

Comments of Kent Crispin, Computer Scientist, Lawrence Livermore National Laboratory

In the matter of:

HEARING OF THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

COMMUNICATIONS SUBCOMMITTEE

Subject:

"ICANN Governance"

Honored Committee Chairpersons and Members:

During the hearing you will doubtless hear a great deal from well-meaning, passionate witnesses who are deeply concerned about freedom of speech and other civil liberties issues.

These issues are of course extremely important, and as responsible, patriotic Americans we cannot help but take them very seriously. However, I would like to suggest that in this case these concerns are largely misplaced, and are based on fundamental misconceptions about the Internet, the nature of ICANN, and the domain name registration business.

While the US Government funded much of the basic research that started the Internet, for perhaps the last 10 years the Internet has been in the realm of private business. Private investment at this point completely dwarfs the contribution by the US Government. The US Government should be justifiably proud of the Internet as a child of research it funded, but that child has long ago grown up.

The Internet is largely decentralized; there are only a very few core services that require central coordination. ICANN is intended to fill that role. ICANN is a *private* organization coordinating the activities of *private* businesses. Such an organization does require oversight, but in the normal case oversight from Anti-Trust authorities is deemed sufficient: unlike some other governments, the US Government does not lightly interfere with the economic engine of private enterprise.

When viewed from the perspective of private enterprise, the concerns of freedom of speech and civil liberties take a much different appearance. Domain name registries are independent businesses offering services to customers, just as publishing houses offer their services to customers. The freedom of the registry and the freedom of the customers is the freedom of the private transaction: The US Government does not tell the customer what names they can register; neither does it tell the registries which names they must offer. If a registry wishes to disallow domain names that are dirty words, that is the right of that registry.

The US Government does not tell newspaper publishers what stories they must accept from private citizens; we have confidence in the fact that there is a tremendous market for free

speech to guarantee that there will be newspaper publishers of every conceivable perspective. Likewise, the US Government does not need to worry about freedom of speech in domain name registrations -- in only needs to be sure that there is adequate competition in the domain name registry business.

There is an important caveat: domain names are not a publishing medium in any conventional sense of the word. They are intended as a means of addressing particular machines on a network, and they are active objects, interpreted by computer software for a technical purpose. This technical purpose is fundamental to domain names; and consequently the opinion of the technical community must be given priority in ICANN's processes. ICANN has no choice but to listen to the best technical opinions; when the Internet Architecture Board, for example, makes a formal statement that "alternate roots" are technically unsound, ICANN has no real choice but to accept that judgement. When the weight of opinion from experienced operators of networks says that ICANN should go slow in the introduction of new names, ICANN has no choice but to listen.

These technical constraints on ICANN mean that oversight of ICANN is a very complex affair, and will require careful monitoring by anti-trust authorities. The Departments of Commerce and Justice are closely monitoring the progress of ICANN, and I believe that oversight is adequate.

The activities of private enterprise are not perfect, by any means. We can expect ICANN to make numerous mistakes as it takes its own road. This is normal, and should be expected. Free enterprise necessarily involves the freedom to make mistakes, and the freedom to correct those mistakes without the paternalistic direction of Uncle Sam.

Thank you very much for your consideration

Kent Crispin