



**Etienne Sanz de Acedo**  
*Chief Executive Officer*

655 Third Avenue, 10th Floor, New York, NY 10017-5646, USA  
t: +1-212-642-1776 | f: +1-212-768-7796  
inta.org | esanzdeacedo@inta.org

Submitted via email: [steve.crocker@icann.org](mailto:steve.crocker@icann.org); [fadi.chehade@icann.org](mailto:fadi.chehade@icann.org)

December 21, 2015

Dr. Stephen D. Crocker  
Chairman of the Board  
Mr. Fadi Chehadé  
President and Chief Executive Officer  
Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094

RE: CCWG Accountability Draft Proposal Comment Period

Dear Dr. Crocker and Mr. Chehadé:

As you are aware, the International Trademark Association (INTA) is the global association of trademark owners and professionals dedicated to supporting trademarks and related intellectual property in order to protect consumers and to promote fair and effective commerce. The Association's member organizations represent some 30,000 trademark professionals including brand owners from major corporations as well as small- and medium-sized enterprises, law firms and nonprofits. There are also government agency members as well as individual professor and student members. INTA undertakes advocacy work throughout the world to advance trademarks and offers educational programs and legal resources of global interest.

INTA has embraced the opportunity to participate in critical policymaking within the ICANN community. Our members have been involved in the multistakeholder process since ICANN's inception, and we are a founding member of the Intellectual Property Constituency (IPC). We take ICANN's policy development process seriously and have been actively engaged in working groups and review teams throughout ICANN's history. It is our respect for the multistakeholder process that compels me to write this letter expressing our concern over the timing of the comment period for the recently published CCWG-Accountability Draft Proposal on Work Stream 1 Recommendations (the "Draft Report").

This Draft Report has been posted for an extremely short 21 day comment period, yet it contains sweeping changes when compared to the last version posted for comment. These changes are significant, have ripple effects throughout the entire report and will have profound implications for ICANN leading up to and after any termination of the U.S. government of its IANA contract with ICANN. The comment periods for earlier drafts of the report were nearly twice as long yet the earlier iterations of the report lacked sufficient detail to adequately assess the recommendations. The third draft appears to have come a long way toward meeting the U.S. government's requirements but now, when a careful scrutiny is needed the most, the community does not have sufficient time to adequately evaluate the recommendations.

We understand that the shorter comment period was recommended by the CCWG in order to meet the September 30, 2016 deadline for when the current IANA contract expires. However, the contract has a three-year renewal period that gives the community the buffer it needs to get the details right and to ensure that we do not rush a process that is so critical to the global community.

Simply put, ICANN's 21 day comment period, especially during the holiday season, is insufficient and is inconsistent with ICANN's obligations to give the community adequate time to consider and comment on the Draft Report. As indicated by the ICANN's Board's own comments, there are many details to be worked out even if we all agree to transition in principle. This work is just too important to be rushed.

Attached as Annex A is a listing of a sample of other comment periods provided by ICANN on other issues. Among others, these include:

- 94 days to consider and comment on ICANN (Internet Corporation for Assigned Names and Numbers)'s Draft Vision, Mission & Focus Areas for a Five-Year Strategic Plan;
- 79 days to consider and comment on IDN Variant TLDs LGR (Label Generation Rules) Procedure Implementation - Maximal Starting Repertoire Version 1; and
- 71 days to consider and comment on WHOIS Requirements and National Law Conflicts.

While these are all important issues, they cannot be said to be more important than the content of the Draft Report nor more sweeping in their ramifications. To provide 3 or 4 times more time to consider these issues while rushing a comment period on the Draft Report makes it appear that ICANN is not truly interested in community feedback on this topic. It also may have the unintended result of preventing the community from reaching consensus on the report. Indeed, many will simply state their opposition to a report that they do not have time to fully vet with their internal stakeholders.

It is clear that the CCWG has put in an enormous amount of time and effort to formulate a workable set of recommendations. While they may understand their intentions, there is still a lack of clarity around some of the recommendations. For example, the Draft Report calls for enshrining advice from the Government Advisory Committee into the by-laws in such a way that the ICANN Board must act affirmatively through a super majority vote without which the advice becomes a mandatory directive. This is a far-reaching change that calls other components of the Draft Report into question. We wonder what would happen if GAC "advice" required the ICANN Board to violate another component of its by-laws. How would an IRP panelist handle a complaint from an aggrieved party targeted by the GAC "advice" who otherwise could bring a claim under the fairness provisions of the by-laws? Would the IRP panelist's hands be tied because the ICANN Board was merely complying with its by-laws requiring submission to GAC advice, even if that GAC advice was contrary to other obligations within the by-laws? We recall that such a proposal was previously brought before the community and was soundly rejected. Yet, we now have it contained in the Draft Report with a 21 day comment period. Alarming,

Dr. Stephen D. Crocker and Mr. Fadi Chehadé

December 21, 2015

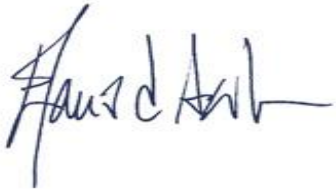
Page 3

this is only one of many issues which need detailed and thorough consideration, the proper time for which has not been allocated by ICANN.

We are being asked to support a document that we cannot fully assess. Therefore, we request that ICANN staff work with the CCWG to institute a longer comment period by allowing at least 60 days for a robust review of all of the recommendations. The 60 day window should begin on the last day that the Draft Report is published in all ICANN languages. Although this will still be a rushed timeframe given the importance of the Draft Report, it will at least allow some time for our membership and other members of the ICANN community to digest the Draft Report and provide meaningful comments. It will also allow ICANN the opportunity to reaffirm that it is taking accountability issues seriously in the proposed transition away from U.S. oversight.

Should you have any questions about our position on this matter, I invite you to contact Lori Schulman, INTA's Senior Director of Internet Policy at 202-261-6588 or at [lschulman@inta.org](mailto:lschulman@inta.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Etienne Sanz de Acedo". The signature is fluid and cursive, with a long horizontal stroke at the end.

Etienne Sanz de Acedo  
Chief Executive Officer

Annex

Cc: Leon Felipe Sanchez Ambia – Co-chair, CCWG Accountability ([leonfelipe@sanchez.mx](mailto:leonfelipe@sanchez.mx))

Mathieu Weill – Co-chair, CCWG Accountability ([mathieu.weill@afnic.fr](mailto:mathieu.weill@afnic.fr))

Thomas Rickert – Co-chair, CCWG Accountability ([rickert@anwaelte.de](mailto:rickert@anwaelte.de))

## Annex A

### SAMPLE COMMENT PERIODS OF 60 DAYS OR LONGER

TITLE	OPEN DATE	CLOSE DATE	60 DAYS+
New gTLD (generic Top Level Domain) Auction Rules for Indirect Contention (/public-comments/new-gtld-auctions-indirect-contention-2014-11-14-3n)	13 January 2015	14 November 2014	60
IDN TLDs – LGR (Label Generation Rules) Procedure Implementation - Maximal Starting Repertoire Version 2 is Now Open for Public Comment (/public-comments/msr-2014-12-15-en)	15 December 2014	16 March 2015	91
WHOIS (WHOIS (pronounced “who is”, not an acronym)) Accuracy Pilot Study Report (public-comments/whois-ars-pilot-2014-12-23-en)	23 December 2014	13 March 2015	80
Draft <a href="#">Report: Rights Protection Mechanisms Review</a> (public-comments/rpm-review-2015-02-02-en)	2 February 2015	1 May 2015	88
Draft Report – Review of the Generic Names Supporting Organization (Supporting Organization) (/public-comments/gnso-review-draft-2015-06-01-en)	1 June 2015	31 July 2015	60
Proposal for Armenian Script Root Zone (Root Zone) Label Generation Rules (LGR Label Generation Rules) (/public-comments/proposal-armenian-lgr-2015-07-22-en)	22 July 2015	30 September	70
Design Team Review of Plan for DNS (Domain Name System) Root Zone (Root Zone) KSK Change (/public-comments/root-ksk-2015-08-06-en)	6 August 2015	5 October 2015	60
Preliminary Issue Report on New gTLD (generic Top Level Domain) Subsequent Procedures (/public-comments/new-gtld-subsequent-prelim-2015-08-31-en)	31 August 2015	30 October	60
New gTLD (generic Top Level Domain) Auction Proceeds Discussion Paper (/public-comments/new-gtld-	8 September 2015	8 November	68

TITLE	OPEN DATE	CLOSE DATE	60 DAYS+
auction-proceeds-2015-09-08-en)			
ICANN (Internet Corporation for Assigned Names and Numbers)'s Draft Vision, Mission & Focus Areas for a Five-Year Strategic Plan (/public-comments/strategic-2013-10-29-en)	29 October 2013	31 January	94
Second Accountability and Transparency Review Team (ATRT 2) Final Report & Recommendations (/public-comments/atrt2-recommendations-2014-01-09-en)	09 January 2014	15 March	65
ICANN (Internet Corporation for Assigned Names and Numbers) Strategy Panels (Strategy Panels) <a href="#">Draft Reports</a> (/public-comments/strategy-panels-2014-02-25-en)	25 February 2014	30 April 2014	64
Proposal for the Use of Mandatory Policy Advisory Boards for Regulated Industry Sector and Consumer-Trust-Sensitive New gTLD (general Top Level Domain) Strings (/public-comments/pab-new-gtld-strings-2014-03-21-en)	21 March 2014	21 May 2014	61
IDN Variant TLDs LGR (Label Generation Rules) Procedure Implementation - <a href="#">Maximal Starting Repertoire Version 1</a> (/public-comments/msr-2014-03-03-en)	03 March 2014	21 May 2014	79
ICANN (Internet Corporation for Assigned Names and Numbers) Draft Five-Year <a href="#">Strategic Plan (FY16 – FY20)</a> (/public-comments/stratplan-draft-2014-04-09-en)	09 April 2014	27 June 2014	79

TITLE	OPEN DATE	CLOSE DATE	60 DAYS+
Proposed Implementation of GNSO (Generic Names Supporting Organization) PDP (Policy Development Process) Recommendations on Locking of a Domain Name (Domain Name) Subject to UDRP (Uniform Domain-Name Dispute Resolution Policy) Proceedings - Revised UDRP (Uniform Domain-Name Dispute Resolution Policy) Rules (/public-comments/udrp-rules-proposed-2014-05-19-en)	19 May 2014	18 July 2014	60
WHOIS (WHOIS (pronounced “who is,” not an acronym)) Requirements and National Law Conflicts (/public-comments/whois-conflicts-procedure-2014-05-22-en)	22 May 2014	01 August	71
Consultation on the IANA (Internet Assigned Numbers Authority) Customer Service Complaint Resolution Process (/en/news/public-comment/iana-complaint-resolution-27nov12-en.htm)	18 December 2012	<del>9 January 2013</del> Extended to 28 February 2013	72
Consultation on Internet Number Resources Performance Standards (/en/news/public-comments/iana-kpis-20nov12-en.htm)	18 December 2012	<del>23 January 2013</del> Extended to 1 February 2013	73
At-Large White Paper on Future Challenges Entitled Making ICANN Relevant, (Internet Corporation for Assigned Names and Numbers) Relevant Responsive and Respected (/en/news/public-comments/at-large-r3-white-paper-20nov12-en.htm)	20 November 2012	<del>7 January 2013</del> Extended to 28 February 2013	100
Consultation on IANA (Internet Assigned Numbers Authority) Secure Notification Process (/en/news/public-comments/iana-secure-notification-12dec12-en.htm)	12 December 2012	<del>31 January 2013</del> Extended to 21 March 2013	99
FY14 Community Travel Support Guidelines (/en/news/public-comments/travel-support-07mar13-en.htm)	7 March 2013	11 June 2013	96

TITLE	OPEN DATE	CLOSE DATE	60 DAYS+
Explore the Draft Next Generation gTLD (generic Top Level) (Domain) Directory Services (/en/groups/other/gtld-directory-services/share-24june13-en.htm)	24 June 2013	<del>12 August 2013</del> Extended to 6 September 2013 [23:59 UTC]	74
GNSO (Generic Names Supporting Organization) Structures Charter Amendment Process (/en/news/public-comment/structures-charter-22june13-en.htm)	22 June 2013	18 September 2013	88
WHOIS (WHOIS (pronounced “who is”, not any acronym)) Policy Review Team Draft Report (/en/news/public-comment/whois-rt-draft-final-report-05dec11-en.htm)	5 December 2011	18 March 2012	104
Initial Report on Universal Acceptance of IDN TLDs (/en/news/public-comment/universal-acceptance-idn-tlds-06jan12-en.htm)	6 January 2012	13 April 2012	98
Interim Report on Support Significantly Interested Parties for ccTLD (Country Code Top Level Domain) Delegation or Redelegation Requests (/en/news/public-comment/foiwg-interim-report-2012-03feb12-en.htm)	3 February 2012	20 April 2012	77
Draft Advice Letter on Consumer Trust, Consumer Choice, and Competition (/en/news/public-comment/cctc-draft-advice-letter-23feb12-en.htm)	23 February 2012	<del>24 April 2012</del> Extended to 8 May 2012	75
Draft – ICANN (Internet Corporation for Assigned Names and Numbers) Language Services Policy and Procedures (/en/news/public-comment/language-services-policy-18may12-en.htm)	18 May 2012	1 August 2012	75
Interisle Consulting Group's WHOIS (WHOIS (pronounced “who is”, not an acronym)) Proxy/Privacy Reveal & Relay Feasibility Survey (/en/news/public-comment/whois-pp-survey-04jun12-en.htm)	4 June 2012	<del>16 July 2012</del> Extended to 22 August 2012	79

TITLE	OPEN DATE	CLOSE DATE	60 DAYS+
Draft Statement of ICANN's (Internet Corporation for Assigned Names and Numbers)'s Role and Remit in Security, Stability (Security, Stability and Resiliency) and Resiliency (Security Stability & Resiliency (SSR)) of the Internet's Unique Identifier Systems (/en/news/public-comment/draft-ssr-role-remit-17may12-en.htm)	17 May 2012	<del>16 July 2012;</del> Extended to 31 August 2012; Extended to 11 September 2012	117
SSAC (Security and Stability Advisory Committee) Report on Dotless Domains (/en/news/public-comment/sac053-dotless-domains-24aug12-en.htm)	24 August 2012	<del>14 October 2012</del> Extended to 5 November 2012	73
Draft Recommendations Overall Policy for the Selection of IDN ccTLD (Country Code Top Level Domain) Strings (/en/news/public-comment/draft-recommendations-idn-cctld-selection-29aug12-en.htm)	29 August 2012	9 November 2012	72
Interim Report of Geographic Regions Review Working Group (/en/public-comment/geo-regions-interim-report-12nov10-en.htm)	12 November 2010	30 January 2011	79
Geographic Regions Review – Draft Final Report (/en/public-comment/geo-regions-draft-final-report-30sep11-en.htm)	30 September 2011	19 December 2011	80