

BEYOND BREXIT

A BRIEFING ON EUROPE'S DIGITAL AGENDA



OPEN RIGHTS GROUP BRIEF

The European Parliamentary term of 2019-2024 will be critical for shaping the European digital agenda. Whatever happens next with Brexit, decisions made by the EU about technology, the Internet and Artificial Intelligence will affect the UK for years to come. The MEP candidates that we elect to serve as our democratic representatives on May 23rd will be sent to Brussels with full power and ability to participate in the European legislative agenda. Participation in the 2019 European elections gives British people a genuine opportunity to be part of the change-making process.

FOR DIGITAL RIGHTS, THIS ELECTION MATTERS.

This briefing provides a brief rundown of the key pieces of legislation and policy that UK MEPs may have to grapple with and explains how these could apply to or affect the UK beyond Brexit.

Privacy

e-Privacy Regulation

The e-Privacy Regulation aims to complement the 2018 General Data Protection Regulation (GDPR). In theory, the two sets of rules will work together to provide a comprehensive, unified data protection regime for the whole of Europe.

Legislative progress on the Regulation has been rocky. It covers some of the most hotly contested areas in modern privacy and the digital economy, including online advertising, marketing and cookies, confidentiality of online communications (e.g. preventing EU telecoms companies from selling browsing histories) and the privacy of smartphones and other devices/apps. As such, it has been subjected to an unprecedented level of lobbying by businesses concerned about consumers being given more power to control their data. This pressure has at times threatened to derail the entire process.

As the Regulation continues to progress through the legislative stages, MEPs will be critical to its completion and success.

Free Expression

Terrorist Content Regulation

The Terrorist Content Regulation aims to combat online dissemination of terrorist content. It defines what "terrorist content" is and sets out what take-down processes should look like (requirements include one-hour takedowns and filters preventing re-upload). Doubts have been expressed over the Regulation's necessity and the potential for its negative impact on journalists, human rights defenders and societal groups at particular risk of racism.

MEPs have already played a key role in shaping this Regulation by inserting safeguards that protect fundamental rights against overbroad and disproportionate censorship measures. They can continue in the next parliamentary term to help challenge some of the more problematic elements in the text. The next step in the legislative process is expected to begin in September/October 2019.

Review of the e-Commerce Directive

When the e-Commerce Directive was implemented in 2000, the Internet looked very different. Technological advances and legislative changes have increasingly challenged the Directive's provisions on platform immunity, notice-and-takedown procedures and protection against general monitoring. A formal review of its scope and content is expected to take place in the next Parliamentary term.

MEPs will have a critical role to play in this review. They could even opt to draft new legislation regulating how the Internet operates. The UK is currently considering at national level if and how to address Online Harms and regulate Internet companies, leading in a direction that would pose conflict with e-Commerce and tempt its watering-down, so whether in or out of the EU British politicians are likely to have a significant voice in the e-Commerce review process.

Technological Advancements

Net Neutrality and 5G Telecoms Infrastructure

The principle of net neutrality ensures that Internet users are able to access online content equally, without providers discriminating against particular services or websites. Guidelines issued by the Body of European Regulators for Electronic Communications (BEREC) to assist in national implementation of EU net neutrality law are due to be reviewed in late 2019.

This review will be heavily tied up with the roll-out of 5G infrastructure. 5G gives telecoms providers far more control over allowing Internet users preferential treatment and its development is already calling into question net neutrality protections worldwide. If European institutions follow the push of the telecom industry and water down net neutrality rules to allow a two-tiered internet system built on a sliced-up 5G network, this could have serious ripple effects. MEP pushback against this outcome is vital.

Artificial Intelligence and Internet of Things

Artificial Intelligence (AI) is an area of strategic importance for the EU. The European Commission is currently developing a set of ethics guidelines for AI use and development, and mobilising funding for future research and investment.

In the coming years, the combination of AI with 5G and the Internet of Things will transform entire industries. MEPs have a vital role to play in ensuring that EU laws keep pace with technology, and that the EU institutions as a whole develop a policy environment which supports AI to flourish. MEPs can also act as a crucial oversight and brake on the use of AI in rights-undermining ways e.g. citizen scoring systems, facial-recognition deployment and lethal autonomous weapons systems.

Open Rights Group (ORG) is the UK's only grassroots campaigning organisation that works to protect your digital rights.

We believe people have the right to control their technology, and oppose the use of technology to control people.

We raise awareness of threats to privacy and free speech and challenge them through public campaigns, legal actions, policy interventions and tech projects.

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