

Comments of Government of India on the
‘2nd Draft Proposal of the Cross Community Working Group to
Develop an IANA Stewardship Transition Proposal on Naming
Related Functions’

Preliminary comments

We appreciate the efforts of the multistakeholder community in coming together to debate this issue, and producing this *2nd Draft Proposal of the Cross Community Working Group to Develop an IANA Stewardship Transition Proposal on Naming Related Functions* (“**2nd Draft Proposal**”). In particular, the swift functioning of the CWG-Names in coming out with two iterations of their proposal within tight timelines is commendable.

Substantive Comments

- We note that the 2nd Draft Proposal effectively places ICANN in the role of the perpetual contracting authority for the IANA function, by placing ICANN in the shoes of the NTIA as the body that awards the IANA Functions Contract. This runs the risk of creating the perception that ICANN is no longer purely a technical coordination body – a perception which is strengthened by hiving off the technical aspects of performance of the IANA function into a separate entity, the PTI.

- The earlier draft proposal of the CWG-Names proposed the creation of a Contract Co, a lightweight entity with the sole purpose of being the repository of contracting authority, and award contracts including the IANA Functions Contract. In our view, this would have been preferable to the formulation in the 2nd Draft Proposal.
- The principle of external accountability is absent from the 2nd Draft Proposal, since ICANN will become the contracting authority for the naming function, the sole venue for decisions relating to naming policy as well as the entity with sole control over the PTI (which performs the technical aspects of the naming function).
- The 2nd Draft Proposal could result in a situation where, in the event there is customer/ stakeholder dissatisfaction with ICANN's role in naming policy development, there would be no mechanism to change the entity which fulfils this role.
- Overall, from the point of view of institutional architecture and accountability, the 2nd Draft Proposal risks creating structures that are materially worse off than the status quo. It would place complete reliance on internal accountability mechanisms within ICANN, which would not be prudent institutional design. There

would be no external checks and balances against the powers to be exercised by ICANN.

- The 2nd Draft Proposal precludes debates on legal jurisdiction over the contracting authority for the IANA functions. The earlier draft proposal of the CWG-Names left this question open, an approach which was preferable.
- The proposed **Customer Standing Committee (CSC)** could play a useful role, by constantly reviewing the technical aspects of the naming function as performed by PTI. This, combined with the proposed periodic **IANA Function Review (IFR)**, would act as a check on the PTI. However, this brings into greater relief the lack of similar checks and balances on the performance of the policy development role with respect to names.
- The 2nd Draft Proposal results in a situation where the checks and balances with respect to policy for names, numbers and protocols would be unequal. While the NRO and the IETF have (and will continue to have) a severable contractual relationship with ICANN for the performance of the policy role for numbers and protocols respectively, no such mechanism or relationship would exist with respect to the policy role for names.

- The core objectives for a proposal to achieve are external accountability, and checks and balances. The 2nd Draft Proposal does not meet these targets in certain substantive aspects.
- Separately, we support comments made by stakeholders in comments relating to the previous draft proposal, that the role of the Root Zone Maintainer should be included within the scope of the present transition process, though we understand that it is not within the scope of the CWG-Names.