

6 Questions Congress Has Over the Proposed 'Internet Transfer'

The internet began as a U.S. government-funded program to develop robust, fault-tolerant communication via computer networks across the country and around the world.

And while it has now grown into the "World Wide Web," much of the original infrastructure—created at taxpayer expense—still exists. So, President Obama's plan to relinquish control of those assets has triggered a number of concerns from all corners of the government.

U.S. Sen. Ted Cruz (R-Texas) is leading an effort on Capitol Hill to prevent the transfer, which is set to take place Sept. 30. That effort gained two big allies Thursday when the chairmen of the House and Senate judiciary committees penned a joint letter to Attorney General Loretta Lynch, demanding answers to a number of key questions.

Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) and House Judiciary Committee Chairman Bob Goodlatte (R-Va.) asked in their letter for Lynch to explain the Justice Department's role in advising the Obama Administration in its plan. They also expressed their concern about the proposal, "given an abundance of unanswered questions" relating to Internet openness, control of government domains, the disposal of government property and antitrust considerations.

Specifically, they raised concerns that the proposal relies upon a non-binding letter between the U.S. and the Internet Corporation for Assigned Names and Numbers to safeguard top level domains such as .gov and .mil. Additionally, they want to know the details of any legal analyses that may have been made about the constitutionality of relinquishing ownership of

U.S. government property—such as the Root Zone File—without congressional approval, and the anti-trust implications of the agreement with ICANN.

“With so many outstanding questions remaining, especially in the areas in which DOJ would seem to have direct subject matter expertise, we believe it is important to understand what input and contributions the Attorney General and the DOJ made in blessing this transfer and in answering many of the specific questions that were raised by other agency participants during the process,” the letter states.

Here are the six questions they asked of Lynch:

1. With regard to the security of the .mil, .gov, and U.S. governmentally administered TLDs, does the Attorney General and the Justice Department believe that the mere exchange of letters between NTIA and ICANN is preferable to a binding legal agreement? If so why? Please provide the Department’s rationale?
2. Did the DOJ advise NTIA regarding this resolution of government administered TLDs?
3. Should ICANN delegate U.S. government administered TLDs, contrary to current assurances, what action will the DOJ take?
4. With the lack of certainty over the disposition of government property in the IANA transfer, has NTIA ever referred this issue to DOJ for analysis or has DOJ ever conducted an analysis of this question on its own? If so, what are its findings?
5. Does the Attorney General believe that there is no possibility that NTIA’s planned transition of the IANA functions may potentially relinquish ownership of United States property? What analysis did you conduct to come to this conclusion?
6. As a member of the DNS Interagency Working Group or otherwise, has the DOJ conducted a review of the antitrust implications of NTIA’s termination of its

contract with ICANN? If so, please provide a copy of this review. If not, why not?

“This unalterable action poses serious ramifications for the security and openness of the Internet,” their letter concluded. “As a member of the DNS Interagency Working Group, we’d like to know what role that you and the DOJ played in this transition.”