

ISOC EUROPEAN REGIONAL BUREAU - EU issues overview

5 - 10 May 2013

Data protection

Germany: Court confirms companies must specify reasons for data sharing

- In a recent ruling, the **Berlin Regional Court** asked **Apple** to change its data handling policies, as they do not comply with country's data protection laws. Among the clauses which the company needs to change is the '**global consent**' clause used for data sharing between Apple and its partners.
- According to the ruling, for a **user's consent** to be valid, a company is required to tell its costumers what the data is used for. Moreover, Apple will no longer be allowed to collect German users' **location data** and to merge customer data collected by its affiliates.
- The case was brought to the court by the Federation of German Consumer Organisations ([vzbv](#)).

CDT highlights problems for ISPs of 'right to be forgotten'

- The **Center for Democracy & Technology** (CDT) has published a [paper](#) on the challenges of the '**right to be forgotten**' clause that is part of the [proposed EU data protection Regulation](#) (Article 17). It underlines that the provision would impose **unreasonable burdens on ISPs** and limit user's **freedom of expression**.
- The paper claims that the broad scope of the provision fails to adequately address the implications that the right to be forgotten would have on the freedom of expression (e.g. lawful reproduction and referencing).
- The issue with the current wording of the right is that it **does not strike balance between the freedom of expression and privacy rights**, as the responsibility to balance those fundamental rights is placed upon content platforms and other intermediaries that are ill-suited to this role, according to CDT.

European Parliament Committee vote on data protection Regulation postponed again

- A meeting of European Parliament's Civil Liberties Committee (LIBE) on 6 May confirmed that **the vote** on the proposed overhaul of the EU data protection framework **will not take place on 29 May** as scheduled, due to a large number of issues that still need to be discussed.
- Rapporteur Jan Philipp Albrecht (Greens, Germany) believes that a compromise on the proposal will be reached before Parliament's summer recess in July.

Cybersecurity / Data protection

UK: Draft Communications Data Bill blocked

- The **proposed draft Communications Data Bill**, promoted by UK Home Secretary Theresa May, will be absent from government's programme amid concerns about massive surveillance of British users' Internet activity and high cost of its implementation.
- The proposal, which aimed at increasing UK's cybersecurity capabilities, was to allow the British law enforcement authorities to widely access and store information about **IP addresses** of Internet users.
- Previously, Deputy Prime Minister and leader of the Liberal Democrats Nick Clegg [stated](#) that the proposed Bill will not go ahead while his government is in power (until May 2015).
- Nevertheless, on 8 May the Queen indicated in her [speech](#) to Parliament that the government will put forward unspecified **new proposals** enabling the investigation of cybercrimes.

- In a separate development, University of London and Oxford University will develop [programmes to train cybersecurity experts](#). The UK government is to subsidise the two programmes that are to also to promote cooperation with business and organisation in the security field with a £7.5m funding.

Netherlands: Draft law would oblige ISPs to divulge encrypted data to prosecutors

- The Dutch Minister for Security and Justice Ivo Opstelten has [announced](#) a new **proposal to update the law on cybersecurity**.
- The proposal includes the obligation for a **'communications service provider'** ('aanbieder van een communicatiedienst') to use 'all reasonable measures' to make certain encrypted online data inaccessible 'to the extent necessary to eliminate an offense or to prevent new offenses'. This is with reference to phenomena such as child pornography or 'information about crimes'. In such cases, the public prosecutor would have to be in possession of a written order to specify the offence, the name of the suspect, the reasons why it is necessary to access their data and exactly which data is to be made inaccessible.
- In the case of suspected terrorists, the public prosecutor can oblige 'data bearers' to give it access to encrypted data.

Copyright infringement

Greece: Court refuses to force ISPs to immediately block torrent sites

- The Hellenic Society for the Protection of Intellectual Property (AEPI) requested an immediate court injunction forcing **ISPs to block torrent websites**, in a move that would stop copyright infringement.
- In its recent ruling, the court rejected the request for an immediate injunction, stating there is no ground to support an urgent action. Nevertheless, the case will be ruled on in a hearing scheduled for 21 August.

UK: Regulator publishes analysis of online copyright infringement

- Telecoms regulator **Ofcom** has published a [consultants' report](#) analysing data on online copyright infringement for the period November 2012 to January 2013.
- The report finds that just 1.6% of UK Internet users over the age of 12 were responsible for 79% of infringements.
- The report also divides up infringers according to their justifications for accessing content illegally. It classifies one group as **'Digital Transgressors'** (9% of infringers, 22% of infringed volume, 2% of total digital consumers). These were young Internet users with 'the highest levels of downloading behaviour... This group showed the least remorse about infringing material, but also had the highest fear of getting caught. In fact, **they appeared to be the most receptive to receiving letters from ISPs alleging infringement.**'

Net neutrality

Germany: Fixed data caps not to hamper net neutrality, says Deutsche Telekom

- Following the recent announcement by Deutsche Telekom regarding the termination of its flat rate Internet connection contracts and their replacement by 2016 by new contracts with **fixed data caps**, CEO René Obermann has underlined that the measure is not being taken to discriminate against any service provider, as the company is to offer the same quality of network to each client.
- Furthermore, he called on stakeholders and policymakers to hold **more discussions on net neutrality** in Germany.

Internet Governance

Telecoms and Internet players called on to bridge their differences

- Ahead of the upcoming **Fifth World Telecommunication / ICT Policy Forum (WTPF** – Geneva, 14-16 May), a preparatory meeting of the European Parliament's [European Internet Foundation](#) brought together the ITU Secretary-General and other stakeholders to discuss the future of the Internet governance.
- In the keynote speech, **Hamadoun Touré**, Secretary-General of the ITU, underlined the need for telecoms and Internet players to work together closely, as they are complementary. He also emphasised that more and more customers access the Internet via **mobile devices**, thus bridging the gap between telecoms and Internet.
- Former German MEP **Erika Mann** from ICANN underlined that to ensure balanced Internet governance, all the stakeholders should work together on reaching compromise.
- A similar point was raised by **Linda Corugedo Steneberg**, Director for Cooperation at **DG CONNECT**. She also recalled the disappointing outcome of Dubai's ITU conference, stressing the importance of a **multistakeholder approach** to Internet governance.