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September 11, 2015

## Cross Community Working Group (CCWG) on Enhancing Internet Corporation for Assigned Names and Numbers (ICANN) Accountability

Dear Members,

The Software & Information Industry Association (SIIA) appreciates the opportunity to comment on the Cross Community Working Group (CCWG) recommendations for enhancing ICANN accountability. SIIA is the principal trade association for the software and digital content industry. SIIA provides global services in government relations, business development, corporate education and intellectual property protection to the leading companies that are setting the pace for the digital age. The Association promotes the common interests of the software and digital content industry as a whole, as well as its component parts. SIIA also protects the intellectual property of member companies and advocates for a legal and regulatory environment that benefits the entire industry.

SIIA and its member companies follow with interest and participate actively in the Internet Assigned Names Authority (IANA) stewardship transition process. We are members of ICANN's Business Constituency and Intellectual Property Constituency. SIIA welcomed the U.S. Commerce Department's March 14, 2014 announcement that it planned to transition the stewardship of IANA functions to the multistakeholder community. We supported the Administration when it emphasized that it would not accept a proposal "that replaces the NTIA role with a government-led or an intergovernmental solution." SIIA also strongly supports the following principles for the transition that the Administration articulated:

- Support and enhance the multi-stakeholder model;
- Maintain the security, stability and resiliency of the Internet DNS;
- Meet the needs and expectations of the global customers and partners of the IANA services; and
- Maintain the openness of the Internet.

Besides the Administration, the United States Congress also has a legitimate role to play in the transition. This is why SIIA supports the Domain Openness Through Continued Oversight Matters Act of 2015 (DOTCOM) Act of 2015. The bill would require that NTIA's conditions be met. This focus on overall ICANN accountability is appropriate and explains SIIA's strong support for the bill.

Both the CCWG and the IANA Stewardship Coordination Group (ICG) have produced proposals that go a long way in meeting the criteria established by NTIA. We appreciate the hard work of the multistakeholder community in developing workable proposals. The CCWG proposal, while complex, provides several mechanisms that if implemented correctly will provide important new mechanisms to hold ICANN and the ICANN Board accountable to the multistakeholder community.

We write today to briefly outline our views on an issue presented by the CCWG proposal: the relationship between ICANN and the governments that advise it. We do so because getting this relationship right is critical to maintaining the credibility of the multistakeholder governance model. More broadly, SIIA supports the ICANN Business Constituency's (BC) views on all of the issues it raises. The BC has developed well founded arguments for improvements in the CCWG proposal, which SIIA supports. The BC's proposals also benefit from a rigorous policy development process involving companies with a variety of different interests.

SIIA strongly supports the proposed accountability measures described in Stress Test 18. Section XI of ICANN's bylaws obliges the ICANN Board to give "due deference" to GAC advice. This includes a requirement to find a "mutually acceptable solution" to the advice proffered by the GAC. In order to ensure that the transition does not, in practice, lead to a "government-led or intergovernmental solution," it is important to ensure that the Section XI ICANN obligation only enter into force when GAC advice is developed through consensus – in other words, when it is truly advice and not a reflection of split voting. The accountability measures proposed in Stress Test 18 would amend Article XI Section 2 and oblige the ICANN Board to give due deference only to GAC consensus advice and indicate the definition of consensus that the GAC uses presently. The GAC would still be free to change how it develops advice, but the Board's obligations would only enter into force upon receipt of consensus advice.

On behalf of SIIA, I reiterate our appreciation for the opportunity to comment on ICANN developments.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Schonander". The signature is fluid and cursive, with the first name "Carl" being more prominent and the last name "Schonander" following in a similar style.

Carl Schonander  
Senior Director, International Public Policy  
Software & Information Industry Association