

# ISOC European Regional Bureau Newsletter

12 – 18 March 2016

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## Data protection

### EU: LIBE Committee's hearing on Privacy Shield reveals diverging views

- On 17 March, the European Parliament's Civil Liberties Committee hosted a **hearing on the EU-US Privacy Shield**.
- **Isabelle Falque-Pierrotin**, President of the French data protection authority (CNIL) and Chair of the Article 29 Working Party (WP), stated that the data protection authorities (DPAs) are reviewing the Privacy Shield focusing on its compliance with EU privacy rules, guarantees for independent oversight, effective redress for EU citizens and the role DPAs will play in its enforcement and annual joint-review.
- In her intervention, Falque-Pierrotin also underlined the importance of considering how the Privacy Shield will take into account the strengthening of rights included in the **General Data Protection Regulation** (GDPR), such as the right of data portability, and whether it would need to be reviewed in two years when the GDPR is fully implemented. Furthermore, Falque-Pierrotin pointed out the **absence of rules addressing data retention** as currently the deal does not set a limit to how long companies can store data after transferring it to the US.
- Answering to a question on legal certainties by **MEP Axel Voss** (EPP, Germany), **Bruno Gencarelli**, Data Protection lead at DG Justice, stated that **some elements of the Privacy Shield** (i.e. ombudsman and data collection limitations) **will apply to all transatlantic data transfers**, not just to companies signing onto the new deal.
- The opinion of the Article 29 Working Party should be published after the party's plenary session which will take place on 12-13 April. **The Article 31 Committee** composed of Member States' representatives will start its **assessment** on 7 April.

### EU/US: Privacy organisations says Privacy Shield does not provide adequate protection

- In a **letter** sent to **Isabelle Falque-Pierrotin**, **MEP Claude Moraes** (Chair of the European Parliament's Civil Liberties Committee) and **Pieter de Gooijer** (Ambassador and Permanent Representative of the Netherlands to the EU), a group of **27 civil liberties organisations** said that the **Privacy Shield does not comply with the standards** set by the Court of Justice of the European Union. The letter's signatories **called on the negotiators to come back to the negotiating table**.
- The letter stressed that in the absence of substantial reforms in the US that would ensure protection of individuals' fundamental rights; the **Privacy Shield will put users at risk and undermine trust**.
- Speaking at CeBIT trade fair in Hanover, Germany, **Günther Oettinger**, EU Commissioner for the Digital Economy and Society, stated that the **Privacy Shield** could go into effect in June.

### EU: Proposal to reform ePrivacy Directive should be presented in December

- Rosa Barcelo, Head of Digital Privacy sector at DG Connect, announced that the European Commission will launch a public consultation on the review of ePrivacy Directive in the first week of April. The reform of the 2002 Directive which should be presented in the second half of December could expand its scope

to cover online voice and messaging services.

- The Commission will discuss the reform with telecom operators, web companies and consumer groups at a public event in Brussels on 12 April, and with EU Member States authorities responsible for the ePrivacy Directive enforcement on 19 April.

#### **UK: Investigatory Powers Bill passes second reading in the UK House of Commons**

- With 281 votes in favour and 15 against, the proposed **Investigatory Powers Bill** passed a second reading in the UK House of Commons.
- UK Home Secretary **Theresa May defended the proposal**, underlining the clear and robust safeguards included in the text. The UK government plans to finalise the bill which will require Internet service providers to store users' browsing records for a year before the end of 2016.
- In an interview with *Politico*, Commission Vice-President **Ansip warned against creating backdoors to encryption and called the United Kingdom not to support backdoors.**

## Copyright

#### **EU: Advocate General's opinion could boost availability of Wi-Fi connections**

- On 16 March, Maciej Szpunar, Advocate General at the Court of Justice of the European Union (CJEU), published his opinion on *Tobias Mc Fadden v Sony Music Entertainment Germany GmbH* case which concerns a shop that offered a free-to-access Wi-Fi network on its premises. As illicit copies of recordings had been downloaded using the network, Sony Music Entertainment took the shop to court.
- A German court previously ruled that the business is **not responsible for illicit copies of music downloaded over its Wi-Fi connection**. However, it referred the case to the CJEU to decide whether the shop could be held indirectly responsible for failing to secure its Wi-Fi network.
- The Advocate General argued that while an injunction to stop copyright infringement could be issued by national courts, it **cannot involve password-protecting the network or monitoring traffic** transmitted through the connection. The opinion said that businesses that offer free Internet should not be held responsible if users of their networks illegally access copyrighted material.
- The Advocate's opinion is non-binding on the court's final decision which is expected within coming months. **EuroISPA**, the European Internet Services Providers Association, said that if the Court follows the Advocate General's opinion, free Wi-Fi could become commonly available across European retail environments.

#### **EU: Commission delays copyright proposals and will open a new public consultation**

- The European Commission announced that the **second package of copyright proposals**, which was expected to be announced in June, **will be postponed to September**.
- Commission Vice-President Ansip explained that the delay is due to the need to **understand better the issues posed by so-called neighbouring rights** – rights that are not strictly linked to the author of a work.
- The **right to panorama**, which makes it unlawful to take pictures, movies or similar reproductions of copyrighted elements present in public spaces, and **ancillary copyright**, which allows publishers to draw royalties from the use of extracts of their work, are the two main areas of concern.
- The **public consultation** will take place between March and June 2016.

# Telecoms framework

## EU: Telecoms framework overhaul discussions

- **Wilhelm Eschweiler**, the chairman the Body of European Regulators of Electronic Communication (BEREC) said that the focus of the upcoming reform of the EU telecom framework should be on digital content, not on institutional and governance questions. A Commission questionnaire last year suggested that procedural and institutional set-up in place, including BEREC, appears to be ill-equipped to ensure a consistent approach to regulation.
- The European Commission is expected to present its proposal to reform the 2009 EU telecom framework this autumn. **MEP Pilar del Castillo Vera** (EPP, Spain) stated that the overhaul should be approved by the end of 2017. The comments followed a statement by Roberto Viola, Director General of DG Connect who said that the reform would be fully in place at the earliest in 2020. MEP Del Castillo Vera warned that a slow process would make the reform obsolete before it even becomes effective.

# General

## EU: Communication on ICT Standards to promote industry-led solutions

- Speaking at a panel at CeBIT, **Tonnie De Koster**, assistant to the Director for Digital Economy and Coordination at DG Connect, provided insights into the upcoming Commission's **Communication on ICT Standards**. The Communication should be part of the first DSM package which is scheduled for publication on **6 April**.
- De Koster underlined that the **Commission will push for funding to harmonise global ICT standards** to ensure technologies are compatible.
- The leaked version of the strategy indicates that ICT standardisation should continue to be primarily **industry-led and consensus-driven** and receive a high-level political support. The priority areas for standardisation identified by the Commission are 5G, cloud computing, Internet of Things, (Big) data technologies and cybersecurity.

## EU: Parliament report says EU to miss its broadband targets

- A **report** entitled *Reforming EU Telecoms Rules to create a Digital Union*, which was recently published by the European Parliament, revealed that the EU regulatory framework led to low levels of network investments which make it harder to meet the broadband targets set in the Digital Agenda for Europe.
- According to the report, the **EU is likely to miss its target** to have half of households using connections faster than 100 megabytes per second by 2020.

## Germany: Digital Strategy for 2025 unveiled

- On 14 March, **Sigmar Gabriel**, German Economy and Energy Minister presented the country's **Digital Strategy for 2025** which aims to make Germany a global digital leader by 2025.
- The first measure concerns the development of a gigabit fiber-optic network before 2025, with the help of a €10 billion fund that the country will put into place to finance projects.
- The report also outlined a proposal to set up a digital agency that will help inform companies and consumers and coordinate government programs.
- A **study** by the German industry association eco and Arthur D. Little entitled *The German Internet Industry 2016 – 2019* confirmed that the **Internet industry will remain one of the fastest growing industries** in Germany.

#### **EU: 2016 edition of the European Get Online Week**

- The 2016 edition of the **European Get Online Week**, a digital campaign which has run since 2010 to empower people to use technology and the Internet, took place between 14 - 20 March. Trust and confidence, and digital jobs were this year's main themes.
- Commission Vice-President Ansip **stated** that in May, the European Commission will present a strategy promoting digital skills.