

NONCOMMERCIAL USER CONSTITUENCY COMMENTS ON ICANN STRATEGIC PLAN

1. Accountability and the Dept of Commerce MoU.

The Strategic Plan should include greater recognition of the importance of the transition from USG supervision. The Strategic Plan needs to look beyond the immediate issue of satisfying the US Department of Commerce MoU and present a compelling vision of a new governance model that is:

- * More democratic
- * Willing to accept new forms of external accountability
- * Confident enough to continue evolving and improving.

As a private yet global organization, with regulatory and "taxing" powers over the domain name supply industry and indirect powers over the users of domain names, some supervision and accountability mechanisms will be required. NCUC strongly supports a transition which would internationalize this responsibility beyond the United States Department of Commerce. At the same time, we recognize the dangers of overly intrusive and arbitrary forms of governmental (or intergovernmental) intervention in the management of Internet identifiers.

Recently, the issue of ICANN's supervision and accountability has been reframed by the emergence of the Working Group on Internet Governance (WGIG). Because the World Summit on the Information Society (WSIS) and WGIG processes are largely outside of the direct control of ICANN and the USG, we do not expect a detailed discussion of those topics in the Strategic Plan. However, we would like to see some indication of openness on ICANN's part to new global institutional arrangements designed to foster accountability and supervision arrangements that minimize the potential for abuse and provide a safety valve for correcting procedural and substantive problems.

In general, NCUC favors the direct participation of civil society fostered by the ICANN model over the intergovernmental model as the primary form of accountability. At the same time, civil society groups within ICANN believe that the current advisory status of the At Large Advisory Committee (ALAC), and the imbalance between commercial and non-commercial constituency groups in the Generic Names Supporting Organization (GNSO), prevent ICANN from properly reflecting the interests of the non-commercial and individual users of the Internet, unfairly advantaging specific interest groups. We do not believe that the reforms introduced two years ago resolved these problems. Seemingly petty but consequential forms of bias, such as granting the GNSO Business constituency two representatives on the Nominating Committee when other constituencies only get to select one, are symptomatic of the kind of bias that often permeate ICANN's processes. Rather than implying that reform is complete and satisfactory to all parties, the strategic plan should recognize that problems still exist and need to be addressed.

2. Special Funds

Regarding the "Restricted Fund for Developing Country Internet Communities," NCUC supports the concept but would prefer to see it re-labelled a "Restricted Fund for Technical Forums in Developing Countries." Encouraging and facilitating knowledge-sharing on technical matters related to DNS and IP protocols falls within ICANN's general purview and fosters coordination rather than top-down management.

In this context, the constituency stresses that it is neither ICANN's role to create communities where none exist, nor to seek to "guide" communities on a particular path. The genius of the Internet has been its ability to allow self-organizing communities to engage involuntary cooperation. This ensures a continuing wellspring of new ideas and innovations. If ICANN were to go beyond its role as a facilitator and coordinator by attempting to "jump start" a local community or "correct" a local communities "mistakes," such actions, however well-intentioned, would be antithetical to the traditions of the Internet community and to ICANN's guiding principles.

We therefore encourage ICANN to reaffirm the bottom-up nature of its relationship to local Internet communities, to define clear and transparent procedures for organizations to apply for these funds, and to avoid making grants at the discretion of central staff. ICANN should have objective, neutral and participatory mechanisms to determine who gets these funds. Any evaluation committee should include representatives from each of the Supporting Organizations and Advisory Committees.

Similar questions and problems arise with respect to the discussion of a Special Restricted Fund for Internet Security. In this case the purpose of the Fund is even less well defined than the other one, and we would withhold any support for this concept. Parts of the Strategic Plan indicate that its purpose is to enable people from developing countries to participate in technical forums related to security – a function that is already covered by the other proposed fund. Other parts of the description indicate that the purpose is to support research and development activities or the standardization activities of the IETF. This is not an appropriate function for ICANN, and the combination of ICANN's regulatory powers with the voluntary standardization activities of IETF and other technical forums is undesirable and dangerous.

3. Competition and Choice

Competition and choice should definitely be a priority for ICANN. On new TLDs, we recommend replacing the term "predictable strategy for selecting new TLDs" with "predictable process for responding to demand for new gTLDs." Six-plus years after ICANN's creation, it should have more than a "strategy" regarding new gTLDs, it should have a well-defined, objective, and transparent process for adding them. Moreover, ICANN should emphasize that applicants from all over the world, reflecting all linguistic groups and cultures, should have a fair and equal opportunity to apply for and win resources from ICANN. Those proposing new TLDs should know how many are available each year and what they must do to qualify for one. They should also be assured of a fair, quick response to their proposals, rather than long, indeterminate, and non-transparent private negotiations.