Comments on the Board Working Group report on the Nominating Committee

The Internet Services Provider and Connectivity Provider Constituency (ISPCP) respectfully thanks the ICANN Board for the opportunity to comment on the Board Working Group report on Nominating Committee (BWG-NomCom) and submits the following comments.

1- <u>General Comments</u>

The ISPCP questions the rationale for a wholesale review of the current Nominating Committee. Within ICANN it is apparent that changes to some structural elements e.g. the GNSO, could greatly improve the effectiveness and efficiency of the organization. However the Nominating Committee is one area that has proved to be effective and is working well. Over time both the process and the final selection and appointment of candidates to important positions within ICANN has improved. That is not to say there have not been any issues along the way, but the constant improvement and high quality of successful candidates speaks for itself. Whilst improvement should still be sought year on year, proposals to significantly change the make up of the current committee looks to fix a non-existent problem. Furthermore changes of this magnitude would seriously destabilize a function that must be viewed as one of ICANNs success stories.

> ISPCP understands that the two objectives of the WG are:
> - Increase diversity in the Nominating Committee
> - Increase stability in the Nominating Committee.
>
> ISPCP agrees that diversity and stability are two very important aspects.
> **Diversity** is to be measured as regards to geographic diversity, as gender balance but also as regards as the diversity of profile and skills of the NomCom appointees.
> It is particularly important that the background and profile of NomCom appointees allow the NomCom to perform the two very important functions the NomCom has to fill:
> - Outreach to potential candidates, in a direct or indirect way,
> - Select 8 members of the Board and councilors for the gNSO, ccNSO and ALAC.
>
> The profile of NomCom appointees must therefore be consistent with their ability to evaluate the potential of the candidates to perform as Board Members of a unique Global organization managing a budget of 160 Million US$, in areas such as Business experience, Board Governance, Financial and Legal. ISPCP believes that the GNSO and the CSG within the GNSO is currently well placed to select appointees and is in a position to outreach to the global communities having the appropriate skills and to recognize and select potential Board members with these skills. Given the ICANN mission, without minimizing the importance of ccNSO or ASO, GNSO issues are by far

the ones that represent the largest part of what the Board members have to address. The clear reason for that is that ASO and ccNSO policies and issues are for a very large part addressed at national or regional level within their respective communities.

Therefore ISPCP does not accept that the actual representation of GNSO and specifically the CSG is unbalanced. For the same reason, ISPCP disagree with the rationale to increase the number of ccNSO, and ASO appointees to the NomCom.

It is also quite clear that the changes proposed by the Board Working Group totally ignore the proven success achieved through the balanced representation of todays Nominating Committee and looks to impose a new structure that is totally inequitable when viewed against the relevant interest of the parties involved. Such a move that would seriously unbalance representation calls in to question ICANNs accountability as it favors representation from the addressing community above all others, in an area where the direct impact of ICANN on that particular community is minimal.

 The ASO, which is part of the technical community, is already largely represented. the ISPCP fails to understand why there should be 5 representatives given the low level of issues addressed by the Board on this part and the fact that the ASO/NRO has always refused that the NomCom could select some (or even one) members of the ASO Council. Whilst the ISPCP fully support the work of the addressing community and recognize its expertise in that area, there is no support offered for that community to be given such a dominant voice on the Nominating Committee and arguments that this would improve geographical representation totally masks the broader imbalance that would occur as a result of the proposed changes.

Regarding the size of the nomination committee, ISPCP believes that an efficient NomCom cannot be relatively larger than the existing one, and do not support an extension of the amount suggested by the BWG Nom-Com.

Regarding geographic diversity, 10 different nationalities were represented in NomCom 2014, 14 in NomCom 2013 and 13 in NomCom 2012.

ISPCP believe that the BWG-NomCom tries to solve a non-existant problem, or a problem that is certainly not evident as regards are the most recent NomCom.

On gender balance, 4 women were represented as voting members plus the Chairperson. ISPCP believes that better gender balance can improve the NomCom representation, and the SO/ACs could be invited to take into account this issue.

Regarding stability, **ISPCP supports the extension to two years of the current mandate of NomCom appointees** but strongly **disagrees with the**

proposal to remove the Chair Elect position. The Chair elect position, together with what has become a tradition in most recent Nominating committees to appoint the previous Chairman of the NomCom as associate Chair, is one of the most advanced mechanism to provide stability on a three years cycle. ISPCP urges the Board to reconsider this proposal.

The ICANN Nominating Committee as most bodies within ICANN and outside ICANN in the Internet field try as much as possible to reach consensus. Dialogue across all members on an equal footing and in a respectful manner is more important than voting. Therefore ISPCP do not understand the rationale to suggest that the NomCom should be organized and vote by delegation.

Such an organization is complex, adds little quantifiable benefit and it is even hard to understand how it would be workable.

2- Detailed comments on Recommendations
Recommendation 1: ASO and ccNSO to appoint 5 members each from their five geographic regions.
Comments:
The role of the NomCom is essentially to appoint Board members and the issues addressed by the Board are for a large part related to gTLD issues as ccNSO and ASO related policies are made at local or regional level.
A large number of ccTLDs are linked to Governments or Governmental agencies
In addition, NomCom DO NOT appoints ASO council members.
Proposal:
ISCP do not support this proposal as it would unreasonably increase the size of the NomCom and dilute the GNSO which is dealing with the larger number of issues within ICANN
Recommendation 2: Reduce the number of appointees from the gNSO from 7 to 4 aligning them with the Stakeholders Groups
CSG currently appoint 4 members and would appoint only 1
Comments
Technical competencies are widely covered by Board members appointed by ASO, SSAC, registrars, registries …
Nom Com recruits Board Members complementing the Board Members selected through SOs, ACs with competencies on legal, business, corporate experience. CSG is best placed to outreach and identify those competencies.
CSG represents a larger diversity of actors and skills within BC, IPC and ISPCP than ASO and ccNSO who as stated, already have their specific areas of expertise covered. It is proposed that representation from the GNSO is increased by one, to include representation from NPOC who are currently the only GNSO Constituency without a voice.
Proposal

Increase current representation from the GNSO by one in order to include the NPOC whilst maintaining the current representation of the CSG in the NomCom.

The goal within NomCom is to have diversity of skills.

Recommendation 3: Increase GAC representation at GAC discretion up to 3 voting representatives

Comments:

The GAC currently has one non-voting seat, but this seat was not filled during the two most recent NomCom.

How practical is it to now suggest three candidates taking account of that record?

There appears to be no rationale to increase the GAC representation within the NomCom?

Proposal: ISPCP do not support this proposal.

Recommendation 4: technical entity remain unchanged

Comment:

It means 1 representative from IETF 1 from SSAC, 1 from RSSAC. Currently these representatives are not voting members and their term is unlimited.

Proposal:

It is suggested that representation should be rotated within the membership after a maximum of three consecutive terms in order to refresh the committee. In addition the ISPCP can supports the proposed change of approach under the condition that if these representatives become voting members, their terms should be aligned with other members.

Recommendation 5: Organization of NomCom by delegations

GAC, ASO, ccNSO, ALAC, Technical, GAC, GNSO

Comment:

As any organization within ICANN the NomCom working methods are as far as possible working by consensus, each member's goal being the best interest of the organization.

Working by delegation would make it difficult to reach consensus and introduce complexity. ISPCP finds it difficult to understand the rationale of such a proposal.

Proposal:

ISPCP strongly objects to this proposal

Recommendation 6: Leadership positions changed from 3 to 2

Chair elect position is removed

Comment:

The Chair, Chair elect and associate Chair provide one of the most advanced mechanism within to provide continuity on a 3 years cycle.

This proposal is counterproductive with one of the 2 goals of the group: continuity.

Proposal:
The ISPCP constituency objects to this recommendation.

Recommendation 7: Removal of non-voting members role.
Only leadership positions (Chair, associate Chair) should be non-voting

Comment:
This proposal allows greater parity and is consistent with the current working methods.
Proposal:
The ISPCP supports this proposal.

Recommendation 8: Candidate selection voting by delegation
 ASO, ccNSO, GNSO, ALAC 3 votes, Technical delegation 1 vote GAC 1vote

Comment:
Voting by delegation would be a very complex process even difficult to understand.
This organization would NOT demonstrate support for a candidate in any way and would be counter-productive with the current working method, where NomCom works as a single team for ICANN benefit as a whole and not for a single component or stakeholder.
The goal of the NomCom is to   select people with the appropriate profile and skills according to the needs of the Board and councils, not to select people for the interest of a single community.

Proposal:
ISPCP strongly objects to this proposal.

Recommendation 9: Implement two years terms for voting members
Comment:
 This proposal would not change drastically the current situation. It could provide for more continuity. A side effect could be to discourage some possible candidates as it is time consuming and not compensated. ISPCP notes that for the most recent nominating committees the vast majority of the assignees able to be renewed for a second mandate volunteered and was renewed.
Proposal:
ISPCP offers support for this proposal without being totally convinced it is really necessary.

Recommendation 10: Leadership of the NomCom

Create criteria's for the BGC to select the leadership of the NomCom
Leadership could also be selected from outside the ICANN community.
Comment:
ISPCP is surprised that the BGC do not already have such criteria.

Proposal:
ISPCP suggests that the leadership be selected by the ICANN community or their representatives and not by the Board.
The Chair and Chair elect should be selected by the NomCom itself.

Recommendation 11- 12: Implement two years term for Chair and removal of the Chair elect position.

Comment:
The role of the Chair is crucial and the Chair shouldn't have too much influence.
Learning curve can be better addressed by the Chair elect position

Proposal:
ISPCP strong preference is for Chair the elect mechanism.

Recommendation 13: Regular review of NomCom Chair performance, anonymized survey of NomCom Chair performance.

Proposal:
ISPCP supports a 360 review and not a review by the BCG or for the BCG, and the possibility for publishing it if NomCom Chair agrees. These reviews can be extended to NomCom appointees.

Recommendation 14 – Succession planning
Removal of the Chair by 2/3 vote of delegations
Comment
Vote by delegation creates complexity and uncertainty

Proposal
ISPCP can support this proposal but oly through an individual voting process.

Recommendation 15 – maintain NomCom appointments to entities other than the Board
Comment:
Currently there is no appointment to the ASO council while the BWG-NomCom suggests extending representation from 1 to 5. Creation of a powerful new voting block from the RIR community is totally unacceptable and challenges

ICANNs accountability and fairness to its broad base community of stakeholders who need to be treated in a fair manner.

Proposal:
The ISPCP suggests extending the selection of appointees to the ASO council. This can be done in a similar way to that which is currently done in the ccNSO, (1 representative on the NomCom and three appointees to the ASO council).

3- <u>Conclusion</u>

ISPCP supports some of the proposals (recommendations 7, 13,14 and 15 (under some specific conditions), but has strong concerns over the proposals related to the number of appointees and the way they are proposed to be selected, the removal of the Chair elect, the organization and voting by delegations. To ensure fair representation the ISPCP also support the addition of one representative from the NPOC.

ISPCP believe that further consideration and input is needed from the community and those who have been engaged in the Nomination Committee recently before taking any decision from this report. As stated at the beginning of this submission, it is the firm view of the ISPCP that whilst constant improvement should be sought, this set of proposals offers a radical set of changes in order to address a non-existent problem. The imposition of such measures would have an overall negative impact on an existing process that ICANN should be proud of.

On behalf of the ISPCP constituency: