



December 2012

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„MERRY CHRISTMAS AND A HAPPY NEW YEAR”

Dear Members,

In December of every year, peaceful and more thoughtful days begin, world wide and independent of religion or culture. It is wintertime in Europe, which means snowfall, ice-cold temperatures, winter sports, etc. In other parts of the world it is summertime, meaning outdoor activities, such as a BBQ, or water sports, which are correlated to winter sports, as they also have to do with water.

The year 2012 was not always smooth, but rather turbulent and 2013 will likely be similar. I wish all of you luck, health, energy and all the best for 2013. We are looking forward to our conference in Brussels and therefore to seeing you again.



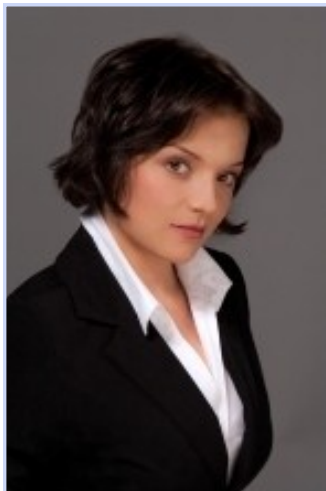
Merry Christmas and a happy New Year 2013 wishes you,

Friedhelm Gruber / Chairman



Brussels is expecting you!. Mark your calender for the 9-12 May 2013 IPG spring conference

Legal Regulation of Innovations: General Data Protection Regulation Proposal I



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Unmanned aircraft systems (UAS) have been used in war conflicts since 2005. However it was only The Human Rights Watch Report of November 2012 using rather emotive language when cautioning that "killer robots" might be "developed within 20 to 30 years" and therefore, "a preemptive prohibition on their development and use is needed." this raises yet again the burning question: How can new technologies be regulated by laws and legal measures?

Innovations, especially the rise of Web 2.0 and the networked enterprise have changed many fields of law such as international public law, medical law, business law but also labour law, intellectual property law, privacy law but also criminal and civil procedure. Is it possible to regulate new technologies though classic legal tools?

Presently, any potential or an actual threat or a dispute involving the users of Internet services is regulated either by the laws that often seem to be rather vague and inconsistent or by self regulatory rules set by Internet service providers (ISPs)¹. Thus, the level of protection of the privacy of the users is often in the hands of the service provider that only might need to comply e.g. with Safe Harbor Principles. The legal issues in cyberspace count cyber security breaches, fraud, stalking, privacy invasion, defamation, sexual crimes victimizing children as well as utilization of personal data and behavioural advertising in forms which represent illicit business practice.

E-commerce is one of the most progressive sectors of the economy. Data from comScore Inc. indicated that this segment recovered much faster from the economic downturn in the United States and continued to grow at an accelerated rate over the last few years². Also in Europe e-Commerce is a very important aspect of the economy. In the UK, the reach of retail web sites was almost 90% in January 2011. As a result, the UK was the leading European country in the category, followed by France and Germany³. 2013 will see continued strong growth in global e-Commerce and even greater growth in mobile Commerce⁴. According to Cisco Systems Inc.'s Economics & Research Practice global e-Commerce, will reach an estimated \$1.4 trillion in 2015⁵. These are only the data illustrating the direct economic influence of the Internet. Continued advancements in technology are improving the services provided on the Internet but at the same time they possess more and more legal threats.

On 25 January 2012 the European Commission presented two legislative proposals concerning the processing of personal data in the EU. One of them is to regulate the processing of personal data in general in the public and private sectors⁶. The proposed regulation is tailored to increase significantly the privacy rights of Internet services users living in Europe. As a result, the growing field of harvesting and trading users' personal data might have its wings clipped very soon. European users will have to give their "explicit" consent before their data can be used.

1. Here meant mailbox providers, search engines providers, hosting ISPs, social networks and other similar companies.

2. Zacks Equity Research, e-Commerce Stock Outlook – Nov. 2012, URL:

<http://www.zacks.com/stock/news/87127/e-commerce-stock-outlook-nov-2012>

3. Report by yStats.com, URL: <http://www.ystats.com/en/home/index.php>

4. Client Dynamics, 2013 B2C eCommerce to continue strong growth, URL: <http://www.clientdx.com/latest-articles/23-2012-ecommerce-strategy>

5. Cisco, Research and economics, URL: <http://www.cisco.com/web/about/ac79/re/re.html>

Legal Regulation of Innovations: General Data Protection Regulation Proposal II

The regulation also took the form of fines of up to 2% of the global annual turnover of a company for severe security events, a 24-hour data breach disclosure rule, a stipulation to make companies with more than 250 employees appoint a data protection officer, to be responsible for compliance with the new rules or controversial "right to be forgotten", allowing people to have data held about them deleted. Companies will also have to report data security breaches "as soon as possible" which should be within 24 hours⁷.

The ambiguity of the definition of personal data⁸ and other terms will represent very interesting questions for lawyers, yet at the same time will make it extremely hard for ISPs to navigate their online activities without risking a hefty fine. Thanks to intense industry lobbying some compromises have already been made, the EU institutions do not seem to be ready to give in. This can be seen as a symbolic step representing the global trend in legislative regulation of the Internet. Thanks to the results of the 2012 US presidential elections, nothing stands in the way of the White House initiative to protect consumer rights on the Internet. FTC is using its powers more than ever before, and the revision of Safe Harbor Principles is expected as well. American privacy laws have been notoriously loose compared to the already strict European framework.

Although the Commission's proposal met with expected criticism, EU is one of the important markets for US ISPs and thus compliance with the new regulation might soon become one of the main priorities of these companies. The global legal trend is to regulate Internet businesses. Apart from the EU and the United States, other countries such as Australia, Canada, Japan and South Korea are stepping towards the regulation of ISPs.

The Commission's data protection proposal has the potential to change the way any business is done on the Internet. As soon as it comes into force, ISPs will have to be ready to comply with very strict rules for data collection, retention and use. Legal regulation may start with sky-high fines imposing a higher level of responsibility on ISPs. However, it might as well soon add special taxation for ISPs profiting from web lining, behavioral advertising, data collection, manipulative architecture and disregard for privacy breaches. Many representatives of the ISPs have already stated that the proposal will put many companies out of business.

The new world of e-Commerce will be a dangerous legal minefield. Those who are ready will survive!

7. For further reading: Christopher Kuner, *The European Commission's Proposed Data Protection Regulation: A Copernican Revolution in European Data Protection Law*, 11 PVLR 215, Bloomberg PNA

8. European Commission: *Why do we need an EU data protection reform? A Commission memo describes personal data as "any information relating to an individual, whether it relates to his or her private, professional or public life. It can be anything from a name, a photo, an email address, bank details, and posts on social networking websites, medical information, or a computer IP address."*



Wintertime in Prague

ACCON AVM'S INTERNATIONAL TASK FORCE



We are pleased to announce that accon■avm has formed a taskforce that considers the development of cross-border services its key mission. An increasing number of our clients is involved in international business, varying from import/export activities to foreign operations of considerable size. When it comes to inbound investments, the Netherlands are traditionally known for having some unique selling points, such as a tax climate that encourages international business and innovation, a well educated population and a good infrastructure. It is our belief that we can only meet our client's demands in continuity if we can assist them pro-actively in the international market place.

Through the IPG website we will provide the IPG network with relevant updates on business, finance, tax and law in the Netherlands. We will be glad to team up with our IPG-partners to intensify existing business and explore the possibilities to create new business. In this respect, we will be more than happy to discuss concrete business cases with IPG firms. We kindly invite all of our IPG-partners to contact members of the taskforce at any time for inquiries of discussion. It is up to all of us to make IPG work!

This taskforce reports directly to our Board of directors and has the following members:



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THE “UGLY” DUCKLING

Although in a somewhat chaotic fashion, I was voted in as member of the board during the Warsaw meeting October 2012. I hereby wish to thank you for this and trusting me to take care of your interests. I also thank Wim Lukaart (Accon AVM, Netherlands) who had this task before me and did a very good job. He promised to assist me behind the scenes. I will continue working hard for IPG, nothing will change as such. What will not change also, is the way I feel IPG should work: IPG as organisation should facilitate the cooperation between the members with the purpose of increasing professionalism, the customer base of the individual members and providing members with the possibility to advertise to their clients that they own or work for a real full service company. Of course, friendship and respect between the members are essential to reach these high objectives. In order to achieve this, it is the board's job to facilitate and to improve communication between the member firms so that each member knows from each other what his skills and USP's are.

Like in personal life, the first impression is vital for a new relationship. To ensure the first impression about IPG is good is also a role the board has towards potential new clients and to potential new members. A proper website is vital here and it is exactly the reason why we spend a lot of time and effort on it. The IPG site is different than an average commercial website because it is not only intended for the clients, but also for potential new members and existing members. On top of that, we need to arrange that visitors do not move away from the website in the first second. How to get this done? I have always learned that you can recognise the true specialist if that specialist is able to identify his own boundaries of professionalism. As a result, the board has drawn this line too and decided to attract a communications specialist to determine how the website should look like. The greenish colour of the draft website came as a “surprise” for some of the members. But apart from practical reasons as to why this colour was chosen (the blue logo is not easy to combine with any colour), we must not forget the main purpose of the website. The main purpose is that visitors stick to the website, that it is ready for the future and most of all that it should work for visitors with any possible age and any possible ethnical or cultural background. That is not easy, but we think that the site will grow out to become a very useful and mature website that will serve these purposes and not only due to its distinct appearance.

All the best in the New Year and a merry Christmas for those members who celebrate it!



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Ps: The development of the website is delayed which is not really unexpected. We will keep you updated about further developments.

The contact details for the Chairman and Secretariat of the group are shown at the bottom of this page, but detailed below is a list of contact details and areas of responsibility for the Management Committee:

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Newsletter distribution

Finally, we would ask that you pass this newsletter on to all members of your firm who could usefully be aware of IPG. If you wish to supply the Secretariat with a general email address which acts as a distribution list for your firm then we would encourage you to do so. This way each firm can keep their internal distribution list up to date and the Secretariat can send newsletters, etc. to the widest possible number of people. If you have any questions please contact Ms. Aylin Redondo.

If you would like to contribute to the newsletter or if you have any comments, please feel free contacting us via the secretariat or via Jens Langendorff (Langendorff@grahamsmith.com)

Disclaimer:

All contributions and announcements of this newsletters are submitted by IPG members. All statements and opinions included in the newsletters announcements are strictly the author(s) or submitter(s) and do not necessarily imply those of IPG. IPG is not responsible for the accuracy or publication permissions of any of the contributions.

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PLEASE MARK
YOUR
CALENDER FOR
THE NEXT
CONFERENCE

BRUSSELS
BELGIUM
EUROPE

FROM
THURSDAY 9
MAY 2013

TO SUNDAY 12
MAY 2013

