AT-LARGE ADVISORY
COMMITTEE

Statement of the Committee

Related to the NomCom Review – Draft Working Group Report

Introduction
By the Staff of ICANN

The original version of the ALAC Statement on the NomCom Review was composed by Wendy Seltzer on behalf of the North-American Regional At-Large Organisation and published on November 17th 2009.

The At-Large working group on the Future Structure and Governance of ICANN decided to use the North-American Statement as a basis for their Draft ALAC Statement on the NomCom review and held a teleconference on November 27th to discuss the Statement.

Adam Peake subsequently incorporated the suggestions made during that discussion and published the final draft version of the ALAC Statement (the present version) on December 1st 2009.

The Executive Committee of the ALAC called for a five-day online vote on the ALAC Statement on the NomCom to be started on December 4th 2009, the result of said vote being that the ALAC endorsed the Statement by a 14 – 0 vote. You may review the result of this vote under https://www.bigpulse.com/p8273.

(End of Introduction)

Statement to the Nominating Committee Review Working Group

ALAC is in broad agreement with most of the WG's recommendations, however our comments focus on a few areas of disagreement. This statement is based in a large part on work done by the North American Regional At-Large Organization of ICANN (NARALO).

The ALAC is in strong agreement with the WG's recommendations on the critical importance of improving gender balance in ICANN. This should be achieved across all ICANN decision-making bodies, with first priority on the Board. The NomCom is essential to this, ALAC supports the WG's recommendations in this regard. Further we ask the WG to recommend to the Board that they instruct the 2010 NomCom to consider gender balance an important factor in both their recruitment and selection.

On outreach and recruitment, ALAC notes that the ICANN community as a whole must contribute more to the NomCom's recruitment efforts. It is not enough to just place a delegate on the NomCom, those delegates must be supported by the sending organizations. Identifying and suggesting excellent candidates is a task for the community as a whole. We ask that the WG to make a recommendation to this effect.

Recommendation regarding the size of the NomCom.

ALAC strongly believes that neither the size of the NomCom nor means of representation should not be significantly changed, other than to reflect any changes in the structure of the SOs and ACs.

ALAC strongly recommends that the NomCom retain the current five voting delegates from ALAC.

The current NomCom includes five members appointed by ALAC, one from each geographic region. The WG's proposal reduces the ALAC representatives to three, rotating among the regions (and thus ensuring that two regions are unrepresented through this means), will, we believe, cause some regions to be under-represented or not represented at all in some NomComs.

The WG's argument to justify the reduction of ALAC delegates on the Board's

decision to create a voting At Large Director is not relevant to representation on the NomCom. There is not logical connection between the two, and is not consistent with of representation by other constituencies.

We believe any reduction in ALAC representation is unwise from the standpoints of geographic diversity, the broad range of ICANN issues beyond generic names, and representation of the at-large Internet-using public.

- ALAC's representatives assure the NomCom a degree of geographic diversity that no other selection means provides. Outreach to potential recruits and assessment of regionally relevant qualifications are important responsibilities of the NomCom. ALAC's five regionally diverse appointments (Bylaws XI.2.4.e) ensure that the NomCom will have at least one member from each of ICANN's geographic regions.
- ALAC's remit is wider than that of the GNSO constituencies, whose selection forms the largest part of the NomCom. ALAC's delegates to the NomCom may have expertise or mandates reaching beyond the generic names into the other areas of ICANN focus (addressing, ccTLDs), and help to broaden the search and selection to include candidates with expertise in those areas.
- The ALAC delegates to the NomCom fulfill part of ICANN's initial promise to represent the individual Internet user. The NomCom is currently the most democratic means of selection within ICANN -- anyone can apply for an appointment through NomCom, and all applicants are considered by a diverse multi-stakeholder group. Individual Internet users, who were initially promised half the voting directors on the Board, but now have fewer than other SOs and ACs, should be given substantial voice in this selection channel. Even when ALAC is granted one voting director, as the Board has agreed in principle (though we cannot know how long that process will take) that single vote on the Board does not substitute for NomCom representation. The WG recognizes that Board members' fiduciary duties to the organization supersede any membership or allegiance to an originating body. While members of the NomCom are not free to consult on specific nominees with their selecting organization, they may be given more guidance. As the voices of individual Internet users vary, a selection of five helps to bring the at-large's diversity of viewpoints into the NomCom's selection process.

We believe that the NomCom's current size is closer to optimal than a smaller group would be. The size and diversity of membership ensures a deep pool of knowledge is available, it protects against capture and potential abuses of process.

Along with the general recommendation above, we offer the following answers to the WG's specific questions:

How do various part of the ICANN community value the current size of the NomCom?

ALAC recommends the size of the NomCom should not be significantly changed.

To what extent does the trust that is placed in the nominating committee depend on direct representation of stakeholder groups on the committee?

Since we cannot see inside much of the process, due to strongly-enforced confidentiality assertions, we can only judge its inputs and outputs. Delegating five members from the representative of the At-Large Internet using public gives us trust that the inputs are representative of and attentive to individuals' interests and concerns.

What mechanisms might serve to ensure geographic and other diversity goals (gender, background ...) within the NomCom, given that its membership is appointed independently by different ICANN entities?

The current ALAC selections assure geographic diversity of its five delegates. A reduction in number would weaken that contribution toward diversity. All constituencies selecting delegates to the NomCom should be made more aware of the need to select people from different regions, and to seek gender balance in membership of the NomCom, in the candidate pool and in final selections.

What objectives can be realistically set and what measures adopted for achieving gender balance in the NomCom and – through the NomCom processes – in the Board?

The NomCom and its agents (search firms, staff) should be given a broad outreach mandate, and required to pull in at least 30 female candidates (as compared to last year's 15). The current gender imbalance (only one female voting board member among 15) is a visible signal that the various outreach and selection processes have failed to attract sufficiently diverse qualified candidates -- and a strong indicator that diversity of other less visible characteristics than gender is likely missing from the pool as well.

Removal and replacement of NomCom appointees

On a number of occasions during the NomCom review process ALAC has recommended that the WG should address the need for a mechanism to remove and replace NomCom appointees.

There should be a consistent process for the removal of non-performing NonCom appointees, and for replacing such appointees or any who may resign for any

reason. The NomCom has a mechanism in place to replace an appointee who leaves their position (for whatever reason) during the first year of their term, but not for the second or their year. NomCom selects people for two year terms for the ALAC and GNSO, and three year terms for the Board and ccNSO.

We note that the GNSO recently created a process for the removal of non-performing NomCom appointees, and the Board also has a mechanism for the removal of Directors. We suggest that these procedures should be harmonized to the best extent possible under the NomCom's own procedures and applied to all positions it selects.

A process for the selection of replacements needs to be implemented for NomCom appointees. ALAC suggests that the most likely mechanism would be for the board to make a selection, after an open call for candidates, and consultation with the SO/AC/Board and ICANN community.