



AfrinIC

Legal and Policy Aspects of CIRs

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Opportunity for Africa

1. Existing IPv4 Resources
2. The very low IPv6 penetration
3. Longer time for co-existence of transition networks
4. Longer Investment window
5. Learning from other RIRs

New Scramble for Africa

1. Illegal Access to IP Numbering resources
2. Depletion of African “Scarce Resources”
3. Size of “legacy Space”
4. Development of parallel markets
5. Undercutting of AfriNIC Legitimate Power.

Characteristics of IP Numbering resources

1. Economic Resource
2. Scarce goods
3. Key factor in democratization of access to Internet
4. Of value to all participants
5. Hold substantial potential for economic growth

ASSESSMENT

1. Policy Aspect

2. Legal Aspect

Policy Aspect

1. Transfer

2. Emerging grey/black/secondary market

3. Recovery-Unused/underused/legacy space

4. AfriNIC-Overt regulatory functions

TRANSFERABILITY

1. Application of “needs basis” criterion
2. Mandatory approval of RIRs
3. Formal Transfer Request
4. Application of RSA terms and conditions
5. Introduction of a transfer fee.

Control of Market(grey/black)

1.Imperative Collaboration of users and RIRs

2.Compliance with RSA(Investigation/Whistleblowing)

3.Sanctions

Recovery-Unused/underused resources

1. RIRs=Custodian=Duty to recover
2. Costly Exercise v/s scarcity of resources
3. Lengthy Process
4. Legal Issues involved-Pre RIRs allocation???
Proprietary/ownership rights???

Regulatory Functions

- 1.Ensuring access
- 2.Conservation obligation
- 3.Prevention of concentration
- 4.Transparent usage
- 5.Prevent siphoning to other areas
- 6.Enforcement

Legal Aspect

Application of RFC 2008

- 1.Rejection of the notion of address ownership
- 2.Reasoning not based on economic factors
- 3.The “lending model” ensured the continued growth and work of the Internet.

RFC 2008- RECOMMENDATIONS

1. The address lending policy should be formally added to the set of address allocation policies in the Public Internet

2. Organizations that do not provide a sufficient degree of routing information aggregation to obtain access to the internet routing services should strongly be encouraged to use this policy to gain access to the services

Lending Method

- 1.The application of this notion/concept reinforces the “needs basis” approach to the allocation of IP Address Space resources.
- 2.It gives the RIRs in its regulatory function the authority to prohibit bilateral transfers between users outside their(RIRs) jurisdiction
- 3.This Prohibition to be a mandatory condition of “lending”

Treatment of legacy space

1. Number resources allocated to legal persons before advent of RIRs

2. Valuable assets

3. Not within jurisdiction of RIRs

4. Potential for the development of a secondary market

Legal Status of holders of legacy address space

1. Transfer

2. Emerging grey/black/secondary market

3. Recovery-Unused/underused/legacy space

4. AfriNIC-Overt regulatory functions

Judicial Pronouncements

1. Status of RSA
2. Application of RFC 2050
(Non-proprietary rights)
3. The right to use IP Addresses –not a proprietary right-non-transferable between holders-right of use
4. Presumption-No need exists for holding if transfer considered-Relinquish-case of spectrum

THANK YOU
