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**Organization:** Public Knowledge

**Submission ID:** 102

Dear IANA Stewardship Transition Coordination Group,

Attached please find our comments regarding the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority, on behalf of Public Knowledge. We thank you very much for this opportunity to submit our input and help shape this process.

Kind regards,

Melanie Penagos and Carolina Rossini

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# **Public Knowledge**

**Public Knowledge Contributions[1] on the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA)**

Public Knowledge is a nonprofit public interest organization that promotes freedom of expression, Open Internet, human rights online, and access to affordable communications tools and creative works. Public Knowledge has worked for almost two decades to shape policy on behalf of the public interest at the intersection of intellectual property, telecommunications, and Internet law.

We have closely followed the transfer of the Internet Assigned Numbers Authority (IANA) Functions from the stewardship of the U.S. National Telecommunications and Information Administration (NTIA) to the global multistakeholder community since the NTIA first announced its intent to do so in March 2014[2]. During this time we have made pronouncements in support of the IANA transition on several occasions, including in our media outreach[3], Congressional testimony[4], blog posts[5], and resource materials[6].

We offer our comments on the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA). Separately, we are also submitting comments to the parallel Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) 2nd Draft Proposal on Work Stream 1 Recommendations.

Firstly, we commend the IANA Stewardship Transition Coordination Group (ICG) for all of their hard work over many months to enable a smooth transfer of the Internet Assigned Numbers Authority (IANA) Functions from the purview of the U.S. National Telecommunications and Information Administration (NTIA) to the global multistakeholder community.

The IANA transition is a historic step that carries a lot of political symbolism as it reflects the United States commitment to the multistakeholder model and the international community. Since the formation of the

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Internet Corporation for Assigned Names and Numbers (ICANN) in 1998, the U.S. Government and Internet stakeholders envisioned that the United States' stewardship role in the IANA functions would be temporary. Public Knowledge welcomes this transfer as a fulfillment of many years of U.S. promises and bi-partisan commitment to the international community. Furthermore, the day-to-day management and long-term development of the Internet has always been conducted through multistakeholder processes and the ICG process and proposal "leverages existing multistakeholder arrangements, processes, and paradigms in defining the post-transition IANA oversight and accountability mechanisms."[7]

We strongly support the efforts that have gone into the development of this proposal[8] and focus our comments on the fulfillment of NTIA criteria to maintain the openness of the Internet, ensure that the transition does not replace NTIA's role with a government or intergovernmental organization, and support and enhance the multistakeholder model, as well as the Post-Transition IANA (PTI) model overseeing the IANA functions, and general comments.

**Fulfillment of NTIA Criteria**

With regards to the requirement to maintain the openness of the Internet, we feel that the implementation of ICANN-level accountability mechanisms proposed by the Cross Community Working Group on Enhancing ICANN Accountability is an essential part of this effort. Although the principle to maintain the openness of the Internet relies on a long-term commitment that should serve as a guide for any and all future management, technical, and political decisions, we feel that this draft proposal makes many strides in protecting principles of the Open Internet.

Additionally, we believe that the IANA stewardship transition proposal does not replace the NTIA's role with a government or intergovernmental organization, and expect that the final version of this proposal should continue to satisfy this precondition. In line with the spirit of paragraph 60 of the proposal, which states, "Although a government that operates a ccTLD may become a member of the [Customer Standing Committee] CSC, governments are expected to comprise at most a minority of the CSC. The [IANA Function Review process] IFR is a multistakeholder entity with limited membership seats for governmental entities",[9] we believe that governments should represent a real minority in the overall

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[7] See paragraph X019 of Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

[8] Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

[9] See paragraph 60 of the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at

transition of the IANA Functions and that checks and balances should be set in place to keep them in check.

Furthermore, in regards to the requirement to support and enhance the multistakeholder model, we believe that this proposal strengthens the commitment to a transparent, bottom-up, and participatory model of Internet governance. We find that the overall process affords the multistakeholder community many avenues for open participation through a clear decision-making structure (such as the Sole Member Model in the parallel ICANN accountability process) and is subject to accountability through transparent discussions and easy recall of information.

**Post-Transition IANA (PTI)**

While we welcome the PTI as a new, separate legal entity and subsidiary of ICANN, especially its proposed oversight and accountability mechanism in the form of the Customer Standing Committee (CSC) and the IANA Function Review (IFR), we have some remaining concerns, which we outline below.

It is essential that the Post-Transition IANA be as independent and accountable as possible in order to prevent an abundance of influence from any one particular group. Given that the names proposal is contingent on the ICANN accountability mechanisms being developed under Work Stream 1, we underscore the importance of making a clear linkage between this parallel process and the ICG proposal. This is evident, for instance, with the PTI model, which would benefit from additional accountability measures to ensure that it will not only remain accountable to the broader multistakeholder community, but that it will also be able to handle and address any potential issues in the future.

With regards to the PTI Board, we caution against appointments that could potentially lead to a Board entirely represented by governments and/or private companies. We agree that the Board's "complete skill set should be balanced and cover an appropriate and complete composite of executive management, operational, technical, financial and corporate governance experience"[10] (paragraph 1114), and able to grasp and attend to any public interest or human rights concern that the board might face. The appointment of the PTI Board should be conducted in a transparent manner and seek to avoid any potential conflicts of interest. Additionally, we request clarification on the scope of the PTI Board's powers, which vaguely states that their function "is to provide oversight of the operations of PTI in order to ensure that PTI meets, at a minimum, applicable statutory requirements under California public benefit

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https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community
[10] See paragraph 1114 of the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

corporation laws and, importantly, fulfills its responsibilities under the IANA functions contract with ICANN"[11] (paragraph 1113).

Lastly, in regards to the separation process, we request further clarification and details on the process which determines whether escalation mechanisms and methods have been exhausted to invoke the legal separation of the PTI from ICANN by the Special IFR[12].

## General Comments

Since the NTIA will no longer authorize changes to the root zone after the IANA transition, we believe that the proposal should identify some form of agreement between VeriSign, the Root Zone Maintainer, and ICANN, as well as establish a clear process to be assessed as soon as possible, in order to ensure the security, stability, and resiliency of the Internet Domain Name System.

We are satisfied with the creation of a Customer Standing Committee, as outlined in paragraph 7 of the domain names proposal: "The proposal includes the creation of a Customer Standing Committee (CSC) responsible for monitoring [IANA Functions Operator] IFO performance according to the contractual requirements and service level expectations."[13] Additionally, we support the ongoing efforts to develop Service Level Expectations for domain names, as stated in paragraph 54[14], and that this work must be completed before the transition occurs. We believe that clear guidelines and expectations must be set for the community in order to ensure that the healthy operation and independent oversight of the Domain Name System is maintained.

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[11] See paragraph 1113 of the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

[12] The question of separation comes to mind when viewing the visual summary of the oversight components on p. 10. We were curious if the SLA should be directly between the PTI and Regional Internet Registries (RIRs) and why ICANN is serving as an intermediary if ICANN and PTI are separate entities under this new proposal. https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

[13] See paragraph 7 of the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority (IANA) Functions from the U.S. Commerce Department's National Telecommunications and Information Administration (NTIA) to the Global Multistakeholder Community (July 2015) available at https://www.publicknowledge.org/documents/proposal-to-transition-stewardship-of-iana-functions-from-ntia-to-global-multistakeholder-community

[14] "The ICG notes that there is ongoing work on developing Service Level Expectations for names, and that current or proposed expectations already exist for numbers and protocol parameters. The ongoing work must be completed. Obviously, a failure to develop the expectations or inability to meet them could be a threat to the security, stability and resilience of the operation of the DNS. However, we expect the ongoing work to lead to clear recommendations regarding the names part before this proposal is sent to NTIA. Clear expectations are also fundamental to ensuring the healthy operation of the DNS."

We thank you for this opportunity to comment on the Proposal to Transition the Stewardship of the Internet Assigned Numbers Authority and express our gratitude to the ICG, once again, for all of their efforts.

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