

Non-Commercial Stakeholder Group

The Non-Commercial Stakeholders Group (NCSG) welcomes the opportunity to comment on the Bylaws Amendments and Documents to Implement the NomCom2 Review

Introduction

The Review asked the community to respond to four (4) questions:

1. Do we agree with the statement defining Unaffiliated Directors and the fundamental bylaws amendment.
2. Do we agree with the standard proposed Standard Bylaws amendments proposed to Article 8 of the ICANN Bylaws as well as the Transition Clause proposed for Article 27.
3. Our Input into the NomCom Standing Committee Charter.
4. Our input into the requested changes to Article 12 related to the RSSAC?

Overall, the NCSG supports the recommended bylaw changes. Our comments and rationale are enclosed in the statement below.

Comments

1. Do we agree with the statement defining Unaffiliated Directors and the fundamental bylaws amendment?

The Non-Commercial Stakeholder Group (NCSG) is fully supportive of the changes proposed by the NomCom Review to define Unaffiliated Board Members (i.e., Directors). It also supports the goal of having a minimum of two and possibly three of the directors be classified as unaffiliated with the understanding that this will be done over time. It is important for the ICANN Board that at least one third of the eight (8) independent ICANN Board Members chosen by NomCom be classified as unaffiliated, considered outsiders, and not directly associated with ICANN. We agree, as the NomCom Review 2

stated, that “the goal” is to have 3 unaffiliated board directors but also understand that this is just a goal and sometimes there may not be appropriate candidates in the pool to make this happen. We are glad to see that there is flexibility in the rules to not appoint an “unaffiliated” director that year, if there are less than 3 directors classified as “unaffiliated”. We understand that there is always a risk, given the rather arcane nature of the work that ICANN does, that it will only attract insiders who have an interest in the business of the DNS, but if history is to be our guide this risk is manageable. For example, in the most recent election for FY’23, the NomCom received such excellent candidates that the NomCom was able to elect two (2) outsiders as Board Members, even before this requirement was adopted. Outside advice and other Board members play a critical role in making sure ICANN is providing the service that the those within the community want, meeting its goals of ensuring the stability and secure operation of the Internet's unique identifier systems, whilst taking into account the huge population of Internet users who have no idea what goes on at ICANN. Ensuring that there are experienced external Board members is vital to that effort .

Unaffiliated does not mean lacking knowledge about the Internet ecosystem, but it does mean that they have not worked in ICANN before. The unaffiliated Board members should not be influenced by one constituency and will come with an open mind, and care must be taken in the training for NomCom members, that they can filter for that risk as well.

The NCSG believes that this task would be significantly facilitated if the NomCom were mandated to appoint a specific number of unaffiliated directors. By selecting such individuals, we mitigate the risk of conscious or unconscious biases that candidates may bring to the table, allowing the Board to bring fresh perspectives as they impartially analyze the matters at hand. Their valuable expertise and experience can then be utilized to offer unbiased advice, untainted by any predispositions and experience..

NCSG also agrees that Board candidates nominated as unaffiliated Directors can be re-nominated to those roles and do not lose their status of unaffiliated.

2. Do we agree with the standard proposed Standard Bylaws amendments proposed to Article 8 of the ICANN Bylaws as well as the Transition Clause proposed for Article 27.

NCSG supports the granting of voting rights to the current non-voting delegates so that all delegates are treated equally.

NCSG also supports the change in the term limits for NomCom members from one year to two years. NomCom delegates spend a significant amount of time in training and in getting acquainted with the rules and it would be beneficial to all if new members do not have to be trained each year. They could start the year off learning from collective past mistakes, thus benefiting from a smoother process the next year. Adding term limits to a NomCom delegate term is helpful in that it brings fresh and diverse delegates to the NomCom with new ways of looking at things and renewed vigor. NCSG Also agrees to the addition of term limits and the requirement for all NomCom terms to not be consecutive and other requirements as stated in the Public Comment.

The NCSG supports the creation of a NomCom Standing Committee to provide continuity across annual NomCom cycles and to build the institutional memory of the NomCom. We feel that this is an excellent idea and can really help solve some issues and for recommendations made from past NomCom to be carried over to the next NomCom. It would also encourage problematic issues to be remembered and dealt with, rather than reinventing the wheel each year. Allowing for continuity of recommendations across NomCom Cycles is an excellent idea as suggestions and improvements can be sent to the standing committee and they can collect them and ensure that the same mistakes are not made and that people learn from them. They can also carry forward a series of best practices from year to year. It will be important, of course, to set guardrails around the Standing Committee, to ensure that it does not unduly interfere with the freedom of the current NomCom.

3. Our Input into the NomCom Standing Committee Charter.

The NCSG supports the creation of the NomCom Standing Committee however, it does have a concern that the Standing Committee should be an advisory body providing historical knowledge of past issues but strictly that, allowing the NomCom to remain in control over its own processes.. With that in mind, the NCSG is suggesting that Standing Committee members only serve one full term of three (3) years at a time in similar fashion as the new requirements for NomCom Delegates. We do not support consecutive terms since sometimes that leads to stagnation of ideas, especially those from the newer members.

4. Our input into the requested changes to Article 12 related to the RSSAC?

The NCSG supports this change to the Bylaws. We had already supported converting the Root Server System Advisory Committee (RSSAC)'s delegate to a voting role and this change in the bylaws will enable this to occur.

Conclusion

The NCSG thanks ICANN org for the opportunity to provide its input on the proposed amendments.