

**Ethics and self-regulation: An analysis of the position of ICANN and the expansion of generic top-level domain names**

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In his study of self-regulation with reference to the Internet and privacy, Peter Swire equates potential self-regulatory functions to that wielded by a government following the traditional theory of the separation of powers. Questions arise over who makes the rules or legislates, how these rules are enforced and how judgements are made as to whether or not an infringement has taken place.<sup>1</sup> He juxtaposes the market approach which, while providing valuable technical expertise can sacrifice the needs of the consumer to the pressures of generating money, against the government approach which, while providing the mechanism and parameters of enforcement can, through the very nature of legislation, be too rigid, constraining and removed from market realities.

The dangers of self regulation are pinpointed as lying within the definition of “self” and the potential for the interests of those not belonging to the defined “self” being sacrificed. Swire concludes that government regulation should be more prominent in areas in which there is a perception of greater potential “danger” to the end user.<sup>2</sup>

The Internet Corporation for Assigned Names and Numbers (ICANN) is a self-regulatory body which controls the registration and coordination of Internet Protocol addresses. As the Internet grows, so does ICANN’s influence and importance, raising concerns about accountability and transparency.<sup>3</sup> Recently, the expansion of generic top-level domains has drawn criticism in relation to a perceived lack of wider societal values lying behind such a move.<sup>4</sup>

This paper seeks to analyse key ethical considerations in relation to the opening up of top-level domains in the light of ICANN’s self-regulatory nature and the need for an open and equal Internet.

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<sup>1</sup> Swire, P. Markets, Self-Regulation, and Government Enforcement in the Protection of Personal Information In: US Department of Commerce *Privacy and Self-Regulation in the Information Age* 1996 p7

<sup>2</sup> *ibid*

<sup>3</sup> Leonard, T. and White, L. Improving ICANN’s governance and accountability: A policy proposal *Information Economics and Policy* (23) 2011 189–199

<sup>4</sup> Katz, M., Rosston, G., Sullivan, T. Economic Considerations in the Expansion of Generic Top-Level Domains, *Phase II Report: Case Studies* 2010 <http://www.icann.org/en/topics/new-gtlds/phase-two-economic-considerations-03dec10-en.pdf> [Accessed 22/01/12]