

KEY PRINCIPLES FOR COORDINATION OF INTERNET UNIQUE IDENTIFIERS

On March 14, 2014, the U.S. National Telecommunications and Information Administration (NTIA) announced its intention to transition key IANA functions to the global multistakeholder community. NTIA laid out four conditions for this transfer:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectations of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

NTIA also advised that it will not accept a proposal that replaces the NTIA role with a government-led or inter-governmental organization solution. To ensure appropriate coordination of Internet unique identifiers, it is essential that ICANN be structured in a way that meets each of these essential conditions before the transition. These key principles and mechanisms should be embedded into the structure of ICANN through the multistakeholder accountability process:

1. **Community of Stakeholders as Ultimate Authority:** The community of ICANN stakeholders should be the *ultimate overseer* of the DNS, responsible for: promoting a single, decentralized, open, and interoperable Internet; preserving the integrity, transparency and accountability of IP numbers and their assignments; managing domain names, and protocol number assignments; maintaining the security, stability and resiliency of the DNS; and meeting the needs and expectations of global customers and partners of the DNS.
2. **Separation of Functions:** To ensure the form of oversight and accountability that is appropriate for distinct activities, there should be a strong and clear separation of these three functions: policy making, dispute resolution and implementation.
3. **Policy Making Function:** ICANN's existing structure of Supporting Organizations (SOs) and Advisory Committees (ACs), which provide technical and policy guidance and which comprise its bottom-up, consensus multi-stakeholder model, should continue to be responsible for *policy making*. Their membership should be representative of the community of ICANN stakeholders and of the different regions of the world, including developing and developed countries. They should also confirm nominees for ICANN CEO and approve members of an independent dispute resolution panel.
4. **Dispute Resolution Function:** ICANN's Independent Review Panel should be expanded to ensure a balanced structure with multi-stakeholder participation, and strengthened into a new independent dispute resolution panel responsible for *resolving disputes* involving ICANN and endowed with the final authority to impose discipline and sanctions, and to remove Board and staff members in defined egregious circumstances. This remedy process should be transparent, accessible and timely. This is critical to ensure that the ICANN Board of Directors and ICANN's leadership are accountable to the community of ICANN stakeholders and not responsible for adjudicating challenges to their own decisions.
5. **Implementation Function:** ICANN's limited executive function should be confined to *implementing policies* pertaining to the coordination of Internet unique identifiers and to recommending policy changes for consideration and ultimate decision-making by the SOs and ACs. ICANN should oversee the technical functions of the DNS but should outsource

technical operations to organizations with a proven track record. ICANN should remain a non-profit corporation operating under California law, but governed by two boards of directors separately focused on policy implementation and corporate management issues. Policy implementation should be done in close coordination with SOs and ACs who have the ultimate responsibility to ensure that policies they develop are implemented as intended.

6. **Protection from Government Capture:** Government is one of the core stakeholders within the multi-stakeholder model, and government involvement is appropriately conducted through the Governmental Advisory Committee, in coordination with the SO/AC policy development process. In particular, neither the CEO nor the members of either Board of Directors should be a member of a government or government-controlled organization. ICANN should prudently engage with government officials, focusing primarily on issues pertaining to the coordination of Internet unique identifiers, whether directly or indirectly through a third party and such engagements and the topics covered should be made public in a timely fashion.
7. **Transparency:** ICANN should be audited annually by an independent accounting firm, and transcripts and detailed minutes of all meetings, including those of ICANN's Board of Directors, as well as complete documents and records should be made readily available.
8. **Specific Rights and Responsibilities Appropriate for Each Function:** Each function should only encompass those explicitly assigned rights, responsibilities and authorities that have been formulated through the multistakeholder accountability process. The accountability process will identify all significant functions and responsibilities, and designate them appropriately and explicitly. The accountability process should be thorough, and map specific rights, responsibilities and authorities to the appropriate function. All other rights, responsibilities and authorities should be reserved to the community of ICANN stakeholders.
9. **Consensus:** A significant supermajority should be required for final action on all policy decisions to demonstrate broad support by the community of ICANN stakeholders.
10. **Budget and Revenue Limitations:** ICANN's budget and the revenue to support it should be limited to meeting ICANN's specific responsibilities and should not change without SO and AC approval and the agreement of the registries and registrars who pay ICANN fees.
11. **Equitable Agreements:** All registries and registrars should operate under equitable agreements with ICANN that set nondiscriminatory fees to be paid to ICANN in support of its budget. ICANN may not set or regulate fees charged by registries or registrars to their customers.
12. **Prior Adoption:** These principles and their assured implementation should be adopted and made effective *prior* to the transfer of the IANA contract to ICANN, or to any other party that replaces the U.S. as contract counterparty; should be embedded in ICANN's Articles of Incorporation & By-Laws so that they are fully enforceable by the new independent dispute resolution panel; and should form the basis for the replacement of NTIA's current DNS agreements.