**Moves towards European Internet Governance?**
**Paolo Vigevano**
**Head of Technical Secretary of the**
**Minister for Innovation and Technologies**

As the Internet becomes more widespread, pervasive and mature, policymakers worldwide are recognizing the need for new models of governance and coordination to address the global challenges that the Internet poses.

Some nation-states are deferring to non-traditional, global coordinating or policymaking organizations, either for guidance in harmonizing national lawmaking or for the actual creation of binding policy. These entities are making decisions that once would have been made by nation-states, through traditional legislation and administrative rulemaking. This shift represents an important development for governance and social co-ordination, as we know it. Such a trend may fulfil its promise to enable efficient, stable and international policymaking to support a rapidly growing industry.

The Internet Corporation for Assigned Numbers and Names (ICANN) represents such an effort to create a new mode of coordination or "governance" outside the traditional framework of international organizations and national governments. As such, ICANN was designed to represent stakeholders directly, rather than through nation states. ICANN's role or mission is not to "manage" or "regulate" or "govern" the Internet, but rather to serve merely as a technical coordinating body. Indeed, much of ICANN's work neatly fits this description. However, even though much of what ICANN does can be characterized as "technical coordination," it is sometimes inextricably intertwined with policy-making. ICANN insists that its activities are "mere technical management" of the domain name and IP address system.

This argument is untenable. ICANN's key activities have involved policy choices rather than matters of technical details. It is hard to argue, for example, that the development of protections for trademarks owners against confusingly similar domain names is a matter without public policy implications. Most of the issues raised by the addition of new generic top domains imply larger policy questions. Names in cyberspace can identify user accounts, name and locate resources, and aid in navigating and searching over the Internet. The assignment and registration of names has become a very relevant business. The emergence of this market has created new issues and has redefined traditional ones. The attachment of names to individuals, businesses, and groups offers opportunities to engage in content regulation.

The underlying principle of ICANN is that it is a *non-governmental* institution. However, this intertwining of technical and policy issues makes public participation in ICANN's internal governance all the more important. Governments play a formal role in ICANN through the Government Advisory Committee (GAC) and have input into the decision making process of ICANN. Governments are viewed with suspicion by the Internet community, mainly because of their inefficiency and lack of responsiveness to rapidly changing social and technological developments that have marked the growth of the Internet.

However, attempts to keep the Internet policymaking process free of government input have often resulted in government's interventions, which were detrimental to the Internet and its global community. Moreover, the lack of a formal role for governments and the interests of government agencies in the global process of Internet policymaking are already resulting in all manner of unfortunate outcomes.

The national governments of many countries are already implementing unilateral rules, restrictions, and sometimes-bizarre policies, many of which are nonsensical, when taken in the international borderless context of the Internet. The result is confusion all around, for individual users, businesses, non-profit organizations, and everyone else. International disputes, such as the continuing disagreements between the European Union and the United States over consumer and Internet privacy policies, are another example of the problems that result when these issues are not dealt with adequately on a continuing, developmental basis, with input from national governments and the others, on a cooperative basis all throughout the process.

It would be far better to define the participatory role of governments in the first place, and have them as part of the decision-making. The public sector participation by domestic governments and their various institutions is absolutely crucial. Neither the for-profit nor non-profit worlds can be expected to adequately fulfil this role on their own.

For this very reason, there is a need to identify the most appropriate means for governments to exercise their public policy authority and to provide guidance *where this is required*. Specifically, we believe that the role of governments should concentrate in two areas:

1. to show clear support for the organization of an expert technical body and support its independence;
2. to provide input such as governments are currently doing through the GAC.

As it currently stands, the United States is the only government that has a direct link to ICANN, through its Memorandum of Understanding (MOU) with the Department of Commerce (DoC). The fact that only the United States government has such a closer involvement in this important public resource makes many countries in the

GAC uneasy. Enabling more international government policy input is a means to acquire more legitimacy as ICANN, being a private entity, seeks to play the sort of role commonly played by public entities. Representation will ensure that its decisions are the product of a democratic process.

We welcome ICANN's approval of a framework for the formation of local, regional and global at large members groups, at the most recent Montreal meeting. This is a clear step toward more involvement from the user community in decisions affecting how the Internet is run. We are equally pleased that ICANN reached an agreement to improve communication with country code top-level domain registries, creating the Country Code Names Supporting Organization (ccNSO).

I would also like to add that Paul Twomey, who has recently been appointed President and Chief Executive Officer of ICANN, was GAC Chairman for four years. I wish to read this appointment as another significant recognition of the governments' role.

Another important element of this new phase of ICANN is the establishment of the .eu which is intended to become the distinctive pan-European identification of websites and e-mail addresses, comparable to .org or .com.

The European Commission has decided to designate EURID - the European Registry for Internet Domains - as the Registry for the .eu Top Level Domain (TLD). The three founder members of EURID are currently managing the country codes .be (Belgium), .it (Italy) and .se (Sweden). Two associated members are from acceding countries (Czech Republic and Slovenia). EURID has committed to consult stakeholders from the European Internet Community and to ensure contacts with regional and international organisations involved in the Internet.

The selection of the Registry that will manage the .eu TLD is an important step towards the availability of .eu. Once the Registry will be fully operational, businesses, organisations and citizens in the European Union will be able to register their domain names within the .eu TLD. The creation of the **.**eu will give European citizens and businesses the possibility to acquire a European identity on the Internet.

The Commission will now conclude a contract with EURID and then appropriate steps will be taken with ICANN for the inclusion of **.**eu in the global Internet DNS. At the same time, the Commission, in consultation with the Member States and the Registry, will establish public policy rules to deal with issues like speculative and abusive registrations of domain names, intellectual property and other rights, issues of language and geographical concepts and the extra-judicial settlement of conflicts.

I wish to emphasize this last aspect of the Commission's action because I think that it supports ICANN's core functions of the technical coordination of the Internet's naming and addressing systems. Because of their fundamentally technical nature,

these core functions are best administered by an independent expert authority. Clarity of mandate and mission will be essential to isolate those functions for which ICANN is responsible, and those for which it is not. ICANN should strive to contain its policy functions to:

a) matters which directly arise from and are necessary for the coordination of technical functions of the Internet Domain Name System (DNS) ; and

b) matters for which it is the only, or most appropriate body, to address the issue at hand.

The establishment of policy in areas such as privacy, consumer issues and competition resides with governments and intergovernmental organizations.

The real issue in discussing Internet Governance is to draw a line between where the technical aspect finishes and where the policy aspect begins; this demarcation is to clarify how the policy-making role of ICANN can be reconciled with the policy level of other intergovernmental and/or international organisms such as ITU, WIPO, OCSE, WTO, ISOC, W3C, ETSI. ICANN should address those issues only to the extent that they arise from activities within its mandate. It is in this context that advice or guidance from governments may be required from time to time.

**Conclusions**

In Italy, there is an ongoing debate over the issues of Internet governance and on the future of the Italian registry in particular; the government must act as to preserve the high-level competences accumulated up to now, grant legitimacy to the registry and favour a growth in the private sector, reserving itself to intervene only in those improbable cases of severe malfunctioning.

During our turn in the EU Presidency, we intend to encourage the European Commission to monitor closely the reform taking place at ICANN and to analyse in detail the management model of Internet global governance, in the light of a possible evolution/consolidation.

 The relation between ICANN and the US government is seen in a positive light as long as, as planned, it may dissolve in favour of a model of equal participation with the other countries, and Europe in particular. For this reason, we attribute a particular importance to GAC which represents in ICANN the voice of governments.

It is increasingly clear that the Internet, as embodied by the World Wide Web and a wide variety of other Net-based services and technologies, is rapidly becoming a critical underpinning and foundation to virtually every aspect of our lives, from the

very fundamental to the exceedingly mundane. It is likely that few aspects of commerce, education, communications, government, entertainment, or any other facets of our daily existence, will be unaffected by this exceedingly rapid change that is sweeping the globe far more rapidly than would have been anticipated only a few years ago.

These global and interconnected developments, unprecedented in human history, suggest that decisions regarding policies, regulation, control, and related Internet activities will be of crucial concern to the entire world's population. Consequently, the proper representation of the many varied interests regarding such activities must be respected.

*Presented by Stefano Trumpy, Italian representative in the GAC, in the Plenary session "Moves towards European Internet Governance?".*