Input for Netmundial

Contribution from the ICANN Cross Community Working Group on Internet Governance

Part I: Introduction

The ICANN Cross Community Working Group (CCWG) on Internet Governance drafted this contribution using multistakeholder principles. The CCWG is an ad-hoc group comprised of members of ICANN's Supporting Organisations (Address Supporting Organisation - ASO; Country Code Domain Name Supporting Organization - ccNSO; Generic Names Supporting Organization - GNSO) and Advisory Committees (At-Large Advisory Committee - ALAC; Governmental Advisory Committee - GAC; and Security and Stability Advisory Committee - SSAC) as well as GNSO Stakeholder Groups and constituencies. This bottom-up process involved up to five people from each of these groups that comprise ICANN's volunteer community. The concepts expressed in this paper resulted from discussion on the CCWG's mailing list, input provided through the CCWG Wiki space, and weekly conference calls from January - March 2014.

Due to time pressures, the proposals expressed in this contribution have not yet been reviewed by the respective SOs, ACs and SGs of ICANN. They are therefore the opinions solely of the authors. Further communication will advise the NetMundial Organizing Committee if such ratification occurs before the meeting in Brazil.

As the CCWG is commenting on ICANN, and on ICANN's role within the larger Internet Governance Ecosystem in preparation for a contribution to the NETMundial Conference, these comments should be viewed as preliminary and focused on the entities within the IG Ecosystem that we have been able to consider in the short timeframe for preparing this submission. It is possible that further collaboration may lead to changes and enhancements to the CCWG views.

Part II: Internet Principles

Declarations

2.1 The ICANN multistakeholder, bottom-up, consensus-based model best serves the Internet community.

A multistakeholder model allows all stakeholders – whether individual citizens, businesses, Internet Service Providers, intellectual property owners, governments, intergovernmental institutions, registrars and registries, civil society organizations, or technical experts – to have a say in shaping the future of Internet governance. Because all members of the Internet community are affected by Internet governance, we should all contribute to its development. Moreover, the multistakeholder model has enabled and fostered the astonishingly rapid growth of the Internet as a critical platform for innovation, creativity, commerce, and the exchange of information and ideas. If we continue to refine and improve the multistakeholder model, we will ensure that the Internet continues to grow and flourish in the future. Again, within the multistakeholder model different stakeholders will take the lead on particular matters based on their competency and mandate, but transparency and dialogue are key to the success of multistakeholder processes.

Within ICANN, the multistakeholder model works in a bottom-up, consensus-based and inclusive manner that lets every participant be heard and taken into consideration in the decision-making process. Most initiatives emerge in the communities of stakeholders and the ICANN Advisory Committees and are supported by ICANN staff. The public comment process plays a very important role for this model, not only because it gives transparency to the work done by the different communities and stakeholder groups, but because it provides the essential feedback loop that is key to bottom-up, consensus-based, multistakeholder governance.

ICANN has continuously improved its multistakeholder model and should continue to do so. There should be no barriers for participation and outreach efforts should continue to include under-represented groups.

Numerous multistakeholder mechanisms exist. We offer two examples below:

The Regional Internet Registries (RIRs) also use a multistakeholder model to manage, distribute and register Internet resources within their respective regions. There are five RIRs

- AFRINIC: Providing services in Africa
- APNIC: Providing services in Asia Pacific
- ARIN: Providing services in North America and the Caribbean
- LACNIC: Providing services in Latin America and the Caribbean
- RIPE NCC: Providing services in Europe, the Middle East and parts of Central Asia

RIR Communities develop the policies for how resources should be delegated within their respective regions. The RIR Policy Development Processes are documented and are openly accessible by everyone. All policies, as well as the discussions that led to their developments, are documented and archived in the respective RIR web pages. In order to carry out their work, RIRs also support and work with technical communities that understand infrastructure issues first hand.

The Internet Governance Forum (IGF) also exemplifies multistakeholder collaboration. It was created to be a space for policy dialogue, where participants from all stakeholder groups engage on an equal footing and have an equal opportunity to express themselves. The IGF mandate encompasses, among other things, facilitating the exchange of information and best practices, discussing public policy issues and dialogue among bodies and actors dealing with Internet governance, strengthening and enhancing the engagement of stakeholders, and contributing to capacity building. The creation of the IGF was important to the development of the Internet governance model, as it contributed to breaking down the silos among stakeholder groups, to the emergence of a common language and common terms that facilitated understanding, and to the identification of best practices that inspired concrete action at the regional and at national levels.

2.2 The CCWG supports an Internet with a single root.

A single root is needed to ensure global uniqueness regarding names in the namespace created by the delegated administration and allocation of unique names. Proposals by certain other organisations contemplate the possibility of shared or multiple roots. The CCWG believes that only a single root will guarantee global uniqueness and deter fragmentation of the Internet.

2.3 The CCWG supports a unique Internet.

The Internet is made up of hundreds of thousands of networks. These networks connect to each other thanks to a globally unique IP address space. Without this, the Internet would be fragmented. Only parties connected to the same IP based network with a globally unique IP address space can communicate with each other.

2.4 The CCWG supports best practices that enhance Internet security.

We support best practices that improve Internet security. For example, Domain Name System SECurity (DNSSEC) makes it possible for a person receiving a response from a DNS query to validate that the response is authoritative and that the signed data has not been changed during transport. However, these policies should be developed in a multistakeholder context with adequate input from all stakeholders, especially the technical experts, the business community and civil society, each of which play a key role in development and implementation of these best practices. Moreover, the participation of all stakeholders is important to ensure that measures designed to protect the security, stability, resiliency, and interoperability of the Internet do not get overly politicized.

2.5 The CCWG supports transparency in Internet governance discussions.

The CCWG supports transparency in Internet governance discussions. All discussions on aspects of Internet governance should be supported by full, inclusive and transparent consultation with all affected stakeholders.

Part III: Future Evolution of the Internet Governance Ecosystem

Roadmap Contributions

3.1 Evolution of ICANN: principles by which ICANN should evolve.

ICANN plays a key role in keeping the Internet operational, by managing globally unique identifiers. The Internet is a trans-border and shared resource, and ICANN should contribute to its stability, robustness and interoperability, acting in a way that is consistent with the common good.

This means that ICANN should carry out its stewardship role "caring more for the good management, use and evolution of this shared resource than for any individual stake in it" (CERF at al., 2014).

ICANN is deeply connected to the web of relationships among institutions and actors that are part of the Internet governance ecosystem. The functions it performs are fundamental to the work carried out by other organizations and, ultimately, to keeping the Internet running. This is a great responsibility and ICANN is constantly striving to improve its governance model to better carry out its mission. The recent launch of the Strategy Panels -- on ICANN Multistakeholder Innovation; on ICANN's role in the Internet Organizations' Ecosystem; on the Public Responsibility Framework; and on Identifier Technology Innovation -- demonstrate these efforts, as do the accountability and transparency reviews. ICANN seeks to keep evolving together with the Internet governance ecosystem.

In order to ensure that this evolution happens in the best possible manner, some general principles need to be observed:

- Evolution must be driven by the ICANN Community. ICANN has a unique multistakeholder model and a bottom-up process of decision-making. The evolution of the organization must be based on input from the community. ICANN's board should perform its tasks in ongoing consultation with the community.
- Evolution should support the participation of a broader range of actors from all sectors, especially those from developing regions.

- Transparency and accountability are key to all actions by the ICANN Board, ICANN Staff, and the ICANN community.
- Globalization plans for ICANN must be developed with stakeholder support and take into account impact on stakeholders.
- Negotiations with the US Department of Commerce on future of ICANN should take into account input received from the community.

3.2 Evolution of ICANN: Globalization of ICANN

Non-governmental administration of the DNS has been a long-standing goal that has not yet been fully realized. Since 1999, ICANN has been a contractor with the United States government for performing the IANA functions, while the National Telecommunications and Information Administration (NTIA) is tasked with the function of "administrator" under this contract. Although important steps towards increasing ICANN's independence were taken with the Affirmation of Commitments (AoC), an agreement between ICANN and the US Department of Commerce, the US Government still maintains an oversight role over ICANN's compliance with the AoC and takes that into account at the time of IANA contract renewal. While some actors believe that the relationship with the US Government has brought stability, concerns have also been raised, based on concerns of trust and lack of equality among countries. So far, the proposal that has garnered the most support has been the "globalization" of ICANN, keeping it accountable to all stakeholders, although there is disagreement on what that would entail, other than replacement of the US Government as IANA contract counterparty. The bottom line is that the way forward for the organization must be discussed with the ICANN community and carried out after careful reflection.

ICANN is currently subject to the laws of the State of California. The Affirmation of Commitments requires ICANN to remain headquartered in the United States of America. The AOC can be canceled by either party upon provision of 120 days' notice.

Some nation-states and some members of the ICANN community have called for the globalization of the IANA function part of ICANN.

Administration of the root zone function should meet several criteria: (1) protection of root zone management from political or other improper interference; (2) integrity, stability, continuity, security and robustness of the administration of the root zone; (3) widespread trust by Internet users in the administration of this function; (4) support for a public, globally unified DNS namespace; and (5) agreement regarding an accountability mechanism for this function.

The current IANA contract with the US NTIA satisfies these criteria, but some believe there is a potential political dimension to the administration of this function. Equally, some in the ICANN stakeholder community also believe that such globalization is not needed at the present time.

At present, the ICANN Board has voted to explore the options possible in the globalization of the IANA function part of ICANN. Again, these options must be discussed with the ICANN community.

3.3 International Frameworks for ICANN's Accountability

ICANN is currently accountable through the AoC. Any globalization of ICANN would require the creation of a new framework for ICANN's accountability. It is the position of the CCWG that here again, the ICANN stakeholder community must be consulted at all levels of the design of such a framework, should this be decided.

Part IV: Conclusions

The ICANN stakeholder community is a microcosm of the world's diversity of population. It has years of experience in developing operational policy that serves the Internet by operating an evolving but stable set of names, addresses and protocols. Operation of ICANN as a bottom-up,

consensus-based, multistakeholder model has both been a challenge and a success, judged by the fact that for the 15 years of ICANN's existence, the DNS has performed as it should and its Top Level Domain space continues to grow. The diversity of ICANN's stakeholder communities will often cause disagreements among its various components, but ICANN has provided a wonderful platform open to everyone for engagement and a search for the common good -- to find a solution to the challenges that any network growing at the pace of the Internet would face.

The ICANN stakeholder community is an inherent part of all of the global Internet communities. The CCWG looks forward to continuing to work to make ICANN a better organization.

Appendix A: Definitions of the terms we are using

In this section, we provide a backgrounder on the definitions that we attribute to certain terms used in this contribution. The definitions of these terms are not meant to serve as universal definitions but rather as the meaning of those terms in the context of this contribution in order to avoid ambiguity.

What is a multistakeholder model?

The Multistakeholder Model (MsM), as opposed to the Multilateral Model (MIM), which we describe in more detail below, provides all interested parties a voice in critical decision-making processes. Within the MsM, different stakeholders may take the lead on particular matters based on their competency and mandate, but transparency and dialogue are key to the success of multistakeholder processes. Within the context of ICANN, the multistakeholder model refers to the bottom-up, consensus-based process by which stakeholders who participate in ICANN develop policies related to Internet naming and numbering, as well as policies to support the security, stability, and interoperability of the global Internet. Participants in ICANN's multistakeholder model include businesses, civil society organizations, individual Internet users, technical experts and governments, each with their respective roles. In the MsM, any individual or organization may voice an opinion, and ideally, all opinions and ideas are considered on their own merits.

What is a multilateral model?

The Multilateral Model (MIM) is a decision-making process wherein nation-states or a closed stakeholder group negotiate policy among themselves. In an ideal process, the negotiating parties are expected to voice the interests of their citizens or members. Due to the closed nature of the process, citizens, businesses, civil society organizations and technical experts cannot participate directly in decision-making in a multilateral decision making process. Some multilateral organizations do offer consultative status to non-governmental stakeholders that may or may not be binding for the parties raising the consultation. The OECD is an example of a governmental multilateral body while FIFA or the FiA may be seen as private sector multilateral bodies.

ICANN Component Organizations

Address Supporting Organization (ASO)

The ASO is the body that advises the ICANN Board regarding policy issues relating to the operation, assignment, and management of Internet addresses - otherwise known at Internet Protocol Addresses (IP addresses). Every computer or other device connected to the Internet needs an IP address.

Country Code Names Supporting Organization (ccNSO)

The ccNSO is the policy-development body responsible for: (i) developing and recommending to the Board global policies relating to country-code top-level domains; (ii) nurturing consensus across the ccNSO's community, including the name-related activities of ccTLDs; and (iii) coordinating with other ICANN Supporting Organizations, committees, and constituencies under ICANN.

Generic Names Supporting Organization (GNSO)

The GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic Top Level Domains (gTLDs); it does so through the Policy Development Process. Changes to gTLD policy have broad impact beyond the gTLD-related businesses (registries and registrars) that contract with ICANN, to other stakeholders and ultimately to all users of the Internet.

GNSO stakeholders are organized into four "Stakeholder Groups": registries, registrars, commercial stakeholders and noncommercial stakeholders. The Intellectual Property, Internet Service Provider and Commercial and Business User constituencies are in the Commercial Stakeholder Group, while the non-profit and non-commercial user constituencies are in the Non-Commercial Stakeholder Group. The GNSO

Council, consisting of representatives of each Stakeholder Group, manages the PDP process and approves policy recommendations from GNSO Working Groups, which develop the recommendations.

One of the unique aspects of the GNSO is that the PDP is bottom-up, consensus-based, and stakeholder-driven, and depends on extensive stakeholder involvement in multistakeholder Working Groups. Working Groups are the heart of the GNSO and the PDP. Working Groups are formed via Charters, which define the specific issues that each group will address. While Working Groups typically have representatives from each Stakeholder Group and liaisons from other ICANN bodies (e.g., ALAC and the ccNSO), anyone can participate. Working Groups operate by consensus and develop detailed policy recommendations through meetings and the development of a substantial report. Preliminary reports are subject to public comment, which are taken into account when preparing the final report. The recommendations in the Working Group reports, once approved by the GNSO Council, are sent to the Board for adoption as ICANN gTLD policy.

At-Large Advisory Committee (ALAC)

"At-Large" is the name for the community of individual Internet users who participate in the policy development work of ICANN. The 15 member At-Large Advisory Committee (ALAC) is responsible for considering and providing advice on the activities of ICANN as they relate to the interests of individual Internet users (the "At-Large" community). ICANN, as a private sector non-profit corporation with technical management responsibilities for the Internet's domain name and address system, relies on the ALAC and the broader At-Large community to involve and represent in ICANN a broad set of individual Internet user interests.

Governmental Advisory Committee (GAC)

The GAC provides advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be interaction between ICANN's policies and various laws and international agreements or where ICANN's policies may affect public policy issues. According to ICANN's Bylaws, "GAC advice on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. If the Board determines to take an action that is not consistent with the GAC advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice".

Security and Stability Advisory Committee (SSAC)

The SSAC advises the ICANN community and Board on matters relating to the security and integrity of the Internet's naming and address allocation systems, which encompasses operational matters (e.g., matters pertaining to the correct and reliable operation of the root name system), administrative matters (e.g., matters pertaining to address allocation and Internet number assignment), and registration matters (e.g., matters pertaining to registry and registrar services such as WHOIS). SSAC engages in ongoing threat assessment and risk analysis of the Internet naming and address allocation services to assess where the principal threats to stability and security lie, and advises the ICANN community accordingly.

Root Server System Advisory Committee (RSSAC)

The RSSAC is the body that advises the ICANN community and Board on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System.

Internet Engineering Task Force (IETF)

The IETF's mission is to make the Internet work better by producing high quality, relevant technical documents that influence the way people design, use and manage the Internet. Anyone may participate in the IETF process, making the organization truly multistakeholder, but individuals are expected to represent only themselves, not their companies, governments, or other organizations. Thus, individuals are expected to bring their best ideas for the Internet rather than represent any one constituency.

Work within the IETF is organized in working groups. Working group chairs are responsible for managing the process within the group. The process of drafting an IETF standard typically begins at the working group level. Anyone can submit an idea for a standard for the working group to consider. People in the working group comment on whether to take up the work or not, and if it is agreed by consensus to take up the item, the document becomes a working group item. The working group then jointly develops the content of the standard itself through iteration. Once the document is largely agreed, it goes to working group last call: at this point, everyone in the working group reads the document and provides final feedback. If achieved, the standard goes to the IETF as a whole for discussion and consensus before a standard becomes final.

While the IETF holds three meetings a year, much of the work associated with developing a standard takes place over working group email lists, and working group chairs must consult the list before determining that consensus exists. The culture of the IETF places a premium on individuals

representing themselves, not their organizations' interests. Calls for comment are iterative and ongoing in the early stages of document development, increasing the likelihood that major issues are considered and resolved before last call and generally streamlining the process.

The standards developed at IETF are needed to make the Internet interoperable, and they affect all Internet users. Because of these effects, standards development processes must remain open to all interested parties, and decision-making should be transparent. Accordingly, participants in IETF processes strive to maintain a level of awareness of the potential social and economic impact of their efforts which distinguishes the entire process from any other technical body.