

I'd like to take question 1, 3, 4, 5 to reply as followed:

Q1:

ICANN is trying to move forward to the goal of accountability, which does not mean everything is good enough now. I think the chief problem is around accountability to Governments. I'd like to elaborate from two aspects.

On one hand, Governments should be the core player in process of public policy making. Para 35 (a) in Tunis Agenda of WSIS says clearly, "Policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues". However, when ICANN made Internet related public policies, it apparently had not paid so much attention to Governments' opinions. GAC can only input advices to ICANN and are not binding. The Board can either accept it or not, even without a satisfactory reason at most time when GAC's advice is refused. I'd like to introduce a case as followed.

Currently ICANN New gTLD program is a hot topic in the global Internet community. As a matter of fact, ICANN board made the resolution on the introduction of new gTLD program without consensus among Internet communities; in particular the concern expressed by GAC has been unsolved yet. On the GAC meeting in March 2007, the GAC adopted Principles Regarding New gTLDs which are intended to provide the ICANN Board and the wider global community with a clear indication of the governmental priorities for the introduction, delegation and operation of new gTLDs¹. The principles respond directly to several agreed provisions resulting from the WSIS. On the GAC meeting dated June 2008 in Paris, GAC discussed the recommendations of the GNSO for the introduction of new gTLDs². During its discussions however, the GAC expressed concern to the GNSO and to the ICANN

¹ <http://gac.icann.org/communiqués/gac-2007-communique-28>

² http://gac.icann.org/system/files/GAC_32_Paris_Communique.pdf

Board that the GNSO proposals do not include provisions reflecting important elements of the GAC Principles Regarding New gTLDs, especially the provision that the process for new gTLDs should ensure the security, reliability, global interoperability and stability of the Domain Name System (DNS) and promote competition, consumer choice, geographical and service-provider diversity. It is disappointing to see that in ICANN Public meeting in June 2008, ICANN Board approved the policy recommendations on new gTLD in a rush manner without adoption of GAC advice.

The above mentioned case is just one of many cases that GAC and government authorities are embarrassed in ICANN affairs. The GAC advice and input had been ineffectively taken into account.

As the representation of public interests, GAC and government authorities should play a critical role in public policy issues. Many professors and experts' theory is that because Internet's achievement depending on its openness nature, so we should keep all the stakeholders standing on an equal stage. This could be right in early phase of Internet's development, but may not be suitable for today's Internet, which is forty years old now. Many things changed, including internet itself and environment. We just know that a lot of countries including developed states starting to lock web sites' domain names, which was recognized as illegal for domestic laws. Absolute openness in early years of Net has gone now, we need to admit that government should play a more important role from now on.

More than sixty countries joined GAC because of believing ICANN. It will be sad if GAC's role will not change and possibly GAC's future will be vague more and more.

On the other hand, inequality and unfair of accountability to different countries' government is a deep root of problem. As is well known, US owns a lot of privileges through IANA function contract, as states in Section C3.1, C3.3, C4.1,

F.6, F.7³, etc. Especially C4.1 gives US government the right of making or rejecting any modifications, additions or deletions to the root zone file⁴. And, all above items are conflict with Para. 8 of Affirmation of Commitment, which states “ICANN is a private organization and nothing in this Affirmation should be construed as control by any one entity” .

What is more terrible, lack of accountability to governments will lead to problems of transparency and legitimacy substantially.

European Union has called for a substitute form of external accountability to replace the oversight previously exercised by the U.S⁵. Not only EU, almost all the countries except one objected US’ monopoly control of ICANN during time of WSIS and each IGF meetings.

As a conclusion, ICANN should not be accountability to one country, but the

³ C.3.1 Monthly Performance Progress Report -- The Contractor shall prepare and submit to the Contracting Officer and COTR a performance progress report every month (no later than 15 calendar days following the end of each month) that contains statistical and narrative information on the performance of the IANA functions (i.e., assignment of technical protocol parameters; administrative functions associated with root zone management; and allocation of internet numbering resources) during the previous 30-day period. The report shall include a narrative summary of the work performed for each of the functions, and shall include the tables set forth in Section J - Appendix B, completed by the Contractor with appropriate details and particularity. The report shall also describe major events, problems encountered, and any projected significant changes, if any, related to the performance of Section C.2.

C.3.3 Final Report -- The Contractor shall prepare and submit a final report on the performance of the IANA functions that documents standard operating procedures, including a description of the techniques, methods, software, and tools employed in the performance of the IANA functions. This report shall be submitted to the Contracting Officer and the COTR no later than 30 days after expiration of the purchase order.

C.4.1 This purchase order, in itself, does not authorize modifications, additions, or deletions to the root zone file or associated information. (This purchase order does not alter root system responsibilities as set forth in Amendment 11 of the Cooperative Agreement NCR-9218742 between the DoC and VeriSign, Inc.)

F.6 GOVERNMENT RIGHTS TO DELIVERABLES

All deliverables provided under this task order become the property of the U.S. Government.

F.7 GOVERNMENT REVIEW OF DELIVERABLES

The Government shall review deliverables and determine acceptability. Any deficiencies shall be corrected by the Contractor and resubmitted to the Government within seven (7) workdays after notification.

⁴ This is from “Amendment 11 of the Cooperative Agreement NCR-9218742” as stated in Section C4.1 of IANA contract.

⁵ Shawn Gunnarson comments, A Fresh Start for ICANN, June 1, 2010, at page 24.

world, which is also the true meaning of INTERNET.

Q3:

As analyzed above, no accountability means no transparency. Here are some questions about transparency, which need ICANN's kindly further clarification.

1. ICANN's president is the CEO and is elected by the board of directors in an annual election on the recommendation of the chairman of the Board. I'm a little bit doubtful about the Board election process of ICANN's at present president, Mr. Rod, who was a director of US' security department before. It could look more beautiful if the identity is a professor, a lawyer, or someone from a chamber of commerce.
2. IANA contract provide the right of making or rejecting any modifications, additions or deletions to the root zone file for US government. Everyone knows the importance of root zone file, many people tell story about a deleted ccTLD during Gulf War, which could be a rumor. No matter true or not, every country should have the right to know any modification records of root zone file, and should be notified ASAP when the root zone file is being changed. This kind of transparency is so important for every countries' network security.
3. Case of .xxx, everyone talk about it. What is behind it? Who direct ICANN?

No accountability, No transparency.

Q4:

Internet is not a totally decentralized network. In fact, the center of Internet is more centralized than any other networks such as PSTN, because of the root zone file as mentioned before. When the right of modifying root zone file is in one country's hand, never can we discuss about the interests of Internet users.

ICANN could only break away from IANA contract, can it realize protecting global

Internet users' interests. Sadly, we haven't seen any such efforts from ICANN by now.

Q5:

GAC and Board position are reversed now. GAC should listen to the Board's advices about public policy and then make decisions, not like today's odd phenomenon. Internet-related public policy issues is the sovereign right of States, not right of ICANN.

Allen Wang

International Internet Research Team (CIIRT)