The worrying impact of headline-triggered policy making

How terrorist threats and the new geo-political order are shapping the legislative framework on content liability issues

By Peter Van Roste, CENTR General Manager

Last month's tragic events in Paris and the paralysing, fear-driven response across Europe have impacted our work in a much more systemic way than that one-week lockdown in Brussels. Even before November 13th, there were half a dozen regulatory processes in motion that will affect the technical community. The European Security Agenda resulting in the opaque European Internet Forum had been in the planning for some time. But since Paris we have seen a tectonic shift on the political level. Knowing that there is now an 80% majority in the European Parliament who firmly believes that intermediaries should be held criminally liable for failure to take down content puts the ongoing Platform Consultation in a dramatic new light. The title of the latest initiative launched last Friday tells the whole story. Its full title reads "Public consultation on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights: Intermediaries".

Where the 2001 eCommerce Directive has been recognised globally as the model that allows for a balanced approach to content liability, today's discourse make the balance swing one way. What was then believed to be the only democratically acceptable solution to avoid commercial interests affecting free speech (while still guaranteeing a responsible attitude from intermediaries) is now being turned upside-down. It is worrying that there now seems to be a political will to de-monopolize the state's authority to decide on what is legal and what is not. It shows a weakness to invest where needed (such as the under-funded judicial system) and a failure to address fundamental issues (such as finding someone to pick up the bill for distorted distribution channels).

With the advantage of hindsight, it is easy to see that the perceived weakness of the eCommerce directive lays in the confusion it created when defining the different categories in articles 12, 13 and 14. What was then drafted as a future-proof and technology-neutral set of principles, is now hollowed out by inconsistent interpretations in the national courts. Part of the reason for this can be attributed to the merging roles of some actors. In 2001 a host typically operated a stack of servers in a basement. On these servers, content owners uploaded their data and websites. Today most large content owners such as Facebook or Google run their own servers. Merging these two roles has left rights holders, technical operators and lawyers confused.

We should be watchful for any response to the current terrorist-related problems that does not take into account the dangers of entangling the technical operators of the Internet into the content debate. The role of the technical layer should remain to be focussed on providing the essential, stable and secure platform that has allowed democracies around the world to grow stronger, more responsive and more transparent.

Being part of that technical community, CENTR will continue to inform all participants in the debate about the role of technical operators and ccTLD registries in particular.

EU Policy Update

By Nina Elzer, CENTR Policy Advisor

NIS talks concluded

During the trilogue meeting on 7 December, EU law-makers reached a political agreement on the network and information security (NIS) directive. It requires both public and private entities to raise their cybersecurity capabilities. Member States (MS) will need to cooperate more closely on issues that many consider falling under "national sovereignty". Read more

Commission launches copyright review

The copyright directive (2011/29/EC) goes back to a time without Facebook (2004) or Twitter (2006), and to when Google (1998) or Netflix (1997) were nowhere close to where they are today. Time to make the "rules fit for the digital age". The process, initiated on 9 December, set off with an action plan (communication) and the first in a row of legislative proposals tackling the issue of portability of content (i.e. if a subscriber is temporarily abroad). Read more

European Commission launches secretive tech alliance to tackle terrorist content online

On 3 December, DG Migration and Home Affairs officially launched the EU Internet Forum, which aims at tackling terrorist-related propaganda and recruitment online. The forum brings together a secretly heeded list of EU representatives, Europol and tech companies (such as Google, Microsoft, Facebook, Twitter and Ask.fm). Read more

Data protection regulation could be concluded in next two weeks

Four years after the first draft appeared, EU lawmakers are close to striking a deal that would reform the more than 20 year-old EU data protection scheme. According to the European Parliament's lead negotiator, Jan Albrecht (Greens/Germany), the stumbling blocks include provisions on penalties. Read more

Safe Harbour – new agreement to include "suspension clause"

Two months after "Safe Harbour" was invalidated by the ECJ, 4.500 companies continue finding themselves in a legal limbo. Both the EU and the US aim at finding an agreement by end of January. Currently, a "suspension clause" is discussed, which would allow the EU to suspend the agreement if the US was found to fail meeting data-privacy standards (under the old agreement, this was only implicit). Read more

PNR deal indicative of larger data retention scheme?

On 10 December, the European Parliament's civil rights committee agreed to a PNR deal that foresees that "masked" data related to transcontinental flights (and voluntarily also for inner-EU flights) can be stored for 5 years. The records include a passenger's name, e-mail address, phone number, credit card details, food preferences, etc. Read more

Dutch Presidency priorities – what matters to the Tech community

Eleven years later, The Netherlands is taking over the Presidency of the EU again. Its priorities (details) are largely in line with those of the Juncker Presidency and focus on jobs, growth, competitiveness, protecting citizens, climate policy, freedom, security and justice and the Union's global role. Tech-related (non)legislative proposals on the Presidency's plate include: the conclusion of the data protection package, the Digital Single Market Package and its "offsprings", such as copyright, e-commerce, telecoms (open internet, roaming, spectrum), cybersecurity, digital economy (Big Data, Smart Industry) etc. Read more

European Parliament high-level meeting on protecting online privacy

On 9-10 December, the European Parliament (EP) convened a meeting of academics and decision-makers to discuss the role of the European industry and the European institutions regarding online privacy. The presence and participation of UN rapporteur Cannataci, Luxembourg Prime Minister Bettel, Commission Vice-President Ansip and EP President Schulz underlined the importance of the issue and gave it a broad political support. Read more

Europol – Turning into a European CIA?

A European CIA is "a necessity", said the Belgian Prime Minister, Charles Michel recently. Whereas he can count on growing support in the EU institutions, EU Counter-Terrorism Coordinator, Gilles de Kerchove, reminded everyone that under current EU Treaty rules this would not be possible. Read more

Martin Boyle has been Senior Policy Adviser at Nominet since 2008, focussing on improving UK stakeholder engagement in policy, and working on international engagement - ICANN, the IGF and CENTR. He previously worked in the UK government on international Internet issues, including working on the World Summit on the Information Society. As he is about to take the plunge into retirement, he kindly accepted to answer a few questions for us, reflecting on his career and life work.

If you could summarize your career in 140 characters, how would it look like?

3 employers, 3 countries, 15 jobs, 43 years: a restless soul in search of challenges?

What are the three things you will miss the most from your work life? And what will you miss the least?

1. Working with brilliant colleagues and really nice people from all over the world.

2. Working on interesting and demanding issues where there is no right answer, but lots of wrong ones.

3. A reason to get out of bed in the morning: I need a counter to my teenager-gene!

I'd miss least doing early morning conference calls and my weekly 6 am drive to Oxford (yes, I'm really not a morning person).

Reflecting on your career, what would be your best memory?

I was posted to Paris in the 1980s for nearly six years. That was an exciting time that included: having to find ways of getting the UK research community back into the European Synchrotron Radiation Facility; of re-building bridges between the UK and its partners – in particular, France – in the European Space Agency following a ministerial conference; being involved in organising the visit to France of Prince Charles & Princess Diana; and helping develop Franco-British cooperation. And great on a personal basis – two children "Made in France," one completely bilingual and working in France.

What are your plans for the future?

After a life of never being without a job, it's going to be a bit of a culture shock. My priority is to tackle my new career – challenges, deadlines, stretch targets: long distance walking, fine wining and dining, traveling to places I want to go to, photography, perhaps even a Raspberry Pi. And I might do some consultancy projects to get me through the withdrawal phase.

Any advice to the next generation working in the domain name industry?

Look forward to how things will change, not back to how things were. The power of the Internet is its openness to innovation. And there are lots of pressures on the domain name industry: the power of the domain name industry will be its willingness to evolve.

What is your favourite quote?

"I love deadlines. I like the whooshing sound they make as they fly by." (Douglas Adams, author of "The Hitchhikers' Guide to the Galaxy"). In fact there are probably a dozen other quotes from Adams that I trot out for different circumstances.

And of course, there is a quote from Bob Dylan for nearly every circumstance (including when taking the mic at a GAC meeting!).

CENTR holds its 33rd Technical Workshop The CENTR Technical working group met in Bucharest on 15 November 2015 for their annual standalone workshop.

CENTR holds its 18th Marketing Workshop On 3-4 December, CENTR held its 18th Marketing Workshop in Dublin, Ireland, kindly hosted by the IEDR (.ie) registry.

First ever CENTR Working Group Chairs meeting held in Brussels On 9-10 December 2015, CENTR held its first ever Working Group Chairs meeting, bringing together most of the Chairs and Vice-Chairs of its six Working Groups to discuss challenges and successes.

Benelux takes joint action against Internet fraud On 1 December 2015, Economy Minister Kris Peeters announced that the 3 countries would cooperate in the fight against internet fraud.

Webnames.ca and the Canadian Internet Registration Authority celebrate 15 years of bringing domain names to the Canadian market Event in Vancouver commemorates the history and legacy of the .CA domain.

.ee new registry system opened for registrars .ee opened the new .ee registry system to registrars on 1 December at 2.36 AM (UTC+02:00), .ee registration services have been restored by EIS.

Delegation of .eu in Cyrillic Following EURid's application to ICANN for the following string 'ею (xn--e1a4c)' in Cyrillic, the .eu registry is delighted to announce that the IDN ccTLD Fast Track process for this string can now be considered successfully completed.

French GeoTLDs Boost the Domain Name Market Launched a year ago, the new TLDs for use in France (.paris, .bzh, etc.) are now part of the country's digital landscape.

Nominet becomes Go ON UK's first national partner Nominet has partnered with Go ON UK to champion digital skills and digital inclusion. As part of that commitment, over the next year Nominet will be supporting digital skills initiatives that deliver real benefit to small businesses across the UK.

CENTR's IETF94 Report

CENTR published its report of the IETF94 meeting in Yokohama on 2-6 November 2015.

Upcoming CENTR Events

3 February 2016

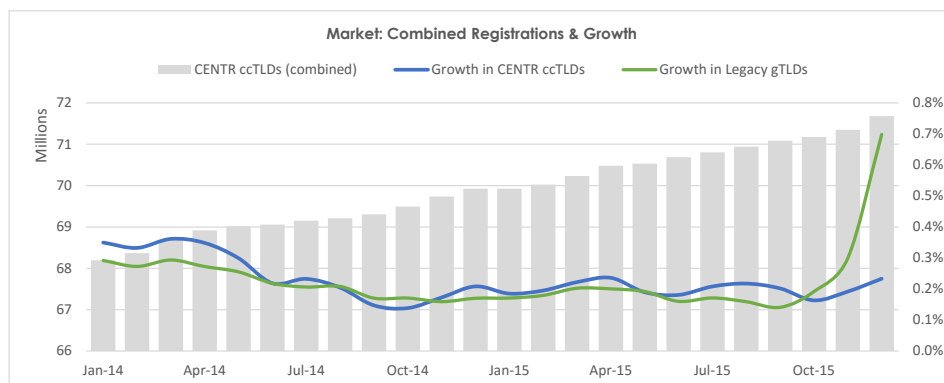37th CENTR Administrative workshop (Lausanne, Switzerland)

16 February 2016

55th CENTR General Assembly / 2016 Annual General Meeting (Budva, Montenegro)

1-2 March 2016

19th CENTR Marketing Workshop (Tallinn, Estonia)

Domain Name Statistics

Market: Combined Registrations & Growth

CENTR ccTLDs (combined) — Growth in CENTR ccTLDs — Growth in Legacy gTLDs

Source: CENTR (based on 57 ccTLDs), ICANNwiki
Growth lines use 3-month moving averages to smooth the line * Refers to CENTR full members only

CENTR combined registrations*

71.7 *million*

Combined registrations among CENTR full members stands at 71.7 million over 57 recorded ccTLDs – a combined growth of around 2.5% over the past 12 months. In terms of median ccTLD growth in Europe, the rate was 3.7% over the same period.

It's estimated that ccTLDs in CENTR represent around 95% of all ccTLD registrations in Europe. CENTR produces detailed registration stats, trends and analysis to its members.