

**From:** Andrew Mack <amack@amglobal.com>  
**To:** <DNSTransition@ntia.doc.gov>  
**Date:** Mon, Jun 8, 2009 10:48 AM  
**Subject:** Andrew Mack comment on JPA and the future of DOC-ICANN relationship

To the Department,

I am writing to express real concern about the ICANN's current plans to declare "independence" from the Joint Program Agreement with the Department of Commerce and to urge DOC to maintain the safeguards and stability that the relationship with DOC has brought internet users over the years.

I know that over the last few years ICANN has used a series of rationales to explain its desire to "move on" from the current arrangement with DOC. We ICANN watchers have heard a veritable rainbow of explanations - from "we don't need to comply" with the JPA (as it has already effectively expired), to "we've already complied" with its terms and responsibilities, to the most recent version that "this is all a work in progress"... Still, as a US small business owner whose business depends on the web, I wish to challenge these assumptions.

For example, ICANN claims to have complied with the terms of the JPA, to have effectively "graduated" from the program, by achieving a list of ten responsibilities under the JPA. However, as I and many others have noted earlier, this is hardly the case. As I posted in my comment from last July, ICANN claimed its readiness for "independence" but has failed to fully resolve major issues around the launch and management of Internationalized Domain Names (IDNs, Responsibility #5) which are still not ready. Significant concerns remain around the timing of the launch, the impact on IDN gTLDs and other core issues that could cause real confusion for consumers and risks to business holders. How these will be addressed by a post-JPA ICANN is still unknown.

ICANN has also promised substantial progress on international participation (the Multi-stakeholder Model, Responsibility #6), which talks about making ICANN more open and accountable to a variety of voices. However, despite a great deal of rhetoric surrounding the desire to reach out to the next billion internet users, ICANN's efforts in this area speak louder than its words.

The organization points to a "fellowship program" to permit the participation of representatives from emerging markets, but this amounted to a paltry 23 attendees during the Los Angeles meeting and similar numbers in Mexico City - clearly not enough to represent the breadth of internet opinion from lesser developed nations. Moreover, these attendees have been disproportionately government voices, as opposed to the local private sector actors that will likely be responsible for the growth of the net in most countries. And, in the recent "Economic Study" commissioned by ICANN

talking about one of the biggest proposed changes in the history of the net, the new gTLD process, emerging markets countries aren't even mentioned. Not at all.

As the owner of a small US firm that works extensively with emerging markets - and especially with small businesses in emerging markets - I think I bring a unique perspective to this discussion. I work every day with people around the world that are trying hard to figure out their futures on the web. They face a variety of constraints, from connectivity and power issues, to the need for IP protection and legislation in their own nations that will promote and protect e-commerce.

And, while they may be skeptical of the idea that any one nation "controls" the internet, despite what ICANN implies I have not heard a groundswell of shouting against the JPA or in favor of greater independence for ICANN. My colleagues in Africa and Latin America face real challenges in their day-to-day work on the web. They don't care about institutional politics. They simply want the system to work. Safely, reliably, all the time.

I agree with the recent comments of Mr. Esam Abulkhirat of the African Union Commission: "Evolution of ICANN into a responsible organization should be continued and we must ensure the continued involvement of the (DOC-NTIA) in governance of the Internet which means extending the JPA with ICANN." (<http://www.ntia.doc.gov/comments/2009/dnstransition/006.pdf> for his comment in full). We may want to move on from the JPA over time, but let's do it carefully, and in a way that preserves the stability and predictability that we have today.

Over the last 10 years we've seen the growth of the worldwide internet system in part as a result of the effective (and from what I can tell) mostly non-intrusive oversight of ICANN through the JPA. At this stage I see no reason why we should rush to dissolve the DOC-ICANN relationship, and I urge DOC to work with ICANN to agree on some kind of extension for the JPA.

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