

1. The Affirmation of Commitments between ICANN and the US Government

In 2009, the US Government Department of Commerce (DoC) and the Internet Corporation for Assigned Names and Numbers (ICANN) signed the Affirmation of Commitments agreement (AOC), entrusting ICANN with the technical coordination of the Domain Name System (DNS) globally. Since 2009, ICANN has taken steps in this direction, most notably the establishment of operational hubs in Istanbul and Singapore in 2013. These steps are welcome. The exclusive relationship of ICANN with a single government - as illustrated by its Affirmation of Commitments – remains.

2. What is the current situation?

In ICANN Singapore discussions started around the evolution of ICANN's accountability mechanisms including the Affirmation of Commitment. Although ICANN's globalization was not part of the NTIA announcement on IANA, ICANN's CEO dissolved his Global Advisory Groups on IANA globalization and on the Affirmation of Commitments and stated that this is now the work of the community. In several instances ICANN's President has noted that the Affirmation of Commitments needs to change from being a contract between ICANN and the US Government, to a contract between ICANN and the community. In May ICANN has formally started a process to consult the Internet community on the evolution of its accountability mechanisms.

3. European Commission's perspective

- The European Commission welcomes ICANN's globalisation efforts through the creation of new engagement centres and offices across the globe and notes that further globalisation requires ICANN's legitimacy, transparency and accountability mechanisms to evolve.
- The Commission welcomes the launch of a broader reflection on ICANN's accountability towards the global community including its Affirmation of Commitments, and encourages ICANN to put forward a clear timeline for the implementation of its globalisation efforts in ICANN 50th London.
- The globalisation of ICANN requires the definition of a set of guiding principles and clear objectives for ICANN to achieve, ensuring that the Internet remains a truly global resource and that human rights and the global public interest are protected.
- The main challenge ahead will be to ensure that in the absence of a unilateral relationship with the US Government the right checks and balances are in place for ICANN to abide by the highest levels of accountability.
- One way of introducing external accountability would be the globalisation of the instrument of the Affirmation of Commitment which is currently used in the unilateral US-ICANN relationship. A standard text could be developed to be signed between ICANN and each government (including the US) and between ICANN and each stakeholder group.
- Those contractual relations must set forth the "rules of the game", including appropriate redress, appeal and enforcement mechanisms.
- One important weaknesses of the current Affirmation of Commitments is that the Review Teams it mandates for ICANN's scrutiny issue non-binding recommendations. This would have to change.
- The creation of the ICANN site outside the US, the change of law applicable to ICANN as organisation or the removal of the root server from US soil are not seen as necessary parts of globalisation.
- Work on improving the internal effectiveness of the organisation through an overhaul of its procedures and rules must be conducive to clear, effective and predictable policy development and decision-making processes, with simplification and transparency as overarching goals, should be a priority. ICANN's accountability mechanisms are still very much scattered across an over-procedural and complex environment which may require a "one-stop-shop" approach.

- Telling examples of shortcomings in ICANN operations are recent failures to respect internal procedures and the opacity of the decision making process regarding .win/.vin, as well as the protracted incapacity to find a solution for the Greek version of the European top level domain ".eu".
- To reinforce the globalisation of the accountability of ICANN, it is essential to promote greater engagement of stakeholders from across the world and outside the ICANN community, ensuring diverse regional representation.