

ISOC European Regional Bureau Newsletter

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Data protection

EU: Ombudsman office proposed by the US could help reach a deal on the EU-US data transfers

- People familiar with negotiations on a **new framework for transatlantic data transfers** confirmed that the United States has proposed to **create an ombudsman** to help verify that US authorities' access to personal data transferred under Safe Harbour is not excessive. Sources also confirmed that before accepting this offer, EU negotiators want to know more details on what power the new office would have.
- Speaking at the annual Computers, Privacy and Data Protection conference which took place in Brussels on 27-29 January, **Paul Nemitz**, Director responsible for Fundamental rights and Union citizenship in the Directorate-General Justice of the European Commission, stated that **a new framework deal on transatlantic data transfers could be struck by 1 February**. Should that be the case, the College of Commissioners would meet on 2 February to make a final decision on the negotiations.

EU: European Data Protection Supervisor creates an Ethics Advisory Group

- **Giovanni Buttarelli**, the **European Data Protection Supervisor (EDPS)**, announced the establishment of an **Ethics Advisory Group** which will support his work on the issue of **digital ethics**. The EDPS said that the aim of the initiative is to reconsider the ethical dimension of the relationships between human rights, technology, markets and business models and their implications for the rights to privacy and data protection in the digital environment.
- The **Ethics Advisory Group** is composed of academics J. Peter Burgess, Jeroen Van den Hoven, Antoinette Rouvroy and Luciano Floridi; author Jaron Lanier; and economist Aurélie Pols. Through interviews and workshops, the Advisory Group will involve other experts.
- A comprehensive **draft report on the group's findings and recommendations** is expected to be submitted by **January 2017**.

EU: Europe celebrates its tenth annual Data Protection Day

- A series of events and conferences took place around Europe on 28 January to mark the tenth anniversary of the **European Data Protection Day**.
- EU Justice Commissioner **Jourová** and Commission Vice-President **Ansip** published a **joint-statement** in which they underlined that the **new EU data protection rules** will **give citizens stronger rights** and allow them to have **better control of their data**.
- In order to promote scientific research on the protection of privacy, CNIL, the French data protection watchdog, announced the launch of a European **competition** to reward a scientific paper contributing to the improvement of privacy protection.

EU: Privacy rules for telecom industry may also apply to web communication services

- Following the recent agreement on the proposed General Data Protection Regulation, the European Commission readies the **review of the 2002 ePrivacy Directive**.
- **Rosa Barcelo** from DG CNECT stated that the Commission will assess whether there is a level playing field between conventional communication providers and the so-called over-the-top services. As a result of the evaluation, **Internet-based voice and messaging services** might be required to comply with privacy rules that currently only apply to telecom operators.

Cybersecurity

EU: Update on cybersecurity

- Speaking at the **8th International Cybersecurity Forum** which took place in Lille, France on 25-26 January, EU Commissioner for the Digital Economy and Society **Gunther Oettinger** stated that the **cybersecurity contractual public private partnership**, which will be **launched by June**, will aim to stimulate the competitiveness and innovation capacities of the EU digital security and privacy industry.
- As for the **cybersecurity policy priorities** of the European Commission, the Commissioner said that they revolve around four main pillars: enhancing cybersecurity capabilities and cooperation across the EU; making the EU a strong player on cybersecurity; mainstreaming cybersecurity in EU policy-making, and ensuring high level of trust and privacy protection in the digital economy. The Commissioner added that **cybersecurity is a shared responsibility**.
- The importance of strengthening public-private cooperation to **tackle cybercrime** was underlined at the informal meeting of EU ministers for Justice and Home Affairs which took place in Amsterdam on 25-26 January. It was reported that the European Commission officials will **launch a dialogue with Internet Service Providers** on how to step-up the cooperation in cybercrime fighting.

EU: ENISA publishes its 2015 Threat Landscape report

- **ENISA**, the European Network and Information Security Agency, published its fifth yearly report on **top cyber threats**. In the **ENISA Threat Landscape 2015**, the agency provided an overview of the 15 top cyber threats and detailed threat assessments in the areas of Software Defined Networks and Big Data.
- The report confirmed that there is more cooperation between stakeholders to effectively address cyber threats however the **attacks are increasingly sophisticated**.

Net neutrality

EU: BEREC works on a set of net neutrality guidelines

- **BEREC**, the Body of European Regulators of Electronic Communications, will start working on a set of **net neutrality guidelines** which will outline how the new EU net neutrality rules should be applied.
- An initial draft should be **open to public consultation**. The publication of the guidelines is expected before the end of August 2016.

France: Assembly approves digital bill enshrining net neutrality in law

- By 356 votes in favour, 187 abstentions and 1 vote against, the French National Assembly adopted on 26 January the proposed **digital bill** which **enshrines the principle of net neutrality in law**.
- **ARCEP**, the French authority for regulation of the electronic communications and postal sectors, will be responsible for ensuring that the principle of net neutrality is observed.

Open Internet

France: Since February 2015, France blocked access to over 280 websites

- **Interior Minister Bernard Cazeneuve** announced that, since February 2015, **France blocked access to 283 websites** with illegal or harmful content.
- The state of emergency which was voted in France in November 2015 allows **immediate administrative blocking** of any website inciting to commit acts of terrorism. Before that, ISPs had 24 hours to respond to these requests.

Digital Single Market

EU: Commission publishes preliminary results of the public consultation on online platforms

- The European Commission released the **preliminary results** of the **public consultation on the role of online platforms**. The objective of the consultation which closed on 6 January was to gather evidence and views on the **regulatory environment for platforms**, liability of intermediaries, data and cloud and collaborative economy.
- A majority of respondents stated that **platforms should be more transparent** and provide more information on personal and non-personal data collected. The respondents consider that the problem could be tackled by a **combination of regulatory solutions, self-regulatory and market dynamics**.
- **Insufficient transparency** about the security and protection of users' data was also underlined by a majority of individual citizens and SMEs responding to the section on **cloud service providers**.
- As for **online intermediaries and tackling of illegal content**, a majority of respondents consider that different categories of illegal content require different policy approaches as regards **notice-and-action procedures**, particularly in cases of infringements of intellectual property rights, child abuse content and racist and xenophobic speech. The preliminary results showed that rights holders and enforcement authorities are in favour of a **"take and stay down principle"** for illegal content, while intermediaries are not, voicing their **reluctance to specific duties of care** for certain categories of content.
- With regards to the **liability regime**, the current analysis of the Commission showed that part of stakeholders request clarification and guidance for its implementation or a rebalancing of interests which could include the **creation of other categories of intermediary services**, besides mere conduit/caching/hosting.
- The Commission received more than **1036 replies** via the procedures foreseen in the consultation and additional **10,599 individual contributions via one single advocacy association** addressing only some of the questions. Over 80% of respondents replied to questions relevant to 'platforms' and 'online intermediaries & tackling illegal content', 60% replied to the section on 'data and cloud computing' and only one third replied to the section on 'collaborative economy'. A full report should be published in the spring.