

General Comments

The Nominet Board (with the exception of Angus Hanton) posted online their open letter regarding the forthcoming election and invited a response from the candidates. My response has been delayed by a flight from Australia, by my requests to the Board to correct serious errors of fact in their letter and also in dealing with unfounded allegations made against me by a former Nominet Director.

The Board's Errors of Fact

I find it difficult to understand why the Board chose to publish such an extraordinary letter without first seeking from the candidates a confirmation that the assertions of fact in relation to people's positions were correct.

In my case, they were not correct and the letter gives a wholly misleading impression of my views on serious policy issues. I asked the Board to correct their error by way of a further letter to the members, but unfortunately they have chosen not to do so.

Distribution of Profits

I welcome the opinion of Michael Todd QC – obtaining such advice formed part of my election statement. Contrary to what the Board's letter indicates, it confirms the position set out in my election statement – which did not speak about drawing from the current surplus, but rather proposed looking at the options available with any future surpluses.

I took advice prior to drafting my statement and it concurs with Counsel's Opinion, namely that there were very few options as to what could be done with the existing surplus. To suggest that I believed otherwise is untrue.

However, there are a number of valid and legally possible alternatives to consider with regard to any future "*accruing surplus*". I proposed that these options be subject to an urgent and wide-ranging review – the results of which would then be put to the members to formally make a decision.

My stated policy – under the heading Cost Neutrality - referred only to what could be done to seek to aim for cost neutrality and so to lower the future level of the annual profits. It referred to looking at alternatives regarding the "*accruing surplus*". This position was further put into context on non-steer prior to the Board's letter being published; as well as by the section of my statement that followed, dealing with future levels of funding for the Foundation.

It is disappointing that the misrepresentation in the Board's letter has not been retracted, despite my invitation for them to do so.

Nominet Board Structure

I agree that the Board needs independent non-executive directors. I disagree with the Board's suggestion that Special Resolution 6 provides the best way to achieve this aim.

In my view it risks entrenching a significant part of control of the Board in the hands of unelected directors, notwithstanding the need to obtain approval of an AGM for any new Appointed Non-

Executives. Approval is not the same as election and in my view it limits the options available to the members.

It also continues to leave out of the election process altogether the Executive Directors. That is a very unusual position for a company with such a large membership.

That is why I propose that Special Resolution 6 be rejected – and instead be replaced by a wider ranging resolution that would require all directors (including those Appointed by the Board and those who are Executive Directors) to be subject to the same requirements of retirement by rotation and the same re-election process. I believe that this is in line with best corporate governance practice. My concern is that, if the current proposal is adopted, it will be presented as the members' final choice with regard to the issue of the Board structure. I therefore think it is essential to get it right first time – and I do not think Special Resolution 6 goes far enough.

The presentation that, due to low levels of voting, Nominet may be subject to a coup d'état due to low turnout is disingenuous. Whilst there may be quite a small percentage of voters, it seems to me that the numbers of votes cast has been rising significantly in recent Board elections. As an example, the 3% cap in 2006 was set at around 13,000 votes, yet had almost doubled to around 25,000 votes in 2007.

In any event, I reject the suggestion that I might be part of an organised raid on the company. I confirm that I have not met either of the other two candidates singled out by the Board's letter; nor had I ever communicated with either of them prior to the Board's letter being published.

Response to the Request for Full Disclosure

I take the view that that the request for "Full Disclosure" from the Board (except Angus Hanton) is in fact a short list of leading questions. Nevertheless, I am happy to comply.

1. I have never before stood for election for the Nominet Board or the PAB.
2. In relation to potential conflicts of interests with regard to my work as a solicitor, I would follow the rules set down by the Solicitors Regulation Authority, as well as those that govern a director of a company.

As a solicitor, I am acutely aware of the risks of conflicts of interests. I act for a number of different types of Nominet members, including ISPs, web development companies and individual members with domain portfolios. Those contacts would help ensure that I would always be aware of the views of a number of different constituencies within the membership. However I reject any assertion that, if elected, I would represent any special interest group.

3. My then company (GPM) was a Claimant and I was a Part 20 Defendant in civil litigation relating to the citigroup.co.uk domain name, which was finally settled out of court under an Order in the Court of Appeal. The terms of that Order are confidential. Nominet has been aware of this for a number of years.

I have acted and I am currently acting for a number of clients in respect of DRS disputes. I have acted and I am currently acting for a number of clients in respect of litigation in the courts. I act for both claimants and for respondents.

I am unable to mention ongoing matters, due to client confidentiality issues. However, decided cases that are in the public domain include DRS Appeals in bounce.co.uk, verbatim.co.uk and Ireland.co.uk. I am acting in the forthcoming myspace.co.uk Appeal.

On a few occasions, the conduct of a case may result in a Formal Complaint being made against Nominet. If I were to be elected, I would obviously be unable to act for clients in this regard. However, this experience has given rise to my policy for setting up an independent Ombudsman to deal with such complaints. I believe the current self-regulation by the executive is a model that puts unfair pressure on people to review their own (or close colleagues') actions and it falls short of best practice in terms of the service provided to the complainant.

4. I understand that there was an investigation about me recently raised by former Nominet Director, Alex Bligh, with the Solicitors Regulation Authority. Mr Bligh questioned publicly whether I was a solicitor and unfortunately he did so without giving me the opportunity to confirm the position to him.

As soon as I became aware of his allegations, I provided Mr Bligh with proof that they were untrue. In an email to me and on nom-steer of 24 April 2008, Mr Bligh apologised to me *"for any implication that he [I] was not entitled to practice as a solicitor at the relevant times"*.

I am unaware of any other investigation or enquiry of which I am a subject.

Conclusion

I trust the Nominet membership to draw their own conclusions and to vote accordingly for a stable, balanced and accountable Board of Directors, who can put behind them any differences they may have had in this election. I offer a constructive, yet independent, voice on the Board and I invite the members to vote for me.