

ICANN Community Participant Code of Conduct Concerning Statements of Interest

Context: Each participant in the Internet Corporation for Assigned Names and Numbers (ICANN) community is expected to adhere to a high standard of ethical conduct and to act in accordance with ICANN's Mission, Commitments and Core Values. The legitimacy of ICANN and the multistakeholder model it fosters depends in large part upon how those within the ICANN community participate in the model. Each participant contributes to a culture of trust, transparency and mutual respect, which in turn builds confidence in the outcomes of the ICANN community's work and processes, and encourages new and broad participation. Unethical actions, or the appearance of unethical actions, are not acceptable within the ICANN community.

Specifically, all who participate in ICANN processes are required to disclose the interests influencing their participation.

How to Make Disclosures. Disclosure shall be made using the appropriate and available mechanism based upon the forum. These mechanisms include, but are not limited to:

- a) Supporting Organization (SO) and Advisory Committee (AC) Statement of Interest (SOI) Processes for participation within those entities (including working groups, task forces, etc.);
- b) Disclosure processes defined in group charters or terms of reference;
- c) Written disclosure accompanying a public comment submission, email, written interventions into webinar chat room or similar tool, (outside of working group/task force/other groups already subject to SOI processes); and
- d) Verbal disclosure accompanying spoken interventions during public forums, webinars, sessions at ICANN meetings, or any other session that is not already subject to an SOI process.

When Disclosure of Interest Cannot Be Made. There will be limited situations, such as certain attorney/client relationships, where the participant might hold professional duties or ethical obligations that preclude the identification of a representational interest for a period of time. There may also be situations where, for example, a participant knows that the outcome of a policy decision might impact a confidential initiative at their company in a unique way, such as implementing a required method of operation for which the company is seeking a patent that is not yet public. In these and similar situations, withholding relevant information about the interests involved in the deliberations could impair the legitimacy of ICANN's processes. When disclosure cannot be made, the participant must not participate in ICANN processes on that issue.

Enforcement: Compliance with this Code is, first and foremost, a matter of personal responsibility for each individual ICANN community participant. An ICANN community member who participates within ICANN processes without full and proper disclosure of interests may be subject to a range of consequences, up to and including a prohibition from future participation within ICANN. The chairs and leadership of ICANN’s SOs, ACs, Constituencies, Working Groups, Task Forces, Review Teams, and other similar groups, already maintain primary responsibility for enforcing the appropriate standards of participation and preparation within the groups they lead, and this Code of Conduct shall be incorporated. Complaints of alleged violations of this Code are to be made first to the relevant chair of leadership of the group or session within which the violation is alleged to have occurred. All complaints of alleged violations of this Code shall be accompanied by an explanation of the basis of the allegations.

The ICANN Ombuds maintains no specific role or right of investigation under this Code of Conduct. However, the ICANN Ombuds remains available for any claims of unfairness within the ICANN community as contemplated by the ICANN Bylaws and the Ombudsman Framework.

ENFORCEMENT GUIDANCE FOR ICANN COMMUNITY PARTICIPANT CODE OF CONDUCT CONCERNING STATEMENTS OF INTEREST

The Code of Conduct Concerning Statements of Interest (Code) guides participation across the ICANN community, including within policy development processes, working groups, task forces, coordination groups, discussion groups, meeting sessions, webinars, public comment proceedings, public comment, email lists, and other sessions and groupings where participants within ICANN come together to work and share ideas. This Code is intended to focus participants in the ICANN community on transparency and ethical conduct; provide guidance to help ICANN participants recognize and deal with ethical issues they may face when contributing to the ICANN community; provide mechanisms for reporting unethical conduct; foster a culture of honesty, transparency, preparedness, and accountability; deter wrongdoing; and promote fair and accurate disclosure. The Code is not intended to override any obligations pursuant to ICANN's Bylaws, the Expected Standards of Behavior, the Community Anti-Harassment Policy and Terms of Participation and Complaint Procedure, or any other applicable ICANN policies.

No code can anticipate every situation that may arise. The following guiding principles may be of assistance to support all participants in ICANN acting in an ethical manner.

1. ***Interests and Experience Bring Value.*** Participants in the ICANN community bring a wide variety of experience and views to ICANN processes. Participants also, at times, represent the views of others, such as an employer, an organization with which they are aligned, a trade association, a client, an interest group, a stakeholder group or constituency, or other representative relationship. Also at times, participants might be advancing a purely personal perspective. The multistakeholder model thrives when a diverse variety of interests and experience inform debate and deliberation.
2. ***Informed Participation.*** Informed participation has many facets, including staying abreast of deliberations and attending meetings and working sessions with appropriate preparation. Informed participation also requires making sufficient disclosures such that other participants are informed and aware of the interests and representations that other participants bring to influence ICANN community deliberations. Disclosures must be made at the appropriate times, often in advance of meetings and working sessions, to allow other participants to be well and appropriately informed.
3. ***Statements of Interest.*** To remain accountable to others across the ICANN community, all community participants are expected to maintain up-to-date Statements of Interest as required within the groups in which they are participating. Participants are encouraged to identify all personal, professional, financial and representational interests on those Statements of Interest. If participants are participating on behalf of a trade association, consortium, or similar organization, those participants are urged to identify where other participants within ICANN can locate pertinent information about the membership or funding of that organization.
4. ***Disclosures of Additional Interests.*** There may be situations where a participant might not be able to maintain a singular blanket Statement of Interest. For example, when a participant represents a particular client in relation to one issue, but for a different issue, the participant is there on behalf of a second client or group. Similarly, a participant might have a unique financial interest in one area of policy work that might not be present in other policy work. Participants are encouraged, when making spoken or written interventions, to clearly identify the interests at hand for the purpose of that intervention or issue. This allows other participants to clearly understand the viewpoints and motivations underlying the intervention. This also allows the ICANN Board members, when considering the resulting recommendations, advice or outputs, to understand the scope of community participation and evaluate whether any of the interests present and influencing the ICANN community discussions might give rise to any actual, potential or perceived conflicts of interest for Board members.

5. ***Personal and Collective Responsibility.*** The obligation to fully disclose interests lies primarily with each individual participant. If an entity maintains engagements with multiple participants, including for the purpose of participating in different groups or on different issues across the ICANN community, that entity is strongly encouraged to confirm that each of their representatives are making full and proper disclosure. Regular consulting relationships or other engagements typically are not duty-bound to be maintained as confidential, and participants and their clients should not use contractual confidentiality terms in ways that shield the release of information about representation within ICANN processes.
6. ***Impact of Failures to Disclose.*** Because ICANN participants are expected to bring their variety of interests to the multistakeholder processes, there are many situations where personal, financial, organizational or professional interests in the matter under discussion are expected to be present. In most situations, so long as the interests are properly disclosed, conflict of interest concerns are not present. Statements of Interest are intended to support broad and informed participation, as opposed to having the effect of excluding people from participation in ICANN community processes.

However, failure to properly disclose interests that materially impact the deliberations within the ICANN community, or are likely to materially impact those deliberations and processes, could represent an ethical lapse that deprives all other participants from relevant information. Failure to disclose those interests also could result in depriving ICANN (including the ICANN Board of Directors) of necessary or proper information from which to assess that its decisions are free from conflicts of interest or the appearance thereof. Nothing in this Code should be considered as limiting a participant's duties, or obligations with which ICANN participants are expected to comply.