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JPNIC's comment submission for "Cross Community Working Group (CWG) On Naming Related Functions Public Consultation on Draft Transition Proposal"

- *To:* comments-cwg-naming-transition-01dec14@xxxxxxxxxx
- *Subject:* JPNIC's comment submission for "Cross Community Working Group (CWG) On Naming Related Functions Public Consultation on Draft Transition Proposal"
- *From:* MAEMURA Akinori <maem@xxxxxxxxxx>
- *Date:* Tue, 23 Dec 2014 07:05:26 +0900

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JPNIC admires and appreciate the Cross Community Working Group for its hard and intensive job. We support all aspects which have been clarified in the section 3.1 of the proposal, which are:

- 1) The current operational performance of the IANA Naming Function is generally satisfactory
- 2) There is no reason to transition the IANA Naming Functions outside of ICANN concurrent with the IANA Stewardship Transition
- 3) Not to seek to create another ICANN-like structure
- 4) Not to seek to replace the role of the ICANN multistakeholder community with respect to policy development, and
- 5) The existing separation between ICANN as a policy body and ICANN as the IANA Functions Operator needs to be reinforced and strengthened.

Furthermore, we agree the proposal's approach to list up the existing functions within NTIA with regard to IANA Stewardship and replace them with a newly set mechanism by the Global Multistakeholder Community in order to achieve the minimal change which will be still effective to work, and the proposed mechanism should in general be acceptable.

With these said, we have several points of concern as far as we can learn from the published proposal, which might be of problem subject to the further detail and implementation.

- a) relationship between Contract Co. and MRT

The proposal reads that MRT is not the governing board/entity of Contract Co., and in the Webinar on Wednesday 4 December, it was explained in

order to avoid creating the single point of authority. However, from the stipulation of the section 3.2 regarding MRT, it should be judged that MRT will hold the control on the significant decisions of Contract Co. to be effectively regarded as the governing board of it. We don't have clear idea how MRT could be separated from Contract Co., with the powers on those significant decision held, thus suppose that it would be tricky and less stable if it be possible. It should be carefully examined that the separation of Contract Co. and MRT should be feasible in a stable way, or even another approach to have MRT as the governing board of Contract Co. with sufficient separation of power or check-and-balance mechanism.

b) MRT composition in conjunction with CSC

What MRT examines for Contract Co. is the affairs of the IANA function operations. It's, by definition, of nothing to do with the policy of the resource, but very important in terms of the operations, with which the direct stakeholders of the resource, in this case TLD registries, are familiar. Our concern is that it might be slow in the convergence of the decision if the MRT has people who are not very familiar with the registry operations. The composition of MRT, the qualification of the members and power which each member is entitled are the keys for this concern. as well as CSC's power toward MRT's decision.

c) Public posting of all IANA change requests

The section 3.4.3.1. reads the proposed public posting of all IANA change requests is "as a notification that a change is being made", which means the posting is to be made before the change. It is not clear if objections or opinions would be allowed before the concerned change, but we suppose they would since that may be the reason for the posting in advance. If they be allowed, it may introduce the unwanted latency in the change of records of the root zone file by unqualified objections and opinions. It is notable that IAP as a redress mechanism may help minimizing inappropriate changes. If there should be posting in advance with objections or opinions accepted, the detail implementation should include effective means to avoid unqualified ones to keep the changes in a reasonable process duration.

d) Independent certification for delegation and redelegation requests

The section 3.4.3.2. stipulates the certification process by Contract Co. with an independent counsel for this particular action. The detail, especially clear condition to be certified is key for this function in order to have an independent counsel act reasonably. Thus we expect the ongoing discussion at CWG on this aspect will consider and develop such detail.

e) Independent Appeals Panel (IAP)

We support the proposal's approach to use existing dispute resolution providers, instead of establishing a standing panel. As a successful implementation of UDRP, the key of proper functioning of IAP will be achieved by clear provision of the dispute resolution policy and favorable engagement of the panelists. We expect the detailed implementation plan will clarify them.

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