CENTR Board of Directors statement on the Draft Transition Proposal by the Cross Community Working Group on Naming Related Functions

CENTR is the European country code TLD organisation. CENTR has 52 Full Members and 10 Associate Members. CENTR members have played a significant role in the establishment and success of the ccNSO constituency.

We welcome the announcement made by the US government regarding its intent to transition the stewardship role it has exercised over the last decade and are grateful for the opportunity to contribute to the drafting of the transition proposal.

CENTR wishes to thank the members and participants of the Cross Community Working Group for the IANA stewardship transition and underlines its appreciation for and its recognition of their significant work that lead to the current proposal.

Overall comments

Simplicity of any new structure

Overall we support the underlying ideas of the proposal as it tries to find the balance between the need to keep it simple and the necessity to cover a complex set of functions. However, we feel that as work progressed, most of the original simplicity has got lost. It is unfortunate to see that the initial starting point that any replacement of the NTIA functions should be limited to a technical performance review seems to have been abandoned. We are concerned that references to the evaluation of delegation and redelegation reports can be interpreted as assigning additional authority to new committees and bodies as envisaged in the proposal.

The mandates and scope of the different players in the proposal need to be outlined in a clearer way. In most cases this can be achieved by cutting back their roles to the strictest minimum. Unless these structures are lightweight we believe that the equilibrium that was aimed for will not be achieved.

The more complex the proposed structures become, the more relevant it will be to reassess alternatives, such as an ICANN-based solution before making a final decision.

We have followed with great interest the discussions on whether the proposed Customer Standing Committee (CSC), the Multistakeholder Review Team (MRT) and the Contract Co. should be separated or part of ICANN. In our view, both options have advantages and disadvantages. We believe that the current proposal does not provide sufficient detail to come to any conclusion on this important topic. Furthermore, most of the accountability issues that the proposal tries to solve through structural separation might come back in the proposed structure. Accountability issues could also be solved

through implementation of appropriate safeguards in ICANN's bylaws and a mechanism to trigger a retendering of the IANA function contract if needed.

It is most unfortunate that the timing of the IST and the work of the accountability working group is not properly synchronised. It is clear that much of the complexity of the current proposal derives from the absence of recommendations on how to fix ICANN's current accountability issues.

Customer Standing Committee (CSC)

It is crucial that this committee is composed of IANA customers only. This is the best guarantee that its role is not expanded beyond the scope currently outlined in the proposal. References to C292c and C292d should be interpreted narrowly and review of delegation and redelegation reports should be removed.

We do not support the assignment of any evaluation of delegation and redelegation reports to this Committee. We see its role as a technical performance monitor, composed of technical experts that have the right skillset to make assessments on performance standards. The review of delegation and redelegation reports is not part of that role.

As is the case for the MRT, it should be specified that the representatives to the CSC will not be paid.

Multistakeholder Review Team (MRT)

We take note that the proposal assigns a significant number of responsibilities to the MRT. Some of those responsibilities are more of an administrative nature and therefore, should be assigned to the CSC, in particular C.2.12.a-C.4.6. Even if these functions are reassigned to the CSC, we caution for the workload that members of the MRT will face. In particular if the situation ever occurs where the IANA functions contract needs to be reassigned, it is unlikely that more than a few members will have the necessary resources to handle the workload. Without strong support from independent staff this situation creates possible vulnerability that should be adequately addressed in the proposal.

As ccTLD registry operators, we have invested significantly in security and stability of our operations at multiple levels. It is essential that any key process in our operations is not in the hands of any interest group, leaving TLD operators with a single point of failure. We would find any proposal that allows the reassignment of the IANA functions by a majority of non-registry operators on any grounds other than consistent bad performance of the IANA functions operator unacceptable. We recommend that this risk is removed by carefully addressing it in the scope and decision making mechanisms of the MRT.

We believe that the strength of the current IANA functions contract was built on the two rounds of open consultations. During those consultations, all stakeholders had the opportunity to have their voice heard and their interests acknowledged. We strongly recommend exploring the opportunity to use this or similar mechanisms in the future and avoid trying to use the composition of the MRT to that effect.

On page 73 it is stated that the MRT will appoint an evaluator who should assess that a root zone change request followed all applicable policies and procedures and authorize such changes before their implementation by the RZM. We do not believe that such a role is necessary, in particular as we expect the full automation of root zone changes (with exception of delegation and redelegation requests).

Independent Appeals Panel (IAP)

The scope of the Independent Appeals panel needs clarification, in particular who can launch an appeal and on what grounds. In the case of appeals on delegation and redelegation decisions, the IAP should under no circumstances go beyond checking if the delegation or redelegation decision by the IANA operator is properly documented and showing that due process have been followed. If the IAP would conclude that this is not the case, it should refer back to the IANA functions operator.

It is recommended that reference is made in this section of the proposal to a limited list of documentation and policies that provide the framework for these decisions. The work of the ccNSO FoI WG can be used as a basis here.

We further notice that more details are needed about the composition of the IAP as in the case of ccTLD's an IAP made up of non-nationals of the related country may be problematic.

Contracting entity

While we understand ideas behind the suggestion to put in place a contracting entity, we are concerned that the current proposed shell-structure might make it subject to attack. Independent legal advice should be sought to provide clarity on this aspect, assess the risks and identify solutions. The same should be done with regard to the alternative internal-to-ICANN proposal.

We believe that the choice of jurisdiction should only be made on sound, legal grounds. In particular the liability aspects (or immunity from legal challenges) should be explored in detail.

IANA in the ICANN framework, but with a certain degree of separation

In line with the principle that stability and security of the IANA function are crucial in this process, CENTR fully supports the idea that IANA currently remains a functionally separated organisation within the ICANN framework but believes that a clear, organisational separation is needed to maintain full accountability in the future[1]. In this context it is also important to underline the continuing need to separate ICANN as a policy body and ICANN as the (current) IANA functions operator. Therefore, CENTR would welcome a further reinforcement of that separation.

IANA automation

We welcome the fact that the further automation of the IANA function is supported in this proposal. Automation was an important element in the latest RFP send out by the NTIA for the current IANA functions contract. The transition should not affect the continuing implementation of this automation process for all changes other than those related to delegation, revocation or transfers.

Root Zone Maintainer

We recommend that the proposal takes into account the future of the contractual relationship with the Root Zone Maintainer. It is crucial that the RZM recognises the authority of the MRT to reassign the IANA functions contract and acts accordingly if that situation occurs.

Accountability aspects and subsidiarity principle

We strongly recommend that the several, open accountability issues are addressed in close cooperation with the CWG on accountability, but suggest that the CWG IST gives clear guidance to that

---

[1] SIDN abstains with regard to the mentioned necessity of a future organizational separation between IANA and ICANN.

group on which aspects they would like to see addressed as a priority. In particular in a scenario of an ICANN based solution, the CWG accountability needs to understand the importance of the introduction of safeguards and controls.

As transparency is essential to ensure the broadest possible multistakeholder support for both the proposed structures and their work, it is recommended to explicitly state in the proposal that all meetings of the CSC and the MRT should be open to observers.

While we have identified the recognition of the principle of subsidiarity throughout the proposal we would welcome it is underlined more prominently.

Proposal timing

The CWG IST should explore the opportunity to have more time to further develop and refine the proposal. It is quite unrealistic to expect a sound proposal to be ready by the 15th of January, also considering the holiday season.

Fees

On page 71 it is stated that the MRT might approve the collection of fees by the contractor. At the moment the IANA customers already contribute significantly to ICANN – some under contractual arrangements, some voluntarily. It has always been assumed (cfr. the financial contributions discussions in the ccNSO) that those fees also cover the operation of IANA. It would be out of scope for this proposal to address those existing arrangements and they would overlap with the fees referred to in the proposal. We therefore believe that any reference to fees should be removed from this proposal.

Specific comments

We have not commented in detail on the wording of this proposal, but would like to see one important change to make this part of the proposal factually correct.

3.4.3.1 IANA will be required to publicly post all requests for changes to the Root Zone File or the Root Zone WHOIS database as a notification that a change *is being made*.

Should be changed to

3.4.3.1 IANA will be required to publicly post all requests for changes to the Root Zone File or the Root Zone WHOIS database as a notification that a change **was requested**.