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Client Committee  
Cross Community Working Group  
IANA Stewardship Transition Proposal on  
Naming Related Functions  
Internet Corporation for Assigned Names and  
Numbers

Re: Proposal to Provide Independent Legal Advice Related to the CWG-IANA  
Stewardship Transition Proposal on Naming Related Functions

Ladies and Gentlemen of the Client Committee:

Thank you for inviting us to present our capabilities for providing legal advice regarding the CWG-IANA Stewardship Transition Proposal on Naming Related Functions. We are well-positioned to advise on the complex and multi-faceted issues that must be considered in this unique and important transition. Sidley has a highly experienced, multi-disciplinary team of experts in the substantive areas of governance, corporate structuring, non-profit, government strategies and information law, including specific expertise in the Internet, U.S. Internet policy and global Internet governance issues. Our team members are also adept at facilitating consensus among diverse stakeholders on governance-related issues, and they are highly attuned to the complex business and political environment in which this transition is taking place.

The transition will be scrutinized by a wide range of stakeholders around the world, even as it must meet the principles laid out by the National Telecommunications and Information Administration and Congressional mandates. These arrangements could be subject to collateral attack on present or future U.S. statutory grounds, at risk for antitrust or other competition litigation, or subject to a range of international legal or political challenges. It is essential that the proposed arrangements are sensitive to the full spectrum of interests at stake. Rather than trying to resolve long-standing issues, our efforts will focus on creating a robust and transparent framework, with broad and open governance, enabling relevant stakeholders to support this new legal framework.

Sidley appreciates the unique significance of this transition of governance of the ICANN contract for the IANA functions. Few projects raise the sort of complex, inter-disciplinary challenges as the governance of core Internet functions. Creating innovative structures that can function effectively and efficiently within a multi-stakeholder, multi-jurisdictional framework requires the design of novel corporate and trust law structures, as well as transparent governance

mechanisms that ensure accountability to the relevant political and civil society stakeholders. Our experience in solving the unique and complex governance challenges facing our clients makes us exceptionally well-positioned to assist the CWG.

### Our Firm

Sidley Austin LLP is one of the world's oldest and most respected international law firms, with nearly 1,900 lawyers across 18 offices in Asia, Australia, Europe and North America (including three California offices), representing a multitude of practice areas. Over the span of nearly 150 years, we have built a reputation as a trusted adviser on the most complex global legal and policy challenges.

Sidley's broad array of practice area expertise and its global footprint allow us to leverage knowledge and experience in a tailored team approach that provides both efficiency and superior client service. Much like ICANN, Sidley maintains offices that are legally and politically engaged in Washington, D.C., Brussels, Singapore, Beijing, Tokyo and Geneva, among others. In the U.S., our significant West Coast operations – with offices in Los Angeles, San Francisco and Palo Alto – ensure that team members include lawyers who are admitted to the California bar, well-versed in California corporate and non-profit law and readily available to meet at ICANN's offices. We also have similar capabilities to examine alternative structures under the law of New York or Delaware, and to evaluate jurisdictional nuances.

### Our Team

We are pleased to present an exceptional team from across our firm to advise CWG-IANA. This team includes leaders of major Sidley practice groups, including Corporate Governance; Privacy, Data Security and Information Law; Non-Profit; and Government Strategies. The team will be led by Holly J. Gregory, co-chair of our global Corporate Governance Practice, and Ed McNicholas, co-chair of our global Privacy, Data Security, and Information Law practice. Additional team members include:

- Rick Boucher, head of our Government Strategies group and former U.S. Congressman and Chair of the House Subcommittee on Communications, Technology and the Internet.
- Cameron Kerry, former General Counsel and Acting Secretary of the U.S. Department of Commerce and Senior Counsel primarily in the global Privacy, Data Security and Information Law practice.
- Sharon Flanagan, head of our San Francisco office and experienced in corporate law, corporate structuring and M&A and corporate governance; member of the California bar.

- Joshua Hofheimer, a partner in Los Angeles and a leader of our technology transactions practice, counsel to a number of California non-profits; member of the California bar.

The following key practice areas are represented by the team:

Corporate Governance: Our team members have decades of experience advising both for-profit and non-profit entities on issues of corporate governance, corporate structure, accountability mechanisms, and relations with key stakeholders. Holly Gregory, co-chair of the group, currently chairs the ABA Corporate Governance Committee (Business Law Section) and is highly regarded for her experience in corporate governance and for her skills in facilitating consensus on difficult governance issues involving multiple stakeholder interests. She has helped to forge consensus on:

- [REDACTED CLIENT EXAMPLES]
- Holly and the Sidley governance team regularly advise dozens of S&P 500 companies on a wide range of highly sensitive governance matters.

Corporate Structuring and Non-Profit Law, including California: Our team members have significant experience in structuring corporate entities, including non-profits under the laws of various states, including California, New York and Delaware. Sharon Flanagan serves as the Managing Partner of the San Francisco office and is a leader of the firm's California transaction practice. She has an impressive roster of important and novel corporate transactions, including many with international components. Josh Hofheimer, a partner in our Los Angeles office, represents technology, agribusiness, fund, and non-profit companies, including [REDACTED CLIENT EXAMPLES]. Sidley regularly advises clients on non-profit structure and related obligations, including governance, disclosure and tax obligations. Our clients include some of the largest private foundations and trusts in the country, significant charitable and educational organizations, community trusts and other broadly-supported charities, including [REDACTED CLIENT EXAMPLES]. Our practice was commended in the *Legal 500 US 2014* as "excellent" and "absolutely top notch" for its "wisdom, [...] response times" and "superior" service.

Government Strategies: Our Government Strategies group includes lawyers with deep knowledge about the workings of ICANN and governance of the Internet. The head of the group, former Congressman Rick Boucher, was a co-founder of the Congressional Internet Caucus and former Chair of the House Subcommittee on Communications, Technology and the Internet. Chairman Boucher called for and led hearings on the future of ICANN and Internet governance during his nearly three-decade tenure in Congress, including hearings in 2009 and 2010. He also chaired the subcommittee that in the early 1990s oversaw the commercialization of the Internet, and he wrote the 1992 statute that permitted the first commercial traffic on the Internet. Chairman Boucher would help to ensure that Sidley's advice on the transition are sensitive to the charged

domestic and international political climate relating to Internet governance and can assist ICANN in responding to the inevitable questions the members of Congress will raise as the transition proceeds.

Privacy, Data Security and Information Law: Sidley's Privacy, Data Security and Information Law practice provides our team with significant understanding of the unique history, structure and technical functioning of the Internet governance as a foundation for our corporate structuring and governance advice. Lawyers in this group draw from significant governmental experience. The group's co-leader, Ed McNicholas, has served as Associate Counsel to the U.S. President and also advised offices within both the UK and Canadian governments on various privacy issues. Cameron Kerry former General Counsel and Acting Secretary of Commerce in 2013, has been centrally involved in Internet governance and related matters, with a particular focus on international cooperation and multi-stakeholder policymaking as a leader in the development of the Obama Administration's consumer privacy and cybersecurity policy. Lawyers in the group have deep familiarity with the technical and organizational challenges that confront CWG-IANA. We have followed the development of these issues for several years and appreciate the broader milieu in which these issues will unfold from the IETF to the ITU.

#### Our Commitment

Sidley represents many clients that face complex legal questions in a politically charged environment, and we would draw from this experience in this representation. In addition to the team described above, we will ensure that you have access to the best we have to offer in the areas of antitrust, tax, international trade, and others as needed. Armed with intimate knowledge of the history and current status of ICANN, we are confident that we can help forge a pragmatic and successful transition plan. We very much want to represent the Committee in this seminal engagement. To further demonstrate our desire to be your counsel, we will offer the Committee a discount of 15% from our standard rates. Throughout the engagement, Holly and Ed will serve as your advisors and your coordinators.

#### **KEY TEAM MEMBERS**

HOLLY J. GREGORY is co-chair of the firm's global Corporate Governance practice. Holly counsels clients on the full range of governance issues, including fiduciary duties, risk oversight, conflicts of interest, board and committee structure, board leadership structures, special committee investigations, board audits and self-evaluation processes, shareholder initiatives, proxy contests, relationships with shareholders and proxy advisory firms, compliance with legislative, regulatory and listing rule requirements, and governance "best practice." Holly is

Chair of the ABA Business Law Section's Corporate Governance Committee. She has played a key role in international and domestic corporate governance policy development, including as primary drafter of the OECD Principles of Corporate Governance and advisor to the Internal Market Directorate of the European Commission on corporate governance regulation. She also advised the joint OECD/World Bank Global Corporate Governance Forum on governance policy for developing and emerging markets and drafted the National Association of Corporate Directors' Key Agreed Principles of Corporate Governance. She has been recognized as one of the 100 most influential persons in corporate governance by the NACD every year that it has compiled the list.

ED MCNICHOLAS is co-leader of Sidley's Privacy, Data Security and Information Law practice. Ed has an extensive practice representing technologically sophisticated clients facing complex cybersecurity, information technology, privacy and related constitutional issues. Commended by The Legal 500 US for his "deep knowledge of privacy and information security," Ed spearheads Sidley's cybercrime focus and has significant experience with litigation and counseling matters involving privacy and data protection, electronic surveillance, Internet governance, cloud computing, the Internet of Things, trade secrets, online advertising, social media, big data/data science and national security. A former Associate Counsel to the President, Ed has significant experience in formulating politically aware approaches to complex legal issues.

RICK BOUCHER is the head of Sidley's Government Strategies group where his practice is focused on counseling clients whose business needs require the development of public policy strategies in the telecommunications, energy and the environment, and financial services industries. Prior to coming to Sidley, Rick served for 28 years as a U.S. Congressmen on both the House Energy and Commerce Committee and the Judiciary Committee, chairing the subcommittees on Energy and Air Quality; and Communications, Technology and the Internet. Rick has been a leading participant in every major Congressional telecommunications policy debate over the past 25 years. He chaired the subcommittee that oversaw the commercialization of the Internet and its transition from a government-owned R&D project to the global platform we know today. In addition, he authored the 1992 law that permitted the first commercial use of the Internet. He was one of two co-founders of the Congressional Internet Caucus, and served as co-chairman of the 170 member group for 15 years. Rick helped to fashion the Telecommunications Act of 1996, was instrumental in drafting the initial legislation providing privacy rights for Internet users, and has been a longstanding proponent of fair use opportunities for digital media purchasers.

CAMERON KERRY, former General Counsel and Acting Secretary of the United States Department of Commerce, has played a leadership role in addressing many of the biggest challenges facing business today, including a particular focus on technology and consumer

privacy issues and international discussions regarding systems for data protection. His broad practice operates at the intersection of law and technology and is informed by his years of government service and over three decades in private practice. While at the Department of Commerce, Cam co-chaired the Commerce Internet Policy Task Force, led the development of the Obama administration's consumer privacy policy and international engagement on privacy, and helped to develop the NIST Cybersecurity Framework. He also led dialogues with China on transparency and commercial law. Cam's practice involves strategic counseling, regulatory guidance and litigation, and includes providing general counsels, chief privacy officers and boards of directors with strategic advice on global privacy and data protection compliance programs, information governance protocols, and corporate cybersecurity preparedness. Cam assists clients in advancing their objectives to promote international digital trade, cross-border data transfers, cloud services and innovative Big Data and new technology applications. Cam also is the Ann R. and Andrew H. Tisch Distinguished Visiting Fellow in Governance Studies at the Brookings Institution and a Visiting Scholar at the MIT Media Lab, and his writing and speaking includes issues of global Internet governance and the transition of the IANA stewardship function.

SHARON FLANAGAN is managing partner of the San Francisco office and has over 15 years of experience representing companies in a broad range of corporate governance matters, merger and acquisition transactions and securities offerings. Sharon advises a number of public companies on corporate governance, disclosure and other SEC compliance matters, as well as ISS/proxy advisory firm matters, stockholder proposals and corporate governance best practices. Sharon has experience handling acquisitions, divestitures and strategic alliances for a broad range of companies, with a particular focus on technology and life sciences companies. In addition, she regularly represents companies in their cross-border M&A transactions. Sharon is a former vice-chairman of the Corporations Committee of the State Bar of California

JOSH HOFHEIMER is a partner in the firm's Los Angeles office. He combines almost two decades of corporate, commercial and technology law practice, with the experience of having run a public company, to bring his clients focused, practical counsel to help them grow their businesses and maximize their value and returns. He advises clients on general corporate matters, including internal reorganizations and restructuring, IP due diligence, LLC formation agreements, stock and asset acquisitions, private equity financings, executive compensation packages and implementing employee stock option plans. Josh has represented start-up companies, agriscience companies, convergence technology companies, a semiconductor tooling manufacturer and broadband Internet content providers, for whom he has acted as general outside corporate counsel, negotiating business development and strategic agreements such as content syndication agreements, licensing agreements, distribution agreements, e-commerce agreements, marketing and co-promotion agreements, joint venture agreements and web design agreements. He has also advised Los Angeles County and other large customers on a variety of



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software-related matters, including the county's acquisition of a new voting system for its election processes, several complex healthcare services systems, and a new multi-layered county-wide traffic control system.

We hope that the background on our team provided above, as well as the enclosed materials, provide the CWG-IANA Client Committee with a clear understanding of the substantive knowledge, background and expertise Sidley would bring to bear on the corporate governance issues surrounding the ICANN transition process. Please reach out with any questions or concerns, or should you require additional materials through the procurement process.

Respectfully submitted,

Holly J. Gregory  
Edward R. McNicholas

Enclosures: Corporate Governance Group Summary; Privacy Group Summary; Government Strategies Group Summary; Non-profit Group Summary; Corporate Group Summary; Sidley Diversity Commitment Summary; Curriculum Vitae for Team Members

cc: Hon. Rick Boucher  
Hon. Cameron Kerry  
Sharon Flanagan  
Joshua Hofheimer