ICANN BOARD SUBMISSION NO. 2024.09.26.1a

TITLE:	**Consideration of the Board Governance Committee's Subcommittee on Conflicts' Final Report Regarding Conflicts with New gTLD Program: Next Round**
PROPOSED ACTION:	**For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board, through a recommendation from the Board Governance Committee (BGC), is being asked to accept the Final Report of the BGC Subcommittee on Conflicts (Subcommittee) on Conflicts of Interest relating to the New gTLD Program: Next Round (Next Round) and to direct that all necessary steps be taken to implement the recommendations set forth in the Final Report.

The Subcommittee was established in September 2023 by the Board to manage Board members conflicts of interest issues for the New gTLD Program (Next Round) and other areas of conflicts not related to the Next Round, such as the ICANN Grant Program. Since its establishment, the Subcommittee developed guidelines to assess conflicts of interests; evaluated current Board members' Next Round conflict disclosures to identify any actual, potential, or perceived conflicts; and met with the conflicted members to discuss their conflicts and potential mitigation measures to may enable them to have access to materials and/or participate in Board discussions and/or decisions on any matters relating to the Next Round.

As set forth in its Final Report on Conflicts of Interest regarding the Next Round, the Subcommittee concluded that the following Board members have an actual, potential, and perceived conflict of interest with the entire Next Round program: Harald Alvestrand, Edmon Chung, and James Galvin. The Subcommittee further determined, and all three Board members have agreed, that these conflicts cannot be addressed through mitigation measures. Accordingly, the Subcommittee has recommended that: (i) the conflicted Board members be restricted from accessing materials related to the Next Round unless the materials are public and/or do not contain confidential information; and (ii) the conflicted Board members be excluded from participating in Board discussions and decisions related to the Next Round. These restrictions should apply to all matters or issues related to the Next Round, regardless of which Board group holds such discussions or distributes any related material.

The Subcommittee further recommended that if the Board exercises its discretion to invite a conflicted Board member to provide subject matter expertise on an issue related to the Next Round, that: (i) the conflicted Board member's participation be limited to providing expert information; (ii) the conflicted Board member should not have access to any confidential materials; and (iii) the conflicted Board member be restricted from the Board's deliberations and/or decisions on that issue.

BOARD GOVERNANCE COMMITTEE (BGC) RECOMMENDATION:

The BGC recommends that the Board accept the Final Report of the BGC Subcommittee on Conflicts of Interest relating to the New gTLD Program: Next Round and to direct that all necessary steps be taken to implement the recommendations set forth in the Final Report.

PROPOSED RESOLUTIONS:

Whereas, on 10 September 2023, the Board approved the establishment of the Board Governance Committee (BGC) Subcommittee (Subcommittee) on Conflicts re the New gTLD Program: Next Round (Next Round) to manage Board members conflicts of interest issues for the Next Round. The Board subsequently expanded the remit of the Subcommittee to include other areas of conflicts not related to the Next Round.

Whereas, the Subcommittee has evaluated Board members' Next Round conflict disclosures and met with the conflicted members to discuss their conflicts and potential mitigation measures that might enable them to have access to materials and/or participate in Board discussions on any matters relating to the Next Round.

Whereas, the Subcommittee concluded that, currently, the following Board members have an actual, potential, and perceived conflict of interest with the entire Next Round program: Harald Alvestrand, Edmond Chung, and Jams Galvin. The Subcommittee further determined, and all three conflicted Board members have agreed, that these conflicts cannot be addressed through mitigation measures.

Whereas, the Subcommittee has completed its evaluation of the current Board members and provided its recommendations in the Subcommittee's Final Report on Conflicts Regarding the New gTLD Program: Next Round (Final Report). Specifically, the Subcommittee recommended that: (i) the conflicted Board members be restricted from accessing materials related to the Next Round unless the materials are public and/or do not contain confidential information; and (ii) the conflicted Board members be excluded from participating in Board discussions and decisions related to the Next Round. The Subcommittee further recommended that these restrictions should apply to all matters or issues related to the Next

Round, regardless of which Board group holds such discussions or distributes any related material.

Whereas, the Final Report also recommended that should the Board exercise its discretion to invite a conflicted Board member to provide subject matter expertise on an issue related to the Next Round, that: (i) the conflicted Board member's participation be limited to providing expert information; (ii) the conflicted Board member should not have access to any confidential materials; and (iii) the conflicted Board member be restricted from the Board's deliberations and/or decisions on that issue.

Whereas, the BGC has evaluated the Final Report and has recommended with that the Board adopt the Final Report.

Resolved (2024.09.26.XX), the Board accepts the Final Report of the BGC Subcommittee on Conflicts of Interest relating to the New gTLD Program: Next Round and will take all necessary steps to implement the recommendations in the Final Report.

Resolved (2024.09.26.XX), specific items within this resolution shall remain confidential pursuant to Article 3, section 3.5(b) of the ICANN Bylaws until the Interim President and CEO, or her designee(s), determines that the confidential information may be released.

PROPOSED RATIONALE:

ICANN is committed to attaining a high ethical standard to ensure the legitimacy and sustainability of the multistakeholder model. The Board's action today ensures efficiencies in managing conflicts of interests for Board members for areas in addition to the New gTLD Program: Next Round. This action will help ensure that the Board members are operating at the highest ethical standards and that decisions and deliberations are made with full awareness of individual conflicts of interest, which will further assist the Board in complying with its duties in accordance with its Conflicts of Interest Policy (https://www.icann.org/resources/pages/governance/coi-en). The Subcommittee will continue to manage conflicts of interest for the Next Round, and may augment its recommendation, as necessary, to ensure that all Board members are compliant with its Conflicts of Interest Policy.

This decision is within the public interest and consistent with ICANN's mission as it is expected to positively impact the ICANN community by ensuring that ICANN continues to operate to the highest ethical standards.

The action is not expected to have a fiscal impact on ICANN organization.

This is an Organizational Administrative Function that does not require Public Comment.

Submitted By:	Amy A. Stathos, Deputy General Counsel
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ICANN BOARD SUBMISSION NO. 2024.09.26.2a

TITLE: Appointment of 2025 Nominating Committee Chair and Chair-Elect

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The Board is being asked to consider the Board Governance Committee's (BGC) recommendation with respect to the 2025 Nominating Committee (NomCom) Chair and Chair-Elect.

Following the call for expressions of interest (EOI), as input into the selection of the 2025 NomCom leadership positions, the BGC reviewed and evaluated the received EOIs and other materials submitted by the candidates to narrow the group of 12 applicants down to a short list of applicants for interviews. Subsequently, the BGC evaluated the candidates interviewed and considered the NomCom members' evaluation of the 2024 NomCom leadership, as applicable. Following the above actions and further discussion, the BGC agreed on recommendations to the Board for the 2025 NomCom Chair and Chair-Elect.

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PROPOSED RESOLUTIONS:

Resolution Text Superseded

Resolution Text Superseded

PROPOSED RATIONALE:

Rationale Text Superseded

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