Subject: GNSO Input on Questions Relating to the Issues for Considerations Regarding the IRP Implementation Oversight Team (IOT)

To: Samantha Eisner; cc: David McCauley

Dear Samantha,

Thank you for the helpful presentation at the May 2019 GNSO Council meeting on the IRP Implementation Oversight Team (IoT). Having confirmed with you that ICANN Org would still find it useful to receive input from the GNSO, the GNSO Council is pleased to provide the following requested responses to ICANN Org to the important questions relating to the selection of the standing panelists for the Independent Review Process.

Please let us know if you have any questions concerning the input provided and thank you again for the opportunity to respond.

Best regards,

Keith Drazek, GNSO Council Chair

Rafik Dammak, GNSO Council Vice-Chair

Pam Little, GNSO Council Vice-Chair

Qualifications for Standing Panelists: *Are there specific qualifications that should be included? If so, what are they? Anything disqualifying? Should the SOs and ACs recommend qualifications? And if so, how?*

The GNSO Council suggests that ICANN Org should compile a list of general background qualifications along with a matrix to ensure that the standing panel appointees possess a sufficient breadth and depth of qualifications. Qualification criteria might include (i) the ability for a panelist to act independently and neutrally, (ii) expertise in public international law, (iii) experience in international arbitration, (iv) understanding of both common law and continental law systems. ICANN Org also should develop a process to ensure that potential panelists declare possible conflicts of interest that would disqualify candidates. The GNSO Council suggests that SOs and ACs should be able to recommend qualifications prior to the call for statements of interest from applicants.

Identifying a Slate of Well-Qualified Panelists: *We've heard concerns from some members of the ICANN community as to whether the broader community has the appropriate experience and skill for this selection work, and have suggested the possibility that ICANN instead contract*

with experts to perform this vetting process. Should the community rely on expertise to help vet and recommend a final slate for the standing panel?

The GNSO Council suggests that in addition to involving the SOs and ACs in the vetting process, ICANN Org consults with institutions such as the ICDR (AAA), the ICC's International Court of Arbitration, WIPO, and the Permanent Court of Arbitration about (1) their slates of panelists, (2) their process of identifying panelists, (3) their experience with standing panels and rosters, and (4) the criteria for panelists, in order to gain further insight on the process. These consultations should be done in an open and transparent fashion, involving the SOs and ACs in all consultations to ensure that the SOs and ACs are making an informed decision when nominating a slate of proposed panel members, based on expert advice.

Board Approval of Panel Slate – Further Questions: *After there is a slate of well-qualified applicants, the Board must confirm the panel. If the Board has questions that might impact its confirmation, to whom should those questions be addressed? If experts are used to develop the slate, should the experts, the SOs and ACs, or some combination thereof be part of that conversation?*

The GNSO Council suggests that the questions should be directed to ICANN Org and the representatives of the SOs and ACs in the vetting and/or nomination process. Outside experts could also be consulted. Questions should be presented and addressed in an open and transparent fashion.

Future Selections: *Should the process being designed today be reviewed for effectiveness after the first slating is completed, prior to making it standard operating procedure for future selection rounds?*

The GNSO Council suggests that a review of the process for effectiveness (recruitment, vetting, slating, and panel function) after the first slating is completed would be useful and could form part of a larger process for reviewing the effectiveness of the IRP standing panel in general. In addition to effectiveness, such a review could help determine whether the selection process resulted in panelists who were selected in a timely manner and who met the qualifications, particularly with respect to the criteria of independence and neutrality, compentence, and their contributions to reinforcing ICANN's accountability.