"COMMENTS ON IANA TRANSITION AND ICANN ACCOUNTABILITY"

11 September 2015

As IT Law Institute, we find the transition period very positive in terms of strengthening multistakeholder internet governance. It will stop the debate that internet belongs to the US Government. US Government kept its word and as promised before started to transfer its stewardship role to the global community.

Regarding that transition working groups prepared two different proposals. As IT Law Institute we have no objections as to the IANA Stewardship. It's actually describes post transition situation very well.

But as to the Proposal on Enhancing ICANN Accountability, we have serious concerns in some points it contains. We tried to highlihted below our concerns about these points.

We are very pleased to be a part of that discussions and will be very happy if our thoughts would be useful for all related stakeholders.

With our best regards.

Assoc. Prof. Dr. Leyla KESER
Director
İstanbul Bilgi University IT Law Institute
Dolapdere Campus
T. +90212 3115269
M. +905327173406
Email: *leyla.keser@gmail.com*
lkeser@bilgi.edu.tr
Twitter: @LeylaKeser
Skype: leyla.keser
Hangouts: leyla.keser

Recall of the ICANN board" competition of the community

- That competence is blurred and must be clarified in which matters and circumstances would the community request to recall

- It looks like democles sword on the board and will create unnecessary pressure on it.

- It will not motivate the board to work accordingly

- Even the community would determine the circumstances in which they would use the recall competence and recall one or some member or entire board, what would be the next step? If the community would recall the entire board, what will be happen then? Using that competence cannot solve anything else, just carry the problem to another level with lots of question marks.

- Recall competence does not compromise with the nature of multistakeholder model. It gives only the community super power and excluding other stakeholder. It breaks the balance in terms of equality of rights of all stakeholders. Each stakeholder would like to say something about the Board decisions. Giving that power just one of the stakeholders, renders the logic of multistakeholder model meaningsless.

Sole Membership Model

- ICANN works as multistakeholder governance model from the beginning. Current structure of ICANN and distribution of roles and responsibilities perform requirements of multistakeholder governance. Proposed sole membership model does not meet requirements of multistakeholder governance model. It's far away from ICANN's fundamental working principles. Sole membership model violates one of the four principles which NTIA requested ICANN that the transition proposal must address. This important principle is to support and enhance multistakeholder model.

- According to us there is no need to create new community, particularly sole membership model in order to strengthen ICANN's accountability. While current structure represents Multistakeholder approach in different formats very well, it is unneccessary to establish and add a new one. Actually current stakeholders fulfill the same role of the community and its sole membership model. To that extend if there is a need to do something as to enhancing ICANN accountability during or after transition that could be possible to disseminate new roles and responsibilities among current stakeholders of ICANN.

- Sole membership model violates and ruins also "equality" between stakeholders of ICANN. If such a model would be accept, other stakeholders for example GAC would like to have to have same rights as community. Within the current framwork, there is an equal treatment for all stakeholders. That principle is very important in terms of ensure multistakeholder model and must be kept.

Transparency of the Board

- The current structure of ICANN provides equal rights and responsibilities to all stakeholders: i.e. GAC is one of the stakeholder of ICANN. Each stakeholder has different role and adds different values to ICANN. That feature creates in general multistakeholder and seperate ICANN from other international organizations. Equality of all stakeholders must be kept. This component will gain importance particularly after transition. Just because it's crucial for the new structure to provide equal positions to all stakeholders.

- All proposals regarding to enhancing ICANN accountability must provide and in accordance with multistakeholder model.

Transition period

Transition period has two dimensions. One of them is predictable, second one is unpredictable aspect of transition period. Particularly for the second one we need time. During that period new, sometime unexpected or unforeseeable problems or issues would arise. Therefore we are pleased to hear that there will one more year in order to make transition more concrete.

This being said the current structure of ICANN ensure accountability and multistakeholder very well. Of course there is always the best solutions. But that requires enough time to think and conduct SWOT analysis in order to see concrete impacts and effects of the proposed solutions.