



**Comment on 2nd Draft
Proposal of the CWG (Cross
Community Working Group)
to Develop an IANA
Stewardship Transition
Proposal on Naming Related
Functions**

Status: FINAL

Version: 3

20-May-2015

Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

The BC provided comments on the CWG-Stewardship 1st draft proposal in December 2014¹. Earlier in 2014, the BC commented on ICANN's proposed process for designing the IANA transition².

Below, the BC provides input on selected questions posed in the *CWG-Stewardship template* for input on the 2nd Draft Proposal.

General Comments

5. If you have any general comments you would like to provide on the CWG-Stewardship Proposal, please provide these here.

The Business Constituency commends the CWG-Stewardship for the untiring energy devoted by the group to improve the initial draft proposal. The BC is concerned, however, by the fact that important elements such as transition implications, operational methods, and separation review are still being developed or could not be addressed at that stage of the process, as they are dependent on the Enhancing ICANN Accountability proposal. The release on May 4 of the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG) draft proposal gives the CWG-Stewardship the ability to complete the main part of the proposal.

The BC recommends another chance be given to the community to review the proposal after further details and edits will be provided and before submission to the ICG. The CWG and CCWG proposals are parts of a complete proposal and must be considered together by the community, their contents and review should be coordinated. Moreover, the plan should be broadly supported.

The CCWG current comment period will end on June 3 and a second 40 day public comment period is being planned in July. The CWG ideally should extend its current comment period to June 3 to enable full consideration of the comments in the CCWG proposal, without impacting availability of the complete document for review at the ICANN 53 meeting. Moreover a second 40

¹ See BC Comment on CWG Draft Proposal for Transition of Naming-Related Functions, 22-Dec-2014, at <http://www.bizconst.org/wp-content/uploads/2015/01/BC-comment-on-CWG-proposal-for-transition-of-naming-related-functions.pdf>

² See BC Comment on Draft Principles and Process to Develop a Proposal to Transition NTIA's Stewardship of the IANA Function, 8-May-2014, at <http://www.bizconst.org/wp-content/uploads/2014/07/BC-Comment-on-IANA-Transition-Process.pdf>

day comment period, coinciding with the CCWG's period in July should be allowed so that the community is able to evaluate the two proposals at the same time.

We recommend the CWG and CCWG synchronize their public comment period for the next draft so that the community has a complete view of the proposals. As Secretary Strickling noted in February at ICANN 52, *"the community needs to come up with a complete, comprehensive proposal on both the IANA functions and accountability"*.

The Business Constituency supports the decision to eliminate the previous proposal to create a new independent entity (Contract Co.) This approach would have created a potentially unaccountable new entity, introducing unnecessary uncertainty in governance and performance of the IANA functions.

The BC does support creating Post-Transition IANA (PTI) as a separate legal entity in the form of an affiliate that would be a "wholly owned subsidiary" of ICANN.

10. Do you have any specific comments or input you would like to provide with regards to section III.A.i.a. - Post-Transition IANA (PTI). This section describes the proposed post-transition IANA.

The Business Constituency supports the decision to eliminate the previous proposal to create a new independent entity (Contract Co.) This approach would have created a potentially unaccountable new entity, introducing unnecessary uncertainty in governance and performance of the IANA functions.

The BC does support creating Post-Transition IANA (PTI) as a separate legal entity in the form of an affiliate that would be a "wholly owned subsidiary" of ICANN. The BC recommends that the entity be organized as a California non-profit corporation, consistent with ICANN and its Bylaws, to ensure that there is a consistent application of law to both organizations.

The BC supports plans to have the present IANA staff take up their same roles as part of PTI. If, for any reasons, this failed to take place, asking a new and inexperienced entity outside of ICANN to perform the IANA functions could pose significant implications for the security and stability of the DNS. We urge the CWG-Stewardship to take that into account in further developing and refining this draft.

11. Do you have any specific comments or input you would like to provide with regards to section III.A.i.b. - Post-Transition IANA Board.

The CWG-Stewardship should define a post-transition (PTI) IANA board with a limited remit – the operational oversight of IANA naming functions. This is essential to prevent the PTI from becoming a place to re-litigate policy decisions.

Members of the post-transition IANA board should be drawn from the broader ICANN board. This ensures that the ICANN Board remains the clear locus of accountability, and that neither of the two Boards can avoid responsibility for any operational shortcomings by seeking to hold the other responsible. In addition, common Board members will best promote a clear understanding of the limited PTI mission by its Board.

13. Do you have any specific comments or input you would like to provide with regards to section III.A.i.d. - IANA Function Review. This section describes the proposed periodic as well as special review of the IANA Function.

The Business Constituency agrees that an IANA functions review team should be constituted solely for that purpose, rather than established as a standing body vulnerable to mission creep. It is already difficult for businesses -- especially small and medium size enterprises -- to participate fully in ICANN today, and increasing the complexity and number of standing committees would have made the process even more difficult to follow.

The IANA functions review group should be defined more clearly. Its processes should be open and transparent, and its remit should be limited. Moreover, ICANN should adopt a requirement to implement recommended process improvements arising from the IANA functions review. As we have seen in the context of the Accountability and Transparency review teams, conducting the review and making recommendations is useful only if those recommendations are actually implemented.

14. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.a. - Customer Standing Committee (CSC). This section describes Customer Standing Committee that is expected to oversee performance of the IANA Functions as they relate to naming services.

The BC supports the proposal to limit the Customer Standing Committee's remit to operational excellence. The Customer Standing Committee should focus narrowly on operational issues. To guard against mission creep, we recommend that the group remain limited to a small number of members.

16. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.c. - Escalation mechanisms. This section describes the different proposed escalation mechanisms as they relate to the naming services.

The CWG-Stewardship should clarify the escalation processes available to direct and indirect customers of the IANA functions. In particular, given that separating the functions from ICANN has the potential to create substantial operational risks, the procedures for invoking separation must be more clearly defined.

17. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.d. - Separation review. This section describes the separation review that can be triggered by an IANA Function Review if needed

The BC supports the inclusion of separation review. We believe there should exist a well-defined process to consider and initiate separation of the IANA Functions, as well as identification of a new IANA Functions Operator, in the event that all other attempts at remedial efforts have been exhausted. Such a last resort option preserves the current status quo and is the ultimate accountability mechanism currently provided by NTIA's contract with ICANN.

18. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.e. - Framework for transition to successor IANA Operator. This section describes the proposed framework for a transition to a successor IANA Operator to ensure continuity of operations.

The BC is concerned that portions of the proposal on Separation Review and Framework for Transition to Successor IANA Functions Operation are insufficiently developed or left until after the Transition.

The BC strongly recommends that robust mechanisms to accomplish the separability concepts be explicitly included in the CWG proposal with the requirement that any such transition should maintain at least the service level agreements for the naming functions of the existing contract and the existing security, stability, and resiliency of the DNS and Internet.

19. Do you have any specific comments or input you would like to provide with regards to section III.A.iii.a. - Proposed changes to root zone environment and relationship with root zone maintainer. This section describes the proposed changes to the root zone environment and the relationship with the Root Zone Maintainer.

The BC welcomes the effort of the CWG to work on the basis of the results of the December 2014 public consultation which highlighted a high degree of satisfaction with the current arrangements and that any new mechanism should ensure security, stability and resiliency of the DNS.

The BC supports the CWG recommendation that the replacement for NTIA approval function should be clearly designated, especially for major operational changes. Trust in the security and stability of the Internet is strictly linked to the security and stability of the Root Zone Management Architecture and Operation. A solid approval function and transparent process must be defined in details before the transition and must not be left open to be defined at a later stage. The current draft proposal states: "The entity responsible for such approvals will establish a process which allows for consultation with impacted "bodies involved in such changes as well as with those with wide experience in the specific technology or process to ensure that prudent but effective changes are made."

Although it is possible to guess from the CWG-Stewardship recommendation that the responsible entity would be ICANN or VeriSign, it is essential for the recommendation to explicitly establish which entity will have the role of approval, and to explicitly establish the process that would be used for consultation to ensure a high level of community support for major changes.

The BC also recommends that the community be given an update on the parallel process of transitioning the Root Zone Maintainer role. Knowing the plan for this separate transition would help to ensure that there is a well-established structure and process for approval of major architectural and operational changes to the Root Zone environment. Specifically, we call the CWG to include a mechanism that would enable tracking of content changes in the Root Zone and reversal if necessary.

Finally, the BC supports the recommendation that any future proposal to combine the remaining two roles within the Root Zone Maintainer be a topic of public consultation with the global community.

Other Comments

44. Are there any other comments or issues you would like to raise for the consideration of the CWG-Stewardship?

The CWG-Stewardship should work with the Cross-Community Working Group on Enhancing ICANN'S Accountability (the Accountability Working Group) to ensure proposals are harmonized.

Before implementation, the CWG-Stewardship should share with the community the projected financial impact of any changes it recommends. ICANN's budget has expanded substantially over the last several years, and we should be sure that any changes do not compromise prudent management of ICANN's fiscal resources.

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This comment was drafted by Aparna Sridhar, Steve DelBianco, Claudia Selli, Andrew Harris, Ellen Blackler, Stephen Coates, and several other BC members.

It was approved in accordance with the BC charter.