

To: Lise Fuhr and Jonathan Robinson, Co-chairs of the Cross Community Working Group on Naming Related Functions

Date: December 22, 2014

Re: Response by CIRA to the Cross Community Working Group (CWG) On Naming Related Functions Public Consultation on the December 1 draft transition proposal

The Canadian Internet Registration Authority (CIRA) is the private, not-for-profit corporation responsible for operating the .CA country code top-level domain. I am pleased to have the opportunity to provide comments on the CWG's draft transition proposal in my capacity as president and CEO of CIRA.

CIRA welcomed the March 2014 announcement from the National Telecommunication and Information Administration (NTIA) regarding its intent to transition its IANA stewardship role to the international Internet community. We are mindful of the fall 2015 deadline for a proposal to identify an alternate entity to assume the NTIA's historic role. Subsequently, I was pleased to see the CWG produce a specific proposal on the naming functions that respects this timeline.

Like many in the Internet community, I recognize that the initial CWG proposal is more of an outline than a fully formed plan. Much of the detail remains to be developed through the public comment period and other processes. It is my hope that through this broad consultation, the proposal's gaps may be filled while its substance is retained. My comments below are therefore presented with this in mind.

Let me say that I am supportive of the CWG's overall proposal, provided that what I see as its original intent, to introduce a lightweight replacement mechanism for the IANA stewardship, is maintained. I support the CWG's proposal to transfer the existing NTIA contract to a 'Contract Co.', an entity with no staff but supported by largely stand-by committees. This arrangement would represent a minimalist approach, and I believe would result in the current IANA services, which I and many others consider to be efficiently managed, remaining undisturbed, while providing a mechanism by which service improvements could be discussed.

The addition of a periodic review of the IANA function contractor's performance and the option that, should the Internet community find the contractor's performance to be sub-standard or unacceptable, a request for proposals (RFP) could be issued to encourage corrective action, or in the extreme, to choose another operator would represent an effective oversight mechanism.

As the representative of a direct customer of IANA, I support this streamlined approach. However, from observing the discourse around the proposal I am concerned that the mechanisms proposed by the CWG are rapidly becoming unduly complex, top-heavy and overly bureaucratic.

I fear that some of the comments and criticism of the proposal stem from a fundamental misunderstanding among some members of the community as to what IANA does and, more to the point, what the NTIA's role is in the overall IANA functions process. It is critical that the entire community has a clear, shared understanding of the roles of these two entities, as it is the potential removal of NTIA from the process that prompted the IANA Transition Coordinating Group (ICG) and the

CWG processes. To this end, I was pleased with the NTIA's recently released [summary](#) (pdf) of their role in root zone management.

Specific feedback on the proposal follows:

#### *The Customer Support Council*

I support the creation of a forum – identified in the proposal as the Customer Support Council (CSC) – where registry operators can discuss operational performance issues on the part of, and potential improvements to, the IANA functions operator. As I understand it, the CSC's discussions would be limited to the operators' technical performance and would therefore only need to involve the direct customers of the operator. However, I see no reason to have CSC meetings closed to the community; anyone who wishes to observe these meetings should be permitted to do so. The CSC itself may choose not to have face-to-face meetings if there are no reasons to do so.

I envisage the CSC to have four substantive functions:

1. To review the monthly performance reports that the IANA operator produces as well as any audit reports that might be produced as may be required under the contract. This function does not require a meeting, let alone a face-to-face meeting.
2. To meet with senior representatives from the IANA functions operator (in the current environment, this would be the ICANN CEO and the vice-president responsible for IANA) on an annual basis to discuss the budget for performing these technical functions.
3. To extend an existing IANA contract, where it contains provisions for such extensions, and where the CSC determines that there are no outstanding operational performance issues that would prevent this extension.
4. To report to the Multi-stakeholder Review Team (MRT) on any operational performance issues that have been noted, and which the CSC has not been able to resolve through direct contact with the IANA functions operator.

#### *Multi-stakeholder Review Team*

On a planned basis, the MRT should meet only every few years in anticipation of the expiry of the existing IANA functions contract. This would be consistent with the need to keep the overall post-transition arrangements lightweight and the role of the MRT minimal.

At that meeting, I foresee the MRT initiating a public comment process open to the broad Internet community (similar to the process undertaken by the NTIA in 2011) on any necessary changes to the contract that should be implemented as part of the renewal. As an event determined solely by the terms of the contract, the question of issuing a RFP or tender seeking other operators would not necessarily be part of the normal contract renewal process.

In the event of significant operational performance issues identified by the CSC, the MRT could choose to initiate a public consultation on the need to issue a RFP. I believe such a public process should be sufficient to convince the IANA functions operator to address the performance issues. If the issues are not resolved, the MRT would have the mandate to initiate the RFP process on the conditions that support to do so is expressed in the outcomes of the public consultation and that the terms of the contract permit such an action.

Given that the role of the MRT would be restricted to dealing with operational performance issues with respect of the services delivered to IANA direct customers (the naming, numbering and protocol-setting communities, the root server operators), it follows that actual decision-making authority should be left to those entities. Other community stakeholders could participate in the public consultations held prior to decisions being taken on larger issues, including the terms for a renewal of the contract, or whether to issue the RFP.

Structured in this manner, the MRT would only require infrequent meetings. These meetings should be open for all community members to participate as observers. With open meetings and a public consultation process before any major decisions, the principles and spirit of the multi-stakeholder model would be respected.

Should a decision be taken to proceed with a RFP by the MRT, it would need to establish a special team to deal with this process, and that this team would need to have access to professional advice, including legal advice, which could be funded by the IANA functions operator (currently ICANN) as a condition of the existing contract.

#### *Contract Co.*

As described in the proposal, the Contract Co. would exist exclusively for purposes of signing the contract with the IANA functions operator with respect of the IANA functions, what is commonly called a 'paper company'. The need for permanent staff for the corporation after the first contract is signed has yet to be determined.

The CWG has recognized the need to secure independent legal advice to support the creation of the Contract Co. as well as the signing of the initial contract. Funding for these legal services should come from the IANA functions operator as a condition of the first contract. CIRA has approximately 0.8 per cent of the total number of domains under management, yet voluntarily provides ICANN with \$75,000 annually. In terms of a financial contribution, this amounts to 2.8 percent of the total IANA functions budget, 350 per cent greater than our share of total domains under management. As a consequence, CIRA should not be required to pay any additional fees with respect to the establishment of Contract Co. or to the operation of the IANA functions. I suspect the majority of ccTLD operators would be similarly opposed to being required to enter into any form of contractual undertaking in respect of the payment of any fees.

The draft CWG proposal requires the MRT "to appoint an evaluator assigned to verify that a root zone change request followed all applicable policies and procedures and authorize such change before it is implemented by the RZM." This is a function that does not currently exist, and will add unnecessary complexity and cost to the overall proposed stewardship process. As noted earlier, the NTIA has clarified its role in the IANA process – it verifies that processes and procedures have been followed by the IANA functions operator by requiring ICANN to self-certify compliance. I see no need to change this procedure in a post-transition environment.

#### *Independent Appeal Panel (IAP)*

The question of just who might have standing to initiate the IAP requires further clarification as well as the question of whether the scope of IAP should be limited to questions regarding whether due process

was followed in terms of a ccTLD delegation or redelegation or whether it should be broader. I am of the view that the the answers to these questions may be different for the gTLD and ccTLD communities, and that each community should be permitted to determine these themselves.

Thank you,

Byron Holland