JOHANNESBURG – At-Large Public Interest Working Group
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ICANN59 | Johannesburg, South Africa

UNIDENTIFIED MALE: This is the ICANN 59 At-Large Public Interest Working Group on the 28th of June, 2017 from 5:00 to 6:00 in Ballroom 4.

WOLF LUDWIG: As we are already almost five minutes behind schedule, let me suggest to start our meeting. Welcome to this Working Group meeting on the Public Interest, which is the fourth in a row over the last ICANN meetings we had when we started in Marrakech, and then we had subsequent meetings, Working Group meetings in Helsinki and in Hyderabad and in Copenhagen. So actually, it's the fifth one.

And we also had a webinar on the issue, I think three weeks ago, which was to my perception quite successful. And as I see, we have always some kind of fluctuation in participation here. I think it makes sense to start with a kind of recapitulation, what we have done before.

And therefore, I have prepared a small presentation for you which may have some déjà vu effect for those who attended

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previous meetings, but [what] may be helpful for newcomers and I think it may provide, or I hope it may provide a good introduction into today's discussion.

Can we start with the PowerPoint presentation so far, as I have rather bad eyes?

So, what happened so far. I think over the previous discussions, there was sort of an agreement that we cannot find a unique or consistent definition of the public interest on the global level due to different and diverse historical, political, and cultural particularities on regional levels. And there won't be a sort of one-fits-all interpretation on the complex issue.

But this was an outcome of the last meeting we had in Copenhagen. We can discuss and define some enabling factors or try to identify some criteria on how to approach and promote the public interest in decision-making processes in ICANN's remit.

I guess you would agree that this is roughly spoken, the summary of what happened so far.

UNIDENTIFIED MALE: Yes, absolutely.

WOLF LUDWIG: Yes. Okay, thanks a lot.

So let me continue on the way. How to approach this complex issue and to get a little bit more clarity, what can be the context or the substance of this unknown animal, public interest? I dared to come up today with a concise example in the Swiss context.

Perhaps this may be useful not only for the newcomers, but also for the long-term members of this Working Group.

In Switzerland, we have a common term like "provisions for basic supply", which is in German called [inaudible], provisions for basic supplies in the public interest.

What means? Water, for example, is considered as a basic and public good while access to drinkable water is a public service and shouldn't be privatized, or access to public education for all, independent whether you are a citizen, true citizen or not, is provided, or access to affordable healthcare provided by an obligatory basic health insurance systems. Another example on the national level in Switzerland is the national public broadcaster, what provides TV and radio programs, but besides the public broadcasters, we of course have private radio stations. But this is considered as kind of complimentary to the public services.

We also can, of course, besides the public education system, we have private schools for all those who can afford the considerable costs of public schools in Switzerland, and you have a lot of other examples like public transport, which provides the basic transport and providing the infrastructure. You have, of course, also private service providers in the transport context.

But these are very concise examples about public services. And public services, of course, are always understood to be in the public interest, to provide basic services to the whole population.

In my opinion, a very important point not to be confused is public in the Swiss or in the German or Austrian context does not mean owned or controlled by the government. I think this is a very essential point to be clear about, that when I usually talk in Switzerland or in Germany, we talk about public services, they are not governmental owned or controlled.

To make it a little bit clearer, usually again on the Swiss example, public services are usually community-based for water supply, for electricity, for local public transport, for public schools and public hospitals. So these are community-based and community-run services.

On the national level, we have previously, like we had the telecom companies and the broadcasters, and such services are usually run under a public mandate.

The mandate is given by the government, but also providing them a certain independence. That clearly means it's not state TV. Public television is not state TV, so the government does not choose the personnel of the TV or radio stations. The directors and the editors-in-chiefs, etc., they are all selected by independent procedures that cannot be dominated or manipulated by the government.

I think this is always a very important point to keep in consideration when we talk, when we try to be clear about the term "public" and "public interest". It must be some sort of independent, and it shouldn't be controlled by the government.

And this public service provider's mandate, in my opinion, is a very important element and also a sort of a safeguard, that it cannot be occupied by any state interests.

So the last slide, and now coming back to our ICANN and our Internet again. How can these examples, which have nothing to do with the Internet so far – just to be clear when we talk about public interests in a broader context, how can this now be related to ICANN and us or the Internet?

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And in this context, as you know, the Internet is considered as a global, universal resource and network, not based on national regulation or the former Westphalian principles. Nevertheless, the question is, can the Internet be considered as a public good?

I put this here in with question marks, and this question goes to all of you, and I do not present this as my own opinion, or impose this as my own opinion. Can the Internet be considered as a public good? Another question would be, can access to the Internet – access in the context of access to infrastructures and access to content – can be considered as a basic, or fundamental right of citizens?

This question popped up in the webinar and Ergys referred to a long article of Vint Cerf on this issue, and Vint Cerf more or less clearly denied that access should be a fundamental right. I personally disagree with this argumentation, but as one of the fathers of the Internet says, "Okay, in my opinion – in his opinion – this shouldn't be considered as a fundamental right," so this is a good point to be discussed.

To sum up this introduction, in my opinion, access either to infrastructure or access to content, the access is a key element in my opinion for end users, and consequently, basic consideration for public interest. In my opinion, access is an

enabling factor and could be a criteria for users and could also be in the center of our discussion.

I stop here. But now I would like to ask Ergys for his comments on agreements and disagreements, and then let me suggest to open the debate.

ERGYS RAMAJ: Thank you, Wolf. If at the end of my remarks we could go back to those guiding questions, I think they provide for a good basis for our conversation.

WOLF LUDWIG: Which one?

ERGYS RAMAJ: The guiding questions that you just had on your last slide, if we could go back to that at the end of my remarks, that way, we can kickstart a good conversation here.

Just very quickly, I think part of the challenge that we are going to continue to have here is that the concept itself, it's one of those that is very highly conceptual, and that is the basis of some of the challenges that we're faced here with the idea or the notion of moving away from having a fixed definition, which you touched on a little early.

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I do believe that there is now a shift in the community based on the conversations that we have been involved in over the past year or so, in particular to navigate away from having something that's fixed, and rather, look at it more from a context-based approach.

And if you were to look at the literature or review, most of it also suggests that other organizations that are similar to ICANN also approach it in that manner where you look at the concept of the public interest based on that particular issue that you are dealing with at that time in that context. And therefore, a definition becomes somewhat problematic in that particular context.

We have to date looked at a couple of regional examples, how the concept itself is both understood and applied. And I think from my perspective, and one suggestion that I would make to the group is that as we go to future ICANN meetings, we continue to look at other examples apart from Europe and India which we have done a very good job at and looked at in-depth examples of what constitutes the public interest in those particular regions, and in the Indian case, in the country.

I think we need to go a little beyond those two experiences and just really do an in-depth analysis. And Abu Dhabi presents a very good opportunity for us to do so. And it doesn't have to be

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from that particular region, or it could be that and another region that we could combine. But I think if we do a very good job at taking all of the different examples that are out there, I think our very own understanding of how this is understood and then bring it back to ICANN and try to, if not apply it, at least get to a shared understanding, we would be in a better place for it, because of it.

One thing that came up on the webinar, the capacity development webinar that you mentioned earlier, was the role of stakeholders. In particular, what was highlighted was the role of governments vis-à-vis the public interest, and you mentioned the Swiss examples, the particular examples that you mentioned a little earlier.

Even governments themselves, there is really no fixed definition when it comes to the public interest. In fact, one can argue that the very existence of governments is due to the fact that it provides services for its citizens, and those services usually, or at least are supposed to be, in the public interest. Think infrastructure, health, etc., telecommunications, and so on.

Where we are right now and where I think we ought to look toward is engagement within our own communities. How do we go from where we are now where we have done a very good job at continuing this discourse, and raising awareness, and making

sure that there is a common baseline understanding of where we are as a community and where we ought to go from here? And what's important in that context is that we perhaps need to go a little broader and engage as many stakeholders from within ICANN in the discussions that we are to have in the coming weeks and months and potentially even years, because this is one of those things that is a moving target, again, if you look at it from the context-driven approach. And that's essentially it.

One of my questions to the group is, how do we engage other stakeholder groups from within ICANN in this conversation? Is this one of those topics that we need to continue getting more educated on and potentially trying to understand how we can then take those examples from outside of the ICANN world and bring it here, not only to inform us, but to also learn from and potentially operationalize at some point in the next few years or whatever the timeline is that the community agrees to do?

So that's just one of my questions for the group. How do we engage more? How do we get more people involved? And more specifically, where do we go from here? Because Abu Dhabi presents a very good opportunity for us to have a cross-community discussion on this particular topic, and if that is to be one of the decisions that we make, then what is it specifically that we want to discuss? Who are those individuals who we wish to invite? And what would "good" look like at the end of that

particular discussion? What are our objectives? And defining that, I think, will behoove us in the long run and we will be better for it.

So those are my very quick remarks, and I'm happy to take any questions if you have them now.

WOLF LUDWIG: Okay, thanks a lot, Ergys.

I think we are basically on the same lines. We have some different interpretations in some details, but let's open the debate now. We would like to get more input. So for my approach is always very, let's say, from a European angle and background, and as Ergys said, this must be broadened. So we would like to know from you what are your ideas and opinions about what has been presented so far, please.

Olivier, you have the floor.

Oh, yes. Okay, I start with Alberto, and then, yes, with Garth, and then Olivier. Yes.

ALBERTO SOTO: I speak in Spanish.

I believe that during the webinar, I mentioned an example, and I would like to repeat it now because of what Wolf said. In many

countries, there is a need to build a road, for example. That is infrastructure, one of the issues mentioned by Wolf. And that road may be declared of public interest.

This gives the government the right to seize land through which this road is going to pass, so if in those countries and in many other countries, public interest is even worse, that if we declare Internet a good of public interest, we put it under the umbrella of the government, under the rule of the government, because public good and public interest are two different things. Public interest and public good are two different issues, at least for me.

We will be giving the governments a tool so that they would manage Internet at their will, even to exert censorship. I haven't been part of a Working Group that was a member of my ALS who had a road and wasn't ready to participate, and now we will join this group because I am very interested in the subject matter.

The point is that public interest is one of the concepts which is a bottom-up per se, so it is born in each country, influenced by the religion, idiosyncrasies, etc. So it varies, so the concept per se, and the way it is dealt with, public interest, I mean, differs from country to country. So when we talk about public interest in ICANN, we are making things more complicated when we are trying to find a single definition. There is not a definition even within a single country, so for us to find a definition is almost

impossible because – well, it's a crazy suggestion, but maybe we shouldn't talk about public interest. Maybe we should talk or we should call what we would want to do within ICANN. We should give it another name, maybe general interest.

During the webinar, somebody suggested a different term to call it, and I loved it because it's not related to any interest of any government in any part of the world. I don't know. I know it's a crazy suggestion, but –

UNIDENTIFIED MALE: Ergys.

ERGYS RAMAJ: Thank you, Alberto. The one thing that I wanted to raise in reaction to the question that you just had or the statement that you just made is that at ICANN, if you look at the new Bylaws, the Board could potentially reject the recommendation on the basis of the public interest. If that were to happen, then the question becomes, based on what? Where was this decision based off of? And that is the challenge.

If the community doesn't understand what we mean by the public interest, and the Board then goes – this is just an example – the Board were to say, "I reject this recommendation on the basis of the public interest," then where do we start? How do we

tackle that particular issue? Or do we need to tackle that particular issue? Thank you.

WOLF LUDWIG: Let's continue with Garth.

GARTH BRUEN: Thank you. I tend to agree with you that it is a public resource, a public good, and I really like the idea that it could be considered a right. I just wonder how would you go about enforcing that right or guaranteeing that right.

We were just talking about this, Olivier and I, about how people – you would think that a basic right would be to get clean water, but people can't even get clean water in many parts of the world. Where do we start with guaranteeing this?

I don't expect you to have the answer.

ERGYS RAMAJ: That's a very good question because enforceability is one of the biggest questions. And again, I'm going to answer your question with another question. Is ICANN really in a position to enforce the global public interest? And then a bigger question is, who is the public? And is there a global public?

So this is when it gets very complicated, and that's why it's highly contextual. And that's why we're having all these challenges that we're having as a community in trying to understand what it is that we mean in the first place. We should walk before we can run, essentially.

But yes, enforceability is a major concern.

WOLF LUDWIG: Okay, thanks, Ergys, for the comment. Let's continue here on the right side with Olivier, Kaili was – okay, then Kaili, and then to Olivier.

KAILI KAN: Thank you, Wolf. Yes. I think actually today we are discussing some very interesting and extremely controversial issues, like defining whether Internet is a public good. Okay.

Because my background is economics. We've just been talking about the clean water, drinkable water. I would say that to a large extent, whether that is a public good really depends whether there is sufficient supply to meet the demand.

For example, I believe 200 years ago, only the royals could afford tap water to their room, to their house, to their palace, not the commons. Okay? However, as it becomes more and more

commonplace, tap water or clean water at the home becomes a public good and considered as a public interest, public service. Okay.

So then, same. Similarly, we look at Internet, okay. Nowadays, of course, first of all, Internet is throughout the world, but not exactly. For example, there are areas where people do not have access to the Internet. However, I would say that is not because of the Internet itself. It is because of the telecom infrastructure is not there. Once the telecom infrastructure is there, it's in place, Internet is given.

In most places, I would say either because, well my personal background is telecom, the telecom network in essence now is an optical fiber network because optical fiber is cheaper than any other transmission media. Okay. Also, for the 3G, 4G wireless, those are designed to carry the Internet content. Okay.

So therefore, I would say, again, once there's an Internet telecom infrastructure, the Internet naturally, in most cases, would be there. Of course, anything beyond that will be the local individuals, their affordability of that. And that more or less depends on the current policy.

However, what I want to point out by that is that there is not much, or maybe not even any investment required for the Internet itself. There is investment required for the telecom

industry, for sure. But nothing, no investment is needed, necessary, for the Internet.

Therefore, I would say there is no reason not to treat Internet as a public service or public good. Because first of all, there is no investment embedded in that except our DNS. We can say the registries, registrars, [they have spent] some money. However, I will say first that money spent is negligible compared to the scale of Internet itself. Okay. I wouldn't say their investment is up to the billions. For the telecom industry, billions [are] only peanuts. We're talking about trillions.

But for the DNS industry, putting all the registries, registrars all together, I seriously doubt their total investment would reach the billion mark. I mean in terms of U.S. dollars, okay, not Japanese Yens. Okay.

So therefore, also especially because of new gTLD program, now we have more, much more than sufficient gTLDs. So all of these things put together, I think that fully warrants the DNS industry be treated as a public service. As a matter of fact, the ultimate authority of the DNS industry – yes, us, ICANN. ICANN, because of that reason, ICANN is defined as a non-profit organization, for sure.

The only reasons that the registries/registrar, those guys are run on a commercial basis, yes, to use the market power to further

distribute the domain names and so forth. However, any single industry would have a term of life. Once its job is accomplished, that's the end of the story, pretty much like the tap water company. Before, maybe 120 years ago, they were extremely profitable just like the early day Bell system, Bell telephone corporation in the U.S. That was 150 years ago. However, now those things have changed.

So therefore, if we talk – no offense, already very controversial – whether we want to convert the entire DNS industry, well, your job is well done. Okay, bye-bye. Lunch is over. Whether ICANN to a certain stage should come to that, I am not sure. But as I see it from an economic point of view, all the conditions are already there. Okay, thank you.

WOLF LUDWIG: Okay. Thanks for this extensive comment. I think you made some very good points which may foster our discussion. Let's continue with Olivier, and afterwards, [Yrjö] and Satish, and then I come back to you and I also noted you raised your hand as well. Okay.

UNIDENTIFIED FEMALE: [inaudible] two minute timer.

WOLF LUDWIG: And please try to keep the timeframe a little bit in mind.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Wolf. And I've listened to what Kaili was saying and to the question that's on the screen. I wanted to sort of maybe pick up from one of the last discussions that we had, which was do we need to define the public interest or whether we don't need to define the public interest.

My understanding is the view of some people in this organization that we just have to act in the public interest and we don't therefore need to define it as such.

The two documents that I have really spent some time studying and that are the really defining factors of ICANN are the Articles of Incorporation itself of ICANN, and the other one being the ICANN Bylaws.

The Articles of Incorporation actually use two terms, one of which I believe – and I'm not a lawyer so I think it might have to be checked – is actually a term that has a legal status under U.S. law. The first clause says, "So the undersigned certify that they are the president and the secretary respectively of the Internet Corporation of Assigned Names and Numbers, a California nonprofit public benefit corporation." I believe that this has a

certain meaning under U.S. law, and perhaps this would have to be researched.

Further down in Clause 2.2, the last part of the paragraph says, "Such global public interest may be determined from time to time." So that's something which is actually defined in there. It might need to be determined from time to time, which gives the thing that it's not just acting in the global public interest. It's something that may be determined from time to time. But it says actually, "Any determination of such global public interest shall be made by the multi-stakeholder community through an inclusive bottom-up multi-stakeholder community process." That's exactly what we're doing.

Further down, sub-article 6, I believe, it talks here, "To lessen the burdens of government and promote the global public interest." So that's actually part of the definition of an organization that's a 501(c)(3) organization under U.S. law, which means that ICANN doesn't pay tax and has also got a number of advantages in the running of its affairs, and it has to actually follow a number of things.

And there it says, of course, "Promote the global public interest in the operational stability of the Internet." Now, how can you promote something if you haven't defined it? I find that a little bit bizarre. Act in the global public interest might be different

because you might be acting and that's seen as being in the public interest, but promoting it, you probably need to be focusing on that.

But it's interesting because throughout the text, it's used in two different ways. I think that's the two or three times that this is mentioned. In the Bylaws itself, the public interest is touched on, and the global public interest is actually used quite loosely in a number of locations, including – and I must have been on zero a long time ago, and I'm sorry about that, but including places where it says, "Multi-stakeholder policy development processes used to ascertain the global public interest and that those processes are accountable and transparent." That seems to be a process so it doesn't need to be defined there, but when you go further down, it says, "introducing and promoting competition and registration of domain names were practical and beneficial to the public interest as identified through the bottom-up multi-stakeholder policy process."

So what I'm saying – and I'm not going to go through the whole document because we haven't got the whole afternoon – is that it's actually used in two different ways. It's used in you act in a certain way that is in the public interest, but there are other parts where it says you have to promote the global public interest. And I do think that we need to look at this a bit more carefully.

I'm not sure whether that's part of the work, the next work of this Working Group and whether it's already been done in a certain way. I'm looking at Ergys here. But I personally do not believe that we can just say, "Oh, we just act in the public interest and we don't need to define it." I do believe that we need to define it, and I do believe that once we have defined it, we also need to look at ourselves and audit our actions to find out if we indeed do follow what we purport we're doing.

WOLF LUDWIG: Okay. Thanks, Olivier.

I think the reason why we are here, the whole exercise of this Working Group is, in my understanding, awareness raising on the issue. And we are approaching to something which is by some people taken for granted or clear, etc. while it's [diffuse,] and I think discussing this issue here may help to get some better understanding about the complexity of the issue, and also when to burn it down to its essence. And I think we should here, try to achieve both.

But it's work in progress and it's not easy.

Let me continue now with Yrjö and then Satish. And yes.

YRJÖ LÄNSIPURO: Thank you. I think the discussion, we are actually discussing several things at the same time, and I think it would be beneficial to keep them mentally apart, even though, of course, there are relationships between these three things.

I would first of all take the public good aspect, which is really something that happens within countries and other economic units. And of course, we have examples of all that. In Finland already 2009, Internet was declared to be not a human right, but some sort of universal human right so that you basically need to have access to that.

But the other thing that's a second thing is then what is really, what was this human right, fundamental right discussion, where I would say that I pretty much share Vint Cerf's idea that it's not a human right itself, but it is a tool that is absolutely important nowadays for the implementation, for the enjoyment, of your fundamental rights, your access to the Internet and so on and so forth.

And this is reflected in all sorts of resolutions. For instance, United Nations at some point declared that you cannot – you should not cut anybody's Internet connection as a punishment, like for instance, what happened in France with the HADOPI law.

But a third point and a third aspect is really what Olivier was referring to, and that is to say public interest in the way in which

ICANN is run, public interest in the way where – how the Internet operates. And of course, I also have a basic document here, the Articles of Incorporation, which says that the corporation shall operate for the benefit of the Internet community as a whole.

Now it's interesting. When these articles were written, the Internet community was basically a bunch of geeks, and of course, various sorts of operations and what we now call registries and registrars, and so on and so forth. And now, a little bit later, we talk about 3 or 4 billion people, and it would be an interesting question to discuss whether this is [really] the Internet community today. And that is actually the same. That equals the man coin and human coin.

So I think that these sort of layers interact with each other. But I think that now, of course, we should mainly concentrate on the third and last point, how this whole thing could be run in a way that it benefits the public interest instead of some operators. Thank you.

WOLF LUDWIG: Thanks, Yrjö. May I ask you, Olivier, when you have such reference material, please post it on the public interest mailing list to stimulate the discussion, because this is dormant at the moment and I would like to have some more traffic on this. And these are exactly the input we need.

We have now 12 minutes left. Therefore, I would like Satish, please try to keep in the two minutes slot.

SATISH BABU: Thank you, Chair. I have very quickly three points.

The first point is regarding the issue whether Internet is a public good. I would tend to think that this investment, as Kaili pointed out, is an important criteria, but not necessarily the only one. We have to also look at the benefits that accrue from the Internet, and that's going to be a totally different story.

And also, we see that the whole net neutrality debate that took place was based on the assumption that this is a public good.

The second point is regarding the reference to the role of government vis-à-vis the global public interest. At least in the less developed countries, the government is seen as a steward of the public good. So in countries like India, we can't separate government from the public good, although in developed countries, it's probably different.

And finally, from an end user perspective, we are At-Large and we have to now communicate to our communities what this thing is about. There is a lot of discussion that seems to have

happened earlier that a lot of documents on the ICANN site and off the ICANN site, but we still do not have a single focused message for our community. So that concerns me, and I think we have to now get going with that because if we have to talk to our community, we have to say what this is all about. Simply. Not in a language of the academic, but a language that the average user can understand. Thank you.

WOLF LUDWIG: Thanks, Satish.

And now let's go to the gentleman here on the left who was patient enough to wait, and then we continue with Glenn and Harold, and I come back to you.

ALAN LEVIN: Thank you, Wolf. Thank you, everybody, for allowing me an opportunity to speak. My name is Alan Levine. I am the Chairman of the Internet Society of South Africa, also founding AFRALO member.

I'm so sorry, but I really think that this debate has been thrashed out. The Internet is a public good, and just as clean water is a public good and a public need and a public right, that's not what we have to debate, I don't think. The question was raised, how and what do we do about it? The UN might make great

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statements saying that cutting off people's Internet access is denying them a public good, but how do we, as ICANN or as ALAC, influence ICANN to make it a public good?

I mean, there are so many – the Internet is definitely a disruptive technology. In the past two days, I learned that the city of Johannesburg has laid fiber optic cables to all its libraries. Entrepreneurs have set up free universities streaming education content to poor people who can access all the top university content anywhere in the world on any topic. So now they can get access to a free university in the libraries of Johannesburg.

But unfortunately, the government is so badly organized that the fiber that was laid to all the libraries isn't useable, and the government also gives a lot of money to universities that charge fees to their students to attend.

So it creates difficulties in the business model. How do we, as ICANN, explain to the governments that a disruptive technology is better for them and changing the way that they work and fund? Access to education is something that they need to invest in. And how do we make it happen at the local level?

I think that's a two-way relationship with the RALOs, because we're at the local level, but we have to have a top-down also support to be able to influence that at the local level.

But this is not for us to debate. There is no question that the Internet has been agreed at the United Nations level that it's a basic right, just as clean water is. How do we make it happen as a basic right?

GLENN MCKNIGHT: Great. I'll try to be as quick as possible, Mr. Chair. I'm not sure if the term "water" is a good analogy for public good. I think of Flint, Michigan. I think of the 170 tribal locations in Canada that have polluted water. In each case, they have no power. There's no economic power in the people of poverty in Flint, Michigan, or the reservations across Canada.

So what we have is a very similar situation. We have unevenness in terms of access, and if we look at the government in terms of taking over public utilities and the nationalized railroads in other locations, we see incredible incompetence and waste, whether it's electrical grid or anything else. So the concept of public good, even though it's an interesting one, but it's not a fair process in terms of who is benefiting from the public good.

I think of the research by Pew Internet Institute, which revealed that the lowest, the group that's victimized the most in the U.S. on broadband access is people with disabilities with only 42% access. But they're invisible. They're invisible in our community. They're not on our Board, they're not in our presence, so they're

actually quite ignored in terms of what is identified as benefiting from the public good.

I would say that we have a real challenge in terms of identifying how we can be fair open and transparent.

WOLF LUDWIG: Thanks, Glenn. Harold?

HAROLD ARCOS: Thanks, Wolf. I'm going to speak in Spanish.

Quickly, briefly, I would like to put this on the table as Yrjö said. The point is that it was acknowledged by the United Nations as a right. Access was considered as a right, but this mechanism is interesting. We should bear it in mind because in California law, there is a code for public resources, public goods, and the California law has a code that applies to corporations.

And in our Bylaws, our Bylaws acknowledge that we have to act to achieve the global community interest that Ergys was suggesting that we should share our opinions and points of view. As the United Nations are saying that access to Internet is an important value, but that doesn't mean that countries are going to abide by it or [they'll keel] to agree, some countries

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have not signed it. It might be true, but it's consistent. If you are not going to comply with it, you don't sign it.

But anyway, the United Nations, when they talk about these rights, they don't want to enforce it. They just want to promote it. In the countries, they may abide by it or not.

Anyway, the point of view of value is important as well. A corporation and we have been set up according to the regulations of California. I believe this should be a corporate value when you sign an agreement, you don't go against the corporate values. When you sign an agreement, just as you have mechanisms which ICANN doesn't want to go against because it goes against a value, just as we have value for an open Internet when we consider this as a corporate value which has been clearly defined, we would be going against that, and this would be one of the approaches Ergys was mentioning, because he said we might go after other points of view or approaches. [Wolf?]

WOLF LUDWIG: Running short of time. We have the gentleman here to the right. Please go to the mic and then I –

RICARDO HOLMQUIST: Yes, Ricardo Holmquist from Venezuela. I will speak in Spanish if possible.

WOLF LUDWIG: Okay. Yes, please. Go ahead.

RICARDO HOLMQUIST: I am Ricardo Holmquist from Venezuela. Taking up on what Harold and Olivier and Alberto have said, I believe the first thing we should do is talk about the California law, what public interest means according to the law of California. If we don't know what that is, we don't know what the lawyers have included in our Bylaws. Those who drafted our Bylaws were the lawyers of California, and this is where ICANN was incorporated.

First, we should look at that definitions because we have many definitions. Alberto's and mine are maybe very different, and we have the same concerns that the government may take over something. This is what [inaudible] has said. He knows he lives in a country where the government is not going to take over anything, and the same applies for Europeans. They know that the governments are not going to take over or coopt Internet just because it's a public interest. So first thing first, we should see what California defines as a public interest, and after that, move to a global word which is what our Bylaws ask for.

WOLF LUDWIG: As I said before, please share whatever sources you have or references on the mailing list that we can follow-up this discussion afterward.

Now I would like [inaudible] colleague here.

AIDA NOBLIA: Good afternoon. I am Aida Noblia. I am from Uruguay, Latin America. I would like to say that I share much of what has been said about the right. I work in the legal arena and we talked about water. Water flows through a physical environment. You talked about roads, and this is the right of access to information.

So I believe that this is what many people call a human right, or even in the case of Finland, the right to have access to information, the right to have access to Internet as a basic structure through which information flows. And this is a basic fundamental good, which changes everything and which changes society as a whole. And this is an actual revolution. Everything else is just tools to get information to flow. And after that, it's the way we use that information as a human right, as a community good. This is related to the community.

I believe that what we are missing here, and this is [reason we should to] fine tune the concepts, because the concepts we have

come from past times so they are changing quickly. So from the leaders' standpoint, the right of access to information [has] been acknowledged in many countries, and I don't want to dwell on it, but after – because otherwise we could keep talking about this for hours.

WOLF LUDWIG: Since we are now under such time pressure that we cannot let the discussion go as I would have liked. I enjoy very much the various contributions and feedbacks, etc. We have here one remote participant question or comment.

EVIN ERDOĞDU: I have one comment. This is Evin Erdoğdu for the record, speaking on behalf of Naveed. He says, "In my opinion, there is no particular way to define public interest that fits all situations. We should rather work for defining a process that allows us to understand and safeguard the public interest while adapting to the situation at hand." Thank you.

WOLF LUDWIG: Okay. May I also ask Naveed to post his comment on the mailing list?

UNIDENTIFIED MALE: [I'm right behind you.]

WOLF LUDWIG: Okay. I don't have eyes in my back, so I didn't realize that you – but please.

UNIDENTIFIED MALE: [inaudible]

WOLF LUDWIG: Yes. I think the best way now to follow-up on this discussion, I think it was rather dynamic. There were a lot of very substantial points made. There was a suggestion to trace now back to the original document of ICANN, what was meant when they put it into the Bylaws, bla bla, what is the context of or what was understanding at the time. This would be another good source to trace, I think, and there were a lot of other important comments.

Please make short summaries on the mailing list that we can continue this discussion on the mailing list. It would be very useful if we could find in the next time a suitable date for a Working Group call. And a Working Group call we can easily extend to 90 minutes, I guess, so we have more time, again to exchange. It would be my preferred next step to follow-up that

we have more activities, more discussions, and we unfortunately didn't have between Copenhagen and here. And for Abu Dhabi, I would like to make a suggestion because I had some informal talks with the people from the GAC and they find it highly interesting what we do here at At-Large. And some of them asked me "Why we are not invited?" Andd I told them, "Listen, it's open. If you want to join us, you are free to do so."

Now they are drafting the GAC Communiqué which always keeps them extremely busy. But they have clearly demonstrated interest to enter into or participate in our discussion, what I can imagine could be rather fruitful to make it more cross-community like, or perhaps [send] systematically for Abu Dhabi makes [as] Working Group meeting on the public interest here specifically with the GAC or any other party who is interested. Can we take this or understand this as a sort of action item that we follow up?

As we are very short, I would like to give Ergys now the last word to conclude the meeting, and I hope that we can continue this discussion as soon as possible.

ERGYS RAMAJ: Thank you, Wolf. This has been a very productive discussion. I think we have quite a few good action items that we need to follow-up on. I can take the one on going back to our legal team

and trying to get a better understanding of what was meant by it, and then I can share that with the broader mailing list, which by the way includes a lot of individuals who are not just – in fact, it's cross-community. There are quite a few people there from the GAC and several other groups, GNSO. So I think sharing information on the mailing list would be very productive moving forward. Thank you.

WOLF LUDWIG: Right. And I will do the same thing as was the question of enforceability raised. I would have liked to comment on it, etc. We don't have the time. I will do it on the mailing list as well, because my example in the Swiss context, it's enforceable, easily enforceable. So I will make reference on this one, etc. And I think we had some good key points here which deliver the substance for the follow-up.

Thanks to all of you for your active participation, for your contributions, etc. As Ergys said, I found it extremely productive and I hope we can have a similar intensity on the list.

I would like to thank the interpreters for their patience and for their hard work, etc. Without you, this wouldn't have been such an interactive discussion. Thanks a lot, and of course, thanks to At-Large staff who organized this meeting beforehand, and always [assisting] for the next step.

Thanks, and wish you a nice evening.

[END OF TRANSCRIPTION]