

July 29, 2011

Fiona M. Alexander  
Associate Administrator  
Office of International Affairs  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Room 4701  
Washington, D.C. 20230  
[IANAFunctionsFNOI@ntia.doc.gov](mailto:IANAFunctionsFNOI@ntia.doc.gov)

RE: Request for Comments on the Internet Assigned Numbers Authority Functions

Dear Ms. Alexander:

The International Trademark Association (INTA) appreciates that the National Telecommunications and Information Administration (NTIA) has considered INTA's comments on the initial Notice Of Inquiry (NOI) and welcomes the opportunity to provide additional comments on the Further Notice Of Inquiry (FNOI) and accompanying draft Statement of Work dated June 14, 2011 (SOW).

INTA strongly supports NTIA's efforts to enhance the IANA functions and in developing an improved procurement process for awarding a new IANA contract. As reflected in INTA's comments on the NOI, a transition towards a cooperative agreement is inconsistent with the historical assignment of these functions, and NTIA's conclusion that it does not have the legal authority to enter into such an arrangement with any organization resides on a sound legal and practical foundation. The FNOI has been issued during a critical juncture in the ongoing development of the multi-stakeholder private sector led model of managing Internet resources, as embodied as the Internet Corporation for Assigned Names and Numbers (ICANN), and INTA is pleased to provide the following comments on the specific questions listed in the Draft Statement of Work (SOW).

**Question 1: Does the language in "Provision C.1.3" capture views on how the relevant stakeholders as sources of the policies and procedures should be referenced in the next IANA functions contract. If not, please propose specific language to capture commenters' views.**

As C.1.3 does not name stakeholders, INTA believes this question may reference C.1.4. With respect to the stakeholders named therein, the inclusion of certain entities in the IANA functions

contract may have effects on several levels. On one level, doing so is an explicit recognition of the many stakeholders involved in the domain name and addressing system’s coordination process. On another level, the exclusion of certain entities from this list may be seen to discount the role of certain organizations or entities. Thus, any listing of entities should be illustrative only of the various interests in the IANA functions, and such a list should also include broad categories of stakeholders, such as TLD operators or registry service providers, without having to specifically name TLDs or providers.

**Question 2: Does the new “Provision C.2.2.1.1” adequately address concerns that the IANA functions contractor should refrain from developing policies related to the IANA functions? If not, please provide detailed comments and specific suggestions for improving the language.**

The language at issue in C.2.2.1.1 could be broadened to address concerns that policy-making and IANA’s execution of such policies should remain entirely distinct. The language at issue is specific and qualified; *viz.*, it applies only to “any and all staff dedicated to executing the IANA functions,” which, read narrowly, can apply only to those technical personnel who are actually engaged in the management of the root zone. This language could be improved to conform to what we think was intended by drafting it to cover all persons involved with the IANA contract – not just technical personnel – to ensure that the staff dedicated to executing the IANA functions remain separate and removed from policy development related to those functions.

**Question 3: Does the language in “Provisions C.2.2.1.2, C.2.2.1.3, C.2.2.1.4, and C.2.2.1.5” adequately address concerns that the IANA functions contractor should perform these services in a manner that best serves the relevant stakeholders? If not, please propose detailed alternative language.**

INTA believes the mechanisms in place in C.2.2.1.2–3, C.2.2.1.3.1–2, and C.2.2.1.4, by which the IANA functions contractor shall develop performance standards and metrics in collaboration with stakeholders is a good starting point to ensure that the IANA functions contractor performs its services in a manner that best serves the relevant stakeholders and the public interest. The SOW could, however, provide further elaboration as to how the IANA functions contractor and stakeholders shall interact with each other and the process by which the IANA functions contractor is to take account of stakeholders’ interests. Further, with regard specifically to C.2.2.1.3.2, the SOW could provide further clarification with regard to the necessary documentation required to be submitted for delegation requests for new gTLDs.

**Question 4: Does the language in “Provision C.2.2.1.3” adequately address concerns related to root zone management? If not, please suggest detailed alternative language. Are the timeframes for implementation reasonable?**

INTA is in agreement that the administrative functions associated with root zone management should remain with the IANA functions contractor, but believes that additional oversight by NTIA is necessary. In particular, the IANA functions contractor should not be left to create its own performance standards and metrics without coordination with stakeholders. Rather, measures are needed to ensure transparency in the root zone function, and these interactions should be clarified as specified in INTA's answer to question 3 above. At a minimum, INTA suggests that periodic reports be required detailing root zone change requests, timing and accuracy in fulfilling such requests and denials and non-compliance with such requests together with the reasons therefor. Accountability of the IANA function would be served by making these reports publicly accessible to the extent allowed by law. Additionally, specific accountability measures could be developed to ensure the accuracy of contact, name server, delegation, and resource record information before new TLDs are created.

Finally, it is suggested that preliminary performance standards be in place prior to selection of the IANA functions contractor so that the contractor is aware of at least the minimum standards to which it must adhere.

**Question 5: Does the new “Provision C.2.2.1.3.2 Responsibility and Respect for Stakeholders” adequately address concerns related to the root zone management process in particular how the IANA functions contractor should document its decision making with respect to relevant national laws of the jurisdiction which the TLD registry serves, how the TLD reflects community consensus among relevant stakeholders and/or is supported by the global public interest. If not, please provide detailed suggestions for capturing concerns. Are the timeframes for implementation reasonable?**

INTA agrees that policies are needed to respect the laws of each country served by a TLD registry and that a system whereby historical change requests can be viewed and monitored is a step in the right direction. It would be beneficial for such system to be viewed by all stakeholders and clearly indicate the timeliness of the performance of the IANA function.

In addition, as discussed in the answer to question 3 above, with regard to C.2.2.1.3.2, INTA supports this language and believes it addresses a gap in ICANN's Applicant Guidebook process that does not require an evaluation that demonstrates a new gTLD will serve the public interest. Provision C.2.2.1.3.2 could provide greater specificity with respect to the types of documentation required for demonstrating that delegation of a TLD reflects community consensus and/or is supported by the global public interest.

**Question 6: Does the new “Section C.3 Security Requirements” adequately address**

**concerns that the IANA functions contractor has a secure communications system for communicating with service recipients? If not, how can the language be improved? Is the timeframe for implementation reasonable?**

INTA agrees with the need for a secure system and recognizes that other commenters are more equipped to elaborate in this realm.

**Question 7: Does the new “Provision C.2.2.1.3.5 Customer Service Complaint Resolution Process” provide an adequate means of addressing customer complaints? Does the new language provide adequate guidance to the IANA functions contractor on how to develop a customer complaint resolution? If not, please provide detailed comments and suggestions for improving the language.**

The provision C.2.2.1.3.5 for Customer Service Complaint Resolution Process provides that the contractor shall establish a process but provides no analog or model process currently in use as guidance. As a result, the provision leaves open what would be typical parameters for such a process such as levels of severity of complaints or timeframe for response, the chain of authority to whom complaints would be addressed, and any methods for reconsideration or appeals if the first response was insufficient or unsatisfactory. There also should perhaps be a required form of complaint, established time frames, and a means for notifying all necessary or affected parties. It is also unclear whether the scope of the complaints under the broad term "root zone management" is limited to highly technical errors or failures or if it includes disputes over allocation, ownership changes, or any historical abuses and harms resulting from both negligent and intentional acts adversely affecting proper root zone management.

**Questions 8, 9, and 10:**

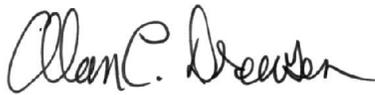
INTA does not have specific comments on the last three questions in the SOW.

## **Conclusion**

INTA supports the ongoing development of the multi-stakeholder private sector model of managing Internet resources in a manner that is representative of global stakeholders and furthers the public interest. Of paramount importance to INTA is to have a firm relationship between the IANA functions contractor and stakeholders such that rational and meaningful policies that further the goals of transparency, accountability, and promotion of the public interest can be developed within a relatively short timeframe. Given the critical importance of the IANA function, INTA strongly supports NTIA efforts to strengthen the IANA functions contract and the related procurement process.

Thank you for considering our views on these important issues. If you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio Digangi at: [cdigangi@inta.org](mailto:cdigangi@inta.org).

Sincerely,



Alan C. Drewsen  
Executive Director