YEŞIM NAZLAR:	Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Capacity Building Program 2017, our fifth webinar on the topic, "Exploring the Public Interest within ICANN's Remit," taking place on Wednesday, the 14th of June, 2017 at 13:00 UTC.
	We will not be doing the roll call as it's a webinar, but if I could please remind all participants on the phone bridge, as well as computers, to mute your speakers and microphones when not speaking. Please do not forget to state your name before speaking, not only for transcription purposes, but also to allow our interpreters to identify you on the different language channels.
	We have English, Spanish, and French interpretations for this webinar. Thank you all for joining.
	I will now turn it back over to Tijani Ben Jemaa, the Chair of At-Large Capacity Building Working Group. Over to you, Tijani. Thank you very much.
TIJANI BEN JEMAA:	Thank you very much, Yesim.
	Good morning, good afternoon, good evening to everyone. As Yesim said, this is the fifth webinar for this year for 2017, and today, it's about the public interest in the ICANN's remit.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

We have two speakers. One is from the start with Ergys Ramaj. He has a high position in his department. I don't know exactly what is it, but I am sure he is something like Head of Section, but he is one of the most important people in this department and he is helping for this effort of public interest in ICANN.

We have a working group on public interest and Wolf, being our second speaker, is the Chair of this working group, and we are working together with Ergys on it. That's why we choose today, those two speakers. I think they are the best people to speak about this subject.

Before giving them the floor to start the presentation, I will ask the staff to make the housekeeping presentation. So, Yesim, go ahead, please.

YEŞIM NAZLAR: Thank you very much, Tijani. So let's take a quick look at the housekeeping presentation we have here displaying now. We will have a question and answer poll during this webinar. As you see, it's located on the left-hand side of the Adobe Connect room, so if you have any questions, we do encourage you to type them in here and they will be directed to the presenters.

We also have a pop quiz section, and I do see it to be located on the right-hand side of the Adobe Connect. So after these speakers' presentations, please be ready to answer the questions posted in the poll.

And finally, we will have the user experience part. There will be a seven-question survey at the end of this webinar. So please stay around for an extra three minutes or so to complete them.

Back to you, Tijani. Thank you very much.

TIJANI BEN JEMAA: Thank you very much, Yesim, for this presentation, and I'd like to tell you that Ergys is the Senior Director in the Public Interest, Public Responsibility Department in ICANN.

So we will start by the presentation of Ergys. Ergys, please, you have the floor.

YEŞIM NAZLAR: Ergys, can you hear us?

ERGYS RAMAJ: Can you hear me?

TIJANI BEN JEMAA: Yes, we can.

YEŞIM NAZLAR: Yes, we can hear you. Thank you.

ERGYS RAMAJ: Okay, excellent. Thank you. I very much look forward to an interesting exchange and hope to be able to address any questions or comments that may arise.

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So to keep the conversation focused, I thought that it would be important to first start with some context. When we hear "the public interest," what is it that we really mean by it?

So the first part will be just a broad overview. We will then move on to the discussions taking place within ICANN on this very important topic. And following this part, we will take any questions you may have.

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So, what is the public interest? The very short answer is that it's a concept. And the long answer is that it's complicated. So I'll attempt to unpack the concept in such a way that it will hopefully make a lot more sense to you. What are some examples? How is it applied? Again, this will be from a non-ICANN perspective. We will touch on the ICANN during the second part of this talk.

You might imagine the understanding and application of the concept varies from region to region. Different regions have different histories, experiences, legal frameworks, and the like. So when people hear the phrase, "This is in the public interest," one of the first reactions is that this is something good or something positive, something that serves us all. And one's individual's interest is what is good for them whereas the

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public interest is what is good for the public. So the public interest is the aggregate of individual interests.

Another key question in each of those cases is "Who is the public?" Oftentimes, it is not as easy to identify all of the stakeholders that may be affected by certain decisions. In other cases, if you think about the Internet, for example, as a shared global resource, it affects pretty much everyone.

It is what we call an elastic or relative concept rather than a fixed one, and all that that means is that it is highly context-driven. So what may be considered the public interest in one context may not be the case in a different context.

So for example, if one special group in a particular industry, say, they tried to gain favorable tax rates for their product. What may be identified as the public interest in this case is the consumer or end user interest.

So similarly, as an individual, you may find that you need to pursue a certain agenda to further your self interest, but in another situation, you may find yourself advocating for the larger good. So essentially, the public interest is broad and inclusive and it represents certain principles, values and objectives.

In many parts of the world, governments play a major role in promoting and furthering the public interest. That's actually a core reason for the very existence of governments, to provide services for its citizens, and they range from education to employment and a range of social welfare

services. So these all fall under the public interest, the aggregate of individual interests.

But non-governmental [actors], of course, do the same thing. If you think about it in a business sense, an open and competitive marketplace lowers prices on a given product. So low-end fair prices are a force in the public interest. Again, this is at a very high level.

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So for many who believe that the concept itself is fluid, and this is one of the schools of thought, they advocate for the notion that you will know when something is or isn't in the public interest. You will essentially know when you see it. There are many things that, of course, are implicit in this approach but I won't get into that so as not to make this even more confusing.

But if it is so context-driven, then can it be operationalized? How can we take a concept that is so high level and break it down in such a way where we can make it a part of our processes? And what is it that we need to do?

So along the same lines, if it is a process, it means that it has a beginning and it has an end. And if it isn't, it is something that we espouse as a form of principles and value settings. And one crucial part of this whole exercise is to be able to anticipate what some call the inescapable tensions between my interests, your interests, and those interests that we share.

So how do we reconcile the two, or can you reconcile the two? And of course, who determines what is in the public interest? The ideas of not having a strict definition make some people very uncomfortable. Applying a very vague concept to a specific situation just doesn't sit very well, and there is certainty in having words you can look back to and reconcile actions against.

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So this brings me to the second part of the discussion, which is the concept of the public interest at ICANN. As all of you know, ICANN is a global organization, so when we refer to the public interest at ICANN, we mean the global public interest. As the organization that helps coordinate a critical shared resource, its responsibilities are not tied to those of any one nation, state, or any one particular group. But they are directly tied to the mission at the same time, and that is to ensure that the security, stability, and resiliency of the Internet's unique global identifiers, as well as maintaining the root zone of the Internet.

So if you take a look at the amended and restated articles that you see here on the slide, the Articles of Incorporation as of October 2016, you will find that it makes it very clear.

So in the context of ICANN, promoting the global public interest is tied directly to its mission. So therefore, any conversation on the public interest must [inaudible] ICANN's mission and scope. There is also additional language that points to the context-driven notion of the content that can be found in this document that you see here on the

slide. But most importantly, what constitutes the global public interest at ICANN can only be determined by the multistakeholder community, and you're all a part of this. And this is the premise for the current discussions that are taking place across ICANN.

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So what are some examples of how ICANN specifically furthers or promotes the public interest as it relates to its mission and scope? Another key document that was developed in a bottom-up fashion between the ICANN organization, Board, and the community is the Strategic Plan. If you take a look at the vision of this plan, the concept of the public interest is front and center. Building trust through serving the public interest, things like transparency and accountability are all in the spirit and practice of bottom-up decision making, and all of these are key to furthering the public interest.

Specific examples include the globalization of ICANN. I mentioned earlier that ICANN is a global organization. Its footprint around the world helps promote and further the public interest. The security element of this mission is another obvious point. By improving its operations at the same time, ICANN increases accountability to its community, which in turn, helps promote the concept of the public interest.

I want to emphasize this last point here on the slide: the development and implementation of a global public interest framework bounded by ICANN's mission. This is where we are today. This is what the

community has strived to work toward accomplishing. If you recall from the previous slide, determination of what constitutes the global public interest can only be made by the multistakeholder community through bottom-up decision making processes.

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Okay, so what has the journey been like? When did the conversations really take off and took a more structured approach? Some of you who have been around for a while may recall the strategy panels that were put together a few years back. One of those panels was a public responsibility framework panel, and in its final report, it included a proposed definition of the public interest, which I will share with you in the following slide.

Shortly following that definition, the IANA Functions' Stewardship Transition was announced as part of the NTIA. All of the bandwidth was naturally taken away from the conversation, and the focus of the committee was to get the transition completed.

So in March 2016, when the transition proposal was submitted by the committee, there was a strong desire to revisit the issue, and since then, there have been several sessions held at various different ICANN meetings.

So it's two things, or three things, I should say. How is the concept understood and applied across the different regions? Can we get to a shared understanding of what the concept means at ICANN? And most importantly, can the concept itself be operationalized?

So there are several different resources that have been created to facilitate the work of the committee on this topic by the staff. There has been a lot of secondary research that was carried out, and there is also a dedicated wiki space in the mailing list to enable discussions across the community.

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So this is the definition proposed by the panel of public responsibility framework. I will read it verbatim for those who may not be in the Adobe room, but are on the phone. And it goes as following: "Ensuring 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, and addressing its public responsibility, ICANN must build trust in the Internet and its governance ecosystem." As you can see, this is very high level or an aspirational definition.

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So as far as the key buckets where the conversation has been focused over the past year or so, you see them here on the slide and I will go through every single one of them and provide a little more context so that you get a better understanding.

The first one is whether or not we, at ICANN, should have a definition of the public interest. So there are two schools of thought as I mentioned earlier. There is one school of thought that's saying that having something very structured, something that you can go back to and

reference, is very important so that people can really wrap their minds around it.

And there's another school of thought that says, "Well, no definition is needed because the public interest itself, it's highly context-driven. So if you apply a very strict definition, it may or may not have anything to do with any particular issue that may arise." So that's the first bucket.

The second one is how is the content understood and/or applied in different contexts. And we have explored today the European experience as well as the Indian experience, and Wolf can possibly speak more to this during his talk. Of course, we have only explored these two. There is plenty of room to explore other regions of the world just so that we understand where they're coming from, what are the different legal frameworks under which they operate, and of course, how is it that it's operationalized and understood, and how they create a shared understanding across the different communities that may exist within a given nation.

The third bucket is that the notion that everything that ICANN does, in fact, is rooted in the public interest. So things like developing practices in multistakeholder systems, that furthers the public interest, or enhancing diversity and stakeholder participation. If you enable individuals from all walks of life to participate, you lower barriers to participation, that by definition, is furthering the public interest because you are enabling everyone to have a say in the decision making process.

An obvious one is the force, the security, stability, and resiliency of the DNS or diversity, and that is just one element of public interest. And as I mentioned earlier, the aggregate of all special interests is, in fact, the global or the public interest. And public interest itself is very abstract as a notion and it needs an adaptable process and not a fixed definition.

And where we are today, and Wolf can correct me if I'm wrong in my interpretation of this, but the community has, for the most part, moved away from the notion of having a fixed definition and more towards having something that's more adaptable.

The last thing that I wanted to highlight here in my presentation was an observation that was made a couple of meetings ago by a community member. And essentially, the idea is that the public interest as a concept in the context of ICANN is really designed to be self-executing in the new Bylaws.

So the thinking go as follows. If the bottom-up multistakeholder process is followed and those who are participating in it, like stakeholder groups that are at ICANN, and the end result is supported by consensus, then that is the articulation of the public interest at ICANN. And this observation has been received very well by many members of the community. It is by no means where we are today, but I just wanted to put it up here and discuss this with you because this is an interesting concept, and essentially, it ties back to what I had raised previously where everything that ICANN does is in the public interest and the bottom-up multistakeholder model and processes that are attached to that, they do further the public interest assuming that all of the

different views are included as part of the decision making and that there's consensus in the final decisions.

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Okay, so this is my last slide, and what I wanted to highlight here is, again, where are we now. And the discussions are, of course, ongoing. Wolf is leading a working group within At-Large on the public interest. We, together with the community, staff and Board, we're trying to identify ways in which we can engage more people in the discussions, and of course, make sure that participation comes along with that from the community.

We have discussed at the last meeting in Copenhagen, the creation, the possible creation of what we were calling a loose or an informal structure to help guide future work and the idea behind that was to reach out to other groups.

I'm sorry. I just, I'm almost done. I heard that my time is up. I'm almost done. Just very quickly. So this is essentially –

TIJANI BEN JEMAA: Ergys, please disregard the announcement. Continue your presentation. There is no problem with that.

ERGYS RAMAJ: Okay, thank you. I'm done anyway. So essentially, this is where we are today. We are looking to open up the At-Large Working Group to other

groups. The first group that we were thinking about reaching out to is the GAC [again] given the role that national governments play around the world in furthering and promoting the public interest. And that process will probably be underway in the next few weeks or months.

But one thing to consider is, again, this is not, this is one of those processes that is led by the community. Myself and other staff members included are here to support the work that you do, are here to facilitate the work that you do, provide you with the resources that you need, the type of research that you need to get done. But essentially, this is something that the community owns. If the community feels that this is a topic that needs additional attention, then of course, we are happy to support all of those efforts and initiatives.

And one thing to keep in mind, and the fact that this has been moving relatively slowly, is that a lot of the bandwidth, as I have mentioned earlier, was taken up by the transition. And then the subsequent Work Stream 2 working groups or subgroups also still, a lot of them – all of them, actually – are still active. That's also taking a lot of the bandwidth away from the community.

From my personal point of view, I believe given the importance of this particular topic, once a lot of that work is completed, I believe that the community will re-shift its focus towards trying to better understand and further our common understanding, our shared understanding, of the public interest at ICANN and potentially explore ways in which we could operationalize it or not.

And if we were to do it, what would be the best way to do it? If we have moved away from a possible definition of the public interest, then are we thinking about coming up with a framework of sorts? Are we thinking with a set of principles? Whatever it is that the community decides to come up with, eventually we are here as staff and I can't speak for the Board, but I know that they also stand ready to support the community's work on this very, very important topic.

So I will stop here and hand it back over to you, Tijani. Thank you very much.

TIJANI BEN JEMAA: Thank you very much, Ergys, for this presentation. Thank you. I really appreciate it because I would say you spoke about everything we did in this field during the last few years.

I would like to give the floor to you, Wolf, because he had his hand up. So Wolf, you want to comment on the presentation?

WOLF LUDWIG: Thanks, Tijani. No, I didn't want to comment directly on the presentation. I was only asking myself whether we could proceed a little bit more interactive in the way that before I now start my presentation, we would ask the participants to go through the questions I have prepared. But I can also immediately, if it better fits into the format of this webinar, I can continue with my part or with my presentation.

TIJANI BEN JEMAA:	Wolf, we will follow your advice and we will start by the questions and then you continue. Is it okay?
WOLF LUDWIG:	Okay, because then I can refer to the answers of the participants.
TIJANI BEN JEMAA:	Thank you very much. So Yesim, please, the questions, the seven questions up for Wolf. Okay, go ahead, Yesim.
YEŞIM NAZLAR:	So Wolf, would you like me to read out the questions first and ask for the answers?
WOLF LUDWIG:	Yes, please.
YEŞIM NAZLAR:	Okay, thank you very much. So the first question is, when did the term and concept of the public interest emerge first? Is it in Ancient Greece, in the Middle Ages, or in modern times, 20th Century, or Digital Age? Please check your [words] now, and I will now leave it over to you, Wolf, for your answers and comments please.

WOLF LUDWIG: Yes, I am seeing that on the first question there is an overwhelming majority of the answers who attend for that the concept of the public interest emerged first in Ancient Greece, which is the correct answer because I can only speak from a European approach – I cannot speak about something like the global public interest – and I based my research on the public interest from years ago and I started to concentrate on this issue when I was looking back and I found out that basically, the first notion which is known comes from the antique and comes from Aristoltists.

Aristotle lives in Ancient Greek, created the concept of police. The concept of police was focused on something like a goal, what meant to be the happiness of its citizens.

And there was, in the concept of the police by Aristotlists, there is a very interesting discussion already that Aristotlists suggested that the fulfillment of the public interest, or their happiness, cannot be just seen or believed in a limited context where only particular interests are served. For Aristotlists, it was clear that the well-being of the citizenhood, as such, must include the citizenhood, and political justice and public utility were basics of his concept already.

And there were, afterwards, some equivalence in the Roman time when the concept evolved the term "civitus" and this is what we nowadays now as citizens. It was a raised expression who is the public or how can the public be defined. And there are tons of works from various historians and from various scientists, what the public means or how can the public be constituted but say is more or less brought agreement

that the public means the entity of a population. It can be a local population. It can be a regional population, a national or a part of population but public means more or less the totality of people in a society and decisions should be taken in a way that serves the majority, totality of a population.

When we go back in history and we have a closer look to various European countries, we can find out that the term public interest finds its equivalent in various European languages. In German, it's gemeinwohl. There is an equivalent in Greek. There is an equivalent in Latin, salus publica or bonum commune. There are equivalent in French like bien publique. In Italian or in English, it's usually the common good.

Therefore, we can say from a historical point of view that the virtue of the public interest means weighing of interest or how best to serve the interest of the general public, and by which means this can be done.

This is elaborations. I have almost given some hints. For my second question, can you please load the second question?

TIJANI BEN JEMAA: Wolf, please take into account that we have limited time so this is the first question and you are very long on it. Please consider the time and you have all the time you want. Considering that, we need time for questions from the participants. Thank you.

WOLF LUDWIG: Okay, so I think as the second question was quite clear. It was 100% for – it's now going to be differentiated. It's not 100% anymore. It's 60 around percent. Go to the first option. It is a philosophical concept. Option B would be [inaudible] already and the relevance and impact in the involvement of states and societies to a minimal via 60, 40, 50. So my answer to it would be option B. Yes, it had relevance and impact into the involvement of states and societies. So this one is clear and let's quickly go to the third question.

YEŞIM NAZLAR: Thank you, Wolf. Let me quickly read out the question. When you're asked to consider and balance various possibly divergent interests, which priority you would give to the public interest? Is it first priority or is it second rank? Apologies for the misspelling. Is it a third [inaudible] or always depending on issues or circumstances? Over to you, Wolf. Thank you.

WOLF LUDWIG: Yes, I think this is a rather sophisticated question. In my opinion, I would always attend for option A as first priority. I think if you have a setup of divergent interest and when you assess divergent interest, for me, in this assessment, there would always be sort of a key question which decision or which solution would serve the public interest. So this would always be my first priority in any decision-making process. Therefore, I would attend for this one.

Can we go to the next question? Question #4?

YEŞIM NAZLAR: Of course, Wolf. Our fourth question is do you think the interest of end users and the public interest are different levels or categories when they come up in ICANN's decision making process? Is it similar to equal? Is it different and nonrelated or is it almost opposite? Please cast your votes now and back to you Wolf. Thank you.

WOLF LUDWIG: Okay, thanks for that Yeşim. Yes, I see on the screen as a result that 100% attends to option A saying yes, it's the public interest and the interest of end users are similar to equal in my opinion. I see not much hints or space for option B or option C.

So I think this gives us a very clear picture that we can come up with a common understanding that interest of end users what if – more or less the mandate of At-Large community. And the virtue of the public interest are so similar to almost equal that we can have this as a common understanding. Can we go to the next question?

YEŞIM NAZLAR: Of course. Our fifth question is do you think the [pursue] and enforcement of the public interest would necessarily give too much standing or power to governments? Is it a yes, no, or I don't know? Please cast you votes now. Back to you Wolf.

WOLF LUDWIG: Yes. Thanks, Yeşim. From the result, I see it's a clear attendance for option B that the [pursue] and enforcement of the public interest would not necessarily give too much standing or power to government. It could be interpreted like this because usually in the ICANN context, it's the Governmental Advisory Committee or GAC who says, they as governmental representatives, they are in charge of the public interest or they as stakeholder group represent the public interest.

I think such assumption or such a statement is too limited on one stakeholder group. I think it should not only be in the mandate and understanding of the Governmental Advisory Committee to look after the public interest. I think it should be a common understanding for the ICANN community as such to have an understanding on the [pursue] and the enforcement of the public interest in the ICANN remit. Let's go to the next question.

YEŞIM NAZLAR: Thank you Wolf. Our sixth question is do you think the relevance of the public interest is more kind of phase out model and not timely to the multistakeholder concept anymore? Is it a yes, a no, or I don't know? Please cast your votes now and back to you, Wolf.

WOLF LUDWIG: Thanks Yeşim. The answers to this question are very clear again. It was a no option, which means you are not considering this as a phase out model and it is timely to the multistakeholder concept. So it fits in this new setup. This is, in my opinion, a change of parameters when as I said

before, public interest was previously always related to governments, etc.

And meanwhile, over the past years since we discussed about this multistakeholder concept and model, it started in the context of the World Summit on the Information Society in 2003 in Geneva and two years later, the second summit was convened in Tunis. And it was one of the key and outcomes of WSIS process and it was the founding for the Internet Governance Forum that Internet-related issues cannot treat it in a traditional manner anymore by mere governmental regulation.

So new understanding in the context of the multistakeholder concept was that all stakeholders should be included and should have a say in the finding of best solutions for the Internet. So let's go to the last question.

YEŞIM NAZLAR: Thank you very much, Wolf. Our last question is do you think the relevance of the public interest should be at ICANN's core values? So far preserved and enhanced the operational stability, reliability, security and global interoperability of the Internet. Is it a yes, a no, or I don't know? Please cast your votes now. Back to you, Wolf.

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WOLF LUDWIG: Thanks, Yeşim. On this last question, for me this is personally one of the most interesting ones but we make a separation between the public interest, discourse or we can also relate it to the ICANN sphere.

In my personal opinion, I think yes, relevance of public interest should be added to ICANN's core values. If I look at the core values, we have so far it says preserved, enhanced operational stability, reliability, security and global interoperability of the Internet. If I have a closer look on each of this term stability, how I can create stability.

Stability means what we need stable critical Internet resources, we need a system, etc. and most of this can be understood as rather technical approaches to come up at the end with a good and open and secure Internet. But I think it would be timely and it would be good to add also a real political category like the public interest to ICANN's core values. I think this would be at the end in the public interest.

These are my introductory comments so far. I would now like to discuss the participants of the call about suggestions we made, etc. and whether they are agreed by majority amongst participants I think now we should [answer in] this call. Thanks and I'm giving back to Tijani.

TIJANI BEN JEMAA: Thank you very much, Wolf. This is all your presentation. You don't have anything other to present?

WOLF LUDWIG:	I would now tend to concentrate on particular questions by the participants.
TIJANI BEN JEMAA:	Okay, very good. So do you want to enumerate the questions that you want the participants concentrate on?
WOLF LUDWIG:	No. I leave it up to the interest and need of the participants.
TIJANI BEN JEMAA:	Okay. Thank you very much. So this is very good. I have first Alberto Soto has his hand up. So Alberto go ahead please.
ALBERTO SOTO:	Thank you very much. I have just typed my question on the AC room. The thing is that in Roman Law, when a government says there is public interest, for example, the construction of a highway is declared to be in favor of public interest and if the Congress says that that is public interest, the Executive Power has the faculty to intervene in the [whole sense] to take part in the creation and in the construction of that highway, for example.
	So let's suppose that Internet is declared to be of public interest, the government will have the power to regulate Internet. So for me, the concept of public interest, since it is a very bottom-up concept and it

depends on each country, I believe it would be quite difficult for ICANN to have consensus on this concept. Thank you.

TIJANI BEN JEMAA: Thank you, Alberto. Okay, any other participant who wants to elaborate on another point? Otherwise, I would give the floor to Wolf. Yes, Wolf.

WOLF LUDWIG: Tijani, do you want me to respond to this?

TIJANI BEN JEMAA: Immediately, go ahead.

WOLF LUDWIG: I think this is a good example of a traditional way and manner to decide what is the [theory] of the public interest and who is in charge of it. It was usually the government. When we look back to the telecom sector or the former public broadcasting sector, this was all under National Regulation Authority. And it was at that time, more or less uncontested that the government should have a say about telecom and how it is regulated in a particular country.

This was also considered being part of national security but then the Internet evolved. They quickly realized and this was one of my first learning results following the WSIS that Internet as such is a different animal. It's from its nature and emergent. It's said to be universal. And when the Internet is considered being universal, I think previous

government regulation cannot match the challenge of dealing with the Internet.

By its universal character, it becomes global and here, I think one of the best outcomes was to say, "Okay, now let's put it under a global and a new concept." And therefore, I think a highway construction in a particular country, in a particular region, okay, I have no objection that many governments still consider this as their job, but as far as Internet is concerned, I think this is too broad. This is too complex that government alone or a national government can come up with any regional solutions regarding the challenges we are talking about. Thanks.

TIJANI BEN JEMAA: Thank you. Yeşim, you have your hand up.

YEŞIM NAZLAR: Thank you very much, Tijani. We have a question from Satish Babu on the Adobe Connect. I would like to read it out. Satish Babu says we have a reasonable agreement on the basic definition of how public interest applies to ICANN. What actions can we plan to better integrate public interest within ICANN? Thank you.

TIJANI BEN JEMAA: Thank you very much. I have also Ergys who wants to speak. Ergys, go ahead please.

ERGYS RAMAJ: Thank you Tijani. I just wanted to very quickly follow up on Wolf's last comment in response to Alberto's question. I think we need to unpack a little bit what we mean by regulation first. So the Internet itself permeates all walks of life. So it's very different from regulating any particular industry or a set of industries.

So despite the fact that no one single actor controls the Internet, even today we do find that there are governments who do try to regulate certain aspects of it. Things like data localization which is directly related to security and privacy are now part of some national legislations. Others may cut off access to certain websites. Again, a freedom of speech kind of issue.

So regulation in total sense and I'm in full agreement here with Wolf, given the distributed nature of the network, it's highly improbable. Thank you, Tijani.

TIJANI BEN JEMAA: Thank you Ergys. I also have something to say about that but before that, I will give the floor to Wolf to answer the question of Satish.

WOLF LUDWIG: Thanks, Tijani. We have now a reasonable agreement of the basic definition of how public interest applies to ICANN. I'm not even sure that we already have such an agreement on the basic definition of the public interest as such. This was by the way in the center of the first

debate we had starting in Marrakech when we had the first session at the Marrakech Meeting on Public Interest. We had afterwards, I think, one more in Helsinki and then in Hyderabad and during these discussions, the participants of the meetings found out that it will be a huge challenge to almost impossible to come up with one or a unique definition on the public interest in all stakeholder groups or constituencies at ICANN.

What I see from many floor discussions I had with business representatives, for example, I have met plenty of people who say, "Okay, the public interest is not relevant anymore." Therefore, I think it will be a rather hopeless endeavor to try to come up with a common definition on the public interest, which would apply to all regions of ICANN. We could perhaps more easily try to come up with regional common understandings but on the global level, I have my doubts. What we can do – what actions we can do? For me, this is an ongoing and a complex process.

My opinion or my suggestion would be now once we in the ALAC, At-Large context, we may have such a common understanding what is a first success or first important step but then we need allies. If you want to change anything in the ICANN context, for everything you need allies. And my idea would be now to make contact with the GAC to find out in discussions with the GAC Leadership. This could be done during the next At-Large and GAC meeting in Johannesburg and to ask them whether they are interested in our efforts to discuss the public interest. I think we may find a lot of allies among GAC representatives. This is my first answer so far.

TIJANI BEN JEMAA: Thank you very much Wolf. Ergys, is it a new hand or is it an old hand?

ERGYS RAMAJ: Apologies, that's an old hand.

TIJANI BEN JEMAA: Okay, thank you. So coming back to the question of Alberto. I think why the governments are saying that they are representing the public interest, we are defending the public interest. Because they argued that they are elected by their population and thus, they represent and they defend the interest of their population which can be right in the best cases when it is a real election, etc., etc., but it is right for their country.

The Internet is global and even if it is the interest of this population in this country, it may not be the interest of other populations in other countries. And since Internet is a global network, everything will affect everyone in the world. So this is why the public interest in the country may not be the public interest for Internet.

Now, coming back to two affirmations of Ergys. The first one was that if we have this multistakeholder model with bottom-up decision making, etc. in ICANN, we may say that we have the public interest preserved.

I am afraid it is not 100% right because you know very well that when there is a discussion inside ICANN about anything, when there is a competition about interests in the discussion, those who are always

there in all the meetings, those who spend most of their time on the question and on the discussion are those who are paid for. Those who for which the Internet is their work and thus, if their interest is preserved, they will earn money, they will have their life better.

When it comes to the end users, they are volunteer. They are not paid for. They have their work, to eat and to feed their children. So they don't have a long time to spend as the others and so they will not be able to defend what they think is the public interest – what their interest, the interest of end users. So I know that there is more or less some consensus on this context but I don't agree 100%.

There is another thing that you said also Ergys about – I forgot about it, okay. I see Yeşim. Yeşim, go ahead please.

YEŞIM NAZLAR: Thank you very much, Tijani. We have a couple of questions from Abdeldjalil Bachar Bong on the question and answer poll. I would like to read them out.

So the first question is: what difference between the public interest and universal service? How end users can benefit directly from ICANN of its interest and how public interest can impact [deprive] of domain name for users? Thank you very much, Tijani. Back to you.

TIJANI BEN JEMAA: Thank you. Ergys or Wolf wants to answer this question.

ERGYS RAMAJ: I would like just to follow-up on your last comment and then invite Wolf to take over the question on universal access because I saw earlier in the chat that he began to address that question, so it may just be a need for him to repeat what he had said earlier or expand on it.

But on the question on the multistakeholder model, I am in full agreement with you. I think the crux of the issue essentially is engagement as you alluded to and getting effective and meaningful engagement, and of course, we need to understand what that means in the first place, and that will be the key.

The idea behind the MS model and the bottom-up decision-making processes is that at least conceptually and theoretically that anyone who participates in the processes of ICANN should be able to let people know the decision makers or be a part of the decision-making apparatus and inform that process with their views.

Now, I think what we need to understand of course even they're at a much higher level is that just because any one interest group may have a certain view, I think the public interest is more along the lines of ensuring that your views are taking into account, not necessarily that your views will be the final outcome. And I think that that's important to keep in mind as we'll move forward.

But essentially, I do agree with you that at the very heart of this discussion is engagement. And, the moment that we feel that we have gotten to a point where anyone who wishes to engage and participate

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and make their views known can do so, that's one that entire theory or concept then becomes sort of a reality. Thank you.

TIJANI BEN JEMAA: Thank you very much. Wolf, to the question of Bachar.

WOLF LUDWIG: Yeah, thanks, Tijani. I think the term universal services is a very broad term which can mean any kind of services, it can be an Internet service provider, etc. But I would turn the discussion about universal services around. I would start this access. And, my key question would be, can access restrictions or access [per year] be in the public interest? It's always a key question for me.

And, following up on this key question, we have at least two basic categories of access. One is access to infrastructure. Access to infrastructure is a basic precondition for access. We have parts in Germany, for example, you will be surprised in the rural areas that you still don't have broadband. So, access to infrastructure and access to the Internet in metropolitan areas in Europe, they are usually more or less granted.

Some years ago, an initiative in Finland for example who was suggesting that access to the Internet should become a constitutional obligation and should be inscribed in the constitution of Finland. Finland is one of the countries with the most active discussion on this. I think personally,

it's a good idea. Access to the Internet should become a basic human right.

Another level of access is access to content. Even if you have access to infrastructure, even if you can have Internet, wherever you go, you may have when it comes to access to content certain restrictions like copyrights.

So, another follow-up question would be, copyrights in the public interest or copyright restrictions in the public interest. From all the discussions I know, there are some good reasons for copyrights in the past but copyrights in the digital age has a completely different dimension. And even if you have a closer look on copyrights and copyrights regimes, you may realize that copyrights are mostly restricted for a certain period of time, which is at the moment between 50 and 70 years after the death of a creator, of a musician, of an author, etc. After that, at the end of this period, it goes into the public domain. Here, once again, we have the term public and the term domain, and of course, the public domain is in the public interest. I think this could be taken as a good research example to deal with all kinds of access per year.

Therefore, I would say use of universal services is to me nothing very clear. Public interest cannot be commercial or commercialized. So, this is a different category of value and I think access discussions or all the discussions on open access we have, etc. tends to be in the public interest.

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TIJANI BEN JEMAA: Thank you, Wolf. Thank you very much.

Coming back to this issue of a government and public interest, the term public here is by a position to private interest. And that is to measure private interest that cannot go with the public interest, which are the political interest of the governments and the financial interest of the industry.

This doesn't mean that there is a conflict but we have to understand very well that governments have a private interest, which is the political interest, which is not necessarily the interest of the public, of everyone, of the global, if you want, the global public.

So, here, when we speak about public interest, we cannot say as Ergys said, it is the aggregation of all the interests. The interest comes from each other. For example, if I am a registrar, my interest is to send the domain names with the higher price. Why is the interest of this? The end user is to buy the domain names with lower price. So, those are two interests that are [costing] each other, so it's an aggregation of all the interests. It is, in my point of view, the public interest is the interest that doesn't prevent people to have their public interest but the public interest, we guarantee for those who don't have private interest to have their interest preserved.

That's why it is very difficult to define the public interest and that's why we never reach the consensus on it in ICANN. We tried several times. Last time, it was when we spoke about the accountability. I was in the

CCWG-Accountability and at the beginning of our work, we tried to speak about public interest, and there is a big pushback about having a definition or even not exactly the definition but even the concept of public interest because people knows that if we define something, it will be against an interest, another interest, a private interest. And people don't want to have their private interest not preserved as they want.

So, as Ergys said, it will not be defined one day, I think. We have to go for this public interest concept, we have to go by examples, by cases, by context. We cannot have something one size fits all. It cannot work like this. This is my comment.

Any other hands? Ergys, do you want to comment on what I said or Wolf?

WOLF LUDWIG: Yes.

TIJANI BEN JEMAA: Yes, please.

WOLF LUDWIG: I would like to step in. Thanks, Tijani.

Well, if we repeatedly said during this webinar, the issue of the public interest is such a complex issue that we will never come up with one fits all solution, regarding the discussion about prices and the public interest. Well, I know a lot of discussions who say a precondition for it is

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in the society to have an open competition. This means you have various competitors, offering services and the best service at the best price may be according to the theory be the most successful and low prices for Internet users we could say it's the public interest, I would agree.

So, this comes back to the question that governments should not regulate the Internet as such or should not even find to regulate the Internet but governments can still create frameworks and conditions for competition in a country. And, if you have good market conditions, open market conditions, etc. you have a competition, etc. and competition in my opinion can be in the public interest. It's not necessarily. The outcome is not necessarily in the public interest but it can be in the public interest or in the interest of end user.

TIJANI BEN JEMAA: I agree with you 100% that competition is in the public interest. It is in the public interest. Because it is the only way to make the end user get the most appropriate cost. Without this competition, of course, the prices will be very high.

So, one of the duties of ICANN is to ensure the competition and the competition is one of the elements of the public interest in my point of view. Thank you, Wolf.

WOLF LUDWIG: And Tijani, it's all about choice.

TIJANI BEN JEMAA: Okay. Ergys?

ERGYS RAMAJ: Tijani, if I may. Just very quickly, a couple of observations. So, yes, I agree that at ICANN probably definition is not feasible as it is in most other cases, not just at ICANN. But the public interest concept is the basis for decision making.

So, for example, if a recommendation – and this is in the new Bylaws – that comes out of Work Stream 2 is then reviewed by the Board and the Board feels that that recommendation is not in the public interest, this goes back to the community for further dialog. Then the question becomes, okay –

TIJANI BEN JEMAA: Ergys, we lost you.

WOLF LUDWIG: I think we lost him.

TIJANI BEN JEMAA: Yeah. Yeşim.

YEŞIM NAZLAR:	Hello, this is Yeşim speaking. I'm just checking with our operator if Ergys is still on the line.
ERGYS RAMAJ:	I can hear you. I'm still here.
TIJANI BEN JEMAA:	Okay, good. Good. Go ahead now.
YEŞIM NAZLAR:	Oh, perfect.
ERGYS RAMAJ:	I don't know where I left off. But essentially, what I was saying is that the concept of the public interest at ICANN is the basis for decision making. So if recommendations were to come out of Work Stream 2 and the Board then looks at the recommendations, one of the basis for turning that recommendation back to the community for further dialog is the public interest, then the question becomes what is the basis for determining that such recommendation is not in the public interest? If the community itself doesn't have a shared understanding of what the public interest is, then it will raise a lot more questions than it will answer.
	So, along the lines of what Wolf was saying, it could be that a possible good next step forward is to come up with a framework of principles or something more broad that you could flag in the determination of what

may or may not be in the public interest. And of course, that's easier said than done and it will take a lot of time and a lot of consensus building and a lot of discussions around the community.

But having something that is interpreted by any one different group a different way without necessarily having somewhat of a shared understanding I guess if we could get to that, it will raise a lot of questions down the line when decisions are made in the public interest. And then, the question then becomes, well, what do you mean by the public interest if there's no shared understanding in the community?

The other point that I wanted to make was – and this is just to make this even more complicated because it's not complicated enough – government play a major role. We keep talking about the private sector but who makes the regulations? It is the government. So, a lot of those laws that the private sector then abides by are made at the government level. And so, we cannot lose sight of the fact that governments around the world are huge players in determining and furthering the public interests. Thank you.

TIJANI BEN JEMAA: Thanks, Ergys. Thank you very much.

Any other questions? Otherwise, I will go to Yeşim for the pop quiz. Yeşim, please go ahead.

YEŞIM NAZLAR: Thank you very much, Tijani.

Let me first display our first question. Our first question is, what is public interest? Is it A) a concept or B) well-defined practice? Please cast your votes now.

I would like to turn it back over to Ergys for the correct answer, please.

ERGYS RAMAJ: Thank you, Yeşim. Yeah, this is essentially a theme of both of mine and Wolf's presentation and that is that it is a concept and it is highly context-driven. It is not a well-defined practice and there's really – because it's context-driven and it varies from place to place, and region to region, the correct answer is that it is a concept.

YEŞIM NAZLAR: Thank you very much.

Moving onto our second question now. Second question is, does the understanding of the public interest vary across regions? Is it a yes or a no, it's the same?

Back to you Ergys for the correct answer.

ERGYS RAMAJ: Well, this was an easy giveaway. I gave the answer in the previous comments that I made. Yes, it is. It varies across regions. The answer is A) Yes.

YEŞIM NAZLAR: Thank you very much, Ergys.

Our third and last pop quiz question is: do you believe the multistakeholder model help further the public interest? Is it a yes or is it a no?

Back to you, Ergys.

ERGYS RAMAJ: Thank you, Yeşim. Yes is the answer and the reason for that is that the multistakeholder model and the bottom-up decision-making processes is a means to an end. It's not the destination itself. And, in any situation where you have the different stakeholders work with one another and try to reach consensus and [inaudible] consensus, it helps towards the public interest but it's not the destination in and of itself. It looks like everybody got the answer correctly.

YEŞIM NAZLAR: Thank you very much, Ergys. Tijani, this was our last pop quiz question. Would you like me to go ahead with the evaluation question or would you like to make a comment about the question?

TIJANI BEN JEMAA: Yes, thank you very much, Yeşim.

First of all, I would like to know if there is any other question from the participants to Ergys and Wolf. We still have some units to [use]. Did

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you have another question, any question? Please don't hesitate to ask them. I don't see any hand.

WOLF LUDWIG: I have –

TIJANI BEN JEMAA: Okay, Wolf, go ahead.

WOLF LUDWIG: I have a [remark], Tijani.

TIJANI BEN JEMAA: Go ahead.

WOLF LUDWIG: Thanks. There's one point of [salt] of disagreement or assessment which is Ergys' first question. Is it more a concept or [inaudible] practices? I would say in many reasons, it may be more of a concept but the very effect that we have, the public interest as a definition inscribed in several European constitution to me makes it clear – and we have a tradition of public law – to me makes it clear that it's much more than an abstract concept. It's partly also, let's say, a longstanding reality in some of the context.

TIJANI BEN JEMAA: Thank you, Wolf. I think that you're right in the way you are saying now but when we speak about public interest for Internet, it becomes a little bit different.

Sorry, my line went down. So, now I am speaking through the Adobe Connect. So I think that yes, the concept of the public interest for the Internet is a concept more than a well-defined practice. I think that Wolf also agrees with me. Do you?

WOLF LUDWIG: Yeah.

TIJANI BEN JEMAA: Are you with me, Wolf?

WOLF LUDWIG: Yes. [Inaudible], yes.

TIJANI BEN JEMAA: Hello.

WOLF LUDWIG: Yes.

TIJANI BEN JEMAA: Hello.

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WOLF LUDWIG: I can hear you, Tijani.

TIJANI BEN JEMAA: Hello. Do you hear me?

WOLF LUDWIG: Yes, I hear you.

TIJANI BEN JEMAA: Do you hear me?

YEŞIM NAZLAR: Tijani, we can hear you, Tijani.

TIJANI BEN JEMAA: Okay. Thank you very much. So, I was asking Wolf is he agrees with me that for the Internet, if it's still a concept, it cannot be a well-defined practice.

WOLF LUDWIG: Yes. My answer is yes.

TIJANI BEN JEMAA: Thank you very much.

I see Ergys wants to speak. Ergys, go ahead please.

ERGYS RAMAJ: Since we're running out of time, I really wanted to stress one particular point in closing and that is that this is part of a process really just raising awareness about the public interest as it relates to ICANN and even more broadly because we do need to understand how other industries and how other countries and regions look at this particular issue in order to better understand and learn from those experiences.

What is equally important is to understand that this is a community-driven initiative. We are here and myself included as a staff to facilitate and support the discussion and any interventions that we make are again in support of all of your efforts.

So, I just wanted to invite everyone who is on this webinar and we'll be listening to this webinar at some point in the future to get active and participate in the discussions on the public interest. Because this is one of those very big issues at ICANN that we need to continue having discussions on and to get a better understanding on what it is that we mean by the things that we say. Because ultimately, they do have an effect and an impact on how we conduct ourselves and how we conduct our business.

And, that's it for me, Tijani. Thank you very much.

YEŞIM NAZLAR: Tijani, we cannot hear you. You might be muted.

TIJANI BEN JEMAA: Sorry. Yes, I was muted. Thank you very much, Yeşim and Ergys. And now we go to Yeşim for the evaluation questions. Yeşim, please.

YEŞIM NAZLAR: Thank you very much, Tijani.

We have seven questions for our participants. So, the first question is: how was the timing of the webinar, which is 13:00 UTC? Is it too early, just right or too late? Please cast your votes now. Thank you very much for your votes.

I will now move on to the second question. The second question is, how was the technology used for the webinar? Is it very good, good, sufficient, bad or very bad? Please cast your votes now.

And I will now move on to our third question, which is did the speakers demonstrate mastery of the topic? Do you think it's extremely strong, strong, sufficient, weak or extremely weak? Thank you very much for your answers for this question as well.

Let's quickly move on to our fourth question. Are you satisfied with this webinar? Is it extremely satisfied, satisfied, moderately satisfied, likely satisfied or not satisfied at all? Please cast your votes now.

And I'm now moving to our fifth question, which is: what region do you live in at the moment? Is it Africa? Is it Asia, Australia and Pacific Island?

Is it Europe? Is it Latin American and the Caribbean Island or is it North America? Please cast your votes now.

I will now move on to our sixth question, which is: how many years of experience do you have in the ICANN community? Less than 1, 1 to 3, 3 to 5, 5 to 10 or more than 10 years? Please cast your votes now.

I will now quickly move on to our last question. What topics would you like us to cover for the future webinars? Please type your answers here in the blank and don't forget to click the icon next to it to send your answers, so we can receive them all.

I will leave it open as it is. And now, I would like to leave it back to you, Tijani, for the final comments. Thank you.

TIJANI BEN JEMAA: Thank you very much, Yeşim. I would like to thank very much our two presenters, Ergys and then Wolf. First of all, I would like to ask our participants to answer the question number seven not necessarily here on the Adobe Connect but we can send their answer to the staff or to me because this will help identify the topics for the next year. So, please tell us what are your preferred topics in the future.

And so, I would like to thank very much Ergys and Wolf for their presentation, for their patience and also for their time. I would like also to thank our interpreters, thank you very much, and our wonderful staff. And for sure, I would like to thank you all who attended this webinar and I hope it was useful for you.

This webinar is now adjourned.

YEŞIM NAZLAR: Thank you very much, Tijani.

WOLF LUDWIG: Thanks. Bye-bye.

YEŞIM NAZLAR: And, thank you very much, everyone, for joining. This webinar is now adjourned. Have a lovely rest of the day. Bye-bye.

[END OF TRANSCRIPTION]