

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts
Hearing on “Protecting Internet Freedom:
Implications of Ending U.S. Oversight of the Internet”
September 14, 2016**

The openness, security and stability of the Internet are of principal importance to all who use the Internet around the world – yet it’s the United States’ historical stewardship role over key Internet management functions that has helped to ensure this openness, security and stability. Today the Obama Administration intends to end this role not for technical considerations but for political reasons.

In March 2014, the National Telecommunications and Information Administration (NTIA) – headed by Assistant Secretary Larry Strickling – indicated its intent to transfer key Internet domain name functions, known as the Internet Assigned Numbers Authority (IANA) functions, to a global multi-stakeholder community. This past August, we received word that the Obama Administration intends to allow the IANA functions contract to expire as of October 1, 2016, allowing this transition to go forward.

This is happening despite the fact that a number of significant questions related to the transition remain unanswered including whether the transition will yield an unconstitutional transfer of United States government property, how the transfer will affect human rights and free speech issues, if U.S.-controlled Top Level Domains such as .gov and .mil could be compromised or if the Internet Corporation for Assigned Names and Numbers (ICANN) will be subject to increased antitrust scrutiny.

Here at the Committee, we’ve continued to engage with the administration about this transition and to date the answers we’ve received have been inadequate. It’s clear that the administration hasn’t conducted a thorough legal analysis of the many issues outstanding.

The Administration argues that stopping this transition could embolden authoritarian regimes, but these countries already fail to respect freedom of expression and will continue to advocate for government-led management of the Internet no matter what happens. If this Internet giveaway goes forward, there’s no reason to believe that authoritarian states would stop trying to exert greater control and we don’t know how things will play out long term. Recognizing this harmful impact of potential capture by foreign governments, the Administration has stated its proposal wouldn’t replace the status quo with a governmental or inter-governmental model. Nonetheless, under the March 2014 proposal, the power of foreign governments would be significantly increased as the threshold for the ICANN board to reject government advice is made more difficult, with 60% of the board now needed to reject government demands.

In ICANN, we see an organization that was blasted as recently as this past July by an Independent Review Panel for its inability to carry out basic duties of self-governance. The Review Panel found that ICANN’s Board Governance Committee has “failed several transparency obligations,” engaged in the “cavalier treatment” of constituent requests, and failed

to undertake an examination of whether ICANN staff or contractors complied with their obligations under the Articles and Bylaws of incorporation. These failures raise serious concerns about the ability of ICANN to exercise proper corporate oversight and call into question ICANN's organizational maturity. All the more disheartening is the fact that the potential for similar abuse from the board will only increase when the U.S. contract ends. Under the proposed new bylaws, the Board Governance Committee will retain its role and continue to rely on ICANN staff to inform its deliberations and will retain its ultimate authority. These types of governance problems make ICANN susceptible to corruption and abuse.

Over the last two years ICANN has undertaken accountability and corporate governance changes because of United States influence. With additional issues in areas such as human rights, corporate jurisdiction, and intellectual property left unresolved, there's little reason to believe that such reforms will be completed without the continuation of the contract and the United States' continued oversight and involvement.

These concerns, especially when it comes to accountability and transparency, are reasons why I have always questioned if the transfer is in the best interest of the American people and global Internet users. Despite the administration's intention to give up the IANA functions contract, these concerns persist, indicating that this course is misguided, and at best, premature. I appreciate Senator Cruz calling this hearing and look forward to the witness testimony.