

[comments-cwg-naming-transition-01dec14]

[<<< Chronological Index >>>](#) [<<< Thread Index >>>](#)

Comments from Andrew Sullivan on CWG proposal

- *To:* comments-cwg-naming-transition-01dec14@xxxxxxxxxx
- *Subject:* Comments from Andrew Sullivan on CWG proposal
- *From:* Andrew Sullivan <ajs@xxxxxxxxxxxxxxxxxxxx>
- *Date:* Mon, 22 Dec 2014 17:04:09 -0500

Grace Abuhamad
Staff Contact
Cross Community Working Group (CWG) on Naming Related Functions
via email

Dear Ms Abuhamad,

I appreciate the opportunity to submit remarks on the draft proposal from the Cross Community Working Group (CWG) on Naming Related Functions. I have read this proposal with interest, and I thank the CWG for its work. I have some comments. I make these comments in a personal capacity, and not as a representative of any group or corporate body.

I have two classes of comment. First, I will make some comments on the substance of the proposal. Second, I will offer some observations on some of the background material in the document, where I think clarifications could help motivate the proposal.

1. Proposal substance

Section 3.1 of the proposal includes this principle: "The proposed replacement solution should not seek to create another ICANN-like structure with associated costs and complexities." This is a laudable principle and I support it unreservedly. Unfortunately, I think the proposal as written, were it to be followed, all but guarantees the creation of such a structure.

The proposal includes the Multistakeholder Review Team (MRT) and the Customer Standing Committee (CSC). The MRT is to be "a multistakeholder body with formally selected representatives from all of the relevant communities". The MRT is to develop contract terms, make decisions for another entity, perform budget and performance reviews, manage a bidding process, and receive escalation from the CSC. The CSC is made up of registry operators. These two structures appear set respectively to replicate, only perhaps with different personnel, the ICANN Board on the one hand and CCNSO and GNSO (henceforth, the NSOs) on the other. The probability that these two new organizations would not turn out to reproduce the cost and complexity of ICANN seems vanishingly small. Indeed, given the MRT's

representative nature and responsibility for both budget review and contracts, it is hard to see how MRT could keep out of the business of making policy. The potential for policy decisions in the MRT that do not align perfectly with name-community policies expressed as ICANN Board resolutions suggests that some sort of conflict resolution mechanism would be needed, as well. This will inevitably lead to requirements for permanent staff, travel and legal services budgets, and so on.

Worse, there is already only a small population of interested, motivated, and available people for the work on the ICANN Board and the NSOs. The populations of the MRT and CSC are likely to draw from the same pool. If there were a formal requirement that the members not overlap, then there would be substantial risk that much of the membership would effectively just move back and forth, which offers a potential for policy deadlock. If there were not such a formal requirement, then there would be a significant risk of at least the appearance of self-dealing. Anyway, since the MRT's relevant communities are likely to be very similar to the ICANN Board's, and since the CSC's relevant communities are by definition the same as part of the NSOs', it is hard to see how the appearance of self-dealing could ever be avoided completely.

In addition, the proposal appears to offer a mechanism that could foil useful and necessary work. While the inspiration for the Independent Appeals Panel is noble, the proposal that "all decisions and actions (including deliberate inaction) of the IANA Functions Operator that affect the Root Zone or Root Zone WHOIS database be subject to an independent and binding appeals panel" potentially makes every action (or inaction) of IANA into an opportunity for litigation. It is not even plain, from the description, that the Independent Appeals Panel would be prevented from overruling instructions that came from the MRT or CSC; this creates an entirely new vector for attack on IANA functions. And because the Panel is not a standing body (this function should more properly be called the Independent Appeals Panels), it would be reconstituted for each dispute, which means that there would be little institutional consistency. Such a body would reproduce the functional pattern of Uniform Dispute Resolution Panels, which have been criticised in part for inconsistency from case to case. Other, similar appeal panels, such as the various ones around string similarity and evaluation for TLDs, have similarly attracted complaints about capricious ruling. It is hard to see how the Independent Appeals Panel would ensure a different result.

It appears to me that, at bottom, the proposal is attempting to produce a mechanism that will check abuses and ill-considered outcomes from the policy and contracting organization that we already have to undertake that work: ICANN. There is already an ICANN accountability project underway (as the proposal notes). It seems to me that it would be much better for those improvements in accountability to be delivered within ICANN structures, rather than to build another set of organizations outside to try to check ICANN actions.

The proposal nevertheless includes an excellent idea. The main thing the NTIA actually does during any root zone or whois database change is to ensure that the prevailing policy governing such a change is in fact being implemented. The proposed tiny, non-profit Contract Co could be constituted to perform exactly this action. It would have the legal authority to deny any change. Its sole responsibility would be to ensure that the change met the prevailing policy, and then pass that change along to the Root Zone Maintainer to be implemented. If a

proposed change was not in keeping with the prevailing policy, then the Contract Co would not pass the change along, and so the change would not happen. Otherwise, the Contract Co would pass the change along.

Some will object that this minimal mechanism does not provide the "credible threat" function of oversight that NTIA provides today. But presumably, the point of the accountability reform effort within ICANN is that those reforms should provide oversight from the global Internet community such that the threat is not needed. Policy and accountability mechanisms inside ICANN have to deliver what is needed. If they cannot, then it does not seem likely that producing new bodies external to ICANN, but made mostly of the very same people and with similar responsibilities, is any more likely to produce the oversight needed.

2. Background materials

The inclusion of some of the background material is helpful, but some of it might benefit from some changes.

In the discussion of "delegation" in section 1.2.4, it would be helpful to note that "delegation" has acquired an ambiguous meaning. In the DNS, delegation takes a quite specific technical form: it involves placing NS records in a delegating (or parent) zone corresponding to the authoritative name servers living at the apex of the delegated (or child) zone. Change the NS records in the parent, and you thereby change the delegation. In this narrow, technical sense any change of a nameserver is a "redelegation", and there is not even a requirement that delegation cross organizational boundaries. For historical reasons, however, in the root zone the operator of a child zone (that is, a TLD) was usually a different organization, and simple changes of name server records have gradually come to be treated differently than changes to the organization undertaking operation. Hence, the second meaning of "redelegation": changing the organization operating a TLD. It is critical that the two meanings be made plain in the document, because people familiar with DNS operations will treat statements about "delegation" differently than those less familiar with DNS. Perhaps the terms "technical delegation" and "organizational delegation" could be used, though I admit they're pretty awkward.

In section 1.2.7, there appears to be some conflation of different kinds of key material. There are potentially three different kinds of key here, and it will not do to treat them as the same thing. The first is the Key Signing Key (KSK) for the root zone. This is part of the root zone's DNSKEY RRset, and the generation of that KSK is indeed subject to a fairly elaborate ceremony. This is because it represents the anchor of all trust for the DNSSEC system, so complete transparency in its generation and handling is critical. A second piece of key material is the hash of the KSK of each signed child zone (in this case, the signed TLDs). These need to be communicated to the root zone operator from time to time, whenever a TLD operator changes their KSK. Such a change needs to be authenticated to ensure the submission in question is coming from someone who has the rights to make the update. A third kind of keying material would be a public key for a public-private key pair, used to ensure secured communication between a registry operator and the IANA operator. It has been some time since I've administered a TLD, so I do not know whether this is common practice now; but this is the sort of key material that would "ensure that TLDs are able to communicate

securely" (at least, as I understand that phrase).

In section 2.1.2.1, there is a suggestion that RFC 1591 was written in the "very early days" of the Internet. It was certainly early days for the commercialization of the Internet; but if we understand the Internet to have begun in 1983 with the deployment of TCP/IP, then 1994 does not seem so early. This sounds picky until one realizes that what RFC 1591 was doing was codifying existing, fairly well-established practice rather than setting new policy. In undertaking the current changes to the IANA arrangements, we could do much worse than to follow the pragmatic approach undertaken by the pioneers of the Internet, in preferring the continuation of existing working procedures to any elaborate new ones.

I appreciate the opportunity to comment on the CWG proposal. I hope these comments are useful.

Respectfully submitted,

Andrew Sullivan

--

Andrew Sullivan

ajs@xxxxxxxxxxxxxxxxxxxx

[<<< Chronological Index >>>](#) [<<< Thread Index >>>](#)
