

Swiss IGF 2017

Messages from Bern

Meeting of the Swiss Internet Governance Forum
30/05/2017

Plenum 1 – Security by Empowerment or by Regulation?

The Internet evolves at a very high pace but there is a regulatory lag, where regulation, including regulation on security measures, always lags behind technology. In addition, attackers are getting smarter, more professional, and cyber criminals want to cash in.

How do we close that gap? We need to discuss what we need. Discussions are under way but take time.

What is the appropriate mix of societal risk we are ready to take? What is the right balance between empowerment and regulation? This is dependent on the sector of activity and the population at stake.

Pooling the strengths of different stakeholders in a truly multi-stakeholder fashion to protect infrastructures and users in order to get a safer Internet for everyone is seen as a way forward. All stakeholders, whether Government, Private Sector, Technical Community and Civil Society, have their competencies and elements to bring a common solution together, but we need rules of engagement. We need to be adaptive and flexible to learn how to cope with these new extraordinary challenges.

Social norms and Technology need to complement each other. Technology, such as Artificial Intelligence (AI) solutions, alone will not do the trick, thus different actors need to work together.

The risks of misuse of any security technologies and measures, e.g. for censorship, should be considered and foreseen. Also: can responsibility be delegated from the State to the private sector? Who decides what gets filtered, or not? What safeguards are there? What are the boundaries of free speech? Voluntary cooperation formats (avoiding top-down structures) were seen as a format providing checks and balances.

In some cases, we need empowerment by regulation in the form of liability legislation, e.g. for Internet of Things (IoT) products: producers and distributors should be responsible and held accountable for ensuring some minimum safety requirements, e.g. security updates for a certain life cycle or open source the product after first life cycle.

Plenum 2: The Data Economy – Value Creation of Data

Data policies are increasingly emerging as a political issue: strategies, soft law and national policies are being developed, e.g. in March 2017 the Swiss Federal Council defined high-level goals for a coherent and future-oriented data policy and tasked the Federal Administration to draft the initial benchmarks. <https://www.admin.ch/gov/en/start/documentation/media-releases/media-releases-federal-council.msg-id-66068.html>

Data is regarded as a key resource for the digital economy. Apart from digital-borne companies based on data analytics, all economic sectors are transitioning to new business and service models, e.g. in the agro-business, thus opening new opportunities.

The added value of data benefits not only businesses, but also media (data journalism), users and the public sector.

Switzerland has strong foundations for benefiting from the data economy. It shines in its traditional neutrality, international trustworthiness and stability, although some people question whether recent legislation allowing state interference may compromise this. There was general

agreement that digital skills, including critical knowledge about how ICTs work, and coding skills, should be strengthened, especially on those aspects where humans have a competitive advantage versus AI.

There was discussion on how users may be empowered to be more aware, to control and benefit from data transactions using their personal data. Some doubts were expressed on the feasibility of an individual control approach. In any case, transparency was considered as a cornerstone for gaining acceptance and trust from users and all interested parties, including the need to develop and share new transparency methods concerning algorithms and AI mechanisms. The need to differentiate between different kinds of data also gained traction. This distinction is blurred in the wider ecosystem of big data.

The ownership of publicly funded data and the role of public authorities in providing e-ID access tools was also debated.

Plenum 3: Access and Regulatory Requirements – Copyright as Barrier or Cornerstone?

Different issues were discussed regarding how copyright has to continue finding the right balance between authors and users. However, in the digital environment the distinction between consumers and creators is blurred as almost everyone becomes a creator.

The need to combine state regulation with self-regulation was presented, including the need that self-regulation schemes are supported by appropriate liability shields that protect the providers adhering to such schemes.

It was a shared sentiment that we cannot let algorithms decide alone what is right or wrong?

Regarding IP and domain blocking there was a shared feeling that this generally may not meet requirements of proportionality. However, political constellations may vary for different fields of activity as the example of online gambling legislation has shown. It was also mentioned that there is a contradiction if a state legally allows users to download content for personal use, but at the same time introduces new blocking measures directed to indirectly preventing that conduct.

There was also detailed discussion on how to best allow for academic publications being freely accessible. Secondary publication rights or a review of the current publishing contract could be possible ways forward.

Finally, the new draft legislation proposals for adapting copyright to the needs of public libraries were presented and discussed: orphan works, lending by libraries and use of protected works for indexing purposes.

The archiving of websites will become more important in the near future and has to be discussed. This was not yet a topic while revising copyright law. However, we need to start archiving now, and well before we discuss access rights etc.