

6 July 2020

Process of Adoption of the FY 2021-2025 Operating Plan and FY 2021 Operating Plan and Budget

To: Maarten Botterman, Chair of the ICANN Board of Directors
Cc: Göran Marby, Chris Disspain, Nigel Roberts, Xavier Calvez

Dear Maarten:

On behalf of the ccNSO Council, I would like to express appreciation with the timely action that the Board and ICANN Org took to review and adjust the original proposed plans and budget, which were subject to public comment, in light of the potential impact of the Covid-19 pandemic on ICANN's operations. We also appreciate that, considering the possibility of a Rejection Action by the Empowered Community, the Board needed to take a quick decision to ensure that both the FY 2021-2025 Operating Plan and FY 21 Operating Plan and Budget are in place before the end of this Fiscal Year.

That being said, we were surprised to learn through a blog-post that – due to the limited time between the update and adoption of the revised plans – the Board instead had decided not to conduct a public comment but post the adjusted plans and hold webinars to collect input and comments. The fact that input received during two webinars did not lead to any change to the new plans does not justify the decision not to follow the due process.

We believe that the Board should have followed an alternative approach, which would be more in line with the envisioned balance of powers under the Bylaws.

As a Decisional Participant, we would have appreciated being alerted of the chosen approach ahead of time. In addition, the Board – in conjunction with an early warning – could have sought public comment for a period shorter than 40 days. In the past, when external circumstances demanded, this was not considered an issue. It is our view and interpretation that as a result of the Board's choice, our role as a Decisional Participant was unnecessarily affected without consultation. Specifically, if someone who had not responded during the regular public comment period but attended a webinar would have submitted a Rejection Petition to one or both of the amended plans, we would not know if the relevant requirements under the Bylaws would have been met.

As mentioned before, we appreciate this difficult time required to act and introduce changes. However, we would have preferred that the Board consulted with the Decisional Participants and would have considered alternatives, considering the procedural requirements.

We also suggest that an expedited procedure with a shortened public comment period to deal with extraordinary situations be developed and agreed with Decisional Participants.

On behalf of the ccNSO Council,



Katrina Sataki, Chair