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ENSURING THE SECURITY, STABILITY, RESILIENCE, AND FREEDOM OF THE GLOBAL INTERNET

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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ENSURING THE SECURITY, STABILITY, RESILIENCE, AND FREEDOM OF THE GLOBAL INTERNET

WEDNESDAY, APRIL 2, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:36 a.m., in room 2322 of the Rayburn House Office Building, Hon. Greg Walden (chairman of the subcommittee) presiding.

Members present: Representatives Walden, Latta, Shimkus, Terry, Blackburn, Scalise, Lance, Guthrie, Kinzinger, Long, Ellmers, Barton, Upton (ex officio), Eshoo, Doyle, Matsui, Braley, Lujan and Waxman (ex officio).

Staff present: Gary Andres, Staff Director; Ray Baum, Senior Policy Advisor/Director of Coalitions; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Gene Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Grace Koh, Counsel, Telecom; David Redl, Counsel, Telecom; Charlotte Savercool, Legislative Coordinator; Tim Torres, Deputy IT Director; Tom Wilbur, Digital Media Advisor; Phil Barnett, Democratic Staff Director; Shawn Chang, Democratic Chief Counsel for Communications and Technology Subcommittee; Margaret McCarthy, Democratic Professional Staff Member; Ryan Skukowski, Democratic Staff Assistant; and Patrick Donovan, Democratic FCC Detailee.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. OK, we'll call to order the subcommittee on Communications and Technology.

Good morning. I want to thank all of our witnesses today for clearing their schedules to come before our subcommittee on Communications and Technology to discuss the Obama Administration's proposal to transfer to another entity oversight of the domain name system.

I have read all of your testimony. I appreciate your counsel, and especially appreciate the thoughtful scenarios and stress tests noted in Mr. DelBianco's testimony. Those are precisely the kinds of issues that certainly get our attention. I cannot overstate the importance of freedom of the Internet from government control, nor can I overstate the threat from foreign governments who seek to

control, tax, sensor and otherwise impose their own agendas on the Internet. That is why the House has unanimously passed both a resolution and legislation that affirm our policy that the United States should promote a global Internet free from government control, and I do hope the United States Senate will take up our latest measure with all due haste.

Obviously, the Administration's proposal has sparked furious debate, and brought together in opposition some interesting former combatants, ranging from Karl Rove to Bill Clinton and Newt Gingrich.

I called today's hearing to get answers to exactly what the Obama Administration is proposing and what it is not. Are the goals of security, stability, resilience and freedom of the Internet compatible with a multi-stakeholder-managed domain name system. The multi-stakeholder model is a key part of the success of the Internet with engineers, academics, public interest groups and users collaborating in a bottom-up, not government down approach. The decentralized management structure provides the flexibility to evolve, and disperses the risks posed by bad actors. However, once NTIA gives up its current role, who will fill the void. What assurance do Internet users have that such a change will not lead to foreign government mischief. If things do go astray, is there a path back for NTIA. The role that NTIA performs, though somewhat ministerial, has served as an important backstop. While I am heartened to see the criteria that NTIA set forth for any acceptable proposal included a prohibition on government-led or governmental organization taking control, I do remain concerned about how to prevent such a takeover in the future. What safeguards would be in place? We cannot allow institutions such as the United Nations or the International Telecommunications Union to insert themselves into the functioning of the domain name system now or as part of any successor solution.

Make no mistake, threats to the openness and freedom of the Internet are real. Some authoritarian leaders such as Vladimir Putin have explicitly announced their desire to gain control of the Internet. In fact, just a year and a half ago, at the World Conference on International Telecommunications in Dubai, a group of nations attempted to use a treaty on telephone networks and services as a backdoor to imposed policies that could have thwarted the robust and open nature of the Internet.

I am sure the Administration understands why we are so concerned about any proposed changes now the Internet is governed. We need details on how the process will work, and the criteria for evaluating the proposals. Mr. Shimkus and Mrs. Blackburn have a bill they recently introduced, H.R. 4342, which I believe has been distributed to everyone here, that would have the GAO study the proposals and present a nonpartisan evaluation. This is a prudent idea and one we will move forward on very soon.

[H.R. 4342 follows:]

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113TH CONGRESS
2D SESSION

H. R. 4342

To prohibit the National Telecommunications and Information Administration from relinquishing responsibility over the Internet domain name system until the Comptroller General of the United States submits to Congress a report on the role of the NTIA with respect to such system.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2014

Mr. SHIMKUS (for himself, Mr. ROKITA, Mrs. ELLMERS, Mr. LATTA, Mr. BARTON, and Mrs. BLACKBURN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To prohibit the National Telecommunications and Information Administration from relinquishing responsibility over the Internet domain name system until the Comptroller General of the United States submits to Congress a report on the role of the NTIA with respect to such system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domain Openness Through Continued Oversight Matters Act of 2014" or the "DOTCOM Act of 2014".

SEC. 2. NTIA RETENTION OF DNS RESPONSIBILITIES PENDING GAO REPORT.

(a) RETENTION OF RESPONSIBILITIES.—Until the Comptroller General of the United States submits the report required by subsection (b), the Assistant Secretary of Commerce for Communications and Information may not relinquish or agree to any proposal relating to the relinquishment of the responsibility of the National Telecommunications and Information Administration (in this section referred to as the "NTIA") over Internet domain name system functions, including responsibility with respect to the authoritative root zone file, the Internet Assigned Numbers Authority functions, and related root zone management functions.

(b) REPORT.—Not later than 1 year after the date on which the NTIA receives a proposal relating to the relinquishment of the responsibility of the NTIA over Internet domain name system functions that was developed in a process convened by the Internet Corporation for Assigned Names and Numbers at the request of the NTIA, the Comptroller General of the United States shall submit to Congress a report on the role of the NTIA with respect to the Internet domain name system. Such report shall include—

(1) a discussion and analysis of—

(A) the advantages and disadvantages of relinquishment of the responsibility of the NTIA over Internet domain name system functions, including responsibility with respect to the authoritative root zone file, the Internet Assigned Numbers Authority functions, and related root zone management functions;

(B) any principles or criteria that the NTIA sets for proposals for such relinquishment;

(C) each proposal received by the NTIA for such relinquishment;

(D) the processes used by the NTIA and any other Federal agencies for evaluating such proposals; and

(E) any national security concerns raised by such relinquishment; and

(2) a definition of the term "multistakeholder model", as used by the NTIA with respect to Internet policymaking and governance, and definitions of any other terms necessary to understand the matters covered by the report.

○

Mr. WALDEN. Any plan must protect all participants in the Internet ecosystem, and demonstrate the successor's technical ability to manage the IANA functions. If there are not sufficient safeguards in place to prevent foreign government intrusion, then this concept should go no further.

Even with these guarantees, I remain concerned about the opportunities for abuse. When it comes to the core principles that NTIA and the State Department have put forward, I urge them to follow the admonition of Margaret Thatcher, and "Don't go wobbly." There is no putting this genie back in the bottle once the transition begins.

So we are holding this hearing because far too much is at stake for any uncertainty or ambiguity as to our path forward.

A little less than a year ago, the world was watching as we deliberated H.R. 1580, our unanimously-passed Bill supporting the multi-stakeholder process. The world, including those deeply concerned about government control of the Internet, is watching again today. This is the Administration's opportunity to make its case and answer our questions, prove to us that you will conduct this proposed process in a way that leaves no room for error, and it will protect the free and open Internet we have all come to expect and rely upon.

[The prepared statement of Mr. Walden follows:]

PREPARED STATEMENT OF HON. GREG WALDEN

I want to thank all of our witnesses today for clearing their schedules to come before our Communications and Technology Subcommittee to discuss the Obama administration's proposal to transfer to another entity oversight of the Domain Name System. I've read all of your testimony and appreciate your counsel. I especially appreciated the thoughtful scenarios and stress tests noted in Mr. DelBianco's testimony. Those are precisely the kinds of issues that get our attention.

I cannot overstate the importance of freedom of the Internet from government control. Nor can I overstate the threat from foreign governments who seek to control, tax, censor, and otherwise impose their own agendas on the Internet. That's why the House has unanimously passed both a resolution and legislation that affirm our policy that the United States should promote a global Internet, free from government control. I do hope the Senate takes up our latest measure with all due haste.

Obviously, the administration's proposal has sparked furious debate and brought together in opposition some interesting former combatants ranging from Karl Rove to Bill Clinton and Newt Gingrich.

I called today's hearing to get answers to exactly what the Obama administration is proposing and what it is not. Are the goals of security, stability, resilience and freedom of the Internet compatible with a multistakeholder managed Domain Name System?

The multi-stakeholder model is a key part of the success of the Internet, with engineers, academics, public interest groups, and users collaborating in a bottom-up, non-governmental approach. The decentralized management structure provides the flexibility to evolve and disperses the risks posed by bad actors. However, once NTIA gives up its current role, who will fill the void? What assurance do Internet users have that such a change will not lead to foreign government mischief? If things go astray, is there a path back for NTIA?

The role that NTIA performs, though somewhat ministerial, has served as an important backstop. While I am heartened to see the criteria that NTIA set forth for any acceptable proposal included a prohibition on a government-led or intergovernmental organization taking control, I remain concerned about how to prevent such a takeover in the future. What safeguards are in place?

We cannot allow institutions such as the United Nations or the International Telecommunication Union to insert themselves into the functioning of the Domain Name System now, or as part of any successor solution.

Make no mistake; threats to the openness and freedom of the Internet are real. Leaders such as Vladimir Putin have explicitly announced their desire to gain control of the Internet. Just a year and a half ago, at the World Conference on International Telecommunications in Dubai, a group of nations attempted to use a treaty on telephone networks and services as a backdoor to impose policies that could have thwarted the robust and open nature of the Internet.

I'm sure the administration understands why I am so concerned about any proposed changes to how the Internet is governed. We need details on how the process will work and the criteria for evaluating proposals. Mr. Shimkus and Mrs. Blackburn have a bill they recently introduced—H.R. 4342—that would have the GAO study the proposals and present a non-partisan evaluation. This is a prudent idea. Any plan must protect all participants in the Internet ecosystem and demonstrate the successor's technical ability to manage the IANA functions. If there are not sufficient safeguards in place to prevent foreign government intrusion, then this concept should go no further. Even with these guarantees, I remain concerned about the opportunities for abuse.

When it comes to the core principles that NTIA and the State Department have put forward I urge them to follow the admonition of Margaret Thatcher and "Don't Go Wobbly". There is no putting this genie back in the bottle once the transition begins. We are holding this hearing because far too much is at stake for any uncertainty or ambiguity as to our path forward.

A little less than a year ago, the world was watching as we deliberated H.R. 1580, our unanimously passed bill supporting the multi-stakeholder model. The world, including those deeply concerned about government control of the Internet, is watching again today. This is the administration's opportunity to make its case and answer our questions. Prove to us that you will conduct this proposed process in a way that leaves no room for error and that will protect the free and open Internet we have all come to expect and rely upon.

Mr. WALDEN. With that, I will yield to the vice chair of the committee, Mr. Latta.

Mr. LATTA. Well, thank you very much, Mr. Chairman, and thank you very much to our witnesses for testifying today.

As the Chairman said, the Internet has developed into a robust and competitive frontier for free enterprise, innovation, job creation, and economic growth and prosperity. In our own democratic government, it serves as a tool for citizens to exercise their fundamental freedoms, and for those around the world, the Internet enables the exercise of basic human rights, as well as political advancement and reform. The preservation of the Internet's openness and freedom is, and must continue to be, non-negotiable.

As the NTIA prepares to relinquish its contractual oversight of the IANA functions of ICANN, any new oversight proposals that threaten to diminish the existing multi-stakeholder model of Internet governance must be rejected. Not doing so will jeopardize the economic prosperity we have achieved throughout the United States and the world, and may curtail the basic freedoms and human rights of millions, if not billions.

I support calls to engage in rigorous and careful congressional oversight of NTIA's proposed transition of its contract to ensure that no government or intergovernmental body takes control of domain name system responsibilities, and that the Internet remains as free and open as it is today.

And again, Mr. Chairman, I thank you very much, and I yield back.

Mr. WALDEN. Gentleman yields back. And before I recognize the gentlelady and the ranking member from California, I would like to ask unanimous consent to put a statement of support from the Internet Association, representing many of America's great Internet successful companies including Amazon, Facebook, Twitter,

Yahoo, Netflix, and Google, and statements from AT&T, Verizon, Cisco, and the United States Chamber of Commerce, expressing support for a process to investigate a transition that precludes other governments from assuming the role the U.S. currently plays.

I have all of those, and without objection, they will be entered into the record.

[The information appears at the conclusion of the hearing.]

Mr. WALDEN. And with that, I will now turn to my friend and colleague from California, Ms. Eshoo, for 5 minutes.

OPENING STATEMENT OF HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Thank you, Mr. Chairman, both for having this hearing and for our important witnesses that are here today. This is a very important discussion that we are going to have, and we look forward to your testimony.

For more than 2 decades, there is no question that the Internet has flourished as a platform that enables the exchange of commerce, trade and information. Last year, the House passed legislation on a 413 to 0 vote, stating "It is the policy of the United States to preserve and advance the successful multi-stakeholder model that governs the Internet." Now we are hearing the criticisms and even rejection of this model which has provided the underpinnings for innovation, openness, and economic prosperity around the world.

I think history can be instructive to us here. In 1998, the U.S. Department of Commerce outlined a plan that would phase out its policy oversight role within 2 years. While this transition obviously took longer than it should, they operated more on government time than on real time, it is now time for the United States to finally walk the walk, and demonstrate to the world that while the Internet was a product of America's genius, no government or intergovernmental organization should control its future. To ensure that the next 2 decades, and even beyond that, are just as successful, we need to think big about how we preserve the global Internet principles of openness, security, stability, and resiliency.

In this context, NTIA's announcement last month to transition key Internet domain name functions to the global multi-stakeholder community is an important step in the evolution of the Internet. It is what people voted for, 413 to zip. That is what was embedded in that resolution, and that resolution was more than noticed by countries around the world, because the United States of America was absolutely 1,000 percent united. The Executive Branch, the Senate, the House, all our representatives. There was no daylight between us. So I think it might be instructive to go back and see what members voted for.

During the 2012 World Conference on International Telecommunications, WCIT, in Dubai, we saw firsthand that there are nations around the globe who do not share our vision for maintaining the free flow of information across the Internet. In practice, this has manifested itself in the blocking of popular social media sites like Facebook, Twitter, and YouTube, which are used daily by millions around the world to share their ideas, their news, and

their beliefs. I just headed up a resolution condemning Turkey for what it did in shutting all of these platforms down. And so I don't think that there is an argument about that. I think there is some confusion about the understanding of what this represents.

Independent of whether NTIA successfully transitions the domain name system, the DNS, to the multi-stakeholder community, these acts of censorship will continue unless we unite across the globe in support of a free and open Internet. I think that that is what we have to keep front and center here.

So, Mr. Chairman, I think we have significant work ahead of us. I hope this is the first of many conversations we have to not only examine ICANN's role, but more broadly, how to expand the availability of broadband, enhance consumer privacy, ensure the security of communication networks, and protect intellectual property around the world.

My thanks again to the witnesses. And I want to especially recognize Assistant Secretary Strickling for his leadership and vision to ensure that throughout this transition, the Internet remains open to ALL, in capital letters, to ALL, and that it remain a success story for generations to come.

I would like to—I don't know where the time clock is on this.

Mr. WALDEN. Fourteen seconds.

Ms. ESHOO. Fourteen seconds? Do you want to take 14 seconds, Doris, or—OK. Well, then I will yield back. Thank you.

Mr. WALDEN. Gentlelady yields back the balance of her time. The Chair recognizes the big Chair, Mr. Upton, from Michigan. Please go ahead.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Thank you, my friend.

Today, our important work continues to protect the future of the Internet, a subject of great consequence for sure. This committee has been at the forefront of the effort to preserve the Internet openness and freedom. A non-regulatory, multi-stakeholder government model is essential to the continued success of the Internet, and has been critical to the development of this engine of economic, political and social engagement.

We have affirmed our commitment to this principle more than once. First, with the passage of Congress Resolution 2012, and then, of course, with H.R. 1580, which all of us have talked about, which passed by a unanimous vote.

We must do all that we can to keep the Internet free from the control of those who wish to use it for less than noble means. Keeping it out of the hands of nations like China, Iran, and Russia, who have demonstrated hostility towards the free market, the flowing, unfettered exchange of information is important. NTIA's recent announcement of its intent to transition Internet oversight functions to a new structure should be met with a critical eye, especially when you take into account the Administration's track record of saying one thing and doing yet another.

This issue has united one-time opponents Bill Clinton and Newt Gingrich, who are fighting to protect the Internet as we know it.

Something as important as the future of the Internet demands a thoughtful and deliberative process, and I join my colleagues in supporting the DOTCOM Act, and I would commend Mr. Shimkus and Mrs. Blackburn for coauthoring that measure, as well as Mr. Latta, Ellmers and Barton for their early support, and we plan to announce a markup schedule very soon. This Act will stop—will step on the brakes until the GAO is able to analyze all the aspects and implications of the proposed shift in Internet oversight, including potential national security concerns.

While I do not oppose a vigorous discussion of whether and how we could transition the domain name system out of the Commerce Department's purview, we are a long way from seeing a proposal that I could support. As the world moves forward with this discussion, we will conduct vigorous oversight of the process, and hold NTIA to its word that it will not allow the Internet to fall victim to international government power grabs. Our work continues.

I yield one minute each to Mr. Shimkus and Mrs. Blackburn.

[The prepared statement of Hon. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

Today our important work continues to protect the future of the Internet—a subject of great consequence. This committee has been at the forefront of the effort to preserve Internet openness and freedom. A nonregulatory, multi-stakeholder governance model is essential to the continued success of the Internet and has been critical to the development of this engine of economic, political, and social engagement. We have affirmed our commitment to this principle more than once—first with the passage of a sense of the Congress resolution in 2012, and then with the unanimous House approval of H.R. 1580 in 2013.

We must do all we can to keep the Internet free from the control of those who wish to use it for less than noble means, keeping it out of the hands of nations like China, Iran, or Russia who have demonstrated hostility toward the free flowing, unfettered exchange of information.

NTIA's recent announcement of its intent to transition Internet oversight functions away from the U.S. government should be met with a critical eye, especially when you take into account the administration's track record of saying one thing and doing another.

When deadlines have no meaning, red lines disappear, and projects like the Keystone XL pipeline are sidelined despite obvious economic benefit, skepticism that "this time we mean it" is natural. Freedom of the Internet and the global implications of this transition are far too important to let slip away because of another broken promise. There is no going back one we relinquish our oversight. This issue has united one-time opponents Bill Clinton and Newt Gingrich who are fighting to protect the Internet as we know it.

Something as important as the future of the Internet demands a thoughtful and deliberate process, and I join my colleagues in supporting the DOTCOM Act. I commend Representative John Shimkus and full committee Vice Chairman Marsha Blackburn for co-authoring the measure, as well as Vice Chairman Latta, and Representatives Renee Ellmers and Joe Barton for their early support, and we plan to announce a markup schedule soon.

The DOTCOM Act will step on the brakes until the Government Accountability Office is able to analyze all aspects and implications of the relinquishing of U.S. oversight, including potential national security concerns.

While I do not oppose a vigorous discussion of whether and how we could transition the Domain Name System out of the Commerce Department's purview, we are a long way from seeing a proposal that I could support. As the world moves forward with this discussion, we will conduct vigorous oversight of the process and hold NTIA to their word that it will not allow the Internet to fall victim to international government power grabs. Our work continues.

Mr. SHIMKUS. Thank you, Mr. Chairman. I would like to start with a clip of President Clinton and the founder of Wikipedia, Jimmy Wales, as part of my opening statement.

[Video shown.]

Mr. SHIMKUS. Mr. Chairman, I echo their concerns. As you know, I drew up the DOTCOM Act with Marsha last week. The main critics of that Bill seem to be saying that Congress being informed about the proposals presented to NTIA, and the process of how this transition would occur would somehow embolden our enemies. I find it hard to believe that the most transparent Administration in the history of the universe would not want the Congress to be informed on how this process would work.

I look forward to the testimony of the witnesses, and hopefully we will get some clarity on how an open and transparent NTIA process—transfer process is beneficial to a free and open Internet.

And I yield to Marsha.

Mrs. BLACKBURN. Thank you. I thank the gentleman for his work on the DOTCOM Act.

Mr. Chairman, I have to tell you, I thought when you were quoting Margaret Thatcher, and I am sure Ms. Eshoo and Matsui join me in this, I thought you were going to say, since we are talking communications, if you want something said, ask a man; if you want something done, ask a woman, which was also one of Thatcher's very famous quotes.

We all know that the Internet has had a revolutionary impact. Part of this is due to its bottom-up government, and its open-ecosystem. And like many of my colleagues, I support a free market, multi-stakeholder model of Internet governance. In a perfect world, ICANN and IANA would be fully privatized and free from any government influence or control, however, realistically, we know that China, Russia, maybe other bad actors, have a different viewpoint. Their end goal is to have ICANN and IANA functions migrate to the U.N.'s ITU. That solution is one that I will never stand for or allow to occur. If the Commerce Department is going to relinquish control of its contractual authority over the IANA contract, and move control of DNS into a global multi-stakeholder community, the timing and architecture must be perfect. If this Administration wants to prove to Congress and the international community that they are serious about this process, they must immediately begin to end Net neutrality proceedings.

Telling Congress and the international community that they are serious about relinquishing control, while working to promote Net neutrality, is disingenuous.

I thank the Chairman. I yield back my time.

Mr. WALDEN. Thank the gentlelady's comments. Now turn to the ranking member of the full committee, Mr. Waxman, for 5 minutes.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Chairman Walden, for holding this timely hearing on the National Telecommunications and Information Administration's recent announcement to begin the process of

transitioning key Internet domain name functions to the global multi-stakeholder community.

I want to welcome back Assistant Secretary Larry Strickling, and Ambassador David Gross. Your past testimony has greatly enhanced the committee's deliberations on issues related to Internet governance, and I want to thank Mr. Chehade for traveling half way around the world to take the time to testify before our subcommittee.

This distinguished panel of witnesses highlights just how important this upcoming transition will be. This is a critical opportunity to reaffirm the United States' commitment to a multi-stakeholder approach to Internet governance and policy-making. Since the late 1990s, the U.S. Government, under both Democratic and Republican Administrations, has consistently embraced the vision that a global Internet should be governed through a decentralized, bottom-up approach, with no single government or intergovernmental entity exercising control over its decision-making process.

That commitment remains true today. The United States continues to stand up for the multi-stakeholder model time and again in international forums, while pushing back against countries that have sought an expansion of governmental control. Congress has also spoken unanimously in support of this multi-stakeholder vision, first to a bipartisan, bicameral resolution last Congress, then through legislation that passed the House last year that would make it the official policy of the United States to "preserve and advance the successful multi-stakeholder model that governs the Internet."

I agree it is now time for the U.S. Government to take additional steps to fulfill this vision. For over 15 years, NTIA has played a limited procedural role in the administration of the domain name system. This responsibility, while ministerial, is associated with the perception that the United States serves as a steward of the Internet. I share NTIA's belief that this temporary stewardship should come to an end in the near future. The multi-stakeholder system has matured and gained legitimacy over the past decade. I am confident that the non-governmental Internet community will act as capable and responsible stewards of the Internet and fill the role left by NTIA, but the upcoming transition in no way suggests that the United States plans to relinquish control of the Internet to authoritarian states. President Clinton. To the contrary, our efforts should be seen as a vote of confidence that the successful bottom-up decentralized model will continue to preserve and protect the Internet as a free and open platform for commerce, innovation, and self-expression. NTIA has outlined key principles to guide the transition process, including a commitment not to accept any proposal that replaces the NTIA role with a government-led or intergovernmental organization like the ITU.

Going forward, I hope the NTIA and ICANN will institute an open, transparent process for the consideration of transition proposals submitted by stakeholders. A period of notice and comment should be provided so that the decisionmakers have a comprehensive record to consider the merits of the proposals. This committee should monitor NTIA's and ICANN's effort closely, but we must resist the calls for reactionary legislation that would needlessly tie

the hands of the Agency. Not only are these efforts inconsistent with Congress' longstanding and bipartisan support for the multi-stakeholder model, they also send a dangerous signal to the rest of the world that we lack faith in the existing multi-stakeholder system. That is why I hope it will work closely with our witnesses today throughout this transition process.

And I thank you, Mr. Chairman. Yield back the balance of my time.

Mr. WALDEN. Gentleman yields back the balance of his time. I think that covers all the opening statements we are allowed to do, so with this, we will go to our distinguished panel.

And we will start with Mr. Larry Strickling, the Assistant Secretary for Communications and Information Administration, National Telecommunications and Information Administration. That has to be one of the longer titles in the communication world, Larry. Thank you for being with us. We look forward to your testimony.

STATEMENTS OF LAWRENCE STRICKLING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, AND ADMINISTRATOR, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION; FADI CHEHADE, PRESIDENT AND CEO, INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS; AND AMBASSADOR DAVID GROSS, PARTNER, WILEY REIN, LLP

STATEMENT OF LAWRENCE STRICKLING

Mr. STRICKLING. Thank you, Chairman Walden, and Ranking Member Eshoo, and members of the subcommittee.

I am pleased to be here to testify about NTIA's role working with ICANN and the domain name system, as well as our March 14 release announcing our intent to transition key Internet domain name functions to the global multi-stakeholder community.

I am pleased to be joined today by Fadi Chehade, the CEO of ICANN, and Ambassador David Gross, who was involved in these issues when he served as the State Department coordinator for international communications and information policy during the Bush Administration.

For 16 years, it has been the clear and unquestioned policy of the United States Government that the private sector should lead the management of the domain name system. In its 1998 policy statement, the Department of Commerce stated that the U.S. Government is committed to a transition that will allow the private sector to take leadership for DNS management.

Since then, the Department, through NTIA, has entered into a series of agreements with ICANN under which it performs what are known as the IANA functions. These include assigning Internet protocol numbers to regional registries, who then assign them to Internet service providers. Another function is the maintenance and updating of the root zone file of top level domain names, the so-called address book for the Internet that is necessary for the routing of Internet communications. ICANN performs these tasks at no cost to the U.S. Government.

Our role in this process is simply to verify changes and updates proposed by ICANN to the root zone file before passing these changes on to Verisign, which actually maintains and updates the root zone file.

ICANN, along with other Internet technical organizations such as the Internet Engineering Task Force, developed their policies through bottom-up, multi-stakeholder processes. These efforts are open to all stakeholders, whether they are businesses, civil society organizations, technical experts or governments who work in concert to reach consensus agreements on Internet policies. And I want to emphasize because I heard a number of references to U.S. control of policy-making at ICANN, and that is not the case. We do not exercise any control or oversight over policy-making. That is performed today by the global multi-stakeholder community, working at ICANN or at the IETF.

Now, the U.S. Government has been a vigorous supporter of the multi-stakeholder model of Internet governance from the start, however, we are not the only ones. As Congresswoman Eshoo pointed out, in 2012, both Houses of Congress unanimously passed resolutions stating that it was the consistent and unequivocal policy of the United States to promote a global Internet free from government control, and preserve and advance the successful multi-stakeholder model that governs the Internet today.

In furtherance of this clear congressional statement, on March 14, NTIA announced the final phase of the privatization of the domain name system by asking ICANN to convene global stakeholders to develop a proposal to transition the current role played by NTIA and the coordination of the domain name system. In making this announcement, we stated that the transition proposal must have broad community support, and must address 4 principles. It must support and enhance the multi-stakeholder model, it must maintain the security, stability and resiliency of the Internet domain name system, it must meet the needs and expectations of the global customers and partners of the IANA services, and it must maintain the openness of the Internet. And we also made crystal clear that we will not accept a proposal that replaces the NTIA role with a government-led or intergovernmental solution.

We asked ICANN, as the current IANA functions contractor, to convene the multi-stakeholder process to develop the transition plan. We informed ICANN that we expected it to work collaboratively with the other Internet technical organizations, including the Internet Society, the IETF, the Internet Architecture Board, and the Regional Internet Registries. Last week, at its meeting in Singapore, ICANN, working with these organizations, convened two public sessions to obtain stakeholder input on how to design the process to develop the transition plan, collecting several hours of public comment which will help craft a proposal for the process going forward.

Stakeholders have responded to our announcement with strong statements of support. Among the business community, Microsoft hailed the announcement as a significant and welcome development. Cisco stated that it has long supported an open and innovative multi-stakeholder Internet governance process in this next step in its evolution. From civil society, just yesterday, a group of

Internet freedom and human rights organizations, including Freedom House, Public Knowledge, Human Rights Watch, and the New America Foundation, welcomed NTIA's announcement stating that it would facilitate the exercise of human rights online.

Our announcement in the process that is now underway to develop a transition plan benefits American interests. We depend on a growing and innovative Internet, and despite the symbolic role the U.S. Government has played over the years, the fact is that no country controls the Internet. Its continued growth and innovation depends on building trust among all users worldwide, and strengthening the engagement of all stakeholders. Taking this measure—taking this action is the best measure to prevent authoritarian regimes from expanding their restrictive policies beyond their own borders.

I am confident that the global Internet community will work diligently to develop a plan that has the support of the community, and meets the four conditions. I want to assure all Members that before any transition takes place, the businesses civil society organizations and technical experts of the Internet must present a plan that ensures the uninterrupted, stable functioning of the Internet, and preserves its openness. Until such time, there will be no change in our current role.

I also want to assure all members that even as the United States looks to transition out of this clerical role we play, we will remain strong and vigorous advocates for Internet freedom, growth and innovation. We will continue to play a major role on ICANN's governmental advisory committee, where governments develop consensus advice to ICANN on public policy matters, and we will continue in our role to enhance the accountability and transparency of ICANN through our participation in the accountability and transparency review teams established by the Affirmation of Commitments we signed with ICANN in 2009.

I pledge to keep this subcommittee informed of the progress of the community's efforts to develop the transition plan, and to that end, I look forward to answering your questions this morning. Thank you.

[The prepared statement of Mr. Strickling follows:]

Testimony of

The Honorable Lawrence E. Strickling
Assistant Secretary for Communications and Information
National Telecommunications and Information Administration
United States Department of Commerce

Before the
Subcommittee on Communications and Technology
Committee on Energy and Commerce
United States House of Representatives

Hearing entitled
"Ensuring the Security, Stability, Resilience, and Freedom of the Global Internet"

April 2, 2014

Chairman Walden, Ranking Member Eshoo, and members of the Subcommittee, thank you for this opportunity to testify on behalf of the National Telecommunications and Information Administration (NTIA) regarding NTIA's role and relationship with the Internet Corporation for Assigned Names and Numbers (ICANN), in particular NTIA's recent announcement of our intent to transition key Internet domain name functions to the global multistakeholder community.

NTIA's Relationship with ICANN and the DNS

The Domain Name System (DNS) is a critical component of the Internet infrastructure. It allows users to identify websites, mail servers and other Internet destinations using easy-to-understand names (e.g.,www.ntia.doc.gov) rather than the numeric network addresses (e.g., 170.110.225.163) necessary to retrieve information on the Internet. A July 1, 1997, Executive Memorandum directed the Secretary of Commerce to privatize the Internet DNS in a manner that increases competition and facilitates international participation in its management. In June 1998,

NTIA issued a statement of policy on the privatization of the Internet DNS, known as the DNS White Paper.[1] The White Paper concluded that the core functions relevant to the DNS should be primarily performed through private sector management. To this end, NTIA stated that it was prepared to enter into an agreement with a new not-for-profit corporation formed by private sector Internet stakeholders to coordinate and manage policy for the Internet DNS. Private sector interests formed ICANN for this purpose, and, in the fall of 1998, NTIA entered into a Memorandum of Understanding (MOU) with ICANN to transition technical DNS coordination and management functions to the private sector.

The MOU did not simply turn over management of the DNS to ICANN. Rather, the purpose of this agreement was to design, develop, and test mechanisms, methods, and procedures to ensure that the private sector had the capability and resources to assume important responsibilities related to the technical coordination and management of the DNS. The MOU evolved through several iterations and revisions as ICANN tested these principles, learned valuable lessons, and matured as an organization.

The MOU culminated in 2009 with the *Affirmation of Commitments (Affirmation)*. The *Affirmation* signified a critical step in the successful transition to a multistakeholder, private-sector led model for DNS technical coordination, while also establishing an accountability framework of ongoing multistakeholder reviews of ICANN's performance. To date, two iterations of the Accountability and Transparency Review Team (ATRT) have occurred. These teams, on which NTIA has participated actively with a broad array of international stakeholders from industry, civil society, the Internet technical community and other governments, have served as a key accountability tool for ICANN – evaluating progress and recommending

[1] "Statement of Policy, Management of Internet Names and Addresses," 63 Fed. Reg. 31741(1998).

improvements. We have seen marked improvements in ICANN's performance with the implementation of the 27 recommendations made by ATRT1 and have full confidence this maturation will continue with the ongoing implementation of the 12 recommendations of ATRT2.

Throughout the various iterations of NTIA's relationship with ICANN, NTIA has played no role in the internal governance or day-to-day operations of ICANN. NTIA has never had the contractual authority to exercise traditional regulatory oversight over ICANN.

The Internet Assigned Numbers Authority (IANA) Functions

In the DNS White Paper, NTIA announced its intent to assure the continued secure and stable performance of certain DNS functions, initially through contracts, until the transition was complete. Specifically, this included the performance of the Internet Assigned Numbers Authority (IANA) functions. The IANA functions are a set of interdependent technical functions that enable the continued efficient operation of the Internet. The IANA functions include: (1) the coordination of the assignment of technical Internet protocol parameters; (2) the processing of change requests to the authoritative root zone file of the DNS and root key signing key (KSK) management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the .ARPA and .INT top-level domains (TLDs).

The IANA functions were initially performed under a series of contracts between the Department of Defense's Advanced Research Projects Agency (DARPA) and the University of Southern California (USC), as part of a research project known as the Terranode Network Technology (TNT). As the TNT project neared completion and the DARPA/USC contract neared expiration, USC entered into a transition agreement with ICANN under which ICANN

secured directly from USC all necessary resources, including key personnel, intellectual property, and computer facility access critical to the continued performance of the IANA functions. In 2000, NTIA then entered into a sole-source, no-cost-to-the-government contract with ICANN for the performance of these functions.

NTIA and ICANN have subsequently entered into contracts for the performance of the IANA functions in 2001, 2003, and 2006. On July 2, 2012, NTIA awarded ICANN, via a full and open competitive procurement process, the current IANA functions contract. The base period of performance for this contract is October 1, 2012 to September 30, 2015, and includes two separate, two-year option periods. If both option periods are exercised the contract would expire on September 30, 2019. All five contracts have been at no cost to the U.S. Government.

As the IANA functions operator, ICANN maintains, updates and makes publicly available registries related to the three IANA functions. First, ICANN is the central repository for protocol name and number registries used in many Internet protocols. It reviews and assigns unique values based on established policies and guidelines as developed by the Internet Engineering Task Force (IETF). Second, it coordinates allocations of IP (Internet Protocol) and AS (Autonomous System) numbers to the Regional Internet Registries (RIR) who then distribute IP and AS numbers to Internet Service Providers and others within their geographic regions. Third, ICANN processes root zone change requests for Top Level Domains (TLDs) and makes publicly available a Root Zone WHOIS database with current and verified contact information for all TLD registry operators. In all three cases ICANN as the IANA functions operator applies the policies developed by the interested parties when completing requests related to the various IANA functions customers.

NTIA's role in the IANA functions includes the clerical role of administering changes to the authoritative root zone file and, more generally, serving as the historic steward of the DNS via the administration of the IANA functions contract. The NTIA role does not involve the exercise of discretion or judgment with respect to such change requests. From the inception of ICANN, the U.S. Government and Internet stakeholders envisioned that the U. S. Government's role in the IANA functions would be temporary. The DNS White Paper stated that "agreement must be reached between the U.S. Government and the new corporation (ICANN) relating to the transfer of the functions currently performed by IANA."[2]

Next Steps in the Continued Transition of the NTIA Role

On March 14, 2014, NTIA announced its intent to transition key Internet domain name functions to the global multistakeholder community. This marks a milestone toward the final phase of the privatization of the DNS first outlined by the U. S. Government in 1998. To accomplish this, we have called upon ICANN to convene a multistakeholder process to develop the transition plan. While looking to stakeholders and those most directly served by the IANA functions to work through the technical details, NTIA deliberately established a clear framework to guide the discussion. Specifically, we communicated to ICANN that the transition proposal must have broad community support and address four principles.

First, the transition proposal must support and enhance the multistakeholder model. Specifically, the process used to develop the proposal should be open, transparent, bottom-up, and garner broad, international stakeholder consensus support. In addition, the proposal should include measures to ensure that changes made to any of the three IANA administered databases

[2] *Id.*

are consistent with the publicly documented IANA functions customer and partner accepted procedures which are developed through the multistakeholder model.

Second, the transition proposal must maintain the security, stability, and resiliency of the Internet DNS. For example, the decentralized distributed authority structure of the DNS needs to be preserved so as to avoid single points of failure, manipulation or capture. In addition, the integrity, transparency, and accountability of IP numbers, domain names, and Internet protocol assignments must be preserved. The IANA services also need to be resistant to attacks and data corruption, be able to fully recover from degradation, if it occurs, and be performed in a stable legal environment.

Third, the transition proposal must meet the needs and expectations of the global customers and partners of the IANA services. For example, mechanisms for the adherence to and development of customer service levels, including timeliness and reliability, should be clear, as should processes for transparency, accountability, and auditability. Consistent with the current system, the separation of policy development and operational activities should continue.

Fourth, the transition proposal must maintain the openness of the Internet. The neutral and judgment free administration of the technical DNS and IANA functions has created an environment in which the technical architecture has not been used to interfere with the exercise of free expression or the free flow of information. Any transition of the NTIA role must maintain this neutral and judgment free administration, thereby maintaining the global interoperability of the Internet.

In addition, NTIA explicitly stated that we would not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution. This condition is consistent with the clear policy expressed in bipartisan resolutions unanimously adopted of the

U.S. Senate and House of Representatives (S.Con.Res.50 and H.Con.Res.127) during the 112th Congress, which affirmed the U. S. support for the multistakeholder model of Internet governance.

While the current IANA functions contract expires September 30, 2015, there are two separate two-year option periods that would extend the contract for up to four years. Accordingly, NTIA believes there is sufficient time for stakeholders to work through the ICANN-convened process to develop an acceptable transition proposal. NTIA has made clear that the transition proposal must have broad multistakeholder support and reflect the four key principles we outlined in our announcement. Before any transition takes place, the businesses, civil society and technical experts of the Internet must present a plan that ensures the uninterrupted, stable functioning of the Internet and its present openness. NTIA has repeatedly said that we will not accept a proposal that replaces the NTIA role with a government-led or inter-governmental organization solution.

Why Take this Step Now

The Internet is vital to economic growth and innovation around the world. One key to maximizing this growth and innovation is to ensure that the broad Internet community – companies, technical groups, civil society and governments – continue to work together as equal partners in crafting the rules of the road for the Internet through the multistakeholder model. Some authoritarian regimes however do not accept this model and seek to move Internet governance issues, including the DNS, into the United Nations system in order to exert influence and control over the Internet. This played out during the 2012 World Conference on International Telecommunications in Dubai where the world split on fundamental issues of

Internet governance. This issue will likely resurface at the October 2014 International Telecommunication Union Plenipotentiary Conference, where we expect some countries to once again attempt to insert themselves in the middle of decisions impacting the Internet.

Some have argued that what NTIA is doing is tantamount to "giving away the Internet". That could not be further from the truth. There is no one party – government or industry, including the U. S. Government – that controls the Internet. The Internet is a decentralized network of networks. What we have in fact done, is demonstrate leadership and strategic vision by laying out a framework with clear conditions to finalize a process that has been ongoing for 16 years. The ICANN convened process that is currently underway will help prevent authoritarian countries from exerting too much influence over the Internet by promoting the multistakeholder model that has made the Internet the success it is today. This is why a broad group of stakeholders have expressed their support for NTIA's announcement. These include Internet technical community leaders, U.S. companies such as AT&T, Verizon, Microsoft, Google, Cisco, and Comcast, and public interest groups like Public Knowledge and the Center for Democracy and Technology, and associations like the Chamber of Commerce, the Computer and Communications Industry Association, and the Software and Information Industry Association. And bipartisan leaders in Congress have provided thoughtful comments that demonstrate clear support for the multistakeholder model of Internet governance.

Conclusion

With the March 14 announcement, NTIA has taken the next step in the 16 –year process to privatize the coordination and management of the DNS. We believe the timing is right for this next step as the Internet technical organizations, including ICANN, have matured, with ICANN

having taken steps in recent years to improve its accountability, transparency, and technical competence. At the same time, international support continues to grow for the multistakeholder model of Internet governance, in some quarters, as evidenced by the continued success of the Internet Governance Forum and the resilient stewardship of the various Internet institutions.

ICANN last week began the process of convening stakeholders for the first of many public discussions on this topic. During this period, NTIA's role will remain unchanged. We have said we will not accept a transition plan that would replace the NTIA role with one led by governments or an inter-governmental organization and we have established a framework of four principles that the process must address. This must be a careful and thoughtful process. If a plan that meets these criteria cannot be implemented by Sept. 30, 2015, we can extend the contract for up to four years.

NTIA fully supports the need to ensure the continued growth, innovation and openness of the Internet to support economic development. This latest step, an important demonstration of the U.S. Government's commitment and confidence in the multistakeholder model, will help support these goals.

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Mr. WALDEN. Mr. Strickling, thank you very much for your testimony and for always working closely with this subcommittee. We do appreciate that.

Now, next up is the president and CEO of the Internet Corporation for Assigned Names and Numbers, Mr. Fadi Chehade.

Mr. Chehade, thank you very much for rearranging your schedule to be here before this subcommittee. I think you can tell there is a lot of interest in what is being proposed.

So the microphone is yours, sir.

STATEMENT OF FADI CHEHADE

Mr. CHEHADE. Thank you, Mr. Chairman, Ranking Member, Members of the subcommittee. It is truly a pleasure for me to be standing before you today to testify.

I was 18 when I came to this country alone, escaping an oppressive regime, and I came with one thing in my hand, because I had no money and I didn't speak English. I came with the belief in this open system, in this system that includes everyone, in a system that is truly bottom-up. My first boss at AT&T, I, of course, was addressing him as Mr. Green, and he kept saying, no, just call me Bob.

I wrote a long letter to my parents about this. This only happens here, and it is these same values of openness, of inclusivity, of belief in the bottom-up, that it is from there that the best ideas come. It is that belief that makes me stand in front of you today. I am here because of that.

And it is these same values that—multi-stakeholder of openness, inclusivity, bottom-up participation. It is a phenomenal invention of America. It is even as phenomenal as the Internet itself, that we bring everyone together to the table to decide how we govern things together. It is remarkable and it has also worked very well. That is what we should remember. We have now a $4 trillion digital economy in the G–20 countries. This is all because of people, some of them in this room that I want to recognize, my own Chairman, Dr. Crocker, who, as kids in Van Nuys High School, decided to give it to the world, to build something that was distributed, powerful and enabled everyone to participate equally. We governed the Internet in the same way it works, and that should not change.

That inclusivity and that openness guarantees that no one captures the system, in the same way the Internet is architected, and I am an engineer, I can tell you that the architecture works this way, and the governance should work this way. No one should capture it. And I agree with President Clinton that people will try to capture it, but they haven't. For 15 years, ICANN has operated without government—one government, or any government, capturing the decision-making. Private sector users, civil society, engineers, academia, all sit together and participate in the process of governing the Internet. It has worked remarkably well. Let us keep it this way.

And I want today to thank you personally because I was at the WCIT when this body's resolution came to us as a strong lightning rod, showing America's commitment to the multi-stakeholder model. We trusted it then, we should continue trusting it. It works.

And we thank you for that. We thank you for that support. The world thanks you for that support and I do too.

NTIA's announcement on March 14 is truly the culmination of 15 years of progressive efforts by this Administration, by prior Administrations, to hand the stewardship of the Internet to the people who built it. We are not going to squander this responsibility. This is an important one. We, along with so many companies, welcomed that announcement. I think Assistant Secretary Strickling mentioned the many companies that have come out publicly, the many organizations from all walks of life, businesses, civil society supporting that announcement. They have looked at it and they have supported it, and we support it as well.

This announcement shows the world America's values again. Who else would do that? What nation would have the vision, the magnanimity, the consistency to do what we are doing here. We are handing the world back what we promised them we would. Bottom-up, multi-stakeholder management of this great human resource, this great economic resource.

I stand in front of you today with a firm commitment that we will run and open transparent process. We will keep it calm and wise. We have no rush. There is absolutely no rush. It is more important to get it right than to rush it. That is my commitment to you.

We started the process in Singapore, thousands of people there, and at the heart of this proposal is the commitment for security, stability of the Internet. That is our number one job. We will not relent on that. We haven't for 15 years, we are not about to start that. That is our commitment.

Thank you.

[The prepared statement of Mr. Chehade follows:]

Testimony: Fadi Chehadé, ICANN

Mr. Chairman, Ranking Member, and members of the Subcommittee, I am Fadi Chehadé, the President and CEO of ICANN, the Internet Corporation for Assigned Names and Numbers. I am very pleased to be testifying before you today.

Forty-five years ago, America demonstrated its technological brilliance by inventing the Internet. We showed our diplomatic genius 29 years later, by establishing a multistakeholder community model to govern a part of the Internet's basic functioning, free from the political pressures inherent in government-run institutions. This was a bold and unprecedented experiment. Governance by those who make the Internet work for the benefit of all. Over the past 16 years the multistakeholder community has demonstrated an extraordinary capacity to govern itself, and according to the framework laid out across three U.S. Presidential administrations, ICANN has matured into a responsible, representative, respected governing body. America's great experiment has succeeded.

In recent years some have questioned the principle of the multistakeholder community. Some critics demand a greater role for governments, perhaps by

transferring functions performed by ICANN to an inter-governmental organization, such as the ITU. They point out that the Internet is not truly free from government control if one government retains unique control for itself – referring to the United States, via issuance of the contract with ICANN to perform the Internet Assigned Numbers Authority (IANA) functions. The U.S., its allies, and the vast majority of stakeholders acknowledge this one exception to the "no government control" rule, but make clear that overseeing the IANA contract is ministerial, minor and has had no real impact on day-to-day operations of ICANN or the Internet. And they remind us that for nearly 16 years the U.S. has consistently voiced its support for the multistakeholder model rather than a government-run model. Additionally, the U.S. has consistently reduced its unilateral involvement in ICANN matters and oversight of ICANN operations.

On March 14th, the NTIA announced its intent to transition this final element – stewardship of Internet domain name functions via the IANA contract – to the global multistakeholder community. The U.S. called upon ICANN to convene a process to develop a proposal for that transition that will guarantee no future government control. ICANN, the Internet technical organizations and many American organizations – such as AT&T, Cisco, Google, Microsoft, Neustar, the

U.S. Chamber and Verizon – almost immediately voiced their support for NTIA's announcement.

As outlined in the NTIA's announcement, the NTIA's stewardship role will not be replaced with a government-led or an intergovernmental solution. This is consistent with the unequivocal policy expressed in the 2012 bipartisan resolutions of the U.S. Senate and House of Representatives (S.Con.Res.50 and H.Con.Res.127) affirming U.S. support for the multistakeholder model of Internet governance.

In brief, the proposal generated through broad multistakeholder dialogue will meet the following four fundamental criteria:

- Supports and enhances the multistakeholder model
- Maintains the security, stability and resiliency of the DNS
- Meets the expectations of affected parties
- Maintains the openness of the Internet

ICANN is committed to developing a robust bottom-up process to develop the proposal for transition. At ICANN's forty ninth public meeting, which took place last week in Singapore, ICANN launched discussions with the

multistakeholder community, in-person and remotely, for public dialogue on how the mechanisms for the transition should occur. Inputs are being compiled and on April 7 will be put out for public comment and community feedback. The feedback from the community will inform the process going forward. ICANN is facilitating the process, and in this regard will work with its partners to engage the global multistakeholder community in relevant forums and meetings around the world, in addition to ICANN's public meetings.

In its role as administrator of the IANA functions since 1998, ICANN has been responsible for coordinating unique Internet identifiers – names, IP numbers, and protocol parameters – and has done so while maintaining the continued security, stability, and resiliency of the Internet. It is important to note that ICANN doesn't control content on the Internet; instead it coordinates the Internet's unique identifier functions. These functions are not apparent to most Internet users, but they play a critical role in maintaining a single, global, unified and interoperable Internet. ICANN has performed the IANA functions for nearly 16 years, in a no-fee agreement with the U.S. government.

Since its inception in 1998, ICANN has evolved its accountability and transparency mechanisms for the benefit of the global community. ICANN's

Bylaws, and the Affirmation of Commitments, establish clear mechanisms for ICANN's evolution, review of its processes, and improvements, through community input and multistakeholder review committees. With the eventual transition, ICANN recognizes the urgency of enhancing and extending its accountability mechanisms. At the meeting in Singapore, the ICANN multistakeholder community began a dialogue on this subject, taking the Affirmation of Commitments as a baseline.

In relation to the IANA functions, ICANN's Performance Standards for timeliness and accuracy of processing stakeholder's requests are published on a monthly basis. In addition, ICANN is subject to an annual audit of the security of the IANA functions systems. Over the years, ICANN has performed the IANA functions with increasing autonomy, demonstrating in the process both operational excellence and maturity in organization – as illustrated by the findings of the IANA Functions Satisfaction Survey of December 2013. In addition, after an independent assessment, the IANA Functions Department received recognition from an international organization for its business excellence.

Testimony: Fadi Chehadé, ICANN

Now, let me be clear: this announcement will not affect the status quo. The continued strength and stability of the IANA functions are critical to the operation of the Internet. The IANA functions will continue to be administered by ICANN in coordination and cooperation with the affected parties (country code and generic top-level domain operators, root server system operators, regional Internet registries, the Internet Architecture Board and the Internet Engineering Task Force). These bodies continue to hold policy authority for names, IP numbers and protocol parameters. They also maintain oversight responsibility to ensure that ICANN administers these functions according to those policies. Finally, this announcement does not affect Internet users and their use of the Internet. While stakeholders work through the ICANN-convened process to develop a transition proposal, NTIA's current role will remain unchanged.

Since ICANN's beginning, the U.S. government has envisaged transitioning its modest stewardship role to the private-sector led, multistakeholder community. Today, ICANN is uniquely positioned, as both the current IANA functions contractor and the global coordinator for the DNS, to convene the multistakeholder process to develop the transition plan. NTIA's announcement in fact represents the final triumph of the American ideal for

self-governance by the Internet community, free from government control, even our own. Few nations in history have had such vision, magnanimity and consistency. ICANN understands and accepts the responsibility of the task at hand, and I am confident in ICANN's ability to lead the community in this effort.

Both ICANN and the U.S. government have championed the multistakeholder model, in which standards and policies are developed by large and small businesses, the technical community, not-for-profit organizations, civil society, intellectual property experts, governments, academia, and Internet users from around the globe. American corporations – such as AT&T, Cisco, Google, Microsoft, Neustar and Verizon – and the Internet technical community (the IAB, IETF, the Internet Society, the RIRs and the World Wide Web Consortium) are also supporters of the multistakeholder model. These entities have welcomed the U.S. government's announcement as the way to bring more countries to support the multistakeholder approach to Internet governance, moving them away from a model in which only governments hold sway. NTIA's announcement preserves and prolongs the free and open Internet that has brought so much economic growth and social and cultural development.

Testimony: Fadi Chehadé, ICANN

Thank you for inviting me to testify. I would be happy to answer any questions you may have.

Testimony Summary: Fadi Chehadé, ICANN

- On March 14th, the NTIA announced its intent to transition this final element – stewardship of Internet domain name functions via the IANA contract – to the global multistakeholder community.
- As outlined in the NTIA's announcement, the NTIA's stewardship role will not be replaced with a government-led or an intergovernmental solution.
- Over the past 16 years the multistakeholder community has demonstrated an extraordinary capacity to govern itself, and according to the framework laid out across three U.S. Presidential administrations, ICANN has matured into a responsible, representative, respected governing body.
- ICANN has performed the IANA functions for nearly 16 years, in a no-fee agreement with the U.S. government.
- Overseeing the IANA contract is ministerial, minor and has had no real impact on day-to-day operations of ICANN or the Internet.
- ICANN is facilitating the process, and in this regard will work with its partners to engage the global multistakeholder community in relevant forums and meetings around the world, in addition to ICANN's public meetings.
- While stakeholders work through the ICANN-convened process to develop a transition proposal, NTIA's current role will remain unchanged.

Mr. WALDEN. Thank you, sir. We appreciate your testimony.

Now for our final witness on this panel, we have Ambassador David Gross, partner at Wiley Rein. Ambassador Gross, good to have you back before our subcommittee. Thanks for your counsel. Please go ahead with your testimony.

STATEMENT OF DAVID GROSS

Mr. GROSS. Well, thank you very much, Mr. Chairman, Ranking Member Eshoo, members of the subcommittee. It is a great pleasure to be back before you again today.

Mr. Chairman, if I may ask, I have a written testimony that I would like to have made a part of the record, if that is——

Mr. WALDEN. Without objection.

Mr. GROSS. Thank you very much, Mr. Chairman.

I am testifying today on behalf of the Internet Governance Coalition, which is a group of global companies and stakeholders that, as all of us are, are important players and stakeholders in the future of the Internet.

Our primary focus, as you will see in our prepared testimony and my statement today, is our firm belief that a thriving Internet depends upon a governance structure that is open, transparent and representative of all stakeholders.

I just returned yesterday from Dubai where I was a member of the U.S. Delegation to the ITU's World Telecommunications and Development Conference, part of the ITU's every-4-year conference. I come with a message that you will find similar to the messages that I have brought before you in the past, which is that the world is watching, the world is watching what NTIA announced back on March 14, the world is watching the U.S. reaction to that announcement, and the world is watching what here Congress does.

It is important that the world understand the bipartisan and unanimous and uniform views of the American people, as expressed by this Congress. As you know, your role at the World Summit of the Information Society back in 2003, and most importantly in 2005, the role you played in the run-up to the WCIT just in 2012 was decisionally significant, the world watches. The world watches carefully, and the world understands when America acts in a united fashion.

We believe very strongly that the process that was begun by NTIA back on March 14 is a good and important process. As has been discussed by all of you, as well as my co-panelists, that process is the beginning of a process, it is not an answer. The answer will come from the Internet community as requested by NTIA. It seems to me, based on my experience, that no one can predict what the specifics of that will be today, but I take great comfort, we take great comfort, in the four principles that were announced by Assistant Secretary Strickling, and importantly, as has been noted repeatedly, that NTIA, on behalf of the U.S. Government, will not accept a proposal that replaces NTIA's role with a government-led or intergovernmental organization solution.

I had a boss when I was in the private sector who used to say and remind all of us of a very important saying, promises made, promises kept. That is what is expected of all of us. That is what we will be working hard to ensure, that the promises made by

NTIA are promises kept by all of us, to ensure that that standard, that test, that high bar that was established in the March 14 statement is one that is met by all, and, as my co-panelists have indicated, if for some reason, to our great surprise, it cannot be met, we should start over. It should not be rushed. It needs to meet that high test. We are all in agreement on that.

The key going forward is to ensure the extraordinary benefits of the Internet not only for the American people, but for people around the world. It is truly one of the great historic achievements of our generation. It is something to be maintained, it is something to be encouraged, and our view is that the process that has been begun is designed to do that.

The time will come in the future to discuss in detail what substantive proposals are brought forward, and their nature and whether or not they are in the public interest or not, but at this stage, we are very comfortable, very, very comfortable, that the process that has begun is an important one, it is a real one, it is one that all of us who are optimistic believe it will result in a better Internet, a better Internet governance situation, and one that would include the fact that promises made by the American people back beginning in 1998 are promises kept by all of us.

Thank you very much.

[The prepared statement of Mr. Gross follows:]

TESTIMONY OF AMB. DAVID A. GROSS
BEFORE THE U.S. HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
APRIL 2, 2014
SUMMARY

The Internet Governance Coalition welcomes the opportunity to participate actively in the process that was announced by NTIA on March 14. We further welcome NTIA's affirmation that any transitional proposal resulting from the process initiated on March 14 must support and address the following four principles:

- Support and enhance the multistakeholder model;
- 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.

The principles articulated by NTIA and those found in the Coalition's recent submission to the "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in Brazil later this month, are essential for ensuring that all global citizens are able to take advantage of the Internet's full transformative capabilities, both now and in the future.

The Coalition looks forward to working with all other stakeholders in the process initiated by NTIA and coordinated by ICANN. There are great challenges associated with ensuring a safe, secure, open, interoperable, and sustainable Internet that will be faced during numerous international meetings in 2014 and 2015. Debates on the best form of Internet governance will certainly be a focus at future meetings, including the 2014 Internet Governance Forum, the United Nation's World Summit on the Information Society review, and the International Telecommunication Union's Plenipotentiary.

TESTIMONY OF AMB. DAVID A. GROSS
BEFORE THE U.S. HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
APRIL 2, 2014

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

My name is David A. Gross. Formerly, I had the great honor of serving in the Department of State as the United States Coordinator for International Communications and Information Policy from 2001 to 2009. During this time, I led the United States delegations to the preparatory meetings and I was the co-head of the United States delegations to both actual phases of the United Nations' World Summit on the Information Society (WSIS) in Geneva (2003) and Tunis (2005), which, among other things, focused on the role of governments regarding Internet governance and resulted in the creation of the Internet Governance Forum (IGF). Today I am appearing on behalf of the Internet Governance Coalition, an industry-led coalition with broad representation from the communications, Internet, and related industries, including Amazon, AT&T, Inc., Cisco Systems, Inc., Comcast NBCUniversal, Google Inc., Juniper Networks Inc., Microsoft Corporation, Telefónica, S.A., The Walt Disney Company, Time Warner Cable Inc., Twenty-First Century Fox Inc., and Verizon Communications Inc.

I am pleased to testify on the important announcement made by the National Telecommunications and Information Administration (NTIA) on March 14 that it intends to initiate a process to transition key Internet domain name functions to the global multistakeholder community.

The primary focus of my testimony is to emphasize our firm belief that a thriving Internet depends on a governance structure that is open, transparent, and representative of all stakeholders. The current multistakeholder model for Internet governance has resulted in

historic economic, social, and political development. This decentralized structure of the Internet has enabled individuals to access information and services, to connect and to communicate, and to share ideas and knowledge globally. A recent McKinsey Global Institute study indicated that the Internet accounts for 21 percent of GDP growth in the last five years in developed countries, and in 30 surveyed developing countries a similar remarkable impact on GDP can be found. By offering new possibilities for entrepreneurial creativity, the Internet has become a powerful engine for unparalleled technological innovation, economic growth and the preservation and promotion of cultural diversity.

We wish to commend the leadership of Assistant Secretary Strickling and the extraordinary group of professionals at NTIA for their stewardship of the multistakeholder model of Internet governance. The Internet has not only been preserved, but also it has been allowed to mature into the global "network of networks" that it is today, in large part because of the stewardship by NTIA, ably supported by the Department of State and the Federal Communications Commission. Similarly, ICANN has matured substantially since its inception in 1998, focusing on implementing accountability and transparency mechanisms and practices, such that it is now possible for NTIA to initiate this process for the further evolution of the Internet and ICANN. That being said, more can always be done to ensure ICANN continues to mature as it tackles new challenges and issues. The community will need to spend the next phase focusing on creating roust mechanisms to ensure the organization continues to evolve. A successful conclusion of the process NTIA is launching will enable the economic and societal benefits of the Internet to continue uninterrupted.

We believe that NTIA's decision to initiate a process leading to the possible transition of the IANA functions contract to a multistakeholder entity is a critical step. United States

oversight of the IANA functions has long been an issue of concern to the global community. By allowing for the careful transition of the IANA to a bottom-up multistakeholder entity, the United States has affirmed its commitment to the multistakeholder model. If the principles NTIA identified for the transition are met – which is a critical condition for this process to work – the United States will also succeed in maintaining the freedom, openness, security, and stability of the network we have all enjoyed since its inception.

The Coalition welcomes the opportunity to participate actively in the process that was announced by NTIA on March 14, and that ICANN and the Internet community will convene to develop constructive proposals that meet NTIA's stated criteria. We further welcome NTIA's affirmation that any transitional proposal resulting from the process initiated on March 14 must support and address the following four principles:

- Support and enhance the multistakeholder model;
- 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.

These principles are consistent with the statement that the Coalition recently made in its submission to the upcoming "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in Sao Paulo at the end of April. A copy of that statement, entitled "Sustaining Principles for Internet Policy and Governance" is attached to this testimony.

To be clear, the principles articulated by NTIA on March 14 and those found in the Coalition's statement submitted March 8 for purposes of the meeting in Sao Paulo are, we

believe, essential for ensuring that all global citizens – regardless of their location – are able to take advantage of the Internet's full transformative capabilities, both now and in the future.

The Coalition looks forward to working with all other stakeholders that may be involved in the process initiated by NTIA and coordinated by ICANN. But we also wish to underscore the reality of the current international environment: there are great challenges associated with ensuring a safe, secure, open, interoperable, and sustainable Internet that will be faced during numerous international meetings in 2014 and 2015. Debates on the best form of Internet governance will certainly be a focus at future meetings, including the 2014 Internet Governance Forum, the United Nation's World Summit on the Information Society review, and the International Telecommunication Union's Plenipotentiary.

At these upcoming meetings and conferences, as well as at others, we must join together to be vigilant to ensure a safe and open Internet, as well as to ensure that whatever policies are adopted at these meetings foster innovation and investment across Internet networks, services, and other sectors of the Internet ecosystem, including ensuring the protection of intellectual property and the protection of human rights. We are also mindful that policies must support opening and maintaining international markets in a way that allows for the seamless flow of digital services, applications, products and information.

Similarly, policies must stimulate sustainable investment in and deployment of Internet networks and the industries and services that create demand for those networks. These goals are best advanced through the rule of law, which governments have the primary responsibility for advancing, and establishing predictability in decision-making.

Finally, policies must support increased transparency and openness in intergovernmental organizations and multistakeholder mechanisms, to ensure that all stakeholders can participate

meaningfully in key Internet policy discussions. The quality of Internet governance decisions increases when diverse stakeholders choose to actively and consistently participate.

I would like to thank the Committee for allowing me, on behalf of the Internet Governance Coalition, to present our views at a time of great importance for preserving the fundamental principles that have governed the Internet. The many major conferences and work efforts scheduled this year – and well into 2015 – make this a particularly important period in the Internet's evolution, and re-enforces the timeliness of this hearing. We welcome the initiative undertaken by Assistant Secretary Strickling, and we are prepared to join with others in ensuring that the process that has been initiated continues to affirm these guiding principles that have been at the core of the Internet's extraordinary growth during the past two decades.

Sustaining Principles for Internet Policy and Governance

- Area: SET OF INTERNET GOVERNANCE PRINCIPLES
- Entitled by: David A. Gross
- Region: Americas
- Organization: Internet Governance Coalition
- Sector: Private Sector
- Keywords: Internet governance multistakeholder

Abstract

The Internet Governance Coalition extends our sincere appreciation to Brazil for hosting the "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in São Paulo. The Meeting is taking place at a time when the topic of Internet governance is an issue of great interest around the world. The many major conferences and work efforts scheduled this year exemplify the accelerated pace of Internet governance discussions and make 2014 a particularly important year in the ongoing evolution of the Internet. Indeed, there are a host of institutions, each with different core functions and strengths, that address issues related to Internet governance. We believe that preserving and advancing open and consultative decision-making is essential to ensuring that global citizens are able to take advantage of this transformative platform both now and in the future. As such, we respectfully submit seven principles which we believe are essential to Internet governance.

Document

The Internet Governance Coalition (the "Coalition") extends our sincere appreciation to Brazil for hosting the "Global Multistakeholder Meeting on the Future of Internet Governance," to be held in São Paulo. The Meeting is taking place at a time when the topic of Internet governance is an issue of great interest around the world. The many major conferences and work efforts scheduled this year exemplify the accelerated pace of Internet governance discussions and make 2014 a particularly important year in the ongoing evolution of the Internet. Indeed, there are a host of institutions, each with

different core functions and strengths, that address issues related to Internet governance.

The Coalition represents leading international Internet and telecom companies, including: Amazon, AT&T, Inc., Cisco Systems, Inc., Comcast NBCUniversal, Google Inc., Juniper Networks Inc., Microsoft Corporation, Telefónica, S.A., The Walt Disney Company, Time Warner Cable Inc., Twenty-First Century Fox Inc., and Verizon Communications Inc. We believe a thriving Internet depends on a governance structure that is open, transparent, and representative of all stakeholders. The multistakeholder model approach to Internet governance has allowed for the creation of decentralized structures that have resulted in historic economic, social, and political development. This decentralized structure of the Internet has enabled individuals to access information and services, to connect and to communicate, and to share ideas and knowledge globally. By offering new possibilities for entrepreneurial creativity, the Internet has become a powerful engine for technological innovation, economic growth, and the preservation and promotion of cultural diversity. We believe this model, strengthened as necessary, will continue to best serve these shared goals and Internet users far into the future.

These concepts are rooted in the 2005 *Tunis Agenda for the Information Society* that provided the foundational principles for Internet governance, which affirmed the multistakeholder, transparent, and democratic governance of the Internet, while at the same time recognizing the sovereignty of governments and rule of law. It is precisely because of this multistakeholder governance model that the Internet has grown into the transformative platform it is today. To say nothing of the broader social benefits from the Internet, its economic contributions have been astonishing. According to McKinsey Global Institute, the Internet accounts for 21 percent of GDP growth in the last five years in developed countries, and in 30 surveyed developing countries.

We believe that preserving and advancing open and consultative decision-making is essential to ensuring that global citizens are able to take advantage of this transformative platform both now and in the future. As such, we support the following principles which we believe are essential to Internet governance:

- Policies must ensure a safe, secure, open, interoperable, and sustainable Internet.

- Policies must stimulate sustainable investment in and deployment of Internet

networks and the industries and services that create demand for those networks.

- Policies must support opening and maintaining international markets in a way that allows for the seamless flow of digital services, applications, products, and information.

- Policies must foster innovation across Internet networks, services, and other sectors in the Internet ecosystem, including ensuring the protection of intellectual property.

- Policies must support increased transparency and openness in intergovernmental organizations and multistakeholder mechanisms, to ensure that all stakeholders can participate meaningfully in key Internet policy discussions. The quality of Internet governance decisions increases when diverse stakeholders choose to actively and consistently participate.

- Policies must support capacity building and implementation of best practices in relation to network security.

- Policies must support the rule of law which governments have primary responsibility for advancing.

The Coalition looks forward to working with all stakeholders to prepare for a successful Meeting in Brazil, and welcomes this opportunity for dialogue on these important issues. International consensus on Internet policies is unlikely to be realized at only one meeting. These debates will continue at future meetings, including the 2014 Internet Governance Forum, WSIS Review, and ITU Plenipotentiary, that, together with the "The Global Multistakeholder Meeting," promise to make significant contributions to the ongoing global dialogue on Internet governance.

The Coalition again extends its appreciation to the host country of Brazil and to CGI.br and /1net for their extraordinary and constructive work in organizing the Meeting.

Respectfully Submitted,

INTERNET GOVERNANCE COALITION

Mr. WALDEN. Thank you, Ambassador, and thanks to all of our witnesses on this first panel. I appreciate your counsel and your testimony.

So, Mr. Strickling, thank you again for being here. Thanks for briefing us ahead of time before the announcement.

How will NTIA ultimately decide whether a proposed transition plan for IANA developed by global stakeholders is acceptable, and what factors will you use to determine if such a proposal supports and enhances the multi-stakeholder process, maintain security, stability, resilience, in the Internet domain name system, and meets the needs and expectations of global customers and partners of the IANA services, and maintains the openness? So what—describe for us, what is that process, and once you—what authority do you have to hand this off and back away?

Mr. STRICKLING. Well, you have asked a number of questions there. Let me take up the last one initially, which is that our role in this historically derives from the decision made in the late 1990s to privatize this, and at that time, NTIA was directed to find an organization to perform those roles. So we don't do this under any statutory mandate to perform this role. It was done as part of the efforts of the government back in the late 1990s to privatize. So other——

Mr. WALDEN. But you do have a contract with——

Mr. STRICKLING. Yes.

Mr. WALDEN [continuing]. ICANN——

Mr. STRICKLING. Yes.

Mr. WALDEN [continuing]. That is renewable for two, 2-year additions, right?

Mr. STRICKLING. That is correct, Mr. Chairman. So the last contract that we did with them in 2012 has an expiration date of September 30, 2015, but we have within that contract the ability to extend it for up to 2——

Mr. WALDEN. Right.

Mr. STRICKLING [continuing]. Two-year terms beyond that. So as Ambassador Gross said, we have plenty of time to work through these issues. We have certainly teed-up the September 2015 as a date that the community might want to use as a target. That is 18 months. Should give the community ample time to work on this, but there is no cliff. If—at—when we reach that time, we don't have a proposal presented to us.

Mr. WALDEN. But if you have that proposal presented to you, and I want you to get to what the criteria would be, you would go through, and I think you have highlighted some of that in your statement, but is it in effect saying I am done with the contract with ICANN?

Mr. STRICKLING. Yes. I think if we get to a point, and when we get to the point where there has been an appropriate transition plan presented that satisfies all the criteria, the idea would be that that — whatever is in that plan would then be put into effect, and we would then be able to just allow our contract with ICANN to expire.

Mr. WALDEN. And then is there ever any getting that contractual relationship back to NTIA, or is that it for the U.S. in terms of any contractual role with ICANN? Are they on their own then?

Mr. STRICKLING. It depends, I think, on what comes back to us in the transition plan, but we do not envision that we would then come back and ever contract for the IANA functions at any point in the future.

Mr. WALDEN. All right.

Mr. STRICKLING. Again, the whole point of this in the late '90s was to identify someone who could take this over and——

Mr. WALDEN. Sure.

Mr. STRICKLING [continuing]. Manage it. Again, it is——

Mr. WALDEN. No, I understand that.

Mr. STRICKLING [continuing]. At that point in time, it was viewed that this transition would have been complete by the year 2000, as Congresswoman Eshoo pointed out. So some might ask what has taken us so long——

Mr. WALDEN. Sure.

Mr. STRICKLING [continuing]. But——

Mr. WALDEN. Now, in Mr. DelBianco's stress test scenarios in his testimony, I assume you have had a chance to read through them.

Mr. STRICKLING. I have.

Mr. WALDEN. He raises some questions that I think are valid to raise. What happens if ICANN decides to reconstitute itself overseas rather than California, out from under the laws, what happens if they go their separate way and things—start doing things that Mr. Chehade would never agree to, but he might be gone someday. So——

Mr. STRICKLING. So we have a separate document that we signed with ICANN called the Affirmation of Commitment.

Mr. WALDEN. Right.

Mr. STRICKLING. And I think we have been up here and have testified on that in the past. We have not in any way implicated that agreement in any of what we are proposing now. It is under that document that ICANN has committed to keep its headquarters in the State of California, or in—within the United States.

Mr. WALDEN. But that can be canceled by either party, correct?

Mr. STRICKLING. Yes, there is a——

Mr. WALDEN. With 120 days notice.

Mr. STRICKLING [continuing]. Provision under which it can be canceled, and you can certainly inquire of the CEO, his intentions with that—in regard to that. Our understanding is that they are quite comfortable maintaining a California office, and intend to do so for the foreseeable future, but he can answer——

Mr. WALDEN. Yes, and I am looking like beyond all of us, you know, what happens——

Mr. STRICKLING. Right.

Mr. WALDEN [continuing]. Twenty years from now.

Mr. STRICKLING. Let me come back to the——

Mr. WALDEN. Sure.

Mr. STRICKLING [continuing]. Point you started with, which were the questions that are raised by Mr. DelBianco we think are important ones, and they really deal, I think, with the symbolic nature of our relationship with the ICANN. I think reflected in many of the comments we heard this morning, that people, I think, assume we have much more control over this than, in fact, we do, and it is largely symbolic, and I do think it is important as we work

through this transition to focus not just on the technical issue of who is going to check the accuracy of root zone file updates, but to also look at the question of how does ICANN continue to perform in an accountable and transparent way, the belief being that we always were there, in effect, to backstop that——

Mr. WALDEN. Right.

Mr. STRICKLING [continuing]. In some fashion. I think that is a very important set of questions that need to be answered in this process. We intend to participate vigorously in that because we and other American business and civil society interests have a stake in that as well——

Mr. WALDEN. Right.

Mr. STRICKLING [continuing]. And that is part of the process.

Mr. WALDEN. And I have overshot my time. Thank you very much.

Now turn to the gentlelady from California.

Ms. ESHOO. Mr. Chairman, I would like to go to my colleagues, and I can go last. So I don't know who was here first. Mr. Doyle?

Mr. DOYLE. We were both here together.

Ms. ESHOO. OK. Well, whomever—Mr. Doyle and then——

Mr. WALDEN. Are you asking them——

Ms. ESHOO [continuing]. And then——

Mr. WALDEN [continuing]. Or yielding?

Ms. ESHOO. Yes—no, I will yield my time.

Mr. WALDEN. You are passing. You are yielding or——

Ms. ESHOO. No, I will pass—whatever is the best, how is that? I——

Mr. WALDEN. I would assume you want to just defer to Mr. Doyle and not give up your time.

Ms. ESHOO. Yes, I will——

I will question last, how is that?

Mr. WALDEN. That is fine.

Ms. ESHOO. OK.

Mr. WALDEN. The Chair would now recognize Mr. Doyle for 5 minutes.

Mr. DOYLE. Thank you, Mr. Chairman. And—wow, are we getting that same—thank you for your testimony today. I think just your testimony has gone a long way in clearing up, I think, some of the misconceptions that have come from this announcement.

Mr. Strickling, I—you know, when you talk about stakeholders, tell us, who are the stakeholders? I mean name—give us some of the names of the people in this multi-stakeholder process we are talking about. Who are we really talking about?

Mr. STRICKLING. So at the broadest level, it is anyone interested in these issues, and, in fact, that is large American companies as well as small and medium-sized——

Mr. DOYLE. Like AT&T, Verizon——

Mr. STRICKLING. Yes.

Mr. DOYLE [continuing]. Comcast——

Mr. STRICKLING. Yes, all of those.

Mr. DOYLE [continuing]. Google, Facebook, Yahoo?

Mr. STRICKLING. Yes.

Mr. DOYLE. Right? This is what—these are—this is what we are talking about.

Mr. STRICKLING. Right.

Mr. DOYLE. And who else is in this stakeholder process?

Mr. STRICKLING. The civil society organizations who are so focused on Internet freedom and free flow of information are part of this process. Again, you will hear from a representative of them in the second panel, and they have issued statements of support in that regard. Technical experts have been at the core of this from the beginning. Folks like Vint Cerf, Bob Kahn, Steve Crocker, who is in the audience today.

Mr. DOYLE. Right. So what we are talking about really is an evolution of transitioning this to the private sector, right? I mean this is like a—I don't believe NTIA controls ICANN. I think that is pretty clear, that you have an administerial role, you don't control the process, but I would think my colleagues over here would love the notion that the government is transferring something over to the private sector——

Mr. WALDEN. Would the gentleman yield for just——

Mr. DOYLE. Sure, I will yield, Mr. Chairman.

Mr. WALDEN [continuing]. For clarification, because I think also part of ICANN, there is a government influence as well, right, on your board?

Mr. STRICKLING. Yes, there is a government——

Mr. WALDEN. But nobody controls ICANN.

Mr. DOYLE. Right.

Mr. WALDEN. So, to the point, yes.

Mr. DOYLE. So we don't—it is not like we are giving up control of something. We don't control it. So I—that is the point I wanted to make. And the stakeholders we are talking about are private companies, and civil society and civil—right? I mean that—I just think that needs to be said publicly because you used that word stakeholders, and a lot of people don't seem to understand what we are talking about.

Let me ask you something else, Mr. Strickling. When you were proceeding with this announcement, did you consult with other branches of the Federal Government, like the State Department, the Department of Defense, intelligence agencies and other agencies with a stake in U.S. national security and foreign policy?

Mr. STRICKLING. Yes.

Mr. DOYLE. And when you did that, did any of these branches of government object to your announcement on the basis that it would have a negative impact on U.S. foreign policy or national security?

Mr. STRICKLING. No.

Mr. DOYLE. So, Ambassador Gross, let me ask you. After the United States transitions the IANA contract, what will be the means for our government to participate in the multi-stakeholder process?

Mr. GROSS. Well, I think there are two pieces to answer to that important question. One is, as has been indicated, the U.S. Government has participated in the GAC, which is the Government Advisory Committee, which is a committee of ICANN, and based on the testimony and, of course, our understanding that will continue as it has in the past. The second part though I think has yet to be determined, that is, the question is on the IANA functions them-

selves, and the relationship between the U.S. Government and those functions, it has been asked by NTIA of the Internet community, asking ICANN to be the convener, for the specifics of what a proposal would look like. I think it is premature for any of us to know the true answer to your important question until we see what that proposal actually looks like.

Mr. DOYLE. And just one last question. How can Internet governance bodies like ICANN and IGF and others preserve a free and open expression on the Internet, and push back against some of these governments that are restricting speech online by blocking citizens' access to services like Wikipedia and YouTube and Twitter and others? What can we do to push back against that?

Mr. GROSS. Well, first and foremost, we need to ensure that ICANN continues as it has in the past to be committed, as Mr. Chehade has indicated today, its commitment to making sure that the Internet continues to be open? NTIA importantly said that that is one of the primary criteria that it will be looking at as it evaluates whatever proposal comes forward from the Internet community. And also if I may suggest that the United States Government, writ large, all branches of the Government, need to continue to do what they have been doing for years now, which is to speak loudly, speak clearly, and speak to this issue on an ongoing basis, both with friends and with foes. It is important to be consistent. I am pleased at how consistent the U.S. Government has been. It should continue to be so.

Mr. DOYLE. Mr. Chairman, I see my time is almost over. Maybe, Mr. Strickling, do you want to react to that question too in the last 10 seconds?

Mr. STRICKLING. I think the ultimate end of this has to be to continue to build and support stakeholders throughout the world, because what—the strongest push against these kinds of restrictive policies in these countries is to have a citizenry and a community in those countries that push back from within, and ultimately that is what it is going to take to end these policies.

Mr. DOYLE. Mr. Chairman, thank you. I yield back.

Mr. WALDEN. Thank the gentleman.

We now turn to the vice chair of the subcommittee, , Mr. Latta, for 5 minutes.

Mr. LATTA. Well, thank you very much, Mr. Chairman, and again, thanks very much to our witnesses for being here today. It is very, very important to the folks in this room and across the country.

Mr. Strickling, if I could just ask you a couple of questions right off the bat. You know, Ohio is very fortunate to have the Cleveland Clinic in our state, and it is, you know, it is not only nationally known but worldwide renowned for what it does. And Cleveland Clinics applied to operate a .med top level domain name. Are you familiar with that?

Mr. STRICKLING. I am.

Mr. LATTA. OK. For the record, Cleveland Clinic's application was rejected, and has since been filed—has filed a request for reconsideration.

Mr. STRICKLING. That is correct.

Mr. LATTA. OK, and we are concerned, you know, across the state about the transparency and predictability of ICANN's current process regarding the request for reconsideration, and how this transition of NTIA's oversight responsibilities might further impede the process. Are there any assurances that NTIA can provide that the transition of ICANN's IANA functions will not negatively impact the status of the current applicants' filings being reviewed by ICANN?

Mr. STRICKLING. Right. It will have no impact on that.

Mr. LATTA. So right now, so the folks that have got applications out there, you can say there is no impact at all then, is that correct?

Mr. STRICKLING. Not on the basis of this announcement, no.

Mr. LATTA. OK, and then without the NTIA oversight, will NTIA ensure that any multi-stakeholder proposal accepts include rigorous transparency and openness standards for ICANN processes going forward?

Mr. STRICKLING. Absolutely, and not just that, but we expect to see that same level of transparency throughout the process to develop a plan.

Mr. LATTA. OK, thank you.

Mr. Chehade, if I could—and I hope I said that correctly, are there current policies in place at ICANN to promote that transparency and openness in its processes, and again, as you have heard from the testimony this morning and also from your attendance at the WCIT, you know, we had hearings last year when we heard about different countries that wanted to go beyond what was supposed to be proposed at that meeting, and so you are looking at some of the countries looking at trying to use the guise of cyber security and things like that to really get at the Internet and the censorship of the Internet. You know, how can we really make sure that we can tell our constituents and people across the country that, you know, as we go forward, that there is going to be that transparency and openness in the process?

Mr. CHEHADE. I think the commitment of ICANN to transparency is enshrined in our affirmations. We should live by these, and I can assure you that since I have arrived, I have put additional resources and effort to ensure that we adhere to our transparency mechanisms, we continue to keep every process we make open, we make sure it is inclusive, that anyone can participate. We now translate everything we do in all the U.N. languages, plus Portuguese. Ensure that people can participate in all of our meetings remotely, even when they can't be there. Transparency is at the center and the heart of what we do.

Mr. LATTA. If we can just follow up. You said that there would be additional resources that you would be committing. What are those additional resources?

Mr. CHEHADE. So these are people that are engaged in making sure that all of these processes are recorded, are made available openly, that people can participate when they need to, and ensure that no one can say that we did some process quietly, quickly or without full availability of participation for everyone.

Mr. LATTA. OK, thank you. And then also is there more that ICANN can be doing to improve upon those policies and ensure

that the applicants for domain names are fully informed and aware of the organization and structure of the ICANN processes?

Mr. CHEHADE. There is always more we can do, and since we have arrived, this ICANN Administration has added systems for managing the stakeholders' relations, we have more than tripled now the size of the team that is supporting applicants. We have made sure that that team is available globally, 24 hours a day, 5 days a week, so there is a series of things we have done to actually enhance the service to the applicants and ensure that they are well informed of what we are doing.

Mr. LATTA. Well, thank you very much, Mr. Chairman, and I will yield back the balance of my time.

Mr. WALDEN. Gentleman yields back the balance of his time.

The Chair now recognizes the gentlelady from California, Ms. Matsui, for 5 minutes.

Ms. MATSUI. Thank you, Mr. Chairman, and I thank the Ranking Member.

I really am very much involved and interested in governance because I think governance is key to everything, whether it is a government, whether it is a non-profit organization, city council or whatever, and I believe that, in particular, this is a huge undertaking. And I know we have kind of marched through this for 15 years, but I think now in particular, the Internet is at a different place, obviously, and the participants in the Internet are huge, it is global. So my sense is that, in the governance model, it is unlike many others in the sense that, as we move along giving more and more voices or stakeholders to be addressed. So my sense is that I am glad that you are taking your time because I think that is really very important, because as more and more information goes forward, I think that you will have more and more stakeholders.

I am really pleased that the Administration, Mr. Strickling, has really committed to support no proposal that really does not support a free and open Internet. I think that is really very important as a principle moving forward. And I do recall, since I was in the Clinton Administration, how this process moved forward, and I don't think any of us really envisioned quite where it would be today as far as even the users of the Internet. However, having said that, it is really huge in the sense of where we are today, and this is not about creating headlines at all. It is real, and it is about ensuring that the Internet governance transition moving forward is responsible to Americans and the whole digital economy.

And so I want to know something about this in a sense because, Mr. Strickling, do you think there are any other processes or procedures that should be put in place to ensure ICANN reviews the proposals by stakeholders in an open and transparent way?

Mr. STRICKLING. We have not asked ICANN to be a reviewer of proposals. We have asked them to convene the process by which the community will develop a proposal to submit to us. We expect that we will get a proposal that is—has the support of the community and meets the criteria we have laid out for it. So there is no process by which there is some judge over at ICANN who is going to be a decision-maker on this, it is what emerges from the community discussions in the form of a community proposal to us.

Ms. MATSUI. OK, well, thank you. And, Mr. Chehade, you were very eloquent in your testimony. It really does indicate to us why this Internet and ICANN is so important moving forward.

So, therefore, Mr. Chehade, can you commit to a—I mean we are saying this over and over again, but I think it is really important, an open and transparent process for the deliberation of any transition proposal that will provide an opportunity for notice and comment, not only to organize civil society and well-financed stakeholders, but also now, you know, to the general public, because we have participants that are worldwide here.

Mr. CHEHADE. Absolutely. If we do not do that, the process should not be accepted by NTIA, in our opinion. In other words, we are expected to do this. We will do it. Without it, this process is not legitimate.

Ms. MATSUI. OK.

Mr. CHEHADE. And not only are we going to do it within the ICANN community which is growing and vast now globally, we will reach out to other communities, we will hold public consultations at the IETF, we will hold public consultations with the regional Internet registries, we will hold public consultations with the Internet society globally. We already announced an extensive schedule of listening and bringing to consensus all the communities towards a proposal that will be acceptable to NTIA.

Ms. MATSUI. Will this also include other communities like academic communities and, generally speaking, a broader community which generally isn't part of the so-called Internet organizations?

Mr. CHEHADE. The answer is yes. In fact, I—we are in discussions right now with the Harvard Berkman Center and the NYU Governance Lab in New York to actually—along with multiple universities around the world, start the process to have the academic community participate in the future of where we are heading here. So absolutely.

Ms. MATSUI. And also too, I am wondering whether, you know, think about governance, are you also consulting with people who deal with governance, and what works and what doesn't work? Now, this is a whole new, I think, level of governance, so to speak, because we are dealing with something, in a sense, that touches every sector of society, every sector of business, every sector, and we don't know yet what is going to be happening down the road. So I think it is important to understand what could happen and may not happen, and——

Mr. CHEHADE. Yes. The answer is absolutely yes. We have to be using the same innovation that led us to the Internet in the process of designing that process.

Ms. MATSUI. Yes.

Mr. CHEHADE. So we met—I met with Professor Joseph Nye, we are meeting with Professor Beth Noveck at NYU, many, many academics around the world who understand how to innovate and governance to make them part of the process.

Ms. MATSUI. OK. Well, thank you very much.

Yield back.

Mr. WALDEN. Gentlelady's time has expired.

The Chair now recognizes the gentlelady from Tennessee, Mrs. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman. And I will note for the committee and those present that Mr. Rekeda, who worked with us on the DOTCOM Act, walked back with me from Budget Committee where I am splitting my time today so that he could be a part of our hearing.

Mr. Strickling, first to you. Getting ready for the hearing, I went back and looked at some of the WCIT–12 comments, Ambassador Verveer had made a quote, and I wanted to ask you if you agree with this. He says, "Discussions with figures in various governments around the world, there is a very significant reoccupation with respect to what we are proposing with respect to broadband, and especially with respect to Net neutrality. The proceeding is one that could be employed by regimes that don't agree with our perspectives about essentially avoiding regulation of the Internet, and trying to be sure not to do anything to damage its dynamism and its organic development. It could be employed as a pretext, he is talking about Net neutrality, or as an excuse for undertaking public policy activities that we would disagree with pretty profoundly."

You agree with that statement?

Mr. STRICKLING. I guess I neither agree nor disagree because I don't know the context in which it was stated. I think it is a statement from a few years ago. I can state that it has not been put into the record by governments in the fashion that it sounds like Ambassador Verveer feared at the time.

Mrs. BLACKBURN. Well, do you think that the U.S. could set a better example about Internet governance and a multi-stakeholder approach to Internet government by stopping the push for Net neutrality?

Mr. STRICKLING. I think the best example the United States can set is to proceed with the proposal that we made on March the 14th.

Mrs. BLACKBURN. Yesterday, Michael O'Rielly, who is one of the FCC commissioners, issued this statement. At this pivotal moment for Internet freedom, the FCC's Net neutrality proceeding could severely contradict and underestimate the U.S. Government's international position.

So how can the U.S. Government tell the world to accept a multi-stakeholder model, while at the same time the FCC is working with the White House's approval to impose greater control of the Internet through Net neutrality?

Mr. STRICKLING. Your question?

Mrs. BLACKBURN. How can the U.S. Government tell the world that they want them to accept a multi-stakeholder process when, within our government, the FCC is pushing forward to implement Net neutrality rules?

Mr. STRICKLING. Well, I think we are comparing apples and oranges.

When we are talking about international Internet governance, we are talking about governments acting collectively——

Mrs. BLACKBURN. Sir, I think that a lot——

Mr. STRICKLING [continuing]. In this space——

Mrs. BLACKBURN [continuing]. Of innovators had conflated the two, and I think that that is truly a problem with us, that there

has been a conflating, and we are not setting a good example on that.

You referenced the affirmation document, .8 of that, which would mean that the governance for the Internet—for ICANN would stay domiciled in the United States. Do you expect that to hold?

Mr. STRICKLING. I do, but you have the CEO right next to me——

Mrs. BLACKBURN. And I plan——

Mr. STRICKLING [continuing]. You might ask him directly.

Mrs. BLACKBURN [continuing]. To ask him. I am going to go directly to him with that question.

So, Mr. Chehade, to you, would you expect that to hold?

Mr. CHEHADE. I do. It has worked very well for us. It has worked very well for the world, so I think before any change——

Mrs. BLACKBURN. What would keep it from changing?

Mr. CHEHADE [continuing]. We should be conscious of that. Pardon?

Mrs. BLACKBURN. What would keep it from changing?

Mr. CHEHADE. To keep the model that is working to the world, working well, by supporting the model that works. The more we try to exert one government's influence on the model, the more people will want to move it elsewhere. The more we show them that we support the multi-stakeholder model, the more they will say this works.

Mrs. BLACKBURN. Well, then—and I want to say I appreciate the conversation that I have had with you, and I know that you have a difficult task in front of you because there is such a low level of trust with this Administration. And I would just ask you, sir, when we look at a multi-stakeholder model that is free from government control, what kind of message is this Administration sending if the FCC continues to push forward with regulation of the Internet and Net neutrality standards?

Mr. CHEHADE. Again, from my perspective, the best example I can continue giving the world is that the U.S. Government is united behind the multi-stakeholder model that enabled the Internet and ICANN. And I will continue seeking your support for that.

Mrs. BLACKBURN. Would your job be easier if the FCC stopped being an activist agency and trying to force Net neutrality?

Mr. CHEHADE. I am making my job easier by clarifying to people that what ICANN does have nothing to do with content. We are just managing names and numbers, and we will do it well, and I hope that the success of our work in this area spreads in the world, not just in the U.S., but in the world.

Mrs. BLACKBURN. Thank you.

Yield back.

Mr. WALDEN. Gentlelady's time has expired.

Chair now recognizes the gentleman from New Mexico, Mr. Lujan, for 5 minutes.

Mr. LUJAN. Mr. Chairman, thank you very much. And I know, although we are here to talk on a specific topic, it seems that the hearing has turned towards Net neutrality as well.

And as we talk about the basic structure associated with the United States and the FCC, making sure that they are inserting themselves into this conversation, I think lends to what we are

talking about today; keeping things open, making sure that everyone can access, that—and I appreciate this from our staff as well, Mr. Chairman, on the minority side, open Internet rules are not government regulation of the Internet. Net neutrality is about ensuring the broadband service providers that control the onramps to the Internet don't become the gatekeepers with the power to favor their own content, troublesome applications or block consumers' access to information. And I think that is an example to the rest of the world, as we talked about this, not a hindrance to the rest of the world. So I hope that we are able to find some agreement there as well.

Mr. Chairman, my questions today center a bit around the Affirmation of Commitments, to talk a little bit about that, but I think that, you know, I agree with some of my colleagues on this committee that we need to send a strong message to the world that the Internet has thrived under a decentralized, bottom-up, multi-stakeholder governance model, and that we should all commit ourselves to the free market, multi-stakeholder Internet governance model that has worked so well in the past. And those are quotes from 2012 and 2013 by one of my colleagues as well, and I wholeheartedly agree with her, and hope that we can find a way to work together in this area as well, but in the area with the Affirmation of Commitments, specifically from a response from NTIA that the affirmation is an agreement that includes multi-stakeholder oversight mechanisms to address accountability, transparency in ICANN's decision-making, the security, stability and resiliency of the Internet DNS, as well as promote competition, consumer trust and consumer choice.

How do you envision the Affirmation of Commitments will function after the management of the DNS is completely privatized?

Mr. STRICKLING. So we haven't, in our announcement, done anything to suggest it needed to change at all. We recognize though that as the community starts to address the questions of ICANN accountability, that the matters covered in the affirmation which you just summarized may well come into that discussion, and we certainly have no problem with that being the case. In the meantime, we will continue to press for increased accountability and transparency, although I will say, from my own experience of having served on 2 of the accountability and transparency review teams, the 2 that have happened so far, ICANN is about the most accountable and transparent organization I have dealt with. That is not to say it can't be improved, and indeed, out of the last team we presented I think more than a dozen recommendations of additional steps ICANN can take. And that will always be the case. We will always be able to find things they can do to improve, but the progress that they have made over the last 4 years in this area has been quite substantive, and was part of the factors leading us to make the announcement we made 2 weeks ago, that it was now time to proceed with the final phase of the privatization.

Mr. LUJAN. I would just add that I hope that the Affirmation of Commitments becomes and will always be a staple associated with the transition, as well as the permanency associated with this conversation.

And another question that I have is, what is Verisign's role and responsibility? I know that when we go to Web sites, you see the Verisign there, and it is to encourage trust to individuals, but what exactly does that Verisign mean?

Mr. STRICKLING. So Verisign is a large company involved in a number of different places in the Internet. So, for example, most people know them through the registry from DOTCOM, which is the largest of the top level domain names. With respect to the IANA functions, the specific role they perform is that after ICANN, through its policy-making process, sends to us a change for the root zone file, we verify its accuracy, we pass it on to Verisign who actually performs the updating of the 13 authoritative root zone servers with that information. So that is the specific role they play with respect to IANA.

Mr. LUJAN. And, Mr. Chairman, if I may, I—as my time runs out, I think what that translates to is Verisign—or is saying that this Web site is coming from where. It says that it is coming from, but I hope that the committee would entertain a conversation down the road with trust, with best practices, that we as consumers can also use down the road, which is not a topic for today, but one I think that we can explore to help consumers down the road to make sure that when they are seeing information, they know exactly what it means, as opposed to seeing Verisign, as some constituents have reached out to me and said, they completely trust the content, and those that are behind what is being moved, as opposed to the DNS being tied to where the IP protocol is coming from.

Thank you, Mr. Chairman. I appreciate the hearing today.

Mr. WALDEN. Thank you very much, and thanks for your input. I think that is a very good point.

We will go now to the former chairman of the committee, the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman.

First of all, let me say to Mr. Chehade we rarely have testimony that is inspirational, but yours was. I mean I wish we had a copy of that to show school children what America is all about. That really was moving to me.

So I will ask you the first question.

Have you ever heard of the phrase, if it is not broke, don't fix it? Well, when I was listening to you, and I am at this point neutral but suspicious of this proposal, it dawned on me, everything you said, I agree with. If it is working, what is so wrong with the current system that we want to change it?

Mr. CHEHADE. Thank you, Congressman.

I do believe that there is a confusion as to what NTIA has announced. What is working will not change. ICANN's work to administer these functions is already with us, has been with us, and we have managed it well for 15 years. That is not about to change, and I think the stability of that is important. It sends the right message to the world.

What is changing is the accountability mechanisms, really the stewardship that the U.S. Government has kept over our activity. Today, that is shared between the U.S. Government and our community. In fact, it is not just the U.S. Government that ensures we

do what we say we need to do. We go through reviews with the engineers at the IETF who meet me every quarter, check on my performance. So there are other mechanisms already in place to make sure we do what we do.

The role that the U.S. played progressively became smaller over the years, and has now become largely symbolic. By letting the multi-stakeholder model take that role and strengthen our existing mechanisms to make sure we are accountable, we are sending a message to the world that we trust the multi-stakeholder model. They need to hear that. And today more than ever, we need the world to hear that because other issues of Internet governance are coming up in the world. We want them to look at ICANN and say this is working, and the multi-stakeholder model works.

Mr. BARTON. It is a little bit of a stretch, but, after World War II, we put U.S. troops in Japan, we put U.S. troops in Germany. Seventy years later, sixty years later, the world has changed but we still have some U.S. troops in Germany and some U.S. troops in Japan. The Internet got started in the United States, and to the credit of lots of people, we have tried to decentralize and have the government step back and assume more of an administerial or just a kind of an oversight role, but what gives the world community faith in the Internet is that they know they have the full faith and credit of the U.S. Government behind it. And our ideals as established in the Declaration of Independence and the U.S. Constitution are for openness and transparency. If ICANN were to decide to move its headquarters to North Korea, that might not hold true. So I read your little booklet here, which is very informational. You give the Department of Defense a run for their money on acronyms, I will tell you that, but what people like me, I am a free market guy, and I can intellectually understand what you are attempting to do, but there is just at the back of my mind there is that old Reagan phrase, trust but verify. And that is what we don't want to give up. I have no problem with this multi-stakeholder community, and I looked at all your organizations and all that, but people like me are a little bit afraid that if NTIA steps back, and we just get—so there is not that real kind of FDIC guarantee, so to speak, to use a banking analogy, that the next government that might want to try to do something, the Chinese, the Russians, who knows, they might not take the same attitude as the U.S. Government. That is what people like me are concerned about.

And my last question, and my time has expired, is there any country that is not a part of ICANN?

Mr. CHEHADE. Yes. We have 133 countries represented now, over the attendance, beyond government representatives is now covering almost all countries in the world.

And I want to say if I could, Mr. Barton, that I actually 100 percent agree with you that we must have the right belts and suspenders on the proposal we give back to the U.S. Government. And, frankly, if it doesn't, I will be the first one to not submit that proposal.

Mr. BARTON. OK. Well, that is my concern.

And with that, Mr. Chairman, thank you for your courtesy and I yield back.

Mr. WALDEN. Absolutely. Thank you, Mr. Barton. Thank you, Mr. Chehade.

We will now turn to the gentleman from Pennsylvania, Mr. Doyle, for 5 minutes. Mr. Doyle, you already went? I am sorry, then I would be delighted to go to Ms. Eshoo.

Ms. ESHOO. Maybe we should note that it is a first for a Ranking Member—the last shall be first, how is that? That is a great quote from scripture.

Well, I want to thank each one of you because I think that this is really one of the best panels we have had before the subcommittee. Each one of you has been outstanding. You are rooted in very broad and deep experience, and we are very grateful to you.

And, Mr. Chehade, I think that you make the case this morning in such an elegant and eloquent way, that immigration is the lifeblood of our nation. You wouldn't be before us if that were not the case. And I wouldn't be here as a first generation, none of us would, if that wasn't one of the great, great values of our country. So thank you to each one of you for your testimony.

It seems to me that we are all saying the same thing, except there is kind of a hairball in this thing. I would think that multistakeholder, all the companies and corporations, the private sector that have weighed on a multi-stakeholder model, would be so embraced by every single colleague here, but we have fear of moving away from U.S. Government-perceived control, to the control of some bad actor countries. Now, that is a huge leapfrog when we go from NTIA to North Korea, but really that is what the fear is on this side of the aisle. What I am concerned about is, and Ambassador Gross underscored this, is that everything we say, everything we do is being measured, especially by the countries that do not agree with our principles, our Democratic principles that are built into the Internet.

So can someone give the assurance to this notion that, regardless of how the Congress voted, 413 to zip, with all of the principles that were in it, that somehow we are weakening the path forward and that the bad guys, the bad actors in the world, will be able to snatch this away from us and do to the Internet what they do to their own people, because I really think that is the central question that is here, because that is the fear, and fear is—if you list human emotions, it is the top one.

So who would like to go at that and perhaps develop some comfort level here with my colleagues?

Mr. STRICKLING. So I will start, but I think this is a good question for everyone on the panel.

So first off, I understand the concern, but it is not going to happen, partly because one of our key conditions is we will not accept a proposal that turns this over to a government-led or intergovernmental organization, so it is off the table.

Ms. ESHOO. Yes.

Mr. STRICKLING. Frankly, I am not sure we needed to say that, and—because I don't think there was ever any prospect we were going to get a proposal like that. The multi-stakeholder community, again, formed by civil society organizations and large, small, medium-sized corporations, would never have brought a proposal like that back to us.

I am not sure what people see is the possible mechanism by which an authoritarian regime would seize control of the domain name system. I think it is an unlikely thing to occur, but one way to prevent it from ever occurring is to make sure we have strong multi-stakeholder groups in countries such as in the developing world who would have to be part of any process to try to——

Ms. ESHOO. Yes, but I just want to interrupt.

Mr. STRICKLING [continuing]. Move U.N. control.

Ms. ESHOO. You know what happens around here though is that someone or a group makes a statement and then it becomes a fact. And more than anything else, I think that is what has happened, and there are some outside of this institution that—I am not going to go there because it is not worth it, but I would just like both Mr. Chehade and Ambassador Gross to go at this. I only have 19 seconds, and I would also like to ask unanimous consent to place in the record statements of support from really the father of the Internet, Vint Cerf, the former FCC Commissioner, McDowell, the Internet Association, Cisco, and a letter from 6 NGOs. So with what I have—well, I have——

Mr. WALDEN. Without objection——

Ms. ESHOO. Thank you.

[The information appears at the conclusion of the hearing.]

Mr. CHEHADE. Well, I will simply say that—to Mr. Strickling, if he had not put that condition, I would have made sure it is put.

Ms. ESHOO. Yes.

Mr. CHEHADE. So this is an important condition, and I understand Mr. Strickling's comment that it wouldn't have happened, but it is good for the world to understand that this is impossible to happen. It will not happen, and I believe we will come back with a proposal that allays all these fears.

Ms. ESHOO. Yes. Yes. Thank you.

Mr. GROSS. And the only thing I can add is we have a commitment from people to my right that no proposal that will allow that will go forward. We have a commitment from the U.S. Government that no such proposal could be accepted. And on behalf of our constituents, we will be watching.

Ms. ESHOO. Excellent. Thank you, Mr. Chairman, and thank you to the witnesses. Just an outstanding panel.

Mr. WALDEN. Thank the gentlelady for her comments.

And now we will go to Mr. Shimkus from Illinois for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Mr. Strickling, as you know, I introduced the DOTCOM Act last week with several of my colleagues as co-sponsors. Is NTIA opposed to the Government Accountability Office providing to Congress prior to a transition of IANA functions, are you opposed to a Government Accountability Office review to ensure what you have testified today is true?

Mr. STRICKLING. Well, Congressman, as I understand it, you can request a GAO study——

Mr. SHIMKUS. Well, my question is——

Mr. STRICKLING [continuing]. When you——

Mr. SHIMKUS. My question is do you oppose us asking for a Government Accountability Office review to ensure your testimony today, that we have comfort in that?

Mr. STRICKLING. I see—it doesn't really matter what I think. You can request that study.

Mr. SHIMKUS. No, I—you are here—I am—do you oppose or do you say it is not a big deal, go ahead?

Mr. STRICKLING. I am in favor of full discussion of these issues.

Mr. SHIMKUS. So you——

Mr. STRICKLING. I am happy to talk to you——

Mr. SHIMKUS. But you agree? So you support a Government Accountability Office review, you—it could be helpful?

Mr. STRICKLING. I neither support nor oppose it. I am simply telling you——

Mr. SHIMKUS. I wish Mr. Dingell was here.

Mr. STRICKLING [continuing]. That——

Mr. SHIMKUS. If I was—if I am Mr. Dingell, yes or no, would you support a Government Accountability review of this transition?

Mr. STRICKLING. Again, I have no problem full airing in discussion of these issues.

Mr. SHIMKUS. So I guess I am going to take that as a yes.

Mr. Chehade?

Mr. CHEHADE. I do not have a view on a particular——

Mr. SHIMKUS. You all made great promises.

Mr. CHEHADE. But having said that, I will commit to you, as I did yesterday, that everything we were asked to do, we will do in full transparency to you and to the world.

Mr. SHIMKUS. So a Government Accountability Office review of this proposal should not be a challenge or a risk to you?

Mr. CHEHADE. I think reviews by anyone, and there will be many around the world of our accountability in that process——

Mr. SHIMKUS. So I guess I can assume that as——

Mr. CHEHADE [continuing]. Making——

Mr. SHIMKUS [continuing]. As a yes.

Mr. CHEHADE. Well, again, as I told you yesterday, ICANN is a global organization.

Mr. SHIMKUS. No—I have only got 2 minutes—I have like 3 questions, and if I have time, I would be happy to. Ambassador Gross.

Mr. GROSS. I would like to associate myself with the prior comments——

Mr. SHIMKUS. You know——

Mr. GROSS [continuing]. But I will say that more information is better.

Mr. SHIMKUS. Thank——

Mr. GROSS. The process should be open, should be transparent, more information is always helpful.

Mr. SHIMKUS. And we understand the GAO is the Government Accountability Office. It is our arm, it is nonpartisan, it looks, it evaluates to ensure that things that we are concerned with, we have another look, which is what you all are saying. I am actually kind of shocked at the frustration of this because I think it would help bring more education, more transparency, and maybe resolve some of the fear.

Ambassador Gross, what is to prevent a multi-stakeholder model from then choosing to transition to a government-led ITU model of Internet governance?

Mr. GROSS. I think you have gone to the very core of what will be required of any proposal going forward. The problem we all have, and I include myself in this, is that at the moment we are at the beginning of a process. To answer your question, your important question, we have to know the answer at the end. We don't know that. The question now becomes one for the community, the Internet community, to come up with a creative, important and belt-and-suspenders answers so that the question you asked if fully answered.

Mr. SHIMKUS. Yes, and don't you think we have a right to ask these questions?

Mr. GROSS. I think——

Mr. SHIMKUS. And——

Mr. GROSS [continuing]. Absolutely so.

Mr. SHIMKUS. And the government to do the investigation to find out some of these answers?

Mr. GROSS. I think that it is completely up to all of you——

Mr. SHIMKUS. Thank you.

Mr. GROSS [continuing]. To be able to figure out what your comfort level is.

Mr. SHIMKUS. Thank you.

Mr. Chehade, I have been involved in eastern European issues my whole career up here. What is the current Internet country code for the Crimea region of Ukraine? Is it .RU or is it .UA?

Mr. CHEHADE. Again, we follow what the U.N., in terms of country codes, we follow the U.N. coding. So even when south Sudan was created, we had to wait for the U.N. to issue the actual code, and then that is when we——

Mr. SHIMKUS. So you don't know right now of any plans to change that?

Mr. CHEHADE. No.

Mr. SHIMKUS. Thank you.

I am going to end there. I just want to highlight to my friends here on both sides, we take an oath to support and defend the Constitution against all enemies, foreign and domestic. We take that seriously. I don't pledge to some international organizations or governments. Due diligence by the Legislative Branch of this Government is not harmful to this process; in fact, I would argue that it could be very, very helpful, and I appreciate your testimony in support of that.

And I yield back.

Mr. WALDEN. Gentleman yields back.

Chair now recognizes the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. TERRY. Thank you, and I think everyone has the same theme, and, in a way, it is kind of asking the same questions, but I want to use a different terminology, at least.

We talk about you won't accept, Mr. Strickling, the proposal and you wouldn't accept as the CEO the proposal. I think a lot of our, not just trust but questions, are what happens after the proposal is accepted.

I think all of us in this room have probably experienced some bait and switch at some point in time, whether it was a meaningful fraud, or things just, OK, you have this new governance and it de-

velops its own personality, and over time they expand their abilities and what they can cover, or what they determine provides certainty within the system. And so I want to ask the whole panel, what happens when a scenario occurs where they start expanding the power, for example, saying, geez, if that Web site is going to use too much band width, where—you have to put up so much money, or there has to be some conditions tied to that. How do we prevent that from occurring, and a new stakeholder group accepting that, when there is no NTIA to verify, hey, that is not within your jurisdiction, because it sounds like once they develop the new governing body of ICANN, that there is no more check left. And, frankly, and we have heard it, we don't trust Russia or China when they are sitting on there, or Iran or now Turkey, to make policy decisions. And I know we are only talking about domain names, but they can sit there and say this is tied to a domain name, because we are not going to issue you a domain name or a root because. Mr. Strickling?

Mr. STRICKLING. Well, again, I think that this apprehends what we do today. The policy-making in ICANN today is performed by the multi-stakeholder community.

The United States participates in that process, not through the IANA functions contract, but through our participation in the Governmental Advisory Committee. That is not changing. We are not going away. As I said in my opening statement, we will remain vigorous advocates for a free and open Internet through the Government Advisory Committee, and we will be joined in that by a number of other likeminded governments participating in that. So——

Mr. TERRY. All right, help me work through that because that is somewhat confusing to me. So now today, as I understand, like if France, on a root file, ICANN approves it but then it comes to you for just the double check verification.

Mr. STRICKLING. In terms of——

Mr. TERRY. There is no entity, once the proposal is accepted, there is no entity then other than just the ICANN Board. So if they make a mistake, there is no one there to verify it now. Is that correct?

Mr. STRICKLING. Well, our role doesn't even necessarily look back at the Board process. What we look at is kind of the technical accuracy, and it is kind of a checklist to make sure that what is being sent through followed all the appropriate procedures to come through, and we verify its accuracy.

First off, the policies probably aren't going to be as specific as your example in terms of some specific request——

Mr. TERRY. But we don't know.

Mr. STRICKLING [continuing]. From France. What?

Mr. TERRY. We don't know that.

Mr. STRICKLING. Well, but it would still be based on the overall policy for top-level domains established by the constituency organizations within ICANN. So if your example is dealing with .FR, the country code, that is one supporting organization at ICANN. If France, the government, is dealing with generic top-level domain, that goes to a separate supporting organization. So that is here the policy-making is done, and in those sessions you have the people who are involved in those different communities participating in

answering those questions. So that, today, happens through a multi-stakeholder process, and then the Governmental Advisory Committee sits separately to resolve public policy issues that may emerge out of the policy-making that is happening in these other organizations, and it is there that, through consensus policies, the governments can speak to particular issues.

Mr. TERRY. Anyone else?

Mr. CHEHADE. Well, I could add, Congressman, that, as part of our proposal our community is going to be very alert to put these belts and suspenders in that proposal to avert the potential down the line of things going awry. We don't know what this will look like, as Ambassador Gross said. We need to get the community involved in designing that process, but you heard today mention by one of the panelists on a panel coming up that there are ideas for testing various models to test this. I am sure our community that doesn't let me change the brand of coffee in my cafeteria, I have thousands of people watching everything we do, will be on top of that, and will make sure that the proposal comes back with the right guarantees as best we can that this thing does not go the wrong way.

Mr. TERRY. OK. Yield back.

Mr. WALDEN. Gentleman yields back balance of his time.

Chair now recognizes the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman. Appreciate you having this hearing. Appreciate our panelists for being here as well. This is an issue that I know a lot of us are real concerned about as we look at all the questions, and potential ramifications that are involved in the NTIU making any changes to the ICANN process and the multi-stakeholder process that works so well. I have been a strong supporter of an open and free Internet, and especially free from governments that have an interest in taxing, restricting, censoring the Internet and the ability of its people to use it, and all the power that people have been empowered with to do the things that they have done because of it. So I know I support Congressman Shimkus' bill that he is going to be bringing forward, the DOTCOM Act, that puts some of those belts and suspenders that you are talking about in place to slow this thing down and say let us get a real clear picture of what we are looking at, because there are a lot of unanswered questions when we look at the ramifications of this. I don't find it often where I can quote the Heritage Foundation and Bill Clinton in the same sentence, both in support of the same thing, but just last week I think you may have heard Bill Clinton express concerns about this, as did the Heritage Foundation, and even the Washington Post, and the concern was that giving up ICANN could "open the door" to nations that don't value an open and free Internet. And just to go one step further, this is an actual quote from former President Clinton, "A lot of people have been trying to take this authority away from the U.S. for the sole purpose of cracking down on Internet freedom, and limiting it and having government protect their backsides instead of empowering their people." These are serious concerns being raise by, again, people that don't always see eye to eye, but share a lot of the concerns that I and many of our colleagues have expressed.

So first, I would like each of the panelists to just real briefly, if you can, touch on those concerns that are being expressed by people that aren't always on the same page.

I guess we will start with you, Mr. Strickling.

Mr. STRICKLING. So I will refer back to my statement at the opening, which is we won't let that happen, number one.

Mr. SCALISE. What is an assurance of that? I mean it is good to say we won't let that happen.

That is nice to hear it, but nobody knows what is going to happen. You can't tell me what is going to happen.

Mr. STRICKLING. Well, but I am——

Mr. SCALISE. How do you know you won't let it happen?

Mr. STRICKLING. I am saying that we will not accept a proposal that has that as its outcome, period, end of story. So it won't happen. Secondly, no one has yet explained to me the mechanism by which any of these individual governments could somehow seize control over the Internet as a whole.

Mr. SCALISE. You really don't think that Russia——

Mr. STRICKLING. Explain——

Mr. SCALISE. Look, Russia and China have made it very clear what they want to do to suppress Internet freedom. They have made it very clear.

Mr. STRICKLING. And they do it within their own country.

Mr. SCALISE. And you don't think——

Mr. STRICKLING. There is nothing we can do to stop that.

Mr. SCALISE [continuing]. That they are going to be working—whatever rules you come up with, at the end of the day, you all would come up with some sort of process if you are going to transfer away, and I say if, capital I, capital F, if you transferred away, because you would come up with some sort of process. Do you really not think that Vladimir Putin, with all the other things he is busy with right now, isn't going to try to figure out some way to get control, it won't be through the Russian government directly, necessarily, but China and Russia have proven very resourceful at trying to figure out what that process is so that they can manipulate it. And you can do all the things you want to stop that from happening, but at the end of the day it comes out to where those countries have figured out a way, like they have figured out a lot of other ways too, to do something subversive that goes against all of the intentions that we have. You can't stop that.

Mr. STRICKLING. Well, Congressman, what is it that you think they could do that they can't do today?

Mr. SCALISE. Well, do you really think—look at Putin is doing right now. I know the President just doesn't seem to take this seriously what he is doing through eastern Europe. I mean he is trying to rebuild—get the old band back together, get the Soviet Union back together right now, before our very eyes.

I mean Secretary of State Kerry says, oh, the international community won't accept this. They are doing it. They don't care what the international community thinks. And they are talking about invade—they are invading a country, you know, so I mean what would they do to get control of the Internet if you threw something out there? Again, I mean these are real concerns that are being expressed. If the other two panelists can touch on this as well.

Mr. CHEHADE. Thank you, Congressman.

Let me be clear that at ICANN, it is impossible for them today to do so. They have been trying for 15 years.

Mr. SCALISE. Exactly. Which is why——

Mr. CHEHADE. They have not.

Mr. SCALISE [continuing]. Why it is working.

Mr. CHEHADE. But it is not because the U.S. actually has the current stewardship role, it is because of the multi-stakeholder model. It stops them. Now, where they will try to do what you are suggesting is in the international, intergovernmental organizations.

Mr. SCALISE. Yes.

Mr. CHEHADE. They have been trying to do that there. So we want to take away from them any argument that they can still go to the U.N. and try to take over what ICANN does, by making sure ICANN is free of one government control, to show them that ICANN believes in the multi-stakeholder model, and this great country that created that model trusts it.

Mr. SCALISE. Thanks. And, Mr. Gross, real quick because I know I am almost out of time. The Administration right now is getting ready to participate in the 2014 Internet Governance Forum in Istanbul, Turkey, a country that, as we speak, is blocking its citizens from access to Twitter. Why are we even participating in a sham like this?

Mr. GROSS. Well, I think it is important to recognize that the Internet Governance Forum is a non-decision-making, multi-stakeholder process. It has no authority to do anything.

Mr. SCALISE. Why would we validate——

Mr. GROSS. Even——

Mr. SCALISE. Why would we validate the things that they are doing, that I would hope the Administration is opposed to, by attending that conference?

Mr. GROSS. I would take a different approach. I would recommend taking a different approach, is that those who believe in the free flow of information ought to attend and speak loudly about the importance of free flow of information. It is the people of Turkey, among other places, that need to hear it and feel supported, not ignored. So it seems to me it is an opportunity for us to be strong in our beliefs there, and not shy away from it.

Mr. SCALISE. Well, I would appreciate if you all would look at the legislation that Mr. Shimkus is bringing forward because I think it does go back to putting those protections in place that we all ought to be concerned about with people that don't have good intentions, that will try to figure out how to get around this.

So thank you. Thank the panelists. Thank you, Mr. Chairman. Yield back the balance of my time.

Mr. WALDEN. The gentleman yields back.

The Chair now recognizes the gentleman from Kentucky for 5 minutes.

Mr. GUTHRIE. Thank you, Mr. Chairman. Thank you for being here. And, Secretary Strickling, thanks. We worked on spectrum together. I appreciate that.

And I would just like to say, Mr. Chehade, you just said that they would try to work the international organizations. I know this isn't really on the subject I wanted to go, but I know when Mr.

Shimkus asked about whether Ukraine was going to be RU versus—.RU versus dot, whatever Ukraine, you said that is up to—you would follow the U.N. on that. So is there a little inconsistency there? I mean I just have a question. And real quick because I really want to get to my——

Mr. CHEHADE. No, country codes in many ways are set by standards—ISO standards that come out, so that we don't make up countries, we follow the country code model that is in place.

Mr. GUTHRIE. And Mr. Scalise quoted President Clinton and the Heritage Foundation. Ms. Eshoo, my friend from California, said the issue over here and she put over here on us is that our concern was the countries could take over, countries we don't want taking over the Internet take over use of the Internet. And I understand Secretary Strickling said it can't happen, and there is really not a mechanism for that to happen, will not happen, will not accept it. I know that you had a great presentation, Mr. Chehade, on American values, American exceptionalism, as I would say, and so when we go into these negotiations, we always want everybody to say we want to do this because America—this is what America does, we create multi—but not every other country does that.

And so I will get to my question. You said there is really no mechanism, Mr. Strickling, for that to happen. You say we won't accept, so make it what Mr. Shimkus asked but in this way, you say we won't accept any plan from Mr. Chehade or any group that is not accountable and transparent. So what parameters or what will you be looking for in terms of accountability and transparency? And I think Mr. Gross kind of answered that in saying, well, we don't even know what it is because they haven't developed it yet, but we need to go in, at least, knowing what we know and knowing what we are looking for. And what would you be looking for in an accountable and transparent program?

Mr. STRICKLING. We need to see, and again, ICANN has made great strides in this over the last several years, the fact that the multi-stakeholder community feels that the decisions that they are making, the policies that they are developing, are being executed as they have directed them. And so we look to how ICANN actually performs in that respect, we look at what the mechanisms are that are in place to ensure that ICANN performs in that fashion. And again, this has been the subject of 2 accountability and transparency review teams that I have personally participated on in 2010 and 2013, and we will continue to push for those sorts of improvements throughout the next period of time while this plan is being put together, and beyond, because as I said earlier, the organization can always find ways to improve in that regard.

Mr. GUTHRIE. But when you look for something transparent, is there something specific going in that you are—I want to see that they are able to allow us to have annual public audits, they—or what—or, Mr. Chehade, what would you offer up as these are going to show that the ICANN organization that you chair would be transparent in a way that is a solid plan to know not only that it can't happen now, but that concerns what happens when we are all gone, to get to Mr. Shimkus' model, the—I think Mr. Yeltsin signed the Budapest Memorandum. Well, Putin didn't get the memorandum. And so how do we kind of ensure this going further, and

those are the—kind of the concerns we have, and they are real concerns.

Mr. CHEHADE. Yes, and they are real concerns and they are ones we take seriously. I want to assure you of that. We do not belittle the possibility of us going into the wrong mode, so we have to be alert, we have to be vigilant. We need all these companies that supported this move to remain engaged, because they have been for 15 years, and to watch what we do.

From my side, operationally, I need to make sure that every part of this process is open, is transparent, is inclusive, that we don't simply do it in a suburb, hiding in a room, and people around the world can't see what is happening. They need to participate. We have remote participation at these meetings, multiple translation. Meaning inclusivity, openness and transparency have to underpin this process or it is not legitimate to this government or to anybody in the world. And that is our commitment.

Mr. GUTHRIE. And let me just say in my last 20 seconds, so when we are speaking and speaking from our role in the government, we do know that we are exceptional, and Americans expect freedom and opportunity and things that are forward, and we also know that other governments don't have that, and it is internal, their governments are doing it now. What we are doing now is not preventing them from doing it. We understand that, but that is what people understand, so we have got to be very careful and very transparent, very accountable if this process moves forward so people can be confident that we are going to have the same opportunities that we have without relinquishing our American exceptionalism, or our American ideals to other—an international body.

Thanks. I have just ran out of time. I appreciate it.

Mr. WALDEN. Thank you very much. The gentleman yields back.

The Chair now recognizes for 5 minutes the gentleman from New Jersey.

Mr. LANCE. Thank you very much, and good morning to the distinguished panel.

I would like the panel to know that I have received a good deal of correspondence on this issue, and certainly those in the district I serve are concerned about the situation, and I want to work to the greatest extent possible to allay the concerns of the constituents whom I represent. And the district is a well-educated district and certainly wants access to the greatest extent possible across the globe.

I support Mr. Shimkus' legislation. To you, Secretary Strickling, if the legislation were to pass both Houses of Congress and reach the President, I know you have indicated, sir, that you are neither for it nor against it, would you at the least not oppose it if it were to reach the President's desk?

Mr. STRICKLING. Well, Congressman, I think, as you know, Administration positions on legislation are developed through a process that hasn't happened yet on this bill, so I couldn't speak to that.

Mr. LANCE. Thank you. Certainly, Mr. Shimkus doesn't need me to lobby for his legislation, but I do support his legislation, and I

would hope that the Administration might work in a cordial fashion with Mr. Shimkus as the situation moves forward.

Mr. STRICKLING. So as I told the Congressman, and I will repeat to you and to the other members, we are committed to keeping this committee advised and informed of the process as we work our way through it. We expect to be up here on a regular basis, perhaps not with all of our friends and neighbors, but we will do what we can to keep you advised and informed of the process as it moves forward.

Mr. LANCE. Thanks, Secretary. To that end, I do have a question, and perhaps you have just answered it. You are willing to advise Congress of the proposals submitted for the transition and commit, I would hope, to delay action until you have briefed Congress on the consequences of accepting any of the proposals?

Mr. STRICKLING. We will keep you fully informed, yes, sir.

Mr. LANCE. Thank you.

To the other distinguished members of the panel, I want to reiterate the concerns of my constituents, and I would like to work in a fashion where we are effective to make sure that this be as open a process as possible. And, obviously, it is the unanimous view of members of this subcommittee, I would presume of members of the House and Senate, that we want an open and transparent process, recognizing that freedom across the globe is essential as we move forward in this area.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. LATTA [presiding]. Well, thanks very much. The gentleman yields back the balance of his time.

And seeing no other members here to ask questions, I want to thank, on behalf of Chairman Walden, our distinguished panel for being here today. Appreciate it. And we are now on our second panel. Thank you.

Well, thank you very much. We will convene the second panel at this time. And the Chair would first like to recognize Steve DelBianco, the Executive Director of NetChoice. And we appreciate you being here, and the mic is yours for 5 minutes. Thank you very much.

STATEMENTS OF STEVE DELBIANCO, EXECUTIVE DIRECTOR, NETCHOICE; AND CAROLINA ROSSINI, PROJECT DIRECTOR, NEW AMERICA FOUNDATION OPEN TECHNOLOGY INSTITUTE

STATEMENT OF STEVE DELBIANCO

Mr. DELBIANCO. Thank you, Mr. Chairman, members of the committee.

If you look back across 16 years and three different Administrations, I think you will see that our government has protected ICANN and helped it to mature. You might also see that the U.S. cannot retain that unique role forever, and you might also admit that politics today are forcing a discussion to begin on the transition.

You have heard complicated concepts and acronyms all morning long, so how about a simply analogy? Think of a car and a driver. So the top-level domain table, think of it as a car. It was designed

and built here in the U.S.A. in 1990, and the license plate on this car reads I–A-N–A, IANA. In 1998, we asked for a designated driver on this car, and we created ICANN to fulfill that role. Then we handed the car keys to ICANN, and giving them the authority to make policies while driving that car, but we monitored what they did in the care of the car. Then in 2009, we figured ICANN was mature enough to be given some independence, and we did that under the Affirmation of Commitments, but all along, the U.S. Government retained the title to that car. The IANA car was kept by the U.S. That became leverage for us to hold ICANN accountable for the symbolic powers that Secretary Strickling mentioned earlier.

NTIA's announcement that you are debating today doesn't say what happens to the title for IANA. It doesn't say it at all. It is possible that the community proposal would have NTIA sign the title over to ICANN, but that is not a foregone conclusion. It might be that we sign the title over to an independent multi-stakeholder entity that could then hold ICANN accountable the way NTIA has for 16 years.

Now, NTIA's principles for the transition are great as far as they go, but to hold ICANN accountable and to prevent government capture after we sign over the title, we need more than just principles. We have to ask how any proposed mechanism would respond to potential scenarios or stress tests.

So back to the car-and-driver analogy. We can tell our teenagers about the good principles of driving carefully in the winter, but it is the stress tests to have them respond to having the car spin sideways on a snow-covered road. In today's testimony, I suggested several stress tests and used case scenarios, and our task is to develop accountability mechanisms that could answer to those tests at least as effectively as the mechanism we have today, the NTIA oversight.

So I mentioned stress tests in there, like what if ICANN lacked the financial or technical capability to actually execute its obligations, who would rescue the root in that case. I gave richer examples in there, like example scenarios six and seven on Internet censorship. Today, censorship happens at the edge of the Internet where governments can block a domestic access to a Web site. As you know, Turkey is blocking Twitter inside the country, even though the rest of the world can see Twitter.com. But consider a stress test where censorship migrates from the edge of the Internet to the core of the Internet, which is the root table that we are talking about here, that is used by the entire world. ICANN's Government Advisory Committee, or GAC you heard today, they can change their operating procedures at any time. They can change from the consensus they have today to majority voting, which is what they are used to at the United Nations. There were only 61 governments who showed up at the ICANN Singapore meeting, so 31 governments would have been enough for a majority. So let us say that those governments advise ICANN that the new TLD.corrupt, the .corrupt top-level domain, must get government permission for any domain that matches the name of a government official. After all, top-level domains already need that kind of permission for city and territory names in new top-level domains, so

it seems like a relatively easy matter for them to approve a brand new policy on permission.

The question is what would ICANN's Board do in that stress test. If the future Board felt very seriously threatened by the ITU and U.N., as Ms. Rossini will warn you in a moment, then it might not have the guts to reject that kind of advice coming from governments. So how could our new mechanism resist that pressure? It should be at least as strong as the present arrangement where a government with First Amendment in its DNA would reject censorship in the DNS.

So I will conclude by saying most of the questions you have asked today probably can't be answered today. So we have to continue the process of developing proposals, and then we can ask how each of those proposals would answer the stress tests and questions. We can design a new accountability mechanism for ICANN, possibly with independent and external safeguards, and above all, let us be realists about the risks as we head down this road, but let us begin as optimists that we can arrive safely.

And I look forward to your questions.

[The prepared statement of Mr. DelBianco follows:]

Statement of

Steve DelBianco,
Executive Director

Testimony before the

House Energy & Commerce Committee,

Subcommittee on Communications and Technology

Ensuring the Security, Stability, Resilience, and Freedom of the Global Internet

April 2, 2014

Chairman Walden, Ranking Member Eshoo, and distinguished members of the Subcommittee: My name is Steve DelBianco, and I thank you for holding this hearing on *Ensuring the Security, Stability, Resilience, and Freedom of the Global Internet.*

I serve as Executive Director of NetChoice, an association of leading online and e-commerce businesses.[1] At the state, federal, and international levels, NetChoice works to promote the integrity and availability of the Internet. We participated in the past 26 ICANN meetings, and I've been elected four times as policy chair for ICANN's Business Constituency. I've attended seven Internet Governance Forum (IGF) meetings and testified in five Congressional hearings on ICANN and Internet governance.

NetChoice members are deeply invested in the topic of today's hearing because the Internet enables direct online revenue of $200 billion in the U.S. and $1.5 trillion globally.[2] Our businesses need a secure Internet address system that's resilient to cyber attacks and interruptions. We need addressing and routing that works the same around the globe – free from discriminatory regulation and taxation across national boundaries. And we need Internet policies that are predictable and enforceable, allowing innovation while protecting consumers.

My testimony today will focus on three points relevant to this committee:

1. Over 16 years and through three administrations, the U.S. government has protected the ICANN multistakeholder model from government encroachment and helped the organization mature towards independence. However, it is not sustainable for the U.S. to retain its unique role forever, and the current political situation requires that discussions now begin for how to complete the transition.
2. NTIA's principles and requirements for this transition are appropriate to design new mechanisms to oversee Internet addressing functions, to hold ICANN accountable, and to prevent government capture *after* the transition is complete. In addition, we should ask how a new accountability mechanism would respond to potential stress tests.
3. Congress is right to ask questions about the transition. Rather than denying the situation, Congress should channel its energy to help the Internet community design a new accountability mechanism for ICANN, potentially one with independent and external safeguards against potential stress scenarios.

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[1] See http://www.NetChoice.org. This testimony reflects the view of NetChoice and does not necessarily represent the views of any individual member company.

[2] The Internet Economy 25 Years After .com, Robert Atkinson, ITIF, March 2010, at http://www.itif.org/publications/internet-economy-25-years-after-com

1. United States Government Stewardship of ICANN and IANA

America invented the core Internet technologies and promptly gave them to the world. Internet hosts were appearing internationally by the 1980s. The 1990's saw the explosion of commercial uses of the Internet, based on a naming and numbering system also created in the United States. In 1998, the Clinton administration privatized and internationalized the Domain Name System (DNS) with this directive in the *White Paper*:

> "The President directed the Secretary of Commerce to privatize the Domain Name System in a way that increases competition and facilitates international participation in its management."
>
> "The U.S. Government is committed to a transition that will allow the private sector to take leadership for DNS management."[3]

In the sixteen years since, it's been a long road from American invention to internationalized private-sector leadership by an entity the U.S. established for the task: the Internet Corporation for Assigned Names and Numbers (ICANN). Three administrations and several Congresses have worked to help ICANN mature and protect the vision of private-sector leadership from growing pressure for control by governments.

Many governments around the world saw the growth of the Internet and assumed that its governance required an inter-governmental solution. In 2005, the United Nations (UN) held a World Summit on the Information Society to discuss the issue. This UN activity prompted the House of Representatives to respond in November 2005, unanimously approving H.Con.Res.268 to express the sense of Congress:

> (1) the United States and other responsible governments send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and
>
> (2) the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN (the Internet Corporation for Assigned Names and Numbers) so that ICANN can continue to manage the day-to-day operation of the Internet's domain and addressing system, remain responsive to Internet stakeholders worldwide, and otherwise fulfill its core technical mission.[4]

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[3] The "White Paper" on Management of Internet Names and Addresses, U.S. Department of Commerce, Jun-1998, see http://www.ntia.doc.gov/ntiahome/domainname/6_5_98dns.htm

[4] H.Con.Res.268, Nov 17, 2005, http://beta.congress.gov/bill/109th-congress/house-concurrent-resolution/268/text?q=%7B%22search%22%3A%5B%22hcres268%22%5D%7D

At the same time, the Bush administration responded with its *Principles on the Internet's Domain Name and Addressing System:*

> The United States Government intends to preserve the security and stability of the Internet's Domain Name and Addressing System (DNS). Given the Internet's importance to the world's economy, it is essential that the underlying DNS of the Internet remain stable and secure. As such, the United States is committed to taking no action that would have the potential to adversely impact the effective and efficient operation of the DNS and will therefore maintain its historic role in authorizing changes or modifications to the authoritative root zone file."[5]

The transition was expected to take a few years, but by 2009 NTIA had made several extensions, the latest through a Joint Project Agreement that expired in September 2009. At the time, NetChoice was among those calling for another extension so that ICANN could develop permanent accountability mechanisms.

Instead, NTIA and ICANN unveiled a new agreement in September 2009, the *Affirmation of Commitments.*[6] The *Affirmation* established periodic reviews giving all stakeholders – including governments – a defined oversight role in assessing ICANN's performance. This was a welcome mat for governments wary of ICANN's unique multistakeholder process, and even those who resented the legacy oversight role of the U.S. government. The *Affirmation* also gave the global Internet community what it wanted: independence for ICANN in a framework bringing governments alongside private sector stakeholders, with a sharpened focus on security and serving global internet users.

But concerns about the U.S. role in naming and numbering remained after the execution of the *Affirmation*. NTIA retained its role in oversight and contracting for the Internet Assigned Numbers Authority (IANA). The IANA contract is deemed essential to ICANN and therefore provided NTIA leverage to hold ICANN to its *Affirmation* obligations.

However, ICANN can quit the *Affirmation* with just 120 days notice. And within a year of signing, ICANN's then-chairman told a group of European parliamentarians that he saw the *Affirmation* as a temporary arrangement ICANN would like to eventually terminate.[7]

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[5] U.S. Principles on the Internet's Domain Name and Addressing System, June 30, 2005, at http://www.ntia.doc.gov/other-publication/2005/us-principles-internets-domain-name-and-addressing-system

[6] Affirmation of Commitments, 2009, http://icann.org/en/documents/affirmation-of-commitments-30sep09-en.htm

[7] Peter Dengate Thrush, in response to a question from Steve DelBianco, at event hosted by European Internet Foundation in Brussels, June 22, 2010.

All of this to say that ICANN needs a persistent and powerful reminder that it serves at the pleasure of global stakeholders; that ICANN has no permanent lock on managing the Internet's name and address system. We said at the time that ICANN's role in IANA functions should disappear if it were to walk away from the *Affirmation of Commitments*.

In 2005 the UN created the Internet Governance Forum (IGF). IGF meetings have become increasingly productive and substantive, yet some governments pressed the IGF to adopt resolutions and address more of the domain name issues managed by ICANN and IANA. In its July-2010 statement to the UN, China's government declared, "First, the future IGF should, in accordance with the provision of Tunis Agenda, focus on how to solve the issue of unilateral control of the Critical Internet Resources." By 'unilateral control', China means U.S. custody of the IANA contract. And 'the Critical Internet Resources' include IP addresses, root servers, and the policy-setting and management of domain names.

China was not alone in its desire for the migration of ICANN and IANA functions to the UN's International Telecommunication Union (ITU). ITU leadership did not like a model where governments share power with industry and civil society technologists, warning ICANN leaders that sooner or later governments would take greater control of the organization.

In 2011, a select group of governments convened to design their own replacement for U.S. oversight and ICANN's model of private sector leadership. India, Brazil, and South Africa (IBSA) declared it was time for "establishing a new global body" to:

i. be located within the UN system;
ii. be tasked to develop and establish international public policies with a view to ensuring coordination and coherence in cross-cutting Internet-related global issues;
iii. integrate and oversee the bodies responsible for technical and operational functioning of the Internet, including global standards setting;
iv. address developmental issues related to the internet;
v. undertake arbitration and dispute resolution, where necessary, and
vi. be responsible for crisis management. [8]

Against this geo-political backdrop in 2011, NTIA began the process to award the next iteration of the IANA contract. First, NTIA opened two rounds of public comment from global

[8] Recommendations of IBSA Multistakeholder meeting on Global Internet Governance, September 2011, at http://www.culturalivre.org.br/artigos/IBSA_recommendations_Internet_Governance.pdf

stakeholders – not just from U.S. interests – on how to improve IANA functions. ICANN's CEO submitted a comment that revealed the organizations' eagerness to end any remaining U.S. oversight, declaring that the United States "relinquished its oversight role" when it signed the *Affirmation*.[9]

But NTIA didn't see it that way, and took the bold step of cancelling the IANA solicitation because ICANN's bid wasn't responsive to increased technical requirements. Here's how NTIA Administrator Strickling described it in July 2012:

> Last year, in anticipation of the expiration of the IANA functions contract, NTIA undertook two consultations of stakeholders, both domestic and international, on how to best enhance the performance of the functions. Based on input received from stakeholders around the world, we added new requirements, such as the need for a robust conflict of interest policy, to exercise heightened respect for local country laws and to increase transparency and accountability.
>
> This spring, we took the unprecedented action of cancelling the initial request for proposals (RFP) because we received no proposals that met the requirements requested by the global community. We then reissued the RFP, and at the end of June we awarded the contract to ICANN, whose submission in response to the reissued RFP did adequately meet the new requirements.[10]

Also in 2012, both houses of Congress unanimously affirmed "the consistent and unequivocal policy of the United States to promote a global Internet free from government control and preserve and advance the successful multistakeholder model that governs the Internet today."[11]

To emphasize the point, Chairman Walden's H.R.1580 reported from this committee and passed the House 413-0 in May 2013, declaring: "It is the policy of the United States to preserve and advance the successful multistakeholder model that governs the Internet."[12]

Clearly, the last 16 years of "transition" have seen significant improvements in globalizing ICANN and IANA, although there have certainly been some challenges. Along the way, some governments and intergovernmental organizations have criticized the U.S. role and openly coveted taking over that role. But throughout, the U.S. Congress and multiple

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[9] p.3 of ICANN response, March 25, 2011, at http://www.ntia.doc.gov/files/ntia/comments/110207099-1099-01/attachments/ACF2EF.pdf

[10] http://www.ntia.doc.gov/speechtestimony/2012/remarks-assistant-secretary-strickling-internet-governance-forum-usa

[11] H.Con.Res.127 and S.Con.Res.50 - Expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived, Aug 20, 2012

[12] H.R.1580 - To affirm the policy of the United States regarding Internet governance, May 14, 2013

administrations have stayed with the vision of multistakeholder, private-sector leadership for Internet addressing and policymaking. And our government has used its contractual tools to improve ICANN's performance and to hold the organization to the only accountability mechanism it has—the *Affirmation of Commitments*.

Still, the U.S. has continued to work towards full privatization of ICANN and IANA, at a deliberate pace and with measurable progress. Then came 2013 and Edward Snowden's revelations of U.S. government surveillance. While not at all related to the Domain Name System or to Internet addressing, the Snowden situation was conflated with U.S. oversight of ICANN and IANA, and gave a big boost to demands for globalization of these institutions.

2. NTIA's Announced Transition for IANA functions and ICANN Accountability

Last month the Commerce Department announced that it would begin a process to relinquish control of its contractual authority over the IANA contract. The positive global response was immediate and vocal, signaling that this move, at this time, could relieve the intense pressure from foreign governments demanding an end to the U.S. role in Internet oversight.

In its announcement, NTIA asked ICANN to develop a transition plan to move control of the DNS into the hands of "the global multistakeholder community" and stated principles for any new mechanism that would replace its role in overseeing Internet addressing functions and holding ICANN accountable:

> NTIA has communicated to ICANN that the transition proposal must have broad community support and address the following four principles:
>
> - Support and enhance the multistakeholder model;
> - 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.

To these four principles, NTIA added a clear statement that it would not give up IANA control if the plan developed by ICANN would place other governments in the legacy role of the United States:

> Consistent with the clear policy expressed in bipartisan resolutions of the U.S. Senate and House of Representatives (S.Con.Res.50 and H.Con.Res.127), which affirmed the United States support for the multistakeholder model of Internet governance, NTIA will not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution.[13]

With the experience of the last 16 years, it's appropriate for NTIA to impose this condition. And it will be important for the transition plan to prevent any government-led organization from replacing the former U.S. role *after* the transition is complete. Moreover, how would the transition proposal oversight respond to a range of potential stresses and scenarios it might confront one day?

Below we suggest the use of scenario planning, or stress tests, to help design and assess new accountability mechanisms proposed to replace NTIA's role. If new mechanisms can't answer the potential challenges, NTIA can extend the IANA contract to give the community more time to add stronger accountability mechanisms and protections for the multistakeholder model.

Scenario Planning/Stress Tests

Software designers need more than high-level principles to develop an application. Programming requires anticipating scenarios where users don't follow the expected routine. For non-programmers, here's an analogy: It's a good *principle* to practice safe driving in winter weather. It's a *scenario* to prepare for and respond to a specific situation, such as having your car spin sideways on a snow-covered road.

Knowing the array of possible scenarios helps us design appropriate responses, regardless of whether those scenarios ever actually occur. Today, ICANN is an effective organization that generally performs its core functions, so it can be uncomfortable to imagine a scenario where a future ICANN fails dramatically or is confronted with a serious threat. But we should consider challenging scenarios and develop mechanisms that could resolve those challenges in a way that's at least as effective as the mechanism we have today — where the

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[13] Press Release, "NTIA Announces Intent to Transition Key Internet Domain Name Functions", March 14, 2014, at http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions

U.S. government and technical communities ensure a stable root and where the threat of losing the IANA contract keeps ICANN accountable to its global stakeholders and the public interest.

At ICANN's Singapore meeting last week, I suggested several scenarios/stress tests that could help assess performance and accountability if ICANN were to assume the IANA contract:

1. Scenario: ICANN cancels the *Affirmation of Commitments*, which it may do with just 120 days notice. And if not outright cancellation, ICANN could fail to implement recommendations of an *Affirmation* review. Presently, the discipline imposed by needing to win the IANA contract forces ICANN to adhere to the only external accountability it has today: the *Affirmation of Commitments.* If the *Affirmation* is to remain part of the new ICANN accountability framework, it's essential that the leverage formerly conveyed by the IANA contract be replaced with a new mechanism, which may or may not include parties external to ICANN.
2. Scenario: ICANN takes steps to eliminate its legal presence in a nation where Internet users and domain registrants are seeking legal remedies for ICANN's failure to enforce contracts. This scenario is not about ICANN opening new offices around the world as part of its global outreach. Rather, it's about ICANN creating a new legal entity distinct from its present status as a California non-profit corporation, and eventually relocating its legal presence. ICANN's current corporate presence in California creates legal certainty for U.S. businesses; presence in a new jurisdiction might not.
3. Scenario: ICANN becomes financially insolvent, due to lawsuits or gross mismanagement. However unlikely, this scenario should explore the orderly continuation of IANA functions in the event ICANN could not maintain the necessary qualified technical resources.
4. Scenario: ICANN expands scope beyond its limited technical mission by granting subsidies to promote Internet penetration or online participation in developing nations. ICANN has the power to determine fees charged to TLD applicants, registry operators, registrars, and registrants, so it presents a big target for any Internet-related cause seeking funding sources. However worthy the cause, this scenario should examine how a fully independent ICANN could be held to its limited technical mission, and whether its fees and spending are subject to external accountability.
5. Scenario: ICANN attempts to add a new top-level domain over security and stability concerns expressed by technical community leaders. This scenario actually came close to

occurring when ICANN management did not respond to recommendations of its own Security and Stability Advisory Committee (SSAC) regarding risks of new TLDs interacting with security certificates and internal domains already in use. SSAC recommendations from prior years were not acted upon until late 2013, after significant pressure from a root server operator, Internet service providers, and system integrators. In this instance ICANN responded with a collision mitigation plan. This scenario should assess how the new accountability mechanism could respond to similar technical risks expressed before a TLD delegation, as well as reactive responses to problems reported after a delegation.

6. Scenario: Governments in ICANN's Government Advisory Committee (GAC) amend their operating procedures to change from consensus decisions to majority voting. Today GAC adopts formal advice according to its Operating Principle 47: "consensus is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection."[14] But the GAC may amend its procedures to use majority voting, where each government has equal voting power, such as in the UN and ITU. (Notably, only 61 governments were present at the GAC meeting in Singapore last week). While ICANN's board is not strictly obligated to follow GAC advice, this scenario should assess how ICANN could respond to advice with strong majority backing.

7. Scenario: Picking up on scenario 6, a majority of governments in the GAC might advise ICANN to suspend a TLD that refuses to remove domains with content critical of governments (e.g., .corrupt). Today, this kind of censorship routinely occurs at the edge of the Internet when governments block domestic access to websites, such as Turkey now blocking Twitter. But this scenario envisions censorship moving from the edge *to the core of the internet* – the root table of TLDs used by the entire world. It's a critical stress test to examine how the new IANA mechanism could respond if a future ICANN board bowed to GAC advice for censorship at the root of the Internet.

8. Scenario: A new government instructs ICANN to redirect a country code TLD already in the DNS root. For example, if Russia were to annex the rest of Ukraine, it might request Ukraine's **.ua** country code TLD to be redirected to a Russia-based server. This scenario helps to answer how ICANN could respond to this request and how it could be held accountable if the global community disagreed with its decision.

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[14] ICANN Government Advisory Committee (GAC) - Operating Principles, October, 2011, at https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles

Although these scenarios are unlikely, some governments have expressed skepticism and dissatisfaction with the multistakeholder process and might pursue such courses of action through the GAC. Our scenarios should test whether the mechanism we develop could respond to protect the multistakeholder model from those who would usurp it.

One can argue that today's IANA contract includes nothing that explicitly responds to the scenarios listed above. But as noted earlier, the influence of the IANA contract award extends beyond its functional assignments and helps to keep ICANN accountable. Moreover, the performance of NTIA in its IANA oversight demonstrates the U.S. government commitment to the principle of an open Internet. Consider the example of .xxx, an adult content TLD that was approved by ICANN in 2010. GAC advice revealed no consensus to either oppose or support the TLD, and the U.S. government position was against the .xxx contract. That led some observers to speculate that NTIA would block .xxx when exercising its IANA approval role, but NTIA respected the multistakeholder process and the principle of an open Internet.

It's fair to ask how this decision and delegation would turn out if NTIA were not part of the IANA process, and that's a stress test question that should be applied to any proposed replacement for NTIA oversight. If we establish appropriate scenarios and stress tests as part of the process to design new accountability mechanisms, we'll end up with something that will answer to the threats and challenges we're likely to face in the real world.

3. The Role for Congress in Planning this Transition

Members of this committee and Congress in general are right to ask questions and raise concerns about this transition. As described earlier, Congress has supported NTIA in holding ICANN accountable and protecting ICANN from multi-governmental encroachment.

But rather than denying the situation, we recommend that Congress channel its energy to help the Internet community design a new accountability mechanism, including appropriate safeguards against potential scenarios and stresses.

As a member of the global community of stakeholders, Congress is welcome to participate directly in the transition planning process that began last week. If Congress can't participate directly, please consider other means of engagement.

We believe that the best role for Congress and the Commerce Department is to continue holding ICANN accountable to its *Affirmation of Commitments*, ensure a secure and stable Internet addressing system, and protect the multistakeholder model from governmental takeover.

The *White Paper* vision for ICANN should be preserved: ICANN should be led by, and accountable to its multistakeholder communities, including the private sector, civil society, and technology experts – along with governments. These stakeholders have built the Internet into the transformative platform that it is today. And these stakeholders will create the innovations and make the investments to bring connectivity, content, and commerce to the next billion global Internet users and to the next generation of Americans.

I look forward to your questions.

Mr. LATTA. Thank you very much for your testimony today. And the Chair now recognizes for 5 minutes Carolina Rossini, Project Director of the Internet Governments and Human Rights Program at the Open Technology Institute at the New America Foundation. Welcome.

STATEMENT OF CAROLINA ROSSINI

Ms. ROSSINI. OK. Members of the subcommittee, sirs and madams in the audience, I am very pleased to testify before you today.

The views I share with you today are those of the Open Technology Institute at New America Foundation, but are also of Public Knowledge. Although I speak only for OTI and PK, I am also a member of a broader U.S.-based coalition of public interest nonprofits brought together to advocate for Internet governance systems that preserves the open, free, generative and global Internet, organizations that have a vested interest in promoting the free flow of information online. This coalition is guided by human rights principles, and evolves based on processes that are democratic, inclusive, open, transparent and consensus-based, what we often call multi-stakeholder processes. We share concerns that in this transition, the Internet must continue to be an open platform for the free exercise of human rights online, and we believe this move could help hinder government overreach in Internet governance, which would have harmful implications for human rights worldwide. This is a critical step in the history of the global network of networks.

Three are my main key points today. First, we welcome the Department of Commerce proposal transfer of oversight of key Internet domain name function to the global multi-stakeholder community which we are part of. This represents a fulfillment of many years of U.S. promises to the private sector, technical experts and international community at large. We have cleared that the NTIA will not accept a proposal that replaces its role with government-led or any intergovernmental organizations schemes, and we commend NTIA to not forego its contract with ICANN if a set of four principles previously mentioned and explained is not met by the final proposal.

A transition on this set of terms would be fully consistent with prior bipartisan unanimous policy by the Congress that has sought to preserve and advance the multi-stakeholder governance model under which the Internet has thrived. Those resolutions were an act of U.S. leadership, and I stress that, international leadership, in the advance of the WCIT conference a couple of years ago.

Second, we encourage the subcommittee to view the oversight of the DNS system through the lens of human rights. Freedom of expression and the spread of democratic ideals around the globe. Yesterday resolution offered by members of the subcommittee calling for Internet freedom in Turkey is a proof that we are on the same page. And today, we call for that vision to be spread and applied to all of the layers of the Internet.

Third, we believe that if proposed transfers do not go through, the—political outcomes can be disastrous. For stalling the transferring of the IANA functions to the global multi-stakeholder community could further empower critics who favor a government—a governance model, a governmental or intergovernmental model of

Internet governance, whether implemented through the ITU or some other government-dominated no multi-stakeholder body. In this current international context, the DOTCOM Act may actually place into the hands of those who use the Internet as an instrument of political control.

My final remarks. The pragmatic truth is that the United States cannot afford to maintain the symbolic control indefinitely. A change is going to come. The question is what change and in what form. We at the OTI and PK supported by a broad coalition of U.S. and international public interest nonprofits welcome the Department of Commerce plans, and we watch closely and engage deeply in all the venues of engagement, ensuring that the transition meets, as we all hope, the standards of inclusiveness, openness, transparency and accountability. In the meantime, we welcome the subcommittee interest in this complex issue, and look forward to working with its members to ensure the security, stability, reliance and freedom of the global Internet. As Ambassador Gross mentioned, the world is watching.

Thank you so much for your time and for your trust.

[The prepared statement of Ms. Rossini follows:]

Testimony of Carolina Rossini

Project Director, Internet Governance and Human Rights Program

at the Open Technology Institute at New America Foundation

Before the Subcommittee on Communications and Technology

Committee on Energy and Commerce

House of Representatives

Congress of the United States of America

April 2, 2014.

Chairman Walden and Ranking Member Eshoo, Members of the Subcommittee, sirs and madams. Thank you for the opportunity to present testimony today.

These are the views of Open Technology Institute[1] as well as Public Knowledge[2].

The Open Technology Institute, a New America Foundation initiative under which my program resides, formulates policy and regulatory reforms to support open architectures and open source innovations. OTI promotes affordable, universal, and ubiquitous communications networks through partnerships with communities, researchers, industry, and public interest groups and is committed to maximizing the potential of innovative open technologies by studying their social and economic impacts – particularly

[1] http://oti.newamerica.net
[2] http://www.publicknowledge.org/

for poor, rural, and other underserved constituencies. OTI provides non-partisan, in-depth, objective research, analysis, and findings for policy decision-makers and the general public.

Public Knowledge preserves the openness of the Internet and the public's access to knowledge; promotes creativity through balanced copyright; and upholds and protects the rights of consumers to use innovative technology lawfully. Public Knowledge works at the intersection of copyright, telecommunications, and Internet law, at a time when these fields are converging. PK's experience in all three areas puts it in an ideal position to advocate for policies that serve the public interest.

Although I speak only for OTI and PK, I am also a member of a broader, US-based coalition of public interest non-profits[3] brought together to advocate for an internet governance system that preserves the open, free, generative and global internet. This coalition is guided by human rights principles and evolves based on processes that are democratic, inclusive, transparent and multistakeholder[4]. I am here today to argue that internet governance is not just a technical issue, but also a human rights issue, and to encourage

3 I would also notice that a broader international coalition has expressed its support. See BestBits statement "Civil society representatives welcome NTIA announcement on transition of key internet domain name functions" available at http://bestbits.net/ntia-announcement/ . Accessed on March 30th, 2014.

[4] A Multistakeholder Model is an organizational framework or structure which adopts the multistakeholder process of governance or policy making, which aims to bring together the primary stakeholders such as businesses, civil society, governments, research institutions and non-government organizations to cooperate and participate in the dialogue, decision making and implementation of solutions to common problems or goals. A stakeholder refers to an individual, group or organization that has a direct or indirect interest or stake in a particular organization; that is, a given action has the ability to influence the organization's actions, decisions and policies to achieve results.
Available at http://icannwiki.com/index.php/Multistakeholder_Model. Accessed on March 30th, 2014.

the committee to view the recent events through the lens of promoting human rights and democracy around the world.

I would like to make three key points today.

First, I welcome the U.S. Department of Commerce's proposed transfer of oversight and nominal stewardship over critical resources - the modest functions[5] of top-level numbering and name assignments to the global multi-stakeholder community - if the appropriate conditions are met, as a fulfillment of many years of U.S promises to the international internet community.

Second, I encourage you to view the administration of key internet functions through the lens of human rights and freedom of expression globally, and to connect the proposed transfer to the spread of democratic ideals around the globe.

Third, I believe that if the proposed transfer does not go through, the near-term geopolitical outcome will be a transfer of the functions anyway - but to a specialized agency of the United Nations subject to political control, instead of a technically strong multi-stakeholder community.

1 - The NTIA Transfer: America Keeping Its Promises

5 Zittrain, Jonathan. *No, Barack Obama Isn't Handing Control of the Internet Over to China,* Available at http://www.newrepublic.com/article/117093/us-withdraws-icann-why-its-no-big-deal. Accessed on March 30th, 2014.

I - and the broader public interest coalition of which I am a member - welcome the Commerce Department's National Telecommunications and Information Administration's (NTIA) 'intent to transition key Internet domain name functions to the global multi-stakeholder community,' 'if the appropriate conditions are met'.

From the inception of ICANN[6], the U.S. Government and Internet stakeholders envisioned that the United States' stewardship role in the IANA[7] functions would be temporary. The Commerce Department's June 10, 1998 "Statement of Policy" stated that the U.S. Government "is committed to a transition that will allow the private sector to take leadership for DNS8 management.[9]" The NTIA proposal is strongly supported by decades of bipartisan policy, and consistent with the 2012 bipartisan Congressional resolutions - both unanimously approved - (H. CON. RES. 12710/S. CON. RES. 5011) to, I quote,

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[6] The Internet Corporation for Assigned Names and Numbers (ICANN) coordinates the Internet Assigned Numbers Authority (IANA) functions, which are key technical services critical to the continued operations of the Internet's underlying address book, the Domain Name System (DNS)." More at: http://www.icann.org/en/about. Accessed on March 30th, 2014.

[7] ICANN's IANA functions include: "(1) the coordination of the assignment of technical protocol parameters including the management of the address and routing parameter area (ARPA) top-level domain; (2) the administration of certain responsibilities associated with Internet DNS root zone management such as generic (gTLD) and country code (ccTLD) Top-Level Domains; (3) the allocation of Internet numbering resources; and (4) other services." More at: http://www.icann.org/en/about. Accessed on March 30th, 2014.

[8] "The DNS (Domain Name System) is the system used to translate alphanumeric domain names into Internet Protocol numbers. Simply put, the DNS converts the names typed in the Web browser address bar into IP addresses." So instead of typing 207.151.159.3, you can type www.internic.net. More at: http://icannwiki.com/index.php/DNS and http://www.icann.org/en/about/learning/glossary . Accessed on March 30th, 2014.

[9] "Department of Commerce: National Telecommunications and Information Administration: Management of Internet Names and Addresses." Federal Register 63:111 (June 10, 1998) p. 31741. Available at http://www.ntia.doc.gov/files/ntia/publications/6_5_98dns.pdf. Accessed on March 30th, 2014.

[10] U.S. House. 112th Congress. "H.Con.Res.127, Expressing the Sense of Congress Regarding Actions to Preserve and Advance the Multistakeholder Governance Model Under Which the Internet Has Thrived." (Version 4; Version Date: 9/10/2012). *Lib. of Cong.* Available at: http://thomas.loc.gov/cgi-bin/query/D?c112:4:./temp/~c112BPbJ6e. Accessed on March 30, 2014.

[11] and U.S. Senate. 112th Congress. "S.Con.Res.50, A Concurrent Resolution Expressing the Sense of Congress Regarding Actions to Preserve and Advance the Multistakeholder Governance Model Under Which

"preserve and advance the multistakeholder governance model under which the Internet has thrived." Those resolutions affirmed the United States' commitment to " promote a global Internet free from government control and preserve and advance the successful multi-stakeholder model that governs the Internet today."

Those resolutions were an act of leadership by the U.S Congress in advance of an event very relevant to our discussion today: the World Conference on International Telecommunications (WCIT), a meeting of the UN agency, the International Telecommunications Union (ITU). At WCIT, countries favoring greater governmental control of the internet sought to expand the ITU's treaty to include decision-making on internet issues – a scenario where intergovernmental control could have potentially disastrous consequences for the open internet and the exercise of human rights. It was in this context that Congress affirmed the bipartisan U.S. commitment to the multi-stakeholder model of internet governance, which NTIA's recent proposal further strengthens.

The NTIA proposal is not just the fulfillment of a historical promise, but also reflects the reality of the digital interconnected networks we call the internet. Both day-to-day management and long-term development of the internet have always been conducted through "multi-stakeholder" processes, driven by technical standards organizations, governments, private corporations, and civil society groups as connected stakeholders. The internet isn't a single network. It is a patchwork quilt of networks and fiber cables

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the Internet Has Thrived." (Version 4; Version Date: 12/5/2012). *Lib. of Cong.* Available at: http://thomas.loc.gov/cgi-bin/bdquery/z?d112:sc50. Accessed on March 30, 2014.

around the world, connected by common protocols and languages that have been hammered out in conference calls, working groups, and small rooms with whiteboards. The internet itself is multi-stakeholder, and its governance should be reflective of that underlying reality.

The NTIA proposal is pragmatic and has multiple safeguards that will ensure a smooth transition. The Department of Commerce has clearly stated that it will not accept any arrangement that fails to meet the guidelines it has proposed, which include:

- Supporting and enhancing the multistakeholder model;
- Maintaining the security, stability, and resiliency of the Internet DNS;
- Meeting the needs and expectations of the global customers and partners of the IANA services; and,
- Maintaining the openness of the Internet.

The Department of Commerce has said it will explicitly reject any proposal that replaces the NTIA's role with a government-led solution or an inter-governmental organization.

As trustees for overseeing the development of the transition plan, ICANN should ensure the proposal enforces NTIA's four principles, employs international human rights frameworks and processes, and strengthens diverse, multi-stakeholder engagement. ICANN should further welcome the mature Internet tech[12]nical organizations to the table, develop robust checks and balances, and lay the groundwork for a transition to a truly

12 *Internet Technical Leaders Welcome IANA Globalization Progress. An statement by IETF, IAB, RIRs, ccTLD ROs, ICANN, ISOC, and W3C.* Available at http://www.icann.org/en/news/announcements/announcement-2-14mar14-en.htm Accessed on March 31, 2014.

multi-stakeholder governance by the September 2015 deadline. Draft proposals should be discussed in an open and transparent manner between now and September 2015, looking to the Internet Governance Forum as a good example of process upon which to build.

NTIA's historic role has been to facilitate a smooth transition of the IANA functions to the global multistakeholder community. NTIA's role was always meant to be temporary and transitional, with the goal of completing the transition by 2000[13]. NTIA's four principles (as specified above) for that transition have already received broad support[14] from the national and international community of experts and stakeholders who are committed to preserving a free and open Internet.

2 - Human Rights And Internet Governance: The Impact of Transition To Multi-Stakeholder Governance

The Universal Declaration on Human Rights[15] echoes many of the same rights enshrined in the American tradition, such as freedom of expression and association, the right to life, liberty, and security, and the rights to privacy and access to public services. These and

[13] National Telecommunications and Information Agency. *IANA Functions and Related Root Zone Management Transition Questions and Answers,* March 18, 2014. Available at http://www.ntia.doc.gov/other-publication/2014/iana-functions-and-related-root-zone-management-transition-questions-and-answ. Accessed on March 31, 2014.

[14] Endorsements of the IANA Globalization Process Consolidated by ICANN. Available at http://www.icann.org/en/about/agreements/iana/globalization-endorsements-1615-28mar14-en.pdf and The GovLab SCAN – Special Issue – Reactions to the NTIA Announcement on Globalizing IANA Functions http://thegovlab.org/the-govlab-scan-special-issue-reactions-to-the-ntia-announcement-on-globalizing-iana-functions/ Accessed on March 31, 2014.

[15] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Available at: http://www.refworld.org/docid/3ae6b3712c.html. Accessed on March 31, 2014.

many other rights are impacted daily by the Internet, and by the rapid advance of software and hardware that brings the network into an incredible range of cultures and geographies.

On the surface, arcane, dry technical issues related to the assigning of internet addresses to domain names may seem a long way off from the human rights world. But they are ultimately intertwined.

The original creators of the internet and the web made choices to create an "open" system. In some cases those were political choices, as in Free Software, but in other cases, they were technical choices. Open systems are easier to run, especially when you're relying on weak network connections, slow computers, and small memory capacities. But in the creation of an open internet, and an open world wide web[16], those the creators also enabled a powerful vehicle of self-expression and innovation that is dependent, in turn, on that very open architecture. The same freedoms that allow US college students to start Facebook - the freedom to connect without permission, using only a technical standard package negotiated by multi-stakeholder means - allow for the organization of political assembly and speech.

Digital networks can be used either as an engine of freedom or as an engine of oppression--or even both at once. The freedoms of expression and assembly online are not "natural occuring" freedoms. They are encoded in the network by those who control the network. They can be changed. And that is precisely why the administration of

[16] For a comprehensive timeline of the world wide web see W3C's "A Little History of the World Wide Web". Available at http://www.w3.org/History.html. Accessed on March 30th, 2014.

internet functions can put human rights at risk if not handled carefully. This is why autocratic rulers wish to have total control inside their own borders. This is why anti-democracy regimes fear an open internet. This is why one of the first actions taken in crisis is to block Twitter, YouTube, and other communications tools. But a truly transparent, democratically structured oversight process will make it far harder to "turn off the internet" when it is convenient to a ruler.

The proposed DOTCOM Act[17], intended to protect human rights and the free and open internet against repressive government control, could have the opposite effect: by forestalling the transfer of the IANA functions to the global multistakeholder community, it could further empower critics who favor a governmental or intergovernmental model of internet governance, whether implemented through the United Nations' International Telecommunication Union (ITU) or some other government-dominated, non-multistakeholder body.

The NTIA proposal recognizes this risk. It recognizes that the internet cannot be owned by a single country. Especially a country that wants to use the internet to restrict individual freedom. By declaring the internet a global space where all stakeholders contribute on an equal footing, the NTIA proposal restricts the ability of dictators and autocrats to claim it as a sovereign space and take away the human rights of their citizens.

[17] The Office of Representative Todd Rokita, *Rokita and Colleagues Seek Review of Obama Plan to Relinquish U.S. Oversight of the Internet*, 27 March 2014. Available at: http://rokita.house.gov/press-release/release-rokita-and-colleagues-seek-review-obama-plan-relinquish-us-oversight-internet. Accessed on March 30, 2014.

The parameters set forth by the NTIA for an acceptable transition plan—inclusiveness, effectiveness, responsiveness to user needs, and openness—serve as essential safeguards for guaranteeing that the internet remains a free and unfettered tool for realizing human rights, especially freedom of expression, for the next generation. As trustees for overseeing the development of the transition plan, ICANN should ensure the proposal enforces these four principles, employs international human rights frameworks, and strengthens diverse and equal multi-stakeholder engagement.

3 - The Alternative To The NTIA Transfer: International Treaty Organizations

In taking this proactive step, NTIA has full control over the process and is in a strong position to reject any proposal that does not meet its standards or serve the interests of a free, open, and secure internet. Forestalling the transfer of the IANA function to the global multistakeholder community could actually further empower critics who favor an international, government-centric model of internet governance.

The NTIA proposal is thus an act of US leadership, both moral and political. It places the US as the world's leader in innovative approaches to internet geopolitics. At the same time, it comes with a note of caution, since nothing may happen if the appropriate conditions for the transition are not met. NTIA's "historic stewardship" over the IANA functions, while largely hands off, has drawn criticism and growing opposition from the international community for the simple fact that a single government performs an oversight role for something that is clearly a global resource.

By failing to transfer these functions until now, the US government has allowed the perception of imbalance - of a preferential US position – to fester in the internet governance discussions. This perceived imbalance has played into the hands of governments who would seek to undermine the free and open nature of the internet.

This imbalance has led authoritarian governments with a history of human rights violations and anti-democracy tendencies to demand equal oversight authority over the Internet and stronger control within their own borders or in multilateral fora. We can assume that they do not seek this authority in order to protect the online civil rights of their citizens. In committing to transfer the IANA functions to the global multistakeholder community, the United States is not opening the door for an Internet takeover by Russia or China. NTIA's proposal includes smart safeguards against such a scenario, and weakens the arguments about supposed U.S. hegemony that these countries have used in the past to demand greater control. By contrary, a "status quo" approach to ICANN and the administration of IANA functions could have immediate chilling effects on free speech, free assembly, and the freedom of expression.

Speaking pragmatically, the truth is that the United States cannot afford to maintain this symbolic control indefinitely. A change is going to come. The question is what type of change, and in what form. Tensions have already boiled over, and in October 2013 all of the key technical organizations that run key internet functions, including ICANN, the Internet Engineering Task Force (IETF), the World Wide Web Consortium (W3C), and the Internet Architecture Board (IAB), came together to release a consensus statement calling

for "the globalization of ICANN and IANA functions, towards an environment in which all stakeholders, including all governments, participate on an equal footing.[18]"

The effect of a policy resistance of to the multi-stakeholder reality of internet governance could be catastrophic. Less democratic countries might welcome a status quo approach from the US for the time being, as it would only increase the pressure to concentrate internet governance decisions in multilateral treaty venues such as the ITU, in which those countries have more influence. As experts such as Syracuse University's School of Information Studies professor Dr. Milton Mueller have noted, if the US does not transition these key technical functions, "it is only a matter of time before other governments succeed in bringing the coordination and management of the Internet under the control of intergovernmental treaty organizations.[19]"

Final remarks

I would submit that we have a fairly simple choice, because we cannot allow the status quo to drive authoritarian control over the internet inside national borders. The choice is that we can either work with the existing, proven, neutral institutions that we have, or we can put our faith in a sub-organization of the United Nations or a similar treaty organization subject to outside political control.

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[18] ICANN. *Montevideo Statement on the Future of Internet Cooperation.* October 7, 2013. Available at https://www.icann.org/en/news/announcements/announcement-07oct13-en.htm. Accessed on March 30th, 2014.

[19] PRNewswire. *Plan to End US Control of ICANN Submitted to Brazil Meeting on the Future of Internet Governance,* Available at http://www.prnewswire.com/news-releases/plan-to-end-us-control-of-icann-submitted-to-brazil-meeting-on-the-future-of-internet-governance-248351751.html . Accessed on March 30th, 2014.

The moment has arrived to make that choice, and the Administration has elected to work with those existing neutral institutions.

We at OTI and at PK welcome the NTIA's plans as a move that would alleviate this pressure, free the US to focus on more important work related to the evolution of the Internet Governance ecosystem and deter overreach by foreign governments. The NTIA clearly requires the transition proposals include broad support, input from diverse stakeholders, technical resilience and security, and maintain the openness of the internet. These demands serve as essential safeguards for guaranteeing the internet remains a free and unfettered tool for realizing human rights, especially freedom of expression, for the next generation.

Our organizations will watch closely and engage deeply – including next month at the *NetMundial*[20] internet governance meeting in Brazil – in the transition process to ensure that human rights are respected by any future internet governance arrangement and that the transition meets rigorous standards of inclusiveness, transparency, and accountability. In the meantime, we welcome this Subcommittee's interest in this important and complex issue, and look forward to working with its Members to ensure

20 "NETmundial is a Global Multistakeholder Meeting on the Future of Internet Governance. The meeting is organized in a partnership between the Brazilian Internet Steering Committee (CGI.br) and /1Net, a forum that gathers international entities of the various stakeholders involved with Internet governance. This meeting will focus on the elaboration of principles of Internet governance and the proposal for a roadmap for future development of this ecosystem. The goal is to consolidate proposals based on these two topics. NETmundial represents the beginning of a process for the construction of such policies in the global context, following a model of participatory plurality". More at: http://netmundial.br/about/ . Accessed on March 30th, 2014.

that the future of internet governance fosters, rather than undermines, the security, stability, resilience, and freedom of the global internet.

We all should continue working to implement the position of the United States on Internet governance that clearly articulates the long-standing and unequivocal policy of the United States to promote a global Internet free from government control and preserve and advance the successful multistakeholder model that governs the Internet today.

The recent ICANN meeting in Singapore[21], the *NetMundial* and IGF 2014 are essential milestones in this process. Our organizations will watch closely and engage in the process being led by ICANN to ensure that human rights are respected by any and all future Internet governance arrangements and that the transition meets standards of inclusiveness, transparency, and accountability.

Thank you for your time and consideration.

[21] 49th ICANN Meeting. Available at http://singapore49.icann.org/en/ Accessed on March 30th, 2014.

Summary of the

Verbal Statement of Carolina Rossini

Project Director, Internet Governance and Human Rights Program

at the Open Technology Institute at New America Foundation

Before the Subcommittee on Communications and Technology

Committee on Energy and Commerce

House of Representatives

Congress of the United States of America

The views I represent today are the views of Open Technology Institute, the technology program of the New America Foundation, as well as Public Knowledge, an organization that preserves the openness of the Internet and the public's access to knowledge. Three are the key points I will explore in my oral statement: first, we welcome the U.S. Department of Commerce's proposed transfer of oversight and nominal stewardship of critical resources - the modest functions of top-level numbering and name assignments to the global multi-stakeholder community - as a fulfillment of many years of U.S promises to the international community. Second, we encourage the Subcommittee to view the oversight and nominal stewardship of key internet functions through the lens

of human rights, freedom of expression, and the spread of democratic ideals around the globe. Third, we believe that if the proposed transfer of oversight and nominal stewardship does not go through, the geopolitical outcome will be a transfer of the functions to a specialized agency of the United Nations subject to political control, instead of a strong multi-stakeholder community. In this current international context, the DOTCOM Act, which seeks to block the transition in the name of human rights, would paradoxically empower nations that do not respect human rights and that are using the United States' historic role in the Internet's management as an argument for the United Nations to step into Internet governance. We share the DOTCOM Act sponsors' goal of a free an open Internet, but the bill may actually threatens that goal and plays into the hands of those who want to use the Internet as an instrument of political control rather than preserve it as a global platform for free expression and free information and economic flow. The pragmatic truth is that the United States cannot afford to maintain this symbolic control indefinitely. A change is going to come. The question is what change, and in what form. We at OTI and PK welcome NTIA's plans and we will watch closely and engage deeply in the transition process to ensure that human rights are respected by any future internet governance arrangement and that the transition meets standards of inclusiveness, transparency, and accountability. In the meantime, we welcome this Subcommittee's interest in and oversight of this important and complex issue, and look forward to working with its Members to ensure that the future of internet governance fosters the security, stability, resilience, and freedom of the global internet. Thank you for your time and consideration.

Mr. LATTA. Well, thank you very much for your testimony today. We appreciate it.

And I will start with my 5 minutes for questions.

Ms. Rossini, you appear to be claiming in your testimony that if the transfer does not occur, the near-term geopolitical outcome will be a transfer of functions away to a specialized agency of the United Nations, subject to political control. If this is, in fact, the case, doesn't that inform us of the dire necessity of making sure that the process that the Administration is about to undertake is a sound one, and that safeguards are in place to protect against that outcome after the transition is complete?

Ms. ROSSINI. Yes, I agree with that statement.

Mr. LATTA. OK——

Ms. ROSSINI. But I do believe——

Mr. LATTA. I am sorry, go ahead.

Ms. ROSSINI. I do believe though that we have to understand the timing, and if any actions—that transition can cause in terms of the symbolic movement of U.S.

Mr. LATTA. Did you want to make a comment on that, Mr. DelBianco?

Mr. DELBIANCO. Thank you, Mr. Chairman.

The mechanism for what Ms. Rossini is talking about would have been instructive on the previous panel; this notion that the United Nations might adopt a resolution, indicating that it has got an agency that should take over. In today's world, since we do hold the title, we do hold control of the root, any attempt to do that is a nonstarter in today's world. It is the post-transition world where we no longer hold that title, that the entities we charge with it have to be strong enough to resist that.

So the mechanisms of takeover, I give you one with respect to the governments changing the way they vote within ICANN, within the institution of ICANN. Ms. Rossini has talked about threats from without, outside of ICANN, and again, both cases call for us to create stress tests that can resist that.

Mr. LATTA. Thank you.

Mr. DelBianco, if I could follow up with another question then to you. If the NTIA role in overseeing the IANA contract is administerial, minor and has no real impact on day-to-day operations of ICANN or the Internet, as Mr. Chehade stated, what impacts would this transition really have?

Mr. DELBIANCO. Thank you, Mr. Chairman.

To call it symbolic, it does not mean that it doesn't exist. Symbolic just means we have to ask another question about what it means.

In 2010 after the Affirmation of Commitments was signed, the then-chairman of ICANN told a group in Europe that he viewed the Affirmation of Commitments as a temporary document that he would like to terminate. So, frankly, it is the fact that we hold the title, the fact that NTIA's supervision is there, that keeps ICANN from leaving the Affirmation of Commitments, it keeps ICANN honoring the obligations they have under the Affirmation. And I am reassured when the president of ICANN today says that we will live by the Affirmation, we won't quit it because it is working well, and I agree, but he won't be the president of ICANN forever.

There is an ebb and flow with powers and pressures in a geopolitical environment. The question is what holds ICANN to live within the Affirmation? That is a symbolic value. You could call it that, but it is quite real and has an effect right now, because the Affirmation of Commitments was cited by everyone on the previous panel as the real constitution that keeps ICANN truly accountable and transparent to the world.

Mr. LATTA. OK, let me follow up with another question to you then.

What role can the nonpartisan research entities like GAO and CRS play in this process?

Mr. DELBIANCO. Mr. Chairman, a GAO review, similar to what I saw in the Shimkus-Blackburn Bill, could explore what these four principles mean, explore what the words multi-stakeholder and open of the Internet, that would be very helpful to get an explanation of flushing out those terms as we, the community, design these processes. And a GAO might, or Congress might also, help to devise these stress tests that I delineated in my testimony. I only put eight of them in there. We may need a few more. And as the stress tests are put together, the community can then use those to figure out whether the proposals are going to work.

I think Chairman Upton said—he characterized these Bills as something of—in terms of hitting the brakes. I would characterize it differently. It would be better if GAO helped us to design a crash test for the vehicles that we have to test, as opposed to hitting the brakes on the process.

Mr. LATTA. Thank you.

Ms. Rossini, what role do you think that public interest and civil society groups such as yours play in this transition, and how can you encourage a good outcome in that transition process?

Ms. ROSSINI. Since many years, Mr. Chairman, civil society has engaged, actually, since the very first creation of ICANN, members of the Berkman Center that then went on to public interest organizations, helped form ICANN, helped inform its bylaws. So historically, we are deeply involved. We are also deeply involved to committees of representation that are driven by consensus building—and we are also informed by the bylaws when we participate on those. We can also inform decisions through participation in IJET, which is non-decision-making, but it is important for how to set the rules on how we are talking about concepts and so on, and we can also engage in—even in multilateral—informing the countries on those. So there are many avenues for engagement, participating in a more decisive decision at the end.

Mr. LATTA. Well, thank you very much.

And my time has expired, and I now recognize for 5 minutes the gentleman from Pennsylvania.

Mr. DOYLE. Thank you, Mr. Chairman.

Thank you for your testimony today. It seems that a lot of my colleagues here that have expressed concern is that some future Board of ICANN 20 years from now, or somewhere in the future be, that would be influenced by some repressive government to somehow restrict access to the Internet. And, you know, I was reading an article here from Weekly Standard that really questions really how powerful ICANN is, and I just want to read from the

statement. It says contrary to dark speculations by various conservative commentators, ICANN can't really facilitate Internet censorship in China and Iran to please those governments. ICANN can't stop them from that doing that now. Nor is there any plausible scenario in which ICANN imposes censorship on U.S. Web sites. Actual Web sites operate through 13 root servers, some still directly run by U.S. Government agencies, some by U.S. universities, and some by U.S. private companies. It would be no technical challenge for them to bypass ICANN and coordinate amongst themselves. Politically, it is really unimaginable that they would all bow to Chinese pressure for censorship because ICANN told them to do so.

How do you react to a statement like that? And you—I mean if the root servers are controlled by mostly American governments, private companies and universities, what can ICANN really do to force them to somehow censor the Internet in the United States?

Mr. DELBIANCO. What the root servers contain, Representative, is a set of the top-level domains, the .com, .net, .mil, .org., and 200 brand new ones that have just come along, as well as the country code, and we are still having 800 or 1,100 more coming in the next year. Each of those new top-level domains was approved by ICANN, and the ICANN Government Advisory Committee, and we call it the GAC here, came up with a disapproval of a few. For instance, they said that .Islam should not go into the root. So that means it doesn't go into the main root, and it doesn't go into any of those root servers, wherever they are controlled. So the top-level domains that are approved, that responsibility lies with ICANN, and then ICANN hands it over and puts it in the root. And as I mentioned earlier, that root—the U.S. Government has custody of that through IANA, and that is what we are transitioning to some other body.

So it—the censorship that we are speaking of is whether labels, like the top-level domain of a government official's name, .corrupt, would still be allowed to exist. And there are pernicious ways in which to achieve that. One can attach rules, and I mentioned in my testimony that the—ICANN makes the rules, and today, you cannot light up Washington. any top-level domain without the permission of that city, that country or that territory name. So those are the kind of rules that allow governments to expand their control of the labels that are used for Web sites, and I know they do so in their own countries today. The question is how do we prevent that, and we can, we can prevent that, from sneaking its way into controlling the root at the top level.

Mr. DOYLE. But there is no way that ICANN has no power to force any of these root servers to do what it says. I mean they could easily just bypass ICANN and coordinate amongst themselves. Is that not true?

Mr. DELBIANCO. That is an interesting proposal. That might be one of the proposals that comes back. The root server operators are an independent group of technology companies.

Mr. DOYLE. Right.

Mr. DELBIANCO. They may well suggest a proposal for they taking title to the root, as opposed to giving it to ICANN. We will wait and see, but the questions you ask are hypotheticals that might be

answered by a proposal, and I think those hypothetical questions are exactly what we need in terms of stress tests.

Mr. DOYLE. Thank you. Let me ask another—Mr. Shimkus' legislation, I don't know whether the panelists have been provided a copy of Mr. Shimkus' legislation to read it but one of the concerns I have, I have no problems with the GAO doing a study, I do have a problem with the fact that it delays the process for a year, or it could delay the process for up to a year, is written in it.

What impact do you think that would have if this process could be delayed up to a year while the GAO conducts a study? Ms. Rossini?

Ms. ROSSINI. Mr. DelBianco asked me to go first. So I think that this year we see a couple of very important milestones in this process. We have the—coming in Brazil end of this month, and we also have the ITU coming later in November. So you are going to have two very important meetings in this moment where we are trying to define the principles of the Internet governance ecosystem, and if that announcement, if that symbolic announcement that actually has a lot of—is not made clear, and is not a real commitment of U.S., we can have a very difficult outcome, some very difficult outcomes from these meetings. The ITU meeting coming out, you are going to have them, the voices of those governments that are known democratic governments, that can speak much loud than they would be able to speak here or even in—which will be a multistakeholder government. And we have civil society, we have a range of actors acting from protestors in the street, to—strategy, to—advisory. I am part, actually, of the Global Commission on Internet Governance that was announced in the Web, so we have a lot of ways to engage to be sure that the results of those meetings are well received, and also in agreement with the open Internet. So the announcement—we need your help to make those meetings work for an open Internet. So——

Mr. DOYLE. I see my time is up, Mr. Chairman. I appreciate your indulgence.

Mr. LATTA. Well, thank you very much. The gentleman yields back. And the Chair now recognizes the gentleman from Illinois for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman, and I appreciate following my friend from Pennsylvania.

Mr. Chehade had said in his written testimony he mentioned that the importance of not rushing this process. That is his testimony. So I think it is important for us to get it right, and I think we have got to have comfort with this, and I understand the international push, but we have done numerous things in this government rushing, and then being embarrassed by the results of rushing through the process. So the Government Accountability Office, as I said, is the Inspector General for us. I think it is—really the least, we should at least do is have another pair of eyes on this process, answering a lot of the questions that Mr. DelBianco had mentioned.

Ms. Rossini, thank you for coming. First two questions are kind of part of your written testimony. In your testimony, you say that my Bill, the DOTCOM Act, seeks to block the transition in the

name of human rights. Can you cite the part of the Bill that says that?

Ms. ROSSINI. Can you repeat the question?

Mr. SHIMKUS. Yes. In your written testimony, you say that the DOTCOM Act seeks to block the transition in the name of human rights. Your—you say——

Ms. ROSSINI. Yes.

Mr. SHIMKUS [continuing]. This bill is really an antihuman rights bill, I think.

Ms. ROSSINI. Well, thank you, Mr. Representative, first, for reading my complete written testimony, and I think that is not my understanding what I have written there.

My concern is that if we wait one year, if we block the transition now and wait one year until we have a report, that is the risk and that is the risk that we are going to have for known democratic governments to actually make their voices even louder, and manipulate the narrative both in—and in November.

Mr. SHIMKUS. And if I may, because I have another question I want to follow up, so I appreciate that because that was kind of maybe an answer I was expecting from the first panel, but, in essence, they didn't give me that.

Ms. ROSSINI. Yes.

Mr. SHIMKUS. They basically said we support, you know, we support another look, transparency, good review, fortunately for us I think they, in essence, endorse the bill. Because they could have responded a different way, which——

Ms. ROSSINI. And one thing I would do—I am sorry.

Mr. SHIMKUS. No, go ahead. Go ahead.

Ms. ROSSINI. One thing that I actually would add to that is that if U.S. had supported through bipartisan, unanimous consensus, the resolutions that foster multi-stakeholder, this statement, this report could come—has one stakeholder input not to hold the process back. So you are going to have a voice. U.S. has a strong voice.

Mr. SHIMKUS. But you understand that doing a review by the Government Accountability Office would take some time. If we believe—you heard the concerns out here, and I think some of them are—as the Internet has changed over the decades so has the world community. I think the people would credibly argue that the world is a more dangerous place today, not a safer place today.

Ms. ROSSINI. Yes.

Mr. SHIMKUS. So, these aren't crazy things to ask and review.

Let me turn to Mr. DelBianco to address that concern, and the concern about another government look.

Mr. DELBIANCO. Congressman, the members of NetChoice are concerned that we send the wrong signal by simply hitting the brakes or having a delay, and yet we think you are sending the right signal by asking questions about defining the terms and the four principles. What does the term mean, multi-stakeholder, meeting the needs and expectations, what does openness mean, and more importantly, what are the risks to those four principles, and the risk of government influence associated with new proposals. So that is exactly how I believe we can channel the kind of energy that you and Congresswoman Blackburn have brought here, channel that energy into having GAO begin now in articulating what

they think definitions that are appropriate for accountability, and the risks, because that will allow us in the community who are designing proposals to test those proposals against the risks that Congress and the GAO have identified. Those should begin in parallel because we started last week in Singapore to design multiple proposals, and you wouldn't believe the email traffic that has already gone on since we left Singapore. Thousands of email messages with different groups, not all ICANN, different groups coming up with proposals, in over 18 months plus potentially two 2-year extensions, we will have the opportunity to narrow that down to a short list of proposals. I would benefit from having your work, the work of GAO or anybody in the U.S. Government in articulating the risks we want to avoid.

Mr. SHIMKUS. And I would just end, Joe Barton stole the phrase I was going to use from Ronald Reagan, trust but verify. And all this is is a verification of what everybody says is going to happen is actually going to happen.

Yield back my time.

Mr. DOYLE. Mr. Chairman, could I just add one brief thing for the record——

Mr. LATTA. Yes, it is——

Mr. DOYLE [continuing]. It will take 3 seconds?

Mr. LATTA. The gentleman is recognized.

Mr. DOYLE. Thank you.

I just want to state for the record that I did not hear any of the panelists in the first panel endorse Mr. Shimkus' legislation.

Mr. SHIMKUS. And then——

Mr. LATTA. Mr. Shimkus?

Mr. SHIMKUS. If I may? I would say I would hope my colleague was at the first panel, and they definitely did not oppose the Bill.

Mr. DOYLE. OK, but they didn't endorse it either.

Mr. SHIMKUS. That is debatable.

Mr. LATTA. OK, thank you. Thank you, gentlemen.

I want to thank the—on behalf of Chairman Walden for your testimony today. We greatly appreciate you being here and testifying before us today.

And seeing no other business come before the subcommittee this afternoon, the committee will stand adjourned. Thank you.

[Whereupon, at 1:00 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

PREPARED STATEMENT OF HON. JOE BARTON

Last year, the House unanimously passed H.R. 1580 declaring it the policy of the United States to preserve and advance the multi-stakeholder model that governs the Internet. While I may have supported this measure, I have a number of questions regarding the process of relinquishing the National Telecommunications and Information Administration's (NTIA) role with the Internet Corporation for Assigned Names and Numbers (ICANN).

I believe that transparency is imperative during this process, and I am happy to be an original cosponsor of the DOTCOM Act of 2014. This bill requires the GAO to release a report on every proposal given to NTIA for consideration by ICANN, and I strongly believe that Congress should have an oversight role regarding this process. Because NTIA has clearly indicated that it will not approve a proposal that does not maintain the openness of the Internet and allow for the governments of other countries to control the Internet, it is my expectation that the Administration will adhere to their promises. The last thing I want is for some other governmental

body in another country having a greater influence over how our Internet works today.

With this said, I look forward to hearing from our witnesses and learning more about ICANN's vision of advancing the multi-stakeholder process of Internet governance.

The Internet Association

April 1, 2014

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
U.S. House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
Subcommittee on Communications and Technology
U.S. House Energy and Commerce Committee
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden and Ranking Member Eshoo:

On behalf of the Internet Association, I submit this letter concerning your April 2, 2014, hearing on "Ensuring the Security, Stability, Resilience, and Freedom of the Global Internet." The Internet Association represents the world's leading Internet companies and their global community of users. We are dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users. We appreciate the opportunity to share our thoughts on the future of Internet Governance and why we support the recent announcement regarding the National Telecommunications and Information Administration's (NTIA) oversight authority over important technical Internet functions.

With global participation at nearly half the world's population, the Internet is a transformative platform for technological innovation, democratic discourse, and economic growth. The Internet affords basic human rights to its users. The Internet accounts for 21% of Gross Domestic Product growth in advanced economies and facilitates $8 trillion each year in e-commerce. In short, the Internet has revolutionized the way we work and live, drawing the world closer together and creating opportunities in places previously left behind.

The Internet is one of the greatest engines for economic growth, freedom, and prosperity the world has ever known thanks in large part to its multistakeholder governance model. As we shape what the Internet will become, one of our top priorities must be preserving this open, bottom-up system that ensures global citizens are able to access and take advantage of an ever-growing platform. Preserving a free Internet is essential to the preservation of political and economic liberty for global citizens. We do not believe inter-governmental bodies are the right way to govern the Internet. Instead, we should look for innovative solutions involving the breadth of the Internet community. A global Internet that is not constrained by geographic boundaries should not be governed solely through institutions defined by them.

1100 H Street NW, Washington, DC 20005
www.InternetAssociation.org

The Internet Association

The future of the Internet community, and businesses that operate within it, is dependent on the continuation of the Internet's security, stability, interoperability, and resiliency. For our companies to continue to innovate, to foster development and change, and ultimately to succeed as businesses globally, we need the continuation of the current bottom-up, multistakeholder model of Internet governance. However, as the Internet continues to evolve, so too must the models that govern it.

The United States has performed an important role as the overseer of the contract with the Internet Corporation for Assigned Names and Numbers (ICANN) to provide technical management of the Domain Name System. Equally important was the recognition when this agreement was first established that ultimately the Internet should be governed and held accountable not by governments but rather by public and private stakeholders. Therefore, since the creation of the model that governs the Internet today, it was always envisaged that this oversight role held by the United States would eventually transition to the private sector. The announcement by NTIA is simply the fulfillment of this vision.

The Internet Association supports the announcement by NTIA to fully transition oversight authority over a set of technical functions to the multistakeholder community, provided certain specified principles are met. Along with these principles came a clear statement from NTIA that contractual authority would not be transitioned if the proposed plan places governments or inter-governmental bodies in that role. To do so will mean that the entire community, working in conjunction with ICANN, will need to focus on improving existing accountability and transparency mechanisms to ensure the continued protection of these technical functions as well as the continued evolution of the multistakeholder model. Meeting these criteria is essential to ensuring the continued success of the global Internet.

The Internet community will be vigilant in pursuit of these principles, and we believe Congress should as well. We appreciate your interest in this issue, and the leadership you have shown in ensuring that the process that NTIA has started reaches a successful conclusion. As vital Internet stakeholders, we look forward to working with you to achieve that outcome.

Thank you again for your consideration of our concerns on this issue.

Sincerely,

Michael Beckerman
President and CEO
The Internet Association

Cc: Chairman Fred Upton and Ranking Member Henry Waxman

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WSJ.D

U.S. Plans to Give Up Oversight of Web Domain Manager

Move Seen in Response to International Concern About Country's Control Over Internet Structure

By

Gautham Nagesh

Updated March 14, 2014 7:01 p.m. ET

Joel Kjellgren, data center manager, walks in one of the server rooms at the Facebook Data Center, on Nov. 7, 2013 in Lulea, Sweden. Agence France-Presse/Getty Images

WASHINGTON—The U.S. government plans to give up control over the body that manages Internet names and addresses, a move that could bring more international cooperation over management of the Web, but will make some U.S. businesses nervous.

The Commerce Department said Friday it plans to relinquish its oversight of the Internet Corporation for Assigned Names and Numbers, or Icann, which manages a number of technical functions that serve as signposts to help computers locate the correct servers and websites.

The action is viewed as a response to increasing international concern about U.S. control over the Internet's structure, particularly in light of the recent disclosures about surveillance by the NSA and other U.S. intelligence agencies.

Other governments have complained that the department's contract with Icann gives the U.S. unique influence over the Web, which it could use for a wide variety of purposes. In response to those

concerns, the Obama administration is convening a process to create a new oversight structure for Icann when the current contract runs out in September 2015.

Alan Marcus, senior director of the World Economic Forum, said "the NSA tarnished the U.S. stewardship" of the Web. Mr. Marcus said the U.S. needs to relinquish control over the Web before new leadership can emerge. "There are real issues that get clouded" by U.S. leadership, he said.

The action had been debated among technologists and policy makers, but the prospect of the U.S. relinquishing control concerns some businesses because of the potential for censorship.

"If you hand over domain-name registration to someone who doesn't want certain classes of domains registered, then you're setting up a censorship structure," said Bill Reinsch, president of the National Foreign Trade Council, which represents businesses.

In recent years U.S. policy makers have pushed back against calls from nations including China and Russia for the U.N. and ITU to have a greater role in overseeing the structure of the Web. U.S. officials have previously argued that such an arrangement would lead to the repression of free speech and the Balkanization of the Internet.

"We thank the U.S. government for its stewardship, its guidance over the years. We thank them today for trusting the global community to replace this stewardship with the appropriate accountability mechanisms," Icann CEO Fadi Chehadé said.

Icann will launch the process later later this month at Singapore event and collect input throughout the year, with an aim of having the new governance structure completed by September 2015 when the existing contract with the Commerce Department expires. Anyone with an interest in how the Internet is managed is invited to take part.

According to Larry Strickling, administrator for the Commerce Department's National Telecommunications and Information Administration the new governance model must ensure that Icann is free from government influence. The plan must also fulfill several other conditions, such as preserving the security and stability of the Internet while keeping it open and free from censorship.

Until 1998, the functions were managed by Jon Postel, a computer scientist at the University of Southern California, one of the early pioneers of the World Wide Web. Upon Postel's death in 1998, the Commerce Department issued a contract to Icann to take over those functions, making Icann the primary body in charge of setting policy for Internet domains and addresses.

Mr. Strickling said the U.S. always viewed its role as overseeing Icann as temporary.

"The Internet was built to be borderless and this move toward a more multistakeholder model of governance creates an opportunity to preserve its security, stability and openness," said Vint Cerf, Google vice president and chief Internet evangelist, in a statement.

Some Silicon Valley executives support the move, which they view as inevitable in light of the concerns over the NSA disclosures.

"I'm not sure they have any choice," said Peter Schwartz, senior vice president of global government relations for software maker Salesforce.com Inc., who heard a presentation from Icann Thursday in Silicon Valley. "They're better off getting out ahead of it."

—William Mauldin contributed to this article.

Write to Gautham Nagesh at gautham.nagesh@wsj.com

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Hudson Institute

Opportunities, Threats, Internet Governance and the Future of Freedom

Robert M. McDowell

Last Friday, the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) announced it intended to start the process of severing its last tether to the non-profit organization that manages Internet domain names and addresses, such as dot com and dot org. These technical functions, that help people's computers and mobile devices find what they seek on the Net, are administered through the Internet Corporation for Assigned Names and Numbers (ICANN).

If all goes according to NTIA's plan, the U.S. government will relinquish its contractual oversight of ICANN by September 2015. In its ideal form, this evolution could help reverse a growing tide of increased state interference into the Net's affairs. If events don't unfold as NTIA intends, however, Internet freedom, global prosperity and international political reform will be at risk.

Due to the complexities of the Internet ecosystem, and the manner in which it has thrived, before reacting impulsively, observers should pause and thoughtfully examine the nuances that abound in the wake of this development.

A best case scenario for the NTIA plan would have existing, non-profit, private sector Internet governance groups oversee ICANN's management of these critical technical functions, just as they have other technical aspects of the Net for decades – with a perfect track record of success.

The worst case scenario would include foreign governments, either directly or through intergovernmental bodies, snatching the soon-to-be untethered technical functions for their own purposes. Keep in mind that Vladimir Putin plainly asserted in 2011 that his goal is to have "international control of the Internet" through the International Telecommunication Union (ITU), a treaty-based arm of the U.N. Given Mr. Putin's proclivity for expansionism, especially lately, we should regard his statement as a promise he intends to keep.

This concern is more than theoretical. Countries such as China, Russia, Saudi Arabia, Iran, and their client states, have worked for years to absorb many aspects of Internet governance into multilateral organizations such as the ITU rather than the non-profit private sector. They succeeded in gaining a toehold in the Internet's affairs during the 2012 World Conference on International Telecommunications, a treaty negotiation in Dubai. They will be back to expand the ITU's authority further at its plenipotentiary meeting this fall, which is another treaty negotiation as well as a "constitutional convention" for the ITU.

Context is everything with this scenario. Internet freedom has been under siege for years. Authoritarian regimes resent the free flow of information an unfettered Net brings – even if increased Net-based commerce is catapulting developing world economies to new heights. The U.S. government's role with the contract for the technical functions operated through ICANN has been used as Talking Point Number One by those who seek to expand intergovernmental organizations' reach into the Net's operations to counter what these regimes contend is, essentially, American domination of the Internet.

Add to the mix the recent revelations by Edward Snowden regarding the breadth of the U.S. National Security Agency's data gathering, and pro-international regulation forces have something stronger than mere rhetoric to make their case for their proposed power grab. The timing of NTIA's announcement, however, comes at a crucial time and has the potential to change the trajectory of the debate, with no cost to the U.S. – unless the Administration weakens its stance.

NTIA's Friday announcement was not a complete surprise to those who follow these esoteric but important matters. Working toward removing NTIA's formal role in this area is consistent with the arc of actions taken by the U.S. government since the 1990s when it formalized the privatization of the Internet and its governance. In short, the Net has migrated further away from government control over the past three decades. As a result, it has become the greatest deregulatory success story of all time.

For instance, in the late 1980s, only a paltry 88,000 people – mainly government users and academics – had access to the Internet. Today, due to the government taking its hands off of the Net, more than 3 billion people across the globe have Web access through mobile devices alone. Accordingly, the Net is fundamentally and rapidly improving the human condition by boosting living standards and raising political expectations as it strengthens the sovereignty of the individual. The evidence is irrefutable that both domestic and international government policies to leave the private sector alone to innovate and invest were the direct cause of this beautiful explosion of entrepreneurial brilliance.

With Friday's announcement, NTIA is taking its last steps down a path that was paved over two decades ago: a path intended to get the government out of the Internet governance business. In that spirit, NTIA has put forth several conditions before it would allow its contract overseeing ICANN to expire in September 2015. The most important condition is that no governmental, intergovernmental or multilateral bodies would be allowed to have a role in overseeing any technical functions. Implicitly, if foreign governments or treaty-based organizations were to insert themselves into this realm, NTIA would renew its contract with ICANN in 2015, thus keeping the status quo and ending the argument for at least few more years.

To show that it is resolute, the Administration should vehemently underscore the conditionality of its plan. It cannot soften its stance on this crucial issue, event slightly. If it does, chaos will reign unlike any other time in the Internet's history. Internet freedom and prosperity would get caught in an international regulatory death spiral.

The best case scenario would involve sticking with what has worked in the Internet space since its inception: allowing the non-profit, non-governmental, private sector, multi-stakeholder Internet governance structure to keep doing what it has been doing so well without the "help" of governments. Diverse, loosely-knit and "bottom up" run technical groups such as the Internet Architecture Board, the Internet Engineering Task Force, the Internet Society, and regional and local engineers, academics and user groups, are the best stewards of these technical functions – not anyone's government. These private sector groups will keep the Internet governance structure dispersed and free from bottle necks to ensure that no entity can control the Net or shut it down.

Accomplishing the complex task of modernizing the multistakeholder model of Internet governance, including the administration of critical technical functions, will be difficult and risky. U.S. policy in this space should be to keep governments out of the Net's technical affairs. But we can't have it both ways. The Administration must not waver, even symbolically. Internet freedom and prosperity hang in the balance. To be continued ….

April 1, 2014

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
Subcommittee on Communications and Technology
U.S. House of Representatives

The Honorable Anna Eshoo
Ranking Member
Committee on Energy and Commerce
Subcommittee on Communications and Technology
U.S. House of Representatives

Dear Chairman Walden and Ranking Member Eshoo:

The undersigned human rights and free expression organizations, like the members of this Subcommittee, are dedicated to ensuring that the Internet remains a free and open global platform for the exercise of everyone's rights. With that common goal in mind, ahead of the April 2 hearing "Ensuring the Security, Stability, Resilience, and Freedom of the Global Internet" we write to express our support for the Department of Commerce's National Telecommunications and Information Administration (NTIA) announcement of its intent to transition key Internet domain name functions to the global multistakeholder community. We share concerns that throughout this transition the Internet must continue to be an open platform for the free exercise of human rights online, and believe this move could help thwart government overreach in Internet governance, which would have devastating implications for human rights worldwide.

NTIA's "historic stewardship" of the DNS (Internet domain name system), while largely hands off, has drawn criticism and growing opposition from the international community for the simple fact that a single government performs an oversight role for what is clearly a global resource. This perceived imbalance has played into the hands of governments seeking to undermine the open, decentralized, participatory, bottom-up multistakeholder model of Internet governance and impose new governmental or intergovernmental controls that could threaten the security, stability, resilience, and freedom of the global Internet.

Therefore we welcome NTIA's announcement that it intends to transfer the Internet Assigned Numbers Authority (IANA) functions to the global multistakeholder community and support the guiding criteria that NTIA articulated for that transition: a community generated proposal that supports and enhances the open, decentralized, bottom-up, multistakeholder model; maintains the security, stability, and resiliency of the Internet's domain name system; and maintains the openness of the Internet.

This move would alleviate international pressure on explicit terms, deter government overreach on the issue of Internet governance, and facilitate the exercise of human rights online. A transition on those terms would be fully consistent with prior bipartisan, unanimous statements of policy by the Congress (H. CON.

RES. 127/S. CON. RES. 50) seeking to "preserve and advance the multistakeholder governance model under which the Internet has thrived."

The Department of Commerce has clearly stated that it will not accept any arrangement that fails to meet the guidelines it has proposed, and that it will explicitly reject any proposal that replaces the NTIA role with a government-led or an intergovernmental organization solution. In taking this proactive step, and implementing a transition that has been a stated intention of the Commerce Department since the late '90s, the NTIA is leading the process and would be able to reject any proposal that does not meet its standards or serve the interests of a free, open, and secure Internet. In contrast, the proposed DOTCOM bill, intended to protect human rights and the free and open Internet against repressive government control, could have the opposite effect: forestalling the transfer of the IANA functions to the global multistakeholder community could further empower critics who favor a governmental or intergovernmental model of Internet governance, whether implemented through the United Nations' International Telecommunication Union (ITU) or some other government-dominated, non-multistakeholder body.

Our organizations will watch closely and engage deeply in the transition process to ensure that human rights are respected by any future Internet governance arrangement and that the transition meets the internationally recognized standards of inclusiveness, transparency, and accountability. In the meantime, we welcome this Subcommittee's interest in this important and complex issue, and look forward to working with its Members to ensure that the future of Internet governance fosters rather than undermines the security, stability, resilience, and freedom of the global Internet.

Sincerely,

Access
Center for Democracy & Technology
Freedom House
Human Rights Watch
The Open Technology Institute at New America Foundation
Public Knowledge

CC:
The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives

The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives

The Washington Post

U.S. to relinquish remaining control over the Internet

By Craig Timberg, Published: March 14

U.S. officials announced plans Friday to relinquish federal government control over the administration of the Internet, a move that pleased international critics but alarmed some business leaders and others who rely on the smooth functioning of the Web.

Pressure to let go of the final vestiges of U.S. authority over the system of Web addresses and domain names that organize the Internet has been building for more than a decade and was supercharged by the backlash last year to revelations about National Security Agency surveillance.

The change would end the long-running contract between the Commerce Department and the Internet Corporation for Assigned Names and Numbers (ICANN), a California-based nonprofit group. That contract is set to expire next year but could be extended if the transition plan is not complete.

"We look forward to ICANN convening stakeholders across the global Internet community to craft an appropriate transition plan," Lawrence E. Strickling, assistant secretary of commerce for communications and information, said in a statement.

The announcement received a passionate response, with some groups quickly embracing the change and others blasting it.

In a statement, Senate Commerce Committee Chairman John D. Rockefeller IV (D-W.Va.) called the move "consistent with other efforts the U.S. and our allies are making to promote a free and open Internet, and to preserve and advance the current multi-stakeholder model of global Internet governance."

But former House speaker Newt Gingrich (R-Ga.) tweeted: "What is the global internet community that Obama wants to turn the internet over to? This risks foreign dictatorships defining the internet."

The practical consequences of the decision were harder to immediately discern, especially with the details of the transition not yet clear. Politically, the move could alleviate rising global concerns that the United States essentially controls the Web and takes advantage of its oversight position to help spy on the rest of the world.

U.S. officials set several conditions and an indeterminate timeline for the transition from federal government authority, saying a new oversight system must be developed and win the trust of crucial stakeholders around the world. An international meeting to discuss the future of Internet is scheduled to start on March 23 in Singapore.

The move's critics called the decision hasty and politically tinged, and voiced significant doubts about the fitness of ICANN to operate without U.S. oversight and beyond the bounds of U.S. law.

"This is a purely political bone that the U.S. is throwing," said Garth Bruen, a security fellow at the Digital Citizens Alliance, a Washington-based advocacy group that combats online crime. "ICANN has made a lot of mistakes, and ICANN has not really been a good steward."

Business groups and some others have long complained that ICANN's decision-making was dominated by the interests of the industry that sells domain names and whose fees provide the vast majority of ICANN's revenue. The U.S. government contract was a modest check against such abuses, critics said.

"It's inconceivable that ICANN can be accountable to the whole world. That's the equivalent of being accountable to no one," said Steve DelBianco, executive director of NetChoice, a trade group representing major Internet commerce businesses.

U.S. officials said their decision had nothing to do with the NSA spying revelations and the worldwide controversy they sparked, saying there had been plans since ICANN's creation in 1998 to eventually migrate it to international control.

"The timing is now right to start this transition both because ICANN as an organization has matured, and international support continues to grow for the multistakeholder model of Internet governance," Strickling said in a statement.

Although ICANN is based in Southern California, governments worldwide have a say in the group's decisions through an oversight body. ICANN in 2009 made an "Affirmation of Commitments" to the Commerce Department that covers several key issues.

Fadi Chehade, president of ICANN, disputed many of the complaints about the transition plan and promised an open, inclusive process to find a new international oversight structure for the group.

"Nothing will be done in any way to jeopardize the security and stability of the Internet," he said.

The United States has long maintained authority over elements of the Internet, which grew from a Defense Department program that started in the 1960s. The relationship between the United States and ICANN has drawn wider international criticism in recent years, in part because big American companies such as Google, Facebook and Microsoft play such a central role in the Internet's worldwide functioning. The NSA revelations exacerbated those concerns.

"This is a step in the right direction to resolve important international disputes about how the Internet is governed," said Gene Kimmelman, president of Public Knowledge, a group that promotes open access to the Internet.

Verizon, one of the world's biggest Internet providers, issued a statement saying, "A successful transition in the stewardship of these important functions to the global multi-stakeholder community would be a timely and positive step in the evolution of Internet governance."

ICANN's most important function is to oversee the assigning of Internet domains — such as dot-com, dot-edu and dot-gov — and ensure that the various companies and universities involved in directing digital traffic do so safely.

Concern about ICANN's stewardship has spiked in recent years amid a massive and controversial expansion that is adding hundreds of new domains, such as dot-book, dot-gay and dot-sucks, to the Internet's infrastructure. More than 1,000 new domains are slated to be made available, pumping far more fee revenue into ICANN.

Major corporations have complained, however, that con artists already swarm the Internet with phony Web sites designed to look like the authentic offerings of respected brands.

"To set ICANN so-called free is a very major step that should done with careful oversight," said Dan Jaffe, executive vice president of the Association of National Advertisers. "We would be very concerned about that step."

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