

NonCommercial Stakeholder Group Comments

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

Yes. Unilateral US government control of the IANA functions contract is not compatible with the multistakeholder model

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

No.

Further, while everyone says that they are comfortable with the performance of the IANA functions operator at the moment, that comfort is in part due to the role of the NTIA (administrative and stewardship (through contract and AOC)). We cannot afford to assume or hope that such an “internal” model without external oversight will provide the same performance and comfort. The only way to ensure that there is an adequate separation between policy-making and policy implementation in a model that does not have external oversight is to fully separate the two - structural rather than functional.

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

The NTIA has made it clear that all major stakeholder groups, including registries, need to accept the transition proposal. Registries should have an influential role in any oversight mechanisms of the naming-related IANA functions, but need not have a privileged role in the selection of proposals.

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

For an example of a definition of the difference between financial and structural separation see: <http://www.ictregulationtoolkit.org/en/toolkit/notes/PracticeNote/3286>

The meaning of functional separation of IANA from ICANN needs to take account of the multistakeholder context of the ICANN community. In a corporate context, functional separation can have a variety of business objectives (eg creating a wholesale division, separating policy and operational divisions, and so on). In a not-for-profit context, which ICANN is, the meaning of functional separation needs to include different objectives which suit its context.

NCSG discussions have therefore covered a broad range of possibilities. For example, functional separation of IANA from ICANN might mean a wholly owned subsidiary, rather than a separate division and particularly a “hands off” separation of operational and governance functions.

For example, functional separation may mean that IANA is a department of ICANN under the same management as the rest of ICANN and without a clearly separated budget or mission. Alternatively, however, functional separation cannot adequately ensure against capture without external oversight.

Structural separation can be done through creation of a separate budget and day to day management responsibilities. Arms length is even a step further in terms of separate reporting lines to the oversight body.

Whichever form of functional separation is considered, it must accord with the not for profit status of ICANN and the multi-stakeholder model.

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

No.

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

Very high importance, because separability will have major beneficial effects on all the other factors, such as accountability, quality of service, security and stability. Separability increases the leverage of the customers of IANA over performance, security and stability.

The ability to separate also creates incentives for governance excellence within ICANN. It provides incentives for ICANN to establish its credentials: to demonstrate it is carrying out these functions well, with a focus on continuous improvement and demonstrating this on an on-going basis - not only during this transition time. This is an important counterweight for accountability and an incentive for functional best performance.

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

Yes, very important.

ICANN must be transparent about the operating costs of the IANA to ICANN. The operating costs of the IANA function itself should also be clear. Whether these are substantial or not, transparency in reporting on these is absolutely important.

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

NCSG does not have strong views on this - it seems less important than the separation of the costs of IANA department as a whole. and may be more relevant between 1/ operations 2/ compliance and 3/policy within ICANN overall.

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

We do not foresee any likely negative impacts on the policy side:: a new operator could be contractually bound to accept changes from ICANN that were the product of legitimate policy making processes.

There may be unintended positive effects, for example, a new operator might encourage ICANN to be transparent about ICANN operating costs and its processes for conveying policy decisions that must be acted on.

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

Yes - we are at an impasse and need to look at creative alternatives that build on elements of the models that have been proposed to date so that we can find a workable solution that satisfies the various criteria. The CWG should be open to considering any other models proposed.

One such model is the New [IANA Integrated model](#) proposed by Brenden Kuerbis, Matt Shears, and Avri Doria