



Internal to ICANN “golden bylaw”

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Internal to ICANN – “golden” bylaw

Underlying principles

ICANN performs the IANA functions well

Changing the IANA operator is a risk for the stability of the services

Seperability is therefore only seen as an ultimate ‘nuclear’ option

Conclusion

Every organisation is organised and bound by its own bylaws, ICANN is an organisation, so ICANN is bound by its own bylaws, so:

Organise the oversight through the ICANN bylaws

Organise a possibility to seperate the IANA functions as nuclear option

Steps to be taken (I)

Step 1: Draft a new ICANN bylaw article with the following outlines:

There shall be a body known as the MRT

The MRT shall be responsible for the long term availability and continuation of the IANA naming services satisfying the needs of all involved stakeholders by:

- setting the requirements for the execution by ICANN of the IANA naming function;
- reviewing the execution by ICANN of the IANA naming function and hold ICANN accountable with regard to such;
- executing the sole and exclusive power - and thereby excluding the Board – to decide to transfer the IANA naming functions to another organization;
- executing the sole and exclusive power – and thereby expressly excluding the Board – to externally represent ICANN with regard to all steps they feel necessary for the execution of the transfer of the IANA naming functions.

Organization, etc. (see current CWG work including a CSC as part of the MRT).

This Article in the Bylaws of ICANN may only be altered, amended, or repealed and any conflicting new Articles of Incorporation or Bylaws adopted with the consent of the MRT.

Steps to be taken (II)

Step 2: Draft an internal document (MOU or other name)

incorporate the necessary items from the current NTIA contract along the lines of what has been discussed in the CWG.

Step 3: ICANN Board decides to amend the bylaws conform the plan

why would the ICANN board take such a decision ?

because the NTIA tells ICANN to do so if ICANN wants to keep the IANA (naming) functions at the end of the current NA contract

PRO en CONS of the 'golden bylaw'

PRO

- Good for the stability of the IANA naming function
- No difficult external organizations necessary
- Relatively simple

CONS

- Everything in one hand (if you feel that to be a problem)
- Changing to a new provider is not a simple step as you will also need a new oversight structure
- Uncertain if it is possible under Californian law (but same problem for CCWG Accountability & for Contract co.)