



eEUROPE: EUROPEAN DOMAIN NAME “.eu”

UNICE preliminary comments

A. ISSUES

European business only represents a minority share in world electronic commerce. However, in the years ahead, European e-commerce will see substantial growth. This trend can and must be accelerated: the economy stimulated by the new technologies is recognised today as conducive to strong growth, and electronic commerce is one of the preferred tools.

UNICE therefore supports the “eEurope” Communication by the Commission together with other recent e-initiatives by the Commission, including the initiative to introduce a European domain name “.eu” to stimulate expansion of e-economy and e-commerce in Europe¹.

There are still many brakes on this development: apart from the weakness of infrastructures which limit the penetration of new technologies and access to the internet, a lack of confidence among consumers, the weaknesses of European business in reference tools² and a failure to disseminate best practice in electronic commerce among companies are tending to limit this growth.

Yet, in two years' time, Europe will have a prime asset for construction of this unified Europe of electronic commerce: the single currency will be a reality. In 2002, all consumers will have the same monetary reference in the European Union and will be able to buy from all EU commercial sites without the need for conversion. The advent of the single currency is an opportunity from which we can all gain support in the framework of completion of the single market.

UNICE believes that it is important to accelerate e-commerce growth by stimulating supply and demand. A European domain, synonymous with a region of confidence, would be an ideal way of stimulating companies to affirm their presence and reassuring consumers about guarantees.

¹ “eEurope - an information society for all”, Communication on a Commission initiative for the special European Council of Lisbon, 23-24 March 2000, dated 8 December 1999, COM(1999)687 final; see “UNICE’s preliminary comments”, dated 9 March 2000 (<http://www.unice.org>)

² Directories, search engines and portals are determinant elements for the visibility of companies on the Internet.

B. OBJECTIVES AND RECOMMENDATIONS

When it registers a domain name, an essential element of an internet site address, a company faces two choices:

- choice of the actual domain name, which will give the company an identity on the internet and will be one of its distinguishing features;
- choice of the domain in which the company makes this registration: a generic domain (gTLDs such as “.org”, “.net”, “.com”) or geographical domain (ccTLD for a country or an open ccTLD³). This choice is difficult and companies do not always have coherent and well thought-out policies on this subject.

Yet, registration of a domain name is one of the first steps taken by a company in:

- an attempt to ensure visibility on the Internet;
- a wider strategy for transition to electronic commerce.

Hence, European companies, in particular SMEs, need to be encouraged to invest in a visible European presence on the internet in order to raise their awareness of electronic commerce.

An area for virtual trade, but a reflection of a real economic and political area, a European domain would be a potentially powerful tool to ensure the visibility of our companies at European scale in the internet.

Just as it occupies the second place in world trade, the EU ought to become one of the main markets for electronic commerce. Introduction of “.eu” is therefore above all an economic necessity. It also has a political and legal dimension.

Therefore, UNICE welcomes the European Commission initiative to create an internet European domain name “.eu” insofar as it respects the following criteria:

1. ECONOMIC NEED AND COLLECTIVE USE OF A PUBLIC RESOURCE

As a new ccTLD, “.eu” will not correspond to the territory of a country but to the political and economic territory, flexible and extendable, of the European Union, a unit bringing together many national states.

As a public resource, the “.eu” domain will have to be managed collectively by all users of the internet.

UNICE considers that the economic aspect is one of the fundamental opportunities of a domain name system (DNS).

Thus, a top level of “.eu” should be reserved for companies with a concern for maximum economic benefit. In a highly competitive environment where visibility is an essential

³ Some ccTLDs (Top Level Domain) are totally disconnected from any geographical reference and constraint, and are managed as gTLDs (e.g. .nu, .md, etc.).

element of differentiation, nobody has a greater interest than companies in having privileged access to domain names in the first level.

Second-level domain names should be organised in such a way as to give access to the EU's non-commercial and institutional activities and representations.

2. ADDED VALUE BASED ON CONFIDENCE

It is not a matter of complicating policy for registering companies' domain names by creating an additional domain without added value.

The gTLDs ".com", ".net" and ".org" have undeniable advantages in terms of flexible registration, and it is not necessary to reproduce them or to compete with them directly. They respond to several particular needs: absence of reporting formalities, no need to set up a company, worldwide commercial presence, etc.

But they also have many defects (no guarantee as to the real identity of the registering party or its geographical location) and alternative solutions should be identified which are more than competitive. Therefore, it should be avoided that the creation of ".eu" is only seen as a European alternative to the ".com" domain name.

In fact, the ".eu" cannot be considered as a gTLD. It is a ccTLD which should be created in the purpose of exploiting the opportunities of the EU electronic market. This can be done by creating a European area of confidence.

Thus, the added value of an electronic European area of confidence, a reflection of the internal market, could be obtained via a number of regulatory tools ranging from a simple code of conduct to certification.

Two aspects of regulation are envisaged:

- the aspect relating to registration of domain names (defined by the naming charter) which deals with the conditions required for registration of a domain name and the protection aspects linked to registration of that name;
- the aspect of behaviour on the network requiring commitments by persons registering and which could be flexibly regulated and easily administered via a code of conduct.

3. NEED FOR INTEGRATED VISIBILITY

To conclude on the requisite added value of the TLD ".eu", UNICE believes that registration of domain names should be based on an integrated internet visibility strategy which includes many other tools such as:

- labels or codes of conduct,
- reference tools (directories, etc.)

Traditional and on-line (banner, link exchanges) communication in relation to the ".eu" domain name is also a key visibility factor for sites registered under this domain.

UNICE urges that such tools should be proposed to companies when they register a domain name under TLD “.eu”.

4. USEFULNESS OF RATIONALISING REGISTRATION OF DOMAIN NAMES IN THE EU

National ccTLDs have an undeniable interest for companies whose visibility on their national territory is crucial. National ccTLDs enable companies to target national markets in a highly specific way, through language, customs, local commercial usage and applicable legislation. They are marketing tools for localising offer, useful to both local companies and foreign companies seeking to target a market with a localised offer.

Thus, it seems pertinent to seek to rationalise and harmonise policy for registration of domain names in Europe. The idea of a “local one-stop registration shop” for all ccTLDs (national and “.eu”) should be developed with attention. Therefore, there should be full discussion between all ccTLD registries within the EU and the “.eu” registry to produce coherent registration policies and coherent domain name hierarchies.

Thus, UNICE calls for thought to be given to strategies for the synergy which can be generated between a European domain and the ccTLDs of each member country⁴, so as to rationalise registration of domain names in Europe⁵.

C. IMPLEMENTATION

1. REGISTRY POLICY

UNICE supports the principle that there should be a tangible relationship between the territorial implantation of a registered entity under a ccTLD and the territorial coverage of that ccTLD. This attitude is in line with the underlying idea that the corresponding code (e.g. “.fr”, “.de”, “.uk”, “.be”, etc.) is an element for identifying and localising the activity concerned without ambiguity. As a new ccTLD, despite its particular character, UNICE considers that this arrangement should also apply to “.eu”.

- Trademark protection and dispute settlement

Disputes in DNS relate mainly to manufacturing or commercial marks. Many of the trans-jurisdictional questions already raised in the framework of global generic TLDs could also arise in commercial applications in the “.eu” domain. All registrars for TLDs approved by the “Internet Corporation for Assigned Names and Numbers” (ICANN) are bound by the ICANN Uniform Dispute Resolution Policy (UDRP).

This UDRP does not necessarily apply to ccTLDs. But nevertheless most major national registries have adopted something similar, and it would seem to be only sensible for the proposed new “.eu” registry to do the same. It will be a high-profile organisation and it would give completely the wrong message to the world at large if

⁴ For instance, via a modulated charging policy and commercial incentives.

⁵ Registration of a domain name is one of the first concrete steps for setting up a web site. It is important to encourage companies to take this step, which should progressively lead them to conceive a complete strategy for electronic commerce.

it did not adopt the ICANN rules in their entirety or even something that is tougher. These are, after all, largely based upon the proposals by the “World Intellectual Property Organisation” (WIPO).

As for the European “Office for the Harmonisation in the Internal Market” (OHIM), it is in no position to act as a mediator, and UNICE believes OHIM is not geared up for the task of handling a competence such as this. In any case, OHIM is in charge of just registering European Community trade marks (CTM), reducing the backlog of CTM applications and dealing with a steadily increasing flow of new CTM applications.

Concerning any further constraining instrument in addition to the UDRP, UNICE believes that in order to avoid the confusion which would be caused by different national regimes within the EU for dealing with cybersquatting, the only solution would be to have a European Directive on the subject.

- Protection of personal data must be in line with the relevant EU directive

Discussions since the start of reform of DNS in 1997 have often raised the question of protection of personal data. This point is very important, since some approaches (in particular that of WIPO) make this a decisive element for acceptance of the good faith of a registration.

The guiding principle must therefore be to protect personal data while making it possible to:

- ensure that registrations are made in good faith;
- identify and contact the owner of the name easily in the event of disputes.

2. CODE OF CONDUCT

UNICE proposes definition of a European code of conduct as a confidence reference which could be applied by companies registered under TLD “.eu”.

Consultation with users should be put in place in order to determine the main factors which should be taken into account in this code of conduct.

Private sector operators in the EU should be capable of defining the terms of a reference framework to which they would then have to adhere. The structures put in place to manage the TLD “.eu” must therefore make adequate provision for these operators to be represented.

In the event of non-compliance with this code of conduct, there should be no question of withdrawing from a company a domain name in which it has invested. By contrast, the reference tools linked to the TLD “.eu” will only establish the visibility of companies which comply with the code of conduct.

The procedures for identification of non-compliance with the code still need to be defined, and perhaps also procedures for alternative dispute settlement.

3. PUTTING A REPRESENTATIVE STRUCTURE IN PLACE

UNICE calls for the EU institutions to be invited to assume minimum responsibility consistent with requesting creation of the domain and to play the role of competent authority of last resort for supervision of the domain. The authority thus acquired will have to be delegated to the representative structure as defined.

Whilst UNICE suggests that the EU will only exercise “minimal responsibility”, it should also be envisaged that the EU will retain “ultimate oversight” and “ownership” of the “.eu” domain name. UNICE believes that this requires close examination and much greater transparency on the part of the Commission. UNICE therefore urges the Commission to co-ordinate policy with operators on the ground, in the best interests of all of its Member States, European companies, and of EU citizens.

Concerning the enlargement of the EU, serious questions are to be addressed if the European Commission is to have control of a domain name which could potentially be of value to millions of companies.

The success of this project depends above all on the involvement of all European stakeholders. It is not a matter of moving rapidly but of going a long way. UNICE recommends that this consultation should lead to creation of conditions for putting in place a representative structure with decision-making powers, legitimised by its representativeness of the interests concerned, i.e. above all the interests of users (companies, consumers, individuals and institutions).

This legal structure could be charged with determining the political, economic and cultural objectives of operating a “.eu” domain:

- It would draw up a nomination charter for registration of domain names under “.eu”.
- It would determine the registration structure to be put in place, taking account of recommendations from ICANN, but also of what already exists, notably national structures for registration of national ccTLDs. The local “one-stop registration shop” seems to us to be a good route.
- It would draw up the specifications of the tender call for the technical service provider(s) (registry/registrar) charged with registering domain names under “.eu”.
- It would be in charge of monitoring development of the nomination charter.
- It would be in charge of the political, economic and cultural implications of the “.eu” domain and would report to EU stakeholders.

As far as the registry model is concerned, a not-for-profit association in the private sector would be preferred and this would be best if it operated as a shared registry on behalf of the internet actors including existing European Union ccTLD registries. Therefore, all ccTLD registrars should have the opportunity to become registrars for “.eu” domain names.

D. CONCLUSION

UNICE is prepared to contribute further to the success of the European domain name “*eu*”, to provide more detailed proposals, and to forward additional comments in view of the implementation process.
