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Comments & questions are in blue. Chairs' responses, where applicable, are in black.

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GAC Session on Sunday 8 February

Indonesia:

Has there been any discussion as to what legal system the post-transition model would follow?

Brazil:

- Suggestion to specify the role of governments as interested stakeholders on equal footing with other actors.

- Support for the proposed "architecture", while noting that some aspects require further elaboration.

- Belief that Contract Co. should not be subject to the jurisdiction of a single country.

Suggestion for the CWG to seek international law expertise in order to evaluate alternatives for the jurisdiction of Contract Co.

- Belief that MRT should go beyond the ICANN SO/AC structure and include parties from all interested stakeholder sectors (e.g. government, technical, academic) and should take into account geographical and gender balance.
- Suggestion for more precision regarding the scope of the IAP. Should be last resort only and include concrete examples of how dispute cases would work.

Egypt:

- Is the output of the CCWG-Accountability part of the critical conditions for the completion of the CWG-Stewardship work?
- Larry Strickling referenced testing and validation of submitted proposal. Is this part of the CWG-Stewardship timeline? If yes, how will the proposal be tested?

Response (JR/LF):

- Jurisdiction of ICANN is outside of the scope of this group. In terms of jurisdiction of Contract Co.: first of all, Contract Co. isn't necessarily an agreed solution, but the point is taken that it's a sensitive area. If, indeed, we go down that route, that's clearly going to be one area of sensitivity.
- In terms of the appeal or arbitration, it's envisaged that that would be some form of an international arbitration entity rather than one which is specific to a jurisdiction.
- In terms of the role of governments, I would necessarily expect that that should come through the multistakeholder component of oversight. And I take your point that the ICANN model is not necessarily the full scope of how multistakeholder should be defined. So we need to be cognizant of that.
- We attempted to highlight three key areas that are known impacts the timeline, not the scope of all critical conditions we face. The accountability is both a potential impact on the timeline and a dependency on which we are aware. Within the charter of both groups, there's recognition of the interdependence of the work.
- Regarding the validation and testing of the proposal: the ICG sent out a request for proposals, and one of the elements is the implication after transition and also that we have to fulfill the conditions that the NTIA set in the beginning of this. So testing and analyzing the effects is part of our scope, too.

Larry Strickling:

- Has anybody on either of these proposals given you a sense of how long it would take to implement any of these? It sounds like you need extra time even to settle on a proposal. But what is being predicted as to how long it would actually take to implement any of these, whether it's the external or internal proposal.
- How would you answer the observation that everything you presented here this morning really looks to be more accountability? There was no discussion on how the actual IANA functions are performed for the naming community and how they need to continue to be performed post NTIA.

Response (JR):

- We presented four scenarios that each have different implementation time scales. So the short answer is we haven't done a whole lot of work on the implementation time scales at this stage.
- What we attempted to present here was not the detail of where work has been done that there is agreement. And it has to be checked through against all of the functions. The way in

which the work was initially done, is it broke down into a series of detailed stems of the current functions performed and began to look at how each of those detailed functions might be replaced. What we've attempted to do here is hone in at a high -- a specific level the areas where we have particular challenges rather than where it might be more -- where we might have -- where it may be more of a simple replacement for the way in which things are done currently. But nevertheless, a walk-through of every single function that's performed to date is a key test for the work that's done and that's acknowledged.

Denmark:

- Important to have the possibility for separability.
- Acknowledge fully Contract Co. is quite complicated.
- But now we have four models. Will there at any stage be anything more specific on pros and cons of the different models?

Response (JR):

- Some of that depends on having adequate and effective legal advice. Because that could, for example, rule out one of those components.
- We've got to be very careful both in our conversation with you and in the work of the working group that we don't get hung up on this whole area of what to do in extremis when there is a -- when and if there is a requirement for separability, This would be an extreme scenario that may never come to pass through all of those escalations. So there's a really fine line between getting that really important bit right but not focusing the entire energy of the group and therefore, the community's input on only that area.

China:

- How do you propose to deal with the accountability and transparency of MRT?
- Jurisdiction of Contract Co. is important to the legitimacy of the entity and related to the globalization of the Internet.
- Could you provide us with more information about the IAP so that we have a better understanding of its effectiveness?
- Urge the CWG-Stewardship to finalize its work at an earlier stage

Response (JR/LF):

- MRT is an escalation point for the CSC if there were any longstanding and unresolved problems.
- Focus in on the primary accountability of the IANA function is to perform the technical and administrative tasks in a timely and reliable fashion. So for the most part, I would hope that the CSC would hold the IANA function to account to perform in that way.
- The current thinking seems to be that the IAP would have a limited but very important role. And that is that recognizing that policy development takes place outside of the IANA function, this is not basis to appeal policy decisions. It's a basis on which to deal with the eventual escalation that in some way an instruction was not followed or an action was taken place that contravened an instruction.
- IAP could potentially have different procedures for the gTLDs and ccTLDs.

Information Session on Sunday 8 February

Larry Strickling Remarks

[...]

I've been asked on many occasions what exactly is the United States looking for in a plan. And I have consistently answered that we are looking for a plan that preserves ICANN as a multistakeholder organization outside of government control which the community develops through an open and transparent multistakeholder process and has the broad support of stakeholders.

I've been very clear that no stakeholder or set of stakeholders has a veto in this process, whether it be governments, industry, or civil society. But we've been equally vocal in saying that all stakeholders need to have a voice in this process, including the leaders of ICANN who are stakeholders and community representatives in their own right and are important to the process of helping to inform a proposal here. And I have to say, as a comment, that I was very pleased to hear this morning that board members are planning to become more active in this process.

Looking at the process to date, we felt it was important to start asking some questions. And I did that back two weeks ago at State of the Net, and I would like to go back over some of those today. These comments relate to the December 1 proposal of the CWG naming group. And let me just go back over those, and I'm going to amplify them with some observations that I have made since I've been on the ground here.

That particular proposal proposes the creation of several new entities to be involved in the naming-related processes. And we asked two weeks ago, and I ask again today, for the community to consider whether the creation of these new entities might interfere with the security and stability of the Domain Name System both during and after the transition. And I also ask that the community consider that given the need to develop, implement, and test these structures prior to a final transition, can they get it all done in a time frame consistent with the expectations of all stakeholders?

I asked today at a meeting where some representatives of the CWG were present whether there had been any discussion or any estimate of the length of time it might take to implement some of these proposals that have been put on the table. And I have to say no one could answer that, and I hope everyone understands that implementation has to be factored into the time frame for transition. And if what's being proposed is going to take a year to implement, well, that will delay the ultimate transition of the IANA functions.

The proposal, we want to make sure and we ask the question whether it will ensure a predictable and reliable process for customers of the root zone management services. And I have to say, being on the ground here, I've been somewhat puzzled at what seems to be a lack at least of any public reflection of the actual operational needs of the registry community as customers of the IANA functions.

I looked for the inventory of the tasks, the performance metrics, the recourse mechanisms; and I don't see those yet. I'm hopeful that, in fact, that's happening. But I will note that this morning, Jonathan Robinson and Lise Fuhr, the co-chairs of the CWG, made the observation that the technical tasks of IANA today are being performed reliably and adequately.

And I think the question for the community is: What will keep them that way? And we would expect and hope to see that emerges in the proposals as they are developed.

And the last one I would just mention is the concern that whether the proposal can avoid recreating existing concerns in a new form or creating new concerns. It is pretty clear that there is concern about the accountability, the existing system. And, again, we ask: Does creating new committees or structures simply create a new set of accountability questions? And we do expect that these and similar questions will be addressed and resolved prior to the presentation of any transition plan to the U.S. government.

[...]

Lastly, I would say on this point that the plan has to be comprehensive and complete and it needs to address all of the functions included in the IANA contract, and I specifically noted management of the .INT top-level domain as one of those issues that needs to be addressed.

And then my last point, so that we can move on, is that I want to reiterate once again there's no hard-and-fast deadline here.

The September 2015 date has been put out there as a target because that's when the base period of the contract with ICANN expires, but this should not be seen as a deadline. If the community needs more time, we have the ability to extend the contract for up to four years, but I hope nobody thinks they're going to need four years to get this done. We can extend it for less than that, on agreement with ICANN, and I do think it's important that the community continue to work with a sense of urgency and mission to complete this work.

But at the end of the day, it's up to the community to determine a time line that works best for stakeholders as they develop a proposal that meets the NTIA conditions and ultimately will work.

Ira Magaziner Remarks

The idea for ICANN started in my office in the White House in response to a couple of weeks that were quite difficult in 1996, and I want to bring you back to that time to describe the alternate universe that could have happened and that could still happen if things are not done correctly. Okay?

[...]

But we coordinated this out of the White House and set up an intergovernmental group to look at what needed to be done. And that resulted in a white paper which we then implemented in a series of international agreements and domestic U.S. laws that at that time there was discussion about putting bit taxes on every bit of transmission, some of you may remember. We got rid of that, made it a tax-free environment.

[...]

Now, during the course of this, there was one period of two weeks where I'd asked for a legal review of what was going on with -- with the Internet, and at that time the Defense Department of the United States, through an organization called DARPA, actually let out the contract for IANA to the University of Southern California, Jon Postel, and then the Commerce Department let out the names and the root server to a company that was then called Network Solutions.

And the legal counsel came back and said, "Did you know there are 53 lawsuits challenging the authority of these -- this way of doing business and they're working their way through different court systems and some of them are going to come to fruition and will likely tear apart the Internet, because you have a number of judges who know nothing about the technology who are going to be making those decisions?"

At the same time, I got a call from the head of DARPA, the Defense Advanced Research Project Agency, saying, "We want out of this, we don't want to have control of this anymore, and we're getting out next year, whatever you guys decide."

I got a call from the University of Southern California president who said, "We've got all these lawsuits that we're the subject of. We don't want to do this anymore. We want to get out of it."

The International Telecommunication Union had approached me, and after 12 years of opposing the adoption of the Internet protocols, they all of a sudden decided they wanted to control the Internet and so they wanted to take it over.

At the same time, I got visited by a delegation from the U.S. Congress saying, "Look, America invented the Internet. We got to keep it under control. This is a matter of national security. Don't play around with it."

The FCC, the Federal Communications Commission of the United States, came and said, you know, "We want to regulate Internet telephony and" -- you get the picture. It was --

And so at that point, I was beginning to question whether we could really make this work.

Now, the idea for ICANN then came from that, and it had a couple of --

And by the way, during that period, the other big force that I was talking to, there were a number of different corporate groups and trade groups who wanted to make major investments in the Internet but didn't want to do it in the face of that kind of environment, that kind of unpredictable legal environment. And so they were coming and saying, "Look, we think there's a lot of potential here but we're not going to invest unless we see more stability here in what's going on."

And by the way, the Internet Society thought it also should run -- run the Internet and had the right to do that.

So anyway, what we did was we had to balance a number of different interests, as you can see, but we thought that, you know, it needed to be an international medium, not one controlled by the U.S. Government, or else it would not take off, it would not win adoption globally, and it had to be a global medium.

Why not the U.N.? Well, the U.N. both represents governments, but it also moves slowly and it can get caught up in -- in global politics of various sorts, and the Internet had to move faster and the Internet had many stakeholders, not just governments.

And so turning it over to the U.N. didn't make sense either, or just to government bodies.

On the other hand, you didn't want to privatize the running of the Internet to commercial for-profit interests because it was too much of a global value to it to turn it over just to certain for-profit interests.

So we came upon, over the course of a year and a half of consultation and so on, to the idea which hadn't existed globally before of a multistakeholder group that would represent various interests and be grass-roots and democratic and basically a technical group, not a political group, but recognized by governments, so that it had the legal authority to do what it needed to do and could handle the lawsuits, had a sustainable revenue base so that it wasn't subject to appropriations and could do its business independently, but would be open and transparent and so on.

And so ICANN came from that as a process.

Now, I made the decision when I left the White House that I should not be involved in ICANN because it would have set a bad precedent for the person who had been in charge of the process that set it up to then come in and work with it, I thought, because it needed to be independent.

So why have I come back and burdened you now?

It's because there was a piece of what we had in mind that didn't come to fruition until now, for a variety of issues relating to U.S. politics.

It was always the intention when we set up ICANN that the U.S. Government would give up its final authority. It made sense for the U.S. Government to have that authority in the transition period because you couldn't be certain what was going to happen and you wanted to preserve that stability, but it was always the intention that the U.S. Government would give that up to a global and stakeholder -- multistakeholder-based process.

And the current administration in Washington, and under Larry's leadership, is now moving in that direction. We applaud that, those of us who worked in the early days on this, and we think it's absolutely essential that this go forward and happen.

Now, as an outsider watching the Internet -- and I know all of you, because you're experts and you're involved in the details of this every day and every week, you can tell me all the

problems with ICANN and all the things that it's not doing right and so on, and it's undoubtedly a messy process. Democracy often is when you have a lot of stakeholders and so on.

But from the outside, just let's take a look at it.

I mean, basically the Internet has grown astronomically beyond what anybody would have conceived.

You've had WiFi. You've had mobile devices. You've had I don't know how many languages. You've had all these things happening. And you never read a major story about serious problems. Basically, the Internet is absorbing all that and it's functioning and it's growing and it's doing well.

So from the outside, you look at that and say this didn't work out too badly, compared to 53 lawsuits and all these groups vying for control and so on and so forth.

And so I think it's very important that this process finish and get to the final conclusion of it.

Now, just a few final words.

I think that the criteria that Larry and the U.S. Government have laid down for the transition are excellent. I'm known as a blunt person and if I had something negative to say, I would say it. I don't. I think what they've laid down is a very good set of standards. And I would particularly emphasize that the transparency and multistakeholder nature of developing the process and the transition plans that you're doing is the right way to do it, that it's crucial that the Internet remain open and interoperable. I think the biggest fear -- I know there were some quotes from President Clinton that made people nervous. I've talked to him about this. The only -- I mean, he supports this process. The only thing that he's concerned about is to be sure that there are accountability mechanisms that keep the Internet open and fully interoperable and not able to be captured by either private special interests or governments that would close the process.

So I think that's crucially important.

And then of course the stability of the Internet needs to be maintained as we -- as we go through.

So let me just finish my remarks by saying you have a real challenge now as a group, as the ICANN broader community, the multistakeholder community, to create a process. I know it doesn't have to be done in any particular time, as Larry said. I would suggest doing it as quickly as you can, because I think there's a window of opportunity here to get it done and you ought to seize that window. And I think you have a real responsibility to do this carefully and correctly because just as the past 19 years have worked out pretty well for the Internet, it is in your hands how the next 50 years are going to work out, to make sure that this is all done properly.

Community Questions and Comments

Sivasubramanian Muthusamy: Do we have to have a separate view of IANA accountability and ICANN accountability? Why can't it be a simple process of ICANN accountability if IANA functions are going to be part of ICANN?

Response (LF):

- There is the contract that needs to be transferred. There are several elements in that contract that need to be taken care of, including SLAs.
- Satisfied with how IANA performs at the moment. So there is no question of moving IANA out of ICANN.
- CWG and CCWG are coordinated to avoid duplication of work.

Response Andrew Sullivan:

- On the narrow question of why we need separate sort of accountability for IANA and then the wider question, it's important to remember that the IANA functions respond to more than one community, right? There are different functions.
- For instance, on the accountability to the protocol parameters community, it's just a different mechanism. The mechanism already exists and works, and will continue with that mechanism. This will work differently in the case of the names community because the same organization is involved in both sides of that, of the operation.

Response Izumi Okutani:

- I strongly agree with Andrew that different operational communities have different levels or different interactions in terms of accountability. So I do actually find it very efficient that we actually have them separately rather than combining.

Daniel Karrenberg: Is there any chance to actually simplify things? And would there be a chance actually once things are simplified to move them to the ICG a little faster than you were expecting lately?

Response (LF):

Discussion document lays out two models: external-to-ICANN and internal-to-ICANN. This would give opportunities to simplify.

Ira Magaziner: I would just reiterate that I think there's a political window of opportunity to get this done and I think you want to try to move quickly. Yes, be broad-based and bottoms-up, but move quickly to seize this window of opportunity that's there to get this done properly.

Larry Strickling: I think people are being way too nice so I'm going to throw a hand grenade. It's apparent, just in the time I've been here, that the CWG work is becoming the critical path to getting this thing done. I think it should be apparent to anybody who has watched the presentations of the CWG and the presentations of the CCWG that much of what the CWG is looking at seems to me to be a direct overlap of the task that's been given to the CCWG, and I think that the community really ought to sit down and think hard about why there are two

tracks looking at the same thing, and does it make sense to be more efficient and move the accountability questions into the CCWG.

ICG Session on Monday 9 February

Milton Mueller: The common point of both of these proposals was separability, but there's a great deal of debate and discussion about whether separability is actually possible with the internal model. When are we going to get legal advice?

Response (JR):

- We've prepared the brief. We have a committee of the group that is charged with procuring that legal advice. And we've begun to, through that committee, obtain a short list of prospective advisors.
- The view on the committee is that this advice isn't going to be we put something over the fence and get back some package advice. This is going to be some form of dialogue between the committee and the advisors and the committee and the working group as we digest that advice and respond to it and perhaps modify our proposals based on that.
- Whilst this point is absolutely critical in terms of resolving the group's work, at least in terms of the volume of the proposal that needs to be prepared it's a smaller part of it and we've got a whole lot of other work. So what I'm starting to think about is how do we obtain the legal advice and do the diligent work in this area of the proposal whilst not making the entire proposal's forward progress contingent on getting that legal advice.

Roberto Gaetano: What are the mechanisms by which Contract Co. will be held accountable to the community? Is this going to be developed further?

Response (JR):

- The question is, what happens if those functions either are not performed according to the SLA or to the satisfaction of the customer. Well, the first thing the customer does is go back to the IANA functions operator and says, "we're not happy," but that's a piece of detail that really needs to be worked up, frankly, rather urgently, is that series of escalation points
- It was envisaged that that multistakeholder review team is both an escalation point for the customer service committee, so in the event of repeated failures to perform in the eyes of the customer service committee, there is an escalation point and that is the multistakeholder review team.

Bertrand de la Chapelle:

- How can we envisage that this is not going to be a completely recursive process where we get another ICANN?
- Numbers and protocol parameters have the structures that are available and they can contract. If you look at the names community, the ccTLD community could potentially contract. The only subpart that doesn't have this at the moment is the gTLD community. Why not structure them in a way that is outside of ICANN that will solve the problem of the dichotomy between internal and external?

Response (JR/LF):

- Contract Co. was envisaged to be a lightweight vehicle. But you can't have a lightweight vehicle floating out independently of any kind of structure. It's clear that's one of the potential weaknesses of that route and others have expressed that concern.
- It's a difficult task because you will have ccns that are governments that don't want to enter into a contract regarding this.

Erick Iriarte: Could some of the possible models be a separate proposal for the ccTLDs and gTLDs?

Pindar Wong: Could you expand a bit more about the legal basis for the golden bylaw?

Response (LF/JR):

- Don't believe that's a good idea of having actual two models. We're trying to build a model that are taking into account -- or are two different kinds of TLDs. They might have different needs, but we're still in favor of putting those into one model.
- In terms of the legal basis for the golden bylaw, I'm reluctant to go any further than that because it is a concept that's been proposed. We need advice as to how this could work within the bylaws of ICANN.

Jordan Carter:

- Debate seems to lock up around internal versus external solutions and people are being portrayed or putting themselves in camps about this. And what we risk as a community is people being unable to come to consensus and that isn't obviously going to work to get a transition.
- Is the CWG going to do something to really narrow it down to a real functional specific scenarios and testing out the differences between these models? Is that something you have got planned?
- We have to make sure we leave time on the timetable or the schedule to have that back and forth between the [CCWG and CWG] groups. But it seems to me that the CWG can't finalize its IANA transition proposal until you know what the broader ICANN accountability framework is. Because if you do, you might end up a gap if the board doesn't approve some of our accountability recommendations.

Xiaodong Lee:

- How do you make sure that the new proposal can be deployed in the future? How do you make sure that Contract Co., MRT will not will not face the same problem that ICANN faced in the past 15 years, including the political issues.
- ICANN was trusted by the community and is the best current practice for the member and names. If we do some very big changes, how do you make sure that the future entity can be trusted by the community and that we're not facing the same problem that ICANN faced in the past 16 years?

Response (JR):

Your concern reflects the same concern that was in a sense repeated. It's a variation of a concern that was made earlier in that if you go down the route of that level of strong separability, there is an issue with ensuring that that separated entity will be and/or will remain accountable.

Bruce Tonkin:

- Transferring the accountability from the U.S. government to the global community, the global community is represented through ICANN.
- It's clear that we need to improve the accountability mechanisms in ICANN and that's what the CCWG is doing. The board's very encouraging of that.
- But let's keep it simple. Let's focus on making ICANN more accountable. Let's focus the discussion where it should be which is making sure the global community is able to hold ICANN accountable for operating the IANA function.

Daniel Karrenberg:

- One of the nightmares I'm having about this process is any perception that one of the operational communities is going to have -- is not going to be careful to stick to their own part of the IANA function.
- On the positive side, I don't see any of this happening, and I don't think it's a hard problem, either, because the functions are very clearly separated, so the -- contracting for the functions can also be very clearly separated.

Jorg Schweiger:

- We are heavily overloading the solution space. There are no policy decisions taken by the IANA function operator, there are just clerical functions to be performed.
- Currently these functions are performed very well by ICANN, so why don't we just leave them there, control them by service level agreements, amend the ICANN bylaws to be in a position to reassign the IANA functions contract, and then we are done. So what's the problem to this solution?

Sivasubramanian Muthusamy:

- The solutions that we are coming up with are very complicated and we can have a very simple solution.
- The simple solution is almost to do nothing. As I speak, the IANA functions are being performed and we don't have a CSC, we don't have a Contract Co., we don't have an MRT, we don't have an IAP, but the functions are being performed at the moment.
- The only task is to find a way to convince NTIA that we don't need to do anything except to improve our accountability.

Nurani Nimpuno:

- In the CRISP team document, defined the IANA as "IANA numbering services operator"
- CWG documents refer to IANA operator: leaves it very open to interpretation.
- Suggest being very clear about what particular function is being discussed.

CCWG-Accountability Session on Monday 9 February

Izumi Okutani: So we mentioned about this area of budget accountability. From the perspective of the IANA operation on names, what would be the kind of accountability that you're concerned about? And what is the area that you want the CCWG to clarify?

Response (JR):

I think it's really primarily about transparency of expenditure and understanding the breakdown of expenditure on the components of the functions and details of how that is spent, both so we can understand how resources are deployed and to the extent that we don't get the service we require that we might understand whether or not that was a budgetary issue.

CWG-Stewardship Session on Wednesday 11 February

James Gannon: Can we really move to that more granular sprint style approach when the higher level internal versus external debate is yet to be resolved or are we going to work on both concurrently?

Response (JR):

- We should work concurrently and we should make every effort to resolve that internal external debate.
- Currently there is a limit to the extent we can make progress on that until we get further down the legal advice track.
- Not suggesting that we ignore or dump that particular problem, but I think it's something we can work on in parallel with other critical areas that we have to develop as part of our overall proposal.

Milton Mueller:

- The thing that is slowing you down is not perceived as small ancillary workgroup items. It is the fundamental model that is going to prove to be acceptable.
- Have no opposition to creating workgroups that can do things while we're waiting for the legal advice. But I would also like to explore and be thinking about options for resolving some of the debates and discussions we've been having about internal versus external.

Response (JR):

I couldn't agree with you more. [...] And to the extent that there's some form of convergence of thinking there, of course, in principle that could reduce our requirement for legal advice. Because at the moment we've potentially got four things we're asking. I'm not sure about that but it's possible that could reduce the amount of advice we need if we converge ahead of taking the advice.

Mike Oscar:

- Would the legal advice be coming from a firm, which has expertise in U.S. California corporate governance law?
- Will the legal advice also cater to the issues regarding jurisdiction?

Response (GS):

- One of the core competencies - indeed the core competency is not only corporate governance law but specifically U.S. and California corporate governance.
- To the extent that any jurisdiction issues are raised, I'm sure that whatever firm we hire will be competent to look at those issues as well.

Sivasubramanian Muthsamy:

- Some participants are more attached to proposals to create new entities and that there's not much of attention paid to simple solutions that are internal.
- Request that group be more receptive to ideas of simple solutions, internal solutions.

Response (JR):

- I'm sure everyone in the group is to the simplest solution. But I'm sure others might remark on whether they indeed feel, you know, what the definition of simplicity is.
- I've heard that sentiment throughout these last two days at the group. So I think we should have that ringing in our ears as we do our work. We should be testing any thinking is as simple as we can make it. I do agree with that sentiment.

Russ Mundy:

- There was another very, very important document and that was the set of briefing slides that NTIA themselves published that said this is what we do in the root zone management.
- Being an individual who has actually read the entire 400 plus pages of the contract, I can very specifically say this document from NTIA is probably the best summary of what NTIA believes they do. And having been around the community for quite a while and engaged in it, I think it's very accurate.

Response (JR):

- We should take an action to go back and look at that and review that relative to our gap analysis.
- One of the very first tasks we did was went through a thorough review of the contract ourselves and took a - did a triage of that document and looked for it.

CWG-Stewardship Questions & Answers Session on Thursday 12 February

Peter Dengate Thrush (Open Mic):

Larry Strickling suggested that the accountability work of the CWG should be stripped out and sent over to the Accountability Working Group. Is there a process for considering that? And do you want any input from the community on that?

Response (CG/GS):

- Co chairs had coordinated very closely with the co chairs of the CCWG. CWG gave CCWG a paper that described the accountability things that we needed. We probably didn't communicate that as well broadly for the community. Now we will continue to rely on them.
- If you look at the timelines for the CCWG and the CWG, they're related. And that was intentional because we really can't finish our work until they finish the accountability part especially with regard to Work Stream 1 in their group.

Questions for the community:

Question 1

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

Malcolm Hutty:

- It would be desirable that the transition should happen with all the points that are necessary before transition being properly covered. But that is contingent support based on getting it right.
- I think that transition failing to happen is a lesser evil than getting it seriously wrong.

Xiaodong Lee:

I believe that transition should happen as two reasons. They have no reason to reject the hospitality of NTIA. Second one is we want to prove that the multistakeholder the governance model is successful. And to be, you know, reasonable and deployable and to be used in the future so ICANN, therefore the naming and addressing (unintelligible).

Response (JR): Do you have any view on the timing?

Xiaodong Lee:

If I speak as a community member as the CEO of CNNIC, I prefer to finish that as (unintelligible). But now it is a very, very, you know, impossible to finish that before September. But I do hope we find some method to make it time short.

Bill Gibson:

My view on the timing is this: It's better to get it right than to get it right away.

Matthew Shears:

- I'd like to think that we're all working to this target date. That is our first and foremost responsibility.
- So whether or not we need to compromise I think is a separate issue but certainly we are in favor of the transition; we are in favor of working to that target date. And I think that's what we should all be doing.

Andrew Sullivan:

I would like to ask a question of those who say it's more important to get it right than to get it by the date, why they believe that if they don't get it by the date they're going to get it at all. I think that's an important consideration that maybe some people have not taken into - have not internalized and so I would like people to consider that.

Martin Levy:

We talk about times I just want to remind people that it is 231 days until that date specified by the NTIA. It's actually 231 days and one hour and 11 minutes if you want to be accurate. Just keep that in mind when you think about what we're doing. That's not many days.

Milton Mueller:

- I just want to point out that this question, one, we're probably asking the wrong crowd. There's a lot of people in Washington DC or in the United States that may have a different perspective on it and the people who participate in ICANN are probably committed to the idea of a global multistakeholder private sector based institution for global governance. And there's a lot of people who are not.

- Sure, if people here don't want the transition to happen it would be useful information to know that. But I wouldn't feel too confident about obstacles arising based on our positive response to this question.

Response (JR):

That's a fair point, Milton. But nevertheless it's - asking this group doesn't mean we've got the world's view but it does mean we've got this group.

Eric Brunner-Williams:

I don't think a transition should happen as, one, the IANA functions contain both USG property and significant government interest which may not be disposed of except through a surplus property process; and, two, the existing contract was led competitively for a finite period. Transition transforms this.

Response (CG):

In the public comment period that we did in the first of December, there was one comment that said they didn't want it to happen. There was another one but it was kind of a special case but there was only one comment in the public comment period that said they didn't want it to happen. But I just want to call that to your attention. There is analysis and summary of the public comments that's out there as well.

Question 2

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

Sivasubramanian Muthusamy:

I'm very, very comfortable with ICANN as a policymaker and being the IANA operator. And I believe that as a multistakeholder organization it has the inherent capacity to create its own internal accountability mechanisms. So there's no need of external oversight.

Xiaodong Lee:

- First I'm comfortable with ICANN as policymaker. I think it was proved to be best practice in the past 16 years.
- But second, I'm not comfortable ICANN be the IANA operator without the extra oversight. I think we need to get the community expertise to make sure that the IANA function have the service level agreement to the community.

Response (JR):

Xiaodong, can I just clarify that in your view an effective SLA would comprise some or all external oversight?

Xiaodong Lee:

Yeah, I think it's - we need to make sure and have a service level agreement but how to make sure that it is reasonable for the service level agreement and how to make sure that it was a implemented rightly.

Donna Austin:

- I've got a transcript from some of the discussion we had in the Registry Stakeholder Group about this question during the week. And I'd like to channel Bret Fausett who's actually gone home.
- He said, "[...] Am I comfortable with ICANN as policymaker? I'm not comfortable with ICANN processes being applied to the IANA processes because ICANN processes don't work and IANA processes work. So to the extent, I'd like to see that sort of separation maintained. If anything I'd love to see ICANN work like IANA works because IANA works."

Peter Dengate Thrush:

- The answer is yes. I think the first part is that there is an issue that needs to be teased out in relation to policy and operation and we're going to talk about functional and structural and other separations that deal with that.
- The starting point is what's the internal oversight? And when you look at what we've done in building an ICANN starting really here in Singapore in 1999, we now include so many parts of the global community and the global Internet community and those that use the Internet that it's hard to imagine, you know, where you would go to find any body relevant outside.
- Just a quick list, it's not intended to be a summary of the structure of ICANN. But starting personally with the ccTLDs, we needed 30 ccTLDs to get the ccNSO off the ground and we got that and now we've got about 130 of the ccTLDs and we've had further CCs joining the ccNSO here in Singapore.
- We started off here in Singapore I think with about 30 or 40 GAC members and now there's about 150 and we've welcomed new governments, the government of Ireland and others have joined us. The governments are well represented, ccTLDs are well represented.
- I can remember the day when it was one registry and one registrar. We now have several hundred of the registries and all the registrars. So as you go through the Internet structure and the Internet user base you see that what's inside is extraordinary. And the question really is, is that sufficient given its understanding and its connection to the Internet to conduct appropriate oversight?
- My answer is yes because that is the body - those are the skills, those are the people and I haven't even mentioned all the At Large structures representing the user base and the non commercial users, everywhere you look in ICANN we have tried and I think reasonably well succeeded to bring in to the debate and bring in to the oversight process those people that are important.

Avri Doria:

- On this one the general trend in NCSG answers is that we're not comfortable with the ICANN as policymaker without something.
- So we're not saying we must have an external oversight, what we're saying is if we don't have the external oversight then we need an at arm's length relationship that enables there to be agreements very similar to protocols and numbers have.

Stephanie Perrin:

- I don't quite understand what we mean by external oversight because we seem to be confusing it with having a healthy robust multistakeholder participation.
- Yes, we have many, many stakeholders within the tent, keeping each other honest. That's not the same as having a totally independent body that has a look because there's always capture within a group.

- And the purpose of having external oversight is to have somebody, and they don't have to be expert in the actual functions of IANA to do decent oversight. They're looking at process and procedures and at the risk of sounding like a quality auditor, that's more or less the function that they're doing.
- So I think you do need external and I'm not comfortable with ICANN. And that's not a comment on ICANN as a multistakeholder, that's a comment on ICANN growing into being a more accountable organization. We're on a path, we need to keep on it, and that's why the external oversight is so important. You may get through some kind of a hybrid model in the mean time because we're on a maturation curve, but we need that.

Response (JR):

There's a significant parallel track of work going on, on accountability. So in one sense in my opinion one has to continue to look at this both of those tracks and see does that question get answered by both rather than just by the work of this group. But nevertheless we feel it's an important question to ask and relevant to the transition.

Martin Boyle:

- I think for me (unintelligible) answers are conditional answers.
- Firstly, ICANN as policymaker and the IANA operator, yes, so long as this is actually quite clear that the IANA function operator part of the business is exactly that, it's the function operator. It doesn't define the policy.
- We need to get it right, it is our responsibility to get it right. Whether that is external or not I think has to be decided. One of the major problems though I think we have is to try and make sure that is accountable to the people, the organizations that it needs to be accountable to. And for the moment it does seem to me that ICANN does provide a forum and we should be looking at that forum carefully.

Milton Mueller:

- I think people are kind of expounding on their solutions and talking about what forms of external oversight. But I understand you're saying external oversight here means NTIA.
- Take away NTIA are we comfortable with ICANN being policymaker also being IANA operator? My answer to that is simple: No. And I think most of the people in Non Commercial Stakeholder Groups who have discussed this would also say no.

David Cake:

- I don't think anyone feels that we should have no oversight at all or can ICANN manage to construct a sufficiently separate internal oversight mechanism so as to be effective.
- I don't think we can. We can try to create a mechanism within ICANN that is sufficiently separated from the same mechanisms that created policy in the first place. But I'm not sure we can (unintelligible) if it's going to be oversight it has to have some separation from what is going on and it's very difficult to say if we can build that separation strongly enough.

Russ Mundy:

- It's very, very easy for people to get that what we have right now works extraordinarily well. Okay. It's functioning and it's past, it's efficient. When you take away the NTIA's contract then you say what pieces have we really taken away for those things that are being done right now?

- We really may not need a huge amount of oversight type of activities because when one looks at what the NTIA does right now it's not a huge amount of things.
- So when you look at the multistakeholder approach think about how ICANN has orchestrated it you may or may not agree that it should be part of ICANN. But I think one of the things I'd like to ask that people really think hard about is the multistakeholder way of thinking and doing things maybe done within ICANN or within a different organization but we've had pretty good luck with ICANN over the last 15 years.

Bertrand de la Chapelle:

- When we talk about ICANN we need to always keep in mind the different dimensions. ICANN is not so much the policymaker as the GNSO is the policymaker for the names.
- Having been on the Board, the concept is that the Board validates what the GNSO does. And in this regard ICANN the policymaker, being theoretically the GNSO validated by the Board, is not the IANA operator.
- The functional separation that has been introduced by the last contract, can be strengthened.

Seun Ojedeji:

One could say the need for audits just like what Stephanie said could be required at some point but that could possibly trigger it. It's not a yes or no response to this particular question. But if it is a matter of whether we need a standing external oversight it would be an outright no from me, personally. But do we need a (unintelligible) oversight I think is a yes.

Xiaodong Lee:

- I think is (unintelligible) that the community have a concern about ICANN because of the transparent and accountable issues. But we never find another one which is better than ICANN in the past 16 years.
- The second one is ICANN is the operator for IANA for the past 16 years but we need to clearly note that the function of IANA now is the big difference whereas before because of the new gTLD opening.
- In the future that be a lot of TLD to be added into the IANA. So IANA now is really like a registry of root servers. So it will have the same function and the same concern, same security (unintelligible) as a registry of root server zone. So how to have the oversight. I think it's not (unintelligible) at this time what is external or internal. I prefer that the IANA function need to be separate from ICANN.

Nurani Nimpuno:

Very clear suppression of operation and policymaking; those two things need to be very clearly separated. And when looking at the policymaking we need to ensure that that structure is bottom up, mature, robust and is trusted by the community.

Kurt Pritz:

- There's really two questions up here for me. One is am I comfortable with ICANN as policymaker also being the IANA operator. And the answer for me is yes. It's easy to say there should be more separation but I don't think we really understand what separation exists.
- And in my opinion part of the reason why IANA works so well now is ICANN has a broad breadth of expertise and on complex questions having to do with different regions and handling different countries it's very helpful to walk down the hall and ask somebody a

question. So I would be careful about arbitrarily increasing separations without knowing that the separations that are already mandated and in place work.

- Without the benefit of external oversight I think there should be an external or some sort of backstop and not necessarily oversight. So where NTIA provides significant value to me is in backstopping IANA decisions if they're controversial. Think about some controversial delegations. NTIA could point to IANA and say they followed their processes and IANA could point to the NTIA and say they verified that - and that cut off, for me or helps avoid for me a lot of the controversy around these decisions.

Peter Dengate Thrush:

- The question was posed in a unbalanced way in suggesting that there is a benefit of external oversight. If you take this question any further I suggest you take to the word "benefit" which is pretty loaded. What you mean is the presence or even you could say the absence of oversight.
- What's important about oversight is that it be independent, that it be objective, that it be reviewable, that it be accountable.
- So where it sits whether it's external or internal is actually not a terribly valuable issue. If they're external but completely corrupt I don't really want them. If they're external but have values that I know don't approve of, I don't care that they're external, that doesn't bring me any benefit whatsoever.

Response (JR):

- When I read it, it was pretty clear to me that what this meant was a question around, you know, assuming IANA is within ICANN the question related to external oversight or as you, perhaps more effectively put it, independent oversight of ICANN. But I do notice that some of the answers referred to oversight of IANA.
- And so I think that's a subtlety in there. It's what is the form of oversight - independent oversight of IANA? And there's Kurt's point about backstop. So we need to tease apart the oversight of IANA and what form of oversight is required and in addition should IANA be part of ICANN what the independent or external oversight of ICANN is.

Question 3

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

Donna Austin:

Yes, in the Registry Stakeholder Group we do think that's the case. But we'd qualify that with the fact that it's also - one of the requirements that NTIA had put in those four dot points that this solution had to be acceptable, sorry, to the registry operators. So it's in that broader context as well.

Malcolm Hutty:

- No, the criteria is that transition must be acceptable to a broad consensus of the community. If there is any substantial element of the community to which transition is unacceptable then transition - then that proposal should not be accepted.

- So if a particular proposal is unacceptable to the registry community it should be unacceptable. If it is unacceptable to others it should also be unacceptable. The registries should not be able to dictate a solution anymore than one should be imposed upon them.

Alan Barrett:

- I would urge you to please try to be consistent in your use of terminology. Here you are saying should registries, as the primary customers of the IANA functions... I think you're referring to domain name registries, not registries in general. There are other kinds of registries as well.
- And, you know, you're the customers of the names part of the IANA function.

Xiaodong Lee:

- Registries means the Internet registries or TLD registries? So in a registry for IP address and TLD registry for domain name.
- So my answer is yes, especially for the ccTLDs I know that so many ccTLDs is NGO. Also the (unintelligible) of their community. So my answer is yes.

Milton Mueller:

- I think the Non Commercial Stakeholder Group was pretty unanimous. However, we'll say that we interpreted this as applying only to names; when we say registries there we think domain name registries and when we talk about IANA functions, because we're working on the naming part of the proposal, so everything else is not referenced.
- So our answer to this was pretty much what someone else just said, the proposal has to be acceptable to all stakeholder groups. There are certain parts of the solution in which you might want registries to have more of a say. But holistically as to which transition proposal is acceptable the registries cannot and by the NTIA's criteria have anymore influence than any other stakeholder group.

Eric Brunner-Williams:

It would not be sensible to ignore the existing registry operators. However, to privilege the incumbents is formalizing an informal agency capture.

Bertrand de la Chapelle:

- I support what Malcolm Hutty was saying regarding the final validation of any proposal and no particular different weight in terms of who accepts and who does not.
- What I think we're talking about is not so much the final validation stage but the development and the weighing of the different options. It's important to distinguish the validation phase in the end where nobody has a particular different role and the discussion phase where the position of the registries is clearly to take into account with a qualitative weight.

Martin Levy:

- I want to expand on what Alan just said about the different type of registries and just, again, maybe for the record, point out that from the protocols point of view one of the three stakeholders within - or users of the IANA functions, the RFC went for review and was published and technically the IETF for the protocol side is done.
- From the numbers side, one of the other - the other 1/3 of the users of the IANA functions, the CRISP team, is for all intense and purposes, done. And this has gone to ICG.

- The third users, yourselves, are not done. I don't know how to put it any other way. But, you know, this is - this is a great set of questions on the Board here but I'm going to go back to my previous point about the amount of time left and just point out to you guys tick, tick, tick. This has to get going, guys.

Martin Boyle:

- Really, as this is such a critical operational process there is no solution if it does not get good registry buy-in. That doesn't mean to say that we shouldn't also be looking at the wider support of the community.
- And I would be very concerned if the community and the registries were diverging in their areas of interest. Something is going seriously wrong because if it doesn't work for the registries then the solution is going to be broken.

Seun Ojedeji:

- While I agree that maybe some level of registry consideration should be given but I think we need to be careful about setting precedence. I happen to participate in the RIR process in developing the proposal and was also following the IETF. I don't run a registry; I don't run an IP registry. And my feedback was taken as an individual.
- So please, let's not do something different from what other communities have done especially in the process of taking feedback and treating them fairly. I think that is very important.

Russ Mundy:

- I hate to say it but I want to lighten the tone a little bit, reminds me of 1984. All stakeholders are equal except some stakeholders are more equal than other stakeholders. So I think the real answer to this truly is no. But there's a possible exception; and that exception would be if some part or some elements of the proposed solution had a (unintelligible) flaw to them.
- In the case of a particular activity I think that's the only time when the registrars, if you will, might get a bigger say if there was something technically broken about what was being proposed. Otherwise all stakeholders should be equal.

Greg Shatan:

- If there is concern about a plan that will lessen the operational excellence of IANA and the registries identify that and they express a reservation because of that clearly we should all be listening to them.
- If there is some other reason that doesn't have to do with operational excellence that the registries might prefer a plan - one plan over the other then no, there's really no reason to favor their opinion in that sense.
- And of course I would note in the sense this is also a red herring since this needs to go to each of the chartering organizations, some of which include only registries; some of which include registries, registrars and non contracted parties; some of whom include no registries.

Question 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)

Question 5

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

Xiaodong Lee:

For the Question 4, first the meaning for me is we need to balance the policymaker and the technical operation. And also (unintelligible) VeriSign or other registry operators to make sure that the root server is stable, I mean, the database is stable.

Bertrand de la Chapelle:

- Follow up on my first intervention earlier on, this notion of functional separation is related to three layers. One is the people who actually do the processing of the request for changes and also supervise the technical automated mechanisms for changes.
- This is ICANN - currently ICANN staff but it is in a specific department just like I would say the GDD has been set out by the specific department. I think the IANA functions are separated in the same way.
- There is the head or the person who manages this department, currently Elise Gerich. This functional separation could go one leg up with something that we more or less call the CSC today but I would call the trustees group.
- And this was ensure a vertical separation of operations. It could even be another building or whatever. The notion being that ICANN is an umbrella thing that has different functions and one of them is to manage the gTLD program in its implementation; another one is to provide support for the policymaking by the community and another one is the IANA function in itself.
- And so in this regard it is one step removed from structural separation but it would limit as much as possible the responsibility of ICANN and the Board in particular regarding the IANA to very limited aspects. And one thing that could be explored is the conditions of selection of the person, the role that Elise Gerich plays today, who has the right to weigh in on how it is chosen. That's an interesting question.

Malcolm Hutty:

- Imagine the situation where the decision had been taken to engage in structural separation and that it was met with the objection for practical technical reasons because of how it is so intertwined with ICANN; that actually can't be done.
- To me functional separation is having arrangements where it would not be met with such an objection. And therefore it would answer Question 5 in the affirmative; it is sufficiently separated because we're capable of having these discussions right now.

Martin Boyle:

- I certainly see this question very clearly but being about the separation between the policy framework and the operational part. This is a formal requirement of the NTIA contract. And it's something that the ccTLD community thought a long time to make sure that we did not get arbitrary decisions from the IANA functions operator that weren't backed with a policy agreement.
- Because it's a formal part of the contract, because it's happened, the relationship between ccTLD community and the IANA has improved. The quality of the IANA functions operation has improved. And therefore I think my answer to the question at the bottom is yes.

Kurt Pritz:

- I think functional separation means that the IANA function must always make decisions in compliance with existing policy. And even if the root zone management change requestor, and a number of parties in IANA agree that a change in contravention to existing policy would be better that IANA is constrained to existing policy so they can't make policy on the fly.

Martin Boyle put that much better.

- Another feature of separation is that IANA staff can participate in policy discussion as far as providing information because they have most often the most valuable and insightful opinions but they can not join in the debate or discussion that formulates policy. So that's a second feature of functional separation. And I said before I think the separation now is adequate and works well.

Milton Mueller:

There is a recurring problem in this dialogue when we're talking about IANA and ICANN, are we talking about it is - as it is now which means the NTIA is there and the NTIA contract is there? Or are we talking about it once that is gone? So I would have to answer the second question with another question which is when you say "current arrangements" do you mean with the IANA contract or not?

Response (JR):

My sense of the question, Milton, is that: the current arrangements or functional separation with NTIA in place.

Milton Mueller:

- All right because I think Martin made a very important point that not only is functional separation - actually both Martin and Kurt pointed out various ways in which the current contract requires what we now have, whether you call it functional separation or not, I don't care very much. It's clearly not structural separation.

- So whatever kind of separation we have now is created by and defined by the NTIA contract. Could that be better? I think there could be some improvement in separation of the budget, for example.

- And so if you say we can just remove the NTIA from the picture and the IANA function will be adequately separated from ICANN, our answer would be resoundingly no. We need something, either structural or contractual to maintain the current level of separation and perhaps to enhance it.

Response (JR):

- For me this is serving the purpose that we intended to do because it's teasing out some subtleties. And to my mind this will help inform the proposal such that the proposal can be more specific of the post transition arrangement.

- There's a weakness in the question and there are probably weaknesses in all the questions as I said in response to Peter's. But it is nevertheless helping to further inform the work of the group. So to that extent it's serving the purpose and so it's very useful to me and I hope others.

Milton Mueller:

I only just started thinking now what do we actually mean by current arrangements? And what would happen to these arrangements if the contractor is not there. So, yeah, you're right. The

questions are doing their job. I'm not complaining about the question. I'm trying to go to the substance.

Andrew Sullivan:

To me the Question 5 here is - the critical word in it is adequately. And so I feel pretty strongly actually that the current arrangements, yes, there's an adequate separation there and therefore that is the kind of thing that we ought to be build on.

Wolf-Ulrich Knochen:

- We discussed that matter in our [ISPCP] constituency meeting. And we would not have a final answer to that but we understand the question as being supposed that there is an internal solution and then the question is how is that run with regards to the IANA functions in terms of accountability and operational accountability as well.
- So from an operational point of view I would say - I would refer to what Bertrand was saying, it was an interesting notion with regard whether we could kind establish kind of, I would say, Chinese wall internally, between ICANN and IANA. From an operational point of view I would fully agree to that, that is viable and that is doable.
- From the accountability point of view, I'm personally not yet at the - in the position to say well I'm not convinced, not yet convinced that it is working that way that a community could agree to that. So that's the position what we have at the time being. And we are - what we're taking this point in this direction and putting more discussion in it.

Bertrand de la Chapelle:

- In the expression current arrangements there is one thing which includes NTIA in the loop of the validation of the different changes. What I'm talking about here is the actual structure of the IANA operations within ICANN. And I take the NTIA part out of this.
- So if I just look at the three layers that I mentioned earlier the actual work that is being done by the staff, it can be - Kim Davies to put names on people and the team - you get the Elise Gerlich (unintelligible) and you get the next level which currently (unintelligible) CCs go to a different channel.
- For the new gTLDs entering in the root actually it doesn't come to the Board whereas strangely enough for ccTLD delegation and redelegation the thing comes to the Board with a certain level of ambiguity within the Board on what is the extent of this power.
- I think if we look at this system today the separation is, in my view, not sufficient because of this channel that comes to the Board and the establishment of what was mentioned as a sort of China wall, is an interesting approach to say the goal is to build this China wall a little bit higher and to have this trustees group playing the oversight role or the - not oversight, the validation role in the channel. And we can discuss further the extent of their respective responsibilities on the Gs and on the CCs.

Annebeth Lange:

There should be full accounting separation and personnel operation. And even if IANA is a part of ICANN it is essential for the trust in the market that the separation is absolute. So especially in these times where we are changing it is really so important to be sure that the separation is not only adequately, we must be absolutely sure that everybody else outside our community thinks the same.

Russ Mundy:

- This is one area in particular where the multistakeholder communities need to work hard at compromise and thinking at what will be an adequate answer both in the near term and perhaps in the longer term.
- From my perspective having both read the contract, knowing a lot about the people involved in the IANA function, working with them for a long time as well as the other ICANN staff and the ICANN process and Bertrand makes a good point, there are different steps that occur for different types of things that happen.
- But I believe in particular with the term "adequate" as Andrew pointed out earlier, I think the answer to both of these questions for a near term transition approach is, yes, there is sufficient separation now and it is under the current arrangements. These may need to be changed going forward but for the near term I think the answer is yes.

Question 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?

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

Question 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)?

Question 9

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

Public Forum on Thursday 12 February

Nigel Cassimire:

And I'm wondering, while I understand (indiscernible) great focus on the technical aspects of replacing the NTIA's role in all of the ICANN communities, have any specific nontechnical aspects of the NTIA's role been identified that would need to be considered in establishing the success mechanism? I'm talking about, for example, any functions or influences or legal legitimacy or any other attributes that the NTIA inherently provided, being an agency of the U.S. government. You know, things that maybe you take for granted that you only miss when it's not there.

Seun Ojedeji:

A quick one on the question is relation to the CWG as it concerns accountability and the board engagement. During the CWG, at some point in time, the board came up and engaged with the community to raise a view about the CWG proposal. Right now the IETF and the numbers have actually done their own proposal. And I am sure there are views that the board will also have. When is the board going to engage in discussion with IETF or the numbers community to actually reserve? Because we don't have to wait till the end. We need to utilize the time very well. So it would be good to know, are you already accepting with what the two communities have already proposed or not?

Response (Steve Crocker):

So the question has come up before, and appreciate the question again. We're familiar and cognizant of the IETF and the numbers community proposals. There's nothing fundamental in them that we have a problem with, full stop.

Jordan Carter:

What are the expectations that the board collectively has for board members in this discussion? Are people, the individuals that they are with the roles that they hold, able to advocate as forcefully as they would like for or against different positions? Or is there a board agreement that board members will instead play an informative role? Or is there a desire on the part of the board for its members to not engage directly in the debate?

So the reason I'm asking is not to hope for an answer, just to get some clearer community expectations about the answer to that question.

Response (Steve Crocker):

- You asked sort of a question formed in multiple ways as to what the role of the board members are. I don't want to get into a super lengthy response. But we try to walk an interesting line where, yes, board members are encouraged to speak their mind and engage. And at the same time, we're mindful that even if one of us is very careful to say they're speaking in their own capacity, there is a natural tendency to take whatever a board member says as meaning a position of the board or even a statement that we've made a decision about that.
- So we try to be a little bit careful about when we engage. But, on the other hand, we do try to engage and we do try to be both informative and in some cases actually express an opinion.
- That maybe muddies the answers that you are looking for because it is a little bit of everything. But the answer is we are definitely engaged.

Paul Muchene:

What if, for example, within the time frames because two models have been proposed, an external and an internal model, if within the time frames the community cannot agree on one of the models, so what really will happen?

Aparna Sridhar:

- The first is that the IANA function operates well today, it is a straightforward, technical process, and the process itself as well as the functions operating work well.
- Because the process is working well right now and the current arrangements are relatively simple, the future arrangements should be simple and efficient as well.

- However, for instances where there is systemic failure or gross negligence or worse, which I hope will not obtain, we need a fail-over backup mechanism and a way to move the functions out of ICANN if absolutely necessary.
- These are sort of the three key principles around which the business constituency has coalesced.

Milton Mueller:

- I'm responding to some of the conversation I heard about the nature of the CWG proposal to the ICG, and I may have mistook what I heard, but it sounded like some of you are saying that sort of the CWG submits its proposal to you and you do some kind of public interest determination of it and then you send it back to the CWG.
- My understanding, and I think the understanding of the chairs of the CWG, is that they are responding to an RFP issued by the ICG that when they think they have consensus, they will send it to us.
- ICANN's board, of course, is a stakeholder and is engaged in that process and they can submit their opinion, but the proposal goes to us and then we combine it with the other proposals to work out any problems and then we put it up for public comment. Is that your understanding also?

Response (Bruce Tonkin):

- Yeah. I think the confusion is in the use of acronyms. There's one acronym called CWG, and the other acronym called CCWG, which are codes for one is part of the IANA transition process and the other is the accountability process.
- So, no, there -- that is not the -- you are correct in your thinking that the ICG is managing the process for the cross-community working group on the IANA transition for naming. The board's not involved.

Bertrand De La Chapelle:

- I wanted to highlight the very important difference between some of the sessions that I've attended regarding, in particular, the CWG.
- One was a little bit frustrating. I understand the need to keep people up-to-date on where the process is, but sometimes the discussion of procedure takes over the opportunity to discuss the various positions.
- By contrast, I found that the session this morning on Q&A was extremely useful in terms of using a limited number of questions that forced people to clarify what they understood behind each of the words.
- And I think in terms of methodology, I wanted to highlight it because in many cases, and to be frank, in too many cases, the discussions within ICANN and in the working groups function with people putting very different things behind the same words, and any methodology that clarifies and forces people to explain what they actually mean by words like "the current arrangements" or "separation," or whatever, is extremely useful, and sometimes has not been done enough in the process regarding transition.