

IANA Naming Function Agreement

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Background

- Agreement is between ICANN and what is known as “Post Transition” IANA (PTI)
- PTI is the post-transition replacement for the IANA function as we’ve known it for over 20 years
- PTI was formed “...as a nonprofit public benefit corporation and controlled affiliate of ICANN”
(<https://www.icann.org/news/announcement-2-2016-08-11-en>)
- The IANA Names Function Agreement defines the relationship between ICANN and PTI with respect to the DNS Names Function (Root Zone file management)

Naming Function Agreement Overview

- Fairly complex agreement
 - 21 pages
 - 14 Articles in the agreement
 - 1 Annex (17 additional pages)
- Published for public comment on 10 August 2016
- Comment period ended 9 September 2016 (23.59h)
- Revised Agreement available at <https://www.icann.org/en/system/files/files/iana-naming-function-agreement-revised-to-address-comments-15sep16-en.pdf>

Problems with Initial Contract Language

- Diluted Framework of Interpretation (Fol) as ICANN Policy
- Elevated the GAC 2005 Principles to “de-facto” ICANN Policy
- Implied imposition of ICANN/PTI policies on non-ccNSO member ccTLDS

Final Language

- **Section 4.7 Responsibility and Respect for Stakeholders.**
- Contractor shall apply the policies for the Root Zone Management component of the IANA Naming Function that have been defined, or after the date of this Agreement are further defined, by
 - (a) the Generic Names Supporting Organization (“GNSO”), as appropriate under ICANN’s Bylaws,
 - (b) the Country Code Names Supporting Organization (“ccNSO”), as appropriate under ICANN’s Bylaws, and
 - (c) RFC 1591: /Domain Name System Structure and Delegation/ (“RFC 1591”) as interpreted by the Framework of Interpretation of Current Policies and Guidelines Pertaining to the Delegation and Redefinition of Country-Code Top Level Domain Names, dated October 2014 (“FOI”).
- In addition to these policies, Contractor shall, where applicable, consult the 2005 Governmental Advisory Committee Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains (“GAC 2005 ccTLD Principles”).
- Contractor shall publish documentation pertaining to the implementation of these policies and principles on the IANA Website.

What's Important?

- GAC 2005 Principles demoted
 - No longer “de-facto” ICANN/PTI “policy”
 - Further, note the change from “apply” to “consult” with respect to the GAC 2005 Principles
- ICANN/PTI restrained per ICANN Bylaws
 - “as appropriate under ICANN’s Bylaws” clause limits ICANN’s ability to impose it’s will on non-ccNSO member ccTLDs
 - Post transition “Community Empowerment” will control ICANN Bylaw changes going forward

Could we have done better?

- Perhaps
 - “Pay to Play” issue remains
 - This has always been present in the USG NTIA-ICANN/IANA contracts apparently
 - Could it be problematic in the future without USG oversight?
 - Confidentiality clause is of concern
 - Overly broad in my view