



Comments on the Draft Implementation Plan for Improving Institutional Confidence

The Coalition Against Domain Name Abuse (CADNA) is pleased to have the opportunity to offer its comments on the Draft Implementation Plan for Improving Institutional Confidence.

CADNA would first like to express its support for the President's Strategy Committee's (PSC) mission to research ICANN's legal status and identity and advise ICANN on improving institutional confidence. This is an important task, as many of ICANN's stakeholders are skeptical of the organization's ability to adequately regulate the space and represent its diverse constituency.

The PSC states that the goal of its recommendations is to "maintain and strengthen ICANN as the participatory, multi-stakeholder body responsible for coordinating the global Internet's systems of unique identifiers and ensuring the stable and secure operation of the Internet's unique identifier systems." However, this goal presumes that ICANN is operating tolerably well and that simply is not the case. There is rampant abuse in the current domain name space, little deterrent or retribution for infringing behavior, and ICANN continues to impose superficial deadlines on policy decisions that lead to rushed results.

CADNA must respectfully disagree with this report's proclamation of ICANN's relative success. The report claims that "ICANN is widely recognized as fulfilling its original mission to coordinate, at the overall level, the global Internet's systems of unique identifiers," and that the "Internet community recognizes that the goals of the MoU's and the JPA have been largely met and supports ICANN as the multi-stakeholder, private sector-led organization." The reality is that stakeholders have vocally expressed their dissatisfaction with ICANN's performance at numerous meetings and through ICANN's comment periods. Stakeholders have also specifically expressed concern over the conclusion of the Joint Project Agreement (JPA). ICANN's failure to address and adapt to the concerns of its stakeholders shows a lack of engagement with the public on major policy decisions, and CADNA urges the organization to be driven by the needs of its constituencies rather than by its own agenda.

The recommendations set forth by the PSC span the following five areas:

- I. ICANN has to be safeguarded against capture
- II. ICANN has to be accountable and responsive to its multi-stakeholder communities
- III. ICANN has to meet the needs of the global Internet community of the future
- IV. ICANN has to be a financially and operationally secure organization
- V. ICANN has to maintain its focus on ensuring safe and stable operations relating to the unique identifiers of the Internet

CADNA agrees that these five areas are key to ICANN's success, but the Coalition would like to see a proposed implementation plan for the recommendations in the PSC report. Only then can the public provide constructive comments on how to move forward.



CADNA has the following reactions to several specific sections of the report:

Area II: Being accountable and responsive to stakeholders

CADNA is pleased to see that recommendation 2.4 calls for “strengthening the steps of providing detailed analysis of all comments received, acknowledging, synthesizing, and implementing them in decision-making as appropriate, and explaining the decision.” The Coalition urges ICANN to adhere to this recommendation, and would assert that ICANN currently treats comment periods as a mere formality.

While ICANN touts its comment periods as a major component of its “bottom-up” governance process, it continually imposes superficial deadlines on policy decisions that move forward despite concerns voiced during these comment periods. For example: ICANN’s constituencies continue to voice concerns over 1) the decision to open up the domain name space and 2) the process that this expansion is to follow. Yet ICANN continues to announce tentative deadlines for the first influx of applications.

With regards to the first issue, ICANN tends to defend its decision to open up the domain name space by claiming that it was always the organization’s intention to release more TLDs. However, an organization truly accountable to its stakeholders would take the expressed concerns of those stakeholders seriously and would reevaluate the decision. The organization should understand that its responsibility is to do what is best for its stakeholders, not to merely execute agenda items.

With regards to the second issue, if ICANN were truly accountable to its diverse constituencies it would halt the new TLD launch until a more suitable process was in place. Unfortunately, ICANN’s proposed deadlines for the launch are dictating the pace of the policy development process, rather than the relative success of the policy development process dictating the deadline for the launch.

ICANN’s handling of the new TLD launch process exemplifies its shortcomings as a responsive organization. ICANN continually sets short timetables for comment periods and fails to adequately address major concerns of its constituencies.

Area III: Meeting the needs of the global Internet community of the future

The PSC writes that “although ICANN is working well in its current form, the establishment of an international nonprofit organization in Belgium or Switzerland may offer some opportunities for ICANN to enhance its global functions and profile, while sufficiently alleviating some of the current challenges.” CADNA recognizes the need for an international organization to be accessible to the international community; however, CADNA is concerned that establishing a legal presence in other countries may result in evasion of legal requirements or other regulations that would ultimately be detrimental to the Internet community. Any steps to establish a legal



presence abroad must begin with a thorough (and transparent) examination on the effects and possible exploitation of such a move. If there is absolutely any risk of destabilizing Internet governance or the domain name space, the plan should not move forward.

Area V: Maintaining a focus on ensuring safe and stable operations relating to the unique identifiers of the Internet

Though listed as the fifth area for recommendations, maintaining safe and stable operations relating to the unique identifiers of the Internet is ICANN's most important task. CADNA is pleased to see that the report identified growing concerns about the Internet's vulnerability "due to the increase of incidents and attacks targeting the DNS," but would like specific remedies to be developed for public review.