

a) Brief description of the topic under appeal.

Appeal against the confirmation of consensus declared by the Policy Liaison Team and the Board on the selection of PDWG Co-chairs

b) Date of the appeal.

19th April 2021

c) Name and email address of complainant.

Emem William

dwizard65@gmail.com

d) Name of complainants.

1. Olamide Andu (olamideandu@gmail.com)
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e) i) Date of the decision made by the Policy Liaison Team

(1) 6th April 2021

(2) 9th April 2021

e) ii) Date of the decision made by the Board of Directors

11th April 2021

f) Reference to an announcement of decision which is being appealed

(1) 26th March 2021, Eligibility criteria imposed by Policy Liaison Team

(<https://lists.afrinic.net/pipermail/rpd/2021/012768.html>)

(2) 9th April 2021, Policy Liaison Team announced consensus is achieved

(<https://lists.afrinic.net/pipermail/rpd/2021/013018.html>)

(3) 11th April 2021, Board Chair declared consensus

(<https://lists.afrinic.net/pipermail/rpd/2021/013052.html>)

Appeal Submission

1. Reference is made to the matter relating to the selection of the new PDWG Co-chair.
- 2.1 First and foremost, it must be agreed that the power and prerogatives of the Board of Directors are not absolute and their power and prerogatives are not in any ways unlimited. The power and prerogatives of the Board are limited and shall be subject to the AFRINIC's Constitution and the Consolidated Policy Manual (CPM), which prescribes the mandate and prerogatives of the Board of Directors of which effectively stipulates how and when they can act. In essence, the Board of Directors cannot act beyond whatever is prescribed under the AFRINIC's Constitution and CPM and thus have no power to declare consensus.
- 2.2 Therefore, it can be concluded that the actions of the Board of Directors to self-declare consensus over the PDWG matter in selecting the new co-chairs is done outside of their scope of power and prerogatives. By declaring consensus on the selection of the co-chairs, which is done outside of their prerogatives, it is safe to conclude that the declaration of consensus is illegal as it is not within the prescribed power and prerogatives of the Board of Directors. The Board of Directors should have referred to and comply with the stipulated terms of the AFRINIC's constitution and the CPM and ensure that any action that is taken by the Board of Directors is done consistently and in compliance with the stipulated terms of the AFRINIC's Constitution and the CPM, which was not the case. The declaration of the consensus by the Board of Directors shows that the Board of Directors have acted above and beyond their prescribed power and prerogatives.
- 3.1 The AFRINIC team coming up with a list of requirement and qualification for the candidates of the co-chairs is clearly uncalled for and unwarranted as the list of requirement and qualifications were never stipulated within the CPM. It

is a clear position that the list of requirements and qualifications for the co-chairs MUST be approved by the community and the approved version shall be clearly stipulated under the CPM. In the current situation, even if the AFRINIC team was to serve as secretariat then it should not have implemented things selectively. AFRINIC team needs consensus from the community and on this occasion we clearly observe that there was no consensus.

- 3.2 It is vital to note that the list of requirement and qualification imposed by the Policy Liaison Team were never stipulated under the CPM or agreed to by all in the community. By simply adding on a list of requirement and qualification proves that the Policy Liaison Team have acted arbitrarily and with blatant disregard to the terms and procedures which are clearly stipulated under the CPM or consensus from the entire community. You would recall that a similar policy was earlier proposed and it never reached consensus within the community. It was never close to reaching consensus. Therefore this is like implementing a proposal that never reached consensus. In this occasion it can be seen that it was clearly done in bad faith, through the back door and outside the provision of the CPM.
- 3.3 The above clearly refute the entire notion proposed by the AFRINIC Team and their imposition of the self-prescribed list of requirement and qualification for the selection of the co-chairs and the list of requirement and qualification did not follow through the proper channel of approval and therefore being stipulated under the CPM. Moreover, the same applies in regards to the disqualification of certain candidates declared by the Team is entirely arbitrary in nature. This shows that there is a clear intent on AFRINIC to dictate and meddle pertaining to matters within the PDWG and acting above and beyond their prescribed power and prerogative under a very convenient noble pretext of facilitating the community.
- 4.1 Based on the above stipulations coupled with the actions of the Board of Directors and their blatant disregard of the AFRINIC's Constitution and the CPM, it shall be construed that the entire process of the selection of the new

co-chairs, including the arbitrary list of requirements and qualifications, shall be rendered invalid.

- 4.2 There are certain requirement and accepted flow of events which need to be met by the Board of Directors, which in this case, is neither met nor fulfilled. Thus, rendering the entire selection process invalid from every single aspect and prospect.
- 4.3 In addition, a mere announcement made by the AFRINIC Team and Board of Directors respectively to the PDWG does not in anyways make their actions to be rendered legal or acceptable. Their attempt to make announcements and by using terms like “consensus being achieved” in the PDWG is not and must not be the position in actuality. Their self-proclaimed’s call of consensus shall not be acceptable as it is without a clear indication that a consensus has actually been achieved.
- 4.4 In fact, it can be construed that their claim or consensus is in actuality an abuse of both their position and the process to achieve consensus. On numerous accounts and times where numerous issues were raised and addressed to the Team and the Board of Directors seeking clarification and answers and this was never provided nor addressed. With these issues and concerns left unaddressed and unattended, how the entire notion of consensus regarded as achieved by the Team and the Board, is till date, unknown. In fact, the Board of Directors and AFRINIC team are clearly practicing the very same thing some people accuse the previous co-chairs of doing, which is passing something without meeting the consensus when they were even required to declare a rough consensus. Again, the previous co-chairs did had done things within the stipulated terms of the CPM, whereas, the Board of Directors and AFINIC team opted to act as God with blatant disregard of both the AFRINIC’s Constitution and the CPM.
- 5.1 The very basis of the CPM and the PDWG is based on the notion of bottom-up principle and the entire process is backed by the concept of transparency. However, the hijacking of the entire process and flow in selecting the new co-

chairs by the Board of Directors, including the entire list of requirement and qualification which derived arbitrarily through the Policy Liaison Team and neglecting the input and position of the PDWG members, has indubitably contravened that very spirit of transparency. The dubious achievement of consensus is a clear of an indication that the Board of Directors did not operate in compliance with the bottom-up principle, which contravened the very backbone of the PDWG.

- 5.2 There were numerous queries and contentions which were left unaddressed by the Board of Directors on both the list of requirement and qualification and the call of consensus by the Board of Directors and this very many defeats the entire notion of transparency. The Board of Directors failed to remain transparent and on both accounts have acted arbitrarily by being excessively involved and imposing on matters pertaining to the PDWG and effectively leaving doubts on the entire process flow of electing the new co-chairs.
6. The declaration of consensus and the blatant disregard of the process flow as stipulated under the CPM and AFRINIC's Constitution shows that a significant portion of the community's input have been arbitrarily ignored by the Board of Directors. These acts of ultra vires by the Board of Directors are clear-cut examples of the abuse of their position.
7. Since this selection and outcome of the new PDWG Co-chairs is presently the subject of an appeal/complaint and the matter is yet to be determined, therefore, the new PDWG Co-chairs cannot and must not commence their term until this appeal/complaint is resolved accordingly, based on the legal principle of pendente lite. It is also my considered view that any attempt in the meantime made by the new PDWG Co-chairs will be invalid. Moreover, it should be noted that since the Board has no rights to appoint the PDWG Co-chairs in the first instance, therefore the consensus declared shall be invalid and, consequently, the PDWG does not yet have Co-chairs.
8. All in all, the Board of Directors have acted arbitrarily and disregarded the voice of the community and also the terms of the CPM and the AFRINIC's

Constitution. It is alarming that the persons who are expected to protect the sanctity of the CPM and the members are the one outright abusing them. I implore the Board to give due weight to this appeal/complaint and consequently appreciate the actual violations of the CPM and Constitution, in the event that this appeal/complaint is ignored, which would lead to an unprecedented chaotic situation.