Congress of the United States
Washington, DC 20515

March 25, 2014

Lawrence E. Strickling
Assistant Secretary for Communications and Information
National Telecommunications & Information Administration
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, DC 20230

Dear Assistant Secretary Strickling:

On March 14th the Department of Commerce announced that the U.S. would give up control of the "root zone file" of the Internet and the Internet Corporation for Assigned Names and Numbers (ICANN) to a multistakeholder process. We are deeply troubled by this hasty decision and are seeking answers to questions regarding the NTIA's policy and legal analysis behind this decision.

ICANN controls Web addresses and domains and, as the root of the Internet, it stores all the names and addresses for websites world-wide. Since 1998, the responsibility for this crucial infrastructure has been controlled by ICANN under a contract administered by your organization, the NTIA. The results of a botched handover are so potentially catastrophic to economic and national security that Congress must scrutinize the implications of and legal basis for the NTIA's action.

The U.S. has used implicit authority over ICANN to ensure that websites operate without political interference from any country and that anyone can start a website, organize a Facebook page or post on Twitter without asking permission. Additionally, the U.S. economy relies on a functioning Internet for over $250 billion of commerce each day. For our economic success, homeland security, intellectual property protections and political liberties, the Internet must remain secure, transparent and free.

Furthermore, a free and open Internet is a principle that gains broad bipartisan support. In 2012, both the House and the Senate passed a unanimous resolution to keep the Internet "free from government control." The NTIA's sudden decision to turn over oversight of ICANN has rightly been met with questions from both sides of the aisle.

The future of the Internet is at stake under NTIA's sudden announcement. As we enter a new, risky and chaotic process without a clear plan, we request answers to the following questions:

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Consultation and Authority?

- Who was consulted in making this decision? Were the providers consulted? Was Congress consulted? Were large Internet companies consulted?
- Does the executive branch have unilateral authority to transfer control over the Internet addresses and root zone management of domains?
- What was NTIA's legal analysis that concluded that the Department of Commerce could make this decision without consulting Congress?
- Does the Property Clause of the Constitution, which states that Congress must pass legislation to effect a transfer of government property, have an impact on this decision?
- Considering that the IANA Contract is a critical asset of the U.S., is it the NTIA's position that control over naming and domains of the Internet is not property?

Implications of the Decision?

- What improvements to Internet governance will occur if ICANN becomes a multistakeholder process?
- How will ICANN continue to protect U.S. interests? Particularly, where will disputes be decided and which courts will hear U.S. copyright and free speech claims?
- What is the NTIA's plan to safeguard the Internet from authoritarian regimes?
- How will the new ICANN organization be insulated from interference from individual governments or organizations such as the International Telecommunications Union?
- How will the new plan ensure continued stability and reliability of the Internet while preserving the openness and innovative nature critical to its growth?
- Do you anticipate the new ICANN oversight system to be based on an inter-governmental or U.N. control? If not, who will oversee ICANN's activities and function?
- As a broken DNS system would be the worst possible outcome of this transition, do you believe that ICANN is ready and able to take over the implementation role of root zone management?

We understand that this is a wide range of concerns and questions regarding ICANN's current operations and future plans. However, central to them all is whether ICANN is currently operating with sufficient accountability and transparency. The answers to these questions will determine the future stability and security of the domain name system and the growing global e-commerce that it supports.

We appreciate your consideration and look forward to working with you to determine the proper role for the U.S. government and others to have in the administering of the ICANN program.

Sincerely,

Blake Farenthold
Member of Congress

Darrell Issa
Member of Congress