An ICANN ¹ that works

Foreword

Stuart Lynn´s published paper, more than the subject matter of a debate, is a call to reason for those who are aware not only of ICANN´s history and background, but, above all, of its problems, to take the time needed to propose practical solutions.

Regardless of the advantages ICANN may represent in the future of Internet, its current problems should be addressed in a timely and effective fashion. These are,

1. Relationship with ccTLD´s
2. At Large Membership (ALM) participation mechanisms.
3. DNSO structure.

An analysis of these three problems follows, as well as a proposal for a solution that sets down business linkages that go beyond organizational structures.

1. Relationship with ccTLD´s.

This may very well be the greatest problem ICANN² faces. Therefore, solving it may provide greater benefits, such as legitimacy before the diversity of groups geographically and culturally dispersed.

Establishing a productive linkage between ccTLD’s and ICANN requires starting from the premise that the first are DIFFERENT, and therefore have needs that may be mutually exclusive or opposed. These differences are further marked by cultural and political aspects, so the starting point should be set down by mutual agreement. Surely, this point of agreement must be the RFC 1591, to which undoubtedly any ccTLD is willing to subscribe. In no way could it be reasonable to take as a basis that which ICANN has attempted to call “Internet Current Practice – 1”, since this is just a partial compilation carried out by a single person, with no public discussion or reviews from the Internet Global Community.
The following are fundamental issues identified in the linkage between ICANN and the ccTLD, which may in some way be weighed against what has been established in the 1951 RFC:

a. **Global Internet Community (GIC)**

1951 RFC point 3.2 del RFC clearly states that ccTLD’s must serve the global Internet community.

> “These designated authorities are trustees for the delegated domain, and have a duty to serve the community. The designated manager is the trustee of the top-level domain for both the nation, in the case of a country code, and the global Internet community”.

Determining such duty or identifying such services may turn out to be a complex task. However, if we go back to 1994 (when Jon Postel drafted the 1591 RFC) we may infer it refers to the domain name resolution service. Setting down its qualitative and quantitative criteria—that is, service levels—would be an even more complex task, something that could hardly be defined unless these types of rules are set down for root servers.

Therefore, regardless of any domain name registration service a ccTLD may offer to foreign entities, the main issue is the domain name resolution to the GIC.

b. **Local Internet Community (LIC).**

When we refer to LIC, we mean all those Internet actors within the ccTLD territory who have a legitimate interest in the operation and management of said ccTLD.

On the one hand, some ccTLD’s need ICANN support in their linkage with LIC, especially on those issues where there is no formal linkage with the government of the
ccTLD territory; on the other hand, this support isn’t needed when the linkage between ccTLD and the government is defined, or where at least mechanisms are in place to help settle a difference of opinion between both parties. In this case, ICANN should not get involved.

On reviewing the CENTR³ paper where comments on the reform of ICANN are requested, it becomes clear that ICANN does not have a role to play within the LIC for other ccTLD´s. This leads us to conclude that there is no “one size fits all” solution where the LIC issue is concerned.

c. Agreements and service levels.

As to the CENTR and APTLD papers related to the ICANN reform process, it becomes clear that it is necessary to formalize technical matters required by the ccTLD’s. CENTR mentions root server services, as well as the operation of the ccTLD database run by IANA. It doesn’t say anything about non-technical functions that ICANN should provide to ccTLD’s.

Other ccTLD are seeking an agreement with ICANN in order to legitimize the functions they have been performing for more than a decade. However, like CENTR, they seek an operative certainty, not only for the root server operation but for its updating.

As for ICANN, they need to formalize their link with the ccTLD’s, not only to secure financial issues, but mostly to obtain a suitable level of legitimacy in their negotiations with the USA Department of Commerce. However, ICANN’s ultimate purpose should be the pursuit of systems that will guarantee a uniform and efficient operation of the ccTLD´s and the DNS at a global level.

Proposal for ccTLD relationship

The linkage between ICANN and ccTLD´s should be outlined with reference to the 1591 RFC, through a contractual relationship.
These agreements should clearly state that DNS performance and stability must be closely watched, and oversight in a global perspective. Clearly, this role belongs to ICANN. Therefore, ICANN will make sure that GIC interests are always duly respected. In the case of a re-delegation request, ICANN should act as protector of GIC interests. However, ICANN should also attend to the needs of the local Internet community. Additionally, each agreement should specify the level of involvement each ccTLD may expect within the local Internet community.

Finally, though service level specifications regarding root servers are desirable, at this time it is not technically possible to demand such service levels. Technical solutions that will allow formalizing root servers services should be promoted, and when the time comes, minimum requirements should be set down for an adequate global DNS performance.

Both parties should clearly make known to root servers the requirements for a re-delegation and updating in order to set down the service mechanisms they need and avoid operational problems for ccTLD and the global Internet community.

2. Internet user participation mechanisms (ALM).

The reason for this structure, rather than electing part of the Board of Directors, stems from the need to depend on their feedback and input for the decision process. In fact, given the requisites of directors participation, they cannot be representatives, but "individuals who have the duty to act in what they reasonably believe are the best interests of the Corporation”. Thus, a direct election from the ALM becomes useless.

ICANN does not require participation and feedback from each and every Internet user. This would result in a pretty expensive process (resulting in more expensive services for the final user, since someone has to pay for ICANN performance) with negligible results for both ICANN and the thousands of users looking to participate and have an actual effect on ICANN’s decision-making process without success.
So, once representation mechanisms and the usefulness of participation are eliminated, there is only one possibility left for at-large participation. This would be equivalent to the ONG’s and civil society participation have in national governments.

At the beginning stage, ICANN needed the At-Large structure to be able to negotiate with the USA Department of Commerce. After four years, an At.large election, and at least two At-Large structure definition process, it is clear that no adequate cost benefits have been achieved.

**Proposal for At-Large relationship.**

ICANN does not need a business, academic or cultural representative on the ALM. What is needed is a well-structured group with a high level of participation, but mostly with an adequate knowledge of ICANN processes. It needs a team that will be not only be able to make a stand in behalf of consumer groups, but also address the technical and political implications of the subject under discussion.

Besides, ICANN needs establishing a dialogue mechanism with groups ALREADY existing and having credibility regarding the issues mentioned, and most of all, to set down the rules for their participation in the decision-making process.

This will not only provide credibility to ICANN, but what is more important, will allow it to use the resources more efficiently and focus on essential issues in a sustainable way.

3. **The DNSO structure.**

Even though most of the main issues that concerned this support organization have been resolved, there still are (and will still be) some important matters to be addressed. These should be faced up to with a structure that allows effective and strong consensus that will facilitate decision-making for the Board of Directors.
DNSO is so diverse that providers and consumers are kept within its same structure, policy making and consensus building processes are difficult, because whenever a new proposal paper comes up, there will invariably be objections to form that do not allow addressing serious business and deep discussions resulting in weak consensus.

As an example, we can mention other support organizations such as ASO, which works only with service provider bodies but it has proven a good efficiency. On the other hand, there is PSO, which has kept a low profile during ICANN discussions since it is mostly concerned with technical issues. However, it could be that this efficiency is part of an agenda less complex than DNSO’s.

Not to go too far, groups that constitute DNSO, such as ccTLD, keep up a much more complex diversity than both ASO and PSO put together. Within ccTLD’s there are some gTLD’s, a number of ISP’s, some registrars, non-commercial organizations, and commercial businesses, all of them from the five ICANN defined regions. That is, six of the seven groups that make up DNSO are found within the ccTLD’s, with a broader geographical and cultural distribution than any other SO.

All of this contributes to diverse problematical issues, and this situation should be dealt with before thinking about a different Support Organization structure.

Proposal for DNSO relationship.

Constituencies such as ccTLD should not be undergoing a global policy definition process for gTLD, since they do not play a specific service provider role. However, some issues may come up that require knowing the position and opinion of the ccTLD regarding the gTLD space. On the other hand, Individual Domain Name holders, Non-Commercial Domain Name holders and Business should not be part of this organization either. This should be a provider group, just as defined by ASO.
In general terms, any new supporting organization should keep in mind the following: if it is to become a body having the last word the policy making process, this group should be formed by representatives from a diversity of sectors, particularly suppliers and consumers. If what is sought is that this group provide specific positions, broad consensus and strong proposals, the only way to accomplish this is to reduce group diversity and keep only one of the two parties involved in the service process (either suppliers or consumers) instead of both. However, participation mechanisms should be in place to allow all of the former groups to participate in the membership of global policy discussions.

**Overall ICANN features.**

There is a need for Internet global coordination regarding Internet domain names and addresses. Should this coordination not be achieved, an actual risk of Internet fragmentation that would impact final users exists. There are technical and policy definition needs, but both affect Internet performance in critical items: IP addresses, domain name, and Technical Protocol Parameters. There cannot be different organizations for different aspects. ICANN must stand alone as an organization.

The ICANN experiment offers well-defined strengths: one of them is its private structure, which provides the needed flexibility and speed so important for the dynamic environment of Internet..

However, ICANN still isn’t the global organization that many of us expect, since it is currently USA based, and participation and membership rules should be subject to USA laws. This organization should evolve from multinational to actually global, -even though this would require that the USA government give up control of the organization- by putting in place a long-term vision that would not only provide a broader diversity to its directors, but also to its staff, rules and regulations. This diversity should be not only geographic, but cultural and political as well.

Governments do play a role in ICANN: they should enhance awareness of those issues INTERNET requires in order to keep up an adequate stability. Country administrations should have a broader participation in groups such as GAC, but GAC should also strongly promote
more member interaction with the rest of the community. This would provide mutual exchange of knowledge that would finally lead to a convergence.

During the next few years, the global Internet community must prove it is ready for the success of the greatest self-determination experiment in history: Internet.

1 Paper authored by Oscar Robles on a personal basis. It does not in any way represent a position of either NIC.MX or LACTLD.
2 See http://www.icann.org/general/lynn-reform-proposal-24feb02.htm
3 Even larger than ALM, since some governments take part in this problem.
4 In http://www.centr.org/news/ICANN-response.html where it is established that ICANN should not have any role in the policy defining process and should concentrate on root servers' technical and operative matters.