

# Brief report on ICANN's 28<sup>th</sup> International Public Meeting in Lisbon, Portugal, 26 - 30 March 2007

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ICANN meeting are just a little different from other conferences. For one, the names of the participants have been arranged in an alphabetical order – by first name. Secondly, the more than 900 participants that met in more than 30 sessions and workshops come from vastly different communities or constituencies. This led ICANN President and CEO Paul Twomey to comment that meetings such as this one represented examples of real „representational democracy“ and would constitute stable coordination of truly global reach. The states that are represented in the Government Advisory Committee (GAC), however, met in closed sessions and in a different hotel.

## Executive summary

The main issues on the agenda of the 28th International Public Meeting included the following:

- After a very controversial discussion the ICANN Board decided, by a vote of 9-5, with one abstention, to deny the application for creation of a .xxx Sponsored Top Level Domain (sTLD). In doing so, it followed the communiqué of the Governmental Advisory Committee (GAC). The .xxx sTLD has been called by media “red-light area of the web”.
- ICANN presented an update on the development of IPv6 aimed at enlarging the number of IP addresses available globally. IPv6 uses more numbers than the current IPv4, which is believed to be exhausted by 2012. IPv6 will ensure that new addresses are available for all users for the next century.
- In reaction to the RegisterFly.com situation – a domain name reseller that faced serious financial problems - ICANN's Registrar Accreditation Agreements (RAA) and the Accreditation process was reviewed.
- ICANN CEO Paul Twomey presented ICANN's Operating Plan for 2007 and 2008.
- An accountability agreement with the country code top level domain (ccTLD) managers for .ly (Libya) was signed.
- The President's Strategic Committee presented its report. It proposed, *inter alia*, to consider the benefits of the international private organization model and to reorganize the relationship with the US government with the aim of substituting the US role of auditing/authorizing amendments to the zone file with a outsourced process

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- Agreements were signed with three new regional At Large Organizations, where Internet users can be better represented: the African Telecommunications Union (ATU), the Pacific Islands Telecommunications Association (PITA), and the United Nations Economic and Social Commission for Western Asia (UNESCWA).
- Updates were presented on the development of Internationalized Domain Names (IDNs).
- Sweden and Bulgaria presented their experiences on the deployment of DNS Security Extensions (DNSsec) in their respective TLDs.
- On Friday, 30 March, the ITU Secretary General, Hamadoun Touré, was scheduled to attend the ICANN meeting, but he had to cancel due to flight delays. This would have been the presence at an ICANN meeting by a high ITU official. Touré had made clear before, however, that he wished the international community to focus on development and security and did not see much sense in continuing prolonged discussion on internet governance

## **Selective Substantive summary**

In the following, some of the highlights will be presented in more depth. The complete transcripts of the sessions, workshops and meetings can be found at <http://icann.org/meetings/lisbon/archives.htm>.

All resolutions adopted during the meeting can be accessed at <http://icann.org/minutes/resolutions-30mar07.htm>

### **Governmental Advisory Committee (GAC)**

In ICANN's Governmental Advisory Committee (GAC) more than 100 governments are represented, 40 of which are active. Vint Cerf, Chairman of the Board of ICANN, lauded the public policy-input function that GAC fulfills. With Ambassador Janis Karklins from Latvia, the former President of WSIS Preparatory Committee for the Tunis Phase, a new Chair has taken over in 2007. During the 28<sup>th</sup> meeting, the GAC provided substantive inputs in particular in relation to the "Whois Principles" and the .xxx sponsored TLD.

### **Sponsored TLDs (sTLDs): creation of .xxx**

The debate on the creation of .xxx sTLD had two aspects. First, the legal aspect, where the ICANN Board members disagreed on whether ICM, the organization that submitted the proposal for creation of .xxx, fitted the definition of a "sponsored TLD community". For that, .xxx would have to address the needs and interests of a clearly defined community.

On the other hand, the debate had a policy side, as well: The Free Speech Coalition, which is one of the trade associations for the adult entertainment industry, argued that the "adult entertainment industry, the sponsorship community, not only does not support ICM's proposal but it actively opposes the creation of a dot xxx top-level domain." What the Free Speech Coalition sees as problematic is that "[it will] allow new means of censorship by multiple layers of government, especially within the United States. As mentioned, there are already

two bills pending before Congress to mandate migration from dot com or another dot space to dot triple X for the purpose of censorship, and depressingly, the Congressional research service in January of this year analyzed those pending mandatory dot XXX bills as being potentially constitutional.”

Some members of the Board differed. They argued that .xxx offered a valuable opportunity for enlargement of the address base. Comments on adult entertainment by states should be considered inappropriate. Content-related censorship should not be the task of ICANN. In particular, ICANN should not allow itself to be used as a “private lever for governmental chokepoint content control over the internet by making up reasons to avoid the creation of such a TLD in the first place.” Any derailment of the process would be “political”.

Eventually, the ICANN Board decided that the .xxx sTLD raised serious public policy issues. Its approval was not considered to be appropriate as the proposed solution did not resolve the issues raised in the GAC Communiqués, the statement by the Governmental Advisory Committee. Additionally, the creation of the .xxx sTLD raised significant law enforcement compliance issues that had not been resolved. Therefore, the application request for a delegation for the .xxx sTLD was denied.

### **ICANN and transparency**

ICANN President and CEO Paul Twomey presented a report by OneWorld Trust, an organization that undertakes transparency reviews for international organizations and companies. OneWorld Trust reviewed ICANN in 2006 and concluded that: “ICANN is in many ways a very transparent organization. It discloses a large quantity of information, probably more than any other global organizations.” Building on this positive statement, ICANN has revised its website and increased its accessibility. Paul Twomey pointed out that it would be wrong to say that ICANN was only accountable to the US government. Rather, ICANN is accountable to the whole world.

### **New Top Level Domains**

The Generic Names Supporting Organization (<http://gnso.icann.org>) has developed guidelines for the creation of new TLDs.

Principle 1: New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.

Principle 2: Some new generic top-level domains may be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.

Principle 3: The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats and that the new TLD process promotes competition, consumer choice and geographical and service-provider diversity.

Principle 4: A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.

Principle 5: A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN’s registry agreement.

Principle 6: A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.

(GNSO new TLDs Committee, Draft Final Report, Introduction of New Generic Top-Level Domains, <http://gnso.icann.org/drafts/pdp-dec05-draft-fr.htm>)

Proposed grounds for objection to a string (TLDs) are contained in the following questions: Could the registration or use of the proposed string violate the existing legal rights of a third party under international law? Could the registration or proposed use of the string be contrary to accepted legal norms relating to morality or public order? Does the string represent or relate to an established institution, such as: NGOs, industry groups, religious organizations, governments, or political organizations? Is the string a geographic identifier?

Some critique has been voiced by participants that ICANN, by using notions such as “morality and public order”, is leaving its role as a technological administrator and is evolving into an arbiter of free speech and thereby assuming judicial functions not covered by its mandate.

### **Next meeting**

ICANN's 29th International Public Meeting will be held 25-29 June in San Juan, Puerto Rico. Further information can be obtained at <http://icann.org/meetings/sanjuan>.