

Accountability and Transparency at ICANN

An Independent Review

Selected Initial Bibliography



Berkman

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Over the course of the four-month review process, the Berkman team collected secondary resources from academic institutions, institutional reports, conference presentations, and ICANN-produced reports (Annual Reports, Board meeting minutes, etc), supplemented by selected news coverage, blog posts, and other online resources. This initial bibliography is not meant to be seen as comprehensive. Rather, it is a starting point which includes a selection of readings and other background materials that we hope to build over time, with a particular focus on adding more non-English resources and diverse international perspectives. The summaries are for research purposes and are not intended to be authoritative.

Academic Resources

Slavka Antonova, “Deconstructing an Experiment in Global Internet Governance: The ICANN Case,” *International Journal of Communications Law & Policy*, 12 (Winter 2008): 1.

This paper examines the four year period of ICANN’s “multistakeholderism” experimentation by analyzing the expectations, stakes, and strategies of parties who influenced the policymaking process. The author suggests that because the Internet technical elite were granted the managerial role in ICANN, the experts were able to influence the agenda of the policymaking process, take over the policy accumulation task, and eliminate the working groups which had been previously open to all participants.

Zoë Baird, “Governing the Internet: Engaging Government, Business, and Nonprofits,” *Foreign Affairs* 81 (November/December 2002):6,
<http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN016378.pdf>.

This paper argues that even though ICANN founding principles centered on avoiding the involvement of governments in the technical regulation of the Internet, government participation is necessary. For this to happen, government will face challenges: increasing participation by developing countries, providing access to non-profit organizations, and ensuring democratic accountability.

Daniel Benoliel, “Cyberspace Technological Standardization: An Institutional Theory Retrospective on the Generation Edge,” *Berkeley Technology Law Journal* 18 (2003): 1259-1335, http://www.btlj.org/data/articles/18_04_06.pdf.

This paper is an overview, assessment, and series of recommendations for the government’s standardization policies for cyberspace. The author provides a detailed overview of the history and conceptual underpinnings of standardization and contrasts them in light of the “unique, multi-layered architecture of cyberspace.” Ultimately, the author discusses which institutional body should standardize the Internet, identifies a production process for standardization, and proposes a set a policy rules for standardization.

Lily Blue, "Internet and Domain Name Governance: Antitrust Litigation and ICANN," *Berkeley Technology Law Journal* 19(2004): 387-403.

This note analyzes the history of the Internet's government structure from its rudimentary inception to ICANN regulation in 2004 and examines the substantive merits of potential antitrust claims in litigation against ICANN in detail. The note concludes that such antitrust claims are dependent on ICANN's ability to demonstrate that its policies serve the interests of the Internet community and do not restrict competition.

Christopher M. Bruner, "States, Markets, and Gatekeepers: Public-Private Regulatory Regimes in an Era of Economic Globalization," *Michigan Journal of International Law* 30 (2008): 125-176, <http://students.law.umich.edu/mjil/article-pdfs/v30n1-bruner.pdf>.

This article examines the challenges caused by Standard & Poor's, Moody's, and ICANN – as public-private entities with unusual positions under U.S. law – in the role of global regulatory gatekeepers for specific markets. The author argues that the U.S. government uses these entities to preserve centralized power while cultivating the perception of market-based private ordering.

Herbert Burkert, "About a Different Kind of Water: An Attempt at Describing and Understanding Some Elements of the European Union Approach to ICANN," *Loyola of Los Angeles Law Review* 36 (2003).

This article describes in detail the development of the EU Internet governance policy and its actions concerning the creation of a .EU TLD and registry. The author describes his concerns over the search for an adequate governance structure of a global communication resource that has been controlled by a single country.

Herbert Burkert, "Die Transparenz der Europäischen Union," in Hart, Thomas; Welzel, Carolin, Garstka, Hansjürgen (Hrsg.) *Informationsfreiheit. Die "Gläserne" Bürokratie als Bürgerrecht?* Verlag Bertelsmann Stiftung, Gütersloh 2004, p. 117-130.

Jose MA, Emmanuel A. Caral, "Lessons from ICANN: Is Self Regulation of the Internet Fundamentally Flawed?," *International Journal of Law and Technology* 12 (Spring 2004): 1-31.

This article evaluates the history and policymaking processes used by ICANN, IETF, and W3C as entities which use a combination of self-regulation and governmental regulation as the principal mechanisms for regulation in the code layer. The article highlights criticisms of ICANN, articulated by the author and other commentators, identifies particular problems, and the 2002 reform of ICANN.

Henry Chesbrough, "Open Innovation: The New Imperative for Creating and Profiting from Technology," *Harvard Business School Press*, 2006.

Warren B. Chik, "Lord of Your Domain, But Master of None: The Need to Harmonize and Recalibrate the Domain Name Regime of Ownership and Control," *International Journal of Law and Information Technology* 16 (2007): 8-72.

This article identifies problems faced by the Domain Name System through a comparison of how domain registration management and domain challenge policies have diverged in different jurisdictions and by an examination of the shortcomings in ICANN's registration regime and UDRP policy. The author concludes by proposing amendments to the structure of domain name administration, and the domain registration and domain challenge regimes.

George Christou and Seamus Simpson, "Gaining a Stake in Global Internet Governance: The EU, ICANN and Strategic Norm Manipulation," *European Journal of Communication* 22 (2007): 147 DOI: 10.1177/0267323107076765.

This article discusses the organizational framework the DNS and ICANN's role of policy development. The author explores the EU's relatively "weak" position at ICANN's inception and its ability to secure material interests within an organizationally constrained environment.

Cary Coglianese, Heather Kilmartin, Evan Mendelson, "Transparency and Public Participation in the Federal Rulemaking Process: Recommendations for the New Administration," 77 *George Washington Law Review* 77 (2009): 924.

Kenneth Neil Cukier, "Who Will Control the Internet: Washington Battles the World," *Foreign Affairs* 84 (November/December 2005): 6,
<http://www.foreignaffairs.com/articles/61192/kenneth-neil-cukier/who-will-control-the-internet>.

This article describes how foreign governments want control of the Internet transferred from ICANN and the U.S. government's response to calls for international treaties.

Daniel W. Drezner, "The Global Governance of the Internet: Bringing the State Back In," *Political Science Quarterly* 119 (2004): 3,
<http://www.danieldrezner.com/research/egovernance.pdf>.

This article argues against the theory that globalization, and in particular the ability of individuals to utilize the Internet as a communication medium with high sophistication, low transaction costs, and no territorial borders, has weakened the ability of states to regulate the global economy. The author argues that the great global powers will remain the primary actors that influence the setting of global regulatory standards. The author uses Internet governance as a model which exemplifies these characteristics.

Patrick Field, et al., "Integrating Mediation in Land Use Decision Making," *Consensus Building Institute*, (January 2010): 38.

Michael Froomkin, "Deeply, deeply flawed economic report and analysis," *ICANN Watch*, March 4, 2009, <http://www.icannwatch.org/article.pl?sid=09/03/05/0248231>.

Christine Haight Farley, "Convergence and Incongruence: Trademark Law and ICANN's Introduction of New Generic Top-Level Domains," *John Marshall Journal of Computer and Information Law* 25 No. 4 (2009): 625.

This article discusses the trademark-related aspects of ICANN's gTLD proposal, in particular the GNSO recommendations numbers 2, 3, and 6, through the lens of U.S. trademark principles. For recommendation number 2, the author identifies that ICANN incorrectly equates the term of art "confusingly similar" to "likelihood of confusion" and discusses this principle at length, along with the ramifications of elevating all domain strings to legally protectable properties. On recommendation number 3, the author argues that a prohibition on strings which are protectable is an overbroad restriction and contrary to permissible uses under U.S. trademark law. On recommendation 6, the author argues that a restriction on strings contrary to MAPO legal norms is based on a misunderstanding of U.S. trademark law.

Michael Geist, "Fair.com?: An Examination of the Allegations of Systemic Unfairness in the ICANN UDRP," *Brooklyn Journal of International Law* 27 (August 2002): 903, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=280630.

This article discusses the aggregate results of more than four thousand UDRP decisions through April 2002. The author notes several trends, including: that the allocation of cases may be unfairly biased towards trademark holders, forum shopping has become an integral part of the UDRP, there is a correlation between the selection of panelists and case outcome, the high winning percentage of bias may be related to provider bias toward ensuring pro-complainant panelists decide the majority of cases. The author concludes with suggestions to alleviate the biases.

R. Shawn Gunnarson, "A Fresh Start for ICANN," Kirton & McConkie, June 1, 2010, http://www.techpolicyinstitute.org/files/gunnarson_icann%20white%20paper.pdf.

Christopher Healey, "Domain Tasting is Taking Over the Internet as a Result of ICANN's 'Add Grace Period,'" *Duke Law & Technology Review* 2007 (Dec. 2007): 9, <http://www.law.duke.edu/journals/dltr/articles/pdf/2007DLTR0009.pdf>.

This article is a detailed discussion of ICANN's "add grace period" requirement, which allows domain registrants to receive full refunds for cancelling a domain name within five days of initial registration. The article discusses how this policy is being abused by registrants to "taste" domains, and illicitly use trademarks. The author proposes elimination of the policy in detail.

Brian H. Holland, "Tempest in a Teapot or Tidal Wave - Cybersquatting Rights and Remedies Run Amok," *Journal of Technology Law & Policy* 10 (2005): 301, http://works.bepress.com/cgi/viewcontent.cgi?article=1003&context=h_brian_holland.

This article is a discussion of cybersquatting, domain speculation practices, and legal remedies. The author describes the DNS and the basics of cybersquatting, then describes and critiques ACPA, UDRP, and trademark law.

Derek Hrynyshyn, "Globalization, Nationality and Commodification: the Politics of the Social Construction of the Internet," *New Media & Society* 10 (2008): 751, <http://nms.sagepub.com/content/10/5/751>.

This article discusses and applies several theories of social construction to technology. The author identifies several ways in which social construction has influenced the development of communication mediums, such as the Internet. Finally, the author examines some decisions concerning the DNS and notes areas where social construction would illuminate the tensions between national and global structures of communication.

Dan Hunter, "ICANN and the Concept of Democratic Deficit," *Loyola of Los Angeles Law Review* 26 (2003): 1149, <http://llr.lls.edu/volumes/v36-issue3/hunter.pdf>.

This article is an evaluation and critique of ICANN. The author argues that ICANN, and its structural features and internal process, is a poor mix with democracy.

Joshua S. Jarvis, "New gTLDs Still on Track Despite Trademark Concerns," *Trademark and Copyright Law Blog*, April 2, 2010, <http://www.trademarkandcopyrightlawblog.com/2010/04/articles/domain-names/new-gtlds-still-on-track-despite-trademark-concerns/>.

Wolfgang Kleinwächter, "Beyond ICANN vs ITU - How WSIS Tries to Enter the New Territory of Internet Governance," *The International Journal of Communication Studies* 66 (2004): 3-4.

This article discusses the concept of "Internet Governance," including the technical, political, and historical underpinnings, from the late 1980's to 2004 from a global perspective.

Fred Kreuger and Antony Van Couvering, "A Quantitative Analysis of Trademark Infringement and Costs to Trademark Holders in New gTLDs," *Minds + Machines*, Working Paper 2010-1, February 10, 2010.

Konstantinos Komaitis, "Internet Governance - Why Plato is Still Relevant," *International Journal of Communications Law & Policy* 13 (2009): 134, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1381625.

This article discusses the influential role of custom and its effects within the society of Internet Governance. The author also discusses an interpretation of justice, which the author believes demonstrates the way custom might be enforced and imposed upon various subjects. Finally, the author concludes that these conflicting customs should not

necessarily annihilate multiparticipatory governance structures, rather assist in their progress.

Konstantinos Komaitis, "Aristotele, Europe and Internet Governance," *Pacific McGeorge Global Business & Development Law Journal*, 21, No. 1, (2008),
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1264976.

Jonathan GS Koppell, "Pathologies of Accountability: ICANN and the Challenge of 'Multiple Accountabilities Disorder,'" *Public Administration Review* 65 (2005): 94.

Karim R. Lakhani, Robert D. Austin, Yumi Yi, "Data.gov," May 7, 2010, Harvard Business Press.

Jacqueline D. Lipton, "Bad Faith in Cyberspace: Grounding Domain Name Theory in Trademark, Property and Restitution," (2009), http://works.bepress.com/jacqueline_lipton/8/.

This article focuses on cybersquatting, and critiques ACPA and UDRP policies. The author suggests a new model for domain name regulation, which incorporates aspects of trademark law, restitution, and property theories to facilitate more coherent domain name rules.

Viktor Mayer-Schönberger and Malte Ziewitz, "Jefferson Rebuffed: The United States and the Future of Internet Governance," *Columbia Science and Technology Law Review* 8 (2007): 188, <http://www.vmsweb.net/attachments/pdf/Jefferson-Rebuffed.pdf>.

This article addresses why the U.S. has vigorously opposed the European proposal to internationalize Internet governance and to curtail to policy-making power of ICANN in the 2005 WSIS negotiations.

Milton L. Mueller, "Ruling the Root: Internet Governance and the Taming of Cyberspace," *MIT Press* (2002).

This work analyzes problems in global policy and governance which were created by the assignment of Internet domains and addresses. The author uses institutional economics in his analysis and explains how control of the DNS root is being leveraged to control the Internet in key areas such as trademark and copyright protection, surveillance of users, content regulation, and regulation of the domain supply industry.

Milton Mueller, "ICANN, Inc.: Accountability and Participation in the Governance of Critical Internet Resources," *Internet Governance Project* (November 2009),
<http://www.internetgovernance.org/pdf/ICANNInc.pdf>.

This article assesses the relationship between public participation and accountability in ICANN and explains how ICANN has responded to accountability concerns by creating new opportunities for public comment, review, and participation. The author questions whether participation is an adequate substitute for accountability and analyzes three

distinct reforms in ICANN's history to show how participation can displace accountability rather than improve it.

Andrew D. Murray, "Regulation and Rights in Networked Space," *Journal of Law and Society*, 30 (2003): 187, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=411157.

This article is an examination of the "embryonic regulatory structure" of cyberspace. Additionally, the author discusses property rights, free speech and expression, and how those rights are impacted in a networked environment such as the Internet.

John Palfrey, "The End of the Experiment: How ICANN's Foray into Global Internet Democracy Failed," *Harvard Journal of Law and Technology*, 17 (2004): 409.

This article focuses on ICANN's failure to integrate public comments into the decision making process other than in an ad-hoc fashion. The author argues that ICANN instead based its opinions on the recommendations of professional staff and supporting organizations. The author identifies and suggests solutions, including overhaul of governance structure, involvement of users in the decision-making process, and looking for new ways to govern the technical architecture in a way that better facilitates global decision-making.

Cheryl B. Preston, "Internet Porn, ICANN, and Families: A Call to Action," *Journal of Internet Law*, (October -November 2008): 3-15, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1285270.

This article addresses the reasons why advocates for families, consumers, and safety interests have not yet stepped forward to fill the gap in stakeholder representation at ICANN. The author also discusses makeup, history, and voting power of ICANN Non-Commercial User's Constituency, and its positions in policy debate. The author provides several recommendations for ICANN to respond to non-commercial stakeholder representation.

Kevin M. Rogers, "The Early Ground Offensives in Internet Governance," *International Review of Law, Computers & Technology*, Volume 21, Issue 1 (2007).

This article proposes that the Internet should be governed by a body that is able to discuss the wider issues of the Internet that include cybercrime, spam, and intellectual property rights. The author argues ICANN's mandate provides limited assistance to the ongoing discussion and resolution on Internet Governance.

J. P. Singh. "Multilateral Approaches to Deliberating Internet Governance," *Policy & Internet* 1 (2009): 1, 4.

This article argues that in global governance, the types of actors, shape two different types of multilateral global orders: statist multilateralism and networked multilateralism. The author applies these theories to Internet Governance, ICANN, WSIS, and IGF.

Sisun, Scot, "M. Dot (Your Brand Here), the New gTLDs: Owning and Protecting a Piece of the New Internet," *Intellectual Property & Technology Law Journal* (March 2009),
<http://www.clm.com/publication.cfm/ID/228>.

This article evaluates ICANN's call for new TLDs and discusses how brand owners can prepare for a new gTLD expansion.

Lawrence B. Solum, "Models of Internet Governance," *Illinois Public Law Research Paper No. 07-25* (September 2008), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1136825.

This article discusses internet governance based on three central ideas, including: the internet is constituted by its architecture or code; problems of Internet regulation can be analyzed by normative theory, economics, and social theory choice; and, the logical space for discussing Internet governance can be captured via a set of five models, or ideal types of Internet regulation. These models are discussed at length in the article.

Henrik Spang-Hanssen, "Who should govern public international computer networks," *Nordic Journal of International Law* (2008),
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1119244.

This article discusses the issue of who should govern the Internet. The author suggests that a new, independent and international organization should be created for governance purposes.

Richard J. Tindal, "Switching on the Light: Expression of Interest for New TLDs," *Circle ID*, February 25, 2010,
http://www.circleid.com/posts/switching_on_the_light_expression_of_interest_tlds/.

Elizabeth G. Thornburg, "Fast, Cheap and Out of Control: Lessons from the ICANN Dispute Resolution Process," *The Journal of Small and Emerging Business Law* 6 (2002): 191,
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=321500.

This article argues that the UDRP is a poor model for resolving Internet disputes. The author argues that within the UDRP, procedural choices can exacerbate substantive issues, and procedural rules have an uneven impact on opposing parties.

Rolf H. Weber, "Accountability in Internet Governance," *International Journal of Communications Law & Policy*, 13 (2009): 153-167,
<http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/ijclp13&div=10&id=&page=>.

This article discusses accountability for actions, decisions, and policies within the scope of ICANN decision-making. The author argues that more accountability is needed to help improve the ICANN governance regime. The author also suggests that introducing specific standards that design accountability requirements, making information more

accessible for accountability-holders, and sanctions for failure to meet standards are effective means to achieve enhanced accountability.

Rolf H. Weber, "Internet governance: Transparency and the Governance of the Internet," *Computer Law & Security Report* 24 (2008): 342-348.

This article considers Internet governance transparency issues. The author argues that transparency promotes the level of civic involvement and awareness of governance issues. The author also discusses the fundamental principles of transparency, and ways in which ICANN can enhance transparency in the future.

Rolf H. Weber, "Shaping Internet Governance: Regulatory Challenges," New York: Springer (2010).

Jonathan Weinberg, "ICANN and the Problem of Legitimacy," *Duke Law Journal* 50 (2000): 1, <http://faculty.law.wayne.edu/Weinberg/legitimacy.pdf>.

This article describes the process by which ICANN came into being, issues of legitimacy that have followed ICANN since its inception, and addresses ICANN's response to these issues. The author uses U.S. administrative law as a lens to view and evaluate ICANN's decision making process.

Jonathan Weinberg, "Non-State Actors and Global Information Governance: The Case of ICANN," (June 7, 2010), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1621862.

This article examines the history of ICANN and argues that ICANN's key move to establish legitimacy was the expansion and bureaucratization. The author argues that ICANN has shifted to adopt the appearance, processes, and culture of a modern large bureaucracy and structure itself to look like a business enterprise or government.

Andrew Whitmore, Namjoo Choi & Anna Arzrumtsyan, "One Size Fits All? On the Feasibility of International Internet Governance," *Journal of Information Technology & Politics* 6 (2009) 4-11.

This article argues that international Internet governance will likely fail in terms of its ability to elicit international agreement on information policies as a result of disparities among countries. The author identifies the proposed benefits of international governance as well as political, cultural, and economic challenges to international governance. Legal and policy barriers are also discussed throughout the article.

Ernest J. Wilson, "What is Internet Governance and Where Does it Come From," *Journal of Public Policy* 25 (2005): 1.

This article questions the basic governance model of the Internet. The author concentrates on definitional and conceptual issues, as well as empirical studies.

Roselle L. Wissler, "Court-Connected Mediation in General Civil Cases: What We Know from Empirical Research," *Ohio State Journal on Dispute Resolution*, 17 (2002): 641-690.

Peter K. Yu, "The Origins of ccTLD Policymaking," *Cardozo Journal of International and Comparative Law* 12 (2004): 387, <http://www.peteryu.com/cctld.pdf>.

This article discusses the history of domain names, ccTLDs, and ICANN related issues up to 2004.

Hong Xue, "Territorialism versus Universalism: International Intellectual Property Law in the Internationalized Domain Name System," *Journal of World Intellectual Property* 9 (2006): 1, <http://www.turin-ip.com/course-documents/documents-2007/current-edition/documents-organised-by-theme/trademarks/domain-names/IIPDN.pdf/view>.

This article explores the how the present intellectual property system can be employed to resolve the new conflicts arising from the internationalized DNS, in which non-Latin characters are permissible for direct use in domain names. The author discusses whether a balanced solution to the conflict between the legal system and the technical system could be sought by maintaining the principle of territoriality of intellectual property protection and examines the UDRP as an alternative, built-in dispute mechanism.

Jonathan Zittrain, "ICANN: Between the Public and the Private Comments Before Congress," *Berkeley Technology Law Journal* 14 (1999): 1071.

This article is a revised version of the author's testimony during the House Commerce Committee hearing "Is ICANN Out of Control?" The article addresses the hybrid character of the Internet itself and the challenges faced by ICANN due to this structure.

Conference Presentations

Michael Palage, David Johnson, Milton Mueller, Mike Roberts and Paul Twomey, "ICANN and Internet Governance: How Did We Get Here and Where Are We Heading," *The Progress & Freedom Foundation: Progress on Point* 16 (2009) 15, <http://www.pff.org/issues-pubs/pops/2009/pop16.15-ICANN-internet-governance-transcript.pdf>.

Transcript of presentation is included. In this presentation a panel of experts which discusses the history and evolution of ICANN. The panel also debates topics, such as: the proposal for new TLDs, DNS security, and ICANN's future after the expiration of its MOU with U.S. Department of Commerce.

Tim Wu, Esther Dyson, A. Michael Froomkin & David A. Gross, "The Future of Internet Governance, American Society of International Law," *Proceedings of the Annual Meeting* 101 (2007).

This presentation included the views of several experts and participants in the Internet governance and ICANN process of the late 1990s and early 2000s. Issues covered include: significant events, issues of stability, Internet governance as an alternative to the UN and ITU, and whether Internet governance is fundamentally necessary.

Blogs and Other Online Periodicals

AusRegistry, <http://www.ausregistry.com/blog/>

CNET, <http://www.cnet.com/>

CircleID, <http://www.circleid.com/>

Domain Name Wire, <http://www.domainnamewire.com/>

Kieren McCarthy [dotcom], <http://kierenmccarthy.com/>

ICANN At Large, <http://atlarge.icann.org/>

ICANN Watch, <http://www.icannwatch.org>

Internet Systems Consortium (ISC) Blog, <http://www.isc.org/blog/>

Internet Governance Project Blog, <http://blog.internetgovernance.org/blog/>

Public Domain, <http://www.blog.cira.ca/>

Legislative Enactments, Government, and Other Legal Materials

Access to Information Act, R.S.C. Ch. A-1 (1980) (Can.).

Council of the European Union, "International Management of the Internet Domain System," Doc. 11960/09, Annex, July 14, 2009,
http://se2009.eu/polopoly_fs/1.7222!menu/standard/file/Coreper%20Guidelines%20on%20Internet.pdf.

European Commission, "Co-decision: Ordinary Legislative procedure 'Step by Step'," http://ec.europa.eu/codecision/stebystep/text/index_en.htm#1.

(EC) Regulation No. 1049/2001, European Parliament and the Council of the EU, May 30, 2001.

European Commission, "Steps in the Strategy: Strategic planning and programming," http://ec.europa.eu/atwork/strategicplanning/index_en.htm.

James Fishman and Stephen Schwarz, "Nonprofit Organizations: Statutes, Regulations, and Forms," New York: Foundation Press; 2009.

U.S. Freedom of Information Act, Pub. L. 89-487, 80 Stat. 250 (1966) (codified as amended at 5 U.S.C. § 552 (2009)).

Freedom of Information Act (Austl. Commonwealth), 1982, No. 3 as amended (2010).

"Principles of Corporate Governance," *American Law Institute*: 1994, § 3.01.

Paris Convention for the Protection of Industrial Property, March 20, 1883 (amended September 28, 1979), http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html.

The Promotion of Access to Information Act 2 of 2000 (PAIA 2), Part 3, Ch. 1-5, Government Gazette No. 20852, Republic of South Africa, February 2000.

Institutional Reports

Financial Domain Names Project Group, "Description of Financial Domain Name Projects," *CORE Association - Internet Council of Registrars* (August 2009): 1-20.

Discusses why new Top-Level Domains (e.g., .STOCK, .ISIN, .BOND, .FUND, .BANK, .GIRO) for specialized financial namespaces should be introduced. The paper notes that because these TLDs are financial instrument-specific, they can eliminate risk of confusion through appropriate oversight and controls prior to activation.

Boston Consulting Group and Colin, Carter & Associates, "Independent Review of the Board of ICANN" (November 2008), <http://www.icann.org/en/reviews/board/report-02nov08-en.pdf>.

BCG and Colin, Carter & Associates were commissioned to this report as an independent review of ICANN's board. The report considers whether the board was fulfilling its purpose and whether any change was appropriate.

Dennis Carlton, "Comments on Michael Kende's Assessment of Preliminary Reports on Competition and Pricing," *Compass Lexecon* (June 5, 2009).

Dennis Carlton, "ICANN's Proposed Mechanism for Introducing New gTLDs," *Compass Lexecon* (June 5, 2009).

Dennis Carlton, "Preliminary Report – Impact of New gTLDs on Consumer Welfare," *Compass Lexecon* (March 2009).

Dennis Carlton, "Preliminary Report – Price Caps for New gTLD Internet Registries," *Compass Lexecon* (March 2009).

The Center for Democracy and Technology, "Independence and Accountability - The Future of ICANN," Federal Register 74 (April 24, 2009): 78, http://www.cdt.org/files/pdfs/20090608_icann_3.pdf.

The comments in this report sent to the NTIA respond to a notice of inquiry regarding "The Assessment of the Transition of the Technical Coordination and Management of the Internet's Domain Name and Addressing System." The CDT recommends the development and implementation of a plan to complete the process of transforming ICANN into a fully independent and accountable entity.

Commission of the European Communities, "Internet Governance: The Next Steps," (June 15, 2010), http://ec.europa.eu/information_society/policy/internet_gov/docs/communication/comm2009_277_fin_en.pdf.

This document is a communication written by the Commission of the European Communities to the European Parliament and the Council. The communication analyzes the progress of Internet governance and the changing role of governments in the process. Additionally, the communication reviews ICANN, including the status of goals set for the organization in 1998, identifies a number of policy principles that should be observed by other stakeholders, and proposes an approach for moving related international discussions forward. The communication also stresses that public policies for key global Internet resources need to be based on multilateral intergovernmental cooperation.

CRA International, "Revisiting Vertical Separation of Registries and Registrars," October 23, 2008.

European Parliament, "Resolution of 15 June 2010 on Internet Governance: The Next Step," (2010), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0208+0+DOC+XML+V0//EN>.

This report is Parliament's response to the "Internet Governance: The Next Steps" report which was submitted by the Commission of European Communities on June 15, 2010. In general, Parliament supports the Commission's position in favor of the current ICANN management model based on private-sector leadership. Parliament calls for: new gTLDs for cultural organization (.culture or .art), greater accountability of private companies which register and distribute domain names. Parliament recommends that the effectiveness of GAC be strengthened, and the following improvements: alternative, external dispute resolution mechanism allowing interested parties effective, neutral, timely, and affordable review of ICANN decisions; a gradually implemented diversified funding structure; appropriate representation of all interested parties to ICANN. Finally, Parliament supports the Commission's view that IANA arrangements should include mechanisms for multilateral accountability.

International Trade Association, "Creation of New gTLDs and Trademark Protection," July 8, 2009,

[http://www.inta.org/index.php?option=com_content&task=view&id=2005&Itemid=513&getcontent=.](http://www.inta.org/index.php?option=com_content&task=view&id=2005&Itemid=513&getcontent=)

Lennard G. Kruger, "Internet Domain Names: Background and Policy Issues," *Congressional Research Service* (2010), http://www.ipmall.info/hosted_resources/crs/97-868_050922.pdf.

This is a report written by the Congressional Report Services that discusses the background of Internet Domain Names and related policy issues.

NGO and Academic ICANN Study (NAIS), "The Public Voice, Legitimacy, and ICANN," (2001), <http://www.policyarchive.org/handle/10207/bitstreams/15472.pdf>.

This Interim Report is a response to a call for participation and study of ICANN's At-Large Membership, following the first election of At-Large Directors in 2000. It is the result of research conducted by the NGO and Academic ICANN Study (NAIS) group that addresses the need to ensure inclusion of most regional, sectoral and disciplinary viewpoints and approaches; and connects advocacy groups and experts of all regions that share certain public interest concerns and that can produce a valuable, independent and legitimate study.

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