ICANN's public consultation on the transition of IANA oversight

Afnic's reply

Foreword

Afnic would like to thank ICANN for organizing the call for public input on the draft proposal, based on initial feedback from the community, regarding the principles, mechanisms and processes to be set up in order to transfer its role of oversight of IANA functions

http://www.icann.org/en/about/agreements/iana/transition/draft-proposal-08apr14-en.htm

Afnic is delighted with the work done by ICANN in terms of multilingualism, and congratulates the ICANN teams on the quality of the documents made available in French on its website. The present contribution is the translation of the French original, so that it is shared by others in addition to the French and French-speaking internet community.

Afnic also salutes the reactivity of ICANN for the organization of the debate on the transition of the oversight of the IANA function, and the efforts made by its staff and board of directors to inform all the stakeholders.

ICANN's efforts to inform others and its willingness to provide a framework for the debate can only improve the quality of the various contributions, and are prerequisites for the organization of a productive multi-stakeholder dialogue. In working to achieve a common understanding of the issues related to the recent announcement of the NTIA,

http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions

ICANN must, however, expect the reactions of the global Internet community to focus not only on the transition process itself, but also on the scope and the limits imposed upon it by ICANN in the efforts it has undertaken to inform stakeholders. This is why Afnic, while replying to the specific questions posed by ICANN, has also reacted to the scoping document posted by ICANN.

http://www.icann.org/en/about/agreements/iana/iana-transition-scoping-08apr14-en.pdf

To this end, Afnic wishes to reassert its position on the overall transition process initiated by the U.S. Government. This can only be successful to the extent that it creates a sense of trust in the process itself, and the way in which the IANA functions are carried out, and to the extent that these functions are vital for the proper functioning of the Internet

The current situation does not do this: on the contrary, it creates distrust among many stakeholders, who believe that the role of the U.S. government and the various stakeholders involved in IANA functions are not clearly defined, and that their respective responsibilities are not sufficiently regulated.

While Afnic agrees with the analysis that the Internet is properly operated at the technical level, and that its security and stability are currently maintained to a satisfactory degree, it calls attention to the fact that this is not sufficient in itself to create confidence in the use of the Internet today. The transparency of the processes and the mechanisms for implementing the responsibility of all the stakeholders are essential conditions for strengthening that trust.

The present contribution will be discussed and constantly enhanced by the stakeholders of the French Internet community that wish to be involved. It will form the basis for the discussion initiated by Afnic with the community during special consultative committee meetings to be held in Paris on May 26.

1.   *Scoping the transition, defining the process*

The scoping document is a useful reminder of the three IANA functions, which are subject to a special agreement between ICANN and NTIA, namely:

- The coordination of parameters of internet protocols based on policies established by the IETF (such as the definition of the use of different ports, etc.);
- The coordination of the assignment of IP addresses and AS numbers[1] to regional Internet registries, which then allocate them according to their own policies to ISPs and Internet operators in their respective regions;
- The processing of applications to make changes within the root zone by the Internet registries and, when applicable, their national supervisory authorities, concerning, among others, encryption keys required to ensure the security of the DNS, the addresses of the authoritative servers for the zones managed by the registries, and contacts with the organizations in charge of the registries;

Afnic would like the discussions on the IANA transition to address the issue of the supervision of all of these functions. If the role of the NTIA is clearly established with regard to the oversight of the changes made in the Internet root zone, that oversight extends in ways probably less known to other functions, and discussion of this issue is therefore needed as part of the oversight transition process.

Afnic considers that the establishment of a new oversight mechanism for IANA functions should take into account the necessary resilience of the stakeholders that operate the system. The future monitoring system will only create long-term confidence if it addresses the mechanisms that can mitigate the failure (unlikely today, but nonetheless possible) of those in charge of the IANA functions. For this reason, far from questioning the respective roles and responsibilities of the technical stakeholders currently cooperating with ICANN in managing the IANA functions (i.e. the regional internet registries, IAB, IETF), our analysis must consider the sustainability of these stakeholders in order to

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[1] Autonomous System Numbers used for routing Internet traffic

carry out their respective tasks in the long term, even in the case of failure of one of them.

In addition, as an Internet registry, Afnic draws attention to the fact that the two main functions of a registry concern the registration (covered by the IANA function in question) and the publication of the changes made within the root zone. Afnic would therefore like to see the issue of the special contract between the NTIA and Verisign, concerning the publication of changes to the root zone, also discussed in the context of this process.

Furthermore, Afnic does not share the view expressed in the scoping document that the role as supervisor of the changes made in the zone does not imply that the supervisor can make discretionary changes. The fact that the supervisor has the power to accept or reject a change, even when backed by a clear and transparent process, is precisely what defines a discretionary role. The fact that no mechanism is described for appealing or questioning a refusal, or even accepting a change in the root zone, clearly demonstrates that the oversight power of the IANA function in no way boils down to a simple question of stewardship.

The idea that since the NTIA has never exercised this discretionary power, it does not exist, is misleading

Finally, Afnic cannot endorse the idea that the discussion on the supervision of the IANA function should be de-correlated from that concerning the performance of the operator of the function (currently ICANN).

As ICANN recalls, the NTIA oversees not only the IANA functions, it also assigns operational responsibilities to ICANN and Verisign for the proper administration of these functions. We understand the idea that the two concepts of monitoring and evaluating IANA performance (budgetary, commercial, technical) should be separate. However, the supervisory authority is only effective if it is has the power to assess the operator of the function.

Since ICANN is, at present, the operator of the IANA functions, it therefore seems to Afnic, contrary to the position taken by ICANN in its scoping document, that the issue of supervision on the one hand, and on the other that of assessing its performance and establishing mechanisms to ensure its accountability as the operator with respect to the global internet community, are inextricably linked, and must be addressed, at least according to the same schedule.

2. Answers to questions raised by ICANN

Q1: Principles

Afnic endorses all the principles, except the one described as "not harmful" which seems vague and therefore not applicable.

Furthermore, Afnic would like to recall that, following the Netmundial meeting in São Paulo, several principles consubstantial to the governance of the Internet were clarified and now deserve to be added to the list of principles that should apply to the transition.

http://netmundial.br/netmundial-multistakeholder-statement/

Afnic would therefore like to see the following principles added:

- Distributed (which complements the principle of openness)
- Fair (which complements the principle of inclusiveness)

Afnic also suggests that the definition attached to each of the principles be taken from the São Paulo Statement and/or the Tunis Agenda, so that all of the

stakeholders have a common understanding of the principles based on an international consensus.

In this respect, Afnic draws attention to the definition of the notion of "Accountability" after Netmundial that should guide the overall analysis. xxx

"Mechanisms for independent checks and balances as well as for review and redress should exist."

From Afnic's point of view, any process resulting in a mechanism that does not provide for **independent verification** and **correction** of the current situation would not be "accountable".

Q2: Mechanisms

Afnic endorses the mechanisms proposed by ICANN (except for the specific mechanism for the "Steering Group" which is discussed below) but nevertheless draws attention to what we consider to be two important points:

- The implementation of web discussion platforms must not entirely replace the organization, at every level (local, national, regional, international) of discussions as a means of providing food for thought. These two approaches, online and face-to-face, are complementary and do not necessarily involve the same stakeholders.

For example, at the French level, Afnic is organizing a consultative committee meeting on the transition, which will take place on May 26 from 2:00 p.m., to which the entire French internet community is invited. Participants can enroll at the following address: invitation@afnic.fr

- Establishing clear and visible calendars should itself be participatory, and allow stakeholders outside ICANN to indicate how and by what process

they plan to hold discussions within their communities. This applies of course to national registries of domain names, but also, potentially, to the governments, international organizations and NGOs that are not currently listed as "stakeholders" in the documents produced by ICANN.

Q5: Constitution of the Steering Group

Afnic recognizes the need to set up a steering group that can organize and oversee the transition process, coordinate discussions, synthesize positions, and produce proposals in relation to which all of the stakeholders can position themselves. Without such a group, it appears unlikely that the global internet community can produce a substantial, pragmatic proposal for the effective transition of the supervision of IANA functions.

However, Afnic has major reservations about the mechanisms presented for the formation of this group.

- The appointment of representatives of the various communities within ICANN **should in no case be subject to the approval of the Board of ICANN, or to that of the Chair of the Governmental Advisory Committee**. This goes against the very definition of principles for the governance of the Internet, as recently reasserted at Netmundial:

The multi-stakeholder process must be **democratic**. It must be **bottom up**. It **must not disadvantage any stakeholder**.

In addition, the Netmundial roadmap very clearly requests that the representatives of the various stakeholders be designated by them in a democratic and transparent manner: xxx

"Stakeholder representatives appointed to multistakeholder Internet governance processes should be selected through open, democratic, and transparent processes. Different stakeholder groups should self-manage their processes based on inclusive, publicly known, well defined and accountable mechanisms."

The potential censorship of stakeholders' decisions regarding their representative on the committee, by the ICANN Board of Directors, through its President, and through the Chair of the ICANN Governmental Advisory Committee (GAC), violates these principles, and many others. The various communities forming ICANN do not intend to have their decisions approved by a "superior" authority; should this be the case, it calls into question the entire multi-stakeholder structure, which is precisely what makes ICANN strong.

The various components of ICANN must therefore be able to nominate their Steering Group representatives directly.

- With regard to the national registries of domain names, since they are not all represented in the ccNSO, **it is extremely important that each of the regional organizations of national registries be able to appoint a representative** to the Steering Group.
- In parallel, since not every government is represented in the GAC, it would seem logical to ask a representative organization of all the governments (i.e. from the United Nations) to designate a representative to this group, in addition to those appointed by the GAC.
- Within what ICANN designates as "interested parties", it seems to Afnic that some of stakeholders described as such at the Netmundial meeting

are not present, and should be represented. This is the case of the **academic community**./