

ISOC EUROPEAN REGIONAL BUREAU - EU issues overview 7-13 September 2013

Net neutrality

Commission proposes net neutrality rules

- The European Commission has presented its long-awaited [proposal](#) for a **Telecoms Regulation**. This covers three main themes:
 - Simplifying pan-EU **authorisation rules** for operators on the basis of authorisation in one Member State
 - Harmonising assignment and timeframes for **broadband spectrum access**, with power for the Commission to adopt implementing acts
 - Guaranteeing consumer protection and common commercial conditions, safeguarding **net neutrality**.
- With regards to net neutrality, **Article 23** would require **ISPs** to provide **unhindered connection** to all content, applications and services, while regulating the use of traffic management tools in respect of general Internet access. The Commission has underlined that [21% of fixed Internet access subscribers](#) and 36% of mobile subscriptions are affected by connection blocking and throttling.
- Article 23 would also allow **end-users** to enter into agreements with ISPs on data volumes and speeds as they see fit. These could include provisions on **specialised services with an enhanced quality of service** (Article 23.2), but these should not impair the quality of Internet access services.
- **ISPs would only be permitted to use traffic management tools** (blocking, slowing down, degrading or discriminating against specific content, applications or services) to:
 - 'implement a legislative provision or a court order, or prevent or impede serious crimes;
 - preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;
 - prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;
 - minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally'.
- In order to ensure service transparency, ISPs would be required to provide pre-contractual and contractual information. This would cover **average connection speeds, data volume limitations and traffic management practices**.

MEPs & NGOs unconvinced by net neutrality provisions

- In reaction to the proposal, German Economy Minister Philipp Rösler [commented](#) that it represents a step forward compared to the original plans. However, he emphasised that the German goal was to promote 'a comprehensive guarantee of net neutrality'.
- MEP **Paul Rübigen** (EPP group, Austria) [stressed](#) that ISPs should not be able to block certain apps. He added that they should publicise minimum data transfer speeds as well as maximum ones.
- MEP **Marietje Schaake** (ALDE group, Netherlands), who has a long-standing interest in Internet issues, [criticised](#) the net neutrality provisions, saying: "Allowing companies to make deals to provide faster internet at higher prices limits the possibilities for new players, whose pockets are not as deep, to emerge. Given the weaker negotiating position of start-ups, innovation can be stifled."
- MEP **Jan Philipp Albrecht** (Greens, Germany) was also [unconvinced](#), saying that the Regulation's net neutrality rules would allow **Deutsche Telekom's** controversial new charging arrangement and stifle competition, start-ups and innovation.

- **NGOs** were all critical of Article 23.2, [La Quadrature du Net](#), [Open Forum Europe](#), [EDRI](#) and [CDT](#) claimed in separate reactions that the 'specialised services' exception could allow ISPs to discriminate in practice. In particular, this provision « could leave Internet access providers free to pick favorites and prioritize certain traffic on the theory that they are discriminating in favor of specific services, rather than against anyone in particular ». Therefore all NGOs claim that more guarantees are needed to ensure net neutrality.

Cybersecurity

Parliament calls for private sector to play cybersecurity role

- The European Parliament has adopted a [Resolution](#) on **EU cybersecurity strategy: an open, safe and secure cyberspace** (see p.263 of hyperlinked document).
- The Resolution includes several references to **the role of the private sector**. Notably, the Parliament 'considers that public-private partnerships should be based on network and technological neutrality, and should focus on efforts to address problems that have high public impact'

European Cyber Security Month

- In October, the **European Network and Information Security Agency** (ENISA) is organising, together with Digital Agenda Commissioner Kroes and Commission's DG Connect, the first [European Cyber Security Month](#) (ECSM).
- The campaign involves some 40 partners and stakeholders from **22 EU Member States** and aims at **promoting cyber security** among citizens and **raise awareness of cyber-threats**.

Copyright infringement/Open Internet

France: Suspension of Internet access will not be put in place

- The Committee responsible for enforcing the so-called **Hadopi antipiracy law** has [decided](#) not to enforce a sentence from June suspending Internet access for two weeks of a man who was found guilty under the law's 'three strikes' principle, the first case of its kind. This is due to the Ministry of Culture's decision in July to [revoke the provisions on Internet disconnection](#).
- Previously, analysts warned that the enforcement of the charge would anyway be unlawful, since French law stipulates that users' **Internet access may not be fully suspended** as the user must remain able to send and receive emails.

Child safety online

Child safety online update

- In her [answer](#) to an MEP [question](#) on the protection of children on the Internet, especially with regards to social networks, **Digital Agenda Commissioner Kroes** has underlined that a balance needs to be struck between **the liability of companies**, parents' responsibilities and education about sensible behaviour on the Internet.
- A group of 11 MEPs have tabled a [proposed Written Declaration](#) of the European Parliament on protecting children and their rights in the context of **internet namespace targeting children**. The text calls upon the Commission and the Council to provide ICANN with advice regarding the **new generic top-level domains**, such as .kid(s), to ensure the best interests of the child and guard against commercial gain being the main driver. In July, another [proposed Written Declaration](#) highlighting the global dimension of

the fight against online child sexual abuse content was not adopted after it failed to win the support of a majority MEPs.

General

Germany: Federal election and IT issues

- Shortly ahead of the **federal elections** on 22 September, German IT association **BITKOM** has [announced](#) that the main parties intend to set up a standing **Committee on Internet and Digital Society** in the next Bundestag. This will follow on from the work of the [Enquiry Committee](#) in this area, which finished three years of work in April. However, the parties have declined to commit to establishing a ministerial Internet portfolio.
- BITKOM has gathered this information in responses to a [survey](#) of 50 questions distributed to the political parties: other subjects covered include **data protection, cyber security, copyright** and **net neutrality** (under telecoms policy).
- On the other hand, trade association **eco** has [lamented](#) the absence of IT issues in the election programmes of the parties, in particular **Internet governance**. It recalls that the **European Dialogue on Internet Governance (EuroDIG)** will take place in Berlin in 2014, and calls on the next German government to develop a clear programme for this.

France: Cloud computing a priority area in national industrial strategy

- On 12 September, French President François Hollande presented the country's new **industrial strategy** entitled [La Nouvelle France Industrielle](#). The report commissioned by the government identifies 34 main industry areas in which French industry could become a leader. **Cloud computing** is among the priority areas.
- The report estimates that the cloud computing market in France represents over €2 billion and grows 25% every year: it sees development of French cloud computing capacities as economically beneficial but is also strategic as would allow better **data protection**.
- The development of the **French digital industry** is also to be supported by **enhanced cybersecurity** promoted and supported by the state, according to the strategy.

France: Government advised not to impose a unilateral digital tax

- According to a [report](#) from Conseil National Numérique (CNNum), a government advisory committee, **France should reject the idea of unilaterally applying taxes on global Internet companies**. Instead, it calls on France to mobilise partners at European level to overhaul the tax framework and adapt it to the digital sector, thus creating a global level playing field.
- The report was commissioned by **French Digital Agenda Minister**, Fleur Pellerin in January, following the [controversy](#) regarding **tax avoidance** by large web companies. The issue at stake with regards to digital companies is that their activity often lacks 'points of stability' which would allow the **establishment of a permanent tax base**.
- CNNum argues that the **imposition of a national tax would penalise the French Internet industry**. It calls for France to raise the question at the upcoming Council of European Ministers dedicated to digital issues that will take place on 24 and 25 October.