

**REPORT ON THE GLOBAL, ON-LINE, DIRECT ELECTIONS  
FOR FIVE SEATS REPRESENTING AT-LARGE MEMBERS  
ON THE BOARD OF DIRECTORS  
OF THE  
INTERNET CORPORATION FOR ASSIGNED NAMES AND  
NUMBERS (ICANN)**

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## **Executive Summary**

This report details the electoral process by which the Internet Corporation for Assigned Names and Numbers (ICANN) conducted an election for five seats on its Board of Directors representing at-large members. At-large members within the Internet or ICANN community refers to individual users.

Following considerable debate, the Board agreed to define users eligible for at-large membership and voting as individual real persons with an email address and a verifiable physical address. Membership was to be free of charge with a two-step, online registration and activation process. A direct election process to choose a single director in each of five geographic regions was specified.

Using this general outline, adopted at its meeting in Cairo in March 2000, the Board appointed an election committee (Elcom) to make detailed recommendations about electoral system design, candidate nomination, campaigning, and balloting procedures for decision at its July 2000 meeting in Yokohama.

Elcom, composed of ICANN-affiliated and independent members, held virtual meetings by phone and online over a period of several months. Elcom favored a preferential voting system patterned on one used in Australia, and a candidate nomination system in which some candidates would be named by an ICANN nominating committee and others by endorsements from members up to a total of seven ballot places. In order to maintain a level playing field for candidates, Elcom recommended a standard informational format for candidates to be posted on the ICANN election webpage. Certain biographical data and qualifications statements were suggested. A voter education (surrogate for campaigning) cyberspace forum was also proposed as the place where candidates and voters could interact online during one month. Voting was to occur online for a ten-day period. All of this was to be preceded by the already agreed-upon member registration/activation process online and through the postal system for the mailing of personal identification numbers (PIN). Additionally, Elcom recommended two options for independent monitoring of the election.

In July 2000 the Board adopted the Elcom recommendations choosing between options in the areas of voting system and monitoring. Nominations proceeded accordingly, followed by the voter education/dialogue period, and the voting itself in the first ten days of October 2000.

Principal findings in the report discuss the serious technical problems of lack of access to the ICANN server in the late stages of initial registration, thereby depriving an unknown number of applicants the opportunity to register. Also problematic was the two-stage registration system dependent on the mailing of PIN letters around the world. The encryption protocols between ICANN and the election administration contractor, designed to safeguard member privacy, led to two breakdowns during the voting period.

Ultimately, 34,035 people voted in the five regions and the elected candidates took their seats without controversy, thereby giving greater voice to at-large member users and greater legitimacy to the ICANN Board. The global, online election was really the first of its kind and in large measure could be considered open, competitive, and transparent.

Nonetheless, the technical weaknesses in the registration system made it virtually impossible to assess the integrity of the voters' list, the security of PINs, and secrecy of vote. To a great extent the system was dependent on good faith compliance. The overall design structure of the electoral system, in the opinion of the author, satisfactorily established the conditions for an acceptable election. However, the present state of technology, at least in the format utilized, makes it difficult actually to execute the mechanics of an election with the desired level of guarantees and safeguards even though the technology of the voting process itself protected entry, vote casting, and tabulation well. The election should be considered as experimental, with valuable lessons learned for future application.

## **Introduction**

This report describes the monitoring by The Carter Center of the electoral process by which the Internet Corporation for Assigned Names and Numbers (ICANN) elected five directors representing the at-large membership of ICANN to its 19-member Board of Directors. This report assumes some knowledge by the reader about ICANN and its role in the stable operation of the Internet and the maintenance of end-to-end connectivity through the assignment of unique identifiers (names and numbers) and the setting of technical standards guiding the operation of the root servers that direct traffic flowing over the Internet.

By way of brief background and at the risk of oversimplification, suffice it to say that ICANN is the product of a process by which the United States Government ceded its control over the Internet to a nonprofit California corporation under terms and conditions designed to achieve greater “internationalization” and “privatization” of the Internet. Pluralistic “voice” for interested parties or “stakeholders” in the decisions of ICANN in its coordinating role was to be achieved by structuring membership on the Board according to geographical and functional or business interests.

The stated principle for ICANN was to work toward “self-government of the Internet” based on “bottom-up, consensus-based decision making.” The peculiar history of the development of the Internet by members of the scientific and technical community, though with the U.S. government in the background acting as a kind of benevolent dictator, had created values within that community strongly in favor of broad participation in decision making, especially with respect to the setting of technical standards.

The “internationalization” objective was based on the recognition that the Internet had become a global phenomenon technically, politically and commercially; and therefore governments, commercial interests and users were not inclined to accept continued control of Internet functions solely by the United States. However, the usual option of a public international body with membership by governments as the managing or regulatory entity for these purposes was not chosen. In what must be described as a noble experiment whose success or failure is not yet known, ICANN was created to carry out these tasks in a cyberspace and real world realm somewhere between government and the private sector.

The “privatization” was to be achieved by introducing private sector competition into the process of assigning and managing top-level domain names and the address system. The U.S. government had acted as de facto owner and monopolist through the actions of the private firm to which it had awarded a contract to carry out these activities on its behalf. Competition at that level therefore was virtually nonexistent. It was thought that market forces would lead to lower prices and greater innovation and efficiency. The state enterprise-like elements of the then-existing system were also thought to be inconsistent with basic principles of a free market economy, especially since the Internet had clearly outgrown its original functions within the defense and research communities.

“Voice” or role in decision making for “stakeholders” was to be achieved by the corporate governance structure of ICANN. Stakeholders were conceived of as belonging to two main groups or communities: technical and commercial on the one hand and individual users on

the other. Balance was to be achieved by dividing representation on the Board between them. Of the 18 seats, nine would go to private interests, further divided into three subsets for separate identified interests. These were defined as “supporting organizations” and their representatives were to be chosen in a caucus-type of electoral process. The other nine seats were to go to representatives of an at-large membership of individuals in ICANN from around the world. As a legal figure, the model used is based on the California statutes governing membership nonprofit corporations. ICANN began operations in 1998 with an appointed transitional Board. The Board was tasked with putting in place an elected Board by the end of 2000.

The U.S. government’s plan for this structure and transition process is detailed in a Department of Commerce White Paper in 1998, which was the product of much consultation with stakeholders, but cannot be considered a consensus document. Spirited debate about the structure chosen and about the very existence of ICANN has continued to this day. The definition of the nature of at-large membership, the public interest or user community stakeholder interests it was meant to represent, and the means of choosing the nine directors has been debated since the beginning and beyond the 2000 elections.

The ICANN bylaws, adopted in November 1999, stated that geographic diversity on the Board was to be maintained by having at least five members of the Board represent distinct regions of the world. This political compromise requirement was included in order to assure interested countries and their governments that some representation would be guaranteed to identifiable regions even if their Internet usage or user communities were much smaller than the main centers of Internet traffic, e.g. the United States and Western Europe. The requirement applied to the Board as a whole, not simply to the at-large Board members. However, the supporting organizations subsequently carried out their elections of nine directors without provision for geographic proportionality before the start of the at-large electoral process. Therefore, the geographic proportionality requirement fell entirely on the at-large directors. The regions chosen were North America, South America, Africa, Europe and Asia Pacific.

### **Carter Center Election Monitoring**

The initial Carter Center contact with ICANN came early in 1999 with a phone call from Andrew McLaughlin, chief policy officer for ICANN, to the author inquiring about the Carter Center’s work in election observation and the possibility of involvement with the ICANN at-large electoral process. Based on knowledge about the Center’s work in promoting free and fair public elections in many countries around the world, McLaughlin asked whether the Carter Center might play some role in ensuring that the ICANN electoral process would be fully transparent and credible. At the time, the author declined, seeing this kind of election as too far removed from the Center’s work on public elections. However, subsequently the president of the Markle Foundation, Zoe Baird, sent a letter to the Chairman of the Carter Center, former U.S. President Jimmy Carter, urging the Center to engage because of the importance of the Internet to global public discourse in the 21<sup>st</sup> century and the public interest issues closely linked to the concept of an at-large membership. Recognizing the revolutionary impact of the Internet in today’s society and the technical and

political challenge of the proposed global, on-line elections, the Center agreed to participate in some form as an observer of the elections, subject to concurrence by ICANN.

Later, the Markle Foundation provided generous financial support to The Carter Center to enable it to carry out its work on the ICANN elections. The first Carter Center involvement was attendance at a meeting of interested individuals assembled by Markle and ICANN staff during the meeting of the ICANN Board of Directors in Los Angeles, U.S.A. in November 1999.

At that time the Board was still considering various options for structuring the elections for the at-large seats. Various groups had reviewed the issues, including a Membership Advisory Committee on the larger issue of the definition of an at-large membership as well as electoral procedures.

The central issue, though one among many, was whether to adopt direct or indirect election of the at-large Board members. Earlier recommendations and Board positions had inclined toward direct elections, but at the Los Angeles meeting the Board favored indirect elections. A draft proposal for posting called for direct elections within regions only for members of a council which would in turn, along with other responsibilities, choose the actual at-large directors to be seated. This set off a fierce debate and was to be considered again at the next Board meeting to be held in Cairo, Egypt in March 2000.

At the Cairo meeting, after a full and spirited debate including strong presentations against the indirect elections proposal by NGOs during the public comment portion of the meeting, the Board reversed itself and proposed direct elections for five at-large seats representing the geographic regions, in time for seating the new directors by November 2000. Final decisions about the election process were to be made at the next Board meeting to be held in Yokohama, Japan in July 2000. The election observation process can be said to have begun at that point as a clear pre-electoral phase commenced and the Carter Center representative was asked to join the special committee described below.

However, a formal observation role did not begin until after the Yokohama meeting.

### **Pre-Electoral Phase: The Election Committee**

To examine key issues about the electoral framework, the Board decided to appoint a special committee called the Election Committee (“Elcom”), which was tasked to make recommendations for the carrying out of the elections to be put before the Board for decision at the July Yokohama Board meeting. As events unfolded, it was this stage of the electoral process that demanded the most intensive involvement by Carter Center staff because some of the most basic elements of an electoral process had yet to be designed and put in place.

In effect, the work of Elcom was an electoral system design exercise raising some of the most fundamental issues of definition of the electorate, voter registration, nomination of candidates, campaigning and voting. In addition, Elcom was instructed to review technical and cost proposals from companies bidding to administer the balloting for the election itself, as ICANN had decided to contract out that part of the process.

Numerous concerns had been raised from the outside about perceived positions and biases of ICANN Board members and staff with respect to the at-large elections. To allay these concerns and to achieve a broad range of expertise and opinions in the electoral system design exercise, the Board agreed to the establishment of the seven-member Elcom composed of two “insiders” from the ICANN Board and five independent “outsiders” expert in elections or technology, with support from ICANN staff. The members of Elcom were: **Greg Crew (Chair)**, a Board member, from the IT business community in Australia; **Ken Fockler**, from the IT business community in Canada; **Lorrie Cranor**, from Bell Labs in the United States, with technical electoral expertise; **Hans Kraaijenbrink**, a Board member, from the IT business community in the Netherlands; **Nyugen Huu Dong**, an elections expert from the United Nations in New York; **Patrick Faltstrom**, an IT consultant and executive from Sweden; and **Chuck Costello**, an elections and governance specialist from The Carter Center, an NGO in the United States.

Elcom agreed to operate by consensus decision making wherever possible. As it was not a decision making body *per se*, but rather was tasked with making recommendations to the Board, Elcom agreed that it would present alternative options where consensus had not been achieved among its members on any given issue. Utilizing available technology of telephony and the Internet, Elcom met on a “virtual” basis by global conference calls and exchange of messages and documents via email.

Elcom met numerous times virtually but never held a physical meeting. In order to further allay concerns about closed-door decision making and to demonstrate the transparency that Elcom members were committed to, it was agreed that the draft recommendations and analysis of key issues would be posted on the ICANN website for public comment. Ultimately, a remarkable degree of consensus was reached on most key issues. Elcom, through an iterative process with valuable support from ICANN staff, defined and grouped together the key issues or system elements necessary in order to carry out the elections properly. These six issues, which were presented and turned into recommendations, are described in the following sections:

#### **#1: Global vs. Regional Voting**

This issue generated considerable discussion but ultimately left limited scope for decision-making discretion. Many participants in the ICANN governance process feel strongly that the Internet is a truly global international phenomenon that transcends geographical barriers and national political boundaries. Certainly, the principle of worldwide connectivity and its operational application through the Internet provides the technical basis for such views. According to this way of thinking, all individual users are “global citizens of the Internet” and should vote accordingly without distinction as to nationality or location. This is also consistent with the pioneering notions of the early Internet participants with their sense of community and certain loosely defined but shared values about free flow of information and the advancement of knowledge.

Nonetheless, such a preference, translated into a position in favor of having the five directors' seats filled by an election on a single, worldwide ballot, bumped up against the geographical representation requirement in the ICANN by-laws. Changing the by-laws, themselves the result of an initial political decision and compromise meant to ensure a certain geographical balance on the Board, was not seen as a feasible option in the time frame available nor even necessarily desirable. However, the fact that the geographical representation requirement was never worked into the selection process for directors from the SOs (its feasibility there is quite problematic) meant that the full burden of meeting the by-laws requirement fell on the at-large membership seats. In fact, only by "hard-wiring" the geographical requirement into the electoral structure on an ongoing basis could the by-laws be satisfied at all times.

At the time concern also existed about possible "capture" of the elections and then of the Board (at least a portion thereof in this first round, given that only five directors were being elected). It was felt that "special interests," meaning perhaps certain corporate or commercial interests or strong, well-organized single-interest groups might be able to mobilize enough voters to in some sense "sweep" the elections. As the argument went, this might lead to election of unqualified or irresponsible directors. It was felt that having five separate, widely spread electoral districts would make it more difficult for any such groups to "capture" the elections. However, this was not seen as a compelling argument and other measures to avoid "capture" were seen as more appropriate.

On these grounds -- especially the need to meet the by-laws requirement and the almost intuitive sense of fairness to allow different regions of the world to have representation on the Board -- Elcom reached a consensus recommendation to favor regional voting. In electoral systems terms, in a world still defined primarily by nation-states and regions, the regional election model means that voters will have their votes weighted differently according to how many voters can vote in each region. This is due to the fact that each region elects one director regardless of how many voters reside in the region. The impacts of such a system are varied and once again prove the axiom that "no electoral system is neutral."

Using examples, if most Internet users (treating them as ICANN at-large members) come from the high-income, high-usage zones of North America and Europe (once true but no longer the case as to users in straight numerical terms) and are the most informed about the ICANN electoral process, they might be able to dominate the entire election and elect only candidates who come from their countries. As another hypothetical example, a very populous country like China might see users from there voting in bloc fashion to elect only directors from that country. Put differently, in parts of the world such as Africa and Latin America where Internet connectivity levels are low, it was seen as unlikely that candidates from those regions would get elected to the Board when facing candidates from regions such as North America and Europe. This kind of issue was also seen in "North-South" terms or "digital divide" terms, and global voting was seen as very likely to cut against notions of

“inclusiveness” in ICANN governance that was considered as important to consensus-building and a sense of global legitimacy.

Later registration and voting data bear this out. 130 members voted in Africa and placed one director on the Board compared to 17,745 members in Asia-Pacific who also placed one director on the Board. Similar cross-comparisons can be made with the other regions. In other words, in representational terms the regional scheme certainly did not strictly follow the principle of “one person, one vote” according to population in terms of the weight of each member’s vote when translated into the number of directors representing each of the five regions.

It should be noted that to some extent the implicit assumption of Elcom was that this outcome from division of the global electorate into five regions could be balanced in the expected subsequent elections for the remaining four at-large Board seats. Those could be held on a global basis whereby each voter’s vote would carry equal weight. An easy, illustrative analogy from the political world helps to explain this concept. Many countries balance population and geographical interests in their governance structures and electoral systems by having bicameral legislatures. One chamber is elected according to population criteria (either using districts or national lists) with every vote weighted more or less equally, whereas a second chamber is elected according to regional or geographic boundaries with each region receiving an equal number of seats in spite of sometimes widely disparate populations. With the scheme for more at-large seats and elections now under review, it would be important to keep this issue of overall balance in mind. Ultimately, some principle of majority rule in terms of the at-large electorate and their total number of directors presumably should be given greater weight.

## **#2: Candidate Communication** (or “Candidate Web Pages, Biographical Information, Statements and Required Disclosures”)

This issue was a combination of the legitimate interests of voters in knowing about the personal characteristics of the candidates, informational versus requirement standards for the qualifications of candidates, and the always-present, strongly-protected privacy interest of at-large members (meaning basically the (in)ability of any prospective candidates to access members’ names, addresses or email addresses).

Elcom reached consensus on a “level playing field” approach to this issue. All candidates would be treated equally by having a standard format for presenting personal information and an essay describing what the person felt were the important ICANN issues and why he or she wanted to serve on the Board. The format for this would be a personal web page at the ICANN election website. The biographical information included full name, country of citizenship, current employment, past employment and other ICANN-related experience. An optional additional personal biographical essay of no more than 500 words was also permitted.

A so-called statement of interest of up to 1000 words was also allowed. This was designed to give prospective candidates an opportunity to explain to voters what their

philosophy was about Internet governance and their views on the issues affecting ICANN. It was seen as the equivalent of a party platform or campaign manifesto document used in most public elections.

A so-called required disclosures statement of up to 750 words was included to try to make sure that any actual or potential conflict-of-interest issues that might affect the later impartiality or independence of any of the candidates would be disclosed. It was recognized that the disclosure requirement was dependent on the good faith and judgment of the candidates themselves as no enforcement or sanction mechanisms through ICANN were foreseen. It was hoped that knowledge in the at-large community could bring out additional needed information if the candidates themselves failed to disclose fully anything about themselves or their business and financial interests that could be seen as materially affecting their views or votes on given issues.

To give both candidates and voters the opportunity to have at hand additional information, Elcom agreed that it would be appropriate to provide a hyperlink to a candidate's own web page with whatever further information the candidate might wish to present. This way the voter would retain the discretion to access any such page or not without the candidate being able to exceed the allotted web space available equally to all. Too much information was also seen as a potential translatable pages burden.

The key issues to be resolved were seen as preventing better-financed candidates from injecting too much "money politics" into the electoral process by heavy spending on fancy websites or promotional materials. Campaign finance was thus seen as related to the concerns about "capture" in the election. Also, the overall philosophy of the electoral process was to choose well-qualified, new directors on the basis of "objective qualifications" to the extent possible rather than mimicking a competitive political campaign in a public election. A certain naïvete about elections and political processes may have played a part as well. As with the disclosure requirement, it was understood that the recommended format would place no actual restrictions on what the candidates might do to try to reach the voters or how much they might spend to do so.

A kind of threshold issue also treated was whether in the nominating process and the information to be presented to the voters by the candidates at the website any minimum set of personal and technical qualifications had to be met. While the legitimate interest of ICANN in seeing that well-qualified candidates would lead to equally well-qualified directors to assume important Board responsibilities, Elcom concluded that everyone would have to rely on the good judgment of the voters to achieve this objective. A technical quiz of some sort to demonstrate understanding of the Internet and how it functions was considered as a possible qualifying requirement, but discarded.

### **#3: Election Campaign Rules** (or “Voter Education and Candidate Communication Practices”)

The recommendation of Elcom on this issue was closely related to the analysis and recommendation for #2. The desired outcome was to maintain a level playing field for the candidates to play on and for the voters to observe. Taking advantage of the technology offered by the Internet and in the interest of stimulating voter participation in the electoral process, Elcom wanted to make the campaign period as interactive as possible. Again, the objective was to design a format that would help educate the voters about the candidates and the issues while at the same time avoiding the personal attacks and negative campaigning so common in public elections.

The Elcom recommendation can be broken into two parts. The first was simply a carrying over of the candidate web page format from #2. The second was to offer an ICANN-provided question and answer space on its website for a “Q&A Forum” to be self-moderated by the candidates in which interested parties (presumably but not necessarily eligible voters) could ask questions of the candidates online. Candidates would then be free to answer the questions as they saw fit. Free speech of both candidates and voters would thus be protected and enhanced, no money would be required in order to use the space, and a certain level of member privacy would be maintained. It was also understood here that neither speech nor spending as a practical matter could be restricted and that ICANN would have nothing more than the most minimal monitoring and enforcement capability for any restrictions.

### **#4: Balloting System**

Once a recommendation on global versus regional elections had been agreed upon by Elcom, the at-large electoral process could be defined as five separate, simultaneous elections with one winning candidate to come from each election. The world became five election districts. What was still needed was an electoral system. Many choices were available, each with characteristics or outcome tendencies that needed to be analyzed to see which best fit the values and needs of an Internet community of voters. It was also considered important to design a system that would be efficient and low-cost, given the limited financial resources to run a global election and the lack of election infrastructure to use. Of course, it was always assumed as part of this equation that voting would take place online.

In a candidate field where it was assumed that quite a number of candidates would be on the ballot (either nominated by the Board’s nominating committee or by other means of nomination), two issues were paramount: first, whether the total number of candidates would be capped in some way (treated in recommendation #5) and what level of voter support would be the minimum required to declare a candidate the winner.

In its simplest sense, this can be stated as “the candidate who gets the most votes wins,” i.e. a “majority” of the votes. But the term “majority” has several different electoral definitions. An absolute majority normally means 50%+1 of all the (valid)

votes cast, whereas a simple majority normally means more votes than anyone else in a relative sense or a plurality of votes cast.

In a fairly large candidate field where no candidate is expected to obtain an absolute majority, either a simple majority (sometimes with a certain minimum percentage of the vote) is considered sufficient or a second, “run-off” election is also provided for between the two leading vote getters so that one of them will ultimately receive an absolute majority of the votes in a two-candidate race.

The very-widely known system in which the candidate with the most votes in a single-round election wins is often referred to as a “first past the post” system, with parliamentary elections in the United Kingdom and the United States being prime examples of such a system. The system is considered to work best in a limited candidate field or even a two party-driven system because the winning candidate is likely to have something close to or greater than 50% of the total vote, thus substantially satisfying a majority criterion.

The other commonly used system of “proportional representation” for parliamentary elections would not be feasible under the circumstances. The choice of regional seats with one seat per region makes the electoral system path-dependent, as the regions become single-member districts that can elect only one director per region.

The “first past the post” system does not yield nearly as satisfactory an outcome if a large candidate field is assumed with no single candidate likely to receive a significantly higher percentage of the vote than the other candidates. Simply put, it means that a winning candidate might likely have won no more than 20-25% of the total vote and therefore could not claim broad support from the electorate for his or her candidacy. Of course, a “run-off” system could cure that problem in a second round; but Elcom came to share the ICANN Board and management view that cost considerations and other factors argued against having to hold more than one round of elections.

Many stakeholders, particularly those in the individual users community, perceived ICANN as having a “legitimacy deficit” because no at-large directors had been elected and taken their seats. At the same time, many people also felt that new directly elected at-large directors should have enough of a mandate from their electorates to establish well their own legitimacy and credibility as part an untested electoral process to fill seats on the Board.

These considerations led Elcom ultimately to recommend two similar electoral systems (in a kind of two-recommendation consensus) that would allow balloting to occur in one round only yet use formulas to distribute voter preferences to candidates in ways that would give a winning candidate a form of majority voter support. An “approval voting system,” in which voters can vote without preferences for as many candidates on the ballot as they wish to and the candidate with the greatest number of “approvals” (votes) is declared the winner, was one such option presented.

However, stronger support in Elcom existed for a somewhat different system usually referred to as the “alternative voting” system, but sometimes and with certain variations also known as “preferential voting” or the “single-transferable vote” system. In the real world of politics and public elections the specific system actually recommended is based mainly on a system used in Australia that is not widely used elsewhere.

The system completes voting and determination of winners in a single round and yields an absolute majority of votes to the winning candidate by applying a redistribution formula based on expressed voter preferences for candidates on the ballot. The system is thus sometimes also referred to as the “instant run-off” system because it recalculates the votes in formulaic successive rounds until only two candidates remain in contention and then one of the two receives at least 50%+1 of the votes.

Voters have the option of voting for as many or as few of the candidates on the ballot as they wish, but must indicate an order of preference (1,2,3,4, etc.) for the candidates. When the votes are counted the candidate with the fewest first preferences is eliminated and his or her other preferences are redistributed to the remaining candidates. Successively, the “least favored” candidate in terms of new vote totals is eliminated and his or her votes are again redistributed until a winning candidate with 50%+1 of the votes emerges.

The system was found attractive because in a crowded candidate field with no expected clear front-runners it allows voters to have multiple expressions of support for candidates (“preferences”) considered in later stages of the tabulation even if their first preference falls out. The system is open to certain criticisms because it can generate what is called a “missing vote” (some preferences can get washed out) and because the formula can yield a winning candidate who started with a lower number of first preferences than others but gained strength as votes are redistributed, sometimes referred to as the “least disfavored” issue. Any optional preference system is also open to “gaming” in which a voter can “strengthen” a vote by not choosing other preferences, but such a choice has downside risks as well. Such “gaming” or “strategy voting” is considered an acceptable part of the system, but it can affect tactical campaign appeals by candidates as to how they want their supporters to exercise their preferences. Lastly, the system is sometimes seen as too complicated for voters unused to it and comfortable with simpler single choice ballots.

Nonetheless, the alternative voting system had the clear advantage that winning candidates would be able to show broad voter support even if they had not commanded an initial majority or strong plurality. And in most cases, a candidate with a significant vote lead over other candidates in the initial balloting will be the eventual winner if that is the starting point for application of the redistribution formula. The system therefore was seen as one that would help to build majority support and thus greater legitimacy for winning candidates while at the same time

avoiding the costs and other issues associated with a run-off. The system also seemed to lend itself well to online voting with a program built in to prevent mistakes in voting and a fast, reliable tabulation program to redistribute votes as needed for successive rounds.

Quite ironically, in view of the great effort invested in studying electoral systems and choosing the alternative voting system recommended, actual election results later showed absolute majorities (50%+1) in four of the five regions on the initial count, thus triggering use of the preferential formula only in the North America region. Nonetheless, the reasons for the choice recommended presumably would remain valid for future elections given the nature of the electorate and stakeholder interests.

**#5: Candidate Nomination Rules** (or “Member Nomination Ballot Access Requirements”).

This issue was by far the most controversial of all the electoral issues in the larger Internet community, particularly as perceived by the proponents of the interests of individual users, the at-large electorate pool. The issue was also a very complex one, with many possible variables that would impact quite differently on outcomes in terms of who would get onto the ballot and therefore have a chance to be elected. On this topic Elcom was not able to reach a consensus recommendation, but at least was able to narrow the range of recommended options.

As the Board had already established rules of the game in which a Board-appointed nominating committee would put “insider” candidates on the ballot exercising its own judgment as to qualifications and suitability, the central issue revolved around the extent to which other “outsider” candidates (who came to be called “member-nominated” candidates and at an earlier stage were referred to as “self-nominated” candidates) would be able to get on the ballot as well and under what conditions. Many of the critics of the ICANN Board and management claimed that the nominating process would be biased in favor of the nominating committee candidates and would “stack the deck” against outsider candidates, who presumably would be disfavored by the Board in comparison to candidates nominated by the Board’s own committee.

This concern was heightened by the fact that ICANN posted a draft proposal concerning nomination rules that would require, among other things, that any prospective outside candidate show the support of at least 10% of the registered at-large electorate for his or her posted candidacy in order to gain access to the ballot. This was the online version of the usual nominating petition signature requirement used in many electoral processes as a threshold requirement. However, some people saw 10% as a prohibitive requirement, given the fact that prospective candidates could not get direct access to members in order to solicit support more actively.

As discussed earlier, another key related issue was whether the threshold requirement, at whatever percentage level agreed upon, could be met by an unlimited number of candidates. In other words, the issue was whether ballot access would be open ended

or whether some cap on the total number of candidates on the ballot was desirable. The percentage threshold requirement, assuming one is used, thus would become the principal means of regulating the length of the ballot. Other conditions might apply as well.

These two issues (percentage threshold requirement and number of total candidates) had to be considered in another fairness or “level playing field” context: the acceptable balance on the ballot between the nominating committee’s candidates and those candidates who access the ballot by petitions. The relative balance in numbers between the two was also seen by many as an indication of whether the voters would get a broad choice of candidates to choose from.

All parties involved agreed that some alternative means of ballot access beyond the nominating committee process was necessary and desirable in order to keep the electoral process free of the potential risk of Board or management “capture.” Certainly activists in the at-large community were insisting on ballot access that would not be unduly restricted. Elcom tried to apply a rule of reason on the issue, balancing the competing interests in a way that would be accepted by interested parties as fair to all. Elcom reached a consensus that the proposed 10% requirement reasonably could be lowered to ease access and yet be set at a level high enough to deter frivolous candidacies and prevent an almost unlimited number of candidacies.

The issue of “capping” the total number of candidates was not one on which full consensus was reached. Some felt the percentage threshold requirement should be the sole determinant, with as many candidates on the ballot as met it. This is the usual standard in public elections. Others felt the most reasonable percentage threshold level under the first-time election circumstances was too difficult to determine in advance; therefore a low or easy-to-meet threshold should be established with a reasonableness test applied to the total number of candidates on the ballot by “capping” at some level.

Balance in the relationship of “insider” candidate numbers and “outsider” candidate numbers also had to be factored in. Candidates nominated by the Board’s committee should not overwhelmingly dominate the total candidate list, but neither should the candidates nominated by the membership petition process. Some concern was expressed about vetted, technically “qualified” candidates coming from the nominating committee process having to face a slew of other perhaps technically “unqualified” candidates on a too-large ballot and being disadvantaged as a result.

Finally Elcom presented two optional recommendations. The first was to lower the percentage threshold requirement from the proposed 10% to a 2% level that would make ballot access for member-nominated candidates easier and on presumably more reasonable terms. A 10% requirement was seen as so high as to lead to a likely result in which no member-nominated candidates might qualify, an outcome considered unfair and unacceptable. No cap would be placed on candidate total numbers. Additionally, a minimum number of 20 signatures was proposed for any region where

total registration levels might end up quite low, in order to have a candidate demonstrate some basic absolute minimum support. This option was the least restrictive, assuming the percentage threshold was not set too high, but could lead to a perceived imbalance in the relative number of candidates from the two different categories.

The second option was to allow for a fixed number of member-nominated candidates to go on a ballot with a fixed (“capped”) number of total candidates. The top endorsement getters among the member-nominated candidates up to that limit would go on the ballot along with the nominating committee-named candidates. This formula would provide for some pre-set (reasonable) level of total candidates, then try to establish a (reasonable) balance in numbers between the two different categories of candidates. The option gives greater weight to the interests of keeping the candidate list within measured bounds and in maintaining balance between categories of candidates. With a limit on member-nominated candidates it might lead to head-to-head competition among them to get on the ballot and some candidates showing significant support might not get on the ballot.

In all of these various alternatives it was exceedingly difficult to judge in advance and without any previous ICANN electoral process experience whether the perceptions of the various stakeholders about expected advantages or disadvantages would prove correct. Outcomes could be quite directly affected by the assumptions depending on their accuracy and effect on the membership’s behavior. Elcom offered up enough choice and rationale to leave room for comment during the posted comment period and discretionary judgment by the Board within a range of alternatives considered acceptable. The breadth of the recommendations also masked quite strong differences of opinion among Elcom members about some elements of the options presented. Nonetheless, consensus was reached that the options taken as a whole represented reasonable and feasible solutions to the problem at hand in system design. Board dialogue and comments on this issue in particular predated Elcom’s work, so Elcom was not writing on a blank slate and could take into account many views expressed earlier.

#### **#6: “Monitoring and Oversight”**

This issue did not require lengthy debate or analysis. It had been agreed by all parties, ICANN included, that some form of monitoring and oversight independent of the corporation’s conduct of the elections, would be desirable to demonstrate the highest possible level of transparency, openness and fairness. The task was to define the scope of such monitoring in clear and acceptable fashion. As ICANN was going to use a contractor to administer the balloting, the scope would have to define the level of access to the contractor’s operations.

The easy consensus thus was to appoint some “election monitoring and oversight panel” to carry out these responsibilities. The institutional options were presented as two optional recommendations. The first was to follow the pattern of Elcom by naming independent, non-ICANN-affiliated individuals to a 3 to 7- member panel to

do the job. The second was to invite one or more reputable, independent nongovernmental organizations with recognized expertise in election observation to act as observers. The second option took into account the expressed interest of The Carter Center to play such a role. The author, coming from The Carter Center, explained how such a role would be played, but recused himself within Elcom from this recommendation entirely.

### **Contractor Proposals**

With technical specifications developed and agreed upon between ICANN staff and Elcom, a request for vendor proposals was posted online. Four bids were received in response. One proposal, that from the International Foundation for Electoral Systems (IFES), was considered nonresponsive because it covered overall management of the electoral process rather than just the balloting.

Three bidders met initial specifications—election.com, votehere.net, and iballot.com. Of these, one dropped out when the Board chose a preferential voting system because its software could not handle that system. Election.com, based in New York, was ultimately recommended and selected based on technical and price considerations. The company had considerable experience and expertise with online voting.

### **Board Action on Elcom Recommendations**

At its Yokohama meeting in July 2000, the ICANN Board accepted the Elcom recommendations with only two exceptions that in effect represented choice of alternative options presented. The Board chose the alternative/preferential voting system rather than the approval system. The Board chose the option of a committee of “suitably qualified individuals” for monitoring the election rather than selecting an institution to carry out the monitoring.

### **Election Administration and Implementation**

With the recommendations to the Board covering election system design and procedures and for contractor selection, Elcom concluded its work. The election then proceeded to the implementation stage following Board decisions on the recommendations. The greatest amount of work overall by the author as a Carter Center “observer” occurred during this pre-decision period as a *de facto* adviser to ICANN through membership and participation in Elcom. That is why the report devotes more attention to this phase, including the assumed value of providing a record of deliberations as a road map for future election planning. In a strict sense, this portion of the work was not truly independent electoral observation. Elcom was named by ICANN, chaired by an ICANN Board member, and its membership included ICANN-affiliated persons; therefore it cannot be said to have acted entirely independent of ICANN. However, it is entirely accurate factually to state that Elcom acted in a completely autonomous and independent manner as a committee, and neither ICANN nor anyone related to ICANN interfered in any way with the work of Elcom or the exercise of independent judgment by its outside members. ICANN staff provided valuable substantive and logistical support in a facilitating, non-directive way that was appreciated by all.

With respect to election observation, the Board decision meant that The Carter Center did not have an official, institutional role; but at the request of Markle and ICANN the author and another Center staff member continued to monitor the election process with the assumption they would be part of a monitoring committee. However, the original Center plan of inviting in sister election observation organizations from other parts of the world proved no longer feasible under a committee arrangement, nor was it possible in the end because of the time commitments required to have people detailed on an individual basis to work as members of a volunteer committee. The original membership of Elcom could not continue in a new role because the ICANN-affiliated members faced a conflict of interest and few or none of the nonaffiliated members were able to volunteer the time needed for additional work. Thus, the decision to have a new electoral monitoring committee patterned in large part on Elcom did not in fact become operational.

### **Voter Registration (or the Process of Becoming an At-Large Member, Thereby Becoming Eligible to Vote)**

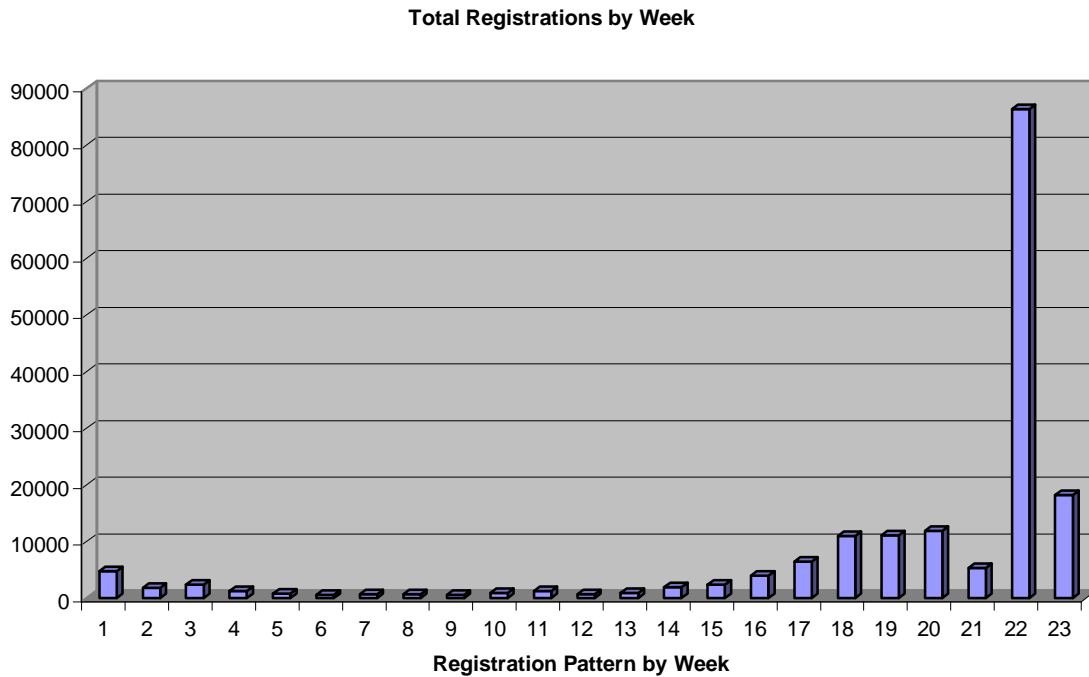
Earlier discussions and debate had defined the nature of the at-large electorate to be real persons, individuals with a verifiable physical address and an email address. An individual was to be eligible to vote once only by a match of his or her personal name and address with a corresponding email address through use of a personal identification number (“PIN”) as an electronic identifier. The at-large membership was meant to encompass individual Internet users in their individual capacity.

It was this process of inscribing at-large members and making them eligible to vote in the five regions that ran into technical problems which raised serious fundamental issues as to the underlying legitimacy and fairness of the election. To some extent, the problem was not foreseeable because there was absolutely no prior experience for this electoral process, and the response from potentially eligible voters could not be predicted with any great degree of accuracy. The worldwide pool of potentially eligible voters literally numbered in the hundreds of millions, whereas ICANN had determined that a minimum voters roll of 5,000 individuals could validate the election. Informally, ICANN estimated that the highest number of registrants would be approximately 20,000.

Staffing, budget, and most of all, computer system design for the process, were based on this estimate. Costs for the ICANN-managed portion of the electoral process essentially broke down into the costs of staff time to process the incoming email messages of registrants, the mailing of PIN numbers to those individuals at their physical addresses, postage costs and other general overhead and administrative costs. Election grant funds from Markle covered a portion of these expenses and the rest came from internal ICANN funds. As stated earlier, other portions of election administration were contracted out in a competitive award process, with *Election.com*, a U.S.-based online voting services company, chosen as the contractor.

The flow of registrants throughout the 23-week registration period (February 25 to July 31, 2000) followed a predictable voter registration pattern: a start-up stage with “early birds” with high interest levels registering quickly, then a slowly rising number of registrants, and finally a faster pace of registration as voters realize the deadline is approaching. The

worldwide registration data by week demonstrate this (note that week 23 only contains 4 days):



The serious problems encountered occurred in the final days of the registration period. A strong surge of registrants, particularly from the Asia Pacific region, overwhelmed the ICANN server and caused a denial of service to people attempting to register. It took several days to correct the problem and some would argue the problem was never fully corrected. Some prospective voters undoubtedly became frustrated and discouraged after numerous unsuccessful attempts to access the ICANN site and simply gave up. The registration period might have been extended for a week or two weeks as a way of compensating for the problems and delays, but the tight overall election timeline might have forced a postponement of the elections themselves had the registration period been extended for any considerable time. Although an extension was called for by a number of interested activist groups, ICANN management made a decision that adequate measures had been taken to give almost all interested parties the opportunity to register.

The author, ICANN staff and other people actively involved in the process can all recount anecdotes from friends and colleagues about inability to register, some even from personal experience. Unfortunately, it is not possible to quantify accurately the number of people who wanted or tried to register but were discouraged away or unable to because of the technical problems encountered in the registration process. However, the difficulties were widely publicized within the interested Internet community and caused a widespread perception that the electoral process was not working well. This caused a certain loss of confidence in ICANN and fed the suspicions that manipulations or deliberate disenfranchisement was taking place.

In a larger sense, the legitimacy of any election can be questioned if the voter registration process grossly fails to enfranchise the great majority of persons wishing to vote. Many countries' public voter registration systems are plagued with technical and administrative deficiencies, and a certain degree of error and resultant disenfranchisement is reluctantly accepted. The usual test applied in such circumstances is to try to see whether a pattern of deliberate exclusion (or fraudulent inclusion) can be demonstrated or whether the level of disenfranchisement rises to a level such that the inscribed electorate can no longer be considered substantially representative of the overall electorate. Technical and administrative deficiencies are generally treated more leniently because they are assumed in normal cases to be neutral, that is, they fall randomly across the electorate and do not disproportionately favor or disfavor any particular group or category. That presumption changes immediately, however, if indications of deliberate manipulation of the rolls by the electoral authorities appear.

As to system design or server capacity, the technical "fix" of increasing server capacity within a few days was a reasonable though somewhat slow response to the problem at hand. However, the capacity problem was foreseeable to a great extent and could have been prevented. A number of outside parties, this author included, commented well prior to the registration process that voter interest might be sparked by a variety of events and, given the huge size of the potential electorate, grow steadily or surge suddenly to numbers well above the 20,000 estimated figure. That is in fact what happened. Some 158,000 people successfully completed the first stage of membership application and voter registration.

The reasons for the surges or higher levels of registration in certain regions are fairly well known by most involved parties but need to be qualified by the author because he knows them through secondhand information, mostly after the fact, rather than by direct observation during the registration period. Technically speaking, as formal observation was limited to cyberspace monitoring online, the explanatory events were not "observed" at all. The described pattern carried over to a large extent to the later "step two" activation of ICANN membership and the "step three" of actual voting.

Simply put, in the Europe region the number of registering voters from Germany was much higher relatively than from other EU member countries. This is largely explainable by active media coverage of the ICANN elections in Germany and a correspondingly higher relative level of interest in that country than in other European countries. The activist Internet community, stimulating in part and utilizing the media coverage, generated further interest by organizing activities.

In the Asia Pacific region media coverage, apparently state-sponsored in large part or corporate-sponsored in one instance, generated a higher level of voter registrant interest in Japan, China, Korea and Taiwan. Some of this promotional activity also came from technical societies or NGOs. This was also the region from which the late surge of registrants came that overburdened the ICANN registration capacity. Further information, generated later by a Japanese NGO and outside the scope of this observation and report, indicated that a Japanese corporation and certain Japanese government agencies apparently did actually

solicit registrations and votes on behalf of a Japanese candidate. Certainly, nationalistic appeals to support certain candidates became part of the nominating process in Asia and elsewhere.

After weighing these various factors, it is the judgment of the author that the voter registration process in this first-time, experimental election, though seriously flawed, nonetheless can be considered as valid for establishing the eligible voters list and providing the base of electoral legitimacy for the election that followed. Subsequently, the number of applicants who activated their memberships and ultimately voted fell sharply at each of the two later stages. 76,183 registrants activated their voter registration and 34,035 actually voted. Again, it is not possible to explain fully the reasons for this fall-off.

In the case of the second stage of membership activation, some registrants presumably lost interest and failed to take the necessary second step of reentering the ICANN website to use the PIN code they had received by surface mail to activate membership and voting eligibility. In other cases, the physical address information supplied was incomplete or inaccurate enough to cause a failure of mail delivery. Thirdly, the basic deficiencies of national postal delivery systems, especially in less developed countries, resulted in non-delivery of the ICANN mailing in a significant number of cases. To this date ICANN is receiving back non-deliverable mail, especially from China. ICANN did eventually mail out letters on a timely basis to all prospective voters who had successfully completed initial registration, but the last-minute surge in registration caused some delay for those mailings. All mailings were sent with characters in the Latin alphabet and this may also have caused some failures of delivery in places not used to receiving mail addressed that way. The relative weight of each of these explanations as a cause for the drop-off in the second or activation stage is not possible to measure with the information available.

Another problem reported after the fact and equally difficult to measure is that especially in some developing countries the web-based system used by ICANN for registration (and later for voting as well) caused difficulties for individuals whose access to the Internet was dependent on narrow band width dial-up connections. Those prospective registrants often had severe difficulty in establishing workable connectivity that would enable them to use the web page and follow the steps necessary to register.

### **Recommendations for Voter Registration & Application for Membership**

The registration process might be improved for the future by the following steps:

- (1) Greater server capacity to handle a larger number of applicants and system design to enable it to handle surges in requests for access;
- (2) More outreach activities by ICANN through the email addresses voters list, its website and others, and through media outlets in the regions;
- (3) More structured follow-up activities via email to initial applicants to see whether they have received their PIN numbers by mail, re-mailings as required, specific encouragement to activate membership, “hotlines” to handle problems and inquiries, and other means of maintaining contact with applicants;
- (4) Use of languages other than English on the website and in the mailings;

- (5) Offering alternatives to the web-based process so that narrow band width connection problems can be overcome; and
- (6) Contracting out of the registration process and maintenance of the voters list with the contractor selected to administer the balloting and tabulation of results.

Of these recommendations, the **first** (technical capacity to service applicants) is without question technically feasible and would prevent recurrence of the problem experienced with the server last year. It is safely predictable that a new registration process will attract a significantly larger number of registrants because of a higher level of awareness about ICANN and ICANN election issues in the Internet community in the intervening year.

The **second** (more voter education promotional outreach) is important as a kind of voter education effort with a new and largely uninformed electorate to achieve higher levels of participation with a potentially very large electorate. ICANN adopted a fairly *laissez faire* attitude on this subject, partly due to cost considerations, that was inconsistent with its larger responsibility as convening electoral authority for what were “founding elections” with a first-time, atomized electorate that could not be reached directly online by the candidates. Political parties and the media usually do this work in public elections, the former to attract voters and the latter for commercial news coverage.

The **third** (more follow-through with applicants and members) is important for the same reasons and even more feasible as the actions recommended fall entirely within ICANN’s span of management control. The fourth is difficult to measure, but the continuing relevance of the language question across the board for ICANN and the Internet itself, would make this a priority area for attention.

The **fourth** (languages) is difficult to measure, but the continuing relevance of the language question across the board for ICANN and the Internet itself and the passions aroused by it, would make this a priority area for attention. The language problem does not have an easy, complete solution. On what basis are the languages to be chosen, for example treating some as “major” and others as “minor”? Cost and accuracy of needed translations from English, even relying on volunteer translators, is a serious obstacle. Perhaps registrants could indicate a preference for identified languages other than English at the time of sign-in, and a certain number of such preferences could trigger action to provide information in those languages. At the very least, it is known in advance that in the Latin America and Caribbean region both Portuguese and Spanish are needed; in the Asia-Pacific region the same can be said for Japanese and Chinese. Europe, with a high level of registrants using a number of different languages, is harder to accommodate; but given the wide use of French in Africa in addition to Europe, French would meet the same criterion. Perhaps reference to the official working languages of the United Nations would be an objective and neutral way of settling the issue, but cost considerations might still be prohibitive.

The **fifth** (low-tech options) dealing with basic versus more advanced connection technology or quality of service available is an issue that might be addressed by offering alternative means of Internet communication such as simple email messages. The issue is most relevant

in those parts of the world where registration is more limited and thus becomes part of an under-representation or digital divide issue.

In the opinion of the author/observer, the **sixth** (implementer of the registration process) recommendation is the most important one in terms of achieving efficiency of operations gains in the registration process. ICANN had relevant reasons for managing the registration process and maintenance of the voters list itself, especially protection of privacy considerations; but a private firm with experience and expertise in online voting could likely administer these elements of the electoral process more efficiently than ICANN and with adequate provisions for security of personal information and electoral data. ICANN had a reasonable perceived need for control in this first exercise, but the experience should lead to a conclusion that a reputable contractor working under carefully drawn contract specifications could maintain adequate protections. Similar concerns as to voter list secrecy and a voting process design that required the contractor to verify PINs back through ICANN's computers before letting an at-large member vote were a major contributing factor to the technical problems that arose during the voting period.

### **The Election Campaign (“Voter Education”) in Cyberspace**

Actual monitoring was quite limited in scope, as it was “passive” and covered only the official, ICANN-provided forum at its website. Online monitoring was done by the author and, to a limited extent, another Center staff person and an intern. On a daily basis the monitors would go to the website to read the campaign exchanges between candidates and voters. As the election was really five separate elections, one in each region, five different regional web pages were employed. As time passed, languages other than English were used widely in what became a linguistic potpourri. The author tracked English worldwide and Spanish and Portuguese in the Latin America and Caribbean region. No one seemed to be bothered much that some questions and answers were understandable only to a limited part of the audience. However, the language issues affecting global discourse for ICANN governance and the ability to communicate beyond the English language with a potential at-large membership and electorate of millions of people were glaringly apparent.

The forums (fora) were open and interactive but mainly consisted of “Q&A” postings, with an interested at-large member/voter (though in fact the person posing a question could be anyone, not limited in any way to the voters roll) posting a question online to the candidates for their response. Candidates were free to respond or not to any of the questions posted, and no one filtered or moderated the questions or the exchanges.

The candidates exhibited a wide range of responses, with some candidates answering almost all questions and responding in detail while other candidates responded much more selectively. As seems to be the case with most Internet chat rooms or online forums, a small number of people with a high level of interest and apparently unlimited time available participated quite actively, especially in the early stages. As might be expected, some questions were frivolous or far-fetched; but as the campaign went on the online debate was surprisingly substantive, high quality, and focused on serious issues of Internet governance and the ICANN role. Questions ranged from the highly political (privacy rights, “Internet democracy,” dominance of the U.S. in the Internet, disadvantaged position of developing

countries, language and character usage) to highly technical questions about protocols and standards governing the functioning of the Internet. On the other hand, the campaign period might also be described as “boring” to the average Internet user and not very conducive to stimulating greater at-large participation. That subjective judgment would argue for greater outreach efforts by ICANN itself and interested organizations, not just the candidates themselves, to do appealing voter education activities to make ICANN issues more palpable and understandable to the public.

What was refreshing by way of comparison with typical campaigns in public elections in real-world countries was the relative absence of negative campaigning and personal attacks. Some questioning and some candidate answering was sharply critical of ICANN, its Board, management and staff, but even that generally was issue-oriented in a way that contributed to a useful airing of contrasting points of view and gave voters a clear idea of the position of the candidates on major issues. In the Europe region and the North America region, much more so than in the other regions, some candidates who had accessed the ballot by way of member nomination could fairly be categorized as “dissident” or “insurgent” candidates and ran against the incumbents, so to speak, meaning the policy direction or orientation of the sitting Board.

One troubling aspect to the entire process, noticeable in the nomination process and the campaign period and apparently also in ultimate voting behavior, was the appeal to nationalistic sentiments. In part this was unavoidable, as voters looked at unfamiliar candidates and little known issues and tried to decide on criteria for voting choices and preferences. Affinity with candidates at some personal or emotional level is a well-known electoral phenomenon, as voters seek to decide who is more like “me.” Nationality, along with gender, ethnicity, occupation, age, religion to name but a few, is one criterion that voters in an international electoral contest are obviously going to use to help them decide on whom to vote for.

However, within the Internet community the “global” or “universality” principles are considered to be important values defining the community, so too much nationalism would be considered divisive and problematic. Within given regions, it also can undercut the legitimacy or at least constituent support base if directors are seen as clearly representing one country or nationality. This also relates back to the global versus regional electoral structure debate. Beyond the voter affinity element, however, the actual comments online (perhaps even more so in the member nomination process) gave evidence of clear interest in the nationalistic “power” element, i.e. “we” (name your country or language group to some extent) should have one of our own citizens on the Board as a matter of national interest or pride or to assert dominance in the region.

Candidates in almost all cases clearly made an effort in their answers to questions to show that they were technically qualified to deal with the technical issues under ICANN’s jurisdiction. In particular, they stressed their past and current participation in international and national groups working on Internet standards issues. This was especially true in Asia-Pacific, Africa, and Latin America and the Caribbean, where the technical issues seemed to predominate; but in North America and Europe more politically charged issues were at the

forefront. Voters and candidates in all regions concurred on the need for more accessibility for the membership to information and communication in peoples' own languages, i.e. languages other than English. This became the equivalent of what is known in the U.S. political vernacular as an "apple pie and motherhood" issue, meaning one that everyone agrees on and pays lip service to but without necessarily making any useful proposals about how to solve the problem.

What is known but technically was not "observed" at the time for purposes of this report is that in some regions, especially Europe and North America, a lively discourse and campaign-type activities developed outside the official forum at the ICANN website. Some of this activity was online in other chat rooms or at websites sponsored by a variety of interested parties. Other activity included physical meetings and events organized by NGOs and similar organizations to provide live settings for candidates to interact with voters. In Europe and especially in Germany media coverage of the process, particularly in media specializing in online coverage and Internet topics, provided an important public space for discourse. In the United States an "old fashioned," live candidates debate meeting took place on the East Coast, with the "modern" addition of webcasting of the proceedings to an online audience. Of course, all of this activity was totally unregulated and conceivably raises issues of campaign finance, level playing field, disclosure of bias and the like; but little or no criticism has been made, at least not to the author's attention.

On the contrary, this kind of spontaneous, freely-organized participation is seen as precisely what is needed to stimulate interest and participation in ICANN affairs by a thus far lethargic, uninvolved and unorganized at-large membership. However, planning for future elections at the very least needs to take this dynamic into account.

### **The Voting and Tabulation of Voting**

Voting took place over a ten-day period October 1-10, 2000. The polls were open "24/7" in Internet jargon (24 hours a day, 7 days a week) at the designated election contractor website linked to the ICANN website. Only activated members could vote, meaning those who had initially applied for membership, had received from ICANN the postal mailing ("snail mail") with a PIN specified in the letter sent to their physical addresses, and then had activated their membership by returning to the ICANN website to enter the PIN along with other personal identifying information to become full-fledged at-large members and thus eligible to vote. The original number of registrants, 158,000 (a later ICANN figure cites 143,806 valid member records) fell to 76,183, with the partial explanation for the fall-off described earlier.

The voting process technically required a prospective voter to identify himself or herself through use of the PIN. *Election.com*, the contractor responsible for administering the election, had a complete list of PINs and could validate a PIN presented by a person wanting to vote. However, they could not allow the person to vote without an intermediary step. As a fail-safe security procedure and in the interest of strict privacy protection of the personal identity of the at-large membership list, ICANN retained complete and exclusive control of that list and required the contractor to present PINs to ICANN for a separate membership eligibility personal verification and response before the contractor could allow the voter into

the system to cast a vote. Of course, all of this was done by computers talking to each other using an encryption routine without need of direct intervention by human staff.

The voting system suffered a serious problem on the first day of voting, impeding access to the polls for half the day. The difficulty caused a credibility problem on the very first day of balloting with voters and interested parties watching the process, although the technical problems were resolved during the course of the day and voting commenced thereafter. The contractor attributed the problem to some minor expected bugs in the system but principally to the complications introduced to the process by not being able to service voters directly but instead being forced to communicate via the encryption protocol with ICANN for each voter before allowing entry to a voter to vote. Given the technical problems experienced with the earlier registration process, the inability to cast votes on the first day of balloting made it look for a time as if the election process would break down and be a total failure. Anxiety levels and critical comment spiked dramatically.

However, the problems were overcome that same day and voting proceeded normally thereafter with only minimal problems or complaints until the final day of voting. 2,800 people received an error message when trying to vote. Emails were later sent to all of these members, and 2,685 of them later reentered the system and voted successfully.

As earlier noted, the web-based software used may in fact have inhibited or made difficult voting by some members who could only access low-speed, narrow band width connections; but appreciation of this issue surfaced mainly after the fact and has not been quantified or its dimensions well defined even yet.

The author and a colleague flew to New York on October 10 to physically witness the closing of the polls and the vote tabulation at the offices of *Election.com*. An open phone line maintained continuous contact with ICANN offices in California. The polls were due to close at 10:00 p.m. Eastern time in the United States, but a last-minute computer system communication problem between New York and California occurred in the final hour of voting that blocked access to voting. To try to avoid disenfranchisement at a crucial point in time, it was agreed on the spot between ICANN and the contractor in the presence of the observers to keep the polls open for an extra half hour to try to allow all those voting to be able to vote successfully before the polls closed. Email contact with those denied access was made, and as soon as the problem was corrected, they were notified and encouraged to come back and cast their votes.

At this point, at 10:30 p.m., the polls were closed. With the incredible speed made possible by an online, computerized, electronic voting system, final voting results printed out in a matter of minutes in the presence of staff and observers for all five electoral contests.

Region	Number of Candidates	Membership	Votes Cast	Percent Turnout
North America	7	10,694	3,449	32.25%
Asia/Pacific	5	38,3977	17,745	46.21%
Europe	7	23,519	11,309	48.08%
Latin America	7	3,571	1,402	39.26%
Africa	5	321	4,130	40.50%
Total	3	76,502	34,035	44.49%

*Table: Voting statistics by region*

Winning candidates with 50%+1 of the votes emerged on the first round in all regions except North America. In North America the computer program instantly ran the calculations to redistribute vote preferences and established the winning candidate on the fifth round. Agreement was reached yet that evening on the text of an official announcement and election results were posted on the ICANN website with a press release the following day. The Carter Center also issued a press release describing observations by its personnel and comments on the electoral process.

*Election.com* has subsequently stated its dissatisfaction with the two-stage verification process and its inability to manage the voter registration list directly, presumably with whatever level of security protections are considered necessary. The company has specified its corporate policy for the future to be one of not agreeing to conduct an election under that arrangement, apparently fearing damage to its reputation due to possible technical problems beyond its control. As stated earlier in the report, it would seem desirable to have ICANN include management of the voter lists, under appropriate safeguards, to its chosen contractor. This could well include the registration process and compilation of the voters list itself as well as the verification procedures used during the voting period.

Independent, advance testing and simulation by disinterested parties as well as ICANN of the software to be used, “flagging” and other sampling mechanisms during the voting process, can be used to maintain a high level of integrity and confidence in the voting process. The contractor in this case has an elaborate system of external and internal vulnerability controls to prevent unauthorized or hostile entry to its computer systems or any attempts to manipulate voting or the vote count. As expected, attempts were made to gain unauthorized entry, but security systems in place rebuffed them. It appears that this part of the voting process can be protected quite well.

However, the same cannot be said for other parts of the process. The integrity of the voters list is open to question and that list obviously determines the pool of eligible voters who can vote. The system of mailings to physical addresses as a means to verify the bona fides of membership applicants as individuals and to prevent multiple registration is vulnerable to abuse. Computer security programs can identify patterns of use of the same address, but the system legitimately does allow multiple members at the same physical address, e.g. family members with separate email addresses in the same house. Individuals intent on registering more than once using more than one email address would not find it too difficult to defeat the

controls and beat the system. The possibility of doing the same on a large scale organized basis therefore also exists, introducing the risk of fraud capable of changing electoral outcomes. Batch registration in the Asia region apparently occurred and raises questions about people registering for other people and voting on their behalf as well if the individual secrecy of PINs is compromised.

These problems or vulnerabilities were known to ICANN and others in advance of the elections and were not literally ignored. By and large they were accepted as unavoidable under the present circumstances, given technical and budget considerations for registering and voting entirely online and using surface mail to try to reach so many people around the world, many in remote places. In effect, everyone relied on good faith on the part of the community and the actors in this drama. Some would argue that the safeguard was that the level of interest in the election and the perceived stakes were low enough so that no one would go to the trouble of making the effort required to try to “steal the election.”

Such reliance may have been reasonable under time pressures and with organizational problems in an electoral process everyone recognized as experimental, even revolutionary, in being the first ever global, online electronic election. As the stakes rise and more voters enter the electorate, rising perhaps into the millions, quality controls and systems to maintain integrity in the electoral process will have to be significantly improved if confidence in an ICANN Board of Directors electoral process is to be maintained and the legitimacy of elected directors is to be assured.

What is actually amazing about this whole process to the author, a veteran election observer in many countries around the world, is how well the elections turned out under the circumstances. Though the number may seem insignificant to some, more than 37,000 people all over the globe got interested enough to vote to choose directors to represent them on the Board of Directors of ICANN, a little known, hard to understand entity with awesome responsibilities for stewardship of what may now be the world’s most important infrastructure. The contesting candidates and the voters seem to have accepted the process and its outcomes without serious complaints, one of the tests of legitimate, democratic elections. The elected directors have been seated and are exercising their duties, thus contributing to a greater sense of legitimacy and accountability to the user community for ICANN, a much-needed sense.

What is, however, well beyond the scope of this observation exercise and report is the question of whether an at-large membership and elections for directors of ICANN of the sort organized for the five regional, at-large seats in 2000 is the best or most appropriate way of building these particular stakeholder interests and public interest concerns into the governance structure of ICANN and the Internet community writ large. Those questions are being debated vigorously in other quarters and form a part of the ICANN Board’s further look at the question of at-large seats, the overall structure of the Board, and larger questions of Internet governance. It is hoped that this report is useful in some small way to that exercise.