

Summary Report of Public Comment Proceeding

Proposed Revisions to Bylaws Section 11 – Additional Voting Thresholds																			
Publication Date:	10 May 2018																		
Prepared By:	Marika Konings																		
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Staff Contact:	Marika Konings	Email:	policy-staff@icann.org																
Section I: General Overview and Next Steps																			
<p>During its meeting on 30 January 2018, the GNSO Council resolved unanimously (https://community.icann.org/display/gnsocouncilmeetings/Motions+30+January+2018) to recommend that the ICANN Board of Directors adopt the proposed changes to section 11.3.i of the ICANN Bylaws to reflect additional GNSO voting thresholds which are different from the current threshold of a simple majority vote of each House (see https://www.icann.org/en/system/files/files/proposed-revisions-bylaws-article-11-gnso-redline-19jun17-en.pdf). These additional voting thresholds are intended to address all the new or additional rights and responsibilities in relation to participation of the GNSO as a Decisional Participant in the Empowered Community and to fully implement these new or additional rights and responsibilities as they appear in the revised GNSO Operating Procedures published on 30 January 2018 (see https://gnso.icann.org/en/council/op-procedures-30jan18-en.pdf). In its resolution on 15 March 2018, the Board directed the President and CEO, or his designee(s), to post for public comment for a period of at least 40 days the Standard Bylaw Amendment reflecting proposed additions to section 11.3.i of the ICANN Bylaws to establish additional GNSO voting thresholds. See: https://www.icann.org/resources/board-material/resolutions-2018-03-15-en)</p> <p>The following staff report summarizes the comments received on the proposed additions to section 11.3.i of the ICANN Bylaws, which can be found here: [PDF, 62 KB] [DOCX, 26 KB]</p> <p>Following the close of the public comment forum, the ICANN Board of Directors will review the input received and determine what steps are to be taken next, which could include further modifications and/or approval of the proposed additions. Note that any changes to the ICANN Bylaws will also need to be approved by the ICANN Board before these additions to section 11.3.i come into effect.</p>																			

Section II: Contributors

At the time this report was prepared, a total of five (5) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Registries Stakeholder Group	Paul Diaz	RySG
Non-Commercial Stakeholder Group	Rafik Dammak	NCSG
Business Constituency	Steve del Bianco	BC
Registrar Stakeholder Group	Zoe Bonython	RrSG
Intellectual Property Constituency	Brian Scarpelli	IPC

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

In their comments, the RySG, NCSG, BC, RrSG, express their support for the proposed changes to the ICANN Bylaws. Although the IPC noted a reservation with regards to application of the voting threshold outside the scope of the policy development process, the IPC states that it “is in favor of the GNSO Council’s resolution to make needed changes to Section 11.3.i of the ICANN Bylaws, and urges for this proposal’s adoption by the ICANN Board.”

In addition, the RySG, RrSG and NCSG reaffirm their support for “the GNSO Council to speak on behalf of the GNSO as Decisional Participant in the Empowered Community” with the RySG and NCSG pointing out that this “is in line with current practice and working methods and respects the existing equilibrium within the GNSO’s structure.”

The RySG also noted the following change to the proposed wording of II.3.j.viii to make sense and proposes the following wording, which it believes is consistent with the intent of the proposed Bylaws changes: “(viii) Approval of a petition notice to remove a director holding seat 13 or 14 as contemplated in Annex D, Article 3, Section 3.2(f): requires an affirmative vote of at least three-quarters (3/4) of the GNSO Council ~~which should~~ [and] at least three quarters (3/4) of the House that appointed that Director.” The RySG also notes that ‘three quarters’ and ‘three fourths’ is used interchangeably in the document and recommends that this be addressed for consistency.

In their comments, the BC (supported by the ISPCP) restated its position that, “GNSO Council is not the appropriate vehicle for GNSO to exercise Empowered Community rights and responsibilities. Those powers should be exercised through direct voting of GNSO Stakeholder Groups and Constituencies, without requiring a majority of each house. With that important qualification, the BC supports the recommended voting thresholds and changes to

Bylaws and Procedures that are the subject of this public comment period. We believe the voting thresholds are appropriately matched to the decisions and roles available to the GNSO.”

Section IV: Analysis of Comments

General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.

The ICANN Organization notes the general support for the proposed changes to the ICANN Bylaws. Based on the evaluation of the comments, the ICANN Organization provides the following analysis and recommendations.

With respect to the editorial issues raised by the RySG, the ICANN Organization agrees that the RySG’s proposed rewording of II.3.j.viii is consistent with the intent of the proposed Bylaws changes and also improves the sense of the paragraph and recommends that it should be amended as follows: “(viii) Approval of a petition notice to remove a director holding seat 13 or 14 as contemplated in Annex D, Article 3, Section 3.2(f): requires an affirmative vote of at least three-quarters (3/4) of the GNSO Council ~~which should~~ [and] at least three quarters (3/4) of the House that appointed that Director.”

Furthermore, the ICANN Organization agrees that the phrases “three quarters” and “three fourths” are not used consistently and recommends that the single phrase “three fourths” should be used throughout the new section as it is consistent with existing usage in section II.3.i.

The ICANN Organization notes that although the IPC states that it opposes “the application of the voting thresholds provisions to matters outside the scope of management of the policy development process (or of any other GNSO council responsibility specifically recognized in the Bylaws), including representation of the GNSO as a Decisional Participant in the Empowered Community,” the IPC also states, “In closing, with the reservation noted above, IPC is in favor of the GNSO Council’s resolution to make needed changes to Section 11.3.i of the ICANN Bylaws, and urges for this proposal’s adoption by the ICANN Board.” Thus, the ICANN Organization considers that all commenters are in support of the addition of the proposed new thresholds to Section 11.3.i of the ICANN Bylaws.

As a next step, staff will submit this report of public comments to the ICANN Board of Directors so it can consider the appropriate next steps with regards to the proposed additions to the ICANN Bylaws.