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Nuala O'Connor's Responses to Questions for the Record Sept. 17, 2014 Senate Judiciary Committee Hearing

October 9, 2014

United States Senate Subcommittee on the Judiciary
Washington, DC 20510-6275

Dear Chairman Leahy,

Thank you for the opportunity to testify at the hearing of the Senate Committee on the Judiciary entitled "Why Net Neutrality Matters: Protecting Consumers and Competition Through Meaningful Open Internet Rules" on September 17, 2014. Following are my responses to written questions from the Committee for the formal Committee record.

Question from Senator Leahy

1. Some have said that if the FCC adopts strong rules to promote net neutrality, it could undermine our Nation's message to oppressive regimes that restrict free expression online and otherwise control the Internet. Isn't there a fundamental difference between rules to ensure that the Internet remains free, open and competitive, and regulating the Internet to oppress?

Answer: *Yes. CDT has long advocated for strong and narrowly tailored rules that preserve the fundamental openness of the Internet so that it can remain a vibrant platform for ideas, expression, and innovation of all kinds. The Internet's power to transform communications and promote free expression flows from certain technical characteristics that have defined the Internet since its inception. These characteristics are not immutable, however, and are increasingly subject to pressure. To maximize the Internet's potential to advance human rights, the Internet must remain free from centralized controls, open to the fullest range of content and services, and truly global. Establishing rules to preserve Internet neutrality is one way to prevent the imposition of content gatekeeping and other burdens on expression and competition by those in a position to control individuals' ability to access the global network.*

Questions from Senator Lee

1. Apart from the net-neutrality regulations discussed at the hearing, I would like to ask you about a related subject concerning the future of the Internet: the transition of oversight of the domain name system from the U.S. National Telecommunications and Information Administration to the



independent Internet Corporation for Assigned Names and Numbers (ICANN).

- a. A number of groups and individuals have expressed concerns with the Administration's vague announcement that it would not renew its contract with ICANN—and that ICANN must implement a new mechanism, built on a multi-stakeholder model, that maintains the openness of the Internet. Some of these groups have proposed a minimum set of protections that should be in place before the United States agrees to relinquish its oversight. What protections do you believe ICANN should implement before the United States relinquishes its oversight, and why are such protections necessary?

Answer: *CDT, along with many other stakeholders and interested parties, have cautioned against ICANN assuming the IANA functions oversight before a reformed accountability structure for ICANN is in place. This accountability structure should ensure that the IANA functions are not vulnerable to capture or manipulation by any stakeholder group – particularly governments – and that the continuity and stability of the Internet is assured. This structure should be based upon key principles including maintaining the primacy of the ICANN multistakeholder model, securing the support and engagement of the global Internet community, protecting both the IANA functions and ICANN generally from government capture, and ensuring a commitment to transparency and openness in all of ICANN's work.*

- b. If the transition is not completed in a thoughtful way, is there any potential for other governments or intergovernmental organizations to hijack the Internet and threaten its openness?

Answer: *CDT is fully supportive of the transition of the oversight of the IANA functions. The Internet community has begun the process of developing a transition proposal; we believe this proposal will be well thought-out, will be multistakeholder in its nature and will ensure the continuity and stability of the Internet and will be resistant to hijack and capture. We join many other stakeholders engaged in this process in rejecting the idea that the US government's role in the DNS should be replaced by another government or group of governments or an intergovernmental organization. The need to avoid the potential for government capture of the IANA functions oversight, or of ICANN more generally, will continue to be a touchstone in the process to develop the transition proposal.*

- c. In your opinion, assuming adequate protections are in place, will the proposed transition create a more open and freedom-enhancing Internet?

Answer: *Yes; we believe that the successful transition of the oversight of the IANA functions will lead to a greater confidence in the multistakeholder model and in the distributed management and*

governance of the Internet, both in the US and abroad. This will result in a more stable, resilient, and open Internet.

Sincerely,

Nuala O'Connor

A handwritten signature in grey ink that reads "Nuala O'Connor". The signature is written in a cursive style with a large initial "N" and a long, sweeping underline.