

Background

On 21 April 2016 ICANN opened a [Public Comment period](#) to seek community input on the Draft New ICANN Bylaws developed to reflect the recommendations contained in the proposals by the IANA Stewardship Transition Coordination Group (ICG) and Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), as provided to the ICANN Board on 10 March 2016 and transmitted to NTIA.

The Draft New ICANN Bylaws are out for a 30-day public comment from 21 April – 21 May to allow any interested party to review and provide feedback on the Bylaws. This timeline allows for comments to be analyzed and incorporated in time for the ICANN Board to consider adoption of the New ICANN Bylaws on or about 27 May 2016 adoption of the Bylaws by the ICANN Board. Once adopted, the Bylaws are expected to into effect in the event NTIA approves of the IANA Stewardship Transition Proposal and the IANA Functions Contract expires.

The Draft New ICANN Bylaws contain a number of new provisions that may require the GNSO Council and community to develop additional mechanisms to address certain new obligations and allow for the GNSO's effective participation in the Empowered Community that is to be created as a result of the IANA stewardship transition, as well as to ensure continuity of GNSO processes in other matters.

Overview of GNSO Obligations

In order to assist the GNSO Council with identifying those areas where the Bylaw changes may affect the GNSO's role or operations and to address new GNSO obligations resulting from the proposed revision of the ICANN Bylaws, ICANN Policy Support Staff are conducting a detailed review of the Draft New ICANN Bylaws. This document is a summary and overview of that more detailed effort, and is being provided to the GNSO Council at this time to facilitate the GNSO Council's initial discussion of the topic.

The GNSO obligations contained in the Draft New ICANN Bylaws fall into three areas:

- 1) Obligations of the GNSO as a Decisional Participant of the Empowered Community;
- 2) Engagement in the new Customer Standing Committee; and
- 3) New or existing procedures relating to voting thresholds.

The following is a brief description of the types of obligations and actions in the three areas. Staff also are preparing a table detailing the respective sections in the Draft New ICANN Bylaws where these changes are located, identifying possible new or existing procedures that can apply, and noting comments for the Council's consideration. Staff look forward to working with the GNSO Council in this effort.

1. Obligations of the GNSO as a Decisional Participant of the Empowered Community

As stated in Section 1.1(a) of Article 6 Empowered Community, concerning the composition and organization of the Empowered Community (EC), "The Empowered Community ("EC") shall be a nonprofit association formed under the laws of the State of California consisting of the ASO, the

ccNSO, the GNSO, the ALAC and the GAC (each a “Decisional Participant” or “associate,” and collectively, the “Decisional Participants”).” As a Decisional Participant, the GNSO has obligations that are set forth in the Draft New ICANN Bylaws, both in Article 6 and elsewhere. Examples include:

- 1) Actions relating to the Post-Transition IANA Entity (PTI);
- 2) Engaging in consultations;
- 3) Providing comments in public forums;
- 4) Requesting mediation processes;
- 5) Deciding how to address a petition from an individual to a Decisional Participant (in this case the GNSO);
- 6) Engaging in processes for removing Directors and recall of the ICANN Board;
- 7) Engaging in Independent Review Processes (IRP);
- 8) Initiating reconsideration requests; and
- 9) Voting (see below).

2. Engagement in the new Customer Standing Committee

The GNSO will have certain obligations stemming from its engagement in the post-transition Customer Standing Committee (CSC). Section 17.1 of Article 17 Customer Standing Committee states,

“ICANN shall establish a Customer Standing Committee (“**CSC**”) to monitor PTI’s performance under the IANA Naming Function Contract and IANA Naming Function SOW. The mission of the CSC is to ensure continued satisfactory performance of the IANA naming function for the direct customers of the naming services. The direct customers of the naming services are top-level domain registry operators as well as root server operators and other non-root zone functions.”

They further state, “The ccNSO and GNSO may address matters escalated by the CSC, pursuant to their operating rules and procedures.” The GNSO’s obligations relating to the CSC include:

- 1) Appointment of an individual representing top-level domain registry operators (a position separate from appointments to be made by ccTLD registry operators and the gTLD Registries Stakeholder Group);
- 2) Appointment of a liaison to the CSC;
- 3) Approval of initial proposed members and liaisons of the CSC and the annual slate of members and liaisons;
- 4) Periodic review of the CSC charter; and
- 5) Approval of amendments to the CSC charter.

3. New procedures or existing procedures concerning voting thresholds

The Draft New ICANN Bylaws also contain provisions that may entail possible new GNSO Operating Procedures, or changes to existing procedures, involving voting by the GNSO Council. Examples include new Supermajority votes, which should be added to and referenced both in

the GNSO Operating Procedures, including in the voting thresholds table, as well as in Section 11.3(i) of Article 11 (on GNSO Council voting thresholds) in the Bylaws. Examples of new GNSO obligations involving voting include:

- **Section 17.3:** Amendments to CSC Charter – ratified by a vote of the simple majority of the GNSO Council;
- **Section 18.3:** Frequency of Periodic IFRS: Approval of a delay by Supermajority;
- **Section 18.6:** IFR Recommendations approved by Supermajority;
- **Section 18.12:** Special IFR approved by supermajority and Special IFR Recommendations approved by Supermajority; and
- **Section 19.1:** Establish SCWG – SCWG creation recommendation approved by supermajority and SCWG recommendation approved by Supermajority.

As noted above, Staff will follow up on this brief overview with a more detailed table showing all the relevant sections of the Draft New ICANN Bylaws that will require further GNSO Council and community discussion as to appropriate procedures and mechanisms that should be developed or added to the GNSO Operating Procedures.