

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

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Cross Community Working Group (CWG) on Naming Related Functions Draft Transition Proposal Public Comment

- *To:* comments-cwg-naming-transition-01dec14@xxxxxxxxxx
- *Subject:* Cross Community Working Group (CWG) on Naming Related Functions Draft Transition Proposal Public Comment
- *From:* Dr Eberhard W Lisse <dns-admin@xxxxxxxxxxxxxx>
- *Date:* Mon, 15 Dec 2014 17:32:02 +0200

On behalf of the Namibian Network Information Centre, the .NA(R)
ccTLD manager I wish to comment as follows:

The US Government (USG) has only recently, and retroactively, claimed control over the root through the flimsy argument of referring to an obscure contract (the Teranode Contract), which does not state anything in this regards. And only very recently it has started to use the term stewardship which, to our knowledge, is not defined anywhere in this context.

We have never agreed to this arrangement but from our perspective it has worked out reasonably well after Jon Postel had died. Therefore we did not see any need for a change in status quo, while reserving all our rights.

The USG now wishes to relinquish this control which means it will hand over (control of) the root zone database to another entity.

We would like ICANN to be this entity.

This does, however, pose the question what it is that is handed over, and it clearly is Intellectual Property (whether sui generis as a database or under traditional definitions as a Compilation).

To our knowledge the USG can not acquire for example Copyright under its own Federal Legislation. However, even if the alienation process were to follow USG rules, it removes any basis for a relationship between the IANA Function Manager (ie ICANN) and any and all of those ccTLDs whose Managers have not entered into a contract with ICANN (by then).

This poses great risks to ICANN and the multi stakeholder model.

We believe it requires ICANN to negotiate contractual agreements with each incumbent ccTLD Manager (and, of course each new, incoming one). This would be quite different from the gTLD situation since there are existing rights involved, and the IANA Function Manager

can not use a One-Fits-All model and/or a Take-It-or-Leave-It approach. Rather the IANAN Function Manager will have to enter into proper negotiations with each ccTLD Manager.

We strongly believe that negotiations with ccTLD Managers will be neither a difficult nor a long drawn out process if they followed the Framework of Interpretation² with particular reference to restraints on the IANA Function Manager against unilateral decisions.

Until these contracts are finalized, we feel strongly that ICANN and the multistakeholder process will be best served by ICANN stating that the current status quo with regard to each individual ccTLD will be maintained and that no unilateral decisions will be taken.

greetings, el

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