

中国信息通信研究院就 IANA 职能监管权移交方案的评议

(5 月 18 日)

IANA 职能监管权移交跨社群工作组 (CWG-Stewardship) 于 4 月 23 日公布了域名部分移交方案的草案, 中国信息通信研究院 (CAICT) 对 CWG 成员及各社群为此付出的努力和作出的贡献表示感谢, 并对该草案提出如下意见。

该草案相比于 2014 年 12 月的版本有了较大的变化, 是 IANA 职能监管权移交方案制定进程取得的重要进展, 是各个社群继续进行讨论的基础。遗憾的是, 该草案没有及时提供中文等多语言版本, 且评议时间较短, 这不利于充分听取各利益相关方的意见。CAICT 希望 ICANN 和 CWG 注意这些问题, 不能因为急于拿出方案就忽视了必要的条件与应有的程序。

该草案提出成立一个独立法律实体 (PTI) 与 ICANN 签订合同, 履行 IANA 职能的技术协调等执行工作。

CAICT 认为, 第一, 无论采用何种实体, IANA 职能合同都应确保各项主要职能由同一家机构负责执行而不发生分离, 这是社群以前讨论形成的共识并被 IANA 职能合同所确认, 但目前 ICG 和 CWG 未对此作出明确保证; 第二, IANA 职能的执行机构从 ICANN 变更为 PTI 有利于实现 IANA 职能决策和执行的分离, PTI 应设立在中立国而不应再受美国法律的管辖, 并尊重各

国法律，建立各方认可的问责与透明制度，这都有待方案作出进一步的说明；第三，PTI 的企业治理架构应当与 ICANN 之间保持何种关系，如何建立其理事会或管理机制，需要更深入的研究和更详细的说明，确保其理事会或决策层由社群推选并符合多利益相关方治理原则，不会损害各个国家和地区的利益；第四，按照草案设计的机制，ICANN 作为合同的授予方可以更换 PTI，需要对更换的标准和机制做出更为完整准确的说明，并就移交后的 IANA 职能合同条款充分征求各方意见，确保 IANA 职能的运行在保持互联网开放性、DNS 安全性和稳定性的同时，进一步增强其透明性和可问责性，提高服务水平。

IANA 职能管理的核心是确保根区管理决策的问责和透明。该草案默认了 ICANN 的决策地位，并赋予 ICANN 以更大的权力（可以更换 IANA 职能的执行方，这是目前美国政府所拥有的权力）。但目前，ICANN 还没有一套社群达成一致的完善的有效的问责和透明机制，社群也不能更换 ICANN。

从基于 AOC 的审查机制和督察官的实际运作情况看，现有问责机制对 ICANN 的约束力有限，其有效性取决于 ICANN 是否有意愿切实执行。CWG 草案提出设立的 CSC 和 IFR 都仅能对 IANA 职能的执行情况进行监督，而不是对 ICANN 决策进行监督。如何确保 ICANN 向多利益相关方充分问责，特别是确保根区决策的有效问责，不被少数人员或群体所把持，这个问题非常关键，但是尚未解决。

由于 ICANN 问责制跨社群工作组 (CCWG) 正在设计和草拟 ICANN 的问责制草案, 对 CWG 草案能否成立具有关键性的影响, 因此, CAICT 建议, 第一, 应当将 CWG 和 CCWG 的方案统筹考虑, 必须在移交前解决问责和透明机制设计的问题, 如果 CCWG 的方案不能满足社群的要求, 则社群难以单独同意 CWG 的方案; 第二, CWG 和 CCWG 都应首先在各社群内部达成一致意见, 并取得各社群的共识; 第三, CAICT 同样希望美国政府尽早在 GAC 内表明其对 CWG 和 CCWG 草案的态度, 并遵守 GAC 对此的一致意见。

中国信息通信研究院再次感谢 CWG 的辛勤劳动, 希望 CWG 和 CCWG 能够更加密切地沟通和共同工作, 确保 IANA 职能监管权移交是在 ICANN 充分问责和透明的条件下进行。

**Comments by CAICT on 2nd Draft Proposal of the Cross
Community Working Group to Develop an IANA Stewardship
Transition Proposal on Naming Related Functions**

(18th MAY)

CWG announces a new proposal in 23 April. China Academy of Information and Communications Technology (CAICT) takes this opportunity to thank the efforts and contributions made by CWG and related community members. The comments from CAICT are as follows:

Compared to the previous proposal in December 2014, this proposal has changed a lot. It made a significant progress of the process of IANA stewardship transition proposal, and provides a good basis for the discussion by the communities. Unfortunately, the proposal did not provide Chinese version on time, as well as many other language versions. While, the comment period is too short to fully listen to the views of all stakeholders. CAICT hopes ICANN and CWG take note of these problems. It's not necessary to come up with a proposal in cost of ignoring the necessary conditions and due procedures.

The proposal proposes to establish an independent legal entity – PTI. Through signing a contract with ICANN, PTI takes the operation works, such as the technical coordination of the IANA function.

CAICT believes, first, no matter what kind of entity, IANA functions contract should ensure that the main IANA functions are operated by the same organization without separation, which was the consensus of the community and confirmed by the IANA functions contract. Until now, the ICG and CWG did not make a clear assurance about this.

Second, the operation of the IANA function is transited to PTI from ICANN, which is constructive for the separation between decision-making and implementation. PTI should be set up in a neutral country out of the jurisdiction of US law, and should respect every country's law. An accountability and transparency mechanism of PTI should also be established. All those things should be further clarified in the proposal.

Third, to ensure that PTI's broad or decision-making committee are elected by the community and in line with multi-stakeholder governance principles, and to ensure that it will not satisfy the interests of various countries and regions, it's necessary to make further research and more detailed clarification about following issues: what is the corporate governance structure of PTI, what is the relation between PTI's governance and ICANN, how to establish its board or management mechanisms.

Fourth, according to the designed mechanisms of the proposal, ICANN, as a contract given party, has the possibility to replace the PTI.

So it's necessary to make a completed and accurate description about the standards and mechanisms of replacement. Regards to the post-transition IANA functions contract terms, it should be fully open for public comments from multi-stakeholders, to maintain the openness of the Internet and security and stability of DNS, and to further enhance its transparency and accountability, and improve service quality.

Core of IANA stewardship is to ensure accountability and transparency of the policy decision of root zone. The proposal defaults ICANN's decision-making positions, and gives greater authority to ICANN (ICANN could change the operator of IANA function, which is now owned by the US government). But now, ICANN does not have a consensus and effective accountability and transparency mechanism and the community cannot replace ICANN.

Regards to AOC review mechanism and the supervisors' implementation, the existing accountability mechanisms has limited effect to ICANN. Its effectiveness depends on whether ICANN would like to effectively implementation. CWG proposal proposed to establish CSC and IFR, which only supervise the implementation of PTI, rather than ICANN. How to ensure that ICANN could be fully accountable for multi-stakeholders, especially in the policy decision of root zone that should not be dominated by a small number of people or group, is a critical problem, but is not resolved yet.

CCWG is designing and drafting ICANN accountability mechanism proposal, which has a key impact on the CWG proposal. In this regards, CAICT suggests that, (1) the CWG proposal and CCWG proposal should be considered together. The problem of ICANN accountability and transparency mechanism design should be addressed before IANA transition. If CCWG proposal does not meet the requirements of the community, it is difficult for communities to only agree with CWG proposal separately; (2) CWG and CCWG should firstly reach consensus within its own community; and (3) CAICT expects US government to indicate its attitude about the CWG proposal and CCWG proposal in the GAC as soon as possible, and to comply with the consensus of GAC.

CAICT thanks you all the people drafting the proposal again. We hope that CWG and CCWG can work together closely to promote IANA stewardship transition under the condition that ICANN is fully accountable and transparent.