The Government of the Federal Republic of Germany wishes to commend the ICANN Committee on having submitted within a brief period of time and in a difficult environment contributions to the ICANN reform issue. Keeping the world-wide web infrastructure stable is indispensable for the road leading towards the global information society; this applies also to the objectives of the European Union as laid down in the Action Plan eEurope 2005. A global communication medium like the Internet requires global policy co-ordination in many areas even after a thorough weighing of subsidiarity aspects. As long as every Internet address can generally be accessed from any place in the world, many questions especially regarding the Domain Name System require cross-border answers.

The German Government shares the view that ICANN has largely satisfied the requirements it has been expected to meet with respect to its technical core tasks. For this reason, the German Government basically sees no need for being sceptical about the principle of private self-government. However, bearing in mind the experience gathered after the set-up of ICANN, the German Government deems it possible to optimise the organisation’s internal organisational structures and processes. In its opinion, ICANN reform should aim for improving efficiency and legitimacy as a matter of priority. Subject to other expressions of opinion, the German Government wishes to comment as follows upon the key issues raised by the contributions hitherto submitted by the ICANN Committee:
ICANN Board

The German Government is convinced about the existence of a direct relationship between the size of the ICANN Board and the efficiency of the organisation as a whole. To facilitate and expedite internal co-ordination processes and last, but not least, to keep costs down, the Board of a reformed ICANN should be composed of a noticeably smaller number of members than so far. The German Government would deem it helpful to limit this number to the elected representatives of ICANN sub-organisations plus the ICANN CEO. Ensuring the Board’s internal stability means for all Board members that they have identical rights and duties; this applies to the voting rights issue in particular. Objective criteria can hardly be seen that would justify a “two-class system” being practised by the organisation’s most important decision-making body; besides, such a system would make Board decisions vulnerable.

Also for this reason, the German Government deems it hardly meaningful for the Board to be composed of (elected) Directors representing ICANN sub-organisations as well as of (selected) Directors appointed by a Nominating Committee. Even though the personal properties referred to as selection criteria may basically be unobjectionable, evaluating individuals by such criteria invariably is a highly subjective and, thus, doubt-raising procedure. This would be all the more so if the Nominating Committee as the selecting body were not sufficiently legitimated either. The structure and authority presently proposed for the Nominating Committee would more or less mean replacing the bottom-up by the top-down principle thereby counteracting the objective of securing wider recognition for ICANN.

User Interests

Taking into account the legitimate user interests - the idea behind the NomCom concept - would be much more effective if done at an earlier stage at the sub-organisations level. Bearing in mind the fact that decisions ought to be made promptly, it would not be desirable for thoroughly discussed recommendations of sub-organisations to be considered under At-Large aspects not earlier than at the Board level.

In the same way as consumer protection is a matter of the public interest counterbalancing one-sided provider-interests and, thus, an important governmental task, governments basically represent the interests of Internet users in the Internet Governance field as well. From the German Government’s point of view, this includes not only those population groups that have already made an active use of the Internet, but also those groups, both national and international, that
have not yet succeeded in availing themselves of their digital opportunities and, thus, in enforcing their legitimate right to become a member of the global information society at some stage.

As in other fields of life, user interests should also be articulated by independent pressure groups and be introduced at the level of the ICANN sub-organisations. The German Government expressly acknowledges in this context the long time commitments of organisations such as ISOC and the launch of user initiatives such as the European Digital Rights Movement. In a pluralist world, self-organising and self-financing member organisations are best to take care of multiple user interests in the most credible and effective manner. To secure the broadest possible acceptability of decisions in the field of Internet Governance, representatives of user initiatives and government should engage in an ongoing constructive dialogue.

**Government Participation**

Today’s social importance of the Internet is infinitely greater than at the start of ICANN more than three years ago. The number of alpha-numerical Internet addresses ending on the ccTLD for Germany has increased twenty times ever since. Every citizen has something to do with the Internet today, either directly or indirectly; this has been adding to the redundancy of the dividing lines between civil society on the one hand and the so called Internet Community on the other. On the global level as well as for national economies, the Internet today is a core element of the basic infrastructure. This development forms the very basis of greater government responsibility for safeguarding the public interest it legitimately represents in the field of Internet Governance. Many of the tasks discharged by ICANN are not of a purely technical nature, but represent policy decisions impacting the public interest either wholly or in part. For instance, within the limits of what is technically manageable, decisions on the number and nomination of new gTLDs are purely political acts necessary for taking account of language variety aspects in an appropriate manner, inter alia. In a period of globalisation with enterprises operating worldwide, policy co-ordination in the field of ccTLDs is also a governmental task for being related to the public interest.

The German Government therefore is of the opinion that in areas relevant for the public interest governments should be acknowledged standing discussion partners in all relevant ICANN sub-organisations; this applies in particular to the proposed GNSO and CNSO. The Governmental Advisory Committee must be strengthened organisationally; in this context, measures for better integration of developing countries deserve to be given outstanding importance. The ITU which
has made considerable advances in recent years with active participation of the private sector is in a position to make a valuable contribution in this context. A more direct relationship than so far should be established between GAC recommendations and ICANN Board decisions on issues clearly touching upon the public interest. Owing to such direct cross-relationships, it would seem to be redundant to have the GAC Chairman as a member of the ICANN Board at the same time; within the framework of trustful relations between ICANN and GAC a personal link not formally integrated into the Board structure would appear to be sufficient.

**Financing**

Knowing that the budgetary situation of ICANN has been one of the strongest reasons for pushing the reform discussion, the German Government regrets the fact that the comments of the Committee for the Evolution and Reform do not yet show any specific concepts in this respect. In light of the aforementioned side-by-side of ICANN and GAC, the German Government is also convinced that the contribution governments can make to the discussion about financing should, by and large, be restricted to internal financing of the GAC. But bearing in mind that the discussion about contributions was often difficult in the past, the German Government deems it important to point out that ICANN’s financial stability necessary for the stability of the Internet can probably be reached only if voluntary funding contributions are replaced by legally enforceable ones. From the German Government’s point of view, this requires, as a matter of principle, contractual relations to be created between ICANN and those directly using ICANN services or services of one of its sub-organisations. A funding structure primarily based on voluntary contributions in the main invariably leads to structural imbalances and is in no position to ensure that all interests are taken into account on an equal rights basis.