

Inputs Reflected in Updated Version of the ICANN Community Participant Code of Conduct Concerning Statements of Interest

In response to suggestions made during the Public Comment Forum and the session at ICANN82 in Seattle, Washington, USA regarding enforcement of the ICANN Community Participant Code of Conduct Concerning Statements of Interest (Code), a number of updates were made to the Code. A significant addition is the development of a new section of the document entitled “DISCUSSION AND EXAMPLES TO SUPPORT TRAINING, COMPLIANCE, AND ENFORCEMENT”, which provides deeper discussion of particular types of issues requiring disclosure. This is in response to one of the most frequent community suggestions that further details were needed to help the community understand the potential scope of disclosures. In developing this additional section, some details were moved out of the Code and Enforcement Guidance sections as previously posted for Public Comment. There were also grammatical edits.

Another common community input was that training must be given to the leaders charged with enforcement of the Code as well as to the community to understand expectations in making disclosures. ICANN agrees with this and after the Code is adopted and the community coordinates on consistent processes, ICANN will support the community in development of trainings.

<i>Request for Change</i>	<i>Description of Update</i>
Better definition of “interest” to confirm that this is not just about attorney/client and large business relationships	Inserted general discussion on “interest” within the code of conduct
	Examples of types of interests included, which describe a range of interests beyond the attorney/client relationship.
	Inserted discussion of when the need to declare interests arises. A person can monitor ICANN’s publicly available proceedings for any purpose and without disclosure of interests. The obligation arises when the person starts affirmatively participating in ICANN processes.
	Inserted discussion to confirm that if an attorney is only monitoring ICANN proceedings on behalf of a client, and not participating or advocating, there is no obligation to make a disclosure about the client. ICANN’s processes remain open to all.
Enforcement	Inserted language affirming leadership empowerment to enforce conduct, aligned with the 2019 letter to the GNSO Council on enforcement of ICANN’s Expected Standards of Behavior.

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Encouraging transparency in maintenance of Statements of Interest processes	Inserted suggestion that participants could maintain both general and forum-specific statements of interest, though all statements of interest relating to an individual participant should be easily accessible.
	Inserted expectations that all statement of interest processes should include deadlines for timely submission or updates.
Baseline Disclosures	Inserted language to confirm that some ICANN processes already call for a wide range of disclosures within statements of interest, and the Code (with its accompanying Enforcement Guidance and Discussion and Examples) are not necessarily new practices, but instead more comprehensive practices.
Trade Organizations, Consortiums and Similar Groups	Moved and updated language regarding this category to explain that membership disclosures do not generally include obligations to release names of individual people. However, if individuals are involved in funding a particular area of advocacy within ICANN, they should be disclosed. Also Included note that individuals using trade organizations within ICANN for the purpose of shielding their identity within ICANN, that conduct could be subject to enforcement under the ICANN Participant Code of Conduct Relating to Statements of Interest.

There were some community suggestions that are not incorporated within the updated documents. Some commenters called for the development of exceptions to when disclosures should be made by participants. While there might be corner cases when disclosure might not be possible while still allowing active participation within ICANN processes, there is not enough information available yet available from the community to define what such exceptions might be. These exceptions might emerge as the community development of statement of interest processes progresses through enforcement. Similarly, some commenters called for very specific thresholds or types of disclosures, such as dollar amounts. Because the code is intended to be broad and include non-monetary interests, additional thresholds were not included. The need for more specific rules might emerge based on experiences once the code is in operation.