

DIGITAL SINGLE MARKET TASK FORCE

Neil Sutherland

Policy Knowledge Exchange Network

21 October 2015



Today's topics

- General Data Protection Regulation
- Digital Single Market Strategy
 - *featuring* Copyright Reform
- ISA2



The General Data Protection Regulation



The General Data Protection Regulation

- High public and political profile
- Sustained lobbying by business and privacy campaigners
- Proposed Regulation has 100+ articles
- Making very slow progress



General Data Protection Regulation - aims

1. allowing consumers to have better information, access and control over their personal data that are processed
2. increasing the security of processing personal data
3. enhancing the enforcement of rights for data subjects
4. reducing administrative burden for businesses arising from notification of data protection activities



Data Protection Regulation - definitions

- '**Personal data**' means data relating to a data subject
- '**Data subject**' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural legal person, in particular by reference to an identification number, **location data**, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person

Timeline

- January 2012: Commission Proposal
- March 2014: Parliament plenary vote
- Rest of 2014: Council Working Party
- June 2015: Council agrees general approach
- Rest of 2015: trilogue negotiations – number 6 scheduled for 28 October
- Q3 2016: Earliest likely date for adoption



Some of the issues

- One-stop shop
- Right to be forgotten
- Penalties (likely up to 2% of worldwide turnover)
- Application to public sector (interaction with re-use of PSI)



Principles – Recital 24 of Council's Draft General Approach

- When using online services, individuals may be associated with online identifiers provided by their devices, applications, tools and protocols, such as Internet Protocol addresses or cookie identifiers. This may leave traces which, when combined with unique identifiers and other information received by the servers, may be used to create profiles of the individuals and identify them. **Identification numbers, location data, online identifiers or other specific factors as such should not be considered as personal data if they do not identify an individual or make an individual identifiable.**



Data Protection - Action

- Thorough review of political agreement, assuming that trilogue negotiations succeed
- Monitor any changes to definition of personal data and text relating to re-use of PSI



The Digital Single Market



Digital Single Market: the rationale

- The Single Market is the economic cornerstone of the EU project
- From 1992 the Single Market has been developed in terms of products, then services ...
- The growing digital market is the next obvious target
 - Cross-border online trade is relatively undeveloped
 - ICT usage is low (compared with the US)
 - Few global digital firms have emerged in the EU
- Initial success of European telecoms industry (Nokia, GSM standard) has not been repeated



The Digital Single Market in 2015



- **One of just ten** priorities of the Juncker Commission
- Strategy presented to Council 6 May
- Three main areas of focus:
 1. Better access for consumers and businesses to digital goods and services
 2. Creating the right conditions for digital networks and services to flourish
 3. Maximising the growth potential of the Digital Economy





A Digital Single Market for Europe



**Adapted from a presentation by Megan Richards
Director of Coordination, DG CNECT
13 October 2015**

President Juncker's Political Guidelines

A connected Digital Single Market

"...break down national silos in telecoms regulation, in copyright and data protection legislation, in the management of radio waves and in the application of competition law."

1

Better access for consumers and businesses to digital goods and services across Europe

Unlocking the e-commerce potential



15 % of consumers bought online from other EU countries in 2014, while **44% did so domestically.**

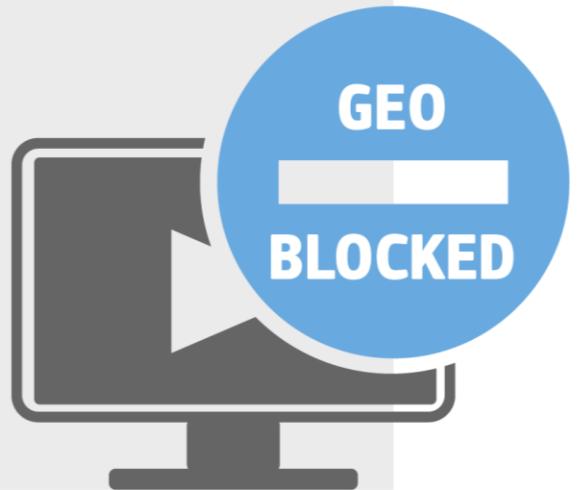


- End unjustified geo-blocking
- A more modern and European copyright framework
- Modernise eCommerce
- A more efficient and affordable parcel delivery
- Reduce VAT burden

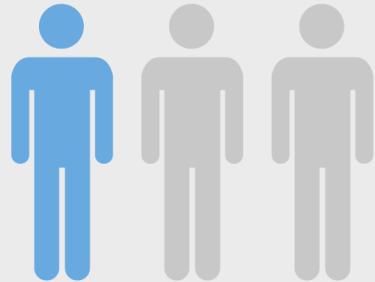
Tackling geo-blocking

In **52% of all attempts** at cross-border orders the seller does not serve the country of the consumer

→ less clients, less revenues for companies



Modernising copyright



1 in 3 Europeans is interested in watching or listening to content from their home country **when abroad**



1 in 5 Europeans is interested in watching or listening to content from **other EU countries**

2

Shaping the right environment for
digital networks and services to flourish



Strong European data protection rules to boost the digital economy

72% of Internet users in Europe still worry that they are being asked for too much **personal data online**

- An ambitious overhaul of EU telecoms rules
- Review the audiovisual media framework Online platforms, intermediaries and sharing economy
- Reinforce trust and security in digital services

Big data and cloud



Digital data stored in cloud:
2013: 20% - 2020: 40%

The use of big data by the top 100 EU manufacturers could lead to
savings worth €425 billion

- Data economy & cloud
- Inclusive digital economy and society
- Digital skills and e-government
- Standardisation & interoperability

= Timing =

2015

2016

Better access for consumers and businesses to digital goods and services across Europe

Legislative proposals for simple and effective cross-border **contract rules** for consumers and businesses



Competition sector inquiry into **e-commerce**, relating to the online trade of goods and the online provision of services

Legislative proposals for a reform of the **copyright** regime



Review of the **Satellite and Cable Directive**

A wide ranging review to prepare legislative proposals to tackle unjustified **geo-blocking**

Review of the **Regulation on Consumer Protection Cooperation**

Measures in the area of **parcel delivery**



Legislative proposals to reduce the administrative burden on businesses arising from different **VAT** regimes

Creating the right conditions for digital networks and services to flourish

Comprehensive analysis of the role of **platforms** in the market including **illegal content** on the Internet

Legislative proposals to reform the current **telecoms** rules and the **Audiovisual Media Services Directive**

Review of the **e-Privacy Directive**



Establishment of a **Cybersecurity** contractual Public-Private Partnership



Maximising the growth potential of the Digital Economy



Adoption of a **Priority ICT Standards Plan** and extending the European Interoperability Framework for public services

Initiatives on data ownership, **free flow of data** (e.g. between cloud providers) and on a **European Cloud**

New **e-Government Action Plan** including an initiative on the 'Once-Only' principle and an initiative on mandatory interconnection of business registers



Digital Single Market in Parliament

- Joint lead by ITRE and IMCO committees
- Draft report of 22 September
 - Worries that sales terms for intangible digital goods will not be harmonised
 - Proposes a single EU telecoms regulator
 - Calls for a review of big data
 - Presses for more open data
- Joint committee debate 13 October
- EP plenary resolution January 2016



A closer look at ...

Copyright Reform



Copyright reform

- Information Society Directive (2001) and Database Directive (1996) form the basis of the current *acquis*
- The Barroso Commission tackled a few specific issues:
 - Orphan works
 - Collective rights management
 - Copyright levies



Public consultation on copyright reform

- December 2013 – March 2014
- 9500 responses to the consultation
- Report published July 2014 – 101 pages - responses broadly reflected the perspectives of different market participants
- Commission proposal still awaited ...



So what does the draft Digital Single Market Strategy say about copyright?

- Four areas for action:
 - portability of legally-acquired content
 - ensuring cross-border access to legally purchased online services, while respecting the value of rights in the audio-visual sector
 - greater legal certainty for the cross-border use of content for specific purposes, such as education and research, through harmonised exceptions
 - clarifying the rules on the activities of intermediaries in relation to copyright-protected content.
- Plus modernising cross-border civil enforcement (2016)



Is that all?

- Some big legal issues not covered;
among them:
 - digital exhaustion
 - hyperlinking



Meanwhile, in the European Parliament ...

- JURI (Legal Affairs) Committee own-initiative report
- Rapporteur Julia Reda (Pirate, DE)
- Plenary Resolution 9 July 2015
- Working Group on IPR and Copyright Reform continues to meet – latest on 15 October (no papers available)



Key Parliament recommendations

- Commission to study the impact of a single European Copyright title
- Minimum standards for exceptions
- Territorial licences OK but cross-border access and portability also supported
- Rights transferred to intermediaries should revert after a period of time
- Lower barriers for re-use of PSI
- Text and data mining supported
- Exception for education and research



What next for copyright?

- Further work in the Commission involves multiple actors:
 - Vice-President for the Digital Single Market: **Andras Ansip**
 - Commissioner for Digital Economy and Society: **Günther Oettinger**
 - Vice-President for Jobs, Growth, Investment and Competitiveness: **Jyrki Katainen**
 - First Vice-President for Better Regulation, Inter-Institutional Relations, Rule of Law and Charter of Fundamental Rights: **Frans Timmermans**
- Legislative proposal before the end of 2015?
- Latest tweets suggest further delay



Consultations on the Digital Single Market

- **Review of the Satellite and Cable Directive**
 - Open from 24 August - 16 November 2015.
- **Evaluation and review of the regulatory framework for electronic communications networks & services**
 - Open from 11 September - 7 December 2015.
- **The needs for Internet speed and quality beyond 2020**
 - Open from 11 September - 7 December 2015.
- **ICT Standards**
 - Open from 23 September - 4 January 2016.
- **Online platforms, cloud & data, liability of intermediaries, collaborative economy**
 - Open from 24 September until 30 December 2015.
- **Tackling unjustified geo-blocking**
 - Open from 24 September until 28 December 2015.
- **Legislative proposals to reduce the administrative burden on businesses arising from different VAT regimes**
 - Open from 25 September - 18 December 2015.



Digital Single Market - Action

- Watch out for Commission consultations; where appropriate consider EuroGeographics response and/or a recommendation to members
- Examine Commission proposals on copyright carefully – identify any risks to members
- Promote ELF as a contribution to the Digital Single Market



ISA2 – Interoperability Services for Public Administrations



ISA2 – a potential source of funding for ELF?

- Interoperability Solutions for European Public Administrations Programme
- June 2014: Commission Proposal for a Decision
- A new programme to follow ISA, which ends in December
- To ensure seamless electronic cross-border or cross-sector interaction between European public administrations
- Financial envelope €131m
- Same four Commissioners as are responsible for the Digital Single Market



What will be eligible for financing?

- Development, establishment and improvement of common frameworks and generic tools
- Development, establishment, industrialisation and improvement of common services; centralised operation of such services at Union level may be also funded by the Programme [in some circumstances]
- Interoperability solutions taken over by the ISA2 Programme as 'solution incubator' or as 'solution bridge' [interim funding]



ISA 2 – geospatial proposals

1. European Location Information Solutions for E-government (ELISE)
2. Integration of geospatial and statistical reference information
3. Open data benefits assessment of geospatial PSI
4. Geospatial reference information transformation costs assessment



ISA2 - Action

- Working together we have raised the profile of ELF in the work plan for 2016 (as part of ELISE)
- All members are recommended to stay in contact with their national representatives on the ISA2 committee



Other topics of interest



- Access to public websites
- e-Identification

