Response to Documentary Information Disclosure Policy Request

To: Aditya Garg

Date: 21 August 2015

Re: Request No. 20150722-1

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Thank you for your Request for Information dated 22 July 2015 ("Request"), which was submitted through the Internet Corporation for Assigned Names and Numbers' ("ICANN's") Documentary Information Disclosure Policy ("DIDP") on behalf of The Centre for Internet & Society ("CIS"). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested

Your Request references CIS' prior DIDP Request No. 20141228-1-NETmundial (*see* https://www.icann.org/resources/pages/20141228-1-netmundial-2015-01-28-en) and now requests the disclosure of "all existing documents within ICANN which represent its efforts to implement the NETmundial Principles within its working," and "all the documents which were modified as the result of ICANN's support of the NETmundial Initiative, highlighting the modification so made."

Response

Your Request essentially seeks the same information requested in your DIDP Request No. 20141228-1-NETmundial, and ICANN's prior Response to DIDP Request No. 20141228-1-NETmundial still applies. (*See* https://www.icann.org/resources/pages/20141228-1-netmundial-2015-01-28-en.)

As noted in response to DIDP Request No. 20141228-1-NETmundial, ICANN is one of just many participants in the Internet governance realm, and ICANN is not the home for implementation of the NETmundial Principles or the evolution of multistakeholder participation in Internet governance. The NETmundial Initiative has been developed – external to ICANN – and its mission is "to provide a platform that helps catalyze practical cooperation between all stakeholders in order to address Internet issues and advance the implementation of the NETmundial Principles […] and Roadmap […]. (*See* https://www.netmundial.org/terms-reference.) Although ICANN is one of the founding members of the NETmundial Initiative, it is not a part of ICANN. Information on the operations of the NETmundial Initiative is not housed within ICANN; it is available on the NETmundial Initiative website at https://www.netmundial.org/.

As noted in the NETmundial Multistakeholder Statement (dated 24 April 2014), available on the NETmundial Initiative website, "NETmundial identified a set of common principles and important values that contribute for an inclusive, multistakeholder, effective, legitimate, and evolving Internet governance framework and recognized that

the Internet is a global resource which should be managed in the public interest." (*See* http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Document.pdf.) As previously noted, many of the NETmundial Principles (*see* https://www.netmundial.org/principles) are high-level statements that permeate through the work of any entity - particularly a multistakeholder entity like ICANN – that is interested in the upholding of the inclusive, multistakeholder process within the Internet governance framework. For example, ICANN's mission is dedicated to the security, stability and resiliency of the Internet domain name system, and documents regarding that work are available throughout ICANN's website. Further, many of the Principles are embodied in ICANN's Core Values as set forth in in Article 1, Section 2 of ICANN's Bylaws (*see* https://www.icann.org/resources/pages/governance/bylaws-en/#I).

As noted in response to DIDP Request No. 20141228-1-NETmundial, where available and feasible, ICANN has already made available documents relevant to your Request about its efforts after the formation of the NETmundial Principles. On 1 May 2014, ICANN President and CEO, Fadi Chehadé, in a blog titled "Turning Talk Into Action After NETMundial" (available at http://blog.icann.org/2014/05/turning-talk-into-action-after-netmundial/), shared with the ICANN community ICANN's measures to "operationalize the NETMundial roadmap." On 18 August 2014, Mr. Chehadé penned another blog titled "An Initiative for Action", available at https://www.icann.org/news/blog/an-initiative-for-action, where he shared, in detail, the efforts across the broad Internet community (not just within ICANN) that have been undertaken to implement the NETmundial Principles.

ICANN has also published updates on work throughout the community regarding the implementation of the NETmundial Principles. These include the Final Report of the Panel on Global Internet Cooperation and Governance Mechanism at https://www.icann.org/en/system/files/files/collaborative-decentralized-ig-ecosystem-21may14-en.pdf. That report, as explained in the blog post by Nora Abusitta, recognizes the NETmundial Principles as part of its recommendations. Ms. Abusitta's post, "Panel on Global Internet Corporation and Governance Mechanism Builds on NETmundial Momentum," is available at https://www.icann.org/news/blog/panel-on-global-internet-cooperation-and-governance-mechanisms-builds-on-netmundial-momentum. The work of an ongoing Cross-Community Working Group on Internet Governance, formed initially to provide submissions to the April 2014 NETmundial meeting, can be followed at https://community.icann.org/pages/viewpage.action?pageId=43984275.

Finally, in ICANN's Five-Year Strategic Plan (*see* https://www.icann.org/en/system/files/files/strategic-plan-2016-2020-10oct14-en.pdf), you will note that Objective 4.3 includes the following key success factor that references the NETmundial Principles: "Demonstrate leadership by implementing best practices in multistakeholder mechanisms within the distributed Internet governance ecosystem while encouraging all stakeholders to implement the principles endorsed at NETmundial."

As noted in response to your prior DIDP request, ICANN's DIDP is intended to "ensure that information contained in documents concerning ICANN's operational activities, and within ICANN's possession, custody, or control, is made available to the public unless

there is a compelling reason for confidentiality." (*See* https://www.icann.org/resources/pages/didp-2012-02-25-en (emphasis added).) As part of its approach to transparency and information disclosure, ICANN makes available on its website at www.icann.org a comprehensive set of materials concerning ICANN's operational activities as a matter of course. Accordingly, to the extent your Request seeks the disclosure of documents that do not relate to ICANN's operational activities, they fall outside the scope of the DIDP.

Your Request is also subject to the following DIDP Defined Conditions of Nondisclosure:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Confidential business information and/or internal policies and procedures.

- Information subject to the attorney–client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

- Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; and (iii) complying with which is not feasible.

About DIDP

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see http://www.icann.org/en/about/transparency/didp. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the

portions of ICANN's website that are of interest because as we continue to enhance our reporting mechanisms, reports will be posted for public access.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.