



Reserve Fund – Draft Document Intended for Public Comment

comments-reserve-fund-12oct17@icann.org

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1. Introduction

The Intellectual Property Constituency (IPC) of the GNSO is pleased to submit comments on the Reserve Fund Draft Document Intended for Public Comment. We note the challenges of replenishing ICANN’s reserve after the IANA stewardship transition and commend ICANN in its attempts to provide transparency as to the process. As the IPC indicated in its comments on the Draft FY18 Operating Plan and Budget, it is imperative that ICANN demonstrate to the world its fiscal responsibility and adherence to best practices when it comes to the reserves.¹

2. Specific Comments on the Reserve Proposal

The IPC supports the conclusion that a minimum of 1 year’s budget be the target goal for ICANN’s reserve fund as this level comports with industry best practice. We applaud the designation of an additional USD \$5 million by the Board to the reserve fund and recognize some hard budgeting choices will have to be made in order to replenish the fund at a reasonable pace. As we are still experiencing the after-effects of the IANA stewardship transition and the uncertainties of where the new gTLD program is heading, ICANN’s diminished reserves present significant risk should the organization be exposed to another unforeseen, adverse economic event. We believe that it would be helpful to the community for ICANN to have a specific replenishment plan in place in support of the different scenarios for the reserve, whether it be for 1 year, 18 months or 2 years, and what the corresponding impacts will be on operating expenses. IPC suggests that this be done in the final draft.

Although industry best practice for nonprofit organizations generally is to maintain 1 year of minimum reserves, ICANN is no ordinary nonprofit and its role in the global economy suggests that its operating reserves be much more robust. For example, the draft reserve fund report notes

¹ http://www.ipconstituency.org/assets/ipc-position-papers/2017/2017_04april_28%20ipc%20comments%202018%20operating%20plan%20and%20budget%20draft%20final.pdf

that Nominet keeps a minimum of 2 years' operating expenses in its reserve. Over the course of time, ICANN should aspire to this goal as well. Ideally, ICANN would implement a plan that brings the reserve fund up to the 1 year of operating expenses benchmark and, when that target is reached, conduct another assessment to determine whether advancing the fund to the 18 months or 2 years benchmarks would be more appropriate given the realities of the changing domain industry. At this stage, IPC believes that if ICANN were to adopt anything more than a 1 year's operating expense target today, it would be impractical from a replenishment perspective. Some have suggested that the new gTLD auction proceeds could be used for replenishment. However, it is our understanding that current restrictions on the use of the auction proceeds prevent them from being used for the reserve fund. As this is the case, we suggest a phased approach to determining new funding levels once the 1 year minimum target has been reached.

3. Conclusion

The IPC has been a very active participant in ICANN's policy making and governance. We take our role as a stakeholder seriously and welcome the opportunity to provide comments on critical ICANN operating procedures including the funding of ICANN's reserve fund. We are pleased that ICANN continues to strive for transparency, accountability and openness in the multi-stakeholder community. The issue of the reserve fund as it relates to budget is complex and we provide our comments to aid in ICANN's continuous improvement and accountability.