



Association Française pour le Nomage Internet en Coopération
chargée de la gestion des noms de domaine en *.fr* et *.re*

St Quentin en Yvelines, 08 June 2009

Assessment of the Transition of the Technical coordination and Management of the Internet's Domain Name and Addressing System

AFNIC's comment

AFNIC is grateful to the NTIA for the opportunity to express, through this comment, its position with regards to the upcoming expiration of the Joint Project Agreement (JPA) with ICANN.

1. Introduction

AFNIC is the registry for the Internet domain names *.fr* (France) and *.re* (Reunion Island).

AFNIC (French Network Information Center), is a not-for-profit organization. It was created jointly in December 1997 by INRIA (The French National Institute for Research in Computer Science and Control) and the French Government.

AFNIC is an open, multistakeholder, inclusive membership organisation gathering public and private Internet players: users (legal entities and individuals), domain name registrars (Internet services providers), international entities and representatives of government.

AFNIC is a founding member of CENTR, the European organisation of country-code top level domain managers and fully endorses the comment submitted by CENTR in this consultation.

The comments below provide further details and arguments regarding the topics of this Notice of Inquiry.

2. Reviewing the DNS White Paper

AFNIC fully supports and believes in a global Internet, open to everyone. An internet that is coordinated but not controlled, and should embrace the four principles mentioned in the White Paper: stability, competition, private, bottom-up coordination and representation.

Those principles remain relevant but, unsurprisingly, their implementation into the current Internet governance arrangements may need to be reviewed: more than 10 years have passed since the publication of the DNS White Paper and the Internet has undergone significant changes and challenges:

- as anticipated, it is now a key asset of the worldwide economy, but it also plays a central role in the social and private spheres of our societies ;
- the Internet's center of gravity is shifting, as the number of internet users in Asia outgrows US or European numbers ;
- IPv4 addresses are running out and IPv6 still has not taken off ;
- The pace of application-layer innovations has not slowed down, but may be challenged by some network operators wishing to enhance the management of their networks.

AFNIC believes that, in light of this significantly different context, a review of the White Paper should be launched. NTIA and ICANN could usefully engage with all national and international stakeholders in order to enhance the DNS Project Report mentioned in the JPA, by focusing it on those broader, more forward-looking issues.

The first place to elaborate such a report could be within the ICANN community, but the progress of such a debate should be shared with a much wider group of stakeholders that are typically not represented at ICANN meetings or mailing lists. The Internet Governance Forum could, among others, provide a platform to improve communication towards a wider community. We therefore encourage the NTIA and ICANN to proactively raise this issue and schedule an open forum discussion at the IGF in Sharm-El-Sheikh at the end of this year.

3. Focus internationalisation on legal regimes

One aspect of the review should focus on the internationalisation of ICANN. In this field as well, the incorporation of ICANN has been a significant improvement over the former arrangements. ICANN itself has achieved encouraging results, through its Fellowship Programme, outreach initiatives to developing countries and ccTLDs, and its translation policy.

However, the current situation with regards to the coordination of technical resources remains characterised by a strong bias in favour of US stakeholders due mainly, but not only, to the unique legal regime on which the whole system is based. While we recognize how difficult and costly the transition would be, we call for the establishment of a diversity of legal regimes for ICANN contracts. We believe that the internationalisation principle outweighs the costs associated to the implementation measures.

Finally, we would like to highlight the fact that internationalisation should be restricted to the coordination of global, technical resources only. The subsidiarity principle should apply as often as possible and only those issues that local policies cannot address should be subject to higher-level arrangements. A mechanism that would incorporate this principle in the post-JPA arrangements would be an important step forward.

4. Appropriate arrangements to put in place before full transition

The Domain Name System (DNS) is currently confronted to several key challenges where accountability and legitimacy of ICANN is questioned by some stakeholders. Not surprisingly, the ICANN model has room for improvement, both in its legitimacy arrangements and in its accountability to the community at large. It must be stressed that consistent improvement has been made in transparency and accountability, largely thanks to the JPA arrangements.

However accountability to end-users is a challenge in all types of organisation. The multistakeholder model significantly improves accountability and legitimacy, provided that its decision-shaping and decision-making processes effectively incorporate the various stakeholders' views.

AFNIC participated in the "Improving Institutional Confidence" consultations by ICANN and welcomed some of the proposals that were put forward by the Committee, but we still do not see how the end of the JPA would help in increasing accountability and legitimacy to end-users. The checks and balances that ensure an efficient form of control over ICANN's decisions by the Internet Community are still to be determined, and tested.

This is becoming quite a significant issue because decisions on important projects such as introduction of IDNs in the root, Whois policies, or new gTLDs, are constantly delayed due to the lack of consensus and the absence of a mechanism that would lead to a negotiated solution, acceptable to all parties. The delays or absence of decision lead to uncertainties and frustrations among stakeholders, lack of trust, and may ultimately endanger the stability of the governance system.

With that in mind, we recommend that before full transition to the private sector is completed, appropriate arrangements be put in place with a limited scope so that further progress can be achieved, notably to improve internal processes and practices within ICANN, especially in the decision-shaping phase.

*
* *

Consequently, AFNIC recommends that the Joint Project Agreement be extended for a well defined short period so that:

- the DNS project report may include a review of the DNS White Paper in light of the current status and challenges faced by the Internet today ;
- ICANN may make further progress in enhancing its internal processes and practices, especially in the decision-shaping phase and with regards to checks and balances.



Mathieu WEILL
Chief Executive Officer