



COLIN CARTER & ASSOCIATES
BOARD ADVISORS

Independent Review of the Board of ICANN

Executive Summary and recommendations

November 2008

FINAL DRAFT

The Boston Consulting Group

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Colin Carter & Associates

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A. EXECUTIVE SUMMARY

In May 2008, The Boston Consulting Group and Colin Carter & Associates were retained to conduct an independent review of the board of ICANN. The Terms of Reference were extensive but centred on whether the board was fulfilling its purpose and whether any change was appropriate. The analytical process involved interviews with directors, former directors, executives and members of the ICANN community, surveys, and benchmarking of relevant organisations. The work also draws upon our decade of experience working with boards on effectiveness issues.

The report contains important survey data and extensive discussion of the rationale for all the recommendations made. And so this executive summary should be read in conjunction with the full report.

1. Summary of conclusions

Overall, we find the ICANN board is working well given its organisational model and board structure. There are many important issues to discuss and opportunities for improvement but we emphasise that the board is in no sense dysfunctional.

Individual board members appear to be hard-working and demonstrate a strong commitment to the public trust principles guiding ICANN. Behaviour in the boardroom is mostly seen to be constructive. The survey results show very strong confidence in the leadership of the board, and are comparable to those we would expect from a well performing board anywhere in the world.

ICANN faces quite a difficult governance task to resolve the principles of transparency and public access with the need for efficient oversight of operations. That it functions as well as it does is a tribute to the people involved.

Quite different opinions can be seen in the survey results but it is not really surprising that a diversity of views emerges. Our view is that this reflects the truly challenging complexity of ICANN and its governance task as well as the diversity of background of the board members themselves. On a large range of issues – particularly on those relating to role, structure, process and people – the board members are not of one mind. These are mostly the areas where opportunity for improvement exists.

As regards our recommendations, all of this means two things. Firstly there are a large number of proposed changes. This reflects the interrelationship between issues raised and should not be seen as evidence of a poorly functioning board. And secondly, care needs to be taken in accepting or rejecting individual recommendations because they may be connected to other recommendations.

Three broad areas of change are recommended:

(a) **Structure**

- *Reducing the size of the board:* With over twenty members the board is too large. Effective boards are closer to half this size and we propose several ways to achieve a reduction while preserving ICANN's values.
- *Reducing meeting frequency:* The board meets more frequently than do most boards and yet like all boards there is a struggle to find time to spend on important strategic issues. We propose fewer but longer meetings as well as working to shift the agenda from less detail towards more strategic discussions.
- *Consolidating board committees:* We propose a reduction in the number of formal board committees but creation of a risk committee. Some committees can be consolidated into a single committee while some are focussing mainly on matters that should be left to management.

(b) **Capability**

- *Broadening the skills of the board:* All boards need to review their composition in light of changing environments. Overall, the ICANN board is quite diverse but there are a few gaps to address. Also, the ICANN board should have formal input into the NomComs process.
- *Making board membership more sustainable:* For a variety of reasons, the average tenure of board members is a little too short – which diminishes the capacity of the board to perform its tasks. The workload, the amount of time required each year and possibly the lack of remuneration are contributing factors. The workload and time issues are addressed through meeting frequency and

agenda management. Also proposed are extension to terms and trial introduction of board remuneration.

- *Building a 'high performance' board culture:* Boards everywhere are expected to take time to evaluate their performance. We suggest a number of ways to enhance performance including individual appraisal of directors and finding ways to probe cultural values in the organisation.

(c) **Purpose**

- *Strengthening the strategic focus of the board:* All boards struggle to spend time on important issues. Instead they find themselves getting into detail that should be left to management or spending more time on compliance issues than on value-creating matters. The format of board meetings and agenda management can assist in securing the right focus.
- *Clarifying the accountability of the board:* ICANN's structure is complex and the roles and accountabilities are not always clear. Certainly, there are divergent views in the ICANN community around accountabilities and, while much of this discussion extends beyond the scope of this project, some steps to clarify and better align divergent opinions will be important.

The eight specific recommendations contained in the report are summarised below. However, we emphasise again that full discussion of the analysis is critical to understanding the changes proposed.

2. Summary of recommendations

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).

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.

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).

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'.

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.
- (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 USD50,000 for board members and USD150,000 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.

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.

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.

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.