

GNSO Registries Stakeholder Group Statement

Issue: Draft New ICANN Bylaws

Date: 20 May 2016

Ref: <https://www.icann.org/public-comments/draft-new-bylaws-2016-04-21-en>

The RySG commends the exceptional diligence, dedication, and cooperative spirit shown by the bylaws-drafting-team, consisting of the independent counsels to both the CWG and the CCWG as well as ICANN legal staff, for producing draft bylaws in this complex transition in an extremely short amount of time. Overall, we believe that the draft bylaws changes have reflected the CWG and CCWG proposal suggestions very well.

Please note that these comments were supported by the Registrar Stakeholder Group (RrSG) following a vote by the RrSG membership.

The RySG offers its comments about the draft new ICANN Bylaws below.

1. Article 4 (Accountability and Review), Section 4.6:

- a. **Request:** With respect to the timing/frequency of reviews we believe that the bylaw language should be amended by the lawyers in such a manner as to take into account the schedule/occurrence of reviews in the years immediately preceding the IANA transition as well as the existing demands on the pool of volunteers within the ICANN community engaged in ongoing policy development work.
- b. **Rationale:** The language should provide “reasonably necessary” room to adjust so that the new bylaw language does not (through an unintended consequence) cause a series of “restarted” scheduled reviews in a manner that loses track of the existing schedule or that fails to recognize that many of the experts needed for reviews-work are already laboring under a heavy volunteer schedule.

2. Article 4 (Accountability and Review), Section 4.6.(b)(ii)(A):

- a. **Requested change:** Insert “(including, without limitation, the Ombudsman’s role and performance)” following the words “appeal mechanisms” and prior to the words “for Board decisions”.
- b. **Rationale:** To ensure that the Ombudsman function, which is sometimes overlooked, is reviewed along with the other appeal mechanisms.

3. Article 11 (Generic Names Supporting Organization), Section 11.3.(i)(xix):

- a. **Requested change:** Insert the words “of the Council members” in two places in subsection (B): first, following the words “three-fourths (3/4)” and before the word “of”, and, second, following the words “a majority” and before the word “of”.
- b. **Rationale:** This clarifies the definition for the rest of the bylaws – a change here would avoid amendments throughout the document where “GNSO Supermajority” appears (e.g. Articles 18 or 19).

4. Article 17 (Customer Standing Committee), Section 17.2. (final sentence):

- a. **Requested change:** In the language regarding CSC member qualifications as follows: “provided that such individuals must have direct experience ...” change the word “must” to “should”.
- b. **Rationale:** This would make the bylaw language consistent with the CSC Charter which was part of the IANA Transition Proposal and approved by the multistakeholder community. Hard-wiring “direct experience” as a bylaw requirement versus a desired qualification may eliminate from consideration candidates who are well qualified to serve on the CSC.

5. Article 17 (Customer Standing Committee), Sections 17.2.(f) and (h):

- a. **Requested change:** Change the term “organization” where it appears to “organization(s)”.
- b. **Rationale:** It is possible that a CSC member being removed (or vacancy being filled) might have been appointed by the ccNSO and GNSO jointly under Section 17.2.(b) so these related rights could be a joint effort as well.

6. Article 27 (Transition Article), Section 27.3.(a):

- a. **Requested action:** Do nothing that would diminish the approval rights of the CCWG Chartering Organizations with respect to the framework of interpretation for human rights.
- b. **Rationale:** The RySG is aware of an ongoing debate within the CCWG over its own prospective bylaw comment as to whether and, if so, how to clarify or amend language contained in draft bylaw section 27.3.(a)(ii). The RySG has no position on how a clarification or amendment might be made so long as the chartering organizations’ decisional rights as to recommendations (and thus consequent bylaws) in the IANA transition are left fully intact as per the CCWG Charter.