

# IAB EUROPE

## Public Affairs Roundup

### December 2008

Dear IAB Europe colleague,

As the EU's new rules on **e-privacy** continue to be scrutinised by all three of the EU's main institutions IAB Europe's Public Affairs team has been very active on your behalf, meeting and talking to the permanent representatives of the Member States, Commission officials and cabinet members, as well as keeping track of developments in the Parliament in the run up to the all important second reading. Since the political agreement by the Member States on the package on 27<sup>th</sup> November the Commissioner Viviane Reding, Member States' telecoms ministers, EU Council's French Presidency and incoming Czech Presidency, and the Parliament's three rapporteurs will start three-way negotiations on 16<sup>th</sup> December in Strasbourg to pave the way for a successful second reading next year. The crucial question of whether or not IP addresses should be treated as personal data remains a live issue as the Commission ponders whether or not to commit to a formal study as part of the legislative package. Meanwhile a group of data privacy experts as reporting to DG JLS is also looking at IP addresses within the framework of the revision of the Data Protection Directive (95/46).

As well as privacy, our team has been keeping track of a wide range of issues and discussions in Brussels affecting digital advertising and advertisers and we are pleased to send you our round-up from the first couple of weeks of December.

See the latest information we have for you about new proposals for consumer contract terms and conditions affecting online trading and some aspects of advertising. Also included are updates of children protection online and what the upcoming Czech Presidency and the EU Year of Innovation and Creativity have in store for us in 2009.

Also, you might be interested to know that in the **UK self-regulation** seems to be working well in the digital media: according to the first report on internet advertising by the British ads regulator, the Advertising Standards Authority has found that 97% of digital ads complied with the non-broadcast advertising code. No viral, podcast or mobile advertising campaign have committed breaches. Most breaches are to be found in the health and beauty sector. For the report click here: [http://www.asa.org.uk/NR/rdonlyres/5320B056-0BFA-4CDC-A72E-9D34D94D3399/0/DigitalMediaSurvey2008\\_Nov08\\_.pdf](http://www.asa.org.uk/NR/rdonlyres/5320B056-0BFA-4CDC-A72E-9D34D94D3399/0/DigitalMediaSurvey2008_Nov08_.pdf)

Send us your news about developments in self-regulation in your own markets.

Should you have any questions, do not hesitate to contact us: [publicaffairs@iab europe.eu](mailto:publicaffairs@iab europe.eu)

The Public Affairs Team wishes you a very happy Christmas holiday and looks forward to working with you in 2009!

Giovanna Fumagalli

## 1. Consumer Protection high on EU agenda

On 5<sup>th</sup> December, European Consumer Commissioner Meglena Kuneva made a **speech** at the **French Presidency Conference** "What Kind of Protection for **European Consumers?**" entitled: "Proposal for a Directive on Consumer Rights". In her speech, Kuneva discussed the proposal for a Directive on Consumer Rights, and its aims to make consumer protection stronger by providing a single set of consumer rights across Europe, giving the same amount of protection for online and high-street purchases. She stressed the importance of this in boosting consumer confidence, which is especially important given the current financial climate.

The main measures include: Stronger new rules on delivery (with a 30-day limit for delivery and new measures for damage or loss during transit); a ban on hidden charges; a 14-day 'cooling-off' period; prohibition of pre-ticked default boxes; a clampdown on pressure-selling; new definitions to cover all distance-selling contracts; more measures for transparency; the same requirements for online auction sales as for other transactions and the introduction of a black list and a grey list for unfair contract terms.

Ms. Kuneva believes harmonization of regulations across the Member States will increase consistency and coherence in consumer law and lead to better prices, increased competition, legal certainty and increased protection across Europe.

For Kuneva's speech click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/681&format=HTML&aged=0&language=EN&guiLanguage=en>

Three days later, on 8<sup>th</sup> December, Ms. Kuneva introduced the new online information consumer education programme '**DOLCETA**' (Development of online consumer education tools for consumers) to help inform adults and children about their consumer rights. The programme gives clear practical advice on issues such as sales contracts, guarantees, delivery and credit loans. The programme is already in place in other EU languages but will now be available in Bulgaria and Romania.

To see the website for the programme, click here:

[www.dolceta.eu](http://www.dolceta.eu)

## 2. Update on Pharmaceutical Package

With some interesting potential for new revenue streams online, on 10<sup>th</sup> December, following a consultation process with stakeholders, the Commission presented to the Council and the Parliament a **package** of proposals- including for patient information, on the future of the EU single market in pharmaceuticals for human use.

European citizens have become more proactive consumers of healthcare, seeking information about different types of medicines and treatments, especially online. High-quality, objective information in line

with EU legislation will be harmonized across the EU. While the current ban on advertising will remain in place, companies will make information on their prescription-only medicines available to the general public, such as summaries of products characteristics, labelling and package leaflets, information on the environmental impact of the medicine, prices and factual, informative announcements and reference material relating, for example, to pack changes or adverse-reaction warnings.

In order to address issues such as slow down of pharmaceutical innovation, lack of information on medicines, and increasing counterfeit, the Commission tabled a pharmaceutical package:

1. Legislative proposals:

- to fight counterfeiting and illegal distribution of medicines
- to allow citizens to access high-quality information on prescription-only medicines
- to improve patient protection by improving the EU system for the safety monitoring ('pharmacovigilance') of medicines

2. A political communication:

- to improve market access by making pricing/reimbursement procedures more transparent;
- to boost EU pharmaceutical research.
- to intensify cooperation with major international partners and to strengthen cooperation with emerging partners to improve medicines' safety worldwide;

The pharmaceutical proposal is now to be passed onto the Parliament and the Council where it will be voted as part of the co-decision procedure.

For more information:

[http://ec.europa.eu/enterprise/pharmaceuticals/index\\_en.htm](http://ec.europa.eu/enterprise/pharmaceuticals/index_en.htm)

More information on information to patients on prescription-only medicinal products

[http://ec.europa.eu/enterprise/pharmaceuticals/patients/patients\\_en.htm](http://ec.europa.eu/enterprise/pharmaceuticals/patients/patients_en.htm)

Meanwhile a report by the European Commission has claimed that major pharmaceutical companies delay or stop competing medicines from being introduced into the market, leading to taxpayers and patients paying significantly higher prices. At a conference on 28<sup>th</sup> November, Neelie **Kroes** (Competition Commissioner) said that the Commission would not hold back from bringing cases against companies which breach antitrust rules.

However, the EFPI (European Federation of Pharmaceutical Industries and Associations) criticized the report, claiming that it failed to take into account the complexities and regulations of the **industry**, and that it has been misrepresented as being anti-competitive when other reasons are to blame.

### 3. Green Paper on Consumer Collective Redress

On 27<sup>th</sup> November, the Commission adopted a **Green Paper on Consumer Collective Redress**, to bring about a consultation and to stimulate debate on how to better consumer redress in the EU. Currently, only 13 Member States have varying collective redress measures in place, and 37% of consumers in the EU have said they are not confident that public authorities would protect their rights.

The Green Paper aims to reveal what can be done to make consumer redress more accessible and affordable. Amongst possible options are: monitoring the situation without action at the present time; creating a cooperation scheme between the Member States; and creating a combination of binding and/or non-binding measures. It is not to resemble a US-style system of class actions and has the objective of increasing legal certainty and eliminating the benefits of unfair competition. The Green Paper will deal with illegal commercial practices (it will not cover competition law), such as misleading advertising and unfair contract terms. These will be further defined after the consultation. Although the Green Paper will not cover any specific areas, a Commission study revealed that consumers find it harder to obtain redress in areas such as financial services (39%) and telecommunications (12%). The closing date for the public consultation is the 1<sup>st</sup> March 2009, and the Commission will subsequently produce a summary in early 2009.

To see the Green Paper, click here:

[http://ec.europa.eu/consumers/redress\\_cons/greenpaper\\_en.pdf](http://ec.europa.eu/consumers/redress_cons/greenpaper_en.pdf)

#### **4. DG SANCO conference on Behavioural Economics**

On 28<sup>th</sup> November, DG SANCO organised a **conference on Behavioural Economics**, at which Consumer Commissioner Meglena Kuneva gave a speech explaining that consumers do not always act in their own best interests, and questioned whether there is a need for a more interventionist policy. She said that The way consumers behave is crucial to the functioning of the market, therefore, in order to protect consumers it is necessary to understand consumer behaviour and break down the divide between academics and policy-makers.

According to Monique Goyens (General Director, BEUC), Consumer policies should take account of the special needs of vulnerable consumers, and they should be designed so as to have impact, otherwise it is useless.

The purpose of the conference was to inform the Commission on all areas seeking to shape and improve consumer choices. In the conclusions, Robert Madelin, Director General of DG SANCO invited guests to think about research proposals and will also invite people to consider being part of a virtual network to carry on the work which is highly important for consumer protection

The conference was attended by policymakers from the Member States, academics, consumer associations and stakeholders.

Questions and Answers on Behavioural Economics:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/748&format=HTML&aged=0&language=EN&guiLanguage=en>

For more information visit:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1836&format=HTML&aged=0&language=EN&guiLanguage=en>

For Commissioner Kuneva opening speech click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/660&type=HTML&aged=0&language=EN&guiLanguage=en>

## 5. Latest developments on protection of minors online

On the 9<sup>th</sup> December, the ‘**Safer Internet Programme**’ was adopted by the Council of Ministers. With a budget of €55 million and extending from (1<sup>st</sup> January) 2009-2013, it aims to protect children from dangers such as grooming and bullying on the net and to improve the security of online software and mobile technology. It will include co-funded projects to increase public awareness, to provide a network (in the form of a phone line or website) to report illegal or abusive content or practices, to implement a knowledge base and to encourage self-regulatory initiatives, allowing children to participate in the process.

A recent **Eurobarometer survey** revealed that 75% of children from 6 to 17 in the EU use the net, whilst 60% of parents were concerned about their children being exposed to online grooming, and 54% about their child being subject to cyber-bullying.

To visit the Safer Internet Programme website, click here:

[http://ec.europa.eu/information\\_society/activities/sip/programme/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/programme/index_en.htm)

For more information visit: <http://register.consilium.europa.eu/pdf/en/08/st03/st03700.en08.pdf>

On 2<sup>nd</sup> December, the day before the **UN Internet Governance Forum (IGF)** in Hyderabad, India, Deputy Secretary General of the Council of Europe (CoE), Maud de Boer-Buquicchio, expressed extreme regret for the victims of the attacks in Mumbai and for the CoE’s subsequent inability to attend the event. He stressed the CoE’s strong support for the IGF and revealed plans for another European Dialogue on Internet Governance before the next IGF meeting.

Mr de Boer-Buquicchio also mentioned other work being done by the CoE such as the Cybercrime Convention and the Conventions on data protection and the protection of children on the net. He emphasized their focus on both minimizing risk but also maximizing the potential of the internet and the important role it plays in the economy, society and cultural development. He labelled the IGF as “a catalyst for a multi-stakeholder dialogue on Internet Governance”.

The **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** constitutes a valuable tool for preventing and combating all violations of children's fundamental rights. On 15<sup>th</sup>-16<sup>th</sup> December, a conference to support the ratification process will take place in Warsaw. Between 10% and 20% of European children suffer sexual violence in the course of their childhood – this risk is even greater due to the spread of new technologies.

To see the full statement, click here:

<https://wcd.coe.int/ViewDoc.jsp?id=1380657&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>

For further information, see [www.coe.int/childprotection](http://www.coe.int/childprotection).

## 6. ICT as important tools in education and media literacy

According to a **report** adopted by the European **Commission**, ICT (Information and Communication Technologies) require reform and a stronger presence in education in Europe to keep them in line with technological change in society. This echoes a Recommendation issued in December 2006 by the European Parliament and Council of Ministers which highlighted the need for confident and critical use of information society technology for communication, leisure and work purposes. With the digital divide, it is essential to take an inclusive and open stance. In light of this, the Commission wishes Member States to make full use of information technology in education and to develop pedagogical, organizational and technological innovation, through innovative approaches to learning and developing standards for assessment and quality.

On 27<sup>th</sup> November, the **Council** adopted its Conclusions on future networks and the internet. The Council invites the Commission, Member States and all stakeholders to guarantee all citizens sufficient access to the information society; to develop technologies that improve security and privacy on a network basis.

To see the Commission Staff Working Document, click here:

<http://ec.europa.eu/education/lifelong-learning-programme/doc/sec2629.pdf>

To read the Council Conclusions click here:

[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/trans/104362.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/trans/104362.pdf)

A survey by **Eurostat** (the Statistical Office of the European Communities) on the **use of ICT** in the EU Member States in 2008 has revealed that 60% of households had internet access in the first quarter of 2008, whilst 48% had broadband internet, showing an increase from 2007 (54% and 42% respectively). Despite this, homes with internet access varied between 25% in Bulgaria and 86% in the Netherlands. About 30% of people had used internet banking and a quarter had read online news or bought goods or services online.

To see the full table of results, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/08/169&type=HTML&aged=0&language=EN&guiLanguage=en>

Another study by **Eurostat** on '**Internet use by educational attainment**' has revealed that the percentage of EU citizens who use the internet at least once a week has risen from 36% in 2004, to 56% in 2008. Despite this, it showed that only a third of the lower-educated accessed the internet in 2008, as opposed to the higher-educated, for which it was over four-fifths. If this gap remains it will lead to further exclusion for the lower-educated.

To see the study, click here:

<http://www.cedefop.europa.eu/index.asp?section=3&sub=6&read=4017>

On 2<sup>nd</sup> December, Margot **Wallström** (Vice-President of the European Commission) made a speech at the 'Seminar on Online and Multimedia Communication': "Europe online: new media for a new age", in which she highlighted the importance of the internet as a platform not only for the EU and its members to promote its own ideas and arguments, but also for citizens to become more directly involved in the EU, to be able to communicate directly with MEPs and ministers via blogs and to have their say in how the EU works. She stressed the need for citizens to have access to EU news and documents and to raise awareness, especially in the face of the upcoming elections, by using the internet in an innovative and

interactive way as demonstrated by Obama in the recent US elections.

For Wallstrom's speech, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/671&type=HTML&aged=0&language=EN&guiLanguage=en>

## **7. Council of Ministers' strategy to fight cybercrime**

On 27<sup>th</sup> November, the European **Council's** strategy to strengthen **measures against cybercrime** was adopted by the Council of Ministers. It includes proposals for cyber patrols, joint cross-border investigation teams and remote searches for the next five years and seeks to encourage cooperation between police and the private sector by improved information exchange. It also wants to create an alert platform in the near future to report cybercrime, for which 300,000 euro is set to be allocated to Europol.

For more information visit:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1827&type=HTML&aged=0&language=EN&guiLanguage=en>

For Jacques Barrot's website click here:

[http://ec.europa.eu/commission\\_barroso/barrot/welcome/default\\_en.htm](http://ec.europa.eu/commission_barroso/barrot/welcome/default_en.htm)

At the beginning of December, a 3-day annual conference on cybercrime was held at the **Europol** headquarters in The Hague. EU Member States, delegations from other countries, from the European Commission, Eurojust, and Interpol, and the private sector, attended the meeting. For more information visit: <http://www.europol.europa.eu/index.asp?page=news&news=pr081208.htm>

## **8. European Commission on fair competition**

On 3<sup>rd</sup> December, the **Commission** published a guidance paper detailing its enforcement priorities in implementing the EC Treaty rules on Article 82: abuse of a dominant market position to abusive exclusionary conduct by dominant undertakings. This abuse would result in blocking competitors from expanding or entering the market, thus possibly decreasing consumers' access to greater choice, more affordable prices and more innovative goods or services.

The document gives advice to stakeholders on the effects-based method used by the Commission and reveals the framework used for assessment of exclusionary practices, for example exclusive dealing, bundling, rebates, margin squeeze and refusal to supply. The principle aims of the paper are to obtain fair and undistorted **competition** and to protect consumers and not individual competitors. The Commission will work on the basis of convincing evidence that harm is likely and will look at justification of pricing conduct and efficiency by dominant competitors.

To see the guidance paper, click here:

<http://ec.europa.eu/competition/antitrust/art82/index.html>.

## **9. Czech Presidency - priorities for EU Presidency**

On 1<sup>st</sup> December the British Chamber of Commerce organized a business lunch with Ambassador Milena Vicenova, Permanent Representative of the Czech Republic to the EU, at which she presented the 3 main priority areas for the Czech Presidency, which begins 1<sup>st</sup> January 2009. They are **Economy** (they will fully support the 'European Economic Recovery Package' put forward by the Commission but stressed that they do not want a return to protectionism and excessive state regulation; efforts will be made to increase the competitiveness of the EU and forward the Lisbon Agenda; Labour mobility was another key area), **Energy** (climate change and energy package will be extremely important for the bloc's overall energy policy) and **External Relations** (accelerating the Enlargement process towards the Western Balkans and giving support to Croatia and the FYROM in their move towards EU membership; establishing positive relations with the new Obama administration).

For the Czech Presidency website click here: <http://www.eu2009.cz/en/index.html>

## **10. Innovation and Creativity 2009**

On 5<sup>th</sup> December, the European Commission introduced the communication campaign for the European Year of Creativity and Innovation (**EYCI**). EU Commissioner for Culture and Education Jan Figel stated that the year aimed to make EU citizens "understand better that by promoting human talents and the human capacity to innovate" Europe could "fully develop its potential, both economically and socially", and to remove obstacles to innovation such as excessive bureaucracy.

Throughout the year there will be promotion campaigns and events on EU, national and local levels, and a website which will provide news, reports, messages and updates on events and activities. Several high-profile EU members have been invited to become ambassadors to promote the EYCI, and there will be six public debates in Brussels throughout the course of the year to stimulate debate and discussion on policy in all areas, including themes of cultural diversity, the creative arts and industries, education, the knowledge society and the public sector. The official inauguration will be held in Prague on the 7<sup>th</sup> January.

To visit the European Year of Innovation and Creativity website, click here:  
<http://www.create2009.europa.eu>