

## Appendix F: Affirmation of Commitments

1. This document constitutes an Affirmation of Commitments (Affirmation) by the United States Department of Commerce ("DOC") and the Internet Corporation for Assigned Names and Numbers ("ICANN"), a not-for-profit corporation. In recognition of the conclusion of the Joint Project Agreement and to institutionalize and memorialize the technical coordination of the Internet's domain name and addressing system (DNS)<sup>1</sup>, globally by a private sector led organization, the parties agree as follows:

2. The Internet is a transformative technology that will continue to empower people around the globe, spur innovation, facilitate trade and commerce, and enable the free and unfettered flow of information. One of the elements of the Internet's success is a highly decentralized network that enables and encourages decision-making at a local level. Notwithstanding this decentralization, global technical coordination of the Internet's underlying infrastructure - the DNS - is required to ensure interoperability.

3. This document affirms key commitments by DOC and ICANN, including commitments to: (a) ensure that decisions made related to the global technical coordination of the DNS are made in the public interest and are accountable and transparent; (b) preserve the security, stability and resiliency of the DNS; (c) promote competition, consumer trust, and consumer choice in the DNS marketplace; and (d) facilitate international participation in DNS technical coordination.

4. DOC affirms its commitment to a multi-stakeholder, private sector led, bottom-up policy development model for DNS technical coordination that acts for the benefit of global Internet users. A private coordinating process, the outcomes of which reflect the public interest, is best able to flexibly meet the changing needs of the Internet and of Internet users. ICANN and DOC recognize that there is a group of participants that engage in ICANN's processes to a greater extent than Internet users generally. To ensure that its decisions are in the public interest, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS.

5. DOC recognizes the importance of global Internet users being able to use the Internet in their local languages and character sets, and endorses the rapid introduction of internationalized country code top level domain names (ccTLDs), provided related security, stability and resiliency issues are first addressed. Nothing in this document is an expression of support by DOC of any specific plan or proposal for

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<sup>1</sup> For the purposes of this Affirmation the Internet's domain name and addressing system (DNS) is defined as: domain names; Internet protocol addresses and autonomous system numbers; protocol port and parameter numbers. ICANN coordinates these identifiers at the overall level, consistent with its mission.

the implementation of new generic top level domain names (gTLDs) or is an expression by DOC of a view that the potential consumer benefits of new gTLDs outweigh the potential costs.

6. DOC also affirms the United States Government's commitment to ongoing participation in ICANN's Governmental Advisory Committee (GAC). DOC recognizes the important role of the GAC with respect to ICANN decision-making and execution of tasks and of the effective consideration by ICANN of GAC input on the public policy aspects of the technical coordination of the Internet DNS.

7. ICANN commits to adhere to transparent and accountable budgeting processes, fact-based policy development, cross-community deliberations, and responsive consultation procedures that provide detailed explanations of the basis for decisions, including how comments have influenced the development of policy consideration, and to publish each year an annual report that sets out ICANN's progress against ICANN's bylaws, responsibilities, and strategic and operating plans. In addition, ICANN commits to provide a thorough and reasoned explanation of decisions taken, the rationale thereof and the sources of data and information on which ICANN relied.

8. ICANN affirms its commitments to: (a) maintain the capacity and ability to coordinate the Internet DNS at the overall level and to work for the maintenance of a single, interoperable Internet; (b) remain a not for profit corporation, headquartered in the United States of America with offices around the world to meet the needs of a global community; and (c) to operate as a multi-stakeholder, private sector led organization with input from the public, for whose benefit ICANN shall in all events act. ICANN is a private organization and nothing in this Affirmation should be construed as control by any one entity.

9. Recognizing that ICANN will evolve and adapt to fulfill its limited, but important technical mission of coordinating the DNS, ICANN further commits to take the following specific actions together with ongoing commitment reviews specified below:

9.1 Ensuring accountability, transparency and the interests of global Internet users: ICANN commits to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders by: (a) continually assessing and improving ICANN Board of Directors (Board) governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which Board composition meets ICANN's present and future needs, and the consideration of an appeal mechanism for Board decisions; (b) assessing the role and effectiveness of the GAC and its interaction with the Board and making recommendations for improvement to ensure effective consideration by ICANN of GAC input on the public policy aspects of the technical coordination of the DNS; (c) continually

assessing and improving the processes by which ICANN receives public input (including adequate explanation of decisions taken and the rationale thereof); (d) continually assessing the extent to which ICANN's decisions are embraced, supported and accepted by the public and the Internet community; and (e) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development. ICANN will organize a review of its execution of the above commitments no less frequently than every three years, with the first such review concluding no later than December 31, 2010. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the Chair of the Board of ICANN, the Assistant Secretary for Communications and Information of the DOC, representatives of the relevant ICANN Advisory Committees and Supporting Organizations and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the Chair of the Board of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations. Each of the foregoing reviews shall consider the extent to which the assessments and actions undertaken by ICANN have been successful in ensuring that ICANN is acting transparently, is accountable for its decision-making, and acts in the public interest. Integral to the foregoing reviews will be assessments of the extent to which the Board and staff have implemented the recommendations arising out of the other commitment reviews enumerated below.

9.2 Preserving security, stability and resiliency: ICANN has developed a plan to enhance the operational stability, reliability, resiliency, security, and global interoperability of the DNS, which will be regularly updated by ICANN to reflect emerging threats to the DNS. ICANN will organize a review of its execution of the above commitments no less frequently than every three years. The first such review shall commence one year from the effective date of this Affirmation. Particular attention will be paid to: (a) security, stability and resiliency matters, both physical and network, relating to the secure and stable coordination of the Internet DNS; (b) ensuring appropriate contingency planning; and (c) maintaining clear processes. Each of the reviews conducted under this section will assess the extent to which ICANN has successfully implemented the security plan, the effectiveness of the plan to deal with actual and potential challenges and threats, and the extent to which the security plan is sufficiently robust to meet future challenges and threats to the security, stability and resiliency of the Internet DNS, consistent with ICANN's limited technical mission. The

review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

9.3 Promoting competition, consumer trust, and consumer choice: ICANN will ensure that as it contemplates expanding the top-level domain space, the various issues that are involved (including competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection) will be adequately addressed prior to implementation. If and when new gTLDs (whether in ASCII or other language character sets) have been in operation for one year, ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion. ICANN will organize a further review of its execution of the above commitments two years after the first review, and then no less frequently than every four years. The reviews will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

9.3.1 ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws. Such existing policy requires that ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS information, including registrant, technical, billing, and administrative contact information. One year from the effective date of this document and then no less frequently than every three years thereafter, ICANN will organize a review of WHOIS policy and its implementation to assess the extent to which WHOIS policy is effective and its implementation meets the legitimate needs of law enforcement

and promotes consumer trust. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, as well as experts, and representatives of the global law enforcement community, and global privacy experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

10. To facilitate transparency and openness in ICANN's deliberations and operations, the terms and output of each of the reviews will be published for public comment. Each review team will consider such public comment and amend the review as it deems appropriate before it issues its final report to the Board.

11. The DOC enters into this Affirmation of Commitments pursuant to its authority under 15 U.S.C. 1512 and 47 U.S.C. 902. ICANN commits to this Affirmation according to its Articles of Incorporation and its Bylaws. This agreement will become effective October 1, 2009. The agreement is intended to be long-standing, but may be amended at any time by mutual consent of the parties. Any party may terminate this Affirmation of Commitments by providing 120 days written notice to the other party. This Affirmation contemplates no transfer of funds between the parties. In the event this Affirmation of Commitments is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. All obligations of the DOC under this Affirmation of Commitments are subject to the availability of funds.

FOR THE NATIONAL  
TELECOMMUNICATIONS  
INFORMATION ADMINISTRATION:

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Name: Lawrence E. Strickling  
Title: Assistant Secretary for  
Communications and Information

Date: September 30, 2009  
FOR THE INTERNET CORPORATION  
AND FOR ASSIGNED NAMES AND  
NUMBERS:

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Name: Rod Beckstrom  
Title: President and CEO

Date: September 30, 2009

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