Paul Twomey
President
ICANN

24 February 2004

Dear Paul,

Thank you for your correspondence to the NRO, dated 29 January 2004. We have
prepared the following comments. Each item in our response consists of an excerpt from
your letter and an accompanying comment.

ITEM 1

EXCERPT:

We are in receipt of the letter jointly sent by the Regional Internet Registry CEOs
conveying the proposed MoU between the Address Supporting Organization and
ICANN.

COMMENT:

The proposed MoU is between the Number Resource Organization and ICANN. The
proposal is to form the ASO, as stated in our draft:

1. **Organization**

   Under this agreement between ICANN and the Number Resource Organization
   (NRO), the NRO shall fulfill the role, responsibilities and functions of the ASO
   as defined within the ICANN Bylaws as referenced at [ICANN-BYLAWS].

ITEM 2

EXCERPT:

(1**) The manner in which the Address Council is populated;**

We would appreciate receiving additional details concerning how you and your Boards
intend to populate the Address Council/Number Council, particularly the seat reserved
for appointment by the RIR Boards.

COMMENT:

The Board of each RIR will determine the manner in which they will choose their respective member of the Address Council/Number Council. The criteria will preclude a member of the NRO EC or an RIR staff member from being eligible for selection.

ITEM 3

EXCERPT:

(2) The selection of some number of Address Council members by ICANN's Nominating Committee;

The composition of each Supporting Organization's Council is described in detail in the ICANN bylaws. The GNSO Council and proposed ccNSO Council both include as full participants members who are appointed by ICANN's Nominating Committee, and they also explicitly recognize the appropriate participation of non-voting liaisons from the Governmental Advisory Committee and the At-Large Advisory Committee. The reasons for including liaisons and NomCom-appointed members in the Councils of the ccNSO and GNSO apply equally to the ASO, and we see no reason not to include them in the ASO Council.

COMMENT:

The current ICANN By-Laws (26 June 2003) describe the ASO Address Council as:

> **Section 2. ADDRESS COUNCIL**
>
> 1. The ASO shall have an Address Council, consisting of representatives of the RIRs that are signatories to the Memorandum of Understanding

Your statement appears to assume that all ICANN SOs should conform to an identical structure, regardless of their internal structure, components or intended role. The RIRs believe that this is neither necessary nor appropriate, and that fundamental differences in the nature of SOs should be reflected appropriately in their relationships with ICANN.

In the case of the ASO, the selection method for AC members is designed to provide balance within the council. Two members are elected from each region by their respective communities in an open and transparent process. The only restriction on the nominees for this position is that they come from the region that is electing them. One member is selected from each region by their respective RIRs to provide the perspective of the RIRs to the Address Council. The replacement of either of these two types of members by a member appointed by the NomCom would upset the stakeholder/RIR balance on the Address Council. Introducing another member or members to the Address Council appointed by the NomCom would make a larger and unwieldy Council. Thus

intended effect would not occur, but rather the opposite – the Address Council would become non-effective.

ITEM 4

EXCERPT:

(3) The participation of non-voting liaisons in the activities of the Address Council; and

With respect to the issue of non-voting liaisons, the RIRs' MoU proposal states that the Address Council "shall admit liaisons from other ICANN entities"; but this directive applies only pursuant to written agreements between those entities and the NRO, and does not explicitly recognize and specify the role of the Governmental Advisory Committee and At-Large Advisory Committee liaisons in the activities of the Address Council. These liaison relationships are essential to the open exchange of information within ICANN, and must be clearly defined in the ASO MoU. As we have discussed in person, ICANN believes that the GAC and ALAC would be willing to accommodate a mutual exchange of liaisons with the ASO and facilitate regular briefings, as they have done with the GNSO. We would appreciate your amending the MoU wording to ensure that this vital cross-organizational function is preserved.

COMMENT:

The NRO EC is absolutely open to the idea of mutual non-voting liaisons between the Address Council and other ICANN entities. We firmly believe that these liaisons if properly implemented could be a positive contribution to an open exchange of information between the Address Council and the various ICANN committees as well as other supporting organizations within the ICANN framework.   In this context we see no need to single out particular ICANN committees in the ASO MoU at the expense of others. This begs the issue that if other liaisons are to be added later, would the ASO MoU have to be amended to accommodate these additions? We feel that the provision as proposed identifying the existence of liaisons and providing for written liaison agreements between the NRO and ICANN with regard to specific liaison relationships establishes and recognizes that any liaison can exist while providing flexibility to define and redefine liaison relationships without having to amend the ASO MoU.

ITEM 5

EXCERPT:

(4) The specification of time limits for Address Council action in the Global Policy Development Process.

The proposed Global Policy Development Process contains specific time limits applicable to the consideration and ratification of proposed policies by ICANN's Board,

but no time limits are specified for the actions of the Address Council. The ASO may also consider applying time limits to its own actions. The ability of the Internet community to track policy development progress and of the ASO to effectively manage expectations depends on these time limits.

COMMENT:

The actions of the Address Council in regard to the global policy proposal process are dependent on the bottom up policy process that is well established in all of the regions. Recognizing this, the following is proposed in regards to the Address Council. These provisions would be incorporated into Attachment A of the proposed ASO MoU.

a. A proposed global policy can be submitted either to one of the RIR policy fora (via mail lists or public policy meeting) or to the Address Council directly. If it is presented to one of the RIR policy fora the RIR appointed member of the Address Council from that region will notify the Chair of the Address Council within ten days of the introduction of the proposal. If it is presented to the Address Council the RIR appointed members of the Address Council will notify their respective RIRs within ten days of the introduction of the policy proposal to the Address Council. The proposal must meet the definition of a global policy other wise it will be considered a regional policy that may be harmonized amongst the RIRs. As defined in the proposed ASO MoU:

> *Global policies are defined as policies that have the consensus of all RIRs and ICANN, and require specific actions or outcomes on the part of IANA or any other external ICANN-related body in order to be implemented*.

The Chair of the Address Council will place the global policy proposal on agenda of the next Address Council meeting as an information item.

b. The RIR appointed members of the Address Council will request that the global policy proposal is on the agenda for next open policy meeting in each region, in accordance with the applicable policy process. It is noted that if a proposal does not meet the policy timeline in a particular region, it may generally be introduced in that meeting as an informational item, and then considered as a policy proposal at the next open policy meeting of that RIR.

c. In those cases where the advocate of the proposed policy cannot travel to a particular RIR public policy meeting, then the RIR shall appoint a staff member to present the proposal at the meeting.

d. Within thirty days after the NRO Executive Council has advised the Address Council that global policy proposal has been adopted by all of the regions the Address Council shall either:
1. pass it to ICANN for ratification as a global policy, or

2. advise the NRO Executive Council that the Address Council has concerns as an outcome of its review and that the proposal requires further review within the public policy development process, or
3. request the NRO Executive Council for an extension of time to complete the review of the proposal.

ITEM 6

EXCERPT:

Per our teleconference on Monday, 25 January, ICANN notes your statement that the provision concerning the recognition of new RIR's has been suspended as per your decision in November 2003 meeting in Havana. We also note that such a policy was used by the ICANN board to effect the recognition of LACNIC on 30 October 2002.

COMMENT:

As the current ASO MoU is still in effect, the portions of the NRO MoU relating to ASO and related matters has been suspended while the revised ASO MoU is being negotiated in good faith. The NRO therefore presumes that any actions concerning a new RIR will be acted on in accordance with the current ASO MoU and ICP-2 during this period. It is noted that one of the responsibilities of the Address Council in the proposed MoU is to provide "recommendations to the Board of ICANN concerning the recognition of new RIRs, according to agreed requirements and policies as currently described in document [ICP-2]."

Paul, again on behalf of the NRO, let me thank you for your comments. We feel that our response to you will further our reaching an agreement on a new ASO MoU and Global Policy Development process and will bring the already stable and reliable operation of the number resource functions under the ICANN umbrella. We look forward to your timely response.

Sincerely,

Paul Wilson
Chair
for the Number Resource Organisation Executive Council