



International Chamber of Commerce

The world business organization

ICC input on ICANN Transition Action Plan

Introduction

On behalf of the members of the International Chamber of Commerce (ICC) and, in particular, the members of the Commission on E-Business, IT and Telecoms and the Task Force on Internet and Telecoms Infrastructure and Services (ITIS), we are pleased to provide input on the President's Strategy Committee's (PSC) transition action plan consultation. ICC's members from around the world, representing all sectors, welcome the consultation process launched in June 2008, and the discussions regarding the transition action plan that took place during the ICANN Paris meetings in June. ICC members also welcome the approach of the PSC plan, and the recommendations for discussion and consideration.

ICC members support the continued transition of ICANN towards becoming an independent private sector-led consensus-building organization.

ICANN has asked for specific suggestions, and ICC members have tried hard to be responsive. This input provides specific comments and recommendations on sections of the transition action plan in an attempt to be responsive to the consultation questions, and to be clear about global business priorities. These are ideas, which ICC looks forward to discussing with other members of the community and ICANN.

What business wants:

- Representation of the interests of the business community.
- Certainty, in terms of the processes and outcomes that are likely to arise.

Some of the key issues for business are detailed in ICC's informal comments on ICANN's transparency, accountability and structural issues, available at:

http://www.iccwbo.org/uploadedFiles/ICC/policy/e-business/Statements/ICC_informal_comments_ICANN_21_06_07.pdf

And in ICC's views on the mid-term review of the Joint Project Agreement (JPA) between ICANN and the US Department of Commerce, available at:

<http://www.iccwbo.org/uploadedFiles/ICC/policy/e-business/Statements/ICC%20views%20on%20ICANN%20JPA.pdf>

International Chamber of Commerce

38 Cours Albert 1er, 75008 Paris, France
Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 28 59
E-mail icc@iccwbo.org Website www.iccwbo.org

31 July 2008 AHA/rcf

Key requirements for ICANN to fulfill its mandate

ICC comments:

1. Business from around the world and from all sectors has a legitimate and critical interest in full involvement in ICANN decision-making processes.
2. Business is important because it invests in all layers of the Internet, and is an essential innovator in its functionality. The investment decisions which will deliver the next generation of Internet functionality and keep the Internet successful will be made by business. Those decisions will be made according to the wider environment, which includes the issues on which ICANN makes determinations.
3. Broader business interests¹ thus need appropriate representation in all layers of ICANN decision-making and policy development processes to ensure priorities are considered, and to ensure that businesses that are not directly involved in ICANN structures can count on their priorities being considered and weighed in decisions taken.
4. Without this certainty, there are risks for business that could discourage engagement and undermine outreach efforts as well as investment.
5. A key objective for business in the transition is to strengthen and deepen business involvement in ICANN through not only increased and broader participation, but also through concerted efforts to understand broader business priorities and consideration in the structural decisions.

Freedom from capture

External capture

1. Capture includes both capture from Internal interest groups, as well as external capture by governments and/or outside organizations. ICANN recognizes the importance of freedom from external capture in the more extensive “Improving Confidence” document, and ICANN must ensure that it will remain an independent and private sector-led organization.
2. A strong barrier against capture is to have full transparency and to create sound accountability to the ICANN community. As the whole community is watching over ICANN, the risk of capture is significantly lowered, and even the perception of capture is avoided.
3. ICANN must develop mechanisms to ensure that the organization will not be subject to capture by sovereign states or multi-governmental bureaucracies upon completion of the transition plan. ICC members call for further elaboration by the PSC on ideas to prevent external capture, which is an area of concern for global business. Such mechanisms should be calibrated to prevent ICANN from being forcefully subsumed by external government interests and to ensure that ICANN

¹ Broader business interests, and the ICC membership, include both contracted and non-contracted parties to ICANN

does not willingly abdicate private-sector leadership in favor of government control.

Internal capture

1. **Why it matters?** Capture of any kind is dangerous because it could lead to a single interest or set of interests dominating the continued development of the Domain Name System (DNS), and the related technical coordination functions ICANN is responsible for, and undermine the critical balanced nature of its structures and decision-making processes.
2. Freedom from capture should ensure that broader business interests are an integral part of all decision-making processes and policy development processes within ICANN, including voting structures.
3. Building structures and decision-making processes, including voting mechanisms, that stakeholders can count on being consistently and appropriately balanced is a fundamental element to address freedom of capture.
4. This should include a deepening and strengthening of ICANN's relationships with business from all sectors.
5. Business input will need to come from the constituencies within ICANN, and also from the broader business community that is not involved in the constituencies.
6. ICC members want to ensure that the broadest scope of business experience and priorities be considered in the transition analysis and implementation phases.
7. ICANN should ensure that it continues to reach out to the global stakeholder groups that it serves with its vital task of managing and coordinating the domain name system. Doing so will:
 - a. Strengthen its legitimacy; and
 - b. Build its recognized stature as an independent organization.

Recommendation

ICANN should develop mechanisms that ensure sound accountability to the community which safeguard against external capture by governments or governmental organizations and strengthen the diverse participation of a range of stakeholders, including, in particular, deepening the involvement of broader business interests in decision-making structures.

Strengthening ICANN's accountability to its community

ICC Comments :

1. ICC members welcome the recommendations in this regard in the PSC plan and further discussion is planned within the ICC membership to develop additional comments on the proposed mechanism whereby the community can require the Board to re-examine a decision based on a proposed new structured and well defined process.
2. The ICC business community remains concerned about the importance of external accountability measures for the ICANN Board. In the extraordinary instance where the community urges reconsideration of a Board decision, it is still the Board that has final say in determining the outcome. Further discussions in the ICC membership will be held to explore recommendations on accountability. ICC recognizes the effort on behalf of ICANN in considering extraordinary mechanisms for Board removal. ICANN should be proactive in developing details of this and other types of instruments, and in introducing further external accountability mechanisms.
3. It is important for the ICANN community to understand at any given time what ICANN is doing. In addition, the community has to understand what the next steps are in any given decision-making process. ICC members recognize ICANN's efforts in this regard, and strongly encourage continued efforts to improve clear and accessible information on decision-making processes, and sensitivity to 'information overload' and the need for appropriate timeframes to facilitate participation and input.
4. In order for ICANN to be accountable, the community has to have easy and timely access to the decisions of the Board, with the appropriate justification, and the work plan and strategy of the Board and ICANN staff. ICC members applaud the steps taken to date, and urge that these efforts continue. **ICC members recommend** that the incremental steps that have been made should be integrated into bylaw changes.
5. **ICC members recommend** that the bottom-up nature of ICANN policy-making processes be reflected in the availability of non-proprietary documentation to the whole community.

Internationalization

ICC Comments:

1. ICC members support the internationalization of ICANN as an organization, and **recommend** that this be reflected in the selection of meeting venues, and producing materials that are accessible to the broadest possible range of people around the world.
2. ICC members believe that the integration of business priorities from around the world should be part of each of the steps outlined in the PSC plan.
3. Internationalization should also continue to be reflected in future staff hiring to ensure a global and balanced representation of the global Internet community.

4. ICC members understand the importance of having ICANN's headquarters in a jurisdiction with strong anti-trust laws, and a strong rule of law in general, and strongly support continued global outreach.

Financial and Operational Security

ICC Comments:

1. Continued efforts to strengthen ICANN stakeholder community processes and participation will be important to addressing financial and operational security.
2. Alternative sources of funding could enhance barriers to capture.
3. Maintain and enhance the current reserves policy and funding.
4. In order for ICANN to perform its tasks well, it is important that its business processes are state of the art and **ICC members recommend** that ICANN business processes continue to be developed.
5. Both strategic and operational planning should be of the highest standard and in the relevant parts available for the ICANN community for transparency, and accountability reasons.

Secure and Stable operations

ICC Comments:

1. ICC members believe that the security and stability of ICANN's operations and functions are of critical importance, and thus recommend that further analysis be undertaken into these critically important topics. The PSC plan's recommendations address a few specific elements, but the broad range of security and stability issues should be part of further work, with clear identification of any security and stability risks that are within ICANN's mandate, and how ICANN might address these or collaborate with other expert entities.
2. ICC members support the critical need for stability of the root zone itself. ICC members take note of the suggestion to enhance appropriate automation of IANA processes and believe that correct reporting is needed and useful to ensure and monitor performance.
3. However, given that the JPA and the IANA contract are separate agreements between ICANN and the U.S. Department of Commerce, the PSC recommendations should focus on the JPA. We think it is important that these recommendations also address the broader topics of DNS security and the importance of insuring overall sustainable ICANN operational stability, which may be affected by the expansion of gTLDs, implementation of IDNs, and IPv4-IPv6 transition.

ICC Comments on the three question areas identified in the transition action plan

a) Accuracy and sufficiency of elements required for an un-capturable, accountable, internationalized, stable and secure ICANN post-JPA

ICC members believe that key elements have been identified, and the challenge is to elaborate how these elements will be actualized. ICC members may have further comments regarding additional areas, as the PSC consultations progress.

ICC Comments:

1. ICC members encourage ICANN to build on recent and future changes in its transparency and its accountability in its bylaws.
2. Communication about ICANN's technical mission to the global users and stakeholders that the organization serves will clarify priorities and help a broader range of stakeholders to participate by understanding how ICANN's responsibilities and functions impact them.
3. ICC **members encourage** ICANN to strengthen communications about the organization's limited technical mission and its objectives which ICC supports, set in context by stating the beneficial impact the Internet has on its users around the world and the need for continued reliability, security and scalability. The transition process and its implementation may be reviewed in light of this, and key process and structural decisions will be easier, more balanced, and reflect the needs of the full Internet community.
4. ICANN's legitimacy and accountability are inextricably linked to the effective participation of all relevant stakeholders. Substantive business involvement from across sectors is essential to achieving these two objectives.

Practical steps that can be taken to strengthen business involvement include:

1. Broader business presence on the ICANN Board, including from companies. ICC members encourage greater efforts to identify and appoint experts from the broader business community to the ICANN Board and structures, including advisory committees.
2. Continued improvements on the website to facilitate access to information and support broader business contributions to the policy development processes. While ICC is committed to working within the GNSO structure and expanding business participation in the commercial oriented constituencies, not all companies have the resources to do so. Therefore, ICANN needs to ensure processes for broader business input in the policy development process. This could mean a specific webpage for business that provides accessible information about how they can contribute to policy discussions, why specific issues are important for them, and who they can contact on the ICANN staff on particular issues.

3. Regular outreach and awareness raising efforts. The development of effective ways to engage and involve business in outreach deserves considerable focus; in particular, to attract business interests. It will be important to work collaboratively with the broader group of business organizations and companies, including ICC and other business entities to ensure that business is informed, aware, and can effectively participate in such events. This could be a joint effort by ICANN regional liaisons and GNSO policy staff with business organizations and companies including ICC.
4. Consistent communication with business leaders and inclusion in ICANN decision-making and consultation processes.
5. ICC members support the objectives in points 1.2-1.6 of the PSC plan.
6. To accomplish point 1.6, ICC members believe that a concerted effort needs to be made across all ICANN structures to ‘de-code’ the way in which issues are discussed. Many new participants in ICANN meetings and processes find themselves lost in the abbreviations, and isolated from the long-standing relationships and discussions among long-time ICANN participants. Constituencies could be encouraged and supported by the GNSO policy staff to help with this effort by having informal get-togethers to bring new participants into the fold during ICANN meetings.
7. Constituency meetings and open ICANN forums and workshops should be led in a way that encourages new people to share their insights and experiences.
8. Outreach to the broader business community will be most effective if terminology that business understands is used consistently. Language translation will also be needed depending on the region and geographic area. Highlighting how business benefits from certain decisions or from developments that are enabled by ICANN and its functions is essential to getting the message to the business community in all sectors and regions.

b) Sufficiency of initiatives described

1. The details of the initiatives must be more fully described before it can be determined whether they will be sufficient to address all objectives.
2. **ICC recommends** that an additional objective should be to communicate how ICANN’s specific functions and mandate are part of its strategic vision which will facilitate institutional decision-making and create a common vision for the community. It is important that ICANN’s role is clearly understood and supported broadly by ICANN’s stakeholders in the landscape of forums, processes, and organizations.

c) Timeline for community consultation, and bylaw changes

1. The timeline set for consultations may not be fully adequate in order to ensure effective business participation. Consultations should ensure adequate time for deliberation and be inclusive.
2. Online tools are one useful method of gathering input, but care should be taken that input online is truly representative of a broad enough cross-section of the community to provide credible conclusions on any issue. Many people

around the world are not either aware of the consultation processes or certain about how to contribute, thus outreach by ICANN through a variety of mechanisms, including collaboration with ICC and other business entities, for example, could help to ensure that input and consultations are truly representative of the community.

3. ICC recommends that any proposed business access sessions organized for the next meeting in Cairo include a special workshop to raise awareness among new business participants about the transition process and how they can contribute.
4. ICC members are not yet prepared to comment on any proposed bylaw changes and may comment on that topic at a later stage in the consultation.

PSC targeted outreach on a regional basis

ICC comments:

1. Regional outreach should include outreach to the business communities beyond existing ICANN participants.
2. **ICC** is prepared to provide contacts in its network to assist the PSC in this regard.

A special Expert Advisory Group to assist with consultations on the Analysis and Design project

ICC comments:

1. ICC members recommend that substantive business experts be included in such a group.
2. The aim should be to draw upon the broader business community as well as the existing ICANN constituencies.
3. Experts should be considered for their experience and ability to add valuable insights to assist in the consultations, and should also include participants that can reach broader business communities through their networks, affiliations with other business organizations that may not be actively engaged in ICANN work, and their professional abilities to bring in informed and fresh perspectives.

*_*_*_*_*_*_*_*_*_*_*

ICC Commission on E-Business, IT and Telecoms (EBITT)

Business leaders and experts drawn from the ICC membership establish the key business positions, policies and practices on e-business, information technologies and telecommunications through the EBITT Commission. With members who are users and providers of information technology and electronic services from both developed and developing countries, ICC provides the ideal platform to develop global voluntary rules and best practices for these areas. Dedicated to the expansion of cross-border trade, ICC champions liberalization of telecoms and development of infrastructures that support global online trade. ICC has also led and coordinated the input of business around the world to the World Summit on the Information Society, Geneva 2003, Tunis 2005, and continues this effort in the activities established in the Tunis Agenda, through its initiative, Business Action to Support the Information Society (BASIS).

For more information please visit:

<http://www.iccwbo.org/BASIS>
<http://www.iccwbo.org/policy/ebitt/>

About ICC

The International Chamber of Commerce is the largest, most representative business organization in the world. Its tens of thousands of members companies in over 130 countries have interests spanning every sector of private enterprise.

A world network of national committees keeps the ICC International Secretariat in Paris informed about national and regional business priorities. More than 2000 experts drawn from ICC's member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

The United Nations, the World Trade Organization, and many other intergovernmental bodies, both international and regional, are kept in touch with the views of international business through ICC.

For more information please visit: www.iccwbo.org