

Comments on the CWG Draft Proposal on IANA Stewardship Transition

22 December 2014

The Internet Services Provider and Connectivity Provider Constituency (ISPCP) respectfully submit the following comments.

We acknowledge the enormous engagement being undertaken by the CWG members having led to the draft proposal in a short time. In summary, we support the direction taken by CWG-Stewardship, but do not consider the current draft to constitute a complete proposal for NTIA transition.

Support for the general approach

In general we offer support for investigating in more detail the top-level approach being promoted to replace the present NTIA stewardship role on IANA with the following structures: Contract Co., Multistakeholder Review Team (MRT), Customer Standing Committee (CSC) and Independent Appeals Panel (IAP).

We understand the core elements of CWG-Stewardship's draft proposal to be as follows:

1. That the IANA functions should continue to be operated under a contract, and that there should continue to be a counter-party to place this contract with the IANA functions operator
2. To create, as new entities external to ICANN (in the sense of being not answerable to the ICANN Board)
 - a. a Customer Standing Committee (CSC), to support liaison between IANA and those that directly engage with IANA, and to monitor IANA service levels and operational performance on a continuing basis
 - b. a Multistakeholder Review Team (MRT) to define the requirements for the IANA functions operator, and provide a means for the community to hold the IANA functions operator to account
 - c. a Contract Company, to be a corporate shell to act as the counter-party to the IANA functions contract, taking direction from the MRT
 - d. an Independent Appeals Panel (IAP) to hear and adjudicate complaints about the operation of the IANA functions, on narrowly defined procedural grounds
3. That the MRT be a multistakeholder body capable of representing the whole community.
4. That the MRT be empowered to define requirements for the IANA functions operator.
5. That MRT shall be empowered to institute, through the IANA functions contract, a range of corrective and remedial measures to address any failure to meet contractual requirements, up to and including the possibility, as a last resort, of termination of the contract and the contract being offered to an alternative operator.
6. That it is CWG-Stewardship's intention that once the new structures are established MRT should expeditiously move to place a new IANA functions contract with ICANN through the vehicle of Contract Co.

We support this as the basis for a proposal for transition of oversight of the IANA functions from the NTIA to the multistakeholder community, and urge CWG-Stewardship to continue its work to develop a fully formed transition proposal based on these underpinnings.

Lack of completeness

We regard the draft proposal as being in its early stages with many outstanding issues still to be resolved. A considerable number of these have already been highlighted on the CWG mailing list. They include

- a. Jurisdiction of Contract Co.: we suggest to seek external advice with multinational background
- b. Cost and financing of the structures, in particular Contract Co. and MRT: a rough cost analysis parallel to any proposal is needed.
- c. Clarity on how it is proposed that MRT be instituted to ensure that it meets its goal of reflecting the multistakeholder community, in particular with respect to the MRT membership rules.
- d. Clarity on how Contract Co will be able to act following a finding by MRT that enforcement action is required.

Relationship between IANA stewardship transition and ICANN accountability

The NTIA has asked for a proposal from the community for the transition of its unique role in the stewardship of the DNS (*inter alia*) to the multi-stakeholder community. One element of this concerns the NTIA's role in the oversight of the IANA functions. Another element of this concerns NTIA's role in ensuring the accountability of ICANN and its adherence to its mission and certain core values. The latter is complicated by the fact that the NTIA's contribution to upholding ICANN accountability and core values is achieved in part through terms expressed in the IANA functions contract.

These twin elements of IANA oversight and ICANN oversight are being worked upon by CWG-Stewardship and CCWG-Accountability, respectively.

In our view, it is essential that these two elements are integrated at least partially into a combined proposal before transmission to NTIA.

We therefore consider that strong coordination is needed between the ICG, the CWG-Stewardship and the CCWG-Accountability. The accountability part in workstream 1 (WS 1) of the CCWG-Accountability has definitely to fit into the proposal to be submitted by the CWG-Stewardship.

Conclusion

The lack of clarity on certain core elements of the proposal, and the fact that the current draft does not include recommendations from CCWG-Accountability for transition of NTIA's role in ICANN oversight to the multistakeholder community, means we cannot regard this draft as complete or suitable for transmission to NTIA at this time. As a work-in-progress, it is proceeding on the right lines, and we encourage CWG-Stewardship to continue its good work.