

**INTERNET
& JURISDICTION**

A GLOBAL MULTI-STAKEHOLDER
DIALOGUE PROCESS

2015

IN RETROSPECT

INTERNET & JURISDICTION PROJECT
GLOBAL TRENDS

VOLUME 4

INTERNET &
JURISDICTION
OBSERVATORY

KEEPING TRACK OF TRENDS

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2015 IN RETROSPECT

The Internet & Jurisdiction Project facilitates since 2012 a pioneering global multi-stakeholder process. It addresses the challenge of how to handle the digital coexistence of diverse national laws in shared cross-border online spaces and prevent a fragmentation of cyberspace. The Internet & Jurisdiction Project enables multi-stakeholder cooperation in order to develop new mechanisms that are as transnational as the Internet itself and guarantee due process across borders.

The process has a high visibility in various global Internet Governance fora and actively engages over 100 key entities including states, Internet companies, technical Internet operators, civil society organizations, international organizations and leading universities around the world.

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ABOUT 2015 IN RETROSPECT

Retrospect is a flagship publication of the Internet & Jurisdiction Project. It provides since 2012 a unique source to study and understand emerging trends and high-level patterns regarding the tension between the cross-border nature of the Internet and the patchwork of geographically defined national jurisdictions. The I&J Retrospect was founded to enable evidence-based multi-stakeholder cooperation and inform participants engaged in the Internet & Jurisdiction process about relevant developments. Between January and December 2015, the Internet & Jurisdiction Project detected, curated and categorized over 350 high-level cases around the world in a dedicated database.

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KEEPING TRACK OF TRENDS

The Internet & Jurisdiction Observatory, composed of leading academic experts, supports the Internet & Jurisdiction Project in keeping track of the latest trends around the globe. This interdisciplinary network crowd-ranks every month all collected cases in the Internet & Jurisdiction database via a progressive filtering process. The 20 most important cases are showcased in the monthly Internet & Jurisdiction Project newsletter Retrospect with concise summaries and links to relevant background information. The case collection "2015 in Retrospect" is a compilation of the 240 most important cases of 2015. It provides a review of crucial dynamics to identify emerging norms, stimulate policy discussions and catalyze the development of cooperation mechanisms to preserve the global character of the Internet.

INTERNET & JURISDICTION

OBSERVATORY

28 SELECTED INTERNATIONAL EXPERTS FROM
25 DIFFERENT INSTITUTIONS IN
16 COUNTRIES

ARE PART OF OUR INTERNET & JURISDICTION OBSERVATORY.
THE INTERDISCIPLINARY NETWORK IS COMPOSED OF RESPECTED
SENIOR EXPERTS WHILE LEAVING ROOM FOR EMERGING TALENTS.



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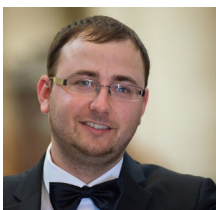
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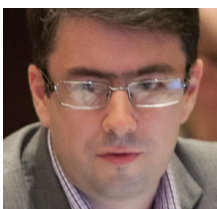
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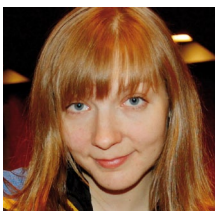
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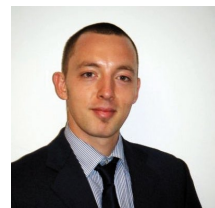
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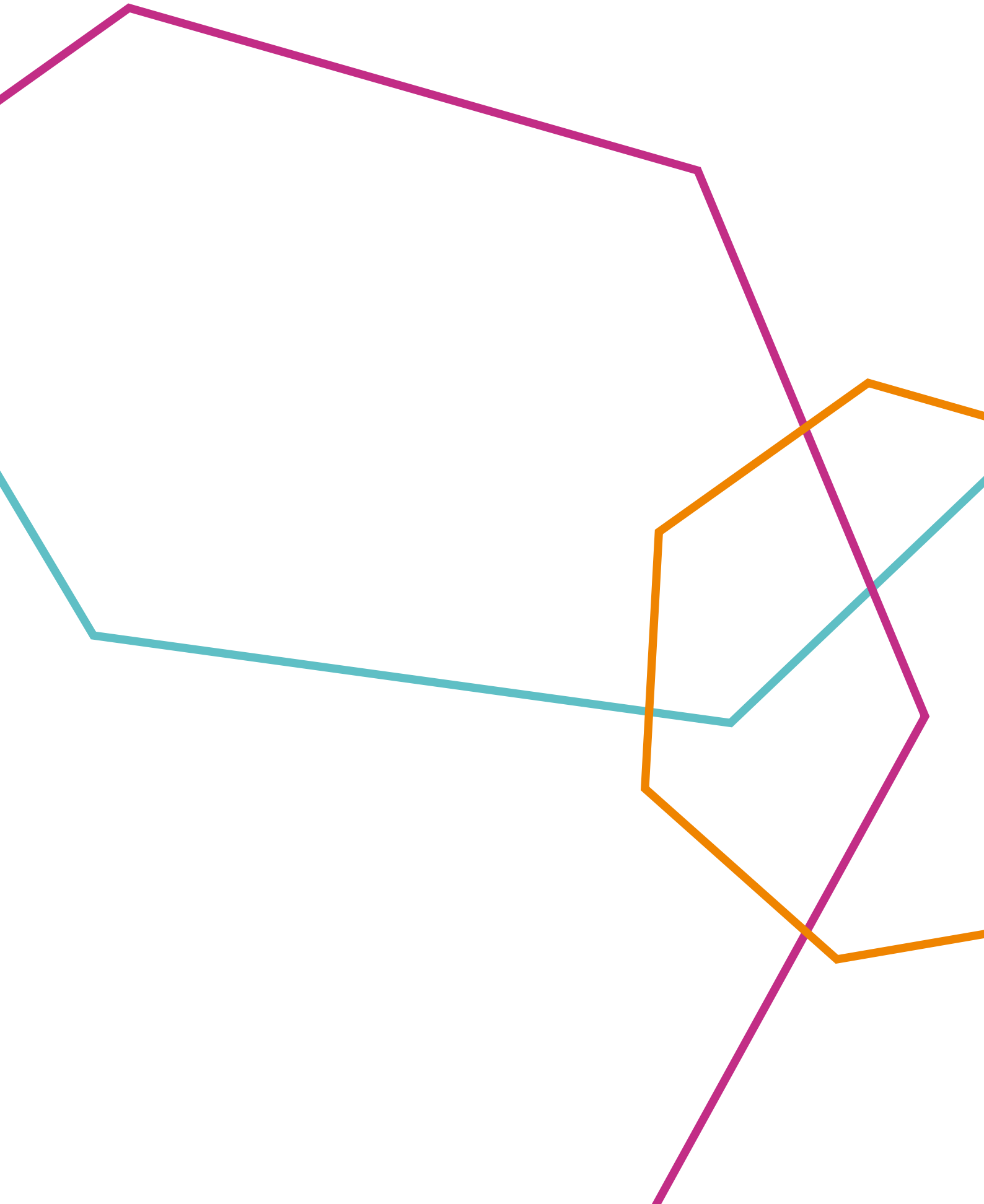
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JANUARY

1. FRANCE, EUROPE DEMAND GREATER INTERNET CONTROLS FOLLOWING PARIS TERROR ATTACKS

Following the Charlie Hebdo attacks in Paris in January 2015, the interior ministries of 12 EU member states issued a joint statement on January 11, 2015, calling¹ for increased powers to monitor Internet communications to prevent further terrorist actions. Among other things, the statement suggests ISPs should create a framework for identifying and reporting terrorism-related online speech to law enforcement. The joint statement does not detail² any specific technical measures for intercepting communications. On January 21, 2015, the French Prime Minister announced³ that France will invest 425 million euro in creating greater intelligence and surveillance capacities. On January 22, 2015, France appealed⁴ to UN member states to create an international legal framework that would enable governments to call upon Internet social network platforms to “act responsibly” by limiting the dissemination of terrorist, racist, and anti-Semitic messages and targeting individuals who use social networks for such purposes.

Read further:

TechCrunch: European ministers call for increased digital surveillance after Paris terror attacks⁵

Wired: EU ministers push ISPs to censor web after Paris attacks⁶

Wall Street Journal: Jittery European leaders target Internet’s role in radicalization⁷

2. TURKEY: LEGISLATIVE PROPOSAL SUGGESTS TO BLOCK WEBSITES WITHOUT A COURT ORDER

On January 22, 2015, a Turkish parliamentary commission debated a newly proposed law that would allow⁸ the Prime Minister or a Cabinet member in the Turkish jurisdiction to order⁹ the restriction of access to any website considered to threaten lives, disrupt public order or engage in criminal activity. The proposed law would oblige the Telecommunications Directorate (TIB) to issue blocking orders within four hours. Extension of blockades beyond 48 hours would need to be approved by a judge. The proposal comes in the wake of an Ankara court’s order to block the Twitter and Facebook accounts of whistleblower Fuat Avni. A similar proposal, authorizing TIB to block websites without judicial authorization, had stalled¹⁰ after a decision of the Constitutional Court in October 2014. Twitter has stated that it will comply with Turkish court orders faster¹¹ after the micro-blogging platform was temporarily banned in the Turkish jurisdiction in 2014.

Read further:

Hurriyet: Turkish PM, ministers may get right to block Internet with new bill¹²

Reporters without Borders: Government defies constitutional court on website blocking¹³

Today’s Zaman: Gov’t to propose new bill to ban websites without court order¹⁴

3. CHARLIE HEBDO IMAGES BLOCKED IN INDIAN, TURKISH AND RUSSIAN JURISDICTIONS

Websites containing or replicating images of the latest front cover of the Charlie Hebdo magazine were blocked in the Indian, Turkish and Russian jurisdictions to soothe religious sensitivities and preserve public order, following the terror attacks in Paris in January 2015. In India, the Mumbai Police blocked¹⁵ more than 650 social media posts and pages containing Charlie Hebdo related cartoons. US-based social networks have been asked to provide¹⁶ IP addresses of targeted account holders to the Mumbai Police. On January 14, 2015, the Diyarbakir 2nd Criminal Court of Peace ordered¹⁷ the Turkish Telecommunications Directorate (TIB) to block access to online news portals depicting the latest Charlie Hebdo magazine cover. In Russia, the local search engine Sputnik decided to filter¹⁸ covers of the Charlie Hebdo magazine, after the communications regulator Roskomnadzor issued¹⁹ a formal warning on January 16, 2015, threatening newspapers with prosecution for criminal liability if they publish caricatures of religious figures.

Read further:

Hindustan Times: After Paris attack, Mumbai police blocks 650 controversial posts²⁰

Yahoo News – AFP: Turkey blocks Charlie Hebdo websites as anger rises in Islamic world²¹

Moscow Times: Media watchdog warns Charlie Hebdo-style cartoons constitute crime in Russia²²

4. INDIA PARTIALLY LIFTS BLOCKADE OF WEBSITES AFTER THEY REMOVE JIHADIST PROPAGANDA

On January 1, 2015, the Indian Ministry of Communications and Information Technology announced that Weebly, Dailymotion, Vimeo, and GitHub were unblocked²³ in the Indian jurisdiction. According to the press release²⁴, the lift came after the companies agreed to remove alleged terrorist material from their websites. They had been blocked²⁵ along with 28 other websites since December 17, 2014, in accordance with instructions of the Indian Department of Telecommunications under Section 69A of the Information Technology Act. Arvind Gupta, head of the Bharatiya Janata Party's information technology group, has stated²⁶ that the websites were blocked following a November 15, 2014 notice from the Indian Anti-Terrorism Squad for carrying content deemed to be "anti-India" and originating from ISIS.

Read further:

TechDirt: Indian government orders 32 websites blocked, including GitHub, Archive.Org, Pastebin, DailyMotion And Vimeo²⁷

Times of India: Pastebin, Dailymotion, Github blocked after DoT order: Report²⁸

ZDNet: India lifts block on Vimeo; Pastebin, Internet Archive, others still banned²⁹

5. EU COURT OF JUSTICE: ACCESSIBILITY DETERMINES JURISDICTION FOR ONLINE COPYRIGHT INFRINGEMENT

The Court of Justice of the European Union (CJEU) ruled³⁰ on January 22, 2015, that a court in an EU member state in which copyright-infringing work is available online has jurisdiction to hear an infringement action concerning that work. The case involves an Austrian photographer, who sued the German website EnergieAgentur before an Austrian court for publishing her pictures online without her authorization. The defendant claimed that the Austrian court has no jurisdiction³¹ over the case, as its website is listed under the German top-level domain ".de", and is therefore not "directed" at Austrian users. The CJEU ruled that under Article 5(3) of the Brussels I Regulation, which governs jurisdiction of courts in civil and commercial matters in the EU, the Austrian court has jurisdiction as long as the work is accessible in Austria. However, the CJEU added³² that member states' courts can only rule on damages that occurred within their own jurisdictions.

Read further:

Cyberleagle: Latest score in the jurisdiction game: Internet 0, EU Court of Justice 2³³

IPKat: CJEU confirms accessibility criterion to determine jurisdiction in online copyright infringement case³⁴

HuĐko's Technology Law Blog: CJEU reaffirms: Only accessibility matters for the jurisdiction³⁵

6. UK PRIME MINISTER HINTS AT ENHANCED SURVEILLANCE LAWS, TARGETS END-TO-END ENCRYPTION

In response to the January 2015 Charlie Hebdo attacks, the UK Prime Minister made comments³⁶ interpreted as a call to ban end-to-end encryption in online communications. He stated that a future Conservative government should aim³⁷ at denying "safe spaces" online to terrorists and that there should be no "means of communication [...] which we cannot read".

7. MICROSOFT SUGGESTS CROSS-BORDER DATA SHARING AGREEMENT BETWEEN EU AND US

Microsoft's general counsel Brad Smith, on January 20, 2015, called³⁸ for an agreement between the EU and the US to facilitate³⁹ the exchange of information with law enforcement agencies. The proposed agreement would aim⁴⁰ at allowing governments in both regions to serve warrants for data stored within their jurisdiction. Microsoft is currently involved in proceedings before a New York court after it refused to share user data stored on its Irish servers.

8. FACEBOOK WILL NOT CHANGE ITS CONTENT TAKEDOWN POLICY AFTER CHARLIE HEBDO ATTACKS

Mark Zuckerberg, Facebook's CEO, vowed in a post published⁴¹ on January 9, 2015, that Facebook will not let "one country or group of people" dictate its content takedown policies. The Charlie Hebdo attacks in Paris have prompted calls⁴² for social media networks to remove parodies of the Prophet Muhammad from their platforms. On January 12, 2015, Facebook publicly apologized⁴³ to a Pakistani actor for having mistakenly deactivated his account over an opinion piece on the Charlie Hebdo attack.

9. INDIA ORDERS GOOGLE, YAHOO, MICROSOFT TO CHANGE TERMS OF SERVICE TO COMBAT PRENATAL GENDER TESTS

India's Supreme Court on January 28, 2015, ordered⁴⁴ Google, Yahoo, and Microsoft to include⁴⁵ in their Terms of Service provisions stating that they do not carry any ads or display any sponsored links promoting prenatal sex determination tests. Prenatal sex determination is illegal in India in order to stop female feticide.

10. GOOGLE SUED IN UK BY EX FORMULA 1 PRESIDENT TO DE-INDEX ORGY PICTURES

On January 14, 2015, Max Mosley, a former Formula 1 president, filed⁴⁶ a lawsuit against Google in the UK High Court. On the grounds⁴⁷ of the UK data protection law, he demands the removal of pictures of him at an orgy from the search engine's results. The court will determine whether Google is liable as a publisher of its search results. Mr. Mosley won similar lawsuits in Germany⁴⁸ and France⁴⁹.

11. CHINA SHUTS DOWN 50 WEBSITES AND SOCIAL MEDIA ACCOUNTS

The Cyberspace Administration of China, on January 13, 2015, announced that it had either blocked or permanently shut down⁵⁰ a total of 50 websites and social media accounts. Among the justifications⁵¹ are the publication of "news without a permit", information related to gambling and pornographic material.

12. SPANISH COURT IMPLEMENTS THE EU COURT OF JUSTICE'S "RIGHT TO BE DE-INDEXED" DECISION

On January 23, 2015, the Spanish High Court stated that a Spanish tribunal has ordered⁵² Google to delist search results linking to personal data in 14 court cases. The court's press release confirms that the judgements applied⁵³ the "right to be de-indexed" doctrine established in May 2014 by the Court of Justice of the European Union's ruling.

13. FACEBOOK WITHHOLDS CONTENT DEEMED TO INSULT PROPHET MUHAMMAD FOLLOWING TURKISH COURT ORDER

On January 25, 2015, the Turkish Golbasi Duty Magistrate Court in Ankara ordered⁵⁴ Facebook to block Turkish users' access to pages containing content deemed to be defamatory towards the Prophet Muhammad. The court threatened⁵⁵ to block Facebook entirely in the Turkish jurisdiction in case of non-compliance. Facebook activated the withholding within 24 hours.

14. GOOGLE TO UPDATE PRIVACY POLICY FOLLOWING BRITISH DPA INVESTIGATION

In a statement released on January 30, 2015, the UK Information Commissioner's Office (ICO) has announced⁵⁶ that Google would clarify⁵⁷ its privacy policy by June 30, 2015. The announcement comes after the ICO ruled that Google's March 2012 privacy policy infringes British and EU data protection laws. The ICO investigation is part of a joint Article 29 Working Party effort.

15. MAX SCHREMS V. FACEBOOK: COURT HEARING SET TO DETERMINE AUSTRIA'S JURISDICTION

On January 26, 2015, the Commercial Court of Vienna set⁵⁸ a first hearing date on April 9, 2015, to determine if a class action suit against Facebook should proceed. Max Schrems, an Austrian student, together with 25,000 claimants, demands⁵⁹ that Facebook suspend the transfer of their personal data to the US. He argues that given Facebook's involvement in US surveillance programs, the transfer of personal data between the EU and the US under the Safe Harbor regime is no longer valid under EU law.

16. GOOGLE AND VIACOM NOT LIABLE FOR TRACKING CHILDREN ONLINE, SAYS US COURT

On January 20, 2015, the US District Court of New Jersey ruled⁶⁰ that Google and Viacom could not be held liable for engaging in "offensive behavior" by illegally tracking the Internet activity of children under age 13, who visited the website of Nickelodeon. The judge reasoned⁶¹ that the use of cookies for targeted advertisement by the defendants to track online activity cannot result in the direct identification of children using their families' shared computers.

17. REDDIT RELEASES ITS FIRST TRANSPARENCY REPORT

On January 29, 2015, Reddit released⁶² its first ever transparency report⁶³ covering the period between January and December, 2014. Reddit received 55 requests for user information, including 29 of which were US subpoenas and 5 were international requests. It produced user information for 32 requests. Reddit also received more than 200 takedown requests, mainly for alleged copyright infringement. It complied with a third of these requests.

18. WHITE HOUSE PROPOSES NEW REGULATIONS ON HANDLING OF CONSUMER DATA

On January 12, 2015, the US White House announced⁶⁴ that the Obama administration will undertake a comprehensive reform of consumer law around data protection. The measures would increase obligations for US-based companies regarding the notification of data breaches and consent requirements for the collection of personal data. The draft bill, expected to be released in February 2015, would also grant⁶⁵ new policing powers to the Federal Trade Commission.

19. NEW CHINESE CYBERSECURITY REGULATIONS TO RESTRICT FOREIGN TECHNOLOGY PROCUREMENT

The Central Leading Small Group for Cyberspace Affairs led by Chinese President Xi Jinping approved⁶⁶ a document laying out new rules for technology products sold to Chinese banks and financial institutions. These include handing over products' source code, adopting Chinese encryption algorithms, and providing ports for the government to collect and monitor data.

20. CANADIAN REGISTRAR EASYDNS SUED FOR COMMENTING ON A DEFAMATION LAWSUIT

In August, 2014, the Canadian registrar EasyDNS announced it was being sued in an Ontario small claims court for refusing to take down a website containing alleged defamatory content without a court order. EasyDNS later reacted⁶⁷ to the case on its blog. In response, the plaintiff amended⁶⁸ his complaint on January 7, 2015. He argued that the company had further damaged his reputation by commenting on the lawsuit. The trial date is set⁶⁹ for March 30, 2015.

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www.internetjurisdiction.net/observatory/retrospect/2015-january/

FEBRUARY

1. FRENCH DECREE ALLOWS POLICE TO TAKE DOWN WEBSITES WITHOUT COURT ORDER

On February 5, 2015, the French government issued a decree¹ that allows the French police to order the blocking of websites that are accused of promoting terrorism and carrying child abuse material without having to seek a court order. The decree implements the provisions contained in the LOPPSI Act passed in 2011 and the Terrorism Act passed in 2014. It will require² ISPs to block listed websites within 24 hours if ordered to do so by a specialized police unit. The list will be reviewed and updated quarterly. Blocked websites that are no longer on the list should be reinstated. An administrator from the CNIL, the French data protection authority, will oversee the process. Costs incurred by ISPs for blocking websites can be recovered³ from the French government. Failure to comply with a takedown order is punishable with one year in prison and a 75,000 euro fine. Websites taken down through this procedure will redirect users to a page from the French Ministry of the Interior informing the user of the reasons for the blocking.

Read further:

Register: French plod can BAN access to any website – No court order needed⁴

Guardian: French law blocking terrorist and child abuse sites comes into effect⁵

Engadget: France can order internet providers to block terrorist websites⁶

2. EUROPEAN COMMISSION WANTS TO END GEO-BLOCKING OF ONLINE CONTENT

In a speech⁷ given at the European Commission's #Digital4EU Stakeholder Forum on February 23, 2015, Andrus Ansip, the European Commission's Vice-President for the Digital Single Market, warned⁸ against online discrimination due to territorial restrictions of content. When licensing content, delivery platforms such as BBC's iPlayer, Amazon, YouTube or Netflix, often set up geo-blocking restrictions that prevent users in certain jurisdictions from accessing their online content. According to Mr. Ansip, "in the offline world, this would be called discrimination". Mr. Ansip argues that, in view of establishing a Digital Single Market, issues related to geo-blocking need to be addressed⁹ to achieve the portability of online content. He suggests that people should be allowed to pay for online content regardless of where they are located. The EU may propose new rules regarding geo-blocking in upcoming discussions regarding the overhaul of the 2001 EU InfoSoc Directive.

Read further:

VPN Creative: EU digital chief calls for an end to geo blocks¹⁰

TorrentFreak: EU Commissioner wants to abolish Netflix-style geoblocking¹¹

EU Observer: 'You can't use 18th century law for a digital world'¹²

3. BRAZILIAN COURT BACKS DOWN FROM SUSPENDING WHATSAPP

On February 11, 2015, a Brazilian judge ordered¹³ the suspension of the global instant messaging app WhatsApp in Brazil after it declined to provide user information to Brazilian law enforcement. Although the details of the investigation have not been confirmed, it appears to relate to sexually explicit photos of children circulating via the app. WhatsApp argued¹⁴ that it could not be forced to comply with the law enforcement's request because it does not have an office in Brazil. The judge's suspension order was subsequently delivered to Brazilian telecommunications operators for execution. The decision was overturned¹⁵ on February 26, 2015, following WhatsApp's appeal. According to the Piauí Court of Justice, the suspension did not "meet the requirement of proportionality". Moreover, WhatsApp has implemented end-to-end encryption, meaning that the content of users' communications could not technically be turned over to law enforcement. However, WhatsApp stated that "this is not about encryption".

Read further:

Guardian: Brazil judge targets WhatsApp with suspension order¹⁶

Folha de S. Paulo: Judge bans WhatsApp in Brazil and says he wants app to contribute with police¹⁷

Sky News: WhatsApp banned in Brazil over 'graphic photos'¹⁸

4. "RIGHT TO BE DE-INDEXED" SHOULD APPLY GLOBALLY, SAYS EUROPEAN COMMISSION

During a Q&A session at the Startup Europe Summit held in Berlin on February 12, 2015, Andrus Ansip, the European Commission's Vice-President for the Digital Single Market, argued¹⁹ that search results that are de-listed on the grounds of the "right to be de-indexed" should be removed globally. According to him, related court decisions should apply to the operations of an entire company, not just to certain specific jurisdictions. Mr. Ansip's statement is in line with the guidance²⁰ provided in November 2014 by the Article 29 Working Party, a gathering of EU data protection authorities, which criticised that search results delisted in EU countries do not prevent users from accessing those results via non-European cc-TLDs. An Advisory Council created by Google to work on the implementation of the "right to be de-indexed" advocated²¹ that the delisting of search results should only apply in the EU.

Read further:

GigaOM: EU privacy ruling should apply globally, says digital chief²²

Wall Street Journal: Europe wants the world to embrace its Internet rules²³

EurActive: Google leans towards EU-only 'right to be forgotten'²⁴

5. ITALIAN DATA PROTECTION AUTHORITY TO AUDIT GOOGLE IN US HEADQUARTERS

The Italian data protection authority (DPA) on February 20, 2015 announced in a press release²⁵ that Google has agreed on a framework to monitor its progress on privacy measures to be taken to ensure compliance with the Italian data protection law. Among the agreed actions are regular updates to the Italian DPA and "on-the-spot checks" in its Mountain View headquarters in the US jurisdiction. As part of a joint investigation launched by the Article 29 Working Party, the Italian DPA had ordered²⁶ Google in July 2014 to clarify its newly condensed²⁷ privacy policy. By January 2016, Google is expected to, inter alia, propose more accessible, tailored and "unambiguous" privacy notices on its services, strengthen its consent policy and better explain users how their data would be stored and used.

Read further:

Register: Google's privacy policy: Italians probing a little deeper²⁸

Reuters: Italian privacy watchdog says to conduct inspections at Google U.S. offices²⁹

PCWorld: Google agrees to Italian privacy authority audits in the US³⁰

6. FRANCE PROPOSES LEGISLATION TO TAKE DOWN ANTI-SEMITIC ONLINE MATERIAL

The French Justice Minister said³¹ on February 22, 2015, that she would propose legislation to allow French authorities to shut down websites promoting racism, anti-semitism and hate speech online as part of the government's commitment³² to combat hate crimes. The proposed legislation would work, similarly to the February 2015 decree for takedowns of terrorism and child sexual abuse material online, without court orders.

7. FIRST ANTI-TERRORISM LAW TO BE ADOPTED IN CHINESE JURISDICTION

On February 25, 2015, Chinese lawmakers examined a second draft of China's first anti-terrorism law, which is expected³³ to be adopted later in 2015. The anti-terrorism law would require³⁴ both Chinese and foreign Internet and technology companies to disclose their products' encryption methods, to keep servers and user data within the Chinese jurisdiction, to provide Chinese law enforcement with surveillance access and to block terrorism-related content online.

8. WHITE HOUSE RELEASES DRAFT BILL TO PROTECT CONSUMERS' PRIVACY IN US JURISDICTION

On February 27, 2015, the US White House released³⁵ a "discussion draft"³⁶ of the Consumer Privacy Bill of Rights Act. The proposed legislation intends³⁷ to increase US citizens' control over their personal information collected by Internet companies. The US Federal Trade Commission would be granted new powers and could impose fines of up to 25 million US dollar.

9. TORRENT SITES SHUT DOWN IN SWEDISH JURISDICTION

On February 13, 2015, the Swedish police arrested³⁸ five people for their suspected implication in the operation of illegal file-sharing websites. The arrests follow investigations into The Pirate Bay in the Swedish jurisdiction in December 2014, which resulted in the seizure³⁹ of servers and computers of Tankafetast, Sweden's second largest torrent website. Tankafetast and PirateHub have been taken down. It not clear whether the shutdown was initiated by the Swedish police or by the websites' operators.

10. TWITTER TRANSPARENCY REPORT SHOWS INCREASE IN GOVERNMENT REQUESTS

Twitter's latest transparency report⁴⁰ covering the period between July 1, 2014 and December 31, 2014, shows a 40 percent increase in governments' requests for user data, as compared to the period between January 1, 2014 and June 30, 2014. Twitter received 2.871 requests from governments asking for account information of 7.144 users. It complied with 52 percent of them. US requests constitute 56 percent of all received requests.

11. GOOGLE'S BLOGGER PLATFORM WILL NOT BAN PORNOGRAPHIC CONTENT AFTER ALL

On February 24, 2015, Google warned the users of its free blogging platform Blogger that it would reduce⁴¹ the access to blogs containing pornographic material to their authors, administrators and "explicitly invited" users. On February 26, 2015, a Google executive announced that users' feedback had been heard and that Google would only ensure⁴² that explicit content be flagged and that users be warned before accessing such blogs.

12. US NATIONAL SECURITY LETTERS: TWITTER'S LAWSUIT AGAINST US GOVERNMENT GETS SUPPORT

On February 17, 2015, the Electronic Frontier Foundation filed⁴³ "friend-of-the-court" briefs on behalf of two anonymous⁴⁴ companies to support Twitter's lawsuit against the gag orders issued under the US Patriot Act. Twitter

initially filed the lawsuit in the Northern District of California in October 2014. It argues that the FBI violated its First Amendment right to free speech by preventing Twitter from releasing information regarding secret government user data requests called National Security Letters.

13. NEW UK LAW CRIMINALIZES "REVENGE PORN"

The "revenge porn" amendment⁴⁵ to the UK Criminal Justice and Courts Bill was approved⁴⁶ through royal assent on February 12, 2015 and is expected to be enforced by April 2015. Offenders will risk two years in prison for sharing sexually explicit content without the subject's permission and with the intent to cause harm, both on social networks, as well as through text messaging.

14. BELARUS BLOCKS INTERNET ANONYMIZING SERVICES

On February 25, 2015, the Republic of Belarus announced⁴⁷ its intention to block access to all Internet anonymizing services in the Belarusian jurisdiction, including Tor. The Belarusian Communications Ministry published a decree declaring that all anonymizing services will be added⁴⁸ to a national blocking-list that ISPs in Belarus are obliged to check and implement.

15. IRISH DATA PROTECTION COMMISSIONER TO AUDIT MORE INTERNET COMPANIES

The Irish Data Protection Commissioner stated⁴⁹ on February 17, 2015 that she intends to conduct audits of Apple, Yahoo! and Adobe, which all have offices in Ireland. Previous audits of Facebook and LinkedIn prompted the platforms to change some of their data protection practices. Under the General Data Protection Reform (GDPR) proposed by the EU Commission, non-compliance of American companies with EU data protection rules could lead to fines as high as 5 percent of their global revenues.

16. CHINESE INTERNET FIRMS SHUT DOWN 60,000 USER ACCOUNTS DUE TO "REAL NAME" POLICY

Over the course of February 2015, Alibaba Group, Tencent Holdings, Baidu, Sina Weibo and other companies have deleted⁵⁰ more than 60.000 user accounts in the Chinese jurisdiction. Their registered names did not conform to real-name registration policies issued⁵¹ by the Cyberspace Administration of China, which are due to take effect on March 1, 2015.

17. GERMAN CONSUMER GROUP CHALLENGES FACEBOOK'S TERMS OF SERVICE

On February 26, 2015, the Federation of German Consumer Organizations threatened⁵² Facebook with a lawsuit. They demand that the social media platform changes its Terms of Service and privacy policy to comply with Germany's Data Protection Act. The German Justice Minister supported the action and stated that Facebook's data protection rules are too vague. A new draft bill introduced in February would allow⁵³ German consumer organizations to seek enforcement of the data protection rules before the German courts.

18. THE PIRATE BAY BACK ONLINE AFTER DOMAIN CHANGE

After a seven weeks down-time, The Pirate Bay (TPB) was back⁵⁴ online on February 1, 2015, operating under the Swedish ".se" domain. However, on February 13, 2015, TPB was offline for 12 hours due to a website hosting issue. The torrent site frequently changes⁵⁵ its TLDs and hosting providers as ISPs are ordered to block the website in several countries.

19. TWITTER ADMITS IT SHOULD EXPAND ENFORCEMENT OPTIONS AGAINST ABUSIVE USERS

In a leaked⁵⁶ internal memo from February 2, 2015, Twitter CEO Dick Costolo conceded that Twitter must do more to address harassment and abuse on its platform. In December 2014, Twitter had adopted⁵⁷ further "enforcement actions", encouraging users to report abuses on the platform, as well as requesting banned users to provide Twitter with verification information, such as their phone numbers, to use Twitter again.

20. OVER 60 DATING WEBSITES SHUT DOWN IN CHINESE JURISDICTION

In February, 2015, the Cyberspace Administration of China closed⁵⁸ 65 online dating websites for spreading "obscene and lascivious content" and for allowing the use of fake identities to register. Chinese authorities have been actively investigating dating websites suspected to carry fraud, swindle and other illegal activities.

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MARCH

1. INDIAN SUPREME COURT DECLARES OFFENSIVE ONLINE SPEECH LAW UNCONSTITUTIONAL

On March 23, 2015, the Indian Supreme Court declared that Section 66A of the Information Technology Act was unconstitutional and struck down¹ the law. The provision was introduced in 2009 as an amendment to the IT Act. It enabled the ordering of content takedowns and criminal charges against users posting content that is “grossly offensive or has menacing character”. The court ruled that Section 66A is too vague and violates free speech provisions. The Supreme Court upheld² two other laws challenged by the lawsuit: Section 69A of the IT Act, which deals with content removal requests and website blocking, as well as Section 79, which deals with intermediary liability. However, the court stipulated that takedown orders must be provided in written form by an adjudicatory body.

Read further:

IBN Live: Here is what Supreme Court said while striking down Section 66A of IT Act³

Times of India: Three reasons why 66A verdict is momentous⁴

CIS Stanford: Landmark intermediary liability decision from the Indian Supreme Court⁵

2. YAHOO INTRODUCES RIGHT TO BE DE-INDEXED MECHANISM IN JAPANESE JURISDICTION

Yahoo Japan Corp announced⁶ on March 30, 2015, that it will respond to “right to be de-indexed” requests in the Japanese jurisdiction as of March 31, 2015. Yahoo’s announcement follows an October 2014 case in which the Tokyo District Court ordered Google Japan to remove certain search results. Following the Court of Justice of the European Union’s ruling in May 2014 regarding the right of individuals to request that certain search results are deleted from online searches, Yahoo set up an expert panel to discuss how to respond to such requests. Yahoo Japan said⁷ it will take “into consideration the nature of personal information regarding public officials and underage individuals, as well as the societal significance of and public interest in the particular information” in its determinations. However, it will not remove criminal or arrest records.

Read further:

Japan Times: Yahoo Japan sets out procedure for search result removal⁸

Daily Dot: Yahoo Japan agrees to honor requests to delete search results⁹

Today Online: Asia considers European-style ‘right to be forgotten’ ruling¹⁰

3. FRENCH ANTI-TERRORISM DRAFT BILL REQUIRES INTERMEDIARIES TO MONITOR USERS' BEHAVIOR

Following the Charlie Hebdo attacks in Paris in January 2015, a new anti-terrorism law was proposed¹¹ in the French Parliament on March 19, 2015, which would require intermediaries to “detect, using automatic processing, suspicious flows of connection data”. The law would oblige¹² ISPs, as well as platforms such as Google, Facebook or Twitter, to scan metadata and to identify suspicious online behavior in order to pass the information to public authorities. The proposed law would require intermediaries to retain metadata for up to five years, and could require intermediaries to decrypt user data.

Read further:

Bloomberg Business: France to expand spying on phones, Internet surveillance¹³

RFI: France unveils new spying laws after terrorist attacks¹⁴

Newsweek: French PM says spying law is no “Patriot Act”¹⁵

4. US COURT ORDERS SEIZURE OF FOREIGN DOMAINS OWNED BY CHINESE COMPANY

The US District Court for the Southern District of New York on March 17, 2015 issued a verdict¹⁶ against a Chinese company, which sells a popular DVD-ripping software. It follows a preliminary injunction against the company by the decryption licensing industry body AACCS in March, 2014. The Chinese company argued that US copyright law does not apply extraterritorially and promised no longer to target US customers. Finding that US customers continue to have access to the software, the District Court issued an injunction granting the seizure of several domains registered by the Chinese company in the US (Verisign, PIR, Neustar), as well as in Japan (PPRS), Germany (DENIC) and China (CNNIC). It remains unclear to what extent the ruling can be enforced. Moreover, the court ordered the shutdown of the company's Twitter, Facebook and Google social media accounts. The court also ordered payment processors to stop providing services to the company.

Read further:

TorrentFreak: U.S. court extends global shutdown of DVD ripping software¹⁷

Register: This is what happens when a judge in New York orders an e-hit on a Chinese software biz¹⁸

ArsTechnica: US judge orders seizure of foreign domains owned by Chinese company¹⁹

5. EU COMMISSION AGAINST DIRECT ACCESS OF EU-SERVERS BY FOREIGN LAW ENFORCEMENT

In March 4, 2015, the European Commission's Justice Commissioner Vera Jourova stated²⁰, with regards to whether US courts should be able to access personal data stored on Microsoft's servers in the Irish jurisdiction, that “[t]he

Commission's view is that personal data held by private companies in the EU should not, in principle, be directly accessed by or transferred to foreign enforcement authorities outside of formal channels of co-operation”. The statement is a response to a formal request for comment by a member of the EU parliament, who also asked if the European Commission would intervene in the case. The Commissioner replied that the “Commission has brought this point to the attention of the US authorities on several occasions and is resolute to further insist on finding a solution to this question”.

Read further:

Independent: Europe hints it will back Ireland's Microsoft stance²¹

Just Security: Case to watch: Microsoft vs. US on the extraterritorial reach of the Electronic Communications Privacy Act²²

Computerworld: Where's the data?²³

6. FRANCE ORDERS ISPS TO BLOCK TERRORISM WEBSITES UNDER NEW LAW

The French Ministry of the Interior announced on March 16, 2015 that five websites accused of condoning terrorism have been blocked.²⁴ It was the first time that new counter-terrorism measures that came into force in February 2015 were used. French ISPs had 24 hours to take “all necessary measures to block the listing of these addresses” under the new law.

7. TOR CANNOT TECHNICALLY BE BLOCKED, SAYS UK PARLIAMENT REPORT

Following UK Prime Minister David Cameron's calls for outlawing encryption, on March 9, 2015 the UK Parliament published a report²⁵ discussing “the challenge of preventing such [anonymous] crimes [on the darknet] without compromising the other uses of anonymity technologies”. The report concludes²⁶ that it would “not be seen as acceptable” to ban online anonymity systems in the UK, and also finds that it would be “technologically infeasible” to block Tor.

8. CHINA TO SANCTION DOMESTIC COMPANIES FOR HOSTING VIOLENT OR PORNOGRAPHIC CONTENT

The Chinese Ministry of Culture stated on March 31, 2015 that Internet companies Tencent, Youku Tudou and Baidu's iQiyi will be punished²⁷ according to Chinese law for “hosting videos suspected of containing violence and pornography”. It is not specified how the companies will be sanctioned. Moreover, the Cyberspace Administration of China warned²⁸ Tencent's WeChat users of punishments for posting vulgar content.

9. UN TO APPOINT SPECIAL RAPPORTEUR ON THE RIGHT TO PRIVACY

On March 24, 2015, the UN Human Rights Council adopted²⁹ a resolution to appoint a Special Rapporteur on the right to privacy. The Special Rapporteur will be announced in June 2015 and will be tasked with³⁰, amongst other things, gathering information and studying trends in relation to the right to privacy in a variety of settings and making “recommendations to ensure its promotion and protection, including in connection with the challenges arising from new technologies”.

10. FRENCH COURT ASSUMES JURISDICTION OVER FACEBOOK IN NUDE PAINTING CASE

The Paris Court of First Instance ruled³¹ on March 5, 2015 that it has the jurisdiction to judge a case against Facebook regarding the platform’s suspension of the account of a French user who posted an image of a 19th century Gustave Courbet painting depicting a vagina. Facebook’s lawyer had argued in a hearing on January 22, 2015, that Facebook’s Terms of Service include an agreement to resolve any disputes in California. The Paris court ruled that such a clause was “abusive”.

11. MICROSOFT REJECTS MORE INSUFFICIENT LAW ENFORCEMENT REQUESTS, ACCORDING TO NEW TRANSPARENCY REPORT

Microsoft has released its transparency report³² for the second half of 2014, noting that 70 percent of all requests came from the US, UK, Germany, France, and Turkey. The total number of law enforcement requests for customer information was lower³³ in 2014 than in 2013. However, according to the report, “the number of law enforcement requests we rejected for not meeting legal requirements more than doubled from 2013 to 2014. In 2013, we rejected 2,105 requests; in 2014, we rejected 4,379 requests”.

12. TWITTER SUSPENDS OVER 2.000 ACCOUNTS LINKED TO ISLAMIC STATE PROPAGANDA

Between the last week of February and the first week of March 2015, Twitter suspended³⁴ at least 2.000 accounts linked to ISIS and its supporters. It is against Twitter’s Terms of Service for its users to make direct and specific threats of violence against others.

13. FACEBOOK CLARIFIES COMMUNITY STANDARDS, PUBLISHES NEW TRANSPARENCY STATISTICS

On March 15, 2015, Facebook published clarifications³⁵ around its Community Standards and takedown policies regarding issues³⁶ such as self-harm, violence, harassment and bullying. Facebook also released its Government Requests Report³⁷ for July to December 2014. It received 35.051 requests for account data and 9.707 content removal requests – a rise of 11 percent.

14. TURKISH GOVERNMENT CAN BLOCK WEBSITES WITHOUT COURT ORDERS

A new omnibus bill approved³⁸ by the Turkish Parliament on March 19, 2015 confers the power to the Turkish Telecommunications Directorate (TIB) to remove or block online content within four hours after receiving a request by a minister, without requiring a court order. Six months earlier, the Turkish Constitutional Court overturned³⁹ a similar bill.

15. WORDPRESS TEMPORARILY BLOCKED IN PAKISTANI JURISDICTION

On March 23, 2015, the Pakistan Telecommunication Authority asked Pakistani ISPs to block⁴⁰ temporarily access to the blog hosting platform WordPress.com in the Pakistani jurisdiction. It remains unclear why the site has been blocked, although sources attribute⁴¹ the blocking to “security issues” over content on WordPress.

16. EU MINISTERS AGREE ON NEW MECHANISM TO DEAL WITH CROSS-BORDER PRIVACY CASES

The Council of the European Union on March 13, 2015 reached⁴² partial agreement regarding provisions of the proposed new EU Data Protection Regulation. Rather than establishing a strict “one-stop shop” mechanism, where companies only deal with one national data protection authorities, the framework foresees the creation of a pan-EU Data Protection Board. This body would rule on the most complex cross-border cases. The data protection package is still subject to revision⁴³ before the Council’s scheduled meeting to reach agreement on data protection reforms in June 2015.

17. BRITISH ISPS DECIDE TO BLOCK WEBSITES LISTING THE PIRATE BAY PROXIES

On March 10, 2015, ISPs in the UK began to block access⁴⁴ to websites that provide a list of proxies for accessing the Pirate Bay. While a series of UK High Court orders have required UK ISPs to block access to torrent sites themselves, in this instance, UK ISPs decided, in addition, to block access to sites that do not have direct links to infringing material.

18. SPAIN ENFORCES SINDE LAW, ORDERS ISPS TO BLOCK THE PIRATE BAY

For the first time, the “Sinde Law” was enforced in Spain by Madrid’s Central Administrative Litigation Court No.5. The court ruled on March 27, 2015, that local ISPs have 72 hours to block⁴⁵ the Pirate Bay domains including thepiratebay.org, thepiratebay.net, thepiratebay.se and thepiratebay.com.

19. YAHOO RELEASES NEW TRANSPARENCY REPORT

On March 26, 2015, Yahoo released⁴⁶ its fourth transparency report containing information covering the period between July 1 and December 31, 2014. Yahoo received over 14,000 requests for user data, of which it rejected 35 percent. Yahoo received 8 requests for content removal from Brazil, India, Malaysia and the US.

20. GERMAN COURT DECIDES WEBSITE OPERATORS MUST ASK GOOGLE TO REMOVE CACHES

The German Higher Regional Court of Celle ruled⁴⁷ that website operators ordered to take down content also have to ask Google to update the website’s stored cache. It remains unclear if operators also have to ask other search engines.

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www.internetjurisdiction.net/observatory/retrospect/2015-march/

1. INTERNET PLATFORMS AGREE TO TERRORISM CONTENT REMOVAL MECHANISM IN FRENCH JURISDICTION

On April 22, 2015, the French Ministry of the Interior held a meeting with Google, Facebook, Microsoft, Apple and Twitter to agree on a national cooperation mechanism to handle the removal of extremist online content. The French ISP association AFA also participated in the meeting. The envisaged mechanism includes the setting up of a permanent working group. The platforms consented to the idea of a specific fast track procedure to remove content identified by French law enforcement and intelligence services as supporting terrorism. The “operational agreement” foresees the removal within 24 hours after a notice. Moreover, France wants to develop national guidelines and forms for such requests. The working group will also provide best practices guidance to train French authorities and private companies on these issues. The meeting is a follow-up to a February 21, 2015 meeting held in Silicon Valley between the French Minister of the Interior Bernard Cazeneuve and several Internet companies.

Read further:

French Ministry of the Interior: Meeting with major Internet platforms (in French)¹

Wall Street Journal: Tech firms, French police ally in terrorism fight²

L'Express: Cyberterrorism: Cazeneuve meets with Internet platforms (in French)³

2. TERMS OF SERVICE: TWITTER UPDATES CONTENT-TAKEDOWN POLICIES AND MOVES TO IRISH JURISDICTION

In April 2015, Twitter announced⁴ major changes to its Terms of Service and related policies. From May 18, 2015 onwards, over 300 million users located outside of the US jurisdiction will have their contract with Twitter Inc., located in California, shifted to Twitter International Company, located in Dublin, Ireland. Twitter follows Internet platforms such as Facebook or Google, which also established their global headquarters in the Irish jurisdiction. This means that the EU Data Protection Directive and Irish privacy laws will in the future apply to approximately 77 percent of all Twitter users. In parallel, Twitter took measures after it suspended⁵, on April 2, 2015, approximately 10.000 accounts linked to ISIS activities. The micro-blogging platform introduced new abuse policies and tools for combating “violent threats”, both specific or promoting violence more broadly, on its platform on April 21, 2015. Twitter stated⁶ that the new policies are a direct response to its previously limited ability to react to online abuse and harassment. The platform introduced new removal tools, including the ability to block accounts for a specific amount of time.

Read further:

Mashable: Twitter cracks down on ‘violent threats’ with new tools and updated policies⁷

Irish Times: Ireland to become privacy regulator for 300m Twitter users⁸

Register: Yay, we’re all European (Irish) now on Twitter (except Americans)⁹

3. EBAY, PAYPAL START COMPLYING WITH RUSSIAN DATA LOCALIZATION LAW

eBay and its subsidiary PayPal are one of the first foreign companies to comply with a new Russian data localization law, which will go into effect on September 1, 2015. It requires Internet companies to store Russian users' personal data within the Russian jurisdiction. eBay met with the Russian regulator Roskomnadzor on April 3, 2015 for the first time to discuss details and requirements for moving the data in question from Swiss to Russian servers. It is unclear whether eBay will use its own servers or will lease storage space from Russian data centers. Russian media reported on April 10, 2015 that Google signaled similar compliance. A representative of Russia's Rostelecom has announced to the Russian communications ministry that Google had begun placing some of its servers in the telecom operator's data centers. Google denied¹⁰ these reports on April 13, 2015. The Russian Internet Ombudsman Dmitry Marinichev previously stated¹¹ that the data localization law could be amended to allow for the storage of the personal data of Russian citizens outside the Russian jurisdiction if they give their permission.

Read further:

Moscow Times: PayPal and eBay become first to yield to new Russian data law¹²

Wall Street Journal: Google moves some servers to Russian data centers¹³

RT: eBay first US firm ready to store data on Russian servers¹⁴

4. LEAKED EU DIGITAL SINGLE MARKET STRATEGY REVEALS NEW MEASURES ON CROSS-BORDER DATA FLOWS AND REMOVAL

The EU Digital Single Market Strategy and a supporting document have been leaked¹⁵ by Politico Europe on April 20, 2015 ahead of its release date of May 6, 2015. The documents provide insights on the European Commission's planned Copyright reform. Brussels envisages the reduction of geo-blocking of content by content providers within the EU jurisdiction. Furthermore, the strategy includes a section on the "free flow of data" describing the removal of technical and legal barriers to cross-border data flow by removing current restrictions on physical data storage in EU Member States. It also suggests a "possible proposal" to address illegal content online by harmonizing content removal procedures across the EU's Member States. The Commission plans a comprehensive study on the role of intermediaries and illegal content, which might lead to such a proposal by 2016.

Read further:

Politico: Leaked digital single market's 'evidence file' reveals Commission's ambitions¹⁶

ArsTechnica: Geo-blocking and copyright reform outlined in EU document leak¹⁷

IPKat: Politico leaks draft Digital Single Market strategy tackling geo-blocking, civil enforcement and role of ISPs¹⁸

5. JAPANESE COURT ORDERS GOOGLE TO DELETE CONTENT FROM GOOGLE MAPS GLOBALLY

On April 10, 2015, the Chiba District Court of Japan issued¹⁹ a preliminary injunction against Google requiring the company to remove two anonymous reviews from its Google Maps service. The two reviews were critical of an undisclosed medical clinic in Japan, which filed a defamation suit against Google in the Japanese jurisdiction. The court ruled that Google must take down the reviews globally, and not only in the Japanese jurisdiction. Failure to do so would result in a fine of roughly 2.500 US dollar. The reviews do not violate Google's policies for user-generated content. Google has stated it will appeal the court's decision.

Read further:

Search Engine Land: Google Japan ordered to remove negative reviews based on thin evidence²⁰

TechCrunch: Japanese court orders Google to delete critical reviews from Google Maps²¹

Tech News Today: Google ordered to remove critical reviews off Google Maps²²

6. COUNCIL OF EUROPE RECOMMENDATION ON FREE, TRANSBOUNDARY FLOW OF INFORMATION ON THE INTERNET

The Committee of Ministers of the Council of Europe adopted²³ on April 1, 2015 the Recommendation on the free, transboundary flow of information on the Internet. The document enshrines the right to receive and impart information and ideas without interference and regardless of frontiers and the application of fundamental rights under the European Convention on Human Rights online. It highlights the responsibility of states with regards to the free transboundary flow of information and the exercise of national sovereignty. Moreover, it stresses the need to develop new mechanisms in an international dialogue among the different stakeholders to hear and resolve users' grievances when multiple jurisdictions are involved in online activities.

7. SOCIAL NETWORKS BLOCKED IN BURUNDIAN JURISDICTION DURING POLITICAL PROTESTS

In the midst of violent political protests in response to the incumbent President's decision to seek re-election in Burundi, the government of Burundi has blocked²⁴ mobile access to social networks including WhatsApp, Twitter, Facebook and Tango. It is unclear whether the blocking of access has only occurred on mobile networks – the

primary means by which Burundians access the Internet. Telecommunications operators in Burundi were ordered²⁵ in writing by Burundi's telecoms regulator ARCT to block access to the mobile sites.

8. INTERNET EXCHANGE POINT DE-CIX TO CHALLENGE GERMAN CROSS-BORDER DATA SURVEILLANCE

On April 23, 2015, De-Cix, the largest Internet Exchange Point in the world, confirmed that it will file a complaint²⁶ at the German Federal Administrative Court arguing that it should not grant access to the German Intelligence Service BND to data transiting through its switches. De-Cix will argue²⁷ that Article 10 of the German Constitution, which allows for preventive surveillance, is outdated and not suited for modern cross-border digital communications.

9. US RELEASES GUIDELINES ON DMCA NOTICE AND TAKEDOWN BEST PRACTICE

The US Department of Commerce's DMCA Multistakeholder Forum released²⁸ on April 7, 2015 a guidance²⁹ on best practices for improving the DMCA's notice and takedown system for both senders and receivers of DMCA takedown notices. Best practices include allowing multiple URLs to be submitted at once, providing confirmation of receipt of a notice, and introducing human reviews where notices are generated using automated tools.

10. COURT TO DETERMINE WHETHER CLASS-ACTION AGAINST FACEBOOK IS ADMISSIBLE IN AUSTRIAN JURISDICTION

The Commercial Court of Vienna on April 9, 2015, heard a civil suit filed³⁰ by Austrian privacy advocate Max Schrems against Facebook for alleged privacy breaches by the company. Facebook has objected that the class action is inadmissible in the Austrian jurisdiction. The hearing specifically concerned whether or not the Vienna court has the jurisdiction to hear this class-action lawsuit. A decision is expected by mid-2015.

11. GOOGLE ORDERED BY GERMAN DPA TO CHANGE PRIVACY PRACTICES

The Hamburg Commissioner for Data Protection and Freedom of Information on April 8, 2015 issued³¹ an administrative order against Google. It requires the company to comply with German data protection laws and to give users more control over their personal data by the end of 2015. The changes were originally ordered in September 2014. Google appealed the order. The commissioner overruled the objections. Google will have to get explicit and informed consent from its users to combine and process

data from various Google services, as well as be more transparent about the handling of user data.

12. TWITTER, FACEBOOK, YOUTUBE BRIEFLY BLOCKED IN TURKISH JURISDICTION

On April 6, 2015, the 1st Criminal Court of Peace in Istanbul ordered³³ Twitter, Facebook and YouTube to remove³⁴ photos of a prosecutor taken hostage by militants. The three platforms were blocked for eight hours until they complied with the order. In total, 166 websites were blocked based on the court order.

13. RECENT NEWS CANNOT BE DE-INDEXED ON SEARCH ENGINES, SAYS ITALIAN PRIVACY AUTHORITY

The Italian Privacy Authority decided³⁵ that users cannot obtain the de-indexing of search results if those results link to recent news with a relevant public interest. The Privacy Authority also stated that if a party considers search-indexed news to be false or misleading, the party may directly ask the publisher to update the news article.

14. FRENCH INTELLIGENCE BILL PROMPTS WEB HOSTS TO THREATEN LEAVING THE FRENCH JURISDICTION

In response to impending passage of the French Intelligence Bill³⁶, five large web hosting providers in the French jurisdiction (Gandi, OVH, IDS, Ikoula and Lomaco) stated³⁷ on April 9, 2015 that the passage of the bill may force them to leave France and move their infrastructure and employees elsewhere, arguing that the intelligence bill would push their customers to services in other jurisdictions. In particular, the companies protest the real-time interception of data³⁸ over their networks.

15. SPANISH COURT ORDERS FIRST PIRATE MUSIC SITE BLOCKING

Spain's National Court on April 7, 2015 ordered³⁹ ISPs in the Spanish jurisdiction to block Goear.com, an uncensored online music streaming service. Similar to an order⁴⁰ handed down by the Court in March 2015 to block the Pirate Bay, the National Court gives ISPs 72 hours to block the site at the subscriber level. This is the first time Spain has issued such an order against a dedicated music-streaming site.

16. KICKSTARTER PUBLISHES FIRST TRANSPARENCY REPORT

On April 8, 2015, Kickstarter released its first transparency report.⁴¹ The majority of requests it receives are notices under the DMCA for takedown of copyright infringing material on its website. It received and evaluated 282 DMCA claims targeting 240 separate Kickstarter projects in 2014

and rejected 159 of these. Kickstarter also received eight requests for user data from law enforcement agencies, of which six came from the US and two from the EU.

17. BIT.LY TEMPORARILY BLOCKED IN TURKISH JURISDICTION

The URL shortening service Bit.ly was blocked⁴² by the Turkish Telecommunications Directorate (TIB) in the Turkish jurisdiction on April 17, 2015, following a “technical error”, and was unblocked on April 18, 2015. While blocked, users trying to access Bit.ly found a message stating that the website was inaccessible due to a “precautionary administrative measure”.

18. AUSTRALIAN COPYRIGHT LEGISLATION UNCLEAR ON LEGALITY OF VPNs

Virtual private networks may be blocked⁴³ in the Australian jurisdiction under a new Copyright Amendment (Online Infringement) Bill, which was introduced in national parliament. While the bill targets sites whose purpose is copyright infringement, it is unclear under Australian law whether the use of a VPN to circumvent geo-blocks on services such as Hulu, which is

blocked in Australia, is considered copyright infringement if such use entails downloading or streaming content without the permission of the copyright holder.

19. WEBSITES AND ONLINE GAMES SUSPENDED IN CRIMEA DUE TO US SANCTIONS

Due to sanctions imposed by the US in December 2014, US registered companies are prohibited from investing or providing services in Crimea. As a result, the US video game developer Blizzard has suspended⁴⁴ accounts and services of Crimean users of games such as World of Warcraft.

20. NEW LAW IN MALAYSIAN JURISDICTION CRIMINALIZES ONLINE SEDITION

The Malaysian Parliament on April 10, 2015 passed⁴⁵ the Sedition Bill 2015 that amends Malaysia’s Sedition Act of 1948. The new provisions give the Sessions Court of Malaysia the power to order the removal of seditious publications from the Internet and impose jail sentences of three to seven years for acts of general sedition.

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MAY

1. GOOGLE, TWITTER AND FACEBOOK FACE BLOCKS IN RUSSIAN JURISDICTION OVER COMPLIANCE WITH “BLOGGERS LAW”

Russian media regulator Roskomnadzor on May 6, 2015 sent a letter to Google, Twitter and Facebook warning¹ the companies that they will become blocked in the Russian jurisdiction if they do not comply with the Russian “bloggers law”. The law specifies that any site or blog with over 3.000 daily visitors is considered a media outlet and that companies must hand over data on the owners of these sites. The law also requires² Internet companies to take down online content regarded as “extremist” or calling for “unsanctioned unrest” by the Russian authorities. The letters to the companies state that they are in violation of the law because they have not provided Russian authorities with data about how many daily visitors several pages are receiving, as well as user data associated with accounts with over 3.000 daily visitors. While Russian law allows for the removal of online content without a court order³, because Google, Twitter and Facebook use encryption on their sites, the Russian authorities are unable to remove specific pieces of content and would have to block the websites entirely if hosted content is found to be non-compliant with the “bloggers law”.

Read further:

Guardian: Russia threatens to ban Google, Twitter and Facebook over extremist content⁴

EurActiv: Russia warns it could block Google, Twitter and Facebook⁵

Reuters: Russia warns Google, Twitter and Facebook on law violations⁶

2. US COURT LIFTS COPYRIGHT TAKEDOWN ORDER ON “INNOCENCE OF MUSLIMS” YOUTUBE VIDEO

On May 18, 2015, the US Court of Appeals for the Ninth Circuit in San Francisco ruled⁷ that YouTube should not have been ordered to take down the video “Innocence of Muslims” for copyright reasons. The plaintiff, actress Cindy Lee Garcia, had originally directly requested

YouTube to take down the film, a request that YouTube denied. She then tried unsuccessfully to obtain an injunction in a California state court, following which she filed a complaint in a federal trial court, which was also denied. She then appealed⁸ the denial in February 2015, arguing that the film should be removed from YouTube because it contained a clip she had filmed for another movie and that she owned the copyright to her acting performance. A panel of the US Court of Appeals for the Ninth Circuit granted her appeal. However, the court has reversed this decision, arguing⁹ that no copyright exists for a single actor’s performance in a film. Garcia may seek¹⁰ US Supreme Court review of the ruling.

Read further:

Stanford Center for Internet and Society: 453 Days Later...¹⁰

Reuters: YouTube may show ‘Innocence of Muslims’ film: U.S. court¹¹

Verge: Court lifts YouTube ban on controversial film Innocence of Muslims¹²

3. ISRAEL RECOMMENDS ENFORCEMENT OF ANTI-SEMITISM LAWS THROUGH GLOBAL TERMS OF SERVICE

The Israeli Foreign Ministry’s Global Forum for Combating Anti-Semitism, held in Jerusalem on May 12 – 14, 2015, issued a series of recommendations¹⁴ to address online anti-Semitism, including the takedown of Holocaust denial websites and the removal¹⁵ of anti-semitic websites from Google search results. The forum provided recommendations to Internet platforms to adopt industry standards for defining hate speech and anti-semitism and to prohibit such materials through global Terms of Service, as well as to adopt mechanisms for detection, reporting and request-handling related to such material. It also provided recommendations to governments to establish legal units for the enforcement of laws related to online hate speech and anti-semitism, as well as to require¹⁶ platforms to have global Terms of Service prohibiting such speech.

Read further:

Jerusalem Post: Government anti-Semitism conference endorses net censorship¹⁷

Australian Jewish News: Leading the fight against hate¹⁸

Jewish and Israel News: Israeli Foreign Ministry seeks to shut down anti-Semitic websites¹⁹

4. GOVERNMENT APPROVAL AND PHYSICAL PRESENCE REQUIRED FOR OPERATION OF ALL TLDs IN CHINESE JURISDICTION

On May 12, 2015, the Chinese Ministry of Industry and Information Technology (MIIT) released an announcement²⁰ titled “Policy interpretation of special operation to regulate domain name registration service market” that states that domain name registrars in the Chinese jurisdiction will be forbidden from selling domain names in top-level domains (TLDs) that are not approved by the Chinese government. Registries and registrars will also be required to have a physical presence in China to comply with the regulation. Thus far, there are 14 TLDs on the approved list, all of which are operated by Chinese registries. The list does not include the TLDs “.com” or “.net”, nor does it contain any country-code TLD (ccTLD) other than “.cn”. The 6-month regulatory plan includes four phases²¹: screening and checking registrars, on-site inspection, reorganization, and “conclusive upgrading”. The plan implements regulations that were introduced by MIIT over 10 years ago which appear not to have been fully enforced. By July, 2015, the MIIT will no longer permit²² registries not approved by the Chinese government to operate or sell domains in China.

Read further:

PR Newswire: China tightened control on new domain extension²³

TheDomains: Report: only 14 TLDs are “legal” in China²⁴

CircleID: What’s going on in China’s domain name industry?²⁵

5. EU TO IMPLEMENT LARGER FINES AGAINST COMPANIES BREACHING DATA PROTECTION RULES IN EU JURISDICTION

According to a draft text agreed by European Union ambassadors on May 20, 2015, larger fines may be levied²⁶ against Internet companies if they violate the Court of Justice of the European Union (CJEU)’s “right to be de-indexed” ruling. The regulation is part of the larger overhaul of privacy laws in the EU. A draft proposal from Latvia recommends implementing three levels of fines²⁷ depending on the severity of the breach of privacy laws, with fines ranging between 0.5 and 2 percent of global turnover. Moreover, the fines will be substantially larger than what current EU member states are individually able to levy against Internet companies, as Internet companies in the EU are currently fined within separate EU national jurisdictions. EU ministers will agree on a final proposal in June, 2015, after which it will be negotiated with the European Parliament, which has proposed fines of up to 5 percent of global turnover.

Read further:

EurActiv: Internet firms to face stiffer fines for breaking EU’s ‘right to be forgotten’ rules²⁸

Times of India: EU threatens Google, Microsoft with stiffer fines for breaking ‘right to be forgotten’ rules²⁹
Computing: Google could face fines of up to \$1.3bn under EU’s new ‘right to be forgotten’ regime³⁰

6. FACEBOOK AMONG WEBSITES BLOCKED IN NAURUAN JURISDICTION

On April 30, 2015, the government of Nauru directed the Internet service provider Digicel to block access³¹ to Facebook and other websites in the Nauruan jurisdiction. The Nauruan Minister for Justice David Adeang has stated that the blocks are temporary³² and that they are part of a crackdown on online pornography. Opposition members of the Nauruan Parliament have suggested³³ the blocks are designed to prevent communications by asylum-seekers held in an Australian-run immigration detention center.

7. UN AND INTERNATIONAL EXPERTS ON FREEDOM OF EXPRESSION ISSUE JOINT DECLARATION AGAINST INTERNET “KILL SWITCHES”

The Special Rapporteurs for freedom of expression from various international organizations issued on May 4, 2015 a Joint Declaration³⁴ addressing “systematic or targeted attacks on freedom of expression” stating that Internet “kill switches” that shut down mobile or Internet services “are measures which can never be justified under human rights law”. The Declaration states that only independent bodies should apply administrative measures that limit freedom of speech, and that law enforcement authorities should apply laws that restrict freedom of speech only on a case-by-case basis.

8. THE PIRATE BAY DOMAINS SEIZED IN SWEDISH JURISDICTION, .SE REGISTRY NOT HELD RESPONSIBLE

On May 19, 2015, the Stockholm District Court ruled³⁵ that The Pirate Bay must forfeit its domain names based in the Swedish ccTLD (ThePirateBay.se and PirateBay.se) due to copyright infringement. The case was originally brought against .SE, the manager of the ccTLD. However, the District Court ruled that the registry is not responsible³⁶ for copyright infringement and that the domain names must be transferred to the ownership of the Swedish state by Pirate Bay co-founder Frederik Neij after finding that he owned the rights to the domain names. Neij has indicated that he will appeal³⁷ the ruling on the basis that a domain name is “an address assignment, not an estate”.

9. INDIAN ISPS TECHNICALLY UNABLE TO EXECUTE BLOCKING OF UBER APP

The Indian Department of Telecommunications on May 12, 2015 issued a directive to ISPs in the Indian jurisdiction

to block³⁹ the websites of taxi services Uber, TaxiForSure and Ola Cabs under Section 69A of Information Technology Act of 2000 and the Information Technology Rules of 2009. However, Indian ISPs have responded that because Uber and Ola Cabs use encryption on their websites, they cannot be blocked.³⁹ Thus, users can continue to use Uber and Ola Cabs' apps.

10. EUROPEAN COMMISSION RELEASES DIGITAL SINGLE MARKET STRATEGY

The European Commission, on May 6, 2015, unveiled⁴⁰ the EU's Digital Single Market Strategy that will create a harmonized set of rules for digital issues for all EU Member States. The policy proposals contained in the Strategy include⁴¹ those that would regulate pricing, data acquisition, use and privacy for Internet platforms, broadband spectrum, tax reform to allow for smoother operations of Internet-based commerce across the EU, and copyright (including changes to "geo-blocking" practices to allow users to access more content across borders). The Strategy contains no specific calls for legislation, although legislative initiatives related to the proposals are expected by the end of 2015.

11. CHINA'S DRAFT NATIONAL SECURITY LAW CALLS FOR CYBERSPACE 'SOVEREIGNTY'

On May 3, 2015, the Chinese National People's Congress posted⁴² the second draft of a national security law that deals in part with cybersecurity. The draft law includes a clause on "sovereignty" in cyberspace which would establish⁴³ "national internet and information security safeguard systems ... and protect national internet space sovereignty, security and development interests" and give Chinese authorities greater control over Internet infrastructure in China. The law follows a series of moves for greater cybersecurity regulation and less reliance on foreign technology in the Chinese jurisdiction.

12. BELGIAN DPA ACCUSES FACEBOOK OF PRIVACY VIOLATIONS, LACKS ENFORCEMENT POWERS

Belgium's Privacy Protection Commission (CPVP) on May 15, 2015 accused⁴⁴ Facebook of violating European and Belgian legislation on privacy by tracking people without their consent and also accused Facebook for refusing to recognize Belgian and other EU national jurisdictions and insisting it is only subject to law in the Irish jurisdiction where it is headquartered in Europe. Not having the jurisdiction to fine Facebook, the CPVP has urged⁴⁵ users to install privacy software to prevent being tracked. Facebook has responded⁴⁶ that Belgium has no authority in regulating it but that it will review the CPVP's recommendations with the Irish Data Protection Commissioner.

13. UK DPA REQUESTS GOOGLE TO REVISE 48 "RIGHT TO BE DE-INDEXED" DECISIONS

Since the May 2015 CJEU ruling, the ICO has received 183 UK de-indexing complaints against Google. The UK Information Commissioner's Office (ICO) disagreed⁴⁷ with Google's response in 48 cases. The ICO was in talks with Google in early May, 2015 to discuss the 48 "right to be de-indexed" cases and whether individual's requests for Google to remove their information from its search results in these cases were mismanaged⁴⁸ by Google. The ICO hopes to resolve these cases through negotiations with Google, and has stated⁴⁹ that it has "enforcement powers available" (including fines) if Google does not comply with the ICO requests to revise the 48 decisions.

14. BRAZILIAN COURT RULES CONTENT PROVIDERS ARE NOT LIABLE FOR COPYRIGHT INFRINGING USER CONTENT OR LINKS

On May 13, 2015, the Brazilian Superior Court of Justice ruled that content providers cannot be held liable for copyright violations committed by third parties in a case regarding whether the social networking site Orkut was responsible for copyright infringing user-generated content on its site. The Court ruled that Orkut does not profit from copyright infringement on the part of its users. The Court also ruled that Orkut could not be held responsible for links that users post to other pages containing copyright infringing material.

15. 800.000 PORNOGRAPHIC WEBSITES BLOCKED IN INDONESIAN JURISDICTION

The Indonesian Ministry of Communications and Informatics on May 9, 2015 announced that it had blocked⁵⁰ 800.000 websites containing pornographic content in the Indonesian jurisdiction. Minister Rudiantara also noted that the Ministry will cooperate with Indonesian law enforcement to block pornographic websites and added that citizens can help the government block such websites by reporting them.

16. EU STUDY FINDS PIRACY WEBSITE BLOCKING AND SHUTDOWNS ARE INEFFECTIVE FOR CURBING ONLINE PIRACY

A new paper titled "Online Copyright Enforcement, Consumer Behavior, and Market Structure"⁵¹ released in May 2015 by the European Commission's Joint Research Center finds that website blocking and shutdowns are ineffective remedies against content piracy online. From data gathered from a set of 5.000 German Internet users, the paper finds⁵² that raids against piracy websites result

in very short-lived decreases in online piracy, and also finds that the shutdown of one piracy websites leads to the creation of multiple new ones, thus fragmenting the market for piracy and making law enforcement interventions more difficult.

17. SINGAPORE SHUTS DOWN NEWS WEBSITE BY REVOKING LICENCE

The Singaporean Media Development Authority (MDA) on May 3, 2015 ordered the shutdown⁵³ of The Real Singapore, a news website, for publishing “objectionable content” that incited “anti-foreigner sentiments”. The shutdown was the first time⁵⁴ the Singaporean government has revoked the operating licence of a website under the Internet Code of Practice of the Broadcasting Act of 2013.

18. ISRAELI COURT ORDERS ISPS TO BLOCK WEBSITES HOSTING LINKS TO POPCORN TIME APP

In a case brought by the anti-piracy group ZIRA, the Tel Aviv District Court on May 21, 2015 has ordered⁵⁵ ISPs in the Israeli jurisdiction to block websites that host the Popcorn Time app via an ex parte injunction. However, because Popcorn Time is powered by BitTorrent, the court order does not directly stop users from downloading copyright infringing material. Rather, only websites that offer the Popcorn Time application have been blocked, which the court ruled⁵⁶ as infringing on copyright even though these websites themselves do not host copyright infringing content. It remains to be seen whether the court will order blocks on the ports that Popcorn Time uses, which, if done, could block access⁵⁷ to portions of other web traffic.

19. UKRAINIAN PRESIDENT CALLS ON FACEBOOK TO OPEN DEDICATED OFFICE IN UKRAINIAN JURISDICTION

On May 14, 2015, Ukrainian President Petro Poroshenko publicly addressed Facebook founder Mark Zuckerberg in a post on Facebook calling for⁵⁸ a dedicated Ukrainian Facebook office. The request comes after users in Ukraine have expressed complaints about a lack of support from Facebook regarding the reasoning for the takedowns and account blocks. Facebook users in Russia have also complained about a lack of transparency in content blocking, especially regarding content that criticizes the Russian government.

20. RUSSIAN COURT ORDERS LOCAL ISPS TO BLOCK WEBSITE HOSTING LINKS TO WEB ANONYMITY SERVICES

The Anapa Court in the Russian jurisdiction has ordered⁵⁹ Russian ISPs to block the site RosComSvoboda, which operates an advice portal about tools that can be used to circumvent censorship (such as VPNs, proxies, TOR, and the Pirate Bay’s Pirate Browser). The order was carried out on the grounds that the portal is an “anonymization service” and is illegal. RosComSvoboda intends to appeal the ruling.

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FIND ALL LINKS TO THESE ENDNOTES ON OUR WEBSITE:

www.internetjurisdiction.net/observatory/retrospect/2015-may/

1. EUROPEAN COURT OF HUMAN RIGHTS HOLDS WEBSITES LIABLE FOR USERS' COMMENTS

On June 16, 2015, the Grand Chamber of the European Court of Human Rights (ECHR) ruled¹ that Delfi, an Estonian Internet news portal, can be held liable for defamatory comments posted by third parties on its website. The case originated in 2006 when Delfi was taken to the Estonian Supreme Court regarding offensive comments posted on an article on its website. The court then ruled that Delfi was liable for the comments and imposed a fine. In 2013, Delfi appealed the case to the lower chamber of the ECHR on the basis of Article 10 on freedom of expression of the European Convention of Human Rights. The lower chamber of the ECHR affirmed the Estonian court's decision. The Grand Chamber found that the Estonian and lower chamber's decision to hold Delfi liable for comments posted by third parties was not in breach² of Delfi's freedom to impart information under Article 10 and was justified. However, the Grand Chamber noted³ that the decision applies only to an Internet news portal run on a commercial basis and "the case does not concern other fora on the Internet where third-party comments can be disseminated". The decision is a departure⁴ from the EU E-Commerce Directive, which guarantees protection of intermediaries from liability for third-party comments if they have implemented notice-and-takedown systems.

Read further:

Stanford Center for Internet and Society: Delfi reloaded: The ECHR confirms that Internet news portals are liable for user-generated defamatory comments⁵

LSE Media Policy Project: The Delfi AS vs Estonia judgement explained⁶

Arstechnica: Shock European court decision: Websites are liable for users' comments⁷

2. ICANN WILL NOT REGULATE INTERNET CONTENT THROUGH REGISTRY CONTRACTS

ICANN's Chief Contract Compliance Officer on June 12, 2015 for the first time explicitly stated⁸ that "ICANN is not a global regulator of Internet content", be it copyright or hate speech. The statement follows calls from copyright holders and associations for ICANN to take a more proactive role⁹ in deterring copyright infringement at the level of the DNS through the enforcement of contractual obligations with DNS registries. Copyright holders have pushed for an interpretation of ICANN's 2013 Registry Accreditation Agreement (RAA) where a website registered to an ICANN-accredited registry can have its domain name suspended for copyright infringement or piracy, and where a registry's accreditation may be terminated if it fails to suspend such domains. The debate is also taking place in the context of improvements to ICANN's accountability processes leading up to the IANA stewardship transition. ICANN's CEO Fadi Chehade emphasized¹⁰ that ICANN's role is limited to the technical coordination of the DNS, and not to regulate Internet content.

Read further:

Washington Post: We aren't the copyright cops, ICANN's president says¹¹

Complete Music Update: ICANN says it won't take a more pro-active anti-piracy role¹²

Bloomberg BNA: IANA transition, accountability will remain central at June ICANN Meeting in Argentina¹³

3. FRENCH DATA PROTECTION AUTHORITY DEMANDS GOOGLE TO DE-INDEX SEARCHES GLOBALLY

On June 12, 2015, the French Data Protection Authority CNIL put Google on notice¹⁴ to apply the delisting of search results across all of the domain names of its search engine, including Google.com, within 15 days. After reviewing complaints by users about cases in which Google did not de-index certain search results, CNIL came to the conclusion¹⁵ that the implementation of the Court of Justice of the European Union ruling on the right to be de-indexed “must involve all the extensions and the services offered via the search engine ‘Google search’”. On June 26, 2015 Google, which previously argued¹⁶ against the application of the European ruling to non-European domains, asked for an extension of the period to comply with the order. In case of non-compliance, Google could face a fine of up to 300.000 euro.

Read further:

Reuters: French watchdog pressures Google on ‘right to be forgotten’¹⁸

Stanford Center for Internet and Society: French privacy authority orders Google to delist RTBF infringing results worldwide¹⁹

New York Times: France wants Google to apply ‘right to be forgotten’ ruling worldwide or face penalties²⁰

4. THE TRADE IN SERVICES AGREEMENT MAY FORBID DATA LOCALIZATION

Wikileaks on June 3, 2015 leaked²¹ a draft text of the Trade in Services Agreement (TISA), an international trade agreement between 24 parties. Proposals in the TISA appear to consider²² certain data protection and privacy policies as barriers to trade. In particular, Article 2.1 of the leaked document would prevent countries from prohibiting businesses from “transferring, accessing, processing or storing information, including personal information, within or outside the Party’s territory”, and Article 9.1 would prevent countries from requiring businesses to “use computing facilities located in the Party’s territory”. The proposals would allow companies to store user data in any national jurisdiction. This clashes with, for example, data localization bills that were proposed²³ last month in Germany, as well as disputes around the EU-US “Safe Harbour” agreement that allows for the transfer of EU citizens’ personal data to the US that the EU is considering suspending. It is unclear whether the draft language will remain in the final version of the TISA.

Read further:

ArsTechnica: WikiLeaks releases secret TISA docs: The more evil sibling of TTIP and TPP²⁴

Forbes: Leaked TISA Documents Reveal Privacy Threat²⁵

Slate: Privacy is not a barrier to trade²⁶

5. FACEBOOK SUED IN US COURT FOR BLOCKING A PAGE IN INDIA

A lawsuit filed on June 2, 2015 in the US District Court for San Jose, California by the US-based non-profit organization Sikhs for Justice states²⁷ that Facebook violated freedom of speech rights by blocking the organization’s page in the Indian jurisdiction. The lawsuit alleges²⁸ that Facebook blocked the page in India in May, following a campaign Sikhs for Justice ran on their Facebook page targeting the Indian Prime Minister. The group believes the page was shut down at the request of the Indian government as it is only inaccessible on the Indian version of Facebook. The NGO has demanded a permanent injunction ordering Facebook to lift the block and to turn over any correspondence with the Indian government related to the block. Facebook has stated that it will defend against the lawsuit.

Read further:

Financial Express: Facebook sued by Sikh rights group²⁹

ITWorld: Facebook sued in US court for blocking page in India³⁰

Court House News: Sikhs say Facebook truckled to India³¹

6. GOOGLE TO HONOR REQUESTS TO REMOVE ‘REVENGE PORN’ FROM SEARCHES

On June 19, 2015, Google announced³² that it would begin to honor requests received to remove³³ search results linking to “revenge porn”, as well as nude or sexually explicit images posted online without a person’s consent. Google will publish a web form for such removal requests, similar to removal requests for other personal information such as bank account numbers. Twitter, Facebook and Reddit have recently instituted similar³⁴ bans.

7. EU PARLIAMENT VOICES CAUTION AGAINST ABOLISHING GEO-BLOCKING

The European Parliament’s Legal Affairs committee on June 16, 2015 voted³⁵ on a non-legislative resolution on the copyright reform in the EU ahead of the legislative proposal, which is expected to be presented by the EU Commission before the end of the year. It responds to plans to abolish geo-blocking in the EU by stressing³⁶ the importance of territorial licenses to protect the rights of “cultural minorities” in the EU. Nevertheless, the resolution recommends³⁷ that the Commission propose ways to reduce cross-border restrictions on content availability.

8. EU AND US CLOSE TO AGREE ON REGULATION FOR CROSS-BORDER PERSONAL DATA FLOWS

On June 3, 2015, EU and US officials said they had come close to agreeing³⁸ on both the Safe Harbor accord, which regulates the commercial transfer of personal data of EU

citizens to the US, as well as the “Umbrella Agreement”, which regulates such data transfers for law enforcement purposes. Leading up to the “Umbrella Agreement”, a bill has been introduced³⁹ in the U.S. Senate that would grant EU citizens certain rights under the American Privacy Act of 1974. EU officials have stated that more work will be done around the Safe Harbor negotiations, especially with regards to US national security exemptions.

9. RUSSIA TO IMPLEMENT A RIGHT TO BE DE-INDEXED IN ITS JURISDICTION

The Russian State Duma Committee on Information Policy, Information Technology and Communications, on June 16, 2015, gave approval⁴⁰ to a bill that requires search engines to remove links⁴¹ to outdated or personal information from search results upon request by users in the Russian jurisdiction. The law might come into force⁴² at the beginning of 2016. Unlike the EU’s “right to be de-indexed”, the Russian version of the law would not take the public interest into account with regards to search result removal requests.

10. COUNCIL OF THE EUROPEAN UNION AGREES ON EU DATA PROTECTION REFORM

All 28 Member States of the Council of the European Union on June 15 agreed⁴³ to new European data protection laws that would create⁴⁴ one unified set of rules for data protection. The new regulation would create a “one-stop-shop” mechanism to deal with specific issues across the EU. The Council will negotiate the General Data Protection Regulation with the European Parliament and European Commission. The Parliament must approve the new rules. A final agreement is expected⁴⁶ before the end of 2015.

11. AUSTRALIAN BILL TO BLOCK COPYRIGHT-INFRINGEMENT WEBSITES MIGHT IMPACT VPNs

On June 11, 2015, the Australian Senate Standing Committee on Legal and Constitutional Affairs approved⁴⁷ the Australian Copyright Amendment (Online Infringement) Bill 2015. The bill allows rights-holders to obtain website-blocking injunctions⁴⁸ against Internet service providers in the Australian jurisdiction for websites that infringe copyright. It remains unclear if the bill could also be used to block VPNs.

12. DUTCH PIRATE BAY BLOCKING CASE REFERRED TO THE EU COURT OF JUSTICE

The Netherlands’ attorney general Robert van Peurse on May 29, 2015 publicly asked⁴⁹ the Court of Justice of the European Union (CJEU) to decide whether The Pirate Bay distributes copyright infringing content, or if Dutch ISPs

can be ordered to block the site on other legal grounds. The case dates back to 2010, when Dutch ISPs Ziggo and XS4ALL were ordered⁵⁰ to block access to The Pirate Bay. Ziggo and XS4ALL appealed the ruling. The case has now moved to the Dutch Supreme Court and is awaiting CJEU’s opinion.

13. BROAD REGULATORY FRAMEWORK TO REMOVE OBJECTIONABLE CONTENT PROPOSED IN SOUTH AFRICA

The South African Film and Publication Board (FPB) issued⁵¹ the Draft Online Regulation Policy, which will set out modalities for removing content that is distributed online. The draft bill is criticized⁵² for being overly broad and vague, as it could potentially allow to obtain take-down orders for any content distributed online via any online platform that the FPB deems “potentially harmful and disturbing”.

14. AMAZON RELEASES FIRST TRANSPARENCY REPORT

On June 12, 2015, Amazon announced⁵³ the publication of its first biannual transparency report⁵⁴ covering the period between January 1, 2015 and May 31, 2015. The report indicates⁵⁵ that during this period Amazon received 813 US subpoenas (fully complying with 542 or 66 percent of these, and partially complying with a further 126), 25 US search warrants (complying with 13 of these and partially complying with a further eight), and 132 legal requests from non-US entities (complying with 108 of these).

15. EUROPOL CREATES TEAM TO SHUT DOWN ISLAMIC STATE ACCOUNTS ON SOCIAL MEDIA

Europol will form a new Europe-wide police team to combat⁵⁶ the online presence of Islamic State (IS) that will begin operations on July 1, 2015. The police team will work with social media platforms to track and block⁵⁷ social media accounts linked to IS and aims to shut down any new accounts within two hours of their creation.

16. BELGIUM DPA SEEKS TO ESTABLISH JURISDICTION OVER FACEBOOK

The Belgian Privacy Commission (CBPL) on June 18, 2015 took Facebook to court⁵⁸, accusing the social network of tracking the online activity of both users and non-users. The lawsuit follows a report made by the CBPL in May that made the same accusations. Facebook at the time responded⁵⁹ that the Belgian authority had no jurisdiction to regulate it, and that it would work with the Irish Data Protection Commissioner, as the company’s international headquarters is in Ireland. The CBPL has asked for a Belgian court to confirm that because Facebook processes the data of Belgian citizens, it is subject⁶⁰ to Belgian jurisdiction.

17. TWITTER ALLOWS USERS TO CREATE “BLOCK-LISTS” TO FIGHT HATE SPEECH AND HARASSMENT

On June 10, 2015, Twitter announced⁶¹ that its users could begin to export their own lists of blocked Twitter accounts to send to and share⁶² with other users in a downloadable .csv format. The move is part of series of efforts by Twitter to combat online harassment and abuse through its platform. Previously, users could only block accounts individually one at a time; the “block lists” are meant in particular to help Twitter users who face coordinated or sustained attacks by abusive users.

18. US COURT ORDERS CLOUDFLARE TO SUSPEND COPYRIGHT-INFRINGEMENT MUSIC SITE

On June 3, 2015 the New York District Court for the Southern District of New York ruled⁶³ in a case concerning whether the content-delivery network CloudFlare should suspend Grooveshark, a pirate music site, that CloudFlare must stop offering its services to the site because it was aware of the infringements made by Grooveshark and

provided services to access Grooveshark. CloudFlare had ignored⁶⁴ a restraining order seeking to prevent it from offering services to the site. CloudFlare intends⁶⁵ to appeal the ruling.

19. RUSSIAN REGULATOR ORDERS ISPS TO BLOCK THE PIRATE BAY

The Russian telecommunications authority Roskomnadzor has ordered ISPs in the Russian jurisdiction to block⁶⁶ access to The Pirate Bay by adding thepiratebay.se and thepiratebay.nm to the Russian national blocklist. However, the blockades were not accompanied⁶⁷ by a separate court order, and instead the domains were added to an existing injunction to block access to tushkan.net, which was distributing pirated content.

20. REDDIT STARTS REMOVING HARASSING THREADS ON ITS PLATFORM

On June 11, 2015 Reddit announced⁶⁸ that it will start removing sub-reddits that it deems to be harassing in accordance with its Terms of Service. The platform banned five sub-reddits. It is the first time that the platform known for a liberal content policy removes such content.

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JULY

1. GOOGLE REFUSES TO COMPLY WITH FRENCH REQUEST TO APPLY “RIGHT TO BE DE-INDEXED” ON .COM

On July 30, 2015 Google announced in a blog post¹ that it intends not to comply with a Formal Notice received on June 12, 2015 by the French data protection authority, the National Commission on Computing and Liberty (CNIL). The initial 15 days implementation deadline expired. The CNIL asked the search engine to apply the “right to be de-indexed” judgment of the Court of Justice of the EU not only on the French .fr version, but also on its .com version. The search engine is challenging the order² it received: “As a matter of principle, therefore, we respectfully disagree with the CNIL’s assertion of global authority on this issue and we have asked the CNIL to withdraw its Formal Notice”. The Internet platform further argues that “[w]hile the right to be forgotten may now be the law in Europe, it is not the law globally”. The CNIL can fine³ Google up to 300.000 euro for non-compliance with its order. The CNIL received the formal appeal by Google and will respond by September 2015.

Read further:

Reuters: Google refuses French request to apply ‘right to be forgotten’ globally⁴

Guardian: Google says non to French demand to expand right to be forgotten worldwide⁵

Politico: Google contests global ‘right to be forgotten’ order⁶

2. US BILL MIGHT REQUIRE INTERNET COMPANIES TO MONITOR AND REPORT TERRORIST CONTENT

The US Senate Intelligence Committee on June 24, 2015 voted⁷ to approve legislation that would require Internet platforms and companies to report content suspected to be connected to terrorist activities or posted by terrorists. The legislation is modeled after the 2008 Protect Our Children Act, which requires Internet companies to report online child abuse, and is part of the 2015-2016 Intelligence Authorization Act. The bill would only oblige⁸ companies that already monitor their websites for such content to report the activity to law enforcement, and would not apply to companies that do not already do so. Moreover, it does not⁹ require that companies remove the terrorist content from their websites. It is unclear whether the bill will become law as the US House of Representatives first has to vote for its approval.

Read further:

Washington Post: Lawmakers want Internet sites to flag ‘terrorist activity’ to law enforcement¹⁰

ArsTechnica: Senate advances secret plan forcing Internet services to report terror activity¹¹

Reuters: Senate bill would make social media report ‘terrorist activity’¹²

3. RIGHT TO BE DE-INDEXED APPROVED IN RUSSIAN JURISDICTION

The Duma, the lower house of the Russian Federal Assembly passed on July 3, 2015¹³ a bill in its third reading that grants the “right to be de-indexed” in the Russian jurisdiction. The law emulates the Court of Justice of the European Union (CJEU)’s “right to be de-indexed” ruling of 2014 and will allow Internet users to request the removal of search engine results containing personal, incorrect, or irrelevant information. However, it differs¹⁴ from the EU version in that search engines will not decide whether to remove links, and instead the Russian telecommunications regulator Roskomnadzor will issue rulings to search engines. While in its first reading the bill would have required search engines to delete any information upon receiving a request, it now forbids requests to remove links to information regarding criminal offences. The law states that search engines have 10 days from the time of receiving a request to remove links, and that if a search engine refuses to remove links citizens may take the search engine to court. The bill was signed into law by Russian President Vladimir Putin on July 14 and will come into force¹⁵ on January 1, 2016.

Read further:

RT: ‘Right to be forgotten’ granted to online users by Russian lawmakers¹⁶

Reuters: Russian parliament approves Internet privacy bill¹⁷

DW: Russian parliament approves ‘right to be forgotten online’ law¹⁸

4. RUSSIAN DATA-LOCALIZATION LAW MIGHT BE DELAYED, SOME FIRMS COULD BE EXEMPTED

On July 17, 2015, the director of the Russian telecommunications regulator Roskomnadzor stated that Twitter will not need to comply¹⁹ with a law requiring Internet companies to store data about Russian users in servers located in the Russian jurisdiction. The reason for this is that the data Twitter collects about its users does not qualify as “personal information” under the data-localization law. The state official also stated that inspections against Facebook and Google regarding data-localization will be delayed. According to a Kremlin spokesperson, a proposal has also been made to delay²⁰ by one year the implementation of the law, which is currently set to take effect in September 2015.

Read further:

Reuters: Kremlin to address firms’ concern over data localization law²¹

Data Center Knowledge: Firms rethink Russian data center strategy, as data sovereignty law nears activation²²

JDSupra: Russian government considering delaying data localization law²³

5. AUSTRIAN COURT RULES IT LACKS JURISDICTION TO HEAR FACEBOOK CASE BY MAX SCHREMS

On June 29, 2015, the Vienna Regional Court rejected²⁴ a class-action lawsuit brought by Max Schrems against Facebook on the basis that it did not have jurisdiction for many of the individuals represented in the class-action as they were not based in the Austrian jurisdiction. The court also argued that Schrems was not acting as a “consumer” of Facebook but was also using Facebook for commercial purposes. The lawsuit sought to claim damages and accused Facebook of illegally using user data under European data protection laws. Schrems intends to appeal²⁵ the ruling in the Higher Regional Court and further in the Austrian Supreme Court. Meanwhile, Schrems and Facebook are involved in another case pending²⁶ at the European Court of Justice concerning data transfers between the EU and the US.

Read further:

The Next Web: Facebook scores a win in European class action lawsuit, but the fight isn’t over²⁷

Reuters: Austrian student’s privacy battle against Facebook suffers setback²⁸

New York Times: Facebook wins a round in Austrian court case²⁹

6. TWITTER TEMPORARILY BLOCKED IN TURKEY FOLLOWING BOMB ATTACK

Twitter was temporarily blocked³⁰ for a few hours in the Turkish jurisdiction on July 22, 2015, in order to prevent the dissemination of images of a bombing on July 20, 2015. Twitter had been asked to remove 107 URLs following the bombing, and had removed around 50 URLs before being blocked.

7. CONSTITUTIONAL COURT OF COLOMBIA RULES ON “RIGHT TO BE DE-INDEXED” CASE

The First Revision Chamber of the Constitutional Court of Colombia ordered³¹ the online newspaper El Tiempo to update links directing to information regarding a claimant who had been prosecuted but never convicted for a crime. The court ruled that the news website should update, and not delete, the information, as well as make it more difficult for such information to appear when searching for the claimant’s name on the journal.

8. GERMAN COURT AFFIRMS THAT YOUTUBE DOES NOT HAVE TO MONITOR UPLOADED CONTENT

On July 1, 2015, the Appeals Court of Hamburg in the German jurisdiction ruled³² that YouTube is not required to monitor its site for uploaded content that infringes copyright and that it is not liable for such content. The court

however ruled that YouTube is liable for removing such content when it is notified of its existence. In its ruling the court also stated³³ that YouTube must “take precautions which ensure that no further infringements will be possible” once it has been notified of infringing content.

9. YOUTUBE MAY BE BLOCKED IN RUSSIAN JURISDICTION FOR COPYRIGHT INFRINGEMENT

On July 22, 2015, the Russian telecommunications regulator Roskomnadzor issued a warning³⁴ to YouTube that it could be added to the Russian Internet blacklist for its failure to fully address copyright violations on its website. Because YouTube encrypts traffic using HTTPS, ISPs in the Russian jurisdiction are unable to block specific copyright-infringing URLs through filtering, and would have to block the entire platform.

10. DATA ABOUT “RIGHT TO BE DE-INDEXED” IN GOOGLE TRANSPARENCY REPORTS REVEALED

By investigating the source code of archived versions of Google’s transparency reports, The Guardian, in July 2015, discovered information about the “right to be de-indexed” requests Google receives. 95 percent of requests came from citizens³⁵ who seek to protect personal information, and only 5 percent concerned issues such as “serious crime”, “child protection”, or “political”. Google has since updated³⁶ the source code so that this data is not visible.

11. NEW YORK COURT RULES FACEBOOK CANNOT CONTEST SEARCH WARRANTS

On July 21, 2015, the New York Appellate Division of the Supreme Court ruled³⁷ that Facebook cannot bring cases to court to challenge search warrants concerning its users’ accounts. The court also disagreed³⁸ with Facebook’s argument that the federal Stored Communications Act gives Facebook the legal standing to object to search warrants, and stated that the Act only gives Facebook the standing to object to subpoenas and court orders. Facebook is considering to appeal³⁹ the decision.

12. GOOGLE AND FACEBOOK FINED FOR “MORBID” CONTENT IN BRAZILIAN JURISDICTION

A Brazilian court in Goiana on July 7, 2015 fined⁴⁰ Google and Facebook 50.000 Brazilian real each for ignoring⁴¹ a previous court-granted injunction to remove graphic images on their websites. The images in question are of a

Brazilian singer who died in a car crash in June. A spokesperson for Google has stated that Google has already acted to take down specific pieces of content in accordance with the Brazilian Marco Civil law, which requires that content removals specify the exact URL of the content to be removed. Google is appealing⁴² the ruling, and it is unclear whether Facebook will also appeal the ruling.

13. ARMENIAN REGISTRY SUSPENDS PIRATE BAY’S DOMAIN

The Pirate Bay lost its Armenian domain name on July 15, 2015 as thepiratebay.am was put on hold⁴³ by the Armenian country-code registry. The Pirate Bay continues to be accessible via the .la (Laos), .vg (British Virgin Islands), .mn (Mongolia), and .gd (Grenada) country-code top-level domains.

14. POPCORN TIME APP TEMPORARILY SEIZED DUE TO OLD COURT ORDER

On July 16, 2015, the Popcorn Time app for streaming unlicensed online videos was taken down⁴⁴ on its popcorntime.io domain name, which was temporarily seized by the UK-based registry Internet Computer Bureau (ICB). Popcorn Time subsequently regained control of the domain, as the ICB registry had acted upon an old domain seizure court order that did not apply to popcorntime.io.

15. GERMAN DPA FORBIDS FACEBOOK TO ENFORCE ITS REAL NAME POLICY

The data protection authority of the German state of Hamburg says⁴⁵ that Facebook is not allowed to enforce its real name policy by demanding users to provide official passports or identity cards for verifications, or by replacing pseudonyms with real names. The data protection agency argues⁴⁶ that Facebook enforces “the so-called real names policy with no regard to national legislation”.

16. ARIZONA COURT FINDS “REVENGE PORN” LAW TOO BROAD

On July 10, 2015, the United States District Court for the District of Arizona decreed⁴⁷ that an Arizona law governing “revenge porn” could not be enforced because it is too broad and may violate the US First Amendment. The decision follows a lawsuit⁴⁸ filed by the American Civil Liberties Union in Arizona.

17. FACEBOOK REMOVES POST OF ROSKOMNADZOR DEPUTY FOR HATE SPEECH

Facebook on July 3, 2015 removed⁴⁹ a status update posted on the platform by the deputy director of Russian telecommunications regulator Roskomnadzor as it contained language considered hate speech towards Ukrainians. The removal was based on Facebook's "Community Standards".

18. AUSTRIAN COURT RULES ISPS MUST IMPLEMENT AND PAY FOR WEBSITE BLOCKS

On July 1, 2015 the Austrian Supreme Court ruled⁵⁰ that website blocking is a legal practice in the Austrian jurisdiction, and also ruled that Internet service providers are responsible for the costs involved in blocking websites. The case follows Austrian ISPs' appeal of a lower court decision brought by an anti-piracy group.

19. ISPS DO NOT NEED TO BLOCK POPCORN TIME APP IN ISRAELI JURISDICTION

The District Court of Tel Aviv on July 5, 2015 ruled⁵¹ that ISPs in the Israeli jurisdiction no longer need to block access to the Popcorn Time app as such blocks are ineffective, arguing that the cost of blocking access is disproportionate to the cost of copyright infringement.

20. NEW ZEALAND ADOPTS NEW LAW TO CURB HARMFUL ONLINE SPEECH

On July 2, 2015, the Parliament of New Zealand adopted the Harmful Digital Communications Act.⁵² The new law allows to fine or imprison⁵³ people who post harmful speech online, including hate speech, cyberbullying, harassment or defamation.

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AUGUST

1. REDDIT INTRODUCES GEO-IP FILTERING TO COMPLY WITH TAKEDOWN REQUESTS

On August 13, 2015, Reddit announced¹ on its website that it had taken down² content that violated local law in the German and the Russian jurisdictions. With this action, the platform started to restrict content in specific countries through geo-IP filtering provided that it receives valid requests to do so from an “authorized entity”. Reddit blocked access to a post under the thread “r/drugs” in Russia and in the “r/WatchPeopleDie” community in Germany. The announcement follows an initial warning by Russian telecommunications regulator Roskomnadzor to block Reddit in the Russian jurisdiction entirely.³ Roskomnadzor did temporarily⁴ ban Reddit on August 12, 2015 and then lifted the ban on August 13, 2015 after Reddit agreed to restrict access to the drug related content.

Read further:

Business Insider: Reddit is now censoring posts and communities on a country-by-country basis⁵

BBC: Russia bans Reddit pages over drug growing discussion⁶

Guardian: Russian government regulator threatens to block Reddit over cannabis thread⁷

2. MOBILE INTERNET SHUTDOWN IN INDIAN STATE DURING PROTESTS TO STOP WHATSAPP

Following violent public protests by the Patel community (a caste comprising 20 percent of Gujarat’s population) on August 25 and 26, 2015, the Indian state of Gujarat shut down mobile Internet connectivity⁸ in the state by blocking 3G and 4G/LTE service on mobile devices for 63 million citizens. The protests were initially organized⁹ using WhatsApp, the mobile Internet-based messaging service

owned by Facebook. In order to stop the coordination of protests, the local authorities decided to switch off mobile Internet entirely until the situation calms down.

Read further:

CCG – National Law University Delhi: The Anatomy of Internet Shutdowns – I (Of Kill Switches and Legal Vacuums)¹⁰

The Next Web: India just turned off mobile internet for 63 million citizens amid protests in Ahmedabad¹¹

BGR: WhatsApp and mobile Internet blocked in Gujarat after Hardik Patel calls for bandh¹²

3. GOOGLE ORDERED TO REMOVE LINKS TO NEWS STORIES ABOUT PREVIOUS LINK-REMOVALS

The UK Information Commissioner’s Office (ICO) ordered¹³ Google to remove nine search results¹⁴ linking to news stories about previous search result removals. The order follows Google’s removal of search results linking to news stories about a man who committed a criminal offence almost ten years ago. This removal was then written about by online publications. Google was first asked to remove these new links by the plaintiff, but refused¹⁵, arguing that the news articles about the removals relate to a “matter of significant public importance”. The ICO states¹⁶ that, because a search of the individual’s name returns search results that discuss his criminal offence, the availability of the search results constitutes a breach of the Data Protection Act.

Read further:

ArsTechnica: Google ordered to remove links to stories about Google removing links to stories¹⁷

BBC: Google ordered to remove news links by UK authority¹⁸

Guardian: Google ordered to remove links to ‘right to be forgotten’ removal stories¹⁹

4. POLICE TEAMS TO BE STATIONED INSIDE INTERNET COMPANIES IN CHINESE JURISDICTION

On August 4, 2015, the Chinese state-media agency Xinhua reported that “cybersecurity police stations” are to be embedded²⁰ at the offices of large Internet companies in the Chinese jurisdiction. The police stations will be operated by the Chinese Ministry of Public Security, which has charged²¹ the stations with inspections of website operations and enforcement of information and cyberspace laws. The plan follows²² the passing on July 1, 2015 of a national security law that declares a Chinese sovereign cyberspace, and the passing on July 6, 2015 of a cybersecurity law that includes provisions for data localization as well as increased network monitoring.

Read further:

Financial Times: China to tighten grip over country’s internet users²³

Wall Street Journal: China to embed Internet police in tech firms²⁴

BatBlue: China puts security teams in major Internet firms²⁵

5. GERMAN JUSTICE MINISTER ASKS FACEBOOK TO REMOVE RACIST POSTS

In a letter sent to Facebook’s public policy director Richard Allen on August 26, 2015, German justice minister Heiko Maas urged Facebook to more effectively enforce²⁶ its community guidelines and to remove xenophobic and racist content on Facebook. The letter follows recent surges in immigrants to Germany which have caused an uptick in racist and xenophobic speech by far-right groups online. According to Maas’ letter, numerous Facebook users have flagged racist posts to Facebook, which the platform subsequently did not remove, arguing that the posts did not violate community guidelines. Maas summoned²⁷ Facebook to a meeting in Berlin on September 14, 2015 and demanded that the company be more transparent about its community guidelines by providing more concrete reasons for refusing to remove content.

Read further:

Reuters: German minister takes aim at Facebook over racist posts²⁸

Bloomberg: Germany tells Facebook: delete racist anti-refugees posts²⁹

Deutsche Welle: Facebook must ban abusive content, says German Justice Minister Maas³⁰

6. SOUTH AFRICA PASSES BILL FORCING ISPs TO CLASSIFY AND REGULATE ONLINE PUBLICATIONS

The South African Cabinet on August 13, 2015 approved³¹ an Amendment Bill to the South African Film and Publications Act of 1996. The Amendment is intended to update the Film and Publications Act in light of Internet-based

communications, and would oblige³² South African ISPs to prevent children from viewing certain material online (including, for example, pornography). At the same time, the FPB has released a Draft Online Regulation Policy for public comment, which primarily seeks to categorize all online published content. The Draft Online Regulation Policy is expected to inform the Amendment Bill as it progresses from the Cabinet to the South African Parliament.

7. PROPORTIONALITY: EGYPTIAN COURT REFUSES TO BLOCK FACEBOOK FOR INFRINGING CONTENT

On August 25, 2015, an administrative court in Cairo judged³³ that it is disproportionate to block Facebook in the Egyptian jurisdiction entirely for facilitating prostitution, promoting racism or hosting false information. The court argued that such violations should rather be addressed individually.

8. US DISTRICT COURT RULES DELAYED SEARCH RESULTS REMOVAL DOES NOT CONSTITUTE “DEFAMATION”

In a case brought against Google and Yahoo, the US District Court of Maryland ruled³⁴ on July 31, 2015 that the plaintiff had not succeeded in stating a claim for defamation. The plaintiff had argued that because she had removed content on her Pinterest page and Google had not updated its database to remove the search results to the removed content, she had claim for defamation. The judge ruled that, because none of the information made available by Google and Yahoo was false, the plaintiff had no basis³⁵ to claim defamation.

9. LATEST TWITTER TRANSPARENCY REPORT SHOWS INCREASE IN REQUESTS

Twitter has released its latest transparency report³⁶ covering the period between January 1 and June 30, 2015. With 4.363 governmental requests for account information, it received 52 percent more than the previous six months and complied with 58 percent of these requests. Moreover, Twitter received 442 requests to remove content from 3.584 accounts. Most content takedown requests (408) came from Turkey.

10. TWENTY PIRACY SITES BLOCKED IN DANISH JURISDICTION AT ISP LEVEL

On August 20, 2015, the District Court of Frederiksberg in the Danish jurisdiction issued an order for Danish ISPs to block³⁷ 20 websites that host pirated content. The case was brought by Danish anti-piracy group Rettigheds Alliancen (Rights Alliance), which has previously taken a

successful action to block piracy websites in the Danish jurisdiction, including Grooveshark and KickassTorrents.

11. WIKIPEDIA TEMPORARILY BANNED IN RUSSIAN JURISDICTION

The Russian telecommunications regulator Roskomnadzor on August 24, 2015 temporarily banned³⁸ Wikipedia in the Russian jurisdiction following a warning to Wikipedia administrators to remove a Wikipedia page that discusses a form of marijuana. Information regarding drug use, suicide and “hatred inciting” content is grounds for restriction of access to websites in Russia. The ban comes after a Russian court ruling in Astrakhan³⁹ in June 2015 to remove the content from Wikipedia. The ban was lifted⁴⁰ hours after it was instated after information in the marijuana-related article was edited.

12. REDDIT INTRODUCES PRACTICE OF “QUARANTINE” TO REDUCE ACCESS TO CONTROVERSIAL CONTENT

Reddit CEO Steve Huffman announced on August 5, 2015 an update to the site’s content policy. The update introduces the practice of “quarantining”⁴¹ content on the website: the content at issue is removed from search results and restricted (but not removed) to be only accessible by users who “explicitly opt in”. In the same announcement Huffman stated that a number of racist “subreddit” communities had been banned⁴² from Reddit.

13. AUSTRIAN COURT ORDERS ISP TO BLOCK THE PIRATE BAY

The Commercial Court of Vienna on August 3, 2015 issued an order for the local Austrian Internet service provider (ISP) A1 Telekom to block access⁴³ to The Pirate Bay as well as isohunt.to, 1337x.to, and h33t.to. It is unclear⁴⁴ whether the ISP will implement the blocks at the DNS level or through an IP address “blacklist”.

14. INDIA TEMPORARILY BANS 857 ADULT CONTENT WEBSITES

On July 31, 2015 the Indian Department of Telecommunications (DoT) issued an order⁴⁵ under Rule 12 of the Indian Information Technology Rules of 2009 to local ISPs to block access to a list of 857 websites that allegedly displayed adult content. The order follows an Indian Supreme Court case in which a lawyer sought to ban child abuse images. The DoT order was however reversed⁴⁶ on August 4, 2015 to restore access to websites that do not display child abuse images, as well as non-pornographic websites included⁴⁷ on the list.

15. GOOGLE-ALPHABET’S NEW DOMAIN, ABC.XYZ, BLOCKED IN CHINESE JURISDICTION

The day after Google announced the company would be restructured to be an entity under a parent company called “Alphabet”, Alphabet’s domain name (abc.xyz) was blocked⁴⁸ in the Chinese jurisdiction. Google’s services (including Gmail, Calendar, and Maps) have been blocked⁴⁹ in China since early 2015 following previous blocks of Google search and YouTube.

16. INDIVIDUALS ARRESTED IN DANISH JURISDICTION FOR HOSTING WEBSITES PROVIDING INFORMATION ABOUT THE POPCORN TIME APP

Two individuals have been arrested⁵⁰ in the Danish jurisdiction on August 18, 2015 for hosting websites that provided information on how to use Popcorn Time, a video streaming application. Their domains, Popcorn-time.dk and Popcorn-time.dk have been seized and transferred to the Danish state. Neither⁵¹ sites hosted the Popcorn Time software nor any copyright infringing material.

17. RUSSIAN REGULATOR PUTS YOUTUBE PAGE ON BLACKLIST FOR AN “EXTREMIST” USER COMMENT

The Russian telecommunications Roskomnadzor on August 17, 2015 added⁵² a YouTube video page to the list of websites banned in the Russian jurisdiction. The order follows a Tatarstan municipal court ruling in June that found a comment on the video to constitute “extremist material”. The video itself did not violate any Russian laws. It is unclear to what extent it will be implemented by Russian ISPs as YouTube uses the HTTPS encryption protocol.

18. GERMAN SUPREME COURT TO RULE ON LIABILITY OF ISPS

The Supreme Court of Germany stated on August 4, 2015 that it will rule⁵³ on a pirate website blocking case in November 2015. The German performance rights organization GEMA argues that the German Internet service provider Deutsche Telekom should block access to the file-hosting site 3DL.am. The case was previously rejected⁵⁴ by the Hamburg Regional Court because Deutsche Telekom does not host 3DL.am’s domain. The Supreme Court will hear GEMA’s appeal.

19. IRISH HIGH COURT ORDERS REMOVAL OF DEFAMATORY CONTENT FROM WORDPRESS

On August 20, 2015, the High Court of Ireland ruled that Automattic Inc. (which owns WordPress) must remove material deemed defamatory⁵⁵ against the company Petroceltic International and two of its executives. The case was first brought against Automattic Inc.'s Irish subsidiary Aut O'Mattic A8C Ireland Ltd., and the court subsequently allowed its US parent company to join the case. WordPress removed⁵⁶ the material.

20. MALAYSIA BLOCKS WEBSITES RELATED TO DEMONSTRATIONS AGAINST ITS PM

On August 27, 2015, the Malaysian Communication and Multimedia Commission (MCMC) announced on its Facebook page that it would block websites⁵⁷ that “promote, spread information and encourage people to join” an upcoming demonstration organized in several cities to call for the resignation of the current Malaysian Prime Minister. The announcement comes days after Communications and Multimedia Minister stated the MCMC would not block⁵⁸ websites during the demonstrations.

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SEPTEMBER

1. FRENCH DPA REJECTS GOOGLE'S APPEAL ON GLOBAL APPLICATION OF "RIGHT TO BE DE-INDEXED"

On September 22, 2015, the French data protection authority CNIL declined¹ an informal appeal by Google against the order to extend the "right to be de-indexed" to "other geographical extensions or on google.com". Google appealed² the notice it received³ on June 12, 2015, arguing that it would constitute an extraterritorial application of French and EU law. The CNIL argued that "[o]nce delisting is accepted by the search engine, it must be implemented on all extensions, in accordance with the European Court of Justice judgment", since it could be otherwise easily circumvented. Moreover, it affirmed that the order "does not show any willingness on the part of the CNIL to apply French law extraterritorially. It simply requests full observance of European legislation by non European players offering their services in Europe." Google faces a fine⁴ of up to 300.000 Euro in case of non-compliance.

Read further:

Reuters: France rejects Google appeal on cleaning up search results globally⁵

New York Times: France rejects Google's efforts to limit application of privacy ruling⁶

Guardian: French data regulator rejects Google's right-to-be-forgotten appeal⁷

2. MICROSOFT APPEALS US COURT ORDER TO HAND OVER DATA STORED IN IRELAND TO US LAW ENFORCEMENT

The appeal by Microsoft to reverse⁸ a court ruling that obliged it to hand over to US law enforcement data stored on its Irish servers was heard on September 9, 2015 by the Second Circuit Federal Appeals Court in New York. Microsoft argued that allowing US law enforcement to access information stored on its Irish servers – without going through the existing Mutual Legal Assistance Treaty between the US and Ireland – would create⁹ "a global free-for-all" in which "any country with jurisdiction over a provider can reach into any other country and plunder our e-mails". Apple, Amazon.com, AT&T, Verizon Communications and Ireland – filed amicus briefs¹⁰ supporting Microsoft, concerned that the US government's stance will have negative repercussions for consumers' faith in cloud-based services and international agreements on handling law enforcement requests.

Read further:

Guardian: Nationality in the cloud: US clashes with Microsoft over seizing data from abroad¹¹

Bloomberg: Microsoft argues for data security in landmark court appeal¹²

BBC: Microsoft battles US over warrant for drugs case emails¹³

3. GERMANY CREATES JOINT TASK FORCE WITH FACEBOOK TO COUNTER ONLINE RACISM

As the migrant crisis in Europe persists, racist and xenophobic speech by individuals on online platforms increases. Various German politicians – including Chancellor Angela Merkel¹⁴ – called on social platforms like Facebook and Twitter to more effectively enforce their community guidelines, and be more expedient about removing racist content and hate speech. A meeting with German Justice Minister Heiko Maas on September 14, 2015 resulted in the creation¹⁵ of a joint task force with Facebook to identify and remove such criminal content. Facebook is also working together with the German Internet safety NGO FSM, and setting up its own task force working with local organizations to address the situation.

Read further:

Reuters: Germany vows to work with Facebook to tackle racist posts¹⁶

BBC: Migrant crisis: Germans chide Facebook over race hate¹⁷

Deutsche Welle: Facebook's Zuckerberg promises Merkel action on hate speech¹⁸

4. EUROPEAN COURT OF JUSTICE'S ADVOCATE GENERAL ARGUES EU-US SAFE HARBOR REGIME IS INVALID

On September 23, 2015, the Advocate General of the European Court of Justice, Yves Bot, published his opinion¹⁹ in the Facebook case between Max Schrems and the Irish data protection authority. He argued that the Safe Harbor agreement between the EU and the US is de-facto invalid. The agreement allows the exchange²⁰ of personal data between the EU and the US. According to Bot, the “mass, indiscriminate surveillance” brought to light by the Snowden revelations renders the agreement from 2000 invalid. He emphasized that according to EU privacy laws, personal data can only be exchanged with other countries if they ensure “an adequate level of data protection”. Bot argued that the “access enjoyed by the United States intelligence services to the transferred data constitutes an interference with the right to respect for private life and the right to protection of personal data”. Although the opinion is not binding, the Court usually follows²¹ the position of the Advocate General.

Read further:

New York Times: European court adviser calls Trans-Atlantic data-sharing pact insufficient²²

Deutsche Welle: Data sharing deal between EU and US ‘invalid,’ ECJ advisor says²³

Guardian: Facebook case may force European firms to change data storage practices²⁴

5. BRITISH MI5 STRESSES RESPONSIBILITY OF INTERNET PLATFORMS TO MONITOR TERRORIST ACTIVITIES

For the first time in history, the director of the British domestic intelligence agency MI5, Andrew Parker, gave a live media interview. Arguing that new technologies increasingly allow terrorists to communicate²⁵ out of the reach of law enforcement agencies, he called upon social media platforms to recognize their “ethical responsibility” to alert law enforcements about potential threats and criminal activity. He argued that online data encryption was also creating a situation in which law enforcement officials “can no longer obtain under proper legal warrant the communication of people they believe to be terrorists”. The interview coincided²⁶ with the introduction of a new Investigatory Powers Bill aimed to improve²⁷ public authorities’ access to online data.

Read further:

BBC: MI5 Director General Andrew Parker on terrorism²⁸

New York Times: In first live interview, Britain's MI5 chief seeks more powers to fight terrorism²⁹

Reuters: UK MI5 spy chief calls for more powers to counter terror threat³⁰

6. GOOGLE SENTENCED IN BRAZIL FOR FAILING TO OBEY A COURT ORDER ON POLITICAL SLANDER

The 10th Civil Chamber of the Court of Minas Gerais in Brazil ordered³¹ Google to provide personal information about the author of a slanderous blog hosted by the company, targeting a local politician. It also ordered the company to prevent the author from creating additional blogs. As the blog no longer exists, Google argued that it is technically impossible to comply with the order. The court unanimously disagreed, and set a fine of 5.000 euros per day of non-compliance.

7. UN COMMISSION REPORT ARGUES FOR PLATFORM RESPONSIBILITY

On September 22, 2015, the United Nations’ Broadband Commission for Digital Development published³² a report on “Cyber violence against Women and Girls”. It stipulated that platforms are responsible for the actions of their users, and should actively police them in order to prevent them from becoming complicit in online harassment. The report recommends³³ that “political and governmental bodies need to use their licensing prerogative to ensure that only those Telecoms and search engines that supervise content and its dissemination” are allowed to connect with the public.

8. INDIAN GOVERNMENT SHUTS DOWN INTERNET IN KASHMIR VALLEY TO PREVENT RIOTS

Fearing ethnic tensions³⁴ over a recent ban on the slaughtering of cows, on September 24, 2015, the Jammu and Kashmir government ordered all ISPs in the Kashmir region to suspend³⁵ both mobile and hardwired Internet services during the Islamic Eid holiday. Both students and civil society actors called the ban an undemocratic infringement upon their right to freedom of expression.

9. APPLE UNABLE TO PROVIDE US AUTHORITIES WITH IMESSAGES DATA DUE TO ENCRYPTION

The US Department of Justice obtained³⁶ a court order against Apple this summer, urging it to provide, in real time, the text messages sent via Apple's iMessage between two individuals implicated in a narcotics case. Apple argued that the encryption system on the iPhone makes it unable to comply with the court order. This is the first direct confrontation over encryption between Apple and the US government.

10. CHINA ASKS US TECH-COMPANIES TO SIGN PLEDGE TO COMPLY WITH WITH LOCAL LAWS AND LOCALIZE DATA

The Chinese government is asking US tech-companies to officially sign a pledge³⁷ for "Information Technology Product Supplier Declaration of Commitment to Protect User Security". It "would commit³⁸ the companies to not harming national [Chinese] security" and, among others, also require companies to store data of Chinese user in the Chinese jurisdiction.

11. PIRATE BAY'S OFFICIAL FORUM TEMPORARILY OFFLINE AFTER ICANN COMPLAINT

On September 23, 2015, eNom, the domain name registrar of SuprBay, the Pirate Bay's official forum, temporarily took down³⁹ the forum for two days after an ICANN complaint about inaccurate WHOIS information. The forum is mainly used to discuss torrents, and rarely to share pirated content.

12. INTERNET ARCHIVE BLACKLISTED BY ROSKOMNADZOR OVER ISLAMIST VIDEOS

The Russian media regulator Roskomnadzor blocked⁴⁰ Archive.com, and its Wayback Machine, because it archived websites that provided access to Syrian Islamist content. As the Internet Archive uses HTTPS, Russian ISPs are forced to block the entire website in order to comply with the media regulator's order. The website was already blocked in Russia in June 2015.

13. INDIAN GOVERNMENT WITHDRAWS CONTROVERSIAL ENCRYPTION POLICY

On September 22, 2015, the Indian government withdrew⁴¹ its proposed National Encryption Policy. This legislative proposal aimed to expand the ability of law enforcement agencies to monitor private communication on social media and mobile messaging apps by obliging these platforms to save plain-text versions of the encrypted messages for 90 days. The policy allowed⁴² the government to define encryption standards and required both domestic and foreign providers of encrypted services to obtain an Indian license.

14. NORWEGIAN COURT ORDERS ISPS TO BLOCK THE PIRATE BAY

On September 2, 2015, the Oslo District Court House ordered⁴³, for the first time in the country's history, 11 ISPs to block access to seven torrent trackers, including the Pirate Bay, for copyright infringements. Previously, Internet blocks on the DNS level in Norway were only put in place in the case of child sexual abuse material. In response to this ruling, the Norwegian Pirate Party started⁴⁴ to offer free DNS servers to circumvent the blockade.

15. KIM DOTCOM EXTRADITION HEARING BEGINS IN NEW ZEALAND

On September 14, 2015, the hearing for the extradition⁴⁵ of Megaupload founder Kim Dotcom began in Auckland, New Zealand. The US is seeking his extradition for alleged copyright infringements, money laundering and racketeering. Kim Dotcom continues to argue that he was running⁴⁶ a cloud-based storage service incorporated in Hong Kong and cannot be held responsible in the US jurisdiction for the content uploaded by users.

16. MORE ICELAND ISPS AGREE TO BLOCK THE PIRATE BAY

The Reykjavík District Court ordered⁴⁷ two ISPs to block access to the torrent libraries The Pirate Bay and Deildu.net. The rightsholders, who filed the lawsuit, struck an additional out-of-court deal⁴⁸ with other Icelandic ISPs to block the two sites, even if they change their top-level domains in the future.

17. RUSSIAN COURT FINES GOOGLE FOR PRIVACY VIOLATIONS THROUGH TARGETED ADS IN GMAIL

On September 17, 2015, a court in Moscow fined⁴⁹ Google for privacy violations through its use of targeted ads based on the content of the emails sent using Gmail. The company was ordered to pay 50.000 ruble (707 euros) to the plaintiff. Google objects the decision arguing that targeted ads are handled by an automated system, not by humans.

18. BELGIAN PRIVACY COMMISSION ARGUES FACEBOOK'S DATA PROCESSING IS SUBJECT TO NATIONAL LAW

The first hearing⁵⁰ of the case brought by the Belgian Privacy Commission against Facebook for violations of national and European privacy laws through the company's data processing policies took place in Brussels on September 21, 2015. The Belgian data protection agency rejected arguments from Facebook that it would not be subject to Belgian jurisdiction since its international headquarters are located in Ireland. Facebook faces a daily fine⁵¹ of up to 250,000 euro if the court finds it infringes national privacy laws.

19. TWITTER MIGHT FACE US PRIVACY CLASS ACTION OVER DIRECT MESSAGES

On September 12, 2015, a proposed class action suit was filed⁵² in San Francisco's Federal Court against Twitter Inc.

claiming that the company's automatic link-shortening in Direct Messages is a violation of the Electronic Communications Privacy Act and California's privacy law. The complainant argued that Twitter "intercepts, reads, and, at times, even alters" private messages of users. Twitter stated⁵³: "We believe these claims are meritless and we intend to fight them." The class action suit is yet to be approved by a judge.

20. ITALIAN ORDERS ISPS TO BLOCK THE POPCORN TIME

The Italian Criminal Court of Genoa ruled⁵⁴ that Popcorn Time assists in copyright infringements. It issued⁵⁵ a sequestration order to three of the software's main domains: Popcorn-Time.se, PopcornTime.io and Popcorn-Timeltalia.com, which have since become inaccessible to users due to the ISP blockades. The court also ordered ISPs to block access to the domains where the software could be downloaded.

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OCTOBER

1. COURT OF JUSTICE OF THE EU STRIKES DOWN EU-US SAFE HARBOR AGREEMENT

On October 6, 2015, the EU Court of Justice (CJEU) ruled¹ on the Schrems vs. Irish Data Protection Authority case about Facebook. It struck down the EU-US safe harbor agreement, the mechanism that facilitates the transfer of personal data from the EU to the US consistent with the EU Data Protection Directive. In this landmark case, the CJEU determined that the regime did not provide an adequate level of protection, as it is unable to prevent US intelligence authorities from accessing transferred data. Over 5.000² companies are affected by the ruling and those without servers in the EU jurisdiction now have to work with temporary legal arrangements, such as model contract clauses or binding corporate rules, to continue the transatlantic data transfers. The ruling empowered DPAs in the 28 EU states to investigate³, and potentially suspend, transfers they consider non-compliant with their national requirements. The Article 29 Working Party, that groups all EU DPAs, released⁴ a statement urging the EU and US to find an “appropriate solution” until January end 2016, or the group would take actions, including “coordinated enforcement”. The EU indicated on October 26, 2015, that it agreed “in principle”⁵ on a new trans-Atlantic data pact with the US.

Read further:

BBC: Facebook data transfers threatened by Safe Harbor ruling⁶

Guardian: Safe harbor’ ruling illustrates growing chasm between US and EU⁷

Atlantic: Safe Harbor no more⁸

2. NEW GTLD XYZ WANTS TO BLOCK DOMAIN NAMES ILLEGAL IN CHINA FOR GLOBAL USERS

On October 9, 2015, the new gTLD registry.XYZ submitted⁹ a Registry Services Evaluation Process proposal to ICANN to set up a gateway in China to allow Chinese citizens to register its domains. Chinese citizens can only register domains with foreign registrars if the latter comply with Chinese law and have “gateway systems” installed on infrastructure in the Chinese jurisdiction. According to the proposal,.XYZ would also prevent certain domain names with words blacklisted by the Chinese government from being registered by users in other jurisdictions. The company stated that “XYZ will reserve names prohibited for registration by the Chinese government at the registry level internationally, so the Gateway itself will not need to be used to block the registration of any names”. XYZ’s request at ICANN will be open for public comments.

Read further:

ICANN: XYZ.COM LLC proposal for new Registry Service¹⁰
Domain Incite: XYZ to put global block on domains banned in China¹¹

The Whir: XYZ.com proposal could prevent global registration of banned Chinese domains¹²

3. US HOUSE APPROVES PRIVACY BILL TO GRANT EU CITIZENS ACCESS TO JUDICIAL REDRESS IN US

On October 20, 2015, the US House of Representatives passed¹³ the Judicial Redress Act of 2015. This bill would grant access to judicial redress in US courts to EU citizens if their personal data is mishandled by US federal agencies that receive this information from companies or European governments for law enforcement purposes. The passage of this bill is a crucial element of the finalization of the “Umbrella Agreement”¹⁴ for EU-US law enforcement cooperation. The EU indicated it would not consent to the agreement until the US Judicial Redress Act is enacted. The passage of the bill also influences¹⁵ the negotiations between the EU and US on a replacement for the Safe Harbor agreement. The bill is yet to be discussed¹⁶ in the US Senate.

Read further:

National Law Review: House passes bill expanding privacy rights of EU citizens in wake of Schrems ruling¹⁷
PC World: Judicial Redress Act heads for Senate, making new Safe Harbor agreement more likely¹⁸
Politico: On Judicial Redress Act, attention turns to Senate¹⁹

4. GERMANY LAUNCHES INVESTIGATION AGAINST THREE FACEBOOK GERMANY MANAGERS FOR FACILITATING INCITEMENT

The prosecutor’s office of the German state Hamburg opened a criminal investigation against three executive managers of Facebook Germany. A complaint²⁰ from a German lawyer accused Facebook of facilitating incitement to hatred against refugees and other minorities in Germany. According to the spokeswoman for the prosecutor’s office, the probe²¹ “is about Facebook’s deleting practice and about how it deals with hate posts”. The prosecutor will now determine if there is a ground for these accusations. Incitement to hatred can be sanctioned with up to three years in prison under German criminal law. In September 2015, Facebook agreed to the setup of a joint task force to combat hate speech after pressure from the German government.

Read further:

Wall Street Journal: Germany probes complaint alleging Facebook facilitates incitement to hatred²²
Spiegel: Suspicion of incitement: Prosecutor launches probe into Facebook managers (translation)²³
Local Europe: Germany opens probe into 3 Facebook execs²⁴

5. US PRESIDENT WILL NOT SEEK LEGISLATION TO GIVE US LAW ENFORCEMENT ACCESS TO ENCRYPTED USER DATA

US President Barack Obama decided not to pursue²⁵ legislation to give law enforcement access to encrypted user data, arguing that it is not possible to provide them access to the data without simultaneously weakening the software to attacks from malicious actors. The decision came after a protracted dispute with large companies such as Apple, Google and Microsoft that argued such legislation would set²⁶ a dangerous precedent and create “an information environment riddled with vulnerabilities that could be exploited by even the most repressive or dangerous regimes”. The decision upset law enforcement officials and intelligence agencies, which argued that such legislation was necessary to prevent²⁷ criminals or terrorists from “going dark”.

Read further:

New York Times: Obama won’t seek access to encrypted user data²⁸
Bloomberg: Tech firms laud Obama decision not to seek encrypted data law²⁹
Ars Technica: Obama administration won’t seek encryption backdoor legislation³⁰

6. INDIA COMBATS ONLINE HATE SPEECH, ASKS TWITTER TO DELETE POSTS ON LYNCHING

Indian police forces in the state of Uttar Pradesh requested³¹ Twitter to remove tweets related to the lynching³² of a man after online rumors that his family ate beef. The request comes after the state’s chief minister Akhilesh Yadav announced on October 4, 2015, that stern action will be taken “against elements creating disharmony and inciting hatred by circulating baseless content on social media, specially [on] Facebook, WhatsApp and Twitter”.

7. CALIFORNIA PASSES LANDMARK PRIVACY LAW

On October 8, 2015, Californian Governor Jerry Brown signed³³ the Electronic Communications Privacy Act, one of the most comprehensive privacy laws in the US. This landmark law protects³⁴ location data, content, and metadata by prohibiting law enforcement entities from forcing California-based companies to hand over this data without a warrant.

8. ICANN MIGHT ALLOW STORAGE OF REGISTRAR DATA IN EUROPE

In response³⁵ to the Court of Justice of the EU ruling that invalidated the Safe Harbor agreement, ICANN indicated at its 2015 meeting in Dublin, Ireland, that it might offer European registrars the option to store personal data in Europe. Until now, ICANN offered registrars the possibility to store data with the US company Iron Mountain.

9. JAPAN'S LARGEST MESSAGING APP LINE IMPLEMENTS DATA ENCRYPTION AT DEVICE LEVEL

Following a worldwide trend, Japan's largest messaging app "Line" will start to encrypt³⁶ location data and messages on a device level. This will de-facto limit its ability to comply with law enforcement requests for content disclosure, even under legal duress.

10. GERMAN DATA PROTECTION AUTHORITY STARTS INVESTIGATION AGAINST GOOGLE AND FACEBOOK OVER DATA TRANSFERS

In the wake of the invalidation of the Safe Harbor agreement, German DPAs have started³⁷ to review data transfers from the EU to the US by Google, Facebook and other US companies of their own accord to check their conformity with national and EU laws. The DPA Commissioner of Hamburg stated that to be on the safe side, companies should "in the future consider storing personal data only on servers within the European Union".

11. GOOGLE REFUSES TO DE-LIST ENTIRE SITES FOR COPYRIGHT VIOLATIONS FROM SEARCH RESULTS

On October 22, 2015, Google sent³⁸ a letter to the US Intellectual Property Enforcement coordinator opposing the "whole site removal" for copyright infringements from search results, as it is "ineffective and [it] can easily lead to censorship". Google's letter comes³⁹ after the Motion Picture Association of America argued that search engines should "de-list"⁴⁰ entire sites if they contain copyright infringing material, even when the infringing material only appears on parts of the website.

12. FACEBOOK AND TWITTER REPORTEDLY INACCESSIBLE IN TURKEY AFTER ANKARA BOMBINGS

After terror attacks in Ankara on October 10, 2015, the Turkish Supreme Board of Radio and Television (RTÜK), ordered media outlets to stop circulating images of the bombing. According to reports⁴¹, both Facebook and Twitter were also affected by the ban and were temporarily inaccessible. Twitter confirmed⁴² its users could not access its service in the wake of the attack.

13. CYBERSECURITY INFORMATION SHARING ACT (CISA) PASSED IN US SENATE

On October 27, 2015, the US Senate passed⁴³ the Cybersecurity Information Sharing Act, which would give liability protections to corporations that voluntarily share data on cyber attacks with the government. The act will now go to conference with the US House for reconciliation with two similar bills passed⁴⁴ by the House of Representatives on April 22, 2015.

14. TOP BRITISH POLICEMAN SAYS SOCIAL MEDIA PLATFORMS OBSTRUCT TERRORISM INVESTIGATIONS

On October 5, 2015, London Assistant Commissioner Mark Rowley said⁴⁵ that social media companies impede terrorism investigations by refusing to help or by making products that purposefully hinder inquiries. He argued that the biggest issue in the fight against terrorism is the growing "no go" areas online and the development of encryption that allows terrorists to "go dark".

15. APPLE IS SAID TO DEACTIVATE ITS NEWS APP IN CHINA

According to reports, Apple has disabled⁴⁶ its news app in China in response to the country's strict content laws. While many platforms operating in China set up filtering regimes for sensitive content, Apple seems to have completely disabled the service in China. Users of the news app, which is currently only available to US-based individuals, are unable to access content they previously stored via the app on their device in the US when they are in the Chinese jurisdiction.

16. DUTCH COURT ORDERS GOOGLE TO COMMUNICATE DATA EVEN IF USER RESIDES OUTSIDE THE EU

The Dutch District Court of The Hague ordered⁴⁷ Google to hand over to the Dutch anti-piracy group BREIN the name, address, bank account number, Google email account and IP address tied to a Google Play account from which pirated eBooks were sold. The court ruled the data should be handed over even if the account holder turns out to reside outside of the European Union.

17. CALIFORNIA COLLABORATES WITH INTERNET COMPANIES TO HELP “REVENGE PORN” VICTIMS

On October 14, 2015, California’s Attorney General Kamala Harris announced⁴⁸ the launch of an “online resource hub” and awareness campaign for citizens, victims and law enforcement to get more information on cyber exploitation. The website explains how victims of cyber exploitation can contact different technology companies to have images, including photos and videos, removed. The hub is a collaboration⁴⁹ between a government task force and 50 major technology companies.

18. MICROSOFT DETAILS TAKEDOWN REQUESTS IN EXPANDED TRANSPARENCY REPORT

Microsoft released⁵⁰ its latest transparency report on October 14, 2015. It includes a new report⁵¹ on takedown requests for services such as Bing, OneDrive or MSN. Between January and June 2015, Microsoft received 3,546 right to be de-indexed requests, 1,020,142 copyright requests and 186 government requests.

19. EU COURT TO DECIDE IF STREAMING PIRATED MOVIES IS ILLEGAL

A Dutch court asked⁵² the Court of Justice of the EU to rule on the legality of streaming copyright-protected videos. The case involves the Dutch anti-piracy group BREIN and an online store that sells media players pre-programmed to stream pirated content. Under current EU law, it is not clear if temporary copies of copyright infringing content are illegal. The question posed by the Dutch court is whether streaming is such a form of temporary possession.

20. EU JUSTICE MINISTERS AGREES ON COMMON POSITION FOR NEW DATA PROTECTION DIRECTIVE

On October 9, 2015, the European Council finalized⁵³ its negotiating position on the draft Data Protection Police Directive that will govern how law enforcement can access and processes user data across borders in the EU. The directive is scheduled⁵⁴ to be passed at the end of 2015 after a trialogue between the European Council, the Commission and the European Parliament.

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NOVEMBER

1. UK DRAFT BILL: INTERNET FIRMS TO HELP INTERCEPT AND DECRYPT DATA

On November 4, 2015, the UK Home Secretary presented the Draft Investigatory Powers Bill¹ to the UK parliament. It expands the scope of current British surveillance laws. The bill would require² Internet companies and ISPs to keep records of websites visited by UK citizens for one year for access by law enforcement and other public bodies. For the first time in the legislative history of the UK, a legal obligation³ for British companies to assist law enforcement officials in operations to bypass encryption is imposed. The draft bill places these obligations on all companies providing services in the UK, but enforcement through courts against non-UK companies will only be sought in the case of interception and targeted communications data requests. Proponents of the bill argue⁴ that it improves the oversight system for surveillance, and removes some of the ‘unworkable elements’ in the 2013 draft bill. Various large companies have expressed⁵ their disapproval, arguing that the bill ‘undermines safety’ and ‘exposes data to hackers’.

Read further:

Guardian: Investigatory Powers Bill: the key points⁶

Reuters: Internet firms must store usage data for 1 yr – UK Surveillance Bill⁷

Financial Times: Investigatory Powers Bill to face strong opposition⁸

2. SAFE HARBOR INVALIDATION: MICROSOFT AND AMAZON OPEN NEW DATACENTERS IN EUROPE

In the wake of the EU Court of Justice judgment striking down the Safe Harbor Agreement, two major global cloud providers announced the opening of new localized datacenters in the EU jurisdiction. On November 11, 2015, Microsoft said⁹ it would build two new datacenters in Germany to serve local cloud customers. The German set-up represents a new way of operating cloud systems for Microsoft: Deutsche Telekom will control the user data and serve as a ‘data trustee’, which will be subject to German law. In practice, this means that Microsoft will not be able to hand over user data without the permission of the user or data trustee, even when receiving requests from US authorities. Microsoft also announced¹⁰ the launch of its first datacenters in the UK jurisdiction. Amazon Web Services (AWS) made¹¹ a similar announcement to open a datacenter in the UK “to provide stronger data sovereignty”. AWS customers can already choose between 11 different storage regions around the world.

Read further:

Ars Technica: Microsoft is building datacenters in Germany that the US government can’t touch¹²

PC World: Amazon will open London datacenter by early 2017¹³

IT World: Microsoft sets up data centers in Germany amid US surveillance concerns¹⁴

3. FRANCE REQUESTS TWITTER TO BLOCK CONTENT RELATED TO PARIS ATTACKS

Following the terrorist attacks in Paris on November 13, 2015, the French Ministry of the Interior sent a request¹⁵ to Twitter on November 15, 2015 to block certain content in the French jurisdiction, which is considered to be a “serious attack on human dignity (images of cadavers)” or pertaining to “secrecy of the investigation”. Twitter complied and removed most flagged tweets and marked others as “sensitive content”, allowing them to become visible only if users explicitly click on them. Twitter also agreed to block certain keywords related to the apology of terrorism on its “trending topics” algorithm. On November 17, 2015, Twitter received a second request by French authorities to delete a related tweet. On November 19, 2015, the French Parliament voted to extend the emergency powers introduced after the attacks for three months. The measures¹⁶ will, among others, allow the Ministry of Interior “to interrupt any online communication service that commissions or glorifies acts of terrorism”.

Read further:

ZDNet: By extending state of emergency, France can now block websites¹⁷

Le Monde: The government ordered Twitter to block the dissemination of images of carnage in the Bataclan¹⁸

Mother Jones: Twitter has censored gory images of the Paris Attacks¹⁹

4. FACEBOOK ORDERED TO CEASE TRACKING OF NON-FACEBOOK USERS IN BELGIUM

The Belgium Court of First Instance in Brussels ordered Facebook to stop tracking through cookies the online behavior of Belgium non-Facebook users who access Facebook pages. The Belgian Data Protection Regulator brought the case to the court arguing²⁰ that by collecting data on non-users, who had not given their consent to be tracked, Facebook was breaking EU and Belgian privacy law. Facebook did acknowledge that it collects²¹ data about non-users who visit its site through “Datr” cookies. However, the social network argues that the cookies do not identify people, but only their browsers. In addition, Facebook stressed that as it is headquartered in the Irish jurisdiction, it is only subject to regulation by the Irish Data Protection Commissioner. Facebook will face daily fines²² of up to 250.000 euro if it fails to comply with the court’s decision. The company said it will appeal²³ the ruling.

Read further:

Reuters: Facebook to appeal Belgian ruling ordering it to stop tracking non-users²⁴

Wall Street Journal: Facebook explains data-collection practices to Belgian regulators²⁵

New York Times: Facebook to appeal a Belgian court’s ruling on data privacy²⁶

5. EU WANTS TO MANDATE US FIRMS TO DISCLOSE REQUESTS FOR ACCESS TO DATA BY US LAW ENFORCEMENT

US businesses may be required²⁷ to disclose requests by US intelligence services for data on European citizens under the new Safe Harbor Agreement, currently negotiated²⁸ between the EU and the US. The development of a new agreement is dependent on the ability of the negotiators to agree on mechanisms that provide²⁹ strong guarantees that US authorities would only access personal data of EU citizens in a limited and proportionate way. According to EU’s Commissioner for Justice Vera Jourova, one way to ensure this is by mandating US companies to disclose³⁰ figures on such government requests on an annual basis. In addition, the EU negotiators are asking for the inclusion of more “qualitative” information that indicates why authorities are requesting the data. Companies such as Microsoft, Facebook and Twitter already publish transparency reports detailing the requests they receive from governments. US authorities prefer disclosures to remain voluntary and argue that the inclusion of “qualitative” information is complicated as it might compromise national security. The negotiations are expected to be concluded by January 2016.

Read further:

Wall Street Journal: EU wants U.S. firms to help mitigate data-protection concerns³¹

Reuters: EU wants more reporting by US firms of US requests for data³²

The Hill: EU wants to mandate US firms disclose intelligence requests³³

6. BANGLADESH BLOCKS FACEBOOK, VIBER AND WHATSAPP, CAUSES INTERNET SHUTDOWN

On November 18, 2015, the Bangladesh Telecommunication Regulatory Commission (BTRC) blocked³⁴ access to Facebook, Viber, and Whatsapp on “security grounds” after a sensitive Supreme Court decision was rendered to uphold the death sentences for two men convicted of war crimes. The blockade accidentally caused³⁵ an Internet blackout in the entire country for 75 minutes.

7. ENCRYPTION: PRESSURE GROWS ON SILICON VALLEY AFTER PARIS ATTACKS

The recent terror attacks in Paris reignited³⁶ the debate over the role of encryption in terrorist plots. Various politicians³⁷, law enforcement and intelligence officials called³⁸ upon Silicon Valley’s tech companies to ensure that the relevant agencies have access to encrypted communications in order to prevent and investigate attacks. Many large Internet companies and civil rights organizations responded that such access would introduce unacceptable security vulnerabilities and impede users’ privacy.

8. RUSSIA MANDATES TWITTER TO STORE DATA IN RUSSIAN JURISDICTION

Russian media regulator Roskomnadzor confirmed³⁹ on November 11, 2015, that it asked Twitter to store Russian users' data on servers based in the country. The media regulator had previously exempted Twitter from the application of a new data localization law which came into force in September 2015. Roskomnadzor's spokesman said that Twitter has not replied. Twitter declined⁴⁰ to comment.

9. GOOGLE RECEIVED OVER 340,000 "RIGHT TO BE DE-INDEXED" REQUESTS

On November 26, 2015, Google published⁴¹ its bi-annual transparency report. The company received 348,085 requests based on the "right to be de-indexed" doctrine established in May 2014 by the EU Court of Justice. The total number of URLs that Google investigated⁴² for delisting was 1,234,092, of which about 42 percent have been removed. The majority of these requests came from France, Germany and the UK. The most impacted websites were Facebook, Google Groups, YouTube, Google+ and Twitter.

10. REDDIT TEMPORARILY BLOCKED IN TURKEY

On November 13, 2015, the social network and news website Reddit was temporarily blocked,⁴³ without any official explanation, in Turkey under the country's Internet Law 5651.⁴⁴ The law is used for blocking websites that contain a variety of illicit content, from child abuse material, or pornography, to insults against Atatürk. The blockade was lifted on November 15, 2015.

11. "RIGHT TO BE DE-INDEXED" APPLIES EXTRATERRITORIALY, SAYS UK DATA PROTECTION AUTHORITY

In a blog post published⁴⁵ on November 2, 2015, the UK's Information Commissioner's Office said it amended⁴⁶ an enforcement notice issued against Google in August 2015 to comply with the EU Court of Justice ruling on the right to be de-indexed. In line with the interpretation⁴⁷ of the French data protection authority CNIL, Google is now asked to delist all search results accessible from the UK jurisdiction, which includes links accessible from google.com and other Google Search domains.

12. ISRAEL ANNOUNCES DEAL ON CONTENT TAKEDOWNS WITH YOUTUBE, GOOGLE DENIES

The Israeli Foreign Ministry released a statement⁴⁸ about a deal with Google to develop monitoring mechanisms to stop "inflammatory" content on YouTube related to the outbreaks of violence in Israel. Google officials denied any agreement. They stressed⁴⁹ that the November 2015 meeting with the government was only part of an effort to explain their content removal policies. The official Israeli statement was consequently corrected.

13. GERMAN SUPREME COURT OPEN TO BLOCKING OF COPYRIGHT INFRINGING WEBSITES

On November 27, 2015, the German Supreme Court ruled⁵⁰ on a seven years long legal battle led⁵¹ by German music rights group GEMA to order ISPs to block copyright infringing websites. The judge opened the door to such blockings on the cumulative conditions that the targeted websites contain a majority of illegal content and that the rightsholders prove that they explored other avenues such as notifying the website operator.

14. NEW GTLD ".XYZ" WILL NOT BLOCK DOMAIN NAMES ILLEGAL IN CHINA FOR GLOBAL USERS

In a blog post from November 4, 2015, Daniel Negari, CEO of domain registrar XYZ responded⁵² to the criticism that his new generic top level domain (gTLD) received in response to its Registry Services Evaluation Process (RSEP) proposal submitted to ICANN. Mr. Negari denied⁵³ that XYZ would prevent the registration of certain domain names with words blacklisted by the Chinese government, unless the domain was previously registered by a Chinese resident and afterwards forbidden by the Chinese government.

15. EU COURT OF JUSTICE TO RULE ON PIRATE BAY BLOCKING

On November 13, 2015, the Dutch Supreme Court referred⁵⁴ a landmark case against the torrent site The Pirate Bay to the Court of Justice of the European Union (CJEU). The Dutch court has asked the CJEU to consider⁵⁵ two questions: whether Pirate Bay's actions infringe on European copyright laws and to what extent courts can order ISPs to block subscribers' access to illegal websites.

16. CHAT APP TELEGRAM BLOCKS ISIS CHANNELS AFTER PARIS ATTACKS

After the terrorist attacks in Paris, the German messaging app Telegram said⁵⁶ that it started to shut down some of its encrypted public broadcast channels, which were found to be ISIS' preferred⁵⁷ platform for spreading propaganda and recruiting members. It is the first time that Telegram blocked certain communications on its platform.

17. QUEBEC GOVERNMENT MANDATES ISPS TO BLOCK GAMBLING WEBSITES

On November 13, 2015, the province of Quebec passed a new legislation⁵⁸ via an omnibus budget bill mandating ISPs to block access to illegal gambling websites. The government will maintain an updated list of unauthorized websites, which ISPs will block within one month. This is the first time that a Canadian government mandates⁵⁹ the blocking of websites. ISPs operating across Canada stressed⁵⁹ that it will be technically difficult and costly to "segregate" Quebec users in order to comply with the new law.

18. TORRENT SITES IN CANADA AND NEW ZEALAND SHUT DOWN BY MOTION PICTURE ASSOCIATION OF AMERICA

A coordinated legal action undertaken⁶¹ by the Motion Picture Association of America (MPAA) before Canadian

and New Zealand courts against the operators of the torrent websites Popcorn Time and YTS resulted in the shutdown of the two platforms in both countries on the grounds of copyright infringement.

19. RANKING DIGITAL RIGHTS PUBLISHES FIRST REPORT ON COMPANIES' ACCOUNTABILITY

The Ranking Digital Rights Project inaugurated⁶² its first Corporate Accountability Index on November 3, 2015. The project evaluates 16 of the largest Internet and telecommunications companies on multiple indicators, like the guidelines and procedures put in place for evaluating and responding to content take-down requests from governments and third parties. The report concludes⁶³ that most companies fail to adequately protect users' online freedom of expression and privacy.

20. US TRADE AGENCY CANNOT BLOCK IMPORTATION OF DIGITAL DATA

On November 10, 2015, the United States Federal Circuit Court of Appeals reversed⁶⁴ a ruling from the US International Trade Commission (ITC), which tried to stop the import of 3D print data from Pakistan into the US in a patent case. The court ruled that the mandate⁶⁵ of the ITC under US law does not cover electronically imported data.

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DECEMBER

1. NEW PRIVACY STANDARDS: EU AGREES ON FINAL DRAFT OF ITS DATA PROTECTION REFORM

The EU completed¹ a four-year negotiation on a data protection package, set to be adopted in 2016 and enforced in all member states in 2018. Expected to set a new bar for global privacy standards, the General Data Protection Regulation (GDPR) will repeal the 1995 EU Data Protection Directive. Internet companies serving users in the EU will need to comply with the regulation. Violations will be sanctioned with fines as high as four percent of a company's worldwide revenue. New obligations for Internet companies range from reporting data breaches with a joint liability for data controllers and data processors, to enabling data portability across services, and stricter user consent requirements. The GDPR also enshrines the "right to be forgotten"² that allows users to request the removal of personal information from data controllers. It remains unclear what types of intermediaries, beyond search engines, will qualify as "data controllers". Once enacted, the GDPR's "one-stop-shop"³ doctrine will designate a single national DPA, which will be responsible for overseeing the data processing operations of a company in all EU member states. Users will still be able to address their complaints to their national DPAs. The package also includes a new 'Data Protection Directive' to set minimum standards for data processing for law enforcement and criminal justice purposes.

Read further:

Reuters: Europeans to be 'masters' of their personal data⁴
Wall Street Journal: The EU Data-Privacy Agreement: What we know and don't⁵
Jones Day Publications: Agreement reached on the European reform of Data Protection⁶

2. BRAZIL BLOCKS WHATSAPP FOR 12 HOURS WITH ACCIDENTAL IMPACTS IN VENEZUELA AND CHILE

A criminal court in São Bernardo do Campo ordered⁷ Brazil's ISPs to block access to Facebook Inc.'s messaging app WhatsApp for 48 hours, starting on December 17, 2015. It came after Facebook refused to provide user data in connection to a criminal proceeding, arguing it was technically impossible due to its end-to-end encryption. The ruling was based on the Marco Civil's Article 12,⁸ which lists sanctions applicable to service providers. Details regarding the injunction and the underlying investigation remain sealed. WhatsApp is Brazil's most popular mobile app with 100 million users. The execution of the blocking by ISPs had reportedly extraterritorial impacts on the accessibility to the service for users in the jurisdictions of Venezuela and Chile, among others. The blockade provoked a public outrage. Facebook appealed the ruling, which was reversed after only 12 hours. The judge reasoned that the blocking order was disproportionate, as it was "not reasonable that millions of users be affected by the inertia of the company".

Read further:

Wall Street Journal: Brazilian Judge lifts ban on Facebook's WhatsApp¹⁰
New York Times: Brazil restores WhatsApp service after brief blockade¹¹
TechCrunch: Brazilian judge shuts down WhatsApp and Brazil's Congress wants to shut down the social web next¹²

3. EUROPEAN COURT OF HUMAN RIGHTS: TURKEY'S YOUTUBE BLOCKING VIOLATED FREEDOM OF EXPRESSION

On December 1, 2015, the European Court of Human Rights (ECHR) declared¹³ that the blocking of YouTube imposed by the Turkish authorities between May 2008 and October 2010 violated the right to freedom of expression guaranteed under Article 10¹⁴ of the European Convention of Human Rights. The ban had been originally ordered by the Ankara Criminal Court of First Instance over 10 videos deemed insulting to Kemal Ataturk, which is a criminal offense in Turkey. Three Turkish academics¹⁵ challenged the blocking order before the Turkish courts all the way to the ECHR. They complained that the block had restricted their academic activities by limiting their ability to seek and receive information and ideas. The ECHR's lower chamber unanimously agreed, noting that the Turkish court's blanket-blocking order lacked a legal basis and was disproportionate. It highlighted that YouTube is a "single platform," which contributed to the rise of "citizen journalism". The ECHR, however, did not request the Turkish government to reform the Law 5651 under which the blocking had been authorized. The three plaintiffs can still appeal this specific part of the decision up to the Grand Chamber of the ECHR.

Read further:

The Time of India: Turkey's ban on YouTube violated freedom of expression: European Court¹⁶

Yahoo News – AFP: Turkey YouTube ban violated freedom of expression¹⁷

IP Watch: European Court of Human Rights finds Turkey violated freedom of expression in YouTube blocking¹⁸

4. GERMANY BROKERED A DEAL WITH GOOGLE, FACEBOOK, TWITTER ON REMOVAL OF HATE SPEECH

Following a surge of racist posts in German on social media networks, the German Ministry of Justice and Consumer Protection launched in September 2015 a national multi-stakeholder task force to combat online hate speech, which is a criminal offense in Germany. A public-private agreement¹⁹ on best practices was released on December 15, 2015. Google, Facebook, and Twitter pledged to remove hate speech posts from their websites within 24 hours upon notification. Moreover, they guarantee that German speaking specialists would assess flagged content in accordance with German law,²⁰ in addition to their Terms of Service and user guidelines. The Internet companies will be partnering with German civil society organisations such as the voluntary self-regulation multi-media service providers (FSM), to implement these goals by mid-2016. It is still unclear how this pledge will affect content generated in other jurisdictions that is accessible to German users.

Read further:

EurActiv: Facebook agrees to step up efforts against hate speech²¹

TechCrunch: Facebook, Google, Twitter commit to hate speech action in Germany²²

Reuters: Facebook, Google, Twitter agree to delete hate speech in 24 hours: Germany²³

5. THE IETF ROLLS OUT THE HTTP ERROR CODE 451 FOR BLOCKED WEBSITES

On December 18, 2015, the Internet Engineering Task Force (IETF) approved the publication of the new 'HTTP Status Code to Report Legal Obstacles'²⁴ to be displayed when access to a web page is denied for legal reasons. Put forth²⁵ by the engineer Tim Bray in 2013, the code is intended to complement the popular error messages 403 "forbidden" or 404 "not found". It was developed to provide machine-readable statistics about Internet blocking and filtering. According to the IETF memo, the status code 451 should explain the legal basis for the restriction, as well as the responsible authority that ordered the blocking, and the entity that executed it. The error code is ready to be deployed. While promoting the code as a step towards transparency, IETF chair Mark Nottingham noted²⁶ that some governments might be reluctant to adopt the voluntary standard.

Read further:

Wired: Error 451 is the new HTTP code for online censorship²⁷

The Register: New HTTP Error Code 451 to signal censorship²⁸

Vice Motherboard: The HTTP 451 Error Code for censorship is now an Internet standard²⁹

6. BANGLADESH LIFTS BAN OF SEVERAL SOCIAL MEDIA PLATFORMS AFTER PUBLIC ORDER CONCERNS

On December 14, 2015, the State Minister for Post and Telecommunications of Bangladesh announced³⁰ lifting of the blockades of several Internet services. Following public unrest after a Supreme Court ruling, the government blocked³¹ online services including Facebook, Viber and WhatsApp on November 18, 2015, as well as Twitter and Skype on December 13, 2015. The execution of the blocking order resulted in a 90 minutes shutdown³² of the entire Internet in Bangladesh. Facebook was unblocked³³ already on December 10, 2015.

7. BELGIUM ASSERTS JURISDICTION OVER YAHOO, REFUSES MLAT PROCEDURE

After eight years of litigation, Yahoo was ordered³⁴ by the Belgian Supreme Court on December 2, 2015 to hand over IP-addresses used in a fraud scam operated from the US.

Yahoo had argued that the data in question was stored in the US jurisdiction and that therefore the Belgian court was not competent. Belgium refused to initiate a Mutual Legal Assistance Treaty request to the US and asserted in the end jurisdiction over Yahoo's local branch.

8. TURKEY FINES TWITTER FOR FAILING TO REMOVE TERRORIST PROPAGANDA

For the first time, on December 12, 2015, Turkey's telecommunications authority BTK ordered³⁵ Twitter to pay a fine of 150.000 lira (ca. 46.000 euro) for failing to comply with a request to remove alleged terrorist propaganda content. Details about the case have not been released.

9. SAN BERNARDINO ATTACKS: DRAFT US BILL WANTS INTERNET COMPANIES TO REPORT TERRORIST ACTIVITIES

A US Senator re-introduced³⁶ a draft bill after the San Bernardino attacks, called the "Requiring Reporting of Online Terrorist Activity Act".³⁷ It would oblige Internet companies, such as social networks, to report terrorist activities on their platforms to US authorities when they become aware of them. It does not prescribe additional monitoring requirements.

10. KAZAKHSTAN TO ENFORCE NEW RULES FOR DATA LOCALIZATION

Kazakhstan passed amendments³⁸ to its recent Informatization Law and Personal Data Law, which come into effect on January 1, 2016. They require personal data of Kazakh citizens to be stored within Kazakhstan. It not clear yet whether the requirement will be extended to foreign companies operating in the country. The law does not detail what sanctions would be applied for non-compliance.

11. FACEBOOK MAKES PUBLIC PAGES INACCESSIBLE TO BELGIUM USERS AFTER PRIVACY COURT RULING

A Belgian court ruled³⁹ that Facebook violated national data protection laws by tracking non-registered users through its so-called "datr" cookies. Facebook announced on December 2, 2015 to appeal the decision. In the meantime, the company restricts the access to its public pages for non-registered Belgium Internet users.

12. MEGAUPLOAD: NEW ZEALAND COURT RULES THAT KIM DOTCOM CAN BE EXTRADITED TO THE US

A New Zealand district court ruled⁴⁰ on December 22, 2015, that Kim Dotcom, a German-Finnish⁴¹ citizen, and

three co-defendants may be extradited to the US to face criminal charges of copyright infringement, money laundering, racketeering and wire fraud for operating Megaupload, which was incorporated in Hong Kong. All four defendants have appealed⁴² the decision.

13. FRANCE DENIES PLANS TO BLOCK TOR OR PUBLIC WIFI AFTER PARIS ATTACKS

The French Prime Minister reacted to a leaked⁴³ internal note submitted by the police to the French Ministry of Interior. He stressed⁴⁴ on December 9, 2015 that the government never planned to block Tor and public WiFi connections, or considered forcing intermediaries to hand over encryption keys after the Paris attacks.

14. EU INCREASES EUROPOL'S POWERS TO COMBAT ONLINE TERRORISM

The European Parliament and the European Council agreed on a draft regulation to enhance⁴⁵ Europol's capacities to fight online terrorism and cybercrime. As an example, Europol will be able to directly request Internet companies to remove content or provide user information. The European Parliament will vote on the draft in April 2016. Europol will also be involved in the 'EU Internet Forum', a multi-stakeholder group launched⁴⁶ on December 2, 2015 by the EU Commission to find new ways to counter terrorism online.

15. CHINA ADOPTS A NEW COUNTER-TERRORISM LAW, WITHDRAWS DATA LOCALIZATION REQUIREMENTS

On December 28, 2015, China passed⁴⁷ its first anti-terrorism law, which comes into force on January 1, 2016. China removed⁴⁸ previous draft provisions from the final bill, which would have obliged Internet companies to store data in the Chinese jurisdiction and hand over decryption codes. Companies need, however, to verify the identity of users and ensure the swift removal of extremist content.

16. ONLINE TERRORISM AND HATE SPEECH: TWITTER UPDATES USER POLICY, GOOGLE DEMANDS "SPELL-CHECKERS"

To better address online terrorism and hate speech, Twitter updated its abusive behavior policy⁴⁹ with more detailed rules regarding, inter alia, threats based on race, religion and sexual orientation. Google also addressed this issue in the aftermath of the Paris attacks and the San Bernardino shootings in the US. Its chairman, Eric Schmidt, argued in an opinion piece published⁵⁰ on December 7, 2015, for the development of "spell-checkers" that would flag hate speech and harassment.

17. ONLINE MAPS: CHINA PASSES SPECIFIC DATA LOCALIZATION LAW

The Chinese State Council passed new regulations on December 14, 2015 regarding maps to safeguard⁵¹ national sovereignty and geographic information security. The regulations introduce the requirement⁵² that providers of maps need to store geographic data within the Chinese jurisdiction.

18. CANADIAN MINISTRY MIGHT ADDRESS USE OF VPNS TO CURB ONLINE COPYRIGHT INFRINGEMENT

A Canadian Ministry of Heritage briefing note⁵³ on copyright policy for the incumbent Minister highlights the role of VPNs in facilitating copyright infringement as an emerging issue. It remains unclear if the Minister will pick up this topic and if it will result in legislative proposals. VPNs allow, among other uses, to access websites that are blocked in a given jurisdiction by national ISPs.

19. UK SNOOPERS CHARTER PROPOSAL: APPLE WARNS ABOUT GLOBAL CONSEQUENCES

On December 22, 2015, Apple submitted⁵⁴ its comments to the UK Parliamentary Committee discussing the draft Investigatory Powers Bill published by the UK Home Office in November 2015. The eight pages report warns against extensive interpretation of the current draft that could trigger the creation of backdoors and interception capabilities. Moreover, the extraterritorial nature of the draft, which forces US companies to abide by UK law, could create an incentive⁵⁵ for other countries to also expand their jurisdictions beyond their borders.

20. WUZHEN SUMMIT: CHINA CALLS FOR COUNTRIES TO RESPECT SOVEREIGNTY IN CYBERSPACE

On December 16, 2015, Chinese President Xi Jinping addressed⁵⁶ the participants of the second Chinese World Internet Conference in Wuzhen to stress⁵⁷ the importance of national sovereignty in cyberspace. Moreover President Jinping highlighted the need to construct a “healthy cyber order governed by law” and to enhance cooperation to tackle cybercrime.

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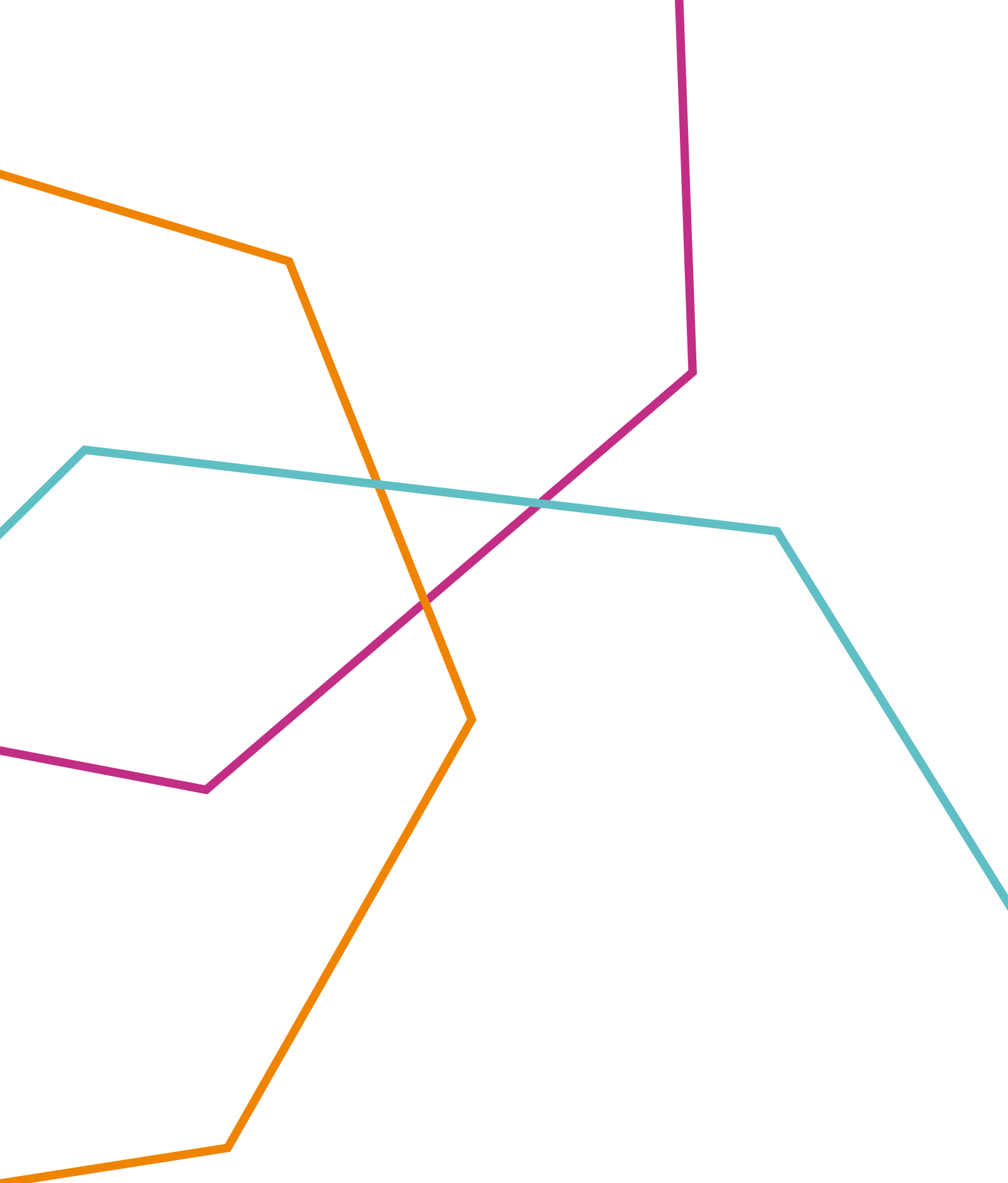
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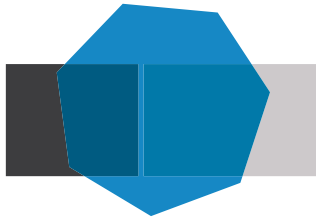


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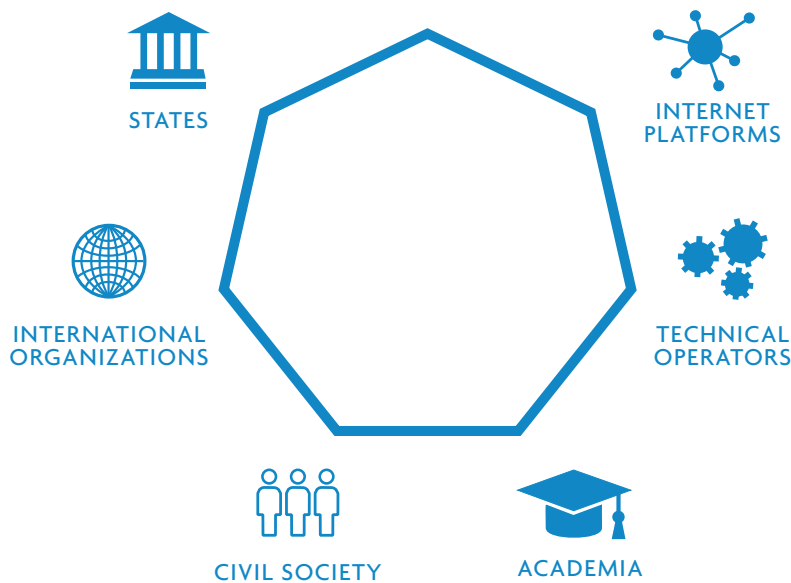
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