


# nominet

Notice of Extraordinary General Meeting  
24 February 2010

**Your vote is important.  
Please support these  
proposals.**

A decorative graphic consisting of numerous thin, parallel purple lines that curve and flow from the bottom left towards the right side of the page, partially overlapping the bottom edge of the central text box.

# Nominet UK

Registered number : 3203859  
(the 'Company')

## Notice of Extraordinary General Meeting

NOTICE IS HEREBY GIVEN that an EXTRAORDINARY GENERAL MEETING ("EGM") of the Company will be held at 11.00 am on 24 February 2010 at Hilton London Olympia, 380 Kensington High Street, London, W14 8NL to consider and, if thought fit, pass the following resolutions:

**Together we can secure Nominet for the public purpose** (see Explanatory Note 1)

### Ordinary Resolution\*

1. (a) THIS EGM resolves that Nominet should conduct its business for the public benefit.

### Special Resolution\*\*

- 1 (b) THAT the following words be inserted as new Article 1A of the Company's Articles of Association:

"1A In exercising their duties to promote the success of the Company for the benefit of the Members as a whole the directors shall have particular regard to the impact of the Company's activities on the general public."

### Special Resolution\*\*\*

- 1 (c) THAT the following words be inserted as new Article 1B of the Company's Articles of Association:

"1B The objects of the Company are to undertake activities, particularly (without limitation) as were formerly set out in the Company's Memorandum of Association, and to do so for the public benefit."

**Together we can have strong Nominet governing principles** (see Explanatory Note 2)

### Ordinary Resolution\*

- 2 (a) THIS EGM resolves that Nominet's constitution should reflect the principles of modern corporate governance along the lines recommended in the Garratt Report.

## Special Resolution\*\*

- 2 (b) THAT Article 13 and Articles 26 to 41 inclusive be deleted from the Company's Articles of Association and that new Articles 26 to 41 as highlighted in yellow in the Draft Articles [http://www.nominet.org.uk/digitalAssets/39688\\_Draft\\_Articles\\_final.pdf](http://www.nominet.org.uk/digitalAssets/39688_Draft_Articles_final.pdf) be inserted and that at the date of such modification the current directors of the Company shall be designated as follows:

Lesley Cowley	Executive Director
Gordon Dick	Elected Director retiring at the 2010 annual general meeting of the Company
Bob Gilbert	Appointed Director
Clive Grace	Appointed Director
Nora Nanayakkara	Elected Director retiring at the 2011 annual general meeting of the Company
Jonathan Robinson	Elected Director retiring at the 2011 annual general meeting of the Company

**Together we can ensure that Nominet pricing is fair and flexible** (see Explanatory Note 3)

## Ordinary Resolution\*

- 3 (a) THIS EGM resolves that responsibility for pricing should rest with the board of directors to be exercised in the interests of the membership and of the Company as a whole.

## Special Resolution\*\*

- 3 (b) THAT the words "or registration fees" be deleted from Article 19A of the Company's Articles of Association and that Articles 52.2, 52.3 and 52.4 be deleted from the Company's Articles of Association.

**Together we can keep membership at the heart of.uk** (see Explanatory Note 4)

## Ordinary Resolution\*

- 4 (a) THIS EGM believes in principle that Nominet's constitution should be further revised to provide for wider stakeholder involvement and that Nominet's board of directors should develop one or more proposals to achieve this and, following appropriate consultation, submit them to a general meeting of the members in due course for consideration.

**BY ORDER OF THE BOARD**



Nick Wenban-Smith  
Secretary

# Explanatory Notes

These notes set out the reasoning associated with each of the resolutions to be put to the EGM.

The resolutions aim to give effect to the four themes of principle and affirmation which followed from the governance review conducted earlier this year, and the subsequent consultation. The Board is confident that, if passed, these resolutions will be sufficient to persuade Government that it can have confidence in Nominet's governance, and continue to entrust Nominet with the stewardship of .uk. But the resolutions also have a strong positive purpose – they will give Nominet modern governance arrangements which will enable it to serve the membership better.

Each of the first three themes begins with an ordinary resolution so that Members have the opportunity to express their view in each case on the basic principle, and then on the specific proposals of how we think that principle can best be given effect. The fourth theme is simply an ordinary resolution seeking a consensus on whether Nominet's constitution should be modified further to allow for increased stakeholder participation.

## Explanatory Note 1: Together we can secure Nominet for the public purpose

- We hold .uk in trust for the nation
- With our registrars we will serve all UK Internet users equitably and fairly
- We will reinvest Nominet profits for the public purpose and Nominet will remain a non-profit distributing private company

## Why we need to make these changes

Nominet was set up by Internet pioneers who established it as a non-profit distributing, member-led organisation with a responsibility to ensure the UK domain name space was a trusted, self-regulated space for the benefit of everyone. We want to retain this public purpose. Member consultation so far has told us that you do too. Now we're seeking to put this commitment in writing and we want to enshrine this in our constitution, just as The Internet Corporation for Assigned Names and Numbers (ICANN) has recently made a public interest commitment. The Government views .uk as being an increasingly important part of the national infrastructure and believes Nominet has a responsibility to manage .uk for all stakeholders.

## What these changes will mean

Resolutions 1 (a), 1 (b) and 1 (c) relate to Nominet's function being one that is in essence public, namely primarily the efficient administration of the .uk domain for the benefit of all Internet stakeholders. Clearly this requires an active and positive dialogue with our registrars, who provide automated access to our registration systems for the benefit of their customers, the registrants of .uk domain names. We consider that the expression "public benefit" also encompasses the public interest principles of universal participation, accountability and transparency, together with the provision of services that are effective, secure, stable and resilient. We also seek to promote trust and confidence of Internet users in the domain name addressing system.

- Resolution 1 (a) is a straightforward expression of principle.
- Resolution 1 (b) requires the Board to have particular regard to the impact of the Company's activities on the general public.
- Resolution 1 (c) amends the Company's stated objects so that they are explicitly now for the public benefit. Nominet's founders implicitly made the Company a public purpose vehicle, by incorporating it as a non-profit distributing company limited by guarantee. However the increasing importance of the Internet and the current scrutiny of the Government require us now to make this explicit in our constitutional documents.

Changes to the Companies Act 2006 mean that, as from 1 October 2009, the contents of the Company's Memorandum of Association are considered to be part of the Articles of Association. The new proposed Article 1B references the former objects clause set out in the Memorandum of Association and states that these objects are to be carried out for public benefit. It should also be noted that resolution 1 (c) requires a 90% vote in order to pass. Given that the objects clauses were previously subject to the 3% cap under the Voting Rights Bye-Law <http://www.nominet.org.uk/governance/voting/policy/> because they were not part of the Articles, we have decided to retain the same 3% cap for voting on this resolution.

These resolutions do not alter any of Nominet's other purposes or activities, and we retain our existing objects as set out previously in the Memorandum of Association.

## Member comment on Nominet Trust

During our recent consultation, several members commented on the work of Nominet Trust and the donation of portions of Nominet's profits to this charity. Some felt that it would be better if this money were distributed back to members. However, as a non-profit distributing company, this is not an option for us. The Nominet Trust aims to support distinctive and inventive Internet-related projects that can make a difference to people, primarily in the areas of education, online safety and inclusion. Its main source of funding currently is from Nominet profits and to date the Trust has awarded grants of over £1m to worthy applicants. The Nominet Board decides the level of funding to be donated to the Trust by firstly allocating funds for the needs of the Nominet business such as investing in .uk infrastructure. If funds are left over, the Board will then decide on any sums that should be held as Nominet reserves and the amount that may be surplus and available for donation to the Trust. **We do not operate Nominet in order to make charitable donations.** For further information on the work of the Trust please see: [www.nominettrust.org.uk](http://www.nominettrust.org.uk)

## Explanatory Note 2: Together we can have strong Nominet governing principles

- We will have an effective and well-balanced Board
- We will treat all members equitably and fairly
- We will adopt transparent and accountable Board procedures

### Why we need to make these changes

Effective governance, i.e. how we are organised and controlled, is crucial to our success. We believe the domain name industry should continue to be self-regulated. Self-regulation has served members and stakeholders well up to now and we believe it will do so in the future too. To restore Government confidence in our ability to self-regulate, we need to update our Board structure and the role and responsibilities of the Board.

### What these changes will mean

- Resolution 2 (a) expresses the general principle that Nominet should modernise its corporate governance along the lines suggested by Professor Garratt. He recommended that we should adopt the approach set out in the Combined Code, which is the ‘gold standard’ of corporate governance and is based on key ideas developed by the OECD. A copy of Professor Garratt’s Report can be found at [http://www.nominet.org.uk/digitalAssets/39683\\_GarrattGovernanceReview.pdf](http://www.nominet.org.uk/digitalAssets/39683_GarrattGovernanceReview.pdf).
- Resolution 2 (b) will achieve this modernisation by amending our Board structure, reducing the threshold to pass an ordinary resolution from two-thirds to a straight majority, and giving the Board the flexibility to approve certain conflict of interest situations.

### Elected Directors

It is proposed to expand the Board from its current six members to a potential maximum of ten. We will continue to have up to four directors who are appointed directly by member election as at present (“Elected Directors”). Gordon Dick is due to retire this year and we propose that this remains the case. We also propose that Nora Nanayakkara and Jonathan Robinson, both elected onto the Board in July 2009, continue in their roles until the 2011 annual general meeting. There is currently one vacancy for an Elected Director and therefore as usual, there will be two vacancies for Elected Directors at this year’s annual general meeting.

### Appointed Directors

We also wish to be able to appoint up to three directors outside the member election process. These “Appointed Directors” will be required to retire at their first annual general meeting and be re-appointed subject to an ordinary resolution of Nominet’s members. Appointed Directors are also subject to periodic retirement and re-appointment by members and a maximum six year term. We propose that Bob Gilbert and Clive Grace become Appointed Directors, and if resolution 2 (b) is passed both will be subject to retirement and re-appointment by an ordinary resolution of Nominet’s members at the 2010 annual general meeting.

### Executive Directors

In addition up to three Board positions may be held by Nominet executives (“Executive Directors”). Executive Director appointments shall be made by the Board for terms of up to three years. At the end of each term the Executive Director may be re-appointed by the Board, and there is no limit on the number of re-appointments that may be made. Our proposal is that Lesley Cowley will be an Executive Director, and that one further executive will be appointed as an Executive Director.

## **Nominations Committee Terms of Reference and Elections Bye-Law**

We have published the text of a new Nominations Committee Terms of Reference

[http://www.nominet.org.uk/digitalAssets/39690\\_Nomination\\_Committee\\_final.pdf](http://www.nominet.org.uk/digitalAssets/39690_Nomination_Committee_final.pdf) which sets out how we will assess candidates for appointment to the Board as Appointed Directors and Executive Directors.

This is an entirely separate process from election to the Board by members, the process of which we have removed from the Articles and set out in a new Bye-Law

[http://www.nominet.org.uk/digitalAssets/39687\\_Bye\\_law\\_for\\_elections\\_final.pdf](http://www.nominet.org.uk/digitalAssets/39687_Bye_law_for_elections_final.pdf). The new election process provides for a more orderly and extended process of nomination and election, following many comments from members that the period open for voting is currently too short. By putting the elections process in its own Bye-Law, we will retain the flexibility to make changes in the future, according to the circumstances, without having to hold a general meeting of members and change the constitution. If resolution 2 (b) is passed, we intend to adopt the Nominations Committee Terms of Reference and Election Bye-Law in the terms of the drafts published.

The deletion of Article 13 would change the requirement for an ordinary resolution of the members to require a two thirds vote to be passed. In line with standard company law, the threshold would become a simple majority.

The Companies Act 2006 introduced new rules on directors' conflicts of interests which are potentially very wide in scope. This has a direct impact on Nominet as a member organisation, because we frequently have directors who are closely connected with the domain name industry on the Board. These conflict situations are now prohibited. The provisions of the proposed new Article 33 allow that, where appropriate, such conflicts may be authorised by the non-conflicted directors.

Professor Garratt also made the following recommendations that do not require constitutional change and we intend to adopt them all in full:

- Create a clear job description for each director
- Create annual evaluation and development plans for the Board itself, each committee and each director
- Ensure that the nomination, selection, induction, competence building, evaluation, renewal and de-selection processes are reviewed regularly
- To publish in the Annual Report the reasons for, and cost of, the legal fees concerning independent legal advice for directors concerning their directorial roles
- To review and publish the remit and membership criteria of the audit, remuneration and nomination committees.

## **Treating members equitably - what does it mean?**

In our statement of commitments in this area we state that we will treat all members equitably and fairly. There was some questioning in the responses to our consultation about the meaning of the word equitably in this context. It means that we will treat all members in a proportionate manner. For example, this could mean that system access is dependent on volumes of business performed with Nominet. However, in line with the comments on pricing, this does not mean differential pricing based on volumes.

## Explanatory Note 3: Together we can ensure that Nominet pricing is fair and flexible

- We will ensure no interest group is favoured
- We will engage registrars and stakeholders if we are considering price changes
- We will be responsive to market conditions

### Why we need to make these changes

To reinforce Government confidence in our ability to self-regulate and to remove concerns about a potential cartel of members as described in the review conducted by Professor Garratt, we need to give the Board the power to determine charging and pricing.

We believe that giving the Board control over pricing would make Nominet more democratic (because at the moment a minority with a vested interest can thwart changes in the interests of the registrar and stakeholder community as a whole) and also enable us to respond to changing market conditions and opportunities. The Board is committed to engaging members and stakeholders when it exercises these powers, and is very conscious of the importance of not adversely affecting the business models of registrars.

For example, if the Board wanted to introduce Variable Registration Periods (allowing domain name registration periods of up to 10 years, in addition to the current two year period) they would be able to do so without needing to call a member vote over pricing. Similarly, if they wanted to run an auction for two letter domain names they could do so without needing to call a member vote. They could also run a price promotion that was equal and fair for all members if they wanted to without needing to call a member vote.

### What these changes will mean

Resolution 3 (a) expresses the general principle that responsibility for pricing should rest with the board of directors to be exercised in the interests of the membership and of the Company as a whole.

Resolution 3 (b) achieves this modernisation by deleting the words “or registration fees” from Article 19A, and making minor consequential amendments to Article 52.

The deletion of the reference to registration fees in Article 19A would allow the Board to exercise full control of the pricing of domain names, **but in line with concerns raised by a small number of respondents to the consultation, retain the requirement for a 75 % member vote for there to be any change in the current level of membership fees.**

#### Board commitment on pricing

It is clear that the issue of pricing remains contentious, with different members showing a desire for the price to be managed in a variety of ways and with a variety of opinions on increases and decreases. Several people expressed concern that a promise from the current Board not to change prices, was not a promise that holds much water as the Board will change, and it is not possible for the current Board to make commitments on behalf of future Boards.

#### Distribution of profits

It was also clear from the consultation comments that some members remain confused about Nominet’s ability to distribute profits and/or provide rebates to registrars in respect of domain registrations. As a non-profit distributing company, Nominet is simply not able to do this.

## Explanatory Note 4: Together we can keep membership at the heart of .uk

- We will maintain a responsive and responsible self-regulated domain name industry
- We have a responsibility to reflect the diversity of all .uk stakeholders and put Internet users at the heart of .uk policy
- We believe a member-led Nominet will be best placed to deliver for all .uk stakeholders

### Why we need to make this change

Alongside members and registrars, all stakeholders including domain name registrants and UK Internet users should have a voice in Nominet if they wish. This is in keeping with our commitment to a wider public purpose for Nominet. Specifically, we are seeking backing from you that you agree the principle of wider stakeholder involvement in Nominet.

### What this change will mean

Resolution 4 (a) expresses the general principle that Nominet's constitution should be further revised to provide for wider stakeholder involvement. This principle is in line with the recommendations of the Mutuo report on membership and stakeholder issues. This is a complex topic and as such Nominet's Board recognise that this objective requires extensive further work in order to build a consensus position on the way forward for Nominet. Hence, all that the resolution seeks at this stage is for the Nominet Board to develop one or more ways to revise Nominet's constitution in the future. We think such changes will need the most careful thought and deliberation. This consideration will include consultation, member meetings and the opportunity for your input throughout the process. **We see this change, which was highlighted in the Mutuo report, as a further essential part of effective governance, and as a critical part of satisfying Government that there will be an effective stakeholder voice within Nominet.**

In the meantime, we are conscious that widening stakeholder involvement in Nominet has a number of facets, and one of these is Nominet's Policy Advisory Body. This has reviewed the way it operates and has developed a suggested new structure which it is confident will result in a .uk policy process that will provide an opportunity for the wider stakeholder community to identify issues which are relevant to Nominet and .uk. The new process will effectively capture stakeholder views by providing a mechanism where relevant stakeholders are identified and able to participate in discussion on issues pertinent to them. We will be consulting on these proposals shortly.

We should also emphasise that we do not propose at the present time to make any changes to the link between membership and discounted domain registration, or to change the voting rights, because members have given us mixed views on these issues.

\* Resolution requires a 2/3 majority to pass

\*\* Resolution requires a 75 % majority to pass

\*\*\* Resolution requires a 90 % majority to pass

# What to do now:

## For those with Personal membership

1. If you wish to attend the EGM please let us know at:  
<http://www.nominet.org.uk/governance/egm/egm2010registration/>
2. If you are not planning to attend the EGM, you may vote in one of two ways. Either complete and return the enclosed proxy form in the pre-paid envelope. Or go online to  
<http://www.votepopularis.com/nominet>. The deadline for receipt is 11:00am on 22 February 2010.

### VOTE ONLINE

1. Go to [www.votepopularis.com/nominet](http://www.votepopularis.com/nominet)
2. Log in using the username and password (printed on your proxy form)
3. Follow the instructions and appoint your proxy

### VOTE BY POST

- 1 Follow the instructions on the form enclosed.
2. Post your ballot paper in the pre-paid envelope provided to Popularis Ltd, Independent Scrutineer, 6 De Montfort Mews, Leicester LE1 7EU.

## For those with Corporate membership:

1. Whether or not you are planning to attend the EGM please complete and return the enclosed proxy form or vote online at: <http://www.votepopularis.com/nominet> before 11:00 am on 22 February 2010

**Please note: We strongly recommend that corporate members planning to attend the EGM complete a proxy form in advance to ensure their representative is admitted to the meeting.**

**If you do not submit a proxy form before the deadline, you will need to comply with Section 323 of the Companies Act 2006.**

For more information, see the guidance note prepared by the Institute of Chartered Secretaries and Administrators (particularly paragraph 4.12) at: <http://www.icsa.org.uk/assets/files/pdfs/guidance/080122.pdf>

2. To ensure you get the votes you are properly entitled to please let us know of any connections between you and any other member.

**ALL POSTAL OR ELECTRONIC VOTES MUST REACH POPULARIS LTD NO LATER THAN 11 am on 22 FEBRUARY 2010.** Votes received after that time will not be included in the count. You may only cast your votes online OR by post. Please do not use both systems or ALL your votes will be disregarded.

## Counting of votes and proxy arrangements

As in previous years, proxies will be collected on our behalf by Popularis Ltd, independent electoral scrutineers. Popularis will also be responsible for calculation of the votes for and against each resolution in accordance with our Voting Rights Policy. Although we are entitled to see this information, we have asked Popularis not to inform us how individual members have voted. However, Popularis will inform us when they receive your proxy and keep us informed of the aggregate totals for and against each resolution as the poll progresses. We will be calling members to encourage greater participation and this information will help prevent us calling you if you have already voted. A proxy appointed by a member will also be entitled to have sight of that proxy appointing him or her.

Please note that unlike our director elections a proxy vote is not a secret ballot.



# Notice of Extraordinary General Meeting

24 February 2010

Hilton London Olympia

380 Kensington High Street, London W14 8NL

## Directions

**By Rail:** There are direct National Rail trains coming to Kensington Olympia station, 3 min from the hotel from Watford Junction/Milton Keynes (from north) Clapham Junction (from south)

**By Tube:** The closest District line and Overground station

**Kensington Olympia:** Turn left at the exit to High Street Kensington, and the hotel is a 10-minute walk. Alternatively the hotel is a 3-minute walk from Kensington Olympia rail and tube station.

**Kensington High Street:** 15 min walk, served by District line and Circle line

**Earls Court:** 10min walk, served by District line

**Sheperds Bush:** 10 min walk, served by Central line and Overground

**By Car:** M40 to M41, straight across the roundabout to Holland Road. Follow the one-way system into Kensington High Street and the hotel is on your right.

