

ISOC European Regional Bureau Newsletter

10 December – 16 December 2016

<http://www.Internetsociety.org/what-we-do/where-we-work/europe>

Internet Access

EU: Fair use roaming draft finalised by Member States

- Member States in the EU Council reached agreement on fair use roaming limits. The agreed draft proposes a limit on mobile data use, going against the European Commission's September commitment to not impose new limits, but will allow consumers to use around twice the wholesale roaming limit on data without breaking rules.
- Member States also agreed to prevent telecoms providers from pursuing overly punitive policies against consumers they suspect of abusing the service; providers will have four months before they can actively start cracking down on perceived abuses of the rules, and are also prevented from gathering "unrelated or disproportionate" amounts of personal customer data.
- National regulators can police telecom providers and suspend their service immediately if they think they are abusing consumers.

EU: 16 heads of state want stronger EU action on data sharing

- Sixteen heads of state sent a letter on 13 December to Council President Donald Tusk and Commission President Jean-Claude Juncker, calling for "an early legislative proposal" to be included in the forthcoming European Commission announcement on data flows due on 11 January.
- The letter insisted the EU's Digital Single Market Strategy (May 2015) "set very clear expectations for presentation in 2016 of an initiative 'that tackles restrictions on the free movement of data for reasons other than the protection of personal data within the EU and unjustified restrictions on the location of data for storage or processing purposes.' In our view an early legislative proposal providing for the free flow of data is crucial to avoid market fragmentation and further obstacles to the development of the data economy in the EU."
- Signatories included by Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovenia, Sweden and the UK; France, Germany and Spain were notable by their absence.

EU: Commission, Council and Parliament finalise talks on Spectrum allocation.

- The European Parliament and EU Council agreed to the European Commission's 2020 deadline for countries to allocate the 700 MHz band. Parliament is expected to approve the new deal in plenary in early 2017, after which the rules will be signed into the official EU Journal.
- The decision was welcomed by the telecoms industry. "This is a positive step forward. Only a timely release of the 700 MHz band by 2020 will ensure we achieve our 5G objectives," said Alessandro Gropelli, spokesperson for telecoms group ETNO.
- Commission Digital Vice President Andrus Ansip emphasized spectrum allocation was only one milestone in the quest to overhaul Europe's telecoms framework. "We made a first step today with a joint approach to use the 700 MHz band in the EU. We should go further and this is one of main objectives of

our new Electronic Communications Code and 5G action plan presented earlier this year. We should progress as swiftly on these initiatives which are essential to have first-class connectivity in the digital single market,” he said.

UK: Report criticises 4G coverage

- A report by the UK’s National Infrastructure Commission was critical of the UK’s 4G coverage, ranking it 54th in the world – up to five times behind 4G coverage in the US and Japan.
- Lord Adonis, who chaired the Commission’s report, called for the creation of a new dedicated cabinet Ministerial post in the Cabinet responsible for delivering the UK’s digital future to ensure 5G connectivity is competitive with the rest of the world.

Trust

EU: EU security agency: Encryption-weakening laws require cost analysis

- ENISA, the European Union’s security agency, offered an opinion recommending European lawmakers avoid new rules making it easier for law enforcers to decrypt online messages by using backdoor technology unless there is a clear benefit for users.
- The opinion stated that using technology to circumvent locks on private communications - such as WhatsApp conversations - could damage citizens’ trust in digital services.

EU: MEPs want end to deadlock on data flows in trade negotiations

- Four MEPs are expected to send a letter to European Commission President Jean-Claude Juncker urging “the European Commission to put forward its position on cross-border data flows in trade negotiations” and notes that “the EU’s domestic and international initiatives are two sides of the same coin. To restore consumers’ trust and to provide legal certainty to businesses, the EU must be consistent in its approach at both levels.”
- The letter’s signatories - including former Commissioner Viviane Reding (EPP, LU); Jan Philipp Albrecht (Greens, DE) lead data protection MEP; Bernd Lange (S&D, DE), chair of the Committee on International Trade; and Marietje Schaake (ALDE, NL) note that trade deals will have to be approved by the European Parliament once negotiated.

EU: Draft Commission proposals leaked

- A draft of the forthcoming e-Privacy regulation was leaked on 12 December, closely followed by a leak of a draft Communication on data flows.
- The former paper considers all end-user e-communications as confidential; companies will be required to inform end-users of planned use of data; their rights and options; and obtain user consent before it is accessed and processed; interception will only be allowed under very limited security-based restrictions.
- In comparison, the second paper was a Communication containing no legislative measures. While underlining the Commission’s commitment to enabling data flows, it merely states an intention to undertake public consultation as a first step.
- The final drafts are expected to be adopted on 11 January.

EU: Congressman Sensenbrenner meets Commissioners Ansip and Jourova in Brussels

- Jim Sensenbrenner warned that the first annual review of the data transfer agreement EU-U.S. Privacy Shield will have to be handled with care and that disclosed that President-elect Donald Trump is likely to remove PPD-28, a unilateral action imposed by outgoing President Obama that underpinned the privacy shield.
- The review of the EU-U.S. Shield is scheduled to proceed in Spring 2017 but for negotiators to move forward, the key decision-maker in Trump’s cabinet will need to be appointed.

- Sensenbrenner also warned of the possibilities of Russian-backed cyberattacks on forthcoming elections in France, Germany, Italy and the Netherlands.
- Sensenbrenner is recognised as one of the key architects of the USA Patriot Act of 2001, as well as the USA Freedom Act that curbed some of the intelligence agencies' bulk surveillance powers.

EU: The Article 29 Working Party Opinion on European Commission amendments released

- The Article 29 Working Party (WP29) has made available its [Opinion 04/2016](#) on European Commission amendments proposals related to the powers of Data Protection Authorities in Standard Contractual Clauses and adequacy decisions, which it adopted on 31 October.
- The WP29 noted its regret that the European Commission only partially addressed the Court decision by focusing on the implementation of the reasoning related to the annulment of article 3 of the Decision 2000/520/EC and by not addressing the arguments in relation to the annulment of its article 1.
- The Working Party also held a 2-day plenary session to adopt guidelines on how to implement the EU's new privacy law, the General Data Protection Regulation.
- The right to **data portability** was introduced by the GDPR and entitles an individual to transmit any personal data given through consent to another automated processing "in an electronic format which is commonly used" (Art 18); **Data Protection Officers** have been prescribed only for limited cases, for example if companies "process sensitive data on a large scale or collect information on many consumers" (Art 35).
- GDPR entered into force on 25 May 2016, but will only apply on 25 May 2018; Member States are obliged to implement the new provisions by the latter date.

EU: Europe wary of 'fake news' from Russia

- Rolf Mützenich, the German Social Democrats' foreign affairs spokesman, told the [Kölner Stadt Anzeiger](#) newspaper Monday that Germany should be prepared for 'fake stories from Russia', the latest example of growing EU fears over Russian interference in elections and the trend of 'fake stories' affecting social media, which has led German politicians to push for more action to stop the spread of fake news, including potentially holding websites accountable for quickly deleting posts

Netherlands: Parliament debates bill allowing police to hack devices through software vulnerabilities

- A draft Bill proposes to enable law enforcement agencies to access software by taking "backdoors" during investigations.
- The Bill also includes a series of new powers involving infiltrating networks and IT systems to fend off botnet attacks or storing information to fight serious crimes; however, a proposal to force criminals to hand over encryption keys has been scrapped because it violates a suspect's legal protections against self-incrimination.
- Privacy activists Bits of Freedom are campaigning against the bill, which is expected to be voted on next week.

UK: TalkTalk hacker, 19, pleads guilty at the Old Bailey

- Daniel Kelley, from Carmarthenshire, pleaded guilty to illegally obtaining personal data belonging to nearly 157,000 customers from TalkTalk in October 2015; the Judge warned Kelley to expect imprisonment.
- Email addresses and bank details were taken after the firm's website was breached, an incident that TalkTalk later said had cost it £42m. In October 2016, the Information Commissioner's Office imposed a record fine of £400,000 on TalkTalk for poor website security.
- A total of six people, all aged under 21, have been arrested as part of the police investigation into the matter.
- Elsewhere, Europol arrested 34 and interviewed 101 suspects, mostly under the age of 20, in a large-scale strike on networks buying and selling distributed denial-of-service software this week.

- The operation involved enforcement agencies from Australia, Belgium, France, Hungary, Lithuania, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, UK and the U.S..

Other

EU: Vice President Ansip tipped as replacement Digital Commissioner

- European Commission Vice President Andrus Ansip is tipped to become the caretaker of Commissioner Oettinger's portfolio as the latter will become VP for Budget and Human Resources in 2017.
- Ansip explained he would accept any offer by President Juncker, if it were made, but emphasised that he has a preference for retaining his current coordinating role.
- It is speculated that the position would be only temporary. A permanent replacement will depend on the new Bulgarian Commissioner and a possible re-shuffle of the current College of Commissioners.