

CDT is pleased to provide the following initial comments on the convening process for the development of a proposal for transitioning the role played by NTIA in the coordination of the Internet's domain name system (DNS).

First and foremost, CDT cannot emphasize enough the importance of engaging with stakeholders outside the ICANN community. We note that this was a key message from many participants in the accountability sessions at ICANN49. While ICANN has been asked to convene this process, CDT urges ICANN to be globally inclusive and to look beyond its own community and beyond its own meetings for mechanisms and fora through which it can reach global stakeholders. (We note that current documentation on the IANA transition webpage on the ICANN website continues to portray this process as being exclusively organized around ICANN meetings.)

The convening process should leverage other Internet governance-related meetings, including and in particular the IGF, as a means for soliciting additional inputs and bringing stakeholders together. With regard to the IGF, it could be advantageous to add an additional day onto the IGF for the purposes of the convening process. This same approach could also be taken for the regional and national IGFs. While there will inevitably be overlap in terms of the attendees between ICANN and IGF meetings, there will be a greater diversity of interested parties at the IGFs. Holding such convenings alongside the IGFs would also encourage greater stakeholder representation at IGFs. Convening could also be done in an ad hoc way in the margins of already scheduled meetings such as the WSIS review meetings and other fora as appropriate.

Following the example set by the organizers of NETmundial, ICANN and other stakeholders may also want to establish a website that encourages contributions and provides a mechanism for public comment and dialogue.

We would note that the Internet governance space is crowded at the moment with a range of high-level panels, meetings and other fora in which Internet governance, and ICANN and IANA globalization, are being discussed. ICANN should avoid adding further to this already crowded space and should resist creating additional structures for this consultation. Instead, it is our recommendation here that ICANN build on existing fora and meetings.

Looking beyond the question of how to ensure the broadest possible consultation, there needs to be a clear and structured process for identifying transition options and building consensus around the best approach. This process should not make any assumptions as to where or how the NTIA's responsibilities will be transitioned. It is particularly important that ICANN not prejudice the outcome of this process. At this point, there is concern that ICANN sees itself as the default repository of the IANA functions. Any proposal(s) for ICANN to assume the IANA functions must be assessed and considered on an equal basis with all other proposals. Therefore, the first step must be to identify viable multi-stakeholder approaches to the management of the IANA functions. Once a range of options has been identified, the assessment phase of the process can begin.

Developing a transition proposal will not be an easy matter as the issue is complex, particularly for those outside the world of ICANN and I\* organizations. CDT suggests that a transition proposal development process could be structured in 3 parts - an evidence stage, an options stage and an evaluation stage:

Evidence stage:

- There is a need to facilitate a common understanding of the scope of the challenge, in a way that is accessible to those who wish to have a say but may not be fully aware of the current DNS structures, their roles and responsibilities, and the relevant accountability mechanisms.
- In this regard, there should be --
  - a precise description of the specific functional components of the IANA function and the specific roles and responsibilities of the associated parties;
  - a full description of the transparency and accountability mechanisms, internal and external, that exist for the parties that undertake the specific roles and responsibilities as outlined above.

Options stage:

While the IANA functions are currently administered as a whole under contract by ICANN, one approach might be to look at each of the IANA functions individually in terms of evaluating existing and blue-sky approaches for an eventual transition proposal. Therefore, for each of the IANA functions, stakeholders could consider two approaches:

1. Evaluate the existing processes and assess their current suitability in terms of meeting the criteria established by the NTIA and others as appropriate, and propose any necessary changes; and
2. The “blank sheet of paper” approach that looks at the function and assesses how that function could be implemented, and through what mechanism(s), notwithstanding the existing structures and processes.

We note that several proposals have already been offered with regard to the globalization of the IANA functions. Many have been drafted as a part of the NETmundial preparatory process. These proposals should be included in the options phase of the convening process for developing the transition proposal.

Evaluation stage:

In CDT’s view, there are three key criteria for assessing the future manager or managers of the IANA functions:

1. Transparency and accountability to all stakeholders.

2. Technical competency, in order to preserve the security, stability, resilience and predictability of the DNS.
3. Ability to resist governmental or other stakeholder interference.

As described by Steve DeIBianco, NetChoice, at ICANN49, use cases/scenarios could provide the basis for a real-world assessment of the proposals, identifying whether they will continue to build upon the stewardship of the DNS that has been provided to date by the NTIA. Proposals would be measured against such scenarios, including worst case scenarios.

CDT welcomes the opportunity to provide these initial thoughts on approaches to the convening process and looks forward to contributing further both in terms of the process and the proposal itself.