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Comments on the Board Working Group on Nominating Committee's (BWG-NomCom) report dated 7 July 2014

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Preamble

I have been a part of the ICANN Community for more than 10 years now. During that time, I have been an active member of ICANN's volunteer corps, which is behind a lot of the work ICANN produces. I have experience of several ICANN communities as a member of the Registry Stakeholder Group (RrSG), the Generic Names Supporting Organisation (GNSO), the Business Consituency (BC) and the Nominating Committee (NomCom). I have been a member of the RrSG's executive committee, an elected member of the NomCom and an elected member of the GNSO. I have served as Vice Chair and Chair of the GNSO. I have served as Chair Elect of the NomCom. I have served on the 2013 and 2014 NomComs. I currently serve as Chair of the 2015 NomCom. The following comments are based on this experience and my commitment to the ICANN model and process.

General comments

In 2012, I understand that the NomCom had one of its most difficult years (I was not on the committee at the time). I also understand that the 2013 and 2014 NomComs (respectively chaired by Yrjö Lansipuro and Cheryl Langdon-Orr) were among the most collegial and effective NomComs.

What is the measure of an effective NomCom? The finality of the process is to select candidates for the positions a given NomCom is tasked with recruiting to. But there are other factors, because the community expects not only that a given NomCom will fill the positions, but that it will fill them well. In order to do so, a NomCom must be able to fulfil several tasks such as:

- Outreach (so that as many potential candidates as possible are aware of the NomCom process and encourage to apply).
- Recruitment (whether this be internal (i.e. NomCom-based), or external (i.e. done through an outside entity).
- Selection (a typical NomCom receives over one hundred applications for less than 10 available positions).

In order to fulfil these tasks and the administrative work that goes along with them, a NomCom must be able to work as a cohesive whole and in a coherent manner. Having been a member of the 2013 and 2014 NomComs, I believe the collegiality of these committees contributed greatly to their successful outcomes, as did the commitment of their members and the quality of their leadership.

I would hope that any recommendations for NomCom improvements would therefore take into account the work undertaken by the last two committees to in essence reinvent the process after a difficult 2012 term.

As examples of this work, I can list the following:
- The introduction of report cards and open meetings to break the "black box" effect that was previously felt to be a problem.
- Work on the Statement Of Interest (SOI) procedure.
- Work on contracting with and employing the services of an outside recruitment firm.
- Sub-committees on Bylaw Revisions, Web site and Wiki spaces and SOIs.

This work was undertaken by NomCom members in addition to their core task of recruiting and selecting candidates. And because of the NomCom's drive towards greater transparency, all this work is public and listed in the report cards that are published on the 2013 and 2014 NomComs' websites. This also means I can freely discuss this work in this comment.

Transparency is crucial, but the 2014 NomCom also increased the committee's commitment to accountability. Of its own accord, the committee experimented with an internal review process. The aim was to provide the groups that selected NomCom members with a way of measuring their performance. Cheryl, as Chair, and myself as Chair Elect also elected to publish the community-requested external reviews that we introduced for these 2 Board selected leadership positions in 2013. This is also a first and, we hope, a precedent being set for future NomComs.

The dedication of NomCom members to improve the committee and the changes implemented since 2013 do not appear to be reflected anywhere in the BWG-NomCom's report. Reading the report, I worry that the recommendations, if adopted as they stand, would make future NomComs less functional, less manageable, less transparent, more adversarial and more political.

I would highlight the following recommendations as posing a risk to the NomCom process and urge that more work be done to refine them, including increased communication between the BWG-NomCom, current and past NomCom members, and the groups that select them.

Recommendation 1 through 5

This is not a comment on the worthwhile goal of enhancing regional representation and diversity or aligning the NomCom's structure with the GNSO's, but simply a practical comment on NomCom management.

Simply put, increasing the size of the committee from 21 as it currently stands to a potential 27, and organising the NomCom by delegation, would render the committee nigh unmanageable.

There is also a question of security of information. This is crucial to the committee's function and will be harder to ensure if the committee's numbers go up quite substantially, as is being proposed here.

Recommendation 10

If the recruitment process for the NomCom Chair is to be made more professional, as recommended here, and if the NomCom itself is to be protected from capture, as is recommended in several places in the BWG-NomCom's report, why continue to leave the Chair recruitment process up to a Board Committee?

This can only reinforce the feeling that the body to which the NomCom does most of its recruiting is the one in charge of choosing the way the NomCom works, therefore the direction the NomCom might take as it makes its selections. As mentioned in this recommendation, "the performance and outcome of the NomCom are strongly tied to the quality of the leadership of the Chair."

If the Chair position is this important, it should not be selected by any body to which the NomCom makes selections. I would also add that the Board currently does not select any of the leadership positions of any SO or AC. Why then, does it select the leadership of a committee which is, by nature, even more sensitive?

The BWG-NomCom recommendation suggests that under Board guidance, each Appointing Entity also suggest a candidate for the Chair role. This is a vague recommendation that is likely to make the Chair selection process more burdensome and susceptible to internal ICANN group politics.

My recommendation would be to take the Board out of the NomCom Chair selection process altogether and simply institute an ICANN community selection process where each ICANN group that has representation on the NomCom votes through its Delegation.

<u>Recommendation 12.</u>

Under the title of "succession planning for Chair", this recommendation removes the position of Chair Elect but does not provide any guidelines for replacing the learning role this position was created to fill. Nor is there any rationale for removing the Chair Elect role beyond that of the uncertainty inherent in the current process, with the Chair Elect having to be reconfirmed by the Board.

This uncertainty certainly exists and the BWG was right to point it out. However, simply removing the position seems like an extreme solution to the problem. The current NomCom leadership structure is one of the more mature set-ups currently in operation in an ICANN group because it has built-in succession planning. The Chair Elect role is a learning role and allows for an incoming Chair to have spent at least one term being educated on the requirements and specifics of the role.

Despite its title, Recommendation 12 includes no succession planning of this kind. Catering for an interim Chair in case of vacancy is necessary, but it is not succession planning of the kind brought by the Chair/Chair Elect pairing.

Further, this recommendation shows a lack of understanding of the latest NomComs. The Chair Elect role is relatively recent and has not been tested for long enough yet to allow anyone to come to informed conclusions about its usefulness. Also, the Bylaws state that the Chair Elect is the only member of the leadership team who can chair meetings in the Chair's absence. The Associate Chair is clearly indicated as a position that cannot chair the NomCom. The BWG's recommendation does not even mention this, and contains no direction on who could stand in as Chair when needed.

If the Chair position becomes a two-year term, my recommendation would be to maintain the Chair Elect role as a one-year term serving for the final year of the Chair's

term, alongside that term, to learn. This is especially important if Recommendation 10 is enacted and the Chair's recruitment process becomes more complex and onerous and allows for recruitments to be made outside of ICANN. This means an incoming Chair could have no prior experience of ICANN, let alone the NomCom. This makes having a one year formative period is essential.

Associate Chair

There is no recommendation in the BWG's report on the Associate Chair beyond keeping the position as a NomCom Chair selected position.

Does this mean, for example, that the BWG recommends that the Associated Chair serve two years if the length of the Chair term is lengthened to two years? Or is there an expectation that a new Associate Chair be chosen every year?

The role of Associate Chair is akin to a "Vice Chair" role. It is designed to provide crucial support to the Chair and as a matter of tradition, has tended to be the outgoing Chair from the previous term. This worked well for the 2014 NomCom and allows for experience built up in previous terms to continue to serve the NomCom rather than being lost in the transition to a new leadership team. In that regard, the Associate Chair serves as an "anchor" for the NomCom leadership. The importance of this position should therefore not be underestimated.

I would therefore recommend that the BWG report state that the Associate Chair has the same term length as the Chair and is expected to be the outgoing Chair. Should the outgoing Chair not wish to take on this role or become unavailable for the role during the term, it would the Chair's prerogative to name a replacement.