IANA Stewardship Transition Proposal - Public Comment Form

Disclaimer: The ICG will not use the information collected for any purpose other than analyzing public comments. Submitters' names, affiliations, and comments will be public.

Identifying Information

The Non-commercial Stakeholders Group (NCSG) is the vehicle for representation of civil society organizations, nonprofits, and public interest advocates in ICANN's Generic Names Supporting Organization. Our two constituencies and approximately 500 individual and organizational members appreciate the opportunity to comment on the CCWG proposal.

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Questions Concerning the Proposal as a Whole

1) Completeness and clarity: Is the combined proposal complete? Each of the operational community proposals contains aspects to be completed in the future when the proposal is implemented. Is the combined proposal specified in sufficient detail such that it can be evaluated against the NTIA criteria?

With the exception of the following the combined proposal appears to be complete:

A. As noted by the ICG, the names proposal is dependent upon the work of the CCWG on enhancing ICANN's accountability which is currently out for public comment. In addition to the public comment on the Accountability proposal there are ongoing substantive discussions between the CCWG and the ICANN Board which are characterized by significant differences of opinion as to the model by which the community powers post transition would be exercised. The outcome of this requires careful monitoring, as the CCWG's proposal must fully and effectively meet the dependencies outlined in the CWG proposal. It is critical that the final product of the CCWG comprises credible community empowerment and accountability enhancing measures including improved redress mechanisms. Anything less will not be acceptable given the concentration of IANA-related powers in ICANN under the CWG's proposal. The viability of the names transition proposal from the CWG is dependent as a whole on the full and unreserved endorsement of strong and empowering accountability proposal from the CCWG.

B. There is still some implementation detail to be resolved regarding the IANA trademarks and domain names. The numbers community made it a requirement that these assets should not be held by any individual IANA functions operator, as this would help to reduce switching costs in the event there was a need to change the IFO. The protocols community expressed no objection to that proposal. The ICANN board also seems to have no objection to this. The names community agreed with the principle of not having the assets in the hands of ICANN or its IFO, but was ambiguous about its acceptance of the IETF Trust as the holder of the assets. It seems there is some implementation detail to be worked out. The NCSG supports the way forward suggested by the Internet Society:

> Given the experience of the IETF Trust in holding, maintaining and licensing certain existing and future intellectual property and other property used in connection with the Internet standards process and its administration, we believe that the IETF Trust has the competency and legitimacy to serve as this independent entity. The licensing policy considerations that would accompany a transfer of the IPR for the operations of IANA are substantive in nature; it will be important to carry out a process to identify the concerns of the parties and for achieving community consensus on these matters."[1]

C. The future status of the NTIA-Verisign Cooperative Agreement, and more importantly the relationship between ICANN, PTI and Verisign, is not clear from this proposal.

2) Compatibility and interoperability: Do the operational community proposals work together in a single proposal? Do they suggest any incompatible arrangements where compatibility appears to be required? Is the handling of any conflicting overlaps between the functions resolved in a workable manner?

See point B above.

3) Accountability: Do the operational community proposals together include appropriate and properly supported independent accountability mechanisms for running the IANA functions? Are there any gaps in overall accountability under the single proposal?

A. The ICG correctly states that “The names community proposal is expressly conditioned on the implementation of ICANN level accountability mechanisms proposed by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG).” If the CCWG Accountability proposal does not adequately satisfy these dependencies it is unclear what revisions the CWG would be able to put in place that would satisfy the overall accountability requirements of moving the IANA functions to ICANN. From our perspective, the CWG proposal is entirely dependent upon a satisfactory CCWG proposal that delivers all of the mechanisms required by the CWG and an effective and appropriate community empowering model as

[1] http://www.internetsociety.org/news/internet-society-comments-iana-stewardship-transition-proposal

defined by the community in a bottom up process, that allows for the effective use and implementation of such mechanisms for the immediate and foreseeable future.

B. While we believe that the legal separation of PTI and ICANN is an important reform that helps to provide greater accountability, we are concerned about the possibility that this separation will end up being purely nominal. PTI offices should be physically separated from ICANN offices and it should not be using the same information infrastructure and should have logical separation on all critical business line systems such as ERP, HRM, ITSM etc, in order to facilitate independence from its parent entity.

4) Workability: Do the results of any tests or evaluations of workability that were included in the operational community proposals conflict with each other or raise possible concerns when considered in combination?

Questions could be raised about the workability of the separation process. It involves a significant amount of administrative overhead, multiple entities, and an extended time frame. Whether such a complex, expensive and time consuming process can effectively deliver the simple result of a rebid contract remains to be seen.

Questions Concerning NTIA Criteria

5) Do you believe the proposal supports and enhances the multistakeholder model? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Yes, as long as the NTIA-Verisign-ICANN relationship is amended appropriately, the proposal eliminates the unilateral authority of the U.S. government and turns the DNS and IP address governance over to the global multistakeholder community. A ‘yes’ answer also depends on whether there are credible, effective and community-empowering accountability measures in place at ICANN. Any concentration of powers of steward, contracting party and operator for the IANA functions without a significantly empowered and effective multistakeholder community to hold ICANN accountable would not satisfy this criterion.

6) Do you believe the proposal maintains the security, stability, and resiliency of the DNS? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Yes. Elimination of the NTIA authorization role and the ability to authenticate changes before they are published constitute improvements in security, stability and resiliency. As before, this depends on whether there are credible, effective and community empowering accountability measures in place at ICANN. Any concentration of powers of steward, contracting party and operator for the IANA functions without such accountability measures could be inherently de-stabilizing.

7) Do you believe the proposal meets the needs and expectations of the global customers and partners of the IANA services? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary. Please indicate if you are a customer or partner of the IANA services.

Yes. The global customers and partners of the IANA functions played a major role in developing this plan. The numbers registries (RIRs) have expressed satisfaction with the outcome of the CRISP proposal, and so do the protocol parameter registries via the IANAPLAN proposal. The names registries (TLD registries, ccTLD registries, etc.) took longer time to reach an agreement on a structure, but the plan does respond to their needs as expressed in the proposal development process.

8) Do you believe the proposal maintains the openness of the Internet? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Yes, but if and only if there are credible, effective and community empowering accountability measures in place at ICANN. Any concentration of powers of steward, contracting party and operator for the IANA functions without a significantly empowered and effective multistakeholder community to hold ICANN accountable, transparent and open would not satisfy this criterion.

9) Do you have any concerns that the proposal is replacing NTIA's role with a government-led or inter-governmental organization solution? If yes, please explain why and what proposal modifications you believe are necessary. If not, please explain why.

No. The ICG proposal successfully situates stewardship for the different IANA functions in the relevant non-governmental operational communities.

10) Do you believe that the implementation of the proposal will continue to uphold the NTIA criteria in the future? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

We have some concerns about the actual degree of separation between PTI for names-IANA and ICANN. If IANA becomes locked in to ICANN and the review and separation process proves to be too cumbersome, the ability to uphold the NTIA criteria may degrade.

Questions Concerning ICG Report and Executive Summary

11) Do you believe the ICG report and executive summary accurately reflect all necessary aspects of the overall proposal? If not, please explain what modifications you believe are necessary.

Yes.

General Questions

12) Do you have any general comments for the ICG about the proposal?

Contrary to some commentators, we believe that the three proposals were developed in an open and inclusive manner. In particular, the discussion of the various models in the names community's work was comprehensive and resulted in a model that while not perfect manages to accommodate most stakeholder needs while satisfying the various criteria.