

Internet Governance BAROMETER (OCTOBER 2015)

IG Barometer indicates the presence of specific IG issues in the public policy debate in comparison to the previous month

Global IG Architecture



Analysis of Zero Draft: new topics introduced to the text; key formulations used during WSIS process were reaffirmed [\[link\]](#). Meanwhile, intense debates during WSIS+10 second Preparatory Meeting, on IGF continuation, a possible legal framework on IG, multistakeholder vs multilateralism, human rights, cybersecurity and more. Next draft to be published in November [\[link\]](#).

Also at the UN, First Committee debates saw country officials express concern over cybersecurity [\[link\]](#); China has called for an international code of conduct on cyberspace [\[link\]](#), while South Korea has called for a new set of rules for cyberspace and outer space to ensure their security [\[link\]](#).

Cybersecurity



Cyber-arms deals: The US-China cybersecurity agreement in September was supported by concrete actions of China quietly arresting hackers in compliance with a US government request, according to media reports [\[link\]](#). But the cyber-arms deal may have already been broken as US intelligence firm alleges [\[link\]](#) that private tech firms were the target of intrusions - aimed at stealing intellectual property and trade secrets - by hackers affiliated with the Chinese government. Meanwhile, the UK and China have made a similar agreement not to use cyber-espionage to steal commercial secrets [\[link\]](#).

Banks and financial institutions remain a prime target for hackers: the UK's National Crime Agency issued an alert against a 'serious cyber attack' targeting UK bank accounts [\[link\]](#).

IANA Transition



At ICANN54, the IANA Stewardship Transition Coordination group (ICG) came close to finalising its final proposal [\[link\]](#). Progress made also by CCWG-Accountability, including the development of the Triple E approach to consensus-based decision-making, and an agreement to focus on Sole Designator [\[link\]](#) as the new reference enforcement model for the next draft proposal. Updated draft proposal to be published mid-November, followed by a period for public comments [\[link\]](#).

ICANN and New Domains



Registry XYZ plans to ban domain names on .xyz, .college, .rent, .protection and .security which are censored by the Chinese government [\[link\]](#). Ban to be applied internationally: registrants in other countries will also not be able to register domains which are prohibited in China.

WIPO reports a 3.9% increase in 2015 in number of domain name-related cases received by WIPO's Arbitration and Mediation Centre (January-September 2015, compared to same period in 2014), and an increase in Alternative Dispute Resolution clauses integrated in intellectual property transactions [\[link\]](#).

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Online Privacy & Data Protection



Two major Court of Justice of the European Union rulings in October. In the first (Weltimmo case), Court ruled that companies 'operating' in a country, even if it is headquartered elsewhere, can be held accountable by the data protection authority in that country [↗](#).

In the second (Max Schrems case), Court declared the Commission's Safe Harbour Decision invalid [↗](#), striking down a long-standing agreement for the transfer of personal data from Europe to USA. The Commission's decision had failed to examine whether the US afforded an adequate level of protection equivalent to that guaranteed in the EU. USA and Europe are now attempting to establish post-Safe Harbour arrangements [↗](#).

The Inter-Parliamentary Union adopted the Resolution 'Democracy in the Digital Era and the Threat to Privacy and Individual Freedoms' (21 Oct.) which endorses the principle of necessity and proportionality regarding surveillance (para. 3) and the principle of net neutrality (para. 4) [↗](#).

In the USA, new California Electronic Communications Privacy Act [↗](#) imposes warrant requirement for collection of metadata or digital communications from businesses. Law is described as 'the nation's best digital privacy law' [↗](#). Given the high concentration of the Internet Industry in California (mainly Bay Area), this law may have broader impact on online privacy and data protection.

Net Neutrality



Net neutrality term formally enters UN-driven global digital politics: it has been included in WSIS+10 Zero Draft (para. 35) [↗](#), and in a contribution by the Community of Latin American and Caribbean States linking the centrality of net neutrality to the concept of global public goods [↗](#).

Jurisdiction



Both CJEU judgments have implications for jurisdiction: in the Weltimmo ruling, data protection authorities have authority over companies operating in their country even if headquartered elsewhere [↗](#); in the Max Schrems ruling, national supervisory authorities still have the power to examine whether a transfer of personal data complies with the Data Protection Directive [↗](#).

E-commerce



After years of negotiations, agreement has been reached on the Trans-Pacific Partnership Agreement by the 12 countries [↗](#). The agreement covers 40% of the global economy, and carries significant ramifications to online content. Of significant concern is the Intellectual Property Chapter [↗](#), which will expand copyright terms, and impose greater liability on intermediaries [↗](#).

EU Directive on Alternative Dispute Resolution for Consumer Disputes [↗](#) comes into force, with new information requirements for businesses (including that of providing details of certified ADR body to customers).