



Comment on Draft Governance Documents for Post Transition IANA (PTI)

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Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter¹:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

PTI Governance Documents

The BC welcomes the opportunity to review and comment on governance documents developed for the Post-Transition IANA (PTI) entity². These documents include:

- Draft PTI Conflict of Interest Policy
- Draft PTI Board Code of Conduct
- Draft PTI Expected Standards of Behavior

The BC appreciates the extent to which the PTI governance documents comport with ICANN's governance documents, which include practices and procedures to ensure the organization is governed by the highest levels of professionalism, ethics, and integrity. This appropriately respects the view expressed by NTIA in its IANA Transition Proposal Assessment Report that an alignment of PTI and ICANN governance documents would greatly benefit the new subsidiary³. In general, these governance documents will serve the PTI well, with a few modifications that we detail below.

We note that the BC provided comments in 2008 on ICANN's Conflict of Interest Policy, Board Code of Conduct, and Expected Standards of Behavior, which helped to ensure that these documents were further refined and strengthened consistent with current corporate governance practices⁴.

PTI Expected Standards of Conduct -- We further note that the BC provided comments in Jun-2016 concerning proposed revisions to the ICANN Expected Standards of Behaviors pertaining to harassment⁵. As we stated in those comments, the BC believes that all members of the ICANN community (including volunteers, Board members and staff) must treat each other in a professional manner and behave

¹ Business Constituency Charter, at <http://www.bizconst.org/charter>

² ICANN comment page, at <https://www.icann.org/public-comments/pti-governance-documents-2016-07-08-en>

³ Jun-2016, NTIA IANA Stewardship Transition Proposal Assessment Report, at <https://www.ntia.doc.gov/report/2016/iana-stewardship-transition-proposal-assessment-report>

⁴ BC Comment on Proposed Board Code of Conduct, Aug-2008, at http://www.bizconst.org/assets/docs/positions-statements/position-08-2008_board_code.doc

⁵ Business Constituency comment on proposed ICANN Expected Standards of Behaviors, Jun-2016, at http://www.bizconst.org/assets/docs/positions-statements/2016/2016_06june_25%20bc%20comment%20on%20revisions%20to%20icann%20standards%20of%20behaviors.pdf

professionally while participating in ICANN, both in-person and online. Sexual harassment must not be tolerated. ICANN and the PTI need clear policies, guidelines, and procedures to make this a reality.

The BC has no objection to staff using the [Internet Engineering Task Force's policy on harassment](#) in the draft PTI Expected Standards of Behavior⁶. However, as we stated in our June 2016 comment, meaningful guidelines and procedures also are needed. For example, the proposed standards lack any examples or supporting material to help individuals from cultures around the world come to a common understanding of what is expected.

Further, the proposed standards lack any procedure for aggrieved individuals (including a procedure for immediate intervention), which is an especially critical element in addressing sexual harassment or other forms of harassment.

In sum, the BC urges that the Expected Standards of Conducts for *both* ICANN and the PTI be aligned to provide such clarity, guidance, and procedures for redress for instances of harassment.

To reiterate a key point of our Jun-2016 comments, we ask that ICANN provide the community with a timeline and project details concerning due diligence on this issue so the community can have more confidence that this matter will receive the attention that it deserves and properly inform both ICANN and PTI Expected Standards of Conduct.

PTI Conflicts of Interest Policy – In general, the BC approves of the manner in which ICANN's Conflicts of Interest (COI) Policy has informed development of the PTI's COI policy. However, in the interest of ensuring proper alignment of the documents, we note an omission and ask that this be corrected in the next draft of the PTI's COI policy. Specifically, the PTI document is missing a provision of the ICANN COI policy (Section 2.4), which calls for the involvement of an Independent Valuation Expert when necessary. The BC proposes that Section 2.4 of ICANN's COI policy also be included in the PTI COI policy.

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This comment was drafted by Barbara Wanner, with edits from Hibah Hussain and Jay Sudowski.

It was approved in accordance with the BC charter.

⁶ IETF Anti-Harassment Policy, Nov-2013, at <https://www.ietf.org/iesg/statement/ietf-anti-harassment-policy.html>