Since WCIT-12, if not before, there has been an increasing effort by some countries to shift the responsibility for governance – focused upon the running of ICANN, and the contractual relationship between ICANN and the US Government – from the jurisdiction of the USA to an international body, such as the UN ITU. The divisions that appeared between member countries over the ITU ITRs, and the proposal to expand the ITRs, in 2013 was predominantly between the developed and the developing world. That was a wake-up call in many respects, and since then a great deal of energy and effort has gone into promoting the idea of a more inclusive multistakeholder model that would enable greater engagement, both with countries through the GAC without making ICANN a hostage to any particular constituency, and with the broader community.

Discussants generally agreed that the tide seems to have turned in favour of this approach, as demonstrated at the ITU Plenipotentiary in Busan, S.Korea in 2014. The situation now is that, with the proposals coming from stakeholder groups to ICANN, a consolidate proposal will be presented to the US Department of Commerce’s National Telecommunication and Information Administration (NTIA) after further public consultation, and if acceptable, a transition of stewardship will take place after 30 September 2015. The exact timing remains uncertain, but what is certain is that while consultation with the US Congress will be part of the process, the NTIA has the legal authority to accept a proposal and push ahead with the transition if it so chooses.

‘Acceptable’ means there are sufficient safeguards to ensure full accountability of the running of Internet affairs by ICANN to avoid ‘capture’ by any third party. There are a series of highly sensitive issues that will be enduring, and possibly growing in significance, ranging from the issuing of Top Level
Domain Names to dispute resolution procedures over names, usage rights and IPRs, to the adoption and implementation of future standards, etc.

The important outcome is that governance remains transparent and inclusive, and the technical and administrative requirements necessary to keep the Internet functioning efficiently, available and free to use are in no way compromised.

Issues of freedom, access and usage, content issues and censorship, cyber security issues and many others may well remain sources of debate and dissension as autonomous nation states claim the right to govern as they decide fit within their own borders. There may be international treaties and agreements whereby states agree to give up some of that autonomy in favour of internationally recognized standards and practices, but that remains to be seen. In some regions of the world these issues have rarely been addressed, but that is also likely to change as the Internet becomes ever more a central part of every digital economy and society.

We would like to thank Olswang for their hospitality and drinks. It was a successful event with a good turnout in the midst of the week of ICANN 52 meetings.

About the Forum:

ICANN 52 takes place in Singapore in February 2015, ahead of what is likely to prove one of the most significant years for the Internet and for the user community – or communities, given the pervasiveness of today’s Internet. ICANN’s contract with the US Dept of Commerce to oversee administration of the root numbers and names expires in September and proposals for the transition of stewardship to a multi-stakeholder body are now being developed for the first rounds of public review.

In a multi-polar world, a greater role is expected for the Government Advisory Committee (GAC). There are several challenges. As more generic Top Level Doman names (gTLDs) are being issued, there are more challenges ahead over the right to use certain names. For example, the Belgium city of Spa has objected to the creation of .spa as a gTLD and likewise governments along the Amazon river have opposed a push by Amazon.com to make .amazon a gTLD. There is expected to be a growth in litigation and disputes around copyright, IPRs, unfair competition issues, deceptive trade practices, etc. These are some of the nuts and bolts issues that affect all stakeholders and the user community, and ICANN’s regional HQ, set up in Singapore in 2013, is focused on addressing them for the region.