



Statement of Support for the Internet Corporation for Assigned Names and Numbers (ICANN)

November 2000

Introduction

As a non-profit corporation formed in September 1998 to oversee Internet technical management functions previously managed by the U.S. government, the Internet Corporation for Assigned Names and Numbers (ICANN) has assumed a number of responsibilities in technical management of protocols, addressing and domain names, which are critical to the stability and growth of the Internet. ICANN is an unprecedented effort by Internet business, technical, non-commercial and academic communities to create a consensus-based, globally representative non-governmental policymaking entity. In the two years since its creation, ICANN has celebrated many achievements and still has many hurdles to overcome. Its adoption of an arbitration system in late 1999 has proved to be an effective tool against cybersquatters; its online election of five Board Directors by an at-large membership from around the world has demonstrated its commitment to inclusion and transparency. Its recently adopted program for adopting new generic top-level domain names (gTLDs) has offered a no-nonsense approach to enable expansion of the names space of the Internet without jeopardizing its stability or functionality.

Yet, ICANN still has unfinished business, and has inevitably at times come under attack from various segments of the Internet community. Execution of several of its decisions and programs in recent months have not been flawless; many Internet users were frustrated in their efforts to register for the October, 2000 online at-large membership election due to over-burdened servers; some constituents have requested greater inclusion and transparency, others have demanded more efficient decision-making procedures. However, progress is being made. The legality of its attempts to collect fees to cover its operations, and the 1998 transfer of the domain name system controls from the U.S. Department of Commerce to ICANN were recently affirmed, in a July 7, 2000 report by the U.S. General Accounting Office (GAO).

ICANN is beginning to mature as an organization as it is taking on the important tasks of administering its limited, but critical responsibilities. Recent programs and decisions undertaken by ICANN should be seen as further steps in the right direction for the technical management of the Internet, which is an evolving step-by-step process.

World Information Technology and Services Alliance and ICANN

The World Information Technology and Services Alliance (WITSA) is a consortium of 41 information technology (IT) industry associations from economies around the world. As the global voice of the IT industry, WITSA is dedicated to advocating policies that advance the industry's growth and development; facilitating international trade and investment in IT products and services; strengthening WITSA's national industry associations through the sharing of knowledge, experience, and critical information; providing members with a vast network of contacts in nearly every geographic region of the world; and hosting the biennial World Congress on Information Technology, the premier industry sponsored global IT event, and the biennial Global Public Policy Summit. Founded in 1978 and originally known as the World Computing Services Industry Association, WITSA has increasingly assumed an active advocacy role in international public policy issues affecting the creation of a robust global information infrastructure. For additional information about WITSA and its activities, go to <http://www.witsa.org>.

WITSA was an active supporter of the establishment of ICANN and was a co-sponsor of the Barcelona-Monterrey-Washington 1999 proposal that led to the formation of one of its constituent groups, the Domain Names Supporting Organization (DNSO). WITSA is an active member of the DNSO Business Constituency group as are twelve of its

national member IT industry associations. WITSA and its member associations helped elect the three business representatives to the current Names Council (NC) -DNSO's executive body- in 1998. A new round of elections for the NC representatives will take place in November 2000, and WITSA will participate actively throughout these processes, to ensure that the interests of business users are represented.

Statements of Support for ICANN

Strong Private sector leadership: WITSA recognizes that ICANN has actively collaborated with Internet stakeholders in building three supporting organizations with separate responsibilities. The Domain Names Supporting Organization (Names Council) is presently focused primarily on the processes which ensure a domain name system that preserves the need for competition and consumer choice, requires minimal government involvement, and commands broad based stakeholder support, all without disruption to the fundamental operations of the Internet.

Effective arbitration against "bad faith" domain name registrations: In adopting the Uniform Domain Name Dispute Resolution Policy (UDRP) on October 24, 1999, ICANN initiated an ambitious program against "bad faith" generic top level domain name (gTLD) registrations, such as .com., .net., and .org: By August 1, 2000, the World Intellectual Property Organization (WIPO), one of the four dispute-resolution service providers approved by ICANN, had received about 900 cases of alleged domain name trademark infringements, of which about 350 were settled and more than three-quarters (80 percent) of the decisions going in favor of the complainant, usually the trademark holder. WITSA strongly supports the UDRP as an option to national law, and as a low-cost and effective mechanism for dealing with conflicts related to protecting the rights of intellectual property in the domain name space. WITSA also welcomes the initiative recently announced by WIPO to develop arbitration guidelines against bad faith gTLD registrations not based on registered trademarks.

Effective Competition among Registrars: WITSA supports the registrar accreditation policy for the .com, .net, and .org top-level domains, as originally adopted by ICANN in January-March, 1999 and as revised on November 4, 1999 and April 2000. The accreditation policy has enabled robust competition among more than 100 registrars, while maintaining the stability of top-level domains. In this regard, Network Solutions, Inc.'s (NSI) share of new domain name registrations dropped from 100 percent to less than 50 percent in under one year. WITSA also supports strong and effective enforcement of the terms of the accreditation policies to ensure that ineffective practices do not evolve. The registrar accreditation policies should be extended to all new registrars for any new gTLDs.

Broad Participation in Policy Formulation and Procedures: WITSA recognizes ICANN's efforts to ensure broad participation in policy formulation by stakeholders and the Internet constituents. In undertaking the technical management of the Internet, ICANN must balance the broad, bottom-up participation of Internet constituents in policy making with the need to make timely resolutions vital to the safe and stable operation of the Internet. Unlike in the public sector, WITSA applauds ICANN for recognizing that, lacking the power of governments to compel compliance, a consensus-driven, bottom-up process involving the implementing parties must drive the policy decision-making process. WITSA encourages all private sector Internet stakeholders to work with ICANN in continuing to improve its participatory processes with the goal of achieving timely resolution of policy issues with the participation of affected parties. WITSA supports current initiatives, including:

- ❑ *The Notice-and-Comment Mechanisms*, providing both e-mail and web-based mechanisms for Internet users to submit comments on electronically posted policy proposals;
- ❑ *The Contractual Consensus Requirements*, ensuring that businesses contracted or licensed through ICANN follow future policies created through the consensus-development process;
- ❑ *The Working Groups, Task Forces, and Drafting Committees*, such as adopted in particular by the Domain Name Supporting Organization (DNSO) and its Names Council (NC), providing broad participatory mechanisms in the policy drafting stages; and
- ❑ *The delegation of responsibility to specialized consensus-based groups*, ensuring that local aspects of policy related to country-code top-level domains and IP addressing is resolved by the organizations to which management is delegated, but ensuring that these processes are open and transparent.

Transparency: WITSA believes a private sector led, consensus-driven system for technical Internet management must include transparent procedures for policy formulation and dissemination of information to the public. WITSA recognizes ICANN's efforts to make information available through extensive use of its many web sites, e-mail announcement lists, press releases and advisories, ICANN meetings, web casting, and real-time audio access for public observers of meetings. Private sector Internet stakeholders are encouraged to work with ICANN constructively in identifying further areas of improvement as regards openness and transparency.

Effective Review Process: WITSA supports ICANN's efforts to implement effectively procedures to address complaints of undue harm to members of the Internet constituency and regarding possible breaches of its mandate, as stipulated in its Bylaws and Articles of Incorporation: A *Reconsideration Process* has been adopted, by which members of the Internet Community can appeal actions by the Board to a reconsideration committee consisting of three ICANN directors; an *Independent Review Policy* has been adopted, where a panel consisting of legally trained persons not affiliated with ICANN will hear complaints. WITSA supports the ICANN Supporting Organizations' efforts to nominate members for the independent review panel. Lastly, an *Arbitration Process* is incorporated into the agreements with domain name registries and registrars, giving parties contracted with ICANN appropriate access to a neutral decision maker, should the need arise.

Membership Mechanisms, Accountability and Representation: ICANN's ambitious At-Large membership program offers participation to all individuals at least 16 years of age who have an interest in Internet governance issues and have a valid e-mail address. ICANN is to be applauded for the completion of the election, with a very broad participation from around the globe. The selection of five At-Large Directors for the ICANN Board provides Internet stake holders from all corners of the world with historically unprecedented representation in the decision making process affecting the technical management of the Internet. While early predictions estimated a total of 10,000 At-Large membership registrations, more than 76,000 Internet users ultimately were eligible to participate in the election of the five Directors from Africa, Asia/Australia/Pacific, Europe, Latin America/Caribbean, and North America. WITSA further welcomes the launch of a comprehensive study of the concept, structure and processes relating to the At-Large membership in view of ICANN's mission and structure. Private sector Internet stake holders are strongly encouraged to contribute to the continued success of ICANN by participating actively in this review process and by identifying areas of improvement prior to its completion and adoption.

Introduction of New gTLDs: WITSA recognizes the interest in the addition of new generic Top-Level Domain Names (gTLDs) on the Internet root server system, and welcomes ICANN's July 16, 2000 decision to approve a small number of new gTLDs by the end of 2000. WITSA's members also recognize the value of the existing ccTLDs and note the need for co-existence with any new gTLDs. Despite the transformation in recent years, no new gTLDs, such as .com, .net, and .org have been added since the 1980s. WITSA applauds ICANN Criteria for Assessing TLD Proposals, especially as regards:

- The need to maintain the Internet's stability
- The extent to which selection of the proposal would lead to an effective "proof of concept" concerning the introduction of top-level domains in the future
- The enhancement of competition for registration services
- The enhancement of the utility of the DNS
- The extent to which the proposal would meet previously unmet types of needs
- The extent to which the proposal would enhance the diversity of the DNS and of registration services generally
- The evaluation of delegation of policy-formulation functions for special-purpose TLDs to appropriate organizations
- Appropriate protections of rights of others in connection with the operation of the TLD
- The completeness of the proposals submitted and the extent to which they demonstrate realistic business, financial, technical, and operational plans and sound analysis of market needs

Enhancing the security and operation of the root-server system: WITSA supports the plan adopted by ICANN on July 15, 2000, and as developed by the DNS Root Server System Advisory Committee (RSSAC), to enhance the security and operation of the root-server system.

Sound Financial Footing

WITSA Supports ICANN's current efforts, including its November 4, 1999 adoption of recommendations made by the Task Force on Funding (TFF), to establish a sound financial footing to cover necessary expenses related for staff

support, operational commitments, active education and outreach programs, as well as general management. While the largest source of revenue comes from gTLD registries and registrars (almost half of the FY 2001-1002 budget), ICANN also depends on one-third of its funding from the country code TLDS. Developing an effective and positive set of relationships with the ccTLDs is an essential work item for ICANN, and WITSA notes that at the last board meeting, significant progress was being made. To date, ICANN still depends on voluntary projects grants and contributions to cover expenses. WITSA will continue to support ICANN's important work in the domain name field, and encourages ICANN to seek a broad-based funding platform. The domain name system affects a vast number of users, which should mean stakeholders should ultimately cover the necessary expenses related to its operation and management.

Conclusion:

ICANN is stretching its resources to accommodate its constituents. Undoubtedly, it will work with the private sector stakeholders in improving its elections, decision-making procedures and transparency. As a young organization charged with some very important tasks, ICANN will gain experience and mature as an organization. In this process, WITSA encourages ICANN to continue to seek advice from its constituents on how best to promote consumer choice and competition in the domain name space while ensuring maximum stability and functionality of the Internet with minimal government interference. Moreover, WITSA appeals to all Internet stakeholders, whether from the Internet business, technical, non-commercial or academic communities, to appreciate the importance of working constructively together with the common goal of empowering ICANN. The private sector groups must continue to demonstrate that they are capable of working together and assume the responsibilities entrusted to them by the U.S. government since the 1998 Memorandum of Understanding with ICANN, when the historic first step towards a transition of Internet management away from the Department of Commerce was reached.

On September 4, 2000, ICANN announced that the 1998 MoU, initially expiring on September 30, 2000, had been extended by the U.S. government for a maximum of one more year in order to allow ICANN and its constituent organizations to complete the privatization of the Internet technical-management functions. WITSA will work to support ICANN, with the support of the Internet community, so that ICANN can complete the transition tasks within this time frame.

The World Information Technology and Services Alliance (WITSA)

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