Geneva Internet Platform

DigitalWatch
N E W S L E T T E R

DIGITAL POLICY TRENDS IN JULY & AUGUST

1. The summer of artificial intelligence

It was undoubtedly the summer of artificial intelligence (AI), as developments in the field of AI and robotics picked up pace worldwide.

Countries are elaborating national AI development strategies, as well as addressing the economic, social, and ethical implications of AI advancements.

China, for example, has just announced its AI development plan, aimed at making the country the world leader in AI by 2030. In Germany, the federal government has adopted an action plan for the implementation of a set of ethics guidelines for the development of autonomous vehicles, which rely heavily on AI.

During the summer, warnings about the impact of AI on society gained momentum. Tesla CEO Elon Musk warned that AI 'is a fundamental existential risk for human civilisation', and called for precautionary and proactive government intervention. Musk was also among representatives of over 100 AI and robotics companies expressing concerns over developments in the field of autonomous weapons.

On a more optimistic note, millennials – according to a survey conducted by the World Economic Forum – believe that technologies (including AI and and robotics) are creating jobs instead of destroying them.

This busy summer brought in sharper focus ethical, legal and policy aspects of developments of AI. Read a detailed summary in *A Summer Diary of Artificial Intelligence*, published in HuffPost.

2. Extremist content remains cause for concern

The spread of extremist content has remained a cause for concern for both governments and the Internet industry. Recent attacks, often committed by radicalised individuals or local cells, continue to draw attention to terrorists' ability to use the Internet for recruitment and the spread of extremist content.

The High-Level Political Forum on Sustainable Development (HLPF) held in New York in June, discussed the role of digital technologies in achieving sustainable development. DiploFoundation's analysis of four years of HLPF reports shows that data is becoming an increasingly central element. *More on page 4.*
Credit: UN.org

IN THIS ISSUE

TRENDS

We start off with the main trends, including the fast-paced developments in the world of AI which dominated the summer months.

LAW

The right to be forgotten has been challenged again in Europe, while China has opened a cyber court. Read our analysis.

THE BIG 5

The five leading Internet companies have amassed billions in revenue. Just how big can they get, and what are the concerns?

TOOLS

We introduce a new tool (DeadlineR) and a new resource (the IG Timeline) from the *GIP Digital Watch* observatory

DigitalWatch NEWSLETTER

GENEVA DIGITAL DEVELOPMENTS

Fifth Conference of the Regulating for Decent Work Network

The conference was organised by the International Labour Office (ILO) and academic institutes from around the world on 3–5 July in Geneva. It brought together academics and practitioners specialising in the governance of work, with a focus on practical solutions and regulatory responses to current issues, such as zero-hour contracts or workers' rights in the sharing economy. Two hundred papers were presented over three days, alongside special sessions and plenaries on the care economy (including health and childcare services), the universal basic income, and the complex future for labour regulation. Panels addressed digitalisation challenges and transformations brought about by the gig economy (characterised by temporary contracts). The GIP study on *Uberisation demystified: examining legal and regulatory responses worldwide* was presented at the conference.

Aid for Trade Global Review 2017

The 11–13 July *Promoting Trade, Inclusiveness and Connectivity for Sustainable Development* event discussed the significance and future of Aid for Trade. A number of sessions addressed digital trade, including the need for quality Internet infrastructure (Clicks Need Bricks) and other physical networks that form the basis of digital connectivity, as well as the related importance of bridging the digital divide. The conference also reviewed new trends in the digital economy, the need for international rules and standards, and the development potential of e-commerce in different regions in the world.

Launch of the Global Commission on the Future of Work

On 21 August, the ILO announced the establishment of the Global Commission on the Future of Work (GCFW). The high-level body is composed of 28 members and its work is organised around the four topics of the ILO's Future of Work Centenary Initiative: (1) work and society, (2) decent jobs for all, (3) the organisation of work and production, and (4) the governance of work. At the Geneva launch, attended by the Prime Minister of Sweden and the President of Mauritius (chairpersons of the GCFW), a strong focus was placed on digitalisation, emerging technologies, and the gig economy. The Commission is expected to produce an independent report to be submitted to the 2019 ILO Centenary Conference.

ITU Workshop on Security Aspects of Intelligent Transport System

The workshop, organised by the International Telecommunication Union (ITU) on 28 August, was dedicated to exploring concerns and solutions related to the implementation of secure intelligent transport systems (ITS). The workshop offered participants an opportunity to discuss ways in which ITU technical expertise can be used to address ITS security requirements from vehicle manufacturers, suppliers, and service providers. Other topics tackled during the event included threats and vulnerabilities in ITS services and networks; modalities for securing the ITS environment against such threats; and current and future ITS standardisation efforts, including in the field of security.

STARTING SOON: DIGITAL COMMERCE ONLINE COURSE

A new edition of the Digital Commerce online course will start on 25 September 2017. The course is offered by CUTS International and DiploFoundation, in partnership with the Geneva Internet Platform, the International Trade Center, and the United Nations Conference on Trade and Development.

The course will assist stakeholders from developing and least developed countries to increase their knowledge and capacity to engage in digital-commerce-related negotiations and discussions. The development and delivery of the course are supported by the UK Foreign & Commonwealth Office.

Topics to be covered throughout the course include Internet functionality and online business models; regional trade agreements; international trade negotiations; and digital policy issues such as data localisation, cybersecurity, and the implications of the Internet of Things (IoT) and 3D printing for digital commerce.

Visit the course webpage to learn more and apply. The application deadline is 7 September 2017.

This icon indicates that there is more background material in the digital version. Alternatively, visit **http://dig.watch** for more in-depth information.

DIGITAL POLICY TRENDS IN JULY & AUGUST

Content filtering and freedom of speech came into the limelight after some Internet companies decided to block access to the online content of white supremacist organisations, following the Charlottesville confrontations.   *Credit: RT.com*

One of governments' main concerns is that the Internet industry may not be doing enough. Concerned over the industry's inability to block such content before it gets online, the British Home Secretary emphasised that such content 'should never be there at all'.

The Internet industry, however, claims that it has been up in arms against the spread of extremist content. In a bid to cope with the challenge of filtering the sheer amount of content that is being generated, the industry has developed new strategies. The Global Internet Forum to Counter Terrorism, inaugurated in August, is one such initiative.

Content filtering and freedom of speech also came into the limelight after the Charlottesville confrontations when some Internet companies decided to block access to the online content of white supremacist organisations. Freedom of speech activists argue against such power to censor being in the hands of the Internet industry, as it could be applied arbitrarily.

Content filtering, the spread of extremist content, and freedom of expression are likely to remain high on digital policy agendas worldwide.

3. Countries ban VPNs

Russia and China have banned the use of virtual private networks (VPNs) – software that allows users to circumvent censorship and access banned content.

Russian users will no longer be able to use VPNs starting 1 November, after the government passed an amendment that will affect tools such as Tor, I2P, and Freenet, and will oblige Internet providers to block websites hosting these tools.

In China, telecommunications companies have reportedly been asked to block access to VPNs by February 2018.

The ban on VPNs is criticised by human rights group as a way to suppress dissent. VPNs are commonly used to bypass censorship, and are typically used in countries with content control policies in place, using filtering to prevent access to international media content.

4. Uber suspended in more countries

Ride-sharing company Uber was temporarily suspended in the Philippines, and in Macau. Although the suspension in the Philippines was lifted after the company paid almost $10 million in penalties, the number of countries suspending Uber's operations continues to grow.

The company has often argued that it is an information society company; as such, it would not require licences, unlike taxi services, and its drivers are considered independent contractors.

The Court of Justice of the European Union (CJEU) is expected to decide on the status of the company and its drivers. Meanwhile, the Advocate General has issued a second non-binding opinion in which he classifies Uber as a transportation company. The opinion, reiterates an argument made in May 2017, stating that the nature of Uber's business model is more related to transportation services than to the information society. If the CJEU confirms this classification, it will be major setback for Uber, requiring the company to follow all safety, labour, and other rules applicable to taxi and other transportation companies.

5. Back taxes to be paid? Not this time.

Governments have been exerting pressure on Internet companies to pay their fair share of taxes and back taxes. Taking advantage of unclear rulings and tax deals, companies have been amassing their revenues.

Last month's court judgment, however, presented a win for Google after a French court ruled the company was not liable for back taxes in France. Google booked its advertising contracts to be displayed in France through its subsidiary in Ireland. According to the court, the tax bill could not be justified, as Google did not have a 'permanent establishment' or 'sufficient taxable presence' in France.

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DIGITAL POLICY: DEVELOPMENTS IN JULY & AUGUST

Global IG architecture

increasing relevance

During a speech following the G20 summit, Australian Prime Minister Malcolm Turnbull urged Internet companies to act more quickly against online extremism and to solve the 'problem' of encrypted content. Britain's Home Secretary Amber Rudd has reiterated a call for Internet companies to take 'real action' in the fight against extremist content.

Messaging platform Telegram has agreed to remove extremist content from its application, after Indonesian authorities ordered Internet service providers (ISPs) to block access to domain names used by Telegram.

Sustainable development

increasing relevance

The High-Level Political Forum on Sustainable Development (HLPF), held on 10–19 July in New York, discussed the role of digital technologies in achieving sustainable development.

An analysis of four years of HLPF reports, conducted by DiploFoundation, shows that data is becoming an increasingly central element in discussions around sustainable development. The sustainable development goals' (SDGs') aim of leaving no one behind has put pressure on the collection and analysis of extensive amounts of disaggregated data. In order for all countries to be able to comply with this need, capacity building and international harmonisation are crucial.

Security

same relevance

US Secretary of State Rex Tillerson is said to be planning to close the Office of the Coordinator for Cyber Issues within the State Department, a move that is criticised by US experts as weakening the USA's leadership position in global negotiations on cyberspace. Ambassador Christopher Painter, who had served as coordinator for cyber issues since 2011, left the position at the end of July. President Trump issued a decision elevating the US Cyber Command to the status of Unified Combatant Command, making it a stand-alone operational arm of the US army, equal to those overseeing military operations in the Middle East, Europe, and the Pacific.

E-commerce & Internet economy

increasing relevance

The Advocate General of the CJEU has issued a second non-binding opinion in which he classifies Uber as a transportation company, reiterating the argument made in May 2017.

The Commission for Conciliation, Mediation and Arbitration in South Africa ruled that Uber drivers are subject to Uber's control (through standards and performance requirements that the company sets), and, as such, are employees.

Uber has temporarily suspended its operations in Macau. In the Philippines, the Land Transportation Franchising and Regulatory Board suspended the accreditation and operation of Uber for one month. The suspension was lifted after the company paid almost $10 million in penalties.

Finance ministers of France and Germany are joining forces to tackle questions about taxing the sharing economy, and have submitted a joint proposal in this regard to the European Commission, to be discussed at a meeting in September. A court in Paris has ruled that Google is not liable for tax in France, after the French authorities demanded that Google pay back €1.1 billion in taxes. According to the court, the authorities' bill could not be justified, as Google did not have a 'permanent establishment' or 'sufficient taxable presence' in France.

Facebook announced that its consumer-to-consumer (C2C) e-commerce platform, Marketplace, would be launched in 17 countries in Europe.

In what some describe as the world's first indirect tax on robots, South Korea has announced the reduction of tax-deduction benefits for investments in automation (previously introduced to encourage productivity).

Digital rights

increasing relevance

The Supreme Court of India has ruled that the right to privacy is a fundamental right, in a judgment that comes in the context of the Indian government seeking to roll out a biometric database (Aadhaar) linking personal details with iris scans and fingerprints.

China has established new regulations for the auditing of online content – including movies, dramas, documentaries, and animations – to ensure that they adhere to 'core socialist values', as part of a new campaign to control social discourse online.

Continuing the strong debate about the right to be forgotten (often termed delisting), France has referred the CNIL (the French data protection authority) vs Google (Alphabet) case to the CJEU to decide on the territorial scope of the right to be forgotten, i.e., whether Google has to remove web search results globally.

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Jurisdiction & legal issues

same relevance

An Internet Court has been opened in China to deal specifically with Internet-related cases; it conducts its proceedings using digital tools.

In a dispute that started in 2012 as part of a cybersquatting case, the US Supreme Court is now asked to invalidate the Google trademark. The petition argued that 'there is no single word other than google that conveys the action of searching the Internet using any search engine'.

Infrastructure

increasing relevance

Russia passed an amendment banning VPNs and proxy services that allow users to access blocked websites. In China, telecommunications companies have been ordered to block access to private VPNs by February 2018. Somalia has undergone an Internet outage caused by damage to an undersea fibre-optic cable. Google will roll out free wi-fi hotspots across hundreds of venues in Indonesia, as part of the Google station programme.

ICANN's new Empowered Community exercised its power for the first time by approving a change to ICANN's fundamental bylaws. An Independent Review Panel has recommended that the ICANN Board re-evaluates Amazon's application for .amazon. Internet Protocol version 6 (IPv6) became a full Internet Standard.

Net neutrality

same relevance

On 12 July, major Internet companies and civil society organisations took part in a massive online 'day of action' in support of the US net neutrality rules. The White House expressed support for the FCC's plans to review and consider rolling back the rules. David Kaye, UN Special Rapporteur on Freedom of Expression has raised concerns over the FCC's plans, 'which may significantly roll back protections for net neutrality and unduly interfere with freedom of expression online in the United States'.
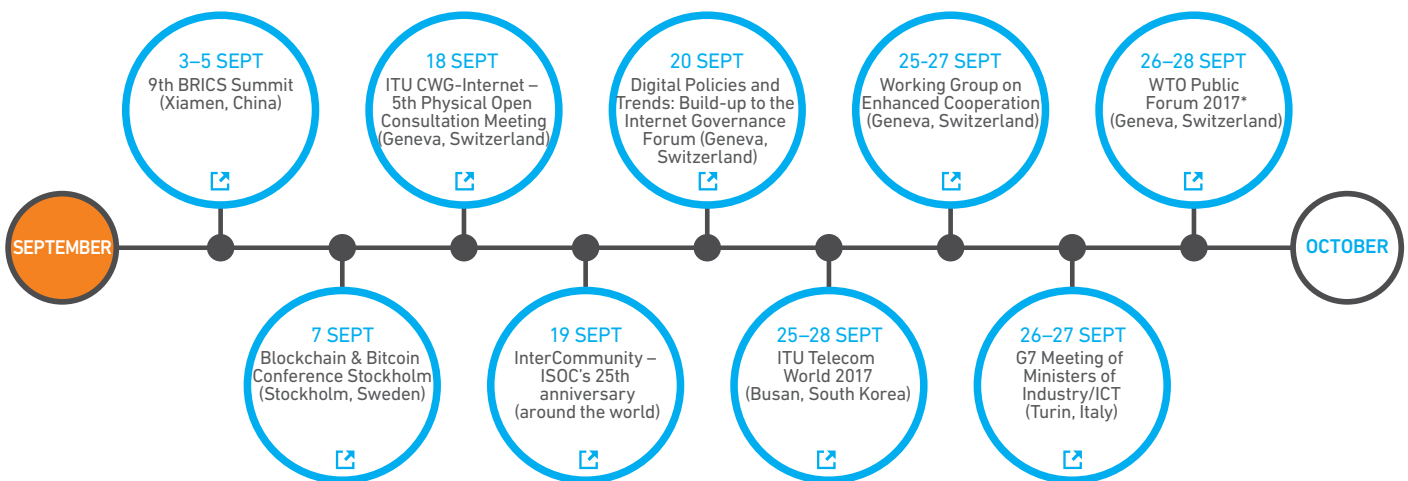
New technologies (IoT, AI, etc.)

increasing relevance

The State Council in China has released an AI development plan, intended to contribute to making China the world leader in AI by 2030. In the UK, the House of Lords' Select Committee on AI has launched a public call for evidence on the implications of AI. Taiwan is planning a $527 million investment in the development of AI. Representatives of over 100 companies working in the field of AI and robotics have sent an open letter to the UN expressing concerns over developments in the field of autonomous weapons.

Four US senators have proposed a bill that, if adopted, will impose certain cybersecurity requirements for technology companies that sell IoT devices to the US federal government.

The UK government has announced plans to introduce new rules that would require drones to be registered, and users to sit safety awareness tests.

AHEAD IN SEPTEMBER

SEPTEMBER

3–5 SEPT
9th BRICS Summit
(Xiamen, China)

18 SEPT
ITU CWG-Internet –
5th Physical Open
Consultation Meeting
(Geneva, Switzerland)

20 SEPT
Digital Policies and
Trends: Build-up to the
Internet Governance
Forum (Geneva,
Switzerland)

25-27 SEPT
Working Group on
Enhanced Cooperation
(Geneva, Switzerland)

26–28 SEPT
WTO Public
Forum 2017*
(Geneva, Switzerland)

7 SEPT
Blockchain & Bitcoin
Conference Stockholm
(Stockholm, Sweden)

19 SEPT
InterCommunity –
ISOC's 25th
anniversary
(around the world)

25–28 SEPT
ITU Telecom
World 2017
(Busan, South Korea)

26–27 SEPT
G7 Meeting of
Ministers of
Industry/ICT
(Turin, Italy)

OCTOBER

* The Geneva Internet Platform will provide just-in-time reporting. Follow the dedicated page.

For more information on upcoming events, visit **http://dig.watch/events**

'RIGHT TO BE FORGOTTEN': BACK TO COURT

Continuing the strong debate about the right to be forgotten (often termed delisting), France has referred the CNIL (the French data protection authority) vs Google (Alphabet) case to the CJEU, asking the Court whether the right to be forgotten is enforceable beyond the EU jurisdiction.

In 2014, the CJEU ruled that search engines must comply with the so-called right to be forgotten, and remove inaccurate and irrelevant data from results of searches made on the basis of a person's name, at the request of the concerned person. In 2016, CNIL imposed a €100 000 fine on Google for not delisting search results across borders.

Google contested the decision in front of France's supreme administrative court, arguing that the right to be forgotten should not apply beyond Europe. The French court has referred the case to the CJEU (Case C-507/17), which now needs to decide on the territorial scope of the right to be forgotten.

There are differing global positions on the right to be forgotten. Some have called on US authorities to protect Internet companies from what is being perceived as disguised protectionism; others are urging the current administration to protect both the companies and freedom of speech on the Internet.

The Reporters Committee for Freedom of the Press notes: 'Demands to delist search results globally, including links to news articles, pose a significant threat to media organisations and freedom of the press around the world. They also raise concern over the idea that the laws of any one country could supersede another's on the Internet in a way that limits access to information'.

Once again, the courts have been asked to rule on a digital policy issue. The ruling may have widespread consequences, as the decision may have to be applied globally.

CHINA OPENS CYBER-COURT FOR INTERNET CASES

This month, China opened a new court that will deal specifically with Internet-related cases. The Hangzhou Internet Court is also making use of the Internet and digital tools to carry out its proceedings.

Traditional courts have had a hard time keeping up with the increasing number of Internet-related disputes. The Internet Court has been created to tackle this concern, and 'break geographic boundaries and greatly save time'.

The court has already been tackling cases. The first case heard, on 18 August, concerned a copyright infringement claim brought by an author against an Internet company that offered the author's novel to its clients without permission. The court has jurisdiction over a range of issues, from online shopping and Internet services contracts, to intellectual-property-related rights. All stages of a lawsuit can be conducted through digital means.

Setting up the court in Hangzhou seems to have been based on a very practical reason. Many of the Internet-related disputes in China involve Chinese companies, and many of these companies – with the Alibaba group being only one

example – are based in Hangzhou. As Chinese law states that cases against companies must be dealt with in the city where the company principally operates, this explains the choice of Hangzhou.

There are several advantages that the Internet Court brings, such as facilitating or simplifying access to justice, speeding up the conclusion of case trials, and creating expertise in online cases. Since the court still functions using the same procedures as traditional courts, it will most likely face the same challenges that traditional courts do, especially when it comes to applying existing legislation to the ever growing complexity of disputes involving the Internet.

However, since the court is still in its early days, it remains to be seen under which jurisdiction the court will actually operate, and whether it will also deal with cases of a cross-border nature that do not involve Chinese companies.
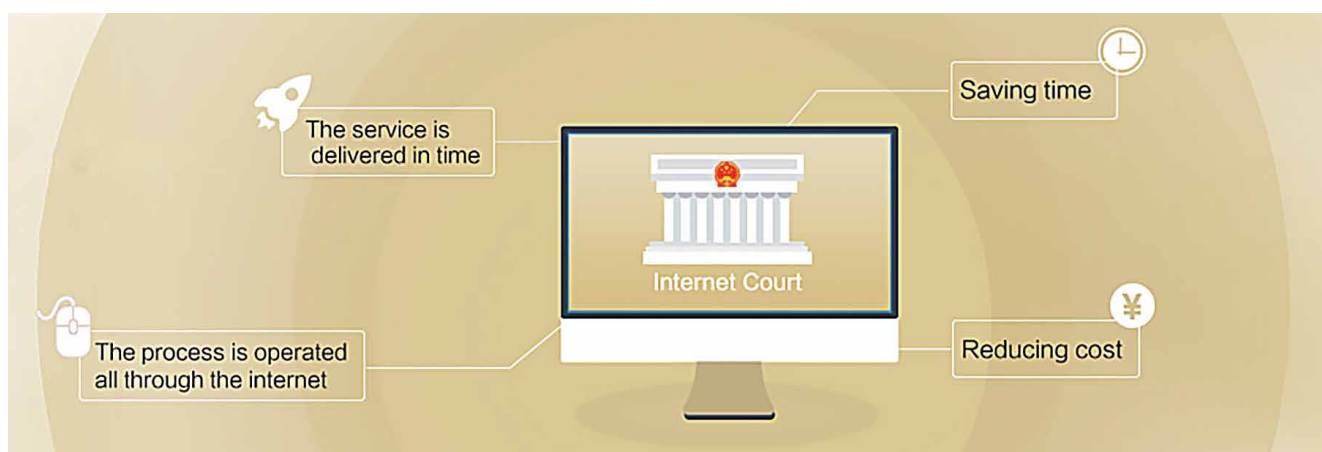
The litigation platform.

Credit: Hangzhou Internet Court

DigitalWatch
NEWSLETTER

INTERNET COMPANIES: SKY'S THE LIMIT?

The combined quarterly revenue of a handful of Internet companies ($142 billion) is staggering. This is not surprising, as the Big 5 Internet companies – Google, Amazon, Apple, Facebook, and Microsoft – have been amassing their wealth for many years.

Typically operating in the online markets, these five companies have recently been seeking offline ventures. As The Economist asks, just how much bigger can these companies get?

Unprecedented growth is arguably a regulatory concern, as authorities have to contend with market dominance, tax avoidance, labour issues, and the ire of traditional businesses. Yet, governments are not watching quietly. Instead, they are flexing their regulatory muscles, scrutinising the companies, and imposing fines on illegal practices.

Market dominance

The market shares enjoyed by large companies lead to substantial dominance in a number of markets. One such case involves Google, which ended up in hot water with European regulators over antitrust practices. The company, in fact, recently lost a seven-year case when EU regulators fined it €2.4 billion for violating competition rules.

Among other investigations is the scrutiny Amazon underwent by EU regulators over e-book deals with publishers. The investigation, which examined 'whether Amazon's contracts prevent[ed] competitors from developing new products and limit[ed] competition between sellers of e-books', ended in a settlement.

Tax avoidance

Four years ago, the French government's proposal to fiscalise the Internet triggered a wave of discussions. It has, however, been an uphill battle for governments. The annual study by the US Public Interest Research Group confirmed that three of the Big 5 were among the top 10 US companies

with most money held offshore. The economic contribution of the Internet industry to providing social stability and cohesion has, in fact, been limited.

In the light of the large revenues, certain practices do not go down well with authorities. A year ago this month, the European Commission ordered Apple to pay Ireland €13 billion in taxes, after an investigation into Apple's 'sweetheart tax' deal granted by the Irish state.

A flurry of similar investigations – some of which are ongoing – were initiated in Indonesia (Google), Italy (Google), the UK (Facebook), and the USA (Amazon) as governments are increasingly taxing the Internet industry. Yet, it is not always straightforward for the authorities, as Google's recent ruling shows.

Jobs and job creation

Based on the latest data, the five companies employ almost 700,000 people. This is in addition to jobs which they help sustain indirectly. Contributions to the labour force are welcomed by governments.

When it comes to corporate decisions, however, companies take many other considerations into account. Apple's letter to the public, published right after the European Commission's 'sweetheart deal' €13 billion fine, was quite clear: 'At its root, the Commission's case is not about how much Apple pays in taxes. It is about which government collects the money... Beyond the obvious targeting of Apple, the most profound and harmful effect of this ruling will be on investment and job creation in Europe.'

A threat to traditional players

Traditional taxi companies and hoteliers worldwide are familiar with the threat which Internet companies represent. On one hand, innovation is largely encouraged, and the Internet offers a vast sandbox for testing and marketing new ideas.

On the other, this can quickly lead to growth, and turn a company's humble beginnings into substantial market shares. In particular, companies such as Uber and Airbnb, which have flourished in the sharing economy market, represent a threat to traditional players. But so do large firms with enormous purchasing powers who are able to close multi-billion-dollar deals, such as Amazon's $13.4 billion Whole Foods acquisition.

The continued growth of Internet companies will keep putting existing rules – and the governments' need to control them – to the test. The main issue is whether the pressure wielded by authorities will manage to keep the unprecedented growth under control.

For a more detailed analysis, read: Offline markets are tech giants' next quest.

INTRODUCING: DeadlineR

Missed the deadline to register for a conference? Too late to submit a workshop proposal? Forgot an important digital policy event?

One of the aims of the *GIP Digital Watch* observatory is to address the concrete and pressing needs of the digital policy community in a practical and functional way, including the need to keep track of the many policy events and their related deadlines.

With this in mind, we have developed DeadlineR, a notification system which allows users of the observatory to receive reminders of deadlines. These include deadlines to register for an event or submit workshop proposals, conference papers, etc. Try out the pilot version by visiting our Upcoming Events section.

01 Choose your digital policy event

26 SEP WTO Public Forum 2017
26 Sep 2017 to 28 Sep 2017 Geneva, Switzerland

26 SEP [Briefing] Internet governance in September 2017
26 Sep 2017 Geneva, Switzerland; local hubs; and online

02 Scroll to *Notify me...*

✉ Notify me about deadlines

03 Select event, add your e-mail

Notify me about deadlines (DeadlineR)

DeadlineR, the observatory's notification system, will send e-mail reminders 7 days, and 1 day, before the deadline.

☐ Deadline to register for the event, 13 Aug 2017 at 23:30
☑ Start of the event, 28 Aug 2017 at 07:30

E-mail: [E-mail address] [Subscribe]

04 Receive notification

📥 Inbox   1
✏ Drafts
📤 Sent

THIS MONTH IN ICT AND IG HISTORY

1858 The first message is sent via transatlantic cable.

1987 The 1000th IETF Request for Comments (RFC) is issued.

1988 Internet Relay Chat (IRC) is developed.

1999 The United States Postal Service introduces online postage services.

2016 The European Commission orders Apple to pay the Irish state up to €13 billion in taxes.

Read more anecdotes on our interactive historical Timeline of ICT and Internet governance developments, at *https://dig.watch/timeline*

Concept : Jovan Kurbalija   Illustration : Vladimir Veljašević

Internet Relay Chat...

The United States...

The first message...

The 1000th IETF Re...

The European Comm...

1860 1870 1880 1890 1900 1910 1920 1930 1940 1950 1960 1970 1980 1990 2000 2010
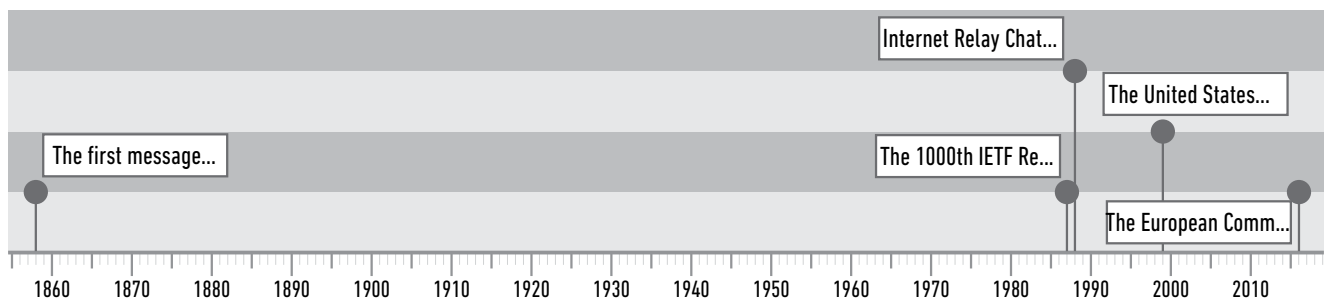
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