

Summary and Analysis of Public Comments for Recommendation on Reconsideration Request 10-1

Comment period: 19 April 2010 – 19 May 2010

Background

Following from the Board's adoption of the Board Governance Committee's (BGC) recommendation in response to Reconsideration Request 10-1, ICANN staff posted the proposed Bylaws revisions contained in that recommendation for 30 days of public comment. Reconsideration Request 10-1 was filed after a preliminary report of a Board meeting was posted after a Bylaws-required deadline. After a review of the Request, the BGC recommended that, in an effort to strengthen ICANN's accountability and transparency, the Bylaws be modified to require Board resolutions to be posted within two business days after the conclusion of a Board meeting, with a preliminary report posted within seven days after the conclusion of the meeting.

Comments received

A total of six comments were received, with two of those comments not addressing the subject of the public comment period.

(<http://forum.icann.org/lists/reconsideration-request-10-1/msg00001.html>;
<http://forum.icann.org/lists/reconsideration-request-10-1/msg00003.html>).

Summary of relevant comments

George Kirikos of Leap of Faith Financial Services commented that the proposed Bylaws changes are "too little too late." Mr. Kirikos noted that ICANN should post full transcripts and audio recordings of Board meetings.

<http://forum.icann.org/lists/reconsideration-request-10-1/msg00000.html>.

Kieren McCarthy commented that he was pleased to see the BGC is actively considering this issue. Mr. McCarthy then recounted his observations of the history of publication of Board meeting minutes and the usefulness of Board minutes from different timeframes. Regarding the Bylaws amendments proposed, Mr. McCarthy noted his appreciation for the 48-hour turnaround on resolutions, but notes that it is still too long, urging ICANN to post resolutions "immediately." He also commented on the "trading" on the ability to find out Board actions prior to posting and how that feeds into an "insider culture." On the seven days for posting of the preliminary report, Mr. McCarthy noted that is "far too long" and questioned the reasoning for the delay. <http://forum.icann.org/lists/reconsideration-request-10-1/msg00002.html>.

Michael Palage, the author of the original Reconsideration Request, noted his disappointment with the Board resolution on this matter, and believes that the

recommended Bylaws weaken ICANN's accountability. Mr. Palage also expressed his disappointment with the Board's decision to take "unilateral" action instead of engaging the community in how to cure the breaches leading to the Reconsideration Request. Mr. Palage requests the Board to consider making non-confidential resolutions available immediately, and also questioned the subjectivity and neutrality of Board and staff use of Twitter and email to provide immediate notification of only certain Board actions. Mr. Palage requested uniformity in rules of publication. Mr. Palage also discussed the community's right to access Board deliberations, and a request for access to audio recordings of Board meetings. <http://forum.icann.org/lists/reconsideration-request-10-1/msg00004.html>.

The At-Large Advisory Committee (ALAC) submitted an ALAC-endorsed statement regarding the Reconsideration Request recommendation. The ALAC supports the proposed shortening of time between the end of the Board meeting and the publication of the resolutions passed at the meeting. The ALAC also reiterated a request for the advance publication of staff briefing papers, which was raised in the Reconsideration Request but not considered in the Recommendation because this issue was separate from the timing of posting resolutions and preliminary reports, which was the basis of the harm claimed within the Reconsideration Request. Although not relevant to the reconsideration request, the ALAC commented on timely analysis of public comment forums. <http://forum.icann.org/lists/reconsideration-request-10-1/msg00005.html>.

Analysis and Next Steps

Among the four comments, four main ideas were addressed:

Two of the commenters noted that Board resolutions should be released "immediately", with one emphasizing the need for uniform rules in the release of information of Board actions. Neither commenter addressed the BGC's note (in the Recommendation) that the standard recommended created a "firm standard and expectation for staff" while "encourag[ing] staff to post the resolutions as expeditiously as possible." Neither acknowledged the BGC's statement that two business days was the maximum time allowed. Notably, the resolutions from the 22 April 2010 meeting were posted one business day after the Board meeting – in advance of the maximum time allowed under the revised Bylaws provision.

Two of the commenters explicitly called for the Board to release audio files or full transcripts of Board meetings, and one commenter stated his support of this idea, while acknowledging that the Board may not be ready to do so.

Two of the commenters suggested that the Board use this as an opportunity to further engage with the community on these accountability-related issues.

Three of the commenters questioned how the implementation of the BGC's recommendation would further ICANN's accountability and transparency.

Staff will provide this Summary and Analysis to the BGC and the Board in connection with consideration of the proposed Bylaws amendments. Staff will continue to follow the timelines set forth in the proposed Bylaws, and provide earlier access to resolutions than is currently afforded, as this item is under consideration.

Staff will recommend that the BGC recommend that the Board approve the revised Bylaws provisions and continue considering further enhancements to the Board's transparency and accountability.

Contributors:

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