

Working Group 1

Board composition and skill-set background document

WG 1 is analysing, reviewing and reporting on ICANN's efforts to meet its commitments, set out inter alia in paragraph 9.1.(a) of the AoC.

"...continually assessing and improving ICANN Board of Directors (Board) governance including the Board selection process, the extent to which the Board's composition meets ICANN's present and future needs..."

The purpose of ICANN committing to 9.1.(a) above is "...to ensure the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders..."

WG 1 has indentified that as part of its work it should consider the roles of the SOs and ACs and the Nominating Committee in respect to Board composition and skill-set requirements

Relevant bylaws:

1. Article VII (<http://www.icann.org/en/general/bylaws.htm#VII>) establishes the Nominating Committee and deals with its structure. The only sections of VII relevant to its work in selecting Board members are Sections 5 and 7:
 - a. Section 5 refers to the geographic diversity requirement expressed in Article 1 Section 2 Core Value 4 (<http://www.icann.org/en/general/bylaws.htm#I-2>) and somewhat confusingly, in the context of Board selection, also refers to the Section 4 of VII which actually deals with the selection of Nominating Committee members.
 - b. Section 7 simply states that the Nominating Committee shall adopt such operating procedures as it deems necessary
2. Article VI (<http://www.icann.org/en/general/bylaws.htm#VI>) deals with the composition of the Board. Sections 2 and 3 are relevant:
 - a. Section 2 requires the Nominating Committee to seek to ensure that the ICANN Board is composed of members who in the aggregate display diversity in geography, culture, skills, experience, and perspective, by applying the criteria in Section 3.

- b. Section 3 sets out the criteria for the selection of Directors (by Supporting Organisations and Advisory Committees as well as the Nominating Committee). Those criteria are:
- i. Accomplished persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and a demonstrated capacity for thoughtful group decision-making;
 - ii. Persons with an understanding of ICANN's mission and the potential impact of ICANN decisions on the global Internet community, and committed to the success of ICANN;
 - iii. Persons who will produce the broadest cultural and geographic diversity on the Board consistent with meeting the other criteria in Section 3;
 - iv. Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars; with ccTLD registries; with IP address registries; with Internet technical standards and protocols; with policy-development procedures, legal traditions, and the public interest; and with the broad range of business, individual, academic, and non-commercial users of the Internet;
 - v. Persons who are willing to serve as volunteers, without compensation other than the reimbursement of certain expenses;
 - vi. Persons who are able to work and communicate in written and spoken English.

There do not appear to be any other relevant bylaws.

Relevant Published Policies:

There do not appear to be any relevant published policies.

Relevant Published Procedures:

The Nominating Committee commenced in 2003 and each year its documents are archived on the ICANN web site.

The relevant document is generally referred to as "Nominating Committee Procedures".

1. The 2003 Nominating Committee Procedures (<http://nomcom.icann.org/procedures-10apr03.htm#B>) contain 2 sections of relevance:

- a. Section B 1 deals with the committee's role and objectives stating that "the objective of ICANN's new nominating process is to balance the Supporting Organization-based and constituency-based selection of Directors and individuals for other positions to ensure that ICANN can benefit from participants of the highest integrity and capability who place the public interest ahead of any particular interests, but who are nevertheless knowledgeable about the environment in which ICANN operates."

- b. Section C 8 deals with selection criteria and states inter alia:

- i. the NomCom will apply the criteria for selection and terms of eligibility, defined in the applicable ICANN Bylaws, to identify a pool of qualified Candidates;

- ii. To select from this pool of qualified Candidates, NomCom will take into account additional considerations, related to the roles to be filled, that it finds important as progress in the selection process is made.

2. The 2004 Nominating Committee Procedures (<http://nomcom.icann.org/procedures-18jun04.htm>):

- a. Section B 1 now reads

"NomCom is responsible for the selection of portions of the members of the ICANN Board of Directors, GNSO Council, Interim ALAC, and ccNSO Council, filling these leadership positions in a way that complements the selections made for such positions by the Supporting Organizations and Interim ALAC.

The central rationale for using a nominating committee to select a portion of the ICANN leadership bodies is to balance those who can represent particular areas of knowledge and interests with those who place the broad public interest of the global Internet community ahead of any particular interests. NomCom's role is to select individuals of the highest integrity and capability who place the broad public interest of the global Internet community ahead

of any particular interests, and who are nevertheless knowledgeable about ICANN's mission and environment".

- b. Section C 8 has not materially changed.
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3. The 2008 Nominating Committee Procedures (<http://nomcom.icann.org/procedures-2008.html>) are the most up to date available as the 2009 and 2010 procedures although referred to on the relevant pages are not linked:
 - a. Section B 1 has not changed.
 - b. Section C 8 has changed slightly and now states, inter alia (emphasis added):
 - i. the NomCom will apply the criteria for selection and terms of eligibility, defined in the applicable ICANN Bylaws, to identify a **strong** pool of qualified Candidates;
 - ii. To select from this pool of qualified Candidates, NomCom will take into account **relevant and** additional considerations, related to the roles to be filled, related to the roles to be filled as the selection process progresses.

Community feedback to the ATRT:

To be completed.

ICANN activities already underway that help to meet the AoC objectives:

Staff have provided the ATRT with a matrix entitled Affirmation of Responsibilities Tracking and Brainstorming (ARTB).

In respect to the Board selection process, the ARTB states that the ongoing implementation of the NomCom and Board review are activities underway to meet AoC objectives.

In respect to the extent to which Board composition meets ICANN's present and future needs, the ARTB states that all multi-stakeholders groups being involved in Board elections and NomCom delegate selections helps to meet the AoC objectives.

Other Input

The Nominating Committee Review:

1. In 2007, Interisle Consulting Group conducted an independent review of the Nominating Committee. Their Final Report was published on 23 October 2007 (the Report) (<http://www.icann.org/en/reviews/nomcom/report-23oct07.pdf>). It made a number of findings and recommendations that are relevant to the work of WG1.

a. Findings:

- i. Finding 1 - The central purpose of the NomCom is to find genuinely independent and unaffiliated Board....members (page 15 of the Report);
- ii. Finding 25 - The NomCom lacks specific requirements for its annual Board.....appointments and it is not clear how those requirements should be established (or by whom) (page 28 of the Report).

b. Recommendations:

- i. Recommendation 3 – Recruit and select based on requirements. The Report suggests that a formal procedure is developed for discovering and understanding the requirements of the Board (page 36 of the Report);

2. After a number of public and Board committee processes, the final report of the NomCom Review Finalisation Working Group was released in January 2010 (<http://www.icann.org/en/reviews/nomcom/nomcom-review-finalization-wg-final-report-29jan10-en.pdf>). In respect to recommendation 3 the working group states:

“The WG remarks that similar recommendations are also contained in the report issued by the external reviewers of the Board of Directors which is presently under consideration by the Board Review WG.

Even if not explicitly required by Bylaws, the most recent NomComs adopted the practice to consult informally with Members of the Board and Chairs of SO/ACs on skill gaps to be filled.

Regarding the communication between the NomCom and the Board, the NomCom

review finalization WG supports the recommendation of the Board review WG for a formal dialogue between the Nominating Committee and the Board about gaps and needs that have been identified in the Board's skill-set. That dialogue could consist in a regular consultation between the respective chairs."

The Board Review

1. In 2008 Boston Consulting Group/Colin Carter & Associates conducted an independent review of the Board. Their Final Report was published in November 2008 (the Report) (<http://www.icann.org/en/reviews/board/report-02nov08-en.pdf>). The main finding relevance to WG1 is Section C 4 'Broaden the Skills of the Board' commencing on page 37 of the Report and the recommendation which states inter alia:

- a. Formally define the skill and experience and independence mix required for the board to operate effectively – in the short and longer terms;
- b. Form a view about the main gaps in skills that should be met;
- c. Formally define the participation of the ICANN chairman and the chairman of the Governance Committee as part of the Nominating Committee's process for choosing new board directors;
- d. Develop a process for engaging the Supporting Organisations and Advisory Committee in a discussion about the mix of skills required.

2. After a number of public and Board committee processes, the final report of the Board review Working Group was released in January 2010 (<http://www.icann.org/en/reviews/board/board-review-final-26jan10-en.pdf>). In respect to the relevant parts of recommendation 4 the working group states:

"This recommendation, and in particular the options 4a and 4b, is also being considered by the Board Governance Committee.

With regard to 4c, the WG is of the view that it is appropriate and useful for the Chairman of the Board to have a formal meeting with the Chairman of the Nominating Committee to discuss the skill needs of the Board, and notes that informal contact already occurs.

A formal discussion between the Chairs should take place after a full Board discussion about necessary Board skills, and the Chairman of the Board should represent the Board position on this. If this process is followed, there is no need for the Chairman of the Board Governance Committee to meet with the Chair of the Nominating Committee.

With regard to 4d, the WG recognizes the value in having input from the SOs and ACs into the Nominating Committee process. However, the WG sees little value in creating an extra formal process to capture this input. SOs and ACs are encouraged to develop proposals for ways in which their input might most effectively be incorporated into the considerations of the Nominating Committee. Any such proposals should be submitted to the BGC for consideration."