



9 May 2018

Subject: SSAC2018-13: Response Regarding the Actions of the ICANN Nominating Committee
To: Zahid Jamil, Chair; Damon Ashcraft, Chair Elect; Hans Petter Holen, Associate Chair
Cc: NomCom Membership

I am writing regarding the removal and now replacement of the SSAC designated member of the ICANN Nominating Committee (NomCom). Pursuant to the message communicating the removal of our prior member, Mark Seiden, sent to me on March 14th, 2018, the SSAC has nominated Danny McPherson to serve out the remainder of the current NomCom as communicated to you in SSAC2018-11.

Many SSAC members have concerns about the process that led to the dismissal of Mark from the NomCom. Further, as of now, many SSAC members lack confidence in what the results of this year's NomCom efforts may deliver. Despite these concerns, we have decided to appoint a new member, in large part to allow us to continue to directly observe and contribute to the NomCom process this year, and consequently have confidence in the eventual NomCom results.

To the extent possible given the non-transparent nature the NomCom often works under, the SSAC leadership has researched the processes that the NomCom used in dismissing Mark. Further, we have consulted with various ICANN officials with jurisdiction in these areas. The SSAC acknowledges that the NomCom has acted within its remit and rights to dismiss our member. However, in our consultations, many have shared the view that, what is within the rights of a committee to do, does not make the way they do something necessarily right.

Of particular concern to us was the incorrect statement provided by Claudia Selli, on behalf of the Business Constituency at the Public Forum in San Juan, on March 15th. The official transcript of her statement includes this paragraph:

“We have been hearing talks this week about one NomCom member disclosing confidential information outside the NomCom, which would seem to violate confidentiality and integrity. We understand this incident has been addressed with appropriate measures, and we're always supportive when ICANN shows high standard of conduct by taking integrity and confidentiality seriously.”

The grounds for dismissal that were communicated to me on March 14th did not include any mention of “disclosing confidential information” as we confirmed in our own subsequent verbal conversation later on March 15th at the meeting venue. Further, these actions were taken solely by the members of the NomCom and not “ICANN” as an entity or community. This public statement thus puts an incorrect color upon both the substance and process that occurred in this decision. As Chair, I have also personally heard various statements from other ICANN community members describing events internal to the NomCom related to this issue. Many of these statements cast what I believe is an unfair characterization of events leading to Mark's dismissal. This is an indication that others within the closed NomCom group have been less than circumspect in their handling of sensitive issues. Unfortunately, given the lack of transparency into what has transpired within the NomCom, largely by design, it is very difficult for the SSAC to determine if the decision to remove our member was made with what can be called true due process. We are aware that the NomCom has made its decision amongst its own members and without the benefit of a truly independent and impartial judgement. Again, this is within the NomCom's charter to do, but does cause concerns as to the outcome.

I bring these points to your attention now in order to underscore how important our participation in the NomCom and our need for confidence in its outcomes are to the SSAC. We trust that our new member of the NomCom will be afforded every opportunity to participate fully and without prejudice in the remainder of the work the NomCom has this year.

Best Regards,

Rod Rasmussen
Chair, ICANN Security and Stability Advisory Committee
On behalf of the SSAC