

ISOC EUROPEAN REGIONAL BUREAU- EU issues overview

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Net neutrality / Internet governance

European Commission will not represent the EU at WCIT

- On 29 November, ministers from EU Member States gathered at the [Foreign Affairs Council](#) decided that **the European Commission will not have a representative role** at the upcoming World Conference on International Telecommunications (WCIT).
- Instead, the Ministers agreed on a **joint position** (not made public) which they would individually implement at the conference.
- According to *EurActiv*, the European Commission has threatened to use all legal means to overrule the Council's decision as it disregards the role the Commission should play in EU's external representation.

Open Internet

Member States want ISPs to cooperate in blocking illegal gambling

- Ministers meeting in the Education, Youth, Culture and Sports Council on 26 and 27 November, [called on ISPs to cooperate in blocking illegal gambling websites](#) to support the EU's promotion of good governance in sport.
- Point 4, Paragraph 12 of the Presidency Conclusions on establishing a strategy to combat the manipulation of sport results calls on Member States to: 'Encourage that adequate measures - such as limiting access to illegal gambling offers through technological means in accordance with national legislation - are put in place to fight against illegal gambling offers, notably those from third countries (including non-European countries). Cooperation of national gambling regulators and law enforcement agencies with **Internet Service Providers** and financial institutions may be useful for this purpose.'
- The Conclusions were backed by every Member State except Malta (for reasons to do with its own gambling industry).

Comment: Although 26 Member States supported the Conclusions, the commitment by each government to ISP blocking may vary in practice between countries.

Copyright infringement

EU to adopt legal instrument on 'notice and action' in 2013

- In order to tackle the illegal online content, the **European Commission does not exclude binding measures**, according to Harrie Temmink of DG MARKT, who was speaking at the ECTA regulatory [conference](#) which took place in Brussels between 26 and 28 November.
- Mr. Temmink said that the changes will not modify the existing rules for online '**hosting**' **provider liability** in the 2000 [e-Commerce Directive](#).
- The final outcome could consist of a mix of a **binding instrument** to follow for notice-and-action procedures, and a **non-binding text** to give courts guidance on how to interpret the liability provisions for hosts. The Commission is currently working on an impact assessment to decide on the procedure to follow.
- [The Commission's communication on e-commerce](#) published in January 2012, identified notice-and-action as a priority area where existing rules need further clarification, considering the current fragmented state of how liability of online hosts is treated.

- Mr. Temmink stressed that the EU's initiative would seek to clarify the interpretation of **Article 14** of the Directive, which concerns online hosts, and would not affect other liability provisions, including the **'mere conduit' regime that applies to internet providers**, nor the article preventing member states from monitoring web traffic.

MEPs called to adopt copyright to modern standards

- [La Quadrature du Net](#) has started the distribution of a so-called *Datalove USB* (containing music, movies and e-books) to each MEP in order to draw their attention to the fact that the **copyright provisions need to be changed** for them to be in line with the social and technological realities of the 21st century. Its press release shows photographs of two cooperative MEPs gratefully receiving the USB – Paweł Zalewski (Poland, EPP group) and Françoise Castex (France, S&D group), who is Vice-Chair of the European Parliament's Legal Affairs Committee.
- "Our culture, built online, is based on the sharing, the remixing and the copy-pasting of cultural works. These practices, inseparable from free speech and democratic participation, must be encouraged by law instead of being fought against. Today's copyright regime differs dangerously from the social and technological realities we live in, at the expense of our fundamental freedoms. It must be reformed. Citizens must urge their representatives to work on these issues" declared Jérémie Zimmermann, co-founder and spokesperson of the NGO.
- The [website](#) of the association provides elements of how the copyright framework should be modified to reflect the current use of copyrighted works.

Data protection / Privacy

Data processing could lead to competition infringement

- In a [speech](#) given at the *Competition and Privacy in Markets of Data* event organised by the Privacy Platform, **Competition Commissioner Joaquín Almunia** underlined the necessity of **balancing economic growth and privacy concerns** when it comes to data protection and stated that the commercial value of personal data could soon become basis for a Commission investigation given the importance of personal data processing.
- "**Consumer policy will need to step up to prevent abusive access to private information** and its commercial manipulation," stated the Commissioner.
- A crucial point for Almunia is the concept of data portability as switching of users from one service to another should allow them to take the data with them.

Do Not Track standard lingers

- Peter Swire, the newly appointed chairman for the 'Do Not Track' (DNT) initiative organised through the World Wide Web Consortium (W3C), is said to be pushing for the standardisation of the DNT to take off, according to a press report. For this, disagreements between the digital advertising industry and privacy advocates would need to be solved.
- **Digital Agenda Commissioner Neelie Kroes** stressed in October that time for establishment of a voluntary standard has run out and now the **EU regulators should step in** and impose one.

DG CONNECT favours self-regulation for digital advertising

- In a speech at a seminar on digital advertising and self-regulation in Madrid on 23 November, **Robert Madelin, Director-General of DG CONNECT**, said that he supports self-regulation in this sector. He stressed the importance of this approach in keeping up with the changes which technological convergence are causing in user and advertiser behaviour.
- Madelin also recalled that the 2009 **'Cookies Directive'**, which entered into force in May 2011, insists on user consent for cookies to be stored on computers or smartphones. He

said that data collection was a major economic activity for the information society sector, and while he admitted that there was some social usefulness in this (e.g. anonymous personal data for use in the medical sector), such data cannot be used indiscriminately.

Comment: Madelin did not mention what the Commission would do if industry fails to deliver adequate self-regulation. In this case, a Commission-led initiative, perhaps a legislative one, would be a possibility.

UK Ministry of Justice against EU Data Protection Regulation

- The UK Ministry of Justice has published an [impact assessment study](#) on the proposed EU Data Protection Regulation. Its conclusion is that enterprises would face additional costs in order to comply with the Regulation, a situation judged as inadmissible.
- The study stresses that all data processing entities, including service providers, would be affected.
- In a [written statement](#), the UK Justice Minister Helen Grant stressed that the 'burdens the proposed Regulation would impose far outweigh the net benefit estimated by the Commission'.

CNIL depicts future of data privacy

- French data protection regulator [CNIL](#) has published a document on the **prospects for data privacy**. Especially interesting is the third part which deals with the ways to protect data and how to regulate data processing.
- The study pointed out that regulation should not be based simply on technological features, which are quickly outdated, but on promotion of soft law measures involving the private sector and self-regulation.

Cloud computing

Commission considers limited intervention in cloud computing market

- At a [European Internet Foundation debate](#) on the European Commission's recent [Cloud Computing Strategy](#), Ken Ducatel, the Commission's responsible Head of Unit in **DG CONNECT** listed the current problems facing the development of the market in this area, including the conflict of EU and national law. He wondered whether certificates would help to address the lack of trust in this area.
- Ducatel also called for a harmonised basis for **data protection**.
- In response to questions from MEPs, he said that the Commission would not set standard contract terms but would help market players with a standards-mapping exercise to give greater visibility.

Cybersecurity

Commission to support cybersecurity development

- The [European Commission](#) has reiterated its **commitment to cybersecurity** capacities building, specifying that for the period 2013-2020, '€400 million is earmarked to support key enabling & industrial technologies such as cyber security, privacy and trust technologies, and an additional €450 million is earmarked for 'Secure Societies' research which includes aspects of cybersecurity'.
- The press release mentions several of Commission's projects among which are Syssec, a European Network of Excellence which aims at promoting prevention; Nessos, Network of Excellence on Engineering Secure Future Internet Software Services and Systems, which focuses on fostering the design and development of secure software and systems for the 'Future Internet'; and the SecureChange project focusing on testing the new parts and maintaining the security and integrity of entire systems.

ENISA calls for cybersecurity cooperation

- During a high-level event on cybersecurity which took place on 27 November in Brussels, [**ENISA**](#) called for more cooperation and mutual support in order to boost the fight against cybercrime.
- Anthony Whelan, Head of Cabinet of **Digital Agenda Commissioner Kroes**, stressed that “the key to strong cyber security is sharing responsibility. That is the ‘name of the game’ for this event and for ENISA, and it’s a more important challenge than ever as the role of the internet in our economy and society continues to grow rapidly.”
- With regards to cloud computing, in order to build a secure and trustworthy environment, the event highlighted standardisation as the key factor to allow for industrialisation of the cloud.