

Independence and Accountability: The Future of ICANN

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Tags: Array

Supporting Documents

Comments of the Center for Democracy & Technology submitted to The National Telecommunications and Information Administration, U.S. Department of Commerce, in response to the Notice of Inquiry regarding Assessment of the Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System.

CDT strongly supports the goal of a fully independent and accountable ICANN. Many others have noted that, in order for governments to defer to ICANN's form of multi-stakeholder coordination, ICANN must be reliably accountable. However, there are two crucial pre-conditions of accountability (and hence of independence) that have been too often overlooked: mission (what matters can ICANN address) and decision-making standards (by what means and on what grounds can it set policy on the matters within its purview). To achieve the goal of an independent and accountable ICANN, new steps must be taken to ensure that (i) ICANN's policy-making role is clearly and narrowly limited to issues affecting the DNS (and only a subset of DNS issues at that - only those requiring global coordination); (ii) that the criteria on which ICANN can make decisions are limited to protecting the security and stability of the DNS and ensuring competition in services related to the DNS; and (iii) that the rules ICANN imposes are demonstrably based upon consensus among those affected by the rules.

Mission and decision-making criteria hold the key to independence and accountability. If ICANN's mission is narrowly defined and if its decision-making is based on limited criteria and consensus-driven, then it is much less likely to take actions that threaten either sovereign interests or the openness of the Internet, and it is therefore easier to justify making it fully independent. However, if its authority is ambiguous, such that ICANN can be confused with broader issues of Internet governance such as cybersecurity in general, or if it can base its decisions on criteria such as "morality and public order," governments will claim that they should have a dispositive role in ICANN.

Similarly, if ICANN's mission is narrowly defined and if its decision-making is based on limited criteria and bounded by the principle of consensus, then any accountability process will have suitable reference points against which to hold ICANN accountable. If ICANN's purview and the criteria for its decision-making are unclear, it is hard to see how an accountability process would have any objective basis for assessing and setting aside ICANN decisions.

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