

ISOC EUROPEAN REGIONAL BUREAU - EU issues overview

7 – 14 December 2012

ITU/WCIT

Internet governance dispute marks WCIT outcome

- At the WCIT conference, 89 countries signed the global telecoms [treaty](#), while 55 countries withdrew their approval as they believed that it treaty set up number of non-binding resolutions threatening Internet freedom.
- According to a European Commission [statement](#) released on 14 December, the breakdown was due to the '**possible extension of the ITRs to cover Internet issues...** In the opinion of EU participants, the final text risked threatening the future of the open internet and internet freedoms, as well as having the potential to undermine future economic growth.'
- Delegations from EU Members States also opposed the so-called **service traffic termination and exchange resolution** which is moving the rules governing the way operators charge and interchange traffic.
- According to ITU provisions, signatories have the possibility to make reservations with regard to certain provisions, while adhering to the treaty.
- The treaty is to enter into force on 1 January 2015.
- **More on WCIT?** Please check ISOC debriefs and press releases [here](#)

Commissioner Kroes underlines EU's position at WCIT

- On 11 December **Digital Agenda Commissioner Neelie Kroes** commented on her [blog](#) on the relevance of the EU position during WCIT negotiations while they were still ongoing.
- In particular, Kroes stated: 'While we do not believe that Internet governance should be under the ambit of the ITRs, this does not mean the EU wants to "set in stone" all current governance practices. **New trends in traffic volumes and new demand for assured quality of delivery, may lead to new solutions, but I am confident that our current European and international frameworks allow more nimble and appropriate commercial reactions than any international treaty**'.
- Commissioner Kroes also stated that the EU Member States respected the joint decision on the position taken before the conference.

Net neutrality

EU Parliament calls for net neutrality to be incorporated in the EU law

- On 11 December, the European Parliament adopted two resolutions calling for the principle of net neutrality to be incorporated into the European Union law.
- In its [Completing the Digital Single Market](#) resolution, the Parliament called on the European Commission '**to propose legislation to ensure net neutrality,**' therefore urging the EU to abandon the current laissez-faire approach.
- The [Digital Freedom Strategy in EU Foreign Policy](#) resolution stressed that the European Parliament 'strongly supports the principle of net neutrality, namely that **Internet Service Providers do not block, discriminate against, impair or degrade, including through price, the ability of any person to use** a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target'. The Parliament called on the Commission and Council 'to promote and preserve high standards of digital freedom in the EU, in particular by **codifying the principle of net neutrality**'.

BEREC calls for competition to ensure net neutrality

- During its latest plenary session, [BEREC](#) adopted two summaries and updated reports on net neutrality which provide an overview of BEREC's activities in the field.
- In **BEREC's definition**, 'net neutrality' refers to the principle of equal treatment of network traffic, therefore neutrality is guaranteed when all traffic is treated the same.
- The reports pointed out that BEREC identified several risk factors with regards to the impact of traffic differentiation practices on competition and innovation.
- While stating that **ISPs should have the opportunity to manage their networks in order to increase efficiency, the management should remain reasonable so as not to impede the principle of net neutrality**.
- In BEREC's opinion, in order to ensure good functioning of the market and guarantee net neutrality, **competition** is as vital factor. 'The greater the pressure created by competition, the higher the quality of access products and the less incentive an ISP will have to diminish the quality of its own services. Competition is expected to discipline operators and result in the best offers for end users,' said the report.

Open Internet

EDRi denounces Commissioner Malmström inconsistent statements

- [EDRi](#) has denounced the inconsistencies in EU policies with regard to the question of legality of **web restrictions**, specifically **whether governments can encourage ISPs to block content**.
- According to EDRi's analysis of recent statements by **Home Affairs Commissioner Malmström**, the EU does not follow a clear policy in this matter.
- Already in November, EDRi addressed a [letter](#) to Malmström to underline the inconsistencies in the application of [EU's Directive on combatting child pornography](#). The letter pointed out that while the impact assessment of the Directive mentioned that blocking websites would infringe freedom of expression and information, if not supported by a legal basis, the final **text allows ISPs to block such content on their own initiative**.
- The response that EDRi received from the Commissioner stated that EU 'Member States can circumvent the Charter and the European Convention on Human Rights by coercing private companies into breaching the rights that the Member States themselves are legally prevented from breaching'.
- *Per se*, EDRi agreed with the circumvention principle, but stressed that fundamental rights 'are not just a list of rights of individuals to defend themselves against the state, but also set out a legal order that at least indirectly applies to everyone'. Therefore, EDRi stressed that should a restriction be justified, it needs to be based on law, whether the executor is the state or private entities encouraged by states.

Data protection / Privacy

EDRi launches information websites on data protection reform

- [EDRi](#) has launched two websites providing information on the proposed data protection framework: <http://protectmydata.eu> and <http://policingprivacy.eu/>.
- Those platforms aim at providing easy access to different articles and topics relevant to the EU data protection reform and the ongoing discussions.
- The websites give access to the amendments proposed by EDRi in collaboration with Privacy International.

ENISA underlines Annual Privacy Forum's Success

- **The European Network and Information Security Agency (ENISA)** published a [report](#) on the first Annual Privacy Forum which took place Limassol, Cyprus on 10 and 11 October.
- The Forum brought together key decision-makers and scientists to discuss the latest developments on the subject. The need for **more privacy-respecting tools, enhanced transparency** and **analysis of market failures in privacy technology**, were among its recommendations.
- The report also stressed that in order to ensure privacy protection efforts need to be distributed among different stakeholders: 'We need some form of confidence that the ICT system managing data actually enforces privacy policies, and it is sensible to divide this assurance problem into areas of early (requirements, design phases) and late assurance (implementation and monitoring of operational environment).'