

STABILITY, SECURITY AND PUBLIC INTEREST ON THE INTERNET

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The ITU World Summit on Information Society, sponsored by the United Nations, is scheduled to be held in Tunisia next month, November 2005, gathering government representatives as well as other organizations coming from the civil society. Apart the major preoccupations related to the deployment of the advanced network and services, notably within the less developed countries or those aspects related to capacity building to enhance the potential for the usage of information technologies, one of the most outstanding items in the Agenda is the debate and resolutions regarding the Internet Governance, the Summit expected to be a sort of watershed in the historical evolution of the management of the technical and societal functions of the Internet.

It is not necessary to insist on the economic and social relevance of the Internet, particularly when the convergence of telecommunications and audiovisual systems is becoming a reality leading to hook over the Internet a huge proportion of the contents or communications services which are the base of the human interaction and the social or cultural information. There are several issues associated to the Internet governance which are generally perceived as a threaten, if you consider the probability for strong collisions between private and public interests, or as an opportunity for the enrichment of a flexible private-public partnership as demonstrates the recent history of ICANN, Internet Corporation for Assigned Names and Numbers.

Among the principal issues to take into consideration there are:

- The security and robustness of the Internet.
- The integrity, stability and continuity of the systems and resources.
- To assure an open competition and non discrimination in the Internet access.
- The universal outreach of the system, at the same time preserving a proper consumer choice.
- The last but not the least, to establish the appropriate mechanisms for the representation of the legitimate interests, both public and private.

New services are emerging: IPTV, TV based on the IP protocol, VoIP, voice over IP, always on IP mobile, IP satellite, etc, spreading over the usage of the Internet, pushing up the urgent arrangements for the adequate and reliable resources to match those demands on which the business model of thousands of corporations is pending over, or which are the *raison d'être* of millions of qualified jobs. As a positive sample: the swift adaptation of the industry to design, to test and to produce commercial devices and networks able to perform in dual mode IPv4 and IPv6 protocols, giving answer to the dramatic growth of the demands of IP addresses.

The European project named GEANT to build up a ultra broadband system related to a powerful Internet 2 concept, along the same lines that the ABILENE network in US, responds to the need to scale up the current infrastructures linked to the Internet, to improve network and services, the volume of traffic and the quality of the services, the secure assignment of IP addresses, domain names and other Internet resources. This desideratum is possible by means of preventing, simultaneously, a biased political or bureaucratic mediation in the Internet functioning, or the capture by specific private undertakings of the significant public interests at stake.

The constitution of the GAC, Governmental Advisory Committee, as a fully fledged institution to advice to ICANN upon the public policies affecting the coordination of the Internet technical functions: numerical addresses, protocols top level domain names, or the oversight of the root servers conglomerate, meant a step on the route to a public-private collaboration.

Nowadays, the GAC is composed by more than 100 countries belonging to all the regions of the world. The present Chairperson of the Gac is the doctor Sharil Tarmizi, the representative of the Malaysian government. The Secretariat of the GAC is conducted by the European Commission by unanimous consensus of the members, which means not only an important achievement of the EC but an indication of the potential of Europe to play a pivotal role to define the future frame of a proper Internet governance.

During the general meeting of ICANN held in Mar del Plata, Argentina, April 2005, the GAC has adopted a new document on the Operating Principles of the Committee, to set out this body

"should consider and provide advice on the activities of ICANN as they relate to concerns of governments and where they may affect public policy issues"

or to assert

" the advice of the GAC on public policy matters shall be duly taken into account by ICANN, both in the formulation and adoption of policies"

It must be noted the mandatory sense of the language allowing to categorize the role of the GAC as rather close to an Oversight Entity.

What are the public policy objectives? The Members of the GAC, one hundred, have listed some of the most critical:

" the secure, reliable and affordable functioning of the Internet, including uninterrupted service and universal connectivity"

" the robust development of the Internet in the interest of the public good, for government, private, educational and commercial purposes, worldwide."

" fair information practices, including respect for personal privacy and issues of consumer concern"

Some additional public policy objectives are shaped from the perspective of the private citizens and corporations to refer to the freedom of expression, the transparency in ICANN's role in the allocation of Internet resources, to be aware of fair competition to bring benefits to all categories of users.

It is an acceptable balance of government-driven and citizen-driven set of public policy objectives allowing to state that a major vigilance or supervision of the interests of the public is not identical to claim a higher governmental intervention. There are common features between government decisions and the preserve of the people interests but the citizens as such have a non negligible role to define and to pursue the objectives of general interest. That must be one of the fundamentals to make up a beneficial public-private partnership to govern the Internet.

One of the most sensible aspects of the coordination of the technical functions of the Internet corresponds to the management of the country code top level domain names, ccTLDs, the two letter domain names assigned to the list of countries just collected in the ISO 3166-1 standard. The GAC says that "country code top level domain are operated in trust by the Registry for the public interest, including the interest of the Internet community, on behalf of the relevant public authorities including governments, who ultimately have public policy authority over their ccTLDs, consistent with universal connectivity of the Internet."

It can be realized the subtleties of the phrase: national administrations might managed by themselves or delegate to third parties, public or private, the role of Registry for ccTLDs, but for the interest of the Internet community and consistent with universal connectivity. That means we recognised the domains are a public resource, not necessarily a governmental one, on the other hand to be managed under the frame of a global, non disruptive Internet, which is beyond the reach of an individual country or a

particular group of governments. Of course, no Internet coordinating entity may pretend any sort of extraterritorial intrusion: the governments are the ultimate power over the national Internet codes.

The position of the European Union sheds light on the key elements to configurate a model for international cooperation based on some principles:

- .to keep going the existing mechanisms or institutions building on the current structures asking for the complementarity between the actors involved: public, private, international organizations, etc, in their respective area of competence.

- . to contribute to the stability and robustness of the Internet by addressing the public policy issues of the internet governance. The governments be confined to principle issues, excluding any intervention in the day to day operations to respect the structural principles of the Internet: interoperability, openness and the end to end principle.

What are the main tasks in accordance to EU? They can be summarised as follows:

- .the global allocation system of IP number blocks, which is equitable and efficient.

- .procedures for changing the root zone file, specifically for the insertion of new TLDs in the root system or changes of the ccTLDs delegation.

- .contingency plans to preserve the continuity of critical DNS functions, as well as the establishment of an arbitration and dispute resolution system based on international law.

From the outset, ICANN set up has created, through a close cooperation with WIPO a UDRP to prevent and resolve the conflicts between DNS and Trademarks when the holder of the domain is a different entity then the tenant of the mark. This systems is knowing a huge success and a high level of acceptance.

Without any doubt one of the hottest topics is the operation and supervision of the Root Servers system historically placed on the hands of the US Government since the Internet project was the result of a R+D development carried out by private american corporations in partnership with public institutions.

Nevertheless, this situation has been very much improved by means of a multilateral intervention of different regions and countries through the DNS Root server advisory committee, RSSAC, having registered so far no complain from any particular nation or Internet stakeholder regarding the operations of altering or deleting parts of the root file. Moreover, the Internet software facility ANYCAST is allowing to replicate the root servers worldwide to reach the number of 100 systems, including loocations in Brazil, India or SouthAfrica.

Probably the action would be oriented to produce a lean and mean multinational scheme to oversee the routines and regular activities of the Root Servers, as the current protocols do not permit extending the total number of servers to more than the already existing 13 servers. To enshrine this open approach into the management of the Roots Systems might be accomplished without damaging the current bottom up and transparent frame for at large participation or to attend specific demands coming from individual countries when they deem it is oportune to change the respective ccTLDs delegation.

I am convinced that both US and EU representatives should accept with gusto that kind of solution. Of course, the business is the coordination of the Internet technical functions, therefore the modifications affecting the normal performance of the Roots must be introduced after open a consultation to the professional bodies, IETF, Internet Engineering Task Force, IAB, Internet Advisory Board, ISOC, Internet Society,etc. This undertaking shall be any way fully consistent with the deployment of International Domain Systems, IDN, to make possible the operation of the Internet based on Domain Names not expressed in English or other traditional western language.

A second critical issue is going to be the agreement upon the Oversight function and the Oversight entity which, in accordance with the position of the EU must be just focused mainly on principle issues. Along the debate to prepare the Summit several models has been proposed some of them trying to generate a full governmental oversight body under the discipline of the United Nations. Up to know, the GAC knew a steady evolution to become closer to a formal representation of the countries involved, very often through officials having a diplomatic status, ie France.

The best and more simple path to a consensual solution likely lays on the respect for the enhancement of the present structures, notably the GAC. It is envisageble to establish a Treaty Organization, which must be set up by a diplomatic conference among the interested countries, to oversee the ICANN operations staying vigilant about

the observance of the principles of transparency, non discrimination, stability and integrity of the Internet, full connectivity,etc. It could be qualified as an "enhanced GAC", the outcome of a formalisation of the GAC statutes and representations at where any government engaged on the Internet working may be influential and a decision making part.

One can find some samples of adopting pragmatic solutions related to the oversight powers when an institution goes away from the public tutelage to behave like a private corporation, ie the case of the satellite organizations Eutelsat, Inmarsat, Intelsat, each of them maintaining a treaty oversight institutions endowed with a minimal staff to perform the oversight activity namely to assure that competition in the markets is not distorted. Other references can be found in the European Patent Convention or the European Space Agency with many years of smooth operation supervised by an ad hoc treaty organization.

The key issue is not the role of the UN or to expand or not the powers of the ITU or other UN bodies. ITU has so much important competences in the field of telecommunications, the management of the Spectrum of Frequencies, the Numbering schemes,etc, but the coordination of the Internet technical functions is a different tune as it involves, from the outset, a real participation of the civil society and the private undertakings to unleash a true private-public partnership. The core business is the benefit of the Internet and the benefit of the Internet stakeholders, the cooperation with the UN bodies, notably WIPO on the intellectual property right conflicts, or the same ITU in the field of ENUM,electronic numbering, or the regulation of the services affected by the IP protocols (VoIP, IPTV, IP/DVB,etc), upgrading the perspective to prevent a futile discussion upon putting or not more powers on the UN shoulders.

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