DRAFT SELECTION CRITERIA AND PROPOSED INTERVIEWEES

From: Berkman Center's ICANN Review Team

To: Accountability and Transparency Review Team (ATRT)

Date: September 5, 2010

Re: DRAFT Interview Criteria and List of Interviewees

I. Introduction: Objectives

The Berkman team has drafted an interview protocol and questionnaires for each of the case studies. These interviews will help us to understand the range of perspectives on each case, to deepen our factual understanding of the core issues, and to strengthen recommendations regarding the accountability and transparency of ICANN decision-making processes.

A key goal is to create a 'smart sample' of interviewees who can provide a diverse set of perspectives on the case studies. This sample will be selected according to their ability to help us to fill in the gaps in our research, to provide input regarding areas where there are disputed facts or that require additional data collection, and to offer suggestions regarding other individuals who may have expert knowledge or insight into the case in question.

Given the short timeline for the study, we do not intend to conduct interviews with a comprehensive list of representatives of different roles, experiences or viewpoints or to achieve a precise balance among the various perspectives. Rather, we seek a diverse set of inputs that roughly maps against the spectrum of viewpoints and represents the major stakeholder groups, community, staff, and board members, while including representatives of different regions of the world, etc. We seek to elicit the thoughts and experiences of those who have been both supportive and critical of the actions and decision-making processes associated with the case studies. We will engage with those who can provide thoughts and opinions that are based upon direct experience with the case examples and provide facts and well-informed but diverse perspectives.

II. Draft General Selection Criteria

For each case, we will aim to interview people from six different categories:

1. Board
2. Staff
3. Supporting Organizations (SOs) and Advisory Committees (ACs) (and, where relevant, working groups and other bodies/processes associated with those committees)
4. Members of the Governmental Advisory Committee

5. Additional community members
6. External experts: academics, outside observers, and former participants

With those broad categories in mind, we have developed a list of relevant 'niches' for each of the case studies based on the particular actors and bodies that played a key role in aspects of policy development and decision-making processes.

III. Broad-based Questionnaires: ICANN Staff and GAC Members

For both the GAC and ICANN staff, the questionnaire and interview process will focus on ICANN's operations in several different topic areas: public participation, transparency, and accountability. These interviews will take place as a two-step process:

1. We will distribute a written questionnaire.
2. We will follow up with a phone conversation or an email after we've reviewed their answers. The purpose of this follow-up will be to clarify, where necessary, some of the written answers and to dig deeper into written responses that seem particularly valuable to us. We also hope to be able to identify future interviewees.

In the case of the GAC, we will take a broad-based approach by distributing a written questionnaire and aiming to follow up directly, where possible, with particular members who may have had more substantial involvement in the cases.

In the case of the staff, we will share questionnaires with select staff members who have played a particular role in an aspect of the case study in question. We will also engage with certain staff members regarding information and fact-finding related to our 'horizontal' topic areas (e.g., public participation).

We recognize in advance that for various reasons ICANN staff may be constrained in their ability to answer all of the questions that we ask of them. Additionally, we recognize that the ATRT has requested that we restrict the scope of our case analyses to events that occurred before June 17th, 2010. Finally, we recognize that the .xxx case study involves a number of legal sensitivities; interviews relating to this case study are being formulated specifically with these caveats in mind, while still aiming to gather a wide range of facts regarding the review process (Independent Review Panel) and the interaction between the GAC and the Board.

IV. Niches for each of the Case Studies

The section below outlines different interview 'niches' for each of the case studies, based on the broad criteria outlined above. These niches represent different functional roles in the decision-making and input processes and different perspectives.

For the new gTLD, DNS-CERT, and .xxx cases, we have identified:

- different stakeholder groups/viewpoints of particular relevance to each case (e.g. commercial, non-commercial, IP groups, security experts, etc.), and
- different key policy-making, process and participation nodes within ICANN (e.g. GNSO, etc.)

Where possible, we have identified one or two people who we think would be able to respond for each of the niches.

1. New gTLD process

Note: where a prospective interviewee may be able to speak to a particular sub-issue within the new gTLD case (the EOI proposal, the IRT, the MAPO standard, the role of the GAC, vertical integration, economic aspects of new gTLDs, etc.), we have indicated this below.

1) Board
2) Staff
   - Someone who can speak to aspects of the policy development process within the GNSO
     - Liz Gasster – ICANN Senior Policy Counselor, supports GNSO
       - familiar with the policy development process within ICANN and specifically within the GNSO
   - Someone who can speak to the development of the DAG
     - Kurt Pritz – ICANN Senior Vice President, Services // Karen Lentz – Manager, Business Research & Content
       - responsible for developing the Draft Applicant Guidebook
3) Supporting Organizations (SOs) and Advisory Committees (ACs) (and, where relevant, working groups and other bodies/processes associated with those committees)
   - Someone representing the GNSO
     - Avri Doria – former GNSO Chair
       - sub-issues: IRT, MAPO
   - Someone representing business interests
     - Zahid Jamil – represents the GNSO's Commercial and Business Users constituency on the GNSO council
       - sub-issue: economic aspects
   - Someone representing non-commercial interests
     - Avri Doria – see above
   - Someone representing IP interests/the IRT
     - Kristina Rosett (IRT member; Special Counsel, Covington & Burling LLP)
       - sub-issue: IRT
     - Steve Metalitz (ex officio IRT member, former president of the Intellectual Property Constituency)
       - sub-issue: IRT

4) Members of the Governmental Advisory Committee
   - Someone who can speak to the MAPO standard
   - Someone who can speak to the geographic names issue
5) Additional community members
   - Prospective applicant/TLD consulting side:
     - Antony von Couvering – CEO of TLD consulting services Minds + Machines
       - sub-issues: EOI, economic aspects
     - Eric Brunner-Williams – CTO of the Core Internet Council of Registrars, involved in native/cultural and linguistic TLD consulting
       - sub-issue: geographic and cultural names
     - A geographic name applicant, preferably from a country other than the United States
   - Someone representing the registries/registrars
     - Jon Nevett – VP of Policy at Network Solutions
       - sub-issue: vertical integration
6) External experts: academics, outside observers and former participants

2. DNS-Cert

1) Board
   - Someone to offer insight into the Board's decision-making processes regarding DNS-CERT
     - Suzanne Woolf: Security and Stability AC and Root Server AC Board liaison
2) Staff
   - Someone to discuss the controversy surrounding ICANN's handling of the announcement of its DNS-CERT proposal
     - Rod Beckstrom—current ICANN CEO
   - Someone to discuss the thinking behind the DNS-CERT business case and the proposed strategic initiatives for DNS security, stabilitiy, and resilience
     - Greg Rattray —current Chief Internet Security Advisor at ICANN
3) Supporting Organizations (SOs) and Advisory Committees (ACs) (and, where relevant, working groups and other bodies/processes associated with those committees)
   - Someone to discuss the role of SOs and ACs, in particular, the GAC
     - Janis Karklins—current GAC Chair and GAC liaison to the ICANN Board
     - Suzanne Woolf: Security and Stability AC and Root Server AC Board liaison
4) Members of the Governmental Advisory Committee
   - Someone to provide information regarding the extent to which governmental stakeholder concerns have been addressed in (1) the process of formulating and

announcing the DNS-CERT proposal and (2) the substance of the DNS-CERT proposal
    - Peter Nettlefold—the Australian Government's Department of Broadband: could be a source for evaluating the DNS-CERT proposal, particularly the balance of roles/responsibilities between ICANN, governments, and other stakeholders
5) Additional community members
    - Someone to speak to the interests of the range of DNS security stakeholders as they pertain to the DNS-CERT proposal:
        - Paul Vixie—founder of DNS-OARC and DNS security expert; he's called for the creation of a DNS-CERT organization
        - Peter van Roste—General Manager of the Council of European Top-Level Domain Name Registries; posted a public report in response to the DNS-CERT proposal
        - Sabine Dolderer—DeNIC (.de); could provide input from the ccTLD security perspective
        - Rodney Joffe—Neustar
        - Kathy Kleiman—founder of the Noncommercial Users Constituency
        - Ken Silva—SVP and CTO at VeriSign
6) External experts - academics, outside observers and former participants
    - Someone to offer an expert non-ICANN perspective on the substance of the DNS-CERT proposal
        - Dan Kaminsky—leading DNS security expert

3. .xxx Case

1) Board/former Board
    - Someone to offer diverse perspectives on the IRP process and its effectiveness as an accountability mechanism
        - Vint Cerf—former Board member, testified on behalf of ICANN in the IRP
        - Alejandro Pisanty—former Board member, testified on behalf of ICANN in the IRP
        - Susan Crawford—former Board member; dissented on ICANN's decision to reject ICM's application; blogged regarding her perspective on the process
2) Staff
    - Someone to discuss (1) the GAC's role and (2) the IRP
        - Rod Beckstrom—current ICANN CEO
        - John Jeffrey—current ICANN General Counsel
        - Paul Twomey—ICANN President and CEO during the case (2003-2009)
3) Supporting Organizations (SOs) and Advisory Committees (ACs) (and, where relevant, working groups and other bodies/processes associated with those committees)
4) Members of the Governmental Advisory Committee

- Someone to contribute information relevant to our analysis of the interactions between the Board, the GAC, and other governmental actors:
    - Heather Dryden—current head of the GAC
    - Mohamed Sharil Tarmizi: GAC chair during the case

5) Additional community members/actors
    - Someone to offer third-party commentary on the IRP
        - Edward Hasbrouck—blogger, he's been trying for several years to initiate an IRP—has covered the issue extensively

6) External experts - academics, outside observers and former participants
    - Someone to contribute information relevant to our analysis of the IRP. Diverse perspectives could include a sampling of the following:
        - Becky Burr— legal counsel to ICM during the sTLD application process; also a former advisor to the NTIA and the FTC; testified on behalf of ICM in the IRP
        - Jack Goldsmith—testified on behalf of ICM in the IRP
        - David Caron—UC Berkeley law professor and arbitrator; testified on behalf of ICANN in the IRP
        - Milton Mueller—professor at the Syracuse University School of Information Studies; testified on behalf of ICM in the IRP
        - Elizabeth Williams—consultant to ICANN during its solicitations for TLD proposals; testified on behalf of ICM during the IRP
        - Kieran McCarthy—has kept a close watch on .xxx and has expertise in domain name controversy issues
    - Someone to contribute information relevant to our analysis of the interactions between the Board, the GAC, and other governmental actors:
        - Michael Gallagher—former head of the NTIA (currently sits on the Board of GoDaddy)—could provide perspective on the relationships between ICANN, the GAC, and governmental actors