

Chairman John Thune
Written Questions for the Record to
Mr. Lawrence Strickling
“Preserving the Multistakeholder Model of Internet Governance.”
Senate Committee on Commerce, Science, and Transportation

Question 1: The IANA contract with ICANN allows for two, two-year renewals. You have acknowledged that the policy rider in the current appropriations bill bars you from transitioning the IANA functions during this fiscal year. If that is the case, why have you not already extended the contract? What are the considerations of NTIA in extending the contract for a period of less than two years?

Answer: The Act restricts NTIA from using appropriated dollars to transition key Internet domain name functions during fiscal year 2015, which coincides with the end of the base period of the IANA contract on September 30, 2015. As a contractual matter, the Department may extend the term of the contract by written notice to the Contractor (ICANN) within 15 calendar days before the expiration of the contract, provided we give the Contractor preliminary written notice of our intent to extend at least 30 calendar days before the contract expires.

We have set certain conditions before a transition would be appropriate. The IANA Stewardship Transition Coordination Group (ICG) and the Cross Community Working Group on Enhancing ICANN Accountability (CCWG on Accountability), which represent a broad range of Internet stakeholders, including industry, governments, civil society, and the technical community, have been working diligently through a number of working groups to complete a transition proposal. However, it is becoming increasingly likely that some extension of the contract may be necessary. Accordingly, NTIA is conferring with the working groups to get an update on their progress and the associated timeframes going forward to make a final decision on an extension.

Question 2: Do you believe the “stress tests” developed by the community are adequate to identify problems that could confront ICANN if the U.S. government relinquishes the IANA functions contract? Specifically, do the stress tests properly assess the risk of governments or government-affiliated individuals gaining a controlling role over ICANN?

Answer: The CCWG on Accountability has identified 26 potential stress tests. The stress tests address a range of potential contingencies, such as a financial crisis; evidence of major corruption or fraud; litigation; the unilateral expansion of ICANN’s mandate by its Board; and the failure of the ICANN Board to comply with ICANN’s Bylaws. There are also stress tests related to the possibility that ICANN is “captured” by a single stakeholder segment, including governments via the Governmental Advisory Committee (GAC).

While the specific issue you raise has been identified, as have others, it is premature at this time to make judgments about whether the risks have been properly addressed. Thus far, we have been pleased by the diligent efforts to identify and develop a set of stress tests that reflect the broadest range of potential contingencies necessary to protect the future management of the IANA functions and ensure ICANN accountability.

Question 3: I understand there has been some consternation from U.S. stakeholders about Secretary Pritzker’s participation in the NetMundial initiative. Please explain why it is in our national interest for Secretary Pritzker to use her valuable time on this endeavor and what her participation will be going forward.

Answer: We take seriously the concerns raised by all stakeholders, including those voiced by the business community regarding the NetMundial Initiative (NMI) initiative. Secretary Pritzker agreed to serve on the NETmundial Initiative (NMI) Coordination Council to explore whether there is a gap in the Internet governance landscape that could be filled by this multistakeholder Initiative, as opposed to having governments take more of a role to solve Internet issues by themselves. That said, the Department has expressed to the other NMI Coordination Council members that the continued lack of industry support and participation needs to be remedied in order to justify proceeding with NMI. The Department plans to review the comments filed by stakeholders in response to a draft “terms of reference” for NMI before determining its future engagement in NMI. See, <http://comments.netmundial.org/>.

Question 4: Proponents of the IANA transition often argue that one of its benefits is it demonstrates U.S. commitment to the multistakeholder model. These proponents believe that by moving forward with the transition the United States deflates attempts to expand the jurisdiction of the International Telecommunications Union or other intergovernmental bodies to include Internet governance. Please share with the Committee any examples of countries or stakeholders having renewed faith in U.S. support for the multistakeholder model due to the IANA transition.

Answer: In 2012, at the ITU World Conference on International Telecommunications (WCIT), despite opposition from the U.S. and a number of likeminded countries, a majority of ITU Member States (i.e., governments) in attendance voted in favor of a stronger role for governments in Internet governance. Since then, there has been significant progress in the support shown by other countries for multistakeholder Internet governance. Specifically, in April 2014, Brazil hosted the successful NetMundial conference at which nearly all countries in attendance supported a statement reaffirming that Internet governance should be built on democratic multistakeholder processes. In the fall of 2014, the Member States assembled at the ITU Plenipotentiary Conference in Busan, South Korea, rejected efforts to expand the ITU’s role in DNS issues handled by ICANN and agreed to take steps towards including all stakeholders in previously closed discussions related to Internet issues.

A broad group of stakeholders has also directly expressed its support for NTIA’s March 14, 2014, announcement of its intent to complete the privatization of the domain name system. These include Internet technical community leaders, U.S. companies such as AT&T, Verizon, Microsoft, Google, Cisco, and Comcast, and associations like the Chamber of Commerce, USTelecom, the Internet Association, the Computer and Communications Industry Association, and the Software and Information Industry Association. Human rights and Internet freedom organizations, including Freedom House, Human Rights Watch, the Center for Democracy and Technology, and Public Knowledge, also released statements of support.

A number of countries have also taken the opportunity to express their support of the IANA transition and multistakeholder model, either directly or indirectly through their participation in the ongoing transition process. Many governments – including the UK, Germany, Mexico, Netherlands, Republic of Korea, Brazil, Norway, Australia, Denmark, Switzerland, Egypt, and Qatar—voiced their support for the announcement and/or the multistakeholder model at the March 2014 ICANN Governmental Advisory Committee (GAC) meeting in Singapore and the June 2014 ICANN High Level Governmental Meeting in London. Following the inaugural meeting of the U.S.-E.U. Cyber Dialogue in December 2014, the government participants jointly agreed “that no single entity, company, organization or government should seek to control the Internet and expressed their full support for multi-stakeholder governance structures of the Internet that are inclusive, transparent, accountable, and technically sound.” They further welcomed the multistakeholder community’s engagement and efforts regarding the IANA transition, recognizing the positive progress of the initiative.

Senator Roy Blunt
Written Questions for the Record to
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Question 1: Mr. Strickling, on March 14, 2014, NTIA announced its intent to end the U.S. government’s stewardship role over Internet governance, and privatize IANA functions. Although you have not set a deadline, and have mentioned that NTIA can extend the contract, you did say that September 30, 2015, is “a date for the community to use.” Thus, ICANN and the stakeholder community have less than two years to design a proposal for the privatization of IANA functions, and transparency and accountability reforms at ICANN.

What is NTIA’s plan to extend the contract if, in fact, ICANN fails to produce a transition proposal in conjunction with accountability reforms?

Answer: NTIA has not set a deadline for the transition. September 2015 has been a target date because that is when the base period of our contract with ICANN expires. However, we have the flexibility to extend the contract if necessary. The current IANA functions contract contains provisions to extend the contract, including the possibility of exercising two two-year option periods. In order to exercise one of these options to extend the contract, the Department must provide written notice to the Contractor (ICANN) within 15 calendar days before the expiration of the contract, provided that the Government gives the Contractor a preliminary written notice of its intent to exercise an option to extend at least 30 calendar days before the contract expires.

We are committed to providing the time needed to develop the best plan possible to ensure the security and stability of the Internet. The IANA Stewardship Transition Coordination Group (ICG) and the Cross Community Working Group on Enhancing ICANN Accountability (CCWG on Accountability), which represent a broad range of Internet stakeholders, including industry, governments, civil society, and the technical community, have been working diligently through a number of working groups to complete a transition proposal. However, it is becoming increasingly likely that some extension of the contract may be necessary. Accordingly, NTIA is conferring with the working groups to get an update on their progress and the associated timeframes going forward to make a final decision on an extension.

Question 2: You have stated on numerous occasions that September 30th is not a hard deadline, and that NTIA will renew the IANA contract if ICANN fails to produce an acceptable transition proposal in conjunction with transparency and accountability reforms at ICANN. As I understand it, the transparency and accountability reforms are to be “stress tested” by ICANN and the stakeholder community.

Will NTIA evaluate these “stress tests” and factor them into its decision on the overall transition proposal?

Follow Up: If so, what criteria will NTIA use to evaluate these “stress tests?”

Follow Up: How can “stress tests” predict changes in context as the Internet evolves and geopolitics change?

Follow Up: What recourse will NTIA, the global community of stakeholders, or the American people have if circumstances change in the next 5, 10, or 20 years?

Answer: Once we receive a complete consolidated proposal, we will ensure that the proposal fully satisfies the March 2014 criteria and that the proposal has been adequately “stress tested” to ensure the continued stability and security of the DNS.

The CCWG on Accountability has identified 26 potential stress tests. The stress tests assess a range of potential contingencies, such as a financial crisis; evidence of major corruption or fraud; litigation; the unilateral expansion of ICANN’s mandate by its Board; and the failure of the ICANN Board to comply with ICANN’s Bylaws. There are also stress tests related to the possibility that ICANN is “captured” by a single stakeholder segment, including governments via the Governmental Advisory Committee (GAC). Thus far, we have been pleased by the diligent efforts to identify and develop a set of stress tests that reflects the broadest range of potential contingencies necessary to protect the future management of the IANA functions and ensure ICANN accountability.

The processes used to develop and evaluate the proposal will influence the work NTIA needs to undertake as part of its review. For example, NTIA will review any documented “stress tests” and consider whether new processes or structures address the comprehensive set of contingencies that have been identified. Such stress-testing will also provide confidence that any process, procedure, or structure proposed actually works. In addition, NTIA will review and assess the changes made or proposed to enhance ICANN’s accountability in advance of initiating the transition. This will include an assessment of the proposed responses to the contingencies identified in the stress tests and ensuring that they address NTIA’s criteria.

NTIA continues to believe that the best mechanism for ensuring an open, secure, and resilient Internet now and into the future is the strength of the multistakeholder model. The real strength lies with the broad group of stakeholders, both within the U.S. and globally, who today are the ones driving the process and have the ability to course-correct should circumstances change in the future. NTIA believes that the successful completion of the privatization of the DNS will only further strengthen the multistakeholder model against challenges it will face tomorrow and far into the future.

NTIA will remain an active participant in ICANN going forward to ensure the continued stability and security of the DNS. In particular, we will continue our active role as a member of the GAC as well as a stakeholder with interests in the IANA functions. NTIA – as well as other U.S. government agencies – also participates in other multistakeholder bodies with direct ties to the IANA functions, including the Internet Engineering Task Force (the organization directly tied to the protocol parameters function) and the Regional Internet Registries (the organizations most directly tied to the Internet numbering resources function).