ccNSO Guidelines – Rejection Actions and Approval Actions

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1 November 2017

Why are we discussing this?

- By-product of the post NTIA-Transition Bylaws

  - 22 July 2016 Amendments to the prior Bylaws[1]

  - Approved by the ICANN Board during their special meeting held on 9 August 2016[2]

  - Bylaws went into effect on 1 October 2016 when the US Government gave up direct oversight of the root zone

1 https://www.icann.org/resources/pages/governance/bylaws-en
2 https://www.icann.org/resources/board-material/resolutions-2016-08-09-en#2.d

Why are we discussing this?

- The Bylaws themselves…

  - 27 Articles… (Article 10 relates to the ccNSO)

  - 10 Annexes…

  - 271 Pages (A4 format) !

  - 81.477 words !

Why are we discussing this?

- Our responsibilities as a member of the Empowered Community

  - They are important

    - To the multi-stakeholder model embodied within ICANN
    - To the ccTLD Community at large
    - To our individual stakeholders within their respective communities

  - We have unique responsibilities within the SO/AC framework embodied in the ICANN Ecosystem

So What are these "Actions"?

- **Approval Actions**

  - Things the ICANN Board does that they need to get approval for from the Empowered Community for them to go into effect

- **Rejection Actions**

  - Things the ICANN Board does that the Empowered Community has to take the initiative to block; otherwise what the Board decided goes into effect

Approval Actions – What the Board needs to come to the Empowered Community for Approval

- Fundamental Bylaw Amendments and Articles Amendments (as contemplated in Section 25.2(b)) of the Bylaws

- Articles Amendments (as contemplated by Section 25.2 of the Bylaws)

- Asset Sales (as contemplated by Section 26(a) of the Bylaws)

Rejection Actions – How the Community needs to respond to certain ICANN Board actions

- ICANN Budgets, as contemplated by <u>Section 22.4(a)(v)</u> of the Bylaws;

- IANA Budgets, as contemplated by <u>Section 22.4(b)(v)</u> of the Bylaws;

- Operating Plans, as contemplated by <u>Section 22.5(a)(v)</u> of the Bylaws;

- Strategic Plans, as contemplated by <u>Section 22.5(b)(v)</u> of the Bylaws;

- Standard Bylaw Amendments, as contemplated by <u>Section 25.1(e)</u> of the Bylaws.

Rejection Actions – How the Community needs to respond to certain ICANN Board actions

- PTI Governance Actions, as contemplated by <u>Section 16.2(d)</u> of the Bylaws;

- IFR Recommendation Decisions, as contemplated by <u>Section 18.6(d)</u> of the Bylaws;

- Special IFR Recommendation Decisions, as contemplated by <u>Section 18.12(e)</u> of the Bylaws;

- SCWG Creation Decisions, as contemplated by <u>Section 19.1(d)</u> of the Bylaws;

- SCWG Recommendation Decisions, as contemplated by <u>Section 19.4(d)</u> of the Bylaws;

The Current State of the Approval and Rejection Action ccNSO Guidelines

- **Approval Action Guideline**
  - Adopted by ccNSO Council at their 29.06.2017 meeting (Resolution 130-07)

- **Rejection Action Guideline**
  - Under development by the Guidelines Review Committee (GRC)
  - Recent Versions:
    - Version 3   25-SEP-2017 (First version circulated to the Guidelines Review WG)
    - Version 4   20-OCT-2017 (Discussed within the GR-WG)
    - Version 5   Soon (to be circulated to the GR-WG by mid-November)

Upcoming Rejection Actions

- Draft PTI and IANA FY19 Operating Plans and Budgets
  - Currently out for public comment
  - Comment period closes on 26 November 23:59 UTC
  - See https://www.icann.org/public-comments/draft-pti-iana-fy19-2017-10-09-en for details

- Draft ICANN FY19 Operating Plan and Budget
  - Board FC adoption expected mid January 2019
  - Comment period will likely run from mid January 2019 until early March 2019

Upcoming Rejection Actions (cont.)

- If you have serious issue(s) with the Draft PTI and IANA FY19 Operating Plan and/or Budget, then:

    You MUST submit a public comment expressing your issue(s) during the public comment period

    FAILURE TO SUBMIT A PUBLIC COMMENT PRECLUDES YOU FROM FILING A REJECTION ACTION PETITION LATER!

- This will also apply to the Draft ICANN FY19 Operating Plan and Budget as well

Upcoming Rejection Actions (cont.)

- You exercise your EC rights by filing a "Rejection Action Petition" with the ccNSO

- Once you have submitted your public comment begin work on your Rejection Action Petition

- The Rejection Action Petition must meet specific requirements –you can get help from the ccNSO

- If you know other ccTLDs which share your concern(s), solicit their support and have them make their views known to the ccNSO Council

- If you know members of other SO/ACs that share your concern(s), solicit their support and have them make their views known to their respective Council or leadership
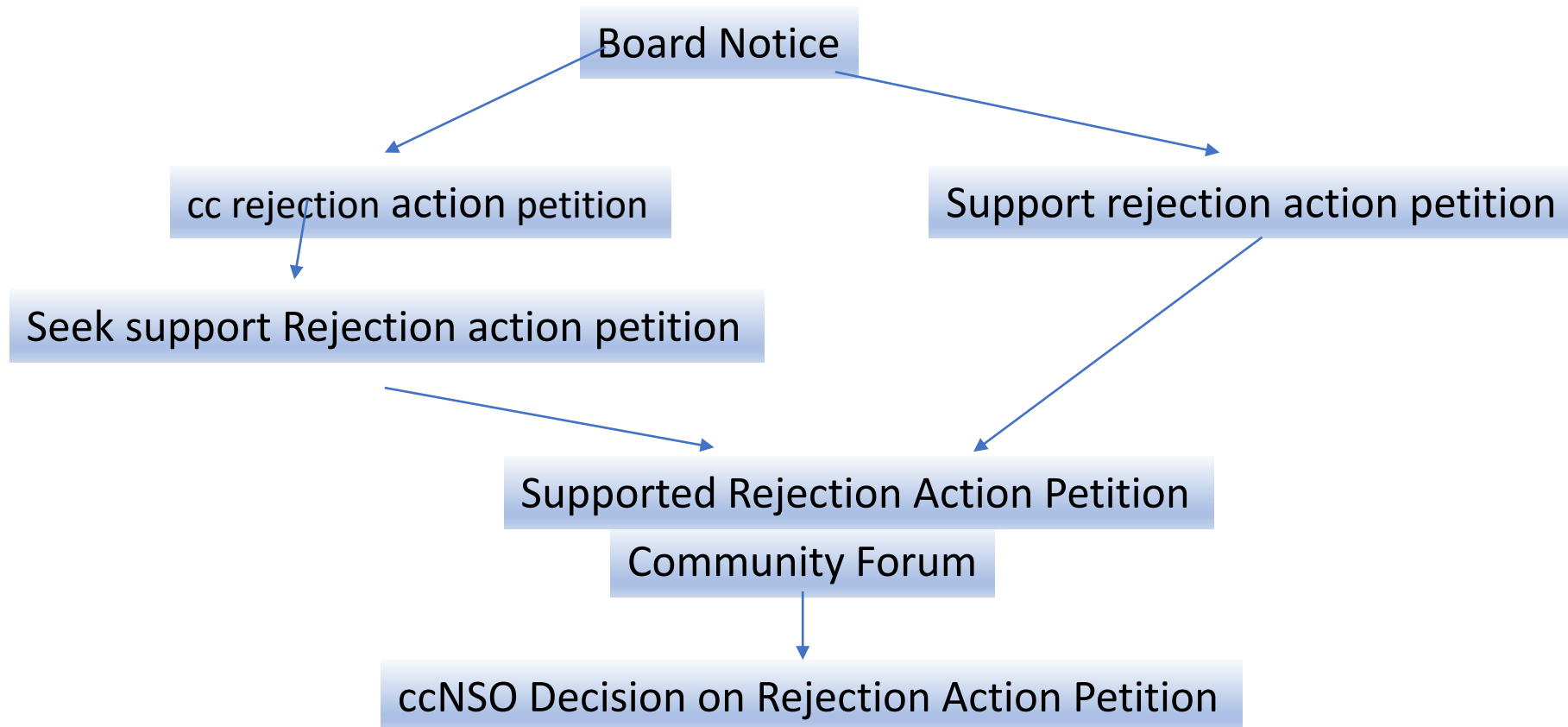
Upcoming Rejection Actions (cont.)

- Due to the tight timeframes defined in the Bylaws your only hope for a successful outcome with a Rejection Action Petition is:

  - Proactive early development of your Rejection Action Petition

  - Early outreach to the ccNSO Council

  - Early outreach to actors in (at least) one other SO/AC that share your concerns so that they can in turn engage in early outreach to their leadership

- **Delay = Failure**

Feedback from our discussions of the Rejection Action Guideline at ICANN59

- **"Option 2" now incorporated into the Guideline**

  - Community is given opportunity to veto Council Decision regarding a Rejection Action Petition

    - Either a Petition arising from within the ccNSO or from another SO/AC that Council has elected to support

    - Change of heart by the Council (i.e., withdrawal of support by the Council to a Rejection Petition)

Flow Structure and Phasing – Rejection Guideline

Board Notice

cc rejection action petition

Support rejection action petition

Seek support Rejection action petition

Supported Rejection Action Petition

Community Forum

ccNSO Decision on Rejection Action Petition

It all begins with the Board Notice of a Rejection Action

- **Issued to the Empowered Community Administration and the SO/ACs by the ICANN Secretary**

- **Starts the 21 day clock "ticking" with respect to the Empowered Community submitting a Rejection Action Petition to the Empowered Community Administration (the "Rejection Action Petition Period")**

- **Any submitted Rejection Action Petition must have the support of at least one other SO/AC**

- **No role (yet) for the ccNSO Community**

Rejection Petition Arising from Within the ccTLD Community (1/2)

- **Rejection Action Petition from any ccTLD:**
  ccNSO Member ccTLD
  non-ccNSO Member ccTLD

- **Petition must meet certain requirements (detailed in an Annex to the Rejection Guideline)**

- **Rejection Action Petition must be accepted by Council, thus making the ccNSO a "Rejection Action Petitioning Decisional Participant"**

Rejection Petition Arising from Within the ccTLD Community (2/2)

- **Council needs to secure the support of at least one other SO/AC for the Rejection Action Petition within 7 days of the expiration of the 21 day "Rejection Action Petition Period"**

- **No role (yet) for the ccNSO Community with respect to this Rejection Action Petition**

Rejection Petition Arising from another SO/AC

- **Council is solicited by another SO/AC to support their Rejection Action Petition**

- **Council must decide whether or not to lend the ccNSO's support to the Rejection Action Petition proposed by another SO/AC (if Council agrees to support, then the ccNSO becomes a "Rejection Action Supporting Decisional Participant")**

- **No role (yet) for the ccNSO Community with respect to this decision**

ccNSO Responsibilities with respect to ANY Pending Rejection Action Petition

- **Participate in any conference calls regarding the Rejection Action Petition that the Empowered Community Administration elects to hold**

- **Participate in one or more Public Forums, if any, that the Empowered Community Administration (or ICANN) may elect to hold.**

- **No role (yet) for the ccNSO Community (other than to participate in any conference calls and any Public Forums that may be held)**

Council Decision Time…

- **At any point before, during, or after the Rejection Action Community Forum the Council may decide to:**

  - Rescind support for a ccNSO initiated Rejection Action Petition
  - Rescind support for a Rejection Action Petition initiated by another SO/AC that the Council earlier elected to support as a Rejection Action Supporting Decisional Participant

- **During the 21 day "Rejection Action Decision Period" which commences at the conclusion of any public forum(s) held, the Council may decide to:**

  - Support the Rejection Action Petition under consideration
  - Not support the Rejection Action Petition under consideration
  - Abstain from making a decision regarding the Rejection Action Petition under consideration

- **ccNSO Community can challenge any decision of the Council at this point**

Rejection Action Guideline – next steps…

- **Completion of Draft Version 5**
  - **Slight reorganization of Draft Version 4**
  - **Completion of two Annexes**
- **Further review by the GRC, leading to its approval by the GRC**
- **Review by ICANN Legal**
- **Submission to Council for their approval**
- **Public Comment period for Community Review**
- **Final Adoption by the Council**

Rejection Action Guideline

Questions?