

ISOC European Regional Bureau Newsletter

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Security

EU: European Parliament backs reinforced powers for Europol

- On 11 May, the European Parliament **backed** the proposed **reform of Europol's mandate (Regulation 2013/0091)** which will strengthen the agency's **powers to fight terrorism and cybercrime**. The Parliament and the Council of the European Union reached an agreement on the draft rules in November 2015.
- Under the new mandate, Europol will be able to **exchange information with private entities**, such as **social media providers**, which will **make the removal of online terrorist propaganda faster**.
- In order to guarantee data protection and democratic oversight, the European Data Protection Supervisor will monitor the agency's work. A complaints procedure for citizens will be set up.
- The Regulation will take effect on **1 May 2017**.

France: New legal briefs against the surveillance law submitted before the Council of State

- A group of opponents to the **French surveillance Law**, including the Federation of non-profit Internet service providers and La Quadrature du Net, has **submitted new legal briefs** in its challenge before the Council of State.
- The briefs present arguments against the law and **mobilise the European Court of Justice's case law**.

Data & Competition

France/Germany: Joint study on data collection and its implications for competition law

- The French and German competition authorities (*Autorité de la concurrence* and *Bundeskartellamt*) published a **joint study** which looks into the **implications and challenges for competition authorities** resulting from **data collection** in the digital economy and other industries. The study provides an overview of the existing case law and literature.
- In order to determine why, how and to what extent **data may become an instrument of market power**, the authorities suggested basing the analysis on two aspects: whether the data under consideration can easily be obtained by rivals and, whether the scale and scope of data matter.
- The study **rejected the notion of data being available to all**, arguing that the ability to gather data is related to a company's capacity for building a sufficiently large customer base, as well as dependent on market entry barriers.
- With regards to the **value of data**, the study said that while at a certain point data will yield economic benefits, those can decline or disappear altogether.
- A press release accompanying the joint study recalled that the **German watchdog** is currently analysing **whether Facebook has abused its possibly dominant position** in the market for social networks with its specific terms of service on the use of personal data.

Data protection

France: CNIL is going to scrutinize data brokers

- French data protection watchdog **CNIL** announced that as part of its priorities for 2016 it will look into the **market of data brokers** that connect companies using personal data with organisations collecting the information, for example through cookies.
- The watchdog will **examine data brokers' compliance with the provisions of the French data protection law**, focusing on obligations to handle only relevant data, obtain consent and secure data.

Cybersecurity

EU: CSIRTs prepare for the implementation of the NIS Directive

- The **European Network and Information Security Agency** (ENISA) organised an informal meeting of **Computer Security Incident Response Teams** (CSIRT). The meeting was attended by representatives from 26 Member States, CERT-EU and the European Commission.
- The attendees held discussions on topics related to the governance and the activities of the CSIRTs Network which will be set up thanks to the **implementation of the Network and Information Security Directive** (NIS). The Network of CSIRTs will aim to promote swift and effective operational cooperation between EU Member States.
- The first formal meeting of the CSIRTs Network is to take place six months after the entry into force of the NIS Directive.

EU: European Central Bank launches a cyberattack alert system

- The **European Central Bank** announced its plan to create an **EU-wide database** which will **register major cyber threats** facing banks. A pilot project was launched in February.
- The initiative which will also aim to **increase awareness of cyberattacks in the banking sector** follows a recent rise in threats the sector has faced.

Copyright

EU: Content portability proposal divides Member States

- A **Dutch Presidency note** on the ongoing negotiations on the content portability proposal revealed that Member States remain at odds over **users' access to online content while temporarily abroad**.
- The definition of a subscriber's temporary presence in another EU Member State is among the main contentious points. While a majority of Member States is in favour of a **broad definition**, several countries would like to **create a provision limiting the total number of days** permitted per year.
- The latest compromise text proposed by the Dutch Presidency applies a **light touch approach** to the proposed **provider's obligation to verify subscribers' country of residence**. The Presidency argued that the agreement between a provider and a subscriber on the provision of an online content service should be sufficient. A final version of the text could be put on the agenda of the EU Competitiveness Council on 26 May.
- Meanwhile, European Consumer Organisation **BEUC** **contacted all the EU Member States permanent representations** urging them to back the Commission's proposal. Italian, Spanish and Greek consumer organisations called on their respective governments to counter their attempts to set a specific number of days to use the cross-border portability.

Digital Single Market

EU: Legislation on the supply of digital content faces delays

- The proposed **legislation on the supply of digital content** is facing delays both in the European Parliament and in the Council of the European Union.
- Presented in December 2015, the proposal addresses the question of the **use of data as payment for free apps** and seeks to **empower users to reclaim their personal data** once they decide to unsubscribe from an app or service.
- The Parliament work is led by the **Internal Market and Legal Affairs Committees**. A draft report on the proposal is expected on 7 September. A Committee vote should take place on 5 December.

General

EU/Germany: Commission opens in-depth investigation into German vectoring proposal

- On 9 May, the European Commission opened an **in-depth investigation** into the German telecoms regulator's (BNetzA) **proposal** which would allow Deutsche Telekom (DT) to upgrade its network with **vectoring technology**. Commenting on the decision, EU Digital Economy and Society Commissioner Oettinger stated that the Commission's aim is to allow both a network update and high quality access for competitors.
- While the use of vectoring technology would lead to broadband speed gains, the Commission argued that it would also have a **restricting effect** on alternative operators. The Commission's investigation will be carried out in close cooperation with BEREC.

Germany: Change to Wi-Fi law expected to boost free hotspots

- **Heiko Maas**, Federal Minister of Justice and Consumer Protection, hinted that a provision which places legal responsibility for consumers' use of the Internet with a hotspot provider, the so-called ***stoererhaftung***, will be abolished. It was argued that because of the provision, wireless hotspots owners have been reluctant to **share Internet access with public users**.
- According to media reports, the change in regulation became possible after the country's Christian Democrats (CDU) and Social Democrats (SPD) political parties struck a deal.