

ISOC EUROPEAN REGIONAL BUREAU- EU issues overview

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Net neutrality / Open internet

BEUC criticises ISPs in response to Commission consultation

- In a lengthy [response](#) to the Commission's open internet consultation published on 16 October, EU consumer NGO BEUC claimed that net neutrality is being violated across Europe by network operators and ISPs.
- BEUC was highly critical of the motivations of ISPs throughout its response, and made recommendations such as: 'ISPs should bear the burden of proof that there is conclusive evidence of congestion or that this is an imperative necessity for the functioning of the network. These claims should be carefully scrutinised by regulatory authorities, in line with the principles of transparency, proportionality and non-discrimination.'
- It called for national regulators to 'ensure that operators and ISPs run managed services in a way where there is no adverse impact on the delivery of the best effort Internet'.
- It supported the introduction of a binding EU legislative instrument to protect net neutrality, which should 'establish clear, well-defined concepts such as 'public Internet' or 'best effort Internet', 'managed services' and 'legitimate traffic management measures'.'

EC asks Finnish telecoms regulator to improve access conditions to fibre network

On 18 October the European Commission called on the Finnish telecoms regulator FICORA to amend or withdraw its proposal on access regulation to the dominant operator's broadband network. According to the [Commission](#), if the proposal was implemented, it would 'damage competition and hamper investment in competitive broadband services.'

Data protection

EU calls Google to adapt its privacy policy

- On 16 October, 24 of the EU's 27 national data protection regulators sent a [letter](#) to Google to indicate that they were not satisfied with the company's data protection policy. This concerns Google's decision in March to merge privacy agreements for all of its products into one policy.
- This initiative was instigated in the spring by the Article 29 Working Party (body of EU data protection regulators) and was tasked to the French regulator CNIL.
- The letter listed specific areas in which the regulators claim that Google does not meet EU data protection standards:
 1. 'Google provides insufficient information to its users (including passive users), especially on the purposes and the categories of data being processed'
 2. 'Combining personal data on such a large scale creates high risks to the privacy of users'
 3. 'Google failed to provide retention periods for the personal data it processes'
- The regulators made specific recommendations on how Google should improve its policies regarding information and combination of data.
- The full findings and recommendations were set out in an [Annex](#).
- Following the letter, [MEPs Angelika Niebler and Philippe Juvin](#) called on Google to adapt its privacy policy in line with European standards. They stated: "We can no longer tolerate violations of data protection standards and welcome the report. Google must change its standards and raise them. European citizens have a right for their data to be fully protected."

Trade associations want e-privacy-data protection consistency

- [ETNO and GSMA have jointly called](#) on the EU to tackle discrepancies between the proposed Data Protection Regulation and the 2002 ePrivacy Directive, as they could create inconsistent privacy experiences and rights for consumers. While supporting the necessity for a consistent data protection framework, they believe that the current proposal is not addressing technology and service neutrality.
- "Against a background of global competition in innovative services, the co-existence of the ePrivacy Directive and General Data Protection Regulation would be incompatible with technology and service neutrality, and the need to provide users with consistent privacy experiences," said Martin Whitehead, Director of GSMA Europe.
- The two associations underline that data protection rules revision is an opportunity to harmonise the handling of personal data across Europe.
- "Were the current e-Privacy Directive and the proposed General Protection Regulation to co-exist, a number of difficulties which are already seen under existing regulatory regime, would be experienced by both businesses and consumers," said ETNO Director Daniel Pataki.

Parliament publishes study on data protection reform

- A European Parliament Policy Department has published a lengthy [study](#) carried out for the Internal Market and Consumer Protection Committee entitled 'Reforming the Data Protection Package'.
- The study observes: 'By making EU data protection legislation applicable to all providers active within the EU, potential disadvantages which are faced by service providers based within the EU due to its stricter data protection legislation will be ironed out. This would create an EU-wide level playing field and could therefore improve the competitiveness of service providers based within the EU.'

Austrian Data Protection Authority not fulfilling independence requirements

- In a [ruling](#) on 16 October, the Court of Justice of the European Union (CJEU) criticised the involvement of the Austrian Federal Chancellery in the management structure of the Austrian Data Protection Authority.
- CJEU stated that 'EU countries that merely provide for their appointed data protection authorities to have "functional independence" cannot be said to be compliant with EU law.' 'In order to be said to have complete independence, DPA staff must not share the same offices as Government officials and the authority must not, by law, be required to provide Government officials with an "unconditional" access to information about its work.'

Internet governance

CETP declines to support ETNO's ITR proposals

- **CEPT**, the conference of European telecoms regulators, met on 15-16 October to prepare its position for the ITU conference on the **International Telecoms Regulations (ITRs)**.
- A CEPT draft report of the meeting shows that regulators declined to support **ETNO's proposals** on the ITRs: while it found that ETNO raised relevant concerns, it did not believe that the revision of the ITRs was the right place to address them.

DIGITALEUROPE calls ITU to foster telecommunications environment

- In an [article](#) published by *European Voice*, John Higgins, Director-General of DIGITALEUROPE, underlined that internet regulation should only underpin competitiveness, efficiency and effective.
- 'What's wrong with the internet? Specifically what internet problems need to be fixed when the International Telecommunication Union (ITU) meets in Dubai in December to

review an international telecommunications treaty? Some states and actors may answer those questions differently. But if you're a consumer, citizen, business or a democratic government with the interests of your citizens at heart, the answer will be: "Not much – we have pretty good multi-stakeholder mechanisms, addressing problems like cyber-security that do exist." To the ITU, it should be: "Please foster an environment that will make the telecommunications service underpinning the internet more competitive, efficient and effective."

Copyright infringement

Parliament's S&D group calls for copyright harmonisation

- In a conference held on 18 October, the European Parliament's centre-left S&D Group [called for](#) copyright laws harmonisation arguing that 'taking criminal measures against private use, such as peer-to-peer sharing, is not the way forward'.
- S&D vice-president Sylvie Guillaume said: "Copyright is at a turning point as new technologies develop. The way to meet the challenges ahead of us, as Socialists and Democrats, must be based on respect for all stakeholders, whether they are artists or consumers, to find fair solutions for everyone involved."

CJEU rules that IP protection of data applies across borders

- In a ruling on 18 October, CJEU confirmed that a website based in Austria targeting UK users with sports data may be subject to UK court action in cases of alleged intellectual property violations.
- According to MLex: 'The Luxembourg judges concluded that where protected information in a database in country A, such as Austria, is sent to a computer in country B, in this case the UK, that transaction constitutes 're-utilisation' of that intellectual property.'
- 'Further, that re-utilisation act takes place in the country from where the information has been requested - country B - where there is evidence that the person sending the information from country A intends to "target members of the public in member state B."

Cyber security

Commissioner Kroes calls for more political attention and cooperation on cyber security

- [In a speech](#) given at the Conference on Cyber Security of Industrial Control Systems and Smart Grids which took place in Amsterdam on 16 October, Digital Agenda Commissioner Neelie Kroes called for more political attention to cyber security.
- "Cyber-security is a top priority, and needs top political attention. On the other side of the Atlantic, President Obama has long recognised this as a national security priority. He's right: it is. It's time we took that attitude here in Europe too. It's time to give cyber-security the attention it deserves. Let's be strategic, let's work together, and let's ensure we protect our infrastructure, and our citizens, in the digital age."

Cloud computing

Commissioner Kroes answers question on cloud computing

- On 7 August, MEP Marc Tarabella (Belgium, S&D group) [asked a written question to the Commission](#) regarding the situation of EU policies in the field of cloud computing. This included: 'Should the providers of cloud computing services be obliged to offer their clients a backup for the files stored on their servers?'
- On 17 October, Commissioner Kroes [answered](#) on behalf of the European Commission: 'Currently, there is no legal obligation for Cloud Service Providers to offer backup plans for their users. Such provisions where they exist are covered by the terms of the contract

which the user accepts. The Commission will task an expert group as part of its Cloud Computing Policies to identify before the end of 2013 safe and fair contract terms and conditions for consumers and small firms. This will accelerate the take up of cloud computing by increasing the trust of prospective customers.'