Current IT-regulatory issues in Denmark

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26 May 2016

IT-Political Association

- Founded in 2002

- Volunteer organisation with about 250 members

- Board with 7 members (I am chairman)

- Main objective: Promote privacy and freedom in the information society

  - Consultation responses to legislation

  - Media contact, especially privacy and surveillance

  - Some activism work (Polippix privacy CD in 2007)

- Member of European Digital Rights (EDRi)

Internet-related issues that IT-Pol is currently working on

- Mandatory data retention for Internet Service Providers in Denmark and Europe

- Website blocking and online censorship

- Demands from intellectual property holders that ISPs stop online infringements by their users, often through self-regulatory schemes

- Net neutrality (new EU regulation), as part of EDRi's work in this area

Telecom data retention

- EU Data Retention Directive in 2006
- Declared invalid (privacy) in 2014 by CJEU
- National legislation still exists in most of EU
- Main focus has been telephone communication
    - Call detail records (incoming and outgoing calls)
    - Location information from mobile towers
- Governments worry: what will happen if criminals start using the internet?

Internet data retention

- Many communication services ("over the top"), some outside reach of DK/EU law

- Internet connection records (session logging)
  - Used in Denmark between 2007 and 2014
  - Current proposals in DK and UK (IP Bill)
  - Basic idea: the ISP must retain metadata about all internet packets sent/received through its network
  - Could be source/dest IP addresses and port numbers
  - Police can get information about communication services used by a person, and maybe the "call" recipient via the IP-address (peer-to-peer services)

ICRs like an itemised phone bill?

- The internet is not a telephone system

- Many reasons why ICRs are not good substitutes for call detail records

- Danish experience 2007-2014

  - Turned out to be completely useless for police investigations (only a couple of minor cases)

  - Needle-in-the-haystack problems (info overload)

  - Repealed in 2014, with "option" to improve system

- How can politicians get better advice from the technical internet community? To avoid this..

Website blocking in Denmark

- Content that can **currently** by blocked in Denmark
  - Child pornography (voluntary scheme, 2005)
  - Copyright infringements (2006)
  - Unregistered ("illegal") gambling sites (2012)
- Technical method: DNS blocking (spoofing)
- Next up? Terrorist and radicalised content (2016?)
- IT-Pol objections to this since 2005
  - Slippery slope for more and more blocking
  - Citizens' fundamental rights and proportionality are not properly assessed, even when courts are involved

Voluntary blocking can facilitate court-ordered blocking

- Court case for injunction against AllOfMP3 in 2006

- The court ruled for the injunction. Translated excerpt:

  - *The method, which pertains to blocking at the DNS level,* ***corresponds to a large extent to the method which most internet service providers use to block child pornography.*** *Therefore, it has not been established before the court that it is technically impossible to implement the injunction.* ***Blocking at the DNS level may furthermore be assumed to be implementable without noticeable cost or administrative trouble*** *for Tele2.*

- Maybe different proportionality assessment if ISPs had not "agreed" to voluntary blocking in 2005?

Further reading

- Written evidence to UK Parliament on internet connection records (ICR) in Investigatory Powers Bill (SciTech Cmte, Joint Committee, Public Bill Cmte)

- EDRi-gram articles

  - Danish government postpones plans to re-introduce session logging (23 Mar 2016, link)

  - Danish government plans to re-introduce session logging (14 Jan 2015, link)

  - Ex parte domain name seizures in Denmark (08 Oct 2014, link)

  - Danish court orders a UK company to block Danish IP addresses (03 Dec 2014, link)

  - Danish Ministry of Culture: Danes should be regulated by Google (03 Jun 2015, link)