

Introduction of a general ICANN membership and possible relationships with a Nominating Committee

Vittorio Bertola vb@vitaminic.net
May 16, 2002

This document contains a short set of personal comments about the “Working Paper on the ICANN Structure and the Nominating Committee Concept”, and marginally about the other Working Papers published by the Reform and Evolution Committee.

A structure in which five Board members are selected by the technical committees, while other ten are representative of the public at large, could meet requirements of accountability to the public. Moreover, the idea that representation of different interests has to be moved from the Board to the Nominating Committee has some merits, as it is true that a Board made of representatives is by definition a place where interests clash; and a Board composed of people selected for their diversity and open-mindedness would possibly take better decisions more easily. However, diversity (especially in social terms, more than in geographical ones) and open-mindedness are exactly what the ICANN Board has been claimed to be lacking in the last years. So much would depend on internal procedures for determining the composition and operation of the NomCom, and on the enlightenment of the NomCom choices; and it is hardly acceptable to base the correct functioning of such a vital resource for the world on the fact that a very small set of persons, however chosen, will make enlightened choices.

There are only two possible choices about formation of the NomCom: either the NomCom members are elected by the general public, and this would then bring back the same problems that are claimed to exist when talking of At Large elections for Board members, or they are not, in which case the result would be a closed group of NomCom members selecting a closed group of Board members, completely failing in bringing to the process openness, accountability and responsiveness to changes. This would be true even if the NomCom members were not named by the Board, but ex officio representatives of international organizations or institutions (ie, just to name some random ones, ITU, ISOC, WIPO...), as it would be impossible to include all organizations representing affected stakeholders, and there would not be any easy principle through which select which organizations deserve a seat in the NomCom.

So, if the purpose of the ten “At Large” Board members would be representing the general public, and having (agreeably) discarded the option of direct involvement of governments, a public election among a membership made of verified and active individuals would be much preferable.

Said this, another option that deserves some investigation would be having a NomCom propose the ten Directors, and a membership ratify them. Ratification by Board members should be discarded for evident reasons, as it would allow the current Board to select its successors. So the only other option is to accept individual members after proper identity verification, and to have them ratify the Board. To be honest, the better option would be to have them *elect* the board, as it happens in most non-profit organizations, but, as a fallback option, at least ratification should be achieved. Proposed Board members should be subject to the ratification vote one by one and, if rejected, it should not be allowed to nominate them again for two years. And from the current Board’s point of view, ratification – rather than direct election – would allow the NomCom to prevent the selection of unsuitable candidates; even if, in my view, this is the main reason why even the ratification system is unacceptable, it could in the end be a decent compromise for everyone, especially if good part of the NomCom were in turn elected by the membership.

This brings us back to the problem of reasonable and implementable proposals for the creation of an effective ICANN membership. First of all, it must be noted that it would not be even strictly necessary for ICANN to build such membership directly; it could be enough to establish a written agreement with one or more organizations wishing to act in this role and meeting a set of basic requirements, such as implementing mechanisms for reasonable verification of the identity of their members and granting openness and non-discrimination in allowing people to join them. Such organizations (that, for the sake of clarity and according to the ALSC's work, will be collectively called as ALSOs) could supply individual members to a general membership that would either elect a certain number of Board members or ratify those proposed by the NomCom.

There should not be any other requirements than identity verification to be allowed in the membership, and for the purpose of verifying identity many possible instruments exist:

- Payment of a nominal membership fee (ie €2) with a credit card (example: Opendemocracy, <http://www.opendemocracy.net/>)
- Introduction by an already verified member (example: Debian Linux voting process, <http://www.debian.org/devel/join/nm-step2>)
- Ownership of a domain name (as suggested by ALSC, perhaps with some additional checks to avoid potential frauds by malicious registries or registrars)
- Proof of identity through transmission of electronic images of official ID documents (example: Debian Linux voting process, <http://www.debian.org/devel/join/nm-step2>)
- Proof of identity in person through an affiliated physical verification point
- Proof of identity through a Certification Authority recognized by the law (already available in many countries)
- Membership of an organization which has an agreement with the ALSO for membership exchange

The last system is particularly interesting; it has been said that systems for global online elections that cannot be easily cheated are very costly. Even if this might be true, it can be overcome by delegating identity verification to smaller local entities, up to the point of the local amateur club in which every member knows the others personally, and establishing proper systems for sample verifications and punishment of potential frauds, which will however be less important the bigger the number of participating individuals and organizations is. Also the Certification Authority instrument is interesting, as there is a clear trend towards the establishment of certified online identities for a number of purposes, such as online interaction with public administration bodies, online signing of documents, secure e-commerce; ICANN should definitely accept to exploit this trend, if not to lead it.

However, ICANN should not select or impose any single method from the above list, but accept all of them, provided that they are implemented in a way that meets minimum criteria of safety. It should only state which level of verification is necessary, not how to achieve it.

Funding of such an organization could come from a per-domain quote, as funding of ICANN itself, and from the membership fees, which could however be waived for developing countries and other particular types of users; by building a network of local organizations, rather than a monolithic top-down organization, also costs can be highly reduced and distributed. The central ALSOs should only have a very limited mission: to maintain online resources for its members and to organize the elections.

So my warm recommendation to the Committee is to include a public membership, open to any interested individual, among the structural elements of the reformed ICANN, in the form of one or more At Large Organizations external to ICANN, and to use the At Large Organizing Committee

project to develop a set of minimal requirements and a related Memorandum of Understanding that should be used by ICANN to accept one or more At Large Organizations as providers and managers of such membership. (In fact, “membership” is not even the correct term for this approach – it would be more like an “external public review body”.)

There are a number of other possible observations on the practicality of building an ALSO; however, it must be noticed that the concept of one or more At Large Organizations seems to be completely missing from the Committee’s Working Papers. It would be nice to understand whether the Committee has already considered this option and discarded it, whether it is going to consider it before the end of its term, or whether it is not going to consider it at all. As the Committee recognized in its Interim Progress Report, there are some credible efforts underway to build organizations that could be good candidates for such roles, as suggested by the Accra resolutions of the Board. I personally think that the option of including a general membership in the map with an actual role and powers would be a giant step forward in preserving ICANN’s position, credibility and effectiveness in meeting the general needs of the Internet.