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Markle Foundation Statement Zoë Baird

**ICANN Annual Meeting
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Thank you all for coming. My name is Zoë Baird and I am the President of the Markle Foundation. Let me introduce the others who are joining me.

- You all know Esther Dyson.
- Charles Costello is the Director of the Democracy Program at the Carter Center.
- Former Massachusetts Attorney General Scott Harshbarger is the President and CEO of Common Cause.
- Jonathan Zittrain is the Executive Director of the Berkman Center for Internet & Society at Harvard Law School.
- Jerry Berman is the Executive Director of the Center for Democracy and Technology.
- Nancy Kranich is the president-elect of the American Library Association.
- I would also like to introduce Andrew Shapiro who acts as a senior advisor to the Markle Foundation and as such is central in our policy work.

You will hear more from and about them in a moment.

I'd like to make a brief statement as will the others and we will then be happy to take questions.

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I am very pleased to be here today at the first annual meeting of ICANN to announce a package of initiatives we are undertaking that can make an important, lasting contribution to the future of the Internet.

As those of you who follow these issues well know, the rapid global growth and adoption of the Internet is putting power in the hands of individuals instead of institutions, and moving decision-making away from the public sector and into the private sector. Private entities or intergovernmental organizations are making decisions that would have been made by governments previously.

This shift in the locus of decision-making will only protect important public interests if these new decision-makers operate with public participation and accountability. Additionally, these new structures often do not have the resources or experience needed to make sure that the public is part of the process.

ICANN is a leading example of this kind of emerging new institution and the challenges they face. Handed the responsibility by the United States Government of managing the Internet's core domain name system worldwide, ICANN has the difficult task of balancing important competing interests and brokering extremely hard decisions that can ultimately impact critical issues of free speech, free competition, and representation.

But ICANN does not yet have the resources and range of voices needed to answer questions like "How do we protect the public interest?" "How do we make sure that this new policymaking is responsive to public needs?" Without the financial resources and the involvement of those experienced in building and protecting democratic institutions, we risk seeing public decisions made without the public.

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So what is really at stake here? Why should the public or the organizations assembled here today care?

As the Internet's first oversight body, ICANN will be faced with difficult and new decisions in which the old rules do not necessarily apply. As this medium becomes integral to the way we learn, communicate, and conduct business, individuals around the world will have a stake in how it shaped. Even though ICANN has a narrow jurisdiction, a closer look shows the breadth of the challenges they face that arise out of these so-called "technical issues":

- ICANN must make decisions between legitimate competing interests, such as holders of famous trademarks and people who register domain names similar to those marks. Take the story of Veronica, the baby whose parents set up a web site in her name – veronica.org -- only to be contacted by Network Solutions threatening to suspend the site because of a challenge by Archie Comics. Under what circumstances will ICANN allow NSI or others to take such steps today? Actions like these can have a chilling effect on free speech. And yet trademark holders do have a right to protect the intellectual property in which they have invested.
- ICANN must decide what falls within their scope of jurisdiction. Should ICANN have acted in the case of B92, the courageous and respected independent radio station in Belgrade that had its online identity – b92.net – taken over and used by Slobodan Milosevic and was left with no avenue for recourse? In many instances, acting or not acting will have equal implications.
- ICANN must decide if and how best to expand top-level domain names – dot.com, dot.org, etc. There is a public interest in more and different kinds of space through which information will flow to people. Some of these might indicate safe places for children, for example. How can this be done to help the public without treading on important rights of free speech?

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- And ICANN must face tough decisions about how to balance anonymity on the Web – a key element of political freedom – with the right to know who is behind a domain name. This is not some bloodless debate. We have all read stories about the Website listing doctors performing abortions and crossing them off as they were targets for assassination. Or the Website that published alleged British intelligence agents and put lives and, potentially, British national security at risk. We have a hard time seeing the validity of the claim to anonymity here, but in the case of Chinese dissidents we may have a different view.

These are extremely hard questions and there is no established playbook to work from. Whatever one's preferred outcome may be, these decisions will have widespread implications for the public and these decisions will only be legitimate if the public is involved in how they are made.

As a result, the first initiative the Markle Foundation is taking in commencing our Internet Governance Project will go toward making ICANN more open and accountable. Through our Internet Governance Project, Markle is committing more than \$1-million to activities intended to promote the public interest in nontraditional, international venues to which nations are ceding authority to make decisions and standards governing activities on the Internet. We expect close to half of that will go to a set of initiatives aimed at ICANN. ICANN has welcomed this help.

Let me briefly outline the initiatives for you:

- First, we are meeting a request by ICANN itself for \$200,000 that can be used to create an At-Large Membership and the means by which individual Internet users will select nine members of ICANN's Board of Directors. The funds will allow ICANN to hire the appropriate staff, conduct outreach, create the technical mechanisms for global voting, translate key documents into several major languages for the benefit of all potential ICANN members, create a public education campaign and initiate the voting process.

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It is fitting that today is Election Day and that these resources are essentially going towards creating and implementing the first direct participation by individuals in global decision-making.

- Second, Markle has enlisted former President Jimmy Carter and the Carter Center – one of the world’s preeminent election oversight organizations – to assist in creating an adequate mechanism to monitor the at-large membership elections in order to evaluate whether they are open and free of fraud. The Carter Center will also work with other leading experts in voting and democracy to determine standards for a fair election.
- Next, Common Cause, a non-partisan organization promoting open, honest and accountable government that has more than 200,000 members, has agreed to advise ICANN about how to build a membership and voting process that embodies our democratic tradition. They will also help to identify and recruit international democracy advocates to participate in this process.
- The American Library Association, the world’s oldest and largest library association, will take on educational activities through its network of libraries worldwide so that individuals everywhere can better understand the stakes at hand and participate. One of their exciting initiatives will be the creation of “virtual voting booths” at libraries around the United States and through international partnerships around the world.
- The Center for Democracy and Technology, a leading civil liberties organization for the digital age, will produce materials that help to communicate the importance of this process to a wider audience.
- Harvard Law School’s Berkman Center for Internet and Society, a research program that was founded to study cyberspace and help pioneer its development, and Markle co-sponsored a public workshop this past weekend that underscored the depth of feeling for the importance of these

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issues. With Markle's help, Berkman will also begin to experiment with tools for public deliberations online.

- Lastly, we are taking other steps to enable leaders from around the world to participate in this process.

Our response to ICANN's request for help should not be taken as an endorsement of the current At-Large membership and voting structure. What Markle is doing is bringing in the experts in democracy and voting who can look at the current structure, identify the means for real public accountability in this organizational context, make recommendations to improve the process, and give it a chance to earn the public's trust.

Together, these partners are bringing the best tradition of building democratic institutions and they are informing the general public about the vital issues that are at stake. Many of these partners are new players to this debate. They are much needed. And the public will benefit from their involvement.

The pace of growth of the Internet is tremendous. Twenty-five new dot.coms go online every minute. Tens of thousands of individuals go on online for the first time every day. Small Internet businesses are started around people's kitchen tables at a rapid rate.

The unprecedented pace is evidenced in these new decision-making bodies, too. In the case of ICANN, what might have been thought to be "technical management" at its conception has been recognized as something of broader impact since its launch.

Global institutions are beginning to oversee the Internet's activities. The decisions they make will determine whether the Internet achieves its potential as a powerful weapon for democratic values and

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aspirations. Management of the Internet by a private entity will not be stable or legitimate if that entity does not adequately include the public voice.

I strongly believe that today can be a turning point in improving this process for individuals and in setting examples for how future governing bodies need to operate. They need to be given the resources to include public participation. They need to make room for the non-commercial players from the beginning. And they need to create the expectation that they will reach out to educate all stakeholders about the issues at hand.

Thank you.