



**Intellectual Property Constituency (IPC) Comment  
on the Draft FY18 Operating Plan and Budget**

**February 8, 2018**

**A. Introduction**

The GNSO Intellectual Property Constituency (“IPC”) hereby submits its comments regarding the ICANN Draft FY19 Operating Plan and Budget and Five-Year Operating Plan Update (“FY19 Budget”) presented to the ICANN community on 19 January 2018. The IPC recognizes that the role of community input into the budget takes on greater importance as ICANN’s Empowered Community may reject a budget under ICANN’s new by-laws effective October 1, 2016. The IPC has engaged in budget briefings in Abu Dhabi as well as community calls that have been hosted by ICANN’s finance department. IPC recognizes and appreciates the finance department’s continued efforts to improve the presentation and understanding of ICANN’s complex budget. After consideration of this year’s budget and operation plan and the assumptions upon which they are built, the IPC is pleased to submit the following comments.

**B. A Continued Call for Fiscal Prudence**

As mentioned in its comments on the FY 2018 Budget, fees associated with operationalizing PTI and reforming ICANN’s overall governance and accountability mechanisms accelerated budget pressures and undermined long-term planning. On top of this, the entire ICANN community has been dealing with the broad policy implications of the European Union’s new data General Data Protection Regulation (GDPR). The costs of this unexpected and significant regulatory scheme have been a significant burden and drain on resources.

As result, IPC continues to advocate for supports replenishment of the reserves at a reasonable rate and prudent planning for the future. To this end and in shared community stewardship, IPC elected, as it did in 2018, not to make a special budget request for FY19. IPC recognizes the financial challenges that ICANN faces and encourages fiscal prudence. While some special budgets requests may be urgent and necessary, we urge the ICANN organization to consider these requests very carefully and only grant them for extraordinary needs.

In addition, IPC notes the overall budgeted personnel costs of \$76.8 million comprise 56% of the \$138 million budget, and that \$23.4 million, or 17% of the budget, is allocated “professional services.” IPC encourages ICANN to take a hard look at personnel costs and the use of outside professional services consultants.

IPC supports the measured and conservative approach that the FY19 Budget has taken with respect to global stakeholder engagement, fellowship and other similar programs. Recognizing that these can be important initiatives, IPC also asserts that some programs may be costly and with little benefit to the organization and its mission. IPC supports close and frequent evaluation of such programs to make sure that the costs are justified and that the results are aligned with ICANN's mission.

### **C. Reserve Funds**

As stated by IPC in its November 2017 comments, IPC supports the conclusion that a minimum of 1 year's budget be the target goal of ICANN's reserve fund. This level supports industry best practice. The FY19 Budget does provides for a modest increase of US\$4.7million in ICANN's reserve fund by virtue of project investment gains and indicates that "periodically, any funds in excess of this are transferred to the Reserve Fund. As an illustration, in November 2017, the ICANN Board approved an allocation of US\$5 million from the Operating Fund to the Reserve Fund." While this is applauded, IPC reiterates that it would be helpful to the community for ICANN to have included a replenishment plan 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.

### **E. Assumptions about Growth**

In its FY18 comments, the IPC urged ICANN to employ budget assumptions that account for a greater margin between projected revenue and expenses which would allow ICANN more flexibility in meeting its governance responsibilities by adequately funding its operating reserves.

The FY18 Adopted Budget was US\$143 million. However, ICANN's FY18 forecast of revenues is US\$135 million, which was a budget miss of US\$8 million. Funding for FY19 is at \$138 million, which is below the FY18 Adopted Budget of US\$143 million. but US\$3 million above the FY18 forecast of \$135 million. This increase is based upon a best estimate increase in transaction fees from registries and registrars of approximately US\$3 million. However, no detailed assumptions for this increase are provided. Such important growth assumptions should be provided in greater detail.

## **F. Concerns About Compliance and Consumer Safeguards**

IPC notes that the total compliance budget appears to be funded at US\$5.3 million which is a decrease from a slight decrease over last year's proposed budget of US\$5.4 million. However, the list of potential costly project is long, including (i) needing additional resources directed to support enhanced audits for Transparency in Infrastructure Abuse and Compliance, (ii) managing the impacts of GDPR compliance, (iii) monitoring and enforcement of DNS abuse (which will undoubtedly increase due to GDPR) and (iv) audits that are particularly related to DNS abuse. IPC asserts that this Compliance and Consumer Safeguards' budget may be under-estimated.

Further, IPC continues to stress the importance of transparency in the ICANN compliance process including how contracts are interpreted so that we may have levels of predictability and reliability when matters are escalated. ICANN would be well served to consider developing easily accessible resources that explain contract compliance outcomes. IPC has noted these issues in prior comments relating to ICANN budget practices.

## **G. Conclusion**

IPC has the seven (7) Key Initiative document for FY19 Budget and agrees that that they align with ICANN's strategic plan. IPC is pleased to see that support of the Policy Development Process is highlighted along with data and privacy issues related to GDPR. As an active member of the Empowered Community, IPC has been an active and engaged participant in ICANN's budget discussions and appreciated the transparency of the budget process. As discussed above, IPC appreciates the conservative approach, but believes that the impact of GDPR to Compliance and Consumer Safeguards may be under-estimated. In addition, we have ongoing concerns about ICANN's failure to address to its dwindling operational reserves and challenge some of the assumptions used to build the FY19 Budget in light of these concerns.

Respectfully submitted,

Intellectual Property Constituency