



COUNCIL OF EUROPEAN NATIONAL TOP LEVEL DOMAIN REGISTRIES

Comments to the WGIG process

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The *CENTR Working Group on WGIG* congratulates the United Nations Working Group on Internet Governance on its work to date, and thanks it for the opportunity to comment on its working papers.

The level and breadth of stakeholder participation in the WGIG process - through attendance at your public meetings, and written responses to date - demonstrates an inclusive, open process for the work which the WGIG is undertaking.

We present our contribution on the papers "Towards a Common Understanding of the Roles and Responsibilities of all Stakeholders in Internet Governance" and to the Cluster 1 B2 assessment of "Domain Name Management". Whilst we confine our comments to these two papers, this should not be interpreted that we approve or disapprove of the content of any other WGIG papers or activities.

Introduction to CENTR and its members

The Council of European National Top-Level-Domain Registries, CENTR, is an association of Internet Country Code Top Level Domain Name (ccTLD) registries. CENTR's focus is European, but membership is not subject to geographical restrictions and, consequently, a number of non-European ccTLD registries such as Afghanistan, Armenia, Canada, Iran, Israel, Japan, New Zealand and Palestine are CENTR members.

Additionally, CENTR has a number of associate members, including the Generic Top Level Domain (gTLD) registries VeriSign, Afilias, Neustar, and the Public Interest Registry. Finally, CENTR also counts participation by observers, including the European Commission, APTLD, AFTLD, ICANN, and RIPE.

With its total membership, including gTLD registries, maintaining 95% of all domain names currently registered worldwide, CENTR provides an effective forum for TLD managers to share best practice and develop common positions on relevant issues concerning the ccTLD community as a whole.

CENTR members have demonstrated that they share the same values and common objectives. This is despite their extremely diversity with respect to registry structures, types and degree of government involvement, registration policies and size of operations. At the same time, this diversity clearly shows that in Internet Governance - as it relates to ccTLDs - there can be no "one size fits all" policies. Instead, practices and structures can be developed by the relevant local communities to meet and reflect their

specific cultural and societal needs, as well as their specific legal frameworks. In fact, it is such diversity that constitutes the unique character of ccTLDs and guarantees their success.

We therefore believe that CENTR is well placed to provide input to the WGIG with regard to ccTLD matters. As a matter of fact, our membership maintains close ties with the local communities and other Internet actors - notably the Internet industry - bringing in knowledge and experience of the applications which sit on top of the DNS.

Internet Governance

With regard to the definition of Internet Governance, CENTR endorses WGIG's statements that:

- “governance” and “govern” mean much more than “government activities”;
- the term “governance” implies new forms of governance, based on a multi-stakeholder approach. Moreover, we believe such an approach should encompass the private and public sector, international bodies, end-users, and all other entities that have a role in the Internet’s development participating on an equal footing, rather than as “observers” in an intergovernmental process.

In the light of this, we believe that the concept of “Internet governance” is quite broad and includes a variety of meanings such as:

- coordination and cooperation of those stakeholders that provide the technical infrastructure and services that make the Internet work;
- a dynamic process for the management and resolution of issues in timely, flexible and non-prescriptive manner;
- a defined method of national and international communication, that ensures that all the stakeholders are constantly informed about the Internet developments and then, can better identify its potentials, strengths and weaknesses;
- well established relations among different stakeholders;
- monitoring the developments and adjusting the policies, procedures, and approaches to them;
- a broad vision of the Internet as a complex organism with multiple facets (such as technical, administrative, legal, political, and socio-economical).

CENTR also supports the Preliminary Report’s grouping of the many issues identified earlier in the WGIG process into four main sections.

Public Policy issues

Acknowledging the difficulty of finding a clear definition of “public policy”, we believe that the concept below refers to a policy or a set of policies that are in the common interest of multiple stakeholders.

In our view, the development of the Internet to date demonstrates the success of a multi-stakeholder approach. By stakeholders, we mean the private and public sector, the international bodies, the end-users, and all other entities that have a role in the Internet’s

development participating on an equal footing, rather than as “observers” in an intergovernmental process.

The important question that needs to be addressed is how such issues are dealt with that ensures:

- the maximum level of participation by the relevant stakeholders;
- that stakeholders can participate easily, cheaply and actively and on an equal footing;
- that, to cope with the rapidly evolving nature of the Internet, policy can be developed at the appropriate speed;
- that consensus, or innovative and acceptable solutions to the issues, can be developed by the community that will be most affected by it.

Examples of solutions to key public policy issues that have already been successfully developed at the national level include: a rich variety of domain name dispute resolution policies which reflect the needs of the local community, including models based on mediation and expert decisions (eg .uk and .ch) or binding arbitration (.nl, .pl, .at and .se), and WHOIS policies which attempt to balance conflicting stakeholder needs, for example through use of consumer opt-outs (eg .uk).

Principles of Internet Governance

In our view, the principles are: regulation, accountability, responsibility.

Regulation

There has been much work within existing national regulatory frameworks toward ensuring a competitive environment.

It is a widespread fallacy that the Internet is unregulated. In reality, the Internet is subject to all the same laws and rule-making that affects the physical world, including national and international law.

This includes:

- Contract Law
- Data Protection Law (at national and international levels)
- Competition Law (at national and international levels; e.g. regulation of agreements between undertakings)
- The Criminal Law (relevant in fraud such as *phishing*, and the publication of illegal materials on the web)
- Intellectual Property Law
- Tort and Case Law

These legal frameworks provide protection and clarity for Internet users, and increasingly we see national courts applying “real world” law in Internet-related cases.

Of course, the Internet provides unique challenges for law *enforcement*, but it also provides new opportunities for detection and prevention of crime. Most of our members work closely with national law enforcement agencies as the law permits.

Accountability

Although CENTR's membership is diverse, a shared principle is that of accountability to its local stakeholder communities (including governments). How CENTR members meet these responsibilities varies, but there is a common recognition that the community of Internet users and stakeholders is dynamic and growing.

Some CENTR members are accountable through their national legal systems and also to their user community, yet have no formalized relationship with government. Others have informal partnerships with government, whilst some are regulated within the communications regulatory framework. Some members have formal relationships which are defined in legislation.

CENTR members have regular dialogue with numerous different national government departments, as well as with law enforcement and consumer protection agencies.

CENTR members are also directly accountable to other stakeholders, including registrants, Internet industry, consumers, intellectual property holders, and small and large businesses. Our links with the Internet industry make us well placed to observe developments and trends occurring in the application layers, for example, developments in e-commerce, as well as spam, fraud, and disruptive activity.

There are a number of frameworks for accountability within the CENTR community, including multi-stakeholder policy advisory boards, public consultations and outreach.

Responsibility

CENTR members have a strong sense of responsibility to their communities, principally to ensure that the technical job of registering and resolving domain names is performed securely, efficiently, and cheaply. This responsibility includes ensuring participation of all relevant stakeholders in the development of policies, through a process that is adaptable and manageable.

There exists a spectrum of registry management models. On the one end, where registries are exclusively accountable and responsible to their user community (including government), it is in the interests of that community to ensure the stable operation of the registry. Where a single party has oversight, such as a government, it is the onerous responsibility of the government to become the registry of last resort to ensure the stable operation of the registry.

It is worth noting that control over the operation of a TLD registry does not give control over the "national" Internet infrastructure, nor will it safeguard electronic commerce in the TLD. Due to the distributed nature of the technology, the vast majority of name server transactions are likely to be outside the TLD's control. Furthermore, should a TLD's registration policy provide users with a significant barrier to entry, users are likely to turn to the highly competitive domain name market to obtain the service they desire in another TLD.

Domestic vs. international management

With regard to the management of the DNS on a global level, CENTR members have previously commended and agreed *“the strong endorsement of the subsidiarity principle and the recognition of the role of the local Internet community in developing policy at a local level”*¹, i.e. that issues relating to the management of Internet country code TLDs should be resolved at local level, and that only the minority of issues which require global co-ordination should be dealt with globally.

Many of our members have been participating in various forums identified in the “Administration of Internet Names and IP Addresses” paper since their inception, including ICANN, the IETF and ISOC.

With regard to ICANN, CENTR supports its efforts to increase its transparency, its bottom-up approach, and encouraging greater participation of developing countries. As is recognised in the paper, the ICANN experiment is “an experience without precedent”, which benefits from “the huge amount of energy and work dedicated by thousands of people from different countries, cultures and sectors”.

CENTR is aware of the growing impact of the Internet on all aspects of modern society. CENTR and the Governmental Advisory Committee (GAC) have established close relations enabling them to exchange views on this process, resulting in a heightened awareness by ccTLDs of governments’ concerns. CENTR contributed to the revision process of the GAC principles for ccTLDs, which leaves individual ccTLDs and their national Governments to develop their logical Internet infrastructure according to local needs and environment. Therefore, we invite the WGIG to further develop the Cluster 1B paper in the light of the new GAC principles.

Common objectives for the management of the DNS and DNS resources

The common objectives the managers of country code domain name registries in CENTR share, are continuing to:

- Ensure technical resilience, and robustness of the Domain Name System.
- Increase technical and organisational redundancy: ensuring that single points of technical failure are avoided where possible, and undertaking suitable assessment of the risks of organisational failure and recovery procedures as appropriate.
- Develop multilateral exchange and cooperation to contribute to the growth of the use of Internet and also to enhance the quality and the relevance of the service provided.
- Share responsibilities amongst the interested parties.
- Safeguard stability and security of the Domain Name System.
- Participate in technical developments and capacity-building activities such as IDN and IPv6.
- Build trust, transparency and confidence.
- Encourage participation and contributions from all interested parties.
- Guarantee interoperability and interconnectivity - discouraging any fragmentation in the Domain Name System.
- Work towards evolution, not revolution.

¹ CENTR response to revised GAC principles for ccTLD managers, 24 January 2005

The way ahead

We reiterate our readiness to share our experience at the national level (particularly on technical matters) with all concerned parties - particularly in developing nations, and to build upon these experiences to help develop Internet governance worldwide.

CENTR endorses that *“the overwhelming majority of the private sectors actors have demonstrated their capability to fulfill their tasks and to make their contribution to the functioning of the Internet. With regard to the practical management there is no specific weakness in the system”*. This statement confirms that regulation or any kind of formal agreements are not always essential.

CENTR believes that transparency and democracy should be the milestones of any coordination process at the Internet Governance level. We would like to see an increased dialogue amongst all Internet stakeholders and organisations such as ICANN. Our members believe that the management of the Internet at all levels requires effective participation and co-ordination and that each stakeholder must play its own role recognising the expertise and the achievements of other actors. For example, CENTR is working with ICANN to make the ccNSO process as inclusive as possible so that a larger majority of ccTLDs can join it.

As for “delegations or re-delegation processes”, CENTR community believes that they are national matters (and therefore supports the statements made to this effect in the revised GAC principles), and that IANA has the primary goal of implementing the services requested by the ccTLD managers, ensuring they are correct and comply with the procedures.

The continued growth of the Internet can only be supported by emphasising knowledge and innovation, by improving synergies between the relevant economic, political and social dimensions, and by remaining true to the “free spirit” of the Internet which nurtured its growth to today.