Submitted electronically:

comments-cwg-stewardship-draft-proposal-22apr15@icann.org

May 22, 2015

Ms. Grace Abuhamad

Public Policy Manager

ICANN

12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536

Dear Ms. Abuhamad:

INTA is pleased to submit the attached comments to the 2nd Draft Proposal of the Cross Community Working Group (CWG) to Develop an IANA Stewardship Transition Proposal on Naming Related Functions and we appreciate the courtesy of your accepting our response past the May 20 due date. We understand that the working group is under a very tight timeframe.

Nonetheless, while we appreciate the working group’s diligence and hard work on the critical issues surrounding the IANA transition, we are deeply concerned by the lack of sufficient time to analyze the proposal and the companion proposal prepared by CCWG Accountability. It is essential that the community has a reasonable amount of time in order to produce a thoughtful and considered response. Otherwise, the comment period has no real value to the process and to the community that the process serves. We hope that the working group and staff will take these concerns into consideration so that we may produce the best outcome for the transition – a truly accountable, transparent, reliable and consistent process to ensure the security and stability of the Internet.

Sincerely,



Etienne Sanz de Acedo

# CWG-Stewardship 2nd Draft Proposal Input

The CWG-Stewardship has developed a template to facilitate your input on the 2nd Draft Proposal as well as subsequent review by the CWG-Stewardship. Use of the template is strongly encouraged, but not required. This template provides the opportunity for general input on the proposal as well as specific comments per section. Please note that there is no obligation to complete all of the sections – commenters may respond to as many or as few as they wish. Following your completion of the template, please save the document and submit it as an attachment to the public comment forum ([comments-cwg-stewardship-draft-proposal-22apr15@icann.org](mailto:comments-cwg-stewardship-draft-proposal-22apr15@icann.org)). The CWG-Stewardship looks forward to receiving your feedback.

1. Please provide your name: **Lori Schulman, Senior Director, Internet Policy**
2. Please provide your affiliation: **International Trademark Association (INTA)**
3. Are you providing input on behalf of another entity (e.g. organization, company, government)? **Yes.**
4. If you answered ‘yes’ to the previous question, please list the entity on whose behalf you are submitting these questions: **INTA.**

**General Comments**

1. If you have any general comments you would like to provide on the CWG-Stewardship Proposal, please provide these here.

INTA welcomes this opportunity to present comments on the second draft proposal of the Cross Community Working Group responsible for the naming-related portion of the IANA Stewardship Transition Proposal (CWG-Stewardship). INTA has been actively engaged throughout the IANA transition process and appreciates the significant work done by the CWG-Stewardship team in working towards a final proposal on these importation transition matters. However, as set forth more fully below, it is INTA’s position that the current comment schedule and the second draft proposal does not provide stakeholders with sufficient time to study and provide meaningful and thorough feedback on the proposal. As such, INTA urges the CWG-Stewardship to provide another comment period once its proposal, and that of the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), have progressed further and are in final form. In its present form, the proposal is incomplete and thus a second comment period is appropriate to allow the community as a whole to consider the complete proposal.

***The CWG-Stewardship’s 2nd Draft Proposal is Incomplete and Depends Heavily on the Proposal of the CCWG-Accountability.***

Unfortunately, key portions of the proposal remain undrafted and, importantly, the CWG-Stewardship’s proposal is dependent on and expressly conditioned upon the CCWG-Accountability process. The accountability of ICANN, including with respect to ICANN’s oversight of IANA operations, is of the utmost importance to INTA and other community stakeholders.

Notably, the CCWG-Accountability proposal was recently released for public comment on May 4, 2015, leaving stakeholders with only two weeks to review the 140 page CCWG-Accountability proposal in order to meaningfully comment on the portions of the CWG-Stewardship’s draft that rely heavily on measures proposed by CCWG-Accountability. While INTA intends to prepare a substantive comment by the June 3, 2015 deadline for the CCWG-Accountability’s proposal, the issue is important enough for INTA to formally note the time constraints for the record and offer our suggestion below.

INTA has reviewed the questions posed in this template and where INTA thought it could provide meaningful comments at the present time, it has done so below. However, where INTA has indicated that it has “no comments at the present time” it should not be construed as an indication that INTA has no comment on the particular question or issue, rather that INTA is refraining from submitting comments at this time given the time constraints and the limited information available.

***CWG-Stewardship Should Submit Another Draft of its Proposal for Further Public Comment so That Stakeholders Can Provide Meaningful Input on a Comprehensive Plan.***

In order to gain the most meaningful comments from the stakeholder community, INTA requests that the CWG-Stewardship submit a more complete draft of its proposal for public comment. In addition, INTA suggests that the public comment period should run simultaneously with the second 40-day public comment period planned for July for the CCWG-Accountability proposal. By doing so, stakeholders will be given a meaningful opportunity to actively participate in and comment on the important work being done by both working groups.

**Section I - The Community's Use of IANA**

1. Do you have any specific comments or input you would like to provide with regards to section I - The Community's Use of the IANA? Section I lists the specific, distinct IANA services or activities the naming community relies on.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Section II - Existing Pre-Transition Arrangements**

1. Do you have any specific comments or input you would like to provide with regards to section II - Existing Pre-Transition Arrangements? This section describes how existing IANA-related arrangements work, prior to the transition.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Section III - Proposed Post-Transition Oversight and Accountability**

1. Do you have any specific comments or input you would like to provide with regards to section III.A - Elements of this Proposal? This section describes in short the main elements of the proposed post-transition oversight and accountability.

Yes, INTA supports the structure set forth in Section III.A and reminds ICANN of our comments on this general topic submitted on 22 December 2014.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.i - Proposed Post-Transition Structure. This section provides an overview of the different elements of the proposed post-transition structure.

Yes.  
  
If so, please provide your comments here.

INTA supports the notion of allowing the community to oversee the performance of the IANA Functions and ICANNs accountability related to thereto. We specifically endorse the creation of a Post-Transition IANA (“PTI”).   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.i.a. - Post-Transition IANA (PTI). This section describes the proposed post-transition IANA.

Yes.

If so, please provide your comments here.

Yes, we support the PTI but ask for clarification on the ownership structure of the PTI since it cannot be a “wholly owned subsidiary” of a non-profit corporation if the PTI itself will be a nonprofit organization. This is because a non-profit cannot have shareholders.

If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.i.b. - Post-Transition IANA Board. This section describes the proposed Board for the post-transition IANA.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.i.c. - IANA Statement of Work. This section describes the proposed IANA Statement of Work, including proposed carryover provisions.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.i.d. - IANA Function Review. This section describes the proposed periodic as well as special review of the IANA Function.

Not at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.a. - Customer Standing Committee (CSC). This section describes Customer Standing Committee that is expected to oversee performance of the IANA Functions as they relate to naming services.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.b. - Service Level Expectations. This section describes the proposed service level expectations post-transition.

Not at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.c. - Escalation mechanisms. This section describes the different proposed escalation mechanisms as they relate to the naming services.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.d. - Separation review. This section describes the separation review that can be triggered by an IANA Function Review if needed

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.ii.e. - Framework for transition to successor IANA Operator. This section describes the proposed framework for a transition to a successor IANA Operator to ensure continuity of operations.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.iii.a. - Proposed changes to root zone environment and relationship with root zone maintainer. This section describes the proposed changes to the root zone environment and the relationship with the Root Zone Maintainer.

Yes.

If so, please provide your comments here.

INTA is concerned that the elimination of NTIA’s approval and validation function and supports the additional study suggested in III.A.iii.a.1.c. INTA also supports the notion of a mechanism to appeal decisions relating to the Root Zone as noted in our comment submitted on 22 December 2014.

If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.iv.a. - ccTLD Delegation Appeals. This section describes the proposed recommendation in relation to a ccTLD delegation appeals mechanism.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.iv.b. - IANA Budget. This section describes the recommendations in relation to the IANA Budget.

Not specifically at this time but INTA requests that any public comment period on the budget be of sufficient length (at least 40 days) to allow for meaningful comment.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.A.iv.c. - Regulatory and legal obligations. This section describes the regulatory and legal obligations post-transition and how these are expected to be met.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section III.B. - Implications for the interface between the IANA Functions and existing policy arrangements. This section describes the expected implications for the interface between the IANA Functions and existing policy arrangements as a result of the proposed transition arrangements.

Not at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Section IV - Transition Implications**

1. Do you have any specific comments or input you would like to provide with regards to section IV. - Transition Implications. This section is expected to describe the CWG-Stewardship views as the implications of the changes it proposed in Section III.

Yes.

If so, please provide your comments here.

Section IV is not fully developed and it should be more detailed in order to allow the community to adequately comment on it. This is a very important section and we encourage the CWG to take a deliberative and cautious approach on this.   
  
If applicable, please reference the sub-section your comment relates to.

**Section V - NTIA Requirements**

1. Do you have any specific comments or input you would like to provide with regards to section V. - NTIA Requirements. This section is expected to describe how the proposal community’s proposal meets these requirements and how it responds to the global interest in the IANA functions.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Section VI - Community Process**

1. Do you have any specific comments or input you would like to provide with regards to section VI. - Community Process. This section should describe the process the community used for developing this proposal.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Annexes**

1. Do you have any specific comments or input you would like to provide with regards to section Annex A - The Community's Use of the IANA - Additional Information.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex B - Oversight mechanisms in the NTIA IANA Functions Contract.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex C - Principles and criteria that should underpin decisions on the transition of NTIA Stewardship for names functions.

Not at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex D - Xplane Diagram.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex E - IANA Contract provisions to be carried over post-transition.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex F - IANA Function Reviews.

Yes.

If so, please provide your comments here.

The proposal regarding the IANA Functional Review calls for representation of all relevant stakeholder groups. INTA strongly supports a mechanism of review that guarantees a seat at the table for the concerns of intellectual property owners. The current stakeholder structure identified in the annex could potentially change as the GNSO structure is under current review. By limiting representation to stakeholder groups and not to constituencies there is a real risk of losing the views of constituencies with diverse points of views and concerns. This is critical to the extent that intellectual property concerns translate into consumer protection concerns.  
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex G - Proposed charter of the customer standing committee (CSC).

Yes.  
If so, please provide your comments here.

Pursuant to our response above, we strongly urge the implementation of review mechanism that comprises constituencies and not stakeholder groups.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex H - Service level expectations.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex I - IANA Customer Service Complaint Resolution Process for Naming Related Functions.

Not at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex J - IANA Problem Resolution Process (for IANA naming services only).  
     
   Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex K - Root Zone Emergency Process.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex L - Separation Review.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex M - Framework for transition to a successor IANA operator.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex N - Proposed changes to root zone environment and relationship with root zone maintainer.

See our response question 19 but otherwise not response at this time.   
  
If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex O - ccTLD Appeals Mechanism Background and Supporting Findings.   
     
   Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex P - IANA Operations Cost Analysis.

Not at this time.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

1. Do you have any specific comments or input you would like to provide with regards to section Annex Q - IANA Budget.  
   See our comments above on the budget.

If so, please provide your comments here.   
  
If applicable, please reference the sub-section your comment relates to.

**Other Comments**

1. Are there any other comments or issues you would like to raise for the consideration of the CWG-Stewardship?