

ISOC EUROPEAN REGIONAL BUREAU- EU issues overview

23 February – 1 March 2013

Open Internet

UK: ISPs ordered to block access to three file-sharing websites

- The UK High court has ordered six UK ISPs (Sky, BT, Everything Everywhere, Talk Talk, O2 and Virgin Media) to **disable access to three file-sharing websites** that enable their customers to freely download films and music.
- The case was brought to the court by ten record labels, such as EMI, Sony and Universal, and is the third one in the UK over the past two years.
- The court has given ISPs **15 working days to implement** the order.

Spain: ISPs ordered to block Internet access

- Spanish telecoms regulator **Comisión del Mercado de las Telecomunicaciones (CMT)** has [published an order](#) it has received from a criminal court to **block Internet access** to an individual convicted of possessing child pornography and distributing it online.
- The court sent the notice to CMT to distribute to its members after sentencing the individual concerned to 18 months in prison and forbidding him from having any fixed or mobile Internet account for that period.
- According to a [press report](#), CMT reckons that this is the first time it has received such an order relating to a convicted criminal.

Open Internet/Data protection

UK: Google must remove potentially libellous content from blog platform

- Google has been ordered to **remove potentially libellous posts** from its Blogger platform in a [ruling](#) by the Court Of Appeal of England and Wales.
- **Google may be deemed a publisher** of, and be held liable for, defamatory user-generated content posted on its blogs once it has been notified of its nature. According to the ruling, failure to delete such material would make Google 'publisher by acquiescence', as the search engine 'defines the limits of permitted content . . . , has the power and capability to remove or block access to offending material to which its attention is drawn, [and] facilitates the publication of the blogs'.
- The case is perceived as a landmark as the UK has now **developed a notice-based liability regime for Internet intermediaries**.

Data protection

CJEU to decide on the scope of right to be forgotten

- A [case](#) regarding **the publisher's responsibility to remove content and the right to be forgotten** was [heard](#) by the Court of Justice of the European Union (CJEU) on 26 February.
- The case concerns an appeal by **Google** against a Spanish ruling in favour of the Spanish data protection authority, **Agencia Española de Protección de Datos (AEPD)**, which claimed that the individual right for data removal was breached by the search engine. [Google](#) has argued that it should not be forced to erase lawful content which it did not create and that such an approach would *de facto* introduce a certain form of censorship.

- CJEU will determine whether Google can be considered the controller or just a host of the information. It will also assess whether a search engine run by a US-based company could be subject to EU privacy law, thus **defining the scope of the proposed EU data regulation** overhaul. It will publish its opinion on 25 June, with the ruling expected by the end of the year.

EU data protection watchdogs to address concerns on Google's privacy rules

- European data protection authorities, led by CNIL, have set up a **working group** that is to co-ordinate the investigation regarding the shortcomings of **Google's privacy rules**.
- The group is to question Google, which failed to answer to the concerns raised by EU data protection authorities, in a meeting that should take place within a few weeks.

Copyright infringement

BEUC quits 'Licences for Europe' copyright dialogue

- The EU consumer association **BEUC** has said that it is leaving the recently launched **stakeholders' dialogue for copyright revision**, '[Licences for Europe](#)', due to its concerns about the ill-fitted scope of the proposed framework and the under-representation of consumers' associations.
- In a **letter** sent to Commissioner Barnier, BEUC's Director General stressed that the design would not allow addressing the real barriers of accessing creative content online, BEUC does 'not wish to lend legitimacy to a process where consumer input does not receive the attention it deserves'.
- 'Licences for Europe' is part of the EU [Communication on content in the Digital Single Market](#) and includes **working groups** on Cross-border access and the portability of services; User-generated content and licensing for small-scale users of protected material; Audio-visual sector and cultural heritage institutions, and Text and data mining. According to [Internal Market Commissioner Barnier](#), the working groups will send their own agenda; a mid-term plenary session is scheduled for June and a closing plenary session for November.

France: Authorities seek to reinforce fight against illegal content sharing

- The French Authority for online protection of copyright ([Hadopi](#)) has published a [study](#) on how to **improve measures fighting against streaming and illegal online downloading**. Rather than defining which kind of content is considered illegal, Hadopi proposes to involve more parties in the efforts to eradicate copyright infringement.
- Regarding potential web content filtering, the study favours a blocking feature implemented at the level of **computer's operating system**.
- The study concentrates particularly on **referencing sites**, providing lists of hyperlinks to websites with illegal content, and on search engines which could be implicated in illegal content diffusion. The study proposes placing greater responsibility on those sites.
- The study emphasises that any proposed measures are to be **coordinated with the objectives pursued by the European Commission** as previously defined in the 2011 [Communication](#) on 'A coherent framework for building trust in the Digital Single Market for e-commerce and online services'.

Germany: Bundestag adopts ancillary copyright bill

- The German Bundestag (lower house of the parliament) has adopted by a narrow majority its **ancillary copyright bill (Leistungsschutzrecht)**, which is designed to prevent search engines from reproducing sections of press articles without licence from the publishers.
- However, the bill was [diluted](#) in committee prior to adoption so that search engines may reproduce 'text snippets' without permission: this is not clearly defined and so it is not clear exactly what the legal impact will be.

- The vote was [welcomed](#) by representatives of German newspaper and magazine publishers as an important legal step, while Google opposes the law and has called for the Bundesrat (upper house) to block the law.

Internet governance

Kroes warns of ‘Digital Cold War’

- In a [speech](#) delivered during a European Parliament roundtable event on ‘The Future of Internet Governance’, **Digital Agenda Commissioner Kroes** stressed the **importance of a collaborative multistakeholder approach** to Internet governance, but warned against governments interfering with the Internet’s openness and transparency.
- Reacting to the dispute at last year’s ITU conference, Kroes emphasised her fear of what she called a **Digital Cold War** and took a stance against greater state and ITU involvement in Internet governance.
- Supporting the improvement of the multistakeholder model, Kroes welcomed **the intention of ICANN to widen its membership** in its efforts to become a more global organisation.
- At the same event, Hamadoun Touré, Secretary-General of the ITU, also [warned](#) that a new cold war looms over the Internet, overshadowing the discussions issues such as wider access and cyber security.

General

France: Government presents its roadmap of digital agenda

- The French government has presented its [roadmap for a digital agenda](#) that is based on three main themes: youth, competitiveness and reinforcement and preservation of values. Overall, the measures to be implemented should be in line with the objectives of the [European digital agenda](#).
- With regards to Internet governance, the document states that **a proposal for law on digital rights and liberties** is to be presented to the French parliament by 2014.