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JOHANNESBURG–ccNSO Guidelines Review Committee  
Monday, June 26, 2017 – 10:30 to 12:00 JNB  
ICANN59 | Johannesburg, South Africa

KATRINA SATAKI: ....and I mean, ccNSO meet – ccNSO members they on Tuesday and Wednesday. On Tuesday we're going to have an update on public consultation with our community on approval actions guideline. And on Wednesday we'll have Rejection Action Simulation and I really would urge GRC members to be in their... Hello.

UNIDENTIFIED MALE: Good morning.

KATRINA SATAKI: Good morning.

UNIDENTIFIED MALE: Now you have to sing, you know?

KATRINA SATAKI: No, maybe that's not a good idea. I don't know, maybe he's an excellent singer but let's wait for Margarita perhaps.

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Okay, so on Tuesday, please be there and on Wednesday also, be great to... Double trouble. So on Wednesday, we're also going to try to have fun with Rejection Action. Probably, that's going to be the last fun with Rejection Action for a long time. So we'll have simulation and be there to take notes and probably some ideas on how we should handle rejection actions in the guideline. It's not going to be easy, but at least I hope that we've captured some of the problems and we put them into the script. So we'll see how it all plays out and how our community reacts to all these situations.

Regarding the approval action, so that it doesn't come as a surprise to you, as you remember in the guideline, we proposed two alternatives. And initially we had these two alternatives in our presentation – update presentation. Meanwhile, actually last week, we added one more alternative. Sorry, without consulting the group, but at the end of the day it seemed a very good idea. The third alternative, doesn't come as a surprise to you, is that – the moment when the Board adopts this approval action, remember we had two alternatives, now we have a third one. No discussions. No council vote. No ratification vote. We go straight to members vote.

Members vote – two weeks for members to vote and then the Council wraps it up, summarizes the results and send them off to the Empowered Community Administration. For this vote, we

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won't have quorum requirements, apparently, just majority. Majority of those who vote will decide. That's alternative three we're going to propose tomorrow.

Eduardo seems very happy. No, you're not? Okay, good. You know the more alternatives, the better, right? That's about approval action.

Next on our agenda, we have –

BART BOSWINKEL:

Please note, this is about the final stages of the approval action decision making by the ccNSO or the decision of participants. Once you organize it, probably for the approval action, that model will work for the rejection action as well because at the end of the rejection action, you need to take a decision. As ccNSO, maybe it's not advisable to have two or three different methods for approval action and for the rejection action. So that's a broader implication of what you're doing right now with respect to the approval action.

KATRINA SATAKI:

Well we'll have to see, yeah. Rejection action has much more steps than approval action. In the end of – yeah, it could work in the end. Final decision, but these interim steps, we won't have time to get community involved too much.

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Any other comments regarding approval actions? Any questions? Anything? Nope? Okay. Then please remind me what was the next agenda item here.

BART BOSWINKEL: Next, the update IRP process.

KATRINA SATAKI: Yes, update IRP process.

DAVID MCAULEY: Good morning, Katrina. I'm happy to speak generally about the IRP process. There is a slot in the members. They will also be speaking about it, but let me just say a few things generally. I won't show the slides today that I have for – Tuesday or Wednesday, I forget which day it is. But I could just generally comment on the IRP process and what's going on and how it affects this group and generally for informational purposes.

Yesterday we had a full day meeting of the CCWG on Accountability Work Stream 2, and in that I gave an update to the Work Stream 2 about the IRP. The IRP process and the IRP Implementation Oversight Team that I lead was a creation of the CCWG on Accountability Work Stream 1 and it's now a Bylaw's

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entity. Bylaw 4.3 recognizes the IOT as an entity and so our work has sort of changed over time. So we're now a Bylaw entity.

But in any event, the IRP process is a new IRP that is built on a new standard of review. The new standard is basically a substantive standard. The previous standard for the IRP was a procedural standard where the IRP, the implement, looked at issues of whether ICANN have followed correct processes. Now, in response to the CCWG on Accountability Work Stream 1, the new IRP in the Bylaw looks at substantive reviews.

That is whether the action or inaction by ICANN Staff or Board violated the Bylaws or the articles of incorporation, and so that's a very big change. That's number one, that new standards is in effect. Number two, under the new Bylaw, there is work underway to create what's called a standing panel of at least seven members of IRP panelists. These are arbitrators that... and the Bylaw article specifically calls out what kind of qualifications they have to have. These are international jurists in a sense that have to have certain qualifications to act.

There'll be an expression of interest issued by ICANN to anyone in the world to apply, and that is just about to come out. So the Standing Panel is in the process of formation. How that impacts the ccNSO, Katrina, as we have spoken before, is the ccNSO as one SO among the body of SOs and ACs, will have a job in vetting

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or reviewing the applications. And then the SOs and the ACs will have the job of nominating the panelists. ICANN Board will have the right to confirm them, but that right to confirm cannot be unreasonably withheld.

That's in process now and so we, within the ccNSO, should soon get some input from ICANN Legal and ICANN Policy Team. They are creating organizational assistance for the SOs and the ACs to carry out this function. The Implementation Oversight Team that I lead has offered to assist but we don't have a formal role, so all we've done so far is offer to assist. We have assisted in the creation of the Expression of Interest document.

I'm hoping that will be really soon, but the immediate impact to this group will be – we'll hear from ICANN Legal and ICANN Policy saying, "Here's how we think we should organize this effort for – to help the SOs and the ACs." And then the final sort of pillar of the new IRP is the new Rules of Procedure.

Our group is working on doing those and we're in the middle of that, we've received public comment. We're now weighing changes to the rules that we initially drafted based on public comments. That process should wind up in a month or two, I hope. It's a little bit slower going than I had hoped, but we are making good progress now and have had a pretty good stride.

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That's where the IRP is. It's going to affect the ccNSO in its capacity as an SO in picking panelists and helping to get that process underway. That's where we are right now. Bart and I will be working on giving to our group a draft guideline.

There's two guidelines that we needed. One is, how do we participate in that establishment process where our role is wanted to help form the IRP. And then the second and less urgent guideline would be, how do we act as the ccNSO if we ever become embroiled within an IRP. Hopefully we won't, but if that were to pass.

And so that is a rough outline of where we are right now and I'd be happy to take questions if there are any. But that's roughly where we are right now in the IRP process.

KATRINA SATAKI:

Thank you very much, David. So are there any questions around the table or from the audience?

DAVID MCAULEY:

Then I'll be speaking to this on Members Day in a little bit more in depth and with some slides.

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KATRINA SATAKI:

Good. Thank you. So if there are no questions, let's move to the next agenda item. It's about the upcoming work items. Here we tried to list everything that's on our – not everything. The most important one is going to be around the rejection action. As I already mentioned, please be there on Wednesday because we really first need to understand the process and then we need to describe it. Then probably there are things that we need to think through and propose to the community.

Stephen, would you like to share your sense on rejection action, specially, in terms of the guideline so far?

STEPHEN DEERHAKE:

Stephen Deerhake for the record, .as American Samoa. I've got a rough draft of about two thirds of this guideline complete. I was waiting in part for a determination on how the voting process in the approval guideline will shake out because I need to adopt something similar for the rejection guideline. The nub of the whole rejection process is at the timeline for the Empowered Community to act is extremely tight.

There's a 21-day window for any member of an SO/AC to petition their AC/SO leadership and convince them to get onboard with a rejection petition. And then there's an additional seven-day period in which a petitioning SO/AC needs to convince another SO/AC to support that rejection. Then there's some additional



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requirements involved in the structure of the rejection petition if the issue involves a PDP.

KATRINA SATAKI: Okay. Thank you very much. So this is something that we need to come up with and what's the timeline? How do you estimate when we should have the guideline?

STEPHEN DEERHAKE: I expect to have the draft circulated certainly by the end of July, if not towards the 21<sup>st</sup> of July. 21<sup>st</sup> is my personal goal the end as certainly. Then we go into August where things kind of slow down, people can take a look at or take it on holiday for beach reading or whatever. And then we can address it early in the fall.

We should not have another action by the Board in the next probably year-end almost before I would expect to see the Board doing something that would bring about a rejection, petition situation, possibility.

KATRINA SATAKI: Okay, thank you. So would it be feasible for us to complete it by the end of the year, to have it really adopted by the Council?

STEPHEN DEERHAKE: I would certainly hope so.

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KATRINA SATAKI: So let's aim for that.

STEPHEN DEERHAKE: Actually, if we are in at the next meeting, I certainly think we could try to shoot for at least an initial Council discussion there.

KATRINA SATAKI: Yeah, we will have discussion. Okay, thank you.

Any questions around rejection action? Okay, a guideline on rejection action? Yes, Bart?

BART BOSWINKEL: More a common for those of you on the Council and as members. It means that for this particular rejection action that is currently running, there is no guideline. So not even the onset of a guideline and that's the difference with the approval action. And that's something to bear in mind and maybe to inform the Council about.

KATRINA SATAKI: Thank you. That's one thing that reminds me of another thing I also forgot to mention when we spoke about approval action guideline. Even if the Council adopts the guideline, no matter

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which alternative, if adopts the guideline during the face-to-face meeting on Wednesday. This guideline is still subject of the internal rules and we'll get enforced only seven days after it's been approved. So that means there's definitely no time for the community to get involved, whatever alternative the Council adopts.

Which means that apparently we have to ask the community to trust the Council with this one, this particular approval action and the Council will have to decide whether to approve or reject the approval action we have in question which is around the Bylaws. It's just fundamental Bylaws change to remind you.

Yes, Stephen?

STEPHEN DEERHAKE:                      There's a third option for the Council which is to simply abstain.

KATRINA SATAKI:                      Yes, that's true. We still can abstain; but again, let me remind you that approval action will be considered approved if three out of five decisional participants approve it. And if we're one of those who are abstaining, chances are that the action will not get approved. Maybe others are way more efficient than we are but –

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STEPHEN DEERHAKE: Yeah, you're quite right on that, abstention with regards to an approval action is not considered implicit approval. The bar on the approval action is quite high regarding as you properly point out – requiring as you properly point out. The support of at least three SO/ACs.

In my discussions with the other SO/ACs, I think I can reliably say that I think ALAC's in a good position to come up with a good decision. I have less confidence that the GNSO is going to be able to act within their required time constraint. And the address supporting people are out there somewhere and I really can't say what they'll do on that. So I actually think the approval on this is in some jeopardy at this point.

KATRINA SATAKI: Okay, thank you. So we were back on approval action now. We go back forward and another thing I completely forgot to mention, I have to give apologies from Ben. He's with the GNSO as he's our liaison to the GNSO Council. So they're listening closely to discussions in the GNSO. He sent his apologies.

So other work item that we have on our plate is guideline on NomCom selection. Actually, we have to launch the process of NomCom selection according to the old guideline at this

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moment. But this guideline definitely needs some updates because we just have to look into it. We won't manage it for this NomCom appointment but it should be ready by the end of... for next, next year. As you know we need to select our NomCom representatives each year.

So then roles and responsibilities, we stuck a little bit with that one. It's almost ready I'd say, but we need to – we'll go through it one more time and see how – if that fits our purpose and then probably we should move forward with this one.

Then travel funding, it was put on hold while we were waiting for the results of ccNSO Council submission in response to public comments request for ICANN budget. As you know we requested to increase number of traveler's slots. It was partly granted, hopefully there will be more seats available for next year's. So now we have to look into that guideline and see what parts needs to be updated taking into account now that we have more possibilities to fund ccTLD travelers.

Council Election guideline, actually it's quite ready, but again, due to all the things we had to do in preparation for Approval Action and Rejection Action Simulation, this meeting, yes it's again put on a shelf. But needs to send it to the Council and then back to the community for public comments.

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Another thing, that we happily postponed last year, we need a guideline to select our representative on CCG. As you remember, that's the group – actually, I think its dormant group. I don't think they do anything. Well, they're not supposed to do anything. They supposed to keep an eye on these intellectual property things like IANA name and logos and domain names and some trademarks. That was the word. Yes, trade names, trademarks.

We asked the Council to appoint our representative to this group without due process because we had to do that. There were time constraints. But the Council appointed Martin for a year and now this year, successfully passed, we still don't have a guideline.

Well, that's speaking about priorities. Other guidelines were on higher priority and they still are of higher priority, but this is something that we still need to do.

I see you look very enthusiastic about all the things that need to be completed. Any questions? Any suggestions? Any volunteers to write in your guideline? Eduardo, was that aye?

EDUARDO SANTOYO: [Inaudible]

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KATRINA SATAKI:

It wasn't aye, okay. Any Other Business? Anything you would like to add?

Just so, as you may remember in Copenhagen, we agreed that we will have the guidelines online in Google as Google Documents so that everybody can see and update. That's what we tried to do. Does that work? Are you happy with the approach?

Bart is not happy, but I'm not surprised. He just does not like technologies. He forgets his password, apparently. Okay.

So we continue with Google Documents. Currently Stephen is working on a Word document and as soon as it's in a good shape, we will publish it so that everybody will be able to comment and add some more meat to the guideline, any other guideline as well.

For the guideline on CCG, I think well we can use the simplified version for any other appointments we had. For example, for RSSAC, I think we just take it as an example and we'll build a new guideline on top of that structure, not too complicated. One of the easiest – David, please.

DAVID MCAULEY:

Thank you, Katrina. On the CCG appointment, is there a sense of urgency in putting that guideline together as I'm wondering.

KATRINA SATAKI:

Well there's a sense of urgency in reappointing. Either reappointing Martin or appointing another person. That is definitely urgent because the Council appointed him only for one year. But we won't manage to get a guideline by that time. So again, it will be done by the Council decision without a guideline. Basically, I say that we have one year for NomCom and CCG – okay, less than one year, let's not be so – 10 months for those two.

The most urgent as they are very difficult and important to rejection action and Council election. But again, we won't manage it for this Council election, but we have current guideline so it won't be something absolutely out of order. We just follow the current guideline, but the new guideline as more specific about who we'll elect and how we do it. But the current guideline is still very applicable, no problem with that, David?

DAVID MCAULEY:

Well then, as you know Bart and I are about to get to work on the IRP guidelines, the two guidelines I just mentioned a few minutes ago. On the IANA Trust CCG guideline, I'll put my hand up to volunteer because I have an intellectual property background. It might help in putting that together, but I might put the IRP ahead of that.



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KATRINA SATAKI: I think there's actually not much need for any specific in-depth knowledge on IRP because the requirements, they are quite clear. And we just use this, the same template we used for RSSAC. Just change the requirements and... So it's definitely not the most difficult guideline. We just didn't have time to do this.

Any other comments, questions, suggestions? Yeah, [inaudible].

UNIDENTIFIED MALE: Links to Google Documents are not always easy to find. Is there a chance to edit on wiki page where the PDFs and docs files?

KATRINA SATAKI: Technically, yes and practice that would mean that anyone could go there and yeah –

ALEJANDRA REYNOSO: Well, we can say that anyone with the link can only view or they can comment. But not everyone with a link can edit. So it depends up to us if we have it on... If it's public, I would suggest you have it View Only but –

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KATRINA SATAKI: Well, I think it might send the wrong signal because it's still in the process. When they are draft and when we're still discussing, people just might get stressed, for example, and "confused" probably is the right word, yeah. Confused and it's better to show something when we come up with the real thing. If we can make it that nobody can see it unless we just open it for public comment, then it's okay.

ALEJANDRA REYNOSO: That can also be the case but I don't think I have everyone's Google accounts. So right now, it is the one with the link will comment and the ones that were added manually can edit. So if I have all the addresses then I can put that only specific people have access. That means that nobody else will be able to edit it.

KATRINA SATAKI: All right, it should be possible. I'm sure that we sent but probably we could just ask the Secretariat to compile the list of all these Google accounts and send them all to Alejandra and she does the magic. Yes, Alejandra?

ALEJANDRA REYNOSO: Another thing that maybe could be helpful is when the calendar invite is provided for the next GRC call, then all the links are added there so the ones that get the calendar invite could easily

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get access to the documents. I can also give this to the Secretariat to compile.

KATRINA SATAKI:

Okay, yeah, thank you. That would be really helpful and actually in the right way we need to do a lot of updating in our wiki space/wiki page. There's other things on our to-do list but they will just postponed because other items were more important and more urgent. But yes, we need to update all information we have on our wiki page something that needs to be done, I know that to do thing. I hope you [are done]. Thank you. So thank you very much for your work, for your commitment to make sure that ccNSO is always on track.

Actually, one more thing is that I hope that the review of the ccNSO will be the deferred to the next year which means that, again, we have to – we have a little bit of time to go through the comments from the previous review and see what else we still need to do. We have done a lot and I think we are in a good shape and actually ready for the review but I still go through the document and see if there is anything else we need to do.

Okay, with that, thank you very much. Thank you for your time and be here with us. Don't forget to pay attention to public consultation with the community on Tuesday and the fun we're

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going to have on Wednesday. So thank you very much and see you around.

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