

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

	STRAWMAN PROPOSAL 1	STRAWMAN PROPOSAL 2	STRAWMAN PROPOSAL 3	COMMENTS
1	Creation of an Oversight Body	Creation of an Oversight Body	Creation of an Oversight Body	
a	<p><u>Operational Performance Review Committee.</u> A new body will be created to (1) ensure continuity and enhancement of the performance of current, new and improved IANA administrative and technical functions – the IANA naming services - essentially those described in the current IANA contract, (2) provide oversight over the IANA Functions Operator, and (3) provide a body to which the IANA Functions Operator is accountable. That body will be the Operational Performance Review Committee (“OPRC”).</p>	<p><u>Performance Review and Oversight Corporation.</u> A new body will be created to (1) ensure continuity and enhancement of the performance of current, new and improved IANA administrative and technical functions – the IANA naming services - essentially those described in the current IANA contract, (2) provide oversight over the IANA Functions Operator, and (3) provide a body to which the IANA Functions Operator is accountable. That body will be the Performance Review and Oversight Corporation (“PROC”).</p>	<p><u>Performance Review, Oversight and Stewardship Inc.</u> A new body will be created to (1) ensure continuity and enhancement of the performance of current, new and improved IANA administrative and technical functions – the IANA naming services - essentially those described in the current IANA contract, (2) provide oversight over the IANA Functions Operator, (3) provide a body to which the IANA Functions Operator is accountable, and provide stewardship of the Internet according to the principles of multistakeholderism, a competitive market, public accountability and security and stability. That body will be the Performance Review and Oversight Inc. (“PROSI”).</p>	
i		<p><u>Committees.</u> PROC may establish committees with primary responsibilities for various aspects of its work, and with membership reflecting the necessary expertise for the particular responsibilities. For example, an SLA Committee could be formed with primary responsibility for monitoring and engaging with the IANA Functions Operator with regard to performance under the SLA; this committee could consist primarily or exclusively of registry operators. Significant decisions by any committee would require the review and approval of the PROC Board of Directors.</p>	<p><u>Committees.</u> PROSI may establish committees with primary responsibilities for various aspects of its work, and with membership reflecting the necessary expertise for the particular responsibilities. For example, an SLA Committee could be formed with primary responsibility for monitoring and engaging with the IANA Functions Operator with regard to performance under the SLA; this committee could consist primarily or exclusively of registry operators. Significant decisions by any committee would require the review and approval of the PROSI Board of Directors.</p>	
b	<p><u>Legal Status.</u> The OPRC will be a committee rather than a separate incorporated entity. [The committee may be considered an “unincorporated</p>	<p><u>Legal Status.</u> PROC will be a non-profit corporation incorporated in the State of</p>	<p><u>Legal Status.</u> PROSI will be a non-profit corporation incorporated in the State</p>	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

	association,” and will be domiciled in [California or the U.S. or Switzerland or some other place] to the extent that the committee has a legal identity.]	California. PROC will not have members.	of California. PROSI will not have members.	
c	<u>Governing Documents.</u> The OPRC will operate according to Articles of Association and Bylaws to be created by a drafting team composed of a representative group of registries.	<u>Governing Documents.</u> PROC will operate according to Articles of Incorporation and Bylaws to be created by a drafting team composed of a representative group of stakeholders.	<u>Governing Documents.</u> PROSI will operate according to Articles of Incorporation and Bylaws to be created by a drafting team composed of a representative group of stakeholders.	
d		<u>Board of Directors.</u> PROC’s Board of Directors will be composed of representatives of the stakeholder groups serving on the various PROC committees.	<u>Board of Directors.</u> PROSI’s Board of Directors will be composed of representatives of the stakeholder groups serving on the various PROSI committees	
2	Composition of Oversight Body	Composition of Oversight Body	Composition of Oversight Body	
a	<u>Registry Operators.</u> The members of the OPRC will be the registry operators, as direct customers of the IANA naming functions.	<u>Multistakeholder.</u> PROC will be a multistakeholder organization, with representatives of from registry operators (both ccNSO and non-ccNSO), other GNSO stakeholder groups and constituencies, GAC, SSAC, RSSAC and ALAC, as well as representatives of the “Names Community” not directly involved in ICANN Stakeholder Organizations and Advisory Committees.	<u>Multistakeholder.</u> PROSI will be a multistakeholder organization, with representatives of from registry operators (both ccNSO and non-ccNSO), other GNSO stakeholder groups and constituencies, GAC, SSAC, RSSAC and ALAC, as well as representatives of the “Names Community” not directly involved in ICANN Stakeholder Organizations and Advisory Committees.	
3	Documentation to Replace NTIA Contract	Documentation to Replace NTIA Contract	Documentation to Replace NTIA Contract	
a		<u>IANA Functions and Oversight Agreement.</u> PROC and IANA Inc. (see below) will enter into an IANA Functions and Oversight Agreement (“IFOA”) that will replace those elements of the current IANA Contract deemed necessary or desirable, as set forth in Appendix __.	<u>IANA Functions and Oversight Agreement.</u> PROSI and IANA Inc. (see below) will enter into an IANA Functions and Oversight Agreement (“IFOA”) that will replace those elements of the current IANA Contract deemed necessary or desirable, as set forth in Appendix __.	
b	<u>Service Level Agreement.</u> The OPRC and ICANN will enter into a Service Level Agreement for the performance of the technical and administrative	<u>Service Level Agreement.</u> As part of the IFOA, PROC and IANA Inc. will enter into a Service Level Agreement for the	<u>Service Level Agreement.</u> As part of the IFOA, PROSI and IANA Inc. will enter into a Service Level Agreement for the	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

	IANA functions. The SLA would run for an initial term of three years and would be renewed upon the agreement of the OPRC and the IANA Functions Operator.	performance of the technical and administrative IANA functions.	performance of the technical and administrative IANA functions.	
c		<u>Term.</u> Both the IFOA and the SLA would run for an initial term of three years and would be renewed upon the agreement of PROC and IANA Inc.	<u>Term.</u> Both the IFOA and the SLA would run for an initial term of three years and would be renewed upon the agreement of PROSI and IANA Inc.	
4	Status of IANA Functions Operator	Status of IANA Functions Operator	Status of IANA Functions Operator	
a	<u>Division of ICANN.</u> The IANA Functions Operator will remain a division of ICANN.	<u>Subsidiary of ICANN.</u> The IANA Functions Operator will be organized as a wholly-owned subsidiary of ICANN (“IANA Inc.”). On an operational basis, the IANA Functions Operator will function largely as it presently does.	<u>Independent Entity.</u> The IANA Functions Operator will be organized as an independent corporation (“IANA Inc.”). On an operational basis, the IANA Functions Operator will function largely as it presently does.	
b	<u>Enhanced Separability.</u> ICANN will maintain the current separation between ICANN and IANA, and will make the IANA Functions Operator more easily separable from ICANN, if separation becomes necessary at some future time.	<u>Enhanced Separability.</u> IANA Inc. will be structured to be readily separable from ICANN, if separation becomes necessary at some future time.		
c		<u>Legal Status.</u> IANA Inc. will be a non-profit corporation incorporated in the State of California. IANA Inc. will not have members.	<u>Legal Status.</u> IANA Inc. will be a Swiss non-profit association, and would request that the Swiss government grant it immunity of jurisdiction.	
d		<u>Governing Documents.</u> IANA Inc. will operate according to Articles of Incorporation and Bylaws to be created by a drafting team composed of a representative group of stakeholders.	<u>Governing Documents.</u> IANA Inc. will operate according to Articles of Incorporation and Bylaws to be created by a drafting team composed of a representative group of stakeholders.	
e		<u>Board of Directors.</u> While IANA Inc. is a subsidiary of ICANN, IANA Inc.’s Board of Directors will be composed of representatives of ICANN and of the stakeholder groups in the Names Community.	<u>Board of Directors.</u> IANA Inc.’s Board of Directors will be composed of representatives of the stakeholder groups in the Names Community.	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

5	Method of Oversight. The OPRC would do some or all of the following:	Method of Oversight. PROC and its committees would do some or all of the following:	Method of Oversight. PROSI and its committees would do some or all of the following:	
a		Review IANA Inc.’s performance against the IFOA and against any other policies established to ensure a secure, stable, and resilient internet operating as a single interoperable network.	Review IANA Inc.’s performance against the IFOA and against any other policies established to ensure a secure, stable, and resilient internet operating as a single interoperable network.	
b	Review existing performance metrics , e.g., that 80% of Root Zone File and WHOIS database change requests be processed within 21 days	Review existing performance metrics , e.g., that 80% of Root Zone File and WHOIS database change requests be processed within 21 days	Review existing performance metrics , e.g., that 80% of Root Zone File and WHOIS database change requests be processed within 21 days	
c	Develop the (SLA) for the performance of these technical and administrative functions [to be negotiated with ICANN] [and approved by the multistakeholder community]	Develop the (SLA) for the performance of these technical and administrative functions [to be negotiated with ICANN] [and approved by the multistakeholder community]	Develop the (SLA) for the performance of these technical and administrative functions [to be negotiated with IANA Inc.] [and approved by the multistakeholder community]	
d	meet periodically with IANA staff to review performance relative to the SLA [and the need for changes to SLA parameters]	meet periodically with IANA staff to review performance relative to the SLA [and the need for changes to SLA parameters]	meet periodically with IANA Inc. staff to review performance relative to the SLA [and the need for changes to SLA parameters]	
e	meet [annually] with the president of ICANN to review and approve the budget for the IANA naming services for the next [three] years	meet [annually] with the president of ICANN to review and approve the budget for the IANA naming services for the next [three] years		
f	On a periodic basis, e.g., every 3 to 5 years, initiate a review of the IANA naming services to consider whether new (e.g., the addition of DNSSEC represents an example of a ‘new service’ that was introduced) or improved services (e.g., further improvements to root zone automation) are needed.	On a periodic basis, e.g., every 3 to 5 years, initiate a review of the IANA naming services to consider whether new (e.g., the addition of DNSSEC represents an example of a ‘new service’ that was introduced) or improved services (e.g., further improvements to root zone automation) are needed.	On a periodic basis, e.g., every 3 to 5 years, initiate a review of the IANA naming services to consider whether new (e.g., the addition of DNSSEC represents an example of a ‘new service’ that was introduced) or improved services (e.g., further improvements to root zone automation) are needed.	
g	Question: If the OPRC is composed solely of registries, should other stakeholders be involved in this review (e.g., Registries, Commercial Stakeholders, Noncommercial	Question: If the PROC is composed solely of registries, should other stakeholders be involved in this review (e.g., Registries, Commercial	Question: If the PROSI is composed solely of registries, should other stakeholders be involved in this review (e.g., Registries, Commercial Stakeholders, Noncommercial	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

	Stakeholders, SSAC, ALAC and the GAC]]	Stakeholders, Noncommercial Stakeholders, SSAC, ALAC and the GAC]]	Stakeholders, SSAC, ALAC and the GAC]]	
h	Any proposed new or improved services would be reviewed by the ccNSO, GNSO, ALAC and GAC before being implemented	Any proposed new or improved services would be reviewed by the ccNSO, GNSO, ALAC and GAC before being implemented	Any proposed new or improved services would be reviewed by the ccNSO, GNSO, ALAC and GAC before being implemented	
i	Act as a final review of changes to the root zone made by Verisign at the direction of a designated IANA staff member. [The Verisign Cooperative Agreement would be amended by the NTIA to require that Verisign make changes to the root zone at the direction of a designated IANA staff member, and not ICANN]	Act as a final review of changes to the root zone made by Verisign at the direction of a designated IANA staff member. [The Verisign Cooperative Agreement would be amended by the NTIA to require that Verisign make changes to the root zone at the direction of a designated IANA staff member, and not ICANN]	Act as a final review of changes to the root zone made by Verisign at the direction of a designated IANA staff member. [The Verisign Cooperative Agreement would be amended by the NTIA to require that Verisign make changes to the root zone at the direction of a designated IANA staff member, and not ICANN]	
6	Funding of OPRC	Funding of PROC	Funding of PROSI	
a	<u>Funded by Registries.</u> All ccTLD and gTLD registries will fund the OPRC on a fair and equitable basis to be determined by the OPRC and approved by the ccNSO, GNSO, ALAC and GAC.	<u>Funded by ICANN.</u> Under the IFOA, ICANN will be required to fund PROC pursuant to a budget approved by the PROC Board of Directors, and intended to provide adequate funds for PROC to operate in a manner consistent with ICANN’s past practices.	<u>Funded by Registries.</u> PROSI will be funded by registries, through fees charged to the registries pursuant to the Articles of Incorporation and Bylaws of PROSI.	
7	Funding of IANA Functions Operator	Funding of IANA Inc.	Funding of IANA Inc.	
a	<u>Funded by ICANN.</u> As a division of ICANN, the IANA Functions Operator will continue to be funded as it is currently.	<u>Funded by ICANN.</u> As a subsidiary of ICANN, IANA Inc. will continue to be funded as it is currently.	<u>Funded by ICANN.</u> IANA Inc. will be funded by registries, through fees charged to the registries pursuant to IFOA.	
8	Transparency of Decision-Making. To enhance consistency, predictability and integrity in decision-making of IANA related decisions, ICANN would agree [Q: in what document?] to:	Transparency of Decision-Making. To enhance consistency, predictability and integrity in decision-making of IANA related decisions, ICANN would agree in the IFOA to:	Transparency of Decision-Making. To enhance consistency, predictability and integrity in decision-making of IANA related decisions, IANA Inc. would agree in the IFOA to:	
a	Continue the current practice of public reporting on naming related decisions	Continue the current practice of public reporting on naming related decisions	Continue the current practice of public reporting on naming related decisions	
b	Make public all recommendations to the ICANN Board from IANA staff on naming related decisions	Make public all recommendations to the ICANN Board from IANA Inc. on naming related decisions	Make public all recommendations by IANA Inc. on naming related decisions	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

c	Agree to not redact any board minutes related to naming decisions	Agree to not redact any board minutes related to naming decisions	Agree to not redact any board minutes related to naming decisions	
d	Have the president and board chair sign an annual attestation that it has complied with the above provisions	Have the president and board chair sign an annual attestation that it has complied with the above provisions	Have the president and board chair sign an annual attestation that it has complied with the above provisions	
e	IANA functions staff be provided funds to hire independent outside legal counsel to provide advice on the interpretation of existing naming related policy.	IANA Inc. will be provided funds to hire independent outside legal counsel to provide advice on the interpretation of existing naming related policy.	IANA Inc.'s budget will be sufficient to allow it to hire outside legal counsel to provide advice on the interpretation of existing naming related policy.	
f	These provisions regarding reporting and transparency, along with the availability of independent legal advice, are intended to discourage IANA staff and the ICANN Board from taking decisions that may not be fully supported by existing policy.	These provisions regarding reporting and transparency, along with the availability of independent legal advice, are intended to discourage IANA Inc. and the ICANN Board from taking decisions that may not be fully supported by existing policy.	These provisions regarding reporting and transparency, along with the availability of independent legal advice, are intended to discourage IANA Inc. and its Board from taking decisions that may not be fully supported by existing policy.	
9	Redress and Consequences of Failure to Perform.	Redress and Consequences of Failure to Perform.	Redress and Consequences of Failure to Perform.	
a	If the IANA Functions Operator fails to perform as required under the SLA or other binding agreements, the SLA will set forth a process for providing notice of breach to the IANA Functions Operator and requiring the IANA Functions Operator to cure the breach. In the event of failure to cure a breach, OPRC may:	If IANA Inc. fails to perform as required under the SLA or other binding agreements, the SLA will set forth a process for providing notice of breach to IANA Inc. and requiring IANA Inc. to cure the breach. In the event of failure to cure a breach, PROC may:	If IANA Inc. fails to perform as required under the SLA or other binding agreements, the SLA will set forth a process for providing notice of breach to IANA Inc. and requiring IANA Inc. to cure the breach. In the event of failure to cure a breach, PROSI may:	
b	Initiate a formal Performance Review to determine the underlying cause of the breach. At the end of such Performance Review, the OPRC may:	Initiate a formal Performance Review to determine the underlying cause of the breach. At the end of such Performance Review, the PROC may:	Initiate a formal Performance Review to determine the underlying cause of the breach. At the end of such Performance Review, the PROSI may:	
c	Allow ICANN to continue as the IANA Functions Operator, subject to any remedial improvements required by OPRC;	Allow IANA Inc. to continue as the IANA Functions Operator, subject to any remedial improvements required by PROC;	Allow IANA Inc. to continue as the IANA Functions Operator, subject to any remedial improvements required by PROSI; or	
d	Initiate an RFP for a new IANA Functions Operator; or	Initiate an RFP for a new IANA Functions Operator; or	Initiate an RFP for a new IANA Functions Operator.	

STRAWMAN MATRIX DRAFT – FOR DISCUSSION PURPOSES ONLY 12-NOV-2014

e	If the breach appears to be result of ICANN behavior outside of the IANA group, require the IANA Functions Operator to move outside of ICANN and be established as an independent entity.	If the breach appears to be result of ICANN behavior and not that of IANA Inc., require IANA Inc. to move outside of ICANN and be established as an independent entity.		
10	Policy Appeal Mechanism	Policy Appeal Mechanism	Policy Appeal Mechanism	
a	<u>Independent Review Panel</u> . Where disputes arise as to the implementation of “IANA related policies,” for example, disputes over the consistency of ccTLD delegation decisions with accepted policy, there would be recourse to an independent review panel. This need not be a permanent body, but rather could be done the same way as commercial disputes are often resolved, through the use of a binding arbitration process using an independent arbitration firm or a standing list of qualified people (to be developed by the OPRC). In either case, a three person panel would be used with each party to a dispute choosing one of the three panelists, with these two panelists choosing the third panelist.	<u>Independent Review Panel</u> . Where disputes arise as to the implementation of “IANA related policies,” for example, disputes over the consistency of ccTLD delegation decisions with accepted policy, there would be recourse to an independent review panel. This need not be a permanent body, but rather could be done the same way as commercial disputes are often resolved, through the use of a binding arbitration process using an independent arbitration firm or a standing list of qualified people (to be developed by the PROC). In either case, a three person panel would be used with each party to a dispute choosing one of the three panelists, with these two panelists choosing the third panelist.	<u>Independent Review Panel</u> . Where disputes arise as to the implementation of “IANA related policies,” for example, disputes over the consistency of ccTLD delegation decisions with accepted policy, there would be recourse to an independent review panel. This need not be a permanent body, but rather could be done the same way as commercial disputes are often resolved, through the use of a binding arbitration process using an independent arbitration firm or a standing list of qualified people (to be developed by the PROSI). In either case, a three person panel would be used with each party to a dispute choosing one of the three panelists, with these two panelists choosing the third panelist.	