



Comments Regarding the CWG Draft Proposal on Naming-Related IANA Functions

22 December 2014

On behalf of the Information Technology Industry Council (ITI), I welcome the opportunity to comment on the [draft proposal](#) of the Cross-Community Working Group (CWG) regarding naming-related Internet Assigned Numbers Authority (IANA) functions. We acknowledge and appreciate the substantial effort that was invested in developing the draft. Even so, we are concerned that the proposal raises more questions than it answers, prescribing a complex, multi-layered process that deviates considerably from the current, highly successful system.

After carefully reviewing the draft proposal, we came to the conclusion that, rather than focusing on IANA functions, many of the issues raised by the CWG proposal are actually addressing pressing accountability concerns, which, due to the bifurcation of the two processes, have yet to be fully discussed in the Accountability Process. While we certainly agree that enhancing ICANN accountability is paramount, we do not believe that should be the primary goal of the CWG on Naming Related Functions. Rather, it should be left to the Accountability Working Group, to ensure a holistic and streamlined approach to accountability is undertaken.

Perhaps most importantly, while we understand the rationale for proposing a new “Contracting Co.,” i.e., to serve as contract administrator after the transition of the of the U.S. National Telecommunication and Information Administration’s (NTIA) stewardship role over the IANA functions, we do not believe it is the right approach for securing the desired protections. While establishing a new contracting entity with corresponding severability is one possible way to introduce accountability into the naming functions, we believe this outcome would best be achieved through the implementation of effective accountability mechanisms, e.g., the creation of a “Council of Members.” Indeed, effective accountability reforms would make a contracting entity unnecessary.

In addition to calling for a new contract entity, the proposal recommends creating a Customer Standing Committee (CSC) and a Multistakeholder Review Team (MRT). Most of the Contracting Co. authority would be wielded by the MRT, but details regarding this entity are murky. For example, it is intended to be multi-stakeholder but it is unclear whether that is

necessary when the body itself will not be creating policy, but rather, overseeing the implementation of policy already created via the multi-stakeholder model. There is also a proposal to create an Independent Appeals Panel (IAP) that would provide redress mechanisms for those impacted by Board decisions as it relates to the IANA functions; however, it is unclear how this process will mesh with other accountability mechanisms currently being discussed as a part of the separate Accountability Process.

While well-intentioned, we are concerned that the array of new mechanisms outlined in the proposal would complicate an otherwise straightforward and effective process. This in turn would create new opportunities for “capture” and forum shopping; new avenues for policy re-litigation; new uncertainty around jurisdictional issues and the choice of contract law; and multiply rather than reduce community accountability concerns and create. Clearly, none of these outcomes is desirable.

ITI does support some of the recommendations. For example, we believe that the establishment of a customer service-related committee to manage a complaint resolution process could be useful, as well as the publication of ccTLD and gTLD delegation and re-delegation information. However, this customer service-related committee would need to be staffed by those entities who are direct customers of the IANA functions (gTLD and ccTLD operators).

Ultimately, it is absolutely essential that the IANA transition and accountability enhancements be implemented in tandem, and that NTIA not relinquish its contractual authority until the overall plan for accountability and governance improvements are finalized and accepted by ICANN.

Again, we applaud the CWG for its contributions to the ongoing deliberations on effecting a rational, well thought-out, necessary transition of NTIA contract authority. We look forward to continued participation in this robust, transparent and inclusive dialog.

Sincerely,

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Director