



Limited Liability for the Net? The Future of Europe's E-Commerce Directive

When the Internet went mainstream, Europe's E-Commerce Directive created the basic legal framework for online services, setting clear limits on liability for digital platforms. Platforms weren't held responsible for any illegal material posted. They were responsible only for bringing down illegal material when informed. This limited liability allowed the Internet to boom.

But today, a decade and a half after its implementation, the E-Commerce exception is under attack. The Internet has grown up and plays a crucial role in our economy and society and a consensus is emerging that digital exceptionalism must end. Governments, courts and public opinion are demanding that internet firms police and prevent illegal material from being posted on their platforms. Copyright rights holders believe the Internet feeds piracy and clamor for a crackdown. Police and intelligence services think the Net feeds extremist terrorism and want access to data from suspects.

Little by little, European Union officials are responding by looking at overhauling or at least chipping away at this key piece of legislation. So far, however, proposals seem to come in sneak in through the back door: for example, in obscure articles in new proposed copyright and audiovisual directives would de facto undermine the E-Commerce liability protection.

Rather than a camouflaged discussion, we brought together leading academics, European Union officials, civil society activists, Internet company practitioners, and rights holder to look at both the cause of discontent over the present state of the E-Commerce directive and the prospects for reform that would be acceptable to all.

PANELISTS

Joris van Hoboken, Senior Researcher, University of Amsterdam

Mr. van Hoboken researches and studies law and policy in the field of digital media, electronic communications and the internet. He is co-author of one of the major studies on the impact and enforcement of the E-Commerce Directive, the 2015 [IVIR report](#) on online intermediaries. His current research includes an investigation of privacy in smartphone ecosystems, together with MIT, as well as work on the right to be forgotten and encryption policy.

Since 2007, Joris has served on the Board of Directors of the Dutch digital rights organization Bits of Freedom. He is an affiliate scholar at the Center for Internet & Society at Stanford Law School and the Interdisciplinary Research Group on Law Science Technology & Society at Vrije Universiteit Brussels.

Samuel Laurinkari - Public Policy Senior Manager, eBay

Samuel Laurinkari is Senior Manager of EU Government Relations, eBay Inc., heads up eBay's work on EU policies impacting eBay and its users, such as e-Commerce legislation, online platform policy, consumer policy, competition policy, and cross-border trade policy.

Prior to joining eBay, Samuel worked in government relations for LVMH Moët Hennessy Louis Vuitton and as a consultant for FTI Consulting.

Samuel grew up in Finland and Germany and studied European law at Maastricht University in the Netherlands.

Irene Roche-Laguna, DG-Connect, European Commission

Irene Roche Laguna worked as an Assistant Professor of European and Constitutional Law at the University of Valencia (Spain) before joining the European Court of Justice in 2002 and the European Commission in 2004. She has worked in the areas of State Aid, online and postal services and on the coordination of Single Market Governance issues in DG MARKT. Irene Roche now is a Team Leader on intermediary liability issues, in the Unit dealing with the Digital Single Market in general and the E-commerce Directive in particular, in DG CONNECT.

PANEL TWO: POTENTIAL REFORM: BALANCING RESPONSIBILITY AND RIGHTS

Peter Spoor, European Council: Peter Spoor is a British diplomat currently seconded to the office of the EU Counter-Terrorism Coordinator as a national expert.

He has previously served in Thailand, Spain and Turkey. Between 2011-2015, he worked as a Political Counsellor at the British Embassy in Ankara where he led on the counter-terrorism dossier.

Jens-Henrik Jeppesen, Director, Centre for Democracy and Technology, Brussels

For the past 15 years, Jens has been engaged in European and international public policy, focusing on digital economy and technology policy. He began his European affairs career as a trainee at the US Desk of the European Commission's Directorate General for trade and external affairs.

The Center for Democracy & Technology works to preserve the user-controlled nature of the Internet and champion freedom of expression. It support laws, corporate policies, and technology tools that protect the privacy of Internet users, and advocate for stronger legal controls on government surveillance.

Pierre Dagard, EU & Public Affairs Manager, European Media Magazine Association

Since June 2014, Pierre Dagard is EU & Public Affairs Manager for EMMA (European Magazine Media Association) which represents the interests of about 15 000 magazine publishers from across Europe. Prior to joining EMMA, he worked for a while in the European Parliament where he followed in particular the discussions relating to the GDPR.

Pierre grew up in France and studied EU Law & Policies at Sciences Po Bordeaux (France) and holds a LLM degree in European Law from the Institute of European Studies (Brussels).

PROPOSED AGENDA

10:30 Bill Echikson welcomes the first three panelists and gives a seven minute introduction, explaining:

- The plan for event two panels, a few presentations, and hopefully a vigorous debate. Our ultimate objective is to find a few ideas for reform that would be acceptable to all sides.
- Why look at the E-Commerce directive today?

10:35 Joris van Hoboken presents a history of the E-Commerce Directive.

10:50 Samuel Laurinkari outlines the present backdoor attempts that he believes could undermine the e-Commerce directive. He summarizes the attitude of Internet platforms towards change.

11:00 Irene Roche-Laguna presents the view from the European Commission

11:10 Question and Answers With Audience

11:30 Coffee Break

11:40 Second Panel takes the stage.

11:40 Pierre Dagard speaks about the publishers' potential solutions to recreate a balanced framework for authors, rightholders and media intermediaries.

11:50 Peter Spoor explains how the EU has signed an MOU with Internet platforms to counter extremism propaganda and hate and counter terrorism. He will also talk about the content removal through the Internet Referral Unit at Europol.

12:00: Jens-Hendrik Jeppesen gives the civil society take. Do MOU's really protect fundamental rights?

12:10 Final Question and Answer Session

12:30 Lunch