8 February 2019

Dear Xavier,

The Non-Commercial Stakeholders Group (NCSG) welcomes this opportunity to comment on ICANN's draft Operating Plan and Budget for the fiscal year 2020.

In this comment, we make four requests. We ask that ICANN:

- Look inward at its own overall spending patterns and provide a clearer explanation as to how operational efficiencies will be achieved this year and into the future;
- Provide the community with an appropriate level of support commensurate with our responsibilities under the ICANN Bylaws, including funding a NCPH Intersessional;
- Provide the community with further clarity around who is authorising spending, where resources are going in the community, and what it costs to fulfil externalities imposed on ICANN, particularly those by intellectual property interests; and
- Re-evaluate the spend on capacity development programmes for their effectiveness in leading to engagement in ICANN's policy development processes and mission.

Look inward at ICANN's own overall spending patterns and provide a clearer explanation as to how operational efficiencies will be achieved this year and into the future

Over the past decade, ICANN the corporation has grown significantly in size and expenditure and has become an end in and of itself, rather than the means (legal entity) to an end (global management of the DNS). ICANN's 1999 annual budget totalled only $3.4 million in expenses, however the organisation's budget has climbed steadily since its inception, with the proposed 2020 operating budget sitting at $140 million. The projected budget for the fiscal year 2020 sees personnel costs at $76.3 million, comprising some 56% of the budget. Headcount will rise from a projected 395 in June 2019 to a projected 405 by June 2020. A further $21.6 million, or 16% of the budget, is allocated to outside consultants, attorneys, and

other "professional services." There is a perception that staff and consultants make many of the real policy decisions, long before issues are packaged and presented to 'the community' for consideration. The pace at which ICANN the corporation is growing causes concern, because enormous amounts of money and other resources can be steered or restricted by staff, and these are impacting the community's ability to hold the pen, attend regional events, and actually participate in the bottom-up multistakeholder model.

We understand from past work on replenishing the Reserve Fund that ICANN intends to introduce operational efficiencies in order to achieve cost savings. From our review of the proposed budget we are not clear on what cost- and resource- optimisation efforts are being proposed. We ask that further information is shared on this matter.

NCSG recommendation: ICANN org cannot continue to grow in size. The current spend on personnel costs and professional services is unsustainable. We do not support headcount growing from 395 persons to 405 persons, and the NCSG believes the number of staff and consultants employed by ICANN should be shrinking, not growing. It is possible that if more staff were hired outside of Los Angeles, in locations with lower costs of living, that the spend on personnel costs may not need to be so high. Please also provide the community with details on your plan for reducing operating costs this year and into the future.

Provide the community with an appropriate level of support commensurate with our responsibilities under the ICANN Bylaws

The NCSG is concerned by the proposed, continued cuts to community activities and resources that we depend upon and utilise. As a collective of non-commercial volunteers with no financial interest in the outcome of a policy process, we lack many of the resources that industry players and government actors have to participate in ICANN activities, and we sincerely believe that our participation – and the participation of other marginalized voices – is critical to legitimizing ICANN's unique self-regulatory model. As we believe we could be disproportionately impacted by this budget, we wish to draw your attention to recommendation 10.5 of the Accountability and Transparency Review 2 report. This report was accepted by the Board in June 2014 and called for ICANN to "facilitate the equitable

participation in applicable ICANN activities, of those ICANN stakeholders who lack the financial support of industry players."[1]

In that vein, some of our concerns with the Budget include:

- **The radical shrinking of the Additional Budgetary Requests (ABRs) envelope, which stands at less than half of FY18 figures.** This budgetary envelope was initiated through a bottom-up process, and has developed into a major way to engage communities and assist underfunded groups to participate intelligently. Given this, the NCSG cannot support any cuts to the allocated budget for ABRs. This is not to say that all requests submitted must be approved; the NCSG believes all requests should be reviewed for their benefit to ICANN's core mission and activities, and those which do not meet this criteria should not be funded. However, we are concerned that the present approach will result in important and legitimate community requests for modest support not receiving the necessary funding to fulfil important outreach, onboarding, and in-reach objectives. As we, and others, rely on the input, advice, and participation of the broader ICANN community in order to remain informed on the various issues, the NCSG foresees negative implications impacting the community's policy work arising from the proposed cuts to the ABR envelope.

- **The Community Regional Outreach Program was significantly cut in FY19, and is no longer working for the NCSG's constituencies. We ask it be restored to FY18 levels and rules.** The cuts that were adopted in FY19 occurred without community consultation and have stifled non-commercial participation in ICANN activities. This is because we can no longer use the program for regional outreach, as it was intended, and must use our first slot at a public ICANN meeting. This is operationally difficult, because the first public ICANN meeting occurs just after the fiscal year has began and when constituency travel will no longer book travel, meaning we are hamstrung until the second public ICANN meeting of the fiscal year before we can utilise a slot. In addition, we have only three slots rather than five, and can no longer use one slot out-of-region nor use them all to attend external

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[1] https://www.icann.org/en/system/files/files/final-recommendations-31dec13-en.pdf

conferences where we traditionally recruited new members. At the time of submitting this comment, the NCSG's constituencies have not been able to use CROP in FY19 in order to attract new, diverse, well-informed, and active community members. This stands in stark contrast to FY18 and earlier when it was highly successful, both in widening our international engagement efforts, and in enhancing trust in ICANN as an institution. In cutting CROP we believe ICANN has weakened community participation in ICANN's policy development processes, and by extension, hampered ICANN's own legitimacy. Surely ICANN cannot expect the community to be meaningfully engaged in policy development if our budget is cut and we are left significantly under-resourced?

- **The NCSG currently receives less CROP slots than the Commercial Stakeholders Group. It is critical that this inequality is rectified.** Historically, the three constituencies of the Commercial Stakeholders Group have been eligible to receive CROP. The NCSG does not receive CROP slots, despite having members who are unaffiliated with either of our constituencies (NCUC, NPOC). The only fair solution is thus to award CROP slots to the NCSG as well, so that the NCSG receives an equivalent number of overall CROP slots as the CSG receives.

- **We understand that the Document Development and Drafting Pilot Program was terminated in FY18, however we also understand that it was highly valued by those who participated in it. We ask that this program be restored**, and that all GNSO Stakeholder Groups and/or Constituencies receive 125 hours of research assistance per quarter from a consultant of their choosing in order to assist with the development of their public comments.

- We request the continuation of funding for membership management support, which is presently provided to the NCSG and other GNSO SG/C.

- **We expected to see funding for a Non-Contracted Parties House (NCPH) Intersessional in the FY20 Budget. Please restore this funding to FY17 or FY18 levels.** Funding for this critical resource was allocated in FY19, however as a gesture

of goodwill the NCPH of the Generic Names Supporting Organisation voluntarily agreed not to hold an Intersessional this year in order to help replenish the reserve fund. Moving forward, it was agreed that this would occur every two years. Accordingly, the next NCPH Intersessional should be in FY20.

- **The stabilisation in funding for constituency-supported travel suggests to the NCSG that our feedback which we shared with ICANN as a part of the various 2017 and 2018 consultations on the allocation of community resources has not been acted on.** In the NCSG's response, for instance, we said, "We believe there should be a common travel policy for all ICANN funded travellers who are active participants in ICANN policy work, whether they be ICANN board members, ICANN senior management, or community members" and recommended "reasonable adjustments [be made] to the community travel guidelines to ensure that participants are able to travel to meetings at reasonable cost and in reasonable comfort."[2] Given the projected costs budgeted for each supported traveller for FY20 are lower than in FY19, it seems that ICANN has not sought to make modest and reasonable improvements to the travel guidelines to ensure supported travellers arrive at each ICANN public meeting able to work productively from day one.

NCSG recommendation: We ask that ICANN restore or improve funding in the FY20 budget for six key activities: 1) Restore the Additional Budgetary Request envelope to FY18 levels; 2) Restore the Community Regional Outreach Program to FY18 levels; 3) Provide the NCSG with CROP slots; 4) Restore the Document Development and Drafting Pilot Program; 5) Provide resourcing for a NCPH Intersessional in FY20 at an equivalent standard to in FY17 or FY18; and 6) Make modest and reasonable improvements in the Budget so that supported travellers are able to travel to public ICANN meetings at reasonable cost and in reasonable comfort.

Provide the community with further clarity around who is authorising spending, where resources are going in the community, and what it costs to fulfil externalities imposed on ICANN, particularly those by intellectual property interests

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[2] https://docs.google.com/document/d/1CNZrZ1OK9SL416h-lYuearVqDl_8grDsXLEKhwqQBHA/edit?usp=sharing

There are different mechanisms that ICANN can choose to utilise when it presents the budget, and there are no right or wrong answers. The current approach of portfolios tells us where money is being spent, but it does not tell us who is spending it or where. We would like to see improvements here, so that the 'chain of command' for spending is clearer. For instance, in regards to CROP, both the Policy team and the Global Stakeholder Engagement team deny financial responsibility for it, yet it is administered by both. We would find it helpful to be able to review the budget and to understand how much budgetary authority we can attribute to each department, understanding, of course, that there may be changes and shufflings of portfolios that occur internally throughout the course of the fiscal year.

NCSG recommendation: In each year's budget and operating plan there must be a clear flow chart indicating areas of financial responsibility for individual directors and every operating unit within ICANN org.

The NCSG had previously requested that ICANN org attribute expenditure for, or on behalf of, the community, to the respective Supporting Organisation or Advisory Committee. We have heard in the past from the Finance department that this request is simple in nature but hard in practice to fulfil. We are sympathetic to this comment, and the NCSG would be happy to engage in a dialogue with Finance to better understand why this might be difficult to operationalise. However, even if it is challenging, this is something we consider to be critical and will expect to see in future budgets. Businesses routinely have to separate overhead and other forms of expenditure, attributing them to specific business units for internal financial planning. This is not an unusual request, and we are only asking for the same.

NCSG recommendation: ICANN org must pre-fill the below table every year and include it in the budget documents, so to provide the community with a 10,000-foot view of where resources are being spent.

Structure	Actual Cost Last Available FY	Projected Cost Current FY	Projected Cost Next FY
Supporting Organizations			
• Address Supporting Organization			

● Country Code Names Supporting Organization			
● Generic Names Supporting Organization			
Advisory Committees			
● At Large Advisory Committee			
● Governmental Advisory Committee			
● Root Server System Advisory Committee			
● Security and Stability Advisory Committee			
Other			
● Nominating Committee			
● Technical Liaison Group			
● ICANN Board			
● ICANN Executive Team			

If ICANN org is unable to fill in this table completely, it must provide the community with what information it does have available and enter into a dialogue with the community at least six months before the FY21 budget is published for community consultation so that we can work together to refine our request.

The NCSG has concerns that some third parties are imposing significant costs onto ICANN, be that through contractual remediation, vexatious complaints, or other conduct. We believe ICANN could become a more effective, accountable, and inclusive institution if it shared the demands third parties place on ICANN, and attributed a cost to fulfilling these externalities.

NCSG recommendation: In each year's budget and operating plan ICANN org must clearly delineate and attribute the cost of fulfilling requests from third parties.

Re-evaluate the spend on capacity development programmes for their effectiveness in leading to engagement in ICANN's policy development processes and mission

We strongly support the continuation of the ICANN fellowship and NextGen programmes, and think ICANN is correct in evaluating outcomes here to rightsize them. However, we believe that the ICANN Learn initiative must be re-evaluated in the context of the current budgetary situation.

> NCSG recommendation: The NCSG supports the proposed changes to the ICANN fellowship and NextGen programmes, however we have concerns that the spend on ICANN Learn may be greater than can be justified.

Conclusion

It is the position of the NCSG that the ICANN community should not be the first group to be affected by drastic cuts to the budget; it is our strongly held view that budget cuts should happen at all levels, and the organisation too should take steps to reduce the costs of its own operations. As you move forward, we ask that you:

- **Look inward at ICANN's own overall spending patterns and provide a clearer explanation as to how operational efficiencies will be achieved;**

  o Stop the growth in the size of the organisation's staff, and explore how, as a proportion of the budget, personnel costs and the significant spend on professional services can be decreased; and
  o Share ICANN's plan for achieving operational efficiencies.

- **Provide the community with an appropriate level of support commensurate with our responsibilities under the ICANN Bylaws.**

  o Allow the Community Regional Outreach Programme to continue in FY20 at FY18 funding and programmatic levels;
  o Provide the NCSG with equal levels of CROP support as the CSG receives;
  o Don't decrease the Additional Budgetary Request envelope from FY18 levels;
  o Provide funding for an NCPH Intersessional in FY20;
  o Provide GNSO Stakeholder Groups and Constituencies with 125 hours of professional research assistance; and
  o Champion sensible revisions to the community travel guidelines that permit constituency-supported travellers to arrive at meetings at reasonable cost and in reasonable comfort.

- **Provide the community with further clarity around who is authorising spending, where resources are going in the community, and what it costs to fulfil externalities imposed on ICANN, particularly but not limited to those from intellectual property interests;**

- **Re-evaluate the spend on capacity development programmes for their effectiveness in leading to engagement in ICANN's policy development processes and mission.**

Thank you again for opening this conversation up to the community. We are grateful to ICANN for this opportunity to share our views on the proposed budget for the coming fiscal year, and trust you will find our recommendations helpful.

Sincerely yours,

Stephanie Perrin

Chair

Non-Commercial Stakeholders Group

About the NCSG

The NCSG represents the interests of non-commercial domain name registrants and end-users in the formulation of Domain Name System (DNS) policy within the Generic Names Supporting Organisation (GNSO). We are proud to have individual and organisational members in over 160 countries, and as a network of academics, Internet end-users, and civil society actors, we represent a broad cross-section of the global Internet community. Since our predecessor's inception in 1999 (the Non-Commercial Domain Name Holders Constituency, NCDNHC), we have facilitated global academic and civil society engagement in support of ICANN's mission, stimulating an informed citizenry and building their understanding of relevant DNS policy issues. We believe our evidence-informed public interest-orientated contributions provide balance against state and market interests to protect non-commercial interests in ICANN's policy development process.