpa” gTLD?

NTIA as the U.S. Government's representative to the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) continues to be a strong advocate for U.S. interests. While the agreed ICANN processes have yet to yield a decision regarding which of the five competing applicants will be allowed to operate “.cpa”, the group ultimately selected will be contractually required to implement certain consumer safeguards. These safeguards championed by NTIA, via the GAC, added obligations to all new gTLD operators, including the ultimate operator of “.cpa”, requiring Registration Agreements include a provision prohibiting Registered Name Holders, from among other things, fraudulent or deceptive practices and providing consequences for such activities including suspension of the domain name.

In addition, given the highly regulated nature of the certified public accounting industry and to address the specific concerns you raise, NTIA insisted that additional safeguards be required for the “.cpa” gTLD. These included contractual provisions that registrants possess any necessary authorizations, charters, licenses and/or other related credentials, and must report any material changes to their validity. Registry

operators must also consult with relevant national supervisory authorities or their equivalents regarding the authenticity of such credentials.

While NTIA has no role in the evaluation of new gTLD applications and no way to adjudicate between competing U.S. based applicants, we continue to make ourselves available to any applicant that needs help or advice understanding the ICANN process. While the “.cpa” issue was not on the official agenda of the recent ICANN meeting, NTIA did raise the need to resolve the issue in meetings with ICANN staff and Board members and met with representatives of the American Institute of Certified Public Accountants.