ICANN at a Crossroads: A Proposal for Better Governance and Performance
by
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Purpose of our Study

• The expiration of the Joint Project Agreement with the U.S. DoC in September 2009
• Examine ICANN’s institutional design
  – From an economist’s viewpoint
  – How can its incentive structure be improved?
  – Best way to approach the “accountability” issue
• Examine ICANN’s role as *de facto* regulator
• Recommendations
ICANN is Unique

• Almost no accountability: external checks
  – U.S. courts?
    • Suppose that ICANN moved to the Cayman Islands?
• Compare with other organizations:
  – For-profit corporations: customers, shareholders
  – Other non-profits: funders, customers
  – Government agencies: judicial review, electorate
• ICANN is accountable only to itself
  – Ties with U.S. DoC are largely gone
• This is not a problem that can be solved by adopting new procedures
No Good Alternatives

• For-profit corporation
  – ICANN is a monopoly
• Government regulation
  – Which government(s)?
  – Well-known distortions
• Government agency
  – Which government(s)?
  – Inefficiencies and political influence
• International agency
  – Inefficiencies and political influence
• Best alternative: Improve existing institutional structure
Lessons From Other Models

• American National Standards Institute
• Depository Trust and Clearing Corporation
• GS1 US (Uniform Code Council)
• International Telecommunications Union
• National Automated Clearinghouse Association
• Nav Canada
• North American Numbering Plan Administrator
• Options Clearing Corporation
• Universal Postal Union
Lessons From Other Models (cont’d)

• No other organization operates with ICANN’s independence
  – Assured and growing income
• Other organizations are governed by their direct users
• Most also have some form of government oversight
Options for ICANN Governance and Accountability

• Status quo
  – Works tolerably well; but
  – There is little or no external accountability
    • Suppose that ICANN moved its headquarters to the Cayman Islands?

• Oversight by an international organization
  – Might impede development of the Internet

• Modify ICANN’s governance structure
Modify ICANN’s Governance Structure

• Governance by direct users – registries and registrars
  – Incentive to assure that ICANN fulfills responsibilities efficiently, with budgetary discipline
  – Incentives aligned with end users of Internet: businesses and individuals
  – With pro-competition mandate, unlikely to restrict entry
    • Should remain subject to antitrust laws
• How to get from here to there?
Role as *De Facto* Regulator

- ICANN plays “licensing” role
  - No statutory criteria, procedures, judicial appeal
  - No professional staff
- ICANN should minimize regulatory role
  - There is competition between TLDs
  - With recent proposal to expand gTLDs, there will be more competition
- Issue of defensive registrations, cybersquatting should be addressed directly
Recommendations

• Reform ICANN’s governance
  – ICANN should remain a non-profit
  – Governed by registries and registrars

• Clear mission to encourage competition, open entry into gTLD space

• Improved protections for incumbent domain name holders