

ICANN57-Hyderabad: Exploring the Public Interest Within ICANN's Remit

Date: Sunday, November 6

Link: <https://icann572016.sched.com/event/8cyd/exploring-the-public-interest-within-icanns-remit>

This session sought to examine historical nuances of the concept of public interest, as well as explore its current application at ICANN and how it can be better operationalized for future decision-making.

I. KEY TAKEAWAYS

Setting the Scene | Olivier Crepin-Leblond, EURALO Chair

- Discussions about the concept of the public interest within ICANN's remit are as old as ICANN itself.
- The Strategy Panel on Public Responsibility Framework proposed a definition of "public interest" as it relates to the Internet:
 "[E]nsuring that the Internet becomes, and continues to be, stable, inclusive, and accessible across the globe so that all may enjoy the benefits of a single and open Internet. In addressing its public responsibility, ICANN must build trust in the Internet and its governance ecosystem."
- Public interest is a key issue in light of the IANA transition and ICANN's governance structure changes; "public interest" and "global public interest" are mentioned 10 times in new bylaws.
- Despite lack of clarity on a universal definition of the public interest as it applies to ICANN's use of the term, there is a broad understanding that the work of ICANN is rooted in the public interest.

Historical & Political Nuances of the Concept of the Global Public Interest

Examples from Europe - Wolf Ludwig, EURALO

- There is no single definition of the public interest. From the European historical view, many references consider the public interest as the interest of the majority/community. Public interest is a guiding principle that plays an important role, especially referring to governmental regulation.
- It may be more difficult to define global public interest because of language and cultural differences.
- Public interest is important to ensure any good governance system or model.

Examples from India -Rajesh Chharia, ISPAI

- India is mainly rural and penetration of the Internet has just begun. Because of the 22 languages spoken there, it is difficult to bring the Indian people together on one platform (the Internet).
- The public is the most important stakeholder in the system. How to bring the public into the decision-making process at ICANN is the biggest role of the government and the community.
- The common people are empowered by strengthening the public interest in Internet policymaking.
- It will take time to completely convert into the multistakeholder process, but with the help of the public, multistakeholder governance will be successful.

Reaching a Shared Understanding: The Concept of the Public Interest at ICANN and its Application

Jonathan Robinson, GNSO

- Three key public interest areas in ICANN's remit are: (1) Supporting the security, stability, and evolution of the DNS, (2) Developing best practices in the multistakeholder systems, (3) Enhanced stakeholder participation.

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- The fact that there is a multistakeholder body commissioning, managing, and ultimately overseeing the introduction of policy, is, in part, the definition of the public interest.
- ICANN's efforts to be accountable, have openness, cooperation, and collaboration are mechanisms by which it seeks to meet public interest commitments. This can even enhance the organization's overall effectiveness.
- It is a challenge to properly implement the public interest because it is extremely context-specific and can almost never be described in the abstract.

Becky Burr, GNSO

- According to the core values in ICANN's new bylaws, the public interest ICANN must serve is:
 - 1) to ensure the availability and integrity of registrations (names) and resolutions (numbers)
 - 2) to develop policies and identify the global public interest through the bottom-up, global multistakeholder process
- As such, the global public interest is designed to be self-executing in ICANN's bylaws – if the bottom-up, multistakeholder process is followed and the end result is supported by consensus, then the global public interest is automatically served.

Exploring How the Public Interest Could Be Operationalized as the Basis for Decision-making at ICANN, Thomas Schneider, GAC

- A proposal for a new definition of the public interest is: Everything that is in the interest of the global public. This includes everything, (such as food, health, energy, etc.), and not merely the DNS.
- The bigger question is how to aggregate, mitigate and balance the public interest.
- In this sense, it does not make sense to define the public interest, but instead to define public policy objectives and elements of the public interest.
- What is needed is a process that allows the identification of all of the elements of the public interest within each, particular case. Moreover, all stakeholders need to be identified and given a voice.
- Once all of this is done and all elements are assessed, solutions can be found through inclusive, bottom-up, mitigating processes.

Questions & Comments - Open Mic

- Fair usage of ISPs in India is a significant concern; spectrum scarcity invites abuse
- Global monopolies inhibit access
- One definition for the global public interest is impossible; the focus should be on the process as opposed to the definition of the public interest.
- How is public interest affected if the Board chooses to disregard GAC advice? (The Board might not follow GAC advice, but bylaws require ICANN to go through a bottom-up multistakeholder process and stay within its mission. The output of that results in the articulation of the public interest.
- In Internet governance, the global public interest is achieved by a government or a business acting for the whole world rather than for itself.
- Public interest demands more inclusivity and access: in India, 22% of people are connected
- The public interest needs to be described, not defined. When something is defined, it becomes a law, but by describing it, it is still possible to extend the concept.
- Can pricing impact public interest? (ICANN does not have the authority to regulate prices and that would be outside ICANN's mission)