Internet governance: the next steps

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PURPOSE: to define the next steps for Internet governance.

CONTEXT: governance of the Internet is a crucial public policy priority. Since the Internet became (from the mid 1990s) a truly global communications platform, governments have increasingly found themselves challenged with a whole host of public policy issues, ranging from finding ways to ensure their own citizens can fully benefit from the Internet's potential, to dealing with inappropriate or illegal content, the need for appropriate consumer protection measures and addressing problems of jurisdiction in an increasingly globalised on-line world. Currently, Internet usage and penetration is now so high, especially in developed countries such as those of the EU, that it has become a **critical resource**, where any serious disruption in service can have potentially catastrophic effects on society and the economy. Most Internet users in the EU therefore have a **legitimate expectation about the reliability of 'their Internet'.** Users will also inevitably turn to their governments if there is any major national disruption to their Internet service, and not to the various Internet governance bodies responsible for coordinating resources.

The EU has been in the forefront of international discussions on the management of the Internet since such discussions first began. The earliest communication from the Commission on this subject came in 1998 and the EU was a leading actor in the discussions on Internet governance in the context of the World Summit on the Information Society (WSIS) between 2003 and 2005.

In addition, the EU was an active and influential actor in the international discussions surrounding the setting-up of the Internet Corporation for Assigned Names and Numbers (ICANN) in the late 1990s and the shaping of the objectives for the organisation. The Commission Communication in April 2000 on the organisation and management of the Internet and the Council Resolution of 3 October 2000 noted, however, that the objectives which the EU had set itself on domain name management were not fully achieved. In the interim, it is important to note that the EU initiative to set up its own Top Level Domain '. eu' has been a major success, with more than 3 million EU domain names registered to date.

CONTENT: the main points of the Communication are as follows:

(1) Internet governance principles: the experience of the last 10 years demonstrates the viability of the policy approach advocated by the EU for Internet governance so far. The Commission believes in maintaining the EU's strong emphasis on the need for **security and stability of the global Internet, the respect for human rights, freedom of expression, privacy, protection of personal data and the promotion of cultural and linguistic diversity**. In addition, the key principles enabling the success of the Internet promoted by the EU remain:

- the open, interoperable and 'end-to-end' nature of the Internet's core architecture must be respected. This was stressed by the Council in 2005 and reiterated in 2008;
- private-sector leadership of day-to-day Internet management needs to be maintained but private bodies responsible for the coordination of global Internet resources need to be accountable to the international community for their actions. The role of governments should be mainly focused on principle issues of public policy, excluding any involvement in the day-to-day operations;
- the multi-stakeholder process on Internet governance continues to provide an inclusive and effective mechanism for promoting global cooperation and needs to be further encouraged;
- governments need to fully interact with such multi-stakeholder processes, with stakeholders accepting that it is governments alone who are ultimately responsible for the definition and implementation of public policies;
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Internet governance arrangements need to be fully inclusive, addressing the urgent need to improve the participation of developing countries in the key governance decision-making fora.

(2)'Accountability' in the ICANN context: at the moment it is ICANN (Internet Corporation for Assigned Names and Numbers (ICANN), a private-sector organisation established in the United States, that ensures the coordination of these resources. ICANN has now completed its first ten years. In September 2009 the latest in a series of agreements between ICANN and the US government regarding its objectives will come to an end. It is an appropriate time therefore for the EU to review the progress of ICANN to date, and to identify what changes if any may be desirable. The indication by the US government in 2006 that the current agreement should be the last such agreement with ICANN was largely welcomed by the international community (including the EU). At the same time, the US government has consistently indicated that it will maintain effective control of the coordination of key global naming and addressing functions and this is likely to mean that the problem regarding the 'unilateral oversight' of such resources will remain unresolved. The document discusses the question of accountability in the ICANN context. Accountability means an organisation such as ICANN being answerable for its decisions. ICANN has recently devoted significant efforts to reviewing arrangements for its internal accountability — i.e. the accountability to those who actively participate in each of the various ICANN constituencies. The problem is that the vast majority of Internet users do not participate in ICANN activities. There is therefore a need to ensure that ICANN is accountable externally to the global Internet community, which in the first instance (partly by virtue of the absence of alternatives in many countries) means being accountable externally to the governments of the various countries of the world. The only external accountability that ICANN currently has is to the US government under the JPA and the IANA contract, but this provides only for unilateral accountability to a single government. The stability and management of the root zone file is, however, a matter of crucial importance not just to the US government but to all countries of the world. However, there is no international consensus on the creation of a new intergovernmental organisation to exercise such oversight or on the delegation of such responsibilities to any existing organisation. An alternative would be to make ICANN externally accountable so that each government can exercise in their own interest those responsibilities which should properly sit at their level.

(3) Moving the agenda forward: the Commission proposes that the **EU should actively engage its international partners in discussions on how to stimulate and support intergovernmental dialogue and cooperation** to implement the public policy principles agreed for Internet governance in the WSIS beyond the existing work carried out through action lines. The starting point for such discussions should be the need to maintain private-sector leadership in all matters of the day-to-day management of the Internet. The multi-stakeholder process must also be encouraged wherever possible. At the same time, public policies for key global Internet resources (especially those that require global coordination) need to be based on multilateral intergovernmental cooperation. One element of an evolution of the current governance system could be the **completion of an internal ICANN reform leading to full accountability and transparency**. As regards external accountability, the current arrangements for unilateral oversight in regard to ICANN and IANA need to be replaced with an alternative mechanism to ensure that ICANN has multilateral accountability. This should be part of an evolutionary approach to allow governments to duly exercise their responsibilities. In this context, the question will need to be addressed of how to ensure that the legal character of ICANN's incorporation in California does not prevent proper account being taken of governmental input.

In addition, the EU should take a leadership role in working towards the goal of increased security and stability of the Internet by initiating dialogue with international partners.

Lastly, the Commission proposes that the EU should seek to initiate discussions with the US government on **how a more equitable arrangement might be found for oversight of the management of IANA** which respects the national priorities of the US while at the same time reflecting the legitimate expectations and interests of the international community.