

ISOC European Regional Bureau Newsletter

14 -20 February 2015

<http://www.Internetsociety.org/what-we-do/where-we-work/europe>

Digital Single Market

EU: Governments remain divided over calls for web-platform regulation

- At the **EU Competitiveness Council** that will take place on 2-3 March, representatives of EU Member States will discuss a **set of policies designed to create a digital single market (DSM)**. The possibility of **legislating online platforms** is among initiatives to be considered.
- A **note** from the Latvian Presidency unveiled that several Member States voiced concerns with regards to the wording of the draft conclusions, especially with regards to the part that touches upon the role and current state of development of online platforms. The issue at stake is whether it is necessary to assess the **need for EU policy in the field**.
- While **Belgium, France and Germany are pushing for laws to regulate Internet platforms**, encouraging the Commission to consider an EU framework, **Denmark, Lithuania, Luxembourg, the Netherlands, Sweden and the UK resist the push**, as they requested erasing the reference to assessing the need for EU policy.
- Overall, the draft conclusions emphasised that the upcoming digital single market measures should **ensure high-level protection of consumers, fair competition** between market actors, **facilitate investment** and **foster competitiveness**.
- The draft stressed that the **EU Single Market regulatory framework should be digital by default** in order to ensure that all **new legislation is made fit for the digital age**. The Commission has been invited to introduce a digital dimension to its impact assessment procedures.
- While Member States do not have the prerogative to draft EU legislation, their position is likely to be reflected in the Digital Single Market strategy that the Commission is currently drafting.

*Note: On 23 February, an **Ask Ansip** Twitter chat on the Digital Single Market will take place, aiming to gather ideas for DSM creation. Commission Vice-President Ansip invited all interested parties to submit examples of digital problems they face across the EU, e.g. geo-blocking, online services safety etc. The chat takes place one day before the **Digital4EU** Stakeholder Forum on Europe's new digital priorities.*

*On 26 February, a chat with Commissioner Oettinger (**AskOettinger**) will focus on copyright reform.*

Net neutrality

EU: Zero-rating ban dropped from net neutrality draft rules

- In the latest text of a draft telecom law that will be discussed on 23 February, provisions to empower national regulators to ban so-called **zero-rating practice**, which allows operators to give customers free access to some online services, **have been scrapped**. The new proposal would **give ISPs more leeway to bundle web-based services**.
- **Commercial practices** leading to situations where end users' choice is significantly reduced would be banned.

- The **possibility to breach net neutrality rules would be granted** provided it is based on the **order of a court** or authority in a Member State.

EU: MEP Tarabella accuses some Member States of blocking net neutrality

- **MEP Marc Tarabella** (S&D, Belgium) wrote that **some EU Member States are acting against citizens' interests**, since they are backing telecom operators in their efforts to block the creation of net neutrality rules in the EU.
- While the European Parliament adopted a clear position supporting net neutrality, the **Council seems to echo the position of telecoms**, putting profit maximization before Internet users, Tarabella argued.

Data protection

EU: European regulators present a joint survey on cookie usage

- A joint survey on **website cookie usage** (based on 478 websites frequently used by EU citizens) made by six regulators from the **Article 29 Working Party** (including those in France, Spain and the UK in partnership with two other European regulators responsible for enforcing the rules on cookies), found that website operators have improved the way they inform visitors about the use of cookies. However, the survey unveiled that about a **third of websites continue to use cookies without requesting the visitor's consent**.
- The survey found that 70% of the cookies were set by third-parties, with more than half of these cookies set by only 25 domains. On average, a cookie's expiry was found to be between 1 and 2 years.
- As of 2011, the updated **ePrivacy Directive** requires website operators to gain consent for the use of cookies unless a valid exemption applies.

EU: EDPS intends to become the centre of gravity for data protection

- **Giovanni Buttarelli**, the European data protection supervisor (EDPS) said that his mandate will be characterised by a **more proactive role**, marked by a greater interaction and problem solving. Buttarelli would like for the **EDPS to become a vocal and influential instance**, an important contact point at international level.
- A strategic plan that will be adopted on **2 March** will focus on identifying the main issues to be addressed in the years to come.

EU: Presidency publishes a note on Big Data

- Ahead of the upcoming **Competitiveness Council**, the Latvian Presidency circulated a **note on big data**, explaining the commercial, societal and research potential of big data technologies, and identifying some of the challenges.
- The note refers to an **OECD synthesis** which identified the main big data challenges as being on the supply-side (e.g. data flow, access and data ownership), demand-side (e.g. insufficient data management and analytics skills) and societal challenges (e.g. transparency).
- Building on the 2014 Communication **Towards a thriving data driven economy**, the note stressed that in order to **unlock the EU's digital potential**, research and innovation should stake its place in the upcoming Digital Single Market Strategy, as big data technologies act as game changers in economic and research activities.

Italy: DPA imposes a 2015 compliance programme for Google

- The Italian DPA has imposed a 2015 **compliance programme for Google**. The company has been requested to **improve** the disclosure of privacy information, the system of obtaining consent for personal data use, the management of storage and erasure of personal data, and requests for information to be erased.
- The **deadline** set by the authority is 15 January 2016.

The Netherlands: DPA issues advice on revision of the data retention law

- At the request of the minister of Security and Justice, the **Dutch Data Protection Authority (DPA)** issued its **advice on a draft bill** containing amendments to the existing **data retention rules**.
- According to the DPA's analysis, the need to retain all telephony and Internet data is **insufficiently substantiated**, calling for the bill not to be presented to Parliament. The draft bill is being proposed as reaction to a decision from the Court of Justice of the European Union that in April 2014 annulled the EU Data Retention Directive.
- The DPA concluded that the proposed **scope is too big and disproportionate**.

Safety/Open Internet

France: Interior Minister meets with executives of US digital companies to discuss encryption

- On 20 February, **Interior Minister Bernard Cazeneuve** was to meet with executives of Apple, Facebook, Google and Twitter to discuss **fight against terrorism**, cooperation between private sector and state authorities, and **encryption**.
- Arguing that **90% of the people drawn to terrorism are being attracted through the Internet**, the minister stressed that **Internet firms have an important role to play** in the fight. One of the main points Bernard Cazeneuve is promoting is **facilitation of content blockage**.
- In France, the **administrative decree on site blocking** allowing an administrative authority to require Internet service providers to block a website glorifying terrorism without the intervention of a judge was published on 6 February.
- While, in the aftermath of Snowden's revelations, Silicon Valley companies increasingly offer better privacy protection by **proposing default encryption**, authorities in Europe want to have access to individual communications.

Copyright/Taxation

Russia: Presidential administration and ministries expected to reject Internet tax

- Russia's Presidential administration has prepared a negative review of a motion suggesting to implement a new 'Internet tax', **reports** by the Russian press suggest.
- Initiated by the **Russian Union of Copyright Holders**, the proposal aims to introduce a **universal tax to all Internet users**, as they have the capacity to download, use and disseminate pirated content and therefore have to compensate copyright holders. In the past, the Union has managed to succeed in lobbying for a similar law applicable to blank CDs, DVDs and memory devices.
- ISPs, civil society, most Russian ministries and the Presidential administration have objected to the proposal. According to the Russian government, the **current framework** (2014 anti-piracy law) **is fit for combatting piracy**, as it enables the blocking of websites promoting pirated content.

General

EU: Obama considers EU regulatory action as commercially driven

- In an interview published by technology news site **Re/code**, US president **Obama** suggested that the EU's scrutiny of companies such as Google and Facebook was **driven by commercial interest**, as the region's tech companies could not compete with US Internet giants. Obama stated that while US companies created and perfected the Internet, the EU's efforts to legislate are designed to carve out some commercial interests.
- European Commission spokesperson refuted Obama's comments, stating that EU regulators' role is not to protect European companies but to **safeguard access to the single market**.

- Obama pointed specifically to Germany, noting that its companies try to set up road blocks.
- **MEP Ramon Tremosa** (ALDE, Spain), who sponsored the Parliament's motion on Google, recalled that several complainants in the Google EU antitrust case (search-advertising markets) are US companies.