

Inventory of References to the Global Public Interest and the Public Interest

Documents Included in the Chart Below:

- Affirmation of Commitments by the United States Department of Commerce and ICANN
- Affirmation of Commitments: Reactions
- WHOIS Policy Review Team Final Report
- ICANN Bylaws
- ICANN Strategic Plan for fiscal years 2016-2020
- Cross Community Working Group (CCWG) Accountability Initial Draft Proposal for Public Comment
- Public Interest Commitment Dispute Resolution Procedure
- GAC Operating Principles
- Final Recommendations of the Accountability and Transparency Review Team (ATRT 1)
- Accountability and Transparency Review Team 2 Report and Recommendations (ATRT 2)
- ICANN Draft FY16 Operating Plan & Budget
- Board Governance Guidelines
- ICANN Documentary Information Disclosure Policy
- Registry Agreement
- 2013 Registrar Accreditation Agreement
- Rights Protection Mechanisms Review
- Competition, Consumer Choice, and Consumer Trust Reviews (CCT)
- New gTLD Applicant Guidebook
- Independent Objector (IO)

Document Name	Author/ Constituency Group	Date Released	Statements or References	Mentions Global Public Interest or Public Interest	Location of Document
<p>Affirmation of Commitments by the United States Department of Commerce and ICANN</p>	<p>US Department of Commerce and ICANN</p>	<p>September 30, 2009</p>	<p>“3. This document affirms key commitments by DOC and ICANN, including commitments to: (a) ensure that decisions made related to the global technical coordination of the DNS are made in the <u>public interest</u> and are accountable and transparent; (b) preserve the security, stability and resiliency of the DNS; (c) promote competition, consumer trust, and consumer choice in the DNS marketplace; and (d) facilitate international participation in DNS technical coordination.”</p> <p>“4. DOC affirms its commitment to a multi-stakeholder, private sector led, bottom-up policy development model for DNS technical coordination that acts for the benefit of global Internet users. A private coordinating process, the outcomes of which reflect the <u>public interest</u>, is best able to flexibly meet the changing needs of the Internet and of Internet users. ICANN and DOC recognize that there is a group of participants that engage in ICANN's processes to a greater extent than Internet users generally. To ensure that its decisions are in the <u>public interest</u>, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS.”</p> <p>“9.1 Ensuring accountability, transparency and the interests</p>	<p>Public Interest</p>	<p>https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en</p>

		<p>of global Internet users: ICANN commits to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making will reflect the <u>public interest</u> and be accountable to all stakeholders by: (a) continually assessing and improving ICANN Board of Directors (Board) governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which Board composition meets ICANN's present and future needs, and the consideration of an appeal mechanism for Board decisions; (b) assessing the role and effectiveness of the GAC and its interaction with the Board and making recommendations for improvement to ensure effective consideration by ICANN of GAC input on the public policy aspects of the technical coordination of the DNS; (c) continually assessing and improving the processes by which ICANN receives public input (including adequate explanation of decisions taken and the rationale thereof); (d) continually assessing the extent to which ICANN's decisions are embraced, supported and accepted by the public and the Internet community; and (e) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development. ICANN will organize a review of its execution of the above commitments no less frequently than every three years, with the first such review concluding no later than December 31, 2010. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the Chair of the Board of ICANN, the Assistant Secretary for Communications and Information of the DOC, representatives of the relevant ICANN Advisory Committees and Supporting Organizations</p>		
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			<p>and independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the Chair of the Board of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations. Each of the foregoing reviews shall consider the extent to which the assessments and actions undertaken by ICANN have been successful in ensuring that ICANN is acting transparently, is accountable for its decision-making, and acts in the <u>public interest</u>. Integral to the foregoing reviews will be assessments of the extent to which the Board and staff have implemented the recommendations arising out of the other commitment reviews enumerated below.”</p>		
<p>Affirmation of Commitments: Reactions</p>	<p>Reactions from Community Members to the AoC</p>	<p>Specific Date N/A, but it can be estimated to be towards the end of 2009, after the release of the AoC.</p>	<p>"This framework puts the <u>public interest</u> front and center, and it establishes processes for stakeholders around the world to review ICANN's performance."</p> <ul style="list-style-type: none"> • Lawrence E. Strickling, Assistant Secretary for Communications and Information and NTIA Administrator, United States Department of Commerce <p>"The new framework spelled out in the Affirmation of Commitments is something ICANN has needed for a long time. It reinforces ICANN's charter as a group that works in the <u>public interest</u>; it makes ICANN truly global; it gives ICANN the freedom to operate, and it sets up what we hope will be a sustainable model for government involvement. ICANN's leadership has been given a license to do good, and we in the ICANN community should also redouble our efforts to make good on ICANN's promise. Congratulations to everyone at ICANN and at the Department of Commerce for reaching this historic milestone."</p>	<p>Public Interest</p>	<p>https://archive.icann.org/en/affirmation/affirmation-reaction.htm</p>

			<ul style="list-style-type: none"> • Antony Van Couvering, CEO, Minds + Machines <p>"The Affirmation of Commitments by ICANN and DOC fulfills, let the world see the world in the management of DNS and IP addresses same as ITU: to achieve seamless interchange of globalization, coordination mechanisms, the first principle of public interest, open system advantages gained support . This is the world's Internet 40 years in technology management policy, one of the greatest events."</p> <ul style="list-style-type: none"> • Shen Yang, www.BeijingNews.com.cn and Chief Editor of “The Economics of China’s Domain Names”, Committeeman of WG for Blog, Internet Society of China (ISC) <p>"On behalf of .ORG, The Public Interest Registry, I would like to extend my congratulations to Rod Beckstrom and the ICANN community in ushering in a new era. PIR fully supports the Affirmation of Commitments by the United States Department of Commerce and ICANN. We are thrilled to learn that the new agreement continues ICANN's role in serving the <u>public interest</u>, as it is in direct alignment with PIR's core mission from inception, as our company name suggests. "</p> <ul style="list-style-type: none"> • Alexa A. S. Raad, CEO, .ORG, The Public Interest Registry 		
WHOIS Policy Review Team Final Report	WHOIS Review Team	May 11, 2012	<p>B. Scope of Work</p> <p>“Additional principles from the Affirmation further guided the Review Team work. While each Review Team member hails from a particular community within or outside of ICANN, the Team agreed to conduct its work pursuant to the broad <u>public interest</u> principles set out the Affirmation, including:</p> <ul style="list-style-type: none"> • "decisions made related to the global technical coordination of the DNS are made in the <u>public</u> 	Public Interest	https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf

			<p><u>interest</u> and are accountable and transparent" Section 3(a);</p> <ul style="list-style-type: none"> • should “promote competition, consumer trust, and consumer choice in the DNS marketplace" Section 3(c); and • should "reflect the <u>public interest</u>...and not just the interests of a particular set of stakeholders" (paragraph 4).” <p>E. The Proxy Registration System “Review Team members are in unanimous agreement that the status quo regarding proxy registrations is not sustainable, is not fair to legitimate participants in the domain name marketplace, frustrates valuable social goals such as law enforcement and the protection of intellectual property, and reflects poorly on ICANN's commitment to serve the <u>public interest</u>.”</p>		
ICANN Bylaws	As amended July 30, 2014	ICANN	<p>ARTICLE I: Mission and Core Values Section 2. Core Values “6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the <u>public interest</u>.”</p> <p>ARTICLE IV: Accountability and Review Section 3. Independent Review of Board Actions “18. The IRP Panel should strive to issue its written declaration no later than six months after the filing of the request for independent review. The IRP Panel shall make its declaration based solely on the documentation, supporting materials, and arguments submitted by the parties, and in its declaration shall specifically designate the prevailing party. The party not prevailing shall ordinarily be responsible for</p>	Public Interest	https://www.icann.org/resources/pages/governance/bylaws-en

			<p>bearing all costs of the IRP Provider, but in an extraordinary case the IRP Panel may in its declaration allocate up to half of the costs of the IRP Provider to the prevailing party based upon the circumstances, including a consideration of the reasonableness of the parties' positions and their contribution to the <u>public interest</u>. Each party to the IRP proceedings shall bear its own expenses.”</p> <p>ARTICLE VI: Board of Directors</p> <p>“4. Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars; with ccTLD registries; with IP address registries; with Internet technical standards and protocols; with policy-development procedures, legal traditions, and the <u>public interest</u>; and with the broad range of business, individual, academic, and non-commercial users of the Internet;”</p>		
ICANN Strategic Plan for fiscal years 2016-2020	October 10, 2014	ICANN	<p>Introduction</p> <p>“ICANN strives to be a proficient, responsive and respected steward of the <u>public interest</u> through its commitment to public accountability, openness, and effective cooperation and collaboration. These collective efforts culminate in a common shared goal: a single, interoperable Internet supported by stable, secure and resilient unique identifier systems.”</p> <p>Vision</p> <p>“ICANN’s vision is that of an independent, global organization trusted worldwide to coordinate the global Internet’s systems of unique identifiers to support a single, open globally interoperable Internet. ICANN builds trust through serving the <u>public interest</u>, and incorporating the transparent and effective cooperation among stakeholders worldwide to</p>	Both Global Public Interest and Public Interest	https://www.icann.org/en/system/files/files/strategic-plan-2016-2020-10oct14-en.pdf

		<p>facilitate its coordination role.”</p> <p>2.3 Support the evolution of domain name marketplace to be robust, stable and trusted.</p> <p>STRATEGIC RISKS</p> <p>“Conflicting agendas of key players thwart cooperation and evolution of marketplace to serve the <u>public interest</u>.”</p> <p>4 Promote ICANN’s role and multistakeholder approach.</p> <p>“ ICANN seeks this role clarity for itself. We strive to clarify the linkages and frameworks that underlie ICANN’s responsibilities in the current Internet ecosystem. We commit to developing ways to maintain and enhance ICANN’s stewardship in an evolving ecosystem. We pledge to cultivate thought leadership on ways in which ICANN can serve a complex set of Internet constituencies. We also commit to strengthening relationships with members of this evolving ecosystem to achieve our shared goals and serve the <u>public interest</u>.”</p> <p>“4.4 Promote role clarity and establish mechanisms to increase trust within the ecosystem rooted in the <u>public interest</u>.”</p> <p>5 Develop and implement a <u>global public interest</u> framework bounded by ICANN’s mission.</p> <p>“As the Internet grows worldwide and society increases its dependency on it for all manner of activity, the Internet’s systems of unique identifiers become more important and of <u>global public interest</u>. ICANN seeks to develop a public responsibility framework for promoting the <u>global public interest</u> in the coordination of the Internet’s unique identifier systems and in furtherance of ICANN’s mission. The</p>		
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			<p>framework will clarify ICANN’s roles, objectives and milestones in promoting the <u>public interest</u> through capacity building, and increasing the base of internationally diverse, knowledgeable, and engaged ICANN stakeholders.”</p> <p>5.1 Act as a steward of the <u>public interest</u>.</p> <p>KEY SUCCESS FACTORS (OUTCOMES)</p> <ul style="list-style-type: none"> - The ICANN community’s decision and policy-making structures and processes are driven by a clear understanding of the <u>public interest</u>, including a healthy unique identifier system and marketplace. - The ‘L’ root server and related infrastructure is enhanced to continually improve the services provided for the <u>public interest</u>. - Common use across the ICANN community of best practices that demonstrate commitment to the <u>public interest</u>. - Streamlined reviews that demonstrate the effectiveness of best practices in support of the <u>public interest</u>. <p>STRATEGIC RISKS</p> <ul style="list-style-type: none"> - Inability to reach consensus on what constitutes “<u>public interest</u>”. - Privacy concerns impact the ability to improve root services. - ICANN community does not reach consensus on best practices related to the <u>public interest</u>. - Perception that ICANN is driven by selected interests rather than the <u>public interest</u>. - ICANN’s structures evolve in a manner that results in capture or perception of capture by groups of stakeholders.” 		
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<p>Cross Community Working Group (CCWG) Accountability Initial Draft Proposal for Public Comment</p>	<p>CCWG Accountability</p>	<p>May 4, 2015</p>	<p>SUMMARY OF RECOMMENDED CHANGES</p> <p>3. Balancing or Reconciliation Test</p> <p>“ a. Modify the “balancing” language in the Bylaws to clarify the manner in which this balancing or reconciliation takes place. Specifically:</p> <ul style="list-style-type: none"> i. In any situation in which one Commitment must be reconciled with another Commitment or Core Value, the proposed language requires ICANN to ensure that its interpretation is (i) justified by an important, specific, and articulated <u>public interest</u> goal within its Mission; (ii) likely to promote that <u>public interest</u> goal; (iii) narrowly tailored to achieve that goal; and (iv) no broader than necessary to do so; and ii. In any situation where one Core Value must be reconciled with another, potentially competing Core Value, the balancing must further an important <u>public interest</u> in a way that is substantially related to that interest.” <p>Working Draft New/Changed Text (to Bylaws)</p> <p>“To the extent a Commitment must be reconciled with other Commitments and/or one or more Core Values in any particular situation, such reconciliation must be: Justified by an important, specific, and articulated <u>public interest</u> goal that is within ICANN's Mission and consistent with a balanced application of ICANN's other Commitments and Core Values (a “Substantial and Compelling Reason in the <u>Public Interest</u>”);</p> <p>Likely to promote that interest, taking into account</p>	<p>Both Global Public Interest and Public Interest.</p> <p>According to Adam Peake, “Public Interest is used quite frequently, those occasional uses adding global seem to be more stylistic, to add emphasis.”</p>	<p>https://www.icann.org/en/system/files/files/ccwg-accountability-draft-proposal-without-annexes-04may15-en.pdf</p>
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		<p>are approved by the Board (but before they come into effect) and reject them based on perceived inconsistency with the purpose, Mission and role set out in ICANN’s Articles and Bylaws, the <u>global public interest</u>, the needs of ICANN stakeholders, financial stability or other matters of concern to the community. The community consultations conducted before Board approval could raise concerns; based on that feedback, the Member SOs/ACs would have the power to reject the budget.”</p> <p>6.1 Preserving ICANN Commitments from the Affirmation of Commitments</p> <p>ICANN COMMITMENTS IN THE AFFIRMATION OF COMMITMENTS</p> <p>“(a) ensure that decisions made related to the global technical coordination of the DNS are made in the <u>public interest</u> and are accountable and transparent;”</p> <p>“ 4. DOC affirms its commitment to a multistakeholder, private sector led, bottom-up policy development model for DNS technical coordination that acts for the benefit of global Internet users. A private coordinating process, the outcomes of which reflect the <u>public interest</u>, is best able to flexibly meet the changing needs of the Internet and of Internet users. ICANN and DOC recognize that there is a group of participants that engage in ICANN's processes to a greater extent than Internet users generally. To ensure that its decisions are in <u>the public interest</u>, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic</p>		
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			<p>security, stability and resiliency of the DNS.”</p> <p>AS EXPRESSED IN ICANN BYLAWS</p> <p>“Ensure that decisions made related to the global technical coordination of the DNS are made in the <u>global public interest</u> and are accountable, transparent and should respect the bottom-up multistakeholder nature of ICANN.”</p> <p>PROPOSED BYLAWS TEXT FOR THIS AFFIRMATION OF COMMITMENTS REVIEW</p> <p>“ 1. Accountability & Transparency Review. The Board shall cause a periodic review of ICANN’s execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making will reflect the <u>public interest</u> and be accountable to all stakeholders.”</p> <p>Glossary</p> <p>NETMUNDIAL PRINCIPLES</p> <p>“The NETmundial meeting, which took place in Sao Paolo, Brazil on 23-24 April 2014, was the first multistakeholder-designed event to focus on the future of Internet governance. NETmundial identified a set of common principles and important values that contribute to 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 <u>public interest</u>.”</p>		
Public Interest Commitment Dispute	Public Interest Commitment Dispute	December 19, 2013	Document has provisions to enforce Specification 11, covered above.	Public Interest	https://www.icann.org/resources/pages/pic

Resolution Procedure	Resolution Panel				drp-2014-01-09-en
GAC Operating Principles	GAC Dakar Meeting	Amended October 2011	<p>Whereas: “3. ICANN’s Articles of Incorporation establish that the corporation shall operate for the benefit of the Internet community as a whole and shall pursue the charitable and public purposes of lessening the burdens of government and promoting the <u>global public interest</u> in the operational stability of the Internet by performing and co-ordinating functions associated with the technical management of Internet names and addresses.”</p> <p>Whereas: “6. The GAC commits itself to implement efficient procedures in support of ICANN and to provide thorough and timely advice and analysis on relevant matters of concern with regard to government and <u>public interests</u>”</p> <p>Considering that: “ 4. Country code top level domains are operated in trust by the Registry for the <u>public interest</u>, including the interest of the Internet community, on behalf of the relevant public authorities including governments, who ultimately have public policy authority over their ccTLDs, consistent with universal connectivity of the Internet.”</p>	Both Global Public Interest and Public Interest	https://gacweb.bicann.org/display/gacweb/GAC+Operating+Principles
Final Recommendations of the Accountability and Transparency Review Team (ATRT 1)	Accountability and Transparency Review Team	December 31, 2010	<p>Background, Structure and Methodology of the Review</p> <p>“Under paragraph 9.1 of the AoC, ICANN committed to “maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision- making will reflect the <u>public interest</u> and be accountable to all stakeholders by:”</p> <p>Statement of Purpose (paragraph 2)</p>	Public Interest, and makes reference to lack of definition for the Global Public	https://www.icann.org/en/system/files/files/final-recommendations-31dec10-en.pdf

			<p>The purpose of ICANN committing to 9.1.(a) is set out in the opening to 9.1 which states “ICANN commits to maintain and improve robust mechanisms for public input, accountability, and transparency ...to ensure the outcomes of its decision making will reflect the <u>public interest</u> and be accountable to all stakeholders....”</p> <p>Area 1 Background research undertaken: Relevant bylaws: “iv. Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars; with ccTLD registries; with IP address registries; with Internet technical standards and protocols; with policy-development procedures, legal traditions, and the <u>public interest</u>; and with the broad range of business, individual, academic, and noncommercial users of the Internet;”</p> <p>Relevant Published Procedures: “1. The 2003 Nominating Committee Procedures (http://nomcom.icann.org/procedures-10apr03.htm#B) contain 2 sections of relevance:</p> <ul style="list-style-type: none"> a. Section B 1 deals with the committee’s role and objectives stating that “the objective of ICANNs new nominating process is to balance the Supporting Organization-based and constituency-based selection of Directors and individuals for other positions to ensure that ICANN can benefit from participants of the highest integrity and capability who place the <u>public interest</u> ahead of any particular interests, but who are nevertheless knowledgeable about the environment in which ICANN operates.” 	<p>Interest which is why it is not used.</p>	
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		<p>ICANN, including commitments to: (a) ensure that decisions made related to the global technical coordination of the DNS are made in the <u>public interest</u> and are accountable and transparent;”</p> <p>“Some of the preliminary ideas being considered by staff include:</p> <ul style="list-style-type: none"> • Creating metrics to track impact of Board & SO decisions on the <u>public interest</u>.” <p>Paragraph 4 of the AoC states: “To ensure that its decisions are in the <u>public interest</u>, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS.”</p> <p>In Paragraph 9.1 of the AoC ICANN commits: “to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision making will reflect the <u>public interest</u> and be accountable to all stakeholders.”</p> <p>Initial Public Input to the ATRT on the GAC-Board Relationship</p> <p>“One commenter noted that the GAC “has consistently produced some of the best advice and input into ICANN processes.” However, others commented that the Board has not paid enough attention to the suggestions of the GAC and that there was no oversight mechanism to ensure the ICANN Board follows the GAC recommendations. Most commenters</p>		
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		<p>agreed that the GAC has a fundamental and important role to play on issues related to the <u>public interest</u>, but others opined that the GAC was not the “sole representative of the <u>public interest</u>” and that “all constituencies should have a role in representing the <u>public interest</u>.””</p> <p>Public Comment on the Draft Recommendations “There was widespread support for recommendation 14 that urges the Board to “increase the level of support and commitment of governments to the GAC process.” Denmark noted that is it “paramount for ICANN’s global legitimacy as a <u>public interest</u> organization that ICANN seek to increase the level of support and commitment of governments to the GAC.””</p> <p>Definition of “Public Interest” “The ATRT did not establish a definition of “<u>public interest</u>” in conducting its review. The ATRT did not view itself, as a body, to have the requisite skills or subject matter expertise to establish a definition of “<u>public interest</u>’ that should govern ICANN’s decision making and policy development processes. The ATRT did address <u>public interest</u> in the context of establishing a framework for “accountability” and offered a process framework wherein the <u>public interest</u> can be served: “The RT also believes that the <u>public interest</u> is served, ultimately, by creating an environment in which all stakeholders can be assured that the rules will be (i) debated; (ii) refined to reflect relevant input from the community, including the community of governments participating in the ICANN process; and (iii) honored.” ATRT Terms of Reference and Methodology, p. 2. Commenters noted that the ATRT did not establish a definition of <u>public interest</u> and cited the AoC which states:</p>		
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		<p>“to ensure that its decisions are in the <u>public interest</u>, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS.”</p> <p>NetChoice noted that “by allowing ‘<u>public interest</u>’ to mean anything and everything to anyone, it has become a catch phrase that means nothing at all.” NetChoice offered that a definition of “<u>public interest</u>” could focus on the elements of “availability” and “integrity” of the DNS.</p> <p>Paragraph 4 of the AoC focuses on process issues that, if adequately addressed by ICANN, can operate to ensure that the <u>public interest</u> of all stakeholders is being served. The ATRT made specific recommendations with respect to the process elements articulated in paragraph 4 of the AoC that are designed to improve ICANN’s management of the processes. The ATRT notes that “<u>public interest</u>” is a concept that is strongly associated with governments whose direct responsibility in their respective jurisdictions is to serve and protect the <u>public interest</u>. Hence, <u>public interest</u> is a concept that varies depending on the respective juridical, cultural and social norms of a given country. The ATRT notes that the AoC does not use the term “<u>global public interest</u>,” a term for which there does not appear to be a commonly agreed definition for that term. It is clear that ICANN is expected to act in, or at a minimum, consistent with the <u>public interest</u> for all stakeholders in its role as the technical coordinator for the DNS. For ICANN, a not-for-profit U.S. based private corporation, to establish a definition of “<u>public interest</u>” that would be commonly agreed would require the broad engagement of all stakeholders and an exercise that is far</p>		
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			<p>beyond the ken of the ATRT. That being said, the ATRT believes that continued discussion of this issue, or perhaps an appropriately structured undertaking to develop such a definition (regardless of the ultimate outcome), could have positive impacts on ICANN’s execution of its commitments under the AoC.”</p> <p>A. Transparency 1. General Considerations “ICANN's heavy reliance on transparency for establishing and maintaining accountability is an issue that came up repeatedly in our research and interviews and is central to all of the observations and recommendations in this report. This is partially a reflection of ICANN's unusual institutional standing and the associated limits to the application of alternative accountability mechanisms. It is also a reflection of ICANN's international fiduciary obligations and its <u>public interest</u> orientation to serve the demands and needs of the international Internet community.”</p> <p>2.3 Exemptions (b) Observations “ICANN may override these exemptions “under the particular circumstances [in which] the <u>public interest</u> in disclosing the information outweighs the harm that may be caused by such disclosure.” For areas outside the exemptions listed in the above-mentioned document, ICANN installs an additional “catch-all” exemption: “ICANN reserves the right to deny disclosure of information under conditions not designated above if ICANN determines that the harm in disclosing the information outweighs the <u>public interest</u> in disclosing the information.””</p>		
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		<p>(c) Discussion “The overall “<u>public interest</u> override,” which is itself quite general, may provide an opportunity to counterbalance the broadness of the exemptions, if used properly. There is no information to evaluate the use of this override due to the lack of a transparency audit. The “harms test” override, however, with which ICANN gives itself authority to withhold information even when none of the exemptions apply, may obviate the purpose of formulating exemption policies altogether.”</p> <p>2.3 Incorporating Public Input into ICANN decisions (c) Discussions “A lack of clarity regarding how public input is reflected in Board decision making, particularly in cases when Board decisions may appear to deviate from the opinions expressed by the majority of those who have submitted public input, can be detrimental to ICANN’s legitimacy. Community members who believe their input is being undervalued or disregarded may be less likely to contribute in the future. They may also be less likely to trust the ICANN Board to make decisions in the <u>public interest</u> or elect to take their complaints to other, external forums, such as the courts or national governments. Empirical studies in fields that involve adversarial processes and dispute resolution have shown that when community members are able to recognize that their interests have been thoughtfully considered, they are generally more satisfied, regardless of the ultimate outcome.”</p> <p>Appendix C: The Introduction of New gTLDs 3.7 Vertical Integration “4. Maintenance of Registry-Registrar Separation: ICANN’s</p>		
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		<p>Intellectual Property Constituency (IPC) expressed worries that the relaxation of this requirement may force ICANN to adopt a more active role in monitoring and enforcing compliance. The Public Interest Registry also objected to vertical integration on the grounds that “<u>public interest</u> in supporting competition does not favor a breakdown of the current separation of registry and registrar ownership.””</p> <p>2.3 The Role of the GAC in the .xxx Process: 2005 Bjelfvenstam almost made the following remarks regarding the GAC’s role in the ICANN decision-making process: “I know that all TLD applications are dealt with in procedures open to everyone for comment. However, in a case like this, where <u>public interests</u> clearly are involved, we feel it could have been appropriate for ICANN to request advice from GAC. Admittedly, GAC could have given advice to ICANN anyway at any point in time of the process and to my knowledge, no GAC members have raised the question before the GAC meeting July 9 - 12, 2005, in Luxembourg. However, we all probably rested assure that ICANN’s negative opinion on .xxx, expressed in 2000, would stand. From the ICANN decision on June 1, 2005, there was too little time for GAC to have an informed discussion on the subject at its Luxembourg summer meeting; one month would be insufficient time for governments to independently consider and respond to the subject matter. In this specific case, several countries raised serious concerns at the GAC meeting. However, there was too little information at hand to have an informed and fruitful discussion and hence no conclusions were reached on the subject.”</p> <p>2.4 The Role of the GAC in the .xxx Process: 2006 “The Wellington Communiqué expressed the most critical remarks with regard to the .xxx application to date by the</p>		
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			<p>GAC. In particular, the Communiqué stated that “the GAC does not believe the February 11 letter provides sufficient detail regarding the rationale for the Board determination that the application had overcome the deficiencies noted in the Examination Report.” The Communiqué further requested “a written explanation of the Board decision, particularly with regard to the sponsored community and <u>public interest</u> criteria outlined in the sponsored top-level domain selection criteria.” The Communiqué also stated that ICM committed to “a range of <u>public interest</u> benefits as part of the bid to operate the .xxx domain” and that “these undertakings have not yet been included as ICM obligations in the proposed .xxx Registry Agreement.” It also listed a number of such provisions that the GAC wanted to be addressed.”</p> <p>“Paul Twomey sent a letter addressed to Tarmizi and members of the GAC on May 4, 2006.⁴⁰⁴ The letter stated that Twomey was writing in response to the GAC’s request for information regarding the decision to proceed with the .xxx negotiations in June 2005. In this letter the ICANN Board again directed the GAC to the “11 February letter to explain ‘the Board decision, particularly with regard to the sponsored community and <u>public interest</u> criteria.’”</p>		
<p>Accountability and Transparency Review Team 2 Report and Recommendations (ATRTR 2)</p>	<p>Accountability and Transparency Review Team</p>	<p>December 31, 2012</p>	<p>Executive Summary “The Affirmation of Commitments (AoC)¹ requires ICANN to conduct recurring reviews of its deliberations and operations “to ensure that the outcomes of its decision-making will reflect the <u>public interest</u> and be accountable to all stakeholders.” To date, reviews have been conducted and Recommendations presented to the ICANN Board of Directors (the Board) by the first Accountability and Transparency</p>	<p>Primarily Public Interest, Global Public Interest referenced once</p>	<p>https://www.icann.org/en/system/files/files/final-recommendations-31dec13-en.pdf</p>

		<p>Review Team (ATRT1),² the WHOIS Review Team (WHOISRT)³ and the Security Stability and Resiliency Review Team (SSR-RT).”</p> <p>B. What is the current environment? “For ICANN, which is somewhat unique as a bottom-up, multistakeholder organization that coordinates a global resource and whose decisions must take into account the <u>public interest</u>, a deepening of accountability and transparency at this time is essential not only to its successful growth but also to its long term viability.”</p> <p>ATRT Recommendation 1 “Recognizing the work of the Board Governance committee on Board training and skills building, pursuant to the advice of both the 2007 Nominating Committee Review and 2008 Board review, the Board should establish (in time to enable the integration of these recommendations into the Nominating Committee process commencing in late 2011) formal mechanisms for identifying the collective skill-set required by the ICANN Board including such skills as public policy, finance, strategic planning, corporate governance, negotiation, and dispute resolution. Emphasis should be placed upon ensuring the Board has the skills and experience to effectively provide oversight of ICANN operations consistent with the <u>global public interest</u> and deliver best practice in corporate governance.”</p> <p>Summary of Relevant Public Comment Responses “As confirmed by comments from one government official, the ‘GAC’s role is critical in ensuring the wider <u>public interest</u> is taken into account” in ICANN decision-making, so it is</p>		
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		<p>important for its role and performance to be regularly subject to scrutiny by the wider ICANN 35 community.”</p> <p>ATRT2 GNSO PDP Evaluation Study Final Report Executive Summary</p> <p>“ In addition, the ATRT2 will examine the participation of the GAC in the PDP, how the ICANN PDP compares with similar multi-stakeholder processes, and the extent to which the PDP fulfills the mission of ICANN in developing sound policies in the <u>public interest</u> while at the same time meeting the needs of all stakeholders.”</p> <p>Other Suggestions Made include:</p> <ul style="list-style-type: none"> • “All policy should pass a public interest test (similar to RFC 1591)” <p>Purpose of Study</p> <p>“ Under the auspices of the AOC, ICANN commits to ensuring that its decision-making reflects the <u>public interest</u> and is accountable to all stakeholders.”</p> <p>“As per the AOC, a second ATRT (ATRT2) was constituted to conduct a follow-up review. Specifically, the ATRT2 is examining ICANN’s activities to ensure they are accountable, transparent, and consistent with the <u>public interest</u>. The ATRT2’s work is focused on paragraph 9.1 of the AOC, under which ICANN commits to maintaining and improving robust mechanisms for public input, accountability, and transparency to ensure that the outcomes of its decision-making reflect the <u>public interest</u> and is accountable to all stakeholders. Specifically, ICANN commits to assessing the policy development process to facilitate enhanced cross-community deliberations and effective, timely policy</p>		
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		<p>development.”</p> <p>“In addition, the ATRT2 review will examine the participation of the GAC in the PDP, how the ICANN PDP compares with similar multi-stakeholder processes, and the extent to which the PDP fulfills the mission of ICANN in developing sound policies in the <u>public interest</u> while at the same time meeting the needs of all stakeholders.”</p> <p>Figure 23: Reflection of the <u>Public Interest</u> and ICANN’s Accountability in PDPs</p> <p>“Interviewees were almost evenly divided on the question of whether the outcomes and decisions taken as a result of the PDPs reflect the <u>public interest</u> and ICANN’s accountability to all stakeholders. 47 percent of respondents agreed with the statement that PDP outcomes and decisions reflect the <u>public interest</u> and ICANN’s accountability while 46 percent disagreed (Figure 23). These numbers suggest that ICANN should redouble its efforts to ensure that the PDPs do and are seen to reflect the <u>public interest</u>, and enhance its accountability to all stakeholders.”</p> <p>Qualitative Research: Report of Open Comments Made by Participants</p> <p><i>Cluster 2: Lack of support by GAC/Staff (the policy process outside the policy process)</i></p> <p>“Now we have brilliant capture of the PDP process. IP issues are put forward as registrant/<u>public interest</u>. If not successful, they go to the GAC or staff. It perverts the PDP process, rendering it ineffective”</p> <p>Does the GNSO PDP Satisfy the Mission of ICANN in Regard to Policy Development?</p>		
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			<p>7.1 The mission of ICANN “6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the <u>public interest</u>.”</p> <p>7.1.2 Core Value 6 “Introducing and promoting competition in the registration of domain names where practicable and beneficial in the <u>public interest</u>.”</p> <p>Annex A. Detailed Methodology A.1 Approach and Data Sources “The RFP also requires this study to identify strengths and weaknesses in the process, the extent to which the process incorporates the views advice and needs of all stakeholders, and evaluate the extent to which the PDP produces sound policy in support of the <u>public interest</u>.”</p> <p>A.2 Written Documentation: A Quantitative Analysis “The PDP provides two key methods for participation: Working Groups and public comment. For the PDP to be capable of fulfilling the promise of bottom-up, multi-stakeholder policy making, and ICANN’s <u>public interest</u> goals, the diversity of stakeholders (by type of stakeholder, geographic region) is relevant, as is gender balance, and any changes over time.”</p>		
ICANN Draft FY16 Operating Plan & Budget	ICANN	March 18, 2015	<p>4.4 Objective 4: Promote ICANN’s Role and Multistakeholder Approach “We strive to clarify the linkages and frameworks that underlie ICANN’s responsibilities in the current Internet ecosystem. We</p>	Both Public Interest and Global Public Interest	https://www.icann.org/en/system/files/files/proposed-opplan-

		<p>commit to developing ways to maintain and enhance ICANN’s stewardship in an evolving ecosystem. We pledge to cultivate thought leadership on ways in which ICANN can serve a complex set of Internet constituencies. We also commit to strengthening relationships with members of this evolving ecosystem to achieve our shared goals and serve the <u>public interest</u>.”</p> <p>4.4 GOAL: Promote role clarity and establish mechanisms to increase trust within the ecosystem rooted in the <u>public interest</u>.</p> <p>“For FY16 we will focus on the following activities that work towards promoting role clarity and establish mechanisms to increase trust within the ecosystem rooted in the <u>public interest</u>:</p> <ol style="list-style-type: none"> 1. Assess current practices and documentation. 2. Identify and propose best practices. 3. Propose measurements and benchmarks.” <p>4.5 Objective 5: Develop and Implement a <u>Global Public Interest Framework Bounded by ICANN’s Mission</u></p> <p>“ICANN seeks to develop a <u>public interest</u> framework for promoting the <u>global public interest</u> in the coordination of the Internet’s unique identifier systems and in furtherance of ICANN’s mission. The framework will clarify ICANN’s roles, objectives and milestones in promoting the <u>public interest</u> through capacity building, and increasing the base of internationally diverse, knowledgeable, and engaged ICANN stakeholders.”</p> <p>5.1 Goal: Act as a steward of the <u>public interest</u>.</p> <p>“For FY16 we will focus on the following activities that work towards acting as a steward of the <u>public interest</u>:</p>	<p>budget-fy16-18mar15-en.pdf</p>
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			<p>1. In order to ensure that ICANN is acting within its <u>global public interest</u> mandate, ICANN will seek to create framework to assist the decision-makers, policy-making bodies and advisory committees to align their work to the <u>global public interest</u> purpose.</p> <p>We will measure our success in achieving this goal by:</p> <p>A. Defining common consensus based definition of <u>public interest</u>.”</p> <p>5.2 Goal: Promote ethics, transparency and accountability across the ICANN community</p> <p>“For FY16 we will focus on the following activities that work towards promoting ethics, transparency and accountability across the ICANN community:</p> <p>1. In order to ensure that ICANN is acting within its <u>global public interest</u> mandate, ICANN will seek to create and publish revised Accountability and Ethical Framework and develop baseline metrics to measure to demonstrate impact on organization.</p> <p>We will measure our success in achieving this goal by:</p> <p>A. <u>Public interest</u> framework index:</p> <ul style="list-style-type: none"> ○ # of DIDP requests received and % of responses posted on-time. ○ # of Conflict of Interest Disclosure Forms completed and % of compliance.” 		
Board	ICANN	May 6, 2012	Role of the Board	Both Global	https://www.ic

<p>Governance Guidelines</p>			<p>“The mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. The fundamental responsibility of Directors (as defined below) is to exercise their business judgment to act in what they reasonably believe to be the best interests of ICANN and in the <u>global public interest</u>, taking account of the interests of the Internet community as a whole rather than any individual group or interest. Actions of the Board reflect the Board's collective action after taking due reflection.”</p> <p>The following core values should guide the Board’s decisions and actions:</p> <ul style="list-style-type: none"> • “Introducing and promoting competition in the registration of domain names where practicable and beneficial in the <u>public interest</u>.” <p>Board Composition and Selection; Independent Directors</p> <p>3. Board Membership Criteria</p> <p>“In accordance with Article VI, Section 3 of ICANN's Bylaws, the Board is to be comprised of individuals that meet the following requirements:</p> <ul style="list-style-type: none"> • Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars, with ccTLD registries, with IP address registries, with Internet technical standards and protocols, with policy-development procedures, legal traditions, and the <u>public interest</u> and with the broad range of business, individual, academic, and non-commercial users of the Internet.” 	<p>Public Interest and Public Interest</p>	<p>ann.org/resources/pages/guidelines-2012-05-15-en</p>
<p>ICANN</p>	<p>ICANN</p>	<p>February</p>	<p>Defined Conditions for Nondisclosure</p>	<p>Public</p>	<p>https://www.ic</p>

<p>Documentary Information Disclosure Policy (DIDP)</p>		<p>25, 2012</p>	<p>“Information that falls within any of the conditions set forth above may still be made public if ICANN determines, under the particular circumstances, that the <u>public interest</u> in disclosing the information outweighs the harm that may be caused by such disclosure. Further, ICANN reserves the right to deny disclosure of information under conditions not designated above if ICANN determines that the harm in disclosing the information outweighs the <u>public interest</u> in disclosing the information.”</p>	<p>Interest</p>	<p>ann.org/resources/pages/didp-2012-02-25-en</p>
<p>Registry Agreement</p>	<p>ICANN</p>	<p>January 9, 2014</p>	<p>2.17 Additional Public Interest Commitments. Registry Operator shall comply with the public interest commitments set forth in Specification 11 attached hereto (“Specification 11”). ... 4.5 Transition of Registry upon Termination of Agreement. (C) transitioning operation of the TLD is not necessary to protect the public interest, then ICANN may not transition operation of the TLD to a successor registry operator upon the expiration or termination of this Agreement without the consent of Registry Operator (which shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, the foregoing sentence shall not prohibit ICANN from delegating the TLD pursuant to a future application process for the delegation of top-level domains, subject to any processes and objection procedures instituted by ICANN in connection with such application process intended to protect the rights of third parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5. In addition, ICANN or its designee shall retain and may</p>	<p>Public Interest</p>	<p>http://newgtld.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.htm</p>

			<p>enforce its rights under the Continued Operations Instrument for the maintenance and operation of the TLD, regardless of the reason for termination or expiration of this Agreement.</p> <p>...</p> <p>7.6 Amendments and Waivers.</p> <p>(e)</p> <p>(ii) the Rejected Amendment must be justified by a Substantial and Compelling Reason in the Public Interest, must be likely to promote such interest, taking into account competing public and private interests that are likely to be affected by the Rejected Amendment, and must be narrowly tailored and no broader than reasonably necessary to address such Substantial and Compelling Reason in the Public Interest;</p> <p>(iii) to the extent the Rejected Amendment prohibits or requires conduct or activities, imposes material costs on the Applicable Registry Operators, and/or materially reduces public access to domain name services, the Rejected Amendment must be the least restrictive means reasonably available to address the Substantial and Compelling Reason in the Public Interest;</p> <p>...</p> <p>(f)</p> <p>(ii) addresses the Substantial and Compelling Reason in the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment; and</p> <p>(iii) compared to the Board Amendment is: (a) more</p>		
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			<p>narrowly tailored to address such Substantial and Compelling Reason in the Public Interest, and (b) to the extent the Alternative Amendment prohibits or requires conduct or activities, imposes material costs on Affected Registry Operators, or materially reduces access to domain name services, is a less restrictive means to address the Substantial and Compelling Reason in the Public Interest.</p> <p>...</p> <p>(j)</p> <p>(iv) “Substantial and Compelling Reason in the Public Interest” means a reason that is justified by an important, specific, and articulated public interest goal that is within ICANN's mission and consistent with a balanced application of ICANN's core values as defined in ICANN's Bylaws.</p> <p>Specification 9</p> <p>6. Registry Operator may request an exemption to this Code of Conduct, and such exemption may be granted by ICANN in ICANN’s reasonable discretion, if Registry Operator demonstrates to ICANN’s reasonable satisfaction that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for the exclusive use of Registry Operator or its Affiliates, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (iii) application of this Code of Conduct to the TLD is not necessary to protect the public interest.</p>		
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			<p>SPECIFICATION 11</p> <p>PUBLIC INTEREST COMMITMENTS</p> <ol style="list-style-type: none"> 1. Registry Operator will use only ICANN accredited registrars that are party to the Registrar Accreditation Agreement approved by the ICANN Board of Directors on 27 June 2013 in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN’s website. 2. Registry Operator will operate the registry for the TLD in compliance with all commitments, statements of intent and business plans stated in the following sections of Registry Operator’s application to ICANN for the TLD, which commitments, statements of intent and business plans are hereby incorporated by reference into this Agreement. Registry Operator’s obligations pursuant to this paragraph shall be enforceable by ICANN and through the Public Interest Commitment Dispute Resolution Process established by ICANN (posted at http://www.icann.org/en/resources/registries/picdrp), which may be revised in immaterial respects by ICANN from time to time (the “PICDRP”). Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Agreement) following a determination by any PICDRP panel and to be bound by any such determination 		
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			<p>[Registry Operator to insert specific application sections here, if applicable]</p> <ol style="list-style-type: none"> 2. Registry Operator agrees to perform the following specific public interest commitments, which commitments shall be enforceable by ICANN and through the PICDRP. Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Agreement) following a determination by any PICDRP panel and to be bound by any such determination. <ol style="list-style-type: none"> a. Registry Operator will include a provision in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name. 		
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			<ul style="list-style-type: none"> b. Registry Operator will periodically conduct a technical analysis to assess whether domains in the TLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. Registry Operator will maintain statistical reports on the number of security threats identified and the actions taken as a result of the periodic security checks. Registry Operator will maintain these reports for the term of the Agreement unless a shorter period is required by law or approved by ICANN, and will provide them to ICANN upon request. c. Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies. d. Registry Operator of a “Generic String” TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person’s or entity’s “Affiliates” (as defined in Section 2.9(c) of the Registry Agreement). “Generic String” means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, 		
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<p>2013 Registrar Accreditation Agreement</p>	<p>ICANN</p>	<p>2013</p>	<p>organizations or things from those of others.</p> <p>3.11 <u>Obligations of Registrars under common controlling interest</u>. Registrar shall be in breach of this Agreement if: ... 3.11.3 the Affiliate Termination was the result of misconduct that materially harmed consumers or the public interest;</p> <p>5.8 <u>Resolution of Disputes Under this Agreement</u>. ... In the event Registrar initiates arbitration to contest the appropriateness of termination of this Agreement by ICANN pursuant to Section 5.5 or suspension of Registrar by ICANN pursuant to Section 5.7.1, Registrar may at the same time request that the arbitration panel stay the termination or suspension until the arbitration decision is rendered. The arbitration panel shall order a stay: (i) upon showing by Registrar that continued operations would not be harmful to consumers or the public interest</p> <p>Section 6 Amendment and Waiver ... 6.5.2 the Rejected Amendment must be justified by a Substantial and Compelling Reason in the Public Interest, must be likely to promote such interest, taking into account competing public and private interests that are likely to be affected by the Rejected Amendment, and must be narrowly tailored and no broader than reasonably necessary to address such Substantial and Compelling Reason in the Public Interest; 6.5.3 to the extent the Rejected Amendment prohibits or requires conduct or activities, imposes material costs on the Applicable Registrars, and/or materially reduces public access to domain name services, the Rejected Amendment must be</p>	<p>Public Interest</p>	<p>https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en</p>
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			<p>the least restrictive means reasonably available to address the Substantial and Compelling Reason in the Public Interest;</p> <p>...</p> <p>6.6 Notwithstanding the provisions of Section 6.5, a Board Amendment shall not be deemed an Approved Amendment if, during the thirty (30) calendar day period following the approval by the ICANN Board of Directors of the Board Amendment, the Working Group, on the behalf of the Applicable Registrars, submits to the ICANN Board of Directors an alternative to the Board Amendment (an "Alternative Amendment") that meets the following requirements:</p> <p>6.6.1 sets forth the precise text proposed by the Working Group to amend this Agreement in lieu of the Board Amendment;</p> <p>6.6.2 addresses the Substantial and Compelling Reason in the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment; and</p> <p>6.6.3 compared to the Board Amendment is: (a) more narrowly tailored to address such Substantial and Compelling Reason in the Public Interest, and (b) to the extent the Alternative Amendment prohibits or requires conduct or activities, imposes material costs on Affected Registrars, or materially reduces access to domain name services, is a less restrictive means to address the Substantial and Compelling Reason in the Public Interest.</p>		
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<p>New gTLD Program- Rights Protection Mechanisms Review</p>	<p>ICANN Staff and Public Comment</p>	<p>September 11, 2015</p>	<p>3.0 Public Interest Commitments Dispute Resolution Procedure (PICDRP) The PICDRP addresses complaints that a registry may not be complying with the Public Interest Commitment(s) in Specification 11 of its Registry Agreement. Prior to filing a formal PICDRP proceeding, the procedure envisions that a complainant will first utilize an online complaint system. This allows for the submittal of an initial report claiming that a Registry may not be complying with one or more of its PICs per Specification 11 of its Registry Agreement with ICANN. ICANN will conduct a preliminary review of the initial report to ensure that it is complete, it states a claim of non-compliance with at least one PIC, and that the Reporter is in good standing.</p> <p>As per the Registry Agreement, a registry operator must participate in these procedures and is bound by the resulting determinations. Provider information for these procedures is available at http://newgtlds.icann.org/en/program-status/pddrp.</p> <p>To date, there have been no complaint filings under these procedures, making analysis premature at this time; however, more discussions are expected on the PDDRP at a later point as this procedure in an important part of the RPM ecosystem.</p> <p>Since there have no complaint filings under the Post-Delegation Dispute Resolution Procedures, most comments expressed an inability to provide meaningful feedback; however, commenters encourage ICANN to review it when data becomes available. Furthermore, one comment speculates that these procedures are unlikely to be used, as there may be significant issues in the burden of proof, cost of</p>	<p>Public Interest</p>	<p>http://newgtlds.icann.org/en/reviews/rpm</p>
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			these proceedings, and with the remedies offered. ICANN agrees that these procedures are an important part of the RPM ecosystem and will continue to include them in the ongoing review discussions on the New gTLD Program. If these procedures continue to be unused by the community, further examination may take place to determine the reasons behind cases where a party could have submitted a complaint under these procedures but elected not to.		
Competition, Consumer Choice, and Consumer Trust Reviews (CCT)	September 26, 2014	ICANN	<p>ICANN's Affirmation of Commitments (AoC) is one of the key documents guiding the organization's operating principles. As an agreement between ICANN and the U.S. Department of Commerce, the AoC lays out commitments from both sides to: ensure that decisions made related to the global technical coordination of the DNS are made in the public interest and are accountable and transparent; preserve the security, stability and resiliency of the DNS; promote competition, consumer trust, and consumer choice in the DNS marketplace; and facilitate international participation in DNS technical coordination.</p> <p>*Public Interest Commitments are part of the Metrics for CCT Reviews*</p>	Public Interest	https://www.icann.org/news/blog/competition-consumer-choice-and-consumer-trust-cct-review-metrics-available

<p>New gTLD Program Applicant Guidebook</p>	<p>June 4, 2012</p>	<p>ICANN</p>	<p>Under 1.2.1 Background screening is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to deny an otherwise qualified application based on any information identified during the background screening process.</p> <p>Under 3.2.1 Limited Public Interest Objection – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.</p> <p>Under 3.2.2.3 3.2.2.3 Limited Public Interest Objection Anyone may file a Limited Public Interest Objection. Due to the inclusive standing base, however, objectors are subject to a “quick look” procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.</p> <p>A Limited Public Interest objection would be manifestly unfounded if it did not fall within one of the categories that have been defined as the grounds for such an objection (see subsection 3.5.3).</p> <p>A Limited Public Interest objection that is manifestly unfounded may also be an abuse of the right to object. An objection may be framed to fall within one of the accepted categories for Limited Public Interest objections, but other facts may clearly show that the objection is abusive. For example, multiple objections filed by the same</p>	<p>Public Interest</p>	<p>https://newglds.icann.org/en/applicants/agg</p>
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		<p>or related parties against a single applicant may constitute harassment of the applicant, rather than a legitimate defense of legal norms that are recognized under general principles of international law. An objection that attacks the applicant, rather than the applied-for string, could be an abuse of the right to object.²</p> <p>The quick look is the Panel’s first task, after its appointment by the DRSP and is a review on the merits of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with Article 21 of the New gTLD Dispute Resolution Procedure.</p> <p>In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place, and it is currently contemplated that the filing fee paid by the applicant would be refunded, pursuant to Procedure Article 14(e).</p> <p>Under 3.2.5</p> <p>3.2.5 Independent Objector A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.</p> <p>In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Limited Public Interest and Community.</p> <p>Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any</p>		
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		<p>particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.</p> <p>Mandate and Scope - The IO may file objections against “highly objectionable” gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) Limited Public Interest objections and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).</p> <p>The IO may file a Limited Public Interest objection against an application even if a Community objection has been filed, and vice versa.</p> <p>The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.</p> <p>Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.</p> <p>The IO may consider public comment when making an independent assessment whether an objection is warranted. The IO will have access to application comments received during the comment period.</p> <p>In light of the public interest goal noted above, the IO shall not object to an application unless at least one comment in opposition</p> <p>Under 3.4.4- Selection of Expert Panels</p>		
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			<ul style="list-style-type: none"> • The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment • The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families • Slavery Convention • Convention on the Prevention and Punishment of the Crime of Genocide • Convention on the Rights of the Child <p>Note that these are included to serve as examples, rather than an exhaustive list. It should be noted that these instruments vary in their ratification status. Additionally, states may limit the scope of certain provisions through reservations and declarations indicating how they will interpret and apply certain provisions. National laws not based on principles of international law are not a valid ground for a Limited Public Interest objection. Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply.</p> <p>The grounds upon which an applied-for gTLD string may be considered contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law are:</p> <ul style="list-style-type: none"> • Incitement to or promotion of violent lawless action; • Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin, or other similar types of discrimination that violate generally accepted legal norms recognized under principles of international 		
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			<p>law;</p> <ul style="list-style-type: none"> • Incitement to or promotion of child pornography or other sexual abuse of children; or • A determination that an applied-for gTLD string would be contrary to specific principles of international law as reflected in relevant international instruments of law. <p>The panel will conduct its analysis on the basis of the applied-for gTLD string itself. The panel may, if needed, use as additional context the intended purpose of the TLD as stated in the application.</p> <p>Under Article 2- Definitions: ... (iii) "Limited Public Interest Objection" refers to the objection that the string comprising the potential new gTLD is contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law.</p> <p>Under Article 3: Dispute Resolution Service Providers ... (c) Limited Public Interest Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.</p> <p>Under Article 4 (b) Applicable Rules ... (iii) For a Limited Public Interest Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce (ICC), as supplemented by the ICC as needed.</p> <p>Article 13 (b) The Panel</p>		
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			<p>(iii) There shall be three Experts recognized as eminent jurists of international reputation, one of whom shall be designated as the Chair. The Chair shall be of a nationality different from the nationalities of the Applicant and of the Objector, in proceedings involving a Limited Public Interest Objection.</p>		
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gTLD Independent Objector (IO)	ICANN	From 2012	The IO files objections based on community objection and/or "Limited Public Interest: The applied-for gTLD string contradicts generally accepted legal norms of morality and public order recognized under principles of international law."	Public Interest	https://newgtlds.icann.org/en/program-status/odr/independent
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