

CWG Questions for the Community: Nominet Input

1. Do you believe that the transition from the NTIA should happen (Please provide the reasons for your answer)?

Yes. This has been a long term objective and we welcome the opportunity to move forward. We would also note that, now that the process has launched, it will be important for the multi-stakeholder community to develop a timely and credible proposal.

However, there are two caveats:

- i. The proposal should be as practical and as simple as possible and should be focussed on the important operational role of the IANA functions operation. In this respect, it must “Meet the needs and expectation of the global customers and partners of the IANA services;” and
- ii. It should not introduce uncertainties in the future operation of the service. In other words, we should focus on ensuring operational excellence and the IANA functions operator role should not depend on unrelated or tangential issues.

2. Are you comfortable with ICANN as policy-maker also being the IANA operator without the benefit of external oversight?

The current contract from NTIA requires ICANN to keep its policy (and gTLD-operations) roles separate from the IANA functions operator role. This should remain the case.

We would see oversight as being our role as the community with two levels of accountability:

- i. The IANA functions operator’s accountability to its customers – the gTLDs and ccTLDs, the RIRs and the IETF. This is operational accountability for the quality, security and trustworthy nature of the service and is a direct customer-supplier accountability relationship (in the same way as the IANA functions customers have accountability to their customers); and
- ii. A general accountability of good stewardship to the wider community. This does not displace or replace accountability to the customers, but is nevertheless an important part of the transparency and accountability of a fundamental part of the Internet’s core infrastructure.

We see no overriding reason why, for TLDs, either these functions should not be carried out within the ICANN community where most of the main stakeholders (both direct and indirect) already engage. In fact this has advantages as interested stakeholders do not have to fit in additional meetings and regular updates can be scheduled at ICANN meetings.

That is not to say that accountability discussions could not be organised in conjunction with other stakeholder groupings and we would highlight IETF, RIR, NRO meetings where customer communities are active, as well as the IGF for wider stakeholder engagement.

3. Should registries, as the primary customers of the IANA functions, have more of a say as to which transition proposal is acceptable?

As noted above under 2. above, we believe that there are two distinct types of accountability. For i., where accountability is against performance, we believe that this should be predominantly an engagement between the direct customers and the IANA functions operator.

However, even for ii., where decisions need to be made by the community, we do not believe that it would be appropriate for the customers' views to be ignored or overridden.

4. What does functional separation of IANA from ICANN mean to you? (this is not referring to having another operator than ICANN performing the IANA functions but rather the internal separation between ICANN and IANA in the context where ICANN is the IANA operator)

As noted under 2., functional separation is a requirement under the NTIA contract. We believe that this brings two clear benefits:

- i. It is important that the operation of the IANA functions follows, and does not try to subsume, the policy framework.
- ii. Similarly, functional separation between the IANA functions operator and the gTLD operations and contracting teams is important as there should be no suspicion of conflicting interests.

(Currently the IANA functions operator sits in the Global Domains Division and while there is no evidence of influence, separation from this division might be worth considering: the IANA functions have a much broader scope than this one area of ICANN's interest.)

5. Do you believe the IANA function is adequately separated from ICANN under the current arrangements (internal separation)?

Yes. However, as noted above, cleaner separation from the Global Domains Division could be useful to recognise the interests of the IANA functions operator's customers are not aligned to the other operational activities.

6. In considering the key factors (such as security and stability, ease of separating the IANA function from ICANN, quality of services, accountability mechanisms etc.) for evaluating the various transition proposals what importance would you give to the ability to separate IANA from ICANN (separability) vs. the other factors?

We recognise the need to be able to transfer the IANA functions operator role from ICANN in the case of ICANN seriously failing in its performance.

In looking at separability, we need to consider the wider implications of changing the operator: these will have a significant impact on willingness to take this step and increases the need for other remedial action.

- i. Separation is not a trivial operation and will bring substantial risk.
- ii. Running a good tendering process (including defining the terms and assessing proposals) will require a lot of effort to ensure that we have a good basis for any subsequent contract. We need to consider how a volunteer committee will be able to deliver this.
- iii. There is a very small pool of organisations with sufficient independence that could bring the required skills and experience.
- iv. In the event of the change of operator, we will need to continue to maintain direct accountability to the direct customers and to the wider community. As noted above, this should require continued engagement in ICANN (and also with the other operational communities).

Changing operator will be a high risk undertaking, so should not be undertaken lightly and only for good cause.

In the discussions, we have spent considerable time looking at separability, but to avoid an escalation of an issue being an abusive process, there needs to be some form of mediation process with an opportunity to remedy. We need to look in more detail at this part of the process.

7. Given the IANA functions could be separated from ICANN do you believe it would be important for the community to obtain from ICANN on an annual basis the costs for operating IANA including overhead costs?

We believe that it is good accountability to have budget transparency. In particular, discussions about service improvement or accountability cannot be made without reference to the cost implications. This is independent of whether we are looking at separation or not. However, cost should be less of a consideration in deciding whether to change operator: this is a serious step and should not be treated like changing telecommunications or energy provider.

• Would it be important to separate out the costs associated with address and protocol functions?

We would be open to hearing arguments why this should be done. For the moment, we believe that this is an unnecessary complication.

8. Could there be unforeseen impacts relative to selecting a new operator for the IANA functions vs the ICANN policy role (should ICANN determine that there will be another round of new gTLDs, how could it ensure that the new operator would accept this)?

If there is structural separation, a condition on the new operator should be that its actions must be based on (for TLDs) ICANN and other relevant policies. There will need to be a reciprocal arrangement for the new IANA functions operator to explain possible implications of a policy

decision on its ability to meet service level commitments or on its costs. (This in turn might have implications on where the burden of costs falls.)

We assume that the TLDs (directly or via ICANN) will still be expected to cover the costs of the IANA functions operation.

9. Are there other transition models which the CWG should be exploring?

We believe that (with four different models covering both internal and external approaches to separability) we have enough to work on! We need to focus on the technical basis for the transition, as well as on practical dispute resolution and remedial action processes.