
ICANN78 | AGM – Approval Action Community Forum
Thursday, October 26, 2023 – 3:00 to 3:30 HAM

NATHALINE PEREGRINE: Hello, and welcome to the Approval Action Community Forum at ICANN78. My name is Nathalie Peregrine, I'll be the remote participation manager for this session. Please note, this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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To ensure transparency of participation in ICANN's multi-stakeholder model, we ask that you sign into the Zoom sessions using your full name. And with that, I'll hand the floor over to my colleague Ozan Sahin.

OZAN SAHIN:

Thank you, Nathalie. And good afternoon, everyone. Welcome to this session, the Approval Action Community Forum. I'm Ozan Sahin, ICANN Org member in support of the Empowered Community Administration. And this afternoon, I'm joined by the Empowered Community Administration members. We have Alejandra Reynoso from the decisional participant ccNSO, German Valdez from decisional participant ASO, Address Supporting Organization. Greg DiBiase from decisional participant GNSO, Generic Names Supporting Organization, and Nico Caballero from Governmental Advisory Committee.

So in this session, Alejandra Reynoso will give an introduction of the Empowered Committee and the Empowered Committee Administration. And then Sam Eisner from ICANN Org also joining me on the table who will provide details about these fundamental bylaws amendments. And also, we have the ICANN Board chair, Tripti Sinha, who will provide the Board's perspective.

And also, we will do in the end question and answer section. So if you have any questions or comments, you will have the opportunity for that. So without further ado, I will leave the floor to Alejandra Reynoso. Alejandra.

ALEJANDRA REYNOSO:

Thank you. Thank you very much, Ozan, and welcome everyone to the Forum. I would like to remind everyone to speak a little bit slowly for interpreters. And with this, I would like to introduce you to the concept of the empowered community. This is something that we find in the bylaws after the IANA transition.

So as Ozan mentioned, there are decisional participants, there are five of them, you can find them listed there. But empowered community is the mechanism through which ICANN supporting organizations and advisory committees can organize under the California law to legally enforce community powers defined in the ICANN articles of incorporation and bylaws.

There are five decisional participants, it's the Address Supporting Organization, the Country Code Name Supporting Organization, the Generic Names Supporting Organization, At-Large Advisory Committee, and the Governmental Advisory Committee.

We have also another term, that is the Empowered Community Administration. So this is the administrative body through which the empowered community acts. So the work we do is strictly clerical. We basically do the paperwork handling between the ICANN secretary and the decisional participants. We do not make any decisions, we just transfer input from one place to the other.

We will do the vote counting and report the results when needed. You here in the audience present in the room and in the Zoom room are the community, which is part of this empowered community. And this is the multi-stakeholder model in practice where we make decisions together. Next slide, please.

So we are talking about the empowered community, and there are also nine community powers. I will put in the chat the link to the empowered community website, where you can read in detail each and every one of these community powers. The one that we are exercising today, it's the power of approval of fundamental bylaw amendments, and that's what we are gathered here for.

And to give you a little bit more details on the process, may we go to the next slide, please. Thank you. So this is how this form came to be. We, the Empowered Community Administration received an action board notice by the ICANN secretary on the 15th of September. And one of the things that we may do is request an Approval Action Community Forum.

And for this, there are two options. We can have it online within 30 days of receiving the notification, or we can request it to happen at the next ICANN meeting, and this is where we are now. So today, we are at the community forum, and here is where we will have the opportunity to express any concerns or comments or ask questions regarding what is proposed to be amended. It is important to notice that the decisional participants, the five of them, need to either support, object, or abstain within 25 days since today.

So by the 16th of November, we need to gather this input. And for this approval to take effect, we need at least three decisional participants to support it, and no more than one decisional participant to object. With this, I'll hand it the floor back to Ozan. Thank you.

OZAN SAHIN: Thank you, Alejandra. And now, we go to Sam Eisner for the details on the fundamental bylaws amendments.

SAMANTHA EISNER: Thank you, Ozan, and thank you Alejandra. Again, I'm Samantha Eisner, I am a Deputy General Council with ICANN, and I've worked with the community to help form the empowered community, as well as worked with the Board on the approval of the IFR recommendations. So we wanted to take some time today to explain again what's under consideration for the empowered community.

So if we can go to the next slide. So, what's under discussion today is a group of bylaws amendments relating to the IANA Naming Function Review. These are set out at sections 18 and 19 of the ICANN bylaws. These were part of the accountability measures put in for the oversight of the IANA function itself as part of the IANA stewardship transition.

So the IANA Naming Function Review is a way that the community has the opportunity to review how IANA is performing its work on the naming function side.

And the community identified that these IANA naming function review bylaws were of such importance that we needed to make sure that the community affirmatively agreed to changes to them as opposed to the regular rejection action that the community has for other types of bylaws, which would be the Board approves them, we give a notice to the empowered community, and if there's no objection, they move forward.

So there were a group of different bylaws changes that were posted for public comment. And part of our normal practice is to post those bylaws changes in redline. What the Board approved were the changes as posted. So there was one additional change actually that was put through based on a ccNSO comment.

But the sources of the bylaws amendments we wanted to run through, because it came from a few different places first, the first IANA Naming Function Review identified that there was a duplicative requirement in the scope of the IANA Naming Function Review itself, and they asked for that to be removed.

Second, in 2019, we had a separate bylaws change process regarding the IANA Naming Function Review regarding the geographic composition of the naming review team itself and how those members were selected out of the ccNSO. During that process, the Registry Stakeholder Group identified a particular need for a change in the composition of their selection requirements in the IANA Naming Function Review.

At that time, we told the Registry Stakeholder Group, we would hold those recommendations to see if anything came out of the IFR itself that required a bylaws change so we could bundle them all together. And then after the running of the first IANA Naming Functional Review, we realized that the bylaws themselves were a bit byzantine in how they were laid out.

And there was particular confusion even from the side of those who helped in drafting them about what some of the provisions meant. And so we had a lot of internal time spent going through and saying,

okay, this 45-day requirement, does it go here, does it go there? And so we worked back with the transition proposal, and we made clarifying changes to the bylaws, to the procedural requirements within their-- taking great care to make sure they were aligned with what was actually recommended.

So we didn't change any requirements, but we made it simpler for everyone to follow, including those who are responsible for adhering to those bylaws requirements. And so those were all put out for public comment, and to help the community identify where those changes are, because the document that was posted was about 10 pages of redline, we actually accompanied that bylaws or the public comment posting with a table to help the community identify what was being changed.

So, I'll walk through those with you in a second, but as Alejandra noted, we've had these timelines here. It matches up with what Alejandra had on her timeline slide. If you can go to the next slide, please. So, as part of the public comment period, we did have community response there.

The comments as a whole, only four comments were received. We received comments from the ccNSO Council and the Registry Stakeholder Group, which is notable because those are the two main constituencies that comprise the IANA Naming Function customers, and they're the leaders of the IANA Naming Function Review itself.

And then we had two individuals who submitted comments. So the comments as a whole supported moving forward with the

fundamental bylaws amendments. There were some comments that raised additional questions, but those were not acted on by the Board.

Two commenters requested competing changes to the frequency of the IANA Naming Function Review itself. One commenter requested a change to the scope of the IFR responsibilities. Flagged within the public comment with the summary report we put out, we identified that each one of those items were heard, but we could not act on them.

We specifically noted that the IFR responsibility item would be flagged to the new IANA Naming Function Review team that's being seated for consideration. And as well as the frequency of the IFR process itself, though that also could be changed through a different type of community consultation if the community members came together in a different way and wanted to have that conversation outside of the IANA Naming Function Review.

There was one additional change that was taken on because we had to change some numbering in a different section of the bylaws just to account for the change in numbering in a different place about the numbers of the seats to make sure that it was reflected in an appropriate place for chair selection in different sections.

So that was more of a norming requirement, but we took that on. So if you can go to the next slide, you'll see, and one more please. So I'll walk you through basically the six types of changes that were put out. So first, we saw changes to Article 18. So Article 18 goes to the normal regularly occurring IANA Naming Function Review.

So we removed that scope issue that the first IANA Naming Function Review Team identified. And then we also took care of that 2019 public comment proceeding submission from the Registry Stakeholder Group regarding the IFR team composition requirements from the Registry Stakeholder Group itself. Article 19 is about a special type of IANA Naming Function Review, but they have many component sections. If you look at them side by side, there are many places where there are similarities between the two.

And so what we needed to do was we needed to conform the relevant sections in that special IANA Naming Function Review section to match with the items we were changing for the initial one, because we want those to be the same in terms of composition and some of those procedural requirements to make sure that they were clear to understand.

So we conformed the ccNSO representative selection item that we took care of in 2019 through the empowered community process. And then we also clarified that Registry Stakeholder Group section. If we can move to the next slide, please.

So then we provided a list for the community, and this is also in that public comment proceedings. We've identified where we had some punctuation changes for clarity and reading and clearing up some typos, we had clarification. This was a really big one.

So article 18, section six, for us, the clarification of sequencing of the board consideration of IANA Naming Function Review outputs. So we reordered the paragraphs to make it clear on the timing of consideration of those outputs and including the clear definition of

what constitutes a Board rejection, and when the empowered community has the opportunity to come in and consider that rejection.

Because what we had before was, we had this very long description of all this process, and then at the end it said, but for avoidance of doubt, this only applies in this one little time. And so you read through this whole section and you try to chart out everything, then you realize it only comes into being for this one particular use case.

And so what we did was we move that use case up to the top so we were clear for everyone in this situation, this is what happens. So for section eight, you see the clarification of the geographic diversity requirements, and then the renumbering of the internal references for the chair selection process. And then section 12 was that removal of the duplicative grounds for the special IFR, that was the one requested by the IANA Naming Function Review team.

And then we did the same thing with some clarification of those outputs. We wanted the special obligations to be more clearly stated within there. And so if you have read through the red line, hopefully we did a good job. I think it's at least a better job than what we had before to make it really clear what the expectation is, and because there was very similar language between the earlier section and this one, we mirrored that language if you move to the next slide.

So then we had to conform the change that was made in 2019 as it relates to the ccNSO representative on the regular IANA Naming Function Review. We hadn't conformed that into the special IANA

Naming Function Review, so we took care of that. And then we had another renumbering of the internal references.

And so, hopefully, if these changes are adopted through the community, this will result in both having the composition reflective of what the community groups who comprise the IANA Naming Function Review have requested it to be, but also a more clear and predictable process at the end while still upholding all of the requirements of the process that the community gave us through the IANA stewardship transition. So I think with that, I can turn it back to Ozan or Alejandra.

OZAN SAHIN:

Thank you, Sam. Tripti, could you please share with us your remarks about the ICANN Board's perspective in approving these fundamental bylaw changes and the empowered committee action that is underway.

TRIPTI SINHA:

Thank you, Ozan. So I'm delighted to be part of this Approval Action Community Forum on behalf of the Board. Watching ICANN's empowered community in action is a testament to the work that the community achieved through the IANA's stewardship transition.

You identified a set of fundamental bylaws for which you, the community, require the opportunity to consider and approve before they go into effect. In the seven years since the transition, the empowered community has only considered these bylaw changes three times.

A change to a board committee, considering ICANN's accountability mechanisms, an earlier change to the IANA Naming Function Reviews bylaws, and today, further IANA Naming Function Review bylaws that Sam just presented. Thanks to the empowered community for approving the two prior amendments. From the Board side, we considered these bylaws carefully before granting our approval in September and initiating the empowered community process.

In particular, we considered public comment on the bylaws amendments where there was clear community support for the changes as proposed. As noted in the Board's rationale, the Board also took into consideration those public comments that were not able to be incorporated into the bylaws changes before you. We were glad to see that no decisional participants within the empowered community raised an objection to the bylaws as presented, and hope that's a signal of your future approval of these amendments.

On behalf of the Board, I thank all of you for the time and dedication across the bylaws change process, and for convening this community forum. This is a multi-stakeholder model in action, watching your dedication to these important accountability safeguards represented in this process today and in the coming month as you vote on this action. We deeply appreciate the community's partnership with the Board on carefully safeguarding our bylaws. Thanks again for having us.

OZAN SAHIN:

Thank you very much, Tripti. Nathalie, if we can go to the next slide. On the slide, you will see the next steps as Alejandra explained.

Thursday, 26th of October marks the expiration of the April election community forum period by the end of the day local time of the ICANN public meeting.

And you see on the slide the next steps, and it also marks the April election decision period opening, which will expire on the 16th of November. Is there anyone from Empowered Community Administration who would like to add who has comments? Yes. Alejandra.

ALEJANDRA REYNOSO:

Thank you, Ozan. So now, your responsibilities here in this forum are to ask questions about these proposals and then return to your supporting organizations and advisory committees, debate on the merits of such proposals, and guide your leadership towards a decision to support, oppose, or abstain on this decision. I think we should go now to the open Q&A.

OZAN SAHIN:

Yes, please come to the mic if you would like to ask a question or make a comment or if you're in the Zoom room attending remotely, please use the Q&A pod to ask your question. Thank you. Steve.

STEVE DELBIANCO:

Thank you, Steve DelBianco with the Business Constituency. And I looked around and about half of the folks in this room were around in 2014, 2015, and 2016 when we used the IANA transition as a leverage point to create bylaws, processes, and empowered community that

would allow the communities ICANN was designed to serve to hold the Board and Org accountable to those communities.

But the other half in the room, you have to be mystified about why there would be so much preparation from Legal and Org and why the entire Board is seated in the room to look at what seemed to be insignificant and trivial amendments to the fundamental bylaws, but you couldn't be more wrong. This represents an exercise of the muscle of the empowered community because there may be times in the future when we're exercising this muscle on far more controversial amendments to fundamental bylaws or a challenge to a decision that ICANN has made.

And the fact that you're taking this so seriously gives me great comfort and it gives me ammunition back in Washington DC where critics of ICANN and folks who wish the transition never occurred are continuing to wonder whether the empowered community has any power at all.

So I'll point to this as an instance, that it's really being taken seriously. So when and if we need to hold Board and Org accountable on something more significant, we'll know how to do it. So I thank you for your seriousness.

OZAN SAHIN:

Thank you for the comments, Steve. Do we have any other comments or questions? And I believe we have no remote questions as of now. All right. In the absence of no other questions or comments, I guess we will adjourn this meeting and thank you for your participation. I see Greg would like to make a comment. Please go ahead.

GREG DIBIASE: This is Greg DiBiase for the record. I just want to thank Alejandra because she really drove this effort among the empowered community participants and put together these slides. And like Steve mentioned, this is a really, really critical exercise. So I think everyone played a part here, but Alejandra went above and beyond.

ALEJANDRA REYNOSO: Thank you.

OZAN SAHIN: Yes, thank you everyone. The meeting is adjourned, and have a good afternoon. I see you in the 25th annual general meeting.

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