



# ICANN Board Review Working Group Final Report

January 2010

## Summary of conclusions

The Board Review Working Group presents its final conclusions on the issues related to the external consultants' review of the Board of Directors of ICANN. Full details are to be found in following sections of this report.

1. The WG recognises the complexity of the issues associated with Recommendation 1 "Reduce the size of the Board", and recommends no significant reductions to the size of the Board at this time. The issue should be re-examined in three years when other initiatives recommended in this review will have had time to produce tangible improvements on the efficiency and effectiveness of the Board.
2. The WG believes that the Board is already moving in the direction suggested in Recommendation 2 "Move to fewer but longer Board meetings".
3. At the end of 2008, the Board restructured the mandate of its standing Committees, and redefined their number and scope of action. No further action on Recommendation 3 "Consolidate the Board Committees" is required at this stage.
4. The ideas contained in Recommendation 4 "Broaden the skills of the Board" are already being addressed through the work of the Board Governance Committee. This includes, *inter alia*, specially designed training sessions adjacent to key ICANN meetings.
5. The issues contained in Recommendation 5 "Make Board membership more sustainable" are complex. The WG recommends that Board terms be increased to four years, with a maximum service for Directors of eight years.

The WG acknowledges the general support from independent consultants and the community for the proposal of compensating Directors for their services, with the Chair being compensated at some multiple of the standard Directors' amount.

It is however aware that prior to any Board decision on this issue there is the need for a thorough study on the legal and fiscal implications of introducing forms of compensation. It recommends that such a study be performed under the coordination of the General Counsel. The Board would then be asked to determine whether further action, with a view to making a final recommendation to the Board, will be referred to the SIC or the BGC.

Quite apart from the issue of compensation, it stresses the importance of reimbursing Board members for direct expenses associated with Board activities (e.g., office supplies, telecommunication costs) and is aware that the Executive Committee is working with Staff to formalize a specific procedure for cost reimbursement.



6. The WG supports the initiatives suggested in Recommendation 6 “Build high performance culture at the Board level”.
7. The WG supports the initiatives suggested in Recommendation 7 “Strengthen the strategic focus of the Board”.
8. The WG supports the initiatives suggested in Recommendation 8 “Clarify the Board’s accountabilities” with the exception of initiative ‘f’ (elect a Board acceptable to all constituencies), which seems impracticable within the ICANN context.

## **Background**

As part of ICANN's commitment to accountability, transparency and continuous improvement, the ICANN processes require the periodic review of 'each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee.' As specified in Article IV, Section 4 of ICANN's [Bylaws](#), the "goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (i) whether that organization has a continuing purpose in the ICANN structure, and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness."

Each review is conducted by external, independent reviewers selected following publication of a Request for Proposals (RFP) based on Terms of Reference (ToR) detailing the scope of the work and listing a set of questions to be answered. The organizational review process includes the opportunity for public comment on the Terms of Reference of the review, its results and any proposed recommendation.

Although a review of the Board is not stipulated in the Bylaws, the Board of Directors decided that it would be appropriate to undertake such a review to identify ways that the performance of the Board might be further improved. The Board decided at the Sao Paulo meeting in December 2006 to add the Board to the list of organizations to be reviewed.

At the Paris meeting in June 2008, the Board adopted a resolution to adopt a Working Group (WG) model to facilitate this review process. To undertake this task, the WG draws on the expertise of the following current and past Board members: Amadeu Abril, Roberto Gaetano (Chair), Steve Goldstein, Thomas Narten, Rajasekhar Ramaraj, Rita Rodin Johnston, and Jean-Jacques Subrenat. The WG is being supported by Marco Lorenzoni (Director, Organizational Review) and Patrick Sharry, Independent Consultant.

Through consultation with the ICANN community, a [ToR](#) was developed and an [RfP](#) was posted. The Boston Consulting Group/ Colin Carter & Associates were selected to conduct the external review. The reviewers presented their [report](#) at the ICANN public meeting in Cairo in November 2008.

In order to obtain feedback from the community, a public session was held at the Cairo meeting. In addition, an [online public comment period](#) was opened to allow members of the ICANN community to react to the conclusions and recommendations of the independent review.

The WG has considered both the report and the comments received during presentation and the public comment period, and issued for [public consultation](#) an [interim report](#), which was presented at the ICANN meeting in



Mexico City (March 2009).

Based on the feedback received on the first interim report and further discussion by the working group, [a second interim report](#) was prepared for discussion at the June 2009 ICANN meeting in Sydney. Useful feedback was obtained from the public workshop held at the Sydney meeting and this feedback has further informed the discussion within the WG.

A [draft of the final report](#) was presented to the community at the Seoul meeting in October 2009. A public consultation session was held at that meeting and an online comment forum was opened. The WG has taken all these comments into consideration to prepare the final version of the report.

This report reflects the final positions of the WG on the conclusions and recommendations formulated by the independent reviewers in their report. This report will be sent to the Structural Improvements Committee and then passed on to the Board for action.



## **General remarks**

In addition to comments about the particular recommendations contained in the external review report, the WG also discussed some general remarks that were raised during the public comments periods about the report.

A few comments suggested that the external review had failed in understanding the specific “not for profit” nature of ICANN and its mission, and that reviewers based some of their key recommendations on standards that are specific to Boards of corporate “for profit” businesses. However, as it is mentioned in the body of their report, the conclusions of the external reviewer’s report draw on their experience in assisting a wide variety of both “for profit” and “not for profit” Boards.

ICANN values and unique governance model are indeed different from those of standard “for profit” businesses and from those of many “not for profit” corporations. Because the objective of the review process is to improve the operation of the ICANN Board and in consideration of this unique nature of ICANN, the WG considers however that there may be lessons that can be learned from other Boards, regardless of their “for profit” or “not for profit” nature.

In addressing the external reviewer’s report, the WG has taken each recommendation on its merits in order to determine whether it is appropriate for ICANN to implement.

## Response to recommendations from the independent reviewer

### **Recommendation #1: Reduce the size of the board:**

- (a) *Assess option 1: reduce the board to a maximum of 15 persons*
- *Redefine the Liaisons as an expert group of non-board members available to advise directors as required and develop a new communication protocol to ensure frequent exchange of views.*
  - *Provide ALAC with the right to nominate one or two voting board members.*
  - *Reduce the number of directors provided through the NomCom process from eight to six.*
  - *Provide one 'observer' position for the GAC and also, if thought necessary, for the technical community.*
- (b) *Assess option 2: halve the size of the board to around nine voting persons plus two observers*
- *One from each of the SO/ACs and possibly one from ALAC.*
  - *Four from the NomCom process.*
  - *The President.*
  - *An observer from each of GAC and the technical community.*
  - *Consider maintaining a majority of members sourced from the NomCom process (that is, four from SOs and ALAC, the President and five from NomCom).*
- (c) *Institute communication processes between board and technical community (such as a formal meeting at each of the three public meetings).*

The question of the Board size is a very difficult one.

The report from the external reviewers presents a strong view that the size of the Board should be reduced in order to increase its effectiveness, and notes that large Boards are more prone to capture than small ones.

In turn, Members of the WG are conscious of the difficulties of working with a Board of the current size, and started investigating this issue by asking 'Would a smaller Board help the Organization better achieve its mission?' This question needs to be answered by considering the workload of the Board of ICANN.

Although a smaller Board could have a strong appeal (and has been supported by comments from some members of the community), the WG also underlines the need for having a sufficient number of Board Members to effectively carry out the work that is required to the Board by the specific nature and unique governance model of ICANN.

Members of the WG are aware of the objections raised by several members of the community to reducing the size of the Board and, in particular, because of the importance of the representative nature of the Board and the related issues of geographic, cultural and stakeholder diversity. The WG strongly supports the need for the continuation of such diversity on the Board and is fully committed to preserving that diversity. Some WG members are particularly mindful of the importance of the Nominating Committee process for providing that balance and diversity.

The WG also notes that the Board, while it has members drawn from the ICANN Supporting Organisations, is not a representative Board. The Bylaws state quite clearly ([Art. VI, Section 7](#)) that Board members “have the duty to act in what they reasonably believe are the best interests of ICANN and not as representatives of the entity that selected them, their employers, or any other organizations or constituencies.” Further, inasmuch as ICANN is organized as a not-for-profit public benefit corporation, this duty also translates into acting in the best interests of the public that ICANN serves, namely the universe of Internet users.

Having carefully considered the multiple aspects related to the size and composition of the Board of ICANN, the WG has concluded that the reviewers’ recommendation to adopt major reductions of the size of the Board was inappropriately based on practices of the corporate sector. ICANN does not fit easily into a corporate model for a number of reasons, including: the cultural and geographic diversity of its stakeholder base; the plurality of tasks assigned to the Board; and the nature of ICANN’s mission.

Furthermore, the WG is well aware of the enormous amount of activity that is currently underway in ICANN. This is resulting in an extremely high workload for the Board, Supporting Organisations and Advisory Committees, and the Staff. This is not an appropriate time to undertake a major change such as a significant reduction in the size of the Board.

The WG remarks that several measures suggested by reviewers and supported by this WG (recommendations # 2, 4, 5, 6, 8) are expected to impact positively on the effectiveness of the work of the Board.

In relation to reviewers’ recommendation # 7, this WG recommends moreover a further measure (see below) that is expected to have further positive effects on the workload of the Board.

Finally, the WG invites the CEO to investigate the way that Staff interacts with the Board ‘vis à vis’ matters to be considered by the Board, and to institute



measures to decrease the workload on the Board (most likely with a concomitant decrease in Staff workload as well). In case of success of these measures, one could expect that the size of the Board could be reduced without detrimental impact on its ability to discharge its duties, that frequency of meetings dealing with routine ICANN business could be reduced, and that the Board could have more time to deal with truly strategic issues.

In conclusion, the WG recommends against any drastic reduction in the size of the Board at this time. The WG also recommends that the question of the size of the Board be re-examined in three years, when the effects of the other changes suggested in this review can be assessed.

This recommendation was approved by the WG with one abstention, one vote against and all others voting in favour. This recommendation was then approved by the Board, in August 2009<sup>1</sup>.

The WG was requested by the Structural Improvements Committee to assess different options to implement the recommendation issued by the ALAC Review Working Group to include two further voting Board Directors in representation of At-Large.

The Board Review WG has discussed this recommendation from the perspective of the impact that it will have on the Board. Some members were supportive of the recommendation, others were willing to support the inclusion of only one voting seat, while still others were of the view that there should be no voting seats given to At-Large given the advisory nature of the committee.

After considerable discussion, the majority of this WG voted in favour of the recommendation that the At-Large community should be given one voting seat on the Board. This voting seat (when filled) would replace the existing position of the ALAC Liaison.

This recommendation was approved in principle by the [Board, in August 2009](#) ‘...the recommendation of the BRWG to add one voting director appointed from the At Large Community to the ICANN Board of Directors, and to remove the present ALAC Liaison to the Board, is approved in principle for implementation. Staff is directed to identify all steps required to achieve the implementation of this principle, after issuing of the BRWG Final Report.’

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<sup>1</sup> *IT IS RESOLVED (...) that the recommendation of the BRWG not to decrease the size of the Board of Directors at this time is approved. The Board directs the Board Governance Committee to provide clarification on possible delegation of work from the ICANN Board to management. The Board also invites the CEO to investigate Board/Staff interaction and ways to reduce the workload of the Board on issues intended for Board consideration.*

*IT IS FURTHER RESOLVED (...) that the feasibility of decreasing the size of the Board of Directors should be rediscussed in three years time, to allow an assessment of the effects of the several measures intended to increase the effectiveness and efficiency of the Board.*

The WG discussed whether the inclusion of this further voting Director should be balanced by the reduction of one unit of the number of Directors appointed by the Nominating Committee, and does not recommend the adoption of this measure.

The WG also gave consideration to the mechanism by which this new At-Large Director would be appointed, and concluded that ALAC and At-Large should devise the mechanisms of this selection process. The selection process must ensure that the appointment has the approval of ALAC and the approval of the At-Large community more broadly. The WG expects that the selection process will be designed, approved and implemented in time for the new Director to be seated at the 2010 AGM.

With regard to Liaisons, the WG recognises that in many ways it is well served by the individuals who currently serve as Liaisons. However, at the same time, some members of the WG are of the view that the current model of Liaisons is not working well for the Board, or for the Liaisons themselves. In particular, it notes that the flow of information between the Board and the groups represented by the Liaisons is not optimal. In addition, the Liaisons have to sit through many meetings which have very little to do with their area of representation. A model where the Liaisons would be invited for discussions only to particular meetings relevant to their area of representation and at which they would provide reports might be a more efficient and effective process. However, on balance, WG members are of the view that the Liaisons need continuity in order to be of real value. A process which has the Liaisons only attending some meetings would break this continuity and decrease the effectiveness of the Liaisons and the Board as a whole. In particular, the WG is keen to ensure that any change to the current Liaison arrangements does not impede or decrease the much needed interactions between the Board and the technical community.

On the balance of these perspectives, the WG has concluded that no change needs to be made to the current Liaison arrangements at this point.

**Recommendation #2: Move to fewer but longer board meetings:**

- (a) Introduce six two-day 'in person' board meetings, three of which would be held adjacent to public meetings.*
- (b) Discontinue monthly teleconferences except in special circumstances.*
- (c) Schedule 'fireside chats' before each board meeting with senior executives to discuss important issues.*
- (d) Hold two one- or two-day strategy retreats - adjacent to regular board meetings.*
- (e) Review arrangements for inter-meeting approval of urgent matters.*
- (f) Ask regularly, after board meetings, whether the board spent its time on board work – or is getting too deep in management matters.*

The WG believes that the Board is already heading in the direction set out in the first of these recommendations, considering that the Board already meets face to face five times per year (two retreats and three sessions at ICANN's public meetings).

The WG does not believe that it should recommend the elimination of the monthly teleconferences. If these were discontinued, the Board would not be able to get through its current workload. However, there may be the possibility of making better use of these calls by, for example, having "single issue" calls rather than standard Board meetings.

The Board has already moved to consider the arrangements for urgent inter-meeting approvals (2e) and the BGC is currently considering the role of the Executive Committee in this regard.

The WG is very supportive of recommendation 2f and believes that it is critical for the improvement of the performance of the Board.

**Recommendation #3: Consolidate the board committees:**

- (a) *Consolidate the Reconsideration and Conflicts Committees into the Governance Committee.*
- (b) *Redefine the scope of the Governance Committee to incorporate all matters relating to legal issues, conflicts of interest, reconsideration and fairness. Also assign to this committee the task of defining the skills and experience required on the board.*
- (c) *Redefine the scope of the audit committee to include overseeing the legitimacy of the budget process and other key aspects of the existing finance committee.*
- (d) *Discontinue the Finance and Executive committees.*
- (e) *Consider establishing a Risk Committee of the board.*
- (f) *Consider establishing (but sparingly!) temporary committees with clear sunset clauses to deal with important issues – such as the JPA matters.*
- (g) *Limit the size of board committees to three or four board members with management attending by invitation.*
- (h) *Allocate responsibility for setting the board agenda to the Chairman, Deputy Chairman and President in consultation (with other board members able to add items as they wish).*

While the restructuring of the mandate of the Board standing Committees has been addressed already by the Board in its resolutions of [7 November 2008](#), the other recommendations of a procedural nature are being addressed by the Board Governance Committee.

At its meeting in Cairo in November 2008 the Board restructured the number and scope of action of its standing Committees: the Reconsideration and Conflicts of Interest Committees have been folded into the Board Governance Committee, and the Executive Committee reduced in size and limited in scope from its previous state.

Some new committees have been established as well: Structural Improvement (to coordinate and harmonize all the independent reviews of ICANN key structures), Public Participation (to oversee ICANN's meeting planning, response to questions and suggestions from the public, etc.), IANA (to oversee the management of the IANA function), and Risk (to oversee and coordinate ICANN's understanding of and response to various categories of risks to the Corporation).



In respect of Recommendation 3(g), the Board Governance Committee recently adopted a practice of limiting committee membership to three or four Directors (including, as appropriate, Liaisons) with a goal of no Director's having to serve on more than two committees.

The WG considers that no further actions are required at this time in response to Recommendation #3 from the independent reviewer's report.

**Recommendation #4: Broaden the skills of the board:**

- (a) *Formally define the skill and experience and independence mix required for the board to operate effectively – in the short and longer terms.*
- (b) *Form a view about the main gaps in skills that should be met.*
- (c) *Formally define the participation of the ICANN chairman and the chairman of the Governance Committee as part of the Nominating Committee's process for choosing new board directors.*
- (d) *Develop a process for engaging the Supporting Organisations and Advisory Committee in a discussion about the mix of skills required.*
- (e) *Offer training in director's responsibilities to all board members.*
- (f) *Encourage each director to nominate an area of 'learning' for the year.*
- (g) *Occasionally invite prominent company directors to meet the board over dinner to talk about 'the role of the director'.*

This recommendation, and in particular the options 4a and 4b, is also being considered by the Board Governance Committee.

With regard to 4c, the WG is of the view that it is appropriate and useful for the Chairman of the Board to have a formal meeting with the Chairman of the Nominating Committee to discuss the skill needs of the Board, and notes that informal contact already occurs.

A formal discussion between the Chairs should take place after a full Board discussion about necessary Board skills, and the Chairman of the Board should represent the Board position on this. If this process is followed, there is no need for the Chairman of the Board Governance Committee to meet with the Chair of the Nominating Committee.

With regard to 4d, the WG recognizes the value in having input from the SOs and ACs into the Nominating Committee process. However, the WG sees little value in creating an extra formal process to capture this input. SOs and ACs are encouraged to develop proposals for ways in which their input might most effectively be incorporated into the considerations of the Nominating Committee. Any such proposals should be submitted to the BGC for consideration.

The WG supports 4e and 4f, but notes that some comments received during the consultation process question whether it is appropriate for ICANN to deliver training to its directors. Induction training is already provided for new Board members and special skills training by outside experts has been



instituted for Directors adjacent to ICANN meetings. The WG suggests that these practices be reviewed and strengthened. The Board should also implement a process where Board members nominate areas where they would like further training, particularly where those needs are in core Board functions such as finance.

The BGC is currently assessing the training needs of Directors and the WG requests the BGC to take these conclusions into consideration.

**Recommendation #5: Make board membership more sustainable:**

- (a) *Retain a tenure limit but increase the average term served by board members by extending the tenure limit from two three-year terms to two four-year terms<sup>2</sup>.*
- (b) *Invest in more board support including the establishment of a senior company secretary role to augment the existing provision of dedicated logistical/secretarial support for board members.*
- (c) *Abandon extensive minutes for board meetings in favour of discussion summaries and a record of decisions and requests.*
- (d) *Review the value of and need for the 'board list'.*
- (e) *Reduce the volume of board papers by assigning all document appendices and 'for information' papers to a separate part of the existing secure internet site.*
- (f) *Develop clearer and more extensive formal delegations to management and document these generally within a board governance charter (example attached as appendix (a)).*
- (g) *Introduce payment for board members with the chairman paid at 2.5 times the amount paid to other directors. Explore numbers of around USD 50,000 for board members and USD 150,000 for the chairman.*
- (h) *Assess whether any additional payment is justified for Committee Chairs as well as the consequential impacts for other ICANN community organisations.*

With regard to (a), the WG acknowledges the different views expressed by some members of the community. However, its majority agrees with the argument that the Board tenure should be increased for all Directors to four-year terms, with the possibility for them to serve for a maximum of two consecutive terms.

For Directors reappointed for a second term, there should be an option to retire after the first two years of the second term.

The ICANN Bylaws contain procedures for dealing with the retirement of Directors, and provide that Directors wishing to retire prior to the end of their terms must give notice of their intent. The WG recommends that, barring unusual circumstances, Directors wishing to retire after the first two years of

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<sup>2</sup> This is a factual mistake, as the present tenure limit for Board Directors is three terms of three years each.



their second mandate should give notice of intent to resign in sufficient time for the Nominating Committee process to select a replacement.

The WG recommends that the tenure of Liaisons be increased to two years. Bodies appointing Liaisons to the ICANN Board are invited to implement adequate procedures in order to enforce this recommendation. Furthermore, appropriate changes to the ICANN Bylaws need to be made.

This recommendation applies to all Liaisons with the following exceptions:

- Technical Liaison Group (TLG); the present rotation principle governing the election of TLG Liaisons would make it impossible to increase the TLG term without reconsidering the whole role, functions and organization of the TLG. The Structural Improvements Committee of the Board is currently discussing the carrying out of an organizational review of the effectiveness of the TLG; this WG suggests exploring the possible modalities to increase the tenure of the 'technical Liaisons' as one of the possible measures needed to achieve a structural reform of the TLG.
- Government Advisory Committee (GAC); the present procedures and working practices of the GAC (two-year tenure of the Chair, with the practice of the Chair being also the Board Liaison) might suggest maintaining the present length of term, an issue that the GAC and the recently established Board/GAC WG might want to assess for Board consideration.

In considering the sustainability of Board membership, the WG believes that consideration also needs to be given to the timing of appointments to the Board. The current arrangements with appointments occurring at different times during the year (Directors appointed by SOs around mid-year, and Directors appointed by NomCom in 3<sup>rd</sup> quarter) are considered by some WG members to be not optimal because there are two independent processes through which Board members are seated. This could make the process of getting effective representation (e.g. gender and geographic balance) more complex. Other WG members are of the view that the current arrangements are suitable and provide a useful way of providing a smoother transition of incoming Board members than if all new members were to be appointed at the same time.

On balance of these views, the WG recommends to maintain the current arrangements, but to seat all the incoming Directors at an ICANN meeting (i.e., the mid-year meeting for SO and At-Large appointees, and the Annual General Meeting for NomCom nominees), in order to facilitate their transitioning.

The WG analysed the present Bylaws provisions ruling the filling of Board vacancies due to resignation or termination before the end of term (thereinafter: vacancies).



It considers that specific provisions need to be added to the Bylaws to address issues such as the length of term of the replacement Director and the deadline to fill the vacancy. Should a replacement of a Nominating Committee elected Director be needed, the Bylaws would also have to specify which Nominating Committee is responsible for her/his replacement.

With regard to (b), the WG believes that significant steps, including the appointment of a dedicated senior staff Board support person, have already been taken in this direction. The Board will allow the new arrangements to take full effect and monitor this issue over time.

With regard to (c), the WG considers that the present format of minutes of the Board meetings –which has been recently modified- does not need further changes for the time being. The suitability of their format can be reassessed in the next future.

With regard to (g), the WG recognizes that issues bearing on the compensation of Board Directors are multi-faceted and require meticulous attention.

Part of the rationale for compensating Board members for their services is to allow ICANN to continue to attract high calibre Board members. Some members of the WG are of the view that ICANN cannot rely on the continued availability of volunteer Board members in the longer term and therefore some form of compensation will be necessary in the medium to long term. Further, some WG members are of the view that if ICANN is to be able to attract as future Board members persons with an adequate level of gravitas needed to help navigate ICANN through the post-JPA waters, ICANN will need to be able to offer at least some reasonable amount of compensation. Others believe that ICANN should always be able to attract volunteer Board members of high quality because of the important and interesting work that Board members undertake. They further believe that compensation might attract people who do not necessarily have the qualifications to sit on the Board or an understanding of the DNS, but rather are looking for a way to make additional money.

The WG acknowledges that the proposal from the external reviewers to compensate Board Directors was also confirmed by a further study commissioned by ICANN and performed by an external consultant, which provides some possible ranges for compensation based on benchmarking of practices of a variety of Boards. The WG also notes the almost unanimous support for the proposal to compensate Board Directors in comments from members of the community during presentations and public comment periods.

The WG is however aware that the introduction of forms of compensation for the services of the Board Members might have legal and fiscal implications. It emphasizes, therefore, that prior to any Board decision on this issue there is a need for a thorough study of the possible legal and fiscal implications of



introducing forms of compensation for services. The WG therefore recommends the General Counsel undertake the study without delay. The Board would then be asked to determine whether further action in view of sending a final recommendation to the Board will be referred to the SIC or the BGC.

Apart from considerations of compensation for services, the members of the WG support the idea that Board members should be reimbursed for all of the direct costs associated with their role on the Board. This should cover not only travel and related costs, but also telephone costs, consumables and other expenses directly incurred in carrying out their role. The WG is aware that the Executive Committee is working with Staff to formalize a specific procedure for cost reimbursement.

**Recommendation #6: Build 'high performance' culture at the board level:**

- (a) Introduce individual performance evaluation for all board members based on a simple peer review process conducted every two years.*
- (b) Review the process for evaluating the performance of the President.*
- (c) Design ways to test regularly the values and attitudes of ICANN staff.*
- (d) Discuss the 'bad news', confidentiality and conflict survey responses at the board.*

The WG supports the initiatives suggested in Recommendation 6. Most of these ideas are currently being worked on in the Committees of the Board. In developing the positions outlined below, the WG is aware of the close relationship between the ideas discussed here in Recommendation 6 and those contained in Recommendations 4 and 7.

Recommendation 6a is receiving focussed attention, and following the recommendation of the Board Governance Committee, the Board retained outside support in August 2009 to conduct an on-line assessment by Board members of the Board as a whole and of the Chair. The Board and the BGC will continue discussions about this topic to determine the best way forward.

With regard to Recommendation 6b, the WG and the Board generally recognise the need to improve this process. The Compensation Committee is currently working on this by developing written performance goals and associated assessment metrics in consultation with the CEO/President.

The WG is very supportive of Recommendation 6c. Members of the WG recognise that this would best be done by tasking management to undertake an appropriate survey of the staff as a whole. There are a number of these tools available. The WG suggests that the Board discuss this issue with senior managers to agree on an appropriate approach.

The Board is already aware of the issues raised in Recommendation 6d. The WG suggests that the best way forward would be for the Board to continue discussions on these issues over the coming months.

**Recommendation #7: Strengthen the 'strategic' focus of the board:**

- (a) Allocate some time after a board meeting (several times each year) to discussing whether the board is getting too deep into detail that should be left to management.*
- (b) Define annually the five most significant issues facing ICANN and build extensive regular discussion of these issues into the board meeting agenda.*
- (c) Measure and track the board time spent on strategy, policy and operational issues.*
- (d) Initiate a robust assessment of work done at the board to ascertain what can be delegated to management. Schedule one or a series of conversations between the board and the management group to discuss views on the respective roles.*

The WG notes that discussion of the ideas contained in recommendation 7 is already taking place at Board level. However, there are aspects of the specific elements of the recommendations that are worthy of being addressed here.

The WG strongly supports the idea behind recommendation 7a and recognises that there is often a temptation for the Board to delve into too much detail at the expense of keeping a more strategic focus. Regular consideration of the way that Board time is allocated would be one way of keeping an appropriate focus. However, that recommendation also raises a deeper issue in the minds of members of the WG – the nature of the work of the Board relative to the nature of the work of management and the manner in which work is delegated to staff and then monitored by the Board.

The WG suggests that the BGC be tasked with clearly defining the process by which the Board delegates work to management and then subsequently monitors the outcome of that delegation, and remarks that the BGC is currently working on better definitions of what is Board work and what is staff work. The WG supports this approach and requests that the BGC also considers what might be the appropriate levels of staff support for Board activity.

The WG also supports recommendation 7b and acknowledges that conversations to build shared understanding of the Board's priorities would be useful. ICANN already has a well established planning process which includes strategic and operating plans which set out priorities. However, the WG believes that these documents reflect the plans for the ICANN community



as a whole and there is still a need to build agreement around the Board table about where the Board should most appropriately focus its efforts.

While the WG supports the intention behind 7c, some WG members are concerned that the effort required to collect the relevant data may outweigh the benefit from the analysis of the results. Others believe that a simple conversation at the end of each Board meeting would be sufficient to provide improvement and focus in this area.

There is support for Recommendation 7d. The WG believes that conversations between Board and senior management are very important and need to be improved. The WG supports the implementation of this recommendation.

**Recommendation #8: Clarify the board's accountabilities. Initiate a program of discussions that explore the following propositions:**

- (a) *Agree the accountability of ICANN's board – to ICANN itself, the ICANN community and/or the Internet?*
- (b) *Affirm that ICANN directors owe their loyalty to the board and not to their sponsoring organisations.*
- (c) *Support proposals for a process to dismiss the board but ensure that the hurdle is quite high.*
- (d) *Discuss possible conflict issues in the board's role overseeing the ICANN community where its members are appointed by those who are doing the work. Agree that a key role of the independent directors (via NomCom) is to ensure that the board continues to carry out its role without compromise.*
- (e) *Discuss the future work division between paid staff and volunteers and form a view as to what this will look like in five years time.*
- (f) *Consider the proposition that the stakeholder groups get together to appoint a board acceptable to all of them – rather than directly appointing their own representatives to the board.*

With the exception of the recommendation 8f (see below), the WG is supportive of all of the recommendations contained in this section and believes that ICANN is already moving in this direction. The issue of loyalty of Board members raised in recommendation 8b is already addressed through the induction that Board members receive and through discussions at the Board table.

The Board is already taking steps to address the issues raised in recommendation 8c (although further legal analysis is necessary).

The BGC is already addressing the issues raised in recommendation 8d, and the newly adopted [Code of Conduct](#) for Board members as well as the [Conflict of Interest Policy](#) also squarely addresses this obligation of Directors.

After discussion of different alternative models and consultation with the community, the WG believes that the recommendation 8f is impractical in the current ICANN environment.