



Testimony by Matthew Shears, Director of Global Internet Policy and Human Rights, Center for Democracy & Technology, before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Communications & Technology on “Privatizing the Internet Assigned Numbers Authority”

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Chairman, Ranking Member, Members of the Subcommittee, thank you for the opportunity to testify today.

CDT has been deeply involved in the Internet Assigned Numbers Authority transition since the announcement by the National Telecommunications and Information Administration two years ago. CDT has actively participated in the working groups on IANA Stewardship and ICANN Accountability and had the pleasure of speaking to this subcommittee at its hearing last May on “Stakeholder Perspectives on the IANA Transition”. CDT has also been fully engaged in a range of international Internet governance discussions and processes including the World Summit on the Information Society review that culminated at the UN General Assembly this past December.

Last Thursday in Marrakech the Internet community forwarded the IANA transition plan to the NTIA. It did so following the global Internet community’s approval of a set of recommendations designed to ensure the enhanced accountability of ICANN post-transition. This package, the IANA transition plan and the recommendations for enhancing ICANN’s accountability post transition, is, quite simply, a remarkable achievement by the multistakeholder community.

Of course the work on IANA stewardship and ICANN accountability was anything but simple. Replacing the oversight role of the NTIA is not a simple matter, nor is changing the governance structure of any organization, let alone one as unique as ICANN. Yet the global multistakeholder community – comprising businesses, governments, the technical community, civil society, academia, and individual users – rose to the challenge. Together, the IANA transition plan and the accountability enhancements allow for the United States

government to entrust the global multistakeholder community with the IANA functions and the stewardship of the Domain Name System.

So, how did we - the global multistakeholder community - do? How does the IANA transition plan meet the NTIA's important criteria:

- Support and enhance the multistakeholder model (including not accepting a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution)
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectation of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

In many ways the IANA transition plan has been a proving ground for the multistakeholder approaches to Internet governance. Critics tend to dismiss multistakeholder approaches as difficult, dominated by certain interests, unreflective of the broader global Internet community, and often usurped by particular parts of the community that may wield greater clout than others. Multistakeholder processes have been known to fail. But these two multistakeholder processes – developing the IANA transition proposal and developing recommendations to enhance IANN's accountability – have delivered thoughtful and robust proposals.

Were there difficult moments during these processes? Yes, numerous, but participants remained committed to working through them. Were there times when the process seemed to bog down, when resolve seemed to waver? Yes, but these were overcome. When the community came together last week in Marrakech to endorse the ICANN accountability recommendations - thereby enabling the overall IANA transition plan to be delivered to NTIA - there was a very real sense of achievement. There was also a tangible sense of pride that an incredibly diverse community from across the globe came together to facilitate the transition of the US government's stewardship role in the Domain Name System.

This two-year process has delivered two proposals that are – I think it is fair to say – the most successful expression of multistakeholder approaches to Internet governance yet. The community has proven that it can work together to address highly complex challenges. As advocates for this approach to Internet policy making, we need strong examples such as these to point to. The successful delivery of the IANA and accountability proposals should encourage stakeholders both in the Internet space and elsewhere to pursue multistakeholder approaches to policy-making with renewed interest and commitment. The two Working Groups involved have also demonstrated that open, transparent, and inclusive processes work; these characteristics are essential to ensuring that the openness of the Internet is maintained.

One of the biggest challenges in enhancing ICANN's accountability was finding ways to empower the ICANN community – its Supporting Organizations and Advisory Committees – through increased oversight of ICANN processes and governance. Doing so turned out to be, in many ways, more complicated than developing the IANA transition proposal. One of the central considerations was how to empower the various parts of the community while maintaining the balance of power among them. To a large degree, the community succeeded, but of course not everyone was happy. Some governments wanted more of a say. Other parts of the community thought that governments could end up having too much power. These differences of opinion are inevitable in such processes. What is important is that the community has delivered a transition plan that does not replace the role of the NTIA with a government-led or intergovernmental solution. Far from it: the community has delivered a transition plan that empowers the whole multistakeholder community, which has been the goal of the process from the very beginning. And last Thursday, no stakeholder and no part of the community objected to the delivering the IANA transition plan to NTIA.

The guidance that the transition must not imperil the security, stability and resiliency of the Internet has been foremost in our minds. The IANA plan emphasizes continuity of operations by having ICANN continue to be the IANA functions operator post-transition. At the same time, the plan provides mechanisms for the community, and particularly the global customers and partners of the IANA functions, to ensure ICANN's actions as the IANA functions operator are carried out appropriately and meet agreed performance targets. Were ICANN to fail to meet these targets, then the ultimate sanction available to the community would be to change the IANA functions operator – in other words, to seek an alternative to ICANN to undertake essential DNS-related administrative tasks.

This same commitment to the security, stability, and resiliency of the Internet guided the ICANN accountability work. The new, limited powers provided to the community are essentially powers that the community hopes to never have to exercise. They are powers that ensure that the community remains firmly in control when it comes to ICANN's governance. From rejecting strategic plans and budgets to, in the worst case of board-overreach, removing and replacing the entire ICANN Board, these accountability powers are an effective way of ensuring that the security, stability, and resiliency of the Internet remain front and centre at ICANN post-transition.

There is, however, much work still to be done. Close attention will have to be paid by the community to the drafting of bylaws, implementation of the mechanisms and processes for the post-transition IANA, and implementation of the enhancements to the Independent Review Process, among others. And, additional accountability-related work will continue beyond the transition in areas such as human rights, community accountability and ICANN transparency, among others.

So at the end of the day what does this mean? For CDT it means NTIA's criteria have been met. It means that the IANA stewardship and ICANN accountability Working Groups have paved the way for the multistakeholder community to take on the mantle of stewardship that United States Government currently assumes. Delivering the IANA transition plan to NTIA is an important step in this process and the community can rightfully celebrate that

achievement. CDT will continue to be fully involved and we would like to thank the subcommittee for the opportunity to discuss the IANA transition, the central role that multistakeholder approaches have played in the process so far and the importance of the transition to broader global Internet governance.