

ISOC European Regional Bureau Newsletter

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Net neutrality

EU: Under draft EU net neutrality rules, zero-rating would be banned

- Regulators in **the Netherlands and Slovenia**, two EU Members States which have net neutrality laws in place, have **recently fined telecom operators** for offering so-called **zero-rated services**, a practice which consist in allowing users to access particular content or service without being charged or counted for that specific usage of data.
- According to a new **proposal** the Member States telecom attachés will discuss on 10 February as part of the ongoing negotiations on the **Connected Continent package**, regulators would be allowed to **ban operators from selling packages that combine Internet access with web services** at a preferential rate.
- The Latvian Presidency proposed that **Internet access services providers** shall not conduct commercial practise **restricting or distorting the end users' right to access** to the open Internet.
- On the other hand, some experts argue that zero-rating is not problematic where there is a competitive market for Internet access, and that even in cases where competition is missing, regulators should target the lack of competition and not the zero-rating.
- As for **court orders**, the latest proposal drops a provision allowing certain Internet traffic being blocked or slowed down on orders from courts of public authorities. An explanatory note said that there is no need for such a provision, because the draft law would not override national laws that give courts and authorities the right to order traffic management.

EU: Sir Tim Berners-Lee discusses net neutrality in Ansip's blog

- **Harmonised EU net neutrality rules are welcome** as they will lead to economic growth and social progress, **Sir Tim Berners-Lee** said on 2 February in a **blog entry** hosted by Commission Vice-President Andrus Ansip's blog.
- Sir Berners-Lee, founder of the World Wide Web, argued that it is difficult to predict what the future will bring for the Internet due to its open, neutral, creative and collaborative character. These elements, which contribute to the network's ability to innovate, largely rely on net neutrality.
- However, **net neutrality is under threat**, since some governments and companies violate the principle, taking advantage of the lack of net neutrality regulation in most countries. Thus, Sir Berners-Lee urged Member States and the Latvian Presidency to **keep net neutrality high in their agenda** and adopt rules which will foster online innovation and economic growth in Europe.

Digital Single Market

EU: Legislation on Internet platforms to encompass different types of services

- In his intervention at the **Competitive and Inclusive Digital Single Market workshop** organised by the Parliament's S&D IMCO group on 4 February, **Martin Bailey**, Head of DG Connect's Digital Single

Market unit, said that the drafting of online platforms legislation would be difficult if debates continued to revolve around Google solely. The **future EU legislation would encompass Internet platforms** ranging from audiovisual services, e-commerce sites and payment providers.

- Bailey also provided some **insights into the upcoming Digital Single Market strategy**, noting that the overarching goal of the initiative is to **make it easier to sell and buy on the Internet**.
- Importantly, Bailey stressed that **legislative responses are unnecessary to address many issues**. Thus, in cases where there are no bottlenecks, measures combining legislation and self-regulation would be the most appropriate.

Internet governance

EU: Commission invites stakeholders to share ideas with NETmundial

- European Commission has invited all interested parties to **contribute** proposals and ideas to the **NETmundial initiative** in order to operationalise **distributed Internet governance**.
- The Commission recalled that global participation and a bottom-up approach are fully embedded in the NETmundial initiative which aims to **preserve the Internet as an open, accessible and secure platform**.

EU: Major political groups call for renewal of the IGF's mandate

- Ahead of next week's plenary session (9-12 February), three major political groups in the **European Parliament**, the EPP, the S&D and ALDE, tabled a **motion for resolution** on the **Internet Governance Forum (IGF)**.
- The motion calls on the Commission and EU Member States to **support the renewal of IGF's mandate** which ends in 2015, and to support policy discussions within this framework. The parties express their support for a **multistakeholder model of Internet governance** and ask for **global respect of fundamental freedoms**, violated by state control and surveillance.
- The motion also calls for the **completion of negotiations on Internet governance**, noting that the agreement between ICANN and the US government on IANA's supervision expires in September 2015.
- Despite the fact that the S&D, EPP and ALDE groups hold the majority in the Parliament and thus their motion is expected to pass, the **ECR**, **EFDD** and the **Greens together with GUE** tabled separate resolutions on the same issue. Although these resolutions also call for the renewal of IGF's mandate, there are differences worth noting. For example, the **ECR text fails to mention state surveillance of the Internet**, while the **Greens and the European left do not call for a multistakeholder model** of Internet governance; expressing their commitment to finding the best model.

Cloud computing

EU: Commissioner Oettinger calls for an EU cloud

- Speaking at the **European People's Party Hearing on Perspectives of the Single Market 2014-2019**, which took place in Brussels on 4 February, **EU Digital Economy and Society Commissioner Günther Oettinger** stated that the **EU needs to create cloud computing companies** that can compete with top US players.
- A **European cloud** supported by the **highest data security** level and certified by a new scheme would become an attractive offer, the Commissioner underlined.
- In 2012, the Commission launched a series of non-legislative measures designed to encourage market uptake of cloud computing solutions.

Data protection

EU: European application of the right to be forgotten is appropriate, says Google's Advisory Council

- **Google's Advisory Council**, which has been appointed to advise the company on the implementation of the right to be forgotten ruling, concluded that **applying the ruling only to searches on EU domain names is the appropriate means** at this stage. The experts argued that there is no guarantee that applying a delisting to Google's extra-European sites would provide more effective data protection.
- The question of **territorial reach** has put pressure on the company, as EU data protection watchdogs argued that it should be removing links across all relevant versions of its website, including google.com.
- **Sabine Leutheusser-Schnarrenberger**, former German Minister of Justice and member of the Advisory Board, said that search results de-listing should be global, arguing that since the Internet is global, protection of users' rights must also be global.

UK: Following data protection watchdog pressure, Google changes privacy policy

- **Steve Eckersley**, head of enforcement at the **UK's Information Commissioner's Office (ICO)** stated that **Google will change its privacy policy** after the UK data protection watchdog pressured the company to modify its rules that were perceived as too vague with regards to how users' data is being used.
- The **deal with the ICO concludes the investigation** which started in 2012 after Google sought to harmonise privacy rules for over 60 products. The company has until 30 June to make the changes.
- The **UK probe was part of a wider EU investigation** that led to several fines in Spain and in France. The Dutch data protection authority announced in December 2014 that if Google failed to meet an end of February deadline to comply with the demands, it may be fined as much as €15 million.

Copyright

EU: Oettinger tests water on film, music licensing in EU

- On 30 January, Commissioner Oettinger met with the representatives of entertainment and media companies to discuss **licencing and content access across the EU**. The meeting was first in a series of talks organised by the Commission as the proposal to modernise EU copyright framework is being drafted.
- Content creators have warned the Commission against limiting their ability to licence audio-visual content on a territorial basis. **Licencing should not be considered as the main obstacle to the circulation** of works and services, considering that the EU market is fragmented because of cultural and linguistic diversity. The **barriers are also linked to the fact that there is no multinational European media player**.
- The possibility of extending the **EU's country of origin principle to digital platforms** was also raised. By complying with the administrative and legal requirements of its country of establishment, the principle allows a company to provide its services in another EU state without having a permanent presence there.
- Overall, the participants stressed that the EU's **review of the copyright rules should not interfere substantially** with the current rules that are deemed to be working fine.

General

France: Decree creating Digital Agency published

- On 4 February, **Economy Minister Emmanuel Macron** and **State Secretary for Digital Affairs Axelle Lemaire**, announced the creation of a **Digital Agency** (*l'Agence du Numérique*). The agency will establish a nation-wide service, leveraging the government's digital action.
- The agency's creation is the result of the government's desire to strengthen and unite three distinct missions: the so-called *Very High Speed Broadband Mission* devoted to the deployment of high speed

broadband across the country; the *French Tech Mission* dedicated to supporting the development of start-ups and innovation ecosystems; and *Delegation to the Internet use* responsible for raising awareness and promoting the use of digital services.

- Commenting on the Agency's establishment, Minister Macron stated that **digital transition of the French economy is a great opportunity** that must be seized to revitalize growth and activity. Secretary Lemaire added that a **digital strategy will be presented this spring**.

EU: Sweden presents ideas for telecom rules overhaul

- A **report** commissioned by the **Swedish government** said that in reforming telecom rules, the EU must ensure that **similar services**, provided by traditional operators or by Internet-based companies, are subject to a **similar set of rules**. The report also highlighted that the assumption that network owners are the same companies providing communications services should be abandoned.
- The study noted that the **notion of significant market power**, which is one of the cornerstones of the current system, is no longer adapted to the market situation, since nowadays there is no direct link between network ownership and service provision.
- It was argued that rules on competition, consumer protection and copyright would be better tools than sector specific rules for communications. Therefore, rather than detailed regulation, the **EU should promote a set of binding rules and principles**. This should also apply to net neutrality, the study noted.
- As for infrastructure building, it was argued that any new law should stress that **access to broadband is in the general interest** of all EU citizens.
- Interested parties can send their comments to the Swedish government's business department until 20 March.