CENTER FOR DEMOCRACY & TECHNOLOGY

Testimony by Matthew Shears, Director of Global Internet Policy and Human Rights, Center for Democracy & Technology, *before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Communications & Technology on "Privatizing the Internet Assigned Numbers Authority"*

March 17, 2016 (as delivered)

Chairman, Ranking Member, Members of the Subcommittee, thank you for the opportunity to testify today.

CDT has been deeply involved in the Internet Assigned Numbers Authority (IANA) transition since the announcement by the National Telecommunications and Information Administration (NTIA) two years ago. We have actively participated in the working groups on IANA Stewardship and ICANN Accountability and had the pleasure of speaking to this Subcommittee at its hearing last May on "Stakeholder Perspectives on the IANA Transition". CDT has also been fully engaged in a range of international Internet governance discussions and processes including the World Summit on the Information Society review that culminated at the UN General Assembly this past December.

Last Thursday in Marrakech the Internet community forwarded the IANA transition plan to NTIA. It did so following the global Internet community's approval of a set of recommendations designed to ensure the enhanced accountability of ICANN post-transition. This package, the IANA transition plan and the recommendations for enhancing ICANN's accountability post transition, is, quite simply, a remarkable achievement by the multistakeholder community.

Of course the work on IANA stewardship and ICANN accountability was anything but simple. Replacing the oversight role of NTIA and changing the governance structure of an organization as unique as ICANN has been a complex and at times daunting undertaking. Yet the global multistakeholder community – comprising businesses, governments, the technical community, civil society, academia, and individual users – rose to the challenge.

So, has the global multistakeholder community met NTIA's all important criteria?

In many ways the IANA transition plan has been a proving ground for multistakeholder approaches to Internet governance. Critics tend to dismiss such approaches as difficult, dominated by certain interests, unreflective of the community. Multistakeholder processes have been known to fail. But these two multistakeholder processes – developing the IANA transition proposal and developing recommendations to enhance IANN's accountability – have delivered thoughtful and robust proposals.

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Were there difficult moments? Yes, numerous, but participants remained committed to working through them. Were there times when the process seemed to bog down, when resolve seemed to waver? Yes, but these were overcome.

This two-year process has delivered two proposals that are – I think it is fair to say – the most successful expression of multistakeholder approaches to Internet governance yet. As advocates for this approach to Internet policy making, we need strong examples such as these to point to. The successful delivery of the IANA and accountability proposals should encourage stakeholders to pursue multistakeholder approaches to policy-making with renewed interest and commitment. The two Working Groups involved have also demonstrated that open, transparent, and inclusive processes work; these characteristics are essential to ensuring that the openness of the Internet is maintained.

One significant challenge was how to empower the various parts of the community while maintaining the balance of power among them. To a large degree, the community succeeded, but of course not everyone was happy. Some governments wanted more of a say. Other parts of the community thought that governments could end up having too much power. Differences of opinion are inevitable in such processes.

What is important is that the community has delivered a transition plan that does not replace the role of the NTIA with a government-led or intergovernmental solution. Far from it: the community has delivered a transition plan that empowers the whole of the multistakeholder community, which has been the goal of the process from the very beginning. And last Thursday, no stakeholder and no part of the community objected to delivering the IANA transition plan to NTIA.

The guidance that the transition must not imperil the security, stability and resiliency of the Internet has been foremost in the community's mind. The IANA plan emphasizes continuity of operations by having ICANN be the IANA functions operator post-transition. At the same time, the plan provides mechanisms for the community, and particularly the global customers and partners of the IANA functions, to ensure that ICANN meets agreed performance targets. Were ICANN to fail to meet these targets, then the ultimate sanction available to the community would be to change the IANA functions operator – in other words, to seek an alternative to ICANN to undertake essential DNS-related administrative tasks.

This same commitment to the security, stability, and resiliency of the Internet guided the ICANN accountability work. The new, limited powers provided to the community ensure that the community remains firmly in control when it comes to ICANN's governance. From rejecting strategic plans and budgets to, in the worst case of board-overreach, removing and replacing the entire ICANN Board, these accountability powers are an effective way of ensuring that the stability and continuity of the Internet remain front and centre at ICANN post-transition.

There is still much work to be done. Close attention will have to be paid by the community to the drafting of bylaws, implementation of the post-transition IANA, and implementation of the

enhancements to the Independent Review Process, among others. And, additional accountability-related work will continue beyond the transition in areas such as human rights, community accountability and ICANN transparency.

CDT believes that NTIA's criteria have been met and that the community's work on IANA stewardship and ICANN accountability paves the way for the multistakeholder community to take on the mantle of stewardship that United States Government currently assumes.

We would like to thank the Subcommittee for this opportunity to discuss the IANA transition, the central role that multistakeholder approaches have played in the process so far and the importance of the transition to broader global Internet governance.