Making Sense of Internet Governance: Identifying Public Policy Issues

Milton Mueller
Syracuse University Internet Governance Project
Outline

- The “G-word”
- Enumerate Existing Internet governance regimes
- Taxonomy for identifying policy issues
- Discussion of 4 specific policy issues
Existing Internet Gov Regimes

- **ICANN**
  - Private contracts used to address policy issues in intellectual property, competition policy, law enforcement, resource allocation.

- **Cybercrime Treaty (CoE)**
  - Hacking, Child porn,

- **WIPO**
  - “Internet copyright treaties” (Dec. 1996); ‘Casting treaty; domain name disputes and rights.

- **UNCITRAL and Hague Convention Private Law**

- **WTO**
  - TRIPS, Telecom services

- **Strong States exporting rules**
  - U.S. FTC, U.S. ACPA
  - EU competition policy decisions, Privacy Directive.
Proposed Int-Gov Regimes

- **Content regulation**
  - Bertelsmann Foundation classification scheme
  - Council of Europe “right of reply” on web sites

- **Settlement regime for ISPs**
  - APEC, Australia
Figure 1 - (Some) Internet Governance Regimes

- WIPO
- U.S. JUSTICE DEPT. (FBI, FTC)
- WHOIS
- UDRP
- ICANN
- TRIPS
- WTO
- BTS
- ITU
Public Policy issues in Internet Gov

- **Meta-Domains**
  - Jurisdiction
  - Cooperative Law Enforcement
  - Global Resource Assignment

- **Policy Domains**
  - Content regulation & culture
  - Data Protection, Privacy, Surveillance
  - Intellectual property and fair use
  - Trade & E-commerce
  - Competition Policy
  - Security/Survivability
  - Wealth Redistribution

Politics
Whois, Data Protection, ICANN

- The Whois protocol and directory
- Transformation of the Whois
  - Intellectual property holders/monitors
  - Law enforcement
- Conflicting regimes
  - Privacy, data protection norms
  - LEA, IPR interests in cheap access
- Is ICANN the best forum to resolve this?
  - Somewhat biased representation
  - Identity in cyberspace goes beyond ICANN’s mandate
Music downloading

“Regime” established via RIAA lawsuits.

Targets:

- End users
- ISPs
- Technical circumvention

Jurisdiction issues

- E.g., KaZaa

Fair use definition

IPR is too important to be left to the IPR lawyers/WIPO
gTLD addition (ICANN)

- Ad hoc beauty contests
  - Discretionary selection
  - Rules made up each time
  - Extensive vetting of business plans
- Discriminatory effects against
  - Entrepreneurial start-ups
  - Non-OECD actors
- Need to apply trade principles
  - ICANN process a violation of trade norms
Spam

- Law enforcement coordination
- Infrastructure regulation?
  - Hopefully not
- Capacity for end user-driven technical adjustments
  - Filters
  - Caller ID
  - Attention bonds