

CCWG-Accountability 2nd Draft Proposal

- *From:* John C Klensin

Hi.

I've started several times to try to make detailed comments on this proposal, but have concluded that they obscure what, from a broader perspective, is the most important issue. While some of those more detailed observations may be deduced from my comments on the CWG proposal, most notably the concern that this proposal will narrow the range of communities and stakeholders who can actually influence or control ICANN, I am going to focus this note on that one critical issue.

It seems to me that there is a meta-question underlying the NTIA request for a proposal for a transition in US Government responsibilities and authority over IANA. That question is whether the basic design and organizational structure of ICANN is adequate to represent and balance the needs and perspectives of the global multistakeholder community (or, insofar as they are different, the multistakeholder community concerned with the Internet) and to be adequately accountable to those communities. If the answer to those questions are "yes", then, while some fine-tuning of ICANN structures may be needed, going ahead with a transition makes sense. That is especially reasonable if the needed tuning is directly and obviously linked to the reduced US Government role.

However, if the answer is actually "no", then an old engineering metaphor, one that used to be common in the IETF, becomes relevant: changing the engines, especially all of the engines, of an aircraft that is already in flight is not a good idea, especially if that is avoidable. Indeed, given the risks, the only possible justification for such a change is that there is no alternative, e.g., if the engines are changed, there is risk of a catastrophic crash but, if they are not, such a crash is certain.

A review of the CCWG proposal's elements, notably those that change the fundamental accountability structures within ICANN, the scope of Board authority, ways that the Board can be removed, and ways that decisions can be controlled or overridden, suggests strongly that CCWG has concluded that the present structure of ICANN not adequate to support a transition and that it cannot be trusted to develop and adopt reasonable reforms without US Government pressure and supervision.

If that is really CCWG's conclusion, the broader community agrees, and we still consider stability and predictability of those Internet operational and administrative elements that depend on ICANN and/or IANA to be primary goals, then it seems to me that the only appropriate option is to suspend IANA transition discussions, refine and implement the CCWG

recommendations, examine how those changes work in practice and adjust as needed, and to do so with protections afforded by US Government oversight. It would be appropriate to return to the question of transitioning the US Government role out of IANA (and/or other elements of the system) only after that process completes and the changes are judged stable, reliable, and trustworthy by the multistakeholder community.

Alternately, we have an ICANN system today that is reasonably well understood. Even its critics (both generally and of specific clusters of decisions) believe that it mostly works to an adequate approximation and can agree that nothing that has occurred in the last decade and a half has caused the Internet to melt down (whether due to ICANN decisions or not). If that system can be trusted sufficiently to believe that later reforms are likely to be possible and implemented, then the CCWG plan should be set aside or at least reduced to those elements that are clearly and obviously critically necessary to an IANA transition. We should get through the transition, let that stabilize and make whatever corrections are demonstrated by experience to be needed and then organize a second-generation "evolution and reform" process to consider whatever other changes are needed (presumably considering the present CCWG draft as important input).

Doing both the IANA transition and a major ICANN organizational and accountability reform at the same time strikes me as fundamentally unwise and a risk to Internet administrative stability, akin to that change of all of the engines of an aircraft in flight. Unless CCWG is able to make a plausible claim of omniscience and perfect foresight, no combination of stress testing mechanisms are going to be an adequate substitute for either "IANA transition first, evaluation and corrections, then major structural and accountability reforms" or "structural and accountability reforms first, evaluation and corrections, then IANA transition" for the same reasons that laboratory tests are never a completely adequate substitute for deployment and evaluation of a system under field conditions and at scale. In that regard, even if we believe the ST-WG mechanisms are completely adequate for the contingencies they have identified, the contingencies they have not been able to identify remain a major concern... and no completeness proof has been offered or is likely to be feasible.

regards,
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