

ISOC EUROPEAN REGIONAL BUREAU-EU issues overview

1 – 7 December 2012

Copyright

Commission to update copyright framework

- On 5 December, the European Commission issued a [statement](#) in which it outlined its intention to **modernise the EU's copyright framework** in order to keep them up to date with the development of digital market and allow for its effective functioning. This followed an orientation debate by all 27 Commissioners on this topic.
- The Commission says that it will aim for a framework that 'guarantees effective recognition and remuneration of rights holders in order to provide sustainable incentives for creativity, cultural diversity and innovation; opens up greater access and a wider choice of legal offers to end users; allows new business models to emerge; and contributes to **combating illegal offers and piracy**.'
- In order to achieve those goals, early in 2013 the Commission will launch a **stakeholder dialogue** to address several key issues, including cross border content portability, user-generated content and data- and text-mining.
- Completion of market studies, impact assessment and legal drafting work with a view to a decision in 2014 compose the second track of Commission's plan.
- The process is to be led by Commissioners Kroes (Digital Agenda), Barnier (Internal Market) and Vassiliou (Culture), with the aim of taking a decision in 2014.
- In an accompanying [speech](#), **Commissioner Barnier** stressed the need to provide legal offers for content on the Internet. He believes the Internet offers great opportunities to artists, and does not see it as being to blame for all defects in copyright. He favours dialogue with industry stakeholders to address the reform.

Stakeholders' reaction to copyright modernisation

- Prior to the Commissioners' debate on copyright, a [coalition statement](#) published by **ECTA, ETNO, EuroISPA and GSMA Europe** called for the EU promote measures which would allow for development of innovative services. They underlined that **for ISPs to address illegal consumption of content, the current framework does not require any modification**.
- Several other trade/professional associations, such as The European Writers Council, the Federation of European Publishers and the International Federation of Reproduction Rights Organisations, stressed the necessity for the copyright framework to guarantee fair compensation for authors.
- ISOC European Regional Bureau published an op-ed "[EU copyright regulation must blend IP protection with Internet freedom](#) »

Open Internet

Launch of Global Alliance against child sexual abuse online

- On 5 December, a [launch conference](#) of the **Global Alliance against child sexual abuse** online took place in Brussels. The Alliance was originally set up by the EU and USA at a [ministerial meeting](#) in June.
- Uniting 48 countries, the alliance aims at promoting 'efforts to identify and protect child victims, investigate cases and prosecute offenders, increase awareness of risks for children online, and reduce the availability of child pornography online'.
- The participating countries will implement specific actions which would be monitored and supported by a rotating secretariat. In delivering its goals, the alliance will cooperate with and seek support of Interpol and Virtual Global Task Force

Netherlands announces legislation for forced decryption

- The Dutch Minister of Justice has presented a legislative proposal which would allow the **police to demand information decryption** in case a user is suspected of terrorism or sexual abuse of children.
- [EDRI](#) has denounced the proposal as it says it does not take into account the conclusion of a feasibility study commissioned by the Dutch Ministry of Justice and would not bring the expected results. This showed that technical feasibility would be problematic as the so called plausible deniability makes it hard to prove the existence of encrypted information.

Germany to extend Internet users tracking

- [EDRI](#) has criticised a proposed amendment to the **German Telecommunication Act** that would allow law enforcement agencies to identify Internet users without a court order.
- The amendment would give the government, prosecution authorities security and secret services the right to inquire certain personal data (name, address or bank information of customers, email account passwords, phone PIN code etc.) collected by telecommunications and Internet providers.
- With regard to **ISPs obligations**, the amendment would establish the legal basis for inquiry rights of IP addresses identification. This would not be limited to a case-by-case basis but would require the providers to install electronic data handover interfaces.

Data protection / Privacy

Data protection, Irish Presidency priority

- During a recent visit to Brussels, Allan Shatter, Irish Minister of Justice, stressed that the protection of **personal data will be a priority** under the upcoming Irish Presidency of the EU (January to June 2013), including **the right to be forgotten**.
- The Irish data protection regulator could soon become the centre of attention as under the provisions of the proposed framework, it would investigate data protection issues for international firms headquartered in Dublin (Facebook, Google and Microsoft) on behalf of the whole EU.

Proposed Data Protection Regulation to harm EU online business

- A delegation led by IAB (the federation of national Interactive Advertising Bureaux, representing the digital and interactive advertising industry in Europe) has met with Digital Agenda Commissioner Kroes to express **concerns about the [proposed General Data Protection Regulation](#)**. The delegation's main issue was user consent with data processing.
- IAB stressed that obtaining the user's explicit consent for data processing is not achievable, considering that the majority of EU online business is B2B oriented. It called for the EU to allow for the use of **pseudonymous data**.

Cloud computing

Internal market fragmentation delays cloud computing development

- The European Parliament has recently published a [study on cloud computing](#) completed earlier this year which focused on customer protection and the EU digital single market.
- The study points out that **the multiplicity of ISPs and their regulatory regimes** could be one source of **market fragmentation** in the EU.

- If ISPs decide to pursue differentiation strategies, this could lead to a patchwork of platforms, with large transaction costs and different levels of quality of service. This would make it 'impossible for cloud providers to be ubiquitous in the same way across Europe (in terms of processing power and computational speed)'.
- The Parliament study often used arguments developed in a research paper [Cloud computing in the EU policy sphere](#) while stressing that the existing EU legislation fails to cover cloud computing.
- The Parliament study recommended 'extending to cloud services providers the applicability of some of the provisions that apply to **ISPs** and mobile networks under the EU electronic communications regulatory framework'.

Cybersecurity

International coalition denounces Dutch hacking plans

- A position letter presented on 3 December to the Dutch Minister of Security and Justice denounced its plans to improve cybersecurity by breaking into foreign computers in order to search and delete data.
- The letter written by **an international coalition of over 40 civil rights associations** and security experts (e.g. Privacy International, EDRi and Electronic Frontier Foundation) called on the Minister to abandon the proposal as it represents a risk to cybersecurity and raised the question of respect for human rights.
- **EDRi** claimed that should a similar provision be promoted in The Netherlands, other countries may implement similar provisions, which would ultimately lead to an international enforcement of local laws beyond the scope of cybercrime, such as blasphemy or political criticism.