

REPRESENTATIVE MIKE KELLY  
THIRD DISTRICT, PENNSYLVANIA

CO-CHAIRMAN OF  
NORTHEAST-MIDWEST CAUCUS

CO-CHAIRMAN OF  
KOREAN CAUCUS



COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

SUBCOMMITTEE ON SOCIAL SECURITY

SUBCOMMITTEE ON OVERSIGHT

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

June 3, 2015

Dear Cross Community Working Group on Enhancing ICANN Accountability:

I have been observing with interest the multi-stakeholder community process to develop a proposal for a transition in Internet governance, particularly the work of the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), and I support your efforts to enhance accountability within ICANN in the absence of U.S. oversight.

With respect, I submit the attached legislation as a public comment to the CCWG-Accountability Initial Draft Proposal for Public Comment that complements and supports your efforts. The attached legislation is H.R. 2251, the Defending Internet Freedom Act of 2015, a bill which I introduced in the United States House of Representatives, in the 114th Congress, on May 12, 2015.

Sincerely,

  
MIKE KELLY  
Member of Congress

114TH CONGRESS  
1ST SESSION

# H. R. 2251

To prohibit the National Telecommunications and Information Administration from relinquishing responsibilities with respect to Internet domain name functions unless it certifies that it has received a proposal for such relinquishment that meets certain criteria, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2015

Mr. KELLY of Pennsylvania (for himself, Mr. McCAUL, and Mr. JONES) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit the National Telecommunications and Information Administration from relinquishing responsibilities with respect to Internet domain name functions unless it certifies that it has received a proposal for such relinquishment that meets certain criteria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defending Internet  
5 Freedom Act of 2015”.

1 **SEC. 2. REQUIREMENTS FOR NTIA RELINQUISHMENT OF**  
2 **DNS RESPONSIBILITIES.**

3 (a) IN GENERAL.—Unless the Assistant Secretary  
4 submits the certification described in subsection (b) to the  
5 appropriate congressional committees—

6 (1) the Assistant Secretary may not relinquish  
7 the responsibilities of the NTIA with respect to  
8 Internet domain name functions, including responsi-  
9 bility with respect to the authoritative root zone file,  
10 the IANA functions, or the related root zone man-  
11 agement functions; and

12 (2) the Assistant Secretary shall exercise the  
13 first option period described in paragraph I.70(b) of  
14 the IANA functions contract to extend such contract  
15 through September 30, 2017.

16 (b) CERTIFICATION DESCRIBED.—The certification  
17 described in this subsection is a written certification that  
18 the Assistant Secretary has received a final proposal for  
19 relinquishing the responsibilities of the NTIA with respect  
20 to Internet domain name functions that ensures the fol-  
21 lowing:

22 (1) Control over the management of the Inter-  
23 net domain name system will not be exercised by a  
24 governmental or intergovernmental body.

25 (2) The bylaws of ICANN have been amended  
26 to provide for the following:

1           (A) No director or officer of ICANN may  
2 be selected by or represent a governmental or  
3 intergovernmental body.

4           (B) The board of directors of ICANN is  
5 prohibited from voting on advice or a policy  
6 proposal offered by the Governmental Advisory  
7 Committee unless such Committee reaches con-  
8 sensus regarding such advice or proposal. For  
9 purposes of the preceding sentence, the term  
10 “consensus” means general agreement in the  
11 absence of any formal objection.

12          (C) ICANN is committed to upholding  
13 freedom of speech, freedom of the press, free-  
14 dom of assembly, and freedom of association  
15 and has adopted and implemented standards  
16 that are at least as protective of such freedoms  
17 as is the First Amendment to the Constitution.

18          (D) The term “supermajority” is defined  
19 for purposes of the bylaws of ICANN to mean,  
20 with respect to a vote of the board of directors,  
21 an affirmative vote by at least four-fifths of all  
22 directors.

23          (E) A change in the bylaws of ICANN re-  
24 quires a vote of a supermajority of the board of  
25 directors.

1 (F) ICANN has an external, independent  
2 process for reviewing and resolving disputes be-  
3 tween ICANN and external parties, including  
4 members of the multistakeholder community, in  
5 all matters related to the operations and policy  
6 decisions of ICANN. Such process includes the  
7 ability to reverse decisions of the board of direc-  
8 tors.

9 (G) ICANN shall remain subject to United  
10 States law (including State law) and to the ju-  
11 risdiction of United States courts (including  
12 State courts).

13 (H) ICANN is prohibited from engaging in  
14 activities unrelated to ICANN's core mission or  
15 entering into an agreement or modifying an ex-  
16 isting agreement to impose on a registrar or  
17 registry with which ICANN conducts business  
18 any condition (such as a condition relating to  
19 the regulation of content) that is unrelated to  
20 ICANN's core mission.

21 (3) ICANN has adopted policies and procedures  
22 for disclosing to the public records and other infor-  
23 mation that are at least as protective of public ac-  
24 cess as the policies and procedures required by sec-  
25 tion 552 of title 5, United States Code (commonly

1 known as the Freedom of Information Act). The  
2 policies and procedures adopted include a means by  
3 which the denial of a request for access to records  
4 or other information may be appealed through the  
5 independent dispute resolution process described in  
6 paragraph (2)(F).

7 (4) The United States Government has been  
8 granted ownership of the .gov and .mil top-level do-  
9 mains.

10 (5) ICANN has adopted, if necessary through  
11 amendment to its bylaws, all additional measures  
12 recommended by the multistakeholder community  
13 through the IANA Stewardship Transition Coordina-  
14 tion Group, the Cross Community Working Group  
15 on Enhancing ICANN Accountability, and the Cross  
16 Community Working Group to Develop an IANA  
17 Stewardship Transition Proposal on Naming Related  
18 Functions.

19 (c) DEFINITIONS.—In this section:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
21 TEES.—The term “appropriate congressional com-  
22 mittees” means the Committee on Energy and Com-  
23 merce of the House of Representatives and the Com-  
24 mittee on Commerce, Science, and Transportation of  
25 the Senate.

1           (2) ASSISTANT SECRETARY.—The term “Assist-  
2           ant Secretary” means the Assistant Secretary of  
3           Commerce for Communications and Information.

4           (3) IANA FUNCTIONS.—The term “IANA func-  
5           tions” means the Internet Assigned Numbers Au-  
6           thority functions, as described in the IANA func-  
7           tions contract.

8           (4) IANA FUNCTIONS CONTRACT.—The term  
9           “IANA functions contract” means the contract be-  
10          tween the NTIA and ICANN that became effective  
11          on October 1, 2012, under which ICANN is required  
12          to perform the IANA functions (Contract No.  
13          SA1301–12–CN–0035).

14          (5) ICANN.—The term “ICANN” means the  
15          Internet Corporation for Assigned Names and Num-  
16          bers.

17          (6) ICANN’S CORE MISSION.—The term  
18          “ICANN’s core mission” means managing the IANA  
19          functions and proposing and overseeing policy deci-  
20          sions central to coordinating the global interoper-  
21          ability and uniqueness of Internet domain names.

22          (7) NTIA.—The term “NTIA” means the Na-  
23          tional Telecommunications and Information Admin-  
24          istration.

1           (8) STATE.—The term “State” means each of  
2           the several States, the District of Columbia, each  
3           commonwealth, territory, or possession of the United  
4           States, and each federally recognized Indian tribe.

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