

[NomComRIWG] NomCom Review: Call for Action

Heather Forrest [haforrestesq at gmail.com](mailto:haforrestesq@gmail.com)

Mon Jul 27 01:13:01 UTC 2020

- Previous message: [\[NomComRIWG\] NomCom Review Implementation Working Group \(NomComRIWG\) - Thursday, 23 July 2020 @ 1900 UTC](#)
- Next message: [\[NomComRIWG\] NomComRIWG Call #47 | 30 July 2020 | 13:00 UTC](#)
- Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)

Dear Tom and RIWG colleagues,

Thank you for the call of 22 July and this opportunity to provide the IPC's input into the Bylaws change that is proposed in relation to the redistribution of GNSO NomCom seats. We particularly appreciate the opportunity to ask questions through the SG/C leaders' call on the 22nd as to the background and context of the proposal. We have reflected carefully in reviewing the proposed redline draft.

The IPC wishes to advise that we do not support the proposed Bylaws amendment. *The IPC wishes also to advise that we do not support the NomCom RIWG imposing a solution of its choosing on the GNSO. *

We are sure that you can appreciate the sensitivities that surround any proposal to change the NomCom seats to reflect the GNSO Council structure. The GNSO Council has, as was highlighted in the call on 22 July, a precisely identified, narrow remit as manager of the policy development process. The IPC has long held and expressed the position that the GNSO Council structure itself does "not accurately represent constituencies", as the Independent Review Final Report urges the NomCom structure to do (<https://www.icann.org/en/system/files/files/nomcom-review-final-05jun18-en.pdf> at p 25). The GNSO is certainly evolving, but this goes well beyond simply the addition of the NPOC structure (notably the only example raised in our call of the 22nd). The New gTLD Program of 2012 has fundamentally broken down the previously clear, bright lines between contracted and non-contracted party. Many IPC members are also represented in other GNSO Stakeholder Groups and Constituencies. Members of the GNSO's SGs and Cs also participate in other ICANN structures, including in particular the At-Large, as well as the ccNSO and SSAC. It is unnecessary and inappropriate to mirror this complicated and ineffectual state of affairs in designating NomCom seats. Further, the present structural deficiencies will inevitably frustrate any effort to set up some sort of new committee or mechanism within the GNSO for deciding on who fills these seats on a rolling basis each year.

While we appreciate the suggestion that another way of approaching this could be for the GNSO SG/Cs themselves to propose a solution, the IPC questions whether we (or indeed the RIWG) have sufficient information to make informed decisions. We believe that neither we nor the RIWG should be rushing to change such an important process to ICANN's accountability without clear, documented justification. To that end we note that, in making Recommendation 10 ("Representation on the NomCom should be re-balanced immediately and then be reviewed every five years."), the Independent Reviewers advised: "A recommendation on a precise way to rebalance the NomCom would require a comprehensive assessment of representation within the ICANN community, including a full understanding

of the history and possible future of representation within the SOs/ACs." While we appreciate that Rec 10 is a Board-approved recommendation, we agree with the Independent Reviewers as to the necessity of this comprehensive assessment, and consider that this should take into account the impact of new gTLDs on *all ICANN structures*, not simply the Stakeholder Groups and Constituencies of the GNSO. While the upcoming GNSO Review could offer an opportunity for such a "comprehensive assessment of representation" within the GNSO structure, this should only be part of a broader exercise of the advised "comprehensive assessment of representation within the ICANN community".

We will be pleased to engage further with the RIWG's processes and provide further input as is helpful.

Sincerely yours,
Heather Forrest, IPC President

On Wed, Jun 17, 2020 at 5:35 AM Tom Barrett <tbarrett@encirca.com> wrote:

> Dear Heather, Wolf-Ulrich, Jennifer, Dean, Barbara, Claudia, Stephanie,
> Bruna, Joan, Graeme, and Donna,
>
>
>
> *Re: Proposed Bylaws change on NomCom composition; response requested by
> 30 July 2020.*
>
>
> As you may recall, the ICANN Board accepted the Independent Examiner's
> NomCom Review Final Report [link
> <<https://www.icann.org/en/system/files/files/nomcom-review-final-05jun18-en.pdf>>]
> and the NomCom Review Implementation Working Group's (NomComRIWG) Detailed
> Implementation Plan [link
> <<https://www.icann.org/resources/board-material/resolutions-2019-11-07-en#2.b>>]
> in November 2019. The Board directed the NomComRIWG to commence
> implementation of the twenty-seven (27) recommendations. As the Chair and
> Vice Chairs of the NomCom Review Implementation Working Group (NomComRIWG),
> we are contacting you in relation to implementation of Recommendation 10,
> which states that: *[r]epresentation on the NomCom should be re-balanced
> immediately and then be reviewed every five years.*
>
>
>
> This recommendation was based on the Independent Examiner's finding that
> the NomCom "[m]ay not accurately represent constituencies (both across
> SOs/ACs and within SOs/ACs)*. It entails "[p]eriodically reviewing and
> re-balancing the NomCom makeup [to ensure] that it appropriately reflects
> the ICANN community, both from a historic and prospective vantage point".* Five-year
> intervals for such reviews were set by the Independent Examiner "[b]ased
> on ICANN's typical review requirements for organizations, as well as the
> Independent Examiner experience with other similar, volunteer-based
> organizations*." [1]
>
>
>
> Please note that Recommendation 10 needs to be viewed in the context of
> Recommendation 8, which is to "[m]aintain the current size of NomCom"*, in
> view of the Independent Examiner's finding that the NomCom's current
> membership size is appropriate.
>
>
>

> In our discussion and analysis of these two recommendations, the
> NomComRIWG has agreed on a number of points:

- > - Considering Recommendation 10 (see above), we are of the view that
> the current allocation of nineteen (19) NomCom seats across the various
> SO/ACs should remain unchanged.
- > - *The GNSO has evolved over time. In addition, Bylaws describing
> GNSO's current allocation do not allow for growth and flexibility.*
- > - The NomComRIWG believes that, in relation to rebalancing the GNSO's
> allocation of 7 seats, it should be the GNSO's constituencies and
> stakeholder groups that decide how these seats are distributed.
- > - NomComRIWG would like to recommend to the Board that the ICANN
> Bylaws be revised to eliminate language referring to specific seats for
> stakeholder groups. With such a Bylaws change, the GNSO could then
> rebalance itself periodically without requiring Bylaw changes.
- > - The GNSO should then undertake a rebalancing exercise for its 7
> NomCom seats. Possible outcomes, among others, include maintaining the
> status quo or rotating the 7 seats among its constituencies and stakeholder
> groups.

> The NomComRIWG would like to hear from the GNSO's constituencies and
> stakeholder groups whether they support such a Bylaws change. *We have
> attached a proposed redline draft*. If you are not supportive, the
> NomComRIWG welcomes your explanation and suggestion on an alternative.

> To be clear, we are not asking for the GNSO to undertake the actual
> rebalancing exercise until the Bylaws changes are approved.

> As the NomComRIWG is working on overseeing the implementation of several
> recommendations that require amendments to the Bylaws, we would like to
> bundle all these into a single Bylaw amendment process. Therefore, we would
> value your input on the proposed Bylaw changes *by 30 July 2020*.

> If you have any questions or concerns, we will be very pleased to schedule
> a call to discuss Recommendation 10 or any other recommendation.

> Many thanks and best regards,

> Tom Barrett (Chair), Cheryl Langdon-Orr (Vice-Chair), Zahid Jamil-IG
> (Vice-Chair)

> -----

> [1] Independent Review of the ICANN Nominating Committee: *Final Report *(5
> June 2018), p25-26,
> <https://www.icann.org/en/system/files/files/nomcom-review-final-05jun18-en.pdf>
> .

> --
> Thomas Barrett
> President
> EnCirca, Inc
> +1.781.942.9975 (office)
> 400 W. Cummings Park, Suite 1725

> Woburn, MA 01801 USA

>

----- next part -----

An HTML attachment was scrubbed...

URL:

<<http://mm.icann.org/pipermail/nomcomriwg/attachments/20200727/5e95ae93/attachment.html>>

- Previous message: [\[NomComRIWG\] NomCom Review Implementation Working Group \(NomComRIWG\) - Thursday, 23 July 2020 @ 1900 UTC](#)
 - Next message: [\[NomComRIWG\] NomComRIWG Call #47 | 30 July 2020 | 13:00 UTC](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

[More information about the NomComRIWG mailing list](#)