

XX October 2019

Mr. Cherine Chalaby, Chair  
ICANN Board of Directors

Dear Cherine,

On behalf of the GNSO Council, we would like to acknowledge the ICANN Board's 4 September 2019 Discussion Paper on Defining the Global Public Interest. The GNSO Council recognizes the importance of a global public interest standard as referenced in ICANN's Articles of Incorporation and Bylaws, and we look forward to engaging with the ICANN Board, ICANN Org and the broader community in contributing to this discussion. The Council's views expressed below are an initial response to the questions posed in the discussion paper, in what will likely be a complex and lengthy discussion.

As a general statement, the GNSO Council welcomes the ICANN Board's practice of including a statement related to the global public interest in its resolutions. We also welcome the opportunity to help inform the ICANN Board if there are global public interest considerations associated with gTLD policy recommendations under the GNSO Council's purview. However, we do have concerns that a formalized global public interest framework will likely be too rigid and undermine or impinge upon the ability of the ICANN Board to find an appropriate balance during its decision-making processes.

Similar to the manner in which ICANN's bylaws address adherence to its Core Values, attempting to define and "operationalize the concept of the global public interest" will require careful balancing of differing views and perspectives; it is possible, and likely, that different parts of the community will have a range of views on what constitutes the global public interest when discussing the same issue or policy recommendation. We question how a framework would help resolve such conflicting opinions. While an input framework from the ICANN community to the ICANN Board could help facilitate bottom-up information-sharing, the GNSO Council cautions against establishing a decisional framework that could result in pre-determined outcomes.

On timing, the GNSO Council is concerned that this engagement is kicking off during an already very busy time for the community and for the GNSO specifically. We note the ICANN Board's initiation of the Multistakeholder Model Evolution project, the ongoing work of the EPDP on gTLD registration data, the need for the GNSO Council to review and initiate new policy development work around all other impacted policies outlined in the EPDP Phase 1 Recommendation 27, and managing the other ongoing PDPs and internal Council PDP 3.0 Improvements. In light of this, we believe the proposed February 2020 target date for concluding this effort is not reasonable and we request the Board's reconsideration on this point.

In considering the impact of a formalized global public interest framework on the GNSO, we note that the GNSO is a very diverse group with a range of interests and views, which creates an environment for possible disagreement around what an adequate global public interest framework within our PDP working groups, within the Council itself, and on a topic-by-topic basis would be. We further note ICANN's bylaws explicitly mandate that global public interest should be ascertained by the bottom-up, multistakeholder policy development process. As such, we are concerned that an overly regimented framework, an expansive definition, or a requirement to make determinations on the global public interest could become a circular exercise or a second bite at the policy apple and add complexity and delays to the current policy work of the GNSO.

Finally, as noted above, we look forward to further discussion on this important topic.

Sincerely,

GNSO Council Leadership Team

Keith Drazek, GNSO Chair

Rafik Dammak, NCPH Vice-Chair

Pam Little, CPH Vice-Chair