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PRIVATIZING THE INTERNET ASSIGNED NUMBER AUTHORITY

THURSDAY, MARCH 17, 2016

House of Representatives,

Subcommittee on Communications

and Technology,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in Room 2123, Rayburn House Office Building, Hon. Greg Walden [chairman of the subcommittee] presiding.

Present: Representatives Walden, Latta, Barton, Shimkus, Blackburn, Lance, Guthrie, Olson, Bilirakis, Johnson, Long, Collins, Eshoo, Clarke, DeGette, McNerney, and Pallone (ex officio).

Staff Present: Ray Baum, Senior Policy Advisor for Communications and Technology; Rebecca Card, Assistant Press Secretary; David Redyl,

Chief Counsel, Telecom; Charlotte Savercool, Professional Staff, Communications and Technology; Dan Schneider, Press Secretary; Gregory Watson, Legislative Clerk, Communications and Technology; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; David Goldman, Minority Chief Counsel, Communications and Technology; Jerry Leverich, Minority Counsel; Lori Maarbjer, Minority FCC Detailee; and Ryan Skukowski, Minority Policy Analyst.

Mr. Walden. I call to order the Subcommittee on Communications and Technology. For the witnesses' benefit, we expect to have votes on the House floor fairly soon. So our goal this morning is to start on time and try and get through the members' opening statements. And then we can get to you all. So I will try and move pretty rapidly through this.

Two years ago, NTIA made the announcement it would work to transition the stewardship of the Internet Assigned Numbers Authority to an international, multistakeholder community. This announcement ignited significant questions and concerns of the potential risks associated with a transition. Would a new model allow for the capture by any one government? What are the national security implications? How can ICANN be held accountable for its decisions without NTIA oversight? These were all very serious questions that many of us had.

Since NTIA stated its intent, this subcommittee has held thoughtful discussions in an effort to get to answers. Through a series of hearings, we have asked these questions to fully understand the existing contract, the risks that should be considered with a potential transition, and what safeguards are necessary to reduce any threat. We received input from NTIA Administrator Strickling, ICANN, and the stakeholders who participate in the global community. These discussions have proved valuable to the process. And many of the concerns and mechanisms addressed here have become an integral part of the community's work.

I have referenced the importance of the affirmations of

commitments, especially the requirements that ICANN remain headquartered in the United States, and that the multistakeholder community conduct an ongoing review of ICANN's operations. We have seen the value of using stress tests to identify policies needed for an accountable governing structure. Fundamental bylaws that require a super majority to change, actionable mechanisms that empower the community, and an independent review of board decisions, these are all ideas that can hold the ICANN board accountable for its actions and resistance to capture.

I am relieved to hear that ICANN is committed to these accountability measures regardless of whether the transition progresses or not. These policies are critical to ensuring that ICANN remain a stable steward of IANA and must be part of any, any successful transition.

Last week marked a major milestone in the IANA transition process as the multistakeholder community transmitted its proposal to the United States Government for review. The entire community deserves recognition and appreciation for the countless, countless hours of hard work and commitment that went into crafting this plan.

Now we embark on the next stage of our work, review of the proposal. As we dive into the specifics of the transition proposal today, it is important to acknowledge the technical foundation the transition rests upon. In recent months, a country code top-level domain experienced a denial of service attack on its root infrastructure. To ameliorate the impact of this attack, the country

wanted to add servers to its root, but such a change would require the approval of IANA. Due to delays in this routine procedure, the domain was inaccessible for days.

Technical functions of the Internet should move at Internet speed, not the speed of the U.S. bureaucracy. This is the challenge the transition looks to solve without introducing new vulnerabilities into Internet governance. The GAO report, initiated by leaders of this committee, gives us some guidance in our efforts, as it recommended NTIA establish an evaluation framework to guide the analysis of the proposal. So I applaud the NTIA for accepting this good government approach to guarantee its requirements are met.

As NTIA embarks on its work, I want to reiterate what I have been saying throughout this entire process, this transition is far too important to be rushed by any artificial deadline. Much work still remains and, if needed, NTIA should take the steps to extend the contract. It is more important to get this done right than to simply get it done.

Lastly, while we await the analysis of the proposal from NTIA, it is important to stress the important role that Congress plays during this process. The bipartisan work reflected in the DOTCOM Act maintains our oversight authority to ensure the requirements of a transition, established by NTIA, are met by the proposal. I appreciate the commitment from NTIA Administrator Larry Strickling to provide Congress with the time and opportunity to review this proposal. It is critical to the future of the Internet that we ensure a transition

will meet our Nation's and the world's needs. The stakes are simply too high.

So today, we will hear from a panel of stakeholder witnesses on their perspective of the multistakeholder process and the transition proposal. Many of you have participated directly in this process. And we congratulate you and appreciate the work that you have done. We are fortunate to have your expertise, not only there but before us today. Thank you.

So thanks for sharing your insight and being here to answer any questions that remain.

At this point, they have called votes on the House floor. And given the new protocols on the House floor about 15 minute votes being 15 minutes, I am going to recess the committee. And we will return for further opening statements after votes are concluded. Thank you very much.

[The prepared statement of Mr. Walden follows:]

******** INSERT 1-1 ********

[Recess.]

Mr. Walden. We are going to reconvene the Subcommittee on Communications and Technology for purposes of taking opening statements. Okay. But we are apparently going to wait for Ms. Eshoo who is on her way back, I know, from votes to join us. So we will go back into recess.

[Recess.]

Mr. Walden. We will reconvene the Subcommittee on Communications and Technology. And I will recognize the gentleman from New Jersey, the ranking member of the full committee, for his statement. And then we will go back and forth. Mr. Pallone, please go ahead.

Mr. Pallone. Thank you, Chairman. And also thanks to the witnesses. I know many of our witnesses were in Morocco last week for the ICANN meeting. So I appreciate your willingness to testify so quickly after your return.

The National Telecommunications and Information Administration first contracted with ICANN in 1998 to perform the technical functions that have made the Internet such a powerful platform. At the time, the Clinton administration suggested eventually privatizing these functions. And now we are on the cusp of completing the transition. But the members of this subcommittee have made clear that this transition cannot take place without measures in place to keep ICANN accountable for its actions.

I would like to congratulate the Internet's multistakeholder

community on reaching an agreement on a final IANA transition and accountability proposal. I know that getting to this point took an impressive amount of work. But the work is not done. New bylaws for ICANN need to be completed to make the proposal legally binding. And now that we have a proposal, NTIA can begin officially reviewing it.

This committee crafted the bipartisan DOTCOM Act, which would have given Congress an official role in this process. And the House passed this legislation. But, unfortunately, the bill has not made it through the Senate. Nonetheless, I am pleased that NTIA Assistant Secretary Strickling is committed to comply with the ideas behind the DOTCOM Act even if it isn't signed into law.

And again, I look forward to hearing from our witnesses. Your testimony will help to inform our own understanding of the IANA transition proposal. Thank you. And I yield back, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

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Mr. Walden. The gentleman yields back. The chair recognizes the vice chair of the subcommittee, Mr. Latta, for opening comments.

Mr. Latta. Mr. Chairman, I am going to submit my testimony for the record, if I could ask unanimous consent, save a little time for our witnesses.

[The prepared statement of Mr. Latta follows:]

******** COMMITTEE INSERT ********

Mr. Walden. Indeed. So ordered for all of our members. The chair recognizes the ranking member of the subcommittee from California, Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman, for holding this hearing. And welcome to our witnesses. It is wonderful to see you. And we look forward to your words of wisdom today.

On the heel of ICANN's 55th meeting, that is a lot of meetings. I think I go to a lot of meetings, but 55 meetings, right, which was held in Marrakesh, a nice place to have a meeting I think, interesting place, earlier this month. I think that there is light at the end of the tunnel.

My optimism comes in the form of the final proposal that, I hope, is going to ensure that the IANA transition supports and enhances the multistakeholder model of Internet governance, maintains the security, the stability, and the resiliency of the Internet Domain Name System, and does not replace the role of the NTIA with a government-led or intergovernmental organization solution.

Now, obviously, we know that reaching this point has not been without hiccups, let's put it that way. All right? But hiccups can be painful. Those that are afflicted with it -- there was a Pope, I think, Pope Pius XII suffered from it. At any rate, thankfully, through this committee's leadership last year -- and kudos to the chairman, because he has really ridden hard on this and, I think, we have all benefited by it -- the House passed the DOTCOM Act by a strong bipartisan vote, 378 to 25. I don't know what these 25 people were

thinking. To enhance transparency and accountability without unreasonably delaying the IANA transition, the legislation provided 30 legislative days for public review of the transition proposal.

Now, while the legislation has not been enacted into law, the NTIA administrator committed to this subcommittee last year that the agency will submit to Congress a report certifying that the transition proposal meets the criteria outlined in NTIA's March 2014 announcement, and give Congress an opportunity to review the proposal before settling on any final plan -- which we appreciate and, I think, is appropriate. So the ball is now in NTIA's court.

While there is still more work to be done in the 6 months leading up to the IANA contract's expiration, I think with responsible oversight, a successful transition is going to preserve the Internet's guiding principles of openness, security, stability, and resiliency. And ensure that ICANN cannot, sounds a little funny doesn't it, ICANN cannot be exposed to government capture. And that has been the underlying concern all along. And I think that we are -- I think we are moving closer to it.

So I look forward to your testimony. I thank the chairman not only for this hearing, but for all that he has contributed to this process, and the witnesses as well.

Thank you. And I yield back.

[The prepared statement of Ms. Eshoo follows:]

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Mr. Walden. I thank the gentlelady for her comments and her involvement in this whole effort.

I now recognize the gentleman from Missouri, if he wants to make opening comments. No, he does not.

How about the gentleman from California, Mr. McNerney, do you have an opening statement you would like to --

Mr. McNerney. No, Mr. Chairman.

Mr. Walden. You do not. Seeing no other members of the committee, we can move on to our witness panel today. Thank you again not only for being here and sharing your insights and wisdom, but also for your, for many of you, your incredible involvement in the process itself.

So we will start with Mr. Steve DelBianco, the executive director of NetChoice. Mr. DelBianco, thank you for being here. Please go ahead with your opening comments.

STATEMENTS OF STEVE DELBIANCO, EXECUTIVE DIRECTOR, NETCHOICE; DR. ALISSA COOPER, CHAIR, IANA STEWARDSHIP TRANSITION COORDINATION GROUP; SALLY SHIPMAN WENTWORTH, VICE PRESIDENT OF GLOBAL POLICY DEVELOPMENT, INTERNET SOCIETY; AUDREY PLONK, DIRECTOR, GLOBAL SECURITY AND INTERNET GOVERNANCE POLICY, INTEL CORPORATION; MATTHEW SHEARS, REPRESENTATIVE AND DIRECTOR, GLOBAL INTERNET POLICY AND HUMAN RIGHTS PROJECT, CENTER FOR DEMOCRACY AND TECHNOLOGY; AND THE HONORABLE DAVID A. GROSS, FORMER U.S. COORDINATOR, INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, WILEY REIN LLP

STATEMENT OF STEVE DELBIANCO

Mr. DelBianco. Chairman Walden, Ranking Member Eshoo, members of the committee, again, I am Steve DelBianco, executive director of NetChoice. And I am deeply involved at ICANN as the policy chair for the business constituency there. And I also represent commercial stakeholders on the working group that developed this accountability proposal that we are talking about today.

I was before you 2 years ago when you held the very first hearing after NTIA announced the transition plan. And I would like to credit Chairman Walden, in particular, for steering us towards stress testing to figure out the way forward. I also spent many hours with GAO as they scrutinized our stress test approach pursuant to your letter request.

And then I was before this panel last May as you were refining your DOTCOM Act. And you should know that your approval of DOTCOM brought a standing ovation at the ICANN meeting in Argentina last summer. Now, a standing ovation for the U.S. Congress, put that in the record.

Mr. Walden. Is there video of that we could replay somewhere please?

Mr. DelBianco. And the DOTCOM Act gave us the community leverage over ICANN to get these bylaws adopted and implemented before letting going of IANA. ICANN's board committed twice to do that last week.

Now, does the end of the IANA contract somehow mean that the U.S. is giving away our Internet, as I heard from a presidential candidate? Not really. In the 1980s, American engineers came up with a recipe for Internet protocol. And they gave that recipe to the world. So Internet engineers anywhere around the planet could construct a network using that recipe and connect to other networks. The U.S. doesn't own the Internet any more than Ireland owns the recipe for Irish stew. They don't. And that is a St. Patty's Day reference.

The U.S. then created ICANN to internationalize and privatize management of the DNS. In over 18 years, the U.S. Government has helped ICANN to mature, protect it from U.N. encroachment, and to mitigate government power. So government power was the subject of a stress test that I presented to you 2 years ago, the infamous stress test 18, where the Government Advisory Committee and ICANN could change to majority voting for its advice, and, thereby, place ICANN in the untenable

position of arbitrating among sovereign governments who don't agree with each other.

So in response to that stress test, we placed significant curbs on GAC advice. GAC's advice to the board will require full consensus, that is broad support in the absence of a single formal objection. And we raised the threshold for the board to reject that advice from 10 out of 16 votes from the 9, a small increase. And we created an independent review process to challenge ICANN's adoption of any government advice. And we don't allow the governments to block the community's pursuit of that challenge.

So the governance, or GAC, has unquestionably lost power in this transition in our response to stress test 18. And your staff report for today's hearing describes the opposition of governments, including France, Russia, Spain, Switzerland, Argentina, and Brazil. Now, to replace the leverage historically held by NTIA, we designed an empowered community. It is a petition and escalation process to challenge any ICANN action to approve a change to fundamental bylaws, and to even spill the board of directors.

We invited all of the advisory committees and stakeholder organizations and ICANN to be part of this empowered community. We included governments there because we created a place for governments at the multistakeholder table when we set up ICANN. And had we excluded governments completely, I am afraid you would be grilling us today about how it is that government has no role at all in the multistakeholder world. And had we excluded governments, that would be exhibit number

1 for the United Nations and ITU to show why they needed to take it over.

It might be years before we actually turn on the power for the empowered community, since its main purpose is to challenge an ICANN decision, but that power will be there when we need it. We have some serious implementation work left in the next few months.

At first, we have to ensure that the draft bylaws match our proposal. Those of us that are here in the working group will push that through for the ICANN board. They will approve it. New bylaws adopted by June, so that NTIA can hand Congress a report to give you time before the July recess to look at that. It is an aggressive timeline, but we can do it.

Let me close by extending on an analogy I suggested to you 2 years ago. I said to you to think of this transition in terms of a car and a driver, that the Domain Name System is the car, designed and built in the U.S.A. in the 1990s. And the license plate on that car reads IANA. In 1998, we created ICANN as the designated driver. We handed ICANN the keys while watching their driving and care of the car. But all along, the U.S. retained the title to that car as leverage to hold ICANN accountable. It is not, however, sustainable or necessary for the U.S. to hold that power forever in a post-Snowden world.

So this transition signs over the title. But there is a little permanent lien on the back that says IANA customers can take it back if ICANN fails to deliver. And our accountability group, Mr. Chairman, is going to slap a little bumper sticker on the back of that ICANN car,

how is my driving? Contact 1-800-ICANN Community or go to the empowercommunity.org if they are not driving --

Mr. Walden. I see it.

Mr. DelBianco. Mr. Chairman, thank you for your committee, for your support for the multistakeholder community. Your backing was essential. And I look forward to your questions.

[The prepared statement of Mr. DelBianco follows:]

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Mr. Walden. Mr. DelBianco, thank you. I think you win the prize for most interesting props for a hearing we have had in 5 years.

I do want to take one exception, however. Your comment the Irish don't control the recipe to the Internet, that is true. They do still maintain the control over the recipe for Guinness though. And that is something you may want to --

We will now go to Dr. Alissa Cooper who chairs the IANA Stewardship Transition Coordination Group. Dr. Cooper, we are delighted to have you before our members. Thank you for your participation. Please go ahead.

STATEMENT OF DR. ALISSA COOPER

Ms. Cooper. Thank you, Chairman Walden and members of the subcommittee, for the opportunity to testify today. My name is Alissa Cooper. I am an engineer by training. And I am the chair of the IANA Stewardship Transition Coordination Group, otherwise know as the ICG.

The ICG was formed in July 2014 to coordinate the development of a plan to transition the stewardship of the Internet Assigned Number Authority functions to the global Internet community. The group is comprised of 32 people representing all of those who are affected by the transition. Businesses, governments, civil society, Internet users, and the technical community.

Last week, NTIA received a package of proposals, one concerning the operational aspects of the IANA stewardship transition and the

other concerning enhancements to the accountability of the Internet Corporation for Assigned Names and Numbers, ICANN. The two plans are interdependent and interrelated. And NTIA is considering them jointly, as is the U.S. Government more broadly.

My testimony is focused on the operationally oriented IANA stewardship transition proposal, because that is the component that the ICG, the group that I chair, shepherded to its completion.

There are three important aspects to recognize about the stewardship transition proposal. First, support for the plan is broad, deep, diverse, and global. Hundreds of people from across sectors and geographies put in thousands of hours of work, joined conference calls in the middle of the night, spent weekends, evenings, and holidays to complete this proposal. The effort put into it is truly remarkable and unprecedented. The result is global consensus in support of a plan that is good for the Internet.

The ICG solicited public comments on the proposal last year, in a similar fashion, to the way that a Federal agency might solicit public comments. A significant majority of the 157 commentors expressed support for the plan, including U.S. businesses, trade associations, and civil society groups. Furthermore, the ICG, where all of those who are most invested in the smooth functioning of the Internet, supports the proposal unanimously.

The second critical point is that the plan provides continuity with how the Internet works today, building on the Internet's success. The strength of the plan is that it keeps in place the same operational

realities that have allowed the Internet to grow and to be successful since the 1990s. It keeps the role of the IANA functions team intact and carrying out the same duties as it has now. So on the day that the NTIA contract expires, Internet users should notice no change.

Furthermore, the Internet works because of a diverse set of organizations and individuals choose voluntarily, without any mandate, to have their networks interoperate with each other. Implementing the transition plan will be an important step in aligning the oversight of IANA with this collaborative and decentralized approach to Internet operations, rather than relying on authority derived from any single government's contract.

The third and final critical point is that the plan meets the criteria established by NTIA at the outset of the transition. I will focus on three of these criteria for brevity. Number one, the plan supports and enhances the multistakeholder model by leveraging and extending existing multistakeholder processes and arrangements. The plan upholds a vision for multistakeholder Internet governance that all of the communities represented on the ICG share and that, I think, this Congress shares as well.

Number two, the plan maintains the security, stability, and resiliency of the Domain Name System by focusing on continuity as I just described. From an operational perspective, the plan incurs minimum change, while enhancing community oversight over IANA, providing the perfect recipe for security and stability.

And, number three, the plan does not replace NTIA's role with a

government or intergovernmental organization. Instead, it relies on the global multistakeholder community to provide oversight over IANA. This community demonstrates a suite of features that defend it against capture by any single interest, including governmental interests. Those features include open processes where anyone can participate and everyone has a say, the use of transparent public proceedings for all decisions, consensus-based decisionmaking that never defaults to voting or campaigning, established appeals processes, and the ability to recall or replace underperforming members of the leadership. Taken together, these form the essence of the multistakeholder model and the best defense against undue influence by any single entity.

I look forward to your questions today and welcome you to send further questions to the ICG at any point during your review of the transition plan.

Thank you for your time and interest and your thoughtful consideration of this matter of critical importance to the future of the Internet.

[The prepared statement of Ms. Cooper follows:]

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Mr. Walden. Dr. Cooper, thanks again for your testimony and for your work on this very important initiative. We will now go to Sally Shipman Wentworth, vice president of Global Policy Development, Internet Society. Ms. Wentworth, thank you for being here. Please go ahead.

STATEMENT OF SALLY SHIPMAN WENTWORTH

Ms. Wentworth. Thank you. Chairman Walden, Ranking Member Eshoo, and members of the subcommittee, thank you for today's opportunity to testify before you on the transition of oversight of IANA, and the impact that it will have on global Internet policy, and on the future of the open Internet.

My name is Sally Shipman Wentworth. I am the vice president of Global Policy Development for the Internet Society. The Internet Society is a global organization with more than 80,000 members and 116 chapters worldwide. It is also the organizational home for the Internet engineering task force. And in its March 2014 announcement, the NTIA identified the Internet Society as a directly affected party to this transition.

Two years ago, the NTIA announced its intent to transition the administration of the IANA functions. We now believe that we have reached a necessary and important step in ensuring the continued, uninterrupted operation of the global Internet, and in laying the best foundation for its future. We strongly support and endorse the

resulting IANA stewardship transition plan and the recommendations to enhance ICANN accountability that have been delivered to the NTIA.

Taken together, this is a plan that, first, ensures the continued stability and security of key technical functions that are a core part of the smooth operation of the Internet. Second, it provides a path forward for strengthening ICANN's accountability to its community. And, third, meets the criteria set by the NTIA in its original announcements.

Through a global multistakeholder process that engaged industry, civil society, the technical community, governments, and many others, the community has reached consensus on a proposal that we believe will provide operational stability, reliability, and continuity for the global Internet.

Mr. Chairman, the Internet is a transnational, borderless, network of networks, comprised of countless individual networks that voluntarily connect around the globe. The basic architecture of the Internet that we all rely upon every day is global and distributed. No one entity, government or otherwise, controls it. The governance of the Internet reflects this distributed approach. This model of governance is often referred to as the multistakeholder model. In essence, this is a way of getting things done that is bottom-up, inclusive, transparent, and that ensures that the relevant expertise can be brought to the table to solve hard problems. Like the Internet architecture itself, multistakeholder Internet governance ensures that no one stakeholder captures or takes over the Internet at the

expense of others.

The management of the IANA functions from the earliest days of the Internet through to the present embodies a multistakeholder model based on distributed coordinations and transparent governance. The proposal before the United States Government ensures that the multistakeholder systems that have facilitated the security and stability of the IANA functions remain strong and intact. Policy development for the IANA functions will remain distributed among three organizations. The Internet engineering task force, the regional Internet registries, and ICANN will each continue to employ multistakeholder processes to develop and manage the Internet identifiers.

The stewardship of the IANA functions will be carried out by ICANN, itself a multistakeholder entity. Importantly for this subcommittee, the transition proposal directly addresses concerns about capture or control of the IANA by any one stakeholder, including governments. Any multistakeholder process must be vigilant about preventing capture. In the transition proposal, no single party has undue control. And there are protocols in place to prevent any individual organization or government from seizing jurisdiction or excluding others from the stewardship process.

In conclusion, I want to leave you with one key message: The Internet Society firmly believes that the transition plan that was sent to NTIA upholds the processes and principles that have served as a foundation for the Internet's growth and development to date. The

communities have worked hard to ensure that the IANA functions will continue to operate in a predictable manner, consistent with the need to maintain the security, stability, resiliency, and openness of the Internet.

And finally, Mr. Chairman, I want to use this opportunity to thank this subcommittee for its steadfast support for the multistakeholder model and for your continued engagement to ensure a smooth and stable transition of the IANA functions. Thank you.

[The prepared statement of Ms. Wentworth follows:]

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Mr. Walden. Thank you, Ms. Wentworth. We appreciate your involvement and your testimony. We will go to Audrey Plonk, the director, Global Security and Internet Governance Policy for Intel Corporation. Ms. Plonk, we are glad to have you here this morning. Please go ahead.

STATEMENT OF AUDREY PLONK

Ms. Plonk. Chairman Walden, Ranking Member Eshoo, and members of the subcommittee, thank you for the opportunity to testify today. My name is Audrey Plonk. And I am Intel's director of Global Cybersecurity and Internet Governance Policy. And I am very pleased to address the committee on the important issue before you, the transition of the IANA to the multistakeholder community.

Intel fully supports Congress' commitment to multistakeholder Internet governance. Part of that commitment is to respect and abide by the work of the multistakeholder communities in developing the IANA transition proposal. Intel believes that the proposal meets the requirements articulated by NTIA in 2014.

First, I would like to provide some background on my experience at Intel and our commitment to an open, global, interoperable, trustworthy, and stable Internet. As the director of Global Cybersecurity and Internet Governance Policy, I lead a global team of policy experts focused on Internet policy issues, like governance, privacy, and security. As the world leader in computing innovation,

Intel sees technology as more than just a practical tool. We design and build the essential technologies foundational to the world's interconnected computing devices. Connectivity to a global, open, interoperable, trustworthy, and stable Internet is critical to realizing the promises of a new, and even better, connected computing era. And successful multistakeholder governance is critical to provide the stability that the market needs to continue investing in the Internet and American technology innovation.

I testified before this committee last spring on stakeholder perspectives on the IANA transition. In my testimony, I described how Intel's business plan assumes that the Internet will continue to grow at rates similar to that experienced in the last 15 years. This growth will make it possible to accommodate the Internet of Things, wearable computing, natural language recognition, nanotechnology, quantum computing, and virtual reality. Intel's views on the transition are simple, we support it, and we believe it meets the conditions outlined by NTIA in 2014, for a few reasons that I want to highlight.

One, the proposal has broad community support as evidenced by approval of the multistakeholder community last week in Marrakesh. Two, the proposal supports and enhances multistakeholder model, governance models in several important ways. It removes a single government from any disproportionate role in oversight. It creates mechanisms to prevent capture by any single group of stakeholders. It creates additional mechanisms for the community to engage in Internet governance.

Two, the proposal meets the expectations of the constituents of the IANA services, as evidenced by the relationship documents drafted by the three IANA communities, and ICANN through their establishment of oversight mechanisms to ensure performance levels of the IANA registries.

Three, the proposal maintains security, stability, and resilience of the Internet's Domain Name System in numerous ways. Technically, it changes little. It will be business as usual. It provides for a sole designator model that was chosen precisely to support stability of the organization, while also empowering the community. It establishes the post-transition IANA to maintain the registry of domain names, ICANN contract with this PTI to maintain the numbers and protocols registries as well. Importantly, the PTI has been structured so it can be separated from ICANN.

Numerous committees will be established to monitor performance of the IANA during implementation and throughout the transition. And, finally, a parallel testing process for the root zone is scheduled to begin in April. This testing process will ensure stability through the changes to the root zone administration process.

Number five, the proposal maintains the openness of the Internet, keeping the fundamentals of open standards, open communications, and multistakeholder governance. And six, the replacement of NTIA is not another governmental entity. Intel has been deeply engaged in the process. And we will continue to engage throughout the implementation of this plan and as the transition is completed.

Throughout the transition process, there has been little disagreement about what kind of Internet we want in the future. The challenge has really been to translate the principles upon which we all agree, global, open, interoperable, stable, and trustworthy, into an actionable plan that meets the constituent multistakeholder community's needs.

We look forward to NTIA's and Congress' review of this plan. And we are eager to implement it and complete the transition. Thank you.

[The prepared statement of Ms. Plonk follows:]

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Mr. Walden. Thank you very much for your work and your comments. We go to Mr. Matthew Shears, representative and director, Global Internet Policy and Human Rights Project. Mr. Shears, thank you for being here this morning. I look forward to your comments.

STATEMENT OF MATTHEW SHEARS

Mr. Shears. Thank you, Chairman Walden, Ranking Member Eshoo, members of the subcommittee. It is a pleasure to be here.

My name is Matthew Shears. I am the director of CDT's Global Internet Policy and Human Rights Project. CDT has been fully and deeply involved in the work of the IANA function transition. We have participated in the CWG stewardship working group and also in the CCWG accountability working group. We have also had the pleasure of submitting comment and testimony to this subcommittee last year. And we very much appreciate the opportunity to be here again.

Last Thursday in Marrakesh, the Internet community forwarded to NTIA the IANA transition plan. This was a significant achievement. It did so following the global Internet community's approval of a set of recommendations designed to ensure the enhanced accountability of ICANN post transition. This package, the IANA transition and the recommendations for enhancing ICANN's accountability, is quite simply a remarkable achievement for the multistakeholder community.

Of course, the work on IANA's stewardship and ICANN accountability was anything but simple. Replacing the oversight role

of NTIA and changing the governance structure of an organization as unique as ICANN has been complex and, at times, I must admit, quite daunting. Yet, the multistakeholder community has risen to the challenge. That means all part parts to that community, businesses, governments, the technical communities, civil society, academia, and individual users have risen to this challenge.

So has the global multistakeholder community met NTIA's all important criteria? And now you will hear some things that have been said by other witnesses, so it is good to hear that we are echoing the same things on the panel. In many ways, the IANA transition plan has been a proving ground for multistakeholders approaches to Internet governance. Critics tend to dismiss such approaches as difficult, dominated by certain interests, unrepresentative of the larger community. Multistakeholder processes have been known to fail. But these two multistakeholder processes, the IANA transition proposal and developing recommendations to enhance ICANN's accountability, have delivered thoughtful and robust proposals.

Were there difficult moments? Yes, numerous. But participants remained committed to working through them. Were there times when the process seemed to bog down and the resolve seemed to waiver? Absolutely. But these were overcome. This 2-year process has delivered two proposals that are, I think it is fair to say, the most successful expression of multistakeholder approaches to Internet governance yet. As advocates for this approach to Internet policymaking, we need strong examples such as these to point to. The

successful delivery of the IANA transition accountability recommendations should encourage stakeholders to pursue multistakeholder approaches to policymaking with renewed interest and commitment.

The two working groups involved have also demonstrated that open, transparent, and inclusive processes work. These characteristics are essential to ensuring that the openness of the Internet is maintained.

One significant challenge was how to empower the various parts of the community while maintaining the balance of power among them. To a large degree, the community succeeded. But, of course, not everyone was happy. Some governments wanted more say. Other parts of the community thought that governments could end up having too much power. Differences of opinion are inevitable in these kinds of processes. What was important is that the community has delivered a transition plan that does not replace the role of NTIA with a government-led or intergovernmental solution. In fact, it is far from it. The community has delivered a transition plan that empowers the whole of the multistakeholder community which has been the goal of the process from the very beginning. And last Thursday, no stakeholder and no parts of the community objected to delivering the IANA transition plan to NTIA. And that says a lot right there.

The guidance for the transition must not imperil the security, stability, and resilience of the Internet has also been foremost in the community's mind. The IANA plan emphasizes continuity of operations by having ICANN be the IANA functions operator post

transition. At the same time, the plan provides mechanisms for the community and particularly the global customers and partners of the IANA functions to ensure that ICANN meets agreed performance targets. Were ICANN to fail though to meet those targets, then the ultimate sanction available to the community will be to change the IANA functions operator. In other words, to seek an alternative to ICANN to undertake essential DNS-related administrative tasks.

This same commitment to the security, stability, and resiliency of the Internet guided the ICANN accountability work. The new limited powers provided to the community ensure that the community remains firmly in control when it comes to ICANN's governance. From rejecting strategic plans and budgets to, in the worst case scenario, of board overreach, removing and replacing the entire ICANN board. These accountability powers are an effective way of ensuring that the stability and continuity of the Internet remain front and center in the ICANN post transition.

There is still much work to be done. Close attention will have to be paid by the community to drafting the bylaws. Implementation of the post-transition IANA will need to be carefully monitored and implementation of the enhancements to the independent review process, among others. And there will be additional accountability-related work that will continue beyond the transition in areas such as human rights, community accountability, and ICANN transparency.

CDT believes that NTIA's criteria have been met and that the community's work on the IANA stewardship and ICANN accountability paves

the way for the multistakeholder community to take on the mantle of stewardship that the United States Government currently assumes.

We would like to thank the subcommittee for this opportunity to discuss the IANA transition, the central role that multistakeholder approaches have played in the process so far, and the importance of the transition to broader global Internet governance. Thank you.

[The prepared statement of Mr. Shears follows:]

******** INSERT 1-7 ********

Mr. Walden. Thank you for your testimony once again before our subcommittee.

We will now go to The Honorable David A. Gross, former U.S. coordinator for International Communications and Information Policy, partner, Wiley Rein.

Mr. Gross, Ambassador, good to have you back. Thank you.

STATEMENT OF THE HONORABLE DAVID A. GROSS

Mr. Gross. Thank you very much, Mr. Chairman, ranking member, members of the subcommittee. My name is David Gross. And I have the honor of appearing before you today on behalf of the Internet Governance Coalition. I respectfully ask that my written statement be included in the record.

Mr. Walden. Without objection.

Mr. Gross. As you are well aware, 2 years ago, on behalf of the American people, NTIA announced its willingness to transition its traditionally based role regarding IANA functions and ICANN to the broader Internet community if certain strict conditions were met. My fellow panelists, with their deep expertise, have been discussing many of those technical aspects of the NTIA requirements and how they relate to the Marrakesh agreements.

I would like to focus on the requirement that is of paramount importance. And that is the role of NTIA and the U.S. Government not be replaced now or in the future by a government, group of governments,

or an intergovernmental entity. This issue is particularly close to my heart, as I had the great honor of leading the U.S. Government's efforts for about 8 years when virtually every other country in the world questioned the legitimacy of the U.S. Government's role regarding ICANN and sought to replace the role of our Government with the United Nations, the ITU, or some other governmental entity.

Because of the hard work of many people, including the passage of unanimous resolutions by this House, we were able to defeat the efforts of those other governments. Without doubt, that was the correct decision for both the United States and for the world. Because of the additional hard work of many people, including tough negotiations during the past few months, the proposal that has been sent by the Internet community to NTIA for review, does what we, for many administrations, have sought to accomplish, to ensure that no other government or intergovernmental entity can replace the U.S. Government. This is a significant accomplishment.

In my opinion, the role of governments regarding ICANN post transition will be even less than it is today. For example, formal GAC advice will require unanimity, so any country, including the United States, can keep the ICANN board from having to even formally consider governmental advice. Similarly, the scope of ICANN's jurisdiction will be formally limited to its original purposes, so that there is no reasonable way for governments or others to expand ICANN's activities beyond its technical remit. And because of the carve-out, the GAC cannot even be involved in the formal consideration of review

of its advice.

But let me be very clear: The remarkable success of this initiative does not mean that we can all rest assured that governments will not try to exercise control over important aspects of the Internet. As an initial matter, we all need to focus closely on the actual implementation of the Marrakesh agreements to ensure they are done correctly and completely.

But just as importantly, I believe that, assuming these changes are made and ICANN no longer is viewed by governments as a place for them to try to exert control over Internet governance matters, those governments seeking such control will move from trying to use ICANN and its processes to look to other organizations and forums instead.

The role of governments in Internet governance is not going away. I hope that the Internet community and this Congress will remain vigilant to ensure wherever those issues are raised, we are ready to act strongly and effectively to ensure that the Internet remains a global mechanism for people to work, to play, to learn, to innovate, to express themselves freely, and to make the world a better place for everyone regardless of where they live. Thank you.

[The prepared statement of Mr. Gross follows:]

******** INSERT 1-8 ********

Mr. Walden. Thank you, Ambassador. Once again, thanks to all the witnesses.

I would like to ask unanimous consent to submit the following documents for the record: A statement from the Heritage Foundation outlining remaining concerns, the IANA transition; a statement from the Internet Infrastructure Coalition supporting the transition of the IANA functions to the global multistakeholder community; and a paper from the International Center for Law and Economics on assuring accountable Internet governance. Without objection, those will be entered into the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Walden. One of the questions I know that Heritage has asked is they don't think there is enough time here. And so to the panel, the transition proposal is currently being reviewed by NTIA, but much work remains for a transition to actually occur. Do you all think it is realistic that all the work is accomplished before the existing contract expires at the end of September, why or why not? And do you believe an extension of the contract is necessary?

And if you can be fairly brief on that because I have got a couple other questions I would like to get to if time permits. Mr. DelBianco.

Mr. DelBianco. Thank you, Mr. Chairman. The answer is yes. We can do it. We have finished the hard work of a report. It has been cleared by all of the multistakeholder members. We now have to match bylaws to that report. We have got high-paid lawyers both for ICANN and for the community. And they need to come together roughly a week from now with a draft that we can review. If that is done, the only other step is to implement the set-up of certain corporations that I think Alissa can talk about and creating panels. We can do that in time to get this transition completed.

Mr. Walden. All right. I don't know of too many low-paid attorneys. But, anyway, go ahead. Dr. Cooper.

Ms. Cooper. Yes, so I agree completely with what Mr. DelBianco said. We have sufficient time to complete this. The fundamentals are all there in the proposals. And all along this entire process, particularly from the ICG side, the group that I chair, we have driven people to meet tight deadlines. And in every instance, the community

has done so. And so I expect that to happen in this case without any need for an extension.

Mr. Walden. Ms. Wentworth, do you agree with that?

Ms. Wentworth. Yes, we agree with that. We need to remain focused on the implementation but we think the community can do it.

Mr. Walden. All right. Ms. Plonk?

Ms. Plonk. I agree.

Mr. Walden. All right. Mr. Shears?

Mr. Shears. Yes.

Mr. Walden. And Ambassador Gross?

Mr. Gross. I have every expectation that it should be done on time. We have testified before that it should happen no earlier than when it is ready to happen. But I have every expectation that it will be ready.

Mr. Walden. You think we will get there? Then the contract does not need to be extended beyond September. Okay.

Mr. DelBianco, I will go to you. And if you want to follow up on that, you can.

Mr. DelBianco. Just Mr. Chairman, a very tiny amount. I believe that Secretary Strickling has said on many occasions that come middle of August, if it is not implemented and the bylaws aren't adopted, that NTIA would extend the contract. We do have a safety valve if things are not in place.

Mr. Walden. Perfect. So back to you, Mr. DelBianco, at the April 2014 hearing we had, we liked the idea of the stress test. We

have talked about that this morning. How does the community's proposal address the stress test where a majority of governments try to steer ICANN policies? How is that going to work?

Mr. DelBianco. Thank you, Mr. Chairman. That was the infamous stress test 18. And governments were very upset at the solution the community came up with. We suggested that for GAC, the Government Advisory Committee, to enjoy its privileged advice to the board, that they would need to adopt their advice through broad support in the absence of a single formal objection. And this would mean that only advice that carries that special deference would have to be approved by all governments.

The second thing we did was suggest that they had to attach rationale to their advice. And ICANN's board, should it choose to reject that advice, would only have to enter into a conversation of trying to find a mutually acceptable solution, but they wouldn't have to actually reach one.

Finally, if the board itself lacked I guess the backbone to stand up to GAC advice, the community reserves the ability to challenge the board's acceptance through an independent review that could block and undo bad advice that came from governments.

Mr. Walden. All right. Ambassador Gross, if I could ask you a question. There was much debate in the lead up to ICANN 55 about the so-called GAC carve-out. My understanding is that this means that when the GAC forces consideration via the ICANN board, of an issue through consensus advice the board, that it not be permitted to act as a

participant in the community powers related to that advice. Is that correct?

Mr. Gross. That is accurate. And that is consistent with what Steve discussed as well. And I think that is an important consideration going forward.

Mr. Walden. And so back to you, Mr. DelBianco, that means that either the GAC can exercise the privileged position it has always had at its disposal when the governments of the world are in agreement or it can be one of the votes in the empowered community but not both, correct?

Mr. DelBianco. That is correct, Mr. Chairman.

Mr. Walden. All right. So in practice this means that the governments or the world are prevented from having two bites at the apple. All right. Perfect.

I know we have got other members that have questions. So I will yield back and recognize the gentlelady from California, Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman. Kudos to each one of you. I think today's testimony is not only so well thought out, but I am very optimistic after listening to you. I mean, there is a common theme that runs through the testimony that each one of you gave. And so thank you very much.

My first question, based on listening very carefully to what you testified to, how airtight is our case? You know, there is an awful lot of talk today about backdoors in the intelligence community and the whole debate on encryption and all of that. But given the work

that has been done, you have all expressed enormous confidence based on, again, the work that has been done.

And I just want to make this observation too, I think what was embedded in your testimony is like holding a mirror up to our country because what we are all working toward, what you are working toward, have worked so hard to do, is to make sure that, that the Internet is a reflection of democracy in its full bloom. That is really what this is.

So, number one, how airtight do you think our case is? Do you think that we are close to imperviousness? And if that can't be achieved, then what is it that we need to be on the look out for? Whomever would like to start.

Ms. Cooper. I can start --

Ms. Eshoo. I wasn't going to ask this question. But after listening to you, I am departing from what I was going to ask.

Ms. Cooper. To me, the best way to understand how airtight the case is is to look at the strength of the consensus and who was involved in this process. I think everyone in this room can appreciate how difficult it is to come to true consensus among parties with very diverse interests. And in the case of this proposal, it is not just a domestic issue, it is a global issue. So you have people from all different sectors, all different countries around the world.

Ms. Eshoo. Well, the United States played a key role in the Paris summit conference. And if just one country had objected, the whole thing would have collapsed. So consensus, you are right, is essential.

Ms. Cooper. Yeah. But that is really the best demonstration of how good the proposal is is that you have people who truly come from very different walks of life, different places, different industries who have all gotten behind this and said we have looked at the details of this and we think it is the right path forward. And that also reflects an intense amount of scrutiny that the proposal has already enjoyed, multiple, multiple public comment periods, tens of thousands of email exchanges on mailing lists. There has been so much review of the --

Ms. Eshoo. In terms of the consensus, though, and the work that has been done and the, I described it as imperviousness, but where are the vulnerabilities? Do you see vulnerabilities? Or do you think we are rock solid and it is not, no one is going to be able to break the, you know, go down a path that is unwanted and disrespected? I guess I am being kind, in my description.

Mr. Shears. I think it is a very interesting question. I think for those of us who have been involved in this process over the past 2 years and in both working groups, what we have to be now is extremely vigilant so that we don't have those types of occurrences happen. And between now and over the next couple of months in terms of the bylaws and the implementation, that is the time when we need to be as a community still fully engaged. There is no stepping back from this right now.

Ms. Eshoo. I just want to raise something that -- I understand why there was language placed in the fiscal year 2016 Omnibus, it was

a rider that you are all familiar with that stated that no funds could be used to relinquish NTIA's responsibilities, et cetera, et cetera. Those are all tools that the Congress uses for very specific reasons. And they are what they are. And they are warning shots. And it is important to have, you know, send a message across the bow. But if that were to continue, given where we are now, another rider, what does that do? What message does that send to all of this consensus that you have spoken to?

Ms. Plonk. It is a very good question. I think it sends a very negative message to the markets, to the international community, and I don't just mean governments, but I mean the business community, that we weren't serious about carrying forward our commitment to turn this over to the multistakeholder community. I think that is bad for investment. It is bad for business.

It will incentivize other trade barriers that we see in the tech sector being raised in many countries. It will provide a rationale. And so we would be very concerned about the impacts of that rider continuing forward.

Ms. Eshoo. Most helpful. Most helpful.

Thank you to all of you. And bravo for the work that you have done. This has not been easy. It has been a tough slog. And we are just about there. And I think it has been worth the effort.

But we wouldn't be where we are right now were it not for all of you and others that have made this journey with us. So I thank you. I really respect your work. I thank you again. I yield back.

Mr. Latta. [Presiding.] Thank you very much. The gentlelady's time has expired. And the chair recognizes himself for 5 minutes.

Mr. DelBianco, if I can ask you the fist question. Can you explain the position of the Governmental Advisory Committee as a decisional participant in the empowered community? The GAC stated it would participate as a decisional participant but under conditions to be determined internally. The purpose of the empowered community seems to be to increase accountability and transparency. But the GAC statement seems to be unclear. Does this undermine the work of the working group?

Mr. DelBianco. Thank you, Mr. Chairman.

The answer is no. ICANN, when it was established, delineated in its bylaws seven advisory committees and stakeholder organizations that composed and represented global Internet stakeholders. Governments or the Government Advisory Committee, known as the GAC, is one of those seven. The community proposal invites all seven to participate as multi equal stakeholders in this empowered community which only fires up when we need to consider a change to a fundamental bylaw or when there is a petition to object to an override, something that the board has done, or even to spill the board of directors. And it is only in those situations where that community has to come together. And each of the advisory committees, through its own methods, will make its decision whether to proceed to spill the board, for instance, or to oppose it. We require support. And it takes more

than one of them to object to that.

So that is what is meant by the word I guess decisional and that we are recognizing that stakeholders around the world actually do include governments. They represent people in the public policy that they are chartered with managing. So it would not have been even tenable to say to the governments of the world you don't count as a stakeholder in the multistakeholder environment. Imagine what that would do to the problems we have at the United Nations and the ITU today with an ICANN that is largely led by the private sector.

Mr. Latta. Thank you.

Dr. Cooper, you described in your testimony that proposals, a recommendation to form post transition IANA PTI to operate the IANA naming functions. Can you explain how this new entity will help achieve accountability? And what will happen with the naming functions if the contract with the PTI is terminated through the IANA function review?

Ms. Cooper. Sure. Thank you for the question. So the proposal recommends the creation, as you say, of an entity called the post-transition IANA which would be an affiliate of ICANN. In the for-profit world, an affiliate is more often known as a subsidiary. But this is a not-for-profit. And the purpose of the post-transition IANA is really to create a legal separation between the entity that is performing the IANA functions, not just the naming functions, but also the ones related to numbers and protocol parameters, to create a legal separation between the not-for-profit corporation ICANN and

the affiliate performing these functions. What this allows is that in the case of the names community, which is grounded within ICANN, if it comes to pass that the community is so dissatisfied with the performance of the IANA functions, they would be able to separate from the PTI, essentially take their business elsewhere. And this is actually a feature of all three components of the proposal.

Each of the three communities, numbers, names, and protocol parameters, has established an ability to create an agreement with the IANA functions operator. And if performance becomes so degraded that they are unsatisfied, they can take their business elsewhere. It is just like a customer service provider relationship. And so this creates a significant amount of accountability because if the PTI wants to retain the ability to continue performing the IANA functions, they need to meet the performance requirements that the communities have established for them. And in each case, the communities either already have or in the process of establishing service-level agreements with ICANN and the PTI to establish what performance they expect from IANA.

So that is how it enhances accountability by allowing, the communities to decide whether the performance of IANA is sufficient.

Mr. Latta. Thank you. And in the interest of time, I am going to also yield back the balance of my time, so we can get, hopefully, all the members' questions in.

The next questions will be from the gentleman from Illinois for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman. Dr. Cooper, where would

they go? I mean, you are addressing a competitive, you know, obviously, a chance to get another service rendered. But where would they go?

Ms. Cooper. A very good question. So actually the first thing to point out is that all of the communities in the course of this process have expressed their extreme satisfaction with the performance that ICANN has brought.

Mr. Shimkus. Right. And I got that.

Ms. Cooper. So the likelihood of this at present is hard to imagine. But I think if you look at what the functions are, they are essentially clerical functions. They are maintaining values in databases on Web sites. There is not a lot of rocket science going on here. And so it is conceivable that any kind of entity that knows how to maintain values on Web sites would be capable of performing these functions. But, as I said, the communities have expressed their satisfaction. And, thus, as far as I know, there is no plans in the works --

Mr. Shimkus. I was just interested in the weaving of the story there. And I was just, I didn't know if there was a competing alternative option immediately available. But you would say soon there could be, someone could step up and do that?

Ms. Cooper. Right. And it is literally a team of 13 people who --

Mr. Shimkus. I got it.

Ms. Cooper. -- perform secretarial functions. You could

imagine other organizations would be able to carry out the task.

Mr. Shimkus. Thank you. We are in a much better place than we were, obviously, 2 years ago. We appreciate your help and support. And I think had it not been for the Senate not doing their job, which I feel they should, we would have a little more clarity and a little more strength. But we are where we are. And we appreciate the testimony.

But we have got to continue to do our oversight. And I think even without a law being passed, there will continue to be oversight by, obviously, us and other interested parties until the whole relinquishing of the authority occurs. So one concern still out there is the transparency of ICANN's interaction with government officials. You are already ready for this. So, Mr. DelBianco, do you want to address that?

Mr. DelBianco. Congressman Shimkus, you weren't here earlier when we not only thanked the committee for the DOTCOM Act, backing the community as you did, and telling ICANN they had to adopt our bylaws or the transition wouldn't happen, but at the Argentina ICANN meeting last summer, a standing ovation for the U.S. Congress for backing the --

Mr. Shimkus. My primary just ended. So I guess it is okay to say that. But it may not be helpful.

Mr. DelBianco. So you asked about transparency. I held up earlier the bumper sticker we are going to put on the back of the ICANN car, how is my driving. But, Congressman, that would only work if we can see what they are doing. In truth, ICANN's management from time

to time gets adventurous, outside of the guardrails we put up for that car, such as setting up and planning for the NETmundial Conference, something that was done from the inside, top down. And we didn't even know about it until months afterwards.

So what we need is transparency about ICANN's interactions with governments and intergovernmental agencies. And that is, in fact, locked into our proposal. That is one of the work stream 2, which is things that will occur after the transition, because we have the leverage to force them through if the board and management of ICANN didn't want to take on new transparency measures.

Mr. Shimkus. Yeah. And I am glad you mentioned that. Because my follow-up was any other outstanding issues in work stream 2 that we know of?

Mr. DelBianco. Congressman, the other members of the panel would love to chime in on that. We have seven different streams in work stream 2. Transparency is one of them. We have one on human rights. We have a handful that deal with accountability of the actual stakeholder organizations to the people that we represent. So we have a lot of work to do. But we have scored, through your help, the leverage to hold ICANN's board and management to whatever improvements we come up with in work stream 2.

Mr. Shimkus. Great. Thank you. And I am just going to end for other colleagues who seek time.

But, Ambassador Gross, just to finish up, you are obviously on the panel here, you probably were, as many of us were, very skeptical.

It sounds like you are not as skeptical and you think this all can happen as intended. But you probably agree that there still needs to be oversight and, you know, watching of the process. Would that be fair to say?

Mr. Gross. That would be more than fair to say. In fact, I would go slightly further. That is, as I think everyone has testified today, implementation is key. We have the framework. There is still a lot of hard work to be done. But the other piece and I think the piece that has animated you, and others, here for many years, is to watch these issues as they go away from ICANN and they seek to find home on Internet governance by governments trying to be active in this area in other organizations. The threat is still there. The need for involvement and oversight will be as strong as ever.

Mr. Shimkus. And thank you all. Great work. And I appreciate us being involved together with this. I yield back.

Mr. Latta. Thank you very much. The gentleman yields back. And the chair now recognizes for 5 minutes the gentleman from Kentucky.

Mr. Guthrie. Thank you very much. Thank you all for being here. We appreciate it. I am going to try to go quick too because of time.

But, Ambassador Gross, it was addressed at the last hearing with NTIA and ICANN the importance of the U.S. keeping dot-mil and dot-gov for our Government's exclusive, perpetual, and no-cost use. How can we ensure that happens within the timeline of the transition?

Mr. Gross. I think others will be able to address that issue as well. But I think basically the key here is the government will

continue to be involved, that those issues will remain there. And I think there is no doubt but we will be able to keep those issues.

Mr. Guthrie. And if you can elaborate on a more general timeline for the transition. And as you do that, if anybody else wants to add on to my question about dot-mil, dot-gov, I would appreciate that.

Mr. Gross. Sure. I will work backwards. The expectation, as we have all testified today, is that by September 30, which is the expiration of the current contract, that all the work should be done.

There are a number of things that have to happen in between. Not only does this Congress have an opportunity to review what is going on and decide in its wisdom whether to act or not, we will have -- and, of course, nothing happens until NTIA makes its independent determination about whether or not its criteria has been met. That process is now ongoing. And, importantly, as many people have indicated, there are a number of very important and complicated implementation pieces, including bylaw changes and drafting and the like, that need to be done before anything goes forward.

Mr. Guthrie. All right. Anybody want to talk on the dot-mil, dot-gov?

Mr. DelBianco. Thank you, Congressman. I think that is an ideal question to put to NTIA's administrator when, undoubtedly, this committee will be meeting with NTIA at the conclusion of their report sometime in early June. And they are doing interagency reviews.

So you can bet that GSA and DOD and different agencies of the Government will want to secure a permanent lock on dot-mil and dot-gov.

And that would be a great time to understand whether those documents have been produced to the satisfaction of the interagency review.

Mr. Guthrie. All right. Thank you for that. And I have one more question.

Ms. Plonk, you discussed in your testimony the root zone manager contract. When will this be developed? And what is the timeframe for implementation of testing in a new contract?

Ms. Plonk. Thank you for the question. My understanding is that, as I said, there will be a parallel testing process that will begin in April. The ICG report requires a public review time for the contract when it is drafted. So sometime between April and June, there will be a 30-day public review. And then once the transition is approved and finalized and Congress has had their 30 legislative days, all the various contracts, including the root zone management contract, will be signed. That is my understanding.

Mr. Guthrie. Thank you very much. And, Dr. Cooper, do you have any comments on the, anything you would like to add I guess?

Ms. Cooper. Yes. One additional detail is that the ICG proposal does require some form of written agreement between the root zone maintainer and the IANA functions operator. And it is my understanding that that agreement is in development and will be made public on very short order. So all the ducks are in a row as far as completing the necessary written agreement.

Mr. Guthrie. Thanks to you both. And thanks to you all. This is informative. I appreciate it. I yield back.

Mr. Latta. Thank you. The gentleman yields back. And the chair now recognizes the gentleman from Ohio for 5 minutes.

Mr. Johnson. Thank you, Mr. Chairman.

Dr. Cooper, I have heard from folks in the accounting industry that they have had difficulty registering domain names for the worldwide CPA community. And we have heard a lot about the need for accountability and transparency throughout the development of the CCWG accountability proposal.

Can you describe the process of developing the plans for the operational communities? Were stress tests used to ensure the criteria of NTIA were met?

Ms. Cooper. Thank you for the question. And I am happy to describe the processes in the communities. I will say that, just to remember, there is two components of this proposal. I can speak to the operational plan. And others may want to chime in on the accountability plan.

But as far as the operational plan goes, there are three communities of interest, for names, for numbers, and for protocol parameters. And each community was tasked with a request for proposals that came from the ICG. And we essentially requested not only a description, a thorough description, of what the existing oversight arrangements are for that community's IANA functions, but also what they plan to make them be after the transition and why that community felt that the plan that they proposed would meet the NTIA criteria, provide a workable solution going forward for the IANA functions.

So each of those communities developed its own essentially working group or task force to develop that plan. In each community, they had wide review of open participation from anyone who wanted to participate. And through that process, they honed their plan, sent them to the ICG. We did a review that included looking at whether the proposals individually created sufficient accountability mechanisms for IANA, met NTIA's criteria. And then we looked at them together and said do these actually work together as a functional whole?

So having received proposals from disparate interests, we wanted to make sure that together they would be cohesive, we had some back and forth with the communities to clarify certain things about the proposals, and to ensure that they actually would form a cohesive whole.

In the end, we issued the entire proposal for public comment. And on the basis of those hundreds of comments received, had some further interaction with the communities, further refinements to the proposal, and eventually issued it as a complete plan.

The one other thing I would just note in terms of difficulty with registering domain names, and without knowing the context, it is hard to speak to it, but it is critical to understand what is actually at issue here and what is not. The IANA functions deal strictly with the top level of the Internet infrastructure. So on the domain name side, that means names like dot-com and dot-gov and dot-us. It does not deal with any procedure for registering domain names at any lower level, like energycommerce.gov for example. And so that is an important distinction to keep in mind, that the IANA functions are very limited

in terms of what they provide to the Internet and the community. They are very important. But they are very limited. And other issues related to other functions are --

Mr. Johnson. All right.

RPTR JOHNSON

EDTR HUMKE

[12:03 p.m.]

Mr. Johnson. Well You know, I know that the appeals process is part of that overall attempt to improve transparency. How will this be addressed in the proposal specifically with regard to the appeals process?

Mr. DelBianco. Thank you, Congressman. Stress tests 29 and 30 actually looked at the question you raised about, say, accountants, right? Because .accountant was a very popular new top level domain that was bid by several companies. And if the .accountant company had made commitments about only allowing licensed accountants to get domain names and CPAs, then the question was could ICANN hold them to that commitment? That was what these stress tests looked at.

The team came up with a recommendation, and it says, quote, "ICANN shall have the ability to negotiate, enter into, and enforce agreements, including public interest commitments, with contract parties in service of its mission." So the point there is that we looked at those stress tests and determined ICANN could enforce those contracts to ensure that it could protect public interests with respect to domains that signed up for certain criteria for people to register a second level domain.

Mr. Johnson. Okay. Ambassador Gross, do you believe that the proposed accountability changes are sufficient? How can we be sure

that these measures will be enough to guarantee accountability in the years to come? And what are the most important elements of any truly accountable transition?

Mr. Gross. Thank you very much. I do believe that if fully implemented that the proposals that have been set forth will ensure that accountability going forward. I think that one of the key pieces of this is that the mission of ICANN has now been clarified to be quite technical in nature. And therefore, the opportunity for much of the mischief that we have all been collectively concerned about, that is the issue of going off and doing things beyond its formal remit, and being encouraged to do so by governments and by others, will be less.

And thanks to the efforts of those who worked so hard on the accountability piece, that the enforceability of ensuring that ICANN does its technical job and no more should be assured.

Mr. Johnson. Okay. All right. Mr. Chairman, I yield back.

Mr. Walden. [Presiding.] Thank you. And now we will go to Ms. DeGette for questions.

Ms. DeGette. Thank you, Mr. Chairman. I really just have one question. First of all, thanks for everybody's hard work.

The final proposal provides for direct enforcement of the Internet community's ability to remove an individual director or the entire ICANN board through the courts. Can somebody talk about how that is going to work and how that would play out if the proposal was adopted?

Don't all volunteer at once.

Mr. DelBianco. Be happy to, Congresswoman.

Ms. DeGette. Thanks.

Mr. DelBianco. This was a very powerful discussion on the CCWG --

Ms. DeGette. I imagine.

Mr. DelBianco. Because it ended up being our ultimate nuclear option power, that if the board is continuing to ignore the community's will, the community's interpretation of its mission, then it might leave us with no recourse other than to remove one or all of the directors.

This is not uncommon in corporations and trade associations, and yet ICANN had no such mechanism. So the empowered community that I described earlier would mount a petition to remove one or all directors. Then it would go into a consultation process so that the board understood why we were so upset with them. So there is an opportunity at several increments on this decision model to potentially remedy the problem. That if we could not come to terms on it, if we had four groups, four of the advisory committees and stakeholder organizations in favor of spilling the board, they are considered to be gone.

California law allows a designator, which is the structure we are using, to have statutory power to remove the board. And I believe we will also require pre-letters filed by each board of directors member such that if this power is exercised in accordance with the bylaw, their resignation becomes immediate. This is to save us the trouble of having to go to court to exercise the power that the California law gives us.

Ms. DeGette. And was there pretty much consensus around this after the debate and discussion?

Mr. DelBianco. It was the consensus that was earned by persistence of the community. You can bet that the board of directors and their lawyers were none too happy with this, and wanted to impose conditions, preordained reasons that you could take the directors down. But the community insisted that we might just have a difference of opinion on what ICANN's mission is interpreted to be. We didn't need to have preordained conditions to take the board down. So we were able to prevail, but there was resistance.

Ms. DeGette. Thank you. Thank you very much, Mr. Chairman. I yield back.

Mr. Walden. I thank the gentlelady for her questions.

And to our panelists, thank you for the great work you have done to get us to this point. I feel like it has been a really solid partnership to make sure that the Internet governance, that we get that right, because it matters for the whole world, not just the United States. But it certainly matters to us.

And so with that, I want to thank you all for participating. Members of our subcommittee who may have had other commitments today in other hearings may have some questions. So we hope we can submit those to you for the record and that you can get back to us, as you always have, in a timely manner.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Walden. And with that, I thank you again for your testimony, and our subcommittee stands adjourned.

[Whereupon, at 12:09 p.m., the subcommittee was adjourned.]