Report of Public Comments

Title:	Cross Community Working Group (CWG) on Naming Related Functions Draft Transition Proposal
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Comment Period:		**Important Information Links**
Comment Open Date:	1 December 2014	**[Announcement](#)**
Comment Close Date:	22 December 2014	**[Public Comment Box](#)**
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Section I: General Overview and Next Steps

Following the request of the National Telecommunications and Information Administration (NTIA) for ICANN "convene a multistakeholder process to develop a plan to transition the U.S. government stewardship role" with regard to the IANA Functions and related root zone management, a Cross Community Working Group (CWG) was tasked with developing to produce a consolidated transition proposal for the elements of the IANA Functions relating to the Domain Name System (DNS). The CWG published its [draft transition proposal](#) [PDF, 1.72 MB] for public comment.

The CWG began its work in October 2014, with regular weekly virtual meetings and a face-to-face meeting at ICANN 51 in Los Angeles, California. In addition to ICANN supported regular weekly CWG virtual meetings to advance the work of the CWG. The CWG will produce a proposal for the ICG in response to the [ICG Request for Proposals](#) [PDF, 84 KB].

After the close of Public Comments, the CWG created a series of survey based on comment submissions to determine trends of support on the various details of the overall CWG proposal. The survey, results and data can be found below. This review of the public comments now forms the basis for the CWG to continue developing a final proposal for submission to SO/AC Chartering Organizations and the ICG.

- [1.CWG CSC_MRT Survey.pdf](#)

- [2.CSC_MRT Survey (Stats).pdf](#)

- [3.CSC_MRT Summary_Results.pdf](#)

- [4.Contract Co & IAP Survey.pdf](#)

- [5.Contract Co & IAP Survey (Stats)-Corrected.pdf](#)

- [6.Contract_Co_IAP_Summary_Results.pdf](#)

- [CSC-MRT-Summary-Data.xlsx](#)

- [Contract Co & IAP-Summary-Data.xlsx](#)

Section II: Contributors

At the time this report was prepared, a total of 50 community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

<u>Organizations and Groups:</u>

Name	Submitted by	Initials
Lars-Erik Forsberg and Camino Manjon	European Commission	EUC
Julia Katja Wolman	DANISH BUSINESS AUTHORITY	DBA
Christian Dawson	i2Coalition	i2C
Mary Uduma	Nigeria Internet Registration Association	NIRA
Steve DelBianco	CBUC	CBUC
Matthew Shears	Center for Democracy & Technology	CDT
Graeme Bunton	RrSG	RrSG
Keith Drazek	RySG	RySG
Claudio di Gangi	IPC	IPC
Maarten Simon	SIDN	SIDN
Ken J. Salaets	Information Technology Industry Council	ITIC
Theresa Swinehart	ICANN Board	ICANN
Wolf-Ulrich Knoben	ISPCP	ISPCP
Jandyr Santos Jr	Ministry of External Relations - Brazil	Brazil
Annebeth B. Lange	UNINETT Norid AS	UNINETT
Peter Van Roste	CENTR	CENTR
GUO Feng	China Academy of Information and Communication Technology	CAICT
Minjee Kim	Internet Community of Korea	ICK
Liyun HAN	CHINA INTERNET NETWORK INFORMATION CENTER	CINIC
Rafik Dammak	NCSG	NCSG
钟睿	Internet Society of China	钟睿
Barbara P. Wanner	U.S. Council for International Business	USCIB
Kathryne E. Badura, Esq.	International Trademark Association	INTA
Philip Sheppard	Brand Registry Group	BRG
Dr. Jörg Schweiger	DENIC	DENIC
Eleanor Bradley	Nominet UK	Nominet
Pierre Bonis	AFNIC	AFNIC
Pat Kane	Verisign	VRSN
Aparna Sridhar	Google	Goog
MAEMURA Akinori	JPNIC	JPNIC
Lise Fuhr	DIFO	DIFO

Rita Forsi	Ministero dello Sviluppo Economico	MDSE
Chris Disspain	auDA	auDA
Byron Holland	CIRA	CIRA
Carolina Aguerre	LACTLD	LACTLD
Arun Sukumar	National Law University, New Delhi	AS
Donna Austin	ARI Registry Services	ARI
Jordan Carter	InternetNZ	INZ
Dr Eberhard W Lisse	Namibian Network Information Centre, the .NA(R) ccTLD	EWL
Alan Greenberg	At-Large Advisory Committee	ALAC

Individuals:

Name	Affiliation (if provided)	Initials
Brian Carpenter		BC
Kurt Pritz		KP
Andrew Sullivan		AJS
John Poole		JP
Rishabh Dara	Student, IIM Ahmedabad	RD
Kieren McCarthy		KM
Dean Papa	Symantec Corporation	DP
Richard Hill		RH
Graham Schreiber	Civil Society	GS
Page Howe		PH

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above ([View Comments Submitted](#)).

The following is a summary of comments submitted divided among various categories of the RFP proposal:

Contract Co.
- The EC generally supports separability by maintaining the IANA Contract external to ICANN with Contract Co only act according to the MRT.
- The CBUC does not support the Contract Co. concept, but believes the concept can be achieved by awarding an emergency backup provider and strong accountability mechanisms
- While support for Contract Co. was not listed, CDT supports the ability to tender for the IANA contract and that it's essential for separation; legal structure and relationship with MRT needs to be further defined.
- RySG suggests external opinions be considered on setup and jurisdiction as they support some form of contract with the IFO based on the NTIA requirements. It should be incorporated in a way that protects directors and staff from liability.
- Nominet does not support the Contract Co and recognise that structural separation might need to be an option in the case of serious and deliberate action (or inaction) by the ICANN Board, but we believe that provisions for this could be built in to the organisation's bylaws.
- AS does support the Contract Co. but only in limited capacity to approve IANA change requests and the legal authority to deny changes should the not meet the policy.
- DIFO supports Contract Co. but mostly due to functional separation in ways that key parts organizational parts

- are separated, like legal, and any policy components. It should be lightweight and have no staff. DIFO is open to other suggestions.
- SIDN does not support Contract Co. but a number of arrangements will have to be in place comparable to what is suggested now as contract terms in the CWG proposal
- CIRA supports the Contract Co. concept supported by standby committees with periodic review of performance and in cases of bad performance, RFPs should be issued. CIRA supports the need for legal advice for creation of Contract Co.
- ICANN does not support Contract Co, as it poses risks when weighed against the NTIA criteria, but does support the functional separation of policy development and execution of the IANA Functions contract via a committee.
- LACTLD did not state support or no support of Contract Co, but functional separability is desirable with the ability to retender the IANA Functions contract.
- ISPCP supports Contract Co., but requires further development to complete the proposal & suggests seeking external advice as to organization
- GOOG does not support Contract Co; A contract is neither a sufficient nor a necessary mechanism to ensure the community's ultimate goal -- accountability to the broader set of Internet stakeholders. Creating a separate contracting structure is fraught with peril for several reasons: (1) It is an ill-defined entity subject to capture. (2) It raises the potential for a power struggle between ICANN and the contracting entity at a time where stability is extremely important. (3) It creates unnecessary bureaucracy and complexity in performing a set of technical duties. (4) It simply shifts the accountability concerns frequently raised regarding ICANN to a different locus. In order to ensure that key IANA functions are performed properly, Google recommends that existing terms be explicitly stated, incorporated into the Affirmation of Commitments. Requirements
  - A prohibition on subcontracting the naming functions
  - Conflict of interest requirements
  - Confidentiality and data protection requirements
  - Annual program reviews and monthly performance progress reports
  - Complete transparency of all decision making processes within ICANN
- GOOG states the transition proposal should explore the possibility of ICANN entering into a contract with an emergency back-up provider wherein the second entity would agree to perform the IANA functions only in the event of an emergency. More details exist in GOOG's full comments should the CWG advance forward the Contract Co. proposal.
- Brazil supports a Contract Co of sorts, but mostly a different jurisdiction than the USA.
- INZ Supports the Contract Co as it maintains the need for contract in form of separability. It should "own" or be the steward of the key IANA functions assets – the root zone, the IP addresses of the A root server, the domain names, the DNSSEC keys. It needs a suitable set of indemnities from ICANN (or any future Operator) such that ICANN protects both it, and the MRT that directs its actions and structure and jurisdiction are important so as to prevent scope creep and make sure there is accountability.
- CNNIC supports but recommends that Contract Co be incorporated in the neutral state where the office of the entity shall be set up to guarantee its independence.
- The ALAC strongly opposes the concept and implementation of Contract Co. The creation of this entity is driven by the principle of separability which can be achieved through accountability (CCWG).
- ALAC does not support Contract Co. and would be restricted by its role and strictly bound to follow the instructions of the MRT, and its Board would be restricted from changing these rules. Such rigidity has been deemed to be necessary to ensure that its founding principles are honoured and it is bound to support its multistakeholder masters. However, this very rigidity presumes that the world around Contract Co. will be stable and unchanging for the possible unlimited future. There are also increased risks that Contract Co. could be subject to malicious lawsuits. Further, Contract Co. could be prone to capture despite others support that it would not. In relations to costs, It is unclear who will bear the costs associated with Contract Co. The decision of which jurisdiction is ultimately selected may not have a great impact on Contract Co.'s operation, but it could ultimately be a question that is very difficult to resolve.
- RH provides feedback about Jurisdiction:
  - 2.2.3.4, 2.2.4.4, and 2.2.5.4 - "The law applicable to the IANA Functions Contract is the law of [FILL IN, United States of America] and the venue for disputes is the [SPECIFY whether State or Federal] court of [FILL IN, United States of America]."
  - 2.2.6.4 - Any dispute between a ccTLD operator and IANA would be a dispute between ICANN, a US entity, and a non-US entity. More legal analysis is required here.

- - 2.2.7.4 - "The law applicable to the relation and the venue for resolution of disputes are specified in the agreements."
  - Separation: 3.1 - suggest that I.1.1 and I.1.2 of the ICANN Bylaws be modified to read as follow: "1. Under contract, coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, ..." "2. Under contract, coordinates the operation and evolution of the DNS root name server system.
- BC supports some form of organisation of the names community outside ICANN's corporate structure, to act as an independent voice of the community in reviewing and evaluating ICANN's performance of the various IANA Naming Functions. There is no reason we should grant ICANN an indefinite monopoly. There are a large number of places where the phrase "IANA Functions Operator" is used. BC suggest to use the full phrase "IANA Naming Functions Operator" to avoid any ambiguity or doubt about the scope of this proposal. This entity should be lightweight and have little or no staff.
- i2C does not support Contract Co. and states the creation a shell entity limits its attractiveness as a target for potential capture, but it may hamper the contracting entity's leverage in negotiations. There are also concerns about the rebidding process in addition i2C opposes the introduction of very short contract terms with frequent rebidding processes because such an approach would be costly, time-consuming, and disruptive to the naming community
- i2C continues that the CWG does not establish much-needed guidelines or limitations on the circumstances under which the IANA Functions could be transitioned to a new operator. The circumstances for re-awarding the IANA functions contract should be limited to issues of non-performance, such as a failure to execute against established Service Level Agreements or non-adherence to contract terms. Transitioning the IANA Functions outside of ICANN would be costly and disruptive not only to registry operators but to all parties that rely on a smoothly functioning DNS. Legal analysis is required to further evolve the Contract Co. should the CWG support it.
- NIRA welcomes the principle of separation, but expect minimal changes from a ccTLD perspective and thus do not support the concept of Contract Co.
- RrSG supports Contract Co. from a separability perspective as the ultimate accountability mechanism. RrSG supports the light-weight nature of Contract Co. as presented by the CWG, but further legal analysis is required. RrSG further supports a process to allow for rebidding at any time the CSC significant performance issues and oppose short and frequent rebidding processes.
- IPC supports the principle of Contract Co. with a US jurisdiction, but notes that many more details need to be defined in regards to accountability, office structure and resources to deal with litigation.
- JP supports a separate entity to hold the Functions contract, but it should be within a Trust in US or Switzerland jurisdiction and not a shelf company with 9 Trustees independent of ICANN comprised of technical, gTLD, and ccTLD registry operators. All contracts for Maintainer & Operator should be approved by the Trust and terminated in cases of bad performance. A Trust is able to maintain a minimal operating budget funded by the Functions Operator (uses reference to America's Cup as a model).
- ITIC does not believe the Contract Co to be the right approach, but separability can be achieved through accountability mechanisms, else Contract Co can be susceptible to capture and litigation.
- Centr believes in the principle of separation and functionally separated from ICANN, but no opinion on Contract Co or the internal option until legal advice is sought
- NCSG supports the concept of a lightweight Contract Co. and how it can avoid capture, avoid growth and 'mission creep' dynamics, and serve a single well-defined function based on instructions from MRT. Legal advice on the design, operating methods and jurisdiction of such a structure is urgently needed
- RD supports Contract Co and it should be extremely light-weight with purpose limited to holding contracts for the names community. To operationalise this concept (i) the Memorandum of Association (MoA/By-laws) of Contract Co should narrowly limit the activities of Contract Co; and (ii) the MRT should be specifically recognised as an independent entity outside the Contract Co. The term of the IANA Functions Contract should be 3+2+2 i.e. an initial duration of three years with two options of renewal of two years each. The renewals should be at the discretion of the MRT. There should be a mandatory RFP at the end of the contract term. The jurisdiction of the Contract Co and the jurisdiction of the IANA Functions Contract should be a country/state where contract law and corporate law is well developed.
- BRG agrees a legal entity should be formed to maintain the IANA Functions contract, but more details are required.

Multi-Stakeholder Review Team

- The EC supports the MRT and that it should be global and inclusive in nature in terms of stakeholders and geography. Role definition between MRT and CSC need to be further defined.
- CDT supports the MRT but roles and responsibilities need to be further defined; concern that the MRT is a replica structure of ICANN; MRT is mostly technical in nature and not related to policy
- RySG recommends that MRT not be subject to external interference & Function Operators Bylaws and SO/AC advice have no heightened influence on activities. Though the exact composition of the MRT has yet to be determined, we envision that a body that provided seats to all interested stakeholders (inside and outside the ICANN community) could end up being large in size and bring into play considerations other than operational performance. With this expanded size and set of interests, the MRT would be more susceptible to external lobbying, or to internal capture, by members that want the body to play a role in influencing or enforcing policies developed within the GNSO and ccNSO and implemented by the IANA Functions Operator. With these concerns in mind, RySG believes that the composition of the MRT should adequately reflect the direct customers of the IANA function, namely TLD registry operators; and the primary focus for the MRT should be concerned with operational performance. The TLD registry operators should guide measurement.
- The ALAC supports the MRT concept, but has some very strong reservations about how it can be implemented in this proposed model. There is concern about the composition of the MRT as well as what sort of entity the MRT will actually be. Issues like eligibility, composition, legal status, and funding all need to be addressed and further defined.
- ALAC states the concept of a mandatory RFP every N years has been pushed very strongly by some proponents of the model. Aside from the cost in both money and time on both the MRT and the RFP responder(s), such a process, regardless of a perceived need – essentially, change for the sake of change, is frightening!
- Nominet believes decision on revisions to, and evolution of, the contract is not solely a decision for the MRT; do not think that it should be for the MRT to approve or otherwise the fees for service.
  - Section 3.2 Summary "The mandate and responsibilities of the MRT will need to be clearly defined and limited to its primary roles. It should not be possible to change the mandate except through an open and transparent process" could usefully be added. This should be in the chapeau text.
    - First bullet: Cross-reference needs to be corrected (it is not Annex 3).
    - Second bullet: "Within its clear and limited mandate, making key decisions…"
    - Fourth bullet: Add "… raised by the Customer Standing Committee or from elsewhere, subject to the clearly defined mandate of the MRT".
    - Fifth bullet: Elsewhere we refer to annual reports and this could be a useful timeframe for periodic reviews. It would be useful to clarify that the periodic reports should be ex-post assessments of performance against commitments and of conformity of decisions against the agreed policy framework. Reports need to be widely published and open to discussion.
    - Additional enforcement role: We have serious concerns about any enforcement role for the MRT except in the annual ex-post review on issues requiring subsequent corrective action if there appear to be systemic problems.
  - Section 3.4.2.2: Multi-stakeholder Review Team
    - 23. We would suggest that, "The MRT would meet annually to review overall IANA Functions Operator performance and other concerns and report to the global multi-stakeholder community." Current wording makes this committee very inward-facing. However, the decisions made by the MRT could have wide-reaching consequences and its conclusions should be properly understood and debated by the wider community.
    - A number of the administrative roles (and in particular C.2.12.a-C.4.6) look more appropriate for the CSC (if the CSC is maintained): these are all operational issues best dealt with by technical experts who have an interest in maintaining quality of service.
    - Nominet would also note the scale of responsibilities for this Committee, especially should there be performance issues with the IANA functions operator or during a periodical re-bid process. We have already commented on whether this is a tenable approach for a committee of volunteers.
    - One area where the MRT could take a leading role would be in preparing ex-post reviews of performance and decisions. This would help show where there are deficiencies and causes for concern that could be taken up with the IANA functions operator.
- JPNIC states should examined that the separation of Contract Co. and MRT should be feasible in a stable way, or even another approach to have MRT as the governing board of Concract Co. with sufficient separation of power or check-and-balance mechanism. JPNIC is also concerned that the MRT composition could slow down the

operational component. JPNIC sees the MRT as the heart of the proposal, and view this body as the true steward of the multistakeholder approach. Therefore, this body should be focused on organizing the multistakeholder open consultations rather than "representing" the various stakeholders. In order to do so, and to be fully in position to draft contracting decisions, this body must be adequately funded and staffed

- AS does not support the MRT & CSC as they are likely to replicate existing ICANN structures and risks policy interference. And reserves further comments until more details re provided, such as jurisdiction, personal liability, structure within ICANN, membership, funding, legal counsel, role definition, and transparency
- ISPCP supports MRT, but requires further development to complete the proposal especially with composition
- CNNIC recommends that MRT shall abide by the principle of Multi-participation, taking the responsibility for developing the detailed IANA contract and administration of daily routine.
- CNNIC states if MRT's members are selected with that of existing structures, it's recommended CWG to consider solutions that avoid conflicts of the interest
- NCSG supports the basic structure of the MRT and confirms that multistakeholder composition should be formed from ICANN community and other relevant stakeholders. NCSG proposes an 18-member team with 2 non-voting liaisons, with some kind of supermajority voting construct (⅔ or ⅘) for key decisions. The composition is structured and balanced to ensure that the MRT embodies a strong commitment to efficient and neutral administration of the DNS root zone rather than any specific policy agenda. The MRT should draw most of its ICANN community members from ICANN's GNSO and ccNSO, with the GNSO forwarding 4 (1 member for each Stakeholder Group), and the ccNSO forwarding 5 (1 for each world region). The root server operators should also be represented on the MRT with 2 positions. Each ICANN Advisory Committee (GAC, SSAC and ALAC) should appoint 2 members. There should be 2 independent experts external to the ICANN community selected through a public nomination process administered by the Internet Society but subject to conflict of interest constraints. Additionally, 2 non-voting but fully participating liaisons from the other operational communities should be appointed (by ASO for numbers and by IAB for protocols) to facilitate coordination across the different IANA functions. MRT members should be appointed for limited terms sized appropriate to the contract renewal cycle.
- NCSG also states that failure to implement policy properly, or implementation of policies that are not actually approved by the community, should be explicitly listed as factors that could lead to suspension or non-renewal of the IANA contract by MRT.
- CIRA states CWG proposal requires the MRT "to appoint an evaluator assigned to verify that a root zone change request followed all applicable policies and procedures and authorize such change before it is implemented by the RZM." This is a function that does not currently exist, and will add unnecessary complexity and cost to the overall proposed stewardship process. The MRT should meet only every few years in anticipation of the expiry of the existing IANA functions contract. This would be consistent with the need to keep the overall post-transition arrangements lightweight and the role of the MRT minimal.
- i2C is concerned that the MRT retains discretion over contracting decisions related to the IANA functions, including deciding when a rebidding process should be opened, as well as managing and determining the outcome of that resulting request for proposal process. Granting this much power over a set of technical and implementation functions to the MRT could allow for capture and re-litigation of already decided non-technical policy decisions. In particular, including a broad variety of technical and non-technical stakeholders on a review team that is supposed to supervise purely technical functions could detract from the focus on operational performance and expose the IANA functions to the possibility of interest capture and policy reformulation. The proposal does not make clear how the power of the MRT would itself be checked in the event of an overreach by that group. Without an answer to this question, the proposal merely displaces, rather than solves, a key issue regarding accountability.
- NIRA supports the proposed MRT and its functions but without the Contract Co attachment. The entity should include stakeholders outside ICANN constituencies and should be independent of the ICANN Board. It should be positioned to contract with the IANA Functions Operator and has the powers to call for a rebid in the event of unsatisfactory performance of the current operator in service delivery.
- RrSG The MRT needs to be robust enough to avoid capture from external forces, while at the same time lean enough to avoid scope creep. It's important that policy development remain within the existing structures (like the GNSO), and that the MRT remains focused on implementation, RFPs and rebidding. The spectre of the MRT developing into a parallel ICANN is not one to take lightly. We would strongly encourage further work to identify a suitable composition, as well as ensure that the scope of the MRT activities are carefully bounded.
- IPC will not support an MRT which served to re-litigate policy debates, or breathe life back into disagreement and consensus within the policy development process. Adequate representation of the private sector within the post-transition stewardship of IANA is necessary for accountability to ensure that the diversity of private sector

stakeholder views and interests are reflected, to avoid capture, to provide legitimacy for the entire model and, overall, to ensure the effective oversight and accountability of the IANA Functions by the global multistakeholder community.

- DIFO supports the creation of a MRT but thinks that this should have a size that is representative of ICANN and the global internet community and at the same time is not too big. A size of 10 – 12 people should be the maximum size.
- Essentially SIDN is of the opinion that both structures should be as lightweight as possible and should only be composed of Registries. The role should be limited to those situations where the MOU/agreement itself needs to be changed including the situation where IANA non-compliance with the MOU/agreement is such that separation might be necessary. The MRT should be a standing committee to be available as necessary. The CSC nor the MRT nor an independent certification from a counsel should have a role with regard to ccTLD delegation and redelegation request.
- LACTLD current MRT proposal has an overarching, duplicative mechanism of representation of already existing SOs / ACs in this body are not considered to be per se conducive to an accountable and transparent oversight body of the IANA functions. MRT functions and its structure should be kept in minimal form.
- GOOG believes the power granted to the MRT in the proposal will make it susceptible to capture and litigation of already decided non-technical policy decisions. GOOG also notes that a large composition in the MRT could be susceptible to external lobbying efforts that want to influence current policies. The question of accountability for the MRT remains.
- Brazil believes the MRT should be comprised of all interested stakeholder sectors (civil society, private sector, government, academia and technical community) and not solely based on the existing ICANN structure. It is all suggested that the MRT's scope should include numbers and protocols in addition to naming.
- UNINETT states composition of MRT is essential and does not support groups other than Registries to reassign the IANA functions contract.
- Centr thinks administrative responsibilities should be assigned to the CSC (C.2.12.a – C.4.6) and is concerned on the work load of the MRT. The concern arises on workload should the functions be reassigned for tender. Centr believes that any retender process should only be performed by direct customers of IANA and that the CWG should address the scope of decision making for the MRT. Centr does not support and independent evaluator for IANA change requests and that automation should be implemented, except for delegation and re-delegation requests.
- INZ supports the MRT and its limited narrow role as defined in the proposal, but it requires further definition.
- ICK suggests that composition of the MRT should also include geographical balance in addition to the four groups described in the proposal.
- 钟睿 believes the composition should also be driven by the five regions and include representatives from non-ICANN and non-technical communities and also from developing countries. The terms should be no more than two years and two consecutive terms.
- RD suggests that the MRT should not be a separate legal entity organized independently of ICANN and governed by a charter. Terms of members should retire on a 3 year rotational basis. Size of the MRT should not be larger than 20 members to avoid replications of an ICANN structure. A secretariat will be required for the MRT. Members from developing countries should be compensated. Funding for MRT should not be from ICANN as to maintain independence. Tiered escalation should be used to deal with smaller issues before reaching a retender process for contract transfer.
- KM supports the MRT but only on specific events and not a standing committee. However, the CWG has ended up proposing an unnecessary, bureaucratic and problematic central body in the MRT and the IANA functions and the internet in general would be much better served by a more lightweight, less permanent body. By making the MRT a persistent entity and by giving it effective controls over all aspects of the IANA contract, you risk creating a bureaucratic monster driven more by politics and status than good decisions or effective technical functioning. More details of roles and functions needs to be defined. KM also suggests following the system used by the NTIA in the prior contract renewal.
- USCIB supports the concept of a separate structure, but more details of an MRT are required with direct customers of IANA should be vested with oversight.
- BRG supports the MRT and roles defined, but relevant communities such as the BRG that are outside of ICANN should also be recognized.
- RH states confusion about the term "relevant communities" and if such that is broader than the ICANN community. Further definition is required.

Customer Standing Committee
- The EC supports the CSC and should only be comprised of direct customers of IANA, but state also that the MRT has the right to address problems involving other interests. Care should be taken to avoid conflict of interest and an adequate degree of independence
- The i2C supports the CSC to monitor SLAs but the CSC should only focus on naming issues only.
- The CBUC does support the concept of the CSC
- CDT supports the CSC but roles and responsibilities need to be further defined
- RySG fully supports the CSC concept but has concern that ROs are not recognized as direct customers. RySG questions the need for liaisons from SO/ACs, but might accept experts from RSSAC, IETF, RIRs, IAB, SSAC as well as others as long as adequately vetted. Registry Operators should be the ones empowered to make any contracting decisions.
- The ALAC supports the CSC, but does have some problems with both the composition of the CSC and the assignment of certain specific duties to it. ALAC believe that regardless of the function, there should be a substantive multistakeholder component unless its scope is only limited to technical decisions on IANA performance. The description of the CSC says that it will take over the NTIA responsibility of reviewing redelegations. Later in the draft proposal, it says "Contractor shall submit its recommendations to the [[CSC] or [MRT] or [RZM1] or [Independent Evaluator]] via a Delegation and Redelegation Report." Certainly if the CSC is largely populated by registry operators, there is no reason to believe that they are the proper authority for this task.
- JPNIC supports that only Registry Operators constitute the CSC makeup
- AS does not support the MRT & CSC as they are likely to replicate existing ICANN structures and risks policy interference
- SIDN suggests that the CSC should determine the Service Levels after an open public consultation like the NTIA did in the last RFP round.
- ISPCP supports CSC., but requires further development to complete the proposal
- CNNIC recommends that CSC, as the representative collective of the registries of ccTLDs and gTLDs as well as naming directly related stakeholders, shall implement the supervision on the policies and actions of MRT, and shall provide the corresponding policy support in order to guarantee the quality of the decisions and service standards made by MRT.
- LACTLD states that the CSC should be a technically competent, neutral body concerned with operational performance.
- NIRA believes that customers of IANA should have direct oversight of how policies are being implemented and thus support the concept of CSC. They must have say on how the oversight is carried out, respect to national laws and public policy, and monitoring of performance.
- NIRA suggests the following be further considered: " that each request for delegation and re-delegation should be made public by the requesting ccTLD to the ccTLD community for comments within a specified time frame, and also allow CC community to give authority/endorsement to the request. The same goes for root zone and WHOIS management activities of the IANA function Operator. In this way, the ccTLDs would perform the oversight function. Since not all ccTLDs belong to the ccNSO, NIRA thinks a percentage, say 75%, of this IANA customers "CC" would give legitimacy to the authority/endorsement to the activities of the IANA function operator relating to the cc naming functions."
- Nominet proposes more detail around transparency of the CSC as well as responsibility definition; The nature of the CSC – representing the customers of the IANA naming functions – should be clearly limited to service level commitments, performance indicators and quality assurance. There are also concerns with the CSC receiving and reviewing delegation and redelgation requests that extend the proposed mandate of the CSC.
    - o Indicate clearly that all IANA Functions Operators reports be made public
    - o Limitation of other individuals with relevant expertise
    - o Reluctant for CSC to receive and review IANA functions reports, limit the role
    - o CSC should be simply a technical performance monitoring function
- JPNIC believes that only direct customers of the IANA should be represented on the CSC. Expanded composition only confuses it from other bodies like the MRT
- auDA agrees that the CSC should only deal with SLAs and performance indicators associated with IANA functions and that composition must predominately be composed of direct IANA customers.
- DIFO supports the CSC and that composition should be made of Registry Operators.

- SIDN states that CSC should be lightweight and only composed of direct customers of IANA. The role of the CSC should be limited to those situations where the MOU/agreement itself needs to be changed including the situation where IANA non-compliance with the MOU/agreement is such that separation might be necessary.
- ITIC does support the CSC concept and it should only be staffed by direct customers of IANA.
- CIRA supports the creations of the CSC and given its defined role, it should only be composed by direct customers of the operator. Observation should be opened to all. CIRA sees four major functions:
    - 1. To review the monthly performance reports that the IANA operator produces as well as any audit reports that might be produced as may be required under the contract. This function does not require a meeting, let alone a face-to-face meeting.
    - 2. To meet with senior representatives from the IANA functions operator (in the current environment, this would be the ICANN CEO and the vice-president responsible for IANA) on an annual basis to discuss the budget for performing these technical functions.
    - 3. To extend an existing IANA contract, where it contains provisions for such extensions, and where the CSC determines that there are no outstanding operational performance issues that would prevent this extension.
    - 4. To report to the Multi-stakeholder Review Team (MRT) on any operational performance issues that have been noted, and which the CSC has not been able to resolve through direct contact with the IANA functions operator.
- LACTLD states the CSC should be a technically competent, neutral body concerned with operational performance.
- GOOG states that this committee's scope should be strictly technical and include only: (1) monitoring the performance of the naming functions for any technical irregularities or issues; (2) ensuring that the IANA functions operator maintains appropriate service levels for services associated with naming; and (3) raising and addressing any performance deficiencies on an ongoing basis related to naming. Our recommendation to limit the CSC's scope to naming issues only is informed by the fact that ICANN maintains a contract with IETF for protocol parameter table maintenance and that ICANN and the Numbering Resource Organization have a memorandum of understanding that addresses numbering issues. Because the CSC's remit should be technical and it should have no role in setting or re-evaluating policy, its composition should be limited to direct customers of the IANA naming functions (gTLD and ccTLD operators) and related experts as that group sees fit. As a result, registry operators, as well as liaisons from the Security and Stability Committee (SSAC), the Root Server System Advisory Committee (RSSAC), the Regional Internet Registries (RIRs), the Internet Society (ISOC), the Internet Engineering Task Force (IETF) among others, could be invited to participate to ensure a seamless coordination among impacted parties of the IANA functions.
- Brazil considers that its activities should be of a technical nature, strictly limited to assessing performance data of IANA operations and transactions. It should not be within the scope of the CSC to make decisions, but rather to provide regular reports with objective information related to the performance of the IANA Function Operator.
- UNINETT thinks the CSC is really important that the committee is composed of IANA customers only. The review of delegation and redelegation reports should be removed. We do not support the assignments of any evaluation of delegation and redelegation reports to the CSC
- Centr believes it is crucial that the CSC is composed of IANA customers only. This is the best guarantee that its role is not expanded beyond the scope currently outlined in the proposal. References to C292c and C292d should be interpreted narrowly and review of delegation and redelegation reports should be removed. We do not support the assignment of any evaluation of delegation and redelegation reports to this Committee. We see its role as a technical performance monitor, composed of technical experts that have the right skillset to make assessments on performance standards. The review of delegation and redelegation reports is not part of that role.
- INZ states the CSC must retain a focus on the direct customers in its membership and approach. In particular, there should be no role for government or users' representation on this Committee.
- NCSG cautions strongly against expanding the composition of the CSC in ways that would make it a duplicate and/or competitor of the MRT.
- 钟睿 suggests that it is necessary to take the Internet users distribution status and future Internet development into consideration so that it could maximally reflect diverse consumers' voices and better protect their rights and interests.
- RD believes CSC members should preferably be drawn from the MRT so that there is coordination between CSC and MRT on matters that are escalated. Funding of CSC should be indemnified by Contract Co for all its expenses. It is suggested the term of CSC members have a continuous existence with 1/3 members retiring on a rotation

basis.

- KM suggests CSC - the actual users of the naming functions address issues directly with the IANA contract operator rather than require it to go through the MRT. The CSC should decide whether to go to the proposed IAP if there is an issue that cannot be resolved. The CSC should decide whether it is needed to create a (temporary) incarnation of the MRT to address a specific topic or issue by limited what the CSC is allowed to do in terms of creating new policies. The CSC should not develop service levels through the MRT. The MRT has no inherent knowledge or stake in this process and should stay out of the way.
- BRG supports the concept that those who are direct customers of the IANA technical functions have a means of making sure those functions are being performed properly. BRG expresses a firm commitment to be such a registry representative. BRG recommends that membership is restricted to registries to avoid duplication with the MRT. As for CSC Roles & Responsibilities BRG supports the roles defined.
- RH doesn't understand why both a CSC and an MRT are needed. Couldn't the CSC perform the functions of the MRT? And why shouldn't the CSC consist of all users of the names part of the IANA function, that is all the registries?

Independent Appeals Panel
- The EC supports the IAP but states that arbitration rules should be based on international law and not how typical commercial disputes are resolved.
- The ALAC strongly supports the IAP, although there have not been many cases where this has been needed.
- JPNIC supports the approach to use existing DRPs instead of creating a standing panel
- AS does not support the IAP because it will likely increase the opportunity for every IANA action to become litigation.
- MDSE - In the novel organization, proper checks and balances must be in place, with effective and affordable means of appeal and redress, and adequate guarantees of independence.
- ISPCP supports IAP, but requires further development to complete the proposal
- NIRA supports the concept of IAP.
- i2C is concerned around the development of an Independent Appeals Panel is centered on concerns regarding bifurcation of the appeal mechanism. First, the discussion regarding appeal mechanisms should take place in a holistic fashion. The ability of aggrieved parties to seek review of ICANN's actions should be improved across the board -- not just with respect to the IANA functions. i2C recommends this discussion should take place in the CCWG. A broader review mechanism with binding outcomes and appropriate redress should be implemented through the Accountability Process, and this mechanism could and should also cover the appeals referred to in the draft proposal for as long as ICANN continued to act as the IANA Functions Operator. Separation of these mechanisms could lead to unnecessary duplication of processes, forum shopping, and a risk of inconsistent adjudications on the same topic.
- RrSG states the IAP component of the proposal is crucial, and it's location outside of both ICANN and the IANA oversight function is necessary. The wording in the proposal that the IAP is open to "other parties who feel that they were affected by an IANA action or decision" is unfortunately broad, and the interpretation of this will surely be stretched by parties with an agenda.
- RySG strongly supports the existence of a binding and independent appeals process extending to decisions and actions of the IANA Functions Operator that affect the content of the Root Zone File or Root Zone WHOIS Database. It is imperative that this appeals process only challenge whether established policies have been properly applied or adhered to by the IANA Functions Operator. It should not evaluate the merits of such policies. Allowing this independent appeals process to challenge the policies governing delegation and re-delegation of gTLDs themselves could create a secondary nexus for policy development, undermining the role of the multi-stakeholder model for policy development for the naming community. It would be unacceptable to the gTLD Registry Operators. RySG states the need for a mechanism to provide meaningful review and redress for ICANN decisions and actions, which will be handled by the CCWG. The RySG provides a detailed recommendation on standing to appeal for delegations and redelegation requests via a table. See direct comment for more detail.
- Nominet is concerned if the role of the IAP were to be more than simply assuring that due process had been followed, with its actions limited either to accepting the decision or to referring the case back to the IANA functions operator to provide explanations. Similarly, the IAP should not be used to bypass or duplicate existing processes (for example, a direct review of Board actions) or to challenge the agreed policy framework. Nor should it be open to potentially abusive appeals from competitors or from "vigilante" or other "concerned" groups on the basis of the disputed value of a TLD to the Internet community.

- IPC also supports in principle the concept of an Independent Appeals Panel. However, they note that the requirements for standing to file an appeal has not been specified within the proposal. Standing should be determined through integration with the CCWG-Accountability in order to avoid having multiple and potentially inconsistent or overlapping review mechanisms, as opposed to a holistic accountability regime.
- auDA states that an independent appeals panel is important. There needs to be a way to try any decision taken by IANA in a way that is effective, non-discriminatory and affordable. This is essential to ensuring adequate accountability to the new institutional set up. With regard to the ccTLDs, sovereignty must be respected.
- SIDN in general welcomes the idea of an IAP but notes that this is not replacement of an existing structure but creating a new one. Which introduces the question if it is a precondition for the successful transition of the IANA stewardship. SIDN feels it is not and suggest that detailing of an IAP proposal be postponed to a later moment. Distinction should be made between ccTLDs and gTLDs
- CIRA asks the question of just who might have standing to initiate the IAP requires further clarification as well as the question of whether the scope of IAP should be limited to questions regarding whether due process was followed in terms of a ccTLD delegation or redelegation or whether it should be broader. Each community (gTLD, ccTLD) should be permitted to determine the scope themselves.
- LACTLD states the existence of such a body is of importance to ccTLDs in general as expressed in the ccTLD IANA survey results. Such a mechanism would provide safeguards in case of failure of service delivery, or position abuse. The IAP should nevertheless be able to address the concerns and needs of an international community, including cultural and linguistic differences in its pool of panelists.
- AS reserves full comment for a more complete proposal but offers the following questions for CWG consideration:
    - 1. Would the IAP follow ad hoc arbitration (where arbitral rules are selected by parties) or be housed under an institutional set up (such as the International Chamber of Commerce, JAMS arbitration rules etc)?
    - 2. How would awards rendered by the IAP be made enforceable?
    - 3. What is the role of local courts in enforcing an IAP award made outside their jurisdiction?
    - 4. What policies may be defined as "IANA-related" under the IAP's ambit?
    - 5. Who would frame the list of panelists qualified to adjudicate IAP disputes? What would be the role of the MRT in this process?
    - 6. How would the IAP secretariat be funded for operational expenses?
    - 7. Would an arbitral award by the IAP be subservient or superior to an ICANN Board resolution on the subject?
    - 8. Given that the CWG has sought no changes to the "principle of subsidiarity" for ccTLDs, how would the IAP adjudicate a matter involving a ccTLD registrar and an individual/entity from another jurisdiction? Would the IAP defer to local policy concerns?
- GOOG agrees that decisions and actions of the IANA Functions Operator that affect the content of the Root Zone File or Root Zone WHOIS Database should be open to independent review via a clearly defined and narrowly scoped review process. Moreover, a discussion of how to improve the review of ICANN actions -- whether related to the performance of the IANA functions or not -- should be addressed holistically through the Accountability Working Group. GOOG also has the following concerns:
    - concerns regarding bifurcation of appeal mechanism
    - concerns regarding the scope of review, standing to bring claims, and frivolous claims
- Brazil supports establishing an Independent Appeals Panel (IAP) the competence of which should, extend beyond the areas within the scope of the CWG. The IAP would be instrumental to ensure that the management of IANA functions involves clear separation and independence of powers. A clear dispute settlement process should be defined, by which parties should be encouraged to refer to the IAP as a last resort only. The draft proposal should also contain concrete examples of dispute cases in order to improve the understanding of IAP's functions. In order to make sure that decisions emanating from the IAP are absolutely independent, it is of utmost importance to ensure that the panel is not pre-determined to be subject to the jurisdiction of a single country or a particular regional block. Hence, any arrangement that would outsource IAP's arbitration function to a commercial company would gravely undermine the panel's autonomy. In this regard, the Brazilian Government would be more inclined towards the suggestion of setting up "ad hoc" IAP panels, composed of three experts, two of them chosen by the parties at dispute and one chosen by the other two selected panelists. WTO´s Appellate Body constitutes in our view a possible example that could be considered.
- UNINETT states the IAP role should only be to assure that due process has been followed in the case of appeals on delegation and redelegation, and then either accepting the decision or referring it back to the IANA functions

operator and ask for explanation. It is not clear who can launch an appeal and on what grounds. UNINETT would like to strongly underline the local and national character of a ccTLD and the principles of subsidiarity.

- Centr states the scope of the Independent Appeals panel needs clarification, in particular who can launch an appeal and on what grounds. In the case of appeals on delegation and redelegation decisions, the IAP should under no circumstances go beyond checking if the delegation or redelegation decision by the IANA operator is properly documented and showing that due process have been followed. If the IAP would conclude that his is not the case, it should refer back to the IANA functions operator.
- INZ notes that specific requirements will need to be in place to protect ccTLD sovereignty and independence, noting that this will be vital to get right so as to secure support of the ccTLD community
- NCSG supports the basic structure of the IAP but notes more details need to be defined.
- RD states that the IAP should be allowed to issue temporary injunctions withholding (re)delgation pending the disputed matter at hand. In case of contempt of a IAP directive/order by the IANA Operator, the IAP should be able to escalate the matter to the MRT. The MRT should use its position to threaten termination of the IANA contract to ensure compliance.
- INTA supports of the concept of an Independent Appeals Panel (IAP) for independent review of Board actions that is binding in all technical matters relating to the IANA functions, including delegation and redelegation decisions.
- BRG supports the concept of an independent and binding appeals process and in regards to an independent arbitration organization (e.g., ICDR, ICC, AAA) If arbitration is chosen, BRG recommends use of existing arbitration providers and rejects the creation of a new body. BRG suggests greater international credibility would be provided by use of the ICC arbitration service.

Independent Certification for Delegation and Redelegation Requests
- Nominet is concerned about authorisation or appeals processes. The issues that IANA deals with on the delegation or redelegation of ccTLDs are complex. Any process to assess decisions needs to be limited to checking due process and correct documentation of decisions, and should not be the final arbiter of the correctness of the decision itself; it is hard to understand the role of introducing a third party and a written opinion on ccTLD delegation and redelegation decisions. We do not believe that it is appropriate to introduce such a role and, bearing in mind the importance of local decisions in such case, we wonder how the third party would be able independently to verify the decision. At best an independent counsel could establish whether due process had been followed and that satisfactory evidence had been produced to show this. But if a decision is contested, it would be more appropriate for the aggrieved party to take its case to the IAP to have the decision referred back for further consideration, should due process not have been followed or decisions were not properly documented. As it is, we do not believe that the NTIA role has ever been to verify delegation and redelegation decisions – at best it has checked that due process has been followed. We therefore do not think this exact role needs to be replicated. An appeals process (limited, as already explained) should be sufficient.
- JPNIC states that if Contract Co were to supply independent certification, there must be strong skills and capability to perform the function.
- MDSE states the most minimal impact on ccTLDs national sovereignty must be fully guaranteed, with particular reference to the delegation and re-delegation decisions.
- SIDN states last bullet should not use the word "recommendation" but "decision". In line what we have said above, it shall be directly submitted to the RZM for execution.
- GOOG supports a more streamlined process which takes into account the sensitive nature of these requests, especially for ccTLDs. As such, we recommend the following modifications to the CWG's proposal to require independent evaluation for every delegation and redelegation request: First, a certifier should only review the processing of change requests for compliance with a limited, pre-determined set of requirements to be agreed by the Generic Names Supporting Organization (for gTLDs) and by the Country Code Names Supporting Organization (for ccTLDs). Second, the certifier should not have the authority to review every delegation and redelegation request; instead, it should be called upon to review a designated number of changes at random over the course of the year. This approach will minimize the possibility of the certifier unilaterally and unfairly revisiting change requests to alter the outcome in a particular case while at the same time ensuring agreed policies are being followed.
- Centr is concerned that references to the evaluation of delegation and redelegation reports can be interpreted as assigning additional authority to new committees and bodies as envisaged in the proposal.
- UNINETT states the IAP's role should only be to assure that due process has been followed in the case of appeals

on delegation and redelegation, and then either accepting the decision or referring it back to the IANA functions operator and ask for explanation.

- NIRA believes the ICANN Board should not be the final authority of delegation and redelegation requests.
- auDA states that re-delegation and delegation of ccTLDs should be conducted according to national rules and procedures, including respecting national authorities and appeals mechanisms, where such rules and mechanisms exist.
- RySG offers details regarding section 1 of the proposal regarding the difference between ccTLDs and gTLDs. In short, Because of the global nature of gTLDs, an operator would need to seek an opinion in every jurisdiction where its end-users reside, which is theoretically every jurisdiction in the world. Determining whether or not a particular gTLD's policies violate local and/or national laws and policies would be impossible. Further, The NTIA transition has two parts, elements related to the contract and authorization. In regards to authorization, RySG offers an alternative; independent, third party that confirms the accuracy and completeness of the delegation request a secondary check that is built into the IANA delegation processes. In the case of gTLDs, an alternative, independent, third party could confirm the accuracy and completeness of the delegation request and also that the rules for delegation or redelegation as created through the policy development process have been followed.
- AFNIC believes the proposal should state more clearly that the only way IANA followed the specific policy should be checked, and in no case or no circumstance should the panel take a biding decision that is not exclusively and only based on these specific policies IANA have and will continue to have to follow. In other words, only IANA's fulfillment of its due diligences regarding the policies agreed are to be checked, and in no circumstance the proposed delegation or redelegation "per se".

Possible Modifications to the Independent Review of Board Actions
- RySG feels that that discussion is misplaced. The ICANN Bylaws provide for a limited Independent Review Process (IRP) of Board actions when it comes to the IANA functions. Primarily, this is intended to apply to the delegation and redelegation of ccTLDs, which require Board approval prior to being submitted to NTIA. The IRP also applies to Board actions regarding gTLDs such as policy approval and implementation plan approval. RySG feels that this level of scrutiny is sufficient when it comes to Board actions as it pertains to the IANA functions provided broader accountability checks are implemented. Maintaining the level of accountability contained with the IANA functions contract is important; however, RySG does not feel it is necessary to create another layer of bureaucracy into already complex processes that have definite checks and balances already built into the system. This does not mean that the RySG does not support broader accountability checks on Board actions and decisions, the development of a binding independent review process for all Board actions on policy or the implementation of GNSO policies, including Board decisions as they pertain to the IANA functions. RySG feels this is a more streamlined and efficient way of addressing the concerns raised by this question. Instead of creating an extra layer of review for IANA-related Board decisions, ICANN would implement a broader scope for independent review of Board decisions, which could encompass both the issues raised here as well as other issues within the broader policy development process within ICANN.
- Nominet does not believe that the ICANN Board currently has, or should have, any role in approving ccTLD delegations and redelegations beyond verifying that due process has been followed by the IANA functions operator. Nominet would not see the ICANN bylaw provision for independent review of Board actions having much, if any, role in the case of the CWG draft proposal. Nominet is concerned about the duplication of different entities and mechanisms involved in oversight and review of the delivery of the IANA functions, with the risk of confusion and dispute, as well as opening an already overloaded process to forum shopping. However, Nominet could envisage a key role for strengthened bylaw provisions in the case of a simplified stewardship model directly based around ICANN, but with binding obligations and the potential to set up a separate entity should ICANN's stewardship fail to meet community requirements.

Possible Modification to the NTIA's Responsibilities Acting as the RZ Management Process Administrator
- The IPC believes that the RZM Authorization function is a key accountability mechanism, since ICANN currently self-certifies that it has complied with policy. As such, who exercises the RZM Authorization function and the process for handling such authorizations must be clear before meaningful comprehensive comments can be submitted
- INZ supports this role change but does not have a suggestion at this time.
- RySG feels that adding an extra layer of transparency by requiring the public posting of all IANA change requests will only increase visibility into the IANA functions. However, it should be made clear that the public posting of IANA change requests is for informational purposes only and these change requests should not be open to

further discussion or public comment by the community. Further, the public posting of each IANA change request needs to be done in an efficient manner to ensure that this new process does not slow down these requests.

- Nominet does not think that the NTIA's theoretical role of certifying ccTLD delegation and redelegation decisions should be replicated, and would have serious concerns about the mechanism proposed in section 3.4.3.2. This proposal fails to recognise the complexity of these decisions given (for example) the importance of national or local decisions, and the differences in culture and practice in different parts of the world. Subjecting the careful analysis that is needed by the IANA functions operator to the views of counsel, which is unlikely to have sufficient experience and understanding of these issues, is not appropriate. Nominet also notes that the role of any independent certification process would overlap and cause confusion with the role of the Independent Appeals Panel. Subject to addressing the concerns identified for the role of an independent certification process, Nominet could see some benefits from the IAP as part of the process. However, we believe that the IAP role in decisions associated with delegation and redelegation of ccTLDs (at least) can also only be based on assessing whether the IANA functions operator has carried out its role correctly: has it performed the relevant checks, is the documentary evidence in place, is there documented explanation and justification where criteria are applied in a different way depending on the particular case? Hence Nominet believes that any decision by the IAP should be limited to agreeing that due process has been followed and documented, or to referring the case back to the IANA functions operator for further consideration and explanation. It should not make a decision on approval or rejection of the decision: we do not believe that an independent body would have the experience and knowledge to do this.
- Brazil states the replacement suggestion contained in the draft proposal is not clear. In particular, chapter "3.4.3.2". As an alternative to the "counsel", the MRT, as the main body in the new proposed replacement architecture, could perform the given administrator role.
- SIDN states the whole transition of IANA oversight to the multi-stakeholder community makes only sense if also the NTIA – Verisign RZM agreement will be part of it. If all other oversight mechanisms fail to make the IANA function operator perform its tasks as required, the ultimately remedy of separating the IANA function from ICANN must be available. In that case arrangements also need to be in place that make sure that the RZM accepts the separated IANA as the new administrative authority with regard to the root zone administration. On the condition of adequate oversight over and accountability of ICANN (as per sub 2 above), the role of NTIA with regard to the RZM agreement can be taken over by ICANN, making the IANA service provider the new contract party for Verisign. From a stability perspective it at the same time should be clear that replacing the current RZM should not be part of the current process.
- **Publication of Change Requests**
    - i2C supports public posting of change requests as to not delay implementation
    - Nominet believes that transparency if critical; all reports and decisions made public and published in timely manner; Nominet welcomes the continued obligation for the IANA functions operator to publish all requests for changes to the root-zone file and WHOIS database and the publication of delegation and redelegation reports. Nominet notes that the delegation & redelegation reports could be assessed in an ex-post review as part of the annual reporting cycle
    - JPNIC supports the publication of IANA changes but are concerned that if posted prior to the change may make allow for objections that could delay the change request.
    - SIDN states all reports should be public so there should not be an approval process for publication in these instances
    - GOOG supports adding an extra layer of transparency to the process by requiring the public posting of all IANA change requests but should not be regarded as an invitation to re-litigate any underlying policy decisions that led to these changes; the process should be largely informational in nature. Moreover, the public posting should not delay the implementation of requests.
    - Centr states 3.4.3.1 should be changed as follows: IANA will be required to publicly post all requests for changes to the Root Zone File or the Root Zone WHOIS database as a notification that a change was requested.
    - INZ supports public posting of change requests
    - JP recommends that periodic reports and audits filed electronically with the Trustees in the Cloud, open for public inspection via the internet.
    - SIDN thinks public posting of all change requests should be sufficient to avoid clear mistakes missed by IANA and the registry manager concerned. The publication by IANA of the complete intended delegation/redelegation decisions for public comment prior to taking the final decision.

ALAC Proposal

- ALAC's proposal will not be summarized here. Rather it should be review in its entirety given length and thorough content. Because this proposal was submitted as part of the CWG draft, other community members did respond as seen below. http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfddQ2yQNqpJ.pdf
- INZ …..relates in particular to discussion of some sort of "internal to ICANN" solution being a better approach would not support a transition proposal that saw NTIA stewardship replaced with ICANN stewardship of the DNS. Such solution would erode the distributed model, future reassignment impossible, as such InternetNZ supports the CWG proposal.
- RrSG believes that the separation of the IANA Functions Operator from ICANN remain a possibility, and as such a solution purely internal to ICANN is unacceptable.
- UNINETT supports the ALAC proposal because the CWG proposal should not be tempted to create a whole new system. UNINETT is concerned that the introduction of multiple organizations/players to replace the lightweight NTIA authorization role might be confusing and very bureaucratic. UNINETT thinks that an alternative ICANN---based solution should be considered before making the final decision. With sufficient safe---guards and control this could function.
- NCSG strongly opposes proposals to turn over permanent responsibility for the names-related IANA functions to ICANN. Existing services provided are acceptable, but that its performance has always been disciplined by the ability of the NTIA (or the IETF) to change the IANA functions contractor. Without that separability, we have significant concerns about ICANN's performance, its accountability to the global multistakeholder community, its susceptibility to capture and the separation of policy from implementation.
- RD strongly opposes the alternative proposal which envisages transferring all of NTIA's responsibilities to ICANN. This proposal appears to be a guise to gift IANA to ICANN in perpetuity. In the absence of external accountability, there would be no feasible mechanism to change the IANA operator in the future in case of serious dissatisfaction with the incumbent IANA operator. It is a risky and speculative gambit to suggest that if IANA is transferred to ICANN without a contract then in return the ICANN board may accept strong internal accountability mechanisms, especially since the output of CWG-Accountability will be vetted by the ICANN board.
- INTA generally agrees that such an option would require both substantial improvements to ICANN accountability and the implementation of binding arbitration mechanisms executed by an independent arbitration organization. However, such organizational accountability enhancements and a binding arbitration procedure are, in INTA's view, required regardless of whether the IANA functions are transferred to an entity such as Contract Co. or directly to ICANN. INTA recognizes that the Contract Co. approach recommended by the CWG enhances accountability regarding ICANN's technical management of the IANA functions by assuring periodic review of ICANN's performance and simplifying the task of transferring the contract if that performance is deficient. A direct transfer of the IANA functions to ICANN would be simpler in form but raises questions about whether technical performance accountability could be adequately enforced. INTA has no objection to further exploration of such an alternative but, absent a specific and well-developed proposal, is unable to comment further at this time. Again, we believe that a more elongated and realistic timetable would allow the CWG to more fully develop such an alternative for community consideration.

Other Alternative Proposals

- Given the length and thorough content of the alternate proposals submitted to the Public Comment, they will not be summarized here. Please see the links to review each proposal in its entirety.
  - Kurt Prtiz - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfr6tLwDJZvf.pdf
  - RySG - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfnG7Rx16GgC.pdf
  - auDA (v1) - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfFuBxTOIQlB.pdf
  - SIDN - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/docxT9p1hxxtvL.docx

Accountability

- The EUC believes that accountability issues from the CCWG should be determined and implemented prior to any oversight transition.
- The CBUC believes that most accountability issues should be addressed by the CCWG and that both should be performed in tandem and cannot support any proposal until an adequate accountability plan is in place.
- CDT supports the close linkage to WS-1 from CCWG
- RySG believes the two tracks CWG &CCWG are dependent and that accountability is being addressed out of order; Agree that enhanced accountability be must be addressed before any transition occurs.

- Nominet believes time should be given to CCWG to adequately develop accountability mechanisms in support of the transition.
- AS believes the current CCWG accountability work will suffice to complete the IANA Oversight transition than creating 4 additional bodies that replicate existing ICANN structure.
- ITIC believes that most of the Stewardship transition proposal can be accomplished with robust accountability mechanisms defined in the CCWG to determine a holistic and streamlined solution.
- ARI states that no transition should occur until the CCWG concludes its work.
- Centr thinks much of the complexity of the current proposal derives from the absence of recommendations on how to fix ICANN's current accountability issues and could be solved with the CCWG. Centr strongly recommends that the several, open accountability issues are addressed in close cooperation with the CWG on accountability, but suggest that he CWG IST gives clear guidance to that group on which aspects they would like to see addressed as a priority. In particular in a scenario of an ICANN based solution, the CWG accountability needs to understand the importance of the introduction of safeguards and controls. As transparency is essential to ensure the broadest possible multistakeholder support for both the proposed structures and their work, it is recommended to explicitly state in the proposal that all meetings of the CSC and the MRT should be open to observers.
- GOOG states the community should put in place a number of broader accountability mechanisms to guard against individual Board member negligence or malfeasance, such as strengthened review of Board actions, independent audit, and more explicit conflict-of-interest reviews. The CCWG should explore creating a process to rapidly replace all of ICANN's leadership in the event of gross negligence, malfeasance, or abandonment of the multistakeholder model.
- NIRA believes that accountability mechanisms should be in place prior to transition.
- RrSG states timing of the Accountability CWG and it's work has created needless complexity and unanswered questions for the Naming CWG. Without knowing what accountability mechanisms are being proposed or put in place, it is difficult to assess some aspects of the proposal.
- IPC states that a transition cannot and should not occur until all accountability mechanisms have been identified, those necessary pre-transition have been implemented, and guarantees are in place for the implementation of all others.
- DIFO acknowledges the transition of the Stewardship for the IANA functions is dependent of adequate accountability mechanisms to be in place before the transition can actually happen. This includes making sure there is coherence between the IANA transition proposal and the two accountability processes.
- ICANN believes the topic of broader accountability, and sub---topics such as capture, or checks and balances, or oversight, or backstop, are important and need to be appropriately addressed in Workstream 1 of the CCWG. The ICANN Board agrees that there is inherently an important linkage between the evaluation of the transition proposals arising out of the IANA Stewardship Coordination Group and the outcomes of that Workstream 1, and acknowledge that ICANN accountability is a fundamental concern of the community. ICANN ask the CWG to distinguish the broader accountability questions from the issues of the performance of the IANA Functions and concerns about addressing the possibility of improper activity within the performance of the IANA Functions.
- LACTLD firmly adheres to the expression of the CWG draft in p.61: that the transition must not take place until the requisite accountability mechanisms have been identified by the CCWG Accountability; that accountability mechanisms and other improvements that the community determines are necessary pre-transition have been put in place; and that agreements and other guarantees are in place to ensure timely implementation of mechanisms that the CCWG Accountability decides may be implemented post transition.
- ISPCP is of the view, that it is essential that these two elements (IANA oversight and ICANN oversight) are integrated at least partially into a combined proposal before transmission to NTIA. ISPCP therefore considers that strong coordination is needed between the ICG, the CWG and the CCWG. The accountability part in workstream 1 (WS 1) of the CCWG has definitely to fit into the proposal to be submitted by the CWG-Stewardship.
- INZ states the CCWG work, which is integral to the IANA stewardship transition, must be completed (for the IANA aspects of accountability) before the transition can be agreed. It seems essential that there be some possibility for all three customer groups (names, numbers & protocols) to review and if necessary adjust their proposals to the ICG once the proposed accountability environment is known.
- NCSG supports the notion that the CWG & CCWG are interrelated, while recognizing that most of the work of reforming ICANN's policy development process must take place in the other working group. NCSG offers two observations regarding the relationship between the two cross-community working groups: As was discussed on a number of occasions in the CWG, there should be placeholder text in the draft for the Work Stream 1 findings

of the CCWG Accountability. Civil society wants to have strong institutional checks and balances that would prevent ICANN from regulating content or violating free expression rights. NCSG recognizes that the CCWG is the primary venue for effecting these concerns. As such, concerns about the scope of ICANN's policy making and any consequences for violating that scope must be part of Work Stream 1 of the CCWG (i.e., must happen before the transition), and be referenced in the CWG transition plan prior to submittal to the ICG.

- RD suggests that the proposal should explicitly recognise that the role and scope of the four entities may be changed by CWG-Accountability even after CWG-Stewardship submits its formal response to the RFP to the ICG in January. Placeholder text at the appropriate places will allow the global community to correctly judge and assess in an informed manner the nature, width and growth dynamics of the new entities proposed to be created.
- USCIB underscores the importance of fully implementing and stress testing broader ICANN organizational accountability mechanisms before proceeding with the IANA transition plan. We are pleased that Section 3.1 of CWG's draft proposal for the naming functions appropriately notes the strong interrelationship and interdependence between the two processes. USCIB feels the CWG should strengthen the link between CWG & CCWG further by requiring a pre-transition stress test to ensure that the process is robust and effective and would not result in unintended consequences or burdens that would threaten the functionality, stability, and interoperability of the Internet. USCIB states the CWG proposes some new accountability reforms, such as the creation of the Independent Appeals Panel (IAP), which would have jurisdiction over disputes arising "as to the implementation of IANA related policies." USCIB believe this reform would be better addressed as part of the broader ICANN Enhancing Accountability process because it should be applicable to ICANN as a whole and not just the IANA naming functions. USCIB is also concerned that the creation of accountability mechanisms on a few different tracks risks creating the potential for confusion and "forum shopping." Such an outcome would introduce uncertainty and unevenness in the overall process and possibly jeopardize the stable management of the IANA naming functions. USCIB urges that accountability mechanisms regarding the IANA naming functions be implemented in a holistic manner and in conjunction with broader accountability reforms across the entire organization.

General Comments
- The EUC believes the Root Zone Maintainer (contract NTIA to VRSN) should be further explored as part of the overall naming proposal
- CBUC believes the current proposal is complex by creating extra new structures which are also susceptible to capture
- RySG current proposal creates a duplicate ICANN structure
- ALAC believes ICANN has proven fully capable to continue IANA services
- Nominet does not believe that all of the roles need to be replicated. In particular, some of the identified roles – and in particular the role of authorising changes to the root-zone file – might no longer be needed.
- Nominet states that discussion of the .INT needs to occur.
- The IPC concurs on the element of transparency of MRT/CSC functions and that a secretariat be allowed to support both
- AFNIC supports function separation of operations and policy; RZM should continue to be contracted with NTIA, Contract Co or IANA Functions Operator
- DIFO is also adamant that interpretation of naming policy should not be performed by the functions operator. Automation is also key to minimizing authorization of change requests by a third party with except of delegations and redelegations change requests.
- DENIC believes the current proposal entities should be collapsed into a single entity comprised of direct customers of IANA as no policy decisions are being taken by the Functions Operator.
- GOOG states the key challenge is not to replicate the form of the current accountability mechanism (a contract), but to ensure that, post-transition, ICANN performs its responsibilities in such a way that it remains accountable to the ultimate beneficiaries of the Internet -- the multistakeholder community.
- Brazil specifies that the role of governments should be classified as equal stakeholders & that the RZM contract should be within scope of the CWG
- ARI states that ROs should have the casting vote to transition the Functions Operator role away from ICANN and that ROs should have prominent representation on any oversight committee
- Centr thinks most of the accountability issues that the proposal tries to solve through structural separation might come back in the proposed structure. Accountability issues could also be solved through implementation of appropriate safeguards in ICANN's bylaws and a mechanism to trigger a retendering of the IANA function contract

- if needed. The transition should not affect the continuing implementation of automation process for all changes other than those related to delegation, revocation or transfers. Centr also recommend that the proposal takes into account the future of the contractual relationship with the Root Zone Maintainer.
- Centr suggests the CWG IST should explore the opportunity to have more time to further develop and refine the proposal. It is quite unrealistic to expect a sound proposal to be ready by the 15th of January, also considering the holiday season.
- INZ supports the retention of a single integrated IANA function across the three customer groups (names, numbers & protocols), but believes that in the event of a choice between an integrated IANA and an acceptable settlement for the Names community, the choice should fall in favour of the latter
- CNNIC encourages this new structure to mandate real multi-participation by all stakeholders, to conduct the global bottom-up supervision on the root zone operation, which will be conducive to replace the functions of NTIA. CNNIC also recommends that ICANN, as the current root zone operator shall take this opportunity to further advance its globalization and promote ICANN's reforms toward the direction of more transparency and openness
- NCSG supports a commitment to a fixed, periodic renewal of the IANA contract for a 3 year term with two optional 2 year renewals with the current operator (ICANN) in the period immediately after the transition. It should be for a limited period of time, for example 2 years (equivalent to the extension period under previous NTIA-ICANN contracts). After that RFPs should be issued at regular periodic intervals.
- NCSG suggests dialogue with the IETF Trust for iana.org and suggests hold of the name for use by the names, numbers and protocols directories. Any changes to the use of the domain name should be agreed to by all operational communities.
- NCSG supports the basic assumptions upon which the plan is based, specifically: The plan needs to retain certain oversight functions that used to be performed by the NTIA and these need to be based in an entity external to ICANN. The new arrangements should provide for the possibility of replacing ICANN as the IANA Functions Operator. The existing separation between ICANN as a policy body and ICANN as the IANA Functions Operator needs to be reinforced and strengthened.
- BC suggests a few updates in the proposal:
    - ICANN does spend a lot of effort (and PR) on gTLD policy issues, but we know that the vast majority of IANA's day to day work is changes to protocol parameter registries. A more factual statement would be better.
    - It would be more accurate to describe that as an IANA function within ICANN, and in fact I would say that the overall management of the address spaces is actually performed by IETF standards actions; IANA's part is assignments of unicast address space to the RIRs. ICANN also maintains registries of Internet protocol identifiers. Again, that is an IANA function within ICANN (and is not an also-ran).
- BC supports that a different group or entity would carry out each individual arrangement, replacing the NTIA.
- IPC states that the current timeline for consideration and approval of the Proposal is unrealistic and incompatible with an effort to achieve thoughtful multi-stakeholder input. Not only is 21 days insufficient time for diverse international constituencies to digest, evaluate, and formulate a considered opinion on such a complex proposal; the Proposal itself is still incomplete, and once it is completed it will not come back to us for review. At that point the SOs and ACs will be allotted even less time to weigh in with their endorsements. This timeline also appears to be unnecessary. Since it is (or should be) a given that no transition can take place until accountability mechanisms have been identified and either implemented or made subject to "guarantees" that they will be implemented (see p. 61 of the Proposal), and since the timeline of the CCWG-Accountability does not provide for that group to report out even partial recommendations on some of these topics until the end of May, it seems all but inescapable that the timeline set by the IANA Stewardship Transition Coordination Group ("ICG") (to which the CWG is quite properly responding) is not achievable.
- auDA recommends that both the CWG and the ICG deadlines be extended to allow the various parts of the community to discuss the issues at ICANN 52 in Singapore.
- JP recommends the CWG needs to stop and "do its homework" i.e., complete its research and study before proceeding any further with the drafting of a proposal to submit to ICG, e.g., obtain and study all information (and make public), within the knowledge and possession of the NTIA office, records and personnel at the U.S. Department of Commerce, which formed the basis for the NTIA decision finding ICANN unqualified to "run" the Internet Assigned Numbers Authority (IANA) in 2012. JP also recommends the CWG deal with the issue of "Authority." It may be easy (and possibly politically expedient) in the short-term, although hardly responsible, for the US Department of Commerce to just "walk away" from its role and duties as "steward" of a free, open, secure, and stable internet, which today forms the basis for trillions of dollars of commerce annually, world

communications, and online content for the entire global internet community, by NTIA's announced intention to simply not renew its IANA contract with ICANN. JP ask the CWG to also disregard the faux deadline of the ICG— there is no need to "rush" this process, if anything, slow down– these things take time – ignore the ICG time table. Larry Strickling of the NTIA has said, repeatedly, there is no deadline for this process to be complete by September, 2015, as the present contract can be extended.

- VRSN thinks the checks and balances in the current three-party arrangement have been an important part of the success of the current system. The CWG should consider the operational capabilities of another party to stand in the shoes of NTIA and/or Verisign. The community has benefited from the operational aspect of the RZM function being performed by a public company whose shareholders have the right to elect a board of directors who appoint the Company's officers, all of whom could be personally liable for damages resulting from breaching their fiduciary duties. The CWG should explore how this creates a powerful incentive for Verisign to put policies and procedures in place to ensure operational preparedness in all operations and especially those involving the root.

- VRSN states that SSAC in SAC069 has stated that NTIA's role in administering the lANA Functions contract may be at least partly responsible for shielding ICANN from improper interference. The CWG should consider how a follow-on organization might duplicate this deterrence function now credited to the NTIA. Additionally, any role that NTIA plays in obtaining Office of Foreign Asset Control (OFAC) licenses from the U.S. Department of Treasury for root zone changes that may interfere with governmental sanctions or other restrictions should be investigated by the CWG, and accommodated as appropriate in any proposed future state.

- VRSN presently enjoys limited antitrust immunity as the contracted party performing the root zone management function at the direction of NTIA under the holding in PGP Media, Inc. v. Network Solutions. A transition of the root zone management counterparty status from NTIA may weaken such protections to Verisign or a successor organization. The CWG should discuss and consider this issue including avenues that could substitute for the immunity now enjoyed. For example, there may need to be legislation if such immunity is to be continued. In any event, the CWG should discuss the proper allocation of risk between the parties performing root zone management and the customers who presently enjoy at no cost the benefit of that work. Verisign is not and has not been compensated for the performance of the functions associated with root zone maintenance and it has never been indemnified for this work.

- LACTLD emphasizes while technically ccTLDs and gTLD have the same value in the root and rely in the same way on IANA services, it must be clearly underscored that whilst gTLD policy making is derived from ICANN processes, the policy authority of a ccTLD comes from its local (national) Internet community and legal environment. In addition, many ccTLDs are not even part of the ICANN structure nor are they affiliated to the ccNSO. For a large proportion of ccTLDs, the only point of contact with ICANN is the usage of the IANA services. Many ccTLD formally pre-exist the IANA as an organization (created in 1988), not to mention that practically all ccTLDs pre-exist ICANN as an organization (created in 1998).

- LACTLD states that ccTLDs and gTLDs policy authorities' need to be clearly differentiated for both type of registries since, among other issues, this has a direct impact on delegation and re-delegation procedures. While the current draft transition proposal of the CWG on naming related functions has addressed these differences adequately in Sections A and B1 and B2, the proposal detailed in B3 does not reflect the different nature of ccTLD and gTLD registries. None of the new bodies in the proposal Contract Co., MRT, CSC or IAP would be in a position to decide on a matter of ccTLD delegation/re-delegation, but should only abide to check that the due process has been followed. Independent legal expertise for the IANA to work on these issues if necessary should be incorporated as stated in the current CWG proposal.

- Brazil comments on the proposal structure: In some cases, chapters´ renumbering and reordering is required in order to enhance the text intelligibility; A glossary of terms and acronyms could be included.

- CNNIC suggests that the CWG shall process the comments and suggestion to the draft proposal of IANA stewardship transition in a high-standard, consensus-based, accountable and transparent manner. The transition proposal shall be completed according to published timeline without any delay. For the domain name related function is a part of the IANA functions, CWG needs to cooperatively consider other related functions when developing the naming related proposal. The different function of IANA should be integrated in a simple and effective manner.

- USCIB raises two points. First, as a procedural matter, our membership is concerned that for a 180-page document, a three week comment period with no opportunity for reply comments can limit the opportunity for careful evaluation of the detailed proposal. USCIB appreciates the CWG's sensitivity to the goal of developing a transition proposal before the September 30, 2015, expiration of NTIA's current contract to perform IANA functions. Nevertheless, this process should not be unduly rushed with issuance of an incomplete, flawed, and potentially destabilizing proposal. There is no need for such haste in view of repeated statements by Assistant

Secretary Strickling that September 30 is a "goal."

- INTA does object to the short period of time available to review and comment on the CWG's plan due to the timeline dictated by the IANA Coordination Group (ICG). This comment period is only 21 days long and further, unlike many other ICANN proposals set for comment, no reply period will be available for this important issue. INTA continues to urge ICANN and the ICG to manage the transition at a slower pace to enable all stakeholders to have an adequate and meaningful opportunity to provide feedback during the planning of the IANA functions' transition.
- EWL supports ICANN taking over the IANA stewardship control over the root zone but has concerns what exactly will be turned over as it is clearly intellectual property. EWL believes it requires ICANN to negotiate contractual agreements with each incumbent ccTLD Manager (and, of course each new, incoming one). This would be quite different from the gTLD situation since there are existing rights involved, and the IANA Function Manager can not use a One-Fits-All model and/or a Take-It-or-Leave-It approach. Rather the IANA Function Manager will have to enter into proper negotiations with each ccTLD Manager. EWL strongly believe that negotiations with ccTLD Managers will be neither a difficult nor a long drawn out process if they followed the Framework of Interpretation2 with particular reference to restraints on the IANA Function Manager against unilateral decisions. Until these contracts are finalized, EWL feels strongly that ICANN and the multistakeholder process will be best served by ICANN stating that the current status quo with regard to each individual ccTLD will be maintained and that no unilateral decisions will be taken.
- RH states according to the charter of CWG, participants will be able to actively participate in and attend all CCWG-accountability meetings, work groups and sub-work groups. However, should there be a need for a consensus call or decision, such consensus call or decision will be limited to CWG-Accountability members appointed by the chartering organizations. One potential participant understood that to mean that "participants" do not have decision-making rights. According to that person, in this context, it is important to note that the NTIA called for the IANA stewardship function to be transitioned to "the global multistakeholder community", which is broader than the existing ICANN constituency. In contrast, the CWG, while stating that it will adhere to the principle of openness, has in fact created a two-tier structure, with decision-making power being restricted to a specific group of stakeholders, namely those currently involved in the domain name business. According to that person, the CWG process is not a process that is truly open to the global multistakeholder community. Consequently, that person did not participate in the discussions and reserved his right to submit comments to appropriate forums regarding the outputs of the CWG.
  - RH also provide specific suggestions to contents of table 3.4.4. See full comments for these proposed changed.
- GS states ICANN Et Al, as You've aided and abetted a Network Solutions RETAIL client and Domain Name Registrant, CentralNic ... violate the rules published in the RAA at section 3.7.7.9. This conduct is classified as "Contributory Infringement" and is well defined by Jones Day, who you may know as ICANN's Attorney's, who have a very informative article published in the INTA Bulletin, titled "Combating Contributory Infringement on the Internet" and it's well worth study.
- PH states the current NTIA arrangements works and does not require any change. US should maintain the oversight role.

Cost Implications
- Nominet does not think that it should be for the MRT to approve or otherwise the fees for service and suggest that it is undesirable to re-open budget discussions on these grounds.
- DIFO believes that IANA functions should be free and disagrees with the proposal stating to collect reasonable fees.
- SIDN pays monies to ICANN while other ccTLDs do not, but wants to have substantial influence on the budget of IANA and the height of its contribution. In our opinion this is rather a CSC than a MRT matter.
- LACTLD believes the discussion of fees is out of scope for the CWG
- Centr states fees are out of scope for this proposal to address those existing arrangements and they would overlap with the fees referred to in the proposal and therefore believe that any reference to fees should be removed from this proposal.
- INZ suggests that costs of maintaining the IANA should properly fall on the Functions Operator
- RySG opposes a proposal for the IANA Naming Transition that yielded significant cost increases to gTLD Registry Operators and their customers, whether through increased ICANN fees or a requirement by registries to independently fund a new entity

- ALAC is unclear on the cost model and requests a formal assessment should be performed.
- CIRA should not be required to pay any additional fees with respect to the establishment of Contract Co. or to the operation of the IANA functions.
- RD believes the Contract Co should be reimbursed/indemnified for all expenses (both legal and administrative expenses) by the IANA Functions Operator as part of the IANA Functions Contract; and financed by a crowd-funded 'Internet Freedom Corpus' where individuals and Governments should be allowed to voluntarily contribute. However, RD advises caution against creating new entities that are the subject of political ambition and result in the creation of a parallel ICANN. Adequate care should be taken to restrict the growth dynamics of the new entities.

Not Enough Detail in Proposal
- EUC
- i2C
- CDT
- RySG
- Nominet
- AFNIC
- DIFO
- CIRA
- ISPCP
- Centr
- CNNIC
- NCSG
- BC
- IPC
- BRG
- AS
- UCSIB
- INTA

Proposal Too Complex
- CBUC
- RySG
- Nominet
- AFNIC
- DIFO
- CIRA
- LACTLD
- GOOG
- Centr
- CNNIC
- NIRA
- JP
- ITIC

Current Operational Performance Satisfactory
- EUC
- RySG
- ALAC
- JPNIC
- DIFO
- ARI
- INZ
- GOOG

- NIRA
- SIDN
- USCIB

Does not want to create another ICANN like Structure
- RySG
- JPNIC
- AS
- LACTLD
- INZ

Section IV: Analysis of Comments

> *General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.*

The CWG Proposal Public Comment Period resulted in:
- 25 submissions from Organizations & Groups
- 26 submissions from Individuals and Companies

Commenters mostly agree with the transition of the IANA Stewardship away from the NTIA and to some form of a multi-stakeholder model with the exception of only a few stating that the current arrangement should not be changed. Almost all stated that the current performance of the IANA Operational Function performance is satisfactory and that any changes in oversight should not disrupt current performance or put at risk the security, stability and resiliency of the DNS. However, a range of agreement and disagreement exists with the current CWG proposal as submitted for public comment on 1 Dec 2014. In general, most commenters agree that the current CWG proposal lacks sufficient detail and is overly complex. While the proposal attempts to map the functions performed by the NTIA with that of the four entity structures defined, many have concerns that it will create another ICANN like structure that is still prone to capture, creates additional accountability issues, questions whether the principle of separability is achieved, and whether the structures fully include the internet community. The remainder of this analysis will be based upon the sections defined above in the summary of comments.

Contract Co.
The principle of separability is the driving force behind the creation of Contract Co. in that the IANA Functions Contract would be held external to the Functions Operator. Of all the concepts defined in the CWG proposal, Contract Co. contains the most divergence. Virtually all commenters agree with the principle of separability, meaning that the Functions Operator could potentially lose the right to perform the service should they fail to meet service levels or depart from established policies during implementation of IANA change requests. However, several commenters do not agree that the Contract Co. structure will achieve the principle of separability without creating additional issues of accountability and possibility for capture. The greatest consternation with the setup of Contract Co. stems from how it would be organized, such as a light-weight shelf company or where its jurisdiction will ultimately be. Most commenters stated that further definition is required to fully understand how Contract Co. could be a viable option while other commenters suggested alternative proposals that could also meet the principle of separability.

Multi-Stakeholder Review Team
Most commenters support the concept of the MRT, even those that oppose the Contract Co. concept. Regardless of how the separability principle is achieved, most agree that some sort of oversight committee is required to monitor the performance of the IANA Functions Operator and to take appropriate action should performance not meet the standard. While most do support the MRT, many desire further details to the proposal. The largest issue is around composition of the MRT. Most do support multi-stakeholder element. However, many state that it will make the MRT too big to be effective and/or prone to lobbying, while others have concern that the composition will duplicate the already existing ICANN structure. At the same time, other feel that the multi-stakeholder element will not be inclusive enough if only the

composition only contains representatives within the ICANN community.

Many commenters desire further proposal development, but most do support that the MRT should conduct mandatory RFPs at some set interval, and especially in cases where failure to deliver against performance standards has been found. However, there is not agreement on what a regular set interval should be.

Customer Standing Committee
All commenters that support the transition of IANA Stewardship support the CSC concept as outlined in the CWG's proposal. Commenters stated that the CSC role should only be technical in nature and that monitoring for performance of the naming functions, ensuring service levels are met, and notifying any performance deficiencies are the primary responsibilities of the CSC. Most commenters also agree with composition in that it should be mostly comprised of direct customers of IANA, but a few commenters desire some participation from stakeholders that are not direct customers of IANA as a form of check and balance. Regardless, those that support additional stakeholders made note that it should be kept minimal and more of an observation role. Most important, commenters stated that members of the CSC should be technically competent and that a vetting process be created to for when new members are assigned to the CSC to ensure the technical standard is met.

Further, all comment in support of the CSC also support the public posting of change requests so long that it does not produce delays in the processing of change requests.

All direct customers of IANA that commented support the automation of change requests except for delegations and re-delegation requests.

Independent Appeals Panel
Most commenters support the IAP concept in the CWG's proposal and that the IAP's scope be limited to those areas of the IANA Functions Operator. Most stated that the scope should not extend beyond checking to see if a delegation or redelegation request was properly followed and that established process was properly applied by the IANA Functions Operator. In such cases where it did not, most noted that the request should be sent back to the Functions Operator.

Adequate standing was the issue of biggest concern about the IAP and that it must be further defined in the next iteration of the proposal. Of equal matter, many suggest that the concept of IAP was closely linked to the accountability efforts of the CCWG mostly to avoid duplication and to ensure scope of the IAP was limited.

While most stated that more details of the IAP were required, some suggested that existing dispute resolution providers be used instead of forming on actual IAP. The reasons for this varied but the standouts were that this function would not be used frequently and thus a concern in how such a committee could be staffed when called upon to ensure adequate competence of its members.

Independent Certification for Delegation and Redelegation Requests
This section of comments is closely linked to the comments submitted around the IAP especially should such requests be contested and the IAP become involved. There is mixed support around the use of independent certification especially in regards to delegation and redelegation requests involving ccTLDs, because many feel national sovereignty should be respected and must respect national rules and procedures. Several comments from the ccTLD community suggested that the Framework of Interpretation has already defined much around this issue and that it should be references in cases involving ccTLD delegations and redelegations.

In regards to any independent certification role, several commenters cited independence and competence as being the most crucial however should such a role be created, the best an independent council could provide is to ensure the process was followed.

Lastly, many of the comments stated that recognition of the difference between ccTLDs and gTLDs was most important element that should be adequately documented in the CWG proposal regarding delegations and redelegations.

Possible Modifications to the Independent Review of Board Actions
There were very few comments related to modifications of ICANN's Independent Review Process. Based on the comments received, the ICANN Board provision in the bylaws applies to the approval of gTLD and ccTLD delegations and

redelegation requests and that at best it should remain in the status quo. The commenters state that there is no need for this be addressed in the CWG's proposal and any proposed changes by the CWG would create a more bureaucracy as it pertains to delegations and redelegations. As for independent reviews of all Board actions, the commenters state that it should occur within the CCWG.

Possible Modification to the NTIA's Responsibilities Acting as the RZ Management Process Administrator
There are mixed opinions as to how the NTIA role as the Process Administrator should be transitioned. Several ccTLD commenters do not think the role/function should be replicated with regards to the delegation and redelegation requests mostly because the current proposal does not adequately recognize the importance of national or local laws and national sovereignty across the world. The use of independent counsel is likely to not have sufficient understanding and therefore inappropriate with the possibility for overlap with the role of the IAP. gTLD commenters also have concerns about an independent certification process given the global nature of gTLDs and could require them to seek approval in every jurisdiction. However, the use of an independent third party to certify accuracy and completeness could be supported. Most comments stated that further details need to be provided in the next version of the CWG proposal.

Practically all commenters agree that the IANA change requests should be posted publicly and in a transparent manner and as to not create any delays to the processing of the IANA change request.

ALAC Proposal
As with the concept of Contract Co., there is mixed support around the ALAC proposal which comprises of a more internal to ICANN solution. Supporters of this proposal feel that separability can be achieved through greater accountability mechanisms, which is what the CCWG is tasked with. The proposal is too large to summarize here and it is suggested to review it in detail.

http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfddQ2yQNqpJ.pdf

Other Alternative Proposals
A few commenters showed support for some components of the CWG proposal and little support for others, they also offered up other alternatives. A summary of the proposal will not be adequate for the purposes of this Public Comment report other than to say they center around the principle of separability as to whether the IANA Functions Contract should be held externally or internally to ICANN as the current Functions Operator.

Please see the links to review each proposal in its entirety.
- Kurt Prtiz - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfr6tLwDJZvf.pdf
- RySG - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfnG7Rx16GgC.pdf
- auDA (v1) - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/pdfFuBxTOIQlB.pdf
- SIDN - http://forum.icann.org/lists/comments-cwg-naming-transition-01dec14/docxT9p1hxxtvL.docx

Accountability
Virtually all comments confirm a connection between the CWG's proposal and the efforts of the CCWG to define greater accountability mechanisms. Both tracks are dependent on each other. Most agree that additional time is required for the CCWG to further its work on the WorkStream1 track as to better inform the CWG's proposal.

Cost Implications
Most commenters either think that there should not be additional costs added to the operation of the IANA Function and that respective stakeholders (namely direct customers of IANA) should not be forced to contribute additional funds. In short, most agree that costs should be borne by the Functions Operator. Several commenters suggested that this was not within the scope of the CWG while many others request that a formal assessment be performed. Ultimately, it is suggested the CWG provide additional details within the proposal.

Additional Analysis of Public Comments
In addition to the surveys created by the CWG to detect trends of support for concepts of the CWG proposal, several community members also provided analysis of the public comments:
- RySG - http://mm.icann.org/pipermail/cwg-stewardship/2015-January/001293.html
- IGP - Evaluation of comments-cwg-naming-transition-01dec14
- CWG Efforts from Public Comments

- o [Summary Analysis](#)
- o [Analysis by Type](#)