

ISOC EUROPEAN REGIONAL BUREAU: EU issues overview

21 – 26 October 2012

Internet governance / Net neutrality

Commissioner Kroes answers MEP question on net neutrality

- **Commissioner for Digital Agenda Neelie Kroes** has given an [answer](#) to a [question](#) raised by MEP Judith Sargentini (Netherlands, Greens) following what the MEP judged as previous unsatisfactory answers by the Commissioner concerning the plan ETNO submitted to ITU regarding online services providers.
- Sargentini asked why **the Commission's [proposal](#) for the EU's position at WCIT** did not address net neutrality. Kroes answers that the Commission 'seeks to ensure that there is no extension of scope in relation to the existing International Telecommunications Regulations (ITRs), in particular in relation to matters related to the Internet. The absence of any specific ITR provisions does not prevent the EU to take regulatory or legislative actions in this area.'
- Sargentini also asked about the definition of 'managed services' and the perceived danger of large and rich providers of online services purchasing priority on the Internet. Kroes says in response:
 - **'Managed services provide access to applications and content with a certain quality of service level. An internet service provider (ISP) may conclude commercial agreements with content providers to ensure that technical properties of specific content or applications are controlled from end-to-end.'**
 - The Commission 'is committed to maintain the Internet as an open platform to innovate for all providers, including small and emerging providers... Generally, **the Commission believes that the ITRs are not the appropriate forum for setting compensation and tariff systems.**'

EDRi responds to EU's net neutrality consultation

- In a [statement](#) regarding its lengthy [response](#) to the **Commission's consultation on net neutrality**, EDRi has underlined the lack of coherence in EU policies as the new consultation ignores European Parliament's resolution on regulatory measures ensuring freedom of expression, freedom of access to information, freedom of choice for consumers, and media pluralism.
- EDRi further states that 'the Commission has since long given up on its initial commitment to net neutrality'. **It cites as an example the Commission's view that traffic management can be a legitimate technical practice.**
- In its response, EDRi says, among other things:
 - 'Operators currently have the means and the motive to exercise far-reaching control over the internet traffic they transport. They also have the technology to make a distinction between various types of traffic is becoming increasingly sophisticated, thus giving ISPs the means to throttle and block internet traffic, often in ways which are very difficult to detect.'
 - Net neutrality must be based on **six principles**:
 1. Openness
 2. No discriminatory traffic management
 3. Permitted traffic management must be very limited
 4. Deep packet inspection must be reviewed by national data protection regulators
 5. Traffic management practices must be published
 6. Non-neutral treatment by ISPs for voluntary law enforcement purposes must have a legal basis

European Privacy Association calls for ensuring freedom of Internet

- The [European Privacy Association](#) has published the second part of study 'How to preserve the Internet', in which it calls for establishment of an **Internet Bill of Rights**.
- The initiative is inspired by the American Digital Bill of Rights proposed by Congressmen Issa and Wyden in June. The Association claims that 'a global movement supporting the acknowledgement of an Internet Bill of Rights is now gaining worldwide consensus'.
- Ten rights enshrined in the Bill are the following: freedom, openness, equality, participation, creativity, sharing, accessibility, association, privacy, and property.

Open Internet

Commission's plan for online gambling presents a risk of censorship

- [La Quadrature du Net](#) has denounced [the European Commission's action plan for online gambling](#) as being prone to establishing censorship. The Commission wants to protect minors and tackle money laundering, among other measures.
- "Once again, the European Commission is trying to implement dangerous filtering measures through proposals that appear legitimate and respectable. But other measures would be much more effective and less problematic in a freedom of expression perspective. Access to the Internet is now essential to participate in public debate and for access to knowledge. Under no pretext must we allow Internet censorship to develop, or else we will profoundly undermine the most fundamental values of our democracy," stated Jérémie Zimmermann, the NGO's co-founder and spokesperson.

Comment: While a legislative proposal on money laundering is due in November, the rest of the action plan involves soft law and encouraging administrative cooperation. The Commission will not consider a legislative proposal on consumer protection (which could include age verification) unless there is not enough progress made in the next two years through these non-legislative methods.

Cyber security

ENISA published a report on cyber security exercises

- [ENISA](#) has published a report 'National and International Cyber Security Exercises: Survey, Analysis & Recommendations' which examines **85 cyber security exercises** covering the period between 2002 and 2012 in 22 European countries.
- The report is aimed at supporting various bodies, both international and European, in their cyber security capacity building, providing both analysis and recommendations for the future.
- The report points out to the current under-appreciation of exercise management tools which are crucial for improvement of plans and procedures, policy changes, and planning and enhancement of new exercises.

Commissioner Kroes calls for better private-public cooperation

- In a column published in a Dutch newspaper *Het Financieele Dagblad*, [Neelie Kroes](#), **Commissioner for Digital Agenda**, pointed out the risk private and public entities take while underestimating the seriousness of cyber threats.
- The Commissioner called for a **further cooperation between business and public authorities**: 'One of the things we need is a culture of openness between government and business in which information about computer crime is shared. To achieve it we need international cooperation.'

Copyright infringement

ACTA update

- [La Quadrature du Net](#) has denounced the fact that the Commission and different Member States 'try to force the adoption of repressive measures that undermine fundamental freedoms, under the cover of trade agreements kept secret. The Canada-EU Trade Agreement (CETA), the India-EU, Thailand-EU, Moldavia-EU Free Trade Agreements, etc.: all these agreements might include dispositions harmful for Internet users's rights, access to essential drugs or the use of free software. It is unacceptable that measures threatening fundamental freedoms be negotiated in total opacity by unelected administrators when these provisions, which go way beyond trade agreements, must be debated in a democratic and transparent way.'
- **Trade Commissioner Karel De Gucht** has given his [answer](#) to a [question](#) by MEP Monika Flašíková Beňová (Slovakia, S&D group) about the steps the European Commission intends to take in the field of intellectual property rights following the European Parliament's rejection of ACTA. De Gucht stresses the Commission's work in other international fora and agreements (WTO, bilateral agreements etc.)

French group of online editors (GESTE) supports 'lex Google'

- [EDRI](#) has reported that the French association of online editors (GESTE) supports a new draft law, called 'lex Google' which aims at introducing a fee on hypertext links.
- Corine Denis, President of the group, commenting on the draft law, stated that "Google has developed on our content".
- Facing the possibility of fee imposition on hyperlinks, Google is threatening to exclude French online press from its searching index.

General

ETNO General Assembly Joint Statement

- At the 42nd [ETNO General Assembly](#) which took place in Warsaw, ETNO adopted **key priorities for 2013** and called for a new Policy for Growth.
- The growth policy should be articulated around the following:
 - More targeted and investment-friendly regulatory approach
 - Acceleration of the Digital Single Market for online content and services
 - The removal of regulatory obstacles