

Brussels, 3 December 2009
D(09)1972

Dear Mr Beckstrom,

It was a pleasure to meet you in Sharm El Sheikh recently in the margins of the IGF meeting. You will recall our discussion on the importance of the review panels being set up by ICANN in the context of the "Affirmation of Commitments" agreement that ICANN has with the US government. In this context, I would like to provide you with additional, more specific observations and suggestions in writing.

I would like to stress again that the success of the review panels is an important prerequisite for the success of the AoC as a whole. As such, the panels need to be viewed by the international community as having sufficient legitimacy, independence and objectivity to be able to complete the tasks set out for them in the AoC. As I had mentioned in Sharm El Sheikh it is imperative that necessary steps are undertaken without undue delay given the tight timeframe for discussions on Internet Governance.

To this end, I would offer the following suggestions:

- The size of panels should be sufficient in terms of members to ensure adequate geographical representivity, while at the same time not being so large as to inhibit the ability of the panels to conduct their business. This would suggest a panel size of no more than 12 members.*
- Members of the panels should be able to demonstrate that they have no conflict of interests regarding the matters which are subject to review. This would suggest that members should not be actively involved in any ICANN policy making activity themselves or come from organisations that have a direct financial or commercial interest in any such matters.*

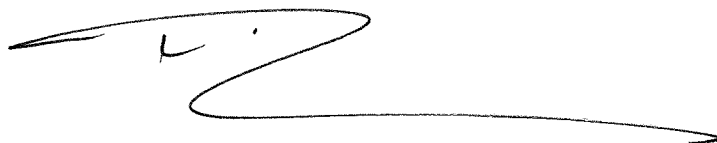
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- *The nomination of members with demonstrable independence should also protect ICANN from accusations that it is "reviewing itself", something that will be unavoidable should the panels include those viewed by the international community as "ICANN insiders". Members should be able to demonstrate a sufficiently established international reputation, experience in matters related to the broader public interest and a specific expertise relevant to one or more of the areas falling within the scope of activities specified for each panel in the AoC.*
- *Governments have been given an explicit role in the AoC to ensure that respect for the public interest remains a paramount objective of the whole exercise. I note for example that the DoC has a "reserved" place on the first panel as evidence of the priority the US government attaches to this principle. I would stress however that this priority also needs to be reflected in the composition of the review panels as far as other governments are concerned, if the panel process is to reflect the international nature of ICANN's commitments. Specifically, it is important that governments are not viewed merely as "other stakeholders" in the process, and afforded sufficient presence in the panels to legitimise the "public interest" element in the panels' review activities.*
- *The review panels should not be limited in any manner in terms of what conclusions they can reach or recommendations they can make. The AoC provides sufficient guidance to the panels in terms of the matters they should consider and as little time as possible should now be lost on administrative details before the first panel in particular starts its work.*

I am sure you will agree the important thing now is for the commitments in the AoC to be implemented as soon as possible and for the review panels to confirm that this has happened.

I am looking forward to meeting you next week to discuss this further.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized, flowing line that starts with a small loop on the left, moves right, then loops back down and right, ending in a long, horizontal tail stroke.