



Via email: [Tripti.Sinha@board.icann.org](mailto:Tripti.Sinha@board.icann.org)

July 7, 2023

Ms. Tripti Sinha  
Chair, ICANN Board  
ICANN  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536, USA

Re: Response to Questions Regarding the Rebalancing of the NomCom

Dear Tripti:

On behalf of the IPC, thank you for posing thoughtful questions regarding the rebalancing of the NomCom. We also appreciate the courtesy of the extension for reply. Our responses are below:

- 1. What does it mean to have a balanced NomCom at a point in time? For example, what criteria would you apply to measure or assess whether the NomCom is balanced? And further, how can one test whether or not the NomCom is balanced?*

Having a balanced NomCom means ensuring that it includes the perspective of various stakeholders of the DNS system, while ensuring that the NomCom remains independent and follows its fiduciary duties in connection with filling the various positions to be appointed. It means having a NomCom composed of a group of active, experienced, insightful, and conscientious members who understand that their role is to appoint the right candidates to key ICANN positions, in order to provide the skills and expertise that these groups require, not to appoint along partisan lines. It also means ensuring that the NomCom cannot be captured by any particular set of stakeholder(s) or get stuck in a gridlock if particular communities can't decide on how to allocate or fill NomCom positions. The goal must be to have a NomCom that can act independently of any constituency in performing its work.

With respect to seats held by the GNSO, NomCom is balanced and adequately represents the various stakeholders of the DNS system. Further, we support the Business Constituency having a seat for large business and seat for small business. Small businesses have vastly different resources, goals, and experience with the DNS system and these differences warrant two separate seats. Further, we have seen how the current practice of the Business Constituency having two seats allows for greater diversity on the NomCom and allows for more members of the NomCom from underrepresented regions.

*One way to evaluate if NomCom is imbalanced is to review its output – it’s appointees to the various positions – to see if there is a pattern of appointing people to positions that generally or systemically favor a particular stakeholder group or set of stakeholders to the detriment or disadvantage of others.*

- 2. Do you support the view that the current composition of the NomCom needs to be rebalanced? Please explain why or why not.*

The overarching requirement is that all participating groups ensure they provide delegates who understand their role and the role of the NomCom, have the skills to perform that role, and are committed to meeting the workload obligations.

The current makeup of the NomCom provides this balance of perspective and independence, and therefore its delegate structure should only be changed if there is a consensus that true inequity exists. We don’t believe it does, specifically, with respect to seats held by the GNSO constituencies and stakeholder groups.

If there is consensus that a stakeholder group is underrepresented, we do not support taking a seat from another GNSO constituency. That is not balance because another point of view would be sacrificed. Instead, we support the addition of a seat based on consensus.

- 3. How frequently does the balance need to be measured or assessed?*

Given the upcoming changes to how NomCom operates, it may make sense to consider measuring this once every 4 years to start, and then perhaps every 7 years, or sooner if the NomCom’s output strongly suggests that the NomCom has been captured.

- 4. How do you suggest that the NomCom’s composition be rebalanced?*

We do not believe NomCom’s composition needs to be rebalanced based on the fact that Recommendation 10 from the NomCom Review has been withdrawn.

- 5. Who should conduct this work, and how should it be conducted?*

If conducted, it should be conducted by an outside auditor who can be given access to relevant information to evaluate how particular positions were filled and if there is systemic bias by the people in those positions in favor of a particular stakeholder group or set of stakeholders. However, any final changes to the NomCom should be put out for comment and generally approved of by the ICANN Community consensus model.

- 6. How would your community group prioritize consideration of this issue within your planning efforts?*

Unless there are serious concerns about capture of the NomCom by a specific group, we think this not the time for this issue to be raised given that Recommendation 10 has been withdrawn and the NomCom is about to undergo various other changes based on other implementation recommendations. Please note that we have not heard any criticism regarding capture nor do we believe it to be the case.

Implementation of review recommendations, clarifying procedures for the next round of TLD applications, and holistic review should be priorities, not the structure of the NomCom.

As stated above, we appreciate that you have reached out to the entire community and welcome further discussion at your convenience. Please do not hesitate to contact the IPC with any questions or comments regarding the content of our response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Schulman". The signature is fluid and cursive, with the first name "Lori" being more prominent.

Lori S. Schulman  
President IPC

cc: Wendy Profit

IPC Leadership Team (Brian King, Jan Janssen, Damon Ashcraft, John McElwaine, Susan Payne)  
IPC Membership