A PLURALISTIC VIEW OF DNS GOVERNANCE:
Core Principles For ICANN Reform

I. INTRODUCTION AND SUMMARY

As of February 2002 more than 500 million people worldwide are using the Internet regularly. They include adults and children of all ages and all backgrounds, small, medium and large businesses, governments, military services and policy makers. They use it for e-mail, to find information, to buy and sell products and services, to find a job, to vote, to browse the World Wide Web and for entertainment.

The success of the Internet, e-mail, and the World Wide Web has been in significant measure due to the user friendliness and flexibility of domain names. Internet domain names are particularly crucial because they are the primary means by which users and creators of information and services worldwide identify themselves and information.

Although the Internet has scaled dramatically over the past several years to become a critical global infrastructure and a massive business marketplace, the administration of Internet domain names and other identifiers has remained essentially an industry-led initiative within the context of the Internet Corporation for Assigned Names and Numbers (ICANN).

Along with the growth of the Internet has grown the frustration with ICANN among those who depend upon and are affected by the domain name system (DNS). ICANN was initially created to focus on the technical management of the DNS, but many of its “technical” decisions necessarily involve “public policy” choices. ICANN’s decisions affect how people arrive at websites and what domain names they can have, how conflicts over trademarked domain names are resolved, how domains that expire are reallocated and how much data on users should be public. At a time when we all grapple with the security vulnerabilities that our increased interdependencies have generated, ICANN plays a critical role in maintaining and enhancing the stability and security of the entire Internet. Though no one disputes that the Internet’s name and address system is functioning, ICANN has proved poorly equipped to handle these numerous policy matters.

For these reasons, the Markle Foundation has been involved in the evolution of ICANN with the aim to foster legitimate processes that serve the interests of the public and growing user community.

We believe, however, that ICANN, as it has developed, is seriously flawed as a global institution able to make decisions worthy of deference or to safeguard the public interest in an increasingly networked society.

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1 See http://www.nua.ie/surveys/how_many_online/
We also believe that many of the problems and shortcomings ICANN faces highlight a need to look beyond specific proposals to “fix” ICANN and to reflect on the broader question of whether ICANN embodies the right concept and governance structure to implement its mission and separate functions, or whether there are alternatives, such as existing or new global institutions, that should play a key role in managing certain critical parts of the Internet’s architecture. Separating out the question of what needs to be done, from which organization will do it, provides an opportunity to review whether ICANN or some other organization is best able to manage certain elements of the DNS.

If this review results in ICANN retaining authority for technical management of the DNS, then, at a minimum, the following reforms are necessary:

**Multi-Sectoral Participation:** ICANN’s Board needs to be restructured in a pluralistic and multi-sectoral way, including governmental, private and non-commercial members to increase its legitimacy;

**Accountability and Transparency:** Board and staff need far greater oversight by politically accountable officials; and decisions must be more transparent, open and developed through a due process.

II. FURTHER COMMENTS ON ICANN REFORM PRINCIPLES

- **Ensure Multi-Sectoral Representation in ICANN**

  ICANN’s credibility as a global manager of critical parts of the Internet’s infrastructure depends on the Board’s ability to ensure that the various private and public interests are represented in ICANN’s activities. As most would agree, ICANN, although organized as a private, not-for-profit corporation has “public trust” functions. One of the priority, corrective actions that either a reformed ICANN or another organization must undertake is to address and eradicate the irony that ICANN, intended to serve a vital public trust for the entire global Internet community, has neither adequately defined nor institutionalized public interest representation. Global elections have not proven to be the means to provide adequate public interest representation. If ICANN is not to become a governmental entity, then it must implement a better alternative, and not abandon the goal of ensuring public representation.

  We believe that effective governance, including DNS management, requires input from many stakeholders, who all fulfill various roles in the process: democratic governments provide public accountability and possess enforcement and oversight capabilities; the private sector offers technological expertise and a driving culture of innovation; non-profits provide public confidence in efficiency and integrity—less bureaucratic than governments, less profit-motivated than business. But no single institution or sector is equipped to handle the task on its own. Therefore, ICANN’s board and major decision making authorities need to consist of government, private and non-commercial representatives.

  The call for pluralistic governance structures for the Internet is backed-up by a major study the Markle Foundation conducted in 2001, entitled *Toward a Framework for Internet Accountability*. Respondents said by a 2-to-1 margin that the government should develop rules

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2 See *Toward a Framework for Internet Accountability*, Markle Foundation, July 2001 and available at [http://www.markle.org](http://www.markle.org). Greenberg Quinlan Rosner Research conducted the research, through a series of
to protect people when they are on the Internet, even if it requires some regulation of the Internet. In addition, the public felt industry has a key role to play but 58% indicated they do not support industry self-regulation alone, and 70% felt non-profits should have a significant role in making rules for Internet. In sum, in looking for solutions, the American public appreciates the complexities of the Internet and wants to go beyond such black and white choices as “government regulation” or “industry self-regulation” to fashion instead multi-sectoral approaches involving government, industry, technical experts, non-profit organizations and the public itself.

- Better Accountability and Transparency

Steps to bolster ICANN’s accountability will require improved public oversight by politically accountable officials. One of the key priorities in this area is the creation of a greater oversight role for governments regarding policy decisions. In addition, ICANN must set forth in writing clear procedures regarding the approval of matters within its delineated jurisdiction, and provide an impartial and due process enabling parties to appeal those decisions based on either procedural or substantive grounds.

Moreover, keeping staff and Board members accountable to a clear set of professional norms and standards established by ICANN’s Board and overseen by outsiders is essential to making ICANN accountable to the Internet community. Board members and staff should be required to adhere to a code of conduct regarding minimum standards for completion of responsibilities, duties to the organization, conflicts of interest and other basic conduct standards.

III. CONCLUSION: A PLURALISTIC VIEW OF ICANN GOVERNANCE

Establishing balanced and multi-sectoral Board representation for ICANN (or a successor organization) is key to having appropriate checks and balances that will foster effectiveness and preserve openness. In addition, ICANN requires development of due process principles and clear, publicly available procedures for the resolution of complaints, as well as a policy for holding open meetings and a process for systematically documenting the rationale for ICANN’s policy decisions and actions. Given the inability of ICANN to adequately represent the broad public interest over the course of its initial four years, we believe that a narrowing of its mission and increased governmental oversight of its remaining policy activities must be established.

What ultimately is needed—as confirmed by our studies to date—is a pluralistic model for Internet governance, in which a range of public and private actors help to craft the norms and rules that guide DNS management—balancing each other and working together to earn the public’s trust.

national telephone interviews, online surveys, conventional and on-line focus groups, and one-on-one interviews with the public and Internet experts. The study was designed to examine multiple aspects of the American public and experts’ views regarding Internet governance, including whether the public believes more needs to be done to provide protections and give users greater control on-line. In turn, it examined whom they trust to make Internet policy.
About the Markle Foundation

The Markle Foundation works to realize the potential of emerging communications media and information technology to improve people’s lives. The Foundation’s work focuses on three primary areas: Policy for a Networked Society, Interactive Media for Children, and Information Technologies for Better Health. Many of the Policy for a Networked Society activities help to build the capacity to include the public voice in the governance of the Internet. Markle pursues its goals through a range of activities including analysis, research, public information and the development of innovative media products and services. The Foundation creates and operates many of its own projects, using not only grants but also investments and strategic alliances with non-profits, governments and businesses. (See http://www.markle.org for more information.)

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