

ISOC European Regional Bureau Newsletter

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Data protection

EU/US: Commissioner Jourová does not want to re-open negotiations on Privacy Shield

- Commenting on the concerns raised by national data protection authorities with regards to the Privacy Shield, EU Justice Commissioner Věra Jourová stated that she **does not want to say that the Commission is going to open the negotiations again**.
- The Commissioner confirmed that the EU and US officials are discussing the concerns and working on a **detailed description of the role of the ombudsman**.
- The **Article 31 Committee**, which brings together representatives of EU Member States, held its first debate on the Privacy Shield on 29 April. The Committee's opinion on the Privacy Shield is expected on 19 May.

EU/US: Commissioner Oettinger expects the EU to approve Privacy Shield by the end of June

- Speaking at the *Hannover Messe* which took place on 25-29 April, **US Secretary of Commerce Penny Pritzker** stated that the **Privacy Shield agreement should be approved within weeks**. Pritzker's remarks were mirrored by EU Digital Economy and Society Commissioner Oettinger who stated that he expects the EU to **complete legislative procedure on the deal before the end of June**.
- Secretary Pritzker said that the two parties worked hard to address the difference in their approach to privacy and managed to propose a system which **meets the requirements** set in the judgment of the Court of Justice of the European Union which last year struck down the Safe Harbour agreement.

Belgium: Data breaches will not immediately translate into fines, watchdog says

- **Joëlle Jouret**, legal adviser to the **Belgian Data Protection Commission**, stated that under the incoming **General Data Protection Regulation (GDPR)**, companies will **not face the immediate threat of fines** in Belgium. According to Jouret, the watchdog plans to impose fines only if there are no other means to get compliance, recalling that **cooperation with companies is a key factor** for the Belgian watchdog.
- Under the GDPR, national data protection authorities will be allowed to impose penalties of up to €20 million or 4% of a company's global turnover.

Digital Single Market

EU: Leaked Communication on online platforms indicates a light approach to platform regulation

- A **leaked version** of the European Commission's **Communication on online platforms**, which is expected for publication on **25 May**, indicates that the European executive **does not perceive a need for a general ex-ante regulation of online platforms**. The document says that the Commission will spend the next six months assessing whether there is a need for further action at the EU-level.

- The Communication provides a **non-exhaustive definition** of online platforms defining them as undertakings which are capable of facilitating direct interactions between users via online systems, and which capitalise on data-driven efficiencies enabled by network effects.
- The draft says that in any sector where online platforms provide comparable services to other actors, the Commission will apply the same rules. As for the **over-the-top communications services (OTTs)**, the Communication confirms that in 2016, the Commission will announce a **targeted mix of deregulation** of current telecoms rules and the applicability of a **more focused set of communications-specific rules** to all relevant and comparable services provided by OTTs.
- In order to provide a level playing field for **privacy protection**, the Commission will consider extending the scope of the **ePrivacy Directive** to OTTs.
- With regards to **liability**, the Communication says that all platform liability will be fully in line and coherent with the **e-commerce Directive**. The proposal to review the **Audiovisual Media Services Directive**, which will accompany the online platform Communication, will propose for video sharing platforms to set up **measures to protect minors from harmful content** and all users from incitement to hatred.
- A proposal to establish a **multi-stakeholder platform** which will explore how **self-regulation** could best be implemented to address the issues of **terrorism and cyber-bullying** will be presented by the Commission before the end of the year.
- The upcoming **package of copyright reform proposals** (expected this autumn) will seek to promote measures on remuneration to ensure **fair distribution of the value generated** by online distribution of content.

Germany: No one-size-fits-all solution for regulation of online platforms

- German government's **position paper on online platforms** called for a **reliable regulatory environment** for online platforms in the EU. However, the paper stops short of calling for an online platform regulation which would be applicable to all platforms pointing to the differences between them.
- The paper proposed to set up a law that would **introduce transparency criteria for private online platforms** which **aggregate, select and present content of third-parties**. This would include information on the **algorithm** used.
- With regards to **copyright**, the paper underlined the importance of assessing the need for new rules that would address the potential **risk of abuse of dominance** by online platforms.

EU: Research Commissioner supports by default open data principle

- EU Commissioner for Research, Science and Innovation **Carlos Modeas** stated that the upcoming **initiative on free flow of data** that the European Commission is currently working on will establish **open data as the by default paradigm**.
- The question of **data ownership, reuse and access** that the initiative will touch upon will seek to strike the right balance between the open data principle, which has the potential to empower innovation and increase competitiveness, and the right to data ownership and protection of commercial ideas. In restricted cases and for commercial purposes, the **Commission will allow opt-outs**.
- Earlier this year, **VDMA**, Germany's mechanical engineering association, **warned** that a one-sided focus on free data could translate into incorrect orientation in industrial policy.

EU: Parliament will not vote on digital content proposal until 2017, Rapporteurs say

- According to MEPs **Axel Vos** (EPP, Germany) and **Evelyne Gebhardt** (S&D, Germany), Rapporteurs on the proposed **Directive on the supply of digital content**, the European Parliament is not going to vote on the proposal until 2017.
- The Directive aims to **determine how data can be used instead of cash to pay for digital content**. The rules could also allow users to **recuperate their data** if they cancel digital subscription.

Cybersecurity

EU: More EU-wide cooperation on cybersecurity is needed, as NIS considered insufficient

- **Jakub Boratyński**, head of the security unit at the Commission's DG CONNECT, stated that EU Member States need to **cooperate more on cybersecurity** as the first-ever EU-wide cybersecurity legislation, the **Network and Information Security Directive (NIS) is weaker than the Commission planned**.
- According to Boratyński, Member States' fears with regards to information sharing made it impossible to effectively monitor attacks on critical infrastructure. The Commission's original proposal aimed for ambitious information sharing which would ensure threat intelligence, risk assessment and attacks coordination. In the end, the Directive will set up a network of national computational response teams (CSIRTs), Boratyński deplored.
- As for which services are covered under the definition of **critical infrastructure**, Boratyński stated that Member States **need to agree that cloud computing is to be considered critical infrastructure**, given how many companies rely on clouds to deliver their service.
- A Commission official stated that the recent terrorist attacks in Brussels and Paris are unlikely to push Member States to increase joint work on cybersecurity as the cyber element is deemed irrelevant.

Trends

Global: Girls in ICT Day

- The international initiative aiming to raise awareness about empowering and encouraging girls and young women to consider **studies and careers in ICT**, **Girls in ICT Day**, took place on 28 April.
- In a blog **post** published on the occasion, **Commission Vice-President Ansip** confirmed that in Europe less than a third of the ICT workforce is female. Ansip recalled that despite high level of unemployment, Europe faces a significant ICT skills gap. According to estimates, by 2020, there will be a **shortage of more than 800,000 ICT workers**.