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| Your ref. | Your letter | My ref. | Date |
| Call for Public Input, 2014-04-08 | | IANA Function | 2014-05-09 |

Transition of IANA Functions

Dear Mr Chehade

NAMIBIAN NETWORK INFORMATION CENTRE (PTY) LIMITED (NA-NiC) is the Manager of the country code Top Level Domain (ccTLD) .NA. We have been involved in the INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN) process since its inception and fully support the multi-stakeholder model.

I am NA-NiC's Managing Director, have established .NA in 1991 and have been managing it since¹. The databases involved are copyrighted and .NA[®] is a Registered Trademark under Namibian Intellectual Property legislation.

On behalf of NA-NiC I wish to share our views on the proposed transition of of the IANA functions but shall myself restrict myself to a single topic, since a significant amount of input has been provided already about wider issues.

The US Government (USG) has only recently, and retroactively, claimed *control* over the root through the flimsy argument of referring to an obscure contract (the *Teranode* Contract), which does not state anything in this regards. And only very recently it has started to use the term *stewardship* which, to our knowledge, is not defined anywhere in this context.

We have never agreed to this arrangement but from our perspective it has worked out reasonably well after Jon Postel had died. Therefor we did not see any need for a change in status quo, while reserving all our rights.

The USG now wishes to relinquish this *control* which means it will hand over (control of) the root zone database to another entity.

We would like ICANN to be this entity.

This does, however, pose the question what it is that is handed over, and it clearly is Intellectual Property (whether *sui generis* as a database or under traditional definitions as a Compilation).

¹For the sake of clarity, this precedes ICANN and the Request For Comments most commonly used as guidance (RFC1591), and by which we have abided, voluntarily.

To our knowledge the USG can not acquire for example Copyright under its own Federal Legislation. However, even if the alienation process where to follow USG rules, it removes any basis for a relationship between the IANA Function Manager (ie ICANN) and any and all of those ccTLDs whose Managers have not entered into a contract with ICANN (by then).

This poses great risks to ICANN and the multi stakeholder model.

We believe it requires ICANN to negotiate contractual agreements with each incumbent ccTLD Manager (and, of course each new, incoming one).

This would be quite different from the gTLD situation since there are existing rights involved, and the IANA Function Manager can not use a One-Fits-All model and/or a Take-It-or-Leave-It approach. Rather the IANAN Function Manager will have to enter into proper negotiations with each ccTLD Manager.

We strongly believe that negotiations with ccTLD Managers will be neither a difficult nor a long drawn out process if they followed the *Framework of Interpretation*² with particular reference to restraints on the IANA Function Manager against unilateral decisions.

Until these contracts are finalized, we feel strongly that ICANN and the multi stakeholder process will be best served by ICANN stating that the current status quo with regard to ccTLDs will be maintained and that no unilateral decisions will be taken.

With Kind Regards



Eberhard W Lisse
Managing Director

²The *Framework of Interpretation* is in the process of being finalized by the ccNSO as per the charter published at <http://ccnso.icann.org/workinggroups/charter-foiwg-07jun11-en.pdf>