



USCIB Comments on ICANN's Revisions to the Conflicts of Interest Policy

October 3, 2011

The United States Council for International Business (USCIB) appreciates the opportunity to provide comments to ICANN on its Revisions to the Conflict of Interest Policy. USCIB is a business association whose membership includes some 300 leading U.S companies, professional services firms and associations from every sector of our economy, with operations in every region of the world. We represent a wide array of Internet stakeholders, including general business users, ISPs, IP Rights Holders, registries, and registrars. USCIB is a founding member of the ICANN Generic Name Supporting Organization (GNSO) Business Constituency and was very active in the formative stages of ICANN. The technical coordination of the Internet is of critical importance to all of our members given the amount of their business that is conducted over it.

USCIB recognizes the need for ICANN to consider Bylaw revisions to allow Board members to vote on compensation for Director services. USCIB does not have a formal position on whether Board members should receive compensation. We do, however, understand the legal requirements that mandate a change in the Bylaws to allow Board members to consider the practice, and support the proposed changes.

More importantly though, USCIB wishes to use this public comment on conflict of interest as an opportunity to express our view that ICANN needs to consider and develop expanded ethics guidelines beyond those contained in its current conflict of interest policy. We specifically call on ICANN to develop an ethics policy that would set guidelines for ICANN leadership and key employees on the type of contact they may have with ICANN after leaving the organization's service. A broader review of ICANN's ethics policy may be necessary as well, since developing and implementing a better policy that addresses either real or perceived conflicts of interest is an important part of enhancing ICANN's overall accountability and transparency.

An expanded ethics policy would at the very least address the rising concern that people in key positions at ICANN may be in positions to unduly influence policy to the advantage of themselves or a particular stakeholder, such as a private company, to which they may depart upon finishing their service to ICANN. A number of governments, institutions, and other organizations maintain such 'revolving door' policies in order to curtail the reputational risk that might stem from real or apparent conflicts of interest. Most of these include provisions restricting 'representational contact', typically advocacy or lobbying contact, that a former Director or key employee may have with that organization for a set period upon their departure. There are a number of different public and private sector models that ICANN might consider in developing its own policy.

We understand that ICANN already recognizes the need for ethics guidelines. For example, ICANN's Board of Directors' Code of Conduct broadly states: "The good name of ICANN depends upon the way Board members and staff members conduct business and the way the public perceives that conduct. Unethical actions, or the appearance of unethical actions, are not acceptable."

However, ICANN's current ethics guidelines that relate to conflict of interest contain no provisions around the terms of contact a previous Director or key employee may have after leaving ICANN. This is a problem because lack of such a policy has opened ICANN to criticism at a delicate moment as the organization moves forward on a number of large initiatives, including the rollout of the new top-level domain name program.

ICANN must develop and implement with community input an ethics policy that is commensurate with its important role as the coordinating body for the Internet's domain name system. Any such policy should of course balance the need for ICANN to be able to call upon critical stakeholder expertise while providing appropriate constraints on the type of contact former Directors and key staff may have with ICANN for a time period subsequent to their departure.

USCIB thanks ICANN for the opportunity to comment on its Conflict of Interest Policy, and we look forward to continuing to engage in the process to improve ICANN's accountability and transparency.