

Submission to the Cross Community Working Group on Names Related Functions (CWG-IANA) on the Draft Transition Proposal

22 December 2014

Introduction

This is InternetNZ's response to the public consultation on a Draft Transition Proposal from the Cross Community Working Group on Names Related Functions (the CWG-IANA), which has been developing a proposal to send to the IANA Stewardship Transition Coordination Group,

InternetNZ supports a transition of stewardship of the Internet's DNS from NTIA to the global Internet community as announced on 14 March 2014. It believes that it can be achieved despite the complexities involved. The Internet community is ready to do this.

The proposal is a very good beginning. InternetNZ thanks the members and participants of the CWG-IANA for a crisp, well thought out proposal that sets out the basic minimum requirements of a workable solution.

In this response we deal with the following matters in turn:

- Principles for a viable transition for the Names community
- The importance of community, not ICANN, stewardship for IANA
- Comments about the key elements of the CWG-IANA proposal
- Timelines and the link with Accountability

This response deals with Names matters and does not discuss the linkages with the other two customer groups. It is written from the perspective of a designated ccTLD manager and of an organisation with a wider agenda of supporting the open Internet and involving domestic civil society and Internet community participants in these discussions.

We thank the CWG-IANA in advance for considering this input, and we would be happy to provide more detail or information if required. Contact details follow at the end of this response.

Key principles

Today, there is a deeply embedded principle of ***distributed stewardship*** of the IANA functions. ICANN is the IANA Functions Operator; NTIA offers the Functions Contract and is essentially the Functions Administrator; and Verisign operates the Root Zone. InternetNZ supports distributed stewardship as a matter of principle and practice. Erosion of this principle creates an overly-powerful institution vulnerable to capture by a small subset of stakeholders, leading to the resources of this institution used to control, rather than support, the ongoing development of the open Internet.

A second and related key principle is that of ***separability***. There must be the real and effective possibility that at some future point the IANA functions can be operated by an institution other than ICANN should the global multistakeholder community require this. This possibility is key to motivating the IANA functions operator to keep in close touch with their customers and be led by them.

From this comes the third principle, the importance of **customer involvement**. Registries have the strongest possible interest in the effective operation of the IANA functions and so it is right that the proposed Customer Committee contains customers. That body must not be compromised by adding those interested in but not *directly* affected by the IANA functions.

Fourth, important is **broad community stewardship** of the IANA functions. Stewardship must remain in the broad “global multistakeholder community” – for example the breadth of interests participating in the IANA Stewardship Transition Coordination Group (ICG). ICANN is only one part of that community and as such would not be the appropriate vehicle for controlling the IANA functions in total. More on this point below.

Finally, as a matter of principle we mention **ccTLD independence in policymaking**. Country code TLDs are to be governed consistent with *local* Internet community requirements and obligations. They are not creations of or dependent on ICANN; few global policies are required or desired. The ccTLD community recognises there are seldom one-size-fits-all solutions to its needs, and local communities have provided intensively different models for management. It is important that the stewardship model respect that autonomy and independence.

InternetNZ sees these principles as:

- consistent with or improvements on current practice in developing and maintaining community and private sector stewardship and operation of key Internet resources;
- consistent with the requirements the NTIA has set out for accepting a transition proposal; and
- embedded in the CWG-IANA’s proposal as detailed so far.

This principled basis explains why InternetNZ in general supports the proposal.

Community stewardship

Community stewardship of the IANA functions is essential, as a principle in itself and as a means to securing other principles such as distribution of powers and functions. This relates in particular to discussion of some sort of “internal to ICANN” solution being a better approach.

InternetNZ would not support a transition proposal that saw NTIA stewardship replaced with ICANN stewardship of the DNS.

The reasons for this include the following significant points:

- It would erode the current distributed model & today’s reality of separability which we support in principle and in practice;
- It would make the possibility for future reassignment of the operation of the IANA functions theoretical at best and impossible at worst, considerably worsening the accountability situation facing IANA customers;
- ICANN’s track record shows that it has a fundamental cultural difficulty in accepting its primary role as a limited purpose servant of the Internet community –
 - in its attitudes to community attempts to control it (e.g. the debate in 2014 about the accountability side of this transition);
 - in its practice of top-down decision-making (e.g. the President’s strategy panels, or the ongoing failure of the WHOIS review); and
 - in its adventures in the broader Internet Governance environment without community mandate (e.g. the NetMundial Initiative).

As such, in practice it seems unlikely to be the sort of steward the community as a whole could have confidence in;

- ICANN's consistent arguments over many years that the law under which it operates makes it impossible for the corporation to accept real accountability to the Internet community. If that is correct in law, ICANN can't be the overall steward. If that position is wrong and ICANN changes its mind, it will have diminished further its credibility as a reliable and dependable option for steward;
- The scale of change and evidence of such change required to deal with the practical matters set out in the previous two points cannot be achieved in the timeframe required for the stewardship transition.

The CWG-IANA's proposal contains a workable model that does not have these problems of principle and practice. It has gaps of detail that need to be explained and resolved before it can be accepted, but what has been produced so far is clearly preferable to a fully "internal to ICANN" model both in principle and in practice.

Comments on key elements

The CWG-IANA proposal is a strong one. If implemented, it would improve the situation the Names community faces in terms of reliable stewardship and accountability to mirror that enjoyed by the Numbers and Protocol communities.

We endorse the elements set out in the CWG-IANA proposal at a high level (Section 3.1) and believe they are fundamental to a workable transition. They are:

- Current performance of IANA functions is satisfactory
- Maintaining the contract environment
- Maintaining ICANN as operator for now
- Not replicating ICANN's broader role in new, very narrowly focused institutions (i.e. names policy broadly remains where it is)
- Separation between policymaking and IANA functions operation needs to be reinforced and strengthened

The CWG-IANA's proposal is the **lightest and simplest possible institutional structure** required to allow an outcome consistent with these elements and with the NTIA's requirements.

In particular we commend the CWG-IANA for dealing with operational accountability for the IANA functions, which is clearly a requirement of its Charter and is essential.

In respect of the specific entities proposed by the CWG-IANA:

Contract Company:

- Should "own" or be the steward of the key IANA functions assets – the root zone, the IP addresses of the A root server, the domain names, the DNSSEC keys.
- Needs a suitable set of indemnities from ICANN (or any future Operator) such that ICANN protects both it, and the MRT that directs its actions.
- Structure and jurisdiction are important so as to prevent scope creep and make sure there is accountability. There are advantages and disadvantages to any jurisdictional choice. We look forward to seeing the future work of the CWG on this matter.

Multistakeholder Review Team:

- Is the appropriate body for the global multistakeholder community to exercise its stewardship.
- Has a limited and narrow role which should not be extended.
- There must be recognition of the work required of this body, and appropriate support given to allow effective participation across the community when required.

Customer Standing Committee:

- Must retain a focus on the direct customers in its membership and approach.
- In particular, there should be no role for government or users' representation on this Committee.

Independent Appeals Panel:

- Specific requirements will need to be in place to protect ccTLD sovereignty and independence, noting that this will be vital to get right so as to secure support of the ccTLD community.

There is one issue on which the proposal is silent which we recommend further work on: the Contract Company needs the ability to ensure that root zone management is conducted consistent with decisions made by the IANA Functions Operator it selects. That is not dealt with in the current proposal so far as we can see.

Some other points of feedback for the CWG-IANA to consider:

- A clear and transparent **audit chain and process** needs to be in place for the entire system. The certification matter and public posting of root zone change requests are useful, as is the IAP.
- We look forward to further work by the CWG-IANA on what replacement if any is required for the NTIA's root zone management process administrator role (3.4.3 in the proposal), and express no view on this matter at this time.
- The **costs** of maintaining the infrastructure required for effective stewardship of the IANA functions should properly fall on the IANA Functions Operator – as such, it should finance the required expenses of the CSC / MRT / Contract Company. The costs of operating the IANA functions should be largely met by the customers of those functions in a manner similar to today.
- InternetNZ **supports the retention of a single integrated IANA function** across the three customer groups (names, numbers & protocols), but believes that in the event of a choice between an integrated IANA and an acceptable settlement for the Names community, the choice should fall in favour of the latter.

Finally, we note that in all this work **with more detail the vision will become clearer** – important choices need to be fleshed out and we respect the fact the CWG-IANA is still progressing much of the detail.

Timelines and Accountability Links

The timeframe for this work is very compressed due to a desire by some to complete a complete proposal for NTIA review in June 2015, and implementation in time for the current IANA Functions Contract to expire on 30 September 2015.

InternetNZ does not believe the planned timetable is workable.

The main reason for this is that the CCWG-Accountability work, which is integral to the IANA stewardship transition and must be completed (for the IANA aspects of accountability) before the transition can be agreed, is only starting work now and cannot complete a first draft of its proposals before 15 April 2015.

It seems essential that there be some possibility for all three customer groups (names, numbers & protocols) to review and if necessary adjust their proposals to the ICG once the proposed accountability environment is known. We do not see how that can be done with deadlines of January 2015 for final community proposals, and April 2015 for a first Accountability strawman.

Rushing towards this September 2015 goal would require the community to be focused on the NTIA stewardship transition to the extent that other necessary and important debates aren't progressed - or that the community faces total overload and is unable to participate effectively. Neither is desirable.

The NTIA has made it clear that September 2015 is a goal not a requirement. It does not seem impossible in law or in practice for a limited extension of the IANA Functions Contract between the NTIA and ICANN to be agreed if required.

As such, we think the CWG-IANA should consult with the ICG and the Internet community more broadly to determine whether the current timeframe is workable - and if not, what it should be adjusted to.

Conclusion

The CWG has made a very good start to the Names community transition proposal. InternetNZ again thanks all members and participants, and the staff supporting this work, for the achievements so far.

Fundamental to this model is community stewardship of the IANA functions. We support this strongly and commend the CWG for outlining an elegant, light-weight approach to securing this for the future development and evolution of the DNS.

InternetNZ

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