



The Internet Corporation for Assigned Names and Numbers

May 12, 2015

The Honorable Greg Walden  
Chairman, Communications and Technology Subcommittee  
Energy and Commerce Committee  
U.S. House of Representatives  
2185 Rayburn House Office Building  
Washington, DC 20515

The Honorable Anna Eshoo  
Ranking Member, Communications and Technology Subcommittee  
Energy and Commerce Committee  
U.S. House of Representatives  
241 Cannon House Office Building  
Washington, DC 20515

Dear Chairman Walden and Ranking Member Eshoo:

In anticipation of your hearing, "Stakeholder Perspectives on the IANA Transition," ICANN submits the attached "Key Issue Updates" for your consideration.

Please do not hesitate to let me know if you have any questions or concerns.

Sincerely,

**Theresa Swinehart**  
Senior Advisor to the President on Strategy

**KEY ISSUE UPDATES FROM THE INTERNET CORPORATION  
FOR ASSIGNED NAMES AND NUMBERS (ICANN)  
A CALIFORNIA PUBLIC BENEFIT NONPROFIT CORPORATION**

**PRESENTED TO THE UNITED STATES HOUSE OF REPRESENTATIVES  
ENERGY AND COMMERCE COMMITTEE**

**SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY**

**HEARING: STAKEHOLDER PERSPECTIVES ON THE IANA TRANSITION**

**WEDNESDAY, MAY 13, 2015**

## **ICANN Key Issue Updates – May 2015**

### **The IANA Functions Stewardship Transition and Enhancing ICANN Accountability Processes**

#### *IANA Functions Stewardship Transition*

Much work has been performed with the ICANN community after the March 14, 2014 announcement by the NTIA of its intention to transfer the stewardship of the IANA Functions to the global multistakeholder community. The IANA Stewardship Transition Coordination Group (ICG) was formed, and two of the three operating communities served by the IANA Functions have completed their proposals. The third operating community, the naming function, has been participating through a Cross Community Working Group that just released its second draft proposal for public comment on April 22, 2015, closing on May 20, 2015. ICANN retained external counsel to provide legal advice directly to the working group as the proposal was being formed. After comments on the proposal are considered, the naming community will provide its final proposal to the ICG, and then the ICG will coordinate and deliver a proposal for the transition of the IANA functions stewardship to ICANN, which will in turn deliver that proposal to the NTIA for consideration.

ICANN recognizes and accepts that the community will want to have fall back mechanisms in place should the IANA functions operator not perform its function to the standards required by the community. An important part of any system that focuses on security and stability is to document processes for handling any failures of the system. ICANN supports the community processes that have been and are being used to develop the transition proposals, and supports the need for the ICG to coordinate the various transition proposals. ICANN awaits the outcome of that process.

While there are always areas for improvement, it is notable that each of the three operating communities have expressed satisfaction with ICANN's performance of the IANA functions.

#### *Enhancing ICANN Accountability*

On the Enhancing ICANN Accountability side, on May 4, 2015 the Cross Community Working Group on Enhancing ICANN Accountability posted a non-consensus based proposal for public comment. This proposal outlines the key areas of work that are to be included in Work Stream 1, or those enhancements or reforms to ICANN's accountability that must be committed to or in place at the time of the transition. Part of the Work Stream 1 effort is including meaningful enough mechanisms so as to assure ICANN's implementation of additional (or Work Stream 2) enhancements that are identified in the future. The Work Stream 1 proposals include:

- Identification of areas where the ICANN mission and core values could be strengthened;
- Revisions to redress and review mechanisms, such as ICANN's Independent Review Process;
- Incorporation of the Affirmation of Commitments into the ICANN Bylaws;
- Identification of certain ICANN Bylaws as "fundamental", or requiring community assent before they are modified;
- Changing ICANN into a designator or membership model, to enable the community to have a stronger voice in ICANN's budgeting and strategic planning processes; and
- Provisions for removal of individual Board members or the recall of the entire ICANN Board.

The working group also developed a series of stress tests against which the enhancements are tested, in order to assess how the recommendations strengthen ICANN's accountability in key areas. Some examples of stress tests are whether the recommendations would increase accountability in ICANN's response to a general financial downturn in the industry, or whether ICANN is less prone to capture by a particular interest group or entity.

To assist the group in developing their recommendations, at the working group's request, ICANN engaged two law firms to provide advice directly to the working group. Members of the working group have been responsible for managing those engagements in order to identify and obtain the advice needed.

The public comment will close on June 3, 2015. The working group is expected to have multiple meetings, including face-to-face and community sessions at ICANN's upcoming meeting in Buenos Aires, Argentina in order to consider community comment and develop consensus recommendations that will eventually be presented to the ICANN Board. The Board has already committed that it will not unilaterally modify any consensus-based recommendation arising from the community, and that it will take on the consensus-based recommendations coming out of the Enhancing ICANN Accountability process unless it determines that a recommendation is not in the global public interest and engages in a consultation process with the working group on the Board's concerns. The Board is currently developing a public comment submission on the draft report.

Once the report is finalized, ICANN will submit the Enhancing ICANN Accountability recommendations to the NTIA along with the proposal for the IANA Functions Stewardship Transition.