

OSC GNSO OPERATIONS WORK TEAM
Suggestions for Statement of Interest/Declaration of Interest
Draft Definitions, Requirements, and Policy

Definitions:

Relevant Party: An individual who participates as a member of a work team, working group, committee member or other such policy development bodies formed by, and under the supervision of, the GNSO, as well as all elected and appointed members of the GNSO Policy Council.

Statement of Interest: A statement made by Relevant Parties involved in policy development or other relevant processes, not less frequently than once a year and updated whenever there is a material change, that provides a declaration of direct or indirect interests that may affect a Relevant Party's judgment, or be perceived to affect that individual's judgment on all matters to be considered by GNSO Policy Council, members of Working Groups, or other relevant policy development bodies.

Deleted: /GNSO Policy Councilor's

Deleted: ies

Disclosure of Interest: A disclosure made by a Relevant Party of direct or indirect interests that may be commercially or non-commercially oriented (e.g., commercial benefit such as payment; non-commercial or non-tangible forms of benefit such as publicity, political or academic visibility) that may affect judgment, or be perceived to affect a Relevant Party's judgment on a particular issue.

Draft Policy Recommendation

1. Purpose

1.1 The purpose of this policy is to set forth the procedures for Relevant Parties to follow to state not less frequently than once a year and updated whenever there is a material change, that provides for all business and other direct and indirect relationships or affiliations that relate in any way to the business and other affiliations of ICANN and to disclose any direct or indirect interests that may affect a Relevant Party's judgment, or be perceived to affect a Relevant Party's judgment.

Deleted: that

Deleted: ies

Deleted: will

2. Status of Policy

2.1 Each Relevant Party is responsible for ensuring that he or she complies with this policy.

2.2 The execution of this policy is managed by ICANN staff.

Deleted: controlled

Deleted: 12/27/2009

Deleted: 10/6/2009

Deleted: 10/5/2009

3. Statement of Interest

3.1 Relevant Parties shall provide to the GNSO Secretariat a Statement of Interest not less frequently than once a year, and updated whenever there is a material change, setting forth all business and other affiliations that relate in any way to the business and other affiliations of ICANN. Annual acknowledgement of receipt of Statement of Interest is a general precondition for Relevant Parties to participate in the GNSO.

3.2 To ensure consistency, ICANN staff shall develop and provide to Relevant Parties an electronic Statement of Interest form. ICANN staff shall post the completed Statements of Interest in the relevant section on the ICANN web site prior to Relevant Parties undertaking any activity and at least annually in the case of GNSO Policy Councilors.

3.3 Relevant Parties shall provide the following information in their Statements of Interest:

1. Current employer(s) and position(s)
2. Type(s) of work performed at #1 above
3. Identify any: (i) ownership or investment interest in any entity with which ICANN has a transaction, contract, or other arrangement (e.g., Registries, Registrars, Consultants, etc.); (ii) compensation arrangement with any entity or individual with which ICANN has a transaction, contract, or other arrangement (e.g., does the Relevant Party have a consulting arrangement with a Registrar, etc.); and (iii) potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, or other arrangement.
4. If the Relevant Party is participating in the GNSO policy process as a representative of any individual or entity, whether paid or unpaid, the identity of the represented entity must be stated.
5. Whether the Relevant Party has a particular interest in, or will receive tangible benefit from, policy outcomes for issues under consideration by the GNSO. Identify any type of commercial or non-commercial interest in ICANN GNSO policy development processes and outcomes. Are you representing other parties? Describe any arrangements/agreements between you and any other group, constituency or person(s) regarding your nomination/selection as a work team member. Describe any tangible or intangible benefit that you receive from participation in such processes. For example, if you are an academic or NGO and use your position to advance your ability to participate, this should be a part of the statement of interest, just as should employment by a contracted party, or a business relationship with a non- contracted party who has an interest in policy outcomes.

3.4, A Relevant Parties shall provide any changes and or updates to his or her Statement of Interest within ten business days. Such changes shall be recorded in the minutes of the meeting at which Relevant Parties advise of such change.

Deleted: p

Deleted: A

Deleted: form that they will use to provide their Statements of Interest.

Comment: There has to be some allowance for confidentiality here; I don't think that we should require – as a precursor to participation in ICANN – that people should have this information publicly available.

RA Comment: Unless we have stringent rules we have nothing. What is needed is a reality check by using the GCOT as guinea pigs to see how we like the outcome.

Formatted: Bullets and Numbering

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.04" + Tab after: 0.29" + Indent at: 0.29"

Formatted: Bullets and Numbering

Formatted: Font color: Black

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.04" + Tab after: 0.29" + Indent at: 0.29", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Tabs: 0.25", Left

Comment: This wording is very broad, and basically could be read to require people to list out every motivation – personal or business wise – for their participation. I provide some alternative language (the financial interest section is taken directly from the ICANN Conflicts of Interest Policy. ... [1]

Deleted: 3

Deleted: disclose

Deleted: the

Deleted: as soon as practicable

Comment: Same comment; further, statements of interest are made in forms ... [2]

Comment: undefined

Comment: This is very broad

Deleted: 3.4 Relevant Parties shall provide the following information in their State ... [3]

Formatted: Indent: Left: 0.29"

Formatted: Bullets and Numbering

Deleted: 12/27/2009

Deleted: 10/6/2009

Deleted: 10/5/2009

4. Disclosure of Interest

4.1 Relevant Parties shall provide a Disclosure of Interest setting forth any direct or indirect interests that may affect a Relevant Party's judgment on an issue that is under review, consideration or discussion.

4.2 The GNSO Council Chair or Vice-Chair, Working Group Chairs, Work Team chairs, Committee Chairs, and chairs of any other organizations formed by the GNSO shall remind all participants to provide Disclosures of Interest at the beginning of each meeting during which the Relevant Parties will discuss or act upon the specific matter(s) to which the disclosure pertains and this disclosure shall be recorded in the minutes of that meeting. All parties should be polled for an affirmation that there is no change to their respective SOIs and the responses recorded in all minutes.

4.3 At the beginning of any ICANN public meeting, forum, or discussion being coordinated and/or moderated by the GNSO, the person acting as Chair or coordinator of the public meeting, forum, or discussion shall encourage all speakers to provide all Disclosures of Interest prior to beginning their remarks.

4.4 If it is determined that a Relevant Party did not disclose a direct or indirect interest that may affect Relevant Parties' judgment, or be perceived to affect the Relevant Party's judgment with respect to any matter pending before the GNSO Council or other policy development body prior to any action by the GNSO Council on that matter, the GNSO Council Chair, in consultation with the Vice-Chair, may ask that the 'non-disclosing' Relevant Party provide a disclosure prior to any further action on the related matter. If that Relevant Party refuses to provide a Disclosure of Interest as requested by the GNSO Council Chair, the Chair, in consultation with the Vice-Chair, may suspend that Relevant Party's participation in GNSO Council Meetings or other such policy development process until a full Disclosure of Interest is provided. The ICANN General Counsel will be notified when such actions are taken as a matter of protocol and the decision to take this step will be recorded in the minutes. If the complaint is about the Chair, the Vice Chair shall act after consulting with the ICANN Vice President, Policy Development. If the complaint is about the Vice Chair, the Chair shall act after consulting with the ICANN Vice President, Policy Development.

5. Procedures to Ensure Truthfulness and Completeness of Statements of Interest and Disclosures of Interest

5.1 ICANN staff shall review Relevant Parties' Statements of Interest to ensure truthfulness and completeness. If ICANN staff has reason to believe that a Relevant Party's Statement of Interest or Disclosure of Interest is not truthful or complete, ICANN staff shall notify the GNSO Chair or, in lieu of being able to contact the Chair, the Vice Chair, of the situation. Staff shall then notify the Relevant Party to seek clarification regarding the areas of untruth or incompleteness.

5.2 If concerns about the truthfulness and completeness of Relevant Parties' Statements of Interest or Disclosure of Interest are raised by ICANN staff or members of the ICANN community that staff are unable to address according to 5.1 above, the GNSO Council Chair or

Comment: It's awkward how the document transitions between the plural and the singular usage of this term. The document should be reviewed for consistency, and in most (though not all) cases the singular is probably the more appropriate form.

RA: AGREED

Comment: Vague ... [4]

Deleted: , or be perceived to affect a ... [5]

Deleted: Policy

Deleted: make a request for updates to ... [6]

Deleted: people

Deleted: all

Deleted: GNSO

Comment: A disclosure of interest on ... [7]

Comment: No change from what? For ... [8]

Comment: We cannot bind the ICANN ... [9]

Comment: Who makes the determination ... [10]

Deleted: ies

Deleted: ny

Deleted: s

Deleted: ies

Deleted: Policy

Deleted: Policy

Deleted: Policy

Deleted: Policy

Deleted: Policy

Comment: I think that this is strong ... [11]

Deleted: determines

Deleted: ies

Deleted: s

Deleted: s

Deleted: are

Deleted: or

Comment: Should the first instance ... [12]

Deleted: ,

Deleted: and address

Deleted: with the Relevant Party

Deleted: ies

Deleted: to correct the untruth or ... [13]

Comment: See comment above. Cf ... [14]

Deleted: 12/27/2009

Deleted: 10/6/2009

Deleted: 10/5/2009

Vice Chair shall call for volunteers from the stakeholder groups, with at least two GNSO Councilors, to form an ad hoc five person Statement of Interest/Declaration of Interest Review Committee to address these concerns. The Review Committee shall investigate the nature of the concerns, address them with the Relevant Party, and recommend a resolution. During this review period, which shall be as soon as practicable, the affected Relevant Party will be suspended and thus will not be able to participate further on the Council or other such policy development body until such time as a final resolution has been established. ICANN staff support shall be available at all times to support the review process and document the steps and decisions taken in the interest of transparency.

Comment: This is not a proper use of the ICANN Ombudsman. The Ombudsman is an independent reviewer, and involving him in the process would deprive participants of the ability to seek recourse/investigation through the Ombudsman's office on these matters.

RA: AGREED, the Ombudsman should not be part of this process. Edits have been made accordingly.

Deleted: Policy Council volunteers

Deleted: joining the ICANN Ombudsman (as a neutral observer participating in a non-binding way, in the determination of the resolution)

Comment:

How should this be considered in light of the operating rules and procedures? Is this a vacancy? An absence? What if they are a Councilor – will their group go without representation?

RA: YES, this, again, is a deterrent mechanism and therefore becomes a denominator question...

Comment: Again, this seems undefined enough to be used as a tool to silence a participant. This review process should be re-thought.

RA: AGREED, this is still much too loose...

Comment: There could be some confidentiality concerns related to business interests that need to be recognized and weighted here. Participating in ICANN does not mean that all business interests have to be publicly vetted.

RA: AGREED
For this reason I am suggesting we test the process on ourselves prior to our next call.

Deleted: 12/27/2009

Deleted: 10/6/2009

Deleted: 10/5/2009