



# The Public Interest in ALAC Remit

*Dr. Olivier MJ Crépin-Leblond  
EURALO Chair*

*At-Large Webinar, 20 September 2018*

@icannatlarge



# What is the Public Interest

In the history of ideas and referring to the Antique...

Aristotle created the concept of “*Polis*” and its goal “the happiness of its citizens”. But an individual cannot achieve happiness solely through private life and personal satisfaction of needs. Fulfilment of happiness was seen in public participation, knowledge acquisition and the wellbeing of the citizenhood as such. For Aristotle political justice and public utility were basics of any common weal.

A Roman equivalent of this concept evolved around the term “*civitas*”.

When tracing the Public Interest it becomes clear that its concept is rather old or ancient while its proper implementation is an enduring process.

# What is the Public Interest

Several European constitutions refer to the Public Interest

German Constitution, Article 56 (as well as several constitutions of federal states),

Swiss Constitution (1874), Article 2,

French Constitution (1958), Article 1,

Spanish Constitution (1978), Preambulo.

The PI has always been crucial for sensemaking of policy in various European countries. And there are plenty of traces in European public law.

# What is the Public Interest

The term of Public Interest finds its equivalents in various European languages: German “*Gemeinwohl*”, Greek “*koiné symphéron*”, Latin “*salus publica, bonum commune, bonum generalis*”, French “*bien public*”, Italian “*Il bene comune*” or English “*common good*”.

“*Gemeinwohl*” is also understood as an antonym of mere personal (“*Eigennutz*”), group or particular interests within a community or society while there is no a priori determination or warranty of its quality.

Is Public Interest an antonym of “Private Interest” – interest of the few?

# What about on the Internet?

The “*commons*” are the cultural and natural resources accessible to all members of a society, including natural materials such as air, water and a habitable earth. These resources are held in common, not owned privately – likewise the Internet has often been described as “global public resource”.

Usually, pursue of the PI means weighing of interests or how best to serve the interest of the general public and by which means.

# In relation to ICANN

- NETmundial Multistakeholder Statement by arguing “the Internet is a global resource which should be managed in the public interest”.
- Section 2 of ICANN’s Bylaws clearly name the Public Interest as a “core value”. ICANN’s Bylaws and Affirmation of Commitments (AoC) employed the term three and five times, respectively.
- ICANN’s GAC has invoked the term to underline some of its positions
- Applicants for new gTLDs are asked to undertake Public Interest Commitments (PIC)

# In the ICANN Remit

- Applicants for new gTLDs are asked to undertake Public Interest Commitments (PIC) – therefore commitments that the Top Level Domain will serve the interest of the general public.
  - Thus cause no harm to end users
    - Confusion
    - Deceit
    - Inconvenience
  - Thus be run in a responsible and ethical way
  - Thus be serving end users
  - Thus be promoting Competition, Consumer Trust and Consumer Choice
  - Thus (arguably by extension) be run by a respectable Registry

# In the ICANN Remit

- The Public Technical Identifiers (PTI – ex-IANA) root should be run in a non discriminatory way
- ICANN Policy Development Processes should be open and fair
- The ICANN Board should consider input from its component communities and act in a fair and non discriminatory way
- ICANN's Accountability processes should ensure the above
- ICANN's component communities should also act accordingly
- ICANN's multistakeholder model should be a balanced multistakeholder model
- Etc.
- You do not need to **define** the Public Interest, you just need to **act in the Public Interest**



# New gTLDs

- GNSO PDP on subsequent procedures is working towards another potential round of new gTLDs
- <https://gns0.icann.org/en/group-activities/active/new-gtld-subsequent-procedures>
- Reviewing input from Competition, Consumer Trust, Consumer Choice Review Team
- Reviewing input from all aspects of the Applicant Guidebook, the applicant process, the applicant support, fees, Registrant Protection, Intellectual Property, Internationalised Domain Names, Compliance, Financial, etc.

# At-Large perspectives on New gTLDs

- From an At-Large perspective the gTLDs have to serve:
  - End users, regardless of whether they hold a domain name or not
  - Registrants of domain names
  - Communities around the world that might be interested in applying for a domain name in the next round
- But in a community that is as diverse as the At-Large Community, their interests can be vastly different

# At-Large perspectives on WHOIS

- Whois – the directory of domain name registrants has been a topic of discussion since before ICANN was created. Many working groups and review teams have worked on the topic
- General Data Protection Regulation has brought a deadline for work to take place for ICANN, Registrars and Registries to comply with these rules
- Temporary Specification was drafted in a hurry by ICANN
- Expedited Policy Development Process (1 year)
  - Next Generation Registration Directory Services
  - Or something else
  - Or nothing
- At-Large point of view is split:
  - Make less information available to preserve a registrant's privacy
  - Do not make less information available to preserve the ability for an end user to evaluate a domain name's reputation (that includes anti-phishing and anti-spam tools)

# More information:



<https://community.icann.org/display/atlarge/At-Large+Public+Interest+Working+Group>

Contact: [staff@atlarge.icann.org](mailto:staff@atlarge.icann.org)

@icannatlarge

