

ISOC European Regional Bureau Newsletter

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Net neutrality

EU: MEP Petra Kammerevert calls for proposed net neutrality bill to be scrapped

- **MEP Petra Kammerevert** (S&D, Germany) who leads the European Parliament's Culture Committee's work on the proposed **Connected Continent package** said that **discussions on the bill should restart**.
- According to the MEP, the current proposal which aims to end roaming surcharges and enshrine net neutrality principles into law is **badly drafted** and **could result in market distortion** and provoke disputes. MEP Kammerevert also deplored the fact that her bid to amend the draft to ban the so-called **zero-rating** was unsuccessful.
- Admitting that the Parliament will face a difficult choice when voting on the law, **MEP Bogdan Andrzej Zdrojewski** (EPP, Poland) stated that MEPs concerned about net neutrality should nevertheless back the proposed law and put together a strategy to eventually strengthen the provisions on net neutrality.

Data protection

EU: Commission reiterates its stance on national data retention laws

- The **European Commission reacted** to media reports according to which it is threatening to take Germany to court over concerns regarding the proposed **data retention law**. In a **statement** published on 16 September, the Commission reiterated that following the decision of the European Court of Justice that annulled the 2006 Data Retention Directive, the **decision of whether or not to introduce national data retention provisions is a national decision**.
- There are **no plans to present initiatives on data retention**, therefore Member States can maintain their data retention frameworks or set up new ones, providing they comply with basic principles under EU law, the Commission concluded.
- **Netzpolitik** has published parts from an opinion sent by the Commission to Germany highlighting that **EU Internal Market Commissioner Elżbieta Bieńkowska** is concerned about the **draft law's impact on communications providers from other EU countries**. Considering that the law would require records of Germans' communications to be stored in the country, providers whose systems are already located in Germany will have an advantage. The Commission stated that the opinion it sent to Germany was delivered in the framework of the so-called Technical Standards Directive that foresees that a draft national regulation in the area of goods and information society services should be notified to the Commission.

EU: Data protection supervisor listens to Silicon Valley's concerns

- The **European Data Protection Supervisor (EDPS) Giovanni Buttarelli** said that the primary goal of his current visit to Silicon Valley, which includes public events and a series of meetings with tech companies, is to listen and learn not to preach.

- Buttarelli stated that his intention is to **give companies** collecting, processing and holding data **more flexibility** in complying with EU rules. Member State Data Protection Authorities should not dictate solutions to Internet companies, the EDPS added.
- Touching upon the **data economy** and the relation between antitrust and data protection, Buttarelli said that he will continue to push to **break down the silos separating antitrust and data protection law**. According to the EDPS, the Commission antitrust enforcers should share ideas with data protection officers when investigating whether online companies are harming consumers.
- Commenting on the ongoing negotiations on the **Safe Harbour overhaul**, the EDPS said that as the agreement needs maintenance, **there may be some pain** for both sides of the Atlantic in the short term.

Digital Single Market

UK/EU: House of Lords Committee launches inquiry into online platforms

- On 17 September, the **EU Internal Market Sub-Committee of the House of Lords** launched an **inquiry into online platforms** which will feed into a wider probe the European Commission is expected to launch next week.
- The UK inquiry aims to **assess the benefits and problems caused by online platforms**, covering effects on businesses and consumers.
- The definition of an online platform, effectiveness of the current competition law on platforms and whether issues linked to platforms are best dealt with at EU or Member State level are among the topics the Committee will explore.
- The **Committee's Chairman Lord Whitty** commented on the question of online platforms regulation stating that while some argue that regulation is necessary to ensure transparency and to prevent big platforms from potentially imposing unfair terms and conditions on SMEs, others argue that specific regulation could harm innovation.
- The deadline for submissions is 16 October.

Security

France: Defence Committee backs proposed international surveillance measures

- On 16 September, the Defence Committee of the French Parliament **adopted**, without modifications, the proposed law on **international surveillance measures**. The bill takes over several **provisions** of the controversial surveillance law which were censured by the Constitutional court in July. While the court validated the major part of the law, it prescribed the deletion of three articles, including the one on international surveillance.
- The proposal by the **Committee's President MP Patricia Adam** and Vice-President Philippe Nauche should be examined by the Parliament on 1 October. According to the text, the surveillance of communications which are transmitted from or received abroad can be authorised exclusively for defence reasons and promotion of the **nation's fundamental interests**.
- The proposal has triggered opposition of civil liberties and human rights organisations. *La Quadrature du Net* **criticised the bill** stating that such a mass surveillance system participates in a race for worldwide spying, effectively placing France as an enemy of fundamental freedoms.

UK: Tech companies have responsibility on terror data, says the UK security service

- The Director General of the **UK Security Service (MI5) Andrew Parker** stated that technology companies have an **ethical responsibility to alert authorities** when they found evidence of terrorist threats and other serious crimes.
- **ISPA**, the UK's trade association for providers of Internet services, responded to Parker stating that law enforcement should have **reasonable access** to communications data as long as the governing legislation has appropriate safeguards and oversight arrangements. **Nicholas Lansman**, ISPA Secretary

General underlined the importance of getting the balance right between privacy, security, maintaining user trust and the cost to industry.

- Earlier this year, **Prime Minister David Cameron** asked former UK ambassador to the US Nigel Sheinwald to find ways of getting technology companies, the majority of which is under US jurisdiction, to share data with British authorities.

Cybersecurity

EU: Member States fail to agree on the scope of the proposed NIS Directive

- Member State representatives continue to **struggle to reach an agreement** on the inclusion of the so-called Internet enablers within the scope of the **Network and Information Security Directive (NIS)**.
- At the last meeting, a group of Member States which reflects a majority view, called for the inclusion of **cloud services** and **communication services run over the Internet** (e.g. Skype) under the Directive.
- The position of the **Luxembourg Presidency** reflects the majority view as it proposes to include a group of Internet enablers within the Directive's scope. However, the Presidency stressed that **Internet companies should not be considered as critical infrastructure** and therefore should be subject to lighter reporting and security requirements.
- The Presidency is expected to provide a new text for the Directive before 1 October. However, a new **round of dialogue talks is unlikely to take place before November**.

Child Safety Online

Germany: Report praises swift deletion of illegal content online

- According to the **findings** of the German Government Evaluation Report on the Deletion of Child Pornography in the Internet in 2014, **77% of webpages hosted in Germany that contain illegal content are deleted within 2 days**. Last year, 1,146 sites hosted in Germany were taken offline.
- The report highlighted the successful cooperation between the German Federal Criminal Police Office and the German complaint hotlines for the prevention of illegal content online. **Eco**, Association of the German Internet Industry, pointed out the **success of self-regulation of the Internet**.

Open Internet

Germany: Task force on measures to combat racism and xenophobia online created

- **Heiko Mass**, German Federal Minister of Justice, announced that following his meeting with Facebook the ministry will coordinate the **creation of a task force** which would evaluate whether **inappropriate content** flagged by users falls under freedom of speech or is illegal under German law. Facebook and other Internet companies will be part of the task force.
- The task force's creation follows an increasing pressure online companies have been facing with regards to their dealing with for example hate speech and the speed with which the flagged posts are effectively being removed. Companies have resisted calls by countries such as France and Germany to **actively police** their platforms for extremist content.