

ICANN71

IP RIGHTS AND
DNS: WHEN
OVER-BLOCKING
THREATENS THE
INTERNET

A CASE
STUDY FROM
ITALY

Agenda

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THE INTERNET WAY OF
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4

IMPACT ON THE CRITICAL
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5

CALL TO ACTION

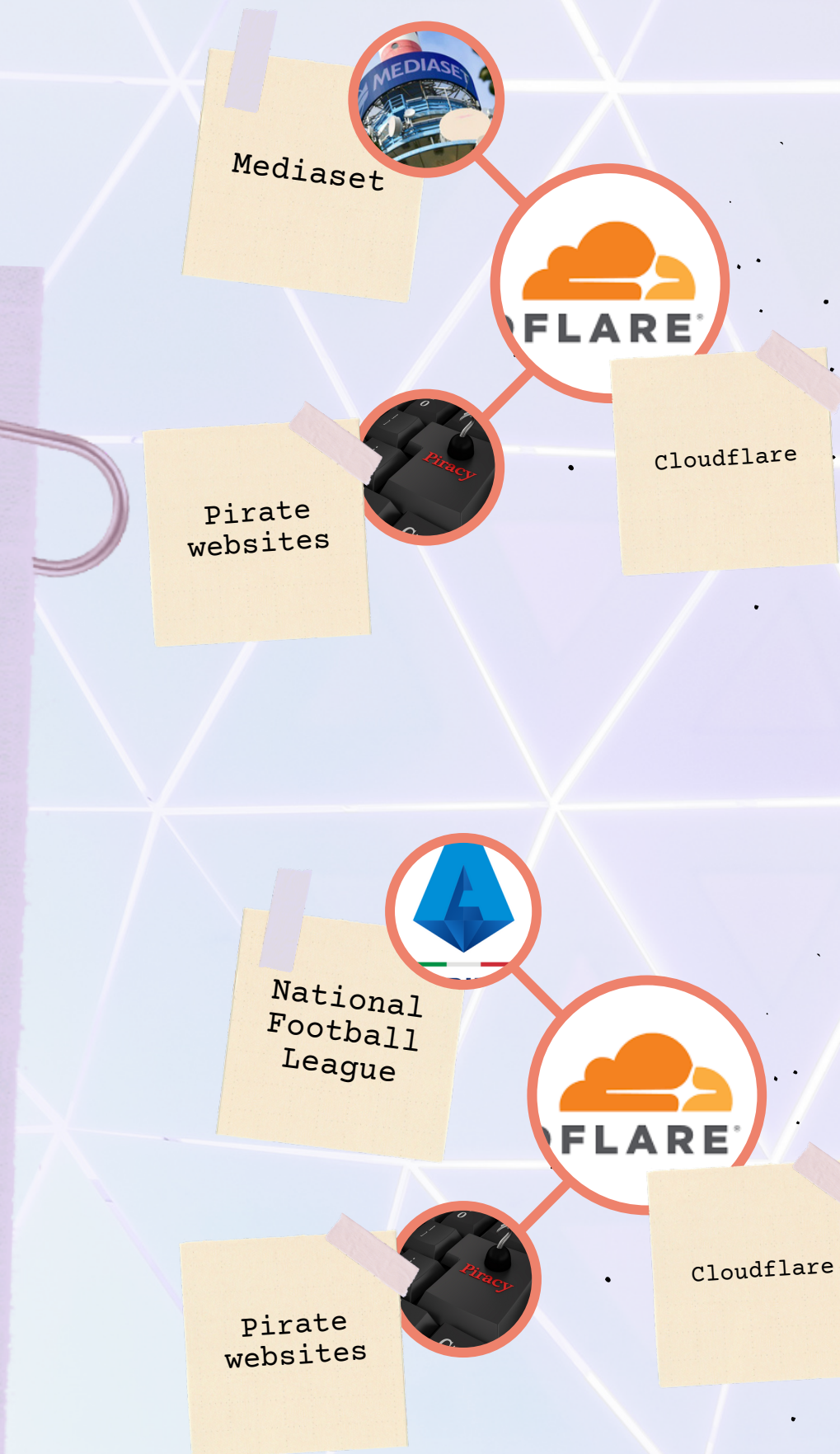
Background

In 2019, RTI sought an injunctive relief against **Cloudflare**, an infrastructure operator whose customers were found in violation of the Italian Copyright Law for having illegally reproduced popular TV shows. Cloudflare was ordered to disable access to these IP addresses.

In 2020, a similar complaint was issued against **Cloudflare** and other Internet access providers by the **National Football League** and **Sky**, demanding the shutdown of a consistent number of websites displaying copyright protected content, by pirate-streaming Serie-A football matches.

Rome

Milan

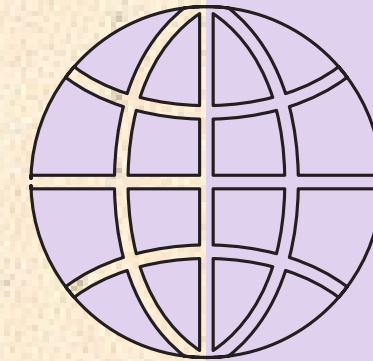


The Internet Way of Networking (IWN)

Why it is important

The Internet owes its success not only to the technology, but to the **way it operates** and **evolves**. The Internet provides unprecedented opportunities for advancing trade.

The online environment empowers individuals to **connect, speak, innovate, share, learn, and organize**. There are virtually infinite opportunities in which we can use the Internet as a force for good. To make sure we can keep using it this way, we need to recognize and protect its **critical properties**.



The Internet Way of Networking (IWN)

1. An **Accessible Infrastructure** with a **Common Protocol** that is open and has low barriers to entry.

Benefits:
global connectivity, growth.

5. A **Technology Neutral, General-Purpose Network** which is simple and adaptable.

Benefit:
ability to continuously meet the requirements of a diverse, constantly evolving, environment.

The critical properties

of the Internet
by



2. **Open Architecture of Interoperable and Reusable Building Blocks** based on open standards development processes voluntarily adopted by a user community.

Benefits:
common interoperable services and reusable building blocks allow for fast, permissionless innovation everywhere.

4. **Common Global Identifiers** which are unambiguous and universal.

Benefit:
consistent addressability.

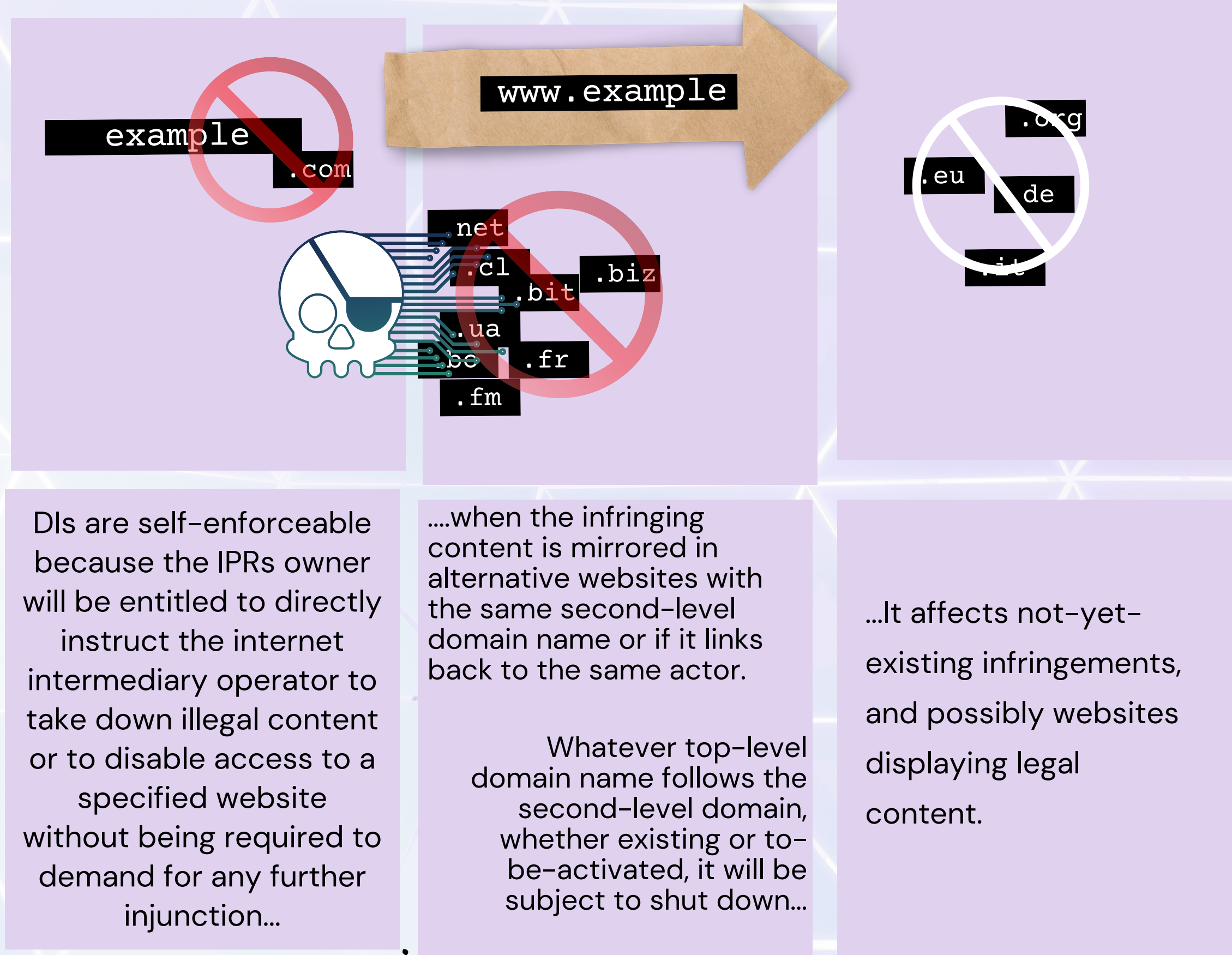
3. **Decentralized Management and a Single Distributed Routing System** which is scalable and agile.

Benefits:
global reach, resilience, and optimized connectivity.

Dynamic Injunctions

An increasing practice to fight online piracy consists in demanding the Court to shutdown the currently active pirate website and all the possible declinations of that very second-level domain name (so-called, **alias/es**).

This is also known as "**over-blocking**"



Impact on the Critical Properties of the IWN

The Italian case-law (*Cloudflare*) and the **over-blocking** frustrate the growth of the network since **Dynamic Injunctions** (DIs) hit not yet existing DNSs, leading to a distrust by the net citizens.

The research focuses on whether this case-law can be harmful to the Internet Way of Networking, by affecting one or more of the following CPs:

#1

Global connectivity

Does over-blocking prevent us from collaborating across the world without national borders?

Does it restrict an open and accessible infrastructure?

Open architecture and interoperability

#2

Do DIs prevent Internet intermediaries from UNIVERSALLY understanding the base architecture of the Internet?

#3

Distributed Routing System

Does over-blocking centralize the control of the Internet?

Does it introduce a permissioned access to the Internet?

Common language

#4

Do DIs build new gateways to help data get from point A to B?

#5

Net neutrality, general purpose technology

Does over-blocking prevent us from sending different kinds of content online from point A to B?

Call to action



Forums/Policy




Internet Governance



Organisations

NRIs


Working groups

 **IGF** Internet Governance Forum

Dynamic Coalition on DNS Issues (DC-DNSI)

Dynamic Coalition on Network Neutrality (DCNN)


Best Practice Forums



#Deargovernments

Open advocacy

Regulatory Observatory

 **ICANN**

Generic Names Supporting Organization

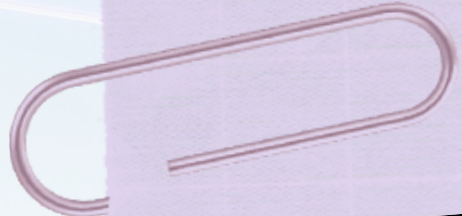
Contracted parties house

Non-Contracted parties house

Business Constituency

ISPs and Connectivity Providers Constituency

Intellectual Property Constituency



**Thank
you!**

Resources

INTERNET SOCIETY, Internet Impact assessment toolkit,
<https://www.internetsociety.org/issues/internet-way-of-networking/internet-impact-assessment-toolkit/>

INTERNET SOCIETY, Use Case: Intermediary Liability,
<https://www.internetsociety.org/resources/doc/2020/internet-impact-assessment-toolkit/use-case-intermediary-liability/>

Martin Husovec, Over-Blocking: When is the EU Legislator Responsible?,
February 11, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3784149

Court of Milan (Ordinanza di conferma, 05/10/2020)

Court of Rome (Ordinanza collegiale, 24/06/2019).