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KOBE – ccNSO: Guidelines Review Committee  
Saturday, March 09, 2019 – 10:30 to 12:00 JST  
ICANN64 | Kobe, Japan

KATRINA SATAKI:

We have summarized those two most urgent changes in the ICANN bylaws that we have identified. Actually, yeah, thanks to Chris ... Chris sent a question to ICANN Legal asking how can we initiate the changes in the bylaws and we received a response from ICANN Legal. So, what we need to do is ... Well, apparently we need to write to the board with some justification or explanation or rationale why we need that change. They will ask ICANN Legal to look into that. They will come up with a proposal. Well, hopefully in collaboration with us. Yes, I agree. That would have been very nice.

Then, of course, the usual process of public comments and everything. Then, of course, approval action process.

Well, I asked for the timeline here. Response from ICANN Legal was – Sam’s estimate was it might take at least four months. I think it’s very optimistic. Probably even longer, six to nine months. But we need to start it really very soon. Stephen?

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STEPHEN DEERHAKE: Question on procedure. Given that council decides that a bylaw change is in order – for example, the one that’s staring us in the face – council writes to ... I’m trying to figure out the sequence. Council decides, yes, we need to do this. Council directs the chair to write to ICANN Board and/or Legal. They come back and confer. We agree on language so we now have a new proposed bylaw language change. Council approves it. Does it then need to go to ... It goes into a public comment period. Is the ccNSO community involved in approval at any step after council says, “Yes, we really want to do this,” and this is the language and we’ve accepted public comment and maybe it got tweaked a little bit as a result of that? But once council gives it its final approval, does it have to go to the membership for concurrence?

KATRINA SATAKI: So, you, the author of approval guideline, you’re asking me this question?

STEPHEN DEERHAKE: We haven’t gotten to the approval process. We’re still ... The board has yet to act and the board ... Until the board acts on a fundamental bylaw and approves the fundamental bylaw and therefore it initiates an approval action review process ... I don’t have [inaudible] at my disposal, so I can’t use the precise language.

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KATRINA SATAKI: I'm sure that ccNSO has to get involved. I mean ...

STEPHEN DEERHAKE: The members.

KATRINA SATAKI: Absolutely need to be involved. That's actually what confused me a little in this response we received from ICANN Legal from Sam saying that they will come up with the language. I would say that ... Personally, I think that it would be better if we come up with the language, something that works for us and then of course ICANN Legal looks at it and suggests change. At least that we do it together and not just ICANN Legal proposes ...

STEPHEN DEERHAKE: I would strongly concur with that, that we should come up with language that we understand that expresses what we think needs to happen and then we can let those at ICANN Legal that are paid the big bucks to turn it into legalese and then we can appeal to David to have him translate it for us and then we can decide if we can live with it.

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KATRINA SATAKI:

Yes. Well, for example, if we talk about this IFR team composition, yes, it clearly is a problem for us to ... It's already, as we can see in practice, it is a problem for us to get this non-ccNSO member on board. But at the same time, I think that we cannot exclude this ... We still should strive to get this person on board. Not just, okay, let's take all ccNSO members. We really need to try to get this non-ccNSO member, even if there's two or three. If they are really good people, it doesn't matter whether they are ccNSO members or not.

And I think that the wording that we propose for the change should include that we need to do our best to find one, or at least one, person. Again, I think that we should look at all those candidates regardless of their membership. Just by looking at their professional qualities.

But, yeah, we should ... If we have volunteers, non-members, we really should try our best to include them if they're really good professionals. Stephen?

STEPHEN DEERHAKE:

I fully support the notion of having a due diligence clause of some sort that says we tried to go out and find because I know you have – I have – without success and perhaps others have as well. And I'm not sure how that would be worded. But yeah, I think we should have some expression that, yes, we attempted to do this.

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We have due diligence. We have documentation to that effect.  
And call it a day at that.

KATRINA SATAKI: Yeah. Same with this change of the definition of ccTLDs. That's another thing that we need to work on and we need to have it really the way we think it needs to be done. Yes, Stephen?

STEPHEN DEERHAKE: Just for the record, that change is to an ordinary bylaw, so that will invoke, initiate a rejection action notice period.

KATRINA SATAKI: Yeah. Well, it is clearly easier than ... Well, in this case, it is easier to change the bylaws with rejection action. But actually, again, during the conversation yesterday we had with other chairs ... Actually, we were the first ones who shared their issues for this meeting and we discussed this bylaw changed at some length. Actually, after that, other SOs/ACs also said, "Oh, by the way, yeah, speaking about bylaw changes, we also need to change something in the bylaws."

The idea was that those that are quick and clear changes, they could be all combined together and go as a package. Of course,

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separating those fundamental bylaws and standard bylaws. Stephen?

STEPHEN DEERHAKE: Putting my ECA administrator hat on, I would greatly appreciate a bundling of bylaw changes, so that particularly with the fundamental ones, so that we can run a single approval action public forum and possibly cover all of the fundamental bylaw changes that are before us that have come from the board and I will be encouraging the board to adopt that approach. I think it's less of an issue with standard bylaw changes because the rejection action guys can run concurrently. It's unlikely there would be a forum because it's very unlikely that a successful rejection action petition will be mounted for a standard bylaw change. But the approval guys are a little more complicated. They require ... They should require a public forum and that public forum should be scheduled at an ICANN meeting, so there's calendar issues there with regards to the timing. But I would certainly encourage batching of the fundamental bylaw changes from an administrative standpoint. Thank you.

KATRINA SATAKI: Yeah. Thank you. I don't think that other SOs/ACs have done the analysis, whether those are fundamental bylaw changes or standard bylaw changes that they require. But yes, I agree. And of

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course this bundling is good if no proposed change is controversial. If they are, the question is ... If people don't want to approve certain change ... How we vote on approval, let's say, they come as a package but approval still needs to be for each separate proposal, I believe.

STEPHEN DEERHAKE:

I concur. From an approval standpoint, each SO/AC has to render a decision on each board resolution regarding a fundamental bylaw change. For a public forum period, what I would do is assume we have, say, 90 minutes for a forum – I can't remember how long we had in Johannesburg but we did start pretty early. I would bring up the non-controversial ones and I assume we would know which ones were controversial or not and give the floor to those and get those out of the way quickly so that public forum requirement. So, that's why an [NXD] is met. Then I would devote the rest of the public forum for public expression and board explanation of why this needs to happen. So, I think that's how that would be handled.

But yes, with regards to the individuals, they have to be dealt with separately by each SO/AC.

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KATRINA SATAKI: Yeah. Okay. Good. I think if there are clear reason and rationale behind those proposed changes, I really hope that we won't have any problems with approving them, but the issue is that, yes, in case of fundamental bylaws, we need active approval from decisional participants, which might be a problem if a decisional participant does not understand the concept. We really need to do outreach efforts and explain why they need to act, let's say. Okay.

DAVID MCAULEY: Thanks, Katrina. Along those lines, I just wanted to note that the GNSO, in which I participate for Verisign as well, is in the Registry Stakeholder Group. The GNSO is actively working on this now and we owe a debt of gratitude for Stephen for his work on [ANXD] and all of the terrible thicket of information that's in [ANXD] but we're actually using a lot of that. So, at least in the GNSO side, that is happening and that's good news.

KATRINA SATAKI: That's very good. Stephen, then AJ.

STEPHEN DEERHAKE: First, David, feel free to plagiarize and if you have any questions, don't hesitate to get a hold of me. With regards to this issue that you raise with outreach, there's a deeper problem with that. The



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other SO/ACs have had incredible turnover on the ECA. I'm the only original member. ALAC I think is on their third representative. GNSO is on their third for sure. ALAC is as well I believe. Two. Greenberg and Maureen, okay. ASO, I think now once again is on their third because they just switched out in January. There's a real education effort that needs to be done there and that's something I'm addressing in other fora but I just want to make us aware of that.

KATRINA SATAKI:

Yeah. And this is something that we've been thinking of for some time now. Actually, tomorrow after this simulation that we're going to have on the Council, I really want to use the input for – some materials for ECA because we need to ... Apparently, we will need to help to build knowledge back for ECA, something really very simple for these incoming chairs to understand the process and the need, when there's – which processes when and what is the importance of each of these processes and what are the differences between those processes, because I don't think that the people that will come and go they will have time to read [inaudible]. It's really like they already are really unhappy people, so we don't have to make them feel more [inaudible]. So, really need to prepare something simple and easy to understand and easy to follow. Simple steps, templates.

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Unfortunately, we still have not received any feedback from other members from ECA to my e-mail where we sent those proposals and basic principles and templates for those, for e-mail exchange. I think you remember the template, the basic principles. But yeah, we still do not have a response, so I don't know if we should push it or escalate it to ICANN Legal, for example, or some other ICANN [inaudible]. But that's the thing that currently nobody has had time to look into those templates. Stephen?

STEPHEN DEERHAKE:

I think yours truly is going to have to initiate some personal outreach to my fellow ECA members. I do have an expression of interest from ALAC with regards to coming in and doing a presentation on what is the ECA and what the responsibilities are as an SO/AC member of the ECA with regards to these two actions and I'm happy to put together a slide show. I just have not had a chance to Maureen about it but I hope to get something organized with her at this meeting and have some sort of road show ready to go for wherever we go – oh, Marrakech.

KATRINA SATAKI:

Yes, I struggled with that, too. Sometimes I wake up and say, "Where am I?" Oh, yes, Japan.

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Okay. It's good. We see a lot of interest from ALAC to understand what it's all about but there are three other [DPs] as well. We really need to have some repository for ECA. I think we also need to encourage, let's say, ICANN Legal to be more precise in their communication with their community. It's a really simple thing to send out this notice but I don't know how they managed to do it wrong twice in a row. It's really a little bit too much to me.

STEPHEN DEERHAKE: You notice that as well.

KATRINA SATAKI: Well, we talked about that. Yes. Did notice.

STEPHEN DEERHAKE: Yeah. I have to say that's not the first time that's happened.

KATRINA SATAKI: That, too.

STEPHEN DEERHAKE: Yeah. I really feel that's a bit of a problem but I also feel, as a community – and I mean collectively across the SO/ACs – I feel that we're not living up to our responsibility under the ICANN 3.0 bylaws to engage ourselves with ICANN Org as the empowered

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community, as outlined in the bylaws, overall through the bylaws including [NXD]. I think that's becoming a bigger and bigger problem. I'm looking at myself basically as a single point of failure for the ICANN community and I don't want to be in that position.

KATRINA SATAKI: I'm looking at you [inaudible].

STEPHEN DEERHAKE: I'll be frank. I seem to be the only one on that group that pays attention to this and has any idea what's going on, frankly, and this is not good. It's not good for ICANN. It's not good for the overall ICANN community. That needs to be addressed. I'm not saying it can be addressed here, but I'm just putting it out there and I'm not quite sure how we go about it other than begin some outreach and I can put together a road show and that kind of thing.

KATRINA SATAKI: Yeah. I agree. I don't know if you had time to look at that rejection action intro that I prepared for the council meeting.

STEPHEN DEERHAKE: I did. I did skim it briefly. It looks pretty solid.

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**KATRINA SATAKI:** Well, the version that you have has errors in it. The ones that we'll have tomorrow in the room, they are hopefully the correct ones. But my idea is to use that as a starting point for these outreach events to other SO/ACs now that we have some basic information. What it's all about, what are decisional participants, what causes rejection action, what's the difference between rejection action and approval action and what are the basic steps for the process.

**STEPHEN DEERHAKE:** My concern with using that as a starting point with the other less engaged SO/ACs is it's kind of analogous to starting college freshmen out in Calculus 3. It is complicated and maybe approval would be the way to go for an initial outreach "here are your responsibilities" because that's proactive on their part, whereas Annex D is so weighted – or the rejection stuff is so weighted in favor of ICANN Org and failure on the part of the empowered community to counter a move by ICANN, by the ICANN board. It's a real negative and the approval process is a real positive because that's the situation where the board makes a change and they have to come to the community and get the community's approval and that's I think a much more positive way to start with this mess. Because if you go into Annex D, it starts out on a fairly positive note with the approval stuff and then it gets a little darker with the rejection stuff and then it gets even darker with the

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tossing a board member and then it really gets dark with spilling the entire board, etc.

So, I'm not sure from an outreach educational effort that's starting with the rejection. I think for us it's fine because we understand what's going on much better than anyone else it seems, but I'm not sure as an outreach effort that's the way to go.

KATRINA SATAKI:

Yeah. Well, I see ... Wait a minute. The thing is that, well, I didn't say we should start with the rejection action when we educate people. I think that ... But I really firmly believe that we should talk about approval action and rejection action at the same time, because otherwise, you get lost. Only when you can compare the two, this is approval action and this is rejection action. This is the difference when you apply one, when you apply another. And when you understand the concept, that approval is something that you do proactively and rejection is something that you – if you're not happy with the decision, then you do it.

It's really easier to look at these two at the same time because if you start with approval action, the moment you get to rejection action, you completely forget about this approval action. You should look at them at the same time. I'm sure that it works ... Well, that's my belief, that it's really easier – then it's easier to understand what it's all about.

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STEPHEN DEERHAKE: Let me give that some thought based on your comments, then.

UNIDENTIFIED FEMALE: I'm sure there's a lot of people in the potential audience who were not there when all these negotiations were going on who really don't emotionally understand what those debates were and why it was so important to have various kinds of rejection as well as approval and stuff. So, even a slide to say we had to go from ICANN Org and PTI and why did we do that, and then why do we have to build in this stuff one way or the other? Just to bring people along. Because unless you were there and understand the emotional needs of the groups at the time, a lot of this is not going to make sense to people who weren't there. Seriously. I mean, you talk about PTI and it's like does everybody in this room know how PTI was formed and why? Hands up. Okay. Do you think everybody in the rest of the audience does? No? See, I just think that we've all got a realer sense of what happened and why but to remind ourselves why and then when you talk about approval and rejection, it makes emotional as well as logical sense. But I just think it's going to be too hard for people who didn't live it to understand it.

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KATRINA SATAKI: Thank you. David?

DAVID MCCAULEY: Thank you. I think all these points are excellent and I think the point about who was there at the creation and the IANA transition makes great sense. But the need for organization is even deeper than that. The reason I say that is – you’ve heard me say this before, my experience with the IRP. But it goes to how do SOs and ACs communicate amongst themselves when something is at an important level? How do they identify something as being a critical level and then how do they communicate? So, this is part of following the changes in the bylaws that came out of the IANA transition.

There’s a temptation I think to think when work stream one was done and the bylaws were changed, well that’s done and dusted, but there’s so much administrative hoops to go through to execute on that. There’s tight timelines, there are biases in favor of one side or the other side depending on what the issue is. My hope is that we can figure out how to help SOs and ACs get organized, communicate and better understand these things. It’s going to take a lot of work I think. So, my thanks to the three of you that were making that conversation. I think it’s an excellent point. Thank you.



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KATRINA SATAKI: Thank you, David. Any other comments? Of course that is ...  
Actually, it comes [inaudible] hold those discussions when we think how to lower barriers for people to join ICANN community and understand what we're talking about and what it's all about.

Here, actually, I would ask, [inaudible]. You obviously joined recently, so maybe, from your perspective, you can give us some guidance, some ideas, what is needed, what outreach efforts will be in order to educate people about approval actions, rejection actions, and other things?

UNIDENTIFIED FEMALE: So, I'm new to the ccNSO but I'm not completely new to ICANN because I've been involved with the numbering community for a couple of years now, so I'm not totally fresh and I understand some of these issues perhaps a little better than some true newcomers. But, I don't know, some sort of onboarding document or presentation or video. "You're new to ICANN. Start here." I think would have been helpful to me, especially tailored to each community. So, something that would have been tailored to someone joining ccNSO. There's a lot of that, it looks like, for ALAC and they have put a lot of work into that but not some of the other groups.

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KATRINA SATAKI: Have you checked ICANN Learn platform? Because there's definitely information about ccNSO and I'm sure about others as well.

UNIDENTIFIED FEMALE: I haven't seen it.

KATRINA SATAKI: Okay.

UNIDENTIFIED FEMALE: So maybe, then, raising the profile of that stuff or some more awareness about it.

KATRINA SATAKI: Okay. Yeah. This is something that actually was ... I think I already mentioned it during one of the calls. I was really sad to read the draft report of our reviewers where they summarized responses from the community when, for example, people say there are no materials, for example – I remember one comment that councilors do not get on board which is not true.

There is a fundamental problem that we have a lot of materials and ICANN has prepared a lot of materials but people do not know about that and that is perhaps one of the most fundamental

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issues there. There are no traffic rules, but there are, really. Stephen?

STEPHEN DEERHAKE: I think that exposes are larger problem. That is with the organization of and the search capabilities of the ICANN website itself. I have come to discover late and I don't mean that with any disrespect to ICANN staff present. It's the search engine that drives me nuts and I've lately come around to the realization that just using Google will take you to that mystery page within the ICANN 10,001-page website that you're looking for, whereas search engine on the ICANN website won't and that may be one way to answer some of this, "Well, you don't have any material." Well, use Google.

KATRINA SATAKI: Yeah. [inaudible]?

UNIDENTIFIED MALE: Finally I get the chance. I think there is a post, 150.1 in ICANN Learn for ccNSO. So, [inaudible] which is definitely there. [inaudible] procedure along with the guidelines. So, I guess the word procedure and guidelines are two different things altogether. Guidelines are not [mandated]. Procedures are.

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So, what are we probably ... Sorry. Obviously, I'm new to this, the guidelines. So, what are we deciding here, the guidelines or the procedures?

KATRINA SATAKI:

Well, for us, it's all the same. According to the bylaws, the ccNSO Council – the ccNSO actually decides on their own procedures and we do it in form of ... We have the rules of the ccNSO, which is the bylaws of the ccNSO and then we have guidelines and charters for working groups. When I say guidelines, they're not exactly the meeting of the Pirates of Caribbean, but we try to stick to the guidelines. Guidelines describe the process.

Actually, when we formed this Guidelines Review Committee, the idea was that we look into the guidelines current at that time and see if they reflected the current practice at the time. And that was, I don't know, four years ago, something like that. Nobody expected us to work for four years and apparently for, I don't know, at least four more years. So, we still need to do a lot of things. But yeah, in the guidelines we have a clause saying that if this guidelines disrupts the work of a ccNSO and something, then the council or the chair may decide in following the spirit of the guideline.

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UNIDENTIFIED MALE: Exactly. My question answered that. Because the time is taking too long and ICANN is ever-evolving. Then by the time you reach to a conclusion, then there is a new change which has taken place. So we are in a circle. A never-ending circle because things are evolving and things are not ending. So, some [inaudible] has to come with the date and some [inaudible] timelines which you decide [inaudible] that this section [inaudible] some sections are completed and gone into the action and some are going in there later.

KATRINA SATAKI: We're not putting everything into one document. We have separate documents. Of course, the moment one document is ready, it gets approved by the council, and if we need to review it we review it. If not, it's there, so everything is – the process is pretty straightforward and clear. We do not walk in circles, I'd say. We evolve. It's not a circle. It's a spiral which goes up.

STEPHEN DEERHAKE: I liken it to bridge painting. When you get to the other end of the bridge, you walk back to the start and you start painting again, because by then, the paint is peeling.

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KATRINA SATAKI: Well, if that's a really long bridge, then yes. Of course, it's a normal thing and we developed guidelines on liaisons and observers and then we had to review it and add some more things just because we realized that it needs updating, so it's a normal thing. It's part of the process.

UNIDENTIFIED MALE: I was just concerned with the time. Four years I've gone and I just heard that four [inaudible] can take.

KATRINA SATAKI: It's not that we're working on one document. We have completed a lot of documents, so just go to the ccNSO website and see the ... There are all the guidelines. It's not that we have been discussing one document for four years. It's way more than that. Okay, thank you. Anymore questions, comments? So, that's about the bylaw change and the need to do some outreach activities. What else do we have here? Yeah, and bylaw change is really urgent, something that we need to do.

If you remember, we proposed two versions of the guidelines, the IFR membership selection guideline to the council. The council chose one as a temporary guideline for one particular case. We still need to go through it and see if it needs to be probably updated with some information about specific IFR. So, here's the

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question. Should we wait for the change in the bylaws to start working on this guideline or we try to look at the guideline again? It's not an urgent one currently apparently, but maybe it is wise to wait for the change in the bylaws.

Another one is what should the council do in case the CSE approached the council, and there's a need to coordinate something with the GNSO Council. Do we need to formalize it or we just move forward with ... Whenever there's a need for those, such a collaboration, coordination with the GNSO Council. It's [inaudible] basically done. Yes, Allan?

ALLAN MACGILLIVRAY:

I just would point – because I follow the CSE closely. I can tell you that there is a real example of something coming probably in the next two months of a new SLA and under the rules of the ... It'll have to be approved by the GNSO Council and the ccNSO Council, so it's not a hypothetical but rather it's something we're going to have to deal with probably in the next couple of months.

KATRINA SATAKI:

Well, which means that ... Well, most probably we won't have any guideline by the time it happens. I'm not sure we can do it in two months. Maybe we can use that as example when we set some

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formal procedure, think about the process and then we formalize it in a guideline. Stephen?

STEPHEN DEERHAKE: I don't think we need one for this. This is such a black swan event and it's pretty non-controversial and I'm not sure I'm aware of this SLA change as well. It makes perfect sense to do it. I'm not sure we even need to coordinate with the GNSO. We just individually, as SOs, could make up our minds about it. But I don't see it would be that productive use of volunteer time to develop a guideline for something that's going to be [inaudible], and in all likelihood a pretty straightforward decision up or down. The only question I would have is, as again on a procedural standpoint, with the council decision, it should go out for community seven-day objection and all that stuff. But other than that, I don't see the need for a guideline.

KATRINA SATAKI: You think a seven day ... The council decides and then there's seven days objection or probably we should discuss it before the council takes decision.

STEPHEN DEERHAKE: I think it definitely is something that should be presented to the community and discussed with the community so that they're



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aware of what the issue is so that they're not caught flat-footed and council can't be accused of acting in a non-transparent manner, but other than that I don't see that this is a good use of volunteer time to put together something.

KATRINA SATAKI: Okay. Allan?

ALLAN MACGILLIVRAY: Yes. I just thought I would clarify, in a particular case I mentioned which is a new SLA for label generation rules of IDN tables. It's part of the CSE procedure that there be a public comment period before it's presented to the councils for approval. But I think the general point – and I would tend to agree with Stephen that there's, in a way, maybe there's over-consultation on that and personally I wouldn't see a need for the ccNSO Council to itself undertake an additional public comment period but certainly I guess the point here is to have a look at what the procedures are in the CSC and to determine whether they're adequate before taking your own decision yourself. Thanks.

KATRINA SATAKI: Okay, thank you. I think, currently, we do not worry about this one and when the time comes, we go through this process and if in

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case we see there is a need for a guideline, then we start working on it. If not, then just deal with it case by case basis.

Okay. What else do we have here? That's more or less done. IRP, any updates on IRP?

UNIDENTIFIED MALE:

On the IRP, no, not really. What we're talking about there, on the procedure, there will be two procedures that we'll have to do. One is for when, if ever – I can't imagine it, but it's possible that the ccNSO itself would want to bring an IRP. It has that power under the bylaws. Then, the second part of the procedure was how would the ccNSO participate as a member of the empowered community in bringing in an empowered community IRP?

The appointment of candidates I believe is referring to appointments to the standing panel and that's just proceeding quite slowly but under the bylaw 4.3, under that bylaw, it's up to ICANN [inaudible]. I'm sure that's ICANN Org. ICANN and the SOs and ACs to select members to the standing panel.

I've been in touch with ICANN Legal about that periodically over time and I believe that effort is going to get underway soon, but I've said that before, too. So, it's hard to tell. So, nothing is imminent on that, but I'm certainly happy to take a leading hand in that one when we need to do it. Thanks.

KATRINA SATAKI:

Thank you. Well, it's clearly not our top priority, but if there is a need to act, I hope that you will raise a flag and start waving it. Okay, thank you.

Okay, we already discussed this accountability thing. ccNSO organizational review, thanks to all members of GRC and members of review working party for your input. Clearly we do not have any recommendations yet. When we have them, apparently GRC will need to look into those and then see what we can do with that with those recommendations.

First, it probably will be for the working party to respond and react and I'm perfectly well aware that not all GRC members are members of the working party but many are and thanks a lot for your contribution to this work.

Okay, that's our work plan. Well, not exactly work plan. This is actually the list of things that we need to do and now we probably have to decide what to do next. What to do next?

Bylaw change. This is something that needs to be done. Can you go back on top? Thanks. I think we've done many of those. So, what do you think? Can we start working on the bylaw change, something more proactively? Then of course I see some support among GRC members.

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I know that Stephen had been very eager to start working on this board member removal thingy, as if he wants to remove anyone.

STEPHEN DEERHAKE: It's a useful threat.

KATRINA SATAKI: Good point. You can blackmail people.

STEPHEN DEERHAKE: Just keeps them in line.

KATRINA SATAKI: Yeah. All true, but maybe if we have a guideline, they see holes and they are not so afraid anymore.

STEPHEN DEERHAKE: There will be no holes. It's not Swiss cheese.

BART BOSWINKEL: I just came in when you discussed the [inaudible] of the CSC [inaudible] remedial action. It is not formulated properly, but this is probably about triggering a special IFR and how the council should do this together with the GNSO Council. So, in case the remedial action procedure doesn't result in the result the CSC has

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in mind, then the next step would be for the two councils to consider next steps which could be ultimately trigger the special IANA functions review. And I think that's – because it's such a heavy-handed hammer almost, you need something in place to at least think about it. That weakness the idea of this work item.

It is low on the priority list, but at one point it needs to be considered because you don't want to do this in case it ever happens, say in two or three years or whenever.

KATRINA SATAKI:

Thank you, Bart. Any comments? No comments. So, what do we have now in mind? Shall we start working on bylaw change? We finalized – actually, we have finalized a set of guidelines. Stephen, anything you'd like to say – Bart? – about the board nomination process guideline?

STEPHEN DEERHAKE:

I've had my say on that so I will hold my fire.

KATRINA SATAKI:

Thank you very much. Which means that we have a set of guidelines to be sent to the council. What else do we have next in line? Any proposals? Or let's just dismiss the GRC because everything is done. Okay, now we still have some things but now

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it's difficult to decide which guideline to take next. Okay, we can do a removal of board members.

STEPHEN DEERHAKE: I think, actually, it's low priority and our time could probably be better spent elsewhere but I'm not sure on this list in front of us what makes sense.

KATRINA SATAKI: Yeah, but we work on those, yes, but then probably from when we see ... Yeah, there will be a to-do list as it now has come off our analysis of our recommendations. Well, we can concentrate on accountability and see how we can improve the ccNSO. Okay. Which means, yes, your promise to look into those recommendations, three Google Docs. I hope you will do that because your feedback is really very welcome and your work will result in a to-do list for the GRC. Well, in my experience, it's a bad thing when people are the ones who decide – impose work on themselves because they are not so eager to do it. “Okay, probably this is not important. Let's not waste our time on it. Eh, it's not priority. We're pretty happy with the board.”

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STEPHEN DEERHAKE: I'm not saying that. I mean, we should go onto the third of, what, six chapters? But I can start if you want. I have an outline, let's put it that way.

KATRINA SATAKI: No, no. It's fine. I do not insist on spilling the board. Just there are some things that ... Well, are there any other guidelines that we might need as decisional participants? Are we more or less ready for acting as one?

STEPHEN DEERHAKE: I would say we are because what you're going to see is periodically based on board meddling in the bylaws and occasional approval action, we have experience with that. We did it in Johannesburg. You will see on a recurring and regular basis rejection action petition notice periods occurring as a result of routine and periodic board approval resolution activity surrounding the PTI IANA budget, for example, surrounding a strategic plan, both for the corporation and IANA, surrounding the ICANN budget as well. These are predictable events. The board is settling into a schedule of approval beginning with Xavier's department developing these things, such that they will align better with ICANN face-to-face meetings in the event a rejection action actually musters enough strength to require a

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rejection action public forum. Again, for reasons I've stated, in [inaudible] times, it's very unlikely we would get to that.

But nonetheless, from an ECA standpoint, we now know having gone around the cycle about two-and-a-half times when we can expect to see board action that will generate, initiate a rejection action notice period and the community then has to run around and figure out what they want to do about it. The only real activity on the part of the ECA with that periodic stuff that we know when it occurs is that when the notice period expires after 21 days and community is not acted, then we have to write a letter to JJ and tell him we don't have anything to send you, so we're closing it out.

KATRINA SATAKI:

Yeah. Actually, there's one practical point that is not entirely clear to me. Probably we could discuss it. Board, for example, approves IANA budget, the latest one. It triggers rejection action, but the initial starting date is the date when ICANN secretary sends notification to decisional participants in this case.

STEPHEN DEERHAKE:

The correct notification.



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KATRINA SATAKI: That is the question, because apparently ... So, they send one, then they correct it next day and then in two or three days they send a corrected one. So, which is the starting point?

STEPHEN DEERHAKE: As a community, I feel we should decide that point. But I am very much of the opinion if ICANN Legal can't get it correct, then what they've sent us is not a formal notice of board action and therefore there is no commencing of a rejection action notice period. They have got to get it right and they can't send out two, three versions and claim the first date. I don't think that's kosher but that's my viewpoint and it's something the communities never really addressed before.

But what I do think needs to be addressed is why they are not getting it right the first time out. This is just sloppy.

KATRINA SATAKI: Yeah. I agree with that, but the question is it's not that they didn't send the document, the links were wrong or the last one was an issue with the link, then something else. Is it really essential or should we evaluate? If the correction had been essential to the purpose of the notification or not ...

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STEPHEN DEERHAKE: In my view – and I’ll let David correct me on this since he’s got the legal head and I don’t – if they send out a notice of board action and the link is incorrect, the notice is nonsense because we’re not properly notifying the community of where the documents regarding the board action are. That I think is really fundamental.

KATRINA SATAKI: Use Google.

STEPHEN DEERHAKE: It’s not the point. The point is ICANN Legal is paid the big bucks and they should pay attention to this stuff and be serious about it and get it right and get it right the first time. I don’t think that’s asking too much on behalf of the community.

KATRINA SATAKI: I absolutely agree with that. It’s really not rocket science to send out the proper notification. David?

DAVID MCAULEY: Thanks, Katrina. The only thing I would say, Stephen, is you have to be very careful because the legal standard by which notices are judged usually is was there ... It’s what you were getting at. Is the difference a material one? And a link could be material. But if they send out a second notice, the question will be whether the first

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noticed started the clock. Was there a material variation or difference from whatever?

So, we have to be careful because I think ICANN, like any organization, they'll argue that point. They'll say what we sent the second time was not a material difference from the first time.

So, you can't ... I mean, I understand what you're saying and it would be nice if there was a second notice to say that starts the clock, but I don't think you can rely on that. That's not guaranteed. You have to sort of weigh this and be cautious.

The second thing I was going to say, Katrina, when you were asking what should we work on, I had mentioned earlier about IRP procedure and something you said puts it in a different context for me and that is you said, "Are we prepared to act as members of the empowered community."

The one thing I would say that maybe I should take a look at is how do we act as a member of the empowered community when it comes to joining a community IRP – I mean, an empowered community IRP. I would be happy to try and come up with something on that.

The ccNSO is different than the GNSO, obviously. We won't have as much policy at stake that's going to ever float up towards an IRP but we will be faced with a question. Do we want to support

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the GNSO if they bring a case? Or some other SO or AC. So, it actually is important. And I'd be happy to take a look and see what does that entail and maybe work with Stephen on it. Thanks.

KATRINA SATAKI:

Thank you very much. I think it's really worth looking into. So, if you could summarize the idea. I found all those notifications. One was sent on Thursday, 31<sup>st</sup> January. A correction was sent – a first correction was sent on Friday, the 1<sup>st</sup> of February and second correction was sent on Saturday, the 2<sup>nd</sup> of February. My time. Yes.

None of these corrections, none of these two corrections said anything about the starting date. I would really expect ... If they really absolutely cannot send the correct version the first time and they need to correct it one or two times, I would really encourage them to justify when is the starting date. So, if they still insist that the starting date was the date of the first notice, the wrong one, then they should justify why it is that particular date. Yes, Bart?

BART BOSWINKEL:

It would be an idea to raise this at the public forum.

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UNIDENTIFIED MALE: That'll be fun.

STEPHEN DEERHAKE: I think it's a serious proposal and I will work on that.

BART BOSWINKEL: Do it as ECA or you can follow-up. But say from the starting point you could raise it, say we try ... As a community, we try to do the best in order to get this right and then you see all this [inaudible] diversion from the standard and it's not helpful. Put it that way.

KATRINA SATAKI: No, it's not helpful at all because ... Well, it's not the first time this notification has been – notice has been corrected, unfortunately. They're getting better, let's say. First time they corrected it once. Second time, they corrected it twice which is definitely an improvement, so they're getting more and more precise.

STEPHEN DEERHAKE: Upon further reflection, I think this might be something that we'd like to at least initiate with them outside of the venue of the public forum.

KATRINA SATAKI: I would propose that we don't start by [inaudible].

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STEPHEN DEERHAKE: We could start with a small hammer and then move up to the sledge hammer.

KATRINA SATAKI: Yes, and needles. I love needles. Okay. Actually, we still have nine minutes but if there are no other open issues you'd like to discuss or raise, then probably let's close the meeting and thank you. Yes, please?

UNIDENTIFIED FEMALE: Katina, if I may, I just wanted to come back to the newcomer onboarding which we discussed earlier. We have a newcomer session on Thursday morning at 9:00 AM. It's not on a public schedule but it will be announced and introduction to the members meeting on Tuesday morning. It will take place in room next door here, 404, and if group members of the GRC would like to bring in their expertise, more than happy to join.

UNIDENTIFIED FEMALE: Did you say Thursday?

UNIDENTIFIED FEMALE: Thursday morning, indeed.

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UNIDENTIFIED FEMALE: The final day [inaudible].

KATRINA SATAKI: Yes, exactly. We discussed that and I can explain why we decided to do it after our ccNSO meeting. When you just come ... First, we have onboarding materials. You can read some intro. But we decided that people, when they come to a meeting, they sit through the meeting and they might have questions after the meeting. What was that? What's this? How can I participate? Something that they will not have before the meeting. When they're really fresh and now inexperienced and they just have no idea what to expect, they do not have questions, might not have questions. But right after the meeting, they will have a whole different perspective and we expect more questions and more engagement from our newcomers. That's why we decided this time to have it after and see how it works. Maybe it doesn't work, but we really believe that people might have more questions if we do it after.

So, if there are no other questions or comments, then thank you very much for your active participation and interesting discussion. See you in Zoom. Thank you!

**[END OF TRANSCRIPTION]**