Process Suggestions for the Transition of NTIA’s Internet DNS responsibilities to the Global Multistakeholder Community

Introduction

This paper\(^1\) makes some comments for ICANN and the community to consider in developing what we are calling a conversation – a conversation to develop the transition plan the NTIA has asked\(^2\) ICANN to convene a process to deliver. We cover the following topics:

- the purpose & scope of the conversation
- the principles that should guide the conversation
- the process that makes sure the conversation achieves the purpose
- mechanisms and their roles in the conversation

We submit these comments to ICANN in response to ICANN’s request for suggestions on these matters, asked on Monday 24 March for submission by Thursday 27 March.

The language ICANN is using in respect of this process must urgently become more consistent: ICANN is not consulting the community, ICANN is convening a discussion. The wrong language indicates a mind-set that presumes too much about ICANN’s eventual role. We urge ICANN to rise to the challenge set before it, and enter into this conversation in a spirit of openness as to what the final outcome will be.

We also note that at the core of this conversation are the IANA functions. These are currently being well performed. The challenge is to transition the roles of the NTIA so all these functions are done at least as well as they are today, and that the security, stability and resilience of the global Internet is protected and enhanced.

Finally, we do not argue that the material in this paper is definitive or beyond reproach. It has been prepared in haste to contribute in a tight timeframe. We intend it as a constructive contribution to the debate.

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\(^1\) Available online at: https://internetnz.net.nz/content/the-dns-transition

Purpose & scope of the conversation

For people and stakeholders to be involved, there needs to be clarity on the purpose of the conversation. We take it that the purpose is:

To develop a transition plan for the matters set out by the NTIA – the stewardship of the DNS, broadly expressed – that has buy-in and acceptance from all key stakeholder groups.

For clarity, we argue that this conversation is not a chance for ICANN to develop its preferred approach based on its interests, or its own take on what the NTIA has asked it for.

It is important in this process that the scope of discussion is not constrained at the outset, whether that is in pursuit of a particular outcome or to prevent a particular outcome. The NTIA in their current role is just one component of an overall system with ICANN, IANA and the RZM as other components. This system has existed in a stable fashion for many years and has matured over time directly as a result of the role undertaken by the NTIA.

The removal of one component of this system automatically leads to many questioning whether the residual components on their own can form an equally stable system or whether those residual components must be rearranged or even whether new components need to be introduced. This should all be within scope for the community to consider.

Principles to guide the conversation

This is a complicated transition to give effect to, with a complicated array of stakeholders – many of which may well change views and change positions as they learn through the conversation.

The following principles could help guide the sort of open and inclusive conversation required:

**Multistakeholder:** the conversation has to be multistakeholder. At a high level it should include all relevant and interested Internet stakeholders. This does not preclude parts of the conversation being more focused and involving fewer stakeholders - but it does mean the overall transition approach that emerges has to have multistakeholder agreement.

**Inclusiveness:** ICANN as facilitator of this conversation must make available resources to allow for it to be fully inclusive, well beyond the confines of ICANN's usual community and constituencies, and in partnership with other stakeholders. ICANN needs to recognise its interest in particular outcomes, and must therefore take an approach that does not prejudge the answers the conversation may settle on in its role as convenor.

**Flexibility:** there must a clear understanding that various stakeholders will evolve and amend their views as they learn about the issue and refine their views in the course of the conversation. Therefore a considerable degree of iterative and flexible discussion should feature in the conversation, so that stakeholders have the chance to learn, think, and then settle on well-informed and well-considered positions.

**Conflict management:** this is an important subject that will generate a widely varied response. Those facilitating the conversation need to understand and accept that conflict will be endemic and is a feature, not a bug. To help respond to this reality, the conversation
must be managed in an open, welcoming and inclusive way that acknowledges the wide variety of interests and perspectives at play.

**Transparency:** the conversation should be open and available for anyone to monitor, participate in and contribute to. This applies even to detailed areas which various focused discussions are happening around, and even to stakeholders that might generally take a less-transparent approach. In particular, ICANN must be very transparent in separating and reporting on resources used to convene and facilitate the discussion, separate to those resources used to develop or argue for its own perspective or preferred position.

**Process**

We recommend a staged process grounded in the principles above, and with the purpose and scope we mention. Such a process can be usefully divided around community decision-making milestones that are required within the process to achieve its purpose.

We suggest the following stages of the process, each stage culminating in agreement of the global multi-stakeholder community on that stage. The phases of the process help to focus what will inevitably be complex discussions by creating an order for decision-making.

Stages suggested to ensure dialogue and collaboration around community decision-making are:

- Stage One: Direction for the transition
- Stage Two: Action plans
- Stage Three: Roles and responsibilities in implementation
- Stage Four: Delivery

The stages of the process require community levels and groups to engage with each other most at the beginning, in Stage One, to develop a shared understanding of the direction for the transition.

Subsequent stages progressively allow for the expertise and skills of certain community levels and groups to take leadership roles in certain areas with a multistakeholder process which threads together such community work to ensure in an ongoing way consistent with the direction fleshed out in the early stages.

**Stage One: Direction for the transition**

NTIA has called for the creation of a “transition plan”. A foundation for this plan is a clear global stakeholder community vision, an agreed direction for the transition. This needs to be built around shared understanding and agreement of the subject matter – what is part of the transition, and what is not.

Facilitation needs to help stakeholders share and develop understanding of what change is happening, what the current system is, assumptions and interests at play, and the different potential directions for the future. An agreed vision for the future must then be negotiated and agreed by the global multistakeholder community which will take ownership of the DNS.
This stage of the process is critical, and has to occur before functional allocation or systems design become the focus\(^3\). It must engage all stakeholders to understand their respective roles, perspectives, and interests. Conflict and dissatisfaction are to be expected and the principles of the process are critical to ensure the success of this stage.

In order to come to an agreed direction for the transition, through a multistakeholder process, the process must draw out and clarify community perspectives towards a shared understanding of things such as the following (these are examples, not definitive or exhaustive suggestions of what needs to be tackled):

- **What change is happening?**
  - What functions has the NTIA performed that it wishes to step back from?
  - What are the expectations and requirements in order for that change to happen?

- **What is the current situation?**
  - How are the DNS functions related to IANA currently performed (including how they relate to each other and what is the role of various entities involved)?
  - What is the current system of stewardship for the DNS?
  - What accountability do entities within the system have?

- **What are the options for the system in future that ensure the stewardship and performance of the functions which are required to maintain the DNS system as well or better than the current system?**
  - What are the risks and benefits of different models?
  - Who are the winners/losers of potential models?

These perspectives must be brought together in an iterative process that allows for feedback and interaction between community levels and groups, to discuss and negotiate the differences in perspective and interest that are likely to result in preferences for different models.

**Mechanisms in Stage One**

All related, relevant and interested community levels and groups should be encouraged to engage in this process, to develop the most complete understanding of the change, the current situation and the models possible for the future.

Open, inclusive processes which allow variation in working methods between community levels and groups should be encouraged, with ICANN convening and facilitating a thread of multistakeholder process which brings together the community to share, discuss and work through the potential models, towards agreeing a vision for the future.

The experience which ICANN has gained through its processes, running cross-community working groups and convening many community levels and groups around issues, should

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\(^3\) InternetNZ’s recent papers on this subject (our NetMundial content contribution supporting the general direction of the IGP proposal [at https://internetnz.net.nz/our-work/submissions/Content-Contribution-NetMundial-evolution-IG-ecosystem] and a short paper + diagrams setting out some potential structural options [at https://internetnz.net.nz/content/I2014-03-ICANN-IANA-role-structures]) have been aimed at helping community discussion in the lead up to ICANN49. We fully expect to be learning from the conversation to come, as we expect others will too.
enable them to create a process which is wider than ICANN to find a new system for the ongoing stewardship of the DNS.

Stage Two: Action Plan(s)

Once there is an agreed vision or direction for the transition, actions plans will need to be developed through an inclusive and transparent process.

As part of this phase, the process should facilitate community collaboration to:

• assess the current situation against the direction,
• create options for action, and
• decide on an action plan(s).

The process for assessing the current situation and options for action could include community level group work to create action plans for respective areas of expertise and accountability, to ensure clarity on the current situation and how to work towards the envisioned outcome.

This stage could use the established multistakeholder facilitation from Stage One to link community level working groups and which allows transparent reporting on and brings the action plans together. Through these, various action plans would be evaluated against the ability to deliver the vision for the future, through this inclusive, iterative, multistakeholder process.

Stage Three: Roles and Responsibilities

Once an Action Plan is agreed, roles and responsibilities within the community can be agreed. This is where the focus of structural and institutional configurations will need to be discussed and agreed. (Note: this could perhaps be the second part of Stage Two above.)

Decision Point

At the conclusion of this stage, there should be enough material for the NTIA to be able to decide whether an acceptable transition is possible or not. The NTIA may like some parts of the plan and not others, and so a reconsideration of some elements based on NTIA feedback may also need to occur at this point.

The following stage only occurs if the transition goes ahead.

Stage Four: Implementation

The last stage of the process is implementation and then the ongoing evaluation of progress and outcomes against the agreed direction for the transition.
Mechanisms

ICANN asked for separate feedback on the mechanisms for the process. These need to be ascertained in the development of the process set out above.

It is clear that throughout, there will be involvement from the ICANN Supporting Organisations and Constituencies, from the I* organisations and other ICANN community regional organisations.

ICANN could usefully prepare a list of other interested stakeholders that it intends to proactively involve in the conversation, and seek global community input to address gaps in such a list.

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