

ISOC European Regional Bureau Newsletter

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Data Protection

EU/US: Facebook faces probes over data harvesting

- In a letter sent to the **Irish Data Protection Commissioner Billy Hawkes** and to the US Federal Trade Commission, the **Trans Atlantic Consumer Dialogue** (TACD), an organisation of leading American and European consumer rights groups, called on the authorities to **act against Facebook's plans to collect web browsing histories for targeted advertising**. Facebook's new data harvesting policy is said to expand to any website with the right coding. According to the consumer rights organisation, data protection watchdogs need to notify Facebook that it must **suspend the proposed changes** in order to determine whether they are **in line with current laws**.
- TACD asked the Irish watchdog to establish whether the proposed expansion breaches **privacy recommendations** comprised in the 2011 audit done by the Irish authority. Facebook reacted underlining that the level of control its users have over advertising exceeds current industry standards.
- Separately, **a class-action lawsuit** against Facebook's alleged violations of its users' privacy has been filed with the Vienna Commercial Court by Max Schrems from the **Europe v Facebook** initiative.

EU: Safe harbour case deals with watchdogs powers, not operator's wrongdoing

- The **Court of Justice of the European Union** prepares to examine whether a **national data protection authority** can, or should **overrule the so-called Safe Harbour** agreement, if it receives complaints about it.
- Facebook's alleged violation of EU privacy rules, which has triggered the EU case, should not be part of the upcoming judgment, argued some experts.
- Rather than examining the **company's compliance with the agreement**, the judges will be examining the **powers of national privacy watchdogs** to investigate the implementation of the Safe Harbour agreement conceived in 2000. The main issue is to determine whether the Commission's decision on the agreement is automatically binding on the national authorities or if those authorities have the right to conduct their own investigation into whether Safe Harbour, **as implemented**, meets EU standards for privacy.
- Should the EU's highest court rule that national authorities can investigate EU decisions, such as Safe Harbour, the **value of those decisions** would be negatively affected, experts warned.

EU: Implementation of the right to be forgotten raises concerns

- Following the removal of over 50 links to Wikipedia article, **Wikimedia Foundation**, that operates the online encyclopaedia, listed the articles removed from search results, stating that it would publish each **notice of removal** of a Wikipedia link.
- The company's press release deplored that accurate **search results are disappearing** without public explanation, proof or judicial review. The enforcement of the **right to be forgotten** creates an **Internet riddled with memory holes**, stated Lila Tretikov, executive director of the Wikimedia Foundation.

- By mid-July, **Google**, which handles around 90% of searches in Europe, stated that it had received over **90,000 requests for removal**, accepting over 50% of them.
- Head of the French Data Protection Authority **CNIL** and chairwoman of **the Article 29 Working Party** **Isabelle Falque-Pierrotin** expressed her **concerns** with regards to the publication of notifications that in her opinion undercut the removal requests, as they bring **unwanted attention back to the page** in question.

UK: Information Commissioner defends right to be forgotten

- After the **House of Lords EU Committee** released a report last month arguing that the EU's right to be forgotten is unworkable, the **UK's Information Commissioner's Office** (ICO), the country's data protection watchdog, stated that the **House of Lords' position is misplaced**.
- However, **David Smith**, deputy commissioner and director of data protection for the ICO, agreed on the fact that the **expression "right to be forgotten" is misleading**, as it only allows users to have the link removed from the search results and not from the Internet altogether.
- Smith has also touched upon the controversial situation regarding the decision of search engines to **notify publishers** when a search results linked to their content has been taken down.

Copyright

Germany: Yahoo challenges German copyright law

- On 3 August, **Yahoo** filed a **complaint** with Germany's federal constitutional court in order to **challenge the national copyright law** that came into force in August last year.
- The copyright law requires search engines and news aggregators to seek permission from press publishers, if they want to use more than single words or smallest text extracts.
- Helge Huffman, **General Counsel of Yahoo Germany**, said in a **statement** that the law imposes an **unconstitutional restriction** on the **freedom of information of Internet users** because obtaining specific information from the Internet without the help of search engines is not possible.
- Huffman emphasised that according to the **German constitution**, the state has to guarantee the freedom of information, including the structures that guarantee people can obtain information. The law has also been criticised for its **vagueness** that is said to cause **legal uncertainty**.

EU: EU losing momentum on copyright law reform

- The European Commission has been investigating the issue of copyright reform for the past **five years** by gathering information on how to adapt the current rules. No concrete solution has yet been found, which is leading to growing impatience of the stakeholders, some experts wrote.
- Last year, EU Member States leaders underlined the importance of copyright modernisation, a point also stressed by **the President-elect of the European Commission Jean-Claude Juncker**. But, in a recent report, the **European Parliament** concluded that the Commission is reluctant to undertake deep revisions.
- **By the end of the year**, the Commission is due to publish a **white paper on copyright**, outlining its policy preferences for legislative changes. However, it has already been questioned whether the paper will be ambitious enough.
- While political determination to push through the reform has been missing, some experts noted that the **European creative industry** has survived years of legal uncertainty and **consumers** have benefited from an improving range of content and services.

Spain: EU stakeholders concerned about Spanish 'Google Tax' law

- Last week, the Spanish parliament's congress approved a **new law**, the so-called **canon AEDE** that allows publishers to seek remuneration from **news aggregators** for linking to their content. It is said that the new law targets websites or platforms such as Google News, Reggit and Digg.

- According to the law, the websites could be asked by **publishers** to pay a fee for mentioning a link or a meaningful description of an article.
- A spokesperson for **Digital Commissioner Neelie Kroes** said that the issue of related rights of publishers is not on the current Commission agenda. The remuneration by news aggregators was not covered in the recent Commission's public consultation on the EU copyright rules review. The **European Commission deplored the Spanish law** which still has to be **ratified** by the country's senate in September.

Cybersecurity/Data protection

Russia/Global: Russian hacking case points to the lack of global cybersecurity policies

- Last week, an American security firm revealed that a **Russian hacking group had collected 1.2 billion usernames and passwords**. The case points to the problematic nature of law enforcement as crime perpetrators are not in the jurisdiction in which the crime was committed.
- **Stephen Purser**, head of operations at **ENISA** (European Network and Information Security Agency) confirmed that **judicial cross-border cooperation is complicated** and there is no global response to cybercrime.

Open Internet

Russia: New law for bloggers and online media came into force

- On 1 August, a new law that imposes restrictions on **users of social media** has come into force in Russia. According to the law, **bloggers** with more than 3,000 daily readers must register with the mass media regulator, Roskomnadzor, and comply with the regulations that govern the country's larger media outlets.

General

EU: 1 million jobs in EU app economy

- According to data by Vision Mobile, the **mobile apps economy** has created roughly **1 million direct and indirect jobs in Europe**. About 50% of roles were attributed to Apple's iOS.
- Commenting on the booming app economy, **EU Digital Agenda Commissioner Kroes** stated that apps sector has started an economic revolution of which she wants the EU to be one of the leaders.

UK: Preparation of digital infrastructure strategy

- The British government is gathering feedback on its plan to develop a **new strategy for digital communications infrastructure** that the country will need in the next 10 to 15 years. A consultation document from the government was published on 6 August.
- The aim of the plan is to tackle swift convergence of the broadcast and telecommunications markets, including any changes to the regulatory framework that might be needed.