ICG Summary Report on
Comments Received during the Public Comment Period
on the Combined Transition Proposal

On July 31, 2015, the ICG issued a call for public comment on the combined transition proposal.[1] The call for public comments concluded on September 8, 2015. The ICG is issuing this summary report to share with the community general information on the comments received and the approach followed by the ICG in handling those comments. It is worth noting that this summary does not cover each and every comment but rather the major themes and any suggested follow-up, where needed, by the ICG.

During its public comment period, the ICG received 157 comments on the combined proposal from a wide variety of stakeholders, including individuals, operational communities, supporting organizations and advisory committees, businesses and trade associations, civil society groups, governments, and others. The ICG received comments in Chinese, Spanish, and French as well as English. Comments came from national, regional, and global stakeholders as well as stakeholders who did not identify a location of origin, as shown in Figure 1.
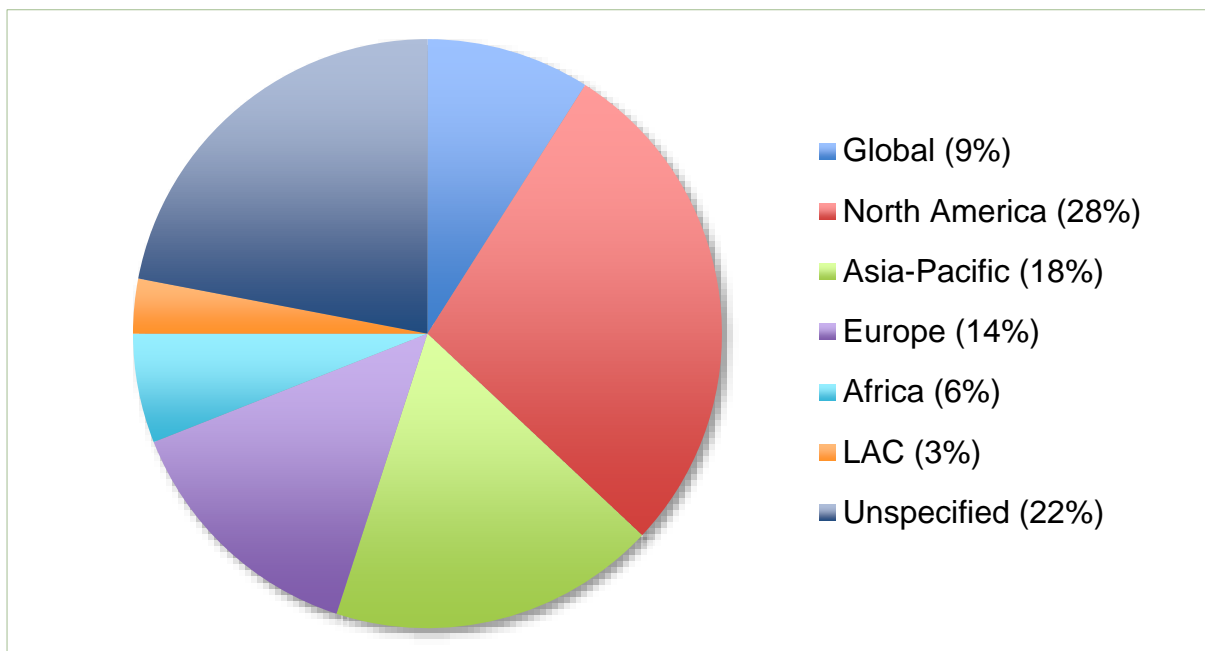

Figure 1: Geographic distribution of commenters in the public comment period

The majority of the comments (65%) were generally supportive of the proposal or expressed qualified support accompanied by questions, requests for clarification, or criticism. Small minorities of comments opposed the proposal (11%) or the IANA stewardship transition overall (9%). The remainder made no clear indication of either support or opposition or made comments that were not specific to the proposal (15%). This breakdown is shown in Figure 2 below.
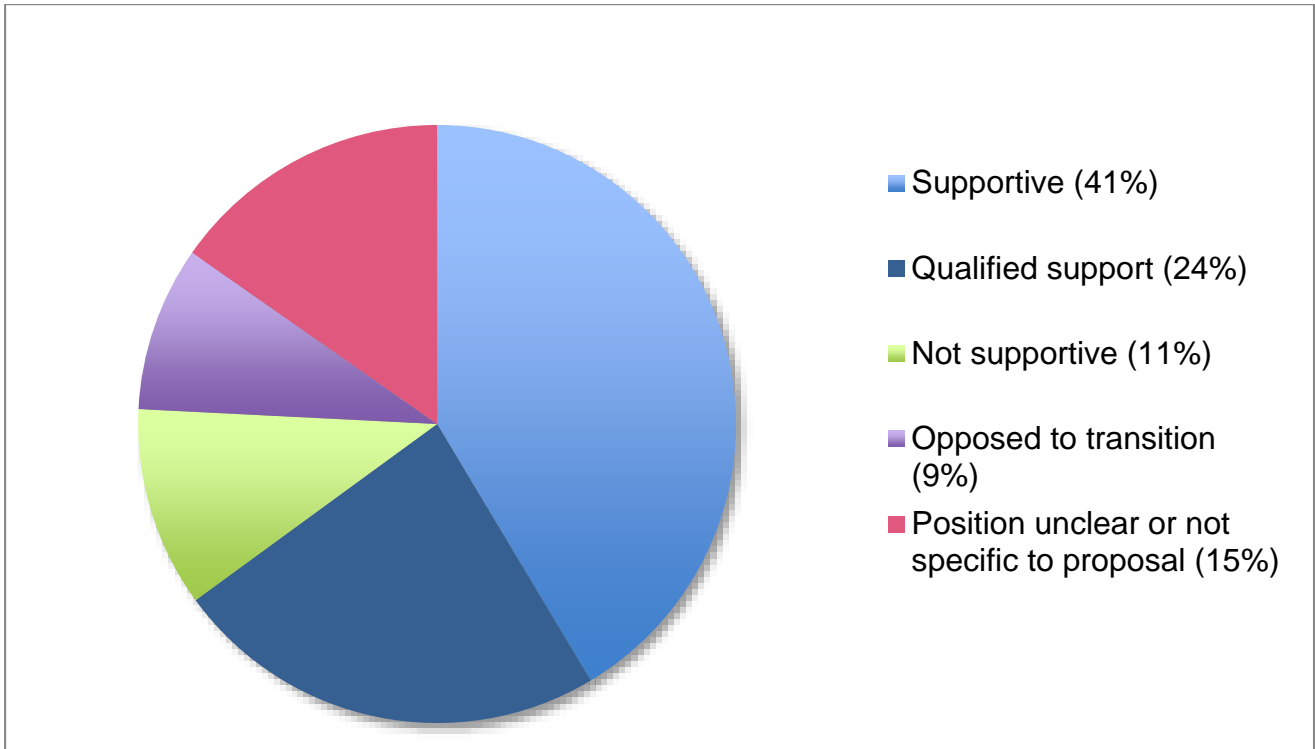
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[1] https://www.ianacg.org/calls-for-input/combined-proposal-public-comment-period/

Figure 2: Summary of support for the transition proposal as reflected in public comments received by the ICG

Six volunteers of the ICG led the review process, though all members participated in actual reviews. The six volunteers reviewed the submissions allocated to them and summarized those as completed tables of entries related to themes and topics. The themes and topics were based on the various fields defined in the questionnaire and general themes of the proposal. Each leader presented the summary of the findings for allocated topics or themes at an in person meeting held in September 2015, highlighting the commonality or disparity of views based on the submissions. Each of the topics/themes was discussed with specific reference to concepts set forth in the submissions. From these reviews and discussions, which lasted two days, follow-on actions were decided. In some cases no action was needed. In other cases, submissions were forwarded to the operational communities (OCs) for information or consideration and finally, in a number of cases, the ICG sent specific questions to the OCs where issues had been raised and not sufficiently addressed in the proposals.

More specifically, the ICG took the following actions related to submissions:

- Issues already agreed but still unclear to the community were to be clarified in Part 0 of the proposal (the ICG summary report) and/or FAQ or other relevant documentation as deemed appropriate.
- Issues that needed further review were forwarded to the relevant OC(s), to provide an explicit response and to advise whether this response could be reflected in Part 0 of the proposal (the ICG summary report) or needed to be reflected in the relevant OC(s) proposal(s). It's worth noting that the latter may require the proposal to go through another public comment period.
- Finally, comments addressing fundamental issues, such as the idea of the transition in principle, or issues that have already been discussed, investigated and settled upon by the relevant OC(s) required no action (although they may have been forwarded to the relevant OC for their own evaluation).

Upon receiving the OCs responses, the ICG reflected the necessary changes in the relevant parts of the final proposal, notifying the community of such changes.

The comments mainly touched upon the following major themes, listed in no specific order:

I.   Jurisdiction

A number of comments highlighted the issue of Jurisdiction as important. A minority of comments that raised the jurisdiction issue, objected to any transition at all because they perceived that the US was relinquishing jurisdiction. Another minority point of view raised concerns that the jurisdiction was not international or outside of the US. A number of comments also suggested that CCWG Work Stream 2 might be a place to address some of the continued concerns about jurisdiction. The majority of overall comments did not find jurisdiction as a limiting factor to the consideration of the proposal.

The ICG recognized that there was no clear consensus in the comments for opposition to the proposal on the grounds of jurisdiction. Input reflected the discussion in the CWG-Stewardship, which identified that significant and detailed analysis would be needed to assess objectively the implications and benefits of a transfer of jurisdiction. The ICG also noted that a change in jurisdiction at the time of transition of stewardship – given the implications on ICANN and PTI accountability – would increase the complexity of the proposal and increase the level of uncertainty in the transition. Accordingly, the ICG notes that the CCWG-Accountability has identified ICANN's jurisdiction as a topic for further work in Work Stream 2 (post transition).

II.   PTI and related bodies

A minority of comments highlighted concerns with PTI for three different reasons. A few raised the concern that PTI may needlessly increase complexity and bureaucracy. A couple of comments raised the concern regarding PTI's lack of independence from ICANN including concerns regarding the proposed constitution of the Board. The last concern, was the lack of formal participation in PTI by 2 of the three OCs. As the Names proposal was submitted well after the Protocol Parameters and Numbers OC proposals it was not possible for those OCs to evaluate or include the PTI in their proposals. Both operational communities have since confirmed that they will allow ICANN (as their current IANA Functions Operator (IFO)) to sub-contract their IANA Functions to PTI. In reviewing these comments, the ICG also noted the extensive legal analysis on the formation and constitution of the PTI, as well as its functionality in comparison to other models, as a complete treatment of the issues within the OC consultation process. ICG defers to the OCs on any needed coordination on the operation and actions of PTI.

Another common point referenced the readiness of the PTI, questioning the status of the various agreements/SLAs, or noting the work still to be done on the PTI and its associated structures. ICG concluded that clarification was needed on this topic and various points are being clarified with the appropriate OCs. Further, the ICG has added an additional section to Part 0, to explain the PTI as a whole. The work to be done to establish the PTI (and associated structures) will be further elaborated during implementation.

III. Root zone maintenance and administration

Some submissions made specific comments about the root zone maintainer (RZM) role. Many noted that it is difficult to assess the impact of the ICG's proposal on the security and stability of the DNS root without knowing how the Verisign cooperative agreement and the roles of Verisign and the IANA Functions Operator (IFO) will be modified. Most of the submissions that addressed the RZM issue felt that the ICANN-Verisign proposal left some questions unanswered and/or raised concerns about the transparency of the transition process, asking for consultation with the global multistakeholder community before any major structural changes were made in the roles of the IFO and RZM. This was a consistent theme among business groups and civil society organizations. A subset of commenters asked that the transition remain committed to the organizational separation of the IFO and RZM duties. Other comments asked for the ICANN-Verisign proposal to be reviewed by the SSAC or by the CWG-stewardship itself to confirm that it meets their requirements.

IV. Dependencies

A number of comments highlighted concerns that there were issues external to the Transition Proposal that could impact it – collectively these were referred to as Dependencies. Four main dependencies were highlighted. A small minority of comments were concerned that all of the parallel accountability work in the CCWG needed to be concluded before the proposal was finalized.   Another small minority of comments highlighted the importance of resolving the RZM as essential to finalizing the proposal. The two remaining and most prevalent dependencies, though still an overall minority of comments, focused on the need to resolve the outstanding issues related to IANA IPR as well as the need to finalize the accountability external dependency issues of the Names proposal. A number of comments on the dependency on the Names proposal, did not raise issues with substance, but rather a concern that the proposal could not be considered complete without CWG assurance that there were no more external accountability dependencies.

V. ccTLD issues

Some comments touched specifically on ccTLD related issues. After combining the issues – where appropriate - the ICG filed three questions to the CWG along the following lines:

1) The ICG received comments on Section P1.II.A.i., "Affected IANA Service (ccTLDs)" about the references to Internet Coordination Policy 1 (ICP-1) and the work of the Framework of interpretation Working Group (FOIWG). The ICANN Board has adopted the recommendations in the report of the FOIWG and so paragraph 1027, of CWG response to the ICG RFP that was posted for public comment, was amended to reflect this, replacing the last sentence with "The ICANN Board adopted the FOIWG recommendations in June 2015."

2) The ccNSO Council has requested an editorial change, which can be achieved by removing the reference to ICP-1 in section 1036 and including a footnote referencing the removal clearly indicating the non-status of ICP-1 as well as News Memo 1 and GAC Principles from 2000 (the last of these having been formally superseded by the GAC Principles 2005). This appears to be a friendly drafting amendment, bringing the document in line with recently updated policy and the ICG have therefore asked the CWG whether Part 1 of the combined proposal could be adapted accordingly.

3) The ICG have also received a comment on the composition of IANA Function Review Teams (paragraph 1283). This recommends that two ccNSO members and one non-ccNSO ccTLD member be appointed to the IFRT. While the input supported the objective of encouraging the participation of non-ccNSO ccTLDs, it recognized that it could be difficult to ensure rotation of the non-ccNSO ccTLD member. In particular, the commentator stressed that regional balance should be considered an important criterion and suggested that the recommendation be changed to make the one non-ccNSO ccTLD member recommendation a target, rather than a requirement.

4) The ICG have also received comments seeking clarification on how the PTI board will be held accountable if it does not fulfill its oversight responsibilities. The ICG has added some text to paragraph 1113, of CWG response to the ICG RFP that was posted for public comment, to further elaborate on this.

There were questions raised by representatives of Governments, ccTLD operators and others observing that the Proposal does not include an appeals mechanism for ccTLD delegations and redelegations / revocations. It was noted that a ccNSO PDP will occur, but will take some time to develop, and there were questions whether a stopgap is needed.

It should be noted that there has never been an appeals mechanism for delegation or revocation decisions made by IANA. RFC1591 (1994) indicated that a specific review mechanism be established and used in instances where parties cannot reach agreement, but this mechanism has never been implemented.

The NTIA authorization, as the NTIA have previously confirmed, is limited to simple checks that process has been followed and documented, specifically that the request has been administratively dealt with appropriately by IANA.

The ICG therefore feels these issues are beyond the scope for inclusion in the Transition Proposal and that the ccNSO is the appropriate body to provide final resolution through its PDP.

Collective opinions representing ccTLD interests, like the ccNSO council or CENTR, were in general support of the proposal.

Some comments highlighted the importance of Service Level Expectations (SLE) to be included in the proposal and be prioritized for implementation. The ICG notes the CWG's objective to ensure that the naming proposal is not delayed by work to define the SLEs and hence to optimize the use of time prior to the final submission of a proposal to the NTIA (paragraph 1137 plus P1. Annex A). An SLE Working Group report has already been released.

VI. ICG RFP Criteria:

A. Completeness and clarity

The majority of commenters indicated they thought the proposal was complete, and many of those that indicated a more qualified yes (and some that stated "no") referred mainly to the fact that the Names proposal was incomplete as it was dependent upon the ICANN-level accountability mechanisms, still under development by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG). The ICG has previously noted that the CWG

- Stewardship proposal is dependent upon their confirmation that the work of the CCWG fully meets their requirements, and the ICG is monitoring this closely as a critical dependency.

Another common point referenced the PTI model, mostly questioning the relationship between the 3 OCs, the status of various agreements/SLAs, or noting the work still to be done on various aspects of the PTI and its associated structures. The ICG concluded that clarification was needed on this topic and various points are being clarified with the appropriate OCs, and the ICG is working to more fully explain the PTI as a whole.   The work to be done to establish the PTI (and associated structures) will be further elaborated during implementation.

At the time of the combined proposal submission, there was an open item regarding IANA trademarks and the iana.org domain name.   This has since been addressed and all parties agree that they should be held by an entity that is not the provider of the IANA services. The 3 OCs have agreed to work together to identify and establish the IPR holder and this is to be completed during the transition ahead of the NTIA contract expiry.

Once the CWG confirms that their Accountability needs have been met by the CCWG proposal, the ICG will make a final determination as to whether the combined proposal is complete and ready to be sent to the NTIA.

B. Compatibility and interoperability

When ICG examined comments related to interoperability between the proposals, two general categories became apparent. The first category came from commenters who were against the very notion of transition, and these generally pointed out difficulties related to interoperability.   They did not point out new interoperability concerns caused by the transition. The second category came from commenters who were concerned that the internal ICANN structure with PTI as a separate entity would make cooperation and collaboration with the Numbers and Protocol Parameters communities *"harder"*. Both of these communities have explicitly said that they will maintain arrangements with ICANN, and are prepared for ICANN to implement with any structure that will maintain the current service level. For example, it is expected that IETF will continue to require (and maintain) a direct relationship with staff at IANA to participate in the IETF protocol parameter policy setting process regardless of how ICANN is restructured as a result of the CWG proposal.

Another issue concerned the IPR related to IANA (described fully under section "PTI and related bodies" above).   This item has since concluded and all 3 OCs are in agreement, therefore there is no interoperability concern.

In general, comments indicated the proposals are interoperable, in part because they are not dependent on each other except in the cases mentioned above.

C. Accountability

The Names proposal is dependent on and conditioned by the outcome of Work Stream 1 of the CCWG process. Many commenters in the public comment period noted this dependency and the associated difficulty in judging the overall accountability provided by the Names proposal until Work Stream 1 completes. The ICG will secure confirmation that the CCWG final Work Stream 1 proposal meets the accountability requirements of the CWG.

If the CCWG output does not meet the needs as contemplated by the Names proposal, the CWG has indicated it will revise its proposal. Because of this dependency it is not possible

for the ICG, at this time to conclude its assessment of the accountability mechanisms with regards to the names functions.

D. Workability

The majority of commenters, who answered the relevant public comment question, considered the transition proposal to be workable. Many noted that coordination between the OCs is necessary during the implementation phase.

A number of commenters stated unequivocally that the proposal was unworkable because they disagreed with the notion of transition as such. A few others stated that the proposal was unworkable, but gave no specific reasons for this.

Multiple commenters requested clarification on how the Protocol Parameters and Numbers communities would interact with PTI. These OCs have stated that they intend to contract with ICANN (and support ICANN sub-contracting to PTI) rather than contracting directly with PTI. The ICG is working to more fully explain the PTI as a whole and this will be reflected in Part 0.

A number of comments referred to the workability of accountability mechanisms that are being addressed in the CCWG-Accountability and therefore outside the scope of this proposal. The ICG noted that at least several commenters also submitted these comments in the appropriate process.

Based on all comments received, the ICG has not identified any major workability issues with this proposal, provided that the OCs ensure appropriate coordination both during and after the implementation.

VII. NTIA Criteria

The ICG has concluded that the combined proposal meets all of NTIA's criteria. The public comment records of the ICG and the OCs also support this finding. At the overall level a substantial majority of the comments supported the finding that the proposal meets the transition requirements.

A. Broad community support

The majority of those who submitted comments during the public comment period support the proposal. These commenters included individuals, operational communities, supporting organizations and advisory committees within the ICANN community, businesses and trade associations, civil society organizations, governments, and others from across all regions of the world. Thus community support for the combined proposal is broad both in diversity of interests and geography.

B. Support for multistakeholder model

An overwhelming majority of commenters stated their belief that the proposal supported the multistakeholder model. One issue that was raised in that respect is the definition of Multistakeholder. The concern was that the transition requirements used a narrower definition of multistakeholder than the WSIS Tunis Agenda. A couple of comments raised the concern of formal inclusion in community processes. These concerns were previously

raised with the communities and the processes were found to be sufficiently open to those who wanted to participate. Likewise there were concerns raised in a few comments that the existing operational communities and those who were directly involved in the IANA functions had too much relative power, with a preference for a membership or multistakeholder participation in the direct governance of the process. Some of these issues such as the definition of multistakeholder as used by NTIA are not within the scope of ICG's inquiry. Other issues such as the use of the PTI as opposed to a direct membership structure were the subject of long and detailed discussions by the community, and were not adopted. A couple of comments raised concerns about global participation based on issues of culture, language and travel costs. The ICG has noted those concerns and passed them on to the operational communities as a consideration, but sees no action needed in relation to the proposal as drafted.

C. Maintains security, stability, and resiliency of the DNS

A few comments raised questions on other topics that might impact the stability and security of the Internet. A couple of commenters hypothesized that dissatisfaction with certain elements of the proposal, jurisdiction among them, might lead to the creation of a parallel DNS that could lead to fragmentation. This was not a shared concern across the vast majority of commenters. Some concerns were predicated on the ability to achieve some of the proposal elements in contracts and to appropriately enforce them. This is a matter that the communities are addressing in their implementation work. A concern that was raised, again as a potential problem across a few comments, was the impact that separation from PTI or having multiple IANA function operators might have on the security and stability of the Internet. The ICG have noted the operational community responses to this concern in the combined proposal (Part 0: Section V.C.1). Finally, a number of commenters suggested that security and stability might be impacted, but provided little to no context to further evaluate their concerns. The ICG notes that, in their workability reviews included in the proposals, the operational communities addressed many of these general parameters.

D. Meets needs and expectations of IANA partners and customers
The ICG added some clarifying text related to the IFO, as discussed in this summary document in the section on PTI.

E. Maintains openness of the Internet
While both issues, openness and expectations, garnered some comments of concern, the bases for those comments/concerns has already been addressed in the other topics previously outlined.

F. Does not replace NTIA with government or intergovernmental solution

The overwhelming majority of comments agreed that the proposal does not replace NTIA stewardship with a government-led or intergovernmental solution. Some comments felt that governmental roles would be too constrained; others felt that the role of the U.S. government was still too strong due to the retention of U.S. jurisdiction. A few other commenters expressed concerns about the role of government-controlled ccTLDs in the CSC. The ICG notes the concerns raised, but believes that the proposal has relied on the community processes to find the right balance across the stakeholder equities and operational requirements, and thus sees no further action needed.

A small number of comments expressed concern about a strengthening of the GAC in the new accountability arrangements. These comments are best addressed by the CCWG.

VIII.   Potential future work and coordination for ICG and OCs

The ICG notes that the operational communities are coordinating the relevant details, as necessary, and expects this coordination to continue during the implementation phase to ensure that all requirements are met. Some of the questions the ICG received during the public comment period relate to the implementation details. These details will become clear as the communities proceed to implementation.

IX.   Process issues

The comments related to the process vary, although there was support from a diverse set of submissions from all over the world. Explicit support has been given from not only various parties actively participating in the operational communities, but also voices from private sector, academia and governments. Concerns on the process fall into three categories. The first category has a problem with NTIA setting the criteria for the transition. The ICG discussed this and determined that the criteria are generic and have been used for many years. The second category would have liked more time, and more participation from developing countries in the development of the proposal. The third is from a subgroup of the ICANN GNSO, the Intellectual Property Constituency (IPC) that is not satisfied with the result. For the third category, it is the ICG's view that these issues have been discussed already at length, and the compromise reached is satisfactory.

The only comment regarding improvement is how inclusive the process has been. The outreach initiated by regional and global organizations as well as the operational communities (e.g. Regional Internet Registries (RIRs) and their broad communities) has been extensive and impressive, yet, of course it could always be improved. Given the wide number of responses from all areas of the world, the ICG considers that the requirements on outreach and input from stakeholder groups across the world have been met.

X.   Complexity of the Proposal:

Some comments have suggested that the ICG proposal is unexpectedly or overly complex, and in some cases implied that this perceived complexity represents a threat to the workability of the proposal.

It is true that the ICG proposal is a lengthy document: It contains three substantial components which are very detailed and also quite different in content, making it difficult for any observer to absorb easily. However this structure is a direct result of the fact that the IANA serves three distinct operational communities and the ICG determined that the best way to build the strongest proposal was to allow each community to devise their respective plans, according to their own needs, priorities and processes.

The ICG's chosen approach could be regarded as an application of the subsidiarity principle, whereby the solution to any given problem should be located as close as possible to those affected by it; which in a bottom up process inevitably results in a variety of independent outcomes that are naturally diverse. The ICG believes that this variety of approaches, clearly apparent in the transition proposal, does not in itself represent complexity. Rather it represents a large body of work, but a body which is cleanly divided amongst the separate operational communities, and which features, as expected, few interactions or dependencies across those three components. In that respect, the ICG made a decision to add a section on history of IANA to explain why certain roles and functions where managed by IANA today.

One final consideration, related again to the volume of work rather than to complexity, is that the implementation of each of the three plans will impose a substantial workload on the IANA. This needs to be managed carefully during the implementation period, in consultation with the communities regarding respective requirements and priorities, in order to ensure that the transition takes place within the required timeframe.

XI. Institutionalization of NTIA criteria

The ICG agrees with commenters who noted that vesting the IANA stewardship responsibility in the operational communities and using existing multistakeholder structures and processes both help us to ensure that the NTIA criteria will continue to be met over time. The communities have been working in support of the multistakeholder model, Internet openness, and DNS security, stability, and resiliency for decades. Their structures provide the appropriate checks and balances to ensure that the stewardship of IANA will continue in this vein and will be protected against capture by any single interest.

XII. Freedom of Expression

The ICG recognizes the comments related to free speech and freedom of expression. The main concern in the comments is about inviting entities not known for supporting such essential rights to the decision making process. Instead, the idea with the transition is to transfer the power to the multistakeholder community and provide a solution that is robust enough to withstand any attempt of capture. I.e. that no single entity ends up having such power that it can misuse it.

In summary, based on all comments received, the ICG believes there is support for the proposal going ahead and is working with the OCs and/or editing the ICG's combined proposal (Part 0) to reflect comments gathered in this Public Comment Period.