

Dear Russ

After having a conversation with the ccNSO Council I want to express my appreciation for the proposed playbook, and I believe it is a sound basis to understand the complexities inherent in ICANN Bylaw changes.

From reading the Playbook, it is our understanding that the Bylaw amendment process can be divided in two phases:

- **Phase one:** The procedures to develop a proposed Bylaw change, starting with a request for a Bylaw change and ending with the Initiation of the Bylaw amendment process by the Board (directing a public comment)
- **Phase two:** The procedures and actions as defined in the ICANN Bylaw amendment procedures starting with the public comment period and ending a Board decision to stop the process or ending with EC rejection or approval action process.

After an initial evaluation of the playbook, we believe that focusing on the mapping and documenting of the first phase is most helpful to explain how a Bylaw amendment should be proposed by (a part of) the community, and to understand what to expect after an amendment is proposed. Since 2016, when the Empowered Community was established, various Bylaw amendments have been initiated and concluded, and the community has gained an understanding of its role and the procedures.

Looking at the Bylaw Change Playbook we have identified the following basic flow for phase one (see overview below).

1. Originating Request.
2. Addressee.
3. Assessment of need and scope of the requested Bylaw amendment.
4. Coordination and detailing of proposals with requesting entities.
5. Consistency Check.
6. Board Initiation (Milestone): End of Phase 1 and Start of Phase 2.

Assuming this flow is correct, we have the following questions and observations:

- Does it make a difference how a Bylaw proposal originates? For example, through a PDP, a Bylaw mandated review, or a community working group? If so, what is the impact?
- Are there Bylaw change requests that by definition can not result in an amendment, for example if a Bylaw amendment is only suggested as part of comment in a public comment procedure and this suggestion is not accepted? In the past the ccNSO Council suggested a Bylaw change through a public comment. This part of the public comments was not accepted by the relevant committee, i.e **not** included as recommendation by the review team. Does a request for a Bylaw change need to meet any formalities and/or format?
- Who is the addressee of a Bylaw amendment? Board, CEO & President, other (for example both)?
- Once a request is received, it is unclear from the Playbook, who from staff will be designated to assess the need and scope, who will be informed about the outcome, what is a reasonable timeline, and how to escalate matters if needed. We believe that providing clarity will add significantly to the predictability of the amendment process and cooperation of entities involved in the process. To date the ccNSO had varying experiences with respect to this and the next steps of Phase 1 (Coordination with requester and Consistency check) .

Finally, the Council would like to understand when a request fails? Who decides? Will the requesting party be informed and by whom?

Kind regards,
Alejandra Reynoso

Overview of Phase 1 - Requesting a Bylaw amendment

