



## **ARTICLE 19 response to the ICANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget**

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### **Introduction**

ARTICLE 19 welcomes the efforts of the Internet Corporation for Assigned Names and Numbers (ICANN) to engage in a multi-stakeholder process by holding this Public Comment Consultation on the ICANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget.<sup>1</sup>

This consultation is an important opportunity, as the rules that ICANN will apply and actions it will take will impact the human rights of internet users. We thus appreciate the opportunity to provide ICANN with our position on the ICANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget and we look forward to the discussions that will follow.

This statement is made on our own behalf. We also endorse comments by the Non Commercial Stakeholder Group (NCSG) and those of the At-Large Advisory Committee (ALAC).

### **About ARTICLE 19**

ARTICLE 19 is an international human rights organisation that works to protect and promote free expression, which includes the right to speak, freedom of the press, and the right to access information. With regional programmes in Africa, Asia, Europe, Latin America, and the Middle East and North Africa, we champion freedom of expression at the national, regional, and international levels. The work of ARTICLE 19's Digital Programme focuses on the nexus of human rights, Internet infrastructure, and Internet governance.

At ICANN, we engage through the ICANN Empowered Community as members of the Generic Names Supporting Organization (GNSO) under the Non-Commercial Users Constituency (NCUC) and as members of the At-Large Advisory Committee (ALAC) directly as part of the European Regional At-Large Organization (EURALO). We work within the ICANN community with the main purpose of raising awareness of how the Domain Name System (DNS) affects human rights. This aim would ensure that Section 27.2 of the ICANN Bylaws (on Human Rights) and other Bylaws with an impact on human rights are implemented in full and put the user at the centre of policy development processes.

<sup>1</sup> ICANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget <<https://www.icann.org/public-comments/policy-recommendations-epdp-phase-2-2020-12-03-en>> accessed 12 February 2021

## Summary

On December 17 2020, ICANN published the ICANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget, seeking input from the community. In January 2021, ARTICLE 19 reviewed the three documents that are subject for the public consultation.

Our analysis shows that the draft operating plan contains several positive and commendable provisions, including inclusion of “implementation of Board-approved recommendations of the Cross-Community Working Group on ICANN Accountability Work Stream 2” and “facilitation and implementation of the Enhancing the Multistakeholder Model work plan”.

However, this is not reflected in the actual budget. Which means that despite being mentioned, the implementation might be a challenge and thus no actual steps to implement the human rights recommendations under Work Stream 2 recommendations would have been taken.

ARTICLE 19 therefore urges ICANN to consider the recommendations below, which would help align the CANN Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget more closely with international law and best practice.

## **WorkStream 2 recommendations and Enhancing Multi Stakeholder Model workplan**

We welcome the inclusion of the following two items into the draft operating plan:- “implementation of Board-approved recommendations of the Cross-Community Working Group on ICANN Accountability Work Stream 2” and “facilitation and implementation of the Enhancing the Multistakeholder Model work plan”.

These two items are key to achieving human rights within the ICANN multistakeholder community and we have written about them before<sup>2</sup> noting that “...*The Workstream 2 Recommendations on Accountability are seen as a big step ahead in the incorporation of human rights in ICANN’s various processes, with over 100 recommendations on aspects ranging from diversity to transparency. An Implementation Team has been constituted which comprises the Co-chairs and the rapporteurs from the WS2 subgroups. They will primarily help the ICANN organization in interpreting recommendations of the groups where further clarification is needed on how to implement the same. As the next step, an*

2 Akriti Bopanna and Ephraim Percy Kenyanito, *ARTICLE 19 Blog*, ICANN takes one step forward in its human rights and accountability commitments <<https://www.article19.org/resources/blog-icann-takes-one-step-forward-in-its-human-rights-and-accountability-commitments/>> accessed 12 February 2021

*Implementation Assessment Report has recently been published which looks at the various resources and steps needed. The steps are categorized into actions meant for one of the 3; the ICANN Board, Community and the ICANN organization itself. These will be funded by ICANN's General Operating Fund, the Board and the org.*

*The report is divided into the following 8 issues: 1) Diversity, 2) Guidelines for Good Faith, 3) Recommendations for a Framework of Interpretation for Human Rights, 4) Jurisdiction of Settlement of Dispute Issues, 5) Recommendations for Improving the ICANN Office of the Ombudsman, 6) Recommendations to increase SO/ AC Accountability, 7) Recommendations to increase Staff Accountability and 8) Recommendations to improve ICANN Transparency....”*

While we appreciate that the draft operating plan mentions these two issues (WorkStream 2 recommendations and Enhancing Multi Stakeholder Model workplan); it is important to highlight that these are mentioned vaguely only in the operating plan but not explicitly listed under the budget. This oversight makes it difficult to understand what is budgeted for under each of the 100 Board-approved recommendations of the Cross-Community Working Group on ICANN Accountability Work Stream 2” and the amount budgeted for “facilitation and implementation of the Enhancing the Multistakeholder Model work plan”.

In this regard, ICANN should clearly and explicitly publish what amount is budgeted for under each of the 100 recommendations and also the amount budgeted for “facilitation and implementation of the Enhancing the Multistakeholder Model work plan”. This will help ensure that internet users' human rights at the Domain Name System level are taken seriously and the internet is governed in a public and multistakeholder manner.

## **Conclusion**

ARTICLE 19 is grateful for the opportunity to engage with ICANN in this process, in light of the five objectives under ICANN's Strategic Plan for Fiscal Years 2021-2025.

We look forward to continued collaboration to strengthen human rights considerations in the Domain Name System and particularly in ICANN's policies and procedures. We welcome further engagement opportunities and avail ourselves in case of any questions or concerns.

If you would like to discuss this analysis further, please contact Ephraim Percy Kenyanito, Senior Digital Program Officer, at [ephraim@article19.org](mailto:ephraim@article19.org). Additionally, if you have a matter you would like to bring to the attention of the ARTICLE 19 Digital Programme, you can contact us by e-mail at [digital@article19.org](mailto:digital@article19.org).