

Comments on the Agenda and the Minutes of the meeting in Durban on 18 July 2013.

European Strategy Consultation – ICANN 47 Durban.

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It is welcome that ICANN considers developing a strategy for Europe. I am glad that the participants in Durban addressed this matter. These comments are intended to adjust, re-orient and – yes - sometimes correct, the ideas which transpire from the two documents which have been circulated.

Draft Agenda

Point 4: 'What is Europe?' is problematic. The ICANN community is capable of spending a good deal of time on geographical definitions. Other comments already confirm that the Annexed definition is not agreed. It should be deleted. If it is necessary to arrive at an agreed definition, that should be done in a different, global, context. It is not necessary for present purposes. 99% of what needs to be done can be addressed with common sense without a formal definition.

There are possible alternatives:

- self selection by national Internet communities
- the widely used, broad, Council of Europe definition
- the usual ICANN practice, (which is not consensual, either).

However, the more efficient solution is to drop the topic from the discussion of regional strategies and delete the list.

Potential Elements of Strategy

I. Operations

It would probably be more efficient for the regional strategies to address issues which are specific to the region concerned. Otherwise, repetition and duplication are likely. ICANN and its constituencies have to decide which issues are to be dealt with globally, and which regionally. From this point of view one could prioritise in Europe:

- IDN, and multilingualism more generally;
- WHOIS replacement, privacy and EU law;
- future rounds of new TLDs.

Most of the other proposed operations are best dealt with globally with regional outreach.

II. Engagement with regional organisations:

The proposed list would involve considerable time and effort and necessarily some duplication and repetition. I am not sure that ICANN has the resources – in the Brussels office or elsewhere – for such a comprehensive approach. Furthermore, EuroDIG is oriented

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towards the IGF rather than to ICANN. RIPE might argue that they are oriented to IANA.

To include EURALO in this list is a tautology: EURALO is already part of ICANN, and should be active in the strategy, but on ICANN's 'side of the fence'.

The ISOC Chapters in Europe already have a **European Coordinating Council (ECC)** which could facilitate engagement with ICANN if that proved more efficient, bearing in mind that a number of European ISOC Chapters are already ALS, members of EURALO. Again, please avoid circularity leading to duplication and repetition: there may be a number of fora, but the actual number of active individuals – especially among the NGOs is rather limited. Voluntary time is at a premium.

The principal lacuna in this list are the **Registries and Registrars**. ICANN's relations with European Registries and Registrars should be an integral part of the regional strategy and not conducted elsewhere. Consultations with Registrars should be open to other stakeholders, including Civil Society and Governments.

III. Engagement with the European Union and European regional IGOs

There are some inconsistencies here: the EU is not an IGO, both legally and operationally. That is why the EU was a founding Member of the GAC.

OECD is not a *European* IGO. Its membership is global. I do not know to what extent OECD would be prepared to engage with ICANN on several regional bases. That would be a question for their available time and resources.

The European Union is in practice the principal entity for ICANN's engagement with public policy in Europe, which is why the regional office is in Brussels. In addition to its membership, all neighbouring EEA and EFTA countries largely endorse EU policy, including the Digital Agenda. The European Parliament's EIF (European Internet Foundation) is already a relevant interlocutor for ICANN, and should remain so.

Again, engagement with the Council of Europe, EuroDIG and national IGFs contains scope for duplication and repetition. Some rationalisation will be necessary in practice.

Consequently, this section III needs to be redrafted, including the above title.

IV. Capacity building ...

No major comments. Technical aspects are global in scope, and only partially regionally specific. Technical aspects of IDN should be mentioned explicitly. Interaction with European standardisation policy (ETSI, EU Commission) might be included here.

Capacity building with Civil Society and End Users should be integrated with Business community engagement. Capacity building with Registrars is a priority in a number of countries in Europe.

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Capacity building with Governments needs to be tailored to specific situations. Policy consultation could be intensified, for instance with the EU High Level Group, enlarged. More generally, national governments need to be persuaded that they should put more resources into ICANN's PDP and related activities. For that they also need to be convinced that they will be heard and acted upon, in order to avoid in the future the likes of recent impasses over new gTLDs.

V. Policy issues

This section suggest that ICANN becomes involved in Europe with several policy areas which go beyond ICANN's scope and mandate. Furthermore the perception that ICANN is interfering in EU policies is to be avoided. For instance, one may note that there is already significant opposition to TTIP in Europe, for several reasons; ICANN has no interest in becoming embroiled in that area.

Insofar as multilingualism and IDN is the main political issue with ICANN in a few countries, it is surprising not to find that on this list!

More generally, it would be more appropriate to **delete this section** from the document. And to develop a narrower and much more specific agenda under points II, III, and IV.

VI. Foresight issues:

Coming from ICANN, the idea that Transnational Regulation of the DNS is a 'foresight' issue is rather rich! ICANN was established, fifteen years ago, to become the transnational regulator of the DNS. Many stakeholders would be quite satisfied if ICANN could just do that properly; we have no interest in ICANN diluting its efforts into other policy areas meanwhile.

Scaleability of the multistakeholder model (MSH!) is already a major issue. It is not a matter for foresight, it is a matter for correcting current disfunction, particularly with regard to the users' interests as represented by Civil Society.

ICANN could provide a useful service to all stakeholders by creating a competent and qualified economics department which would, among other things, address the future of the DNS and related developments. It has become increasingly surprising that ICANN creates and then navigates the DNS market, apparently without the slightest idea as to where it is going. *¡Zarpar rumbo el futuro!*

Geographical definition

Delete, as discussed above.

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European Strategy Consultation – report on the meeting in Durban

The meeting in Durban is a valuable initiation of a necessary process, which - as pointed out – requires metrics and a timeline. ICANN and the participants' initiative are to be complimented. The present consultation may perhaps amplify certain issues and fill in some of the gaps:

* **Should we have a strategy for Europe?**

There is agreement on the need for a strategy for Europe, taking account of the qualifications and reservations to the 'Background Document', discussed above.

ICANN is not starting from the proverbial 'blank sheet of paper'! In recent years, there have been several components of **the existing ICANN European Strategy**. These include:

- IDN to the left and to the right of the .dot; specifically the introduction of all relevant Latin diacritics and the Cyrillic and Greek scripts (outstanding unresolved problems notwithstanding);
- Opening the ICANN office in Brussels, now with a significant staff and presence in the EU and in many European countries, including on-line discussion Lists;
- the path-breaking decision to delegate the .EU ccTLD; contested at the time, but which has proved meanwhile to be one of the most successful new TLDs created in recent years.
- Delegation of the .CAT domain to Catalunya; a prototype for regional and cultural domains, which has been emulated by a number of applications to the current round of new gTLDs;
- more generally, opening up the DNS to multiple city, regional and cultural TLD proposals. Albeit much delayed by the complexities of other aspects of the new gTLD process.
- maintaining a high quality IANA service to the large number of ccTLDs in Europe, generally represented by CENTR.

I do not refer to IPv6, IPv4 reassignments, DNSSEC and other aspects of Internet security, in this context, as these are of global relevance. I support them as a component of each regional strategy.

Thus, my first observation regarding the ICANN Regional Strategy would be that:

(a) ICANN has already got a substantial European Strategy, and that

(b) many stakeholders in Europe, including - I would expect - the EU Institutions would be primarily interested in ICANN confirming and extending the existing strategy and policy.

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I also have the impression that many stakeholders in Europe are more interested in the above components of the existing strategy rather than the current – questionable – fashion for *.generic* and *.brand* TLD proposals (almost all in English language). Insofar as the EU and national ccTLDs in Europe have been liberalised and already offer the commercial and non-commercial Internet communities a good DNS service, in their own languages, it is not at all evident what more the new *.generic* and *.brand* gTLDs can offer the final users or the general public.

ICANN's mandate is to regulate the DNS in the public interest. Not in a peculiar view of the interests of Registrars and some prospective Registries.

I would emphasise the need for **focus on a few pertinent issues**; avoiding watertight compartments, and rationalisation of the European approach vis-à-vis other regional strategies and among multiple participants in Europe. Avoid duplication, repetition and redundant recursiveness.

From this point of view, a **single European open forum** (on-line and face-to-face) could become the primary platform for consultation and execution related to ICANN's European Strategy. Otherwise there is a distinct possibility that simply the number of potential inter-relationships could overwhelm the available resources both in ICANN and in Europe.

As background, in the 1990's the EU Commission addressed this problem, as it then was, by offering a platform: the European Community Panel of Participants (EC-POP), which effectively informed and motivated many European stakeholders at the time to become involved in the ICANN supporting organisations, advisory bodies, and Board of Directors.

Granted, the numbers of stakeholders, their representatives and the countries concerned have escalated meanwhile, but the underlying need for an open, efficient and well informed platform remains valid. Whether today it should be sponsored primarily by an EU Institution or by another forum is an open question. It would certainly simplify matters for ICANN.

* **What is Europe? (delete)**

I was surprised to read this part of the report of the discussion in Durban. It is quite selective, if not biased, as far as European opinion is concerned. I suggest that ICANN does not benefit one whit from the implicit association with subjective and partial opinions.

ICANN's European Strategy relates to Europe, as it is, of which – institutionally - the European Union is the principal fixed point. National focus should be prioritised to the broader region.

I would strongly advise the deletion of this whole section of the report. The benign and constructive comment on behalf of EuroDIG could usefully be put elsewhere in the report.

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*** How are we going to work on the strategy?**

This section of the report needs to be reviewed in relation to the resources which ICANN will actually commit to the process. I am not convinced that ICANN is up for '... mapping ... issues ... from *each* country'. Really? There are 45+ countries in Europe, however defined. GAC members might think that was part of their job.

Meanwhile, ICANN can hardly enforce compliance to the RAA by Accredited Registrars under contract!

For present purposes, I shall 'pass' on the question as to what is the 'ICANN model'. Someone else might try their hand at that one ...

*** Issues**

ICANN was created to undertake regulation of the global aspects of the DNS, since they could not be regulated by the EU, the US or otherwise nationally, given the objective of maintaining the global, interoperable and secure Internet. "Lobbying" does not come into it. ICANN is the creature of the Internet communities and the Governments that created it.

In that context the reference in the meeting report to the proposed EU privacy regulation is inappropriate, if not tendentious. ICANN shall take full account of national and international law, as provided for in its Articles of Association.

CW. Roy, 9 August 2013