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Dear ICG members,

Access wishes to provide comments on the IANA transition joint proposal as published in https://www.ianacg.org/calls-for-input/combined-proposal-public-comment-period/#instructionssubmitcomment

You can find our comments attached.

Best regards,

Javier Pallero

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Comments to the IANA Stewardship Transition Proposal

September 8, 2015

Introduction

Access (www.accessnow.org) is an international organization that defends and extends the digital rights of users at risk around the world. By combining innovative policy, user engagement, and direct technical support, we fight for open and secure communications for all.

Internet governance processes impact the rights of internet and technology end users globally. Access engages in several fora that affect the development of these processes, such as the World Summit for Information Society and the Internet Governance Forum.

The Internet Assigned Numbers Authority (IANA) manages key resources for the everyday operation of the internet, and the IANA transition process will certainly affect the global community. Security, stability, interoperability and transparency in the management of internet critical resources is paramount for building an open internet that enables the exercise of human rights online and provides opportunities for human development.

In order to achieve that, the post IANA governance of the Domain Name System (DNS), Internet Protocol (IP) numbering resources, and Protocol Parameters, should focus on the human rights impact that any planned policies might generate. We strongly believe that it is a responsibility of all internet governance institutions and spaces to promote initiatives and commitments to advance human rights online. This implies not only the upfront human rights impact evaluation of policy proposals in substance - but also processes such as periodic performance reviews and feedback mechanisms ensuring the provision of remedies to users adversely impacted by violations of human rights standards in internet technical administration. Any new remedial processes should be designed in adherence with best practice and principles, including the UN Guiding Principles on Business & Human Rights, Article 31, which counsels that effective non-judicial grievance mechanisms must be legitimate, accessible, transparent, predictable, equitable, rights-compatible, and based on continuous learning and engagement with affected stakeholders.

Users and their rights must remain at the center of governance policies. That's why it is important that post IANA transition institutions - including the Internet Corporation for Assigned Names and Numbers (ICANN) - deepen their commitment to the democratic, participatory and inclusive model of internet governance, while actively supporting the voice of internet end users in internet governance spaces.

Questions Concerning the Proposal as a Whole

1. Completeness and clarity: Is the combined proposal complete? Each of the operational community proposals contains aspects to be completed in the future when the proposal is implemented. Is the combined proposal specified in sufficient detail such that it can be evaluated against the NTIA criteria?

Yes, the combined proposal is complete and is detailed enough to be evaluated against the NTIA criteria. Nevertheless, the final proposal should include detailed information regarding the relationship that would exist between the Post Transition IANA (PTI) organization functions as described in the Domain Name Community Proposal and the

Numbering and Protocol Parameters communities. The final proposal should describe
a   clear scenario with detailed competences and interaction schemes for each of the involved constituencies.

2. Compatibility and interoperability: Do the operational community proposals work together in a single proposal? Do they suggest any incompatible arrangements where compatibility appears to be required? Is the handling of any conflicting overlaps between the functions resolved in a workable manner?

The operational community proposals can work together in a single combined proposal, although some clarification might be needed regarding contractual arrangements. The numbers and protocol parameters communities have stated in their proposals that they would continue to work with ICANN as the IANA Functions Operator (IFO) whereas the domain names community proposed delegating some of the IANA   functions to the PTI, without any clear reference as to who will act as the IFO.

The final proposal must provide details regarding with whom the Internet Engineering Task Force (IETF) and Regional Internet Registries (RIRs) will contract to perform the IANA functions under their management.

3. Accountability: Do the operational community proposals together include appropriate and properly supported independent accountability mechanisms for running the IANA functions? Are there any gaps in overall accountability under the single proposal?

The operational community proposals together include basic accountability mechanisms that seem sufficient under NTIA criteria. We would emphasise that there are specific details that any final proposal should include in order to provide complete accountability mechanisms. It is of paramount importance that the accountability mechanisms and review organisms planned for the PTI should include further details on their constitution, funding, performance and transparency.

Additionally, the work of the IANA Transition Coordination Group (ICG) should take into account the input received by the parallel process on ICANN's accountability currently led by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG).

4. Workability: Do the results of any tests or evaluations of workability that were included in the operational community proposals conflict with each other or raise possible concerns when considered in combination?

The three proposals are individually and collectively workable, despite the differences in their scope, origin and details of implementation. One aspect that the final proposal should address is that of IANA's trademark and domain name ownership. The NTIA, who is the owner of IANA related Intellectual Property Rights (IPR) should transfer their ownership to the new IFO in order to facilitate the everyday operation of the IANA functions.

Another issue to be settled relies on the IPRs associated with protocol registries, which are also in the hands of the NTIA. We subscribe to the proposal by the numbers community of transferring the protocols registries into the public domain to provide transparency and enable the continuation of the current operational scheme.

Questions Concerning NTIA Criteria

5. Do you believe the proposal supports and enhances the multistakeholder model? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Yes, we believe that the current proposal supports and enhances the multistakeholder model. The proposal was built upon consultation with the constituencies involved in the everyday operation of the IANA functions, which in turn reached their communities in an open and transparent way. Each one of the steps in the process was open to public scrutiny in mailing lists and received the input of all stakeholder and the general public.

Finally, the combined proposal included the consultation and transparency provisions from each one of the individual proposals successfully.

6. Do you believe the proposal maintains the security, stability, and resiliency of the DNS? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

The combined proposal maintains the security, stability and resilience of the DNS. Security and stability issues are better addressed by governance mechanisms that guarantee transparency and openness. Consequently, the final proposal should stress the importance of participation and debate in all policy discussions and include operational   details regarding dispute resolution and conciliation of interests before the PTI.

7. Do you believe the proposal meets the needs and expectations of the global customers and partners of the IANA services? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary. Please indicate if you are a customer or partner of the IANA services.

N/A

8. Do you believe the proposal maintains the openness of the Internet? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

We believe that the combined proposal maintains the openness of the internet, because it includes participation and transparency mechanisms from each of the individual proposals. Nevertheless, we reiterate that the final proposal should include further details about dispute resolution mechanisms before the PTI and other functions operators, and should adhere to best practice and principles for effective non-judicial grievance mechanisms, which are legitimate, accessible, transparent, predictable, equitable, rights-compatible, and based on continuous learning and engagement with affected stakeholders, as delineated in the UN Guiding Principles on Business & Human Rights.

9. Do you have any concerns that the proposal is replacing NTIA's role with a government-led or intergovernmental organization solution? If yes, please explain why and what proposal modifications you believe are necessary. If not, please explain why.

No. The current proposal does not replace the NTIA's role on the management of critical internet resources with a government-led or intergovernmental organization solution. Each one of the individual proposals as well as the combined proposal stress the importance of the multistakeholder model for governance. Additionally, the combined proposal brings together a solution where different global internet actors play complementary roles in the management of the IANA functions and governments keep their position as advisors in an equal stance to other advisory committees.

10. Do you believe that the implementation of the proposal will continue to uphold the NTIA criteria in the future? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

N/A

Questions Concerning ICG Report and Executive Summary

11. Do you believe the ICG report and executive summary accurately reflect all necessary aspects of the overall proposal? If not, please explain what modifications you believe are necessary.

Yes, the ICG report and executive summary reflect all necessary aspects of the overall proposal.

General Questions

12. Do you have any general comments for the ICG about the proposal?

We believe that the combined proposal successfully merges the key aspects of the proposals elaborated by the each of the operational communities and complies with the NTIA criteria. Nevertheless, the final combined proposal should take into account that some aspects still require clarification, as we mentioned in our answers to the consultation questions numbered 1, 2, 3, 4 and 8.

The IANA transition process presents the global community with a unique opportunity to enhance the multistakeholder model and to improve transparency in the management of critical internet resources, allowing the Internet to continue to be operated in the public trust and facilitate the advancement of the digital rights of users globally. The ICG should make sure to include all the relevant information and community feedback into the final proposal to make sure all views and concerns are duly considered.

Identifying Information

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