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Dear Suzanne

Nominet response to NTIA Request For Comment

Nominet is pleased to respond to the NTIA's request for comment as part of the midterm review of the Joint Project Agreement (JPA). Nominet is the registry for .uk domain names and has been closely involved in the Internet since its very early days.

We welcome the initiative to assess progress regarding the JPA and the invitation for stakeholders to engage in this assessment. We believe that, with another 18 months to run of the JPA, now is an ideal time for in-depth discussions amongst all relevant stakeholders on how ICANN can ready itself for the next phase.

This response seeks to comment upon the higher level issues in this area. Our intention is to encourage greater dialogue prior to the end of the JPA in 2009.

Issue 1: Successful Transition and Strategic Oversight

The NTIA call for comment references the DNS White Paper issued by the US Department of Commerce in 1998, almost ten years ago. The White Paper, a document of its time, placed great emphasis on issues that were then current (e.g. "The Trademark Dilemma"). It placed rather less emphasis on Internet governance issues and the role of the US government, which have since become central to international debate.

Almost ten years on, the White Paper is still relevant, referring to the need to "consult with the international community, including other interested governments as it makes decisions on the transfer [of ICANN to a private sector model]". In one way or another, that consultation has been in progress ever since 1998.

It is clear that an eventual transition to private sector management was envisaged at that time. From more recent public statements made by Department of Commerce senior officers, this appears unchanged. We welcome this commitment.

However, it is important to ensure that the global community supports such a transition. This means that there will need to be robust processes in place to ensure ICANN's international accountability.

Issue 2: US Government involvement in day to day management

Since ICANN's inception, the NTIA, on behalf of the U. S. Government, has carried out a legacy role in the process of making changes or modifications to the authoritative root zone file, on the basis that this supports security and stability. The IANA function is the subject of a separate contractual arrangement between the US Department of Commerce and ICANN, even although many view the distinction between IANA and ICANN as artificial and no longer appropriate.

We understand that, in practice, this legacy function respects decisions made at the national level. However, the DoC involvement in this operational process potentially adds delay, makes greater automation difficult, takes away visibility of the full root zone management service levels and limits enhancements such as DNSSEC. Significantly, we believe that this role strengthens the negative perception of other stakeholders regarding the U. S. Government's role within ICANN. Going forward, we believe that operational checks of this kind should be integrated fully into the ICANN/IANA functionality, as part of a system of internal checks and balances.

Issue 3: ICANN Performance

Significant progress has been made by ICANN during the time of the JPA, including the IANA function, improved outreach and internationalisation. The organisation has become more stable, operational efficiency has improved and stakeholder participation has increased. However, we agree with the ICANN conclusion that 'more can always be done', as one would expect in a changing and developing industry.

Issue 4: The ICANN Supporting Structure

We feel that one of the major challenges during the coming year will be to improve participation in, and effectiveness of, the supporting organisations and advisory committees within the ICANN supporting structure.

Firstly, we would like to see all governments participate in the Governmental Advisory Committee (GAC) at a senior level. We see the improved effectiveness of the GAC as key to the continuing maturity of ICANN. We also suggest that where GAC consensus is not possible, for example on WHOIS policy, it would be more valuable for the GAC to advance understanding by setting out the range of legitimate positions held by governments.

Secondly, we would like to see a continuation of efforts to improve participation in and effectiveness of the other elements of ICANN, and for those efforts to be assisted by the ICANN community. For example, our CEO is taking a leading role in helping to increase participation in the ccNSO, via her Chairmanship of the ccNSO Participation Working Group.

Issue 5: Security and Stability

The security and stability of the Domain Name System remains of prime importance. Security was one of the key concerns identified by UK stakeholders in the build up to the recent Internet Governance Forum, who also noted the wide scope of this area.

The recent improvements to the IANA function and the effectiveness of the Security and Stability Advisory Committee are noteworthy and security and stability must remain of crucial importance. It would therefore be appropriate for the NTIA, within the remaining years of the JPA, to initiate multi-stakeholder dialogue, to review how security and stability will be preserved in any transition.

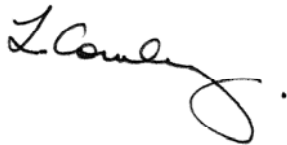
Conclusion:

Nominet welcomes the NTIA's initiative in providing the opportunity for all stakeholders to comment on the JPA in an open process. We call on NTIA to make this the first of a series of discussions on the future of ICANN over the remaining period of the JPA.

For any organisation, including ICANN, "more can always be done". So, the debate should not focus on the detail of its structure, corporate governance and operational efficiency – which can continue to be improved as part of ICANN's ongoing development. Rather, the aim should be to achieve a shared vision of a post-transition ICANN: what should its accountabilities be, and to whom?

Learning from discussions over the past 10 years (and beforehand), we do not anticipate that global consensus will be easy to achieve on these issues – it may not even be possible. However, the international community has the opportunity now, with 18 months of the JPA to run, to attempt to prepare the ground for ICANN's next phase.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lesley Cowley". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lesley Cowley
Chief Executive