**CENTR Board of Directors comment to CWG proposal**

*20 May 2015*

CENTR welcomes the second draft proposal and congratulates the CWG for presenting the community with a well-structured proposal that includes the initial requirements, the key principles supported by the naming community and the input received following the first proposal.

As ccTLD operators and therefore, direct IANA customers, we have been working in close contact with ICANN to improve IANA’s performance, including its level of responsiveness toward its stakeholders, over the last decade. Consequently, we believe that the essence of a sound transition plan is the assurance that it will be targeting a further refinement of IANA productivity and efficiency and assures that IANA delivers a service on a non-discriminatory basis.

Our assessment of the proposal is based on the evaluation of the proposal against the need for operational excellence and organisational stability.

*Overall assessment*

Having the Post Transition IANA (PTI) as a separate legal entity and a not for profit subsidiary of ICANN allows for a stable transition while retaining the separability option as a measure of last resort in case of systemic bad performance. The separability should be the ultimate remedy to be enforced if all other means to improve and/or fix IANA service levels failed. We recommend the current proposal be crystal clear in underlining that separation should only occur after the approval by supermajority of all SO’s and AC’s and of IANA’s direct customers.

At the same time, we believe that the PTI model will guarantee further transparency regarding certain aspects of the current IANA management – like its budget – something the community has been requesting for an extensive period of time.

The dual structure that is expected to monitor (Customer Standing Committee - CSC) and review (IANA Functional Review Team - IFRT) the PTI replaces the role currently executed by the NTIA. It allows both customers and other stakeholders to oversee IANA’s performance and evolution. Considering the importance of such functions, we deem appropriate that further details be provided regarding where and how exactly these organisations are going to be established.

We welcome the removal of the authorisation function for TLD change requests which should further streamline one of the most clerical functions of IANA. However we noticed inconsistencies throughout the proposal when referring to the NTIA authorisation function. Sometimes it only refers to root zone changes and omits the approval of changes to the Whois database. (e.g. III.A.iii.a.1.c).

CENTR is concerned that the amount of time needed to complete the proposal and add crucial elements such as the SLE, the time needed to finalise the legal arrangements and the time needed to get an ICANN bylaw change will be significant and could postpone the transition well beyond 2016.

*Specific comments*

1. Post Transition IANA - PTI

We suggest the role of the PTI Board be clarified in detail. While we understand that this Board is mainly a legal requirement, we would recommend that its framework is well designed and defined in the PTI’s bylaws, including the appointment mechanisms, roles, duties and term of the Board. The creation of PTI should not create any new accountability challenges for the community by ensuring that the ICANN Board accountability improvements currently being discussed at community level get implemented as soon as possible and ideally at the time of the transition.

1. The separation review

This is one of the most crucial elements in the proposal and unless more detail is added, could turn into its main weakness. We recommend to clearly define the approval procedure for a decision that leads to separation of the IANA functions. We believe the CWG’s proposal should include clear and undisputable guidance, including:

1. The scenarios when a separation could be considered;
2. The documentation requirements for all steps in the process;
3. The decision making process and
4. The voting rules.

Considering the broader level implications for a possible separation of the IANA function and subsequent appointment of a new IANA operator, we believe that a supermajority of direct IANA customers should be required.

1. We believe all aspects relating to intellectual property rights held by ICANN and/or IANA, including trade names, should be taken into account in the transition plan. Therefore, a pre-transition agreement should be produced to ensure that all intellectual property rights (such as any rights to use the name IANA, copyright or trademark rights) and the relevant domains are transferred to the new operator.
2. Customer Standing Committee - CSC and IANA Functional Review Team - IFRT

We would recommend further clarity on the organisational structure of the CSC, including its juridical profile – a Committee within the PTI or ICANN, and its funding mechanisms.

Concerning the IANA Functional Review Team, in order to be truly multistakeholder, it will need funds to provide travel assistance and a state of the art remote participation system for its meetings.

We understand that it is assumed that the IFO will provide the IFRT with the necessary support and resources. This however could undermine IFRT independence from the subject of their review.

1. It is not clear how the initial contract and statement of work is going to be drafted. If the current NTIA contract and SOW are used, it would take two years (until the first IFR) until there is an opportunity to discuss Service Level Expectations, SLEs. As there is a significant gap between the current SLEs and the contractual requirements, it would not only be a missed opportunity to bring them closer together, but there is also a risk that service levels might deteriorate while still fulfilling the requirements in the renewed contract. We therefore ask that the SLEs are in place before the transition.

In case the current contract is adapted to reflect the current service levels, it is unclear who would be responsible for deciding on these clauses.

1. The proposed escalation process requires timelines to be meaningful.
2. Regarding “policy and operations”, it should be underlined that the IANA functions operator is never to set or create any policy.
3. We regret that the draft proposal does not include details on the Service Level Expectations. We understand that there are issues regarding the disclosure of proprietary information and we urge all parties to come to a swift solution. The SLEs section is the keystone for this proposal.
4. With regard to III.A.iii.a.3, we urge to treat frivolous redelegation requests with care as disclosure could harm the reputation of the current TLD manager.
5. We support the continued separation of IFO and Root Zone Maintainer.
6. We recommend any escalation and problem resolution processes be adequately explained with a flow chart.