

ISOC European Regional Bureau Newsletter

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Internet Access

EU: 5G spectrum gets delayed following Parliament vote

- The European Parliament's Committee on Industry, Research and Energy (ITRE) **overwhelmingly voted to delay the release of the 700 MHz-spectrum until 2022**. The Parliament voted 45-4 to amend the European Commission's proposal providing member states with more time if it were too costly to provide the resources, or should cross-border disputes arise.
- The decision could potentially impact the development of the next generation of mobile communications.
- MEPs also agreed on the **protection of lower bands of spectrum for broadcasters** until at least 2030. The new version will now be discussed in Council and will return to the Parliament for a final vote.
- Europe's telecommunications network operators (ETNO) welcomed the proposal but criticized the plan to maintain lower bands of spectrum.

EU: Digital Content Directive Parliament draft report made public

- The Internal Market and Consumer Protection Committee (IMCO) published a **draft report on the proposal for a Digital Content Directive** which covers new consumer rules for mobile applications, software and other digital tools. The report presents two versions of almost every recital and article.
- Rapporteurs Evelyne Gebhardt MEP (S&D, Germany) and Axel Voss MEP (EPP, Germany), called for additional services to be in the scope, including cloud storage, social media, video sharing sites and platforms. They would like the proposal to be compatible with the sale of goods report, presented last week by rapporteur Pascal Arimont MEP (EPP, Belgium).

EU: Copyright timeline as influencers demand clarity

- MEP Therese Comodini Cachia (Malta, EPP), rapporteur of the Copyright Directive, informed that she will **finalise her listening phase and two public hearings by mid-January**. Approximately one month later the draft report will be sent for translation. The plenary vote is expected to take place **just before the 2017 summer break**.
- A compromise will be sought between publishers and media lobbyists seeking further rights and for payments from social networks.
- The European Commission is relying on the European Court of Justice's **judgment** requiring the author's permission for the reproduction of extracts of 11 words or more. Ms Cachia aims to create a legal test to regulate this matter as there have been complaints over remuneration levels received by publishers compared to areas such as text and data mining.

EU: Slovak presidency expects to sign geoblocking by 28-29 November

- The Slovak Presidency will push for the latest draft on **geoblocking to be agreed after the formal Competitiveness Council meeting scheduled for 28 and 29 November**. However, Member States such as Poland and Belgium would prefer negotiations to go back to the technical level. It remains to be seen whether they have the “blocking minority”, but it appears other interested parties are also **supporting** their demands for greater legal clarity.
- The **draft** explains how the main aspect when selling across borders is **which Member State law is applicable** in case of dispute. Further details are provided on the use of payment instruments, credit transfers and customer authentication. The text makes the distinction between **price discrimination and differentiation** and extending the **implementation timeline** from 6 to 18 months.

France: Debate over implementation of “Google tax”

- The **amendment tabled by French Socialist MP Yann Galut to tax the diverted profits of multinational companies operating in France has been adopted by the Finance Committee of the National Assembly**. The tax will target tech firms using fiscal optimization.
- Finance Minister Michel Sapin has openly opposed it and **Tech In France**- the French association of digital industry - criticized the initiative for targeting exclusively digital companies. They consider it would be worthwhile to concentrate all efforts on the harmonization of corporate taxation at European level. In a **statement**, they explain this tax ‘would isolate France and penalize its attractiveness reinforced now by Brexit’.

France: ECJ rules against the French Copyright law

- The European Court of Justice (ECJ) has declared **the landmark French law from 2012 conflicted with the EU Copyright Directive**. The law aimed to simplify the publishing of out-of-print books online. The ECJ found it did not allow authors sufficient scope to object to the re-publication of their works. It considered the law should specify how authors would be informed and their ability to block publications should not be made conditional on the agreement of their publishers.
- The case was brought before the ECJ by author Marc Soulier, supported by the Syndicat des écrivains de langue française, the Autour des auteurs association, and other authors.

Russia: LinkedIn blocked due to data storage concerns

- Russia’s Federal Service for Supervision of Communications, Information Technology and Mass Media, **Roskomnadzor, announced LinkedIn will be blocked in Russia for lack of compliance with data storage laws**.
- Kremlin spokesman Dmitry Peskov told journalists that Roskomnadzor was acting in accordance with Russian law but critics – particularly on social media - believe this ban is about censorship and control, rather than data protection and that blocking LinkedIn is only a first step.
- Social media has played a fundamental role in organising opposition protests in Russia and have become an alternative source of information as state control has increased over traditional media.

Trust

EU: Telecom privacy rules also applicable to web communication platforms

- Speaking at the Forum Europe 4th Annual Cyber Security Conference of 17 November, Julian King - the Commissioner for Security - said **Internet communication platforms will have to comply with the same obligations as telecom operators with regards to the provision of digital evidence**. They will have to cooperate with law enforcement agencies during criminal investigations.

- The changes aim to address the legal situation faced by European police forces and intelligence agencies which are increasingly finding the required evidence is held by operators, often on servers outside Europe.
- Mr King explained the European Commission intends to review the e-privacy directive next year in order to ensure a common level playing field and ensure alignment with the telecom package.

EU: WhatsApp will cease to share data with Facebook in Europe

- **WhatsApp** confirmed on 15 November that it has **stopped all data sharing across Europe with Facebook** due to the privacy concerns raised by privacy watchdogs.
- In addition, **WhatsApp will refrain from its initial plan whereby** WhatsApp announced it would coordinate with Facebook by connecting phone numbers and users' data with profiles to enable targeted advertisements and products.
- WhatsApp is currently in discussion with several European privacy authorities concerning a potential violation of EU law following the companies' change in privacy policy. In addition to the UK, Germany banned Facebook from accessing the data of German WhatsApp users.
- In parallel, WhatsApp has also made public on 15 November that it was introducing encrypted video calling.

France: Pressure to add data protection to trade deals

- **Axelle Lemaire, France's Minister for Digital Affairs, called upon the European Commission to include data protection in trade agreements.** At a meeting on 14 November in Paris, attended by Commission Vice President Andrus Ansip and Commissioner for Research, Science and Innovation Carlos Moedas, Ms Lemaire noted Europe needs to provide stronger data protection standards in two key trade deals, the Trade in Services Agreement (TISA) and the Transatlantic Trade and Investment Partnership (TTIP).
- In a statement addressed to senior Commission officials, she explained **Europe should remain in control over data flows.** The French government published on 14 November a report estimating transatlantic data flows account for 10 per cent of all European digital data flows.
- The above comes at a crucial moment as European Commission officials are considering stronger privacy terms during trade negotiations. On 15 November a broad **industry coalition** addressed a letter to Commission Vice President Ansip and Digital Commissioner Oettinger and other top officials, on the same issue. They want to **put an end to data localization** which they estimated would mean €415 billion extra for the EU's GDP. In addition, they consider **the place of storage of data should be an issue of customer choice.**

UK: Britain will opt in to Europol

- Policing Minister Brandon Lewis informed the UK Parliament on 14 November that **Britain will "opt-in" to Europol's new legal framework.** At least until Brexit, Mr Lewis noted the opt-in would allow the UK to maintain the current level of access to the EU policing agency. Following updates to the legal framework, in effect from May 2017 onwards, a new opt-in is required. The opt-in will be subject to parliamentary scrutiny before the European Commission.
- The British government is exploring cooperation with Europol post-Brexit, although at this stage they could not specify further details on the deal. Security Commissioner Julian King welcomed Britain's decision.

UK: Parliament passes Investigatory Powers Bill

- After months of intense negotiations the **UK Parliament passed on 16 November the Investigatory Powers Bill.** A coalition of Conservative and Labour MPs agreed on the final version of the bill after controversies over the enhanced powers for UK intelligence services.

- The Investigatory Powers Bill gives security services the right to hack into computers, networks, servers and mobile devices and surveil data gathered from devices in bulk.
- The Bill will become law once it receives Royal Assent – which is expected in a matter of weeks (possibly into 2017). EU regulators have yet to comment on whether they are satisfied with the levels of surveillance permitted.