1. Background

The document titled ‘ICANN - the case for Reform’ posted by the ICANN President, Dr Stuart Lynne on 24th February 2002 and the document ‘Towards a Statement on the ICANN mission’ set out proposals for the restructuring of ICANN.

Members of the ISPCP have considered these documents and have also been actively involved in discussions and deliberations both within the Constituency and with other Constituent parts of the ICANN organisation.

As a result of those activities the ISPCP is now able to offer the following comments on the case for reform.

2. The case as set out by the ICANN President

In general the ISPCP supports the case made, that ICANN requires reform in order to achieve the goals it has been set. There is general agreement that ICANN has fallen short of hopes and expectations in some areas and that required results on some key issues have proved unattainable.

It is the view of the ISPCP that recognition of that fact should not be allowed to disregard areas and achievements where progress has been made, or parts of the existing ICANN structure that have functioned in an acceptable manner. The tasks set out for ICANN were never going to be easy, no matter what approach was adopted. In ‘The case for reform’ Dr Lynn states that ICANNs assigned mission was “incredibly ambitious;” the ISPCP fully support that statement and promotes the view that sight of this fact shouldn’t be lost in the clamour to reform ICANN. These tasks will continue to pose exactly the same challenges, whatever the outcome of the debate on reform.

To its credit ICANN has achieved some notable successes across this period. A particularly significant point when judged against a background where ICANN’s formation, working procedures, membership and funding constraints have often dictated the agenda. All new organisations experience teething troubles of this nature, but trying to set in place an entirely new private sector body dealing with critical infrastructure and resources in a rapidly changing environment just multiplies the resulting constraints and problems that need to be tackled. Even in the Internet environment ICANN is still a young organisation and is still learning the best path forward.

In addition to the successes acknowledged in Dr Lynn’s paper which included:
- the development and launch of a system for competitive registrars,
- the introduction and implementation of a Uniform Dispute Resolution Policy,
- the introduction of seven new global TLDs,
- performing the IANA address allocation and protocol numbering functions in an efficient manner,
- taking over the direct operation of one of the DNS root name servers,
the ISPCP would like to acknowledge that both the ASO and the PSO are functioning in a manner that promises much for the future.

Recognising the above factors the ISPCP would support the case for the reform of ICANN, but is totally opposed to radical solutions such as that set out in Dr Lynn’s paper. Attempts to move ahead with such a revolutionary approach towards restructuring are considered to be ill advised, likely to negate benefits stemming from the existing parts of ICANN which are now functioning well, and can only result in a much bigger problem in a few years time, when once more ICANN will be forced to consider yet another approach. The ISPCP argues that we must learn from the ICANN experience, building on its strengths and tackling its weaknesses, and should not adopt an approach which enforces radical surgery thereby destroying the key principles on which ICANN was initially created.

3. Guidelines towards a restructured ICANN
The ISPCP supports the following approach towards restructuring.

- Reform must be considered as an evolution of the existing organisation, not revolution that effectively destroys most of the existing structure
- Existing stakeholders who have actively worked and contributed positively to the ICANN process should not be disenfranchised by a reformed ICANN
- Opportunities for on-going dialogue to take place between all stakeholders, at all stages of the Reform process, should be considered a key requirement.
- Support is offered for the key principles set out in the original White Paper which led to the establishment of ICANN
- An approach which would see ICANN continue as a private sector organisation is supported.
- A key principle for any reform activity is the continued recognition that geographic diversity is a fundamental requirement
- The ISPCP offers no support for the revised structure with a 15 member Board of Trustees, three Policy Councils and Two standing Advisory Committees as proposed in Dr Lynn’s paper.
- The ISPCP supports the retention of a structure where policy is developed in a bottom up fashion and reviewed by the board for final approval. In particular, for domain name policy the ISPCP supports a names policy council whose members represent standing stakeholder groups.
- It is recognised that acceptability of ICANN by governments is a key issue and that participation by this group should continues to be a key requirement. Attention to this aspect is required in any ICANN reform.
- It is the view of the ISPCP that more direct representation of the GAC should be considered. Direct representation of the GAC at Board level could also be considered. In addition an improved interface with the GAC at the DNSO/ Constituency level is required. (Currently the GAC are viewed as a self functioning totalitarian arm of ICANN who operate in a vacuum, with little or no dialogue with most other parts of the ICANN structure).
- The ISPCP consider that its members provide critical functions and infrastructure without which the Internet could not function. As such they are totally opposed to any proposals which demote their role within the ICANN structure from the level of a Constituency to an Advisory Committee. Any such proposals fail to recognise the critical nature of the services provided by the ISPCP Constituents and the dependence of the Internet on these key functions.
The ISPCP supports retaining the structure of standing stakeholders groups, similar to the existing constituencies, whose representatives form a names policy council, which is the sole policy making body for domain names.

The ISPCP does not oppose the formation of additional constituencies within the DNSO, but considers that any such initiatives must clearly demonstrate that such groups cannot currently be adequately represented within existing constituencies and/or the General Assembly. Also, any such postulants should provide evidence of widespread support, as was the case with existing constituencies.

In accordance with our support for ICANN continuing as a private sector organisation, the ISPCP are totally opposed to any proposals which promote a move towards a traditional government led ICANN.

By the same token, the ISPCP are totally opposed to any approach that would function in a similar manner to the UN, the World Trade Organisation or the ITU.

In response to recent claims that the ITU already performs effective and efficient functions that are similar to those required for the administration of Internet names and addresses, the ISPCP does not support such a case. In contrast the ISPCP cites the recent experience related to the introduction of ENUM, where the protocol work was completed within a matter of months by the IETF, but the Administration aspects have become bogged down in political and procedural debates within ITU which have prevented any progress towards implementation over past 18 months.

The ISPCP supports an ICANN which is the sole body responsible for the administration of Internet names and addresses.

ICANN’s current functions should be maintained as set out within the ICANN statutes and by-laws and as recognised within the document ‘Towards a Statement of the ICANN Mission.’

The ISPCP supports the continuation and make up of the PSO in its current form. It believes that its current structure ensures a balanced approach is adopted on protocol aspects and that the PSO is functioning in a consistent and beneficial manner. No surgery is required and the ISPCP does not offer any support for the introduction of an Address and Numbering Policy Council as set out in Dr Lynn’s paper.

The ISPCP supports the continuation and make up of the ASO in its current form. It believes that the current structure assists in achieving a balanced approach towards global addressing policy. No surgery is required and the ISPCP does not offer any support for the introduction of an Address and Numbering Policy Council as set out in Dr Lynn’s paper.

The ISPCP is opposed to the introduction of a Nominating Committee and questions whether such a scheme could ever fulfil the requirements of openness and transparency required to gain the support and trust of the ICANN community. The ICANN initial board was elected by a “nominating committee” (albeit one person), and, aside from ignoring geographic diversity in its nominees, this procedure was the cause of heated debates and criticism within significant sectors of the stakeholder community for quite some time.

The ISPCP supports election of all Board members, with provisions to ensure that all SOs (PSO, ASO, and DNSO or whatever SOs the DNSO equates to) are represented and that geographic diversity is respected.

The ISPCP does not support the reduction of the current number of board seats, since initiatives for new Supporting Organizations of ccTLDs and At Large have yet to be resolved, and thus may require Board representation.

The need to ensure continued ccTLD participation within ICANN remains a fundamental requirement.
Issue 1

- Funding is recognised as a critical issue. The ISPCP offers full support for the proposal that Registrants should fund ICANN activities in a manner that requires registrars to forward a small part of the Registrant payment (perhaps in the order of $0.50) as base funding to cover the cost of ICANN activities. Additional methods of raising funds should also be investigated, including the possibility of charging a registration fee to attend ICANN meetings. Such an approach is already adopted in other well established Internet forums such as the IETF and the RIRs. It is accepted that registration fees may be viewed as a barrier to participation by some non-commercial entities and in such cases fees could be waived.

- The ISPCP considers current budget impositions on the DNSO Constituencies is seen as an inhibitor towards progress and will be used as a tool by some of the wealthier Constituencies to limit participation and influence within ICANN. Such tactics are considered both unethical, inappropriate and unhelpful in achieving an open consensus approach. Accordingly, the achievement of adequate funding as proposed above, should enable ICANN to provide the DNSO with suitable staff support, thereby significantly reducing the contributions demanded of each constituency.

- The role and working procedures of the Names Council requires urgent review. It is the view of the ISPCP that the Names Council will not be able to achieve its set goals without the focused support and involvement of ICANN staff. Currently all activities are undertaken by elected Constituency representatives who undertake these tasks on a voluntary basis. Professional support to ease the burden is viewed as the only way to increase both efficiency and effectiveness.

- ICANN must work towards strengthening its relationships with the ccTLDs, the RIRs and Root Server operators, take due account of their requirements and needs, and increase the collaborative working efforts this demands. The involvement of all these parties and their continued support for the ICANN process is seen as critical elements of any reform activities.

- The ISPCP offers support for the creation of an Ombudsman function and a reconsideration process for staff decisions.

- Finally, and with respect to the Board Composition, we propose that the following would adequately represent the views of all Internet stakeholders, as they have been defined in the White Paper:

  ICANN CEO --------------------------------------------------------------- 1 Seat  
  PSO ------------------------------------------------------------------------ 3 Seats  
  ASO ------------------------------------------------------------------------ 3 Seats  
  DNSO ------------------------------------------------------------------------ 3 Seats  
  CCSO (Country Codes) ------------------------------------------------------ 3 Seats  
  ALSO (At large) ----------------------------------------------------------- 5 Seats  
  GAC Chair --------------------------------------------------------------- 1 Seat