GNSO gTLD Registries Stakeholder Group Statement

Issue: Draft Proposal, Based on Initial Community Feedback, of the Principles and Mechanisms and the Process to Develop a Proposal to Transition NTIA’s Stewardship of the IANA Functions.

Date: 8 May 2014


References:

Public comment archives: http://mm.icann.org/pipermail/ianatransition/


NTIA Announces Intent to Transition Key Internet Domain Name Functions: http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions

This statement on the issue noted above is submitted on behalf of the gTLD Registries Stakeholder Group (RySG). The statement that follows represents a consensus position of the RySG as further detailed at the end of the document. The RySG statement was arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).

The RySG comments are organized as follows:

1. General Comments
2. Comments on the ICANN Scoping Document
3. Suggested Proposal Development Process described in the ICANN public comment announcement
4. ‘Questions Relating to This Initial Draft’ from the ICANN public comment announcement
5. Conclusion

1. General Comments

In order to properly scope our general comments, the RySG would like to quote from the official NTIA announcement. NTIA stated, “its intent to transition key Internet domain name functions to the global multistakeholder community”. We make this point because we would like to highlight that the announcement did not say, “its intent to transition key Internet domain name functions to ‘ICANN’.” The community may decide that it makes sense for some or all of the
IANA functions to be transitioned to ICANN; however, we feel strongly that the premise that ICANN will de facto absorb all of the IANA functions should not be assumed at the outset.

We agree with NTIA that ICANN is, “the appropriate party to convene the multistakeholder process to develop the transition plan” because it has existing multistakeholder processes and relationships that can be used to facilitate this effort. However, we would also note that should ICANN decide to leverage its existing processes, these processes will, at the very least, need to be improved and expanded to ensure accountability and transparency for all Internet stakeholders including those outside of the ICANN community.

Further, we want to emphasize that the NTIA announcement asked ICANN to convene a ‘multistakeholder process’, as a means of allowing for full community input into the transition of the IANA functions. We believe this involves much more than a ‘public consultation’ as described in ICANN’s April 8, 2014, scoping document. ICANN should not be artificially trying to limit discussion on the IANA functions transition; rather this is an opportunity for the community to provide input into the protection and continued evolution of a set of critical technical Internet functions. It behooves us all to take the time and thought to fully flesh out, as a community, ICANN’s role in this evolving ecosystem.

Our understanding is that ICANN staff drafted the Scoping Document and ICANN’s Suggested Proposal Development Process based on their personal analysis of the comments, which were submitted during the ICANN meeting in Singapore. We would like to note that this comment period was extremely abbreviated as it began just days after the March 14, 2014, NTIA announcement and also coincided with the ICANN meeting in Singapore. We have three serious concerns about how this process has been handled thus far: 1) it is unacceptable that an issue as critical as the transition of the IANA functions would be allowed only a short public comment period\(^1\); 2) ICANN as an organization is conflicted with regard to the IANA functions because it is one of the current providers of those functions and it has a self-interest in retaining those functions; 3) soliciting public comments and then having staff unilaterally summarize them in a case where they are conflicted is not a valid bottom-up multistakeholder process.

2. Comments on the ICANN Scoping Document

ICANN has noted that the Scoping Document was developed in consultation with NTIA. The RySG requests that the details of this consultation be provided to the community. Also, we assume that the final determination of scope will be determined as part of the bottom-up, multistakeholder process.

“NTIA specified that the transition proposal must . . . (s)upport and enhance the multistakeholder model”. To accomplish this, the RySG believes that the process of developing that proposal should itself be bottom-up and multistakeholder with support and facilitation from the convener. In that regard, it is essential that there is a common understanding of what multistakeholder

\(^1\) Initial comment periods are generally at least 21 days followed by 21 day reply periods and in cases where the comment period extends over an ICANN in-person meeting, the number of days is usually extended. In this case, involving an issue that is critical to the entire Internet community, some of whom are not directly involved in ICANN processes, only one comment period much less than 21 days was allowed.
means. We support the definition of the Multistakeholder Model that the currently operating GNSO Policy & Implementation (P&I) WG has proposed for their purposes: “An organizational framework or structure for organizational governance or policymaking which aims to bring together all stakeholders affected by such governance or policymaking to cooperate and participate in the dialogue, decision making and implementation of solutions to identified problems or goals.” The P&I WG has also proposed the following definition of the ICANN Multistakeholder Model: “The Multistakeholder Model adopted by ICANN, is composed of diverse self-selected Internet stakeholders from around the world organized or self-organized into various Supporting Organizations, Constituencies and Advisory Committees, and utilizes a bottom-up, consensus-based policy development processes, open to anyone willing to participate.” We feel that the key elements of a multistakeholder approach are openness, diversity, global participation, involvement by affected parties, bottom-up, and consensus-based and it is critical that these elements be utilized and maintained when dealing with the transition of the IANA functions.

Consistent with the P&I WG definitions, “NTIA specified that the transition proposal must . . . (m)eet the needs and expectation of the global customers and partners of the IANA services.” The ICANN Scoping Document states: “(m)eets the expectations of affected parties.” We do not believe that ‘affected parties’ means the same thing as ‘customers and partners of the IANA services’. These two phrases are not interchangeable. Regardless, NTIA defines the directly affected parties as “the Internet Engineering Task Force (IETF), the Internet Architecture Board (IAB), the Internet Society (ISOC), the Regional Internet Registries (RIRs), top-level domain name operators, VeriSign, and other interested global stakeholders.” We feel that Root server operators should be included in this definition. Also, it should be noted that ‘top-level domain operators include ccTLDs, existing gTLDs, and new gTLDs (nTLDs). The Scoping Document does not define ‘affected parties’, but the Suggested Proposal Development Process discussed in Section 3 below refers to them as follows: “affected parties (IETF, IAB, ISOC, NRO)”.

However, as noted above we feel this list is incomplete as it does not include direct customers of the IANA functions, such as gTLD, nTLD and ccTLD registries, which is incomprehensible and appears to be self-serving of the convener.

The Scoping Document notes: “. . . ICANN processes root zone change requests for Top Level Domains (TLDs) and makes publicly available a Root Zone WHOIS database with current and verified contact information for all TLD registry operators.” We suggest that this line of thinking be clarified as it will likely confuse the general public regarding the differences between the Root Zone and Root Zone WHOIS.

Further, the Scoping Document goes on to say:

the dialogue and resulting proposal are to focus on defining accountability mechanisms that would serve to replace the current stewardship role played by NTIA to ensure ICANN's performance of the IANA functions based on the agreements and/or policies provided by the respective bodies (IETF, GNSO, RIRs, ASO, ccTLDs, ccNSO).

In saying this, ICANN staff is making a unilateral conclusion that the only topic that can be considered in the process is ‘accountability’. We completely agree that accountability is a critical topic the community needs to discuss and develop a robust plan for in any proposed solution; however, there is nothing in the NTIA announcement that restricts the effort to this one
topic. And it is very suspicious that ICANN staff would try to inappropriately impose restrictions like this. This was tried by the CEO in Singapore and rejected by leaders of multiple SOs, ACs, Stakeholder Groups, and Constituencies. We reject it again.

This paragraph makes the assumption that ICANN will be performing the IANA functions. As already stated above, NTIA did not expressly state this in their official announcement. It is simply a self-interested assumption made by ICANN staff.

In the U.S. House of Representatives hearing that was held on April 3, 2014, NTIA described their role as mostly clerical. Historically, NTIA has provided a light touch so as to be viewed as clerical, but the assumed threat of intervention in ICANN processes shows the need for increased accountability within ICANN.

Further, the Scoping Document appears to focus on the transition processes requiring “global public consultation.” While we agree that it requires global public consultation, this is not a substitute for participation as consultation can best be considered merely as a weak form of a more robust multi-stakeholder process. Consultation does not have the same checks and balances as well as transparency that a full-fledged multistakeholder process would have. We strongly assert that what is required is a full bottom-up multistakeholder process.

The second bullet under ‘What is Outside of the Scope of the Proposal?’ says:

*NTIA exercises no operational role in the performance of the IANA functions. Therefore, ICANN’s role as the operator of the IANA functions is not the focus of the transition: it is paramount to maintain the security, stability, and resiliency of the DNS, and uninterrupted service to the affected parties.*

We of course agree that security, stability, and resiliency of the DNS are paramount; however, we feel that it is premature for ICANN staff to assert that ICANN’s role is out of scope. This sentiment is not included in the NTIA announcement and we believe ICANN’s role is an issue that should be left to the bottom-up, multistakeholder process to decide. In particular, we believe whether “structural review of ICANN or its functions” should be included in the scope should be a matter for the community. In that regard, we call attention to the following statement in the NETmundial Multistakeholder Statement: “It is desirable to discuss the adequate relation between the policy and operational aspects.”

In the third and final bullet under ‘What is Outside of the Scope of the Proposal?’, “structural review of ICANN or its functions” is excluded. We believe that this should say “structural review of non-IANA functions”.

3. Suggested Proposal Development Process

It appears that ICANN did take some public input into account when deriving the list of the principles and mechanisms. However, ICANN fails to make clear that the principle of ‘multistakeholder’ was one of the most heavily emphasized and that ‘bottom-up’ goes with that principle. We also feel ICANN has left off a critical principle of ‘external accountability’ (or ‘independent accountability’), which several members of the ICANN community and multiple
interest groups expressly stated. Internal accountability, while an important control mechanism, is not by itself sufficient. It also leaves out the point made that a charter is needed for the work that has been requested. In RySG comments on "ICANN's Role in the Internet Governance Ecosystem" Strategy Panel Report, there is support for the Strategy Panel’s recommendation that an “Accountability Panel” be created, perhaps pursuant to an Affirmation of Commitments. This panel should function independently of ICANN in a manner similar to the way the ICANN Ombudsman functions. The panel would be responsible for reviewing ICANN’s stewardship of the multi-stakeholder model and its policy making process in order to insure ICANN is performing its functions in the public interest. The panel could be empowered with resolving concerns about ICANN’s decisions and making sure it meets its mission of preserving the security and stability of the Internet as well as promoting consumer choice and competition.

The description of the Suggested Proposal Development Process includes several key ideas which could be very useful in a bottom-up, multistakeholder process, such as: a steering group; use cases for testing proposed mechanisms; and community driven (i.e., not staff driven). However, one concern the RySG has is that the Suggested Proposal Development Process tries to create a multistakeholder process where existing processes already exist. These processes have been proven to be both effective and flexible and have been used in the past to address critical issues facing the ICANN community. One example, is the creation of that the DSSA working group was created to deal with critical security and stability issues.

We definitely recommend that the community, not staff, develop and implement the IANA functions transition proposal development process and then feed specific ideas proposed by staff into that process. Moreover, we firmly believe that the advantages of a bottom-up, multistakeholder effort in designing a process, developing a proposal, and implementing that proposal will avoid some of the mistakes we have noted contained within the staff proposal.

Another concern we have is with regard to, “the Chair of the ICANN Board and Chair of the GAC will select the group members from this community similar to the approach used for AoC reviews.” We feel strongly that this approach is not bottom-up and allows the ICANN Board to have undue influence in this process. It does not make sense that one Advisory Group should have special influence in this effort. We feel strongly that the community is capable of selecting members.

4. Questions Relating to This Initial Draft

Q1. Are these the correct principles to guide the process to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community? If not, why not and what additional principles should be considered?

   RySG Response
   A bottom-up multistakeholder process can answer these questions.

Q2. Are these the correct mechanisms to use in the process to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community? If not, why not and what additional mechanisms should be considered?

   RySG Response
   A bottom-up multistakeholder process can answer these questions.
Q3. Are there other factors ICANN as the convener of process should take into account relevant to principles and mechanisms to be used to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community? If so, please describe

RySG Response

A bottom-up multistakeholder process can answer these questions. The way this question is asked shows the convener’s disregard for the bottom up multi-stakeholder process.

Q4. Is this the creation of a steering group to steward the process to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community the right approach? If not, why not and what other approach should be used in its place?

RySG Response

A bottom-up multistakeholder process can answer these questions.

Q5. Are the steps outlined above to create and operate a steering group to steward the process to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community the right approach? If not, why not and what steps are missing?

RySG Response

A bottom-up multistakeholder process can answer these questions.

Q6. Are there other factors ICANN as the convener of process should take into account relevant to the creation of a steering group to steward the process to develop a proposal to transition the stewardship of the IANA functions to the global multistakeholder community the right approach? If so, please describe.

RySG Response

A bottom-up multistakeholder process can answer these questions.

5. Conclusion

In our assessment, there was impressive consistency among diverse stakeholders in the comments expressed in Singapore regarding the IANA transition from U.S. government oversight to the multistakeholder community: 1) It is essential that any solution proposed must include external (independent) accountability; 2) The process for developing a transition solution must be a bottom-up multistakeholder process. The Scoping Document and the Suggested Proposal Development process, however, do not meet the standard of a bottom-up multistakeholder process.

In spite of this, the RySG is committed to constructively contributing to development and implementation of a true bottom-up multistakeholder process that will produce a sound transition process, which we strongly support, that includes external (independent) accountability mechanisms for all parties in the resulting process.

RySG Level of Support

1. Level of Support of Active Members:

1.1 # of Members in Favor: 23
1.2 # of Members Opposed: 0
1.3 # of Members that Abstained: 1
1.4 # of Members that did not vote 5

2. Minority Position(s):

1. Level of Support – Active Members: Supermajority
   ▪ Total # of eligible Voting RySG Members:\(^2\): 30
   ▪ Total # of Voting and Non-voting RySG Members: 34
   ▪ Total # of Active Voting RySG Members:\(^3\): 29
   ▪ Minimum requirement for supermajority of Active Voting Members: 20
   ▪ Minimum requirement for majority of Active Voting Members: 16
   ▪ Names of Members that participated in this process:
     1. Afilias, Ltd.
     2. Charleston Road Registry (non-voting member)
     3. .CLUB Domains LLC
     4. CORE (non-voting member)
     5. Donuts Inc.
     6. DotAsia Organisation
     7. dotBERLIN GmbH & Co. KG
     8. dotCooperation
     9. Dot Kiwi Ltd.
     10. Dot Latin, LLC
     11. DotShabaka Registry
     12. dotStrategy Co.
     13. Employ Media LLC
     14. Famous Four Media
     15. Fundació puntCAT (inactive)
     16. GMO Registry, Inc. (non-voting member)
     17. ICM Registry LLC

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\(^2\) All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (Article III, Membership, ¶ 1). The RySG Articles of Operations can be found at http://gltldregistries.org/sites/gltldregistries.org/files/Charter_of_the_gTLD_Registries_Stakeholder_Group.pdf

\(^3\) Per the RySG Articles of Operations, Article III, Membership, ¶ 4: Members shall be classified as “Active” or “Inactive”. A member shall be classified as “Active” unless it is classified as “Inactive” pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in a Constituency meeting or voting process for a total of three consecutive meetings or voting processes or both, or by failing to participate in meetings or voting processes, or both, for six weeks, whichever is shorter. An Inactive member shall have all rights and duties of membership other than being counted as present or absent in the determination of a quorum. An Inactive member may resume Active status at any time by participating in a Constituency meeting or by voting.
18. Minds + Machines
19. Museum Domain Management Association – MuseDoma (inactive)
20. Neustar, Inc.
21. Plan Bee LLC
22. Public Interest Registry - PIR
23. Punkt.wien GmbH
24. Punto 2012 S.A. de C.V.
25. Societe Internationale de Telecommunication Aeronautiques – SITA
26. Starting Dot Limited
27. Telnic Limited
28. The Foundation for Network Initiatives “The Smart Internet”
29. Top Level Design LLC
30. Tralliance Registry Management Company (TRMC)
31. Uniregistry Corp. (non-voting member)
32. United TLD Holdco Ltd. (non-voting member)
33. Universal Postal Union (UPU)
34. VeriSign
35. XYZ.COM LLC
36. Zodiac

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  o Chair: Keith Drazek, kdrazek@verisign.com
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  o RySG representative for this statement: Chuck Gomes, cgomes@verisign.com

Regarding the issue(s) noted above, the following position(s) represent(s) the views of the ICANN GNSO gTLD Registry Constituency (RySG) as indicated. Unless stated otherwise, the RySG position(s) was (were) arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).

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\(^\text{1}\) Initial comment periods are generally at least 21 days followed by 21 day reply periods and in cases where the comment period extends over an ICANN in-person meeting, the number of days is usually extended. In this case, involving an issue that is critical to the entire Internet community, some of whom are not directly involved in ICANN processes, only one comment period much less than 21 days was allowed.