At-Large Workspace: Draft Final Report of the NomCom2 Review

Public Comment Close	Statement Name	Status	Assignee(s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
07 May 2018	Draft Final Report of the NomCom2 Review	ADOPTED 12Y, 0N, 0A	Satish Babu	06 May 2018	07 May 2018	07 May 2018	10 May 2018	07 May 2018	Larisa Gurnick larisa.gurnick@icann.org	AL-ALAC-ST-0518-01-01-EN

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Brief Overview

Purpose: The purpose of this public comment is to solicit feedback on the Draft Final Report[PDF, 496 KB] of the second Nominating Committee Review (NomCom2).

Current Status: Analysis Group, the independent examiner that is conducting the NomCom2 Review, has published its Draft Final Report for public comment. The Draft Final Report contains both an assessment of the Nominating Committee and recommendations for improving its operations.**This public comment proceeding follows the publication of the Assessment Report, which included findings that were discussed with the community via several consultations.**

Next Steps: The Draft Final Report will be available for public comment for 41 days. A webinar will also be hosted by the independent examiner, Analysis Group, in mid-April. Webinar details, including how to join, will be posted here in due course. Input received from this public comment and webinar will be considered by Analysis Group for inclusion in the Final Report. The Final Report is expected to be published in June 2018.

Section I: Description and Explanation

Analysis Group, the independent examiner conducting the second review of the ICANNNominating Committee (NomCom2), is seeking feedback on its Draft Final Report [PDF, 496 KB].

The NomCom2 Review is following a new two-phased approach to Organizational Reviews in which the independent examiner first completes its assessment and then makes recommendations to address the findings noted during the assessment. This new approach is expected to contribute to more useful and relevant recommendations by providing an opportunity for the community and the independent examiner to discuss what works and what needs improvement before the independent examiner develops recommendations to address the observed situations.

Section II: Background

The purpose of the NomCom Review is to determine (i) whether the NomCom has a continuing purpose in the ICANN structure, (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness and (iii) whether the NomCom is accountable to its constituencies, stakeholder groups, organizations and other stakeholders. The review will also assess whether the improvements resulting from the last review (2007-2010) were effective. The NomCom is an independent committee tasked with selecting members of the Board of Directors as well as other key positions within ICANN's structure. It is designed to function independently from the ICANN Board, Supporting Organizations, and Advisory Committees. NomCom members act only on behalf of the interests of the global Internet community and within the scope of the ICANN mission and responsibilities assigned to it by the ICANN Bylaws. NomCom members contribute understanding of the broad interests of the Internet community as a whole, and knowledge and experience of specific Internet constituencies who have appointed them.

Section III: Relevant Resources

- Draft Final Report out for public comment [PDF, 496 KB]
- Assessment Report
- Assessment Report Executive Summary: AR | ES | FR | RU | ZH
- Assessment Report Webinar
- ICANN61 Public Session: NomCom2 Review Update
- ICANN60 Public Session: NomCom2 Review Update

Section IV: Additional Information

- NomCom Review home page on ICANN.org
- NomCom2 Review wiki space
- 2018 Nominating Committee page on ICANN.org

Section V: Reports

FINAL VERSION TO BE SUBMITTED IF RATIFIED

The final version to be submitted, if the draft is ratified, will be placed here by upon completion of the vote.

AL-ALAC-ST-051...8-01-01-EN.pdf

FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

The final draft version to be voted upon by the ALAC will be placed here before the vote is to begin.

A. Preamble

1. Given that ICANN's Multistakeholder Model depends on balanced participation from all stakeholders in the policy formulation process, and as the ICANN Nominating Committee is mandated with ensuring that a fair, participatory process exists to identify and appoint individuals for the leadership positions, the periodic independent external review is important to ensure that the NomCom continues to function effectively in the face of changes in the ICANN community and environment.

2. The ALAC is therefore thankful for this opportunity for commenting on the recommendations of the draft final report of the NomCom Review.

B. Recommendations

Recommendation 1: Formalize a job description	Agree. ALAC has already internally started a process of drawing up job descriptions. Diversity (particularly of Gender) should be a consideration.
Recommendation 2: Training to NomCom members for BoD	Agree, as long as the training does not attempt to coerce members to a preset agenda. NomCom members must keep the overall interests of ICANN as well as the Global Public Interest in mind as general guiding principles.
Recommendation 3: Training for NomCom Leadership	Agree on training. The current arrangement of Chair-elect seems to work fine, and it may be disruptive to appoint a Chair while another Chair is serving the role.
Recommendation 4: Training for NomCom members for Candidate Evaluation	Agree.
Recommendation 5: Role of a professional consultant	Agree, with the stipulations that (a) the process of identification of the consultant must be free and fair, and (b) the same consultant should not continue for a set number of years (say two years).
Recommendation 6:	Agree, with the same caveats as for #5.
Recommendation 7: A maximum of two two-year terms for NomCom Members	ALAC considered the current system of 1+1 years, which we feel is somewhat short, but at the same time, several of us find 2+2 years to be too long (both from locking up a potential leader, and also from making room for others). We would like to propose 2+1 years as an alternative to 2+2 years in case the latter is not acceptable by other constituencies. Further, additional co-ordination between constituencies to stagger appointments for continuity will also help.

Recommendation 8: Maintain current size of NomCom	Agree.
Recommendation 9: All NomCom members should be voting members	Agree.
Recommendation 10: Review every 5 years	Agree.
Recommendation 11: Senior NomCom Support Staff should report to the CEO	Cautiously agree: Given that the NomCom Chair and Chair-elect report to the BGC, their support Staff reporting to the CEO has the potential to create crossed wires, besides constraining the NomCom leadership. If such issues can be avoided and if the proposed arrangement has the potential to enhance the flexibility of the NomCom, only then it is worth implementing.
Recommendation 12: NomCom leadership should have input on NomCom budget	Agree. Given the situation that some ICANN meetings are convened in places where some NomCom members, particularly from At-Large, find it difficult to obtain visas, the NomCom should be allowed to convene their face-to-face meetings in places where it decides and not be forced to follow the ICANN Schedules. This has budget implications. In any case, functional autonomy of the NomCom implies a degree of control over its own budget.
Recommendation 13: Publish a Process diagram	Agree.
Recommendations 14, 15, 16	Agree.
Recommendation 15:	Agree.
Recommendation 16:	Agree.
Recommendation 17: Maintain NomCom Diversity at current levels	Do Not Agree: Diversity is usually something that we can never have enough of, particularly given the Multistakeholder composition of ICANN. While there may be challenges in increasing NomCom diversity, we have not yet reached a point where the diversity is sufficient (noting that even the Gender diversity requirements are not met during all years).
Recommendation 18:	Agree.
Recommendation 19:	Agree. Here is where an external professional agency can help out
Recommendation 20: Preliminary screening by external consultants	Do Not Agree: The preliminary screening should be done by the NomCom itself (as it was done this year). Besides being fair, this would also be cost-effective. Screening by an external party has the risky as its effectiveness is not easy to judge.
Recommendation 21: Standardized Matrix	It may not be practically feasible to create such a matrix, but if this can be done to the satisfaction of NomCom members, it could be tried out.
Recommendation 22: Standardized interview questions	Agree if this is feasible.
Recommendation 23: Publish additional data on the Candidate Pool	Agree, subject to GDPR Compliance at all stages of handling personal data.
Recommendation 24: Assess the performance of the Board as an indicator of NomCom selection efficiency	Agree, assuming that the performance of the individual NomCom appointees can be assessed individually
Recommendation 25: Advancing its nominations process into a Leadership Development function	Do Not Agree: This is outside the remit of the NomCom
Recommendation 26: Clarity on Independent Directors	Do Not Agree: Currently the NomCom-appointed Directors are a mixture of independent directors and ICANN insiders. There is no reason to further "harden" this structure as the current system seems to be working reasonably well.

C. General Comments

One the whole, the ICANN NomCom system has been working fairly well considering the significant challenges that it functions under. The NomCom Leadership as well as the members have taken on the onerous task of candidate selection, and have worked under time pressure and heavy workloads. The ALAC appreciates the work of successive NomComs.

The following comments are made in the overall spirit of making further improvements to the functioning of the NomCom, as well as in addressing the additional challenges ICANN is likely to encounter from its operating environment, particularly the demand for increased transparency in selections to key leadership positions.

1. As noted in the report, the ICANN NomCom is different in its function compared to most other Nominating Committees. The ICANN NomCom is more of a Selection Committee than the generic Nominating Committee (see: https://en.wikipedia.org/wiki/Committee#Nominating_committee), whose main task assigned is to identify a slate of candidates for different positions, which is then voted on by the membership. In this way the NomCom subsumes some of the membership's powers, and consequently, it should be much more accountable to the community.

2. A significant related concern is that since the NomCom is a much smaller group of people (than the membership), whether it is possible for a small group of NomCom members to 'game' the candidate selection process. In this regard, the somewhat opaque and confidential nature of NomCom processes makes it difficult for a NomCom member to refer to even her appointing constituency if in case of doubt.

3. The current review has steered clear of both the above concerns. As an independent, autonomous organization, ICANN would be subject to more intense public scrutiny in future, and perhaps it's important to dispel any doubts on these important issues.

4. The current practice is for each NomCom to start "on a clean slate" as far as its operations are concerned. In order to retain and re-use the best practices of previous NomComs, it is suggested that a living document on NomCom best practices be maintained by Staff with inputs reviewed by the NomCom leadership. The "firewall" between consecutive NomComs is not desirable, particularly since a number of members would be common between the two.

5. Confidentiality has been an important part of NomCom's functioning. While confidentiality needs to be maintained at the core, wherever open, transparent processes can be adopted, they should be. An opaque NomCom is not in the best interests of an otherwise open, transparent, bottom-up Multistakeholder organization such as ICANN.

6. The 360-degree evaluations that used to be carried out for each NomCom member and for the leadership team have not found a place in the review recommendations. If provided in time, these may be useful for the NomCom to provide feedback to the appointing constituencies on the performance of their appointees. A single composite score aggregating individual scores may also be useful in assigning an overall evaluation for the whole NomCom. The practice should therefore be continued.

7. Since NomCom collects a great deal of personal data from individual applicants, it needs to ensure compliance with the requirements of GDPR.

8. There are several recommendations that touch upon the need for training. As a general point, members of NomCom should be rather guided to understand the broad ecosystem of ICANN, the challenges it faces and the leadership that it requires, rather than provide them only with specific skills. In particular, the importance of non-verbal cues such as body language, which may require specialized training.

FIRST DRAFT SUBMITTED

The first draft submitted will be placed here before the call for comments begins.

A. Preamble

1. Given that ICANN's Multistakeholder Model depends on balanced participation from all stakeholders in the policy formulation process, and as the ICANN Nominating Committee is mandated with ensuring that a fair, participatory process exists to identify and appoint individuals for the leadership positions, the periodic independent external review is important to ensures that the NomCom continues to function effectively in the face of changes in the ICANN community and environment.
2. The ALAC is therefore thankful for this opportunity for commenting on the recommendations of the draft final report of the NomCom Review

B. Responses to Specific Recommendations

Recommendation 1: Formalize a job description	Agree. ALAC has already adopted this process.
Recommendation 2: Training to NomCom members	Agree, as long as the training does not attempt to coerce members to a preset agenda. NomCom members must keep the interests of their own constituency as well as the Global Public Interest in mind as general guiding principles.
Recommendation 3: Training for NomCom Leadership	Agree.
Recommendation 5: Role of a professional consultant	Agree, with the stipulations that (a) the process of identification of the consultant must be free and fair, and (b) the same consultant should not continue for a set number of years (say two years).
Recommendation 6	Agree, with the same caveats as for #5.
Recommendation 7: A maximum of two two-year terms for NomCom Members	Do not Agree: Up to two one-year terms, which is the current practice, does not need to change. A one-year term allows the sending constituency group to withdraw an unsuitable person after a year (noting that the NomCom has just unilaterally "fired" one of its members). Further, for At-Large, the NomCom is also a good place for grooming its internal leaders, especially promising newcomers. A four-year term limits the number of leaders who can be groomed through the NomCom. Given that At-Large has many people waiting on the wings for leadership opportunities, two one-year terms may be more appropriate.
Recommendation 8: Maintain current size of NomCom	Agree.
Recommendation 9: All NomCom members should be voting members	Agree.
Recommendation 10: Review every 5 years	Agree.
Recommendation 11: Senior NomCom Support Staff should report to the CEO	Do not agree: Given that the NomCom Chair and Chair-elect report to the BGC, their support Staff reporting to the CEO has the potential to create crossed wires, besides constraining the NomCom leadership. The Staff member should report to the NomCom Leadership.
Recommendation 12: NomCom leadership should have input on NomCom budget	Agree. Given the situation that some ICANN meetings are convened in places where some NomCom members, particularly from At-Large, find it difficult to obtain visas, the NomCom should be allowed to convene their face-to-face meetings in places where it decides and not be forced to follow the ICANN Schedules. This has budget implications. In any case, functional autonomy of the NomCom implies a degree of control over its own budget.
Recommendation 13: Publish a Process diagram	Agree.
Recommendations 14, 15, 16	Agree.
Recommendation 17: Maintain NomCom Diversity at current levels	Do Not Agree: Diversity is usually something that we can never have enough of, particularly given the Multistakeholder composition of ICANN. While there may be challenges in increasing NomCom diversity, we have not yet reached a point where the diversity is sufficient (noting that even the Gender diversity requirements are not met during all years).
Recommendation 20: Preliminary screening by external consultants	The preliminary screening can be done by the NomCom itself (as it was done this year). Besides being fair, this would also be cost-effective. If an external consultant must be brought in for this step, then it must be subject to stipulation mentioned in Recommendation #5 above.

C. General Comments

1. As noted in the report, the ICANN NomCom is different in its function compared to most other Nominating Committees. Going by the general definition of a Nominating Committee (see: https://en.wikipedia.org/wiki/Committee#Nominating_committee), the main task assigned is to identify a slate of candidates for different positions, which is then voted on by the membership. In ICANN, the NomCom goes beyond this, directly appointing candidates to positions. In this way the NomCom subsumes some of the membership's powers, and consequently, it should be much more accountable to the community. At present, only a very small part of the ICANN community appears to sense a potential problem in this structure. The survey does not appear to have listed this as a point for comment.

2. A significant related concern here is that since the NomCom is a much smaller group of people (than the membership), whether it is possible to 'game' the candidate selection process by a small group of NomCom members. In this regard, the opaque and 'confidential' nature of NomCom processes makes it impossible for a NomCom member to consult her appointing constituency, making the possibility of gaming easier.

3. The current review has steered clear of both the above concerns. As ICANN becomes functionally independent of all Governments, it would be subject to intense public scrutiny, and perhaps it's important to dispel any doubts on these important issues.

4. The current practice is for each NomCom to start "on a clean slate" as far as its operations are concerned. In order to retain and re-use the best practices of previous NomComs, it is suggested that a living document on NomCom best practises be maintained by Staff with inputs reviewed by the NomCom leadership.

5. Much has been made about the confidentiality of NomCom's processes. While confidentiality needs to be maintained at the core, wherever open, transparent processes can be adopted, they should be done. An opaque NomCom is not in the best interests of an otherwise open, transparent, bottom-up Multistakeholder organization such as ICANN.

6. The 360-degree evaluations that used to be carried out for each NomCom member and for the leadership team have not found a place in the review recommendations. If provided in time, these may be useful for the NomCom to provide feedback to the appointing constituencies on the performance of their appointees. A single composite score aggregating individual scores may also be useful in assigning an overall evaluation for the whole NomCom. The practice should therefore be continued.