

A View From Parliament



Nominet Independent Governance Review

Supplementary Paper

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Nominet - Independent Governance Review

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About Mutuo

Mutuo brings together the different wings of the mutual sector to promote a better understanding of mutuals and to encourage mutual approaches to business and public policy.

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Since 2001, Mutuo has worked to promote new mutuals. This has led to renewed growth in the mutual sector, with public sector mutuals established in health, housing and education and new community based businesses ranging from football to childcare.

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- Campaigning for a better understanding of the benefits of mutual businesses
- Conducting and publishing policy research on issues of importance to the mutual sector
- Developing innovative new mutual businesses for the delivery of public services
- Delivering specialist consultancy services to mutuals
- Providing a Public affairs service for mutual businesses

Mutuo is proud to have the support of its Patrons in this work: Rt. Hon. Gordon Brown MP, Rt. Hon. Lord Naseby and Professor Ian Hargreaves.

Nominet & Parliament

This submission by Members of Parliament has been produced following the publication of the Independent Governance Review, led by Professor Garratt.

This note constitutes the shared opinion of those Members listed, who themselves have been involved in aspects of governance for a number of years, and between them bring to the table considerable engagement with the issues of internet governance.

The Members who have contributed to this paper are:

- **Rt Hon Alun Michael MP, Member for Cardiff South & Penarth**
- **Ian Taylor MP, Member for Esher & Walton**
- **Andrew Miller MP, Member for Ellesmere Port & Neston**
- **Andrew George MP, Member for St Ives**

Rt Hon Alun Michael MP, Member for Cardiff South & Penarth

Alun Michael is a former Cabinet Minister who has held office as Deputy Home Secretary, Secretary of State for Wales, Minister for Rural Affairs and Minister of State for Industry and the Regions, as well as having been the first First Minister of the National Assembly for Wales.

He is currently a member of the Committee on Standards in Public Life, the Justice Select Committee and the Welsh Affairs Select Committee. He is Chair of the Christian Socialist Movement, the Parliament Choir and the All-Party Group for Somaliland and has played a leading role in establishing the UK Internet Governance Forum.

He is a member of the National Executive of the Co-operative Party and a Fellow of the RSA. He is a Patron of Volunteering England.

He is also Vice-Chair of the All-Party Group on Citizens Advice and of the All-Party Group for the Voluntary Sector. He is a member of the Executive Committee of the Africa All-Party Group and holds similar roles with Pitcom and apComm as well as chairing the e-Crime group of Eurim.

First elected to Parliament for Cardiff South and Penarth in 1987, he became Deputy Home Secretary in 1997, with special responsibility for Criminal Justice, the Police and Voluntary Sector.

He joined the Cabinet as Secretary of State for Wales in 1998 and in 1999 was elected the Founding First Secretary of the National Assembly for Wales. He stood down in February 2000.

He returned to Government in 2001 as Minister of State for Rural Affairs. He had the

difficult task of handling the Government's legislation on hunting with dogs as well as steering the Clean Neighbourhoods Act, the Gangmasters Act and the Ragwort Act onto the Statute Book.

Ian Taylor MP, Member for Esher & Walton

Ian Taylor was first elected to Parliament in 1987.

He was Minister for Science and Technology at the Department of Trade and Industry (1994-97). He now chairs the Conservative Party's Policy Task-force on Science, Technology, Engineering and Mathematics.

In the House of Commons, he is Chairman of the Parliamentary and Scientific Committee; co-Chairman of the Parliamentary Space Committee; Vice President of the Parliamentary and Scientific Committee; a Board Member of the Parliamentary Office of Science & Technology; Director of EURIM (European Information Society Group); and Vice Chairman of PITCOM (Parliamentary Information and Technology Committee) and of the Committee on Corporate Social Responsibility .

He is a member of the IPPR Commission on National Security. He is also Chairman of the Conservative Europe Group and of the Cuba Initiative.

Prior to entering Parliament, Ian had 18 years experience of providing corporate finance and management advice to companies in the UK, France and USA. He now is a non-executive of or adviser to several companies mainly in the technology, security and investment sectors.

Andrew Miller MP, Member for Ellesmere Port & Neston

Andrew Miller was first elected to Parliament in 1992. His previous occupations include working as a Technician, in the Department of Geology Portsmouth Polytechnic and from 1977-1992 as a Trade Union Official for MSF.

His special political interests include:

- Science and Technology
- Communications and Information Technology
- Regional Economy
- Industry
- Environment

Government Appointments:

Parliamentary Private Secretary (Department of Trade and Industry) 2001-2005, Member of the Next Steps Team working with the Foreign Office to promote relations with new EU member states with specific responsibility for Hungary and Malta 2001- present

House of Commons Committee Activities:

Chairman Regulatory Reform Select Committee
Member of the Liaison Committee
Parliamentary Labour Party Departmental Committee on Employment
Parliamentary Labour Party Departmental Committee on Environment
Chairman, Parliamentary Information Technology Committee
Member Editorial Board, Science in Parliament
Deputy Chair, Parliamentary & Scientific Committee

Other Activities

Chairman: All Party Group for Road Traffic Victims 1999-2005
Past Director EURIM (European Informatics Market)
Council Member: EURIM
Chair: NW Parliamentary Labour Party 1996-1997
Chair: Leadership Campaign Team 1997
President: Computing for Labour
Member Scientists for Labour
Patron: Westminster Media Forum

Member Action for Southern Africa (ACTSA) and previously Anti-Apartheid
Honorary Life Member of the League Against Cruel Sports

Andrew George MP, Member for St Ives

Andrew George was first elected as Member of Parliament for the West Cornwall and Isles of Scilly Constituency of St. Ives in 1997.

Prior to his election, he worked for different charities in Nottinghamshire, Devon and Cornwall specialising in affordable housing, anti-poverty work, economic and environmental development and community facilities work. He also worked as a researcher and writer. He is a long standing campaigner on international development issues.

Parliamentary career & Committees

Shadow Fisheries Minister, 1997-2005; Shadow Disabilities Minister, 2000-2001; Shadow Rural Affairs Secretary, 2002-2005; PPS to Charles Kennedy, 2001-2003; Regional Affairs Select Committee, 2001-2005; Agriculture Select Committee, 1997-2000; Shadow Secretary for International Development, 2005-2006; Communities and Local Government Select Committee, 2008 -; Speaker's Conference, 2009 -.

Andrew George is a published author: A View from the Bottom Left-Hand Corner (Penzance: Patten Press, 2002) ; A Vision of Cornwall (1995); with Bernard Deacon et al: Cornwall At The Crossroads (Redruth: CoSERG, 1989); and The Natives are Revolting Down in the Cornwall Theme Park (1986).

1 Comments on the origins of Nominet's governance structure

Nominet was set up in the early days of the internet when it first appeared from the universities, with a governance structure adopted to suit the original stakeholders.

At that time, no-one was in a position to plan for the explosion and omnipresence of the internet, and its ultimate importance to citizens.

Since the Internet Corporation for Assigned Names and Numbers (ICANN) franchised out the domain name allocation responsibility to national organisations, this Nominet structure has been effective as a supply chain arrangement. However, it was not designed to and does not necessarily have to take account of, the varied interests of the whole range of stakeholders.

There is currently no general and necessary accountability to wider stakeholders in Nominet except in formal terms through to ICANN and ultimately – in theory at least – to the US Chamber of commerce. This has its own problems because there is a separate live debate about the accountability and therefore the future of this arrangement.

It should be noted however, that Nominet is a clever and responsible organisation. It is an excellent business and there are very few problems as a domain name registry.

There is an enormous amount of respect for Nominet's engagement with industry and with other partners. In practice, Nominet has acted as if it holds the domain name assets in trust rather than only on behalf of the members of the company, but that is not reflected in Nominet's structure and governance arrangements. As well as consolidating such good practice within the governance of Nominet, this needs to be spelt out as a key part of its purpose as an organisation.

2 Comments on the main purpose of Nominet

The obvious purpose of Nominet is to create a structure that enables business *and the wider community* to undertake internet business by operating an efficient registry service.

For the future, Nominet needs to also anticipate changes coming up in the internet and be able to help position its services and the UK government to meet this.

The ownership of Nominet

Nominet's Members are the legal owners of the company. They happen to be the current owners because of the history of the organisation. However, the environment that Nominet operates in is changing and there is a need to reflect this in the constitution.

In fact, the membership of Nominet is a proxy for the wider range of stakeholders and the public at large. For the future this needs to be reflected more clearly in Nominet's own structures and governance.

This is of interest for everybody and is not best represented through a top down government agency. The independence of Nominet is therefore important. Yet, there will be a temptation for the Government and Parliament to move in the direction of a statutory agency if Nominet's current membership and structures turn inward.

Nominet's Stakeholders

The problem is that those who know they have an interest in Nominet are most directly involved with the registry supply chain, but those who actually have an interest include virtually everyone.

Anyone who does business in any field has an interest – for general users it just needs to work for them. For intellectual property people it is part of the everyday business that they do.

Anyone that depends on the internet to do their business is an important stakeholder. Businesses that depend most on the internet include ISPs and those in the internet security industry. Big companies that provide services and do business over the internet are important stakeholders.

However, the most important stakeholders are the public at the end of the day. They need the internet system to work, even if they just use it for social networking. Everyone needs the system to work well. There needs to be a formal ‘public interest’ voice in the governance structure. It is important for the stakeholders to be represented effectively and fairly, which is why the findings of the Governance Review need to be implemented fully and speedily.

3 How could the Nominet Governance structure be improved?

It is important that the Nominet governance structure includes more than just the current members of Nominet who have a vested interest in Board decisions such as pricing. The wider public interest needs to be taken into account.

There is a need to change the governance of Nominet to correct an imbalance that has allowed some members to claim a dominance of member interests that is clearly unsustainable.

If members think that they own the company, that's legally true, but they don't own .uk - they hold it in Trust for the nation, within arrangements that work internationally. But this is only sustainable on the basis of responsibility by Nominet continuing to retain trust and confidence inside and outside the industry.

If that is under threat then there will need to be new and appropriate checks and balances so that decisions do not just serve the interests of specific stakeholders. The ultimate representation of wider public interest is not just about giving out domain names.

If the current situation continues, it will kill the company because the tolerance of the current situation would evaporate and government would have to intervene.

The future Governance structure must strengthen the public interest element and make sure it cannot be hijacked by any interest group. The alternative is new regulation or taking the responsibility away and establishing a public body.

There needs to be a membership forum that feeds into the Board decision making structure. This would provide checks and balances in the Board structure. There should also be an element in the Board that represents public interest.

The question for Nominet mirrors the international stand-off between those who want minimum interference with human behaviour, with governance that is primarily about encouraging good behaviour and intervening only where necessary rather than the alternative of bureaucratic control and a detailed legislative straight-jacket. The alternative is to build in a co-operative structure that represents all interests, not partial interests.

There are four very clear elements of Nominet's governance to consider -

- Industry
- Government
- Parliament and
- Civil Society

Industry: So many decisions are taken in the business community in the widest sense that Industry has to be a partner. That is quite difficult because on the one hand so many decisions made by some of the big international players are more important and influential than governments and on the other hand there are a plethora of small businesses whose combined impact is also enormous. The engagement of those who are at the cutting edge is essential to good governance. But "self regulation" alone cannot work for such a complex network of human activities and communications. It is not just about the technology or the systems – it is about the people that are affected by Nominet's work.

Government: National or international governance does not exist without governments. However, the nature of the Internet makes it impossible for governments alone to provide the governance. Governments work through formal institutions and structures and treaties and are by their nature slow-moving especially if there is a need to move by consensus. So "the Government" within the UK and "governments" in the international context have to be parties to Internet Governance but not totally own it.

Parliament: Engaging Parliamentarians across parties is essential in order to open up the Internet in international terms and within the UK to ensure that there is continuity in the long-term across administrations. But in any event accountability is essential. Government and Industry cannot be left to themselves and Parliamentarians across Party are essential to ensuring that there is public accountability. They should be represented in any governance structure.

Civil Society: There needs to be an engagement of civil society both in the sense of enabling the public to have a voice - whether through "online community engagement" or the protection of consumer and citizen interests or to provide a voice for the weak as with child protection etc.

Industry and Government are the big beasts whereas Parliamentarians and Civil Society provide the leavening and the accountability.

It is not necessary to see these stakeholder relationships as proportionate or symmetrical, but each element of internet governance has to have some configuration of those four elements if it is to be successful and proof against a more bureaucratic approach. Nominet probably needs to reflect that if it is to achieve robust governance that will proof it against interference.

Key points:

- **Nominet was established before the internet was in general use.**
- **Its governance structure reflects its origins rather than its current needs.**
- **The internet and therefore Nominet's work is of interest to many more stakeholders now.**
- **These stakeholders can be categorised as industry, Government, Parliament and Civil Society.**
- **Nominet has pursued 'best practice' as if it truly holds its assets in trust for the wider community and that should be reflected in its statement of 'purpose' as an organization.**
- **Nominet's governance structure must be re-cast to properly represent these stakeholders as set out in the Governance Review.**