Who Seeks Control over The Internet ?

A conference by Benjamin Bayart

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<u>Introduction</u>

Host A.P. Christophe Morvan :

Let's welcome Benjamin Bayart, chairman at French Data Network (FDN), which is a non-profit internet service provider, founded in the early 1990s. That makes it the oldest French ISP[1], commercial and non-profit altogether.

Benjamin has been FDN's chairman since 1997. His professional experience, both in the technical and organizational fields, has given him a deep understanding of networks, and, more relevantly, the Internet.

He will converse with us tonight about the evolutions he's been in the position to witness, in this conference titled "Who Seeks Control Over The Internet ?"

Speaker Benjamin Bayart :

Since you've introduced me so well, let me stress a point here.

In those ancient times, back in 1992, and as far as internet operators are concerned, non-profit organizations were rather the norm – as opposed to the exception they've become today.

Only later, merchants saw there an opportunity for business. But, back then, organizations like ours were created to provide a service no one else would. We and others wanted something unavailable, so we banded together in order to set up what we needed.

Such an approach still seems utterly normal to free[2] software people today, but completely unnatural to everyone else : the notion that you could actually move your butt to get what you want.

Just so I know who I'm talking to, who's here because of my other conference *« Minitel 2.0 »* ? Ok, about half of you.[3]

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[1] ISP stands for *Internet Service Provider*, usually providing Internet access to the public for a fee.
 In this conference, the more generic term *network operator* will also be used. ISPs are a common kind of operator.

[2] Except where the context obviously implies otherwise, occurrences of the word *free* in this conference are to be understood as in *free speech* (in French : *libre*). Sometimes the word *open* will be used, which has a neighbouring meaning.

[3] A quick summary of *Minitel 2.0* (not at all necessary for understanding the present conference, but still valuable since there is to this date no complete translation available) : the Internet is a weblike network, which means a network without a center. That's what makes it so robust (you can't kill it by aiming for the heart since there is no heart), so flexible, and so democratic. The present trend that tends to group websites on big servers (or server clusters), or centralize information at Google, people's videos at YouTube and DailyMotion, individuals' blogs on websites hosting thousands of them, etc., is the opposite of the Internet's spirit, and goes against its innate structure. There is no structural limitation preventing anyone from hosting everything they want to share or communicate on their own connected computer, at home. Unfortunately, a recent commercial trend tends to technically impede such home hosting, and make centralization a better practical solution for unaware individuals which are used to a passive consumer's attitude and more centralized networks such as TV. That implies fragility (all eggs in same basket), bottlenecks (data traffic congestion), and a greater vulnerability to government or corporate control. It also raises privacy issues (third parties hosting your correspondance and data).

Let me explain why I am here. Christophe here asked me to come and give a speech at the INRIA's local branch, earlier today. It was a private event, and if I was to do it, I also wanted to speak to you, free software people. You see, I'm doing this for free, and the least I expect in return is for my usual audience to be able to come and hear me.

So I gave a rather technical speech this morning, titled *« Who Controls The Internet ? »* – similar title, but different topic. I will now summarize it in a quick introduction.

Then we'll talk about the HADOPI bill[4], and why it is so controversial. Then on to the concept of network neutrality. Then we'll badmouth obsolete industries – then badmouth newer ones as well. Then we'll discuss public speech a bit, and then the conlusion.

I expect all this to take about 90 minutes. 75 minutes if I get stressed, 2 hours if you ask many questions.

All right –

He also asserts that peer-to-peer applications, while often used in a legally questionable manner, are closest to the open spirit of the Internet, since they inherently fit its centerless structure, instead of using it as a mere support for centralized subnetworks (like Facebook, Gmail, MSN, ISPs, and probably most of what you are used to).

The full title is « *Internet Libre, ou Minitel 2.0 ?* » (8[es] Rencontres Mondiales de Logiciel Libre (RMLL/FSM), Amiens, France, 10-13-2007).

(1st half : `http://www.dailymotion.com/video/xktiog_ubuntu-party-10-10-internet-democratie-danger spar-benjamin-bayart-1sur2_tech#.UP5WCjVP9p4` ; 2nd half : `http://www.dailymotion.com/video/xktl4z_ ubuntu-party-10-10-internet-democratie-dangers-par-benjamin-bayart-2sur2_tech#.UQfTOjVP9p4`)

[4] HADOPI is the nickname of a French anti-piracy law focusing on file sharing over the internet. That law proposes the creation of an administrative authority labeled HADOPI. It was the inspiration for the American SOPA (Stop Online Piracy Act), and stirred controversy in France just as it did in the U.S. Finally, by the time of this translation, the law was passed in France (while rejected in the USA) and two administrative bodies vere created : HADOPI and CDP. However, opposition was so strong that the resulting law and procedure are little more than mere intimidation, and unapplicable according to some lawyers (`http://www.maitre-eolas.fr/post/2010/06/29/HADOPI-%3A-l-opération-Usine-à-gaz-continue`).

Nevertheless, domestic connexions can now legally be monitored for file sharing in France.

To this day, HADOPI remains the common nickname for that whole control procedure.

<u>Technical Summary</u>

So, a quick technical summary :

What actual control is exercised over the Internet today ?

Even though the Internet is a centerless network, not managed from a central point of authority – I mean, the Internet is not one central network to which all operators connect. The Internet is the web resulting from all operators connecting with each other. No operator is more central than any other.

However, a few technical aspects require basic regulation. A simple example : Two machines in the world can't have the same address [5], or the whole thing wouldn't work. Just like you can't have two phone suscribers with the same phone number... It wouldn't work.

Several bodies deal with such issues. Here are some :

The ICANN, a Californian non-profit organization, is the reference authority. They set the rules for distributing, of the Internet's resources, those which are limited. They set the rules for IP-address attribution, domain names [6], etc. Occasionally they arbitrate disputes around these matters.

The IANA is the ICANN's armed wing. They do the technical work, according to the ICANN's rules. When someone needs an IP-address block (any amount of consecutive addresses), or an AS-number [7] allowing them to become an internet operator (of which there are about 60,000 today), the IANA is the allocating authority.

The IANA delegates regionally, to the ARIN for North America, the APINC for Pacific Asia, the LACNIC for South America, the RIPE for Europe, the AfriNIC for Africa, etc. They, in turn, delegate to smaller structures, the Local Internet Registries, of which there must be somewhere between 10,000 and 20,000.

What is important to remember here ? That these people, who have actual control over the Internet (they're the closest thing to a center, if you insist on looking for one), carry their control out on a strictly technical level. When they make sure each IP-address gets attributed only once, their concerns are of an exclusively technical nature. Whether you use your address in a way that suits your local government, or whether local ISPs are bound to censoring by law, is not their concern. They don't care whether you use the network lawfully. They care whether the network works.

And they do everything necessary for it to work. Their job is to manage the scarcer resources, to make everything that needs to be unique unique – and it all runs rather smoothly.

For example, we've heard a lot about the Internet growing so rapidly that it's about to collapse... There isn't one bit of truth in that. If you read the ICANN and IANA's memos, you'll see that they always

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[5] Further on, the exact phrase *IP address* will be used instead of just *address*.

[6] Domain names look like this : *domainname.com* , *anyname.org* , *whatever.ca* , ... They each correspond to an address. While IP-addresses are just numbers, domain names are meant to be their representation in a more human-friendly form. This explanation is of course somewhat simplified but will do.

[7] *AS* stands for *autonomous system* – not that it matters here.

plan at least five years ahead. The running out of available IP-addresses, which should occur within the next two years if we keep allocating them as massively as we do (which isn't surprising, since there are only 4 billion possible addresses for 2 billion Internet users, and considering entire blocks are reserved for structural reasons), has been addressed when I was still a student – and I graduated in 1996. So the collapse of the Internet is a mostly unfounded rumor, *because these people do their job well*.

It is highly worth noting that these are non-profit organizations.

They don't answer to shareholders, and almost as little to governments.

There is some influence from the US government, but quite negligible. The few official representatives only sit at the ICANN's board, which sets the rules. Remember : those rules are strictly technical. I have been around political figures for a while now, and I'm still to meet one who wants to discuss IP attribution, compare BGP versions, or worry about whether IPv6 is more apt than IPv4 – seriously, they don't give a damn.

Since these organizations are politically independent, and spread around the whole world, they manage to stay trans-governmental. It is a bit as if they were a branch of the United Nations, except that if they were, it would be a mess : all governments would realize the importance of the issues, and politicians would claim their say... So every time Iran would say something, the USA would feel obligated to say the opposite, then Israel would get pissed off in between – the usual mess !

By managing to stay between themselves, engineers successfully kept their focus on what they were doing, discarding irrelevant bias. This functional model ressembles the Bazaar[8], a concept known to free software developers : The idea is that whoever does a thing is presumably right about it. It is a very democratic way. Not everyone votes: only when you do something, then you have a say about it. [9]

I'll give you an example : Would I, an ISP, be unhappy about the way IP-addresses are allocated in Europe, my feedback to the RIPE is very welcome. In fact, they invite us (like, *please* do come !) to conferences and working sessions, every other month. Yet, of the nearly 15,000 European operators, usually less than 10 go. Needless to say, if you come a few times in a row, you'll be spotted as involved in the matter, and listened to.

That's just like the free software mentality : has their say whoever gets involved.

So, that's who controls the Internet, and how. That control was always purely technical, and very well done. (Sure, it's not perfect. There are a few unpleasant practices – the domain name business, to name one – but most of it is managed excellently.)

I spoke about this at length this morning, but I think this summary will suffice now. [10]

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[8] Reference to Eric S. Raymond's essay, *The Cathedral And The Bazaar* (1997), on software engineering methods.

[9] Having a say does not depend on any formal rule. It just means that others will want to listen to you. Just like not having a say only means others won't be so interested in listening to you.

[10] For a more detailed, technical history of the Internet, see :
  `http://www.internetsociety.org/internet/what-internet/history-internet/brief-history-internet`

<u>The HADOPI Controversy</u>

Let's first remind those of you who would have kept away from the news for the whole last year what HADOPI is.

The idea is simple : to stop children from downloading artists to death, we're gonna let the majors keep a close watch on our networking habits, so they can spot whoever shares music. Then when those corporate entities spot someone, they can report them to an Independent High Administrative Authority (a very fashionable concept, these days), which can, among several powers, ask the ISP who the perpetrator is, and then, if the latter commits the same offence again, cut them off the Internet, thus putting an end to the online slaughter of artists.

That was the draft's spirit. That's the law Denis Olivennes sold Nicolas Sarkozy [11] under the name *accord de l'Élysée*.

They went gaily, nobody around understanding or caring. Moreover, it seemed to make sense : if you misbehave, you get cut off, just like brats are cut off TV. Easy.

With such a text, that didn't seem, at first glance, too painful, they still managed to get barred by the Constitutional Council, based on various stuff, among which : article 11 of the 1789 Declaration of Rights of Man and Citizen !

They didn't get opposed a subtle or obscure article of the civil code, see ? The opposed argument was plain and simple.

So what does article 11 of the 1789 Declaration of Rights of Man say ?

"The free communication of ideas and opinions is one of the most precious rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law."

It is the article defining freedom of speech.

I remember that, except for a few possible teenager's fits, I never accused my parents of denying me freedom when they would cut me off TV. And I'm pretty sure no one else would have told my parents they were violating article 11 of the 1789 Declaration !

So what's just happened ?

How does something supposed to cut brats off TV end up being rejected by the Constitutional Council (I mean, the Constitutional Council is not exactly a bunch of liberal lefties...!), based on the Declaration of Rights of Man and Citizen ?

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[11] Denis Olivennes is a French businessman (in the media and media retail sectors, for the most part) and statesman. He presented the Minister of Culture and Communication Christine Albanel his memo *Le développement et la protection des œuvres culturelles sur les nouveaux réseaux*, which inspired HADOPI. Nicolas Sarkozy was French president from 2007 to 2012. (Not that names matter much here...)

I'll spare you the verbatim legal mentions 12 to 19 from the Council's decision, and give you two paragraphs from their press release that are not too jibberish – I hope lawmen will forgive this simplification :

Freedom of communication and speech, as defined in article 11 of the 1789 Declaration of Rights of Man and Citizen, is constantly upheld as protective case law by the Constitutional Council. [...] Such freedom implies today, in view of the generalized development of the Internet, and its importance as a medium for participating in democracic society and expressing ideas and opinions, freedom of accessing those services allowing for online public communication.

Here, the Constitutional Council has asserted that the Internet is not just TV. They've asserted that the Internet is a tool for democracy.

(I've been passing for a fool, trying to say just that for the last two years !)

The next paragraph is interesting :

Now, articles 5 and 11 of the proposed law gave governement agency HADOPI disciplinary powers allowing them to limit or suppress an entitled user's access to the Internet. Hence, such powers could lead to limit any person's right to communicate and express themselves freely. In such case, the legislator cannot, regardless of any guarantee addressing the sanctions' propriety, leave such powers in the hands of an administrative authority for the sole purpose of protecting copyright owners' interests. Such powers can only fall to a judge.

Are there lawyers in the room ? So let me make this clear. What the Constitutional Council reminded us is that, in law, there's a simple, basic principle : Only a judge can take your freedom away.

What other example of taking a man's freedom away do we know ? Prison. (We don't cleave people to death anymore, though that pretty much took freedom away too.) That you don't send a man to jail without running him in front of a judge is about common sense today. A couple of days in police custody infringes to this, but that's the only exception.

Hence, what the Constitutional Council said is that the government, all innocent, while pretending to discipline children, was about to curtail some of our fundamental liberties !

The issue is not whether children listen to music correctly anymore.

It is a whole different scope.

Not just because we, opposers to the bill, say so. Also and mainly because the Constitutional Council has said so.

Had we fought for adding Internet access to basic rights in the constitution, all would have laughed in our faces – and rightly so, too, since it's already been in there for centuries !

<u>Network Neutrality</u>

Now, let's try to understand what this means. We're all vaguely aware Internet issues are important, but why are they important ? How does it translate practically ?

There's one criteria the Council hasn't grasped the importance of yet : *network neutrality* – for a reason : it's tediously technical.

So, what does the network's neutrality mean, and how can I explain it to you without getting too technical ? I am aware, from the average age in this room, that most of you must be computer guys, but I'd like to give you arguments you can use at dinner tonight, would you find them valid.

First argument :

While a message can be considered problematic, the messenger cannot.

You don't sentence a messenger because of the message they carry. We've known that since ancient Greece.

A second way of explaining network neutrality could be : *Postal services don't open mail*.

Let me elaborate. I'm not allowed every use of the mail services I could fancy. For example, I may not mail cocaine to my friends, or get cocaine mailed to me. Yet, mail services don't open mail. Regardless of the mail's content, they don't have the right to open it. The authority entitled to do so is not them. It is the customs.

That would get even more problematic when mail operators get privatized : then a commercial company would be required to enforce the law by opening your private correspondance. That's hard to picture. Yet, on the Internet, all we have are private operators.

We can also make a comparison with the telephone network. Some uses of it are illegal. For example, you can't harrass people on the phone. Yet, *the phone company doesn't enforce that law either. The police does*. The police can listen to a line, then find who the perpetrating caller is. Sure, they do it through the phone company, but the phone company won't disclose anything without a police warrant, issued by a judge.

Such examples are useful to understand network neutrality. The key notion is : *Whatever needs to be done is not for the network to do.*

Neutrality of the Internet, which is a very special network, entails other issues :

As you may have read in the press, the Internet is a network of networks. What does it mean, besides a journalist's fine word ? It means that internet is just the common norm different networks voluntarily agree upon when connecting with each other.

The reason I, an FDN suscriber, can surf the personal website of an Orange suscriber, is because Orange and FDN, without consulting each other directly, agreed on the way of connecting their networks together. In fact, there isn't even a direct connection. There are several networks in between, and all, *without being bound to it by law*, agree on the same norm.

Every one agrees on respecting the ICANN's rules : every one agrees that they can't use IP-addresses that were not allocated to them by the IANA, et caetera.

The Internet is the networks' network. That everyone agrees on respecting the same rules is fundamental, lest it would be the end of that network. [12]

The Internet being that network of networks, it is by definition centerless. There is no central operator through which all traffic is routed. The strictly opposed kind is the *star network* : one central server to which peripheral terminals connect [13]. Each terminal is connected to that one and only main computer (the server), and can't connect to more. Internet is not like that : nothing is central.

Let's look at this another way again :

A conventional network is intelligent, and serves passive terminals.

Grandpa's landline phone is a typical example of that. You know that Bakelite device, with its big rotary dial ? It's an amazingly stupid device. It contains no computer part – its complexity is about null. The whole and only intelligence involved is the network's.

Did you know that requesting a number is achieved by just interrupting the line ? You can request a number even without spinning the dial : depress the switch hook 3 times quickly to dial the number 3... You don't even actually need the dial.

The network is so clever that it understands what number you mean from mere line interruptions, allowing for domestic devices so stupid they can't even read their own « keyboard » by themselves ! [14]

The Internet is just the opposite : The network is an idiot. It doesn't understand what it does, and doesn't have to. It just carries data from one point to another. Data packets are labelled with their destination address, and that's all the network needs to know or cares about.

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[12] In practice, what would happen if one network started messing up ? The most likely outcome is that other networks would simply disconnect from it in order to keep working together.

[13] Here, the translator took some liberty. What Benjamin Bayart actually says is : *The directly opposite example would be the Minitel.* Minitel was the common name for a Videotex network that was as wide-spread in France as the landline phone network, during the decade preceeding the vulgarisation of the Internet. The then-national phone company operated it. Phone and Minitel came together as a bundle subscription. Service providers would be clients of the phone company too (though another kind of clients, at another end), and you would pay for their services by the minute, being charged for them through your monthly phone bill. It was an asymmetric, centralized network. The central server's was the phone company's, and your Minitel terminal was a rather passive client (later on refered to as a « stupid client »). Hence the title of B. Bayart's previous conference *"Internet libre ou Minitel 2.0 ?"* which could translate as "Open Internet or Minitel 2.0 ?". (See footnote #3)

[14] Push-button phones use a different but just as simple system (see `http://en.wikipedia.org/wiki/Dual-tone_multi-frequency_signaling`). The phone network is clever enough to interpret both systems indifferently.

Intelligence is peripheral : when you surf the web, the intelligence resides in your browser (rendering pages) and the server (sending you each page content you request). The network between both is about as dumb as a water pipe. That's all we expect from it – It must not do more.

Another quality of the Internet is being a *symmetrical network.* [15]

This means your browser and the server can swap roles at any time. You may not know this, but, today, any one of you could install their own web server at home. There's no reason not to host your personal website on your own computer. (Well, except for those of you who turn it off at night, of course.)

The network is structurally, entirely symmetrical. Which makes sense, since it doesn't know what it carries : It sees a data packet coming from you to a web server, and then, what a coincidence, another one coming from the server back your way a few milliseconds later... Can it tell who requests from who responds ? It doesn't care. It just carries. Just like postal services are unable to tell, from a mere exchange of mail, which party's asking questions from which is answering. For them, it is just mail exchange. Symmetrical.

Ok, let's summarize this :

A common network, doing about nothing, was the simplest possible agreement between parties when connecting their networks one to each other.

This means, neutrality is the very definition of internet. *The Internet is, by definition, the neutral network all have agreed upon, in order to connect with one another.*

To dispense with the Internet's neutrality is to dispense with the Internet.

To want an intelligent Internet is to want no Internet.

I can't stress this point enough :

To expect the network to solve *any* problem, through *any* mean, is a mistake.

Hence, expecting network operators to enforce laws is a mistake. It is not their place to do that. Their place is to carry packets.

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[15] An example of asymmetrical network would be the water distribution network : producers and consumers' roles are defined structurally and can't easily be swapped. (B. Bayart gives this example in several other conferences.)

Now, is network neutrality a fundamental freedom ? Because the Constitutional Council's decision sure seems to lean that way...

Well – basically, no.

Network neutrality is not a fundamental freedom in itself. But, as the Council says, freedom of speech is. As we've known for 220 years, too. And they say freedom of speech relies on the network's neutrality. If the network is not neutral, if it acts as a filter, then you've got limited access... and to limit your access is an infringement on a fundamental freedom.

Freedom of information, just the same, relies on the network's neutrality. When the network isn't neutral, you can't rely on the information you get.

The reason you can be sure what you hear is what I say, is because the air between us is neutral. You know you can rely on air to not distort the message. At worst, it can alter the sound of my voice, but not my words. Not changing a word makes it a neutral medium. You know you can reasonably believe you're hearing my words because you know the medium is neutral.

If someone here was repeating the words I would speak in another room, then you could reasonably doubt you're hearing my exact words. You could think : This isn't Benjamin's phrasing – it's too polite to be his...

There's yet one more freedom depending on network neutrality : freedom of competition.

It *is* somewhat of a dirty word among us, but *freedom of choice* is what I really mean by it.

Freedom of competition means I can buy a computer from a brand of my choice, install it with software of my choice, connect it to the service provider of my choice, and still access the same Internet as everyone else.

I must access the same Internet through Mac OS X running on an Apple computer connected to Orange's network, as through Linux running on any other brand of computer connected through, say, FDN.

This is most crucial : If we don't all see the same Internet – if, as Orange's ads say, *« there's internet and then there's INTERNET »* – then there is *no Internet* !

It's this simple. There's no such thing as « freedom *and then* FREEDOM ».

There is freedom on one hand, and on the other hand everything else.

I don't mean everything else to be necessarily unappealing. Some people fantasy about handcuffs... Between consenting adults, why not ? But a network behaving as a modification of the Internet – they say it's modified for the better, sure : they're selling it to you. They wouldn't get far by claiming it's been

modified for the worse. But a modified Internet is *not* the Internet. It is... something else[16]. Actually, their great improvement of internet is most times just TV.

Freedom of competition must mean *freedom of choice.* It must mean that I can freely change operator, and remain free, always, to access any service just the same.

Suppose I'm not such a big fan of YouTube, because I like DailyMotion better – it is my right. Now if Orange strikes an exclusivity deal with YouTube, then Orange suscribers could have their ability to post videos on DailyMotion taken away.

The network's non-neutrality impairs competition. It gives the already dominant parties leverage to extend their position.

Non-neutrality is a way to reject new competitors. If the major application service providers strike deals with the major internet service providers, for their services to get traffic priority and be carried in a swifter way... Anybody coming up with one same service, only better (say it now blinks and flashes, or any improvement serious enough to strike a buzz), would be very small at first, like, five guys in a garage. They couldn't make deals with majors. Hence, their new service wouldn't be carried in that a swift way. Hence, it wouldn't work well at the user's end. They would thus have no fair chance to grow.

I don't know who among you is old enough to remember the dawn of Google. I am : before Google, the major search engine was Altavista. Yahoo was slowly gnawing its way up the market... Then Google came. Google was a handful of students' project – five guys in a garage. How short a time did it take for them to smash all competition ? Two, three years ? At max. Just because their service was better. That can just not happen in a non-neutral network.

No matter how big and mighty Google is today, anyone can still come up with a better search engine, and go from nowhere to a decent position in two years. In a non-neutral network, that becomes impossible. [17]

Finally, this argument wouldn't be complete without a discussion on *privacy issues*.

Of everything you post on the Internet, you obviously want some to remain private. Now, you can only trust the network to uphold your privacy. Would the network be given the ability to lie, how could I be certain a picture – say a picture of me and my neighbours' little orgies, for which I'd have every privacy setting checked and double-checked, just to share among us, you know, like holiday pictures. Would the network be prone to lying, then how can I be certain a picture that appears private at my end won't be made public at some other ?

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[16] Interviewed by ARCEP on 5/24/2010, B. Bayart pleads the lawmakers to state exactly what can be legally sold under the internet label – just like you can't sell everything as beef. (`http://www.youtube.com/watch?v=xw66YBTmVZ4`)

[17] That freedom of competition relies on network neutrality also concerns merchants not dealing in internet products but using the Internet as a market place : only network neutrality guarantees small merchants fair access to the public, alongside large retailers. It also concerns independant artists, people trading knowledge, thoughts or opinions... which in the end means everybody.

How can I be sure my demand for privacy is being met ? Sure, if I try to see my pictures without confirming my identity, the network will deny me access. But maybe someone else, somewhere else, will be able to access them – if the network lies, how do I know ? I can't know if my mail is being read.

So, while network neutrality isn't a fundamental freedom, it is a fundamental principle.

Just like separation of powers – I like this comparison : separation of powers is not a fundamental freedom in itself. But it is a principle. A principle upon which several fundamental freedoms rest.

Likewise, *network neutrality is a principle upon which some very fundamental freedoms rest.*

Freedom of speech is a real issue.

It doesn't come as a shock that the countries requiring filtering of the Internet are all notoriously non-democratic : China, Iran, France... *[Audience laughs.]* All countries oblivious to Human Rights !

Yes, France. I do have to mention it, since you can read in that HADOPI bill we've been fighting, article 10 : *filtering of the Network*. In plain. The Constitutional Council didn't reject that article, but they castrated it in their typical fashion : limiting it with an interpretative reservation. It's their way of saying « that law is acceptable only if understood this way... » – and the way is such that the article can't come into effect.

Let me insist once more on network neutrality :

The freedom we've fought HADOPI for is not to download music. That is not the issue. That is just the government's fantasy. That was Christine Albanel's simplistic idea [18]. The real issue resides in the Constitutional Council's expressed concern : are we curtailing fundamental freedoms in France ?

The answer ?

A majority of members of the Assemblée have voted in favor of it, blindly. Three times.

First time, it was rejected on a technicality. Second time, after both the Assemblée Nationale and the Sénat had voted in favor, it got rejected by the Constitutional Council. Out the door, back through the window : after a preliminary *third* vote last July, they just passed it a few days ago. The Contitutional Council will examine it soon.

That is the real issue.

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[18] Christine Albanel, promoter of HADOPI, was President Nicolas Sarkozy's Minister of Culture and Communications.

To add perspective, note that Americans share this point of view : the chairman at FCC (their federal regulator of communications), who was given his position by President Obama to, among other duties, watch over the network's integrity, just stated last monday, in his first and much awaited, speech [19] :

« [The Internet is] the most transformational communications breakthrough since the printing press.»

...I feel better already, since it validates the conclusion of my 2007 conference[20], in which I assert that internet will change society at least as much as the printing press did.

Can you see how major that is ?

The Renaissance, that explosion of knowledge throughout the 15th century, could not have occured without the printing press. Without the renewal of ideas the press allowed for, no Renaissance. And without Renaissance, no Enlightment philosophy. Yet, the Enlightment philosophy is all modern democracy's main source of inspiration.

Big chunks of that philosophy originated in France, like Separation of Powers or Human Rights, which we don't uphold too well ourselves but were successfully spread to the USA. (Apparently, we export more enlightment than we consume locally.)

The way from invention of the printing press to our apogee of a modern, scientific and technological society – including democracy and freedom of the press – has been a straight line.

It all comes as a bundle. There are many other factors, but none of this could have occured without the invention of the printing press – a tool for spreading knownledge.

Now, a regulating commission's chairman is a rather stern figure, not usually prone to lyrical digression. So when someone like that says something like this... You can appreciate the statement's weight !

Let's have a look at the rest of his speech :

« Why has the Internet proved to be such a powerful engine for creativity, innovation, and economic growth ? A big part of the answer traces back to one key decision by the Internet's original architects : to make the Internet an open system.»

See ? Even the Americans get it.

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[19] *Prepared Remarks of Chairman Julius Genachowski*, The Brookings Institution, Whasington DC, September 21, 2009.

[20] « *Internet Libre, ou Minitel 2.0 ?* », 8es Rencontres Mondiales de Logiciel Libre, Amiens, France, 10-13-2007. (See footnote #3.)

<u>Obsolete Industries</u>

Now that we've set the background, we can try to answer the question : *Who Seeks Control over The Internet ?*

Obsolete industries, for the most part.

When it comes to these industries, copyright – or, as we say in France, « author's rights » [21] – is the major issue (the one HADOPI claims to address). For those of you not familiar with this : author's rights apply to works of the mind.

I don't know about yours, but my mind doesn't produce paper. A work of the mind is essentially an idea. It is thus rather immaterial.

Once the idea has been materialized onto physical medium, you can market that medium : a book, a DVD, clothes (the idea being the tailor's original cut) – you name it. Any physical manifestation of an idea. One directly sees that the real business resides in the making of physical objects. There's a good business for manufacturers. On the face, the selling of books is mostly profitable to bookstores, paper merchants, and the printing industry.

The idea of author's rights is to give a fraction of sales profit back to the author : If I market a physical manifestation of your mind's work, I owe you a commission. Originally, the stuff was come up with to protect playwrights' interests from actors. When theatre troupes earned money performing a play, they wouldn't spontaneously see why they should pay the author of the play. When Beaumarchais is held as the inventor of copyright, that's what it's all about : he expected returns from his work.

It is also meant to protect writers from booksellers, for once the latter have got a book printed, there would be no obvious reason for them to pay the writer : the writer didn't make the books and doesn't sell them.

The idea was never to protect artists from their audience ! The idea was to protect artists from middlemen marketting their work.

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[21] For coherence, it was decided not to translate the French phrase *droit d'auteur* into its English counterpart, *copyright*, but rather literally into *author's rights.*

While the former has a commercial connotation, the latter tends to evoke single-person creators like artists or teachers. Although it is true that Anglo-Saxon law is more protective of industries, and French law of individual authors, both overlap significantly – especially from the public's point of view. In both cultures, copyright holding lobbies tend to use individual authors' sake as an argument for defending their own interests – an argument Benjamin Bayart opposes in this chapter.

Keeping the translation litteral also renders more evident that everything Bayart states here about copyright is based on French law or specific to French history. It remains of interest to the Anglo-Saxon reader, though, because, while historical differences in the balance of powers have led to somewhat different laws, the issues, interests and arguments have always been, and still remain, the same in both cultures.

Those legal differences may progressively fade away anyway, each law now influencing the other toward harmonization.

(a brief comparative history of copyright laws : `http://en.wikipedia.org/wiki/History_of_copyright_law;`
more on French copyright law : `http://en.wikipedia.org/wiki/Copyright_law_of_France`)

HADOPI takes place in a completely different context. When I share music with my little sister, I don't market it. I don't get money from her.

Now that we've set the principle straight, you can see why the copyright industry is at ill ease : we're talking here about works of the mind – works that are in principle immaterial.

Only 40 years ago, the only way to spread a book across society was to print it on physical sheets, all made of paper – parer made from wood coming from real trees. Manufacturing was costly, transport was costly, and storage was costly. It was a material economy. A scarcity economy.

Do you know the difference between a scarcity economy and an abundance economy ? Scarcity economy is this : if I sell my cake to you, I won't have it anymore. While abundance economy is this : if I give you a lecture, I won't have parted with any of my knowledge as a result. This difference is fundamental.

Scarcity economy is about material goods. Abundance economy is about knowledge and ideas. A teacher giving a lecture does not sell his knowledge : he still has it afterwards. A teacher isn't more stupid after giving a lecture than before. Maybe more tired [22], but not more stupid – well, sometimes he's depressed too, depending on which kind of kids he has to endure.

This must be understood : on the Internet, the manufacturing costs are zero. This means that, all other factors equal, everybody will pay the same price whether I copy a given song or not. We can share a song, or not share it, either way won't affect the price all pay, because the manufacturing cost for every additional copy is null.

Any economist – even an awful one – knowing the basics of supply and demand, will note that, since :

1   manufacturing costs are null,

2   supply is unlimited (the network never stops), and

3   demand is limited (because I can't listen to music more than 24 hours a day),

... then the retail price must necessarily be null.

Do the math : when the retail price is null, the profit margin sucks.

Trying to apply the rules of a scarcity economy (supply and demand, manufacturing costs, etc.) to an abundance economy is vain. It just can't work.

So copyright is a real issue. It must be redesigned.

We must abandon the delusion that it can keep resting upon a scarcity economy. It's impossible. It won't work.

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[22] Maybe richer too, for there are other ways of earning money than selling.

Which parties are concerned ?

We can sense a parallel with the printing press history...

Who was concerned with the apparition of the printing press ? All those poor copyist monks suddenly out of a job…

Now who is concerned with the apparition of the Internet, and the fact that we don't need physical media to share works anymore ? ...Our poor DVD-copyist monks !

They now have to quit scribbling work onto their little DVDs, and close their retail churches : it's all become useless.

Who else ?

Every other body whose measure rests upon copyright.

Newspapers, for instance, have a real problem. Because what you pay for, in a newspaper, is paper. By far the most expensive part of a newspaper is paper. Sure, the editorial staff gets paid too, but, in the end, retail price depends mainly on paper price. If you take the selling of paper away, what's the monetary value of a newspaper ? It can't be based on a scarcity economy anymore. So they have the exact same problem.

These industries have been the first to take the fall – to take the digital revolution in the face. There's been a few others, too weak to hope for protection, but these are the ones who got kicked in the face first – and hardest. There will be others. And when they are powerful, they will react agressively. Always.

It's systematic : you can't take the bread out somebody powerful's mouth and expect them to just sit and let it happen. Even when they're wrong[23]. Especially then.

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[23] How are they wrong again ? In his 1939 short story *Life-Line*, American writer Robert A. Heinlein proposed a simple and straightforward way to look at it : « *There has grown up in the minds of certain groups in this country the notion that because a man or corporation has made a profit out of the public for a number of years, the government and the courts are charged with the duty of guaranteeing such profit in the future, even in the face of changing circumstances and contrary public interest. This strange doctrine is not supported by statute nor common law. Neither individuals nor corporations have any right to come into court and ask that the clock of history be stopped or turned back, for their private benefit.* »

<u>Emerging Industries</u>

Emerging industries are the second main group.

I love the following quote. Let's get philosophical for a moment. It's not from the Council – it comes from a higher source :

> *With great power comes great responsibility.*
> *Spiderman*

While most operators' motto would rather read like this :

> *With great power come great appetites.*
> *Orange, SFR, ...* [24]

They strike me as very powerful and little responsible.

It's an accurate qualification, but how does it translate in real life ?

They can be tempted in several ways :

1. *Tax content* : if the Internet is the gate to accessing something, and I detain millions of suscribers (yeah, because you think you're *buying* your access to the Internet, hence that you *have* access – well, no. What you've done is sell your soul to an ISP. *It* is not *your* Internet service provider. *You* are *their* asset.)... If I decide to tax content broadcasters to let them distribute their shit to you through me, they will pay. That's the first temptation. The temptation of behaving like a proprietary network : I own the infrastructure, so, if you want passage, then pay. And I set prices, since I have kind of a monopoly. For to detain millions of suscribers is like a monopoly. [25]

2. *Tax services* : I can tax not only contents, but also services.

To tax content, all I have to do is hop onto the copyright bus – supposing HADOPI gets through. Yes, let's fantasy for a minute : this is not real life, this is a comedy. The HADOPI Act is enforced, so instead of downloading music for free, you now have to pay for it, a lot, and then you can play it only on approved players, thanks to DRM[26]. When you try to play it on your second computer it doesn't work, when you try

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[24] Orange and SFR are majors ISPs in France.

[25] From an online service, website, or content publisher's point of view, each ISP detains monopoly of access to its own suscribers. From a global point of view, what ISPs have together is an oligopoly (a market dominated by a small group of sellers).

[26] DRM (Digital Right Management) is any technology that inhibits uses of digital content that are not desired or intended by the content provider. It makes each copy of a work a specific instance destined to a specifc device. It can carry any other restriction, like time contraints, for example. Companies such as Amazon, AOL, Apple Inc., the BBC, Microsoft and Sony use digital rights management. In 1998 the Digital Millennium Copyright Act (DMCA) was passed in the United States to impose criminal penalties on those who make available technologies whose primary purpose and function is to circumvent content protection technologies. (source : Wikipedia.) Such acts are being discussed in Europe as well.

to play it in your car it works only if you've paid for an extended licence supported by both your computer and your car stereo (unlikely), ... Typically the obsolete industries' dream. As you can see, as soon as we're in this comedy, everything gets much simpler. So content can be taxed.

But, even without being in this comedy world, you should know that operators regard commercial service providers as the ultimate cash machine.

I've been working at most French operators, and let me tell you this : when my bosses saw that, while they were dealing with construction and public works, civil engineering, holyshit-complex router configurations, pulling optical fiber by the hundred miles, paying engineers collossal wages, and all that just to rent suscribers a box for 30 euros[27] per month in the end, Meetic[28] on the other hand could sell a mere couple of entries in a database for the same price, they litterally fell on their ass !

Moreover, Meetic suscribers are delighted with it ! Meetic is never complained about, while ISPs are all the time. Have you ever read anything against Meetic in consumer reviews ? I never have. On the other hand, I read complaints against network operators all the time.

Obviously, operators are getting the impression that while they're doing real work for 30 euros, others just dick around for 30 euros too, and they're getting to wondering who's got the best business...

After trying in vain to come up with equivalent services, they've come to consider defaulting to taxing : « Curiously, our suscribers' connection to Meetic seems to work better when they suscribe to our Meetic Bundle special offer. » Only little problem : it would show, and sucribers would go and suscribe somewhere else. So let's try another approach. Let's go see Meetic's boss and say : « Man, of my 12,000,000 suscribers, so many millions must be single since they use your website... Now, you see, the link between your network and mine... hasn't failed yet. I'm sure you'll agree it should remain that way. Would you, maybe, agree to cover its maintenance costs ? ...Say what ? How much ? Ah – a lot. Yes, it's a very fragile link – lots of maintenance required. »

Do you think Meetic will go along with that ?– With 20% of their sales in the balance, I bet they will !

That's one temptation. Yet, to make a link fail when the guy at the other end refuses to give in to racketeering, is harming network neutrality.

3. Pre-empt the whole thing : they can be tempted to do that, too. Negotiations are messy, they're lengthy, and they leave prints you'd rather avoid when dealing dirty. It's far simpler to buy the whole thing up. Let's buy up one of the profitable ones – then suddenly the link becomes very cheap and easy to maintain. And access to its competitors becomes somewhat impractical – or impossible. In plain : you, a competitor's suscriber, can go suck it.

For now, DRMs as copy protection for films and music are in decline, mainly because they turned out as impractical to the publisher as to the end-user, and there soon truned out to be a strong demand for hassle-free, that is DRM-free, media from legitimate customers. They are, however, of widespread use in digital books. We'll see what the future has store...

[27] 30 EUR = about 40 USD = about 20 GBP (as of 2012).

[28] Meetic is a major dating website.

Example application : I'd set up my own VOD[29] platform, from which you can buy the films I decide, for a price I set – and then when you try to access a free public VOD platform through the Internet, that somehow won't be working too well : the connection would be slow, the video stream would hiccup – nothing intentional, of course, but curiously that link won't seem as well "maintained" as some others.

Today we don't see too much of that, precisely because it would show. Let's hope it doesn't become legal ! [30]

4. <u>Capture consumers</u>. ...As I said before : you think you're paying for access to the Internet, but it isn't so. What you've done is sell out your consumer's habits. This is the model they aspire to : you paying for the selling of your own available brainshares. [31]

Their main goal is to restrict competition, by either taxing, pre-empting, or capturing customers. All this amounts to impeding competition.

When your computer is only compatible with the modem you've been sold, which accesses only one operator's network, which gives you access only to videos for which that operator has an exclusivity deal, you'll have a hard time getting out of there. It'll take buying another computer. Since your Orange computer will have access, through Orange, to Orange videos and Meetic Orange, would you decide to move to SFR, you'll need an SFR computer, abling you to watch SFR videos, and suscribe to Meetic SFR – where you can't hit on the same girls. That would be extremely tiresome. Yet, that's the idea of a non-neutral network : depending on your access point, you don't see the same Internet.

Besides, it's a backstep to the past : closed, proprietary, and possibly centralized networks...[32] The opposite of the Internet !

Yet, they would rather like that.

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[29] VOD = Video On Demand.

[30] This is obvious irony. As of this translation, we see a lot of that. Such practices have become common place in France, and can be found in other countries as well. It's certainly not illegal, and never has been. There is no law requiring network neutrality – yet. Benjamin Bayart and his peers have been trying to promote such law – with no luck yet. (UPDATE : While the situation hasn't changed in France, during the writing of this translation, in May 2012, The Netherlands passed a law just like that.)

[31] That phrase is a reference to Patrick Le Lay's, president of TF1, the most profitable French television network, memorable quote : « Let's get real for a second : our business at TF1 is helping Coca-Cola sell their products. [...] Now, for advertisement to be assimilated, the viewer's brain must be made ready to listen. That's what our shows are there for : to entertain, relax and open brains between commercial messages. Our real business is to sell Coca-Cola available brain shares. » (in *Les Dirigeants face au changement*, collective work, éditions du Huitième Jour, July 2004). This defines what is also known as neuromarketing.

It could also be said that, when paying suscribers use their Internet access to click Facebook's *like* or Google's *+1* buttons, they've paid to work as advertisers themselves (just like they do in the physical world when harboring brand logos on their car or clothes), in addition to feeding marketing agents (Facebook and Google's real clients) with live statistics.

[32] A more accurate translation (but less clear to the foreign reader) would be : *Reverting to a Minitel-like network, they would rather like that. Yet, it would be the opposite of the Internet.* (for a definition of the Minitel, see footnote #13)

<u>Public Speech</u>

Another major type, among those who seek control over the Internet, are those long-used to detaining the monopoly of public speech.

The following quote isn't famous, because it's mine :

> *The printing press has made readers of the people.*
> *The Internet will make them writers.*
>
> *(B. Bayart)*

> (I blurted that out to some journalist, without paying real attention. It's my mother, reading the article, who told me : « hey, that's a great quote. » So thanks, Mom.)

At last we reach much higher considerations !

Another quote I'm fond of :

> *Do you realize that, on the Internet,*
> *about anybody can say just anything !*
>
> *(a representative, at the*
> *Assemblée Nationale)*

I don't remember who exactly bawled this at the Assemblée, but I was there, in the audience, and I know it was an elected representative ! It was around 10pm, so I suppose he had fatigue for an excuse...

So he finds apalling that anybody can say anything. Me, it rather reminds me of Article 11... In fact, I find myself in agreement : *Do you realize that Article 11 of the Declaration of Rights of Man and Citizen is, finally, more than two centuries later, technically applicable !* How interesting. He seemed to see that as a problem, while I see it as a solution... Let's just say our opinions diverge.

Whom does monopoly of public speech impact ? Politicians, obviously.

The most magnificent example we've seen so far – and I'm saying this even though I voted in favor – is the referendum on the European constitutional treaty [33]. 95% of the whole political class had kept repeating we had to vote in favor. About 90% of all conventional media – TV, radio, newspapers – had kept repeating we had to vote in favor. The debate didn't take place over conventional medias. There has been no real debate there : no structured discussion, no educated argument, whatsoever. The only place to host such debate has been the Internet. The only place where you could see a negative response coming was on the Internet. And it wasn't, as the media claimed, a temperamental response : it was a

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[33] The French referendum on the Treaty establishing a Constitution for Europe was held on 29 May 2005 to decide whether France should ratify the proposed Constitution of the European Union. The result was a victory for the "No" campaign, with 55%

structured answer, based on solid, valid arguments – about which nobody here gives a damn, but, when the people rejected the treaty, they did it based on serious arguments. I know, because I read those discussions. (Whether I argee with them is beside the point.)

So the monopoly of public speech concerns politicians. They've been despoiled of it.

Before, their position was that of a white knight, having climbed down his horse to listen to yokels, riding back to the Assemblée to represent them. In those times, the average yokel (the good voter) had no real say. All he could say was to himself : well, a majority of representatives think so, so it must mean a majority of the people think so, and since a majority of the media say so too, then I guess it must be so. Even if he wasn't happy personally, there was no chance he could read a different opinion.

Today, when someone, anyone, is not happy with something, they open a blog, titled, say, *Not Happy*, in which they explain in articles what they're unhappy about and why. And, as soon as their arguments present some interest – sure, as long as it stays limited to *« Not Happy ! »* it won't prompt much – but as soon as their arguments are a bit founded, a bit articulated, they are directly eating on the politicians' plate !

See for yourselves : every politician has now tried setting up their own blog. The worst among them get about 12 hits a day, and the best a few thousands. But a successful blog in French language gets tens or hundreds of thousands hits a day ! And, to give you an idea, 100,000 hits is more than the combined daily sales of all newspapers in France...

Politicians are very afraid of this because they feel despoiled.

Not to mention the impression we've made at the Assemblée, during the HADOPI discussions !

Picture this : standing up the backmost tribune, not allowed to utter or mutter a word, applause or even nod our heads when we hear an intelligent remark. We were allowed nohing.

And yet, we were there the whole time, watching.

They had never seen that, ever.

What struck me is that, when the week before, they passed working on Sundays, a rather controversial bill, which should have triggered all unions' uproar – which *has* triggered it – but not just an opposition : the employers' union could have shouted it up, just as workers' unions have shouted it down – but, anyway, neither side was present in the tribunes. Representatives were discussing it among themselves, unbothered. The Opposition honorably opposed (but... for who ?) and of course the law was passed without much fuss.

When we came for HADOPI, not only were we in the tribunes, but we were on internet as well – we were sending mails right as we stood there. Every time a representative said something stupid, he was

of voters rejecting the treaty on a turnout of 69%. France's rejection of the Constitution left the treaty with an uncertain future. (source : Wikipedia)

sure to get, within the next fifteen minutes, a hundred emails explaining in profuse technical details why he was wrong. And, amongst representatives of the Opposition, those who wanted to go against the text were amazed by how much quality information we could provide them with. In short, it had been a very long time since, in a parliamentary debate, deputies had more and better advisers than the ministers ! The usual opposers, Martine Billard, Patrick Bloche, Christian Paul, Jean-Pierre Brard, Lionel Tardy, etc., could count on litterally hundreds of technical advisers : people sending mail from their home, explaining them how to structure their argument – and which was the right argument, why one argument wasn't valid, why such other was better articulated, etc. These people were teachers, engineers, researchers, network specialists... among the brightest in the matter. Much brighter than what the governement usually counts on !

(That the governement usually makes law based on incompetent advisers is not only ridiculous, it is a real democratic problem !)

Who else is concerned ? Journalists.

Before, would you want to read an in-depth article about a given subject, you had to wait for *Le Monde* [34] to feature an extended report on the matter. Now all you have to wait is for any enthousiast to have tackled the subject. And when an enthousiast tackles the subject, he or she makes an arm-length post on their blog... If you're interested, you can go and read it right away.

So we've taken that job away from journalists.

They are very unsettled by the work we achieve by ourselves – they should be, too.

We still need journalists besides, but not for this – not anymore.

Columnists are having the worst of it : here are people who have only their opinion to sell... I have opinions, plenty. I can post some on my blog, you can have them for free. I don't see why mine should be any less fun than theirs.

Me, for example, I'd rather read Maître Eolas' blog [35] than Whatshisname's column (let's not name anybody, let's not make more ennemies) – I find it funnier and more instructive.

And then, representatives of all kinds :

If I were Bernard Thibault [36], I would worry. Judging by the difference in the way parliamentary discussions went, between Sunday working and HADOPI, one force definitely seems more modern than the other.

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[34] Major French newspaper.

[35] Maître Eolas is an anonymous Parisian lawyer's online pseudonym. Maître Eolas' blog, started in 2004, tells behind-the-scene stories of the French judiciary system.

[36] Bernard Thibault (b. 1959) is the Secretary of the CGT, a major French union.

Paradoxally, the modern way is going back to the basics : when a law disagrees with you, go discuss it with your elected representative. When discussion isn't enough, insist. Come, listen, let them know you are there.

During the first passing of HADOPI, Albanel [37] would regularly favor us with crestfallen stares, apparently wondering « *who the fuck are* they *?* ».

What they're used to is more like groups of kids, coming, sitting for half an hour, then leaving, all quiet and orderly – that's the traditional school trip : see, children, how law is made, ain't that serious, respectable work, Bobby quit picking your nose, and come on let's go now.

We, on the other hand, were twenty adults. We came around six, seven in the afternoon. We'd sit quietly and stay there until two in the morning. And, when they adjourned from 12:00 to 12:59, only to resume at 1:00 and adjourn again at 1:01... we staid. They couldn't believe that was happening – it's out of their thinking's range !

Representatives of all kinds means all those who used to speak on your behalf.

In the paper-based model, there can't be more than a few thousand people to speak publicly. It is a structural limitation : you simply can't print that much paper. Would you want to print all public speech, there wouldn't be enough forest on the planet to make paper from, and you'd need a truck to go get your morning newspaper. Printing all news from the whole Internet every morning would make a hell-thick newspaper – you can forget about reading it on the bus.

Anyone who, when access to public speech was structurally restricted, had privileged access to it, is now unsettled by the vanishing of those limitations.

Politicians would like to keep applying the usual method : call the chief editor, ask him to shut up the little fucker who came up with that article about your ex (I'm not pointing fingers here[38]) – Except they can't.

They find that excessively bothersome... And they're having a hard time learning to live with it.

What are their arguments ? They obviously can't tell you they want to silence the people... So, what, then ?

A common argument is war against pedophiles.

This argument justifies the LOPPSI bill[39] Article 4 : blocking of suspected pedophile websites, decreed by the Minister of the Interior[40]. Not based on a judge's decision – no – *by decree of the Minister of the Interior*. That is the head of the police !

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[37] Christine Albanel, then French Minister of Culture and Communications, promoter of HADOPI (see footnote #18).

[38] He's pointing a finger at President Nicolas Sarkozy.

I don't know about you folks, but as for me, *censure by the head of police's order* reminds me more of Fouché's way than it does of democracy [41] !

Yet, this is one of their key arguments : *we must protect your children, see ?*

Do you want the corresponding counterarguments ? Here they come :

⇒ You don't rape children with computers. I'm pretty sure about that. Blocking access to pedo-pornographic pictures is nice and all, but it would be far more preferable to prevent children from ending up on those pictures in the first place. I mean, if the idea is to protect children, wouldn't it be more preferable to catch the perpetrators ?

⇒ If the idea is to fight the mafias that make such pictures their business, wouldn't it be far more efficient to abolish banking secrecy, thus strike them where it really hurts ?

⇒ If you want to protect internet users from accidental access to such pictures, then provide them with a filter they can choose to install for themselves, on their own computer. That way, when the extent of the government-provided blacklist starts seeming abusive, each user can decide for themself whether they want to leave their personal filter on or turn it off. That's keeping intelligence peripheral – on the user's side.

⇒ And, by the way, when asked, the dedicated police department is positive : there is no pedophile website in France. Oh, yeah, once or twice a year, one such site opens – only to get slammed down within the week – within, in fact, the 24 hours following its detection. And rest assured the responsible parties end up in jail, big time.

I repeat : *There is no pedophile website* in France.

So, what we have here is a law that serves fighting non-existing criminals.

Then, there is online betting.

The first time I heard talking about filtering by decree was at the Ministry of Economy and Finances, and it was about online betting. Online betting is forbidden in France, since betting and gambling are restricted to PMU counters – a state monopoly. An official, legally sanctioned, state monopoly. So they proposed to filter the Internet in order to keep people from betting online. (Even though European directives require deregulation of all kinds of gambling, well... that didn't seem to bother them.)

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[39] LOPPSI stands for *Loi d'Orientation et de Programmation pour la Performance de la Sécurité Intérieure* : Law of programming and redirection for the efficiency of homeland security.

[40] In British terms, that would be the *Home Secretary* (and the French *Interior Ministry* is equivalent to the British *Home Office*). In U.S. terms, that would cover the positions of Secretary of the Interior and Secretary of Homeland Security.

[41] Joseph Fouché (1759-1820), an opportunistic and (sometimes arbitrarily) repressive figure in French history, was Minister of the Interior and then Minister of the Police, which are two consecutive designations for basically the same job under different regimes, within the first two decades following the French revolution.

And so : *we must protect people, see ?* Betting and gambling are addictive – and then you never know, and other excuses... Nevertheless, I never heard them proposing the closing of PMU counters for people's protection. It's very simple : there are three kinds of addiction you can buy in a French bar : alcohol, cigarettes, and PMU products – all three in more or less unlimited quantities.

And finally, terrorists – of course.

Except we don't say terrorists anymore... Terrorists play with airplanes, not computers. So let's rather say : radical autonomous anarcho-leftist – terrorists.

They'll probably need filtering too.

<u>Conclusion</u>

It's time for our conclusion – here it comes :

Who seeks control over the Internet ?

$\Rightarrow$ Dᴠᴅ copyist monks,

$\Rightarrow$ the powerful irresponsible,

$\Rightarrow$ and official orators.

How can we resist them ?

$\Rightarrow$ by becoming *internauts*.[42]

Let me explain...

Consider a newbie who just got his first internet subscription three months ago. He's still in the « say, that's a funny video ! » phase. That wouldn't make him less respectable – he's just not an internaut yet : what he's discovered is an interactive form of ᴛᴠ.

Give him one year, maybe two, according to statistics, to evolve from interactive ᴛᴠ to interactive information. (This doesn't necessarily implies political involvement : it could just as well mean sharing recipes and commenting on them. No kind of information is less noble than any other.)

The next step is to go from commenting on other people's content to creating one's own content.

At that crucial point, our newbie (not so newbie anymore) switches from being a passive consumer to being a producer.

Before that, it's a bit like walking the alleys of a department store and picking what you like best, or dislike least : I wanted a steel colander but all they had were plastic colanders so I bought the least ugly one – but what I really wanted was a steel colander. That's the consumer's way. The internaut's way is : either I find and read stuff I like, and possibly comment on it, and maybe even write short messages to direct my friends to it... Or I don't find stuff I like, in which case I write it myself.

Production methods and thinking habits have been dramatically altered.

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[42] For a definition of *Internaut*,
see either `http://www.urbandictionary.com/define.php?term=internaut`
or `http://en.wikipedia.org/wiki/Internaut`
Basically, it means *Internet user*, and often more specifically *experienced net surfer*.

In the previous model, all you could do was moan : « they're all rotten », « there's no free speech », « politics are corrupt », « newspapers are corrupt », « unions are corrupt », « Social-traître ! », etc.

In the internet model : if my opinions aren't stood for, it's only because I haven't stood for them – yet. Would I care to at least express them, others would have a chance to ponder and/or relay them.

This dramatically changes thinking processes.

By thinking and acting like internauts, by creating intelligent content (even though we're not required to – *even more so !*), we do resist their quest for control.

Criticizing HADOPI isn't even necessary. All you've got to do is think and express your thoughts online. That would suffice to render control of the Internet impossible.

The immediate next step is clear : once we've understood what the Internet is, and once we've made ours, not an interactive form of television, off which we could be cut like brats, but that 21st-century tool for public speech and citizenship, then the idea that someone would want to damage that tool becomes, of course, absolutely unbearable and completely unacceptable !

And once it's become absolutely unbearable and completely unacceptable... Well, the Assemblée Nationale is located on Quai d'Orsay in Paris, and all you need to get in is a credential that is quite easy to obtain as soon you know and agree with a few representatives of the Opposition – which we do. You are therefore all welcome to attend any debate in which you feel those people are stepping upon your legitimate toes.

Not just about internet questions – about any subject you're interested in.

If some of you have qualms about working on Sundays, go to the Assemblée next time.

*

Let me summarize my whole point one last time.

What we were presented was a way to punish children who download too much music, by cutting them off internet. We've seen that the issue is larger than that. And Sarkozy, who hoped for a quick stab at copyright-infringement issues (probably just to please his wife [43]), has stepped into something far more serious.

In fact, the Internet will be one major political issue of the 21st century. The question of freedom of speech in the 21st century will keep occuring, and it will occur mainly on the Internet. In politics, that is not a minor question.

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[43] Right after his election, President Nicolas Sarkozy divorced his wife Cécilia and remarried millionnaire songwriter and singer Carla Bruni. But this allusion may lean on the joke's side.

This can be switched around as well :

The neutral and open network that we call the Internet, and which makes democracy possible, has fierce, determined opponents – which are, at present, in the majority.

Between them and the public, who doesn't care because they don't quite measure the stakes, there's no real resistance. [44]

Now if someday you come to wonder whether such or such practice prejudices internet neutrality, that determination is simple :

$\Rightarrow$ *If someone tells you the network has become intelligent, then it is not the Internet anymore.*

The Internet is a stupid network. That's how it works.

Make it clever, and it won't be working that well.

$\Rightarrow$ If someone proposes to solve any given problem, by filtering / blocking / whatevering stuff within the network itself, it is by definition an attack on the network's neutrality. Only when they propose a solution that you can choose to turn on or off, that solution abides to network neutrality.

Let me give you an example : if I can turn the spam filter on and off, then the network remains neutral. The network doesn't get rid of spam, I do – by leaving my spam filter on. If it messes up, treats legit emails as spam and discards them, I only have myself to blame – and I can easily make it stop.

If the solution is user-controlled, then it most probably abides to network neutrality.

If the solution assumes intelligence from the network and stupidity on the user's side, then it is most probably a wrong solution. It must be the opposite : clever, autonomous users of a ridiculously simple-minded network.

$\Rightarrow$ *Nobody can severe or restrict your access to the Internet without a judge's backing.*

It is now in the Constitution – since the Constitutional Council usually manages to render their decisions in agreement with it.

Article 11 of the 1789 Declaration of Rights of Man and Citizen says that cutting or limiting your access to the Internet is about as serious as putting you in jail. It can't be considered lightly.

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[44] That has changed a bit in 2012, with the growing of worldwide movements such as Anonymous and many others, and, in Europe, the unexpected and sudden citizens' fight against the ACTA project. However, each time an internet-briddling proposal is rejected, another seems to pop up at a higher level.

This has many funny legal consequences ! [Waving his cellphone :] Take this shit for example. Had I suscribed to the so-called internet service they provide for it... The restrictions are fantastic ! I wouldn't be able to access everything I want. Wait – how could someone who is not a judge decide to limit my access – even my mobile one – to the Internet ?

You wouldn't think so, but the Council's decision, however unreadable, goes a very long way... It implies that, by restricting my internet access, the mobile phone company violates my freedoms of speech and information.

Where was I ? Uh. There's no slide left...

(Waw. 83 minutes indeed. Swell.)

I'll now be happy to answer any question.

<div align="center">*</div>

<div align="center">*(Applause.)*</div>

<u>Questions</u>

Q : Is network filtering a typically European issue or is it worlwide ?

A : Not even European : it's a typically French trend. (I guess we have a tradition of innovation to maintain !) Now, there are other voices in favor of it in Europe. But they don't all propose « intelligent » solutions, and few are this willing to keep the judges out.

English authorities have tried filtering the network against child pornography. It blew up in their face : they ended up filtering Wikipedia ! (A well-known pedophilic site !) Then they only made it worse by trying to justify themselves...

Other democratic countries in the world have tried... It only creates new problems, often quite surrealistic.[45]

On my way here, I was just reading about an American mother who'd been suspected of abusing her children, thus harrassed for a whole year, because she had taken pictures of them bathing.

Yeah... I don't know the answer to idiocy. Many governments are taking idiotic actions nowadays and I find that very dangerous...

Australia, for example, recently gave in to the argument of blocking child abuse websites. So they first blocked some actual child porn, then they extended their blocking to bad-taste porn (wherefrom it all depends on which side of that somewhat blurred moral fence your taste fall), then to websites explaining how to circumvent the block, and then to websites revealing that the government was blocking websites explaining how to circumvent the block... So they soon ended up blocking Wikileaks and even foreign news... ! At which point, since it was beginning to show, they quit.

When their blacklist leaked to the public, there was only about 40% porn in it, and *hardly any real child porn*. The police or court order rendering access to those sites illegal never existed – so if some were commercial activities (earning on advertisement or whatever), they suffered losses because of the Australian government's arbitrary decisions, and this without any legal backing.

This is completely absurd. It reminds me of Beaumarchais's context, France of the 1780s : a beleaguered system defending itself by descending ever further into violence... and idiocy : *Bloking websites revealing the block against websites explaining how to circumvent that block... !* Waw. Now these people still believe they live in a democracy – a curious notion.[46]

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[45] In 2012, weeks before the elections, a German political party's website got automatically blocked in all German schools. More specifically, it was the election program of that party that was censored, under the category "illegal drugs", because among other proposals they wanted to reopen the debate over marijuana prohibition. It is worth noting that the blacklist was provided by a foreign commercial company – the German government used that argument to deny responsability in its own censoring. As for the censored party, they pointed out that, when automatic censure is involved, prohibiting something and forbidding the mere questioning of its prohibition soon come alarmingly close. (`http://www.rawstory.com/rs/2012/05/11/ german-pirate-party-website-censored-by-schools-for-questioning-marijuana-laws/`)

[46] Those last three paragraphs actually come from this other conference by B. Bayart : *« Internet, démocratie, dangers »*, Paris, Ubuntu-Party 10.10, 7 Nov 2010.
  (`http://www.april.org/internet-democratie-dangers-par-benjamin-bayart-lubuntu-party-1010-paris`)

In summits about internet governance, we can see Iran often agrees with France. That only should make us wonder whether we're on the right side of the argument.

In fact, actually enforcing, just a bit firmly, the decisions in question here would require no less than the Chinese method. That is, a method still easily circumvented by those familiar with computers – but not by others.

Q : *(Indistict question about The Pirate Bay)*

A : What's interesting about the Pirate Bay trial, is that The Pirate Bay is not even a peer-to-peer service[47] !

The Pirate Bay doesn't transfer any file part. The copyright-infringing files never transit through The Pirate Bay. That website is no more than a directory. All it says is : I've seen a copy of that movie available at that IP address. Which is not illegal information. What is illegal is the actual copying. But merely saying : i've seen a copy there, is not illegal. At best, the closest legal definition would be *infringement informing*, which hardly constitutes an offence.

The judges have ruled that The Pirate Bay was prompting infringement... We could, in just as bad a faith, argue that it helps fighting infringement, by identifying offenders.[48]

Then the Swedish press revealed links between the Head of Court and the record industry[49]. So the judge was representing the copyist monks. That alone should cast serious doubts upon his ruling !

So we'll hear about The Pirate Bay again.

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[47] Peer-to-Peer applications (see note #3), or P2P, are applications connecting directly from client to client, that is, from one user's computer to one or many others, without relaying through a central server. It's most advertised use is for file sharing (in practice, often for the sharing of files containing copyrighted material such as music, film or software, which gives the whole model a debatable reputation), though that model can and could support many other kinds of applications.
  The Pirate Bay is a Swedish-based website providing P2P services through P2P technology BitTorrent. The 2009 Pirate Bay trial in Sweden was as mediatic as the more recent Megaupload case worldwide. Note that Megaupload is not a P2P service : it is merely a server-based platform allowing for the uploading, downloading and straming of movie files. That structural difference is also a legal one : while both website's founders argue that they merely provide a service for file sharing, waiving any responsability as for the content of said files, Megaupload and its associate websites actually host(ed) the concerned files within their servers, while The Pirate Bay (and other BitTorrent websites) merely point to the files which remain scattered on people's domestic computers. Thus, for a judge to go after whoever has a copyright infriging copy of a work in their possession, it was fairly easy to go after the owners of Megaupload, while it remains very hard to go after each individual user of The Pirate Bay. This is why French HADOPI proponents (or American SOPA proponents) tried to dipense with the judges, and are considering intelligent (that is, automatic) solutions.

[48] Except The Pirate Bay's developers have clearly picked their side in coming up with technical ways to hinder the indentifying of its users...

[49] http://www.mashable.com/2009/04/23/pirate-bay-judge-biased: Initially reported by Sveriges Radio, [the judge in the recent Pirate Bay trial] Tomas Norström is a member of *Svenska föreningen för upphovsrätt* (Swedish Copyright Association), although he is not listed at the website of this organization. Other members of this organization are Henrik Pontén, Peter Danowsky and Monique Wadsted, all closely tied to the entertainment industry and/or representing their interests. Monique Wadsted, for example, was directly involved in the Pirate Bay trial. Furthermore, Norström is reported to sit on the board of *Svenska föreningen för industriellt rättsskydd* – Swedish Association for the Protection of Industrial Property; this at least can easily be checked on their website.

One consequence of that trial, which has been about as mediatic in Sweden as the HADOPI bill in France, is that 7% of the Swedish people voted for the Pirate Party in the next European elections. I personally feel that the Pirate Party should rather be called the Digital Freedom Party, because they're fighting for issues much larger than the mere right for piracy. Anyway, by hitting the bush too hard, the copyright lobby has awakened people all across Sweden, and set many against them.

Look : it took the environmentalists 20 years to get their first representative elected... And it took us, what – only 4 years, from enduring the first signs of legal aggression, to climbing our way into governments !

That's rather good, I'd say.

Q : In a digital economy, as you describe it, there doesn't seem to be any remuneration for creators anymore. Do the laws of an abundance economy necessarily imply creation products to be free of charge ?

A : No. Creation has no value, *only if you try to apply the laws of scarcity to the digital world*.

But in practice, we're all used to paying on internet. I'm not even talking about physical goods you order online. We've all paid for digital services : online news, online dating, online porn...

(Yeah, you can smile. Considering how lucrative online porn is, there must be customers somewhere ! *[Audience laughs ; someone says :* not here*.]* What ? Not here ? Yeah, right. It's a well known fact there's no sexual frustration among computer nerds ! ...Conceded, nerds may be clever enough to find their way around paying.)

Digital services do have value. But how this value is estimated cannot be devised from 18th-century economy. We need a new economic paradigm.

How we must re-think copyright law in the 21st century is a key issue.

However, it is not one of FDN's issues, neither was it the subject of this conference.

Let's just say there are many proposed new models, many models still being elaborated, and, surely, many other possible models we haven't come up with yet. All propose innovative ways to remunerate creators – some revolutionary, some transitional. [50]

Copyright, author's rights and royalties are a very complex topics : playwrights, musicians, teachers are all treated differently. I see no reason why it would become simpler in the digital world. If anything, it's rather bound to get even more complex. But artists have to seize this opportunity and take active part in the process – for their own sake they do. [51]

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[50] This last paragraph is the translator's pure invention. Instead, Benjamin rambles on a concrete example of transitional model known as *global patronage*, which he admits not grasping entirely. (`http://stallman.org/mecenat/global-patronage.html`)

[51] And teachers, and researchers, ... As for artsts, musicians already have – they were the first group to autonomize themselves through internet, and create a new model for themselves through dedicated websites.

Now, getting involved doesn't mean to pressure governements for a return to the 18th-century situation. That can never work.

Q : You gave the example of Meetic having to pay ISPs a percentage of its revenue, and explained how it could become a generalized non-neutral network model... Is there a structural way to prevent that ? Can't the control organizations you described in your preliminary summary do something about it ?

A : No. It is not their place to arbitrate here, because the problem isn't technical in nature : everything works as network operators intend it to. Those organizations deal with technical issues, not commercial attitudes, no matter how outraging.

To this date, there aren't many tools to keep ISPs from racketeering.

I don't see of what nature such tools could be, if not legal. Law would be the best way, in my opinion, to fight that trend off. [52]

In France, article L32.1 of the *code des postes et communications électroniques* lists network operators' obligations, among which : respect of absolute network neutrality. There's no detail, no explanation, the scope being rather general, but at least the principle is there.

In the USA, how to regulate those issues is now the core stake of the FCC's work, as initiated by that guy I've quoted parts of last monday's speech of. [53]

I can only encourage you (provided you understand English) to surf fcc.gov and find the chairman's interview... I can never remember the exact URL... Look for their « Open Internet » link and go from there. There they explain their work at length.

That is, finally, the issues about which we, advocates of an open Internet, fight commercial operators in the European Parliament ring, regarding their TV/phone/Internet bundle : we want to see which commercial attitudes should be allowed, and which should not, clearly defined.

We try to pressure the Parliament and explain representatives that absolute network neutrality should not even be negotiable, and why – that is, why it is such a grave issue.

We're having a real hard time getting through. This in part because we're having a real hard time being many. [54]

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[52] A lot has happened during the course of this conference's translation, the most notable progress being this new law in Holland defining and protecting network neutrality (see footnotes #30 and #44).
French-speaking readers may find further insight here :
`http://geeko.lesoir.be/2012/06/24/alerte-linternet-est-menace-dasphyxie/`

[53] *That guy* is FCC's chairman Julius Genachowski. See chapter *"Network Neutrality"*.

[54] Not so true anymore (see footnotes #44 and #52).

Oh, yeah, we are many activists, off the ring. Collectives across the 27 EU countries communicate among themselves in a very quick, very efficient way. To give you an idea : debates around HADOPI in France were relayed to Sweden with less than a 3 minutes lag. French online articles about issues such as network neutrality are generally translated into English and/or Swedish in less than 24 hours. We're fanatics. And we follow the issue very, very closely.

And believe me, the Constitutional Council's ruling was celebrated across all Europe ! Because the question whether the Internet is a luxury toy or a serious tool is now settled. A legitimate authority settled it, based on the Declaration of Rights of Man and Citizen. Very few in Europe will dare say otherwise now. That ruling will weigh considerably in the balance !

Q : Tampering with bandwidth, like attributing it selectively, can be a way to control information through hindering its flow. After all, network operators can do what they want with their own infrastructure. So, are there ways to prevent this ?

A : Yes there are.

Look at it this way : legally, I'm not allowed to slit people's throats, even in my own kitchen.

Note that it doesn't mean there's any need for the governement to install cameras in my kitchen.

Granted, if I slit a throat or two now and then, I might very well get away with it. But if I start making a habit of it, I'll get caught eventually.

Similarly, if an ISP abuses the network once in a while, it might go unnoticed. But if such abuse becomes systematic, it will show. If it does show while it's forbidden, then they'll get into trouble. That's the principle we call law.

I can't suggest better than sensible law – and then hope that ISPs will choose to stay entrepreneurs rather than becoming a mob. (In their sector, I believe they need to maintain a respectable façade in order to sell their stuff. If they don't, we'll have to fight that particular mob among others. But I'm pretty sure they'll abide by the law. A little bending of the rules here and there, yes, but no gross, outright infringement – like the so-called unlimited 3G they're selling now, for example, which is a bad joke.)

So, yes, network operators can tamper with the information flow, but under sensible law they won't.

Q : What about faculties blocking or filtering students' access to some services ?
   I can't access my Jabber account from here...

A : Of course you can. You just don't know how is all ! *[Laughs.]*

...They don't block SSH[55], right ? Then you can access anything you want through a bounce or two.

But, to answer your question seriously...

You're an adult now. It's the University's network, and the University does what they want. You didn't suscribe to an Internet access by them, did you ? You suscribed to an education, under some conditions, and they let you access their network as part of that. Not the Internet – *their* network. Which happens to be connected to the Internet through a series of filters that belong to them thus they're entitled to configure as they fancy.

When I invite friends to my place, they can use my internet access only to the extent I let them. I didn't sell them internet access : I *may* grant them partial use of mine. Likewise, there's no contract between you and the University binding them to provide you with a neutral access to the Internet.

Now, there are some things the University is still not allowed to do... The law forbids any violation of private correspondance. But that's entirely different. Denying you access to it is one thing, violating it is one other. A violation would mean to read it, or to tamper with it. For example : automatically appending a signature (that says : « this mail was sent through the *Université de Rennes I*'s network ») to every mail of yours is tampering with private correspondance and carries a penalty of several years imprisonment – as any civil servant should know. So, if they do that here, you should go tell your sysadmin that it's not a good idea.

All This being said, I find it particularly stupid for the University to deny you access to Jabber. You should bounce through protocol SSH. If you don't know where to, I'll be delighted to create an account for you at FDN – provided you keep abiding by the University's rules, which don't forbid landline calls.

Q : How do you consider the evolution of huge service providers such as Google ? Is there a risk of them somehow taking over control of the Internet ?

A : Yes, of course there is.

Google falls into the powerful irresponsible category.

There is, at present, nothing more central than Google – hence, nothing more dangerous.

Curiously, they are about the cleanest, most neutral party I've witnessed. I can't explain why. Here we have a stock market company, weighing billions, and yet displaying such good behaviour towards the Network ! About issues like privacy, social responsability, stock holder policy... I can't say. But as far as network neutrality is concerned, they've always behaved impeccably.

Moreover, when we go explain our governments that a neutral network is the only suitable environment for a possible European competitor to Google to ever grow in, Google supports us ! Not just behind the scene : it is Google's official position, that in a non-neutral network, they could never have become what they have – while all other major companies go with the usual opposite argument : « would networks remain neutral, we may have to cut jobs eventually... » [56]

Now, if one company is really in position to become Big Brother [57], it's Google.

Their position, in terms of privacy, information, and access to information, is much, much too central – hence very problematic.

For now, they haven't given us too much to complain about. That must have something to do with the fact that the present bosses are still the original founders. When that changes – when the next bosses get appointed by an investment fund – then it's gonna hurt real, real bad.

Google is a time bomb.

They just haven't turned evil yet.

Q : Can encrypted networking be a response to control ?

A : Yes.

It's like, in physics, the law of action and reaction. When I press down on this desk, the desk presses back up my hand.

Internet has an action on society. As pressure grows (as we win), the old society reacts accordingly.

It can get ugly. Even the majority was surprised by the virulence of the HADOPI debates – in the Assemblée, but also in the press. The press can be particularly insulting to our side. And every time we're being insulted, I feel great !

We've been called murderers – terrorists ! Man, we're just enjoying music... And the Constitutional Council validates our argument.

That violence only indicates the degree to which we're changing society. And the more the violence against us, the more radical our response will be.

Indeed, the logical response to filtering is encryption. Encryption will be the Network's massive response to idiotic LOPPSI-like laws – the « decreed by the Ministry of the Interior » kind of law, supposedly aimed at online gamblers, pedophiles, and radical autonomous anarcho-leftist terrorists.

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[55] Secure Shell (SSH) is a cryptographic network protocol.

[56] About that argument, see footnote #23.

[57] In George Orwell's dystopian novel *Nineteen Eighty-Four* (often nicknamed *1984*) (1949), Big Brother embodies the ubiquitous and constant surveillance of everyone in a totalitarian society.

Then, when encryption becomes commonplace, tracing us radical autonomous anarcho-leftists will be much harder – and so will, incidentally, tracing real terrorists.

But it won't be a response to HADOPI. I expect responses to HADOPI to be much more fun – much more on the schoolkid joke's side... There are so many loopholes ! So many idiotic but perfectly valid interpretations of the law, according to which we can do many things !

Q : There's now a race between official orators, the powerful irresponsible, DVD-copyist monks on one side, and society. The new generation seems raised to buy whatever they're told to buy, use what they're told to use, consume whatever is put in front of them, and ignore anything besides. What are the real chances for them to become *internauts* then ?

A : Very high. The chances are very high. Anyhow.

Let's indulge in one more parallel with the printing press.

Back in the 16th century, the new printing press was bridled as hell : it remained a royal privilege until the 18th century. [58]

Yet, that didn't prevent the French Revolution.

Beaumarchais went to prison because he wrote, about the King : *Only little men fear little writings.* That didn't keep him from becoming a pillar of American Independance and Constitution — which remains, to this day, a model constitution. And imprisonment certainly didn't keep Beaumarchais from being a trigger for the French Revolution.

Only little men fear little writings... Too bad for our leaders, here, but there's a real chance that we win, no matter what. [59]

At best, they may win a little, in the short run – after all, they're still holding the reins for now.

Q : But can people still learn from a filtered network ?

A : Yes, definitely they can.

Internet, no matter how filtered, is being a democratic factor in China today.

The reason is simple : it's a knowledge-spreading tool.

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[58] This is French history. In England for example, the specifics were different – but the idea was the same.
(See `http://en.wikipedia.org/wiki/History_of_copyright_law` for more details.)

[59] Quoted from B. Bayart's other conference *Internet, Démocratie, Dangers* (See footnote #46) :
« If we win entirely now, we win over 20 years. If we loose entirely now, we win over 300 years. Either way, we win. »

Filtering doesn't prevent you from accessing mankind's total knowledge on, say, particle physics or biochemistry. Filtering is just supposed to keep you away from dissident thoughts. As long as you don't meddle with politics, you're free to read and educate yourself all around.

And when you get educated – even though you never read anything political – you start thinking. And when you think, well... Soon or later, you'll come to think something different from what the system would like you to think.

As the saying goes : *to think is to disobey*.

And you can't have self-educated people who don't think.

There is of course one way to prevent that – it is costly but feasible : prohibit internet, printing and reading. Let's call that the Burmese way.

Short of it, I don't see what could avert the present tsunami.

Q : Are you really that an optimist ? Don't you fear Orwellian scenarios[60] ? Don't you believe in the Internet giving rise to a brainwashed generation ?

A : I think the Internet averts it, on the contrary.

Of course, knowledge can spread slowly just as it can fast. But I don't see how it could recede at this point – short of global prohibition of internet, printing, writing and reading !

This being said, I'm no soothsayer...

<p align="center">*</p>

Host A.P. Christophe Morvan :

Thank you, Benjamin Bayart. Just a few closing words...

This conference was organised by two local collectives, Actux and Gulliver, usually dealing in free software, a topic only remotely related to Benjamin's concerns here –

Speaker Benjamin Bayart :

– *Only Remotely* related ? Sorry, but – I can't let you say that.

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[60] *Orwellian :* reminescent of the blanket surveillance and mass brainwashing depicted in George Orwell's novel *Nineteen Eighty-Four* (see footnote #57).

Indeed, I've read some were reluctant to invite me because they felt we deal in unrelated issues, that internet issues were outside the scope of a free software convention...

I can't disagree more !

The free software society works just like the Internet, and the Internet works just like the free software society. That's because free software and internet are not two distinct phenomenae.

They are, in fact, two sides to one same object – which I shall call the Society of Knowledge, or Economy of Knowledge. That's the society of the 21st century, our society, in which we must win the fight for our fundamental freedoms.

Dates and growth rates coincide. Had protocol TCP/IP not been patent-free, internet could never have happened. And, had there been no free internet, the kind of collaboration that allows for free software could not have token place either.

Without free software, no Internet. And without Internet, no free software.

Make no mistake : one cannot survive without the other. [61]

Host A.P. Christophe Morvan :

Right.

Thanks to these two collectives anyway.

Thanks to the university too, for lending us this classroom.

And finally, let's thank Benjamin for this much interesting speech !

(Applause.)

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[61] A few sentences in this last section are quoted from other conferences by B. Bayart.

(All footnotes in this document are the translator's.)