ICANN's Accountability Meltdown: A four-part series

In October 2013 Fadi Chehadi will have been President and CEO of ICANN for one year. (Yes, it does seem longer than that, doesn't it?) His apparent sincerity, his enthusiasm, his cosmopolitan perspective and his talk of equality among stakeholders initially gave many people hope that the corporation would be improved and invigorated during his tenure.

Looking back over the record, we find ourselves increasingly alarmed. ICANN the corporation has jettisoned all pretense of bottom up policy development. Its staff has taken direct control of most essential policy decisions. Its board is clearly impotent: its members take no collective initiative and their decision making and access to information is guided and channeled completely by the staff, the CEO and the Chairman. Far from distancing itself from unilateral oversight, the US government increasingly makes ICANN a tool of its own global diplomacy. In order to do this it must subordinate bottom up policy making to top-down political games it plays out in the Governmental Advisory Committee and in private conversations with ICANN's CEO and Board chair. Appeals to "the multistakeholder model" and "bottom up policy development" are now nothing more than cynical rhetoric, propaganda in the global diplomacy wars with the ITU and other states. In reality, ICANN and its growing financial resources are seen as a tool of top-down Internet governance diplomacy led by the U.S., a role that is diverging farther and farther from ICANN's core mission of coordinating a secure and stable domain name system.

In short, ICANN is in the midst of an accountability meltdown. We hasten to add that this problem cannot be attributed to Fadi Chehade personally. As we pointed out in an [award-winning](#) analysis three years ago, [ICANN's accountability problem is built into its organizational structure](#). ICANN is a nonprofit corporation but it has no voting members; it offers the industry 'contracts' but it has no competition and so there are no alternatives to them; it is a form of government with no effective judicial review, no real law guiding it, and no ability to avoid it or withdraw support. Instead of real accountability, it offers us endless opportunities for nonbinding participation and comment. Thus the accountability vacuum is built into ICANN's DNA; it has existed ever since membership was abolished more than a decade ago. The potential for a meltdown was always there.

Now, finally, the chickens are coming home to roost. What's new is that the geopolitics of Internet governance have given the corporation and its owners in the U.S. government a set of challenges that they believe their control of ICANN can help them overcome. Chehade, along with board chair Steve Crocker and NTIA's Lawrence Strickling, are simply ambitious and well-connected men who are in a position to exploit this vacuum to bend the organization to their own political agenda.

These are serious accusations to be sure – but don't just take our word for it. Over the next few weeks we will provide abundant support for them. Specifically, we will examine in detail two specific cases documenting ICANN's arbitrary, unaccountable actions. The first will be ICANN staff's successful demand for a unilateral right to amend registry contracts. Registry contracts are one of the most fundamental governance mechanisms in the ICANN regime. We will show how a shockingly arbitrary form of power that no one in the community asked for and everyone opposed was nevertheless inserted into these fundamental contracts. Second, we will explore the drama over the Trademark Clearinghouse, and in particular the decision by Fadi Chehade and ICANN staff to unilaterally create a policy and impose it on the community. We will document how utterly disconnected those policy changes were from ICANN's formal policy making processes, and how ICANN staff rebuffed all attempts to keep it on track to follow its own procedures.

The third article in the series will examine the incredible mission creep that Fadi Chehade is now pushing, with the support of Crocker and the US government. It will examine the so-called Five-Year Strategic Planning Process, and some of the various hand-picked special committees Chehade is creating to circumvent what are supposed to be ICANN's real policy making organs.

The fourth article will explain and document the geopolitical roots of ICANN's increasing disconnection from its community. It will expose the larger agenda that animates ICANN's gravitation away from the pre-eminence of nonstate actors and bottom up process toward the pre-eminence of state actors and top down process.

We'd also like to solicit your own contributions to the evidence. If you have specific cases and evidence of ICANN's accountability problem that you would like to see covered, please contact us via info@internetgovernance.org

Annotations by Crocker, 9/3/13. These are my opinions and do not represent the official view of ICANN or anyone else.

Passages in green are verifiable facts.

Passages in red are accusations.

Passages in yellow are opinions but not necessarily at the level of accusations.

Unmarked passages are unevaluated.