

Comments on the proposal:

The ICANN CWG draft transition proposal on naming related functions
December 2014

1. Background to the IANA transition

A process is underway to shift oversight of the IANA function away from the US government to the "international Internet community." IANA is the Internet Assigned Numbers Authority and is responsible for the global coordination of the Domain Name System root, addressing, and other Internet protocol resources and is a vital resource for global prosperity.

On 6 June 2014 ICANN proposed the creation of an IANA Stewardship Transition Coordination Group (ICG) "*responsible for preparing a transition proposal reflecting the differing needs of the various affected parties of the IANA functions.*" It was determined that Stewardship Transition proposals for each of the IANA functions should be developed by the directly affected communities: the GNSO and ccNSO were made responsible for functions related to the Domain Name System.

For the Domain Name System functions, an ICANN cross-community working group was established by the ICG to provide a bottom-up proposal by 31 January 2015. The ICG itself would like to then make a recommendation by June 2015 with a view to actual transition of the IANA function by September 2015. The cross-community group has three key tasks:

- determine who are the new parties (if any) to the IANA contract
- review and update if required the content of the contract
- recommend appropriate accountability for the new contractor.

To date the ICANN cross-community working group has set to work and has considerable challenges as a result of its openness. It issued 1 December 2014 a draft report for comment by 22 December 2014. This paper is the BRG comment.

Relevance to the BRG

It is important that any accountability mechanism for the IANA function is consistent with the broader accountability of ICANN itself. Today, there are issues with that broader accountability. If a registry does take issue with an action or decision taken by the ICANN Board or Staff, there are limited and conflicted means of redress.

Brand registries are therefore concerned with the potential for inconsistency and predictability outlined in the issues above.

BRG comments on draft transition proposal

| Proposal (redacted) | BRG comment |
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| 3.1 general principles | |
| <p>The current operational performance of the IANA Naming Functions is generally satisfactory.</p> <p>No reason to transition the IANA Naming Functions outside of ICANN now but retain the possibility post-transition.</p> <p>The proposed replacement solution should not seek to create another ICANN-like structure with associated costs and complexities.</p> <p>The proposal should not seek to replace the role of the ICANN multistakeholder community with respect to policy development for the Names Community, nor to affect existing TLD policies or how they are currently applied by the IANA Functions Operator.</p> <p>The existing separation between ICANN as a policy body and ICANN as the IANA Functions Operator needs to be reinforced and strengthened.</p> | <p>BRG support these principles.</p> <p>Accountability needs to be more robust than at present.</p> |
| 3.1 Timing considerations | |
| <p>It is generally agreed that the transition must not take place until:</p> <p>The requisite accountability mechanisms have been identified by the CCWG-Accountability;</p> <p>Accountability mechanisms and other improvements that the community determines are necessary pre-transition have been put in place;</p> <p>Agreements and other guarantees are in place to ensure timely implementation of mechanisms that the CCWG-Accountability decides may be implemented post-transition.</p> | <p>BRG support these timing considerations.</p> <p>Accountability mechanisms from both ICANN groups need to work sensibly together and not overlap or conflict. This is the key timing issue.</p> <p>Any possibility of forum shopping or confusion as to where decisions are made must be avoided.</p> |
| 3.2 Proposed structure | |
| <p>This proposal seeks to create four structures to replace the oversight role played by the NTIA in the execution of the IANA Naming Functions.</p> | <p>BRG supports the <u>concept</u> of the division of roles envisaged in the four structures.</p> |

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| <p>Contract Co. The primary function of this entity (likely a non-profit corporation) is to be signatory to the contract with the IANA Functions Operator. Lightweight, little or no staff.</p> | <p>BRG agrees a legal entity is required to be able to contract.</p> <p>There needs to be greater clarity around exactly what role this contract company plays.</p> <p>The advantages and disadvantages of a separate contract company compared with alternative arrangements (such as making this role internal to ICANN) need to be listed.</p> |
| <p>Multistakeholder Review Team (MRT). The MRT would be a multistakeholder body with formally selected representatives from all of the relevant communities.</p> | <p>BRG recognises itself as a “relevant community.”</p> <p>Language in the whole document should recognise the existence today and relevance of representative bodies such as the BRG that exist wholly outside the GNSO and are currently excluded from GNSO by current rules.</p> <p>BRG notes the composition of this body to create a meaningful decision-making process will be the greatest challenge of the four proposed bodies. BRG cautions against an overly-broad composition that misses the narrow role of this body.</p> |
| <p>MRT responsibilities include:</p> <ul style="list-style-type: none"> o Developing the contract terms for the Contract Co. / IANA agreement . o Making key decisions for Contract Co. (e.g. a rebidding process) o Conducting Budget Review o Addressing issues raised by the Customer Standing Committee (CSC). o Performing certain elements of administration (including periodic performance reviews). o Managing a re-contracting or regular rebidding process. | <p>BRG supports the roles defined.</p> <p>The BRG recalls the draft proposal’s principle #4: <i>“The proposal should not seek to replace the role of the ICANN multistakeholder community with respect to policy development for the Names Community, nor to affect existing TLD policies or how they are currently applied by the IANA Functions Operator.”</i></p> |
| <p>Customer Standing Committee (CSC) Primarily be made up of representatives of registry operators (ccTLD, gTLD).</p> | <p>BRG supports the concept that those who are direct customers of the IANA technical functions have a means of making sure those functions are being performed properly.</p> <p>BRG expresses a firm commitment to be such a registry representative.</p> |

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| | BRG recommends that membership is restricted to registries to avoid duplication with the MRT. |
| The CSC would: <ul style="list-style-type: none"> o Work with the MRT to establish Service Levels and Performance Indicators o Receive performance reports o Review reports against established service levels and escalate significant issues to the MRT. | BRG supports the roles defined. |
| Independent Appeals Panel (IAP) - The CWG recommends that all IANA actions which affect the Root Zone or Root Zone WHOIS database be subject to an independent and binding appeals panel. The Appeals Mechanism should also cover any policy implementation actions that affect the execution of changes to the Root Zone File or Root Zone WHOIS and how relevant policies are applied. | BRG supports the concept of an independent and binding appeals process. |
| This need not be a permanent body, but rather could be handled via a binding arbitration process using an independent arbitration organization (e.g., ICDR, ICC, AAA) or a standing list of qualified people under rules promulgated by such an organization. | If arbitration is chosen, BRG recommends use of existing arbitration providers and rejects the creation of a new body. BRG suggests greater international credibility would be provided by use of the ICC arbitration service. |
| 3.3 Independent review of Board actions | |
| The ICANN Bylaws provide for a limited Independent Review of Board Actions. This applies to the delegation and re-delegation of ccTLDs, and Board actions regarding gTLDs such as policy approval and implementation plan approval. | BRG recommends a stronger means of review to allow for both re-dress and reversal. Greater clarity is needed on who has standing to bring an appeal. Accountability mechanisms for IANA and ICANN generally need to work sensibly together and not overlap or conflict. Any possibility of forum shopping or confusion as to where decisions are made must be avoided. |
| 3.4.3 Zone Management Process Administrator | |
| The CWG recommends that all decisions and actions (including deliberate inaction) of the IANA Functions Operator that affect the Root Zone or Root Zone WHOIS database be subject to an independent and binding appeals panel. | BRG supports the concept and recommends use of the ICC arbitration service. |
| END | |

About Us

The Brand Registry Group (BRG) is an independent membership organisation of owners of a top-level domain name that matches their existing brand. The turnover of the respective groups behind these domain names is some \$1219 billion. The BRG is registered by Royal Decree as an international not-for-profit under Belgian law. It represents members' common interests and offers services paid for from fees.