

**Comments of the Noncommercial Stakeholders Group (NCSG) regarding the
"Draft Proposal, Based on Initial Community Feedback, of the Principles and
Mechanisms and the Process to Develop a Proposal to Transition NTIA's
Stewardship of the IANA Functions"**

This comment, initially drafted by the Internet Governance Project and ARTICLE19, is supported by and submitted on behalf of the Non-Commercial Stakeholder Group (NCSG). NCSG is the voice of civil society and nonprofit organizations in ICANN's domain name policy making organ, the Generic Names Supporting Organization. It is composed of two constituencies, the Noncommercial Users Constituency (<http://ncuc.org>) and the Not-for-Profit Operational Concerns Constituency (<http://www.npoc.org>). The NCUC and NPOC, both constituencies under the "NCSG umbrella", consists of civil society members from 81 different countries, including organizations and individuals.

The NCSG welcomes the opportunity to comment on ICANN's proposed IANA transition process. Having read ICANN's "Draft Proposal, Based on Initial Community Feedback, of the Principles and Mechanisms and the Process to Develop a Proposal to Transition NTIA's Stewardship of the IANA Functions"¹ as well as its proposed Scoping Document², the NCSG offers the following comments and suggestions concerning the process substance and mechanisms.

The NCSG has concerns about the status and composition of the proposed "steering group," and it also objects to the way the current scoping document and process proposal pre-empts full discussion of the accountability implications of the IANA transition.

With regard to the steering group, the NCSG agrees with the comments of the Internet Architecture Board³. We agree that it would be best to divide the transition discussion and consensus development among the three respective communities affected by the transition, including the communities responsible for domain names (ICANN), number resources (RIRs) and protocol parameters (IETF). Doing so will leverage those communities' expertise and processes, and improve the quality and relevance of input. Second, we concur with the IAB that the group responsible for convening the transition process should not be a "steering" group but rather a lightweight coordination group "responsible for assembling the components into a single transition proposal". Furthermore, the coordination group should be community led and appointed without approval from the ICANN Board or GAC Chairs. Finally, we support the steps proposed by the IAB for the coordinating group to approve the complete transition proposal made to the Department of Commerce. This includes:

¹ <http://www.icann.org/en/about/agreements/iana/transition/draft-proposal-08apr14-en.htm>

² <https://www.icann.org/en/about/agreements/iana/iana-transition-scoping-08apr14-en.pdf>

³ <http://www.iab.org/wp-content/IAB-uploads/2014/04/iab-response-to-20140408-20140428a.pdf>

- requiring unanimous, affirmative consensus among the respective communities with regard to the complete proposal;
- ensuring that the scope of the revised Scoping Document as well as criteria specified by the NTIA are fulfilled;
- operating by rough consensus, publicly documenting outlying views if full consensus cannot be achieved, and re-evaluation and alteration of the component proposals if rough consensus is not reached.

We are also deeply concerned about the impact of the IANA transition on ICANN's accountability. We do not support ICANN's efforts to discuss the IANA transition and accountability mechanisms on separate tracks. Specifically, ICANN's draft proposal and scoping document might prevent any discussion of options for structurally separating IANA function operations from DNS policy making activities. Current governance arrangements structurally separate 1) the Internet Engineering Task Force's (IETF) approval of protocol parameters, and 2) the Regional Internet Registries' (RIRs) development of global number resource policies from implementation in the IANA registries by ICANN. Such arrangements provide clear, external accountability of ICANN's performance of IANA functions to the IETF and RIRs. In DNS, however, ICANN-controlled entities both develop and approve DNS policies and also implements the IANA functions. Only a requirement of the NTIA contract guarantees separation of policy and DNS root zone implementation activities.

Because of this, we cannot currently support language in ICANN's proposed Scoping Document which explicitly rules out any discussion of separating the IANA functions from ICANN. How or whether to separate those activities in lieu of the NTIA contract should be openly discussed. Those discussions should involve the parties directly impacted by or involved in the operation of the DNS root zone. Absent the ability to openly discuss separation of policy and implementation, completing the IANA transition proposal must be contingent on first completing an acceptable proposal addressing ICANN accountability. On May 7 ICANN announced a separate process to enhance ICANN accountability.⁴ However, the relationship of that process to the IANA transition must be clarified and agreed upon by stakeholders. We endorse the comment of the ccNSO Council that "To the extent that ICANN continues to insist on maintaining separate tracks to address each of these issues, it must ensure that the two tracks come together in advance of the transition itself."⁵

The NCSG is not alone in its support of separation of policy and implementation. In recent testimony to the U.S. Congress about the transition, the U.S. Department of Commerce stated that "consistent with the current system, the separation of policy

⁴ <http://www.icann.org/en/news/public-comment/enhancing-accountability-06may14-en.htm>

⁵ Interim Comments of the ccNSO Council on the IANA Transition, 28 April 2014, <http://www.icann.org/en/about/agreements/iana/transition/ccnso-council-interim-comments-28apr14-en.pdf>

development and operational activities should continue.”⁶ The technical community has also expressed the separation of policy and implementation as a key tenant with regard to the IANA functions.⁷ Finally, the notion of separation was most recently endorsed by several stakeholders and included in the final NETmundial outcome document.⁸ Given this, the NCSG requests that the Scoping Document be revised to eliminate any language that prevents or artificially limits discussion of separating implementation of the IANA functions from policy making activities. At the same time, we strongly agree that issues such as cybersecurity, privacy, content, child online protection and intellectual property should stay outside the scope of the discussion about the IANA transition.

Thank you for the opportunity to comment. The NCSG looks forward to developing a transition process consistent with basic principles of accountability, transparency and bottom up, multistakeholder governance.

⁶ See testimony by Asst. Sec. Larry Strickling to the House Energy & Commerce Subcommittee on Communications and Technology, available at <http://docs.house.gov/meetings/IF/IF16/20140402/102044/HHRG-113-IF16-Wstate-StricklingL-20140402.pdf>

⁷ See e.g., “A Framework for Describing the Internet Assigned Numbers Authority (IANA)” available at <https://datatracker.ietf.org/doc/draft-iab-iana-framework/>

⁸ See plenary interventions by Jordan Carter, InternetNZ; Milton Mueller, Internet Governance Project; and comments from Russian Center for Policy Studies. See also para 27, <http://netmundial.br/netmundial-multistakeholder-statement/>