

ISOC EUROPEAN REGIONAL BUREAU - EU issues overview
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Net neutrality

BEREC opposes ETNO's ITRs review proposal

- In [comments](#) in response to [ETNO's proposal](#) to revise the International Telecommunications Regulations (ITRs), **BEREC** has reiterated its commitment to the development of the Internet without regulatory intervention and its opposition to ETNO's position.
- 'In such a fast-moving and dynamic field, to raise their profile through explicit reference in an international treaty revised every 25 years is inappropriate and could be prejudicial to the continued development of the Internet, having real potential to harm consumers and content and applications providers (CAPs), disrupt access to content, and contribute to a widening of the digital divide.'
- BEREC considers ETNO's proposal as dangerous since they would shift the **negotiating power** of market participants and introduce abusive power for telecom carriers. It believes that charging mechanisms 'should continue to be left to commercial negotiations among stakeholders'.
- Regarding **ISPs**, BEREC notes: 'If "bill & keep" were to be replaced by SPNP then the ISP providing access could exploit the physical bottleneck for traffic exchange and derive monopoly profits, requiring regulatory intervention.'

Swedish telecoms minister rejects net neutrality legislation

- In a speech on new telecoms legislation on 15 November, **Swedish IT and Telecoms minister Anna-Karin Hatt** rejected the idea of intervening on net neutrality stating that: "There are some who think we should legislate in this area of net neutrality. The Netherlands has done so, for example. But I don't think it is the right way to go." Instead, the new legislation strengthens consumers' market power, which she believes could ultimately play the same role.
- Hatt also stressed the importance of safeguarding net neutrality on a global level, underlying **her opposition to an increased role of the UN** in Internet governance.
- With regards to the discussions triggered by French newspaper publishers who have called on authorities to introduce provisions to tax **Google** on referenced articles, Hatt said that the digital revolution will change business models, but the state should not intervene in this.

Copyright infringement

Commission admits EU-Canada trade negotiations cover IP infringements

- Austrian non-attached MEP Hans-Peter Martin [asked](#) the European Commission a written question with regards to the Intellectual Property Rights provisions in the Comprehensive Economic and Trade Agreement (CETA) which the Commission is currently negotiating with Canada. The main issue at stake is the introduction of **ACTA-like provisions**.
- **Trade Commissioner Karel de Gucht** has [answered](#) on behalf of the European Commission, stating that the provisions of the draft agreement are confidential. However, he did say: 'Regarding "digital rights" as well as any other IPR provisions currently included in the draft CETA, the Commission is carefully ensuring that they correspond as much as possible to existing EU legislation, without exceeding it'. He also acknowledged that **criminal enforcement provisions** were being discussed.

FFII denounces ACTA in letter to Court of Justice

- The Foundation for a Free Information Infrastructure (FFII) has sent a [letter](#) to the Court of Justice of the EU (CJEU) on ACTA stressing its incompatibility with **EU legal provisions and human rights guarantees**.
- The European Commission asked CJEU for an opinion on ACTA, with regard to the EU Charter of Fundamental Rights. The European Parliament rejected the treaty in July without hearing CJEU's opinion, while the Commission maintains it will reintroduce ACTA to the Parliament should CJEU rule that the treaty is compatible with EU principles.
- FFII analyst Ante Wessels claims that ACTA would put an impossible task on **ISPs**: "Under the threat of high damages and criminal measures, Internet service providers will have to protect a copyright system which disproportionately interferes with human rights. At the same time, they will have to protect human rights. It is foreseeable that this will go wrong."

Open Internet

Council to support role for ISPs in making Internet safer for children

- The Audiovisual Working Party of the EU's Council has presented [draft Council conclusions](#) on the [European strategy for a Better Internet for Children](#), which the Commission proposed in May. The draft conclusions should be adopted by ministers during the next Education, Youth, Culture and Sport Council meeting on 26-27 November.
- The text refers to 'promotion, production and dissemination of quality online content', which 'requires dynamic and close cooperation between public and private content producers, experts in child Internet safety (for examples NGOs and on-line safety centres), **Internet Service Providers**, and those who have a role in educating children (for example parents and teachers), as well as children themselves'.
- The draft also invites industry to 'implement privacy by default settings and to develop and implement effective ways of informing children and parents about their on-line privacy settings'.

Russian Internet blocking faces obstacles

- A [press report](#) on Russia's new Internet law says that as of 13 November, media watchdog, **Mass Media Inspection Service**, had required **ISPs** to block 180 websites for hosting material identified as harmful. The watchdog acknowledges that content censoring is technically and legally difficult, promising to remove several popular websites from the blacklist.
- The law came into effect on 1 November, allowing the Mass Media Inspection Service to block sites without a court order should the content promote child pornography, suicide or drug use. ISPs are asked to block sites if owners fail to react to a warning within three days.
- Critics underline the lack of transparency as the list is not publicly available and fear that 'the law marks an end to the country's hitherto relatively free Internet'.

Italy and Greece favour ISP blocking of illegal gambling websites

- At a seminar on online gambling in the European Parliament on 14 November, the Head of Remote Gaming for the **Italian gambling regulator AAMS** said that in Italy, around 4,200 illegal gambling websites are subject to ISP blocking. This list is updated on a monthly basis.
- He admitted that this block is very easy to circumvent: players can do so in around 20 to 30 seconds and can find instructions how to do so through Google. However, he still expressed support for ISP blocking as a way of signalling to players that certain gambling websites are illegal.

- Earlier this month, the **Greek government** introduced a series of regulations on online gambling which include sanctions against ISPs. The new rules enter into force on 5 December.

Commission defends CleanIT project

- On 14 November, **Home Affairs Commissioner Cecilia Malmström** [answered](#) a question by Swedish MEP Christian Engström (Verts/ALE) with regards to the [CleanIT project](#), which aims to reduce use of the Internet by terrorists and is funded by the EU's Prevention of and Fight against Crime Programme. In October, **EDRI** got hold of an [internal draft](#) of the project's detailed recommendations, which it claimed favoured intrusive filtering.
- In the [question](#), Engström asked about possible repercussions which projects such as CleanIT or CEO Coalition (promoting Internet as a better place) could have with regards to the respect of fundamental rights, and about the 'No disconnect' strategy on external policies in favour of strengthening freedoms on the Internet.
- Malmström stated that CleanIT is run transparently as a bottom-up initiative with no legislative aims, solely promoting wide participation. The project's conclusions will only reflect the authors' opinions and will not represent the views of the European Commission. With regard to the CEO Coalition, Malmström said that 'the role of the Commission is to facilitate the self-regulatory process and not to force specific actions on the members or to fund its activities'.

Data protection / Cloud computing

New ENISA report looks at privacy and tracking

- The **European Network and Information Safety Agency (ENISA)** has published a [study](#) on **Privacy considerations of online behavioural tracking**. This analyses the currently used methods and offers insights to the future developments. ENISA claims that with an increasing availability of online services via smartphones and tablets, data protection concerns grow, and therefore so should the awareness about behavioural tracking.
- ENISA notes that **Deep Packet Inspection** 'is used by some ISPs and this practice remains controversial'.

EDPS publishes opinion on cloud computing

- In an [opinion](#) published on 16 November, the **European Data Protection Supervisor (EDPS)** commented on the Commission's recent [Communication on Cloud computing, Unleashing the potential of Cloud Computing in Europe](#). The EDPS assesses the reliability and trustworthiness of data processing operations conducted via cloud computing and the impact of the [Commission's proposal](#) for a **Data Protection Regulation**.
- According to EDPS, the law regulating data protection must clearly define responsibilities of all parties involved in cloud computing. Regarding personal **data processing by ISPs**, the opinion says: 'Their level of responsibility may vary depending on whether they act as a **processor** or as a **controller**. In the former case, their liability is focused on ensuring the confidentiality and security of the data, while in the latter they retain full responsibility for ensuring compliance with data protection requirements. In many cases where online intermediaries provide added value services (e.g. social networks and cloud based services), they may be considered to act as data controllers'.

General

BEREC calls on Commission to defend independence of national regulatory authorities

- In a [press release](#) published on 14 November, BEREC calls to the EU to **monitor better the regulation of national regulatory authorities (NRAs)**, as in several Member States their independence is being threaten.
- BEREC pointed out that several Members States have transformed the responsibilities of NRAs into direct government prerogatives. These steps are against EU legislation which in 2009 introduced measures to ensure their independence from any national institution and market players.