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U.S. CONCEDES THE CONTROL OF ICANN: WILL IT BOLSTER THE TRANSPARENCY AND ACCOUNTABILITY OF ICANN DECISIONS?

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The U.S., being at the helm of the development and evolution of Internet technology and applications, has used its clout to shape the Internet ecosystem to favour U.S. interests over other considerations. Globally, a loose consensus developed to unshackle the Internet from historic and hegemonic control of U.S. companies supposedly protecting U.S. interest. Central to this debate is disagreement, among many Internet governance stakeholders, over who controls the “Critical Internet Resources (CIR).” Though not physical, these virtual resources are finite and indispensable for use, access and operation of the Internet. Without the virtual resources such as Internet addresses, and domain names, the Internet will be as elusive as the proverbial unicorn.

In early Internet history, management of names and numbers in the context of Internet began with a single person. Christened as ‘God of

Internet’, Jon Postel, a computer scientist from University of South California (UCLA), who was involved in early work of the ARPANET, along with his colleagues performed the role of central coordinating functionary for assignment of Internet names and numbers. As Internet Assigned Numbers Authority (IANA), Postel and colleagues, under contract with the U.S. Department of Commerce, were responsible for the allocation of Internet numbering resources.¹ Though the work was crucial it was bereft of any major controversy. During that period, the network was primarily an American phenomenon and was yet to realise its full potential of having quintessential global proliferation and more than 4 billion users.

IANA eventually became a function under Internet Corporation for Assigned Names and Numbers (ICANN). Formed on September 30, 1998 under a contract with the U.S. government, ICANN is a private, non-profit entity with official



mandate to provide technical coordination of core Internet resources, most notably domain names.² Though incorporated in the state of California, it wields considerable authority, directly or indirectly, over all users of the Internet. To rein in unbridled growth of Internet without order and regulation, ICANN is mandated to create, enact and promulgate enforceable regulations. On July 26, 2006, the US government renewed the contract with ICANN for an additional one to five years.³ On September 30, 2009, ICANN signed an agreement with the United States Department of Commerce (DOC), known as the "affirmation of commitments". The agreement confirmed ICANN's commitment to a 'multi-stakeholder governance model', but still under the oversight and control of DOC.⁴ The US unwillingness - to give away its oversight and control over ICANN and permit ICANN to function free from the overbearing shadow of US government - fuelled speculation that ICANN can never be a global representative body capable of safeguarding the interests of all stakeholders.

On March 10, 2016, ICANN and the DOC signed a historic agreement to finally remove ICANN and IANA from the control and oversight of the DOC. On October 1, 2016, after nearly twenty years, the U.S. tenacious clinging to the notion that Internet is a U.S. creation, finally loosened when the U.S. conceded the control of ICANN to a collaborative and consensus-driven consortium.

In U.S., the ICANN transition has its share of politically motivated fear mongering and partisan bickering. In the year of US Presidential elections, as with numerous other real, perceived or hypothetical issues, became a rallying point for political parties. The Texas senator and former presidential candidate of Republican Party Ted Cruz relentlessly crusaded to block the Obama administration's plans to hand over the control of ICANN. Cruz insists the issue was a matter of national security because ending the U.S. government's ICANN stewardship would, he argues, give countries like Iran and Russia greater control over the Internet.⁵ Mr. Donald Trump, the Republican presidential nominee, also opposed the so called plan of President Obama's "to surrender American internet control to foreign powers" and stated that the US should not turn control of the Internet over to the United Nations and the international community.⁶ In order to prevent the Obama administration from transferring control, four Republican state attorneys general from Arizona, Oklahoma, Nevada and Texas filed a last-minute lawsuit challenging the government ceding power. However, US District Judge George Hanks overruled the opposition and paved the way for transfer of internet domain systems oversight to an international governing body.⁷

After the transfer, in a statement, the ICANN said that "The U.S. government has no decreased role. Other governments have no

increased role. There is simply no change to governmental involvement in policy development work in ICANN.” This historic transfer completes a process that has been committed to and underway since 1998 and ensures that the coordination and management of the Internet’s unique identifiers is transitioned fully to the private-sector. The ICANN Board Chair Stephen D. Crocker said that, “It has shown that a governance model defined by the inclusion of all voices, including business, academics, technical experts, civil society, governments and many others is the best way to assure that the Internet of tomorrow remains as free, open and accessible as the Internet of today.”⁸

The ICANN stewardship transition is a validation of the ‘multi-stakeholder model’, also endorsed by India after a lot of careful deliberations and consultations. On 22nd June 2015, at the opening conference of ICANN in the Argentine, Information Technology Minister Ravi Shankar Prasad unveiled an “Indian vision for the internet” and said that “India recognises that all stakeholders are key and multi-stakeholderism is perhaps the only way to keep the system integrated, growing and expanding.”⁹

ICANN will hold its 57th International Public Meeting from 03 November to 09 November 2016 in Hyderabad.¹⁰ This is the first time that ICANN will hold its meet in India and as another first, the meeting will take place outside the provisions of contract between the ICANN

and the United States Department of Commerce National Telecommunications and Information Administration (NTIA). The meeting will be of great symbolic significance in consolidating or transforming the core vision of ICANN.

(Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS])

Notes

¹ “C.2.9 of Contract between U.S. Department of Commerce (DoC) and Internet Assigned Numbers Authority (IANA) dated Jul 02, 2012”, http://www.ntia.doc.gov/files/ntia/publications/sf_26_pg_1-2-final_award_and_sacs.pdf, accessed on 30 January 2015.

² “ICANN’s 15th Anniversary Celebration”, <https://www.icann.org/resources/pages/icann15-2013-09-30-en>, accessed October 09, 2016.

³ Kieren McCarthy, United States cedes control of the internet - but what now?, *The Register*, Jul 27, 2006, http://www.theregister.co.uk/2006/07/27/ntia_icann_meeting/, accessed October 09, 2016.

⁴ By Eileen Yu, US government finally lets ICANN go, *ZDNet*, September 30, 2009, <http://www.zdnet.com/article/us-government-finally-lets-icann-go/>, accessed October 09, 2016.

⁵ Kelsey Snell, Congress Ted Cruz has made an obscure Internet agency his first post-presidential crusade, *The Washington Post*, September 15, 2016, <https://www.washingtonpost.com/news/powerpost/wp/2016/09/15/ted-cruz-has-made-an-obscure-internet-agency-his-first-post-presidential-crusade/>, accessed October 09, 2016.

⁶ Kieren McCarthy, Trump: ICANN’T even! America won’t hand over internet control to Russia on my watch, *The Register*, September 21, 2016, http://www.theregister.co.uk/2016/09/21/trump_wading_into_iana_transition/, accessed October 09, 2016.

⁷ Tyler Durden, Judge Denies Attempt To Block Transfer Of Internet Oversight, *Zero Hedge*, <http://www.zerohedge.com/news/2016-10-01/judge-denies-attempt-block-transfer-internet-oversight>,

October 1, 2016, accessed October 09, 2016.

⁸ ICANN, Stewardship of IANA Functions Transitions to Global Internet Community as Contract with U.S. Government Ends, <https://www.icann.org/news/announcement-2016-10-01-en>, accessed October 09, 2016.

⁹ Chinmayi Arun and Sarvjeet Singh, "Yes to multi-stakeholderism," *The Hindu*, July 20, 2015, <http://www.thehindu.com/opinion/op-ed/on-multistakeholder-governance-of-the-internet/article7440857.ece>, accessed October 09, 2016.

¹⁰ ICANN57 | Hyderabad, <https://meetings.icann.org/en/hyderabad57>, accessed October 09, 2016.

