

## Separability process<sup>1,2</sup>

One of the basic components of an internal or affiliate model is the possibility of an Separability Process to move the IANA Naming Functions outside of ICANN to a successor operator. This process would be carried out in the event of serious performance deficiencies that were not addressed through internal remediation processes, nor through accountability mechanisms defined by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability).

This note relates to the following sections of the draft proposal

- III.A.i.d. IANA Function Review and Annex F
- III.A.ii.d. Separation Review and Anex L

Annex F contains:

The outcomes of an IANA Function Review are not limited and could include a variety of recommendations.

Annex L contains:

### Triggers for the Separation Review

An outcome of an IANA Function Review is not limited in scope and may include a recommendation, which could trigger a process, which may ultimately lead to separation.

The details of such a process need to be undertaken with great care and are subject of further discussion and review within the CWG-Stewardship. Initial text is provided in square brackets below.

[The CWG-Stewardship is further considering how such a separation review would work which, for example, could include the initiation of a Cross Community Working Group to make specific recommends that deal with recommendation made by the IFR. These could include the creation of an RFP and separation of the IANA Functions Operator. This would be done by to a cross community working group<sup>[25]</sup> chartered by the Board and its recommendation would be submitted to the ICANN Board for consideration. The cross community process would include the collection of

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<sup>1</sup> This document is a snapshot of

[https://docs.google.com/document/d/1JphPfdKG-kjMIY2Gc0MbsE9q6Semq3ghMYLF1FCgX\\_4/edit?usp=s\\_haring](https://docs.google.com/document/d/1JphPfdKG-kjMIY2Gc0MbsE9q6Semq3ghMYLF1FCgX_4/edit?usp=s_haring) which is open to comment and suggested edits.

<sup>2</sup> In order to avoid confusion with other discussions of separation, such as the functional or legal separation of the IANA function Operator into an PTI, I have recommend changing the topic to Separability Process.

community input and intermediate comment periods on the work, with ultimate input by the multistakeholder community through the CCWG Accountability mechanisms under consideration.[26]

[25] There is an open question for comment on whether the recommendation of the IFR for the initiation of Separation discussion should be carried out by the IFR itself or should be assigned to a CWG as indicated in this section.

[26] A point for public comment is whether the IANA Function Review recommendation for a separation process should be chartered by the Board or by the SOAC and whether the recommendations should first be submitted to the Supporting Organizations and Advisory Committees for their approval before escalation to the ICANN Board. Or whether the Separation process CWG recommendation for separation should be submitted directly to the ICANN Board by the IANA Function Review Team.

The discussion indicated above between two possible recommendations remains an outstanding task for the CWG IANA. Additionally, the details of the Separability Process have yet to be discussed and a consensus point found. As this question was posed as part of the community review of the draft plan, any decision need to take those comments into account. Discussions in the CWG can however, could be initiated before the comment period is concluded.

## Who is responsible for the Separability process

The two possibilities solutions:

- The IANA Function Review (IFR) Team would not only recommend that a discussion of Separability was warranted based on the results of its review, it would also be responsible for carrying out the separability review and for recommending any change that was required.
- Following an IFR recommendation that the separability process was in order, as approved by the community and the board, a specific multistakeholder body, similar in composition to the CWG IANA, or perhaps the ICG<sup>3</sup>, would be constituted for carrying out the separability review and for recommending any change that was required.

## Possible process<sup>4</sup>

Whether it is done by the IRF team or by a specifically constituted multistakeholder body the task would be similar.

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<sup>3</sup> if other operational communities were in agreement with the process

<sup>4</sup> based on initial DT X work

The Separability Process will be defined in a Fundamental ICANN ByLaw. Whether it is part of the IFR bylaws or a standalone bylaw would be dependent on the decision on roles and responsibilities for the process.

### Mode of Operation

This would be dependent on the decision made about the roles and responsibilities for the review. In any case, the process would need to include full transparency and accountability to community input and comment.

### Range of possible Separation Mechanism outcomes

The scope of the separability process would include making a recommendation on Separability. The possible outcomes, include, but are not limited to:

- No action needed
- Introduce operational sanctions and redress actions relevant to the identified deficiency
- Create an RFP, and process, with a possible outcome of selecting a new entity to perform the IANA naming<sup>5</sup> functions
- Initiate negotiations with new operational partners
- Initiate full separation of the affiliate to create a standalone IANA entity

The work of the Separability Process would be dependant on the review and recommendation of the IFR for initiating the process.

### CCWG Accountability dependencies

- Fundamental ByLaw
- Accountability mechanisms designed to address membership roles and responsibilities in the decisions of separability.
- Accountability escalation mechanisms, including Reconsideration Requests and Independent Review Panel.

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<sup>5</sup> depending on ICANN relationship with its clients, the Numbers and Protocol operational communities, such a RFP might take the clients issues into consideration