

Contribution to the debate on Competition Policy
re: Call for contributions
Shaping competition policy in the era of digitization
<http://ec.europa.eu/competition/scp19>

Freedom of information in the era of digitization

Lack of understanding of essential elements of the Internet strongly impacts the effect of new E.U. regulations. We discuss four such key elements: competition, privacy data warnings, links, and copyleft rules. Some alternate formulations are suggested.

Competition is essential for promoting and maintaining the quality of goods. An historical example of the deterioration of markets is provided by the now defunct command economies of communistic countries, where requirements on products were specified in painful detail, but the essential element of consumer choice was missing. We all know the result.

Let us apply the concept of competition to the digital market for search engines.

Google is by far the most widely-used search service, but its popularity does not limit consumer choice. There are now [more than 14 search engines](#) available to any customer. Customers can select which search engine will be used by default in a particular browser. If a customer is very concerned about being tracked, she can use [DuckGoDuck engine](#) which does not track users at all. Some say it is [better than Google](#). No "expert", no professor of economics, can tell her that one particular engine is better than another for her field and level of complexity. A consumer must be able to test different engines, consider the tracking and storing of personal data in cookies, and choose. Fining search engines for being popular is counterproductive. It actually may limit the competition in the area of publishing information.

Technological advances and current practice allows anyone, not just big corporations, to setup their own website and publish the news. The website owner may sign up with Google for placing ads on this site, and if her 'news' is interesting to the public, the revenue may well offset the cost of operating the site, the web-hosting and domain name fees. In this case, the invention of the Internet expanded the freedom of information in a manner similar to Gutenberg's invention of the printing press.

It is true that this new ease of publishing also lowered the bar and gave rise to "fake news." However, as in the case of printed information, the solution is not governmental censorship of publishers. The competition of ideas will allow the reader, the consumer of the news, to judge the trustworthiness of sources and form an image of the world. Governments should not interfere.

My access to information has already been abridged by the new EU regulation on websites. One example of many: I used to regularly visit, from my home in Europe, the [Los Angeles Times newspaper](#). Now when I try to do so, this is what I get:

Unfortunately, our website is currently unavailable
in most European countries.

We are engaged on the issue and committed to looking at

options that support our full range of digital offerings
to the EU market

....

I really do not care whether the LATimes has my address or other data. I want their news, but a monopoly of power is giving me no choice.

The government can make it so difficult and expensive to publish new information that only oligarchs will choose to run websites.

The present coercion on internet publishers is unnecessary. Regulations should not require websites to "gain permission to use 'cookies.'" The bureaucratic response to the regulation has added a layer of coercion and irritation to the reader's experience. For example, every morning I when visit various news sites, I am forced to keep clicking "YES" or "I understand" or "I do not care," over and over again. Each site formats its forms in its unique way, slowing down the readers' responses. Daily, thousands of clicks waste time. A warning, "we use cookies and store private data" etc. should be enough. Every user knows how to leave a site. It is idiotic to require that he answer whether he wants to stay or not.

The required warning should take at most one line. Individual words such as "cookies", "privacy," etc can be clickable and lead to detailed explanations. The user should be able to choose to ignore the warning, particularly when she has already visited the site and knows what methods the site uses. The explanation does not even have to reside on the same computer server. For example, just one line can state "we use cookies as described in EU guideline XYZ" with a link to a standard guideline page XYZ. There is no justification for forcing websites to send thousands of pages which say the same thing and which few people read.

Unlike print media, the Internet has the ability to form h-references, commonly called links. Links are essential for the internet. They weave a web from million of pages on thousands of topics. In most cases the website operators welcome links to their site because the popularity of their pages, the Google page rank, is determined by an algorithm which is counting links to the site. Links are very useful. What formerly required a trip to the library and a complicated search can today be obtained with a single click. A quote with a reference provides credit and is allowed by today's copyright law.

In addition to using traditional copyright rules, the Internet has developed a new set of a sophisticated and comprehensive rules termed [copyleft](#). These allow web-page content to be widely shared provided that certain conditional are satisfied, conditions such as attribution and 'share alike.' The proposed attack on this community consensus, sometimes called a 'link tax,' would be a crude and idiotic regulation which would eliminate many of the Internet's gifts. The proposed filter, which would compare whether uploaded text is original, would not be able to differentiate between plagerized text and text which is copyleft-ed, and thus shared legally.

The EU regulations applied to the web to-date remind one raging of a bull in an china shop. An extreme example of that is the attack on Free Software. The threatened fine [for developing the Android OS](#) makes as much sense as fining me half of my salary for contributing a couple euros to fight cancer, simply because I did not contribute to the fight against diabetes instead or in addition. Android is popular because it is free. It is a service not just to developers but to the community. We do not want each mobile OS to be widely different, just as we do not

want each car manufacturer have a different design for the placement of the steering wheel and brake pedal.

The absurdity of such arbitrary fines makes me believe that the people dreaming them up do not understand how the Internet works. It is a good beginning to create an expert commission to help them, but this commission must recruit not only economists, but also people from organizations which helped to create and defend the Internet. Key members need to come from such organizations as the [FSF](#) and [EFF](#) etc.

Free Internet and the associated freedom of communication, across the globe, must be free of bureaucratic constraints. It is too precious and important for the future of the mankind to be destroyed by regulatory zeal, no matter how well-meaning.

I am (or was) very enthusiastic about the building of a united Europe, particularly in the important areas [of foreign policy and common defense](#) but now, [like Shakespeare](#) , I am "tired with ...

. . . right perfection wrongfully disgraced,
And strength by limping sway disabled,
And art made tongue-tied by authority,
And folly (doctor-like) controlling skill,
And simple truth miscall'd simplicity

I would rather see the European Union dissolved than have it evolve to support these abuses of power. Save that there is a hope that the EU, [as America did](#), will develop a comprehensive Bill of Rights which would guarantee the freedom to publish untrammelled by overzealous government regulation and without fear of arbitrary fines.