

Transcription of Larry Strickling Address at the Welcome Ceremony of the 40th ICANN Meeting

San Francisco, California, USA, 14 March 2011

Thank you, Rod. Let me suggest, we have been here for an hour. Why not everybody stand up and stretch real quick. But don't leave, please stay. [Laughter] Okay. That's enough. [Laughter] All things in moderation.

So, I'm very pleased to join all of you today at the 40th meeting of ICANN. And I want to thank both Chairman Peter Dengate Thrush and President and CEO Rod Beckstrom for their invitation. But I hope that as we look forward to a week of hard work as well as taking advantage of the wonderful City of San Francisco and the Bay Area that we do take some time to think about and pray for our fellow world citizens in Japan and New Zealand who have suffered so greatly from the tragedies there in the last few weeks and are working so hard to recover from these terrible events. I'm, of course, quite humbled to appear on this stage today following such luminaries as Ira Magaziner and Vint Cerf. I'm still pretty much a newbie to ICANN and Internet governance efforts, but I'm sure most of you are quite familiar with the agency that I run, the National Telecommunications and Information Administration, given our long history and involvement with ICANN. And while some of you may be familiar with my views on ICANN from my participation in the Accountability and Transparency Review Team and other things I have said or written, today really is the first opportunity I've had to directly address the ICANN community. And, again, I thank Peter and Rod for the opportunity to do just that.

What I'd like to do today is explain how the Obama Administration has been approaching Internet policy and the important role that ICANN plays not just with respect to the domain name system but also as a model for multistakeholder involvement that can be applied to other Internet issues. My message today is that the United States government is absolutely committed to the multistakeholder process as an essential strategy for dealing with Internet policy issues, particularly when compared to the alternative of more traditional top-down regulatory processes. And we are committed to the ICANN model as the best way to preserve and protect the security and stability of the Internet. But as with any important institution, we should never shy away from critically evaluating its performance in making improvements where appropriate and it is a measure of the commitment of the United States to this model that this Administration and I personally have spent so much time and effort working to ensure that the reality of ICANN measures up to its vision.

The Obama Administration has made it a priority to develop policies to ensure that we continue to have an Internet environment that encourages innovation and creativity and fosters trust with its users. Within the Department of Commerce, we are working with the Secretary's Internet policy task force to address four key public policy and operational challenges facing the Internet:

One, enhancing Internet privacy; two, ensuring cyber security; three, protecting online copyright; and, four, ensuring the global free flow of information. We are guided by two dominant principles as we approach these challenging issues. First is the idea of trust. It is imperative for the sustainability and continued growth of the Internet that we preserve the trust of all actors on the Internet. For example, if users do not trust that their personal information is safe on the Internet, they won't use it. If content providers do not trust that their content will be protected, they will threaten to stop putting it online.

Our second key principle is that we want to preserve and enhance a multistakeholder model for dealing with these issues. Why? Because multistakeholder organizations have played a major role in the design and operation of the Internet and are directly responsible for its success.

We've taken these principles and put them into practice with our work on privacy. The current privacy policy framework in the U.S. has come under increasing strain as more and more personal data is collected on the Internet, putting at risk the consumer trust that is essential for the continued growth of the digital economy. Last December after convening a workshop and soliciting comments, we released a green paper recommending the establishment of stronger privacy protections in the area of online commercial data. The starting point for our recommendations was that strong privacy protection is necessary to preserve and build the trust of users on the Internet and is indispensable to the continued growth and innovation of the Internet. Our recommendations also rely on the notion of multistakeholderism. We propose that baseline privacy protections be adopted in legislation or otherwise, but that we then convene stakeholders to develop enforceable codes of conduct to implement these baseline protections. This multistakeholder process allows

us the speed to respond quickly to new issues of consumer privacy and the flexibility to have new protections crafted in the most efficient manner.

In the coming year, we will be issuing recommendations on the other three work streams of the task force. And this notion of multistakeholderism will figure prominently in these recommendations, as it does in the Internet policymaking principles we have introduced in discussions at the Organization for Economic Cooperation and Development. Our OECD effort is focused, among other things, on advancing the global consensus around the multistakeholder concept that we believe is critical to the Internet's success.

From all of this, it should be crystal clear that the Obama administration is fully committed to the multistakeholder model of Internet governance. But when we seek to extend it to other areas of Internet policy, the obvious questions we get are, "Where has the model been used before, and how well has it performed?" And it's important that we have success stories to point to, and we very much want to point to ICANN as such an example.

ICANN represents a practical working model of the multistakeholder approach to Internet governance. When I signed the Affirmation of Commitments with Rod last September -- I'm sorry, September 2009, the United States demonstrated its commitment to the ICANN model and its mission to preserve a single global interoperable Internet that supports the free flow of information and global electronic commerce. And since the affirmation was signed, ICANN has made real tangible progress in many areas.

One of the most visible and practical steps has been the introduction of internationalized country code top-level domain names. The ability of global Internet users to use the Internet in their local languages and character sets is critical to the further expansion and development of the Internet.

When we look back 10 years from now, the expansion of the domain name system beyond ASCII characters may, in fact, be the most significant factor in its future growth and success. And the effort has been successful, in large part, due to the way the policies for this program were developed. A true cross-constituency effort between ICANN's Country Code Name Supporting Organization and the Governmental Advisory Committee.

Another visible example of progress at ICANN has been the implementation of the review team process as set forth in the affirmation. I had the great privilege of serving with Peter on the first accountability and transparency review team, which delivered its recommendations to the ICANN board this past December. This effort provided me the opportunity to do a deep dive into the inner workings of ICANN, and along with fellow review team members provide what we think are thoughtful and meaningful suggestions, based on community/stakeholder input, to enhance and improve this model. I'm pleased to see that two of the three remaining review teams have commenced their work, and that they are here meeting this week. I wish both groups success in their efforts, and I encourage all of you to actively participate in the review team process. The success of the framework established by the affirmation depends upon the vigorous participation of all ICANN stakeholders.

A third accomplishment of note is the strong effort being made by the board and the GAC to come together and consult on the advice the GAC has been providing over the last four years on proposals to expand global top-level domains. This has been an area of the bylaws that has never been adequately fleshed out before now, and all of us should give credit to the board and the GAC for the efforts they are now finally making to reach agreement on the public policy issues raised by the GAC over the past years. But despite these accomplishments, we still have work to do to make the reality of ICANN meet the vision. For example, while steps have been taken recently to provide more clarity around the rationale for decisions the ICANN board makes, these efforts remain incomplete and, in other cases, not timely. In the case of ICANN's decision to remove cross-ownership restrictions, the board still has not explained the basis of its decision to shift from no cross-ownership to de minimis cross-ownership to full cross-ownership over the course of a single calendar year. In addition, the rationale for the board's decision in January not to commission any further economic studies regarding the impact of new top-level domains, reversing earlier commitments, has yet to be posted nearly seven weeks later. These recent examples, along with the case studies documented in the review team report, demonstrate that ICANN still has work to do to ensure that decisions made related to the global technical coordination of the DNS are in the public interest, are accountable, and are transparent.

So how can ICANN move forward to demonstrate that the multistakeholder model, in practice, can match the vision?

I would offer three suggestions today.

First, the board needs to move with all dispatch to implement the recommendations of the accountability and transparency review team. We went to great lengths to engage the ICANN community, including the board, in our efforts to develop concrete suggestions on how to improve and enhance ICANN's accountability and transparency. The recommendations deal with some of the key building blocks of the ICANN model. Specifically, board governance, performance, and composition, the role and effectiveness of the Governmental Advisory Committee, the processes for public input into the policy development process, and the mechanisms for the review of board decisions. In order for ICANN to continue to enjoy the support of global stakeholders, they must take the proactive steps outlined by the review team to ensure the accountability and transparency of its day- to-day operations matches the expectations of the global Internet community. For the most part, our recommendations are not new. They've been suggested in past studies from past years. The question before us is whether the ICANN board and management have the discipline and willpower to embrace and implement these recommendations in a serious and meaningful way now. In our report, the review team asked the board to provide a status report on our recommendations at this week's meeting, and everyone in the community should listen carefully to that report when it is given, to evaluate the progress to date on the implementation of our recommendations.

Second, since the recommendations of the review team include a number of specific observations about the relationship of governments to ICANN, I'd like to take a few minutes to speak more specifically about those. I have spoken in other contexts about my concern that one of the greatest challenges facing the Internet in the next five years is its political sustainability. Which, of course, forces us to confront the question of, "What is the collective role of nation states with respect to the multistakeholder governance model?"

The question before the Internet community is whether governments collectively can operate within the paradigm of the multistakeholder environment and be satisfied that their interests are being adequately addressed. This issue was a focus of the review team as we examined the relationship between ICANN and governments as reflected in the dealings between the board and the GAC. And I need to emphasize that those proposals, as well as additional suggestions the United States has made for dealing with objectionable proposed top-level domains, are in no way intended to turn over decision-making to governments but, instead, to find a way to bring them willingly, if not enthusiastically, into this tent of multistakeholder policymaking. While some nations persist in proposing such measures as giving the International Telecommunication Union the authority to veto ICANN board decisions, the United States is most assuredly opposed to establishing a governance structure for the Internet that would be managed and controlled by nation states. Such a structure could lead to the imposition of heavy-handed and economically misguided regulation and the loss of flexibility the current system allows today, all of which would jeopardize the growth and innovation we have enjoyed these past years. But nonetheless, ICANN needs to do more to engage governments in the multistakeholder process by providing them a meaningful opportunity to participate and be heard inside of ICANN.

As I mentioned earlier, I am quite pleased with the apparent progress made in the last few weeks as a result of the first really meaningful exchanges between the board and the GAC to understand and evaluate GAC advice on the new global top-level domain program, but as the review team pointed out in its recommendations, this is a two-way street. The GAC needs to have the discipline in its process to offer consensus advice to the board, but when it does so, the board really needs to listen and engage with the GAC. A weakness of the current model is that the ICANN bylaws and practices seem to envision that GAC advice often comes at the end of the policy development process. That should not be the case. The review team recommendations strongly encouraged the board, acting through the board/GAC joint working group, to develop and implement a process to engage the GAC earlier in the ICANN policy development process.

My third suggestion follows from the recommendation of the review team that the board clarify the distinction between issues subject to ICANN's policy development process and those within the executive functions of the staff and the board. As ICANN decision-making continues to grow more fractious, the board needs to evaluate the impact that its process of making decisions is having on the development of bottom-up policy within the organization. Increasingly, the board finds itself forced to pick winners and losers because the policy development process is not yielding true consensus- based policymaking. This is not healthy for the organization.

The strength of multistakeholder governance is that it forces all participants to work together to find a mutually acceptable way forward. But how the board makes decisions is just as important as how ICANN engages its constituents in the process. If stakeholders understand they can appeal directly to the board on their particular policy position, they have less incentive to engage in the tough discussions to reach true consensus with all stakeholders during the policy development process. Thus, the ICANN board needs to recommit itself to consensus-based policymaking, to give all parties the incentive to participate in the policy development process in a meaningful way. Consensus-based decision-making has been the foundation of the Internet since its inception. As David Clark, the former chair of the Internet Architecture Board, explained, "We believe in rough consensus and running code." Specifically, there are two steps the board should take.

First, the board needs to insist upon the development of consensus before a matter reaches the board. And when the policy development process delivers a truly consensus process, the board needs to refrain from substituting its own judgment.

Second, when consensus has not been reached, the board needs to push back to ensure that the parties have exhausted all possible efforts to reach consensus before the board imposes its own judgment in a given matter.

If one group -- in this case, the ICANN board -- attempts to pick winners and losers, the multistakeholder model is undermined. Choosing between competing interests, rather than insisting on consensus, is destructive of the multistakeholder process because it devalues this incentive for everyone to work together.

In closing, I would like to once again reiterate my personal commitment to the multistakeholder model and in making ICANN work. Given that commitment, I will continue to speak directly and bluntly about the challenges facing ICANN and the improvements it needs to make. None of us in the community can afford to back away from candid and frank conversations on these topics. In the end, it only makes for a stronger ICANN and that will help ensure the continued growth and innovation of the Internet.

Thank you very much.