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Submission ID: 85

Please find enclosed a PDF.

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Namibian Network Information Center (Pty) Ltd

IANA Stewardship Transition Coordination Group
ICANN

Your ref.

Your letter of

Our ref.

Date

2015-09-08

Comments on the IANA Stewardship Transition Proposal

Dear Colleagues

I am the Managing Director of Namibian Network Information Center (Pty) Ltd (“NA-NiC”). NA-NiC is the country code Top Level Domain (“ccTLD”) Manager of .NA.

I have been appointed as member of the Cross Constituency Working Group-Accountability (“CCWG”) by the Country Code Names Supporting Organization (“CCNSO”).

I make the following comments on your IANA Stewardship Transition Proposal:

1. The Proposal is convoluted and at 199 pages of excessive length. As it is presented in a pre-set format it is difficult to read, to the extent of obfuscation, especially for non native English speakers.
2. The Proposal appears to have a dependency upon the outcome of not-completed and/or future work of the CCWG.

I submit that this does not make sense and the Proposal, as written, is therefor premature.

3. I submit that it is inappropriate to predefine specific questions in a call for public comments.
4. I submit that it is not possible for an entity such as a “*Post-Transition IANA*” (“PTI”) to be at the same time distinct and “*separate*” from ICANN as well as being an “*affiliate (subsidiary) of ICANN*” and enter into a meaningful “*contract with ICANN*”.
5. I do not believe that a “*Customer Standing Committee*” (“CSC”), “*IANA Function Review process*” (“IFR”) nor some ill defined “*service level expectations*” are going to be in any way helpful to the Names Community as a PTI basically will only be accountable to *itself*, creating further layers of bureaucracy without changing anything of substance.

I submit it is much more preferable to engage in substantive contractual relationships between

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the TLD Managers (as affected parties) and ICANN as the IANA Function Operator entirely analogously to the proposal by the numbers community.

6. I find myself in significant disagreement with section P1.II (“*Existing Pre-Transition Arrangements*”). This should have described “*how existing IANA-related arrangements work, prior to the transition*”. Regrettably, and shockingly this section is largely factually inaccurate.

The whole section suffers from the fundamental misconception that ICANN has authority and there are obligations to ICANN’s policies regarding **ccTLDs**.

There is no such thing.

ICANN (in this context) develops policy regarding **CCNSO** only (with a specific process) and CCNSO Members are only bound to any such policies for the duration of their membership in the CCNSO. So, even if a CCNSO Member participated in a Policy Development and voted for it, it would not be bound any longer by such policy should it subsequently leave the CCNSO.

7. Notwithstanding that many ccTLD Managers historically have **voluntarily** regulated their affairs in accordance with, and along the lines of Request For Comments (“RFC”) 1591, this RFC is not and never has been accepted as (formal) policy.

As stated therein it was for issued for “*Informational*” purposes only. It was in any case only written in 1994 and self-evidently can not apply retroactively to any ccTLD already in existence before then.

8. The so-called “*Internet Coordination Policy 1*” (“ICP-1”) is most certainly not policy, nor has it ever been. ICP-1 was not developed in accordance with ICANN’s own Bylaws. It has never been accepted by the ccTLD Community, indeed it has been formally and soundly rejected¹.

Accordingly making any reference to ICP-1 in a transition proposal such as this, makes the Proposal wholly unacceptable.

9. The “*Framework of Interpretation Working Group*” (“FOIWG”) “*Recommendations*” are a step in the right direction.

They have been adopted by the ICANN Board in its resolutions 2015.06.25.07 and 2015.06.25.08.

10. The “*GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains 2005*” (“GAC Principles”) have also never been policy but are simply public policy advice to the ICANN Board. As they are voluntary in nature, however, they do not warrant further comments here.

11. The subsection “*How disputes about policy are resolved (ccTLDs)*” (1031-1035) is not only factually inaccurate but also totally fails to address the issue on why ICANN presumes to be in a position to interact with any ccTLD Manager against that Manager’s wishes.

12. The Proposal also suffers from the fundamental failure of not answering the question of what it actually is that is transferred.

¹<http://www.wwtld.org/meetings/cctld/20020625.ICANN-AXFR-KimDavies.html>

Without a shadow of a doubt the root zone is a database and therefor clearly is an asset, i.e. some form of property, though very closely linked to the services such as “*Root Zone Change Request Management*” and “*Root Zone WHOIS Change Request and Database Management*”.

The issue is not what type of property it is, but what will happen to it. In other words, who owns the root zone? Will ownership be transferred? If so, how and when?

From this the question follows, what will the consequences be if only the functions to manage (*stewardship*) but not the actual ownership of the root zone itself is transferred?

13. All the above having been said, there appears to be nothing of any value to ccTLD Managers in the proposal. In fact I take the view a transition carried out under this proposal would worsen the positions of ccTLD Managers, both individually and collectively.

In summary, for the foregoing reasons, I can not support a transition under this proposal, I strongly urge ccTLD Managers to reject it and I strongly urge the NTIA not to accept it as is.

With Kind Regards

A handwritten signature in black ink, appearing to be 'Eberhard W Lisse', written in a cursive style.

Eberhard W Lisse