
ICANN82 | CF – Dialogue on ICANN Community Participant Code of Conduct
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ALPEREN EKEN

Hello and welcome to the community dialogue session, draft ICANN Community Participant Code of Conduct concerning statements of interest. Please note that the session is being recorded and is governed by the ICANN Expected Standards of Behavior and ICANN Community Antiharassment Policy. During the sessions, questions or comments will only be read aloud if submitted within the Q&A box. Interpretation for this session will include English, Arabic, Chinese, French, Portuguese, Russian and Spanish. If you would like to speak during this session please raise your hand in Zoom. When called upon virtual participants will be given permission to unmute in Zoom. Onsite participants will use a physical microphone to speak. Please state your name or the record, the language you will speak if speaking a language other than language and speak at a reasonable pace. I will now hand the floor over to Russ Weinstein.

RUSS WEINSTEIN

Thank you, Alp. Thank you everyone. My name is Russ Weinstein. I'm the senior vice president for policy development and support from ICANN and today we're going to talk about the code of conduct for the participants in the ICANN community related to

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statements of interest and where we are as we're on the journey towards implementation of this new initiative. Diverse participation, transparency and accountability are foundational aspects of the multi-stakeholder model, and this necessitates clear guidelines for disclosing interest to ensure fair and informed decisions and deliberations. Forms of declaring interest and affiliations have long been part of the ICANN community and exist in nearly all of our constituencies, but recently there were concerns that the existing statement of interest processes were insufficient. This initiative, this new document, their code of conduct aims to promote more ethical transparent, more accountable participation for ICANN's multistakeholder model. After all, we're in the trust business.

As our community evolves and grows it's important to provide clear expectations to all stakeholders and participants about how we behave that can help reinforce this trust and participation. We have tools in the form of policies and guidelines and norms, and those include the expected standards of behavior, which Alf just referred to. Those are general expectations of conduct within the ICANN community emphasizing respect, professionalism, acting in the best interest of internet users. We have the antiharassment policy which makes it clear we don't tolerate harassment and provides mechanism for reporting and resolving those complaints. This code of conduct focuses on statements of interest and appropriate disclosure to support well informed participation. It continues to build off the honor system of disclosure we already have in place across the community and just elevates the expectations of what's

needed to be disclosed. It's in place to encourage participation, not discourage participation. There's no conflicts that keep you out of the room in the policymaking process. We're seeking those to be disclosed and be clear with your colleagues so that there's well-informed deliberation.

Overall this ICANN multistakeholder model has thrived on self-governance and these policies and tools are here to help support that. Why we're here today, this code of conduct went out for public comment and the report was recently published. In those comments there was a consistent theme about enforcement and this session is tied to that purpose. We have panelists from all of the constituencies that submitted comments and I'm going to let the panelists introduce themselves. If we could start on that side please.

ASHLEY HEINEMAN

Hello everyone. My name is Ashley Heineman. I work for GoDaddy but I am here representing the Registrar Stakeholder Group.

BRIAN CIMBOLIC

Hi everyone. I'm Brian Cimboric with Public Interest Registry and I'm here on behalf of the Registry Stakeholder Group.

CLAIRE CRAIG

Hello everyone. I am Claire Craig. I am one of the co-vice chairs of the ALAC and I am representing ALAC.

SAMANTHA EISNER

Hi everyone. I'm Samantha Eisner. I'm a deputy general counsel with ICANN and here in that role.

MICHAEL GRAHAM

Hello. I'm Michael Graham. I am treasurer with the Intellectual Property Constituency and in full disclosure I'm also the chair of the Internet Committee of the International Trademark Association.

JORGE CANCIO

Hello everyone, Jorge Cancio with government. I'm also vice chair elect in the GAC and I was volunteered to participate in this session. Thank you.

ADETOLA SOGBESAN

Hi everyone. Adetola Sogbesan is my name. I'm the vice chair operations and finance of the Business Constituency and I represent the BC.

MANJU CHEN

Hi everyone. My name's Manju Chen. I represent the NCSG, Non-Commercial Sale Group here and I work for no one. I just left my job last week.

RUSS WEINSTEIN

Thank you everyone. The design for the session today is we have this esteemed panel. We're going to do some panel dialogue for

about the first 30 minutes or so, we'll see how that goes and then we'll open it up for Q&A for the whole community. We have mics up front. We have the Zoom room for remote participants. Okay, I'm going to go to the next slide.

Before we get started we thought it would be important to revisit the proposed code of conduct as it pertains to enforcement and that's what you have on the screen. A key element here is it encourages individual responsibility to be forthcoming and truthful. It mentions a variety of potential consequences up to prohibition of participation in ICANN. It empowers the chairs and leaders of the relevant group, so making the emphasis on the most local point as the first point of contact for concerns and for enforcing the standards. There's no defined role for the ombuds in the process, but it's a potential resource if their issue touches on fairness or unfairness as defined in the bylaws. We also have the ombuds here, I believe. Liz I think is in the room. There she is, in case we need her she can come to the mic.

That's the preamble to this. This is what was put out in the code for public comment and this was the thing the community reacted to. Now let's go to the next slide.

We have some framing questions here for discussion and we'll just give the panelists an opportunity to jump in where they think most appropriate. On the first one, how can, collectively, we support each other to ensure that the code can be uniformly applied and enforced across the community? Would anyone on the panel like to jump in on that? Ashley.

ASHLEY HEINEMAN

I'll take one for the team. I think this, it doesn't have to be that hard. I think just making sure that there are some expectations set for how to handle these situations, whether it's just a set of procedures, an escalation path, just so chairs and others aren't left wondering what they're supposed to do. Again, I don't think it needs to be that difficult. It could probably borrow from existing practices that ICANN utilizes. Thanks.

MICHAEL GRAHAM

So, IPC did offer a comment on the code. We are, we're against it in its present form because the wording was very vague and unlike other parts of the community, lawyers who may be participating in ICANN are under not only an ethical requirement, but also a legal ethical requirement that we cannot reveal our clients unless we have their express permission and this is something that's very dangerous. If you'll note in the actual code, the examples given of special events or situations in which disclosure cannot be made, one was for attorneys and their clients, where they cannot reveal their client, and the other was businesses where there's a business decision being made. Those two examples are very different and don't really give an idea of what this, what is the term, interests would be in a legal context for attorneys and businesses. I think there's a problem with uniformity in that we have different types of requirements across the community of what we can and can't do.

The other problem I see very quickly is, as you saw from the enforcement provision, the responsibility for making the initial

determination is either the chair or the leader of the particular group, PDP or working group that is involved. What is to ensure that they're utilizing the same measures to determine whether or not there's been a fair and reasonable disclosure of information? I think because of that, there really needs to be some clear guidance that doesn't exist yet and really needs to be put together in all of these terms.

RUSS WEINSTEIN

A bit of a queue forming, which is great. I think I saw Jorge and then Claire, and then Adetola. Go ahead Jorge.

JORGE CANCIO

Thank you. We are working out who comes first, but Jorge Cancio, with government. As the GAC we filed a comment and we are supportive of the substance of the code. At the same time, it's important to have clear guidance for everyone in the community how the code has to be applied, especially if we give responsibility to voluntary positions. There in the GAC submission we are saying that we should probably have more guidance on what are the situations where the code will be applied, what are the consequences, what are examples. For instance, when the prohibition would kick in, and maybe whether we need a tiered approach or a graduated approach to apply those consequences.

Then if we think about the voluntary positions, it's important to have some professional backing that helps in having, perhaps not uniformity, but having consistency in the application of the code of

conduct, and maybe we need some backing there from ICANN org itself. Maybe not deciding, but giving freely support. Maybe there's also a role for the ombuds in that supporting of the voluntary positions. I'll leave it by that as a first reaction. Thank you.

RUSS WEINSTEIN

Thank you Jorge. I've jotted down a couple things we'll come back to. Claire, will you go next and then Brian?

CLAIRE CRAIG

Yes. From the at-large perspective we agree with the code of conduct. We felt, however, that it was a little light, that there were areas that needed to be enhanced. For instance, the role of the SOAC chairs, we felt that they had a responsibility to ensure that the code of conduct, the statements of interest were completed and completed in a timely manner, and there was a need for them to remind people to complete the statements of interest.

More importantly, though, that there should also be deadlines for disclosure, so it can't be just open ended. They could have timelines. We felt that there was a need for staff to assist with the compliance, to ensure that they had the procedural oversight to ensure that it was done.

With respect to what was disclosed we also felt that was key and things like monetary interest, and there should also be limits. Not necessarily every dime and nickel, but there should be way to ensure that persons don't take advantage of the situation, but that

they report certain monetary interests that they may have as well as family interests also needed to be reported.

There should be mechanisms for nondisclosure, but we haven't come up exactly with what those mechanisms should be, but as a community I think we need to define what those mechanisms are, particularly recognizing that we are a global organization with people with different cultural behaviors and cultural norms and what may be appropriate in one society may not be for another. It needs to be done on a case-by-case basis to ensure that persons aren't penalized because they are not aware. They can be mentoring as well as, what's the word? Capacity development within the communities to ensure that the people know what should be done and it's done in a timely manner. I'll stop there.

RUSS WEINSTEIN

Thank you Claire. Brian.

BRIAN CIMBOLIC

Thanks Russ. Hi, everyone, Brian Cimbolic. I want to touch on a couple points. First, the substance of the proposal, also on the enforcements, which we're here to discuss, and also really what does that look like in application.

First on the substance, I think that I first want to congratulate ICANN staff and the board for putting this together. I think transparency is important in any policy making process and disclosure and prohibition of anonymous influence on the policy making process is normative across policy making bodies across

the entire world. You can't go to a government, you can't go to the OACD, you can't go to somewhere else and try to influence policy making without disclosing who your client is.

Michael is exactly right by the way. I know it sounds like I'm disagreeing with him, but Michael's exactly right that in order for an attorney to participate here, under the code of conduct if it's implemented, or elsewhere, and disclose their client identify, that requires written consent and I don't think that is an unreasonable ask. Think about if we did not have the code of conduct, especially in ICANN policy making where so much of it, so many working groups are dependent on consensus. A well-resourced organization that did not want to see an issue of importance progress could simply hire various attorneys to participate in that working group and then all of a sudden you have Attorney One saying something, Attorney Two saying something, Attorney Three, Attorney Four. All of a sudden, boy, it seems like there's no consensus around the issue. Meanwhile we have no way of knowing that they all have the same employer or they represent the same client, that really it is one party that is trying to sink policy making. That is why it's just essential that we close this loophole for the transparency of policy making in ICANN.

Moving on to enforcement, here's a hot take. I don't think we need to overcomplicate this. We already have and all of us in this room participate under the ICANN Standards of Behavior. I don't know how many of you have recently read the ICANN Expected Standards of Behavior, but it's under one page, single spaced. It's 12 principles and it is a much, much wider purview of what it covers. Here we are

really talking about disclosure of client interests. The Expected Standards of Behavior governs how you interact in all venues, in all fora within ICANN, covering things from inappropriate, being aggressive toward someone, inappropriate touching, all these things. It covers all of that and it does so under one page, single spaced. Do you know, is anyone familiar with all the elaborate, mechanical enforcement mechanisms for the Expected Standards of Behavior? There are none.

Matter of fact, I think ICANN threaded this needed well already when in 2019 it provided guidance to SO and AC leadership on how do you enforce the Expected Standards of Behavior. It's a reasonable person standard. If there's conduct that appears to be in violation of the Expected Standards of Behavior, any individual serving in a chair role ... has the power to remove the violator from the discussion for a short period of time. This guidance is under one page long and I think does a really good job of taking a complicated issue and putting in common sense enforcement guidance to empower the leaders of working group, the leaders of SOs, the leaders of AC to deal with these issues. I think we are dealing with a much more roped off finite issue here. To me the notion that we need these elaborate enforcement mechanisms just isn't true.

Finally, I want to talk to the fact that I do think in application of this, it is essential that this simple guidance be given to the leaders, where you have something replicable as it was for the Expected Standards of Behavior, have a simple one-pager to give the leaders of working groups the lay of the land. Again, I really do think that the code of conduct here on SOIs, it's important work. It's well done

and it's very important, but I also think it is somewhat simple. We're talking about a situation here, the fact pattern is not going to be that different. It's when someone refuses to disclose who they're working for, they are challenged on that and then the process kicks in. With that, I'll hand it back.

RUSS WEINSTEIN

Thank you Brian. We'll come back to that in a moment. I think I have Adetola next.

ADETOLA SOGBESAN

All right, thank you Russ. I'll start by saying that I agree with Brian for the last statement and I think as far as the business constituencies, we agree with you on that. From my perspective, why do you want to disclose all our clients? From a technical perspective, for example, there is anonymity. You don't want to disclose some of the corporations you represent on the technical side, right? Why would it apply to the businesses? If we take a look at ISOI, for example, there is one small box if you ask do you represent someone else, right? Almost everybody will say no or yes, right? From a business perspective, why would I be able to now say I represent Company A, B, C, D, E, F, when I'm able to present exactly what they want me to represent them on? Disclosure in this aspect may be pretty difficult from the business perspective, and it's just been logical that from the technical perspective there's anonymity. I don't want to disclose some of those things on the technical side. We should be able to apply the same thing to the business. If we can claim there is anonymity then we can as well

protect the businesses we represent and that is the perspective that we're taking here currently. We can always come back to that anyway, but that is the first thing I want to state while we move forward. Thank you.

RUSS WEINSTEIN

Thank you. I think Manju is next and then we'll stay on the queue.

MANJU CHEN

Thank you. NCSG strongly supports the code of conduct as we started in our public comment submission, but I'm very sorry, I forgot to mention my other hat when I'm not here. This SOI thing people have repetitively mentioned, it stands for statement of interest, if anybody didn't know what that means, it actually has been... Well, there was an effort on the GNSO side that tried to update the SOI and it was carried on by a council committee for overseeing and implementing continuous improvement. We shortened it for CCOICI because the original name was too long. The effort was to... Actually to address your question, why do we have to identify all the companies we're working for in our SOI, I thought I would provide some context of SOIs. What we were suggesting in this effort was that you will have two SOIs. One is your general SOIs. That's how you work or how you operate in the ICANN community in general and then when you sign up for some effort, for example a working group on the PDP, positive development process, you will be asked to provide another SOI, statement of interest specific to this working group, to this policy effort. In this SOI you will have to clarify who you're representing in this working

group. For example, someone actually pays you to participate in this working group. Of course you have to disclose you have material interest in this working group. That was why I feel sometimes people are confused. Why are you trying to make me disclose so much things? We were actually suggesting two SOIs. One is your general, like I said, one is specific to any effort you're signing up to, and that I think is where code of conduct will mostly apply. Of course, both of them will apply, but this is especially what we're talking about.

You have to disclose because this policy effort will have a direct impact to ICANN policy which might even, if it's a consensus policy in Big C and Big P it might even translate into contracts. That why we are very serious about this code of conduct, and then about how it's enforced.

I would say that the CCOICI now has been formalized to SCCI. It's the Standing Committee on Continuous Improvement and that's a GNSO, Generic Name Supporting Organization wide effort. I guess what I'll say as the chair of SCCI, we stand ready when the board is ready to implement this code of conduct. We stand ready to implement and update SOI appropriately under council's direction. Thank you.

RUSS WEINSTEIN

Manju, thank you for taking us back and reminding us of the GNSO history on this. That was certainly pertinent. I think I have Sam next in my queue.

SAMANTHA EISNER

Thanks Russ and thanks everyone on the panel for sharing information. It's really helpful. One of the things that we want to make sure is within this document or understood, whatever form it winds up taking, is how the community wants to work with it. That's why we put more general language in the code of conduct itself or in the draft that was put out, but having some of these specific ideas... We've heard for example Manju's suggestion of the general SOI and a specific SOI for a specific process so that you don't have to keep updating your general SOI for any place you might be. That could be a really practical thing to bring it. We've heard from Claire issues of training, making sure that it's so important, and we heard this from other commenters, too, that once this goes into force people need to understand what they're supposed to do and I think that there's two aspects of it, both what the participants are supposed to do in terms of listing things out on their SOI, and we've heard the community that there should be some modifications to the document as well to specify more around use cases and make sure that it's clearer what's being expected to be disclosed, but also for guidance such as Brian was suggesting about how we make sure that the leaders of the groups understand that they're empowered to enforce the SOI.

Brian, I agree with you, it really is as simple, it could be as simple as following on from what was released in 2019 about the Expected Standards of Behavior, because I think really this comes down to an issue of empowerment and making sure that everyone agrees about the norms that we're going to hold each other accountable

to, and that we're empowered then to hold people accountable. We've heard some really good specific ideas here, I think from that, including also some of the ideas that Claire brought to the table about making sure there are deadlines or expectations. We heard some ideas of, we already have groups that do these practices of reminders, of, "Have you updated your SOI," but making sure that's normalized across groups. Maybe there's some agreement on what that SOI statement might look like across the different groups.

I head a comment here at the table that I want to pick on, that uniform might not be the right idea, but consistency. How can we make sure we're applying it consistently because we also want to make it easy for people, whatever group they walk into at ICANN, whatever working group, whatever the sponsoring organization is for that group, that they have the same experience of understanding they're going to be expected to do a form. The form is going to look hopefully substantially similar, but maybe there's a need for something specific to change within it, but that will also help reinforce the expectations and reinforce that enforcement.

Any other specific ideas like that I think would be really helpful because that's what we want to hear from you to help put out a new version of the document that's actually useful to the community.

RUSS WEINSTEIN

Thank you Sam. Really helpful moving us forward. I think Claire wanted to jump in and Michael did too, and Ashley, but I do want

to make sure we open up further questions, so maybe we can try and focus mostly on what you think is needed next.

CLAIRE CRAIG

I just wanted to just give a quick comeback, and I liked what Brain said about the simplicity, and even what Manju was speaking about, having the two separate SOIs. That could be a little complex. What we felt that was needed, if you have a specific policy that you're working on, whenever you're put on a policy team it's mandatory that you update your SOI. Rather than saying you have a general SOI, because it's already difficult to find. Well, it has been in the past. We hope the new queue will help us. It has been difficult to find information that you're looking for. If we know that there is one SOI, you go to that SOI, it's updated and everybody can find the information that they need about you when it is needed. Thank you.

RUSS WEINSTEIN

Thank you Claire. That's really helpful, practical approach. Michael?

MICHAEL GRAHAM

Yeah, just real quick. I think it's telling that we've changed the language of the code of conduct. The references here have been to clients and businesses. The code of conduct does not say clients and businesses, it says interests. What does that include? Does that include the company that's paying for me to be here, which if I'm in the ALAC or at-large, or if I'm at NCSG, do I have to say who's paying

me? Is that an interest? It's sort of wide open, but it's not client, it's not business, it's interests. The other thing is understanding that we're going forward, I think those of us especially in the States and I'm sure around the world have learned that simple is not necessarily good, because simple is DOGE. Simple is a chainsaw. We need a scalpel, not only with determining what is required under the code, but also how to enforce it. Being draconian is not the right thing and it would unfortunately disenfranchise a large number of the community, which we shouldn't be doing. We should be trying to figure out how they can participate but be transparent at the same time, to the extent possible.

SAMANTHA EISNER

I do want to follow on Michael, to your point, I agree. This is not about clients or businesses and I think it's important to also make sure that we are all clear this is not just about attorneys. This is not just about that attorney/client relationship and that client interest or only businesses who are coming, or trade associations. This is about the fact that there could be multiple people in the room who have other interests that they're bringing to the table. I agree, we can do better at helping to define what "interests" means in there, betting clearer. At least giving some examples and not just targeting attorneys and businesses, which could go a long way, right? Yeah. I do want to make sure that we are all clear that it's not just about the attorney/client relationship here or just about a large business relationship.

RUSS WEINSTEIN

Thank you Sam, really helpful. I want to invite people from the audience now to ask questions and ask them of the panel. Chris.

CHRIS DISSPAIN

It's me. Hi everybody, it's Chris Disspain. I just want to say a couple of things. First of all, congratulations on getting this as far as you have. I basically agree with what Brian said and I want to make a really clear distinction. This is not about not being able to participate. I can stand at this microphone at a public forum and I can stand here and I can just speak. I don't have to say anything as to who I'm from or who's paying me. But if I'm doing work in a working group everyone needs to be able to know.

I agree with Michael, it's not necessarily about attorneys, although part of the challenge is that attorney/client privilege has been used as a reason why you can't do this, which is why I think there's a reference to attorneys and clients, but to be crystal clear, I can speak for myself. I can speak for my own company which employs me, but if I'm in an ICANN meeting I am here representing Identity Digital, who is a client of mine and it doesn't make sense that I should be able to go into a policy making process and not tell you all that I am being paid by Identity Digital. Doesn't matter whether I'm a lawyer or a consultant. It makes no difference. It's important that you know, if you're having a discussion in the Business Constituency and I hide that I'm acting for a registry that is going to color your discussion in the business constituency and it would be unfair on you for me not to tell you that I'm actually being paid by

a registry. The same thing applies right the way through the process. I think that's really important.

The second thing I wanted to say was I do think that is it simple, but chairs need to empowered, which brings me to final point, which is that we don't have chair training. We should have chair training. This makes it even more important. If you're going to chair something there should be a thing you go to, a video you watch, an ICANN Learn session that gives you tips on how to do be a chair. Thanks.

RUSS WEINSTEIN

Chris, thank you for those comments, and to the chair training point I really appreciate it, as I'm new to my role, trying to learn what the community needs. That's one we've heard multiple times and something that we can work more towards because I think it's a really important part of thinking about how all of these tools we have to help the community do its work, it's really empowering of the chairs and they need to be supported by training and by the staff and by the tools that they have at their disposal. Thanks, that's a good point. I think these guys wanted to respond.

MICHAEL GRAHAM

Yeah, real quick, I take your point Chris and I think it is valid and in fact, and I can be corrected, Lori can correct my, but my recollection is that the IPC in preparing our comment and certainly in our discussions noted that there could be an exception and that would be where you were employed specifically to participate in a

particular ICANN working group or whatever. At that point, if that was the case then you would reveal your client. Thank you.

ADETOLA SOGBESAN

Thank you, Russ. I'll follow on the track of what Mike just said. Chris, what happens if from a business perspective I'm representing a couple of clients on the same issue? I think that's where the idea of representing interests is more important than the clients. Now, if I represent more than one company, for example, which of them am I going to disclose? I think that's where the issue of interest comes in and when the interests are common it doesn't matter how many clients I am representing. What matters at that point in time is the interest we're advancing. That is the perspective we're looking at. Thank you.

RUSS WEINSTEIN

Thanks Adetola. I think the collective groan in the room I heard just now was when you asked which one of the clients to disclose. I think I heard, "All of them," but Sam wanted to add onto that.

SAMANTHA EISNER

Thanks. I wanted to go back to one thing that Chris said. At the beginning of your comment you said that you can stand at the microphone in a public forum and maybe not disclose. I think it's important to understand if there are interests coming the microphone even at the public forum. It's really important in our policy development. It's really important to have that disclosed within working groups so that everyone in the room understands

what's being discussed, so that the board understands when they review the report, the interests that were at the table, et cetera. It's not so important when we're in public sessions.

We had an executive Q&A today. There weren't really that many dynamic questions that came to the executives, but sometimes it puts things into context when you know who's asking the questions. We're going to have a public forum later this week and there will be questions coming and it's important to know who's in the room influencing conversation because it might not be within the policy context, but it could be impacting the outcome of policy, et cetera. I think it's important for us to remember that practice we all have of coming to the mic, "I'm Samantha Eisner, I'm with ICANN." There is a place for people to come up to the mic in their public, or in their own person, and so I think it's just something that we want to continue norming.

RUSS WEINSTEIN

Thank you Sam. I think Lori was next and then I'll come back to you, Jorge, okay?

LORI SCHULMAN

That's okay. I'll cede to the panelist. No problem.

JORGE CANCIO

Very quickly. Jorge Cancio for the record. Just to note that it's very important to know whom we are talking to because it's very nice to know the name of the person, but we are talking to somebody who

is behind. A company, a government, NGO, whatever. That is essential, to know the interests at stake and otherwise it's almost impossible to have a sensible conversation, so that's the principle we are looking after. Than you.

RUSS WEINSTEIN

Thank you Jorge. I've been ignoring Ashley. I apologize. I thought you had put your hand down.

ASHLEY HEINEMAN

It's a problem of being at the end of the table, so I'm not offended. No, I think most of what I said has already been said, so I won't take up time there, but I think it comes down to accountability as well. Knowing that what you're saying is actually reflective of who you're representing and knowing who I'm negotiating with, and if there's an issue, how I can negotiate best with you. Knowing who you are speaking on really helps with that. Also, it gives credibility to ICANN and it's process. I think this is a step forward in our maturity and making us look like we are a mature institution and enforcement of that, simple or not, is another step in that direction. Thanks.

RUSS WEINSTEIN

Thanks Ashley. Those are some really good points, too, because we've talking a lot about, as a community, how we get to a consensus, and knowing who you're talking to and what their interests are helps you find common ground, which helps us get to consensus, so thanks. I'm going to go to Lori.

LORI SCHULMAN

Thank you Russ. I have a few points. First of all, in terms of chair training, 100 percent plus one to Chris. We absolutely have to train chairs to understand when and how to apply this policy.

Number two, I think there's a fundamental issue of precision here on both ends. On one hand, I think the way... Not I think, in my professional opinion the policy is imprecise. There's not enough precision in the language. There's not enough exceptions. This is something that the IPC in it's comment... I'm Lori Schulman. I'm speaking in my professional capacity. I am immediate past president of the IPC and I am the representative from the International Trademark Association. We have 7,000 members, entity members, and 30,000 individual volunteers that span the entire spectrum of the multistakeholder model, quite frankly, as many contracts parties as well as non-contracted parties are members of INTA. In my capacity I'm certainly not going to say, "Here," and give you a list of 7,000 people, but potentially I could in terms of one of the requirements would be if I were to open my membership roster to the public, which we generally don't do for a variety of reasons.

That being said, the precision side of this, the policy is imprecise. If you could tighten it up in a way that makes it very clear, because it's not clear now about overinterpretation. We don't want to get into an area of overinterpretation. I think that's the easy, hard... It's easy to overinterpret if there's lack of precision in language. In terms of disclosing individual, and I mean individual as an entity or

a person, doesn't matter, a singular client that you may be representing, there are business reasons, solid business reasons why you may not want to disclose a particular name simply because on the commercial side of things, although the idea here is to get a level playing field and have transparency, but the reality is so much of what's traded inside of the domain name system is subject to commercial interests and sometimes you can reveal your interest and then in fact you become targeted. Prices are artificially driven up and phishing and fraud, and there is definitely records of interests going out and then we're seeing spikes in trademark registrations of potentially infringing, spikes of domain name registrations potentially infringing. It creates a lot of problems. I've worked in-house on this issue and I've lived it. It's not pretty.

But that being said, I do agree that a certain level of transparency and accountability is referenced. I think a fair compromise which would not violate any legal ethics is if you were to say,. "Hi, I'm Lori Schulman and I represent a luxury fashion brand," or, "I'm Lori Schulman and I represent a bank," or, "I'm Lori Schulman and I represent a collective of the following business." Thank you.

RUSS WEINSTEIN

Thank you Lori. I have Manju in the queue. I don't know if she wanted to respond to this. If not, I know Brian did.

MANJU CHEN

Not specific to that, but to the chair training thing. Actually, we don't have specific chair training but we used to have this leadership program that's every year hosted before the ICANN meetings, but it was actually paused. I hope it's paused. Paused this year. They're not doing it this year because of cost reasons. I think this brings us back to the how we meet question, too. When we were discussing how we meet, we really should think of, like what the GNSO was saying, what can help us to work better instead of just cutting costs here, cutting costs there. More like what we need the most in the community to make our work better.

RUSS WEINSTEIN

Thank you Manju. I'm looking at the time, so I just want to say for the in-the-room, I think we'll probably close the queue given the types of answers. Brian, you wanted to come back on this?

BRIAN CIMBOLIC

Yeah, thanks Russ. I just wanted to bring things back to basics and why are we here. I think that the principle which I think most of us in this room would agree is that we shouldn't allow for anonymous interests to influence ICANN policy making. It really comes down to that. It becomes harder to trust the output. It becomes harder to trust the process, and it really puts ICANN out of sorts with normative policy making bodies around the world. I don't know why we would choose to voluntarily hold ourselves to a much lower standard when every other... There is no similarly situated body to ICANN. I accept that. I understand that, but any other policy making body around the world requires this disclosure. I don't know why

we would voluntarily cede that ground and hold ourselves to a lower standard.

I also worry that, I appreciate, in an ideal world you want this to have a perfect flowchart of if this/then that, so there's almost no decisions involved. Unfortunately, that's not the world we live in and I worry that we're falling into the trap that oftentimes we do, and that's letting the perfect be the enemy of the good, or in this case I think the very good. I think the code of conduct does a very good job identifying what the primary problem here is and putting in place principles to address that issue.

Again, I just want to point to the Expected Standards of Behavior, which cover a much, much broader ground than the code of conduct on SOIs. We all accept that document. We all accept that it's squishy and it's little vague, but we recognize that its principles are important, and to me I think we should all recognize that the principles are important with the code of conduct and I think that we should move forward with it.

RUSS WEINSTEIN

Thank you Brian. I think I had one more in the room, and then back to Adetola.

ADETOLA SOGBESAN

Thank you. I think the conversation is not about whether the code of conduct is ideally or not ideal. I think we're just trying to make it better. It's now come to the point that we're saying that we shouldn't do it or we should or we should, or we should cancel it or

we shouldn't. We should reduce ICANN to the lowest standard. What we're discussing right now is how to make it best fit to be proper for everybody involved in ICANN. Of course we are multistakeholder anyway, so we're not going to say that this particular ideal, this particular standard will be fit for purpose for everyone. We need to protect... Just listen to what Lori said, for example. Our association representative has 7,000 members and if half of those members, just 10 percent of those memberships, say, we're interested in this particular item, we want you go and represent us and we want you to go and inform the people at the negotiating table that tis what we want, how many of those 10 percent of 7,000 are you going to put in as a formal disclosure?

I think I agree when the issue of accountability was stated. When there's accountability, when we know that we are being presented by an ideal plan, if it is IPC, if it is Business Constituency, whoever is representing us is being accountable at the table, then everybody will be fairly represented. Of course, we know we are representing people.

In conclusion, the debate is not about whether it is ideal or not ideal. It's about making sure that we get it right and we don't change some other constituency in place of being fair to that other person. Thank you.

RUSS WEINSTEIN

Thanks Adetola and you are right. We're on the journey towards implementation here and we're trying to make it the best fit policy for the community. I don't know if Sam you wanted to add thing.

SAMANTHA EISNER

Yeah. One of the things we saw out of the comments and we're hearing here, too, is there are some particular types of entities that I think we should refine how we address them within the policy, one of those being trade associations and how those memberships, the fact of representation and being part of a trade association, maybe that's enough. Particularly, some trade associations do have membership lists that they can point to online. If you have those, then you include links to that, et cetera, but I think that's one of the areas that we've heard and I think that is a place where we'll see some refinement.

RUSS WEINSTEIN

Thanks Sam. I'm going to go to James and I think we're probably not going to have the panelists respond to much at this point. James and Reg and then we'll close it out. Thank you very much.

JAMES BLADEL

I'm going to try to be brief and take Sam's advice and be as transparent as possible at the microphone. I'm James Bladel and my comments will probably align with the Registrar Stakeholder Group comments, with GoDaddy's comments, with my own personal comments on the working group. The only interests I never, ever speak for are my spouse's. Just a couple of quick points,

plus one to chair training. I think that throwing everyone into the deep end without any guidance, I think that's an easy one. It sounds like we're all gravitating around the idea that we need more guidance there.

To react to a couple of statements, I think in particular some statements from Lori, we have publicly listed companies that come to ICANN as contracted parties and participate in policy development in front of microphones and cameras and translators. That business or commercial asymmetry or inequity already exists today, and I don't know if some of the other participants in those groups are competitors. I don't know if they are representing patent holders that are trying to steer policy development into their intellectual property. I don't know there are governments funding some of these folks. We have to think about, it's not just about one particular type of participant.

In my day job I have hired attorney and law firms. I have hired lobbyists. I have hired consultants and in almost every case they have either provided or I have asked for their other clients that they may be representing to ensure that there is not a conflict. I think this disclosure, when we said who should I represent, all of them. We should disclose all of them because I think that's going to be a benefit to your clients if you're representing more than one to see transparency, who else is being represented.

I think one last bit, I think Sam, your idea of carving out trade associations, I get the point and it's a good step but it's really easy to form a trade association, and that's just anonymity with extra

steps, so I think that one we'd have to work out some of the details on that. Thanks everyone.

RUSS WEINSTEIN

Now I'm going to go... Yeah, sorry Micheal. Thank you. Thank you James.

REG LEVY

Hi, my name is Reg Levy and I'm speaking on behalf of Tucows. That used to be something that I heard constantly at ICANN at the mic. Whenever anybody picked up the mic they said what their name is and who they represent, and that has kind of fallen by the wayside. A lot of that is because a lot of us know each other, but also because we're lazy and I am the worst among these. I have fallen into the trap of tending to assume that people know who I am. I absolutely appreciate ICANN legal's, apologize, I don't remember your name, I just know who you represent, your reminder to say that every time we speak at the mic, to indicate who we are and who we represent.

The secondary thing that I wanted to mention is back to Chris' point. I'm trying to look at him, but I don't know where he went, about the ICANN Leadership Academy. It did used to exist. It still kind of exists. It broke off into a couple constituent pieces and it is excellent. We specifically addressed chairship skills and practiced how to deal with disruptive behaviors, how to deal with conflicting personalities within a group, how to gain consensus. It was vital and I think everybody should have to go through it and I am happy to continue to volunteer my time to help up and coming leaders

within ICANN because that is one of the important things that we need in this group, in this community, is to continue to train our newcomers. Thank you.

RUSS WEINSTEIN

Thank you Reg. I think we're hearing unanimity on bringing back the ICANN leadership training, so an easy go-do hopefully for me and my team and the team at ICANN. Let's go to the next slide as we head towards next steps.

I think from a next steps perspective this session was really helpful. We didn't get through all of the questions we thought we might, but I think we heard a lot that helped inform our next steps, and our next steps are to take the feedback back, in addition to what we saw in the comments, that a lot of what was said in the session echoes what we saw in the comments, as you'll see in the public comment report, and to generate a new draft and get that back to the community for more consultation via the public comment process and if we need it we can have more sessions like this one. Then ultimately bring it to the board for consideration.

Certainly heard the development and the training, essential component of training to support chairs and community leaders so that they can help hold people accountable, to empower them so they can hold people accountable, to encourage participants to behave with integrity and know how to disclose and where to disclose. Through that, developing the right forms. I'm picturing work across the community to improve the forms in each of the constituencies and where possible streamline those and make

them as similar and common as we can so that we can use those across the community as we have more and more work, not just centered within a particular stakeholder group, but really bringing the whole community to the same issues. That'll be really important.

Then of course, this doesn't just stop in a one-time effort. We need, as we do with many things, we need to monitor. How is it going? We need your feedback from those in the work that this is working or not working or where there's still room for improvement, as you talked about Adetola. We're trying to make it the best we can and usually you don't necessarily do that right off the bat. You test, fail, fix and improve and keep going. We're on this grand ICANN experiment, the multistakeholder model, and we shouldn't hold ourselves to perfect. We should make progress where we can.

That's where we're going, and appreciate everyone in the room. Thank you to the esteemed panel for supporting this session today and all those that participated in the session and provided comments. With that we'll close out the session. Thank you very much.

ALPEREN EKEN

Thanks everyone. Meeting is adjourned.

[END OF TRANSCRIPTION]