

# ISOC European Regional Bureau Newsletter

23-29 November 2013

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## Copyright infringement

### EU: ISPs can be required to block websites infringing copyrights

- Advocate General of the Court of Justice of the European Union Cruz Villalón has published a non-binding [opinion](#) according to which **ISPs can be required to block access to websites infringing copyrights**.
- The opinion underlines that under the EU law, Member States should ensure that copyright holders are able to apply for an injunction against intermediaries whose services are used by a third party to infringe their rights. Thus, *in principle*, it is established that **ISPs can be regarded as intermediaries** and **ordering ISPs to block specific websites is not excessive**.
- The current case was brought to the court by the **Austrian Supreme Court**, following a legal dispute between a major Austrian Internet provider (UPC Telekabel Wien) and a copyright holder, on prohibiting UPC from allowing its customers to access a video-streaming website.
- Without ordering specific measures, the Advocate General has argued that it is **incompatible** with the weighing of the EU fundamental rights to **generally prohibit an ISP** from allowing its customers to access a particular website that infringes copyright. It is for the Member States' courts to assess, in any particular case, the imposition of specific blocking measures. In doing so, the national courts should be careful to avoid triggering more lawsuits and creating disproportionate costs for ISPs, unless copyright holders bear part of the burden, experts say.
- In conclusion, **rightholders must claim directly against the operators of the illegal website** or their provider, Advocate General Cruz has concluded.
- In reaction to this opinion, [eco](#), the association of the German Internet industry argued that the obligation for ISPs to establish blocks designed to impede access to content that infringes the law is incompatible with German law, as "every form of Internet block is to be considered as a violation of telecommunications secrecy".

### France: Judge orders ISPs to block streaming websites

- In its decision from 28 November, Parisian Court of First Instance [ordered](#) the main French ISPs (Orange, Bouygues Telecom, Numericable, Free, SFR and Darty Telecom), as well as several search engines (Google, Microsoft, Yahoo! and Orange) to **apply all efficient measures in order to block access**, from the French territory, to 16 movie streaming **websites that infringe copyright**. The case was initiated in 2012 by the unions of French film industry.
- The court found that the film industry had provided sufficient evidence that the streaming sites in question were displaying audiovisual works without consent from their authors. The blocking requirement is to enter into force within two weeks and will last for one year.
- The technical [cost of the blocking](#) is to be borne by the copyright holders, thus going against the opinion of the Court of Justice of the EU that considers that intermediaries could well have to bear the cost of these measures, as long as they remain reasonable.

#### **EU Commission to present elements for an overhaul by March 2014**

- Commissioner for Internal Market Michel Barnier confirmed that by **March 2014**, the European Commission should have all the **necessary elements to begin overhauling EU's copyright framework**. In the weeks to come, the Commission will launch a **consultation** on the subject.
- In the meantime, the Parliament postponed its vote on what is perceived as a controversial report to modernize private-copying systems in the EU proposed by MEP Françoise Castex (S&D, France).

## Data protection

#### **EU: Ministers to discuss compromise on 'one-stop shop' principle**

- On 5th and 6th December, the EU Ministers of Justice are to discuss one of the key principles of the proposed data protection Regulation, the so-called **one-stop shop** principle. This principle would allow companies operating in the EU to be regulated by a single authority, instead of EU member states regulatory bodies.
- Currently, the one-stop shop **principle divides the Member States**; some states advocating for a model with a lead data protection authority, while others argue in favour of a less centralized model that is considered to offer greater proximity for citizens. The **upcoming Greek Presidency** (January- June 2013) will have the task to present concrete amendments.
- The **European Parliament** is said to be **leaning towards a strong lead authority** with exclusive regulatory powers, internal sources reported.

#### **EU: Commission proposes steps to restore trust in transatlantic data flows**

- The European Commission has listed a series of initiatives designed to restore [trust in the EU-US data flows](#). Those include, among others, a **Communication on transatlantic data flows**; and an analysis of the functioning of '**Safe Harbour**'.
- As for the Safe harbour, the EU has made **13 recommendations** designed to improve its functioning. The changes include a provision for the US companies to make clear the extent to which US authorities have the right to collect and process personal data they gathered; and an investigation mechanism in case companies falsely declare their compliance with the provisions of the Safe Harbour. The Commission plans to agree the changes with Washington by **summer 2014**.
- The Commission has reiterated that **standards of data protection will not be part** of the on-going negotiations for a **Transatlantic Trade and Investment Partnership** (TTIP).

## Internet governance

#### **EU reiterates its support to a multistakeholder model of Internet governance**

- At a recent event at the **American Chamber of Commerce** to the EU (AmCham EU) in Brussels, Linda Corugedo Steneberg, Director at Commission's DG Connect, reiterated **Commission's support** to the **multistakeholder model of Internet governance**.
- The panellists, including **MEP Sabine Verheyen** (EPP, Germany), underlined that for the Internet to thrive and support growth, states should not be interfering in the functioning of it by promoting measures that could lead to its compartmentalisation. The speakers were clearly **against the ITU becoming the central entity of the Internet governance**, stressing that the multistakeholders model has proved efficient.

## General/Cybersecurity

### EU: Users perceive greater cyber threats

- According to the recently published [Eurobarometer survey](#), Internet users in the EU are concerned about cyber-security as 76% of respondents agree that the **risk of becoming a victim of cybercrime has increased in the past year**. In total, 27,000 users in all EU Member States took part in the survey.
- The growing number of users concerned about the growing **cyber threat hampers the development of digital economy**, underlined Cecilia Malmström, EU Commissioner for Home Affairs.